Implications of WTO Accession for Insurance Sector of Laos

Lord, Montague J.

World Bank, Ministry of Industry and Trade of Government of Lao PDR

July 2010

Implications of WTO Accession for Insurance Sector of Laos

Prepared by

Montague Lord

Team Leader and Trade Specialist

Bounma Vongxay

Domestic Consultant

Presented to

Ministry of Industry and Commerce

Trade Development Facility

July 2010

Table of Contents

List of Abbreviations

AFAS	ASEAN Framework Agreement on Services
AFTA	ASEAN Free Trade Area
AHTN	ASEAN Harmonized Tariff Nomenclature
AGL	Assurances Générales du Laos
BIDV	Bank for Investment and Development
BCEL	Banque pour le Commerce Exterieur Lao
BIC	BIDV Insurance Company
CPA	Certified Public Accountant
CPI	Committee for Planning and Investment
CEPT	Common Effective Preferential Tariff
FDI	Foreign direct investment
FTA	Free trade area
GATT	General Agreement on Tariffs and Trade
GATS	General Agreement on Trade in Services
GDP	Gross Domestic Product
HS	Harmonized Commodity Description and Coding System
ICP	Insurance Core Principles
IAIS	International Association of Insurance Supervisors
IFC	International Finance Corporation
LDB	Lao Development Bank
LAK	Lao Kip
LVI	Laos-Viet Insurance Company
LDC	Least-developed country
MOU	Memoranda of understanding
MOF	Ministry of Finance
MOIC	Ministry of Industry and Commerce
MISG	Mitsui Sumitomo Insurance Co.
M&E	Monitoring and Evaluation
MFN	Most Favored Nation
NSEDP	National Socio-Economic Development Plan
NTB	Non-tariff barriers
NTR	Normal trade relations
PSC	Pacific Star Capital Management Health Plan
R&D	Research and development
SMEs	Small and medium size enterprises
PTI	Telecommunication Joint Stock Insurance Company
WTO	World Trade Organization

List of Tables and Figures

Tables

Figures and Boxes

Executive Summary

Scope of the Study

The present study is intended to support the Government's efforts to introduce reforms to the insurance industry and its negotiations for accession to the World Trade Organization (WTO). To that end, it provides a consolidated perspective about insurance services in Laos, with particular reference to the impact of possible Government commitments to liberalizing the insurance industry as part of its WTO accession process. The study builds on a survey of the industry and its regulatory environment to determine the areas that could benefit from liberalization and restructuring. It uses these findings along with the experiences of other Asian countries and best practice recommendations to suggest possible reforms and commitments under the General Agreement on Trade in Services (GATS) of the WTO. The implications of liberalization for the insurance industry are then considered and reforms supporting the Government's overall economic plan are propose.

Findings

Table S.1 provides a summary of the current challenges facing the insurance industry in Laos, limitations of the legal and regulatory framework, best practices that should be applied to ongoing reforms of the legal and regulatory framework, best practices for commitments of the insurance subsector under GATS, and some of the likely effects that would result from the liberalization of the insurance subsector. While numerous challenges confront the industry, there is a great potential for growth in the market. Moreover, the industry is vital to the Lao economy insofar as it facilitates business and investment activities by providing risk management, thereby contributing to the country's stable economic growth. The growth of insurance operations will support other areas of the economy, including law enforcement, the legal court system, capital market developments, and good governance standards.

Recommendations

Recommendations for the liberalization of the insurance industry in Laos are framed in the context of the Government's proposed reforms of the financial sector, which includes insurance services. The suggested goals for the insurance subsector are to (a) provide an opportunity for risk-reduction measures by people and businesses as a way to stimulate investment, (b) liberalize the subsector through the country's commitments undertaken under the GATS, (c) improve the safety of its citizenry through improved social programs promoted by the insurance industry, and (d) strengthen complementary services of other sectors and subsectors to ensure the effective operation of insurance services. Complementary services include law enforcement, the legal court system, banking, capital markets, training and education, and institutional capacity building.

The selection and prioritization of actions should be guided by a set of principles. For the insurance subsector, the guiding principles that emerge from the Government's interest are transparency, accountability, and pragmatism. Implementing the strategy for liberalizing the insurance subsector is framed within an action plan covering legal and regulatory reforms, institutional restructuring, and liberalization of trade in services. The proposed actions should be supported by social development programs to which insurance companies have committed under their respective agreements with the Government. Education and training programs for CPAs and insurance-related subjects would help to produce local experts who could support the industry and promote its sustained development within the economy.

Table S.1: Summary of Findings for the Insurance Industry in Laos

	Existing Constraints		Best Practices		
	Insurance Market & Industry	Legal & Regulatory	Regulatory Reform	GATS Commitments	Impact of Liberalization
1	Low premium coverage of US$3.2 per capita relative to Asia average	Insurance Law of 1990 is rudimentary.	Bring Insurance Law in line with international legal standards	Freedom to engage in reinsurance activities under own contract terms	Increased value added and GDP share to 1.4% by 2020.
2	Mainly commercial & industrial coverage; low personal coverage	No distinction between life and non-life insurance in law & regulations	Distinguish between laws governing life and nonlife insurance	National treatment for foreign firms	More employment to 2,748 by 2020.
3	Life, health & personal accident only 6% of all insurance	Conflicting interests of MoF as joint venture equity holders/regulators	Create an independent regulatory authority	Freedom to own equity shares in joint ventures, without % limits	Insurance premiums generate 1.2 multiplier effect on industry output
4	Only 1/2 motor vehicles insured, despite compulsory requirements	Auditing and enforcement of regulations are weak	Adopt accounting and auditing standards	Ability to select representative, regardless of nationality	Improved legal and regulatory system
5	Poor law enforcement on motor vehicle insurance	Limitations on ownership structure to partnerships or branches	Allow equity shares in joint ventures, without % limits	Visa and work permits provided to professional level personnel	Improved complementary areas like law enforcement and court system
6	Lack of recourse to court system	No conceptual structure governing the insurance agencies	Create masterplan for insurance subsector & links to other sectors	Foreign insurance company can establish commercial presence by setting up a wholly or partly owned subsidiary, or by forming a new company, or by acquisition of existing insurance supplier already established in the cost country.	Strengthened consumer safety requirements
7	Influx of new companies following 15 yrs of monopoly in the industry	Limited capacity of MoF to regulate the industry	Provide capacity building and other resources to regulatory authority		Lower risk on personal and business investments
8	Limitations on premium investments to local savings	No explicit procedures for appointments to regulatory authority	Introduce international standards for appointments		Mobilize capital movements and expanded investment
9	Large year-to-year fluctuations in total gross insurance premiums	Lack of independence of supervising authority from insurers	Separate regulatory authority from insurance company interests		Promotion of cross-border movements of people
10	Lack of CPAs & insurance specialists	Lack of public disclosure of reliable and timely information	Transparency for consumers through regular public disclosure	Solvency and prudential regulations should applied to ensure market stability and consumer protection	Lower premiums for consumers from greater competition
11	Limitation on investments	No rules governing conflicts of actuaries, auditors, managers	Introduce rules governing conflicts of actuaries, auditors, managers		Increased demand for accountants and insurance-related skills
12	Lack of clarity on insurance regulations	Legislation does not identify any requirements of competency	Introduce competency requirements in legislation	No limits should be imposed on new products and services introduced by insurance companies	Reduced state participation in joint ventures
13	Lack of consumer protection	Constraint addressed after adoption of Consumer Protection Law	Establish approve process for portfolio transfers/mergers		
15	Potential for pricing collusion	Lack of oversight of the operations of insurance companies	Oversee operations of insurance companies	Accounting and auditing standards should be adopted based on inter-nationally recognized best practice standards.	
16		Lack of market analysis by regulatory or supervisory body	Provide market analysis by supervisory authority		
17		Lack of adequate on-site inspections by regulatory body	Provide on-site inspections by regulatory body	The insurance regulatory body should be an independent government entity that encourages a competitive marketplace.	
18		Lacks a formal system for applying preventive or corrective measures	Create formal system for applying preventive or corrective measures		
19		Inadequate resources to supervising authority to carry out enforcement	Provide resources to supervising authority to carry out enforcement		
20		Regulations governing exiting of market by firms remain ponderous	Streamline regulations governing exiting of market by firms		
21		Inability to carry out risk assessments and management	Capacity building for risk assessments and management		
22		Inability to ensure compliance with standards on investment activities	Ensure compliance with standards on investment activities		
23		No legislation to protect policyholders in case of insolvency	Establish legislation to protect policyholders in case of insolvency		
24		Lack of controls needed to regulate intermediaries	Introduce controls to regulate intermediaries		

1. Introduction and Coverage of the Study

1.1 Introduction

The Lao PDR applied for accession to the World Trade Organization (WTO) in 1997 and practical work towards membership began in 2004. As part of that process, the Government has been revising the country's regulatory framework to increase transparency, non-discrimination and harmonization in trade. It has also submitted an initial offer on goods and another offer on trade in services. In Laos the service sector accounts for over 40 percent of the country's total value added, with financial services representing about 10 percent of the service sector. Insurance and insurance-related services represent one of three subsectors in financial services.[1] The subsector is considered a sensitive subsector because of its importance for risk-management for facilitating business activities. Insurance operations, in turn, depend on the effectiveness of the regulatory framework in providing a fair and stable environment that promotes competition in the industry. The industry is also dependent on complementary services in the economy like law enforcement, the court system, capital markets and finance.

Table 1.1: Overview of Insurance Industry in Lao PDR

Governing Law & Decree	Insurance Law of 1990 & supplemental decree of 1992
Regulatory Authority	Ministry of Finance
Number of Insurance Companies	Six (6) registered companies as of May 2010.
Ownership Structure	Five (5) joint ventures; one (1) private domestic company

At present the market for insurance in Laos is narrow and the regulatory framework remains largely rudimentary. Most insurance coverage applies to non-life insurance products and only a small proportion of the Lao population has insurance coverage. Nevertheless, the prospect of substantial economic development in the country offers large opportunities for the industry's future expansion. As a result, the market is attractive and numerous insurers have established operations in the country in the last two years.

The industry is, however, unprepared for the entry of a large number of suppliers of insurance products. The regulatory framework lacks capacity and resources, with the result that companies have remained largely self-regulated. Legislation is now outdated and has not kept up with developments in the subsector. Crucially, there is no clear division or separation of responsibility between the operation of companies and their regulation. Existing legislation governing the insurance industry includes the Insurance Law of 1990 (Annex A) and a supplementary decree passed in 1992 (Annex B), covering technical aspects of policy terms and conditions. No change in the law has been made since then. Greater regulatory and supervisory capacity is needed, not only to comply with WTO standards and international best practices, but also for the protection of consumers.

1.2 Government's Vision for the Insurance and Banking Sector

The Government is currently formulating an overall development strategy for the financial sector.[2] Its vision for the non-banking sector, which includes insurance and insurance-related activities, is as follows:

1 WTO Secretariat, "Services Sectoral Classification List". MTN.GNS/W/120, 10 July 1991.

2 Bank of Lao PDR, "Financial Institution Development Strategy of Lao PDR: from 2009 to 2020". Draft, undated.

> *"Create conditions to allow various types and different forms of ownership of non-bank financial institutions to be licensed, giving different types of services and products with modern technology, having conditions to facilitate growth and development to create a balance to the structure of financial institution system, and to deepen and widen the financial services such as the insurance, the social security, the retirement and the provident funds, the leasing business, education credit, the consumer credit, finance companies and others."*

To achieve these conditions, the Government is proposing a strategy that will introduce appropriate legal reforms and create regulatory authorities within the non-financial subsectors. Specifically, the Government's strategy states that:

> *In the primary stage, basic legal framework is necessary to allow for the creation of these institutions in various forms and types of ownership. Also at this stage, the authorizing state organizations which creates and authorizes the creation must establish appropriate measures for supervising, monitoring, auditing and promotion. In the future, there must be a study to create an organization or an independent unit to carry-out the supervision, the auditing and the promotion of these financial institutions to develop and operate efficiently.*

According this plan, the regulatory authority for the insurance subsector should focus on solvency and prudential requirements. Moreover, it should establish upper and lower limits to statutory tariffs that allow competing insurers to determine their product prices within established ranges. The plan also encourages the regulatory authority to maintain independence and promote transparency and impartial enforcement of regulations that are conducive to competition. Establishing a regulatory body with those capabilities will require assistance from donors and other development partners. Without that help, it is unlikely that the Government will be able to respond to the large changes that are anticipated for the insurance industry in the coming years.

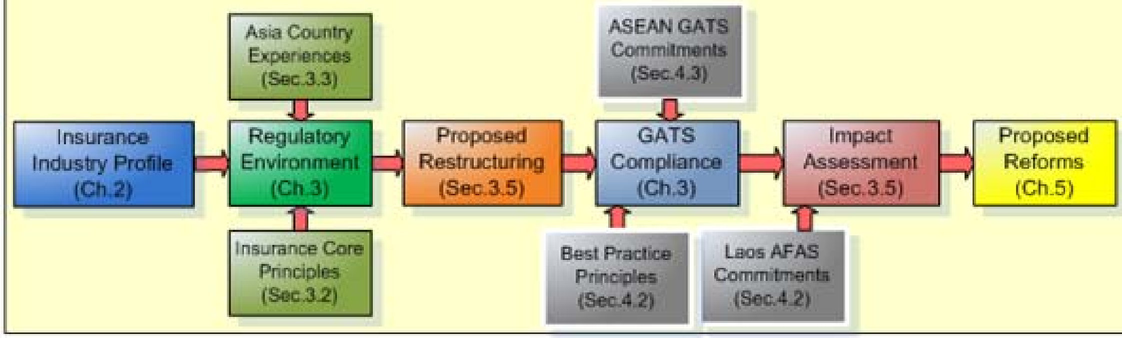
1.3 Study Coverage

The present study is intended to support the Government's efforts to introduce reforms to the insurance industry and its negotiations for accession to the WTO.[3] To that end, the study provides a consolidated perspective about insurance services in Laos, with particular reference to the impact of possible commitments by the Government in liberalization the insurance industry as part of it WTO accession process. While the study's coverage is broad, its primary intent is to provide needed information for the development of a negotiating position by the Government, along with a strategy for developing sound policy and regulatory capabilities so that the people of Laos can benefit from liberalization of the subsector.

As Figure 1.1 shows, the study builds on a survey of the industry and its regulatory environment to determine the areas that could benefit from liberalization and restructuring. It uses these findings along with the experiences of other Asian countries and best practice recommendations to suggest possible reforms and commitments under the

3 Unless specific reference is made to a particular type of insurance activity, the term *insurance services* refers to all forms of insurance and reinsurance underwriting, insurance intermediation (brokerage and agency services, including reinsurance brokerage), surety, consultancy, actuarial, risk management, risk assessment, and claims settlement services.

Figure 1.1: Scheme of the Study



General Agreement on Trade in Services (GATS) of the WTO. The implications of liberalization for the insurance industry are then considered and reforms supporting the Government's overall economic plan are propose.

The specific coverage of each chapter is as follows:

- *Chapter 1* provides a brief introduction to the study, and a description of its coverage and organization;
- *Chapter 2* reviews the insurance industry in Laos. It begins by analyzing the importance of the industry to the economy, and then describing the companies currently providing insurance and insurance-related services. It explains the global insurance industry and trade in insurance services of Laos, and it analyses the ownership structure of companies and the performance of the market. The chapter ends with an assessment of the demand for insurance services in Laos and the likely impact that liberalization would have on the market.
- *Chapter 3* describes and assesses the regulatory and policy environment for the insurance industry. It begins by describing the existing law and regulations of the industry. Reform needs are examined on the basis of the Insurance Core Principles (ICP) in seven categories: (i) conditions for effective insurance supervision; (ii) the supervisory system; (iii) the supervised entity; (iv) on-going supervision; (v) prudential requirements; (vi) markets and consumers; and (vii) anti-money laundering and combating the financing of terrorism. The results of the evaluation for the Lao PDR's insurance system are then compared with evaluations that have been undertaken for other Asian countries. The next section discusses complementary actions necessary for the effective operation of the insurance industry. The chapter ends with a proposal for restructuring the industry.
- *Chapter 4* discusses compliance requirements under GATS. It begins with an overview of the GATS framework and the similarities and differences between commitments on goods and those on services. The next section presents guidelines that have been established as best practice GATS commitments for the insurance sector. It then looks at commitments that have been made by Laos under the ASEAN Framework Agreement on Services (AFAS). Those commitments are evaluated in terms of best practice GATS commitments for the insurance sector. There is also a brief review of GATS commitments made by some other Asian countries in the insurance subsector. The chapter ends with an assessment of the likely effects of liberalization within the framework of the Lao PDR's Sixth National Socio-Economic Development Plan.

- *Chapter 5* contains the conclusions and recommendations of the study. It begins summarizing the findings of the study. Based on those findings, proposes a strategy and action plan for the subsector, with specific strategic goals, guiding principles, and actionable areas to be addressed. The action plan covers elements of trade liberalization in services under GATS, creating a better legal framework, improving the regulatory system, establishing an institutional framework, strengthening capacity and education programs, and instituting a better monitoring system

There are ten annexes to the report:

Annex A – Summarizes the 1990 Insurance Law in Laos.

Annex B – Presents an unofficial translation of the 1992

Annex C – Presents a guide to reading a country's sector-specific commitments under GATS to facilitate understanding the schedules in the subsequent annexes.

Annex D – Contains the recommended GATS commitments for the insurance sector in both market access and national treatment.

Annex E – Presents the Lao PDR Schedule of Commitments for Insurance in ASEAN Framework Agreement on Services.

Annex F – Contains the specific commitments of ASEAN countries in the insurance subsector under the GATS.

Annex G – Lists the world's largest insurance companies.

Annex H – Gives an illustrative business plan for insurance regulating authority.

Annex I – List of individuals interviewed from insurance companies and government regulatory agencies.

2. Industry Profile

2.1 Sector Importance to the Economy

The service sector in Laos contributes over 40 percent of the country's gross domestic product (GDP) and trade in services represents one-fourth of all trade.[4] In recent years, service-related activities have grown more rapidly than agriculture and industrial activities, a phenomenon shared by the insurance industry. Demand for insurance services has expanded by over 30 percent a year in real terms since 2003. That growth reflects an expansion from a relatively low customer base, and the sector still represents a fairly small proportion of all financial services.

The potential for the industry is large. Expenses on insurance services by Laotians are only US$3.2 per capita a year, compared with US$13 in neighboring Vietnam and US$135 in Thailand. Cross-section analysis of consumption patterns in Asia shows that demand for insurance has increased by more than 2 percent for every 1 percent increase in per capita income of populations. That pattern suggests that premiums per capita will likely double in Laos when per capita incomes are similar to those in the Philippines, and they could rise by 150 percent when Laos achieves the same per capita income as present-day Indonesia.

Demand for insurance products derives primarily from the commercial and industrial sources. Personal insurance coverage is low throughout the country. Demand originates from foreign interests, while is supplied by corresponding national interests in Thailand, Indonesia, China, Malaysia and Vietnam through underwriting by insurance companies based in those countries. In Laos, motorcar insurance is compulsory but only about half of cars and about 5 percent of motorcycles are covered. Improvements in enforcement and the legal system could greatly enhance insurance coverage, while coverage of workers could improve their access to healthcare. Vulnerability of households could also be mitigated by reducing their risks to property damages from natural and social hazards, along with the catastrophic effects of fires and other damages to their property.

2.2 Structure of the Industry

The insurance industry in Laos is changing. Throughout the 1990s and first half of this decade the only regulated insurer in the country was Assurances Générales du Laos (AGL).[5] It has operated as a joint venture company in partnership with the Government of Laos.[6] Initially AGL held 80 percent of the company, but in 2000 the Government increased its participation to 49 percent. As a result, AGL currently holds a 51 percent share of the company. Allianz took a controlling interest in AGF in 1998, with the result

4 Data from Department of Statistics, "Statistical Yearbook 2008". Ministry of Planning and Investment, June 2009. Total trade is measured as the sum of imports and exports. Non-bank intermediaries, which include insurance companies, represent about 1 percent of total financial assets, according to the Bank of Lao PDR.

5 AGL began operations in 1992.

6 The term "joint-venture" is an elusive legal concept. In this study we adopt its definition under the new Enterprise Law (approved by the National Assembly in 2005 and promulgated in 2006) in which an enterprise is established and registered under the laws and regulations of the Lao PDR and is jointly owned and operated by one or more foreign investors and by one or more domestic Lao investors.

that the company gained access to logistics and support from Allianz Asia-Pacific in Singapore.[7] AGL employs agents in 17 provinces in Laos, as well as having agents and brokers in Vientiane. Its paid-up capital is US$2 million.

Table 2.1: Concentration of Asian Insurers

	No. of insurers
Hong Kong	192
Indonesia	169
Philippines	150
Japan	105
Thailand	98
Malaysia	71
Singapore	64
Taiwan	59
South Korea	42
China	26
India	6
Lao PDR	*5*

Source: For Laos, Ministry of Finance; for other countries, Swiss Re Sigma as reported in UNDP, "Studies on the Competitiveness and Impact of Liberalization in Financial Services: The Case of Insurance services".

Several new entrants to the market have appeared since 2008:

- *Laos-Viet Insurance Company (LVI)* began operations in 2008. It is a joint venture company with a capitalization of US$ 3 million based in a foreign country with registered capital of 3 million USD. The Bank for Investment and Development (BIDV) Insurance Company (BIC) controls 51 percent of the charter capital and, in Laos, Banque pour le Commerce Exterieur Lao (BCEL) controls 29 percent of the capital, and Lao-Viet Joint Venture Bank (LVB) controls the remaining 20 percent.[8] BIC is among Vietnam's top 10 non-life insurance firms. LVI has branches in Champasak, Savannakhet, Luang Prabang and Luang Namtha. It plans to gain 30 percent of the market by 2012 and thereby become the second largest insurer in the country.[9] It covers offers non-life insurance and reinsurance. It has initially targeted projects and assets of Vietnamese enterprises investing in Laos. Later, it plans to extend its customer base to Laos-owned businesses and individuals.
- *MSIG Insurance (Lao) Co* was established in 2009 and began operations in Laos in March 2010, following an agreement reached between Mitsui Sumitomo Insurance Co. Ltd and the Ministry of Finance for the establishment of a joint venture non-life insurance company in Laos. It has a capitalization of US$ 2 million. MSIG Insurance (Lao) Co is operating as a subsidiary of MSIG Holdings (Asia), which is the regional holding company of Mitsui Sumitomo in Asia. Under the agreement, the company owns 51 percent of the venture, with the remaining 49 percent being held by the Government's Ministry of Finance. Its operations are aimed at the non-life insurance market of small- to medium-size enterprises in Laos. It aims to achieve over US$ 4 million in premium income by 2014.
- *Tokojaya Lao Assurance Co. Ltd* was established in 2007 under a license issued by the Committee for Planning and Investment (CPI). The company is a joint venture between a Malaysian conglomerate and the Government of the Lao PDR. The company owns 80 percent of the venture and the Government's Ministry of Public Security holds 20 percent of the shares. It provides both life and non-life insurance.[10]

7 Allianz SE (formerly Allianz AG) is one of the largest financial services providers in the world, headquartered in Germany. It is the second largest international insurance and financial services organization in the world.

8 Lao-Viet Joint Bank is a joint venture between Banque pour le Commerce Exterieur Lao (BCEL) and Bank for Investment and Development of Vietnam (BIDV). BCEL and BIDV are state-owned commercial banks and BIDV is registered in Vietnam as an SOE General Corporation.

9 See "Laos-Vietnam Insurance Joint Venture Set Up". Available: http://www.bidv.com.vn/English/News_ Detail.asp?News=1442

10 The company's web site is www.tokoassurance-lao.com

- *PCT Asia, formerly Insee Insurance Co Ltd,* is a whole owned domestic private insurance company. If focuses its products exclusively on non-life insurance.
- *Champa Insurance* was established under a joint agreement between Lao Development Bank (LDB) and Telecommunication Joint Stock Insurance Company (PTI Insurance) of Vietnam in April 2010. It will begin operation in July 2010 and offer property and vehicle insurance products
- *Lao HMO* is a life insurance company that has been operating in Laos since 2007.[11] It is an American health-based insurance company. The parent company, Pacific Star Capital Management Health Plan (PSC), began operating in 2005. It offers the PSC Health Plan covering health insurance and managed care to medical clinics, hospitals, and healthcare providers operating in Laos. Starting 2009 Lao HMO enrolled 60 families and received revenues of nearly $100,000. It expected to increase its enrollment for the fiscal year 2010-2011.

2.3 The Global Insurance Market

The global insurance industry is one of the largest sectors in international finance. The major insurance markets of the world are the United States, Europe and Japan. Among the emerging markets in Asia, the largest activity occurs in India and China. Nonetheless, other countries in Asia have experienced a large growth in their insurance markets because of increased economic development and the need to reduce risks. The growth in the industries has transcended borders, and insurance companies are increasingly moving across borders.

The insurance industry is not immune to the global financial crisis. In the second half of 2008, global insurance premiums fell by 5.3 percent in real terms, driven mainly by the cutbacks in nonlife premiums in the industrialized countries.[12] In the same year, the value of insurance securities in the stock markets contracted by about 35 percent. Some of the large companies experienced declines of up to 70 percent. The performance of the industry remained weak in 2009 and the first part of 2010. These movements underscore the fact that the insurance industry is subject to asset risks like other industries in the financial sector.

Table 2.2: Lao PDR Trade in Insurance Services, 2000-2008

	Insurance		Total Services		Insurance Share of Total Services	
	Imports	Exports	Imports	Exports	Imports	Exports
2000	-4.5	0.9	-43.1	175.7	10.5%	0.5%
2001	-4.4	1.1	-31.6	166.1	13.8%	0.6%
2002	-4.2	1.2	-32.4	176.2	13.1%	0.7%
2003	-4.3	2.2	-52.1	155.2	8.3%	1.4%
2004	-4.8	2.6	-55.1	186.9	8.7%	1.4%
2005	-5.3	5.2	-59.9	219	8.8%	2.4%
2006	-12.4	3.2	-62.2	215	19.9%	1.5%
2007	-16.1	7.2	-76.1	278.1	21.2%	2.6%
2008	-16.8	8.3	-82.9	414.3	20.3%	2.0%

Source: International Monetary Fund (IMF), Balance of Payments database; and IMF, " Lao People's Democratic Republic: Statistical Appendix". IMF Country Report No. 09/285.

11 The company's web site is www.laohmo.com.

12 The information about the global insurance industry draws from Swiss Re. Available http://www.swissre.com/

Table 2.3: Lao PDR Structure and Ownership of Insurance Companies

Company	Ownership Structure	Ownership Participation (%)		Foreign Ownership		Domestic Ownership	Products
		Foreign Share	Lao Share	Country	Parent Company		
Assurances Générales du Laos	Joint Venture	51	49	Europe	Allianz Group	Ministry of Finance	Mainly non-life
Champa	Joint Venture	na	na	Vietnam	Telecommunication Joint Stock (PTI) Insurance Company	Lao Development Bank (LDB)	Non-Life
Lao - Viet Insurance Co	Joint Venture	51	49	Vietnam	BIDV Insurance Company (BIC)	29% for Banque pour le Commerce Exterieu Lao (BCEL) and 20% for Lao-Viet Joint Venture Bank (LVB)	Non-Life
Mitsui Sumitomo: MSIG Insurance (Lao) Co., Ltd	Joint Venture	51	49	Japan	Mitsui Sumitomo	Ministry of Finance	Non-Life
PCT Asia (formerly 'Insee Insurance Co Ltd')	Wholly owned domestic company	0	100			n.a.	Non-Life
Toko Assurance Co Ltd	Joint Venture	80	20	Malaysia	Tokojaya	Lao Ministry of Public Security	Life and non-life

Source: Interviews with company officials and Ministry of Finance.

Before the financial crisis, global insurance premiums had expanded at annual growth rates ranging between 2 and 10 percent. Total world premium income is around $1.8 trillion, with advanced economies accounting for the bulk of global insurance. Europe is the most important region, followed by North America and Asia. The top four countries – the United States, Japan generated more than a half of premiums. The US and Japan alone accounted for 40 percent of world insurance, much higher than their 7 percent share of the global population. In contrast, the emerging markets that make up 85 percent of the world's population produced only 10 percent of the premiums.

Table 2.4
Insurance Density in Laos and Other Asian Economies

Country	Premium per capita (US$)	Life insurance premium per capita (US$)	Non- Life insurance premium per capita (US$)
Cambodia	1.2	1.4	1.0
Lao PDR	*2.3*	*0.1*	*2.2*
Viet Nam	12.7	6.7	5.1
Indonesia	15.5	7.4	8.1
Philippines	15.6	9.4	6.2
China	40.2	27.3	12.9
Thailand	135.0	88.0	41.3
Malaysia	256.5	167.3	89.2
Korea	1,419.3	1,006.8	412.5
Singapore	1,849.3	1,483.9	365.5
Japan	3.874.8	3,044.0	830.8

Source: Lao premiums based on enterprise interviews; for other countries, Swiss Re Sigma as reported in various studies including UNDP, "Studies on the Competitiveness and Impact of Liberalization in Financial Services: The Case of Insurance services".

The industry is highly concentrated among companies. The world's five largest companies account for 40 percent of global premiums and 36 percent of assets, while the top ten companies account for well over half of all sales and assets. Annex G lists the top 90 companies. The parent companies with subsidiaries in Laos are Allianz (subsidiary: Assurances Générales du Laos) and Mitsui Sumitomo Insurance Group. Among Asian countries, Laos has the smallest concentration of companies (table 2.1).

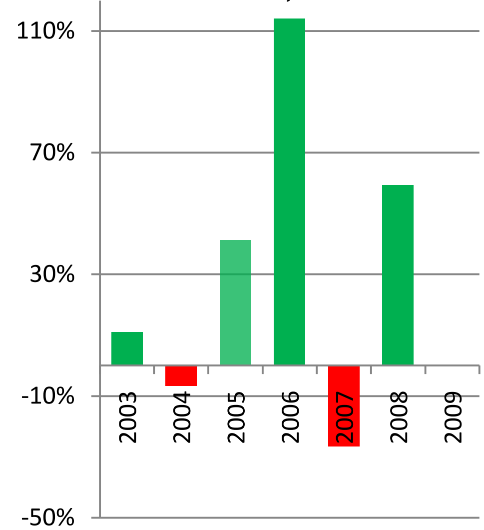
2.4 Trade in Insurance Services

In Laos, insurance trade accounts for a growing share of the country's overall trade in services (Table 2.2). Insurance payments accounted for about one-fifth of all outflows for service expenditures, with the remaining payments largely directed at travel and construction. Insurance receipts are smaller in magnitude and represent a small portion of overall service receipts, the main source of services-based income being tourism.

2.5 Ownership Structure

Article 5 of the Insurance Law of 1990 stipulates that only enterprises in the form of partnerships or branches of foreign insurance companies have the right to conduct insurance-related activities in Laos. There is no upper limit on the foreign ownership participation in joint ventures, but Article 7 of the Law on the Promotion of Investment of 2004 specifies that foreign investors investing in a joint venture must contribute at least thirty (30) percent of the registered capital.[13] At present four of the five companies operating in Laos are joint ventures (Table 2.3). Foreign ownership ranges from 51 to 80 percent. The Government of the Lao PDR is the domestic partner of all joint venture operations. Foreign ownership is evenly distributed among Asian countries and Europe. Among the insurance products, non-life insurance products are the most profitable activities. All registered insurers in Laos focus most of their activities on these products.

Figure 2.1: Growth in Total US$ Premiums in Laos, 2003-2009



2.6 Market Performance

Insurance in Laos is predominantly in the form of non-life insurance. It accounts for 92 percent of all types of insurance (Table 2.5). Personal accident and health represent about

13 The 1990 Insurance Law states that enterprises must be formed through a partnership and branches of foreign insurance companies (Article 5). The Law further states (Article 13) that, "A Lao insurance company is an insurance company which has been authorized to be established in the Lao People's Democratic Republic jointly between Lao individuals or legal entities, or through a joint venture between Lao individuals or legal entities and foreign individuals or legal entities and is registered in conformity with Lao laws. A branch of a foreign insurance company is an organization of a foreign insurance company which has been authorized by the Lao government to conduct insurance business in the Lao People's Democratic Republic and which is registered in conformity with Lao laws. The 2004 Law on the Promotion of Foreign Investment states in Article 7 that, "A Joint Venture is an enterprise established and registered under the laws of the Lao PDR, operated and jointly owned by foreign and domestic investors. The organization, management, operation and the relationship between the shareholders of the Joint Venture are set out in an agreement made by both parties and in the Articles of Association of such Joint Venture. Foreign investors investing in a Joint Venture shall contribute at least thirty percent (30%) of the Joint Venture's registered capital. Capital contributed in foreign currency shall be converted into Kip based on the exchange rate of the Bank of the Lao PDR on the day of the capital contribution." (Government of the Lao PDR, "On the Promulgation of the Amended Law on the Promotion of Investment". National Assembly, 22 October 2004). There is no provision concerning joint ventures in the 2005 Enterprise Law (Government of the Lao PDR, "Enterprise Law". National Assembly, Vientiane, 9 November 2005).

5 percent and life insurance makes up the remaining 2 percent of the total insurance premiums.

Table 2.5: Composition of Lao PDR Insurance Premiums, 2003-2009

	2003	2004	2005	2006	2007	2008	2009
Life	1.8%	1.9%	2.2%	1.3%	1.9%	2.2%	1.9%
Non-Life excl. PA & health	96.9%	96.4%	95.6%	97.2%	93.2%	95.6%	93.2%
Personal accident & health	1.3%	1.7%	2.3%	1.6%	4.8%	2.3%	4.8%
Total market	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%

Source: Interviews with insurance companies.

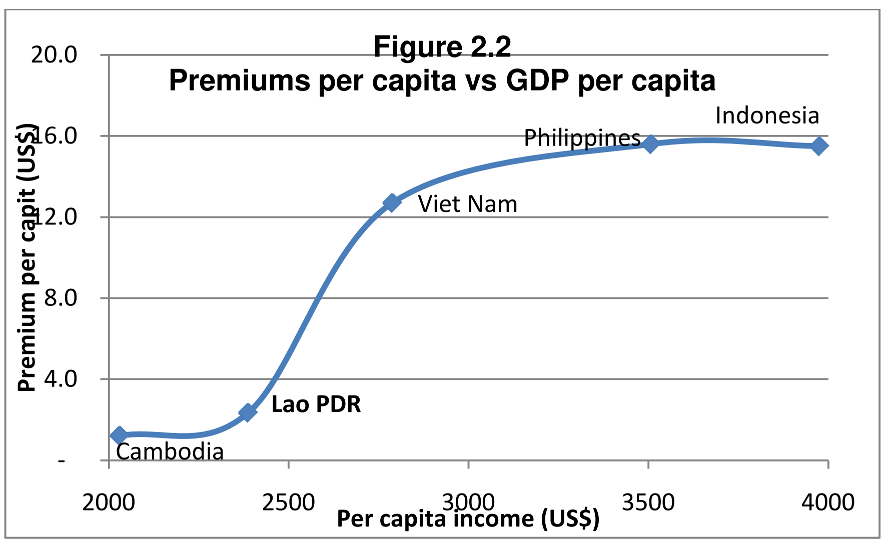
Total premiums in Laos have grown by an annual average of 24 percent a year since 2003. However, that growth has been uneven. Year-to-year variations have ranged from a high of 114 percent in 2006 to a low of -26 percent in 2007. Premiums remained nearly unchanged in 2009, reflecting the industry's market sluggishness.

2.7 Insurance Demand

Demand for life and non-life insurance remains low in Laos. Consumption derives mainly from foreign enterprises and foreign residents. Laotians resist purchasing insurance either because of their low incomes, high premiums relative to their incomes or skepticism about its usefulness, including compulsory third party automobile insurance. As a result, Laos has one of the lowest overall per capita insurance premium in Asia, second only to Cambodia. In life insurance, the country's per capita insurance premium is negligible.

A recent market research survey alleged that 20 percent of peopled surveyed in Laos carry insurance, compared with 68 percent in Vietnam and only 3 percent in Cambodia.[14] However, these results for Laos seem inflated when contrasted with Cambodia and Vietnam. Taking into account per capita income and premium differentials between the three countries, we estimate that the percentage coverage of insurance in Laos is approximately 6 percent.[15]

The potential for the Lao insurance market is large. Figure 2.2 shows that per capita premiums are closely related to income per capita in a country. As real incomes increase in the coming years, the insurance market will grow and premiums expand sharply. Based on



14 The survey of 600 people in Phnom Penh, Vientiane, Hanoi and Ho Chi Minh City was carried out by IndoChina Research in May 2010.

15 The calculation is based on per capita incomes in 2008 of US$2,837 in Laos, US$2,030 in Cambodia, and US$2,788 in Vietnam. Estimates of the percent of population insured in Laos is based on the relative proportion of premiums per capital relative to per capita GDP, which was then applied to the percent of the population insured in Cambodia (3%) and Vietnam (68%). The resulting estimates for Laos naturally depend on the accurateness of the insurance coverage of the population in Cambodia and Vietnam.

the relationship between income and premiums for the countries in Table 2.4, a one percent increase in per capita income of a country is associated with a 2.3 percent increase in per capita premiums. In 2009 the insurance premium per capita of Laos is estimated to be US$ 4.0, based on total premiums reported by insurance companies and the latest population estimates. Bringing Lao per capita income in line with that in Vietnam, for instance, would increase per capita premiums by one-third. Similarly, premiums per capita in Laos would likely double when per capita income reaches a level similar to that currently in the Philippines; they would rise by 150 percent when Laos achieves the same per capita income as present-day Indonesia.

2.8 Survey Results of Existing Challenges for Insurance Industry

As part of the insurance company interview process, each insurer was asked to complete a questionnaire ranking internal and external constraints on their operations. The results, summarized in Table 2.6, are revealing:

Internal Constraints

Insurers generally agreed that the biggest constraint on their operations is the lack of market information in Laos.[16] Lack of insurance-related skills in the workforce was considered to be the second largest constraint to internal operations. Companies indicated that, while they are able to hire Laotians, they are mainly sourced from Thailand where they have completed insurance programs. High-level employees in some of the companies are often from other countries. Other notable constraints were the lack of adequate information technology and the lack of actuarial or managerial skills.

Demand Conditions

Insurers considered the generally low use of insurance by the Lao population to be the biggest market constraint, followed by non-compliance of required motor vehicle insurance. They also pointed to competition from foreign suppliers as a problem for medical insurance since many Laotians use insurance and hospital coverage in neighboring Thailand.

Regulatory Conditions

Not surprisingly, insurance companies do not view the absence of a strong regulatory environment as a major constraint to their doing business in Laos. The major complaints were the uncertainty surrounding the application of regulations, non-transparency of the regulatory framework, and the difficulty of accessing information about regulations.

Complementary Services

Insurers were evenly divided between the ease and difficulty of working with the Government. Half of the companies interviewed pointed to the need to bolster complementary services like law enforcement, the banking sector, and the legal court system.

[16] Market information refers to actual and potential insurance coverage by individuals, companies (by enterprise size) and product types, as well as general population, household and economic data.

Table 2.6: Survey Results of Existing Challenges for Insurance Industry

A.	**Internal Problems**	No Problem	Small to Medium Problem	Big to Very Big Problem	Total
1	*Lack of management skills*	20%	80%	0%	100%
2	*Lack of insurance-specific skills*	20%	40%	40%	100%
3	*Lack of actuarial skills*	40%	40%	20%	100%
4	*Lack of Information Technology*	20%	80%	0%	100%
5	*Lack of market information*	0%	40%	60%	100%
B.	**Demand Conditions**	No Problem	Small to Medium Problem	Big to Very Big Problem	Total
1	*Competition with domestic competitors*	40%	40%	20%	100%
2	*Competition with foreign competitors*	20%	60%	20%	100%
3	*Lack of insurance requirements*	0%	40%	60%	100%
4	*Lack of non-life insurance interest*	0%	40%	60%	100%
5	*Low personal usage*	0%	20%	80%	100%
C.	**Regulatory Conditions**	No Problem	Small to Medium Problem	Big to Very Big Problem	Total
1	*Licensing*	80%	20%	0%	100%
2	*Supervision*	80%	20%	0%	100%
3	*Solvency*	100%	0%	0%	100%
4	*Investment*	60%	40%	0%	100%
5	*Reinvestment*	60%	40%	0%	100%
6	*Competition*	40%	40%	20%	100%
7	*Contracts*	60%	40%	0%	100%
8	*Transparency*	40%	60%	0%	100%
9	*Adequacy of legal regulations*	0%	60%	40%	100%
D.	**Complementary Services**	Very helpful	Helpful or Very Helpful	Unhelpful or Very Unhelpful	Total
1	How is your relationship with Gov. regulatory agencies?	11%	44%	44%	100%
2	Relationship with supporting industries, e.g., financial and credit institutions?	17%	33%	50%	100%

Source: Company interviews.

3. Regulations and Policies Governing Industry

3.1 Laws, Regulations and Reforms

Regulations governing the insurance industry date back to the Insurance Law of 1990.[17] A supplementary decree was passed in 1992 covering technical aspects of policy terms and conditions, and no changes in the law have been made since then. The Insurance Law is rudimentary. It makes no distinction between life and non-life insurance, and provides that insurance must be purchased from locally authorized insurers with no exceptions.[18] Despite the non-admitted regulations, which are difficult to police, insurances for foreign interests are still placed offshore.

Insurance companies are regulated by the Ministry of Finance (MoF). The Insurance Law makes many references to MoF in assigning responsibility for the regulation of insurance companies. Based on a 2008 decree, registration is compulsory for companies carrying out life and non-life insurance and reinsurance activities.[19] Enterprises engaged in these activities are required to obtain approval from relevant sectoral agencies prior to enterprise registration.[20] The need for large companies to use insurance services originating from insurers in Laos was underscored by the Official Notice sent to all line ministries in February 2008 by the Prime Minister's Office.[21]

The Government has set up a Steering Committee to bring the insurance regulatory environment in line with international standards. The Committee is composed of the Ministry of Finance, the newly formed National Bureau of Insurance, and the National Assembly.

3.2 Assessment of the Lao Insurance System

The Lao insurance system and its supervisory framework can be evaluated on the basis of its adherence to the best practices enumerated in the Insurance Core Principles (ICP) of the International Association of Insurance Supervisors (IAIS).[22] These findings can be used to identify weaknesses of the current system and suggestions for areas of improvement. The ICPs are divided into seven categories: (i) conditions for effective insurance supervision; (ii) the supervisory system; (iii) the supervised entity; (iv) on-going supervision; (v) prudential requirements; (vi) markets and consumers; and (vii) anti-money laundering and combating the financing of terrorism. Table 4.1 presents a summary rating

17 see Annex A for main sections of the Insurance Law.

18 Non-admitted insurance refers to the placing of insurance outside the regulatory system of the country in which the risk is located.

19 Government of the Lao PDR, "Decree on the Adoption of the Negative (Conditional) List". Prime Minister's Office, No. 68 /PM, Vientiane, 28/04/2008.

20 Enterprise registration takes place at the Enterprise Registration Office of the Domestic Commerce Department of the Ministry of Industry and Commerce (MOIC). For details of the procedural steps, see "Starting a Business in Lao PDR". Available: http://www.doingbusiness.org/exploretopics/startingbusiness/Details.aspx?economyid=107

21 Prime Minister's Office, "Official Notice". Government of the Lao PDR, Office of Government Secretariat, Ref. No. 392/OGS, Vientiane, 27 February 2008.

22 The 7th ASEAN Insurance Congress was held in Vientiane in 2009 on best practices in the insurance industry, while the 2nd AITRI Workshop held in Manila, Philippines in 2006 covered the Insurance Core Principles of the IAIS.

of the Lao insurance regulatory system based on an assessment of 28 Insurance Core Principles across the seven categories.

3.2.1 Effective insurance supervision

ICP 1: Conditions for effective insurance supervision

In general, an effective insurance system needs a policy and regulatory framework for financial sector supervision and a sound financial market infrastructure. In the last few years, the Government of Laos has made substantial progress in creating such a regulatory framework for financial markets. As a result, the International Finance Corporation (IFC) has upgraded the Lao PDR's index of strength of legal rights from 3 in 2005/6 to a rating of 4 in 2007-2010 (out of a maximum of 10).[23] Although the financial sector remains rudimentary and shallow with little intermediation, physical penetration of banks has increased greatly and existing banks have expanded their branch networks.[24] There is, however, no capital market in Lao PDR, although a stock market will soon be operational. Nor is there an official interbank market, other that an informal level of cooperation between individual institutions. Auditing and enforcement of regulations remain weak because of an acute shortage of qualified certified public accountants (CPAs).

3.2.2 The supervisory system

ICP 2: Supervisory objectives

All insurance laws should include a clear statement of the mandate and responsibilities of the supervisory authority. In the case of Laos, that responsibility is held by the Ministry of Finance (MOF) under the Insurance Law of 1990. Its specific tasks are as follows:

(a) Authorization of new insurance companies.
(b) Issuance of licenses to insurance companies, brokers and agents.
(c) Authority to restrict or suspend licenses.
(d) Power to instruct insurers to submit business improvement plan or increase capital.
(e) Authorization of insurance company mergers.
(f) Power to suspend use of insurance company's assets if it fails to maintain statutory reserves.

In addition, the Insurance Core Principles indicate that the law should set forth the institutional framework or the basic conceptual structure governing the institutions involved in the design and implementation of insurance supervisory policies, identifying, wherever appropriate, the broader set of relevant financial agencies and the nature of the relationships among them. It is recommended that Laos' revised Insurance Law incorporate this provision.

23 Available www.doingbusiness.org.

24 International Finance Corporation (IFC), "Lao PDR: Financial Sector Diagnosis". Washington, DC, August 2008.

Table 3.1: Lao Insurance Sector Rating based on Self-Assessment of Insurance Core Principles

Insurance Core Principles (ICP)		Rating (0-10)
Conditions for effective insurance supervision		***3.0***
1	Conditions for effective insurance supervision	3
The supervisory system		***2.3***
2	Supervisory objectives	2
3	Supervisory authority	2
4	Supervisory process	3
5	Supervisory cooperation and information sharing	2
The supervised entity		***2.6***
6	Licensing	4
7	Suitability of persons	2
8	Changes in control and portfolio transfers	2
9	Corporate governance	3
10	Internal control	2
On-going supervision		***2.9***
11	Market analysis	3
12	Reporting to supervisors and off-site monitoring	2
13	On-site inspection	2
14	Preventive and corrective measures	3
15	Enforcement and Sanctions	3
16	Exiting the market	5
17	Group-wide supervision	2
Prudential requirements		***2.2***
18	Risk assessment and management	2
19	Insurance activity	2
20	Liabilities	2
21	Investments	4
22	Derivatives and similar commitments	2
23	Capital adequacy and solvency	1
Markets and consumers		***2.3***
24	Intermediaries	2
25	Consumer protection	2
26	Information, disclosure & transparency towards the market	2
27	Fraud	3
Anti-money laundering, combating the financing of terrorism		***3.0***
28	Anti-money laundering, combating the financing of terrorism	3
Overall Score		***2.6***

ICP3: Supervisory authority

While the Ministry of Finance has clear supervisory authority, it has limited capacity to exercise those activities. Best practices under this principle requires that the supervisory authority has a legal basis for its activities and that it maintain independence and accountability, powers, financial resources, human resources, legal protection and confidentiality. Currently the Ministry of Finance has conflicting interests as both as supervisory authority and a major shareholder of the three joint venture insurance companies operating in Laos.

To resolve the conflicting interest of the Ministry of Finance, the Steering Committee has proposed the establishment of an independent supervisory body for the insurance industry. That entity would remain operationally independent from external political and commercial interference in the exercise of its functions and powers, and it would be supported by a court-based appeal mechanism. In establishing the supervisory body, ICP best practices recommend the adoption of five essential criteria (a) a clearly defined structure of authority; (b) explicit procedures for appointments of governing bodies; (c) an institutional relationship between it and the other executive and judiciary branches of the government; (d) independence of the supervising authority and its staff from industry representatives in the private sector; and (e) other procedural requirements that ensure the independence of the supervising authority.

ICP4: Supervisory process

Public knowledge about the supervisory process is essential to ensuring the effectiveness and credibility of the supervising authority. For this reason, public written information about the organization and activities of the supervisory process is an important part of the regulatory system. In Laos, insurance companies are required to submit their annual report and accounts to the MoF before 30 June of each year. The annual report includes separate accounts for each branch of insurance such as property, liability and life, and it is sufficiently detailed for MoF to exercise control over each company's operations. However, MoF makes limited use of this information beyond facilitating the information to the ASEAN Secretariat.

ICP5: Supervisory cooperation and information sharing

Effective supervision requires the timely exchange of information among supervisory bodies, both within the insurance sector and across the financial services sector. Currently MoF relies on the informal exchange of information with banking and other financial institutions to obtain information about the insurance and financial sectors.

3.2.3 Supervising Entity

ICP6: Licensing

The only forms of insurance enterprise allowed in Laos are partnerships or affiliates of foreign insurance companies (Article 5 of the Insurance Law). The Law also provides that foreign insurance companies be licensed before they can set up branches, wholly owned subsidiaries or joint ventures. Regulations about partnerships through joint ventures as governed under the Law on the Promotion of Foreign Investment (2004) and the more recent Investment Promotion Law (2009).[25]

ICP7: Suitability of persons

The supervisory authority should ensure that key functionaries of insurance entities have appropriate competency in their responsibilities. The authority should also be able to ascertain whether the functionaries have the appropriate ability and integrity to conduct insurance business. In general, the legislation in Laos does not identify any requirements of competency, nor whether appropriate actions should be taken in cases where the requirements are not met. There is also an absence of rules governing possible conflicts of

25 The Law on the Promotion of Foreign Investment (2004) broadened the scope for foreign investment but was intended for industrial investors rather than insurers. The authorization to form a joint venture includes a provision that investment from overseas must be at least 30% of the total capital of a joint venture company. The Investment Promotion Law (2009) defines the principles, rules and measures to promote domestic and foreign investments so that they are easy to implement and protect the rights and benefits of the investors in a way that enhances the value of investment in the country's social-economic growth.

actuaries, auditors, directors and senior managers involved in insurance enterprises and those holding supervisory control over the industry. Given the currently weak regulatory framework under the 1990 Insurance Law, there exists no mechanism to prevent the operation of insurance entities lacking integrity and technical or financial capacities. This situation is especially susceptible to problems because of the lack of technical training centers in the insurance area within the country. The revised Insurance Law should address these competency requirements and actions to be taken to monitor and enforce those requirements.

ICP8: Changes in control and portfolio transfers

The supervisory authority must approve any portfolio transfer or merger of insurance business in order to ensure accountability to the insurer's policyholders. To meet this best practice principle, the revised Insurance Law of the Lao PDR should define the concept of ownership in terms of legal structure and ownership, with changes in insurers' issues shares ranging from 5 to 10 percent used as a criterion for notification to the supervisory authority. Any change in ownership should also satisfy the competency criteria in ICP7.

ICP9: Corporate governance

The supervisory body should ensure the integrity of the boards of directors and senior management of insurance entities. While there is no formal mechanism for MoF to oversee corporate governance, the Government has, up to now, been able to monitor the few insurance companies operating in Laos. However, with the opening of the sector to more participants, a more formal monitoring system should be introduced.

ICP10: Internal control

Oversight of the operations of insurance companies is part of risk management needed to ensure their financial soundness. The framework for internal controls should be included in the revised Insurance Law.

3.2.4 On-Going Supervision

ICP11: Market analysis

Market analysis in the currently volatile international financial markets is especially important for assessing the impact on risk to insurers and insurance markets. The Ministry of Finance is aware of the risks and vulnerability of the insurance industry to external factors, given the dominance of foreign ventures in the ownership structure of most insurance entities operating in the country. However, there is no formal mechanism to carry out recurrent market analyses under the current system. Moreover, those reviews should adopt quantitative measures that are currently not within MoF's capabilities.

ICP12: Reporting to supervisors and off-site monitoring

It is important that the supervisory authority carry out on-site inspections to examine the business of an insurer and its compliance with legislation and supervisory requirements. Currently, the MoF limits its off-site supervision to situations where information about non-compliance is brought to their attention.

ICP 13: On-site inspection

The supervisory authority should intervene to protect policyholders in those cases where insurers are unable to satisfy the country's regulatory requirements or where solvency is an issue. Both capacity building and expanded budgetary support is needed for the supervisory authority to have available human resource and adequate instruments to enable timely preventive and corrective measures if an insurer fails to operate in a manner that is consistent with sound business practices or regulatory requirements.

ICP14: Preventive and corrective measures

The supervisory authority must have the power to take remedial action in a timely manner where problems involving licensed insurers are identified. While MoF lacks a formal system for applying preventive or corrective measures, the Government remains responsive to information brought to the authorities about non-compliance by insurance companies.

ICP15: Enforcement and sanctions

The supervisory authority should have enforcement capabilities. They should also have the resources necessary to carry out enforcement. In the case of Laos, the situation has not yet arisen where such actions have been necessary, though it is likely to arise under a liberalized regime.

ICP16: Exiting the market

The Enterprise and Investment Laws have greatly facilitated the exit process of firms in Laos, although some issues still remain with dissemination and implementation of those laws.[26] The ranking of Laos in terms of ease of closing a business nonetheless remains low (in 2009 Laos ranked 165 out of 183 countries; in 2010 it ranked 167 out of 183 countries).[27]

ICP17: Group-wide supervision

Legal provisions should exist to ensure overall supervision and remedial actions by the supervising authority. Revisions to the existing Insurance Law in the Lao PDR should include appropriate provisions to ensure that the supervisory authority has the legal right and appropriate mechanism for that level of supervision.

3.2.5 Prudential Requirements

ICP18: Risk assessment and management

The supervisory authority should have the ability to ensure that insurers have comprehensive risk management policies and systems capable of promptly identifying, measuring, assessing, reporting and controlling their risks. These responsibilities for the supervisory authority should be included in the revisions to the existing Insurance Law.

ICP19: Insurance activity

The supervisory authority should have the ability to require insurers to evaluate and manage the risks that they underwrite, particularly through reinsurance.[28] They should also have the tools at their disposal to establish an adequate level of premiums. As in

26 Government of the Lao PDR, "Law on the Promotion of Foreign Investment". National Assembly, Vientiane Capital City, Date 22 October 2004; and Government of the Lao PDR, "On the Promulgation of the Law on the Amendment of the Enterprise Law". National Assembly, Vientiane Capital City, Date 9 December 2005.

27 International Finance Corporation (IFC), Doing Business: Measuring Business Regulations database. Available: www.doingbusiness.org.

28 Reinsurance refers to the purchase by an insurance company (insurer) from a reinsurer as a means of risk management, transfer risk from the insurer to the reinsurer. The reinsurer and the insurer enter into a reinsurance agreement which details the conditions upon which the reinsurer would pay the insurer's losses (in terms of excess of loss or proportional to loss). The reinsurer is paid a reinsurance premium by the insurer, and the insurer issues thousands of policies.

ICP18, the framework for these responsibilities of the supervisory authority in Laos should be included in the revisions to the existing Insurance Law.

ICP 20: Liabilities

The supervisory authority should have the ability to require insurers to comply with standards for establishing adequate technical provisions and other liabilities. As in ICP18 and ICP19, the framework for these responsibilities of the supervisory authority in Laos should be included in the revisions to the existing Insurance Law. Moreover, appropriate capacity and resources should be made available to the supervisory authority to perform these functions.

ICP21: Investments

The supervisory authority should have the ability to require insurers to comply with standards on investment activities in terms of investment policy, asset mix, valuation, diversification, asset-liability matching, and risk management. At present, investments in Laos are controlled by the Government and only investment in local time deposits are allowed. There are no regulations governing the investment of statutory reserves. In the absence of financial markets, all of the insurers' reserves are placed in deposit accounts in local banks. With the proposed launching of a stock market in Vientiane this year, the range of potential investment instruments could be expanded under the revised Insurance Law.

ICP22: Derivatives and similar commitments

With the opening of the stock market in Vientiane and the possible inclusion of domestic company stocks in the investment activities of insurance companies, use of derivatives in the future will need to be controlled by the supervisory authority. Requirements regarding the use of derivatives should be included in the revised Insurance Law or in separate supervisory rules spelled out in the implementation decree(s). The requirements should consider the risks in the use of derivatives and similar commitments.

ICP23: Capital adequacy and solvency

Insolvency is covered under Articles 20-24 and 31-32 of the Insurance Law. A solvency margin of 20 percent of the actual insurance premiums is required. In the case of insolvency, salaries of personnel and state liabilities are given precedence over policyholders and beneficiaries. The law establishes an outline of procedures that should be followed in the case of insolvency, including withdrawal of permits and the transfer of assets. However, there is no specific legislation to provide for the protection of policyholders in the event that a Lao insurer becomes insolvent. The security deposit made by insurers on their establishment is reserved to indemnify policyholders in such circumstances.

The supervisory authority should requires insurers to comply with the prescribed solvency regime, which includes capital adequacy requirements that are suitable to absorb significant unforeseen losses. Revisions to the existing Insurance Law should reconsider the manner in which minimum paid-up capital and solvency requirements are specified for new company registration. Under the 1990 Insurance Law the paid-up capital requirement is expressed in Lao Kip (LAK) and is equivalent to US$700 in 1990 dollars and roughly US$8,550 under the current exchange rate. The revision of the law should bring capital requirements in line with international standards, considering the market size and stage of the industry’s development in Laos. Currency based requirements should be avoided in any new law and, where necessary, indicated in subsequent implementation decrees.

3.2.6 Markets and consumers

ICP24: Intermediaries

Legal provisions should exist to regulate and supervise insurance intermediaries.[29] In Laos, intermediaries (brokers or agents) have to be authorized before they can undertake insurance activities. Insurers are not allowed to place business with non-admitted insurers. However, reinsurance is not covered in the Insurance Law. Lack of controls under the current Insurance Law means that insurance companies have considerable flexibility in their practices. Currently, Lao-Viet Insurance Company is carrying out reinsurance activities. Revisions to the Insurance Law should include appropriate provisions to ensure that the supervisory authority has the legal right and appropriate mechanism to supervise insurance intermediaries.

ICP25: Consumer protection

Product control involving transparency of insurance forms needs to be upgraded in Laos. There is currently no supervision of contract forms that offer the potential for opaque practices. At present, the supervisory authority sets minimum requirements for insurers and intermediaries in dealing with consumers, including foreign insurers selling products on a cross-border basis. The Lao PDR has signed a Memorandum of Understanding on the implementation of the 5th Protocol of ASEAN on the Crossed Border Car Insurance Obligation between four countries, namely, Cambodia, Lao PDR, Vietnam and Thailand. (Figure 3.1). Similar insurance co-operation will be expanded later to other ASEAN countries such as Singapore and Malaysia to promote tourism (Figure 3.2). The MoUs intend to set up insurance centers where motorists can apply for insurance coverage before leaving for any of the neighboring countries.

Figure 3.1: Blue Card for Cross Border Insurance in Cambodia, Laos, Thailand and Vietnam

In Laos, compulsory insurance applied to third party bodily injury, although it is not properly policed. Only about one-half of all automobiles are believed to have insurance coverage and the proportion is much smaller if motorcycles are included. Currently there is no scheme to compensate victims of non-insured vehicles. In the case of litigation, there is limited access to courts. Where court action exists, procedures tend to be slow. As a result, most cases are settled out of court by negotiation. With rising urbanization, motor vehicle claims are increasing, as is the average cost of claims for third party motor bodily injury. Claims are usually settled out of court, at the instigation of the police. They tend to act as judge and jury, and have the power to impound a vehicle which might have been

29 'Insurance intermediaries' refers to work that is preparatory to the conclusion of contracts of insurance or the administration and performance of insurance contracts in the event of a claim. They include insurance brokers, agents and on insurance products on behalf of one or more companies.

responsible for an accident until some restitution is made by the driver/owner. In other cases, traditional procedures are used (unless a foreigner is involved) in which the adjudicator is a community leader or village headman. In case of consumer disputes, no independent body exists that provide for resolution procedures. In principle, the Ministry of Finance could possibly adjudicate. In the Ministry of Justice there exists an Office of Economic Dispute Resolution (provided for in Decree No 106/PM, 15/7/94) that is responsible for the resolution of economic disputes. It could possibly cover insurance disputes.

Figure 3.2: ASEAN Compulsory National Motor Insurance

ICP26: Information, disclosure & transparency towards the market

Public disclosure of reliable and timely information should facilitates policymaking and inform the public about the financial health of the insurance industry. Despite efforts by MoF to disseminate information, capacity limitations prevent these activities from being effectively carried out. Considerable capacity building and resources will be needed to provide for qualitative and quantitative analysis of the financial position and performance of the industry.

ICP 27: Fraud

The supervisory authority should require that insurers and intermediaries take necessary measures to prevent, detect and remedy insurance fraud. There is limited capacity at MoF to carry out these activities. Legislation should provide for enforcement regulations, insurer fraud, claims fraud and punishments.

3.2.7 Anti-money laundering/ Combating the Financing of Terrorism

ICP28: Anti-money laundering, combating the financing of terrorism

The Decree on Anti-Money Laundering (2003) establishes the mechanism for combating and deterring.[30] It established an Anti-Money Laundering Intelligence Unit in the Bank of Lao PDR to collect, analyze and report information on money laundering to be submitted to the authorities, who in turn are required to take legal action to combat and deter money laundering.

3.3 Comparison with Other Asian Countries

In compliance with the Insurance Core Principles, Laos ranks near the average of all developing East and South Asian countries, but below that of the ASEAN region. In contrast to the Lao PDR's average ICP score of 26, most other ASEAN countries score 30, with the exception of Singapore which scores 80.[31] Among South Asia countries both Bangladesh and Pakistan have zero scores because of their non-compliance in all

[30] Available: http://www.bol.gov.la/english/decreeaml.pdf

31 Malaysia also scored high but the assessment was carried out in 2001, but the ICP methodology was subsequently revised, making the previous scoring difficult to compare with the new standards. Available: http://www.estandardsforum.org/malaysia/standards/insurance-core-principles.

categories.[32] Sri Lanka has a low score of 10 because its supervisory board lacks supervisory resources and has weak enforcement powers.[33]

Improvements in the Lao PDR's ranking would results from reforms already underway or suggested in the previous section: (i) bringing the Insurance Law in line with international standards; (ii) establishing a Lao insurance regulatory authority with appropriate capacity, independence and enforcement capabilities; (iii) updating capital requirements for insurers and making the standards risk-based; (iv) introducing rules on corporate governance; (v) establishing internal controls on business conduct and auditing of the insurance companies; (vi) reporting and disseminating information about the life and non-life insurance sectors for both individual insurers and group-wide supervision; and (vii) adopting a risk-based capital regulatory framework for the non-life and life insurance sectors.

Table 3.2: Insurance Core Principles Ratings in Asia
(Scale of 0 to 100, where 100 represents full compliance)

Brunei Darussalam	na
Myanmar	na
Cambodia	na
Indonesia	30
Laos	*26*
Malaysia	na
Philippines	30
Singapore	80
Thailand	30
Vietnam	na
ASEAN average	***39.2***
China	30
Mongolia	na
East Asia Average	***30***
Afghanistan	na
Bangladesh	0
Bhutan	na
India	30
Maldives	na
Nepal	na
Pakistan	0
Sri Lanka	10
South Asia Average	***10***
East & South Asia Avg	**27**

Source: Lao PDR based on assessment by Study Team; other ratings from the eStandards Forum of the Financial Standards Foundation. Available www.estandardsforum.org

3.4 Proposed Restructuring of the Insurance Sector

The National Bureau of Insurance is to be a unit under control of the Ministry of Finance and act as a Focal Point to facilitate and cooperates with other National Bureau of Insurance of ASEAN nations to ease and structure the Crossed Border Car Insurance of the 5th Protocol of ASEAN. The Ministry of Finance is responsible for modifying the laws and regulations for the insurance sector in a manner that is compatible with international regulations and the development of insurance sector in the country. At present, there are two departments in the Ministry of Finance that are responsible for the insurance sector. The first is the Financial Policy Department, which is responsible for the control of the insurance sector; the second is the State Enterprise Department, which is responsible for issuing insurance licenses in those cases where the Ministry of Finance holds company shares. There is presently an insurance research and development committee made up of representatives from Ministry of Finance, National Assembly and Ministry of Justice. The Ministry of Finance plans to develop and widen the scope of insurance sector.

The restructured insurance sector should reflect (a) the Lao PDR's overall development characteristics and goals, (b) the insurance industry's existing and likely structure in the

32 Pakistan suffers from a diffused and ineffectual legal and regulatory system, while Bangladesh has an underdeveloped and poorly regulated insurance sector. Available: http://www.estandardsforum.org/browse.

33 A 2008 report by the Central Bank of Sri Lanka indicates that revisions are underway of the main insurance sector law, the Regulation of the Insurance Industry Act, which is expected to strengthen the IBSL's supervisory powers and capacity, especially in its corrective measures and enforcement, increase minimum capital requirements for insurers, introduce fit and proper testing of directors of firms and brokers as well as introduce the appointment of institutional insurance agents. Available: http://www.estandardsforum.org/sri-lanka/standards/insurance-core-principles

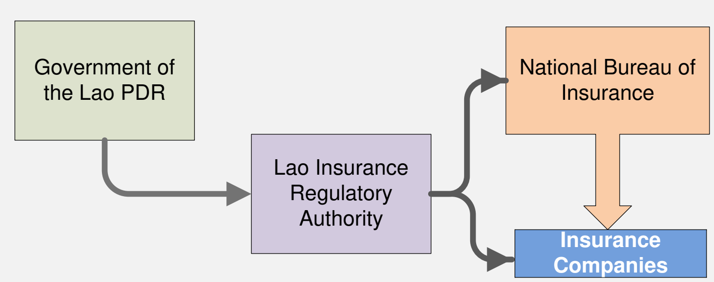
future, (c) the Government's likely commitments under the GATS for the industry as part of its WTO accession negotiations, and (d) the Government's interests in ensuring that the industry meets international standards for the industry based on the Insurance Core Principles. In reviewing existing regulatory authorities within the region, the Government may wish to adopt the organizational structure and corporate principles of one that has a proven record of success. Among the Asia countries that have comparable profiles to that of Laos, Nepal's Insurance Regulatory Authority has a fairly streamlined organizational structure to perform independent supervision of the insurance industry within the overall purview of the Ministry of Finance.[34] Outside the region, a business plan is available for the Insurance Regulatory Authority of Kenya.[35]

Figure 4.1 presents the structure for the industry as presently envisioned by the Government. It provides the framework for the development of the insurance industry through effective regulation and supervision. The Lao Insurance Regulatory Authority would have the following functions:

- Ensure effective administration, supervision, regulation and control of insurance enterprises operating in Laos.
- Enforce the Insurance Core Principles for the conduct of insurance activities in Laos.
- License all entities connected with insurance business.
- Protect insurance policy holders and insurance beneficiaries in any insurance contract, including establishing statutory tariffs beyond those that are currently mandated for motor third party.
- Promote the development of the insurance sector.
- Advise the Government on the national insurance-related policies under the Lao PDR National Socio-Economic Development Plan (NSEDP).
- Undertake other activities determined under the revisions to the Insurance Law of 1990, along with its accompanying decrees.

One insurer suggested the possible establishment of a group-based reinsurance agency to provide for likely increases in the need for expansion of underwriting capacity. The argument for pooling resources is that number of participants or transactions should not overburden the limited capacity of the Lao regulatory authorities. Yet it is an important mechanism by which professional insurance managers can pool risk or buffer against catastrophic losses. The pooling of resources to establish a common reinsurance agency funded by the Government and insurance companies and regulated by the Lao Insurance Regulatory Authority would provide one way to provide reinsurance without overburdening the system.

Figure 3.3: Possible Structure of Lao Insurance Sector



34 For details, see the website of the Insurance Regulatory Authority of Nepal. Available: www.bsib.org.np

35 That corporate business plan details the establishment, mandate, objectives and functions of the Authority, along with the vision, corporate structure, budget for 2010/11, and monitoring and evaluation of the Authority. Available http://www.ira.go.ke/Documents/Corporate%20plan%20IRA.pdf

4. GATS Compliance and Impact Analysis

4.1 Overview

Despite a number of similarities between services trade and merchandise trade, there are important differences in their trade barriers and cross-border movements.[36] First, many cross-border service activities require physical presence in the foreign market, in which case liberalization is required of both the movement of the service and the service provider (for example, travel agents) or consumer (for example, tourists). Second, barriers to trade in services are often in the form of regulations, which are easier to enforce when foreign service-providers (for example, insurance firms) are located in the host country. Finally, trade in services tends to generate more movements in foreign direct investment (for example, joint ventures within the insurance sector) and cross-border networks than does merchandise trade.

The General Agreement on Trade in Services (GATS) provides the multilateral framework under the WTO for regulating trade in services under two sets of obligations: (1) a set of *general* concepts, principles and rules that apply to all measures affecting trade in services; and (2) *specific* negotiated obligations that constitute commitments that apply to those service sectors and subsectors that are listed in a member country's schedule. The GATS applies to four "modes of supply:" (1) cross-border supply of a service (i.e., not requiring the physical movement of supplier or consumer); (2) services involving movement of the consumer to the location of the supplier; (3) services sold in the territory of a country by entities that have established a presence there but originate in the territory of another country; and (4) services requiring the temporary movement of natural persons. For the insurance sector, the value of services traded through modes (3) and (4) is greater than that of the trade in insurance-related services taking place through modes (1) and (2). However, the lack of statistics makes any concrete estimate of their corresponding magnitudes difficult to calculate.

Market access is not defined in the GATS. Instead, agreement is reached on a list of six measures that in principle are prohibited. These consist of limitations on: (1) the number of service suppliers allowed, (2) the value of transactions or assets, (3) the total quantity of service output, (4) the number of natural persons that may be employed, (5) the type of legal entity through which a service supplier is permitted to supply a service (e.g., branches versus subsidiaries for banking), and (6) participation of foreign capital in terms of a maximum percentage limit of foreign share holding or the absolute value of foreign investment. Commitments are made in a manner that is both transparent and clarifies whether any market access or national treatment limitations exist (i.e. GATS, Article XVI, and XVII respectively)[37]. Moreover, exemptions to the Article II Most Favored Nations Treatment[38] must be included. This requirement includes areas where specific favorable treatment is extended to nationals of a specific country compared to another. Areas where reciprocity is a condition are also included (e.g., to allow certain professionals or insurance

36 For a survey of analytical issues facing services trade, see Hoekman and Braga (1997).

37 For the full legal text of General Agreement on Trade in Services (GATS) see http://www.wto.org.

38 The MFN principle refers to the concept of non-discrimination among countries. Exceptions to the rule are members of regional trade agreements, which are subject to preferential treatment of some form or another.

companies to establish commercial presence and practice in Laos, a reciprocal treatment is required).

4.2 Special Treatment for Laos as a Least-Developed Country

For Laos the question currently confronting the Government in its negotiations for WTO accession is how the GATS negotiations can support its interests and concerns as a least-developed country. In this regard, the GATS provides for the following for least-developed countries like Laos:[39]

> *Special priority shall be given to the least-developed country Members in the implementation of paragraphs 1 and 2. Particular account shall be taken of the serious difficulty of the least-developed countries in accepting negotiated specific commitments in view of their special economic situation and their development, trade and financial needs.*

Paragraphs 1 and 2 in the aforementioned provision refer to the following:

(1) The increasing participation of developing country Members in world trade shall be facilitated through negotiated specific commitments…relating to: (a) the strengthening of their domestic services capacity and its efficiency and competitiveness, inter alia through access to technology on a commercial basis; (b) the improvement of their access to distribution channels and information networks; and (c) the liberalization of market access in sectors and modes of supply of export interest to them.

(2) Developed country Members, and to the extent possible other Members, shall establish contact points within two years from the date of entry into force of the WTO Agreement to facilitate the access of developing country Members' service suppliers to information, related to their respective markets, concerning: (a) commercial and technical aspects of the supply of services; (b) registration, recognition and obtaining of professional qualifications; and (c) the availability of services technology.

As an LDC, the modalities for Laos should ensure maximum flexibility and form the basis for accession negotiations. The WTO General Council Decision on Accession of Least-Developed Countries provides (a) automatic recourse to "special and differential" rules in the WTO Agreements; (b) restraint by Members in seeking goods and services market access commitments; (c) account taken of the commitments of existing WTO LDC Members; (d) recourse to transitional arrangements foreseen in WTO Agreements from the date of accession accompanied by action plans for compliance supported by technical assistance and capacity building measures; and (e) optional participation in plurilateral agreements. Under these guidelines, the accession process for Laos is to become a tool for economic development, the country's development program and laying out an action plan for progressive implementation of WTO rules.[40] WTO Members should therefore take into account the serious difficulties of Laos in undertaking negotiated commitments in view of its special economic situation and its development, trade and financial needs. In addition, Laos is not expected to offer full national treatment to foreign-service providers. Developed members countries, for their part, should give special priority in the

39 GATS, Article IV on Increasing Participation of Developing Countries.

40 WTO Secretariat, "Accession of Least-Developed Countries". Document No. WT/L/508, 20 January 2003. Available: http://www.ustr.gov/sites/default/files/WTL508-2002%20DECLARATION.pdf.

negotiations to provide effective market access in sectors and modes of supply of export interest to Laos.[41]

The Lao PDR could make use of its LDC status to request that an appropriate transition period be allowed before full implementation of best-practice GATS commitments. For example, its WTO commitments could include a transition period for the insurance sector to adjust to the introduction of no limitations on new products and services brought into the sector by foreign insurance companies. Its commitments could nonetheless allow for the immediately introduction of national treatment of foreign firms and allow reinsurance since these activities already exist in the country. The Government could also delay the adoption of international standards of accounting and auditing to allow for the building of sufficient domestic skills so as not to depend on foreign expertise.

4.3 Best Practices for GATS Commitments in the Insurance Subsector

There are internationally recognized guidelines for recommended GATS commitments in the insurance industry.[42] The relevant provisions for Laos would be as follows:

- *Reinsurance*: Companies should have the freedom to sell any form of reinsurance and provide their own reinsurance contract terms; discriminatory requirements should not be imposed on foreign reinsurance suppliers as they relate to collateralization and localization of assets; there should be no discrimination between the foreign and domestic reinsurance suppliers; individual companies should not be required to cede all or a portion of their risks to specified insurance or reinsurance suppliers.
- *National treatment*: (a) Foreign insurance suppliers should be treated no less favorably than domestic services suppliers with respect to capital, solvency, reserve, tax and other financial requirements; and (b) for insurance to state-owned, state-affiliated enterprises and other enterprise where the state has equity shares, licensed foreign insurance suppliers should have the same opportunities to compete for domestic insurance business as indigenous insurance services suppliers.
- *Equity shares*: for joint ventures, the percentage equity assumed by foreign partners should be determined solely by the joint venture partners; and (b) transitional periods not exceeding two years can be used to eliminate all foreign equity share restrictions.
- *Temporary entry of natural persons*: (a) any foreign insurance supplier operates through a commercial presence should be allowed to select as its representative in the host country any person who physically resides in the host country, irrespective of nationality, provided that the representative meets regulatory standards that identify competency to perform services; and (b) temporary visa and associated

41 WTO Reporter, "WTO Settles on Modalities for Treatment Of Poorest Countries in Doha Services Talks," 4 September 2003. Available: http://ictsd.org/i/news/bridgesweekly/6944/ . Note that the least-developed countries began the discussions in March 2002. As a result of subsequent discussions, Members agreed on the modalities for LDCs on 3 September 2003. Available: http://www.wto.org/english/thewto_e/whatis_e/tif_e/agrm6_e.htm

42 United Nations Conference on Trade and Development, “Trade and Development Aspects of Insurance Services and Regulatory Frameworks”. Geneva, March, 2008. Available: https://unp.un.org/Details.aspx?pid=17753. The Model Schedule was originally published October 2001 by the Financial Leaders Working Group–Insurance Evaluation Team.

work permits should be provided to professional level personnel employed of the foreign insurance services supplier's home and third country offices in a timely manner for the purpose of entering the country and providing short and mid-term assistance.

These and other guidelines are presented in Annex D under the market access and national treatment obligations of the GATS. Before that, Annex C provides a guide to reading a country's sector-specific commitments under GATS.

4.4 GATS Commitments of Asia Countries in the Insurance Subsector

The experience of other Asian countries can serve to guide the Government of the Lao PDR in formulating its own GATS commitments on the insurance subsector. Annex F presents the specific commitments of the ASEAN member countries. The following is a brief review of the commitments of some countries, as well as the recent commitments in the insurance subsector of China during its WTO accession experiences.

Brunei

GATS commitments were made for direct insurance (life and non-life), reinsurance and retrocession, insurance and intermediation (broking and agency services) and auxiliary services (consultancy, actuarial risk assessment, risk management, and maritime loss adjusting).[43] Brunei's schedule reflects current requirements and restrictions, including commercial presence only through companies registered in Brunei for direct insurance; and purchase of compulsory insurance for automobile third-party liability and workmen's compensation only from insurance companies established in Brunei.

Cambodia

GATS commitments were made for direct insurance (life and non-life), reinsurance and retrocession, auxiliary services (including brokering services).[44] In general, Cambodia places no limitations on the entry and operation of insurance in the country. It limits contracts to only those insurance companies licensed to carry out insurance business in Cambodia. Cambodia's insurance sector is governed by the Law on Insurance of 2000.

Vietnam

Prior to accession, foreign invested insurance enterprises were not allowed to engage in insurance-related activities. That limitation was eliminated following accession to the WTO in 2007.[45] Market access on the cross-border supply (Mode 1) of insurance services is applicable to certain insurance services, namely insurance services in international transportation; reinsurance services; insurance brokerage and reinsurance brokerage services; and consultancy, claim settlement and risk assessment services. In addition, foreign insurers are permitted to engage in cross-border transactions with foreign invested companies or foreigners working in Vietnam. Vietnam has agreed to ensure no limitations on market access with respect to consumption abroad (Mode 2). Statutory insurance services are permitted to be supplied by a wholly foreign-owned insurance company from

43 WTO Secretariat, "Trade Policy Review: Brunei Darussalam". WT/TPR/S/196

44 WTO Secretariat, "The Kingdom of Cambodia: Schedule of Specific Commitments". GATS/SC/140.

45 The following summary of Vietnam's commitments on insurance is based on Thang, Vu Nhu, "necessary reform of insurance business law in Vietnam after its accession to the world trade organization: prudential regulatory aspects". Fordham Journal of Corporate & Financial Law. January 2007. Available: http://www.allbusiness.com/government/international-organizations-bodies/8911019-1.html

2008. With regard to commercial presence (Mode 3), foreign insurers are permitted to establish either joint venture or wholly foreign-owned company from the date of accession, that is, as of 2007. The form of branches of foreign non-life insurers shall be allowed after five years from the date of accession.

For movement of natural persons, Vietnam's limitations on market access in supplying insurance services under Mode 4 are consistent with the horizontal commitments that apply to all services, including insurance services, provided through the presence of foreign natural persons in Vietnam. Vietnam inscribed no commitments on the market access, except for measures relating to entry and temporary stay of five categories of natural persons, namely intra-corporate transferees, other personnel, service sales persons, persons responsible for setting up a commercial presence, and contractual service suppliers. For national treatment, full national treatment is granted to Modes 1, 2, and 3. With respect to Mode 4, Vietnam undertakes commitments with limitations, whereby only five categories of natural persons shall enjoy full national treatment when supplying insurance services in Vietnam. In other words, Vietnam may impose restrictions on the national treatment with regard to the movement of natural persons other than the five above-said categories of natural persons. In general, it may be observed that Vietnam's commitments to liberalization of insurance services at the multilateral level are relatively liberal compared to competition by foreign insurance services and service suppliers.

China

Following it WTO accession, China allowed foreign companies involved in non-life insurance services to establish as a branch or as joint ventures with up to 51 percent ownership. Within two years of China's accession, foreign non-life insurers were permitted to establish as a wholly-owned subsidiary. Upon accession, foreign life insurers were permitted 50 percent foreign ownership in a joint venture with the partner of their choice. For large scale commercial risks, reinsurance and international marine, aviation and transport insurance and reinsurance, there were permitted joint ventures with foreign equity of no more than 50 percent will be permitted; after three years of China's accession, foreign equity share were increased to 51 percent; within five years of China's accession, wholly foreign-owned subsidiaries were permitted.

4.5 Lao PDR's Insurance Subsector Commitments under ASEAN and Best Practice Guidelines

In 1995 the members of ASEAN created the ASEAN Framework Agreement on Services (AFAS) with the objective of eliminating restrictions to trade in services and enhance cooperation in services within ASEAN.[46] It includes insurance within the area of financial services. Under AFAS, member states negotiate on measures affecting trade in specific service sectors, and the results are set out in schedules of commitments. The Fifth Round of Negotiations (2007-2009) resulted in an agreement of the AFAS' 7th Package, in which Laos and other ASEAN member states pledged commitment to allow for higher foreign equity ownership. They are considered best practices and provide Laos with the flexibility and policy basis with which to make an offer on insurance services under the WTO accession process.

46 The AFAS was signed in 1995, at which time Laos had not yet joined ASEAN. When Laos accedes to the WTO, its WTO commitments will be integrated into its AFAS schedule.

All AFAS rules are consistent with international rules for trade in services as provided under the GATS Agreement. One of the objectives of AFAS is to liberalize services trade towards achieving liberalization beyond Member States' commitments under GATS. This is often referred to as the GATS-plus principle. It means that ASEAN Member States schedule commitments under AFAS that go beyond their WTO's GATS commitments or offer new service sectors/subsectors that have not been scheduled under GATS.

Laos made specific commitments to liberalize the insurance subsector in the 3rd Package of Commitments of AFAS. Annex E lists specific commitments in the subsector. For each line item, we have compared Lao PDR's commitment with the recommendation made under the internationally recognized guidelines described in section 4.2 above. Some of the highlights are as follows:

- *Consumption abroad*: Based on the 1990 Law, Laos requires insurance contracts to be established with authorized insurance companies in Lao PDR. This requirement would not affect reinsurance services, which are undertaken by insurance companies with other companies normally outside of Laos. Currently there are reinsurance services being offered by insurers operation in the country. GATS obligations by other countries vary: China's commitments provide that full range of reinsurance services for life and non-life insurance can be provided as a branch, joint venture or WFOE w/out geographic or quantitative restrictions; India limits the percent of reinsurance with foreign reinsurers to 10 percent of the premium of the market overall being reinsured abroad;[47] Brazil that requires reinsurance services be bought exclusively from the Brazilian reinsurance institute,[48] but indicated that it would undertake commitments on commercial presence in the reinsurance and retrocession markets within two years of the adoption by the National Congress of legislation in the area; Malaysia has committed to issuing specific reinsurance licenses to companies;[49] and Singapore has no limitations on reinsurance companies and allows them to establish as branches or subsidiaries in the country.[50]
- *Commercial Presence 1*: Based on the 1990 Insurance Law, Laos limits legal entities operating in insurance-related activities to state enterprises, joint-ventures or private company, and branches of foreign insurance companies. Direct branching is not currently included within the types of legal entities allowed to operate in the country.[51] Best practice recommendations for GATS commitments

47 WTO Secretariat, "India's GATS Commitments - Financial Services". Available: http://tradeinservices.mofcom.gov.cn/en/f/2007-11-28/13379.shtml.

48 IRB- Brasil Resseguros S.A.

49 WTO Secretariat, "Summary of Trade Policy Review". Available: http://www.wto.org/english/tratop_e/tpr_e/tp67_e.htm

50 WTO Secretariat, "Singapore: Schedule of Specific Commitments. Supplement 3". GATS/SC/76/Suppl.3, 26 February 1998. Available: http://www.esf.be/pdfs/GATS%20UR%20Commitments/Singapore%20SoC%20Supplement%203.pdf

51 Direct branching refers to the placing of insurance agencies in host countries (e.g., Laos) that carry the same name as the parent company; in contrast, foreign-owned subsidiaries located in host countries that carry different names from the parent company is sometimes called an 'indirect branch'. It effectively operates as a branches of foreign-owned insurance corporations but with a different corporate identity from that of the parent company.

that all forms of legal entities be allowed to operate in the host country, although in practice not all forms are included in country commitments. Requests for far reaching insurance sector liberalization are usual during negotiations, and direct branching is often a central issue. Phased-in commitments are one frequently used solution.[52] The United States and the European Union have requested that countries include direct branching in their commitments. For example, Chile, which is the most open country in Latin America, opened its insurance industry to establishment of US insurance companies as branches. However, it did not include *direct* branching.[53] Domestic insurance companies argued that the enormous difference in size of US banks and insurance companies compared to Chilean ones would drive them out of the market. In the end, Chile did not agree to lift their limitation on the establishment of direct branches.[54] Mexico also does not allow direct branching, despite requests by the European Union to allow them.[55] In Asia, Thailand places restrictions on direct branching in insurance by limiting the number of branch offices per foreign insurer restricted to one.[56]

- *Commercial Presence 2*: For most joint ventures insurance companies operating in Laos, the foreign partner has a 51 percent share. The exception is Toko Assurance Co, where the foreign partner has an 80 percent share. As mentioned in Chapter 2, however, there is no legislative requirement on foreign equity share restrictions in Laos. This approach is consistent with recommended best practices for GATS commitments.
- *Commercial Presence 3*: Licensing requirements are consistent with best practice recommendations (Annex D), as long as there is no discrimination between licensing practices for foreign and domestic suppliers. Under "Decree on the Adoption of the Negative (Conditional) List" of the Prime Minister's Office, dated 28/04/2008, insurance-related activities are included in the negative list requiring are required to obtain approval from relevant sectoral agencies prior to enterprise registration. However, there is no discrimination between foreign and domestic enterprises in the application of this degree.
- *Commercial Presence 4*: The minimum registration capital requirement under the 1990 Insurance Law of Laos is expressed in Lao Kip (LAK) and is equivalent to US$700 in 1990 dollars and roughly US$8,550 under the current exchange rate. The Insurance Research and Development Committee plans to consider the content of articles that establish a minimum registered capital requirement that is more relevant to the present situation of the insurance sector.

52 UNCTAD, "Report of the expert meeting on trade and development implications of financial services and commodity exchanges". Geneva, TD/B/COM.1/EM.33/4, 15 November 2007. Available: http://www.unctad.org/en/docs//c1em33d4_en.pdf.

53 Chile opted to choose how to regulate branches, including their characteristics, structure, relationship to their parent company, capital requirements, technical reserves, and obligations regarding risk patrimony and their investments. Capital of branches is required to be separate from that of the parent company.

54 WTO Secretariat, "Communication from the European Communities And Their Member States". S/CSS/W/39, 22 December 2000.

55 Gatswatch, "Financial Services: EC Request to Mexico". Available: http://www.gatswatch.org/docs/offreq/EUrequests/Mexico.pdf

56 Coalition of Service Industries, "Written Testimony on the Free Trade Agreement between the United States and Thailand for the Trade Policy". Staff Committee Office of the United States Trade Representative, March 30, 2004.

- *Presence of Natural Persons*: Best practice recommendations for GATS commitments indicate that, in general, nationality and residency requirements on personnel should be avoided. Lao PDR's AFAS commitment in this area is unbound, except that only senior managers, experts are permitted based on the approval by relevant authorities.

4.6 Impact of Liberalization on the Insurance Sector

In general, the benefits of liberalizing trade in services derive from the reduction of surplus costs associated with the price of services in protected markets. Some barriers raise price margins and involve resource transfers from consumers to service providers; others, like cost-raising regulations, raise costs of all existing and potential firms and create a deadweight loss.[57] These costs, however, can be difficult to measure in Laos. Instead, we enumerate the visible benefits to Laos from liberalizing insurance services as follows:

- Increase the insurance industry's value added and its share of overall economic activity.
- Generate more employment and a multiplier effect on total output.
- Improve the legal and regulatory system of the insurance industry by introducing necessary reforms to make the system more transparent, fairer and closer to international standards.
- Enhance demand for improvements in complementary areas like law enforcement and the court system because of increased attention to motor vehicle insurance coverage and safety campaigns of insurance companies.
- Strengthen consumer safety from broader compulsory automobile coverage and extend requirement to motorcycles.
- Lower risk on personal and business investments as a result of increased insurance coverage.
- Mobilize capital movements and expand investment from larger volume of premiums.
- Promote cross-border movements of people by providing common insurance standards and licensing arrangements.
- Lower insurance premiums for consumers resulting from increased competition among insurers.
- Knowledge transfer and increased demand for accountants, actuaries, information technology, marketing, investments, underwriting and claims adjusters.
- Restructuring of industry to reduce state ownership, introduce an independent regulatory authority, and an insurance commission.

The following two sections provide quantitative estimates of the impact of trade liberalization on economic activity and employment in Laos.

57 United Nations Conference on Trade and Development, "Trade and Development Aspects of Insurance Services and Regulatory Frameworks". Geneva, March, 2008. Available: https://unp.un.org/Details.aspx?pid=17753. The Model Schedule was originally published October 2001 by the Financial Leaders Working Group–Insurance Evaluation Team.

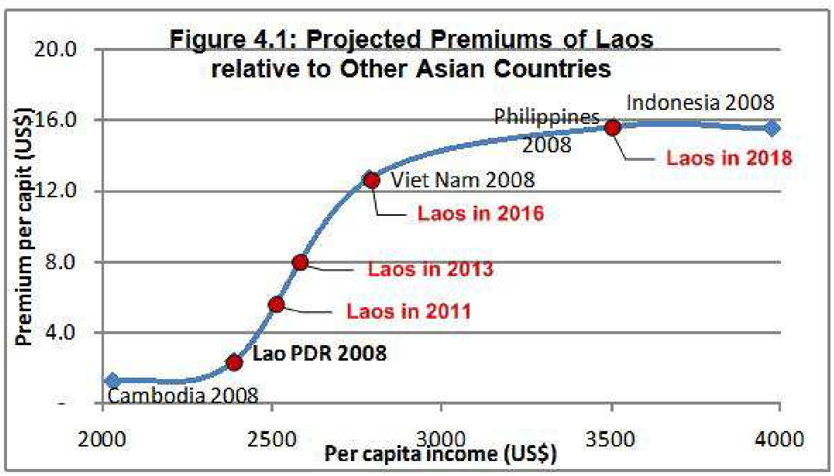
4.5.1 *Impact on the Economy*

Table 4.3: Forecast of Lao PDR Insurance Premiums, 2010-2020

	Estimate	Forecast	
	2010	2015	2020
Total Premiums (USD mill)	$ 32.6	$ 76.3	$ 178.6
Share of GDP	0.5%	0.9%	1.4%
Share of All Services	1.4%	2.3%	3.7%

Source: Based on estimated income elasticities and assuming 8 percent annual real GDP growth over the forecast period.

The Government's Sixth National Socio-Economic Development Plan (NSEDP6) has placed major emphasis on the development of the private sector in Laos, and in particular that of small and medium size enterprises. Insurance companies currently operating in the country are classified as medium-size enterprises, although their turnover is large in the Lao economy and most are effectively operating as subsidiaries of large-scale parent enterprises.[58] Liberalization of the insurance industry would facilitate new products and wider insurance coverage for the population as companies compete for market shares and seek to further penetrate and widen the market base. Large private sector development and employment effects are expected to occur from liberalization, particularly because of the significant value adding effects that result from the industry's activities. Apart from its direct employment and income generation, the insurance industry has a high multiplier effect on other industries because it facilitates business and promotes increased investment by lowering risk to investors.



We can generate forecasts of the growth of the insurance sector in Laos based on the Government's target GDP growth rate under NSEDP6 and our earlier estimates of the responsiveness of insurance demand in Laos to changes in income. The Government's NSEDP6 aims for 7.5-8 percent real GDP growth in the economy, and that goal is likely to be maintained in the 7th NSEDP covering 2011-15. The forecasts assume an unchanged overall population growth rate of 2.3 percent a year.

With the liberalization of the sector, the per capita insurance premium is expected to rise fairly rapidly. Laos should reach the current per capita premium of Vietnam by 2016 and that of the Philippines by 2018 (Figure 4.1). The forecasts assume that the Government's targeted 8 percent annual real GDP growth is sustained throughout the period. The resulting expansion in total premiums would result in the value added of insurance services in the country to increase from 0.5 percent of total GDP (1.3% of all services) to 1.4 percent of total GDP (3.7% of all services) by 2020, assuming unchanged shares by the other sectors.

58 The 'Decree on the Promotion and Development of Small and Medium Sized Enterprises' classifies small size enterprises as having less than 20 employees, and medium size ones employ between 21 to 99 employees. Prime Minister's Decree No. 42/PM, 20 April 2004

Table 4.4: Multiplier Analysis of Insurance Industry Output per US$1 Million Premium

		Industrialized Countries		Lao PDR	
1	Output per US$1 mill of premium	$1,650,000	a/	$1,200,000	b/
2	Employees per US$1 mill of premiums	5		10	c/
3	Total Employees in Insurance Industry	3,178,000	d/	187	e/
4	Value added per US$1 mill of premium	$918,378	a/	$998,160	f/
5	Labor income per US$1 mill of premium	$555,060	a/	$201,840	g/
6	Premiums per employee	$200,000	h	$124,171	i/

a/ Based on D. Swenson, "The Insurance Economy of Iowa". Iowa State University, 2006.
b/ Assumes a multiplier of 1.3 of estimated gross premiums.
c/ Total gross premiums (in US$ mill) reported by companies for 2009 divided by Line 6.
d/ Based on data in OECD database and US Bureau of Labor Statistics.
e/ Base on information from company interviews.
f/ Line 1 minus line 5.
g/ Calculated as 2/3 the share of labor income relative to output in industrialized countries.
h/ Based Research and Markets, "Insurance Agencies - Industry Profile". Dublin, Ireland, 2006.
i/ Total gross premiums reported by companies in 2009 divided by Line 3.

4.5.2 Impact on Employment and Value Added

In general, the insurance industry has considerable linkages with other sectors, thereby producing a more-than-proportionate response in value added and labor incomes. Using input-output tables for industrialized countries, we can estimate the effect of insurance sales on the overall activity of a country like Laos. In industrialized countries like the United States, the multiplier effect from US$1.0 million in premium sales on GDP is roughly equal to US$1.65 million. This happens because (a) the insurance industry purchases goods and service inputs from other industries, and (b) because workers in the insurance industry and in the supplying industries use their wages to buy additional goods and services.

Table 4.5: Forecast of Lao PDR Employment in Insurance Industry, 2010-2020

	Estimate	Forecast	
	2010	2015	2020
Total Employees	357	1,173	2,748
Share of Existing Labor Force	0.01%	0.04%	0.10%
Labor Income (US$ mill)	$ 6.8	$ 22.3	$ 52.3
Value Added (US$ mill)	$ 23.4	$ 76.8	$ 179.9
Total Output of Labor Force (US$ mill)	$ 30.2	$ 99.2	$ 232.2

Source: Calculated based on information contained in Tables 4.2 and 4.3.

Currently the Lao insurance industry has about 187 employees. Relative to all employment in the economy, the industry only absorbs 0.02 percent of workers.[59] In contrast the industry accounts for about 1.6 percent of the workforce in the United States.[60] There are scale economies in the industry and it is unlikely that the percentage increase in employment in the insurance industry of Laos will increase at the same rate as gross premiums. At present, the average annual revenue per employee in the industry in Laos is about US$124,000 (Table 4.4). That figure compares with an average of US$200,000 for all companies operating in the industrialized countries.[61] Thus, in the OECD countries the average agency has five employees and generates less than a million dollars in annual revenue. However, the figures vary greatly from country to country, from a low of

59 Based on a total official labor force of 2.8 million.

60 Bureau of Labor Statistics, "Career Guide to Industries 2010-11 Edition: Insurance". United States Department of Labor. Available: http://www.bls.gov/oco/cg/cgs028.htm.

61 The estimate is based Research and Markets, "Insurance Agencies - Industry Profile". Dublin, Ireland, 2006. Available: www.researchandmarkets.com.

US$75,000 premiums per employee in the Czech Republic to a high of US$1,450,000 in Spain.[62]

In Laos the expected impact of liberalizing the insurance industry on employment is to generate additional employment, greater total incomes for persons employed in the industry, and increased value added for the economy from those additional employees. Based on the premium forecasts in Table 4.2 and analytical information in Table 4.3, Table 4.5 shows that employment in the industry would treble in the next five years and increase 7.5-fold within a decade. The result would be to increase the insurance industry's labor participation rate significantly. It would also generate large increases in incomes of workers operating directly or as intermediaries in insurance services, and it would contribute importantly to the value added of the subsector in the country's GDP.

62 OECD, OECD Insurance Statistics 2008. Available:
http://www.oecd.org/document/28/0,3343,en_2649_34851_40182748_1_1_1_1,00.html

5. Summary and Recommendations

5.1 Summary of Findings

Table 5.1 provides a summary of the current challenges facing the insurance industry in Laos, limitations of the legal and regulatory framework, best practices that should be applied to ongoing reforms of the legal and regulatory framework, best practices for commitments of the insurance subsector under GATS, and some of the likely effects that would result from the liberalization of the insurance subsector. While numerous challenges currently confront the industry, there is a great potential for growth in the market. Moreover, the industry is vital to the Lao economy insofar as it facilitates business and investment activities by providing risk management, thereby contributing to the country's stable economic growth. The growth of insurance operations will also help to improve other areas of the economy, including law enforcement, the court system, capital market developments, and good governance standards.

5.2 Recommended Strategy

Recommendations for the liberalization of the insurance industry in Laos are framed in the context of the Government's proposed reforms of the financial sector, which includes insurance services. While it may appear that there are considerable reforms needing to be undertaken, the sequencing and prioritization of those reforms can be framed in the context of the Government's vision and goals for the subsector. Figure 5.2 summarizes the strategy and action plan for the industry.

Defining a Vision: In line with the Government's overall vision for the financial sector (see Section 1.2 above), the Vision for the insurance sector could be stated as follows:

> *Create conditions to allow various forms of ownership of insurance companies to be licensed, giving different types of services and products with modern technology, providing conditions to facilitate growth and development through a balanced structure of the insurance system, and deepening the coverage of insurance services in a manner that enhances the welfare of the population.*

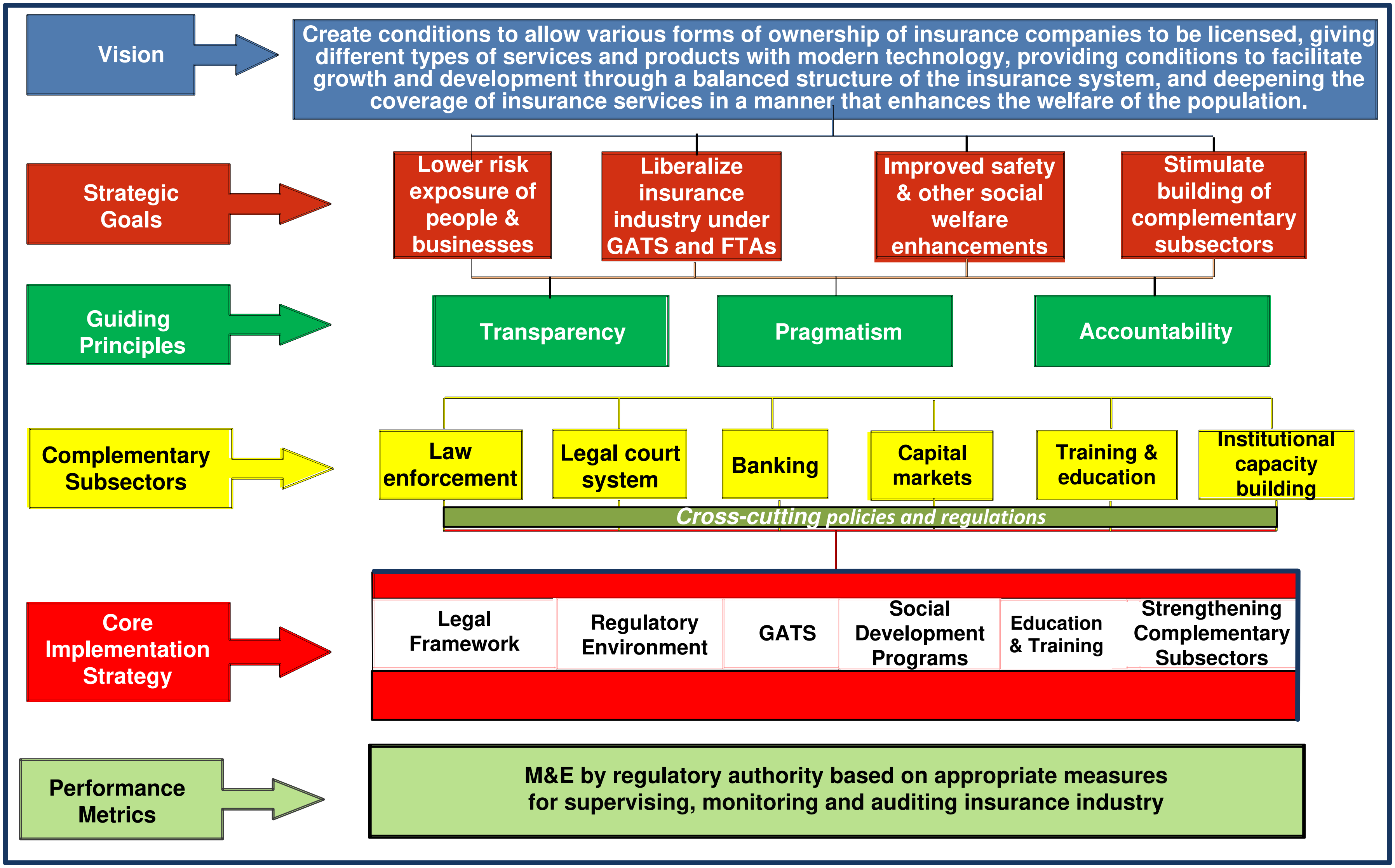
Strategic Goals: As discussed earlier in this report, Government's goals for the subsector are to (a) provide an opportunity for risk-reduction measures by people and businesses as a way to stimulate investment, (b) liberalize the subsector through the country's commitments undertaken under the GATS, (c) improve the safety of its citizenry through improved social programs promoted by the insurance industry, and (d) strengthen complementary services of other sectors and subsectors to ensure the effective operation of insurance services. Complementary services include law enforcement, the legal court system, banking, capital markets, training and education, and institutional capacity building. An action plan is needed to implement the vision and goals for the industry.

Guiding Principles: The selection and prioritization of actions should be guided by a set of principles. For the insurance subsector, the guiding principles that emerge from the Government's interest are transparency, accountability, and pragmatism. By transparency is meant the ability of consumers and insurers to obtain clear information in an easy manner from the government regulatory agency, the insurance board and individual insurance companies. By accountability is meant the responsibility of insurers to provide fair and reliable services to consumers and the ability of consumers to rely on a fair

Table 5.1: Summary of Findings for the Insurance Industry

	Existing Constraints		Best Practices		
	Insurance Market & Industry	**Legal & Regulatory**	**Regulatory Reform**	**GATS Commitments**	**Impact of Liberalization**
1	Low premium coverage of US$3.2 per capita relative to Asia average	Insurance Law of 1990 is rudimentary.	Bring Insurance Law in line with international legal standards	Freedom to engage in reinsurance activities under own contract terms	Increased value added and GDP share to 1.4% by 2020.
2	Mainly commercial & industrial coverage; low personal coverage	No distinction between life and non-life insurance in law & regulations	Distinguish between laws governing life and nonlife insurance	National treatment for foreign firms	More employment to 2,748 by 2020.
3	Life, health & personal accident only 6% of all insurance	Conflicting interests of MoF as joint venture equity holders/regulators	Create an independent regulatory authority	Freedom to own equity shares in joint ventures, without % limits	Insurance premiums generate 1.2 multiplier effect on industry output
4	Only 1/2 motor vehicles insured, despite compulsory requirements	Auditing and enforcement of regulations are weak	Adopt accounting and auditing standards	Ability to select representative, regardless of nationality	Improved legal and regulatory system
5	Poor law enforcement on motor vehicle insurance	Limitations on ownership structure to partnerships or branches	Allow equity shares in joint ventures, without % limits	Visa and work permits provided to professional level personnel	Improved complementary areas like law enforcement and court system
6	Lack of recourse to court system	No conceptual structure governing the insurance agencies	Create masterplan for insurance subsector & links to other sectors	Foreign insurance company can establish commercial presence by setting up a wholly or partly owned subsidiary, or by forming a new company, or by acquisition of existing insurance supplier already established in the cost country.	Strengthened consumer safety requirements
7	Influx of new companies following 15 yrs of monopoly in the industry	Limited capacity of MoF to regulate the industry	Provide capacity building and other resources to regulatory authority		Lower risk on personal and business investments
8	Limitations on premium investments to local savings	No explicit procedures for appointments to regulatory authority	Introduce international standards for appointments		Mobilize capital movements and expanded investment
9	Large year-to-year fluctuations in total gross insurance premiums	Lack of independence of supervising authority from insurers	Separate regulatory authority from insurance company interests		Promotion of cross-border movements of people
10	Lack of CPSs & insurance specialists	Lack of public disclosure of reliable and timely information	Transparency for consumers through regular public disclosure	Solvency and prudential regulations applied to ensure market stability and consumer protection	Lower premiums for consumers from greater competition
11	Limitation on investments	No rules governing conflicts of actuaries, auditors, managers	Introduce rules governing conflicts of actuaries, auditors, managers		Increased demand for accountants and insurance-related skills
12	Lack of clarity on insurance regulations	Legislation does not identify any requirements of competency	Introduce competency requirements in legislation	No limits imposed on new products and services introduced by insurance companies	Reduced state participation in joint ventures
13	Lack of consumer protection	No approve process for portfolio transfers/mergers for accountability	Establish approve process for portfolio transfers/mergers		
15	Potential for pricing collusion	Lack of oversight of the operations of insurance companies	Oversee operations of insurance companies	Accounting and auditing standards adopted, based on inter-nationally recognized best practice standards.	
16		Lack of market analysis by regulatory or supervisory body	Provide market analysis by supervisory authority		
17		Lack of adequate on-site inspections by regulatory body	Provide on-site inspections by regulatory body	The insurance regulatory body should be an independent government entity and encourage a competitive market.	
18		Lacks a formal system for applying preventive or corrective measures	Create formal system for applying preventive or corrective measures		
19		Inadequate resources to supervising authority to carry out enforcement	Provide resources to supervising authority to carry out enforcement		
20		Regulations governing exiting of market by firms remain ponderous	Streamline regulations governing exiting of market by firms		
21		Inability to carry out risk assessments and management	Capacity building for risk assessments and management		
22		Inability to ensure compliance with standards on investment activities	Ensure compliance with standards on investment activities		
23		No legislation to protect policyholders in case of insolvency	Establish legislation to protect policyholders in case of insolvency		
24		Lack of controls needed to regulate intermediaries	Introduce controls to regulate intermediaries		

Figure 5.1: Proposed Strategy and Action Plan for Liberalizing the Insurance Subsector



marketplace for insurance services. By pragmatism is meant adapting reform measures in the insurance industry are framed within the context of the social and economic conditions in Laos.

Action Plan: Implementing the strategy for liberalizing the insurance subsector requires an action plan that can be broadly classified into legal and regulatory reforms, institutional restructuring, and liberalization of trade in services. Additionally, it needs to be supported by further work in social development programs to which insurance companies have committed under their respective agreements with the Government. Education and training programs for CPAs and insurance related subjects would help to produce local experts who could become actuaries, auditors, directors and senior managers of insurance companies. In what follows we list the proposed actionable areas for reforming the insurance industry in each of these categories.

5.3 Liberalizing Trade in Services under GATS

Liberalization of services trade consists of (i) improvements in market access; (ii) application of national treatment principles, and (iii) adoption of best practices to promote competition in the industry.

The Lao PDR's GATS commitments in the insurance subsector should adopt best practices as follows (see Section 4.2 above for details):

A. Market Access

- *Binding:* Provide full binding, or complete liberalization, on market access.
- *Economic Needs Tests*: Commitments should exclude any economic needs tests or other geographic or product-specific restrictions.
- *Reinsurance*: Companies should not be restricted in their ability to either sell any form of reinsurance or provide their own reinsurance contract terms. Moreover, there should be no discriminatory requirements imposed on foreign reinsurance suppliers. Similarly, there should be no discrimination between foreign and domestic reinsurance suppliers; individual companies should not be required to cede all or a portion of their risks to specified insurance or reinsurance suppliers.
- *Equity shares:* In joint ventures the percentage equity assumed by foreign partners should be determined solely by the joint venture partners.
- *Grandfather provision*: Benefits of security should be provided to investors who are already present in the market for their existing investments in operations and activities.

B. National Treatment

- *Binding:* Provide full binding, or complete liberalization, on national treatment.
- *National Treatment*: Foreign insurance suppliers should be treated no less favorably than domestic services suppliers with respect to capital, solvency, reserve, tax and other financial requirements.

C. Establishment

- *Binding:* Provide full or limited binding on commercial presence, depending on whether direct branching is permitted under the revised insurance law, recognizing that requests for far reaching liberalization are part of the negotiations process and that even some of the most open developing countries have not included direct branching in their commitments.

- *Legal form of entity:* Within the framework of the insurance law, investors should select form of establishment based on what make most economic sense.
- *Subsidiaries*: Full recognition should be provided to the relationship between subsidiaries and parent companies, including the use of home company name in host country.

D. Temporary Entry of Natural Persons

- *Binding:* Provide full or limited binding on movement of people.[63]
- *Temporary entry of natural persons*: (a) any foreign insurance supplier operates through a commercial presence should be allowed to select as its representative in the host country any person who physically resides in the host country, irrespective of nationality, provided that the representative meets regulatory standards that identify competency to perform services; and (b) temporary visa and associated work permits should be provided to professional level personnel employed of the foreign insurance services supplier's home and third country offices in a timely manner for the purpose of entering the country and providing short and mid-term assistance. Provision (a) could be limited to higher management as a way of encouraging development of local capacity building over a period of transition.

E. Solvency and Prudential Focus

- *Regulations:* Solvency and prudential regulations should be applied to ensure market stability and consumer protection.
- *Accounting and auditing*: Encouragement of use of international best practices standards in accounting and auditing activities.

5.4 Creating a Better Legal Framework

According to best practices under the Insurance Core Principles, the present updating of the insurance law should be brought in line with international standards by including the following provisions:

- ✓ The law should distinguish between laws governing life and nonlife insurance.
- ✓ The law should allow equity shares in joint ventures without limits on those shares.
- ✓ The law should have rules governing conflicts of actuaries, auditors, managers.
- ✓ The law should include competency requirements for regulators.
- ✓ The law should establish approval process for portfolio transfers and mergers.
- ✓ The law should protect policyholders in case of insolvency.
- ✓ The law should contain controls to regulate intermediaries.

5.5 Improving the Regulatory System

5.5.1 Regulatory Reforms

Best practices under the Insurance Core Principles suggest that the Lao regulatory system should be upgraded to include the following:

- ✓ Adopt accounting and auditing standards.
- ✓ Introduce international standards for appointments.

[63] For a review of countries applying some restrictions on movements of natural persons, see UNCTAD, "List of Economic Needs Tests in the GATS Schedules of Specific Commitments". UNCTAD/ITCD/TSB/8. Available: http://www.unctad.org/en/docs/poitcdtsbd8.pdf

- ✓ Provide on-site inspections by regulatory body.
- ✓ Contain resources to supervising authority to carry out enforcement.
- ✓ Streamline regulations governing exiting of market by firms.
- ✓ Offer recurrent market analyses by the supervisory authority.
- ✓ Ensure compliance with standards on investment activities.
- ✓ Establish rules and procedures for financially troubled institutions.
- ✓ Enhance channels for insurers' investments into capital markets.

5.5.2 Solvency and Prudential Reforms

In restructuring the insurance sector, the Government should ensure that the supervisory authority can provide comprehensive risk management policies and systems capable of promptly identifying, measuring, assessing, reporting and controlling their risks. Proposed improvements are as follows:

- ✓ Establish regulations aimed at allowing the market to determine which products and rates are to be applied.
- ✓ There should be no limits on the number or frequency of new products introduced by an insurance supplier.
- ✓ There should be no restriction on dividend payments, provided that solvency provisions are met.
- ✓ There should be use made of international best practices standards in accounting and auditing activities.

5.5.3 Transparency

Transparency is the best form of consumer protection. Otherwise, consumers are susceptible to potentially opaque practices. The following reforms would provide considerable protection for consumers through easily implementable processes:

- ✓ Provide consumers should with to comparative premium information rates on similar products from different companies.
- ✓ Ensure that contracts are clear and easy to read for all consumers.
- ✓ Offer legal recourse to consumers where insurers do not provide the services indicated in the contracts.
- ✓ Create publicly available rules and procedures that govern the identification and handling (including disclosure) of financially troubled institutions.

Transparency for insurance companies provides a level playing field and ensures fair competition between companies. Proposed initiatives include:

- ✓ Provide clear and accessible licensing process, including creation of a system for answering inquiries about regulatory requirements, interpretation, exceptions that is easily accessible and responsive to the public.
- ✓ Offer clear and reliable information about the Lao PDR's insurance laws and regulatory practices.
- ✓ Make regulations easily accessible in writing and the Internet.

5.5.4 Complementary Services

It is not sufficient to reform the insurance law. Implementation of the provisions is equally important and will require complementary reforms in areas like the operation of the present court system and law enforcement procedures in Laos. Moreover, the reforms must also ensure transparency and efficiency in the insurance industry. These features are especially important for consumer protection of motor vehicle insurance in light of the fact that a review of the industry worldwide notes that, “While most countries have in place compulsory third-party automobile liability insurance, in many cases this insurance does not work well, serving as more of a tax on drivers than actual coverage against accidents”.[64] It is therefore not surprising that most persons interviewed as part of this study expressed skepticisms about the usefulness to themselves of acquiring insurance.

5.6 Establishing an Institutional Framework

Independence of the government regulatory authority is essential. Only in that way will the authorities be able to be monitored and controlled in a fair and impartial manner the operations of insurance companies. The authorities should also have recourse to preventive or corrective measures.

5.7 Strengthening Capacity and Education Programs

The Government has underscored the need for institutional capacity building and knowledge transfer. At the same time, insurance companies have repeatedly indicated the need to upgrade the current educational system for accounting and insurance-related courses leading to internationally recognized degrees in accounting and insurance programs.

5.8 Creating a Better Monitoring System

With the opening of the sector to more participants, a more formal monitoring system will be needed than that which the Government currently uses. An effective monitoring and evaluation (M&E) framework in Laos for the insurance industry would address the actual performance of the industry relative to the overall strategy and action plan for the subsector. In particular, it would monitor on in continuous basis the scheduled program of activities under the action plan.[65] The assessment of the visible results that program would reflect the overall strategy and action plan and therefore whether the following objectives have been achieved:

- ✓ The penetration of the insurance services in Laos in providing risk-reduction measures to people and businesses.
- ✓ The extent to which liberalize the subsector has occurred through the country’s commitments undertaken under the GATS.[66]
- ✓ The extent to which improvements have taken place in the safety of its citizenry through improved social programs promoted by the insurance industry.
- ✓ The extent to which complementary services of other sectors and subsectors have been strengthened as a means of ensuring the effective operation of services.
- ✓ Whether transparency, accountability, and pragmatism has been partly or fully achieved.

64 United States Agency for International Development (USAID), “Assessment on How Strengthening the Insurance Industry in Developing Countries Contributes to Economic Growth”. Washington, DC, 2006. Available: http://www.iifdc.org/pubs/Insurance%20Assessment%20Report.pdf

65 Management information systems (MISs) constitute an important tool for information-enabling monitoring. Capacity building in this field is therefore an essential ingredient for an effective M&E system of the insurance subsector in Laos.

66 The extent to which trade in services has been liberalized under the GATS is quantifiable. See Khin Maung Nyunt, “Advances in Measuring Trade Barriers in Services”. Economic and Social Commission for Asia and the Pacific. World Trade Organization, Research Workshop on Emerging Issues for Developing Countries in Asia-Pacific Multi-Stakeholder Steering Committee of ARTNeT, December 2007; and references therein.

5.9 Implementation Arrangements

There are different levels of effort and associated time horizons needed to implement various reforms of the Lao insurance industry. In general, immediate short-term initiatives are unrelated to the operational system of the Government, and they usually involve stroke-of-pen reforms of new or existing regulatory measures. The more challenging actions often involve a strong institutional base for their successful implementation. They often need institutional support in the form of hardware or training, or the establishment of new entities.

The proposed prioritization and phasing of the recommended initiatives in Box 5.1 are based on an assessment of the impact that each initiative would have on four strategic goals: (a) lowering risk exposure of people and businesses, (b) liberalizing insurance industry under GATS and FTAs, (c) improving safety and other social welfare enhancements, and (d) stimulating the build-up of complementary sectors and activities.

Box 5.1: Sequencing of Proposed Reforms in the Insurance Industry

Sequence of Implementation	Policy Reforms			
	Lowering Risk Exposure	**GATS & FTA Liberalization**	**Improve Social Welfare**	**Complementary Actions**
Immediate 'Stroke-of-Pen' Reforms	Distinguish between laws governing life and nonlife insurance	Freedom to engage in reinsurance activities under own contract terms	Introduce controls to regulate intermediaries	Enhance law enforcement of auto insurance requirement
	Allow equity shares in joint ventures, without % limits			
	Bring Insurance Law in line with international legal standards	National treatment for foreign firms	Establish legislation to protect policyholders in case of insolvency	Introduce insurance law procedures in court system
	Oversee operations of insurance companies	Ability to select representative, regardless of nationality		
	Provide market analysis by supervisory authority	Visa and work permits provided to professional level personnel		Broaden capital markets investments allowed by insurance companies
Medium-Term Legal and Regulatory Reforms	Separate regulatory authority from insurance company interests	Solvency and prudential regulations applied to ensure market stability and consumer protection	Transparency for consumers through regular public disclosure	Create masterplan for insurance subsector & links to other sectors
	Introduce competency requirements in legislation	No limits imposed on new products and services introduced by insurance companies	Establish approve process for portfolio transfers/mergers	Introduce rules governing conflicts of actuaries, auditors, managers
	Create formal system for applying preventive or corrective measures	Accounting and auditing standards adopted, based on inter-nationally recognized best practice standards	Streamline regulations governing exiting of market by firms	Provide resources to supervising authority to carry out enforcement
Long-Term Institutional Creation, Reforms and Capacity Building	Create an independent regulatory authority		Provide capacity building and other resources to regulatory authority	Adopt accounting and auditing standards
	Provide on-site inspections by regulatory body	Ensure compliance with standards on investment activities	Introduce international standards for appointments	Capacity building for risk assessments and management

The recommendations presented in this study are based on complementarity actions supporting the reform of the insurance industry. This approach is motivated by empirical findings showing that individual policy and regulatory initiatives are less effective in promoting effective reforms than combined initiatives that are mutually reinforcing to one another.[67] Sequencing of stand-alone reforms in the insurance industry is therefore unlikely to be as effective as it would be with complementary reforms in law enforcement, the legal court system, banking, capital markets, training and education, and institutional capacity building.

Stroke-of-pen Initiatives that can be undertaken in the short-term are those that involve streamlining procedures, improving information systems and accelerating the implementation of GATS and FTA agreements and MOUs for cross-border transportation schemes. In the medium term, legal and regulatory reforms generally support the restructuring of the insurance industry. In these cases, interventions are more challenging because they require a more lengthy decision-making process and therefore, need more time to initiate. Also, once the “easier” decisions have been implemented and have proven to be beneficial, deeper and more challenging reforms are likely to become less difficult. Medium-term reforms include further streamlining of procedures, the widening of liberalization of services, and linking cross-cutting and complementary reforms. Finally, institutional restructuring and capacity building take a longer time and involve program initiatives designed to provide ownership to the government and private sector in servicing the Lao population.

[67] See Aziz, J., and R.F. Wescott (1997), “Policy Complementarities and the Washington Consensus”. Working Paper WP/97/118. Washington, DC: International Monetary Fund.

ANNEX A: Lao PDR Insurance Law – Section Headers

Part I - GENERAL PRINCIPLES

Article 1. Function of the Insurance Law
Article 2. The Conduct of Insurance
Article 3. Persons Involved in an Insurance Contract
Article 4. Scope of Application of the Insurance Law
Article 5. Forms of Insurance Companies
Article 6. Types of Insurance

Part II

AUTHORIZATION TO CONDUCT INSURANCE BUSINESS AND STATE AUDITS

Chapter 1: Authorization to Conduct Insurance Business

Article 7. Request to Conduct Insurance Business
Article 8. Organizations having Right to Authorize the Conduct of Insurance Business

Chapter 2: State Audit

Article 9. Purpose of a State Audit
Article 10. Submission and Inspection of Documents
Article 11. Inspectors
Article 12. Duties of Insurance Enterprises relating to Inspections

PART III

LAO INSURANCE COMPANIES AND BRANCHES OF FOREIGN INSURANCE COMPANIES, INSURANCE INTERMEDIARIES, FINANCIAL REGIME

Chapter 1: Lao Insurance Companies of Foreign Insurance Companies

Article 13. Lao Insurance Companies and Branches of Foreign Insurance Companies
Article 14. Standards of Founders of Insurance Company
Article 15. Restrictions to the Personal Interests of Members of Boards of Directors and Executive Officers
Article 16. Criteria of a Person to whom General Rights of Insurance Companies may be Granted
Article 17. Determination of Capital Requirements for a Partnership Company
Article 18. Security Deposits of a Lao Insurance Company and of a Branch of a Foreign Insurance Company
Article 19. Methods for Increasing Efficiency of an Insurance Enterprise
Article 20. Transfer of Insurance Contract Fund
Article 21. Withdrawal of License
Article 22. Appeal against a Decision to Withdraw a License
Article 23. Liquidation
Article 24. Conduct of Liquidation

Chapter 2: Insurance Intermediaries

Article 25. Insurance Offers
Article 26. Insurance Intermediaries
Article 27. Professional Standards

Chapter 3: Financial Regime

Article 28. Obligations under the Regulations
Article 29. Life Insurance and Fund Mobilization
Article 30. Insurance Reserves for Damages

Article 31. Priorities of the Insured and [of] Beneficiaries under the Contract
Article 32. Ability to Pay Debts

Chapter 4: Accounting and Statistics

Article 33. Auditors
Article 34. Specific Accounting Plans
Article 35. Accounting Reports
Article 36. Books of Accounts of Insurance Enterprises

PART IV: Rules Relating to Insurance Contracts

Chapter 1: Purpose of Implementation of Insurance Contracts and Rules Relating to Making Insurance Policies

Article 37. Purpose of Implementation of an Insurance Contract
Article 38. The Making of an Insurance Policy
Article 39. Duration of an Insurance Policy
Article 40. Key Content of Insurance Policies
Article 41. Insured Risks
Article 42. Obligations of the Insured Person
Article 43. Insurance Premiums
Article 44. Concealment or False Declaration
Article 45. Failure to Make a Declaration

Chapter 2: Statute of Limitation and Competent Court

Article 47. Limitation Period
Article 48. Competent Court for the Adjudication of Disputes

Chapter 3: Insurance against Damage of Property

Article 49. Rules Relating to Insurance Indemnities
Article 50. Insurance which is Lower than the Value of the Property
Article 51. Loss of Insured Property
Article 52. Taking Over the Rights of the Insured

Chapter 4: Personal Insurance

Article 53. Specific Rules for Personal Insurance
Article 54. Life Insurance
Article 56. Suicide and Murder

Chapter 5: Insurance of Civil Liabilities

Article 57. Responsibility Regardless of Wrong-doing
Article 58. Compensation for Damage
Article 59. Vehicle Insurance
Article 60. Forfeiture of Rights due to Intoxication
Article 61. Issuance and Remittance of Insurance Certificates

PART V: Measures against Offenders

Article 62. Unauthorized Conduct of Insurance Business
Article 63. Violation of Rules Relating to Standards and Restriction of Interests
Article 64. Presentation and Dissemination of False Documents
Article 65. Failure to Supply Documents
Article 66. Violation of the Company's Regulations and Financial Regime
Article 67. Violation of Rules Pertaining to Intermediaries
Article 68. Violations of Rules Pertaining to Vehicle Insurance

PART VI Final Provisions: Article 69. Implementation

ANNEX B: Decree on the Implementation of the Insurance Law

Decree on the Implementation of the Insurance Law
23 January 1992
(Unofficial partial translation)

Chapter 1

General Definitions

Article 1: This decree clearly defines the implementation of the insurance law of the Lao PDR as follow: the classification of the insurance sectors and the steps of establishing and conducting the insurance business, registered capital and deposit in the bank for guarantee of a person who will conduct the insurance business, financial solvency, accounting and reporting methods to ensure the public inspection to the insurance business.

Article 2: the government authorizes the establishment of insurance business in the territory of the Lao PDR which strictly follows the insurance law.

Form of the insurance enterprise is a company which has registered as a legal entity as such state company, partnership or private (incorporations or limited) and foreign insurance branches.

Chapter 2

The classification of insurance categories and the request to conduct the insurance business.

Article 5: the insurance is categorized as below:

1. Insurance for accident;
2. Health insurance;
3. Vehicle insurance except the train;
4. Train insurance;
5. Aviation insurance;
6. Marine insurance;
7. Transport goods insurance;
8. Fire insurance and acts of god;
9. Loss of properties insurance;
10. Civil responsibilities insurance for road vehicle;
11. Civil responsibilities insurance for aviation;
12. Civil responsibilities insurance for marine vehicle;
13. General civil responsibilities insurance;
14. Credit insurance, guarantee and financial loss insurance;
15. Legal defense insurance;
16. Life insurance: death insurance, reserved fund, income compensation insurance
17. Reserved fund insurance.

Article 6: a person or legal entity who wants to conduct the insurance business has to prepare all necessary documents as mentioned in the article 8 and 9 of this decree.

The request to conduct insurance business must be sent to the minister of Ministry of Economic, Planning and Finance (Now, it is separated).

The minister of the Ministry of Economic, Planning and Finance verifies and studies the case then make the decision in writing during 3 months after receiving the request documents.

Article 8: the necessary documents for the request of conducting the insurance company will comprise these following papers:

1. Categories and sections which request to conduct the business;
2. Copy of insurance company establishment by following the enterprise law;

3. Summary of the general meeting of all shareholders regarding the establishment of the insurance company;
4. The insurance company regulations;
5. Insurance form, leaflets and other publishing tools to give to the public and relevant offices specified the insurance sectors that will be conducting;
6. Insurance premium rate that the company offers to be implemented in each insurance sectors;
7. List of the standing committee of board of directors and the management structure of the insurance company which includes name, surname, date of birth and place of birth, nationality and the current residence;
8. The operation projection plan for first 3 years which includes the income statement, balance sheet and tangible assets that can guarantee the business operation.

Article 9: request to conduct the insurance business by foreign insurance branch must comprise the documents mentioned in 1, 4, 5, 6, 7 and 8 of the article 8 above and also include these following documents:

1. Balance sheet and income statement from the last 3 years of operation;
2. Certificate of a person or legal entity to hold general responsibilities;
3. Location of the company in the territory of Lao PDR;
4. Certificate translated in French or English issued by the relevant authorities and also translated in Lao which certify that the company legally operates based on the provisions of the Lao law.

Article 10: a person or legal entity who wants to operate as Lao brokerage enterprise must prepare necessary documents then send to minister of Ministry of Economic, Planning and Finance as same as the Lao insurance company as mentioned in the article 8 and exclude 5, 6 and 8. Besides, the brokerage enterprise must mention all insurance companies where the brokerage enterprise is as brokerage enterprise for them and the brokerage enterprise must have certain amount of money for the guarantee. The minister of Ministry of Economic, Planning and Finance will definite the amount of money accordingly to the amount of money of its insurance companies.

Chapter 3:

Capital and financial guarantee of the Lao insurance companies and foreign insurance branches

Article 13: a person who wants to operate Lao insurance business must have the registered capital at least:

1. 300,000,000 kip for life insurance and reserved funds;
2. 300,000,000 kip for properties loss insurance and civil responsibilities;
3. 500,000,000 kip for an insurance company which has special right to operate both kinds of insurance above.

Article 14: Ensuring the compensation to the loss of life and properties and protecting the benefits of the insured people, the Lao insurance companies and foreign insurance branches have to deposit money for the guarantee in the banks located in the territory of the Lao PDR:

a) Lao insurance company:
    1. 60,000,000 kip for the life insurance and reserved funds;
    2. 60,000,000 kip for the loss of properties and civil responsibilities;
    3. 100,000,000 kip for the companies which have the special right to do both categories above.
b) Foreign insurance branches:
    1. 300,000,000 kip for life insurance and reserved funds;
    2. 300,000,000 kip for the loss of properties and civil responsibilities;
    3. 500,000,000 kip for the companies which have the special right to do both categories above.

The amount of money mentioned in this article for the guarantee will be reduced a half only for the insurance companies that can pay the debts more than 40% of the real total premium.

Chapter 4

Financial regime, accountability and statistic and annual report

Article 16: reserves for compensation must be calculated in each sector and in each annual operation.

Reserves are calculated in 3 methods; the one which has more value will be accepted:

1. The calculation is based on the insurance case to each case;
2. The calculation is based on the average value lost from the last year;
3. The calculation is based on the compensation recognized from the operation in the past.

The calculation is based on the insurance case to each case is the general method. Two other methods are used only for properties lost.

Other methods presented by the minister of Ministry of Economic, Planning and Finance can be used instead of one of two last methods before and based on the conditions of minister. For the implementation of all methods are based on the agreement of the company and insurance inspectors.

Reserves for the compensation of business operation must include administrative costs.

Article 17: Reserves stated in the article 26 of the insurance law must be indicated in liabilities of the balance sheet of the company and foreign branches.

Article 18: responsibilities indicated in article 28 of the insurance law must prove the equal properties.

Responsibilities regarding the risks, people, objects or other responsibilities in the territory of the Lao PDR must prove that the properties exist in the territory of the Lao PDR.

Article 19: Reserves and debts to be paid must comprise these following documents:

1. Properties certificate that the Lao government has issued or the Lao government guarantee;
2. Other checks;
3. Shares;
4. Buildings in the territory of the Lao PDR;
5. Checks issued for buying and selling in the stock market and first deposit of buildings located in the territory of the Lao PDR;
6. Sum of money that can be lent to local institutions and association;
7. Checks of reserves and other financial notes for use of short and medium term as written in the agreement;
8. Deposit in the banks;
9. Money for guarantee indicated in the article 14 of this decree.

Article 20: According to financial situation in special case, the minister of Ministry of Economic, Planning and Finance may allow activities which are not indicated in the article 19 above and allow other deposits then determine the proportion and conditions to be implemented.

Article 21: the total value of the buildings and properties certificate indicated in 3, 4, 5, and 6 of article 19 above in this decree determine no more than 35% of total responsibilities which must be proved, the same building will not be presented more than 10% of total responsibilities, other properties certificates (shares and checks) issued by the same organization which will not exceed 5%, except the properties certificates that the Lao government issued and distributed or the Lao government guarantees. Otherwise, the minister of Ministry of Economic, Planning and Finance will determine other things.

Article 22: Insurance premiums still not receive less than 3 months, after tax and other costs of service will be determined maximum 30% at risk and will be added in the total provisions at risk in the current operation.

Article 23: receivable debts from the reinsurance will be added in the technical provisions to be paid to the reinsurance after the approval from the minister of Ministry of Economic, Planning and Finance.

Article 24: Rotated deposits will be determined the value as following methods:

- The value of properties certificates and checks will be determined on its nature. However, if the real value to be compensated is less than its value of nature, the determination of value will be based on the real value.
- Shares are based on the buying value or selling value which have the same price as in the markets and depending on the company use.
- For the buildings are based on the buying price or the original cost, but the depreciation cost will be deducted 2,5% per year.

Article 25: for other losses must be recorded since the informed date in logical order, except the operation of health insurance (hospitalization) and goods insurance to be transported.

The record should be recorded in each period when the events happen which comprise the number of the insurance contract, name of insured, date of events happened.

For all insurance categories, except the health insurance and goods insurance to be transported, the losses happened during the accounting year end must be recorded in the list that can be read and contains these elements:

- No of document;
- Amount of money has been paid during the period;
- Determination of the value that have not paid yet including interest.

For the losses have happened in many periods in the past and not yet resolved in the last accounting year end must be recorded in the similar list. Besides, it must include the determination of value in the last accounting year end.

Article 26: Each year, the insurance company must make the annual report as indicated in article 5, 11 and 12 of the accounting law then send to the minister of Ministry of Economic, Planning and Finance latest on 30th June of the following year.

Besides, the insurance company must provide these documents:

- Accounting of each insurance sector;
- Account of rotated deposit;
- Properties deposit for the guarantee and responsibilities;
- Expenses and reserves in each period of operation;
- Capacity of liquidation.

The minister of Ministry of Economic, Planning and Finance will determine the content of the report in detail and provide the accounting format to be handed over to each insurance company to strictly implement.

Article 27: Accounting books of the insurance companies as mentioned in article 36 of the insurance law, which can be used by computer and must have the approval from the relevant government body.

Chapter 5

Insurance of vehicle

Article 28:

1. The objectives as mentioned in article 59 of the insurance law are to ensure that individual or legal entity that use the road vehicle with electric motor including other big medium cars

must have the insurance with the minimum civil responsibilities to the physical damages of victims caused by these vehicle. For other added insurance covering higher value must have the consent of individual or legal entity that use these vehicle and make the agreement with the insurance companies.

2. Responsibilities that not considered as a fault as mentioned in article 57 and in other articles in the insurance law aim at compensating immediately and based on the value indicated in No 4 of this article to the physical damage of victims caused by road accident from road vehicle.
3. Responsibilities that not considered as a fault will be for only the physical damage of the third person no matter it is a passenger with or not, except person who has insurance that is the driver and has passengers who got allowed by a person who has insurance to drive the vehicle which causes accident.
4. According to article 59 of the insurance law, the compensation for physical damage will be calculated under the rate mentioned in this decree as maximum is no more than 700,000 kip for a victim. In case, there are many victims, the compensation will be as maximum is no more than 7,000,000 kip per each accident.
5. In case, there are more passengers than a number indicated in the conditions of the contract, the compensation based on the rate indicated the paragraph above will be reduced accordingly to number of total passengers.
6. The compensation for objects of third person resulting from the accident that will be in the civil law. Besides, the insured can have the insurance for civil responsibilities for objects damaged.

Article 29: other added insurances for road vehicle are classified as below:

1. Additional insurance covers body compensation and object compensation by determining the limit of compensation to one accident;
2. Thief insurance, fire and mirror broken insurance;
3. Damage insurance for all road vehicles.

Article 30: For each category of insurance, the insurance premium will be different based on:

1. Number of seats of vehicle;
2. Speed power of vehicle;
3. Type of vehicle such as a motorbike with two wheels, motorbike with three wheels, sedan, pick-up, truck, bus, heavy trucks with many wheels etc.
4. Geographic location and economic situation;
5. Location of driving position such as on the right;
6. Weight capacity for goods transport;
7. Technical modification for passengers transport or not modify;
8. Specific use of vehicle such as car for rent to individual and self-driving, training car;
9. Amount of vehicle to get insured more than three cars;
10. History of car user who got insurance before to deduct the premium price for next year to a person who never had accident;
11. Duration of insurance, insured person may get insurance for some duration or less than one year.

Article 31: In case, the victim got injured or dead from accident, the compensation must be followed article 58 of the insurance law even though the driver has broken the driving rules or driving negligently. Following the compensation rate list attached in this decree, ensure that the compensation is made correctly to each insurance category. After the compensation has been made, the insurance company has the right to sue the third person who has caused accident to pay back the compensation to the insurance company.

Article 32: a person or legal entity that use a vehicle as mentioned in article 59 of the insurance law must get insurance of civil responsibilities with minimum compensation to body injured of the victim from accident, with legal insurance companies in the territory of the Lao PDR as mentioned in article 28 of this decree.

Road vehicle with motor including big trucks or semi trucks must get insurance as below:

- Personal vehicle of a Lao person, person with no nationality, foreigner who lives in the Lao PDR;
- Vehicle of embassy, consular and international organizations which have the office in the Lao PDR;
- Vehicle of administrative and technical agencies of Lao government, except the specific vehicles which use for the social security and for the Lao army;
- Vehicle of state enterprise, community and private or joint venture with Lao government including state enterprise owned by public security body.

Article 33: According to the regulations, all vehicles must have technical inspection before getting insurance, except vehicle not listed in the regulations.

The ministry of communication, transport, post and construction has the role to inspect the technical control of all vehicles and issue the provisionary inspection certificate.

Article 34: In case, there is an accident or body injured, the victim will get the compensation based on the real situation. To ensure the body injured, handicap, or death of the victim, the Ministry of Public Health is responsible to issue the medical prescription to the victim based on the real situation. All expenses must be recorded for hospitalization. The insurance company has the right to recheck all expenses.

Chapter 6

Legal execution to law breakers

Article 35: A person or legal entity that breaks the insurance law will be fined accordingly to article 62, 63, 64, 65, 66 and 67 of the insurance law.

Article 36: The police who are responsible to check the insurance documents and to fine to person who breaks insurance provisions as mentioned in article 68 of the insurance law. The Ministry of Economic, Planning and Finance is responsible to determine the fine rate to each type of vehicle.

Article 37: In case, the breaker is not willing to pay the fine or escape, the relevant body will make the report then send to the court to give the sentence.

Any behavior which comprises all criminal principles will be proceeding as criminal case.

Chapter 7

Final instruction

Article 38: The Ministry of Economic, Planning and Finance works in coordination with Ministry of Communication, Transport, Post and Construction and Ministry of Public Health, Ministry of Public Defense, Ministry of Justice, other relevant Ministries, other provinces and Vientiane Municipality will implement this decree accordingly to its responsibilities.

Article 39: This Decree on the Implementation of Insurance Law will enter into force in Vientiane municipality since 01 February 1992. For Luang Prabang, Vientiane, Borlikhamxay, Khammouane, Savannakhet, Champasak and Salavanh provinces since 01 June 1992 and in other provinces since 01 January 1993.

Vientiane, 23 January 1992
Prime Minister

ANNEX C: Guide to Reading a Country's Sector-Specific Commitments under GATS[68]

A. Sector Specific commitments

The structure of sector-specific commitments under the GATS is set out in the following table:

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional Commitments
	(1) (2) (3) (4)	(1) (2) (3) (4)	

The sector or subsector that has been committed is listed on the left. The next two columns list the extent of a country's commitments for a specific sector or subsector to the rules on market access and national treatment. Different entries under the numbers 1–4 allow the government to take a different approach to each of the four 'modes of supply' of that service (eg. to allow mode 3: foreign investment, but not mode 1 internet supply). The final column is used to list additional commitments, eg to privatize or adopt a pro-market approach to regulation and competition in telecommunications.

B. Understanding modes (1) to (4)

The GATS agreement identifies four ways, or modes, in which a service can be supplied. These 4 'modes of supply' are numerically listed as shown in the table above. Governments can record different commitments for each mode of supplying a service. As the empty schedule in Step 4 shows, these four modes are listed in both the second and third columns (market access and national treatment) for each sector.

Mode 1: Cross-border supply

This mode describes trade as most of people understand it: a service is produced in one country and sent across the national border to a customer in another country. For example, international air or sea transport and services supplied from offshore through internet, telephone or mail, as well as services 'embodied in exported goods', such as computer diskettes or drawings. A country can make different market access and national treatment commitments on mode 1 of delivering a particular service. A limitation recorded in the schedule for a sporting service might, for example, prevent the commercial supply of gambling services over the Internet.

Mode 2: Consumption abroad

This mode of supply is often referred to as 'movement of the consumer' who receives the service outside their national border. An obvious example is students who go offshore for education. Similarly, tourism is delivered to the tourist outside their home territory. A limitation under this mode could restrict the ability of a resident from purchasing the service in another country eg, limiting the ability of nationals to open a bank account in a foreign country.

Mode 3: Commercial presence

This mode essentially allows a foreign services supplier to establish an investment in the country

68 The material in this Annex is extracted from "10 Step Guide on How to Interpret a Country's Trade in Services Schedule". Available: web.me.com/jane_kelsey/.../Services.../D_Guide%20to%20schedules.doc

making the commitment. Its “commercial presence” can take the form of a company, joint venture, partnership, representative office or branch. A limitation on market access in mode 3 might exclude restrict investment in a certain kind or size of a service (eg department store under retail distribution services) or require a certain kind of investment, eg joint venture. National treatment limitations might restrict subsidies to locally owned firms or only allow nationals to operate certain tourist ventures. General rules for vetting foreign investment are usually in the horizontal section of the schedule.

Mode 4: Presence of natural persons

This mode covers natural persons who supply services, as well as employees of corporate service suppliers. It provides special rights of temporary entry for work purposes. A limitation might allow entry only to professional or managerial personnel or require minimum qualifications, such as a tertiary degree or professional accreditation. Many limitations in mode 4 relate to all sectors and are set out the horizontal section.

C. Limitations on market access and national treatment

The second and third columns relate to the two core ways of liberalizing trade in services: market access and national treatment.

Market access

The GATS and most FTAs identify six types of prohibited government measures that limit market access, especially for foreign companies. Governments who make full commitments on market access cannot restrict the number of service suppliers permitted; the total value of transactions or assets; the total number of service operations; the total number of natural persons (per sector); the type of legal entity or joint venture; the participation of foreign capital. A commitment on market access in particular sector is a promise by the government never to apply those restrictions to that service. It is possible to reserve the right to use some of these measures, but they have to be listed as a ‘limitation’ on the commitment. Governments may want to use such limitations for a variety of public policy reasons for example, limiting the number of hotels to protect the lifestyle and livelihoods of local villages or enhance the landscape. Even if they are not used now, governments may want to adopt them in the future. However, if they do not list these ‘limitations’ at the time of making their commitments, they are effectively prohibited from using them in the future. It is vital, but virtually impossible, for governments to know in advance the kind of regulations they may wish to use both now and in the future.

National treatment

National treatment is a commitment not to treat foreign providers of a service (including foreign investors) less well than locals who provide a similar service. Again, this is subject to explicit limitations. Those may protect the right to give better subsidies or taxes to locals; restrict certain professions to locals; require a certain amount of local content or a proportion of local directors on the board; or limit foreign ownership of property or land. And again, governments need to have the foresight to know and list any potentially trade-affecting regulations they would like to maintain both now *and* in the future.

D. Additional Commitments

The fourth column is a space to enter any additional commitments that do not relate to market access or national treatment. In the GATS that is used especially for the adoption of the basic telecommunications reference paper that restricts a government’s choices in regulating telecoms.

E. How commitments are recorded

Each schedule must state clearly what 'modes of supply' are committed under each sector or subsector for market access and for national treatment, as well as any limitation on that commitment. There is a standardized terminology to indicate the scope or degree of commitment that a party wishes to make.

A full commitment

A full commitment for a sector is when a country does not wish to limit or restrict market access or national treatment in that sector or subsector in any mode of supply. This is entered into the schedule as 'NONE', which indicates that there are 'no limitations'.

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional Commitments
6. Environmental Services Sewage and refuse disposal, sanitation and other environmental protection services (CPC 940)	(1) *None* (2) *None* (3) *None* (4) *None*	(1) *None* (2) *None* (3) *None* (4) *None*	

This means the country cannot use any of the prohibited restrictions on market access or discriminate in favor of its own service providers in any aspect of CPC940, being sewage, refuse disposal, sanitation, nature and landscape protection services and 'other' unspecified environmental protection services. This commitment applies across all 'modes' of providing those services.

However, there may be 'horizontal limitations' that apply to these commitments. Therefore the entry 'NONE' should technically be read as 'NONE, except the limitations set out in the horizontal section'. The horizontal section might record to the regime for vetting foreign direct investment or the categories of people who are allowed temporary entry under mode 4. To avoid confusion it would be usual to use different terminology and say that particular mode is 'UNBOUND, except as provided in the horizontal commitments'.

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional Commitments
6. Environmental Services Sewage and refuse disposal, sanitation and other environmental protection services (CPC 940)	(1) None (2) None (3) None (4) *Unbound, except for the right of entry for specified services personnel on the terms set out in the horizontal commitments.*	(1) None (2) None (3) None (4) *Unbound, except for the right of entry for specified services personnel on the terms set out in the horizontal commitments.*	

Commitments with limitations

If a country wants to commit to a sector to the GATS rules, but only under certain circumstances or in a particular way, it needs to spell out clearly the limitations that it wants to maintain.

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional Commitments
6. Environmental Services Sewage and refuse disposal, sanitation and other environmental	(1) None (2) None (3) None, *except that foreign investors are*	(1) None (2) None (3) None, *except that only 100% nationally owned*	

protection services (CPC 940)	*required to invest through joint ventures.* (4) Unbound, except for the right of entry for specified services	*suppliers are eligible for public subsidies.* (4) Unbound, except for the right of entry for specified services	

In this case the country is still fully committed to apply the market access and national treatment rules in the stated subsectors, but foreign investors must operate through a joint venture and only firms that are wholly domestically owned can receive public subsidies.

No commitments in a sector or subsector

There are four ways that a country can make no commitment in a sector or subsector where the schedules use a positive list approach. First, when a government wants to exclude a whole sector from the schedule it simply makes no reference to that sector in its schedule. Second, when a government wants to exclude one or more subsectors from the broader sector it can either state that the sectoral commitment does not include those subsectors, or it can specify the subsectors that are covered.

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional Commitments
6. Environmental Services Sewage and refuse disposal, sanitation and other environmental protection services (CPC 940 *except CPC9403)*	(1) None (2) None (3) None, except that foreign investors are required to invest through joint ventures. (4) Unbound, except for the right of entry for specified services personnel on the terms set out in the horizontal commitments.	(1) None (2) None (3) None, except that only 100% nationally owned suppliers are eligible for public subsidies. (4) Unbound, except for the right of entry for specified services personnel on the terms set out in the horizontal commitments.	

Third, a country may make commitments in only some modes of supply or only for market access or national treatment, not both. In order to make this clear the word UNBOUND is entered in the relevant columns. 'Unbound' is used because commitments are often referred to as 'bindings' - they bind the country under the agreement. UNBOUND therefore indicates that no bindings are present and the country remains free to introduce regulations and laws which are inconsistent with the particular obligation in that mode.

Sector or subsector	Limitations on market access	Limitations on national treatment	Additional Commitments
6. Environmental Services Sewage and refuse disposal, sanitation and other environmental protection services (CPC 940 except CPC9403)	(1) None (2) None (3) None, except that foreign investors are required to invest through joint ventures. (4) Unbound, except for the right of entry for specified services personnel on the terms set out in the horizontal commitments.	(1) None (2) None (3) *Unbound* (4) Unbound, except for the right of entry for specified services personnel on the terms set out in the horizontal commitments.	

In this example, the government has not guaranteed that foreign investors in that particular service sector will be treated as favourably as locals. However, it has agreed not to apply market access restrictions to foreign investors, except for requiring them to invest through a joint venture.

The fourth way a country can make no commitments is when it is technically not feasible to do so. In certain sectors or subsectors, the supply of a service through a particular mode is simply not possible; a common example is the cross-border supply of hairdressing services. In this case a country enters UNBOUND* (and the asterisk refers to a footnote explaining that it is “due to lack of technical feasibility”).

F. Negative list schedules

A negative list approach assumes that market access and national treatment rules apply fully to every service in every mode of supply, unless a schedule or annex says otherwise. There are usually two schedules or annexes. One schedule lists non-conforming measures that will not be made less liberal. These are subject to future negotiation with a view to liberalizing them. This is called a commitment to ‘standstill and rollback’. The second schedule lists government measures that will be retained into the future, but will not be made more restrictive in the future (a standstill).

These schedules are technically difficult to formulate because the government must specify
- the sectors, parts of sectors or modes of supply that are NOT covered
- the relevant CPC code or industry classifications;
- the obligation that are not being complied with; and
- the specific measures (laws, regulations, procedures, requirements or practices) that do not comply.

The schedule can take a narrative or a table form.

ANNEX D: Recommended GATS Commitments for the Insurance Subsector[69]

	Market Access		National Treatment
A.	Cross Border delivery in respect of Reinsurance, Marine, Aviation and Transport (MAT) Insurance	1	In addition to the right to compete for all lines of insurance in a host country, foreign insurance suppliers, who are licensed or established in the host country, should have the same opportunities to compete for domestic insurance business as indigenous insurance services suppliers with respect to insurance for state-owned or state affiliated enterprises, or any enterprise where the state has equity shares.
1	Reinsurance, MAT insurance and insurance services related to these types of insurance are to be bound under the cross border mode of supply without restrictions to market access. For life and non-life reinsurance, the following additional specific commitments are to be included in the schedule:		
	(a) Elimination of mandatory cessions imposed on insurance suppliers to cede all or a portion of their risks to specified insurance or reinsurance suppliers;		
	(b) Elimination of any requirements that impose greater restrictions on the percentage of cessions to foreign reinsurance suppliers than to domestic reinsurance suppliers;		
	(c) Elimination of right-of-first refusal privileges for domestic reinsurance suppliers;		
	(d) Elimination of discriminatory requirements imposed on foreign reinsurance suppliers as they relate to collateralization and localization of assets;		
	(e) The abolition of reinsurance monopolies; and	2	Foreign insurance suppliers will be treated no less favorably than domestic services suppliers with respect to capital, solvency, reserve, tax and other financial requirements
	(f) The guarantee of freedom of form of reinsurance and freedom of reinsurance contract terms.		
B.	Commercial Presence		
1	Form of Establishment		
	(a) A foreign insurance supplier may establish a commercial presence by setting up a subsidiary (either wholly or partly (majority) owned), or by forming a new company, or through acquisition of an insurance supplier already established in host country or as branch;		
	(b) In their regulatory approach to a foreign insurance supplier, full regard will be given to the relationship between a supplier and its parent company when the supplier enters into the market;	3	In the case of insurance intermediation, the host country will limit any conditions or limitations with respect to monetary transfers by insurance intermediaries to what is necessary to assume their legal responsibilities in the country where the service is delivered.
	(c) Consistent with international intellectual property, business name registration and trademark law, a licensed foreign insurance supplier may provide its services using its home company name in the host country market, provided it does not infringe an already established trademark in that country;		
	(d) Foreign insurance suppliers should not be denied a commercial presence in the form of a branch or a subsidiary on the basis of their form of legal organization in the home market.		
2	Equity Shares		
	(a) Where commercial presence is in the form of a joint venture with a partner located in the host country, the decision to operate through a joint venture, and the percentage of equity shares assumed by the foreign partner, should be determined solely by the joint venture partners themselves;		
	(b) Foreign equity share restrictions will be eliminated. Where necessary, this will be achieved over a transition period terminating by a fixed date, not		

69 Based on the Model Schedule proposed by the Financial Leaders Working Group – Insurance Evaluation Team, first published in October 2001 and reproduced in United Nations Conference on Trade and Development, "Trade and Development Aspects of Insurance Services and Regulatory Frameworks". Geneva, March, 2008. Available: https://unp.un.org/Details.aspx?pid=17753.

Market Access			National Treatment
	to exceed two years from the entry into force of this schedule of commitments;		
	(c) During the above transition period, any such limitations should permit the foreign partner to hold at least 51% of the equity in the company, with staged increases.		
3	Compulsory Lines		
	Full commitments to market access and national treatment will be given to cover compulsory risks, to ensure that foreign insurance suppliers can compete for insurance lines and insurance services that are required of persons and businesses that reside in host countries.		
C.	Temporary Entry of Natural Persons		
1	In general, nationality and residency requirements on personnel should be avoided.		
2	Where a foreign insurance supplier operates through a commercial presence, it may select, as its representative in the host country, any person who physically resides in the host country, irrespective of nationality, provided that the representative meets regulatory standards that identify competency to perform services in such a role, and any other provisions relating to the fitness of that individual to perform the obligations of a company representative.		
3	In addition to the commitments undertaken in the general note to the GATS schedule pertaining to the temporary entry of natural persons, the following additional obligation is assumed with respect to insurance: the host country will provide temporary visa and associated work permits, where required, to professional level personnel employed by the foreign insurance services supplier's home and third country offices in a timely manner for the purpose of entering the country and providing short and mid-term assistance to its host country insurance services operations.		

ANNEX E: Lao PDR Schedule of Commitments for Insurance in ASEAN Framework Agreement on Services[70]

Mode of Supply	Market Access	National Treatment	Comments
1. Cross Border Supply	Unbound	Unbound	None
2. Consump-tion abroad:	None, however, insurance contracts on individuals living and residing, on risks or goods/assets located and registered in Lao PDR shall be established only with authorized insurance companies in Lao PDR in accordance with Insurance Law of Lao PDR No.11/90.NA, dated 29 November 1990	None, except specified in the Limitation on Market Access	Reinsurance by authorized insurance companies in Laos through foreign-based companies is not inconsistent with requirements that insurance products be established only with authorized insurance companies in Laos. Companies are currently providing reinsurance services in Laos and these types of insurance services. Best practice recommendations for GATS commitments (Annex B) are for the elimination of discriminatory requirements imposed on foreign reinsurance suppliers as they relate to collateralization and localization of assets. Moreover, best practices recommend the freedom of reinsurance contract terms.
3. Commercial presence:	None, except that the authorized insurance companies in Lao PDR must have a legal entity operating in insurance business under a company forms: state enterprise, joint-venture company or private company (public company or limited company) and branches of foreign insurance companies in accordance with Insurance Law of Lao PDR No. 11/90.NA, dated 29 November 1990 and Decree of the Prime Minister No. 01/PM, dated 23 January 1992 regarding implementation of Insurance Law of Laos.	None, except specified in the Limitation on Market Access	Best practice recommendations for GATS commitments (Annex B) broadens the scope of legal entities operating as insurance company to where foreign insurance supplier may establish a commercial presence by setting up a subsidiary (either wholly or partly (majority) owned), or by forming a new company, or through acquisition of an insurance supplier already established in the host country or as a branch. Best practice recommendations for GATS commitments (Annex B) indicate that for joint ventures percentage of equity shares assumed by the foreign partner, should be determined solely by the joint venture partners themselves. Foreign equity share restrictions will be eliminated, although a transitional period of two (2) years is allowed, with an initial limit of 51% share permitted by the foreign partner.

70 ASEAN Secretariat, “Annexes to the Protocol to Implement the Fifth Package of Commitments under the ASEAN Framework Agreement on Services”, Cebu, Philippines, 8 December 2006.

Mode of Supply	Market Access	National Treatment	Comments
	State enterprise, joint-venture company or private company (public company or limited company) and branches of foreign insurance companies are required to acquire business and investment licenses from relevant authorities of Lao PDR(Ministry of Finance, Committee of Planning and Investment, Bank of Lao PDR) in accordance with relevant applicable law and regulations of Lao PDR.		Licensing requirements are consistent with best practice recommendations (Annex B), as long as there is no discrimination between licensing practices for foreign and domestic suppliers. Under "Decree on the Adoption of the Negative (Conditional) List" of the Prime Minister's Office, dated 28/04/2008, insurance-related activities are included in the negative list requiring are required to obtain approval from relevant sectoral agencies prior to enterprise registration. However, there is no discrimination between foreign and domestic enterprises in the application of this degree.
	During the operation, the authorized insurance companies must comply with the relevant laws and regulations of Lao PDR.		Legal compliance is consistent with best practice recommendations (Annex B).
	The authorized insurance companies must have a minimum registered capital and a guarantee in accordance with Decree of the Prime Minister No. 01/PM, dated 23 January 1992 regarding implementation of Insurance Law of Lao PDR. The guarantee must be deposited with the banks resided in Lao PDR in accordance with Decree of the Prime Minister No. 01/PM, dated 23 January 1992 regarding implementation of Insurance Law of Lao PDR.		The minimum registration capital requirements under the 1990 Insurance Law of Laos are expressed in Lao Kip (LAK) and are equivalent to US$700 in 1990 dollars and roughly US$8,550 under the current exchange rate. Currency based requirements should be avoided in any new law and, where necessary, indicated in subsequent implementation decrees.
	Other than provided above, other requirements shall be applied in accordance with relevant laws and regulation of the Lao PDR.		Legal compliance is consistent with best practice recommendations (Annex B).
4. Presence of Natural Persons	Unbound, except only senior managers, experts are allowed. The entry and movement of the mentioned natural persons in Lao PDR shall be approved by relevant authorities of Laos.	None, except specified in the Limitation on Market Access	Best practice recommendations for GATS commitments (Annex B) indicate that, in general, nationality and residency requirements on personnel should be avoided.

ANNEX F: Insurance Subsector Commitments of ASEAN Countries under GATS

Modes of supply: 1) Cross-Border supply; 2) Consumption abroad; 3) Commercial presence; 4) Presence of natural persons

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
Brunei Darussalam				
(a) Life insurance services (CPC 81211)	1)	Unbound	1)	Unbound
	2)	None	2)	None
	3)	Commercial presence is permitted only through insurance companies that are registered in Brunei Darussalam.	3)	None
	4)	Unbound except as indicated under horizontal measures	4)	Unbound except as indicated under horizontal measures
(a) Non-life insurance services (CPC 8129)	1)	Unbound	1)	None
	2)	Compulsory insurance of Motor Third Party Liability and Workmen's Compensation can be purchased only from insurance companies established in Brunei.	2)	None
	3)	Commercial presence is permitted only through insurance companies that are registered in Brunei Darussalam.	3)	None
	4)	Unbound except as indicated under horizontal measures.	4)	Unbound except as indicated under horizontal measures.
(c) Reinsurance and retrocession (CPC 81299)	1)	Unbound	1)	None
	2)	Unbound	2)	None
	3)	Unbound	3)	None
	4)	Unbound except as indicated under horizontal measures	4)	Unbound except as indicated under horizontal measures
(d) Insurance and intermediation (broking and agency) services (8140)	1)	Unbound	1)	Unbound
	2)	Insurance intermediation is not allowed to act for unregistered insurers.	2)	None
	3)	(i) Broking for direct insurance of Bruneian risks requires approval from MOF. (ii) Broker, underwriting and insurance managers require approval.	3)	Unbound
	4)	Unbound except as indicated under horizontal measures.	4)	Unbound except as indicated under horizontal measures.
(d) Services auxiliary to insurance (CPC 8140)	1)	None	1)	None
	2)	None	2)	None
	3)	None	3)	None
	4)	Unbound except as indicated under horizontal measures	4)	Unbound except as indicated under horizontal measures
Cambodia				

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
(a) Life insurance services (CPC 81211)	1)	Natural or juridical person can enter into contract only with the insurance companies licensed to carry out insurance business	1)	None
	2)	None	2)	None
	3)	None	3)	None
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section
(b) Non-life insurance services (CPC 8129)	1)	None for marine, aviation, and transport insurance from 1 January 2009, or once a law has been passed, the appropriate regulations in place and a local firm authorized, whichever comes first. Until the conditions above are met, marine, aviation and transport insurance services may be supplied by insurance companies licensed to carry out insurance business in the Kingdom of Cambodia.For all other non-life insurance services, natural or juridical persons can enter into contract only with the insurance companies licensed to carry out insurance business in the Kingdom of Cambodia.	1)	None
	2)	None	2)	None
	3)	None	3)	None
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section
(c) Reinsurance and retrocession (CPC 81299)	1)	None, except companies must reinsure 20% of their risk in Cambodia Re until 31 December 2008. Insurance contracts of total sum insured of less than or equal to USD 500,000 must be reinsured locally until 31 December 2008. Thereafter, None	1)	None
	2)	None	2)	None
	3)	None, except companies must reinsure 20% of their risk in Cambodia Re until 1 January 2008. Thereafter, None.	3)	None
	4)	Unbound, except as indicated in the horizontal section.	4)	Unbound, except as indicated in the horizontal section.
(d) Services auxiliary to insurance (CPC 8140)	1)	None	1)	None
	2)	None	2)	None
	3)	None	3)	None
	4)	Unbound, except as indicated in the horizontal section.	4)	Unbound, except as indicated in the horizontal section.
Indonesia				
(a) Non-life insurance services (CPC 8129)	1)	Unbound	1)	Unbound
	2)	Unbound except if: (a) There is no insurance company in Indonesia, either individually or group, which could handle the insurance risks of the object in question; (b) there is no insurance company in Indonesia	2)	Unbound

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
		which want to carry out an insurance coverage of the object in question; and (c) the owners of insurance objects in question are not Indonesian citizens or Indonesian legal entities.		
	3)	As specified in the Horizontal Measures and General Conditions.	3)	As specified in the General Conditions.
	4)	Unbound except for director and technical advisor/expert.	4)	As specified in the Horizontal Measures.
(b) Reinsurance and retrocession (CPC 81299)	1)	Reinsurance service supplier from other member must be rated minimum as BBB by Standard and Poor or equivalent.	1)	None
	2)	Reinsurance service supplier from other member must be rated minimum as BBB by Standard and Poor or equivalent.	2)	Unbound
	3)	As specified in the Horizontal Measures and General Conditions.	3)	As specified in the General Conditions.
	4)	Unbound except for director and technical advisor/expert.	4)	As specified in the Horizontal Measures.
(c) Life insurance services (CPC 81211)	1)	Unbound	1)	Unbound
	3)	As specified in the Horizontal Measures and General Conditions.	3)	As specified in the General Conditions.
	4)	Unbound except for director and technical advisor/expert.	4)	As specified in the Horizontal Measures.
(d) Insurance Brokerage Services (CPC 8140)	1)	Unbound	1)	None
	2)	Unbound except if: a. There is no insurance company in Indonesia, either individually or group, which could handle the insurance risks of the object in question. b. There is no insurance company in Indonesia which wants to carry out an insurance coverage of the object in question. c. The owners of insurance objects in question are not Indonesian citizens or Indonesian legal entities.	2)	Unbound
	2)	None	2)	None
	3)	As specified in the Horizontal Measures and General Conditions.	3)	As specified in the General Conditions.
	4)	Unbound except for director and technical advisor/expert.	4)	As specified in the Horizontal Measures.
(e) Reinsurance Brokerage Services (CPC 8140)	1)	Unbound	1)	None
	2)	None	2)	None
	3)	As specified in the Horizontal Measures and General Conditions.	3)	As specified in the General Conditions.
	4)	Unbound except for director and technical advisor/expert.	4)	As specified in the Horizontal Measures.
Malaysia				
Direct insurance companies.	1) 2)	Unbound except as otherwise specified in this schedule.	1) 2)	Unbound except as otherwise specified in this schedule.
	3)	Branches of foreign insurance companies are required to be locally incorporated by 30 June 1998 and foreign shareholding not exceeding 51% is permitted.Foreign shareholding not exceeding 51% is also permitted for the existing foreign shareholders of locally incorporated insurance companies which were the original owners of these	3)	None except as indicated in the finance sector horizontal section and in the respective activity listed below.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
		companies. Provided aggregate foreign shareholding in such companies does not exceed 51%.New entry is limited to equity participation by foreign insurance companies in locally incorporated insurance companies and aggregate foreign shareholding in such company shall not exceed 30%.Unbound for new licences.Acquisition by a foreign insurance company of an aggregate of more than 5 per cent shareholding in a locally incorporated insurance company must meet at least one of the following criteria:(a) The foreign insurance company has the ability to facilitate trade and contribute to financial and economic development of Malaysia;(b) The country of the foreign insurance company has significant trade and investment interests in Malaysia; (c) The country of the foreign insurance company does not have a significant representation in the Malaysian insurance industry; or (d) The foreign insurance company has the ability to provide technical expertise and know-how to contribute to the financial and economic development.An insurance company is not allowed to acquire more than 5% share:(a) In another insurance company in Malaysia that carries on the same class of insurance business as that carried on by it; or(b) In an insurance broking company.Other persons holding more than 5 per cent shareholding in an insurance company are not permitted to acquire more than 5 per cent shareholding in:(a) Another insurance company carrying on the same class of insurance business as that carried on by the insurance company in which the person is a shareholder; or(b) An insurance broking company.		
	4)	Unbound except the following: (a) Unless otherwise specified, temporary presence of natural persons is offered only in respect of supply through the mode of commercial presence. (b) One senior manager for branches of foreign insurance companies and locally incorporated insurance companies with an aggregate foreign shareholding of 50% or more. A senior manager is an individual possessing proprietary knowledge and authority essential to the establishment, control and operation of the services of the financial service supplier. (c) Three specialists or experts for each institution for areas relating to: (i) underwriting of specialized classes of general business; (ii) information technology; and (iii) actuarial functions. (d) Entry shall be limited to a maximum period of five years.	4)	Unbound except for the categories of natural persons referred to under market access.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
(a) Non-Life Insurance	1)	Soliciting and advertising in Malaysia are not allowed.Direct placement abroad of insurance of:(a) movable or immovable property located in Malaysia, including any ship or aircraft registered in Malaysia; and(b) liability of residents to third party requires approval. Approval will be granted if such insurance is not available from direct insurance companies in Malaysia.	1)	None
	2)	Direct placement abroad of insurance of: (a) movable or immovable property located in Malaysia, including any ship or aircraft registered in Malaysia; and (b) liability of residents to third party requires approval. Approval will be granted if such insurance is not available from direct insurance companies in Malaysia.	2)	None
(b) Services auxiliary to insurance	1)	Actuarial services can only be provided to offshore insurance companies and offshore reinsurance companies in Labuan.	1)	None
	2)	None	2)	None
	3)	Limited to the establishment of: (a) Locally incorporated companies; (b) Branches; or (c) Partnerships. Offshore companies are not permitted to provide services to Malaysian residents.	3)	None
	4)	Unbound except for temporary presence of natural persons in respect of supply through the mode of commercial presence.	4)	Unbound except for temporary presence of natural persons in respect of supply through the mode of commercial presence.
	3)	Only permitted through direct insurance companies.Offshore direct insurance companies in Labuan are not permitted to accept direct insurance of Malaysian risks.	3)	Branching is permitted for direct insurance companies with aggregate foreign shareholding of less than 50 per cent.
	4)	Unbound except as indicated in the finance sector horizontal section.	4)	Unbound except as indicated in the finance sector horizontal section.
(c) Life insurance	1) 2)	Unbound	1) 2)	Unbound
	3)	Only permitted through direct insurance companies. Investment-linked insurance business and new life insurance products provided by direct insurance companies require approval, which will be based on prudential criteria. Offshore direct insurance companies in Labuan are not permitted to underwrite life insurance of residents. This limitation does not apply to ordinary life insurance of high net worth residents.	3)	Branching is only permitted for direct insurance companies with aggregate foreign shareholding of less than 50 per cent. Direct insurance companies are permitted to maintain their existing network of branches. Unbound for special assistance to Malaysian-owned direct insurance companies to promote their development.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
	4)	Unbound except as indicated in the finance sector horizontal section.	4)	Unbound except as indicated in the finance sector horizontal section.
(d) Reinsurance and retrocession (non-life).	1) 2)	Outward reinsurance is permitted only if local capacity is not available.	1) 2)	Voluntary cession up to 30 per cent of each class of non-life reinsurance business to the Malaysian National Reinsurance Berhad.Unbound for fiscal incentives to promote reinsurance in Malaysia.
	3)	Obligation on all insurers other than offshore direct insurance and offshore reinsurance companies to optimise national retention capacity before any outward reinsurance. Seven new licences for non-life reinsurance business within 10 years ending 30 June 2005. Entry is through the establishment of a balanced distribution of branches and locally incorporated joint-venture companies, subject to the following conditions: (a) Priority will be given to foreign reinsurers from the top 100 world reinsurers which: (i) Have long presence in Asia and ability to procure sufficient business for their branch/joint-venture company; or (ii) Are from countries or regions having no representation in Malaysia, provided they bring in special expertise.(b) For entry through branches, priority will be given to foreign reinsurers which intend to base their regional headquarters in Malaysia. (c) For entry through joint-ventures, priority will be given to those joint-ventures which have business plans to operate regionally. (d) The branch or joint-venture company must undertake to comply with the national objectives of achieving optimum retention of local risks, local participation in the management of the branch or joint-venture company and transfer of technical expertise to the local market. (e) Aggregate foreign shareholding in the joint-venture company shall not exceed 49 per cent. (f) Priority will be given to joint-venture with a local partner which: (i) has a minimum shareholders' funds of at least RM3 billion; (ii) is a leading institution with diversified business activities within its group; or (iii) has a good track record of managing a substantial insurance portfolio. Aggregate foreign shareholding in the Malaysian National Reinsurance Berhad shall not exceed 30 per cent. Entry as an offshore reinsurance company is confined to Labuan.	3)	Unbound for measures granting special position to Malaysian National Reinsurance Berhad.
	4)	Unbound except for: (a) Two senior managers for each institution are permitted. A senior manager is an individual possessing proprietary knowledge and authority essential to the establishment, control and operation of the services of the financial service supplier. (b) Three	4)	Unbound except as indicated in the finance sector horizontal section. For offshore reinsurance companies, unbound except as indicated in the finance sector horizontal section.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
		specialists or experts for each institution are permitted. Specialists or experts are individuals who possess knowledge and expertise relating to new products and services, technique or management of the financial service supplier. (c) Entry shall be limited to a maximum period of five years. For offshore reinsurance companies, unbound except as indicated in the finance sector horizontal section.		
(e) Reinsurance and retrocession (life).	1) 2)	Outward reinsurance is permitted only if local capacity is not available.	1) 2)	Unbound for fiscal incentives to promote reinsurance in Malaysia.
	4)	Unbound except for: (a) Two senior managers for each institution are permitted. A senior manager is an individual possessing proprietary knowledge and authority essential to the establishment, control and operation of the services of the financial service supplier. (b) Three specialists or experts for each institution are permitted. Specialists or experts are individuals who possess knowledge and expertise relating to new products and services, technique or management of the financial service supplier. (c) Movement of a senior manager, specialist or expert can be through intra-corporate transfers or otherwise. (d) Entry shall be limited to a maximum period of five years. For offshore reinsurance companies, unbound except as indicated in the finance sector horizontal section.	4)	Unbound except as indicated in the finance sector horizontal section.For offshore reinsurance companies, unbound except as indicated in the finance sector horizontal section.
(f) Insurance intermediation	1) 2)	Direct insurance broking services can only be provided to offshore companies in Labuan. Reinsurance broking is permitted.	1) 2)	None
	3)	Unbound for onshore insurance broking. Broking of direct insurance of Malaysian risks by offshore insurance brokers is not permitted. This limitation does not apply to broking of reinsurance of Malaysian risks.	3)	None
	4)	Unbound except as indicated in the finance sector	4)	Unbound except as indicated in the finance sector horizontal section.
Philippines				
Insurance All subsectors	3) 4)	Limitations listed in the all-sector horizontal section and all financial services section shall apply.	3) 4)	
	3)	Limitations in market access listed in the specific subsectors below shall not apply to existing wholly or majority foreign-owned authorized*11 insurance/reinsurance companies and to those insurance/reinsurance companies that will be permitted entry for the period October 1994-October 1996 under the terms and conditions of Department of Finance Order No. 100 and 100-A.	3)	
	4)	Qualified Non-Filipino citizens may be employed for technical positions only within the first five (5) years of operation of the	4)	

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
		enterprise, their stay not to exceed five (5) years upon entry.Each employed non-Filipino citizen shall have at least two (2) Filipino understudies.		
(a) Life insurance	1)	Risks located in the Philippines should be insured with the companies authorized to transact business in the Philippines	1)	Unbound
	2)	Same as (1) above	2)	Unbound
	3)	Market access is limited to: a. Acquisition of up to forty per cent (40%) of the voting stock of an existing domestic insurance company. b. Investing in up to forty per cent (40%) of the voting stock of a new locally incorporated insurance company. Participation of non-Filipino citizens in the Board of Directors of a locally incorporated insurance company is limited to one-third of the Board's total membership.	3)	None
	4)	None	4)	None
(b) Non-life insurance	1)	Risks located in the Philippines shall be insured with the companies authorized*13 to transact business in the Philippines	1)	Unbound
	2)	Same as (1) above	2)	Unbound
	3)	Market access is limited to: (a) Acquisition of up to forty per cent (40%) of the voting stock of an existing domestic insurance company. (b) Investing in up to forty per cent (40%) of the voting stock of a new locally incorporated insurance company. Participation of non-Filipino citizens in the Board of Directors of a locally incorporated insurance company is limited to one third of the Board's total membership.	3)	None
	4)	None	4)	None
(c) Insurance auxiliary services	1)	Commercial presence is required	1)	Unbound
	2)	None	2)	None
	3)	Subject to foreign equity limitation of forty per cent (40%) Participation of non-Filipino citizens in the Board of Directors of domestic companies is limited to one third of the Board's total membership.	3)	None
	4)	None	4)	None
(d) Reinsurance / Retrocession	1)	Priority cessions to authorized insurance/reinsurance companies Foreign unauthorized reinsurers should be represented by resident agents duly registered with the Insurance Commission	1)	None

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
		Ten per cent (10%) of total insurance cessions to foreign unauthorized reinsurers should be ceded to the National Reinsurance Corporation of the Philippines.		
	2)	Same as (1) above	2)	None
	3)	Market access is limited to:(a) Acquisition of up to forty per cent (40%) of the voting stock of an existing domestic reinsurance company.(b) Investing in up to forty per cent (40%) of the voting stock of a new locally incorporated reinsurance company. Participation of non-Filipino citizens in the Board of Directors of a locally incorporated reinsurance company is limited to one third of the Board's total membership.	3)	None
	4)	None	4)	None
Singapore				
(a) Life insurance services	1)	Unbound	1)	Unbound
	2)	None	2)	None
	3)	Foreign parties can only acquire equity stakes of up to 49% in aggregate in locally-owned insurance companies provided the acquisition does not result in any foreign party being the largest shareholder. Unbound for issuance of new insurance licences and establishment of new representative offices.	3)	None
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.
(b) Non-life insurance services	1)	Unbound	1)	Unbound
	2)	None except for compulsory insurance of Motor Third Party Liability and Workmen's Compensation which can be purchased only from licensed insurance companies in Singapore.	2)	None
	3)	Foreign parties can only acquire equity stakes of up to 49% in aggregate in locally-owned insurance companies provided the acquisition does not result in any foreign party being the largest shareholder. Unbound for issuance of new insurance licences and establishment of new representative offices.	3)	None
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.
(c) Reinsurance and retrocession	1)	None	1)	None
	2)	None	2)	None
	3)	Reinsurance companies can establish as branches or subsidiaries.	3)	None
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
(d) Insurance intermediation comprising broking and agency services	1)	Unbound	1)	Unbound
	2)	Agents are not allowed to act for unregistered insurers. With the exception of reinsurance risks and risks insured by protection and indemnity clubs, brokers can only place domestic risks outside Singapore with the approval of MAS.	2)	None
	3)	Unbound except for admission of reinsurance brokers as locally incorporated subsidiaries.	3)	Unbound
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.
(e) Services auxiliary to insurance comprising actuarial, loss adjustors, average adjustors and consultancy services	1)	None	1)	None
	2)	None	2)	None
	3)	None	3)	None
	4)	Unbound except as indicated in the horizontal section.	4)	Unbound except as indicated in the horizontal section.
Thailand				
(a) Life insurance services (CPC 81211)	1)	None	1)	None
	2)	None	2)	Life insurance premium is tax deductible up to a certain amount for holders of policies issued by local companies.
	3)	(a) Foreign equity participation limited to 25 per cent of registered share capital. (b) New establishment is subject to licence approved by the Minister with the consent of the Cabinet.	3)	None
	4)	Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	4)	None
(b) Non-life insurance services (CPC 8129)	1)	Unbound except for international marine, aviation and transit and all classes of reinsurance.	1)	Unbound
	2)	None	2)	None
	3)	(a) Foreign equity participation limited to 25 per cent of registered share capital. (b) New establishment is subject to license approved by the Minister with the consent of the Cabinet.	3)	None
	4)	Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	4)	None
(d) Insurance broking and agency services (CPC 81401)	1)	Unbound	1)	Unbound
	2)	Unbound	2)	Unbound
	3)	Foreign equity participation not to exceed 25 per cent.	3)	No limitations as long as foreign equity participation does not exceed 25 per cent.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
	4)	(a) Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner. (b) Unbound for individual broker and agent.	4)	None
(e) Insurance consultancy (CPC 81402)	1)	None	1)	None
	2)	None	2)	None
	3)	None other than that indicated in the horizontal section.	3)	No limitations as long as foreign equity participation does not exceed 49 per cent.
	4)	Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	4)	None
(f) Average and loss adjustment services (CPC 81403)	1)	None	1)	None
	2)	None	2)	None
	3)	None other than that indicated in the horizontal section.	3)	No limitations as long as foreign equity participation does not exceed 49 per cent.
	4)	Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	4)	None
(g) Actuarial services (CPC 81404)	1)	None	1)	None
	2)	None	2)	None
	3)	None other than that indicated in the horizontal section.	3)	No limitations as long as foreign equity participation does not exceed 49 per cent.
	4)	Only senior managerial personnel, specialists and technical assistants with the approval of the Insurance Commissioner.	4)	None
Viet Nam				
Insurance and Insurance-Related Services	1)	None for: -Insurance services provided to enterprises with foreign-invested capital, foreigners working in Viet Nam; -Reinsurance services; -Insurance services in international transportation, including insurance of risks relating to: +international maritime transport and international commercial aviation, with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising there-from; and +goods in international transit; -Insurance broking and reinsurance broking services; -Consultancy, actuarial, risk assessment and claim settlement services.	1)	None.
	2)	None.	2)	None.
	3)	None, except:	3)	None.

Sector or Sub-sector		Limitations on Market Access		Limitations on National Treatment
		100% foreign-invested insurance enterprises shall not be allowed to engage in statutory insurance business, including motor vehicle third party liability, insurance in construction and installation, insurance for oil and gas projects, and insurance for projects and construction works of high danger to public security and the environment. As of 1 January 2008, this limitation shall be abolished. After 5 years from the date of accession, non-life branches of foreign insurance enterprises shall be permitted, subject to prudential regulations.		
	4)	Unbound, except as indicated in the horizontal section	4)	Unbound, except as indicated in the horizontal section.

ANNEX G: World's Largest Insurance Companies

Rank	Company	Country	2009 (US billion)		
			Sales	Profits	Assets
1	ING Group	Netherlands	214.0	(1.0)	1,853.4
2	AXA Group	France	157.0	1.3	936.9
3	Allianz	Germany	127.2	(3.4)	1,330.0
4	Generali Group	Italy	118.4	4.3	546.5
5	Munich Re	Germany	64.2	2.1	291.9
6	CNP Assurances	France	55.9	1.0	374.6
7	MetLife	United States	51.0	3.2	501.7
8	Aegon	Netherlands	47.5	(1.5)	399.8
9	Tokio Marine Holdings	Japan	36.5	1.1	173.0
10	Legal & General Group	U.K.	36.1	1.4	557.1
11	Zurich Financial Services	Switzerland	32.4	3.0	325.0
12	Swiss Re Group	Switzerland	31.1	(0.8)	214.2
13	Allstate	United States	29.4	(1.7)	134.8
14	Prudential Financial	United States	29.3	(1.1)	445.0
15	Aviva	U.K.	28.2	(1.3)	513.0
16	Manulife Financial	Canada	26.7	0.4	309.2
17	China Life Insurance	China	26.2	5.3	127.8
18	Travelers Cos	United States	24.5	2.9	109.8
19	T&D Holdings	Japan	22.8	0.4	133.6
20	Mapfre	Spain	22.0	1.3	57.1
21	Mitsui Sumitomo Insurance	Japan	21.4	0.4	84.3
22	Fondiaria-SAI	Italy	19.0	0.7	65.8
23	Ping An Insurance Group	China	18.8	2.6	94.6
24	Sompo Japan Insurance	Japan	18.6	0.6	64.7
25	Sun Life Financial	Canada	17.9	0.7	150.3
26	Swiss Life Holding	Switzerland	17.0	1.2	157.8
27	Aflac	United States	16.6	1.3	79.3
28	ACE	Bermuda	13.6	1.2	72.1
29	Unipol	Italy	13.4	0.6	66.1
30	Loews	United States	13.3	4.3	69.9
31	Chubb	United States	13.2	1.8	48.4
32	Progressive	United States	12.8	(0.1)	18.3
33	China Pacific Insurance	China	12.0	0.9	42.3
34	Marsh & McLennan	United States	11.6	(0.1)	15.2
35	American Intl Group	United States	11.1	(99.3)	860.4
36	Aioi Insurance	Japan	11.1	(0.0)	28.9
37	Vienna Insurance Group	Austria	10.5	0.5	37.3
38	RSA Insurance Group	U.K.	10.4	0.8	30.1
39	PICC Property & Casualty	China	10.4	0.4	18.4
40	Hannover Re	Germany	10.2	(0.2)	52.1
41	Samsung Fire & Marine	South Korea	10.0	0.5	21.0
42	Unum Group	United States	10.0	0.6	49.4
43	Genworth Financial	United States	10.0	(0.6)	107.4
44	Lincoln National	United States	9.9	0.1	163.1
45	Nipponkoa Insurance	Japan	9.2	0.1	33.4
46	Hartford Finl Service	United States	9.2	(2.8)	287.6
47	QBE Insurance Group	Australia	8.9	1.3	33.5

Rank	Company	Country	2009 (US billion)		
			Sales	Profits	Assets
48	Assurant	United States	8.6	0.5	24.5
49	Bâloise Group	Switzerland	8.5	0.7	58.9
50	Insurance Australia Group	Australia	8.1	(0.3)	18.3
51	Fairfax Financial	Canada	8.0	1.5	27.3
52	Cathay Financial	Taiwan	7.9	1.0	113.6
53	Aon	United States	7.6	1.5	22.9
54	Uniqa	Austria	7.6	0.4	35.7
55	SCOR	France	7.3	0.6	35.3
56	XL Capital	Bermuda	7.2	(2.6)	45.7
57	Sampo	Finland	6.5	0.9	28.6
58	Dongbu Insurance	South Korea	6.3	0.3	11.2
59	Fubon Financial	Taiwan	6.2	0.5	55.5
60	First American	United States	6.2	(0.0)	8.7
61	Mediolanum	Italy	5.7	0.3	34.6
62	Nürnberger Beteiligungs	Germany	5.7	0.1	30.2
63	Reinsurance Group of America	United States	5.7	0.2	21.7
64	Helvetia Patria	Switzerland	5.6	0.4	28.3
65	Cattolica Assicurazioni	Italy	5.4	0.1	24.4
66	Hyundai Marine & Fire Ins	South Korea	5.4	0.2	8.8
67	Friends Provident	U.K.	4.8	(0.2)	115.7
68	WR Berkley	United States	4.7	0.3	16.1
69	Grupo Catalana Occidente	Spain	4.4	0.2	13.6
70	Fidelity National Finl	United States	4.3	(0.2)	8.4
71	American Finl Group	United States	4.3	0.2	26.4
72	Conseco	United States	4.2	(0.8)	32.1
73	Storebrand	Norway	4.0	(0.3)	53.0
74	PartnerRe	Bermuda	4.0	0.1	16.3
75	Cincinnati Financial	United States	3.8	0.4	13.4
76	Industrial Alliance Insur	Canada	3.6	0.1	19.7
77	Everest Re Group	Bermuda	3.5	(0.0)	16.9
78	Torchmark	United States	3.3	0.5	13.5
79	Old Republic Intl	United States	3.2	(0.6)	13.3
80	Arch Capital Group	Bermuda	3.0	0.3	14.6
81	Willis Group Holdings	U.K.	2.8	0.3	16.4
82	Axis Capital Holdings	Bermuda	2.8	0.4	14.3
83	American Natl Ins	United States	2.6	(0.1)	18.3
84	Protective Life	United States	2.5	(0.0)	39.6
85	HCC Insurance	United States	2.3	0.3	8.3
86	Sanlam	South Africa	2.1	0.3	34.1
87	Phoenix Cos	United States	2.0	(0.7)	25.8
88	Old Mutual	U.K.	0.1	0.6	209.6
89	MBIA	United States	(0.9)	(2.7)	29.7
90	Irish Life & Permanent	Ireland	(6.6)	0.1	100.4

ANNEX H: Illustration of Business Plan for Insurance Regulating Authority

Insurance Regulatory Authority of Kenya
Corporate Plan, 2008/09-2010/11

PREAMBLE

This Corporate Plan is a three-year plan that covers the period from 2008/09 to 2010/11. The Plan outlines the Authority's broad vision and mission statement and the core values that will guide the Authority in achieving these ideals. The Plan then candidly examines the Authority's strategic position in terms of strengths, weaknesses, opportunities and threats while identifying the Authority's key stakeholders. From the overarching vision, mission and core values and taking cognizance of the strategic analysis and the needs of key stakeholders, the plan outlines a number of key corporate objectives which the Authority shall focus on achieving within the three-year period.

The Authority endeavors to strengthen the insurance industry and encourage growth through public education and awareness to achieve the long term and short term millennium goals for vision 2030.

The detailed Plan will be communicated effectively to each member of the Authority explaining their contributory roles in realizing the laid out strategies. The Plan will be monitored and reviewed every six months in order to update it and evaluate its implementation status.

Chapter 1: BACKGROUND

Introduction

After independence in 1963, the Government of Kenya saw the need to have control over the insurance industry, which was then dominated by branch offices of foreign companies particularly from Europe and India. During this period, insurance operations were governed by the Companies Act 1960, which was based on the UK legislation. There was, therefore no competent body to supervise the industry. There was a great need to localize the branch offices of foreign insurance companies in the country in order to benefit the local investors. This resulted to the need for statutory supervision of the industry.

In 1978, the Minister for Finance issued a directive stopping the operations of branch offices of foreign companies and all insurance companies were required to be locally incorporated. Thereafter, in the early 1980's the Government with the support of United Nations Conference for Trade and Development (UNCTAD) started the process of drafting a law to regulate the insurance industry.

In 1986, the Insurance Act CAP 487 was enacted with the commencement date being 1st January, 1987. The Act established the Office of the Commissioner of Insurance as the regulator of the insurance industry and stipulated the mandate and functions of the office. This office was created as a Department in the Ministry of Finance and was mandated to supervise the insurance industry.

In order to enhance the supervisory capacity of the regulator the government delinked the Department from the Ministry to give it some autonomy. The Insurance (Amendment) Act 2006 enacted on 30th December, 2006 established the Insurance Regulatory Authority (IRA) to take up the role of regulating, supervising and developing the insurance industry. The Act became effective on 1st May 2007.

IRA, being a new institution, identified the need to draw a Corporate Plan to guide its operations. In November 2007, the board resolved that the management constitutes a committee to develop this three-year Corporate Plan.

1.1 ESTABLISHMENT, MANDATES AND OBJECTIVES OF THE IRA

1.1.1 Establishment

The Authority (IRA) was established by the Insurance (Amendment) Act, 2006 and came into operation on 1st May, 2007.

1.1.2 Mandate

The mandate of the Authority is to regulate, supervise and develop the insurance industry in Kenya.

1.1.3 Objectives and Functions

- ensure the effective administration, supervision, regulation and control of insurance and reinsurance business in Kenya; formulate and enforce standards for the conduct of insurance and reinsurance business in Kenya;
- license all persons involved in or connected with insurance business, including insurance and reinsurance companies, insurance and reinsurance intermediaries, loss adjusters and assessors, and risk surveyors;
- protect the interests of insurance policy holders and insurance
- beneficiaries in any insurance contract;
- promote the development of the insurance sector;
- advise the government on the national policy to be followed in order
- to ensure adequate insurance protection and security for national assets and national properties; and
- undertake such other functions as may be conferred on it by the Insurance (Amendment Act), 2006 or by any other written law.

1.2 AUTHORITY'S VISION, MISSION AND CORE VALUES

Vision *"A world class insurance industry"*

This is the first vision statement for the Authority. It provides a focus for what the Authority aims to achieve in the long-term. It is, therefore not immediately achievable but gives the challenge that drives the Authority to achieve.

Key elements of the Authority's vision are:

- clear sets of prudential standards for the industry;
- discharges its functions in a transparent and accountable manner; protection of policyholders and general public;
- is a source of accurate and reliable data; and
- is a provider of professional advice to its stakeholders.

Mission

"To effectively and professionally regulate, supervise and develop the insurance industry as provided for under the Insurance Act"

The Authority's mission is an outcome-oriented statement that provides clear direction and understanding concerning the role of the organization.

Core Values

Core values are guidelines that shape the behavioral action of all the staff.
Core values are important because they contribute towards achieving the vision and mission in manner that takes cognizance of the Authority's internal and external environment.

Integrity - Executing its functions in an impartial, effective and professional way with the highest ethical standards.

Professionalism - Provide high quality service.

Team Spirit - Working together to achieve the objectives of IRA and to nurture sound interpersonal relationships.

Respect - Fairness and mutual respect for all.

Customer Oriented - We shall strive to do all that is within our ability to respond to our customers' needs.

CHAPTER 2: CORPORATE SITUATIONAL ANALYSIS

2.1 SWOT Analysis

STRENGTHS

- The Insurance Act
- Inherited infrastructure from the Ministry of Finance
- Professionally trained and experienced staff
  Adequate financial base
- Expertise and synergies of Board members ƒ Team spirit

WEAKNESSES

- Outdated provisions of the law
- Transitional process
- Lack of well documented operational manuals
- Inadequate resources

OPPORTUNITIES

- Goodwill and support by insurance industry stakeholders
- Membership to IAIS and other international insurance associations
- Political and government goodwill
- Untapped market
- Co-operation with insurance supervisors
- Restoring public confidence

THREATS

- Inadequate legislative framework
- Poverty
- Corruption
- Fraud
- Unethical business practices
- Poor public perception and awareness
- HIV and AIDS scourge.
- Unstable PSV business

2.2 Stakeholders Analysis

Stakeholders are all those entities, whether individuals or groups, from within or without, that have an interest that can affect the Authority's operations either positively or negatively. These include:

- The Government and other government agencies such as Central Bank of Kenya, Capital Markets Authority, Kenya Revenue Authority, Retirement Benefits Authority etc.
- Insuring and general public
- Industry players such as Insurance Institute of Kenya (IIK), insurance companies,

reinsurance companies, intermediaries, Loss Adjusters and other service providers etc.
- Staff of the Authority
- Other interested parties such as lawyers, hospitals, police, surveyors, auditors, actuaries, etc.

CHAPTER 3: CORPORATE GOVERNANCE

The Authority is determined to put in place and maintain good corporate governance standards at all levels of its operations. The Authority is committed to ensure that the concept of good corporate governance is not only encompassed by all the industry players but is also fully observed. The concept of good corporate governance is rooted in the core values of the Authority.

The parties involved in corporate governance include the GoK, Board, Management, Staff, the Insurance industry, Suppliers, Creditors and the community at large.

3.1 The Board

Section 3B of The Insurance (Amendment) Act, 2006 provides for the appointment of the Board of Directors which comprises of:

- A Chairman appointed by the President on the recommendation of the Minister;
- The Commissioner of Insurance;
- The Permanent Secretary in the Ministry for the time being responsible for matters relating to finance or his representative;
- The Chief Executive Officer of the Retirement Benefits Authority;
- The Chief Executive Officer of the Capital Markets Authority;
- The Governor of the Central Bank of Kenya or his representative;
- A nominee of the Insurance Institute of Kenya (IIK); and
- Four other members, not being public officers, appointed by the Minister.

The Board's responsibility is to formulate the Authority's strategy, develop directional policy, monitor, appoint, supervise and remunerate the management and ensure accountability of the Authority to the Government and other stakeholders.

The Board of the Authority meets not less than four times in every financial year and not more than four months can elapse between the date of one meeting and the date of the next meeting. Additional meetings may however, be rescheduled as and when need arises.

The Board has delegated some of its responsibilities to a number of standing Committees, which operate within defined terms of reference laid down by the Board. The Board may also appoint ad hoc committees as and when need arises.

The Board has four standing committees as follows: -

- Finance and Administration Committee. The responsibilities this Committee is to consider and recommend for approval the Authority's annual budget, formulation of investment policy as well as monitoring and evaluating the overall financial performance of the Authority.
- Technical, Research and Compliance Committee. This Committee considers and recommends matters relating to regulation, supervision and development of the insurance industry.
- Human Resources Committee. The Committee is mandated to consider and recommend policies on recruitment, training, developing, motivating and appraising staff and retention strategies for staff.
- Audit and Corporate Governance Committee. This Committee is mandated to oversee the following functions on behalf of the Board: -
  - Risk management;
  - Review systems, processes and procedures to ensure effectiveness of the Authority's internal control systems; and

- Ensure that the Authority complies with the various legislations, governance practices, accounting and auditing standards.

3.2 Role of Chairman

The Chairman is responsible for steering the Board and providing leadership to the Authority.

3.3 Role of Chief Executive Officer

The Chief Executive Officer is responsible to the Board for the day to day management of the affairs of the Authority.

3.4 Corporate Social Responsibility

The Authority is committed to contribute to sustainable socio-economic development, in liaison with the staff and their families, the local community and the society at large to improve their quality of life. To this end, the Board shall put in place a set of policies, practices and programs that will promote appropriate Corporate Social Responsibility.

CHAPTER 4: IMPLEMENTATION, MONITORING AND EVALUATION

During the implementation of the Corporate Plan, the Authority will need to monitor and evaluate the inputs, activities, outputs and outcomes to ensure that the corporate plan objectives are achieved.

This will be achieved through performance appraisals, performance contracting, benchmarking with international standards, insurance annual reports and self evaluation.

ANNEX I: List of Persons Interviewed

Meetings with Insurance Companies

Company	Representative	Address	Telephone
Assurances Générales du Laos	Mr. Guy Apovy, CEO	2th Floor ANZ Vientiane Commercial Building 33 LaneXangAve Hatsady Vientiane Cap. , Vientiane Cap.	+856-21 22 2222
Assurances Générales du Laos	Mr. Holady Volarath, Deputy Managing Director	2th Floor ANZ Vientiane Commercial Building 33 LaneXangAve Hatsady Vientiane Cap. , Vientiane Cap.	'+856-21 21 5903
Assurances Générales du Laos	Mr. Sune Samountry, Head of Motor Insurance Department	2th Floor ANZ Vientiane Commercial Building 33 LaneXangAve Hatsady Vientiane Cap. , Vientiane Cap.	'+856-21 21 51 5903
Assurances Générales du Laos	Mr. Thavone Souliyavong, Deputy Head of Department of Engineering, Property and Casulaty Insurance Department	2th Floor ANZ Vientiane Commercial Building 33 LaneXangAve Hatsady Vientiane Cap. , Vientiane Cap.	'+856-21 21 5162
Insee Insurance Co Ltd		43-47 14 LaneXangAve HatsadyTai Vientiane Cap. , Vientiane Cap.	+856-21 21 8778
Toko Assurance Co Ltd	[Note: Not available for meeting until end of June 2010]	58/02-58/03 08 ManthathoulatSt XiengNyeun Vientiane Cap. , Vientiane Cap.	+856-21 26 4712
Lao - Viet Insurance Co		426 KamphengmeuangSt Hongkae Vientiane Cap. , Vientiane Cap	+856-21 26 4972
Mitsui Sumitomo: MSIG Insurance (Lao) Co., Ltd	Viengthong Sengkhamkhoudlavong Accounting officer	Units 3-6, 5th Floor, ANZ Vientiane Commercial Building, 33 Lane Xang Ave., Vientiane Cap.	+856-20-74 5779

Meetings with Government Officials

Ministry	Official	Email	Telephone
Fiscal Policy Department, Ministry of Finance	Mr. Phanomphone Keovongvichith, Deputy Director		
Fiscal Policy Department, Ministry of Finance	Mr. Bonthoum Lomany, Deputy Director General	bounthom56@gmail.com	+856-21-900969
Fiscal Policy Department, Ministry of Finance	Mr. Boualith Khounsy, Director of ASEAN Division	blhounay@yahoo.com	+856-20-2489926
Multilateral Trade Policy Division, Ministry of Industry and Trade (MOIC)	Mr. Buavanh Vilavong, Director	b.vilavong@laopdr.com	
Multilateral Trade Policy Division, Ministry of Industry and Trade (MOIC)	Ms. Onida Vinavong, Project Officer	o.vinavong@laopdr.com; o_vinavong@yahoo.com	7993318