

การประยุกต์ใช้กิจกรรมตามต้นทุน (Activity-Based Costing-ABC) กับสมมติฐาน  
การลดค่าใช้จ่ายในทางคดีหากมีการยอมรับคำพิพากษาศาลต่างประเทศ (ศึกษากรณี  
สาธารณรัฐประชาธิปไตยประชาชนลาวและประเทศไทย)

**Adaptation of Activity-Based Costing (ABC) to the Legal Hypothesis on  
Reduction in Litigation Costs by the Recognition of Foreign Judgments:**

**A Case Study of Lao People's Democratic Republic and Thailand**

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## บทคัดย่อ

การวิจัยนี้มีวัตถุประสงค์เพื่อ 1) ศึกษากฎหมายไทยที่ยอมให้มีการเลือกเขตอำนาจศาลและที่ยอมรับคำพิพากษาของศาลต่างประเทศ เพื่อวิเคราะห์ปัญหาจากการที่ประเทศไทยไม่มีกฎหมายยอมรับคำพิพากษาของศาลต่างประเทศเป็นการทั่วไป ทำให้เกิดค่าใช้จ่ายที่ซ้ำซ้อนหากโจทก์ที่ชนะคดีในศาลต่างประเทศจะบังคับคดีของศาลต่างประเทศออกจากทรัพย์สินของจำเลยที่อยู่ในประเทศไทยก็ต้องฟ้องจำเลยนั้นต่อศาลไทยเป็นคดีใหม่ซึ่งแตกต่างกับสาธารณรัฐประชาธิปไตยประชาชนลาว (สปป.ลาว) ที่มีกฎหมายการดำเนินคดีแพ่ง (ค.ศ. 2012) ยอมรับคำพิพากษาของศาลต่างประเทศได้ และ 2) ศึกษาและประยุกต์ใช้เครื่องมือวิจัยเชิงปริมาณและเชิงคุณภาพที่สำคัญ คือ ระบบต้นทุนตามกิจกรรม (Activity-based costing หรือ ABC) การสัมภาษณ์เชิงลึก (In-depth interview) และเครื่องมือวิจัยอื่น เพื่อพิสูจน์สมมติฐานของการวิจัยออกมาเป็นตัวเลขมูลค่าเงิน ว่าค่าใช้จ่ายในคดีเพื่อบังคับตามคำพิพากษาศาลต่างประเทศควรจะลดลงได้หากมีกฎหมายที่ยอมรับคำพิพากษาศาลต่างประเทศ

ผลการวิจัยพบว่า สมมติฐานทางกฎหมายดังกล่าว สามารถนำมาทำวิจัยได้และเมื่อนำระบบต้นทุนตามกิจกรรม (ABC) มาประยุกต์ใช้กับกรณีศึกษา (Case study) ที่นำคำพิพากษาของศาลไทยไปบังคับคดีใน สปป.ลาว เวลาที่ใช้ตามกฎหมายการดำเนินคดีแพ่งของ สปป.ลาว ในกรณีที่ศาลของ สปป.ลาว ยอมรับคำพิพากษาของศาลไทย สั้นกว่าที่ต้องใช้ในกรณีที่เจ้าหนี้ต้องนำมูลหนี้เดิมตามคำพิพากษาของศาลไทยไปฟ้องเป็นคดีใหม่ต่อศาลใน สปป.ลาว กระบวนการพิจารณาคดีจึงเป็นตัวแปร (Variables) ที่สำคัญและส่งผลโดยตรงต่อค่าใช้จ่ายในทางกฎหมายและตัวผลักดันต้นทุน (Cost drivers) ทำให้ค่าใช้จ่ายในการดำเนินคดีลดลงอย่างมีนัยสำคัญ

**คำสำคัญ:** แนวคิดกรณีศึกษาการลดค่าใช้จ่ายในคดี, การประยุกต์ใช้ ABC, กับสมมติฐานทางกฎหมาย

## **Abstract**

This research aims to 1) study the Thai laws which recognize the choice of jurisdiction and enforcement of foreign judgments to analyze the problem arising from the fact that Thailand does not have a law generally applicable to the recognition of foreign judgments, causing repetition of legal costs when the winning plaintiff in a foreign court enforces the foreign judgment against the defendant's assets in Thailand because the plaintiff must commence fresh proceedings in the Thai court against the same defendant; this contrasts with the Lao People's Democratic Republic ( Lao PDR ) which has the Civil Procedure Act (2012) recognizing the foreign judgments. And, 2) to study and adapt the key qualitative and quantitative research methods, namely, activity-based costing (ABC) and in-dept interview as well as other research methods to prove, in terms of monetary and numerical values, the hypothesis of this research that the litigation costs to be incurred in the enforcement of the foreign judgments could be reduced if there is a law on the recognition of foreign judgments.

The result suggests that such legal hypothesis can be a subject of the research. By adapting ABC to the case study of the enforcement of a judgment of Thai Court in Lao PDR, it is found that the time spent on the enforcement of the Thai judgment in Lao PDR pursuant to the recognition provisions under Lao PDR's law is shorter than the case where the creditor brings the same source of obligation as per the Thai judgment to a court in Lao PDR by filing of a fresh lawsuit. Therefore, procedures of the case are the significant variables directly affecting the legal cost and cost drivers which result in reducing the litigation costs substantially.

**Keywords:** Case study, Reduction in litigation costs, Adaptation of ABC to a legal hypothesis

## Introduction

The enforcement of a foreign judgment is an interesting issue for many countries due to the growth of free trade trend, both at international and regional levels, resulting in the increase of international legal proceedings (Pivawattanapanich, 2018).

Thailand has enacted international transport laws, namely the Multimodal Transport Act, B.E. 2548 (2005), International Carriage of Goods by Road Act, B.E. 2556 (2013), International Carriage of Passengers by Road Act, B.E. 2557 (2014) and International Carriage by Air Act, B.E. 2558 (2015) under which the legal concept of the choice of court (or choice of jurisdiction) was recognized by way of these laws allowing the plaintiff to choose one of the competent courts which may be located in different countries. However, these laws are silent on the recognition and enforcement of foreign judgments. Subsequently, the Civil Liability for Oil Pollution Damage Caused by Ships Act, B.E. 2560 (2017) (or “CLC Act”) and the Requirement of Contributions to the International Fund for Compensation for Oil Pollution Damage Caused by Ships Act, B.E. 2560 (2017) (or “FUND Act”) were enacted. These two relatively new laws are applicable to the liability for oil pollution damage only. So far, Thailand has not had a specific law to govern the recognition and enforcement of foreign judgments.

The above problem, the lack of a Thai law to govern the recognition and enforcement of foreign judgments emerged in the last century but it is still unresolved despite many Thai university scholars and lawyers including some judges having suggested the need to have such a specific law. From perspective of a retired judge from the Supreme Court, Indrambarya (1984) viewed that should there be a specific law governing the recognition and enforcement of foreign judgment, the relevant costs of access to justice through judicial means could be reasonably reduced because such a specific law could avoid incurring unnecessary litigation costs in repeating the trial and witness-examination in the court. However, his valuable view was raised from perspective of a learned lawyer but the view was silent on how the costs could be reduced.

Currently, to enforce a foreign judgment in Thailand, the plaintiff must sue the same defendant in the Thai court and submit the foreign judgment to the Thai court as a piece of evidence of debt (Office of Judicial and Legal Affairs, 2020). Unlike the legal situation of the Lao People’s Democratic Republic (or “Lao PDR”) where there is a domestic law governing the recognition and enforcement of foreign judgments, e.g. the Law on Civil Procedures of Lao PDR 2004 (as amended 2012). Therefore, a judgment rendered by a Thai court can be recognized and enforceable in Lao PDR, subject to the conditions of Lao PDR’s law, and as a result, a reduction in litigation costs could be expected. Nevertheless, the said view and the expected

reduction in litigation costs seems to be an abstract hypothesis and should be proved by appropriate research methodology and tools to arrive at an outcome which can be measured in monetary and numerical values.

## **Research's Objectives**

The main objectives of this research are:

1. to establish that litigation costs to be incurred in enforcing a foreign judgment can be reduced if a judgment handed down in one country is recognized and enforceable in other countries,

2. to test the above abstract hypothesis which is actually a legal hypothesis (reduction in litigation costs) in terms of a numerical value of the likely amount of litigation costs which could be reduced in a case study of Thailand and Lao PDR, and

3. to demonstrate that Activity-Based Costing (ABC), a quantitative method, which is mostly applied to service and production businesses, can be adapted to apply to the legal matter / phenomenal (in the case study of this research) so as to arrive at the outcome measured in monetary and numerical values.

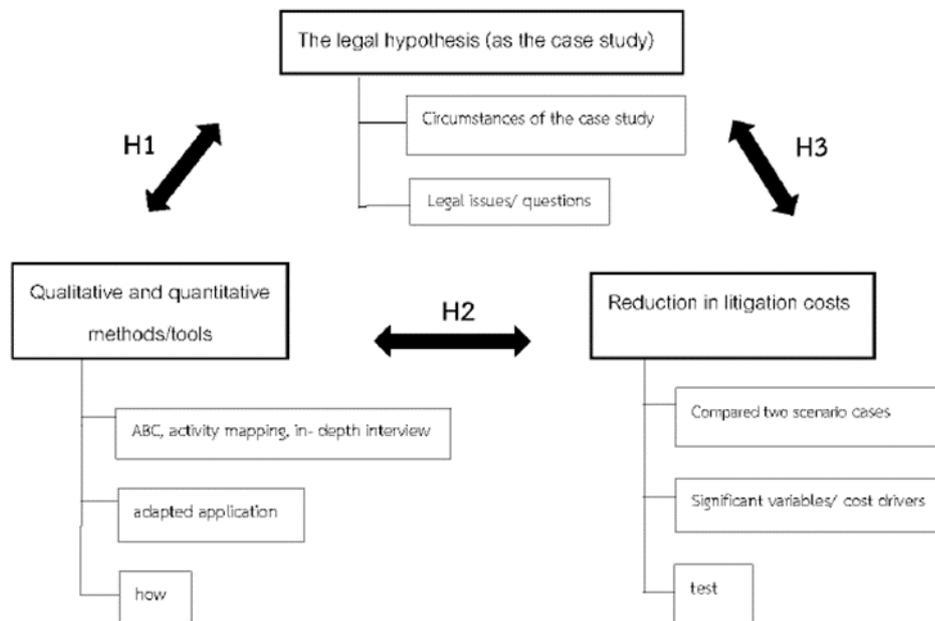
## **Hypothesis**

H1: The controversy over the question on the financial benefits of introducing a law on recognition and enforcement of foreign judgments, which is a contemporary phenomenon that emerged many decades ago, could be clarified by adopting the appropriate research methodology and tools.

H2: The quantitative methods e.g. activity – based costing (ABC) can not only be applicable to the production and service businesses but also adapted to apply, in association with the qualitative methods, e.g. an in-depth interview, to legal matters such as the legal phenomenon of the case study in this research.

H3: In two different scenario cases; one where a foreign judgment is not recognized and enforceable in another country, and vice versa, in a case where a foreign judgment is recognized and enforceable in another country, cost drivers should be the significant factor to directly affect the potential reduction in litigation costs.

## Research Framework



## Literature Review

### 5.1 Case study

Yin, R.K. (2018) stated, a case study is an empirical method that investigates a contemporary phenomenon as the case in depth and within its real-world context, especially when the boundaries between phenomenon and context may not be evident clearly. He also further stated that the defining of the research question(s) is probably the most important step to be taken in a research study. The key is to understand that the research questions have both the substance e.g. what the study is about, and the form e.g. “who”, “what”, “where”, “how” or “why” questions.

### 5.2 Laws and legal issues concerned

Thailand does not have a specific law on the recognition and enforcement of foreign judgments generally applicable to monetary debts despite the enactment of the four Thai laws concerning international transport i.e. the Multimodal Transport Act, B.E. 2548 (2005), International Carriage of Goods by Road Act, B.E. 2556 (2013), International Carriage of Passengers by Road Act, B.E. 2557 (2014) and International Carriage by Air Act, B.E. 2558 (2015) which allow the plaintiff to choose one of the courts as stipulated in the law to file its claim against the debtor.

Thailand and Lao PDR are the parties to the Great Mekong Subregion Cross-Border Transport Agreement (GMS-CBTA) which was also signed by Myanmar, Cambodia, Vietnam and China. Annex 10 of the GMS-CBTA provides for the liability of the carrier for damage to the goods carried by truck during international road transport. It also allows the plaintiff to file a cargo claim against the carrier with one of the four courts which may be in other member countries as specified by the Annex 10 (Department of Land Transport, 2008). Thailand and Lao PDR have their domestic laws to adopt and conform to the liability regime of this Annex. Therefore, a judgment of the Thai court against the road carrier domiciled in the Lao PDR for cargo damage should be recognized and enforceable there. The difference is that the Lao PDR has the Civil Procedure Act, 2012 to recognize the foreign judgments while Thailand does not.

Besides, Thailand, Lao PDR and other eight countries, namely Brunei Darussalam, Cambodia, Indonesia, Malaysia, Myanmar, the Philippines, Singapore and Vietnam are members of the Association of South East Asian Nations (ASEAN) who jointly signed ASEAN Framework Agreement on Multimodal Transport and had the obligations to implement this Agreement in their countries. Although these member countries will share a substantive law in conformity with this ASEAN Framework Agreement, nothing therein provides for the recognition and enforcement of the foreign judgments rendered in the member countries of ASEAN. (The ASEAN Secretariat, 2024)

### **5.3 Activity-based costing (ABC) and costs**

In the past, companies, in particular, manufacturing companies, used a simple costing system which is now called “the traditional costing system.” In the late 1980s, the concept of ABC was first introduced by Robert Kaplan and William Burns as an alternative approach to the traditional system or arbitrary allocation of overheads to products, services and customs (Edwards, 2008).

The Chartered Institute of Management Accountants (CIMA) defines the term activity-based costing as “An approach to the costing and monitoring of activities which involves tracing resource consumption and costing final outputs. Resources are assigned to activities, and activities to cost objects based on consumption estimates. The latter utilize cost drivers to attach activity costs to outputs.” (CIMA, 2005)

ABC has been referred to and used in various study papers as a system, method, methodology, tool, approach and accounting process. Also, ABC has been studied from some different perspectives and thus, a number of meanings or definitions have been given by many scholars, practitioners and researchers. Among those different references, the most popular one seems to be “systems”. ABC was referred to by Kaplan, R.S. (1998) as the systems which enabled the indirect and support expenses to be driven, first to

activities and processes, and then to products, services, ND CUSTOMERS, these systems gave managers a clearer picture of the economics of their operation.

Activity means the event or any unit that incurs cost to the operation (Pajongwong, 2018). Cost driver is the factor or activity which directly relates to the use of resources in each level or activity cost pool (Mee-amphol, 2017). A cost driver is the direct cause of a cost and its effect is on the total cost incurred. For example, if we are to determine the amount of electricity consumed in a particular period, the number of units consumed determines the total bill for electricity. In such a scenario, the number of units of electricity consumed is a cost driver (CFI Education Inc., n.d.).

## **Methodology**

### **6.1 Research method**

This research applies a mixed method, namely 1) the qualitative research method to collect the information relevant to this research and 2) the quantitative research method to prove the legal hypothesis; reduction in litigation costs in case the foreign judgments are recognized and enforceable in other countries, to arrive at the outcome which can be measured in monetary and numerical values

In brief, the research methodology comprises six steps; 1st, the documentary review, 2nd, data collection from publicized information and in- depth interviews, 3rd, adaptation of ABC to the legal hypothesis in this research, 4th two comparative tables of costs (one for the case where enforcement of the foreign judgment is subject to the repetition of a lawsuit in other country and the other where the judgment of Thai court is enforceable in Lao PDR), 5th graphic designs to compare the costs concerned, and 6th conclusion on how the litigation costs are reduced if the foreign judgments are recognized and enforceable in other country

### **6.2 Population and sample**

Since the topic of the study has an international element involving a legal hypothesis as a case study concerning the laws of Thailand and the Lao PDR, the interviewees in Thailand and the Lao PDR who have good in-depth knowledge or information about Thai and Laos laws concerning the recognition and enforcement of foreign judgments which is a specific legal issue, are selected as “the key information providers” (Chantiwanich, 2018). With this qualification of the interviewees, this research requires a small population of experienced lawyers or legal practitioners who are familiar with the matter of international laws, the legal issue and problem of recognition and enforcement of foreign judgments rather than a large number of law students in law school or lawyers practicing general laws and, for this reason; the researcher

applies the non-probability sampling method in the form of judgmental / selective sampling by which the researcher relies on his own judgment when choosing members of the population in the study (Foley, 2018). The researcher has interviewed eight interviewees comprising two groups i.e. four experienced Thai lawyers practicing in Bangkok in international law firms and three experienced Laos lawyers practicing in international law firms and a senior lecturer in a government law school in Vientiane, Lao PDR.

### **6.3 Research instruments**

For the qualitative research method, since the legal hypothesis in the case study of this research (reduction in litigation costs by making available law on the recognition of foreign judgments) is a specific issue which requires the information and knowledge of the experienced lawyers, the in-depth interview with eight selected key information providers were used in conjunction with data collection. ABC as the quantitative research method was adapted to the said legal hypothesis.

### **6.4 Data collection**

Data used in this research were derived from several sources and can be categorized into two groups as follows:

1. Primary data derived from the in-depth interviews with the eight selected interviewees (as the key information providers) both in Bangkok, Thailand and Vientiane, Lao PDR. Most of the interviews were performed on a face-to-face basis and the subsequent interviews to seek clarification of any pending queries or to obtain more information were made via electronic means, i.e. email, Line and WhatsApp.

2. Secondary data obtained from documentary review, the study of textbooks, articles, laws and publications relevant to this research and from public websites.

3. Data concerning the major costs to be applied in this research for the purpose of quantitative analysis, particularly at clause 7.2 of this research are derived from various sources and some of them are applied on average;

1) The exchange rate of Laos currency (“LAK”) and Thai Baht (“THB”) is based on the exchange rate on 16 September 2024 at LAK 664.18 per THB 1 (Exchange-rate.org, 2024),

2) Translation fees are based on the average fees of quotations received from two translation shops in Vientiane on LAK 200,000 per page,

3) Air fares for a round trip to and from Vientiane and Bangkok are based on the average air fares of Air Asia and Thai Airways for September 2024 (AirAsia move, 2024),

4) The room rate of hotel in Vientiane, Lao PDR is based on the average rate of three-star hotels located in central area of Vientiane (Trip.com, 2024),

5) Travel expenses in Vientiane, Lao PDR are based on the rate of rented AVIS car (Avis, 2024) together with the average price of fuel on 9 September 2024 (Eppo Update, 2024),

6) The manhour of the Thai manager to testify before the court in Vientiane, Lao PDR is based on the average salary (Q1/2567) of THB 38,657.70 for the Master's degree graduate available on 10 September 2024 (Bank of Thailand, 2024),

7) Lao PDR's Court fees and government fees are based on Laos laws concerned i.e. the Civil Procedure Act, 2012 and Ordinances on Official and Services Fees No.002 dated 17 June 2021,

8) Lawyer fees to be incurred in Lao PDR are based on the information received from the in-depth interview with the three Laos lawyers practicing in Vientiane, Lao PDR, and

9) Postal charges for registered package available on 4 September 2024 (Thailand Post, 2024)

## Results

### 7.1 Qualitative research results

The information received from the in-depth interview with four Thai experienced lawyers was reasonably limited owing to the fact that Thailand does not have a law on the recognition and enforcement of foreign judgments and those Thai interviewees had difference views. However, they believe that implementation of such law would help reduce the litigation costs but how to prove this in monetary terms and numeral values is a different issue and subject to proof.

The result of the in-depth interview with three experienced lawyers (Varavudh Meesaiyati, Anongsack Manilak and Dr. Phet Sengpunya) and a senior lecturer in a university in Vientiane, Lao PDR (Assoc. Prof. Lengsak Boontalad) was informative. Although the outcome of the interviews and data collection suggests that there is no test case on the enforcement of foreign judgments in the Courts of Lao PDR, the new provisions of the Lao PDR's law (the Civil Procedure Act, 2012) for the recognition of foreign judgments and the existing provisions for normal civil cases are sufficient for the purpose of comparison and further analysis.

1. Different procedures: As a result of the improvement of the Civil Procedure Act, 2012 (the CPA) of Lao PDR, the procedure for the recognition of foreign judgments is provided as the new provisions of Part XVII in addition to the procedure of the normal civil cases.

A summary of the procedure of a normal civil case under Sections 167 - 247 of the CPA is as follows: The plaintiff files the lawsuit in the court form with a competent court of the Lao PDR and all

foreign documents must be translated in to Lao language and certified by the Judicial Office, Ministry of Justice.

Once the lawsuit is accepted by the court, a case file will be prepared and a writ of summon will be issued to the defendant.

After the defendant has filed a defense answer, the case will be transferred by the chief judge to the judge in charge for a study of the case.

The court summons the parties to attend the hearings for trial. If a mediation fails, the court will commence the trial of the witnesses of all parties on a one-by-one basis, and thereafter, the plaintiff and the defendant will be allowed to question the witnesses. If the witness is a foreigner, a local translator is required.

After completion of the trial, the court will close the case temporally to consider the evidence and decide in private. Subsequently, the decision of the court will be read in the presence of the parties. If none of the parties in the case files an appeal, the judgment of the First Court is final.

A summary of the procedure of the application for enforcement of foreign judgment under Part XVII of the CPA is as follows:

The creditor in the foreign court must file with the embassy or consult or representative organization of the Lao PDR an application for the recognition of the foreign judgment together with copy of the foreign court's judgment, certificate issued by the foreign court confirming that the judgment is final, the relevant international agreement to which Lao PDR is a party, and other relevant documents. All foreign documents must be translated in to the Lao language and certified by the Judicial Office, Ministry of Justice.

The embassy or consul or representative of Lao PDR forwards the said application together with the documents required to the Ministry of Foreign Affairs in the Lao PDR for passing the same onto the Ministry of Justice so that all these documents are further forwarded to the Supreme People's Court of Lao PDR, and thereafter, the same documents will be sent to the competent court to consider.

The competent court takes those documents to form a case file and lawsuit, assigns it to a judge for examination and invites the chief of the public prosecutor organization to participate in the consideration of the matter.

The court summons the losing defendant who lives in Lao PDR to acknowledge the case and give an explanation. Trial of the application shall commence within 30 days.

If the court is satisfied that 1) the foreign judgment was final, 2) the losing defendant in the foreign court has had the opportunity to participate in the case of the foreign court, 3) the said case also falls

under the jurisdiction of the court of the Lao PDR, 4) such foreign judgment is not against the Constitution and laws of Lao PDR, and 5) there are no issues why the court should not accept the case, the court of Lao PDR has the authority to recognize the foreign judgment and the applicant is entitled to enforce it against the defendant's assets in the Lao PDR as if the judgment was rendered by the court of the Lao PDR.

2. Differences in the time required in the court: As per the information received from the experienced lawyers in the Lao PDR, in the case ( as per “the first scenario”) where there is no law on the recognition and enforcement of foreign judgments and the winning plaintiff in the foreign court must file a lawsuit against the losing defendant who lives in Lao PDR as a normal civil case (like the situation in Thai law), the procedure should take around 6 - 8 hours in the court when the merits of the claim in the foreign court can be reviewed and challenged, and all evidence and witnesses of the parties must be produced again. As a result, 2-day hearings are required together with hotel accommodation for the plaintiff's witnesses. On the other hand, the procedure of the application for recognition of the foreign judgment (as per “the second scenario”) takes less time, not exceeding 2 hours because there is no witness examination if all documentation meets the legal requirements and the court is satisfied that there are no grounds to reject the application. As a result, there is no need for the plaintiff's witnesses to stay overnight and thus only a one-day trip is required.

3. Differences in the legal fees, court costs and expenses concerned: The three major aspects of the legal costs are 1) court fees, based on Laos laws on government fees (Ordinances on Official and Services Fees No.002 dated 17 June 2021), the above first scenario starts from “lawsuit” which is subject to court fees in Laos currency of LAK 300,000 and LAK 50,000 for forming a case file while the legal procedure in the above second scenario starts from “an application” which is subject to court fees of LAK 100,000 and LAK 50,000 for forming a case file; 2) lawyer fees, there is no regulation to control the lawyer fees in Lao PDR because fees depend on many factors, e.g. seniority, skill and reputation of the case handler, the amount of the claim and the complication of the case. From the perspective of the interviewees in the Lao PDR, the first scenario is more complicated and takes much more time than the second scenario; as a result, if the claim amount in this case study as awarded by the Thai Court is supposed to be THB 15 million, lawyer fees to be charged on a lump sum basis for the first scenario should be in the range of 10 - 15 % of the claim (or approx. THB 1,500,00 - 2,250,000 or THB 1,875,000 on average) , and for the second scenario, not exceeding 5% of the claim (or approx. THB 750,000), and 3) other expenses; e.g. travel expenses, hotel fees and the time (manhours) for the claimant's staff shall vary according to the length of litigation and procedures of the case. However, certain expenses in the two different scenario cases may not

be significantly differed, e.g. translation fees of the foreign documents into Laos language. That is because, as per the information received from Lao PDR’s lawyers during the in-depth interviews, the same set of documents previously presented to the Thai court will be submitted to the court of the Lao PDR and a certified copy of the Thai judgment should be submitted to the Lao PDR court as a piece of documentary evidence to support the lawsuit in Lao PDR court, but the additional documents in case of the application for recognition are the certified copy of the international agreement to which Thailand and Lao PDR are the parties, its translation into Lao language and court certification.

Although there may be some miscellaneous expenses e.g. for photo copy charges and telephone charges which are not taken into consideration, it would not affect this research as the total amount of those miscellaneous expenses would be very minimal.

## 7.2 Quantitative research results

By adapting ABC concept to this research, the cost drivers in case of a judgment of the Thai court is not recognized and not enforceable in Lao PDR and the successful plaintiff in the Thai court has to commence a fresh lawsuit against the same debtor in a competent court of Lao PDR can be defined as follows:

**Table 1 Defining** the cost drivers of the first scenario

Activities	Major costs	Cost drivers
1. The plaintiff files a lawsuit for a claim amount of THB 15 million in the court of Lao PDR.	1.1) average lawyer fee on lump sum basis of THB 1,875,000 for one case 1.2) translation fee of 15-page Thai judgment (on average) at LAK 3,000,000 (THB 4,516.84) 1.3) court certification fee of 15-page Thai judgment (on average) at LAK 325,000 (THB 489.32) 1.4) translation fee of 10- page of claim documents e.g. invoices, packing list, waybill and claim letter LAK 2,000,000 (THB 3,011.23) 1.5) court certification fee of 10- page of claim documents LAK 225,000 (THB 338.76) Total: THB 1,883,356.15	time consumed lengthy litigation

ประมวล จันทรชีวะ

Activities	Major costs	Cost drivers
2. The court accepts the case and summons the defendant to join the case.	2.1) court fee of LAK 300,000 ( THB 451.68) and LAK 50,000 (THB 75.28) Total: THB 526.96	the procedure of a normal civil case
3. Attending a mediation in court	3.1) THB 6,408.92 a round- trip air fare from Bangkok to Vientiane, 3.2) LAK 1,299,976.50/day (THB 1,957.26) of travel expenses in Lao PDR, 3.3) THB 1,288.18 of manhour of the plaintiff's Thai manager as the representative plus THB 4,000 allowance/day Total: THB 13,654.36	number of the trip and mediation
4. The 2-day litigation starts from the opening of the case by the court, witness- examinations, cross- examinations of the court and the parties and participation of the public prosecutor, an internal meeting of the court to discuss the likely decision.	4.1) THB 6,408.92 a round- trip air fare from Bangkok to Vientiane, 4.2) THB 2,146/night hotel fee, 4.3) LAK 2,599,953/2 days (THB 3,914.53) of travel expenses in Lao PDR, 4.4) THB 2,577.18 of manhour of the plaintiff's Thai manager to testify in the court for 2-day hearings plus THB 8,000 allowance/2 days 4.5) translator fee of LAK 8,500,000/ day ( THB 12,797.73) Total: THB 35,844.36	2-day hearings
5. The court reads the judgment ( approx. one month for the completion of witness- examination).	5.1) THB 6,408.92 a round- trip air fare from Bangkok to Vientiane, 5.2) LAK 1,299,976.50/day (THB 1,957.26) of travel expenses in Lao PDR, 5.3) THB 1,288.18 of manhour of the plaintiff's Thai staff for 1- day hearing plus THB 4,000 allowance/day Total: THB 13,654.36	one time
Grand total	THB 1,947,036.19 (cost pool)	

Source of the costs: see 3. of 6.4 Data Collection

In case a Thai judgment is recognized and enforceable in Lao PDR, the cost drivers can be defined as follows:

**Table 2** Defining the cost drivers of the second scenario

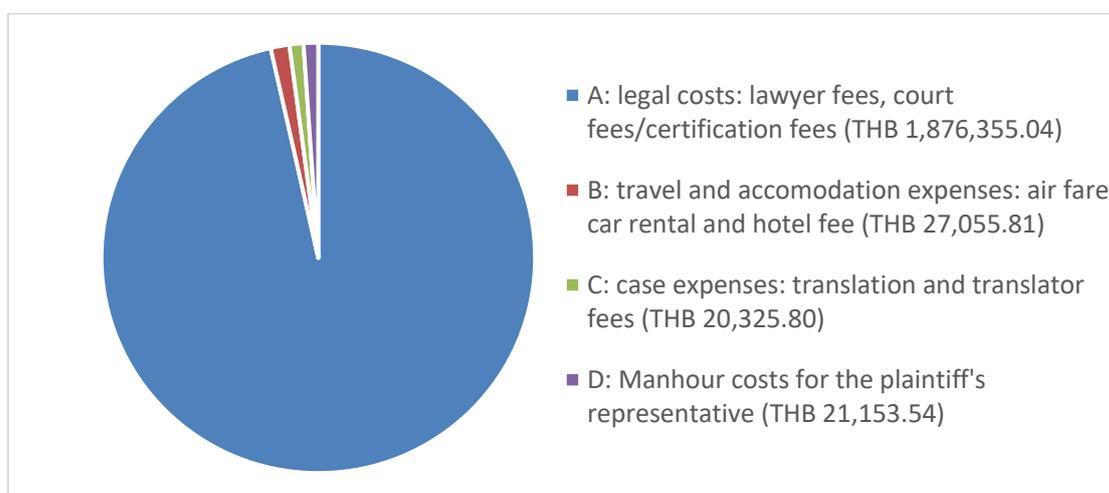
Activities	Major costs	Cost drivers
1. The plaintiff files an application for enforcement of a Thai judgment with Embassy of Lao PDR in Bangkok together with documents concerned.	1.1) lawyer fee for filing the application till judgment on lump sum basis of THB 750,000 1.2) translation fee of 10-page of claim documents at LAK 2,000,000 (THB 3,011.23) 1.3) court certification fee of 10-page of claim documents at LAK 225,000 (THB 338.76) 1.4) translation fee of 15-page Thai judgment (on average) at LAK 3,000,000 (THB 4,516.84) 1.5) court certification fee of 15-page Thai judgment (on average) at LAK 325,000 (THB 489.32) 1.6) translation fee of 10-page of the international agreement concerned (GMS-CBTA, annex 10) at LAK 2,000,000 (THB 3,011.23) 1.7) court certification fee of 10-page of the international agreement concerned (GMS-CBTA, annex 10) at LAK 225,000 (THB 338.76) Total: THB 761,706.14	Number of documents concerned
2. The Embassy forwards the application and documents to the Foreign Ministry of Lao PDR for forwarding the same to the Ministry of Justice who will send it to the competent court to appoint the judge in charge.	2.1) Thai postal charges of THB 650 (for the Embassy to collect from the applicant) Total: THB 650	one time
3. The trial of the application starts from the court summoning the losing debtor in the foreign court to acknowledge the	3.1) court fee of LAK 100,000 (THB 150.56) and LAK 50,000 (THB 75.28)	one time

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Activities	Major costs	Cost drivers
application and provide clarification.	Total: THB 225.84	
4. The court accepts the application without the witness-examination (if all documents meet the legal requirements) and renders a judgment to recognize the Thai judgment.	4.1) THB 6,408.92 a round-trip air fare from Bangkok to Vientiane, 4.2) LAK1,299,976.50/day THB 1,957.26) of travel expenses in Lao PDR, 4.3) THB 1,288.18 for the time of the plaintiff's Thai staff for a 1-day hearing plus THB 4,000 allowance/day Total: THB 13,654.36	one-day trip /one-day hearing
Grand total:	THB 776,236.34 (cost pool)	

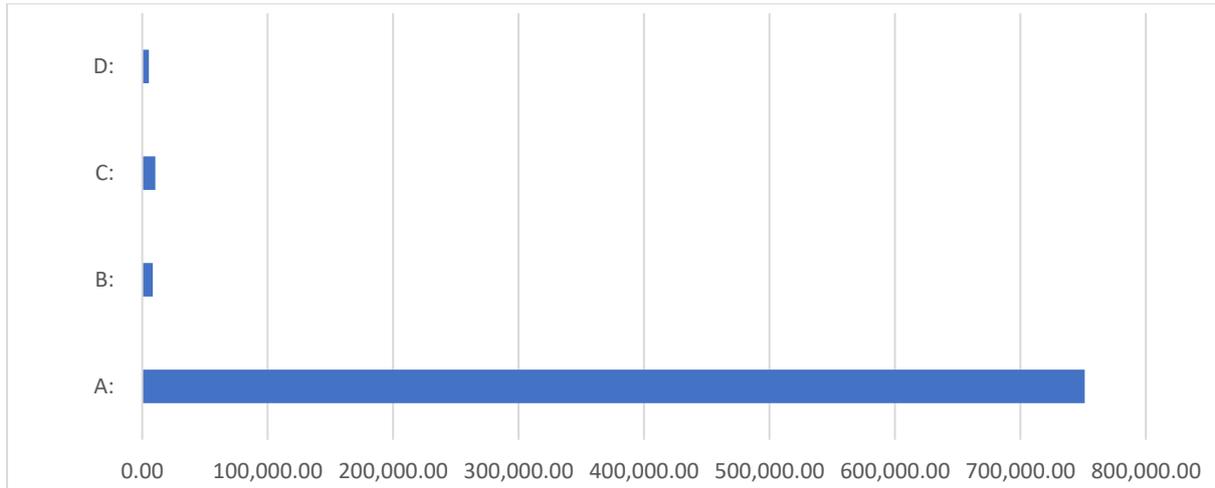
**Source of the costs: see 3. of 6.4 Data Collection**

The share of each activity cost in the costs pool (total costs) of the Table 1 can be presented in a pie diagram as follow:



**Figure 1: Individual cost shares of Table 1**

The share of each activity cost in the costs pool (total costs) of the Table 2 can be presented in a bar diagram as follows:



**Figure 2: Individual cost shares of Table 2**

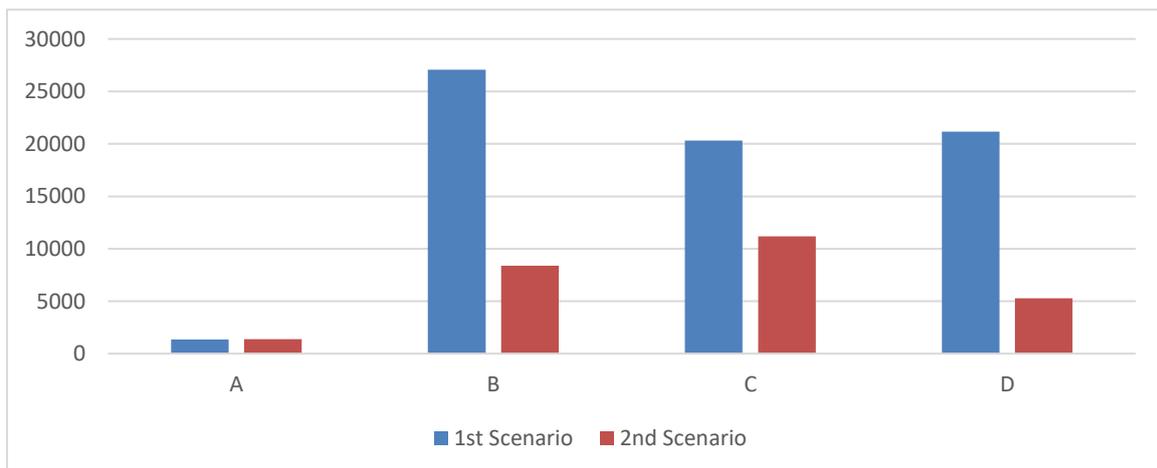
**A:** legal costs: lawyer fees, court fees and certification fees.

**B:** travel and accommodation expenses.

**C:** case expense (translation and postal charge).

**D:** Manhour costs for the plaintiff's representative.

Since lawyer fees as the largest part of the cost pool can vary according to negotiations, deletion of the lawyer fees from the cost pool of each scenario shall indicate the levels of the costs and expenses of the above items A (exclusive of lawyer fees), B, C and D as presented in the bar chart below:



**Figure 3: comparison of cost shares of Table 1 and Table 2 (exclusive of lawyer fees)**

## Discussion and Conclusions

1. The legal cost in respect of lawyer fees is the largest part of the cost pool. The charge for lawyer fees depends on the procedures; in case of the application for the enforcement of a foreign judgment, the charge is THB 750,000 while the charge for filing a lawsuit till judgment is THB 1,875,000. The discrepancy of THB 1,125,000 is a saving and at the same time, is a reduction in the litigation cost in respect of lawyer fees.

2. If the charge for lawyer fees is not taken into account, the total amounts of other costs and expenses as per Table 1 (for the first scenario) and Table 2 (for the second scenario) are THB 69,890.19 and THB 26,236.34 respectively. In such case, there would be savings of THB 43,653.85 for the costs and expenses, exclusive of lawyer fees.

3. Since the total legal costs and expenses concerned as per Table 1 are THB 1,947,036.19 while the total costs and expenses in Table 2 are THB 776,236.34, there would be savings of THB 1,170,799.85 in total.

4. The difference in the procedures of the case which causes the different lengths of time and complexity in litigation is the significant variable affecting the legal costs and cost drivers directly and resulting in a substantial reduction of the litigation costs and expenses concerned if, in the case study of this research, the judgment of the Thai court is recognized and enforceable in Lao PDR.

## Recommendations

The result of the research demonstrates a plausible reduction in litigation costs if a judgment in one country is recognized and enforceable in another country. As a consequence, there are some recommendations for implementing the reduction in legal costs by making available laws on recognition and enforcement of foreign judgment:

1. To achieve such reduction in legal costs, international agreements could be concluded, either bilaterally or multilaterally. In addition, the law(s) of each country concerned should also ensure that such international agreements will give binding effect on the people in their respective countries.

2. The said implementation in the above should bring a greater benefit if (i) an agreement on recognition and enforcement of foreign judgments is concluded in the form of international agreement or treaty signed by the contracting states located in the same subregion or region such as the member countries of GMS and ASEAN, and (ii) any international agreements jointly signed by such contracting states which

establish a common regime of liability for any particular matter should have the provisions for recognition and enforcement of judgments.

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