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BUSINESS ENABLING ENVIRONMENT PROGRAM

QUARTERLY REPORT
AUGUST – OCTOBER 2011



November 21, 2011*

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*Cover photo shows delegation of Government of Kosovo and USAID BEEP representatives meeting with Georgian officials in September during a study tour to the Republic of Georgia to learn top reformer best practices.

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ACRONYMS

AI	Administrative Instruction
AmCham	American Chamber of Commerce
BEEP	Business Enabling Environment Program
CRK	Credit Registry of Kosovo
CBK	Central Bank of Kosovo
DB	Doing Business
DEMI	USAID Democratic Effective Municipalities Initiative
ECLO	European Commission Liaison Office
ESTAK	USAID Efficient and Sustainable Tax Administration of Kosovo
EU	European Union
GFSI	USAID Growth and Fiscal Stability Initiative
GoG	Government of Georgia
GoK	Government of Kosovo
KMFAS	USAID Kosovo Ministry of Foreign Affairs Support
IMF	International Monetary Fund
IPAK	Investment Promotion Agency of Kosovo
IPR	Intellectual Property Rights
IS/IT	Information Systems and Information Technology
ITD	Integrated Tariff Database
ITG	International Trade Guide
LID	Legal Information Database
MAS-Q	Metrology, Accreditation, Standards, and Quality
MCI	Municipal Competitiveness Index
MESP	Ministry of Environment and Spatial Planning
MoF	Ministry of Finance
Moj	Ministry of Justice
MOSR	Municipal Own-Source Revenue
MOU	Memorandum of Understanding
MTI	Ministry of Trade and Industry
OLSS	Office of Legal Support Services (in the Office of the Prime Minister)
OPM	Office of the Prime Minister
PBMP	Performance-Based Monitoring Plan
PR	Project Results
RFP	Request for Proposals
SEAD	USAID Systems for Enforcing Agreements and Decisions Project
SME	Small and Medium Enterprise

SSPF	Strategic Studies and Projects Fund
STTA	Short-term Technical Assistance
TAK	Tax Administration of Kosovo
TPWG	Trade Policy Working Group
UNDP	United Nations Development Program
USG	United States Government
USAID	United States Agency for International Development
WB	World Bank
WBDB	World Bank Doing Business
WTO	World Trade Organization

EXECUTIVE SUMMARY

The Business Enabling Environment Program (BEEP) is an innovative three-year initiative by USAID leveraging the successful methodology applied in other countries to use third party measures of performance to drive cross-cutting reforms, while pursuing holistic strategies taking into account all aspects of the legal environment for economic activity and collaboration with other donors and projects. This report is the Business Enabling Environment Program Quarterly Report and describes project activities from August through October 2011.

Capitalizing on the Government of Kosovo (GoK) reform commitment obtained in the first year, our project helped realize many innovative business environment improvements during this quarter. The Kosovo Assembly adopted crucial *World Bank Doing Business*-impacting legal reforms related to streamlining business registration procedures, eliminating unnecessary, redundant, and burdensome government permissions, and establishing additional measures to protect investors. Similarly, various ministries embraced our recommendations to reduce barriers to business entry and loosen onerous regulatory requirements.

The collaborative efforts of the GoK and USAID BEEP this quarter produced impressive results in all project Components that are expected to help pave the way for private-sector led economic growth in Kosovo. From the Office of the Prime Minister (OPM) and the Kosovo Assembly to the Ministry of Trade and Industry (MTI) and Kosovo Customs – critical business environment reform is underway. Developments in construction, permitting and licensing, import and export, business registration, inspections, and credit are just some of the topical areas where joint efforts are focused.

But important project partners are found not only within the government; working closely with other projects and donors wherever possible has been a key to our strategy to avoid overlap and present a common voice on issues. The relationship that we have with the World Bank Doing Business Team (WBDB) in Washington is built on shared recommendations, facilitating the involvement of World Bank (WB) representatives, strengthening communication between the GoK and the WB, and has been an important element of project activities.

A number of activities were conducted in collaboration with the European Union's SME project, including working together on inspections reform, normative acts, and Doing Business (DB) improvements. We have pursued strong working relationships on common issues with various other

USAID projects, especially the Systems for Enforcing Agreements and Decisions (SEAD) and Growth and Fiscal Stability Initiative (GFSI).

At the local level, preparations are underway for the second Municipal Competitiveness Index (MCI) survey, which measures business perceptions concerning the local regulatory environment. A local survey firm was selected to develop and conduct the MCI 2012 and 2013 survey, and is expected to begin municipal best practice case studies soon. This quarter, our project Municipal Coordinators (MCs) began delivering important diagnostic analysis presentations to municipal administrations about how to improve survey performance and inform businesses and citizens of impactful results. Municipal partnerships remain strong and act as the conduit through which lasting project assistance helps improve the local business environment.

Highlights of this Quarter include:

- Kosovo adopted five *Doing Business*-related laws, incorporating our recommendations, which, among other things, eliminate notary requirements, establish cost-recovery based fee structures, and eliminate unnecessary government consent requirements;
- Improved municipalities' capacities to improve MCI scores by conducting individualized diagnostic analyses and presented to municipal administrations;
- Obtained commitment of Starting a Business Working Group to transition to a unified taxpayer identification number system, streamlining business registration procedures;
- Eliminated construction licenses, including the abolition of 6 separate licenses with over 50 different license categories;
- Eliminated over 370 obsolete, illegal, contradictory, and overburdensome Administrative Instructions, establishing the first-ever clearly defined regulatory base in Kosovo;
- Published our first newsletter to help businesses stay apprised of important recent business environment reforms, empowering citizens through information;
- Eliminated several unnecessary import and export document requirements, reducing barriers to trade; and
- Kosovo adopted new Law on Safeguard Measures, providing the government with one of the three WTO contingency measures that relate to unfair and illegal trade practices.

BEEP RESULTS FRAMEWORK

The United States Agency for International Development (USAID) / Kosovo Strategic Plan for 2010-2014 formulates an ambitious five-year agenda for Kosovo. The United States Government (USG) seeks a strong and effective partnership with the Government of Kosovo that builds on their close relationship in order to address regional and global challenges. USG support focuses on:

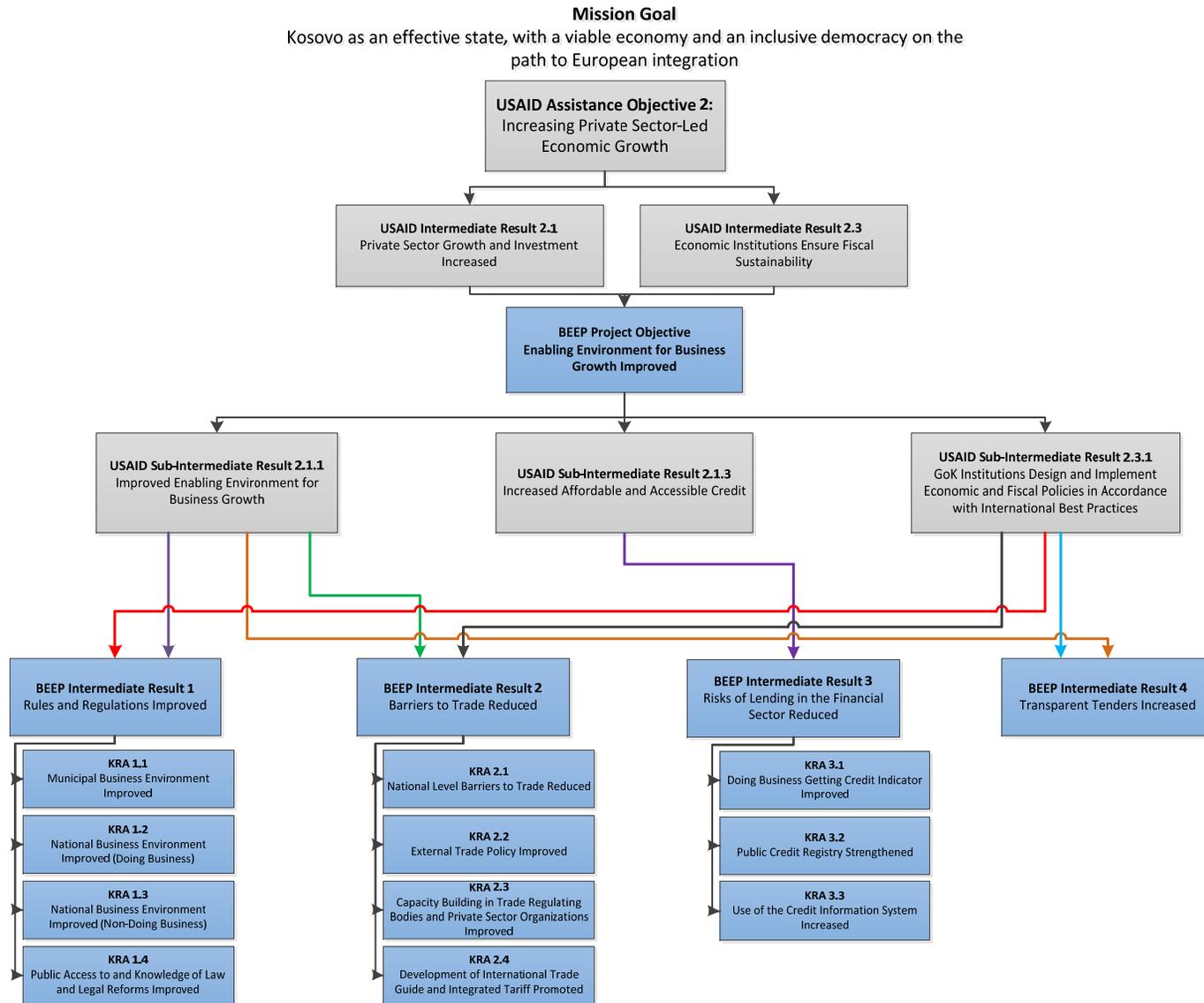
- Building the institutions of Kosovo’s government and society;
- Encouraging a democratic process inclusive of all citizens, including all minority groups;
- Promoting economic development such that all people of Kosovo enjoy the benefits of prosperity;
- Ensuring that society and government are firmly grounded in the rule of law; and
- Supporting the continued integration of Kosovo in the region and Europe.

The 2010-2014 USAID / Kosovo strategic plan is based on the implementation of three assistance objectives (AOs):

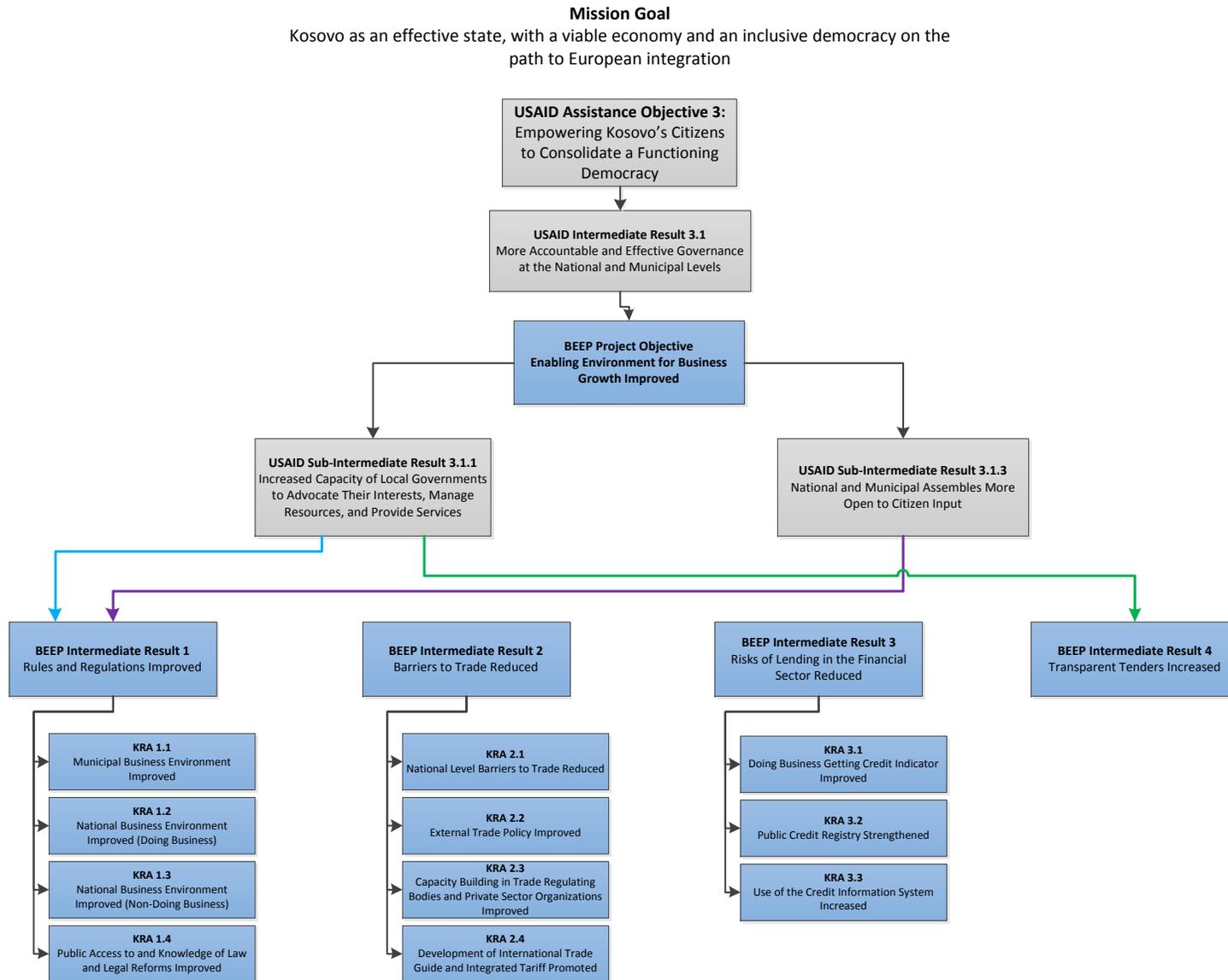
- **Assistance Objective 1:** Youth Are More Productive and Engaged Members of a Stable Kosovo
- **Assistance Objective 2:** Increasing Private Sector-Led Economic Growth
- **Assistance Objective 3:** Empowering Kosovo’s Citizens to Consolidate a Functioning Democracy

USAID BEEP’s Project Objective of “Improving the Enabling Environment for Business Growth” drove the establishment of project activities that are narrowly tailored to support achievement of Assistance Objective 2: *Increasing Private Sector-Led Economic Growth*; and Assistance Objective 3: *Empowering Kosovo’s Citizens to Consolidate a Functioning Democracy*. Each of USAID BEEP’s four primary Components encompass these dynamic activities and are reflected within the Results Frameworks below.

ASSISTANCE OBJECTIVE 2



ASSISTANCE OBJECTIVE 3



PROJECT INTRODUCTION

USAID BEEP aims to improve the environment for business through effective implementation of reformed laws and regulations, and enhanced publication and accessibility of legal, economic, and financial information by national and local governments. Specifically there are four (4) priorities:

1. *Rules and regulations improved:* to identify, promote, and facilitate implementation of free market reforms.
2. *Barriers to trade reduced:* to identify, promote, and facilitate adoption of policies, laws, regulations, and procedures that reduce costs, time, and other disincentives to trade; as well as to promote and assist the development and implementation of harmonized trade policy.
3. *Risks of lending in the financial sector reduced:* to reduce risks of lending by increasing availability of credit information and effective use of risk management by the financial sector.
4. *Transparent tenders increased:* to increase transparency of local government tenders.

OVERVIEW OF PROJECT COMPONENTS

Component One (CI): Rules and regulations improved. CI is the largest component in terms of resource allocation and technical scope and works at both the national and municipal levels to remove barriers to business by simplifying and streamlining the regulatory framework — statutes, regulations, rules, procedures, and other legal requirements — that is applied to businesses operating in Kosovo. Current practice of regulatory bodies is generally to impose requirements on private economic activity, which constitute a serious, system-wide constraint on business. CI has been working closely with the GoK — primarily with the Office of the Prime Minister and the Ministry of Trade and Industry — to carry out legal reforms that address impediments to business identified in the WBDB reports on Kosovo. Additionally, it supports reforms in complementary areas to DB reform, including in permissive system improvement, consolidation and publication of laws and regulations through a unified database, inspections reform, and other initiatives detailed below.

Municipal Coordinators (MCs) in the eight primary municipalities — Ferizaj, Gjakova, Gracanica, Mitrovica, Peja, Pristina, Prizren, and Strpce — have established strong links with local business communities and public administrations to identify the specific legal constraints that impact business activities and to engage them in the reform process. The MCs have also gathered extensive information on the organization, resources, operations and practices of municipal administrations that are enabling

the development of comprehensive reform strategies that encompass both the national and municipal levels.

Component Two (C2): Barriers to trade reduced. C2 focuses on the reduction of barriers to trade to facilitate increased commerce and international cooperation, as well as the implementation of regional and multilateral trade agreements.

On average, long-term growth is enhanced when a more liberal trade regime is implemented. Unambiguous rules and regulations that guarantee the free and fair movement of goods and services are fundamental to increased trade. For Kosovo to realize the benefits of more efficient trade, a combination of strategies is required: implementation of sound, market-based trade policies and modernization of trade-related institutions; institutionalization of a strong, liberalized business regulatory framework; strengthening of basic market institutions; and the implementation of transparent policies that attract foreign direct investment.

For these reasons, C2 is assisting the Ministry of Trade and Industry and Kosovo Customs with institutional reforms and activities involving private sector partners (clearing agents, transporters, and business associations). The aim is to streamline trade-related activities through broad-based consultative mechanisms – involving private and government stakeholders in the formulation, implementation, assessment, and fine-tuning of trade policy and customs procedures. Regarding imports, exports, and transits, the C2 team assisted with an assessment of the efficacy of customs procedures; for purposes of trade facilitation, the team carefully assessed Customs procedures and practices, and provided technical assistance for the incorporation of suggested measures for easing trade constraints.

Component Three (C3): Risks of lending in the financial sector reduced. C3 aims to increase access to finance and enable Kosovo lenders to make more informed decisions based on reliable credit information. The C3 team works with the Central Bank of Kosovo (CBK) to ensure that more credit data is captured, is stored securely, is provided in a timely manner to authorized users, and that it is accurate. Furthermore, they have explored ways to expand the scope of the credit information system by working to add new data providers and to incentivize subjects of credit reports to check and update their own credit information. Activities include the identification and elimination of barriers to the development of private credit bureaus. C3 is also using the results of an assessment it completed of the Credit Registry's software to advise the CBK on upgrading its Credit Registry software to ensure more accurate and timely credit information.

Component Four (C4): Transparent tenders increased. C4 is tasked with helping to make more transparent the tendering process for goods and services conducted by Kosovo municipalities; more specifically, to assist at least two of its partner municipalities to introduce on a pilot basis the use of electronic tenders for procurement of local goods and/or services consistent with international best practices.

There has been considerable uncertainty and controversy in Kosovo surrounding donors' efforts to reform procurement, with the EU continuing to advocate for a draft procurement law that was passed over by the National Assembly in September of 2010. In May 2010 the World Bank team announced its intention to launch a procurement reform initiative in Kosovo at the national and municipal levels over the next year. It was subsequently agreed with USAID that BEEP put on hold its own initiative until the scope and direction of the World Bank and EU initiatives become clearer.

WORK PLAN PROGRESS REPORT

COMPONENT ONE: RULES AND REGULATIONS IMPROVED

CI-I: MUNICIPAL BUSINESS ENVIRONMENT IMPROVED

Municipal Competitiveness Index (MCI) Diagnostics. Following publication of the 2011 Kosovo MCI in June, our MCs developed diagnostic analyses (hereafter “Diagnostics”) of the MCI 2011 results for their respective municipalities. These Diagnostics include a review of municipality-specific MCI results,



USAID BEEP Peja Municipal Coordinator delivers diagnostic analysis presentation to Peja municipal administration

comparisons to top performers, identification of business environment issues, recommendations and action items for improvement, and steps to monitor implementation.

In August, MCs presented their MCI Diagnostics for comments and suggestions by their colleagues and developed common approaches to general topics.

In early September the MCs began contacting municipalities to set dates to discuss results and recommendations. These sessions began in early October, and by the end of the reporting period completed Diagnostic presentations in 17 municipalities¹. The sessions featured active discussion and expressions of commitment from the municipal administrations to undertake reforms.

Project Result 3: MCI Diagnostics contribute to USAID BEEP’s Project Result 3 – 20% increase in MCI scores among 8 primary municipalities

Preparations for MCI Surveys in 2012 and 2013. Continuing project efforts to facilitate improvement in the business environment at the municipal level, preparations began for the MCI 2012 and 2013 Surveys. As a result of an open competition process (launched by the publication of a Request for Proposals in September), UBO Consulting was selected to implement the MCI surveys in 2012 and 2013.

In late October, we met with UBO Consulting to discuss the subcontract’s first activity – the preparation of case studies of the best and worst practices reported in the MCI 2011 survey. UBO will

¹ Diagnostics sessions were held in Drenas, Pristina, Shtimje, Fushë Kosovë, Hani i Elezit, Novo Brdo, Vushtrri, Kamenica, Mamushe, Gjakova, Peja, Prizren, Skenderaj, Rahovec, Viti, Gjilan, and Junik.

conduct its research in six municipalities – Gjilan, Istog, Dragash, Peja, Vitia, and Strpce, which permit comparison among large, small, and minority municipalities – and produce case studies focusing on the MCI’s sub-indices, “Transparency”, “Time Cost of Compliance”, and “Municipal Administration”. The researchers will interview both business persons and municipal officials. The case studies will be used to help shape and support recommendations to municipalities on reforms they can carry out to create a regulatory environment more conducive to business.

Municipal Own-Source Revenue. During this quarter, USAID requested that BEEP, USAID GFSI and Democratic Effective Municipalities Initiative (DEMI) projects develop a paper on Municipal Own-Source Revenue (MOSR) and Property Tax. The goal was to create consensus among the USAID projects. The sister projects agreed with USAID BEEP’s positions on most of the principal issues, including the need to overhaul and sharply curtail the municipalities’ current practice of using licenses to collect funds from businesses.

Following this research, the CI team started examining municipal practices in accounting for MOSR and in reporting on MOSR to the Ministry of Finance (MoF), where there appears to be considerable inconsistency in both areas within and across municipalities.

CI-2: NATIONAL BUSINESS ENVIRONMENT IMPROVED (DOING BUSINESS)



Construction in the Pristina municipality

Draft Law on Construction. In August, the Minister of Environment and Spatial Planning (MESP) Dardan Gashi requested assistance in developing the draft Law on Construction.

The CI team delivered a package to the Minister containing (1) a draft Law on Construction in Albanian, Serbian, and English; (2) a process map illustrating the construction permitting procedures under the proposed version of the draft Law; and (3) a table that presented detailed comments on

each provision of the law provided by the MESP. Salient features of the BEEP-developed draft Law include the introduction of the principle, “silence is consent”; specific recommendations and draft provisions to streamline the construction permitting process; and the requirement of the adoption of a supplemental technical construction code consistent with international best practice.

After consultations with Minister Gashi, the final draft Law was produced and presented to the MESP, which is expected to publish the draft in order to elicit public comment in early November. The CI team will continue to monitor the status of the draft Law.

“The [L]aw on [B]usiness [O]rganizations adopted in June brings the legal framework closer to EU standards and strengthens provisions on avoiding conflicts of interest and requirements with regard to external audits of companies.”

The European Commission 2011
Kosovo Progress Report

DB Laws enacted. During August and September, the Kosovo Assembly adopted several DB-related reforms. In addition to the amendments to the Law on Business Organizations² and Law on Internal Trade³ adopted in June, these laws represent highly significant business environment reforms and are expected to dramatically improve Kosovo’s ranking in the DB 2013 report. The newly adopted laws include the:

- Amendment to the Law on Notary⁴;
- Law on Fire Protection⁵;
- Amendment to the Law on Establishment of the Immovable Property Rights Register⁶;
- Law on Accounting, Financial Reporting, and Audit⁷; and
- Law on Cadastre⁸.

These laws originated during the five-day legislative drafting session in Struga, Macedonia in February. Here, USAID BEEP proposed several new laws and amendments to existing laws to improve Kosovo’s ranking in future DB reports, including those mentioned above.

Project Result 1: The newly enacted DB laws contribute to Project Result 1

These recent adoptions are expected to improve Kosovo’s business enabling environment and the resulting performance in the DB indicators, “Protecting Investors”, “Registering Property”, “Starting a Business”, and “Dealing with Construction Permits”. Especially notable is the amendment to the Law on Notary, which eliminated an unnecessary burden on business and resolved a long-standing contradiction between the law and practice. The previous Law required that documents submitted for business

² Law No. 04/L-006 on Amending and Supplementing Law No. 02/L-123 on Business Organizations

³ Law No. 04/L-005 on Amending and Supplementing Law No. 2004/18 on Internal Trade

⁴ Law No. 04/L-002 on Amending and Supplementing the Law No. 03/L-010 on Notary (August 8, 2011)

⁵ Law No. 04/L-012 on Fire Protection (August 10, 2011), abolishing Law No. 02/L-41 on Fire Protection

⁶ Law No. 04/L-009 on Amending and Supplementing the Law No. 2002/5 on the Establishment of the Immovable Property Rights Register (August 10, 2011)

⁷ Law No. 04/L-014 on Accounting, Financial Reporting, and Audit (August 26, 2011)

⁸ Law No. 04/L-013 on Cadastre (September 1, 2011), abolishing Law No. 2003/25 on Cadastre

registration that set forth the form of corporate organization, or changes to the form of organization, be notarized.

When the previous Law entered into force in 2008, however, there were no notaries in Kosovo. (Licensing of notaries began only in 2011.) As a consequence, it was not possible to register a business in the manner required by law; and, as a result, any business that was registered during this time was susceptible to a finding that it had no legal status and that all of its transactions were null and void. By eliminating the notarization requirement, the amendment removes this contradiction, puts business regulation on a more rational footing, and eliminates a barrier to informal businesses entering the formal sector.

The Amendment to the Law on Establishment of the Immovable Property Rights Register focuses primarily on requiring cost-based fee calculations for registration of land transfers. This supplements the new Law on Cadastre that requires municipal cadastral offices to register property within 3 days rather than 30.

World Bank Doing Business 2012 report released. In October, the World Bank released the DB 2012 report. The report noted three methodological changes, including updates to the indicators “Getting Credit” and “Paying Taxes,” and the addition of the indicator, “Getting Electricity”⁹.

Kosovo’s ranking in the DB 2012 report was 117, which was identical to Kosovo’s ranking in the updated DB 2011 report¹⁰. This result was expected as DB reforms carried out in the past year took



The Starting a Business Working Group meeting to discuss transition to a unified TIN and streamline business registration procedures

effect only after the DB 2012 survey was completed. It is expected that reforms enacted to date will cause significant improvement in Kosovo’s ranking in the DB 2013 report.

Starting a Business Working Group. The Working Group on “Starting a Business” under the GoK’s Doing Business Task Force held its first meeting in mid-August where USAID BEEP presented its recommendations for reforming the law and procedures. The Investment Promotion Agency of Kosovo (IPAK) and the

MTI chaired the meeting. Also represented in the Working Group was the Office of Legal Services of

⁹ See Annex 3 on Structural Changes from DB 2011 to DB 2012 for additional information.

¹⁰ See Annex 4 on DB 2011 Results Published in 2010 versus DB 2011 Results Published in 2011.

the OPM, Tax Administration, Pristina Economic Development Department, and Association of Kosovo Municipalities.

Based on USAID BEEP's recommendations, the Working Group's second meeting was aimed at developing recommendations for the transition to a Unified Taxpayer Identification Number (unified TIN) system for businesses and to streamline business registration procedures. The Deputy Director of the Tax Administration of Kosovo (TAK) IT Department presented a plan for rapid transition to the unified TIN. The Working Group found significant support from TAK and the USAID Efficient and Sustainable Tax Administration of Kosovo (ESTAK) project for the transition.

In early September, and taking into account the Working Group's suggestions, the CI team developed detailed recommendations to transition to the unified TIN and facilitate significant improvements in the business registration process and delivered them to the Chairman of the Starting a Business Working Group. The GoK is expected to amend the Law on VAT¹¹ and Law on Tax Administration and Procedures¹² – with the result that VAT and fiscal numbers will be eliminated, thus supporting the transition to a unified TIN.

IS/IT Working Group. In October, the IS/IT Working Group discussed the development of the GoK's IS/IT strategy. The group is considering financing a short-term expert to produce a holistic IS/IT strategy, with a decision expected in November.

In many cases in Kosovo IT issues are addressed on an ad hoc basis, which impedes information sharing between government bodies and imposes unnecessary burdens on citizens by requiring them to provide the same information to different agencies. Therefore, it will be important for the Working Group to develop a comprehensive and holistic strategy.

Law on Contested Procedure. With USAID SEAD's assistance, the CI team presented to the Ministry of Justice (MoJ) internal Working Group two recommendations for amendments to the Law on Contested Procedure related to improving the "Protecting Investors" indicator. The Senior Legal Advisor of SEAD facilitated the presentation, strongly supporting our recommendations. It is unclear at this time whether the Working Group will move forward with the amendments.

Study Tour to Georgia. In late September, GoK representatives participated in a study tour to the Republic of Georgia, combining three days of meetings with Georgian government counterparts to discuss DB reforms and a three-day regional conference on e-governance co-sponsored by USAID.

¹¹ Law No. 03/L-146 on Value Added Tax and Law No. 03/L-197 on Amending and Supplementing Law No. 03/L-146 on Value Added Tax

¹² Law No. 03/L-222 on Tax Administration and Procedures

Twelve Kosovo officials from both national and local governments, along with 3 technical staff and 2 translators from USAID BEEP participated.

The visit was the culmination of remarkable coordination between Kosovo and Georgia. With USAID support, the delegation successfully traveled to a country that does not officially recognize Kosovo.

The group began the study tour in Tbilisi where they met with Georgian officials and government counterparts to discuss and observe practical implementation of effective business environment reform. Collaborating Government of Georgia (GoG) bodies included the Ministry of Economic Development, Ministry of Finance, the Public Registry (One Stop Shop), and the Ministry of Internal Affairs. These meetings represented an unparalleled opportunity for the representatives from Kosovo to discuss reform initiatives and learn from some of the top DB



Kosovo delegation with Georgian officials after arriving in Tbilisi for the study tour



Government of Kosovo officials meet in Batumi, Georgia for the Regional Workshop co-sponsored by USAID

reformers in the world.

In addition to meetings in Tbilisi, the delegation traveled to Batumi for the Regional Workshop where they learned relevant experiences from other countries including Armenia, Ukraine, Egypt, and Turkey. Topics included relationships with the business community, tackling corruption, property registration, governance and information technology, transparency, accountability, and service improvement.

This visit helped show that transformational reforms are possible and illustrated the positive impact that fundamental changes can have. It is hoped that this visit laid the foundation for future exchanges and strengthened economic relationships between the people of Kosovo and the Republic of Georgia. The group brought back not only the practical knowledge

reformers in the world.

In addition to meetings in Tbilisi, the delegation traveled to Batumi for the Regional Workshop where they learned relevant experiences from other countries including Armenia, Ukraine, Egypt, and Turkey. Topics included relationships with the business community, tackling corruption, property registration, governance and information technology,

“Even though I heard so much about what they had done, it was great to see it first-hand. I was left with a strong impression that if there is a will, change can happen.”

Bernard Nikaj, Senior Political Advisor,
Kosovo Ministry of Trade and Industry

about improving the business environment, but the inspired confidence and determination to achieve top reformer status.

CI-3: NATIONAL BUSINESS ENVIRONMENT IMPROVED (NON-DOING BUSINESS)

Law on Inspections. At the beginning of September, the CI team received and reviewed an EU SME draft Law on Inspections and prepared risk-based inspections recommendations. The draft Law on Inspections will establish modern principles and requirements with which any inspecting authority must comply. These include, among others, the requirement that inspecting authorities base their inspections policies and plans on a risk assessment; and that they emphasize compliance rather than penalties.

Once the framework Law on Inspections is adopted, extensive work will be required with the Government and individual ministries to bring their inspections policies, practices, and procedures into line with the requirements of the framework law.

The Permissive System Concept. In September, the CI team began the development of the Permissive System Concept that will act as a guide for the upcoming Law on the Permissive System. This is a “companion” initiative to reforming inspections. The Law on the Permissive System will be an overarching law that establishes a modern legal framework that governs the State’s power to regulate private economic activity (through licenses, permits, certifications, and standards). This law will bring Kosovo in line with international practice by limiting State regulation to restrictions and requirements that are genuinely necessary to protect a compelling state interest, such as protecting public health and safety.

As with the Law on Inspections, once the Kosovo Assembly adopts the framework law, extensive work with the Government and individual ministries to bring their policies, practices and procedures for licensing, permitting, etc., into line with the requirements established by the framework law will be undertaken. Because the Law on the Permissive System has not yet been placed on the GoK’s legislative agenda, developing the Law on Inspections has a high priority.

Law on Normative Legal Acts. In early September, CI received the draft Law on Normative Legal Acts prepared by the Office of Legal Services of the OPM. Following review of the draft law, our comments, questions, and suggestions will be presented to the Head of the Legal Office.

Law on Tourism. In late October, the MTI requested that we provide comments on their draft Law on Tourism. The CI team reviewed the draft law, prepared its comments, and provided them to the MTI for review and further discussion. The recommended changes to the draft law focused on eliminating government required licensure and allowing free market incentives to govern the hotel rating system.

Elimination of Construction Licenses. In September, the GoK implemented a CI recommendation eliminating construction licenses; specifically, six types of construction licenses containing

Project Result 2: The elimination of construction licenses contributes to Project Result 2 as an economic impact of reform



Local construction taking place in Pristina

over 50 different license categories were abolished¹³. Because construction is regulated through other mechanisms, the adoption of MTI Protocol No. 6959 eliminates redundancy and unnecessary interference with construction activity.

A major factor in illegal construction is costly and often unnecessary licensing such as that addressed in the MTI's Protocol.

CI-4: PUBLIC ACCESS TO AND KNOWLEDGE OF LAW AND LEGAL REFORMS IMPROVED

Electronic compilation of Kosovo Laws in force. In August, USAID BEEP produced on CD a compilation of all the laws currently in force in Kosovo as a preparatory step towards creating a comprehensive legal database. Unlike the database produced by the National Assembly, all amendments with the respective related laws were grouped for easier reference and use. The CDs were provided to the Office of the Prime Minister (OPM) for dissemination.

Establishing first-ever regulatory baseline in Kosovo. Earlier this year, we co-sponsored a five-day working session in Struga, Macedonia to identify unnecessary, redundant, and illegal Administrative Instructions (AIs). From the 1,500 AIs identified, the task force compiled a list of over 370 that it recommended for rescission. Accepting the recommendations of the task force, Prime Minister Thaçi signed Decision Nr. 08/35 in September, which clearly published for the first time the complete list of all AIs in force in Kosovo with the provision that any AI not included in the list was deemed null and void. This applied to the more than 370 AIs that the task force identified as well as any other AIs that the Government did not identify. The Decision established a clear regulatory base in Kosovo from which to go forward.

Further reviews of the remaining AIs are anticipated by the Government and will ultimately lead to an online database available for anyone doing business with Kosovo.

¹³ Ministry of Trade and Industry Protocol 6959 eliminated four MTI sub-legal acts: Decision No. 211 and Administrative Instruction Nos. 2008/20; 10/2010; and 02/2011.

BEEP Newsletter. In the recent months, the GoK has adopted many legal reforms in pursuit of achieving its Economic Vision 2014 priorities. Informing businesses and citizens about these legislative changes is just as important as the reforms themselves.

In order to improve public access to and knowledge of laws and legal reforms, we developed a project newsletter. The newsletter is designed to provide information to the business community on developments in legal reform that could affect their business and apprise them of opportunities to participate in the reform process.

The newsletter was translated into Albanian and Serbian for electronic distribution to local businesses, the GoK, municipal officials, and donors. The project also uses every opportunity to distribute hard copies of the newsletter. For example, CI recently provided hard copies to various municipal officials when conducting MCI Diagnostic presentations around the country.

Topics of the first newsletter included information on, among other things:

- Elimination of the minimum charter capital requirement for Limited Liability Companies (LLCs);
- Elimination of the business registration fee;
- Establishment of a clear regulatory baseline in Kosovo;
- Elimination of the work permit; and
- Release of the MCI 2011.

Additional newsletters will be published as developments warrant.

Roundtable on Economic Development and Strengthening the Private Sector. At the request of the Minister of Economic Development, USAID BEEP attended a Roundtable on Economic Development and Strengthening the Private Sector sponsored by the Ministry in cooperation with the Kosovo Chamber of Commerce, the American Chamber of Commerce (AmCham) in Kosovo, and the Kosovo Business Alliance. The CI Lead made a presentation on project activities and efforts underway to reform the business environment.

American Chamber of Commerce Roundtable on Business Agenda. In early October, AmCham held a roundtable to announce their findings and recommendations from their research of constraints encountered by Kosovo businesses. AmCham carried out this research under a grant from our project issued earlier this year. A follow-on grant was awarded to AmCham to support the organization's dissemination of their research findings and to monitor the GoK's implementation of these recommendations. This roundtable was the first activity under the follow-on grant, which will run through the end of March 2012.

Approximately 40 persons attended the event, including the heads of the Tax Administration and Customs Service and the Advisor to the Deputy Prime Minister Kusari-Lila. The CI Lead also made remarks, noting the importance of public-private dialog for increasing appropriate policymaking and instilling trust between the government and the private sector.

NEXT STEPS

Municipal Competitiveness Index (MCI) Diagnostics. In November, the CI team will finish the last municipal Diagnostics presentations and will assist municipal administrations in hosting public-private roundtables to facilitate discussion of issues surrounding the business environment. This dialogue will prove important for municipalities as they look to improve their performance in the upcoming MCI 2012.

Municipal Competitiveness Index 2012. Working closely with the CI team, UBO Consulting will develop the case studies discussed above to improve municipal practice. Following development of the case studies, UBO will develop the proposed MCI 2012 survey.

In addition to the Diagnostics presentations, the CI team will assist municipal administrations to keep businesses informed of business environment improvements. Because the MCI is a perceptions survey, municipalities are especially interested in providing businesses with up-to-date information.

Construction reform. The MESP is expected to adopt our project-sponsored draft Construction Law in November, and submit it to the Kosovo Assembly shortly thereafter. The CI team will monitor the draft law as it makes its way through the Assembly to ensure that all project recommendations are captured in the enacted version.

Following the adoption of a new Law on Construction, it will be necessary for Kosovo to develop a modern and comprehensive Construction Code. A comprehensive Construction Code is generally a multi-year activity and USAID BEEP will assist the GoK in this endeavor wherever possible. It will also be important to monitor proper implementation of the Construction Law, including the development of the necessary AIs. Proper implementation of reforms ultimately should result in the construction permitting process being well defined, cost-recovery based, streamlined, and transparent.

Recently enacted DB laws. Reform efforts do not cease with the adoption of a law, but are redirected to implementation and monitoring.

For instance, related to the work permit, and often confused in application, is the municipal business license. This requirement is usually a “license” in name only, since it doesn’t protect legitimate public interests and serves merely as a mechanism for pre-operations taxation. Since revenue required for

general government operations should come through tax policy and the formal tax system, this instrument should be eliminated through the development of the Law on the Permissive System and amendments to the Law on Local Government Finance.

Implementation, in many cases, also includes the adoption of regulations. The new Law on Fire Protection, for example, requires the Ministry of Internal Affairs to develop a sub-legal act to determine the special cases where fire protection consent will still be required. Monitoring that process will be important to ensure that the Ministry adheres to the letter and spirit of the changes to the law and applies a risk-based approach.

Further, the amendment to the Law on the Establishment of the Immovable Property Rights Register requires the Kosovo Cadastral Agency (KCA) to develop a sub-legal act that requires immovable property rights registration fees to be determined on a cost-recovery basis. This is related to the “Registering Property” procedure #8 that requires the registrant to pay the registration fee at the bank and return it to the municipality for proof of payment. We will monitor the development of this AI to see that it occurs in a timely manner and is consistent with the law. The CI team will also investigate the immovable property registration fee to determine if it reflects cost recovery.

The project will monitor and assist implementation of the recently enacted DB laws, including development of any required AIs, discussions with businesses to ensure that reforms are felt, and reporting back to the Doing Business Team in Washington concerning results.

World Bank Doing Business 2012 report. As with the DB 2011 report, any new information contained in the DB 2012 report will be validated. Further, as DB-related legal reforms are enacted and implemented we will be in close contact with the WBDB team to provide updates and projected impacts of reform. The WBDB team remains a close and important project stakeholder.

Starting a Business Working Group. In the coming months, CI will work with the Working Group to move business registration procedures toward a single taxpayer identification number system. Ultimately, starting a business should require one day with only one business registration procedure. The business registration process will be completed through a single entity or online and require a single identification number for all purposes. This will require, among other things, approval of amendments to the Law on Business Organizations and the Law on Internal Trade, and the development of necessary AIs for proper implementation; enabling on-line business registration; consolidating of business identification numbers into a single number for all purposes; and creating a one-stop service for filing documents and paying registration fees for new companies using the “single window” approach.

IS/IT Working Group. We expect the Working Group to move forward on developing a holistic GoK IS/IT strategy soon. Any of our preliminary work will be used to supplement the efforts of any Working Group short-term expert. Because of the breadth and complexity of such a comprehensive IS/IT objective, we think it is important to leverage as many resources as possible and as early as possible. The IS/IT strategy is expected to contribute to the completion of the unified TIN system and reduce unnecessary government contacts for businesses.

These modernizing reforms will increase transparency, the rule of law, and the accountability of government to citizens, while at the same time eliminate the duplicative, outmoded, and burdensome administrative practices that currently characterize government at all levels.

Law on Inspections. CI is nearing completion of the draft Law on Inspections and expects conclusion in November. Following completion, we will discuss the draft with the EU SME project and submit it to the Office of Legal Services of the OPM.

Law on the Permissive System. The CI team continues to develop the Permissive System Concept. Following completion of the concept, we will, in collaboration with other donors as it affects their activities, develop the framework Law on the Permissive System. Development of the law is expected to continue into the first half of 2012.

Law on Normative Legal Acts. The CI team is working diligently on the draft on Normative Legal Acts and expects completion of an advanced draft by the end of November. Following the adoption of the Law by the GoK, we will support its introduction to the Kosovo Assembly and monitor its progress. RFQs will be developed to supplement internal project resources for facilitating a GoK conference and follow-on media communication on the new law to gain public support for, and raise public knowledge of, reform efforts.

Law on Tourism. We will work closely with the MTI to finalize the draft Law on Tourism, with the goal of assisting the MTI in producing a business-friendly law; eliminating unnecessary licensures and allowing free market mechanisms to govern tourism activities.

Construction Licenses. Following the recent MTI Protocol eliminating construction licenses, the CI team will monitor construction activities to determine the impact on business. In the past, businesses were required to pay a license renewal fee of €250 every three years. In addition to making sure no new licenses are issued, CI will also check to see that businesses are not paying renewal fees.

Legal Information database. USAID BEEP will work with the OPM and other donor projects to conduct an analysis to establish technical requirements of the Legal Information Database (LID) and the GoK internal network and public web portal, and assess the technical level of readiness of the Assembly and

GoK bodies to meet the established requirements. Based on this analysis, and subject to USAID approval, we will assist in procuring equipment and installation of the database, GoK internal network, and public web portal.

Now that the Prime Minister has issued Decision Nr. 08/35 and established a clear baseline of the regulatory base in Kosovo, CI will monitor the enactment of future AIs to maintain clarity in the regulatory base. In parallel with the technical analysis, CI will assist the OPM in conducting reviews of all GoK sub-normative legal acts in force, in addition to the AIs already identified. In addition to making all laws and sub-normative acts publicly available (which is not the case in Kosovo today), the LID would allow cross-referencing, linking of laws with supplemental amendments, and accommodate the future inclusion of judicial opinions that provide interpretation and clarity.

BEEP Newsletter. As the GoK continues to produce significant business environment results, the CI team expects to produce and distribute several future project newsletters. Currently, CI is reaching out to all project personnel to collect information for the next newsletter and expects a new edition soon. The project newsletter will continue to act as one of the project's primary tools for informing the public of the Government's important business environment reforms.

Model Regulations. In the next quarter we will commence work to develop model regulations on municipal core competencies, which municipalities can use to improve their legal framework. DEMI will be closely involved in producing these model regulations.

CHALLENGES AND IMPLEMENTATION ISSUES

Because the GoK and the donor community have dealt with IS/IT challenges largely on an ad hoc basis, CI foresees entrenched interests as potentially impeding technical buy-in and implementation of intra-governmental information integration. A holistic approach to information sharing remains as a critical element of several project tasks and, once implemented, is expected to produce dramatic efficiency improvements for the GoK. Therefore, CI will continue to stay apprised of issues on the horizon as the project moves forward developing the IS/IT strategy.

Despite the Prime Minister's recent Decision Nr. 08/35 establishing the first-ever regulatory base in Kosovo, we anticipate that it will be difficult to keep track of all new sub-legal acts as they are developed. Until the GoK institutionalizes proper mechanisms for regulating the adoption of sub-legal acts, the risk remains that the public will be unaware of newly enacted laws and AIs. However, the Law on Normative Legal Acts is intended to address this issue by requiring that all legal acts in force must

first be published in the legal database. CI is working in parallel on the draft Law on Normative Legal Acts and the Legal Information Database and will continue to consider this issue as part of its approach.

COORDINATION

To leverage resources and stay abreast of important developments, CI has developed critical relationships with government counterparts at the national and municipal levels and with various other projects.

During this quarter, we met with the newly appointed CEO of the Small and Medium Enterprise (SME) Agency and explored avenues of future collaboration. In addition, CI works very closely with the EU SME project and various USAID projects, including SEAD, GFSI, KPEP, EROL, and KMFAS.

COMPONENT TWO: BARRIERS TO TRADE REDUCED

C2-1: NATIONAL LEVEL BARRIERS TO TRADE REDUCED

Trading across Borders Scenario Analysis. An important tool for assessing reduced barriers to trade efforts

Project Result 1: The Trading across Borders Scenario Analysis helps contribute to the target – 20% improvement in Kosovo’s overall DB ranking by DB 2014.

in Kosovo is the DB “Trading across Borders” indicator, which considers time, costs, and documents required to import and export. As reported in the DB 2012 report, Kosovo ranks 131 out of 183 economies studied.

In August, the C2 team developed the Trading across Borders Scenario Analysis. This analysis employed a holistic approach to affecting positive change to all indicator measures and provided comprehensive recommendations to reduce the time, costs, and documents required for import and export. According to the analysis, Kosovo could improve to within the top 30 economies in the world in the “Trading across Borders” indicator if the GoK adopts and implements all recommendations.

Upon receipt of the Scenario Analysis critical external stakeholders, including the Director General of Customs, the Director of the MTI Trade Department, and MTI Ministerial Advisors, provided valuable input and voiced their willingness to rapidly implement recommendations.

“BEEP helped to increase the Kosovo Customs’ awareness regarding the importance of trade facilitation and reduced border customs procedures. BEEP provided to Kosovo Customs the experience of other countries and other customs administrations, which by introducing the same measures have positively influenced national economic development and prosperity of the country.”

Naim Huruglica, Director General,
Kosovo Customs

Putting words into action, Kosovo Customs adopted Internal AI No. 01/2011 on October 25. The new AI eliminates four of the eight documents required for export recorded by the DB 2012 report, including the Bill of Lading, CMR, packing list, and terminal payment receipt. The AI eliminates the packing list, Bill of Lading, and CMR for import shipments as well. This action represents just one of many important anticipated efforts by the GoK to implement the Scenario Analysis recommendations and significantly improve Kosovo's "Trading across Borders" performance.

Law on External Trade. In late August, Ministerial Advisors at the MTI requested assistance to the Director of the Trade Department to develop a new Law on External Trade. The C2 team immediately went to work, developing the draft Law consistent with earlier recommendations provided in the *Gap Analysis of the Kosovo Legal Framework for External Trade*. Because the MTI had proposed an earlier draft Law to the Parliament, the Minister and Deputy Prime Minister informed the Parliamentary Commission for Economic Development, Infrastructure, Trade and Industry of the further changes.

The new Law addressed the outdated nature of Law No. 2002/6 on External Trade Activity. The objective was to assist with the elaboration of a new Law on External Trade, regulating trade between Kosovo and other countries, setting out a more transparent framework for foreign trade based on the premise of the free and unimpeded movement of goods.

At the end of September, the Parliamentary Commission held a public hearing on the existing Law on External Trade Activity where C2 provided technical advice and discussed all of the proposed



Component Two Lead visits Kosovo Customs to monitor export activities

changes. Taking into consideration discussions at the public hearing, the C2 team submitted its comprehensive recommendations on the Law to the Deputy Prime Minister and Minister of Trade and Industry. A meeting with the Chairman of the Parliamentary Commission was held to explain the modernization of the legal framework for business and trade, and to make known our willingness to provide technical assistance to the Commission as necessary.

The Kosovo Assembly is expected to adopt the proposed Law on External Trade very soon.

Law on Safeguard Measures. During this quarter, Kosovo took a big step toward international trade integration. In August, the Kosovo Assembly adopted the new Law No. 04/L-047 on Safeguard

Measures, bringing the country closer to World Trade Organization (WTO) requirements and European Union (EU) best practice.

As part of its ambitious Economic Vision priorities for 2014, the GoK committed to provide a safe and stable environment for businesses and to reduce barriers to doing business. Anxious to deliver on the 2014 goals, the determined GoK developed the Law on Safeguard Measures on Imports with our support.

Safeguard measures are one of the three WTO contingency measures that pertain to unfair and illegal trade practices. When a domestic industry faces serious harm from an increased flood of imports, the MTI may now, upon thorough investigation and vetting, take temporary emergency action on offending imports. During the effective period, safeguard measures allow Kosovo businesses time to capitalize on operational improvements and increase market competitiveness.

In mid-August, we supported the MTI before the Parliamentary Commission for Economic Development, Transport, Infrastructure, Trade and Industry concerning a clause-by-clause review of the Law. Later in August, the C2 technical team participated in a meeting before the Parliamentary Commission to provide additional technical support and respond to Commission questions regarding the draft.

After careful consideration, the Kosovo Assembly adopted the new Law on Safeguards on August 31, and it entered into force on September 16. The new Law provides Kosovo businesses with a more predictable business environment and will help strengthen domestic trade competitiveness.

The new Law is based on the WTO Agreement on Safeguards and reflects best practice from the EU Law on Safeguard Measures. The GoK is now able to provide internationally compliant protection to Kosovo businesses, supplying crucial local support and a safer business environment. The GoK, with USAID support, continues to deliver on its Economic Vision priorities for 2014 and moves ever closer to international economic integration.

Collaboration with the Ministry of Foreign Affairs. The Head of the Office for Legal Affairs, Treaties and Human Rights agreed to collaborate on the necessary amendments to the Law on the Trade in Strategic Goods. While it is essential to properly control the spread of materials that can be used in the production of weapons of mass destruction, it is also important to ensure that such controls are introduced in keeping with international standards and practice to avoid unnecessary limitations and restrictions on business activity and legitimate economic development.

The two parties also agreed to collaborate on other legal and regulatory matters where there is a mutual interest. The Head of the Office for Legal Affairs also asked C2 to provide technical training input for diplomatic officials on international trade principles, standards, and practices when this is done for the MTI and Kosovo Customs officials.

Administrative Instruction on Petroleum Products improved. In an effort to improve fuel standards for fuel imported into Kosovo and protect against arbitrary government action on imports, the Office for Regulation and Monitoring of the Marketing of Petroleum Products with the MTI established a working group to amend AI 2008/21 on Petroleum Products. As a major contributor to the working group's efforts, the C2 team developed draft amendments to the AI, recommending the elimination of private third-party review and unnecessary government oversight of imported petroleum products. The draft amendment was submitted to the Senior Ministerial Advisor at the MTI and the proposed standards and practices were adopted in the new AI issued by the Ministry.

Metrology, Accreditation, Standardization, and Quality (MAS-Q). The two-week consultancy of the MAS-Q short-term technical advisor (STTA) concluded in early August. The consultant carried out interviews and fact-finding visits with the Kosovo Metrology Department (KMD), Kosovo Accreditation Directorate (DAK), and Kosovo Standardization Agency (KSA) units at the MTI. The C2 team shared observations and preliminary recommendations with officials in separate meetings with the Directors of each body. Work completed by EU consultants in this field were reviewed and discussed with the European Commission Liaison Office to Kosovo (ECLO) Task Manager responsible for MAS-Q. In an exit interview at ECLO, C2 shared overall observations and preliminary conclusions with the Task Manager.

We held a second MAS-Q workshop for the relevant officials from the Ministry of Health, the Ministry of Agriculture, Kosovo Customs, the MTI, the Food and Veterinary Agency, and several private sector laboratories. The consultant developed an informative and action-oriented report and it was shared with the MTI.

C2-2: EXTERNAL TRADE POLICY IMPROVED

Central European Free Trade Agreement (CEFTA). The C2 team works very closely with the MTI on various ways to improve external trade policy. Eagerly awaiting the CEFTA meeting on *Contingency Trade Measures* on September 16, we provided assistance to the MTI to prepare materials and presentations. The MTI assigned an officer of the Trade Department to work specifically with our project team on the CEFTA meeting preparation.

Finally, in mid-September CEFTA held their meeting in Pristina. The MTI, with our support, organized the Workshop on Contingency Measures and delivered a presentation on these measures that are available to Contracting Parties under the CEFTA Agreement. From the perspective of Trade Facilitation, the CEFTA Agreement calls for certain policies and procedures that differ slightly from WTO and EU practices, and these differences were covered at the workshop.

World Trade Organization (WTO) observer status. In mid-October, the Ministerial Advisors at the MTI requested that C2 prepare a cost-benefit analysis of WTO Observer Status for Kosovo and develop the legal instrument for formal application of Observer Status. The C2 team is in the process of developing the analysis and legal document and expects to submit them in early November. Based on the C2 analysis, the Government will decide on whether to proceed with WTO Observer status immediately, or defer any action with respect to an application for regular WTO Membership until much later.

Border Visits. In October, the C2 Lead and the Director of the Trade Department at the MTI visited the Border Point Dheu i Bardhë to observe the renewed import and export procedures between Kosovo and Serbia. We discovered a problem relating to Kosovo exports to Serbia and made detailed recommendations to the General Secretary of the MTI to address the crucial issues. The next site visit with MTI and Customs counterparts will be to the border crossing at Podievo, scheduled for November.



Trade Advisor visits the Border Point Dheu i Bardhë to review import and export procedures between Kosovo and Serbia

C2-3: TRADE CAPACITY BUILDING IN TRADE REGULATING BODIES AND PRIVATE SECTOR ORGANIZATIONS IMPROVED

Trade Policy Working Group (TPWG). The C2 team provided logistical and technical support to the Trade Department at the MTI for the second meeting of the TPWG on October 18. During this meeting, the MTI Minister said that the government aims to improve the external trade balance, focus on trade policy improvements through direct consultations with stakeholders, and reconsider the regulatory framework surrounding trade activities. The Minister made note of the continued need to forge the legal framework around EU and WTO requirements and principles.

The Director of the MTI Trade Department voiced the TPWG's commitment to improve the business environment and to use the TPWG to review draft legislation and changes in the regulatory framework

for external trade. The Director stated that Government would soon establish five sub-working groups to work on different trade-related issues, specifically on: (1) Trade Agreements; (2) Agriculture; (3) Trade Facilitation; (4) Service; and (5) Industry. The C2 team expects to play an important role in providing technical support in the various sub-groups as they relate to achieving reduced barriers to trade.

Advice to American Chamber of Commerce and the MTI in a trade case. The C2 team provided technical advice to the AmCham in Kosovo in a case involving delays in the import clearance of a shipment of American products. The actions resulted in immediate clearance of the shipment that had been delayed at the Kosovo border for 22 days. More importantly, the C2 team is working on follow-up action with the Trade Department to clarify the particular product policy with the MESP and the Ministry of Agriculture.

Liaison with Learning Institutions on WTO. C2 provided technical training at the University of Business and Technology and the American University in Kosovo on the history and development of the WTO, on practical aspects of the WTO, and advantages Kosovo can realize through closer association with the WTO.

Food and Veterinary Agency supported. The C2 team prepared an analysis of four AIs for the Legal Department of the Prime Minister's Office. The analyses pointed out a number of deficiencies in the draft AIs that the OPM may consider as further work is advanced.

C2-4: INTERNATIONAL TRADE GUIDE AND INTEGRATED TARIFF PROMOTED

International Trade Guide. Plans are in place to commence work on development of the International Trade Guide (ITG) in early 2012. Previously, in early 2011, C2 discussed plans with the Legal Department at the Ministry of Finance, the Trade Department at the MTI, and with Kosovo Customs to collaborate on development of the ITG. Experience tells us that this will be a labor-intensive effort; first to obtain the technical information from all ministerial and regulatory sources, and then to organize the information into a suitable order and present such in a user-friendly, non-technical manner in the ITG.

NEXT STEPS

Scenario Analysis implementation. While the adoption of Kosovo Customs AI No. 01/2011 represents a major step toward improving the "Trading across Borders" indicator, it will be very important to monitor proper implementation to fully realize business environment improvements. We will provide valuable operational and technical support to Kosovo Customs and facilitate compliance with the new AI. This will be accomplished, in part, through collaboration with the Kosovo Exporters' Association,

the Kosovo Chamber of Commerce, the Alliance of Kosovo Businesses, and with the American Chamber of Commerce in Kosovo.

Law on External Trade. As the Law on External Trade makes its way through the Parliamentary Commission for Economic Development, Transport, Infrastructure, Trade and Industry, C2 will continue to provide support to the Commission and the MTI to ensure all recommended changes are adopted as recommended.

Customs Code. The Director of the Legal Department at the Ministry of Finance and the Director General of Kosovo Customs forecast demand for the Customs Code in 2012. Work on a new Customs Code has been delayed by EULEX's position on the matter. Nevertheless, we will prepare an analysis and proposed draft of a new Customs Code by the end of December 2011 for consideration of the Kosovo authorities. A new Customs Code will offer the legal authority for many trade facilitation measures that are not offered under the current Code.

Law on Safeguard Measures. With the recent adoption of the new Law on Safeguard Measures, we will monitor any activity associated with safeguard measures and provide technical assistance where necessary. The law sets out specific requirements for invoking government action under the new Law where the C2 technical team can provide valuable support and training.

Amendments to the Law on the Trade in Strategic Goods. Because of the sensitive nature of this Law, USAID is to provide direction to us on actions, if any, that may be taken.

Metrology, Accreditation, Standardization, and Quality (MAS-Q). Subject to USAID approval, C2 will carry out specific actions to assist the MTI in improving the effectiveness of MAS-Q in Kosovo. Such actions may include support on a re-organized structure for MAS-Q, development of a technical guide on MAS-Q and elaboration of technical training on MAS-Q.

World Trade Organization (WTO) observer status. C2 will complete development of the cost-benefit analysis of WTO Observer Status for Kosovo and the legal instrument for formal application of Observer Status. The results of the analysis and legal instrument will be submitted to the MTI in November. Based on the results of the cost-benefit analysis, C2 will assist the MTI in taking any next steps for applying to the WTO for Observer Status.

Trade Policy Working Group. We will work with MTI and members of the TPWG on establishment of the planned sub-working groups. These subgroups are expected to facilitate trade improvement by providing narrowly tailored technical and operational policy support in various sectoral and functional trade areas. C2 will continue to act as a driving force behind the TPWG activities, striving to reduce

barriers to trade in Kosovo. Support to the work of the TPWG will be done in collaboration with the EU Trade Project.

Development of the International Trade Guide (ITG). The C2 team will begin development of the ITG in the spring of 2012 following the modernization of the legal and regulatory framework for external trade. A RFP to secure a local partner to aid in the development, maintenance, and management of the ITG website will be published. C2 will also provide assistance in compiling and reviewing information needed for the ITG and Integrated Tariff Database (ITD).

Technical Training for Importers, Exporters, and Clearing Agents. C2 drafted a scope of work for technical training for importers, exporters, and clearing agents on Harmonized System commodity classification. We will organize and deliver the training in coordination with the Training Department at Kosovo Customs and the Trade Department at the MTI. Subject to approval by the Kosovo authorities, the training will be delivered starting in February at seven venues across Kosovo - Ferizja, Gjilan, Gjakova, Prizren, Peja, Mitrovica, and Pristina.

Building the capacity of the Training Department within Customs. C2 presented Kosovo Customs with its DVD recording of the Customs Valuation training course organized and delivered early in 2011 to importers, clearing agents, and customs officers. Further support and assistance, if necessary, will be provided to produce a Training DVD (based on modules for WTO-ACV). This action is scheduled for December. Also, the C2 team provided the Training Department with a DVD on the project Workshop “Introduction to MAS-Q”; this is also to be produced into a unique training module for both Kosovo Customs and the MTI.

SME Trader support: The “spediteurs¹⁴” provide an important trade service for SME traders. C2 and Kosovo Customs will work with the Clearing Agents’ Association – the Association of “spediteurs” – on training plans and actions in connection with the licensing of clearing agents. It is estimated that up to 1,000 individuals are to be trained. Action on this work is scheduled to commence again when the Law on the Permissive System is finalized; once that Law is in place (or at least a draft is produced) C2 will work with the Association and Kosovo Customs to draft the AI on the licensing of clearing agents. The training will be planned (likely in April/May 2012 if new Law on Permissive System in place) for candidates to take the technical examination that will be set by the Association, Customs, and BEEP.

¹⁴ Shipping agent

Exporters' Association – We will provide support and training to the Association on advocacy for streamlining export procedures. Specifically, C2 will target advocacy to eliminate the routine requirement for export shipments to pass through a customs terminal.

Trade and Customs Lexicon. Work with the MTI and Kosovo Customs on development of this training and orientation tool is continuing. C2 expects completion by the end of December, after which the document will be placed on the MTI website.

Further technical support to Kosovo Customs for Trade Facilitation. C2 technical support to Kosovo Customs on trade facilitation is regular and ongoing. This is to follow-up on earlier proposed trade facilitation advice on the use of cargo scanning technology and a proposed directive to importers to arrange for better information on commercial invoices.

Parliamentary Commission on Economic Development, Infrastructure, and Trade & Industry. C2 appeared before this Commission on a regular basis during the last quarter. The Commission Chairman and members of the Commission have indicated a certain trust in our technical support, and indeed have looked to us for technical advice concerning draft Laws. The Chairman has requested C2 to lead a round table on international trade, and the Kosovo legal framework for external trade, in order to build the technical knowledge of the Commission Members. Plans are not yet finalized, but preliminary indications are that the round table will take place in late November.

Young Cell Program. The MTI is planning to recruit recent graduates who studied disciplines relevant to the work of the Trade Department. In collaboration with EU Trade Project, we will develop an Inception Training course for new staff at the MTI. C2 will begin preparations in November for delivery in January and/or thereafter. In February, C2 will also begin developing more advanced level course curricula on subjects related to international trade.

Law on Anti-dumping and Countervailing Measures. In response to the project's *Gap Analysis on the Kosovo Legal Framework for External Trade* (November 2010), C2 will prepare a package of recommended amendments to this Law. This work will be carried out during the months of November and December.

CHALLENGES AND IMPLEMENTATION ISSUES

Even though there is strong support from the MTI, the C2 team will need to stay constantly updated with progress from the Parliamentary Commission for Economic Development, Transport, Infrastructure, Trade and Industry concerning the new Law on External trade to ensure that all of our recommendations are incorporated in the final version.

A lingering implementation issue concerns the lack of technical capacities at the MTI. C2 continues to provide technical training wherever effective. As the GoK moves toward joining the WTO and EU, C2 will play an important role advising the MTI and assisting the fulfillment of operational and technical requirements. Ways to improve training at the MTI by strengthening the Ministry's internal training resources are being investigated.

COORDINATION

USAID BEEP maintains a very strong relationship with the MTI and Kosovo Customs, collaborating wherever possible to improve Kosovo's business environment. The MTI continues to be the most critical C2 GoK partner for achieving project activities that reduce barriers to trade.

In late August, C2 met with an International Monetary Fund (IMF) Mission to discuss trade issues and revenue generation activities and provided the IMF with an updated briefing on CEFTA, the MTI, and Kosovo Customs activities and issues. There the IMF representative provided us with the latest IMF Report on Kosovo, as well as background papers on the unified taxpayer identification number system. Also in August, the C2 team met with the United Nations Development Program (UNDP) regarding the strategy for Parliamentary review of the Law on External Trade.

In October, we provided technical perspectives on tax administration to the IMF Fiscal Mission. Here, the C2 team provided technical input on the business environment related to municipal own-source revenues, property tax, Value Added Tax (VAT) and corporate tax administration, customs administration, business registrations, and the need to boost voluntary compliance in fiscal administration in Kosovo.

Our project had another opportunity in October to work with the USAID Kosovo Private Enterprise Program (KPEP) and provide technical advice on preferential trade between Kosovo and the United States. Collaboration with KPEP has been regular, and this is expected to continue.

Finally, this quarter saw the new EU Trade Project begin work at the MTI to enhance the capture and analysis of trade statistics, nurture trade negotiation skills, and develop the capacity in the Trade Department for economic modeling. BEEP has established a strong mutual link with EU counterparts to improve technical capacities at the MTI.

COMPONENT THREE: RISKS OF LENDING IN THE FINANCIAL SECTOR REDUCED

C3-1: DOING BUSINESS REFORM GETTING CREDIT INDICATOR IMPROVED

Clarification submitted to the World Bank Doing Business Team. During the DB 2011 report validation process, we identified errors in the reported information pertaining to the “Getting Credit” indicator. Within the *Depth of credit information index*¹⁵ sub-indicator measure, the DB report recorded a “No” for the question “Are more than 2 years of historical credit information distributed?” However, the Credit Registry of Kosovo does distribute historical credit information spanning more than 2 years. The clarifying information was submitted to the WBDB Team in Washington, D.C.

Project Result 1: Kosovo performance improvement within the “Getting Credit” indicator contributes to our Project Result 1.

On October 20, results arrived with updated DB 2011 performance information accompanying the release of the DB 2012 report. The updated report noted that Kosovo received 5 out of 6 points in the *Depth of credit information index* in the updated DB 2011 report. The “Getting Credit” indicator position jumped 11 spots, moving Kosovo from a rank of 32 to 21.

Including insurance companies as participants in the credit information system. Striving for a perfect score in the *Depth of credit information index*, we are working with the CBK to include insurance companies as providers of credit information to the public credit registry.

Question number 3 of the index asks, “Does the registry distribute credit information from retailers, trade creditors or utility companies as well as financial institutions?”

Project Result 4: Including insurance companies as participants in the credit registry contributes to the target – Increasing the number of types of users of the credit information system.

Currently, the Credit Registry of Kosovo (CRK) gathers and distributes credit information only from credit or financial institutions, including banks and microfinance institutions. However, during the last quarter, the CBK Working Group incorporated insurance companies as new information providers in the working draft of the Regulation on the Credit Registry (formerly Rule XXVIII on Credit Reporting). The Working Group received positive feedback from insurance industry representatives, stating that the upcoming addition will facilitate their assessment of customers.

Following the adoption of the draft Regulation, Kosovo should receive a full 6 out of 6 points for the *Depth of credit information index* in the DB 2013 report.

¹⁵ The Depth of credit information sub-indicator measure asks six questions for which an economy receives 1 point for a “yes” and 0 points for a “no”.

C3-2: PUBLIC CREDIT REGISTRY STRENGTHENED

Memorandum of Understanding (MOU) between USAID and the Central Bank of Kosovo. Strengthening the public credit registry requires focused cooperation. In September and October, the C3 team presented the draft MoU to the CBK. Both parties are in the process of reviewing the final draft with expected completion and signing in mid-November. To best facilitate the achievement of USAID and CBK shared objectives, both parties sought to sign a MoU establishing a professional agreement and narrowly defining responsibilities.

Credit Registry upgrade. In August, the C3 technical team prepared the first version of the request for a price quotation for the credit registry software upgrade. In collaboration with the CRK, the team worked diligently to develop the final proposal for technical specifications and included examples of the updated software's expected dramatically improved reporting capabilities.

With assistance from the Head of the Credit Registry, the final operational details will be completed. Following the completion of the MoU, the CBK will proceed to vendor selection and move forward with the software upgrade. This upgrade will make the Registry's data base more robust, accurate, and efficient.

Operational analysis through time and motion studies. Beginning in August, C3 conducted time and motion studies to better understand the operational capacities of the CRK. The team analyzed various activities, including requests for credit reports and lodging credit information disputes, starting with the initial request or complaint and mapping the entire process through completion.

The analysis yielded extremely valuable information for process improvement and resource management. The studies helped guide the development of the new Regulation on the Credit Registry, the implementing Operational Instruction, and the credit registry software upgrade technical specifications, thus affecting a majority of C3's CRK strengthening activities.

Draft Law on Banks. C3 provided comments and suggested revisions on the Draft Law on Banks; in particular regarding Article 52 on the Credit Registry. These revisions, all of which were accepted by the CBK, further defined the role of the CRK in the financial sector and the obligations of creditors vis-à-vis the CRK.

Pledge Registry. C3 initiated an evaluation of the Pledge Registry and expects to continue this effort into the near future. The Pledge Registry affects the accuracy of credit-related information, which impacts credit reporting, risk assessment by credit providers, and the Central Bank's supervisory activities.

Additionally, the C3 evaluation is necessary due to the Pledge Registry's intra-governmental communication, which influences the development of the GoK's IS/IT strategy.

C3-3: USE OF THE CREDIT INFORMATION SYSTEM INCREASED

Draft Regulation on the Credit Registry. To increase public use of the credit information system, the C3 team continued work with the CBK Working Group to develop the new Regulation on the Credit Registry. The CBK provided the highest level of buy-in and devoted primary resources to the cause, including the Chief Operating Officer, Head of the CBK Legal Department, Chief Legal Advisor to the Governor, and Head of the Credit Registry.

Many issues that contribute to the lack of participation in the credit information system were identified including, *inter alia*, the lack of a proper mechanism for submitting credit information disputes, insufficient explanations of complex credit reporting material, and inconvenient processes for obtaining credit reports.

Project Result 5: The Draft Regulation on the Credit Registry, once adopted, is expected to contribute to the target - Number of requests by businesses and citizens for their own credit reports.

The new Regulation on the Credit Registry addresses several of these issues, creating a more predictable, reliable, and protected system for disseminating personal credit information. Many of the draft provisions establish new borrower's rights and equip citizens and businesses with tools not available to them before.

"In cooperation with USAID, the business environment is being advanced as well as credit information."

Gani Gërguri, Governor,
Central Bank of Kosovo

At present, businesses and citizens must go in person to the CBK in Pristina to request and obtain their credit report, which often acts as a barrier to participation in the credit information system. Under the new Regulation, credit report requests can be lodged directly with credit providers throughout the country. Additionally under the new Regulation, the CBK and supervised credit providers are required to ensure they have the ability to receive and resolve credit information disputes. In this way, the CBK and credit providers present a more convenient mechanism for obtaining credit reports, which incentivizes participation in the credit information system.

During initial information gathering activities, it was discovered that those who requested credit reports often did not understand the rather complex data entries. In an effort to assist navigation of the credit report and alleviate misunderstandings, the C3 team has arranged that a definition and description of each data point will be supplied within all credit reports.

The Central Bank Board is expected to adopt the new Regulation on the Credit Registry by mid-December.

Communication strategy and public awareness campaign. One of the most important implementing activities C3 will undertake is communicating borrower's rights and the improvements at the CRK. With so few people accessing their own credit reports, informing citizens and businesses about points of access and the importance of good credit is crucial to project success. Raising this awareness will help increase the use of the credit information system.

In September, the C3 team presented the CBK Governor with the initial draft of the Communication Strategy. The strategy outlines the public awareness campaign and includes a timeline for utilizing television, radio, newspaper, and electronic media. Eager to promote increased use of the credit information system, the CBK voiced its commitment to implement the communication strategy.

Capitalizing on CBK assurance, we assisted development of creative credit report brochures describing the significant benefits of a stable and positive credit history and outlining procedures to obtain credit reports and lodge complaints and disputes. The C3 team also developed RFPs to solicit offers from Kosovo companies to produce goods and services for the campaign. The RFP was recently released and a vendor selected for the first phase.

NEXT STEPS

Credit Registry upgrade. Technical specifications for the software upgrade are expected to be completed soon. Following completion, C3 will assist the CBK to prepare for the software upgrade by conducting operational and technical training. Currently, the credit report creation process is slow, potentially creating a bottleneck to the expansion of participation in the credit registry. Credit Registry internal capacities will need to be developed to prepare for the expected influx of credit report requests.

Following the completion of the MoU, the CRK will select the vendor for the credit registry software upgrade, which is expected to take several months. During the upgrade period, the C3 team will assist with implementation and support operational and technical preparations. Our time and motion studies will assist in streamlining CRK procedures and delivering preparatory assistance.

Bills of exchange and negotiable instruments. Once a draft law on Bills of Exchange is finalized, it will be given to the CBK and Ministry of Finance for approval.

Pledge Registry. The C3 team is participating in the Working Group at the MTI which is looking to modernize the current regulations on the Pledge Registry by writing a Law on the Pledge Registry. A

new law is only part of the solution with the Pledge Registry; operational processes are the real deterrent to wider participation. The World Bank is currently providing technical assistance to the Pledge Registry, but its involvement is slated to end in May 2012.

Draft Regulation on the Credit Registry. C3 expects the draft Regulation on the Credit Registry to be finalized in November. Following completion, the C3 team will assist the CBK to take the lead in implementing the public comment process. The CBK is expected to post the new Regulation on its website and distribute the document to all credit providers. C3 will similarly assist the CBK in holding roundtables to solicit discussion from various external stakeholders including banks, microfinance institutions, and non-bank financial institutions (including insurance companies). Utilizing the public comment process is one of the preliminary steps toward institutionalizing democratic processes in legal drafting.

Implementing Operational Instruction. Working in conjunction with Regulation drafting, C3 will develop the Implementing CBK Operational Instruction. The Instruction will clearly define the processes for implementing the new Regulation on the Credit Registry, including how to handle credit information disputes, completing credit report requests, and ensuring proper data storage and protection at the CRK.

Communications strategy and public awareness campaign. During the coming months, we expect to continue producing RFPs and receiving proposals in response to public tenders for credit registry media activities. C3 will review all proposals and select creative ideas to endorse and promote the new borrowers' rights.

CHALLENGES AND IMPLEMENTATION ISSUES

Owing to the breadth and complexity of a new credit registry software system, we anticipate technical and operational challenges during the implementation phase. The new borrowers' rights module will require an extraordinary amount of CBK internal operational transformation and streamlining. C3 has a strong understanding of these requirements and expects the detailed Operational Instruction and follow-on technical and operational trainings to facilitate a smooth transition.

There have been traditionally very few users of the credit information system. Businesses and citizens request only a few hundred credit reports each year. Overcoming this lack of institutional appreciation for credit information is expected to present a real challenge, standing in the way of rapid improvement in credit registry participation. The CBK's communication strategy and public awareness campaign will certainly help alleviate this problem.

Following the adoption of the new Regulation on Credit Reporting and the implementation of borrowers' rights, credit providers will have to comply with new legal requirements. For example, credit providers must prepare internal procedures and mechanisms for receiving borrower credit report requests and information disputes. While the new requirements greatly improve borrower convenience, credit provider compliance may prove slow. The CBK and USAID BEEP are taking precautionary measures in this regard, involving credit providers in the Regulation drafting process.

COORDINATION

Donor collaboration. C3 assisted the EU “Support to the Civil Registration Agency and Unified Address System” project in contacting banks in furtherance of the project’s pilot program in the municipality of Prizren. This program was aimed at analyzing the existing address system and developing recommendations, updates, and additional inclusion.

CBK collaboration. C3 works closely with the CBK and has buy-in from the highest levels of management. Through the CBK, various financial institutions met with the C3 team to facilitate information exchange and improve working relationships.