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BUSINESS ENABLING ENVIRONMENT PROGRAM

**QUARTERLY REPORT
NOVEMBER 15, 2010**

BUSINESS ENABLING ENVIRONMENT PROGRAM

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ACRONYMS

AKM	Association of Kosovo Municipalities
BEEP	Business Enabling Environment Program
DB	Doing Business
DEMI	Democratic and Effective Municipalities Initiative
EULEX	European Union Rule of Law Mission in Kosovo
GFSI	Growth Fiscal Stability Initiative
GoK	Government of Kosovo
KMFAS	Kosovo Ministry of Foreign Affairs Support Project
KPEP	Kosovo Private Enterprise Program
IMF	International Monetary Fund
MCI	Municipal Competitiveness Index
PBMP	Performance Based Monitoring Plan
SEAD	System for Enforcing Agreements and Decisions Program
USAID	United States Agency for International Development
WB	World Bank

INTRODUCTION

The Business Enabling Environment Program (BEEP) is pleased to submit its quarterly report to the United States Agency for International Development (USAID) detailing progress and achievements for the period July 2010 – October 2010.

This document presents the project's activity highlights, key achievements and results of specific project components, including supplemental reporting as described within the project's Performance-Based Monitoring Plan (PBMP).

Key activities of the quarter include:

- The work plan and PBMP were developed and approved by USAID.
- An agreement was reached with The World Bank Doing Business team to collaborate on reforms.
- Collaborative relationships have been established with key GoK counterparts, including: Kosovo Customs, Ministry Trade of Industry, Prime Minister's Office, Central Bank, and other relevant stakeholders.
- Victor Prodedovich, short-term Doing Business expert, completed an assessment of relevant business processes and recommendations.
- Municipal Competitiveness Index (MCI) Research Manager Natasha Hanshaw continues to develop the MCI and indicators, and helped prepare the terms of reference for a request for proposals released on October 25. Responses are due November 12, and an award is expected to be announced November 19.
- Short-term International Trade Lawyer Steve Creskoff completed the first phase of a legal review to be addressed in Kosovo's "Memorandum on Foreign Trade Regime". The second phase of his assignment is scheduled to begin on November 13, 2010 for one month.
- Short-term Construction Law Expert Michael Brodsky completed comments on the draft Law on Construction, which were provided to USAID and the USAID/KPEP project.
- BEEP completed recommendations on amendments to the Law on Business Organizations and the Law on Accounting, Financial Reporting and Audit.
- All international staff has been fielded and Component 1 Lead Brian Kemple will arrive permanently on 6 December 2010. Mr. Kemple was involved short-term in September with work planning and has been engaged remotely throughout the quarter on project activities.
- National staff have all been selected and hired with one consultant pending final USAID approval.

CROSS-CUTTING THEMES

The core areas of USAID/Kosovo's Strategic Plan 2010-2014 identify four cross-cutting factors as having a profound effect on the development environment in Kosovo. They are: 1) youth integration; 2) gender equality; 3) full participation of minorities; and 4) protection of Kosovo's environment. Cross-cutting themes have been taken into account during the work planning phase and will be addressed where possible in day to day activities and program design.

KEY ACTIVITIES

COMPONENT I – IMPROVED RULES AND REGULATIONS

Component 1 focuses on removing barriers to business by simplifying and streamlining the regulatory framework – statutes, regulations, rules, procedures and other legal requirements – applied to business at the national and municipal levels. Local e-procurement assistance will be carried out in targeted municipalities through Component 1, and will be coordinated with other BEEP sub-national activities through individual Municipal Coordinators and local partners. The Municipal Competitiveness Index and Doing Business reforms not covered in other components are included in Component 1 activities.

Work Plan Progress

Component 1 activities were initiated with the recruitment of municipal staff, as well as securing office space in order for all municipalities to become fully operational.

In August 2010, BEEP established close cooperation with the Ministry of Trade and Industry on the creation of Doing Business indicator-specific working groups within the “Inter-ministerial Working Group on Business Environment Reform”, expected to be formed once the GoK receives the Doing Business (DB) reform memo in November 2010. **(C1-4)**

In September during the visit of the World Bank Doing Business Team Leader for Kosovo Dahlia Khalifa, BEEP, the DB Team and the Kosovo World Bank office agreed to collaborate. A Doing Business reform memo and action plan is expected to be submitted by the Doing Business Team to the Government of Kosovo in November 2010, which will frame future reforms and joint USAID-World Bank support. **(C1-4)**

To facilitate the improvement of the Doing Business Indicators for Kosovo, BEEP also began compiling the inventory of laws and by-laws requiring analysis and possible amendment. The inventory is expected to be submitted to the GoK and indicator-specific working groups for consideration for the 2011 Legislative Plan. **(C1-4)**

In October, BEEP and USAID/GFSI project’s Bill Klawonn submitted amendments to the Assembly for the Law on Business Organizations that would significantly improve Kosovo’s performance on Doing Business indicators *Starting a Business* and *Protecting Investors*. Specifically, the amendments when approved, will eliminate charter capital for LLCs, reduce registration fees, lower the threshold for minority shareholder ownership for derivative lawsuits, and increase disclosure requirements. While adoption is delayed due to political changes in Kosovo, BEEP will continue promoting the amendments and the assembly is expected to consider the amendments when it reconvenes. **(C1-4)**

To ensure the adoption of the Law on Business Organizations, in October, BEEP and the Ministry of Trade and Industry agreed to collaborate on the development of administrative instructions related to this law. **(C1-4)**

To develop the recommended institutional framework, short-term Doing Business expert Victor Prodedovich completed an analysis of Doing Business measures. These institutional framework recommendations have been provided to the World Bank Doing Business team, USAID, and the GoK. **(C1-4)**

In October, Mr. Prodedovich also analyzed the draft Law on Accounting, Financial Reporting and Audit currently under consideration and submitted recommendations to the Assembly and USAID. **(C1-4, C1-5)**

In order to develop the Municipal Competitiveness Index, BEEP's short-term MCI Research Manager Natasha Hanshaw designed the scope of work for a local partner to assist with survey design, piloting and implementation. A request for proposals (RFP) was published on Monday, 25 October 2010. BEEP will receive offers until 12 November 2010. Furthermore, Ms. Hanshaw introduced the MCI to the Association of Kosovo Municipalities (AKM) and discussed potential inclusion of the MCI into AKM Strategic Plan 2011-2015. **(C1-1)**

In September, short-term Construction Law Expert Michael Brodsky conducted an analysis of the draft Law on Construction and developed recommendations for improvement. The analysis was submitted to USAID, and the KPEP project. **(C1-4)**

In August and October, BEEP conducted an analysis of the business and legal environment in Pristina municipality, specifically looking at municipal regulations of business activities, such as the Regulation on Fees, Charges, and Fines, Regulation of Property Tax, Regulation on Municipal Work Permits, and other municipal regulations for consideration for future reforms and to validate Doing Business reports. **(C1-2)**

To identify opportunities for future BEEP support and areas where input and drafting assistance to the municipality may be helpful, in October, BEEP completed an inventory of all legal acts currently being developed or scheduled to be developed in the future in Pristina Municipality. **(C1-2)**

To improve the transparency of municipal tendering and the inclusion of businesses as active participants in the tendering process, BEEP reviewed municipal tendering requirements for Prizren. BEEP suggested alteration of these municipal requirements in conjunction with the Law on Public Procurement in Kosovo and the practice of Public Procurement Law at the municipal level. **(C1-2)**

To improve municipal legislation in Mitrovica, BEEP agreed with the Director of Economy and Finance and the Municipal Legal Officer to review the regulation on fees, fines, and municipal tariffs requiring analysis and potential amendments, and also agreed to collaborate on the analysis of current legal regulations and their implementation. **(C1-5)**

Issues/Obstacles

Successful Doing Business reforms require the host country government to undertake specific actions focused on measures of The World Bank. A challenge for successful reform for USAID and BEEP is to promote and support specific changes in the universe of USAID and donor assistance, including donors and project that may not be directly considering Doing Business impact. Therefore, close coordination with other projects that touch on — but are not necessarily considering the impact on

— Doing Business measures is important to ensure that reform efforts are not duplicative and that other donor projects are not advocating for policies that contradict those that USAID supports.

Coordination/Collaboration

To facilitate a common approach to reform, BEEP has been in contact with a number of donor projects as mentioned above, including: USAID funded projects such as DEMI, KPEP, and GFSI, as well as SLA (Swiss Labor Agency), RDA (Regional Development Agency), SDA (Swiss Development Agency), EULOG (European Union Local Governance Support), OSCE, and UNMIK.

COMPONENT II – REDUCED BARRIERS TO TRADE

Component 2 focuses on reducing barriers to trade to facilitate increased commerce and international cooperation, as well as the implementation of regional and multi-lateral trade agreements. In this context, Component 2 is reviewing the existing trade legislative framework and trade policy of Kosovo. According to the findings, BEEP will work with the GoK to improve its trade policy and legislative framework. Component 2 is also assisting the Ministry of Trade and Industry with institutional reforms and Kosovo Customs on activities involving private sector partners (clearing agents, transporters and business associations). The aim is to streamline trade-related activities through broad-based consultative mechanisms — that is, by involving private and government stakeholders in the formulation, implementation, assessment, and fine-tuning of trade policy and customs procedures. Regarding import, export and transit procedures, the Component 2 team is assessing the efficacy of customs operations. In terms of trade facilitation, the team has begun closely assessing the procedures and practices for exports, imports and transits, and will incorporate suggested measures for easing trade constraints in future activities.

Work Plan Progress

The reporting period marked an inception phase of the project, during which Component 2 activities began with the recruitment of national and international experts, in order to become fully operational.

In October, BEEP agreed with the then-Minister of Trade and Industry on all Component 2 Work Plan activities, including a review of trade policy, an analysis of the legal framework for external trade, ways to improve private-public dialogue, and measures to facilitate external trade and capacity building. BEEP also agreed with the Minister to present the draft Trade Roadmap to the Trade Policy Working Group (inter-ministerial representatives and private sector representatives) on or about December 1, 2010. This will be the first involvement of BEEP in the Trade Policy Working Group which has been established and will set the stage for further assistance from BEEP to organize and energize the group for effective linkages between all trade stakeholders. **(C2-6)**

In collaboration with the USAID/Kosovo Ministry of Foreign Affairs Support project (KMFAS) BEEP provided training to international embassy and consular officials of the Ministry of Foreign Affairs and prospective and current diplomats who will represent Kosovo in overseas missions and serve as commercial attaches. The

training focused on the role of foreign representatives in promoting trade and business issues in foreign countries. Also, BEEP agreed to provide future technical assistance on modern trade facilitation to the Ministry of Foreign Affairs. **(C2-5)**

In October, Mr. Naim Huruglica, Director General of Kosovo Customs, agreed to cooperate with BEEP on improvements to the customs administration. Customs reform is directly linked to BEEP's goal of increasing international trade. **(C2-4)**

BEEP agreed with Mr. Lulzim Rafuna, Legal Director at the Ministry of Economy and Finance (and concurrently still Legal Director of Customs), to provide an analysis of the Customs Code and other trade laws, with future activities expected to be undertaken based on agreement following completion. **(C2-4)**

BEEP's review of the legal framework for external trade expanded in October to include the Law on External Trade Activity and now includes the Law on Integrated Management and Control of the State Border; the Law on Customs Measures for the Protection of Intellectual Property Rights; the Law on Economic Zones; the Law on Anti-dumping and Countervailing Duty Measures, and seven other intellectual property laws. The first draft of the analysis of these laws was completed in October with the help of short-term International Trade Lawyer Stephen Creskoff under the supervision of the long-term Component 2 Trade Advisor. **(C2-3)**

To reduce the time and cost required for an export transaction — currently 18 days and \$2,270, on average — BEEP introduced the project to the representatives of the Investment Promotion Agency of Kosovo (IPAK). IPAK and BEEP staff agreed that this goal is a joint focus of both organizations. **(C2-4)**

In October, BEEP formulated plans for visits to observe and assess cargo clearance procedures at customs offices located at borders, inland clearance terminals, and the airport cargo terminal during the first half of November. The assessment will begin following approval from the Director General of Kosovo Customs. **(C2-2)**

To identify and reduce export constraints, in October BEEP agreed to cooperate on export facilitation with the Kosovo Exporter's Association, and participation of the Association in private-public consultations arranged by BEEP. **(C2-2, C2-6)**

BEEP reached an agreement on cooperation and collaboration with both the Kosovo Chamber of Commerce and the Kosovo Business Alliance to involve the business community on reform efforts and build the capacity of trade-oriented businesses and improve private-public dialogue around trade policy and trade administration. **(C2-2, C2-6)**

BEEP participated in a workshop on Customs Valuation for Kosovo traders and customs officers on October 22, providing information on best practice, following an invitation from the Director General of Customs. **(C2-2)**

In October, BEEP's short-term International Trade Lawyer Stephen Creskoff, completed the outline draft of Kosovo's "Memorandum on Foreign Trade Regime." **(C2-4)**

To explore a bilateral trade and investment framework agreement between the United States and Kosovo, BEEP proposed to USAID a meeting between short-term International Trade Lawyer, Steve Creskoff, and the U.S. Trade Representative. This meeting is expected to occur in November. **(C2-4)**

Issues/Obstacles

In October, the Minister of Trade resigned. However, BEEP has not and does not expect this to have a significant impact on planned activities.

Coordination/Collaboration

During the quarter, BEEP met with several senior officials in the European Commission Liaison Office (ECLO), EULEX, and with EU consultants, to examine progress made by Kosovo in improving trade, customs, and tax administration. It was agreed to establish communication links and collaboration wherever possible on trade facilitation plans and activities for the benefit of Kosovo businesses and official counterparts.

COMPONENT III – REDUCED RISKS OF LENDING

To increase access to finance and enable lenders to make more informed decisions when assessing credit risk, BEEP is working with the Central Bank of the Republic of Kosovo to upgrade its credit registry. Component 3 activities aim to enhance the registry's data, increase its accuracy and expand the system, allowing access by new users and providing better information to support the Central Bank's financial sector oversight. Activities will also focus on identification and elimination of barriers to the development of private credit bureaus and assessing the business viability of establishing one in Kosovo.

Work Plan Progress

Component 3 activities focused on mobilizing different stakeholders and building working relations with them and the Central Bank. Following an introductory meeting by USAID, component 3 staff presented the approved BEEP work plan and discussed it in detail with the Acting Governor of the Central Bank, the Chief Operating Officer, and the Head of the Credit Registry. The Central Bank's response to the work plan was favorable. The Acting Governor also emphasized that enhancement of the credit registry should support the Central Bank supervisory function, not only the provision of credit information to the banks/MFIs, but also the importance of collateral and the pledge registry to the Bank's business. **(C3-3)**

In response to USAID's request, the Central Bank of Kosovo provided office space for the component 3 team on its premises. Meetings were also conducted with the Central Bank Insurance Supervision, Banking Supervision, Reports and Statistics, Legal, and IT departments to build working relations, inform the different departments about the project, and forthcoming work with the financial sector. **(C3-3)**

Component 3 staff also agreed with the Chief Operating Officer of the Central Bank to conduct weekly meetings with him to discuss developing issues and to obtain input. Meetings have since been held regularly. The team requested formal introductions to the banks and the associations as a sign of the of Central Bank's support to BEEP and to obtain more information from the perspective of users of the credit registry system and integrate these perspectives into our work. The Central Bank responded favorably to BEEP's request. **(C3-2)**

To support BEEP PBMP PR1 (Doing Business Improvement), the project looked into the Getting Credit Indicator Index, which is composed of the Credit Information Index and the Legal Information Index. For the Credit Information Index there seems to be enough evidence to increase the rank to 5 out of 6, instead of the existing rank of 3 out of 6. This was discussed with the Central Bank team who then raised the issue with the World Bank working group. With respect to the Legal Rights Index, though, BEEP identified some laws that impact the current rank of 8 out of 10. This will be a subject of discussion with the financial institutions in the coming months. **(C3-1)**

As part of BEEP's objective to expand the current system to more users, BEEP held several meetings with the insurance association, insurance department and legal department at Central Bank to initiate discussions on the usefulness of credit information to insurance companies and how this can support issuance of new types of insurance policies. Training for insurance companies was discussed as a means to create more awareness on the part of insurance companies, as was the formation of a legal committee to ensure that insurance companies can access the credit registry. The head of the insurance association promised to discuss with his board and get back to BEEP. **(C3-2)**

As part of BEEP's work to upgrade the credit registry, and in light of the fact that banks/microfinance institutions send collateral information to the credit registry in addition to the pledge registry, BEEP started to review collateral laws with the Pledge Registry Office to understand the pledge registry operations and how banks/MFIs use them. BEEP will continue to work on this in the coming months. **(C3-3)**

BEEP initiated work with AMIK (Association of Microfinance Institutions of Kosovo) to support smaller MFI's to expand credit, reaching rural areas, and transformation of MFIs to deposit-taking institutions to reduce the cost of funding. BEEP also explored with AMIK possible support to help establish a training center to build capacity of the smaller MFIs. **(C3-3)**

BEEP began reviewing the procedures at the Central Bank that enable borrowers to access their credit reports to evaluate how the cycle is completed and how the internal procedures/system at the Central Bank can be enhanced with the objective of ensuring that borrowers' rights are protected, and to ensure that an information system exists to monitor complaints and support solutions. **(C3-3)**

In October, the Component 3 team identified areas where short term advisers will be required, and developed two scopes of work for a Credit Bureau Expert and a Legal Expert. The Credit Bureau Expert will assist BEEP by conducting an assessment of the credit registry and suggest a road map, while the local legal expert will identify privacy considerations in the laws that could prevent a better exchange of credit information in Kosovo. **(C3-2)**

BEEP began discussions with a potential consultant that could provide support to the Central Bank in the area of management of information security and evaluating performance, as compared to the benchmarks provided by ISO 27001 and ISO 27002. The meeting was held following two meetings with the IT department at the Central Bank during which preliminary information indicated that the Central Bank did not issue specific instruction on IT security and does not always keep back-up copies of important data owned by the Central Bank. **(C3-3)**

Issues/Obstacles

The Governor of the Central Bank, Hashim Rexhepi, left his position during the quarter. However, BEEP activities have continued and significant disruption has not occurred and is not expected.

Coordination/Collaboration

In the first quarter, several areas were identified where BEEP and the USAID SEAD project could work jointly and support each other's efforts. These include: court enforcement and the role of the banks; the availability of information from courts (civil and criminal judgments); and information on unpaid utilities, which is of interest to the financial institutions.

BEEP and the IMF have a common interest in the generation of specific data from the Credit Registry to enable the Central Bank to conduct stress testing of some banks. Such data requirements when specified by the IMF can be integrated into the work of component 3, and will strengthen the capability of the Central Bank to ensure the strength of the banks/microfinance institutions and capital adequacy on their part. Currently, in relation to this, a Law on Financial Institutions is in process and the first draft is expected to be submitted to the Central Bank for review.