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BUSINESS ENABLING ENVIRONMENT PROGRAM QUARTERLY REPORT NOVEMBER 2012 – JANUARY 2013



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BUSINESS ENABLING ENVIRONMENT PROGRAM

QUARTERLY REPORT NOVEMBER 2012 – JANUARY 2013

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Contracting Officer Representative: Dardane Peja

Chief of Party: Terry Slywka

*Cover photos above include those from the Credit Registry upgrade launch event (upper-left); a construction permit fee calculation workshop (upper-right); ongoing local construction in the capital city, Pristina (bottom-left); and a construction vocational training (bottom-right).

DISCLAIMER

The author's views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

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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
ESTAK	USAID Efficient and Sustainable Tax Administration of Kosovo
EU	European Union
GFSI	USAID Growth and Fiscal Stability Initiative
GoK	Government of Kosovo
IS/IT	Information Systems and Information Technology
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
MOSR	Municipal Own-Source Revenue
MOU	Memorandum of Understanding
MTI	Ministry of Trade and Industry
OLS	Office of Legal 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
SSPF	Strategic Studies and Projects Fund
STTA	Short-term Technical Assistance
TAK	Tax Administration of Kosovo
TPWG	Trade Policy Working Group
USAID	United States Agency for International Development
WB	World Bank
WBDB	World Bank Doing Business

EXECUTIVE SUMMARY

The Business Enabling Environment Program 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 (BEEP) Quarterly Report and describes project activity from November 2012 through January 2013.

An important supply-driven indicator of business environment improvement is the World Bank Doing Business report. The *Doing Business 2013* report was released in October 2012, showing impressive results for Kosovo. With USAID|BEEP and other donor support, and with the political willingness of the government, Kosovo was a world-leader in overall rank improvement (28 places), cumulative indicator rank improvements (170 places), and single indicator improvement (76 places). While hard work and past improvements are important and worth recognizing, much remains to be done.

The Ministry of Environment and Spatial Planning (MESP) continues to support transformational construction reform, adopting in November an Administrative Instruction (AI) on Construction Permit Administrative Fees and Infrastructure Regulatory Charges that both establishes the calculation of construction permit fees employing cost recovery principles and provides draft contracts and guidance for use by municipalities when negotiating infrastructure development agreements. USAID|BEEP supported regional workshops throughout the country to help familiarize local stakeholders with the contents of this AI and build local capacities to carry out requirements under the new Law on Construction.

The Central Bank of Kosovo (CBK) launched the new Credit Registry software upgrade in September 2012 with financial institutions already reporting significant improvements in reporting and access efficiencies. Finalizing the parallel system phase at the end of October 2012, the CBK, with USAID|BEEP support, now runs the upgrade as the standalone Credit Registry software. To support the implementation initiative, the Project conducted comprehensive training for users of the Credit Registry and on Oracle database management. Complementing the launch of the software upgrade and incentivizing improved participation in the credit information system, USAID|BEEP supported development of an online and publicly accessible portal for businesses and citizens to obtain their credit reports.

With the substance of the International Trade Guide (ITG) now complete and commitment from the Kosovo Chamber of Commerce (KCC) to host and maintain the ITG secured, USAID|BEEP is working with a local subcontractor to develop the electronic, interactive, searchable and publicly available ITG website. As a critical trade facilitation tool, the ITG will represent the first of its kind in Kosovo and is expected to be an international model. The ITG launch is expected to take place in early March 2013.

Highlights of the last two Quarters include:

- Kosovo reflected world-leading improvements in the World Bank's *Doing Business 2013* report, including an overall rank improvement (28 places), cumulative indicator rank improvements (170 places) and single indicator improvement (76 places);
- MESP adopted the AI on Construction Permit Administrative Fees and Infrastructure Regulatory Charges;
- Finalized MCI 2012 diagnostic presentations to thirty-two (32) municipalities with over nine hundred and seventy (970) total public and private sector participants;
- Eliminated or suspended the business license fee in seven (7) municipalities;
- Held five (5) regional training workshops with municipalities and one (1) with private construction businesses on the calculation of the construction permit fee, training one hundred and seventy (170) participants;
- Finalized the text of the International Trade Guide and nearing completion of the first of its kind, dedicated, searchable, online and publicly accessible website;
- Obtained buy-in from insurance companies and Kosovo Customs on implementation of insurance-backed customs guarantees as a measure to improve trade facilitation;
- Launched the Credit Registry upgrade and supported implementation through comprehensive training for users of the Credit Registry and on Oracle database management; and
- Launched an online portal where businesses and citizens can obtain their own credit reports.

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 (GoK) that builds on their close relationship in order to address regional and global challenges. USG support focuses on:

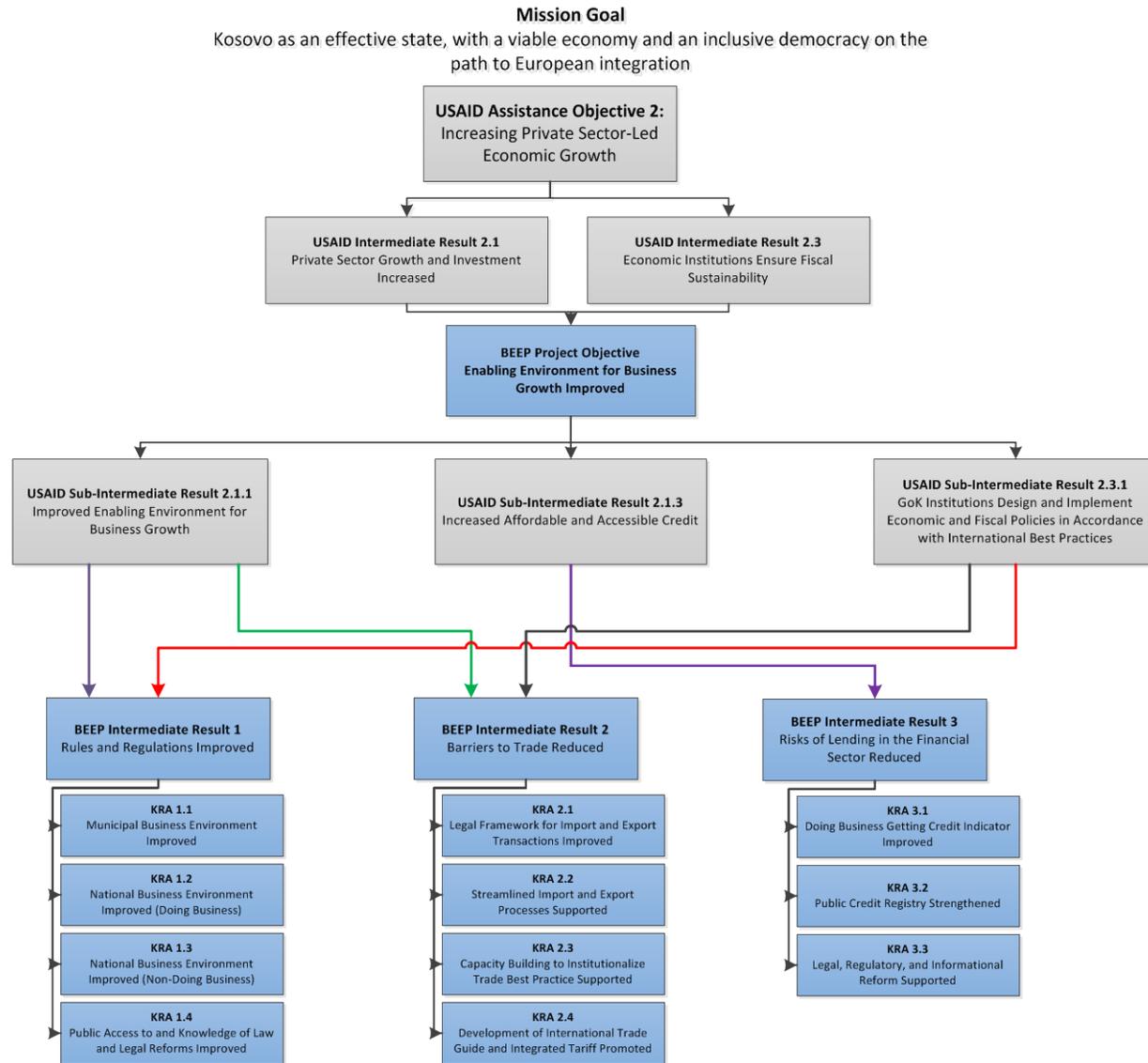
- Building the institutions of Kosovo's government and society;
- Encouraging a democratic process inclusive of all citizens, including all minority groups;
- Promoting economic development such that all people of Kosovo enjoy the benefits of prosperity;
- Ensuring that society and government are firmly 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):

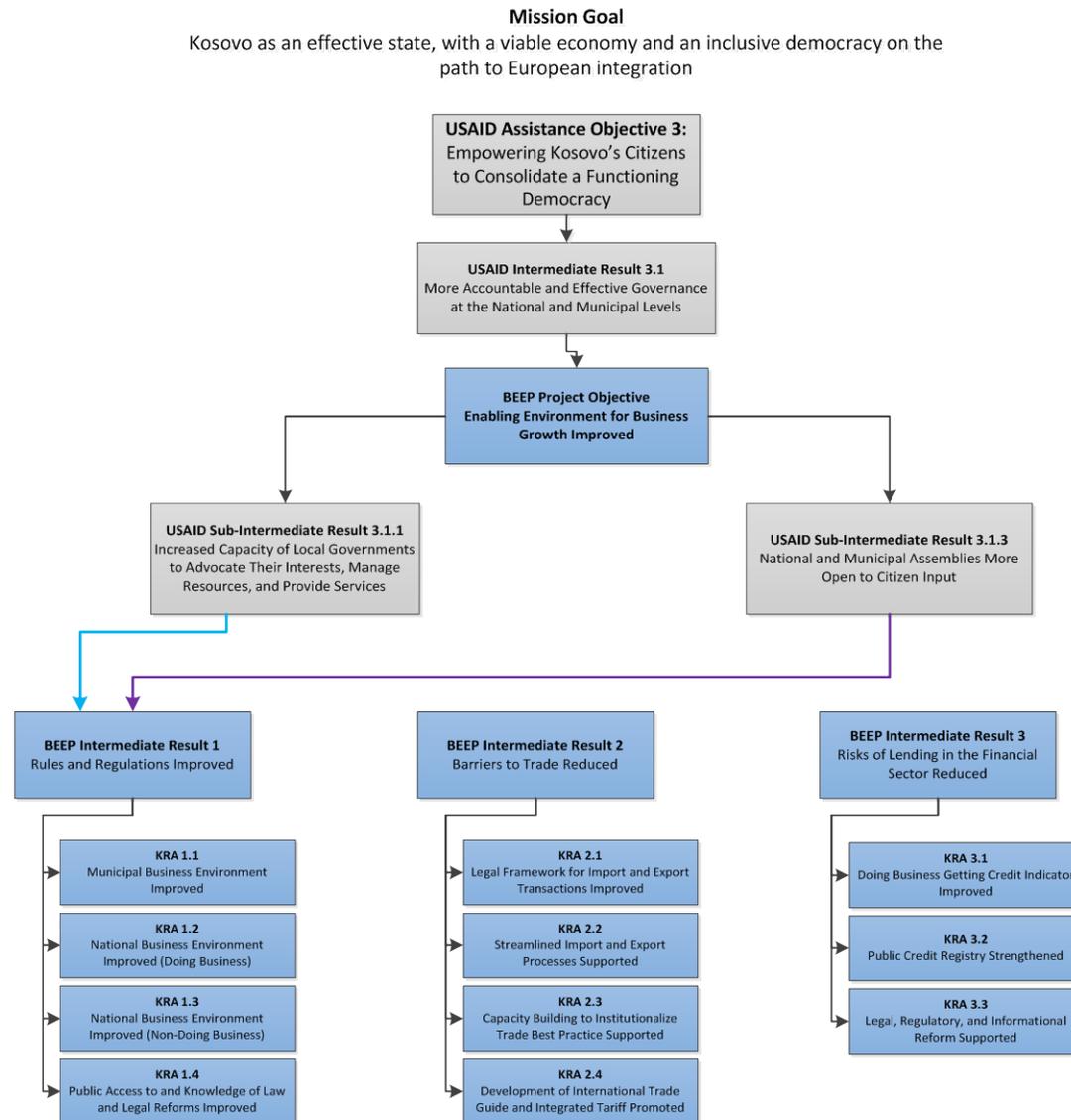
- **Assistance Objective 1:** Youth Are More Productive and Engaged Members of a Stable Kosovo
- **Assistance Objective 2:** Increasing Private Sector-Led Economic Growth
- **Assistance Objective 3:** Empowering Kosovo's Citizens to Consolidate a Functioning Democracy

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 achievements under 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 three primary Components encompass these dynamic activities and are reflected within the Results Frameworks below.

ASSISTANCE OBJECTIVE 2



ASSISTANCE OBJECTIVE 3



PROJECT INTRODUCTION

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, BEEP has three (3) priorities:

1. *Improved laws and regulations:* to identify, promote, and facilitate implementation of free market reforms.
2. *Lower trade barriers and harmonized trade policy:* 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. *Improved financial sector efficiency:* to reduce risks of lending by increasing availability of credit information and effective use of risk management by the financial sector.

Overview of Project Components

Component One: Improved Rules and Regulations. Component One 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. Component One has been working closely with the GoK – primarily with the Office of the Prime Minister (OPM), The Ministry of Environment and Spatial Planning (MESp), and the Ministry of Trade and Industry (MTI) – to carry out legal reforms that address impediments to business identified in the World Bank Doing Business 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 in USAID|BEEP's 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. With the new MCs through the Municipal

Partnership Program in Year Two, USAID|BEEP is able to provide more tailored service at the local level.

Component Two: Lower Trade Barriers. Component Two 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.

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, Component Two is 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 – involving private and government stakeholders in the formulation, implementation, assessment, and fine-tuning of trade policy and customs procedures.

Component Three: A More Efficient Financial Sector. Component Three aims to increase access to finance and enable Kosovo lenders to make more informed decisions based on reliable credit information. Component Three personnel work with the Central Bank of Kosovo (CBK) to ensure that more credit data is captured, that it is stored securely, that it 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. With the CBK upgrade of its Credit Registry software now complete, Component Three is assisting the CBK to implement the upgrade to ensure more accurate and timely credit information.

Component Four: More Transparent Tenders. The World Bank has committed to support e-procurement for all municipalities. As a result the contract was modified in November to remove this component from BEEP's task order contract

Cross-cutting Strategic Studies and Project Fund. In order for legal reforms to succeed and “take root” in society, it is important that the public embrace them. This requires that people be informed about the

reforms and understand why they are necessary. To involve citizen stakeholders in project reforms and increase the capacity of indigenous organizations to influence the reform process, USAID|BEEP continues utilization of its Strategic Studies and Projects Fund (SSPF). The SSPF advances reforms across all USAID|BEEP components by awarding grants and subcontracts to Kosovo-registered non-governmental entities pursuing reform-minded initiatives. Specific efforts supported by the SSPF are discussed in the report.

WORK PLAN PROGRESS REPORT

COMPONENT ONE: IMPROVED RULES AND REGULATIONS

CI-1: SUPPORT MUNICIPAL REFORMS THROUGH BEEP AND PARTNERSHIP PROGRAM MUNICIPAL COORDINATORS USING THE MUNICIPAL COMPETITIVENESS INDEX (MCI) AND PURSUE OPPORTUNITIES TO INSTITUTIONALIZE THE MCI

MCI 2012 diagnostic presentations. Following the release of the Project's Municipal Competitiveness Index (MCI) 2012, USAID|BEEP Municipal Coordinators (MCs) developed detailed analyses of municipal performance across all eight (8) of the MCI's sub-indicators¹. Based on these diagnostic analyses, MCs



Municipal Competitiveness Index 2012 diagnostic presentation in Junik

prepared tailored recommendations and delivered presentations to nine hundred and seventy-two (972) participants in thirty-two (32) municipalities across the country², including four hundred and seventy-eight (478) municipal officials and four hundred and ninety-four (494) business representatives.

Focusing on building local capacities to undertake impacting and lasting business environment

reform efforts, USAID|BEEP called upon and incorporated its Municipal Partnership Program to deliver MCI diagnostics (additional information on this below).

MCI 2012. To assist with the presentation of MCI diagnostic recommendations, publicize local successes and identify municipal best practices, USAID|BEEP conducted detailed municipal case studies of the MCI

¹ The eight sub-indicators of the MCI are: Barriers to Business Entry; Transparency; Participation and Predictability; Time Costs of Regulatory Compliance; Taxes and Fees; Municipal Administration; Labor and Business Support Services; and Municipal Infrastructure.

² Rahovec, Shtimë, Junik, Ferizaj, Deçan, Obiliq, Skenderaj, Suhareke, Kline, Gjakove, Prishtinë, Prizren, Peja, Mamusha, Hani i Elezit, Podujeve, Malisheve, Istog, Gracanica, Kaçanik, Gjakova, Drenas, Vushtrri, Viti, Kllokot, Fushë Kosovë, Gjilan, Kamenicë, Novobrdë, Dragash, Mitrovicë, and Lipjan.

2012 results. Among other things, the case studies noted the distribution of informational pamphlets at public municipal meetings, the elimination or suspension of business license fees and broadcasting public tenders live on television as some of the best practices that contributed to specific MCI sub-indicator improvements. As USAID|BEEP prepares for the MCI 2013, the case studies provide valuable input to hone future reform initiatives across all municipalities.

Elimination or suspension of business license fees. Since the beginning of August 2012, seven (7) municipalities have eliminated or suspended the business license fee, bringing the total number to seventeen (17) municipalities³. As a regulatory mechanism at the disposal of local administrations⁴, municipalities are, with USAID|BEEP support, voluntarily taking this action to rationalize the local regulatory system and more properly focus sources of revenue. Below is a table of those municipalities.

Elimination or Suspension of the Business License Fee – Since August 2012		
Municipality	Implementation	
	Eliminated	Suspended
Shtimë	X	
Ferizaj	X	
Obiliq		X ⁵
Drenas		X ⁶
Prizren		X ⁷
Kamenica		X ⁸
Vushtrri		X ⁹

In a public comment in December 2012, the mayor of Pristina committed to eliminate the business license in his municipality and to establish a cost recovery fee for the construction permit. As the economic center of Kosovo, the World Bank uses Pristina as the target city for its Doing Business time

³ Shtimë, Ferizaj, Obiliq, Drenas, Prizren, Kamenica, and Vushtrri

⁴ The issuance of a business license is within the discretion of each municipality pursuant to Law No. 03/L-049 on Local Government Finance at Article 10.

⁵ Suspension of the business license fee for production businesses involved in production for the first two years then a 50% reduction for one additional year with the condition that production is continued for three years; suspension for businesses that are investing or expanding their production; 20% reduction for businesses that employ 5 to 10 citizens of Obiliq; 30% reduction for businesses that employ 11 to 30 citizens of Obiliq; 40% reduction for businesses that employ 31 to 40 citizens of Obiliq; suspension for new businesses for three years.

⁶ Suspension of the business license fee for new business registered in 2013 for one year; new production businesses registered in 2013 for three years; and all new and existing agricultural and craftsmen businesses without a time limitation.

⁷ Suspension of the business license for all new businesses for three years.

⁸ Suspension of the business license for two years for all new businesses; for one year for production businesses that employ 5 – 10 employees; for two years for production businesses that have 11 – 20 employees; for three years for production businesses that have more than 20 employees.

⁹ Suspension of the business license for independent trade stores (90% of small businesses); craftsmen shops; agricultural production businesses; and all newly registered businesses except banks, insurance companies, and other financial organizations that deal with financial transactions, accounting, or telecommunications.

and motion studies. Accounting for a significant amount of time and cost in the “Starting a Business” indicator, eliminating the business license in Pristina could produce some dramatic improvement for Kosovo’s ranking¹⁰.

In response to the mayor’s commitment, Pristina established a working group to develop a construction permit fee using cost recovery principles. This is discussed further below.

Municipal reform media campaign. In January, USAID|BEEP completed airing its four-week national media campaign on municipal reform results. The innovative campaign advertised a number of implemented



Snapshot from the Municipal Reform Media Campaign showing elimination of business license fee in the municipalities

reforms from municipal administrations around the country, including elimination or suspension of the business license fee, easier business startup and operation, and elimination of the work permit¹¹, to encourage other municipalities to join in the reform momentum.

In response to the reform results advertised in the campaign, businesses and citizens from municipalities not listed for particular reforms began pressuring their respective administrations to undertake similar initiatives.

Municipal Partnership Program. As a mechanism to both build local capacities to identify, advocate for, and monitor transformational business environment reforms and to provide tailored reform support to all Kosovo municipalities, USAID|BEEP continues to implement its Municipal Partnership Program with a local subcontractor.

The Municipal Partnership MCs in September completed the Project’s reform methodology training program, applying learned principles to advocate for reforms in their respective municipalities. This application was especially important for development of MCI 2012 diagnostic recommendations as Municipal Partnership MCs played an instrumental role in delivering USAID|BEEP’s MCI diagnostic

¹⁰ Accounts for 1 step, 30 days, and €525, see <http://www.doingbusiness.org/data/exploreeconomies/kosovo#starting-a-business>.

¹¹ Although elimination of the work permit was accomplished through an amendment to a national law, Law No. 004/L-005 on Amending and Supplementing Law No. 2004/18 on Internal Trade, implementation is required by the municipalities whom were the competent authorities to issue the work permit.



Municipal Partnership Program Training in Pristina

presentations. As the Municipal Partnership Program nears completion, USAID|BEEP continues to seek every opportunity to build capacities for carrying out future reform initiatives.

Model Municipal Regulations. USAID|BEEP worked with the Association of Kosovo Municipalities (AKM) to develop a compendium of model municipal regulations that reflect improvements consistent with a better business

environment. Covering twenty-eight (28) different municipal competencies, these model regulations can be used by municipalities to amend or adopt relevant legal acts. USAID|BEEP expects to finalize and begin distributing the model regulations in February.

CI-2: SUPPORT NATIONAL BUSINESS ENVIRONMENT IMPROVEMENT (DOING BUSINESS)

Doing Business 2013 report. The World Bank 2013 report released in October reflected a world-leading 28-place country ranking improvement for Kosovo. Again, leading all 185 economies studied with a 170 cumulative indicator ranking improvement, Kosovo showed notable improvements in the indicators for “Starting a Business”, “Dealing with Construction Permits”, “Protecting Investors” and “Trading Across Borders.”¹²

Table X. DB 2013 Highlighted Kosovo Indicator Improvements

Doing Business Indicator	DB 2013 Rank Improvement	Contributing Reforms
Starting a Business	+44	Elimination of charter capital for Limited Liability Companies and the streamlining of business registration processes
Dealing with Construction Permits	+33	Reduction in costs by over 500% per capita GNI and an overall reduction by almost 50% in the time required to register a building
Protecting Investors	+76	Strengthened protections for minority shareholders

¹² See Annex 3 for more detailed information on Doing Business improvements.

Trading Across Borders	+9	20% reduction in the cost of trade processes
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USAID projects, notably USAID|BEEP, have been providing assistance to Kosovo to encourage and support legal reforms that are now being recognized internationally. Over the course of USAID|BEEP's support in Kosovo, the government has adopted a number of reforms that impact Doing Business, including, among others, new Laws on Cadastre¹³, Fire Protection¹⁴, Accounting, Financial Reporting and Audit¹⁵ and Construction¹⁶, and amendments to the Laws on the Establishment of the Register of the Immovable Property Rights¹⁷ and on Notary¹⁸. With assistance from the Project, proper implementation of these reforms is now being reflected by the World Bank.

With these improvements in the Doing Business 2013 report, USAID|BEEP's Project Result I (PRI) target of 20% average improvement in the underlying variables of Project-supported indicators has been exceeded, showing an average improvement of 34.91%. Although the results show significant improvements, it must be noted that USAID|BEEP expects additional Project-supported improvements to be reflected in the Doing Business 2014 report, including a number of trade- and construction-related reforms not captured owing to the timing of World Bank surveying. The table below shows the specific PRI results.

Table I. PRI Results

Indicator	DB 2011	DB 2012	DB 2013	Change		
PRI. Doing Business Improvement						
20% Improvement in Underlying Variables of Indicators Supported by BEEP						
Starting a Business					For Project Result I, a target of 20% improvement across underlying variables of USAID BEEP-supported indicators was set. USAID BEEP tracked these data as reported by the World Bank annually, but did not set forward-looking annual targets for individual processes.	
Procedures (number)	10	10	9	10.00%		
Time (days)	58	58	52	10.34%		
Cost (% income per capita GNI)	28.7	26.7	23	19.86%		
Paid-in minimum capital (% income per capita GNI)	112.4	104.6	0	100.00%		
Total Indicator Change (average %)				35.05%		
Dealing with Construction Permits						
Procedures (number)	16	16	16	0.00%		
Time (days)	301	301	156	48.17%		
Cost (% income per capita GNI)	3,758.40	3,496.50	2,986.00	20.55%		

¹³ Law No. 04/L-013 on Cadastre, abolishing Law No. 2003/25 on Cadastre

¹⁴ Law No. 04/L-012 on Fire Protection, abolishing Law No. 02/L-41 on Fire Protection

¹⁵ Law No. 04/L-014 on Accounting, Financial Reporting and Audit

¹⁶ Law No. 04/L-110 on Construction

¹⁷ Law No. 04/L-009 on Amending and Supplementing the Law No. 2002/5 on the Establishment of the Immovable Property Rights Register

¹⁸ Law No. 04/L-002 on Amending and Supplementing the Law No. 03/L-010 on Notary

Total Indicator Change (average %)				22.91%	The table shows the percentage change: for each process within every indicator; in total for each indicator; across all indicators; and across all underlying variables of USAID BEEP-supported indicators.
Getting Electricity					
Procedures (number)	7	7	7	0.00%	
Time (days)	60	60	48	20.00%	
Cost (% income per capita GNI)	1,036.00	1,1016.80	915.4	11.64%	
Total Indicator Change (average %)				10.55%	
Registering Property					
Procedures (number)	8	8	8	0.00%	
Time (days)	33	33	33	0.00%	
Cost (% of property value)	0.6	0.6	0.6	0.00%	
Total Indicator Change (average %)				0.00%	
Getting Credit					
Strength of Legal Rights Index (0-10)	8	8	8	0.00%	
Depth of Credit Information Index (0-6)	5	5	5	0.00%	
Public Registry Coverage (% of adults)	16.9	20.5	22.2	31.36%	
Private Bureau Coverage (% of adults)	0	0	0	0.00%	
Total Indicator Change (average %)				10.45%	
Protecting Investors					
Extent of Disclosure Index (0-10)	3	3	6	100.00%	
Extent of Director Liability Index (0-10)	2	2	6	200.00%	
Ease of Shareholder Suits Index (0-10)	3	3	3	0.00%	
Strength of Investor Protection Index (0-10)	2.7	2.7	5	85.19%	
Total Indicator Change (average %)				96.30%	
Paying Taxes					
Payments (number per year)	33	33	33	0.00%	
Time (hours per year)	163	164	164	-0.61%	
Total tax rate (% of profit)	16.5	15.4	15.4	6.67%	
Total Indicator Change (average %)				2.22%	
Trading Across Borders					
Documents to export (number)	8	8	8	0.00%	
Time to export (days)	17	17	15	11.76%	
Cost to export (US\$ per container)	2,230	2,270	1,775	20.40%	
Documents to import (number)	8	8	8	0.00%	
Time to import (days)	16	16	15	6.25%	

Cost to import (US\$ per container)	2,280	2,280	1,810	20.61%	
Total Indicator Change (average %)				9.84%	
Enforcing Contracts					
Time (days)	420	420	420	0.00%	
Cost (% of claim)	33	33	33	0.00%	
Procedures (number)	53	53	53	0.00%	
Total Indicator Change (average %)				0.00%	
Resolving Insolvency					
Time (years)	2.0	2.0	2.0	0.00%	
Cost (% of estate)	15	15	15	0.00%	
Recovery rate (cents on the dollar)	34.6	34.4	34.7	-0.29%	
Total indicator change (average %)				-0.10%	
Average change across all Doing Business indicators					
				18.72%	
Average change across BEEP-supported Doing Business indicators					
				34.91%	USAID BEEP-supported Doing Business indicators include (1) Starting a Business; (2) Dealing with Construction Permits; (3) Getting Credit; (4) Protecting Investors; and (5) Trading Across Borders.

Below are some key Project-specific reforms that contributed to this tremendous Doing Business improvement.

STARTING A BUSINESS

- **Elimination of the charter capital requirement for LLCs.** Under the USAID|BEEP-supported amendment to the Law on Business Organizations¹⁹ adopted in 2011, the requirement for Limited Liability Companies (LLCs) to deposit €1,000 in minimum charter capital was eliminated. Although opening a bank account is still required for tax purposes and remains as a captured step in the Doing Business 2013 report, elimination of the minimum charter capital requirement represents a cost reduction of 104.6% of the Gross National Income (GNI) per capita within “Starting a Business”.

¹⁹ Law No. 04/L-006 on Amending and Supplementing Law No. 02/L-123 on Business Organizations.

- **Reduction in time to obtain a business certificate.** In Step #2 of “Starting a Business” for Kosovo, the Doing Business 2013 report reflects a 5-day reduction in the time it takes to obtain a business certificate. Again under the amendment to the Law on Business Organizations²⁰, USAID|BEEP recommended a statutory time limit for the issuance of the business certificate (3 days from the date of application). With implementation, Kosovo’s performance in this indicator reflected a 5-day savings for this step.
- **Elimination of the business registration fee.** Through the Project-supported amendment to the Law on Business Organizations²¹, the business registration fee was eliminated. The Doing Business 2013 report captured this reform, eliminating 1 step and reducing costs for business startup by €23.5.

DEALING WITH CONSTRUCTION PERMITS

- **Reduction in the time to obtain fire protection consent.** The Doing Business 2013 report captures a 5-day savings in this step as a result of a new USAID|BEEP-supported Law on Fire Protection²². Under this Law, fire consent is now limited to “special cases” as determined by a sub-normative act from MESP, greatly limiting its application.
- **Reduction in building registration time post-construction.** With time limits on building registration incorporated in the USAID|BEEP-supported Law on the Cadastre²³, the Doing Business 2013 report captured a 131-day savings. Previously reported as taking 165 days to register a building post-construction, new data reflects only 34 days.
- **Reduction in building registration costs post-construction.** Representing a significant cost savings within the “Dealing with Construction Permits” indicator, the Doing Business 2013 report captured a €4,293 cost savings for building registration post-construction. USAID|BEEP advocated for registration costs to be put on a cost recovery-basis through recommendations on the Law on Cadastre²⁴. The Kosovo Parliament incorporated these recommendations when they adopted the new Law on 2011. The Project worked with MESP to develop an implementing

²⁰ *Idem.*

²¹ *Idem.*

²² Law No. 04/L-012 on Fire Protection (abolishing Law No. 02/L-41 on Fire Protection).

²³ Law No. 04/L-013 on Cadastre (abolishing Law No. 2003/25 on Cadastre).

²⁴ *Idem.*

AI²⁵ that, among other things, greatly reduced the costs to register buildings post-construction based on cost recovery principles.

PROTECTING INVESTORS

Kosovo was a world-leader in ranking improvement within the “Protecting Investors” indicator (+76 ranks, from 176 in DB 2012 to 100 in DB 2013). As a measure of the protections for minority shareholders, especially dealing with corporate officer conflict of interest transactions, this indicator was improved greatly through a Project-supported amendment to the Law on Business Organizations²⁶. Specific improvements within three (3) sub-indices of the “Protecting Investors” indicator are described below.

- **Extent of disclosure index.** Kosovo’s score for this index improved by one point with the adoption of the requirement that a shareholders’ meeting must be held to approve a transaction involving the conflict of interest of a corporate official, at which meeting the corporate official may not vote. Also, a 2-point improvement was realized by requiring disclosure of the transaction and the corporate official’s conflict of interest.
- **Extent of director liability index.** Kosovo’s score for this index improved by one point with the adoption of the provision that shareholders can hold the relevant corporate official liable for damage caused by a transaction involving a conflict of interest. Further, a court can now void the transaction upon a successful claim by a shareholder plaintiff, generating an additional one point improvement. Because the corporate official is required to pay damages caused by the conflict of interest upon a successful claim by the shareholder, Doing Business awarded Kosovo a third additional point. Finally, the corporate official is now required to pay profits for damages caused by the transaction upon a successful claim by the shareholder(s), representing a fourth 1-point improvement.
- **Strength of investor protection index.** As a simple average of the other three sub-indices, this index improved from 2.7 to 5.0 as a result of the Project-supported reforms.

²⁵ Ministry of Environment and Spatial Planning Administrative Instruction No. 05/2012 on Fees and Charges of Cadastral Services and Products Rendered by Municipal Cadastral Offices and Licensed Surveying Companies.

²⁶ Law No. 04/L-006 on Amending and Supplementing Law No. 02/L-123 on Business Organizations.

Doing Business reform campaign and public outreach. While the Doing Business 2013 results for Kosovo



Snapshot from the Doing Business Reform Campaign showing a significant savings in the Doing Business “Dealing with Construction Permits” indicator

represent a remarkable achievement and a positive step toward continued future prosperity, much work remains to be done. As a mechanism to incentivize future initiatives and leverage the current reform momentum, USAID|BEEP completed a Doing Business reform media campaign in December 2012 that was well-received by Kosovo audiences. As the focus of the outreach, the campaign

highlighted a number of successes, including streamlined business registration, reduced costs and time for building registration post-construction, and improved minority shareholder protections.

Construction reform. Implementation of the Law on Construction²⁷ continued with the adoption by MESP in November 2012 of the Administrative Instruction on Construction Permit Administrative Fees and Infrastructure Regulatory Charges²⁸. This AI establishes a clear framework and calculus for establishing construction permit fees that are based on cost recovery principles. In this way, the fees are to cover only the costs of delivering the associated public services, further rationalizing the regulatory system and decreasing the unnecessary burdens on business.



Construction Permit Fee Workshop with MESP and municipalities in Pristina

In addition, and included in this AI, USAID|BEEP developed draft contracts and guidance for

use by municipalities when negotiating infrastructure development agreements. These development

²⁷ Law No. 04/L-110 on Construction

²⁸ Ministry of Environment and Spatial Planning Administrative Instruction No. 22/2012 on Construction Permit Administrative Fees and Infrastructure Regulatory Charges

agreements will help municipalities and citizens better define responsibilities for providing infrastructure crucial to individual projects as well as the country's overall business environment.

To help MESP and municipalities understand and apply the cost recovery equation, USAID|BEEP trained staff (training the trainers) from MESP on the calculation of these fees so that the Ministry could then better assist municipalities in their fee calculations. With USAID|BEEP-encouragement and support, MESP then held five (5) regional training workshops with municipalities (those in Peja, Prizren, Pristina, Gjilan, and Mitrovica) and one (1) with construction businesses on the new AI. These trainings were very well received, with over one hundred and seventy (170) total participants and eighteen (18) municipalities and seventeen (17) businesses represented.

Inspired by a deeper understanding of the legal requirements for establishing construction permit fees using cost recovery principles, a local construction company filed an administrative appeal to dispute a construction permit fee set by the relevant department of a major municipality. The construction permit fee workshop with construction companies was published in a local newspaper, Kosova Sot, reaching an audience of over forty-nine thousand (49,000) people. This represents a major step forward in establishing more transparent and accountable government and a more rationalized regulatory system. The appeal is currently under review by MESP.

To further streamline construction permitting and ensure proper compliance review with the



USAID|BEEP Construction Expert observing construction in Pristina

Construction Code, USAID|BEEP is assisting MESP to develop an Administrative Instruction on the construction permit review process. This AI will establish efficient, reasonable, and consistent processes for submitting and reviewing applications for terms of construction and construction permits. The draft AI is under final review by MESP and is expected to be adopted in February. Following adoption, and similar to the AI on calculating the construction permit fee, USAID|BEEP will support MESP's

training of internal staff to then train municipalities on issuing construction permit permits.

A critical part of the abovementioned plan review process is ensuring compliance with minimum health and safety technical requirements. To establish these technical requirements, USAID|BEEP is supporting MESP, through its recently-established working group, to develop a universally-applicable Construction

Code that incorporates relevant elements of EuroCodes that can be implemented in Kosovo. In conjunction with a number of public and private stakeholders, including the University of Pristina, the Project has helped MESP complete and post for public comment several chapters of the Construction Code. USAID|BEEP will help MESP review and incorporate public comment to begin Code adoption in February.

The Project also identified an existing construction vocational school and has discussed with them opportunities for incorporating Construction Code technical requirements in their curriculum, including the development of relevant construction "mock-ups", construction management, and on-site health and safety practices. The vocational school expressed immediate interest. Pending agreement, the Project may also conduct trainings for construction inspectors at the school to build local capacities for reviewing terms of construction, construction works "as built" and their compliance with the Construction Code.

Support to the KBRA. The Kosovo Business Registration Agency (KBRA) in September requested assistance from the Project to improve the agency's operations and procedures, including conducting time and motion studies in three (3) Municipal Business Centers (MBCs)²⁹, reviewing applicable laws and



Regional Customer Service Training delivered to staff of municipal business centers

regulations, providing customer service training, and meeting with recently-registered businesses to obtain feedback on their registration experience.

Based on findings from the time and motion studies, the Project has found that registration centers are unnecessarily requiring registrants to provide information on the type of business that they intend to conduct and fining those who do not comply. Not only is this not a proper function of business registration, the Tax Administration of Kosovo (TAK) actively collects this information for statistical purposes, duplicating instances of data collection. Additionally, registration centers are unduly prolonging the registration process by collecting the business registration information and sending it to the capital city to be "confirmed," despite the absence of a legal basis for such a practice. USAID|BEEP is developing a set of recommendations for improving business registration based

²⁹ MBCs are established by the KBRA, but are run and managed largely by municipal employees. The MBCs, 27 of which exist in municipalities around the country, make it easier for businesses to obtain information on business registration and to register.

on these findings, which will include ceasing both the collection of business codes (as the tax administration does this already for tax purposes) and the confirmation step of submitted business registration information.

In December, USAID|BEEP completed comprehensive customer service training for staff from all twenty-seven (27) MBCs with sixty-five (65) participants in total. Participants noted in many cases that this was the first-ever such training they had received on customer service. In a follow-on survey, over ninety percent (90%) of participants gave the training the highest possible rating.

The Project has completed the requested work and will provide its findings to the Director of the KBRA.

CI-3: SUPPORT NATIONAL BUSINESS ENVIRONMENT IMPROVEMENT (NON-DOING BUSINESS)

Permissive System and Inspections. To reduce barriers to business operation through the application of unnecessary regulatory requirements and the use of the regulatory system as a means for raising revenue, USAID|BEEP is supporting an effort to rationalize limitations on free economic activity (i.e. the



Review of the draft Law on the Permissive System in Rugova, including participants from the Ministry of Trade and Industry, Ministry of Finance and the International Finance Corporation

permissive system). The Office of the Prime Minister (OPM), with USAID|BEEP support, is developing draft framework Laws on the Permissive System and Inspections. Additionally, the Project is supporting the National Council for Economic Development (NCED) to prepare for a future guillotine review of permits and licenses.

To support the guillotine review, the Project in August 2012 submitted to the Legal Office (LO) of the OPM a concept paper on the permissive system that, among other things, described the different types of permissions using internationally-consistent terminology; articulated the narrow circumstances under

which application of such a permission to limit free activity is appropriate; and demonstrated the necessary linkages between permissions and the follow-on compliance assessment mechanisms such as inspections.

In support of the guillotine effort, the Project in September 2012 sponsored a working session to review all Government subnormative acts and earmark those that having a bearing on permissive or inspections requirements. Over three hundred (300) such acts were identified at the session and later officially submitted to the OPM as a preliminary list for review.

Using the abovementioned concept paper, USAID|BEEP in October 2012 sponsored a working session, that included representatives from the LO OPM, International Finance Corporation (IFC), and MTI to develop the Guillotine Review Manual that would act as the basis for reviewing government permissions. The Manual, now approved by the government, will be the basis for the guillotine review, and is expected to take place with adoption of the Law on the Permissive System later this year.

In early October 2012, USAID|BEEP completed comments on the draft Law on the Permissive System and submitted it to the LO OPM for review. The Project in January 2013 supported the LO OPM in its final review of the draft Law in preparation for submission to the Government. Principal features of the draft include the following:

- **A Proper Role for Government Regulation of Private Activity.** The draft Law is designed to create a framework that limits government regulation of private activity to that which is necessary to protect public health and safety while prohibiting regulation that is unduly burdensome or unwarranted. Its approach will both make it easier to engage in commercial activity in Kosovo by eliminating unnecessary business constraints; and also increase the protection of public health and safety by focusing government regulation on areas where it is truly needed.
- **Streamlined Framework.** The draft Law creates a simple yet effective framework for government regulation by providing for four types of permissions, including notices, registrations, permits and professional licenses.
- **Rational Relation to Assessed Risk.** The draft links each type of permission to a level of risk that a government regulator must determine objectively in order to justify requiring the permission for a particular activity. This will introduce harmony and uniformity in the regulatory actions of government bodies and bring them into conformity with the requirements of a market economy and good governance.

- **Transparency.** The draft law requires a regulatory authority to make publicly available all the rules, requirements and procedures related to each permission; as well as information on each permission issued.

Following the draft Law on the Permissive System, USAID|BEEP provided comments to the OPM on the draft Law on Inspections. This draft is intended to govern all inspections in Kosovo (with the exception of a minor few) and establish a clear framework that protects the rights of the individual. Principal features of the draft Law on Inspections include the following:

- **Direct Links to the Law on the Permissive System.** The draft provides that inspections may be conducted only with respect to risk-related activities that are regulated under the Law on the Permissive System.
- **Emphasis on Citizens' Rights and Defined Powers of Inspectors.** The draft Law is based on the application of international best practice to the Kosovo context and devotes considerable attention to protecting the rights of citizens vis a vis the inspector; to defining clearly inspectors' powers (and the limits thereof); and to the proper procedures to be followed in inspections. The draft also places emphasis on the citizen's right to know the scope and frequency of a permissible inspection.
- **Emphasis on Encouraging Compliance Rather than Imposing Fines.** The draft provides that a citizen is generally given the opportunity to correct a violation within a reasonable timeframe, and that no fine is imposed unless the citizen fails to do so. This represents a dramatic change from the current approach, and the perception that the purpose of inspections is to raise revenue. Consistent with this, the Project has advised that national and municipal bodies not include in their budgets revenues from inspections fines, which is the current practice, but to treat imposed penalties as unplanned revenue. This shift in the role of inspections is essential to creating an environment where violations are punished, but both citizens and regulators work together to implement required health and safety considerations in the overall interests of the people of Kosovo.

Spatial planning. The construction permit serves a useful public service by facilitating not only the review of construction plans to ensure that they meet minimal safety requirements, but also that their intended use complies with national and local spatial plans. Spatial plans are important because they provide predictability in land use by clearly setting out use restrictions on land parcels and protecting property

rights of neighboring land parcels. In this way, for example, residential areas are separated from areas to be used by potentially intrusive industrial activities.

MESP, wanting to harmonize the Law on Spatial Planning with the new Law on Construction, requested USAID|BEEP's assistance in its development. The Project provided significant commentary and accompanying policy rationale to MESP on the draft. Utilizing this draft, MESP, with USAID|BEEP support, solicited public comment and held rigorous debate. Based on the comprehensive public outreach, MESP received the most-ever comments on any draft law in its history. With Project support, MESP then reviewed public comments and incorporated them where useful.

The draft Law embraces the evolving European approach and free market principles to establish a clear and predictable framework for spatial planning. Under the draft, it is envisioned that MESP develop and refine a National Zoning Map and Spatial Plan that serves as a baseline for all parcels in Kosovo. With this place, if municipalities lack urban regulatory plans (plans that govern in more detail land use restrictions at the local level) the construction permit applicant can refer to the national plan so as to avoid delays.

The USAID|BEEP-support draft Law on Spatial Planning was approved by the Government on December 7, 2012 and is now being reviewed by Parliament.

Also related to making more clear and transparent property rights, a representative of the United States Department of Treasury requested USAID|BEEP assistance to comment on the then-existing draft Law on Condominiums. The Project in December 2012 provided significant comment on the draft to the US Treasury representative who is now the primary advocate of the draft Law.

Program for the Treatment of Constructions Without Permit. Through a previously-ambiguous and difficult-to-navigate construction permitting process, constructions in Kosovo were often unpermitted; and therefore illegal, unduly restricting the property tax base and creating barriers to property protection and to using the asset in other transactions. Recognizing these barriers and the problems associated with unpermitted constructions, including the difficulty of enforcing property rights and the potential for unsafe buildings, MESP wants to develop a fair and transparent program to legalize those constructions.

With USAID|BEEP as its designated implementing partner in construction reform, MESP requested the Project's assistance in developing its draft Law on the Treatment of Constructions Without Permit. The goal of this law will be to establish a program for owners of previously-unpermitted constructions to come forward and legalize their buildings. The legalization process will closely mirror that of the construction permitting process; utilizing both a review of compliance with mandatory technical

requirements through the Construction Code and compliance with spatial planning. MESP, with Project support, developed a new draft Law on the Treatment of Constructions Without Permit and submitted it to the Government on December 11, 2012 where it was approved later that month. It remains unclear whether the Parliament will review this law in conjunction with the Law on Spatial Planning or at a later time in 2013.

Law on Tourism. In response to a request from the MTI the Project held three (3) regional public debates on the MTI-sponsored draft Law on Tourism; those in Peja, Prizren and Pristina. Fifty (50) businesses attended the events, voicing concerns about, among other things, Government transparency under the draft. USAID|BEEP developed a list of comments and will support the MTI to incorporate comments where appropriate.

The draft Law incorporates several USAID|BEEP recommendations. Principal features of the draft Law on Tourism include:

- **Elimination of unnecessary licensure.** In lieu of professional licensing, the draft Law on Tourism envisions voluntary registration with the responsible unit within the MTI. The voluntary registration would involve the adoption of consumer protection measures developed by the MTI in collaboration with the National Tourism Organization (discussed below). These measures would combine with the consumer protection laws to provide protection for tourists who utilize the services of the voluntary registrants. The protections afforded to registrants are in accord with the international practice of other European travel associations.
- **Market-driven solutions.** Voluntary registration has the added benefit of encouraging a free market-driven solution to providing safeguards to tourists. The reduced barriers of entry into the tourism industry should serve to encourage competition and increased entry into the marketplace. The increased competition will encourage the provision of higher quality services amongst market participants, increasing the overall quality of the industry.
- **Improved private sector involvement in tourism policy.** The draft Law on Tourism envisions the creation of a National Tourism Organization (NTO), which international best practice suggests is a public-private board with representatives from both the government and the private sector. The primary responsibility of the NTO is to develop policy recommendations for the ministry responsible for tourism development. The powers and responsibilities of the NTO are primarily consultative and advisory with the additional responsibility to develop

educational materials for voluntary registrants. In this way, the NTO will give the private sector a voice in the development of a national tourism strategy.

Law on Condominiums. Supporting an initiative of the US Treasury, USAID|BEEP and the Treasury representative in early November 2012 identified several problematic aspects of the MESP-sponsored draft Law on Condominiums being reviewed in Parliament. MESP then voiced their readiness to revise the draft Law and bring it closer to best international practice and the requirements of a market economy and private property ownership.

Incorporating significant Project revision and commentary, the US Treasury representative advocated for the draft in Parliament during December 2012. Parliament was very receptive to the draft Law and is expected to adopt the draft incorporating Project recommendations. The US Treasury representative is responsible now for continued advocacy, with USAID|BEEP to provide supplementary commentary if requested.

Partnership for Women in the Economy. In December 2012, USAID|BEEP selected a subcontractor to provide legal analysis and assistance to the organization to be known as “Partnership for Women in the Economy”. The idea for the organization was launched at a USAID-sponsored International Women’s Summit held in October 2012. The organization’s objective is to expand and support a collaborative network for women entrepreneurs and business leaders and provide mentoring. The subcontractor will provide an analysis of commonly-used legal forms in Kosovo, the EU and the US and describe the costs and benefits of each, allowing the Founding Group of the organization to select the best form. Once the Founding Group makes their decision, the subcontractor will provide the assistance necessary for the legal registration of the organization.

CI-4: INCREASE PUBLIC ACCESS TO AND KNOWLEDGE OF LAW AND LEGAL REFORMS THROUGH DEVELOPMENT OF LAW ON NORMATIVE ACTS AND LEGAL INFORMATION DATABASE; AND STRENGTHEN THE OFFICE OF THE PRIME MINISTER

Legal Information Database. The Project in November 2012 selected a subcontractor to begin procurement of the necessary equipment and development of the software for the Legal Information Database (LID). It is often the case now, especially concerning municipal regulations, that normative acts are difficult to find, creating unpredictability and the potential for arbitrary enforcement. The LID, once

completed, will be the first-ever of its kind in Kosovo; containing all normative acts in force; and being electronic, searchable and publicly accessible.

To facilitate information sharing and to define responsibilities of the parties involved, USAID|BEEP supported the LO OPM to draft a memorandum of understanding (MOU) between USAID|BEEP, the LO OPM, the Office of the Official Gazette (OOG) of the OPM and the Department for E-Governance and Administrative Processes within the Ministry of Public Administration (MPADG). It is USAID|BEEP's understanding that all parties agree on the content of the MOU, but it will need to be submitted to USAID for review prior to signing.

Law on Normative Legal Acts. As reported previously, the Project provided extensive comments on the draft Law on Normative Acts prepared by the LO of the OPM. The Project is standing ready to continue this work with the LO OPM, which has informed the Project that the LO OPM will resume and finalize work on this draft law in February 2013.

NEXT STEPS

MCI 2013. With the MCI 2012 diagnostic presentations complete, USAID|BEEP will explore opportunities to improve the upcoming MCI survey in preparation for the MCI 2013 analysis. As the Project prepares for the final MCI during its lifetime, USAID|BEEP will continue to seek opportunities to institutionalize the reform tool for future application. The Project's responsible subcontractor will begin the MCI 2013 survey in February 2013.

Construction implementation. The Project will continue to support Construction Code development for adoption expected in February, but will also assist development of the Code after its adoption by MESP. It's important to note that the Code is an ever-evolving document as construction norms and practices evolve around the world.

Following adoption of the Construction Code, plan reviewers and inspectors must understand what is required and how to assess compliance with those requirements. The Project will assist inspectorates in this regard, through training on procedures and knowledge transfer on construction methods and materials.

The technical requirements incorporated in the draft Construction Code utilize relevant international trade practices and norms across a number of specific technical areas, including masonry, electrical, structural, mechanical, and several others. Domestic capacity building, therefore, will be critical in ensuring compliance with these requirements. The Project will continue to explore opportunities, including with the identified construction vocational school, to provide tailored guidance.

USAID|BEEP will continue to help MESP develop and adopt the implementing AIs under the Law on Construction, including procedures on construction permitting and on conducting construction inspections. As MESP reviews and adopts these AIs, USAID|BEEP will continue to assist MESP to prepare for implementation through topic-relevant trainings. In this way, MESP can then guide municipalities on implementation.

Spatial Planning. USAID|BEEP will support MESP to advocate for the draft Law on Spatial Planning during its reviews in Parliament. Following adoption of the law, USAID|BEEP, pending USAID approval on the timing, will air a public outreach campaign highlighting important changes from both the new Law on Spatial Planning and on Construction. In addition, the Project will support MESP to develop the necessary implementing AIs and advocate for changes in other laws to harmonize them with the Law on Spatial Planning.

Treatment of Constructions Without Permit. A primary preparatory step for implementation of the program for legalizing unpermitted construction is to ensure that citizens and businesses are fully aware that the program is taking place. This will provide an opportunity for thousands of constructions to be legalized, providing greater predictability in land rights and bringing buildings into the property tax system. USAID|BEEP, pending the timing of adoption of the draft Law, will support a comprehensive public outreach campaign to provide notice of and guidance on this invaluable opportunity.

USAID|BEEP will similarly provide support to MESP in advocating for the draft Law as it is reviewed in Parliament.

Permissive System and Inspections. With the draft Law on the Permissive System nearing completion, USAID|BEEP will support the LO OPM to advocate for the law both at the Government and then through Parliament. Once the law is adopted, the Project will support the development of any necessary implementing AIs and to bring other laws into conformity with it.

As a primary initiative of the National Council on Economic Development (NCED), the Project will continue to support future guillotine review efforts. This may require guidance on reviewing permissions put forth by Ministries and bringing remaining permissions into line with the law once adopted.

As a natural follow-on from the permissive system, USAID|BEEP will support the OPM to develop the draft Law on Inspections, advocate for it through the Government and Parliament and in assist in proper implementation. The Project will also assist development of recommendations to bring other laws into conformity with the adopted Law on Inspections.

Legal Information Database and Law on Normative Acts. USAID|BEEP will continue to support development of the LID, coordinating closely with the LO OPM, OOG and MPADG. As the LID nears completion, the Project will undertake comprehensive outreach efforts to ensure citizens are aware of this new tool.

To aid continued transparency of the rules and regulations governing businesses and citizens, USAID|BEEP will continue to support the LO OPM on development, advocacy for, and implementation of the draft Law on Normative Acts. This Law is expected to provide the legal basis for inclusion in the LID before normative acts can come into legal force.

CHALLENGES AND IMPLEMENTATION ISSUES

Business license fee elimination or suspension. With a notable Project success in convincing so many municipalities to voluntarily eliminate or suspend the business license fee, twenty (20) municipalities still utilize this tool as a revenue-raising mechanism. USAID|BEEP will continue to advocate strongly for its elimination in the remaining municipalities to reduce unnecessary barriers to business operation and help rationalize the regulatory system.

Law on the Treatment of Constructions Without Permit. The Project anticipates thousands of applications for legalization under this proposed program. Local institutions, therefore, must leverage efficiencies and maximize available resources to properly implement the program. USAID|BEEP is preparing to provide additional implementation assistance in this regard.

Permissive system and inspections reforms. It is common experience in international reform efforts that permissive system reforms present unique challenges due to the potential for personal interests of those involved. Smooth adoption and implementation of permissive system reforms is expected, however, owing to the level of commitment exhibited by both the OPM and the NCED.

COORDINATION

Swedish Property Tax Project. In late November 2012, USAID|BEEP met with the Swedish Property Tax Project to explore opportunities for future collaboration. The initial Swedish project ended just before the coordination with an expectation that a future project to improve information technical capacity in the Property Tax Department of the Ministry of Finance would take place. The Project shared its stance on property tax and informed the participants about other business environment reform initiatives.

Permissive System and Licensing. In mid-December, USAID|BEEP coordinated with USAID|GFSI to brief them on the proposed draft Law on the Permissive System and its bearing on specific licensing and permitting practices.

Treatment of Constructions Without Permit. During December, USAID|BEEP discussed with USAID|DEMI their comments on the draft Law on the Treatment of Constructions Without Permit. The Project considered these comments when advocating for the draft Law with MESP.

Construction Code. USAID|BEEP coordinated closely with the University of Pristina as a primary private sector supporter on development of the Construction Code. Further, the Project in early December 2012 discussed with the EU-MESP Twinning Project the latest developments in construction reform. The Twinning Project expressed an interest in working on selected, non-core areas of the Construction Code.

GiZ Roundtable on Business Environment Reform. USAID|BEEP delivered a presentation on business environment reforms at a GiZ working session in mid-December. GiZ has been holding these roundtables in order to compile a report on Kosovo's progress toward European Union integration in various sectors.

British Embassy. The Project in mid-December 2012 participated in a Prizren workshop supported by the British Embassy. The workshop was organized by the NGO "Ec ma ndryshe" on the topic of online transparency in Prizren.

US Treasury. USAID|BEEP collaborated with a US Treasury representative to explore the benefits of inclusion for Kosovo in the International Organization for Standardization's (ISO) 3166 list of country names. In response to that meeting, the Project developed a brief memorandum and chart describing these benefits and demonstrating a wide variety of connections between international integration and inclusion in the 3166 list for USAID.

USAID|BEEP also collaborated with a US Treasury representative to provide comments on the draft Law on Condominiums. The representative is now the primary advocate for that law in Parliament.

COMPONENT TWO: REDUCED BARRIERS TO TRADE

C2-1: IMPROVE THE LEGAL FRAMEWORK FOR IMPORT AND EXPORT TRANSACTIONS

Insurance-backed customs guarantees. Insurance-backed customs guarantees (hereafter “customs guarantees”) are internationally-recognized trade facilitation mechanisms. Through customs guarantees, insurance companies guarantee the payment of customs duties and fees on international trade



Customs Guarantee Workshop with Kosovo Customs and the Association of Insurers in Pristina

transactions thereby reducing the need for inspections and clearing goods.

It is currently the case in Kosovo, however, that no such customs guarantees are employed. Instead, banks offer similar guarantees but often require cash

collateral in the full amount guaranteed and charge interest on the collateral deposited. This practice both ties up critical business capital and results in the payment of extremely high fees, deterring businesses from using this trade facilitation measure.

Through individual meetings and an explanatory workshop on customs guarantees and various discussions with counterparts, including with individual insurers, the Central Bank of Kosovo (CBK), the Kosovo Chamber of Commerce (KCC), the Association of Insurers and Kosovo Customs, USAID|BEEP obtained significant buy-in to implement customs guarantees as an alternative mechanism to bank guarantees.

Further, USAID|BEEP reviewed the existing legal framework to ensure that customs guarantees were a permissible financial mechanism, finding that in fact the governing CBK rule on general insurance classes³⁰ recognizes such guarantees (surety bond products) as those that can be underwritten by insurance companies. With this finding, the Project developed a sample customs guarantee form to guide insurance companies and provided the necessary detail to Kosovo Customs. The Project also developed

³⁰ Central Bank of Kosovo Rule 2 on Amending the Rule on General Insurance Classes Recognized by the CBK (2001).

a customs guarantee manual consistent with international best practice that will act as a checklist for insurance companies.

With the necessary buy-in in place, a working group on customs guarantees was established to develop a draft customs guarantee form agreeable to all parties. Participants included the Association of Insurers, Kosovo Customs and USAID|BEEP. In December 2012, the Project held a customs guarantee workshop with trade stakeholders to provide final direction on development of the draft guarantee form. The Project briefed the Kosovo Business Alliance, American Chamber of Commerce in Kosovo and the German Kosovo Business Chamber on the customs guarantee initiative to garner additional support.

C2-2: SUPPORT FOR STREAMLINED IMPORT AND EXPORT PROCESSES

Trade facilitation analysis. As a means of monitoring trade-related reforms and to identify potential trade constraints, USAID|BEEP conducted a trade facilitation analysis in conjunction with Kosovo Customs that analyzed the movement of freight to Kosovo from the ports of Thessaloniki in Greece and Durres in Albania. The analysis indicated that currently, Durres far exceeds maritime cargo imports from Thessaloniki. This was further confirmed by information received from the Customs statistical office. The Project forwarded this information to the World Bank Doing Business team as relevant information to the "Trading Across Borders" indicator.

C2-3: BUILD CAPACITY TO INSTITUTIONALIZE TRADE BEST PRACTICE

Support to Kosovo Standardization Agency. USAID|BEEP continued to provide support to the Kosovo Standardization Agency (KSA) to identify an improved standards database management system. International standards are often adopted by governments to establish minimum health and safety requirements for products and services in the marketplace; proper observance of which unlocks access to international markets around the world and drastically improves trade facilitation. These international standards are also used as a means to improve domestic governance, including the establishment of technical requirements contained in the draft Construction Code. The KSA in Kosovo is responsible for adopting and providing public access to these international standards, necessitating the need for a proper database management system.

In September 2012, the Project sponsored key KSA officials to participate in an International Organization for Standardization (ISO) conference in the United States for an improved understanding of its needs and to observe international best practice from other countries. Making valuable

connections with the British Standards Institute (BSI), BSI provided guidance on options for procuring an improved standards database at KSA.

In January 2013, based on discussions with and support from the Project, KSA decided to inquire about purchasing a licensed standards database from the Spanish Association for Standardization and Certification (AENOR). Pending a response from AENOR concerning costs, licensing agreements and deployment timing, KSA expects to move forward with procuring the database.

Support to AUK and Tariff Policy. USAID|BEEP in October 2012 supported the American University of Kosovo's (AUK)

Conference on Economic Development and Political Transition in Kosovo where the Project presented a paper on tariff policy issues in conjunction with a local economist. The paper explored a number of tariff policy options, including, among others, a zero tariff (free trade) and the currently-



Conference on Economic Development and Political Transition in Kosovo at the American University of Kosovo

existing 10% ad valorem tariff across all goods and services, and clearly linked the relationship between freer tariff policy, trade, and economic growth. The MTI expressed appreciation for this work and is currently using the paper to inform discussion on future tariff policy.

Trade legislation concluded. In discussion with the MTI, they reported that the only trade related legislation planned is revisions to the antidumping and countervailing duty law. As the Project has already provided extensive comments regarding this legislation, USAID|BEEP informed the MTI, and the MTI agreed, that no additional assistance is required.

C2-4: DEVELOP AND PUBLISH INTERNATIONAL TRADE GUIDE (ITG) TO PROMOTE TRADE PREDICTABILITY

International Trade Guide. USAID|BEEP finalized the substantive body comprising the International Trade Guide (ITG) in December 2012 in Albanian, Serbian and English, with its dedicated website design beginning in January 2013. The Project consulted with local stakeholders during development, including with the Kosovo Chamber of Commerce (KCC), the MTI and Kosovo Customs and incorporated valuable feedback.

The ITG is a trade facilitation tool to be utilized by those in Kosovo wishing to engage in cross-border trade, covering topics that include Customs controls and procedures, guidance on banks and other financial institutions, financing trade transactions, dispute resolution and administrative procedures for the import and export of goods. The release event of the ITG is tentatively scheduled for early March 2013 where this useful trade tool will be publicly demonstrated for the first time. The KCC has committed to host and maintain the ITG website following its release.

NEXT STEPS

Insurance-backed financial guarantees. The final steps to implement customs guarantees include a formal adoption of the guarantee form by Kosovo Customs with follow-on implementing Administrative Instructions. USAID|BEEP will continue to advocate for this adoption in collaboration with the Association of Insurers, Kosovo Customs and the customs guarantee working group.

International Trade Guide. With expected online access and public availability of the ITG at the end of February, USAID|BEEP will hold the ITG launch in early March and provide website technical support to the KCC until the end of May 2013. The Project will continue to collaborate with counterparts as necessary to facilitate information gathering and public outreach.

Continued Support of MTI and the TPWG. As requested by the MTI, USAID|BEEP will continue to support the Trade Facilitation subgroup of the TPWG, including technical and coordination assistance. A primary support area is to assist the Trade Facilitation subgroup to address private sector issues identified at subgroup meetings. As mentioned in the EU Kosovo Progress Report for 2011, the TPWG remains as an important domestic mechanism for addressing trade concerns.

Support to the Kosovo Standardization Agency. Based on the response from AENOR, the Project will coordinate with USAID on next steps.

CHALLENGES AND IMPLEMENTATION ISSUES

Insurance-backed financial guarantees. USAID|BEEP will continue to work closely with Kosovo Customs and insurance companies to facilitate the transition to use of customs guarantees, including technical

support on using the guarantee form and development of implementing AIs as necessary. Kosovo Customs has voiced their concern that Kosovo insurance companies are not sufficiently capitalized to take on higher euro value commitments. USAID|BEEP is addressing this with the Ministry of Finance and Kosovo Customs to ensure that customs guarantees are introduced slowly and on lower-value transactions to ensure proper implementation and build confidence in customs guarantees as a trade facilitation mechanism.

COORDINATION

USAID|BEEP maintains a strong relationship with the KSA, the Investment Promotion Agency of Kosovo (IPAK) and other MTI agencies, Kosovo Customs, and relevant trade associations and businesses, to carry out Project objectives. Further, collaboration with the KCC is critical to the success of the ITG during and beyond USAID|BEEP's lifetime. With continued support to the Trade Policy Working Group, the Project coordinates regularly with the EU Trade Project. USAID|BEEP remains as the primary supporter of the Trade Facilitation subgroup while the EU Trade Project supports the subgroups on Agriculture and Trade Agreements.

COMPONENT THREE: REDUCED RISKS OF LENDING IN THE FINANCIAL SECTOR

C3-1: REVIEW WORLD BANK'S DOING BUSINESS REPORT AND MONITOR PERFORMANCE IN THE GETTING CREDIT INDICATOR

Operational Instruction on the Regulation on the Credit Registry. USAID|BEEP provided recommendations to the CBK on its Operational Instruction (OI) for the Regulation on the Credit Registry. The OI, once adopted, will act as the operational bridge between the Regulation on the Credit Registry and the newly upgraded Credit Registry software. USAID|BEEP expects adoption of the OI during the next quarter.

Getting Credit in Doing Business 2013. Ranking 23rd out of 185 economies studied, Kosovo already performs very well in the "Getting Credit" indicator of the Doing Business report. USAID|BEEP, however, has pursued opportunities to improve this indicator. Through a Project-supported Regulation on the Credit Registry adopted in February 2012, the CBK permitted insurance companies to access and provide credit information to the Credit Registry. Due to the timing of implementation and that of

the World Bank's surveying, the Doing Business 2013 report did not capture this reform³¹. However, insurance companies now can access and provide credit information to the credit registry and USAID|BEEP expects this reform to be captured in the Doing Business 2014 report.

C3-2: FINALIZE UPGRADE TO THE CBK PUBLIC CREDIT REGISTRY

Credit registry upgrade. The CBK in September 2012 launched the USAID|BEEP-supported Credit Registry software upgrade. This upgrade aimed to improve the availability and predictability of credit



Credit Registry upgrade launch event at the Central Bank of Kosovo

information and incentivize greater participation by businesses and citizens in the credit information system. In Kosovo, it was difficult for businesses and citizens to obtain their credit reports. They often had to visit the capital Pristina to physically request their report, and sometimes only receive it days later. Further, there were concerns about protection of borrowers' privacy rights and accuracy of the data in the credit reports. Many

borrowers and citizens had limited knowledge about their credit reports and how that impacted their access to finance.

In combination with the Regulation on the Credit Registry improving borrowers' rights, the software upgrade provides greater assurance to subjects of credit information and ensures improved data protection. Businesses and citizens also now have greater access to credit reports with the new upgrade (more information on the credit portal below in C3-2).

In addition, financial institutions can more easily report to and access the Credit Registry. Already financial institutions have reported impressive improvements over the old system; within the first month, several banks reported a forty-five percent (45%) decrease in the time it takes to report credit

³¹ The Depth of Credit Information at Question #3 asks, "Does the registry distribute credit information from retailers, trade creditors or utility companies as well as financial institutions?" Because insurance companies are not considered financial institutions according to the Project's discussions with the World Bank Doing Business team, Kosovo could see improvements in next year's Doing Business report.

classifications to the CRK. These banks, after only a month, reported up to an eighty-nine percent (89%) reduction in time.

To properly implement the upgraded Credit Registry software, USAID|BEEP conducted comprehensive training for financial institutions as users of the credit information system. The Project trained four hundred (400) total participants over thirty-five (35) sessions. Users expressed positive feedback across all surveyed aspects, including, among other things, appearance, use, and functionality.

As the underlying technology of the software upgrade, the Project provided Oracle-certified training for Information Technology (IT) staff of the CBK. USAID|BEEP conducted three (3) Oracle trainings from October to November 2012 for IT staff of the CBK, TAK and Kosovo Customs³².



Covering Structured Query Language (SQL)

USAID|BEEP training for users of the Credit Registry

fundamentals and database management practice, the Project trained twelve (12) participants at each event.

The CBK and USAID jointly held a public outreach event on December 6 to promote the new CRK upgrade and announce a new credit portal where citizens and businesses can obtain their credit reports online. With keynote speeches from the CBK and USAID, the event was very well received by the public.

³² Although Oracle training originated from the credit registry upgrade, TAK and Customs use Oracle-based technologies and joined as a matter of efficiency.



Snapshot from the Credit Registry upgrade media campaign

To further promote the importance of credit and the improved data accuracy and predictability accompanying the Credit Registry upgrade, USAID|BEEP aired a four-week outreach campaign in December 2012 and January 2013. The media campaign utilized television, print media, internet and radio, reaching an estimated audience of over three hundred and eighty thousand (380,000) people³³.

C3-3: SUPPORT FOR LEGAL, REGULATORY, AND INFORMATIONAL REFORM IN THE FINANCIAL SECTOR

Regulation on Credit Classifications. In early November 2012, the CBK, with USAID|BEEP support, adopted a new Regulation on Credit Risk Management³⁴ that facilitates improved reliability of credit information. Under the previously governing rule³⁵, financial institutions reporting to the Credit Registry were required to update credit classifications (dealing with credit worthiness) only every three (3) months. Credit reports, however, were updated at the CBK every month, creating a significant gap in updated reporting and leaving the reported credit classifications unreliable.

³³ Estimated 351,530 for TV; 18,037 newspaper; 14,000 internet; and 1,054 radio.

³⁴ Central Bank of Kosovo Regulation on Credit Risk Management (November 9, 2012).

³⁵ Central Bank of Kosovo Rule 9 on Asset Classifications.

With Project support, the CBK revised the previous rule to require financial institutions to update and report credit classifications monthly, making more reliable the information reported in credit reports. The new Regulation on Credit Risk Management came into legal force on December 3, 2012.

Credit registry portal. As previously mentioned in C3-2 above, it was often a very difficult task for citizens in Kosovo to obtain their own credit reports. People were required to visit the capital city to request and obtain their information, deterring many from participating in the credit information system.

Accompanying the launch of the newly-upgraded Credit Registry software, USAID|BEEP supported the development of an online portal where Kosovo citizens and businesses can obtain their own credit reports. Even for those who decide not to utilize the online portal, businesses and citizens can simply request and obtain credit reports from financial institutions in their immediate area³⁶.

Bills of Exchange and Negotiable Instruments. USAID|BEEP finalized its recommendations on the draft Laws on Bills of Exchange and on Negotiable Instruments. These laws, once adopted, will provide the legal basis for using these mechanisms as means of finance in Kosovo.

Bills of Exchange and Negotiable Instruments will be used to enhance trade and access to finance in Kosovo. The proposed laws incorporate guidance from the 1930 Geneva Convention Providing a Uniform Law for Bills of Exchange and Promissory Notes.

The Project will support the CBK to advocate for these laws as necessary.

NEXT STEPS

Credit registry upgrade. With the upgrade launched and operational, the Credit Registry user and Oracle trainings complete, and the public outreach media campaign finished, USAID|BEEP for the remainder of the Project will focus on providing implementation support as necessary. This will include, among other things, ensuring that the various internal reporting mechanisms include all desired information, facilitating additional outreach efforts, and providing additional direction on use of the new upgrade.

Operational Instruction on the Regulation on the Credit Registry. USAID|BEEP will continue to support the CBK Operations team to develop the OI on the Regulation on the Credit Registry. With improved procedures and data protection requirements under the new Regulation, the OI is critical to provide internal guidance to the CBK and make transparent the procedures for businesses and citizens. The Project expects the adoption of the OI by next quarter.

³⁶ Under the Project-supported Regulation on the Credit Registry, financial institutions

Bills of Exchange and Negotiable Instruments. USAID|BEEP will support the CBK and the Ministry of Finance to facilitate a transparent and effective advocacy process with stakeholders during the approval process.

CHALLENGES AND IMPLEMENTATION ISSUES

Due to the long-standing lack of emphasis on building credit, the absence of trust in personal data protection and the previous difficulty of obtaining credit reports, there remains a notable resistance to participation in the credit information system by citizens. However, recent Project reforms and initiatives, including the upgraded Credit Registry software, improved availability of credit reports and continuous media outreach, represent significant steps toward improved participation. Additionally, the CBK remains strongly engaged in and committed to further reform initiatives in this area.

COORDINATION

USAID|BEEP's primary partner in reducing risks to lending is the Central Bank of Kosovo. Within the CBK, the Project works closely with the Credit Registry of Kosovo to improve the amount and reliability of credit information. Further, the Project in November 2012 provided explanation and clarity to a US Treasury Representative in his review of the Interim Report on Development of Housing Market Infrastructure concerning those parts related to the CRK.

