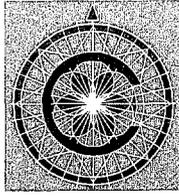


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CHEMONICS INTERNATIONAL INC.



GEORGIA MACROECONOMIC POLICY TASK ORDER

FINAL REPORT

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ACRONYMS

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| AMS | Antimonopoly Service |
| CEPAR | Center for Economic Policy and Reform |
| CIS | Commonwealth of Independent States |
| FIAS | Foreign Investment Advisory Service |
| GMP | Georgia Macroeconomic Policy |
| IMF | International Monetary Fund |
| IR | Intermediate Result |
| NGO | Non-governmental organization |
| NIS | Newly Independent States |
| SO | Strategic Objective |
| USAID | United States Agency for International Development |
| WTO | World Trade Organization |

EXECUTIVE SUMMARY

The Georgia Macroeconomic Policy (GMP) task order was one of the first efforts by the U.S. Agency for International Development (USAID) to help advance Georgia's movement toward free markets through effective and coordinated policy analysis and legislative change. The project was implemented from January 1996 through December 1997. This final report summarizes the major project components, their implementation, and project accomplishments.

Under the GMP task order, the contractor, Chemonics International Inc., established the Center for Economic Policy and Reform (CEPAR) in Tbilisi, Georgia, to serve as an analytical and advisory unit to the Government of Georgia. As detailed in this report, the GMP project met all of its work plan targets in its three program components:

- In competition policy, CEPAR assisted the Georgian Antimonopoly Service (AMS) with analytical reports and commentaries (including detailed implementing guidelines for enforcement work), staff training, and an observation tour in the United States.
- In World Trade Organization (WTO) accession/trade and investment policy, CEPAR significantly advanced the accession process through training, observation tours to Geneva and Singapore, multiple analytical reports and commentaries, assistance with intellectual property rights legislation, and recommendations on a new foreign investment law and customs code.
- To help build government capacity in macroeconomic policy analysis, CEPAR conducted two intensive macroeconomic modeling training sessions for government economists and produced a number of targeted written analyses and commentaries that were the subject of considerable attention and policy debate.

The GMP task order was a qualified success: it accomplished virtually all of its short-term targets, particularly those relating to policy guidance and training, but it did not institutionalize its work. As noted above, this stemmed from many factors outside of CEPAR's and Chemonics' control, including the design of CEPAR, inadequate staffing, the institutional home chosen by USAID, failure to adequately orient major potential Georgian clients to CEPAR's purpose and menu of services, the precarious state of certain reforms, and lack of qualified Georgian economists to lead CEPAR during and after the task order.

Looking ahead, this task order laid a good foundation for a regional assistance model emphasizing anticorruption work and continued trade policy involvement. The USAID/Caucasus Mission can utilize accomplishments in competition policy, judicial training, and legislative change supporting free trade objectives as a basis for the next task order. The final section of this report, Section VI, makes specific recommendations for follow-up activities in WTO accession, democracy and governance, and commercial law development.

SECTION I INTRODUCTION

The Georgia Macroeconomic Policy (GMP) task order was one of the first efforts by the U.S. Agency for International Development (USAID) to help advance Georgia's movement toward free markets through effective and coordinated policy analysis and legislative change. The project was implemented from January 1996 through December 1997. This final report summarizes the major project components, their implementation, and project accomplishments. This section recapitulates project highlights. Section II discusses project start-up and work planning. Sections III through V review the three project components: World Trade Organization (WTO) accession and trade and investment policy, competition policy, and macroeconomic policy analysis capacity-building. The final section includes a general assessment of the project and recommendations for USAID.

A. Overview of the Task Order

The GMP task order, issued by the USAID Europe and NIS (ENI) Bureau and awarded in December 1995, required the contractor, Chemonics International Inc. (Chemonics), to establish the Center for Economic Policy and Reform (CEPAR) in Tbilisi, Georgia, to serve as an analytical and advisory unit to the Government of Georgia. CEPAR began its work in Georgia in January 1996. Its broad mandate was to function as a policy analysis unit to develop government capacity to simultaneously interpret and implement sensible macroeconomic policy and incorporate sound economic and behavioral incentives into evolving market reforms and commercial legislation. The center was to begin work under American leadership, and within two years, devolve technical and managerial authority to Georgian staff.

As detailed below, the GMP project met all of its work plan targets under the task order. These targets were met through three program components, which the USAID/Caucasus Mission agreed to in mid-1996:

- Improvement of the government's competition policy regime
- Significant progress toward WTO accession and development of a competitive trade and investment framework
- Initial steps toward developing an indigenous capacity to conduct macroeconomic policy analysis

CEPAR activities were intended to advance the technical capacities of various Georgian policymaking audiences. These activities, including policy papers, convening of special policy seminars on current issues, and training for key personnel, enabled CEPAR to provide a model of effective policy analysis for various Georgian audiences. CEPAR reports and training activities are listed in Annex A.

B. Summary of Results

The results achieved in these three areas were consistent with the original objectives of the task order:

- In competition policy, CEPAR assisted the Georgian Antimonopoly Service (AMS) with analytical reports and commentaries (including detailed implementing guidelines for enforcement work), staff training, and an observation tour in the United States.
- In WTO accession/trade and investment policy, CEPAR significantly advanced the WTO accession process through training, observation tours to Geneva and Singapore, multiple analytical reports and commentaries, assistance with intellectual property rights legislation, and recommendations on a new foreign investment law and customs code.
- To help build government capacity in macroeconomic policy analysis, CEPAR conducted two intensive macroeconomic modeling training sessions for government economists and produced a number of targeted written analyses and commentaries that were the subject of considerable attention and policy debate.

Although the project met all its work plan targets, it only partially accomplished its goal of helping CEPAR become an independently functioning analytical unit within the Ministry of Economy by the end of 1998. Several factors prevented CEPAR from playing the leading policy role envisioned at the beginning of the task order, including: (1) the locus of macroeconomic policymaking remained in the Chancellery, with support from the International Monetary Fund (IMF); (2) CEPAR received uneven support from its institutional host, the Ministry of Economy, and was unfortunately associated with the ministry's mediocre record of reform achievement; and (3) CEPAR was hampered in its search for a Georgian deputy director-economist to lead the unit.

SECTION II START-UP AND WORK PLANNING

A. Start-Up

The task order was launched in early January 1996 with the arrival in Georgia of the initial CEPAR director, John Farrell, and legal specialist Gary Kelly. After considerable deliberation, Chemonics and USAID determined that CEPAR should be housed in the Ministry of Economy because of the ministry's stability. The assumption was that the ministry would provide longer-range institutionalization possibilities than the Chancellery, which was more politically volatile. This choice had fateful consequences, since the Chancellery was the locus of government macroeconomic policymaking and, under Timur Basilia, had considerable political leverage.

By late February 1996, a functioning CEPAR office was established in the Ministry of Economy and a small Georgian staff was hired. In accordance with the Mission's R-4 strategic planning exercise, CEPAR reaffirmed its principal project objectives as follows:

- Integration of economic and behavioral analysis into drafting and implementing market-oriented legislation
- Expansion of government capacity to conduct economic policy and data analysis¹

Initial project work focused on exploring potential anchoring activities for the economic policymaking and legislative assistance dimensions of the task order. It became clear that, based on the scope and funding of the project, no more than two substantive policy areas could be tackled during its two-year duration. The most prominent initial targets of opportunity included help with WTO accession, drafting certain commercial legislation (principally bankruptcy, antitrust, and mortgage), and the overall conceptualization of a foreign investment framework.

B. Work Plan Development

Based on these objectives, CEPAR's work plan emphasized the integration of law and economics in two main policy spheres: antimonopoly policy and the development of a sound legislative and policy framework for WTO accession. For WTO accession, CEPAR would help frame the legal and policy choices (e.g., intellectual property law protections, tariff policies) supporting Georgia's overall reform of its foreign trade and investment framework.

¹ The strategic planning exercise identified three Intermediate Results (IRs) under Strategic Objective (SO) 1.3, Accelerated Development and Growth of Private Enterprise. The three IRs advanced by the GMP project were:

IR 1.3.5: Improved framework for economic policies, commercial laws, and regulations for economic activities

IR 1.3.5.1: Increased indigenous capacity to conduct policy and data analyses

IR 1.3.5.2: Increased indigenous capacity to draft commercial laws and regulations and to adjudicate commercial disputes

These two substantive areas were chosen for three main reasons: (1) the fruitful use to which the integration of economic analysis and law could be put, (2) the opportunity to shape policy from the beginning (WTO and antimonopoly work were just getting under way), and (3) the complementary domestic and international impact of these areas on the openness of Georgia's markets, particularly through removal of critical governmental restraints (e.g., import tariffs, exclusive licensing arrangements, etc.).

In light of its own development mandate, CEPAR also committed itself in the work plan to a final key objective—economic policy analysis capacity-building—that would advance USAID's and CEPAR's objective of the center becoming a sustainable policy organization by the end of 1998.

In mid-August 1996, shortly after the work plan was accepted, Mr. Farrell left the project to return to teaching and consulting. In his place, Chemonics selected Larry Morgan, a highly accomplished economist with a long career in international development work. Mr. Morgan oversaw the full staffing of the CEPAR office² and the achievement of work plan objectives. Later, when Robert La Mont became the project resident legal specialist, Mr. Morgan arranged for a number of articles on CEPAR legal advice and commentary to be written and published for dissemination to U.S. and Georgian audiences.

C. Methodology

The task order objectives were implemented through activities that emphasized the following economic and legal reform objectives:

Economic Reform

- Removal of key market distortions, such as subsidies for resources, goods, and services; price controls; and government-sanctioned barriers to industry entry and exit and mobility of intellectual property and resources
- Removal of tax and tariff policies that distort investment and production incentives between firms and industries
- Use of market mechanisms to set prices for Georgia's intellectual property, factors of production, and goods and services, in line with their highest opportunity costs

Legal Reform

- Enactment of market-oriented legislation that maximizes competition and facilitates trade and investment
- Enactment of concise, unambiguous legislation that defines relevant economic interests while minimizing regulatory requirements

² Mr. Morgan hired a full-time office manager and several Georgian full- and part-time translators to handle the large volume of published material produced by CEPAR. Regrettably, Keti Kheladze, the Georgian deputy director of CEPAR, left the project in early 1997 to pursue other interests with the Georgian Parliament. Despite efforts in the first half of 1997 to find a replacement, CEPAR was not able to find an appropriately qualified Georgian economist to serve as deputy director.

- Implementation of competitive trade and investment practices through creation of a transparent and accountable regulatory system

The project's implementation strategy had four important features, all of which contributed to successfully achieving work plan objectives:

- Flexibility in dealing with a changing policy environment
- Close coordination with relevant donor and government agencies
- Prioritized activities emphasizing near-term tangible results
- A balance between legal and policy analysis assistance focusing on substantive enactments and institutional capacity assistance in the three areas of competition policy, trade and investment policy, and economic analysis capacity-building

In providing technical assistance, the project sought to reduce transaction costs and save production resources. This was achieved through review of existing laws and draft legislation to increase competitive economic behavior, the protection of property rights in commercial trade, access to technology, and resource mobility. The overall purpose of recommended reforms was increasing marketed goods and services at lower average prices. These are the fundamental elements in expanded economic welfare and overall national economic growth and development.

SECTION III
WTO ACCESSION/TRADE AND INVESTMENT POLICY

For a developing economy like Georgia's, the gains from trade are vital to acquiring new technologies that will enable the country to catch up, over time, with its Western neighbors. This link is doubly important if, as in Georgia's case, the country is somewhat isolated geographically and lacks reliable sources of supply.

The specter of protectionism and government trading restrictions is a constant threat to Georgia's long-term economic well-being. CEPAR's role in trade and investment was to encourage Georgia to unequivocally open its markets to international commerce. CEPAR helped draft and enact a new foreign investment code, demonstrated the negative effects on national production of Georgia joining the CIS Customs Union, helped organize and advance the WTO accession effort, and showed how raising tariffs would harm Georgian consumers.

A. Approach

CEPAR's assistance in trade and investment policy was designed to maximize the use of the policy levers over which it had some influence through other government actors. These levers included:

- Assistance in the WTO accession process to ensure that Georgia's Interministerial Task Force on WTO Accession was properly prepared with policy information to negotiate with key trading partners
- Substantive policy analysis and advice to key government agencies on legislative and policy changes to further open Georgia markets
- Specific assistance in drafting and implementing Georgian laws on intellectual property protection
- Assistance to further improve Georgia's foreign investment regime, including assistance on the planned revision of the Customs Code

B. Activities and Achievements

The achievements under this component were considerable. Foreign investment law work began in Spring 1996 with CEPAR's commentary on the progressive but flawed foreign investment law, followed by a seminar on legislative drafting relating to foreign investment law co-taught by CEPAR legal specialist Gary Kelly; CEPAR foreign investment specialist Jenik Radon, a New York commercial lawyer; and Richard Thompson, a Sacramento, California, legislative drafting specialist. Based on advice and commentary on the new foreign investment law, including consultations with the World Bank's Foreign Investment Advisory Service (FIAS) and a report by Mr. Kelly and Mr. Radon on the Georgian investment law in transition, a new foreign investment law with far less disparate treatment of foreign investment was passed in late 1996.

Analysis of Customs Union. In Summer 1996, CEPAR retained the services of economist Ricardo Monge-Gonzalez to draft a report on the costs of Georgia joining the CIS Customs

Union, which Georgian policymakers perceived as an impediment to free and open trade with the West. Monge-Gonzalez demonstrated in a July 1996 report that the costs of joining the union far outweighed the benefits. Many influential Georgian observers and policymakers viewed this report as paving the way for free trade proponents to press for full WTO membership.

Trademark and patent laws. In Fall 1996, CEPAR consultant Bruce McDonald, a Russian-speaking intellectual property attorney from Washington, D.C., worked with the Interministerial Task Force and the Georgian State Patent Office to provide advice on the revision of Georgian laws on trademark and patents. This resulted in a lengthy report on the legislative framework for Georgia's intellectual property regime, published in December 1996 and widely cited by Georgian policymakers and parliamentarians as the basis for intellectual property rights reform in the country. CEPAR and Mr. McDonald submitted a final report on Georgian intellectual property legislation to Georgian officials in December 1997.

WTO accession. Work on the WTO accession process began in August 1996 with the arrival in Tbilisi of Alena Sindelar, a Swiss economist and long-time GATT official. CEPAR retained Ms. Sindelar to orient Georgian policymakers to the procedures of WTO accession in a seminar on WTO accession requirements (September 1996) and chart a reasonable schedule to form an Interministerial Task Force on WTO Accession (September 1996), develop and submit to the WTO a draft foreign trade memorandum (October 1996), and develop a strategy for bringing economic policy and legislation into alignment with WTO requirements. In early November 1996, CEPAR lent support and partial funding to the Interministerial Task Force to permit a high-level Georgian WTO delegation to visit the WTO for meetings on Georgia's accession process. The visit further acquainted the delegation with the WTO accession requirements and helped map out a schedule for accession compliance and working party meetings. A later trip of two senior Georgian officials to the Singapore WTO ministerial meeting allowed further discussions of the accession process and cemented Georgia's image as a committed prospective WTO member.

In 1997, the WTO accession process slowed. Although a final version of the foreign trade memorandum produced with CEPAR assistance was submitted to the WTO in March, questions from the Secretariat were not received until June 1997 and responses not submitted until August 1997. Despite a second trip of the Georgian WTO delegation to Geneva in February and an intensive WTO training course in trade policy for four Georgian trade policy specialists with CEPAR funding, very little in the way of either WTO action or Georgian legislative activity occurred during the rest of 1997. As of the end of 1997, the WTO had not begun detailed analysis of Georgia's responses. The trade memorandum itself was vague and contradictory about a number of policy and legislative actions. Considerable legislative action would be required to permit accession by the end of 1998, which CEPAR did not believe was possible as it closed operations at the end of 1997.

Customs and tariff reform. To counteract potential backsliding on accession, CEPAR worked vigorously in 1997 to press the Georgian government on customs and tariffs reform. To counter a Foreign Ministry intention to ask the WTO to allow high tariffs on unidentified agricultural and industrial goods, CEPAR organized a special seminar on the role of trade liberalization in Georgia's WTO accession in September 1997 and a workshop on drafting a new Customs Code in October 1997. In both events, CEPAR specialists emphasized the importance of free trade and the influential signals to the world community that progressive tariff and customs enactments would send. Georgian reception of this advice was mixed. Many officials acknowledged that a tough initial bargaining position with the WTO would probably backfire and

lead to a loss of confidence in the Georgian Government by most foreign investors while others were determined to follow through on what was perceived as common sense patriotism.

C. Assessment

CEPAR achieved all of its quantitative objectives in issuing policy papers and training Georgian government officials on WTO accession and diverse other dimensions of establishing an effective trade policy regime. CEPAR was particularly influential in helping establish a framework for WTO accession and financially and materially supporting the travel of several senior trade specialists and members of the WTO delegation to Geneva. Also, CEPAR helped change Georgian intellectual property law and the new law on foreign investment.

The picture is more mixed with customs and tariff policy, where, despite assiduous CEPAR efforts to encourage Georgian policymakers to adopt a more pronounced free trade regime, Georgian protectionist interests proved resilient. In the end, CEPAR was limited in dealing with sensitive Georgian foreign policy matters, particularly given its institutional affiliation with the Ministry of Economy, whose support for free trade was uneven. Still, CEPAR's widely-disseminated policy analyses, high-profile seminars, and linkages to influential multilateral organizations in-country such as the IMF and World Bank have ensured that the free trade agenda will continue to be pursued vigorously.

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SECTION IV ANTIMONOPOLY (COMPETITION) POLICY

The term "antimonopoly policy"—conveying images of the state potentially seeking to break up newly-privatized enterprises with a dominant market position—does not capture the complexity and importance of this area of government enforcement. A proper antimonopoly policy can substantially assist efforts to remove government-sanctioned barriers (whether structural or based on favoritism and/or corruption) to imports, market entry by new entrepreneurs, and the proper supply of services and utilities to consumers and businesses. In addition, a solid competition regime can increase consumer awareness of supplier options and confidence in the new market process.

CEPAR viewed antimonopoly policy as a critical complement to its work on the WTO accession process and the development of a Georgian trade and investment regime supportive of free markets. CEPAR also discerned an opportunity to shape competition policy in Georgia from the ground up, since the new Antimonopoly Service (AMS) was just beginning to function during the period of the task order. CEPAR's intervention was the first time that USAID or any other donor has assisted a competition agency at the earliest stages of its operation. This fact, as well as the compact size of the Georgian market and the AMS' ability to learn from counterpart agency histories, made the AMS a serious and deserving recipient of assistance in 1996-97.

A. Approach

In its early involvement with the AMS, CEPAR found the agency's leadership to be talented and reasonably dedicated to its new enforcement responsibilities under the Antimonopoly Law. CEPAR's early work focused on helping the AMS develop a preliminary consensus on the general direction of antimonopoly policy and fashion initial draft guidelines that, when refined and adopted as regulations, would provide the operational basis for competition law and consumer protection law enforcement.

By mid-1996, the AMS had already participated in a number of international training programs but lacked substantial infrastructure, internal training programs, public education materials, and operational guidelines necessary to mount complex enforcement actions. Given the strategic importance of the AMS work, the modest support of other donor agencies and CEPAR's practical and intellectual leadership, CEPAR thought a significant assistance program would help ensure that the AMS fulfilled its promising role as one of the more competent and energetic competition policy agencies in the NIS.

CEPAR assistance to the AMS took the following forms:

- Publications and public education support to develop business, government, and consumer understanding of the AMS mandate and competition policy generally
- Competition policy and organizational development training for the AMS staff
- Training for, and cooperation with, other players in the antimonopoly enforcement arena, including lawyers, judges, and consumer groups

Most of CEPAR's assistance was concentrated in the staff training area. Publications assistance bogged down over AMS indecision about the types and formats of publications it wanted. Due to time limitations, training for other groups was limited to the judiciary and, to a small extent, some practicing lawyers, through the Georgian Young Lawyers' Association.

B. Activities and Achievements

Legislative advice. CEPAR began its competition policy assistance with informal advice to legislative drafters of the new Antimonopoly Law in Spring 1996. Although the statute had passed in May 1996, several CEPAR recommendations on the definition of anticompetitive activities were nevertheless important and timely. CEPAR provided further analysis and insights into the new statute in an April 1997 legislative report, *Implications of Georgia's Antimonopoly Law for Competition Policy*.

Policy workshop. Institutional assistance to the AMS got underway with a major workshop for AMS officials and parliamentarians at the resort of Gudauri November 7-9, 1996. The Workshop on Antimonopoly Policy Development, led by economist Ben Slay of Middlebury College and legal specialist William Kovacic of George Mason University Law School, outlined major international practice with respect to key types of anticompetitive behavior and, using case studies drawn from NIS practice (Russia and Ukraine), engaged the participants in problem-solving and conceptualization of how enforcement would or should be handled in Georgia.

AMS recommendations. Based on the success of the workshop, Mr. Slay and Mr. Kovacic drew up important recommendations to guide the AMS in near-term institutional development. These recommendations were published in December 1996 in a report, *Draft Outline of Guidelines for Implementing Georgia's New Antimonopoly and Consumer Protection Laws*. In Winter and Spring 1997, further consultations between CEPAR and the AMS resulted in the *Action Plan for Implementing Antimonopoly and Consumer Protection Policy in Georgia*, which Mr. Kovacic drafted. A final version of the *Guidelines for Implementing Antimonopoly and Consumer Protection Policy in Georgia* was produced in the spring for review by the AMS authorities. CEPAR conducted a seminar on the action plan for AMS and other officials on April 24, 1997.

Special economy commentary. Progress toward adopting the guidelines slowed during the balance of 1997, as disorganization in the AMS and a lack of commitment to dramatic AMS institutional development, most notably by the Chancellery, made it difficult for CEPAR and the AMS to consider operationalizing many recommendations.¹ At the same time, the head of the AMS signaled a disturbing intention to regulate natural monopolies in Georgia, to the point of actually setting prices for certain utilities such as electricity. It was a distinctly anti-market stance in mid-1997, especially as Georgia was also establishing a series of rate-setting agencies for utilities with multilateral donor support. Despite ample reasons to defer rate-setting (as opposed simply to price monitoring) to the new agencies, the AMS continued through much of 1997 to send confusing and/or threatening signals about its natural monopoly role and severely diminished USAID and CEPAR confidence in this key Georgian client. This was the reason that Mr.

¹ The Chancellery was to ensure that government funds linked to a World Bank loan were available to the AMS for infrastructure purchases, including a new office. It was difficult to discern the Chancellery's relationship to the AMS. The Chancellery gave several indications of support but never seemed to follow through with infrastructure support or broad policy declarations to underscore the importance of a vigorous competition policy in Georgia.

Morgan wrote a special economic commentary on the regulation of natural monopolies in July 1997.

CEPAR's confidence in the AMS continued to diminish as the result of dissension about publications support. The AMS wanted CEPAR to cover large publications costs with USAID funds but did not want to consult CEPAR about content or specific uses of the money. In addition, the AMS had failed to meet copy deadlines several times for an agency brochure. CEPAR eventually decided not to use USAID funds for publications support.

Training and study tour. CEPAR provided intensive competition policy training to the AMS and the Georgian judiciary during the second half of 1997. In July 1997, Mr. Slay and Mr. Kovacic were the trainers for a second workshop on antimonopoly policy development to continue building consensus on major policy questions and develop case studies. The workshop was a precursor to the antimonopoly observation tour in late July 1997, coordinated by Chemonics and its subcontractor, the International Law Institute. This study tour of Washington, D.C., and Baltimore for seven senior Georgian officials, including several senior staff of the AMS and two members of Parliament, featured in-depth discussions with staff members of the U.S. Congress, the U.S. Department of Justice, and the Federal Trade Commission. On a side trip to the Port of Baltimore, the Georgian officials met with port officials; their discussions helped the Georgians understand options for port regulation, which was a major subject of debate in the country.

In Fall 1997, CEPAR focused on providing intensive training for AMS officials and members of the Georgian judiciary, who are partners in competition policy enforcement. Mr. Slay and Mr. Kovacic held training workshops for AMS staff in October and December at which 19 and 30 staff members were trained, respectively, in basic macroeconomic theory, conceptualization of various anticompetitive behaviors, and practical options for enforcement.

The training workshops for judges, conducted concurrently with the staff training by CEPAR economic specialist Roger Faith and CEPAR legal specialists Robert La Mont and Judge Keith Callow, were an important step in judicial independence and a landmark in judicial training in Georgia for four reasons: (1) They were the first dedicated training workshops that the judiciary had organized for itself. (2) They introduced basic free market and macroeconomic concepts to Georgian judges. (3) They brought AMS officials and judges together to share perspectives, a rare occurrence in post-Soviet Georgia. (Several members of the Georgian Young Lawyers' Association also attended.) (4) They featured a special joint exercise for AMS officials and judges on the proper constitutional and legal basis for investigations and searches of Georgian businesses. Participants discovered that there were widely divergent views on what the AMS could do legally in investigations and expressed their appreciation for the strong, proactive role that Georgian judges were prepared to play in protecting individual rights.

C. Assessment

CEPAR's achievements in promoting AMS institutional developments were significant, particularly in comparison to other donor-supported antimonopoly enforcement activities in the NIS. CEPAR's training program was effective and well-received by AMS staff. The initial training of judges in competition policy established the judiciary as a committed and able partner in enforcement and brought forth a cadre of Georgian private lawyers with the skills to prosecute antimonopoly cases. However, CEPAR's achievements were limited by the AMS' lack of consensus about funding and policy direction, especially regarding the role of the Chancellery.

Ultimately, aside from greater Chancellery support for the AMS, government-wide understanding of the importance of a vigorous competition policy is the most important factor in the establishment of durable free markets in the country. So long as Georgia's privatization efforts and overall reform program are subject to obstruction and second-guessing, it is doubtful that clarity about the importance of competition policy will emerge. Hopefully, as privatization efforts gain ground and the proper scope of natural monopoly regulation (including rate-setting by independent bodies) emerges, an effective AMS will be ready to play its proper role in protecting free markets.

SECTION V
MACROECONOMIC POLICY ANALYSIS CAPACITY-BUILDING

As of the end of 1995, the Georgian Government was not providing sound economic analysis of the structural changes in the market transition, as it should have been doing. Both skilled policy specialists and accurate policy management information were in short supply. Poor information particularly clouded policy dialogue on such key issues as fiscal and monetary policy, tax collection, and social welfare. The country also lacked policy-oriented institutions focused on conducting relevant economic research and providing practical advice to key policymakers.

The need to improve economic and social statistics was a theme echoed by donors and government officials alike. Fortunately, in June 1996, IMF conditionality resulted in the establishment of a National Statistics Task Force under the Ministry of Economy. However, the government did not clearly define the data that were most critical to the policy management process. With respect to macroeconomic analysis, the IMF served as the primary source of forecasting and policy analysis, although the National Bank, Chancellery, and Ministry of Finance began their own forecasting operations. Even so important and contentious an issue as CIS Customs Union membership did not benefit from elementary macroeconomic analysis until CEPAR analyzed the issue in July 1996.

To address these issues, CEPAR set itself the tasks of (1) providing prompt, short-term analytical services to various government agencies involved in policy; (2) transmitting knowledge and skills in macroeconomic policy analysis to government economists and policymakers; and (3) building the capacity of CEPAR to continue to serve as a critical resource to the government, either as a governmental unit or an NGO.

A. Approach

CEPAR's programming for the task order had four connected objectives:

- Training selected Georgian economists in macroeconomic modeling and policy analysis
- Advising the Government of Georgia on macroeconomic policy
- Consulting with the Ministry of Economy on the development of a macroeconomic model appropriate to Georgia's economy
- Developing CEPAR to become a sustainable governmental unit or NGO after 1998

In pursuing these activities, CEPAR collaborated with a number of key institutions, including the IMF.

B. Activities and Achievements

CEPAR's activities in this area began with efforts to create an operational role for itself consistent with the above objectives. This meant building strong ties to its institutional partners in the Ministry of Economy, responding to requests for assistance from diverse quarters such as parliamentary committees and the Chancellery, and arranging for adequate staff to function

effectively in its diverse duties, particularly training workshops and seminars and policy reports. Finally, USAID correctly believed that CEPAR needed a powerful board of directors or advisers to be effective. A board was assembled in late 1996, but it never functioned because its leadership was not clarified (for example, Mr. Basilia's role was never determined) and individual members did not believe they could accomplish anything of importance. Only one member, reform parliamentarian David Onoprishvili, consistently asked CEPAR for assistance and freely expressed support for CEPAR.

Despite ambivalent government attitudes, possibly due to CEPAR's close connection to USAID, CEPAR played a major role in addressing key macroeconomic policy issues during the two-year period of the task order. Believing that pure macroeconomic policy issues were already being addressed through reports authored by the World Bank and IMF, CEPAR saw its main role as supplying applied reports on issues relevant to the trade and investment and competition policy components identified under the task order.

CEPAR worked diligently with the Ministry of Economy to develop the most effective conceptual macroeconomic models for Georgia and persuaded the ministry to begin working on a modified model used by the Japanese Government by the fall of 1997. However, progress on operationalizing this model was fitful as the ministry's commitment to the task order seemed to decline in the latter part of 1997. This was in part due to the announcement that the task order would not be renewed and USAID and CEPAR feelings that the ministry was not the appropriate institutional host for the project.

In the area of macroeconomic modeling training, CEPAR's accomplishments were noteworthy. A core group of 21 government macroeconomists received intensive training in macroeconomic modeling in March and July 1997. The training pointed out that, although skill levels are high, future training must address such weaknesses in the Georgian environment as (1) economists' lack of access to proper computers or economic analysis software; (2) inattention to applied, practical analysis of current policy issues by the economists' superiors in various ministries; and (3) a personal lack of confidence on the part of many economists due to the absence of such economic analysis in Georgia.

C. Assessment

Although CEPAR's provision of macroeconomic modeling training to Georgian government economists was successful, other aspects of CEPAR's capacity-building agenda were undermined by weak government support and flaws in the design of CEPAR in the task order. Due to potential rivalry between the Ministry of Economy and the Chancellery and the perception that the Ministry of Economy was not a strong champion of free markets, CEPAR did not achieve the prominence that had been widely expected. CEPAR's policy role was constrained by its inability to find a technically competent, politically astute Georgian deputy director.

Perhaps the biggest design or planning flaw was USAID's failure to hammer out the structural and operational details of CEPAR's role with Georgian officials. CEPAR was naively viewed as being able to function effectively in the Georgian environment from its inception. This was unrealistic without an effective advisory board and Georgian deputy director and proper client relationships patiently built with institutions like the Chancellery, Parliament, and key ministries. Additionally, CEPAR's mission was viewed as excessively tilted toward USAID and American foreign policy objectives. Had a sustained dialogue been held with the Chancellery in

particular, CEPAR might have found itself with a more influential and active patron and a better opportunity for sustainability.

SECTION VI

OVERALL ASSESSMENT AND RECOMMENDATIONS

The GMP task order was a qualified success: it accomplished virtually all of its short-term targets, particularly those relating to policy guidance and training, but it did not institutionalize its work. As noted above, this stemmed from many factors outside of CEPAR's and Chemonics' control, including the design of the institution, inadequate staffing, the institutional home chosen by USAID, failure to adequately orient major potential Georgian clients to CEPAR's purpose and menu of services, the precarious state of certain reforms, and lack of qualified Georgian economists to lead CEPAR during and after the task order.

The problems of institutionalization extend to two of CEPAR's main clients: the Antimonopoly Service and the WTO Interministerial Task Force. The AMS did not function as well as expected due to leadership problems and insufficient political commitment by the Georgian Government. The WTO Task Force, though effective in many ways, did not embrace all of the viewpoints of its constituent members; rather, when it was used, it was employed largely as a tool of the Foreign Ministry, which was largely in control of the WTO and trade and investment agenda. The Chancellery rarely took strong stands in intra-agency disputes.

Looking ahead, this task order laid a good foundation for a regional assistance model emphasizing anticorruption work and continued trade policy involvement. The USAID/Caucasus Mission can utilize accomplishments in competition policy, judicial training, and legislative change supporting free trade objectives as a basis for the next task order. Competition policy is a necessary condition for realizing the full benefits of the economic reform program. USAID should therefore reassess the government's commitment to competition policy generally. If it is reasonably strong, then USAID should request a robust commitment from the Chancellery to provide the AMS with the necessary leadership and supervision.

On the WTO front, technical assistance should continue to be provided for WTO accession issues dealing directly with trade policy, since knowledge of basic macroeconomics is minimal and most interest groups are operating on pure political instincts and have no interest in economic policy issues. While large dollar amounts should not be spent on such work, it is important that U.S. assistance be channeled through an effective institution—probably the Chancellery—to ensure there is an intelligent, responsive audience for macroeconomic analysis and a dedicated government policy champion.

A sensible, forward-looking USAID strategy should also obviously acknowledge that much progress can be made on the democracy and governance side through continued support to the Parliament, groups like the Young Lawyers' Association, and the judiciary under Rule of Law contracting vehicles. Under the direct successor task order issued to the IRIS Center at the University of Maryland, however, the most important component, aside from the anticorruption work already identified, should be commercial law implementation and enforcement and public education.

Commercial law implementation work, desperately needed in Georgia as elsewhere in the NIS, acknowledges that the country is beginning to have a commercial law framework (built around the German-assisted civil code) but still has a poor understanding of how the framework can or should operate in practice. A commercial law implementation and education effort of this nature would be designed to accomplish the following purposes:

- To fill in gaps in the civil code in areas in which American experience may be superior (e.g., franchising; intellectual property laws)
- To refine commercial law areas that may require later amendment based on international experience
- To help educate the public and the legal community to use new commercial laws

Specific activities might include publications assistance to legal academics to publish larger quantities of the new civil code, along with critical legal commentaries; training for key segments of the legal community, including practicing lawyers and judges, relating to current practical commercial law problems; broader public education through seminars and media purchases aimed at business leaders, Parliament, and the general public; technical assistance to improve and refine the civil code, including in such key areas as franchising, leasing, banking, and insurance, in which American expertise is highly regarded; and curriculum development assistance for commercial law instruction at law faculties.

This assistance can be of immense value. Until now, Georgia has had little, if any, assistance in implementation and education as opposed to drafting. Such assistance would be consistent with a new USAID ENI Bureau emphasis on the enforcement/implementation dimension of commercial law reform. The needs are great (and European commercial law training methods are relatively weak) and American assistance may prove to be the critical difference between a business law environment that works and one that barely functions.¹ USAID assistance through a successor task order can help develop better training and education mechanisms for the major legal players in the country, including practicing lawyers, judges, law professors, and the Ministry of Justice. These mechanisms would be useful in the overall development of the Georgian legal system.

¹ A good indication of the low level of commercial law literacy has been the efforts by the Parliament and the civil code drafters to solicit critical comments on the draft civil code and the new company law from the legal community. There was very little comment on this legislation, despite its tremendous importance to economic development.

ANNEX A
CEPAR REPORT AND TRAINING SUMMARY

CEPAR Economic Commentary Reports

- No. 1 *Rationalizing the Role of Tariffs In Georgia's Trade Regime*, by Larry C. Morgan, January 15, 1997
- No. 2 *The Effects of Free Economic Zones In Expanding Exports*, by Larry C. Morgan, April 15, 1997
- No. 3 *Regulation of Natural Monopolies*, by Larry C. Morgan, July 11, 1997
- No. 4 *The Economic Impact of Customs Policy*, by Larry C. Morgan, October 24, 1997
- No. 5 *International Trade Policy Issues: Dealing with Protectionism*, by Edgar J. Gordon, October 24, 1997
- No. 6 *The Law "On Prices and Principles of Price Formation": A Barrier to Free Markets*, by Larry C. Morgan, November 26, 1997

CEPAR Legislative Commentary Reports

- No. 1 *Improving Business Restructuring: Georgia's Bankruptcy Law*, by Gary M. Kelly, February 18, 1997
- No. 2 *Legal Foundations of Georgian Business Organization: A Practical Critique of the "Law on Entrepreneurship,"* by Gary M. Kelly, February 18, 1997
- No. 3 *Implications of Georgia's Antimonopoly Law for Competition Policy Implementation*, by Gary M. Kelly and Larry C. Morgan, April 10, 1997
- No. 4 *Legislative Drafting*, by Robert La Mont, October 31, 1997

CEPAR Analytic Reports

- No. 1 *Potential CIS Customs Union Effects on Georgian Trade Flows and Revenues*, by Ricardo Monge-Gonzalez and John P. Farrell, July 1996
- No. 2 *Accession of Georgia to the World Trade Organization*, by Alena Sindelar, September 18, 1996
- No. 3 *Accession of Georgia to the World Trade Organization: Georgian Observation Delegation Visit to the WTO (November 18-22, 1996)*, by Ketevan Kheladze, Amiran Kavadze, and Gergory Tsamalashvili, December 11, 1996

- No. 4 *Draft Outline of Guidelines for Implementing Georgia's New Antimonopoly and Consumer Protection Laws*, by William Kovacic and Ben Slay, December 13, 1996
- No. 5 *The Role of Market Structure in Georgia's Antimonopoly Policy*, by Larry C. Morgan, December 13, 1996
- No. 6 *A Legislative Framework for Georgia's Intellectual Property Regime*, by Bruce Alexander McDonald, December 16, 1996
- No. 7 *Georgian Investment Law in Transition: An Assessment*, by Jenik Radon and Gary M. Kelly, April 2, 1997
- No. 8 *Recommended Guidelines for Implementing Georgia's Antimonopoly and Consumer Protection Laws*, by William E. Kovacic and Ben Slay, April 2, 1997
- No. 9 *A Recommended Action Plan for Implementing Antimonopoly and Consumer Protection Policy in Georgia*, by William E. Kovacic, May 3, 1997
- No.10 *The Role of Trade Liberalization and WTO Accession in Georgia's Economic Transition and Development*, by Robert Myers, September 12, 1997
- No.11 *Realizing Georgia's Competitive Advantage*, by Larry C. Morgan, November 28, 1997
- No.12 *Report and Recommendations on Georgian Intellectual Property Legislation*, by Bruce Alexander McDonald, December 1, 1997

CEPAR Seminars

- No. 1 WTO Accession Requirements (28 participants), September 4-5, 1996
- No. 2 Georgia's Intellectual Property Regime (30 participants), October 25, 1996
- No. 3 Developing an Antimonopoly Action Plan (33 participants), April 24, 1997
- No. 4 Role of Trade Liberalization in Georgia's WTO Accession (30 participants), September 1, 1997
- No. 5 Intellectual Property Issues for Georgian Attorneys (30 participants), November 16, 1997
- No. 6 Finalizing Intellectual Property Legislative Drafting and Enforcement (30 participants), November 20, 1997

CEPAR Workshops

- No. 1 Legislative Drafting (52 participants), July 8-11, 1996
- No. 2 Antimonopoly Policy Development I (38 participants), November 7-9, 1996
- No. 3 Macroeconomic Modeling I (28 participants), March 17-21, 1997

- No. 4 Macroeconomic Modeling II (26 participants), July 7-11, 1997
- No. 5 Antimonopoly Policy Development II (56 participants), July 14-16, 1997
- No. 6 Antimonopoly Staff Training I (19 participants), October 13-17, 1997
- No. 7 Antimonopoly Judicial Training I (26 participants), October 13-17, 1997
- No. 8 Customs Code Legislative Drafting (approximately 60 participants), October 20-22, 1997
- No. 9 Antimonopoly Staff Training II (30 participants), December 8-12, 1997
- No.10 Antimonopoly Judicial Training II (30 participants), December 8-12, 1997

CEPAR Observation and Study Tours

- No. 1 First Georgian WTO Accession Delegation (two senior Georgian officials and one CEPAR staff member), Geneva, November 18-22, 1996
- No. 2 Second Georgian WTO Accession Delegation (two senior Georgian officials), Singapore, December 9-13, 1996
- No. 3 Third Georgian WTO Accession Delegation (two senior Georgian officials), Geneva, February 5-12, 1997
- No. 4 WTO Trade Policy Course (four Georgian trade policy specialists), Geneva, April 14-May 7, 1997
- No. 5 Antimonopoly Policy Development (seven senior Georgian officials and one CEPAR staff member), Washington, D.C., September 20-October 4, 1997