Nations in Transit

1999-2000

CIVIL SOCIETY, DEMOCRACY & MARKETS in East Central Europe & the Newly Independent States

Edited by Adrian Karatnycky,
Alexander Motyl, and Aili Piano

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1999-2000

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in East Central Europe and
the Newly Independent States

Edited by Adrian Karatnycky, Alexander Motyl, and Aili Piano

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This publication was made possible through support provided by the U.S. Agency for International Development, under the terms of Grant No. DHR-0001-G-00-6030-00. The opinions expressed herein are those of Freedom House and do not necessarily reflect the views of the U.S. Agency for International Development.

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This book is printed on acid-free paper that meets the American National Standard for Permanence of Paper for Printed Library Materials.

Library of Congress Catalog Number: 00-046720
ISBN: 0-7658-0773-4
Printed in the United States of America

Library of Congress Cataloging-in-Publication Data

Nations in transit, 1999-2000 : civil society, democracy, and markets in East Central Europe and the newly independent states / edited by Adrian Karatnycky, Alexander Motyl, and Aili Piano.
p. cm.
"This report reviews an 18-month period of change from April 1, 1998 until June 30, 1999"—P. 9.
ISBN 0-7658-0773-4 (cloth : alk. paper)
1. Europe, Eastern—Politics and government—1989- 2. Former Soviet republics—Politics and government. 3. Civil society—Europe, Eastern. 4. Civil society—Former Soviet republics. 5. Europe, Eastern—Economic conditions—1989- 6. Former Soviet republics—Economic conditions. I. Karatnycky, Adrian. II. Motyl, Alexander J. III. Piano, Aili.

JN96. A58 N384 2001
320. 947'09'049—dc21 00-046720

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Acknowledgments

Nations in Transit 1999-2000 could not have been completed without the dedicated and expert advice of the project's academic consultants. Freedom House is grateful to Professor Alexander Motyl, who serves as Associate Director of the Center for Global Change and Governance at Rutgers University, Newark, and who coordinated the advisers' group and provided editorial expertise for the country reports; Boris Shor, who coordinated the *Nations in Transit 1997* survey and who wrote several country essays and provided editorial guidance on all sections of the survey dealing with economics and privatization; Stephen Handelman, who is an associate at the Harriman Institute, the author of *Comrade Criminal: Russia's New Mafia*, and who edited the sections dealing with corruption; and Kate Schecter, a consultant to the World Bank on social conditions in the post-Communist world, who wrote the essay on social policy and edited the social policy sections of the country reports.

Freedom House also thanks the members of the project's Academic Oversight Board, which was primarily responsible for determining the ratings for each country. In addition to Mr. Handelman, Dr. Motyl, and Ms. Schecter, the board includes Dr. Richard Ericson, Professor of Economics at Columbia University; and Dr. Charles Gati of the School of Advanced International Studies at Johns Hopkins University. Most of these board members also reviewed and provided commentary on the country reports.

Freedom House is grateful to the scholars who participated in a conference to review the study's findings and the overall scope of the project. The conference, held in Budapest, included a number of leading scholars from Central and Eastern Europe and the Newly Independent States. The participants included Florian Bieber, Central European University, Budapest; Sergei Markov, Institute of Political Studies, Moscow; Hryhoriy Nemyria, International Renaissance Foundation Center for European and International Studies, Kiev; Ognjen Pribicevic, Yugoslavia; Albert Rakipi, Albanian Institute for International Studies, Tirana; Nikolai Sitter, Central European University; and Oana-Valentina Suciu, Institute for Political and Economic Research, Bucharest.

Freedom House thanks Ms. Schecter for her analytic essay. It also thanks those staff members and consultants who researched and wrote the individual country reports (please note that some country reports were written by more than one author): Rafal Antczak, Center for Social and Economic Research—CASE, Warsaw (Poland); Gordon Bardos, Columbia University (Bosnia and Herzegovina and Yugoslavia); Scott Carlson, Central and East European Law Initiative of the American Bar Association (Albania), Emil Danielyan, Radio Liberty (Armenia); Lisa Davis, Freedom House (Alba-

nia); Eran Fraenkel, Search for a Common Ground (Macedonia); Charles Graybow, Freedom House (Croatia, Mongolia, Turkmenistan, and Tajikistan); Anatol Gudim, Center for Strategic Studies and Reforms, Chisinau (Moldova); Kristen Guida, Freedom House (Slovenia); Ivars Indans, Freedom House (Latvia); Roger Kangas, the Marshall Center (Kyrgyz Republic and Uzbekistan); Ivanna Klympush, East-West Institute, Kiev (Belarus); William Kramer, Columbia University, (Hungary); Lena Kolarska-Bobinska, Institute for Public Affairs, Warsaw (Poland); Ivan Krastev and the staff of the Center for Liberal Strategies, Sophia (Bulgaria); Aneta Lomovska, Lithuanian Free Market Institute (Lithuania); Catherine Lovatt, *Central Europe Review* (Romania); Grigorij Meseznikov and the staff of the Institute for Public Affairs and M.E.S.A. 10, Bratislava (Slovakia); Vira Nanivska, Center for Political Studies, Kiev (Ukraine); Ghia Nodia, Caucasian Institute for Peace, Democracy, and Development, Tbilisi (Georgia); Aili Piano, Freedom House (Estonia); Inna Pidluska, Ukrainian Center for Independent Political Research (Ukraine); Boris Shor, Columbia University (Belarus, Croatia, Czech Republic, Macedonia, Romania, Russia, Slovenia, and Turkmenistan); Peter James Sinnott, Columbia University (Kazakhstan); Krassen Stanchev and the staff of the Institute for Market Economics, Sophia (Bulgaria); Elizabeth Teague, Jamestown Foundation (Russia); and Petr Vancura, Civic Institute, Prague (Czech Republic).

Freedom House greatly appreciates the work of those organizations that provided information and assistance to this project. These included Amnesty International, the Associated Press, BBC, the Center for International Private Enterprise, the U.S. Department of Commerce, East European Constitutional Review, the European Bank for Reconstruction and Development, the Economist Intelligence Unit, the Financial Times, Human Rights Watch, the International Confederation of Free Trade Unions, International Helsinki Federation for Human Rights, the International Monetary Fund, the New York Times, the Organization for Economic Cooperation and Development, Radio Free Europe-Radio Liberty, Reuters, UNICEF, United Nations Development Program, U.S. Embassies in the CEE and NIS countries, the U.S. Department of State, and the World Bank. Maps used in the introductory sections of the country reports are 1999 Central Intelligence Agency maps, which were downloaded from the website of the University of Texas Perry-Castaneda Library Map Collection.

At Freedom House, Aili Piano shouldered the major burden of coordinating this year's survey. Jason Muse is responsible for producing the charts and graphs and coordinating the review conference in Budapest. Freedom House President Adrian Karatnycky developed the project, edited the study, and, along with Dr. Motyl, provided overall guidance for the data-gathering and analysis. Arch Puddington, Vice President for Research, coordinated the work of the research staff

Brian Anderson was responsible for the major part of the text editing, assisted by Kristen Guida of the Freedom House staff. Anne Green served as production manager for the book and was responsible for the cover design. Research assistance was provided by Sabirzyan Badertinov.

Nations in Transit 1999-2000: From Post-Revolutionary Stasis to Incremental Progress

Adrian Karatnycky

This report reviews an 18-month period of change from April 1, 1998, until June 30, 1999. It is the only comprehensive, comparative, multi-dimensional study of its kind, offering a series of signposts that facilitate comparisons among the states of Central and Eastern Europe and the former Soviet Union.

Nations in Transit 1999-2000 tracks the political and economic evolution of a vast territory from Central Europe to East Asia inhabited by more than 415 million people. It charts the varying paths taken by the political and economic transformations of 28 post-Communist states. This report is the fourth such comprehensive study of the fate of political and economic reform. In its first three editions, it was supported exclusively by the U.S. Agency for International Development (USAID). While this report continues to receive principal funding from USAID, the Open Society Institute has extended support to bring this edition to more political leaders and scholars from the countries under review, and to increase the participation of Central and East European scholars in the research and ratings effort.

Nations in Transit 1999-2000 rates countries on the basis of a scoring system that allows for comparison across nine broad categories (see the Explanatory Notes section and Table G). Each of the four categories of political process, civil society, independent media, and governance and public administration is assigned a numerical rating, and these ratings have been averaged to provide an overall Democratization score. The scores of two additional categories, which trace issues related to constitutional, legislative, and judicial framework, and corruption, are averaged to yield a Rule of Law score. Finally, the survey asks questions related to privatization and the macroeconomic and microeconomic environment to produce an overall Economic Liberalization average. In this year's edition, for the first time, the survey provides a broad range of social indicators aimed at helping identify major issues related to women's rights, the social

safety net, and public health and education. These social indicators are not subject to a ratings process.

The ratings system employed in *Nations in Transit 1999-2000* has been reviewed by the essay authors, including scholars and experts from the region, U.S. scholars, and Freedom House staff. The country reports were reviewed by several U.S. scholars, including Freedom House staff and Prof. Alexander Motyl of Rutgers University. The comparative ratings provided for the survey were reviewed by an Academic Oversight Board, made up of leading U.S. scholars, whose composition and work is detailed in the Acknowledgments section. In cooperation with the Central European University, Freedom House held a review session with the participation of leading experts from Russia, Ukraine, Hungary, Romania, Yugoslavia, and Western Europe.

WHAT DOES THIS REPORT SHOW?

The survey's most significant finding about the political and economic transition of the post-Communist states is that change throughout the region has slowed dramatically and the period of rapid transformational dynamism appears to be over. While the pace of change has slowed, the process of incremental change has not. In many of the states in the region, however, slow and methodical change can over time result in the emergence of open, liberal societies rooted in respect for the rule of law, human rights, and economic freedom. Electoral processes in many states can also be an agent for dramatic change, particularly in settings in which civil society and independent media have survived assaults from authoritarian-minded leaders.

Today the post-Communist landscape fits roughly into three broad categories of states. The first is made up of democracies with competitive market economies. These include Slovenia, Poland, Hungary, the Czech Republic, Slovakia, Latvia, Estonia, Lithuania, and Mongolia. The second category consists of hybrid/transitional states in which some democratic and free market characteristics and limited institutional development share the stage with a high degree of authoritarianism, corporatism, cronyism, and state involvement in economic life. These states include countries in an ongoing transition from the authoritarian, statist systems of the Communist period as well as countries in which transitions have stalled or ceased.

In the category of evolving or reforming hybrid/transitional states in which there has been significant forward momentum in the period covered by this survey are Romania, Bulgaria, Macedonia, Georgia, Albania, Armenia, and Bosnia, which is a state under partial international jurisdiction. Croatia, which has had a regime change in the aftermath of the death of President Franjo Tudjman, may soon join this list. Tajikistan, a post-conflict society, has made limited progress in the opening of its political institutions, mainly as a result of a power sharing agreement that brought an end to civil war. However, Tajikistan's economic reforms have stalled.

In the category of hybrid/transitional states in which transitions are stalled or in reversal are Russia, Ukraine, the Kyrgyz Republic, Moldova, and Azerbaijan. Each, however, has long-term potential for a resumption of reform processes, as each possesses a significant degree of civic activism, and in the cases of Russia, Ukraine, and Moldova, significant independent news media, though these suffer from government pressure. In the Kyrgyz Republic there are increased signs of authoritarian tendencies. Russia, too, appears to be entering an important period in its development. The continuation of warfare in the breakaway Chechen Republic, growing signs of press restrictions, and new instances of political intimidation all raise growing concerns about the evolution of Russia. As importantly, Russia recently underwent a regime change that has seen the transfer of power from Boris Yeltsin, a leader associated with the launching of post-Soviet reforms, to Vladimir Putin, who has had little background as a reformer and was associated with the KGB of the Soviet era.

Kazakhstan represents another variant among the hybrid/transitional states. Its authoritarian leader operates in a context in which civic institutions and political freedoms are weak and there is little evidence of forward momentum in democratic development. Kazakhstan appears today to be poorly positioned to make any forward progress toward deep political and economic reform.

Yugoslavia is another hybrid/transitional state. It has an authoritarian leadership that has systematically violated basic human rights and sought to curtail political freedoms. At the same time, it has a significant degree of civic activism and a spirited independent press resisting state pressures, including closures, harassment of journalists, and the imposition of exorbitant fines. In the period under review, which included the conflict over Kosovo, Yugoslavia witnessed a deterioration of its political and economic processes. Still, it must be said that the high degree of independent civic activism and organized life in the country demonstrates potential for internal change.

The third and final category consists of consolidated autocracies and fully statist economic systems. Such states are highly repressive, have little or no space for opposition political groupings, suppress independent civic activism, and are notable for state domination of the economy. The region's consolidated autocracies are Belarus, Uzbekistan, and Turkmenistan.

In Turkmenistan, a quasi-totalitarian system has emerged based on a "personality cult" of the tyrannical president Saparmurad Niyazov. There appears to be little space for an independent civic life, there is no independent political opposition, and all media are tightly controlled by the state. In Uzbekistan, a small, embattled opposition functions in the context of substantial political repression that has driven many human rights and political activists into exile. By comparison, Belarus, which suffers from a high degree of political harassment of opposition civic and political forces and the erratic leadership of authoritarian President Alexander Lukashenka, still retains limited space for independent civic activism, though this space is under intense pressure from state security forces.

Retrospectively, it can be argued that the patterns now so apparent in the widely divergent states of Central Europe, Eastern Europe, and Central Asia were already present by the mid-1990s. In the countries of Central Europe, an extended period of rule by anti-Communist leaders established the basis for market democracy, even at a time when growing discontent with economic reform swept ex-Communist parties into power.

Russia by the mid-1990s had already witnessed the emergence of oligarchic clans. Thomas Graham, a political counselor in the U.S. Embassy in Moscow, pointed to the emergence of this political and economic actor in an assessment he made during his diplomatic service in Russia. In addition, Russia had embarked on a brutal effort to suppress the efforts of Chechnya to achieve statehood. That conflict, in turn, distorted post-Soviet Russia's nascent state, national security, and political institutions.

By the mid-1990s, Ukraine's legislature, the Rada—like its Russian counterpart, the Duma—had an anti-reform majority dominated by the Communist party. That parliament would prove a major obstacle in the orderly construction of a market economy, blocking land privatization, passing legislation that limited the range of enterprises that could be privatized, and habitually resisting the government's efforts to adopt budgetary legislation. The resulting uncertainty contributed to the growth of a system of crony corporatist capitalism in which fortunes were made, and a new class of oligarchs created, on the basis of a symbiotic relationship between leaders of the state and an emerging business elite.

The Central Asian states, too, appear little changed from the mid-1990s. The Kyrgyz Republic remains the most open state in the region, though it has shown signs of regression in recent years. Uzbekistan, Turkmenistan, and Kazakhstan were all ruled in a rigid and anti-democratic fashion from the onset of their independence as they are today. Only one state, Tajikistan, has seen any notable positive change since the mid-1990s. The end of its civil war witnessed the opposition integrated into a coalition government. Yet despite an end to hostilities and some power sharing, Tajikistan demonstrates no significant evidence of open political processes and even less of meaningful economic reform.

Indeed, since the mid-1990s only a small number of the 28 states reviewed in this study have made significant advances in deepening democratic practices and free market reforms. They are Slovakia, Bulgaria, Romania, and Georgia. Only three others—Croatia, Albania, and Bosnia—have seen the kind of change in the internal political environment that offers a chance of substantial political and economic reform momentum. Croatia's regime change following the death in December 1999 of a popularly elected but authoritarian president will be a major catalyst of future reform. In Bosnia, the end of a civil war fueled by Yugoslavia-backed Serbian separatists and the restoration of civic and political institutions holds the promise of forward economic and political reform, despite the bitter divisions between the ethnic Serb community and the Bosniac Muslims and Catholic Croatians.

In Albania, the end of economic and political chaos and the return of the now-

opposition Democratic Party of former president Sali Berisha to full participation in the political system offers hope of stabilization and a loosening of political restraints in part imposed by successive Socialist and anti-Socialist governments.

While the institutional arrangements that now predominate in most of the region were already in place by the mid-1990s, it would have been wrong to predict that the process of reform would necessarily slow down to a crawl, cease, or, in some cases, revert to patterns of extreme political control and repression. For the vastly different states that have emerged in the aftermath of communism's collapse, this means that a fair amount of stability has been achieved. For the period under review, from April 1, 1998, until June 30, 1999, the pace of change in this vast geographic space from Central Europe to Asia has certainly slowed and the period of dramatic political and economic change in the region has ended.

Still, there is continuing evidence of the prevalence of positive trends over reversals and setbacks. Of the 28 countries examined, seven (Slovakia, Romania, Macedonia, Georgia, Albania, Armenia, and Tajikistan) registered significant improvements (of 0.25 points or more on a 7 point rating system) in their combined democratizaion scores for the period 1998-1999. Significantly, each of these were rated transitional countries in the previous survey, meaning they did not have the degree of stable and secure institutional development that would allow them to be categorized as consolidated market democracies. One autocracy, Tajikistan, was the least open and democratic country to show meaningful forward momentum as the result of progress in integrating the political opposition into a power-sharing peace agreement that has ended a guerrilla war.

Three countries—Hungary, the Czech Republic, and Yugoslavia—suffered significant declines in their average democracy scores. Despite these declines, Hungary and the Czech Republic remain among the most stable democracies in the region.

Compared to *Nations in Transit 1998*, *Nations In Transit 1999-2000* shows an overall positive trend in political reform. The previous survey, published in 1998, found that only four countries had registered significant improvements, while three had significantly declined.

A similar, though less dramatic, pattern can be seen in economic reform trends: six countries—Poland, Estonia, Romania, Bulgaria, Georgia, and Armenia—made significant forward progress, while three—the Czech Republic, Russia, and Yugoslavia—suffered reversals. By contrast, the 1998 survey found only one country making significant progress and four countries suffering significant setbacks. While these changes tend to be incremental, the generally positive direction of change is a sign that Western aid and engagement, as well as the inducements offered by the prospect of integration into Western economic and political institutions, remains a powerful impetus for reform.

Clearly, these changes—with the possible exception of Slovakia—were significant but not dramatic. Slovakia saw a reform-oriented parliament elected and the statist president Vladimir Meciar ousted. Yet this change was less the product of a set of dramatic acts, and more the product of gradual developments over several years that witnessed the emergence of a powerful civil society and increasingly independent media.

Nevertheless, there can be no mistaking their general positive direction.

In the Balkans, the violent disintegration of the former Yugoslavia and Albania's instability have complicated the democratic transition. Still, the survey's findings suggest that Bosnia and Macedonia have made considerable progress in the period under review; Slovenia has reinforced its place among the upper tier of the consolidated democracies; and a post-Tudjman Croatia appears to be poised for significant progress in democratization.

DEMOCRACY, ECONOMIC REFORM, AND WEALTH

The findings of the survey confirm that economic and political reform appear to go hand in hand. Indeed, there is a very high correlation between countries that have achieved high ratings for political reform and those that have undertaken fundamental free market reforms. As Chart 1 indicates, the eight countries with the survey's highest democratization ratings—Poland, Hungary, the Czech Republic, Slovakia, Estonia, Slovenia, Latvia, and Lithuania—have also achieved the highest degree of economic liberalization, while the five least free political systems are also the five least reformed economies. This important correlation makes it clear that programs supporting the emergence of an independent civil society, free media, and vibrant political opposition also contribute to an environment which can stimulate economic reform. At the same time, it is equally clear that programs that effectively promote the growth of an independent private sector, a middle class, and new entrepreneurs also help to strengthen the basis for independent civic life and political democracy.

There is also a high correlation between politically and economically reformed states and per capita incomes. The average per capita income of the consolidated democracies stands at US $4,121, over three times the average for the middle, transitional category (see Table B). The per capita GDP of the consolidated democracies is nearly five times greater than that of the authoritarian polities.

Policies pursued by reformist governments also are extremely influential in the decisions made by foreign private sector investors. According to the findings of the survey, consolidated democracies enjoy per capita foreign direct investment 3.5 times that of the middle category of transitional polities, and seven times that of authoritarian polities.

Not surprisingly, states that pursue rigorous economic reforms also perform far more successfully in taming inflationary pressures. Indeed, the average inflation rate in 1998-1999 for the region's consolidated market economies was 7.2 percent, while that of transitional economies averaged 18.4 percent, and for the statist economies (which include the internationally administered protectorate of Bosnia and Herzegovina), 45.1 percent (see Table C).

Moreover, the seven economies rated by the survey as "consolidated market" systems on average significantly outperformed their less reformist counterparts, achieving for 1998-1999

annual growth rates 2.6 percent versus 0.5 for the transitional economies. (See Table H).

While the survey data show that the statist societies under review outperformed the reformed economies, the statistical data for the statist societies are highly unreliable. In several cases they are based on state-determined foreign exchange rates, reflect growth based on significantly lower levels of per capita gross domestic product, and come after periods in which these very economies had suffered from periods of steep economic decline. These facts, when coupled with macroeconomic instability, including high rates of inflation, suggest that much of this short-term growth will not be sustained.

DEMOCRATIC REFORM AND CORRUPTION

While there is significant discussion about the dangers posed by corruption to efficient and healthy free market economic development, less well understood is how significantly corruption affects both democratic development and economic performance. The survey's findings corroborate the view that there is a direct linkage in the two processes.

The findings (see Chart 2) show that there is a close correlation between high levels of democratization and lower levels of corruption. Indeed, Slovenia, Poland, Hungary, the Czech Republic, Estonia, Latvia, Lithuania, and Slovakia, the countries with the least corruption as measured in the survey, are also the countries that have implemented the highest degree of democratic reform and institution-building.

This is hardly surprising. Democracies have a higher degree of transparency in political and economic decision-making than do closed and more repressive societies. They also tend to have a strong and vibrant investigative press and active civil society to investigate and monitor relationships between business and government. This is not to say that democracies are immune to the threat of corruption. Certainly, as the evidence of major corruption scandals in advanced democracies such as Japan and Italy shows, democracy in itself is not a complete guarantor against corruption, though it increases the probability that major instances of corruption will eventually be exposed. But democracy, particularly when it is accompanied by significant deregulation and a strengthened system of the rule of law, can reduce the petty corruption that vexes and saps the life from small business development.

At the same time, the *Nations in Transit 1999-2000* survey finds that perceptions and evidence of corruption, occurring in the upper echelons of government or as widespread petty corruption, influence the climate for business investment. The survey data indicate that foreign direct investment in the countries with the best corruption scores (i.e. those perceived to be least corrupt) and with mid-range corruption scores had over four times the per capita rate of foreign direct investment as did countries with the

highest levels of corruption. (see Table D).

ECONOMIC REFORM

The survey's long-term evidence also supports the view that economic reforms contribute to a more stable environment conducive to long-term economic growth. Countries with the most thorough-going economic reforms had an average inflation rate of 7.2 percent in 1998-1999, while the middle range of transitional economies had an average inflation rate of 18.4 percent in the same period. By contrast, the most statist countries under review averaged an inflation rate of 45.1 percent, with Belarus registering the poorest performance with a two-year average inflation rate of 143.1 percent.

POLICY IMPLICATIONS

What then should be the proper policy mix in response to the world depicted in the survey's country narratives?

First, the findings show that democracy and democratic reforms matter. They matter in their implications for economic reform, in reducing the environment for corruption, and for economic stability and economic growth. This means that even where there is authoritarian and corrupt rule, but where it has been possible to preserve a space for the functioning of a civil society and for independent political movements, there is long-term reform potential.

Thus, the preservation of electoral processes should remain a major component of donor policy objectives. Multiparty elections, even when flawed, offer some political space for alternative elites to organize themselves and to prepare for a more fully-fledged political opening. Such political openings are most likely—as was the case in Croatia and Slovakia—in electoral democracies in which popularly elected leaders seek to restrict democratic freedoms but face strong resistance from civic groups and political parties. This suggests that there is a need for programs that support democratic forces in such countries as Yugoslavia, Armenia, and Azerbaijan.

Second, it is clear that incremental progress continues. Indeed, the instances of modest, though significant, progress predominate over instances of reversal. This suggests that the investment of tens of billions of dollars in Western foreign assistance and loans has effected some important progress.

Still, it is also clear that the period of dynamic and rapid change is over in the region. What, then, should be the role of the U.S., other governments, and private donors?

One conclusion is that opportunities for dramatic short-term advances are increasingly rare, suggesting that policymakers and donors must lower their expectations. The kinds of rapid gains witnessed in the early years of the fall of Communism in Eastern Europe and the USSR are unlikely today.

Moreover, it is clear that a certain degree of stability has been achieved by various less than democratic systems. New political forces—whether oligarchs or corrupt crony capitalist business elites—are also important factors in influencing and financially supporting political and civic life and seeking to control the media. In countries such as Russia and Ukraine—which together account for nearly half the population of the region under review—there is a danger that these forces, in cooperation with their allies in the government, the parliament, and the presidential administration, will stifle the growth of a dynamic and entrepreneurial society, weaken free trade and independent civic life, and threaten basic freedoms. Such fears are not entirely unfounded in the case of Russia, where a post-Yeltsin leadership is taking over, and such inauspicious developments cannot entirely be excluded in Ukraine, where the footholds established by political and economic reformers are far from secure.

In such settings, large scale commitments to reform forces may be required, even if the likelihood of their triumph in the short term is low. Programs should thus be focused on sustaining independent forces during politically difficult periods, with the hope and expectation that they will promote democratic values more broadly within society.

This study, and particularly the country reports, points to the special vulnerability of independent sources of information. In many of the post-Communist transitional countries where independent media still have space to operate, they are subject to the predations of an unfavorable economic setting. Their economic vulnerability usually means they must seek financial support from—and therefore rely on—the state and the new generation of economic oligarchs. In many transitional countries, such economic dependency compromises the independence of the press and influences content far more than outright threats and censorship.

Democratic mechanisms in the form of some political pluralism and somewhat competitive elections (if not at the national than, perhaps, at the local level) can be found in a broad range of the transitional and hybrid countries. These countries include places where the reform processes have been gathering strength in recent years—for example Romania and Croatia—as well as states in which economic and political reforms are stalled or in jeopardy of reversal—such as Russia, Moldova, and Ukraine. This category also includes Slobodan Milosevic's Yugoslavia, where opposition forces control a number of major municipalities and enjoy significant public support. Investment in the long-term success of sophisticated pro-reform forces in each of these countries is warranted.

The picture in Central Asia is distinctly different. Here, assistance should be more narrowly focused. The authoritarian personalist regimes that dominate in Uzbekistan and Turkmenistan offer no political space for significant civic groups, truly alternative political parties, or independent media. The main task in these countries is to strengthen the democratic forces operating on the fringes of these highly repressive societies or attempting to influence change from the outside. In such countries, the idea of an incremental path to reform appears unlikely. In the cases of these rigidly authoritarian countries, it is wise to continue to maintain some presence focused on identifying and

nurturing a successor generation of democratic and economic reformers. Clearly, however, large scale assistance efforts are not likely to prove effective. A focus on promoting the freer flow of independent information and programs addressing leadership succession are warranted.

The exception to this rule may be Kazakhstan, where the power of President Nursulatan Nazarbayev has allowed for some opposition in the form of alternative political parties (some of which are harassed and denied a place in the electoral stakes) and a civil society arising out of small independent unions, small business, and environmental groups.

Another country with a personalistic authoritarian regime, Belarus, shows signs of civic activism, the rudiments of an independent press, small free trade unions, and weak opposition parties functioning outside the system. There are signs in the form of occasional mass protests that parts of the urban public and sections of the state elite are chafing under the oppressive heel of President Alexander Lukashenka.

These societies will require a dramatic break, possibly in the form of a major crisis that erodes public confidence and divides the new ruling elite, to create a political opening.

CONCLUSION

While there appears to be something approaching donor fatigue, the evidence of incremental progress suggests that strategic investments in the ongoing transitions in the region under review remain warranted. Such investments of foreign aid and technical assistance should be large in scale in the immediate aftermath of important political and economic openings. They can also continue to sustain and to help develop an alternative elite equipped with the skills needed to govern effectively should a political opening occur, as it may well do if economic reversals are suffered by hide-bound state-dominated economies.

And the evidence of incremental progress also suggests that it is now more important than ever to conduct a sober assessment of exactly where large investments of aid and assistance are needed. *Nations in Transit 1999-2000* provides accurate information about the potential for and the directions of change in 28 countries. It is hoped that this study will be used as a tool to assist policymakers in the proper setting of priorities in the region.

ADRIAN KARATNYCKY is President of Freedom House and co-editor of the *Nations in Transit* series.

Table A: Rankings and Classifications - East Central Europe and NIS*

DEMOCRACY RANKINGS

	Democracy	Economy
CONSOLIDATED DEMOCRACIES		
Poland	1.44	1.67
Czech Rep.	1.75	1.92
Hungary	1.75	1.75
Slovenia	1.94	2.08
Lithuania	2.00	2.83
Estonia	2.06	1.92
Latvia	2.06	2.50
Slovakia	2.50	3.25
Mongolia	3.13	3.92
TRANSITIONAL GOVERNMENTS		
Romania	3.19	4.17
Bulgaria	3.31	3.75
Macedonia	3.44	4.58
Moldova	3.88	4.00
Georgia	4.00	3.67
Croatia	4.19	3.67
Russia	4.25	4.33
Ukraine	4.31	4.58
Albania	4.38	4.50
Armenia	4.50	3.58
Kyrgyz Rep.	4.88	3.83
Bosnia	5.13	5.58
Kazakhstan	5.38	4.50
Azerbaijan	5.50	5.00
Yugoslavia	5.50	5.33
Tajikistan	5.69	6.00
CONSOLIDATED AUTOCRACIES		
Belarus	6.44	6.25
Uzbekistan	6.44	6.25
Turkmenistan	6.94	6.42

ECONOMY RANKINGS

	Economy	Democracy
CONSOLIDATED MARKET		
Poland	1.67	1.44
Hungary	1.75	1.75
Czech Rep.	1.92	1.75
Estonia	1.92	2.06
Slovenia	2.08	1.94
Latvia	2.50	2.06
Lithuania	2.83	2.00
TRANSITIONAL ECONOMIES		
Slovakia	3.25	2.50
Armenia	3.58	4.50
Georgia	3.67	4.00
Croatia	3.67	4.19
Bulgaria	3.75	3.31
Kyrgyz Rep.	3.83	4.88
Mongolia	3.92	3.13
Moldova	4.00	3.88
Romania	4.17	3.19
Russia	4.33	4.25
Albania	4.50	4.38
Kazakhstan	4.50	5.38
Macedonia	4.58	3.44
Ukraine	4.58	4.31
Azerbaijan	5.00	5.50
Yugoslavia	5.33	5.50
CONSOLIDATED STATIST		
Bosnia	5.58	5.13
Tajikistan	6.00	5.69
Belarus	6.25	6.44
Uzbekistan	6.25	6.44
Turkmenistan	6.42	6.94

*This year's scores reflect the period through June 1999

Table B: Political Reform and GDP

	Democracy Rating	GDP Growth*	GDP per Capita (USD)*	FDI (USD millions)*	FDI per Capita (USD)*
CONSOLIDATED DEMOCRACIES					
Czech Republic	1.75	-1.2	5,371	3,000	291
Estonia	2.06	2.0	3,516	463	330
Hungary	1.75	4.1	4,808	1,550	153
Latvia	2.06	2.6	2,567	185	77
Lithuania	2.00	2.6	2,965	661	179
Mongolia	3.13	3.5	413	19	8
Poland	1.44	4.2	3,848	6,550	169
Slovakia	2.50	3.1	3,822	504	93
Slovenia	1.94	3.7	9,784	154	77
AVERAGE	**2.07**	**2.7**	**4,121**	**1,454**	**153**
TRANSITIONAL POLITIES					
Albania	4.38	8.0	1,005	44	13
Armenia	4.50	5.6	491	191	50
Azerbaijan	5.50	6.9	556	902	117
Bosnia	5.13	15.0	1,081	94	25
Bulgaria	3.31	1.8	1,403	551	67
Croatia	4.19	0.9	4,675	802	174
Georgia	4.00	3.0	1,000	159	29
Kazakhstan	5.38	-2.1	1,508	966	63
Kyrgyz Rep.	4.88	0.9	368	58	12
Macedonia	3.44	1.5	1,624	103	51
Moldova	3.88	-6.8	456	129	30
Romania	3.19	-5.7	1,708	1,693	75
Russia	4.25	-2.3	2,539	2,350	16
Tajikistan	5.69	5.2	212	32	5
Ukraine	4.31	-2.1	947	650	13
Yugoslavia	5.50	-8.4	1,017	594	52
AVERAGE	**4.47**	**1.3**	**1,287**	**730**	**35**
AUTHORITARIAN POLITIES					
Belarus	6.44	4.9	1,430	165	16
Turkmenistan	6.94	10.6	479	105	22
Uzbekistan	6.44	3.2	609	226	9
AVERAGE	**6.60**	**6.2**	**839**	**165**	**16**

*GDP growth is calculated as the average percent change in annual GDP for 1998 and 1999. GDP per capita and FDI (foreign direct investment) are averages for 1998-1999.

Table C: Economic Reform and Inflation

	Economy Rating	Inflation Rate*
CONSOLIDATED MARKET		
Czech Rep.	1.92	7.6
Estonia	1.92	7.3
Hungary	1.75	11.6
Latvia	2.50	3.9
Lithuania	2.83	3.6
Poland	1.67	9.6
Slovenia	2.08	7.1
AVERAGE	**2.10**	**7.2**
TRANSITIONAL ECONOMIES		
Albania	4.50	19.5
Armenia	3.58	9.4
Azerbaijan	5.00	1.6
Bulgaria	3.75	13.8
Croatia	3.67	6.0
Georgia	3.67	11.8
Kazakhstan	4.50	6.7
Kyrgyz Rep.	3.83	11.1
Macedonia	4.58	5.5
Moldova	4.00	11.4
Mongolia	3.92	9.2
Romania	4.17	52.7
Russia	4.33	63.9
Slovakia	3.25	8.1
Ukraine	4.58	28.0
Yugoslavia	5.33	36.2
AVERAGE	**4.17**	**18.4**
CONSOLIDATED STATIST		
Belarus	6.25	143.1
Bosnia	5.58	7.5
Tajikistan	6.00	27.6
Turkmenistan	6.42	18.4
Uzbekistan	6.25	29.0
AVERAGE	**6.10**	**45.1**

*Average for 1998-1999

Table D: Corruption and GDP

	Corruption Score	GDP per Capita (USD)*	GDP Growth*	FDI (USD millions)*	FDI per Capita (USD)*
LOW LEVELS					
Hungary	2.50	4,808	4.1	1,550	53
Poland	2.25	3,848	4.2	6,550	169
Slovenia	2.00	9,784	3.7	154	77
AVERAGE	**2.25**	**6,147**	**4.0**	**2,751**	**133**
MIDDLE LEVELS					
Belarus	5.25	1,430	4.9	165	16
Bulgaria	4.75	1,403	1.8	551	67
Croatia	5.25	4,675	0.9	802	174
Czech Rep.	3.25	5,371	-1.2	3,000	291
Estonia	3.25	3,516	2.0	463	330
Georgia	5.00	1,000	3.0	159	29
Latvia	3.50	2,567	2.6	185	77
Lithuania	3.75	2,965	2.6	661	179
Macedonia	5.00	1,624	1.5	103	51
Mongolia	4.00	413	3.5	19	8
Romania	4.25	1,708	-5.7	1,693	75
Slovakia	3.75	3,822	3.1	504	93
AVERAGE	**4.25**	**2,541**	**1.6**	**692**	**116**
HIGH LEVELS					
Albania	6.00	1,005	8.0	44	13
Armenia	5.75	491	5.6	191	50
Azerbaijan	6.00	556	6.9	902	117
Bosnia	6.00	1,081	15.0	94	25
Kazakhstan	6.00	1,508	-2.1	966	63
Kyrgyz Rep.	6.00	368	0.9	58	12
Moldova	6.00	456	-6.8	129	30
Russia	6.25	2,539	-2.3	2,350	16
Tajikistan	6.00	212	5.2	32	5
Turkmenistan	6.00	479	10.6	105	22
Ukraine	6.00	947	-2.1	650	13
Uzbekistan	6.00	609	3.2	226	9
Yugoslavia	6.25	1,017	-8.4		
AVERAGE	**6.02**	**867**	**2.6**	**479**	**31**

*GDP growth is calculated as the average percent change in annual GDP for 1998 and 1999. GDP per capita and FDI (foreign direct investment) are averages for 1998-1999.

Table E: Trends in Reform 1999-2000*

	1997	1998	TREND**	1999-2000	TREND**	1997	1998	TREND**	1999-2000	TREND**
	POLITICAL					ECONOMIC				
CONSOLIDATED DEMOCRACIES										
Czech Rep.	1.38	1.38		1.75	▼	1.88	2.00		1.92	
Estonia	2.06	2.00		2.06		2.13	2.00		1.92	
Hungary	1.44	1.44		1.75	▼	1.63	1.67		1.75	
Latvia	2.06	2.06		2.06		2.50	2.50		2.50	
Lithuania	2.06	1.81	▲	2.00		2.50	2.58		2.83	▼
Mongolia	na	3.19		3.13		na	4.00		3.92	
Poland	1.44	1.38		1.44		2.00	1.92		1.67	▲
Slovakia	3.81	3.63		2.50	▲	3.38	3.58		3.25	▲
Slovenia	1.88	1.81		1.94		2.38	2.17		2.08	
AVERAGE	**2.02**	**2.08**		**2.07**		**2.30**	**2.49**		**2.43**	
TRANSITIONAL GOVERNMENTS										
Albania	4.55	4.75		4.38	▲	4.00	4.50	▼	4.50	
Armenia	4.70	4.80		4.50	▲	4.00	4.08		3.58	▲
Azerbaijan	5.60	5.55		5.50		5.13	5.00		5.00	
Bosnia	na	5.35		5.13	▲	na	5.67		5.58	
Bulgaria	3.90	3.55	▲	3.31		5.38	4.08	▲	3.75	▲
Croatia	4.20	4.25		4.19		3.88	3.83		3.67	
Georgia	4.70	4.55		4.00	▲	4.13	4.00		3.67	▲
Kazakhstan	5.30	5.35		5.38		4.38	4.50		4.50	
Kyrgyz Rep.	4.65	4.70		4.88		3.75	3.75		3.83	
Macedonia	3.90	3.95		3.44	▲	4.50	4.67		4.58	
Moldova	3.90	4.00		3.88		4.00	4.17		4.00	
Romania	3.95	3.85		3.19	▲	4.63	4.50		4.17	▲
Russia	3.80	4.10	▼	4.25		3.50	3.92	▼	4.33	▼
Tajikistan	6.20	5.95	▲	5.69	▲	6.13	6.13		6.00	
Ukraine	4.00	4.25	▼	4.31		4.25	4.75	▼	4.58	
Yugoslavia	na	4.90		5.50	▼	na	4.83		5.33	▼
AVERAGE	**4.53**	**4.62**		**4.47**		**4.40**	**4.52**		**4.44**	
CONSOLIDATED AUTOCRACIES										
Belarus	5.90	6.20	▼	6.44	▼	6.00	6.25	▼	6.25	
Turkmenistan	6.90	6.90		6.94		6.38	6.42		6.42	
Uzbekistan	6.35	6.45		6.44		6.25	6.25		6.25	
AVERAGE	**6.38**	**6.52**		**6.60**		6.21	6.31		6.31	

*Bosnia, Mongolia, and Yugoslavia were not ranked in 1997

**Trend arrows represent changes in ratings of .25 or higher

Table F: Major Transition Indicators

	Free and Fair Parliamentary Elections	Free and Fair Presidential Elections	Private Share of GDP (%)[1]	Post-Communist Constitution?	1999 Freedom House Rating
Albania	Yes (1997)[2]	Not Direct	75	Yes (1998)	Partly Free
Armenia	No (1995)	No (1996)	75	Yes (1995)	Partly Free
Azerbaijan	No (1995)	No (1993)	50	Yes (1995)	Partly Free
Belarus	No (1995)	No (1994)	20	Yes (1994, '96)	Not Free
Bosnia	Yes (1996)[5]	Yes (1996)[2]	na	Yes (1995)[6]	Partly Free
Bulgaria	Yes (1997)	Yes (1996)	65	Yes (1991)	Free
Croatia	Yes (1995)[3]	No (1997)	55	Yes (1990)	Partly Free
Czech Rep.	Yes (1996)	Not Direct	75	Yes (1992)	Free
Estonia	Yes (1995)	Not Direct	70	Yes (1992)	Free
Georgia	Yes (1995)	Yes (1995)	55	Yes (1995)	Partly Free
Hungary	Yes (1998)	Not Direct	85	No	Free
Kazakhstan	No (1995)	No (1991)	55	Yes (1995)	Not Free
Kyrgyz Rep.	Yes (1995)	Yes (1995)	70	Yes (1993)	Partly Free
Latvia	Yes (1995)	Not Direct	65	No[4]	Free
Lithuania	Yes (1996)	Yes (1992)	70	Yes (1992)	Free
Macedonia	Yes (1994)[3]	Yes (1994)	60	Yes (1991)	Partly Free
Moldova	Yes (1998)	Yes (1996)	50	Yes (1994)	Partly Free
Mongolia	Yes (1996)	Yes (1997)	60	Yes (1992)	Free
Poland	Yes (1997)	Yes (1995)	65	Yes (1997)	Free
Romania	Yes (1996)	Yes (1996)	60	Yes (1991)	Free
Russia	Yes (1995)	Yes (1996)[3]	70	Yes (1993)	Partly Free
Slovakia	Yes (1994)	Not Direct	75	Yes (1992)	Free
Slovenia	Yes (1996)	Yes (1997)	50	Yes (1991)	Free
Tajikistan	No (1995)	No (1994)	30	Yes (1994)	Not Free
Turkmenistan	No (1994)	No (1992)	25	Yes (1992)	Not Free
Ukraine	Yes (1998)	Yes (1994)	55	Yes (1996)	Partly Free
Uzbekistan	No (1994)	No (1991)	45	Yes (1992)	Not Free
Yugoslavia	No (1996)	No (1997)	40	Yes (1992)	Partly Free

[1]Source: European Bank for Reconstruction and Development
[2]Significant Irregularities [3]Some Irregularities [4]The 1992 Constitution is in force
[5]Significant Irregularities in Muslim-Croat Federation;
Free but Not Fair elections in Serbian Republic
[6]Annex 4 of the Dayton Agreement is the Constitution of Bosnia and Herzegovina

Table G: Nations in Transit 1999-2000 Ratings Summary

COUNTRY	PP	CS	IM	GPA	CLJF	CO	PR	MA	MI	DEM	ROL	ECON
Albania	4.25	4.00	4.50	4.75	5.00	6.00	4.00	5.00	4.50	4.38	5.50	4.50
Armenia	5.25	3.50	4.75	4.50	5.00	5.75	3.25	3.50	4.00	4.50	5.38	3.58
Azerbaijan	5.50	4.75	5.50	6.25	5.50	6.00	5.00	5.00	5.00	5.50	5.75	5.00
Belarus	6.75	6.00	6.75	6.25	6.50	5.25	6.00	6.25	6.50	6.44	5.88	6.25
Bosnia	5.00	4.50	5.00	6.00	6.00	6.00	5.00	5.50	6.25	5.13	6.00	5.58
Bulgaria	2.25	3.75	3.50	3.75	3.50	4.75	3.75	3.50	4.00	3.31	4.13	3.75
Croatia	4.25	3.50	5.00	4.00	4.75	5.25	3.75	3.50	3.75	4.19	5.00	3.67
Czech Rep.	1.75	1.50	1.75	2.00	2.25	3.25	1.75	2.00	2.00	1.75	2.75	1.92
Estonia	1.75	2.50	1.75	2.25	2.00	3.25	1.75	2.00	2.00	2.06	2.63	1.92
Georgia	4.00	3.75	3.75	4.50	4.00	5.00	3.00	4.00	4.00	4.00	4.50	3.67
Hungary	1.25	1.25	2.00	2.50	1.75	2.50	1.50	2.00	1.75	1.75	2.13	1.75
Kazakhstan	6.00	5.00	5.50	5.00	5.50	6.00	4.25	4.50	4.75	5.38	5.75	4.50
Kyrgyz Rep.	5.00	4.50	5.00	5.00	5.00	6.00	4.50	3.50	3.50	4.88	5.50	3.83
Latvia	1.75	2.25	1.75	2.50	2.00	3.50	2.50	2.50	2.50	2.06	2.75	2.50
Lithuania	1.75	2.00	1.75	2.50	2.00	3.75	2.50	3.25	2.75	2.00	2.88	2.83
Macedonia	3.50	3.50	3.75	3.00	4.25	5.00	4.00	4.75	5.00	3.44	4.63	4.58
Moldova	3.25	3.75	4.00	4.50	4.00	6.00	3.50	4.25	4.25	3.88	5.00	4.00
Mongolia	2.75	3.25	3.00	3.50	3.50	4.00	4.25	3.75	3.75	3.13	3.75	3.92
Poland	1.25	1.25	1.50	1.75	1.50	2.25	2.00	1.50	1.50	1.44	1.88	1.67
Romania	2.75	3.00	3.50	3.50	4.25	4.25	4.00	4.00	4.50	3.19	4.25	4.17
Russia	4.00	3.75	4.75	4.50	4.25	6.25	3.75	4.75	4.50	4.25	5.25	4.33
Slovakia	2.50	2.25	2.25	3.00	2.50	3.75	3.00	3.25	3.50	2.50	3.13	3.25
Slovenia	2.00	1.75	1.75	2.25	1.50	2.00	2.25	2.00	2.00	1.94	1.75	2.08
Tajikistan	5.50	5.25	5.75	6.25	5.75	6.00	6.00	6.00	6.00	5.69	5.88	6.00
Turkmenistan	7.00	7.00	7.00	6.75	6.75	6.00	6.75	6.25	6.25	6.94	6.38	6.42
Ukraine	3.50	4.00	5.00	4.75	4.50	6.00	4.50	4.50	4.75	4.31	5.25	4.58
Uzbekistan	6.50	6.50	6.50	6.25	6.50	6.00	6.25	6.25	6.25	6.44	6.25	6.25
Yugoslavia	5.50	5.25	5.75	5.50	5.75	6.25	5.00	5.50	5.50	5.50	6.00	5.33

PP=Political Process | CS=Civil Society | IM=Independent Media |
GPA=Governance and Public Administration |
CLJF=Constitutional, Legislative, and Judicial Framework |
CO=Corruption | PR=Privatization | MA=Macroeconomic Policy |
MI=Microeconomic Policy | DEM=Democratization |
ROL=Rule of Law | ECON=Economic Liberalization |

Table H: Economic Liberalization and GDP

	Economic Score	GDP per Capita (USD)*	GDP Growth*
CONSOLIDATED MARKET			
Poland	1.67	3,848	4.2
Hungary	1.75	4,808	4.1
Czech Rep.	1.92	5,371	-1.2
Estonia	1.92	3,516	2.0
Slovenia	2.08	9,784	3.7
Latvia	2.50	2,567	2.6
Lithuania	2.83	2,965	2.6
AVERAGE	**2.10**	**4,694**	**2.6**
TRANSITIONAL ECONOMIES			
Slovakia	3.25	3,822	3.1
Armenia	3.58	491	5.6
Croatia	3.67	4,675	0.9
Georgia	3.67	1,000	3.0
Bulgaria	3.75	1,403	1.8
Kyrgyz Rep.	3.83	368	0.9
Mongolia	3.92	413	3.5
Moldova	4.00	456	-6.8
Romania	4.17	1,708	-5.7
Russia	4.33	2,539	-2.3
Albania	4.50	1,005	8.0
Kazakhstan	4.50	1,508	-2.1
Macedonia	4.58	1,624	1.5
Ukraine	4.58	947	-2.1
Azerbaijan	5.00	556	6.9
Yugoslavia	5.33	1,017	-8.4
AVERAGE	**4.17**	**1,471**	**0.5**
CONSOLIDATED STATIST			
Bosnia	5.58	1,081	15.0
Tajikistan	6.00	212	5.2
Belarus	6.25	1,430	4.9
Uzbekistan	6.25	609	3.2
Turkmenistan	6.42	479	10.6
AVERAGE	**6.10**	**762**	**7.8**

*GDP per capita is an average for 1998-1999. GDP growth is calculated as the average percent change in annual GDP for 1998 and 1999.

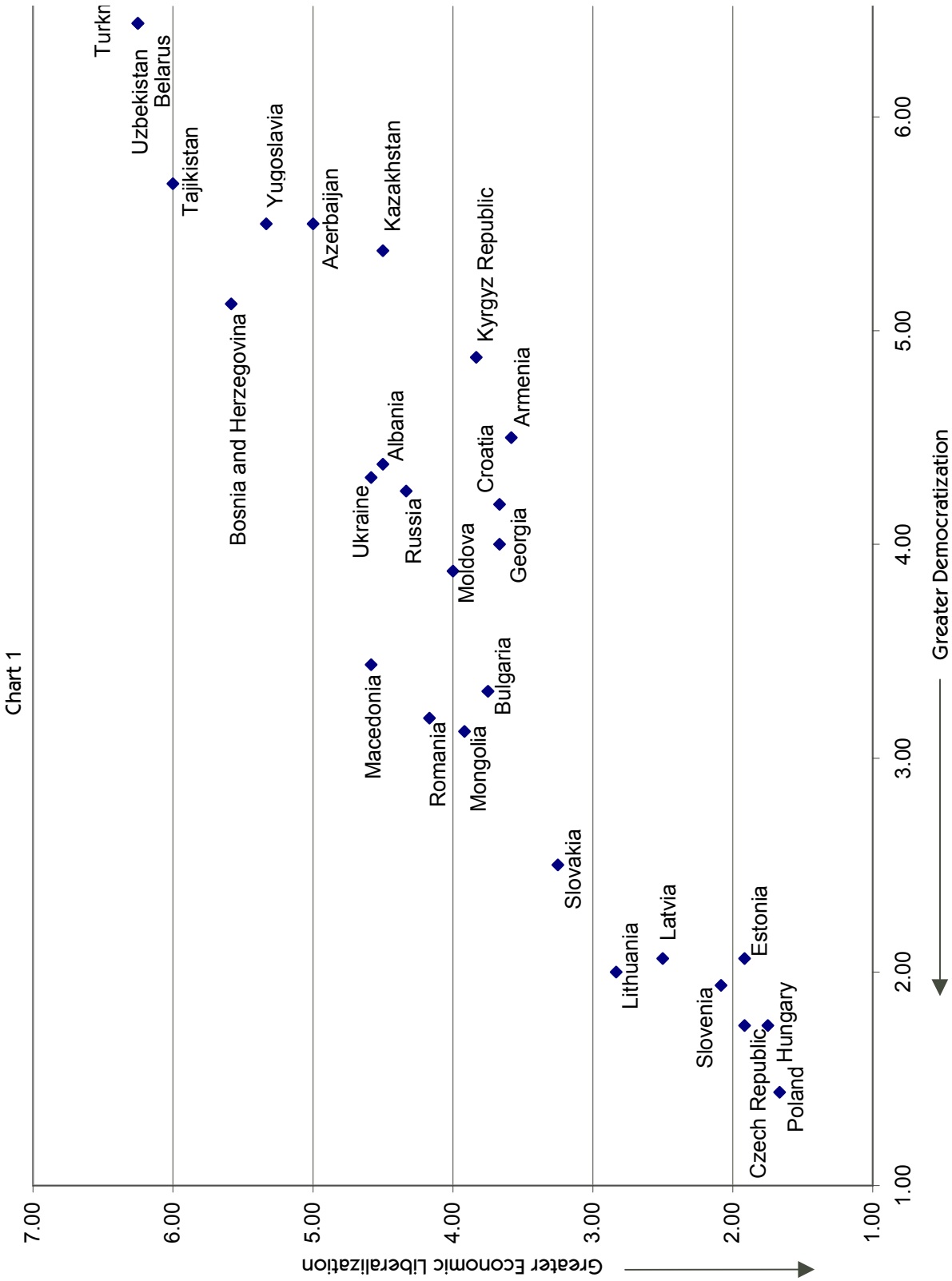
Chart 1
Turkm
Uzbekistan
Belarus
Tajikistan
Yugoslavia
Azerbaijan
Kazakhstan
Bosnia and Herzegovina
Kyrgyz Republic
Armenia
Albania
Croatia
Ukraine
Russia
Moldova
Georgia
Macedonia
Bulgaria
Romania
Mongolia
Slovakia
Latvia
Lithuania
Estonia
Slovenia
Hungary
Czech Republic
Poland
7.00
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Greater Economic Liberalization
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2.00
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Greater Democratization

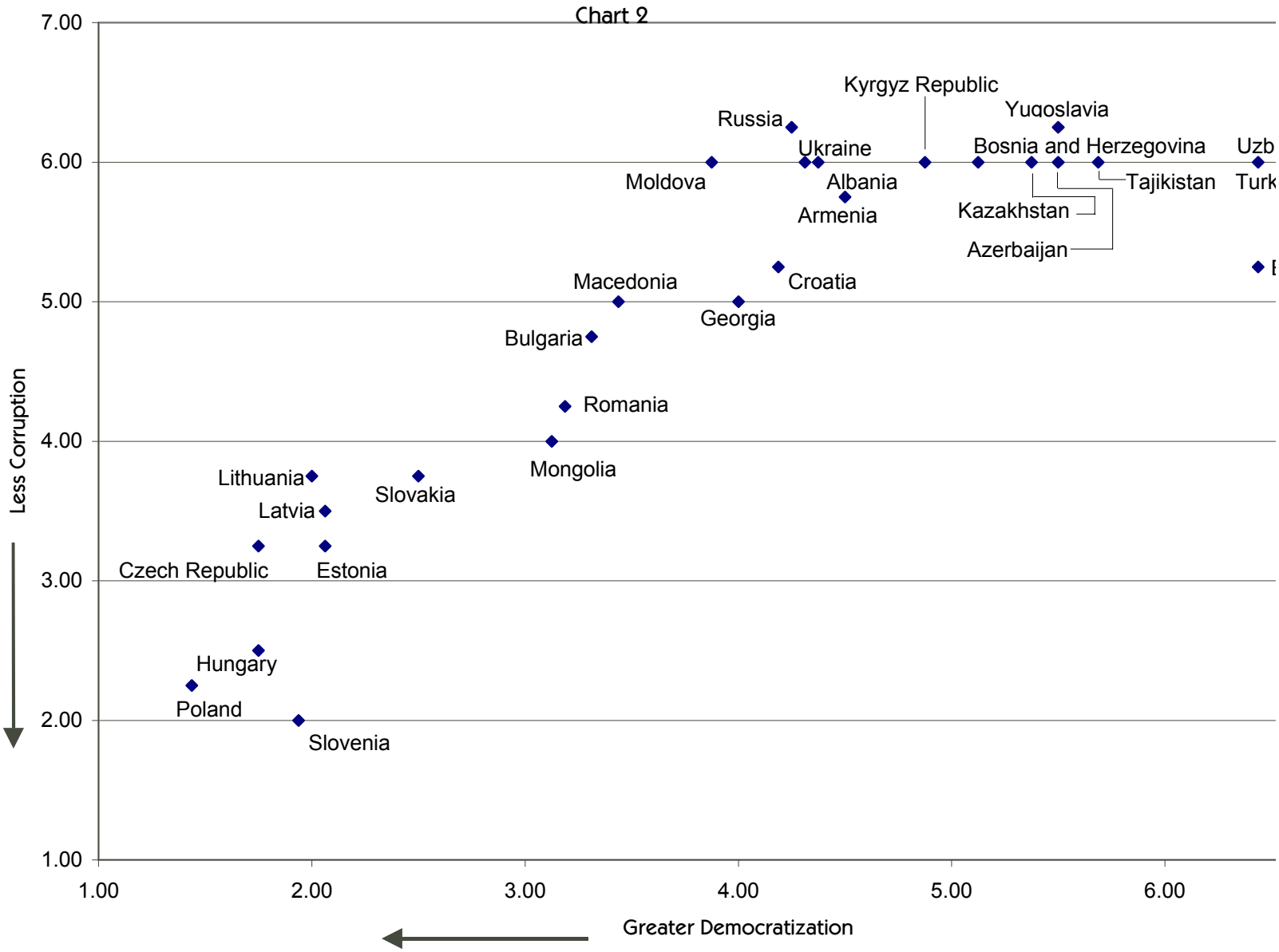
Chart 2
7.00
6.00
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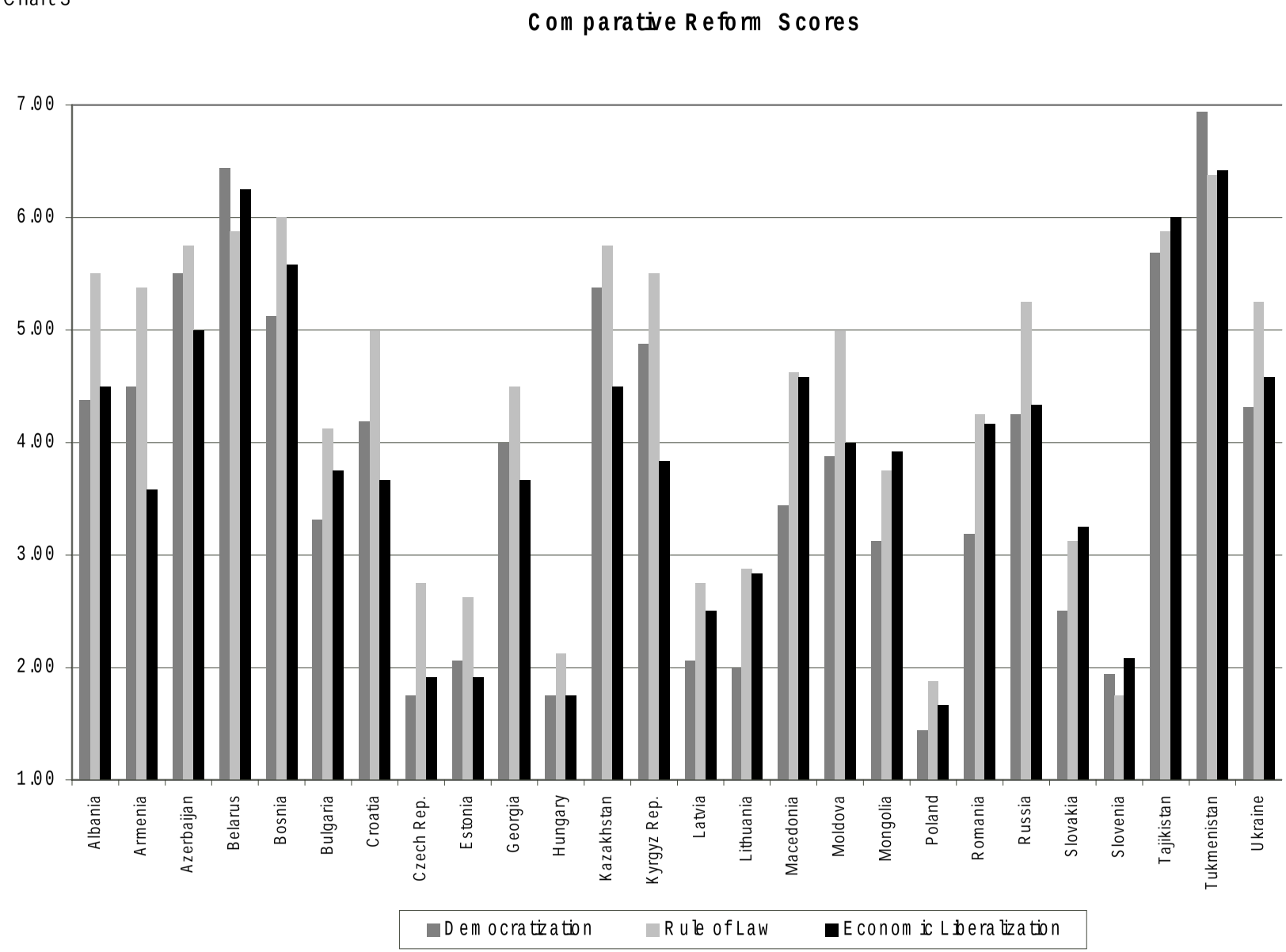
1.00
Less Corruption
1.00
2.00
3.00
4.00
5.00
6.00
Greater Democratization
Kyrgyz Republic
Russia
Yugoslavia
Ukraine
Bosnia and Herzegovina
Uzb
Moldova
Albania
Tajikistan
Turk
Armenia
Kazakhstan
Azerbaijan
Macedonia
Croatia
Georgia
Bulgaria
Romania
Mongolia
Lithuania
Slovakia
Latvia
Czech Republic
Estonia
Hungary
Poland
Slovenia

Chart 3


Comparative Reform Scores
7.00
6.00
5.00
4.00
3.00
2.00
1.00
Albania
Armenia
Azerbaijan
Belarus
Bosnia
Bulgaria
Croatia
Czech Rep.
Estonia
Georgia
Hungary
Kazakhstan
Kyrgyz Rep.
Latvia
Lithuania
Macedonia
Moldova
Mongolia
Poland
Romania
Russia
Slovakia
Slovenia
Tajikistan
Tukmenistan
Ukraine
Democratization
Rule of Law
Economic Liberalization

The Social Sector: A Failure Of The Transition

Kate Schecter

INTRODUCTION

Despite the substantial political and economic reforms undertaken since the fall of communism in many of the countries of the former Soviet Union and East and Central Europe, these countries have largely failed to provide an adequate social safety net for their citizens. Until the abrupt end of socialism in the late 1980s and early 1990s, Socialist countries were grand experiments in state-sponsored welfare systems that claimed to provide free, accessible health care, free housing, education, guaranteed employment, state retirement pensions, and free universal child care facilities. The social contract between the state and the workers during the Soviet era ensured cradle to grave security for all citizens in exchange for their individual freedom. This "bargain" between the state and its citizens also created a widespread mentality that survived the fall of communism. Citizens of the transition nations still expect the state to provide the basic necessities of life. The abrupt switch to a market economy left both workers and managers without the skills to survive and compete in the new environment.

Health statistics indicate that numerous nations in transition are unable to cope with rising rates of tuberculosis, HIV/AIDS, and other infectious diseases. Life expectancy has declined, unemployment continues to plague these economies, and numerous other social crises have led to growing poverty throughout the region. The myriad of social ills befalling many of the transitional economies overshadows the gains that they have achieved. How can governments begin to address these social crises? Enumerating the problems makes it difficult to prioritize. The mortality crisis is by far the most shocking and disturbing trend because of its magnitude and long term ramifications, but how can it be remedied? Without a clear understanding of the causes, it is difficult to implement solutions to address the problem. The overarching question that these nations will face in the next decade is: what kind of short term measures can be implemented that will eventually bring long term gains, but will also alleviate human suffering?

The most immediate impact of the transition was rapid impoverishment of the majority of the population. More than 75 million people fell into poverty from 1989 through the mid-1990's; wages dipped for most people to less than 50 percent of their previous earnings [1]. The Russian financial crisis of 1998 led to an estimated additional 20 million people sinking into poverty.[2]

The adult male mortality crisis is changing the gender balance throughout the region and will continue to change the landscape for future generations. This is the first time in the history of the modern world that highly industrialized nations face a reduction in life expectancy. The most immediate ramifications of this crisis is a sense of malaise and hopelessness which has resulted in higher suicide rates and a lowering of (already low) birthrates. Fewer healthy men and women are available to join the workforce, armies, or leadership positions. Young people feel despair regarding the future.

The focus on economic, political, and legal reform are all important, but the social impact of the transition is the most critical, least researched, and least understood aspect of the last decade. The most vulnerable groups in society—the elderly and children—have paid the highest price, and for children the future looks grim. Today's children will be the future leaders, professionals, and workers who must carry these countries into the next century, yet they are the sickest, most neglected, and most destitute sector of the population.

The collapse of the Soviet Union brought a wave of western literature about the Soviet legacy and how difficult the transition to a new political culture would be. There is no question that in the social sphere, the legacy of the Soviet period had a crippling effect. But little has been done since the collapse of communism to recreate a social safety net that will protect children from the vagaries of a formless political transition, and in some countries outright neglect has resulted in a growing multitude of abandoned and homeless children.

THE HEALTH CRISIS

One of the most serious threats to political and social stability facing this region of the world is the deteriorating health of the populace. Frequent reports from Russia and other parts of the former Soviet Union warn of cholera and diphtheria epidemics. Epidemics, murder, suicide, drug abuse, and alcoholism are on the rise. Malnutrition, vitamin and iodine deficiencies, anemia, AIDS, tuberculosis, and sexually transmitted diseases (STDs) are commonplace. Health care systems in the new nations cannot adequately address these growing problems. Doctors are paid low wages and many hospitals throughout the region are in disrepair. In numerous transition economies, doctors are not paid for months and must supplement their incomes with second jobs.

Under the Communist system, the number of hospitals and doctors far exceeded western standards, but they were poorly equipped, and the doctors were poorly trained.

Many rural hospitals lacked hot water or plumbing. Lack of funding and the lack of concern for the health care system led to the deterioration of both the system and the general health of the populace. Soviet propaganda promoted preventative health care in order to give the appearance that it considered public health a priority. The reality at factories, hospitals, and clinics belied the truth; extremely high accident rates, inadequate sanitation and medical facilities, and high rates of mortality and morbidity compared to other highly industrialized nations.

An important factor that prevents these health care systems from reforming to meet the needs of the last decade is the process of deprofessionalization which took place in the Soviet period. As the command economies became completely centralized, medicine was transformed from a Western-style profession into a worker's occupation. Lack of autonomy, low status and pay, and isolation from other medical communities contributed to this transformation. Men avoided the low status and low pay of the general practitioners. To this day, women make up the majority of middle level doctors, but do not control or dominate in the more lucrative areas such as surgery and research. And medicine continues to be relegated to a less important position within the hierarchy of professions because of the lower pay doctors receive and the lower status they hold in society compared to other occupations. Health care systems require reform and funding to meet the new level of problems.

In numerous transition economies, public expenditures for health care have declined during the 1990s. In Ukraine, public sector health expenditures are decreasing, but no private health care system has been created to compensate for the decreased state support. In Russia, state budgetary allocations for health care (which include stomatology, or dentistry, sports and recreation, and sanitation, not just medical care) diminished from an average 3 to 4 percent of GNP in the late Soviet years to 1 to 2 percent in the early 1990s and rose only slightly higher by the late 1990s.[3] Life expectancy dipped in the early 1990s to 58 years for men and 72 years for women and has now stabilized at 61 years for men and 73 for women (in 1986 men lived to 65 and women to 74.4 years). Russian mothers and children are particularly vulnerable to these health threats, and this is evident in the increasing maternal and infant mortality rates. The birthrate is down 30 percent since 1989. The Russian population is decreasing precipitously, and clearly, the ramifications of such a dramatic drop will be felt for decades.

The causes of rising mortality are multi-dimensional; no single factor such as increased environmental pollution or pervasive unhealthy lifestyle habits provides an adequate explanation for the severity of the crisis. The inadequacies of the health care system are not the only reasons that people are dying younger and epidemics are raging throughout the region. However, they must be taken into consideration in an attempt to explain the crisis. The causes of such high morbidity and mortality include environmental pollution, exposure to chemicals, nuclear waste and fallout, poor food quality, dangerous working conditions, lack of water, and inadequate sanitation.

Environmental degradation and pollution pose serious threats to the health of the populations in these countries. The abuses by Soviet industrialization left a deep and

enduring scar on the landscape of this vast region, and the last decade has shown little improvement in pollution control. Although it can be difficult and sometimes impossible to measure the health impacts of pollution, this important health threat must be considered in any discussion of mortality and morbidity crises.

CHILD POVERTY AND ABANDONMENT

Abandoned and homeless children in the transitional economies of East and Central Europe and the former Soviet Union are of particular concern. Little regional data exists about the scope and reasons for this social ill, nor have sufficient actions been formulated to rectify it. The degradation of youth in these societies is evidenced by a rise in the prevalence of street children, prostitution, sexually transmitted diseases, drug use, and human trafficking.

Child poverty has increased throughout the region as general economic output has declined. War and armed conflict have caused mass migration in many parts of the region. Since the late 1980s, seven million people, more than a third of them under 18 years of age, have been forced to leave their homes. The UN estimates that 30 percent of the world's refugees and displaced people come from this part of the world.

Two of the more positive legacies of the Soviet era are the high level and wide scale of educational attainment that most Socialist countries achieved. Women and minorities gained access to higher education and to traditionally male-dominated jobs. However, in the less stable and successful transitional economies, wars and decreasing state expenditures have caused schools to close and teachers to defect. In Central Asia, poverty and lack of transportation impede school attendance. Education under socialism benefitted the vast majority of the populations of the region, regardless of gender, socioeconomic status, or ethnicity. The failure of post-Communist governments to uphold this standard will leave a gap for many decades to come. The growth in numbers of street children and the demoralization of society are linked to the degradation of the education system, which was one of the greatest achievements of socialism.

The phenomenon of street children is new to East and Central Europe and the former Soviet Union, emerging only in the 1990s. Before the collapse of communism the problem of abandoned and handicapped children was hidden from the public eye by massive systems of institutionalization. Communist governments encouraged ethnic minorities and poor families to give their children to state institutions where many believed their children would be better off than at home. Young single mothers and families that felt they could not care for a handicapped child also gave their children up to the state. These orphanages and boarding schools remain in the post-Communist era, but they have lost most or all of their state funding, and as they struggle to survive, many children run away to live on the streets.

In the 1920s, following the Bolshevik revolution and the Civil War, an estimated seven million children whose parents were either dead or missing were institutionalized

in Soviet children's homes. The huge network and infrastructure of state-sponsored child rearing began with the inception of the Soviet state, and it helped confirm the Marxist notion that the family would "wither away" with the transition to full socialism. The reliance on residential institutions became an entrenched aspect of the Soviet social welfare system. During the Gorbachev era, glasnost opened up a Pandora's box of social problems that were previously considered to be peculiar to capitalism. Children's homes became a focus of attention in the U.S.S.R. as it was revealed that their buildings were collapsing, food and clothing were inadequate, and inmates were ill-treated. The U.S.S.R. had 284,000 children in institutions: 35,000 in 422 infant's homes, 84,000 in 745 children's homes, 71,000 in 237 boarding schools for orphans and 94,000 children in *Internats* (boarding schools for children who were not orphans). In addition, 729,000 children lived with relatives or guardians.[4]

Russia and Ukraine are the two largest countries in the region, and probably have the highest number of street children of any of the nations in question. According to official Russian estimates, there may be as many as 2 million street children in Russia. In summer, this number may grow to as many as 4 million children. Russian authorities, police, and the Moscow Human Rights Research Center recognize a minimum of one million street children. Among them, over half are considered to be orphans or abandoned. According to an official report, more than 113,000 children were abandoned in 1996 compared to 67,286 in 1992. Thirty thousand runaways are reported each year.[5] UNICEF reported that the number of homeless street children in Moscow alone has reached 150,000 in a city of about 10 million[6]. One detention center in a neighborhood of Moscow reports a turnover of 200 children every day. Last year in St. Petersburg, 1,931 new cases of abandoned or orphaned children were reported. The St. Petersburg press reported that the Emergency Aid to Children of St Petersburg project fed 3,000 homeless and neglected children every day and reported that they estimated 50,000 to 80,000 homeless or neglected children in the city.[7]

Due to increasing unemployment, children have been hit with the impact of parents who cannot support them. Parents continue to bring their children to orphanages and boarding schools in the hope that they will be provided with food and shelter. State-run institutions are unable to accommodate the growing demand and many children are turning to a life on the streets—begging, prostitution, and often the use of drugs. The lack of a social work infrastructure or a trained pool of psychologists has been an impediment to assisting these children.

The adult mortality crisis in the region also takes its toll on children. Parents throughout the region are at higher risk for premature death, which contributes to the skyrocketing number of abandoned or orphaned children. The increase in male mortality is the most severe, but female mortality has also risen. UNICEF estimates that as many as 700,000 children throughout the region have been affected by the premature death of their parents.[8] Demographers estimate that Russia alone has suffered an overall "excess mortality" toll of roughly three million deaths from 1992 to 1998.

The rise in crime has had a devastating effect on these populations and, from a public health standpoint, it is an important contributing factor to the health crisis.

Although crime is most prevalent among men, it takes a significant toll on women as well. Eighty percent of violent crimes in Russia occur in the home; 15,000 women are killed by husbands every year.[9] Divorce rates are on the rise and there is little or no legal protection for women and children who suffer abuse. Despite shrinking birth rates, fewer marriages, and a decline in the overall number of children, it is estimated that one million children are affected annually by divorce throughout the region. Crimes committed by youths between the ages of 14 and 17 are increasing as the overall crime rates increase.

Trafficking in prostitutes is a huge, profitable business that promotes the image of women as commodities. Men who operate prostitution rings do so with near impunity. Large numbers of street children turn to prostitution as a means of survival. Moscow and Kiev are centers for networks trafficking in the sale of young women (mainly between the ages of 15 and 20) into prostitution. Young women are brought to work in the Czech Republic, Hungary, and other East and Central European countries, or they are sold to other parts of the world. The young women are moved overseas, stripped of their passports, and sold to brothels, where they receive little or no pay.

Most prostitutes are young girls who are desperate to find employment. Young European women are in demand in the international "white slave trade" and these Russian, Ukrainian, and Eastern European girls are especially vulnerable because of high unemployment in their home countries. Federal employment statistics in Russia and Ukraine indicate that women make up more than two-thirds of the unemployed. The "hidden" unemployment (those who are officially employed but do not receive a salary) are also mostly women. Thousands of unemployed young women and vulnerable unregistered children living on the streets are prey for prostitution rings.

The growth in homelessness, prostitution, and drug use has led to skyrocketing rates of STDs and HIV/AIDS. In Ukraine, the number of syphilis cases increased more than tenfold between 1991 and 1995. In one Ukrainian city, Nikolayev, more than half of all injecting drug users are infected with the HIV virus. STDs have reached epidemic proportions in Russia, Ukraine, Bulgaria, Romania, and other Eastern European countries where the drug and prostitution traffic is growing, and the potential for an HIV epidemic looms large in this part of the world. Romania is thought to have the highest rate of juvenile AIDS. Despite a few studies, information on AIDS in the region remains incomplete. There is little data on the extent of HIV/AIDS infection rates among adolescents and children in the region, especially those who have become disenfranchised.

WHAT IS TO BE DONE?

Hundreds of non-governmental organizations (NGOs) have emerged in the region to address the problem of abandoned and homeless children. In some countries, such as Romania, there are over 60 NGO programs in the city of Bucharest focusing on this issue. In other countries where civil society is less prevalent, such as Bulgaria, there are fewer NGOs

covering large areas of the country. Smaller NGOs are limited in the services they provide. Governments and police agencies are concerned about the seriousness of social problems, but they are often helpless in addressing them, which makes the authorities appear complacent. Laws on the issues of child protection are vague, cooperation between countries is rare, and although young women involved in prostitution are often deported, the traffickers are rarely punished.

The international donor community is active in addressing child welfare issues. Such large NGOs as Save the Children and The European Children's Trust are starting to have a presence in the countries where the need is most acute. Methods and approaches differ widely: few programs have been in existence for very long or can boast a high level of effectiveness.

Decentralization has spurred local governments to be more responsive to local demands. However, due to a lack of resources—both knowledge and finance—they have been unable to deliver assistance on a systematic basis. This does not mean that states have abdicated responsibility for social policy, just that local governments are playing a more dominant role in policy making, implementation of policies, allocation of resources, and monitoring.

Although this decentralization process is a positive change in many ways, it has also created problems. Local governments often lack competent social workers and suffer many administrative or organizational deficiencies. The Soviet system of managing children still exists. Massive institutions continue to manage homeless or orphaned children in police detention centers, infant and children's orphanages, boarding schools, and homes for children deemed mentally or physically disabled. In some countries reforms are taking place, but the legacy of vast institutionalization of thousands of children makes the system difficult and slow to transform.

At this stage, with the nascent level of civil society in the region, it is clear that a wholesale abolition of the institutionalization system is unrealistic and unwise. A first step towards reform will be to remove the incentives that currently exist to perpetuate the institutionalization system. A mixed model of programs for children which would include partial residential care (for those who truly are homeless) and outreach for those who maintain some connection with their families, appears to be the solution for the post-Socialist world.

ETHNIC ISSUES

In hindsight, ethnic tensions and the drive for national sovereignty clearly were crucial factors in the disintegration of the Soviet state. The lid of central control blew off with the collapse, but in Russia, the resentment emanating from minority groups towards the dominant "big brother" remains a source of volatility. The fallout from Chechnya will continue to fester as long as there is no end in sight to the war. The social cleavages

and discrimination towards ethnic minorities that pervade many of these societies have only worsened as life has become more difficult.

In many countries in the region, a large proportion of street children and orphans are members of ethnic minority groups. In the Baltic states, street children are predominantly Russian. In Eastern and Central Europe, street children are mostly Roma (gypsies). High mobility amongst street children both within their countries of origin but also across borders adds to the complexity of their situation. Migrant children become illegal immigrants who are unable to speak the local language. Roma children face particularly difficult circumstances. The Roma have been a large minority group in Eastern and Central Europe for several centuries. Historically they have been an oppressed and segregated minority. Coercive integration policies during the last three decades have only reinforced stereotypes of the Roma as a group apart from mainstream society. Their social and economic situation is far worse compared to other citizens. This is also true for Roma street children, who are often worse off than other street children. For Europe as a whole, the European Union estimates that adult illiteracy among the Roma is between 50-80 percent, and that nearly half of the Roma population never attend school at all. Significant numbers of children do not start school due to poverty and language barriers, and drop-outs and absenteeism are prevalent. Few Roma continue on to secondary education or above.

CONCLUSION

At the start of the twenty-first century, many parts of East and Central Europe and the former Soviet Union look like the Dickensian picture of the 19th century. The gap between the rich and the poor continues to widen and in some of these societies particularly vulnerable groups such as children and elderly are barely able to survive. The most dramatic manifestation of this growing inequality is the children begging on the streets, living in sewers, and being rounded up and treated as common criminals. They are held in massive detention centers in a system that cannot cope with them. This critical situation will demand an internal response—both from the people suffering the day-to-day struggles in these societies and by their leaders. The international community is responding to these crises and is beginning to draw attention to them, but ultimately, deep-seated sustainable change must come from within. The last decade has shown that in the transition to democratic political systems and market oriented economies, the social welfare systems have been neglected. Democratization and marketization policies must be integrated with health, education, and social protection systems, or the result is an increasingly polarized society in which a small elite benefits at the expense of the general public.

[1] Alexandre Zouev (ed.) *Generation in Jeopardy: Children in East and Central Europe and the former Soviet Union*. New York: M.E. Sharpe, 1999, p. 8.

[2] Omar Noman, "In the former Eastern bloc, a hazardous transition," *The UNESCO Courier*, March, 1999, p. 30.

[3] S. Ia. Chikin,"O finansirovanii zdravookhraneniia za gody Sovetskoi vlasti," *Sovetskaia meditsiva*, no.11, 1990, pp.41-42. This article provides the following figures for percentage of GNP allotted in the 1930s: between 2.1 and 6.6 percent, in 1940: 5.2 percent, and in the 1960s: between 3.8 and 4.2 percent. This trend of between 2 and 4 percent has continued up to the present.

[4] Elizabeth Waters, "'Cuckoo Mothers' and 'apparatchiks': glasnost and children's homes," in Mary Buckley (ed.) *Perestroika and Soviet Women*, Cambridge University Press, 1992, pp. 123-124.

[5] Ministry of Labor and Social Development of the Russian Federation. On the Situation of Children in the Russian Federation: Annual Report for 1996. Moscow, Ministry of Labor and Social Development of the Russian Federation, 1997.

[6] Reuters, "UNICEF Urges Russia to Spend More on Children," Moscow, October, 13, 1998.

[7] A. Nassor,"Aid project pleads for more time," *St. Petersburg Press*, p.134, 1995, Tatiana Balachova, Barbara Bonner, and Sheldon Levy, "Street Children and Orphans in Russia: Steps to Understanding," (1999) Unpublished Manuscript.

[8] *Children at Risk in Central and Eastern Europe: Perils and Promises*, pp.39-40.(UNICEF, 1997)

[9] Swanee Hunt, "Women's Vital Voices; The Costs of Exclusion in Eastern Europe," *Foreign Affairs*, July/August 1997, pp. 4,5.

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Explanatory Notes

Aili Piano

Nations in Transit 1999-2000 measures the progress and setbacks in political and economic reform in 28 countries of East Central Europe, the Newly Independent States of the former Soviet Union, and Mongolia. This year's edition, which covers events from April 1, 1998, through June 30, 1999, is an updated and expanded version of earlier surveys published in 1995, 1997, and 1998.

Each country report has been divided into four major category sections: Democratization, Rule of Law, Economic Liberalization, and Social Sector Indicators. With the exception of the Social Sector Indicators, each section is further divided into two or more subsections. As in previous editions, the reports in this year's survey are presented in a question and answer format.

The Democratization section includes the following subsections: Political Process, Civil Society, Independent Media, and Governance and Public Administration. Political Process examines national executive and legislative elections and whether they were free and fair, the development of multiparty systems, and popular participation in the political process. Civil Society assesses the growth of nongovernmental organizations, their organizational capacity and financial sustainability, and the legal and political environment in which they function; the development of free trade unions; and interest group participation in the policy process. Independent Media addresses the legal framework for and actual state of press freedom, including harassment of journalists and editorial independence, the emergence of a financially viable private press, and Internet access for private citizens. Governance and Public Administration considers the authority of legislative bodies; decentralization; the responsibilities, election, and management of local government bodies; and legislative and executive transparency.

The Rule of Law section is divided into the two subsections of Constitutional, Legislative, and Judicial Framework and Corruption. The former subsection highlights constitutional reform and human rights protection, criminal code reform, the judiciary

and judicial independence, and the status of ethnic minority rights. The latter subsection addresses the perception of corruption in the civil service, business interests of top policy makers, laws on financial disclosure and conflict of interest, and anticorruption initiatives.

The Economic Liberalization section includes the subsections of Privatization, Macroeconomic Policy, and Microeconomic Policy. Privatization considers the legal framework for privatization and the actual state of the privatization process. Macroeconomic Policy covers tax reform, fiscal and monetary policy, and banking reform. Microeconomic Policy examines property rights, price liberalization, the ability to operate a business, international trade and foreign investment, and the energy sector.

The Social Sector Indicators section assesses unemployment rates, pension systems, income levels, the educational system, infant mortality, birth rates, life expectancy, divorce and suicide rates, the health care system, and poverty rates.

The *Nations in Transit 1999-2000* edition features several changes to previous versions of the survey, including the addition of the new section on Social Sector Indicators. Certain sections were reorganized or consolidated: the categories of Political Process, Civil Society, Independent Media, and Governance and Public Administration were grouped together under the larger new section heading of Democratization; the previous Rule of Law category was renamed Constitutional, Legislative, and Judicial Framework, which, together with the Corruption category, became part of the larger Rule of Law section; and Privatization, Macroeconomic Policy, and Microeconomic Policy were grouped into a new Economic Liberalization section. Several questions addressing the participation of women in each country's political process, civil society, judicial system, and press associations were added, as were two questions on surveys of corruption and one on the enforcement of judicial decisions. Finally, a statistics page was inserted directly before each country report, which includes various economic, social, and political data for the country, as well as scores from past and current *Freedom in the World* and *Nations in Transit* surveys.

While most of the answers in the *Nations in Transit 1999-2000* country reports are straightforward or self-explanatory, some of the information requires a more cautious or nuanced analysis. For example, membership figures for trade unions and civic associations are frequently unreliable. Similarly, while the conversion of state-owned businesses or farms into joint-stock enterprises may technically be described as privatization, in several countries the state remains a significant shareholder through a privatization fund agency or maintains control as a minority shareholder. Corruption is difficult to assess using directly verifiable data or statistics. Instead, observers must gauge the perception of corruption in a country based on anecdotal reports from ordinary citizens, businessmen, and others. Freedom House has, however, included some questions in this section that require more tangible answers, such as whether laws requiring financial disclosure have been adopted and what major anticorruption initiatives have been implemented; this approach provides an indication of the degree of government commitment to fighting corruption. Economic statistics should be treated with caution. In

many of the countries surveyed, the administrative capacity for accurate measurement of economic development is inadequate. Governments in the least developed countries (for example, Belarus) often publish statistics that put a positive spin on conditions for political purposes. Finally, statistics gathered by the government and financial institutions often fail to capture the size and importance of the rather large "shadow" economy.

Freedom House developed the initial survey and subsequent editions after consultations with the United States Agency for International Development (USAID). The country reports were researched and written by Freedom House staff members, outside consultants, and regional think tanks. Consultants were generally specialists at the Ph.D. level who were recommended by recognized authorities on their respective regions. The research team used a wide variety of sources in writing their reports, including nongovernmental organizations, multilateral lending institutions and other international organizations, local newspapers and magazines, and select government data.

RATINGS METHODOLOGY

For all 28 countries surveyed, Freedom House has provided numerical ratings for each of the nine subsections (Political Process, Civil Society, etc.) on a one-to-seven scale, with one representing the highest and seven the lowest level of democratic progress. The ratings for the Political Process, Civil Society, Independent Media, and Governance and Public Administration subsections are then averaged to determine a final Democratization score; the Constitutional, Legislative, and Judicial Framework and Corruption ratings are averaged to provide an overall Rule of Law score; and the Privatization, Macroeconomic Policy, and Microeconomic Policy subsection ratings are averaged to yield an overall Economic Liberalization score. In the statistics page preceding each country report, ratings which have changed less than 0.25 over the previous survey period are indicated by a single upward or downward arrow, while changes of 0.25 or more are indicated by a double upward or downward arrow. The new Social Sector Indicators section was not assigned a numerical rating.

As with *Freedom in the World*, Freedom House's annual comparative survey of political rights and civil liberties, *Nations in Transit* does not rate governments per se, nor does it rate countries based on governmental intentions or legislation alone. Rather, a country's rating is determined by the actual rights and freedoms an individual enjoys as affected by the state and nongovernmental actors, including business oligarchies, powerful social movements, insurgencies, and other groups that function outside of the normal political and civic process.

These ratings, which should not be taken as absolute indicators of the situation in a given country, are valuable for making general assessments of how democratic or authoritarian a country is. In addition, they allow for comparative analysis of institu-

tional reform in a particular category (such as political process or privatization) among various countries. For example, the ratings could be used to help answer questions such as whether the political process in Romania is more or less open than in Ukraine, and whether the Czech Republic has carried out deeper macroeconomic reforms than Russia. Finally, the ratings from the various editions of *Nations in Transit* are valuable for providing an analysis of long term developments within a particular country.

The ratings process for this year's *Nations in Transit* involved four main steps. First, the authors of the individual reports created preliminary ratings for each of the nine subsections of their countries. Next, the *Nations in Transit* Academic Oversight Board, composed of several noted scholars based in the United States, met in New York in November 1999. Using the preliminary ratings, the Board established ratings by consensus following extensive discussion and debate. In February 2000, Freedom House convened a review session in Budapest, Hungary, which included leading experts from the former Soviet Union and Eastern Europe. Finally, Freedom House staff reviewed the ratings for consistency and assigned trend arrows to category ratings for each country (see Table E) to reflect a significant increase or decrease in liberalization as compared to the previous report.

FREEDOM HOUSE SURVEYS

The results of Freedom House's annual *Freedom in the World* comparative survey of political rights and civil liberties and *Survey of Press Freedom* are included in *Nations in Transit 1999-2000* order to facilitate comparisons among countries. *Freedom in the World* uses a unique methodology to rate countries on a one-to-seven scale for the two separate categories of political rights and civil liberties, with one indicating the most free and seven the least free. *Freedom in the World* also assigns each country the status of "Free," "Partly Free," or "Not Free" by averaging the political rights and civil liberties scores, which is useful for making broad comparisons among countries. The *Freedom in the World* ratings for the last ten years are listed in the statistics pages preceding each country report. The findings from Freedom House's *Survey of Press Freedom*, which also rates countries as "Free," "Partly Free," or "Not Free," are included in question 9 of the Independent Media subsection in *Nations in Transit*.

It is important to note that *Freedom in the World* and the *Survey of Press Freedom* judge individual categories of political rights, civil liberties, and press freedom differently than does *Nations in Transit*. Therefore, although the ratings are not necessarily identical or directly comparable, there is a high degree of correlation among the ratings of the three surveys.

ALBANIA

Polity: Presidential-parliamentary democracy
Economy: Mixed statist (transitional)
Population: 3,500,000
PPP (USD): 2,120
Capital: Tirana
Ethnic Groups Albanians (95 percent), Greek (3 percent), others, including Vlachs, Roma, Serbs, and Bulgarians (2 percent)
Size of private sector as % of GDP (1998): 75

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	4.55	↓4.75	↑↑4.38
Rule of Law	na	na	5.50
Economic Liberalization	4.00	↓↓4.50	4.50

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	374.8	615.1	743.8	816.7	681.5	929.6	1080.0
Real GDP growth (% change on previous year)	9.6	9.4	8.9	9.1	-7.0	8.0	8.0
Inflation rate	85.0	21.5	8.0	12.7	33.1	21.0	18.0
Exports (USD millions)	112.0	141.0	205.0	229.0	167.0	206.0	234.0
Imports (USD millions)	602.0	601.0	679.0	921.0	685.0	826.0	1385.0
Foreign Direct Investment (USD millions)	45.0	65.0	89.0	97.0	42.0	45.0	43.0
Unemployment rate	29.0	19.6	16.9	12.4	14.9	17.7	na
Life Expectancy (years)	71.3	72.5	71.3	71.7	71.7	72.9	69.0

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	7	7	4	4	2	3	3	4	4	4	4
Civil Liberties	7	7	4	3	4	4	4	4	4	5	5
Status	NF	NF	PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

The Republic of Albania is a constitutional democracy. Since multi-party elections first brought democracy to Albania in 1992, ending Communist rule, the country has struggled to consolidate the basic institutions necessary for a democratic state based on the rule of law. Between 1992 and 1996, Albania adopted many basic laws and introduced a variety of human rights. Toward the end of this period, however, political leaders began to abuse their power, compromising judicial independence, tainting the electoral process, and undermining the early democratic gains. This authoritarian trend culminated with the state of emergency and collapse of civil order of 1997. Subsequent elections brought about a shift in leadership; during 1998, the fledgling government sought to restore order in the face of the former leadership's acrimonious opposition.

With the adoption of a multi-party democracy, Albania also embraced market economics. From 1992 to 1995, Albania rapidly shifted its economy from the public to the private sector. Economic growth remained steady until, in 1996 and early 1997, pyramid schemes proliferated and collapsed. Since the restoration of order in 1997, economic growth has resumed, and the privatization of strategic sectors of the economy is planned. Nevertheless, high levels of corruption, evidence of organized crime, poor implementation of laws, and lax enforcement of legal provisions and decisions continue to hamper the development of a sophisticated market economy. Albania remains at the bottom of the economic scale both in Eastern Europe and the Balkans.

During 1998 and 1999, there was substantial progress in legal reform. Albania drafted and adopted its first post-communist constitution in an open and transparent process. The new constitution secures and elaborates a wide range of freedoms and democratic institutions, and international experts have commented upon it favorably. Also, Albania passed significant legislation in taxes and customs, the judicial system, privatization, the press, and administrative procedure. This important legislation provides increased protection and freedom for the citizenry. These promising developments warrant incremental improvements in various Freedom House ratings. The full implementation of these new provisions could lead to sustained improvements in democratic and market reforms. The positive developments are particularly remarkable when viewed against the background of recent events, including a failed coup attempt by opposition supporters in September 1998, and the war in Kosovo in early 1999.

Democratization

POLITICAL PROCESS 4.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

National parliamentary elections were last held in June and July of 1997. These elections were early elections following controversial parliamentary elections in 1996 and the subsequent collapse of civil order in early 1997. The OSCE and other international and bilateral groups monitored the 1997 elections. The OSCE declared the results "acceptable, given the prevailing circumstances" and stated that "[t]he results of these elections should be the foundation for a strong, democratic system, which Albanians want and deserve" In the 1997 elections, the Socialist Party (SP) won a majority, giving it 101 out of 155 seats in parliament. The former party in power, the Democratic Party (DP), received approximately 25 percent of the vote, giving it 23 parliamentary seats.

With its new majority, the Socialist Party joined several center-left parties to form a governing coalition. The results, by parliamentary grouping, are as follows: The governing coalition: the Socialist Party led by Fatos Nano won 690,000 votes, or 52.5 percent of the total vote; its governing coalition won 62 percent of the total. The other coalition members were the Human Rights Party, led by Vasil Melo; the Democratic Alliance Party, led by Neritan Ceka; the Social Democratic Party, led by Skender Gjinushi; the Agrarian Party, led by Lefter Xhuveli; and the National Unity Party, led by Idajet Beqiri. The opposition: the Democratic Party, led by former President Sali Berisha, won 336,000 votes, or 25.7 percent of the total; together with its affiliated parties in the Union for Democracy, it formed an opposition representing approximately 32 percent of the total vote. The other members of the Union for Democracy were the Legality Party, led by Guri Durollari; the Christian Democrats, led by Zef Bushati; the Democratic Union Party, led by Remzi Ndreu; and the Social Democratic Union Party, led by Teodor Laço. The center-right: A third, non-aligned center-right

parliamentary grouping, the United Right, won 76,000 votes, or 6 percent. The United Right consisted of the Republican Party, led by Fatmir Mediu; the National Front Party, led by Hysen Selfo; the Right Democratic Party, led by Petrit Kalakula; and the Movement for Democracy Party, led by Dashimir Shehi.

Following the 1997 elections, Prime Minister Fatos Nano led the coalition government until he resigned among violent protests and upheavals in September 1998. Following the assassination of DP leading member Azem Hajdari in September 1998, ex-President Sali Berisha held a public funeral in the main square of the capital, from which an angry mob of armed DP supporters stormed government buildings and commandeered tanks. The OSCE Presence, in close coordination with the local diplomatic community, facilitated a cessation of hostilities and restoration of order. Fatos Nano resigned and SP General Secretary Pandeli Majko was elected prime minister, a position he retained for the remainder of the reporting period. The current parliament has 155 deputies; 145 of them are men. The average age of a deputy is 52, and the most common professional background is teaching, with 77 deputies being schoolteachers by profession. Twenty-seven of the sitting deputies have participated in 2 legislatures, 17 in 3 legislatures, and 8 in all 4 legislatures since the introduction of democracy.

2. When did presidential elections occur? Were they free and fair?

Under both the prior interim constitutional provisions and the 1998 constitution, parliament elects the president of the republic. During the 1997 civil unrest and state of national emergency, the-then DP-controlled parliament re-elected President Berisha to a five-year term. Directly following the 1997 elections, which the DP lost, President Berisha resigned. In July 1997, the SP-controlled parliament elected an independent-minded SP member, Rexhep Meidani, to the presidency.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Independent parties have been permitted since 1990, and many have formed. The parties tend to be centralized and dominated by charismatic figures. Only the two largest parties, the SP and DP, maintain a true party network that extends throughout the country's electoral districts. The electoral laws governing both national and local elections include provisions that guarantee multi-party representation on voting commissions. In October 1996, during the last nationwide local elections, the DP won a majority of the local government positions. In June 1998, the SP won a majority of the seats in the interim local elections, held to fill seats vacated during the civil unrest. Since the advent of democracy, local government has labored under a highly centralized regime, rendering it largely ineffective.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

There are a wide variety of parties registered. Article 46 of the new constitution guarantees the rights of Albanian citizens to organize for "any lawful purpose." Until recently, the Law For Political Parties prohibited the formation of parties that were "fascist, anti-national, chauvinistic, racist, totalitarian, Communist, Marxist-Leninist, Stalinist, or Enverist"—the last referring to the former dictator Enver Hoxha. Immediately following 1997's civil unrest, the Albanian Communist Party sought legal status but failed to attain it. After the shift of power in the 1997 election, the language of the law was amended to prohibit a party "when the goals and its activity are anti-nationalist, anti-populace, anti-democratic, and totalitarian." Since then, only one member of parliament (Maksim Hasani), originally elected as a socialist, has declared himself a Communist. Parties with a religious basis denied registration in the past may continue to face difficulties registering, given the new constitution's express declaration that "there is no official religion" in the Republic of Albania. The Criminal Code makes it a crime, punishable by anything from a fine to five years' imprisonment, to form an "anti-constitutional party or association."

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

There are no reliable records on party membership. In a comprehensive household survey in post-crisis 1997, 26 percent of those responding indicated that they belonged to a party. In terms of political party identification, survey respondents expressed preferences for the SP, DP, and no party—in that order.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

The OSCE-ODIHR has consistently cited the Albanian government for its inadequate voter lists. Accurate state-

ments on voter turnout are thus inherently problematic. With the large number of Albanians now seeking work abroad, particularly in Greece and Italy, maintenance of accurate voter lists remains extremely difficult. Work is now underway to improve the situation by developing a computerized civil registry that can support voter lists. Bearing in mind this problem, the following figures have been reported for national election turnout: for the 1991 parliamentary, 59 percent; the 1992 parliamentary, 95 percent; the 1992 local, 70.5 percent; the 1994 constitutional referendum, 75 percent; the 1996 parliamentary, 89 percent; the 1996 local, 75 percent; the 1997 parliamentary, 66 percent; and the 1998 constitutional referendum, 52 percent. A significant development was the improvement in the administration of the vote during the 1998 referendum. The joint OSCE-EU-CoE report declared that there had been "progress" and that voters and election officials "should be commended."

CIVIL SOCIETY 4.00/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Without a central registry and no recent private efforts to compile an updated list of NGOs, there is no way to know the exact number of such groups in the country. Local NGO umbrella groups estimate as few as 400 to as many as 800 Albanian NGOs. The Albanian Women's Center in Tirana has documented at least 81 women's rights NGOs. NGOs exist in most sectors: environmental protection, human rights, democracy, youth, women, economic growth, education, culture, sports, and social welfare. The number of NGOs in cities outside Tirana and in the countryside has increased as national NGOs and umbrella groups branch out to other regions. The Society for Democratic Culture now has branches in nearly every district in the nation, and it mobilizes hundreds of volunteer election monitors for national and local elections. The National Union of Albanian Farmers has branches throughout Albania and many active, dues-paying members. Increasingly, former government officials, civil servants, and academics are moving into the NGO sector, working with or forming new domestic think tanks, such as the Albanian Center for Economic Research. Think tanks are also playing a more prominent role in the NGO sector vis-à-vis government, as government ministries (and international organizations) increasingly see them as active partners in research and policy formulation.

Over the last two years, human rights groups have played a more prominent role in policy advocacy and monitoring abuses of the rule of law. They have participated actively in the drafting and review of the constitution, worked on legislation concerning the state police and security matters, oversaw the police and the court, and petitioned the constitutional court for repeals of laws. Eleven percent of the Albanian public actively participate in NGOs, according to a 1997 national research survey administered by the Organization for Educational Resources and Technological Training (ORT). In that survey, 66 percent of the respondents said that they would work with an NGO on an issue important to them. A similar spirit was evident in the recent Kosovo crisis, which led to an unprecedented outpouring of local philanthropy and volunteerism. The Albanian public opened their homes and business warehouses to house, feed, and clothe Kosovo refugees. A number of established NGOs constructively engaged youth, women, families, and disabled persons to help meet the needs of the nearly half a million Kosovar refugees throughout Albania. More than three-quarters of the refugees were housed by families rather than in refugee camps. For example, NGOs formed coalitions to distribute humanitarian aid, organize educational, training, and cultural events, provide services in the camps, and collect and document testimony for the purpose of investigating and prosecuting alleged war crimes. Business owners opened their business offices and warehouses to provide shelter, blankets, and food to arriving refugees. The Albanian Youth Council activated 1,800 young people as volunteers to assist refugees through counseling; organizing social activities such as theater, plays, concerts, and sports events; and collecting and distributing food and clothing.

In addition, local NGOs served as valuable partners to international NGOs and donors during the crisis. Women's NGOs supported mobile health clinics, distributing drugs and medicines, offering counseling and advice, and opening their offices and centers to refugee women and children. NGOs for the disabled, such as the Paraplegic Association and the Albanian Disabilities Foundation, provided rehabilitation centers and services, distributed wheel chairs, and serviced the needs of disabled refugees at special collective centers. Albanian NGOs also helped to establish in-

formal and formal associations among refugees. The Albanian Youth Council, for example, helped Kosovar youth and youth NGOs to form the Kosovar Youth Council, which then began to organize youth within the refugee population. There has been a steady increase in the membership of farmer's associations and in rural women's associative life. A Research Center for Rural Development survey counted approximately 1,000 rural NGOs—more than 60 percent of them coming together in a water users' association.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The new constitution guarantees the freedom to associate for any lawful purpose Albania has a very liberal, but incomplete, legal framework for NGOs. The civil code contains the primary regulations. To obtain a legal identity, an NGO must register with the local district court as an association (a membership organization formed for non-profit reasons) or as a foundation (a non-membership organization formed for a specific, socially beneficial purpose). Until the past year, NGO registration has been relatively easy. This year, however, the Tirana district court reportedly suspended registration of new NGOs for some time. In particular, during the Kosovar crisis, the registration of approximately 200 international NGOs operating in the country was held up.

NGOs do not have to pay customs duties on any humanitarian aid they import, but they are not exempt from other taxes. There are no legal restrictions on generating income, membership fees, or other types of NGO fundraising, but tax laws do apply to all individuals and legal persons, including NGOs. For various reasons, including the desire for better oversight over NGOs (pyramid organizations, to take one abuse, had in the past registered as foundations) and to license social-service NGOs, the Albanian government launched a reform project in late 1996. The NGO sector, once it learned of the government initiative, formed a broad-based informal coalition to influence the drafting of the law. The coalition successfully halted the progress of overly restrictive draft legislation. Following the change of government in 1997, the first NGO-government group to draft laws formed in November of that year. During 1998, the group completed a comprehensive draft that created a third type of NGO: a center for public services. The Ministry of Labor will submit the draft law to the Council of Ministers in September 1999; if approved, it will then be sent to parliament.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Albanian NGOs tend to lack strong organizational capacity. Only a few of the more experienced and active NGOs have organizational structures in which directors and staff have some limited accountability to a board of directors or to the membership. Few NGOs have by-laws or operate under broad statutes developed at the time of registration. In most cases, NGOs are still run by small core groups of one to three people. Approximately 35 NGOs have written-down financial procedures, but they do so largely through the training and technical assistance of the ORT/USAID Albania Democracy Network Project. ORT recently published the only financial management handbook in Albanian—*Financial Management for Albanian NGOs*—that provides guidance to NGOs that accords to both Albanian fiscal legislation and GAAP.

To address the need for organizational development, financial management and accountability, sustainability and an improved public image for NGOs, the ORT/USAID Albania Democracy Network Program supported a national initiative to develop an NGO training organization, the Albanian National Training and Technical Assistance Resource Center (ANTTARC), as well as support-sector resource centers and umbrella NGOs. ANTTARC provides technical assistance and training (including strategic planning and board development retreats) to help NGOs meet international standards of accountability, develop bylaws and operational procedures, recruit and train board members, raise funds, and improve public and media relations. ANTTARC has produced resource materials in Albanian on board development, NGO registration, staff management, and other organizational issues. Sector area resource centers, such as the Women's Center, the Albanian Disabilities Foundation, the Albanian Youth Council, the Health for All Foundation, the Albanian NGO Forum, and the Albanian Civil Society Foundation also provide occasional training for NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically dis-

close revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

While there are important examples of experienced NGOs receiving long-term financial support for more permanent operations, there has not been a significant increase in the number of NGOs that can set up offices, purchase equipment, or hire permanent staff. NGOs still rely almost entirely on foreign funding. The main funders are the European Union; the U.S., Italian, Dutch, and Danish governments; and private donors such as the Open Society Institute. To help fund their activities, some NGOs run greenhouses or produce and sell handicrafts; a group of women's organizations runs a sewing cooperative.

NGOs do not have to produce an annual report or disclose their revenue sources. While there are no legal restrictions on generating income, membership fees, or other types of NGO fundraising, tax laws on social insurance, income, profit, and value-added taxes do apply to all individuals and legal persons. International donors, particularly the Italian Government, are making funding available for NGO social-service delivery organizations to stimulate their participation in the government procurement process. Private, for-profit companies compete in a government procurement process, but it is widely viewed as corrupt. One local think tank, the Institute for Contemporary Studies, is developing policy recommendations to make the law more efficient and transparent as a funding mechanism for businesses and NGOs.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

There are a number of free trade unions in Albania. The two main trade union groups are the Confederation of the Trade Unions of Albania (*Konfederata Sindikatave te Shqiperise, or* KSSH) and the Union of the Independent Trade Unions of Albania (*Bashkimi i Sindikatave te Pavarura te Shqiperise*, or BSPSH. A third union, the Independent Federation of Miners and Geologists, is active but it has few members; the number of individuals working in the mining industry is declining. Other unions, BSPSH splinter groups, have small memberships.

The two main confederations are comprised of union federations divided functionally and geographically: the Textile and Light Industry Federation, the Health Service Employees, the Agriculture and Food federation, the Transportation federation, and the Public Employees federation. The Ministry of Labor and Social Affairs reports that, in 1997, the KSSH and BSPSH together had approximately 285,000 members— approximately 22 percent of the workforce. KSSH claims to represent approximately 100,000 members in 12 federations and 30 district trade union councils. BSPSH claims 200,000 members in 14 federations and 36 district trade union councils. The new constitution guarantees the right to unite freely in labor organizations. Employees have the right to strike, with some legal limitations to ensure essential social services. The 1995 labor code establishes legal requirements for unions on registration procedures; representing employee interests in court; raising tax-exempt funds through fees, donations, and revenues from social, economic and cultural activities; and protecting unions' rights of establishment, operation, and administration without interference from government, employers, or employer organizations.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

The new constitution confirms and extends civil society's access to government. In the section on fundamental rights, it guarantees the rights of Albanian citizens to attend meetings of elected bodies, organize for "any lawful purpose," and petition organs of government. Consistent with prior interim constitutional provisions, Article 81 of the constitution stipulates that any group of 20,000 voters may initiate legislation at the national level. Supplementing the right to initiate national legislation is the right, following a motion of 50,000 voters, to call a national referendum to abrogate a law. Furthermore, the new constitution also contemplates local referenda, which will be elaborated upon in the legislation implementing the constitutionally-mandated program of decentralization. In the last five years, there has been a significant transformation of the involvement of the NGO sector in policy-making.

Compared with March 1995, when few NGOs engaged in true policy dialogue with the government or even played a watch-dog role vis-a-vis government, there is now a core group of approximately 40 public-policy NGOs who participate as partners with government in setting policy priorities and in formulating and implementing laws. Albanian NGOs have drafted legal provisions and have begun to lobby for laws and policies across a broad spectrum of priority areas: laws

to protect international lakes and former reserves, or to create national parks, etc.; laws to provide more equitable pensions, housing, or treatment of those who have suffered political persecution; bills to address important social issues, such as the new phenomenon of drug trafficking and drug abuse, domestic violence, agricultural land tax, etc. Other NGOs have developed stronger government watch-dog programs that help bring government institutions into compliance with specific human rights standards, minority rights standards, and election law requirements. The watch-dog programs also prod state institutions more effectively to enforce laws, such as those dealing with consumer protection.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

The policy-making process in Albania has changed dramatically over the past two years. The government has taken active steps to improve transparency and create opportunities for NGO input. Recent examples include: the Ministry of Labor and Social Affairs's public hearing on a draft NGO law and subsequent creation of an inter-ministerial NGO law-drafting group; the Ministry of Legislative Reform's initiative to create an Administrative Center for Coordination of Foreign Assistance and Public Participation; the Ministry of Legislative Reform's public hearing with human rights groups to discuss a draft Ombudsman law; the Parliamentary Commission on Agriculture's public hearing with farmers and the National Farmers Union on land tax law; the Parliamentary Commission on Media's 30 day public review and comment period on the draft press law. In addition, in 1998, the Parliament enacted revised rules of procedure which allow for greater transparency and public input into the process.

Established public policy-oriented NGOs engage in a policy dialogue with government ministries; only a few engage parliament. When a law is offered for the public to comment on, however, the government receives only a few written recommendations from NGOs. There have been no local NGO legislative monitoring programs. The parliament now publishes and distributes a two-week parliamentary schedule. In 1998, more than 50 different NGOs joined legal experts, government officials, and politicians to participate in the drafting and review of the new constitution. NGOs helped sponsor and participated in eight public hearings and a number of discussions and symposiums held across the country. The parliamentary commission on drafting a constitution considered hundreds of suggested changes; it accepted approximately 50 proposed changes, affecting more than 45 articles. Altogether the commission amended 25 percent of the draft articles on the basis of specific suggestions from the public.

There has been no improvement in relations between NGOs and the media. While the media will publish some NGO research statistics or cover some NGO-related events, journalists do not turn to NGOs as a source for news and fact. At times, the media has published negative stories about the NGO sector, such as early reports during the Kosovo crisis that trumpeted accusations of theft and corruption on the part of the local NGOs—at a time when only 15 to 20 NGOs had received grants. A positive sign was the creation of an advisory board for the newly transformed public radio and television. One representative from each of the following groups will sit on the Leading Council of the Albanian Radio and Television, both to represent their sector's interests and to assure the public entities' compliance with the new electronic media law's standards: labor unions, journalists associations, women's NGOs, youth NGOs, the main NGO forum, and minority groups.

INDEPENDENT MEDIA 4.50/7

1. Are there legal protections for press freedom?

The new constitution enshrines both freedom of the press and the right of the public to access state information. It also explicitly prohibits "[p]rior censorship of a means of communication." However, it allows for the licensing of radio and television stations. In May 1997, the prior parliament passed a law On Public and Private Radio and Television in the Republic of Albania, sanctioning for the first time private broadcasting. This law provided a legal framework for regulating the "pirate" stations that began broadcasting in 1996 and continued uninterrupted until the imposition of a state of emergency and press blackout during the civil unrest of 1997. Previously, the DP-led government had taken steps to close pirate stations, and some observers speculated that the informal change in policy was connected with the politically supportive stance of some of the new stations. During the fall of 1997, a controversy erupted concerning the application of the law after a senior DP deputy, Pjeter Arbnori, began a hunger strike to protest state television's political coverage. In September 1998, this law was replaced in toto by a new law that provides for a politi-

cally-diverse National Council of Radio-Television to regulate and supervise broadcasting. The new law reiterates guarantees of freedom and independence in broadcasting. As for the print media, the restrictive law For the Press was effectively repealed in September 1997, except for Article 1, which states: "the press is free."

Attacks on journalists and media outlets have been reported; some of the attacks seem linked to politics. In May 1998, a five-kilogram bomb exploded at the home of Zenepe Luka, a journalist for *Koha Jone,* damaging her house and injuring her two children and two young neighbors. Shortly before, she had been refused access and threatened by DP guards at a DP rally. According to human rights NGOs, in February 1998 police officers in Librazhd beat two journalists because of stories they wrote, and in Elbasan, police officers beat a reporter from the daily *Republika.* In September 1998, the director of *Radio Kontact*, Agron Bala, was attacked by unknown assailants while leaving the station's studio.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

In June 1995, the parliament enacted a new criminal code. The code contains provisions that impose a range of criminal penalties for insulting or defaming public figures and symbols. Insulting representatives of foreign countries, anthems, flags, public officials, and judges can result in penalties ranging from fines to three years' imprisonment. Defamation of public officials, the president of the republic, or national symbols can result in penalties ranging, again, from fines to three years' imprisonment. Calls for "national hatred" and propagating false information may be penalized with a fine or up to five years' imprisonment. There have been various legal actions against journalists.

In certain cases, presidential pardons have been issued. For example, the government launched an investigation into the reporting of *Radio Kontact*'s Vjollca Vokshi, a journalist with close links with the DP, after she had reported, live from Tirana, an armed attack by gangsters on the police station in Shkoder. The attackers freed prisoners and later demolished a number of government buildings in the town. When Vokshi reported that "the government is going to suppress the revolt in Shkoder with violence and blood," the Interior Ministry accused her of "dissemination of false information with the aim of creating a situation of insecurity and panic among people." The prosecutor's office later stopped the investigation of Vokshi. It deemed the journalist's quote as "imprecise," since the government had issued a declaration similar enough not to warrant her punishment. In general, legal actions have not aimed at "irresponsible" journalism; less than one-third of Albanian households rate Albanian media sources as "reliable" or very reliable." According to a recent media survey in Tirana by the Albanian Media Institute, 63 percent of newspaper readers believe the press creates problems for ordinary citizens.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Since 1997, the field of electronic media has changed dramatically. With the exception of the public *Albania Radio and Television* (RTSH), all media are now private. The first Albanian private television station (*Television Shijak*) began broadcasting in December 1995; most began began operation later, in 1997 and 1998. There are now 30 private television stations and approximately 20 private radio stations operating throughout Albania. Many began broadcasting news and information more frequently only after the June 1997 elections. Leading private radio stations, which are largely sympathetic to the ruling party, include *Radio Koha*, *Radio Klan*, and *Radio Stinet*.

Competition among the print media is keen. Political parties, labor unions, and various associations and groups publish their own newspapers and magazines. At any time, an estimated 200 different publications are available in the main cities, including daily and weekly newspapers, magazines, and pamphlets. At least 13 daily newspapers are published in Tirana, with individual circulations ranging from 1,000 to 30,000 copies. The two largest independent dailies, *Kohe Jone* and *Gazeta Shqiptare*, tend to be sympathetic to the government. Partisan papers include *Zeri i Popullit* (SP); *Rilindja Demokratike*, (DP); *Bashkimi* (the journalist's union daily), *Republika* (Republican Party), *Progresui Agrar* (Agrarian Party) and *Albania* (DP). Only a dozen or so regional cities have a weekly newspaper; the regional weeklies have low circulations, in the range of 1,000 readers. Indeed, the regional press suffered a severe setback; no dailies are printed outside of Tirana. Five minority newspapers are published: the weekly *Zeri i Omonias, Laiko Vima* (Greek), the monthlies *Amaro Dives* (Roma), *Fircea* (Romanian), and *Vellaizerit* (Vlach).

4. Are the private media financially viable?

Only 1 out of 30 private television station are profitable, according to a 1998 assessment of the Albanian private tele-

vision industry. The primary obstacles to business development for private television are the lack of media management experience, technical expertise, and trained personnel. The high level of crime and lack of public order have hurt business development; owners and staff have been beaten and robbed of substantial sums of money and costly equipment. Also, the fear of attracting criminals deterrs businesses and individuals from advertising. Furthermore, the economic situation has left businesses unable to afford even private television's low advertising costs. Thus, private broadcasters typically fail to generate advertising income, a major source of income. Nevertheless, in Tirana, there are several advertising agencies that represent large concerns such as Coca Cola, Orbit Gum, Insig Insurance, and they purchase air time for commercials. But the income generated from broadcasting these commercials does not cover the TV stations' staff salaries.

The print media have become increasingly diverse, but circulation has diminished. Party newspapers rely on party funds to supplement newsstand income. Independent dailies have received support from the Soros Foundation, but rely on newsstand sales and advertising. Because of the difficult economic conditions and readers' general distrust of the press, newspaper sales have signifigantly fallen in 1998. According to a 1998 Institute of Media study, only 27 percent or so of the population purchases a newspaper on a daily basis, while slightly more than 41 percent rarely or never buy newspapers. According to the Albania Media Institute, newspaper distribution extends to approximately 40 percent of the country; only 42 people out of a thousand can afford to buy a daily newspaper. Albania's poor roads and infrastructure continue to be major obstacles to a distribution network extending beyond the main cities. Several new news magazines, such as *Klan Magazine*, have been relatively more successful in selling commercial advertising to support their operations.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The 1998 electronic media law protects private electronic media stations and Albanian Radio and Television from outside interference, and it prohibits censorship. It does place restrictions on programming that promotes violence, national, religious, or racial hatred, anti-constitutional activity, territorial divisions, and discrimination; invades privacy rights; broadcasts pornographic material; or harms national security. The law transforms Albanian Radio and Television into a public entity, establishing an organizational structure that guarantees that the government or political parties cannot have controlling influence and that provides for public input and oversight through the representation of university and journalists associations, trade unions, NGOs, and national minorities on the leading council. The new electronic media law also prohibits advertisers from interfering with the contents and scheduling of the programs. The law bans political parties, religious organizations, and state bodies from operating a private radio or television station and restricts any one owner of a company with a national television station to a maximum of 40 percent of the total capital of the company. As the new law came into effect in late 1998, it remains to be seen how great of an influence government or political parties will have on the newly transformed Albanian Radio and Television and its new licensing and regulatory bodies, the National Council on Radio and Television and the telecommunications regulatory body. Party and union newspapers generally espouse their sponsors' views. Newspapers report politically polarized stories, often for or against the government.

6. Is the distribution system for newspapers privately or governmentally controlled?

The print distribution system is private and limited to the major population centers. In 1998, despite accusations of government interference in distribution, some newspaper publishers actually called upon the government to assume responsibility for distribution. Prior assessments have reported charges that the two major distribution companies have misappropriated funds and failed to properly execute deliveries. In 1998, it is estimated that daily newspaper circulation declined from 85,000 to 75,000.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

There are two internet satellite links in Albania offering full internet access: one launched by the UNDP in 1995, and one established by the Soros Foundation through the Albanian Education Development Project in May 1997. Both offer the service to a limited number of institutions and organizations. Commercial internet access providers have been licensed and began to offer internet access on a commercial basis in 1998 and 1999. There are no legal restrictions to internet access, but relatively few people can afford a computer or internet services, particularly in the rural areas.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
According to the Albanian Civil Society Foundation, ten associations in the mass media are active. The two major press and journalists associations are the Albanian Professional Journalists Association and the Albanian Journalists League. Both aim to protect the rights of journalists, speak out about attacks against journalists, and organize occasional training seminars and conferences. A private television broadcasters association exists, with eight member stations. The members meet occasionally, to discuss problems such as the electronic media law.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?
Freedom House's annual *Survey of Press Freedom* rated Albania "Not Free" from 1988 to 1990, "Partly Free" from 1991 to 1994, "Not Free" in 1995 and 1996, and "Partly Free" in 1997 and 1998.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.75/7

1. Is the legislature the effective rule-making institution?
Parliament is the chief rule-making institution. Most of the actual drafting of legislation, however, takes place in the various ministries. Parliamentary support staff is minimal. Under the new constitution, certain organic codes, e.g., the law for the state of emergency, can only be approved or amended with a vote of three-fifths of all members of the parliament. The new constitution restricts presidential decree powers to the traditional duties of head of state and guardian of the constitution. Proper publication and distribution of laws and regulations has been a constant problem in the past. A Council of Europe-sponsored State Publications Office is being developed to address this problem.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
The new 1998 constitution establishes local government units as juridical bodies that possess a number of autonomous powers, including the power to tax, issue local rules, engage in contracts, and hold local referenda. The establishment of autonomous local government structures decentralizes the power of the Albanian state, and it creates a closer link between the citizen and the political structures that govern him. This concept of local self-rule is also enshrined in the constitution's Basic Principles section. These provisions are consistent with the Albanian government's stated commitment to adhere to the European Charter of Local Self-Government. In February 1999, Government Decision Number 103 established the National Committee for Local Government Decentralization, which is charged with developing a strategic plan for government decentralization, pursuant to the constitutional mandate. This plan will encourage new legislation that will replace the prior laws on local government and the prefectures.

3. Are subnational officials chosen in free and fair elections?
Because the government sought to limit the number of monitors, the OSCE refused to monitor the October 1996 local elections. The Council of Europe found no serious violations in the voting, but the then-opposition SP claimed intimidation and vote tampering. Official results showed the DP won 61 percent of city councils, including Tirana, and 58 percent of commune seats. Partial elections were held in June 1998 to replace seats vacated as result of the civil unrest in 1997. The local OSCE Presence monitored the elections. No major violations were evident; the SP won a majority of the seats.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?
The parliament passed new parliamentary rules of procedure in the Spring 1998 legislative session. The new rules provide for greater transparency and public input, and improved procedural guidelines. The procedures define more clearly how draft laws should be reviewed, leaving more time to parliamentary commissions for reviewing and amending drafts. The new rules make the parliament much more transparent by allowing the public and the media to attend plenary sessions and by permitting radio and television to broadcast these sessions. The public and the media can now obtain information on draft laws and receive parliamentary reports. NGOs and other interested parties can also attend commission meetings. The parliamentary commissions may also hold public hearings to gather public input on draft legislation or on other issues.

In mid-1998, the parliament began to make its two-week parliamentary schedule available to interested parties and the press. On two recent occasions—the draft electronic media law and the amendment of the law on the national intelligence sercvice—permanent parliamentary commissions sought comments from NGOs and interested parties. But as yet there is no regular consultation between the public, interested parties, and the parliament. In May 1999, the parliament adopted the Administrative Procedure Code of the Republic of Albania, which makes government officials accountable to private individuals for their illegal acts or failure to act. In June 1999, the parliament adopted the law On the Right of Information For Official Documents, granting any person the right to request official information from the state and obligating the government to publicize official information. These two laws address longstanding gaps in the Albanian legislative framework that could increase government transparency and accountability.

In addition, the new constitution establishes a national ombudsman, referred to as the People's Advocate, explicitly empowered to enforce the right to information. The ombudsman is also empowered to "defend the rights, freedoms, and lawful interests of individuals from unlawful or improper actions or failures to act of the organs of public administration." To de-politicize the post, the constitution forbids the ombudsman from political activities and provides that he or she be elected by super-majority, "a vote of three-fifths of all members of the Assembly." In February 1999, the parliament passed the law For the People's Advocate, putting in place the ombudsman office.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Local government has been plagued by insufficient resources and excessive interference from the national government. During the public consultations on the drafting of the new constitution, the Albanian Association of Mayors requested the decentralization of power and autonomy. The drafters accepted these suggestions, and the new constitution explicitly provides for a wide range of autonomous powers and prohibits the national government from issuing unfunded mandates to local authorities. Article 112 states, "The expenses that are connected with the duties put by law to the organs of local government are covered by the budget of the state."

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Local governments lack qualified and trained leaders and civil servants. Because local government has been relatively powerless before now, true local initiatives have been extremely limited. Local government has usually served as an administrative arm of the central government. With the constitutionally mandated decentralization initiative, local government will take a more active and creative role, placing a premium on the need for greater numbers of trained leaders and civil servants. The Association of Netherlands Municipalities (VNG) and the USAID Public Administration Project (PAPA) have been offering training and assistance to develop this needed local capacity.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

As noted, the new 1998 constitution, increasing local authority, has reformed the core approach to local government. A government committee is to devise an implementation plan. In 1996, the basic legal system underlying the civil service system was restructured, but none of the essential measures were taken. Following the 1997 change in government, local and international observers expressed concerns about changes in the civil service staffing. Nepotism and political patronage are endemic in Albanian society, and both major political parties have perpetuated these problems. In 1998, the SP-led government initiated steps toward implementation of the civil service system; in the spring of 1999, the SP-led government began drafting a new system, and both the World Bank and the OSCE have reviewed and commented upon the draft law.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The new constitution passed in a national referendum held on November 22, 1998. The 1994 referendum law required an absolute majority of registered voters to pass a measure. As noted, if voter lists are not accurate, it becomes difficult, if not impossible, to calculate accurately what constitutes such a majority. The ruling coalition amended the 1994 law, allowing for a measure to pass if it receives a majority of those voting. The DP protested, decrying the amendments as politically-motivated. The ruling coalition responded that either approach to tallying referenda is acceptable in a democratic system. In any case, it was generally accepted that the constitution received 50 percent or more of the vote. Throughout the final stages of the drafting process, the DP systematically protested, arguing for non-participation while simultaneously claiming exclusion. The DP protests were noted for their excesses. The Joint OSCE, EU, and CoE Observation Team commented critically: "The disinformation on the contents of the constitution, the misrepresentation of international representatives and unfounded allegations against the constitutional process by the Democratic Party are to be regretted."

In general, Albania received high praise for the open and inclusive drafting process. As the Joint Observation team noted, "The referendum followed an open and transparent process where advice on the constitution was taken from many sources, domestically as well as internationally." The text of the constitution itself received praise from the esteemed Venice Commission of the Council of Europe, which stated at the end of parliamentary deliberations, "the draft [constitution], in particular the human rights chapter, is in line conformity with European and international standards."

Under the new constitution, as under the interim provisions, the constitution is interpreted and enforced through a constitutional court. The constitution provides for a nine-member court appointed by the president with the consent of the parliament. The judges serve nine-year terms without right to re-election. The jurisdiction of the constitutional court is defined broadly; individuals possess the right of petition. The new constitutional court will not be able to raise cases on its own motion. In the summer of 1998, prior to the approval of the new constitution, the Parliament passed the law For the Organization and Function of the Constitutional Court of the Republic of Albania, which provides for an independent budget for the court, approved directly by parliament. This law continues in effect, to the extent that it is not inconsistent with the constitution. The constitutional court interpreted and enforced a number of constitutional provisions during the year.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

Part I of the new constitution sets forth the fundamental principles of Albania's democratic state. This section establishes the Albanian state as a parliamentary republic founded upon the separation and balancing of legislative, executive, and judicial powers. The economic system of the new republic will adhere to market principles, and the military will be under civilian control. Part II of the new constitution, Fundamental Human Rights and Freedoms, enumerates the rights and guarantees that any individual, Albanian or foreign, enjoys against state interference in their lives. Limitations of these rights are only permitted when it is clearly in the public interest or for the protection of the rights of others. Any limitation will be in proportion to the circumstances generating the restriction. Under no circumstances may the limitation exceed the limits accepted in the European Convention on Human Rights. The issue of private property was discussed extensively during the drafting process, particularly with representatives of landowners subject to expropriation during the communist period; article 41 places specific restrictions upon the right of the state to interfere with property rights.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

In 1995, both the penal and penal procedure code were replaced. The new codes were developed in consultation with international experts. Collectively, they provide many basic due process protections. Under article 202 of the penal procedure code, the court, on the basis of "grounded reasons," may issue a warrant for searching a person or premises; in searches of a home, article 206 establishes the general rule that searches shall take place between 7 a.m. and 8 p.m, except when a police officer encounters a crime in progress.

The treatment of suspects and prisoners is fair to poor. Police officers tend not to have received adequate training and possess a reputation for corruption. International assistance from Western Europe and the United States has improved training, particularly in the area of human rights. Enforcement of these principles still lags, however. Police harassment is a substantial problem, as is extensive detention and trial delays. There has been a range of legislation on the police passed in 1998 and 1999. In early 1999, an

effort was undertaken, in consultation with the OSCE and the European MAPE Mission, to develop a new comprehensive draft law On the Police of Albania.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

The courts are widely perceived as corrupt. Bribery of court officials is common; over two-thirds of households surveyed rated "conflicts between the judicial system and the people" as a moderate to very serious problem. As a general proposition, judges have received inadequate training in the new system of post-communist legislation. In an attempt to dilute the influence of the old judges from the prior communist regime, new judges were trained in a six-month crash course. Many of the new judges had held non-legal positions. Also, many new judges have been drawn from the ranks of new law school graduates. Given the poor state of legal education generally, it is unclear whether these new graduates possess adequate skills. The main law school, the University of Tirana, suffers from a severe lack of materials and facilities, improper influence in admission policies and grading, and outdated courses. Compounding these problems has been the University of Tirana's practice of issuing correspondence degrees. In 1996, the parliament authorized the establishment of a magistrates school to provide potential judges with needed post-graduate training to prepare them to be judges. With assistance from the European Union, the Council of Europe, and the American Bar Association, the Magistrates School opened its doors in 1997. The first class of 20 will graduate in 2000, and the Magistrates School is in the process of developing continuing judicial education classes for sitting judges.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The judicial branch has the responsibility of resolving disputes over the interpretation and application of laws. The new constitution sets out a three-tier system of courts: district courts, courts of appeal, and a high court. All judicial decisions must explain how the law applies to the facts before the court. Decisions of the high court must be published. Albani has also established a High Council of Justice. The High Council, with the approval of the president, selects the judges of the first two levels. The president, with parliament's consent, selects the high court's chairman and members. The judges enjoy immunity, which can only be lifted by the organ that appointed them. Under the interim constitutional provisions and laws, the high council of justice was heavily influenced by the executive and conducted judicial disciplinary procedures with no regard to basic standards of due process. This infringement of judicial independence was cited in international human rights reports.

In December 1997, the parliament passed a new law governing the operation of the High Council. It introduced basic due process protections such as a right of appeal to the court of cassation. A group of judges, *Dura Lex Sed Lex*, protested almost immediately, opposing the provisions for testing judges for competence. Alleging that these tests would be used to discriminate against them for political reasons, the judges staged a hunger strike. The OSCE brokered a resolution of the crisis in the spring of 1998. As a result, the law was revised, in consultation with the Council of Europe, OSCE, and members of *Dura Lex Sed Lex,* and reissued in December 1998. However, *Dura Lex Sed Lex* continued to oppose the law and filed a petition with the constitutional court. In May 1999, the constitutional court rejected their petition on jurisdictional grounds, and the competency testing went forward. The majority of judges participated in the internationally monitored testing process. Of those participating, the vast majority passed.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

The major population centers, such as Tirana and Durres, possess a large number of attorneys in private practice; smaller towns and villages possess very few. Law is an undergraduate degree and currently one of the most popular majors. The Universities of Tirana and Shkodra are graduating more than 200 students a year from their standard programs; many of the graduates are women. Because the number of government jobs for attorneys has remained basically static, each year the proportion of lawyers in private practice grows substantially. There are government-mandated bar associations as well as several private associations (e.g., the Young Lawyers Association and the Women's Jurist Association). The government-mandated bar associations are moribund and have failed to contribute substantially to the development of the profession. While the national bar association, with help from the American Bar Association and the Council of Europe, did develop a code of ethics, the organization has done little to implement these rules. In contrast to the government-mandated

groups, private groups like the Young Lawyers Association have been active, developing continuing legal education courses and other professional activities.

7. Does the state provide public defenders?
The new constitution guarantees criminal defendants the right to a "free defense when [they do] not have sufficient means." The government has not established a reliable system to ensure that this right is properly realized. In accordance with the penal procedure code, the courts are to be supplied with a list of lawyers (bar members) in their areas from which they may pick someone to represent a criminal defendant. According to the code, the lawyer is then entitled to payment from the government for all that the defendant cannot pay; but the government is commonly delinquent. A limited number of nongovernmental clinics have begun to provide these kinds of services, and the results are encouraging, but the need continues to exceed supply, particularly in civil matters.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
During the constitutional drafting process, ethnic minority rights were discussed extensively. The Human Rights Party, representing the interests of the Greek minority, took a lead role in this discussion. As a result, the new constitution stresses "coexistence" with ethnic minorities as a basis of the Albanian state. In addition, the President of the Venice Commission of the Council of Europe suggested specific protective language for all potentially threatened groups; his broad language was incorporated into the constitution, prohibiting discrimination based on "gender, race, religion, ethnicity, language, political, religious or philosophical beliefs, economic conditions, education, social status, or ancestry." Article 253 of the penal code imposes penalties ranging from fines to five years' imprisonment for state employees who discriminate against persons on the basis of most of these criteria. Women continue to face special challenges in Albanian society. Trafficking in women for the purposes of prostitution remains a significant problem.

9. Are judicial decisions effectively enforced?
Enforcement of judicial decisions continues to be a major problem. The Albanian Human Rights Group has held a public roundtable on the issue, noting that poor enforcement of judicial decisions raises serious human rights issues. The execution of judgements has depended heavily on the Office of the Executors (*Zyra Përmbarimi*). While they generally maintain offices at all district courts, they are seriously understaffed, ill-equipped, and poorly organized, resulting in poor enforcement.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption has been and remains a problem at all levels of government. Nepotism, political patronage, and simple bribery are common. In a nationwide household survey, 55 percent rated bribing as "somewhat" to "very" important, and 39 percent admitted to paying a bribe since the introduction of democracy in 1991. Those most often cited as receiving (and presumably encouraging) bribes were medical personnel, public utilities personnel, police officers, and court employees. The average salary of civil servants is approximately $87.50 per month.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Allegations of high-level corruption abound—with both the major parties, the SP and DP, leveling charges at one another through the party press. Throughout the transition period, high-level officials have been accused of being involved in improper business schemes. Former Prime Ministers Meksi (DP), Nano (SP), and Fino (SP) have all been subject to allegations of profiting from their positions through special deals on real estate development, smuggling, etc. Similar allegations have been made of former Ministers of Finance, Ruli (DP), Vrioni (DP), and Malaj (SP). Former Chief Judge of the Court of Appeals Prel Martini was removed after the 1997 change in government, following years of allegations of corruption. Dur-

ing the crisis provoked by the collapse of the pyramid schemes, there were credible reports that those implicated had political contacts (e.g., VEFA making substantial donations to the DP). The failure of the national Commercial Registry to publish records of business formations, mergers, sales, etc., as required by law continues to make it difficult, if not impossible, to verify the status and ownership of business associations.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The legal and administrative framework addressing the disclosure of assets is rudimentary. The law On the Declaration of Assets by Elected Persons and Some Senior Officials requires elected and other "high level" officials to disclose their assets; a parliamentary commission reviews the information. Article One covers a list of "officials," including judges, investigators, mayors, and local government employees. The law leaves it to the Council of Ministers, however, to issue implementing regulations. Full implementation remains lacking. Both the new constitution and the penal code set forth principles that regulate the conflict of interest of public figures.

The prosecution of government abuses is limited. When it does occur, it is commonly a matter of the dismissal of a state employee, and frequently viewed as political in motivation. The underlying issues are poorly understood. Government officials frequently involve themselves in the private sector in ways that raise at least the appearance of impropriety.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

The ORT Democracy Network Program, CEER-Wall Street Journal, the Albanian Center for Economic Research, Transparency International, and the World Bank have all analyzed public-sector corruption. These findings have been shared with the government of Albania and incorporated in its Comprehensive Reform Program. According to this information, "Businesses, citizens, and public officials paint a consistently grim picture about the prevalence and costs of corruption in Albania." This kind of data has not been collected on a regular basis. For example, Transparency International only began rating Albania in 1999.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Following the 1997 elections, the new government launched a major anticorruption initiative. This initiative involved both governmental and nongovernmental actors and culminated in a national workshop in the middle of 1998. The initiative enjoyed the support of the World Bank, USAID, and the Soros Foundation. At the workshop, the government presented its "comprehensive program to combat corruption," which focused on civil service, customs, and judicial reform. In 1998 and 1999, Albania established an entirely new customs code and a judicial inspectorate at the high council of justice, subjected judges to a qualification exam, and redrafted the civil service system. The effect of these and similar initiatives remains unclear. While Albania has been responsive to the issue in terms of legislation, administrative capacity and training is lacking. The implementation of legal reforms continues to be a problem.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

No polls reveal "growing" intolerance of official corruption, but data collection has been limited. However, a household survey showed that 22 percent of the population cite corrupt politicians as the main cause of illegal activity in the nation. The public has a limited understanding of what constitutes corruption, however, and further public education initiatives are needed.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

Transparency International rated Albania a 2.3 on their Corruption Perceptions Index for 1999 on a scale of 0 (highly corrupt) to 10 (highly clean). This ranking placed Albania 84th on a scale of 1 to 100.

Economic Liberalization

PRIVATIZATION 4.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

In 1996, 75 percent of the GDP came from the private sector. As of 1997, 79.6 percent of employees worked in the private sector (68.7 percent in the agricultural sector and 10.9 percent in the non-agricultural private sector); employees in the state sector dropped to 20.4 percent. The Albanian Center for Economic Research estimates that the informal economy makes up about 32 percent of the private sector. Informal economic activity is most present in the retail sector (kiosks, street vendors, etc.), transport (taxies, minibuses, buses, tracks), construction, and in-home or small production. At least 30 percent of those working in the informal economy have secured their initial capital from remittances from abroad, which are not controlled by fiscal policy. Only three percent were able to get a loan to establish their business. A significant correlation exists between the formal and informal sector in the economy. Forty-seven percent of registered firms have paid for goods and services from the informal sector. Sixty-four percent of manufacturers and 56 percent of construction firms have received goods and services from the informal sector, primarily because prices are lower. ACER's survey also found that the informal enterprises have operated in the gray economy for a relatively long period of time (51 percent for 2 to 5 years; 13 percent for more than 5 years), despite accumulating sufficient capital to enable them to join the formal sector.

2. What major privatization legislation has been passed? What were its substantive features?

Albania's first law on privatization, the law For Sanctioning and Defending Private Property, Free Enterprise, Private Independent Activities, and Privatization, was passed in August 1991, prior to the transition to democracy. The law sanctioned private property ownership, free initiative, and privatization in all sectors. A number of privatization methods were established (auctions, bids, direct sale, free distribution of shares, and others) and a National Privatization Agency (NPA) was created under the council of ministers. In 1992, Albania privatized home ownership, allowing families to take private ownership of their apartments and homes for nominal purchase prices.

In April 1993, another law passed, providing for restitution and compensation to former property owners, excluding agricultural land which was regulated by provisions of the land law. In 1995, the law On the Transformation of State-Owned Enterprises into Commercial Companies provided for the conversion of all state-owned enterprises, except the second-tier banks and the insurance institute, into limited-liability companies and joint-stock companies. Also in 1995, the council of ministers issued a host of decisions addressing components of the privatization process, e.g., the issuance of privatization vouchers. After an initial period of rapid privatization, progress faltered. In March 1998, the parliament passed a new, comprehensive privatization strategy. This new law defines a broad range of sectors as strategically important, including energy, mineral, oil, gas, post, telecommunications, and air transport. The following month parliament passed a law For Privatizing Commercial Companies of Non-Strategic Sectors. This law defines the NPA's authority to organize auctions and establishes a privatization formula that takes into account the interests of former landowners and employees. In March and June 1999, the council of ministers issued Decisions No. 192 and 283, respectively, to accelerate privatization by facilitating auctions and installment sales.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Albanian privatization has been pursued in three phases. The first phase targeted small units, such as retail stores, restaurants, warehouses, and small manufacturing facilities. The second phase included small and medium state enterprises (SMEs). The third involved large state enterprises and strategic sectors. By the end of 1992, 75 percent of small commercial and service providers had been transferred to private ownership. By 1997, 90 percent of real property had been privatized, and in April 1998, the parliament approved a package of laws which clarified and simplified the legal framework for land transactions. The laws removed former legal provisions relating to priority claims in land sales, established a procedural framework for leasing agricultural land, and allowed undistributed state lands to be used to compensate former landowners in conflicting land-ownership cases. At the end of 1998, one-third of total agricultural land had been registered.

In the second phase of privatization, as of the end of 1998, the majority of SMEs had been either sold or liquidated. Progress on the larger state enterprises proved more difficult, but by March of 1999, all but a handful had been sold, leased, or liquidated. The major task remaining is the privatization of the strategic sectors of the economy. During 1999, various measures were taken to prepare telecom, electricity, mining, and petroleum sectors for privatization.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

By 1997, Albania had privatized 11,504 small and medium factories; former employees and landowners received explicit preferences. As a result, 32 percent of the enterprises had been transferred to employees and 23 percent to former land owners. The privatization program has been marked by a number of allegations of insider dealing involving high-level political figures within the DP. Such charges remain difficult to confirm due in part to the lack of transparency and access to information in the privatization process.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The privatization process has suffered from a lack of transparency and a coherent public- awareness campaign. More than 14 billion lek in privatization vouchers were distributed to over 1.2 million citizens, ages 18 and over. However, only 22,000 people used the vouchers in a privatization. Large numbers of the vouchers were sold on the street, where recent estimates place their value at 3 percent of their initial value. There have been reports of some opposition to privatization originating from trade unionists and SP members, but all political parties and interest groups have supported privatization.

MACROECONOMIC POLICY 5.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Historically, Albania has had a highly-centralized command economy. Following the conversion to a market economy, Albania adopted a host of tax legislation. A corporate profit tax and a personal income tax were introduced in 1993 and 1994, respectively. Both of these laws were replaced in December 1998 with a general income tax law. With the assistance of the IMF and the U.S. Department of Treasury, Albania introduced a value-added tax in 1996. A small business tax was introduced in 1993 and completely revised in 1998. The small business tax (instead of income tax and VAT) is imposed on small shops and professionals with limited turnover. An excise tax was introduced in 1993 and completely revised in 1998. Albania introduced basic laws on tax administration and property tax in 1993 and 1994, respectively. The tax administration law is basic; the administrative capacity and powers of the tax administration are inadequate and ill-defined. The country has made efforts to revise the tax administration, but no comprehensive legislation has been approved. Property tax is a particular problem to enforce given the unstable nature of the real property registration system, and it amounted to less one-half of one percent of total revenues in 1998.

The most successful tax implemented to date is the VAT, which has provided a steadily increasing stream of revenue since its introduction. In 1998, the VAT accounted for approximately 40 percent of all tax revenues. The increase in 1998 revenues is due in part to the 1997 rate increase from 12.5 to 20 percent. While the government does not collect and report accurate statistics on tax burdens and evasion, the assumption is that taxpayer compliance is low.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Fiscal policy has limited relevance to the average citizen. Albania continues to be a predominantly cash economy. In a household survey, less that one-third of those interviewed stated that they keep money in banks. In 1998, the budget deficit amounted to 10.4 percent of GDP, a decrease from 12.6 percent in 1997. The public debt also decreased from 71.3 percent of GDP to 59.4 percent. In 1998, real GDP increased eight percent, after falling seven percent the previous year. At present, the beneficiaries of social insurance

and pensions outnumber contributors. Reforms are being discussed to deal with this problem.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?
The new constitution establishes the Bank of Albania as the central state bank. The bank "has exclusive right to issue and circulate the money, to independently implement monetary policy, and maintain and administer the exchange reserves of the Republic of Albania." In July 1998, new banking legislation set forth rules for the establishment and regulation of private banks under the Bank of Albania's supervision. In 1999, the IMF Executive Board praised the Bank of Albania for its "pragmatic handling of monetary policy." There are a number of private banks set up by foreign financial institutions, including the National Bank of Greece, Alpha Credit Bank, Piraeus Bank, and American Bank. There are a couple of joint-venture banks, too: the Italian-Albanian Bank and the Arab-Albanian Islamic Bank. All banks offer limited services, and no effective check clearinghouse system exists. Authorities have prepared one of the remaining state banks, the National Commercial Bank, for privatization and placed the Savings Bank under foreign management. Depositor insurance has been discussed, but none exists at this time.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?
In mid-1999, the IMF reported that the exchange rate remained broadly stable against the US dollar. With international donors and creditors making pledges at a May 1999 meeting to finance refugee-related expenditures, IMF predicts that the Kosovo crisis will not have a negative impact on growth and inflation. Growth, it holds, could continue at 8 percent. In 1998, currency reserves grew to 384 million USD, and interest rates on three month deposits declined to 16.5 percent. The majority of currency exchange is conducted in exchange bureaus and the legal, informal street market. The exchange system is relatively free of restrictions.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?
Capital markets are in a start-up phase. In 1996, the law On Securities established the basic legal framework for a securities market, and the Tirana Stock Exchange opened for business in 1996 under the guidance of the Bank of Albania. To date, its main activity has been to serve as a market for privatization vouchers and treasury bills. In 1995, the law For Investment Funds established a scheme for private investment funds that could issue shares in exchange for privatization vouchers. A couple of funds were established (e.g., the Anglo-Adriatic Investment Fund). However, the proliferation of pyramid schemes in 1996 and the subsequent civil unrest following their collapse in 1997 interrupted development. Lending and investment tends to be done informally or with international assistance. International initiatives include German, U.S., and EBRD efforts, the FEFAD Bank, the Albanian-American Enterprise Fund, and Euromerchant Albania Fund Limited, all focusing primarily on small and medium enterprise development.

MICROECONOMIC POLICY 4.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?
Article 41 of the new constitution guarantees property rights. Expropriation is limited to matters in the "public interest," and it must be accompanied by "fair compensation." If a person is not satisfied with the compensation, he can seek review of the matter in the courts. In 1992, Albania introduced copyright protection; in 1994, patent and trademark legislation. In May 1999, it enacted a law to protect integrated circuit designs. Despite these laws, intellectual property protection is limited and "pirated" materials are commonplace. The law now provides a comprehensive land registration system; a joint USAID-World Bank project has been working to implement it. During the 1997 civil unrest, unfortunately, project records and equipment were damaged; completion of the system remains a long-term project. With the complex web of privatization and restitution laws,

confusion surrounds the issue of what constitutes proper title, and proper documentation remains a problem. Many citizens have relied upon on the extremely unreliable records found in the *Hipoteka* offices (mortgage registries), and engage in transactions that further obscure proper titles.

2. To what extent have prices been liberalized? What subsidies remain?

Since 1992, Albania has liberalized its prices and eliminated its subsidies. In 1998, subsidies only remained in limited areas, including railways, passenger transport, irrigation, and schoolbooks; some administrative price controls remained on staple items such as bread.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Entrepreneurs can form and run a variety of businesses, including sole proprietorships, general partnerships, limited partnerships, limited-liability companies, and joint-stock companies. As of 1998, Albania had registered more than 50,000 businesses. Four basic pieces of legislation govern the formation, dissolution, and transfer of these businesses: the law On the First Part of the Commercial Code; the law On Commercial Companies; the law For Registering Businesses and the Formalities that Must be Respected from Business Corporations; and the law on The Civil Code of the Republic of Albania. Formation can be time-consuming and often requires bribes. Transparent, consistent procedures are lacking.

While the German Company for Technical Assistance (GTZ) has assisted in basic automation of the filing system, the commercial registry has yet to publish the information that the law requires it to publish. Licensing procedures and regulations are similarly opaque and burdensome. Businessmen have suffered from a lack of modern administrative procedures that would permit them to challenge the administrative acts of government officials. The passage of an administrative procedure code in May 1999 could represent a positive development.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Courts have been beset with a large number of property cases, most of them arising out of the restitution demands of owners who claim to have been expropriated under the communist regime. The poor state of land records, coupled with corruption and inefficiency within the court system, severely degrades the quality of decisionmaking. Judges have little or no training in modern commercial law, which limits their ability to dispose of contract cases properly. The Civil Procedure Code establishes the framework for domestic and international commercial arbitration. In March 1999, the parliament approved the law For Mediation and Solving with Conciliation Disputes, setting up a legal framework for mediation. The World Bank is sponsoring a project to develop a mediation center that would address commercial matters.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

As noted, the new constitution establishes a market economy as the foundation of the Albanian economic system. The law For Competition explicitly prohibits monopolistic practices, as well as various unfair commercial practices. GTZ provided technical assistance with its drafting and implementation. While the nation has made progress, insider dealing remains a problem. In July 1995, the parliament adopted a law that establishes an open system of public tender for government procurement contracts. The law applies to all public purchases, unless the council of ministers approves an exception for reasons of national security. According to a 1998 survey of enterprises by the Albanian Center for Economic Research, more than half of the firms claimed that they did not participate in specific government procurements because competition is unfair; almost 50 percent of those that did participate said that they had to pay bribes in order to do so.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Albania's international trade policy is liberal and the country is actively pursuing membership in the World Trade

Organization (WTO). Albania places relatively few restrictions on exports, with the exceptions of wood and wood products. The country has liberalized import restrictions and simplified and rationalized its import tariff system, with the top rate reduced in 1999 to 20 percent. The government has worked with the EU Customs Assistance Mission on a range of reforms. In the first part of 1999, it enacted an entirely new customs code. The new code imposes significant fines for smuggling and related offenses and sets forth standards for the internal auditing of the customs administration. But smuggling and corruption are endemic, representing substantial informal barriers to normal trade.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

In 1993, in consultation with foreign advisors, Albania replaced its foreign investment law. The new law On Foreign Investment eliminated most prior restrictions on foreign direct investment. The law follows World Bank Guidelines on foreign investment legislation, and it incorporates a majority of the basic assurances that the international community of lawyers considers important for foreign investors, e.g., that profits are freely convertible and transferable. Albania has also adopted free trade zone legislation. However, the civil unrest of 1997 led to the flight of a number of foreign investors; fear of political instability remains a problem. The post-crisis government has continued to pursue a policy of encouraging foreign investment, particularly in strategic sectors like mining and the privatization of utilities.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Albania uses its hydroelectric plants to generate more than 90 percent of its electric power. Surplus hydroelectric power was exported until recently. Last year, Albania imported 500m kwh. The electrical power system operates well below capacity because of problems of maintenance and the lack of upgrade in equipment. Demand exceeds supply, leading to shortages and interruptions of power. Albania plans to privatize its electricity corporation, the Albanian Electric Energy Corporation (KESH). The corporation is being restructured and is operated with loans from the EBRD. The government is investigating the director general of the electricity corporation on allegations of corruption and for the enterprise's heavy losses. KESH's financial performance has been so bad that it threatens the state budget.

Since 1918, Albanian has been producing oil, but it has not been of the highest grade and requires substantial processing. Albania exports crude oil remains, but it has to import most of its processed petroleum products. Several Western oil companies have been active in Albania, including Premier Oil (UK), Shell Oil (UK/Holland), Occidental Petroleum (US), INA (Croatia), and OMV (Austria). To date, none of these companies have discovered new, commercially viable, deposits. Some natural gas is currently being extracted from select fields, and several small antiquated coal mines function.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

There are competing estimates as to the size and status of the national workforce; with large numbers working abroad the figures are constantly shifting. The 1997 civil unrest also disturbed the normal tracking of information. According to the IMF, the labor force grew from 1,621,000 in 1993 to 1,702,000 in 1996, shrinking dramatically in 1997 to 1,301,000. Domestic employment in 1993 was 987,000 (a 60.1 percent participation rate), increasing to 1,107,000 in 1997 (an 85 percent participation rate). The official unemployment rate was 14.9 percent in 1997. During 1998, reports indicate unemployment increased by 4,000 to 5,000 people per month. Based on the data for the registered unemployed, the largest portion is individuals 21- to 34-years old. The greatest part of all registered unemployed live in urban areas. According to the Albanian Center for Economic Research, unemployment has fluctuated, as have the percentages for men and women: 1993, 22 percent (53/47-men/women); 1994, 18 percent (53/47-men/women); 1995, 12.9 percent (53/47-men/women); 1996, 12.3 percent (56/44-men/

women); and 1997, 14.9 percent (43/57-men/women). Unemployment insurance is provided under the social insurance system. All persons who have paid into the system for at least 12 months and certified as unemployed are entitled to benefits. The law provides that payments are based on a rate set by the council of ministers. Current council of minister's decisions establishing the rates have not been published.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Albania began social insurance reform in 1993. The new pension system is a *pay as you go* pension system. The pension laws reduced state subsidies of pensions, set up a reserve fund, made the payment of benefits and the enforcement of social insurance payment stricter, established social insurance numbers and provided the social insurance card, and improved automation of social insurance registry. Both employees and employers pay contributions to the social insurance institute. In June 1998, the parliament passed new legislation that allows for the establishment of private pension institutions. The law sets forth the basic legal structure, including the organizational structure, governance, employers' participation in the institute, the criteria for contributions, and the conditions for benefits. A special part of the law is dedicated to financing and investment, investment policy, distribution of earnings, account keeping, reporting, information protection, inspection, and the inspection office. No private pension institution has yet been established.

Pensions are provided for the following categories: old age, disability, work disability, additional income support for health care or child care, family pensions, and death benefits. Special state pensions are provided for individuals who have participated in the National Renaissance Movement, in various popular movements, and in the National Liberation War; or for persons of outstanding achievements in science, culture, art, economics, politics; or for individuals once persecuted by the communist regime and in cases where individuals do not receive pensions from social insurance. A full old age pension is paid once an individual has contributed at least 35 years to insurance and has retired from economic activity; a partial pension is paid otherwise. The current retirement age for men is 60 and for women 55. Women with 6 or more children that lived at least until the age of 8 may begin receiving a pension at age 50. In 1997, the average monthly pension in urban areas was 4,014 leks (approximately $40) and 1018 leks in rural areas (or approximately $10). The average pension in the state sector is only 34 percent of the average wage in the state sector. According to the Union of Independent Trade Unions of Albania's Institute of Labor's 1998 report, the ratio of beneficiaries to contributors has increased, leading to a decrease in the nominal and real pension level. This development has placed the pensioners in a grave economic situation.

High unemployment and low contributions (only 56.7 percent of self-employed persons pay social insurance contributions, while in the agriculture sector only 7 percent pay) have led to this imbalance.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The IMF reports that the average monthly wage for state employees in local currency was: in 1993, 4,738 leks; in 1994, 6,962 leks; in 1995, 8,745 leks; in 1996, 10,491 leks; in 1997, 10,491 leks; and in 1998, 13,234 leks. In general, these wages reflect increases in real wages, except in 1997, when real wages dropped 29.7 percent because of inflation. However, in 1998, wages again rose by 16.1 percent. Based on IMF average exchange rates, the average monthly wages were: in 1993, $44.80 (105.6 lek/USD); in 1994, $72.90 (95.4 lek/USD); in 1995, $94 (93 lek/USD); in 1996, $100.10 (104.8 lek/USD); in 1997, $70.10 (149.6 lek/USD); and in 1998, $87.50 (151.2 lek/USD). There are no problems with wage arrears in the public sector. As part of the new 1998 public administration strategy, the government increased the flexibility of the wage structure to attract and retain the most qualified staff in the civil service. It also began to base public employment on

merit, rather than on political influence. Prior to 1998, average wage increases had been modest and within a compressed wage schedule, primarily because of the need for fiscal consolidation. As a part of the reform, substantial salary increases were directed at core groups of civil servants in early 1998: a 60 percent increase for 10,000 public-order personnel; about 5,400 senior civil servants received a 40 to 100 percent increase. Also, public-order personnel received a further bonus in late 1998 through the so-called "solidarity tax." A 10 percent civil service pay raise scheduled for April 1, 1999 was postponed due to the Kosovar refugee crisis.

Information on the private sector is limited. In 1996, the Institute for Statistics produced a comparative study on average monthly wages of state enterprises and private enterprises for 1994. While state wages were 4,222 leks, average private monthly wages were 6,342 leks. Reliable data on private sector wages is difficult to compile, in part because private employers do not always keep accurate financial records; some employers pay less than the minimum wage.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

According to the most recent statistics, there has been a steady increase in elementary school enrollment: in 1994, 550,737 pupils; in 1995, 558,101; and in 1996, 560,731. Enrollment has gone up and down in the middle schools: in 1994, 93,830 pupils; in 1995, 89,895; and in 1996, 93,058. Enrollment in higher education and universities has increased in both full-time and correspondence programs: in 1994, 28,331 students; in 1995, 30,086; and in 1996, 33,341. There is no data on 8- to 18-year olds. The national student to teacher ratio for 1994 to 1997 was 18 to 1 in elementary school and 15 to 1 for middle schools in 1994 and 1996, with a dip to 14 to 1 in 1995.

The population is also shifting from rural to urban areas, creating larger class sizes (up to 50 pupils in a classroom in Tirana) and a significant demand for new schools. The Albanian school system is in a poor state of disrepair. Thirty-five percent of the school rooms are poorly designed, need thorough repair, and lack even basic equipment such as desks and chalkboards. In recent years, textbooks have been scarce. From 1994 to 1997, state expenditures on education have remained steady, ranging between 10 and 13 percent of the state budget and between approximately 3.3 percent and approximately 4 percent (in 1996) of the GDP. The proportion grew slightly in 1996 but came back down in 1997. School funding comes from the central budget, not local taxes. Only 31 private schools have opened, including 5 kindergartens and 16 religious schools. While the state budget provides only minimal resources, official estimates are that it will take approximately $20 million to rehabilitate the school system. In the past, various donors have supported rehabilitation of the school systems. The World Bank has provided $8.7 million to repair existing schools and build new ones. The European Community provided $9.9 million in 1995 and 1996. Private donors such as the Soros Foundation have also provided substantial support for a large scale rehabilitation program, and other groups, such as Catholic Relief Services, have provided technical assistance in the formation of parent-teacher associations to provide input and local community commitment to repairing the schools.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate is relatively high, with 34 deaths per 1000 live births. From 1990 to 1995, the average life expectancy was 71.4. The average life expectancy for males was 68.5 years; for females, 74.3 years. Marriage is quite common in Albania, and marriage rates have remained relatively stable in recent years: in 1994, there were 27,895 marriages; in 1995, 26,989; in 1996, 27,690; and in 1997, 24,111. The average age of couples has increased to 23 years old for women and 27 for men. Cohabitation, while looked upon negatively, is increasingly common. Divorce rates have declined in proportion to marriages in the recent years. In 1994, there were 2,108 divorces (7.5 divorces per 100 marriages); in 1995, 2,331 (8.5 divorces per 100 marriages); in 1996, 1901 divorces (6.8 divorces per 100 marriages); and in 1997, 1,430 divorces (6.3 per 100 marriages). The divorce rate in 1997 was only half of that in 1990. Women initiate divorce more than men. The divorce rate may be influenced by unemployment which affects women more than men, making wives more economically dependent on their husbands, and less likely to get a divorce. There are no reliable statistics on suicide rates.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

In the field of health care, there is a particularly noticeable lack of current, accurate statistical information. The most recent World Health Organization data states that for 1995 there were 4,848 doctors, or 141 per 100,000 individuals, and 14,559 nurses and midwives, or 423 per 100,000. The capacity in Albanian's 51 hospitals has remained constant: in 1994, 9,661 (or 30 beds per 10,000 inhabitants); in 1995, 10,371 (31.9 beds per 10,000); in 1996, 10,319 beds (31.4 per 10,000), and in 1997, 10,321 (31 per 10,000). Since 1994, Albania has spent 7 percent of its state budget on the health system, with a decrease to 6 percent in 1997. This accounts for only approximately 2 percent of Albania's GDP. There is no reliable data on official average and median monthly wages for doctors, nurses, and medics since 1993.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

In the Tripartite Conference on Wages in 1995 in Albania, it was noted how the government did not calculate statistics on the official subsistence minimum or official poverty line, making it difficult to make any comparison with the minimum or average wages. In August 1999, the Ministry of Labour and Social Affairs released a study stating that one in four Albanians live below the poverty line. The ministry cited rural regions, particularly the mountainous north, as the most poverty stricken. The World Bank estimates that 20 percent of the population lives below the poverty line.

ARMENIA

Polity: Presidential-parliamentary democracy
Economy: Mixed statist (transitional)
Population: 3,800,000
PPP (USD): 2,360
Capital: Yerevan
Ethnic Groups Armenian (93 percent), Azeri (3 percent), Russian (2 percent), Kurd and others (2 percent)
Size of private sector as % of GDP (1998): 75

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	4.70	↓4.80	↑↑4.50
Rule of Law	na	na	5.38
Economic Liberalization	4.00	↓4.08	↑↑3.58

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	124.0	173.0	344.0	426.0	435.0	510.0	472.0
Real GDP growth (% change on previous year)	- 14.8	5.4	6.9	5.8	3.1	7.2	4.0
Inflation rate	3731.8	4964.0	175.5	18.7	13.8	8.7	10.0
Exports (USD millions)	156.2	215.5	271.0	290.0	233.0	220.5	205.2
Imports (USD millions)	233.8	343.8	625.4	760.0	793.0	902.4	825.3
Foreign Direct Investment (USD millions)	0.0	2.6	19.1	22.0	51.9	232.4	150.0
Unemployment rate	5.3	6.7	6.7	9.2	10.7	9.3	na
Life Expectancy (years)	71.1	71.4	72.3	72.7	73.7	70.4	66.6

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			5	4	3	3	4	5	5	4	4
Civil Liberties			5	3	4	4	4	4	4	4	4
Status			PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

Armenia became one of the first former Soviet republics to end Communist rule following the country's first democratic elections in 1990. While political reforms implemented by the government of former president Levon Ter-Petrossian won Armenia a democratic reputation in the West, Armenia's first post-Communist government had turned increasingly autocratic by the mid-1990s. Although basic civil liberties remained in place (despite occasionally serious violations) and the press remained relatively free, the right of citizens to change their government was severely, at times brutally, restricted. Ter-Petrossian's forced resignation in February 1998 reduced political tensions, even though the ensuing presidential election was again flawed.

The decade-long transition to a market economy has yet to bring material benefits to the majority of Armenians. In 1992 and 1993, Armenia suffered hyperinflation and a tremendous slump in living standards. The Nagorno-Karabakh conflict, and turmoil in the region as a whole, by cutting off traditional trade routes, were among the main factors that strangled the economy. Since 1994, the macroeconomic policy of successive Armenian governments has largely followed the prescriptions of the International Monetary Fund (IMF) and the World Bank. Tight fiscal and monetary policies, backed by Western loans, have stabilized the macroeconomic environment. The economy has grown since 1995, the annual inflation rate has not exceeded single digits since 1998, and most state assets have been privatized. The tightly regulated banking sector is almost fully in private hands, and the country has one of the most liberal trade regimes in the Commonwealth of Independent States (CIS). But recent trends, however positive, have not improved the low living standards of most Armenians. Rampant corruption, the weakness of the rule of law, and the need for government connections all inhibit economic activity. The IMF has repeatedly criticized the slow pace of structural reforms.

The outcome of the May 1999 parliamentary elections largely reflected public opinion—the first time in several years an election outcome had done so. The government of former Prime Minister Vazgen Sarkisian and Speaker of Parliament Karen Demirchian, whose Unity bloc won the polls, enjoyed far greater legitimacy than did previous administrations. Together, Sarkisian and Demirchian limited the sweeping powers vested in President Robert Kocharian by the constitution. Economic growth slowed in 1999 because of the persisting effects of the Russian economic crisis of August 1998. Analysts agree that single-digit growth rates are insufficient for a quick economic recovery. An eventual peace in Nagorno-Karabakh would clear the way for massive foreign investments in the struggling Armenian economy.

Democratization

POLITICAL PROCESS 5.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Parliamentary elections for the 131-member National Assembly last occurred on May 31, 1999. Twenty-one blocs and political parties contested 56 proportional representation seats, while over 800 individual candidates competed for 75 seats in single-member districts. No party or bloc was refused registration by the Central Election Commission (CEC). Fifty-two percent of eligible voters participated in the election.

The Organization for Security and Cooperation in Europe (OSCE), which sent a 200-member monitoring mission, characterized the elections as a "relevant step toward [Armenia's] compliance with OSCE standards" and concluded that they had been "conducted in a generally peaceful and orderly manner which was free of intimidation." "The Armenian authorities are to be congratulated that freedom of association and assembly were respected, and no cases of political repression were reported to the Mission," the OSCE observed. But the OSCE also voiced "serious concerns" over inaccurate voter lists and problems with the voting of soldiers.

Voting was marred with widespread confusion as tens of thousands of people were turned away from the polling stations, unable to find their names on the voter lists. Virtually all the parties and blocs, however, condemned the turmoil. There is no evidence to suggest that any of them, however, including the victorious *Miasnutyun* (Unity) bloc, benefited from the inaccuracies.

Unity, formed by Soviet-era Communist chief Karen Demirchian and then-defense minister Vazgen Sarkisian in the run-up to elections, won a landslide victory, capitalizing

on the former's populist appeal. The bloc, comprising Sarkisian's Republican Party and Demirchian's People's Party, won 41.7 percent of the proportional vote and took about half of the single-member districts. Unity won 61 seats in the 131-member parliament and enjoys the backing of some 25 ostensibly independent deputies with strong government ties. Unity reportedly relied heavily on vote buying—widespread during the polls—for its victory. The Communist Party of Armenia finished a distant second with 12 percent of the proportional vote and 9 seats in parliament. Two nationalist groups followed it, each winning eight seats: the Armenian Revolutionary Federation (ARF) and the Right and Accord bloc. Also clearing the five-percent polling hurdle needed to get into parliament under the proportional-representation system were two center-right parties: the obscure Country of Law party and the opposition National Democratic Union (NDU). Each party won six seats. The former interior minister Vano Siradeghian, who leads the formerly governing Armenian Pan-National Movement (APNM) and is currently on trial for murder, was elected to parliament from a single-member district. Most political opponents of the Unity bloc accepted the legitimacy of its victory despite criticisms of how the election was handled. The aftermath of the voting was unusually calm for Armenia.

In early June, defense chief Sarkisian became prime minister and Demirchian became parliament speaker. The Armenian constitution gives sweeping powers to President Robert Kocharian (the former president of the Nagorno-Karabakh Republic), but the elections and subsequent developments effectively curtailed those powers. Prime Minister Sarkisian had become Armenia's most powerful premier since 1991, controlling most of the levers of government and supported by a majority in parliament. (Foreign policy was one of the areas where Kocharian remained in control.) Most members of the Sarkisian government, among them a number of liberal market reformers, had served in successive post-Soviet cabinets.

2. When did Presidential elections occur? Were they free and fair?

Presidential elections last took place on March 16, 1998, following the forced resignation of Ter-Petrossian under pressure from his prime minister Kocharian and the ministers of Defense, National Security, and Interior. The elections included 12 candidates. The front-runners were Acting President Kocharian, running as the incumbent with the support of the security ministries; Demirchian, who had run a factory since his retirement 1990; and Vazgen Manukian, the head of the National Democratic Union. Kocharian won 38.76 percent of the vote. Demirchian received 30.67 percent. As neither contender won a majority, a run-off election was held on March 30. Acting President Kocharian won this round with 59.48 percent of the vote. Demirchian received 40.52 percent.

Demirchian and his supporters refused to accept defeat, and charged massive vote fraud. The monitoring mission of the OSCE declared that the March 16 election "does not meet OSCE standards." While noting "improvements in some respects" over the serious fraud in Armenia's presidential elections in September 1996, the monitors cited numerous irregularities, including ballot-box stuffing and the presence of unauthorized personnel in polling stations. The monitors also questioned the official second-round turnout figure of 68.7 percent, suggesting that it might have been lower in reality.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system is multi-party based. The opposition is fragmented, with no common agenda. Uneasy relationships among party leaders have prevented the formation of larger parties with shared goals. But leading opposition parties were able to unite under a single candidate to contest the 1996 presidential elections.

Prime Minister Sarkisian's Republican Party of Armenia (RPA), formed in late 1998, has replaced Ter-Petrossian's APNM as the most powerful party in Armenia, though it is not the most popular. The RPA controls parliament and most of the country's local governments. The next local elections are scheduled for October 24, 1999. Parties represented in parliament and in local government include two nationalist groups: the Armenian Revolutionary Federation and the Right and Accord bloc. Both largely support President Kocharian. A party called Country of Law is thought to be close to some governing circles. The most influential opposition parties are the center-right National Democratic Union and the Communist Party.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

More than 80 political parties have been registered in Armenia since 1990. But only a dozen play a role in the nation's political life. *Dashnaktsutyun*, the Armenian Revolutionary Federation (ARF), was banned in December 1994 but relegalized on February 9, 1998 by then-Acting President

Kocharian. In early 1997, 8 party members accused of murder, drug-trafficking, and plotting to overthrow the government were sentenced to prison terms of between 3 and 13 years. Three others were sentenced to death. In December 1997, 30 members and supporters of the ARF, including its leader Vahan Hovannisian, were sentenced to 3 to 7 years in prison after being convicted of calling for a "violent overthrow of the government." Another defendant received a death sentence on charges of murdering two police officers. The majority of defendants in both trials were set free shortly after Ter-Petrossian's resignation. No other party has been banned in Armenia since 1990.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Less than ten percent of the population belongs to political parties. This figure reflects no significant change from 1996, even though a number of new parties founded in 1998 and 1999 claimed tens of thousands of members. Those claims could not be independently confirmed.

There is no data about the party membership of women. Two women's groups unsuccessfully ran for parliament in the May 1999 elections. One of them, the *Shamiram* party, won eight seats in the previous elections held in July 1995. According to the Central Election Commission, 13 percent of the candidates running under the proportional-representation system in 1999 and 6.5 percent of the candidates in single-member districts were women. But only four were elected to parliament.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Voter turnout has varied considerably since independence. It tends to be higher during presidential elections. The figures are as follows: In the May 1990 elections to the Supreme Soviet, approximately 50 percent of the population participated; in the independence referendum of September 21, 1991, 90 percent; in the presidential election of October 16, 1991, 70 percent; in the constitutional referendum and parliamentary elections of July 5, 1995, 55.6 percent; in the presidential elections of September 22, 1996, 58.25 percent; in the second round of the presidential election of March 30, 1998, 64.8 percent; and in the parliamentary elections of May 31, 1999, 52 percent. Though there are no official figures related to female voter participation, women have visually been no less active than men in going to polls.

CIVIL SOCIETY 3.5/7

1. How many nongovernmental organizations have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

There are 1,704 NGOs currently registered in Armenia. Just over one-third of them operate in practice. Approximately 90 of these groups claim to engage in charitable work. The largest such organizations are affiliated with the International Red Cross, the Armenian Church, the ARF, and other groups with Diaspora ties. There is little locally-led effort to increase philanthropy and volunteerism. Most Armenians are far too poor to engage in such activities. The government occasionally initiates fund-raising telethons, mainly for various construction projects such as a modern highway between Armenia and Nagorno-Karabakh and a new stadium in Yerevan. Wealthy individuals sometimes engage in philanthropy, especially to help their native city or village. Extended family networks and patronage links often serve a similar function.

There are more than 40 registered women's organizations, but only half of them are active to varying degrees. The Republican Council of Women (RCW) is the biggest such organization, and has a stated aim of protecting a wide range of women's interests and promoting the representation of women in government. The RCW claims to have thousands of members in 78 branches scattered all over Armenia. The RCW is a leading member of a loose grouping of 15 women's NGOs.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

NGOs must register with the Ministry of Justice in order to operate. The large number of NGOs indicates that registration is fairly easy. However, registration delays have been used in the past to harass some NGOs, particularly those defending human rights. Office rent is the main financial burden of NGOs, since most own no real property. Those NGOs that rent state-owned premises in central Yerevan at

largely symbolic prices could be financially vulnerable to government decisions to sell or lease the premises to the highest bidder. There are no laws in Armenia regulating access-to-information.

NGOs have not been particularly active in lobbying the government for changes, but have on occasion acted in the face of unacceptable government conduct. Many NGOs have advocated passage of specific laws and legislative initiatives but have been unable to mount successful lobbying efforts. For example, some NGOs representing refugees from Azerbaijan have long been pushing for legislation to grant relief aid to refugees naturalized in Armenia, but no such law has been adopted.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less-developed organizations?

Again, more than 1,700 NGOs exist in Armenia. Organizational and managerial capacity varies dramatically among them. Most are too small to delineate functions. Generally a founder sets an NGO's agenda and leads fundraising efforts. The Armenian Assembly of America maintains a well-equipped office in Yerevan and operates an NGO training center that provides assistance and information in Armenian, Russian, and English on management and funding issues. However, it cannot meet the needs of 1,700 organizations. Organizations that rely on Western grants generally receive better training and have greater access to information regarding management issues.

4. Are NGOs financially viable? What is their tax status? Are they obliged and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

NGOs are not financially viable. They are mostly dependent on donations from wealthy domestic sponsors and grants from a few large Western donors. Western donations are typically channeled into activities related to human rights, environmental protection, and the development of civil of society.

Not-for-profit organizations are not liable for profit taxes but are subject to taxation on property, vehicles, and employee incomes. NGOs are obliged to disclose revenue sources in order to establish tax liability. Procurement opportunities exist, but government procurement is an extremely murky business, and it is difficult to determine what factors influence the awarding of government contracts. NGOs are allowed to collect cost-recovery fees and earn income by launching their own enterprises or by other means. But they can make no profits.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmer's groups, small business associations, etc.?

Article 25 of the 1995 constitution promises freedom of association, including the "right to form or join trade unions." Most trade unions are holdovers from the Soviet period, and operate under the umbrella of the Soviet-era Confederation of Labor Unions (CLU). Some new unions have been created since a January 1993 presidential decree that prohibited government retaliation in the event of a strike. The Federation of Independent Labor Unions was founded in December 1997 to compete with the Confederation.

The CLU claims to have roughly 700,000 members, or 58 percent of the country's workforce. Because of high unemployment, the number of workers who belong to trade unions has been decreasing steadily. Strikes and other trade union actions in the private sector, which employs the majority of the workforce, are extremely rare, with workers fearful of losing their jobs. There are no effective mechanisms for protecting employee rights in the private sector. There have been strikes in the public sector over wage arrears and court actions taken against arbitrary dismissals. There is no specific law on trade unions.

Since the early 1990s, two "alternative" unions have been established: the Federation of Independent Labor Unions and the Miabanutyun (Accord) Labor Union. Both have proved to be moribund structures, showing no visible signs of activity over the past few years. Information about their membership is not available.

Three farmers' groups are registered: the Assistance to Farms Union, the Association of Farmers of Armenia, and the Agrarian-Peasants' Union. Membership figures are unavailable. A small number of business associations exist in Armenia, the most active of which are craftsmen's associations such as those uniting construction specialists, jewelers, and traders. The Union of Armenian Traders was in the news early in 1999 because of its court action against the

government over the introduction of cash registers in retail. The group claims to represent hundreds of shop owners. The largest business association is the Union of Industrialists and Entrepreneurs. It comprises many of Armenia's wealthy individuals, owners of privatized enterprises, and directors of large state-owned factories. The Union was set up in 1995 by Ter-Petrossian as an unofficial business component of his Republic bloc and it continued activities after his forced resignation in February 1998. Membership figures are unavailable

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
Armenian law requires that all NGOs register as political, public, or religious in nature. Political organizations generally refer to political parties. Public organizations form the bulk of registered NGOs. Religious organizations are the smallest group. Public and religious organizations are not permitted to engage in political activity, including lobbying. Lobbying is not regulated or defined by the law.

Interest groups active in the policy process are frequently associated with political parties and movements either in the government or allied with particular ministries. They often lack a clear-cut organizational structure and act behind the scenes. Business groups, often referred to as "clans," further their economic interests by exploiting extensive government connections. The primary reason an unusually large number of businessmen stood in the May 1999 elections was to gain better access to government. The closest thing to a "classical" interest group is the veteran's union *Yerkrapah*. Formed in 1993 to tackle the social and economic problems of veterans of the Karabakh War, Yerkrapah became an important base of support for the slain prime minister Sarkisian.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
Public attitudes towards the NGO sector are generally positive, but often tinged with suspicion of foreigners' motives. Media coverage of NGOs is again usually positive, depending on the types of activities in which the NGO is engaged and the nature of its political connections. In most cases, the press has readily covered NGO protests over controversial government actions. Most NGOs have described the attitude of government officials as indifferent.

The government has been frequently accused of neglecting the views and wishes of Armenian citizens. Many NGOs complain about a lack of influence on public policy, stemming from the government's indifference to their policy recommendations. Lack of public funds does not bode well for the implementation of programs advocated by NGOs.

INDEPENDENT MEDIA 4.75/7

1. Are there legal protections for press freedom?
Article 24 of the Armenian constitution guarantees to everyone "the right to freedom of speech, including, independent of state borders, the right to seek, receive and disseminate information and ideas by any means of information communication." But freedom of speech can be restricted "by law, if necessary, for the protection of state and public security, public order, health and morality, and the rights, freedoms, honor and reputation of others." This provision may run counter to international human rights treaties, signed by Armenia, that protect press freedom. Under Armenian law, international treaties take precedence over national laws.

The constitution and the 1991 Law on Press and Mass Media have proved inadequate for warding off state interference in Armenian media. But even these flawed legal tools often were not enforced when media freedom was in jeopardy. The most blatant violation of Armenian law came in December 1994 when authorities closed a dozen newspapers affiliated with the opposition ARF. The closings were clearly in violation of the media law that stipulates that only the court can suspend media functions. It has been the most serious infringement on press freedom in post-Communist Armenia to date.

Following the party's re-legalization in February 1998, ARF papers were again allowed to publish. But despite the improved political situation, the Armenian media still face many problems. Journalists often exercise self-censorship when covering security agencies. Direct threats and intimidation by government officials are not common, but the authorities have other, mostly economic, means to restrict freedom of speech. With access to government information not properly regulated by law, non-state-run media are often discriminated against in gathering news. A journalist's right to protect his or her sources is not absolute under the media law, which is widely seen as outdated. A new media bill, jointly drafted in 1997 by a local media-watchdog agency

and a group of lawyers, has yet to be debated in parliament. According to the Committee to Protect Journalists (CPJ), the new bill also includes some restrictive clauses. The CPJ estimated that, as of late 1998, there were over 900 media outlets officially registered with the Armenian justice ministry. But very few of those outlets—about 70 newspapers, 20 national and local TV stations, and five FM stations—were regularly active.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Article 208 of the Soviet-era criminal code (still in use in Armenia after several emendations) stipulates that publicly insulting a "government official performing his/her duties" is a crime punishable by up to one year in prison. The code also provides criminal liability for defamation of character. If defamation is made in writing or through broadcasting it can lead to a three-year imprisonment. Defamation does not have to be malicious and deliberate to be deemed a crime.

The Law on Press and Mass Media permits libel suits against journalists and media organizations. Advocating "war, violence, ethnic and religious hostility, prostitution, drug abuse, or other criminal acts" and publishing "state secrets," "false and unverified reports," and the details of citizens' private lives without permission is illegal. A first offense carries a three-month suspension of license to publish. A second offense warrants a six-month suspension.

On June 8, 1999, authorities effectively shut down the daily after it lost two libel cases brought by National Security Minister Serge Sarkisian and the Mika-Armenia trading company. *Oragir* had reported widespread corruption in Sarkisian's agency and implicated him in shady dealings with Mika-Armenia. The paper had its computers confiscated and its bank accounts frozen for refusing to print a retraction and pay a $25,000 fine to Mika-Armenia. It resumed publication in July under a different name. Also included in the criminal case against *Oragir*'s editor Pashinian were two defamation suits, one filed by a controversial university professor and the other by the wife of a prominent politician. In its 1998 world report, the CPJ noted a "decline in defamation suits against journalists" in Armenia. That trend continued into 1999 despite the criminal proceedings against Pashinian.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
The overwhelming majority of media organizations in Armenia are not owned or funded by the state. There are dozens of private television stations across the country. The largest of them are A1-Plus, Ar, Armenia TV, and Ayg in Yerevan, and Shant in the country's second-biggest city, Gyumri. They have all sprung up since 1997. A1-Plus is known for its objective and unbiased news reporting, while Ar and Armenia TV attract viewers with talk shows and entertainment programs. The state-run Armenian National Television remains the only media outlet accessible everywhere in Armenia.

There are five independent FM radio stations based in Yerevan and one such station in Gyumri. Their programming is largely restricted to music and brief newscasts. Daily programs of Radio Free Europe/Radio Liberty and the Voice of America are retransmitted by state radio.

Roughly ten percent of newspapers are owned by the state, including local government bodies. More precise figures are unreliable, as many papers publish irregularly. Of eight national dailies, only two are state-owned. The six others are either independent or openly affiliated with political parties. The papers offer a wide variety of opinions. The *Yerkir* and *Hayots Ashkhar* dailies, both controlled by the ARF, tend to cover events from a leftist and somewhat nationalist perspective. The centrist *Azg* is close to another party with Diaspora connections. *Aravot* and *Haykakan Zhamanak* (former *Oragir*) have a liberal and usually pro-Western orientation. In the last few years there has been a decline of public interest in overtly partisan newspapers. For instance, *Yerkir* replaced almost the whole of its staff in early 1999 with more liberal-minded reporters, in an attempt to boost circulation.

4. Are the private media financially viable?
Print media in Armenia are for the most part not profitable and are financially dependent on sponsors and/or patrons who are often intent on promoting their own political or economic interests. Low living standards limit newspaper sales: In a country of more than 3 million inhabitants, the average number of a daily's per-issue copies is a paltry 5000. The small circulation rules out major revenues from advertising. The fact that many papers are dependent on subsidies instead of on earned income hampers the quality of news reporting. The media's difficult financial situation makes them vulnerable to manipulation by government officials, parties, and wealthy individuals. A few non-political publications do seem profit-

able. Broadcast media are financially more viable thanks to larger audiences. Television channels also cash in on campaign advertisements in the run-up to elections.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Editorial independence varies among different media organizations. In most cases, the content of news coverage rarely opposes the wishes of media owners of patrons. This fact encourages a tendency towards partisanship. Newspapers generally will not discredit or criticize their owners, although they are free to comment on political or economic developments. Journalists working for a paper controlled by a party are usually not affiliated with the party. The government hampers media news gathering by continuing to withhold important information from the public. Many important facts come to light through information leaks. Now that the Armenian government is split between rival factions keen to discredit one another, incidents of leaked information have increased in frequency.

6. Is the distribution system for newspapers privately or governmentally controlled?
A state agency, *Haymamul*, distributes over 85 percent of the nation's publications and controls most of the kiosks. There were reported cases in the mid-1990s of Haymamul refusing to sell issues of newspapers that were critical of the authorities. Almost all of the country's major newspapers staged a one-day strike on December 3, 1997 to protest inefficient and expensive newspaper distribution.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Poverty and inadequate telephone communications place the Internet beyond the reach of most Armenians. Only a small percentage of the population has Internet access, generally through employment at an NGO with an office account or at the universities. There are at least three Internet service providers in Armenia: Arminco, Infocom, and the Yerevan Physics Institute. They are all based in Yerevan and rely on the ArmenTel telecommunications monopoly for satellite connection. The providers claim that the 15-year legal monopoly on long-distance service granted to ArmenTel in March 1998 during its takeover by the Greek firm OTE will mean high prices and slow development of the Internet.

Under a funding program sponsored by NATO and intended to facilitate Internet access in the CIS, a conference was held in Yerevan in May 1997 to discuss Internet development in Armenia. The Eurasia Foundation has given almost $70,000 in grants since 1995 to fund Internet-related activities. In addition, the Armenian Internet User's Group, a small but active Yerevan-based NGO, is promoting Internet use and access. There are no formal restrictions on Internet access for private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
There are several press associations in Armenia, but none represents the majority of local journalists. The Journalists' Union of Armenia, with hundreds of mostly elderly members, is a holdover from the Soviet period. The press corps in post-Soviet Armenia is much younger and many of its members came to journalism from other professions. The Union's only visible activity in recent years has been to arrange the news briefings of politicians and well-known public figures.

More than a dozen local journalists are grouped around the National Press Club whose activities have also amounted to organizing news conferences. Another organization, the Yerevan Press Club (YPC), has acted more like a media watchdog, monitoring ongoing trends, examining media legislation, and occasionally holding seminars. The YPC relies heavily on Western grants. It was co-drafter of a new law on the media pending discussion in parliament. There is generally little coordination among the various press associations, even though they have issued joint statements in the past in the face of unacceptable government actions. There is no code of ethics binding the Armenian journalist community. Based on visual observation, women make up at least half (if not more) of the Armenian press corps. For instance, young females outnumber males in the news-reporting teams of state television and the private A1-Plus channel.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?
Freedom House's *Survey of Press Freedom* rated Armenia as "Partly Free" from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.50/7

1. Is the legislature the effective rule-making institution?

Only parliament has the power to pass laws. Presidential decrees, regional governor decrees, and some decisions by local executive committees, however, have the power of law. The 1995 constitution strongly shifts power to the president at the expense of the parliament. Parliaments elected since the end of Communist rule in 1990 have all been loyal to the head of state. However, Ter-Petrossian's resignation in February 1998 followed mass defections of deputies from his Republic bloc, which changed overnight the balance of forces in favor of his defiant ministers. President Kocharian will find it difficult to push legislative initiatives through parliament if they go against the government's wishes.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Power in Armenia is highly centralized in the office of the president. Provincial governors and the mayor of Yerevan, whose rank is equivalent to a provincial governor, are appointed by and accountable to the president rather than the local population or the parliament. Each of the ten provinces is divided into urban and rural communities (e. g., villages, towns, cities, city districts) governed by locally-elected councils of elders and a locally-elected district administrator, who may organize his or her own staff. The prime minister can remove district administrators upon the recommendation of the provincial governor. Under the constitution, provincial governors act as representatives of the central government and are responsible for implementing its policy. Community administrations' dependence on the provincial and central authorities limits their impact on local affairs.

3. Are subnational officials chosen in free and fair elections?

In each of the ten provinces, community administrations are elected by secret ballot. Voters elect a 5-to-15-member council of elders, and a district administrator or city/village mayor for a term of 3 years. The council of elders approves the district budget, supervises its implementation, and assesses local taxes and fees.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Parliamentary debates in Yerevan are widely publicized in the national press. Local government does not function in a transparent way. Draft legislation is generally available to the media and public, but there have been instances of some bills being introduced with little prior public notice. For example, the defense ministry has frequently unexpectedly initiated amendments to the law on the military draft. They have been quickly approved by parliament without debate. Also, local business people complain about what they see as frequent and abrupt changes in economic legislation.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments have not been immune to the fiscal crisis that has gripped Armenia since independence. All taxation is controlled by the central government. Local governments make budget requests to the ministry of finance, which forwards them to the president after review. Municipalities are technically free to decide on their spending priorities. But the scarcity of money leaves them with little choice. Taxes on land and property, fixed "state tariffs," and 15 percent of income and profit taxes collected in a community go directly to its budget. The United Nations Human Development Report for 1998 said the communities' "own revenues" make up no more than 30 percent of their budgets. The bulk of local funds comes from the central government in the form of allocations given in the yearly budgets.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

There are about 11,000 local civil servants in Armenia. Those with technical specialization are often very competent. But, the 1998 UN report noted, the fact that two-thirds of the civil servants joined local governments during the Soviet era means that "they are not competent enough on the new requirements to local governance." The remaining third who became civil servants after 1990 also need to "enhance qualifications" and be retrained, the report found.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?
The constitution was officially adopted on July 7, 1995. Actual changes to the organization and election of local powers were delayed pending the passage of the appropriate legislation by parliament. This was accomplished before the November 1996 local elections. There have been numerous calls and pledges by politicians to enact a civil-service law that would make civil servants independent of government pressure. The issue comes to light before elections but dies down afterward. As of mid-1999, no such bill was on the parliament agenda. With few safeguards against arbitrary sacking, civil servants are often forced to side with the ruling regime in political battles. There is no clear delineation in Armenia between employees of the local and central government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
On July 5, 1995 Armenia adopted a new constitution that was ratified by referendum and strongly criticized by opposition groups for its shift of power to the presidency at the expense of the parliament. The president is directly elected and may not serve more than two consecutive terms. He may dissolve parliament, appoint and remove the prime minister, appoint four of the nine members and the president of the Constitutional Court and all of the Court of Appeals, appoint or remove any judge serving in any court other than the Constitutional Court, and appoint and remove the prosecutor-general and any other prosecutor. He may also declare martial law. Growing calls for constitutional reform led President Kocharian to set up a commission to develop proposals on how to curtail the sweeping presidential powers. The commission was radically reshuffled in the summer of 1999, but it was already clear that it would propose only cosmetic amendments to the basic law.

The Constitutional Court is the main body charged with interpreting and enforcing the basic law. Under a legal provision that took effect with the court's formation in 1995, only the president of the republic, one third of parliament's deputies, and election candidates can appeal to the court. This fact renders the court virtually inaccessible to ordinary Armenians. The Constitutional Court challenged the executive for the first time in January 1999 when it ruled that granting the Greek-owned ArmenTel company a 15-year monopoly on the Armenian telecommunications market was unconstitutional. At the same time, the court rejected opposition demands to invalidate the terms of ArmenTel's takeover in March 1998 by Greece's OTE firm.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
Chapter Two of the 1995 constitution guarantees a full range of civil and political rights, including the rights to life, confidentiality, privacy, freedom of movement and residence, freedom of emigration, freedom of speech and thought, freedom of association, choice of employment, and the right to vote. In addition, citizens are guaranteed health care, education, and an adequate standard of living.

The right to own and inherit property is guaranteed in Article 28. The state may seize private property "only under exceptional circumstances, with due process of law, and with prior equivalent compensation." Non-citizens may not own land except under special circumstances. Intellectual property rights are guaranteed in Article 36.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?
The 1995 constitution guarantees the presumption of innocence and a person's right not to incriminate himself, as well as a "public hearing by a fair and impartial court." Much of the Soviet-era criminal code remains in effect. No death sentence has been carried out since 1990, in line with Armenia's obligations to the Council of Europe.

Police can detain a person and keep them in custody for up to 96 hours, but police need a court decision to turn detention into arrest. Article 18 of the constitution reads that a person "can be arrested [pending trial] only by the decision of the court." Only a prosecutor can au-

thorize searches, a legal provision frequently violated in practice.

The police frequently abuse suspects and prisoners, and there have been instances of prisoners dying due to mistreatment while in custody. Mistreatment in custody loomed large in the U.S. State Department's 1998 human rights report on Armenia. According to official figures, the total prison population in Armenia is close to 6,000. The Association to Protect Prisoners, a local NGO, estimates that around 500 of them suffer from tuberculosis, the main cause of prison deaths in 1998. According to the office of the prosecutor-general, 56 inmates died in 1995; 60 in 1996; and 14 in 1997. No data were released on 1998. The deaths were attributed to harsh prison conditions and disease. Six of the 14 deaths in 1997 were attributed to pneumonia.

Excessive delays in the criminal justice system are usually the result of protracted pre-trial arrests and sometimes of the trials themselves. In one such example, 31 members and supporters of the ARF had spent 2.5 years in jail before the investigation into their case and their subsequent trial had concluded in December 1997.

4. Do most judges rule fairly and impartially? How many remain from the Communist era?

Impartiality and fairness of judges varies dramatically depending on the nature of the case being tried. Armenian courts are still not perceived by the public to be independent and free of corruption. Sensitive political cases are almost never resolved against the state. The 1995 constitution introduced a new judicial system, which took effect on January 12, 1999, when 123 judges of lower-level courts were officially sworn in. President Kocharian selected the judges from a pool of more than 400 candidates who passed qualification examinations at the ministry of justice. "Courts of first instance" and the higher "review courts" thus replaced the Soviet-era "people's courts." The Court of Appeals replaced the Supreme Court. The majority of serving judges remain from the Communist era, though no specific figures are available from the ministry of justice or from the Union of Lawyers.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The Armenian constitution clearly fails to provide for an independent judiciary, with the overwhelming majority of judges subject to presidential appointment for life tenure. The president can remove all judges other than members of the Constitutional Court practically at whim. Not surprisingly, Armenian judges have rarely acted against the executive's wishes. It is not clear yet whether the expected constitutional amendments will extend to the judiciary as well.

The ministry of justice has a department dealing with courts with no clearly defined functions. Some lawyers view it as an instrument of government pressure on the judiciary. Ministry officials repeatedly denied this assertion. Besides, Article 95 of the constitution creates a body called the Council of Justice, which is chaired by the president and includes two legal scholars, nine judges, and three prosecutors, all of whom are appointed by the president. The Council acts as a supervisory and disciplinary body for the judiciary. It prepares lists of judges and prosecutors to be considered for appointments, promotions, or dismissals.

6. What proportion of lawyers are in private practice? How does this compare with previous years? How many lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Figures are not available about the percentage of lawyers who remain in state employ. As the number of civil litigations is rising, more and more lawyers appear to be in private practice. The Law Department of Yerevan State University produces up to 50 graduates each year. The American University of Armenia (AUA) has a law school that offers graduate studies in English and under an American curriculum. Some two dozen students are conferred a Master's Degree in Law by the AUA each year. There is also a myriad of private universities with law programs. Their standards of education are believed to be low.

There are three lawyers' associations in Armenia that are authorized to issue licenses for legal practice. The biggest, the Union of Lawyers of the Republic of Armenia, has about 300 members. Fifty-four percent of them are women. Twenty-nine out of the 123 judges who took oath in January 1999 were women. One of the nine members of the Constitutional Court is a woman.

7. Does the state provide public defenders?

The 1995 constitution guarantees defendants legal representation by court-appointed attorneys. This guarantee is usually honored.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

Article 37 of the 1995 constitution states, "Citizens belonging to national minorities are entitled to the preservation of their traditions and development of their language and culture." Few ethnic minorities remain in Armenia. Although no census has been held since 1989, it is estimated that over 95 percent of the population in Armenia is ethnic Armenian and 2 percent Kurdish. There are also small Russian, Ukrainian, Assyrian, and Greek communities. In September 1997, parliament amended the Law on Religious Organizations to raise the requirement for registration as a minority from 50 members to 200. Religious organizations must now submit a list of all their members before being allowed to operate legally.

9. Are judicial decisions effectively enforced?
The ministry of justice has a division in charge of enforcing judicial decisions. Court rulings are usually enforced effectively, even when a verdict goes against the government, which is rare.

CORRUPTION 5.75/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Civil service corruption is widespread. Citizens must pay bribes frequently for various kinds of services. An unpublished U.S. government report compiled in the summer of 1996 detailed instances of corrupt practices by almost every Armenian government agency. Most of these practices relate to the requirement of bribes for the performance of official duties. Other corrupt practices concern the illegal importation of gasoline, diesel fuel, cigarettes, and various luxury goods and foodstuffs.

Paying bribes for enrolling in prestigious programs of state universities is still common. It is a phenomenon that dates back to the Soviet period. Some institutions, such as the American University of Armenia, have managed to remain relatively free of such practices. Corruption in the health care system has declined since the early 1990s, as most medical services in Armenia are no longer free of charge. Kickbacks for telephone installations virtually disappeared with the privatization of the national telecommunications company. Some forms of business still require a government license, which is frequently obtained with a bribe. The bribing of customs and tax officials is routine.

The average monthly salary in the public sector is approximately $20. It is much higher in the military. The president of the republic, ministers, deputy ministers and judges are the highest paid civil servants in Armenia, with an average salary of $360.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Many senior government officials, including ministers, have direct ties with business, which usually take two forms. First, covert ownership of a company or a shop. (Covert means that a business is formally registered as property of the friends or relatives of an official.) The second form happens when an influential official gives privileged treatment to a private enterprise in return for sharing its revenues. In one example, a trade company that had a virtual monopoly on lucrative imports of gasoline to Armenia from late 1997 to mid-1999 reportedly operated under the tutelage of National Security Minister Serge Sarkisian. Former Interior Minister Vano Siradeghia is believed to have built a huge personal fortune while in power from 1992 to 1996.

Armenian law does not provide for clear boundaries between public- and private-sector activity. The law only states that a civil servant can not hold any other post in the private sector. No written code of ethics regulates the behavior of government officials.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
Armenian law does not currently require financial disclosure by holders of public office, and there are no specific prohibitions against conflict of interest. High-ranking officials are rarely prosecuted for corruption. A former minister of light industry, Rudolf Teymurazian, is the most senior official to have gone to jail for embezzlement to date. He was sentenced to 7 years in prison in late 1998, after a court found him guilty of mis-

appropriating $600,000 from a $4.5 million Chinese loan extended to Armenia in 1992. Article 96 of the Armenian criminal code defines racketeering as a "demand to hand over property or rights on property with a threat to use violence against...an individual," and can lead to up to 12 years in prison.

The Armenian parliament has an Oversight Chamber that is supposed to audit the government's revenue collection and expenditures, and assess their compliance with budget targets. The Chamber is also charged with evaluating the government's borrowing and privatization policies. In its annual reports submitted to lawmakers, the body has frequently criticized the executive's handling of public finances. But it lacks leverage to have a major impact on policy. The ministry of finance has a department auditing all government agencies. The department is far more powerful.

U.S. assistance in energy sector privatization has helped incorporate some anticorruption elements. A computerized system for electric metering and billing reduced the system's previous vulnerability to bribes and tampering.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principle findings and year-to-year trends?

Popular perception of corruption is usually gauged by opinion polls conducted in the run-up to nationwide elections. According to most polls, the public expects elected officials to combat corruption. The continuing high level of corruption and its strong disapproval by ordinary Armenians means that corruption is a major feature of the often populist rhetoric of local politicians.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

As prime minister, Kocharian made anticorruption initiatives a central theme of his policies. During his successful presidential campaign in March 1998, he indicated that he intended to pursue similar policies as president. Hence, there were popular expectations of a wave of corruption prosecutions of officials from the Ter-Petrossian regime. This expectation was followed by widespread disillusionment, as it became clear that no major shake-up of the government was on the horizon, let alone a crackdown on corruption. Prime Minister Sarkisian vowed to "strengthen the discipline" in his government shortly after taking office in June 1999.

Ashot Bleyan, a former education minister in the Ter-Petrossian administration, was arrested in May 1999 on charges of embezzling $120,000 in state funds menat for the publication of school textbooks. Bleyan is head of the Nor Ughi (New Path) Party, and placed last among the 12 candidates for the March 1998 presidential elections. As of mid-1999, he was in custody pending trial. Members of Bleyan's party and politicians close to Ter-Petrossian condemned his prosecution as politically motivated. Bleyan's anti-Kocharian rhetoric, his alleged mistreatment in custody, and other apparent violations of due process, will give a political dimension to his subsequent trial.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

The considerable public anger with official corruption, reflected by pre-election opinion polls, is believed to be responsible for a growing disbelief in government and politicians. Voter cynicism and apathy have been two of its manifestations. At the same time, poverty forces many Armenians to vote for individuals with dubious reputations in exchange for money. Sporadic and ineffective government efforts to fight corruption have never involved public education.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

The 1999 Transparency International Corruption Perceptions Index (CPI) ranked Armenia 80th of 99 countries surveyed, with a CPI score of 2.5 (0 representing most corrupt and 10 least corrupt).

Economic Liberalization

PRIVATIZATION 3.25/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

According to the government, the private sector produced approximately 80 percent of Armenia's GDP during the first nine months of 1999. As of mid-1999, the private sector employed over two thirds of the labor force. The informal economy, driven by private enterprises and business people, is huge, though there are no precise figures as to its size. Many economists think that that it may be almost equal in size to the formal economy.

2. What major privatization legislation has been passed? What were its substantive features?

In 1991, Armenia introduced a comprehensive land privatization program, as established in the Privatization Law adopted in February 1991 and the Privatization and Denationalization Law of July 1992. A Housing Privatization law took effect on September 1, 1993. The term of this law was extended to December 31, 1996 due to slow progress. In May 1995, parliament passed legislation clarifying collateral requirements and bankruptcy. The Ministry of Privatization was created in 1996 with exclusive authority over the sale of various state enterprises.

A massive privatization got underway in 1995 with a distribution of vouchers to every Armenian citizen. With a face value of $46 but with a lower market price, the vouchers were the principal form of payment for thousands of state enterprises sold off at the time. By the end of 1997, the government of then-Prime Minister Kocharian abandoned the voucher privatization, opting for a new strategy of sell-offs through money auctions. The Kocharian administration pushed appropriate amendments in the privatization law through parliament in an effort to avoid issuing more privatization certificates, as the previous cabinet had promised to do. The voucher privatization was widely criticized for generating ridiculously low revenues for the state budget.

The total amount of government revenues from privatization reached $240 million in October 1999, according to the ministry of privatization. Only half of that sum was paid in cash; the lion's share came from the sell-offs of Armenian enterprises to foreign investors through international tenders. The biggest deal so far was sealed in early March 1998 with the sale of 90 percent of the equity in ArmenTel, the Armenian telecommunications firm that holds a legal monopoly on Armenian long-distance service, to the state-controlled Greek Telecommunications Organization (OTE). OTE paid $142.5 million, assumed ArmenTel's $46.7 million debt, and promised to invest $300 million in modernizing Armenian telecommunications over the next decade. OTE also received exclusive rights to the market for fixed and mobile telecommunications services in Armenia for at least 15 years. Trans-World Telecommunications, a U.S. firm that owned 49 percent of ArmenTel, received $62 million from the sale and surrendered all of its shares.

The privatization process slowed considerably in 1998, as the state found it hard to attract buyers for those mostly large and medium-sized enterprises that remain in its control. Out of 480 such enterprises put up for sale, only one-third were privatized. The picture was similar in 1999. The reason: most attractive businesses had already been sold.

3. What proportion of agriculture, housing and land, industry, and business and services is in private hands?

Agriculture: Almost all of the 800 former state and collective farms have been divided, with 75,000 new private farms created. Private farms produce approximately 95 percent of total agricultural output.

Housing and land: 87 percent of agricultural land has been privatized with freely transferable land titles. Approximately 80 percent of the housing stock is in private hands.

Business and Services: Approximately 83 percent (1,500) of medium- and large-sized enterprises and 87 percent (6800) of small businesses were privatized through mid-1999, according to official figures. However, lawsuits were pending against owners of 900 privatized small businesses for their failure to pay for the takeover.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The voucher privatization enabled factory managers to fight off competition from outsiders and gain control over the majority of large and medium-sized industrial enterprises. Nominally sold by public subscription, those enterprises were privatized through insider buyouts, facilitated by official corruption and favoritism. Under the voucher-privatization program, management and employees could purchase shares in privatized companies at a preferential rate.

Most owners who managed their factories before privatization have proved to be unable to turn them into successful businesses in a market economy. In part, this reflected the poor condition of the privatized enterprises and the overall economic crisis in Armenia.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

Public support for privatization has declined as wrenching economic changes have not produced discernible improvement in the average standard of living. The fact that privatization was often tainted with corruption and favoritism added to public disillusionment. An indirect indication of the decline in public support for the adoption of western economic practices is shown in the strong support for Demirchian's campaign for the presidency in the March 16 and March 30, 1998 elections. Even with substantial vote fraud, Demirchian polled 40 percent in the March 30 runoff after running on a campaign platform based on promises of an industrial revival.

Resistance to privatization has been voiced by unions and left-wing parties on behalf of the work forces of medium and large state enterprises. Some of this opposition had more to do with opposition to the Kocharian government than genuine representation of worker opinions, which appear to be more concerned with wage arrears. The average Armenian is eager to work for any employer who would pay a decent wage, and there is a general consensus in the society about the need to attract foreign investment. Even so, a number of privatization deals involving foreign investors caused controversy over the perceived low price of state assets. For much of 1998 the government was accused by the opposition of selling ArmenTel and the famous Yerevan Cognac Factory at knockdown prices and of procedural violations of the law. But the deals went ahead despite the uproar.

MACROECONOMIC POLICY 3.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The taxation system has been extensively reformed with an eye towards encouraging foreign investment and privatization. The tax law establishes six different types of taxes: profit/corporate, income, value-added, excise, property, and land. Employers are also required to pay a social security tax for employees.

The new Law on Corporate Tax became effective November 27, 1997 and set a two-level progressive scale for profit tax: 15 percent of taxable profits if they do not exceed 7 million drams ($13,500), and 1.05 million drams plus 25 percent of the amount exceeding seven million drams. The maximum tax rate was previously set at 30 percent. Newly privatized industries and new companies formed with foreign investment are granted a two-year exemption from profit taxes. They pay half of the profit tax for years three to ten after the investment year. If the company is liquidated before the fifth year of operation, however, it must pay the total amount of taxes which otherwise would have been due from the third year of registration.

Armenia imposes a 20 percent value added tax (16.67 percent on consumer goods) and a variety of excise taxes at varying rates on luxury goods. Employers pay a social security payroll tax of 28 percent. Private farmers are taxed at a flat 15 percent rate. For non-agricultural land, the tax rate is based on the land's cadastral value as follows: 1 percent on land in urban areas and 0.5 percent on land outside urban areas. Property tax is levied on enterprises, residential houses, vehicles, and livestock. The Law on Income Tax, effective December 30, 1997, provides for a tax on personal income of Armenian residents. The maximum rate of 30 percent is set for taxable income exceeding 320,000 drams ($615).

Tax evasion in Armenia remains widespread (as evidenced by the huge shadow economy) despite improvement in the government's revenue collection. Tax revenues in 1998 were 37 percent higher than in 1997 and equaled about $320 million or 17.1 percent of GDP, according to the IMF. Tax revenues made up 12.7 percent of GDP in 1995. They were projected to grow by 22 percent in 1999. The government attributes the increase to a crackdown on the informal sector of the economy. In total, Armenian enterprises have to pay an effective tax rate of at least 50 percent.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

The 1998 budget set government expenditures at 208 billion dram ($400 million), with a deficit equal to 5.5 percent of GDP. The 1999 budget called for 267.8 billion drams ($515 million) in government expenditures. With a projected rise in revenues, the government expected to bring the deficit

down to 5.3 percent of GDP. But according to IMF estimates, the figure likely will grow to 6 percent in 1999 due to the persisting effects of the Russian economic crisis, which caused a 2.5 percent drop in Armenia's industrial output in 1998. Despite the crisis, the Armenian economy as a whole grew at a robust 7.2 percent in 1998 under 1.3 percent consumer-price deflation. Still, Russia's economic woes were set to slow economic growth in Armenia to four percent in 1999.

Armenia's growing dependence on regular financial injections from the IMF and World Bank means that its governments have had to pursue tight monetary and fiscal policies since the early 1990s. The strategy of successive Armenian cabinets has been to foster long-term sustainable growth through a stable macroeconomic environment. Armenia has met most of the targets of a three-year loan program it agreed to with the IMF in 1996.

Armenia's major creditors are the World Bank, the IMF and Russia. The external debt, according to IMF figures, was about $800 million, or 43 percent of GDP, at the end of 1998. This compares with 48.3 in 1997 and 38 percent in 1996. The external debt was expected to reach 44 percent of GDP by the end of 1999. In 1998, the government spent about $100 million on debt servicing. The trade deficit rose by two percent to $588 million. The Russian debt of $73.7 million was restructured in September 1997 to be repayable over 11 years, beginning in 2000, at a five percent annual interest rate.

The 1999 budget of the State Pension Fund was roughly 30 billion drams ($58 million). Of that, more than 3.5 billion drams was due to come from the government budget as a subsidy. The rest of the money was to be collected from the social security tax. Problems with its enforcement resulted in a shortfall of six billion drams by November 1999.

The UN Human Development Report on Armenia estimated government subsidies at 4 percent of GDP in 1997, down from 15 percent in 1993. Subsidies were not classified as a separate spending category in the government's budgets for 1998 and 1999. Most of the subsidies went to the energy and agricultural sectors, where a total of 31 billion drams ($59.6 million) was to be spent in 1999.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The Central Bank of Armenia (CBA) acts independently. This is evidenced by the more than 50 bank closures in the six-year period from 1992 to 1998. The CBA is responsible for banking regulation and supervision, and is in charge of issuing bank licenses. It has also been very effective in setting monetary policy and has self-consciously patterned itself after the U.S. Federal Reserve. The IMF has pressed for mergers among Armenian banks to increase their capitalization and ability to extend credits to private enterprises.

The introduction of reforms in 1995 seems to have had a positive effect on the banking sector. The 35 percent limit on foreign interest in financial institutions was lifted. Armenia's banking legislation is seen as one of the most liberal in the former Soviet Union, with no restrictions placed on foreign banks. Only the court can force banks to disclose private accounts. Minimum capital requirements were raised. By the end of 1999 they were set at $1 million for operating banks and $5 million for newly founded ones. The threshold was up from $350,000 in 1997. Banks are required to report daily or weekly to the CBA. The performance of audits by recognized independent auditing firms is mandated yearly.

International accounting standards were introduced in January 1996. By mid-1996, the CBA had finished the first audit of every commercial bank based on IAS standards. By mid-1999, there were 32 commercial banks operating in Armenia. Their combined capital was the equivalent of only $56 million and assets were worth $330 million. There were also five foreign banks. A couple of other banks had major foreign shareholders.

Public confidence in the banking sector was severely undermined in 1993 to 1994 with the collapse of several pyramid schemes. Even though there have been no cases of bank bankruptcy or loss of deposits since, many Armenians remain wary of keeping their savings in banks. Insurance of bank deposits is virtually non-existent.

Controls on interest rates were eliminated in 1994, and directed credits were ended in early 1995. Private banks tend to restrict their lending to short-term loans with very high interest rates (40 to 45 percent per year in drams) and collateral equaling or exceeding the value of the loan. Many businesses can not afford such expensive borrowing because they operate under smaller profit margins. There are a number of internationally funded lending schemes that provide Armenian businesses with cheap credit.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convert-

ible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?
Introduced in November 1993, the Armenian *dram* has proved to be a fairly sound currency despite the fact that most large business transactions are still carried out in U.S. dollars. Hyperinflation was curbed in 1995 when the rate of annual conumer price inflation fell to 35 percent. In 1996, it went down to 5 percent, but soared to 21 percent in 1997, according to official figures. In 1998, Armenia saw a 1.3 percent annual deflation. In 1999, inflation was about 2 percent.

From the beginning of the dram's stabilization in April 1994 through late 1999, the dram lost about a quarter of its value. The relative strength of the national currency has been ensured by the tight fiscal and monetary policies that the authorities agreed with the IMF and World Bank to implement.

The dram has had a floating exchange rate ever since its introduction. The CBA sets the rate based on the results of inter-bank currency trading. The dram has been virtually unaffected by the 1998 financial meltdown in Russia. The dram is convertible for current account transactions. The CBA's hard currency reserves, shored up by IMF loans, have grown consistently in the last several years, to approximately $350 million by the end of 1999.

The relative macroeconomic stability in Armenia has involved a stable and predictable exchange-rate policy. So far there have been no planned massive currency devaluations, although some local economists favor them as a way to spur the economy. High business risks coupled with an extremely unfavorable trade balance mean disproportionately high interest rates in Armenia. Against the background of single-digit inflation, the CBA's refinancing rate was as high as 45 percent in November 1999. Yields on short-term government treasury bills were high, too.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?
There is a minimally functioning capital market at present, although three "stock exchanges" do exist. The Yerevan Stock Exchange (YSE) is the biggest one. Most enterprise takeovers and other deals bypass the fledgling stock market, with personal connections playing a dominant role. The government has pledged on several occasions to begin selling remaining state assets through the YSE as part of its stated goal to foster development of the capital market.

A share registry system has been implemented, and a unit in the ministry of finance has been assigned authority to regulate capital markets. A treasury bill market has been operating since October 1995. Russian financial companies dominated it until August 1998 when the grave economic crisis hit Russia. The government's treasury bills are seen as highly lucrative. Beginning in 1999 individuals were allowed to buy the paper directly from the ministry of finance.

MICROECONOMIC POLICY 4.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?
Property rights, including intellectual property rights, are guaranteed in Articles 28 and 36 of the 1995 constitution. Private real estate is protected in fact as well as in law. Intellectual property rights are far less secure, particularly foreign entertainment products such as movies, music, and computer software. A land registry exists with the authority to record ownership. Expropriation may be challenged in court, and the 1995 constitution requires that fair value compensation be paid. No cases of state seizure of land and other property seem to have occurred since 1993.

2. To what extent have prices been liberalized? What subsidies remain?
The majority of prices have been freed. Price controls remain on the following goods: urban transport (in part), energy, state-owned housing, and irrigation. Electricity fees are expected to be liberalized with the planned privatization of Armenia's power grid. Government subsidies on water will likely be phased out after management of the water supplies system is transferred to a foreign company. An international tender was announced in mid-1998 to select a private water operator.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law

respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

It is possible to own and operate a business. Legislation governing the creation and conduct of private enterprises includes the Law on Enterprises and Entrepreneurial Activities (June 13, 1994), the law on Private Business (December 24, 1993), and the foreign investments law (July 31, 1994). In the event of a change in legislation, the latter law allows a foreign investor to choose to remain subject to the existing laws for a five-year period. A new Bankruptcy Code was enacted in January 1997.

Business operations can be very difficult in those cases where government licenses must be obtained. The legal system is generally ineffective in contract enforcement. While reform has made a difference, many informal barriers to entry and free competition continue to make business difficult. Armenian laws can take effect only after their publication. A government publication that comes out periodically contains recently adopted laws and amendments.

A lengthy and rather expensive procedure for registering the purchase or sale of an enterprise is seen as one of the factors hampering the last phase of privatization and discouraging enterprise takeovers. In an effort to spare foreign investors the hassles of registration, the government set up in 1997 the Armenian Development Agency. The agency is supposed to provide those interested in doing business in Armenia with a wide range of services, including quick enterprise registration and information about tax legislation.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Armenia's courts continue to struggle with the burdens of Soviet-trained personnel and vulnerability to political pressure. In civil and commercial cases, judges have reportedly asked for bribes in exchange for favorable rulings. There is little faith in the courts, and many entrepreneurs are reluctant to resort to legal measures. Difficulties with competitors or state agencies are frequently resolved by means of appeal to politically connected patrons. Trials begin less than six months after papers are filed. It takes between seven months and one year for final judgment to be executed. The Soviet-era State Arbitrage Board was reformed by the 1995 constitution to function as a commercial court.

In January 1999, the Armenian Bank Association launched the first private "mediating court," tasked with settling economic disputes. Under Armenian law, any such body can consider a case only if litigants a priori agree to submit to its jurisdiction. If one of the parties later refuses to recognize its verdict, the case is to be taken up by a state court.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Business competition is officially encouraged, but legislation has not yet been passed to provide for enforcement. Even though Article 5 of the constitution guarantees "free economic competition," monopolistic practices are widespread. Government connections are essential for engaging in lucrative imports of some basic goods. A company that reportedly had close ties with National Security Minister Serge Sarkisian controlled the bulk of gasoline imports to Armenia until July 1999, when the newly appointed Prime Minister Vazgen Sarkisian moved to de-monopolize the multimillion-dollar business. The company, Mika-Armenia, was also accused of using its government connections to squeeze out competitors in wholesale supplies of wheat.

Free market mechanisms have functioned rather effectively in the retail and services sector as well as domestic manufacturing. The emergence since 1996 of private enterprises involved in food processing, production of alcohol and soft drinks, and cigarettes has rendered imports a less lucrative business.

The Armenian opposition made free competition the central theme of its challenge to the 15-year monopoly on telecommunication services granted to the Greek-controlled ArmenTel operator in March 1998. In a tricky January 1999 ruling, the Constitutional Court declared ArmenTel's exclusive rights unconstitutional but said that the existence of "natural monopolies" is not against the law. The court obliged the parliament to enact a law on natural monopolies. However, no legislation to that effect had passed by the end of 1999. Insider dealing, therefore, remains a major hindrance to competition.

The are no laws on government procurement policies. The government is bound by written procurement rules that

require a public tender for the purchases of equipment. But those rules seem to have not been adhered to in practice, and the government is generally reticent about how it selects suppliers. Personal connections play a large role. The press has so far not investigated the issue.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Armenia has one of the most liberal trade regimes in the CIS. In December 1995, a complicated five-band tariff structure was transformed into a two-band structure with rates of 0 and 10 percent. Corruption among customs officers is a serious problem, though.

Informal barriers to trade are substantial and arise from crippling shortages of credit and poor infrastructure. The conflict with Azerbaijan has closed the most heavily used roads and railways and greatly complicates Armenian access to international markets. A single rail line runs from the Georgian ports of Batumi and Poti into Armenia. There are two roads capable of supporting heavy trucks on the Georgian side. There is a road connection to Iran, one of Armenia's major trading partners. Armenia has negotiated bilateral free trade agreements with 35 countries. It applied for admission to the WTO in January 1995, and was expected to become a member in November 1999.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Armenia strongly encourages foreign investment and international trade. Customs and tariff procedures have been overhauled, and real efforts have been made to control abuses by officials, particularly at Zvartnots International Airport. There are no restrictions on the repatriation of profits by foreigners. Foreign investors also receive a variety of tax privileges.

Direct foreign investment in the Armenian economy hit a record-high $232 million in 1998, according to figures listed by the UN Conference on Trade and Development in its 1999 World Investment Report. This reflected a number of high-profile privatization deals with foreign companies, involving ArmenTel, the Yerevan Cognac Factory, and the country's two biggest hotels. Government figures on direct foreign investment in the first half of 1999 showed a major drop from the same period in 1998. Total foreign investments may rise in 2000 with the planned privatization of Armenia's power grid.

Official statistics put the number of registered companies with foreign participation at 1350 as of January 1999. Russia was the most important investor with 316 enterprises, followed by Iran, the United States, France, and Georgia. A comprehensive study jointly conducted by the Armenian ministry of industry and trade, IRIS Caucasus Center (a USAID-funded program), and the UNDP ("Investigation of Factors Inhibiting FDI in Armenia," January 30, 1999, Yerevan) listed the following factors hindering the flow of foreign capital: lengthy registration of enterprises, vague mechanisms of license acquisition, absence of anti-monopoly legislation, unclear legal procedures for appealing against government actions, and inadequate bankruptcy legislation.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Armenia undertook substantial reform of the electrical power sector in 1996, which ended four years of severe energy shortages. This reform resulted in a surplus of electricity, some of which began to be exported to Georgia in 1998. The state electricity firm was separated into generation and distribution enterprises and the government began to collect bills from consumers more diligently. Power rates, set by a government committee, have steadily been increased but are still not high enough to make the entire sector profitable. A growing debt of state enterprises threatened the financial viability of the sector by July 1999, forcing the government to divert 17 billion drams ($32 million) in budget funds for partial debt repayment. The government turned down an IMF offer to further raise energy tariffs, and decided instead to raise the money by cutting back on expenditure in other areas. Many Armenians already find it difficult to pay the existing rate of about five U.S. cents per kilowatt-hour.

Still, the electricity fees will inevitably be liberalized after the privatization of the energy distribution network, announced in June 1999. This was an essential condition for the release of a $53 million energy loan from the World Bank in March 1999. The loan was intended for upgrading the sector. Experts from the World Bank estimated that the sector will need $1.5 billion in capital investments over the next decade. Bids for a 51 percent stake in Armenia's power grid, which consists of four enterprises encompassing dif-

ferent geographical areas, opened in July 1999 and attracted strong interest from foreign companies. Fifteen firms were short-listed for the second stage of the international tender by September.

The Metsamor nuclear power station, re-opened in 1995 with Russian loans and technical assistance, generates roughly one third of Armenia's electricity. Terms of the most recent Russian loan for Metsamor, worth $20.6 million, were approved by the Armenian parliament on April 28, 1999. The money was to be spent mostly on purchases of Russian nuclear fuel. Nevertheless, Metsamor is expected to be closed by 2004 under an agreement with the European Union.

Hydro and thermal power stations account for the rest of Armenian electricity generation. The energy sector relies heavily on supplies of natural gas. With the creation of a joint venture in December 1997 between the Armenian government and Russia's Gazprom giant, Russia replaced Turkmenistan as Armenia's number-one gas supplier. The venture, *ArmRosGazprom*, was granted control over Armenia's gas infrastructure in September 1998. A pipeline carrying Russian natural gas to Armenia runs across Georgia. Armenia also engages in a seasonal swap of energy with Iran. The power grids of the two countries were linked to each other in February 1997. Gasoline and oil are mostly imported from Romania and Bulgaria, shipped by tankers to the Georgian Black Sea ports, and then transported to Armenia by rail. Oil is also imported from Russia and Iran.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

Official figures for 1998 put the size of the national workforce at 1.54 million or 41 percent of the population. As of mid-1999, 88 percent of the workforce was employed on a full-time basis. However, most economists agree that the official data is grossly exaggerated and fails to take into account the high levels unemployment and/or underemployment. Many Armenians are nominally listed as employees of state enterprises that have long stood idle. According to the UN Human Development Report, women made up about 45 percent of the labor force in 1997.

The official unemployment rate stood at a stable 12 percent in 1999. But again, the real unemployment is far higher, and is the biggest social problem of the average Armenian family. The UNDP estimates the unofficial unemployment rate at 25 to 28 percent, based on the findings of a survey it conducted in December 1997. The actual percentage of people out of work may be even higher. The vast majority of the officially registered unemployed, over 65 percent, are women. The reason why most jobless people choose not to register with the authorities is the meager amount of unemployment compensation: 1800 drams or $3.5 per month. And the compensation is paid only for six months after the registration. This compares with the official average wage of 17,000 drams ($33).

Official percentages are misleading for two other reasons. First, no census has been held since 1989 to determine the size of the population. Hundreds of thousands of people are believed to have left Armenia in the early 1990s, fleeing worsening living conditions. Most of them cannot be considered part of the Armenian workforce. Secondly, a large part of the population is employed in the informal sector of the economy. Official statistics fail to gauge this phenomenon.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

According to the Armenian ministry of social security, there are about 590,000 pensioners in Armenia (15 percent of the population). Pensioners are paid benefits from the State Pension and Employment Fund to which employers contribute a social security payroll tax equal to 28 percent of employees' salary. An additional three percent is levied from employees' salaries. The pension and retirement system in Armenia is largely based on the so-called pay-as-you-go principle. The size of pension benefits, in other words, does not depend on the amount of contributions a retiree has made

to the pension fund. A government bill pending discussion in parliament calls for a transition to the pay-as-you-can principle that would end the current egalitarian system. Pension benefits would then be commensurate with lifelong contributions. The law allows private pension funds. Several attempts to launch such schemes have failed because of low living standards and the absence of guaranteed employment. Virtually all retirees are covered by public sector pensions.

In a law that came into force on January 1, 1999, the Armenian parliament increased the retirement age from 60 to 65 for men and from 55 to 60 for women. Officials argued that the move was necessary in view of an aging population that would put the pension system under further strain in the next 10 to 15 years.

The average monthly retirement benefit was equivalent to about $10 in 1999. Deviations from that sum depending on the number of years worked are insignificant. This sum makes up less than one third of the official average wage, and half of the per-capita subsistence level. Most retirees live with and rely on their children.

Benefits for socially vulnerable groups of the population have been in place since the beginning of economic reforms. From 1995 to 1999 they were part of the government's *Paros* (Beacon) system that had 26 criteria for individuals and families to qualify for government aid. Those criteria included age, presence of a disabled person in the family, unemployment and residence in the north of the country (still reeling from the catastrophic earthquake of 1988). A total of 650,000 families covered by *Paros* were eligible to receive humanitarian aid from abroad. Beginning in 1999, the government introduced a new system of "family benefits," in an effort to concentrate help the most vulnerable segment of the population. The number of aid recipients was cut drastically to 200,000 families. The social benefits increased as a result but are still a measly 6,200 drams ($12).

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The average monthly wage was 17,000 drams ($33) in 1999, according to government statistics. But analysts say the real figure is higher as many employers tend to underreport wages of their workers to pay less income and social security taxes. The minimum salary is 5,000 drams or just under $10. In dollar and dram terms, there has been a steady growth in the average income since 1993 when it was at a record-low level of $10. In December 1997, it was an equivalent of $28.

Wage arrearages in the public sector are a routine phenomenon in Armenia. The hardest hit are doctors, teachers, academics, and scientists. In the public health sector, for instance, salaries may be delayed for up to six months. The most recent wave of wage arrearages came in July 1999 when the World Bank delayed payment of a $25 million loan installment because of the government's higher-than-expected budget deficit. The money was made available in September after the government took fiscal austerity measures. According to UNDP estimates, back wages reached 37 percent of the total amount of budgeted public sector funds in September 1998. As for pensions, only the retirees in the capital city of Yerevan usually are paid on time.

Social effects of the wage arrearages are somewhat mitigated by the fact that many Armenians have long stopped relying on the state. (Though, for quite a few people the extremely low public salaries and pensions are the principal source of income.) Money transfers from abroad and/or food support from relatives living in rural areas helps them to make the ends meet.

The average salary in the public sector hovers around $20. The real average wage in the private sector may be as high as $100. Government data does not differentiate between men and women. Men are apparently paid better than women are in the private sector.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

UNDP figures show that the number of 7 to 17 year olds enrolled in some 1450 10-year "secondary schools" (which in fact combine elementary, secondary, and post-secondary education) across Armenia stood at just over 601,000 in 1998. The propor-

tion of 7 to 17 year olds enrolled in the educational system hovered between 77 and 78 percent from 1995 to 1998.

The ministry of education put the number of students in November 1999 at 581,000. With a total of 59,000 teachers working in secondary schools, the student-to-teacher ration was thus 9.85. Ministry officials emphasize that many teachers work part time. Hence, their higher-than-necessary overall number.

Overall public spending on education in 1999 was projected at approximately $50 million, or 2.5 percent of GDP. The UN Human Development Report says this proportion equaled 2 percent of GDP in 1997 and 1996, and 2.6 percent in 1995. It was also two percent in 1994. The amount of budget funds expended on education since the Soviet break-up has been insufficient, as the decline in educational standards attests.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

According to the 1998 UN Report, the infant-mortality rate in Armenia was 15.4 per 1000 births in 1997, up from 14.7 in 1994. It was 14.2 and 15.5 in 1995 and 1996 respectively. Infant mortality has declined by an average of 40 percent since the 1980s. The birth rate has steadily declined from 13.7 in 1995 to 11.6 in 1997. Life expectancy, which was one of the highest in the former USSR, has risen slightly since 1994. In 1997, it was 77.3 years for females and 70.3 for males. On average, this is by two points higher than in 1994. But the UNDP cautioned that the government figures might be higher than they actually are. The average divorce rate was 185 per 1000 marriages in 1997, almost the same as in the previous year. In 1996 and 1997, the average number of suicides per 100,000 persons was 3.4 for men and 1 for women.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

Official statistical information cited by the UNDP put the number of persons per 1 doctor in 1997 at 291, against 298 in 1995. The ratio of nurses to the population was 1 to 143 in 1997, down from 1 to 120 in 1995.

The Soviet-era free health care was formally ended in 1995 when most medical services became paid. The state was longer able to meet basic needs of the sector, including paying doctors decent wages. But widespread poverty meant that few people could afford medical aid, which is why the doctors are still poorly paid. In policlinics, a doctor's official average salary is $30. In absolute terms, this is more money than in the early 1990s. But in terms of its purchasing power, the average income remains unchanged, although it is reasonable to suggest that policlinic doctors underreport the real amount of fees they collect from patients. Wages are apparently higher in hospitals where they are not fixed and depend on the number of operations. Surgeons have always been a well-to-do segment of the Armenian population.

Official data indicates that there are 178 various hospitals throughout Armenia, with a total of around 26,000 hospital beds. This amounts to 7 hospital beds per 1000 people. That proportion is slightly better than in 1993, and is by far better than the 1988 figure of 2 beds per 1000 people. But hospital attendance has shrunk by at least 40 percent over the past decade, reflecting the inability of many Armenians to pay for health care.

The government budget for 1999 called for $40 million in health expenditures, equal to two percent of the forecast GDP. The proportion of GDP expended by the public sector on health care was roughly the same in 1998. This compares with 1.4 percent registered in 1996 and 1997.

The population's aggregate spending on medical services totaled 88 percent of the overall government expenditure on health care in 1997, meaning that the percentage of GDP devoted to health care stood at 2.6 percent at the time.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

Poverty is widespread in Armenia. Yet there is no official poverty line set by or calculated by the government. This makes it hard to measure the real poverty rate. The UNDP offered three indicators based on different benchmarks. If one accepts a subsistence-level food basket consisting of 18 basic staples as a basis, 70 percent of the population lived below the poverty line in 1997. The per-capita food basket was calculated by the Armenian health ministry at 2,412 kilogram calories a day and was worth about $30 per month.

The Armenian statistics ministry came up in 1996 with a more modest "consumer basket" estimated at $25 per capita,

despite the fact that along with 2,100 kilogram-calories of foodstuff it included other basic consumer goods. A survey it conducted among 5,000 households found that personal income of 55 percent of respondents fell short of that benchmark. If one uses the World Bank's standard, whereby a person spending less than $1 a day is considered poor, the poverty rate in Armenia is above 80 percent. But it should also be noted that these figures are rather subjective because they are based on the official income level in Armenia. The huge scale of the shadow economy makes it difficult to gauge the real per-capita income.

Poverty reached its peak in 1992 to 1993 when Armenia's GDP was cut in half. People have since tried to adapt to the extremely difficult living conditions. Some have engaged in business, while many others live off money transfers from relatives working abroad. This is why poverty has again increased since the Russian economic crisis of August 1998. It has cut drastically remittances from hundreds of thousands of Armenians working in Russia and hit hard the already struggling Armenian enterprises oriented to the Russian market.

Given the continuing strength of family bonds in Armenian society, there seems to be no major difference in poverty rates among men and women. Most pensioners can be considered poor in view of their meager monthly benefits. But most elderly people live with their children and are supported by them. Family is therefore a significant social security institution.

AZERBAIJAN

Polity: Presidential (dominant party)
Economy: Mixed statist (transitional)
Population: 7,700,000
PPP (USD): 1,550
Capital: Baku
Ethnic Groups Azeri (90 percent), Dagestani Peoples (3 percent), Russian (3 percent), Armenian (2 percent), other (2 percent)
Size of private sector as % of GDP (1998): 50

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	5.60	↑5.55	↑5.50
Rule of Law	na	na	5.75
Economic Liberalization	5.13	↑5.00	5.00

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	223.0	176.0	323.0	423.0	510.0	540.0	572.0
Real GDP growth (% change on previous year)	-23.1	-19.7	-11.8	1.3	5.8	10.1	3.7
Inflation rate	1129.7	1129.7	1663.9	411.5	19.8	-0.8	4.0
Exports (USD millions)	716.0	682.0	680.0	789.0	808.0	678.0	850.0
Imports (USD millions)	721.0	845.0	955.0	1338.0	1375.0	1724.0	1650.0
Foreign Direct Investment (USD millions)	20.0	22.0	282.0	661.0	1093.0	1024.0	780.0
Unemployment rate	16.0	15.2	17.0	19.4	19.3	na	na
Life Expectancy (years)	69.4	69.4	68.3	69.2	70.9	69.8	63.1

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			5	5	6	6	6	6	6	6	6
Civil Liberties			5	5	6	6	6	5	4	4	4
Status			PF	PF	NF	NF	NF	NF	PF	PF	PF

Introduction

During the nearly ten years since gaining its independence in 1991, Azerbaijan has witnessed the overthrow of the country's democratically elected president in 1993, and the increasing consolidation of power by former Communist party leader and current President Heydar Aliyev. The 1995 constitution formally established a strong president, who in practice enjoys control over the legislative and judicial branches. Opposition party members face frequent harassment by the authorities. The country's first post-Soviet parliamentary elections, held in November 1995, were neither free nor fair, with five leading opposition parties and hundreds of independent candidates banned from the vote. Although the government respects some civil liberties, including the formation of certain nongovernmental organizations, it places restrictions on freedoms of religion, assembly, and association, and speech and the press.

Economic growth has been hampered by widespread corruption, inadequate implementation of official reform policies, and the ongoing conflict with Armenia over the status of the disputed territory of Nagorno-Karabakh. Despite considerable foreign investment in Azerbaijan's substantial energy sector, most of the country's population continues to suffer from high unemployment and a low standard of living. The private sector employs less than 25 percent of the labor force.

President Aliyev was reelected in October 1998 elections marred by serious irregularities, including election law violations and a lack of transparency in the tabulation of votes. In April 1999, Aliyev underwent heart bypass surgery in the United States, which was followed by two months of recuperation in Turkey. During his absence, most major policy decisions were put on hold and questions regarding his eventual successor were renewed. Caspian Sea energy issues continued to play a major role in the country's political and economic policies. Several new oil production sharing agreements were signed with foreign oil companies in 1998 and 1999, and construction of a new pipeline from Baku to Supsa in Georgia was completed in April 1999.

Democratization

POLITICAL PROCESS 5.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Elections to the unicameral, 125-member National Assembly (*Milli Majlis*), created under the 1995 constitution, took place in November 1995, with runoffs and re-runs held on February 4, 1996. One hundred members were returned from single-member constituencies and 25 from party lists by proportional representation. Legislators are elected to five-year terms. President Heydar Aliyev's *Yeni Azerbaijan* (New Azerbaijan) party and its allies won 115 seats, the Azerbaijan Popular Front (AzPF), 4, the Azerbaijan National Independence Party, 3, and the New Muslim Democratic Party (*Musavat*), 1. Five leading opposition parties and approximately 600 independent candidates were barred from participating. The Organization for Security and Cooperation in Europe (OSCE) found the balloting to be "not free and fair," while the Council of Europe characterized it as marred by "irregularities and clear cases of fraud." The constitution, which had been adopted earlier by referendum, strengthened the already wide-reaching powers of the president over the government, legislature, and judiciary. Prime Minister Artur Rasizade heads a government dominated by Yeni Azerbaijan and its allies. No opposition parties are represented in the cabinet.

2. When did presidential elections occur?Were they free and fair?

President Aliyev, a former member of the Soviet Politburo, was directly elected to a five-year term on October 3, 1993 (in an election for which the 65-year age limit was rescinded), reportedly with 98 percent of the vote. He had become acting head of state in June 1993 after the overthrow of PresidentElchibey, who had been elected in free and fair elections in June 1992. The October 3 vote was declared "undemocratic" by international observers.

The most recent presidential elections occurred in October 1998. President Aliyev was reelected with 76

percent of the vote. The 1998 presidential election was an improvement over the previous elections, especially in regard to reduced multiple voting and the presence of domestic observers. However, some domestic and international observers witnessed ballot stuffing and irregularities in vote counting. Neither domestic nor international observers were allowed to monitor the compilation of the national vote totals.

3. Is the electoral system multiparty-based? Are the at least two viable political parties functioning at all levels of government?

There are a number of viable political parties in the country. The three largest opposition political parties are the Popular Front of Azerbaijan Party (PFAP), the New Musavat Party, and the National Independence Party. With the exception of the PFAP, however, most opposition and pro-government independent parties have no effective organizations outside the capital city of Baku. Yeni Azerbaijan, led by Heydar Aliyev, has become the dominant party, both at the national and local levels. The party was founded in 1992 and claims a membership of over 150,000. The PFAP remains a large, loose organization that, despite representation in parliament and prominence in the political sphere, is more comparable to a political movement rather than a party. Having engendered the national campaign for independence and democracy, the PFAP continues to command support among opposition-minded voters as an alternative to the present government. The PFAP claims a membership of 80,000. The New Musavat Party is commonly characterized as the party of the Azerbaijani intelligentsia, and a repository for many of the former ministers and diplomats of the Elchibey government. The party claims a membership of 15,000. The National Independence Party favors market reforms and creation of the national bourgeousie. Its membership is estimated at 12,000.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

There are now over 30 registered political parties in Azerbaijan, some of which are supporters of the president's party. While unregistered parties continue to operate openly, they cannot run a candidate for the presidency unless he is also the candidate for a registered party or an independent "voters' initiative group."

Although more than 45 parties applied for official registration prior to the November 1995 parliamentary vote, the Ministry of Justice recognized only 32. The government-appointed Central Election Commission barred most of these from taking part in the vote. Several parties merged or ran in coalitions. In January 1996, the Ministry of Justice asked the Supreme Court to bar three opposition organizations, the Democratic Youth Organization, the Labor Party, and the Gardashlyg Society, on the grounds that they sought to "undermine Azerbaijani statehood." In September 1995, the Supreme Court banned the Azerbaijan United Communist Party (AVKP) for alleged anti-state activities, but reversed its decision later in the month. Several leaders of the Islamic Party were arrested for allegedly spying for Iran in 1997. On March 26, 1998, the Ministry of Justice issued a statement in which it threatened to take legal action against political parties and public movements engaged in "illegal activities" or not officially registered with the ministry. The statement specifically accused the opposition Brotherhood, Evolution, and Modern Turan party of engaging in "illegal acts and activities." The ministry also announced that it considered the Democratic Congress, Round Table, Azerbaijan National Committee of the Helsinki Civil Assembly, the Youth Organization Turan, and the Society for the Protection of Oilmen's Rights illegal parties and movements.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Few political parties in Azerbaijan can claim large public support, with most — such as Etibar Mamedov's Azerbaijan National Independence Party (ANIP) — centered on a high-visibility, Baku-based leader. The ruling Yeni Azerbaijan claims over 100,000 members, and membership figures for the AzPF have ranged from 10,000 to 50,000. Membership figures are unreliable, however, and polls have shown low voter-party identification and participation figures in the single digits. In a 1996 article on the possibility of municipal elections, *Zerkalo*, a Russian-language publication, "calculated" that "no more than ten percent of the population…belongs to political parties or actively supports them." It also noted that more than likely "these figures are exaggerated." There are no data concerning the participation of women in political life.

6. What has been the trend in voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

There is a conflict between official figures concerning voter turnout and those presented by NGOs. At the 1999 municipal elections, for example, the CEC said that 52 percent of the electorate turned out, but the Azerbaijan National Democracy Foundation (ANDF) says that the turnout was only 15 percent. A quorum for these elections is 25 percent. If ANDF's figures are correct, then the municipal elections were invalid.

CIVIL SOCIETY 4.75/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

There are approximately 950 NGOs officially registered in Azerbaijan. Of these, however, only approximately 90 to 110 are active, according to a January 1998 report by the United States NGO, ISAR-Azerbaijan. NGOs include women's groups, charitable organizations, environmental associations, and public policy institutes. The strongest NGOs are those that work on refugee issues and that have contacts with international organizations such as the United Nations High Commission for Refugees. There are also well-established groups working on health and children's issues. Several NGOs deal with charitable work, although the exact number is unavailable. Among these are the Humanitarian Informational Analytical Agency *Saniya*, the Jewish Women's Society of Azerbaijan, and the Charity Center *Havva.* While the country lacks established philanthropic institutions, some oil companies have funded NGOs, but these are noncontroversial and deal with such issues as endangered species and the promotion of Azerbaijan's new Latin alphabet. There are no available polling data on private voluntary activity, but most NGOs rely heavily, if not exclusively, on volunteers.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

NGOs in Azerbaijan operate in a hostile environment. The 1992 Law on Social Organizations allowed for the formation of NGOs, but stipulated that they must register with the Ministry of Justice and barred the establishment of any organization hostile to the state. Azerbaijan has only vague laws regulating NGOs and defining what NGOs do. NGO registration is extremely difficult, and even the least controversial groups, such as the Azerbaijan English Teacher's Association, find that the process can take up to nine months. Some human rights groups find it virtually impossible to register. Some of the more active NGOs have been subject to harassment in the form of repeated government audits. As of June 1999, the following NGOs have not been registered: Human Rights Center of Azerbaijan, Helsinki Committee for Human Rights, Institute of Peace and Democracy, Azerbaijan National Committee of Helsinki, Citizens Assembly, Committee for Protection of Rights of Oil Workers, and the Azerbaijan Society of Homeless People.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The larger, more developed NGOs such as the Human Rights Center of Azerbaijan, the Center for Strategic and International Studies, and the FAR Center for Political and Economic Studies, have full-time staff and leadership structures and delineate authority and responsibility. ISAR and other Western and international institutions regularly present training seminars and workshops aimed at increasing the capacity of NGOs to become effective and self-sustaining organizations. ISAR's NGO Resource Center provides information and reference materials on topics important to developing NGOs. The Center holds over 600 volumes in Russian, Azeri, and English, and has Internet access. The Center facilitates communications between local

NGOs and international partners by providing NGOs with technical assistance and e-mail accounts. International groups are working to train a core of practitioners, but, for the most part, NGOs must work with local people, many of whom have little understanding of NGO work.

4. Are NGOs financially viable? What is their tax status? Are they obliged and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most successful NGOs rely almost exclusively on assistance from Western or international organizations and operate on a grant-to-grant basis. Since there are no laws on grants, a grant to an NGO is technically taxable at a 40 to 60 percent tax rate. NGOs working on refugee issues have become implementing partners in large projects run by international agencies. NGOs that receive foreign assistance are obliged to disclose revenue sources and keep accurate records as conditions for receiving operating grants and for government audits. A few charitable organizations and public policy institutes have done work for the Azeri government, but, in general, procurement opportunities are limited.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The largest labor organization is the Azerbaijan Confederation of Trade Unions or, as it is sometimes known, the Azerbaijan Labor Federation, which depends on government support. It is a holdover from the Communist era and claims 2.5 million members out of a work force of 2.8 million in the industrial, public service, and government sectors. In June 1997, the government and the union signed a collective agreement on wages and social security. The only truly independent union, the Free Trade Union Of Azerbaijan Oil and Gas Industry Employees, which claims more than 85,000 members, suffered a setback in May 1997, when the Azerbaijan State Oil Company (SOCAR) formed a new, pro-government union. The Committee to Defend the Rights of Azerbaijani Oil Workers operates outside established trade union structures and the Turan Independent Association of Trade Unions is a small organization. Accurate union membership figures are unavailable. The emerging private service sector is non-union, and the emasculation of the Free Trade Union of Azerbaijan Oil and Gas Industry Employees suggests reduced independent union influence in the expanding energy sector. The small Party of Entrepreneurs represents small-business proprietors politically. In addition, small business associations function in Baku, but their number and membership is not known. The Baku-based Independent Consumers Union represents consumer interests. Although much of agriculture has been privatized, there is no major party representing agrarian interests. Farmers have, however, formed informal cooperatives.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

There are no legal barriers against interest group participation in politics. Nevertheless, opposition parties have been harassed and their leaders have been detained. Some public demonstrations have been forcibly stopped by the police. NGOs are not an integral part of the political and policy process, although several public policy institutes and refugee relief organizations do exercise influence through the independent media and contacts within the government. Section III, Article 57, of the constitution, nominally guarantees the right to petition.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

Both public and government perception of indigenous and foreign NGOs engaged in refugee relief and assistance is generally positive. The public is largely unaware of the activities of other NGOs, such as public policy research groups. The opposition press reports on the activities of NGOs that are opposed to government policies, but the state-run media do not report on NGO activities. With the exception of relief and assistance NGOs, there is little engagement between government officials and NGOs.

INDEPENDENT MEDIA 5.50/7

1. Are there legal protections for press freedom?
The 1995 constitution and a 1992 press law ostensibly guarantee free media. In reality, however, the print media in Azerbaijan are subject to various restrictions, and the state-run electronic media are firmly in the hands of the government and President Aliyev. In November 1996, parliament amended the law on mass media to require licensing in addition to registration with the Ministry of Justice before newspapers could begin or continue to operate. When editors demanded clarification, they were not told the criteria for licensing. Even after formally lifting the pre-publication censorship in August 1998, the government continued to suppress freedom of the press through other means. The editors of twenty newspapers held a ten-day hunger strike in November 1998 to protest numerous spurious libel suits that officials have filed since the lifting.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Among the materials banned under Article 4 of the press law, are "assaults on the honor and dignity of citizens." The criminal code limits the criticism of government officials through several articles: Article 121, on libel, punishes "false and dishonoring" comments; Article 122 punishes insults; and Article 188.6 specifically prohibits "critical comments on the activity" of the president of the republic. Under Article 188.6, four young journalists from the newspaper *Chesme* were arrested and tried in 1995. They were pardoned by President Aliyev and released on the eve of the 1995 parliamentary elections. In December 1997, Salavan Mamedov, editor of the weekly *Istintaq*, was arrested and charged under Article 121 for making "false and dishonoring comments" against a former prosecutor in the Lenkoran district in Baku. Following the November 10, 1998 decision of the parliament to enforce the country's defamation laws, numerous civil and criminal libel suits have been brought by authorities and the family of the president against opposition newspapers.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
While major newspapers and television stations are located throughout the country, less than 50 appear on a regular basis. Most popular newspapers are published in Baku. The majority of newspapers, magazines, and journals are privately owned. Private newspapers include *Ayna/Zerkalo*, a weekly with a circulation of 20,030; *Avrasiya*, a weekly with a circulation of 20,000; *Gunay*, produced three times a week with a distribution of 41,000 in Azeri and 24,000 in Russian; and *Press-Fakt*. Party-financed papers include the opposition *Azadliq* (published by the Azerbaijan Popular Front, three times a week, 26,000), *Yeni Musavat* (Musavat, irregular, 18,000), *Istigal* (Social Democratic Party, weekly, 5,000), and *Millat* (Azerbaijan National Independence Party, semi-weekly, 6,000). Government-supported newspapers include *Azerbaijan* (parliament, three times a week, 4,700), *Bakinskiy Rabochiy* (president's office, three times a week, 3,200), and *Yeni Azerbaijan* (ruling New Azerbaijan Party, weekly, 10,000).

The two state-owned television stations, AzTV-1 and AzTV-2, dominate the electronic media, and provide the population with most of its news. Several independent stations exist, although a tightening of private broadcast regulations has forced them to narrow their coverage to a range of subjects acceptable to local authorities. Among the independent television companies in operation, ANS (Azerbaijan News Service) has the most powerful transmitter and provides 16 hours of news and entertainment a week to 1.2 million viewers, or 13 percent of the population, in Baku, Sumgait, and the Absheron Peninsula. Sara-TV in Baku broadcasts only entertainment programs. Local independent stations operate in the towns of Belakan, Quba, Tauz, and Ganja. Foreign television includes ORT and RTR (Russian) and two Turkish channels (TRT-1 and a private station). Other foreign broadcasts can be received with a satellite dish. State radio broadcasts nationwide and abroad in Azeri, Russian, English, Turkish, Farsi, Arabic, French, and German. The main independent radio stations are ANS-Radio and Sara-BTR.

4. Are the private media financially viable?
Most private newspapers operate with precarious finances, depend on government-controlled printing facilities, and face a tax rate of 20 percent. *Ayna* and *Zerkalo* are financed by advertising sales. Two Turkish brothers finance *Avrasiya* with support from a Turkish

bank. *Panorama* has close connections to the government, while *Gunay* and *Press-Fakt* have wealthy patrons. Most of the major parties finance newspaper organs. Following the 1998 presidential elections, a series of court cases were leveled at the opposition press clearly intended to bankrupt several prominent newspapers.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government and private owners?

Government-controlled newspapers and state-run television and radio adhere strictly to the government line, and party newspapers reflect the views of their sponsors. ANS Television is editorially independent. Although the government formally abolished censorship in August 1998, government officials continu0l,e to intimidate and harass independent and opposition newspapers. As a result, journalists practice self-censorship. Nevertheless, scores of independent and opposition newspapers continue to publish and discuss a wide range of sensitive domestic and foreign policy issues.

6. Is the distribution system for newspapers privately or governmentally controlled?

Several government and non-government organizations are responsible for distribution, yet the sole country-wide distributor of the press is the state agency Azerbaijan metbuatyayimi (which charges 48 percent of the paper's income as its distribution price). In October 1998, Ayna/Zerkalo established its own alternative network of approximately 20 kiosks in Baku, which other papers may also use for a fee. Yeni Musavat also has its own distribution system in 22 raions.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

Azerbaijan today has several companies providing Internet services, but their high prices effectively limit the Internet to a narrow range of business users. Initially, the only way in Azerbaijan to access Internet for browsing or e-mail communication was through America On-Line or Compuserve accounts with local dial-up numbers. Principal users of this service have been foreigners because of its cost and credit card-based billing system. Some international companies operating in Azerbaijan provided Internet access to their employees through their own satellite communications networks. The first company to provide Internet access locally was Intrans Communications which began offering e-mail and Internet newsgroup access to subscribers. Connecting costs, which averaged $ 3 per hour in 1999 (down from $ 10 per hour in 1998), are still beyond the budgets of most citizens; few citizens have accounts of their own.

8. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Azerbaijan as "Not Free" from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 6.25/7

1. Is the legislature the effective rule-making institution?

Azerbaijan is a republic with a strong presidency, and a legislature that the Constitution describes as independent. However, in practice the legislature's independence from the executive is marginal. The Parliament exercises little legislative initiative independent of the executive. As a result of the flawed 1995 parliamentary elections, the New Azerbaijan Party led by President Aliyev, along with other parties and nominally independent deputies loyal to the President, occupy the overwhelming majority of seats in the 125-member Parliament. Parties considering themselves as belonging to the opposition hold 20 seats and formed a unified block in April 1999, but their ability to influence legislation is less than marginal.

2. Is substantial power decentralized to subnational levels of government? What specific duties do subnational levels have?

Substantial power is not decentralized to subnational levels of government. Azerbaijan is divided into 59 *rayons*, 11 cities and municipalities, and the Nakichevan Autonomous Republic. Nagorno-Karabakh, the Armenian enclave, had its autonomy

stripped by the Azerbaijan Supreme Soviet on November 26, 1991. Under the constitution (Section VI, Article 124), local executive power lies in the hands of governors appointed by President Aliyev. While Nakichevan has its own parliament, executive power rests with a governor appointed by President Aliyev in consultation with the chairman of the Nakichevan parliament and the republic's prime minister. The constitution (Section IX, Articles 142-146) defines the role of municipalities, which impose taxes, approve the local budget, implement local programs of social security and social development, and implement ecological policies.

3. Are subnational officials chosen in free and fair elections?

The president appoints governors. As of June 1999, there have been no municipal elections in Azerbaijan since the adoption of the 1995 constitution. In 1996, a parliamentary Commission of Local Self-Government began deliberations about a draft law on municipal elections. In May 1997, the opposition newspaper *Azadliq* blamed the government for not adopting a municipal elections law and laws dealing with the powers and financing of local governments. It charged that federal ministries were not anxious to give up their control of finances, police, and other functions to decentralization. In June 1999, parliament finally passed the law on municipal elections, according to which local council members will be elected for a period of five years under the majoritarian system. The 17 opposition deputies aligned in the Democratic Bloc condemned the law as anti-democratic and reactionary.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Executive and legislative bodies operate with limited transparency. The opposition media have access to draft legislation through a handful of opposition deputies. However, with Yeni Azerbaijan dominating parliamentary commissions and the government, some draft legislation and decrees are not readily available unless the government chooses to release them through the government-controlled media. Parliament is not obliged by the constitution to hold sessions open to the public.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control over their own local budgets? Do they raise revenues autonomously or from the central state budget?

Although municipalities can raise some local taxes, most funding comes from the state budget. Local officials submit budgets to the ministry of finance, which then submits budgets to the office of the president. Several draft laws on local financing were submitted and discussed in 1996 and 1997, but the current, centralized system of allocation remains in place.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Shortages of financial resources have hampered attempts by the mayors of Baku, Sumgait, and other cities to make badly needed infrastructure repairs and provide adequate services from garbage collection to health care. International organizations such as the United Nations Development Program (UNDP) and the European Bank for Reconstruction and Development (EBRD) have launched projects to improve local water supply and delivery systems, waste disposal, and other infrastructure projects in Baku and other cities. Other hindrances include the lack of skilled municipal administration specialists and a patronage system that allows ill-trained and often corrupt personnel to hold municipal posts.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The 1995 constitution (Chapter Four: Local Self-Government, Section IX, Articles 142-146) broadly outlines the general structure and duties of organs of local power. Parliament, however, has yet to pass a local election law or legislation delineating local authority in terms of financing, police, taxation, and related issues. The civil service code has not been amended since the Soviet era, and local civil servants are effectively employees of the central government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
A new constitution was passed by public referendum in November 1995. Article 30 in Section VII establishes a constitutional court, which consists of nine members appointed by the parliament at the recommendation of the president, and which is charged with interpreting the constitutionality of laws, among other duties. An October 1997 draft law on the constitutional court stated that the judges would elect the chairman and his deputy. The president would nominate the judges for ten-year terms subject to the approval of parliament. The president, parliament, the cabinet of ministers, the procurator general's office, and the parliament of Nakichevan will have the right to appeal directly to the constitutional court, but ordinary citizens will not enjoy this right. Citizens can appeal to the court through a parliamentary deputy, who then must collect an as yet unspecified number of signatures from other deputies.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
The constitution (Chapter Two: Major Rights, Freedoms and Responsibilities, Section III, Principal Human Rights and Civil Rights and Freedoms) outlines such basic rights as the right to property, the right to intellectual property, the inviolability of the home, the right to strike, national and ethnic rights (Article 44), freedom of speech, freedom of conscience, freedom of assembly and association, freedom of information, the right to participate in the political life of society and the state, the presumption of innocence, and freedom of enterprise and business (Article 59).

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten and abused? Are there excessive delays in the criminal justice system?
The basic criminal code of Azerbaijan is the Soviet-era legislation adopted in December 1960, although certain amendments have been made. In 1992, the government of President Elchibey liberalized the laws by eliminating some overtly political crimes and expanding defendants' rights to appeal. Under President Aliyev, the death penalty was made applicable to crimes involving national security. In March 1998, parliament adopted a measure that would impose the death penalty in time of war or threat of war for "serious crimes in exceptional circumstances."

Procurators and police must ask courts for warrants, but police often conduct searches without warrants. Arbitrary arrests without legal warrant occur. In 1997 and 1998, dozens of opposition journalists and members of the Azerbaijan Popular Front, Musavat, and other opposition parties were detained by police for short periods. There have been persistent reports of political prisoners and other detainees being beaten and abused. The police and other security force personnel beat and torture persons detained in pre-trial custody in order to punish them, gather information, force confessions and compel corroborating testimony from witnesses. Those accused of treason or other political offences are said to be systematically tortured, in particular in the lock-up of the Baku City Police Department, but also in other holding facilities, including the Presidential Special Department. The police also routinely and severely beat persons accused of petty or more serious crimes. Such abuse is said to occur immediately after detention, but can also continue for months throughout the prolonged period of pre-trial detention. Detainees are frequently detained in temporary holding facilities without being charged, well beyond the 3 to 10-day period prescribed by law, through frequent recourse to extensions.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
Judges tend to rule fairly in most criminal and civil cases, although corruption and bribery are a problem. In 1992, many Communist-era judges were replaced during the democratic regime of President Elchibey. With the return of President Aliyev, the former Communist leader, hard-line judges with little tolerance

for the political opposition have been named to the bench. According to a report by the non-partisan Human Rights Center of Azerbaijan, there were 900 political prisoners as of the end of December 1997. In June 1997, a new judicial law on courts and judges went into effect and created a three-tier judicial system and the institution of jurors. The appropriate agencies of the executive authority, most likely the ministry of justice, will select jurors, but no timetable for the introduction of jurors has been announced. Under the law, the state guarantees the inviolability of judges, grants them the right to bear arms, and provides them with an apartment within six months after appointment to the job. The law does not have a mechanism for monitoring the execution of judicial decisions, and makes no mention of how to combat the acceptance of bribes by court officials. Higher salaries were mandated to discourage corruption.

5. Are the courts free of political control and influence? Are the courts linked directly to the ministry of justice or any other executive body?
The constitution provides for a judicial system of limited independence, and in practice the judiciary is inefficient, corrupt, and subject to the influence of executive authorities. A 1997 judicial reform law created county appellate courts and an appellate supreme court. The court structure includes: county and city courts; county and city courts to consider heinous crimes; martial courts to consider heinous crimes and replace existing military tribunals; local economic courts; economic courts to consider disputes involving international contracts; the supreme court of Nakichevan; courts of appeal; and the republic-level economic court and supreme court of Azerbaijan. Flora Akhmedova, chairman of the economic court of Azerbaijan, maintained that the draft law was unconstitutional because, under the constitution, the highest court for deciding economic disputes is the economic court, whose decisions are not subject to appeal in the supreme court. Her objections were ignored. The president appoints supreme court and constitutional court judges (subject to parliamentary approval) and directly appoints lower level judges with no confirmation provisos. The government organizes prosecutors at the district, municipal, and republic levels. The prosecutors are appointed by the president and answerable to the minister of justice.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Information on lawyers in private practice was unavailable.

7. Does the state provide public defenders?
The state is required by law to provide public defenders. However, according to human rights organizations, this right is ignored in practice. During pre-trial detention, the police are said to pressure detainees not to seek counsel or to accept State-appointed government lawyers who may not work for their clients' best interests.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
While the constitution guarantees ethnic and minority rights, the few Armenians that remained after the anti-Armenian riots in the late 1980s and early 1990s have complained of discrimination. Ethnic Armenians who remain in Azerbaijan, estimated to number between 10,000 and 30,000, are deprived of an opportunity for public worship. They have complained of discrimination in employment and harassment at schools and workplaces and of refusal of local government authorities to pay pensions. According to the Human Rights Center of Azerbaijan, ethnic Lezgins, Meskhetian Turks, and Kurds have also been the targets of harassment and discrimination. The constitution provides for equal rights for women before the law, and there are provisions in the criminal code concerning violence against women. These provisions address rape, forced abortion, forced marriage or divorce, and abduction.

9. Are judicial decisions effectively enforced?
Specific information on the effective enforcement of judicial decisions was not available.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission,

telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Bribery is ubiquitous in the Azerbaijani government. Ordinary citizens are subject to demands for bribes from petty bureaucrats at almost all levels. Almost any area in which officials are permitted to exercise discretionary judgment is subject to demands for bribes, including operating a business, applying for a passport, and applying to and graduating from universities. The average wage in the civil service is $30 per month; the official poverty line is set at $89 per month.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Top policy-makers frequently disguise business interests with family connections. For example, while a given official may not ostensibly own any businesses, members of his family frequently own enterprises that depend on the protection and access that the official can grant. Some of the most popular businesses are those involving duty-free imports under false pretenses. An example of this is the duty-free importation of medical supplies by an NGO controlled by a family member. The goods are then sold for profit domestically or within other parts of the FSU. Other examples include the diversion of state subsidies for industry and "black" production i.e., off-the-books production of state-enterprise goods that are then sold privately by factory managers and their patrons.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
Laws in Azerbaijan concerning financial disclosure and conflict of interest date from the Soviet period and are generally inadequate. There have been several highly publicized trials of major government officials for corruption. Almost without exception, however, these have been Mutalibov or Elchibey administration members who are considered political enemies of the Aliyev government.

In October 1997, anticorruption investigations led to the firing of several officials in the Azeri NGO sector and local government bodies for misappropriation of funds and goods intended for refugees from the Karabakh conflict. In addition, several high-ranking officials from Azerigaz, the state natural gas firm, were fired by the cabinet of ministers for embezzlement.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?
No information was available on public opinion surveys of perception of public sector corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
There have been periodic anticorruption campaigns in Azerbaijan since President Aliyev came to power. The bulk of these have been directed at members of previous governments. In January 1998, the Turkish government released its "Sussurluk Report" on corruption within the Turkish security services. The report provided details of the misappropriation of Turkish development aid to Azerbaijan. The assistance funds were used to build the luxury Avrupa Hotel, which was then deeded to a Turkish organized crime group in order to pay off gambling debts incurred by a family member. President Aliyev angrily denied that any member of his family was involved and later fired Foreign Minister Hasan Hasanov, who was charged with corruption regarding the misappropriation of the Turkish funds. As of mid-1999, the case has not yet come to trial. The president also closed all casinos in Azerbaijan by decree and declared that such activities undermined Azeri cultural values and promoted money laundering.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effec-

tive anticorruption public education efforts?
No information on public intolerance of official corruption as measured in polls was available.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Azerbaijan was ranked 96th out of 99 countries surveyed in Transparency International's 1999 Corruption Perception Index, and received a score of 1.7 (with 10 representing least corrupt and 0 the most corrupt). A business survey by Control Risk, a British risk management firm, rated Azerbaijan the third most corrupt country in the world.

Economic Liberalization

PRIVATIZATION 5.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
The EBRD estimates that approximately 30 percent of GDP is from the private sector. Less than 25 percent of the labor force works in the private sector. These statistics reflect the slow start of Azerbaijan's privatization programs and the importance of government-controlled oil revenues to the country's GDP. The size of the informal economy is conservatively estimated at 40 percent of GDP.

2. What major privatization legislation has been passed? What were its substantive features?
The government passed a privatization law in January 1993 to establish ground rules for joint-stock enterprises and the auction of small- and medium-sized enterprises. In 1995, the Azerbaijani government pledged to make significant efforts to privatize the industrial and agricultural sectors. The Law on Privatization, which was approved by parliament on July 21, 1995, called for privatization to begin on September 1, 1995. Eight thousand small enterprises were to be privatized by the end of 1995. Fifty large- and medium-sized enterprises were to be privatized by the end of March 1996. The distribution of vouchers for mass privatization of other enterprises was also to begin by the end of 1996. However, this privatization program was never truly implemented, and none of these goals were met.

Genuine privatization began in Azerbaijan in February 1997 with the launch of a three-year program to privatize 70 percent of enterprises by the end of 1998. The program divided enterprises into small (less than 50 workers for industry and less than 10 for service), medium (50 to 300 workers for industry and 11 to 50 for service), and large (more than 300 workers for industry and more than 50 for service).

The country's privatization legislation divides enterprises into four categories: non-privatizable (the national bank, railroads, water utilities, historical monuments, and pension funds), privatizable by presidential decree (fuel, energy, petrochemical production, telecommunications, and bread- and wine-making), privatizable by decree of the council of ministers (oil and oil products, construction, road maintenance, and medical services), and fully privatizable. Companies privatizable by presidential decree are privatized by the same method as fully privatizable companies, except that a non-voting share is reserved for the state.

In 1997, each Azeri citizen received a book containing four privatization vouchers. Veterans of the Karabakh War and families of the victims of the January 1990 Soviet army attack on Baku received two books. A total of 32 million vouchers were distributed. The vouchers can be traded on the open market. Foreign investors can take part in both cash and voucher auctions, but for voucher auctions, they must buy an "option" from the State Property Committee at a cost of 100,000 *manat* ($25) per voucher. Almost immediately after the initial distribution of the vouchers in late February 1997, panic selling ensued as Azeris rushed to cash in their vouchers. While the government had estimated that each voucher was worth the equivalent of $200, the street price fell in two days to approximately $22.50. Following pleas by the State Property Commission to halt sales, the price rose to $120. As of March 1998, the vouchers were trading at a price of 195,000 manat (approximately $47). The market price of the vouchers has tended to increase sharply shortly before privatization auctions and to decline afterwards.

Voucher auctions, which began in June 1997, take place at regular intervals. In any given auction, ap-

proximately 50 enterprises are offered for sale. Bidding takes place in six major cities. Share prices are determined by the number of vouchers offered for each share in the auctions.

Privatization procedures involve a combination of cash and voucher auctions. In voucher and cash auctions since May 1997, 954 mainly medium sized enterprises (accounting for an estimated 10% of total assets of state firms) had been offered to private investors by July 1999. Of these, 170 were fully privatized. However, only one voucher and two cash auctions have taken place in the first eight months of 1999 and only around 10% of all issues vouchers have been redeemed. The process has been slowed by the opposition of key interests within the government, fueled by allegations of untransparent practices of the State Privatization Committee. Lack of attractive enterprises on offer had reduced prices of vouchers on the secondary market to around US$ 10 by the middle of 1999 from around US$ 45 a year earlier.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

About 13,000 small enterprises have been sold through cash auctions while more than 500 medium-scale enterprises have been privatized through voucher auctions. Yet, about 80 percent of medium- and large-scale enterprises remain to be sold. Under the regulations on the Purchase and Sale of Land 1997, land may only be sold and purchased by Azeri citizens living permanently in Azerbaijan or by Azeri legal entities. Foreign citizens and foreign legal entities may only be granted land for use or lease.. Although the large state agricultural concerns and enterprises have largely been privatized by June 1999, further restructuring and the development of financial intermediaries to support the rural sector is needed. Post privatization problems are already emerging in the wheat/bread and cotton sectors. While the privatization of the state bread concern has eliminated former economic distortions, consumer preference has increased the demand for imported quality wheat by bakeries, rather than the use of domestic wheat. Cotton ginneries have been privatized almost entirely to foreign investors, but it is too early to assess the impact on producer prices and productivity. The World Bank and other donors are currently assisting the government to improve the competitiveness of the agricultural sector in the areas of extension, education and research, rehabilitation of irrigation and drainage infrastructure, rural credit, land registration, and input and output marketing mechanisms. In this regard, the government plans to encourage private sector participation in the provisioning of agricultural support services.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Insiders, who often bought the firms that they had already been leasing from the state in order to obtain de jure recognition of their de facto ownership rights, have dominated the privatization of small firms. The government has restricted the number of voucher options that foreigners can purchase. Fifteen percent of the shares must be sold to enterprise employees. Another 55 percent must be sold at open voucher auctions. The remaining 30 percent must be sold in cash auctions, in which foreigners can participate. Foreigners can buy up to ten percent of the shares in state-owned enterprises.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The government has moved more slowly on privatization, in part because of expressed concerns over the effects of large layoffs that could result from the process. In addition, there has been substantial resistance to privatization among the managers and politicians who benefit financially from diversion of subsidies to state-controlled industries. These groups have managed to shelve efforts led by U.N. Special Representative Paolo Lembo to create a free trade zone in the industrial city of Sumgait. The attitude of the presidentially appointed regional government appears to be the single greatest factor influencing the progress of privatization in rural areas. Workers and managers in small industries and the agricultural sector have been the strongest supporters of privatization, particularly of their own firms. The IMF has been the most influential group supporting privatization. Its pressure and threats, including a possible cutoff of loans and credits, were instrumental in prodding the government to begin a privatization program in 1997.

MACROECONOMIC POLICY 5.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Tax system reforms began in the spring of 1995 in response to rampant tax evasion, declining revenues, and pressure from international financial institutions. The size of the tax administration was increased, and tax inspectors were ordered to collect tax arrears aggressively from state- and privately-owned enterprises and NGOs. Import tariffs and major taxes have increased, while the number of exemptions from profit- and value-added taxes has declined. The finance ministry reported a collection rate of nearly 100 percent for 1996. Nevertheless, taxation remains unpredictable. Tax revenues in 1999 were estimated at 19.3 percent of GDP. Key tax administration measures adopted in January 1999 include stronger powers to collect tax arrears, such as enforcement of notices of levy to collect from delinquent taxpayers' bank accounts and those of their debtors, liens on property, and the seizure and sale of physical property. In addition, computerization of tax collection agencies is being expanded, the large taxpayers unit (LTU) is being reinforced, and the audit function is being introduced.

Tax revenue as a proportion of government revenue remains low. The state is heavily dependent on foreign credits and signing bonuses on oil-exploration leases. Tax compliance varies among taxpayers. Foreign companies are generally compliant. Azeri citizens often evade taxes. In any case, their incomes are so low — studies show that between 40 and 90 percent of the population is below the poverty line — as to make collection pointless. Foreign and local businesses are frequently subject to tax claims by various authorities. In January 1999, corporate profit tax rates were reduced from 32 percent to 30 percent. However, due to the lack of deductibility for legitimate expenses (including interest charges), effective tax rates are considerably higher.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Since 1995, with the gradually stabilizing political situation and the cease-fire in the Armenian conflict, the Government began implementing an economic program supported by the World Bank and International Monetary Fund. Rapid progress was made in restoring financial stability through tight fiscal and monetary policies. The consolidated budget deficit has been brought down to 1.7 percent in 1997 and limited to about 4 percent in 1998, despite a fall in oil prices. The current account deficit of $ 1.5 billion in 1998 was financed mainly through foreign direct investment flows of about $ 1 billion. Azerbaijan's external debt in 1999 amounted to $ 100 million (of which $ 75 million to Russia).

The budget is unusually dependent on oil revenues for financial stability. In the first quarter of 1998, oil revenues accounted for 43 percent of the total intake. This represented a drop from 52 percent in 1997 due to lower oil prices on the world market. Azerbaijan's 1997 budget was $758 million. The deficit was $163 million, which represented a significant increase over the 1996 figure of $117 million. The deficit was to be covered mainly by treasury bills and signing bonuses paid by international oil companies for on-shore fields and contracts and production-sharing agreements (PSAs) in the Caspian Sea. These payments are quite substantial. For example, a single PSA signed by Azerbaijan with a consortium of Amoco, Unocal, Itochu, and Delta Nimir included a $75 million signing bonus for the Azerbaijani government. Servicing the national debt was projected to cost $100 million. Budgetary subsidies were eliminated entirely under the auspices of the IMF-sponsored fiscal reform plan. Indirect subsidies through state-owned banks were also decreased. In 1992, the Social Protection Fund was created as Azerbaijan's social insurance program. Almost one-third of government expenditures are transfers through the fund. Pension arrears are a constant problem.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private

banking sector? Does it conform to international standards? Are depositors protected?
The banking system is small and not very significant in an economy that is still dominated by cash transactions. Azerbaijan had more than 150 state-owned and private banks in 1996. A number of these were closed by the National Bank in September 1996, in the face of a looming debt crisis. In addition, the National Bank assumed control of foreign exchange holdings and lending by state-owned banks, and a Treasury office was established within the finance ministry to monitor and control expenditures. While no formal decree was issued, in practice the government decided to cease the issuance of licenses to foreign banks until such time as the domestic banking sector was functioning effectively. Seven foreign banks were licensed to operate in Azerbaijan in July 1997.

Following a presidential decree in November 1998, a 20 percent stake in the country's largest and best-capitalized bank, International Bank of Azerbaijan, is to be offered for tender to a strategic investor at the end of 1999. Savingsbank is also to be privatized. The other two state banks, Agroprombank and Prominvestbank, are effectively insolvent, although the government has so far been reluctant to liquidate them. Gradual consolidation of the banking sector continues, with the number of banks declining to 74 in June 1999 from 84 a year earlier. However, real competition is limited and several prominent foreign banks still wait for their licenses.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?
Under an IMF-sanctioned stabilization plan, Azerbaijan has succeeded in restoring stability to the national currency, the manat, which floats freely. Inflation declined from 1,600 percent in 1994 to 0.4 percent in 1997, and became negative in 1998. The manat even appreciated somewhat in even nominal terms against the U.S. dollar. In June 1999, National Bank chairman Elman Rustamov announced that the devaluation had been planned in order to stimulate domestic production and improve the country's trade balance. Hard currency reserves were approximately $500 million in November 1997. The manat is not widely convertible to hard currencies outside of Azerbaijan, although it is convertible within the country. In 1999, the exchange rate fluctuated at around 4,000 manats per US dollar.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?
There is an active market in government-issued privatization vouchers, which are traded both at government-run voucher shops and on the black market. There is no formal stock exchange at which shares in enterprises can be traded, but government records of share ownership can be updated to reflect changes. Legislation governing the operations of investment funds has been passed but at present no such funds exist in Azerbaijan. The State Securities Commission (SSC), which was created by the September 1998 securities law, began operations in August 1999. The SSC plans to take a broad regulatory role, but its authority has been contested by the central bank and the Ministry of Finance. A July 1999 decree confirmed the regulatory authority of the SSC and placed it directly under presidential authority. The SSC plans new regulations allowing the issuance of simple debt securities, including promissory notes, bank drafts and checks.

MICROECONOMIC POLICY 5.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?
Property rights are guaranteed in the 1995 constitution, but specific legislation to codify these rights has not yet been adopted. There is little real protection for property rights, and predatory practices by government agencies and powerful criminal organizations are common. The beginning of the privatization process has led to great improvements in the land and asset regis-

try system, which is generally accurate. Azerbaijan has adopted a copyright law and is a signatory of several international intellectual property rights conventions. There are no formal mechanisms for securing compensation or challenging an expropriation. The issue is expected to grow in prominence as private property is expropriated for pipeline routes. When asked about procedures for compensation in such cases, central government officials have admitted that the issue has not been considered.

2. To what extent have prices been liberalized? What subsidies remain?

The rapid expansion of the private retail sector has, to a considerable extent, overtaken price liberalization. While state-owned stores that sell subsidized bread and other staples remain in operation, large and vigorous markets that sell a wide variety of goods exist in almost every city and town of any size. Gasoline prices were liberalized in 1995. Power and telecommunications prices remain artificially low.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or do licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

It is possible to own and operate a business, and private retail trade is growing rapidly. Nevertheless, there has been almost no significant legislation to clarify rules for the formation, dissolution, and transfer of businesses. Such matters are handled on an *ad hoc*, cash basis by the principals involved. To the extent that they exist, bureaucratic procedures pertaining to property ownership and sale are extremely complex and frequently corrupt. It is not uncommon for tax assessments to be levied by any of a variety of government agencies in an unpredictable manner. There is little public knowledge of laws that affect commercial activities, and such laws are rarely applied. Laws are often vague, and only implementing decrees are more specific. There is no official outlet for publicizing changes in laws. While newspapers usually publish decrees, new regulations are rarely published. A new bankruptcy law was adopted in 1997.

4. Are courts effective, transparent, efficient, and quick in teaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Azeri courts are slow, inefficient, and frequently corrupt. They are not independent of the government. The judicial system is not an effective enforcer of contracts or property rights. The Economic Court, which has jurisdiction over commercial disputes, is particularly corrupt. Foreign court and arbitration decisions are not enforceable in Azerbaijan. It can take between one and a half to two and a half years for a court case to be heard and for judgment to be executed. Political or economic patrons therefore frequently mediate disputes.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The rapid and sweeping privatization effort that began in 1997 was in part a reaction to strong IMF criticism of the state sector of the economy, which the IMF had likened to a system of government-sanctioned monopolies. There are no laws prohibiting insider- or self-dealing. Insider privileges in procurement remain commonplace.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

In accordance with an agreement with the IMF, Azerbaijan has taken several steps to simplify customs and tariff procedures. Both domestic and foreign trade regimes have been substantially liberalized with the abolition of the State order system, export and import quotas, licensing requirements and export registration scheme. Tariff rates are low and relatively uniform and tariff exemptions are few. A plan to lower the general tariff from the current

15 percent to 12 percent in 1999 was postponed due to revenue considerations.

In January 1997, the State Ministry of Natural Resources was converted into a state company called "Azercontract." On June 25, 1997, the Ministry of External Economic Relations and the Ministry of Trade were combined in a new Ministry of Trade. The July 1, 1997 decree represents an advance on the existing law, which did not clearly define which imported goods were duty-free. Determination of this status was left to individual customs inspectors and was to be based on the intended use of the goods. In practice, this led to widespread abuses, as importers presented false accounts of the intended use of the goods in question and customs inspectors demanded bribes in exchange for favorable determination of duty-free status.

The Ministry of Foreign Economic Relations is the primary government agency for the regulation of international trade. It establishes maximum and minimum prices for a wide range of imported goods and must give its consent to contracts at prices outside of these limits. Imports of certain goods — such as arms, military equipment, nuclear materials, narcotics, toxic chemicals, and certain categories of scientific and technical information related to military production — must be cleared through the Cabinet of Ministers.

Azeri export regulations indicate a concern with nonpayment for exported products. This has been a perennial post-Soviet-era problem in much of the region, where large amounts of finished goods and raw materials were exported from state firms for minimal amounts and then resold by private individuals on international markets for much higher prices. In Azerbaijan, this practice was particularly common with cotton, petroleum products, and such abundant commodities of non-ferrous minerals, such as copper. Failure to register income from exports is a favored tax evasion technique; by banking proceeds from foreign sales abroad, businessmen seek to cloak the size of their incomes from government scrutiny.

7. To what extent has foreign investment and capital flow been encouraged or constrained?
Foreign investment in Azerbaijan rose five-fold to $342 million in 1996. It rose further still to $1 billion in 1997. In 1998, foreign direct investment in Azerbaijan amounted to $ 1.15 billion. The 1992 Law on Protection of Foreign Investments establishes the basic principles of foreign investment in Azerbaijan and guarantees unconditional legal protection to foreign investors. The legislation provides that foreign investments will not be subject to nationalization by the Azeri government (except where there is harm to the population or to state interests) and any foreign investments will not be the subject of state requisition (except in cases of natural disaster, accidents, epidemics, or other national emergencies). In the event of such nationalization or requisition, compensation reflecting the real value of the investment will be paid in foreign currency and remitted abroad at the instructions of the foreign investor.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
The Azerbaijan oil and gas sector has the potential to become one of the most important in the world. According to one estimate, Caspian Sea reserves are at the level of those of the North Sea. Almost every oil company in the world is establishing a presence in the country. Azeri oil exports rose in 1997 to 292,000 metric tons of crude oil, which was worth $23.4 million, and 2.9 million metric tons of petroleum products – such as gasoline, diesel fuel, and kerosene – that were worth $262.2 million. Overall production declined slightly from 1996 levels to 9.02 million metric tons. A total of 14,200 metric tons of liquefied natural gas with a value of $2.4 million were also exported. Azerbaijan imported 260,900 metric tons of crude oil with a value of $20.4 million and 77,600 metric tons of oil products with a value of $13.05 million. Production targets for natural gas were not met by a substantial margin. Azerbaijan imported 27,570 metric tons of liquefied natural gas, primarily from Turkmenistan, for domestic consumption. In September 1992, the two state oil companies, Azerineft and Azneftkimiya, were merged to form SOCAR. Large-scale manufacturing related to the energy sector remains in state hands and continues to receive subsidies. Much of the energy sector is slated to remain in state hands and will not be privatized, although the government reportedly considered offering 30 percent of SOCAR to strategic

investors. The EBRD has made several large loans to Azerbaijan for upgrading power generation and distribution systems.

Under the terms of a Cabinet of Ministers decree on the reform of export laws, SOCAR has, since the summer of 1997, been able to demand pre-payment for deliveries to domestic and foreign customers, thereby substantially lowering the rate of domestic consumption. Only the state Ministries of Agriculture and Defense are exempt from this practice. In the first quarter of 1998, Azerbaijan's two largest oil refineries reported losses of $8.8 million due to falling world oil prices.

Azerbaijani oil exports to international markets must cross through Russia, Georgia, or Iran. Oil produced by the Azerbaijan International Operating Company (AIOC), a consortium of western oil companies and SOCAR, began shipping oil through Russia to the port of Novorosiisk in November 1997. An 11-day stoppage in February 1998, for unspecified "technical reasons" by the Russian pipeline operator Transneft underlined Azerbaijan's continuing dependency on Russian goodwill for energy exports to succeed. Transneft charges the AIOC and SOCAR $15.67 for every ton of oil transported from the Azerbaijani border to Novorossiysk. By contrast, the cost of shipping one ton of crude from Baku to Supsa through the new pipeline has been figured at only $ 2-3 per ton. In April 1999, construction work on the new Baku-Supsa pipeline was completed and the sixth and final pumping station along the Baku-Supsa route was finished earlier in May. The AIOC announced that the new pipeline was pumping oil at its full capacity of 115,000 barrels per day. The westward-leading pipeline may become even more economical if the AIOC builds new infrastructure facilities; with extra pumping stations and storage facilities at the Baku and Supsa terminals, industry experts say, the pipeline could handle 250,000 barrels per day.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The national workforce is only slightly larger than in 1989 (UN data, using indices of 1989=100, yields the figure of 100.9 for 1998). Unemployment was given as134, 000 in 1998, showing a drop in unemployment from 1997, when it was 8.9 percent of the labor force. Unofficial figures put unemployment at from 40 percent to 50 percent and more. Though there is unemployment compensation on the books, it is rarely paid.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Pensions in Azerbaijan are the lowest in any CIS member state, averaging $ 6-8 per month. Pensioners receive on average 25,000-30,000 manat a month, which constitutes about a fifth of the average monthly wage. It is known that in 1994, 797,000 people received pensions due to age, and 454,000 for other reasons. Private pension funds do not exist.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly income since 1993? Are there major problems in wage arrearages? If so, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences between public and private sector median wages and in median wages among men and women?

An average monthly wage in industry in 1996 was 125,500 manats, or slightly over $30. More recently, there has been an effort to lift these monthly wages to $45, and it is hoped that it will reach $60 in the first years of the next decade. As inflation is reduced and the economy stabilized, as it has since 1995, it is also hoped that wages will join the upward trend. People compensate for the arreages that are endemic in a society that is at the early stages of privatization through holding a second job or bartering. There is no accurate report on sexual differences in the wage structure.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

In 1995-1996 there were 697,510 pupils studying under 34,201 teachers at 4,462 primary schools; 812,610 students studying under 105,656 teachers in secondary schools. In 1997, there were 111,382 students in the higher schools and in specialized secondary education. In 1997 approximately five percent of the GDP was spent on education.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Male life expectancy in 1997 was 66.5 years, female, 74. The birth rate was 17.4 per thousand, and death 6.2 per thousand. According to statistics listed with the World Health Organization, the suicide rate in Azerbaijan was 0.7 per 100,000 people in 1995 and 0.9 per 100,000 people in 1996. There is no information available on divorce rates.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

As of June 1999, Azerbaijan had 39.2 physicians and 9.2 paramedics per 10,000 persons. The number of hospital beds totaled 76,900 or 104.4 per 10,000 population. According to official data, health care receives 4.5 percent of the state budget. No current data is available on wages of health care personnel.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

Considerable discrepancy exists among various sources concerning the scale of poverty in Azerbaijan. Informal sources put the current number of people living below the poverty line at 80 percent, while according to the World Bank this figure is 60 percent. Government sources maintain that only 20 percent of citizens live in poverty.

BELARUS

Polity: Presidential dictatorship
Economy: Statist
Population: 10,200,000
PPP (USD): 4,850
Capital: Minsk
Ethnic Groups Byelorussian (78 percent), Russian (13 percent), Polish (4 percent), Ukrainian (3 percent), other (2 percent)
Size of private sector as % of GDP (1998): 20

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	5.90	↓↓6.20	↓6.44
Rule of Law	na	na	5.88
Economic Liberalization	6.00	↓↓6.25	6.25

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	355.0	472.0	1012.0	1354.0	1332.0	1396.0	1464.0
Real GDP growth (% change on previous year)	-7.6	-12.6	-10.4	2.8	11.4	8.3	1.5
Inflation rate	1190.9	2219.6	709.3	52.7	63.9	73.2	213.0
Exports (USD millions)	2812.0	2641.0	4803.0	5652.0	7301.0	7081.0	6537.0
Imports (USD millions)	3863.0	3351.0	5564.0	6939.0	8689.0	8528.0	7440.0
Foreign Direct Investment (USD millions)	18.0	10.5	15.0	73.0	198.0	141.0	188.3
Unemployment rate	1.4	2.1	2.7	3.9	2.8	2.3	na
Life Expectancy (years)	69.0	68.8	68.5	68.6	68.5	68.1	68.1

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			4	4	5	4	5	6	6	6	6
Civil Liberties			4	3	4	4	5	6	6	6	6
Status			PF	PF	PF	PF	PF	NF	NF	NF	NF

Introduction

Belarus is a presidential dictatorship in which President Alexander Lukashenka has consolidated extensive power through authoritarian means. After being elected in 1994 in a vote judged free and fair by international observers, Lukashenka steadily strengthened his grip on power by reintroducing censorship, banning independent trade unions, and limiting the rights of candidates running in the 1995 parliamentary elections. A November 1996 referendum which amended the 1994 constitution further broadened Lukashenka's control over the executive, legislative, and judicial branches, and extended his term in office from five to seven years. The government severely limits most civil liberties, including freedoms of association, assembly, religion, movement, speech, and the press.

Few economic reforms have been undertaken during Lukashenka's presidency. Controls over prices and currency exchange rates, reimposed in 1995 as part of the president's policy of "market socialism," created an atmosphere hostile to private enterprise and inhibited domestic and foreign investment. The government's commitment to a largely planned economy has further resulted in high inflation, a sizeable trade deficit, and low average monthly wages. While some progress has been made in the privatization of small businesses and services, the majority of workers continue to be employed in the large state agricultural and industrial sectors.

In July 1999, Lukashenka began his two-year extension in office granted under the 1996 referendum. Public protests calling for Lukashenka's resignation were quickly dispersed by the authorities and led the government to introduce more repressive measures against political opponents, including the kidnapping and frequent disappearance of high-ranking figures. A 1999 presidential decree, adopted ostensibly to prevent emergencies during mass demonstrations, places restrictions on where opposition rallies and meetings can be conducted. Russia and Belarus continued in 1999 their controversial move toward a federal union which would include a joint head of state, a single currency, military integration, and dual citizenship.

Democratization

POLITICAL PROCESS 6.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

In November 1996, President Alexander Lukashenka held a controversial referendum that changed the 1994 constitution. As a result of the referendum, the presidential term was extended for two more years (until July 2001), already substantial presidential powers were broadened, and a new bicameral parliament was created. The previously existing parliament—the Soviet of the Republic of Belarus—was dissolved. Pro-Lukashenka members of the dissolved parliament elected in 1995 formed a 110-member lower house, the Chamber of Representatives. A 64-member upper house, called the Council of the Republic, grew out of presidential appointments and the results of January 1997 elections by the six oblast councils and the Minsk City Council. The transition left 86 electoral districts unrepresented because the new constitution reduced the number of representatives from 260, and the full parliament was never seated because of executive interference in the 1995 vote.

Western governments do not recognize the legitimacy of the new parliament, which functions as little more than a rubber stamp. The last popular contested elections—for the unicameral 260-seat parliament created under the March 1994 constitution—were held on May 14, 1995, with a runoff on May 28. The complex voting system produced only 108 deputies after the second round, leaving the body well short of the two-thirds of the 174-seat quorum required by the constitution. The Soviet-era parliament elected in 1990 was supposed to fill the vacuum until the autumn elections, but it did not meet until September. Ignoring the constitution, President Lukashenka did not recognize its legitimacy and ruled by decree. He stripped deputies from the holdover parliament of their immunity and threatened to impose presidential rule. Turnout for the November 29, 1996 parliamentary elections was higher. It brought the total to 139 deputies, but this figure was still short of a quorum. In the December 10 runoff, the election of 59 additional deputies brought the total to 198. Of these, the Communist Party of Belarus won 42 seats; the Agrarian Party, 33; the United Civil Party, 9; the Party

of Popular Accord, 8; the Social Democratic Hramada, 2; and the Party for All Belarusian Unity and Accord, 2. Six other parties won one seat each, including Lukashenka's Belarusian Patriotic Movement (BPR). Ninety-five deputies were "unaffiliated." Many of these later united to form the pro-Lukashenka Accord (Zgoda) faction in the parliament. No candidates from the democratic Belarusian Popular Front, which helped to lead the country to independence, were elected. International observers, who deemed no round of the 1995 vote as free and fair, cited such irregularities as family voting, infringements on the mass media, and a lack of information about parties and candidates as reasons for their negative assessment. After the November 1996 referendum, seats for the 110-member body were filled as follows: the Communist Party of Belarus, 24; the Agrarian Party, 14; and the Party of Popular Accord, 5. Seven parties won one seat each. Sixty "independents" were also chosen. President Lukashenka has instituted de facto presidential rule in Belarus. The prime minister is Siarghei Lingh, a leader of the BPR, and the cabinet consists exclusively of Lukashenka loyalists.

Besides the Lukashenka-formed parliament, 54 deputies elected in 1995, representing different parliamentary factions of the Verkhovnyj Soviet of 13th convocation, formed an opposition parliament, which operates in Belarus and is recognized by the Western governments, but is perceived with hostility by the president and its loyalists. On June 1, 1999 President Lukashenka directed the National Assembly to consider the new draft Election Code of the Republic of Belarus, which was prepared by the Center for Legislative Activity functioning under the president's supervision. This draft has provoked critical comments from independent experts, since many of its provisions contradict commonly accepted principles of international law.

2. When did presidential elections occur? Were they free and fair?

The post of president was created by the Communist-dominated, 260-member Soviet-era parliament in March 1994, after it ousted Stanislav Shushkevich, a reformer and parliamentary chairman, as head of state, and overwhelmingly adopted the country's post-Soviet constitution. The constitution called for a strong presidency. The first round of presidential elections occurred on June 23, 1994. A second round took place on July 10. In the first round, Lukashenka, then a 39-year-old non-party populist who has campaigned on an anticorruption platform, won with 45 percent of the vote. Prime Minister Vyacheslav Kebich, a pro-Russian Communist, finished the second round with 17 percent. In the run-off, Lukashenka won an overwhelming 80 percent of the vote. The elections were judged free and fair by international monitors.

According to the 1994 constitution, which is recognized by pro-democratic forces in Belarus, the presidential term expired on July 20, 1999, and presidential elections were to be held before May 20, 1999. Opposition members of parliament set a date of May 16, 1999, for the next presidential elections and have formed the opposition Central Elections Committee. Two candidates for the presidency—former prime-minister Mikhail Chigir' and the leader of the Belarusian Popular Front Zenon Pazniak—each gathered about 120,000 signatures, significantly more than required for registration as candidates. Members of the Central Elections Committee, as well as members of the regional and local opposition election committees, have regularly been subjected to "administrative detention" by state officials. Despite such harassment, they continued with the election campaign. The situation did not allow for free and fair elections; even the regular polling stations could not be organized. However, the elections took place within the period of two weeks. Several polling stations were organized in Minsk and some other regional centers, but their total number was inconsequential. With Mikhail Chigir' under arrest during the election campaign and Zenon Pazniak having withdrawn from the race, the elections did not lead to a viable result. According to different estimations, five to ten percent of the population participated in the vote under harsh conditions of persecution. In accordance with 1996 constitutional amendments, the next presidential elections are due in 2001.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Section I, Article 5 of the constitution states that "political parties and other public associations acting within the framework of the constitution and laws of the Republic of Belarus shall contribute toward ascertaining and expressing the political will of the citizens and participate in elections." Section II, Article 36 enshrines "freedom of association." The electoral system in Belarus is majoritarian. While a number of parties contested the 1990 and 1995 parliamentary elections (in 1995, political parties recommended 54 percent of the candidates), President Lukashenka has consolidated his rule by dissolving the elected parliament, governing by de-

cree, and undermining opposition parties. Parties face harassment and restrictions such as a lack of access to state-run media and bans on literature and publications. In 1996, Lukashenka forced key leaders of the Belarus Popular Front, a democratic national party, to seek asylum in the West. In the years 1997 through 1999, scores of opposition parties' leaders and members were arrested and detained, and their headquarters were raided on several occasions.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

As of January 1999, 27 political parties were registered in Belarus (in comparison to about 40 political parties existing in 1997), but no more than a dozen functioned on oblast and rayon levels. In addition to the Communists and the Belarusian Popular Front, other major groupings include the United Civic Party (including the United Democratic Party of Belarus), the Social Democratic Hramada (Assembly), the Belarus Christian-Democratic Union, and the Union of Collective Farmers. On January 26, 1999 President Lukashenka issued a decree "On Some Measures on Regulation of the activities of Political Parties, Trade Unions, Other Public Associations," which, among other measures, foresaw re-registration of the political parties in Belarus. This document required that parties convene a founding meeting of at least 1,000 signed members in order to re-register; it also defined a list of reasons for the rejection or postponement of registration, including violation of the procedure of association establishment and inadequacy of the party's title and symbols.

According to the Minister of Justice of the Republic of Belarus, 17 political parties have been re-registered of the 19 that applied for re-registration. Eight political parties for different reasons did not apply for re-registration (among them the Belarus Peasant Party, the Slavianskiy Sobor "Belaya Rus'" (Slavic Assembly "White Rus"), the Belarusian Socialist Party, the Party "Christian-Democratic Choice"). Two political parties—Belarusian Christian-Democratic Union and the Party of Common Sense—were not re-registered because of their lack of members and alleged falsification of statute documents. No specific parties have been officially outlawed, but Article 5 of the constitution bans the creation of parties "that aim to change the constitutional system by force, or propagate war, or ethnic, religious, and racial hatred."

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

The proportion of the population belonging to political parties is minuscule; membership figures are unreliable. In 1997, the government sent registered parties questionnaires about membership figures; 23 parties out of the 35 registered failed to submit answers. The Belrusan Popular Front, founded in 1989, reported that it had 2,228 members and that "approximately 10,000 people work for the BPF as volunteers." Approximately 1,000,000 people voted for the BPF in the 1990 parliamentary elections and the 1994 presidential vote. The Communist Party of Belarus, a successor to the Soviet-era party, maintains a strong organizational structure and won 42 seats—more than any other party—in the 1995 parliamentary elections. According to the party leadership, official membership is 7,011. The Party of Communists of Belarus lists 10,429 members; the United Civic Party, 2,500; the Social Democratic Hramada, 1,729; and the Belarusian Peasant party, 1,647. No official data are available on party membership, but in keeping with re-registration numbers, less than one percent of Belarusian population belongs to political parties.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Since 1990, voter turnout at the municipal, provincial, and national levels has been decreasing. The participation figures for the country's 7,000,000 eligible voters in important elections is as follows: in the March 17, 1991 referendum on preserving the Soviet Union, 83 percent turnout; in the 1994 presidential elections, 70 percent; in the May 1995 referendum on such issues as parliamentary elections, economic integration, and the designation of Russian as a state language, 64.7 percent in the first round and 56.4 percent in the second; and, in the June 12, 1995 local elections, 47.6 percent. In the November 29 and December 10, 1995 parliamentary runoffs, elections were invalidated in several districts in which the turnout was less than 50 percent. In the November 29 and December 10 local by-elections, 51 percent and 53 percent voted, respectively. In the November 24, 1996 referendum on changing the constitution to extend the presidential term and powers, 84 percent voted. International analysts and Belarus' political opposition, however, hold that the November 24 referendum and the November 29 and December 10 local by-election figures were inflated. At the first round of municipal elections on April 4, 1999, out of 913 electoral districts, 162 did not overcome the legal requirement of 50 percent turnout, therefore the runoff for these districts is to be held in the fall of 1999. The

second round of municipal elections on April 16, 1999, with requirement of 25 percent turnout did not meet difficulties in getting that percentage of the population at polling stations. The data on female voter participation is not available.

CIVIL SOCIETY 6.00/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

According to official statistics, as of the end of 1998, there were 2,723 associations in Belarus registered with the Ministry of Justice and the relevant local authorities. The latest Directory of Belarusian Nongovernmental Organizations, prepared by the United Way Belarus in 1998, lists 2,500 existing NGOs. But significant numbers of them are not genuine nongovernmental organizations because of their extensive state affiliations and activities. More than 50 percent of nongovernmental organizations are concentrated in the city of Minsk. Nevertheless, many observers agree that up to 1,500 additional NGOs operate across the country, mostly in the provinces, unregistered with authorities. According to the Minister of Justice of the Republic of Belarus, after the re-registration process (described above) 1,316 NGOs were left registered at the end of the summer of 1999. These nongovernmental organizations include educational, women's, cultural, environmental, youth, religious, media, and business groups. Total membership in these organizations is estimated to be up to 100,000 people. Most NGOs still lack experience, skills, funds, staff, and overall organization and are far less developed outside major cities and towns. Western organizations and programs have a network of charitable and social welfare organizations that work with local groups.

A predominantly state-run economy has worked against the development of private philanthropic institutions, and the repressive political climate has made citizens wary of involvement with public associations and NGOs. There is no polling data on private voluntary activity, although the 1986 Chernobyl nuclear disaster, which left 2.5 million Belarusians living in contaminated areas, did spur an active ecological movement and groups to aid the victims.

No data are available on the membership size of women's nongovernmental organizations. Of more than 650 nongovernmental organizations composing the Assembly of Democratic NGOs in Belarus, women's groups represent 1.5 percent of the total number. After the re-registration process, there were about 20 active women organizations in Belarus. The most active include the "Independent Democratic Movement of Women," "All-Belarusian League of Women," "Association of Young Christian Women," "Belarusian Association of Women-Lawyers."

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

A 1997 United Nations report on human rights in Belarus criticized the government's "lack of tolerance" of NGOs. Local groups face serious political and bureaucratic obstacles to registration and to carrying out their activities. NGO activities are regulated by the Law on Public Associations, adopted in 1994 and amended in 1995, under which nongovernmental organizations in Belarus come under the broader term of public associations for the purpose of legislation governing them. This law provides citizens with "the right to establish, upon their initiative, public associations and join existing public associations." It does not distinguish between for-profit and non-profit NGOs and charitable funds. Non-profit NGOs are not granted any special tax privileges. The government has even imposed taxes on the receipt of international humanitarian aid. There are no tax incentives for contributions by private businesses to support NGOs.

In 1998, illegal persecution of NGOs increased, taking the form of refusals or delays in registration, intimidation and oppression of leaders and activists of NGOs, refusals in letting premises for conferences or meetings, and slander campaigns in the state mass media. The Decree Number 2, "On Some Measures on Regulation of the activities of Political Parties, Trade Unions, Other Public Associations" issued by President Lukashenka in January 1999, required re-

registration of all public associations within a period of five months—until July 1, 1999 (later the term was extended to August1, 1999). A special Republican Commission on the registration of public associations, composed of government officials, was created with this document (previously, registration was the responsibility of the Ministry of Justice). The Decree required presentation of a package of 16 different documents for re-registration, based on the newly adopted Civic Code, which was not published and did not come into force at the moment the Decree was issued. The document outlined about 20 other reasons as bases for refusal to re-register an organization. The re-registration process also foresaw some non-articulated requirements for re-registration, such as acknowledgement of the 1996 constitution. Because of the efforts undertaken by the "third" sector of Belarus, many nongovernmental organizations have passed the requirements for re-registration; nevertheless, a substantial number of organizations did not apply for re-registration. Of 2,723 previously registered organizations only 1,316 have been granted permission to operate further.

According to the City of Minsk Department of Justice, of 211 organizations applying for re-registration, 179 have successfully completed the process; 32 organizations were refused. Some have brought their cases to the courts. The situation is similar in all regions of Belarus. In mid-summer 1999 the Ministry of Justice is tasked with drafting an additional document foreseeing specific administrative or even criminal penalties against activities by non-registered entities. Even charitable NGOs have faced government pressure, and arbitrary and contradictory tax policies have led several European and U.S.-based humanitarian groups to cease operations, thereby depriving Belarusians of millions of dollars worth of medical, food and other aid. In April 1997, the government launched an investigation of Children of Chernobyl and other social support groups. In September 1997, the Soros Foundation closed its operations in Belarus after its director was barred from the country and authorities seized its property. The foundation has invested $6 million in Belarus, primarily for education, medical, and ecological programs.

While NGOs such as Independent Society for Law Research (ISLR) continue to work to improve the legal and regulatory environment, conducting analysis of the relevant legislative basis and producing recommendations for its upgrading, attempts to work with the government have met with resistance. In the spring of 1999, the International Center for Non-Profit Law from the U.S. has started its work in the area, cooperating with ISLR, but not much success has been achieved so far in the cooperation with Belarusian authorities.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The larger NGOs, particularly some environmental, human rights, and women's groups and health assistance organizations that work with Western institutions or have several years of experience of operation in the country, have leadership structures and full-time and volunteer staff, issue publications, and delineate authority and responsibility. Both local organizations and some Western institutions have NGO development programs to improve local management. For the purpose of improving the organizational capacity of local NGOs, a network of 25 regional resource centers has been created and developed in Belarus.

Information on NGO management issues is gradually being made available in the native language, both by local and Western NGOs. Even though some organizations, like United Way Belarus, Center "Supol'nasc," L.Sapieha Foundation, Counterpart Alliance for Partnership, and others have already prepared a core group of experienced trainers to serve as consultants for other organizations, one key goal of NGO development programs remains to train a core of practitioners to assist less-developed NGOs outside of the major cities. Notwithstanding the latest improvements, many NGOs remain inexperienced, inadequately staffed, and disorganized.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Currently the activities of Belarusian NGOs are financed by four major sources: NGO members and their voluntary fees; direct partner cooperation with foreign NGOs through uni-

fication of human and financial resources for specific projects; financial and technical support from foreign organizations and foundations; and the provision of professional services. Nevertheless, most NGOs in Belarus rely almost exclusively on technical and financial assistance from Western governments and organizations to sustain their activities. Financial sustainability appears to be the main issue they are struggling with, primarily because of the limited diversification of available sources, the lack of information available, and the lack of experience and knowledge of how to apply for foreign grants. Those NGOs that receive assistance are required to keep accurate accounting records as a condition of their grants.

The government has used frequent arbitrary audits to harass NGOs. The Law on Public Associations does not differentiate between for-profit and non-profit NGOs and charitable funds. Non-profit NGOs are not granted any special tax privileges. The government has even imposed taxes on the receipt of international humanitarian aid. There are no tax incentives for contributions by private businesses to support NGOs. Government procurement opportunities for NGOs and not-for-profit organizations are nonexistent.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

In August 1995, the president banned the activities of the Independent Free Trade Union of Belarus, the Minsk Metro Trade Union, and the Railroad and Transport Facilities Workers' Union—a move that led to a transport workers strike. Several strike leaders were arrested and sentenced to brief terms of forced labor. In December 1997, largely in response to international pressure, the government ordered the Ministry of Justice to re-register the Free Trade Union of Belarus and register the Congress of Democratic Trade Unions, which earlier had been denied registration. Approximately 25,000 workers reportedly belong to independent trade unions. The Federation of Trade Unions of Belarus (FTUB), a successor to the Soviet-era union, claims five million members in a total workforce of 5.1 million; however, this figure cannot be verified independently. Employees at state-run enterprises are discouraged from joining independent trade unions. Workers are often automatically inducted into the FTUB and their union dues are deducted from their wages. With unofficial unemployment measured at approximately 30 percent, union membership is significantly lower than official figures suggest. In 1997, a presidential decree on "Immediate Measures to Strengthen Labor and Executive Discipline" gives employers greater leeway in terminating labor contracts, even for minor violations of the labor code. An estimated 19 percent of the workforce labors in the agricultural sector, which is still mostly collectivized. A small percentage of farmers belong to the Union of Cooperatives. The Peasant Party and the Union of Collective Farmers represent agrarian interests. With much of the economy in state hands, the proportional membership of small business associations remains small (official figures are unavailable). Business, trade, and professional groups include the National Brokers Guild, the Union of Entrepreneurs and Lesses, the Science and Industry Association, and the Belarusian Association of Journalists.

Trade union activities also fall under the regulations of Decree #2, which requires their re-registration. This document obliges trade unions to present for re-registration a list of at least 500 members from most of the regions for the republican organization or 10 percent of the employees of the enterprise. With the repressive measures undertaken by the state and state-owned enterprise authorities on members of the free trade unions, this requirement is difficult to comply with. There are no full data on the results of the re-registration procedure, but it is known that one of the biggest trade associations—the Belarusian Independent Association of Industrial Trade Unions—was denied re-registration by the Ministry of Justice. The Association plans to bring a suit to the Constitutional Court on this matter.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

There are no specific regulations governing interest group participation in politics. Article 40 of the constitution protects the right to petition the government and state bodies, as well as freedom of association and assembly. Demonstrations remain the major vehicle for public expression regarding government policies. Faced with mounting public protests, Lukashenka issued a decree in March 1997 to curtail the rights of assembly. Rallies were banned in certain locations, and local authorities were given the power to impose strict limits on the number of participants. The decree also prohibited the display of unregistered flags and symbols, as well as placards deemed to threaten the state. This decree and subsequent laws impose severe penalties, including heavy fines and detention, on organizers and demonstrators who violate the

law. Unsanctioned marches have been violently broken up by the police. Managers of state-run enterprises and collectives lobby the government, but President Lukashenka's totalitarian style precludes any meaningful interest group participation in policy decision-making.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
The results of polls conducted by the Independent Institute for Socio-Economic and Political Studies (Minsk), and by the private agency "Novak" (Minsk), prove that a crucial NGO role for both individual and societal development is still not well understood by Belarusian population. Most of the citizens have poor knowledge on the distinction between NGOs and commercial institutions, and NGOs and state organizations. Moreover, a majority of the population does not comprehend the Western assistance to nongovernmental organizations: only 28.2 percent of those polled consider it possible for Belarusian NGOs to receive grants from the American government. Nevertheless, the level of confidence in American nongovernmental structures (e.g. the Soros Foundation) is much higher—36.7 percent, according to polls.

Most independent media sources are closely cooperating with nongovernmental organizations and provide substantial information on NGO activities. Some independent newspapers even have separate pages devoted to NGO-related issues. The state-controlled media are much more reluctant to cover the successful work of genuine democratic NGOs; indeed, they are often used by authorities to launch aggressive discrediting campaigns against active NGOs that are considered to be politically engaged. While the government mostly harasses pro-democratic NGOs, it simultaneously promotes the establishment of pro-government NGOs (usually subordinated to the government or its agencies) and establishes favorable conditions for their operation. These organizations include "the Union of Belarusian Patriotic Youth"; some pan-Slavic organizations—"Belaya Rus," "Slavianskije Materi"; several Chernobyl-related organizations; some associations of entrepreneurs, etc.

A special Presidential Fund of Program Support was established in 1998 to make grants to NGOs considered friendly to the government. The year 1998 was a period of organizational development of the Fund, while the start of its full operation is planned for 1999. This development creates conditions for strengthening the so-called GONGOs and provides for additional division lines between quasi-NGOs and those that maintain their independence from the state. The Fund is to support projects mainly in social and ecological spheres.

INDEPENDENT MEDIA 6.75/7

1. Are there legal protections for press freedom?
Both the 1994 and the amended 1996 constitutions enshrine freedom of expression, access to information, and a free press, but restrictions abound. On October 15, 1997, the Chamber of Representatives passed in the second reading the law on "Amendments and Corrections to the Law on Press and Other Means of Media," which came into effect in January 1998. The law introduced a number of restrictive provisions that further curtailed freedom of the media. While defaming the president was prohibited by the press law (as well as by the 1994 and 1996 versions of the constitution), the new amendments extended the strictures to include "higher officials," such as the prime minister and members of the government. The amendments also gave the State Committee for the Press the right to suspend the activity of a media organ for a period of up to a year without going through the courts. Publications with a circulation of less than 300 copies had been exempt from registration, but now must register. Perhaps the most serious restriction (Article 25) barred the importation of newspapers that "include reports that may do harm to the political and economic interests of the Republic of Belarus, its national security, as well as to the healthcare and moral of citizens." In 1995, non-state newspapers such as the independent *Svaboda*, *Belaruskaya Gazeta*, *Belaruskaya Delovaya Gazeta*, and *Imya* were banned from using the main state publishing house. This restriction forced them to move their printing operations to Lithuania. While confiscations were sporadic, the new amendments specified that authorities were determined to stop the influx of independent newspapers from abroad.

In July 1997, the Council of Ministers adopted a resolution that strictly regulates foreign media correspondents in Belarus. It mandates re-accreditation of all foreign journalists and obliges foreign correspondents to "check the reliability of the news, to present objective information for publication, and not to allow the publication or broadcasting of

deliberately false reports." It also holds foreign correspondents responsible for "attacks on the morality, honor, dignity, and working reputation of citizens and officials, in particular spreading reports discrediting the honor, dignity, and working reputation of the president of the Republic of Belarus." In 1997, there were numerous examples of the government's campaign against the press. In November, the Supreme Economic Court banned the publication of *Svaboda*, at the time the country's largest independent newspaper. (In January 1998, it reappeared under the new name of *Naviny*, and resumed distribution on a limited basis.) In April 1994, the editorial staff of *Pahonya*, then the only independent newspaper in Hrodna, was evicted from its offices. In July, the Ministry of Foreign Affairs revoked the accreditation of Pavel Sheremet, a Belarusian citizen and bureau chief for the Russian TV station ORT in response to his critical commentary on government expenditures for the celebration of Minsk's 930th anniversary. Authorities subsequently arrested three other ORT employees, all of whom were Russian citizens, thereby setting off a major diplomatic confrontation with Moscow. The three were ultimately released, but on January 28, 1998, Sheremet was found guilty of illegally trying to cross the Belarusian-Lithuanian border and given a suspended sentence.

In January 1998, the Council of Ministers adopted a resolution requiring a license from the Ministry of Justice for carrying out activities connected with the dissemination of legal information. Legal information coming within the scope of the regulations issued in March 1998 is defined as "texts of normative legal acts comprising the structure legislation of the Republic of Belarus." In August 1998 the government mandated licensing of the publication of commentaries, annotations, and other materials prepared on the basis of normative legal acts (the exemption was made for the state-owned media). Because of the active protests of the Belarusian Association of Journalists, in December 1998 President Lukashenka signed an edict which reversed the situation. In March 1998, the government announced that state officials were forbidden from making official documents and comments available for publication in the independent media and that the state organizations and enterprises were banned from placing advertisements in the opposition press.

Although the Belarusian legislature passed a draft law in 1994 to prohibit the existence of a press monopoly, the government maintains a virtual economic monopoly over the press through its ownership of nearly all printing and broadcasting facilities and its management of the distribution of all print media through official outlets.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

Provisions in the 1997 amendments to the media law extended proscriptions barring defamation of the president to include other top-level officials. In this regard, Article 25 of the law prohibited the use of media to publish "information damaging the honor and dignity of government officials whose status has been established by constitution." The media law and a resolution on foreign correspondents prohibit "false reports" and unsubstantiated news. In November 1997, the editor of *Imya* received a warning that satirical collages in several issues defamed the president and that the newspaper could be stripped of its license. Although the newspaper appealed the charges, it stopped printing the collages.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Approximately one-half of the press, or approximately 700, mostly locally printed, editions have been privatized. Most of them are devoted to entertainment or advertising. Few provide essential public and political information and analysis. There are only nine national independent newspapers in Belarus (of which only one is published daily), one independent news agency, and a dozen regional newspapers providing essential information.

Independent newspapers, however, have been severely harassed and restricted by censorship, intimidation of journalists, and arbitrary fines and taxation. The office lease of Belapan, an independent news agency, was broken with one day's notice in February 1996, but it continues to function. Major independent newspapers include: *Narodnaya Volia*, *Belaruskaya Delovaya Gazeta*, *Belaruskii Rynok*, *Belaruskaya Molodezhnaya Gazeta*, *Belaruskaya Gazeta*, *Svabodnyie Novosti*, and *Imia*.

Independent press circulation remains low—it makes up only 10 to 15 percent of the official printed media circulation. The largest independent national daily, *Narodnaya Volia*, has a circulation of only 50,000 copies. Combined, the one-issue circulation for all state media is 2,000,000 copies; the

one-issue circulation of independent newspapers is just 500,000 (the latter being published less frequently). The government remains the owner and chief financial backer of nine major publications. Of seven daily national papers, six are government-controlled or partially subsidized. They include: *Narodnaya Gazeta*, *Soviatskaya Belarus*, *Zvyazda*, *Respublika*, *Belarusa Niva*, and *Znamia Yunosti*. There is one state news agency, Belinfarm.

The Ministry of Information has licensed more than 40 radio and 165 television entities. Of the total number of registered TV and radio stations, 16 were founded by the government (two with foreign partners), 104 by non-state small enterprises and joint-stock companies, 27 by public organizations, 17 by private persons, and 19 by legislative bodies. Only one-quarter of these are on the air. The State Committee on Television and Radio controls broadcasting. State-owned television controls one national station and several local stations. A number of small privately owned television stations are local operations that broadcast entertainment. The government closed BITA, a national network broadcasting on Channel 8.

In 1997, the Television Broadcasting Network (TBN) attempted to unite 16 non-state private local television companies into a national network; the effort met with state resistance. Belarus television faces stiff competition for viewers from the Russian stations ORT, RTR, and NTV. Some Russian broadcasts have been suspended for broadcasting unflattering reports of the government. Several Russian personnel from ORT were detained near the Lithuanian-Belarusian border in July 1997. The state owns the only national radio station, which broadcasts on three channels. One of the most popular radio stations is Radio-Roks-Minsk, which is registered in Moscow and broadcasts programs from Russia's capital. The country's independent radio stations, Radio 101.2 and "Radio NBK," were forced off the air by the government in August 1996. Radio 101.2 continues to publish the news on the Internet, and there are expectations that it will resume broadcasting from the territory of other states in late 1999. The Belarusian Service of Radio Free Europe also operates in Belarus.

4. Are the private media financially viable?
The government-controlled newspapers are financially viable. Official publications receive privileges, including state subsidies, which give mainstream papers a financial edge over privately owned competitors. Under a February 1999 edict of the president, the government should allocate about $400,000 in local currency for the support of local state press.

The slow pace of reform and the worsening economic situation pose financial problems for the independent press. Shortages of printing supplies, especially paper imported from Russia, can upset printing schedules because state publications receive priority. The prices for paper, publishing services, and the distribution of printed materials have quintupled over the last year. As a result, the prices for independent media are twice as high as for the state-owned press, while only six percent of Belarusian population can afford to pay $1 per month for a subscription. Exorbitant taxation and heavy fines have been used to try to bankrupt independent newspapers that criticize the president and the government. Even those newspapers that have been successfully developing as private businesses are considering applying for grants to the international donor community.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Most major independent newspapers that still function oppose the policies of the government. State-run newspapers and television and radio stations are unswervingly loyal to the regime. During mass demonstrations in March 1997, journalists, including those from the Russian and foreign media, were prevented from doing their jobs by police. Journalists were beaten and harassed, their equipment and film confiscated by authorities. Journalists affiliated with independent editions are often detained or face heavy fines simply for trying to do their jobs.

6. Is the distribution system for newspapers privately or governmentally controlled?
When independent newspapers were forced to publish in Lithuania after the government denied access to state printing facilities, the postal service was ordered to refuse delivery of newspapers not printed in Belarus, and Belarusian border guards were ordered to confiscate such publications. In March 1997, the Council of Ministers issued a decree (Number 218) that prohibited and restricted the movement of goods across the customs border. The decree specifically prohibits the import and export of printed, audio, and video materials or other news media containing information that could damage the economic and political interests of the country. On March 25, 1997, border guards detained the editor of *Narodnaya Volya* as he returned to Belarus from Lithuania with the day's edition of the

newspaper. Kiosks have been barred from carrying opposition newspapers.

The government controls most of the distribution of national newspapers through its monopoly on the dissemination system. Privately owned newspapers are distributed both by the government through official outlets and privately through the post office, hand delivery, street vendors, and kiosks. Nevertheless, the circulation of independent newspapers is seriously hampered by restrictive distribution policies. Kiosks may take only a limited number of copies from independent newspapers, and for each street vendor an independent media outlet must pay about $6 weekly, which influences the price of the independent printed editions. The state also monopolizes the printing facilities—Minsk has only one private publishing house capable of publishing newspapers, but its outdated equipment restricts publishing capacity. State-owned publishing houses may breach contracts with independent newspapers any time without notice. The independent media are heavily dependent on the state subscription services, whose authorities frequently do not include non-state-run newspapers in the subscription list even after the newspaper pays the appropriate fees.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The exact data on the level of Internet access are not currently available. The proportion of the population connected to the Internet is gradually growing, however. There are no legal restrictions on Internet access to private citizens. The major constraints on access are the price of an Internet connection and the small number of providers within Belarus.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

There are two major journalists' associations in Belarus. The Belarusian Association of Journalists (BAJ) is an independent nongovernmental organization with about 700 members, representing about 150 towns. The Belarusian Union of Journalists (BUJ) is another journalists' organization, state-oriented and controlled, which has about 2,000 members and many regional representatives. BAJ is the only Belarusian member of the International Federation of Journalists.

Several other Minsk-based NGOs, such as the Belarusian PEN-Center and the Law Center for Media Protection emphasize issues that concern the independent media:. The troublesome situation that Belarusian independent media face has brought them together in order to protect their rights, to solve common problems, and to develop international contacts. Two Associations were recently created but not registered with the authorities: the Association of Belarusian Editors and Publishers (uniting six national and six regional newspapers and an information agency—accounting for one half of the independent media, with a circulation volume of 230,000 copies), and the Association of Regional Press, uniting 14 regional newspapers. The data on proportional membership of women are not available. No restrictions seem to be imposed in this regard: a woman, Mrs. Zhanna Litvina, chairs the Belarusian Association of Journalists; women editors and journalists are actively participating in the work of all aforementioned associations.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Belarus "Partly Free" from 1992 through 1993, and "Not Free" from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 6.25/7

1. Is the legislature the effective rule-making institution?

The bicameral parliament is wholly subservient to President Lukashenka, who essentially rules by decree and by edict. According to the Helsinki Commission of Cooperation and Security report of 1998, the "legislative power is decidedly concentrated in the executive branch of government."

2. Is substantial power decentralized to sub-national levels of government? What specific authority do sub-national levels have?

Section V of the constitution covers "Local Government and Local Self Government." The country is divided into six oblasts and one municipality—Minsk, the capital. Major cities serve as administrative centers of the oblasts.

Local administration is centered on local councils (Soviets of Deputies), which are elected for four-year terms, and local executive and administrative authorities, which are appointed and dismissed by Lukashenka. Under Article 121 of the 1996 constitution, the jurisdiction of the local councils includes the "ratification of programs of economic and social development; the adoption of local budgets and reports on their fulfillment; the establishment of local taxes and fees in accordance with the law; the determination, within the limits specified by law, of the procedure for administration and disposal of communal property; and the scheduling of local referenda." Local councils may be dissolved by the upper house of parliament for violations of law. A five-year old law on local self-government is not observed in practice. In practice, the chairs of the executive committees of local councils are nominated by the president and approved by the full council. However, if the council rejects a proposed candidate on two successive votes, the president retains the right to appoint his nominee unilaterally.

3. Are sub-national officials chosen in free and fair elections?

Local, regional, and other sub-regional officials are appointed either by the corresponding legislative bodies or by the head of the local executive branch of power. The president has the right to appoint governors, who had previously been popularly elected, and who, in turn, appoint subordinate officials.

The latest local elections for district, city, and regional councils (soviets) were held on April 4, 1999, with the runoff on April 16, 1999, and another runoff scheduled for the fall of 1999. The new law "On the Elections of the Deputies of the Local Soviets of Deputies of the Republic of Belarus" was prepared by the executive authorities and approved by parliament in December 1998. The consultations on the law on local elections were held with the OSCE Advisory and Monitoring Group in Belarus (OSCE AMG), but they did not lead to the adoption of a law that adhered to accepted democratic norms. The local elections were held on a solely majoritarian basis, which precluded political parties and public associations from the possibility of having their candidates represented. According to independent Belarusian experts, the law provides election commissions with substantial influence over local elections. Opposition parties have boycotted local elections for these reasons.

According to the OSCE AMG report on local elections in Belarus, violations during the election process included "family voting; voting by several voters simultaneously; orientation of the representatives of the election commissions, in accordance with the received directives, on the overcoming of the barriers of 50 percent in the first round, and 25 percent in the runoff." Systematic monitoring of elections by local observers was conducted in only a few districts. According to the All-Belarusian Electors Club, "228 violations were registered in 115 polling stations—of 400 polling stations in Minsk, Vitebsk, Mogileu, Brest and 21 district centers, where the observation was organized."

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

The national parliament has become little more than a rubber stamp for presidential edicts and decrees. The government-run broadcast and print media, on executive whim, publicize presidential decrees, parliamentary resolutions, and legislation. Draft legislation is published randomly, in accordance with executive decision. For example, the draft Election Code to be approved by the end of 1999 was not published and will not be openly discussed. Both government bodies and the parliament operate without transparency.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments generally have sufficient revenues to carry out their duties and, to a large extent, have control over local budgets. They practice their right to raise revenues autonomously through local taxation or municipal ownership of industries or businesses. Most local funds, however, are based in the central state budget.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Most elected and appointed local leaders and local civil servants do not know how to manage municipal governments effectively. Many continue to practice managerial methods commonly used during the Soviet period.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

Changes in local power came into effect with the adoption of a new constitution in 1994 and subsequent amendments in 1996. Legislation on local power was first adopted in 1991, although the law on local self-government has proven to be ineffective. Major legislative changes affecting local power occurred at the Supreme Soviet of September-November 1994. The president was given the right to appoint local governors and heads of executive committees in the provinces. The centralization of power led to resignations and protests by some local officials. The Supreme Soviet adopted the Civil Service Law on November 23, 1993. In September 1997, President Lukashenka issued a decree (Number 16) on "Some Measures to Introduce Proper Order into the System of Material and Social Support of Civil Service Employees and Persons of Equal Status." The decree states that the Council of Ministers will set new salary rates. It also bans civil servants from "carrying out during working hours paid work (activity) which bears no relation to discharging duties ensuing from their position." Local civil servants are employees of the local government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 6.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Belarus's first post-Communist constitution was adopted in the 13th session of the Supreme Soviet of the Republic of Belarus on March 15, 1994. A controversial November 1996 referendum adopted amendments that extended the presidential term from five to seven years; gave the president power to annul decisions of the local councils, to set elections dates, to call parliamentary sessions, and to dissolve the parliament. The president appoints judges, including 6 of 11 Constitutional Court members, as well as one-third of the members of the Council of the Republic.

In 1996, the Constitutional Court ruled that the referendum and new amendments to the constitution were unconstitutional. Lukashenka ignored the court's decision, and seven members were dismissed or forced to resign in January 1997. Lukashenka loyalists now predominate in the Constitutional Court; by the end of 1996, judges composing the previous court had ruled that 17 of 19 presidential decrees were unconstitutional. In April 1997, the court abrogated its own resolution regarding the 1996 referendum. The chairman, a Lukashenka appointee, explained that the court was not to examine any presidential decrees because, according to the constitution, the court has no right to begin proceedings on its own initiative. In return for their compliance, Article 18 of the "Law on the Constitutional Court" entitles justices to receive lifelong pensions upon retirement. It also gives them the power to disband parliament.

Currently all courts in Belarus are coping with the provisions of the constitution, amended in 1996. In their decisions they have begun to quote not only the laws, but also presidential decrees, which have the power of law, according to the new constitution One former member of the Constitutional Court, Mikhail Pastukhov, notes that from January 1997 through the summer of 1999, President Lukashenka issued 92 decrees that significantly affect the activities of state bodies.

Presidential decrees, edicts, and directives hold more sway than constitutional provisions. Court rulings in cases which have a political component (as with the cases of former ministers Staravoytav and Lyavonov) are often suspect. Political processes, though, are gaining influence, as indicated by a recent court decision involving a former member of parliament, Andrei Klimov. He is accused of theft on the state level; the judge asked for nine years' imprisonment in this case.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The constitution approved by referendum in November 1996 protects human rights. Article 2 states that the "individual, his rights, freedoms, and guarantees for their attainment manifest the supreme goal and value of the state and society." Article 21 safeguards "rights and liberties," but Article 23 allows for the "restriction of personal rights and liberties" in the interest of "national security" and "public order". Article 13 states that "property may be the ownership

of the state or private" and that the state "shall regulate economic activities on behalf of the individual and society." The same article also guarantees equal protection and equal conditions for development of all forms of property. The constitution also protects the right of property as such (Article 44). These rights are abused in practice. Despite constitutional guarantees, abuses include violations of judicial procedure. Belarusian firms already face difficulties because of high taxes and other constrains.

The Belarusian government continues to violate its commitments under the Organization for Security and Cooperation in Europe relating to human rights, democracy, and the rule of law. Overall, OSCE compliance has not improved since the deployment of the OSCE Advisory and Monitoring Group in Belarus in the beginning of 1998. Freedoms of expression, association, and assembly remain curtailed. Administrative and economic measures are used to cripple the independent media, NGOs, small and medium-sized enterprises, trade unions, and political parties. There have been limited areas of improvement, such as allowing a few opposition demonstrations to occur relatively unhindered, but this "improvement" is deceptive—police will detain demonstrators even near their homes after events.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The Criminal Code of 1991 was amended in May 1994, and features provisions, including "dangerous crimes against the state" (Article 61-70) and defamation of the president, that are subject to political abuses. Article 61 bars plots to "seize state power by unconstitutional means," while Article 67 prohibits "calls for the overthrow or alternation of the constitutional state." Article 68 bans anti-state "propaganda." On October 24, 1997, Lukashenka issued a decree (Number 21) on "Immediate Measures to Fight Terrorism and other Especially Dangerous Violent Crimes," which lengthened mandatory sentences for certain crimes and extended the maximum time that a suspect may be held in custody without a warrant. On December 20, 1997, parliament approved new codes on criminal procedure and corrective labor. These included nearly 40 amendments to the previous codes, including measures drawn from Decree Number 21. The Correct Labor Code introduced a new form of punishment called "arrest," which allows a suspect to be held for 30 days without charge. The new code also ordered the construction of special "arrest houses" throughout the country, as well as the development of special camps for convicts serving life sentences. The Belarusian Helsinki Committee and the Belarus League for Human Rights reported numerous instances of prisoner abuse by police, including beatings, psychological duress, and the denial of medical care. Lengthy investigations are a common form of punishment in Belarus. Under law, once a suspect is charged, a trial must be initiated within two months, although in some cases the procurator general can extend pretrial detention to 18 months to allow for further investigation.

In June 1999, new Criminal and Criminal-Processual Codes were adopted in Belarus, but they will not come into force before on January 1, 2001. According to some lawyers and judges, no real reform of the judiciary is envisaged by these new documents. Investigative bodies remain under the control of three major state establishments: the Ministry of Interior, the Prosecution, and the Security Service. Investigators are appointed by the heads of the respective state establishments and are fully dependent on them.

Detainees are treated with cruelty and humiliation. In all types of cases, illegal methods of investigation are used in order to obtain confessions. Investigation and court examination often take a long time—from several months to several years. The cases of Staravoytav, Lyavonov, and Klimov were considered for more than two years. During this time the charged persons were remanded in custody.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Under the Lukashenka regime, judges are pressured to submit to government influence, particularly in cases deemed political. Judges owe their positions to the president—they are appointed and promoted by presidential decrees. They may be dismissed at whim by presidential edict, and they receive their salaries and housing from establishments representing the executive branch of power. The financial activities of judges from the highest courts (Constitutional, Supreme, Highest Economic) are managed by the executive.

The 1997 U.S. State Department human rights report states that "although the procurator's office categorically denies it, 'telephone justice' (the practice of executive and local authorities dictating to the courts the outcome of trials) is widely reported to continue." A majority of judges served under the Communist regime, though exact numbers are unavailable. The jury system has not been introduced.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The constitution of 1996 provides the president with the right to appoint and dismiss judges from the Supreme Court and the Constitutional Court all the way down to lower level judges. In addition, the president can appoint and dismiss the Prosecutor General and various ministers, such as those of interior and justice. This centralization of power in the president's hands diminishes the independence of the judiciary. The Helsinki Commission of Cooperation and Security, after visiting Belarus in late 1998, observed, "the independence of the judiciary has been further eroded, and the president alone controls judicial appointments."

The judicial system is essentially the same three-tiered structure that existed during the Soviet era: district, city or province, and republic. Judges continue to be influenced by the political leadership. Judges are dependent on the Ministry of Justice for sustaining the court infrastructure and on local executive branch officials for providing their personal housing. The president appoints 6 of the 12 members of the Constitutional Court, including the chairman. The remaining six are appointed by the Council of the Republic, which itself is composed partly of presidential appointees and partly of loyalists chosen by the pro-government oblast and Minsk city councils.

Courts' activities are tightly controlled both by the state justice bodies and the Security Council, working under the president. All "political" cases, as well as cases dealing with the administrative violations of the participants in protest actions, are followed with special attention. The process of collecting fines for administrative violations is under the strict control of the executive bodies. Judges are not directly subordinated to the Ministry of Justice, but are dependent on the judicial establishment, which provides them with technical and material support and human resources. The Ministry of Justice maintains judicial statistics.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Statistics on the number of lawyers in private practice may not be accurate because many lawyers employed by the state also have second or third jobs in the private sector. In May 1997, Lukashenka issued a decree (Number 12) that subordinated all lawyers to the Ministry of Justice, which now controls the licensing of lawyers. This decree effectively ruined the bar system and paralyzed private notary public functioning. Therefore, the number of lawyers with private practices has critically diminished over the past several years.

Quite a few lawyers, including a number of the president's opponents, have been stripped of their licenses. Even though there are some licensed lawyers who continue to provide the public with legal services, the state authorities are reluctant to extend or issue new licenses. These lawyers mostly participate in civil or economic legal proceedings.

Because of the expansion of private higher educational establishments, each year about 1,000 new lawyers graduate in Belarus (about 20 higher educational establishments prepare lawyers; of those seven are state institutions). According to a former Constitutional Court judge, Mikhail Pastukhov, the state now limits the number of law students educated in private higher educational establishments. Graduates of private universities are frequently discriminated against when seeking employment in state establishments. Women constitute more than 50 percent of all judges. The number of female judges is especially high in district courts and in administrative cases.

7. Does the state provide public defenders?
Under the existing Criminal Code, public defenders should be provided to indigent defenders (Article 249). However, according to human rights groups, this provision is often ignored in practice. Public defenders are often brought in by nongovernmental organizations, especially for "political" trials, since state attorneys are often afraid to participate in such proceedings.

The new Criminal Code, which says nothing about public defenders, will likely further limit the possibilities for public defenders' assistance in criminal cases.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
In late 1992, parliament adopted a national minorities law that, in addition to forbidding discrimination, expressly prohibits official inquiries, in written or verbal form, regarding a person's nationality. Thirteen percent of the population is Russian. Poles constitute 4.1 percent, while 2.9 percent of the population is Ukrainian. Non-Slavs constitute less then 2 percent. A 1992 law on freedom of religious beliefs and

organizations provides broad guarantees for freedom of religion. There is still bureaucratic resistance, however, to the major churches and to religion in general. Anti-Semitism persists. In a May 1995 referendum, 80 percent of the voters supported a presidential proposal to make Russian an official language. Virtually no higher or technical education is available in the Belarusian language. Women are underrepresented in upper levels of government and business management, even though the level of education of women is higher than that of men.

9. Are judicial decisions effectively enforced?
Judicial decisions are mostly effectively enforced, although there are examples of delay of verdict implementation.

CORRUPTION 5.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
In some ways, Belarus' totalitarian regime hinders the spread of corruption in the civil service, and the World Bank reports that corruption is less of a problem than in Russia. Nevertheless, corruption in the civil service is a problem, particularly in customs, border patrol, road inspection, medical services, tax inspection, and higher education admissions.

In October 1997, criminal proceedings were launched against the chief of the local customs service in Pinsk in the Brest region for accepting bribes. Civil servants often moonlight during working hours, and the government has taken steps to raise civil service salaries to discourage corruption. Virtually all services are susceptible to bribery. In June 1997, Lukashenka signed a parliamentary law on "Measures for Fighting Organized Crime and Corruption." Critics say that the president has used the corruption law as a pretense to crack down on businessmen and the private sector, political opponents, and officials opposed to his policies. Many well-publicized cases of high-level corruption may be political in nature. This makes information on individual cases less than reliable.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Allegations of high-level corruption persist, but many have a political dimension. In late 1996, participants at a meeting held within the framework of the national roundtable forum issued an Appeal to the Citizens and Supreme Soviet of the Republic of Belarus. The appeal, which was based on the independent news agency Belapan's allegations of corruption in central government bodies, accused Lukashenka and his immediate circle of "illegally setting up numerous funds" and a parallel state budget. It also accused them of having links with the Torgexpo company and the Makhmud Esambayev Fund and criticized "donations" to the president and high-level officials by enterprises and private persons and "resources from the shadow economy." In March 1998, a Belarusian businessman who appeared on Interpol's wanted list stated after his arrest in Poland that he had an "impressive number of documents proving that Lukashenka and his entourage are corrupt." He also said that Lukashenka had private accounts in European banks. Opponents of Lukashenka have characterized his high-profile anticorruption campaign, which was launched in the summer of 1997, as another lever of repression. In October 1997, Vasil Staravoytav, the head of Rassyet, the country's most successful agricultural joint-stock company, was arrested and charged with embezzlement. He had been a longtime critic of Lukashenka's support of collectivized farming. Agriculture minister Vasil Lyavomov was also arrested and charged with embezzlement. On November 12, 1997, the United Civil Party issued a statement accusing Lukashenka of starting a "criminal prosecution campaign to make management at all levels absolutely obedient to him." The statement, made after the arrests of Staravoytav and Lyavomov, also noted that former National Bank chairman Tamara Vinnikova, Vladimir Taranov, general director of the Fandok company, and Alyaksandr Kudimov, a member of parliament, had been arrested previously on corruption-related charges. In February 1998, police detained a Belarusian businessman Andrey Klimov, for embezzlement. Klimov's successful construction enterprise

had allowed him to launch a bank and a newspaper. Klimov was also one of the signatories of an appeal to the Constitutional Court to impeach Lukashenka.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
There are laws requiring financial disclosures by parliamentarians and senior politicians, as well as conflict-of-interest laws. Several anticorruption cases have been pursued. In a highly publicized case, National Bank chairwoman Tamara Vinnikova was fired and detained in January 1997 for alleged corruption. She was held without charge for almost a year before being placed under house arrest. The investigation has yet to provide evidence to substantiate any wrongdoing. Proceedings against former ministers Lyavomov and Staravoytav are ongoing.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?
Data from surveys of the reputable international monitoring organizations are not widely available in Belarus. According to a survey conducted in the Mohileu region by the Sociological Center (a local research group) in 1998 and in early 1999, the level of corruption has been cut in half.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
The existing Criminal Code contains several articles that outlaw bribery, embezzlement, abuse of power, and corruption. In June 1997, parliament passed and Lukashenka signed a law on "Measures to Fight Organized Crime and Corruption." In February 1998, Lukashenka ordered the establishment of a state committee for financial control over legislation on entrepreneurship and taxes. The body is part of the main investigation department at the State Tax Committee and will be responsible for protecting tax inspectors and preventing corruption in tax-collecting bodies. The president has vowed to continue issuing decrees to enhance the government's power to fight crime and corruption.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
Regional sociological polls indicate that approximately 39.8 percent of the Belarusian population still deems the fight against corruption among the highest priorities for state policy.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Belarus was ranked 58th out of 99 countries surveyed in Transparency International's 1999 Curruptions Perceptions Index, and received a score of 3.4 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 6.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
Much of the Belarus economy remains in state hands. A report issued by the European Bank for Reconstruction and Development (EBRD) in April 1997 estimates that by mid-1997 the private sector accounted for about 15 percent of GDP. (Some estimates suggest that if the informal economy is included, the non-state sector accounts for 40 percent of GDP.) As of February 1998, approximately 25 percent of the workforce was employed in the private sector.

2. What major privatization legislation has been passed? What were its substantive features?
Privatization in Belarus proceeded rapidly between 1991 and 1995. Since then, President Lukashenka's attachment to a state command-and-control economy has dramatically slowed the process. The key legislation was the January 1993 law on "Destatization and Privatization of Government Property," which sought to create the conditions for a "socially-oriented" market economy. A July 1993 program made

each citizen eligible to receive a non-transferable voucher. The value of the voucher depended on the citizen's years in the workforce. The program foresaw three methods of privatization: employee ownership, conversion to a joint-stock firm, and the auction of the enterprise. The Council of Ministers Committee on the Administration of Government Property managed the process, beginning with small retail enterprises. The committee aimed to privatize two-thirds of the state sector's 2,500 firms, with 50 percent of the privatization to be accomplished through vouchers. These goals were not realized as frequent delays plagued the program. Finally, in March 1995, Lukashenka effectively suspended the voucher-privatization plan by freezing the investment funds responsible for managing the vouchers. Some of the funds restarted in August 1995. By June 1996, when the distribution of vouchers ended, the great majority of Belarusian citizens had received vouchers. In 1996, privatization at the local level slowed, with 88 small enterprises being sold or transformed during the first 7 months of that year. In January 1997, the government reported that out of the nearly 2,500 state firms, 1,580 were sold at auctions, competitive sales, or bought by working collectives; 908 enterprises became joint-stock companies.

In October 1997, President Lukashenka rejected the government's privatization schedule, which, he claimed, was "selling off the country." On March 20, 1998, he issued Decree Number 3 on the privatization of state property. The decree suspended clauses in the 1993 privatization law on the approval of annual privatization programs. Local authorities still have the right to adopt their own program for the privatization of municipal property. The decree stipulates that state and leased enterprises will be transformed into joint-stock companies, along with proposals from employees coordinated with government structures. Previously, special privatization agencies handled such issues. In buying property, leased enterprises can pay up to 50 percent of the price with privatization vouchers and then receive a 20 percent discount for the rest of the property. In addition, payment can be deferred for up to 3 years if at least 30 percent of the price is paid in advance.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: Farmland has not been privatized to any significant degree. The World Bank reported in 1997 that only 52,000 hectares of land were in private hands and that 1,479,000 hectares were in the hands of private subsidiary and private agricultural workers. Approximately 82 percent of agricultural land remains in state hands.

Housing and land: Approximately 60 percent of Belarus's housing units had been privatized by January 1997, with most of the units transferred to current tenants. The government has balked at allowing private ownership and transfer of non-agricultural land.

Industry: Privatization of large industrial enterprises is virtually non-existent. Approximately 85 percent of industry remains in state hands.

Small business and services: The service sector, particularly trade, public catering, retail shops, and other small-sized enterprises, has been significantly privatized, accounting for more than 48 percent of privatization.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Communist-era managers have retained control of the few large and medium-sized enterprises that have been privatized, and the state owns considerable shares in joint-stock companies. State representatives, chosen from among specialists of branch ministries, control the economic activity of such companies, including Slavneft, an energy firm formed from the restructuring of three separate companies in which Belarus and Russia hold major shares.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

Public awareness of privatization is difficult to gauge, but before 1995 the government publicized privatization and encouraged Belarusian citizens to purchase vouchers. Since 1995, President Lukashenka has increasingly criticized privatization and taken measures to hamper it. State enterprise managers, particularly in money-losing operations, support state subsidies and oppose privatization, as do the directors of state and collective farms and agro-business enterprises.

MACROECONOMIC POLICY 6.25/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Belarus's basic tax laws were adopted in 1991 and 1992, with some modifications in 1995. Belarus does not have a unified tax code. Tax rates change frequently and without prior notice through presidential or parliamentary decree, and often apply retroactively. In a single week in May 1996, for example, five tax code changes were published. The cumulative tax burden is heavy: Belarusian taxes on local business often total more than 80 percent. The following basic taxes are levied: an income tax with marginal rates of 12, 15, 20, and 30 percent; a value-added tax (VAT) of, generally, 20 percent, with a 10 percent rate on some agricultural and household goods; an excise tax of 10 to 75 percent of gross sales; a corporate-profit tax of 30 percent of income before taxes; a land tax based on acreage; a fixed-asset tax of 1 percent of assets; a payroll income tax of 12 to 30 percent of employee salary; a profit-repatriation tax of up to 15 percent; a road-maintenance tax of 1 percent; a Chernobyl tax of 12 percent of total payroll; a retail-prices regulation fund of 3 percent of gross sales; an employment fund of 1 percent; a pension fund of 1 percent; a social-insurance fund of 40.8 percent of total payroll; and a hard currency tax of 10 percent.

In January 1997, President Lukashenka issued a decree "On the Improvement of the Collection of Fixed Sums of Profit Tax and Firm Sums of Income Tax," which listed basic rates of profit tax collected from enterprises and retail outlets. In July 1997, Lukashenka announced a five-year tax holiday for the Ford Motor Company that had opened a new plant outside Minsk, but he unexpectedly ended most of the exemptions in October. In August 1997, the State Tax Committee announced some changes to the amount of local tax that enterprises would have to pay (not to exceed 5 percent). The share of income and profit taxes as a proportion of 1997's total revenue was 14.9 percent. The income tax from individuals accounted for 10.2 percent, the VAT for 30.1 percent, excise duties for 13.1 percent, and customs duties for 8.4 percent.

The government has claimed that tax compliance is a problem. In August 1997, the State Committee for Taxation reported that in the first six months of the year, it audited 29,639 enterprises registered for taxation, or 29.2 percent of the total. It established breaches of tax law at 21,103 enterprises, or 71 percent of those audited. Over the same period, the committee audited 20,002 non-state-owned enterprises, disclosing tax violations in 13,349. Among businessmen-proprietors, 24,426, or 54 percent of those audited, were found to have breached tax rules. In February 1998, President Lukashenka ordered the establishment of a state committee for financial control over legislation on entrepreneurship and taxes. The body is part of the main investigation department at the State Tax Committee and will be responsible for protecting tax inspectors and preventing corruption in tax-collecting bodies. He sharply criticized "bungling or charlatanry on the part of individual civil servants ... including the tax inspectorate." Given Lukashenka's past history of trumping up charges, his tight control over the tools of the state, and his antipathy to private business, it seems highly probable that some of the charges of tax evasion are false.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Macroeconomic policies led to positive economic growth in 1996 and 1997, but relied mainly on a Soviet-type model of rapid credit expansion and large amounts of directed low-cost credit that has created serious inflationary pressure. As a result of significant revenue collection and cuts in expenditures, Belarus has maintained comparatively low budget deficits, amounting to 2 percent of GDP in 1996 and 2.1 percent in 1997. Subsidies to industry and agriculture are enormous, though most are accomplished by extending cheap credits from the National Bank of Belarus (NBB) and state banks, rather than from the budget. The World Bank reported that Belarus's official external debt is $900 million, or 6.9 percent of GDP. In 1995, Belarus adopted a stabilization program supported by the International Monetary Fund (IMF) and the World Bank in order to restore macroeconomic balance and gradually move the country toward a market economy. By mid-1995, however, progress had almost stopped, as the Lukashenka gov-

ernment abandoned plans to liberalize and reverted to many aspects of a command economy.

In March 1996, the IMF indefinitely delayed further tranches of loans because of Belarus's poor record in implementing economic reform. In September, the World Bank suspended its aid for the same reason. Moreover, the international financial institutions are unimpressed with Belarus's implementation policy. For example, Belarus diverted money from a $70 million IMF currency stabilization fund to pay off collective farmers and state oil refineries. In 1998, the World Bank decided to scale back its presence in Belarus because of the nation's poor record of economic reform. The IMF denied new funding for Belarus in June 1999.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The 1990 Law on the National Bank and Law on Banks and Banking Activities established the National Bank of Belarus. The NBB is not independent: because of pressure from the Lukashenka government, it operates a loose monetary policy. It is forced to shoulder the burden of subsidizing the loss-making sectors of the economy and clearing up wage and pension arrears, something it can only accomplish through printing more money. In 1999, for example, the NBB issued a 9.5 trillion-ruble credit to the agricultural sector to finance this year's sowing. Such credit expansion is Lukashenka's primary means of forestalling economic disaster.

A few recent examples illustrate the NBB's subservience to the executive. In January 1996, Lukashenka established the National Bank Council (NBC), composed of representatives from the federal government, "commercial" banks, and financial specialists. The NBC must approve all NBB decisions. Further, it is Lukashenka, not the NBB, who issues regulatory decrees to the banking industry; for example, he ordered banks to re-register by September 1996. A final example is the frequent replacement of NBB heads. In January 1997, Lukashenka fired NBB chairwoman Tamara Vinnikau after she had criticized some of his programs. She was subsequently arrested and charged with causing "damage to the state of major proportions" and corruption. She was formally charged later in the month with "exceeding her authority" and threatened with imprisonment. In March 1998, Lukashenka appointed the first deputy prime minister, Piotr Prakopovich, to head the NBB. Prakopovich has proved to be the most pliant of ministers.

The NBB tightly controls the 27 (as of 1998) banks in Belarus. Three major state-owned banks control 75 percent of total loans. The state directs credit to politically connected firms. State banks are mostly "owned" by groups of state enterprises that enjoy special insider privileges in their banks' lending activity. State banks are experiencing severe difficulties; Belarus Bank and the Belarus Savings Bank remain barely solvent. There are a few insignificant and small private banks. In April 1997, the Belarusian Bank for Development was registered. In May 1996, Lukashenka issued a decree that increases state control over the banking sector by giving the NBB the power to set all salaries in the banking sector. It also increases state control over banks by requiring them to increase the government stake in their charter capital. Interest rates were somewhat liberalized in October 1994.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The Belarusian ruble was introduced in May 1992. The exchange rate is not unified and there are severe limits on all forms of currency convertibility. The government nationalized the Interbank Currency Exchange in 1996. A monetary union with Russia has been planned for several years, although it has yet to take place. In January 1996, the NBB limited the amount of Russian and Belarusian rubles individuals can take out of the country to 500 times the minimum wage (100,000 Belarusian rubles, or $8.70). Also in January, Decree 31 forced businesses to sell their hard currency on local interbank currency exchanges and pay a ten percent tax on the purchased ruble amount in order to support local exporters. Firms that sell currency in an "untimely" fashion are subject to fines. By July 1996, it was effectively impossible to buy hard currency legally from banks or currency exchanges. In the hope of receiving IMF money, exchange controls were slightly liberalized in early 1999. This did not achieve the desired effect and controls were retightened immediately. In

March 1999, the NBB prohibited domestic firms from buying currency from foreign firms, forcing them to go to the government and trade currency at government-mandated rates.

The inconsistent mix of Lukashenka's inflationary policies of printing money to cover state credits and subsidies and the constant intervention by the NBB to hold up the national currency's value have led to several currency crises. In August 1994, an inflation-induced currency shortage cut the ruble's face value to 10 percent of its former value. Another crisis occurred in 1996, as the currency dropped from 13,000 rubles to the dollar in January to 26,000 rubles to the dollar during the course of the year. Yet another currency collapse occurred in March 1998. On March 17, President Lukashenka ordered firms and shops to return their prices to March 1 levels, reversing the price rises triggered by sharp falls in the ruble in the first half of the month. He told foreign-exchange kiosks to post backdated rates. The currency regained 20 percent of its value, but no dealers were actually willing to buy it. The president blamed the continuing fall of the currency on Russian speculators in Moscow, and on March 23, he told Belarusian banks to limit settlements with non-resident sellers. This drove down the value of the ruble still further in Moscow. It was hard to sell the currency at much less than 70,000 rubles to the dollar, yet the Belarus National Bank stood by an official rate of 33,460 rubles to the dollar, and the currency kiosks were posting a rate of 42,000. The value had plunged 50 percent since March 1997. In real terms, the ruble's value dropped almost 50 percent from May 1998 to mid-1999, following the changes in the government's currency control regime. The exchange rate was 250,000 rubles to the dollar as of April 1999.

Foreign exchange reserves in 1998 were $696 million. The current account deficit was 6.6 percent of GDP in 1998, much of it covered by Russian credit inflows. In 1994, inflation was over 2,200 percent, but it fell to 53 percent in 1996. In 1998 it was around 70 percent, and is estimated to jump again to an average of nearly 300 percent in 1999. These figures do not count the latent inflation caused by widespread shortages. This leads to even faster growth in black market prices and establishes the potential for an inflationary explosion if price controls are removed.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

A 1992 Law on Securities and Stock Exchanges led to the creation of a stock market. A security exchange exists with market-makers and brokers. There is a small amount of trading in government securities and bonds. A minimal regulatory framework exists for the issuance and trade of securities. As in other sectors, however, the legal rules are unclear. The State Inspection for Securities oversees and administers the activities of the stock market. Non-bank financial institutions controlled less than ten percent of the assets in the financial sector in 1995. The 39 investment funds handling privatization vouchers have yet to engage in any serious trading activity.

MICROECONOMIC POLICY 6.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Article 44 of the constitution guarantees the right to property. Article 86 of the Civil Code states that "the right to property represents the right of the person to possess, use, and dispose of his property, which is independent of other rights." Article 100 defines property as residences, dachas, gardening houses, plots of land, transport facilities, shares, stocks, securities, items of household and personal use, etc. The status of land is more problematic. Belarusians cannot privately own land, except if it is used for gardening (no more than 0.37 acres), housing (0.62 acres), or farming (2.5 acres). Both citizens and foreigners can lease land for up to 99 years. Foreigners need state permission to own land. In the November 1996 referendum, only 15 percent voted in favor of free trade in land. Land must be used for strictly defined purposes, which can only be changed with the permission of municipal councils. The transfer and lease of land may be performed only when the purpose is unchanged. Identification and confirmation of land rights is an ongoing issue.

As for expropriation, Article 44 of the constitution states: "The compulsory alienation of assets shall be permitted only for reasons of public need, under the conditions and the

procedures specified by law, with timely and full compensation for the value of the alienated assets…" Civil law calls for compensation in the event of expropriation. As noted above, in May 1996, the Interbank Currency Exchange was nationalized; but shareholders reveived only token compensation. In January 1997, Lukashenka issued a decree nationalizing Minsk's Komarovsky food market in order to avoid a "market crisis." The state set and enforced prices at the market until Lukashenka closed it down, throwing 20,000 retailers out of work.

Belarus is a member of the World Organization of Intellectual Property, the Paris Convention on the Protection of Industrial Property, and the Treaty on Patent Cooperation. Belarus created a framework for the protection of intellectual property in February 1993. It adopted another law on patents in April 1995. In August 1998, new legislation was enacted to protect intellectual property. While enforcement remains a problem, the latest laws seem to have had some effect on the number of kiosks selling pirated products.

2. To what extent have prices been liberalized? What subsidies remain?

Prices were liberalized in the early 1990s. In January 1992, the government freed the prices of 80 percent of wholesale goods and services, while maintaining price controls and subsidies on highly visible goods like food and energy. Industrial and consumer energy prices were liberalized further in August and December 1994. Lukashenka's accession to power brought back the widespread use of price controls. In October 1996, Lukashenka decreed partial freezing and complete regulation of prices. The edict froze prices for bread, milk, and other dairy products, and set maximum payments for rent. As for other goods and services, the edict prohibited any increases "without a corresponding increase in wages." In February 1997, the prime minister said that while the government was committed to a free market, the prices of housing services, medicines, and basic foodstuffs would all remain controlled. Price controls led to periodic shortages of certain goods because producers had to pay so much for raw materials. In September 1997, Lukashenka reiterated his support of price controls, and warned that "failure to obey my instructions in this regard will meet with extremely severe treatment from me."

Large subsidies go to farmers for agricultural goods. In general, price controls are used to compensate for the inflationary effect of expansionary credit policies. As in the Soviet period, such a combination not only does not halt inflation, it creates acute shortages.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

There are numerous laws, parliamentary decrees, and presidential edicts governing business, including laws on "Enterprises" (1990), "Entrepreneurship" (1991), "Procedures for Opening and Functioning of the Representations of Foreign Firms and Organizations and their Branches/Subsidiaries" (1991 decree of the Cabinet of Ministers), "Particularities of Formation of Foreign Enterprises on the Territory of Belarus" (1992 decree of the Cabinet of Ministers), "List of Activities Requiring a Special Permit (License) and of the Bodies to Issue Such Permits (Licenses)" (decree of the Cabinet of Ministers 1995), and other laws on foreign investment. Commercial and tax laws are unpredictably altered by the mercurial Lukashenka and applied inconsistently and arbitrarily by local bureaucrats.

There are more than 20 government agencies with the power to inspect any business at any time. Anonymous complaints are enough to trigger an audit of a company's finances. Fines are so common that they are a regularly budgeted revenue item. Deals with high-level officials are frequently not honored. Bureaucracies are slow to respond to questions and complaints. One general manager of a Belarusian-German joint venture complains that the "biggest problem for us is the inability to forecast how the rules of the game will change. They can change at any minute and change 100 percent. You cannot calculate your costs for one year ahead. A new enactment or decree can arise in any week, and they can come into effect retroactively." A February 1996 ban on new and amended business registrations by both foreigners and natives lasted four months and resulted in huge losses to firms (one unofficial estimate counts 40,000 lost jobs) and a tax revenue shortfall to the state. In

response to a parliamentary inquiry, the procurator general admitted that the suspension violated Belarusian law, but claimed his office did not have the authority to overrule Lukashenka.

Presidential Decree Number 208 in May 1996 modified the ban and required that all firms re-register by January 1, 1997 or else face a shutdown, ostensibly to weed out "illegal" firms and to "specify, unify, and systematize" the data in the Belarusian business register. The decree authorized the shutdown of firms that, among other things, engaged in activities outside the founding charter of the firm; failed to provide timely statistical information; and had losses in the previous fiscal year. The decree also enjoined the Council of Ministers to devise proposals to "adjust" the number of private sector firms in trade and "middleman" activities. Registration of new business was suspended in September 1998 and a re-registration decree issued in March 1999. Businesses can be denied registration if the owners of an enterprise own more than three other firms, if the office is at the same location as the owner's home, and if the business "intends to monopolize a market." Local authorities can liquidate existing businesses if they show losses for two consecutive years, if the assets fall below the amount available at registration, and if the line of work of a business changes. Public sector companies were not subject to these restrictions. In May 1999, the ban on new registrations was lifted. Accusations of financial impropriety and corruption are a favorite weapon of Lukashenka's, and one that he brandishes frequently to eliminate political enemies.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The courts, dominated by Lukashenka appointees and following government policy, are unreliable in adjudicating contract disputes and other business disputes. An effective dispute resolution system does not exist.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The State Anti-Monopoly Ministry was established in 1991, and legislation regulating its operations adopted in 1992 and 1993. Its early steps were encouraging, since one of its first policies was to break up a major trading conglomerate. Some trade monopolies were broken up in 1994 and early 1995. On the other hand, the Ministry appears to be a tool to enforce state control of firms and to control prices. It determines prices and profit margins for enterprises that actually account for 30 percent of industrial output, far more than one would expect "natural" monopolies to be producing. In July 1996, it was converted into the Ministry of Entrepreneurship and Investment. Insider dealing has hindered competition, with state managers and other government officials benefiting from "nomenklatura" privatization, limited, of course, by the president's commitment to a statist economy. The Belarusian constitution formally proclaims the equality of private and public enterprises. In practice, private businesses are often at a disadvantage compared with state-owned enterprises because they are subject more often to audits and inspections and frequently have more difficulties securing bank credits. Similarly, legislation mandates open government procurement policies, which does not happen in practice.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Import duties are paid as a percentage of the contract price of the product being imported. Import duties range from 5 to 90 percent. As a result of the customs union with Russia, tariffs have been introduced on some goods that were previously duty free. There are many informal barriers to international trade in Belarus. Perhaps the most basic barrier is the scarcity of hard currency. A February 1995 presidential decree requires that goods imported into Belarus be delivered within 60 days of the date of prepayment. Moreover, exporters have to sell 30 percent of their hard currency earnings. The NBB has restricted commercial banks from issuing more than $10,000 in prepayment for imported goods unless the foreign bank provides guaranteed repayment in full if the goods are not delivered.

All import or export transactions must obtain clearance from customs, an appropriate bank, and sometimes the Ministry of Foreign Economic Relations. In June 1997, the Council of Ministers issued Decree Number 793, introducing a pre-shipment check of certain products brought to Belarus outside of the countries of the former Soviet Union, excluding the Baltics. Corruption in the customs service also ham-

pers trade. In 1998, imports totaled $8.5 billion and exports $7 billion. Barter trade constituted about 34 percent of exports and 27.5 percent of imports. Russia is Belarus's largest trade partner, accounting for 65.5 percent of exports. The Russian economic crisis of 1998 has thus had a disproportionately harsh impact on the Belarusian economy.

7. To what extent has foreign investment and capital flow been encouraged or constrained?
Two basic regulations govern foreign investment: a November 1991 law on foreign investment and an amendment passed in June 1993. These laws establish some incentives for direct foreign investment. The State Committee on Foreign Economic Relations regulates foreign investment. There are three free economic zones in Belarus: in Minsk, Brest, and Gomel. It is not clear what "free" means in the Belarusian context. The investment climate in Belarus is poor. The major problem for foreign investors, as for domestic businesses, is the arbitrariness, inconsistency, and unpredictability of taxation, commercial, and trade law. In August 1995, Luka-shenka's decree Number 300 imposed a 20 percent VAT on foreign-owned businesses importing charter capital equipment or supplies, in clear contravention to the 1991 law on foreign investment. Article 31 of the 1991 law specifically exempts from duties and taxes foreign investors importing supplies, while Article 34 provides a more general five-year amnesty from such expenses. In September 1995, the Customs Committee in Belarus issued its own decree nullifying the August decree. This new decree was later overturned and revoked *ex post facto* by a Customs Committee decree in May 1996. In March 1996, Lukashenka issued Decree Number 120 amending the August 1995 decree: foreign-owned businesses were to be exempt after all. Despite the apparent contradiction between the Lukashenka and the Customs Committee decrees of March and May, the Customs Committee assessed tax duties as well as penalties for "tax evasion" until May 1996 on those foreign investors acting under the September 1995 decree.

Belarusian businesses do not believe that overturning unlawful decrees through court actions is likely to be effective. By law, foreign investment in banking, insurance, and stock exchanges may not exceed 50 percent of the outstanding shares. Foreign investors continue to avoid Belarus: net FDI flows between 1993 and 1998 were only $404 million. Cumulative per capita FDI from 1989 to 1998 is less than $40, nearly the lowest of all the former Soviet Republics. Only large foreign corporations have the financial resources to gamble on Belarus. Even large size does not guarantee success. In October 1996, Lukashenka abruptly canceled a planned investment in the Grodno tobacco factory by the U.S. tobacco giant RJ Reynolds. It had been in the works for two years.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
There has been no major restructuring of the energy sector, nor are there immediate plans to privatize energy and electricity. Belarus has a sizable refining capacity for oil and gas. Belarus itself produces only a small portion of its energy supply, importing approximately 90 percent of its energy, mainly from Russia. Inadequate cost recovery from consumers and foreign-exchange shortages have led to late payments for energy imports. In July 1997, Lithuania suspended electricity supply to Belarus for non-payment. In March 1998, Russia's Gazprom gradually began cutting back deliveries to Belarus due to arrears. Belarus manages these problems through a combination of barter deals, refinancing, and governmental agreements, again mainly with Russia. In October 1998, Russia approved an agreement in which its energy suppliers would accept Belarusian goods as payment. In March 1999, Russia announced it was selling gas to Belarus at the rate of $32 per 1,000 cubic meters, half the rate paid by Ukraine and Moldova. In October 1996, Russia and Belarus announced that they would operate in the framework of a "single energy system." The two countries agreed to convert Naftan, the largest Belarusian refinery, into a closed joint-stock company, with the Russian companies Lukoil and Yukos owning 51 percent. In January 1996, the government also agreed to sell 51 percent of the Mazyr oil refinery and 74 percent of the Novopolotsk refinery to the same companies. In October 1996, work began on a 4,000-kilometer pipeline from the Yamal peninsula to Hamburg, Germany that will transport natural gas from Russia to Western Europe. Two 575-kilometer pipelines will

be built in Belarus. In March 1999, Belarus decided to delay the construction of a nuclear power station for a decade.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 4.3 million in 1998. Women constitute 49 percent of the labor force. As of 1995, the economic activity rate was 74 percent for men and 59 percent for women. According to the Belarusian statistical office, in 1995 the unemployment rate was 2.7 percent, 2.2 for men and 3.3 for women. The overall unemployment rate fell to 2.2 percent in April 1999. These figures are misleading, however, since they count only those who applied for unemployment benefits. Since these benefits are marginal—averaging 588,000 rubles per month (around $2.40, or 7 percent of the average wage)—many do not even bother registering for them. In fact, only half of those registered for benefits actually receive them. Unofficial estimates of unemployment range as high as 30 percent.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Pensioners are well off relative to other groups in society. They received 3.6 million rubles a month in February 1999, in real terms 99 percent of what they received in December 1993. There are few problems with pension arrears. Pensioners' relatively high benefits are sustainable, if only because they make up a sizable proportion of Lukashenka's support. It is unlikely that he will reduce expenditures on them. Belarus spends 36 percent of its budget, or 13 percent of GDP, on social programs. Most of the spending, however, is concentrated on the non-poor.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Between 1988 and 1995, real per-capita income fell by 30 percent according to macroeconomic data or, if household data are used, by 44 percent. Average per-capita income in PPP terms was $197 per month. In February 1999, the average nominal income was 9.9 million rubles per month, 92.3 percent of income in December 1993. Wage arrears increased considerably in 1998, but have remained stable since.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The elementary school population fell from 635,000 in 1993 to 625,000 in 1996. Secondary school enrolment rose from 994,000 in 1993 to 1.06 million in 1996. The post-secondary population rose from 300,000 to 329,000 from 1993 to 1996. Some 85 percent of the eligible population were present in elementary school. The student-to-teacher ratio in 1993 was 7-to-1 (pre-primary), 20-to-1 (elementary), and 13-to-1 (secondary); in 1996,

the ratios were 6-to-1, 20-to-1, and 13-to-1. The proportion of GNP spent on education fell from 6.7 percent in 1993 to 6.1 percent in 1996. In 1996, there were 17 universities and 8 academies.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 23 per 1000 live births in 1998. The estimated 1999 birth rate was 9.7 per 1000 population. Life expectancy in 1998 was 62 years for men, the worst level since the 1950s, and 74 years for women.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

The health-care sector has experienced a dramatic decline in quality of service Belarusian incomes and output has contracted. The unemployed, pensioners, and children are particularly underserved. In 1994, Belarus had 37.9 doctors and 116 nurses per 10,000 people. The number of hospital beds per 10,000 population fell from 133 in 1989 to 117 in 1995. In 1995, Belarus as a whole spent 6.4 percent of GDP on health care, and 5.3 percent through the public sector, or 83 percent of the total.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The World Bank estimated that 22.5 percent of the population was below the poverty line. The CIA estimated that in 1997, 77 percent of the population was below the poverty line. In 1993, 6.4 percent of the population lived on less than $2 a day. Small-scale private agriculture provides between one-fifth and one-third of household income, and often makes the difference between the households that can and cannot escape poverty. This also means that poverty tends to rise in the colder months when private plots yield less produce. Rural areas suffer less poverty than urban ones. Single parents, one-worker families, and large families with children are most affected by poverty. There are no significant differences between male and female poverty. Pensioners suffer one of the lowest poverty rates in the country.

BOSNIA AND HERZOGOVINA

Polity: International protectorate
Economy: Mixed statist (transitional)
Population: 3,800,000
PPP (USD): 1,720
Capital: Sarajevo
Ethnic Groups: Bosnian/Muslim (44 percent), Serb (33 percent), Croat (17 percent), Others (6 percent)
Size of private sector as % of GDP (1998): na

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	na	5.35	↑5.13
Rule of Law	na	na	6.00
Economic Liberalization	na	5.67	↑5.58

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	323.0	299.0	445.0	669.0	815.0	972.0	1190.0
Real GDP growth (% change on previous year)	-12.1	-12.1	33.0	28.0	30.0	18.0	12.0
Inflation rate	na	780.0	4.0	-20.1	10.8	5.1	5.0
Exports (USD millions)	7.0	91.0	152.0	336.0	575.0	817.0	955.0
Imports (USD millions)	60.0	894.0	1082.0	1882.0	2333.0	2573.0	2398.0
Foreign Direct Investment (USD millions)	na	561.0	459.0	246.0	360.0	136.0	52.0
Unemployment rate	na	na	na	na	na	na	na
Life Expectancy (years)	70.0	70.0	72.3	na	na	77.2	67.0

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights				6	6	6	6	5	5	5	5
Civil Liberties				6	6	6	6	5	5	5	5
Status				NF	NF	NF	NF	PF	PF	PF	PF

Introduction

Of the five states emerging from the disintegration of the former Yugoslavia in 1991, Bosnia and Herzegovina has had arguably the most dramatic history. Inter-ethnic conflict erupted in the country even before international recognition was granted to Bosnia in April 1992. The Dayton Peace Accords (DPA), signed in Paris in December 1995, officially brought an end to Bosnia's 43-month long civil war. The DPA provided for the creation of two entities within the country, the Federation of Bosnia and Herzegovina covering 51 percent of BiH's territory, and the *Republika Srpska* (Serb Republic), comprising the remaining 49 percent of BiH's territory. As a result of forced expulsions, military activities, and other population flows, by the end of the war Bosnia had become three largely mono-ethnic enclaves.

To guarantee implementation of the DPA, the agreement provided for a large international presence in Bosnia. A NATO-led force, initially comprising some 60,000 soldiers, was given sweeping powers to control the movements of local military forces and their weaponry. The Office of the High Representative (OHR), was mandated by the United Nations Security Council to oversee and coordinate civilian aspects of the DPA, including the creation of a joint, statewide government, economic reconstruction, and the return of refugees. The Organization for Security and Cooperation in Europe (OSCE) was tasked with organizing and supervising postwar elections. Numerous other international organizations assumed other tasks as well, leading some observers to declare that post-Dayton BiH had become, de facto if not de jure, an international protectorate.

Despite this extensive international presence, implementation of many of the DPA's key objectives has not been achieved. Joint institutions have not functioned effectively, which has forced the international High Representative to unilaterally impose many important pieces of legislation on recalcitrant local authorities and governmental institutions. Seven years after the war began, BiH's political system is still dominated by the three ethnic nationalist parties and politicians that led the country to war in 1992. Many prominent indicted war criminals remain at large. Perhaps most importantly for BiH's future development, the vast majority of BiH's refugees and displaced persons have not returned to their prewar homes.

The limited progress on the political front has been matched by slow progress in transforming BiH's economy into a modern, free-market system. As a result of the war, BiH's economy largely disintegrated along ethnic lines, with Bosniac and Croat areas oriented towards trade with Croatia, and the RS oriented towards trade with Yugoslavia. The destruction caused by the war, of course, did significant damage to the country's economic infrastructure. Privatization has made little or no progress in the post-Dayton period, largely because the socialist system of economic management in place from the old system works to the advantage of the ruling parties. Unemployment has been a major problem throughout the post-Dayton period. As a result of the bleak economic situation, large numbers of educated, talented young people have left the country. By 1999, many international officials were claiming that corruption in BiH's political system had become the primary impediment to economic reform. In May 1999, the last of the international donor's conferences for BiH was held. The conference managed to raise the remaining funds needed to complete the $5.1 billion earmarked for economic reconstruction and renewal in 1995. With no further donor's conferences scheduled, however, and many international organizations turning their energies and resources towards Kosovo and other trouble-spots, Bosnia's immediate economic prospects look uncertain.

Democratization

POLITICAL PROCESS 5.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Bosnia and Herzegovina held its first multiparty elections since World War II in November and December 1990, while still a republic of the former Socialist Federal Republic of Yugoslavia (SFRY). The three leading nationalist parties, the Bosniac *Stranka Demokratske Akcije*

(the Party of Democratic Action, or SDA), the Croat *Hrvatska Demokratska Zajednica* (the Croatian Democratic Union, or HDZ), and the Serb *Srpska Demokratska Stranka* (the Serb Democratic Party, or SDS), won a majority in the prewar 240-member bicameral assembly. The *Savez Komunista Bosne i Hercegovine* (the League of Communists of Bosnia and Herzegovina, or SK-BH), which since the end of World War II had held a monopoly on power, won only 19 seats.

In November 1995, the Dayton Peace Accords (hereafter, the DPA, also referred to as the "General Framework Agreement for Peace in Bosnia and Herzegovina") ended 43 months of interethnic warfare between Bosniacs, Croats, and Serbs in Bosnia. Annex 4 of the DPA comprises the new constitution for Bosnia and Herzegovina (hereafter, BiH). Largely drafted by US State Department legal experts, the DPA established the country's legislative structure, as well as those of the country's two constituent entities: the Bosniac-Croat Federation of BiH (hereafter, the Federation) and the *Republika Srpska* (the Serb Republic, or RS). Bosnia's legislature is bicameral. The upper house is the House of Peoples, with 15 members (five Bosniacs and five Croats from the Federation and five members from the RS) chosen by the legislatures of the two entities. The lower house is the House of Representatives with 42 members (14 Croats and 14 Bosniacs from the Federation and 14 representatives from the RS) directly elected by proportional representation from the two entities.

The Federation's bicameral legislature consists of an upper House of Peoples, with 74 indirectly elected members, of whom at least 30 must be Bosniacs and 30 must be Croats, and a 140-member lower House of Representatives, with members directly elected by proportional representation. The Federation president, with the concurrence of the vice-president, nominates a government headed by a prime minister for legislative endorsement. Each minister must have a deputy who is not from his or her own ethnic group. The RS has an 83-member unicameral *Narodna Skupstina* (National Assembly) directly elected by proportional representation.

As envisioned by the Dayton Peace Accords, Bosnia's first postwar set of elections, organized and monitored by the Organization for Security and Cooperation in Europe (hereafter, the OSCE) were held in September 1996, despite protests from many NGOs and from several high-ranking international officials that conditions prevailing at the time would guarantee victory to the nationalist parties. Voters chose deputies for the statewide House of Representatives of B-H, the Federation's House of Representatives, and the RS National Assembly, as well as for the three members of the collective state presidency, and for the RS president.

The ruling nationalist parties did indeed dominate the 1996 elections. The final results of the September 1996 elections for the B-H House of Representatives gave the SDA 19 seats; the SDS 9; the HDZ 8; the multiethnic coalition Joint List, 2; the multiparty coalition *Savez za Mir i Progres* (the Union for Peace and Progress, or SMP, dominated by the *Socijalisticka Partija Republike Srpske*, the Socialist Party—RS), 2; and the *Stranka za BiH* (Party for Bosnia and Herzegovina, or SBiH), 2.

In balloting for the Federation's House of Representatives, the SDA won 78 seats; the HDZ, 36; the Joint List, 11; the SBiH, 10; the Bosniac-based *Demokratska Narodna Zajednica* (the Democratic People's Union, or DMZ), 3; and the *Hrvatska Stranka Prava* (the Croatian Party of Rights, or HSP), 2.

In balloting for the RS National Assembly, the SDS won 45 seats; the SDA, 14; the SMP coalition, 10; the SRS, 6; the multiparty *Demokratski Patriotski Blok* (the Democratic Patriotic Block, or DPB), 2; the SBiH, 2; the Joint List, 2; the *Srpska Stranka Krajine* (Serbian Party of Krajina, or SSK), 1; and the *Srpska Patriotska Stranka* (Serbian Patriotic Party, or SPS), 1.

Despite substantial evidence of widespread electoral irregularities and intimidation – voter turnout was 108 percent, according to one estimate – and the broader problems of restrictions on freedom of movement, association, and expression, the OSCE certified the election results on September 29. On January 3, 1997, the Parliamentary Assembly of Bosnia and Herzegovina approved the nomination of co-premiers Boro Bosic, a Serb, and Haris Silajdzic, a Bosniac, and the joint government met for the first time. In the summer of 1997, RS President Biljana Plavsic, after breaking with the SDS leadership centered in Pale, dissolved the RS National Assembly, which she accused of taking orders from "informal centers of power," a reference to the behind-the-scenes influence wielded by Radovan Karadzic. New elections were held on November 22 and 23, 1997, with a 70-percent voter

turnout. Thousands of Bosniac and Croat refugees forcibly displaced from Serb-held areas during the war voted by absentee ballot. The SDS lost its absolute majority in the RS National Assembly, gaining only 24 seats; the SDA-dominated *Koalicija za Cjelovitu i Demokratsku BiH* (Coalition for a United and Democratic BiH, or KCD-BiH) 16; the new Plavsic-led coalition, named *Sloga* (Concord), 15; the *Srpska Radikalna Stranka* (the Serbian Radical Party, or SRS) 15; the SP-RS, 9; the *Nezavisni Socijal-Demokrati* (Independent Social Democrats), 2; and the *Socijal-Demokratska Stranka* (the Social-Democratic Party), 2. The vote was generally free but not fair because of restrictions on the media and the limited ability of alternative parties to campaign and organize.

Although the SDS remained the single largest party in the new RS National Assembly, on January 18, 1998, Serb moderates, supported by deputies representing Bosniac and Croat refugees, backed a government headed by Milorad Dodik, a member of the Independent Social Democrats. Dodik thus became the first individual to hold high office in postwar Bosnia without links to one of the main nationalist parties. The Dodik government allied itself with RS President Biljana Plavsic and voiced its support for the DPA. In its first major decision, the Dodik government moved the RS capital from Pale to Banja Luka.

The latest round of legislative elections took place in September 1998. One of the major features of the 1998 elections was the emergence of a new Croat political party, the *Nova Hrvatska Inicijativa* (the New Croat Initiative, led by Kresimir Zubak). Zubak formed the NHI in response to the increasingly radical direction in which the HDZ mainstream, based in ethnically homogenous western Herzegovina, was going. Of primary concern to Zubak and the more moderate elements of the Croat leadership in BiH was the fate of the Croat community in central Bosnia, inter-mingled in small enclaves within much larger Bosniac populations.

Although the elections were again organized and monitored by the OSCE, opposition parties and several international NGOs claimed that the leading nationalist parties in the Bosniac, Croat, and Serb polities had an unfair advantage because of their control over state-owned media. Despite these complaints, the 1998 elections did witness some decline in the overall strength of the leading nationalist parties. In the voting for the BiH House of Representatives, the KCD—BiH gained 17 seats overall; the HDZ—BiH, 6; the SDS, 4; the Plavsic-Dodik coalition Sloga, 4; the SDP—BiH, 4; the Socijal-Demokrati, 2; the SRS—RS, 2; the DNZ—BiH, 1; Kresimir Zubak's NHI, 1; and the Radikalna Stranka—RS, 1.

The balloting for the Federation's House of Representatives further confirmed this movement away from the leading nationalist parties, at least in Bosniac-majority areas. In the 1998 elections, the SDA-dominated KCD—BiH won 68 seats (down from the 88 it had held together with Haris Silajdzic's SBiH); the HDZ—BiH won 28 seats; the SDP—BiH, 19; the Socijal-Demokrati BiH, 6; the NHI, 4; the DNZ—BiH, 3; the HSP, 2; the BPS, 2; the SP—RS, 2; the DS Penzionera, 2; the BSP—BiH, 1; the Koalicija Centra, 1; the HSS—BiH, 1; and the BOSS, 1.

In the voting for the RS National Assembly, the two main Serb nationalist parties, the SDS and the SRS, both lost ground. The SDS won only 19 seats; the KCD—BiH, 15; Biljana Plavsic's *Srpski Narodni Savez* (Serbian National Union, or SNS), 12; the SRS—RS, 11; the SP—RS, 10; Milorad Dodik's NSD, 6; the *Radikalna Stranka—RS*, 3; the *Srpska Koalicija za RS*, 2; the SDP—BiH, 2; the HDZ—BiH, 2; the NHI, 1; and the monarchist *Koalicija za Kralja i Otadzbinu* (Coalition for the King and Fatherland), 1.

2. When did presidential elections occur? Were they free and fair?

On November 18, 1990, while Bosnia and Herzegovina were still a part of the Yugoslav federation, presidential elections were held in which the three leading Bosniac, Croat, and Serb nationalist parties took control of six out of seven seats in the republic's collective state presidency. (One seat in the collective state presidency was given to a "Yugoslav" Ejup Ganic, who subsequently joined the SDA.) In December, the three parties named Alija Izetbegovic, a Bosniac and the president of the SDA as president of the state presidency; Jure Pelivan, a Croat, as prime minister; and Momcilo Krajisnik, a Serb, as president (speaker) of the Assembly.

Izetbegovic continued to lead the collective state presidency throughout the war that lasted in Bosnia and Herzegovina from 1992 to 1995. Annex 4 of the DPA provided for a directly elected, three-person collective state presidency composed of one member for each of the three constituent peoples of the state: the Bosniacs, Croats, and Serbs.

In the September 1996 race for the three members of the collective state presidency, the candidates of the ruling nationalist parties, Alija Izetbegovic of the SDA, Momcilo Krajisnik of the SDS, and Kresimir Zubak of the HDZ, easily won their seats. By gaining 40,000 more votes than Krajisnik, Izetbegovic was named chairman of the collective state presidency. Voting was marred by widespread electoral irregularities and intimidation; nevertheless, the OSCE certified the election results.

The 1998 statewide elections for the collective state presidency produced a mild upset in the race for the Serb member of that body, where the SP-RS candidate for the Serb slot in the presidency, Zivko Radisic, defeated the SDS's incumbent candidate, Krajisnik. Among Croats, Kresimir Zubak's attempt to hold on to his seat after breaking with the HDZ and forming his own party failed, and the HDZ's candidate, Ante Jelavic, defeated Zubak by a wide margin. Among Bosniacs, Alija Izetbegovic ran practically unopposed and won the Bosniac seat by a landslide, in what was probably his last electoral campaign.

The March 1994 Bosniac-Croat Federation Agreement that established the Federation provided for a president and vice-president, indirectly elected, who would serve alternating one-year terms as president and vice-president over a four year period. As of mid-1999, the Federation President was Ivo Andric Luzanski of the HDZ, and the Federation Vice-President was Ejup Ganic. In the September 14, 1996 RS presidential elections, Biljana Plavsic, Radovan Karadzic's former vice-president and acting RS president, won the RS Presidency in her own right, gaining 59.2 percent of the RS vote. Over the next several months, however, and under the influence of the more liberal atmosphere in Banja Luka, Plavsic started to part with her former Pale-based SDS colleagues. In July 1997, the SDS expelled Plavsic from the party for accusing its leadership of corruption. In early September 1997, forces loyal to the Pale leadership attempted to stage a protest rally in Banja Luka, which, according to some observers, was intended to turn into a coup against Plavsic. The NATO-led Stabilization Force (hereafter, SFOR), however, blocked buses carrying pro-SDS sympathizers from entering Banja Luka, and the threatened coup was averted.

In the 1998 RS presidential campaign, Plavsic, widely perceived as the West's favored candidate in the elections for the RS presidency, was defeated by Nikola Poplasen, the leader of the nationalist SRS—RS. Poplasen's tenure in office did not last long, however, as international officials soon began criticizing him for his alleged refusal to support the Dayton process, and especially for his unwillingness to cooperate with RS Premier Milorad Dodik. On March 5, 1999, the former international High Representative in Bosnia, Carlos Westendorp, dismissed Poplasen as RS President, creating a succession crisis that lasted throughout the summer.

Despite this elaborate governmental structure, however, real executive power in BiH rests with the international community's High Representative in the country, a position currently held by an Austrian, Wolfgang Petrisch. According to the DPA, the High Representative is the final authority in country for interpreting the peace plan, a role that gives him or her tremendous ability to determine political developments. Subsequent modifications to the DPA gave the High Representative additional powers, including, most notably, the right to remove from office publicly elected officials deemed to be obstructing the peace process. The most notable use of this power came with the removal of RS President Nikola Poplasen (see above).

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The DPA provides Bosnia and Herzegovina with a multi-party parliamentary system. Numerous parties compete for power at all levels of the political system, although until November 1997, only the three main nationalist parties actually ruled. At that time, power in the RS passed from the SDS (which had dominated Serb politics since 1990) to a coalition of opposition parties. In the Federation, however, power is still concentrated in the two leading nationalist parties, the SDA and the HDZ.

According to the DPA, the only legal restrictions placed on political parties is that their political platforms must not deviate from Dayton norms establishing an independent Bosnia-Herzegovina, and that indicted war criminals must not be nominated for public office. In postwar Bosnia (and, in fact, for every set of democratic elections in Bosnia in this century), however, most people have voted along ethnic lines.

Numerous political parties compete for office at nearly all levels of government. In the post-Dayton

period, a particular problem has been the emergence of a large number of small parties, based on a popular local politician, business leader, or war hero; often, these people enter the fray only to obtain campaign funding from the OSCE. Under the OSCE's campaign rules (in force for the 1996 elections), any individual who could gain 100 signatures on a petition could register as an independent candidate, and as such was entitled to funding from the OSCE. Two hundred signatures were required to register a political party. In the vast majority of cases, however, such parties have little or no organizational resources, poorly developed party platforms, and are usually unable to compete in entity- or state-wide elections. This proliferation of small parties has made the post-Dayton political systems among all three ethnic groups exceedingly complex; according to one estimate, in the RS there were 17 different parties that used the word "socialist" or "social-democrat" in their title. Among Bosniacs, defectors from the SDA have formed seven different parties. The OSCE has subsequently increased the number of signatures needed to register a political party to 10,000.

In areas with a Bosniac majority, opposition parties have faired best in Sarajevo and Tuzla; in the latter, the *Unija Bosansko-Hercegovackih Socijal-Demokrata* (the Union of Bosnia-Herzegovinian Social Democrats, or UBSD), led by Tuzla's popular mayor, Selim Beslagic, has held on to power from 1990 through the present, despite the SDA's repeated efforts to dislodge the opposition from its control over Bosnia's second-largest city. Similarly, in northwestern Bosnia, Fikret Abdic's DMZ has managed to make significant gains in cantonal elections, and to win control of the local government in the Velika Kladusa municipality. In February 1999, after a year of negotiations, the UBSD merged with Zlatko Lagum-dzija's *Socijal Demokratska Partija* (the SDP, successor to the prewar League of Bosnian Communists) to form a new, left-oriented *Bosanska Socijal-Demokratska Partija* (BSDP).

In the RS, the first signs of independent political activity began to emerge in 1996, largely centered on Banja Luka, the RS's only major city. By the summer of 1996, a number of opposition parties were competing against the SDS's dominance in RS politics; however, their activities (and successes) have largely been confined to areas west of Bijeljina. In the southern and eastern RS, the SDS and the ideologically similar SRS have dominated elections.

In Croat-populated areas (generally referred to as Herceg-Bosna), the HDZ has faced little serious opposition in the post-Dayton period; indeed, in the statewide and cantonal elections in 1996, and the municipal elections in 1997, the HDZ comfortably won over 80 percent of the Croat vote throughout Herceg-Bosna. The first serious challenge to the HDZ's dominance over Croat politics in Bosnia came in the summer of 1998, when the then president of the HDZ and the Croat member of the collective state presidency, Kresimir Zubak, split with the HDZ mainstream and formed the NHI to represent the interests of Croats from Central Bosnia. Despite Zubak's prominence, however, the NHI faired poorly in the 1998 elections, and Croat nationalists from Western Herzegovina continue to dominate Croat politics in Bosnia.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

As the prewar Yugoslav system began to democratize in the late 1980s, several non-Communist political parties began to emerge in Bosnia and Herzegovina. In early 1990, the League of Communists of Yugoslavia formally renounced its legal monopoly on political activity.

In the post-Dayton period, over 100 political parties have competed for power in the various sets of statewide, entity, cantonal, and municipal elections. As of mid-1999, no political parties had been banned or declared illegal, although international officials on several occasions warned the SDS and the SRS that they faced such a possibility if they did not moderate their policies and/or rhetoric. Several individual politicians, however, have been banned from running for public office (e.g., Radovan Karadzic, because of his indictment by the ICTY), or have been removed from office by the High Representative for obstructing the peace process (as in the case of the former RS President, Nikola Poplasen), who was removed from power on March 5, 1999, or for personal corruption (as in the case of the mayor of Sanski Most, Mehmed Alagic). Parties and individual politicians have also been prevented from being on the ballot for not having fulfilled criteria required by the PEC Rules and Regulations. In the September 1997 municipal elections, 82 parties were registered. For the September 1998 statewide elections, the PEC registered 67 parties competing for the various levels of government in BiH.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
Data related to political party membership is not available, for most parties are reluctant to release such information. Of the parties who are the largest, most well-organized, and able to conduct statewide (or at least entity-wide) campaigns, and the most important are the HDZ, the SDA, the BSDP, the SDS, the SP-RS, and the SRS.

The position of women in society has lost considerable ground since the breakup of the former Yugoslavia in 1991. In general, women have held few positions of leadership in politics in the post-Dayton period, with the notable exception of Biljana Plavsic, the former RS president. As of mid-1999, there were no women in the main leadership positions at either the state-wide or entity levels in BiH.

On the whole, women have been underrepresented in BiH politics. To make up for this deficiency, the OSCE instituted a new rule requiring at least 3 women to be among the top ten candidates of each party list. As a result, women's representation in the various legislatures has increased substantially. In the RS National Assembly, women made up 2 percent of the members in 1996 and 23 percent in 1998. In the Federation House of Representatives, their numbers increased from 5 percent in 1996 to 15 percent in 1998, and in the BiH House of Representatives, from 2 percent in 1996 to 26 percent in 1998. Despite these improvements, a recent public opinion poll commissioned by the OSCE found that 71 percent of women polled believed that political parties in BiH represent their interests "poorly" or "not at all."

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
Voter turnout in Bosnia's postwar elections has been quite high. In fact, in the September 1996 statewide elections, in Bosniac areas voter turnout was over 100 percent. In the September 1997 elections, the OSCE claimed a turnout of between 80 and 85 percent of registered voters. Approximately 70 percent of registered voters in the RS turned out for the November 1997 RS National Assembly elections. Gender-specific information on voter turnout is not available.

Female voter participation is generally lower than male voter participation. In the run-up to the 1999 municipal elections (which were postponed until 2000), an OSCE-sponsored public opinion survey found that only 38 percent of women polled said they intended to register to vote.

CIVIL SOCIETY 4.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
Most of the existing NGOs in Bosnia-Herzegovina came into being either during or after the war. Estimates of their numbers range from 250 to 500. Establishing an exact count is difficult because of inconsistent registration patterns and definitions of NGO activity. Indigenous training capacities for local NGOs are still in a developmental stage. Some international NGOs have taken root and have been very successful in the local environment. For instance, Save the Children has largely turned over its operation to indigenous cadres. A recent OSCE report claimed that a significant number of new NGOs have developed since the war, and that established NGOs are increasingly sustainable and willing to participate in the political process.

Many local individuals volunteer their time to religious charity groups such as the Catholic *Caritas* organization, the Muslim *Merhamet*, or the Serbian Orthodox Church's efforts, although exact figures are not available. Women's organizations appear to be among the strongest in financial and organizational terms. One prominent women's NGO is Medica-Zenica, which has strong ties to other women's groups throughout the former Yugoslavia.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Because legal reform in both the Federation and the RS is underway, the legislative framework for NGO activity in B-H is undergoing significant changes, which creates uncertainty about the legal and regulatory environment in which NGOs operate. Various laws regulate NGO activity in Bosnia-Herzegovina's two entities. In the Federation, a Law on Humanitarian Activities and Organizations (1995), a Law on Citizen's Associations (amended in 1995), and a Law on Foundations and Funds are all in effect. In the RS a communist-era law on Citizens' Associations is still in effect.

One recent analysis found that "NGOs operate under a confusing, fluid, and potentially restrictive array of laws . . . Regulations in the Entities are inconsistent, effectively prevent state-wide NGO registration or operations, and tend to create large scope for government involvement in the affairs of associations and foundations." Among the problems facing NGOs are the fact that there is no state-wide recognition of NGOs; those that operate in both entities have to register in both the Federation and the RS; a relatively high number of people (30) are required to register an NGO; there is no distinction made between mutual and public benefit organizations (an important distinction for taxation purposes and for gaining access to government grants/contracts); and the norms that regulate economic, income-generating activities of NGOs are lacking or inappropriate.

To improve the legal environment for NGOs in Bosnia, a task force of Bosnian lawyers involved with a project entitled "Law Education and Advocacy" (LEA) has been formed. The group's task is to foster the creation of a more conducive legal environment for the NGO sector, and to coordinate an advocacy campaign for the adoption of new legislation.

In mid-1999, a draft Law on Associations and Foundations was released to NGOs in BiH for discussion and debate. The draft law's purpose was to eliminate many of the shortcomings of earlier laws by reducing the number of individuals needed to register an NGO to three, and making courts, and not governments, responsible for registering NGOs.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The organizational capacity of the NGO sector varies from organization to organization and region to region within Bosnia. A greater concentration of project-oriented and institutionally developed NGOs is found in urban areas. The strongest concentrations of NGOs are found in Banja Luka, Sarajevo, Tuzla, and Zenica. NGOs are also hampered by a lack of knowledge in financial planning, accounting, and financial management.

Although observers of the NGO scene in postwar Bosnia described an initial enthusiasm for cross-entity collaboration, this appears to be stagnating. Activists claim this is due in part to the fact that meetings are convened along geographic (and, subsequently, ethnic, lines) and that more ambitious gatherings bring together organizations with little in common. Participants therefore do not understand why they have been brought together.

Training materials in the local language produced locally are rare. Practitioners/trainers still primarily come from the international community, although it is considered preferable to have local personnel serving in these capacities. Local NGOs are also hampered by a high turnover in members.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

In the postwar period most NGOs have not been financially viable, and have depended upon grants from foreign governmental agencies and international and foreign NGOs. Nevertheless, a recent OSCE report claimed that established NGOs are increasingly "professional, sustainable, and willing to participate in the political process." Although the large international presence in the country has provided local NGOs with resources, training, and technical assistance, it has also produced an "ownership gap." In many cases, NGOs have formed not out of a sense of mission or to address a need in the local community, but simply because funding is available for such activity. Varying donor priorities and donors' diverse funding cycles, which lead to excessive short term planning at the expense of more long-range think-

ing, has also hampered development of the NGO sector in Bosnia.

Bosnia's NGO sector also suffers from the lack of community or corporate philanthropy, and there are few, if any, tax incentives for businesses to promote contributions to the NGO sector. NGOs are also hampered by a lack of knowledge in financial planning, accounting, and financial management. To supplement their funding, some NGOs in Bosnia have turned to income-generating activities such as hairdressing or chicken farming. Because the legal environment in which they operate is still unclear, however, this blurs the line between not-for-profit and commercial business activities. Alternative funding methods, such as the collection of membership fees, fees-for-service, in-kind contributions and the like, are rare.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?
The constitution guarantees the right of workers to join independent trade unions, and this right is respected in practice. The largest union is the Confederation of Independent Trade Unions, which evolved from the Communist-era Yugoslav Trade Union Confederation. Specific numbers on the size of the membership are unavailable.

Strikes and collective bargaining are legal, although because of the country's bleak economic situation, workers have limited leverage and such actions are rarely practiced. Work on new labor legislation for the country was initiated in 1997. In 1999, however, the International Confederation of Trade Unions (ICFTU) criticized the World Bank and the OHR for asking the Bosnian parliament *not* to adopt the proposed legislation for fear that such legislation would not "create an adequate framework for creating a business environment that would attract private investment." Consequently, the ICFTU claimed "there continues to be no law regulating collective bargaining nor legal provisions for the democratic rights of workers to elect their representatives at the enterprise level." The ICFTU further claimed that neither collective agreements nor negotiations between labor, management, and government could take place absent a binding legal framework. According to the ICFTU, "Criticizing the management or simply insisting on your rights is still risky for workers and their families." Advocacy groups suggest that passing comprehensive labor legislation should take place before privatization begins.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
The constitution guarantees freedom of expression and association, and there are no explicit barriers to interest group participation in politics. In practice, however, it is difficult for members of local ethnic groups to have any influence in areas in which they are not in the majority. A variety of interest groups are active. Among the most prominent are women's groups, refugee associations, and organizations representing family members of missing persons.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
One recent report found that on the whole, the public, the media, and the government in Bosnia in general know little about the NGO sector in the country, and that some resentment seems to exist thanks to the perception that NGOs are well-financed by the international community. Coverage of NGOs by state-run broadcast media is limited, while private newspapers sometimes cover NGO activities and statements. Government officials generally offer little cooperation and do not engage with NGOs.

Government agencies usually are not openly hostile to NGOs, but seem to have little understanding of their work and the potential social and political benefits they can provide. Consequently, the governmental and NGO sectors are considered to be working in parallel instead of in an integrated manner, which reduces the NGO sector's capacity to influence governmental policy.

INDEPENDENT MEDIA 5.00/7

1. Are there legal protections for press freedom?
Restructuring the media has been one of the major

foci of the international effort in postwar Bosnia. The legal framework for the media consists of the Yugoslav-era 1990 Law on Radio-Television Sarajevo, and the 1990 Law on Public Information Systems. Postwar Bosnia's constitution declares that the European Convention on Human Rights applies to the country and has precedence over other law. The Council of Europe has held that the principles invoked in the European Court's judgements concerning freedom of expression and broadcasting regulation, among other rights, are directly applicable.

Numerous new laws on public and commercial media have been adopted in the post-Dayton period. In 1997, the European Institute for the Media submitted two draft broadcasting laws for the Federation. To have the force of laws, these would have to be adopted as treaties by the Federation's cantons since the Federation constitution vests authority for the regulation of broadcast media at the cantonal level.

The OSCE established a Media Experts Commission (MEC) to help promote a freer media environment during election campaigns, including freedom of movement for journalists and equal access to the media for political parties. During the September 1997 Municipal elections, the MEC enforced, inter alia, a prohibition against inflammatory speech and the right of journalists to travel within and between entities. In many cases, a media outlet chastised by the MEC for a violation did not commit further violations, although the MEC had limited power to impose penalties. Instead, it could submit matters to the PEC or to the PEC's Election Appeals Sub-Commission (EASC). The MEC referred several cases to the EASC, only one of which was found to meet the EASC's rules of admissibility. The case, against HTV-Mostar, a Croat station in western Mostar, arose after the station broadcast a combative speech by a former police commander. After the station refused to comply with the MEC's orders to adhere to professional media standards, the MEC referred the case to the EASC, which struck three HDZ candidates from the ballots for west Mostar municipalities. The MEC received no further complaints of violations by HTV-Mostar in the two weeks before the elections.

In June 1998, the Office of the High Representative (OHR) founded the Independent Media Commission (IMC), responsible for issuing licenses and setting fees for electronic media and bringing Bosnia's media legislation more in line with professional journalistic standards. In 1998 the OHR also began a campaign to re-structure TV-BiH and SRT. TV-BiH had frequently been attacked by the opposition for being pro-SDA, but the OHR appointed a new management team and a non-partisan governing council to regulate TV-BiH's programming, and international media watchdog groups claimed that its programming subsequently showed considerable improvement in providing viewers with more balanced coverage. The OHR similarly appointed an international supervisor to oversee SRT. In July 1998, Milorad Dodik's RS government attempted to remove the management at 16 local radio and television stations controlled by hard line elements in the Bosnian Serb leadership, but only succeeded in six of the stations. Among the most important tasks for local authorities are adopting legislation guaranteeing freedom of information and establishing reporter "shield" laws that would protect journalists' confidentiality of sources.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

Journalists face considerable difficulty in gathering news. Although journalists are increasingly traveling from one entity to another, especially from the RS to Bosniac-majority areas, freedom of movement for journalists continues to be limited. Journalists from the Federation have been beaten and mistreated in the RS, and on several occasions, Bosniac journalists have been harrassed in Croat-controlled West Mostar as well. During the September 1997 municipal elections, Bosniac journalists in Mostar had to obtain an OSCE escort to visit the western half of the city. The publisher of the Sarajevo-based *Slobodna Bosna*, Senad Avdic, has also claimed that due to local warlords, it is simply too dangerous for independent media organizations to base reporters in smaller towns such as Teslic or Sanski Most.

In the RS, local authorities frequently demand that television crews and photographers obtain prior authorization to cover public events. They also arbitrarily bar reporters from conducting interviews. In September 1997, an explosion destroyed the offices of *Alternativa*, the only opposition newspaper in the RS town of Doboj.

Articles 80 and 81 of the Federal criminal code criminalize libel, but there are no legal penalties for "irresponsible" journalism. On January 19, 1998, a Sarajevo municipal court convicted Senad Pecanin, the editor of *Dani* magazine, of criminal libel against Fahrudin Radoncic, the editor of the daily newspaper *Dnevni Avaz*, the unofficial mouthpiece of the ruling SDA. Pecanin had published an investigative report on Radoncic's business practices. In the first criminal libel conviction in BiH, the court gave Pecanin a two-month suspended prison sentence.

The Pecanin case ushered in a new strategy on the part of governmental authorities to reign in the independent media. During the course of 1998, the various ruling parties, through the judicial systems under their control, increasingly began to prosecute journalists for criminal defamation. Generally, the accused journalists in such cases are given suspended sentences for periods of up to one year, during which, if they are again charged with the violation of any law, they can be jailed for their previous conviction.

In July 1999, the international High Representative, Carlos Westendorp, issued a decision decriminalizing libel and defamation, and calling for new legislation to deal with these issues. Westendorp also issued a new deadline for state and entity authorities to adopt proposed new legislation on Freedom of Information.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Exact figures on the percentage of privately owned media in BiH are not available. Of the state-run media, some were partially privatized in a process halted during the war and not restarted since. The ownership and legal status of these semi-private papers remains uncertain.

Major private or semi-privatized newspapers in Bosniac-populated areas include *Oslobodjenje*, which has a circulation of 10,000 and has been partially privatized; *Vecernje Novine*, with a circulation of 8,000; *Dnevni Avaz*, a private newspaper with a circulation of 20,000; *Ljiljan*, a private weekly with a circulation of 40,000; *Dani*, an independent monthly with a circulation of 33,000; and *Slobodna Bosna*, an independent bi-weekly with a circulation of 30,000. In Croat-majority areas, the main paper is *Hrvatska Rijec* (circulation unknown). In the RS, the private and semi-private print press includes *Glas Srpski*, with an estimated 1997 circulation of 2,000; the daily *Dnevne Nezavisne Novine*, with a circulation of 8,000; *Novi Prelom*, the Social-Liberal Party's monthly with a circulation of 5,000; and *Reporter*, an independent Banja-Luka based weekly, with a circulation of 12,000. In Herceg-Bosna and the RS, publications from Croatia and the FRY, respectively, also have a wide circulation.

In broadcasting, private media in Bosniac-majority areas include two television stations – Studio 99, which receives funding from the US-based Open Society Institute, and TV Hayat—and several private and semi-private radio stations, including the Sarajevo-based Radio Stari Grad, half of which is owned by the municipality. In Croat-majority areas of the Federation, the commercial HTV Mostar station strongly supports the HDZ, and, despite being nominally private, receives financial assistance from local authorities. In the RS, there are several private broadcasters as well, although, as in the Federation, most have links to political parties. These include three private television stations in Banja Luka – NTV Banja Luka, Bel—TV, and ATV, which receives support from the OHR—and numerous local radio stations.

Several European countries sponsor the Alternative Information Network, which, since 1996, has provided articles free of charge to the media. The Swiss government and the Soros Foundation fund Radio Fern, which can be heard by 80 percent of the population. Another postwar addition to the airwaves is the Open Broadcast Network (OBN), an internationally managed and funded network, which first broadcast in September 1996. As of 1997, OBN reaches approximately 60 percent of the country. The OBN, perhaps because it has played a role in breaking the monopoly of the state broadcasters, has been embroiled in confrontation with the government of Bosnia over allegations of misuse of funds and improper registration procedures.

4. Are the private media financially viable?

Private media are not as a rule financially viable. Because of poor economic conditions, most newspapers and magazines have difficulty in securing a circulation base. The population has limited purchasing power, with the cost of a daily newspaper being beyond the means of most people, and there are political barriers to distributing newspapers throughout the country. As a result, only an estimated five percent of the population

reads newspapers. Most print media rely on international aid or the support of domestic political parties.

The international NGO community has been especially active in supporting the independent/alternative media in the postwar period. For instance, the Open Society Institute, together with the BBC, funded the creation of training courses for journalists in Sarajevo in 1997. A similar project has been initiated in Banja Luka. The organization PressNow has funded three radio stations in the RS, one in Mostar, and several television stations throughout the country.

Although there is little private investment in the media, international officials have decried the fact that there is significant "hidden" public financing of various media outlets, in which various TV or radio stations, or newspapers, become linked to public officials who influence the way in which news is reported.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The BiH media in the postwar period have on the whole enjoyed significant editorial independence. Although state-owned media (primarily television broadcasters) tend to support official government positions, there are a large number of both electronic and print media that freely publish and air views extremely critical of ruling officials.

The editorial orientation of the press in Bosnia is largely defined along communal lines. With the possible exception of the OBN, no print or electronic media in postwar BiH have editorial policies which could be called trans-ethnic, and the reach of most media outlets is confined to the ethnically-controlled territory from which it originates. Most private media have independent editorial policies, although they can be broadly characterized as pro-or anti-government. Government-run broadcast media often function as arms of the state and are used to rally support for nationalist leaders. One study conducted in 1997, for instance, found that Hrvatska Radio Televizija (Croatian State TV, or HRT), Srpska Radio Televizija (Serbian Radio Television, or SRT), and TV-BiH (the main television broadcaster in Bosniac areas) devoted five times more airtime to the ruling parties than to all of the opposition parties combined.

Because of the country's dire economic situation, buying print media is considered a luxury few can afford. Consequently, television and radio are the main sources of news and information. Broadcast media in Bosniac areas are the most diverse, although their editorial positions tend to reflect the political position of local authorities. The Sarajevo-based TV-BiH considers itself to be the official, national broadcaster, but its coverage favors the SDA and opposition views receive limited coverage. Electronic media in Croat-majority areas of the Federation are the least pluralistic and the most tightly controlled, with nearly all media adhering to the HDZ party line. In November 1997, HTV-Mostar's editor-in-chief resigned rather than follow an OSCE directive to apologize on air for his station's endorsement of ethnic enmity between the city's Bosniac and Croat communities.

In the RS, the most important member of the broadcast media is *Srpska Radio-Televizija* (SRT). In 1997, control over SRT became the centerpiece in the struggle for power between President Biljana Plavsic and Radovan Karadzic. SRT broadcasts controlled by Karadzic backers frequently challenged the Dayton Accords and made inflammatory statements against Plavsic and SFOR. In August, pro-Plavsic technicians and journalists in Banja Luka revolted against the pro-Karadzic management, stopped re-broadcasting news from Pale, and began their own broadcasts. On September 1, SFOR troops seized an SRT transmitter station in northeastern Bosnia after SRT broadcasts incited Karadzic supporters to attack NATO troops in and around Brcko. SFOR troops returned the tower to the control of Pale-based hardliners on condition that they include one-hour, daily, prime time, unedited programs of opposing views supplied by Plavsic's supporters and NATO, and that they soften their anti-Plavsic, anti-NATO rhetoric. Meanwhile, High Representative Carlos Westendorp continued to insist that Momcilo Krajisnik, at the time the Serb member of the collective state presidency, and other politicians leave SRT's board of directors. On October 1, SFOR troops seized control of four SRT television transmitters after SRT failed to implement the agreed conditions, but control of the transmitters was returned after an international management board for SRT was put into place. The numerous local private radio stations tend to be politically aligned with either the Pale- or Banja Luka-based Bosnian Serb political leaders.

Newspapers have also been publicly criticized by key political figures. In general, the print media present

a broader range of opinion, from starkly nationalist to supportive of interethnic cooperation, than do the broadcast media. In November 1997, Alija Izetbegovic called three independent magazines "traitors" for publishing articles revealing Bosniac war crimes against Croats and Serbs in Sarajevo. A day later, the country's Muslim religious leader told the leading public television channel that people should mobilize against media outlets that attack "Muslim values." The print media face little overt censorship, although in June 1997, Sarajevo police confiscated issues of *Polikita*, a satirical Lukavac-based monthly, from kiosks and street vendors and detained some people involved in publishing the magazine. *Polikita*'s cover had compared Izetbegovic to former Yugoslav leader Josip Broz Tito.

Most experienced journalists left the country during the war and few have returned. Many of those who stayed have left journalism. As a result, most journalists' formative experience came during the war, when they felt pressured to report "patriotically." The professionalism has suffered commensurately.

6. Is the distribution system for newspapers privately or governmentally controlled?

There are both state and privately owned distribution systems for print media. Many newspapers rent space from the network of kiosks owned by the state. In the RS and Croat-majority areas of the Federation, however, independent and opposition media have difficulty in gaining access to the state-run kiosks. In Croat areas, many kiosks will not sell private newspapers that do not support the ruling HDZ, or that originate in the Federation's Bosniac-majority areas or the RS. In the RS in 1996 and 1997, kiosks that tried to sell publications from the Federation were regularly vandalized. After Izetbegovic denounced several independent publications for "treason," the Sarajevo magazine *Dani* experienced difficulties with state-owned printing facilities and the state distribution company.

Some papers take advantage of commercial distribution networks. *Oslobodjenje*, for example, has its own distribution network in addition to its contract with the privately owned Opresa distribution network. *Dani* relies on individual newspaper sellers, the Opresa network, and, in Croat-majority areas, the Hrvatski Tisak distribution network. Even the commercial distribution network, however, has come under political influence. In 1997, as part of a plan to rehabilitate aging newspaper kiosks, the Sarajevo municipal government redistributed the contracts to operate kiosks. Preference has been given to kiosks owned by Avaz, the parent company of the pro-SDA *Dnevni Avaz* newspaper, at the expense of Opresa, which distributes the more editorially independent *Oslobodjenje*. Few newspapers are distributed across entity lines. One exception is the RS daily *Dnevne Nezavisne Novine,* which has a distribution agreement with the Sarajevo daily *Vecernje Novine* to make both papers available in Sarajevo and Banja Luka.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

Information on the number of people connected to the Internet is not available. There are 1.41 Internet hosts per 10,000 residents of BiH. Restrictions on Internet access to private citizens generally result from limitations in technical capacity. Cyber cafes and reading rooms exist in Banja Luka, Mostar, and Sarajevo, and individuals at the Universities of Sarajevo and Banja Luka have access to the Internet, although because high demand, only for limited periods.

The Internet made its debut in Bosnia during the war, when in 1993 the ZaMir (For Peace) Transnational Net, funded by the Open Society Institute, was set up by the Forum of Tuzla Citizen's, and intended to promote inter-ethnic contact. The Forum succeeded in providing electronic mailboxes to over 700 Internet users in the Federation during the war. Unfortunately, funding for the ZaMir network ended in September 1995, and the networks subscribers were unable to pay the fees due to the German server. Moreover, the state-owned Bosnian PTT (Post and Telecommunications) company was not dedicated to freeing up phone lines for Internet use.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The most important press and journalists' associations include the Independent Union of Professional Journalists of BiH, the Association of Journalists of BiH, the Independent Union of Journalists of Republika Srpska, the Association of Journalists of Republika Srpska, the Syndicate of Professional Journalists of the Federation of BiH, and the Association of Croat Journalists of BiH.

No information is available on the proportion of women in the membership of these organizations.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Bosnia "Not Free" from 1994 through 1998 and "Partly Free" in 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 6.00/7

1. Is the legislature the effective rule-making institution?

According to Annex 4 of the DPA, the Parliamentary Assembly has responsibility for enacting legislation; deciding on the sources and amounts of revenues for the government; approving a budget; and ratifying treaties. While the legislatures are the effective rule-making institutions in Bosnia and in the two entities, the process is cumbersome and slow. Under the constitution, a proposed parliamentary decision can be declared to be "destructive of a vital interest" by any of the three communities by a majority of the delegates of a particular community, an option repeatedly invoked in the post-Dayton period. In order to pass, such a proposed decision then requires a majority vote in the House of Peoples by each of the three communities. In the Federation, laws must be approved by the Council of Ministers before being sent successively in draft and proposal form to each of the two houses of the Federation parliament, which then must approve them in identical form.

In the RS, the control over the National Assembly had been one of the focal points in the power struggle between President Biljana Plavsic and Radovan Karadzic. In August 1997, a month after Plavsic dissolved the SDS-dominated parliament and called for fresh elections, the National Assembly passed a series of decrees aimed at undermining her authority, including measures to strip the president of her exclusive authority over the army, a postponement of the September 1997 municipal elections, and a demand that her supporters surrender broadcast facilities that they had recently taken near Plavsic's base in Banja Luka. The subsequent National Assembly elections in November 1997 substantially diluted the SDS's grip on power. The coalition of pro-Plavsic and pro-Dodik forces, however, which often have to rely Bosniac and Croat votes to pass legislation, have not been effective in designing and passing legislation.

In neither the Federation, nor the RS, nor at the statewide level, however, can the legislatures be considered the effective rule-making institutions. Legislative institutions at all levels of government are frequently deadlocked, whereupon the international communities' High Representative in the country has to impose solutions under powers granted to him by the Madrid conference of December 1998. This situation, in turn, makes BiH appear to function as a de facto, if not de jure, protectorate of the international community.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

According to Article III (3) of the DPA, all powers and authorities not specifically granted to central institutions reside with the entities. Thus, for instance, the central government consists of only three ministries (foreign affairs, foreign trade, and civil affairs and communications), while each of the entities has a fully developed government, including defense and interior ministries.

Within the Federation, power is further de-centralized between Bosniacs and Croats, with Croat-majority cantons making up a para-statelet, Herceg-Bosna that was supposed to be disbanded under the DPA. As one indication of the strength of the cantons under this system, in 1998, the Federation's state budget amounted to less 50 million KM, while the budget for Tuzla-Podrinja canton amounted to several hundred million KM. The RS is organized as a centralized, unitary entity, although there have been frequent calls for a more regional approach to governmental organization in that entity.

Bosnia's municipal councils have limited powers. They are primarily responsible for providing health, education, and other social services; water, electricity, and sewer services; and issuing marriage licenses. In the RS, municipal governments are somewhat more independent, given the fact that the central RS government has not been able to disperse financial rewards in significant amounts.

3. Are subnational officials chosen in free and fair elections?

Bosnia-Herzegovina's first postwar local elections were held on September 13 and 14, 1997. Organized by the OSCE, 19,584 candidates vied for 4,789 seats on 136 municipal councils (75 in the Federation and 61 in the RS), each of which had between 15 and 70 seats. With the exception of the 159 independent candidates, the seats were allotted by proportional representation.

The vote was a test of one of the key principles of the Dayton Accords: that people forcibly expelled from their homes should be able to return and participate in the local political process. The voting was initially scheduled to be held in conjunction with national and entity-level presidential elections in September 1996. In was postponed in August 1996, however, because massive fraud was uncovered in the registration process, particularly in the RS. The Dayton Agreement permitted displaced persons to register to vote in the municipality in which they were currently residing if they could prove they had lived there before August 1996, while refugees could register to vote in a municipality where they intended to reside. Bosnian Serb leaders manipulated these rules, however, by encouraging their supporters who were refugees or displaced persons to register in strategic locations such as the town of Brcko, even though they had not lived there before the war and did not intend to live there afterward. Continuing problems with the registration process resulted in two more postponements.

In order to minimize the possibility of such fraud, the OSCE modified the original rules. Under the new regulations, refugees registering to vote in a municipality other than the one in which they resided in 1991 must demonstrate a connection to the municipality based on property, business, employment, or an invitation from a relative who had lived in that municipality before the war. Of 485,000 refugee voters, only a few thousand refugees ultimately attempted to register to vote in a municipality other than the one in which they lived in 1991, and only a few thousand received approval to do so. Many observers, however, argued that the fact that displaced persons were still able to vote in their new municipalities was a tacit acceptance of "ethnic cleansing." In addition, while the OSCE took effective action after discovering several major instances of fraud during the registration process, there were numerous reports of unchecked small-scale fraud.

In order to ensure maximum international supervision of the voting, the number of polling stations was reduced to 2,139—almost half of the amount employed in the September 1996 elections, and a foreign supervisor was assigned to each station. An additional 300 international observers were deployed throughout Bosnia-Herzegovina on election day. During their campaigns, both the SDS and the HDZ threatened to boycott the elections, apparently over concerns that they would lose political control over strategic towns. Days before the vote, however, High Representative Carlos Westendorp convinced the parties to participate. Some observers criticized Westendorp for making major concessions in order to persuade the parties to participate. For example, the OSCE added 2,918 Serbian voters to the registration lists in the disputed town of Brcko after talks between Westendorp and then Serbian President Slobodan Milosevic. In addition, part of the divided city of Mostar was excluded from the polls.

In another controversial decision prior to the vote, the OSCE had ruled that the hard-line Serbian Radical Party would be decertified from the elections in Pale for deploying posters bearing Karadzic's picture, in violation of the July 1996 agreement by which Karadzic agreed to remove himself from public life. On September 16, 1996, Ambassador Robert Frowick, the chief of the OSCE mission, overturned the ruling after citing fears that it would endanger the lives of election observers and make it more difficult to implement the electoral results in the area.

While most observers credited the OSCE with organizing an administratively sound vote, there were some polling-day irregularities. Croat officials in the formerly Serb-dominated town of Drvar in the Federation delayed Serb voters, thereby forcing the OSCE to extend voting hours in the town. In addition, some Bosniac refugees faced delays and intimidation while being taken by bus to vote in the RS. In Zepce, Croat officials failed to open three polling stations, which eventually opened without any Croat officials manning them. Election-day violence was reported in the northwest Bihac region, where one man was wounded by gunfire and two hand grenades were thrown.

The overall environment in Bosnia and Herzegovina was not conducive to a free and fair vote, particularly because of continuing restrictions on freedom of movement, association, and expression. The ruling parties

enjoyed far better access to the local media than did the opposition parties, especially in the Croat-dominated areas of the Federation and in the RS. Pale-based Serb leaders refused to broadcast election-related Western-generated materials that offered pluralistic viewpoints. Television in areas under Muslim control tended to present only the views of the SDA. The activities of opposition parties received very limited coverage. In the Croat-majority parts of the Federation, the media did not cover activities of non-Croatian parties or of Croatian parties that opposed the platform of the ruling HDZ. The OSCE disqualified several HDZ candidates in Mostar as punishment for broadcasting highly inflammatory statements on Mostar television. The restrictions on freedom of movement were arguably of greater concern in the local elections than in the 1996 national and entity-wide balloting, since the elections were for municipal offices and a significant share of the population could not return to their municipalities of origin. In addition, approximately 67,000 people living on the Federation side of 18 municipalities divided by the Inter-Entity Boundary Line (IEBL) were not able to vote.

After a turnout determined by the OSCE to have been between 80 and 85 percent of the registered voters, the final results gave 45 parties or coalitions at least one seat on a municipal council. The three ruling parties won the most seats, although their power was diluted somewhat at the local level. Of the 4,789 municipal seats, an SDA-led coalition won 1,618; the SDS, 980; the HDZ, 640; the SRS, 509; the SP-RS, 329; the Social Democratic Party, 192; and the Joint List, 63. Most notably, Bosniac-based parties scored a majority in Srebrenica, the scene of mass executions and purges by Serb forces in June 1995. The Joint List won in Tuzla, the only municipality where a non-nationalist coalition won.

The one territorial issue in BiH left unresolved by the DPA was control over the strategically located town of Brcko, which lies across a narrow corridor linking the northern and eastern parts of the RS. Before the war, 20 percent of the town's population of 87,000 was Serb. Serb forces captured the town in 1992, after which the town's Bosniac and Croat population was forcibly expelled. Several thousand Bosniacs and Croats allegedly were killed as well. The Dayton agreement required the parties to submit Brcko's political future to binding arbitration, with a Serb administration governing the city until a final disposition.

Bosniac officials sought the return of Brcko, arguing that failure to return the town would reward ethnic cleansing. Serb officials countered by noting that according to that logic, towns such as Drvar and Bosansko Grahovo, which prior to the war had 90 percent Serb-majorities but were given to the Federation by Dayton, should be given to the RS, and that Brcko provides them with a secure link between the two parts of their entity. In February 1997, a U.S. arbitrator ruled that Brcko would remain under Serb control, but be placed under international supervision until a final decision on its status was rendered in 1998. This gave the town's international supervisor, an American diplomat, the power to rule by decree. He used his power to install a Bosniac as the head of the city council, demand that non-Serbs head several municipal departments, and integrate the police department. On March 5, 1999, the final arbitration decision was announced. Brcko was removed from exclusive RS control, and the Federation and the RS would henceforth share "sovereignty" over the town; in effect, Brcko was made a "third entity" within post-Dayton BiH.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

The constitution requires each chamber of Bosnia's central parliament to deliberate publicly and to publish a complete record of its deliberations. In general, however, political and governmental institutions in Bosnia and its two entities operate with limited transparency. Politicians at both the statewide level and at the entity-level often try to prevent opposition media from gaining access to official news and information.

Virtually none of the joint institutions of Bosnia function properly or effectively. This has forced the international community to adopt a more aggressive approach to resolving deadlocks between the three ethnic groups. On many of the major issues confronting Bosnia in the post-Dayton period—such as creating a common passport, citizenship matters, and the composition of the diplomatic services—international officials have often had to impose solution on the parties. At the Bonn Conference held in December 1997, the members of the Peace Implementation Council formally gave the international High Representative in Bosnia and Herzegovina the power to break deadlocks and impose solutions on problems when local leaders are unable to agree on important matters. The Bonn Con-

ference also gave the High Representative the right to remove publicly elected officials from office.

In the RS in 1997, the power struggle between President Biljana Plavsic and Radovan Karadzic resulted in the division of many institutions into factions supporting Plavsic, who is based in Banja Luka, and Karadzic, who was at the time based in Pale. While the situation has improved somewhat, more nationalist Serb leaders still carry much influence in large parts of the RS, especially in the eastern and southern parts of the entity. Because of the international community's heavy involvement in almost every aspect of governance in Bosnia, obtaining draft legislation is relatively easy. Print and electronic media often do stories on issues before the various parliaments and assemblies, and international organizations hold press conferences and disseminate a wide variety of materials on their websites.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

The organizational structure defining entity-local government in the Federation and the RS differs significantly. The Federation has a de-centralized system based on devolving powers to what are primarily ethnically based cantons, which then devolve certain powers to municipalities. In the two ethnically mixed cantons of the Federation—Central Bosnia and Herzegovina-Neretva—however, Bosniac-majority municipalities take their guidance from SDA/Bosniac authorities in Sarajevo, while Croat-majority municipalities take their guidance from HDZ leaders. In theory, municipalities and cantons are supposed to raise revenues autonomously. In practice, however, Bosniac municipalities send their funds only to Bosniac financial institutions based in Sarajevo, while Croat municipalities send their revenues to the financial institutions of Herceg-Bosna, which are completely integrated with the Croatian financial system. Consequently, the Federation in essence has two separate educational, pension, and health systems functioning.

The RS has a more centralized political and budgetary system. Since the RS is organized as a unitary state, in principle the RS central government plays a large role in collecting and disbursing governmental revenue raised at all levels of government. Given the depressed level of the RS economy, however, the RS central government has mostly lacked the financial resources to distribute substantial sums to local governments. The practical effect has been to increase municipal autonomy. Over the past several years there have been a number of calls for the RS to become more decentralized, and to allow for greater local/regional initiative in the collection and allocation of public revenues. These calls have usually come from the more prosperous areas of the RS close to Banja Luka, which have the most to gain from such reorganization.

All levels of government in Bosnia and Herzegovina face chronic budget shortages due to the devastated economy or local corruption; in fact, corruption is often greatest at local levels. As a result, instead of local economic activity being a source of revenue for local governments, it often becomes a means to finance the ruling parties.

In order to fulfill one of the chief goals of the DPA—to provide for the return of refugees and displaced persons to their pre-war homes—in 1997 foreign donors adopted a strategy of "conditionality," which links international reconstruction assistance to municipal governments to the return of refugees. The program met with limited success in some Federation towns, such as Konjic, Busovaca, and Vogosca, and several RS municipalities expressed interest in attempting to qualify for Open Cities money. It soon became apparent, however, that the cost of the program—over $80,000 per returnee—made it impractical for use on a large scale.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Most municipal governments, particularly small ones, have very limited technical staff and lack sufficient management capability. In addition to these limitations, however, a peculiarity of the prewar communist system is the extent to which local bureaucrats can exercise control over everyday life in BiH. Rulings by local civil servants and municipal officials, sometimes known as "administrative justice," often prevent individuals from exercising their legal rights. Noting the many layers of bureaucracy an ordinary citizen must deal with to obtain documents, building permits, etc, a recent report on civil administration in BiH noted that "government officials—protected by a wall of seemingly incomprehensible laws and regulations—intimidate

ordinary people." Adding to the problems caused by the bureaucratic labyrinth created under the old system is the fact that the war has added a dimension of ethnic prejudice to the actions of local administrations. A recent study found that an excessively high (40 percent) number of appeals against administrative rulings are overturned, an indication that local officials are not familiar with the procedures themselves, or that they often come under pressure from local politicians.

7. When did the constitutional/legislative changes on local power come into effect? Has there been a reform of the civil service code/system? Are local civil servants employees of the local or central government?

Local self-government in the RS is based on the 1994 Law on Territorial Organization and Local Self-Government, which divided the RS into 63 municipalities, and required the RS government to transfer various powers and responsibilities to local organs. Practices and procedures of local governments in the RS are still based on the former Yugoslavia's 1986 Law on General Administrative Procedure. A 1994 Law on State Administration and a Law on Labor Relations in State Organs regulate hiring and firing procedures in the RS.

In the Federation, the 1997 Law on Administration in the Federation regulates the division of governmental responsibilities between the federation, cantonal, and municipal levels of government. Another 1997 law, the Law on the Basis of Local Self-Government, outlines the rights of municipalities. Hiring and job evaluation in the Federation are based on a 1998 Law on Labor Relations and Salaries of Civil Servants.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 6.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Under the DPA constitution, BiH is a unique political entity, composed of both a federation and a republic, each essentially with the right to establish confederal ties with neighboring states. The central government, based in Sarajevo, is in charge of foreign relations, trade and customs, monetary policy, finances of the institutions of the central government, international and inter-entity law enforcement, international and inter-entity communication, and inter-entity transportation. The official head-of-state is a three-member presidency, composed of one Bosniac, one Croat, and one Serb. The presidency is responsible for foreign policy; the execution of decisions of the Parliamentary Assembly; and the proposal of an annual budget. It also has civilian command authority over the armed forces. The constitution also provides for a Council of Ministers, a bicameral Parliamentary Assembly, and a Central Bank.

In addition to the civil and criminal courts, the DPA also established a Constitutional Court, a Supreme Court, and a Human Rights Court. The Constitutional Court consists of nine members, four of whom are selected by the House of Representatives of the Federation, two of whom are selected by the RS National Assembly. The President of the European Court of Human Rights selects the remaining three members, who cannot be citizens of either BiH or of a neighboring country. (After five years, the Parliamentary Assembly can provide a different method of selection of the three judges selected by the President of the European Court.) The term for the Constitutional Court's initial judges is five years. Subsequent appointees will be able to serve until the age of 70. The Constitutional Court can rule on any constitutional dispute between the entities, or between Bosnia and Herzegovina and an entity or both entities, including whether any law is consistent with the constitution. In the Federation, there are municipal courts that have original jurisdiction in most civil and criminal cases, and cantonal courts, which have appellate jurisdiction over the ten cantons' municipalities.

According to the DPA constitution, the entities have all residual governmental powers and authorities not expressly granted to joint statewide institutions. The entities are specifically responsible for maintaining civilian law enforcement agencies. Defense, taxation, and other functions not specifically vested in the central government are reserved for the entities, although by agreement some of these may be assumed by the central government after five years. With a two-thirds majority vote, the legislatures of the Federation and of

the RS can veto a federal presidency decision that relates to the entity. Under the Dayton agreement, the High Representative is to oversee implementation of the DPA's civilian provisions. According to the DPA, both entities were to have brought their constitutions into conformity with the DPA by March 1996. As of late 1999, this had yet to be done.

Judicial enforcement has been uneven, particularly at the entity level. In the Federation, Croat-majority cantons refuse to recognize the authority and jurisdiction of the Federation's Supreme Court. The RS Constitutional Court came under severe political pressure during the 1997 power struggle between Plavsic and Karadzic. On August 15, the court ruled against Plavsic's decision to dismiss the RS National Assembly and call for early elections, deeming Plavsic's actions unconstitutional. Several of the judges on the court from the Banja Luka area refused to attend, however, and one pro-Plavsic judge was beaten in his hotel room in Pale shortly before the decision.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The DPA constitution guarantees freedom from torture and inhuman or degrading treatment or punishment, the right to a fair trial, the right to privacy, freedom or religion, freedom of expression, freedom of assembly and association, the right to own property, and freedom of movement and residence. The constitution also states that all citizens without discrimination on the basis of sex, race, language, religion, or other grounds shall enjoy such freedoms. In addition, it provides that all refugees and displaced persons have the right to return freely to their homes of origin. Refugees and displaced persons have the right, according to Annex 7 of the Dayton Accords, to have property they lost during the civil war restored to them, or to be compensated for such property.

The constitution provides that the European Convention on Human Rights applies in Bosnia and Herzegovina and has precedence over other law. The Council of Europe has held that all of the principles expressed in the European Court's judgments concerning freedom of expression, regulation of hate speech, and regulation of broadcasting are directly applicable.

Annex 6 of the DPA established a Human Rights Commission consisting of an Ombudsman and a Human Rights Chamber. The Ombudsman has the task of investigating initial complaints regarding alleged human rights violations filed by citizens. Serious cases that the Ombudsman cannot settle are referred to the Human Rights Chamber, a judicial body that makes final and legally binding decisions.

While the human rights situation has improved considerably since the end of the war, significant problems remain. The right of refugees and displaced persons to return to their former homes – a key provision of the Dayton Accords—has been difficult to achieve. As of mid-1999, some 1.2 million people who had fled or had been forcibly expelled from their homes during the Bosnian conflict still had not returned. Of those, 840,000 are internally displaced persons, and 350,000 are officially designated as refugees living outside of Bosnia. Most returns had taken place in so-called "majority-held" areas, where the returnee is a member of the dominant local ethnic group. 11,000 Bosniacs and Croats have returned to the RS, while some 66,000 Bosniacs, Croats, and Serbs have returned to areas in the Federation where they are in the minority.

Returns of internally displaced persons dropped from 160,000 in 1996 to 50,000 in 1997, suggesting that most displaced persons able to go home have already done so and that further returns could remain limited as long as minority returnees are impeded. Refugee returns increased only slightly in 1997, from 85,000 to 100,000. Approximately 80 percent of the returns took place in the Federation. Only five percent of the refugees originating in the RS have returned. Half of the returnees have resettled in places other than where they came from originally. Returns to the RS have been exceptionally difficult throughout the post-Dayton period. This is due to several factors: local political obstructionism on the part of nationalist leaders; the denial of international economic aid to the RS, which makes it a less attractive destination for prospective returnees; and the fact that the RS itself is flooded with Serb refugees from Croatia and displaced persons from federation territory.

In all three ethnically controlled areas, members of ethnic minorities faced violence, intimidation, and other pressure by the authorities, state-organized civilian mobs, and thugs, who sought to make them move or prevent them from returning to their homes. Often, such incidents appeared to have at least tacit approval from local authorities. RS authorities have also on oc-

casion pressured internally displaced Serbs not to return to their home in the Federation.

A further barrier to the return of refugees and internally displaced persons is the failure of many towns to seat multiethnic, elected municipal councils due to strong-arm tactics by the ruling nationalist parties. In towns such as Srebrenica, Bosniacs are reluctant to return until elected members of their own ethnic group are seated on the municipal councils.

In February 1998, Alija Izetbegovic, the chairman of Bosnia and Herzegovina's collective state presidency and the Bosniacs paramount leader, reluctantly agreed to stop preventing Croats and Serbs from returning to Sarajevo and accepted a goal of 20,000 returnees by the end of 1998. The new RS prime minister, Milorad Dodik, similarly pledged to resettle 70,000 non-Serb refugees and displaced persons in the RS in 1998. Neither goal was achieved.

Freedom of movement across the IEBL has improved significantly since the end of the war. Freedom of movement in the Federation has also improved, but continues to be restricted. In a positive development in January 1998, Bosniac, Croat, and Serb leaders agreed on the design of a new motor vehicle license plates that make it virtually impossible to tell whether the car is registered in the Federation or the RS. The previous license plates disclosed the car's city of registration and thereby increased the likelihood that its occupants would be harassed.

In 1993, the U.N. Security Council established the International Criminal Tribunal for the former Yugoslavia (ICTY) in The Hague. By mid-1999, over half of those individuals publicly-indicted by the ICTY were in custody in the Hague. International officials have criticized all three factions, (most especially the Serbs, however) for their lack of cooperation with ICTY authorities. ICTY officials have also frequently complained about the refusal of Croatia and the Federal Republic of Yugoslavia to hand over important documentary evidence or actual war crimes indictees. ICTY officials have also publicly complained about the U.S.'s refusal to turn over important intelligence evidence it possesses relating to wartime events in Bosnia.

NATO made its first arrests of war crimes suspects in June 1997, with the first action to apprehend tow Bosnian Serb suspects in Prijedor (one was arrested, one was killed while being arrested). Since then, NATO has apprehended numerous individuals. During the course of 1998, NATO arrested eight war crimes suspects, and four indictees turned themselves in. In March 1998, a Serb pleaded guilty to raping four Bosniac women in 1991, marking the first time that an international court had won a conviction for rape as a war crime. In December 1998, the ICTY indicted two prominent members of the Croat war-effort in Bosnia, Mladen Naletilic, alias "Tuta," and Vinko Martinovic, alias "Stela," stemming from their involvement in various war crimes committed by Croat forces in the Neretva river valley during the fighting between Bosniacs and Croats in 1993-94. Some of the most prominent people indicted by the ICTY, however, such as Radovan Karadzic or Ratko Mladic, remain at large.

Police continue to be among the main violators of human rights in the country. Instances of punishment for violations are few. In the February 1997 shooting of Bosniacs by Croat police officers in Mostar, the U.N. International Police Task Force (IPTF) identified five police officers involved in the incident. The higher court in Mostar issued suspended sentences for three officers and acquitted the two others. Also in 1997, however, the Sarajevo police force took disciplinary measures against several police officers after the IPTF substantiated seven cases of alleged abuse during the first six months of the year. Local police forces have also been accused of failing to enforce judicial decisions.

In both entities, the IPTF is restructuring and training police forces on the bases of internationally recognized standards of proper police procedure and human rights. In December 1998, the UN signed a framework agreement with the RS calling for the reform, restructuring, and democratization of police forces in the RS, and requiring a minimum number of Bosniacs and Croats to be hired. By the end of 1997, six of the ten Federation cantons had formed multiethnic police forces. In all three ethnic areas, however, authorities maintain Communist-style secret police units that operate outside of the normal police chain of command and that have not been restructured.

Numerous restrictions on the right to privacy have been registered. In August 1997, after RS special police controlled by Plavsic seized control of the police station in Banja Luka, monitors from the IPTF found numerous tapes and transcripts that were part of an elaborate eavesdropping operation by hardliners loyal to Karadzic. The operation wiretapped the telephones, fax machines, and offices of Plavsic, two judges of the

constitutional court, and other prominent figures in Banja Luka.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The criminal procedure code in place for much of the post-Dayton period has been a holdover from the Yugoslav era and did not provide for adequate due process rights. Police had wide latitude to detain suspects for up to six months without filing formal charges. On 29 July 1998, the Federation House of Representatives adopted codes to replace the Criminal Code of the Socialist Federal Republic of Yugoslavia as well as the Criminal Code and Criminal Procedure Code of the Republic of Bosnia and Herzegovina. The President of the Federation subsequently signed the codes on 6 November 1998. In the RS, reform of the Republika Srpska Code and Criminal Procedure Code is underway.

Arbitrary arrests and detentions continue, although the number has decreased significantly since the early postwar years. Some war-prisoners may still be held. In 1996, it was discovered that a Bosniac official in Zenica was illegally incarcerating two RS soldiers in what was effectively a private prison. Police reportedly arbitrarily detained some members of ethnic minorities in the apparent hope of using them to bargain for the release of prisoners of their own ethnic group.

Police and prison officials in all areas of the country are responsible for beating suspects and detainees. Prison conditions are poor and are below minimum international standards. Moreover, many of the judicial districts in the country have a tremendous backlog of cases to deal with. In Tuzla, for instance, the local court system has a backlog of 30,000 cases of organized and violent crime. In 1998, it managed to obtain 1,050 convictions, but most of those convicted were released on parole.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Judges often do not rule fairly and impartially. For example, a U.S. State Department report noted that in April 1997, an RS municipal court in the town of Zvornik found seven Bosniacs guilty of murdering four Serb civilians in May 1996. During the trial, prosecutors reportedly failed to produce substantive evidence and the accused were denied their right to be represented effectively. In addition, the defendants were reportedly tortured. A large number of judges from the Communist era are no longer serving. Many left during the war; others have been replaced for political purposes. Many international observers believe that party affiliation and political loyalty are still considered key criteria in judicial appointments.

In June 1999, the Presidents of the Associations of Judges and Prosecutors in the Federation and the RS adopted identical *Codes of Ethics*. The codes are meant to apply to the members of the Association of Judges of the Federation; the Association of Prosecutors of the Federation; and the Association of Judges and Prosecutors of the RS. The codes are intended to provide a common framework for conduct for the judiciary and prosecutors throughout BiH, and to ensure that those involved in the judicial process receive similar standards of treatment.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The constitution provides for an independent judiciary, with the administration of justice reserved for the two entities. In practice, however, the ruling parties have managed to develop a considerable degree of control over the judiciary in both entities. One prominent opposition politician, Senka Nozica, a minister in the Alternative Ministers Council, has claimed that Bosnia's judiciary has never in its history been so controlled by the ruling parties. In 1999, Carlos Westendorp claimed, "the political nomination and removal of judges [is] a cancer at the heart of Bosnian society, which calls out for treatment of the most radical kind."

Courts in Bosnia are under the control or influence of the ruling parties. Government authorities often pressure judges. One egregious example of such pressure and intimidation was the beating of a member of the RS Constitutional Court as noted above. Another problem is that local authorities often refuse to execute judicial rulings with which they disagree. Judges also are frequently reported to be under threat not to make decisions harmful to the interests of the ruling parties. In 1998, for instance, the Parliamentary Assembly

passed a law allowing authorities to tax oil and gas imports from Croatia. However, the law never appeared in the government's official gazette, making it unenforceable. Although the case of the missing law went to a Sarajevo court, judges in that city are reportedly afraid of issuing a ruling that works against the interests of the Croatian mafia. The courts are not linked directly to the Ministry of Justice or any other executive body. However, the various ethnic governments, through their respective Ministries of Justice, provide the judicial branches with their budgets.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Most lawyers are in private practice, although exact figures are not available.

7. Does the state provide public defenders?
The state provides public defenders. In both the Federation and the RS, individuals have the right to open and public trials, and the accused have the right to legal counsel.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
The constitution prohibits discrimination on the basis of sex, race, language, religion, or other grounds. Nevertheless, discrimination against ethnic minorities continues to be a major problem. This includes verbal aggression, vandalism, arson, assault, denial of access to housing for returnees, and other abuses. Often, the courts are complicit in this effort. On March 1, 1997, an elderly Serb man, Slavko Subotic, was returning from a visit to a cemetery near Visoko where several members of his family were buried. A Bosniac mob began beating him, and he subsequently died of his injuries. Eighteen men and women were accused in the attack, of which five women were found guilty. The court in Visoko sentenced them to nine months imprisonment but then suspended the sentences contingent upon the indictees' good behavior for two years. Discrimination against minority children and teachers in schools is also a problem.

Women face some discrimination in employment and generally do not hold positions of economic power. Although religious freedom is guaranteed by the constitution, Bosniacs outside of Bosniac-majority areas often feel pressured not to practice their religion in public; in fact, in the RS, there is not a single mosque left standing. There also have been several incidents of vandalism against Bosniac religious sites in Croat-majority areas, such as the two attacks on the mosque in Tomislavgrad in 1997. Roman Catholic churches have also been bombed in Bosniac-majority areas in Central Bosnia and in Sarajevo itself.

9. Are judicial decisions effectively enforced?
A major problem confronting the judicial systems in BiH in the post-Dayton period has been judicial enforcement, given the fact that judicial space in the country has been divided into three separate jurisdictions. Consequently, decisions reached in one part of BiH generally were of no consequence in another part. Efforts to alleviate this problem have been ongoing. On May 20, 1998, the Ministers of Justice of the Federation and the RS signed a Memorandum of Understanding (MOU) on the Regulation of Legal Assistance between Institutions of the Federation of Bosnia and Herzegovina and the RS. The MOU addressed such issues as the tracing of witnesses, serving of subpoenas, reenactments and investigations at-the-scene, as well as facilitating ad hoc cooperation between the entities. On September 25, 1998, the first out-of-court session of a Federation court took place in the RS. The session included a reenactment at the scene of a war crime, for a trial currently before a Federation court. Within the entities, when judicial officials do render independent decisions, local authorities often refuse to carry them out.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?

Although difficult to quantify, official corruption in Bosnia and Herzegovina is widespread, involving government officials at the highest levels, their families, and subordinates in the governmental bureaucracies. The international community's former High Representative in Bosnia, Carlos Westendorp, on one occasion stated that official corruption was the main impediment to economic renewal in the country.

Making corruption an even more severe problem in postwar Bosnia is the fact that it severely hinders implementation of the DPA. For instance, for several years international officials tried to restore inter-entity rail traffic, to no avail. In September 1997, the Deputy High Representative, Jacques Klein, announced that the reason why inter-entity rail traffic had not been restored was because the truckers' lobby in Bosniac-controlled areas had paid off government officials to delay re-opening the railway lines.

Corruption often goes far beyond simple bribery or economic crime and reaches into politics and foreign relations. In July 1997, British Foreign Secretary Robin Cook charged that some senior Bosnia-Herzegovina officials were siphoning off huge amounts of international aid into personal accounts. In October 1997, High Representative Carlos Westendorp stated that corruption in the Federation was massive and systemic. He specifically accused the Bosniac-controlled Agency for State Reserves of redirecting more than $13 million to institutions, including Iranian-trained spy agencies, outside of those established under the DPA. International officials have also alleged that the ruling nationalist parties have misappropriated over $100 million of humanitarian aid, and siphoned off the monies to fund their political parties and secret police organizations. The funds have reportedly been put into Swiss bank accounts. Similarly, other reports have suggested that many of the vast fees local governments' charge NATO for stationing their bases in the country winds up in the coffers of the ruling parties.

Bribe requests to gain university or hospital admission are not unheard of, but a more frequent form of corruption is forcing entrepreneurs to become members of the ruling parties in order to get loans from banks. The economic problems such corruption causes are then compounded by the fact that party hacks usually do not invest their loans into factories (where there would be a greater long-term return on the investment for the overall economy), but on cafes and hotels. Even businesspeople from the international community are frequently the targets of such corruption: in one well-known case, McDonald's decided not to set up an operation in Sarajevo after Bosniac officials demanded bribes.

Since civil servants generally have meager salaries, they are especially prone to relying on bribes to supplement their incomes. This is especially true of the various types of business inspectors.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

Top officials have strong, direct and often illicit ties to business. Former RS President Radovan Karadzic and his allies in the RS town of Pale are reportedly heavily involved in smuggling timber into Yugoslavia and profit from illegal sales of fuel, tobacco, coffee, and alcohol. Karadzic also reportedly paid RS police loyal to him with profits from his cigarette and gasoline monopolies. In July 1997, Plavsic unsuccessfully attempted to create a viable customs administration that would curb such criminal activities.

Officials such as the former RS member of Bosnia and Herzegovina's collective state presidency, Momcilo Krajisnik, are reportedly involved in various export-import businesses with exclusive contracts to import basic necessities such as sugar, oil, and tobacco. Bakir Izetbegovic, the son of the Bosniac member of the collective state presidency, Alija Izetbegovic, is in charge of a government agency in Sarajevo that controls reconstruction projects. The younger Izetbegovic has been accused on numerous counts of personal corruption, including taking a cut of the extortion money paid by shopkeepers in Sarajevo to local gangsters.

Legal and ethical standards proscribing public and private sector activity for government officials are weakly developed. Throughout the Balkan states, control of the government has usually entailed control of the economy, and traditionally, individuals have entered government at least in part to enrich themselves.

A major investigation of corruption in Tuzla-Podrinja canton was made public in 1999. The investigation covered a wide variety of activities. In one instance, government officials had ordered schoolrooms to be

painted four times within one year (with the benefits from the work going to a local contractor), despite the fact that the schools had been rebuilt and repainted by international aid organizations. Moreover, Tuzla officials had paid two to three times the conventional rate for such work.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Laws requiring financial disclosure and disallowing conflict of interest are inadequate. In 1998, the OSCE enacted a ruling calling on candidates in the 1998 statewide elections to file declarations of their assets with election commissions. Alija Izetbegovic declared savings of $50,000 (US), while then RS President Biljana Plavsic claimed to own two garages in Sarajevo, and to live off of her $200 (US) per month salary as RS president. Kresimir Zubak and Momcilo Krajisnik, Izetbegovic's colleagues in the collective state presidency, declared large amounts of property.

There have been few, if any, anticorruption cases pursued through the courts; of those that are, the impetus comes from the international community. In the SDA-government, as one leading opposition figure noted, "the connection between criminal factors and their entry into the structures of power are so great that every attempt to conduct an adequate investigation is blocked." In Croat-controlled Herceg-Bosna, the former EU administrator for Mostar, Hans Koschnick, claimed that the tie between local politicians and organized crime figures was so great that they were one and the same. In the RS, after President Biljana Plavsic announced an official investigation into state corruption, she was held by Serbian police at Belgrade airport and held for what was euphemistically described as an "informational discussion." She later admitted that she thought she was about to be executed.

Tracing the extent of official corruption is extremely difficult since socialist-era payment bureaus controlled by the ruling parties control financial flows. Monies going into this system are then diverted into a variety of illegal uses: funding the campaign coffers of the nationalist parties, paying for Radovan Karadzic's personal security force, or supporting institutions such as the SDA's secret intelligence service, AID, which were supposed to have been dismantled according to the DPA.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

No information on perceptions of public sector corruption is available.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Few major anticorruption initiatives have been implemented, and those that have been are often sidelined if they reach into the affairs of top officials. In March 1998, the anti-fraud unit of the Federation accused the Federation government of blocking its inquiry into official misuse of international reconstruction aid. In December 1998, the OHR's Anti-Fraud Unit inaugurated a series of seminars for public sector officials, including judges, prosecutors, and police, in which BiH officials visit Western European countries to learn about anticorruption concepts in the West.

In 1999, the Office of the High Representative set up an anti-fraud unit to investigate the extent of official corruption in Bosnia. According to one report, international agencies are reluctant to publicize the extent of corruption in the country for fear of frightening international donors. In one highly publicized case, the local SDA mayor/cum warlord of Sanski Most, Mehmed Alagic, was charged in an OHR report with 358 counts of corruption for misuse of state funds and international donations. In November 1998, the Venice Commission (an international group of judicial experts formed to advise on legal matters in BiH) issued a decision to create judicial institutions at the state level to deal with criminal offenses committed by government officials, as well as offenses related to their administrative duties or vis-à-vis electoral matters.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
In 1999, the OHR began finalizing a comprehensive anticorruption strategy, based on four pillars: the elimination of opportunities for corruption, fostering greater transparency in public institutions, strengthening controls and penalties, and public education.

7. How do major corruption-ranking organizations like Transparency International rate this country?
Transparency International does not rate BiH; however, plans were underway in 1999 to open a BiH chapter of Transparency International.

Economic Liberalization

PRIVATIZATION 5.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
In the absence of reliable statistics, it is difficult to determine what percentage of the GDP comes from private ownership and what percentage of the labor force is employed in the private sector. The public and "socially-owned" sectors of the economy account for 59 percent of the jobs in the Federation and 67 percent in the RS. Figures released in mid-1999 claimed that there were 260,000 unemployed persons in the Federation, and 145,000 in the RS, which provides an average 38.2 percent unemployment rate in the two entities. However, thanks to the overall lack of economic activity in both entities, there is significant under-employment throughout the country.

Many individuals officially listed as employed are in fact laid off or work only part time. A large segment of the population is also working off the books. In the Federation there were up to 150,000 people in this category, commonly called the gray economy. A similar phenomenon is apparent in the RS; in Prijedor, for instance, local officials estimated that up to 80 percent of the people working in private firms had no official employment contracts. Neither these workers nor their employers pay taxes to the government, nor do they contribute to pension or health insurance funds, which partially accounted for the constant deficits in these funds. By most accounts, the informal sector of the economy accounts for over 50 percent of all economic activity.

2. What major privatization legislation has been passed? What were its substantive features?
Privatization in postwar Bosnia-Herzegovina has been repeatedly delayed in both the Federation and the RS. Several reasons account for this. First, it is in part an inevitable result of the complexities of postwar BiH as set up by the Dayton Constitution. Second, it is also a legacy of the confusing system of property ownership under the prewar Yugoslav socialist system. Many businesses, enterprises, and individuals owned property and assets on both sides of what after 1995 became the IEBL, but getting Bosniac, Croat, and Serb authorities to agree on meaningful privatization legislation after the war was for all practical purposes impossible. Consequently, in 1997 it was decided that privatization would be carried out by the entities, instead of on a statewide level. Third, privatization has also been put off in postwar BiH because local authorities have repeatedly sabotaged any efforts to remove control over the economy out of their hands.

In the RS, a privatization agency was established in 1996, and a Law on Privatization of Enterprises was passed. However, the law in its original form was considered discriminatory by the OHR, for it only allowed current RS residents to receive public property; in effect, hundreds of thousands of Bosniacs and Croats who had been forcibly expelled from their homes during the war would have been ineligible to receive their prewar property back. Another flaw in the legislation as then adopted was that it did not provide for the restructuring of companies or the injection of new capital into the system. Under the original scheme, 47 percent of companies' shares were to have been allocated to 7 government-managed funds, and 38 percent of the shares were allocated on a random basis through a lottery to registered citizens. The remaining 15 percent was to be made available for purchase by cash to strategic investors. Milorad Dodik's more moderate RS government in 1998 annulled the previous legislation and began work on new privatization legislation.

According to current legislation, RS citizens are entitled to receive vouchers as compensation for war-related claims, including unpaid salaries and pensions as

well as frozen foreign currency accounts. The vouchers can then be used to buy shares in state-owned enterprises being privatized, or to buy apartments. The sale of enterprises valued at less than 300,000 DEM is solely for cash. In July 1999, the privatization of state-owned assets in the RS began with the sale of three small companies in a public auction. Five companies were placed on the market, but only three found buyers. The largest of the three was a fish-processing factory, which sold for $129,000. All told, some 350 small and medium sized enterprises were to be sold off by the end of 1999.

In the Federation, privatization will occur on two levels: the Federation level, and the cantonal level. The Federation Privatization Agency is tasked with preparing the privatization of large enterprises with branches in more than one canton. Separately, there is a list of strategic enterprises whose privatization must be approved by the Federation parliament.

Several laws form the basis of the Federation's privatization legislation. The October 1996 Law on Privatization Agencies established the Federation Privatization Agency (FPA) and authorized the establishment of Cantonal Privatization Agencies (CPA), which will privatize enterprises. In December 1997, the Federation parliament passed the Law on Settlement and Realization of Citizen Claims, which regulates the handling of citizens' claims against property slated for privatization and authorizes the creation of vouchers to settle citizens' claims. In December 1997, the Federation Parliament also passed the Law on Privatization of Enterprises, which defines procedures and methods for privatization of enterprises that have state or social capital. The FPA is preparing guidelines that define the methods for selling enterprises and providing details on enterprise privatization, privatization investment funds, and the role of CPA's. Enterprises will be privatized through a combination of cash and vouchers.

The Federation Law on Privatization of Banks (passed in March 1998) makes the Ministry of Finance responsible for the privatization of banks. These institutions will be privatized on a cash rather than voucher basis through the purchase of bank shares or the assets and liabilities of insolvent banks that must be liquidated.

According to the Law on Opening Balance Sheets of Enterprises and Banks (passed in February 1998), which establishes the means of valuation for enterprises and banks slated for privatization, the external debt on the books of state-owned banks will be moved to an Asset Liquidation Account. Privatization certificates are to be issued to redeem depositors' claims on $2 billion of frozen currency accounts transferred to the National Bank of Yugoslavia before the war.

The privatization process may be slowed by an amendment to the Law on Opening Balance Sheet of Enterprises and Banks adopted by the Federation House of Representatives. The law proposes that, in situations in which the same assets are claimed by two different privatizing enterprises, privatization must either adopt the amendment or undertake a reconciliation of the two versions. A Federation Law on Investment Funds and Management Companies is being prepared. The law will establish the basis for the creation of privatization investment funds, govern the participation of privatization investment funds in the privatization process, and establish procedures for the funds' investment in appropriate enterprises on behalf of citizens.

The Federation privatization process was to begin in June 1998 with small-scale privatization auctions of approximately 800 small firms and assets. Auctions for large-scale enterprises will begin in December. The entire process was to be completed by March 1999. Several CPA's, however, found it difficult to attract qualified staff, and cantons experienced difficulties in identifying assets and enterprises that fall under their jurisdiction. There were also disagreements between the international community and the local factions on such issues as veteran's claims. The Federation government had originally proposed that war veteran's claims be valued at nine billion KM. Under pressure from the international community, this figure was cut to seven billion KM. Western economists estimate that the total value of state assets to be privatized in the Federation at 15 billion KM ($8.9 billion US).

The first privatization vouchers, representing compensation for frozen prewar bank accounts and unpaid wages and pensions, were issued on April 23rd, 1999, to some 1.9 million citizens. The total value of assets due to be privatized in the Federation was estimated to be $26 billion.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Information on the exact proportion of private ownership of various sectors of the economy is not available. State farms cover approximately 250,000 hectares of arable land in Bosnia and Herzegovina, while 450,000 hectares are family-owned. Much of the housing stock in urban areas is in a nebulous category defined as "socially-owned," whereby large state enterprises share some legal rights to housing and property with the occupants of the residential units. Transforming "socially-owned" apartments into privately owned ones has been a major difficulty in the post-Dayton period (see below). (About 35 percent of the housing stock in BiH was destroyed during the war.) Most small businesses and small service-oriented enterprises are in private hands.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Since the privatization process is in a rudimentary phase it is difficult to determine the extent of insider participation in the privatization process and of explicit and implicit preferences that have been or will be awarded to insiders. However, most observers fear that there is great potential for individuals with ties to the ruling parties to exploit the process; moreover, this will probably result in an ethnic division of property (and territory) as well. According to some reports, banks in Sarajevo have been instructed to draw up privatization plans according to property owned "in areas under the control of the ARBiH" (i.e., the Bosniac armed forces), which suggests that the SDA has already written off the RS and Herceg-Bosna. Similarly, during the initial stage of the privatization process in the RS, some criticisms were heard that the process was not transparent, and that officials were actively seeking to award factories and enterprises to Serbs instead of to Bosniacs.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

In the Federation, several of the cantons have been slow in staffing the Cantonal Privatization Agencies, which will privatize enterprises. As a result, the distribution of public education materials has been limited. U.S. AID is working with both the Federation and the Cantonal Privatization Agencies to educate the public on its rights and obligations under privatization laws and regulations. Ordinary citizens have frequently voiced concern that privatization may result in layoffs and increased unemployment. For instance, in July 1999, the Union of RS Workers demanded the implementation of a program to provide financial support for workers who may ultimately lose their jobs. In the absence of such a program, the Union threatened to demand an end to the privatization program, and to call for a general strike.

Support for privatization has mainly come from the international community, opposition parties and groups in both entities, the youth, and individuals already in the private sector.

The main opposition to privatization in both entities has come from the ruling parties. Since many important positions in major enterprises are still decided on according to political criteria, the ruling parties have been reluctant to engage in economic reform or privatization. Moreover, through their control over the economy, and their consequent ability to divert large sums of money away from legal governmental channels and into secret party coffers, the ruling parties gain an inestimable advantage over opposition groups in terms of their ability to finance election campaigns, dole out rewards to faithful party hacks, etc. Opposition to privatization has also come from employees of large, unprofitable state-owned enterprises, who fear privatization would lead to large-scale layoffs, loss of jobs, etc.

MACROECONOMIC POLICY 5.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The DPA makes the two entities responsible for taxation. The European Bank for Reconstruction and Development describes the tax system in both entities as "onerous and complex." In part, this is due to the inconsistencies in tax legislation between the two entities. On June 8, 1999, the Ministers of Finance and Trade from the RS and the Federation signed a Memo-

randum of Understanding to harmonize excise taxes in the two entities. Similar agreements had already been reached regarding sales taxes. International officials suggested that these agreements would reduce distortions to internal trade and the possibilities for tax evasion.

Payroll taxes average approximately 50 percent of gross salary. BiH does not have a Value Added Tax (VAT). Legislation that remains valid calls for the payment of "war taxes" by returning displaced persons or refugees. Such taxes are often arbitrarily administered, with fluctuating rates, and are used to dissuade ethnic minorities from returning to their homes.

Revenue collection is primarily the responsibility of the entities, or, in the case of the Federation, of the cantons. The only revenue that the central government can generate comes from consular fees raised from issuing passports.

Tax compliance is difficult to achieve because of the connections between the ruling parties and organized crime. For instance, outside of the small Herzegovinian town of Stolac, in Croat-controlled territory, a used car market is held every Sunday. International officials claim that it is one of the largest marketplaces for stolen automobiles in Europe. The OHR has tried to ban the market, and pressed to have its organizer arrested. However, the local Croat court dismissed the charges, and when a group of federal tax officials tried to carry out an audit of the market in 1998, they were severely beaten and subsequently hospitalized.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?
There has been little reform or alteration of revenue and budget practices. The fiscal policies of the central and entity-level governments have been largely irrelevant when compared with the effect of foreign aid on the economy. In certain areas, including Sarajevo, reconstruction aid and spending by SFOR soldiers, international officials, and local employees of international organizations have greatly boosted the local economy. Initially, nearly all of the money went to the Federation. Through 1997, the RS received less than five percent of the international aid earmarked for Bosnia and Herzegovina. In 1996, remittances by Bosnian citizens working abroad totaled $424 million.

The international community has continued to push to make the budgets of the different entities more transparent, but its efforts have had little success. The payment bureaus (see below) used by the three ethnic groups are very useful ways of concealing monetary flows, and allow for various extra-legal or illegal institutions (e.g., AID, or the various institutions of Herceg-Bosna) to survive.

There has been little progress in transferring social welfare responsibilities from state-owned enterprises directly to the government. The social safety net is not self-sustaining and depends on contributions from multi-national institutions and other external funders. A major focus of current reform efforts involves moving away from ethnically divided pension systems. The Federation government has in principle agreed to merge the Sarajevo (Bosniac) and Mostar (Croat) pension systems, although this has yet to be implemented.

Neither the entity nor the state governments are able to raise enough revenues to fully support their functions and services; consequently, all levels of government in Bosnia still rely on foreign donations/funding. For instance, in 1999, the US government is providing the RS with $17 million in budgetary support and the Federation government with $5 million. In many parts of BiH, payments to pensioners are usually several months behind schedule, although this general rule is less true in Croat-controlled areas, i.e., Herceg-Bosna.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?
The DPA called for the creation of a Central Bank of Bosnia and Herzegovina. In June 1997, the Parliamentary Assembly passed a "Quick Start" package of laws that included a Central Bank Law. The bank, which formally began operations two months later with a foreigner as chairman, is independent and will operate for its first six years as a currency board, which means that it can only issue currency backed by an equivalent amount of foreign reserves. As such, monetary policy is largely out of the central bank's hands. The bank

consists of one unit in the RS and another in the Federation. Each unit holds its own reserves.

Although some banking reforms have been adopted, the continued existence of socialist-era payment bureaus is undermining the development of a proper commercial banking system. International officials believe restructuring and reform of the banking system is one of the most urgent tasks facing postwar Bosnia. Many of the functions of commercial banks in the West are carried out by the payment bureaus, which are controlled by the ruling parties. According to one recent report, "All public and private financial activity, including payment transactions, savings, tax collection, tax distribution, treasury functions, and private and public expenditures" are controlled by these institutions. Under this system, banks cannot conduct payment transactions, nor can they mediate consumer cash transactions. Moreover, all businesses and banks are required to deposit their daily receipts with the payment bureaus. Among other things, this system has limited commercial banks access to working capital and their income potential from engaging in traditional banking activities.

As of mid-1999, there were approximately 50 banks in BiH, of which Western officials estimated that only six were solvent. In 1999, the Bosnia and Herzegovina Bank (BiH Bank) in Sarajevo collapsed. Many international agencies and foreign embassies reportedly had tens of millions of dollars on deposit at the bank. The U.S. Agency for International Development, for instance, is claimed to have had at least $4 million in the BiH Bank. Officials investigating the bank's collapse claim that BiH bank's two owners made personal loans to friends or to fictional businesses.

Most private banks are small, undercapitalized, and incapable of meeting growing deposit and lending needs. Nevertheless, private banks now account for the majority of new loans extended. Accounting and regulatory standards are still not market-based and need to be updated. In October 1996, the Federation created a Federation Banking Agency responsible for licensing and supervision. By June 1997, it had refused to renew the licenses of 20 banks and indicated that some of the weaker banks were being sidelined.

Eight large state majority-owned banks were to be privatized in 1999, but the privatization had to be delayed. A similar attempt to sell state shares in 19 banks in which local governments had a minority stake also fell through, when only one bank, the small, Sarajevo-based Depozitna Banka, was sold. International officials blamed the banks themselves and local governmental authorities, and many fear that the time frame for bank privatization may have to be extended because of the ill health of so many banks in BiH and low investor interest. In many cases, enterprises owe banks large sums of money, but enterprises themselves are cash-strapped and unable to pay their debts. A deadline of April 8, 2000 has been set for the government to sell its shares in banks in which it has minority stakes. Bank privatization in the RS is scheduled to begin in early 2000.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Under the Dayton accords, monetary policy is the responsibility of the central government. The Central Bank has begun to issue an interim currency, the *konvertibilna marka* (KM), which is fully convertible and, under the rules of the country's currency board, pegged at parity with the German Deutsche Mark. The KM is used throughout BiH for non-cash transactions. Cash payments are currently made in the temporary currencies established in the two entities, German D-marks, Croatian *kunas* (in Croat-majority areas), and Serbian *dinars* (in Serb-majority areas).

Political squabbles over the design of a permanent currency delayed its implementation. In January 1998, High Representative Carlos Westendorp exercised his power to break deadlocks in the central government by imposing his own design for the new currency. The KM entered circulation in the summer of 1998.

Although local Croats and Serbs at first rejected the KM, international officials claim that since its introduction in June 1998, it has gained increasing acceptance throughout Bosnia. In the RS, for instance, Serbs have increasingly switched to using the KM because of the Yugoslav *dinar's* depreciation on the black market. As of mid-1999, one estimate suggested that the Yugoslav dinar accounted for some 30 percent of the money in circulation in the RS. The introduction of the KM has also caused hard-currency reserves in Bosnia to increase substantially since June 1998. By mid-1999, hard-currency reserves were over $150 million.

Since Croat-majority areas and the RS to a large extent have relied on the currencies of neighboring Croatia

and Yugoslavia, respectively, currency fluctuations have often depended on the prevailing economic conditions in those states. In November 1998, for instance, in response to a decline in the street value of the Yugoslav dinar, the RS government officially devalued the dinar for official transactions, resulting in crisis between the FRY and RS governments. Belgrade replied by imposing a ban on all dinar transactions with the RS. Ties were re-established in January 1999, but have not reached their previous levels.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

Bosnia currently lacks a functioning capital market infrastructure. In July 1997, the government and the London Club of commercial bank creditors agreed that the country would accept responsibility for $404 million of debt, or 10.58 percent of the $4.2 billion owed by the former Yugoslavia. To cover this, Bosnia will issue $150 million worth of German D-mark denominated bonds, with principal repaid over 20 years with a seven-year grace period. Interest will be charged at a fixed rate of two percent for the first four years and rise to 3.5 per cent by the end of the seventh year. For the last 13 years, interest will be payable at less than one percent over the benchmark London Interbank Offer Rate. Bosnia will pay the remaining $254 million of debt by issuing a second tranche of bonds that will be amortized over 12 years. These bonds will only be issued, however, after per capita income has risen above $2,800 or at least ten years after the issuance of the first tranche of bonds.

The OHR has begun work on proposed legislation for the creation of a functioning stock market in the country, but the legislation was not due for introduction to BiH's parliamentary bodies until late in 1999.

MICROECONOMIC POLICY 6.25/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Property rights are tenuous throughout Bosnia, although they are somewhat better protected in the Federation than in the RS. Property laws have generally been used as a tool to consolidate the results of forced expulsions by making the return of displaced persons and refugees impossible. In the RS, and, until recently, in the Federation, residences can be occupied by others if the original occupants are absent even for short periods. Authorities have used this provision to block ethnic minority refugees from returning and to permit displaced persons to continue to occupy residences. Forcible evictions have been executed to a greater degree in the RS than in the Federation.

In the Federation, a law on Temporarily Abandoned Real Property Owned by Citizens was introduced during the war, which allowed authorities to declare property "abandoned" and grant temporary occupancy rights to a third party if the owners of the property left after April 30, 1991. While in theory the law did not permanently affect ownership rights (the owners were theoretically able to return at any time and reclaim their property), in practice the owner could not do so because there was no viable procedure for repossessing property and addressing the needs of current users. In July 1999, the High Representative imposed a decision declaring that the Law on Temporarily Abandoned Real Property Owned by Citizens should cease to be applied in the Federation.

Also in July 1999, the High Representative issued a decree annulling the June 1992 Law on Abandoned Apartments, and all amendments to that Law which had been enacted in the intervening period. This law applied to "socially owned" apartments, i.e., apartments in which companies, government agencies, or social organizations gave persons occupancy rights. The Law on Abandoned Apartments had permitted authorities to declare socially owned apartments whose occupants had left as "abandoned" and grant temporary occupancy rights to other persons. In December 1995, the law was amended so that, if the original occupants did not claim and reoccupy their apartment by January 1996, their apartment would be declared permanently abandoned and could be permanently reallocated to a new

occupant. This law blocked the return of tens of thousands of refugees and displaced persons to their homes. International officials hope that these decisions will confirm pre-war occupancy rights and allow individuals to reclaim their rightful property.

In December 1997, the Federation parliament passed the Law on the Sale of Apartments with Existing Tenancy Rights, which codifies the procedures for selling socially owned apartments. The law provides three years of protection for soldiers and their families who live in apartments that were vacated and abandoned and who had been given tenancy by authorities. In March 1998, the Federation parliament amended the law so that persons who acquired occupancy rights to apartments declared "abandoned" since 1991 are not permitted to purchase the apartments in which they now reside. Meanwhile, under the Law on the Cessation of Application of the Law on Abandoned Apartments, prewar occupants who left their apartments during the war will not be able to purchase their apartments until they have returned and resided in the apartment for six months. In addition, such prewar occupants will not be permitted to sell the apartment for a period of five years from the date that the purchase of the apartment is registered.

In the RS, in April 1999, the High Representative decreed that various articles and amendments to the 1993 Law on Housing Relations be considered null and void, and that individuals whose occupancy rights or contracts on use had been cancelled under previous legislation may claim for repossession of their apartments in accordance with the Law on the Cessation of Application of the Law on the Use of Abandoned Property.

Annex 7 of the DPA established the Commission for Real Property Claims of Refugees and Displaced Persons (CRPC). Due to limited staffing, however, it has operated slowly. The CRPC is maintaining and building an existing database of property registration records. This is complicated by the fact that each entity does not accept and recognize official property registration documents issued in the other entity.

2. To what extent have prices been liberalized? What subsidies remain?

The prices for various public services and utilities (e.g., water, electricity, telephones) are controlled by public companies that exercise monopoly control over these services and tend to set their prices arbitrarily. Prices for essential commodities such as fuel are also controlled by what are in effect politically connected monopoly suppliers. The different levels of government in BiH also are able to regulate the cost of buying a piece of property or an apartment. The marketplace, however, sets prices for basic foodstuffs.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

According to the EBRD, business is "constrained by a legal and administrative framework that has yet to move much beyond that inherited from the old Yugoslav system." Consequently, there is an inherent bias against privately owned businesses built into the existing system. Registering a business is estimated to take from six to twelve months. One recent report described the wide array of state inspectors that the typical privately owned business had to deal with: sanitation inspectors, market inspectors, municipal inspectors, environmental, customs, financial, etc., etc. Moreover, these inspectors have the power to close a company or seize goods on the spot, a power frequently used to extort bribes. There is a need to develop an effective legal framework regarding contracts, bankruptcy, the establishment, dissolution, and transfer of businesses, and other areas of commercial law.

Businesses face numerous other constraints. The bureaucracy at all levels tends to be slow, cumbersome and inefficient, and the postal service, telecommunications, and public transport between the Federation and the RS are undependable. Similarly, laws enacted in the post-Dayton period have been criticized for favoring large, inefficient state-owned firms at the expense of smaller privately owned ones. For instance, a Federation Law on Employment passed in April 1998 required all general contractors to maintain a full-time staff of 15 people, despite the fact that the construction

business is largely seasonal and smaller firms layoff many of their employees during the winter months.

Access to commercial law is available; the problem is that many of the laws relating to businesses are contradictory and inconsistent. One recent investigation by the International Crisis Group into the Bosnian economy claimed that none of the business people they interviewed obeyed all the laws in the country. Another problem confronting businesses is the high tax rate in the country. Because of these high tax rates, businesses find it difficult to make a profit; according to one estimate, if a business operates within the law and declares all of its income, it can hope to have a year's end profit margin of 1 to 3 percent, in a *good* year.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The courts are not an effective means for reaching decisions in property and contract disputes. Bribery continues to be a problem. According to the Helsinki Committee for Human Rights, in the RS, people who do not have money to pay bribes can expect to wait at least one year before court proceedings begin. Even those that start earlier are often conducted at a very slow pace. A 1998 survey of experts from international investment banks and consulting firms ranked BiH 26th out of 27 transition economies in the category of rule-of-law.

According to testimony from many businesspeople, it often takes the typical civil suit to collect unpaid accounts 14 to 18 months to go to trial. Small claims courts are non-existent, and contract law is considered unenforceable.

On the other hand, according to the EBRD, there is generally a meaningful right of appeal from initial court decisions. There is also an independent right of judicial review of administrative action. On average, a party can expect to wait less than six months for a commercial case to be heard on its merits by a court in Sarajevo, and between two and three years for a final judgment calling for a payment to be executed. Court operations outside of Sarajevo, however, are much slower. Municipal courts are particularly slow to reach decisions under the contentious Law on Abandoned Apartments.

The Dayton-mandated Commission for Real Property Claims by Displaced Persons and Refugees (CRPC) is also heavily backlogged. As of December 1997, it had received more than 70,000 claims, but had only managed to process 6,000. The CRPC is also charged with issuing eviction orders and providing security for returning refugees and displaced persons, but the political will to enforce these decisions is often lacking.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Much of Bosnia's legal and administrative system was inherited from the Yugoslav system. New regulations regarding business competition and monopolistic practices are therefore required. Many key industries – e.g., tobacco, fuel – function as monopolies.

Foreign investors have complained of a lack of transparency in the tender process for reconstruction projects financed by international aid. The World Bank is sponsoring a Public Works Employment Project that subjects proposals for local infrastructure projects to a strict and competitive appraisal process. The Federation government has established a Procurement Monitoring and Audit Unit to promote transparency in contracts that are let under World Bank financed projects. A similar organization is to be established in the RS. Both entity governments have established several Project Implementation Units, with World Bank support, to ensure transparency in the implementation of World Bank-funded local infrastructure projects. Similarly, U.S.AID has established a Municipal Infrastructure and Services Program to supervise implementation of the reconstruction projects that the agency funds.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

There has been some liberalization of the international trade regime. The DPA makes the central government responsible for trade matters. In February 1998, the Parliamentary Assembly passed the permanent Customs Tariff Law, which repealed an interim June 1997 customs tariff law and replaced it with streamlined, uniform customs procedures for both the Federation and the RS. The new law replaced 21 existing customs

tariff rates with four rates of 0, 5, 10, and 15 percent. The new law also abolished all existing *ad valorem* special assessment fees levied on imported goods, thereby leaving only a one percent customs entry fee in addition to the four new customs tariff rates. With the new law, the existing special trade relationships between the Federation and Croatia and between the RS and Yugoslavia are being terminated.

In practice, however, more than a year after the Tariff Law had been adopted, the two entity governments had yet to enforce the new provisions. In effect, Bosnia has three separate tariff regimes: the RS allows duty free imports from Yugoslavia, while Herceg-Bosna allows duty-free imports from Croatia, and Bosniac-controlled areas try to implement the Tariff Law agreed to by the central government. Because of these differences and the preferential treatment given to certain trading partners, however, the three ethnically based tariff regimes have imposed a variety of illegal taxes on each other to balance out preferences enjoyed by importers from other areas.

The fact that the three ethnic governments control various points along Bosnia's international borders has made it difficult to enforce a uniform customs regime; moreover, abuse of the customs regime has been one of the most lucrative ways for the ruling parties to divert public funds into their secret coffers. In 1997, the EU's Customs and Fiscal Assistance Office (CAFAO, an organization tasked to assist in the creation of a modern customs regime for Bosnia) issued a report detailing the large-scale smuggling operations taking place across Bosnia's borders, depriving the state budgets of tens of millions of dollars. One OHR official claimed that the CAFAO report was "only the tip of the iceberg." The report noted: "Those involved in these deceptions are well known to federal customs officials at the borders and their superiors. Shippers, trucks and their drivers are clearly identified. In fact, the same small number of trucks are actively involved in these activities across the country, however, no effective action has been taken to prevent such deceptions or for those engaging in such actions to be held responsible."

In addition to various informal or illegal barriers to foreign trade, there are also various barriers to inter-entity trade, such as forcing a potential investor to jump through various bureaucratic hurdles, or imposing illegal taxes on businesses. This condition exists despite the fact that for legal purposes, Bosnia-Herzegovina constitutes a single trading area, and no formal customs controls exist between the two entities. Much of the international effort in 1997 and 1998 focused on removing barriers to inter-entity trade, such as improving infrastructure, issuing new license plates (which made it impossible to tell which ethnically-controlled area the car's occupants came from), and the above-mentioned legal/regulatory changes. Generally, to do business on both sides of the IEBL, investors must open branches of their company in both entities. One recent report noted that "in spite of the international community's best efforts, both RS and Federation have erected numerous regulatory barriers, which effectively discourage inter-entity trade . . . As a result of these barriers, almost all inter-entity trade is illegal."

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Because of widespread corruption, private foreign investment (as opposed to official investment by the international community) in Bosnia has been minimal. In 1997 and 1998, private sector investment in BiH totaled approximately $160 million (US), approximately equal to 4.7 percent of donor aid to the country. Of this figure, 80 percent ($129 million US) came from foreign investors, although many of those investors were reported to be in fact offshore companies owned or operated by Bosnians. One report claimed that total private investment in BiH was "so low as to be insignificant." One comparison of transition economies done by the *Wall Street Journal Europe*'s *Central European Economic Review* ranked BiH 24th out of 27 overall; an OHR summary of the report noted: "BiH is perceived to rank among the most unstable and badly managed countries of the transition world. This helps to explain why BiH has received almost no foreign investment to date."

A statewide Law on Foreign Investment passed in March 1998 established policy standards for promoting foreign investors' rights. The Law stipulates that foreign investors will have the same rights and obligations as citizens of Bosnia and Herzegovina, and that the entities cannot terminate or eliminate those rights, even under subsequent legislation. The only restrictions on the law are in the areas of armaments (production and sale) and public information (radio, TV (excluding cable), electronic media (excluding internet), newspapers and other publication produced in the local

market) where foreign control is limited to 49 percent. Article 10 waives customs duties for foreign investments. Article 16 forbids expropriation or nationalization actions against foreign investments, except for instances in which it is in the public interest and when it is carried out with respect for applicable laws and regulations. The law also stipulates that adequate compensation must be provided promptly. There have been no expropriations of foreign investments to date. Article 11 guarantees the right to transfer and repatriate profits and remittances.

Many international companies who have tried to do business in the country have given up in frustration because of crooked officials and archaic business regulations; many other businesses never even try. McDonald's, for instance, was interested in opening a restaurant in Sarajevo in 1997, but the bribes required by SDA officials, and the various demands and restrictions placed on McDonald's, convinced the company that it was not in its interest to move in. Similarly, the large Italian construction company Aluvento, and Germany's largest maker of door and window frames, Gluck Norm, have both pulled out of Bosnia after suffering heavy losses. In explaining why they had pulled out, officials from both companies complained of heavy state interference, an inability to collect debts, and the kickbacks and bribes required by local officials. Volkswagen has had similar problems and has reportedly been contemplating pulling out of the country, in part due to its inability to collect a $1 million debt due to it by its state-owned partner in Sarajevo.

Most foreign direct investment in Bosnia has come from the neighboring countries of Italy, Germany, Austria, and Greece, and has been concentrated in small and medium-sized companies in sectors such as food, clothing, and wood processing. The Free Zone Mostar is the first such free trade zone established under the Law on Free Zones. It offers investors exemptions from customs fees, duties, and taxes on exports from the zone, as well as other incentives.

In general, however, the government has done little to encourage foreign investment and capital flow. In addition, many potential investors remain wary of investing for fear of potential embargoes, the government not honoring its commitments, or war breaking out again. By 1999, exasperation with local corruption had become so great that the OSCE's chief-of-mission, Ambassador Robert Barry, noted, "you've got to be crazy to invest in this country where it is a given that if you obey the laws you're going to lose money." In June 1999, Lloyd's of London initiated a program to offer companies wishing to trade with Bosnia cover against war and political risk. The program, entitled "Leveraged Insurance Facility for Trade" (LIFT) doubled the level of existing World Bank-backed guarantee cover offered by Bosnia's Investment Guarantee Agency (IGA) to about DEM 80 million ($42.3 million US). Under the plan, IGA will put up forty million marks in guarantee funds already received from the World Bank and several foreign governments against such claims, allowing Lloyd's underwriters to use the funds to provide insurance to companies trading goods in Bosnia. Since IGA was formed in 1997, it has written 22 guarantees worth some 33 million marks for companies such as Siemens AG and Scania AB, backing their exports to Bosnia.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets? There has been little reform of the energy sector, which remains largely under state control. Bosnia is relatively dependent on Russian gas imports. In February 1998, Russia cut natural gas supplies to Bosnia by 40 percent due to the country's failure to pay $12 million for gas supplied in 1996 and 1997. The government has stated that it is the responsibility of Energoinvest, the state-owned company that imports natural gas, to resolve what it considers a commercial problem. Interethnic politics, however, are apparently a factor as well, with some Bosniac leaders saying that the RS, which should assume a share of the financial obligations, has used a considerable portion of the gas.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial

unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The total labor force in BiH in 1998 was 2 million. Of this, females accounted for 38.1 percent of the total. According to statistics released in June 1999, there were a total of 757,064 employed individuals in BiH (407,064 in the Federation, and an estimated 250,000 in the RS). The unemployment rate in the Federation is 39 percent, while the corresponding figure for the RS is 36 percent. These figures do not include individuals working in the gray economy or on so-called "waiting lists," i.e., laid-off workers. By one estimate, in the Federation alone there are some 140,000 workers in the gray economy, or working "off the books."

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension and retirement system in BiH is divided into three separate systems corresponding to the three largely mono-ethnic enclaves in BiH. Areas of the Federation with a Bosniac-majority are covered by the Sarajevo pension system; areas of the Federation with a Croat-majority are covered by the Mostar pension system; and the RS has its own pension system.

In areas of the Federation covered by the Sarajevo pension system, 407,000 people are registered as being employed. However, statistics compiled by the Sarajevo pension fund also show that only 337,000 individuals are actually receiving salaries, and of those, only 284,385 are receiving them regularly. According to this source, some 1.3 employed workers are supporting every one retired person in Bosniac-populated areas. (An acceptable ratio of employed to retired individuals is considered to be 3:1.)

In Croat-populated areas covered by the Mostar pension system, some 61,539 people are registered as being employed, while there are some 44,940 registered retirees. The ratio of employed to retired individuals in Croat-populated areas is also 1.3:1.

The amount pensioners receive in BiH varies according to locality. Pensioner's in Sarajevo generally receive the highest monthly pensions, averaging 200 KM per month, while in Una-Sana canton, pensions average only 147 KM per month. The average pension in Croat-populated areas is 147 KM.

Despite these official figures, however, pensioners often claim that the reality is quite different, because pensions are often delayed or not paid at all. In 1998, for instance, the government failed to pay pensions for three months, while in 1999, the government missed five. Special benefits exist for war veterans, military invalids, and their families; as with other government benefits in BiH, these are usually paid on an irregular basis, and often rely on foreign benefactors, e.g., Islamic countries often donate money to pay to relatives of deceased members of the ARBiH.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Incomes in BiH have been rising since the end of the war, although they have yet to reach their pre-1992 levels, and there are significant disparities between the two entities. The average wage in the Federation in December 1997 was 308 DEM, while the respective figure in the RS was 210 DEM. By January 1999, the average wage in the Federation was 361.5 KM, and 203 in the RS.

Wage arrears remain an important problem for the BiH economy. Workers in industry, health-care professionals, and teachers often go months without receiving monthly salaries. At the Vares Ironworks, for instance, workers missed nine paychecks in 1998. In the

RS, to increase political support for the Dodik government, the US government has been providing funds to pay teachers' and government workers' salaries. Enterprises and firms sometimes compensate for cash arrearages by providing their workers with products which they can then sell on their own; in Banja Luka in 1996, for instance, employees of Banja Luka's once thriving paper mills were given hundreds of packages of toilet paper in lieu of salaries.

Specific information on public and private sector median wages is not available. However, as a general rule, employees in the governmental apparatus are usually paid more regularly than employees in the private sector.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

Prior to the war, BiH had a well-developed educational system, with public expenditures on education accounting for approximately 6 percent of the republic's GDP. Almost all children completed the eight-year primary school education, and most of these went on to complete a secondary education as well. Four universities, comprising 46 institutes and faculties, rounded out BiH's post-secondary and higher education system, which was geared mainly toward science and engineering.

The subsequent war caused tremendous damage to BiH's educational infrastructure (some 70 percent of schools were destroyed, damaged, or requisitioned for military purposes), and personnel, with large numbers of teachers either leaving the country or being drafted into the military. There has also been a chronic lack of textbooks and other pedagogical materials. Enrollments in primary, secondary, and higher education between 1990-1995 declined by over 50 percent. The normal academic year was severely reduced as well, from the normal 38 weeks to 18. The large numbers of displaced persons in the country also strained the educational system; in many areas, the sudden influx of large numbers of displaced persons forced schools to begin functioning on two or three shifts a day.

Obtaining reliable figures for student enrollments in BiH is difficult due to the lack of data available, which is partly a result of the war, and partly a result of the fact that local authorities are often reluctant to divulge such information. A recent report showed that there were 411,089 students enrolled in elementary school in BiH in 1998 (282,677 in the Federation, and 128,412 in the RS), and 161,029 students enrolled in secondary education (105,136 in the Federation, and 55,893 in the RS). In higher educational institutions (which include University Faculties, Teacher Training institutions, and post-secondary schools), in 1998 there were 29, 614 full-time students enrolled in the Federation, and 12,051 full-time students enrolled in the RS. Numbers in each of these categories have been steadily increasing since the end of the war. Exact figures on the proportion of 8-18 year olds enrolled in the educational system is not available, but the vast majority of children do go through a formal education process. The statewide student teacher ratio is 16:1 (in the Federation, 13:1, in the RS, 19:1). Public spending for education in BiH state-wide in 1999 was 521,672,956 KM (412,128,868 KM in the Federation, and 109,544,088 in the RS).

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

According to one estimate, infant mortality in BiH doubled between 1990-1997. Infant mortality in BiH in 1998 was 13 per 1000 live births. Life expectancy in the country was 73. Crude birth rates in the country were 13 per 1000 people. No information on divorce rates is available.

State-wide statistics on the number of suicides in postwar BiH is unavailable. In 1997, however, RS President Biljana Plavsic made public a report showing that some 4000 people among the RS population and the Serb refugee population in Yugoslavia had committed suicide annually in 1996 and 1997. RS Interior Ministry officials believe that for every successful suicide, there are ten unsuccessful attempts. Similarly, in Tuzla-Podrinja Canton, the number of suicides rose by 30 percent in 1997 in comparison to 1996.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

In the period from 1993-1998, there were an average of 0.5 physicians per 1000 people in BiH. In the same time period, there were 1.8 hospital beds per 1000 people.

Postwar BiH suffers from a mismatch of health needs and health services, and the absence of a sustainable health finance system. International organizations such as the World Bank have recommended that BiH's health care system move away from its prewar emphasis on large hospitals and polyclinics, and more emphasis on out-patient facilities, home-based care, and more effective public health, disease prevention and control programs.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The extent of poverty in BiH has been a major problem in the postwar period; according to one survey in conducted in 1997, some 70 percent of the population lived below the poverty line. According to the OHR, the "minimum food basket" for an adult per month in BiH costs 120 DEM. However, a USAID public survey conducted in December 1997 showed that approximately 51 percent of the households responding to the survey claimed that they were earning less than 300 DEM monthly, suggesting that, at least according to official statistics, there is widespread poverty in the country.

Poverty in BiH has several aspects associated with it, not the least of which is ethnicity. According the OHR, if the "minimum food basket" for an adult in BiH cost 120 KM, the proportions of each group falling under the minimum threshold are as follows: Sarajevo (Bosniac) Fund pensioners, 28 percent; Mostar (Croat) Fund pensioners, 0 percent; Republika Srpska pensioners, 74 percent; Federation war invalids and survivors, 20 percent; RS war invalids and survivors, 97 percent; Federation workers 3 percent; RS workers, 27 percent.

BULGARIA

Polity: Parliamentary democracy
Economy: Mixed capitalist
Population: 8,200,000
PPP (USD): 4,010
Capital: Sofia
Ethnic Groups Bulgarian (85 percent), Turk (9 percent), Macedonian (3 percent), Roma (3 percent)
Size of private sector as % of GDP (1998): 65

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	3.90	↑↑3.55	↑3.31
Rule of Law	na	na	4.13
Economic Liberalization	5.38	↑↑4.08	↑↑3.75

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	1280.0	1157.0	1559.0	1170.0	1228.0	1315.0	1490.0
Real GDP growth (% change on previous year)	-1.5	1.8	2.1	-10.1	-7.0	3.5	0.0
Inflation rate	72.9	96.2	62.1	123.1	1082.6	22.3	5.3
Exports (USD millions)	3727.0	3935.0	5345.0	4890.0	4925.0	4293.0	3200.0
Imports (USD millions)	4612.0	3952.0	5224.0	4703.0	4544.0	4609.0	4200.0
Foreign Direct Investment (USD millions)	40.0	105.0	82.0	100.0	497.0	401.0	700.0
Unemployment rate	16.4	12.8	11.1	12.5	13.7	12.2	na
Life Expectancy (years)	71.1	71.0	70.9	70.8	70.7	71.2	72.3

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	7	3	2	2	2	2	2	2	2	2	2
Civil Liberties	7	4	3	3	2	2	2	3	3	3	3
Status	NF	PF	F	F	F	F	F	F	F	F	F

Introduction

After ten turbulent years of transition, Bulgaria has a stable, well-functioning multi-party system in which the transfer of power takes place through free and fair elections. A parliamentary republic with a 240-member house of representatives and an elected president, Bulgaria was the first Eastern European country to adopt a new constitution (in July 1991). Civil liberties have improved in part to the pressure exerted by human rights organizations that take civil rights cases to the International Court in Strasbourg. The Bulgarian ethnic model, based on political representation for minorities and a model of representative democracy accepted and upheld by society, has succeeded in avoiding the trap of nationalistic policies. Bulgaria ratified the Framework Convention on Minority Rights on February 18, 1999.

The Bulgarian economy is stable but not well developed. After the collapse of the economy and civic unrest in 1997, the ruling post-Communist Bulgarian Socialist Party (BSP) stepped down, preliminary parliamentary elections were called, and the opposition United Democratic Forces (UDF) came into power. The new government committed itself to a program of stabilization, reforms, economic growth, and integration into the Euro-Atlantic structures. A currency board was introduced in July 1997 and the local currency was tied to the Deutschmark. The system of the currency board performs smoothly and reform efforts have been somewhat effective. However, a lack of foreign investment in the region has hampered economic growth and competitiveness.

In an attempt to gain broad support for reforms, the party in government formed a strategic majority in parliament, including most members of the parliamentary pro-European consensus. However, Bulgarian support for the Alliance in the Kosovo Crisis contradicted the anti-Western positions of key members of the strategic majority. The majority broke down, overturning the political consensus in favor of economic reform.

Democratization

POLITICAL PROCESS 2.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The last legislative elections were held on April 19, 1997. According to both domestic and international organizations, the elections were free and fair. Bulgaria established a stable electoral democracy. Both Left and Right parties, in other words, are losing and gaining power through the ballot box. The UDF majority named Ivan Kostov, the leader of the party, as prime minister; a government formed from the coalition partners—primarily the UDF and the People's Union. There is a strong governing majority, backed by parliament and a president from the same coalition. The BSP still holds on to power on the level of local governments, having won the municipal elections in 1995. The next local elections are in October 1999.

2. When did presidential elections occur? Were they free and fair?

Under the 1991 Constitution, the president is directly elected for a five-year term. On January 19, 1992, Zheliu Zhelev, then a candidate from the UDF, won the first direct, multiparty presidential elections. On June 1, 1996, the UDF organized Bulgaria's first presidential primaries. Peter Stoyanov won the primaries against President Jelev, and defeated the BSP candidate Ivan Marazov in the November 1996 elections. Observers pronounced the elections free and fair.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Bulgaria now possesses a well-functioning multiparty system. Each of the key parties have won and lost elections twice. In the last parliamentary elections in April, 1997 38 political parties and coalitions covering the political spectrum registered for participation. The number of parties and coalitions registered for the forthcoming local elections in October 1999 is 96. Three parties from the coalition that won the general elections are represented in the current government. Six parties have won seats in parliament and are also represented on the local level. The Movement for

Rights and Freedoms (a Turkish ethnic party) holds 27 out of 262 mayoral positions in the municipalities with predominantly Turkish population.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
The number of registered parties in Bulgaria is 205. For a party to win seats in parliament it must overcome the 4 percent threshold in the general election. The Constitution of Bulgaria bans the formation of parties based on ethnic, religious, or racial principles. Despite the ban, the Movement for Rights and Freedoms is represented in parliament and plays a crucial role in the political life of Bulgaria. The party was registered in early 1990. The parliamentary representation of the Turkish minority forms the basis of the successful Bulgarian ethnic model.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
A little over 10 percent of the registered voters are members of political parties. There is no precise data on what percentage of party members are women, but 7.5 percent of the MPs are women and there are three women ministers in the Cabinet. A woman also headed one of the caretaker governments. Women are best represented in the judiciary, where, in fact, the number of women exceeds that of men. Out of 25 members of the Supreme Judicial Council, 8 are women.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
In the last parliamentary elections (in 1997) the turnout was 59 percent. Voter turnout in local elections has traditionally been lower. The highest turnout was registered in the 1996 presidential elections: 62.7 percent. Bulgarian women are active voters. In some elections, the number of women voters is higher than that of men. Female representation in government institutions does not reflect the electoral ratio.

CIVIL SOCIETY 3.75/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
According to *The Directory of Non-Profit Organizations in Bulgaria*, published in 1998 by the Information Center OSF-Sofia, there are over 1,000 non-profit organizations in the country in more than 50 towns which are active in crucial areas of social life such as: human rights and minority groups, healthcare, education, women's organizations, charities, policy institutes and think tanks, professional associations, environment, culture, science, social services, information technologies, religion, and sport. The churches are involved in philanthropy and distribute some of the private aid at the local level. There are no polling data for the proportion of the population active in private voluntary activity. Professional Associations are well established in the country. The Bulgarian Women's Union is one of the two major women's unions, with 4,700 members and 24 clubs in the country and 25 in Sofia. The Democratic Women's Union, which is a successor of the Women's Union from the pre-1989 period, has 52,900 members nationwide with branches in every municipal center in the country. In Sofia alone the DWU comprises 5,100 members.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?
NGO registration runs smoothly and does not involve more than the usual formalities. A Law for Corporate Taxation has been in force since 1997. It provides an opportunity for NGOs to continue their activities after international donors withdraw. So far, these opportunities have been mostly in theory because of the dire economic situation in the country. According to the law: "The balance before taxation could be decreased through donations to non-profit organizations, i.e. educational, healthcare, scientific research, charity, social welfare and environmental, by up to 5 percent of the positive balance—provided that donations are deducted from the capital reserves"

Project grants are exempt from a donation tax according to the Law for Local Taxes and Tariffs. Legally, the state has no obligation to provide information. The Access to Information Act has not yet been adopted by parliament. State insti-

tutions do not have good information resources, though some do have Web pages. In early 1999, the most influential NGOs joined forces in a comprehensive campaign to lobby for the new NGO law. Despite numerous suggestions for changes by NGO experts, however, the law has not yet been adopted.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

NGOs benefit mainly from Bulgarian's well-educated workforce and some of the young people educated in USA and Europe. Most of them are working in the nongovernmental sector. Most well known NGOs have good management. There is sufficient information on the management of NGOs available in the Bulgarian language. Several experienced NGOs are dedicated to supporting the institutional development of the nongovernmental sector.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost recovery fees?

During the last year and a half the international donor organizations have redirected their attention from Central to Southeastern Europe and more organizations came into the country. This has improved the financial situation of the NGOs. Some donors like PHARE, ????, GMF, MATRA, USAID provide institutional development grants that contribute to the sustainability of the NGOs. USAID is one of the major sponsors of Bulgarian NGOs. The USAID program Democracy Network designed to strengthen the nonprofit sector has provided $3 million in assistance to Bulgarian NGOs.

Support for the NGO sector from Bulgarian companies is weak and haphazard because of the lack of tax incentives. NGOs comply with the Law for Local Taxes and Tariffs from 1997: "exempt from donation taxes are not-for-profit legal entities and the donations they receive or accept provided that such donations correspond to their charter mission and goals." In practice, since 1997 NGOs do not pay taxes on donations. Most of the big NGOs carry out annual audits. The sector as a whole is under the supervision of the finance minister who has powers to request changes in their articles of association and the governing bodies of the organizations. Organizations registered as non-profit have no right to earn income or collect cost-recovery fees.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/ proportional membership of farmers' groups, small business associations, etc.?

There are three big trade unions in Bulgaria. The successor of the pre-1989 trade union is the Confederation of Independent Trade Unions in Bulgaria (CITUB). The second, *Podkrepa* (Support), was established in 1989 as a political opposition to CITUB; the third, *Promyana* (Change) emerged in 1997 with the support of the UDF during the civil unrest against the BSP. These trade unions represent 2 million workers, but their numbers are declining because of the restructuring of the economy. The unemployment rate as of June 1999 is 18.2 percent, according to data from the National Statistic Institute. Trade unions negotiate with the government over wages in different branches of industry, management policies, and privatization. The collective agreements and the legitimacy of strikes are legal. There are a growing number of farmers' groups and small business associations.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political process?

The participation of interest groups in politics is not legally regulated. Such groups enjoy little power in the political process.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

NGOs are perceived as an important and needed part of society. The government is tolerant of the NGOs. Some NGO experts were being recruited as advisors to the parliamentary committees that organized public hearings on issues of national importance like the settlement of the Bulgarian-Macedonian language dispute. One NGO established a Political Academy for Central and Southeastern Europe; it holds quarterly meetings for MPs and members of the gov-

ernment. The media, and through them society as a whole, perceive the NGOs as an alternative source of analyses and information. The government is open to NGO policy advocacy and is well aware that the third sector should be considered both an ally and a corrective. Most members of government take into account that NGOs are integrated into the international organizations.

INDEPENDENT MEDIA 3.50/7

1. Are there legal protections for press freedom?
Article 40 of the Bulgarian Constitution provides for the freedom of speech: "The press and the other mass media shall be free and shall not be subjected to censorship." The problem, however, lies in the fact that the Constitutional Court has no powers to rule on complaints from individuals.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Bulgarian legislation provides for a penalty of up to three years of imprisonment for libel. The practice of Bulgarian courts meets the international standards regarding freedom of speech. The problem stems from the harsh punishments for libel of public officials. Libel is a felony, the charges for which are referred to the courts by the prosecution. This system is subject to abuses. There are cases of threats to journalists that never make it to court, but where the prosecution does press charges. This has a chilling effect on the work of the reporters. The law is not clear as to whether in Bulgaria one can take legal action against invasion of privacy.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
All printed media are privately owned. The biggest private newspapers are: *Trud*, with a circulation of approximately 400,000; *24 Hours*, with a circulation of 250,000; and *Zemya*, with a circulation 40,000 or so. Both BSP and the UDF run dailies. The most respected Bulgarian weekly is *Capital*, which has a circulation of 30,000. There are 90 private radio stations, some of them as yet unlicensed. There are more than 20 private regional cable networks. The two channels with a national audience are state-run. One of them is currently undergoing privatization.

4. Are the private media financially viable?
The economic situation in the country had a negative effect on the independent press. A German publishing group, Westdeutsche Algemaine Zeitung (WAZ), which now controls an estimated 70 to 80 percent of the daily newspaper market, bought two of the biggest dailies, *Trud* and *24 Hours*. According to the 1996 Radio and Television Act, news and information shows can neither be sponsored nor interrupted by commercials. Advertising time cannot exceed 15 percent of the total length of a program.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Papers are more or less independent, with the exception of the party-run newspapers and some publications that defend the economic interests of their owners. The same applies to radio stations. The influence of those in government is mainly along the lines of granting licenses. The state-controlled radio and television are dependent on the governing majority and this has been true since 1990 largely because of the unwillingness of the two main parties to provide the legal framework for their independence and create alternative opportunities.

6. Is the distribution system for newspapers privately or governmentally controlled?
Major media organizations have established their own distribution networks, but the government still controls part of the printing and distribution of newspapers.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Based on data from the Bulgarian Telecommunications Company about 150,000 people have access to and use the Internet and email services—about 2 percent of the population in the country. There are no restrictions on Internet access for private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
One of the most important journalist associations is the Free Speech Civil Forum Association. There is a Journalist Union

established long ago. More then 50 percent of the journalists in Bulgaria are women.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?
Bulgaria was rated "Partly Free" by Freedom House's *Survey of Press Freedom* from 1990 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 3.75/7

1. Is the legislature the effective rule-making institution?
Under the Bulgarian Constitution, the Bulgarian National Assembly is the only body competent to formulate rules with the force of law. Other bodies, mostly the executive branch, can adopt normative acts but their legal force is lower than that of laws. The legislature adopts laws with a simple majority vote (except for changes in the Constitution), approves the national budget, elects and dismisses the highest body of the executive branch (the Council of Ministers), and decides on issues of war and peace, troop deployment, and ratification of international agreements. While the president of Bulgaria can veto laws, the veto can be overridden by a simple majority of more than half of all members of parliament (121 out of the constitutionally mandated 240 members).

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
According to the Bulgarian Constitution, the national territory is divided into municipalities and regions. The basic territorial and administrative unit in the country is the municipality, while the division into regions is only for coordination between the national government and the municipalities. The municipalities are legal persons, have the right to own property, and have independent budgets. They have authority to deal on a normative and executive level with all issues of local importance, including governance of municipal property, municipal development policies, education, healthcare, culture, provision of local public goods, social aid, environmental protection, etc.

3. Are subnational officials chosen in free and fair elections?
According to the constitution, the regional governors are appointed by the Council of Ministers. The bodies of municipal power are elected: the municipal council as a body of self-government, and the mayor as a body of local executive power. Between 1989 and mid-1999 every municipality in Bulgaria has held elections for councils and mayors at least twice. All elections have been free and fair, with changes in the parties in power occurring frequently.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?
The work of the legislative body is open to the public. Hearings by committees are open, the media have easy and unobstructed access to the plenary sessions, and all draft legislation can be found on the Bulgarian National Assembly Internet site. Some of the sessions of the National Assembly are broadcast live. The work of the Council of Ministers is observable through regular press conferences, through the access of the media to the sessions of the government, and through the daily bulletin published on the Bulgarian Government Internet site.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?
Municipal governments have two sources of revenue: central budget subsidies and local and property taxes. Because of the constitutional requirement that all tax rates need to be approved by the National Assembly, local and property tax rates are defined by each municipality and then adopted *en block* by the parliament. The municipalities have complete control over their own budgets, except when they receive money from the central budget for targeted national programs. Traditionally, most municipalities rely on the central budget subsidy for many of their needs.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?
There is a lack of managerial expertise on the local government level. However, through the democratic process the people are able to select more capable local leaders and civil servants and many municipalities are making significant progress in this direction.

7. When did the constitutional/legislative changes on local power come into effect? Has there been a reform

of the civil service code/system? Are local civil servants employees of the local or central government?
The changes in local government started in 1991 with the adoption of the new Constitution and of the Local Self-government and Local Administration Act. With the Administration Act of 1998 and the Civil Servant Act of 1999 the legislative reform of the civil service has started, but there has been little practical change, since the process is in the very beginning. The local civil servants are employees of the municipalities and not of the central government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 3.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
There is a post-Communist constitution in Bulgaria. A Grand National Assembly adopted it in July 1991. It provides for the basic human and civil rights and for a democratic division of power. Bulgaria is a parliamentary republic.

The Bulgarian constitution is interpreted and enforced by a special body – the Constitutional Court. It consists of 12 members, appointed in equal quotas (4 members each) by Parliament, by the President of Bulgaria, and by a joint meeting of the justices of the Supreme Court of Cassation and the Supreme Administrative Court. Each justice serves only a single nine-year term in the Court. Every three years the term of one-third of the justices expires and new justices are elected.

The Constitutional Court resolves definitively all disputes about the constitutionality of the acts of Parliament and of the President, and provides binding interpretations of the constitutional text. In the period between April 1, 1998 and June 30, 1999 the Bulgarian Constitutional Court has adopted 35 decisions. It has pronounced acts of Parliament as unconstitutional on 9 occasions; on 25 occasions it has upheld texts from acts of Parliament as constitutional; and it has provided 5 binding interpretations of different constitutional texts. Some of the more important decisions include pronouncing the unconstitutionality of several amendments of the Judicial Power Act and of several texts of the Radio and Television Act, and pronouncing the constitutional nature of the agreement between Bulgaria and NATO for the provision of Bulgarian airspace to be used by NATO during the war in Kosovo.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
There is adequate provision for fundamental human rights in the Bulgarian constitution. There is explicit constitutional protection of the freedom of economic initiative, supported by a prohibition of the abuse of monopoly power (art. 19), and protection of the right to private property, which is declared to be inviolable and can be alienated by the state only under limited circumstances and only after just compensation (art. 17).

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?
While no basic reforms in the penal system have taken place, there have been numerous changes in both substance and procedure. Some of them include the substitution of a monetary fine for imprisonment in libel cases; the abolition of capital punishment and the introduction of life imprisonment; the requirement for all arrests to be confirmed by judges after an initial period. Judges authorize searches and arrests, except when an arrest is necessary to stop a criminal act. In the latter case the arrest has to be confirmed by a judge within 24 hours.

The record on beatings and abuse of suspects and prisoners is mixed. The 1999 Annual Report of the International Helsinki Federation for Human Rights on Bulgaria defines the occasions of police violence during detention as "sporadic," but states that violence is "virtually systematic" when the arrest is made. There have been occasions when the courts have disregarded confessions for criminal acts on the ground that the defense has credibly charged that these confessions were made under duress. Enforcement officials have very broad powers to use firearms, and accountability for the excessive use of force is still weak, even though there have been occasions when police officers were punished or fired for excessive violence or use of firearms. The criminal justice system tends to be slow. Delays of several years are possible and happen in practice.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
Judges are generally considered to be relatively fair and impartial. However, the work of the courts is not highly regarded by the public as a result of several factors including the slow speed of justice, the lack of sufficient expertise, bureaucratic complications, and perceived corruption in the courts.
There are guarantees for a fair trial in the Bulgarian court procedures. Court hearings are open as a rule with few explicit exceptions. The defense receives a full opportunity to examine evidence, develop a case and defend it, as well as to appeal the decisions. The problems of the court system lie in the fact that there are an insufficient number of judges, the judge turnover is high, and the court system is not computerized and communications are slow and unreliable. In some places, most notably the Sofia City and District courts, there is a scarcity of courtrooms.

Because of the requirements for professional experience for many court positions, there are many judges who remain from the Communist era, or having received their education before 1989. On the lower levels of jurisprudence, however, there are predominantly younger and post-1989-educated judges.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
Under the Bulgarian Constitution, the judicial system, including the courts, is independent from the other branches of power. The courts are not subjected to political control in practice. The Minister of Justice plays a role in the supreme Judicial Council by chairing its sessions, without the right to vote, and by making proposals to the Council. However, all power in the judicial branch is vested in the Supreme Judicial Council, whose election is not dominated by any other government body. The application of the law by the courts as well as by the executive branch is overseen by the Supreme Court of Cassation and by the Supreme Administrative Court.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Legal practice in Bulgaria is mostly private. Judges, prosecutors, and legal counsels to government bodies are employed by the state. Attorneys are in private practice, and their proportion with respect to all lawyers is high, even though precise numbers are not available. This proportion has not changed significantly in recent years.

The Bulgarian system of higher education produces approximately 1,600 new lawyers annually. More than 55 percent are women. In 1998, National Statistical Institute data indicate 1,648 newly graduated lawyers with a Master's degree, of which 1,075, or 65.2 percent, are women.

7. Does the state provide public defenders?
The state is not under an obligation to provide public defenders, except in criminal cases where severe punishment (a minimum of 10 years imprisonment) is possible, where the defender is a minor, and in several other exhaustively described occasions (art. 70 of the Criminal Procedure Code).

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Article 6 of the Bulgarian Constitution bans discrimination based on race, nationality, ethnic identity, sex, religion, etc. The *1999 Annual Report for Bulgaria* of the International Helsinki Federation for Human Rights states that Bulgaria has recognized previously controversial religious denominations, and has guaranteed all religious communities equal access to the broadcast media. However, there have been numerous reports about religious harassment.

On February 18, 1999 the Bulgarian National Assembly adopted a law for the ratification of the Framework Convention for the Protection of National Minorities of the Council of Europe. After years of obstruction, the Bulgarian courts registered an organization representing Bulgarian citizens with Macedonian self-identity as a legitimate party. The Turkish and Roma minorities also have similar political representation. The Roma minority continues to suffer from discrimination and harassment by Bulgarians, and on different occasions there have been reports that police officials aided raids.

9. Are judicial decisions effectively enforced?
The authority of the courts is recognized and, once made, judicial decisions are enforced. The process of enforcement is considered to be slow.

CORRUPTION 4.75/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example,

university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?

Surveys regularly indicate that corruption is among the top five concerns of Bulgarian citizens. The majority of the people believe that corruption is widespread. Bribing bureaucrats is not always necessary. Most of the time bribes are used to speed up bureaucratic procedures. The areas where corruption is perceived as most common are customs, the tax administration, healthcare, business licensing, the police, the courts, and universities.

The average salary in the administration is relatively low, close to two-thirds of the average for the country. It is unevenly distributed, and lower level civil servants receive especially low salaries.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

As a result of strong public pressure, all members of the governing coalition have severed ties with private businesses. Such ties remain, however, at the lower levels of administration. There have been numerous media reports linking different businesses with administrative officials. Legal standards for boundaries between public and private sector do not exist, and the adoption of codes of conduct for different civil servants and policy makers is still only a plan.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The legislative framework for financial disclosure and disallowing conflict of interest is insufficient. The continuing reforms in the legal and law-enforcement system are creating modest opportunities for effective actions against corruption. In 1998, the courts dealt with 124 criminal corruption cases. On several occasions relatively highly situated individuals have been arrested and tried for corruption, but the number of these occasions does not create the impression that there is a decisive campaign.

Since racketeering was one of the major problems of transition, there have been specific texts introduced in the penal code to deal with this complicated matter. Since then, reports show a significant decrease in the spread and significance of this phenomenon. The National Audit Office audits all government bodies controlling budgetary resources, and every member of these bodies can be investigated.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

There have been two national civil-society groups studying corruption in Bulgaria over the last year (Coalition 2000 and Transparency Without Borders); pollsters regularly ask about corruption. The surveys indicate that corruption is widespread. The public does not accept it ethically, but on a practical level most of the respondents indicate that they are inclined to use corruption to achieve their goals. The surveys also indicate that over the period between June 1998 and June 1999 corruption moved slightly down in the list of major concerns for the society, and that the more comprehensive measures of corruption have slightly declined.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Two of the more important civil-society initiatives against corruption are the establishment of Transparency Without Borders, which is the national branch of Transparency International, and the start of the Coalition 2000 program, a coalition of a number of Bulgarian non-government organizations aimed specifically at fighting corruption in society.

The Bulgarian Government reports that 14 laws related to the fight against corruption have been adopted since its mandate started in May 1997, including changes in the penal code, the customs, the tax procedure, and insurance regulations. The government has also adopted a national strategy for fighting corruption, and has ratified most major anticorruption conventions, like the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions; and the Council of Europe Criminal Law Convention

on Corruption. No leading government officials at the national or local levels have been prosecuted or reported investigated for corruption in the past year.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
The two major civil society formations active against corruption on a national scale in Bulgaria both have public anticorruption programs. They increase the public awareness about the problems of corruption through high profile conferences, active media participation, publication of different theoretical and empirical materials, and active international participation.

One of the sets of indices published by Coalition 2000 indicates that over the period June 1998 to April 1999 the public has demonstrated a relatively high degree of intolerance towards corruption on an ethical level, and a slight but pronounced increase in the intolerance towards acts of corruption in everyday life.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Bulgaria was ranked 63rd out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 3.3 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 3.75/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
According to the official statistics of the National Statistic Institute, over the last six years, Bulgaria's private sector tripled its share of GDP; this increase in part compensated for the decline in output of state-owned enterprises, which are often loss-makers. Private-sector output shrunk only once—by eight percent in 1996 and 1997—during the last ten years. This drop was still less than the shrinkage of the public sector during the same period of time. The fall in private-sector output was the result of sharp currency depreciation and hyperinflation. During the first half of 1999, the private sector generated 54 percent of GDP and boosted its share in industrial output; measured as a share of gross value added, it now produces twice as much as government-owned enterprises, while employing only 40 percent more workers (or 59 percent of the labor force). In 1999, the private sector has a productivity rate 79 percent higher than public sector enterprises; it also absorbs 60 percent of all long-term bank credit and dominates, together with households, new borrowing (the government-owned sector has had no new borrowing since September 1998).

In short, the private sector is now the driving force of the Bulgarian economy. There has been no recent measurement of the informal economy; estimates vary between 22 percent (as stated by the head of official statistics) and 40 percent, (a consensus figure for most non-government observers) of the total economy. The difficulty in measurement stems from the period of hyperinflation, when most businesses stopped paying taxes. However, there are signs that the share in the economy of the informal sector has decreased: tax collection improved from 31.9 percent of GDP in 1997 to 39.5 percent in 1999, with greater improvement in tax collection during the first half of the year than originally projected (42.4 percent); the share of barter as a percentage of all transactions fell from 33 percent in 1997 to 27 percent in 1998, as estimated by the government's Agency for Economic Analysis and Forecast (AEAF).

2. What major privatization legislation has been passed? What were its substantive features?
Since 1989, privatization in Bulgaria has taken three main forms: the restitution of land and urban property; the cash sale of state and municipal assets; and mass privatization programs, including privatization through vouchers. The restitution of land and urban property is regulated by four 1992 and one 1998 restitution laws, the 1991 "Land Restitution Act," as well as by implementing provisions. The existing legal framework allows for approximately five percent of all state-owned assets to be set aside for restitution claims. The 1992 "Transformation and Privatization of State-Owned and Municipal-Owned Enterprise Act" (or the "Privatization Law," as it is often referred to) regulates the other methods; by-laws contain provisions on the different procedures for cash sales. These methods have been used simultaneously and in various combinations. In 1998, the government sold twice more state enterprises than it did the year before. Thirty-six percent of Bulgaria's total assets—mostly utili-

ties and infrastructure monopolies—remain in government hands. The existing regulation allows for the exercise of wide degrees of discretion in the selection of potential buyers. Cash privatization, in particular, can be carried out according to different procedures: tenders, direct negotiations, or the public offerings of shares. Institutions in charge of individual privatization deals decide on a case-by-case basis which procedure to apply. Direct negotiation is the least regulated method and yet the most frequently used to sell government assets—80 percent of the deals are done in this fashion. The smaller the enterprise, the greater the frequency of "strategic" negotiations.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Virtually all of agriculture, housing, small businesses, and services are privately owned. Bulgaria has a strong tradition of privately owned houses and flats, virtually all of them (95 percent, or 10 percent more than in 1985) now in private hands. Seventy-eight percent of arable land belongs to owners with some sort of prior property title. But the issuing of notary deeds is slow: by mid-1999, only 30 percent of landowners had established their property rights. Very different from other services, however, is the banking sector: private domestic banks hold up to 19 percent of total bank assets; 9 branches of foreign banks and their subsidiaries represent approximately 10.6 percent of the Bulgarian banking system. In sectors otherwise dominated by private companies, the government was slow to sell and retained ownership of major enterprises. For instance, the biggest construction company (and a major exporter of construction services and a leader in infrastructure building) is government-owned. The government also owns the railways, the roads, the airports, and electricity generation. But the airlines were privatized in mid-1999, and the sale of telecommunications has been agreed to with foreign buyers, at least in principle. In summary, construction is about half privatized (while the building of houses and flats is entirely privatized); agriculture is entirely private; industry is 75 percent private, infrastructure, power (including nuclear), and posts and telecommunications are state-owned.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The privatization law introduced a special regime for management-employee buyouts (MEBO) in privatization deals. Twenty percent of the shares in such privatizations are preserved for insiders. Also, a preferential payment system allows management-employee buyers to provide a down payment of just ten percent of the offered price, while scheduling the remaining 90 percent of the payment through installments over a period of ten years. Thus, insiders have crowded out other buyers. These insiders might be considered a nomenklatura; in elections political parties have used this system as an opportunity to reward political friends for their past support.

According to the Privatization Agency, between 1993 and 1998, 44.3 percent of the total sales in Bulgaria went to management-employee buyer companies. For 1998 only, however, figures indicate a considerably higher percentage: 73.4 percent. MEBOs haven't just been the result of socialist-led governments. Under the current, non-socialist government, recourse to this preferential system is predicated on the grounds of accelerating the divesting of state's assets. MEBOs have benefited from reselling ex-state assets. This redistribution process, however, is over.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The system creates incentives for insiders to become buyers themselves. The implementation of wide-scale privatization, especially during 1996 and 1997, helped diminish the general public's opposition to privatization. Currently, there is a consensus on the need to privatize in a more transparent manner and across a broader spectrum. Public criticism against privatization-related corruption is rising, as is public discontent with the lack of transparency and MEBOs. There is no major political party that opposes privatization. Voters of younger age and higher education have been 2 to 3 times more supportive of privatization than voters older than 55. The former usually vote for reforms and support democratic political parties; the latter support the status quo and more often favor ex-communist parties. In recent years, government administration has been rather supportive of MEBOs. Due to this attitude, insiders oppose foreign investors and lobby against open tenders and auctions. Most if not all interest groups (i.e., entrepreneurs, large and small companies, foreign and transnational companies, administration, etc.) support privatization but differ in their views on preferred procedures and provisional beneficiaries.

MACROECONOMIC POLICY 3.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

There are two distinct periods in the development of Bulgaria's tax system: the period from 1990 to 1996 was characterized by discretion, trial and error modifications of the 1989 decree, and the regulation of tax contributions from businesses. The period from 1996 to today was characterized by the implementation of the VAT and the codification of the corporate tax.

During the period from 1991 to 1998, major tax laws have been changed 66 times and respective "implementation rules" 43 times. Annually that adds up to 8.25 and 5.38 changes a year, respectively. New tax regulations occurred 14.13 times a year, or 1.18 times a month; 3 different laws have regulated corporate taxation.

In the tax-reforms after 1997, there has been a basic trend toward stability of the tax system, simplification, and the abolition of tax exemptions. In 1998, exemptions for newly privatized companies were discontinued and, in 1999, exemptions for certain categories of foreign investment were eliminated too. Bulgaria introduced a VAT of 18 percent in April 1994; only bread and milk products were excluded. In 1996, the government increased VAT to 22 percent. In the period between November 1997 and June 1999, the scope of tax-deductible expenses was significantly reduced; VAT fell from 22 to 20 percent, applicable to all goods and services except banks and financial services. Since 1997, corporate taxation of "large" companies (i.e. those with a taxable profit of more than US$27 million) has been reduced from 40.16 to 34.3 percent; for "smaller" companies, corporate taxation has fallen from 30.81 percent to 28 percent.

As a result, since 1997, tax compliance has increased by approximately 25 percent, although there is no recent attempt to measure the level of tax evasion. As stated above, tax collection improved from 31.9 percent of GDP in 1996 to 32.8 percent in 1997, 39.5 percent in 1998, and 42.4 percent during the first half of 1999. Sole proprietorships pay an income tax with four rates (20, 26, 32 and 40 percent) applicable to incomes greater than US$38.9 a month; the maximal rate applies to income greater than US$711 a month. The median wage tax burden in 1999 is 16.1 percent, down from 20 percent in 1996. Because of the constantly shifting tax situation—e.g. a forthcoming introduction of a real estate tax and ongoing reforms of social welfare—the total tax burden is difficult to capture. The administration of taxes has become more efficient, though there are indirect indications of small-scale corruption and conflict of interest in the system (e.g. tax officers advertise their services in the press).

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Since 1997, authorities have maintained prudent fiscal policies. In 1999, they virtually closed or sold all loss-making state owned enterprise. By mid-1999 there were seven exceptions, the most significant being three monopolies: the railways, the state gas company and the National Electric Company (NEC). In 1998 and 1999, the major reforms were as follows: the health care and pension system, after half a century as sub-funds of the government financial system, has been separated from the central budget: the so-called pay-as-you-go pension system is already a fund, and private (mandatory and voluntary) pension funds are regulated and allowed to operate. Non-tax revenues (e.g. from privatization) have been streamlined; off-budget accounts, which in 1997 and 1998 channelled sums equal to one-eighth of 1997 GDP, have been closed and the budget consolidated. The government's maintenance of debt and budget statistics also improved. The statistics are now available on a biweekly basis.

The debt problem, while serious, is improving: in 1996 and 1997 debt was 114 percent of GDP; in 1998 it was 80 percent; and in 1999 we forecast it will be 73 percent. Official foreign debt fell significantly after 1993–from US$12.3 billion at the end of 1993 to US$8.7 billion in mid-1999—nearly a 45-percent decrease of debt to foreign governments as a percentage of GDP. Foreign-debt payments in 1998 were 6.8 percent of GDP and 20.6 percent of the exports for the same year. The budget deficit has been reduced from 13.4 percent of GDP in 1996 to 2.6 percent in 1997 and 1 percent in 1998. Fiscal subsidies were at the level of approximately 2 percent of GDP during the first half of 1999. There are no signs that this budget deficit would not meet the target of 1.5 percent of GDP. Quasi-fiscal subsidies (indebtedness to suppliers - mostly to the NEC, the gas monopoly, and tax arrears) are concentrated in the short-term liabili-

ties of the state-owned enterprises. Their total amount is as high as 1.4 percent of 1999 GDP, concentrated in the ten biggest state-owned enterprises. Together, those enterprises contribute to two-thirds of the losses, 38 percent of bad loans, and 73.6 percent of the tax arrears. The government is addressing this problem through privatization (of metallurgy and chemical industries, for example), through price increases (in the case of monopolies), and through commodity credit to the state railways from the NEC. This policy has been successful: from the first to the second quarter of 1999, state-owned enterprise losses have been reduced 2.5 times.

During 1999 the deficit of the pension system fell to one percent of GDP, but the pension system is undergoing profound reforms. The impact on savings, investment and earnings is wide-ranging. As a percentage of GDP, savings decreased from 40 percent of GDP in 1996 to 21.1 percent in 1997. Since 1997, there has been a 0.5 percent increase; for last three quarters, however, there has been no sign of change. Investment dropped from more than 30 percent of GDP in 1990 to 11 percent in 1993, and remained at that level until 1996, when it shrunk again by 2 percent. In the period from 1997 to the first half of 1999, investment picked up again to 14.3 percent of GDP. Real wages stabilized at 110 percent of the pre-crisis level in 1995.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The reform of the banking sector began in 1989, with the conversion of Communist-era central banking into a two-tier banking system with a typical central bank and an array of commercial banks (most of them former branches of the old central bank). The legal framework came later, in 1991 and 1992. Prior to the introduction of the Currency Board Arrangement (CBA) in July 1997, central bank policies were influenced by different state authorities, political bodies, and interest groups, despite the ostensible independence of the central bank proclaimed by the Bulgarian National Bank (BNB) Act, in force from 1991 to 1997. The BNB is the only institution with the power to issue money.

With the establishment of the CBA, the central bank has become more independent: the BNB is prohibited from extending credits to the government and financing fiscal deficits; CBA limits the central bank monetary policy autonomy (money supply is restricted to the level reserves in the reference currency, the EURO), thus diminishing outsiders' incentives to influence decisions of the BNB. By October 1999, hard currency reserves were 2,726 billion EURO. According to the new structure, BNB has three departments: the Issue Department, the Banking Department, and the Bank Supervision Department. Each of them is independent—no department interferes in the responsibilities of the others.

The establishment of private banks began in 1990 and was active until 1993: banks emerged in a setting characterized by low capital requirements and almost no barriers to entry. Also, there was no requirement to justify founding capital origins; so, most private banks started with borrowed funds. The number of private banks increased significantly, beginning with 2 in 1990, increasing to 70 in 1993, and, after consolidations, falling to 26 in 1995; their share in total bank assets was 3.1 percent in 1992, 22.4 percent in 1995, and 19 percent in 1999. Prior to 1997, the expansion of private banks increased the number of players but did not favor the market and competition; new banks sought refinancing from BNB to repay their debts or competed for privileged contracts with the government or "politically sensitive" enterprises. Hence, there was no improvement of performance and quality of services; the amount of large credits and the share of bad loans in private banks increased as a result of the too-close connection of most of the private banks with their debtors. CBA has discontinued these practices.

Bulgarian banks meet international capital adequacy ratios but they do not meet quality-of-service standards because of the limited number of products and services that the banks offer. The banking sector's total assets were equivalent to approximately 43.4 percent of GDP in 1997, dropping to 34.9 percent of GDP in 1998—far below the standards in developed countries (where this proportion is usually more than 100 percent). The sector is predominated by a small number of big state-owned banks (4 out of the 7 biggest Bulgarian banks, representing 70.7 percent of the banking system's total assets, are still state-owned). More than 26 percent of the total banking system's assets are held by one state-owned bank — Bulbank. State ownership in the banking system continues to hamper the operation of the banking sector. However, privatization in the sector is underway: Bulgaria's second and third largest banks have been privatized. The reigning policy is to sell banks to institutions with best possible brand name and service quality, i.e. to foreign institutions.

In April 1998, Bulgaria adopted the Law on Bank Deposit Guarantee. This law guarantees deposits in BGL and

in foreign currency. The Bank Deposit Guarantee Fund guarantees the payment of funds held in depositors' bank accounts, regardless of the number and size of the deposits.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Bulgaria had a free-floating exchange rate until July 1997, when it introduced a currency board. The Bulgarian currency, the *lev* (BGL), first was fixed to DEM (1,000 BGL/DEM), after which it was pegged to the EURO (1,955.83 BGL/EUR). The USD/BGL exchange rate varied throughout the year according to the fluctuations of the USD/DEM rate.

The choice of the exchange rate regime was one of the decisive issues faced by Bulgarian decision-makers. Bulgaria took the option of a managed floating-exchange rate in order to protect the economy from internal and external shock. In 1991, the exchange rate of BGL was set at 24 BGL per US dollar and the Bulgarian currency was depreciated. At the same time, internal convertibility was introduced. To limit the convertibility of currency has a restrictive effect on trade and capital flow. At the time, the domestic currency was convertible, according to Art. 14 of the IMF Statutes. There was a restriction placed on citizens who sought to open bank accounts abroad. BNB and the Ministry of Finance control the transfer of capital and permit credits from foreign banks as well as the export of capital. There are restrictions on how much currency individuals can carry with them out of the country. The limit is US$ 1,000; above this amount the customs authorities require special permits, issued by the bank. In mid-1999, the parliament passed a new currency law that becomes effective in January 2000. As a step toward further capital liberalization, Bulgarian citizens will now have the right to open an account abroad, while residents and non-residents will have the right to export freely, without limits, up to BGL 20,000 (US$ 10,000). After filling out a customs form, foreign persons can export currency above this limit without the permission of the Ministry of Finance.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The capital market in Bulgaria is not functioning in a proper way and does not play a significant role in the allocation of capital, despite the several attempts undertaken since 1991 to strengthen its potential and performance. The development of an organized capital market could be divided into two stages according to the degree of regulation of transactions on the stock market.

The first stage corresponded with the first wave of the wide-scale privatization process – the licensing of privatization funds and the creation of some rules among the economic agents on the capital market. The second stage is marked by the merger of two existing stock exchanges—the Bulgarian Stock Exchange and the Sofia Stock Exchange—into the Bulgarian Stock Exchange Sofia (BSES), founded as a joint-stock company. The main feature of the stock market in Bulgaria is a lack of balance between supply and demand. Privatization did not stimulate deals on the stock exchange as initially expected, because of a lack of the public offering of shares of state-owned enterprises; private issuers prefer over-the-counter trading, which in 1998 contributed 90 percent of all capital transactions. In the same year, the total trade turnover on the stock market amounted to BGL 214 million. The total value of the registered deals on BSES and the over-the-counter market is at the level of 10 percent of GDP. There are two major categories of deals executed on the stock market during 1998: the sales of minority shares of privatized enterprises and the purchase of these shares by investment intermediaries: commercial banks, investment intermediaries, and investors. Insurance companies and private pension funds do not yet participate actively on the stock market.

The liquidity of the Bulgarian stock market is low, the market is small, and the trade is not active. An appropriate way to improve liquidity is to create the possibility for a better diversification of portfolios by issuing qualitative shares and increasing the number of domestic investors. The government body that has the authority to regulate capital markets is the Securities and Stock Exchange Commission. There are two key impediments to the proper functioning of the Bulgarian capital market: a vague protection of minority stockholders and the lack of trust in the BSES—49 percent government-owned—on the part of the private sector.

MICROECONOMIC POLICY 4.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with

the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?
According to Article 17 of the Bulgarian Constitution (adopted in July 1991), private property rights are irrevocable, and expropriation is prohibited. Use of private property for public purposes, if not fully compensated, is banned. The risk of property confiscation today is zero. In 1995 and 1996, the Constitutional Court discontinued 35 acts of the Socialist Parliament for violating private-property rights. Unlike some other ex-Communist countries, Bulgaria had never had an overwhelming amount of its property nationalized (in 1985, for example, 83 percent of houses and flats were private property; in 1992 the number had increased to 91 percent). Bulgaria's regulations—and the courts that enforce them—are well suited to protect property rights, and there is an uninterrupted tradition of doing so.

Since 1992, the government implemented a large scale restitution of formally confiscated properties: 87 percent of urban real estate has been restituted to former owners; but of agriculture land only 30 percent has been returned because of debates over titles and boundaries, and slow procedure in general. Bulgaria has adopted the Belgian person-based system, with the Law on Privileges and Mortgages (in force since September 1, 1910). A Land Cadastre is in the process of being prepared, but no uniform Estate Cadastre exists to use as a basis for registering land. There is no accurate and easily accessible register of who owns what.

2. To what extent have prices been liberalized? What subsidies remain?
Economic agents are free to set most prices. Individuals have the freedom to use their own property and can engage in voluntary exchanges. The rent of housing and real estate depends on supply and demand. In 1999, Bulgaria liberalized retail fuel prices. At present, the government sets the prices of central heating, electricity, natural gas, railway transport, and cigarettes. The government also interferes with telecommunication prices (the Bulgarian Telecommunications Company, to be privatized by the end of 1999, will remain a monopoly in ground-telephone communications until the end of 2002), public transport, university fees, medical doctors' fees, etc.

In previous years, price controls (as a percent of a typical basket of consumer goods) were as follows: in 1991, 14 percent; in 1992, 14 percent, in 1993, 16.5 percent; in 1994, 18.9 percent; in 1995, 49 percent; in 1996, 52.4 percent; in 1996, 45 percent, and in 1998, 15.8 percent. In the first half of 1999, 11 percent of the consumer basket is under some sort of government control. As explained above, direct subsidies at present go to city and inter-city public transport, central heating, railway transport; quasi-subsidies are distributed by allowing big state-owned enterprises to delay tax and social insurance payments.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?
There are no legal restrictions on owning and operating a business, except in the areas of the 12 exclusive government monopolies: on energy, communications, mineral, natural and water resources, coastal area and transport. The formation, dissolution, and transfer of businesses are regulated by a Commercial Code, which is respected. Access to information on commercial law is secured. The present legislation in Bulgaria provides owners and companies with opportunities to initiate liquidation and insolvency procedures. These procedures are borrowed from the EU legislation. Their implementation is uneven—the average insolvency procedure lasts two years, whereas a liquidation procedure takes one year. The main reason for this tardiness is poor interaction between institutions and a simple lack of practice.

Licensing requirements establish significant entry costs on start-up entrepreneurs. The requirements increase the overall cost of doing business and at the same time reduce competition. According to Institute for Market Economics calculations, there is a significant increase in the number of activities requiring a license or a permit: these requirements, established by acts of parliament, doubled from 1992 to 1994, and then doubled again in 1995, and then doubled once more from 1996 to 1998. Currently, there are 106 licensing/permit regimes established by law. Since most of the requirements adopted in 1998 and 1999 were intended to harmonize with EU directives, the tendency is expected to continue. The overall impact of such policies, in tandem with foreign trade liberalization, is diminishing the competitiveness of domestic entrepreneurs.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Privileged contracts with the government, granted without competitive bidding, were common phenomena in the first five years of transition. For contracts between private parties and disputes over property rights, however, the courts have been always competent and efficient. There were periods, though, when the courts were overloaded—especially during the period between 1992 and 1995 when eight laws, mostly concerning the restitution of urban properties, had to be enforced.

The situation is different with the enforcement of creditors' rights, although problems do occur in this area too. The foreclosure procedure, as established by the Civic Code, can take up to 19 months. In the high-inflation of the years preceding 1997, a creditor could lose his entire payment while foreclosing. This situation provided incentives to lend money to entities and individuals that was subject to control through other means than the courts. The institutional impact was twofold: managers, insiders, and shareholders robbed private banks; 18 banks (one-third of the banking sector) went bankrupt; and a demand for the private enforcement of contracts arose. The key problem in contract enforcement is posed by the manner in which executive judges are appointed: per number of residents, not in response to the number of court decisions they must execute. As a result, big and prosperous cities where transactions are extensive and businesses are concentrated usually suffer greater delays in comparison to smaller towns; e.g. foreclosure procedures take twice as long in the five biggest cities than as they do, on average, for the rest of the country. In 1998 and 1999, Bulgaria amended its penal code to speed up preliminary investigations, protect witnesses, negotiate settlements between parties and enlarge the forensic evidence list. Currently, there are no hard data to suggest whether or not these amendments improved the security of property rights and contracts.

Business arbitration courts have existed for years and their role is respected. The most effective such court is associated with the Chamber of Commerce and Industry and is a part of the Paris-based International Court of Arbitration. Some sectors initiated recently their own arbitration commissions: they operate effectively in communities of wine and spirit producers (since mid-1999); of grain producers and traders (since 1998); and of oil and gas retailers (since mid-1999).

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Bulgaria adopted its first Competition Defense Law (CDL) in June 1991; then it set up the Competition Defense Commission. The CDL offered a relatively straightforward definition of trust practices, but excluded "activities which could be exercised monopolistically within the scope of the national market," as defined by the Council of Ministers. It also prohibited central and local government bodies from regulating in a manner "which openly or silently introduce a monopolistic position or de facto lead to it" (article 4 of CDL). But ultimately the law was not implemented. The government itself adopted and enforced acts that contradict the CDL provision: price control, the price act of 1995, and debt-forgiveness to monopolies. In April 1998, a new CDL was adopted that gave the commission greater authority. Other policies that hamper competition were discontinued. In 1998 and 1999, the climate became more favorable to competition: fewer controlled prices, reduced export/import quotas, flatter and lower taxation.

The first Bulgarian Law on Government and Municipal Commissions Procurement (LGMCP) was published in the *State Gazette*'s January 31, 1997 issue, but remained unimplemented. Bulgaria abrogated it and adopted a new Law on Public Procurement in June 1999. The new law defines the scope of the government's purchases of good and services, and lists the entities obliged to apply the law, the prospective contractors, the fields of application (along with the exclusions), and the procedures (i. e. the terms of application, the consecutive steps to be taken, etc.). One weak point of the new law is that it lacks a clear definition of "public procurement" – which may allow the law to be evaded.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

As of mid-1999, Bulgaria's trade with the EU and other OECD, EFTA, and CEFTA countries makes up 74 percent of its exports and 71.5 percent of its imports. Trade with the Russian Federation is 7 percent in total exports and imports; 10 years ago trade with the Soviet Union and COMECON countries made up 81 percent of total exports and imports. For the time being, since its share of global

trade is shrinking, there is little evidence that Bulgaria benefited from openness and regional integration. But there is a commitment to liberalize further in the years to come, as the Bulgarian government indicated in its September 1998 agreement with the IMF.

If one measures the ratio of trade to GDP, however, the Bulgarian economy has been relatively open: at the beginning of the 1990's, this ratio was at 80 percent; in 1992 it goes above 100 percent; it sinks to 80 percent from 1993 to 1995; scales up to 100 percent again in 1996; and falls to 73 percent in 1998. The ratio has been higher than Switzerland's throughout this period. In 1998, the lower figure reflects losses in market shares in Russia, and reduced exports to other markets because of internal restructuring and diminished demand. Since 1991, customs tariffs have changed several times, more or less being adjusted to the requirements of the Harmonized Customs Tariffs. The average tariff was 11.4 percent in 1991, 15.4 percent in 1992, 17.5 percent in 1993, and 17.2 percent 1995. According to the adopted Customs Tariffs of 1997, the average tariff rate is 17.8 percent (for the Ist column), and 16.2 percent (for the IInd column); the average tariff of the General Customs Tariffs amounts to 57.7 percent. The average weighted tariff for agriculture products is 21.23 percent, while for industrial products it is 9.29 percent (the evaluation is only for ad-volume tariffs). In 1998, the average tariff rate for industrial products was 16.7 percent, and for agriculture products, 25.9 percent. In January 1999, a new Customs Code was introduced, based on the EU Customs Code. The new code reduces duties on a significant number of industrial products: the average rate for these goods is now 12.58 percent, with respect to Most Favorable Nation Treatment agreements. In 2000, the average tariff of industrial products will fall to 12 percent; for agriculture products, the tariff will drop to 24 percent. Beginning in 2002, the tariffs will decrease even more: the average tariff for industrial products will be just 10 percent.

In 1998, out of 37 state enterprises conducting foreign trade, 14 were sold, 4 remained state, and others were either to be privatized or liquidated. Despite an economically unfavorable external environment (trade embargoes on neighboring countries, the Russian crisis, etc.), Bulgaria made progress in liberalizing its prices and reducing tariffs on imports and exports. A specific feature of Bulgaria is that economic growth is driven mainly by domestic demand, with imports rising faster than exports last year. At the same time, Bulgaria's liberalization has not yet contributed to GDP growth or prosperity—which is a sign of poor competitiveness.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Since 1991, it has been legal for Bulgarians to have bank accounts in hard currency, though in the past they have not been allowed to open bank accounts abroad or transfer funds without official permission. The BNB and the Ministry of Finance controlled capital transfers, permitted credits from foreign banks, and allowed capital exports. There are restrictions on the amount of currency that individuals can take with them out of the country. The current limit is US$ 1,000; to take more than this amount, an individual requires a special permit from a bank. Because Bulgarians have the right to hold convertible currency accounts, there has been a tradition of denominating contracts in more stable currencies. In mid-1999, the parliament passed a new Currency Law, which becomes effective in January 2000, taking another step toward capital liberalization. Bulgarian citizens will now have the right to open an account abroad, and residents and non-residents will have the right to export freely up to BGL 20,000 (US$ 10,000); foreign individuals, after filling out a customs form, will now be able to export currency above this limit without permission from the Ministry of Finance. The law also legalizes the foreign-currency denomination of contracts, though payments will remain in BGL.

Foreign direct investment in Bulgaria during the first half of 1999 was US$ 220 million. Three laws for encouraging foreign investments have been in place since 1991. All of them allow the unrestricted repatriation of profits after the payment of a 15 percent withholding tax. Before 1998, foreign investors were granted preferential tax treatment for 5 years if their investment exceeded $5 million. The same regime was applied to newly privatized companies, if the state equity stake fell below 33 percent. Nevertheless, the average annual foreign direct investment from 1993 to 1996 was approximately $180 million, reaching a maximum of $ 256 million in 1996. In 1997 and 1998, foreign directed investment reached $ 636 million and $620 million, respectively, and for the first half of 1999 the total is $321 million. 1998 witnessed a remarkable increase in green-field investment and the reinvestment of profits to $ 400 million; in the first 6 months of 1999, the figure was $ 134 million.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including

whether exported fuels must pass through one or more countries to reach markets?

At present, the supply of gas and electricity is a state monopoly; oil and gasoline have been opened to competition since mid-1999, but protective tariffs on petrochemical products remain. The Bulgarian Law on Energy and Energy Efficiency, adopted in 1999, envisages opening the production and distribution of electricity and natural gas to competition. The so-called single-buyer model is being replaced by elements of a third-party-access model. The state will retain its monopoly in transmission, however. Article 18 of the Constitution proclaims that gas pipelines and electrical grids are "exclusive state property" and may only be concessioned; for now they are included on the asset sheets of the National Electrical Company and the Bulgargaz (the gas monopoly). Reform in the energy sector still favors the single-buyer model, with no guaranteed access of third parties to the transmission grids. The accountability of these monopoly structures is hampered by a 1994 regulation (Council of Ministers Decision 457) that includes them in the list of national security secrets.

By 1997, Bulgaria had the highest share (32 percent) of all the EU applicant states of energy products as a percentage of total imports. In 1998, this share fell to 23 percent, and during the first half of 1999 it dropped to 19 percent, marking a reduction in oil prices but also greater energy efficiency growing out of structural reforms. Bulgaria is still too dependent on Russian imports. In 1997, Bulgaria imported 100 percent of its natural gas and approximately 80 percent of its crude oil from Russia.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The total labor force decreased in absolute numbers to 3,476,800 in 1998 from 3,564,200 in 1997. In 1998, there were 1,553,500 male (53.2 percent) and 1,367,200 female (46.8 percent) workers. In the first half of 1999, approximately 111,000 employees were laid off in the public sector—more than the entire decline in public employment during 1998. In June 1999, the absolute number of unemployed was 487,500, marking an increase in the officially registered unemployment rate from 12.2 percent in 1998 to 12.8 percent by mid-1999. The unemployment rate for men is 45.6 percent; for women it is 54.4 percent. For their first 6 months out of work, the unemployed receive 60 percent of the wages they earned during their last 9 months of work.

There are no statistics on full- or part-time labor contracts—in Bulgaria, "labor" and "citizens" contracts respectively. Between the 1991 amendments to the Communist-era labor code and the September 1994 exemption of citizens contracts from social-welfare contributions, companies began to use this exemption to convert labor contracts into citizens' ones. In 1994, the exemption was discontinued. Firms began to convert welfare-tax incompatibility into "service" contacts in which the executing party has the duty to cover those contributions. Monitoring non-compliance has been difficult.

Today, the private sector employs 53 percent of the labor force, but its contribution to the social welfare system is 5.7 percent. This striking difference provides evidence that managers, small businesses, and the self-employed ensure themselves at the minimum level—two minimum monthly wages or US$ 72. Pressures to seek come from the increasing costs of formal labor. Total cost to the employer per BGL 100 of net employee income has been consistently rising over the past nine years, starting from 155.88 in 1991 and grew to 178.25 in 1996, then fell back to 171.43 and in 1998 rose to 175.91 and 175.03 in 1999 (source: IME).

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension system is based on the pay-as-you-go mechanism. A long-anticipated radical reform of the system is planned for the years following 2000. At present, 35.7 percent of the gross wages goes to the Social Security Institute in the form of mandatory pension instalments—34.7 per-

cent being paid by the employer, 1 percent by the employee. The cost of the social security instalments (which include pension, unemployment, and health benefits) makes up 32.4 percent of employer labor costs. Three different labor categories determine three different retirement ages. For men the ages are 52, 57, and 65; for women, the ages are 47, 52, and 60. The average public-sector wage fell from 44 percent in 1994 to 27 percent in 1997 but grew to 32 percent in 1998. Private-sector contributions to the pension system are insignificant.

Pension reform has been under way since mid-1998. The reform is aimed at the pay-as-you-go system, which it seeks to replace with combined mandatory and voluntary supplementary systems. It hopes to decrease the dependency ratio from the current 80 pensioners to 100 insured workers to 60 pensioners per 100 insured workers. Though most of the changes still lie ahead, in 1998 the pay-as-you-go system was separated from the state budget and an act regulating the operation of private pension funds was introduced in mid-1999. Mandated specialized benefits are for the following categories of citizens: maternity leave, allowances for children under 18 years (approximately US$ 4.2 a month), a birth grant, subsidies for the "socially weak" (approximately US$ 37 a month) which include energy subsidies and social care services, and cash and in-kind benefits for physically challenged and chronically ill people. In different years, these benefits have constituted shifting shares of GDP, the lowest, in 1996, being 0.74 percent of GDP and the highest, 1.16 percent in 1993 and 1.2 percent in 1998. A 1998 World Bank survey noted that, in 1997, 85 percent of Bulgarian households had received some mandated benefits—a powerful sign of systemic inefficiency.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Income statistics are poorly reported. The private sector, as in other transition countries,under-reports both personal and company incomes. According to official wage statistics, over the last half-decade, private-sector salaries have been, on average, 10 to 11 percent lower than wages in the public sector. In the public sector, wages have declined 70 percent since 1990. Compared with the corresponding month of the previous year, the nominal dollar equivalent of the average monthly wage in June 1999 had grown by 14 percent; the same rate in local currency was 18 percent. The nominal monthly wage by mid-1999 was BGL 228,500 or US$ 124. The yearly averages for monthly wages in local currency and U.S. dollars, respectively, were 3,231 BGL ($117) in 1993; 4,960 BGL ($91) in 1994; 7,597 BGL ($113) in 1995; 13,965 BGL ($79) in 1996; 127,909 BGL ($76.3) in 1997; and 187,438 BGL ($106.50) in 1998. Real (CPI deflated) wages in the first six months of 1999 grew by roughly 1 percent a month.

As a special 1999 World Bank survey on Bulgarian poverty indicated, individual wages made up 40 percent of income; the pension contribution was 26.8 percent; social assistance was 10.5 percent; the rest comes from in-kind agriculture (9.6 percent), self-employment, and rents. Wage arrears have been a problem in state-owned enterprises. In-kind payments were a relatively common phenomenon (33 percent) in late 1996 and early 1997, period of hyperinflation. If a state firm is liquidated, wage arrears are covered by bankruptcy regulations, with the workers treated as if they were creditors. If a state firm is privatized, the schedule for restructuring includes compensation schemes.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

Elementary school population during the last six years was 322,464 in 1993, 423,808 in 1994, 425,286 in 1995, 427,226 in 1996, 424,788 in 1997, 418,528 in 1998, and 404,924 in 1999. The school population figures for secondary and post-secondary schools, respectively, was 552,192 and 152,801 in 1993, 412,288 and 151,701 in 1994, 396,504 and 158,701 in 1995, 377,348 and 158,968 in 1996, 366,711 and 153,234 in 1997, 362,587 and 146,091 in 1998, and 358,938 and 144,820 in 1999.

School population is declining for a number of demographic and other reasons. Fewer Roma families send their children to school, and Bulgarian ethnic Turks have been

leaving the country for economic reasons. The last census was in 1992, so these numbers are hard to ascertain. The student/teacher ratio (including universities) has been relatively stable, at 12.6 in 1993, 12.3 in 1994, 12.2 in 1995, 11.9 in 1996, 12.7 in 1997, and 12.4 in 1998.

If we assume that in 1992 central budget expenditures were 100 percent, in 1993 they were 80 percent of this level; in 1994, 67 percent; in 1995, 58 percent; and in 1996, 40 percent. In 1997, the decline in budget expenditures came to an end, and in 1998 it returned to 60 percent of the 1992 level. In 1996, education expenditures were 7.3 percent of the total budget expenditures and 3 percent of GDP; for 1997 these figures were 11.3 percent and 4 percent, respectively.

Since 1991, the number of undergraduate students has been increasing approximately 10 percent per year; however, the number of Ph.D. students fell twice during the period from 1991 to 1996. The state universities have gained autonomy and five new private universities have emerged, but the quality of education has deteriorated. Much of the teaching is based on out-of-date programs, and computers and other technical facilities are either ancient or not available at all. Subscription for periodicals and purchases of new books by libraries has been reduced to a minimum. Although the number of students who pay for their education has increased from 30 percent to 48 percent of the total number of students between 1993 and 1996, and in 1997 education in some areas (e.g. law, economics) is more than 60 percent financed by tuition fees, Bulgarian universities still rely on budget financing. In 1997, the available funds were approximately 40 percent of their 1992 level in real terms.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 15.5 percent in 1993, 16.3 percent in 1994, 14.8 percent in 1995, 15.6 percent in 1996, 17.5 percent in 1997, and 14.4 percent in 1998. Bulgaria's birth rate decreased from 10 percent in 1993 to 9.4 percent in 1994, 8.6 percent in 1995 and 1996, and 7.7 percent in 1997, before increasing slightly to 7.9 percent in 1998. The life expectancy for men and women, respectively, during this period was 67.7 percent and 75 percent in 1993, 67.3 percent and 74.8 percent in 1994, 67.1 percent and 74.9 percent in 1995, 67.1 percent and 74.6 percent in 1996, and 67.1 percent and 74.3 percent in 1997. The divorce rate rose slightly from 0.9 percent in 1993 and 1994 to 1.3 percent in 1995, and then declined again to 1.2 percent in 1996 and 1.1 percent in 1997. Statistics on suicide rates were not available.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

The ratio of doctors and nurses to the population remained unchanged at 0.01 from 1993 to 1998. The average monthly wages for doctors, nurses, and medics increased dramatically from 1993 to 1998, from 2,810 BGL in 1993 to 4,053 BGL in 1994, 5,863 BGL in 1995, 8,853 BGL in 1996, 86,813 BGL in 1997, and 140,069 BGL in 1998. The number of total and per capita hospital beds, respectively, was 90,991 and 93 in 1993; 88,251 and 95 in 1994; 89,190 and 94 in 1995; 89,422 and 93 in 1996; 86,954 and 95 in 1997, and 68,814 and 120 in 1998. The percentage of GDP devoted to health care remained fairly steady at 3.7 percent in 1995, 3.3 percent in 1996, and 3.6 percent in 1997.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

Official agencies do not measure poverty rates. They determine the minimum wage (currently US$ 37) and eligibility for social assistance—50 percent of the minimum wage. According to this criteria, no more than 4.07 percent of Bulgarian households were below the poverty line in 1997. The most authoritative data on this issue is provided by the 1999 World Bank survey on Bulgarian poverty. In this survey, poverty is defined as percentage of average per capita consumption, at two levels: a lower poverty line of 50 percent of average per capita consumption and a higher poverty line of 66.7 percent of average per capita consumption. The survey estimates that, using the higher poverty line, the proportion of the population in poverty rose from 5.5 percent (approximately 450,000 people) to 36 percent (approximately 3 million people) in 1997. The lower poverty rate grew for the same period from 2.9 percent to 20.2 percent.

The inconsistency of the data prevents determining the poverty rate prior to 1995.

The major reason for poverty is a decline in consumption and GDP. In 1996, the decline was 10 percent; in 1997 the decline was 6.9 percent. A better economic performance would do more to reduce poverty than any policy based on getting rid of income inequality. According to the methodology of FAO and WHO (using calories of consumption) between 23.9 percent and 34.7 percent of the households were below the poverty line in 1997. According to the methodology of Bulgarian Ministry of Labor, based on assumed norms of calories of consumption and consumer basket items, between 52.9 percent and 84.1 percent of Bulgarian households were living in a poverty. Most of the estimates suggest that individuals living in female-headed households have higher poverty rates than those living in male-headed households. The World Bank survey estimates that 40.4 female versus 35.4 male-headed households (median for 1995-1997). From the same survey there are several more thought-provoking findings.

The group exposed to the highest poverty risk is children: representing 21.05 percent of the population, their poverty rate is 44.26 percent. Those over 55, 29.65 percent of the population in 1997, have a poverty rate of 35.32 percent. In 1997, Bulgarian Turks (8.5 percent of the population) had a poverty rate of 40 percent, while 84 percent of the Roma (6.5 percent of the population) were in the same condition. There is no regular survey of the poverty rate.

CROATIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist
Population: 4,600,000
PPP (USD): 4,895
Capital: Zagreb
Ethnic Groups Croat (78 percent), Serb (12 percent), Muslim (1 percent), Hungarian (0.5 percent), Slovenian (0.5 percent), other (8 percent)
Size of private sector as % of GDP (1998): 55

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	4.20	↓ 4.25	↑ 4.19
Rule of Law	na	na	5.00
Economic Liberalization	3.88	↑ 3.83	↑ 3.67

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	2349.0	3137.0	4029.0	4422.0	4436.0	4820.0	4530.0
Real GDP growth (% change on previous year)	-8.0	5.9	6.8	6.0	6.5	2.3	-0.5
Inflation rate	1516.6	97.5	2.0	3.6	3.7	6.0	6.0
Exports (USD millions)	3904.0	4260.0	4633.0	4546.0	4206.0	4605.0	4282.0
Imports (USD millions)	4864.0	5583.0	7870.0	8197.0	9430.0	8773.0	7808.0
Foreign Direct Investment (USD millions)	77.0	95.0	83.0	529.0	346.0	854.0	750.0
Unemployment rate	14.8	14.5	14.5	16.4	17.5	17.2	na
Life Expectancy (years)	70.0	71.3	72.1	72.4	72.5	72.6	74.0

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			3	4	4	4	4	4	4	4	4
Civil Liberties			4	4	4	4	4	4	4	4	4
Status			PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

While Croatia is nominally a presidential-parliamentary democracy, the country's strong presidency and the longtime dominance of the Croatian Democratic Union (HDZ) in the country's political life have contributed to an authoritarian climate. Power remains highly centralized and authorities have carried out few administrative reforms. Under President Franjo Tudjman's rule, the government used its control over the state-run media and state resources to maintain the ruling HDZ's dominance at the national level. The judicial system suffers from political interference and bureaucracy, and judges have awarded substantial damages against independent newspapers in civil suits filed by leading public and private figures.

Croatia's economy continued to undergo a slow transition to a free market system, with the number of small businesses increasing and most agriculture privately owned. However, economic policy under Tudjman's rule was characterized by chronic mismanagement and a noncompetitive and nontransparent privatization process of some industry and media. A high current account deficit, low levels of foreign investment, and high unemployment remained ongoing problems throughout the 1990s.

The return of Serb refugees to Croatia, who had been displaced following Croatia's recapture in 1995 of Serb-held territories, proceeded slowly in 1998 and 1999. Ethnic Serbs wishing to return to Croatia faced harassment and bureaucratic obstacles. In January 1998, Croatia regained the last of its Serb-held territories when UN administrators transferred authority to Zagreb over Eastern Slavonia, which had been captured by Serbian forces and purged of ethnic Croats in 1991. Approximately 5,000 ethnic Serbs left Eastern Slavonia and other nearby regions in February. The government has facilitated the return of ethnic Croats to their prewar homes but has frequently blocked ethnic Serbs from returning to their homes. The death of President Tudjman in December 1999 after a long bout with cancer marked the beginning of new opportunities for a popular opposition coalition, led by the Social Democrats and Social Liberals, to win elections set for January 2000. Many Croatians had grown weary of the nationalistic rhetoric, corruption scandals, and ailing economy under Tudjman's regime.

Democratization

POLITICAL PROCESS 4.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international monitoring organizations? Who composes the government?

Croatia held multiparty elections in April and May 1990 while still one of the six constituent republics of the Federal People's Republic of Yugoslavia. The nationalist Croatian Democratic Union (HDZ) won 208 of 349 seats in the republic's legislature. In May, the legislature named Stjepan Mesic president of the ruling executive council. In July, the legislature formally transformed the executive council into a government. The December 1990 constitution vested legislative power in an upper House of Counties and a lower House of Representatives, both directly elected for a four-year term. The upper House of Counties has 63 elected seats (three from each of the 20 counties and three from Zagreb), and five seats appointed by the president. The lower house can have between 100 and 160 representatives. In a May 1991 referendum, 83.6 percent of the participants voted in favor of Croatia's secession from Yugoslavia, and on June 25 the republic declared independence. The Serb-dominated Yugoslav National Army and its local Serb allies subsequently captured some 30 percent of Croatian territory, mainly areas with large ethnic Serb populations. In January 1992, Zagreb and Belgrade declared a cease-fire and agreed to a UN Security Council-authorized United Nations Protection Force (UNPROFOR) in the Serb-occupied territories.

Croatia held its first post-independence elections on August 2, 1992. In balloting for the House of Representatives, the HDZ retained its substantial majority, and in September, President Tudjman named the party's Hrvoje Sarinic prime minister. In the February 1993 elections for the new upper House of Counties, the HDZ won pluralities or majorities in 20 of the 21 constituencies. In April, President Tudjman named the HDZ's Nikica Valentic prime minister. In the wake of the army's re-capture of Serb-occupied Krajina and Western Slavonia, the government held early lower house elections on October 29, 1995. The HDZ won 45.2 percent of the vote and 75 seats; the opposition Joint List Bloc, won 18.3 percent and 18 (Croatian Peasant Party, 10 seats; Istrian Democratic Assembly, 4; Croatian National Party, 2; Croatian Christian Democratic Union, 1; Croatian

Party of Slavonia and Baranja, 1); the Croatian Social-Liberal Party, 12 seats; the Social Democratic Party of Croatia-Party of Democratic Changes, 10; the Croatian Party of Rights, 4; the Croatian Independent Democrats, 1; with 7 seats reserved for ethnic minorities. The OSCE and other international observers called the elections flawed because of problems with the electoral law (see below); arbitrary, non-transparent changes to constituency boundaries; the state-owned media's heavily partisan campaign coverage; and irregularities relating to the voting process itself.

Opposition parties criticized the September 1995 electoral law, which parliament passed with little debate. The law reduced the number of seats in the lower house from 138 to 127 and raised the threshold for party lists from 3 percent to 5 percent for the 92 seats filled by proportional representation (the thresholds rise to 8 and 11 percent for alliances of 2 of 3 or more parties, respectively). Of the remaining seats, 28 are filled on a first-past-the-post basis, 3 were allocated to ethnic Serbs, and 4 to other minorities. The election law required that any minority group making up more than 8 percent of the population be represented in parliament on a proportional basis, but no group met this criterion.

Most controversially, the law reserved 12 of the 92 proportional representation seats for ethnic Croats living abroad, while disenfranchising ethnic Serbs who were born in Croatia but were living as refugees in Serb-controlled areas. The UN, the Council of Europe, and the OSCE repeatedly criticized these so-called Diaspora seats on the grounds that ethnic Croats of Bosnia-Herzegovina and elsewhere are citizens of that country and should not be allowed to vote in Croatian elections.

In November 1995, Tudjman appointed a single-party HDZ government under Premier Zlatko Matesa. In the April 13, 1997 upper-house balloting, held under a 71 percent turnout, the HDZ won 40 seats, the Croatian Peasant Party, 9; Croatian Social-Liberal Party, 6; Social Democratic Party of Croatia-Party of Democratic Changes, 4; the Istrian Democratic Assembly, 2; and the Croatian Party of Rights, 2. The Organization for Security and Cooperation in Europe (OSCE) reported that, "the degree to which these elections could be considered free and fair was limited by the clear bias of the state-run broadcast media in its news coverage and by the effect of regular attempts to limit the diversity of the print media." It cited the Croatian Helsinki Commission's findings that during the campaign the HDZ received from 60 to 75 percent of the coverage on the activities of party candidates on the evening television news. State radio's coverage was also biased in favor of the HDZ. The OSCE also noted that while the administration of the elections had improved compared to the 1995 parliamentary elections, considerable problems remained. These included a short timeframe that provided limited opportunities for proper training of election officials and voter education; changes in the regulations for invalid ballots introduced just days before the election; and a lack of secrecy for voters in approximately 20 percent of the polling stations the OSCE observed.

On May 25, 1999, the HDZ and six mainstream opposition parties signed an agreement on basic principles for a new electoral law, reportedly agreeing to continue allowing Croatians living abroad to vote in parliamentary elections, but without a reserved bloc of seats. However, by mid-1999, the law had not been amended as the two sides continued to bargain over additional amendments proposed by the opposition. These included clearly defined campaign financing regulations, the right of all parliamentary parties to participate in electoral bodies, the right of all registered parties to have access to voter registries, and the establishment of a multiparty group to prepare a new law governing the state-owned Croatia Radio and Television.

2. When did presidential elections occur? Were they free and fair?

The December 1990 constitution vested executive powers in a president who is directly elected for a five-year term, with a two-term limit. The president appoints the prime minister subject to parliamentary approval, and appoints other members of the government based on the prime minister's proposals. Croatia held its first post-independence elections on August 2, 1992. In the presidential balloting, President Tudjman won with a reported 56.7 percent of the vote.

In the June 15, 1997, presidential elections, held under a 57 percent turnout, Tudjman won another five-year term with a reported 61 percent of the vote, defeating Zdravko Tomac of the Social Democratic Party of Croatia-Party of Democratic Changes, with 21 percent, and Vlado Gotovac of the Croatian Social-Liberal Pary, with 18 percent. The OSCE concluded that the "process leading up to the election was fundamentally flawed, and did not meet the minimum standards for a meaningful and democratic election in line with OSCE standards." The OSCE cited state-controlled television and radio's overwhelming coverage of President Tudjman compared with opposition candidates; laws that permitted nearly 400,000 Bosnian Croats and other ethnic Croats with no permanent residence in Croatia to vote, and that effectively disenfranchised roughly 200,000

primarily ethnic Serb voters who had fled Croatia in advance of 1995 military operations; a campaign incident in which a uniformed army officer knocked Gotovac unconscious at a political rally; President Tudjman's use of the powers of incumbency to campaign outside of the parameters of election regulations and "inordinate" use of state resources; large disparities in resources between President Tudjman and his rivals; and the questionable independence of polling commissions. The OSCE also cited problems on election day itself, including a lack of secrecy for voters in some polling stations.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system is multiparty-based, but the government uses pro-incumbent electoral laws, restrictions on the media, and its control of state resources to maintain the HDZ's position as the dominant party at the national level. Opposition parties have won local elections.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

The OSCE noted in its report on the April 1997 legislative and local elections that more than 60 parties were registered, and almost one-third of them participated in the elections. The major parties range across the political spectrum and include the ruling HDZ; the conservative Croatian Peasant Party (HSS); the Croatian Social-Liberal Party (HSLS), a European-style social democratic party; the centrist Croatian Peoples Party (HNS); the Croatian Independent Democrats (HND), formed by dissident HDZ members; and the Social Democratic Party of Croatia-Party of Democratic Changes (SDP), the successor to the League of Communists. Several parties represent minorities, including the Istrian Democratic Assembly, composed largely of ethnic Italians and other minorities in Istria; the Serbian National Party, which opposes Serb separatism; the Independent Democratic Serbian Party, which includes both separatist and non-separatist Serbs; and the Muslim-based Croatian Muslim Democratic Party. The HSLS is often considered to be the leading opposition party, although the SDP posted the largest gains in the April 1997 elections. The HSLS contested the 1997 elections in a coalition with the HSS. The SDP, HNS, and HND formed another main opposition coalition.

In the early 1990s, the authorities asked the constitutional court to ban the far-right Croatian Party of Rights and initiated legal proceedings against three of its members. The court challenge failed and the party won seats in the October 1995 elections.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Political parties must have at least 100 members and register with the Ministry of Administration. Parties are not required to report membership figures or demographic information, so it is difficult to estimate the proportion of the population that belongs to political parties and the proportion of party membership that is made up of women. As of the end of 1998, women held only 14 seats in the 195-member parliament.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

The government reported a 71 percent turnout for the April 1997 elections for the upper house of parliament and municipal councils. Turnout was 57 percent for the June 1997 presidential election, 68.8 percent for the October 1995 parliamentary elections, 62.6 percent for the 1993 upper house elections, and 75.6 percent for the 1992 presidential election. There is no data on female participation in elections, although anecdotal evidence suggests that men and women vote in roughly equal numbers.

CIVIL SOCIETY 3.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

The Ministry of Public Administration reported in 1997 that there were nearly 18,500 NGOs and other private associations in Croatia. Major human rights and politically-oriented NGOs include the Croatian Helsinki Commission for Human Rights, the Croatian Law Center, the Anti-War Cam-

paign, the Group for Direct Protection of Human Rights, the Dalmatian Solidarity Committee, the Center for Peace, Non-violence and Human Rights, and the Erasmus Guild-Institute for the Culture of Democracy in Croatia. NGOs are also involved in a broad range of social, welfare, and cultural activities. Few groups are actively working to increase philanthropy and volunteerism There is no polling or other data on the proportion of the population that is active in private voluntary activity.

There are no nationally based NGOs that work on women's rights issues, although several such groups are active in Zagreb and other cities. The best known is the Zagreb-based Be Active, Be Emancipated, which carries out advocacy, monitoring, and education activities to increase grassroots awareness of human rights issues and to promote government accountability and female participation in the political process.

2. What is the legal and regulatory environment for NGOs (i.e ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

In June 1997, parliament approved a new Law on Associations that regulates the formation, registration, and operation of NGOs, social organizations, and citizens' associations. The law gives the government broad powers to block the formation of an NGO, monitor NGO activities, and suspend an NGO's activities through administrative procedures if there is a "well-founded" suspicion that its activities violate the constitution or any law. In such cases, the government can appoint a proxy to manage and dispose of an NGO's property until the NGO proves its innocence in court. The government used its power under the law to shut down at least one NGO in 1998. The law provides NGOs with few protections from arbitrary government action. Authorities frequently obstruct the registration process, which is often lengthy.

Some NGO activism focuses on improving the legal and regulatory environment. In 1996, for example, several NGO representatives formed the "Initiative for the Third Sector," a coalition that offered 25 amendments to the Law on Associations, nearly all of which were incorporated into the new law. In October 1998, the government established an office for cooperation with NGOs on improving the legal framework governing their operation, although it is not yet clear how effective this office has been.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Most Croatian NGOs are led by one or two senior staff members and include a small support staff and/or several volunteers. Management structures specify key officers and delineate their responsibilities, but are otherwise relatively informal. There is a growing body of literature on NGO management issues in the Croatian language. The Center for Development of Non-Profit organizations, a resource center for NGO development issues, gathers information on legislation, funding, and other matters relevant to NGO work, but in general there is relatively little cooperation among NGOs, and few examples of experienced organizations providing training or other support to their less-developed counterparts.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Many NGOs rely almost exclusively on international support to fund their activities due in part to difficult economic conditions in Croatia and the lack of significant tax incentives for donors. The 1997 Law on Associations does not grant a tax deduction for contributions to NGOs, and NGOs must pay tax on contributions that can be classified as income. In January 1998, a new Value Added Tax came into effect with a universal rate of 22 percent for NGOs. In October 1998, the government established a competitive tender process for NGOs to receive state funding, although it is not yet clear to what extent NGOs have taken advantage of this process.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Article 43 of the constitution guarantees all workers the right to form or join trade unions. In practice, trade unions are generally independent. Croatia's labor movement includes

five major labor confederations and several large unaffiliated unions. The five major confederations are the Union of Autonomous Trade Unions of Croatia (629,000 members); the Association of Trade Unions of Croatia (210,000 members); the Confederation of Independent Trade Unions of Croatia (40,000 members); the Coordinating Council of Professional and Public Employees (66,000 members); and the Association of Trade Unions of Public Servants of Croatia (26,000 members in higher education and science). Roughly 70 percent of workers are union members.

Unions supported a new labor code that took effect in January 1996. Under the code, unions may challenge firings in court, and employers may no longer use employees' illnesses to justify firings. Nevertheless, unions continue to complain that authorities occasionally threaten employees involved in labor disputes, and employers sometimes replace strikers. Article 60 of the constitution guarantees the right to strike to all workers except those employed in the armed forces, the police, government administration, and public services. However, workers must go through mediation before they can strike when negotiating a new contract. Collective bargaining is legal and freely practiced. The Croatian Peasants' Party represents farmers' interests. The Croatian Chamber for Crafts and Small Businesses, an NGO with a membership of approximately 85,000, represents the interests of craftsmen and workers in small businesses, usually with less than 200 employees.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
Article 42 of the constitution guarantees freedom of assembly and association. Article 46 guarantees the right to "submit petitions and complaints, to make proposals to government and other public bodies."

In the 1997 upper house and presidential elections, the Central Election Commission refused to allow Citizens Organized to Monitor the Voting, a Zagreb-based NGO, to monitor the balloting. Local authorities and citizens occasionally harass NGOs in Eastern Slavonia that assist ethnic Serbs. NGOs carry out human rights monitoring; provide legal assistance to ethnic Serbs in housing and citizenship cases; promote the rule of law through research, training, and advocacy; hold roundtable discussions and put out public statements on political and human rights issues; organize public advocacy campaigns; organize voter education activities; analyze legislation; and draft amendments to existing legislation.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
It is difficult to gauge the public's perception of NGOs, although there is no evidence that such perceptions are negative. In 1998 and 1999, a government-appointed ombudsman met frequently with representatives of human rights organizations, and several other ministries also interacted with human rights organizations. Some NGOs have held public discussions with political party representatives. However, government agencies often ignore NGO work, and some officials are openly hostile. Committees on human and minority rights issues in the government and parliament met infrequently with human rights NGOs. According to the United States Department of State (DOS), many groups report that the government may respond to a specific case, but that it generally failed to remedy the underlying institutional problems. Moreover, DOS noted that some senior government officials suggest that criticism of the state is disloyal to the nation, thereby engendering suspicion of NGOs among the public. The state-owned press occasionally sharply criticized NGOs.

INDEPENDENT MEDIA 5.00/7

1. Are there legal protections for press freedom?
The constitution guarantees freedom of expression and press freedom. In October 1996, parliament passed a law to protect journalists from demands that they reveal their sources and from criminal charges in cases where they unintentionally publish false information.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Journalists can be prosecuted for insult and defamation under criminal and civil laws. Under 1996 amendments to the criminal code, prosecutors can initiate proceedings against anyone suspected of offending or slandering the president, prime minister, speaker of parliament, and the presidents of the supreme and constitutional courts, with a maximum prison sentence of three years. The amendments also criminalized the publication of classified information alleged to be "vital to state interests," a term that is not clearly

defined. According to a March 1999 OSCE report, no suits under this amendment have been successful to date, but many civil prosecutions against newspapers and individual journalists have succeeded and judges have awarded substantial damages. The report also indicated that according to official statistics, over 700 defamation suits were filed between 1994 and 1997. The New York-based Committee to Protect Journalists (CPJ) reported in December 1998 that there were currently nearly 300 criminal proceedings against journalists, and more than 600 civil suits against newspapers, over two-thirds of which had been brought against the independent periodicals *Globus*, *Nacional*, *Feral Tribune*, and *Novi List*. State officials and others closely associated with the ruling party brought the majority of suits. CPJ also noted that in recent weeks a court had ruled against *Nacional* in three cases totaling $150,000 in so-called moral damages, and a court had ordered *Feral Tribune* journalists to pay $18,000 in a civil case. The Split-based *Feral Tribune*, a satirical weekly, had also lost three cases totaling $72,000 in October. According to the International Helsinki Federation (IHF), in 1998, government and HDZ officials, members of President Tudjman's family, businessmen, judges, and other public figures began bringing civil suits against journalists for causing "emotional anguish."

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

The major private, independent periodicals are the Rijeka-based *Novi List*, a daily with a circulation of 60,000, and three weeklies, *Globus*, *Nacional*, and *Feral Tribune*. The government controls two of the four main daily newspapers (a third is pro-government) and HINA, Croatia's only news agency. Most smaller newspapers are private.

Under the 1994 Law on Telecommunications and Post, state-owned Croatian Radio-Television (HRT) has a virtual monopoly on nationwide broadcasting through its exclusive right to assign national broadcasting frequencies and the use of government transmitters. HRT's television service (HRTV) owns all three major television channels and forms the only national network. According to the OSCE, surveys indicate that HRTV is the main source of information for 75 to 95 percent of the population, and that over half the adult population regularly watches the main evening news program. In November 1998, the government advertised a public concession for a fourth television channel, but conceded that the start-up costs could be as high as DM 25 million (USD 13.1 million). Local television stations operate with varying degrees of independence in Zagreb, Split, Rijeka, Osijek, Cakovec, and Opuzen.

According to a March 1999 OSCE report, Croatia's broadcasting licensing body, the Telecommunications Council, had to date dispensed 110 radio concessions and 11 television concessions, but only Zagreb's Radio 101 provided a serious alternative to HRT's news programming. The report indicated that authorities had occasionally manipulated the licensing procedure to the ruling party's advantage, and that the cost of applying, purchasing, and retaining a broadcast license is extremely high. The HDZ holds a majority of seats on the Telecommunications Council. In June 1999, parliament passed a new Law on Telecommunications before receiving recommendations from a Council of Europe experts group.

4. Are the private media financially viable?

Most private media are only marginally financially viable. The state taxes periodicals at several points in the production process, and some papers have complained that more than 50 percent of their gross revenues are lost through taxes and distribution costs. Independent newspapers have had to endure costly lawsuits brought against them by government officials and HDZ members.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

HRTV's editorial and news coverage strongly favors President Tudjman and the ruling HDZ. In August 1998, the government changed a director and editor-in-chief at HRTV in an apparent attempt to show that the agency had been transformed into a neutral broadcasting service. The IHF called the changes "cosmetic" and noted that in October 1998, parliament passed a new law regulating HRTV that omitted several major reforms suggested by the Council of Europe, including allowing the supervisory HRTV Council rather than the government to handle dismissals and appointments of HRTV directors, and ending the government and parliament's right to veto the appointment of HRTV Council members. The OSCE reported that the quality of HRTV's coverage did improve somewhat in 1998, but noted that HRT's leadership, allegedly acting at the behest of the government, sometimes imposed "political censorship" on news coverage, and that HRTV continued occasionally to broadcast propaganda against minorities.

In 1998, authorities suspended several HRTV editors for their news coverage. The OSCE reported that in February 1999, authorities removed the presenter of a popular farm-

ing program for "political reasons." Also in early 1999, the head of HRTV resigned and joined Forum 21, a group formed by dissident HRT journalists, and the head of HINA quit, citing the "ideologization" of the state news agency as one of the primary reasons.

In recent years, authorities have temporarily closed down several independent radio and television stations, often on the pretext of minor infractions of broadcasting rules. Daily and weekly newspapers offer a range of political views, although most observers consider only *Novi List*, *Nacional*, *Globus*, and *Feral Tribune* to be editorially independent. Print journalists faced considerable harassment that variously included threatening letters, physical assaults, and the bombing of a newspaper office, although it was not always clear who the perpetrators were. The Interior Ministry acknowledged in 1998 that the intelligence services had monitored and wiretapped journalists from *Nacional* and *Feral Tribune*, but defended these actions under the constitution. In June 1999, authorities arrested the editor of the weekly *Nacional* after the paper charged that the intelligence services had rigged Croatian football league matches.

6. Is the distribution system for newspapers privately or governmentally controlled?

In recent years Tisak, a company controlled by a businessman close to the HDZ leadership, has controlled up to 75 percent of the market for newspaper distribution. In autumn 1998, Tisak began withholding payments to newspaper publishers for sales of periodicals, causing serious hardship for independent newspapers. The OSCE said in November that, "the selective withholding of such revenue amounts to a form of pressure which is widely and inevitably perceived as having a political motivation." At the same time, the state-owned printing agency, Hrvatska Tiskara, Croatia's largest newspaper printer, pressured newspaper publishers to pay debts for printing costs. In February, Croatian banks that were Tisak's major creditors took control of the company, although some payments problems to newspaper publishers continued. In another development, in September 1998, Hrvatska Tiskara merged with Vjesnik, a daily newspaper with close links to the ruling HDZ.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The largest single Internet service provider (ISP) is HiNet, part of the Croatian office of post and telecommunications, which serves an estimated 42,000 users. The government-operated CARNet is a second main ISP and links all Croatian universities and their associates, as well as some primary and secondary schools. CARNet served 35,000 users in 1997. There are also dozens of small ISPs and Croatians can also access the Internet through the U.S.-based America Online. There are no restrictions on Internet access, although access can be expensive for ordinary citizens, and some parts of the country have outdated phone lines that are barely able to accommodate Internet service. There are relatively few "cybercafes" (generally coffee shops or similar private establishments where people can access the Internet for a fee).

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The Croatian Journalists Association is the major press and journalist association. Roughly half of its members are women.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's annual *Survey of Press Freedom* rated Croatia "Partly Free" from 1994 through 1996 and "Not Free" from 1997 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.00/7

1. Is the legislature the effective rule-making institution?

The December 1990 constitution vested legislative power in a bicameral parliament, with both houses directly elected for a four-year term. Since President Tudjman's HDZ has dominated parliament since independence and parliament does not openly challenge the president's authority, it is difficult to determine the extent of the legislature's independence.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Croatia is divided into 21 counties including one comprised of the capital city, Zagreb. In theory, the constitution grants substantial authority to local governments. In practice, Croatia is a highly centralized state. According to a May

1998 report by the Strasbourg-based Council of Europe's Congress of Local and Regional Authorities (CLRAE), the 1992 Local Administration and Autonomy Act's broad definitions of the responsibilities of municipalities, towns, and counties "do not suffice to identify clearly, in operational terms, the powers assigned to local authorities." CLRAE further noted that legislation relating to education, health, culture, or other areas often grants the central government powers that overlap with those of local authorities.

The May 1998 CLRAE report criticized Croatia's 1992 Local Administration and Autonomy Act on the grounds that it does "not effectively guarantee local self-government" and recommended that it be amended. The law permits the president to reject the nominee for the mayor of Zagreb, and the CLRAE report observed that President Tudjman had repeatedly prevented the new mayor of Zagreb from taking office following the October 1995 elections. The report also stated that local authorities appear to be unable to ask a court to interpret the 1992 law. It noted that following an April 1997 municipal election in Korcula in which an opposition coalition won 14 of 26 seats, authorities declared the results in one polling station null and void. Following re-polling, the HDZ won the seat and each side controlled 13 seats. After the council repeatedly deadlocked over the choice of a mayor, the government dissolved the elected council and reinstated the previous council. The elected councilors challenged the decision on the grounds that the government had erroneously interpreted the law, but courts refused to review the government's interpretation.

3. Are subnational officials chosen in free and fair elections?

In 1995 and 1997, Croatia held local elections concurrently with lower and upper house elections. The OSCE's critical reports on these elections (see above) largely provided details on the conduct of the national-level balloting, but many points applied to the local elections as well, including the state media's highly-partisan coverage of the ruling HDZ, problems with the secrecy of the ballot, and the questionable independence of national and local election commissions. In the 1995 elections, observers reported that authorities excluded non-Croats from the electoral lists, and ethnic Serbs complained of intimidation at polling stations.

In the April 1997 local and regional elections, the HDZ retained control of most city councils, while the opposition retained control of the councils in Split and Dubrovnik. In Eastern Slavonia, authorities extended balloting for an additional day amid irregularities including incomplete voter lists, closed or delayed openings of polling stations, and confusion over registration. The Independent Democratic Serbian Party won 11 of 27 districts in the region. The next local elections are scheduled for 2001.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Executive bodies rarely publish budgets or have transparent decision-making processes. The state-run media provide limited coverage of sensitive issues such as the return of refugees and discriminatory treatment of ethnic Serbs in citizenship matters where lack of executive branch action appears to be one of the main barriers to resolution of the problem. According to a March 1999 Human Rights Watch report, housing commissions ostensibly established to facilitate the return of refugees and displaced persons to their homes fail to respond to inquiries and requests so frequently that Croatians often refer to this as "administrative silence." The report noted that administrative silence is a common feature of Croatian public administration in general but it disproportionately affects Serbs and those married to Serbs, especially in housing cases.

Public finance statistics appear to be of reasonable quality, frequency, and reliability. Croatia has subscribed to the International Monetary Fund's Special Data Dissemination Standard (SDDS), and its fiscal data largely meets the SDDS's specifications for coverage and timeliness. Legislative bodies generally make draft legislation available to the media and the public. Legislative debate is usually open to the public, although parliamentary leaders often restrict opposition members' ability to speak on the floor.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

According to a May 1998 CLRAE report (see above), the financial situations of local and regional authorities vary widely. Those in areas directly affected by armed conflict earlier in the decade face particular difficulty. According

to CLRAE, the state allocates some 25 percent of income tax to local authorities in the form of a shared tax, and allocates 5 percent of income tax revenue to county governments. The money is redistributed in proportion to the amount actually collected in each municipality or county. The government also sets aside 40 percent of a tax on profits for municipalities and the counties. However, the CLRAE report noted that given Croatia's difficult economic situation, "neither of these taxes produces much revenue—they produce no revenue at all in some regions—and on no account do they provide sufficient funds to meet the needs of local authorities, irrespective of whether they are in areas affected by the war or in those which were spared." CLRAE also reported that the central government distributes nearly 90 percent of local authorities' income on a restricted basis. The government has indicated it plans to amend the 1992 law.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The effectiveness of local leaders varies from region to region. Public administration in Zagreb is relatively efficient and effective. In Dalmatia, the hub of Croatia's tourism industry, the local HDZ administration is considered to be capable and effective. The quality of public administration is poorest in areas directly affected by the war.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The government has carried out few local government reforms. Croatia ratified the European Charter on Local Self-Government in 1997 but rejected a number of its provisions. These included a requirement that the central government consult local authorities on matters directly concerning local authorities, the establishment of a mechanism to redistribute some money to poorer local authorities, a prohibition on the central government's use of restricted grants to fund local authorities, and a recognition of the right of local minorities to belong to associations for the protection and promotion of their interests.

The government has not carried out significant, post-independence civil service reforms. Most sub-national civil servants are technically employees of the local governments.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.75/7

1. Is there a post-Communist constitution? How does the judiciary interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The Croatian legislature approved a new constitution in December 1990. The constitution created a constitutional court charged with determining whether laws are constitutional, repealing or annulling laws or regulations that it deems unconstitutional, protecting the freedoms and rights of citizens, and resolving jurisdictional disputes between the legislative, judicial, and executive branches of government. The upper House of Counties proposes, and the lower House of Representatives elects, 11 judges to the constitutional court for eight-year terms. The court elects a chief justice for a five-year term.

Under Article 125.7 of the constitution, the constitutional court also oversees the constitutionality and legality of elections. Near the end of the April 1997 election campaigns, the court issued five rulings against the HDZ, overturned four electoral commission decisions, and reversed three state television program rules. The decisions concerned the Croatian army's open support for the ruling party, a television report that suggested that SDP members are murderers, and a poster charging the SDP with human rights abuses during the Communist regime. In September 1997, the constitutional court annulled several provisions of the 1995 Law on the Temporary Takeover and Management of Specific Property, which parliament had passed soon after the liberation of Serb-held Croatian territory. The constitutional court has also overturned lower court rulings that supported the Central Election Commission's decision to treat coalitions contesting the elections as one party, which limited opposition parties' access to the state-run broadcast media. The relationship between the constitutional court and the Supreme Court is unclear. The Supreme Court has rejected constitutional court rulings, and in 1998 the president of the Supreme Court stated that neither the Supreme Court nor any lower courts needed to respect constitutional court rulings.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

Section III of the constitution guarantees full civil and political as well as economic, social, and cultural rights to all Croatian citizens. However, the constitution also permits the state to abrogate several key rights when the president deems the state itself to be in danger or holds the freedoms and rights of people, or public order, morality, or health, to be in jeopardy. Liberties that can be abrogated include the right to appeal judicial decisions, freedoms of movement and association, and the right to privacy. Article 48 of the constitution guarantees private ownership. However, Article 50 allows the government to restrict property rights in the interests of state security.

As noted above, the government sharply restricts press freedom through its partisan use of the state-owned media and the filing of hundreds of criminal and civil lawsuits by government and ruling party officials against independent newspapers and journalists. Croatians frequently held peaceful rallies and demonstrations, although the government prevented some demonstrations.

In August 1998, Amnesty International (AI) reported that Croatian forces continued to enjoy impunity for abuses committed during Operations Flash and Storm in 1995, including hundreds of killings, disappearances, torture, and rape. In November 1998, the UN Committee Against Torture noted that Croatia had made torture a crime in its domestic legislation, but expressed concern about continuing allegations of torture and ill treatment by the police. Similarly, AI noted, "the charge [of torture] is relatively weak and, to Amnesty International's knowledge, it has not been employed."

Ethnic Serbs and other minorities face discrimination in property rights, citizenship, and other areas (see below). Violence against women is reportedly relatively common. Women face some unofficial discrimination in employment opportunities.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Croatia adopted the criminal code of the former Socialist Federal Republic of Yugoslavia with only minor changes. Police can carry out arrests without a warrant if they believe that suspects may flee, destroy evidence, or commit other crimes. In practice, police relatively often carry out arrests without warrants. The police then have 24 hours in which to justify their decision before the local investigative magistrate. Defendants have the right to have access to an attorney within 24 hours of their arrest, although in practice authorities reportedly often denied the right of persons under arrest to have an attorney present during all parts of the investigation. According to the United States Department of State, inspectors working under the auspices of the Ministry of Finance can enter premises and examine records without obtaining a warrant.

In November 1998, Amnesty International (AI) noted that it had received reports of torture and ill treatment in Croatia, and that newspapers sometimes feature cases of police brutality. AI also observed that the authorities' response to acts of torture or ill treatment varies depending on the suspect and victims. Authorities vigorously prosecute suspects accused of abuses against victims who are perceived to have been war-time allies of the authorities even when the evidence is scant, but prosecutions are less vigorous when the suspects are sympathetic to Croatian authorities. The court system is severely backlogged and the pre-trial detention period is often lengthy.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Judges generally rule impartially in cases involving ethnic Croats, although judicial corruption continues to be a problem. A March 1999 report by Human Rights Watch/Helsinki found that courts in Eastern Slavonia and other areas apply housing laws relating to tenancy rights in a discriminatory manner against ethnic Serbs. The UN Center for Human Rights, OSCE, and NGOs report that administrative court decisions on citizenship matters are often improperly documented, arbitrary, based on questionable standards of evidence, and discriminate against ethnic Serbs.

The government has vigorously prosecuted ethnic Serbs for alleged war crimes committed during the Serb occupation of some 30 percent of Croatian territory in trials that failed to meet minimum standards of fairness. The UN Center for Human Rights reported that in some cases where courts convicted Serbs of war crimes, the evidence should not have led to a conviction for any crime. The government appeared to have re-categorized crimes that should have allowed the suspect to receive amnesty as war crimes or common crimes.

In 1997, the House of Representatives' Judicial Committee rejected a lustration bill that called for the eviction of Communist personnel from the state apparatus and judiciary. Authorities have not made specific efforts to remove Communist-era judges.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The constitution provides for an independent judiciary, although in practice the Tudjman administration and the parliament influence the judiciary. The Croatian judicial system includes a Supreme Court, constitutional court, municipal and district courts, administrative courts, and a State Judicial Council that appoints judges and prosecutors. The upper House of Counties proposes candidates to, and the lower House of Representatives elects, members of the Judicial Council to eight-year terms. The Judicial Council appoints judges for life terms but has the power of dismissal. Through its parliamentary majority the HDZ wields decisive influence over the Judicial Council and thus over the selection of judges. In 1998, the Judicial Council concluded a review of judicial appointments as provided for in 1993 legislation. According to the United States Department of State, critics have charged that the Council is a political tool of the executive branch, and some judges who were not reappointed after the Council's review said this reflected their political views or ethnicity more than their qualifications.

The IHF reported that in 1998 authorities sanctioned some judges for dismissing charges against the media. For example, the president criticized the December 1998 acquittal of the editor-in-chief of *Feral Tribune* and a journalist of criminal charges over an article in the weekly (the judge involved was subsequently not chosen for a higher position).

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Lawyers in private practice are required to be members of the Croatian Bar Association (CBA). Lawyers-in-training must complete an eighteen-month apprenticeship in a law office before taking the bar examination. The trainees must then practice law for three years before joining the CBA. In 1996, there were reportedly 2,100 CBA members and 500 trainees. No data is available on the number of new lawyers that Croatia's higher education system produces each year. Women are increasingly entering the legal profession, although they still comprise considerably less than half of all lawyers and judges.

7. Does the state provide public defenders?

Under Article 70 of the criminal code, the state is required to provide counsel to defendants who do not have an attorney in several situations: during the initial interrogation if the alleged crime carries a penalty of 20 or more years' imprisonment; by the time the indictment is served if the alleged crime carries a penalty of ten or more years' imprisonment; and if a court conducts a trial in absentia. In practice, the state generally provides public defenders when these conditions are met.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

The constitution guarantees the enjoyment of rights to all citizens regardless of race, color, gender, language, religion, ethnicity, or other attributes. In January 1998, the government dropped Muslims (the largest minority after Serbs), Albanians, and Slovenes as recognized national minorities from the constitution's preamble on the grounds that they were not indigenous groups. There are also smaller Slovak, Czech, Italian, Hungarian, Roma, and Jewish minorities. Of these smaller groups, only the Roma appeared to face societal and official discrimination. In 1998, the government established an independent body, the Council on National Minorities, as a forum for minority groups to express their views on policy proposals affecting them, although the body does not yet appear to be functioning.

According to a March 1999 report by Human Rights Watch/Helsinki, at the beginning of the UNTAES mandate, some 127,000 Serbs lived in Eastern Slavonia, including some 55,000 displaced persons. By early 1999, fewer than 60,000 Serbs remained in the region. While 17,000 to 21,000 displaced Serbs did return to their areas of origin elsewhere in Croatia, overall tens of thousands of Serbs left Eastern Slavonia since 1996. Some 300,000 Croatian Serbs live as refugees outside the country, and since 1996, almost as many Serbs have fled Croatia as have returned.

The Human Rights Watch report suggested that this "silent exodus" epitomized Croatia's poor treatment of its Serb minority, with Serbs frequently unable to exercise basic rights accorded to other citizens—including living in their own homes, receiving pensions and other social security

benefits, recognition as citizens, and the right to return and live freely in Croatia—particularly in the four former UN protected areas in Eastern Slavonia, Western Slavonia, the Krajina, and Banija-Kordun that had formed the self-declared Republic of Serbian Krajina.

Discrimination against Serbs is particularly acute in the areas of housing and property rights, where matters are complicated by the occupation by refugees and displaced persons of privately owned housing. Authorities have facilitated the return of ethnic Croats to their homes in Eastern Slavonia by evicting displaced Serbs, but in Western Slavonia, the Krajina, and elsewhere authorities have largely refused to evict ethnic Croats who are temporarily occupying the homes of Serbs. The 1995 Law on the Temporary Takeover and Administration of Specified Property (LTTO) permitted authorities to place "abandoned" private property under state administration and to grant temporary use of that property to other persons. The LTTO established municipal-level administrative bodies to implement its provisions. According to Human Rights Watch, in practice the housing commissions applied the law to the property of Croatian Serbs who had fled their homes during Operations Storm and Flash and earlier conflicts. The commissions granted temporary use primarily to Croat refugees from Bosnia and Yugoslavia and to displaced Croats from Eastern Slavonia.

In 1998, the UN, OSCE, European Union, and the United States pressured the Croatian government to implement the 1997 Operational Agreement on Return (the Joint Working Group Agreement), which aimed to facilitate the return of displaced ethnic Croats to Eastern Slavonia, and of displaced Croatian Serbs temporarily residing in Eastern Slavonia to their homes in Western Slavonia, the Krajina, and Banija-Kordun. In June, the government established a Program for the Return of Refugees and Displaced Persons that created new municipal housing commissions with minority members to resolve housing disputes between current occupants and the property owners. The Human Rights Watch/Helsinki report noted that in their first six months of operation the commissions made little progress in restoring homes to Serbs, even in cases where the current occupants are illegal or occupy multiple properties. In July 1998, authorities took the positive measure of repealing the LTTO, but prior decisions under the law must still be reviewed on a case-by-case basis.

Further complicating the housing issue is the matter of tenancy rights, which refer to the rights of tenants living in socially owned apartments. The Human Rights Watch report noted that most Serbs who had fled to Eastern Slavonia, Bosnia, or Yugoslavia in the wake of Operations Storm and Flash could not return and thus lost their tenancy rights. Courts in Eastern Slavonia adjudicating claims for restoration of lost tenancy rights often apply different standards depending on the ethnicity of the plaintiff, recognizing tenancy rights for Croat returnees but not for displaced Serbs.

The Human Rights Watch report suggested that overall, "the period since Croatian independence has been characterized by repeated state discrimination against Serb tenancy-right holders who have fled their homes." Many observers now refer to the process as "one-way return," under which displaced Serbs are forced out of their current accommodations in Eastern Slavonia in order to accommodate returning ethnic Croats, while Serbs are unable to return to their homes in other parts of Croatia. Fewer than half of displaced Serbs in Eastern Slavonia have returned to their pre-war areas of residence, and fewer still have been able to return to their own homes. In the Krajina, Western Slavonia, and other areas where Serbs seek to return, the housing commissions and courts refuse to remove current Croat occupants from Serb homes, while in Eastern Slavonia housing commissions and courts actively engaged in eviction proceedings against Serb temporary occupants in order to facilitate the return of Croats. Serbs also face harassment from Croat owners, and the police often refuse to intervene.

The Law on Citizenship distinguishes between ethnic Croats and others. Ethnic Croats are eligible to become Croatian citizens regardless of whether they were citizens of the former Yugoslav republic of Croatia, but non-Croats must satisfy stricter conditions to obtain citizenship even if they were previously citizens of the former republic. The process for Croatian Serb refugees and displaced persons to gain citizenship is difficult and highly subjective, and when their applications are successful, they must pay a high fee to become citizens. Ethnic Croats are generally exempt from the fee. Lack of citizenship (and the authorities' frequent refusal to recognize legal and administrative documents issued by the short-lived rebel Serb state) makes it difficult for Croatian Serbs to return to Croatia, and for returnee Serbs and those who remained inside Croatia to receive reconstruction assistance, to work,

and to apply for repossession of property under the program for return. Muslims also reportedly faced particular trouble in confirming their citizenship. In spring 1998 the government issued a list of 13,575 Serbs covered under a 1996 general amnesty for rebel Serbs. Nevertheless, the government continued arresting Serb refugees throughout the year.

In 1998 and the first half of 1999, Serbs faced some harassment and physical violence by Croats in Eastern Slavonia. The OSCE reported that in April 1999, there were 71 ethnically related or motivated incidents in the Danube region, which is about average, but that these included a number of serious incidents concerning explosives or firearms. In May, the OSCE reported that ethnic Serb residents of the town of Berak had been subjected to intimidation and physical attacks. Police are often reluctant to investigate and prosecute incidents involving Serb victims. In Eastern Slavonia, many of these incidents are "soft evictions," in which returning Croat owners illegally pressure displaced Serbs who are occupying their homes to leave, despite provisions of the 1997 Operational Agreement on return, under which displaced Serbs occupying Croat property in Eastern Slavonia can only be removed once alternative accommodation is provided. In the Krajina and Banija-Kordun areas, many incidents involved tensions between Serb returnees and Bosnian Croat refugees resettled by the Croatian authorities. Police in Banija-Kordun also committed some abuses against Serbs. In Eastern Slavonia, a UN Police Support Group monitored the police during the nine months following the transfer to Croatian sovereignty, and on October 16, 1998, an OSCE Police Monitoring Group began carrying out this function.

In addition to the laws on property, return, and citizenship indicated above, Croatian and international human rights organizations have also criticized other laws for restricting minority rights. In 1995, parliament suspended two pro-minority provisions of the Constitutional Law of Human Rights and Freedoms and the Rights of National Ethnic Communities or Minorities. One of the provisions had guaranteed self-governing, autonomous status to districts in which, under the 1981 census, minorities constituted more than 50 percent of the population. The other suspended provision had entitled minorities who constituted more than 8 percent of the country's population to proportional representation in parliament and the supreme judicial bodies.

9. Are judicial decisions effectively enforced?
The United States Department of State reported in its human rights report for 1998 that local authorities often refused to implement court decisions, often in cases where the court ordered evictions of current or former members of the military or police.

CORRUPTION 5.25/7

1. What is the magnitude of corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption is reportedly rampant in the Croatian civil service. Bureaucrats generally demand bribes for most routine services, including granting registrations and licenses and installing telephone connections. The World Bank's Croatia office reported that in his January 1999 state of the nation address, President Tudjman mentioned that Croatia suffered from, among other problems, graft and corruption. The World Bank Croatia office also reported that in a June sermon delivered in front of President Tudjman and other senior officials at St. Mark's Church in Zagreb, the Archbishop of Zagreb expressed concern over economic problems including the widespread belief that nothing can be achieved without a bribe. According to a 1999 US Department of Commerce Report, "corruption is a growing problem in Croatia...Corruption ranges from the petty expectation that bribes are to be paid at any and all stages of a business transaction to money laundering and the large-scale siphoning-off of assets by so-called politically connected 'tycoons.'"

2. Do top policymakers, (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Many top policymakers reportedly hold direct ownership stakes in businesses and/or derive financial benefits from their close connections with business owners. For example, according to a May 1999 Radio Free Europe/Radio Liberty

report, the Associated Press reported that the Koercilana Bank went bankrupt because the director had given or lent the bank's money to individuals, charities, and other institutions linked to President Tudjman, his family, and the governing HDZ. The government has not clearly delineated the legal and ethical boundaries between public and private sector activity, and in practice many public officials do not observe such boundaries.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
Croatia's limited anticorruption laws are not effective. In September 1997, parliament passed a new penal code, a new criminal procedure code, and a money laundering law. The criminal procedure code authorizes officials to infiltrate criminal groups and use special measures to investigate alleged bribery and other offenses. The penal code provides for prison sentences and other penalties for embezzlement, bribery, and other financial crimes. Yet in general, there have been few publicized anticorruption cases.

4. Have there been public opinion surveys of perceptions of public sector corruption conducted with the support of reputable monitoring organizations? What are the principle findings and year-to-year trends?
Local monitoring organizations have not carried out surveys of perceptions of public sector corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
The government has implemented few serious anticorruption initiatives and has adopted few anticorruption laws and decrees. The World Bank's Croatia office reported in its March media summary that in a speech outlining measures to deal with the country's economic problems, President Tudjman announced sanctions and criminal proceedings against individuals suspected of corruption. However, there is little evidence that the government has carried out either this or previous pledges to root out corruption. The Archbishop of Zagreb noted in a June sermon (see above) that despite the publicity regarding larceny, fraud, and assorted corruption scandals, authorities had taken little action against the perpetrators.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
While no data is available on public attitudes toward the problem of corruption, a 1999 US Department of Commerce report noted that in general, citizens are increasingly becoming less tolerant of the government's inability to deal with corruption, or curb its own questionable practices.

7. How do major corruption-ranking organizations like Transparency International rate this country?
Croatia was ranked 74th out of 99 countries surveyed in Transparency International's Corruption Perceptions Index of 1999, and received a score of 2.7 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 3.75/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
In November 1997, the European Bank of Reconstruction and Development (ERBD) reported that Croatia's private sector produced 55 percent of the nation's GDP by mid-year, up from 50 percent in 1996. The informal sector of the economy accounts for an estimated 11 to 20 percent of GDP, though some analysts put the figure as high as 25 percent. According to the World Bank, the share of private-sector employment in all registered enterprises was 45 percent in 1997.

2. What major privatization legislation has been passed? What were its substantive features?
The Law on the Transformation of Socially Owned En-

terprises was enacted in April 1991. Administered by the Croatian Privatization Fund (CPF), it converted some 2,600 enterprises into joint stock companies. Companies were asked to submit their own privatization plans to the CPF by June 1992 for approval according to several options, including sale to external investors, debt/equity swaps, the introduction of fresh capital, and purchase by current and past employees. Businesses were valued at balance-sheet asset value. Croatian citizens were able to buy a certain number of shares at a discount. Two-thirds of the shares not taken up in the "self-privatization" program were transferred to a Privatization Fund; the rest were transferred to two state pension funds. By the end of September 1996, some 600,000 Croats, or 13 percent of the total population, had become shareholders. The CPF and the two state pension funds were majority stockholders in only 228 companies. In 1995, 42 percent of all employees worked in wholly privatized companies, compared with just 1.7 percent in 1990. By mid-1995, approximately 3,000 applications for autonomous privatization had been received. Two-thirds of the applications were approved. More than 1,000 firms have been completely privatized. In another 900, the state has retained a minority stake.

The second phase of privatization began in 1996 with the passage of the Privatization Law. This law provided for the creation of a new decision-making body, the CPF Board of Directors, which decides on sales of companies whose nominal value exceeds 100 million *kuna*. It also gives the CPF Board of Directors the discretion to lower the asked price for shares of an enterprise and mandates the transfer of proceeds from the sale of shares in enterprises to the Croatian Bank for Reconstruction, which will disperse these funds mainly to reconstruction and infrastructure projects. Other provisions require the privatization of state-owned firms and extend the payment period for employee buyouts from 5 years to 20 years. The law also mandates a massive transfer of shares to the Croatian Self-Employed Bus-inessmen's Pension and Disability Fund. The Ministry of Privatization, established in 1994, was authorized to nominate people to the supervisory boards of enterprises in which the CPF has a stake. A final provision of the Privatization Law is the Mass Privatization Program (MPP). The MPP entitles special classes of citizens—political prisoners before Croatian independence, Croatian war refugees, invalids, widows, or orphans—to receive vouchers, denominated in investment points, that they can bid for shares in selected enterprises in a three-round procedure. An estimated 350,000 citizens qualify. Registration for voucher privatiz-ation began in June 1997, with entitled persons receiving a number of points based on degrees of disability or similar determining factors. The distribution of vouchers began in January 1998. In 1998, some 400 medium-sized companies were privatized through this method.

The 11 largest and most strategically important companies have yet to be privatized. That this is beginning to change, however, is signaled by the sale of a 25 percent to 36 percent stake in the state telecommunications provider, Hrvatske Telekomunikacije (HT), scheduled for late 1999. The government intends to keep a 30 percent ownership in the firm.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

According to the chief economist for Zagrebacka Banka:

Agriculture: Approximately 80 percent of agriculture is privately owned.

Housing and land: Approximately 80 percent of housing and land is in private hands.

Industry: Roughly 50 percent of industry is privately owned. Public utilities are still completely state-owned. As noted, the most strategically important of Croatian industries have yet to be privatized, though that situation is changing.

Small business and services: Approximately 90 percent of small business and services are in private hands.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

External investors criticized the Law on Transformation for permitting managers to design their own privatization plans, favoring insider buyouts. Until the law was amended in March 1993, management and employees could take over an entire company by purchasing 50 percent of the company's equity at a discount, making it difficult for external investors to compete. As a result, 70 to 80 percent of all completely privatized enterprises were taken over by the people who worked in them. The amended law allows managers and employees to own only 50 percent of the company's

equity, with the remainder sold through public invitations or on the Zagreb Stock Exchange.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The ex-party officials who dominate Croatian bureaucracies oppose privatization. The voucher-privatization system, however, has been quite popular, with some 230,000 people participating. Some 600,000 Croats had already become shareholders during the first phase of privatization from 1992 to 1996.

MACROECONOMIC POLICY 3.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Croatia began to overhaul its tax system after independence. Institutional reform started with the 1990 Law on Indirect Taxation. New laws on income tax and profit tax were adopted in January 1994, while the value added tax (VAT) took effect in January 1998, replacing the Turnover Tax on Goods and Services.

The new taxation system gives equal status to all taxpayers, domestic and foreign. Croatia honors all double taxation agreements made between the former Yugoslavia and other countries, and is negotiating new ones. The current tax system includes the following taxes: an income tax of 20 to 35 percent; a profit tax of 35 percent; a VAT of 22 percent; a special excise tax on certain products such as oil, tobacco, alcohol, soft drinks, beer, coffee, and new vehicle imports; a real estate sales tax; a tax on games of chance; and certain taxes levied by local authorities.

The basic income tax rate was reduced in 1997 from 25 percent to 20 percent. The standard income tax rate remains at 35 percent. There is no capital gains tax. The tax burden in Croatia is one of the heaviest among the transition countries. Tax revenue was 29.5 percent of GDP in 1995, and 29.3 percent of GDP in 1996.

Special one-off taxes on luxury items and oil products were assessed in March 1999 to make up for budget shortfalls. In 1999, ministers and pressure groups began to lobby for special VAT rates for their favored business activity—a troubling development.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

In 1993, Croatia enacted a comprehensive stabilization program that remains the basis for current macroeconomic policy. The budget, in particular, has been kept within the country's means. The government budget was essentially balanced in 1996, rising to a deficit of nearly one percent of GDP in 1997. In 1998, a surplus of 0.2 percent was recorded. The deficit was estimated at one percent of GDP for 1999. Although the economic slowdown and the introduction of a new tax regime cut revenues, the low 1 percent figure resulted from a 10 percent across-the-board budget cut (except for wages), and a 25 percent cut in capital expenditures.

When it became independent in 1991, Croatia was in default on the debt of the former Yugoslavia. In March 1995, Croatia reached an agreement with the Paris Club of sovereign lenders to assume 28.5 percent of this debt ($1.1 billion) and repay it over a 14-year period. In July 1996, Croatia reached a similar deal with commercial lenders, when it took on 29.5 percent of the former Yugoslavia's debt ($1.5 billion) and promised to repay it over 10 to 14 years, albeit with a certain grace period.

These important agreements have allowed the country to re-enter international capital markets. In February 1997, Croatia raised $300 million in five-year debt through a Eurobond. The agreements also helped Croatia win a $486-million IMF loan in March 1997. The country was able to draw only one tranche of the latter agreement, however, because of international pressure to deliver war-crime suspects to the Hague. The freeze lifted in October 1997, but the country has not resumed drawing from the IMF. It has sought new funding in 1999 because of a deteriorating current account and budget situation. Despite intense negotiations in April and May, no decision followed. Croatia issued a $320-million Eurobond in February 1999.

Total foreign debt as of 1998 was $8.5 billion, almost entirely medium- and long-term debt. This debt represents 40 percent of GDP.

Especially in the run-up to the 2000 elections, Croatia has become more interventionist in its industrial policy. While it has little available cash to subsidize firms directly, it has provided a large number of loan guarantees to various companies, transferring significant risk from the firms to Croatian government finances and budgeting. The firms who seek these guaranteed funds, after all, tend to be those with severe problems. And companies who receive such aid might act in an unnecessarily risky fashion, knowing that the government will support them if they fail.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The National Bank of Croatia (NBC) is responsible for the stabilization of the currency, the external liquidity of the country, and for supervision of the banking sector. It is formally independent, but accountable to parliament. It used to be accountable to the government before November 1992. NBC was strengthened in October 1994 when the government transferred deposits to it for safekeeping.

The banking system inherited numerous problems from the former socialist system. Loan decisions, for example, were made on the basis of political and insider connections instead of market considerations. As a result, bank balance sheets were loaded with unrecoverable loans to unprofitable firms.

The government has made a serious effort to recapitalize and rehabilitate other banks in Croatia through the Bank Rehabilitation Agency (BRA). The 1994 Law on Bank Rehabilitation provided for the BRA to handle bank rehabilitation and to insure savings deposits. The law established that the BRA would help banks already operating and established under the old banking law to bring their operations into line with the regulations of the new law. The law calls for bad loans to be separated from the balance sheet, infusion of new capital in exchange for equity, reorganization of management, and privatization. Earlier attempts to recapitalize failing banks had faltered, primarily because bonds went to enterprises that faced great financial difficulties. Under the new rehabilitation program, enterprises must write off part of their capital against losses.

In November 1995, Slavonska Banka, the sixth largest bank in Croatia, began its rehabilitation. In 1996, Splitska Bank and Rijecka Banka, the third and fourth largest banks, respectively, followed it. In 1996, the government placed Privredna Banka, the second largest bank, into rehabilitation under BRA control.

The rehabilitation of Slavonska Banka has been completed, and, in 1998, a 35 percent stake in it was sold to an Austrian Bank and the EBRD. Despite a cumulative investment of 33 percent of GDP in rehabilitating banks, 1998 saw another banking crisis. Early in the year, Dubrovacka Banka collapsed after the government placed it in rehabilitation. This collapse was followed by a wave of similar collapses among smaller banks.

The scandal that accompanied the 1998 bank crisis led to the adoption of a new banking law in December 1998. The new law strengthened the powers of the HNB and made it easier for it to close failing banks. Seven banks were placed under its administration in 1999; nearly all are expected to be liquidated. In July 1999, the government issued a tender for the privatization of a 75 percent stake in Splitska. Privredna is also due to be sold in 1999.

Each of the 24 banks operating in 1989 was transformed into a joint-stock company. Since then, more than 30 new banks have been established, operating according to market criteria. A few large banks, such as Zagrebacka Banka (with 23.2 billion kuna in assets as of mid-1998), still dominate the banking system. But new banks have managed to win a significant share of the industry.

A deposit insurance plan implemented in mid-1997 fully insures kuna-denominated savings deposits of up to 100,000 kuna. Strict rules for prudential regulations are in place and the regulatory framework appear to be in accordance with EU directives. Nevertheless, rules concerning the allowed quantities and kinds of credit activities on lending to related parties appear to be insufficient. Banks submit quarterly reports on their capital-adequacy ratios, which is the ration between liable capital and total assets, plus off-balance asset items of the bank weighted in terms of the degree of risk. Financial statements lack transparency, despite legal obligations to use international accounting standards. The 1999 budget calls for a

transfer of 1.2 billion kuna to the deposit insurance fund, to compensate depositors for the banks liquidated earlier in the year.

A foreign entity can open a bank subject to reciprocal rights in its own country. Foreign banks may open branches and have representative offices.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The Croatian kuna is freely convertible into foreign currency at exchange rates determined daily on the foreign exchange market. The National Bank intervenes in the market occasionally to smooth exchange rate fluctuations or to maintain target exchange rates against the German *mark*.

Exchange rates remained stable from 1994 to mid-1998. The kuna fell from 3.63 kuna to 1 mark in June 1998 to 3.89 kuna to 1 mark in March 1999. The central bank intervened heavily in 1999 to stabilize the currency.

Thanks to the adoption of monetary stabilization policy in October 1993, Croatia has one of the lowest inflation rates among the transition economies. The program stabilized the currency rate and drastically reduced inflation, from 98 percent in 1994 to 3.6 percent in 1997. Inflation rose slightly in 1998, to 5.7 percent, while estimated inflation for 1999 is 4.2 percent.

Foreign currency reserves were $2 billion as of February 1999, down from $2.55 billion in 1998, after heavy spending to maintain the kuna exchange rate.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have the authority to regulate capital markets?

The Zagreb Stock Exchange was opened in 1991 by a group of 25 banks as a nongovernmental, non-profit institution. By mid-1997, membership had increased to 49 banks. The exchange has developed slowly, however, with few shares listed and traded. In 1998, transactions totaled only $140 million. There are only 6 fully listed equities and 47 partially listed companies on the exchange. Most of the exchange's activity has been to auction privatized shares in formerly state-owned companies. The Securities and Exchange Commission was created in 1995. The law that brought it into being also includes provisions for financial disclosure.

Generally, the Croatian financial system is characterized by the dominance of banking institutions; capital markets are much less developed. Banks have a universal structure and for the time being are permitted to engage in the full range of capital market operations. Merchant/investment banks as such do not exist as separate legal entities. A bank is not allowed to participate in insurance deals, production, trade in goods, or future deals with commodities, with the exception of deals with gold, other precious metals, and coins.

In addition to the Zagreb Stock Exchange, an OTC market exists in Varazdin and Osijek. In the second half of 1996, encouraged by the successful flotation of shares in the pharmaceutical manufacturer Pliva and in Zagrebacka Banka, market capitalization and activity rose significantly. The OTC market has also become more active. The bond market remains poorly developed, with only seven traded bond issues. The government does issue treasury bills, but investors need to go through commercial banks to trade them.

MICROECONOMIC POLICY 3.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Article 48 of the constitution guarantees property rights; Article 68 protects intellectual property. Protections for intellectual property were codified under the 1991 Law on Authors' Rights, amended in 1993. A new criminal code, increasing penalties for criminal copyright infringement, took effect in January 1998. Computer hacking, breaking into databases, and falsifying computer information all became crimes. Croatia is a member of the World Intellectual Property Organization and a signatory of numerous international conventions governing intellectual property.

Nevertheless, the Law on the Temporary Takeover and Administration of Specified Property effectively expropriated the property of many minority Serbs who fled Croatia

in 1995. Although the courts revised some of the discriminatory parts of the law in late 1997, Serbs still have difficulty regaining their property once it has come under the administration of the Croatian authorities. In addition, there is still no effective mechanism by which Serb owners can recover their property. In 1997, the Ministry of Defence forcibly evicted ethnic Serbs, Croats, and others from former Yugoslav National Army (JNA) apartments. According to the U.S. State Department, the Ministry arbitrarily revoked the tenancy rights of individuals who had lived in apartments for decades, and military police frequently took residences by force, either evicting current tenants outright or forcing them to share quarters. The authorities justified their actions based on property laws that remove tenancy rights after a 6-month absence or if the tenant was ruled has "acted against the interests of the Republic of Croatia." Membership in the JNA at any time by the primary tenancy rights holder was deemed sufficient to brand them as "enemies of the state." Ethnic Croats, however, were not immune from forced evictions, nor did all cases involve former JNA members. Many cases were reported in which desirable apartments were simply confiscated by individuals connected with either the military or the police.

In October 1996, parliament passed the Law on Compensation for Property Taken During Yugoslav Communist Rule to regulate the denationalization of property confiscated or nationalized since 1945. The law gives preference to the restitution of property where possible and offers compensation in other cases. In the corporate sector, the rights of former owners or their heirs have been secured by freezing a percentage of equity in the CPF's portfolio. Former owners of nationalized companies receive shares in the present company equivalent to the estimated value of their original property.

The land registry system is notably disorganized, a problem inherited from the socialist system and exacerbated by the fact that many official documents in occupied territories had been destroyed during the war. Improvements are being made, however, and recent registrations are considered well organized and are usually current within six months.

2. To what extent have prices been liberalized? What subsidies remain?

All direct price controls have been removed, and the marketplace generally sets prices. Changes in the price of certain basic products such as milk and bread, however, must be reported to the Ministry of Economy two weeks in advance, and changes in the prices of about a third of products must be reported to the Ministry within three days after the change. The government has retained the right to disapprove of these price changes, though this occurs rarely. The government may also influence pricing policy in companies under its direct or indirect control, particularly in the energy sector. Agricultural subsidies take the form of guaranteed prices.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The constitution guarantees the right to own and operate a business. In addition, it guarantees unrestricted transfer of profit, repatriation of capital, and trade and real estate investment.

Croatia does not currently have a unified commercial code. Its existing law is based on a heavily amended former Yugoslavia code of 1978. The full texts of laws affecting investment are usually published within one month of being passed. Draft laws often are not accessible to the public. Important court decisions are usually published or accessible by practitioners within 12 months of being issued. Sophisticated legal assistance on investment is available, particularly in Zagreb, and in general, is affordable to local investors.

A new bankruptcy law took effect in January 1997. It was amended in March 1999. Current law establishes deadlines for liquidation and provides for reorganization. A panel of three judges supervises the settlement proceedings between the debtor and its creditors. A settlement may be approved by a simple majority of those creditors who participate in the proceedings. The Commercial Court conducts bankruptcy proceedings within whose jurisdiction in which the debtor has its registered office. A liquidator is required to verify claims, to inquire into a debtor's financial position, to sell assets, and to satisfy claims. Transactions with third parties that are not at arm's length, below fair value, or concluded within a fixed time before liquidation may be reviewed and declared void.

Despite these features, the implementation of this law has proved disappointing. This is in some respect due to

the interlocking ownership patterns between banks and firms, which blunted the incentive to drive bankrupt firms out of business. In addition, there is a lack of trained trustees who might take charge of the reorganization process. It can take up to six years to bankrupt a company. Furthermore, the government often personally intervenes to prop up failing enterprises.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Croatian courts are slowly being reformed. Nevertheless, a tremendous case backlog exists: hundreds of thousands of cases remain unheard. Settlement of commercial disputes often takes years. This is in large part due to the lack of judges who specialize in commercial law.

Croatia is a signatory of the following international conventions regulating the mutual acceptance and enforcement of foreign arbitration: the 1923 Geneva Protocol on Arbitration Clauses, the 1927 Geneva Convention on the Execution of Foreign Arbitration Decisions, the 1958 New York Convention on the Acceptance and Execution of Foreign Arbitration Decisions, and the 1961 European Convention on International Business Arbitration.

There is an Arbitration Court within the Croatian Chamber of the Economy. This court has handled more than 100 disputes since 1993. The law backs up the Arbitration Court's decisions.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Officially, competition is encouraged through a very liberal trade system and the free entry of foreigners to most industries. A 1996 Law on Competition and Monopoly regulates anti-competitive practices such as the abuse of monopoly power. The agency that this law establishes is responsible for the investigation of abuses and enforcement of penalties. The competition agency can use fines or order the cessation of anti-competitive mergers.

Article 49 of the constitution forbids monopolies. In practice, however, state-owned businesses still hold some monopolies, especially in communications: HPT (the Croatian postal and telephone company), HRT (Croatian Radio and Television), and newspaper publishing houses Vjesnik and Slobodna Dalmacija. While retaining these public monopolies, Croatian authorities have been responsive to complaints about policies that hinder competition in other sectors. Initially, privatization law favored insiders at the expense of outside investors.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

A customs system based on the Western European model was implemented in 1992. It distinguishes between the protective role of the customs system as mandated by the GATT and the fiscal role of import duties. As of January 1 1996, the main import levies in effect were tariffs, ranging from 0 to 18 percent; a customs registration fee of 1 percent; a special import duty of 10 percent; and variable levies on agricultural imports. There are additional sales taxes or excise duties on cars, soft drinks, coffee, and other products that are entirely, or almost entirely, imported. Compared with Slovenia, Croatia has a considerably less liberal international trade regime, especially with the EU.

Traditionally, Croatia's leading export industries are metal manufacturing, textiles, chemicals, timber and wood processing, leather processing, food processing, and oil and gas. The total value of goods exported from Croatia in 1998 totaled $4.5 billion, representing no increase from 1996. Imports amounted to $8.4 billion, an increase from $7.8 billion in 1996. Croatia's main trading partners are Italy and Germany, which in 1998 accounted for 17.7 percent and 16.9 percent, respectively, of exports and 17.9 percent and 19.3 percent, respectively, of imports.

Croatia is in the process of joining the World Trade Organization. Free trade zones exist in Krapina, Osijek, Rijeka, Sibenik, and Zagreb. Split and Ploce are scheduled to join them.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

In general terms, Croatia has a liberal investment environment. There are few limitations on foreign holdings: a foreigner may purchase 100 percent of a Croatian company, except in certain sensitive sectors such as energy, utilities, and defense. To encourage foreign investment, the Croatian Investment Promotion Agency (CIPA) was established in September 1996.

It was envisioned as a "one stop shop" to deal with all administrative problems that potential investors might face.

The agency has successfully raised Croatia's profile among foreign investors and generated useful information for them. It lacks the political power, however, to eliminate investor-unfriendly regulations.

Article 49 of the constitution guarantees the free repatriation of profits and capital. The constitution also has a provision that rights acquired through foreign capital investments cannot be reduced by law or any other legal act. Foreign investors have the same rights, obligations, and legal status within an enterprise as domestic investors. Equipment that a foreign party imports as part of an investment is exempt from customs duties if the investment is for a period of more than 5 years and the foreign party accounts for at least 20 percent of the total investment.

A 1994 law broadly details the various justifications for expropriations. The law stipulates the necessity for due process and a fair market-value compensation procedure. No cases of expropriation have yet occurred, though.

The level of foreign investment in Croatia lags behind its neighbors. Total FDI is no more than $2 billion. This figure includes overseas share issues by local companies; without these, cumulative investment is just $700 million. However, the increased pace of privatization will likely push 1999 FDI to record levels, possibly $1 billion.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Domestic oil production is gradually declining because of depleted oil reserves (only 1.4 million tons in 1998, compared with 1.7 million in 1993). The large state-owned enterprise INA accounts for the bulk of the oil and gas sector and is integrated. It will require comprehensive restructuring before being privatized.

In 1994, the Croatian electricity enterprise HEP was converted into a state-owned joint-stock company. The Ministry of Economy, which regulates the company, has decided to privatize only electricity generation. New power plants and the rehabilitation of existing power plants will be privately financed. HEP shares power generated by a nuclear plant in Krsko with Slovenia; relations have been strained. In August 1998, Slovenia cut off energy, alleging mounting payment arrears. Power had not been reconnected by the end of 1998. International arbitration will settle the dispute.

Croatia has been heavily dependent on imported energy. In 1990, mineral fuel imports cost approximately $860 million. Since then, fuel imports have been approximately $500 million yearly. In June 1999, Croatia awarded the US Enron corporation a $175 million contract to build a gas-fired power plant at Jertovec to supply eastern Zagreb. Enron will operate the plant for 20 years before transferring control to the Croatian government.

All direct price controls on energy have been removed, although some indirect controls remain because of the continued government influence on major enterprises. Privatization of the energy sector has been continually postponed. When it does occur, the government will likely retain a substantial portion of the sector.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 1.66 million in May 1999. The economic activity rates are 69 percent for men and 48 percent for women. The unemployment rates in 1993 were 16.8 percent (overall), 14.0 percent for men, and 20.1 percent for women. As of mid-1999, official unemployment was 19 percent. Unofficially, it is 11 percent, after taking into account black-market employment. The Ministry of Employment and Social Welfare spends approximately 2.5 percent of GDP, principally on transfers to the unemployed and others receiving welfare benefits.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized ben-

efits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?
The current pension system is built on an unsound pay-as-you-go foundation. It is funded by equal employer and employee contributions that total 21.5 percent of payroll costs. Current contributions are immediately funneled to pensioners. Furthermore, Croatia's population is aging fast. According to an IMF report, Croatia's system-dependency ratio¾defined as the ratio of pensioners to working population¾was 54.3 percent in 1996, compared with 43 percent in 1993 and 31 percent in 1990. In advanced countries such as the United Kingdom and Japan, the average system-dependency ratio is 39.2 percent. By the end of 1998, there were 949,000 pensioners and only 1.4 million active workers in Croatia, one of the worst ratios in all Europe. The average age of pensioners is below 55 years.

It is not surprising, then, that the pension fund has experienced severe funding problems. In the first half of 1999, budget transfers to the pension fund amounted to 3.5 billion kuna, or 16.1 percent of the budget. Total spending by the fund grew from 9 percent of GDP to 13 percent in 1997. Increasing pensions was a top economic priority in 1997, an election year, precluding much-needed reform of the pension system. The current benefit is approximately 1,380 kunas ($219) a month.

The government has recognized the need for structural reform. It is currently implementing a plan to restructure the current system with a three-pillar system based on compulsory and voluntary contributions paid into a public-pension fund combined with private investment funds. The first stage began in January 1999, with a rise in retirement ages. Retirement ages are scheduled to rise slowly from 60 to 65 for men and from 55 to 60 for women. Early retirement will be made less attractive, and the way benefits are calculated less generous. The first private pension funds are scheduled to open in January 2000. Contributions to private funds will be mandatory for those under the age of 40.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?
The average salary of Croatians was 2,872 kunas ($410) per month in April 1999, a 13.8 percent increase from 1998. The worsening exchange rate has blunted the impact of this increase. Approximately 60 to 70 percent of an employee's salary is taxed or taken in mandatory contributions of one form or another. The net minimum wage is $200 per month.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?
According to UNECOSTAT, the elementary population was 208,000 in 1995 and 204,000 in 1996. The secondary school enrolment was 417,000 in 1995. The post-secondary population rose from 82,000 in 1993 to 86,000 in 1996. Some 87 percent of the eligible population were present in elementary school. The student-to-teacher ratio in 1997 was 15-to-1 (pre-primary); 19-to-1 (elementary); 14-to-1 (secondary); in 1993 the ratios were 12-, 18-, and 14-to-1, respectively. The proportion of GNP spent on education was 5 percent of GDP in 1994 and 5.3 percent in 1995.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.
The infant mortality rate was 10 per 1,000 births in 1998. The birth rate was estimated at 10.34 births per 1,000 population in 1999. Life expectancy in 1998 was 69 years for men and 77 years for women (WHO, CIA statistics). The suicide rate in 1995 was 25 per 100,000 people, fifth highest in Europe.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average

and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

According to the WHO, in 1994, there were 20.1 doctors per 10,000 population, and 47 nurses/midwives per 10,000 people in 1994. In 1995, 8.5 percent of GDP was spent on health care; the public sector spent 84 percent of that figure.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

In 1995, approximately one out of every five Croatians lived below the poverty line.

CZECH REPUBLIC

Polity: Parliamentary democracy
Economy: Mixed capitalist
Population: 10,300,000
PPP (USD): 10,510
Capital: Prague
Ethnic Groups Czech (94 percent), Slovak (3 percent), Polish (1 percent), German (0.5 percent), Roma (0.5 percent), other (1 percent)
Size of private sector as % of GDP (1998): 75

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	1.50	1.50	↓↓1.75
Rule of Law	na	na	2.75
Economic Liberalization	1.88	↓2.00	↑1.92

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	3337.0	3990.0	5050.0	5625.0	5144.0	5479.0	5262.0
Real GDP growth (% change on previous year)	0.6	3.2	6.4	3.8	0.3	-2.3	0.0
Inflation rate	20.8	10.0	9.1	8.9	8.4	10.7	4.5
Exports (USD millions)	13000.0	14000.0	21500.0	21700.0	22800.0	26400.0	28000.0
Imports (USD millions)	13300.0	14900.0	25100.0	27600.0	27300.0	28900.0	30000.0
Foreign Direct Investment (USD millions)	600.0	700.0	2500.0	1400.0	1300.0	2500.0	3500.0
Unemployment rate	3.5	3.2	2.9	3.5	5.2	7.5	na
Life Expectancy (years)	69.4	69.4	68.3	69.2	70.9	73.9	74.4

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	6	2	2	2	1	1	1	1	1	1	1
Civil Liberties	6	2	2	2	2	2	2	2	2	2	2
Status	NF	F	F	F	F	F	F	F	F	F	F

*FH Ratings through 1992-1993 are for the Czechoslovak Federal State

Introduction

The Czech Republic, which emerged in 1993 after the peaceful dissolution of Czechoslovakia, enjoys a stable multiparty system characterized by free and fair national and local elections. The government respects basic civil liberties, such as freedom of the press, property rights, and freedom of religion, and the judiciary is independent of executive and legislative political influence. Corruption is seen as a problem, and despite well-intentioned government anticorruption initiatives, enforcement has remained weak.

During most of the 1990s, the Czech Republic's economy has been one of the most successful in Eastern Europe, enjoying strong GDP growth, a balanced budget, and low inflation and unemployment. In 1997, the country faced financial problems in its transition to a full market economy largely as the result of unfinished structural reforms, compounded by severe flooding in the eastern regions. The economy slipped into a recession in 1998, with the economy contracting by 2.7 percent, and continued to be hampered by stagnation in 1999.

The Czech Republic joined NATO in February 1999, and has begun working to bring Czech social and economic legislation into line with EU standards. However, an EU report in late 1999 called Czech progress toward accession "unsatisfactory," citing insufficient economic reforms and a lack of progress at ending social discrimination against the Czech Roma population. Both of these factors led analysts to speculate that the Czech Republic might not win admission to the EU until 2005. In response to international criticism of policies toward the Roma, the government in mid-1999 passed legislation to promote better relations among ethnic groups.

Democratization

POLITICAL PROCESS 1.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The last election year in the Czech Republic was 1998. Lower chamber elections took place on June 19 and 20, 1998. Senate and municipal elections followed in November. In the parliament, the lower chamber, *Poslanecká snemovna,* (the chamber of deputies), is the decisive chamber. The senate may return a law approved by the chamber but the chamber needs only a simple majority of its 200 members, or 101 votes, to overturn a senate decision. Czech elections have for some time been regarded as free and fair, and international monitoring organizations no longer even bother to send monitoring teams. At all levels, election committees with members from all participating parties oversee the results of the elections, using standard democratic methods.

In the June 1998 Chamber elections, the CSSD (social democrats) won 32.3 percent of the vote, having denounced its rival on the right, the ODS (Civic Democratic Party), for alleged privatization fraud that resulted in losses of billions to the state. The ODS received 27.7 percent after a campaign in which it mobilized against the return of the Communists (about half of the CSSD's members are former Communists). The KSCM (Communists) received 11 percent of the vote, the center-right KDU-CSL (People's Party) 9 percent, and the US (Union of Freedom) 8.6 percent. The SPR-RSC (republicans) and the DZJ (pensioners) won 3.9 percent and 3.1 percent, respectively, failing to achieve the 5 percent minimum for chamber participation.

As people hailed the defeat of the latter two populist and extremist parties, the winners began wrangling to form a ruling coalition. The US refused to enter a coalition with the CSSD, and Vaclav Klaus of ODS, mistrusted by his center-right former government partners and unwilling to be bound by coalition restraints, negotiated an Opposition Agreement with Milos Zeman of the social democrats. According to this agreement, the ODS would support a CSSD minority government in exchange for control of leading positions in the Chamber, including the chairmanship claimed by Klaus himself, and a promise to cooperate with the ODS on constitutional and electoral law changes. The desired constitutional changes would reduce the already limited presidential authority and limit the independence of the central bank. The proposed electoral law changes would lead to suppression of smaller parties and the

emergence of a two-party system. Zeman's one-party government aroused concerns among observers who noted that even though a majority of voters voted for right-of-center parties, the country ended up with a post-Communist government under the protection of the ODS.

Having learned from its experience in the June elections, prior to November senate elections, the KDU-CSL and the US formed a coalition with the DEU (the Democratic Union) and the ODA, which they called the Coalition of Four. One-third of the senate's 81 seats were contested in the elections; the Coalition of Four won 13. In Prague, the ODS lost all three contested seats. US chairman Jan Ruml won one of these seats against the sitting Mayor of Prague, Jan Koukal of the ODS. In spite of these defeats, the ODS and CSSD retained, with 49 seats, the majority needed for constitutional amendments. They then lost this majority in an August 1998 by-election, after the death of an ODS Senator, in which voters overwhelmingly favored an independent candidate, Vaclav Fischer. Fischer had announced that he would not support the ODS- and CSSD-proposed constitutional changes.

2. When did presidential elections occur? Were they free and fair?
The last presidential elections took place in January 1998. The parliament elected Vaclav Havel to his second five-year term.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?
The electoral system is based on the free competition of political parties, although independent candidates may contest elections as well. There are several parties functioning at both the state and municipal levels, foremost among them the five parties represented in the chamber of deputies. The regional level of government, outlined in the Czech constitution, has yet to be established.

The electoral systems for the two parliamentary chambers differ. Representation in the chamber of deputies is proportional: political parties or independent candidates submit their lists of candidates in eight regional electoral districts. The deputies are elected to four-year terms. In the senate, one Senator is elected from each of 81 electoral districts for a six-year term. Every two years, one-third of the seats comes up for re-election. In municipal elections the system is proportional. Here, however, most of the elected representatives, especially in small towns and villages, run as independents.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
There are 67 political parties and 35 political movements registered by the Czech Ministry of Interior. No political party has so far been banned or declared illegal.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
About four percent of the population belongs to political parties, almost half of them to the KSCM, the Communist party. The proportion of women in political parties is estimated to be 15 percent.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
Voter turnout for the chamber of deputies elections in June 1998 was 74 percent, comparable to that in previous elections. senate elections attract far fewer voters—about 35 percent. In municipal elections the voter turnout averages about 45 percent, but varies significantly from place to place. Female voter participation is approximately the same as that of men.

CIVIL SOCIETY 1.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
In the Czech Republic, 70 percent of the funds for voluntary activities come from the government. The country was impoverished by communism and the

newly rich have little interest in financing NGOs. The Communist National Front registered approximately 10,000 organizations, from political parties to local chess groups. All "voluntary" activity was under the control of approximately 350 centrally organized and controlled unions. After the National Front fell apart in 1990, the number of voluntary organizations rose to approximately 30,000. By 1999, there were: 3,434 foundations, 485 "organizations for public benefit" (proper non-profit organizations in the western sense, registered under a 1995 law on non-profit organizations), and 40,745 "civic associations" (registered under a law on civic associations as of March 1990).

About 60 percent of the foundations and non-profit NGOs perform some charitable functions. The civic associations mostly do not; they are usually local groups pursuing leisure interests such as sports and youth activities. Some are interest groups supportive of cultural, ecological, family, and other issues. A number of women's organizations emerged after 1989, focusing their activities on family issues, ecology, and nuclear energy. The best known of these groups are "the South Bohemian Mothers" and "the Prague Mothers." "La Strada" fights trafficking in women. There are also educational women's groups like the foundations "Gender Studies," "Profem," or "the Circle for the Coordination of Prevention Against Violence." These organizations rarely have firm membership, so the number of women involved with them cannot be determined. About 80 percent of the population participates in some kind of private voluntary activity. All locally led philanthropic and voluntary efforts are frustrated by lack of funds.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

NGOs in the Czech Republic are free to register and pursue their work. Their financial difficulties are compounded by a provision in the tax law that only two percent of a company's pre-tax profits may be used for tax-deductible donations.

Access to statistical information is unhindered, though Czech public authorities have not yet established a culture of disclosing information. The situation may improve after January 1, 2000, when a new law on public information disclosure will come into effect. A government Council for Non-Government Non-Profit Organizations is responsible for the NGO sector. One of its important functions is to allocate government funds for NGOs.

There are no voluntary organizations focused specifically on improving the legal and regulatory environment. Few civic organizations concern themselves even with more general policy issues. The only known organized voluntary legal activity in the Czech Republic takes place in prisons. This activity is reportedly professional but is not interested in improving the legal environment.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Only about 45 percent of NGOs employ full-time employees; 39 percent employ at least one part-time worker. Altogether, about 100,000 people are estimated to be employed by NGOs. Government-financed organizations involved with social care and health issues employ most of the full-time professionals.

A number of organizations provide information and help to interested NGOs: the Information Center for Foundations and Other Non-Profit Organizations; the Foundation for the Development of Civic Society; the Center for Community Involvement. Charles University in Prague and Masaryk University in Brno offer post-graduate courses on NGO management. Most NGOs, however, do not look for such instruction: either they are too small to require sophisticated management or they cannot afford the cost.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most Czech NGOs are in dire financial straits, underfunded and overextended in their activities. Stringent limits on tax-deductible donations together with a lack of philanthropic interest on the part of companies and

wealthy individuals curtail the growth of NGO work. Companies are allowed to use only two percent (and individuals ten percent) of their pre-tax profits as tax-deductible donations.

NGOs themselves may earn income and collect cost-recovery fees. Their income tax is lower than the income tax of commercial companies. Their potential profit, if any, must be used for their voluntary activity and may not benefit people associated with the NGO. Gift tax does not apply to NGOs. They must disclose their revenue sources in yearly tax reports. Government procurement opportunities are extremely rare, if they exist at all, but the government provides 70 percent of NGO funds. This money is provided mostly for fulfilling social and health care services. Despite these contributions, NGO participation in these services remains limited.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Trade unions in the Czech Republic are free. Most of them have descended from the former Communist Revolutionary Trade Union Movement, which managed to keep itself afloat, retaining its property and organizational structure, only after it changed its name. About 40 percent of the workforce belongs to 35 trade unions, most of which are associated with the post-Communist Czech-Moravian Confederation of Trade Unions. Membership, at the moment, is stable.

About 31 percent of workers in private companies with more than 20 employees are trade union members, but only 0.8 percent of employees of smaller businesses belong to trade unions. The proportion is much higher in public administration and state-owned large companies. Farmers do not belong to trade unions; instead, they associate in professional organizations, of which there are several. Small business associations do not participate in the trade union movement.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Legal participation of interest groups in politics is limited. An exception is the strong position of the trade unions in their yearly "collective treaty" negotiations with the government and employers' associations. Professionals like medical doctors, attorneys, and architects come together in professional chambers; these chambers have authority with regard to their professional activities.

NGOs have the right to participate in regional development plans. This right is currently threatened by an ODS proposal to bar them from proceedings concerning development activities. The ODS has already successfully excluded NGOs from such proceedings on gold and diamond mining and motorcar highways. There is no form of official recognition for lobbying groups. These groups do exist but are not readily identifiable and the public has practically no knowledge about them. They range from legitimate professional lobbying groups to groups suspected of being fronts for powerful organized crime interests. The rights to strike, to petition, and to congregate are recognized by the Charter of Basic Human Rights and Liberties.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

Vaclav Klaus, prime minister of the country from 1992 through 1997, and chairman of the parliament since 1998, has ignored NGOs, an attitude that has been adopted by his party, the ODS. The ruling social democratic government views NGO work and participation in public life with suspicion, as documented in its declining support for charities and efforts to eliminate private schools.

The only important public official consistently vocal in support of voluntary activity is the President, Vaclav Havel, who is personally involved with several charitable foundations and supports charitable and voluntary activity in many ways. The attitudes of smaller, democratic non-government parliamentary parties, such as the Union of Freedom and the People's Party, are positive. The role of the media is more encouraging: Recently Czech TV, Czech Radio, and *Mlada Fronta Dnes*, a daily newspaper, organized a campaign "30 Days for the Civic Sector." Media coverage of voluntary activities is considerable and helps to balance any negative impact of politicians' attitudes.

INDEPENDENT MEDIA 1.75/7

1. Are there legal protections for press freedom?
Article 17 of the Charter of Basic Rights and Freedoms, a part of Czech constitution, states that "everybody has the right to express their views by word, script, print, image or other means, as well as freely search for, receive, and distribute ideas and information without regard to state borders." Censorship, according to the Charter, is unacceptable. Yet conditions for media operations are not quite clear. The Communist press law was provisionally amended in 1990 but a new press law has not yet been enacted. The last proposal introduced serious limitations to the journalist's right to protect sources; it was returned to the government for adjustments. A new Law on Free Access to Information will come into force on January 1, 2000. According to this law, public administration will be obliged to provide to every citizen all unclassified information.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
There is now no law penalizing the libeling of officials, nor any law establishing an ethical code for journalists. The Syndicate of Journalists of the Czech Republic has approved its own ethical code and a supervisory ethical committee. The committee enjoys a good reputation. In cases of libel, a journalist is in the same position as an ordinary citizen, and can be sued for the protection of personality or, in more serious cases, for the criminal offense of slander. The latter happens extremely rarely. There appear to have been no serious cases of harassment of journalists on the basis of the above-mentioned laws.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
With the exception of three public media—Czech TV with two channels, Czech Radio broadcasting four programs, and the Czech Press Agency—all other media in the Czech Republic are private. Two TV stations cover the whole country and one aspires to do so. About 60 radio stations broadcast, and a vast number of print publications exist.

Among the country's newspapers are *Mlada fronta Dnes* (*Young Front Today*), *Pravo* (*Law*), the formerly Communist *Rude pravo* (*Red Law*), *Zemske noviny* (*Lands Newspaper*), and *Lidove noviny* (*The People's Newspaper*). The private TV NOVA, which has until now attracted most viewers, is currently undergoing an ownership dispute. Radios Frekvence 1 and Evropa 2 are among the most popular radio stations. Czech Radio Free Europe, no longer supported by the Congress of the United States, but mostly by Czech Radio, retains the highest standards and is the only Czech radio providing solely spoken programs seven days a week.

4. Are the private media financially viable?
The private media are generally financially viable. There is strong competition among the country's media, which operate within a free market system.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
There is little perceived interference in the media's work, although some unease about full media independence persists. A critical program on Czech TV, Nadoraz, which focused on issues of corruption and political manipulation, was canceled last year and its editors fired. The reason given—unprofessional behavior—was condemned by many: political interference was suspected. At NOVA TV, there have been numerous stories about interference by the director of the company, Vladimir Zelezny. One of the former employees of the station published a book alleging almost dictatorial conditions in the TV station's newsroom. If there is any truth to such stories, considerable political manipulation takes place at this private TV station.

6. Is the distribution system for newspapers privately or governmentally controlled?
The distribution of newspapers is in private hands. The Communist monopoly, Post Newspaper Service, was privatized partly by vouchers. Renamed the First Newspaper Company (PNS), it has retained its near-monopoly on newspaper distribution. Some other companies distribute newspapers but their territorial reach is limited. There have been complaints that the PNS refuses to deliver some newspapers and magazines, notably, the privately-owned *Cesky denik* (*Czech Daily*), a paper that was very critical of the Klaus government.

Cesky denik stopped publication after alleged problems with distribution in 1996.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
According to qualified estimates, only about 1 percent of private households are connected to the Internet, but 100 percent of universities, 70 percent of secondary schools, and 40 percent of elementary schools are connected. In large companies, about 100 percent of management is connected to the Internet, in medium companies, 80 percent, and in small private companies, about 30 percent. About 80 percent of public administration workers are connected. Apart from cost there is no restriction on Internet access. The cost is high because of the monopoly privilege of Czech Telecom. The Internet is popular, and many people do access it at school, at work, in libraries, Internet cafés, etc. According to one private agency, 2.8 percent of the population uses the Internet.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
There is only one journalists' association, the Syndicate of Journalists of the Czech Republic. Its regular members are journalists, owners of newspapers, or employers of journalists. As of 1999, about 3,850 members were registered, including about 1,360 women. The syndicate concerns itself with freedom of expression and freedom of information as well as journalistic ethics.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?
Freedom House's annual survey of press freedom rated the Czech Republic (until 1992 Czechoslovakia) "Free" from 1990 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 2.00/7

1. Is the legislature the effective rule-making institution?
The effective rule-making institution in the Czech Republic is the lower chamber of the parliament, the chamber of deputies. Individual members of the chamber of deputies, the senate as a whole, and the Government have the right to propose laws. However, budgetary constraints limit support staff and hinder the preparation of legislative proposals. The legislative initiative thus rests with the Government, whose legislative proposals are written at the respective ministries.

A finished legislative proposal faces a long journey. It must pass readings within government ministries, chamber committees, and the senate, and then must receive the president's signature. This process has been described as painstakingly slow. More complicated laws take years to approve.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
Local government, which is composed of cities, towns, and villages, has sufficient authority to manage local affairs. All else is governed centrally—even more so, in fact, than during communism, when Czechoslovakia had two more subnational levels of government: districts and regions.

The creation of "higher units of regional self-government" is provided for in the Czech constitution, and a fight to put this constitutional requirement into practice has been going on since the creation of the Czech Republic in 1993. Former Prime Minister Vaclav Klaus, however, was not in favor of the creation of regional government, and all legislative proposals to establish it ended up in his infamous lower drawer. Finally, a law on the establishment of the regions was approved under the new social democratic government, and the regions should be established by January 2001. Despite the existence of the law, Vaclav Klaus, at present chairman of the chamber of deputies, argues for a postponement of its implementation until 2003 because, according to him, the necessary preparations for the establishment of the regions have not been made.

3. Are subnational officials chosen in free and fair elections?
Subnational elections, which take place only on the municipal level, are free and fair.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

The parliament operates fairly openly; its sessions, and the sessions of its committees, are accessible to the public, except when the matter discussed is protected by the Law on Classified Information. Draft legislation becomes accessible to the media when it reaches parliament. On the municipal level, only the sessions of the full elected body of representatives are open to the public. Municipal council sessions (the councils are composed of up to one-third of the representatives and elected by the representatives themselves) are closed; not even non-member elected representatives may attend.

Executive bodies operate with virtually no transparency. The law stipulates that information must be provided "adequately," but in practice bureaucrats provide only the information they wish to provide. The situation should improve however, with the recent adoption of a new Law on Free Access to Information. Under this law, government officials will be required to provide every citizen with any public information in their possession on demand.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments recently have had sufficient revenues to carry out their duties. Most municipalities have increased their budgets by selling municipal property received from the state in 1991. Almost all property not included in the privatization process was transferred to the municipalities. The resulting revenues have for the most part been used to build and improve infrastructure such as gas distribution networks and local roads.

Close to half of all municipal revenue comes from taxes apportioned directly for municipalities, approximately 20 percent are local revenues like rents, fees, and sales of property, and the rest comes from the state budget. Once money is in the local budgets, municipalities may use it at their discretion. There are, however, strong government limitations on independent municipal fund-raising. There are no local taxes, rents are regulated by state, and local fees have state-imposed limits. All municipalities with more than 10,000 inhabitants are currently in debt. Altogether, this local debt accounts for approximately 3 percent of GDP.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The ten years since 1989 have been a learning period for the newly independent municipalities. Most municipalities now appear to have local leaders and civil servants capable of effective local government. They have been helped by a number of training programs organized by their political parties, by foreign foundations, or by their own Association of Cities and Municipalities. Some money for these programs comes from government grants, and a significant amount of money comes from the EU.

7. When did the constitutional/legislative changes on local power come into effect? Has there been a reform of the civil service code/system? Are local civil servants employees of the local or central government?

The legislative change introducing municipal-level governments came into effect in 1990 and the first free municipal elections took place in November that year. Municipal civil servants are employees of their municipal governments. The civil code still awaits its replacement with a new democratic one. No new law on the civil service has been adopted, nor has any code of conduct for civil servants. The central government employs many civil servants in a number of local offices. They are responsible for tax-collection (Financial Offices), welfare (Offices of Social Care), unemployment (Labor Offices), and other administrations (District Offices).

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 2.25/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The Czech Republic came into existence on January 1, 1993. Its first approved law was its constitution. The constitution distinguishes between private and public

law, incorporates the Charter of Human Rights and Freedoms, and balances legislative and executive power. The constitutional court was established in 1993. The court is the supreme authority for the interpretation of the constitution, and in its decisions it is bound only by the constitution itself and by international treaties. As the only judicial body with no links to the Communist past the court has played an extremely positive role. In recent cases it upheld restitution claims, canceled the provision of the election law whereby only parties that received over 3 percent of the vote were entitled to a government subsidy, ruled that a customer may also withdraw from a purchase agreement if the supplier has that right, and ruled that a person who refuses to serve in the army must not be punished for that same offence twice. Unlike all other judges, Justices of the constitutional court do not have lifetime tenure, but are appointed for 10 years. The current tenure of the entire court expires in 2003. The right to name justices of the constitutional court belongs to the president. If judicial changes proposed by Vaclav Klaus are approved, this right will be taken away from the president, along with the right to appoint members of the Board of the Czech National Bank.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The Charter of Human Rights and Freedoms guarantees human rights. The charter largely reflects the UN Universal Declaration of Human Rights, but regarding some social rights goes even further, for instance, in guaranteeing cost-free education up to secondary level. The right to ownership is guaranteed in Section 2, part 1, Article 11; business rights are provided for in Section 4.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Reform of the criminal code has so far only been talked about. The minister of justice, aiming to streamline the criminal justice procedure, has proposed a substantial amendment to the criminal law. The most important of the proposed changes would shift investigation from specialized police departments to the courts themselves. Since the proposal does not provide for corresponding increases in the numbers of judges and courtrooms, many worry that the criminal justice system would become overwhelmed by the increased load, just as the civil justice system already is. The amendment appears likely to be approved. At present the criminal justice system is the only part of the justice system that works without serious delays. Searches are authorized and warrants issued solely by courts. No cases of mistreatment of prisoners or suspects have been reported.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

While most judges rule fairly and impartially, a number of cases have been reported in which rulings appeared to have been influenced by some individual or group interest, especially in cases involving corruption or business interests. Wide discussion of such cases, together with long delays in civil and commercial law proceedings, create the impression that the judicial system is unreliable and contribute to the general opinion that it is impossible to achieve justice in the Czech Republic. Only 35 percent or so of judges remain from the Communist days. All judges were screened very carefully by parliament before they received their new lifetime tenure.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

Czech courts are generally free of political influence. Judges have life tenure and are jealous about their independence. District courts are supervised by regional courts, and regional courts by higher courts, but only in administrative matters. The only substantive authority resting with the Ministry of Justice is the appointment or removal of the chairmen/women of the courts.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

There are some 7,000 private attorneys and about 500 private notaries. The state employs about 2,000 judges (900 of them criminal judges), about 900 state prosecutors and about 2,500 investigators. About 20 per-

cent of the investigators have a legal education. A number of lawyers work for private companies and state administration. About 1,500 lawyers graduate from the country's law schools every year. Women chair the supreme court and the Supreme State Prosecutor's Office. About 40 percent of judges, 60 percent of notaries, and 20 percent of prosecutors and investigators are women.

7. Does the state provide public defenders?
The state must provide public defenders for youth offenders and for offenders for whom punishment of more than five years imprisonment is demanded by prosecution. In civil cases the judge may rule about providing a public defender on the basis of financial circumstances.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
The Charter of Human Rights and Freedoms protects ethnic minority rights. The Criminal Code includes provisions against violence to individuals, and against insult of nation, race, or persuasion, and even against the instigation of such insult.

9. Are judicial decisions effectively enforced?
Enforcement of judicial decisions is one of the weakest points of the justice system. A law on private executors has not yet been published. State executors are few and ineffective, only about 25 percent of decisions are successfully enforced. In business, debtors are in an advantaged position against creditors. Bankruptcy laws are ineffective and in need of substantial amendment.

CORRUPTION 3.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption is believed to be prevalent within the Czech civil service. Bribes are expected everywhere where some material benefit ensues, for example, in government procurement. Businessmen claim that no government contract is rewarded without a bribe of around 10 percent of the value of the contract. Bribes are also reported in applications for bank loans, registering transfers of property, receiving inheritance, restitution, privatization, registration of a business with a court, and university admission.

Besides this spontaneous bureaucratic corruption, more serious corruption occurs in connection with organized crime. Police or higher government officials are bribed to achieve the operation of illegal businesses, and border guards are bribed to allow illegal import or export. A number of cases have been investigated, but in no case has an offender been punished. This indicates that important parts of the law-enforcement system are corrupt, too. The average salary in the Czech Republic is about 11,500 Kc ($340) per month. Higher executive positions in public administration bring up to 20,000 Kc ($570). Ministers earn about 40,000 Kc ($1,140).

2. Do top policy makers (the president, ministers, vice ministers, top court justices and heads of agencies and commissions) have direct ties to business? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Members of parliament may be and frequently are active businessmen in addition to their parliamentary obligations. Many government officials sit on the boards of directors of partially state-owned companies and banks, for which they receive considerable remuneration in addition to their salaries. This provides the ruling political parties with an opportunity to reward many individuals for any services provided to the parties. Judges may engage in no business activities whatsoever. A law on conflict of interest exists, but applies only to the highest state administration officials—ministers, vice-ministers, district offices, and chief executives. No code of conduct exists for civil servants yet.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do

executive and legislative bodies operate under audit and investigative rules?

Financial disclosure laws have been adopted and are satisfactory. Their enforcement, however, is less satisfactory, in line with the general shortcomings of law enforcement in the Czech Republic. Corruption is difficult to prosecute; only an estimated 1 percent of corruption cases are uncovered. Bribery is outlawed by criminal law, but antibribery cases are extremely rare. Only one major case has resulted in a prison sentence since 1993, and another well-publicized case, in which a bank manager tried to bribe Prime Minister Petr Pithart, was never brought to any conclusion—the police "lost" evidence crucial to the case. No special law on racketeering exists beyond the general provisions of criminal law. Both public executive and legislative bodies operate under relatively strict audit and investigative rules, which are enforced by the Supreme Control Office and internal control departments of individual public offices.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

A number of opinion surveys on corruption have been conducted, some with international comparisons. One such mid-1999 survey, by the GfK agency, compared present levels of corruption to those of several European countries since 1989. According to the survey, the number of people who consider corruption an inevitable part of life grew from 8 percent to 22 percent. At the same time far fewer people admit corrupt behavior: two thirds of people asserted that they never bribe, whereas in 1989 only 13 percent did. Corruption is perceived as a normal part of life, especially by people who are in frequent contact with public offices: 31 percent of businessmen and self-employed people consider bribes inevitable. A negative trend is the shift from low-level corruption to high-level corruption. In international comparisons, the Czech Republic is more corrupt than Poland, Hungary, or Italy.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

The social democrats adopted the anticorruption fight as one of their major election promises. The issue was well received by the public and helped the social democrats to win the elections. After the elections the government announced its "Clean Hands" anticorruption campaign. A commission was established to ensure investigation and clarification of the best-known cases of fraud under the previous Klaus governments. After a year, the commission has produced no results, and the chairwoman of the state prosecution office described it as "useless" and called for its abolition.

Formal motions have been made to conform to EU standards with regard to fighting organized crime. The Ministry of Interior organized a project called "Jointly Against Corruption." Transparency International has been invited to take part in the project. Anticorruption laws are adopted reluctantly and with weak provisions for enforcement. Pressure from the EU to bring Czech legislation up to European standards is helpful, and at least some norms are being adopted. An international agreement on fighting bribery of foreign public officials in international business transactions was signed in 1997, but the Czech Republic still has not signed the international Agreement on Suppression of Corruption in International Trade Relations.

In the past year the social democratic finance minister was forced to retire because of corrupt behavior, and the vice chairman of the government, Egon Lansky, was found to have received a large amount of money, $290,000, in an illegal Austrian account. The money came from the Czech ministry of finance. The vice chairman admitted that the money was approximately 10 percent of an old debt payment to a Swedish company that he had helped to extract from the Czech government. The public has not been informed about any investigation proceedings, but the prime minister announced after several months of silence that Lansky would resign for "health reasons." The minister of health is under threat of forced resignation, too, because of the highly corrupt conduct of leading officials at his ministry. A number of cases of corruption have been reported, and the minister himself has made many controversial decisions.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
The Czech public appears to be resigned to the fact that democracy has brought no improvement with regard to corruption. No government-organized anticorruption public education efforts have been made, but at the municipal-level education programs are being organized, mostly inspired and sponsored by the EU.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
The Czech Republic was ranked 39th out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 4.6 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 1.75/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
In 1990, Czechoslovakia had the largest state sector of all the East-Central European countries entering transition, with a negligible portion of national output coming from the private sector. Today, more than 75 percent of Czech GDP is produced in the private sector.

2. What major privatization legislation has been passed? What were its substantive features?
Restitution of Communist-confiscated property began in November 1990 and lasted until September 1991. Some Kcs 75 to 125 billions-worth of property was moved into private hands through restitution, including approximately 100,000 physical properties (houses, farms, shops, and the like).

Privatization of small enterprises like shops, service establishments, and restaurants followed restitution and was slightly more controversial. Despite strong pressure for insider (manager and worker) preferences in the form of closed rounds of auctions restricted solely to employees of the firms being privatized, the parliament voted down any such preferences in the summer of 1990. Once assets were selected to be privatized, the auctions were open to all Czech citizens, with no special preferences. The auctions began in January 1991 and concluded at the end of 1993, although the majority of small enterprises were sold by April 1992. Over 22,000 small enterprises were sold, with shops constituting 58 percent of sales, service establishments 18 percent, restaurants 8 percent, and motor vehicles 7 percent. The total value transferred through the small privatization program amounted to a little over Kcs 30 billion (more than US $1 billion).

The foundation for large-scale privatization was laid in April 1990 when laws establishing the legal foundation for converting state-owned enterprises (SOEs) into joint-stock companies. In the first half of 1990, the 100 large trusts that dominated the state sector were split into 330 independent enterprises, while the vast majority of communist-appointed top directors were dismissed in favor of their deputies. With the need for speed and competition in mind, the large-scale privatization law was passed in April 1991. The initial large-scale privatization program was divided into two waves, the first beginning in February 1992 and the second in April 1994. Privatization of each enterprise was centered on the "privatization project." These were proposals for the future of each firm, including restructuring and some combination of five different privatization instruments: transformation into a joint-stock company (so-called voucher privatization), direct sale to predetermined buyers, public auction, or free transfer to municipalities or trust funds. Management was required to submit a basic privatization project, but anyone was allowed to submit competing projects. These projects were submitted to a "black box" decision-making process at the Ministry of Privatization. Mirroring the experience with restitution and small privatization, speed was emphasized as a primary goal.

The Ministry of Privatization's project-selection criteria gave priority to mass privatization components in competing proposals, and this institutional bias made the core of the large privatization program the so-called voucher program. Three-fourths of medium and large enterprises in the beginning of the reform program had mass privatization components. It had never been tried on a large scale.

Beginning in 1991, all Czechoslovak citizens 18 and over were eligible to purchase a voucher booklet from one of 648 distribution centers. The purchase price was nominal at Kcs 1,000 (about $35, or one week's worth of average wages). Trading was disallowed until the secondary market began following share allocation. Investment privatization funds (IPFs), which managed people's vouchers and promised large returns, piqued public interest in vouchers. Approximately 72 percent of voucher purchasers invested their points in IPFs. Eventually, 264 IPFs formed in the Czech lands for the first wave and another 353 formed in the second wave. Commercial and savings banks as well as insurance companies ran the largest IPFs.

Privatization has slowed since the heady early years of transition, partly because most of the politically easy sell-offs have already been made. The privatization of the remaining enterprises, owned directly by the state or indirectly through the National Property Fund (NPF, the state body holding unprivatized equity), is now being made on a case-by-case basis. Such sales have actually been ongoing, and have actually accelerated in 1998 and 1999. The privatization of the banking sector, in particular, has been proceeding rapidly.

The government retains ownership through two major mechanisms. The first is the National Property Fund, which holds minority shares in firms sold through mass privatization. Studies have shown, however, that the NPF board members have been passive. Thus, state ownership of enterprise shares has not necessarily led to a politicization of business decisions. The second mechanism of government ownership is the complex web of cross-ownership in the financial sector. The largest banks are still state-owned (though this is changing), and they hold large equity stakes in investment funds, which in turn own newly privatized companies. While there has not been significant evidence of government interference through these links in privatized firms, there is still some cause for caution. The ongoing privatization of state-owned banks is an important step to finding a long-term solution to this problem. A gradual ownership transformation has occurred in those companies privatized in the first two waves. Most privatized companies now have a majority or dominant owner. This has led to impressive growth in productivity at these companies.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: Nearly all of agriculture has been privatized, including former cooperatives and most state farms. Much agricultural land was privatized through restitution and auctions.

Housing and Land: As part of property reform, the government passed a law soon after the 1989 revolution giving housing and land to the municipality in which it was located. Those living in these units could then apply to buy them from the municipal government at a discounted price. This process may vary by municipality. In 1994, legislation passed that allowed for the purchase of apartment houses by cooperative groups at a discounted price if members reside in the building. The majority of housing units are privatized.

Industry: It is estimated that the private share of industry topped 80 percent by early 1996. The remaining industries will be much more difficult to privatize. These industries are the so-called strategic sector: communications, energy, mining and metallurgy, and transportation. Sales of "strategic" enterprises has actually picked up in recent years.

Business and Services: Nearly all small businesses and services have been privatized. Out of a workforce of five million, the Czech Republic now has nearly 900,000 entrepreneurs, mostly involved with newly founded businesses rather than former state companies. Small businesses are the fastest growing portion of the private sector. They now provide 20 percent of industrial output.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The "small privatization" process of retail, trade, and consumer services establishments was quite competitive. Where auctions were held, winning bids were approximately 6.3 times the opening price. This indicates that insiders were not able to get away with taking former state-owned businesses without substantial outsider competition. This contrasts with Poland, where winning bids were approximately the same as the opening price.

In the first two waves of large enterprises in 1992 and 1994, outsiders were allowed to submit competing privatization projects. Competition was high in practice,

with an average of 17 proposals received for each state firm. There was no institutional bias in favor of insiders. In fact, winning privatization projects had overwhelming voucher components. Observers have called the voucher process the least insider-dominated form of privatization.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The CSSD, led by a vocal Zeman, had been opponents of the privatization process as conducted by the former governing governing coalition. It particularly opposed further privatization of the health care and energy sectors, as well as restituting Church property. After their entrance into government in 1998, the CSSD has actually pushed for further privatization in sectors untouched by the ODS-led coalition (like banking). The unreformed Communists are major opponents of privatization, but they have been a marginal political force since the transition.

The ODS and ODA parties, former members of the ruling coalition, have been the strongest political supporters of privatization. The new Freedom Union is also supportive of privatization. Their former Christian Democrat partners, while acquiescing, were not as supportive of privatization.

MACROECONOMIC POLICY 2.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The old tax system was only slightly reformed from 1990 to 1992. This tax system relied mainly on implicit taxation in the form of turnover taxes and confiscation of SOE profits. The Czech Republic introduced a major tax reform in January 1993, featuring new corporate and individual income taxes, and a value-added tax (VAT). There have been three major goals of tax reform since the transition. The first was to subject the mushrooming private sector to normal taxation, especially as the government was essentially giving away its tax base through privatization and restructuring of SOEs. The second goal was to broaden the tax base; services were included for the first time. The final goal was to reduce the overall burden of taxation. This was done by lowering tax rates (which had been as high as 85 percent with further levies on profits) and increasing depreciation allowances. The new taxes also achieved this goal by being much less distorting, which reduced taxation's excess burden on the economy.

Major taxes currently levied in the Czech Republic include a personal income tax (15 to 32 percent), corporate income tax (31 percent), social security fund tax (12.5 percent for employees, 35 percent for employers), value-added tax (22 percent and 5 percent for some items), social insurance tax (35 percent total). There is no capital gains tax.

The VAT was reduced one percent in January 1995. Another tax reduction took effect in January 1996, with all income taxes, corporate and personal, dropping several percentage points. In January 1998, several tax rate reductions were introduced. The VAT rate on energy was reduced from 22 to 5 percent and the corporate income tax rate was cut from 39 to 35 percent. In July 1999, corporate taxes were reduced from 35 to 31 percent. The highest bracket income tax was reduced from 39 to 32 percent.

Enforcement of taxes is relatively lax, especially in small-scale enterprises. Underreporting profits and keeping two sets of accounting books (one for real, and the other for the tax collector) are fairly widespread practices. Czech police and tax authorities complain that irregularities in the tax and commercial codes prevent proper investigation and prosecution of tax violations. In one police estimate, only 10 percent of tax violators are caught. This problem is compounded by the prevalence of easily hidden cash transactions. The Czech Republic recorded the most spectacular decline in tax revenue in East-Central Europe during the period from 1989 to 1993, although this record has improved in the years since.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

The bulk of macroeconomic reform began in September 1990. This included stabilization of the economy through a restrictive fiscal and monetary regime, and the reduction in the size and interventionism of government. Czechoslovakia had inherited not only a swollen state enterprise sector, but also an expansive and intrusive government, even by the standards of Communist Central Europe.

The Czech Republic's fiscal policy has been one of the most solid in the entire region. It actually ran a surplus in 1993, 1994, and 1995. Since then, the budget deficit has risen. In 1996, 1997 and 1998, the deficit was 2.3, 1.4, and 1.4 percent of GDP, respectively. The 1999 budget deficit is estimated at Kc 47.3 billion ($1.35 billion), which is still less than 3 percent of GDP. Total official debt stands at Kc 210 billion, or 12 percent of GDP. This figure ignores, however, the so-called "hidden debt" held by government institutions like the bailout fund and the National Property Fund. This sum is estimated by the World Bank at Kc 270 billion.

The solid overall macroeconomic picture induced Standard and Poor's to give the Czech Republic an "A" investment grade rating, which it has kept. It was inducted into the Organization for Economic Cooperation and Development (OECD) in December 1995, the first post-Communist nation to become a member.

Subsidies are some 4.6 percent of GDP. Curtailing the growth in the money supply and inexpensive credits to SOEs reduced a large indirect subsidy. Nevertheless, very few large firms have been allowed to fail; they are continually bailed out with subsidies. A stingier approach to bailing out failing firms was inaugurated in mid-1999. Subsidies for housing cost 13.7 billion Kc ($507 million) in the 1997 budget, and heating subsidies cost Kc 4.5 billion ($167 million), falling from the previous year's Kc 6.9 billion ($256 million).

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The State Bank of Czechoslovakia was established as the independent central bank in charge of monetary policy in 1990. Its Czech successor, the CNB, is independent by law—Article 98 of the Constitution notes that "the main purpose of [the CNB's] operations shall be to care for the stability of the currency; intercessions in its operations may be effected only on the basis of law." It is also autonomous in practice. It is responsible for money market policy, the money supply, regulating the banking sector, and setting interest rates. Most regulations accord with EU-standard banking regulations. The CNB's supervisory authority was augmented by two amendments to the banking code adopted in 1994. These amendments also established deposit insurance, which guarantee deposits up to Kc 100,000 (about $3,600).

The Czech banking sector is one of the weakest and least-reformed areas of the economy. Czech banking suffers from numerous problems, including management and lending inexperience, cases of outright fraud, lack of transparency, and inadequate supervision from above by the CNB. Bank-sector privatization also lags behind the rest of the economy.

A more systemic problem in the banking sector are the interlocking ownership and credit arrangement, between the banks, the investment funds, the government, and the National Property Fund. This sort of confused ownership undermines shareholder control of banks and leaves management free from the discipline of profit-maximizing owners. Having said this, it is important not to overestimate banks' influence in the economy, as the six largest banks own only a small portion of the total value of private shares.

In 1996, the Czech banking system underwent a severe crisis. Initially the problems were confined to small banks that could not meet capital requirements. However, in August 1996 the Kreditni and Investicni Banka (the nation's sixth largest) collapsed. Its fall entailed the loss of 12 billion crowns ($440 million). In September 1996, the CNB placed Agrobanka, the largest private bank and the fifth largest overall, under forced administration. An auditor estimated losses in that case to be 10 billion koruna ($330 million). In all, 12 of 60 banks failed in the crisis. Six of these are in bankruptcy and the rest under forced administration. Criminal charges of fraud and embezzlement were brought in 1996 and 1997 against individuals involved in these collapses.

A significant proportion of loans to the private sector are considered "risky," which means they are unlikely to be repaid. This has made banks very reluctant to extend their loan activities, which undercuts possibilities

for growth. A state company was established in October 1996 to buy bad loans from small banks in order to help stabilize them. Some Kc 200 billion ($6.4 billion) has been spent in fixing the sector since. Depositors were fully compensated by the Deposit Insurance Fund and credits provided by the CNB. By early 1997, there were 54 licensed banks in the Czech Republic. Four banks dominate the sector, with 68.2 percent of its assets. Foreign banks hold 12 percent of its assets.

The pace of bank privatization has picked up considerably, and especially so for the four largest state-owned banks. The government sold a 36.3 percent stake in Investicni a postovni banka to Nomura International in March 1998. In August 1997, the state decided to sell the majority of the state's shares in the other three—Komercni Banka, Ceska Sporitelna, Ceskoslovenska obchodnibanka—to strategic investors. However, only Ceskoslovenska has been sold so far, in a $1.1 billion deal (for a 66 percent stake) with Belgian KBC Bank in May 1999. In March 1999, the government announced that it would complete the sale of Ceska Sporitelna by December.

Two amendments to the banking code were passed in 1998. The first mandated the separation of investment and commercial banking (analogous to the US Glass-Steagal Act), while the second improved CNB supervisory authority over banks. The CNB announced in April 1999 plans to lower the bank reserve requirements from five percent to two percent in October.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Since May 1993, the value of the koruna has been fixed to a two-currency basket, consisting of 35 percent of the dollar and 65 percent of the Deutchemark. In October 1995, the Foreign Exchange Law made the Czech koruna became fully convertible for current account transactions and partially convertible for capital account transactions. Firms are not restricted in borrowing funds from abroad.

The koruna's fixed exchange rate was quite stable from 1990 until 1995, thanks to a determined Central Bank and plenty of foreign-exchange reserves. Substantial capital flows made it necessary to widen the fluctuation band to +/- 7.5 percent in February 1996. International speculative attacks on the koruna increased in early 1997, when markets gambled that the CNB would not be able to sustain the fixed exchange rate. While initially attempting to fend off international forces, the CNB was forced to float the koruna in May 1997, which fell by 10 percent. Since then, the koruna has remained very stable, falling from 33.8 $/Kc in the third quarter of 1997 to 35.4 in June 1999.

Fiscal and monetary discipline is responsible for the moderate inflation record of the Czech Republic, which is the best in post-Communist Europe. Inflation dropped from 10 percent in 1994 to 8.8 percent in 1996 and back again to 10.7 percent in 1998. The CNB announced in April 1999 that its goal was a 1 to 3 percent inflation rate by 2005. In 1999, inflation is estimated to fall to a minimal 2.5 percent. The government criticized the CNB in 1999 for adopting such a strict monetary policy, arguing it restricted growth.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Prague Stock Exchange (PSE) is one of the highest-capitalized equity markets in the region. There are some 2,200 companies on the exchange, the majority of which were created by the two waves of voucher privatization. There are two alternatives to the PSE. These are the electronic RM-system for over-the-counter trades, and the Ministry of Finance-created Center for Securities. Both of these were originally created to trade privatization vouchers, but real shares are now traded on each.

Unfortunately, since its creation, the PSE has experienced numerous problems and has acquired the reputation of being an insiders' market. The biggest of these problems is the lack of transparency. Many of the traded companies fail to give information about themselves to potential investors, nor do they inform current shareholders about arguably important events like earnings and mergers. Another problem are the numerous bottlenecks in trading activity. These problems have led to chronically low liquidity. There is only enough activity to sustain stable prices in 200 of the traded companies.

Liquidity is low as most of the companies on the exchange are not regularly traded on the PSE itself.

Most transactions happen privately. Average daily trading volume in 1995 was only $30.9 million. In 1997, 1,000 blocks of shares were removed from the PSE for lack of trading activity. The PSE is currently more an instrument for trading equity rather than raising it.

Amendments to securities law took effect in July 1996. They increased protections for minority shareholders by requiring new majority owners to offer a buyout to all shareholders at a weighted six-month PSE share price. In addition, boards will be prevented from taking a company private without a 75 percent majority decision by all shareholders. They also increase transaction transparency by requiring the disclosure of major share acquisitions, mandating that listed firms publish their annual statements three months after the close of the fiscal year, and by establishing stock lending (previously unregulated) as a "legally binding contractual relationship." The amendments also require licensing of investment funds, requiring the use of international accounting standards, mandating the segregation of investment fund assets from the assets they manage for their clients, and making them file quarterly reports on their portfolios.

However, the administrative capacity of the Ministry of Finance was not up to the task of Western-style regulation of the securities industry. Jan Ververka, the head of capital markets supervision in the Ministry, complained in November 1996 that his department was only able to regulate actively 20 percent of the 800 investment funds and brokerages. Several Western investors have noted that regulators sometimes ignore clear violations of existing rules. A new Securities Commission (SECOM) began operation in April 1998 to address these problems. It is able to fine violaters and revoke broker and asset managers' licenses.

Two commodity exchanges exist in the Czech Republic. The first, the Brno Farm Produce Exchange, which was founded in July 1993, deals mainly with agricultural commodities. The more general Czech-Moravian Commodity Exchange in Kladno was established in November 1995, trading a wide variety of commodities.

As a result of a tight and well-managed fiscal policy, the Czech Republic's bond market is dominated by long-term private sector debt. The market is fairly small and, as a result, a mature secondary market in bonds has yet to emerge. The total nominal value of publicly traded bonds was 10.7 percent of GDP in June 1996, and bonds accounted for 35.7 percent of PSE trading in 1995. Liquidity and transparency in the bond market, as in the equity market, leaves much to be desired. The bond derivatives market is immature.

MICROECONOMIC POLICY 2.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Property rights are guaranteed under Article 10 of the Charter of Fundamental Rights and Freedoms, which under Article 3 of the new Czech Constitution is "an integral component of the constitutional system."

The Czech Republic adopted a patent code in 1990, a trademark law in 1988 and 1990. Amendments to the trademark law passed in June 1995 harmonized the Czech intellectual property rights (IPR) Law on Trademarks and Copyrights with EU and TRIPS standards. These amendments make it easier to enforce, register, and sell trademarks, even foreign-registered trademarks. The latter was implemented after a small scandal in which the brother of a high-ranking government official registered names like Jaguar, Toyota, Chevrolet, and Audi as his own. The Czech Republic is a signatory of numerous international IPR conventions. In April 1996, the Parliament adopted laws that strengthened protection of software.

While Czech legal protections for intellectual property are adequate, enforcement is rather problematic, as in all other post-communist countries. For example, one major difficulty in implementation is long delays in enforcing IPR laws against violators. The backlog of cases in the courts is about two years—enough time for substantial damage to have been incurred. U.S. firms have estimated that more than $117 million was lost to copyright violations in 1997.

This gap between law and practice has been recognized by the World Intellectual Property Organization (WIPO), which has recently suggested placing the

Czech Republic on the list of countries impeding trade. In 1998, the Czech Republic was placed on the US government's Special 301 Watch List. No expropriation has taken place since the end of Communist rule. Application of eminent domain is done under standards of international law: with due process and in a nondiscriminatory fashion.

Restitution of property nationalized by the Communists was completed by 1992. Nevertheless, because of the slow pace of courts, not all title has been transferred to new owners. This means that it is not always known who actually owns a particular property.

2. To what extent have prices been liberalized? What subsidies remain?

Approximately 85 percent of government-controlled producer and consumer prices were liberalized in the beginning of 1991. After the first year of liberalization, 18 percent of GDP was valued in regulated prices, and by the end of 1992, this figure fell to 5 to 6 percent (down from 85 percent in 1990). The following commodity groups' prices are still regulated: energy, housing rents, water, transportation (especially passenger), telecommunications, health care, and some agricultural products.

The government has made public its commitment to liberalizing these prices in the next several years. Even where prices are controlled, adjustments have been made consistently in the upward direction. In July 1998, for example, public housing rents were raised between by 27 percent, gas by 27 percent, and electricity prices were raised 24 percent.

The government has effectively suspended national wage bargaining between labor, employers, and the government under the Tripartite Council. In July 1995, wage regulation by the government was eliminated.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Operating a business is relatively easy to do. However, forming a business necessitates traversing a lengthy and complex process of obtaining registrations and licenses.

The Czech Civil and Commercial Codes (adopted in 1992) are based heavily on the German and Austrian codes. The Commercial Code, adopted in January 1992, replaced eighty scattered regulations and codes in establishing the framework for interbusiness transactions. Many of the provisions of the codes, however, remain vague.

The first Czech bankruptcy law was adopted in 1991, and was followed by another in 1993. The revised bankruptcy law of March 1996 streamlined and simplified the bankruptcy process, eliminating old bureaucratic obstacles. It permitted forced debt restructuring and prevented "looting" transactions. However, as earlier, the major Czech banks that are the largest creditors remain hesitant to force their debtors, inefficient and large ex-state owned enterprises, into bankruptcy. The political repercussions to these state-owned banks from idling thousands of workers often outweighs the financial costs incurred by not initiating bankruptcy proceedings. Moreover, bankruptcy remains an uncertain proposition for both debtor and creditor, given the three to four year backlog in bankruptcy courts and the lack of an established secondary market for seized assets. As with dispute resolution, courts do not have enough experience and resources. There is some evidence of a recent improvement in the handling of these cases.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The courts are frequently not effective in settling disputes. This is due to the burden of a tremendous number of new cases, an inadequate number of judges, as well as the inexperience of these judges in dealing with complex commercial issues. This leads to large time lags in rendering judgment. Commercial disputes are heard between seven months and two years from the date of filing. Decisions are reached between one and three years later. A large body of established precedent has also yet to take hold. Important trial judgments are published.

The European Commission criticized the Czech Republic's lack of legal reforms in November 1998, contrasting the country poorly with Hungary and Po-

land. The Czech Republic is a member of the New York Convention on arbitration, and as such, it is legally bound to recognize and enforce arbitration decisions. Enforcement of foreign court decisions, however, is not a priority.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

A Competition Law was adopted in 1991. The Office for the Protection of Economic Competition is supposed to police anti-competitive behavior. The Czech Republic has a fairly effective competition policy. An agreement was reached in January 1996 to coordinate and harmonize the Czech and the European Commission competition policies.

The Czech competition office, as elsewhere in East-Central Europe, is dominated by staff from the price-control ministries of the old regime. These people and by extension, the ministry, often see their role as enforcing economic policy rather than establishing fair rules of the game. For example, competition authorities have been involved in investigating the justification for insurance price hikes. They also meddled in industrial policy-making, allowing a firm to acquire 60 percent of the Czech coffee market in return for employment and investment guarantees. In addition, the problem of industry "capture" of regulatory agencies seems particularly acute across post-communist Europe, and the Czech Republic is no exception. A snug relationship between managers and regulators has often led to competition policy regulators actually deterring new competition.

Insider trading of public companies is illegal. In practice, though, Czech equity markets have a reputation for being insider dominated. The Czech procurement procedures are generally fair and open for large contracts at the central level. This is often not the case at local levels where political connections often count for much in awarding contracts. Another problem is that state-owned entities not receiving large budget transfers (such as utility monopolies) are not required to adhere to government procurement procedures. Finally, domestic firms receive a 10 percent price advantage over their foreign competitors. The impact of this is negligible, however, given the fact that most foreign investors establish Czech legal entities. Amendments to the procurement law, pushed forward by the Competition Ministry, went into effect in July 1996. These include clarification and simplification of public tender procedures on both the local and federal levels. In addition, they institutionalize transparency-building devices, such as publishing winners and winning amounts, and they force government bodies to reveal selection criteria for tenders.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

The Czech Republic's tariffs average five percent. Nevertheless, some imported goods (such as certain foods) are charged as much as 68 percent. The government often applies lower tariffs to European exporters than it does to non-Europeans. Import protection levels are substantially below OECD averages.

A deteriorating trade deficit in 1997 (Kc 140 billion) prompted two measures. In April 1997, an import deposit scheme was adopted, only to be eliminated in August after much protest by the EU. In May, anti-dumping legislation was adopted. The trade deficit eased slightly in 1998 to 80 Kc 80 billion.

With the exception of controlled goods, no export controls exist. Exports account for a large proportion of the Czech economy: 61 percent of 1995 GDP. The government established the Czech Export Bank in May 1994 to encourage exports by providing access to state-subsidized medium and long-term financing.

Quantitative controls on imports were almost entirely abolished in 1990. Nontariff restrictions are few, liberal, and generally transparent where they exist. Certain imported goods require a license, but these are not difficult to obtain. Product and labeling standards, while fairly strict, are rapidly being harmonized with European and international standards. Product testing regulations were streamlined and liberalized in reforms that took effect in January 1997. In the early years, product testing was often a bureaucratic nightmare, performed at state-run testing stations. Testing these days for most products is voluntary and performed at efficient private-testing stations. Border customs stops are usually simple for goods traveling to and from Western Europe, but much more onerous for Eastern Europe.

As a member of the General Agreement on Tariffs and Trade (GATT), the Czech Republic acceded to the World Trade Organization (WTO) in January 1995. The Czech Republic is a founding member of the Central European Free Trade Agreement (CEFTA), which also includes Poland, Hungary, Romania, Slovakia, and Slovenia. It is also a member of the European Free Trade Associate (EFTA), and has an association agreement with the European Union. The EU commission formally recommended that accession negotiations begin with the Czech Republic in July 1997. Membership, however, is not expected before 2002. Sixty percent of Czech trade is with the EU already.

7. To what extent has foreign investment and capital flow been encouraged or constrained?
Generally, there is no legal discrimination against foreign firms. Foreigners can establish any form of business organization permitted to citizens. As part of its OECD accession agreement, it promised not to give preferences to domestic firms in privatization sales. Profits earned on Czech investments can be repatriated, but with a 25 percent tax (standard for EU countries), which is lowered if double-taxation treaties are in effect. There are no land-ownership restrictions on foreigners.

Nevertheless, in practice, there have been a few instances where foreign firms have been treated differently: petrochemicals, telecommunications, mass media, and the brewery industries. These sectors are highly visible as well as dominated by giant firms, and are thus politically sensitive. Moreover, there are certain "strategic" sectors that are explicitly reserved for domestic firms. Finally, government procurement procedures, though liberalized in 1996, still give a 10 percent price advantage to domestic firms.

In the past, the government largely ignored calls to offer special tax incentives to foreign investors. In April 1998, the government approved a package of incentives to foreign investments, though only to those that exceed $25 million. These include tax breaks and deferrals, duty-free imports of high-tech equipment, an opportunity to purchase land cheaply, and other benefits. Since that date, 12 companies pledging $900 million have been accepted.

Foreign direct investment (FDI) has waxed and waned at different periods in the post-reform period. In 1998, FDI finally matched 1995's level of $2.5 billion. FDI in the first quarter of 1999 alone amounted to $584 million (with a full year estimate of $3 billion). Total cumulative FDI from 1989 to 1998 is nearly $10 billion. In 1997, there was $124.8 of FDI per capita, similar to Poland but below Hungary's $205 figure. Germany is the top investor with a 29 percent share, with the United States, Switzerland and the Netherlands following. Portfolio investment is at a much lower level than FDI; only $45 million came in the first quarter of 1999. There are few regulations limiting capital flow.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
Energy sector reforms in the Czech Republic date from 1992, when the distribution and production sub sectors were separated. Shortly afterwards, Ceske Energeticke Zarody (CEZ), the state electricity monopoly, was "privatized" (the state has yet to sell the National Property Fund's 67 percent share). Later, the country's ten large heat plants were sold to investment funds and individual shareholders. Furthermore, the privatizing of state-owned enterprises was in itself liberalizing the energy sector because these Brobdingnagian enterprises operate their own power plants. In November 1994, the parliament passed legislation establishing the legal framework for energy production and trade.

Energy sector liberalization has stalled, however, since 1994. Whereas in 1994 private firms were producing 20 percent of the country's energy, by March 1996, the private sector share had only increased to 30 percent. The inadequate 1994 energy law has not been amended, the NPF stake in CEZ has not been sold, trade in electricity on the CEZ network has not been legalized, the nation's eight distribution companies have not been fully privatized, the creation of an independent regulatory commission has been delayed, and pricing is still not market-driven.

Because of state regulation and subsidy policy, the price of energy does not cover production costs. These controls ensure that households receive a far lower price for electricity by being subsidized through high prices charged to industry. This has led to the inefficient use

of electricity in homes for such purposes as heating. Prices have been increased at regular intervals.

Domestic coal supplies a little more than half of Czech energy requirements. The country imports 80 percent of its natural gas needs from Russia; much of the rest comes from Norway. Nuclear energy supplies 22 percent of Czech energy requirements. Oil used to be imported entirely from Russia until 1995, when the construction of an oil pipeline from Germany was finished. This new pipeline will carry 2 million tons of crude oil, as compared with the 5 million tons transmitted by the Russian pipeline.

The government has been willing to allow foreign investment in the energy sector. In October 1995, the Czech electricity transmission network was connected to UCPTE, the European transmission network. A consortium of Western oil companies, including Shell, Conoco, and Agip, finalized the purchase of a 49 percent ($138 million) stake in Ceske Refinerska in February 1996. The consortium has promised $480 million in investment. Unipetrol, the state-owned holding company, controls the other 51 percent.

In June 1999, the CSSD government announced comprehensive plans to privatize energy distributors in 1999 and 2000. The government approved the completion of the Temelin nuclear plant in May 1999.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 3.66 million in 1998. In 1997, the economic activity rates are 71 percent for men and 52 percent for women. The unemployment rates in 1997 were 4.7 percent (overall), 3.8 percent for men, and 5.8 percent for women. Unemployment has risen with the recent economic difficulties in the Czech Republic, reaching 8.1 percent in May 1999. Unemployment is variable across regions, with a 2.9 percent rate in Prague, compared with a 16.7 percent rate in Most. In June 1999, the Labor Ministry estimated that 20 percent of job seekers are long-term unemployed. Some 42.7 percent of the unemployed received benefits in April 1999. The maximum benefit is currently about 5,000 Kc, but in June 1999 the Chamber of Deputies approved an increase to 8,600 Kc (9,600 Kc for those who take training courses).

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension system is funded on a pay-as-you-go basis. The consequences of such a system are well known, especially for one with a quickly graying population such as the Czech Republic's. The system is therefore unstable in the long term. Private pension funds, which are fully funded, are increasing in popularity.

The retirement ages for men and women are 60 and 55, though these ages are set to rise in stages to 62 and 59 by 2006. A Freedom Union proposal to extend the retirement age to 65 was rejected in May 1999. Average pensions are Kc 5,700 ($163) per month, which is just about half the median wage. This figure is scheduled to increase 5 to 7 percent starting in August 1999.

Czechs pay a variable premium (the national average is only Kc 323), to which the state adds a subsidy of Kc 97. Total government expenditures on pensions amount to 10 percent of GDP.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in

which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

In 1999, the average wage was Kc 11,700 per month. In the period from 1993 through 1995, women's average wages in manufacturing as a proportion of men's were 68 percent. Between 1989 and 1993, real per capita income fell between 7 (macro data) and 12 (household survey data) percent. Between 1993 and 1997, real wages increased by 6.2 percent per year, on average. Real wages rose by 5.4 percent in the first quarter of 1999, compared with the prior year.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

According to UNECOSTAT, the elementary population rose from 538,600 in 1993 to 541,700 in 1995. The secondary school enrolment was 1.19 million in 1993 as well as in 1995. The post-secondary population rose from 163,400 in 1993 to 191,600 in 1995. Some 91 percent of the eligible population was present in elementary school. The student-to-teacher ratio in 1997 was 12 (pre-primary), 18 (elementary), 10 (secondary); in 1993 the ratios were 12, 20, and 11, respectively. The proportion of GNP spent on education was 5.9 percent of GDP in 1993. This fell slightly to 5.4 percent in 1996. One of the biggest trends in Czech education has been the rise of church and private schools: 11 percent of middle schoolers in 1997 and 1998 attended such schools.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 6 per 1,000 births in 1998, which is comparable to Germany's rate. The birth rate was estimated at 9.84 births per 1,000 population in that year. Life expectancy in 1998 was 70 years for men and 77 years for women. According to the most recent information available through the World Health Organization, the suicide rate declined during the ten-year period from 1986 through 1996. The suicide rate was 20.9 per 100,000 people in 1986 and 19.3 per 100,000 people in 1990 (when the country was still Czechoslovakia), and decreased to 17.5 per 100,000 people in 1995 and 15.4 per 100,000 people in 1996.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

According to the OECD, in 1996, there were 29.4 doctors per 10,000 population, compared with the EU average of 24.9. The WHO estimates that there were 94.4 nurses/midwives per 10,000 people in 1994. In 1996, there were 9.6 hospital beds per 10,000. In 1995, 9.1 percent of GDP was spent on health care; 81 percent of that figure was spent by the public sector.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

According to the most recent information available through the World Bank, 3.1 percent of the population lived on less than $1 a day and 55.1 percent lived on less than $2 a day in 1993.

ESTONIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist
Population: 1,400,000
PPP (USD): 5,240
Capital: Tallinn
Ethnic Groups: Estonian (64 percent), Russian (29 percent), Ukrainian (3 percent), other (4 percent)
Size of private sector as % of GDP (1998): 70

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	2.10	↑2.05	↓2.06
Rule of Law	na	na	2.63
Economic Liberalization	2.13	↑2.00	↑1.92

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	1085.0	1530.0	2405.0	2981.0	3192.0	3593.0	3438.0
Real GDP growth (% change on previous year)	-9.0	-2.0	4.3	3.9	10.6	4.0	0.0
Inflation rate	89.6	47.9	28.9	23.1	11.1	10.6	4.0
Exports (USD millions)	812.0	1226.0	1697.0	1813.0	2294.0	2690.0	2663.0
Imports (USD millions)	957.0	1583.0	2363.0	2832.0	3419.0	3805.0	3803.0
Foreign Direct Investment (USD millions)	156.0	212.0	199.0	111.0	130.0	575.0	350.0
Unemployment rate	6.5	7.6	9.7	10.0	9.7	9.6	na
Life Expectancy (years)	68.0	67.0	67.8	69.8	70.1	68.8	68.7

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			2	3	3	3	2	1	1	1	1
Civil Liberties			3	3	2	2	2	2	2	2	2
Status			F	PF	F	F	F	F	F	F	F

Introduction

Since regaining its independence in 1991, Estonia has developed into a politically stable presidential-parliamentary democracy characterized by free and fair national and local elections. The government respects basic civil liberties, including freedom of the press, independence of the judiciary, and freedom of religion. Corruption continues to be a problem, although one receiving greater attention from both the state and private organizations, and the nongovernmental sector remains largely in its infancy. While the status of the country's large non-citizen, mostly ethnic-Russian population has been a source of tension between Estonia and the Russian Federation, Estonia's government has continued to address this issue through various legislative and policy initiatives.

With an extremely liberal trade policy and financial stability ensured by a strict foreign exchange rate and currency board, Estonia's free market system has become one of the most successful economies of the former Soviet Union. Following a banking crisis in the early 1990s, the government improved its regulatory role in this sector, helping to prevent future crises. Estonia has undertaken numerous, sometimes politically unpopular, reforms for rapid integration into the European Union, leading to an invitation in 1998 to begin formal membership talks.

As a result of the Russian ruble devaluation in August 1998, Estonia's GDP growth slowed during the second half of 1998 and first half of 1999. Estonia's government resisted subsequent political pressure to increase government spending to offset the negative effects on the Estonian economy. Despite such examples of the government's financial discipline during the past eight years, certain sectors of the population, particularly the elderly and the poor, have yet to enjoy significant benefits from these austerity measures. In December 1998, parliament adopted EU-supported amendments to the citizenship law easing naturalization requirements for children born to non-citizens. In the March 1999 parliamentary elections, the leftist Center Party won the largest percentage of votes, but it was shut out of a ruling coalition composed of three center-right parties. The poll also marked the return to power of former Prime Minister Mart Laar, who had previously served as premier in the early 1990s.

Democratization

POLITICAL PROCESS 1.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The first national legislative election following the dissolution of the Soviet Union took place on September 20, 1992. Eight political parties gained seats in the 101-member parliament, with the right-of-center Pro Patria party securing 31 seats, followed by the moderate Safe Home with 17 seats, and the left-wing Center Party with 15 seats. Prime Minister Mart Laar of Pro Patria was ousted in a no-confidence vote in September 1994 over alleged financial improprieties, and was replaced in October by Environment Minister Andres Tarand.

Although the constitution provides for parliamentary elections to be held every four years, the first parliament's term was shortened to three years to ensure that many non-citizens could be naturalized and represented in the legislative process a year earlier. Consequently, the second post-independence election, which international election observers deemed to be free and fair, was held on March 5, 1995. The election marked a political shift in parliament, as the center-left Coalition Party/Rural Union alliance secured the largest number of votes at 32.2 percent, gaining 41 seats. Their win was a major victory over the right-wing Pro Patria/Estonian National Independence Party (ENIP) coalition, which came in fourth with only 7.8 percent, and 8 seats. The results reflected popular dissatisfaction among elderly and rural voters, who were hardest hit by the Pro Patria-led government's market reforms. Tiit Vahi, a moderate who was chosen prime minister, formed a center-left coalition with the Center Party, while promising to continue the previous government's reform policies.

The government collapsed in October 1995 following the discovery that some Estonian politicians had been subjected to illegal surveillance, including wiretaps, and the implication of Interior Minister Edgar Savisaar in the scandal. Vahi dismissed Savisaar, whose Center Party with 16 seats left the ruling coalition, and he submitted his cabinet's resignation. President Lennart Meri subsequently enlisted Vahi to form a new coalition in which the right-of-center Reform Party joined the Coalition Party and Rural Union,

resulting in Vahi's alliance with the Reform Party. This fragile left-right coalition commanded 55 seats in parliament and held until February 1997, when Vahi resigned following allegations that he had illegally obtained luxury apartments for himself and others during the privatization process of 1993 through 1995. In March, President Meri approved Mart Siiman, leader of the parliamentary faction of the Coalition Party, as the new prime minister.

In early 1998, the ruling minority coalition, composed of the Coalition Party, Rural Union, the Country People's Party, and the Party of Pensioners and Families, was unable to increase its support in parliament after failing to expand the coalition's membership. Finding it increasingly difficult to carry out his political programs, including difficult legislative reforms necessary for European Union membership, Prime Minister Siiman called for early legislative elections, a move rejected by the ruling coalition. After several unsuccessful attempts, parliament voted in November to abolish electoral alliances. The ban was an attempt to promote the consolidation of the country's numerous political parties, clarifying voting for the electorate and allowing for a workable coalition government.

The most recent national legislative election, which was called free and fair by international observers, was held on March 7, 1999. Over 1,800 candidates representing 12 parties, as well as 19 independent candidates, competed for the 101 seats in parliament. The Center Party of Edgar Savisaar won the largest percentage of votes, with 23.4 percent, and captured 28 seats. The other 6 parties which received the required minimum 5 percent of the vote to enter parliament were Pro Patria, which won 16.1 percent and gained 18 seats; the Estonian Reform Party, 15.9 percent and 18 seats; the center-left Moderates, 15.2 percent and 17 seats; the centrist Coalition Party, 7.6 percent and 7 seats; the left-of-center Country People's Party, 7.3 percent and 7 seats; and the left-wing United People's Party, representing some of the country's large ethnic-Russian population, which gained 6.1 percent and 6 seats. Although the Center Party received the most votes of any single party, the Reform Party, Pro Patria, and the Moderates, who together captured 53 seats, formed a majority coalition government, evenly dividing the 15 cabinet seats among them. Despite differences among the more right-wing Pro Patria and Reform Party and the left-leaning Moderates, the new coalition, which had already signed a cooperation agreement the previous December, promised to be more stable than previous governments. On March 22, parliament approved Pro Patria's Mart Laar, who had served as prime minister from 1992 to 1994, as the new prime minister.

2. When did presidential elections occur? Were they free and fair?

The first post-independence presidential election was held on September 20, 1992, by direct election. Of the four candidates, Speaker of the Supreme Council Arnold Ruutel received 42 percent of the vote, followed by former Foreign Minister Lennart Meri with 29.5 percent, American-Estonian professor Rein Taagepera with 23 percent, and Lagle Parek with 4 percent. Since no candidate received an absolute majority, the deciding vote was taken by parliament on October 5, when Meri was elected as a result of the dominance of his Pro Patria in the national legislature. After the 1992 election, the procedure reverted to the election of a president by parliament.

The most recent presidential election took place on August 26 and 27 and September 20, 1996. Leading up to the vote, candidate Arnold Ruutel's allies made unproven allegations about incumbent Lennart Meri's collaboration with the KGB. In the first round of voting by the 101-member parliament, Meri secured 45 votes and Ruutel of the Country People's Party and Farmers' Assembly, won 35 votes. Since neither candidate received the necessary two-thirds vote, or 68 of 101 deputies, a second round of voting was held. Meri won 49 votes and Ruutel 34, forcing a third round in which Meri received 52 votes to Ruutel's 32.

The failure for a third time of either candidate to secure a two-thirds majority vote resulted in the elections being moved to a vote by the electoral college, composed of the full parliament plus 273 local government representatives. Both candidates automatically entered into this round of voting. They were joined by three news candidates who were nominated by at least 21 members of the electoral college: Tunne Kelam of Pro Patria; Siir Oviir of the Center Party; and independent candidate Enn Tougu. In the first round on September 20, Lennart Meri won 139 votes; Arnold Ruutel, 85; Tunne Kelam, 76; Enn Tougu, 47; and Siiri Oviir, 25. Since no candidate received a majority of the vote (50 plus 1, or 187 votes), a second round was held between the two frontrunners. Meri was elected president with 196 votes to Ruutel's 126 (there were 44 blank and 6 invalid ballots, and two members of the electoral college were not in attendance). The next presidential election is scheduled for 2001.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system is multi-party based at all levels of government. Seven electoral coalitions and 9 parties competed

in the national legislative elections in March 1995, and 12 parties took part in the March 1999 elections. In September 1998, 13 political parties were represented in parliament, while by June 1999, the number had decreased to seven. Eighteen parties participated in the October 1996 local elections. In the three major municipalities of Tallinn, Tartu, and Narva, the number of parties or coalitions elected to the town councils was six, seven, and five, respectively.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

As of July 1998, 28 parties were registered in Estonia. Under the 1994 Law on Parties, political parties must have at least 1,000 members to be officially registered. Estonia's electoral law encourages the formation of larger, and therefore fewer, political parties by requiring that parties running in national legislative elections receive at least five percent of the vote in order to enter parliament. The exception to this rule pertains to individual candidates who receive a large proportion of the votes in an electoral district and are elected directly to parliament. Since the early 1990s, many smaller parties have continued to merge in order to gain wider public support. On November 18, 1998, parliament voted to abolish electoral unions just four months before the March 1999 parliamentary ballot, resulting in fewer political parties in the new legislature. During previous elections, many parties had formed ultimately unstable alliances prior to elections in order to pass the five percent vote threshold to enter parliament. Some analysts speculated that the ban could also lead to the eventual reduction in the number of total parties in Estonia by encouraging additional mergers of existing parties.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

According to a survey conducted by the domestic Saar polling agency in 1997, two percent of Estonians and one percent of non-ethnic Estonians stated that they had joined a political party. Under the constitution, only citizens of Estonia may be members of political parties. According to data from late 1997, the percentage of women in five of the country's largest political parties, and the proportion of women in leadership positions within these parties, was as follows: Coalition Party, 17 percent and 6 percent, respectively; Reform Party, 29 percent and 14 percent; Pro Patria, 33 percent and 6 percent; Moderates, 33 percent and 33 percent; and Center Party, 44 percent and 33 percent.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

At the national level, 67 percent of eligible voters cast ballots in the parliamentary elections of September 1992, approximately 70 percent voted during the March 1995 elections, and about 57 percent cast ballots in the March 1999 elections. Reasons cited for the decline in voter turnout included confusion over the large number of candidates and parties, many espousing similar platforms, and a belief in an inability to influence the political system through voting. In local elections, 52 percent of eligible voters (which included non-citizen permanent residents) took part in the October 1993 elections. Voter turnout varied considerably among different towns, ranging from 60 percent in the capital city Tallinn, 34 percent in Tartu, 46 percent in Parnu, and 66 percent in the predominantly ethnic Russian town of Narva. During the October 1996 local elections, the national turnout was again about 52 percent. In Tallinn, the turnout was 52.3 percent, with the non-citizen turnout a strong 87.5 percent, while in Tartu it totaled 40.4 percent. Out of a total of 1,885 candidates competing in the March 1999 parliamentary elections, 508, or 26.9 percent, were women. Of the total number of candidates elected to parliament, 18 percent were women. During the 1996 local elections, 23 percent of those elected to municipal councils were women. No data were available regarding female voter participation.

CIVIL SOCIETY 2.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data?) What are some of the major women's nongovernmental organizations and what is the size of their membership?

The year 1988 marked the beginning of significant changes in the nonprofit sector in Estonia, including the restoration of voluntary associations active before 1940, and the disappearance of large Soviet-era organizations following a decrease in government support. Between 1988 and 1991,

many new, independent nongovernmental organizations were established. Most of these were large, popular movements, such as the Popular Front and Cultural Heritage Protection Society, which supported the restoration of Estonia's independence and helped to set the tone for the country's emerging political parties. The first few years after the disintegration of the Soviet Union saw a rapid growth in Estonia's nonprofit sector at the rate of 400 new organizations annually.

According to the Network of Estonian Nonprofit Organizations, over 8,000 NGOs are officially registered in Estonia, including 1,300 cultural societies, 1,200 sports associations, more than 1,000 educational organizations, 600 professional groups, over 500 social work organizations, 500 religious congregations, more than 500 local development groups, 400 environmental organizations, and 250 foundations. Various sources estimate that approximately one-fourth to one-third of NGOs are located in the capital city Tallinn.

While the exact number of people involved with NGOs is difficult to determine, one study found that 43 percent of ethnic Estonians and 34 percent of non-ethnic Estonians (mostly Russians) are active in at least one nongovernmental group. However, only 21 to 25 percent participate in more than one organization. Large groups with more than 100 members and smaller groups with less than 30 members dominate the nonprofit sector. Although membership in organizations based in urban areas, which tend to be larger than those located in smaller towns or the countryside, has increased in recent years, it has remained the same or decreased in rural associations. Younger members are usually more active in groups focusing on politics, international relations, and sports and other leisure activities. By contrast, older adults are more involved with NGOs concerned with religion, the protection of various social groups (including pensioners), and the preservation of native culture and traditions.

According to a recent UN report on women in the former Soviet Union and Eastern Europe, Estonia has an estimated 160 women's nongovernmental organizations active in areas including politics, education, and business issues. Among some of the groups listed in a database of Estonian NGOs were Estonian Women in Film, Elva Women's Society, the Estonian Businesswomen's Association of Rapla, and the Estonian Environmental Women's Union.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Between 1991 and 1994, the Citizens' Union Act regulated all nongovernmental organizations, with no distinction made between membership and non-membership groups or political and non-political activities. The Nonprofit Associations and Federations Act of March 1994 regulated membership organizations, but not other nonprofit groups, such as foundations. At least three private individual members were required to establish an NGO.

The Law on Nonprofit Associations and the Law on Foundations, both of which were adopted in October 1996, include stricter guidelines regarding the status, merger, and dissolution of NGOs than did previous legislation. The Law on Nonprofit Associations, which regulates the activities of all membership nonprofit organizations, stipulates that profit cannot be the principle purpose of the not-for-profit association, and that revenues may be used only to achieve statutory goals. The law also specifies the rights and obligations of members, orders of admission, secession, and the exclusion of members. The Law on Foundations defines a foundation as a non-membership legal entity established to manage property and to pursue stated objectives. While allowing a foundation to engage in economic activities, the law requires that disbursements can be made only for charitable or social purposes. There is no rule concerning the minimum amount required to set up a foundation.

A number of NGOs have successfully contributed to the drafting of new legislation, while efforts have been made to make tax provisions more flexible and favorable for nonprofits. Estonia's legislation regarding NGOs has developed in two important ways: the ability of individuals and businesses to claim tax deductions for donations to NGOs has increased, and the right of nonprofits to become involved in economic activities have expanded. Corporate donors are exempt from income tax up to 10 percent of their net income, and individuals up to 5 percent, for donations made to organizations designated by the government as officially tax exempt.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Although there are a large number of NGOs in Estonia,

most continue to suffer from limited institutional and organizational capacities. According to the director of the Network of Estonian Nonprofit Organizations (NENO), an umbrella group for NGOs, the greatest challenge facing Estonian nonprofit organizations is becoming more professional. Many senior staff members have insufficient management and administrative experience, while other NGO employees exhibit poor skills in specific areas including proposal writing, accounting tasks, budget elaboration, and communications/public relations.

Inactive or inexperienced boards of directors who do not always understand fully their duties frequently lead nonprofit organizations. Many are well-known businessmen and politicians who serve on several boards, limiting their ability to participate in board meetings and other related activities. In addition, NGO staff generally lack the necessary knowledge and skills to guide their respective boards in their governance responsibilities.

In recent years, nonprofit groups have demonstrated a greater willingness and ability to exchange information and cooperate on joint projects. NENO provides training programs on diverse topics including nonprofit management, strategic planning, fund-raising, attracting and using volunteers effectively, and working with board members. In 1998, NENO helped to organize Estonia's first NGO forum for nonprofit groups to discuss issues of mutual interest and concern. An information center run by NENO houses reference materials on issues of interest to NGOs. NENO also publishes a newsletter, books, and pamphlets on various NGO topics in Estonian, as well as some in Russian and English. An on-line NGO database maintained by the Jaan Tonisson Institute provides an opportunity for local organizations to obtain and share information and inform the public of their activities. Among the provisions of language law amendments adopted in February 1999, nongovernmental organizations must be able to serve the public in Estonian, even if they are located in predominantly ethnic Russian areas. For example, workers at a Russian cultural center would be required to speak Estonian with the general public.

4. Are NGO's financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

The long-term financial viability of most Estonian NGOs remains uncertain because of decreasing foreign aid, inadequate support from the business and state sectors, and unfavorable tax laws. While no detailed information is available regarding revenue sources for Estonian NGOs, until recently foreign assistance was estimated to have comprised more than two-thirds of total NGO income, although such support has declined considerably in recent years. An estimated 50 NGOs receive direct support from the state budget through the ministries of culture, social affairs, and education. Organizations may apply for such aid through a parliamentary commission that distributes state funds collected from gambling, alcohol, and tobacco excise taxes.

Financial support from the business community, for which the idea of donating to charitable organizations is still a relatively novel concept, remains low. The few companies that make financial contributions donate funds directly to specific organizations, rather than through foundations, as do many firms in the West. Under existing laws, companies are only exempt from paying income tax on the first 10 percent of their income donated to charities; for individuals, this figure is 5 percent. In one effort to increase corporate giving, the Network of Estonian Non-Profit Organizations holds an annual competition to honor companies who donate to charities or conduct other related fundraising efforts. Those NGOs located in larger cities depend largely on private sector donations and foreign support, while those found in smaller towns and rural areas receive most of their funding from state and local administrations, and from membership fees.

As the economic activities of Estonian nonprofit organizations are taxed the same as other private enterprises, Estonian NGOs are not automatically exempt from paying taxes. In many cases, nonprofits must pay taxes on both earnings from business activities related to their work and on funds received from donors. According to the Income Tax Law of 1994, organizations engaged in activities for public benefit may apply for tax exemption. In order to qualify, an NGO must be involved in supporting charity work, science, culture, education, sports, health care, social welfare, or environmental protection, or be a religious group within the public domain. NGOs generally are not exempt from Value Added Tax (VAT), although goods and services purchased through non-refundable foreign aid are tax-exempt. The Ministry of Finance sets out specific rules regarding such VAT issues.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade

unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The constitution provides for the right to form and join a trade union or employee association. Unions may join federations freely and affiliate internationally. The right to strike is legal and retribution against strikers is prohibited. Unions are independent of the government and political parties. The Central Organization of Estonian Trade Unions (EAKL) was formed as a voluntary and entirely Estonian organization in 1990 to replace the Estonian branch of the official Soviet labor confederation, the All-Union Central Council of Trade Unions. The Organization of Employee Unions (TALO), which split from the EAKL in 1993, has 45,000 members. In June 1997, a central union of food processing and rural workers was established. Approximately one-third of the country's labor force belongs to one of these three labor federations. According to information published in several U.S. State Department human rights reports, EAKL membership has declined throughout the 1990s, from a reported high of 500,000 in 1992 to 330,000 in 1993, 200,000 in 1994, and only about 65,000 in 1999. This decrease has largely been attributed to the privatization and breakup of large government-owned enterprises, and the subsequent move to smaller firms and the service sector. These developments diminished Estonia's traditional union base, even as white-collar unions gained influence.

Estonian workers have the right to bargain collectively, although the process is still in its infancy. According to the EAKL, few collective bargaining agreements have been concluded between management and workers. However, the EAKL has concluded framework agreements with producer associations, which provide the basis for specific labor agreements, including setting a minimum wage. The EAKL was also involved in developing a new labor code addressing employment contracts, vacation, and occupational safety. The law prohibits anti-union discrimination, and employees have the right to go to court to enforce these provisions.

Entrepreneurs' organizations have grown in Estonia since the mid-1990s. The Estonian Chamber of Commerce and Industry, which was originally founded in 1925 and reestablished in 1989, has a membership base of over 2,6000 large companies and smaller enterprises. The Estonian Association of Small and Medium-Sized Businesses was established in 1988 for organizations employing 500 workers or less. The association's activities include information exchange, legal consultation, and social events for its approximately 300 member groups. A number of regional branches of both alliances are also active.

The Estonian Farmers' Federation, established in January 1989, defends its members' professional interests and provides a forum for the exchange of information. Although the Foundation's membership in 1991 totaled 10,000 private farmers, that number decreased to approximately 5,000 in 1999. The Estonian Chamber of Agriculture and Commerce, which represents Estonian agricultural producers and processors, was founded in June 1996 and is composed of about 200 member organizations and companies. In addition, certain so-called farmers' political parties, including the Rural Union and Country People's Party, represent many of the interests of Estonia's farmers.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

According to Article 48 of the constitution, only citizens of Estonia may be members of political parties, although non-citizens may form nonprofit and social groups. The constitution prohibits political parties or associations whose activities are directed towards the violent change of the country's constitutional system or which otherwise violate criminal law. Under Article 47, both citizens and non-citizens have the right, without prior permission, to assembly peacefully and conduct meetings. While permits for all public gatherings must be obtained three weeks in advance, and the authorities have wide discretion to prohibit such gatherings on public safety grounds, they seldom exercise this option. There were no reports of government interference in political rallies or mass gatherings in late 1998 or early 1999.

In contrast to most other types of nonprofit groups, organizations involved with political issues tend to be located primarily in urban areas, have a younger and larger membership base, have a greater number of paid staff members, and are among the strongest in terms of formal organizational structure. Interest groups that are politically active include those focusing on education, the environment, minority rights, social welfare, and have members ranging in age from university students to pensioners.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

While the role of NGOs in Estonian society has continued to become more widely understood in recent years, many Estonians do not consider civic initiatives to be a solution to the country's various political and social problems. According to one poll, only 22 percent of Estonians and 14 percent of non-ethnic Estonians expressed confidence in their ability to influence local governments if the latter acted against the interests of the general public. A still-lower percentage was of the same opinion regarding the state. Genuine volunteerism, as opposed to enforced voluntary activities during the Soviet era, is still a relatively new phenomenon in Estonia. The government's perception of and support for the NGO sector has improved slightly as a result of various efforts by some nonprofit groups, particularly in the area of legislation. In some areas of the country, nonprofit groups have formed partnerships with government authorities to address community needs and to provide services. Nevertheless, many government authorities, particularly on the local level, remain unclear about the potential contributions of NGOs to society. In an attempt to strengthen cooperation between the state and the nonprofit sector to help shape public policy, a memorandum of cooperation was signed by representatives from some 20 leading NGOs and political parties. Among the provisions of the document is a plan to create a concept for the further development of civil society, which would be presented to the country's parliament in the year 2000. The media tend to devote little attention to most NGOs, preferring instead to cover political and economic developments, entertainment issues, and corruption and other scandals. Many Estonian NGOs are not yet well-versed in public relations.

INDEPENDENT MEDIA 1.75/7

1. Are there legal protections for press freedom?
Article 45 of the constitution guarantees that "Everyone shall have the right to freely circulate ideas, opinions, persuasions and other information by work, print, picture and other means," and "There shall be no censorship." The government respects these constitutional provisions. There is no specific legislation regarding the press, which is regulated through the Copyright, Competition, Language, and State Secrets Acts. According to the Law on Radio and Television Broadcasting adopted on May 19, 1994, television and radio stations have the right to make free decisions about the content of their transmissions and broadcasts. Any attempts to restrict these freedoms are punishable by law.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Cases regarding libel are governed by the civil and criminal codes. There are no legal penalties for "irresponsible journalism." Certain aspects of legislation concerning the media make publishing "insults" a criminal offense, although these laws are rarely enforced. However, in August 1997, the Estonian supreme court upheld a lower court's conviction of journalist Enno Tammer for degrading "the honor and dignity of another individual in an improper form." He had been charged with making offensive remarks about the second wife of Estonian politician Edgar Savisaar, and was ordered to pay a US $18 fine and court costs. The decision, which represented the first time that a journalist had been convicted and fined in connection with his professional activities in post-Soviet Estonia, was condemned by PEN and the Estonian Newspaper Association (ENA) as an attempt to limit freedom of speech. While the European Court of Human Rights agreed in 1998 to hear the case, in June 1999 it was still pending.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
There are three national private television stations, TV3, which has the country's second largest viewer ship, Kanal 2, and TV1. The state-owned public-service channel, Estonian Television (ETV), enjoys the highest ratings in Estonia despite competition from the independent stations. The country's five local or regional channels are in private hands. Many Russian- language programs produced in Estonia are broadcast over state and private channels. Stations originating in Russia and Finland are widely available through various cable networks, and satellite television, which had a four percent market share in March 1999, is growing in popularity. Approximately 40 radio stations, of which approximately 35 are privately run, broadcast throughout Estonia, with almost 20 operating in the capital city of Tallinn. The five state-owned radio stations broadcast a mix of popular and classical music, news, and Russian-language programs. Among the top ten stations in Estonia, seven are privately owned, including *Raadio Uuno* and *Sky Plus*, which feature popular music formats. The country's two most popular stations are the public, non-commercial *Vikerradio* and the

independent *Radio Elmar*, which plays Estonian music. All Estonian-language daily newspapers are privately owned and receive no state subsidies. Of the country's seven national daily newspapers, five are printed in Estonian and two in Russian. There are 16 weekly national newspapers and magazines, with 12 in Estonian and 6 in Russian, as well as 22 local or regional papers, of which 18 are in Estonian and 4 in Russian. The three most popular daily newspapers are *Postimees* (*The Postman*), *Eesti Paevaleht* (*The Estonian Daily*), and *Sonumileht* (*The Daily Story*), while *Eesti Ekspress* (*Estonian Express*) remains the country's top weekly. The two main news agencies are the Baltic News Service (BNS), a privately owned agency headquartered in Tallinn with branches in all three Baltic states, and the state-run Estonian News Agency (ETA).

4. Are the private media financially viable?

Many private media outlets continue to face financial difficulties, partly as a result of the large number of competing media organizations relative to the small size of the country's population. During the first quarter of 1999, the media group *Ekspress*, which includes the newspapers *Eesti Paevaleht*, *Ohtuleht*, and *Eesti Ekspress*, posted a loss of slightly over 5 million kroons (US $338,000). The *Eesti Meedia* group, which includes the papers *Postimees* and *Sonumileht*, reported a loss of EEK 16.34 million. Only two newspapers, *Eesti Paevaleht* and *Maaleht* (*Country Paper*), reported increases in their readership from April 1998 through April 1999. In September 1998, the Estonian bank Uhispank assumed control of TV1 after the latter could not repay loans worth a total of EEK 20 million (US$1.4 million). The station was subsequently sold to an Estonian investment bank, which sold 49 percent of its share to the Latvian station LNT. After having broadcast for only six months, the commercial radio station *Uudisteraadio*, which specialized in news programs, ceased its operations because of economic difficulties. The station's closure was evidence of the limited size of the local market, which permits primarily mainstream pop music or programs aimed at the elderly to survive.

Decreasing advertising revenues have also caused financial problems among various media outlets. Following a sharp increase in advertising turnover in 1996, which exceeded the 1995 amount by 45 percent, advertising expenditures began to decrease in subsequent years. During the first three quarters of 1999, money invested in television advertising declined by 29 percent over the same period in 1998, while advertising expenditures in radio fell by 18 percent and in print media by 13 percent. During the first quarter of 1999, *Eesti Paevaleht* enjoyed the largest advertising turnover, at US $789,000, followed closely by *Postimees*, at about US $768,000.

In a 20-month experiment, the country's three main private television stations, TV1, Kanal 2, and TV3, agreed to pay Estonian State Television (ETV) a fixed sum to stop running advertisements from January 1, 1998 through August 1999. ETV, which previously had drawn its revenues from both the state budget and advertising, would have its projected revenue losses covered by the three private stations. The director general of ETV explained that the decision was motivated by a desire to stop commercial considerations interfering with public service programming decisions. In 1998, ETV was paid EEK 36 million under the arrangement, while in 1999 it was to receive EEK 52 million. However, in early May, ETV unilaterally broke its agreement when it announced that it would resume airing commercials because TV1 had been consistently late with its payments to ETV, thus violating the agreement. The government subsequently intervened and declared that ETV should not show advertisements. Nevertheless, the three private stations demanded EEK 8 million (US $535,000) from ETV in mid-June for breaking the original agreement; a decision was pending in late June.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The government generally respects the editorial independence of the media. While the country's major newspapers possess particular political leanings, not all openly endorse individual political parties. According to the head of the Estonian Newspaper Association, much of the press demonstrated a bias against the Center Party of Edgar Savisaar preceding the March 1999 parliamentary elections. In addition, some newspapers have presented paid political advertisements as part of their editorial content. In late 1997 and early 1998, the editorial independence of ETV was questioned when several government ministries paid for programs to be shown on ETV. However, criticism from journalists within and outside of ETV, who believed that such practices violated the station's editorial integrity, led to their eventual decline. Although much of the media routinely conduct probing investigative reports, some journalists tend to publish rumors and allegations as facts.

The activities of public television (ETV) are strictly regulated during election campaigns, and include the requirement that ETV must be impartial in its campaign coverage.

By contrast, there are no special election regulations governing private broadcast or print media. Under the Law on Broadcasting, private media are prohibited only from using "sponsors" for news, current affairs, and political programs. Nevertheless, two private stations reportedly transmitted paid programs during the 1995 parliamentary elections.

The Estonian Press Council, a group composed of various media-related organizations, works to maintain good journalistic practices by discussing complaints from the public and within the media. The Council members hear cases involving journalistic improprieties and any problems involving the authorities. Although its decisions are not legally enforceable, the results can be publicized by the Estonian News Agency, thereby exerting pressure on the government to recognize the editorial independence of the country's media.

6. Is the distribution system for newspapers privately or governmentally controlled?

Privately owned companies operate all printing and distribution facilities.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

Estonia remains one of the most "connected" countries of the former Soviet Union and Eastern Europe, and has more Internet users than some European Union member states. According to a survey conducted by BMF Gallup Media, approximately 168,000 people between the ages of 15 and 74 (or 11.2 percent of the country's total population of almost 1.5 million) used the Internet from September to October 1998. Of the total number, 55 percent used the Internet mostly at work, 23 percent at school, and 13 percent at home. About 78 percent of Internet users are between the ages of 15 and 39, and 62 percent are men. Nearly one-fifth of Estonian schools have their own home pages, most of which were designed by the students themselves. Approximately 30 public Internet stations located throughout the country are open to anyone free of charge. Originally financed largely by the Soros Foundation's Open Society Foundation, they are now funded by local authorities. In 1998, the government issued a policy statement on the information sector in 1998, followed by an implementation plan addressing information policy regarding education, regional development, and modernization of the government. Legislation to facilitate and regulate electronic communications was being drafted by mid-1999. The only restriction that private citizens face regarding Internet access is the cost of Internet connections (of which 14 percent of Internet users have to pay for themselves) and computers.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The Estonian Newspaper Association (EALL) is an umbrella organization of newspaper publishers, uniting over 40 newspapers printed in Estonia, which defends the common interests and rights of newspapers and fights against violations of freedom of the press. Founded in 1990, the EALL has been a member of the World Association of Newspapers (WAN) since 1991. That same year, the EALL established the Estonian Press Council, a self-regulatory body for the media. In April 1997, seven organizations reorganized the Council as a separate nongovernmental organization (NGO). The founding members of the new Council were the Newspaper Association, the Journalists Union, the Association of Media Trainers, the Broadcasting Association, Estonian Radio, Estonian Television, and the Consumer Protection Association. Of the fifteen members of the Estonian Press Council, six are women.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's annual *Survey of Press Freedom* rated Estonia "Partly Free" in 1992 and "Free" from 1993 to 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 2.25/7

1. Is the legislature the effective rule-making institution?

The national legislature is the effective rule-making institution. According to the Estonian constitution, legislative power rests with parliament, whose primary responsibilities include the adoption of laws and resolutions, deciding on the conduct of referenda, and the passage of a national budget. However, certain checks are placed on the legislature through the work of the legal chancellor, an independent official who examines the conformity of government legislation with the constitution. If a conflict is found and appropriate changes are not made within 20 days, the legal chancellor appeals to the national court (the court of constitutional review) to declare the law null and void. From

March 1995 through its last meeting in February 1999, Estonia's eighth parliament adopted considered 1,066 legal acts, of which 756 were adopted.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Between 1989 and 1993, subnational government was divided into two tiers: one composed of cities, towns, and boroughs, and a second formed by 15 counties and the 6 large cities of Tallinn, Tartu, Parnu, Narva, Kohtla-Jarve, and Sillamae. The Law on Local Government Organization, adopted on June 2, 1993, replaced the two-level local government structure with a one-tier system. While towns and rural municipalities were established as components of local government, Estonia's counties became units of state administration. There are 47 towns and 207 rural municipalities in Estonia, of which the smallest, Piirissaare, has 63 inhabitants, and the largest, Tallinn, has about 500,000 residents. The population of nearly two-third of local government units ranges between 1,000 and 3,000 people.

According to the constitution, all local issues are managed and resolved autonomously by local authorities. Elected local council members may present legislative proposals to the national government through the relevant minister, after having first sought the opinion of the ministry of internal affairs. The county government is responsible for organizing and coordinating the work of national institutions at the local level and for implementing national policies according to the law and the orders of the government. The county governor is appointed by the government, in conjunction with local government representatives, for a five-year term. The responsibilities of the county governor include examining the legitimacy of legislation adopted by the local government and supervising the purpose and legitimacy of state assets used for local government activities.

3. Are subnational officials chosen in free and fair elections?

The representative body of local government is the local council, whose members are elected for a three-year term by persons residing permanently within the territory of the local authorities. Only Estonian citizens may stand as candidates for local council elections. However, noncitizens who have lived in their respective municipality for at least five years and have a permanent residence permit are allowed to vote in local elections.

Estonia's first post-Soviet local elections were held on October 17, 1993. Approximately 3,400 candidates were elected by direct vote for city and district councils, with the Coalition Party securing the largest number of seats nationwide. According to observers from the Council of Europe, the elections were conducted freely and fairly with no apparent irregularities.

In May 1996, parliament amended a law on local elections upon the insistence of President Lennart Meri, who said that the legislation contradicted the country's constitution. The law in its original form had required graduates of non-Estonian language schools wishing to be political candidates to pass oral and written Estonian language examinations. While requiring candidates to sign a statement of proficiency in Estonian, the amended law did not require proof beforehand.

The second, and most recent, local elections occurred in October 1996, in which 11,151 candidates competed for 3,453 seats in 273 election districts. The Reform Party/Liberals coalition was the most successful in both Tallinn and Tartu, capturing 15 seats in each city council. Of the 882,726 total registered voters, which included 811,756 citizens and 70,970 non-citizen permanent residents, 52 percent took part in the elections. About one-third of qualified non-citizens registered, with the vast majority turning out to vote. According to a U.S. State Department human rights report, the elections were free and fair, although technical mishaps left some qualified voters off the rolls. The next local elections are scheduled for October 17, 1999.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

According to section 44 of the constitution, all state and local governments have the duty to provide information about their activities, except for information intended for internal use only, to Estonian citizens at their request. Citizens have the right to access information about themselves, which is held by state and local governments, a right that may be restricted to protect the rights of other persons or to prevent a crime. However, there is no specific law regarding freedom of information. Government officials, particularly at the local level, reportedly arbitrarily deny citizens and journalists access to information, which they have requested. In September 1998, a working group composed of media, government, and academic representatives met for the first time to discuss the drafting of a new law on access to information. The group was formed after an ini-

tial draft law produced by the interior ministry was criticized for lacking clear guidelines for the dissemination of public information. As of June 1999, a new draft bill had not yet been announced.

Sessions of parliament are open to the public, unless the legislature, by a majority vote of two-thirds of its members, decides otherwise, and most voting in parliament is also public. All laws adopted by legislature are published in an official document, the *State Gazette* (*RiigiTeataja*). The parliamentary chancellery, which supports the work of the board, committees, and members of the legislature, includes a press and information department to inform the general public of the activities of parliament. The government press office, along with each ministry's press secretary, disseminate official information on their activities to the news media. The government has an Internet home page, which contains information on the implementation of the its various programs, as do parliament and the office of the president.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments receive funding from the state budget, through both direct budgetary appropriations and shared taxes, and they also raise revenues autonomously. Laws governing local budgetary issues include the Law on the Correlation between Municipal and Town Budgets and the State Budget, the Municipal and Town Budget Law, and the Local Taxation Law. According to the first law, money is allocated from the state budget to local budgets for reasons that may include compensation for tax exemptions, supplementing budget revenues, and helping to finance teacher salaries and capital expenditures. The costs of tasks imposed on local governments by the state are funded from the state budget. At the same time, the constitution stipulates that local governments have their own independent budgets, and possess the right to levy and collect taxes and impose fees. The Local Taxation Law established nine types of taxes that local authorities have a right to levy, including a local sales tax, advertising and billboard taxes, and road and street closing taxes.

According to Estonian Ministry of Finance statistics for 1999, the revenue from individual income tax (a shared tax) constituted 55 percent of the total income of local budgets. State government grants accounted for 28 percent of total income; non-tax revenue, primarily entrepreneurial and property income, 8 percent; property taxes, 6 percent; and capital revenues, 3 percent. An indication of the lack of financial independence of local governments is the fact that the earnings from local taxes constitute less than one percent of local governments' total revenue.

During 1997 and 1998, municipal authorities suffered from a lack of sufficient revenues. In 1998, total local government expenses amounted to EEK 6.4 million and revenues and grants EEK 6.2 million, while in 1997, these figures were EEK 5.5 million and EEK 5.4 million, respectively. In 1999, local governments continued to face financial difficulties as evidenced by a total debt of EEK 1.56 billion as of early June, an increase of EEK 7.1 million from the beginning of the year. Local authorities had also nearly exhausted their legal borrowing limits of up to 20 percent of their total budget for the current year. During the first six months of 1999, local governments borrowed EEK 405 million (US $26.4 million), or nearly 95 percent of the total planned for the entire year. According to one senior Estonian banking official, the increased borrowing was the result of a negative supplementary budget adopted by parliament, which cut investments to municipal and regional authorities. The Estonian daily *Eesti Paevaleht* reported that 43 local governments faced budget shortfalls after May 1999. In June, Tallinn's municipal government stated that it faced a deficit of up to EEK 180 million (US $12 million) for the year, largely because of lower-than-expected individual income tax revenues.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Local government leaders manage municipal governments fairly effectively, although continued training and experience are needed. As in the civil service sector in general, local public service administrations suffer from a lack of qualified candidates, limited opportunities for employee promotion because of the small size of the local administrations system (approximately 3,300 people total in mid-1999), and inadequate incentives for public servants to practice innovative thinking. Because of competition from higher paying jobs in the private sector, the attractiveness of public service for many motivated and talented professionals remains low.

Estonian language requirements for civil service employees went into effect in 1993. A new law on public service required Estonian-language proficiency by the end of 1995. However, parliament amended the law in December 1995

to allow non-citizen local and national government employees without adequate Estonian to continue working until February 1, 1997. No non-citizens, however, were to be hired after January 1, 1996. The amendment appeared to reflect awareness that in some sectors, the number of employees with inadequate Estonian skills remained high. In February 1999, parliament passed amendments to the language law requiring those working in the service sector, including public servants and local government workers, to possess sufficient fluency in Estonian to carry out their responsibilities. The law, which will go into effect in July, was criticized by political parties representing Russian speakers and by some international organizations for discriminating against Russian speakers, particularly in predominantly ethnic Russian enclaves in Estonia, and for being difficult to enforce.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

Legislative changes affecting local power were initiated in August 1989, when the Supreme Council of Estonia adopted a decision responding to the need for administrative reform for the years 1990 to 1994. The primary objective of the reforms was to reestablish local self-government. Under Estonia's constitution, which was adopted in June 1992, chapter 14 guarantees local government political and fiscal autonomy. Other legislation pertaining to local government include the Local Government Council Electoral Law (May 1993, no longer valid); the Law on Local Government Organization (June 1993); the Municipal and Town Budget Law (June 1993); the Law on the Correlation between Municipal and Town Budgets and the State Budget (August 1993); and the Local Taxation Law (September 1994).

While Estonia's public administration underwent six reorganizations between 1987 and 1995, substantial reform of the civil service system began in 1996 with the entering into force of the Public Service Act, the Government of the Republic Act, and the State Public Servant Official Title and Salary Act. These three laws provided for the establishment of a legal framework for public service. According to the Public Service Act, public service is defined as employment in a national or local government administrative agency financed from the state or a local government budget. Section four of the Act states that a local civil servant is considered to be a local government employee. The State Public Servant Official Title and Salary Act created standardized titles of officials and support staff positions and a uniform salary scale in state administrative agencies.

Public administration reforms in 1999 have been limited, largely because of budgetary constraints. While the Office of Public Administration Reform (OPAR) was established in January 1999 in the State Chancellery under the responsibility of the prime minister, the tasks of the office were not clearly defined as of mid-year. No overall reform strategies have been adopted, with any progress in the area being carried out slowly, primarily by individual ministries or other public bodies. Efforts are still needed regarding the separation of political and professional positions, recruitment and promotion criteria, and the development of monitoring mechanisms for personnel management. Nevertheless, positive developments, including the introduction of new staff evaluation procedures and an update of the European Union training strategy for civil servants, have recently taken place.

Personnel management in Estonian public administration is decentralized, with every ministry acting as an executive agency responsible for recruiting, evaluating, and organizing the work of its officials. The State Chancellery is responsible for coordinating the training and performance appraisal of state and local officials. The Estonian Institute of Public Administration, under the authority of the State Chancellery, is a public training institution for civil servants.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 2.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The current constitution was adopted wit 93 percent of the vote tin a public referendum on June 28, 1992. The constitution includes a chapter on the rights and obligations of citizens and non-citizens, and establishes the separation and balance of authority of the executive, legislative, and judicial branches of government. It also contains sections on the national budget, foreign relations, national defense, and local government.

While there is no separate court for addressing constitutional matters in Estonia, the Supreme Court, which is the highest court in the state, also serves as the court of constitutional review through its Constitutional Review Chamber. The Chamber is composed of five members elected by the Supreme Court on the proposal of its Chief Justice, who also serves as the Chamber's chairman. The five justices are chosen from among the civil, criminal, and administrative law chambers, with at least one member from each chamber. Justices are elected for a term of five years, and may not serve more than two terms.

The Constitutional Review Chamber reviewed 11 petitions in 1994, 4 in 1995, 4 in 1996, and 3 in 1997. In late 1998, the Constitutional Review Chamber heard an appeal from the legal chancellor protesting a provision of the Law on the Police allowing the police to order an officer's transfer which would require a change of residency. The Chamber upheld the legal chancellor's objections that the law violated Article 34 of the constitution regarding the right to freedom of movement and choice of residency. On March 17, 1999, the Chamber handed down two opinions, both concerning economic and property rights. In the first case, two lower courts launched an appeal to the Chamber over a 1998 government decree banning the sale of new consumer goods at open-air markets after two people were fined by local officials for selling such items. The local courts dismissed the charges for violating Article 31 of the constitution permitting Estonian citizens to engage in commercial activities, a ruling with which the Chamber concurred. The second case stemmed from a 1997 law restricting those eligible to reclaim property nationalized by the Soviets in 1940, particularly spouses of children of former owners. The Chamber ruled that the law violated Articles 10 and 12 of the constitution, which address rule of law and equality before the law, respectively.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

Chapter two of the constitution, entitled "Fundamental Rights, Liberties, and Duties," addresses human rights. Under article 12, no one may be discriminated against on the basis of nationality, race, color, sex, language, origin, creed, political or other persuasions, or financial or social status. The constitution guarantees freedom of conscience, religion, and thought, and everyone has the right, without prior permission, to assemble and conduct meetings peacefully.

According to article 31, Estonian citizens have the right to engage in commercial activities and to form profit-making associations. Unless otherwise determined by law, this right applies equally to citizens of foreign states and stateless persons living in Estonia. Article 32 guarantees that the property rights of everyone are inviolable and enjoy equal protection. No property may be expropriated without the owner's consent, except in cases of public interest and in exchange for appropriate compensation.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Estonia has continued to overhaul its criminal codes during the 1990s. An interim criminal code, which went into effect in June 1992, revised the Soviet-era law and eliminated political and economic crimes. A code of criminal procedure was adopted in 1994. In May 1996, amendments were made to the criminal code, including one providing the police and prosecutors with more tools to combat organized crime. A new penal code, which would fully meet European standards, was being considered by the government for implementation in the year 2000. The law requires a warrant for the search and seizure of property. During the investigative stage, warrants are issued by the prosecutor upon the showing of probably cause. After a case has gone to trial, the court issues warrants.

There were no reports of political prisoners, political or other extra-judicial killings or politically motivated disappearances. However, there were credible reports that police use excessive force and verbal abuse during the arrest and questioning of suspects. Punishment cells, called *kartsers*, continued to be used, in contravention of international standards. Prison conditions remain poor, with a lack of resources, inadequately trained staff, and prisoner overcrowding continuing to be serious problems.

Under Estonian law, a person may be held for 48 hours without formally being charged, with further detention requiring a court order. A suspect may be held in pretrial detention for two months, a term that a court order can extend for up to 12 months. However, the target established by the code of penal law procedure to bring criminal cases to court within two months after the end of the pretrial investigation has not always been met. In some cases, the gap between the conclusion of the investigation and the start of trial reportedly has been up to two years.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
All judges were newly appointed or reappointed in 1993, although a high proportion of current judges (approximately 87 percent in late 1998) were trained under the Soviet system. Inexperienced newly appointed and overburdened judges, particularly at the lower court levels, present ongoing problems for the efficient dispensation of justice. The number of cases per judge per month during the first half of 1999 amounted to 16.8, 53.5, and 15.2 in the penal, civil, and administrative fields, respectively. In mid-1999, 19 of 238 judge posts remained vacant. While the salaries of judges are above average in the public administration system, competition from higher paying jobs in the private sector creates difficulties for attracting qualified lawyers to a career in the judiciary.

The training of judges, which has been conducted by the nonprofit Estonian Law Center since 1995, remains a top priority of the country's judicial reform process. However, the heavy workload of most judges limits the time that they can devote to training. The Department of Courts within the Ministry of Justice, established in October 1998, is charged with court reform and provisions for training judges. A five-year post-training program for judges and prosecutors focusing on principles of the post-Soviet law system was started in April 1999. The first stage of the program will train trainers, after which 55 judges and prosecutors will train their colleagues. Since September 1998, judges and prosecutors have participated in seminars conducted by the European Commission. Although most judges are considered to rule impartially, concern has been expressed regarding the susceptibility of judges to corruption. In 1997, only one case concerning bribery was brought to trial, which resulted in acquittal due to lack of evidence.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The constitution establishes an independent judiciary, which in practice is generally free from interference from other government branches. The Status of Judges Act, which regulates various aspects of the judiciary, also includes basic guarantees for the independence of judges. The judiciary operates through a three-tier system of lower level rural and city courts, district courts, and higher courts, including the supreme court. The chief justice of the supreme court, who is nominated by the president and confirmed by parliament, nominates in turn other supreme court judges to be confirmed by parliament. The chief justice also nominates rural, city, and district-level judges, who are then appointed by the president. All judges are appointed for life, and may be removed only by a court decision. Criminal charges may be brought against a judge during his term of office only on the proposal of the supreme court and with the consent of the president. Supreme court justices may be charged with criminal offenses only on the proposal of the legal chancellor and with the consent of the majority of parliament. To help ensure transparency, the constitution provides that court proceedings are public, with closed sessions held only for specific reasons, including the protection of state or business secrets or in cases involving minors. In May 1998, the government approved a bill on the court system to improve the level of professionalism of judges and the courts' administration through provisions including the introduction of obligatory refresher training courses for current judges. The lower levels of the court system are linked financially to the Ministry of Justice, while at the highest levels judges are paid from the state budget, independently of the Ministry.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Most of Estonia's lawyers are in private practice. A number of foreign and domestic firms employing foreign lawyers operate in Estonia. The Estonian Bar Association maintains lists of practicing attorneys.

7. Does the state provide public defenders?
Under the constitution, detainees must be informed promptly of the reasons for their arrest and given the immediate opportunity to choose an attorney. In cases where an attorney is appointed by the investigator or the court, expenses are covered by the state according to rules determined by the Ministry of Justice. If a defendant cannot afford legal counsel, the state will provide one.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
During the Soviet era, large numbers of non-Estonian, mostly Russians, migrated to Estonia and now comprise approximately one-third of the country's total population of 1.5 million. About 40 percent of these immigrants and their descendants were born in Estonia. Under the 1992 Citizenship Law, which readopted the 1938 law, anyone born

after 1940 to a citizen parent of pre-World War II Estonia is a citizen by birth. Those who arrived during the Soviet period are regarded as immigrants and must apply for citizenship. The Citizenship Law stipulated various requirements for naturalization, including a two-year residency requirement, to be followed by a one-year waiting period, as well as knowledge of the Estonian language. In January 1995, parliament adopted a new Citizenship Law, which extended the residency period from two to five years and required knowledge of the constitution, and the Citizenship Law. Persons who had taken up legal residence in Estonia before July 1, 1990, were exempt from the five-year residency and one-year waiting period requirements. The law also allowed the government to waive the language, but not the civic knowledge, requirement for applicants with elementary or higher education in Estonian, or who had performed valuable service to the country.

In an effort to fulfill recommendations made by the OSCE High Commissioner for National Minorities regarding naturalization, the government simplified the civic knowledge test. It also adopted amendments to the Citizenship Law on December 8, 1998, to allow stateless children born in Estonia after February 26, 1992 to legally resident stateless parents to acquire Estonian citizenship at the request of their parents and without having to pass a language test. Of Estonia's population of just under 1.5 million, more than 1 million are citizens, of which roughly 110,000 have been naturalized since 1992. In 1999, some 4,500 people became new Estonian citizens, down by half from the previous year.

Bureaucratic delays and the language requirement continue to be cited as the main disincentives for securing citizenship. While Estonian language training is available, there is a lack of qualified teachers and financial resources, and some claim that the courses are too expensive. In February 1999, an agreement signed between the Ministry of Education and the Integration Foundation will provide for the development of a methodology for teaching Estonian as a second language, further training for teachers, and intensive language courses in vocational and higher educational institutions. In 1999, 17 new official language teachers were appointed.

Under the Law on Aliens, adopted in 1993 and amended in 1995, non-citizens who were permanent residents of Estonia during the Soviet period could apply for temporary and permanent residency permits. As of mid-1999, the government had issued some 35,000 permanent and 16,000 temporary residency permits. An estimated 30,000 non-citizens are thought to be illegal still.

In December 1998, parliament amended the Parliamentary and Local Elections Law requiring candidates for public office to have a sufficient command of Estonian to participate in debates and understand legal acts. In February 1999, parliament adopted amendments to the Language Law requiring business people, public servants, and local government officials to use Estonian when offering goods and services to the public while performing their work. The law was criticized by political parties representing Russian speakers and by representatives of some international organizations. According to the OSCE High Commissioner for National Minorities, the law contradicts a number of international standards regarding freedom of expression.

The 1993 Law on Cultural Autonomy applies to ethnic groups of citizens numbering at least 3,000, and entitles them to apply for state funds to promote their activities. Some non-citizens have termed the law discriminatory since it applies only to citizens. The government has responded that non-citizens may participate fully in ethnic groups and that the law includes subsidies for cultural organizations.

According to a recent European Union report on Estonia, the rights of the Russian-speaking minority, both citizens and non-citizens, are largely observed and safeguarded. All residents, whether or not they are citizens, can file complaints directly to the supreme court about alleged violations of human or constitutional rights, and the court has decided in favor of complainants. However, some non-citizens are subject to certain restrictions, including the right to belong to a political party and to be employed in specific areas of public administration. Some non-citizens continue to allege job discrimination because of Estonian language requirements. In an attempt to find practical solutions to problems regarding non-citizens, the president established a roundtable in 1993 composed of members of parliament, the Union of Estonian Nationalities, and the Representative Assembly of the Russian Community. In March 1999, the government adopted a document entitled "Integration of Non-Estonians into Estonian Society: Government Action Plan." The document builds upon an integration strategy adopted the previous year and mandates the country's Integration Foundation with developing a state integration program for 2000 through 2007.

9. Are judicial decisions effectively enforced?

Law enforcement officials effectively implement judicial decisions in criminal cases. Civil penalties, although generally low in terms of monetary compensation, are usually enforced.

The judicial system as a whole is working toward more uniform procedures and standards of enforcement to bring it into closer harmony with European Union standards.

CORRUPTION 3.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?

Estimates by local and international organizations of the degree of corruption within the civil service vary from "not very high" to "relatively high." The lack of adequately trained public servants, and their low salaries relative to much of the private sector, can contribute to corruption or other questionable practices. Corruption within the police force remains a problem, partly due to low salaries, particularly in the lower ranks of law enforcement. While about half of the 545 officers who left the police force in 1998 did so because of low pay, salary reforms, which have thus far affected about 40 percent of police officers, have gradually been introduced. However, a shortage of police officers, amounting to 800 vacant posts in mid-1999, and a lack of adequate training, remain serious problems.

The State Public Servants' Official Titles and Salary Scales Act and Government of the Republic Regulations numbers 10 and 11 of January 12, 1999, established a uniform system of salary grades from 1 to 35 for civil servants. Salary grades for support staff range from 1 to 19, while those for officials extend from 12 to 35. Junior officials (grades 12 through 19) earn on average EEK 1,650 to 2,780 per month (US $110 to $185), senior officials (grades 15 through 28), EEK 2,100 to 5,480 per month (US $140 to $365), and higher officials (grades 17 through 35), EEK 2,400 to 12,500 per month (US $160 to $833). While public servants are eligible for various fringe benefits, including reimbursement for educational expenses, certain perks, such as cars and housing, are available to only a few high-level employees. Usually an average citizen does not need to offer a bribe to obtain most personal services, such as telephone installation.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

The Public Service Act of January 25, 1995, defines the rules, regulations, and employee rights and obligations of public servants in relation to the private sector. According to the law, state officials may not belong to the directorship, permanent-control, or audit body of a commercial enterprise, except for the supervisory body of an enterprise with state participation. They may engage in enterprises only with the permission of the person or agency who appointed them, and if the enterprise does not hinder their work as government employees. Public servants who leave office are prohibited from employment by a profit-making institution over which they systematically exercised state control during the last three years. Although policy makers may have close ties to businesses, they usually do not participate in the direct running of enterprises.

In 1998, the priorities of the country's Security Police in combating corruption included detecting the illegal participation of high officials in private business associations and the inappropriate awarding of contracts by local government heads to private companies in which they are partners or which belong to their relatives. A recent major survey by the European Bank for Reconstruction and Development and the World Bank, entitled the Business Environment and Enterprise Performance Survey, included questions to over 2,000 firms in 20 transition countries on the extent of bribes paid by companies to state officials. When asked whether it is common for firms in their line of business to pay irregular unofficial payments, labeled "bribe taxes," in order to conduct business, 12.9 percent of firms in Estonia answered in the affirmative. The average bribe tax as a share of annual firm revenues was given as 2.5 percent. Both figures represented the second lowest percentage from among the 20 countries polled.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Laws requiring financial disclosure and disallowing conflict of interest include the Anticorruption Law, the Public

Service Act, the Criminal Code, the Law on Labor Contracts, and the Law on Bookkeeping. Under the Anticorruption Law, a new version of which was enacted in January 1999, high-ranking officials, including ambassadors and the heads of public television and radio, must submit detailed accounts of all financial assets and transactions and continue to do so for three years after leaving their posts. Among the economic interests that must be declared are real estate holdings, vehicles, income sources, shares or interests in businesses, and expensive gifts. Public servants are not permitted to participate in making professional decisions in which there may be conflicts of interest. Although a public servant who is a member of a state enterprise directorship may not receive financial compensation, this rule is not always followed in practice.

Investigative journalists in Estonia have reported on various cases of corruption throughout the country over the last several years, and the authorities have pursued several publicized corruption cases. In October 1998, six former customs and border guard officials were convicted on several counts of bribery regarding the smuggling of liquor into Estonia. In late 1998 and early 1999, the Security Police concluded pre-trial investigations into numerous cases of excise tax fraud at the border stations of the towns of Ikla and Tallinn. Fifty border guards and customs officials, whose corruption activities allegedly caused a loss to the state of some EEK 40 million from 1994 to 1997, subsequently went to trial in cases pending in early 1999.

While there is no special investigative body for corrupt activities in Estonia, the Security Police is largely responsible for handling corruption cases. The State Audit Office, which conducts external audits of the entire government system and reports directly to parliament, the Select Committee of the Parliament on the Application of the Anticorruption Act, and the Procuracy are also involved in investigating corruption. Members of the Select Committee have the right to request documents and oral explanations and to invite officials and private individuals for hearings. Trials of alleged corruption are carried out through the country's regular court systems.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

In October 1998, the nonprofit Jaan Tonisson Institute, in conjunction with the Saar polling organization, conducted a public opinion poll on the public's perception of and experience with corruption. The results of the survey, which represented a random sampling of 1,002 people from across Estonia, were presented at a subsequent conference on corruption in Tallinn in January 1999. In response to the question whether any government of private enterprise officials had requested a bribe in exchange for favorable treatment, 69.4 percent of those polled answered "not at all," 17.4 percent said "rarely," 7.4 percent replied "hard to say," 4.4 percent responded "often," and only 1.2 percent said "very often." Among the persons or groups who were perceived to be most corrupt were state officials (33.5 percent), followed by politicians (19.2 percent), police (13.3 percent), businessmen (11.4 percent), members of the court system (7.8 percent), and other (4.5 percent), while 10.2 percent provided no response. The capital city of Tallinn was regarded by 41.9 percent of the respondents as being the most corrupt town in the country. No detailed information on year-to-year trends was available.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Parliament adopted an Anticorruption Act in January 1995, and established the Committee on the Prevention of Corruption, which was chaired by a politician who investigated and publicized corruption cases within the Tallinn city government, in November 1996. After nearly three years of preparation and debate, parliament voted unanimously to adopt a new Anticorruption Act on January 27, 1999. Under the new law, which entered into force in February 1999, officials must submit much more detailed financial declarations than previously, are not allowed to work on permanent steering bodies of private business corporations, and must report all offers of bribery to their superiors and to the police. The law also introduced a legally enforceable Code of Ethics that sets standards for the behavior of civil servants. Other legislation addressing corruption issues includes the Public Service Act, the Code of Criminal Procedure, and the Government Officials' Official Names and Rate of Salary Act. In June 1999, Estonia signed the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime, and ratification is in process. Despite these developments, Esto-

nia has yet to ratify the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions and the 1999 Council of Europe Criminal Law Convention on Corruption. In addition, Estonia has not yet criminalized promises accepted by public officials in favor of someone else, such as a political party.

Several corruption cases involving national and local government officials have been investigated and addressed through the court system during the late 1990s. During 1998, the former Managing Director of the Environmental Fund was charged with laundering state funds through a private company, and the former Mayor of the town of Rapina was accused of violating the Local Government Act by lending money from the town budget to a company in which he was involved, and not paying it back. The Estonian courts settled five cases of corruption in 1998, while four cases, excluding cases of bribery, were under investigation during the first half of 1999.

One of the highest profile corruption cases of 1998-1999 involved Siim Kallas, former president of the Bank of Estonia and leader of the Reform Party. The case centered on a loan in 1993 of $10 million by the Bank of Estonia to the now-defunct North Estonian Bank for investment in a Swiss fuel company. While the firm repaid $2 million worth of interest, the rest of the money was never recovered. In June 1998, Kallas' immunity as a member of parliament was removed to allow charges to be brought against him. Accused of submitting false information and with abuse of power, Kallas, along with a former advisor to the Bank, was acquitted on March 5, just two days before parliamentary elections. According to the verdict by Tallinn's City Court, although the Bank of Estonia had lent the money for the failed investment deal, it found no evidence that the Bank had arranged the deal or that Kallas' actions were criminal. An appeal by the prosecutor on March 15 was upheld by the Tallinn district court a month later.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

According to an October 1998 public opinion survey on the perception of corruption in Estonia, which was conducted by the nongovernmental Jaan Tonisson Institute and the Saar polling organization, the majority of those polled demonstrated a greater tolerance for corrupt practices involving smaller sums of money and less expensive gifts or more common personal activities. When asked whether a teacher or doctor accepting gifts from a pupil or patient in exchange for preferential treatment qualifies as corruption, 56 percent of respondents replied that it did not. In answer to the same question, 7.2 percent responded that it qualifies as corruption only when it occurs in the public sector, 27 percent said that it is corruption in both the public and private sectors, and 9.9 percent did not know. In response to the question whether using a company car for personal errands, such as taking a child to school, qualifies as corruption, 46.9 percent said it did not, 21.9 percent said only in the public sector, 22.7 percent said in both the public and private sector, and 8.5 percent did not know. The number of those who believed that favoring an official's relative or friend in a legal real estate deal is not a corrupt practice was a bit lower than for the previous two questions, at 26.7 percent; 17.1 percent called it corruption in the public sector only, while 44 percent said it was corrupt in both the public and private sectors (12.2 percent were not sure). Finally, only 6.9 percent of the respondents believed that a government or business official accepting money or gifts in exchange for special favors is not engaging in corrupt behavior. Of those polled, 20.2 percent and 64.9 percent said such practices were corrupt only in the public sector or in both the public and private sectors, respectively, while 8.3 percent were undecided.

The Jaan Tonisson Institute has conducted various training and educational programs and research projects on corruption-related issues, many in cooperation with various state agencies, other nonprofit organizations, and private enterprises. In late 1998, the Institute organized two seminars for journalists outlining specific techniques for investigating corruption cases. A January 1999 conference entitled "Essence of Corruption and the Possibilities of Combating Corruption in Estonia" included the participation of senior government officials, journalists, and university lecturers. A television program about the conference aired several days later. The Institute has conducted an analysis of relevant Estonian legislation and published a book, *Society and Corruption*, which includes Estonian translations of articles by foreign experts.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

Transparency International ranked Estonia 27th out of 99 countries surveyed in its 1999 Corruption Perceptions Index, and it received a score of 5.7 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 1.75/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

Private sector share of GDP grew from 70 percent in 1998 to 75 percent in mid-1999. GDP growth was a revised 10.6 percent in 1997, and 4.0 percent in 1998, while only 0.6 percent the second half of 1998 because of the effects from the Russian economic crisis of August 1998. Preliminary first quarter 1999 GDP growth was –5.6 percent, and –2.3 percent for the second quarter 1999, year-on-year. Estimates for 1999 GDP growth vary from 0 percent to 2.5 percent growth. In mid-1998, there were approximately 36,800 Estonian state administration and defense employees, including police, border guards and prison staff, but not including education and healthcare personnel. According to statistics from the 1998 Estonian Labor Force Survey, approximately 75 percent of the labor force worked in the private sector.

According to one estimate, up to 30 percent of the Baltic states' GDP was generated through the shadow economy in the first half of 1999, in which workers were paid cash as a way to avoid tax payments. Increases in excise taxes, which accounted for 22.9 percent of the national budget in 1998, a soft economy, and restructuring of the energy sector, contributed to an increase in the size of the shadow economy.

2. What major privatization legislation has been passed? What were its substantive features?

The privatization process in Estonia began with the adoption of the Law on Ownership in June 1990. An experimental program privatized seven companies in early 1992. The Estonian Privatization Enterprise (August 1992) was established with a mandate to sell 38 companies. A tender process similar to that used by the German Treuhandanstalt was undertaken, and eventually complemented in mid-1994 by a system of privatization vouchers. The Law on Privatization, adopted on June 17, 1993, currently regulates the privatization process. Additional laws regulating privatization include the Law on the Fundamentals of Ownership Reform (1991), the Land Reform Act (1991), the Law on Foreign Investments (1991), the Law on Bankruptcy (1992), the Property Law (1993), the Law on Securities Markets (1993), and government decrees "On Procedures for Public Offering of Shares of State-owned Enterprises" and "On Investment Funds" (1994). The Estonian Privatization Enterprise and the former State Property Department were superceded by the Estonian Privatization Agency (EPA) in September 1993, a state funded organization that reports to the Ministry of Finance.

Privatization has taken place through tenders that included preliminary negotiations, public and restricted auctions, and public offerings of shares. The state has in some cases transformed its ownership into joint-venture equity in newly formed companies, and has disposed of companies that it declared bankrupt. The government retains a 51 percent share in companies that parliament declares to be strategic enterprises. The EPA planned on completing all privatization and terminating its programs during 1999, and its initial schedule for privatization was approved by parliament. However, implementation of the process and movement by the state from ownership to legal regulation of companies has been fraught with delays. Privatization of industry is just about complete, and the government will probably retain ownership of the Port of Tallinn, the Airport of Tallinn, and majority stakes in utilities such as water and sewage.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

The amount of privatized agricultural land increased from 15 percent at the end of 1997 to about 25 percent of all agricultural land by May 1999. The remaining state-owned 75 percent was leased to farmers. Another 25 percent should be privatized during the next two years, completing the privatization process that currently calls for 50 percent of agricultural land to remain in state hands. About 70 percent of housing was privatized by the end of 1996, and 14 percent of state-owned land was privatized by mid-1997, with a goal of 35 percent by the end of 1998. A maximum of 60 percent of land will be privatized because the state will retain control over forests, wetlands, national parks, wildlife reserves, and areas with valuable natural resources.

The privatization of most large-scale enterprises was essentially finished by the end of 1997, and privatization was scheduled to be complete in 1999. *EestiTelekom*, the state telephone company, was successfully privatized in February 1999 through the issue of shares to strategic owners (49 percent), the government (27.3 percent - with veto rights over certain strategic corporate decisions until 2003) and publicly traded shares (27.3 percent - the issue was fifteen

times oversubscribed). The only major manufacturers left to be privatized in 1999 were *Liviko* and *Moe Piiritusetehas*, both distilleries. The privatization process for *Eesti Raudtee*, the national freight railway company, took a step forward when parliament passed a law creating a regulatory board that addresses safety, licensing and regulation, and line closures. The privatization of *Eesti Energia* and *Eesti Polevkivi*, national energy and oil shale companies, is underway. About 80 percent of 2,850 eligible small enterprises were privatized by 1993, with about 99.6 percent of small firms and service companies privatized by the end of 1998.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

While no special concessions exist for the management of firms to remain with those firms once they are privatized, management and workers can and often do submit successful bids and business plans. There were about 30 cases of management and workers winning the bidding process for their firms by 1996. When using the tender process, the Estonian Privatization Agency (EPA) decides what bidders to award with contracts by taking into consideration not just the bid price, but a number of intangible factors, including promises to maintain or create jobs, pledges to invest, and a proposed business plan. There has been criticism of cronyism regarding how the EPA awards privatization contracts to syndicates composed of local and international financial institutions. These criticisms focus on how individuals in both the government and private sector may have undue influence with the EPA. An EBRD survey found that firms rate themselves as having a great deal of influence, among the highest in Central and Eastern Europe, over national executives, legislature, ministries and regulatory agencies.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major groups?

As a secondary means of privatization, vouchers were issued to Estonian citizens based on the number of years that they had worked under the Soviet system. Vouchers may be bought and sold, exchanged for company and investment fund shares, Compensation Fund bonds, used to purchase the housing in which people live, or buy land. The voucher system generated popular support for rapid privatization, and helped offset claims that privatization benefited only the local elite, the politically connected, and foreigners. Claims that the privatization process was corrupt, based on a few instances of insider trading, contributed to the incumbent coalition losing in the 1995 national elections. About 300,000 people, representing 41 percent of the accounts opened at the time of issuance, still owned privatization vouchers in May 1999. The vouchers will expire on Dec 1, 2000, and a large number probably will be used to buy Compensation Fund Bonds. The Compensation Fund planned to issue enough bonds throughout 1999 to redeem most of the outstanding vouchers. While there has been no direct opposition to privatization, some politicians and political parties have tried to portray themselves as representatives of people who lost their jobs because of privatization, assisting them to gain more state funding for retraining and restructuring projects.

MACROECONOMIC POLICY 2.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Beginning in 1991, the Law of the Republic of Estonia on Taxation (December 1989) and other laws were used to reform the tax system. Tax laws, based on Western models, gave the government the right to tax, addressed whom and on what basis they would be taxed, and how tax allowances would be permitted. The Law on Taxation, in force since January 1994, led to a system of state and local taxes. State taxes include income taxes, value added tax, land tax, social security tax, excises, gambling tax, and customs duties. Local authorities were authorized to collect local taxes, such as sales and advertising tax, through the October 1994 Local Tax Law. Income taxes are a flat 26 percent, and while the idea of progressive taxes on individuals has been raised in Parliament, there is little movement toward change. Parliament voted in November 1998 to shorten the period in which VAT proceeds are returned to eligible companies from two months to one month, freeing capital (about EEK 500 million) to firms.

Tax collection is measured on a monthly basis, with year-to-year percentage comparisons, giving a baseline norm to what is defined as compliance. A total income of EEK 11.5

billion was declared in 1997 by 294,000 people, 3 percent more people than the previous year, and the tax office noted that declared income has increased every year. Government Revenues increased from EEK 21,564.8 million in 1996 to EEK 27,108.3 million in 1997.

A tax hike on cigarettes took place in January 1999 after which sales of cigarettes by legitimate sources fell by 50 percent, and the government collected less revenue than before the tax hike. Legislation to increase taxes on cigarettes again was passed in June 1999 to 37 percent, short of the 57 percent of the retail price demanded by the European Union, but implementation of the tax hike was postponed. Excise taxes on alcohol were raised in December 1998, leading to the fear that the amount of illegal alcohol in the market would rise from an estimated 30 percent of the market in 1998 to an estimated 50 to 60 percent of the market. The government was already losing an estimated EEK 200 to 300 million a year in excise tax because of illegal alcohol before the rise.

The 26 percent corporate income tax, responsible for 13 percent of budget revenues in 1997, is scheduled to be eliminated on January 1, 2000 on reinvested profits, job creation, social development, education, and social benefits for employees. The 26 percent flat tax will still be applied to distributed financial or in-kind profits. The shortfall in revenues to the government will be made up by increasing VAT, currently at 18 percent, and tariffs on food and commodities from non-European Union countries and countries with which Estonia does not have free trade agreements. Personal tax levels should remain the same, while the tax-free threshold will be increased, and vehicle excise duties will be restructured. Lengthening the period during which people receive unemployment assistance, compulsory employment insurance, and how to fund pension obligations are frequent topics of debate.

The National Tax Board had 1,030 employees and 18 local tax offices in mid-1998. Unlike customs, the tax department does not have any authority to conduct investigations or prosecute tax evaders, but has agreements through which it works closely with the police. Tax collection is expected to decrease in 1999 because of the downturn in the economy and greater tax evasion.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable?

What proportion of the budget is taken up by subsidies to firms and individuals?

A survey conducted in November 1998 found that 37 percent of Estonian residents keep their savings at home, a 10 percent increase from the spring. A March 1999 survey found that 86 percent of people living in Estonia owned no securities at the end of 1998, about the same level as during the previous 8 years, 52 percent of the country's residents have no savings, 41 percent had put aside money for emergency needs, and 7 percent had some savings. The same survey found that the banking collapses in Estonia had no affect on 84 percent of Estonians, 13 percent were moderately affected, and 2 percent suffered significantly.

The federal and local government sectors ran a small deficit in 1998 (EEK 239.7 million or 0.3 percent of estimated GDP) after running a surplus in 1997 (1.9 percent of GDP or 110.1 percent of budget). The state federal budget (a revised EEK 15.282 billion) ran a small surplus (EEK 7.4 million or 100.05 percent of budget) in 1998. The government sector deficit increased to 3.1 percent of GDP during the first half of 1999. Proceeds from the sale of shares in *Telekom* were used to finance the budget deficit and replenish government cash reserves in the first part of 1999. Estonian law calls for a balanced state federal budget, which means that revisions are passed by parliament as supplemental budgets during the course of a budget year. Revenue from personal and corporate taxes were greater than expected, while turnover and excise taxes fell short of targets in 1998.

Because of Russia's ruble devaluation of August 17, 1998, a two percent cutback in ministry budgets for 1999 was called for as early as September 1998. The first draft state budget for 1999 was rejected by parliament in October 1998 because it was considered to be too optimistic after the Russian ruble devaluation. An amended budget, without a built-in surplus, was passed on December 29, 1998 (EEK 18.46 billion). A budget cut (by EEK 1.05 billion) was approved in June 1999, and the government admitted that it may not be enough of a cut because tax revenues were not meeting expectations. The IMF representative in Estonia recommended that Estonia double the size of a budget cut to EEK 2.0 billion in the 1999 budget, which led the IMF to postpone signing an agreement with Estonia, and noted that government spending had grown from 36 percent of GDP in 1996 to 40 percent of GDP in 1998.

Tough monetary and fiscal policy limit government spending, the money supply, and, consequently, prices. Year-on-year inflation, CPI, was 3.1 percent at the end of June

1999, constrained mostly because of low food prices and weak commodity prices. While CPI rose 12.5 percent in 1997, its average growth was 8.2 percent in 1998. Administered telecommunications prices are set to rise, but increases may be offset by lowered excise taxes. Retail sales rose 6 percent in the first quarter of 1999, and lending began to increase, implying that prices may rise during the second half of 1999.

Estonia created a Stabilization Reserve Fund according to IMF guidelines that invests in low risk foreign assets. The fund was originally created to cool down the economy and lower the current account deficit. Broad guidelines for use of the fund (so that it would be used for only major reforms and to advance the broad interests of the state), were accepted by parliament in January 1999. Devaluation of the Russian ruble led to a significant enough slowdown in the economy that discussion took place at various times regarding use of the fund to stimulate the economy through regional and infrastructure development. Even though a new budget law adopted at the end of June 1999 called for detailed three year planning, no legislation had been introduced regarding composition and use of the Stabilization Reserve Fund.

In February 1999, Moody's rating service assigned an A1 rating, fifth among ten possible ratings, to Estonia's domestic debt because local currency debt amounted to less than 2 percent of GDP, and total government debt was less than 10 percent of GDP. Estonia's public sector debt was 4.7 percent of GDP at year-end 1998, down from 5.5 percent at the end of 1997, and 4.5 percent of GDP, 1 percent on a net basis, at the end of March 1999. Estonia's president promulgated a new State Budget Framework Law in June 1999, after rejecting it in February, which established tighter rules for drafting, adoption and implementation of the State Budget Law. While, generally, financing of the country's pension system is sustainable, a shortfall in social taxes paid to the government in the first part of 1999 led the social service department to exhaust its reserves and require help from the state treasury.

The agricultural sector is the only significant sector that receives direct assistance from parliament. Direct income support in the agricultural sector is given to milk producers and cereal growers. Only the most efficient producers are eligible to receive subsidies, which should lead to greater consolidation in the sector. The Agricultural and Rural Life Credit Fund grants up to 25 percent of the total investment made in agricultural or rural entrepreneurship.

In reaction to the impact of the Russian devaluation of the ruble, a rainy summer, and the effects of bank closings, parliament approved a special subsidy (EEK 227 million) to farmers, which it financed through budget reallocations. The farm and rural life sector received a total of EEK 797 million in 1998 and the 1999 budget originally included EEK 720 million in support. Farmers originally wanted EEK 820 million, claiming that they could not compete against foreign importers and subsidized goods, and had no money to modernize their equipment. The new parliament that took office in March 1999 pledged to reserve 5 percent of the budget for rural and island regions, and to provide job training. The northeast part of Estonia may also require special budget assistance because of generally high unemployment and the loss of jobs because of bankruptcies, company closures, and energy company privatization. The European Union noted that the State Aid Monitoring Authority needed greater authority and enhanced abilities to inventory and monitor how government aid is given to enterprises.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The Law on the Bank of Estonia (1993) separates the Central Bank from the executive branch of government. The Law on Credit Institutions (1995) gave banks authority to offer a full range of commercial and investment banking services, which are regulated by the Stock Exchange, Finance Ministry, and Central Bank.

The Central Bank is a lender of last resort that may lend only to commercial banks in a crisis or while assisting a bank to restructure. The Central Bank's efforts at developing and reforming the banking sector have focused on credit risk management and regulatory and institutional integration with the European Union. Stricter regulations have addressed minimum capital requirements, solvency ratios, liquidity ratios, loan loss provisions, and recognition of credit and foreign exchange risks.

The use of a currency board means that the only effective way that the Central Bank can raise interest rates is by increasing reserve and capital adequacy requirements. The Central Bank instituted stricter loan provisioning requirements and limits on foreign exchange positions, effective July 1998, to try to limit expansion of the current account

deficit, monetary expansion, low interest rates, and credit deterioration. Unfortunately, higher interest rates began to appear at about the time that Russia devalued its ruble in August 1998, and lending contracted by almost two-thirds from the previous year's level. Political attacks against the independence of the Bank began to occur, but any curtailment of the Bank's independence would be counter to European Union standards.

Stricter, if not always consistent, supervision contributed to consolidation, in the banking sector, and the number of licensed banks decreased from 11 in 1997 to 5 (and a branch of a foreign bank – *Merita*) in June 1999. The two largest banks merged with two other banks (*Hansapank* with *Hoiupank*, *Uhispank* with *Tallinna Bank*) in the summer of 1998, and controlling interests in the resulting banks were subsequently purchased by outside banks (*Swedbank* and *SE Banken*, respectively, before the end of 1998). *Maapank* had its license revoked by the Bank of Estonia for not meeting minimum Bank of Estonia standards and sought voluntary liquidation, mostly because of trading loses (June 1998); it was eventually declared bankrupt. Perhaps partly in response to charges that it had mishandled its supervision of Maapank, the Central Bank participated in the re-capitalization and merger of two banks (*Foreksbank* and the *Estonia Investment Bank* became *Optiva Bank*) in August 1998. It also revoked *EVEA* bank's license, and granted a banking moratorium to a subsequently weakened the *ERA* bank, which eventually led the *ERA* bank to declare bankruptcy.

The government chose to compensate *Maapank* depositors in July 1998 according to a new, not yet effective, Deposit Insurance Law (effective October 1998). The law provides compensation for up to 90 percent of deposits, to a maximum of EEK 20,000 that will be increased to ECU 20,000 by 2010. Claims against *Maapank* were EEK 1,519 million, twice the amount of assets, and the state became responsible for half of the claims. Money for compensation was borrowed by the government from the Economic Stabilization Fund, and had no impact on the state budget. The Deposit Insurance Law created a fund, effective in August 1998, with initial contributions from the government and banks, ongoing contributions from banks, and a government guarantee that any shortfall will be covered. Subsequently, a cap (EEK 600 million) was placed on treasury surpluses, and all amounts above that amount must be placed in the Stabilization Reserve Fund, to avoid having too much government money at risk in the local banking system.

Excluding the effect of banks that were permanently closed, the Estonian banking sector had record losses of over EEK 600 million during 1998 because of trading losses and exposure to the Russian market. The largest banks, which provide a full range of commercial and investment banking services, recorded profits in the first quarter of 1999, and modest gains should take place throughout the sector in 1999. Capital adequacy was at 16.6 percent in May, above the 10 percent required by the Bank of Estonia and the 8 percent common in Western Europe.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Estonia introduced a new currency, the kroon (EEK), and a currency board in June 1992. With a fixed exchange rate of eight kroon to one Deutschmark, and legislated money issuance and foreign currency reserves, Estonia was able to create an immediate sense of credibility in its money that became the basis for lowered inflation expectations, economic recovery and growth, and an economic orientation toward the European Union. Two thirds of parliament must approve kroon revaluation, which would preclude any sudden changes. The kroon is freely convertible.

A speculative run against the currency was attempted in 1997, and rumors of its eminent devaluation were often linked to negative changes in Estonia's current account deficit. An unsuccessful run against the kroon took place when speculators thought the kroon would be devalued when the Deutschmark was pegged to the Euro at the end of 1998.

The Bank of Estonia allowed institutional and individual foreign currency deposits at local banks in the beginning of 1993. Gold and foreign currency reserves grew from Euro 418 million in 1994 to Euro 753 million at the end of 1998, and declined to Euro 744 million by the end of June 1999. The fixed conversion rate between the Deutschmark and Euro led to the kroon being pegged to the Euro at a rate of 15.6466 EEK to 1 Euro (as of January 1, 1999). The currency board and the kroon will be replaced by use of the Euro when Estonia becomes a member of the European Monetary Union.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Securities Market Act (effective January 1994) and its amendments regulate the listing and trading of securities, information disclosure, and protection of investors. The Securities Division of the Ministry of Finance coordinates the market's activities and drafts relevant laws, while the Securities Board issues licenses to securities firms. The licensing procedure requires disclosure of balance sheet and income statement information, the background of management personnel, minimum capital adequacy, and the use of licensed securities personnel who have passed an examination. Licenses are renewed on an annual basis. While there is no separation of commercial banking and trading operations, they may be separated at some point to enhance the credibility of the entire financial sector.

The Tallinn Stock Exchange was established for equities and funds in April 1995, and began operation in May 1996. The Tallinn Stock Exchange and the Estonian Central Depository are owned by brokerage houses, most of which in turn are owned by banks. Both institutions are self-regulated. Trading of listed securities takes place through matching trades via a closed computer-based system available only to licensed brokers. Security prices are available to the general public through the Tallinn Stock Exchange's Internet site and local newspapers. The Tallinn Stock Exchange maintains a constant flow of financial information on its Internet site regarding companies that have listed securities to improve transparency. While 22 shareholders established the Tallinn Stock Exchange and Estonian Central Depository, only five members accounted for the majority of trades by the end of June 1999, when Hansapank and Uhispank dominated equities trading. Discussions have taken place at various times regarding whether to either merge the Baltic states' exchanges or list larger companies' shares on Scandinavian exchanges.

Fixed-income markets, through a system of dealers, have evolved to the point where a number of domestic and regional borrowers have EEK commercial paper and note programs. Convergence between Estonian and Deutschmark and Euro borrowing rates has taken place because of the ease, generally perceived to be without currency risk, through which borrowers can utilize the market that offers the lowest interest rates. While there are rules and regulations against insider trading, regulatory institutions are not fully capable of effective enforcement. The Securities Inspectorate and Insurance Inspectorate fall under the Finance Ministry, and the Banking Inspectorate reports to the Bank of Estonia. In March 1999, the Bank of Estonia proposed creation of an integrated authority that would govern banking, securities markets and insurance. The Securities Inspectorate was criticized by the State Audit Office for insufficient oversight practices. Current regulation is viewed as inadequate, and establishment of a new authority is envisioned for the beginning of 2002.

MICROECONOMIC POLICY 2.00/7

1. Are property rights guaranteed? Are there formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?
Property rights are guaranteed by the constitution, which states that individuals' property rights are inviolable, and that everyone enjoys equal protection and the right to manage and command his own property. Land privatization accelerated after amendments to the Land Reform Law were passed in 1996 that allowed people to pay for land in installments, and linked land to enterprise privatization. County governors must approve the purchase of land by foreigners, which has not proven to be a barrier to foreign ownership of land. There are special areas, islands and border zones, which are not available to non-citizens because of security reasons.

Intellectual property rights are protected under Article 39 of the constitution and by the Trademark Law (October 1992), the Copyright Law (December 1992), and the Patent Law (May 1994). Estonia joined the World Intellectual Property Organization in February 1994, rejoined the Paris Industrial Property Convention in August 1994, and is a party to the Washington Patent Cooperation Treaty. A new law went into effect in April 1998 that outlawed sales of video and audio materials by street venders. Despite difficulties in being able to tell legitimate goods from bootleg copies, police began a series of ongoing raids against venders that seized more pirated material in a single raid than in all of 1997. In February 1999, Estonia's president approved new anti-piracy measures that broadened the authority of customs officials and police. Customs officials became authorized to block pirated goods from entering the country, with the burden of proof resting on the importers to show that their audio, video and software is copyrighted; an estimated 85 percent of business software in Estonia is illegal. Authorities can confiscate goods and fine dealers three times

the value of the pirated goods, and dealers and traders may receive up to three-year prison terms. In June 1999, the Permanent Copyright Committee in the Ministry of Culture was established to address piracy issues.

The Real Property Law, enacted in December 1993, stipulates the procedures for the registration of land. According to Article 32 of the constitution, no property may be expropriated without the consent of the owner, except in cases of public interest and in exchange for equitable and appropriate compensation. Anyone whose property is expropriated without his consent has the right to appeal to a court and to contest the expropriation, as well as the nature and amount of compensation. A state land register contains information about ownership of land, including claims for restitution of nationalized property. Amendments to the Legal Acts Related to Ownership Reform (1997) widened the circle of persons entitled to claim restoration of land and made it possible for nonresidents to pay for privatized land with privatization vouchers in the amount of compensation received for the expropriation of property. A large number of restitution claims were processed and the percentage amount of land covered by the land registry increased to one-third of all land by July 1998.

2. To what extent have prices been liberalized? What subsidies remain?

Estonia began price liberalization, along with related economic reforms, in 1989 and 1990. Since then, the government has removed price controls on over 95 percent of all goods and services. Regulated prices are applied to natural monopolies (water, sewage, electricity and thermal energy), and accounted for 26 percent of the goods and services used to calculate CPI at the end of 1998, and about 20 percent in the middle of 1999. Electricity prices are being increased through steps, with the latest one-percent step scheduled for the beginning of 2000 to be followed by a similar scale increase at the beginning of 2001. Both increases will be used to cover the cost of a new tax on carbon dioxide emissions. There is no VAT on heating, from central steam plants, but Eesti Energia plans on adding a EEK 30 charge to all private consumers in April 2000. Estonian Telekom has a monopoly on non-cellular and long distance telephone calls until January 1, 2001, and had a fee rise and restructuring approved in April 1999. Administered prices on utilities grew 12.9 percent, and free prices grew 3.5 percent in 1998.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The Commercial Code, effective September 1995, brought Estonia into full accord with the European Union regulations regarding the establishment registration, activities, liquidation, and termination of all types of business. A Commercial Registry, through which information about companies is made available to the public, was established through the Commercial Code. Allowed forms of structuring companies are general partnership, limited partnership, limited-liability companies, joint-stock companies, and cooperative associations. Registration as a legal entity requires a permit from the local municipality, while some businesses, such as banking insurance, require state licensing. While the registration process seems overly bureaucratic at times, registration, which includes numerous notarizations, can normally be completed within ten days. However, allegations occasionally surface in the press that bribery of government officials is sometimes necessary to facilitate quick responses from certain government agencies.

Except in some well-defined areas, there are no barriers to entering markets. The number of new registered companies grew by 25 percent between autumn 1998 and the summer of 1999. Accepted Estonian Government Policy aims at encouraging small and medium enterprises, which accounted for 60 percent of total employment in 1997, up from 55 percent in 1996. Small and medium enterprise employment accounted for almost 98 percent of the total number of enterprises in 1998.

A poll conducted at the beginning of 1999 found that 70 percent of the business people in Tallinn thought that the business environment suffered from a lack of security and increased crime, which in turn led to decreased investment. Of those polled, 22 percent said the municipal authorities obstructed the business environment, citing excessive bureaucracy and meager government support as the principal reasons.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract

disputes? What alternative mechanisms for adjudicating disputes exist?
Estonian courts are criticized for lengthy bureaucratic processes that often drag out property and contract disputes for a number of years. A recent Business Environment and Enterprise Performance Survey, conducted by the European Bank for Reconstruction and Development in collaboration with the World Bank, polled over 3,000 firms from 20 transition countries about the nature of their dealings with the state and the associated obstacles to their businesses. According to the survey's findings, approximately 25 percent of Estonian firms questioned expressed mistrust that Estonia's legal system would uphold their contract and property rights in business disputes. Of this number, approximately 15 percent tended to disagree, 8 percent disagreed in most cases, and only 2 percent strongly disagreed that Estonia's courts would uphold these rights. Bankruptcy legislation is properly enforced and bankruptcies usually go smoothly;188 bankruptcies were issued in 1998, compared with 164 in 1997 and 170 in 1996.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?
The Law on Competition of June 1993 defines what constitutes competition, the impairment of competition, the responsibilities of market participants, and the supervisory role of the state. A new law on competition was adopted in October 1998 in an attempt to bring Estonian competition laws into accordance with European Union standards. The law requires a Competition Board to review the impact of mergers, limit companies with exclusive or natural monopolies, and establish criteria for the granting of state aid. Even though it undertook 107 investigations in 1998, most of the problems addressed by the Competition Board are handled on an *ex officio* basis.

Agricultural interests were responsible for initiating a debate on whether prices for goods in sectors which are dominated by a single firm, having 40 percent of the market, should be government controlled. The debate lasted into January 1999, even after the Law on Competition was accepted in October 1998. Allegations regarding payoffs to government officials are sporadically raised in the press, but often carry political overtones and rarely lead to prosecution, much less conviction. Allegations have often focused on City of Tallinn officials, especially in the award of building contracts.

The Public Procurement Office is under the administration of the Ministry of Economic Affairs. The basis for procurement policies is the Public Procurement Act, which was amended in 1998 to eliminate domestic preferences. The office gives approval for carrying out single source government purchases, can cancel certain tendering procedures and conducts protest reviews. In 1998, the office approved 110 single source public procurements, 24 tenders were rejected and 20 tendering procedures were cancelled. Procurement policies are being brought into line with European Union policies.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?
Estonia enjoys one of the most liberal trade regimes in the world, with virtually no duty or quantitative restrictions on imports or exports. Exports and imports accounted for 171 percent of GDP at the end of 1998. The Law of Customs outlines the rules for the import and export of goods, and the rights and duties of customs authorities. At the end of June 1999, parliament passed a bill giving itself the right to establish customs tariffs, which it will gradually do to bring its duties into line with European Union standards.

While there was political pressure to raise tariffs to protect Estonian farmers against cheap food imports from Russia after Russia devalued its ruble, no new barriers were established. Estonia signed an accession protocol with the World Trade Organization (WTO) in May 1999, agreeing to accept all WTO multilateral provisions without a transition period. WTO membership will limit import duties on industrial products to 10 percent, and agricultural products to between 15 percent and 45 percent. Telecommunications and a number of service-sector markets will be opened to foreign competition by 2003. Any new customs duties that are imposed will be done to bring Estonia's customs duties into line with European Union requirements and standards. While Estonian agriculture trade is currently freer and has much lower subsidies than in the European Union, increasing political pressure may lead to direct subsidies, export guarantees and import tariffs.

Estonia established two Free Trade Zones in January 1999 to encourage economic development in high unemployment areas of Southeast Estonia through incentives aimed at promoting exports. A Free Trade Zone had been established earlier in Sillamae, in northeast Estonia. At the end of June 1999, Estonian exports to the EU accounted for 70 percent

of all exports (Finland 30.7 percent, Sweden 24.0 percent, Germany 14.7 percent), and imports from the EU accounted for 74.3 percent of all imports (Finland 47.8 percent, Sweden 14.8 percent Germany 14.5 percent).

Estonia does not have most favored nation status with Russia, and Russia levies a double import tariff (6 percent instead of 3 percent) on Estonian goods. While less than 20 percent of Estonia's foreign trade was with Russia, food and beverage exports to Russia, after Russia devalued its ruble, decreased by 33 percent in October 1998 and 25 percent in November 1998, year-on-year. However, Russia cut tariffs that it had on Estonian foodstuffs in October 1998 to create lower food prices. In June 1999, Estonia signed a customs cooperation agreement with Russia, which addresses cooperation against smugglers and should improve the free movement of legitimate goods. Estonia signed free trade agreements with Poland and Hungary in late 1998, and has free trade agreements with Ukraine, Czech Republic, Slovakia, Slovenia, and Belarus.

The Baltic Free Trade Agreement, among all three Baltic states, came under pressure after the devaluation of the Russian ruble led especially the agricultural sector to seek new markets. Tensions rose in October 1998 when Lithuania accused an Estonian company, *Rakvere*, of exporting meat that did not meet lead content standards to Lithuania, after earlier denying meat imports from Estonia by citing uncertainty over the origin of the meat. Estonia retaliated by banning Lithuanian pork imports. Lithuanian and Estonian authorities were able to resolve their differences by November 1998. Latvia withdrew its plans to place a low quota on pork imports from Estonia after a meeting between Prime Ministers from both countries took place. In April 1999, Latvia imposed a 70 percent import duty on pork and pork products (to be effective June 1 to December 17), potentially disastrous for Estonia, which shipped exported 80 percent of its pork products to Latvia.

Estonian truck drivers, who carry about 80 percent of the freight traffic between Estonian and Russia, applied in 1998 for eight times as many Russian permits as were granted by the Russian government, which wants to see more freight carried by Russian firms. The International Transport Workers sent a delegation to Estonia in April 1999, with a report due in July 1999, to examine whether Estonian shipping had become a Flag of Convenience for shippers hoping to exploit low cost Estonian labor.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The Law on Foreign Investments of September 1991 gives foreign investors the same rights as Estonian citizens, allowing for the purchase of land, buildings, and companies. The Foreign Investment Agency was created in May 1994 to further the development of the Estonian economy by long-term foreign investments. Estonia has no exchange controls or restrictions on foreign investment. There are no restrictions on how much of a firm may be owned by foreigners, and there are no laws that discriminate between foreign and domestic ownership. Neither investments nor technology must be registered. There are no restrictions on opening foreign currency bank accounts and dividends may be freely repatriated.

Fixed investment as a percentage of annual GDP was 27.9 percent in 1997 and 29.1 percent in 1998. Foreign direct investment was more than twice as much in 1998 as 1997, reaching a record EEK 7.94 billion in 1998, 49 percent of which went into the banking sector and 20 percent into industry. Foreign direct investment in Estonia was first place per capita ($407 per person) among Central and Eastern European countries in 1998. Foreign direct investment reached 11 percent of GDP in 1998, and remained at about that level during the first half of 1999. About 68 percent of total direct investment came from Sweden and Finland. The current account deficit hit a peak of 12 percent of GDP in 1997, and was down to 7 percent during the first quarter of 1999, and an estimated 4 percent during the second quarter of 1999.

Investor confidence grew after stricter reserve controls by the Bank of Estonia led to local lending being constrained throughout the second half of 1998. Greater liquidity in the local banking system, which measurably increased after the Estonian Telekom offering in early 1999, and free cross-border competition between local, Deutschmark and Euro interest rates lowered nominal Estonian interest rates in the beginning of 1999. Simultaneously, the uncertain long-term impact of the Russian ruble devaluation, an illiquid and volatile stock market, and questions about corporate governance led to numerous credit agency warnings and threats of downgrades. Concerns about corporate governance were illustrated by ongoing revelations throughout 1998 regarding *Hoiupank* management's attempts to prop up its own stock price through a questionable loan, and the revelation that *Maapank* was bankrupt for quite some time before it voluntarily sought liquidation.

A government report issued in July 1998 concluded that if Estonia wanted to attract more foreign investment, it needed to create incentives for training skilled workers, and continue

property privatization. Foreign investors often face problems with employee training and lengthy procedures to purchase property. Along with the need to further diversify the geographic base of import and export partners, the technological level of exports needs to keep improving if foreign direct investment is to continue and Estonia does not become viewed simply as a country with inexpensive labor.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Estonia's energy sector has undergone significant restructuring and reform throughout the 1990s. In October 1996, the privatization of the country's largest oil company, *Esoil*, was officially concluded. In June 1997, parliament adopted a long-awaited Energy Law to regulate a system of licensing companies that produce, process, transport, and distribute energy. Energy prices are regulated by a supervisory council, the government, and an independent Energy Market Inspectorate, established in 1998, which will take over as the sole regulator in 2000. A Long Term National Development Plan for the fuel and energy sector sets targets throughout the energy. The plan is revised every second year, and includes forecasts and guidelines.

Two electricity transmission and distribution companies (*Laanemaa* and *Narva Elektrivorgud*) were privatized in 1998. The government sold its remaining share of 51 percent in *Narva* in 1999. Estonia's generation companies (*Eesti* and *Balti* power plants), the remaining five transmission and distribution companies belonging to *Eesti Energia,* and *Eesti Polevkivi*, an oil shale mining company, remain to be privatized. Oil shale is mined and burned in power plants in Estonia. Not competitive with natural gas, and highly polluting, its future use is unclear, though certainly limited. Estonia's oil shale sector provides 98 percent of the locally generated primary electricity supply. Both power generation companies are scheduled to be merged into a single new company, *Narva Elektrijaamad*, 49 percent of which may be sold to NRG, an American company that has been in prolonged tender negotiations with the government. The remaining 51 percent would be retained by *Eesti Energia*. *Eesti Energia* may at the time of the sale acquire 51 percent of *Eesti Polevkivi*, and the remaining 49 percent will stay with the government. Plans call for *Eesti Energia* to have a guaranteed 75 percent of the generation market for 6 to 7 years after privatization, and 50 percent of the market for the following 6 to 7 years, which is in line with European Union accession criteria for market liberalization. About 3,000 jobs, almost all in northeast Estonia, are expected to disappear because of company and sector restructuring. The government sold its shares (11.4 percent) in the natural gas monopoly *Eesti Gaas* in February 1999.

Plans to complete construction of a cable from Tallinn to Finland in 2000 so that *Eesti Energia* can sell power into the Scandinavian grid were announced in September 1998. The Estonian electricity grid currently is attached to the Russian grid. Future attempts may be undertaken to attach to Western Europe through Lithuania, which could become a large customer if Lithuania's Ignalina nuclear power plant is closed. Plans call for Estonia to export up to 25 percent, from 7.3 percent in 1998, of its electricity production.

Estonian Oil Service (EOS), which owns a modern oil terminal near Tallinn, complained in late 1998 that the restricted capacity of the railroads in Estonia limited transport of Russian oil through Estonia, which almost tripled from 1995 to 1997. Oil exports from Russia rose 10 percent after the Russian ruble devaluation, and could have risen to an estimated 40 percent if the railroad system were in better condition. Liquids, mostly oil, accounted for 52 percent of the transit cargo through Estonia at the beginning of 1999.

In a country of 1.5 million people, it will be difficult to imagine that significant competition in the energy generation sector will develop that will benefit residential users. Discussions have begun regarding creation of an electricity exchange to be established in Riga in 2001 through which large industrial consumers may shop for prices.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force in the second quarter of 1999 was 696,000. Of the total labor force, 571,500 (82 percent) were employed full time. Of working age women, 51.1 percent were employed, and of working age men, 61.1 percent were employed. The Central Estonian Statistics bureau found that the share of unemployed in the labor force was 11.7 percent, up from 9.6 percent during the second quarter of 1998. Of women, 10.2 percent were unemployed, and of men, 13 percent were unemployed. Instead of an unofficial employment rate, press headlines often use Registered Unemployment numbers, the number of people who file for unemployment claims, which was 3.2 percent (the ratio of registered unemployed divided by the total population 16 to pension age) in the second quarter of 1999. Many people who are unemployed do not register for unemployment benefits because they find the process demeaning and the benefits to be too low to bother. Starting on January 1, 1999, unemployment compensation, among the lowest in Europe, rose from EEK 300 to EEK 400 a month, and minimum wage for community placement work rose from EEK 2.6 to EEK 5 per hour. Unemployment benefit recipients must show up at the unemployment insurance office every 10 days and benefits end after 6 months. The minimum wage at the end of 1998 was EEK 1,250 per month, meaning that unemployment benefits rose from 24 percent to 32 percent of minimum wage, short of a 50 percent target set by unions.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension system is regulated by the Law on State Allowances, which was adopted March 17, 1993 and amended over time. The pension system is financed primarily from social tax revenues and the federal state budget. The National Social Insurance Board administers pensions, family benefits, and funeral grants.

The law prescribes four types of pensions: old age, national, disability, and survivors. The old age pension is available to those with 15 years of eligibility according to a formula that accounts for length of work, education time, children, and other factors. The pension age in 1999 was 62 years and 6 months for men and 57 and 6 months for women, and will be equalized for men and women at 63 by the year 2016. All permanent residents of Estonia without 15 years of eligibility are entitled to a national pension, which is calculated as a percentage multiple of the base old age pension. Pensions for the disabled are available to all permanent and valid temporary residents following exhaustion of sickness benefits and medical determination of disability. Disability pensions are calculated by three different percentage multiples of the base old age pension, depending on the degree of disability. Survivors' pensions are calculated as a percentage multiple of the base old age pension. The base pension is determined by parliament. Certain categories of workers and professions, such as those who work with hazardous materials, receive favorable treatment regarding retirement age and required length of service under the Law on Superannuated Pensions and the Law on Old-age Pensions on Favorable Conditions.

A new Law on State Pension Insurance was adopted in 1998 and will come into effect on January 1, 2000. The new law mandates a three-tier retirement pension scheme. The first tier, effective in January 2000, is based on state-managed compulsory pay-as-you-go contributions from employers. The second tier will require individuals to make contributions. The third tier, effective since July 1998, is based on voluntary contributions administered by private funds and insurance companies. Under the third tier, up to 15 percent of a salary that is placed in a fund will be exempt from tax, and benefits will be taxed at 10 percent. The new law provides for early retirement with reduced pension benefits, use of a pension formula that calculates pensions through a basic unit, length of service unit and insurance unit; standards for calculating old age, incapacity and survivor's pensions; and use of calculated and paid social taxes for individuals. The first fund licensed as a pension fund began in March 1999. Pensioners complained that those born before 1957 were not included in the scheme, and would receive a small allowance instead of pension.

There is no automatic cost of living adjustment, with any changes having to be made by parliamentary amendment. After parliament approved a second pension increase at the end of 1998, the average monthly pension after 42 years of work was EEK 1,512, about 45 percent of the average net wage.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What

has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Average monthly gross wages in the second quarter of 1999 were EEK 4,554 (approximately USD $314.00), up from EEK 4,255 (approximately USD $293.00) the second quarter of 1998. These figures were the continuation of a rise, though at ever decreasing rates of growth, throughout the 1990s, when second quarter average monthly gross wages rose from EEK 1,087 in 1993 to EEK 1,741 in 1994, EEK 2,395 in 1995, EEK 3,004 in 1996, and EEK 3,659 in 1997. Wage and payment arrearages are not a problem in any particular sector. According to the Estonian Central Statistics Office, the average hourly wages for men were EEK 5.29 in 1992, EEK 8.46 in 1993, EEK 12.61 in 1994, EEK 16.27 in 1995, EEK 19.26 in 1996, EEK 22.62 in 1997, and EEK 25.58 in 1998. For women, these figures were EEK 4.22 in 1992, EEK 6.10 in 1993, EEK 8.97 in 1994, EEK 11.92 in 1995, EEK 13.99 in 1996, EEK 16.28 in 1997, and EEK 19.17 in 1998. Thus, women's salaries during the 1990s equaled approximately 74 percent of men's average wages, ranging from a low of 71 percent in 1994 to a high of 80 percent in 1992.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

Elementary school enrollment decreased very slightly from 181,900 in 1993 to 181,800 in 1994, and then grew to 184,200 in 1995, 184,800 in 1996, and 185,800 in 1997. Secondary school enrollment, encompassing general, vocational and professional programs, increased steadily from 61,800 in 1993 to 64,600 in 1994, 67,200 in 1995, 69,300 in 1996 and 69,600 in 1997. Post-secondary enrollment, including bachelor, masters, and doctorate degree students, increased from 26,600 in 1993 to 27,800 in 1994, 30,400 in 1995, 33,600 in 1996, and 34,600 in 1997. The national student-to-teacher ratio improved slightly from 1993 to 1996. There was one teacher per 14.08 general education students in 1993, one per 14.15 students in 1994, one per 13.64 students in 1995, and one per 13.39 students in 1996. The percentage of GDP spent on education by the state was 7.1 percent in 1993, 6.8 percent in 1994, 7.9 percent in 1995, 7.7 percent in 1996, and 7.2 percent in 1997.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Deaths under one year of age per 1,000 live births decreased from 15.8 in 1993 to 14.5 in 1994, rose slightly to 14.8 in 1995, and then dropped considerably to 10.4 in 1996, 10.1 in 1997, and 9.3 in 1998. Live births showed a dramatic drop from 24,106 in 1986 to 15,170 in 1993, and then declined slowly to 14,178 in 1994, 13,560 in 1995, 13,291 in 1996, 12,626 in 1997, and 12,269 in 1998. In 1986/87, life expectancy for males was 66.37 years and 75.11 years for females. Life expectancy for men and women, respectively, was 62.46 and 73.82 in 1993, 61.09 and 73.06 in 1994, 61.73 and 74.31 in 1995, 64.47 and 75.48 in 1996, 65.68 and 75.97 in 1997, and 64.40 and 75.45 in 1998. The number of divorces decreased from 5,757 in 1993 to 5,606 in 1994. In 1995, divorces jumped to 7,456, before decreasing again to 5,657 in 1996, 5,281 in 1997, and 4,491 in 1998. Estonia has had one of the highest per capita suicide rates in the world during the last several years, at 40.1 per 100,000 people in 1995 and 39.2 per 100,000 people in 1996. Although this figure declined to 32 per 100,000 people in 1998, it still represented approximately twice the world average suicide rate. The gradual decrease in Estonia's suicide rate since 1995 has been attributed to the population's growing adaptation to recent societal changes, and to greater attention having been paid to suicide prevention issues.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

Physicians per 10,000 people declined from 35.6 in 1985 to 31.8 in 1993, 31.4 in 1994, 31.1 in 1995, 30.5 in 1996, and 31.1 in 1997. The number of medium level medical personnel decreased from 13,756 in 1985 to 12,135 in 1993, 11,594

in 1994, 11,416 in 1995, 10,931 in 1996, and 10,673 in 1997. The average gross monthly wages for health care workers was EEK 1,975 in 1995, EEK 3,089 in 1997, and EEK 3,694 in 1998. The number of hospital beds per 10,000 people declined from 122.3 in 1985 (18,645 beds) to 95.4 (14,588 beds) in 1993, 83.9 (12,697 beds) in 1994, 81.2 (12,137 beds) in 1995, 76.5 (11,349 beds) in 1996, and 74.2 (11,114) in 1997. The percentage of GDP spent on health affairs and services by the state totaled 5.5 percent in 1993, 6.3 percent in 1994, 6.2 percent in 1995, 6.1 percent in 1996, and 5.5 percent in 1997, the last of which equaled 3.4 percent of total expenses or EEK 3,568.4 million.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The Statistics Office of Estonia calculated that the number of households in poverty decreased from 19 percent in 1996 to 14 percent in 1999, using a poverty line income of EEK 1,350 per family member per month in 1999 (approximately USD $94.00 per month). Households with three or more children are three times as likely to live in poverty as households with no children, and twice as likely to live in poverty as families with one child. The risk of deep poverty is 72 percent for households with children in which the household heads are unemployed, 21 percent for households with an employed single parent, and 7 percent for pensioners.

A Tartu University and UNDP survey carried out in the first half of 1999 found that 36.2 percent of Estonian habitants live in poverty: 18 percent live in abject poverty (earning less than EEK 1,000 per month per family member), another 18 percent is at the EEK 1,000 to EEK 1,250 level. An additional 16 percent are at the EEK 1,250 to EEK 1,500 level. More than one-third of the elderly live below the poverty line.

GEORGIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist (transitional)
Population: 5,400,000
PPP (USD): 1,960
Capital: Tbilisi
Ethnic Groups Georgia (70 percent), Armenian (8 percent), Russian (6 percent), Azeri (6 percent), Ossetian (3 percent), Abkhaz (2 percent), other (5 percent)
Size of private sector as % of GDP (1998): 55

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	4.70	↑4.55	↑↑4.00
Rule of Law	na	na	4.50
Economic Liberalization	4.13	↑4.00	↑↑3.67

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	194.0	231.0	531.0	845.0	975.0	967.0	1033.0
Real GDP growth (% change on previous year)	-25.4	-11.4	2.4	10.5	11.0	2.9	3.0
Inflation rate	4084.9	22470.6	177.6	39.4	6.9	3.6	20.0
Exports (USD millions)	457.0	381.0	363.0	417.0	494.0	478.0	500.0
Imports (USD millions)	905.0	746.0	700.0	768.0	1052.0	1164.0	1025.0
Foreign Direct Investment (USD millions)	na	8.0	6.0	54.0	236.0	221.0	96.0
Unemployment rate	6.6	3.6	2.6	12.0	5.1	14.5	na
Life Expectancy (years)	69.0	69.4	69.8	70.3	70.6	72.6	64.6

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			6	4	5	5	4	4	3	3	3
Civil Liberties			5	5	5	5	5	4	4	4	4
Status			NF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

Georgia is an electoral democracy characterized by an effective and reform-minded parliament and political parties which generally operate without government intervention or repression. The country's independent media and NGO sectors have grown into influential political forces. Despite such positive developments, Georgia continues to face serious problems in both political rights and civil liberties. The status of the de facto independent territories of Abkhazia and South Ossetia remain unresolved, resulting in ongoing hardships for over two hundred thousand internally displaced persons. Serious violations of electoral process occur in various regions throughout the country, and current legislation gives very little authority to local self-governments. Political parties are weak, unstable, and center on specific personalities rather than political ideas. Widespread corruption undermines trust for both political institutions and law enforcement agencies.

Georgia suffered a dramatic economic collapse following independence due to political turmoil and mismanagement. However, the government embarked on a comprehensive structural reform program that brought significant achievements beginning in the mid-1990s: the national currency stabilized, inflation was brought under control, the fiscal deficit was reduced, a large-scale privatization program was initiated, and real GDP began to grow. However, further economic development is impeded by factors including ongoing corruption, low levels of tax collection, a continued energy crisis, and an inadequate infrastructure system.

During the last two years, Georgia has faced both positive and negative political and economic developments. Important first steps were made in the area of judicial reform, new legislation was adopted to improve freedom of information, and a de facto government monopoly in television broadcasting was broken. The 1998 municipal elections created local self-government bodies for the first time since 1992. As a result of the country's ambitious privatization program, most of the economy is now in private hands. However, due to the effects of the Russian economic crisis of August 1998 and a lack of administrative efficiency, the government was struck by a deep fiscal crisis which it failed to overcome by mid-1999. The national currency, after it was allowed to float freely, was devalued by about 50 percent. There was little progress in such crucial issues as fighting corruption or human rights abuses by law-enforcement bodies.

Democratization

POLITICAL PROCESS 4.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?
Georgia's political process has been marred by civic strife and ethnic-territorial wars since the nation's independence. The first multi-party parliamentary elections were held in October 1990 and brought to power the nationalist Round Table bloc, led by Zviad Gamsakhurdia, which received 53 percent of the vote. A split in the leading coalition and violent opposition protests led to a coup in December 1991 and January 1992. Georgia's first democratically elected government was accused of instituting a dictatorship and overthrown. New elections were held in October 1992 against a backdrop of widespread disorder: secessionist conflicts in South Ossetia and Abkhazia, as well as insurgencies by Gamsakhurdia's supporters, left approximately 10 to 15 percent of the country's territory outside the control of the central government; the government in turn was under the influence of competing warlords. Twenty-six parties won seats in the new parliament, with the biggest winner—the Mshvidoba ("Peace") bloc—winning only 29 out of 234 parliamentary seats. Parliament proved fragmented and ineffective, though a loose majority coalition of approximately 125 members united through support for the then-Chairman of Parliament, Eduard Shevardnadze.

The most recent parliamentary and presidential elections, held on November 5, 1995, were the first held in a reasonably stable political situation. The elections were conducted under a new constitution that instituted an American-style separation of powers between

the president and the 235-seat parliament. The president appoints the government, but parliament confirms ministers. One-hundred and fifty MPs were elected by proportionate vote from the national party lists (with a 5 percent threshold for entering parliament); 85 were elected from single-member constituencies. Only 3 of the 54 participating parties and blocs won enough votes to cross the threshold: Shevardnadze's Citizens' Union of Georgia (CUG) won 109 seats (with 23.71 percent of the vote), the National Democratic Party won 35 seats (with 7.95 percent of the vote), and the All-Georgian Union for Revival, based in the autonomous region of Adjaria, won 31 seats (with 6.84 percent of the vote). The rest of seats were divided between representatives of smaller parties and 29 independents elected from single-member districts. Over 60 percent of the vote went to parties that failed to beat the 5 percent threshold. CUG controls parliament in an informal coalition with smaller factions. Observers from the Organization for Security and Cooperation in Europe (OSCE) determined that the vote was generally free and fair, with the exception of Adjaria. The domestic Fair Elections Society, working with the National Democratic Institute, detected more serious violations but did not contest the results of the elections.

The breakaway regions of South Ossetia and Abkhazia did not participate. The mandate of the 13 MPs elected from the region of Abkhazia in 1992 was extended for another term, and they have created an "Abkhazeti" faction in Parliament. The next parliamentary elections are scheduled for October 31, 1999.

2. When did presidential elections occur? Were they free and fair?

The first presidential elections were held on May 26, 1991. Zviad Gamsakhurdia, a nationalist dissident who had become chairman of parliament since November 1990, won with 87 percent of the vote. After he was overthrown in January 1992, a provisional military council assumed executive power and abolished the office of president, which had become a symbol of the alleged dictatorial style of Gamsakhurdia's governance. But the formula of the October 1992 elections restored a quasi-presidential system: the chairman of parliament was elected by a direct popular vote. Eduard Shevardnadze ran uncontested and won this position with 96 percent of the vote. Parliament empowered him with the authority of the head of the executive to nominate the prime minister and an official title of Head of State.

The new 1995 constitution formally reinstated the office of president following the American model, with this difference: there is no office of vice president. Eduard Shevardnadze won the November 1995 presidential elections against 5 contestants with 74.32 percent of the vote. International observers characterized the vote as generally free and fair. The Domestic Fair Elections Society (working in co-operation with National Democratic Institute), however, detected more serious violations. The President's term in office is five years; the next elections are scheduled for April 2000. The Constitution gives Shevardnadze the right to run one more time.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system has been multiparty based since 1990. But while political parties are numerous and generally enjoy freedom to operate, they are weak, unstable, and the personalities of their leaders are often more important than their ideological orientations. The strongest and probably biggest political party, the Citizens' Union of Georgia (CUG), came together in 1993 in support of the then-head of state Eduard Shevardnadze. Although after the 1995 elections Shevardnadze became president and his party came to dominate parliament, he tried to position himself above party struggles and gave only a small number of ministerial positions to CUG members. As a result, CUG, though formally "ruling," is in reality a parliamentary party with relatively small representation in or even influence on the executive; the executive is mostly composed of non-partisan functionaries.

The party that is expected to be the main contestant of the CUG in October 1999 parliamentary elections —the Democratic Union of Revival (formerly, the All-Georgian Union for Revival) — was also created around the figure of Aslan Abashidze, the leader of the Adjarian Autonomous Republic. While this party dominates political life in Adjaria, it is scarcely represented in government bodies outside of Adjaria, though it does have branches throughout the country. The long-term viability of both parties is often questioned, since it is uncertain whether they will outlive their leaders. The National Democratic Party (NDP) was the only party created "from below," on the wave of mass political

enthusiasm during the period of national liberation from 1988 to 1991, that managed to obtain its own faction in a 1995 Parliament. Later it split into two parties (NDP and Popular).

Local elections in November 1998 boosted the party system, since voting was strictly for party lists on all levels of government save for small villages. Apart from the above- mentioned parties, several other parties such as Labor, Socialist, and Traditionalist proved their viability by gaining seats on local councils throughout the country. But this did not change the situation in the executive, since vertical subordination to the President is in force throughout Georgia, with the exception of villages and small towns.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

By June 30, 1999, 119 political parties had been registered with the ministry of justice under the 1997 Law on Citizens' Political Associations. Only one political party was denied registration: Virk, a group based in an ethnically Armenian-populated region of Javakheti. Virk's charter violated Article 6 of the Law on Citizens' Political Associations, which bans the creation of parties based on a regional or territorial principle. Some followers of ousted president Gamsakhurdia consider the acting government illegal and refuse to register their parties. The police often disrupt their rallies and demonstrations and detain or imprison some of their activists on various charges. The United Communist Party, duly registered but with a leadership sometimes linked by the government to terrorist activity, claims that the police harass it. The party is led by the father of the former security chief, Igor Giorgadze, the chief suspect in two failed assassination attempts on President Shevardnadze. The central election commission denied their registration for the 1998 local elections because of the above-mentioned allegations. The court then restored the party's registration, but it did not participate in elections, claiming that its political campaign was jeopardized.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Party membership in Georgia is low; exact numbers, however, are unavailable. Membership figures provided by the parties themselves are wildly inflated. According to documents filed prior to the November 1995 elections, the 54 blocs and parties contesting the election claimed an aggregate membership of more than 500,000, or approximately 20 percent of the voting population. The ruling Citizens Union Party claimed a membership of 100,000. But in a survey conducted in 1997 by the Arnold Bergstraesser Institute and the Caucasian Institute for Peace, Democracy, and Development, only 3.1 percent of those polled said they belonged to a political party.

During a survey conducted by the International Center for Civic Culture in 1998, most political parties could not provide exact figures on female membership, though estimated it at approximately one-third of total membership. In the leading bodies of the parties, 9 percent of the members were women, while out of 73 parties, 4 had women leaders. In the same year, 16 of the 230 members of the national parliament were women.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Turnout for the first multiparty elections in October 1990 was approximately 70 percent, while in the May 1991 presidential elections it reached 83.4 percent. Approximately 86 percent cast ballots in the vote for Chairman of Parliament in October 1992. Since then, the turnout has tended to decrease: in the November 1995 presidential and parliamentary elections it was 68.9 percent; in the local elections in November 1998 it dropped to 41 percent, though the turnout varied considerably from one region to another. No separate data on female voter participation is available, but there is no reason to believe that it is significantly different from that of men.

CIVIL SOCIETY 3.75/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the

major women's nongovernmental organizations and what is the size of their membership?

The first independent associations in Georgia emerged in 1988, but at the time there was no strict line dividing NGOs from political parties. Since 1993, NGOs have proliferated dramatically. By 1997 the number of registered NGOs had reached 3,000 to 4,000. Since a new Civic Code was adopted in 1997, NGOs, with the exception of foundations, had to be registered anew by local courts rather than by the Ministry of Justice, so it has become more difficult to monitor their number. Moreover, many organizations initially registered as NGOs have developed into business entities (media, publishing houses). Today, the number of active NGOs is estimated at about 1,500, with only about 300 operating outside the capital; this number includes 346 foundations. NGOs are active in such areas as policy advocacy, legal reform, civic education, environment protection, social problems, health care, humanitarian assistance, youth and women's issues, etc.

Georgian NGOs for the most part depend on financial assistance from foreign foundations. They are much less developed outside the capital (though there is progress in some regions during the last 2 to 3 years), and tend to represent small elite groups rather than being rooted in the broader society. A 1997 survey conducted by the Arnold Bergstraesser Institute and the Caucasian Institute for Peace, Democracy, and Development showed that 1.2 percent of those polled belonged to an NGO. Volunteerism is not strongly developed in Georgia. Many Georgian businesses give money for charitable purposes quite generously, but they often choose not to publicise their philanthropic activities and (with few exceptions) do not work through private foundations or NGOs. The Cartu Foundation, established in late 1997 by a financial-industrial group of the same name, is the first notable exception. The Georgian tax code does not encourage charitable donations from businesses.

Women are active in many areas of the NGO movement, though there are no accurate data on the extent of their participation. Beginning in 1991, some 50 to 70 NGOs working specifically on women's issues were created in Georgia. Some of these groups claimed thousands of members, though the membership may be formal: the groups' strength lies more in the energy of their leaders and activists. A survey of 37 women NGOs in 1998 by the International Centre for Civic Culture revealed that they had 711 active members—3 percent of their claimed membership.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Article 26 of the constitution upholds an individual's right "to create and join any association." The 1997 civil code provides a legal category of "non-entrepreneurial legal entity" under which NGOs can be registered; within that category, they can choose between two sub-categories: that of a union (association), to be registered by courts, or of a foundation, to be registered with the Ministry of Justice. They also have an option of not being registered at all, but then they are not allowed to conduct financial transactions. There is no government regulation other than collecting registration fees or tax audits. Usually, the registration of NGOs is not difficult, though obstacles can loom up because of lack of professionalism and corruption in some courts.

Tax privileges for NGOs are defined by the 1996 Law on Grants. Money received as grants is exempt from all taxes except income tax. VAT for goods and services purchased by grant money is reimbursed by the treasury; in practice, however, obtaining reimbursements is often problematic. There are no tax incentives for local businesses to donate money for charitable purposes. In 1999, parliament passed in its first reading a bill on procurement, which would allow for NGOs contracted by the government to carry out certain functions on a competitive basis. However, the bill did not progress to a second reading.

The third chapter of the 1999 administrative code "On the Freedom of Information" provides for freedom of information for all citizens, including NGOs. According to the law on parliament and parliament regulations, NGOs may attend committee hearings on issues of interest. In practice, access to information may be difficult to obtain, particularly in the executive branch and local governments, and varies among state agencies and regions. Usually NGOs manage to obtain the information they need, though private channels may be more efficient than formal ones.

There is a small but conspicuous group of NGOs (including the Georgian Young Lawyers' Association

and the Liberty Institute, among others) that is quite active and aggressive in its efforts to influence the legal and regulatory environment. Legislation affecting NGOs and the media is the primary focus of NGO activism, but different issues of legal and economic reform—changes in law-enforcement, say—attract their attention as well.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Most NGOs represent small groups and are often created in an ad hoc manner to carry out specific projects. Hence, their management structure is very amorphous. A relatively small number of NGOs have a more or less stable existence and developed management structures, though even successful NGOs grow up around the personalities of their founders and leaders.

Advisory materials for NGOs in the Georgian and Russian languages have been published by organizations including the Horizonti Foundation (formerly ISAR-Georgia) and the Georgian Young Lawyers' Association, though this is widely believed to be insufficient. The Horizonti Foundation has for several years conducted training programs on NGO management issues in Tbilisi and other regions throughout the country, and also publishes a monthly newsletter in Georgian, Russian, and English, on various issues of concern to NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most active and successful NGOs usually depend on financial support from foreign foundations, which makes their financial situation uncertain in the long run. Since genuine membership-based organizations are rare, membership dues are not a serious source of income. There is no special provision in the law obliging NGOs publicly to disclose their revenue sources, and this rarely happens in practice.

NGOs do not have the status of tax-exempt organizations, but, according to a 1996 law on grants, funds received as grants and donations are exempt from taxes. Businesses, however, have no tax incentives to donate to NGOs. Early in 1999, the Georgian parliament adopted a law that created a government-financed fund to assist civil society, but the law has not been implemented because of lack of funds in the state budget. There are a few NGOs who receive most of their income from membership dues or fee-based services, but they are in a minority. Government contracts are also rare.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Descendants of Soviet-era sectoral trade unions still are the main trade unions in the country; while their leadership has struggled to reform the unions and gain publicity for defending employee rights, their political clout and social base is insignificant. According to the previously mentioned poll conducted by the Arnold Bergstraesser Institute and the Caucasian Institute for Peace, Democracy, and Development in 1997, 1.6 percent of respondents considered themselves members of unions. Union membership is decreasing, however, as traditional heavy industry collapses and those employed in new small businesses do not try to unionize. Despite occasional strike activities in certain economic areas (railway and subway workers, coal-miners)—usually to protest the nonpayment of wages—they did not lead to creation of new independent trade unions. In early 1999, schoolteachers in Georgia's two largest cities (Tbilisi and Kutaisi) started to organize independent unions, but they are only in their first stages. One of the most important trade union issues is the fight for the assets of Soviet-era trade unions; the old unions' descendants, new independent trade unions, and some state agencies claim the assets. The 1995 constitution and labor code do not create impediments for employees to create unions, except in certain areas (for instance, members of the security forces are not permitted to unionize). Farmers' groups and small business associations are not fully developed, and no information was available on their membership.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
There are no restrictions on the participation of interest groups in politics other than prohibitions against advocating violence or overthrowing the government, secession, or ethnic hatred. Representatives of interest groups routinely take part in parliamentary hearings on draft bills. Many interest groups are organized into associations, such as the Industrialists' Union, the Bankers' Association, and the Union of the Disabled, and try to influence politics through lobbying or through the media. NGOs and the media also form aggressive interest groups that try to influence government politics. But "interest group participation" is often associated with the defense of narrow interests by small groups in corrupt and non-transparent ways.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
Over the last three to four years, different branches of government have expressed positive attitude toward NGOs and recognized their increased role. The leadership of parliament and its key committees regularly organize public or informal meetings with NGO representatives and take their advice on different political matters. The reform-minded and pro-western group within the parliamentary leadership considers the NGO community an important ally and stresses their closeness with NGOs. The executive branch was slower in acknowledging the importance of NGOs, but it has moved in that direction as well. In July 1998, the government created a permanent co-ordinating council of NGO representatives to foster regular contacts between the NGO community and the executive. Other state agencies look for their own ways to cooperate with NGOs. In regions outside of the capital, NGO initiatives to introduce greater openness and transparency into local governance often meet a hostile response.

Public awareness of NGOs is limited mostly to the educated urban population. While no quantitative data is available, the Institute for Polling and Marketing reported that most people, particularly residents outside of Tbilisi, have difficulty distinguishing between NGOs and government organizations. In media outlets such as the newspaper *Resonansi* and the television channel *Rustavi-2*, NGOs are portrayed primarily as policy advocacy groups that have an impact on public opinion. Other media, including the newspapers *Alia* and *Akhali Taoba*, regard NGOs as tools of various political groups.

INDEPENDENT MEDIA 3.75/7

1. Are there legal protections for press freedom?
The 1995 constitution provides for a free press. Under article 24, "Every individual has the right to receive freely and to disseminate information and to express and disseminate his opinion orally, in written or any other form." Censorship is prohibited, and the establishment of media monopolies is illegal. The 1991 Law on the Press and Other Means of Mass Media also guarantees press freedom and regulates media activities.

In fall 1997, parliament amended the 1991 law to bring it into conformity with the 1995 constitution. However, the law was not adopted after journalists' organizations criticized it for limiting press freedoms. Since January 1999, a new administrative code has been in effect that includes the Law of Freedom of Information. In June 1999, parliament passed a law governing freedom of speech. Both bills, which were initiated by journalists' groups and NGOs, provide for greater accessibility to public information and enhance the legal protections for press freedom.

While there are few restrictions on establishing and running independent media outlets in many parts of Georgia, particularly in Tbilisi, the situation varies considerably from region to region. In 1996, the independent television station *Rustavi-2* had it license revoked by the ministry of justice, although it was reinstated by court order later that year. In the Autonomous Republic of Ajaria, where central government control is almost nonexistent, there is virtually no independent media. Although a few formally independent media outlets exist, they are not allowed to criticize the local authorities. In Abkhazia and South Ossetia, almost all media are controlled, often formally or sometimes informally, by different government bodies. The situation in Abkhazia showed some signs of improvement during the last two years, with an independent Russian-language newspaper, *Nuzhnaya Gazeta*, providing a forum for diverse opinions.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

The 1991 press law forbids the media from revealing state secrets, calling for an overthrow or a change of the existing state and public order, propagandizing for war, promoting brutality and racial, ethnic, or religious intolerance, spreading information that fosters crime, invading the privacy of citizens and insulting their honor or dignity, and propagating pornography and immorality. There are also clauses against libel and defamation in the criminal code, and an anti-defamation clause in the civil code. Government officials sue journalists more frequently for defamation than for libel. In 1998 and 1999, there were several cases of journalists sued by government officials on these charges. All of the cases, however, dragged on in the courts and no final decisions were reached as of mid-1999.

Journalist Avtandil Meskheli was harassed by the defense ministry, which drafted him into military service after he published an interview with soldiers in May 1998 which exposed brutal hazing in the army. Later that year, the court found that Meskheli was drafted in violation of the law.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Almost all of the print media are formally private, though descendants of major official newspapers from the Communist period (such as the Georgian-language Sakartvelos Respublika, or the Russian-language Svobodnaya Gruziya) receive government subsidies and serve as its propaganda outlets. While independent newspapers dominate the market, they suffer from small circulations and a generally low level of professionalism. Major dailies are Alia (approximately 12,000 copies), Akhali Taoba (9,000), and Resonansi (6,000). Kviris *Palitra* is the most popular weekly digest (35,000), followed by the weekly tabloid *Asaval-Dasavali* (23,000). There are many registered independent newspapers outside the capital (exact numbers are unavailable), although few manage to appear regularly and maintain genuine independence.

The State Television Company controls both television channels that broadcast nationally, as well as the only nation-wide radio network. *Rustavi-2*, which began operating in the small town of Rustavi, has become Georgia's major independent television station. After having begun broadcasting in Tbilisi in 1996, *Rustavi-2* has been expanding its reach to other parts of the country. The station's success has cleared the way for other privately owned television channels, eight of which broadcast in Tbilisi. According to the Internews Tbilisi office, 37 independent television stations operate outside of the capital, although many of them broadcast irregularly.

Internews Tbilisi reports that there are 17 independent radio stations in the country, with approximately half located in the capital. Radio "Fortuna" and its Russian twin "Era" (in which the American company Metromedia holds shares) broadcast throughout almost the entire country.

4. Are the private media financially viable?

The circulation of most newspapers is small, largely because the price of $0.25 or more per issue is too high for most readers. As the advertising market is not well developed, despite some progress over the last three to four years, sales continue to be the major source of income for most newspapers. However, a number independent newspapers, including *Alia*, *Akhali Taoba*, *Resonansi*, *Kviris Palitra*, and *Asaval-Dasavali*, have been financially viable for several years, and are even able to pay their employees above-average salaries. Like most businesses in Georgia, newspapers are involved in tax evasion (they insist they have no other option under current economic circumstances), which makes them potentially susceptible to government pressure. An audit of *Resonansi* finances by the Tax Inspection just before the 1995 elections is often regarded as an example of indirect governmental pressure.

The television station *Rustavi-2* and several radio stations have thus far proven to be financially successful: advertisers prefer electronic media since they enjoy wider reach. However, television and radio stations do not have the funds to diversify their programming. Most television and radio stations produce primarily news and talk shows; almost all other programming consists of frequently pirated films and soap operas (on television) and music (on the radio).

Outside Tbilisi, both print and electronic media are less financially viable. Most depend on grants from foreign foundations or the patronage of local businesses.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The state-controlled media, which are widely understood to express the views of the government, cannot be considered editorially independent. During the last year, competition from *Rustavi-2* and other independent channels has pushed state television in the direction of greater openness and diversity. Most of the country's independent media are not subject to government censorship. While general allegations that newspapers are secretly linked to powerful individuals or political parties abound, there is no credible evidence that major newspapers have such ties. A number of newspapers emerged under the patronage of powerful groups, but these publications have not been successful in the long term. Many independent media outlets express an indiscriminately cynical attitude toward all political groups. The absence of a clear dividing line between fact and opinion is a characteristic of almost all independent media.

Journalists frequently exercise self-censorship on certain topics, including particular politically sensitive matters and issues which are perceived to enjoy widespread popular support. For example, it is relatively difficult to publish articles critical of the Georgian role in ethnic conflicts in Abkhazia or South Ossetia. The level of editorial independence of the media is considerably lower outside Tbilisi than in the capital. In particular, the more repressive local regimes of Abkhazia, South Ossetia, and Ajaria impose greater restrictions on media freedoms. In 1998 and 1999, there were several occasions when journalists in Georgia were beaten by policemen (in some instances by senior officers) while attempting to gather information, with the offenders not held legally responsible.

6. Is the distribution system for newspapers privately or governmentally controlled?

Both state and private agencies are active in the distribution market, with the share of private agencies increasing. "PGS Ltd." (Press Distribution Service), established by four independent newspapers (*Alia*, *Akhali Taoba*, *Resonansi*, and *Shvidi Dghe)* in 1996, is the largest distributor in Tbilisi (some 50 percent of the market), followed by the government-controlled *Matsne* and smaller private agencies. The state agency *Sakpresa* dominates distribution outside of Tbilisi, but the private *Presinfo* has gained a foothold there as well.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The percentage of the population connected to the Internet is quite small, although it increased rapidly last year. No exact data is available, but expert estimates claim 7,000 to 8,000 accounts, with about 5,000 of them in Tbilisi. The actual number of users is probably several times greater, as several people, even a computer network, are often hooked up to a single account. While no detailed statistics are available, the percentage of the population connected to the Internet is estimated at less than one percent. The relative normalization of electricity supplies, the development of new digital telephone stations, and the slashing of prices because of the emergence of new Internet service providers will all help to increase the number of people connected to the Internet. With prices still high ($0.8 per hour), the Internet is currently accessible mainly to NGOs (thanks to grants from various foundations), the government, wealthy private organizations, and a small group of relatively affluent individuals. In most regions outside Tbilisi, the Internet is still a rare luxury. Sanet and ICN are the two leading firms in the providers' market.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The major press and journalists' associations are the Free Journalists' Club, the Association "Free Press," the Tbilisi Press Club, and the Media Institute. The Liberty Institute, whose activities are not limited to media issues, is the most visible group promoting media rights. The Federation of Journalists, a successor to a Soviet-era organization, is also active. No figures on the number of women members of these associations are available. In the journalistic community itself, however, women are quite active and may constitute more than 50 percent of all reporters (thought not all editors).

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

According to Freedom House's annual *Survey of Press Freedom*, Georgia was rated "Partly Free" in 1992 and 1993, "Not Free" from 1994 through 1996, and "Partly Free" from 1997 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.50/7

1. Is the legislature the effective rule-making institution?

The parliament is the effective rule-making institution. Under the 1995 constitution, the president cannot dissolve parliament and must secure its agreement to the "main principles" of his budget before submission. Under Article 73 of the constitution, the president issues decrees and orders on the basis of the constitution and other legislation. According to the 1996 Law on Normative Acts, laws adopted by parliament take precedence over presidential decrees. The parliament elected in 1995 was much more efficient than its predecessor because it featured a stable majority and a reform-minded leadership. There have been 685 bills passed since its election, including a civil code, a tax code, an administrative code, and other important pieces of legislation. It thus completed its task of putting Georgian legislation in accordance with the new 1995 constitution and created a legislative basis for a democratic political system in Georgia. However, the implementation of the new legislation was often less successful as many key ministers did not share parliament's orientation toward reform. The parliament was also less than successful in exercising its function of overseeing the executive. There were instances when ministers defied parliament by refusing to attend its sessions after being summoned.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

The 1995 constitution does not define a territorial arrangement of the country, since the required two-thirds majority of parliament could not be reached on this issue. It was postponed until the territorial integrity of the country was restored. The law on administrative-territorial arrangement, enacted in February 1997, filled that void, at least in part. There are three levels of subnational government in Georgia. The territory of the country is divided into 12 regions or *mkhares,* which include the capital Tbilisi and the autonomous republics of Abkhazia and Adjaria. This subnational level of government was introduced after independence in 1993 when the president appointed "authorized representatives" to respective regions; it was written into law in 1997. The functions of this level of government are still vaguely defined—both in legislation and in practice. The subnational level overlaps with the Soviet legacy of autonomous units, of which there were three in the Soviet Georgia: the Abkhazian and Adjarian autonomous republics and the South Ossetian Autonomous oblast. The Georgian Supreme Soviet abolished the latter in 1990 during the conflict over secession. In fact, territories of Abkhazia and approximately 15 percent of South Ossetia are outside the government's control. Ajaria is not trying to secede but its leadership often defies Georgian legislation and the division of authorities between the center and autonomy remains to be explicitly defined. Lower levels of administrative-territorial arrangement have not changed since the Soviet era; they comprise the district (*rayon*) level, towns, community, settlement, and village.

Executive power on the regional and district level belongs to the president's appointees (called, respectively, governors and *gamgebeli*). The mayors of the seven most important cities are also appointed by the president (though in three of them: Sukhumi, Tskhinvali, and Batumi—respectively, the capitals of Abkhazia, Ossetia, and Ajaria—this right is not enforced in practice). This arrangement makes the system highly centralized in those areas where the central authority is not openly defied. Local elected bodies were first created in March 1991, but most of them ceased to exist after the coup in January 1992, and their term expired in 1994. New elected bodies (*sakrebulos*) were only created on the level of districts and towns after the November 1998 elections. Their competence, as defined by legislation, is very limited: local councils approve budgets submitted by gamgebeli, but if they fail to do so in the fist two months of the year, they may be dismissed by president. In practice, however, some sakrebulos (especially those that the opposition controls) challenge the authority of appointed administrators, and their election has significantly changed the political dynamics in many regions.

3. Are subnational officials chosen in free and fair elections?

The first elections to local district-level councils (sakrebulos) were held on March 31, 1991. Gamsakhurdia's Round Table bloc failed to win majorities in

most sakrebulos. The next elections did not take place until November 1998. At that time, members of local councils (sakrebulo), as well as administrators of the primary level of the local government (villages, communities, settlements, and small towns) were chosen. The elections were considered by most international and local observers and journalists as mainly free and fair throughout most of the country's territory. The ruling party, Citizen's Union of Georgia (CUG), received a plurality of votes in most districts, but opposition parties created majority coalitions in many essential areas (including largest cities such as Tbilisi, Kutaisi, and Rustavi). Elections on the territory of the Autonomous Republic of Ajaria were an exception: the locally dominant Democratic Union for Revival (DUR) carried 97 to 98 percent of the vote, and gained all the seats on all levels of local government.

In September 1996, legislative elections were held for the Supreme Council of the Ajarian Autonomous republic. No international observers or Georgian NGOs were admitted to monitor the elections. The DUR won almost all of the seats. Presidential and parliamentary elections have been held over the past few year in the self-proclaimed independent territories of Abkhazia and South Ossetia, but the elections were not considered legal by either the Georgian government or the international community, and they were not monitored by international observers.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Parliament operates with increasing transparency and openness. The media and public are advised of upcoming debates and legislation, and parliamentary proceedings are televised. According to parliamentary protocol, MPs, government representatives and other invited people may participate in meetings of parliamentary committees, and different lobbying groups as well as journalists widely take advantage of that ruling. The executive continues to be relatively closed, although some ministries have become more accessible. In practice, many ministries still give precedence to their own regulations over laws, though this is illegal. Lack of transparency is especially characteristic of the subnational levels of governments functioning outside Tbilisi, as civil society is much weaker there and exerts lesser pressure on the government.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenue autonomously or from the central state budget?

Municipal governments are subject to the same economic privation as other levels of the Georgian government. By law, they have revenues from managing municipal property and local taxes, but in practice, they remain heavily dependent on transfers from the state budget. This increases the power of the centrally appointed gamgebelis, since the timeliness of the transfers depends on their activities. Tbilisi and Kutaisi, the two major municipalities, are exempt from laws that require the mkhare to contribute a fixed percentage of their revenues to the central budget.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

As a result of November 1998 elections, many politically inexperienced people became deputies of local councils of different levels. The National Democratic Institute of the United States conducted seminars for chairpersons of local councils in December 1998. Local civil servants are more experienced but reputedly corrupt, and political loyalty and family connections are often more important in securing civil service appointments than professional competence. The Office of Regional Management with the President's Chancellery has a training center for local civil servants.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The 1995 Constitution left a void on questions of territorial arrangement and local power until the territorial integrity of the country is restored. It states only a general principle that "the citizens of Georgia regulate matters of local importance through local self-government as long as it does not encroach upon national sovereignty" (Article 2). A package of laws was adopted in the period from 1997 to 1999 that introduced considerable changes. Most notably, the laws defined the powers of the newly created regional level of administration and of elected local assemblies, and they regulated the eco-

nomic activities of local power suppliers. An October 1997 bill introduced a legal basis for the civil service. This law distinguishes between state service and local self-government service: according to Article Four, a civil servant who works for the state is defined as a state servant, while one working for a unit of local self-government is a local self-government servant.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
On August 24, 1995, parliament adopted a new constitution after lengthy discussions between the pro-government coalition and the opposition. It instituted an American-style separation of powers between president, parliament, and the judiciary. The national legislature is unicameral, though it is supposed to be divided into the Council of the Republic and the Senate after the territorial integrity of the country is restored (that is, when the conflicts with the breakaway regions of Abkhazia and South Ossetia are finally resolved). A constitutional definition of the territorial arrangement of the country is postponed until the same period. A separate constitutional court was created in 1996 as a legal body for constitutional supervision. Its nine members are nominated for ten-year terms by the president, parliament and the supreme court (three by each branch of power). As of June 30, 1999 the state (in most cases represented by the president and parliament) lost 10 cases to individual citizens and organizations; in 15 other cases the court ruled in favor of defendants (41 more claims were not accepted for consideration, 13 were dropped because contested normative acts had lost force, and 6 were withdrawn by plaintiffs).

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
Chapter two of the 1995 constitution provides for basic human rights and freedoms. It guarantees freedom of speech, movement, and assembly, as well as freedom from torture, inhuman punishment, and discrimination based on race, language, religion, or sex. Article 21 of the constitution guarantees the right to own and inherit property. Article 30 requires that the state foster conditions conducive to the development of free enterprise. Business rights are further elaborated in the 1994 Law on Entrepreneurs, the 1996 Law on the Promotion and Guarantees of Investing Activities, the 1997 Civil Code, and other legislation. Individual citizens have the right to appeal to the constitutional court directly on claims of human rights violations. Article 43 creates the post of public defender, who is nominated by president and elected by parliament for a five-year term and is not accountable to the president or the parliament. The public defender is authorized to report on human rights violations to the appropriate authorities and to recommend criminal or other disciplinary procedures. However, most human rights groups have criticized the public defender's office as inactive, inefficient, and lacking independence. A number of laws passed in the period from 1996 to 1999 were supposed to create more specific mechanisms of protection of these freedoms. In some cases, however, they actually added restrictions to rights provided by constitution: for instance, the Law on Meetings and Manifestations requires special sanction for protests on streets and near government offices.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?
Reform of the criminal justice system was one of the priorities of 1995 Parliament. A package of new laws (including the Criminal Procedures Code and laws on Common Courts, on Procuracy, and others) sought to create a legal system with adversarial trials by reducing the pervasive powers of the procuracy, increasing the rights of defense attorneys, and enhancing the independence and authority of the judiciary. Only courts man now issue search and arrest warrants. The death penalty was abolished in November 1997. But these reforms met strong resistance from the procuracy and the police, so concessions were made to their

demands. In particular, the reform of the procuracy was postponed until 2000. A project of creating a separate investigative department was abandoned so that both police and procuracy could retain functions of investigation.

The new Criminal Code is modeled on the old Soviet one and many feared that it would restrict freedoms. (The final version was improved.) Moreover, new legislation is not always observed. The police operate with relative impunity and frequently violate the constitution. Police carry out searches without warrant and make unregistered arrests, often to extort money. Police have gradually begun to observe the constitutionally defined time limits on detaining suspects (suspects can be held no longer than 72 hours without being charged), but another constitutional requirement – that "the accused cannot be held on remand for more than 9 months" (Article 18)—is often violated. Prison conditions are grim and have been the subject of criticism by prisoners and international human rights groups. Prisoners are frequently beaten and abused by the police, and defendants routinely state during court proceedings that they admitted to crimes that they had never committed because of physical and psychological pressure. The constitutional right to an attorney at the time of arrest is often ignored. There have been several publicized cases in which suspects "dropped" to their death from detention wards of procurator's office—all of these cases were officially written off as suicides.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
Since May 1999, a new judiciary system has been in place. New judges had to pass exams conducted by the Council of Justice (with help from international organizations). Some Soviet-era judges passed the exams and retained their offices, but most of them were replaced by former defense lawyers, employees of the procuracy, and others. Separate arbitration that existed in the Soviet period to resolve economic disputes was abolished while its functions were transferred to common courts. The territorial structure of the judicial system was simplified. The judicial reform is seen by many as one of the most important achievements of the Georgian parliament, but its real results remain to be seen.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
According to the constitution, the judiciary is independent from any other branch of power. The constitution also prohibits judges from joining political parties or participating in political activities. After the judicial reform, the judges have been appointed by the president after being presented by the Council of Justice, a 12-member consultative body that includes nominees of the president (four members), parliament (four members), and the supreme court (one member), with the chairman of the supreme court and the chairmen of the supreme courts of the Abkhazian and Ajarian autonomous republics as *ex officio* members. It is widely believed that new judges will be politically independent, though as of June 1999 it was still too early to evaluate this. Until the reform, the judges were vulnerable to political pressure, particularly from the executive branch.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
While no exact data is available, according to the Georgian Young Lawyers' Association, approximately 30 percent of active lawyers are in private practice, and their number is increasing. During the last two years, the most qualified lawyers have been moving to private practice, since there is growing demand for them and government can offer only small salaries. The exceptions are the new judges, whose wages are relatively high by the Georgian standards (the equivalent of $250 to $300).

7. Does the state provide public defenders?
The state is required to furnish legal counsel if the defendant cannot afford his or her own attorney. The constitution and the Criminal Process Code grant access to a lawyer from the moment of arrest. But though police stations are supposed to have public defenders, the salary is so small that the position often remains vacant. Bureaucratic complications and a lack of legal education on the part of citizens hinder actual access to public defenders.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Article 38 of the 1995 constitution mandates equal treatment of all citizens regardless of ethnic, linguistic, or religious identity. There exists no special legislation on protection of ethnic, linguistic, or religious minority rights, but many other laws (e.g., on citizenship, on education, on healthcare) include special anti-discriminatory clauses. For instance, Article Four of the law on education guarantees education in one's native language. In May 1999, Georgia joined the UN Covenant on Elimination of All Forms of Racial Discrimination.

9. Are judicial decisions effectively enforced?
The poor enforcement of judicial decisions is one of the major problems of the Georgian law-enforcement system. This is especially true in civil law, when a state agency loses a case in court.

CORRUPTION 5.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Assessments of the business climate in Georgia consistently rate official corruption as one of the major impediments to doing business in the country. Police, the procurator's office, tax inspection, and customs have the worst reputations for corruption. The deep corruption of the last two agencies is usually considered responsible for the extremely low level of tax collection. Small bribes are routinely requested for different services in state agencies, though they may be avoided. For instance, to obtain a passport or other ID requires bribes only if they are needed fast. University entry procedures in the most prestigious schools are widely believed to be corrupt as well. Some services that were corrupt in Soviet times (such as hospital admission or telephone installation) have been commercialized, replacing bribes with official fees. Nevertheless, additional payments are still often extorted for telephone installation. In 1998, the average monthly wage for public sector employees was 35 to 40 lari ($27 to $31), but after currency depreciation in December 1998, its dollar equivalent dropped to $17 to $20. However, the rates of salaries are different from one state agency to another. For instance, the salary of a civil servant in the ministry of finance exceeds the salary of an employee holding an equivalent position in the ministry of education by 50 to 70 percent. Salaries in customs and tax offices are the highest in the executive.

2. Do top policy-makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
A number of high-ranking officials have been accused of having ties with various legal and illegal businesses. The case of Minister of Communications Pridon Injia was the most notorious, as he used his position to create a network of powerful companies, owned by himself, his family members, and his associates, that controlled most communications' business in Georgia. Under severe criticism from NGOs and parliament, he was forced to resign in September 1998 and a criminal case was opened against him, though it did not reach the court. In June 1997, the Minister of State Security was accused of controlling the illegal trade in cigarettes (he was also forced to resign, but illegally wiretapping journalists, not his business connections, was the main reason). A scandal in the Adjar Automomous Republic in 1999 was tied to the near collapse of Georgia's merchant fleet. The Georgian prosecutor, Djamlet Babilashvili, accused the mayor of Batume, Aslan Simirba, of misappropriating at least $370,000 from the fleet funds, including $250,000 transferred from a London bank to a special fund controlled by the chairman of the Adjar Supreme Council, whose name is Aslan Abashidze. Abashidze, a presidential candidate, has other unsavory connections, including Grigory Louchansky, a Russian businessman and alleged mobster who surfaced as a campaign donor to the Democratic Party in the U.S.

Allegations against other high ranking officials who are still in office were discussed in the media and in the anticorruption commission of parliament, but the allegations led nowhere. There have been no corruption trials of high-ranking officials and, in many cases, it is difficult to determine whether the allegations are true or politically motivated. Most corrupt activities involving high-ranking government officials involve illegal trade in commodities — including electricity, oil, and manufactured goods — that are regulated by the ministry in which the official is employed. A second category of corruption involves the evasion of customs and excise duties on imported goods that are intended for use within Georgia or for reexport to Russia, Azerbaijan, Armenia, and Iran. Several close relatives of president Shevardnadze run successful businesses and are widely believed to enjoy unfair advantages over their competitors.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

According to a law "on Corruption and the Incompatibility or Interests in the Public Service" enacted in October 1997, high-ranking public officials (including parliament members, ministers, and their deputies) or members of their families cannot hold a position in a commercial agency whose activities are supervised by the government agency that he or she works for. He or she must also submit a declaration on property and income that is open to the media. Later, by presidential decree, this requirement was extended to all civil servants. Public officials mostly complied with the requirement to submit declarations but the measure did not have any effect, since the information provided was not checked. As for conflict of interest per se, some high-ranking officials complied by giving up their positions in different businesses, while others ignored the law without repercussions. Although many cases of high-level corruption have been discussed in the media and in parliament, none of them have reached the court, though there were cases in which corruption allegations led to resignations and firings. According to Article 97 of the constitution, financial and economic oversight of state revenues and other state expenditures is the responsibility of the chamber of control of Georgia. It has a reputation of being an honest agency and its audits of many state agencies have been reportedly critical. Details of its reports are not made public, but according to various leaks, serious allegations were revealed and the information passed to the procuracy; there have been no repercussions for anybody. No other independent audits of state agencies have been conducted. While the term "racketeering" is not included in the country's 1999 criminal code, Article 1818 establishes the punishment for extortion from a monetary fine to up to six years in prison.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

The public perception is that corruption is extensive. In a survey conducted in 1997 by the Arnold Bergstraesser Institute and the Caucasian Institute for Peace, Democracy, and Development, only 1.5 percent of those surveyed said that they expected a fair procedure in the tax office; only 1.7 percent expected police investigations to be fair (the court received a relatively high rating of 12.1 percent). In May 1998, the World Bank surveyed the general population, the business community, and public officials in Georgia and also discovered a high level of public concern about corruption. Traffic police, ordinary police, and customs and tax authorities had the worst ratings of corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Several anticorruption amendments to the Soviet-era code have been adopted, but with little effect. In 1995, parliament created a special anticorruption commission that raised corruption charges against high-ranking officials in the executive. Its pressure has led to some resignations: for instance, in the spring of 1998, the minister of energy, Davit Zubitashvili, was removed because of pressure from

the commission. A project of setting up a special anticorruption commission within the executive was discussed and promoted by President Shevardnadze. The World Bank and IMF have also supported the idea, but it has yet to be put into practice. Other measures aimed at curbing the shadow economy include stricter fiscal regulation and new laws and the establishment of regional anticorruption groups.

6. Is there growing public intolerance of official corruption as measured in polls? Are **there effective anticorruption public education efforts?**
There has been no serious effort to educate the public about corruption. There has been no specialized research on the level of public intolerance of official corruption. Anticorruption slogans are widely used by the political parties, and there is a strong consensus in the media, with the NGOs, and among politicians and commentators that corruption has become one of the central problems impeding Georgia's development.

7. How do major corruption-ranking organizations like Transparency International rate this country?
Georgia was rated 84th out of 99 countries by Transparency International in its 1999 Corruption Perceptions Index, and it received a score of 2.3 (where 10 is least corrupt and 0 is most corrupt).

Economic Liberalization

PRIVATIZATION 3.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
According to the State Department of Statistics of Georgia (SDS), private ownership provided for 74 percent of GDP in 1998. Approximately 66 per cent of the labor force is employed in the private sector. According to the SDS, the informal sector of the economy accounts for 40 percent of GDP, while the Ministry of Economy assesses it at 70 percent. The first number is used as official.

2. What major privatization legislation has been passed? What were its substantive features?
The Law on State Property Privatization enacted on May 30, 1997, currently regulates the privatization process and three subsequent amendments to it. This law invalidated 29 legal documents regulating the privatization process since 1991. It does not, however, cover land and housing privatization. Housing was largely privatized back at the beginning of the decade under the appropriate Soviet law, which allowed anyone to privatize housing that they occupied at a nominal price and with a minimum of bureaucratic procedures. The Law on the Ownership of Agricultural Land, passed in March 1996, regulates the privatization of agricultural land. This law also legalized whatever agricultural land privatization had taken place since 1992, following the appropriate decree of the cabinet of ministers. On November 12, 1998, the Law on Urban and Industrial Land Privatization was enacted, which declared the land allocated to privatized enterprises, private legal entities, and citizens to be private, based on existing drafts and documents. Privatized land is being registered rapidly without additional surveying, after payment of a one-time fee. Under the new law, future privatization will include land as an integral part of enterprise assets being sold. In the first half of 1999 about 2,500 companies have registered their land.

Although enterprise privatization began in 1993, the official large-scale privatization program introducing privatization vouchers was launched on April 27, 1994. Though the vouchers were distributed to all citizens of Georgia, only 1 in 17 or 18 families actually participated in the process, while most people sold their vouchers well below the nominal price, and the more affluent simply kept them as souvenirs. Special voucher auctions lasted from June 1995 until July 1996; 13,148 small enterprises were privatized from 1993 until early 1999, 36 percent of them being sold in 1995. This constituted almost all of the nation's small enterprises. The plurality (36.6 percent) of these privatized small enterprises represented commercial outlets. Medium and large enterprises were transformed into joint stock companies with a subsequent sale of shares. As of mid-1999, 1,149 such JSCs were established, out of which approximately 990 were privatized as a whole or in part. Foreign capital is encouraged to participate in the privatization process. Im-

portant acquisitions (most of them taking place in the last three years) include the sale of Tchiatura manganese mines, once a backbone of Georgian industry, to a major Czech metallurgic company; Poti fishing to a British Ocean Sea Products LTD, Ksani Glass Factory to Turkish owners, Poti Ship Building Factory to a subsidiary of Hyundai Group, Tbilisi electricity distribution company "Telasi" to the American firm AES. Following World Bank recommendations, 59 more medium and large enterprises were set aside for privatization in two tires (28 and 31, respectively) in early 1999. The Georgian government considers reforming three crucial sectors of the economy—energy, telecommunications, and transportation—to be the priority for the coming years. However, the strategy is to transfer controlling packages of enterprises through international tenders for long-term (about 20 to 25 years) right of management, without the right of purchase. Transportation is especially important, since Georgia considers its transit capacities as the key for its economic future. This sector is mostly concerned with upgrading the efficiency of the strategically important Poti seaport, creating a variety of privately controlled operational enterprises.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Eighty percent of the agricultural production is in private hands. According to the IMF, by June 1999 over three-quarters of the enterprise sector equity as measured by book value remained in government's hands. Government retains control over most large enterprises, but many of them stand idle or use only a fraction of their capacity. About 75 percent of housing has been privatized, as well as 24.9 percent of agricultural lands. More than 95 percent of services are private. There is no official information on small businesses, although SDS estimates private sector participation in small industry at 87 per cent.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The staff of privatized enterprises had special privileges in the privatization process, enjoying a right to buy shares directly, at a minimum price, after presenting a proper business plan. Only if employees failed to bid did an enterprise become subject to other forms of privatization, like competition, auction, or lease-redemption. In small enterprises, employees could pay between 50 and 65 per cent of the "striking price" in cash, and the remainder in vouchers. In some sectors of economy, this was the major form of privatization. For instance, in health care, 415 out of 474 privatized enterprises were directly sold to employees; the same held for 52 of 99 bakeries, etc. However, with regard to almost all valuable enterprises thus privatized, ownership by employees was only formal, with Soviet-time managers or people with nomenklatura connections exercising real control. For instance, its former manager owns Amalthea, the most successful dairy factory in Georgia, which was transformed into a JSC. In some cases, top managers of enterprises set aside for privatization were keeping outsiders from bidding (often using force or the threat of it) until the privatization took place at a starting price of 1 lari.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

At the initial stage of the privatization process the general public was well aware of it and even enthusiastic about it. This enthusiasm disappeared, however, as soon as it turned out that owning shares of privatized enterprises brought them very little or no benefit at all. Today the issue is almost forgotten, save for the people whose well being would be directly affected by privatization in the near future. In particular, employees of hospitals that are to be privatized in the near future have been in open conflict with the Ministry of Health: they do not want to buy their hospitals, even if they are in the financial position to do this, fearing that they will not survive without state support. The Maternity Home N3 of Tbilisi even appealed to the Georgian Orthodox Church in order to change ownership from state to church with appropriate guarantees of future employment and direct financing (though it is uncertain how such a transaction could be implemented under existing law). There is also strong opposition to privatization among employees of large industries (supported by the left-wing political parties) that appears to be provoked by the local managerial nomenklatura.

MACROECONOMIC POLICY 4.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

In June 1997, parliament passed a new tax code supplanting or incorporating all previous laws and amendments. This document heavily relies on Western models; some clauses even appear to be simply translated from German law. International organizations generally consider this document to be acceptable, although some articles are subject to conflicting interpretations. The state tax service is the only body authorized to assess the tax liability of enterprises. The formal tax burden is approximately 40 to 55 percent on average, with a banking sector subject to less than 20 percent. As of today, the corporate tax rate was set at 20 percent. Personal income tax ranges from 12 to 20 percent. In addition, there is a 20 percent value-added tax. Since 1998, the government increased excise tax on liquid fuel up to 60 per cent and introduced excise stamps on cigarettes and alcohol. Tax privileges were canceled for most previously tax-exempt organizations and income tax for private individuals on inheritance and gifts was reinstated. In 1996, a new tax-collecting body for the big taxpayers that provide about 50 percent of total tax revenue was established. It limits the number of inspections by municipal, regional, and federal tax services, which previously had overlapping authority.

In spite of tax reforms, evasion remains endemic. The government finds it difficult to collect more than ten percent of the country's GDP in taxes. The best year of tax collection was 1997, but the situation has been deteriorating since, though some progress was formally achieved in the second quarter of 1999. Tax collection increasingly resembles an emergency campaign rather than a normal, orderly procedure, and state authorities may be reverting to means of questionable legality. For instance, many believe that the fiscal targets for the second quarter of 1999 were only reached because the tax authorities wrote off the necessary sums from the bank accounts of companies that maintained sizeable deposits. A large share of the shadow economy, insufficient punishment mechanisms for nonpayment, and the financial difficulties of many of the country's largest enterprises are among the reasons for low tax collection. The vast majority of tax service inspectors has only superficial knowledge of tax legislation, is poorly and irregularly paid, and is widely considered corrupt. On the enterprises' end, qualified accountants are also rare, especially with the introduction of a new accounting system based on international standards. This invariably leads to conflicts on ascertaining proper tax rates or establishing facts of tax evasion. Corruption in the local government and law enforcement bodies is also a big factor: almost all entrepreneurs have to pay "protection money" to the latter before they can take care of official taxes.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Formally, fiscal policy encourages savings through its emphasis on fighting inflation. However, many aspects of the system, as it operates in practice, discourage legal earnings, savings, and investments. With widespread corruption in place, declaring both corporate and private earnings is tantamount to inviting numerous "tax collectors"—mainly illegal—to prey on these earnings. There have been no major alterations of revenue and budget policies recently, since the administration is preoccupied with reducing budgetary spending and maximizing tax returns using straightforward fiscal and administrative measures.

The share of social security spending in GDP more than doubled over the last three years (to about 3 percent of GDP). This made it the single largest consumer of public money in Georgia (21.5 percent of consolidated budget expenditures in 1998). The IMF has evaluated the Georgian social support system as "unsustainable" in its current form.

Georgia's national debt is very large as compared with the size of its economy and population. In June 1999 it amounted to about $ 2.2 billion, of which state debt and debts guaranteed by the state run as high as $ 1.668 billion. Only one debt is overdue and unsettled so far, namely $118,8 million to Turkmenistan for the supply of natural gas. In some cases, debts are accumulated for political reasons: for instance, the local

energy sector owes Russia $44,8 million, out of which only .8 million comes to the local consumer proper; the rest is for electricity consumed by Abkhazia and South Ossetia, breakaway regions that are not controlled by the central government.

While Georgian budget deficits have actually fallen from 4.4 percent of GDP to 2.5 percent in 1998, this was achieved at the expect of stringent spending controls and deliberate non-payment of public sector expenses rather than an improvement in revenue collection. Subsidies and direct credits to firms have been almost completely eliminated since the autumn of 1994. The remaining subsidies to firms are indirect, such as tolerance of payment arrears on energy or other kinds of bills. During the last two years, the government indirectly subsidized the energy sector by deducting electricity payments from every payment to the population (1.8 lari from every social payment and 2.5 lari from the salaries of public employees).

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The National Bank of Georgia (NBG) was created in August 1991, even before the final collapse of the Soviet Union. Although supervised by parliament, the NBG is independent of other government controls and is responsible for government liabilities only when such responsibility is initiated by the NBG. Its primary functions are to provide national monetary policy and licensing; to possess, save, and dispose of NBG official international reserves; and to issue regulations and instructions for commercial banks, as well as to provide supervision over their legal activities. A new national bank law enacted in June 1995 strengthened the NBG's authority to implement anti-inflationary monetary policy and supervise the banking system. The NBG is credited with successfully organizing and implementing the monetary reform of 1995, including the introduction of the lari, and with maintaining the stability of the national currency from 1996 to 1999. In February 1996, parliament adopted an IMF-recommended commercial banking law, which strengthened the provisions for scrutinizing new private banks, developed capital provisions more fully, and increased the NBG's power to liquidate banks and regulate mergers and monopolies in the financial markets. The NBG keeps tight control over banks' solvency, liquidity, and stability, including the increase of charter capital. As of June 30, 1999, the minimum capital requirement for commercial banks is 2 million Lari. A further increase up to 5 million is planned by the end of 2000 – a change intended to encourage mergers between small banks. The NBG is obliged to revoke licenses and start the liquidation procedures of all banks with CAMEL 5 ratings and limiting the activities of all CAMEL 4 rated banks. As of May 1999, some 75 percent of the banks had a CAMEL 3 rating or better (CAMEL is an international system of rating banks by measuring their capital, assets, management, earnings, and liquidity). The number of banks declined from 247 in 1995 to 70 in early 1998. As mandated by the February 1, 1999, banking law, the NGB requires banks to carry out annual external audits by international auditors. It is also tightening loan-loss provisions. International Accounting Standards are also being developed and implemented for domestic commercial banks, with December 31, 2000, as a target date for full conversion of banks to these standards.

Since the beginning of 1996, commercial bank deposits have increased threefold, in part thanks to the public's growing trust in banking institutions and the national currency. Bank lending, however, remains problematic. Banks tend to hold their deposits rather than make new loans, and, when they do lend, they charge high interest rates. Interest rates range from 2 percent per month, at best, to the most common rate of 3 to 5 percent, while rates of 6 to 7 percent per month are not unknown as well. Attaining credit more often than not depends on personal contacts inside the bank, rather than on a sound credit plan and guaranties. Although Georgian law does not limit the free flow of financial resources, the flow is restrained in practice because of the lack of financial resources in commercial banks, widespread cash settlements, and a lack of trust that resulted from the early-1990s scandals involving local financial companies. According to several surveys conducted since December 1998 by SDS, only approximately 4 percent of the population trusts local banks enough to deposit their money there. Most banks issue three- to six- month credits, which function as money market instruments and are used for commercial operations.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The stability of the local currency was guaranteed by a strict monetary policy, manifested in a restriction of the amount of cash in circulation and interventions of the National Bank of Georgia (chiefly using money provided by international donors). A constant shortage of cash for salaries and other payments and the reversal of the major part of the countryside to a barter economy represented the reverse side of this policy. The lari is fully convertible. Until the end of 1998, the NBG maintained a "managed float" policy and the exchange rate of the lari to the dollar remained more or less stable, changing from 1.23 in 1995 to 1.29 in 1997. Starting from mid-August 1998, however, the lari depreciated against the dollar. This depreciation was triggered by the Russian economic crisis as well as by widespread publicity of the nation's budgetary problems—though the overall weakness of the local economy and poor fiscal policy are root causes. The NGB intervened through December 7 in a vain attempt to save the lari and stopped intervening only after losing $65 million and draining gross reserves to a low $64 million — the equivalent of 3 weeks of import. The lari has floated since then. Its exchange rate dropped from 1.73 immediately prior to the cessation of intervention to 2 to 2.2. After a period of violent swings, the rate stabilized by March and started slowly to improve, reaching the rate of about 1.9 per dollar by the summer of 1999. Gross international reserves were in the best shape back in 1995 when they amounted to 2.7 months of the import of goods, or $157 million. Average 1998 reserves were equivalent to 1.2 month's imports. By April of 1999, they reached $95.8 million or 4.3 weeks' imports, and they continued to recover later.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The capital market infrastructure in Georgia is in a very early state of development. The only available money market instruments are the NBG's credit facilities and interbank funds. The investment regulatory system is underdeveloped. Some regulations, however, have been adopted. These include a presidential decree on specialized investment funds, a licensing procedure for participants of securities markets, and NBG regulations on futures trading. Although special investment funds established in connection with the voucher privatization program were intended to promote the development of an equities market, they failed to perform adequately. The ministry of finance regulates securities markets in the country. There is no stock exchange, nor is there equities trade. Shares of enterprises are sold during privatization, but this is a one-off procedure and these shares are hardly ever resold.

MICROECONOMIC POLICY 4.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

According to Article 21 of the constitution, the right to property and inheritance is guaranteed. Article 23 guarantees intellectual property rights. Protection of the latter are also guaranteed by other legal acts: the Patent Law of Georgia (in effect since May 24, 1999) protects inventions, utility models, and industrial designs; the law on Trademarks (May 24, 1999) protects trademarks (service marks), while the copyright and neighboring rights come under the Copyright Law (November 1997) and book IV of the Civil Code of Georgia. Georgia has also joined the Paris convention for the Protection of Industrial Property, the Patent Cooperation Treaty (PCT), the Madrid Agreement Concerning the International Registration of Marks, and the Bern Convention for the Protection of Literary and Artistic Works.

The constitution permits the expropriation of property for "necessary social need" in cases determined by law or a decision of the court or through "urgent necessity." In all cases, however, full compensation must be made. No expropriations took place in reality. The Law on Ownership of Agricultural Land was passed

in March 1996. Under the new law, land can now be bought, sold, leased, and inherited freely. There is a formal land registry dating from the Soviet era, but it is inaccurate. Currently a new land registry is being developed with the help of the German government.

2. To what extent have prices been liberalized? What subsidies remain?

The prices of more than 90 percent of consumer goods and services were liberalized in 1994. Many of the remaining prices were freed from control in 1995 and 1996. As of early 1999, only prices for energy and urban electric transport remained controlled. The special independent board that set the 1 kWh price at 0.09 lari controls the price of electricity. The price of natural gas is also controlled.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Does regulation or do licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The Law on Entrepreneurial Activity, enacted on October 28, 1994, and becoming effective for the most part on March 1, 1995 was one of most significant steps in economic reform. It codified and fundamentally changed many corporate laws and regulations. It authorized six forms of business entities, including the joint-stock company and the sole proprietorship, and required that all companies introduce internationally acknowledged accounting methods, a process due to be completed by January 1, 2001. Other crucial legislation includes a lease law, a bankruptcy law, a law on ownership rights, law on investment activity (providing Georgian and foreign investors similar rights and guarantees), and a law on monopoly activity and competition.

Local courts must register new companies (including the company's charter and other required documents), assess the adequacy of the papers in meeting legal requirements, and record them. In reality, this procedure is relatively easy to implement. There are numerous local firms that undertake registration of new businesses for small sums in three to five days at most. Two steps that were not required by the law have been eliminated in the first half of 1999. These are the requirements to obtain a stamp or seal from the local police and the regulation of the NBG prohibiting commercial banks to open accounts for new businesses without a seal. A reform of the licensing regime is being prepared, including such measures as restricting licensing to a limited number of specified areas (e.g. where there is a direct, immediate and significant danger to the population) and simplifying the licensing process. Sometimes there are serious problems with starting business activities, but these are caused mainly by pressure of local administrations, the tax service, and law enforcing bodies that demand from potentially profitable enterprises more than these firms are able to pay.

The existing legal base for owning and operating a business is mostly sound, and citizens have full access to information on commercial law. However, government officials frequently interfere in business activities, usually by imposing informal taxes.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Until the spring of 1999, property and contract disputes were supposed to be adjudicated in a court of arbitration. The court was widely reputed to be corrupt, inefficient, and incompetent. With judicial reform coming into effect, the separate court of arbitration was abolished and all disputes have to be judicially settled in common law courts. The results of this reform remain unclear, though it is not expected to improve the traditionally poor level of enforcing court decisions. Hence, contract enforcement is still highly reliant upon informal negotiation and the support of powerful patrons and political contacts.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Under Article 30 of the constitution, the state is required to foster conditions for the development of free

enterprise and competition, and the monopolization of activity is prohibited except in cases envisaged by law. The Law on Monopoly Activity and Competition was adopted on September 26, 1996. The agency charged with anti-monopoly enforcement has the responsibility for all goods markets, while the NBG regulates the securities and financial markets. Business competition is hindered, however, by the continuation of Soviet-era patronage networks and by bureaucrats who create conflicts of interest by combining their official and private business activities. These patronage networks further hinder competition through their practice of "insider" dealing among preferred economic actors. Government-granted monopolies exist in such sectors as rail, air, and sea transport, and telecommunications and energy. Illegal monopolies exist in the most profitable liquid fuel and cigarette markets, protected by top state officials and often owned by close relatives of those in power. Although the comprehensive legal and institutional framework to regulate and manage state procurement is being established, in practice government procurement is far from being transparent and unbiased and is considered to be one of the channels of corruption.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Since Georgia was actively seeking an access to the WTO, all international trade procedures were brought into compliance with the standards of this organization. The trade regime is relatively liberal, with a maximum import tariff of 12 percent. The elimination of the export tax on scrap metal and the permission to export logs were the last acts by the government opening the way to the WTO. Here again corruption and illegal activities remain the major problem. According to existing assessments, the Georgian government loses at least 460 million lari in revenue because of smuggling through official customs. Authorities of Adjara simply use the major customs at the Turkish boundary for their own profit, withholding from the central government even those sums it is officially entitled to. De facto existing borderlines with Abkhazia and South Ossetia are not formally recognized as such and no customs regime is established there. As a result they (especially Ossetia) are wide open for smuggling as well. Cigarettes, petrol, alcohol, and flour remain the main and the most profitable objects of the off-the-books trade.

7. To what extent have foreign investment and capital flow been encouraged or constrained?

In an effort to attract more foreign investment, parliament adopted a Law on Investment Activity in November 1996. The law abolishes a licensing procedure, which many foreign investors considered burdensome, and replaces it with more automatic registration. The law does not require foreign investors to reinvest profits locally. It also abolishes the previous tax-withholding requirement of ten percent on repatriated profits or capital. Extensive corruption and fears of political instability arising from the unsettled conflict in Abkhazia, as well as violent incidents (among them an attempt on president Shevardnadze's life in 1998) are major factors discouraging investments. Direct foreign investments from 1995 to 1998 had reached 579.3 million lari (approx. $416.2 million) cumulatively, of which 53 percent were placed in the oil transit pipeline from the Caspian to Black Sea. Another 14 percent were invested into attempts to find marketable oil deposits. In industry, only food processing received a relatively significant (by Georgian standards) amount of investment, namely $21.6 million.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

One of the most precarious areas of Georgia's economy has been the energy sector. It was drastically affected by economic crisis. Disrepair, civil war, financial collapse and improper operation have all taken their toll. Serious blackouts occur as a result. In the winter of 1998 and early 1999, Tbilisi enjoyed only 4 to 6 hours of electricity per day, and the rest of the country averaged 3 to 4 hours (with some parts of the country receiving only negligible amounts). In combination with the near-suspension of the gas supply these shortages cause severe hardship and economic dislocation.

Since 1995, there have been efforts to restructure the sector. It was divided into independent entities

responsible for generation, transmission, dispatch, and distribution. Six percent of smaller plants were either privatized or leased to employees; 51 percent of capacity comes from state-owned corporate plants. The *Sakenergogeneratsia* company owns and operates 38 percent of capacity and manages all corporatized plants (save for the thermal power station Tbilsresi), as well as idle plants. The distribution sector was broken up into more than 70 municipally owned companies. The regulatory framework of the sector was considerably strengthened in 1997 by the passage of the Electricity Law, which created the independent Georgian National Electricity Regulatory Commission. It adopted a transparent tariff methodology and issued licenses to sector enterprises. As a key element of the reform of the power sector, some elements of a competitive wholesale electricity market are being introduced. The government considers the implementation of a comprehensive privatization program in the distribution and generation of power as the best way to improve the situation. The first large enterprise to be privatized in December 1998 was Telasi, the Tbilisi distribution company. Tbilsresi, the largest generation facility, is set for privatization in 1999. So far, the results of reforming efforts have been mixed. The power sector's financial performance has been improving gradually since 1994. End-user tariffs have increased by 200 percent or so to their present level of approximately $.45 per kWh. Collections have increased from 20 to 65 percent of billings, but appear to have stagnated at this level. Since the spring of 1999, power supplies in the capital have improved. But in general, the situation in the power sector continues to be dire.

In 1998, domestic consumption of natural gas dropped to approximately 14.7 percent of the 1990 level. All consumed gas is imported from Russia. Most of the gas received is consumed in power generation and by a few large industries, with households receiving only a small fraction (though gas supplies to individual consumers are gradually expanding). Gas transmission and distribution in Georgia is carried out by a state-owned company, Saktransgasmretsvi, about 30 gas distribution companies, a number of wholesale suppliers, and a single supplier at the Russian border - Itera Russia, an affiliate of RAO Gasprom. The transmission network itself is owned by the state Gas International Corporation of Georgia. Six of the distribution companies were privatized during 1998. Still, this process was conducted in a less than fully competitive manner, and the new companies may not be adequately capitalized.

The gas-sector reform program seeks to establish a framework within which private operation and investment will be encouraged to restore gas supply to consumers, while protecting them from abuse of monopoly power. The authority of Georgian National Electricity Regulatory Commission has been extended to include regulation of monopolistic gas supply. The remaining municipal gas distribution companies will be privatized as soon as the new gas regulatory framework is firmly established.

Georgia is serving as a transit country for the western export pipeline, which is operated by the Azerbaijan International Oil Consortium, and for the flow of Azerbaijani oil to European markets. The major hopes of solving the pressing energy problems lay in proposed projects of major oil and gas pipelines from Central Asia to the Mediterranean through Georgia that are currently being negotiated. Georgia hopes to keep part of transported fuel as a payment in kind to ensure reliable energy supply.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

In the second quarter of 1999, the national workforce amounted to 2,052,100. Georgian statistics does not differentiate between full and part-time employment, but there is information on secondary employment – 6.2 percent. 1,784,400, or 87 per cent of the workforce are employed. The major problem with these statistical data is that a large, though formally unaccounted for, part of this population is under-

employed, which means limited employment and low remuneration. The adult participation rate for women (15 to 59 years) is 84.5 percent, for men (15 to 64 years) – 84.0. The overall unemployment rate is 13 percent; for women it is 11.7 percent, for men, 14.3 percent. The labor exchange, however, officially estimates unemployment at 5.4 percent. Unemployment compensation provided by the state is 63.20 Lari (approx. $32), paid over the period of 6 months—9 to 12 Lari per month (from this, 1.8 Lari were deducted monthly for electricity payments). Instead of a median wage, the SDS calculates a "normative minimum wage", i.e. the amount that may provide minimum subsistence for a family of four. One employed living in such family should receive 43.5 Lari. Monthly unemployment payments thus constitute 20.7 to 27.6 percent of this sum.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

There is only a public pension system in Georgia. Pensions are allocated through the State Social Security Fund, operating under the Ministry of Social Affairs, Labor and Employment. About 24 percent of the money comes in the form of a central budget transfer; the rest comes from payroll taxes. These constitute 27 percent of the sums set aside by employers for remuneration. Besides, employers must allocate 3 percent more for medical insurance and 1 percent for an employment fund—a total of 31 percent. Employers consider this tax very high, so tax evasion is considerable, while arrears in pension payments average four to six months. In 1999, Lthe average monthly pension payments will constitute approximately $6.7 million per month. Overdue pensions amounted to about $25 million at the end of June 1999. Anyone reaching retirement age (60 for women and 65 for men) is given an old age pension. These pensions constitute 80 percent of all pensions. Other groups eligible for pensions are disabled persons (including children under 16), widows of war victims, those disabled at war and war participants and victims of political repression. The total number of these people is about 930,000. The old age pension is 13 Lari (approx. $6.5) a month, of which 1.8 Lari is deducted for electricity payments. Other pensions yield one to two Lari more. The ministries of defense, security, and internal affairs pay at least seven or eight times larger pensions to their retirees. In the last quarter of 1998, old age pension payments constituted 24.5 percent of the average monthly payments or 14 percent of the minimum subsistence level as defined in December 1998.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Median monthly income is not calculated. More or less reliable information on average monthly incomes has been available since the third quarter of 1996, when it amounted to 35 lari (app. $ 27.8) for the employed and 69 lari ($54.8) for the self-employed. In the fourth quarter of 1998 these numbers reached 53 lari ($34.2) and 118 lari ($76.1). Because of the lower exchange rate of the lari in December 1998, in 1999-dollar equivalents these numbers decreased respectively. In the same period, wages of state employees were lower than average, and the gap is widening: it was 27 and 33 lari respectively. Wage arrears are a major problem, though they are limited mainly to civil servants. In 1998, out of 95.2 million lari allocated for salaries in the central budget, 24.5 million, or 24.5 percent were not paid. This roughly corresponds to 3.1 months' arrears. Among the most important sectors, law enforcement suffered most. With law enforcement, wage arrears reached 31.5 percent of planned payments or about 3.8 months' arrears. Defense lost 18.5 percent, or about 2.2 months' wages. Some officers and other defense employees have not received their wages for at least five to seven months and there are registered suicide

cases caused by this situation. In the first half of 1999, the arrears continued to grow. Arrears also vary from one region to the next; there is a district in Georgia where arrears remained from 1997 as of June 1999. These arrears are believed to be among main reasons of a mass corruption and abuse of authority in law enforcement bodies, tax service, customs and local administration, which turn to businessmen for additional income. Unregistered employment (such as petty trading) or reliance on family networks are other mechanisms compensating for insufficient income.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The actual number of children in each age group is known today with an extremely rough approximation, so figures should be used with caution. Elementary education covers in Georgia grades 0ne through four; the population of this age group was 362,300 in 1993 and 364,800 in 1998. As for lower secondary education– grades five through nine– the population was 417,200 in 1993 to 540,300 in 1998. In upper secondary education—grades 10 through 11—the population was 250,800 in 93 and 215,900 in 98. School education in Georgia covers the ages from 6 to 17. Enrollment in primary education (grades one through four) was 85 percent in 1998, the same as in 1993. In lower secondary (grades 5 through 9) it was 78 percent, 4 percent less than in 1993 and in upper secondary (grades 10 and 11) it was 35 percent, i.e. 5 percent less than before. The national student to teacher ratio is 10 to 1. The state spent on education the following shares of GDP: 1 percent in 1995, 1.2 in 1996, 1.6 in 1997 and 1.5 in 1998. Total state education expenses amounted to just $76.1 million in 1998 or about $ 59 per person.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Infant mortality from 1994 through 1998 was as follows (by years) – 16.7; 13.1; 17.4; 17.3; 15.2. Birth rates changed over the same years as follows: 10.6; 10.5; 10.0; 9.7; 9.1. Life expectancy has not been calculated since 1990, when it was 68.7 years for men and 76.1 for women. The suicide rate was approximately 2.56 per hundred thousand in 1995 and 3.27 in 1997 when the last figures were available. The divorce rate was 0.5 in 1995 and 0.3 in 1998. All data are approximate at best due to mass underreporting.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

There were 403.59 doctors and 555.11 nurses per 100,000 of population in 1998 in the state health-care system. There are no detailed data on wages. The SDS provides 34.6 lari as the average monthly wage of all employed in health care in 1998 and 32.2 lari in the first half 1999. There were 23,578 hospital beds in 1998 or 437 beds per 100,000. Public health care amounted to 0.7 per cent of GDP in 1998—about $ 33.8 million or $7 per capita. There are no data on total health care expenses, but the state provided for roughly one-fifth of the population's health care expenses.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The only available data on poverty comes from the SDS household survey, which covers the period since 1997 and deals only with households. No other sources of poverty data are available. There are no data on the poverty rate among males, females, or the elderly. The SDS publishes data on three poverty lines, one of which is absolute and the other two relative. The absolute relates to the population consuming less than the official minimum subsistence level, which was in the region of 100 lari in standard adult male equivalent. The other two are related to national median consump-

tion that was 117.7 lari in 1997, 102.8 in 1998, and 114.4 in the first half of 1999. Respectively, 43.6 percent, 50.2 percent, and 53.1 percent of households lived below the poverty line. The World Bank provided its own calculation in 1997 based on a 52 lari monthly consumption per adult male equivalent. According to this calculation, 11.1 households lived under the poverty line in 1997.

HUNGARY

Polity: Parliamentary democracy
Economy: Mixed capitalist
Population: 10,100,000
PPP (USD): 7,200
Capital: Budapest
Ethnic Groups: Hungarian (90 percent), Roma (4 percent), German (3 percent), Serb (2 percent), other (1 percent)
Size of private sector as % of GDP (1998): 85

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	1.50	1.50	↓↓ 1.75
Rule of Law	na	na	2.13
Economic Liberalization	1.63	↓ 1.67	↓ 1.75

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	3752.0	4052.0	4374.0	4441.0	4513.0	4730.0	4885.0
Real GDP growth (% change on previous year)	-0.6	2.9	1.5	1.3	4.6	5.1	3.0
Inflation rate	22.6	19.1	28.5	23.6	18.4	14.2	9.0
Exports (USD millions)	8100.0	7600.0	12800.0	14200.0	19600.0	20700.0	24300.0
Imports (USD millions)	11300.0	11200.0	15300.0	16800.0	21400.0	22900.0	26900.0
Foreign Direct Investment (USD millions)	2300.0	1100.0	4500.0	2000.0	1700.0	1500.0	1600.0
Unemployment rate	12.1	10.4	10.4	10.5	10.4	9.1	na
Life Expectancy (years)	66.7	65.7	64.9	69.0	64.9	70.9	71.2

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	4	2	2	2	1	1	1	1	1	1	1
Civil Liberties	3	2	2	2	2	2	2	2	2	2	2
Status	PF	F	F	F	F	F	F	F	F	F	F

Introduction

The Republic of Hungary is a parliamentary de mocracy with a market economy that has under gone significant privatization since the country began its negotiated transition from communism in 1989. Hungary's transition has been comparatively smooth, although the early years were marked by social tension because of economic reform, austerity measures, privatization, and reforming the media system. The country has maintained a strong degree of political stability and has stuck to its reforms despite going from a center-right government to a center-left coalition and then back to a center-right coalition within the last nine years.

In 1999 Hungary took further steps to finalize its integration with Europe. In March it joined NATO and continued policies and negotiations for its expected future entrance into the European Union. Hungary's dynamic economy slowed in 1999. By August, the National Bank predicted growth to be 3.7 percent annually, not the government's earlier targets of 4 to 5 percent. Foreign direct investment was half its 1998 level and analysts were concerned that the government's budget did not do enough to control spending and inflation. Overall, Hungary concludes a decade of transition with a firmly rooted democratic state and market economy, yet it still must contend with significant challenges in the form of economic and political corruption and defining its role as one of Central Europe's most consolidated democracies.

Democratization

POLITICAL PROCESS 1.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The first multiparty national legislative elections since 1945 were held in March 1990. The Hungarian DemocraticForum (MDF) won the elections and Jozsef Antall, its leader, was elected prime minister in May 1990. The second national elections took place in May 1994 and were declared free and fair by the Organization for Security and Cooperation in Europe (OSCE). They produced a governing coalition of the formerly Communist Hungarian Socialist Party (MSzP), which won 209 National Assembly (parliament) seats and 54.2 percent of the vote, and the Liberal Alliance of Free Democrats (SzDSz), which won 70 seats and 18.1 percent of the vote. The MDF won 37 seats with 9.6 percent of the vote; the Independent Smallholders' Party (FKGP) won 26 seats and 6.7 percent; the Christian Democratic People's Party (KDNP) won 22 seats and 5.7 percent; the Federation of Young Democrats (Fidesz) won 20 seats and 5.2 percent; the Agrarian Federation won 1 seat and 0.25 percent; and the Republican Party won 1 seat and .025 percent. The Agrarians and the Republicans joined the SzDSz parliamentary group.

The most recent legislative elections took place in 1998. On May 10, a total of 1,602 candidates from 26 parties competed in the first round of balloting. Of the 8.1 million-strong Hungarian electorate, 56.31 percent cast ballots with the following results: MSzP 32.25 percent; the Fidesz-Hungarian Civic Party (Fidesz-MPP), which included several individual affiliated MDF candidates, 28.20 percent; the MSzP coalition partner, the SzDSz, 7.89 percent, and the two right wing nationalist parties, Istvan Csurka's Party of Hungarian Life and Justice (MIEP) and the FKGP gained 5.55 percent and 13.74 percent of votes respectively. In sum, 6 of the 26 parties who entered the first round of elections were able to beat the 5 percent threshold required in the parliamentary elections.

After the second round of voting, on May 24, the Fidesz-Hungarian Civic Party won 148 of 386 seats in parliament and formed a coalition government with the Smallholders, who won 48 seats and the MDF with 17 constituency seats. Victor Orban of the Civic Party was chosen as the new government's prime minister. The Socialists became the major opposition party with 134 seats. The Free Democrats won 24 seats, and the extreme right-wing MIEP won 14. The Organization for Security and Cooperation in Europe (OSCE) monitored the1994 and 1998 elections and reported that they were carried out in a "highly professional and transparent manner" that allowed all parties to compete equally and in accordance to OSCE standards.

The OSCE also noted that media coverage was much improved and more balanced in 1998.

2. When did presidential elections occur? Were they free and fair?

SzDSz member Arpad Goncz was selected as the governing coalition's nominee for the five-year presidency and approved by the National Assembly in May 1990. Goncz was re-elected to a second term in June 1995. Although the voting by the National Assembly was procedurally free and fair, the second presidential election did generate controversy, as some political parties had preferred that the president be directly elected. The Independent Smallholders' Party presented a petition signed by more than 200,000 citizens in support of a referendum to determine the method of presidential elections, but the Constitutional Court ruled the petition unconstitutional. The Smallholders then boycotted the presidential vote in the National Assembly. Smallholder enthusiasm for reform of the presidential selection process has dissipated in 1999, now that Smallholder President and Agriculture Minister Joszef Torgyan is a possible candidate for the presidency in 2000.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Hungary's electoral system has been multiparty-based since 1989 and 1990. Six political parties are represented in the National Assembly. The 1998 elections resulted in a governing coalition between the Fidesz-MPP and FKGP parties. A range of political parties and individuals contests local elections. Each electoral district has a minimum of two viable political parties.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Almost 200 political parties have been registered with the Budapest City Court since 1989. A decrease in viable parties has occurred over recent years. Most notable has been the decline of the Hungarian Democatic Forum (MDF), which formed Hungary's first government in 1990; the once influential Liberal Alliance of Free Democrats (SzDSz); and the Christian Democratic People's Party (KDNP). No political parties have been declared illegal.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Contemporary Hungarian political parties are not based on mass membership and official membership figures are unavailable. Sociologist Agnes Utasi of the Hungarian Academy of Sciences, however, has calculated that 2.1 percent of the population belonged to political parties in 1998. For professionals, party membership was 2.9 percent; and among lawyers, it was 10 percent. Women are active in politics but significantly underrepresented relative to their numbers in the total population. In 1999 they composed 8.5 percent of parliament with 33 out of 386 deputies and 1 cabinet member, Ibolya David, Minister of Justice. Women make up about 12 percent of municipal representatives.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

In the first round of the 1990 legislative elections, 65.1 percent of eligible voters cast their ballots. In the first round of the May 8, 1994 legislative and local elections, the turnout was 68.92 percent, and in the second-round, 55.1 percent. The higher voter turnout for the first round in 1994 than in 1990 refuted predictions about increasing voter apathy. In the 1990 municipal elections, the turnout was at or below 20 percent in many areas. Turnout for the May 1998 parliamentary elections was over 57 percent. Local elections in October saw just under 48 percent participation. Research conducted throughout the 1980s and 1990s indicates that voter turnout among women has increased slightly and was comparable to male turnout in the 1998 elections.

CIVIL SOCIETY 1.25/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the ma-

jor women's nongovernmental organizations and what is the size of their membership?
Unlike in other former Soviet satellite countries, NGOs began to function in Hungary in the mid-1980s and their numbers increased dramatically throughout the 1990s. By 1995, there were approximately 40,000 registered NGOs. In 1997, the total number was 54,418. By 1999, there were 61,620. An estimated 1.2 million citizens, or 12 percent of the country's population, are registered members of these organizations. According to public opinion polls, three to five percent of the population engaged in voluntary activity at least once monthly between 1992 and 1996, while nine percent were engaged in voluntary activity at least once yearly. Because of the absence of a comprehensive regulatory framework for NGO activities, business and political groups often register as foundations to establish a cover for the pursuit of private rather than public gain. It is therefore difficult to determine what proportion of registered NGOs is involved in charitable, not-for-profit activities.

While accurate membership figures are unavailable, there are numerous women's NGOs in Hungary. NGOs such as Women United with Women Against Violence (NANE), the Hungarian Women's foundation (MONA), and the Civil Ombudswoman (Civil Ombudsno) have full-time staffs, maintain websites, run radio and TV ad campaigns and conduct national initiatives to promote women's rights, education, and equal treatment in Hungarian society.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?
Although a law on associations was enacted in January 1989, no comprehensive legislation to regulate NGO activities has been passed in Hungary. A 1996 NGO law was amended in January 1998 and allows for a tax-deduction of up to five percent of taxable private and corporate income to be given to the church, public service organization, or NGO of the donor's choice. The law also established transparent rules for registration and accounting. Proponents of the law argued that direct donations would reduce corruption and the role of the state in the NGO sector.

While the 1989 law guarantees the rights of NGOs in Hungary, the relaxed regulatory environment has created incentives for the use of NGO status for personal enrichment and tax fraud. Several restaurants in Budapest, for instance, have paid wages in the form of non-taxable scholarships to their employees. Another fraud case involved the Hungarian Cable Television Company, which was initially funded by a government grant as the Open World Foundation. The board of directors later transferred the foundation's funds to a private firm. Similarly, the property of the Hungarian Socialist Worker's Party (MSzMP) was transferred to several civic associations before it was funneled into private and corporate hands. Between 1991 and 1994, more than 26 billion forints ($26 million) in state assets changed hands through false NGOs. NGOs often have input in the legislative process. According to Hungarian human rights lawyer Boldizsar Nagy, the refugee and environmental NGOs that he works with have a constant dialogue with legislators and officials regarding impending legislation and amendments.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?
Hungary's highly diverse NGO sector includes organizations that are engaged in activities that range from charitable work to support for professional and educational associations and representation of groups such as women, retired persons, unionized workers, and entrepreneurs. In general, NGOs established and funded by Western partners, such as the Soros Foundation-Hungary and the PHARE networks are well managed and organized. The quality of the organization and management of indigenous NGOs varies widely. In general, large NGOs such as the trade unions, the association of women, or the association of retired persons are better organized and managed than most small NGOs. Both OSI and PHARE, however, continue to train local practitioners and distribute information on the organization and management of NGOs in Hungarian. Since the early 1990s, local practitioners have gradually replaced their Western trainers at all levels in these organizations.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most charitable NGOs in Hungary are not financially viable and are dependent on grants from Western NGOs and the Hungarian government. Several Western NGOs, such as OSI and PHARE, offer fundraising training programs and provide incentives by offering matching grants to successful fundraisers. In 1997, OSI spent more than $1.6 million on training, consultation and advisory services, and the development of communication networks among NGOs. In addition, according to Sandor Striker, the deputy secretary of the Hungarian Ministry of Culture, the ministry has an annual budget of 120 million forints ($640,000) to support civic association projects that promote Hungarian culture.

Procurement opportunities do exist for NGOs and tenders for government initiated programs and services are advertised in government bulletins, professional publications and newspapers. Unlike in the for-profit sector, income gained from NGO activities is not subject to state and local taxes. Private firms, however, often abuse this status. According to Laszlo Kemeny, a political scientist, the state loses nearly 20 percent of its annual tax revenue due to such abuses.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Approximately 1.2 million workers—nearly 30 percent of employees—are members of trade unions. This number has remained largely unchanged since the early 1990s. Approximately 400,000 workers are members of unions established since 1988. The two largest independent trade unions are the 100,000-member Democratic Confederation of Free Trade Unions (LIGA) and the 150,000-member Hungarian Workers Council. The National Federation of Hungarian Trade Unions (MSzOSz), the Communist-era federation, survived the political changes of 1990 and now enjoys considerable political and social influence. The MSzOSz, which represents the majority of organized workers in Hungary, is linked to the MSzP and is therefore partisan. It claims to have 1.2 million members, although the actual figure is probably closer to 800,000.

In the Interest Reconciliation Council (IRC), a formal forum in which government officials discuss and mediate disputes between employers and employees, six trade unions are represented: the MSzOSz, the Association of Autonomous Trade Unions, the Trade Unions' Cooperative Forum, the Council of Interest-Representation Associations, LIGA, and the Workers' Councils (Munkastanacsok). In general, trade unions have opposed the austerity measures proposed by the government and employers. Many smallholders' associations are active. There are also numerous independent entrepreneurial associations, the majority of which operate exclusively in Budapest. According to the Central Statistical Bureau (KSH), farmers' associations have approximately 8,000 members, while small business associations, including regional chambers of commerce, have approximately 27,000 members.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

With the exception of Penal Code provisions and specific rules that disqualify judges, members of parliament, armed forces personnel, and civil servants, Hungarian law permits all forms of interest group participation in politics. The trade unions in the IRC are the most active NGOs in the country's political process. Professional associations, such as doctors' and teachers' groups, also actively lobby for improvements in such issues as medical insurance, school curricula, and teaching conditions.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

Public opinion polls conducted in 1998 suggest that NGO activities are usually perceived negatively in Hungary. According to polls conducted by the KSH, 68 percent of respondents consider NGOs to be useless to society. Less than 10 percent believe that they are useful. Seventy-two percent of the public believes that the most useful NGOs are those that are active in the provision of health care and education, but only 12

percent believe that NGOs play an important role in democratization. The government engages most actively with the representatives of the trade unions and entrepreneurs in the negotiations of the IRC. The government frequently consults with NGOs and considers research and policy proposals from them, particularly in the areas of immigration, human rights, economics, trade and social welfare and foreign policy.

INDEPENDENT MEDIA 2.00/7

1. Are there legal protections for press freedom?
A law regulating television and radio broadcasting was passed in 1995, and legal protections for press freedom are explicitly guaranteed by the constitution. Although freedom of the press was nominally guaranteed even before 1989, it was only respected in practice after the country's sweeping political transformation in 1989 and 1990. In 1992, a 1977 decree that authorized governmental supervision of the news media was declared unconstitutional.

On December 21, 1995, the National Assembly passed a law to regulate television and radio broadcasting. The first section of the law mandates that, in broadcasts for the general audience, local broadcasts should constitute at least 20 percent of total broadcast time by 1999 and that commercial programs should not exceed 20 percent of the total. The law's second section mandates that, in public and commercial broadcasting, advertisements should not exceed an average of six minutes per hour. The law's third section mandates that 51 percent of programming should be produced in Hungary and that 70 percent of total programs should be produced in Europe. Many media experts agree that the new media law is one of the most comprehensive in the post-Communist states of East-Central Europe. They have also determined, however, that the law mandates an untenable change of pace for the state-owned Antenna Hungaria national broadcast company.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
The law imposes penalties for libel and defamation of any individual, including officials. The Criminal Code specifies a number of press offenses, including defamation and incitement to hatred against the community. In these cases, the individual journalist is held primarily responsible for the criminal offense, but, under the general rules of criminal law, the editor may also be held responsible. The law also imposes civil liabilities. The defendant may be sued for damages in cases involving the violation of personal rights. Punishment for libel, however, is very light and has little if any deterrent impact, particularly on large publications.

In June 1999, the host of a popular TV criminal investigation program, Laszlo Juszt, was fired and arrested for supposedly airing material that compromised state security. The state intelligence documents that he publicized undermined Fidesz-MPP claims that the previous government had spied on them. In July, the state attorney general dropped the charges and Juszt initiated a reinstatement and damages suit.

On March 12, 1996, the parliament passed a Penal Code amendment that mandates a three-year prison sentence for "anyone who incites hatred or acts in any other way that is capable of inciting against the Hungarian nation or any other national, ethnic, or religious minority or race." The law was passed in the wake of several well-publicized cases in which defendants who had been charged with committing acts of racial hatred were acquitted after it was determined that they had been exercising their constitutional right to free speech. The country's debate over what constitutes an incitement to hatred and what constitutes protected free speech continues. The state prosecutor, for example, has banned not only the Hungarian-language translation of *Mein Kampf*, but also the English version, although the work is being routinely read at Western universities.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
More than 80 percent of print media and approximately 70 percent of radio and television stations in Hungary are in private hands. There are 3 national public television channels, approximately 26 private commercial television stations, more than 200 regional cable outlets, and more than 30 radio stations. No national radio stations are privately owned, but several regional stations, including Radio Juventus and Radio Bridge, can

be heard nationwide through transmitters. In 1996, the "media war" that began in 1994 when the government fired and replaced the directors of the state-owned radio and television finally ended. In 1997, the Radio and Television Regulatory Body (ORTT) offered concessions for television channels to foreign broadcasting companies. Among the most prominent bidders were Central European Media Enterprises; CLT-Bertelsmann, which owns RTL satellite television; MTM-SBS, a Hungarian-Swedish consortium; a consortium from French Channel TF1; and Westdeutsche Allgemeine Zeitung, a German firm. No single company is allowed to hold more than a 49 percent stake, and Hungarians must hold at least 26 percent. In the Hungarian Telegraph Agency, the country's major news agency, the U.S. firm Ameritech and Deutsche Telecom are 59.9 percent majority shareholders. Legal battles in 1998 and 1999 involving the ORTT over questions of monopoly and corruption in the licensing process have prompted policy makers to consider modifying the media law and clearly defining ORTT's legal status.

The country enjoys a wide variety of generally high-quality, uncensored national and local newspapers. *Nepszabadsag* (*People's Freedom*), which has the largest daily circulation (320,000), is a former Communist organ that is now privately owned by the Bertelsman Company, a German firm. The second largest is *Nepszava* (*Voice of the People*), which has a circulation of 140,000. *Mai Nap* (*Today*); the tabloid *Blikk*; the *Magyar Hirlap* (*Hungarian Journal*); and the *Kurir* (*Courier*) have a combined circulation of approximately 100,000 and are privately owned. One government agency is responsible for disseminating news received from official sources. Ferenczi, a private wire service owned by MTM Communications, also operates in Hungary.

4. Are the private media financially viable?

In most cases, Hungary's media are financially viable. During the transition to a free market economy, however, many new publications appeared and proved not viable. Perhaps the greatest financial difficulties have been encountered by the country's national television and radio enterprise, which, in spite of $200 million in annual revenue, is still in debt due to its antiquated infrastructure. The company hopes to become solvent by selling concessions to private consortia. In general, private media, and especially organizations with a high percentage of foreign ownership, are profitable.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

Legally, the media are editorially independent. Although many major publications were privatized during the Communist period, political opposition leaders argue that many editors reportedly remain loyal to the Communist successor MSzP. State-owned radio and television, according to the opposition leaders, are not editorially independent because, in 1994, the government fired and replaced the directors of the enterprise. Additionally, some newspapers are owned by banks and trusts that are in government hands and some local newspapers are controlled by local self-governing administrators. For example, the majority state-owned Posta Bank owns at least four newspapers and Radio Bridge, a large private radio station. This ownership remains problematic.

In 1999, Fidesz-MPP reduced the bank's funding for *Hungarian Orange* (*Magyar Narancs*), an alternative weekly magazine that has been critical of the government. Fidesz-MPP cited budgetary reasons while critics claimed the publication was being punished for its politics. Similar to previous governments, Fidesz-MPP has also made personnel and programming changes at state radio and TV stations. In a move that, according to critics, may constitute a continuation of the country's "media law," the government has also announced plans to dismiss 1,000 radio and television employees due to financial constraints. Opposition parties objected to Fidesz-MPP appointments to the Board of Trustees of Hungarian Television, claiming that the board was stacked with Fidesz-MPP supporters. The Constitutional Court, however, approved the board's composition in June. It cannot be proved that either of the government's highly criticized moves against radio and television employees was politically motivated. In addition, the reporting on major corruption scandals involving members of the government suggest that the media is independent and that no daily newspaper shows a clear pro-government bias.

6. Is the distribution system for newspapers privately or governmentally controlled?

The major newspaper distributor in Hungary is the Hungarian Distributor's Office, a government entity. Government control in this sector, however, may reflect the prohibitively high costs of newspaper distri-

bution more than a desire by the government to act as a censor or otherwise influence the process. In April 1998, the Hachette Distribution Service, a French firm, announced plans to cooperate with 18 Hungarian publishers and 3 local partners in the purchase of 82 percent of the national press distribution service. In 1995, foreign-owned publications formed a limited partnership to operate a new distribution service in response to the reported inefficiency and high cost of the state system.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

Research conducted in the fourth quarter of 1998 showed that 1.4 percent of the population—120,000 Hungarians—had Internet access at home. Workplace access was higher at 500,000 or 6 percent of the population. The average age among frequent users (several times a week) was 34. Twenty-eight percent of the frequent users were students and 66 percent were those who used the Internet at their jobs. The major distributor of Internet services in Hungary is the Hungarian Telegraph Agency, which controls 30 percent of the market. There are no restrictions on private citizens' access to the Internet. "Internet Cafes" operate in most major cities. A total of 188 schools have Internet access. In 1999, the government continued to pursue its $2.5 million "Schoolnet" project that aims to connect every school to the Internet within the next year.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The largest journalist association in Hungary is the 100-year old Hungarian Journalist's National Association (MUOSz), which became the legal successor to the Society of Journalists of Budapest in 1896. MUOSz is an umbrella organization associated with local radio, television, sports and academic journalist associations. According to MUOSz President Istvan Wisinger, the association has approximately 5000 members. Exact numbers of male and female members do not exist and there are no accurate counts for the total number of female journalists. Wisinger, also a journalism professor, has noticed a steady increase in the number of female journalism students at Hungarian universities.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's Annual Survey of Press Freedom rated Hungary "Not Free" in 1988, "Partly Free" in 1989, "Free" from 1990 through 1992, "Partly Free" in 1993, "Free" in 1994, "Partly Free" from 1995 to 1997, and "Free" in 1998 and 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 2.50/7

1. Is the legislature the effective rule-making institution?

The National Assembly is fulfilling its function as the country's supreme legislative body. Between its first session in May 1990 and March 1992, it passed more than 180 laws. In the Communist era, it adopted an average of four or five laws per year. Unlike in the Communist era, government decrees are now subordinate to legislative enactment.

In December 1998, the government touched off a continuing debate about the balance of power in the Hungarian political system by announcing a series of reforms that would concentrate more decision making power in the hands of Prime Minister Victor Orban. Critics, including former Prime Minister Gyula Horn of the Hungarian Socialist Party, warned that the government would gain too much unchecked power with its plans to subordinate key ministries responsible for budget management and criminal justice within the Prime Minister's Office. Critics also feared that the government's plans to concentrate parliamentary plenary sessions into the first week of every month, instead of the current system, which has plenary sessions on the first day of every week, would reduce the parliament's supervisory role. Orban has responded by noting that the Hungarian prime minister has much less power than in the British or German political systems and that the country needs a strong, activist prime minister to give the country direction. The government's plans for bureaucratic consolidation are very much dependent upon the approval of a new constitution which, according to Parliamentary Speaker Janos Ader, could be ready by the year 2000. During its 1993 session, the legislature voted on 117 acts and 103 resolu-

tions and issued 2 statements. It passed 105 laws in 1994, 126 laws in 1995, and 70 in 1996.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Chapter IX of the constitution vests substantial political power in the sub-national levels of government. Administratively, Hungary is divided into 19 counties, 8 cities (including Budapest) with the status of counties, and approximately 150 towns and 3,000 villages with their own, sub-national governments. The council members at the local government level are directly elected to four-year terms. The lower level municipal governments elect the county-level councils.

Municipal governments have equal rights, but their duties differ. The judiciary, including the Constitutional Court, protects the rights of sub-national governments. Local representatives may develop their own framework of laws and ordinances, provided that they are consistent with higher statutes, and may affiliate with other local bodies of representatives. Local authorities have the right to make policy autonomously, but they are often weak due to financial constraints.

3. Are subnational officials chosen in free and fair elections?

Local, regional, and other sub-national officials are chosen in free and fair elections. At the sub-regional level, however, Commissioners of the Republic are appointed by the government to supervise more than one county. The commissioners, who ensure that all local decrees correspond to national laws, can suspend any local directive that runs counter to national legislation. Sub-national elections were held in December 1994. Law LXII of 1994 mandated the local election of mayors of all 3,147 communities in the country. Before the 1994 law was enacted, only communities with more than 10,000 inhabitants held such elections.

The turnout in the 1994 local elections was 43.4 percent — 3.4 percent higher than in the 1990 elections. A total of 95,000 candidates competed for 21,495 offices. Turnout for the 1998 local elections was 48 percent with 40 percent of the voters supporting candidates from MSzP or SzDSz; 39.6 percent voting for mayorial candidates affiliated with the governing Fidesz coalition; 17.6 percent for independent candidates; and 2.6 percent supporting MIEP representatives.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Hungary's executive and legislative bodies operate openly and with transparency under the scrutiny of the public, the media, the State Audit Board, the Central Audit Office, and the Government Control Bureau. The State Audit Board and the Central Audit Office were established in 1990 and 1993, respectively, to control the economy and manage the country's publicly financed central institutions. In late 1994, the Government Control Bureau, an independent national organ of state administration, replaced the Central Audit Office. The Bureau has the right to control the central budget and the separate national funds—the two subsystems of public finances. It can also monitor the implementation of decisions by the cabinet. Statutes are readily available in draft through websites, government publications, and relevant agencies. Lower level regulations are not as easily accessed and may be made available to interested bodies only in the later stages of their formulation, according to public interest lawyer Boldizsar Nagy.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

In general, municipal governments have sufficient revenues to execute their duties, although the country's difficult economic situation places a significant burden on them. Municipalities receive revenues directly from the central state budget and from autonomously and locally raised real estate and business taxes. Funds received from the state are often earmarked for specific projects. Law XLVI of 1996 earmarked funds for Budapest for the construction of hospitals, the reconstruction and maintenance of national historical sites and monuments, and the modernization of infrastructure. In 1999, local governments were allocated 640 billion forints ($2.7 billion) from the central state budget, an increase of 8.7 percent over the previous year. Inflation, however, is projected to run between 10 to 11 percent in 1999.

In addition to municipal revenues tied to administrative districts, the central state budget earmarks funds for the self-government of minorities living in Hun-

gary. These funds are proportional to the size of the respective minorities. In 1997, the National Roma Minority Self-Government received the most revenue—90 million forints—from this source. The Bulgarian, Greek, Polish, and Armenian minority self-governments received 7 million forints.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Most local leaders elected during or after 1990 have proved to be competent and able to manage municipal governments. The government and local and international NGOs have launched projects on community development, democratic institution building, and local self-government to increase the professional knowledge of local officials.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

In 1991, parliament passed a reformist Law on Local Administration of Self-Governing Bodies. In 1994, the government of Socialist Prime Minister Gyula Horn modified and simplified it by providing for single-round local elections and direct elections of mayors in every community. The civil service code and system were reformed in 1991. A standard examination in public administration was mandated for national and local level civil service job applicants. Local civil servants are employees of the local governments, although their official status as civil servants is identical to those of central government employees.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 1.75/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The constitution is a patchwork of amendments introduced in 1989 and 1990, when the parliament altered virtually all of the Communist-era constitution. While many legal experts agreed that the amended constitution met the requirements of a parliamentary democracy, they also found that its wording was often vague. This led to jurisdictional conflicts among government institutions and offices. After the 1994 legislative elections, the six parties represented in the National Assembly agreed to draft a new constitution.

In 1995, a newly formed Constitutional Committee reached agreement on procedural rules for drafting and approving a new constitution. The coalition parties agreed that the opposition would contribute substantially to the process, including any modification of the National Assembly's Standing Order, which provides terms for constitutional changes. The coalition also agreed that the Constitutional Committee would have 24 members, or 4 members from each party represented in the parliament. The National Assembly then amended the constitution to state that a four-fifths majority could only enforce the new rules in the Standing Order. In September 1998, Parliamentary Speaker Janos Ader said that the government hoped to have a new constitution ready by the year 2000.

The Constitutional Court interprets the constitution, and, in general, the legislature respects the court's rulings. On average, the court rules on approximately 150 cases annually. Of these, approximately 35 percent are found to be unconstitutional. Experts have determined that Hungary's Constitutional Court is one of the most active and independent constitutional courts in the post-Communist states. In February 1999, the Constitutional Court ruled that an anti-mafia law package approved by parliament in 1998 was unconstitutional. President Goncz then returned the package to parliament for modification in accordance to the court's ruling. At the end of June, the Court ruled that the current government's structuring of the Board of Trustees of Hungarian Television was constitutional. Opposition parties had claimed that the government was allowed to appoint too many of its own representatives to the board.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The constitution declares that Hungary recognizes the

inalienable and inviolable basic rights of man and that it is the foremost responsibility of the state to ensure the observance of those rights. Individual and human rights, freedom of speech and assembly, and social and property rights are extensively covered in the constitution. In 1996, the National Assembly passed a number of Penal Code amendments, including laws regulating press freedom, defamation, and the defense of minorities. Experts have determined that the country's laws governing business and property rights are fair and that they meet Western standards. There have been no post-Communist cases of government expropriation of private property or foreign-owned assets. Hungary's judiciary is, at times, corrupt and, in general, overburdened. Even rulings in relatively simple cases can take years.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The Hungarian Criminal Code has been substantially reformed since 1989. The death penalty for crimes against the state, aggravated detention as a punishment for crime, penal idleness as a crime, and the penalty of "reformative-educative labor" have all been abolished. Between 1994 and 1996, the National Assembly passed four significant criminal laws. In 1994, Amendment IX in the Penal Code regulated the sale and use of firearms. In 1995, Amendment XLI changed the age limit for the prosecution of juvenile delinquents in cases of serious crimes. In 1996, Amendment XVII established harsh penalties for offenses against minorities. Also in 1996, Amendment LII imposed criminal penalties for crimes related to the smuggling of nuclear materials and acts that cause environmental destruction. Only judges can authorize searches and issue arrest warrants. There are no known cases in which detainees or prisoners have been beaten or abused. Nevertheless, the massive increase in property and violent crime after 1990 has overburdened the criminal justice system.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

A majority of judges is impartial and fair. Fifty-five percent of judges were appointed before 1989. New appointments have been slow, in part because it will take years to educate a new generation of lawyers, and in part because many graduates of Hungary's two law schools find more lucrative work in private firms.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

Under the constitution, the judiciary is independent and is subordinate only to the law. To shield the judiciary from political influence, the constitution provides that judges cannot be members of any political party and cannot engage in any political activities. The independence of judges in Hungary is guaranteed in several ways. First, the judiciary is financially independent from the executive branch of the government. Legislation provides that the Ministry of Justice does not fund courts' budgets. Second, the promotion and remuneration of judges are determined exclusively by law. Third, with the exception of the Constitutional Court's chief justice, who is elected by the National Assembly, judges are appointed by the president of the republic after being proposed by the Minister of Justice with the consent of the Judicial Council. Fourth, a judge can cease to perform his duties either at his own request, after being declared incapable by his peers, or after being found guilty of professional misconduct by a disciplinary council. Finally, unless the president of the republic determines otherwise, judges enjoy immunity from prosecution and therefore cannot be arrested and detained or be subject to criminal proceedings.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

According to 1998 estimates, more than 80 percent of the country's lawyers are in private practices. The remainder is employed in the judiciary and governmental organizations. While exact numbers are unavailable, professors at Hungary's largest law school estimate the number of lawyers annually produced nationwide at over 4,000. Figures for female lawyers and judges were unavailable.

7. Does the state provide public defenders?

Under the constitution and the Penal Code, the state

must provide public defenders if the accused has no means to obtain or pay for a private defense lawyer. International human rights organizations have found no deficiencies in the application of this law.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
On July 7, 1993, the parliament passed the Bill on National and Ethnic Minority Rights after nearly two years of preparatory work and several draft texts. The law bans discrimination against minorities, whose rights to national and ethnic self-identity are considered to be part of universal human rights and basic freedoms. The law recognizes all ethnic peoples who have lived in Hungary for at least a century and who are Hungarian citizens with their own language, culture, and traditions. These groups include Armenians, Bulgarians, Croats, Germans, Greeks, Poles, Roma, Romanians, Ruthenians, Serbs, Slovaks, Slovenes, and Ukrainians. Nevertheless, Hungary's estimated 500,000 Roma continue to suffer de facto discrimination in employment and housing and have suffered severely from the effects of the economic restructuring of the country. They have also been the victims of attacks by skinheads and vigilantes. According to recent opinion polls, one out of every two Hungarians has a negative attitude toward the Roma.

In March 1996, after the acquittals of a number of perpetrators of hate crimes, parliament passed a penal code amendment that provides for up to three years of imprisonment for anyone who incites hatred or acts in any other way that is capable of inciting hatred against the Hungarian nation or any other national, ethnic, or religious minority or race.

In the 1994 elections, minorities won only one percent of mayoral posts. Minority candidates won approximately three percent of local government seats at all levels. This figure corresponds approximately to the percentage of minorities in the country's general population. Proportionally, the Germans are the best-represented minority, while the Roma, the largest minority group in Hungary, have the least representation.

9. Are judicial decisions effectively enforced?
Decisions in criminal law are usually carried out, while those made in civil and administrative law are occasionally made more difficult to enforce because of some defendants' ability to hide assets and avoid paying compensation and/or damages.

CORRUPTION 2.50/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
In 1996, popular confidence in the Horn government was shaken by corruption scandals in privatization deals. These scandals led to the dismissal or resignation of several high-level government officials. Independent and parliamentary investigations revealed that billions of forints had reached private hands through insider-dealings in government circles. The greatest corruption, including insider dealing and favoritism, appeared to be at the top levels of government and the civil service. In a scandal dubbed "oilgate," the country's industry and trade ministries favored companies with contracts related to the release of Russia's debt to Hungary. In another, the State Privatization and Holding Company made large payments to an external consultant who worked under an irregular contract. The board of the state company was later dismissed. In June 1999, the Orban government was also tainted by scandal. Two undersecretaries of state were forced to resign and are being investigated for corruption because of a letter they wrote which tried to influence the selection of the next US ambassador to Hungary. The candidate they supported was a representative of the Lockheed – Martin Corporation that builds the F-16 fighter being considered for procurement by the Hungarian military. The two undersecretaries allegedly had business interests in the defense contractor. Lockheed-Martin denied any involvement with the letter.

Data on lower-level corruption are not readily available. There are unconfirmed reports that law and medical school admission committees and doctors, who control access to scarce hospital beds, accept bribes. Bribes for licenses and other official documents are not unusual in cases in which applicants seek to obtain docu-

ments more rapidly. A 1999 EBRD survey of 3,000 businesses operating in transition countries revealed that 31 percent of the companies in Hungary frequently use bribes as a part of doing business.

In the first half of 1997, the monthly average net earnings of civil servants were as follows: Low-level bureaucrats, postal workers, and teachers earned 25,000 to 30,000 forints ($134 to $161). Doctors and university professors received 30,000 to 40,000 forints ($161 to $215). Cabinet ministers and members of parliament earned 150,000 forints ($806). For the same period, the monthly average net earnings for all Hungarians were 39,900 forints ($214). Blue-collar workers earned 31,400 forints ($168), while white-collar workers earned 58,000 forints ($312).

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

Formally, the Conflict of Interest Law, which was enacted in January 1997, prevents top-policy makers and members of parliament from holding positions in companies in which the state-owned share is more than 10 percent. Members of parliament are not prevented from owning private companies or holding positions in them. Nevertheless, numerous corruption scandals—some related to the privatization of state-owned companies—suggest that informal ties exist between top government officials and businesses. One such scandal involved Postbank, the country's second largest bank, which was bailed out by the government last year after sustaining heavy losses under managers who had connections to several prominent public officials.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The law proscribes conflicts of interest, but does not require financial disclosures by elected and appointed civil servants. Civil servants are not allowed to hold shares in a company in which the state controls more than ten percent of the shares. Many governmental corruption cases were highly publicized in 1996 and 1997, and the persons involved, including the finance, welfare, and trade and industry ministers in the Horn government, were either forced to resign or dismissed. In addition, two vice presidents of the National Bank resigned in 1996. In November 1996, the interior minister fired top police officials in the wake of reports of internal corruption in the force.

In April 1999, the Hungarian Supreme Court refused to acquit the former Chairman of Agrobank, Peter Kunos and reaffirmed his two-year prison sentence for privatization fraud last year. Kunos is appealing to the European Court of Human Rights. In December, a package of anti-racketeering laws was drafted by parliament in response to growing organized crime violence in Budapest. The Constitutional Court ruled the package unconstitutional on procedural grounds and the legislation was returned to parliament for modification. The Hungarian State Audit Office (ASZ) oversees the executive and legislative branches.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

In a May 1999 poll of 1,200 Hungarian adults conducted by the Median polling organization, respondents said they thought there was at least a 50 percent degree of corruption in every parliamentary party except MIEP, which received a 48 percent rating. Fidesz-MPP, which received a favorable 33 percent rating two years earlier, fell to 53 percent by 1999. MSzP, the former ruling party, mired in scandal and rated 65 percent corrupt two years ago, has improved its image and was only perceived as 54 percent corrupt in 1999.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

In January 1997, the Conflict of Interest Law was implemented after a veto by President Goncz, who objected that its provisions should also apply to state officials who assumed their positions before the 1994 elections. In

July 1996, the legislature passed a revised law to require that public officials and civil servants who had worked in the Communist-era secret police be vetted. The law created tension and debate between the parties in the governing coalition. In the end, only 600 out of the 5,000 officials in the initial proposal were screened.

Scandals in privatization and the recent Lockheed letter incident have resulted in prosecutions and resignations. Almost all corruption investigations are injected with political overtones by the various parties and the press, yet none has been based on pure political vendettas and the independence of the judiciary and auditing agencies have prevented corruption investigations from becoming political witch-hunts.

In March 1999, the parliament amended the country's procurement laws to open the process up to smaller firms and reduce opportunities for corruption in government contracts. In April, Foreign Minister Janos Martonyi signed an anticorruption document with the Council of Europe that, if approved by parliament, will increase Hungary's effectiveness in pursuing regional corruption. In June, Justice Minister Ibolya David signed an agreement with the UN implementing an anti-drug and corruption program. In the same month, ASZ chairman Arpad Kovacs began a campaign to draft comprehensive laws on political lobbying. Kovacs has emphasized the openness of his office's operations and pointed out that the ASZ has reported more than 20 corruption cases to the police over the last several months and that investigations have begun in a majority of them.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
A World Bank sponsored poll in June 1999 showed that Hungarians rank corruption among the top 3 obstacles to conducting business. Hungarian business leaders called for greater transparency in governmental decision making at a June 1999 roundtable sponsored by the US Chamber of Commerce and said that fighting corruption is critical to Hungary's future growth.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Hungary was ranked 31st out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 5.2 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 1.50/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
As of late 1994, the private ownership sector accounted for approximately 58 percent of GDP. By mid-1995, the figure had reached 60 percent. In 1996, after the partial privatization of the energy sector, it stood at nearly 70 percent. By the beginning of 1999, most analysts deemed Hungarian privatization complete with almost 90 percent of formerly state-owned companies in private hands. The State Privatization and Property Management Holding Company (APVRt) reported that the state went from owning 1,857 firms in 1990 to 209 in 1999, and of these remaining firms, 98 would be partially or fully retained by the state in accordance to Act XXXIX of 1995. The APVRt also noted that the proceeds of privatization were over 1.6 trillion HUF since 1990.

In 1999, the Ministry of Economy reported that 85 percent of GDP came from the private sector. According to the Central Statistical Bureau (KSH), 69 percent of the work force was employed in the private sector by June 1999. Hungarian researchers estimated in 1999 that the informal sector, the so-called "black economy," continued to account for approximately 30 percent of GDP. By comparison, the Italian black economy is estimated at 26 percent of GDP, while in the U.S. it is equivalent to approximately 10 percent of GDP. UNDP studies indicated that household participation in the informal economy was 6 percent of GDP in 1997 and that Hungarian households spent an average of 130,000 HUF, or Hunarian *forint,* ($699 at the 1997 exchange rate) per capita annually in the informal economy.

2. What major privatization legislation has been passed? What were its substantive features?
Privatization began in 1989 with the passage of Act

Number 13, which provides for the transformation of state-owned companies into joint-stock companies and limited-liability firms. The law calls for privatization in Hungary to take place through sale or open or closed tender. State property was privatized under the supervision of the Property-Managing Organization of the National Treasury, the State Property Agency, and the State Property Management Holding Company, which later became known as the State Privatization and Property Management Holding Company (APVRt) in 1995. In 1990, Act Number 74, also known as the "Pre-Privatization Act," established procedures for the privatization of small businesses through auctions. In 1992, Act Number 10 described the goals of privatization as the modernization of technology; increase of working capital; import of knowledge and marketing experience; support for domestic and foreign entrepreneurs; the development of the domestic capital market; and the creation of work opportunities. The Horn government's "New Privatization Law" was drafted in November 1994 and passed by the parliament in January 1995 with 99 changes.

The law, which launched a simplified privatization program under the sole control of the APVRt, targets state-owned, strategic industries, primarily related to mining, communications, transportation, banking, and energy. In the first of two rounds of privatization mandated by the law, the APVRt publicly announces the terms of the competition for a list of state-owned companies. Private domestic and foreign entities then submit bids. In the second round, the APVRt announces new terms for the sale of companies that did not sell in the first round. In the initial sale, which took place on September 29, 1995, 73 companies were listed. A total of 104 bids were made on 71 companies, 42 of which were sold. In the next sale, on January 10, 1996, only 4 of 37 offered companies were sold. The remaining 33 companies were liquidated in 1996 and 1997.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

The agriculture ministry estimates that approximately 90 percent of agricultural land is in private hands, but up to half of this property is owned by limited cooperatives. As of 1996, the state's share in forestland remained at 85 percent. Some forests were restored to their former owners, but most remain under state ownership because of the domestic opposition to the government plan that proposes to sell land to foreigners. The Ministry of Agriculture estimates that approximately 97 percent of housing and land is privately owned or in the hands of municipalities. Foreigners could not purchase housing or land until the law was changed in 1994. Approximately 65 percent of industry was privately owned by the end of 1994. By 1996, this figure had increased to approximately 70 percent, mainly through the privatization of strategic and financial industries and the sale of state utilities to foreign and domestic investors. Today, according to the KSH, 86 percent of formerly state-owned companies are in private hands. Manufacturing, mining, utilities, transport, communications, and financial services account for approximately 43.8 percent of Hungary's GDP. The ratio of domestically and foreign-owned private industries is approximately two to one.

The total number of small businesses that were privatized is 4,066 in 1991, 3,571 in 1992, 1,428 in 1993, and 416 in 1994. More than 70 percent of the business-and-services sector had been privatized by the end of 1994. Today, the private share is more than 80 percent, with the state continuing to own shares in so-called strategic services, such as banking, energy, telecommunications, and health care. By the end of 1995, the state held only the legal minimum of 25 percent of the National Saving and Trade Bank. In 1995, the stated owned 72 percent of the transportation, postal, and communications sector. By the end of 1997, this had declined to less than 30 percent. Approximately 45 percent of the health, education, and agricultural sector was held privately in early 1996. In 1997, the private share increased to 65 percent.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Many members of the nomenklatura received preferential treatment in the privatization process between 1990 and 1993. During this period, the state-owned assets of the MSzMP were transferred into the hands of private firms through the use of foundations as intermediaries. The research of Gyorgy Lengyel, a Hungarian political scientist, reveals that nearly 75 percent of the industrial elite were former MSzMP members. The number of former MSzMP members who own for-

merly state-owned and privatized enterprises is especially high, while primarily non-party members have established new enterprises. APVRt figures up to 1997 show that the majority, or 42 percent, of state assets were privatized through public tenders. Eighteen percent were transferred through vouchers and only 5 percent of privatization was done through management or employee buyouts.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

As in most post-Communist societies, Hungarians have been dissatisfied with the increasing economic inequality and deprivation and the declining quality and scope of social entitlements in the country. Nevertheless, a majority of Hungarians including trade unions and other interest groups, support the privatization process. In 1994, the Socialist Party repeatedly expressed its support for privatization, while at the same time pledging to champion equality and the rights of the poor to social entitlements.

According to surveys by Hungarian political scientists, 71 percent of the population believes in private ownership of property, 61 percent believe that land should not be sold to foreigners, and 44 percent believe that the economy should be free of state control. On the other hand, the proportion of those who believe that the free market is good for Hungary declined from 65 percent in 1991 to 38 percent in 1996.

MACROECONOMIC POLICY 2.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The taxation system has undergone a number of reforms and changes. Between 1990 and 1996, the parliament passed 34 laws and amendments that regulate taxation. The most significant is Law XCI, which was passed in 1990 and regulates taxation and tariffs, nominates state agencies to monitor and enforce the law, and determines commercial and other activities and real estate and other objects that are subject to taxation and tariffs. The main sources of tax revenue are the sales, income, social security, and value-added taxes (VAT).

In 1996, in part due to the budget deficit, the Horn government proposed increasing the social insurance tax for small businesses from 10 percent to up to 45 percent of net income. Revenues from taxation posted their most significant increase in the 1994 fiscal year. They remained virtually at the 1994 level in 1995 in spite of the increases in the social-insurance tax. This could be attributed to taxpayer non-compliance with the new tax requirement and to the "black economy," which, according to current estimates, accounts for up to 30 percent of GDP.

In February 1996, as the National Customs and Revenue Office and the Tax and Finance Control Office grew even more overburdened, a separate Department for Major Taxpayers was formed. In 1999, Hungary had a six-tier tax system with a top rate of taxation on earned income at 42 percent. In 1995, a government decree reduced the corporate income tax by half to 18 percent. The capital gains tax is 18 percent, and VAT is 25 percent at a general rate and 12 percent on selected items and services.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

In 1995, legislators passed a budget to restrict the generous social entitlements, enact laws on supplementary budgets, abolish the tax on interest from savings, and establish the Committee for Coordination of Economic Protection, which polices black economic activities. The effect of the law, however, was limited by a 1996 ruling of the Constitutional Court, which found that the new austerity measures were not in accord with constitutional guarantees on social entitlements.

The 1997 central budget deficit was 342 billion HUF ($1.8 billion) and public sector debt constituted 4.8 percent of GDP. In 1998, the deficit was 553.9 billion HUF ($2.6 billion) with public sector debt accounting for 6.9 percent of GDP. By the end of the first half of 1999, the government recorded the central budget defi-

cit at 300 billion HUF ($1.3 billion). Gross state debt as a percentage of GDP went from 64 percent to 60 percent between 1997 and 1998. The EBRD recorded subsidies as 3.2 percent of Hungarian GDP in 1997.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

According to a vice president of the National Bank of Hungary, the central bank operates independently from the government, but five-year, rather than three-year, appointments for vice presidents would guarantee more independence and stability. The central bank implements monetary policy by setting interests rates, maintaining the soundness of national currency, and regulating the banking sector.

By the end of 1995, the first year of privatization of the state banking sector, 58 percent of banks were privately owned. By the end of 1997, the private share had increased to 75 percent. According to the privatization law, the state may not own more than 25 percent of a bank. The banking industry is relatively competitive, and banks are free from burdensome government oversight. In addition, according to Kalman Mizsei, the country's leading expert, the openness of the banking sector is unprecedented, not only in the post-Communist countries, but also in Western Europe. The share of Hungarian banks owned by foreigners increased to 60 percent in the first quarter of 1997 and is expected to increase further. In 1998, the EBRD reported that over 67 percent of Hungary's banks were foreign owned.

Depositors are protected by deposit insurance. The Hungarian deposit insurance system and the National Deposit Insurance Fund (NDBA) were created under Act XXIV of 1993 and are currently regulated under Act CXII of 1996. The regulations are in accordance with international practices and standards. The NDBA, which is run by an independent board of directors, is supervised by the State Audit Office. If the interests of depositors necessitate credit, it may draw from the National Bank of Hungary or the state budget. Protection is limited to 1 million forint at each financial institution in which a depositor deposits money. The protection is extended to all depositors, including foreigners.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The Hungarian currency floats within a 4.5 percent intervention band, which is set by the National Bank of Hungary. It is floated against a basket that is based on the German mark (70 percent) and the U.S. dollar (30 percent). It is therefore freely convertible on hard currency markets. To maintain a stable exchange, the National Bank relies on a "crawling peg" devaluation system, which compensates for the difference between the domestic and foreign rates of inflation. The "crawling peg" rate, which currently stands at approximately 0.7 percent, is adjusted according to the inflation differential. Although exchange rate policy is stable and predictable, the forint has been jolted by two significant devaluations. It was devalued by eight percent in August 1994, and by nine percent in March 1995. In September 1998, the central bank stabilized the currency with the purchase of a $2.2 billion purchase of forints in response to international financial instability. In 1992, 79 forints equaled one US dollar; by 1999, due to gradual devaluation, the rate was 237 forints to the dollar. The foreign exchange reserves were $6.8 billion in 1994, $12.0 billion in 1995, and $9.7 billion in 1996. By 1998, reserves had dropped to $9.3 billion and then rose to $9.8 billion in September 1999.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Budapest Stock Exchange (BUX), which was established in 1990, was one of the first commodities, bond, and stock markets in the region. Its index contains 17 stocks. To qualify for the index, a stock must meet three of the following criteria: a minimum face value, a defined minimum price, a minimum number of transactions, and a cumulative minimum turnover of 10 percent of registered capital during the six months preceding the revision of the index. If more than 25 stocks meet at least 3 of these criteria, they are narrowed to 17 according to their weighed average calculated across the 5 criteria. The German Dax index was

used as a blueprint for that of the BUX. The base value of the BUX was set at 1,000 points on January 2, 1991. Its historic low of 717.75 points was reached in 1992. The final value of the BUX share index in 1998 was 6,304 points.

Individual and institutional investors can purchase and sell stocks, bonds, and commodities through more than 50 domestic and foreign brokerage firms. The market regulates prices. Approximately 65 to 70 percent of investment capital in the BUX is from foreign investors. The lending rates for the domestic currency are set by the National Bank. Between April 1998 and June 1999, figures from the National Bank showed decreases in the country's relatively high interest rates as rates went from 20 percent to 15.5 percent. From 1996 to 1997, the lending rate fell from 24 percent to 20.8 percent, according to the EBRD.

MICROECONOMIC POLICY 1.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Property rights are formally guaranteed by the constitution and are protected in practice by contract and property laws. The constitution mandates that public and private property shall be equally respected and granted equal protection, and that the Republic of Hungary shall acknowledge and promote the right to free enterprise and freedom of economic competition. The U.S. Department of Commerce has found that the system "protects and facilitates the acquisition and disposition of property rights."

The constitution also guarantees the right of inheritance. According to the head of a U.S. law firm in Budapest, the land registry, which records the ownership and transfer of real estate, has not been overburdened by the increased submission of claims that have resulted from privatization. Restitution is a less common direct form of property transfer. Former owners and their heirs are usually granted vouchers based on the size of their claims. The vouchers, which are tradable, can be applied toward the purchase of other state owned property.

One of the most notable examples of expropriation and compensation during the transition has been the return of property used by the Communists for agriculture and education to smallholders and to the Catholic Church. The process was mandated by parliament and handled through the court system with a minimum of disruption and social tension.

2. To what extent have prices been liberalized? What subsidies remain?

According to the 1998 Index of Economic Freedom, Hungary has eliminated most price controls, yet the prices for public transport, vehicle fuel, and utilities, such as gas, electricity, and water continue to be subsidized by the state. There is also a minimum wage in Hungary.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

In addition to the constitutional protection of private enterprises, numerous laws regulate their formation and operation. The commercial code, which includes approximately 350 laws, is in conformity with Western standards, is sufficiently transparent, is applied fairly to all subjects, and is accessible. It also establishes clear rules for the ownership and disposal of businesses.

The acquisition of a business license is simple and relatively inexpensive in most cases. In order to protect consumers, however, some licensing procedures may require collateral or proof of a specific skill. The manager of a car repair facility, for instance, is required to have five years of experience in a related field of work, and the owner of a pawnshop is required to deposit a collateral of a specific value before he can receive an operating permit.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Hungary's commercial court is cumbersome and complex. Actions brought before the court can take years. The U.S. Department of Commerce reports that, while at times corrupt, ineffective, and inefficient, Hungary's judicial system adequately facilitates the acquisition and disposition of property rights. No alternative legal mechanisms for the adjudication of contract and property rights exist.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Fair competition is guaranteed by the commercial code and by the effective elimination of state monopolies. The pace of privatization in Hungary suggests that the government has made substantial efforts to relinquish state monopolies in all spheres of production, and thus encourage competition in open and fair markets, including in the utilities, education, mining, and financial sectors.

Nevertheless, confidence in the privatization process has been shaken by several corruption scandals that led to the dismissal of the entire state privatization board and the ministers in charge. Domestic investors also complain that they are disadvantaged against large Western corporations in the competition for privatized strategic industries. It appears that the government procurement policies are becoming less biased in the aftermath of corruption scandals in 1995 and 1996. The state-auditing agency has pursued measures to make procurement procedures more transparent and in June 1999 agency chairman Arpad Kovacs called for the drafting of comprehensive laws on political lobbying. In March 1999, the parliament amended the country's procurement laws to open the process up to smaller firms and reduce opportunities for corruption in government contracts.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

The level of trade protectionism is relatively high in Hungary. The average tariff rate is 12 percent, and the government maintains import quotas that affect mainly consumer products, such as automobiles, clothing, leather footwear, and some foodstuffs. Quotas on agricultural products have been replaced with tariffs. Such protectionist measures are aimed mainly at Hungary's trading partners from the Central European Free Trade Agreement, which focuses on import levies on agricultural products. The most recent dispute between Poland and Hungary emerged over the violation of these levies by Poland, which had imposed unacceptable import levies on Hungarian starch and fodder maize. At the same time, Hungary is among the six former communist countries that are expected to be admitted as the first new members of the European Union (EU). The country's trade policies are therefore expected to conform gradually to those of current EU-member states. The EU's February 1992 Maastricht treaty provides, inter alia, for the free movement of goods, services, capital, and citizens of member-states throughout the union. Over the past ten years there have been sporadic campaigns by political parties and trade unions to encourage boycotts of foreign products and increase consumption of domestic goods to protect Hungarian jobs and economic interests.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Hungary is very open to foreign investment and attracts more foreign investment than any other formerly Communist country. Foreign investment totaled nearly $16 billion at the end of 1997. Annual foreign direct investment fell between 1997 and 1998, going from $2.1 billion to $1.9 billion. For the first eight months of 1999 FDI was almost $1.4 billion.

Laws on the privatization of strategic industries guarantee the solvency of companies and that investors can obtain their market share for a fair price and through an effective and transparent privatization process. In practice, these provisions have led to several lawsuits against the APVRt. In one case, a Belgian investor who had purchased a share of the state-owned utility company sued after, contrary to legislation, the government failed to deregulate energy prices.

Additional attractions for foreign investors are Hungary's relatively cheap and highly skilled labor force, its central location, and its relatively high degree

of political stability. In addition, except for strategic industries, Hungary guarantees up to 100 percent ownership to foreign investors. In 1999, the 35,000 foreign owned companies operating in Hungary made up 78 percent of all exports.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets? The privatization of the energy sector began in 1995. Currently, 75 percent of the sector is privately owned. The Hungarian Energy Office, an independent oversight body, was established in July 1994 to regulate energy sales and price-levels. On September 18, 1995, in the first round of energy sector sales, a 51 percent stake was sold for $460 million to 18 investors. Six electricity distributors and two electricity generating plants were sold in early December 1995 for a total of $1.3 billion. Electricite de France, Powerfin (a Belgian firm), and the German firms Bayernwerke and Isaar Amperwerke purchased between 47 and 49 percent of the distribution companies. Domestic energy production is distributed among coal (23 percent), oil (30 percent), gas (29 percent), and nuclear and hydroelectric energies (17 percent). Approximately 50 percent of oil and gas is imported from Russia through Ukraine and Slovakia.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

June 1999 figures from the Hungarian Central Statistical Agency (KSH) recorded 3,804,800 persons employed full-time. In 1998, 3,698,000 people, 36 percent of Hungary's population, were employed full-time. In 1997, the World Bank calculated Hungary's labor force to be 5 million people out of a population of 7 million between the ages of 15 through 64.

According to the World Bank, between 1990 and 1997, male and female employment rates were the following: 19 percent of the male labor force and 11 percent of the female labor force was employed in agriculture; industry employed 42 percent of the male labor force and 32 percent of the female labor force; 39 percent of all male workers and 57 percent of all female workers were employed in the service sector. Between 1980 and 1997, women's participation in the labor force increased from 43 percent of the working population to 45 percent, according to 1999 World Bank development indicators.

The KSH conducts monthly surveys that determine whether an individual is unemployed based on the number hours they worked the previous week. The National Labor Affairs and Methodological Center (OMMK), on the other hand, measures unemployment by counting all those who have registered for government unemployment benefits. KSH numbers tend to be lower because they provide a broader definition of employment, while OMMK results tend to be higher because those registered as unemployed receive benefits but are allowed to work up to a minimum income. Thus, KSH figures try to capture those who are employed in the formal and informal economies and OMMK figures count the marginally or underemployed as officially unemployed. At the end of the second quarter 1999, KSH figures showed 6.9 percent unemployment with 281,000 unemployed. Of this number, 168,000 were male and 112,000 were female. For 1998, there was an annual average unemployment rate of 7.8 percent. In 1997, KSH reported 7.6 percent unemployment. The numbers of registered unemployed in late 1998 were about 9 percent. EBRD statistics from 1992 to 1997 showed the number of registered unemployed peaking at 12.3 percent in 1992 and then holding at 10.4 percent from 1994 to 1997. Hungarian sociologist Julia Szalai has documented significant regional differences in unemployment. In 1997, one out of every four working age people was unemployed in some hard hit indus-

trial and agricultural areas in the Northeast, while large cities with a diversity of work opportunities had unemployment rates around 5 to 6 percent.

In 1991, comprehensive unemployment compensation was established in Hungary. The initial system provided benefits based on the national monthly minimum wage that lasted for two years. In 1992, the length of eligibility was reduced to one and a half years and in 1993 it was shortened to one year. In 1997, legislation was passed that significantly revised the unemployment compensation system. Benefits were no longer tied to the minimum wage. Instead, recipients receive benefits equal to 65 percent of their last average wages. However, benefits paid out by the government are restricted to a minimum that is at least 90 percent of the lowest current minimum old age pension and a maximum that cannot exceed twice the minimum pension. Recipients are allowed to work as long as their income does not exceed the gross minimum wage of 22,500 HUF ($95). In 1999, the government reported the lowest minimum unemployment benefit at 13, 815 HUF ($58), slightly more than 90 percent of the 1999 minimum old age pension benefit of 15,300 HUF ($66).

Hungarians who remain unemployed after one year of receiving benefits and have a family per capita income less than 12,280 HUF ($52) can continue receiving benefits if they formally request a continuation of unemployment compensation and they are willing to participate in public works projects. In June 1999, parliament began considering proposals to reduce unemployment benefits eligibility to six months. Policy makers are also considering revising the system so that recipients are required to take more responsibility for finding employment.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Reform of the Hungarian pension system has been a central issue for the last two governments. In 1997, the Ministry of Finance and the European Commission identified the pension system's dependence on high payroll taxes, low retirement ages and overly generous disability pensions as sources of tax evasion, inadequate care for the truly needy, and limited choices for individual retirement planning.

In May 1997, Law 81 specifying pension system reform was passed and took effect in January 1998. The system is founded on three pillars: (1) pay-as-you-go contributions; (2) earnings-related contributions; and (3) the option for individuals to increase their retirement benefits by saving a portion of their own incomes at levels above the mandatory pay –as-you-go and earnings-related contributions. The second and third pillars are operated by private pension funds and regulated by the Pension Funds Supervision Agency. In 1999, the state budget law placed a freeze on contribution increases for the second pillar to create short-term fiscal savings. This freeze has been extended into 2000 and pension reform remains incomplete. Current pension benefits are based on a percentage of an individual's average monthly wage and how long they have worked. In 1998 and 1999, a retiree who had worked for ten years was entitled to benefits equal to 33 percent of their average monthly earnings. A retiree who had worked for 40 years was entitled to benefits equal to 80 percent of their monthly earnings. In 1998 and 1999, the KSH recorded 3,157,000 pensioners in Hungary, constituting 31.2 percent of the population.

The retirement age in Hungary is 62 years old. Prior to 1998, women could retire at 55 and men at 60. A graduated retirement age system for older Hungarians has been established which allows women born before January 1, 1940 to retire at 55, those born in 1940 to retire at 56, and so on up to all those born in 1945. Women born after 1946 can only retire when they reach 62. A similar system exists for men, allowing men born before 1938 to retire at 60, and those born in 1938 to retire at 61. Men born after 1939 can only retire when they reach 62.

In 1998 and 1999, the average monthly retirement benefit was 26,105 HUF ($122)—57.8 percent of net average earnings. Hungary does provide specialized benefits to various groups and has recently passed notable legislation for the disabled. Law 26, passed in 1998, specifies equal opportunity and rights for Hungary's 600,000 mentally or physically disabled citi-

zens in health care, education, employment, housing, and access to public facilities. It also allocates financial support equal to 80 percent of current minimum pension benefits for severely disabled people over the age of 18. An advisory board has been established to supervise the implementation of the law and to ensure that compliance deadlines are met between 2005 and 2010.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

By the end of the third quarter 1999, the KSH reported that average monthly gross earnings for full time employees were 73,400 HUF ($310) with net earnings of 48,100 HUF ($203). In 1993 average net earnings were 18,901 HUF ($205); 28,243 HUF ($269) in 1994; 30,544 HUF ($200) in 1996; 38,154 HUF ($205) in 1997; and 45,162 HUF ($211) in 1998. Over this period, increases in wages have been have been offset by annual inflation that has ranged from 35 percent in 1991 to 18 percent in 1997. There have been no significant problems with wage arrearages in Hungary, although in the early years of the transition there were several cases of small firms going bankrupt and not paying employees. Figures for the second quarter of 1999 show that those in the public sector had average gross earnings of 72,100 HUF ($304) while those in the private sector had average gross earnings of 76,400 HUF ($322). From January to June 1999, the highest earnings were in the financial services sector with a gross monthly average of 93,699 HUF ($395). The lowest earnings were in the clothing and textiles sector with a gross monthly average of 32,616 HUF ($138). In 1999, UNICEF reported that Hungarian women received, on average, 15 percent lower wages than men for comparable work.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

According to government sources, the number of students in elementary, secondary and post-secondary education between 1993 and 1998 has been steadily increasing with the exception of elementary schools, which saw decreases from 1993 through 1995 and 1996 and 1997. According to the KSH, the number of elementary school students was 1,009,416 in 1993; 985,291 in 1994; 974,800 in 1995; 1,007,000 in 1996; 1,004,000 in 1997; and 1,006,000 in 1998. The secondary school population was 407,000 in 1993; 419,000 in 1994; 425,000 in 1995; 436,000 in 1996; 447,000 in 1997; and 461,000 in 1998. The number of post-secondary school students was 134,000 in 1993; 155,000 in 1994; 180,000 in 1995; 199,000 in 1996; 234,000 in 1997; and 258,000 in 1998.

Government records showed that by 1998, 98.7 percent of all 8 to 14 year olds were enrolled in primary schools. Slightly more than sixty percent of all 14 to 18 year olds were enrolled in secondary schools with another 22.5 percent engaged in formal apprenticeships. Data from the Educational Research Institute (OKI) for 1994 showed that enrollment at secondary institutions for all Hungarian 15 year olds was 91.9 percent; 86.1 percent for 16 year olds; 70.2 percent for 17 year olds; 43.1 percent for 18 year olds; and 28.4 percent for 19 year olds. In 1993, primary school enrollment was 95 percent for all primary school aged children. Secondary schools had 79 percent enrollment for boys and 82 percent enrollment for girls. School enrollment in Hungary is compulsory until age 16. The secondary school system is stratified into four-year academic high schools that prepare students for universities and colleges; four-year technical schools for technical professions; and three-year trade schools. The Organization for Economic Cooperation and Development (OECD) noted that Hungary's enrollment levels for 15 and 16 year olds was comparable to other European countries, but the percentages for 17 and 18 years were below European averages. In 1997, the United Nations Development Program (UNDP) ranked Hungary 47th

among the world's nations based on enrollment ratios and GDP expenditure. A 1996 study of primary and secondary schools indicated a national student to teacher ratio of 11 to 1. According to the UNDP, Hungary spent an average 4.7 percent of GNP on education between 1993-6. The UNDP also noted that overall public expenditure on education decreased from 5.7 percent of GDP in 1989 to 5 percent in 1996.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

From January-June 1999, the KSH recorded infant mortality in Hungary at 8 deaths per 1,000 live births. Infant mortality for 1998 was 9.7 per 1,000 live births. Between 1970 and 1997, Hungary went from having 36 deaths per 1,000 live births to 10, according to the UNDP.

Hungary has a declining birth rate with an average of 9.2 live births per 1,000 between January and June of 1999. In 1990 the birth rate was 12.1 per 1,000 live births. By 1997, the rate was 9.9, and by 1998 it was 9.6. In 1999, the UNDP documented Hungary's decreasing population growth as going from –1.9 in 1989 to –3.7 in 1996. In 1990, government figures for life expectancy were 65 years for males and 73 for females. By 1998, male life expectancy had increased to 66 years and female longevity had increased to 75 years.

The 1999 UNDP Transitions Report recorded an average of 50.6 male suicides per 100,000 Hungarians between 1990 and 1995 and 16.7 female suicides per 100,000 in the same period. In 1996, 46 percent of all marriages ended in divorce in Hungary.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

Official figures show that Hungary had 36,143 practicing physicians in 1998, giving the country a ratio of one doctor for every 279 inhabitants. The ratio for general practitioners (GPs) was lower, with one GP for every 1,937 inhabitants and 5210 GPs practicing nationwide. From 1990 to 1997, there was an average of 3.4 doctors for every 1,000 inhabitants, according to 1999 World Bank development studies.

Average net monthly earnings for those employed in the health sector were 39,896 HUF ($168) between January and June 1999. This average placed health care workers in the fourth lowest earnings level out of 19 sectors analyzed by the KSH. As of December 31, 1998, the government reported 83,770 hospital beds in operation and a ratio of just over 8 beds per 1,000 inhabitants. In 1990, there were 10 beds per 1,000 inhabitants. By 1997, the ratio had dropped to 8.2. World Bank figures provide an overall average between 1990 and 1997 of 9 hospital beds for every 1,000 Hungarians. The World Bank recorded Hungary as spending an average of 6.5 percent of total GNP on health care between 1990-97. Public expenditure was 4.5 percent.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

There are two forms of commonly used poverty measurements in Hungary. The first is based on an officially calculated minimum level of monthly income. The second is derived by measuring the ratio of persons living in households with a monthly per capita income 50 percent below the national average.

Between 1997 and 1998, the KSH calculated an official poverty line average income of 20,700 HUF ($103) per capita. Poverty line income per capita in 1997 was 18,500 HUF ($99); and 15,200 HUF ($100) in 1996. Poverty line income for a family with two children was 77,200 HUF ($360) in 1998; 68,800 HUF ($370) in 1997; and 56,333 HUF ($370) in 1996. Research conducted by the Hungarian Social Research Institute and the Budapest University of Economics showed that in 1992, 21.5 percent of the population was living below the minimum monthly level of income. In 1993, the number was 24 percent, increasing to 31.8 percent in 1994.

The ratio of persons living in households with per capita monthly income 50 percent below the national average showed increasing levels of poverty between 1992-6. In 1992 the ratio was 10.1 percent of households; 10.3 in 1993; 11.6 in 1994; 12.4 in 1995; 14.8 in 1996; and decreased in 1997 to 14 percent. World Bank

Development indicators for 1999 relied on a 1993 survey showing 25.3 percent of the population living below the national poverty line. The UNDP reported that Hungary's Gini coefficient - a measure of income distribution ranging from 0 for total equality to 1 for total inequality – went from 0.268 in 1989 to 0.385 in 1997.

Data for men and women were unavailable. However, the numbers of pension age and elderly Hungarians 60 to 69 years old living at 50 percent below minimum monthly income decreased from 10.5 percent in 1992 to 2.6 percent in 1997. The percentages of children living in poverty, however, have seen significant increases. The number of 0 to 2 year olds living at 50 percent below the monthly minimum went from 15.1 percent in 1992 to 34.7 percent in 1997. Poverty for 3 to 6 year olds went from 13.7 in 1992 to 28.2 percent in 1997. Between 1992 and 1997 poverty rates for 7 to 14 year olds increased from 12.0 percent to 24.6 percent.

KAZAKHSTAN

Polity: Presidential (dominant party)
Economy: Mixed statist (transitional)
Population: 15,400,000
PPP (USD): 3,560
Capital: Astana
Ethnic Groups Kazakh (51 percent), Russian (30 percent), Ukrainian (3 percent), Uzbek (2 percent), Tatar (1 percent), others (13 percent)
Size of private sector as % of GDP (1998): 55

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	5.30	↓5.35	↓5.38
Rule of Law	na	na	5.75
Economic Liberalization	4.38	↓4.50	4.50

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	916.0	704.0	1008.0	1274.0	1434.0	1493.0	1,523.0
Real GDP growth (% change on previous year)	-9.2	-12.6	-8.2	0.5	2.0	-2.5	-1.7
Inflation rate	1662.7	1879.5	175.9	39.1	17.4	7.3	6.0
Exports (USD millions)	4800.0	3285.0	5164.0	6292.0	6769.0	5774.0	5856.0
Imports (USD millions)	5200.0	4205.0	5387.0	6618.0	7154.0	6575.0	6150.0
Foreign Direct Investment (USD millions)	473.0	635.0	964.0	1137.0	1320.0	1132.0	800.0
Unemployment rate	0.6	0.8	1.7	3.6	4.1	3.7	na
Life Expectancy (years)	67.2	66.0	65.8	66.5	66.9	67.6	63.4

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			5	5	6	6	6	6	6	6	6
Civil Liberties			4	5	4	5	5	5	5	5	5
Status			PF	PF	PF	NF	NF	NF	NF	NF	NF

Introduction

Since the establishment of Kazakhstan's independence in 1991, President Nursultan Nazarbayev has restructured the government to broaden and strengthen his authority, while cracking down on the media and opposition movements. Various public association laws continue to impede the development of political parties as well as other levels of institutional development. Government-controlled trade unions that are a holdover from the Soviet era continue to dominate, while independent trade unions are strongly pressured to disband by government authorities including the Ministry of Justice. Despite Kazakhstan's constitutional guarantee of freedom of speech, a law on media continues to be invoked in the suppression of print media through court-awarded libel damages. Other branches of government have impeded the printing and distribution of various independent newspapers. Electronic media have been under the control of the state since 1997. One of Nazarbaev's daughters, Dariga, runs Khabar, one of two state television channels.

During this period, Kazakhstan's economy felt the impact of the spread of the Asian and Russian economic crises. The Tenge, Kazakhstan's currency, was allowed to float and underwent devaluation in April 1999. It quickly stabilized and the move was largely lauded by international financial organizations. The economy, which has failed to reindustrialize since the collapse of the Soviet Union, contracted sharply and the already advanced privatization program slowed down as the long-anticipated "Blue-Chip Program," which provides for the sale of blocks of shares in larger enterprises, was postponed. This also affects the state budget, which has been very dependent on privatization revenues for its financing. While the taxation system has seen legislative reform and significant institutional re-organization, the government still has problems in revenue collection and there are lingering suspicions of the fairness of its collection methods from past experiences. Other significant reforms in the financial sector included the broad extension of independent pension funds which are expected over the long term to serve as an anchor for capital markets development.

President Nursultan Nazarbaev retained his office after controversial elections in January 1999, which he won with around 80 percent of the vote. Presidential elections were not only moved up, but the term of office for the president was changed from five to seven years. The Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) concluded that conditions for holding free and fair elections did not exist and urged a postponement. Many important opposition politicians, including former Prime Minister Akezhan Kazhegeldin, were prevented from running for office because of their participation in a meeting of an unregistered organization. National legislative elections were set for the fall of 1999.

Democratization

POLITICAL PROCESS 6.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Kazakhstan's most recent parliamentary elections were held in December 1995. The 1994 elections had been declared unconstitutional by the Constitutional Court of Kazakhstan in March 1995, because they did not conform to the constitutional principle of one person, one vote. President Nazarbaev used this ruling to dissolve the increasingly unfriendly and independent parliament and then rule by decree.

The December 1995 elections were the first since the adoption of a new parliamentary structure in the August referendum. The two-chamber parliament includes a 67 member Mazhlis (Assembly), chosen in a general election, and a 40-member Senate, in which seven members are chosen by the president himself and the remainder by regional representatives. The new structure of parliament reflects the preferences of President Nazarbaev, who had unsuccessfully lobbied the Supreme Soviet for a two-chamber parliament when the original constitution was adopted in 1993.

The regional representatives in the Senate, or upper house, were chosen on December 5, by the del-

egates from each of Kazakhstan's then-19 oblasts (regional-administrative-territorial divisions). Forty-nine candidates vied for 40 seats. Twenty-seven of the elected deputies are politically unaffiliated. The remainder includes six members of the pro-presidential Party of Popular Unity, five members of the pro-presidential Democratic Party. The Mazhlis, or lower house, was elected from single-member constituencies by popular vote on December 9, 1995. A total of 295 candidates – 128 self-nominated and 157 nominated by parties or public associations – competed for 67 seats. Only 41 candidates met the required 50 percent threshold for election, and, after considering all challenges, the Central Electoral Commission allowed only 32 of these to sit. On December 23, 1995, an additional 13 deputies were chosen. The remaining seats were not filled until February 4, 1996. Of the 67 deputies, 42 are independent. Twenty-five, including 11 from the Party of Popular Unity, are members of parties.

The opposition views the election and the new structure of the parliament mainly as vehicles for Nazarbaev to legitimize his authoritarian rule. The Organization for Security and Cooperation in Europe (OSCE), while calling the elections fair, declined to give Kazakhstan's electoral system a "democratic" imprimatur. The president appoints the prime minister, with the Senate's consent, as well as all other ministers and deputy ministers. He also has the sole authority to dismiss members of the government and create new or disband existing ministries and state committees. He also appoints the head of the Central Election Commission. In October 1997, Prime Minister Kazhegeldin, who had served since 1995, resigned, allegedly due to ill health, though his resignation also followed his admission of service in the KGB during the Soviet era and accusations that he used his official position to acquire large shares in the Shymkent oil refinery, and harsh criticism of his aggressive privatization program. Nazarbaev immediately appointed Nurlan Balgimbaev, the head of the Kazakhstan National Petroleum Company (KazakhOil), to replace Kazhegeldin.

National legislative elections were set by Parliament for September 17th and October 10th 1999. On March 25, 1999 representatives of many of Kazakhstan's political parties and public movements appealed to Parliament to overturn or alter considerably President Nazarbaev's decree of May 8, 1998, "About elections in the Republic of Kazakhstan." Their main objection was that the new law should be the creation of a new election system independent of the executive power and that the parliament should be the only state institution in which the new law should be initiated, discussed, and approved.

2. When did presidential elections occur? Were they free and fair?

Presidential elections were held on January 10, 1999. President Nursultan Nazarbaev was re-elected with 79.78 percent of the vote. There are significant elements of controversy surrounding these elections. The election was held almost two years ahead of schedule. On October 7, 1998, parliament agreed to a series of constitutional amendments that changed the term of office for the president from 5 to 7 years and removed the age limit of 65 for president. The requirement of a 50-percent turnout for a valid election was removed as well. The next day parliament called for early elections without any public discussion of the issue. This led to the election being characterized as a "snap election" by the opposition.

The government of Kazakhstan formally invited the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE) in October to observe the election. The ODIHR sent a Needs Assessment Mission in November that concluded, "conditions did not exist for holding free and fair elections and urged a postponement." Candidates for the presidential office, then, faced the daunting task of meeting the minimum requirements for registration on very short notice. The requirements included gathering about 170,000 signatures from at least two-thirds of the country's regions as well as the deposit of a non-refundable fee from their own funds of approximately $30,000, a considerable sum of money for Kazakhstanis. Candidates also had to provide a mental health certificate and pass a Kazakh language test.

Several opposition leaders formed a movement called "For Honest Elections." At a gathering addressed by former Prime Minister Akezhan Kazhegeldin, several individuals at the meeting were charged with participating in a meeting of an unregistered public organization. Petr Svoik of Azamat, Mels Eleasizov of Tabighat, and Kazhegeldin received sentences of three days' administrative detention. Because a May 1998 amendment to the constitution banned the registration for running for political office of anyone who re-

ceived an administrative sanction. In the case of Amantai-Kazhi Asylbek, this amendment was used retroactively as he had organized an unregistered public prayer meeting in early 1998. With Kazegeldin, who was regarded as the main figure of political opposition, barred from running for president, the Central Election Commission formally registered only four candidates for President: Nursultan Nazarbaev, the incumbent president; Engels Gabassov, a member of the Senate; Serikbolsyn Abdildin, the chairman of the Communist Party of Kazakhstan; and Gani Kasyman, a chairman of Kazakhstan's customs committee.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Neither the newly revised parliamentary electoral law nor the newly revised constitution prevents parties from competing in elections. As of summer 1999 the following parties were registered and expected to participate in the fall parliamentary elections: The Agrarian Party; the Alash Party, a Kazakh nationalist party; the Azamat Party; the Civic Party; the Communist Party; the Congress Party; the Otan Party (which is strongly linked to President Nazarbaev); the Renaissance Party; and the Republican Political Party of Labor. Parliament currently is home to six political parties from the 1995 parliamentary elections. Three of them – the Party of People's Unity, the Democratic Party, and the People's Cooperative Party – are pro-presidential. The other three – the Socialist, Communist, and NKK—are small opposition parties.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Many political parties and associations have faced impediments to registration and due process, rather than having been banned or declared illegal. The record in recent years is that political parties often do not manage to achieve registration until after elections have occurred.

Interior minister Maksut Narikbaev threatened to ban the Communist Party in March 1996 for holding a series of unauthorized rallies in support of a Russian Duma resolution denouncing the Belavezha accords. The Communist Party arranged for rallies to be held in Almaty, Karaganda, Uralsk, and Semipalatinsk on March 17, the anniversary of the 1991 referendum on preserving the Soviet Union. A number of party activists were fined. In April 1998, Narikbaev again attempted to ban the party by appealing directly to the justice ministry and claiming that the party's charter seeks to create "a unitary state with a socialist orientation and pro-Communist ideology"—goals that violate the principles of territorial integrity and sovereignty enshrined in Kazakhstan's constitution. Later in the year, the General Procuracy of Kazakhstan summarily prohibited the party from organizing any meetings or demonstrations to commemorate the anniversary of the Bolshevik Revolution. However, Communist Party candidate was allowed to run in the January 1999 presidential election.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

A December 1996 IFES opinion survey revealed that 54 percent of the 1,500 individuals polled were more likely to vote for an unaffiliated candidate than one affiliated with any party. A very small proportion of the population is associated with political parties for several reasons. First, the Communist Party has been replaced less by a political party than by a political personality: Nazarbaev. In 1999, Nazarbaev assembled a party, Otan, associated with his leadership. The development of political opposition has also been more personality based than the result of common ideas. The primary political opponent of Nazarbaev has been his former prime minister Kazhegeldin, who, having been denied the opportunity to run against Nazarbaev in the January 1999 election, has turned to building an effective political opposition party the for fall elections.

According to the UNDP, "women are significantly under represented at senior management/administration levels and few are in government. The number of women in Parliament decreased from 11.3 percent in 1995 to 9.6 percent in 1996. Only one woman holds a ministerial position." It is unclear what proportion of party membership is made up of women.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Voter turnout was 86 percent in the January 1999 presidential election. Turnout in the December 1995 par-

liamentary elections was reported at more than 79 percent in the first round and approximately 65 percent in the second round. Turnout for the referenda of April and August 1995 was approximately 90 percent. More than 88 percent of eligible voters participated in the March 1991 referendum on the future of the Soviet Union. Approximately 74 percent participated in the March 1994 parliamentary elections to local legislative assemblies (maslikhats).

CIVIL SOCIETY 5.00/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

As of January 9, 1997, 3,050 nongovernmental organizations had been registered in Kazakhstan. These not-for-profit organizations provide a variety of free services, including environmental education, legal assistance, and cultural exchanges. None is organized for the sole purpose of promoting philanthropy and volunteerism. Although two nongovernmental organizations, Kazakhstan's anti-nuclear testing movement, Nevada-Semipalatinsk and Uzbekistan's Committee to Save the Aral Sea, had been very effective in social mobilization in the late Soviet period, there is nothing comparable to such organizations today. This is partly a result of the failure of political processes in Central Asia, but it is also symptomatic of the necessity of NGOs to toe a careful line in how they address social issues. One result is that NGOs can longer be identified with any large-scale public participation. Since independence, NGOs have been essentially dependent on external funding (usually from the West). The immediate problem, according to Counterpart Consortium, is that emphasis now needs to be placed on sustainability, including the development of local sources of support, since international aid to NGOs in Central Asia is decreasing.

The development of Women's NGOs in Kazakhstan dates to 1991 when women's groups that had formerly been de facto agencies of the government were allowed to register as nongovernmental and nonprofit organizations. The Feminist League is an umbrella organization linking around 30 women's organizations in Kazakhstan. The Women's Business Association has fourteen linked affiliates throughout Kazakhstan and the Almaty Women's Information Center formed by women who lost their jobs are among the most prominent.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

NGOs have to be registered with the Ministry of Justice. Religious organizations are still regulated under the same law as public associations. Article 337 of the Criminal Code provides stiff penalties for participation in an unregistered public association. As of the first quarter of 1998, in order to receive a registration certificate, one had to pay a fee of approximately US$170—a fee for enjoying what is actually a constitutional right. As of January 1, 1998 the Kazakhstan Criminal Code increased legal accountability for members and leaders of public associations in comparison with citizens who do not belong to any associations. The Feminist League has worked on legal reform and presented a Report on the Legal Status of Women in Kazakhstan to the United Nations in 1998.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The organizational capacity of NGOs is limited. Although most NGOs have executive boards or committees, they are limited in their ability to delegate tasks among members. Associations have three "spatial" scales: local, regional (oblast), and republican. In order to reach the republic level, an association must have offices in more than half of Kazakhstan's regions as well as offices in the capital, Astana, and another major city. Native language availability is not an issue. NGO sustainability has increasingly become linked

to the availability of experienced practitioners who are in very short supply. The result, increasingly, is that the more experienced organizations serve as umbrella organizations to newer NGOs. Counterpart Consortium, the Feminist League, and ISAR have all taken on such roles.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Few NGOs in Kazakhstan are financially self-sustaining outside of foreign, mainly Western, funding. They are not always tax exempt. They are exempt from profit taxes unless they are engaged in business activities. Then, they are taxed at the same rate as businesses: 30 percent. A claim of deduction or credit against taxable income is possible for individuals and enterprises, but cannot exceed two percent of taxable income. It is given to a registered non-profit only for specific purposes, including charitable, ecological, and public associations for the disabled, as well as religious organizations. According to an early 1995 amendment to Article 106 of the Civil Code, NGOs are obliged to disclose revenue sources.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The largest union remains a governmental organ that succeeded the Soviet-era General Council of Trade Unions. Most workers remain members of the state-sponsored trade unions established during the Soviet period. While the law gives workers the right to join or form unions of their own choosing and to stop automatic deductions of dues for the state unions, enterprises continue to ignore workers' requests and withhold dues for the state-sponsored trade unions. Moreover, workers who join independent unions are subject to threats and harassment by enterprise management, without legal recourse.

The largest independent voice for labor is the Confederation of Free Trade Unions (the KSPK, formerly known as the Independent Trade Union Center of Kazakhstan). It claims as many as 250,000 members; the state-sponsored Federation of Trade Unions claims 4 million. According to ICFTU, in March 1998 local security agents told the KSPK that they had received orders to close down the confederation within six months and produced a fax form from the government that confirmed that they had received those instructions.

In June 1998, judicial authorities and the Ministry of Justice used their authority to liquidate two independent unions from a metallurgical plant, the Association of Independent Trade Unions of Kentau and the Independent Trade Union of Miners, based on their unauthorized demonstrations and marches. In Kazakhstan, labor law requires that employees be notified that a strike is to occur no less than 15 days before its commencement. Independent unions also report constant harassment from central and local authorities. The independent coal miners' union, the NPG, in Karaganda, and the Betonshchik Trade Union in Astana, were pressured not to form unions; their leadership lost their jobs in many cases. The Kazakh Private Farmers' Association is the largest rural, agricultural group. Membership in farmers' groups remains limited, since there is little institutional representation for them. Small business associations have some representation via NGOs, especially in the larger cities, but are not really organized on any national level.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

The new constitution is more explicit about what forms of participation in politics by interest groups are legal. Section 3 of Article 5 prohibits public associations from activity that is "geared to a forcible change in the constitutional system" or "the incitement of social, racial, national, religious, or tribal discord." Public associations are also strictly prohibited from receiving any form of foreign aid. Although interest group participation has been retarded by the overall lack of development of democratic processes, the greater registration for political parties in the fall parliamentary elections may impact on the participation of interest groups in the future by signaling that there is a relaxed atmosphere for political issues usually associated with such interest group politics.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is

the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

According to IFES, 45 percent of the Kazakh population believes that NGOs are "essential" or "necessary," while 41 percent believe that NGOs are "not very necessary" or "not necessary at all." Media coverage of NGOs is primarily influenced by the domination of the state in the media and an atmosphere of explicit and implicit censorship. The less an NGO's activity is deemed a threat to the government or a particular policy, the more likely it will receive some degree of coverage. There is often the misconception among government officials that NGOs should work to implement government policies rather than try to influence policy.

INDEPENDENT MEDIA 5.50/7

1. Are there legal protections for press freedom?

Articles 10 and 11 of Kazakhstan's previous constitution guaranteed freedom of speech and expression as well as "the right to receive and disseminate information by any legal means." Likewise, the new constitution also guarantees "freedom of speech and creativity" and the "right to obtain and disseminate information freely in any way not prohibited by law." It makes no explicit references to press freedom. The 1991 Law on Media, which forbids censorship, is still in effect. In addition, in October 1995, President Nazarbayev amended the Law on Press and Mass Information by abolishing the Ministry of Press and Information and replacing it with the National Agency for Press and Mass Information of the Republic of Kazakhstan. The stated purpose of the new agency is to strengthen press freedom and provide state support for the publication of newspapers, magazines, and books. Instead it is vested with broad powers such as the right to prepare "proposals on improving legislation in the area of the press and mass media" that, according to many journalists, increase the government's control not only over state-owned, but also private media.

Human Rights Watch charges that the government of Kazakhstan used "four methods to hamper the independent print media in the nine months preceding the January 1999 presidential elections." First, authorities brought criminal charges against individuals and publications, accused "them of engaging in criminal speech" and the confiscation of "papers on grounds of alleged violations of the Law on the Mass Media, as well as bankrupting papers through massive libel damages awarded to government officials. The second method involved disruption of the papers' activities by various state agencies—including the tax inspectorate, customs agents, and state printing and distribution networks. Third, government officials and editors of state media outlets alike engaged in formal and informal censorship, sometimes forbidding journalists from using material…Finally, it is alleged that in at least one incident, violence was used to thwart publication of a critical newspaper." The alleged violence refers to the firebombing of the editorial offices of the Almaty-based newspaper *XXI Vek* on September 26, 1998.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

Kazakhstan's authorities frequently invoke penalties for libel and irresponsible journalism. The law against insulting the president and other officials remains active, and the constitution provides for the protection of the dignity of the president. In October 1997 this agency was again given ministerial status as the Ministry of Information and Public Accord.

The application of Article 164 of Kazakhstan's criminal code carries the possibility of up to three years of imprisonment for "impugning the honor and dignity of the President of the republic," and for the "slander of official persons," and up to four years of imprisonment for "incitement of social, ethnic, clan, racial or religious enmity." Human Rights Watch notes "two opposition politicians were charged with this offense in 1998, the threat of which is a significant means of intimidation."

In April 1998, President Nazarbaev strongly criticized the media at a cabinet session on the eve of a conference on the broadcast media in Astana, the new capital, which was sponsored by the United States Information Agency. This was followed by the Office of the Procurator General announcing criminal charges against numerous private media outlets for 270 alleged violations of Kazakh law, including issues of freedom of speech, incitement of national enmity…aimed at in-

stigating disputes and controversy over the country's history and sovereignty."

A new Law on National Security was passed June 26, 1998, by Kazakhstan's parliament. Included in this new law is Article 22, in which measures to protect informational security are outlined. This includes giving the procurator general "the power to close any media outlet" which is judged to "pose a risk to national security without specifying what agency can make that determination." Human Right Watch points out that "this provision contradicts the existing 1991 Law on the Mass Media, which in article 13 empowered only a court or the publishers themselves to shut down a media outlet."

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Independent electronic media returned to effective state control in 1997. The Ministry of Communications demanded that independent radio and television companies with private licenses take part in a series of closed auctions for broadcast frequencies where starting bids were $150,000 for television stations and $50,000 for radio. The high prices cost 31 independent Kazakhstani media companies their licenses. One of Nazarbaev's daughters, Dariga Nazarbaeva, runs Khabar, one of the two state television channels. For appearance's sake, she stepped down temporarily during the two-month period of the presidential election campaign. Every form of the media is still dominated by the government despite some renewed signs of independence in the form of private ownership of newspapers. The new Law on National Security of June 1998 outlaws foreign ownership of more than a 20-percent stake in any media outlet.

4. Are the private media financially viable?

The private media in Kazakhstan are not financially viable. One indicator is *Dat*, an independent newspaper which first appeared in April 1998. It was fined the dollar equivalent of $435,000 by the courts in a libel case and effectively forced into bankruptcy. Given that the television and radio media are essentially government controlled since the closed auctions of 1997, the atmosphere is prohibitive to investment because of the difficulty in achieving freedom of the press. Several independent newspapers that survived the difficulties of 1998 are allegedly partly financed—at least—by Kazhegeldin. Another impediment to investment is the June 1998 National Security Law, which forbids foreign ownership of more than a 20-percent share in Kazakhstan media.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The European Institute for the Media studied media coverage of the candidates between December 21, 1998 and January 10, 1999, and concluded that state media were biased toward the incumbent, while the privately owned media did not provide an alternative source of information. A negative assessment of the election by ODIHR, however, was published in opposition-oriented newspapers, *451 Fahrenheit*, *21st Century*, and *Delovaia Nedel'ia*.

In 1998 the country's most popular and independent newspaper, *Karavan*, was sold. While it is not clear who bought it, articles critical of Nazarbaev no longer appear in it. The offices of the opposition newspaper, *21st Century*, were firebombed September 26, 1998. On September 28th, authorities closed down Dat, a newspaper that first appeared in April 1998. In November, as mentioned above, it was fined $435,000 by the courts in violation of libel laws and in effect forced into bankruptcy. *LAD*, another opposition newspaper associated with the Slavic national movement, had several printing contracts canceled. In late 1997 and early 1998. After the paper ran an article by Petr Svoik, an opposition leader then under indictment, police searched the printing house. Ultimately, the paper ceased publication in December 1998.

6. Is the distribution system for newspapers privately or governmentally controlled?

Both government-owned printing facilities and the state-run periodical-distribution network, Daius (the successor to Soiuzpechat), function as virtual monopolies. During the summer and fall of 1998, several newspapers found their printing contracts suddenly canceled. Some newspapers then attempted to have their papers printed in Russia or Kyrgyzstan, only to find their press runs confiscated at the border. Still, new independent newspapers do appear and individual kiosks and street hawkers do sell their newspapers.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Overall, access to the Internet is extremely limited. Certainly less than five percent of the population can access it. Domestic access is rare outside of Almaty. NGOs and universities are the most likely places to find access outside of government offices, which, in Almaty and Astana, have a fair degree of access.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
The Association for Independent Electronic Media in Central Asia (ANESMICA) has been active. The president of ANESMICA, Rozlana Taukina, was fired as the director of radio programming for the media conglomerate, Karavan in January 1998. Human Right Watch reports that she believed her dismissal was due to the face that here call-in radio program featured Serikbolsyn Abdildin, the Communist Party presidential candidate, who accurately predicted snap presidential elections and sharply criticized both Nazarbaev and the owners of Karavan. She was told that one of the conditions for her return to her job would be to resign her position as president of ANESMICA. She refused. While the Kazakhstan Press Club was founded in 1994 to support a free and democratic media, it largely has not been involved in any of the confrontations between journalists and the state.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* **?**
Freedom House's annual *Survey of Press Freedom* rated Kazakhstan "Partly Free" from 1992 through 1993 and "Not Free" from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 5.00/7

1. Is the legislature the effective rule-making institution?
Until opposition to the budget emerged in 1999, the legislature has functioned as a rubber stamp for President Nazarbaev's policies. Thus, since President Nazarbaev's role was strengthened in an April 1995 referendum, the legislature has not been the effective rule-making body in Kazakhstan. The presidential role was boosted further in a 1996 decree that allows the president to determine the basic course of domestic and foreign policy and to serve as the symbol and guarantor of national security, state power, the constitution, and citizen's rights. The decree also allows the president to order parliamentary elections, annul any existing law, and demand the government's resignation.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
Decisions are made at the national level and only implemented at the local levels by regional (oblast) administrative heads (akims). Under the new constitution, the akims are nominated by the prime minister and appointed and removed by the president without the scrutiny of either the legislative or judicial branches. Changes in budget structure will give regional (oblast) levels of government not only more power but more responsibility, too. Increasing political authority on the regional level is already in place, although this has been primarily the result of the power vacuum at the legislative level.

3. Are subnational officials chosen in free and fair elections?
Akims for Kazakhstan's oblasts and three "special cities"—the new capital, Astana, Almaty, and Leninsk (home to Russia's Baikonur space-launching facility, leased from Kazakhstan – are nominated by the prime minister and appointed and removed at the discretion of the president. Akims serving at other levels are appointed and removed at the discretion of their respective regional akims. The next elections are scheduled to occur concurrently with the fall 1999 parliamentary elections.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?
In Kazakhstan, transparency is uncommon. This has been especially true since the dissolution of parliament in March 1994 – a parliament that had integrated several citizens' initiatives into its legislative reform program. After this dissolution and the adop-

tion of the new constitution in August 1995, power was effectively concentrated in the hands of the executive branch. As during the Soviet era, government-owned media publish draft legislation after the text is in a form that is acceptable to the central government.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments do not have sufficient revenues to carry out their duties effectively. This was apparent in 1997 and 1998 in the growing number of strikes in which thousands of demonstrators demanded employment and lower housing costs, as well as back wages and pensions that had not been paid for years. Municipal governments have little control over their own local budgets because most of their revenue is not raised autonomously. With the approval of the executive branch, a central state budget is established every year by the national legislature from taxes, customs, and sales of state property. Funds are then distributed to each oblast according to the central government's determination of need. In this way, funds are redistributed from wealthier to poorer regions. Targets for the allocation of funds are identified in the central budget, but the local akim can use his authority to redirect these funds. A small part of municipal budgets is based on local tax revenue. In the country's western oblasts, foreign oil companies also serve as a source of local taxation. In March 1999, parliament approved a Budgetary System Law that stipulates the assignment of functions and obligations to central and local executive organs and establishes a division of budget revenues between republic and local level organs and allows local executive organs to borrow money.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Municipal governments are still managed largely as they were in the Soviet era. Local leaders follow directions from the central authorities in Almaty and, in general, implement centrally decreed reform programs. Failures to execute such tasks in a timely fashion have led Nazarbaev to dismiss several local leaders.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

To date, the most significant constitutional and legislative reform of Kazakhstan's local power structure has been the new provision to have the akims nominated by the prime minister rather than the president, who then has sole responsibility for appointing them. The most substantive change regarding sub-national government occurred in 1997, when Nazarbaev consolidated several oblasts, thereby reducing the total number of entities from 19 to 14. Each of these is headed by a regional akim. In January 1996, Nazarbaev issued a decree to reform the civil service code and system. The new law provides civil servants with free housing, pensions, and other entitlements. It also forbids them from engaging in partisan activities. Local civil servants remain employees of local government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Kazakhstan's constitution was amended in August 1995 by referendum. In a turnout of approximately 90 percent of registered voters, 89 percent voted to adopt the new constitution. The new document concentrates political power in the executive branch, establishes the Russian language on an equal level with Kazakh in local government, and recognizes the inviolability of private property – particularly regarding land ownership – and the right of the individuals to engage in entrepreneurial activity.

Many opposition groups, including the Russian Community, the Independent Trade Union, the Communist Party, and the Social Democrats, opposed the draft constitution as the "undemocratic" creation of authorities that did not consider the views of citizens' groups

or public associations. They also objected to the document's vast empowerment of the president at the expense of citizen's rights. Those who supported the draft, including SNEK, the People's Congress Party, and the Democratic Party of Kazakhstan, argued that the centralization of power was necessary in order to continue Kazakhstan's reforms and to solidify its sovereignty. The Constitutional Court, charged with interpreting the constitution, was replaced by presidential decree on January 9, 1996, when Nazarbayev established Constitutional Council. The purpose of the council is ostensibly to continue the court's function of ensuring that the country's laws conform to the constitution. Nevertheless, the council is independent in name only. The head of state has the right to appoint or dismiss its president and up to three of its seven members. In the future, the council is expected to even include former heads of state. In addition to interpreting the constitution, the council also rules on challenges to elections and referenda.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The legal structure of Kazakhstan, including the new constitution, guarantees human rights but does not fully safeguard them. The law continues to sanction pretrial detention. Police may hold a detainee for 72 hours before bringing charges. With the approval of a prosecutor, they may continue to hold the detainee for up to ten additional days. In practice, the police routinely hold detainees, with the sanction of a prosecutor, for weeks or months without bringing charges. Defendants enjoy a presumption of innocence, are protected from self-incrimination, and have the right to appeal a decision to a higher court. Nevertheless, judicial corruption – particularly in the forms of bribery and political bias – is widespread. The constitution provides for peaceful assembly and association. Under a law issued by Nazarbaev in March 1995, however, organizations must apply to the local authorities for a permit to hold a demonstration or public meeting at least ten days in advance. Political activists have also complained that local authorities have insisted on approving the slogans on banners before allowing demonstrations to take place. The constitution guarantees equal rights of citizens regardless of race, ethnicity, or religion, but in practice, the government discriminates in favor of ethnic Kazakhs in government employment, education, housing, and other areas. The new constitution provides for the right of emigration and repatriation, both of which are respected in practice. Kazakhs have the right to change their citizenship but are not permitted to hold dual citizenship.

The new constitution also recognizes the inviolability of private property, including land ownership, and the right of individuals to engage in entrepreneurial activity. The Civil Code that took effect in March 1995 established the basic freedom of entrepreneurial activity and defined various forms of business enterprises, including partnerships, limited companies, and joint stock companies. Current law is based on the equitable distribution of land and asset shares but with the added benefit that the various forms of business enterprise that may be adopted now have a basis in civil law.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The Kazakh Criminal Code, which dates from 1986, was amended in 1994. Further revisions to the code were drafted in June 1997. It appears, however, that local authorities have not implemented many of these revisions. For example, although the revised code forbids taking individuals into custody without charging them, this is a common practice, especially when the individual in question is a member of the opposition or was engaged in some form of protest against the current government. During the trial of an Almaty Workers Movement leader, who had been held for several days without being charged, the judge asked the police chief if he was aware that, under the criminal code, a person who is not considered dangerous cannot be imprisoned during a criminal investigation. The investigator replied that he had received his orders "from above" and had never read the relevant chapter of the criminal code.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

At a March 1999 press conference, former Minister of Justice, Nagashybai Shaikenov, stated, "At present the court system works worse than during the Soviet pe-

riod, as far as professionalism, as well as incorruptibility and judges' faithfulness to the law are concerned." According to Amnesty International, corruption exists at every stage and every level of the judicial process. Judges, who are poorly paid, often solicit bribes from participants in trials and then rule in their favor. The government has not made a serious effort to eliminate corruption in the judiciary, although in recent years, several Supreme Court judges have been dismissed or forced to resign due to official allegations of corruption. The vast majority of judges are holdovers from the Communist era.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
Kazakhstan's courts are not free of political control and influence. With the adoption of the new constitution in August 1995, the judiciary was effectively placed under the control of the president and the executive branch. The president nominates judges for appointment to the Supreme Court, and the Senate is obliged to approve them. The president also appoints oblast judges, who are nominated by the Highest Judicial Council, and local judges from a list compiled by the Ministry of Justice. Oblast courts hear cases of serious crimes, such as murder, grand theft, and organized criminal activity. Local courts address less serious crimes, such as petty theft and vandalism. The judgments of local courts may be appealed to the oblast-level courts, while decisions of oblast courts may be appealed to the Supreme Court.

Since June 1996, judges of the Supreme Court and lower courts in Kazakhstan have been required to take examinations that assess their professional qualifications. A special committee of well-known scholars, lawyers, and parliamentary deputies will review the tests. Former Justice Minister Nagashybai Shaikenov, recalled that "when he was the Minister of Justice, only 30 percent of the practice judges could pass the qualification exams, and the rest managed to pass them in a month."

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
A fairly small, but growing, number of lawyers is engaged in private practice. The American Bar Association has estimated that approximately 20 percent of the lawyers in Almaty are independently employed. The remaining 80 percent are employed by the state. The majority of lawyers engaged in private practice represent new businesses rather than defendants in a public trial. There are two main organizations of independent lawyers – the Association of Lawyers of Kazakhstan and the social movement known as "Legal Development of Kazakhstan." Both are based in Almaty.

7. Does the state provide public defenders?
The state is required by law to provide public defenders in cases involving serious crimes. In practice, however, many defendants are either unaware of their right to a lawyer or are denied this right when detained by police.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
The constitution guarantees equal treatment of Kazakhstani citizens regardless of their race, ethnicity, or religion. In practice, however, discrimination exists. In the view of the country's Russian minority, the recognition of the Russian language as equal to Kazakh at the local level of government has not redressed the excessively preferential status of Kazakh as the official state language. This status has expanded under the country's new language policy, which requires that 50 percent of all broadcasting be in Kazakh and that all ethnic Russian sate officials be proficient in Kazakh by 2006. At an August 1997 press conference, leaders of the Society of Ethnic Russians in Kazakhstan harshly criticized the country's drive to decrease the importance of the Russian language. They urged Russia's parliament to take firm measures to protect the rights of Kazakhstan's Russian-speakers, who, they claim, constitute more than half of the population. Since 1996, ethnic tensions in northern Kazakhstan have increased due to alleged government harassment of non-Kazakhs. Local residents claim that the Kazakh interior ministry frequently harasses Russians wearing Cossack uniforms and Chechens.

The government initiated a crackdown on Uighur groups that Chinese representatives characterized as "separatist" after a meeting in Shanghai on border issues in 1996. Kazakhstan has repeatedly endorsed China's efforts to curb Uighurs' support for separatist activities in Xinjiang, even to the point of demanding

that they turn over anyone crossing the border illegally. At the end of 1996, the Kazakh government began to reconsider its policy of "special treatment" for Kazakh immigrants in the form of state financial aid and housing. A presidential decree established a ceiling on the number of ethnic Kazakh immigrants eligible to receive financial support. Nazarbaev's 1999 decree established the year's quota for ethnic Kazakh immigrants at 500 families.

The constitution provides for freedom of religion, and adherents of various faiths worship without government interference. At the same time, however, the constitution requires that the leaders of religious groups be appointed by foreign entities "in coordination with the government." In practice, the government does not interfere in the appointment of religious leaders, although foreign missionaries have complained of harassment by low-level government officials.

9. Are judicial decisions effectively enforced?
Nagashybai Shaikenov, a former Minister of Justice and current rector of Kazakhstan State Juridical University has criticized the lack of public availability of information concerning court decisions and sentences. Furthermore, he noted, "if a court makes a decision or sentence, it does not mean that it will be executed obligatorily."

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption complaints are widespread for the entire range of government from governors (Akims) to the lowest levels of clerk. Political opposition places it on the executive and judicial levels as well. The problem of corruption is especially acute in business transactions. In a recent survey conducted by the European Bank for Reconstruction and Development (EBRD), more than 3,600 entrepreneurs in 69 countries were asked to respond to the following statement: "It is common for firms in my line of business to have to pay some irregular fees and additional payments to get some things done." In Kazakhstan and the other CIS countries, 65 percent of respondents stated that this was frequently, usually, or always true. The regional average for the CIS was 15 percentage points higher than that of Latin America. Respondents were also asked if they could predict in advance how much they would have to pay in bribes if they wanted to "get things done." In the CIS countries, respondents reported a "level of predictability of corruption nearly twice as high as any other region with the exception of Eastern Europe." Participants were also asked to respond to a second statement: "If a firm pays the required additional payment, the service is usually delivered as agreed." More than 80 percent of the respondents agreed.

Until March 1997, the wages of state employees remained at the average level in Kazakhstan: An employee of a state ministry received $80 to $100 per month, and a state minister received approximately $200. Following the governmental reorganization, which decreased the number of ministries and state employees, the wages of state employees were more than doubled in an attempt to combat the practice of taking bribes. Few believed that the move would be effective, including the president himself, who later launched a broader anticorruption plan.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Top policy-makers often act as consultants and lobbyists – for example, on licensing procedures and the level of taxation – for privately owned large enterprises in exchange for payment or gifts. There are many examples of firms and banks that are not fully privatized and some fully privatized firms that have been sold to an unknown person or group often suspected of ties to the government. The legal boundaries between public and private sector activity are not well defined.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized

anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
The State Committee for Investigations – the Kazakhstan equivalent of the U.S. Federal Bureau of Investigation – is responsible for combating corruption. Kazakhstan's criminal code includes special penalties for giving and receiving bribes. In recent years, a small number of low-level government officials have been removed from office for corruption. However, prosecution of officials is extremely rare.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?
An increasing majority of Kazakh citizens believe that corruption is widespread and serious throughout the government. According to IFES, 87 percent of Kazakhs believe that corruption is "common." Fifty-three percent believe that it is "very common," while only five percent believed that it is "rare." In a similar poll in 1995, 77 percent of respondents stated that corruption was "common," while 39 percent said that it was "very common."

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
The latest anticorruption drive is a presidential decree to coordinate a drive against money laundering. Legislation in December 1998 and a law, "On the Struggle Against Corruption", accompanied this. Such laws and decrees are frequently handed down, but due to the lack of judicial reform rarely effective. Typically, officials prosecuted on the national and local levels are often regarded as scapegoats for the truly corrupt figures who remain unprosecuted or considered minor factors. In March 1999, a Law on Confidential State Affairs was adopted. This "law puts disclosure or publication of information about the president and his family and their economic interests or investments into the realm of state secrets punishable by severe sanctions. The law is clearly intended to thwart reporting on transactions involving the president which have an aura of corruption about them."

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
In an address to Kazakhstan's Parliament in late-March 1999, President Nazarbaev admitted that despite recent legislation against corruption and the design of a special program for public-education efforts they were not effective and asked citizens "to render assistance in this work to everyone."

7. How do major international corruption-ranking organizations like Transparency International rate this country?
The 1999 Transparency International Corruption Perceptions Index ranked Kazakhstan 84th of 99 countries surveyed, with a score of 2.3 out of 10 (where 0 is the most corrupt and 10 least corrupt). The EBRD reports a survey that found the average bribe tax as a percentage of annual firm revenues to be 4.7 percent in Kazakhstan with about 23.7 percent of firms bribing frequently or more.

Economic Liberalization

PRIVATIZATION 4.25/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
The private sector share of GDP accounts for 55 percent in Kazakhstan and as of 1998 the number employed in the private sector is around 60 percent of total employment. While the informal sector of the economy remains large, it can be expected to shrink rapidly in the near future for several reasons. First, the decision to float the national currency, the Tenge, will undo much of the trade protectionist policies that have been introduced to support an overvalued ex-

change rate. The World Bank points out "the costs of adjusting to the overvalued exchange rate will be borne by the unprotected sectors, the export sectors and those sectors that are more susceptible to informal or illegal imports." David Tarr and Howard Shatz, Transition Newsletter. Another reason is the extension of the tax system to the self-employed which has begun to be more widely implemented.

2. What major privatization legislation has been passed? What were its substantive features?

Most of the critical legislation was developed in the last few months of 1995 and early 1996. On December 26, 1995, President Nazarbaev issued a decree that legalized private land ownership and allowed foreign investors to purchase property. In February 1996, parliament passed a law that provides that ownership of land is open to any person or legal entity, protected by law, irrevocable except through legal proceedings. This protection is also extended to those who have the right to use state-owned land. In 1997 and 1998 the Kazakhstan government made concerted efforts to escalate the privatization process primarily in order to encourage greater foreign investment in strategic mineral assets such as gas, oil, and precious metals. Most significantly, it created a State Agency on Investment to streamline the process for the acquisition of state enterprises. By August 1997, the small-scale privatization program had been completed. In a December 1997 move to regulate the privatization process more closely and effectively, the government merged the State Property Committee and the Privatization Committee to form a Privatization Department within the Ministry of Finance. The new department monitors privatization contracts and the fulfillment of the terms of tenders. Privatization is well advanced and has played a critical role in providing funds for Kazakhstan's budgets the last five years. In 1998 the privatization program provided revenues of Tenge 75 billion for the State budget. The "Blue Chip Program" which provides for the sale of blocks of shares in large enterprises was postponed to late 1999 and 2000. A decree of April 12, 1999 divided enterprises owned by the state into local and republican estates. The privatization of local enterprises is now the responsibility of local governments.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture has not yet undergone real privatization in the sense of individual farm ownership. Instead, over 90 percent of agricultural enterprises have been privatized. As described by Michael Kaser, March 1994 legislation provided for Soviet-era kolkhozes and sovkhozes (collective and state farms) to be divided into four tranches: 20 percent could be bought by the director personally; 29 percent could be purchased by other members, employees and pensioners; 20 percent could be auctioned to buyers who must be Kazakhstan citizens and have an education and work experience relevant to agriculture; and 31 percent could be leased for a maximum of five years. Housing is essentially fully privatized. According to the EBRD, around 5,000 medium-sized enterprises (about 51 percent) and around 1,000 large enterprises (about one-third) remained in state ownership at the beginning of 1999; 330 very large enterprises which account for about one-third of GDP remain to be privatized. These include the state-oil company, the domestic pipeline system, the national power grid and the railways. Small enterprises are essentially fully privatized with only a few small enterprises in the state sector not yet privatized.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

According to Prosecutor General Khitrin, "companies and property were sold at a significant discount to their real value, where money from the budget had been channeled directly to officials private businesses and was not declared, helping tax dodging."

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

A demonstration occurred in the summer of 1999 in Almaty in which seven women declared a hunger strike to demand that the parliament not privatize agricultural land. Opposition to privatization on the Internet is organized by former Prime Minister Kazhegeldin, whose associates seem to dominate a website in Rus-

sia called eurasia.org.ru. Ironically, he was the major figure supporting privatization when he served as Prime Minister.

MACROECONOMIC POLICY 4.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

A Ministry of Revenue was created in October 1998 to strengthen tax administration. It consolidated the former Tax Committee, Tax Police and Customs Committee. The World Bank has found "the major weakness with the laws, regulations, and tax code in their administration and implementation." One Western lawyer familiar with the code found it "particularly troubling" because there "are provisions which give tax authorities the right to determine criminal liability for nonpayment of taxes and the authority to redetermine prices which are more than 20 percent out of variance with the market. The amendments also make net operating losses taxable." The World Bank finds that "tax officials are often unfamiliar with the new tax code, harass taxpayers, and confiscate bank accounts apparently without due process."

In order to increase taxpayer compliance, "a computer-assisted monitoring program covering the largest one-hundred taxpayers was set up" in 1998 in which "tax identification numbers and social identification codes used for individual contributions to pension funds were unified" in order to allow income tax payment and pension contribution cross-checking. The IMF has urged tax authorities, beginning with the 2000 budget, to take meaningful steps toward building the tax base. Privatization revenues have been critical to the budget process but cannot be expected to sustain such a burden much longer. The current income tax rate is 30 percent.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

The IMF cited "substantial progress...made in 1998 and early 1999 in the area of structural reforms," especially in the budgetary process. The 1999 Budget Law introduced important changes to the fiscal system, including the elimination of the major extra-budgetary funds (such as the social insurance fund, the employment promotion fund, and the road fund), which increased its transparency. Extra-budgetary funds are now consolidated into one payroll tax. "The adoption of the Budget System Law created a systemic foundation for financial relations between different levels of government." Kazakhstan's fiscal deficit increased from seven percent in 1997 to eight percent of GDP in 1998. This is partly a reflection of the onset of the economic crisis felt so strongly in Asia and especially Russia, Kazakhstan's neighbor and principal trade partner. Total debt in 1998 as a percent of GDP was 27 percent.

A pension reform law enacted in June 1997 and inaugurated in January 1998 dramatically changed the pension system from a pay-as-you-go system to a fully funded, defined-contribution account system. This new system is based on funded savings accounts that will accrue assets through individual contributions equal to 10 percent of earnings. This reform links pension funds with the newly developing financial markets system. This achieved a steady increase in the market share of private pension funds that reached 31 percent by the end of June 1999. In March 1999 Parliament abolished "a number of privileges of members of parliament, judges and members of their families financed by the state budget."

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

There is a two-tier banking system in Kazakhstan, with the National Bank of Kazakhstan and 70 commercial banks at year-end 1998, compared with 130 in 1995. The National Bank of Kazakhstan sets and implements monetary policy, as in the recent float of

the Tenge in April 1999 (in coordination with the government). The greatest problem in banking is under-capitalization, the primary reason for ongoing banking consolidation, (the other reasons include poor management and high operating expenses).

While there is progress toward international standards, one of the key indicators is the highly segmented inter-bank market, which shows "that the income and capital of many banks is overstated." Kazakhstan's commercial banks have to compete for quality loans with the half-dozen or so of the world's largest banks that have offices in Almaty.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

In an action that political opposition groups predicted would follow President Nazarbaev's reelection in January 1999, on April 4th Kazakhstan's National Bank announced a free float of the Tenge's exchange rate. This resulted in an immediate devaluation of the national currency. The Tenge had depreciated in real terms between July 1998 and January 1999 against the dollar by 15 percent, but had appreciated by 68 percent against the Russian ruble, which led to a lack of competitiveness relative to regional trading partners, especially Russia.

Prime Minister Balgimbaev at the April announcement said that from now on the dollar exchange rate will depend on supply and demand on the foreign exchange market and the National Bank of Kazakhstan will not substantially intervene in this process. Kazakhstan's gold and currency reserves will no longer be used to keep the exchange rate at a certain level. Kazakhstan's gold and currency reserves fell from US$ 2.25 billion in December 1997 to 1.97 billion by the end of 1998.

Standard & Poor's downgraded Kazakhstan's long-term currency rating from BB- to B+ and the long-term rating of borrowing in local currency from BB+ to BB- in September 1998. In March 1999 another international rating agency, Moody's Investor Service, lowered the highest credit rating assigned to Kazakhstan's bonds denominated in foreign currencies from Ba3 to B1 and the upper limit of ratings assigned to Kazakhstan's foreign currency bank deposits from B1 to B2.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

Kazakhstan's National Securities Commission was established in 1995, followed by a Securities Law in 1997. The framework and much of the infrastructure have been established for functioning capital markets. At the end of 1998, there were only 18 companies listed on Kazakhstan's single stock exchange. Expectations for further growth are linked to pension-fund demand and the revival of the "Blue Chips" program. Kazakhstan has also issued a series of Eurobonds on the international market.

MICROECONOMIC POLICY 4.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Rights to ownership and protection of private property, whether immovable or movable, tangible or intangible, are set forth in the constitution (Articles 1-6) and the Civil Code, which also addresses contracts and pledges. Even property restricted by public interest to state ownership can be included in a contract obligation if the state is a party.

The Soviet legacy of state-owned property has inhibited understanding and respect for intellectual property rights in Kazakhstan. Kazakhstan has a Law on Copyrights and Neighboring Rights, and a Law on Trademarks, Service Marks, and Appellations of Origin, both largely in conformity with international principles on protection of intellectual property rights. The Law on Copyrights and Related Rights was enacted in June 1996, and appears to satisfy the requirements of the World Trade Organization's TRIPS (Trade Related Intellectual Property) Agreement and Berne Convention. But lax enforcement, inadequacy of the courts in

dealing with intellectual property rights issues, and the absence of criminal sanctions have meant that intellectual property rights are often unprotected. Systematic violations persist and enforcement currently remains sporadic at best.

The constitution provides that land and other natural resources may be owned or leased by physical persons or legal entities subject to conditions established by law. Permanent ownership is restricted to state enterprises. Family farms, household plots, gardens, and dachas may be inherited for life tenure. Other land and natural resources (including agricultural land) may be leased up to 99 years (but may not be passed by inheritance). Although present law does not provide for mortgages or land registry, a draft law being prepared as of June 1999 provides for land mortgages and real estate registration. Foreign citizens and foreign legal entities can lease land only through a domestic partner, for up to 99 years. Registry rights in all immovable property, buildings, and appurtenances must be done through the Kazakhstan Ministry of Justice's Immovable Property Registry.

Article 26 of the Kazakhstan constitution provides that "no one may be deprived of his property unless otherwise stipulated by a court decision. Forcible alienation of property for the public use in extraordinary cases stipulated by law may be exercised on condition of its equivalent compensation." Insufficient data is available on seizures and confiscation to warrant any conclusions about the frequency of seizures and the adequacy of compensations.

2. To what extent have prices been liberalized? What subsidies remain?

Prices are almost completely liberalized except for some basic foodstuffs. Enterprises that are still state-owned and the agricultural sector continue to receive subsidies.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The Civil Code of March 1995 encoded basic freedoms of entrepreneurial activity, including the right to own and operate a private business without governmental interference. Nevertheless, some bureaucratic hurdles effectively limit this right. There is no comprehensive legislation on the formation, dissolution, and transfer of businesses. Nevertheless, the atmosphere for owning and operating a business has improved and SMEs with less than 50 employees registered at the start of 1999 reached 87,000. According to EBRD, a government support program enacted in December 1998 provides for simplified registration and taxation practices, as well as the development of financial and information support infrastructure. In general, citizens outside Almaty also lack information regarding basic commercial law and bankruptcy procedures.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The courts have been weak and inconsistent in the enforcement of contracts, not transparent, and rarely efficient or quick in reaching decisions on property and contract disputes. Most foreign investors rely instead on private arbitration and international courts.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Since late 1997, the law has subjected natural monopolies in Kazakhstan to the special regulatory regimes that are imposed on those industries in developed market economies. A July 1998 amendment to the law on natural monopolies gives greater detail to the rights and responsibilities of natural monopolies, pricing principles, regulation processes as well as how their assets should be disposed, reorganized, or liquidated. According to the Department of Anti-monopoly Policy in Kazakhstan's Ministry of Economy and Trade, 39 firms in the energy and basic infrastructure sectors have already been designated as natural monopolies.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Kazakhstan is currently a member of several international trade organizations and expects to be admitted to the WTO in the near future. In 1998, 39.3 percent of all exports went to the CIS, of which Russia alone amounted to 28.9 percent of all exports; the European Union was 31.6 percent; and, other countries totaled 29.1 percent, none of which accounted for more than China's 7.2 percent. Kazakhstan erected temporary trade barriers against selected imports from neighboring countries in 1998. This was partly in response to the collapse in value for the currencies of neighboring Kyrgyzstan and Uzbekistan who flooded Kazakhstan's marketplaces with inexpensive food products. Kazakhstan imposed a 200-percent tariff on selected imports from the region; it remained in effect until the Tenge was floated in April 1999. Tariffs against select Russian goods were imposed in early 1999 and still remained at mid-year.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Kazakhstan is open to investment. There are no major sectors of the economy that are closed to foreign investors. By law, foreign investors can participate in all privatization processes. In 1998 gross Foreign Direct Investment (FDI) was US$ 1,215,900 that was 57.7 percent of FDI in 1997. Kazakhstan has special laws on foreign investment, a special agency for the promotion of investments (the Agency of the Republic of Kazakhstan for Investment - ARKI, formerly the State Committee for Investment), and a Foreign Investors' Council which was created in 1998 and strongly supported by the EBRD which, along with the government designed the membership to represent different business sectors. It is supposed to provide a forum where representatives of the foreign investment community can discuss problems with and make suggestions directly to the president and top officials. In 1998 and early 1999 delays in the progress of completing privatization were partly due to Asian and Russian economic crises which affected market conditions for revenues from privatization.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

In the Soviet Union, some republics supplied energy in certain forms to other republics while other energy sources remained untapped. Kazakhstan has an enormous supply of unexploited oil reserves and significant gas reserves as well. Currently it produces over a half-million barrels of oil per day and claims a potential of up to 3 million barrels per day. Kazakhstan also contains up to 8e trillion cubic feet of natural gas as well. The disposition of the Soviet energy grid left Kazakhstan without a domestic gas pipeline system tied to its resources and has therefore needed to import gas from Uzbekistan and Russia to supply gas to most of its industrial regions.

The greatest reform in the energy sector has been foreign direct investment (FDI). In 1998 the sale of 14.28 percent of the national oil company, Kazakhoil's, holdings in the Offshore Caspian International Oil Consortium (OKIOC) to American and Japanese investors for about $500 million accounted for about two-thirds of the government's current account deficit. Nevertheless, it is increasingly questioned whether selling Kazakhstan's energy and mineral riches to outside firms will contribute to solving the country's longer-term economic and employment problems. Because of the structure of the energy grid, as well as Kazakhstan's land-locked status, southern Kazakhstan has often found itself dependent on Uzbekistan for gas. For several winters there have been periods where payment arrears have led much of the southern region to be denied gas, even for heating, until payment arrears were cleared.

Exported fuels must pass through another country. Currently, most fuels for export pass through Russia. In May 1999, the Caspian Pipeline Consortium began work on the final leg of a pipeline that in October 2001 will finally bring Tengiz oil to world markets via a pipeline through Russia to the port of Novorossiisk on the Black Sea. No other pipeline proposal is close to development. High tariffs have kept Kazakhstan from developing gas exports through Russia's Gazprom monopo-

lized system. Long-standing bitter personal relations between Gazprom's chairman, Rem Vyakherev and Nazarbaev compound the difficulty of developing substantial gas exports through Russia. Karach-aganak's huge oil, gas, and condensate resources are currently concentrated on gas condensate export development through Russia. Substantial refining of Kazakhstan's crude oil production is still done in Russia. There is a current quota of 7.5 million metric tons of oil per year that can be exported through the Russian oil pipeline system. In July 1998 President Nazarbaev and Yeltsin signed an agreement on the division of the northern sector of the Caspian Sea bed, leaving the water itself in common use.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

Official statistics for 1997 calculate total labor resources to be 8,813,600. For the same year, 84.4 percent of the labor force was described as "economically active." At the end of 1998 8.5 percent of the population was on forced unpaid leave or working on a part-time basis. A better understanding of the degree of full employment will be known when the 1999 census results are published as they contain several questions relating to employment.

In January 1999, the official unemployment rate stood at 3.7 percent. In mid-1997, 5 percent of the registered labor force was unemployed. The World Bank estimates that if a broader definition is used which reflects involuntary leaves and part-time furloughs, the rate may be around 14 percent for 1997. The state has been unable to provide unemployment compensation for several years.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Pension reform in Kazakhstan has recently brought about a radical change from a pay-as-you-go state system to a new system where private pension funds are expected to provide an outlet for capital markets development in 1999. A state accumulative pension fund now exists alongside private pension funds because mistrust of financial institutions is still strong and provides an alternative during the transition period. Voluntary contributions are only possible into private pension funds, however. In 1999 a mandatory 15-percent contribution to the pension system was combined with other social payments and a so-called social tax was introduced. The social tax goes directly to the budget and benefits payments are the budget's obligations as well. The rate of this tax is fixed at a level of 21 percent. Full pensions are to be paid to men for 25 years of work and women for 20 years. As formulated in the pension reform legislation, men would retire at age 63 and women at age 58. For those who retire in the future after having worked under both systems, a pension would consist of benefits paid out of the old system, prorated according to the amount of years in the old system. Those who enter the workforce after January 1, 1998 would use benefits only from the new accumulative pension funds. Partly because of the Asian and Russian economic crises, the decline in revenues for Kazakhstan necessitated a revision in the budget, which was strongly resisted by parliament. A revised budget was finally passed after four months of discussions, centering mainly on whether privileges for social groups such as veterans of WW2, the Afghanistan war, and the Chernobyl nuclear disaster would be cut. It is believed that they were and the Almaty Workers Movement publicly protested these cuts, although the government claimed cuts were mainly in other areas.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

While per capita GDP rose to US$ 1,451 in Kazakhstan in 1997, there were tremendous regional disparities. Almaty reached US$ 4,654 while the poorest region, East Kazakhstan, had a GDP of only US$ 488. According to Kazakhstan official statistics, the average state wage in the public sector is 10,300 Tenge a month; in the industrial sector, 14,234 Tenge; in the financial sector, 20,000.

Wage arrears continue to plague Kazakhstan. Wage arrears in the enterprise sector rose 9.6 percent in 1998 and reached 35.5 billion Tenge. Wage arrears in industry were 18.3 billion Tenge and represented 52.4 percent of total wage arrears. Research has shown that the size of the informal sector of the economy where barter prevails rose significantly between 1990 and 1997. There seems to have been a decline recently that is possibly due to the greater penetration of reforms to the tax and pension systems or to a better economic environment.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

According to official statistics, pre-school education has fallen more sharply than any other sector of the educational system in recent years. The number of pre-school establishments has fallen more than 70 percent since 1991 due to insufficient financing and fee structures that promote inaccessibility for much of the population. The 1995/96 school year had 353,000 enrolled while the 1997/98 school year had only 155,200. Many mid-level vocational schools have been closed down.

Secondary schools have fallen in number from 8,801 to 8,141 for the same time period while the number of elementary school students has risen slightly from 3,084,000 to 3,122,800 reflecting a change for the worse in the student - pupil ratio. Conversely, the number of higher education establishments has increased dramatically from 108 in 1995/96 to 144 for 1998/99 school years. The number of students has increased from 272,700 to 318,700. The overall education trend has been for increasing privatization, which has made many schools inaccessible. Education in the 1999-revised budget was 3.9 percent of GDP, the majority of which came under local budget expenditure.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Infant Mortality stood at 24.9 deaths per 1,000 live births in 1997. A related figure, the Maternal Mortality Rate stood at 80 per 100,000 live births. The Crude Birth Rate was 14.7 births per 1000 population in 1997, down from 21.5 in 1991. In 1998 there were 222,000 recorded births which is almost a two-fold decline compared to 1987 when 417,000 births were recorded. A 1995 Demographic and Health Survey estimated a Total Fertility Rate of 2.49 for all women; 2.0 for women in urban areas; and 3.1 for rural women. Kazakh women had a TFR of 3.1 while Russian women's TFR was 1.7; data from the Ministry of Health suggest that the TFR could be as low as 1.9 for Kazakhstan. Life expectancy in 1998 was 64.4 years with males having a life expectancy of only 59 years and females, 70.2 years. The gap between male and female life expectancy has expanded from 5.8 years to 11.2 years since 1991.

The number of marriages has declined during the years of independence and the age of marriage has increased. The age at first marriage for women is 22 years and for men, 25 years. The annual divorce/marriage ratio is 1:3. Socio-economic factors have impacted directly on a broad range of psychological-social behavior indicators including an adverse effect on suicide rates. Official data estimate the number of suicides per 1,000,000 populations to be 29.6 for 1997; in 1994, it stood at 24.7.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

The system of health care was significantly changed January 1, 1999 into a two-tier system for medical services. There is a guaranteed package of basic medical services that remains available to the public free of charge while additional services are fee-based. Guaranteed medical services are now the responsibility of local budgets. Certain medical programs, such as tuberculosis, remain in the State budget. In 1998 there were 99.8 hospital beds per 10,000 inhabitants.

From 1991 and 1996, the proportion of GDP allocated to the social sector declined by 50 percent. Government expenditure on health care as a percentage of GDP declined by 33 percent between 1991 and 1995. In the revised 1999 budget the health sector is allotted 3.1 percent of GDP.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

There are no official criteria for measuring the incidence of poverty. A Living Standards Survey conducted in 1996 by the State Statistical Committee indicated that as much as 30 percent of the population is poor. The EBRD puts the current poverty rate at 50 percent.

High inflation severely affected the real value of pensions and the savings of the elderly from 1993 through 1995. While inflation has largely been under control since 1996 due to monetary and fiscal policies, it reemerged briefly for the few months reported since the April 1999 Tenge devaluation but had already subsided by late June. Kazakhstan's Red Crescent and Red Cross estimate "that 78 percent of the urban population lives below the poverty line, as compared to 90 percent for villages."

KYRGYZ REPUBLIC

Polity: Presidential-parliamentary democracy
Economy: Mixed statist (transitional)
Population: 4,700,000
PPP (USD): 2,250
Capital: Bishkek
Ethnic Groups: Kyrgyz (52 percent), Russian (18 percent), Uzbek (13 percent), Ukrainian (3 percent), German (2 percent), other (12 percent)
Size of private sector as % of GDP (1998): 70

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	4.65	↓4.70	↓4.88
Rule of Law	na	na	5.50
Economic Liberalization	3.75	3.75	↓3.83

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	195.1	245.0	332.2	394.3	383.6	354.8	382.0
Real GDP growth (% change on previous year)	-16.0	-20.0	-5.4	7.1	9.9	1.8	0.0
Inflation rate	1208.7	278.1	42.9	30.3	25.5	12.1	10.0
Exports (USD millions)	335.0	340.0	409.0	531.0	631.0	554.0	623.0
Imports (USD millions)	501.0	459.0	588.0	783.0	646.0	705.0	685.0
Foreign Direct Investment (USD millions)	10.0	45.0	96.0	46.0	83.0	52.0	64.0
Unemployment rate	0.2	0.7	3.0	4.5	3.2	na	na
Life Expectancy (years)	67.6	66.7	66.8	69.3	69.2	67.3	63.6

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			5	4	5	4	4	4	4	5	5
Civil Liberties			4	2	3	3	4	4	4	5	5
Status			PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

Since 1991, the Kyrgyz Republic has experienced both political gains and setbacks. On the one hand, President Askar Akayev allowed the development of opposition parties and independent media in the early 1990s. In addition, he reached out to the non-Kyrgyz communities in an effort to stem the emigration of Russians, Ukrainians, etc. At the same time, in an effort to consolidate his power, President Akayev has periodically overstepped the rules of democracy. For example, several key candidates were prohibited from competing in the 1995 presidential election at the last minute. In addition, parties have had to reregister, causing some additional problems. While the NGO and media sectors are the most viable in all of Central Asia, they too, are facing problems in maintaining their independence. Perhaps most devastating is the continued – and increasing – impact of regional and clan politics in the Kyrgyz Republic today. Corruption remains endemic and even the government acknowledges that it is adversely affecting the political and social climate of the country.

Economically, while the Kyrgyz Republic has few natural resources outside of the potential for hydroelectric power, it started off as a major recipient of foreign aid. This was largely the result of an open investment policy and positive climate in the early 1990s, and a willingness on the part of the Kyrgyz government to abide by regulations set forth by the World Bank, IMF, and other lending agencies and governments. With the exception of certain sectors, privatization is almost universal. In addition, the currency is relatively stable. Trade agreements with Russia and China, as well as other foreign governments and companies, continue to be a high priority for the Kyrgyz government.

In 1998, the Russian economic meltdown had a direct impact on the Kyrgyz economy. Following closely on the heels of the Asian crisis, which curtailed Asian investment in the country, it has dominated economic policy discussions in the country. Equally important is that the Kyrgyz government must now pay back several hundred million dollars worth of loans to foreign lenders – at the same time as it finds its own economy contracting. The Kyrgyz admission into the World TradeOrganization in late 1998 should create a framework within which these problems can be addressed. President Akayev is already talking about establishing an austerity program to lower the debt and schedule a reasonable payback of outstanding loans. In light of these problems, President Akayev feels that he must maintain tighter control of the political process. In the past year, he has increased pressures on opposition groups and parties. The fear of Islamic radicalism has also spurred government actions in the Osh region, which is dominated by ethnic Uzbeks. This concern has also led President Akayev to focus even greater attention on regional cooperation, despite periodic problems with the country's neighbor to the west, Uzbekistan.

Democratization

POLITICAL PROCESS 5.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?
The most recent round of elections to the legislature – the Jogorku Kenesh – took place on February 5, 1995, with run-offs held on February 19, 1995. At that time, Kyrgyz voters chose among 1,050 candidates for the 105 seats. The Kyrgyz legislature is bicameral with 35 members in the upper house (Myizam Chygaruu Jyiyny) and 70 members in the lower one (El Okuldor Jyiyny). While each house has different legislative responsibilities, the electoral procedures for both were the same in the 1995 election. Members of both houses were elected through single-member districts with a 50 percent + 1 vote requirement. A run-off between the top two vote-recipients takes place if no candidate receives a majority of the overall vote in that district. In principle, the upper house seats are allocated by region, with these members representing the six oblasts and the city of Bishkek. Lower House members represent districts based on population. This is a change from the previous unicameral Supreme Soviet that had 313 seats representing the entire country. The last Soviet-era election took place in 1990 (February 25 and March 4). Elections for the legislature are next scheduled for

February 2000. As a result of changes in the electoral laws, members will be selected through a slightly different formula. While the Lower House (now with 45 members) will be selected from single-member districts, the upper house (now with 60 members) will have a combination of single-member districts (45 seats) and proportional representation (15 seats).

The elections of 1995 were considered "free and fair," largely because the electorate had access to polling stations and ballots. In addition, registered candidates did have their names listed properly on the ballots. Nevertheless, there were problems. International electoral observers wrote reports critical of the February 1995 events. The OSCE, UN, and EU all noted irregularities such as ballot-box stuffing, the difficulties some voters had in actually voting, family voting, and even voter fraud in some regions. Instances of the latter were not considered systemic, and the intent of international observers is to see how much further progress will be made in the 2000 elections. Perhaps of greater concern for international observers is the fact that the rules for party/candidate registration change periodically, making it difficult for potential candidates properly to register.

Given that the Kyrgyz Republic has a presidential system, the powers of the Prime Minister and cabinet are limited. Furthermore, President Akayev has a penchant to change ministers on a regular basis, preventing any single minister from building a power base. In April 1998, Akayev carried out the biggest government reshuffling since 1991. This was repeated in December 1998 when the entire cabinet was sacked for their inadequate handling of the economy. Shortly thereafter, many ministers were able to return to the government, albeit with different portfolios. Once again, in the summer of 1999, seven ministers were removed from office for a variety of reasons, including the Minster of Finance and the Minister of Defense.

Since the spring of 1998, there has also been a faster-than-usual rotation of Prime Ministers. On March 25, 1998, the Jogorku Kenesh approved of his choice of Kubanchybek Jumaliev as Prime Minister. This followed the unexpected resignation of Apas Jumagulov. Shortly thereafter, the powers of the Prime Minister were again reduced via presidential decree. The Jumaliev government lasted barely nine months, and in December 1998, President Akayev formed yet another government under the leadership of Jumabek Ibraimov. In April 1999, however, Mr. Ibraimov died unexpectedly and Akayev appointed Amangeldi Muraliyev in his place. The Speaker of the Jogorku Kenesh is Aydygany Erkebayev. Like Muraliyev and the rest of the cabinet, he is also a presidential appointee. Indicative of the weakness of the Kyrgyz government vis-à-vis the president is the fact that Akayev has a 13-member Security Council – first formed in 1996 – that acts as an "inner cabinet." While comprised of officials from the cabinet, such as the heads of the power ministries, it answers only to the president and not the legislature.

2. When did presidential elections occur? Were they free and fair?

Through a variety of means, Askar Akayev has remained the only president independent the Kyrgyz Republic has known. First elected president on October 27, 1990 by the Supreme Soviet of the Kyrgyz Soviet Socialist Republic, he "returned to office" via popular mandates on October 12, 1991 and December 24, 1995. The latter election, which was the first held after ratification of the 1993 constitution, was marred with controversy. While the Central Electoral Commission had set out specific rules of candidate registration, which included specific numbers of signatures based on total number and regional distribution, three candidacies were declared invalid shortly before the election. In these instances, it was decided that while the total number of valid signatures was present, enough "invalid" signatures were present to spoil the registration. In particular, these included the signatures of individuals who later "recanted" their support for the candidate in question. By December 24, there were only two opposition candidates able to run against Akayev – former Kyrgyz Communist Party First Secretary Absamat Masaliev and former Supreme Soviet spokesman Medtkhan Sherimkulov. As both were limited in their ability to campaign, they received little support. Masaliev garnered 24.4 percent of the vote (with most coming from his home region of Osh) and Sherimkulov netted only 1.7 percent. Akayev was the clear winner with 71.6 percent of the vote.

In spite of complaints by the opposition candidates, the OSCE and UN declared that the elections were "generally free and fair." Other international organizations noted that while there were concerns about the invalidation of opposition candidacies shortly before the elec-

tion, the actual mechanics of the election were for the most part legitimate. Specifically, the technical aspects of recent Kyrgyz elections have been transparent and have followed many of the guidelines suggested by international organizations. The major stumbling block continues to be the selection of candidates and the process of candidate registration. This was evident in the 1995 election and is already being noted in the preliminary stages of the 2000 election in which a potential rival, Felix Kulov, is experiencing problems getting his documents in order in 1999. In particular, he needs to register 12 months ahead of the election, as noted in the most recent iteration of the election law.

A final procedural issue that was temporarily addressed in 1999 was whether President Akayev could run for yet another term, despite the two-term limit on the presidency. One option was to eliminate the limitation entirely, as was done in Kazakhstan. However, enough attention was brought to bear on this strategy by the opposition press and by international organizations that a stopgap measure was adopted. Much like neighboring Uzbekistan, it was decided that President Akayev could run in 2000, given that his 1995 election was technically his "first" under the new constitution, which was ratified in 1993. In effect, the Soviet era 1990 and 1991 victories do not count. This is considered a temporary solution, for it gives President Akayev five years until the 2005 election to remove the two-term limit entirely, or to force a Constitutional Court decision to make an exception for him. Some Kyrgyz commentators speculate that he could, ultimately, abide by the current law and retire from politics in 2005 were he to win the 2000 election.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The Kyrgyz Republic is officially a multiparty system, although most of the parties tend to be weak and personality-based organizations. The 1993 constitution and subsequent laws of political parties give the right and procedures to form political parties. Indeed, as a result, more than 20 political parties of national scope have formed since independence.

The combination of weak parties and an electoral framework that allows other organizations and associations to field candidates has resulted in a situation where most sitting members in the legislature are not affiliated with a political party. Of the 105 members of the Jogorku Kenesh, only 36 are party members, with 15 having run on a party platform. The rest, in addition to the remaining 69 members, were selected through local organizations and associations, or simply ran as independents. Further weakening the influence of parties at this level is the fact that these individuals represent a wide range of political parties, with no single party holding more than four seats as political party representatives in the Jogorku Kenesh. In most instances, simply the party chairman is in the legislature. This has prevented many of the parties from forming coalitions or even mergers, lest they lose their one seat.

As a rule, cabinet members leave their party offices upon assuming the government position, further weakening party representation in the legislature. Thus, an effort is made to minimize party politics at the executive level. In addition, locally elected officials and the appointed governors tend not to have party affiliations, thus minimizing the impact of political parties at the sub-national level. Again, the ever-changing rules on party registration and candidate registration have made it difficult for these organizations to coalesce into viable political entities. Some activists in the Kyrgyz Republic believe that the February 2000 elections will afford an opportunity for parties to form common platforms and run more effective campaigns.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

As of 1998, 18 political parties were registered in the Kyrgyz Republic. This number decreased in 1999 because several parties were forced to reregister. In addition, several of the parties mentioned below are contemplating mergers in preparation for the February 2000 election, thus further reducing the number of political parties.

At present, the Democratic Movement for Kyrgyzstan and the Communist Party of Kyrgyzstan are the most prominent political parties in the country. The former was the first movement of "pro-democratic" forces in the Kyrgyz Republic, founded in 1993. The latter is the direct successor to the Soviet-era Communist party and remains relatively strong. The Social Democratic Party of Kyrgyzstan, founded in 1993 and led by Zh. Ibraimov, is the supporter party of President Akayev.

The National Unity Democratic Movement, chaired by Yuri Razgulyayev, is also a party that has been suc-

cessful in gaining some support in the country. Likewise, the Kyrgyzstan Erkin Party (Democratic Movement for Free Kyrgyzstan) was founded as early as 1991 and is a moderate, Kyrgyz-nationalist organization, which does not exclude Russians, but rather fosters greater ties among Kyrgyz. Other parties include the Republican Popular Party of Kyrgyzstan, the Ata Meken ("Fatherland") Party, the Ashar Movement, the Agrarian Party, the Banner ("Asaba") National Revival Party, the Manas-El (People of Manas), and the Movement for the People's Salvation, and the Birimdik ("People's Party of Kyrgyzstan"). Most of these political parties center on a specific personality and are fairly weak as organizations.

In contrast to its neighboring Central Asian states, the Kyrgyz Republic has not been in the practice of banning political parties. Religious-based parties are not permitted and political organizations representing the interests of the Uighur minority have not been allowed to register. In addition, the Movement for the Deliverance from Poverty was also not allowed to register in 1997. In all cases, the justification was that these political groups only fostered anti-state sentiments. More difficult than party registration has been the ability for parties properly to field candidates. Candidate registration rules have been difficult in the past and continue to be a stumbling block for opposition organizations.

Ultimately, the weakness of the political party system is based on several factors. First, the candidate selection rules that permit non-party organizations to compete on equal footing with political parties minimize the need for such groups. Second, the electoral rules emphasizing single member districts thwart efforts of smaller parties successfully to place candidates in the legislature, short of the single charismatic leader who can win a single seat. Third, the fact that the numerous parties center on key individuals, many of whom are at odds with one another, prevents coalitions from being formed.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

In spite of the relatively large number of political parties in the Kyrgyz Republic, the majority of the population does not belong to any one organization. Party membership tends to be small and regionally concentrated. The two largest parties are the Communist Party of Kyrgyzstan and the Social Democratic Party of Kyrgyzstan, with membership figures of between 22,000 and 25,000 each. Membership figures for other parties are estimated to be in the low 1,000s, if that.

According to an IFES survey conducted in December 1996, the Kyrgyz population is, in principle, in favor of a multiparty system: 57 percent of those polled believe that two or more parties are preferred, while 25 percent still believe that one party is sufficient. This is an improvement from the answers given to the same question in the summer of 1995, when the numbers were 48 and 25 percent, respectively. Not surprisingly, support for political parties tends to be among younger, more educated, and urban Kyrgyz, with the noticeable exception of the elderly supporters for the Communist Party of Kyrgyzstan. That said, the Kyrgyz electorate does not identify with any political party. In one pubic opinion poll, with the exception of the Communist Party of Kyrgyzstan, no single party received more than six percent support from the respondents. Further underscoring the problem of party development, when asked whether they would be interested in joining a political party, only 24 percent of the poll respondents said yes, while 69 percent said no. Statistics on the share of women among political party members are not available.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

While lower than the Soviet era figures, voter turnout remains fairly respectable. In October 1991, more than 90 percent of all eligible voters participated in the presidential election. This figure dropped to 86 percent for the December 1995 presidential contest. The February 1995 legislative elections registered only 62 and 61 percent, for the first and second rounds respectively, suggesting a lack of faith by the electorate that the Jogorku Kenesh is an effective political organization. Eighty-seven percent of the electorate turned out for local elections in October 1994. That number is higher than expected, largely because those elections also coincided with a constitutional referendum on the new legislative structure. Local elections slated for October 1999 should see a relatively high turnout, particularly in light of the fact that international organizations are promoting their importance. In the previously

mentioned IFES poll, it appears that the Kyrgyz electorate is slowly embracing the belief that voting actually makes a difference. The December 1996 survey noted that 56 percent of the respondents believed that electoral participation could help change the country's situation, as opposed to only 48 percent answering affirmative in July 1995. However, that 43 percent disagree that the act of voting gives people a chance to influence national decisions suggests that all are not sold on this idea.

In addition to presidential elections, national referenda also register high voter turnouts. A January 1994 referendum on President Akayev's performance officially had a 96.9 percent turnout. The February 1996 referendum on the constitutional measures that increased presidential authority also witnessed 96.4 percent voter participation. In both of these later cases, "yes" votes were the clear majority, with over 90 percent in both referenda. Statistics on female voter participation are not forthcoming, most likely because some of the more pronounced voting irregularities concern "family voting," when a single-family member (usually male) casts ballots for the entire family. While there is no reason to believe that women vote any less than men do, such conclusions can not be substantiated with statistical evidence at this time.

CIVIL SOCIETY 4.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Of all the Central Asian states, the Kyrgyz Republic has the highest proportion of viable nongovernmental organizations. While on paper there are several thousand NGOs listed, it is most likely the case that the number of active organizations is around 500. The most prominent include the Independent Journalists Association, the Bureau on Human Rights and the Rule of Law, and the early Movement for a Democratic Kyrgyzstan. Groups such as Ashar (Mutual Aid) were soon set up to deal with the problems of unemployed youth. The Kyrgyz Children's Fund is an example of an NGO that has gained the support of the government in its efforts.

This latter group – charitable and not-for-profit associations – has developed over the years in large part as a result of external assistance programs. Because philanthropy and volunteerism require money and time, it is not surprising that such traits are not developing as fast as the NGOs would like them to. Indeed, it is for this reason that USAID, the EU, and other international organizations have become active in fostering the development of NGOs in the Kyrgyz Republic. The financial support and training provided has allowed for a network of similar issue-based organizations to work together and develop local support structures. This is particularly telling with respect to groups that focus on women's issues.

Women's organizations include the active Women's Congress, the Naryn-based group Tendesh, which is a crisis-prevention center for women, and Sezim, which provides legal assistance for women in Bishkek. Other women's organizations include Women in Development, Shoola, the Society for the Protection of Mothers of Large families, the Center of Assistance to Women, and the Association of Women Writers, to name a few. In 1999, NGOs addressing women's issues met to coordinate strategies for the future. Compared to the other Central Asian states, women's groups in the Kyrgyz Republic are quite active. Many have their own WebPages and list each other's groups accordingly.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The Kyrgyz Constitution provides for freedom of assembly and association, although groups must apply for permits to hold rallies and demonstrations. All NGOs must register with the Ministry of Justice and, to date, there have been few complaints of government interference. The 1991 Law on Public Organizations outlines the registration process for NGOs, religious organizations, political parties and cultural associations. In the summer of 1999, the Law of the Kyrgyz Repub-

lic on Non-Commercial Organizations set forth further guidelines on defining such groups, assessing their tax status, and the procedures by which Non-Commercial Organizations can register. NGOs have been involved in the passage of legislation, specifically the country's Law on Nongovernmental Organizations. The president's Coordinating Council on Sustainable Development, for example, includes NGO leaders. Reports from various international organizations such as NDI, IFES, and ISAR all suggest that NGO activity in the Kyrgyz Republic includes efforts to improve the legal and regulatory environment.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Over the past eight years, the Kyrgyz Republic has consistently shown itself to be a more hospitable environment for NGOs compared with other Central Asian states. Because the government views NGOs as key to social stability and the means by which local-level problems can be addressed, the political climate is relatively favorable for the creation and development of such organizations. That said, the impetus is still on local leaders to establish the organizations and seek funding for them. More often than not, international assistance is needed, especially from the United States Agency for International Development and the European Union, as well as the United Nations Development Program.

While the larger NGOs have more established organizational capacity and management structures, most of the smaller, locally based organizations remain personality dominated and structurally informal. Information on NGO management and organization is readily available in Russian and English, with far fewer materials available in Kyrgyz. This is largely because Russian remains a viable language of communication in the county. Equally important is the fact that translations into Russian are easier to manage and finance, especially for international organizations that work in several former Soviet states. Given that there has been a steady stream of NGO leaders travelling to the West or participating in training programs in the Kyrgyz Republic, there is currently a core of experienced practitioners and trainers from the country that can compliment the significant number of international consultants present.

4. Are NGOs financially viable? What is their tax status? Are the obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs in the Kyrgyz Republic are not financially viable and are dependent upon external assistance. While the Kyrgyz tax code does suggest that NGOs must pay taxes, the current practice is to hold them as tax-exempt. Likewise, they are obligated to disclose their financial status, including revenue sources; the number of those who comply is unknown. Much of this was detailed in the 1999 legislation and it is too early to tell how effective that will be in establishing financial guidelines for NGOs. At a minimum, however, it does provide specific criteria for an organization to declare itself tax-exempt on the basis of being a "non-commercial organization."

Given the poor state of the Kyrgyz economy, it is not surprising that there is little financial support through government procurement opportunities. Several larger, government-sponsored organizations receive support, but mainly in terms of in-kind support (office space, utilities, etc.). Finally, NGOs are limited in what they can earn and are technically accountable for taxes on any "profits" earned. That said, most NGOs are simply not in a situation to worry about this issue – funding of basic services remains the primary concern for the majority of NGOs.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The Federation of Independent Trade Unions of the Kyrgyz Republic is the major trade union in the country. The direct successor to the Soviet-era Association of Trade Unions, the Federation proports to have more than 1 million members. Most likely, the actual number is smaller, with a growing number of members who are pensioners or underemployed. The 1992

Law on Labor allows workers to join, or even form, independent trade unions. As a result, the Union of Entrepreneurs and Small Business Workers was formed in the mid-1990s. Its current membership is estimated at 80,000. Like the Federation, the Union advocates better working conditions and collective bargaining agreements with the new management elite in the country.

As with workers, farmers are also allowed to form their own associations. In contrast to the labor sector, farmers are rapidly organizing associations based on commodities or livestock. These include associations of cotton farmers, wheat farmers, and even sheep – with the latter represented by the Cholpon-Ata, the Sheepbreeders Association. At present, there are over 40 such organizations, including regional-based groups. Membership varies from 30 to 500.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
The Kyrgyz Constitution, the 1991 Law on Public Organizations, and subsequent legislation on political parties and organizations allow for a broad range of political participation on the part of interest groups. All groups that engage in political activity, including the promotion of candidates, engaging in policy debates, and supporting referenda in public, must register with the Ministry of Justice. Limitations can be placed on organizations that are deemed contrary to the public good, or that promote religious or ethnic intolerance. The latter issues have become particularly important in the past year, given the events in Batken in the summer of 1999, in which religious extremists took hostages and threatened order in the Osh region. Between that, and the overall concern over religious radicalism, all religious-based groups must now register separately with the government's State Commission on Religious Affairs.

It is difficult to assess which groups are most active, since issue-specific organizations tend to focus on legislation that falls in their purview. This is the case for environmental groups, health associations, and organizations that advocate the rights of women. Minority rights groups have been active in the past, particularly Russian and Slavic organizations. While these have been tolerated, those advocating the views of the Uighur minority have not been, given the impact that such groups may have on Kyrgyz relations with neighboring China.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent to government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
In general, public and government officials view the NGO sector positively. There has been a track record of NGOs being able to meet with officials and advocate certain views on policy measures. Media coverage of NGO activity has also been positive, particularly when covering organizations supportive of social programs initiated by the government. NGO conferences and organizational meetings regularly get covered in at least the local media.

Public perception of NGOs is also fairly positive, although there is still a view in the rural regions that many issues addressed by NGOs – such as spousal abuse and childcare – are best left to the family. In public opinion polls, only 52 percent of the respondents considered NGOs to be "essential" (13 percent) or "necessary" (39 percent). Most (53 percent) still would offer time for NGO work without pay. Consistent with such polls in other countries, the young, urban, and better-educated are more willing to work for and support NGO activity. In particular, support for environmental organizations and groups that help "those in need" were highest.

INDEPENDENT MEDIA 5.00/7

1. Are there legal protections for press freedom?
Article 36 of the Kyrgyz constitution guarantees the freedom of the mass media. The 1992 Law on Mass Media establishes guidelines within which journalists are to work. For example, they are not allowed to publish materials that promote violence, pornography, or ethnic and religious intolerance. Resolution 320 of the Kyrgyz Customs Code also outlines materials that are considered "contraband," including books and tapes that contain materials that could "damage the Republic's political or economic interests, its national security, public order, health protection and public morals."

Radio and television broadcasts are also protected

by the constitution, but the specific guidelines are not as clear as those for the print media. The Ministry of Justice, the National Agency of Communication, and the Office of the President must approve of the operations of a radio or television station before it is granted a license. In the past year, the National Agency of Communication has been given greater authority to shut down media outlets and close down the production of specific programs. While this is technically unconstitutional – only the courts can order a closure – no challenge to date has been made of the NAC's authority. In the summer of 1998, the NAC announced the government provision #510, which set new licensing requirements for media outlets, including new "fees" that had to be paid retroactively. By September 1998, the NAC was taking actions against delinquent stations. This situation remains unsolved as of mid-1999.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

The very same laws noted above are also the basis for restricting media activity. Libel and slander, for example, are criminal offenses. In November 1997, President Akayev attempted to make slander a civil offense, as opposed to a criminal offense, but that effort failed in the legislature. The following March, he pushed to have as part of a national referendum a guarantee for greater press freedom in the constitution, which was eventually approved in October 1998. This was a change in Article 65 of the Constitution that stipulates that no law may limit the freedom of the press. In short, though, the issues of slander and libel have not been fully addressed to date. Libel is still a criminal offense, as noted in Article 127 of the Kyrgyz Criminal Code, which came into force in January 1998. In particular, it is against the law to publish articles that question the dignity and honor of the president. Furthermore, the vague wording of the criminal code allows for the government to continue in pursuit of opposition papers and journalists. While there were few cases in the early 1990s against journalists, since the period immediately prior to the 1995 presidential election, there has been a noticeable increase in government cases against journalists and media outlets. *Svobodnye gory (Free Mountains)* was temporarily closed down in 1994 for being part of a scheme to overthrow the government. At the same time, *Politika* was closed down for criticizing the president.

The publication *Res Publica* remains the focus of much of the discussion on free media in the Kyrgyz Republic. Since 1995, the newspaper has been subjected to repeated libel cases brought about by the government. Journalists, copy editors, and the main editor, Zamira Sadykova, have all experienced detentions, convictions, and prison terms for their roles in various "anti-state" cases since 1997. The publications *Kriminal* and *Asaba* have likewise been charged with libel at various times since 1997. In all of these cases, the newspapers were seen as being too critical of President Akayev and his family.

Irina Stepkicheva of *Nasha Gazeta* faces a series of civil suits as a result of articles she wrote in 1998 that were critical of the Procurator General. Similar charges have been levied against Tatiana Kchmada of *Res Publica* for an expose she wrote on government corruption. Both have experienced harassment from "unknown assailants, including a May 1998 fire at the home of Kchmada. In August 1998, the publication *Asaba* was evicted from its premises, a building where it had resided for the past 30 years. This action took place shortly after a series of articles critical of the government appeared. It is interesting to note that that Ministry of Interior was the owner of the Asaba building. In early 1999, not only was *Asaba* targeted again, the paper *Utro Bishkeka* lost a defamation suit on similar charges in which it had to pay $1,700 in fines.

The international human rights community, particularly Human Rights Watch/Helsinki, has tracked these cases, among others. For the most part, the political motivation is evident and the journalists are often paying the price for reporting on issues taken for granted in the Western media. On occasion, there have been cases of journalists relying too heavily on local rumor and unsubstantiated reporting, as was the case in an article *Mizon* wrote about the Osh police's "drug dealings" in July 1998. It appears that these tend to be the exception and not standard practice among the independent journalists.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

The vast majority of media outlets remain state-owned. In addition to national papers with widespread circu-

lation, the government also owns and operates papers at the oblast and local levels. Competing with these are roughly 20 independent print publications, mainly based in Bishkek. These include *Delo No*., *Asaba*, and *Res Publica*, the last of which has had a history of challenging the government's censorship demands. That *Res Publica* has a circulation of around 10,000 is indicative of the problems facing the independent papers. In addition, there are 14 independent television and 11 independent radio stations, including Pyramida television and radio, Independent Bishkek Television, Asman Television, Vosst Television and Radio, and the Almaz radio station. Almost all of these are based in Bishkek, although the broadcasts can be heard in the other major cities in the country. These stations often are equipped with inadequate technology and face the difficult problem of broadcasting in a very mountainous region, where transmission signals have difficulty reaching more remote parts of the country. In the Osh region, there is the Uzbek-language paper *Mizon* and the Russian-language paper *Delovoi Osh*. Likewise, the television station "Osh TV" produces programs in Uzbek for the large Uzbek minority in that oblast. To date, these media have not become politically active and focus more on cultural events.

4. Are the private media financially viable?
The private media in the Kyrgyz Republic are still in their early stages, both editorially and financially. As for finances, the primary obstacle remains that there are few private individuals capable of maintaining support for a publication, let alone solicit commercial advertising revenues to further this support. As a result, private publications periodically face problems in getting issues out in time and in a consistent circulation. Television and radio media also must contend with frequent registrations. While the basic fees for registration is initially small – approximately $100 for a three-year period – additional fees to process the applications can run into the $1000s. Foreign sources have helped to alleviate some of this pressure, although only in isolated instances. Groups such as Internews, the BBC, and Radio Liberty employ and train independent journalists in an effort to foster a more dynamic media environment in the country. Foreign grant programs have also helped develop specific aspects of the private media. In order to succeed, however, these measures require cooperation on the part of the government and of independent Kyrgyz financiers; both are not that forthcoming at the present time.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
The government has certain laws that help to control the content of news, such as the "On Access to Information" and "On the Rights and Responsibilities of Journalists." Both of these laws outline procedural rules by which journalists must act. For example, journalists must confirm sources of information, are held liable for "false" information presented in a story (even if it's a quote from a person interviewed), and avoid specific criticisms of the president himself. As a result, one often sees both private and government funded media exhibiting self-censorship. A carry-over from the Soviet era, this practice is viewed as normal by most active journalists and editors in the Kyrgyz Republic.

A more recent development has been the actions of the NAC to influence the editorial content of independent media stations. In 1998 the NAC tried to force independent media to spend specific percentages of programming time on topics of "national interest." These include the broadcasting of Kyrgyz sayings and "wise national dictums," programs on Kyrgyz history, and the truthful account of Kyrgyz culture. Also, in 1998, President Akayev set up a Morals Commission, directly responsible to the presidential apparatus. Comprised of newspaper editors, university rectors, religious leaders and other public figures, the Commission is supposed to evaluate the content of Kyrgyz publications. In September 1998, it actually suspected the activity of three newspapers – *Kartama-Digest*, *Limon*, and *Pajshamba*. All three revised their editorial procedures and reopened in 1999.

The government has regularly been critical of the content of numerous independent news programs, including ones that rebroadcast BBC, Deutsche Welle, and Radio Liberty programs. For example, in late-1998, Radio Almaz was charged with illegally re-broadcasting these foreign sources because a director no longer employed with the station had signed the original contract.

6. Is the distribution system for newspapers privately or governmentally controlled?
Through 1997, the printing and distribution network for the print media remained almost exclusively under

state control. In the early 1990s, almost all kiosks and newsstands were privatized, but they received their publications for sale from government-owned distributors. In 1998, the government began selling its shares of the main Kyrgyz publishing house, a process that was completed by year's end. The government still owns a publishing house and the main private publishing center is owned by individuals supportive of the current regime. Paper production is still under government control; therefore, the state retains a key role in the newspaper distribution network. To date, independent newspapers have periodically experienced shortages in such supplies. For example, *Asaba* "suddenly" faced a material shortage at the publishing house Uchkun in September 1998, a month after it had problems with the Ministry of the Interior. Other newspapers printed at Uchkun did not experience such delays at that time.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The Kyrgyz Republic remains an extremely small market for Internet-based companies, largely because access is limited. While it is possible to access the Internet from most major cities in the country – Bishkek and Osh, in particular – the absence of Internet technology in the rural regions makes it of limited use. While it is possible to purchase state-of-the-art computer hardware and software in the country (Bishkek), the value is limited because of the infrastructural limits. Some international organizations, such as the Soros Foundation, IREX, and NGOs supported by the U.S. Information Agency (the Internet Access and Training Program), have attempted to address the issue of Internet access and computing capabilities in general. Several universities, including the Kyrgyz American University, have computing facilities available for faculty and student use. In addition, that National Library of Kyrgyzstan in Bishkek is also a public site for Internet access. Other than the physical limitations, at present there appears to be no other restrictions on Internet access to private citizens. Legal restrictions do not exist in the country, although there is periodic discussion of the government needing to "examine" the information available on the Internet. To date, the government has taken no such actions that could change the current status quo.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

There are no independent journalist associations in the Kyrgyz Republic. The employees of the state-run publications belong to the Union of Journalists, which appears to be an ineffective organization. The membership figures for women are unknown.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's annual *Survey of Press Freedom* rated the Kyrgyz Republic "Partly Free" in 1994 and 1995, and "Not Free" from 1996 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 5.00/7

1. Is the legislature the effective rule-making institution?

According to the Kyrgyz constitution, the Jogorku Kenesh is the "representative organ that effects legislative power." In principle, the legislature is the rule-making institution, with both houses possessing slightly different power. The Myizam Chygaruu Jyiyny (Legislative Assembly) is the upper house, originally made up of 35 full-time legislators. Their job is to adopt and interpret laws, ratify treaties, and decide on referenda. They also possess impeachment powers vis-à-vis the president. The El Okuldor Jyiyny (People's Representative Assembly) is the Lower House, initially made up of 70 deputies. This group meets only several times a year to address budget and tax issues, as well as approve presidential appointments.

As a result of changes in the Kyrgyz constitution enacted in 1996, the legislature has become subordinate to the president, which can even bypass legislative authority through presidential edicts. That said, the legislature has periodically challenged the president and initiated legislation. Since 1995, it has passed several hundred pieces of legislation and has successfully overridden presidential vetoes. Perhaps one of the more important stands the Jogorku Kenesh took in the past five years was to deny President Akayev the opportunity to hold a referendum to continue his term in office, as had been done in other Central Asian states. While

perhaps not completely free and fair, the December 1995 election was the result.

A 1998 referendum changed the composition of the legislature. For the February 2000 election, the upper house will have 60 members and the Lower House will have 45. It is unclear how this will affect the ability of the Jogorku Kenesh to act effectively, except to note that the constant reshuffling of the legislature and the inability of legislators to build power bases weakens the institution's ability to act effectively against the president. Public opinion has also not been in the legislature's favor. In a public opinion poll, 61 percent of the respondents felt that their own deputy did not understand the Kyrgyz Republic's problems sufficiently. Only 43 percent could even name their own deputy, however.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

There are six oblasts (regions) and the city region of Bishkek in the Kyrgyz Republic that are divided into a further 43 raions (districts). While the president appoints the leaders of these various levels of government, the respective councils are elected. Since the Kyrgyz Republic is considered a unitary state, decisions at the national level are binding at all lower levels. Articles 76 and 77 note that subnational levels of government are to carry out executive orders and implement laws "within the bounds of their competencies." The reality is that because of a centralized budgetary system, subnational governments are limited in what they can do. Legally, local keneshes (councils) are to monitor and initiate economic and social programs in their respective areas, abide by the Jogorku Kenesh's decisions, and even have the power to call for a vote of no-confidence in their respective executive. In addition, regional executives can overrule council decisions as a result of the 1996 administrative reforms of President Akayev. However, with the exception of Felix Kulov, the former Mayor of Bishkek, local leaders tend not to take much initiative on their own.

3. Are subnational officials chosen in free and fair elections?

Local keneshes are elected through single-member district balloting. The last time local elections took place was in February 1995, simultaneous with the national legislative elections. Foreign observers did note instances of ballot box tampering and "family-voting," although the overall picture was fairly positive. Local elections were slated for October 1999 and numerous international organizations expected these to be a benchmark in the political development of the country. The candidate registration and campaigning through the summer of 1999 were viewed as relatively positive by these organizations, although final assessments will not be forthcoming until after the elections.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

While the government consistently publishes legislation that has already been passed, it does not tend to share such information early in the process. Indeed, the texts of draft laws are standard fare in the state-run media, as are commentary on them in some of the independent papers. In the last two years, organizations such as IFES have worked with the Jogorku Kenesh to focus it on making information available to the public at the time of debate on key legislation.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

As with the national government, the municipal governments in the Kyrgyz Republic continue to face revenue shortfalls. In principle, municipal governments are responsible for implementing local budgets, including such functions as tax collection and benefit payments. Most revenues received are from the central state budget and distributed annually through the national budgetary process. Municipal governments are permitted to raise their own revenues, within limits, since the constitution provides them with this right. Given the problems with tax collection in general, local and municipal taxes have an even lower rate of collection than do national taxes.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Anecdotal evidence suggests that elected local leaders are ineffective managers and often powerless to

address the concerns of their constituencies. Given that October 1999 will mark only the second election for local and municipal officials in post-independence Kyrgyz Republic, it is understandable that there is still uncertainty about the powers and responsibilities of such office-holders. In addition, the fact that budgetary matters are decided in Bishkek limits the ability of even reform-minded local leaders to do their work.

7. When did the constitutional/legislative changes on local power come into effect? Has there been a reform of the civil service code/system? Are local civil servants employees of the local or central government?
The powers of local government are outlined in section two of chapter five and chapter seven of the constitution, which was adopted in May 1993 and revised in February 1996. Likewise, the Law on Self-Governance was passed in 1992 and amended in 1994. Both of these documents outline the separation of powers at the local level and the parameters within which local official can carry out their duties. These parameters include the monitoring of social and economic programs, managing revenues received from the central budget as well as local collection, and calls for elections. While the staff members of local governments are employees of that level, they are ultimately responsible to the central administration. Likewise, several offices are direct employees of the central state. These include the employees of security organizations such as the police, and financial officers.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
The post-Communist constitution for the Kyrgyz Republic was ratified on May 5, 1993. With 8 chapters and 97 articles, the constitution covers issues ranging from the rights of citizens to political institutions to the concept of local self-government. It has been modified twice through referenda since 1993. In a 1994 referendum, the unicameral Supreme Soviet was replaced with a bicameral Jogorku Kenesh. In 1996, President Akayev significantly rewrote the document, giving even greater power to the president and less to the legislature. His power to appoint officials now includes such offices as the Prime Minister, the chairman of the Central Electoral Commission, and the chairman of the central bank. In addition, the president's ability to dissolve the legislature and call for early elections was increased. Changes in the electoral code in 1998 clarified this.

At present, the judiciary is a relatively passive branch of government, perhaps as a carryover from the Soviet era. In November 1996, the Constitutional Court ruled in favor of President Akayev, who claimed that the Speaker of the Lower House in the Jogorku Kenesh had been unconstitutionally elected. At the same time, the Constitutional Court sided with the legislature when it denied Askar Akayev's wish to hold a referendum in 1995 to continue his term. That said, the very same court ruled in his favor when it turned down the challenge of the presidential candidates who were denied spots on the ballot at the last minute. Finally, in 1999, the Constitutional Court ruled that President Akayev could run for a third term – in spite of the fact that there is a two-term limit for the office. The reason, much in line with other Central Asian states, is that Akayev is currently serving his first term as president under the current constitution, thus his candidacy in 2000 will only be his "second" election.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
As with the other post-Soviet constitutions, the Kyrgyz constitution is explicit and detailed in outlining human rights. The citizens of the Kyrgyz Republic are viewed both in terms of their rights as human beings and their duties as citizens of the state. Articles 13 through 20 address the issue of citizenship, and articles 20 through 41 focus on the rights and duties of citizens. The listing is quite explicit, although there are accommodations to limit rights if they infringe upon the rights of others. A member of the legislature, Tursunbai Bakir Uulu, is the Chairman of the Presidential Commission on Human Rights, the purpose of which is to monitor the government's adherence to

these constitutional articles.

It is in this area that international human rights organizations have raised questions as to the constitutionality and legality of government acts directed against opposition figures. Examples include denying the right to hold assemblies, to associate with fellow opposition figures, and to speak out against the government. More recently, religious and ethnic groups have found themselves targets of government searches and periodic detentions. In April and May of 1998, 20 Uighurs were arrested for being "wahhabists." Islamic groups, especially ones in the Uzbek-dominated Osh, have also been targeted. In December 1997, the Ministry of National Security set up a special unit to address "religious sects and Wahhabists." One immediate result was the 1998 closing of the Islamic Center in Bishkek, as its leader, the Mufti Sadykjan Kamalov, was viewed as a potential Wahhabist. Other religious organizations not viewed as "mainstream," such as the Unification Church, the Baptists, Mormons, and Seventh Day Adventists, have all had problems registering and moving freely in the country. The State Commission on Religious Affairs often calls such groups "threats to national security."

More progressive than the other Central Asian constitutions and legal codes, those of the Kyrgyz Republic also outline business and property rights in some detail. Specifically, the revised Civil Code of 1996 has sections on the "free market economy of the Kyrgyz Republic," which ostensibly protects citizens' rights to private property, contracts, and inheritance. In principle, the law protects both personal and business property. There is a potential for conflict of interest in that the "state" still retains all rights to land, forests, and water. As agricultural privatization takes place (see below), this will become a more contentious issue.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Up through the present, Kyrgyz criminal law has been based on a modified version of the Soviet-era code. Various reform versions of the code have been introduced and it is expected that in 2000, a completely reformed version will appear. Included in this new code is an article that addresses the issue of arbitrary arrests and the duration of detention before a person must be charged with a crime (Article 12). Interestingly, nowhere in the criminal code is torture explicitly forbidden. Article 111 of the 1998 criminal code does forbid "torment," but vaguely defines it. As late as July 1999, there were an estimated 60 detainees in the pretrial detention center in Bishkek who had been there for more than two months.

The Ministry of Justice Procuracy branch issues searches and warrants. Depending upon the level of crime, this issuing office can be at the national, oblast, or district level. In high-profile cases, especially those that involve libel or slander against the government, the Procurator General's office issues the warrants.

Various human rights organizations recognize that prisoners and detainees in the Kyrgyz system are occasionally mistreated and beaten. The instances of such abuse tend to increase in cases of politically motivated arrests. For example, in January and February 1999, there were two cases discussed in the opposition media in which prisoners were detained, tortured, and then found dead within a day. One of the victims, Sergei Skromnov, was buried alive in a pile of ashes and suffocated to death. In both instances, the crimes were not political but economic. However, it has been the case that when common criminals complain about their treatment and express such views to human rights organizations, their treatment actually deteriorates. This was the case for 46 detainees in the Suzak detention center. In the summer of 1998, they complained about being deprived of food and medicine. When the case became public, the withholdings actually became more severe, to the point that three died by September. It is also important to note that "political prisoners" have not been an issue in the Kyrgyz Republic, as is the case with other Central Asian states.

Indeed, human rights organizations are able to work in the Kyrgyz Republic more freely than in other Central Asian states. While there are clear cases of human rights abuses by the government—documented in reports by the Human Rights Watch/Helsinki, Amnesty International, and the US Department of State's Annual Report of the Kyrgyz Republic—there appears to be some cooperation on the part of the Kyrgyz government to address these issues. In spite of often negative reports, the US and European Union continue to provide financial assistance to the Kyrgyz Republic.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
Judicial reform has been taken seriously during the last five years, according to several international assistance agencies. While judges remain underpaid and susceptible to bribes, the trend is to increase their salaries and create a more professional code of ethics to influence their behavior. Of particular importance has been the introduction of exams for judges and other legal professionals. Based on Western approaches to law, these tests have been instrumental in the removal of numerous Soviet-era justices whose abilities have been questioned. Given the dearth of qualified judges and lawyers in the Kyrgyz Republic today, many expect that Soviet-era officials will remain active for some time. That said, it should also be noted that simply because an official was trained during the Soviet era, his professionalism should not de facto be called into question.

Another area of reform that has taken place at the local level has been the introduction of "elders' courts." Paralleling pre-Soviet legal institutions, these elders are supposed to address petty crimes and civil cases that could potentially clog up the regional and oblast legal systems. In the mid-1990s, there were reports of such elders using "extreme measures" to punish the guilty, including stoning and calls for the death sentence. Since 1997, the Ministry of Justice has limited the types of sentences that these local courts can actually issue.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The judicial system in the Kyrgyz Republic is quasi-independent. On the one hand, jury trials are becoming more frequent and the decisions of judges at the lower levels are considered binding, unless overturned at a higher appellate level. On the other hand, it is still the case that the President, through the Ministry of Justice, heavily influences the selection of justices and procurators. Indeed, the Supreme Court and Constitutional Court are both seen as "presidential offices" given that President Akayev's nominees have never been challenged by the legislature. Further linking the courts with the political system, the Ministry for Internal Affairs (MVD), which handles general crimes, and the Ministry of National Security (MNB), which handles "state-level" crimes, both answer to the same Ministry of Justice. Even the Public Defenders hold offices in the same buildings as these agencies, calling into question any notion of lawyer-client confidentiality. Thus, the legal network is interlinked, much like the old Soviet system, and the heads of these agencies are all presidential appointees.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
While there are no current statistics on the proportion of private practice lawyers in the Kyrgyz Republic, anecdotal evidence suggests that it is still low. The vast majority still work within the government structure.

7. Does the state provide public defenders?
All defendants are required to have counsel, and if they cannot afford a private attorney, a public defender will be provided. Technically, the public defender is allowed to see the defendant within three days of his/her arrest; this not always the case in practice, however. Often, the defendant does not see counsel until the day of the trial. Defense counsels, or Advokats, are appointed by the Procurators' Office of the Ministry of Justice.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Given the high percentage of non-Kyrgyz citizens of the Kyrgyz Republic, the government was forced to address the issue of minority rights early on, and continues to view this as a critical issue for social stability. Both the 1993 Constitution and the December 1993 Law on Citizenship address the issue of minority protections and anti-discrimination laws. Of particular importance is the issue of Russian language rights. While Kyrgyz is considered to be the official language of the state, Russian is still widely used. Likewise, Uzbek is heavily used in the Osh oblast.

The one minority, which has faced problems with the state, has been the Uighurs. An ethnically Turkic people, the Uighurs are best known for the fact that over 10 million of their fellow Uighurs live in the Xinjiang Province of the People's Republic of China – and have been the source of some unrest in that region. Out of fear that the Uighur minority in the Kyrgyz Republic could potentially provide moral or material

assistance to the Uighurs in China, the Kyrgyz government has cracked down on Uighur associations, political organizations, and even newspapers.

9. Are judicial decisions effectively enforced?
Anecdotal evidence suggests that the vast majority of judicial decisions concerning criminal and civil cases are enforced. Cases that have a political hue are often debated in the public press – especially among the opposition media – and there has been some reduction in sentences in these instances. In addition to international human rights societies, there are several Kyrgyz Republic-based organizations that monitor judicial decisions and the track record of the courts with respect to human rights. These groups include the Kyrgyz Committee for Human Rights and the Public Association for Social Protection of the Population. Not surprisingly, both have had difficulties with the government. In the summer and fall of 1998, three members of the KCHR were arrested and interrogated for attempting to distribute leaflets about an upcoming meeting. Harassment of other members of the organization continued through October, with several receiving death threats from "unknown figures." The government's battle with the KCHR reached its climax in October 1998, when the government revoked the organization's license. However, after much public discussion on the part of international human rights organizations and a lengthy court hearing, the organization's license was renewed in the summer of 1999 and it now operates freely.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport, or other official documents? What is the average salary of civil servants at various levels?
While studies of corruption in the Kyrgyz Republic have been limited in their scope, all point to its pervasiveness. Because civil servants are poorly paid, if they're paid at all, the need for bribery is high. Average citizens, unfortunately, resign themselves to paying bribes for simple services such as household repairs, medical care, university admission, grades at all levels (primary through post-graduate), and various licenses and fees required for businesses. Unless one is travelling on official government business, passport and visa fees are also expected to be "higher than listed." Anecdotal comments point to the fact that many of these extra "fees" are holdovers from the Soviet era, where such payments were expected to facilitate an oftentimes-backlogged system. In 1999, the average salary of civil servants in the Kyrgyz Republic was around $50 a month. However, wage arrears of up to six months in outlying oblasts makes this a meaningless figure. Top officials are listed as receiving up to $400 a month. The result is an attitude among the general population that bribes at the immediate level (police officers, clerks, and customs officials, for example) are almost expected, so that those individuals can support their families.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethnical standards for boundaries between public and private sector activity? Are they observed in practice?
Given the relatively small caste of elites in the Kyrgyz Republic, it is not surprising that there is a close link between business and politics. Rumors circulate about the connections of the Akayev family to several multinational joint-venture business dealings. In addition, several Prime Ministers have been accused of insider dealing with international loans and businesses. In particular, stories circulated about Topchubek Turgunaliev's connection with the Kumtor mining facility and the Canadian company Camoco, as well as Apas Jumagulov's ties to foreign trading of Kyrgyz gold reserves. Technically, legislators and government officials are not overtly to use their office for personal gain. The Procurator General has, in fact, investigated such claims and in October 1997, published a list of deputies involved in shady deals. At the time, he announced that over $70 million had been "stolen" by officials through corrupt practices. Indeed, the linkage was seen as so severe, that the privatization measures enacted in 1997 were suspended until late 1998 in an effort to "clean house" in the Ministry of Privatization.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Anticorruption measures are still embryonic in the Kyrgyz Republic. While the government has debated several draft laws, no effective measures have been put into place to date. This has not stopped the prosecution of some private citizens of these crimes, but the immunity that holding public office provides prohibits effective prosecution of key violators. The most visible case of corruption charges being levied against a top official was the 1996 case against former Prime Minister Turgulaliev. Found guilty and sentenced to ten years in prison, his term was reduced and eventually he was paroled in November 1997. Currently, there are charges circulating against former Mayor of Bishkek, Felix Kulov, widely seen as a viable opponent to President Akayev in the 2000 presidential election.

4. Have there been public opinion surveys of perceptions of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

Public opinion surveys have not really addressed the issue of corruption. The 1996 IFES survey does suggest that the citizenry feel corruption is a serious problem, but also recognize that there is little they can do about it. The 1999 Transparency International study of corruption (see below) also relied on some survey work, and relied on studies conducted by other agencies. Their findings suggest that the level of corruption is increasing in the Kyrgyz Republic, largely because the economic situation has not improved as it had been originally assumed it would. In addition, there seems to be some indication that people are more willing to discuss the issue, perhaps because it is now cast as a "serious social problem" in the country.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Anticorruption campaigns have periodically been part of the president's efforts to gain public trust and clean up government. In 1996, ten top officials were accused of corrupt practices, although most were not pursued. In 1997, over 140 government officials were found guilty of crimes ranging from embezzlement to racketeering. The sentences varied and, by 1998, the key officials involved were able to have their sentences reduced or were even released through parole. In 1998, the Kyrgyz press extensively reported on six judges who were accused of bribery. In effect, it was noted that the poor salaries and lack of social benefits prompted the judges to accept bribes. That said, all six were acquitted by the end of the year.

In June of 1998, the Jogorku Kenesh introduced legislation on electoral reforms, which included campaign finance measures. Articles 53, 54, and 74 of the Electoral Law set guidelines on how funds could be collected, recorded, and spent. In addition, the law also discussed measures by which the voting process itself can be made more transparent with the expressed intent on minimizing corruption. Much of this work was done in conjunction with international partners, including the National Democratic Institute.

6. Is there a growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

As noted above, public intolerance may exist, but it is tempered with a rather profound fatalism that corruption will remain integral to politics and business in the country. In the 1996 IFES survey, the vast majority of the respondents felt that corruption was "common," or "somewhat common" in the Kyrgyz Republic (47 percent and 33 percent, respectively). This is actually a slight increase from a similar survey in 1995, where the percentages were 44 percent and 32 percent for the same ratings. Sadly, even more believe that corruption among government officials is a serious problem. Of the 86 percent who responded as such, 59 felt that the problem was "very serious." Again, this is an increase from the previous year's figure of 78 percent. Interestingly, ethnic Russian respondents felt that the government was more corrupt than ethnic Kyrgyz (89 percent versus 77 percent). Also of interest is the fact that respondents with university education believed more than the less educated that the government sys-

tem is more corrupt (89 percent to 63 percent). In all, it is clear that the public is increasingly resigned to the fact that corruption is systemic in the Kyrgyz Republic. Anticorruption public education efforts are largely rudimentary and are almost exclusively based on the actions of international organizations and NGOs.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

Transparency International ranked the Kyrgyz Republic 87th out of 99 countries surveyed in its 1999 Corruption Perceptions Index (CPI), with a score of 2.2 out of 10 (10 representing the least corrupt and 0 the most corrupt score).

Economic Liberalization

PRIVATIZATION 4.50/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

International organizations, such as the EBRD, conclude that roughly 60 percent of the GDP in the Kyrgyz Republic comes from private ownership. There are tens of thousands of privately owned economic entities in the country, with the vast majority being small-scale firms. About half of the medium-sized firms are privately owned, and few of the large companies can claim private ownership. The government still considers it important to maintain control of the strategic industries. But there has been increased investment in the private sector to make it a more viable component in the Kyrgyz economy. As of the first half of 1999, the EBRD had over $160 million in signed projects in the Kyrgyz Republic; $85 million, or 53 percent, of this support was for privately-owned, or joint-venture companies, particularly in the hotel/service and agricultural sectors. The labor force is primarily active in the state-run sector, especially agriculture and heavy industry. Almost the entire labor force in the service sector (see below) is not working for the state, but rather for private firms or businesses.

The informal sector of the economy is difficult to assess. Anecdotal evidence suggests that it constitutes around 20 to 30 percent of the GDP. That said, such figures are given for other countries in the region – and indeed are carry-overs from the Soviet era. Equally important, many people, especially in the countryside, rely on their own produce to survive and to trade on a barter economy.

2. What major privatization legislation has been past? What were its substantive features?

The Kyrgyz Republic was the fastest among the Central Asian states to pursue legislation of privatization. With extensive assistance from abroad, President Akayev sought advice and financial support from the IFI community (approximately $500 million to date) to implement this legislation. The list of laws is extensive and includes, but is not limited to, the 1991 Law on General Rudiments of Denationalization, Privatization and Entrepreneurship; the 1991 Law on Foreign Investment; the 1992 Regulation of Special Means of Payment; and the 1993 Regulation of Terms and Conditions of Denationalization and Privatization of State Property. The first phase (1991 to 94) dealt with the issue of privatizing small businesses. In addition, tying into the larger macro-economic policies of currency reform and the creation of a more open trade system (noted below), the goal was to start "from the bottom." During this time, almost 5,000 small businesses and trading outlets were privatized. The 1994 to 1995 Plan for Denationalization of Privatization of State Property initiated the second stage of privatization in the Kyrgyz Republic. During this time, medium-scale firms were privatized – especially those in the transport and construction sectors. The following years witnessed some stagnation in the process, particularly as the focus turned more to the large-scale, export-based industries. A third stage began in 1996, but was suspended in 1997 as a result of a government investigation into charges of corruption levied against the head of the privatization program.

The final stage of the Kyrgyz Republic's privatization program began in 1998 and is expected to be completed in 2000. Currently, the focus is on privatizing the mining, fuel and energy, telecommunications, civil aviation, and printing sectors. The Kyrgyz State Property Fund, as of January 23, 1998, is responsible for

overseeing this activity. In all, 32 companies are to be privatized during this time. By mid-1999, tenders had already been made for the sale of Kyrgyztelecom (35 to 40 percent), the VLKSM textile factory (80 percent), the Too-Tash stone processing plant, and all tourist facilities around Lake Issyk-Kul.

Overall, while not successful in every aspect, the privatization legislation has created a foundation for positive action in the Kyrgyz Republic. More importantly, the country seems to have accepted the notion of private ownership and entrepreneurship. Of the nearly 10,000 state companies registered in 1991, 6,536 of these have been privatized, 1,200 have been incorporated, and 988 have been denationalized, as of 1999. In addition, while the state has shares in 354 corporations, it has a controlling interest in only 242 of these.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: The Kyrgyz government has yet to change the basic philosophy underlying land ownership in the country. At present, all land and natural resources are considered property of the state. Land-use rights have been granted over a series of reforms beginning as early as 1991. In February 1994, President Akayev passed a decree whereby farmers could lease property for up to 49 years. This was modified in 1996 when 99-year leases became possible. This is not to suggest that reforms have not been carried out in earnest. Again, as early as 1993, Kyrgyz collective and state farms were given the option to restructure their system. Many have opted to retain the basic elements of collective agriculture, whereby the state remains the primary purchaser of the annual crops. Nearly 200 such entities exist today, down from the 480 collective farms that were present at the end of the Soviet era. In addition, there are private farms – over 18,000 in number – in which the government leases the land to the farmer for a nominal fee. The primary problem with these farms is that they are often not large enough to sustain viable export, or even market-based produce, and focus more on subsistence farming. The World Bank estimates that less than 33 percent of the arable land is used by these private farms, with the remainder under state and cooperative farm control.

In 1998, the agricultural sector grew by 4.1 percent, and is expected to grow at even higher rates in 1999 and 2000. This is largely because of the ability of private farmers to dictate what it is that they'll grow, and because of several government programs designed to assist in providing fertilizer and other support for the agricultural workers. In 1998, private farmers grew 53 percent of all grain, 64 percent of all cotton, 53 percent of sugar beets, as well as 25.4 percent of all meat, 25.7 percent of milk, 17.1 percent of eggs, and 28.6 percent of wool. The latter products are still the mainstays of the state farm systems.

Housing and Land: One of the first privatized sectors was housing. By 1993, over 60 percent of all dwellings – houses and apartments – were purchased by the owners. The purchase price was either paid in full or through limited bank credits. Land-use rights for industry and commerce were also granted early in the 1990s. The government regulates the sale and purchase prices of these properties through the National Land Fund or through city and raion (district) offices. One goal that President Akayev has set for 2000 is full private ownership of land. The details of this program have not been fully outlined, but the hope is that this will spur growth in small business, as well as agriculture.

Industry: Industrial parks and factories privatized at a slower rate, as noted above. By 1995, most small-scale factories had been privatized. By 1998, government sources noted that 88.2 percent of all industrial plants were privately owned. That said, the remaining 11.8 percent were in the strategic mineral sector and other export-producing industries, which the government still refuses to sell off. The most significant problem facing the industrial sector is that much of the infrastructure is antiquated. Thus, while industrial production increased by 4.6 percent in 1998, if one excludes the activity of the modern, joint-venture firm at the Kumtor Mine, output would have actually declined 6 percent.

Business and Service: This was the first sector to privatize in the Kyrgyz Republic. Far ahead of the other Central Asian states, the Kyrgyz privatized small businesses and the service sector in the first stage of their reform agenda, which took place from 1991 to 1993. Of particular interest in the 1998 to 2000 privatization plan is the push to develop the hotel and tourism industry in the Issyk-Kul region. A region with spas, a large alpine lake, and the potential for skiing, sailing, and mountaineering, Issyk-Kul is viewed by some as a potential profit-making area for the country. International firms such as the Hyatt-Regency Hotel Corpora-

tion are looking into developing resorts around the lake. Clearly, the logistical problem of getting tourists to a distant region within the Kyrgyz Republic continues to be a challenge. As a result, international companies are also working on modernizing Manas International Airport in Bishkek.

4. What has been the extent of insider (management, labor, nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?
Given the rapid pace of privatization in the early 1990s, it is no surprise that rumors circulated quickly of insider participation. Whether former plant managers were tipped off as to the minimal purchasing prices of property, or associations of former Communist Party officials formed to corner the market in other sectors, many believed that the current "entrepreneurs" are really the old nomenklatura in "new clothes." Reports by the World Bank, the EBRD, and other international agencies all suggest that these rumors are largely true. Cases of such trading include the 1997 purchase of the Central Department Store (TsUM) by former Deputy Prime Minister Atashev. It was reported that he purchased the store for a mere $20,000, well under the estimated value of the property, which stood close to $250,000. In November 1997, the head of the Ministry of Privatization was relieved of his duties for directing inside deals of large-scale factories in the privatization sell-offs of 1996 and early 1997.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?
In general, the process of privatization in the Kyrgyz Republic has gone relatively smoothly and the general public attitude has been supportive. Early on, international organizations conducted educational campaigns on privatization. Unfortunately, the majority of Kyrgyz were reluctant to participate in the process and the elite tended to take advantage of what were then relatively good deals.

Today, the majority of the educated elite supports privatization, but recognize that the actual distribution has been unfair at times. The general public has been less supportive of late, only because the economic situation in the Kyrgyz Republic has been so disruptive during the last few years that some blame has been placed on the privatization process. Had privatization not taken place so rapidly, some argue, the decline in purchasing power and economic potential of the country would not be so low. In public opinion polls, respondents continue to support the notion of a state-run economy, even a limited form of it, as opposed to a fully free-market system. Oddly, almost 60 percent of the same respondents believe that the government reform measures are moving "too slowly." Further tensions exist between the Kyrgyz and the non-Kyrgyz, particularly the Russians and other Slavs, who feel that they may be cheated out of property that is "rightfully" theirs. In addition, land redistribution in the Osh oblast has resulted in increased tensions between the majority Uzbeks in that region and the Kyrgyz, who are seen as interlopers from the north. To date, this has not resulted in the scale of violence that occurred in 1990.

MACROECONOMIC POLICY 3.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?
In 1996, the government introduced a new Tax Code. As an overhaul of the previous code, this document has 181 sections that address personal, business, customs, and other forms of taxes, as well as procedures for their collection. Tax-administration assistance has been of particular interest to the Kyrgyz government in recent years. In 1999, the Asian Development Bank announced that it was providing technical assistance to overhaul the tax administration procedures in the country. In addition to a $15 million loan to assist the pension reform program, $350,000 will be used to modernize the infrastructure of the tax administration and a further $850,000 will be used for capacity building in the overall administration of the executive branch.

Tax collection is still a problem in the Kyrgyz Republic, for three reasons. First, the tradition of paying taxes on a variety of goods and services is still relatively new to the population. Second, that many Kyrgyz are barely living above a subsistence level makes it

difficult to collect taxes. Third, there is a problem of tax evasion and non-compliance that still has to be addressed and, to date, has not been pursued vigorously in the courts. With that in mind, the new tax code does account for a wide range of tax possibilities. Not surprisingly, tax rates vary dramatically in the Kyrgyz Republic. VAT rates range from 20 to 37 percent. Income and capital gains taxes range from 30 to 70 percent. According to the new tax code and corollary Foreign Investment Law, foreign investment is subject to the following taxes: enterprise profit taxes (from 30 to 70 percent), securities taxes (15 percent), VAT (20 percent), payroll tax (37 percent), income tax on foreigners working in the Kyrgyz Republic (10 to 40 percent, evaluated progressively), and specific taxes on royalties, road fees, land usage, and social welfare payments. Depreciation is included in the assessment of foreign earnings for tax purposes, as are loss transfers. At present, the US includes the Kyrgyz Republic in the General System of Preferences (GSP), which accords non-reciprocal tariff preferences to developing nations.

The one good piece of news has been that while profit tax and VAT have declined as compared to last year, the government has been more efficient in collecting income and excise taxes in 1999. International financial institutions recorded first quarter improvements of 36.5 percent and 78.2 percent in income and excise tax collection, respectively, as compared to the same time last year. By the second quarter of 1999, these rates increased to 37.1 percent and 83.3 percent.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?
After an initial period of economic decline, Kyrgyz fiscal policy seemed to stabilize in the mid-1990s. However, by 1997 and 1998, pressures by international financial institutions on the Kyrgyz Republic to repay outstanding loans, combined with currency conversion problems in 1998 and 1999, have resulted in a stagnant economy. Making things worse, the Kyrgyz republic was hit hard by the Russian financial crisis, largely because Russia, and the CIS in general, remain key trading partners for the Kyrgyz.

In 1994, the Kyrgyz government established a Social Fund, which took over the responsibilities of the Pension Fund, Employment Fund, and Social Insurance Fund. Because of problems in collecting the taxes needed to support the Fund, it has been in arrears almost since its inception. As a result, pension arrears are common. The government has tried to increase the budget transfers to the Fund; but with revenue-collection rates dropping since 1996 as a result of wage stagnation, the situation has not been settled. In the past 5 years, tax revenues as a percentage of GDP have been between 11 and 15 percent, with non-tax revenues barely averaging 2 percent. Put differently, through the first 3 quarters of 1999, tax revenues were 4.88bn som ($125m), which was 82 percent of the targeted revenues. Expenditures amounted to 5.92bn som ($152m), or 80 percent of the targeted expenditures. While this means that tax collection is slightly ahead of expenditures, the deficit predicted for the year means that the government would have difficulty reaching the deficit target of 3.2 percent of GDP. As of 1998, debt servicing amounted to 4 percent of all exports, further weakening the trade potential of the country. It is predicted that 1999 export revenues will continue to drop and that an overall deficit of 12 percent will result. This, at least, is an improvement over the 22 percent deficit from 1998. The FY 2000 budget calls for revenues of 9.7bn som and expenditures of 9.5bn som, with a surplus of 185 million som (0.3 percent). However, with tax revenues remaining such a small percentage of GDP, it is difficult for the government to control these figures and, as in years past, they have to rely on potentially positive trends in the international market for their export goods, such as gold.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?
Through 1998, the banking system in the Kyrgyz Republic has steadily gained confidence and strength. The National Bank of the Kyrgyz Republic (NBKR) was set up in the early 1990s and is responsible for the monetary and exchange rate policies of the government. The president appoints the chairman of the bank and, while nominally independent, it is clear that the

NBKR is responsive to President Akayev's wishes. The Bank does work closely with international financial institutions, such as the World Bank, the IMF, the Asian Development Bank, and the EBRD. In addition, it works with the New York City bank and Riggs Bank in Washington, DC.

As of 1999, one can point to numerous private banks that exist in the Kyrgyz Republic. These include Amanbank, Demir International Bank, Kyrgyzavtobank, Eridan, Mercury Bank, Ltd., and the State Accounting and Saving Company. All told, there are 20 functioning banking institutions in the Kyrgyz Republic. Almost all of these banks conform to international standards and several work closely with foreign companies – especially US banks. Foreign banks can now open and operate in the Kyrgyz Republic, upon receiving approval from the Ministry of Finance.

The volatility of the banking sector was evident with the closing of several key banks in 1998 and 1999. In March 1999, the Maksat Bank was forced to cease operations and the government seized its assets pending an investigation. At the same time, the Insan Bank was placed under the control of the NBKR and the Mercury Joint Stock Company declared bankruptcy a month later. There are concerns that the recent fall of the som will adversely affect the financial holdings of the private banks. To this end, the NBRK is stepping in to manage less-solvent banks, effectively creating a situation of bank consolidation. At present, there is no full guarantee of depositors' insurance in the Kyrgyz Republic.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has the exchange rate policy been stable and predictable?

The Kyrgyz Republic was the first Central Asian state to introduce its own currency, the som, in May 1993. The value of the som is determined each week by the NBKR through a managed float policy that is based on weekly foreign exchange auctions with commercial banks. As of March 1995, the som has been fully convertible. Equally important, the exchange rate of the som was fairly stable through 1998. However, late in the year, the value began to fluctuate, because of three key factors. First, the Russian economic crisis and the downward spiral of the Russian ruble had an adverse affect on the Kyrgyz som. Second, initial loans to international lenders were coming due and the percentage of debt servicing began to increase significantly. Third, the price of raw materials, which are the basis of Kyrgyz exports, continued to remain low, thus preventing the country from earning much-needed revenues.

In August 1998, the exchange rate was approximately 20 som/$1. By the end of the summer of 1999, the exchange rate stood at 43 som/$1. Predictions are that it could bottom out at 50 to 70 som/$1, before the rate stabilizes again. If this were to happen, the buying power of both the government and of Kyrgyz business will shrink dramatically and the potential for a real economic recovery could be pushed back several years, at a minimum. Foreign reserves have dropped by more than 25 percent and over 70 of what remains is now in dollars, not in som, to hedge against future losses. In spite of these problems, the government continues to maintain a freely floating exchange rate and has also been relatively tight on the money supply. At the end of April 1999, the money supply only increased by 4 percent in the previous three months, and M2 increased by only 6.3 percent. These numbers are even lower than those of the same period in 1998, when the amounts increased by 5.6 percent and 13.5 percent, respectively. Fears of inflation and promises from international financial institutions of continued assistance have helped firm government and NBKR resolve.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Kyrgyz Republic has a small, but potentially viable, capital-market infrastructure that includes a stock exchange and a coupon privatization-trading center. As of 1998, there were also 17 investment funds and 47 insurance companies. A Law on Securities and Stock Exchanges was passed in 1991, although it was not until 1995 that the Stock Market opened. Corporate securities worth 11.5 billion som were issues in 1997, a significant increase over the 500 million som of securities issued in the first year. By 1998, the total amount represented in Stock Market equaled 40 percent of the Kyrgyz GDP, with trading volume at 46.1 million som ($1.2 million). As of March 1999, the government had registered 80 professional securities market organizations. In addition to the Stock Exchange, there is

also the Central Depository, 16 investment funds, and 20 specialized registrars. The securities market must answer to a number of government agencies, including two ministries, the NBKR, and the State Property Fund. A national securities commission will also be developed in 2000, the chairman of which will be directly responsible to the president. In April 1999, three major Kyrgyz companies were approved to be placed on the Kazakh stock exchange: the Kant Cement Plant, Kyrgyzenergo, and Kyrgyztelecom.

MICROECONOMIC POLICY 3.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capacity to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The constitution, the 1996 civil code, and the Law on Property all outline the fundamental rights pertaining to property ownership and transferal. Since the government technically owns most of the land in the Kyrgyz Republic, land registry is really more involved with recording leases and rental agreements. As noted, Kyrgyz farmers can lease land for 49- and 99-year periods. Likewise, owners of industrial centers and factories must also register with the government. Apartment and single-family house owners who have purchased their domicile registered at the point of sale. The records of these various types of registration are kept at the city or regional level, and are not centrally located. Public support for land ownership is high (86 percent), with 68 percent believing that complete private ownership is preferable. At the same time, 87 percent of those polled believed that the government has the right to regulate the usage of the land. According to Article 19 of the Kyrgyz constitution, the government can only expropriate property through an act of the Jogorku Kenesh. If that happens, "just compensation" is to be provided. The government determines the amount of compensation. To date, there have been no serious cases of widespread seizures of property, although there is anecdotal evidence of some small businesses being "taken over" by local government officials. These appear to be episodic cases and not indicative of a systemic problem.

2. To what extent have prices been liberalized? What subsidies remain?

By the mid-1990s, most prices in the Kyrgyz Republic had been liberalized. From 1994 to 1998, consumer prices have risen 259.9 percent – and this followed a period of high inflation during the period 1991 to 1994. Utilities and prices for some basic foodstuffs remain subsidized by the government, because they are seen as essential for all citizens. In 1996, and again in 1998, prices for some utilities – electricity, hot water, and heating – were raised, but these remain well below market rates. The government has had to increase its subsidies for electricity in recent years because of price increases by Uzbek suppliers. In 1998, consumer prices rose 12.1 percent. In the sectors that rely on consumer-goods trade, the effect was devastating: sales dropped off more than 17 percent by some accounts. The continued effect of the Russian economic crisis has resulted in an increase in this trend in 1999. It is estimated that price increases will top 48 percent for the year (as compared to the same time in 1998), if they continue at the current rate.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

According to Kyrgyz law, it is possible to own and operate a business. Indeed, since 1998, it has been possible for foreigners to have a majority share in Kyrgyz businesses. Because there has been a series of regulations, confusion does exist as to how one properly – *and legally* – opens a business. Anecdotal evidence suggests that many small businesses operate without full compliance to the law. In addition, irregularities and a vague understanding of some laws allows for bribe-

taking on the part of inspectors, regulators, and officials who sign off on business ventures. As with the other Central Asian states, personal and family ties remain important in establishing and maintaining a business. This is true not only in the urban areas like Bishkek, but especially in the rural regions of the country. Information on commercial laws is published in the main government newspapers. Likewise, international organizations and NGOs have held seminars and meetings on these laws. Like other new concepts and methods, the ability of Kyrgyz citizens to digest and understand these laws varies. Analyses on corruption in the Kyrgyz Republic suggest that the laws are not always evenly applied and that insiders often use the current legal environment to their advantage.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The legal environment is such that contract disputes almost never find themselves in a courtroom. According to international accounts, the average waiting period for a case to be heard is six months to a year, with an additional year to receive orders on the execution of the settlement payment. As a result, suing parties tend to find alternative routes to settle, if possible. This has been an area of work for a number of international organizations, including the American Bar Association's CEELI project, and the US Agency for International Development. This uncooperative legal environment has been one reason foreign companies have been reluctant to invest heavily in the Kyrgyz Republic. The major companies active in the country tend to work through political channels, however, especially in the president's office. If a company can work directly with President Akayev, or a member of his government, the likelihood of having property and contract disputes decreases.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

In public declarations and in government documents, business competition is encouraged. However, it is clear that the environment still needs improvement if business development is to take place. The aggressive policies on privatization have helped somewhat, as have the fairly open regulations on foreign business investment. One area in which the government has attempted to make progress has been in the area of anti-monopoly legislation. As early as the 1991 Decree on Restrictions on Monopolistic Activity and the 1994 Anti-Monopoly Law, the Kyrgyz government has tried to restrict the areas in which monopolies can function. At present, there are seven "natural" monopolies (defined as a situation wherein a single company owns at least 35 percent of a market share). These are the railways, communications, energy, gas, water, sewage, and tobacco. There are also seven "permitted" monopolies, which include civil aviation, oil, publishing, and the coal and gold mining industries, and 31 "temporary" monopolies. Of these 38, several have been sold off in the past two years and the privatization effort of 1998 to 2000 will address some of the permitted monopolies, such as civil aviation. There is an Anti-Monopoly Department in the Ministry of Finance that oversees the activities of these companies and is charged with regulating them.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Since independence, the Kyrgyz Republic has encouraged international trade. Because of the lack of natural resources and a strong business base within the country, President Akayev has supported the notion that international investment and development is the key to The Kyrgyz Republic's economic success. In 1994, the government liberalized the trade regime, reducing import and export taxes and easing restrictions on licenses. Customs duties are set at 10 percent for non-CIS trade for most products. The average unweighted tariff rate is four percent. Export licenses remain on items such as military arms, explosives, nuclear materials, and narcotics. For other goods, license requirements have been lifted, as have those for import products. To elicit foreign trade and investment, the government has established several free economic zones (FEZ) that would allow companies to set up without many of the above-noted fees and taxes. As a result, over 170 foreign companies have registered in the Bishkek FEZ alone.

As of 1999, there were over 3,800 foreign companies registered in the Kyrgyz Republic, employing over 25,000 Kyrgyz citizens. In addition, foreign products are readily available in the country. The negative side of this is that for the past six years, the country has run an annual trade deficit. In 1998, for example, exports totaled $540 million, while imports were $760 million, a difference of $220 million.

As a signatory state of the Quadripartite Agreement with Russia, Belarus, and Kazakhstan, the Kyrgyz Republic should also have fewer trade barriers with those countries. In 1998 and 1999, however, truckers and rail officials have complained about the continued need to pay customs fees at the Kazakh border. Tensions were exacerbated in 1998 when Kazakhstan imposed a 200 percent tariff on some Kyrgyz goods crossing their border. The need to resolve these problems remains important for The Kyrgyz Republic, as CIS states traditionally constitute 60 to 70 percent of all foreign trade. In addition, trade links with the People's Republic of China should increase, as a rail connection across the Taklimakan Desert should open by December 1999. Likewise, road construction of several passes between the Kyrgyz Republic and China should be completed by 2000. Perhaps the most significant trade-related event to take place in 1998 was the fact that in December of that year, the Kyrgyz Republic officially joined the World Trade Organization (WTO). This membership should enhance the country's ability to focus on its external debt problems and expand the opportunities for foreign investment.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

As with other economic programs, the Kyrgyz government has encouraged foreign investment. In 1991, the government passed a Law on Foreign Investment, amending it in 1993. A 1994 presidential edict, "Supplementary Guarantees for Foreign Investors in the Kyrgyz Republic" further defined guidelines for international companies. The more recent 1997 law "On Foreign Investment in the Kyrgyz Republic" establishes yet again the legal, economic, and organizational guidelines for foreign investment. Perhaps the most significant aspect of this new law is that foreign companies are able to have greater ownership of land and material, as well as greater access to placing their firms in the free economic zones (FEZ). In addition, guidelines for how to address grievances in the legal system are outlined, although these appear to be much the same as those outlined in the 1993 amendment to the 1991 law.

Currently, the State Agency on Foreign Investment, established in January 1998, oversees all government dealings with foreign companies. This agency is the executive body on the State Commission on Foreign Investment and External Economic Assistance. The purpose of this organization is to attract foreign investors to the Kyrgyz Republic, improve management and organizational abilities of companies that work with foreign partners, and assist in clearing the complex legal environment that still exists in the country. Dubbed a "one-stop shop," the Agency is viewed by the Kyrgyz government as the central point for all foreign investors.

Without question, the most significant foreign investor in the Kyrgyz Republic is the Cameco Corporation of Canada, which has a 33 percent share of the Kumtor gold mining field. With production finally beginning in 1997, it is hoped that the field will earn over $250 million in the five-year period from 1997 to 2002. In 1998, Cameco was directly responsible for a cyanide spill in Lake Issyk-Kul. To their credit, they took full responsibility and are in the process of making financial and ecological restitution to the affected area. The positive press on this action has benefited the company.

To date, the most significant problem the Kyrgyz Republic faces is repaying foreign loans in a timely fashion. As of the summer of 1999, the foreign debt stood $1.370 billion. This is money owed to international financial institutions such as the IMF and World Bank, as well as direct loans from foreign countries. This stands at an incredible 130 percent of the Kyrgyz GDP. The FY 2000 budget includes $85 million for foreign debt servicing, and it is estimated that the FY 2001 budget will earmark $74 for the same. Clearly, these payments barely cover the interest owed. In spite of this, direct foreign investment continues, at the rate of $80-83 million per year for the period 1997 to 1999. The European Union, for example, gave $14.5 million in 1998 and the US gave $24 million in assistance that same year. The latter will give an estimated $31 million in 1999.

8. Has there been a reform of the energy sector? To what degree has the energy sector been restruc-

tured? Is the energy sector more varied, and it is open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one of more countries to reach markets?
The energy sector remains the Achilles' heel of the Kyrgyz Republic, given that it is largely dependent upon foreign oil and gas imports. At the same time, it has been unable fully to capitalize on its hydroelectric energy capacity. The Kyrgyzneftegas Joint Stock Company is responsible for exploring and drilling oil and gas in the country. In 1998, it produced 73,000 tons of crude oil and 17.9 million cubic meters of gas. In 1999, these numbers are expected to increase to 75,000 and 20 million, respectively. The remainder of the 500,000 tons of oil needed was imported from Kazakhstan and Uzbekistan, as were the 400,000 tons of natural gas.

The one area of benefit for the Kyrgyz Republic is the large hydroelectric capacity of the country. To date, it exports hydroelectric power to all of Central Asia and western China. Production is currently over 14-billion kWh/per year, and is expected to increase once the power station projects at Tash-Kumyr and Shamaldy-Sai are completed. A modest amount of coal production (200,000 tons a year) also helps maintain some balance in the energy sector.

The main problem in the Kyrgyz Republic's relationships with the other Central Asian states is that it is required to pay market prices for Uzbek gas and Kazakh oil, or face the possibility of having supplies cut off (which happens periodically). On the other hand, these two states refuse to pay market price for water and water-generated electricity that come from the Kyrgyz Republic. The United Nations is setting up a research program to study solutions to this potentially volatile situation. In addition, Kyrgyz geological studies suggest that there are potentially 12 billion tons of oil reserves and 32.9 billion cubic meters of gas in the Osh and Jalal-Abad oblasts. These figures should be taken with some amount of skepticism, as it is difficult to assess real reserves in such difficult terrain.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?
The national workforce is calculated to be 1,704,900. By service, this is broken down as follows: agriculture – 811,000; retail and trade – 172,400; industry – 171,600; education – 139,400; and healthcare – 94,000, to name a few. These numbers are assuming full-employment, although most likely an undetermined percentage is actually under-employed or irregularly employed. In the Kyrgyz Republic, 39.1 percent of the women over the age of 15 work, which is 85.1 percent of the male economic activity ratio. This means that women make up approximately 46 percent of the labor force in the country. Not surprisingly, women are active in the agricultural, service, and trade sectors, particularly at markets, where over 50 percent of all employees are women, according to the World Bank. In contrast, women make up only 23 percent of the labor force in industry.

The official unemployment rate as of June 1999 stood at 3.1 percent, or 56,300 unemployed individuals. This is actually a decrease from the same time in 1998, when the rate was 3.7 percent. Most international organizations believe that this is largely the result of individuals no longer applying for benefits rather than an upturn in job availability. Indeed, if one factors in underemployment, irregular work, and those who've simply decided to not register for benefits, the unemployment rate is much higher. According to the EIU, the current (June 1999) unemployment rate is closer to 12 percent of the workforce, or more than 200,000 individuals. These figures are not currently broken down by gender, although most would suggest that women have a higher rate of unemployment than men have. The state does provide unemployment compensation, calculated against the state's minimum salary and modified for family size. Because this figure has not been adjusted in over a year, the benefit stands at barely more than 120 som a month, or approximately $3. This is woefully under the monthly average wage of 982 som a month, or $23. The time period for benefits is flexible, but requires regular re-registration.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension system in the Kyrgyz Republic is state-run. Women can retire at age 55 and men can retire at age 60. Retirement benefits are calculated by the government and pegged each January 1st to the salary wage scale. Basic pensions start at less than 300 som a month, or a mere $7 a month. This constitutes a third of the median salary, as of June 1999. There are benefits available for the disabled, orphans, the elderly with special medical needs, and veterans. However, the amounts tend to be well below subsistence levels and are periodically in arrears.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly income since 1993? Are there major problems in wage arrears? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrears (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

In June 1999, the average monthly wage was approximately 982 som, or $23. Because of the falling exchange rate, and the inability of the government to keep wages apace of prices, this represents a decline over the past year in relative terms. The average monthly salary in dollars was $41 in July 1998, thus there has been an almost 44 percent drop in the salary rate during this time. This is in spite of the fact that the nominal rate actually increased 23 percent. This has reversed a trend in which nominal and actual wages steadily increased by over 30 percent for the period 1994 to 1998.

Wage arrears have occurred more frequently over the past three years, paralleling the economic problems facing Kyrgyz companies and the state economy itself. Anecdotal evidence suggests that four to six month delays in payment are not uncommon, particularly among government civil servants. As salaries make up nearly 26 percent of the Kyrgyz national budget (and almost 33 percent of non-investment payments), the continued problem of balancing the budget has thwarted efforts to accelerate salary payments so as to eliminate arrearages. Private firms appear to fare better, as do multi-national joint venture companies that rely on their foreign partner for salary payments. Barter payments have become more frequent in Kyrgyz society, especially among those who have access to agricultural goods that can easily be traded. It is estimated that over 20 percent of day-to-day commerce is conducted in this manner. Figures differentiating salaries for men and women are not available. Outside sources, such as the UNDP and World Bank, rely on a standard figure of women receiving 75 percent of the salaries earned by men for similar work. Women tend to dominate the lesser-paid jobs, particularly in the service sector. This would further exacerbate the difference.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

Without question, education in the Kyrgyz Republic has suffered greatly since the collapse of the Soviet system. This is largely because the Kyrgyz educational institutions were heavily subsidized by the system and students had access to a wider range of institutions and facilities. Because of economic hardship, the concept of universal access to educational institutions at the primary level is now a thing of the past. Thus, while the school-age population of the Kyrgyz Republic continues to grow, the enrollment figures are starting to erode, at least at the early levels.

According to UNICEF, there are currently 1,391,000 children of school age in the Kyrgyz Republic. In addition, there are 562,000 children under the age of 5 who will matriculate into the educational system in a few

years. Kindergarten enrollment, though, is now less than 10 percent in the Kyrgyz Republic, a figure that stood at 30 percent in 1989 and 14 percent in 1993. This is a result of fewer facilities open, especially in the rural regions, and the need to charge fees for students to pay salaries of teachers. The combined 1 to 3 grade enrollment figures stand at 69 percent, according to OECD. If one factors in all of the primary grades, the number actually increases to slightly more than 90 percent; the discrepancy is most likely the result of the fact that in rural regions, children may not start formal education until a later grade. This also explains the fact that almost 92 percent of all children enrolled in school reach the fifth grade, at least. Interestingly, girls are slightly more likely to attend these grades (71 percent versus 68 percent for boys). Lower secondary enrollment percentages have dropped from 84 percent in 1989 and 80 percent in 1993, to less than 60 percent in 1999. Overall secondary education rates are at 77 percent. Surprisingly, the Kyrgyz have been able to keep teachers employed at a high rate, thus the student-to-teacher ratio remains the best in Central Asia, at 5-6:1.

Spending per pupil has declined in the 1990s, primarily as a result of shifting government budget priorities. As it stands, public education spending as a share of GDP is 6 percent, and the government spends approximately 23 percent of its budget on education—68 percent of it spent on primary and secondary education, while 14 percent is spent on higher education. A positive trend has been the fact that the Kyrgyz Republic is spending more on education than the neighboring states, though continued government revenue shortfalls may adverse affect this.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

According to the UNICEF "The State of the World's Children 2000" report, the infant mortality rate in the Kyrgyz Republic is 56 per 1,000 live births. The "children under five" mortality rate is 66 per 1,000 live births. The maternity mortality rate in the Kyrgyz Republic stands at 65 per 100,000 births. These are in contrast to UNDP figures for the same data, which are 38, 48, and 110, respectively. The birth rate in the Kyrgyz Republic is now 3.2 children per woman, down from the figure of 4.3 in 1975. Life expectancy is at 67.6 years, with the rate for women standing at 71.9 years and that for men at 63.3 years.

As with the other Central Asian communities, divorce and suicide carry negative stigmas, particularly in the rural regions. However, because the Kyrgyz Republic is more ethnically diverse than its neighboring states (except Kazakhstan), such attitudes tend not to be as prevalent in the urban, multi-cultural areas. The UNDP figures on suicide rates in the Kyrgyz Republic only go through the mid-1990s, but one can surmise that the figures of 21.2 suicides per 100,000 for men and 6.1 suicides per 100,000 women is representative of the current period. Likewise, the divorce rate is reported to be 25 percent, which is over twice as high as the other Central Asian states, except Kazakhstan, which has a rate of nearly 40 percent.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

According to the UNDP, there are currently 310 doctors and 879 nurses per 100,000 in the Kyrgyz Republic. These figures have been used for much of the late-1990s and can only be considered estimates at this point. The concern is that, with a lack of viable medical training facilities in the country, these numbers will drop in the next decade. The number of hospital beds in the country stands at approximately 883 per 100,000 citizens. This latter figure is a drop of over 26 percent from the 1989 figure of 1,197 hospital beds per capita in the republic. This is largely as a result of the closing down of facilities, particularly in the rural regions. In addition, the amount of time spent per inpatient visit has also dropped in the last ten years, for financial reasons.

Currently, the Kyrgyz government spends 3.5 percent of GDP on health care per year. While the government still provides financial support for minimal health care in the system, increasingly, Kyrgyz citizens are forced to enroll in a variety of healthcare programs. A Health Insurance Fund was finally set up in 1997, in which employees can register for 2 percent of their gross salary (deducted as a tax by the Ministry of

Health). In a Ministry of Health study conducted in the mid-1990s, it was shown that 69 percent of all patients had some form of coverage. However, the average outpatient rate of $8 per visit and the average inpatient rate of $40 per stay have both proven to be difficult obstacles for financially strapped Kyrgyz. One third of the patients had severe difficulties in paying their share, and 15 percent simply could not do so. One of the goals of the 1999 budget was to address the issue of health care in the country.

7. What are the official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

It is difficult to determine the poverty rates in the Kyrgyz Republic, given the lack of consistent data on social trends in the country. According to the UNDP, an incredibly high rate of 84 percent of Kyrgyz citizens are classified as being poor, in contrast to the 12 percent listed as such in the late-1980s. UNICEF notes that 19 percent of the population lives on less than $1 a day and 88 percent live under $14 a day. These numbers have not been delineated according to gender or age, but one can assume that women and the elderly make up a disproportionately high percentage of those classified as "poor." The absolute number and percentage figure of those below the poverty line has increased in the last decade. International organizations have noted the potential crisis that may ensue if the income disparities are not resolved.

LATVIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist
Population: 2,400,000
PPP (USD): 3,940
Capital: Riga
Ethnic Groups Latvian (57 percent), Russian (30 percent), Byelorussian (4 percent), Ukrainian (3 percent), Polish (3 percent), other (3 percent)
Size of private sector as % of GDP (1998): 65

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	2.15	2.15	↑2.06
Rule of Law	na	na	2.75
Economic Liberalization	2.50	2.50	2.50

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	837.0	1459.0	1780.0	2071.0	2294.0	2622.0	2512.0
Real GDP growth (% change on previous year)	-14.9	0.6	-0.8	3.3	8.6	3.6	1.5
Inflation rate	109.1	35.7	25.0	17.7	8.5	4.7	3.0
Exports (USD millions)	1054.0	1022.0	1368.0	1488.0	1838.0	2011.0	2079.0
Imports (USD millions)	1051.0	1322.0	1947.0	2286.0	2686.0	3141.0	3050.0
Foreign Direct Investment (USD millions)	51.0	155.0	244.0	376.0	515.0	220.0	150.0
Unemployment rate	8.7	16.7	18.1	19.4	14.8	13.8	na
Life Expectancy (years)	69.0	68.7	69.3	70.4	71.2	68.4	67.3

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			2	3	3	3	2	2	1	1	1
Civil Liberties			3	3	3	2	2	2	2	2	2
Status			F	PF	PF	F	F	F	F	F	F

Introduction

Latvia has a democratic political regime currently governed by a center-right coalition. Latvia has conducted free, fair, and regular parliamentary elections since 1991. Six political parties out of 21 were elected to the 100 seats of the national parliament (*Saeima*). Although in recent years, the Latvian government has been shaken by various political crisis, changes in government have not significantly affected the development of society. The political climate in Latvia has been favorable to Latvia's integration into the European Union and NATO. Latvia has been invited to start negotiations with the EU over its possible inclusion in an expanded EU.

Latvia has reduced its trade ties with Russia but the Russian market remains important for some sectors of its economy—more than 10 percent of Latvian GDP still depends on trade with Russia. Therefore, the economic crisis of 1998 had a negative impact on Latvia's economy. But Latvia has achieved the progress necessary to be regarded as a functioning market economy and in 1999 it became a full-fledged member of the World Trade Organization. Although Latvia has been successful in implementing liberal macroeconomic reforms, social policy remains a key area of concern.

The main reason for Latvia's weaker economic performance was the shock on demand that the economy experienced after Russia's economic pressure on Latvia and the later full-scale crisis in that country. That it withstood and absorbed these economic blows proved that Latvia was firmly on the road to sustainable economic development. Despite these economic disruptions, both the service and industrial sectors showed positive growth in 1998. The service sector continued booming through the beginning of 1999, accompanied by strong growth in construction. The food industry, chemical production, and machine building suffered most from the Russian crisis. At the same time, the production of clothes, ships, wood and wood products, and other goods with markets in the west continued to grow. Importantly, construction work has also increased. Trade was brisk through the beginning of 1999.

The official unemployment rate in Latvia has fluctuated around seven percent since 1997, although it increased to ten percent in the summer of 1999. The actual rate may be as high as 18 percent. Unemployment is significantly higher in rural areas, especially in the southeastern Latgale region.

The main political events for 1998 and 1999 were national elections and a referendum on amendments to the Citizenship Law, which promoted the naturalization procedure and has accelerated social integration. A significant development was the elevation of the protection of human rights and fundamental freedoms to a constitutional level by the adoption of a Human Rights section in the Constitution.

Democratization

POLITICAL PROCESS 1.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

In June 1993, Latvia held its first parliamentary election since the restoration of the country's independence in 1991. Latvia's Way won 36 seats and the National Independence Movement won 15. Six other parties and blocs also received votes. The most recent national legislative elections were held on October 3, 1998. Members of parliament are elected for four-year terms by proportional representation. In order to win representation, a party must receive at least 5 percent of the total votes cast in the election. Six of the 21 parties and factions competing for seats in the 100-member parliament (Saeima) won seats. The right-wing People's Party won 24 seats; Latvia's Way, the ruling liberal party, was second with 21 seats; and another ruling party, the Fatherland and Freedom/LNNK, gained 17 seats. After the 1998 elections, the number of women parliamentarians has risen from 8 to 17. International organizations, including the OSCE Office for Democratic Institutions and Human Rights, declared that the elections had been conducted freely and fairly.

The lack of a clear parliamentary majority necessitated the formation of a four-party coalition that covered a wide ideological spectrum. The coalition of Latvia's Way, the Fatherland and Freedom/LNNK, and the New Party, excluded the People's Party and relied on support by the social democrats instead. Vilis Kristopans, one of the leaders of Latvia's Way, was chosen as Prime Minister. The government of Vilis Kristopans was unstable

and often criticized for lacking comprehensive initiatives. In the summer of 1999, Kristopan's government fell. Kristopans resigned as Prime Minister and was replaced by Andris Skele, leader of the People's Party, which joined the new governing coalition instead of the New Party and social democrats.

2. When did presidential elections occur? Were they free and fair?

On July 7, 1993 parliament elected Guntis Ulmanis as president of Latvia. According to the constitution, the president is elected for a four-year term by secret ballot by a majority vote in parliament. On June 17, 1999, in the most recent presidential elections, the political parties in parliament nominated five candidates for president: Vaira Paegle, a former exile and activist and member of Saeima for the People's Party; Latvia's ambassador at the United Nations, Janis Priedkalns, who was nominated by Fatherland and Freedom/LNNK; Minister of Environment and Regional Development Anatalojis Gorbunovs of Latvia's Way; member of Saeima and chairman of the New Party, Raimons Pauls; and Arnis Kalnins, an economist proposed by the social democrats. Since all parties voted for their own candidates, none of them gained a majority of support in the first round. Then Latvia's Way nominated Minister of Foreign Affairs Valdis Birkavs. The People's Party, the Fatherland and Freedom/LNNK, and the social democrats came up with a non-partisan candidate, Vaira Vike-Freiberga, who heads the Latvian Institute. Of the 100 ballots distributed in parliament, 100 were returned. Vike-Freiberga received 53 votes and became the first woman president of Latvia. Vike-Freiberga spent most of her life as a scientist in Canada and returned to Latvia in 1998. She is a member of the Canadian Academy of Science. Her election received broad popular support, and her activity has earned international appreciation. Vike-Freiberga has announced vigorous support for Latvia's integration into the European Union and NATO. Parliament elected the president according to the requirements and procedures set forth by the constitution. Even though there were no official election observers, other European governments and the US State Department welcomed the results.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system in Latvia is multiparty-based at all levels. In 1993, 23 political parties participated in the national legislative elections. In 1995, 19 parties and factions representing a wide range of political viewpoints competed in the national elections. In the March 1997 local elections, a total of 17 parties won seats on the Riga City Council. In the October 1998 national elections, 21 parties and factions participated and 6 of them gained representation in Saeima. The diversity of parties at different levels of government has often made it difficult to reach consensus on many issues. Members of the coalition government, for example, have differing views on privatization, social integration, and the alignment of Latvian laws with those of Western Europe. Disagreements of this kind have prevented important decisions from being made and delayed the adoption of legislation, most notably in the areas of language and privatization.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

As of May 1999, 44 political parties were registered in Latvia. The Law on Registering Public Organizations was amended in late 1993 to bar registration of Communist, Nazi, or other organizations that would act in contravention of the constitution.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

According to the Latvian Prognoze Association of Independent Sociologists, approximately five percent of respondents to a survey indicated that they belonged to a political party or movement in 1997. Most parties are active only for brief periods during electoral campaigns. Non-citizens are prohibited from forming political organizations. According to the Latvian National Bureau of Human Rights, 5 percent of party leaders and 26.64 percent of the 1998 election candidates were women. Since party membership is not always accurately registered and the data are not always publicly available, it is impossible to assess the proportion of women.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

At the national level, voter turnout increased from the late 1980s through the early 1990s, but then decreased in the mid-1990s. Electoral participation reached its highest level with elections to the Fifth Saeima in 1993, when

90 percent of eligible voters cast their ballots. It decreased to 72 percent both in the Sixth and Seventh Saeima elections. Participation in local government elections has declined from 78 percent in 1989 to 63 percent in 1994 and 57 percent in 1997. This trend reportedly results from the public's diminishing confidence in political leaders and its increasing political alienation in the face of the difficulties associated with economic reforms. In addition, non-citizens, who constitute approximately 25 percent of the registered residents of Latvia, were unable to participate in either national or local elections.

According to estimates by Arnis Cimdars, the Head of the Central Election Committee, approximately 60 percent of the eligible female voters participated in the Seventh Saeima election in 1998.

CIVIL SOCIETY 2.25/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Although small groups of dissidents were active in Latvia throughout the 1970s and early 1980s, mass political activity outside of the Communist party began in 1986 with a petition and letter-writing campaign against the environmentally dangerous Daugava hydroelectric station. During the next two years, political participation increased dramatically. By the autumn of 1988, the newly founded nongovernmental Latvian Popular Front, which also worked to promote a variety of minority and religious rights, claimed a membership of between 200,000 and 300,000 people. An increasing number of nongovernmental organizations have been registered in Latvia in recent years. The total number of NGOs registered at the Ministry of Justice rose from 1,676 in 1995 to 2,394 in 1996 and 2,753 in 1997. These include cultural, professional, business, social, charitable, and women's organizations. However, according to the NGO Center of Latvia only approximately 1,400 organizations were active in 1999.

The role of NGOs has increased steadily since the late 1980s. In Valmiera in August 1997, a wide-ranging event entitled "Women and Men in Dialogue" increased the public awareness of gender equality issues and mobilized state institutions and NGOs. In September 1997, the first NGO Forum attracted hundreds of Latvian NGO representatives. Since then, NGO forums have become annual events in all regions of Latvia. The NGO Center, which provides support for approximately 500 registered NGOs, has also become more active.

Research conducted in order to create a national NGO directory suggests that more than 70 percent of NGOs are based in Riga. Twenty percent are based in the other larger towns of Daugavpils, Ventspils, Jurmala, Liepaja, Rezekne, and Jelgava. In regional centers, smaller towns, and rural districts, local governments remain the primary force behind social activity. While the total number of NGOs has increased, only a small segment of the population is involved in NGO activities. According to the Baltic Barometer survey of November 1996, nine percent of Latvians and two percent of non-Latvians were members of NGOs. According to an estimate provided by the NGO Center, only 0.5 to 3.0 percent of the population are active in private voluntary efforts.

According the NGO Center of Latvia, approximately 60 percent of NGO activists are women. Two of the largest and most active women organizations are the Latvian Association of Business and Professionally Educated Women, and the Women's Business Club. The membership for both organizations is fluctuating and the average is approximately 100.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The primary laws that regulate the work of NGOs in Latvia are the Law on Nonprofit Organizations, which was passed in December 1991 and amended in May 1993; the December 1992 Law on Social Organizations and their Associations; and the Law on the Income of Enterprises. The Law on Social Organizations and their Associations addresses general conditions for the establishment and operation of all social organizations. It also contains specific and supplementary regulations for political organizations, public foundations, profes-

sional societies, and sports organizations. The activity of trade unions, religious associations, and some other categories of NGOs are governed by separate laws. Under the law, a social organization may be established by ten or more people who have united to pursue nonprofit-related goals. Social organizations can conduct entrepreneurial and other activities, establish entrepreneurial companies and enterprises, and obtain stocks or shares in those companies in pursuit of their goals. Profit gained from the organization's business activities must be used for the organization's statutory goals and cannot be distributed among its members. To register with the Register of Companies, an NGO must present a charter of statutes, a protocol of foundation, a verification of legal address, an application of registration, and a state fee. The state registration fee is 25 lats for social organizations and 100 lats for nonprofit organizations. Religious organizations, which are not recognized as NGOs, are registered by the Ministry of Justice.

The Law on Nonprofit Organizations defines a nonprofit organization (NPO) as an entity established for nonprofit service or charity work. Founders of an NPO can be natural or legal persons. State institutions can establish NPOs with approval from the respective ministry. Local governments can form NPOs in accordance with the decisions of local councils. NPOs are registered in the Registry of Enterprises, a governmental agency not connected to the Ministry of Justice. The name of the organization must contain the words "nonprofit organization." Before registering, the founders of an NPO must declare in writing that they will not obtain profit from the activities of the organization and that all profit will be set aside in a special reserve fund and used for the fulfillment of the tasks for which the NPO was established. If the NPO violates this regulation, it will be re-registered within a month as an enterprise, and its activities will be regulated by the laws applying to business establishments. The reserve funds of the NPO will then be transferred to the ownership of the state.

To date, Latvian NGOs have exercised influence in the content or passage of three NGO-related laws: the Law on Social Organizations and their Associations, the Law on State Guardianship, and the Law on Charity, which is still being developed. The influence was exercised mainly through lobbying and public debates.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

According to a report by the Soros Foundation, one of the leading obstacles confronting NGOs in the Baltic states is the lack of management and organizational skills. According to a report by the NGO Center in Riga, six to ten percent of existing NGOs have well-developed management capacities. Information on NGO management issues is available at the NGO Center and is published predominately in English. As various NGO forums concluded in 1999, organizations lack information on participation opportunities within different projects. Trainers for NGOs are available, but according to the NGO Center, they meet only 10 to 15 percent of current needs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost recovery fees?

NGOs are financially viable. According to a report by the NGO Center, the main sources of income for NGOs in Latvia, in decreasing order of prominence, are membership fees, donations from enterprises and firms, private donations, foreign donations, local government funds, fees for services, income from the organizations' activities, and state budget funds.

Businesses may deduct up to 85 percent of the value of their donations to certain foundations and associations, provided that the deduction does not exceed 20 percent of their total taxable income. There is generally no difference in the tax policy applied to social organizations and to for-profit enterprises. Social organizations pay income and social tax, although there are some exceptions for charities.

Foundations and associations, to which businesses may contribute and receive a tax deduction, have complied each year with a complicated government filing and newspaper publication regimen. By the end of March of each year, social organizations must submit a report on their income and expenses during the previous year to the State Revenue Service. Journalists are granted access to the reports, have the right to participate in meetings of the governing bodies of social organizations, and can obtain

access to the resolutions and decisions adopted by the organizations and their officials. According to the Law on State and Local Government Procurement, state contracts may be awarded regardless of the contractor's nationality, place of the registration and activity of the enterprise, or the type of entrepreneurship and form of property. Thus, NGOs have the legal right to apply for state procurement.

5. Are there free trade unions? How many workers and what proportion of the workforce belongs to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The Constitution of Latvia guarantees the right to strike and the Law on Trade Unions mandates that workers, other than the uniformed military, have the right to form and join labor unions of their own choosing. Unions are free to affiliate internationally and are developing contacts with European labor unions and international labor union organizations. The law bans the dismissal of workers who choose to go on strike, but the government has not effectively enforced the law. During 1997, workers in some bankrupt state enterprises sought to defend their economic interests more actively through strikes, picketing, and other forms of protest. Teachers tried to start a dialogue with the government through a telephone campaign, while farmers sought to obtain greater support and protection from foreign competition. Labor unions have the right to bargain collectively and are largely free of government interference in their negotiations with employers. Although the law prohibits discrimination against union members and organizers, some emerging private sector businesses have threatened to fire union members. These businesses, however, usually provide better salaries and benefits than are available elsewhere. In general, the trade union movement is undeveloped and still in transition from a socialist to a free-market model.

Union membership, which constituted approximately 50 percent of the work force in 1993, fell as workers left the Soviet-era unions that had included management or were laid-off as Soviet-style factories failed. The lack of a comprehensive register makes it difficult to estimate what proportion of the workforce belongs to unions. Since independence, the trade union movement has been divided into entities that continue to operate as individual unions, and those that have united to form the Free Trade Union Federation. The latter, based primarily in industry, included approximately 40 percent of all trade unions in 1996. Private farmers have created a number of organizations, but membership in them as well as in small business associations remains small.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

The constitution guarantees the right of citizens to establish political parties. Under Article 102, all people have the right to form associations, political parties, and other social organizations. Non-citizens are prohibited from forming political organizations. In late 1993, the Law on Registering Public Organizations was amended to prohibit Communist, Nazi, or other organizations that would contravene the constitution.

The government may not legally prohibit public gatherings. Organizers of demonstrations must provide advance notice to local authorities, who may change the time and place of public gatherings for reasons such as fear of public disorder. Numerous public meetings and political demonstrations have taken place without government interference. In January 1998, parliament passed legislation on public demonstrations to require that protesters remain at specified distances from foreign missions, the parliament, and certain other public institutions. While the law comports with Western European statutes, independent human rights organizations in Latvia have found its provisions to be contradictory and confusing.

Politically active interest groups included organizations representing businessmen, students, teachers, doctors, non-ethnic Latvians, and pensioners. Students, pensioners, and teachers were the most active in promoting their interests in 1999.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

A growing number of NGOs that are engaged in research and advocacy on human rights issues, including prison conditions and children's and women's rights, operate without government interference. The awareness of the greater public of the importance of NGOs is not fully developed. However, as NGOs increase their activity, the public perception is becoming more positive.

The government has demonstrated a willingness to engage in dialogue with NGOs. The Cabinet of Ministers has worked with NGOs to adopt the National Program on the Protection and Promotion of Human Rights in Latvia. The establishment of the Latvian National Human Rights Office, which receives its basic financial support from the state and is run by a state-appointed director, was widely supported by human rights NGOs in Latvia. According to a 1997 report by the NGO Center in Riga, 82 percent of NGOs cooperate with national and local governments and 31 percent include representatives of national and local governments in management structures.

A common practice of the media is to cover broadly the views of NGO activists, often presenting them as counterweights to official positions. NGO activities as such are also common media topics. For example, the seminar, mass manifestation, and rock concert organized by the European Movement in Latvia in August 1999 received wide media attention.

INDEPENDENT MEDIA 1.75/7

1. Are there legal protections for press freedom?
The constitution provides each person with the right to acquire and disseminate information freely, and to express his or her views. Censorship is prohibited by the constitution. Nevertheless, the Law on Radio and Television contains a number of restrictive provisions regulating the content and language of broadcasts. No more than 30 percent of private broadcasts may be in languages other than Latvian. A minimum of 40 percent of prime-time television broadcasts must be of Latvian origin. At least 80 percent must be of European production. These provisions, though, are not always observed in practice. In addition, foreign investment may not exceed 20 percent of the capital in electronic media organizations.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Legal penalties for libeling officials exist. They are the same for private and public officials. There are no legal penalties for "irresponsible" journalism. On several occasions, officials have brought journalists and media organizations to court for libel. In 1998, the former Minister of Economy, Laimonis Strujevics, sued the daily newspaper *Diena* for alleged defamation. The newspaper had sharply criticized particular decisions of the minister and claimed that, through these decisions, he favored certain economic groups to the detriment of the state's financial interests. The newspaper lost the case in the lower court, but is currently appealing the ruling.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
Latvia has two state-owned television networks, LTV-1 and LTV-2, and nine major privately owned stations. The private Latvian Independent Television has almost twice as many viewers as LTV-1, its nearest competitor. Satellite television enjoys approximately ten percent of the total Latvian viewership each week and there are numerous independently owned cable channels. There is also a large number of independent radio outlets that broadcast in both Russian and Latvian. Approximately ten privately owned radio stations operate in Riga. The major public radio stations are Latvijas Radio 1, which has the greatest number of listeners each week; Latvijas Radio 2; and Latvijas Radio 3. Most newspapers and magazines are privately owned. The three most popular daily papers are *Diena* and *Lauku Avize*, both published in Latvian, and *Panorama Latvii*, published in Russian. The state publishes the weekly *Likuma Varda*, as well as *Latvijas Vestnesis*, which appears four times a week. All major cities publish their own private newspapers.

4. Are the private media financially viable?
Since 1992, advertising has accounted for a significant portion of media income. The 1995 banking crisis, in which a number of the country's banks went bankrupt, directly affected the financial viability of many media outlets and sharply diminished the advertising market. In 1996, 43 percent of media advertising was in television, followed by newspapers at 35 percent, radio at 6 percent, magazines at 4 percent, and outdoor venues and other categories comprising the remaining 10 percent. Although new publications continue to appear, economic difficulties have forced others to close.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
In general, the government respects freedom of speech and the press. Newspapers published in both Latvian

and Russian feature a wide range of criticism and political viewpoints. A 1994 city ordinance prohibits the sale of ultra-nationalist Russian-language newspapers in Riga.

When an influential economic group of the port city Ventspils purchased a media group including the Preses Nams publishing house and several daily newspapers, news coverage apparently was affected by the political and economic interests of the owners. In situations like this, self-censorship is likely.

6. Is the distribution system for newspapers privately or governmentally controlled?

The distribution system for newspapers is privately controlled by companies such as the Latvijas Preses Apvieniba, Joint Stock Company Diena, etc.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

According to the RIPE Network Coordination Center, which serves as a regional Internet registry for Europe, there are 68 Internet-connected computers for every 10,000 people in Latvia, or approximately 16,482 Internet-connected computers for a total population of about 2.4 million. In 1999, approximately 56,000 persons or about 2.33 percent of the total population used the Internet on a regular basis. Latvian Internet providers are expected to go through a number of mergers, and as few as three Internet providers may be all that remain in operation in 2000. Major television and radio stations and newspapers maintain their own web sites. Except for financial limitations, there are no restrictions on Internet access to private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The major and only association is the Latvian Journalist Union. The union has 500 registered members, 350 of them are considered active. Women make up approximately 50 percent of the membership of the Journalists Union.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

According to Freedom House's annual *Survey of Press Freedom*, Latvia was rated "Free" in 1991, "Partly Free" in 1992 and 1993, and "Free" in 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 2.50/7

1. Is the legislature the effective rule-making institution?

Both constitutionally and in practice, the Saeima (parliament) is the country's effective rule-making institution. Although parliament has adopted many news laws, political infighting has limited its ability to function efficiently. The Latvian State Chancellery provides legal and substantive guidance on draft legislation before it is discussed and adopted by the cabinet.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Power was quickly decentralized after the declaration of independence in 1990. Local authorities assumed responsibility not only for functions normally associated with local governments, but also for many of those usually undertaken by central governments. As Latvia has moved toward integration with Europe, however, this trend has been reversed. The current functions of local government are essentially those that cater to local needs and conditions and for which local authorities can determine procedures and funding.

In 1999, the system of local government in Latvia included 586 local government units, which are divided into two levels. At the highest level are the 26 rajoni (districts) and the 7 largest cities (Riga, Daugavpils, Jelgava, Jurmala, Liepaja, Rezekne, and Ventspils). At the second level are 70 smaller towns and 483 pagasts (small rural districts). In 1999, the government proposed an administrative reform that included the transformation of districts into nine larger units. The proposal has been subjected to broad public debate, but no final decision has been taken so far.

Local authorities are responsible for territorial planning, regional and local roads, public transport, housing and community subsidies, primary and secondary education, social services, and primary and secondary health care. Latvia has enacted laws to give local governments, particularly municipalities, substantial authority and allow them to function independently within the limits of the law. Local governments can pass legislation, provided that it does not contradict the laws passed by parliament. In general, councils in smaller municipalities and townships seek guidance from the state before making major decisions.

3. Are subnational officials chosen in free and fair elections?

Subnational officials are chosen in free and fair elections. Latvian citizens residing outside the country have the right to vote in local elections. Non-citizen residents of Latvia, however, are barred from voting in local elections. The country's 600,000 primarily Russian-speaking residents are therefore effectively prevented from having direct representation in local politics. Local assemblies elect mayors. On March 9, 1997, in Latvia's most recent local elections, 12,000 candidates competed for 4,445 council seats in 77 city and 489 district councils. The Social Democratic Party (LSDP), which was not represented in parliament at the time, won an upset victory over the country's ruling coalition. It won overwhelming control over Daugavpils with 85 percent of the vote. In Riga, it secured 11 of 60 city council seats. The Fatherland and Freedom Party finished second with ten seats. Most of the national coalition parties formed a coalition to control the city council. Rightist parties won majorities in Liepaja and Ventspils. In the local elections of 1994 and 1997, voter turnout was low—58.5 percent in 1994 and 57 percent in 1997—and many ballots were marked incorrectly because of widespread confusion among voters and the media. Although the share of localities in which 2 or 3 electoral lists competed increased from 60.6 percent in 1994 to 64.1 percent in 1997, the number of localities in which there was only 1 electoral list also increased. In general, these "single list" localities were located in less developed regions where voters were indifferent or where the previous administration or council leader enjoyed considerable authority.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

The executive and legislative bodies generally operate openly and with transparency. Under the constitution, parliamentary sittings are open to the public. Nevertheless, at the request of ten members of parliament, the president, the prime minister, or any one minister, parliament may decide by a majority of not less than two-thirds of the members present, to sit in camera. Since 1993, this has happened once. Parliament has adopted a classified information law that is consistent with international standards and practices. In October 1998, parliament adopted the Information Openness Law. The law states that all information, (including draft legislation) in possession of state and local government institutions, is to be made available to the public, unless the law provides for an exception. Cases have been reported, however, where institutions have refused to implement the law and have denied access to requested information. All laws are published in a government newspaper that is available to the general public.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

In general, local governments do not have sufficient financial resources to undertake their duties at an adequate level. In recent years, various administrative reforms have sharply reduced the finances of the local authorities, while at the same time allotting more functions to local government. From 1992 to 1995, the work of local authorities constituted more than 24 percent of the state budget. By 1996 and 1997, this figure had fallen to 18 percent and to approximately 16 percent in 1998. The reforms have been characterized by a one-third reduction in funding, primarily for education, health, and social assistance, and the transfer of the "savings" to the central government, without any accompanying increase in investment in infrastructure. Since local governments receive financing from the central state budget and also raise revenues autonomously, the total revenues available for each region are based largely on the level of economic development of that particular region.

On June 10, 1997, in an attempt to promote greater regional development and reduce the economic disparities among regions, parliament passed the Law on Regions Requiring Special Assistance. After these regions have been identified according to their income tax revenue, unemployment rate, and population density, the state and local government can then actively promote their development. A Regional Fund, receiving money from the state and credits and donations from foreign and international aid institutions, was created to implement support projects. Resources from the fund may be used by the region's businesses and local authorities. Local government services were not necessarily adequate, however, because the aggregate size of local government budgets is and will remain small. In March 1998, parliament adopted a law on municipal finances. The law provides for the equalization of municipal budgets so that, regardless of economic disparities, municipalities will have equal opportunities to perform their functions. Financing will be pro-

vided through a special fund as established by the law. Municipal governments control their own local budgets.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?
Despite the lack of sufficient funds available at the local level, many local leaders in cities and larger towns are competent and manage municipal governments effectively. Training and practical experience are still in short supply in many smaller towns.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?
The first post-independence territorial reforms coincided with the 1994 local government elections, when local district authorities in Riga were reorganized as internal departments of the main city authority without elected representatives. The Law on Local Government was adopted in mid-1994. In June 1996, the cabinet embraced the idea of territorial reform to preserve the functions of local authority at the regional and local levels and to strengthen local financial independence. Before the March 1997 local elections, a new regulation abolished elections in the rajoni and extended the terms of their elected councils until the end of 1997. At the end of its 1997 spring session, parliament passed amendments to the Law on Local Government. These abolished local authorities at the region level and replaced them with a Cooperation Council that includes representatives from the towns and pagasts. In 1999, the government proposed an administrative reform that included the transformation of districts into nine larger units. The proposal has been under broad public debate, and no final decision has been taken so far.

After the 1993 parliamentary elections, the government launched a new civil service system by creating a Ministry of State Reform, which would restructure state institutions. A key feature of the Civil Service Law, which was adopted on April 21, 1994, was the creation of a personnel system that provides for entrance by examination, competitive recruitment, adherence to ethical principles, loyalty to constitutional government, and the promotion of competence through education and training. The budget law, which was also passed in 1994, provided for higher salaries for civil servants. An independent nongovernmental ethics council was created to implement codes of ethics and standards for government workers. The Ministry of State Reform determined that approximately 14,000 would be subject to the Civil Service Law. The Civil Service Agency (CSA), an implementing agency mandated by the Civil Service Law, was charged with organizing the civil service, implementing civil service laws and regulations, and reviewing the backgrounds and professional qualifications of applicants. Under a separate law passed in late 1994, the CSA became responsible for managing disciplinary procedures for civil servants. Reform began with the highest-level prospective civil servants in order to create a core of people committed, or at least not opposed, to the success of the new system. A requirement that civil servants continue their education and increase their professional competence was incorporated into the Civil Service Law, thereby creating support for the reforms among government workers. The Latvian School of Public Administration and the University of Latvia in Riga are charged with preparing and coordinating the training for civil service employment. Although many elements of civil service reform have already been implemented, limited resources and a lack of political determination have obstructed the implementation of others. Local civil servants are employees of the local government and must adhere to the same code as all other civil servants.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 2.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
In 1990 still *de facto* within the USSR, Latvia renewed the fundamental articles of its 1922 constitution, which dates from Latvia's brief interwar period of independence. The same constitution was fully renewed in 1993 after the first free parliamentary elections. The 1922 constitution establishes and defines the separate responsibilities of the executive, legislative, and judicial branches of government.

In early June 1996, parliament adopted the Law on the Constitutional Court. In the absence of such a court, parliament adopted laws that run counter to both the consti-

tution and the country's international obligations. For example, parliament violated the constitution by terminating the mandates of several deputies who allegedly collaborated with the former KGB. Later the court ruled that the collaboration could not be proved and the mandates were renewed. Since its establishment, the Constitutional Court has handed down a range of important decisions. In 1999, the court ruled, for example, that the public had a constitutional right to know the amount of remuneration received by public employees.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

In October 1998, parliament adopted chapter eight of the constitution on fundamental human rights. Under Article 91 of the constitution, all persons in Latvia are equal before the law and court. Article 95 prohibits the use of torture or other cruel or degrading treatment. Under Article 103, the freedom of previously announced peaceful gatherings and demonstrations is protected.

In October 1998, the parliament adopted chapter eight of the constitution on fundamental human rights. Earlier, human rights were guaranteed by the Constitutional Law, which outlined the basic rights and obligations of citizens. The constitutional amendments grant protection to fundamental human rights such as freedoms of speech, religion, association, the press and other basic liberties as well as protection from discrimination regardless of race, sex, religion or language. According to Article 105 each person has the right to own property. Moreover, Article 106 protects the right for each person to choose freely their occupation and work according to their abilities and qualifications.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

In May 1998, Latvia's parliament adopted a new Criminal Law, which replaced the Latvian Soviet Socialist Republic's Criminal Code in effect since 1961 and which had undergone basic reforms in 1993. The new law, which came into force in April 1999, includes provisions for longer jail terms for those sentenced for serious crimes and for broader use of police surveillance for less serious crimes. In April 1999, the Saeima ratified the 6th Protocol of the European Convention for the Protection of Human Rights and Fundamental Freedoms, thus abolishing the death penalty in Latvia and substituting it with life imprisonment.

In 1994, the responsibility for issuing arrest warrants was transferred from prosecutors to the courts. There have been no reports of imprisonment on political grounds, politically motivated disappearances, or forced exile. There have been credible reports, however, that police and prison personnel have beaten prison inmates, asylum-seekers, and other detainees. Detainees complain that they are subject to physical and psychological intimidation by prison guards. Some law enforcement personnel have been prosecuted for using excessive force against prisoners. For the sake of ensuring the human rights of prisoners, the reform of the prison system is a government priority. In October 1998, the Penitentiary Code was amended in order to improve the mechanisms for carrying out sentences, to establish probation service, and to apply alternative, non-confinment-based, punishments. The Saeima in November 1998 approved the new Penitentiary Law, after an examination by experts of the Council of Europe.

Despite new construction and foreign assistance, prison conditions remain poor. The government has stated that it intends to continue to renovate prisons, including the Riga Central Prison, as quickly as its limited finances will allow. By law, the prosecutor's office must make a formal decision whether to charge or release a detainee within 72 hours after an arrest. Charges must be filed within ten days of an arrest. No detainee may be held for more than 18 months without the prosecutor presenting the case to the court and the defendant, who has the right to have an attorney present at any time. There are credible reports that these rights are not always respected in practice by the police, especially outside Riga. According to the European Commission, between the beginning of 1998 and 1999, there was a slight increase in the total number of unsolved court cases including criminal cases. During the first half of 1999, the number of unsolved criminal cases has increased further.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Most judges have inadequate judicial training, and the inefficiency of the judiciary sometimes limits the fair administration of justice. Corruption in the judicial system is reportedly widespread. The judiciary suffers from a low level of prestige throughout the country. According to a July 1999 survey, most Latvians do not trust the courts. In August 1996, there were 50 vacant judges' posts – 13 in district courts and

37 in regional courts. By October 1999, the number of vacancies had been reduced significantly, and there were 26 vacant judges' posts – 16 in district courts and 10 in regional courts. Approximately one half of current judges in Latvia held their positions during the Communist era.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The constitution provides for an independent judiciary, and the government generally respects this provision in practice. In November 1997, however, the judges appointed to preside over the trial of the president of the collapsed Bank Baltija resigned from the case after claiming that they were under political pressure from the government. The government continues to reform the judicial system. In 1995, it completed the establishment of regional courts to hear appeals of lower court decisions. In serious criminal cases, two lay assessors join the professional judge on the bench. The courts rely on the Ministry of Justice for administrative support. Judges are appointed by the parliament upon recommendation by the qualification committee of judges.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

The Latvian College of Sworn Advocates has a membership of more than 1,000 advocates, legal assistants, and consultants. Five hundred-forty sworn advocates and 76 assistants of advocates were working in private business in 1999. This number is a significant increase compared with previous years. Nevertheless, there is a shortage of qualified lawyers. In the mid-1990s, UN, OSCE, and the Council of Europe experts concluded that "there is a chronic lack of lawyers adequately trained in the law of human rights or with adequate competence in international law." Latvia University produces approximately 250 lawyers per year. Moreover, other establishments of higher education have opened their programs of legal studies. According to the Latvian College of Sworn Advocates approximately 40 percent of lawyers and judges are women.

7. Does the state provide public defenders?

All defendants have the right to an attorney, and the state will lend funds to destitute defendants for this purpose. No deviations from these rules have been reported.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

After independence in 1991, citizenship was accorded only to those persons who were citizens of the independent Latvian Republic in 1940 and their descendants. As a result, approximately 700,000 people who had been citizens of the Soviet Union became "non-citizen residents" of Latvia. Under the provisions of a 1994 citizenship law, various categories of non-citizens became eligible to apply for naturalization. The law included Latvian language and residency requirements, as well as restrictions on the naturalization of several groups, including former Soviet intelligence and military officers. It also requires that applicants possess knowledge of the Latvian constitution and history and take an oath of loyalty to the Latvian State. International observers, including those in the resident OSCE mission, credit the government with establishing a competent and professional Naturalization Board with offices throughout the country to implement the 1994 law.

Latvia held a referendum on the amendments to the citizenship law in October 1998. The amendments were supported by 53 percent of voters; they abolished age and birthplace restrictions on citizenship candidates and granted citizenship to children born in Latvia after August 21, 1991. As a result, practically all non-citizens are eligible to apply for naturalization. The U.S. Department of State, the EU, the OSCE, and the Council of Baltic Sea States expressed their support for the amendments.

The rate of naturalization accelerated considerably after the adoption of the amendments. As a result, the number of naturalization applications has increased noticeably, characterized by the fact that, in the five months following the amendments' adoption, the number of applications more than doubled from the number received during the first half of 1998. Between November 1998 and May 1999, 8,308 persons requested citizenship, compared with 2,094 applications received in the first six months of 1998.

The naturalization procedure was eased in 1998 and 1999. The naturalization fee for several groups of applicants has been reduced. Only slightly more than 50 percent of the applicants pay the full fee. The number of questions for the naturalization test on Latvian history has been reduced by two-thirds (310 questions in 1996, 93 in 1999). More than 95 percent of the applicants successfully pass the tests in the first try. Max van der Stoel, the OSCE High Commissioner on National Minorities, confirmed the progress in the field of naturalization and stated in January 1999 that

Latvia had fulfilled all his recommendations regarding naturalization and he would not make new recommendations in this area.

In June 1999, parliament adopted the Latvian State Language Law, which was to regulate the use of Latvian and other languages. According to several international organizations, including the Council of Europe and the OSCE, the law was too restrictive in respect to the use of non-Latvian languages in the private sector. President Vaira Vike-Freiberga returned the law to parliament for further review; as of mid-1999, a final decision was pending. Although Russian is the prevailing language in industrial enterprises, there have been no reports of widespread dismissals because of a lack of Latvian language skills. Nevertheless, many non-ethnic Latvians claimed that the Language Law is discriminatory.

The 1995 Law on the Status of Former Soviet Citizens also provides guarantees of basic human rights and provides non-citizens who have been permanent residents continuously since July 1, 1992 with the rights to establish and change residences, travel abroad, and return to the country. It also requires that non-citizens register, regardless of their housing status, thereby facilitating the resolution of cases of persons previously unregistered because they lived in former Soviet military or dormitory housing. The law further provides for the issuance of new travel documents that reflect these rights. Nevertheless, Latvia has continued the Soviet-era practice of requiring the holder's ethnicity to be printed in his passport. Various ethnic groups, including Belarussians and Roma, have complained that, since the passport is a basic form of identification in Latvia, the requirement has exposed them to various forms of discrimination based on ethnicity. By April 10, 1999 more than 66 percent of Latvia's permanent non-citizens had received special non-citizen passports.

Since many people who belong to national and ethnic minorities are not citizens, they find it difficult to participate fully in the country's civic life. In December 1996, the Latvian National Human Rights Office released a study that identified ten differences between the rights of citizens and non-citizens. These differences, which, in its view, violated the International Covenant on Civil and Political Rights, included restrictions on non-citizen employment as firefighters, armed guards, private detectives, members of airline crews, certified attorneys, and licensed pharmacists. Although the restrictions on non-citizens working as firefighters and airline personnel were removed in 1997, the others remain in effect. Some ethnic Russians have complained of discrimination resulting from property laws, which do not allow individual non-citizens to own land. In addition, non-citizens have been given fewer privatization certificates, which can be used to purchase apartments, land, and shares of stock.

In 1999, a broad public debate on the Framework Document of the Integration Program was conducted. The document had been prepared by a ministerial Integration Council and accepted by the Government in September 1998. In February 1999, the Government set up a Steering group on the development of the Society Integration Program, with the Head of Naturalization Board as its chairman. Financial support of 600,000 lats (approximately US$ 1 million) was provided in the 1999 state budget to implement measures of the Integration Program such as additional pay for Latvian language and bilingual teachers.

9. Are judicial decisions effectively enforced?
Enforcement of judgments in civil matters is in some cases insufficient, but it is improving. Latvia is reforming the court bailiff system with the aim of achieving a status of a liberal legal profession similar to notaries. A draft law on sworn court bailiffs was prepared in 1999, and a program for the training of court bailiffs is underway.

CORRUPTION 3.50/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption, ranging from small bribe-taking by low-level civil servants for the completion of bureaucratic tasks, to the wrongful award of government contracts by high-level officials, is widespread in Latvia. Conflicts of interest among government officials are common. A 1998 World Bank public opinion survey revealed that 13 percent of households and 37 percent of company employees in Latvia had paid bribes. According to the World Bank survey of households (1998) various state institutions demand unofficial payments or bribes for their services. According to public opinion the customs service asks for bribes in 48 percent of cases, prosecutors in 42 percent of cases, the road police in 39 percent

of cases, courts in 38 percent of cases. The reported corruption level in other institutions is somewhat lower but problems still exist.

Households were asked to rank particular kinds of corruption depending on how often they take place. Starting with the most common kind of corruption, the ranking was as follows: bribery to avoid problems with the road police, theft of state property or abuse of such property for private needs by state officials, bribery to receive permissions and licenses, bribery of politicians for the approval of particular policies, bribery in order not to follow administrative regulations, bribery in the court system, bribery in order to achieve a favorable decision in privatization, bribery of tax inspectors and auditors, etc.

Civil servants are subdivided in three levels. The average gross salary of the highest level is 350 lats (US$ 595), the mid-level salary is 170 lats (US$ 289), and the lowest level is 140 lats (US$ 238). The civil servants of the mid- and higher level may receive additional bonuses.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards boundaries between public and private sector activity? Are they observed in practice?

In early 1997, the State Revenue Service, which employs 38 people to combat corruption, examined the income declarations of 80 deputies and government representatives and established that 15 had not declared their financial interests in private businesses. Other violations were found in an additional 12 cases. In April and May 1997, further checks on the observance of anticorruption regulations revealed that half the cabinet and nearly one-third of all deputies had violated the law by holding positions in private businesses. Although there was no evidence that any of the deputies or ministers had used their influence for personal gain, the investigation called into question why the officials were not observing a law that they themselves had passed, and it served to undermine further the public's trust in the political elite. The anticorruption law has been subject to heavy criticism by politicians and the broader public. In early 1999, the government pledged to draft a new anticorruption bill but no project has been presented yet.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Latvia's anticorruption law prohibits the President, ministers, parliamentarians, and parliamentary secretaries from employment other than the job to which they have been appointed or elected. They are, however, permitted to work in educational institutions or as artists. According to the anticorruption law, the president, ministers, parliamentarians, and parliamentary secretaries must declare their income to the government.

In the corruption scandal of 1997, Prime Minister Andris Skele resigned following allegations the previous year that the Minister of Finance had violated the country's anticorruption law by holding positions in the private sector. Skele, however, immediately formed a new government with himself once again in charge. In May, new allegations surfaced that several members of parliament, ministers, as well as President Ulmanis also held positions in private companies. In mid-May, Skele learned that economics minister Guntars Krasts held positions in several private companies. Krasts denied the allegations by stating that while these businesses remained on the Enterprise Registry, they had long ago ceased to operate. Skele then asked the Prosecutor General to investigate whether members of parliament and ministers were abiding by the anticorruption law. The investigation revealed that several other ministers and one-third of parliamentarians held positions in private businesses. The prosecutor concluded that Krasts had not violated the law. Deputy Prime Minister Juris Kaksitis and the ministers of Agriculture and Education, however, were found to be violating the law. After further revelations, Skele fired the minister of Health, and the Minister of Culture resigned. The prosecutor general continued to review the cases of 40 parliamentarians.

The Criminal Law provides sanctions for blackmailing, which covers the extortion of property with the threat of violence. The sanctions are more severe if blackmailing is done by an organized group. Latvian state institutions do not carry out internal auditing on a regular basis. Nevertheless, the State Audit office carries out financial analysis and auditing of all state and local government institutions according to a long-term schedule. Moreover, in 1999, a department of financial analysis, auditing, and control was created within the State Police in order to reveal corruptive practices.

4. Have there been public opinion surveys of perception of public service corruption conducted with

the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

During the last few years, a number of public opinion surveys of perception of corruption have been conducted. One such survey was carried out by the World Bank in the summer of 1998. The World Bank survey indicated that corruption in the sphere of public services was a serious problem. According to the survey, households hold the opinion that services like housing and health care are not provided unless unofficial payments are made. Moreover, private companies that involve themselves in corruption (pay bribes) grow faster and can afford to invest more than those companies that do not get involved in bribery. The Criminology Research Center at the Ministry of Justice carried out several other surveys. In their survey in September and October 1998, 17 percent of respondents answered that they had to make unofficial payments to state and municipal institutions. The history of surveys on the perception of corruption in Latvia is too short to allow a clear assesment of year-to-year trends. Most surveys confirm a relatively high level of corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Latvia's anticorruption law, passed in September 1995, prohibits state officials from holding positions in which they are subject to illegal influences and from exercising authority in a situation in which there is a conflict of interest. The law defines 14 categories of state officials, beginning with the president, the prime minister, parliament, and local government deputies, and ending with officials employed in state and local government institutions and enterprises, policemen, and members of the armed forces. Approximately 34,000 state officials are subject to the law.

In February 1998, the government approved the Corruption Prevention Program. The program contained a large number of tasks that were organized in three parts: prevention, the fight against, and education. The tasks covered virtually all spheres of public administration. The Corruption Prevention Program has been at least partly implemented. Under the leadership of the Minister of Justice the Corruption Prevention Council shapes Latvia's national policy in the sphere of prevention of corruption. Two major conferences run jointly by the Corruption Prevention Council and the World Bank were held in Latvia in June 1998 and in February 1999. In January 1999, Latvia signed the European Criminal Law Convention on Corruption.

The new Criminal Law (in force since April 1999) made illegal a number of actions such as corruption in the private sector, abuse of power, and commercial bribery. In June 1998, the law on the prevention of the "legalization of proceeds from crime" entered into force. To implement the law, a control office working under the supervision of the Prosecutor's Office was established. In July 1998, the government adopted a regulation on "unusual financial transactions." In October 1998, Latvia ratified the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

In 1997, the State Revenue Service, which employs 38 people to fight against corruption, introduced an anticorruption program that led to investigations of the private business activities of a large number of government deputies and ministers. No leading government official has been prosecuted in 1998 or the early half of 1999.

6. Is there a growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

As with other aspects of surveys on the perception of corruption, it is still difficult to assess whether the intolerance of corruption is growing or diminishing. The survey conducted by the Criminology Research Center in the summer of 1999 indicated that more than two thirds of respondents justified active bribery under certain conditions (e.g. the bribe was demanded by an official). Anticorruption public-education efforts remain somewhat limited. Nevertheless, the State Administration School (SAS) and other state institutions organized a number of conferences and seminars on corruption for civil servants and the broader public in 1998 and in the first half of 1999. SAS carried out several projects for the education of civil servants on issues of administrative process.

7. How do major anticorruption-ranking organizations like Transparency International rate this country?

In 1998, Transparency International gave Latvia the ranking of 71. In 1999, this ranking improved to 58 of 99 countries.

Economic Liberalization

PRIVATIZATION 2.50/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

According to the European Bank for Reconstruction and Development (EBRD), the private sector constituted more than 60 percent of GDP in mid-1997. In 1998, this figure had reached 65 percent. The private sector accounted for 68 percent of total employment in 1998 – an increase from 66 percent in 1997, 64 percent in 1996 and 51 percent in 1993. The size of the informal economy is a matter of some dispute. According to a recent Central Statistics Bureau study, Latvia's shadow economy accounts for approximately 14 percent of GDP. According to another survey, the unofficial economy constituted 35.3 percent of GDP, up slightly from 34.2 percent in 1994.

2. What major privatization legislation has been passed? What were its substantive features?

Legislation regarding the privatization of agricultural land includes the 1990 Law on Agricultural Reform, the 1990 Law on Land Reform in Agricultural Regions, and the 1992 Law on the Privatization of Land in Rural Areas. Reprivatization of land in urban areas is covered by the 1991 Law on Land Reforms in Towns and Cities. Reprivatization of housing is covered by the 1991 Laws on Reprivatization of Buildings and the Return of Buildings to Their Legal Owners. The privatization of large enterprises is covered under the 1992 Law on the Order for Privatization of Objects of State and Municipal Property. The 1991 Law on Privatization of Municipally-Owned Small Objects of Trade and Commerce, Restaurants, Cafes, and the Service Sector originally pertained to units below certain size limits, but the size restriction was removed in an amendment passed in February 1992. The Latvian Privatization Agency (LPA), established in 1994 to oversee the entire privatization process, began the public phase of the privatization of state property in 1995. It has adopted a case-by-case approach in determining the method to be used for each entity earmarked for privatization. The methods include international tenders of stakes in medium- and large-scale enterprises, restricted tenders and direct sales, domestic auctions or direct sales of smaller enterprises, and public offerings of minority stakes. By early 1996, the Latvian government had passed several decrees to simplify the privatization process. The most widely publicized reform permitted the LPA to sell the land associated with the enterprise being privatized. Earlier, only buildings could be sold, while the land itself could only be rented. To encourage the participation of foreign investors, restrictions on the foreign ownership of land were removed in January 1997. Foreign investors had frequently citedthese restrictions as a major obstacle to investment in Latvian enterprises.

In 1999, parliament adopted the Law on the Energy Sector, which allows for restructuring and subsequent privatization of the Latvian Energy Company. Only separate objects such as high-voltage transmission network are to be kept in state ownership.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: Privatization has been particularly successful in the agricultural sector. More than 58,000 private farms have been established, and most remaining collective farms have been converted into private joint-stock companies. Many of Latvia's new farmers are operating at subsistence levels because of a lack of financial resources, credit, and sustainable acreage.

Housing and land: The pace of housing privatization has been growing. According to the International Monetary Fund 32 percent of apartments have been privatized by late 1998. To accelerate the process, the government had previously amended the law governing the privatization of housing by establishing timetables for the privatization of housing by local governments, cutting rental subsidies, and eliminating the requirement that the land under the buildings be registered prior to privatization. By November 1, 1998 96.4 percent of all land was registered in the State Land Cadastre. For agricultural lands, 86.8 percent is in private hands, of which 45 percent is registered in the Land Book. Large-scale private farms use 47 percent of agricultural land. A real land market has recently developed since land is available for purchase in cash and vouchers.

Industry: The overall pace of privatization of large industrial enterprises has been slow, in part because these industries are often outdated, oversized, and inefficient. Nev-

ertheless, in 1998, 90 percent of the gross value added contributed by manufacturing was generated by the private sector. The government has been involved in the long-term privatization of utilities and large energy and transport enterprises, including Latvian Gas, the Latvian Electricity Company Latvenergo, and the Latvian Shipping Company.

Small business and services: The privatization of small enterprises in service and trade, most of which were previously owned by municipalities, is virtually complete.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

In the early stages of privatization, company managers and employees received preferential treatment in the purchase of most state enterprises. In the privatization of milk processing enterprises, for example, blocks of shares were reserved for enterprise employees and dairy farmers. Currently, foreign investors who have relatively large amounts of funding at their disposal appear to be preferred over domestic investors.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

In 1996, in order to increase the participation of ordinary citizens in the privatization process, the government launched certificate and voucher programs. The certificate program has been largely unsuccessful for two reasons. First, with no opportunity to invest their certificates in the early stages of the program, many citizens sold their certificates at a fraction of their nominal value. Certificates are transferable and can be bought and sold like securities. Second, certificates are usually used only in the privatization of a minority share of assets. By April 1, 1997, under the public offer program, the shares of 37 enterprises were offered, and approximately 10,000 people became shareholders. The estimated number of potential shareholders in the population is four percent – a negligible amount in light of the fact that certificates were allocated to every citizen. Since privatization certificates may be used to privatize not only state enterprises, but also land and housing, the low level of public participation in the privatization process may also be due to individuals' preference for using these certificates to obtain land and housing.

MACROECONOMIC POLICY 2.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Poor administration during the period of fiscal reforms led to increases in tax evasion and non-payment of tax debts. During this time, personal income tax returns depended more on the honesty of the individual concerned than on any enforcement measures. In recent years, the tax system has been changed in order to meet EU requirements. In addition, a comprehensive program to improve tax administration is being implemented. Since tax rates are already sufficiently high, the main task of the revenue service is to ensure proper and adequate tax collection. According to the IMF, in the period from 1995 to 1998, the tax revenue grew from 35 percent to 40 percent of GDP.

In September 1996, the government introduced the compulsory use of fiscal cash registers, which record the value-added tax (VAT) leveled on each transaction. By May 1998, revenues to the state budget exceeded expenditures by 31.4 million lats. The introduction of tax identification numbers for legal and physical persons had been completed and the coverage of the finance ministry's large taxpayers' unit has been increased to include taxpayers that account for nearly half of all tax revenue. The arrears collection department of the treasury had also tightened its procedures for granting tax deferrals. The standard rate is now 18 percent for VAT and 25 percent for corporate and personal income tax. The social tax rate is 37 percent, but is scheduled for a 33 percent reduction by the year 2001.

Serious preparatory work is being done for the introduction of a three-level tax administration system (this is one of the largest parts of the State Revenue Service's modernization program). As a major step toward establishing this system, on April 22, 1999, two pilot regional State Revenue Service institutions commenced optimization of the respective State Revenue Service administrative functions.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the bud-

get is taken up by subsidies to firms and individuals?

The banking crisis of 1995 led to widespread distrust of Latvia's commercial banking system. Deposits of private individuals at the failed Banka Baltija, then the country's largest commercial bank, accounted for 40 percent of all individual deposits in Latvia's commercial banks. Fear of future bank failures led clients to withdraw deposits even from banks that were basically stable. Subsequent government reforms in the banking sector helped to stabilize the economy as a whole, creating confidence in the consumer and business sectors, and leading to increased savings. Between 1997 and 1998, bank time deposits in lats by enterprises and private individuals increased from 42.5 million lats to 77.3 million lats. Nevertheless, the consolidated assets of Latvian commercial banks decreased slightly from 1,771.8 million lats in 1997 to 1,733.2 lats in 1998.

Conservative fiscal policies have played a crucial role in Latvia's positive economic performance, helping to bring inflation and interest rates down and allowing increased bank credit to the private sector. As assessed by the International Monetary Fund, the authorities were reasonably successful in resisting election-year spending pressures in 1998. However, a supplementary budget, passed in May 1998, allowed for an increase of about 25 million lats (0.7 percent of GDP) in pension spending and 40 million lats (1.0 percent of GDP) in other authorized spending. More than half of the budget was in the priority areas of education, health care, and economic infrastructure. The budget of 1998 had a fiscal surplus of 0.1 percent of GDP.

In 1998, the total central government debt amounted to 372.6 million lats (internal debt 141.0 million and external debt 231.6 million). Real Gross Domestic Product registered very high growth in 1997, at the rate of 8.6 percent. GDP growth in 1998 was 3.6 percent. On the expenditure side, GDP growth in 1998 was primarily driven by investment, which grew at steady rate of 12 percent. The continued inflows in investment have in part been facilitated by improved structural conditions for domestic lending and by an improved legal and regulatory environment for business. In particular, the withdrawal of the government as a major borrower from the commercial banking sector has lead to a sharp growth in the volume of new bank lending; the overall level of credits to enterprises and households grew by 77.4 percent in 1997, and an addtional 49.6 percent in 1998.

The restructuring in government spending policy stressed the necessity to increase public investments. The general level of public investments in 1998 was 2.9 percent of GDP, compared to 2.6 percent in 1997. The money supply in Latvia continues to grow; in 1998 it grew by 5.9 percent. This was in part due to foreign exchange transactions by the Bank of Latvia in order to maintain the currency peg in the face of substantial capital inflows, but also to increased lending by the domestic banking sector. However, because of continued growth in money demand, this has not been a source of inflationary pressure. Moreover, wage dynamics and producer prices have been restrained to date. Inflation has continued to fall rapidly, dropping to 4.7 percent in 1998.

The government has initiated a major overhaul of the social welfare system. Social payroll taxes will be reduced from 38 percent in 1996 to 33 percent by 2001. The increase in social payroll taxes will be more equitably divided by the contributions between employers and employees – 18 percent and 15 percent, respectively. Under the Law on Private Pensions adopted in June 1997, a three-tiered pension system would be established: a modified pay-as-you-go (PAYG) system with stronger links between contributions and benefits, a mandatory funded system of privately managed savings accounts, and voluntary privately managed pensions. The first stage of the reform, the modification of the public PAYG system, took effect in January 1996. The second tier, under which contributors will have an option to assign a portion of their contributions to privately managed savings accounts, was introduced in 1998. On May 1, 1998, retirement pensions that were set before 1996 were increased 15.87 percent. Pensions set thereafter were increased by 5.7 percent.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

According to the 1992 Law on the Bank of Latvia, the country's central bank is independent. Under the law, the bank controls the amount of money in circulation, holds exclusive rights to issue the national currency, sets the official exchange rate, and supervises and audits commercial banks and other credit institutions. The bank has designed and implemented an independent and disciplined monetary policy and has successfully reduced inflation and maintained the strength and stability of the national currency.

During the late 1980s and early 1990s, banks in Latvia opened under very loose regulations and developed with little supervision from the Bank of Latvia. By 1993, more than 60 banks had been licensed. The underlying weakness of the banking system became apparent in mid-1995, when the largest bank, Banka Baltija, as well as a number of smaller banks, collapsed. The crisis was caused by risky lending practices, unsustainable deposit interest payments, fraud, insider-trading, and inadequate banking laws and regulations. The banks lost approximately 40 percent of their assets and liabilities, and depositors lost an estimated $800 million in savings. The crisis also had a significant impact on the country's economy as a whole: GDP fell by 1.6 percent, foreign reserves fell by 20 percent, and a budget crisis arose as the government could no longer finance the deficit on the capital markets. The government responded by enacting a strict legal regulatory and supervisory framework, which is now among the most stringent in Eastern Europe.

The October 1995 Law on Credit Institutions gives the Bank of Latvia a broad range of enforcement powers, including cease-and-desist authority and the power to remove bank managers and fine banks. The law also requires banks to comply with and conduct external audits according to international accounting standards. There are also strict requirements for monthly and quarterly reporting to the Bank of Latvia. The minimum capitalization for existing banks was doubled in March 1998 from one million to two million lats. In 1996, the central bank performed more than 100 on-site inspections and revoked the licenses of 8 smaller banks. By 1997, Latvia's commercial banks – led by Parekss Banka, Rietumu Banka, and Latvijas Unibanka – earned 36 percent more net profit than in 1996. By April 1999, there were 25 banks in operation. However, only two or three banks dominate the relatively small market. With the exception of the Mortgage and Land Bank, Latvia's banking system is completely private. Under a law that took effect in October 1998, individual bank deposits are guaranteed through a special reserve fund of contributions from banks and one-time payments from the state budget and the Bank of Latvia. The maximum indemnity to individual depositors will gradually increase from 500 lats per depositor by 2000 to 1,000 lats by 2002 to 3,000 lats by 2004, and is expected to increase to 13,000 lats by 2008. The deposit law will also enable Latvia to meet EU requirements for banking legislation and practices.

The situation in the banking sector worsened in the second half of 1998 as a result of the Russian financial crisis. One small bank, Victoria, and one medium sized bank, Kapitalbanka, whose business was mainly concentrated in Russia, were closed. One larger bank, Komercbanka, was declared insolvent, but an agreement to re-capitalize it was reached among shareholders and creditors and its rehabilitation began in May 1999.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The exchange rate of the lat is determined by market forces with limited intervention by the Bank of Latvia. Although no formal policy has been announced, the lat has been effectively pegged to the Special Drawing Rights (SDR) currencies of the IMF since February 1994. The value of the lat is set at 79.97 santims – one santim equals 1/100 of a lat – to one SDR. While the banking crisis of 1995 increased pressure on the lat, the currency recovered strength by late August and remains stable. Some investors have expressed concern that Latvia may be more vulnerable to speculative pressure because it lacks the stabilizing influence of a currency board. Nevertheless, Latvia has maintained sufficient foreign reserves to back each lat in circulation by approximately 110 percent.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Law on Securities and Law on Securities Market Commission regulate Latvian securities markets. The Securities Market Committee of the Ministry of Finance supervises them. The Riga Stock Exchange (RSE) and the Latvian Central Depository began to operate in 1995. Only four stocks were quoted on the RSE during the first day of trading. Both treasury bills and stocks, with the latter subdivided into the primary, secondary, and free lists, are traded. Trade in treasury bills with increasingly lengthening maturities dominates the securities markets. Foreign banks are allowed to participate in the primary market for treasury bills, and the Bank of Latvia provides repurchase and reverse-repurchase facilities.

During 1998, stock market capitalization almost doubled, increasing from 198 million lats to 391 million. Nevertheless, the Dow Jones RSE Index, which is based

on 10 stocks that represent approximately 80 percent of the stock market's capitalization, dropped from 345.92 points at the end of 1997 to 97.97 points at the end of 1998. As of early 1998, approximately 33 legal entities, including 21 banks and 12 brokerages, were licensed to operate on the securities market in Latvia.

In February 1998 a new index was introduced: the Riga Stock Exchange RICI Index. This is a real-time index, which is recalculated after every executed trade throughout the trading session. The real-time value of the index is available on the RSE home page. At the end of 1998, the share prices of 13 top companies were used to calculate the RICI index.

MICROECONOMIC POLICY 2.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Under Article 105 of the Latvian Constitution, the state protects the right of a person to own property. The constitution also guarantees freedom for creative and scientific work and protects patent rights and copyrights. In 1993, parliament passed additional legislation to protect copyrights, trademarks, and patents. Latvia has been a member of the World Intellectual Property Organization since January 1993, a member of the Paris Convention since September 1993, and a member of the Bern Convention since August 1995. While the legal basis for intellectual property rights has been established and some of its enforcement mechanisms are in place, Latvian law only recently defined penalties for violations of these rights. Courts may invalidate any patent or trademark that does not meet the legal requirements for the award of a patent or the substantive provisions for registering a trademark. Intellectual property rights may be enforced through Latvian court action. Unauthorized Russian reproductions of copyrighted video recordings are widely distributed in Latvia. In an October 1992 move to halt the use of pirated films imported from Russia by private Latvian television stations, the Latvian Radio and Television Board adopted a ruling under which the license of any domestic television company can be revoked if it is unable to prove that it has legally acquired the rights to the films which it broadcasts.

Since independence, the Latvian government has been de-nationalizing private property seized by Soviet authorities. Although control over urban and rural property is being returned to former owners, legal mechanisms for title registration, sale, and mortgaging of real property are not yet fully developed. Legally transferable rights to private real property are slowly being reestablished as properties are registered in reconstituted land registers. Amendments to the Law on Land Reform in the Cities of the Republic of Latvia, in effect since June 1997, provide that land transactions are allowed only if the land is registered in the land book. The land book is essentially a registry that ensures accurate records of land ownership. In 1998, amendments to the Law on Land Books were passed, providing for the establishment of a computerized system of land books.

The constitution requires that the forced expropriation of property for public needs can occur only in exceptional cases based on a special law in return for just compensation. There have been no cases of arbitrary expropriation of private property by the Latvian government.

2. To what extent have prices been liberalized? What subsidies remain?

The private sector sets most prices and wages, although the government continues to establish prices for some goods and services, including electricity, rents for government-controlled housing, transportation, and telecommunications. Domestic agricultural prices have been liberalized, and rent subsidies are being cut. Electricity tariffs charged by the state-owned power utility are approaching cost-recovery levels, and authorities predict an increase to full economic cost by 2005. Subsidies remain for certain kinds of agricultural production.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose sig-

nificant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Business activities in Latvia are regulated by the Law on Entrepreneurial Activities and Business Operations, which serves as the legal framework for establishing, registering, operating, and closing a business. A new Law on Credit Institutions was passed in October 1995 and a modern bankruptcy law was adopted in 1996. With 27,759 enterprises registered since the beginning of 1998, only 237 have been liquidated. In 1999, the government submitted a Commercial Law draft to the parliament. The Commercial Law would replace existing laws on entrepreneurship. The Latvian Law on Insolvency of Enterprises and Companies, enacted in September 1996 and amended in May 1997, sets forth reorganization proceedings in which a majority of creditors can reach a binding settlement with the debtor.

Establishing a business in Latvia is relatively simple, and many private businesses have been opening. Nevertheless, corruption exists and some regulations are applied unevenly. The Register of Enterprises, which registers companies and enterprises, must consider the documents for the formation of an enterprise within 15 days of the date of submission. If the business application is not refused within 30 days, the business is regarded as registered. A Law on Joint Stock Companies was enacted in May 1993. The cost of formation and registration of a joint stock company, including legal, notary, and court fees, but excluding minimum share capital, is estimated at $2,500. The process normally takes less than two months. Latvia has a sound legislative and institutional base for the operation of small- and medium-sized businesses of up to 250 employees.

A Central Statistical Bureau survey, however, revealed that the main barriers to business development were lack of finance, limited credit, insufficient knowledge of the market, unfair competition, a low level of technology, and a lack of qualified personnel. Other surveys confirm these findings and also cite frequent changes in legislation and inconsistent implementation as major barriers. In order to stimulate growth and competitiveness in the business sector, the government launched a national program in 1997 and 1998 for the development of small- and medium-sized businesses. Its provisions include improved business regulation through tax changes and a simplification of licensing procedures, a credit guarantee system, coordination of foreign technical and financial assistance, promotion of technological development, encouragement of cooperation among small businesses, and the development of business training. In general, investment laws are drafted by legally trained personnel and published within one month of their passage.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Court decisions can be appealed, and there is an independent right of judicial review of administrative action. On average, a party must wait between seven months and one year for a commercial case to be heard on its merits by a court in the most important commercial center. The average wait is the same for a final judgment for payment of a sum of money to be executed. Latvian law provides possibilities for a mutual peaceful settlement of disputes before the court has reached its judgment. The mechanism for such settlements is not formally defined and depends on voluntary agreement by the parties.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Under Latvia's 1991 and 1993 laws on competition and restriction of monopolies, businesses are precluded from manipulating prices or quantities of goods offered for sale and may not create artificial shortages in order to increase prices. The Latvian Anti-Monopoly Control Committee, which oversees implementation of the laws, investigates cases of anti-competitive behavior and has the power to issue orders for the termination of unlawful activity. Companies proposing a merger that would result in the concentration of more than 25 percent of the market for a particular good or service must obtain the committee's approval. In 1995 and 1996, the committee's orders and recommendations to the government, municipal authorities, and utilities led to changes in licensing and tendering procedures and price-setting in various markets.

In June 1997, parliament adopted a new Competition Act modeled on EU directives. The law defines the concepts of state aid, mergers, unfair competition, and the role of the state in promoting and protecting the competitive environment in the economy. An independent Competition Board was created to oversee the implementation of the new act, which supercedes the 1991 anti-monopoly law. During 1998, the Competition Council reviewed 76 cases. Twenty

three of them were linked with abuse of authority, 15 with prohibited agreements, 7 with mergers, 24 with unfair competition and misleading advertisement, 7 with other issues.

Lattelekom, the Latvian telecommunications company, has been guaranteed a monopoly until 2013. Pressure by the World Trade Organization to advance the opening of the telecom market in 2003 has already generated interest among potential competitors, including Telia Latvija, which has stated its intention to enter the market as soon as the monopoly is lifted. Insider dealing continues to restrict open competition, especially in larger privatization and other transactions. Political connections are important, and corruption and favoritism are not uncommon. In one case of conflict of interest, an employee of the Ministry of Finance opened one of the largest auditing companies in Latvia.

Latvia's Law on Government and Local Government Procurement, which took effect in January 1997, laid the legislative foundation for a modern public procurement system. The law describes public procurement procedures, specifies the general form of procurement contracts and account settlements, provides procedures for resolving disputes, and fixes the responsibilities of each institution and person involved in procurement procedures. The remedies system established by the law is inadequate. It is difficult for tenderers to seek administrative review of mistaken or illegal decisions taken by a public institution. Losing competitors who claim to have suffered loss or damage because of an infringement of the law by the procuring entity in procurement proceedings can apply to the court system. As of early 1999, no competitor had done so. In general, however, the procurement system operates effectively. The EU has provided assistance in the form of training programs for Latvian public procurement agents and legal counsel to analyze current legislation and propose further reforms. Planned future initiatives include harmonizing the law with EU directives and amending the law to clarify the remedies system.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Latvia became a full-fledged member of the World Trade Organization in February 1999. Latvia's trade regime is liberal for industrial goods. Its customs tariff system is still evolving. Under a tariff law adopted in December 1994, Latvian customs tariffs on raw materials, spare parts, and capital goods are at rates of 0.5 to 1 percent. Most-favored-nation import tariffs on consumer goods are generally modest and range from 15 to 20 percent. The tariff structure favors investment goods. To protect the ailing farm sector, the government applies its highest rates to agricultural products. A customs law that was adopted in June 1997 brings anti-dumping and counter-value measures and customs valuation into accord with the requirements of the World Trade Organization. Subsequent amendments to the Law on Custom Tax (Tariffs) simplified customs procedures under the new customs law. The principal non-tariff barrier to trade is the requirement of a license for the import of sugar, grain, alcohol, fuel, and arms. In addition to tariffs, imports are subject to excise taxes and an 18 percent VAT. Excise taxes are applied to alcohol, tobacco, jewelry, automobiles, and gasoline at rates varying from 10 percent for cars to 100 percent for tobacco products. The excise tax on gasoline and diesel fuel is being increased gradually to European levels. In early 1999, Latvia raised customs prices for pork and pork products because of increasing pressure on domestic pork market. The European Commission expressed concern over Latvia's decision.

Latvia continues to pursue trade policies consistent with market reforms and the need to extend its primary trade beyond the former Soviet Union. Trade with the EU has increased from nearly 45 percent of total trade in 1996 to 50 percent in 1997 and 60 percent during the first three months of 1999. The EU's shares of imports also rose during the same period from approximately 50 percent to 55.7 percent. Russia's share in Latvia's foreign trade fell (export 21.0 percent and imports 15.6 percent in 1997, compared to exports 12.1 percent and imports 11.8 percent at the end of 1998), mitigating additional risk for Latvia's external accounts.

Latvia has concluded a free trade agreement with the EU and bilateral free trade agreements with countries of the European Free Trade Area and several countries of the Central European Free Trade Agreement. It is also a signatory to the Baltic Free Trade Agreement. Latvia's trade deficit in 1998 was 812 million lats ($1,385 million), an increase of 62 percent over the corresponding period in 1997. Exports increased by 11 percent, while imports increased by 19 percent. The fundamental cause of the slower export growth was the Russian financial crisis of 1998 and subsequent loss of the CIS market. Nevertheless, the government has become more active in export promotion by expanding technical and information assistance for exporters, supporting the creation of overseas chambers of commerce, and developing a mechanism for export credit guarantees.

The trade and current account deficits of the country remain large, and have become a matter of increased attention. In 1998, the trade and current account deficits for Latvia amounted to 17.6 and 11 percent of GDP.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The Latvian government is actively attempting to encourage foreign direct investment. Under the 1991 Investment Law, Latvian laws apply equally to domestic and foreign investors. In 1996, amendments to the Investment Law removed virtually all restrictions on foreign investment, except in the timber industry. A foreign investor is allowed to lease land for up to 99 years. Companies owned by foreigners can purchase land if the foreign investors represent countries with which Latvia has entered into international agreements on the mutual protection of foreign investments. Land can also be purchased by companies with controlling shares owned by Latvian citizens. Although the land law has been liberalized, some restrictions on the purchase of land by individual foreigners remain.

To promote foreign investments, Latvia has concluded bilateral investment agreements with the United States, Canada, France, Germany, the United Kingdom, Vietnam, Israel, and the Scandinavian countries. In addition, the government created the Latvian Development Agency, which provides foreign investors with easy access to advisory services on regulations, local business conditions, and investment opportunities. Special economic zones (SEZs) have been established in the municipalities of Riga, Ventspils, Liepaja, and Rezekne to provide tax relief and, in some cases, tariff relief to companies established there. Under current plans, SEZs will be established for 20 years and will provide such incentives as an 80 percent reduction in corporate income tax or a suspension of property tax payments. The Liepaja and Rezekne SEZs were formed in order to encourage investment and economic activity in economically distressed areas. No more SEZs are planned because the EU and international financial organizations claim that they distort competition.

According to the Central Statistical Bureau, the total amount of foreign investment stock from the beginning of the 1990s to the end of 1998 was 896.0 million lats (more than $1,540 million), an average per capita rate of foreign investment for the region. In 1998, foreigners invested 209.9 million lats in Latvia, a decrease of 44 percent from 1997. Investors from Denmark provided approximately 100,189.1 lats in foreign-investment stock, followed by the United States with 70,597.3 lats, Russia with 56,954.8, Germany with 56,662.6, and the United Kingdom with 49,887.1. The largest investments were in transportation, warehousing, and communication; industrial production; and finance. Foreign investment has reached Latvia mainly through the process of privatization. Obstacles to even greater foreign investment include the troubled financial situation of many local companies, poor management, the low capitalization of the securities market, and the slow pace of land reform. As privatization continues and the economic environment improves further, the volume of direct foreign investment is expected to increase.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Latvia's energy sector is being restructured. The first public offering of the state-owned oil company, Ventspils Nafta, through the voucher privatization program took place in October 1997. The sale of nearly five million shares, or five percent of the company's equity, represented the country's largest voucher privatization to date. Russian and German strategic investors bought minority stakes in the state-owned gas company Latvijas Gaze in 1997. There was also a public offering of shares in the company. In March 1998, parliament voted to suspend the privatization of the state power company Latvenergo until a parliamentary committee had completed its investigation of the earlier disappearance of $1.8 million from the company. Contrary to the government promises to adopt the terms of privatization of Latvenergo by the end of 1999, this task remained unfulfilled.

For more than two decades, Russian gas supplies for consumers in the Baltics and northwestern Russia have been stored seasonally at the Inculkans underground gas storage facility in Latvia. Through this arrangement, Latvia secures a stable supply of gas and collects storage fees. Latvian energy officials have expressed interest in developing other natural gas storage facilities as Russia positions itself to supply greater amounts of gas to the European market. One of the main reasons for the expected rise in consumption of gas is the EU's focus on environmental protection, including the gradual switch from environmentally dangerous fuels to natural gas. The process

of liberalization of the energy sector took place through the adoption and implementation of the Law on the Energy Sector in September 1998. The law regulates the production, purchase, and distribution of various types of energy, the licensing and functioning of power companies, and the supply of energy to consumers. It also provides for Latvia's integration into the international energy market, the attraction of investment, and increased energy efficiency. Nevertheless the competition in the sectors of electric energy and gas remains limited. In terms of electricity and gas supply, Latvia is dependent on its neighbor countries particularly Russia and Lithuania.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The size of the national workforce is approximately 1.2 million. Slightly above one million people are employed on a full time basis. The ratio of men and women to total population is respectively 46.3 and 53.7 percent. The proportion of men and women in the national workforce is respectively 51.5 and 48.5 percent. The official unemployment rate in Latvia has fluctuated around seven percent since 1997, although it increased to ten percent in summer 1999. The actual rate may be as high as 18 percent. In 1998, 41.5 percent of unemployed persons were men. The state provides unemployment compensation. After registering at the State Unemployment Service, compensation is paid for nine months. During the first three months, the compensation equals 90 percent of the person's median salary of the previous year. Afterward the compensation is gradually reduced down to 60 and 30 percent of the median salary. Nevertheless, the unemployment compensation may not exceed three minimum wages (150 lats in 1999). Many job seekers do not register with the State Employment Service not because they have found work but because their eligibility for unemployment benefits has expired.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

According to the Law on State Pensions that was adopted in November 1995 and came into force in January 1996, beginning in 1996, the social pension is replaced by the state social security benefit. The recipients of this benefit are differentiated from the pension recipients because the benefit is paid from the central government's basic budget. Approximately 90 percent of old-age pensioners do not have a job. To lessen their poverty, 9,600 pensioners are paid a guaranteed pension that is larger than what they would receive based on their accumulated pension capital. In 1998, this guaranteed pension was 30 lats ($51). An additional 13,000 pensioners whose employment history exceeds 30 years have their pension capital calculated based not on their own low personal incomes, but on national wage averages. All permanent residents, including non-citizens, qualify for the pension system as well as for other social benefits.

The legal foundation for the third level of pension reform, the introduction of private pension plans, is already in place. The first private pension funds have already handed in the documentation to receive their licenses and began operations in 1998. The private pension funds allow an individual to make voluntary social security payments, which later result in higher pension amounts. Before the pension system reform in 1996, the retirement age for men was 60 and for women 55. One of the goals of pension system is to increase gradually the retirement age to 65 years for men and 60 years for women. The average monthly retirement benefit was 50.95 lats in 1998, which constituted 37.5 percent of the median wage.

Beginning in 1996, the Law on State Pensions has required that the disabled who have reached the age specified by law are entitled to an old-age pension instead

of the disability pension. In addition to disability pensions, there are also survivors' pensions, service pensions, social pensions, and pensions under special regulations.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The country's average monthly gross income is 133 lats (US$ 230). According to the UNDP Human Development Report, household budget surveys usually do not register the living conditions of the wealthiest people. Since the surveys are voluntary, these people generally avoid providing any information. The monthly income of the wealthiest registered urban household was 590 lats per household member, which was clearly under the actual income of the wealthiest households. Therefore, the calculation of exact median income is impossible.

The average gross monthly income was 47 lats in 1993, 90 lats in 1995, 99 lats in 1996, 120 lats in 1997, and 133 lats in 1998. No major problems in wage arrearages have been registered. Failure to pay social tax payments is a more common problem, which may result in the loss of unemployment compensation. The average gross wage in the public sector in 1998 was 143 lats. The average wage in the private sector was 125 lats. Women's wages were 77 percent of men's wages in 1994 and 75 percent in 1998, according to the UNDP Human Rights Development report.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expanded on education by the state, and how has this proportion changed since 1993?

The elementary education school population was 311,700 in 1990, 302,200 in 1995, 305,600 in 1996, 307,300 in 1997, and 303,800 in 1998. The secondary education school populations was 40,700 in 1990, 45,300 in 1995, 48,900 in 1996, 52,700 in 1997, and 57,900 in 1998. Post-secondary education population was 46,000 in 1990, 46,700 in 1995, 56,200 in 1996, and 64,900 in 1997, 76,700 in 1998 [CK]. The Latvian government has not gathered official statistics on the proportion of 8- to 18- year olds, who fail to attend educational institutions. According to unofficial data provided by the media, between 600 and 1,000 8- to 16-year olds did not attend educational establishments in 1999. There is one teacher for 10.4 students in primary and secondary education. The public spending for education amounted to 161,783 lats in 1995, 162,586 lats in 1996, 184,916 lats in 1997, and 246,526 lats in 1998. According to OECD total education expenditure as a percentage of GDP was 6.1 in 1993, 6.1 in 1994, 6.7 in 1995, 5.7 in 1996, and 5.8 in 1997.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 15.6 per thousand births in 1991, 18.5 in 1995, and 14.9 in 1998. The birth rate per thousand inhabitants was 13 in 1991, 8.6 in 1995, and 7.5 in 1998. The life expectancy was 63.8 for men and 74.8 for women in 1991, 60.8 for men and 73.1 for women in 1995, 64.1 for men and 75.5 for women in 1998. The divorce rate was 4.2 divorces per thousand inhabitants in 1991, 3.1 in 1995, and 2.5 in 1998. The suicide rate was 28.5 per thousand inhabitants in 1991, 40.7 in 1995, and 34.3 in 1998.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expanded by the public sector on health care.

In 1998, there were 32.6 doctors and 64 nurses per 10,000 inhabitants. The average gross monthly wage for health workers was 72 lats in 1995 and 104 lats in 1998, which shows

a gradually growing trend. The number of hospital beds was 23,165 in 1998, which equaled 95 beds per 10,000 inhabitants. According to the OECD, total health expenditure as a percentage of GDP was 3.9 in 1997.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

According to UNDP relatively widespread poverty in Latvia is a new phenomenon and results from changes brought about by the transition process. If the crisis subsistence minimum of 52 lats is taken as the poverty threshold, in 1997, 67.9 percent of Latvia's population was living below the poverty line with a monthly expenditure per adult of less than 52 lats. If the poverty threshold is the full minimum subsistence level basket of goods and services per person (calculated by the Central Statistics Bureau at 73.78 lats), the number living below the poverty line is even greater.

In general terms, women in Latvia perform work that is paid less than that done by men. Central Statistical Bureau data show that women are paid only 78 percent of men's earnings, while in the public sector this figure is even lower at 73 percent. According to UNDP, in summary, pensioners tend to be relatively better protected from acute poverty by non-monetary forms of protection, such as growing their own produce or living with another pensioner or within a family setting with other sources of income. In 1997, the poverty index (poverty threshold at crisis subsistence minimum, 52 lats) for households according to number of pensioners varied as follows: 61.9 percent for households with no pensioners, 60.8 for households with one pensioner, and 65.8 percent for households with two pensioners.

According to the UNDP there are no year-by-year data on poverty rates since poverty is a relatively new phenomenon in Latvia. In 2000, the UNDP and the Ministry of Welfare are planning to calculate a new poverty index for 1999.

LITHUANIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist
Population: 3,700,000
PPP (USD): 4,220
Capital: Vilnius
Ethnic Groups Lithuanian (80 percent), Russian (9 percent), Polish (7 percent), Byelorussian (2 percent), other (2 percent)
Size of private sector as % of GDP (1998): 70

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	2.15	↑1.95	↓ 2.00
Rule of Law	na	na	2.88
Economic Liberalization	2.50	↓2.58	↓↓ 2.83

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	715.0	1142.0	1624.0	2127.0	2591.0	2890.0	3040.0
Real GDP growth (% change on previous year)	-16.0	-9.5	3.5	4.9	7.4	5.2	0.0
Inflation rate	410.1	72.0	39.5	24.7	8.8	5.1	2.0
Exports (USD millions)	2026.0	2029.0	2706.0	3413.0	4192.0	3962.0	3367.0
Imports (USD millions)	2180.0	2234.0	3404.0	4309.0	5340.0	5480.0	4877.0
Foreign Direct Investment (USD millions)	30.0	31.0	72.0	152.0	328.0	921.0	400.0
Unemployment rate	4.4	3.8	6.2	7.0	5.9	6.4	na
Life Expectancy (years)	72.0	71.7	71.9	72.2	72.4	69.9	69.0

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			2	2	1	1	1	1	1	1	1
Civil Liberties			3	3	3	3	2	2	2	2	2
Status			F	F	F	F	F	F	F	F	F

Introduction

Lithuania is a parliamentary republic with a consolidated democracy and secure electoral and other political and civil liberties. The country has a track record of freedom of the press and respect for and protection of minorities. Reform momentum has been sustained but weaknesses still exist in the judicial system and the rule of law, with corruption being a serious concern. There is widespread political consensus and support for the strengthening of the country's institutional and economic arrangements.

Lithuania has established the solid foundations of a market economy, which remain stable despite the recent turmoil and setbacks. Lithuania has advanced considerably in macroeconomic stabilization, privatization, and liberalization of the economy. The currency board arrangement guarantees currency stability, contributing to the credibility of the banking system. Privatization is ongoing, although openness and transparency is lacking in some cases, and substantial enterprise restructuring is still required. The biggest problem remains the ineffective economic activity of the state, especially its expansive expenditure patterns and mounting borrowing. Business growth is impeded mostly by high taxes and complex rules, as well as by excessive regulatory constraints.

The current economic slowdown and difficulties in state finances may provide an incentive for fundamental reforms. Failure to revise government expenditures and to institute extensive business deregulation and needed changes in the tax system may threaten to undermine the fundamentals of the financial structure, the national currency, and the banking system.

Democratization

POLITICAL PROCESS 1.75/7

1. When did national legislative election occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The most recent legislative elections were held on October 20, 1996. The Supreme Electoral Commission of Lithuania acknowledged them as free and fair. Parliament is now dominated by the Homeland Union–Conservative Party, which has 65 seats in the 141-seat parliament. The Christian Democratic Party won the next largest block of votes, with 16 seats. The Center Union has 18 seats. The Democratic Labor Party and the Social Democratic Party rank fourth and fifth, with 13 and 11 seats each. Individuals who won in single-mandate districts hold the remaining 14 seats. A five-percent threshold of votes prevented other parties from claiming seats in the parliament. The government formed after the elections was composed of the Homeland Union–Conservative Party, the Christian Democratic Party, and the Center Union. However, in spring 1999, the cabinet, headed by Gediminas Vagnorius of the Conservative Party, resigned. In May 1999, a new administration was formed, with Rolandas Paksas of the Conservative Party appointed prime minister. In the parliament, the government is supported by the Christian Democrats, although the coalition with the Conservative Party was terminated when the new government was formed. The government is of center-right orientation. Two main opposition parties to the government are the leftist Social Democratic and the Labor Democratic Parties. The next legislative elections are due in October and November 2000.

2. When did presidential elections occur? Were they free and fair?

The most recent presidential elections, judged free and fair by the Supreme Electoral Commission of Lithuania, took place on December 21, 1997. U.S. emigre environmentalist Valdas Adamkus was elected by majority vote in the second round of balloting on January 4, 1998. Adamkus defeated his rival, attorney Arturas Paulauskas, by a margin of less than one percent. Voter turnout was 73.78 percent. During the elections Valdas Adamkus received support from the Center Union and other parties, but was declared independent of political parties when he took office. The transfer of power was smooth and effective. Since the elections the president has been the most popular figure in Lithuania. The next presidential elections are due in 2002.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system is multiparty-based. Half of the parliamentarians are elected in the multiple-mandate proportional balloting, while the other half is identified through polling in single-mandate districts. Parties need a minimum of five percent of votes in order to claim a legislative seat. The largest and the most influential party today is the Homeland Union–Conservative Party. Other parties include the Christian Democratic Party, the traditional partners of the Homeland Union, the leftist Social Democratic Party, the Labor Democratic Party (which evolved from the former Communist Party, the Center Union), and the Liberal Union of classical liberal orientation. All of these parties have seats in parliament and mayors of municipalities and are active in public affairs.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
Thirty-five political parties were registered by April 1999. One extreme nationalist party, the Lithuanian Union of National Social Solidarity, has been refused registration a number of times on the ground of violations of the constitution and a lack of respect of human rights. All of the newly founded and small parties have membership problems, since a party must have a minimum of 400 members.

5. What proportion of the population belongs to political parties? What proportion of the population is made up of women?
Roughly one to two percent of Lithuania's population of more than 3.7 million are registered members of political parties.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
Voter turnout for the national legislative elections fell from more than 70 percent in 1992 to approximately 53 percent in October 1996. In general, turnout is higher in presidential elections. In the 1993 and 1997 presidential elections, more than 70 percent of eligible voters cast their ballots. In municipal elections, the turnout was 45 percent in 1995 and 40 percent in 1997 elections.

CIVIL SOCIETY 2.00/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/non-profit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
The NGO sector has been developing steadily in recent years, but no governmental or private institutions maintain a uniform registry of NGOs. According to the NGO Information and Support Center, there are more than 3,000 nongovernmental organizations in Lithuania. Every year approximately 200 new NGOs are established. Individual donations to NGOs are minimal. NGOs focus their fundraising efforts on international foundations and Lithuanian businesses. According to the Department of Statistics, private firms and individuals contribute about one-–fifth of NGO revenues. NGOs also receive public funding, which is mostly provided by the ministries of culture, education, social security, and labor. NGOs engaged in social service activities receive funding from municipalities. Locally led efforts in philanthropy include NGOs Information and Support Centers in the second- and third-largest Lithuanian cities, Kaunas and Klaipeda. These organizations promote corporate giving, mainly through in-kind support and donations.

Voluntary activity and non-paid labor relationships are not defined by law. Volunteerism thus remains a rare form of support for NGOs. There are no data on the proportion of the population engaged in voluntary activities. The Center for Volunteerism lobbies for necessary legislative changes for volunteerism.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issue)? To what extent is NGO activism focused on improving the legal and regulatory environment?
At the national level, NGOs are registered with the justice and economy ministries, while regional NGOs are registered with municipalities. The legal environment for NGOs is stable, but NGOs are subject to

many centrally adopted regulations. The laws impose constraints and petty regulations on the structure and management of NGOs. NGOs often cannot accept voluntary activity without violating the laws regulating labor relationships. Certain types of NGOs are prohibited from selling their products or services. The tax regime for NGOs is similar to that of for-profit companies, but NGOs pay a 5 percent income tax instead of the regular 29 percent. Donations from companies are tax-exempt. NGOs do not pay stamp duty for registration services. NGOs encounter difficulties in handling complex and inappropriate accounting regulations. They must hire professional accountants to help them tackle accounting.

The most active groups influencing the legal and regulatory framework for NGOs are corporate associations, the Lithuanian Free Market Institute (a private think-tank), and certain public organizations. Most NGOs seek to influence lawmakers in rare cases when specific spheres of their activities are concerned.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

According to the NGO Information and Support Center, the U.S.–Baltic Foundation, and the Open Society Fund–Lithuania, the operational and managerial capabilities of NGOs have increased considerably in recent years. The quality of operation and management of about 200 NGOs is comparable to that of leading businesses. Still, the general capacity of NGOs is estimated to be low. The NGO Information and Support Center as well as foundations and NGO support organizations have improved the visibility and effectiveness of Lithuanian NGOs through seminars, publications, and other activities. The NGO Information and Support Center, with support from the Netherlands and Poland, has trained 20 professional NGO consultants to assist NGOs in improving their operation.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most Lithuanian NGOs are not financially viable because of a lack of permanent sources of income. Donations from international foundations for specific projects constitute the largest portion of NGO income. Funds solicited from local donors account for about one-fifth of NGO revenues. But the trend is toward increased contributions from local donors. NGOs encounter difficulties in raising unrestricted funds to meet their organizational expenses and development objectives. According to NGO regulations, tax exemptions are valid for funding, not of NGOs per se, but of programs that are approved by the highest managing body of an NGO. Certain types of NGOs (associations, foundations) are not allowed to engage in commercial activities. State institutions and municipalities are considering the use of NGOs to provide certain services. Government procurements have thus far been limited to social services. The government adopted a price directory for social services, which is expected to improve the prospects of NGOs as providers of services.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The Lithuanian Alliance of Trade Unions, the Center of Trade Unions, the Lithuanian Labor Federation, and the Employees' Union bring together trade union and labor groups. Industrial restructuring, privatization, and the bankruptcy of large state-owned enterprises have adversely affected the trade union movement. Despite that, the number of workers who belong to trade unions is steadily increasing. There are about 80 professional organizations with a total of 200,000 members. Activities of individual trade unions and the percentage of workers belonging to them differ significantly across areas of activity. The largest trade union memberships are in chemical industry, construction, the energy sector, and the food industry. Trade unions in the educational sector are also quite effective. The biggest problem is with the degree of democratization of trade unions' management. Collective agreements with employers that must be signed by trade unions on behalf of all employees are another cause for concern. Newly

established professional organizations receive advice and technical support from the Trade Union Fund. The Lithuanian Association of Agricultural Companies unites 300 enterprises. Small business associations link an overwhelming majority of small businesses.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
Interest groups may take part in the political process through policy advocacy, counseling, and other forms of participation. Business associations, trade unions, and nongovernmental organizations are the most active and influential participants in the political process. Trade unions are playing an increasingly significant role because of their large membership and organizational structures. The officialdom is in most cases attentive but not always responsive to the opinions of interest groups. Interest and policy advocacy groups are increasingly involved in the policy-making process through participation in ministerial task forces and other policy initiatives. Recently this approach has been used in developing the legislative framework for private pension funds, new tax laws, and budget policy reform. Some groups have proposed that lobbying be legalized, but others warn that this would lead to the expansion of governmental authority.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
A 1997 survey by the Social Information Center revealed that, in general, Lithuanians are unaware of the existence and activities of Lithuanian NGOs. Thirty--six percent of respondents could not name even one NGO. Many respondents confuse NGOs with private companies and governmental agencies. Local governments often cooperate with NGOs and in some cases provide limited financial assistance. Yet, the inadequate operational and organizational capabilities of regional NGOs represent a drag on their co-operation with local governments. Central government authorities are also favorably disposed towards NGOs, but so far no formal structures for co-operation have been developed. NGO activities are rarely featured or covered by local media. In most cases, the media cover only large events organized by prominent nongovernmental organizations.

INDEPENDENT MEDIA 1.75/7

1. Are there legal protections for press freedom?
The Lithuanian constitution guarantees the freedom to "pursue, receive and disseminate information and ideas." Yet the same article stipulates that this freedom may be restrained by law if it is necessary to "protect a man's health, honor, dignity, private life and morals or to protect the constitutional order." The constitutional provision that "a man's personal life is inviolable" has created much political controversy in the country. This provision is also enshrined in the civil code, which provides for compensation of up to 10 thousand *litas* ($2,500) if a person sustains moral harm through the publication of information about his personal life without his prior consent. The Journalists' Union seeks to limit the state's involvement in conflicts between press freedom and the right to privacy. Most of influential media representatives act professionally in accordance with the ethical code of Journalists and Publishers.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
The law, which holds that all citizens are equal before law, provides no concrete penalties for libeling officials. Article 131 of the criminal code provides for two years of imprisonment, two years of penitentiary labor, or a fine for libeling or disseminating false information that defames a person. Drawing on the civil code, the court may mandate indemnity in the amount of 500 litas ($125) to 10,000 litas ($2,500) for doing moral harm to a person by publicizing false information dishonoring him or for publishing information about his personal life without his prior consent. There have been two cases of the court imposing penalties for libel. In April 1998 the editor-in-chief and an editor of the "Europe" newspaper were sentenced to one year in prison for libeling. In July 1997 a Russian citizen and the former leader of the pro-Soviet *Yedinstvo* organization in Lithuania, Valery Ivanov, was sentenced to one year of

penitentiary labor on charges of defamation of the January 13, 1991, Soviet coup victims.

Currently, amendments are being prepared to the Public Information Law, seeking to establish two media controlling institutions that will monitor compliance with the goals and principles of dissemination of public information and the compliance with laws that protect a person's honor, dignity, private life, and morals. The proposed amendments propose to grant the aforesaid institutions the right to impose heavy sanctions for violations of law. The proposed amendments have prompted a barrage of criticism from mass media and other communities on the ground that they contradict the constitution and will curb press freedom.

3. What proportion of media is privatized? What are the major newspapers, television stations, and radio stations?

The vast majority of Lithuania's mass media is privately owned. The state owns part of the *ELTA* news agency and the *National Radio and Television*. The *National Television* covers -approximately 15 percent of the television market; the National radio covers more than 30 percent of the radio market. The major dailies are *Lietuvos Rytas*, which has a circulation of 76,000 on weekdays and 120,000 on weekends (27.3 percent of the readers), *Kauno diena*, with a circulation of 56,000, or 10.2 percent of the readers, and *Respublika*, with a circulation of 40,000 on weekdays and 60,000 on weekends, or 7.2 percent of the readers.

The most popular television stations include the *LNK* television, which holds 35 percent of the market and 31.4 percent of the viewing time, the *Lithuanian Television* (25 percent and 16.8 percent), and TV3 (22 percent and 33 percent). The major radio stations are *Lithuanian Radio–1* (covering 29 percent of the market and 44.2 percent of the listening time); *M–1* (19 percent and 16.3 percent); and *Radiocentras* (13 percent and 11.6 percent). In 1999, the financing of the *National Television* has been reduced by eight million litas, and its advertising proceeds have shrunk ten times as compared with 1998. The law establishes that the *National Television* be financed from subscribers' fees, and the volume of advertising has subsequently been reduced. However, subscribers' fees have not been introduced so far. A new draft law on public information envisions partial financing from the state.

4. Are the private media financially viable?

The leading privately owned media, including newspapers, TV channels, and radio stations, are financially viable. The *Lietuvos Rytas* daily has grown steadily in recent years, expanding its editorial offices and building a modern publishing house. It provides high-quality printing services for other publications, including opposition newspapers that have been subject to a government crackdown in Belarus. The owner of the popular radio station *M–1* and its daughter company *M–1 Plius* acquired a controlling, 56-percent share of *LNK* Television.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The Lithuanian media are editorially independent. Publications may be closed and journalists may be penalized only by court decisions. State institutions have on occasion attempted to limit the rights of journalists. The Defense Ministry and the Internal Affairs Ministry refuses to allow its officials to communicate with journalists or to publicize information. State-owned radio and television remain under considerable pressure from the government, which controls budget allocations.

6. Is the distribution system for newspapers privately or governmentally controlled?

The newspaper distribution system is privately owned, with the exception of the *Lithuanian Post*, which holds a negligible share of the market. The largest periodicals have their own subscription services. The *Lietuvos Rytas* subscription service gives priority to publications printed by its publishing house. The *Lithuanian Post* distributes smaller periodicals and targets a mostly rural audience. The largest press distribution company, *Lietuvos Spauda (Lithuanian Press)*, which operates 600 kiosks all across the country, was formed from a former Soviet monopololitic enterprise. Currently, it is a predominantly employee-owned joint stock company. Several private companies through a chain of gas stations, groceries, and hotels also carry out press trade.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

There are no precise data on the proportion of the population connected to the Internet. It is estimated,

however, that the number of Internet subscribers amounts to 60,000. In 1997, There are some 24 Internet service providers. Most do not release data on the number of clients that they serve. The companies that do release information have from 50 to 6,000 customers. The provision of Internet services is a rapidly developing market.

There are no restrictions or regulations on the use of the Internet. However, the government can indirectly influence the development of Internet services through the Telecommunications law, which has granted Lithuanian Telecom a monopoly in terrestrial communications until 2003.

8. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Lithuania "Partly Free" in 1993 and "Free" from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 2.50/7

1. Is the legislature the effective rule-making institution?

Generally, the legislature is the effective rule-making institution, but it is frequently criticized for over-regulation and too frequent interventions. Laws frequently express sentiments rather than define rules. Laws are often ambiguous or vague and overlap or conflict with other legal provisions. Evidence suggests that interest groups may influence laws.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Lithuania has one level of local government, which includes 56 municipalities. Most municipalities have 30,000 to 50,000 inhabitants. Appointed governors head ten regional administrations, or territorial units of the central government. Local governments are largely dependent on the national government. The responsibilities of local governments are divided into independent functions and functions delegated by the government. The main independent responsibilities include directing municipal development, management of municipal enterprises, establishing and supervising protected areas and objects, setting sanitary requirements. The main responsibilities delegated by the central government comprise primary and secondary education, primary health care and disease prevention, culture and sports, development of the leisure and tourist industry, environmental protection, social assistance, garbage collection, fire protection, heating, water supply, and sewerage. Some responsibilities, including health care and education, are spheres in which both central and local authority are involved. Ambiguities may impede further decentralization and make it difficult to design a stable fiscal structure for municipalities. They also lead to intergovernmental tension, inefficient provision of services, and unclear accountability.

3. Are subnational officials chosen in free and fair elections?

At the municipal level, subnational officials are chosen in free and fair elections for three-year tenures. Elected councils appoint mayors. Critics charge that mayors, heads of territorial administrations, and governors of regional administrations should also be elected rather than appointed.

4. Do executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

In recent years, parliament and the government provided the public with information on their policies. Independent media and NGOs have also monitored and reported on the policy-making process. Opinion polls indicate high public support for the press, which has forced transparency on the political process. Executive policy-making is not entirely transparent. Policy proposals and bills submitted for governmental consideration are not easily accessible to the public. Cabinet sessions take place behind closed doors. Ministries and other executive authorities often adopt new regulations without prior notice or public scrutiny. According to 1998 regulations, all draft laws prepared by the government must be "published" on the web site of the responsible ministry. Many new policy initiatives have thus been more open to the public, but many draft laws are adopted hastily with no time for public comment or not published at all. Ministries are

often ignorant to proposals from interest groups and the public. The parliament is more transparent than the executive bodies. Still, not all legislative proposals are available on the Internet and the parliament has no obligation to inform the public and media about them. There are no formal public hearing procedures. Local authorities are usually less transparent, but the situation varies from municipality to municipality.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control over their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments generally lack funds to meet their obligations. The shortage may be attributed to mismanagement and the expansion of local government authority. Municipalities are free to allocate funds between expenditure categories, but with the exception of functions delegated by the central government. Municipal revenues are raised and transferred by the central government. The formula for local revenues is set by law. Changes are negotiated between municipalities and the central government and approved by parliament every three years. Local authorities are not authorized to introduce or collect taxes. The Tax Inspectorate manages tax collection. Local governments may introduce some local charges and user fees. They can also lower tax rates at the expense of their own revenues. More than 70 percent of municipal revenues comes from personal income tax and subsidies from the central budget (roughly 20 percent). The fiscal capacities of local governments are equalized through revenue sharing based on expenditure-need assumptions. For example, only 51 percent of personal income tax collected in the city of Vilnius goes to the municipality's budget, while most rural municipalities retain 100 percent of receipts from the tax.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The managerial abilities of local officials vary significantly across municipalities. In most municipalities, local leaders and civil servants lack skills and experience and are inclined toward excessive interventionism.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The 1992 constitution and the Law on Local Government established the existing municipal system. The reform process is still evolving. A gradual increase in the number of municipalities is expected to be authorized in the near future. A new Law on Civil Service was adopted in July 1999. Civil servants are now divided into politicians (ministers, elected officials), civil servants of political (personal) reliance (appointed by politicians), career civil servants, and civil servants engaged in the provision of governmental services. Some groups of civil servants (policemen, custom officers, etc.) are statutory civil servants and separate laws or statutes regulate their services. Labor laws are applied only to civil servants working in governmental services. The local governments employ local civil servants.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 2.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

A post-Communist constitution was adopted by referendum in October 1992. It divides the powers of government on the French model. The constitution may be applied directly as law, but this rarely occurs in practice. The constitutional court resolves conflicts between the constitution and legal provisions. The constitutional court has proved to be an independent, powerful, and reliable guardian of constitutional rights, and has found many laws to be in conflict with the constitution. In late 1998, the Constitutional Court ruled that the death penalty provided for Article 105 of the Criminal Code contravenes the Lithuanian Constitution.

2. Does the constitutional framework provide for human rights? Do the human rights include busi-

ness and property rights?

The constitution provides for human rights and their protection, including the rights to own property and to own and work in business. The international and European framework for human rights is fully accepted in Lithuania. Foreigners have limited possibilities to own land. Only citizens and legal entities of the EU, the OECD, and NATO member states have the right to own non-agricultural land, but even for those people the procedure is very complicated.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

A new draft Criminal Code is under consideration and scheduled to be enacted in the year 2000. The country's criminal code and criminal procedural law have been reformed through more than 300 amendments to the Criminal Code. A number of activities, including homosexuality, have been decriminalized. Capital punishment has been abolished. However, criminal penalties in Lithuania are among the strictest, and the number of prisoners among the largest, in Europe. The court system has been modernized, and stricter procedures for criminal prosecution have been introduced.

Public prosecutors authorize searches. Judges issue warrants. Prisoners and other detainees are sometimes beaten while imprisoned or under interrogation. Abuse and violence among prisoners and living conditions of prisoners and other detainees are growing causes of concern. Excessive delays in the criminal justice system are another cause for concern. Investigations of criminal cases are often very slow. Some suspects spend much time in custody before receiving the final court verdict.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Most judges rule fairly and impartially. Still, opinion polls indicate that the public has little confidence in the court system since it does not operate effectively and reportedly a significant part of legal costs is in "bribes" to both solicitors and judges. Most likely to initiate lawsuits are large companies; small ones and ordinary citizens find the expense in time and money too great. It is estimated that over one third to half of all judges are new appointees.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The Ministry of Justice has no formal control over court decisions, except in matters of technical support. In practice, however, its influence is significant. Most lawyers and business people claim that the state exerts pressure on judges, particularly in cases against state institutions. This influence is more evident in economic rather than in political matters. Judges on the Supreme Court and the Court of Appeals are nominated by the president and approved by the legislature. The president appoints district court judges. All judges are appointed for life. The constitutional court, which adjudicates issues of legal constitutionality, has proved immune to political pressure. The chairman of the legislature, the chairman of the Supreme Court, and the president each nominate one judge to the constitutional court.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

The overwhelming majority of lawyers, except for judges, prosecutors, government investigators, and lawyers working in state institutions, are in the private sector, but there are no precise figures. It should be noted that the number of lawyers has increased considerably over the past years.

7. Does the state provide public defenders?

By law, the state must provide public defenders. Because of a dramatic decline in the number of available lawyers, who were poorly compensated, the government now requires that private lawyers provide a certain amount of service to the state. Still, the remuneration remains very low.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

For the most part, citizens are treated equally by law and in practice. There is, however, some evidence of discrimination against women and sexual minorities.

Certain restrictions are applied to female applicants by the War Academy. The Law on Equal (gender) Opportunities came into effect in 1999. Minorities are free to establish their own educational, cultural, and religious institutions. A requirement that Lithuanian, the official language, be used in the documentation of public and private institutions has been controversial. Lithuania has ratified major international conventions on human rights, including the European Convention of Human Rights. The Framework Convention on Protection of National Minorities has been signed, but not ratified.

9. Are judicial decisions effectively enforced?
Judicial decisions are enforced effectively in the criminal sphere, but there are some concerns about the enforcement of decisions in civil cases. There are no common practices, and officials are often ignorant when enforcing court decisions in civil cases.

CORRUPTION 3.75/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption and bribery are still entrenched in many areas. Most adult citizens are believed to have resorted to bribery for some purposes. Bribes are usually paid to obtain a benefit, to receive more favorable treatment, or to hasten the provision of services. Bribes are also commonly used to hasten the provision of services. The customs department is a well-known center of corruption. Bribes are widely used to lower the costs of customs duties. Bribery is widespread in tax inspections and hospitals. Bribes in hospitals act as an incentive to improve the quality of service. Businesses often have recourse to bribery while obtaining registrations and licenses or handling state regulations and control. Salaries of civil servants, both at the national and sub-national levels, are higher than those paid to individuals with comparable qualifications and responsibility in the private sector. According to statistics the average net salary of a civil servant is 841 litas, while in the private sector it is 737 litas, and the difference is growing. The salaries of physicians and social servants are low compared with the country's average.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Exposures of political ties to businesses appear rather frequently in print media. Businesses also have a significant influence on policy makers. The worst situation is still in state-owned sectors, where old-style directors have close ties with many governmental officials and municipal institutions.

Legal standards for civil servants are set in the Law on Civil Service. Civil servants are not allowed to and do not sit on enterprise boards, represent enterprises or make contracts with related entities. There are ethical standards concerning relationships between businesses and politicians, but politicians often are reluctant to obey these standards. Many instances of favoritism have been described in media, but no consequences have ensued. Public opinion does not exert much pressure on politicians to obey these standards. On the other hand, the public is often suspicious about business people in politics, even if there is no evidence of the abuse of official power.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
The law prohibits conflicts of interest and requires financial disclosures by politicians, managers of companies, and their spouses. Presidential, parliamentary, and local council candidates must publicly declare their property and income before elections. Elected politicians, political appointees in the civil service, and directors of companies must make annual declarations of their income and property. Most anticorruption cases that have been publicized are pursued by prosecutors. In most cases, they involve

the police, customs, and tax inspections. Several judges, lawyers, and investigators have been sentenced to prison for accepting bribes.

The Criminal Code includes provisions against and prescribes severe penalties for racketeering. no reliable data on this issue. Executive and legislative bodies operate under audit and investigate rules but in many cases these are applied in a rather fragmented manner.

Executive institutions have much discretionary power to impose sanctions on businesses and citizens. Controlling institutions even draw plans for the imposition of fines on private companies. Executive and legislative officials bear virtually no responsibility for the consequences of their decisions. This creates conditions for the abuse of power.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

The State Security Department has recently conducted a survey to elicit public attitudes toward corruption. The survey shows that over the past two years, one-fifth of Lithuanian citizens have encountered corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading governmental officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Official anticorruption initiatives were launched three years ago, along with the establishment of the Special Investigation Bureau. In 1999, the Bureau exposed 83 state officials, including five investigators and prosecutors and four attorneys. The government is pursuing "clean hands" policy, setting up an insider commission to investigate cases of corruption and abuse of official power. Incentives to curtail regulations and bureaucratic authority have been evident since May 1999. Leading government and national officials have avoided prosecution despite numerous public scandals and suspicions of corruption. In 1999, MP Audrius Butkevicius has been sentenced for imprisonment for accepting bribes. There are many concerns that this case was motivated by politics.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

There is much public resentment about the scope of official corruption in Lithuania. But as the survey conducted by the State Security Department shows, about 60 percent of Lithuanians are ready to give small bribes to insulate themselves from unnecessarily complicated and protracted decision-making processes and routine administrative procedures. Some 68 percent of entrepreneurs admitted that they would know whom to bribe and for how much. According to a recent survey carried out by the Lithuanian Free Market Institute, about 30 percent of those polled claimed corruption is an obstacle to business development. There are no significant anticorruption education efforts. On the other hand, almost every columnist or political observer draws public attention to corruption problems.

7. How do major corruption-ranking organizations like Transparency International rate this country?

According to the Transparency International and Goettingen survey in 1999, Lithuania shares the 50th through the 52nd positions among 99 countries. Lithuania was rated 3.8 (out of 10).

Economic Liberalization

PRIVATIZATION 2.50/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

In 1998, 75 percent of GDP came from the private sector. According to preliminary data of the Lithuanian Department of Statistics, 68.8 percent of the labor force was employed in the private sector in 1998. According to an expert survey of macroeconomic indicators performed by the Lithuanian Free Market Institute, the shadow sector accounts for some 23 percent of the country's economy.

2. What major privatization legislation has been passed? What where its substantive features?
Major privatization laws were passed in 1991. These laws provided the legal framework for initial privatization through a voucher program and cash and foreign currency sales. The 1997 privatization law defines six methods of privatization: public auction, public tender, public sale of shares, direct negotiations, leasing, and a loss of control in state or municipal enterprises. Every method is subject to individual government regulations. Privatization authorities are free to choose a means of privatization.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?
Of all the working population employed in agriculture, fishery, trade, hotels, and restaurants, more than 90 percent are in private business. Private ownership prevails in all kinds of small businesses and services. Twenty-five percent of the total land stock is privately owned. This figure is changing, however, since the restitution process is still evolving. Almost 97 percent of housing is privately owned, mainly thanks to a massive apartment privatization utilizing investment vouchers during the initial stage of privatization. The state still retains control over about 70 percent of industry. The number of self-employed is increasing. At the end of 1998, they accounted for 13 percent of the employed.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?
When free vouchers were distributed in the early stages of privatization, insider participation by business executives and employees was extensive. Most citizens bought their own apartments. Many acquired shares of companies that employed them or of investment companies, which later participated in the privatization of bigger enterprises. In the early stages, certain preferences were granted to enterprise workers. The second phase of privatization was launched in 1996. The sale of items through the stock exchange has been transparent, with no preferences given to specific buyers. Nevertheless, assets may be privatized through tenders and direct negotiations, which invite favoritism and abuse of power. Foreign investors, rather than *nomenklatura*, enjoy preferences in the privatization of strategic enterprises.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?
The public generally supports privatization, as do the major political parties. In the summer of 1997, the Social Democrats failed in their attempt to hold a referendum on the privatization of "strategic" enterprises, which reflects public confidence in the private sector. However, some non-transparent cases and methods of privatization, like the sale of the oil complex Mazeiki Nafta, have prompted public dissatisfaction and criticism from political parties.

Workers of state owned enterprises are often hostile to privatization for fear of employee retrenchment. Some groups are apprehensive about the possible expansion of the influence of foreign countries in Lithuania. In general, though, the public has been supportive of privatization. Elderly citizens count on the government's promise to use the proceeds from privatization to compensate for savings lost to ruble depreciation and devalued deposits. Businesses, socially active segments of society, and the public at large view privatization as a means to promote free competition and the effective use of resources.

MACROECONOMIC POLICY 3.25/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?
No significant tax reform has taken place after Lithuania designed an independent tax system at the beginning of independence. The Lithuanian tax system includes direct income taxes, the VAT, property taxes, customs duties, and other levies. The general tax burden has steadily increased over the past several years. Total tax revenues accounted for 36 percent of GDP in 1998. In 1999 tax revenues are expected to comprise about 40 percent of GDP. Non-compliance is widespread, and

the shadow economy, including illegal activity, makes up by various estimates some 25 percent of GDP.

The 18-percent value added tax (VAT) is the most effective of all Lithuanian taxes. Revenues from VAT account for the lion's share of the state budget. The recent amendments to the VAT law imposed certain restrictions on the repayment of a prepaid sum of VAT. Personal income tax is charged at a regular rate of 33 percent. The tax base was increased in September 1998, when a 15-percent capital gains tax was introduced. Corporate income is subject to a 29-percent tax. New investment incentives have been introduced in addition to a zero tax rate on invested profit. All expenses on the acquisition of long-term fixed assets are now fully deductible from taxable profits (a 100-percent depreciation is applied). Social security contributions, financed by a 31-percent payroll tax, with 30 percent paid by the employer and 1 percent by the employee, augment labor costs and add to the expansion of informal labor relationships. Proposals have been made to increase the ceiling on social insurance contributions, which stands at 3.5-percent of the country's average earnings, and to split the rate of contributions by increasing employees' share.

Taxpayers have difficulty handling complex tax regulations, and their continuous inquiries add to the workload of tax inspectors. The tax authorities have been prohibited from issuing interpretations of tax rules without the Finance Ministry's consent, seeking to reduce contradictions in tax policy. However, the remaining inaccuracies in tax law still leave ample room for broadening the tax base at the administrative level.

The past year has been marked by uncertainties about tax policy developments. The introduction of general income declaration, which was scheduled for 1999, has been postponed. The abolition of the corporate income tax has been suspended. New legislation on direct income taxes has not been passed.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals? Over the past two years Lithuania's fiscal policy has been reproached mostly for its opaque principles of budget formation, its inefficient allocation of resources, and its unclear public spending objectives. These weaknesses have prompted budget reform, with funds being allocated to programs rather than administrators. Because of the weak incentives toward reducing the overall tax burden, program budgeting has helped only to justify government expenditures rather than to reduce or to make them more efficient.

Fiscal policy is somewhat unconducive to the growth of savings and earnings. Savings are discouraged by the taxation of dividends and capital gains. Incentives to investment are provided by tax deductions. The national budget has been in deficit for the last six years. According to the Department of Statistics and the Bank of Lithuania, the deficit of the national budget rose by 0.3 percentage points and amounted to 1.3 per cent of GDP in 1998. The planned 1999 budget was balanced, but because of the low growth of GDP, the actual budget is expected to run a deficit of one billion litas, or approximately 2.5 percent of GDP. Independent experts claim that the deficit is several times bigger than officials report, because the state has assumed more obligations, such as compensation of residents' savings lost to ruble depreciation and deposits lost in bankrupt banks.

The social insurance fund is required by law to balance its budget. Deficits are covered with loans taken from banks and guaranteed by the state. Lithuania is facing increasing difficulties in maintaining its pay-as-you-go system. Revenues for the social security budget have been falling dramatically, as have the number of the contributors. Adverse demographic trends are further aggravating the under-funded and outmoded system, which represents a drag on the country's economic transition. Given the difficulties in fulfilling obligations to social security beneficiaries, proposals have been voiced to expand the tax base. Yet, this will reduce funds available for private insurance and private pensions schemes.

According to the finance ministry, the total state debt in April 1999 stood at 24.4 percent of the projected annual GDP (20.16 percent in the previous period 20.16). Foreign debt comprised 70.7 percent of the total state debt and 50.9 percent of the country's annual volume of exports (24.4 percent in the previous period). Although direct corporate subsidies were removed, they are channeled to companies through corporate welfare programs, including business promo-

tion, export insurance, transport and heating compensations for specific population groups, etc. Businesses are allowed to deduct investments from taxable profits. Contributions to private pension funds will be tax exempt up to 25 percent of taxable income.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

Lithuania has a two-tiered banking system, featuring a central bank and commercial banks. The central bank is independent. Its chairman is appointed by the Seimas at the recommendation of the president of Lithuania. The primary goal of the central bank is to secure monetary stability (a newly prepared draft law defines price stability as its main goal). The Bank of Lithuania issues and withdraws money from circulation, administers the country's foreign reserves and supervises commercial banks. The currency board system, in operation since 1994, secures a rule-bound monetary policy that is protected from political pressure.

The banking sector remains stable, even in the face of the vulnerable external situation (the 1998 Russian crisis). One small-scale bank has gone under, but the deposits are to be returned from the State Deposit Insurance Fund. Presently the banking system in Lithuania is in the merger and acquisition process. Two large corporate banks have announced plans to merge. Two large state-owned banks – Agricultural Bank and Savings Bank – have been scheduled for privatization. However, the first attempts to sell Agricultural Bank have failed. Foreign banks are permitted to open branches in Lithuania. There are two branches and four representative offices of foreign banks operating in Lithuania. Recently a subsidiary of Estonian Hansabank started its operation. The banking sector relies heavily on traditional governmental safety mechanisms. International accounting and risk management standards are being implemented. A mandatory deposit insurance system has been installed.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Since 1994 Lithuania's currency board system has backed cash in circulation with 100-percent hard currency and gold reserves and maintained a fixed exchange rate with the anchor currency – the U.S. dollar – at four litas for one US dollar. The currency board arrangement has secured full internal convertibility of the national currency and shielded the monetary system from political pressure. It achieved a considerable decline in interest rates and curbed inflation, which fell from 35.7 percent in 1995 to 2.4 percent in 1998. The Bank of Lithuania plans to change the peg to the *euro* in mid-2001. According to the Bank of Lithuania, foreign reserves totaled 1.4 billion U.S. dollars in late April 1999.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The non-profit National Stock Exchange of Lithuania (NSEL) and the Central Securities Depository were reorganized into stock companies in 1998. The state owns majority shares in both companies. At the same time the shareholders were separated from members who have a right to trade on the securities market. As of January 1, 1999, 37 financial intermediaries had a right to trade in securities, of which 9 were brokerage divisions of banks. Ten financial brokerage firms accounted for 77.6 percent of the total NSEL turnover. Capital markers are supervised by the Securities Commission, which was established in 1993 and has been an independent institution since 1996. All public issues of securities must be registered with the Securities Commission.

Because of the 1998 Russian crisis, the Lithuanian securities market declined and the NSEL indices fell approximately 41 percent. In 1998, foreigners invested 64 percent less in the Lithuanian stock market through the NSEL than in 1997. Despite a noticeable decline in the central market, the total NSEL turnover rose by 74.35 percent and amounted to 716.2 million litas in the second quarter of 1999. The trade in shares accounted for 44 percent of the turnover. Direct transactions comprised over 80 percent. The general capitali-

zation of the NSEL was 13.652 billion litas, or one-third of GDP. The capitalization of equity totaled 4.2 billion litas; and T-bills, 1.8 billion litas. In the second quarter of 1999, a new index, LITIN-10, was introduced. It is made up of the ten most liquid companies according to the turnover and transactions in the central market during the 52 previous weeks.

To protect small shareholders, a procedure for making tender offers was introduced (a tender offer is an offer from an investor controlling over 50 percent of a company's stock capital to purchase the shares owned by the remaining shareholders). A total of 109.4 billion litas worth of stock was purchased through tender offers in the first half of 1999. In the second quarter of 1998, over-the-counter (OTC) trading in securities quoted on the Official and Current Lists was prohibited. Previously, OTC trading accounted for about 30 percent of the total turnover. The NSEL is used in the privatization of state assets. By the second quarter of 1999, 76 companies worth 66.4 million litas were privatized through the NSEL. In 1999, the biggest insurance company in Lithuania, the former monopolist *Lietuvos draudimas*, was privatized through a direct transaction. Seventy percent of the stock was purchased by the Danish insurance company, *Codan*. Investment through the stock exchange is over-regulated. Private individuals are prohibited from extending loans to companies unless they are their shareholders. Lending restrictions prevent other entities from performing banking activity.

MICROECONOMIC POLICY 2.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The constitution and laws guarantee property rights and protection mechanisms. Property is protected, but efficiency problems frequently crop up. Court delays are frequent. In many cases offenders fail to be identified, and the process of property restitution is protracted. Significant progress has been made in securing intellectual property. Violations of authorship rights and the volume of pirate production have declined. The protection of video and audio productions and books has improved. Computer software, however, remains vulnerable to abuse. Problems are largely due to a lack of experience and technical capacities, inadequate sanctions for offenses, and insufficient authority of supervisory institutions. There is still insufficient respect for intellectual and industrial property. Real estate registers are reliable but not entirely operational. Unnecessarily complex procedures are applied to mortgaging of property of partial ownership. According to the constitution, the state reserves the right to appropriate land, although it must provide compensation to owners. However, laws do not define mechanisms for compensation and they have rarely taken place.

2. To what extent have prices been liberalized? What subsidies remain?

Price liberalization began in 1991 and has not been completed yet. Currently, price regulations extend to the following commodities and services: energy, agricultural commodities, pharmaceuticals, herbs and medicines, medical services, and transport. Price regulations are established by governmental authorities and usually serve as social benefits. Heating, transport, and local telephone costs are subsidized for pensioners, agricultural workers, the disabled, and individuals whose incomes fall short of the established minimum level. Despite extensive liberalization, prices are affected by other governmental interventions, such as the establishment of set customs values of goods.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The Law on the Register of Enterprises regulates the establishment and registration of private firms, laws

governing individual types of businesses, and government regulations. The government's desire to control new businesses resulted in complex, costly, and excessive procedures for their registration. Many economic activities require licensing. The issue of licenses is regulated by decrees of individual ministries, departments, and other governmental agencies. The licensing procedures are complex and demanding. They involve submission of numerous reports and permits from various institutions. Joint stock companies are subject to particularly heavy regulations. The amendments adopted in the spring of 1998 imposed restrictions on borrowing, but they were abolished in the autumn of 1999. Laws are frequently revised and inadequately enforced. In some cases, laws and regulations have been applied retroactively. The state's active involvement in economic affairs – including protection of state-owned companies and corporate welfare programs – represents a serious drag on competition.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The courts follow democratic rules, but are frequently ineffective, particularly in addressing economic and business issues. Critics charge that court decisions are often unjust and influenced by state institutions and other parties. This is particularly true in cases in which the state is involved. Disputes are frequently settled by mutual consent. In cases with an international dimension, international arbitrage is frequently employed. There are two international arbitrage institutions in Vilnius and they play an increasingly important role.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

A new Competition Law came into effect in March 1999. It prohibits monopolistic practices as understood in EU law. An independent Competition Council was established to supervise compliance with competition rules. Critics charge that the council is not sufficiently active in protecting competition. Others claim that the commission is too interventionist in imposing sanctions even for normal business practices. In some cases, investigations have been initiated by companies that seek to use the council to constrain their competitors. So far no proceedings have been instituted against the government for restricting competition. Government procurements that exceed 30 thousand litas ($7,500) must be concluded through public tender. There is a range of exceptions, however, and this requirement is often ignored in practice. The terms of tenders are often adjusted to favor the desired winner.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Lithuania's foreign trade is constrained by both tax and non-tax barriers. Differentiated tariffs are applied depending on whether similar commodities are manufactured in Lithuania. The average MFN tariff rate is 2.5 percent for industrial goods and 5.14 percent for industrial and agricultural commodities. These tariffs are lower than in most countries in the region. They compare unfavorably only with Estonia. Trade with countries that entered into free trade agreements with Lithuania accounts for over 70 percent of total external trade. The highest, 80-percent MFN import duty is charged on sugar. Export duties are imposed on certain wood products and leather. *Ad valorem* taxes are charged not on the actual value of goods but on the customs value, which is fixed according to government tabulations. This results in unduly high customs duties. The government is authorized to approve tax-exempt quotas for individual companies. The opaque and complex customs procedures have led to numerous scandals and extensive delays in customs operations. Customs activities at warehouses and terminals have been so restricted that many shippers of transit goods now choose to bypass Lithuania. The trade balance is negative. The authorities are trying to handle the deficit by supporting exports, tightening import requirements, and applying other protective measures.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

In the first half of 1997, Lithuania removed corporate income tax relief for foreign companies that begin operations in the country. The tax breaks remain in effect for companies that enjoyed them prior to the new rules.

This move has helped to level the playing field for domestic and foreign investors. Foreigners are prohibited from engaging in businesses related to state security and defense, the production and sale of narcotics, and the organization of lotteries.

A governmental investment promotion program is in effect, designed to facilitate "significant" investments not by reducing taxes but rather by covering labor training expenses, compensating for communications expenses, and providing favorable conditions for the supply of electricity. Business people view this program with deep skepticism as it discriminates against other investors and invites corruption and government interference in economic affairs. The recent round of calls has proposed to constrain free capital flows in order to reduce the current account deficit. In 1997, a tax was imposed on payments to foreign entities, undermining foreign investors' confidence in the stability of the legal system and the investment climate in Lithuania. Profits can be freely taken out of the country. Lithuania has concluded a number of investment protection agreements. In 1998, Lithuania ranked second in the region in the amount of foreign direct investment per capita, which equaled $251. The increased volume of investment has been the result of large-scale privatization.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
Restructuring of the energy sector began in mid-1995 when all electrical plants, with the exception of the Ignalina nuclear power plant, were reorganized into joint-stock companies. Most of the power plants (around 80 percent) are run by the state, with the remaining shares owned by plant employees and managers. The only nuclear power plant is state-owned. The prices of electricity continue to be regulated by the state. No fundamental restructuring of the energy sector has been launched, although plans are underway. The private sector is increasingly involved in the provision of certain limited services. The Power Bridge company is going to build and exploit a high voltage energy transfer line. Decisions in this area are still influenced by political considerations, which undermine the position of potential private agents. Market relationships prevail in the oil market.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?
In the first quarter of 1998, the national workforce of Lithuania comprised 1,769,800 persons. Almost 94 percent of the workforce was employed (no data about the proportion of employed on a full-time basis are available). In 1998, the labor force participation rate [the ratio of employed to the workforce] was 93.3 percent for women and 93.9 percent for men. In April 1999, the official unemployment rate was 8.1 percent. Men accounted for 52 percent of all unemployed. The level of unofficial unemployment was estimated to be 12.6 percent in spring 1999, according to a survey of the Lithuanian Department of Statistics. As an expert survey conducted by the Lithuanian Free Market Institute indicates, it stood at 10.5 percent (excluding rural areas) at the end of 1998.

The state provides unemployment compensation that cannot be lower than the amount of supported income (currently 135 litas or $34) and not higher than the sum of two minimum living standards (currently 250 litas or $63). The amount of compensation depends on a person's record for state social insurance. The unemployment compensation constitutes from 13 to 23 percent of the country's official average gross wage (median figures are not available). Unemployment benefits are paid not longer than six months in a year.

2. Describe the national pension and retirement system. Describe public sector and private pen-

sion systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The national pension system was reformed in 1995. It is based on social insurance, which is mandatory for all employed and self-employed individuals. Pensions are paid from a separate social insurance fund. Pension insurance contributions constitute 23.5 percent of wages, with 22.5 percent paid by the employer and 1 percent by the employee. These proportions are going to be revised by increasing the employee's part. Self-employed persons are insured for part of the social insurance pension, therefore they pay a lower rate.

The social insurance fund provides old-age, disability, and survivors' pensions. Old-age pensions are paid to individuals who have reached the official retirement age and have a social insurance record of no less than 15 years. The retirement age inherited from the Soviet system was very low – 55 years for women and 60 for men. Now it is being increased gradually until it reaches 60 years for women and 62.5 years for men in 2009. Working pensioners are entitled only to part of the social insurance pension.

The social insurance pension consists of two components: the basic pension and a supplement. The basic pension is the same for all persons who have the established minimum insurance record. The government sets the size of the basic pension. The supplemental component is calculated for every person individually. It depends on a person's wage and insurance record. Disability pensions are calculated according to the same formula with one difference related to the required minimum insurance record. Survivors' pensions are paid to spouses who raise the deceased individual's children or who are retired.

In April 1999, the average old-age pension was 308 litas, of which 44.5 percent was the basic pension. The average old-age pension amounts to 28 percent of the country's average wage. Social insurance pensions are paid to 874,000 people, or 23.6 percent of the population. Of these, 646,500 (17.5 percent of the population) are old-age pension recipients. Currently there are about 1.3 workers supporting one retiree, so the social insurance fund is constantly in deficit. At present, the deficit is about 400 million litas ($100 million US), or 11 percent of the budget. The deficit is covered by loans from commercial banks.

One person may receive several pensions. In addition to social insurance pensions, there are special pension schemes financed from the state budget. These include pensions for distinguished persons, military and internal affairs officials, deprived persons, including Soviet occupation and Chernobyl accident victims, and scholars. There are 140,000 recipients of such pensions (3.8 percent of the population). These pensions are flat, except for officials' pensions. Private pension insurance has not evolved yet. Pension insurance offered by private insurance companies is not popular. The pension fund law was adopted in June 1999 and will come into effect in the year 2000. The government is contemplating a more comprehensive pension reform with the introduction of mandatory, fully funded insurance in pension funds.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The country's average monthly personal income was 422 litas ($105.5) in the first quarter of 1999. Monthly money income was 355 litas ($88.75). The average monthly money income has increased from 100 litas ($25) in 1993 to 251.5 litas ($62.88) in 1995 and 372 litas ($93) in 1998.

Problems in wage arrearages were quite severe until 1995, especially between 1991 and 1993, in the electronic industry, metal processing, and machine manufacturing. Now they exist in separate enterprises. There are no precise data on how many enterprises with wage arrearages. Some pay their employees with the firm's own produced goods, which are in low demand. In August 1997, a special state fund was established to

meet the requirements of employees in bankrupt or troubled companies. The fund is financed from privatization income. This fund provided financial support worth 51,679,500 litas for 42 enterprises. Of these, 22 enterprises had temporary financial difficulties, 13 were bankrupt, and seven were undergoing bankruptcy proceedings. The bulk of the support went for machinery production companies (34.8 percent) and light industry (18.8 percent). This support is to be repaid in 1.5 or 2 years. So far only 10.8 percent of the funds have been repaid. At present, 12 enterprises have filed requests for support in the amount of 3,807,600 litas.

Average wages in the public sector are higher than in the private sector. In April 1999, average gross wages were 1,155 litas ($289) and 976 litas ($244) respectively (sole proprietors excluded). In October 1998, the average gross wage was 944 litas ($236) for women and 1,223 litas ($306) for men (agricultural enterprises and sole proprietors excluded).

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The size of the primary school population remained relatively steady at 215,175 in 1993; 222,724 in 1996; 222,278 in 1997; and 219,661 in 1998. Secondary school enrollment increased from 112,344 in 1993 to 122,941 in 1996, 126,079 in 1997, and 133,546 in 1998. The number of post-secondary students also rose slightly 70,460 in 1993 to 88,024 in 1996, 101,001 in 1997, and 112,504 in 1998.

The proportion of 7- to 10-year olds enrolled in the educational system was 96.8 percent in 1997 and 97.7 percent in 1998; of 11- to 15-year olds, 93.4 percent and 94.4 percent; and of 16- to 18-year olds, 82.8 percent and 87.4 percent respectively. In 1998, the national student-to-teacher ratio was 11.6 percent in comprehensive schools; 11.1 percent in vocational schools; 7.4 percent in college type schools; and 7.0 percent in higher schools (universities). The aggregate ratio was 10.6 percent. The proportion of GDP expended on education was 5.6 percent in 1995; 5.4 percent in 1996; and 5.8 percent in 1997.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Infant mortality decreased from 15 per 1,000 live births [1] in 1993 to 9.3 in 1998. In 1998, the birth rate was 10 per 1,000. The number of the newborns fell from 49,000 in 1993 to 42,000 in 1994 and to 37,019 in 1998. Life expectancy for women grew slightly from 75 years in 1993 to 76.8 years in 1997. Life expectancy for men was 69.1 years in 1993; 68.7 in 1994; and 71.4 years in 1997. Divorce rates in the past years were around 3 per 1,000 persons. Suicide rates were increasing until they hit 46.4 per 100,000 inhabitants in 1996. In 1997, the suicide rate was 44.1.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

In 1997, the ratio of doctors to the population was 39.8 per 10,000 inhabitants. The ratio of paramedical personnel to the population was 103.9 per 10,000 inhabitants. Average monthly gross wages in the health care sector were 385 litas ($96) in 1995; 485 litas ($121) in 1996, and 640 litas ($160) in 1997. In 1998, the number of hospital beds was 35,139, or 94.9 per 10,000 inhabitants. The proportion of GDP created in health care and social security was 3.6 percent in 1998. The proportion of GDP expended on health care was 4.2 percent in 1997.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The official subsistence level is not calculated or announced in Lithuania. Since 1990 the Social Security

and Labor Ministry has been calculating the minimum living standard (MLS) that is based on the minimum-consumption basket. This indicator is used in calculating social benefits. In 1990, the MSL was 34 percent of the country's average wage and constituted 53.4 percent of the average consumption level. Between 1990 and 1993, the Lithuanian economy underwent sweeping changes (production declined, the level of inflation went up) and the government was unable to properly index the MSL. In such conditions, more than half of the population had to be considered as living below the subsistence level and to be entitled to social benefits. Therefore, in 1997 the MLS was set at only 14 percent of the average wage and comprised 31.9 percent of the average consumption level. This MLS indicator began to be regarded not as the real living standard but a benchmark for calculating social allowances that the state could afford. The poverty rate calculated according to this applied MLS in 1997 was 0.8 percent, which did not reflect the reality.

The Social Security and Labor Ministry began to calculate a more realistic standard – the so-called estimated MLS – which reflects the real minimum consumption level. According to this indicator, the poverty rate in Lithuania is 8.4 percent. However, based on the relative subsistence level, which comprises 50 percent of average consumption expenditures (this indicator is used in poverty surveys in the EU), 16.6 percent of the Lithuanian population lived below the subsistence level in 1997.

Poverty in Lithuania is declining, which shows that the country's economy is reviving. According to the applied MLS indicator, the poverty rate fell from 7.2 percent in 1993 to 0.8 percent in 1997. According to the estimated MLS, it slumped from 31.8 to 8.4 percent. According to the relative subsistence level, fixed at 40 percent of average consumption expenditures, it dropped from 12 to 8.8 percent. However, subjective valuations of poverty are much higher.

During a UN Development Program poverty survey conducted in 1997, 25 percent of the population reported themselves to be poor. Of all recipients of social benefits provided on a means-tested basis, 57 percent said to be poor. As the survey shows, the main reasons for poverty are concurrently occurring social risks of unemployment and support of dependent family members. The poverty rate among the unemployed and other working-age individuals who are jobless for different reasons is as high as 40 percent. Thirty seven percent of households with three or more children live below the subsistence level. In the most deprived families (which receive social allowances), children under 15 constitute 55.1 percent.

Poverty is more acute in rural areas (25.9 percent of the population) than in urban areas (9.7 percent). The former include many farmers. Twenty two percent of pensioners are deemed to be poor. But pensioners do not belong in the most deprived people's category, because individuals above 60 years of age account for only 0.9 percent of all recipients of social benefits. This shows that the pension system helps to avoid poverty in old age. The situation among women and men does not differ much. Yet, 22 percent of single-mother families with dependent children are poor.

MACEDONIA

Polity: Parliamentary democracy
Economy: Mixed statist (transitional)
Population: 2,000,000
PPP (USD): 3,210
Capital: Skopje
Ethnic Groups Macedonian (65 percent), Albanian (22 percent), Turkish (4 percent), Roma (3 percent), Serb (2 percent), other (4 percent)
Size of private sector as % of GDP (1998): 60

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	3.90	↓3.95	↑↑3.44
Rule of Law	na	na	4.63
Economic Liberalization	4.50	↓4.67	↑4.58

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	1141.0	1500.0	1917.0	1971.0	1663.0	1548.0	1700.0
Real GDP growth (% change on previous year)	-9.1	-1.8	-1.2	0.8	1.5	2.9	0.0
Inflation rate	353.1	121.0	16.9	4.1	3.6	1.0	10.0
Exports (USD millions)	1056.0	1086.0	1204.0	1147.0	1237.0	1322.0	1134.0
Imports (USD millions)	1013.0	1272.0	1439.0	1464.0	1623.0	1722.0	1484.0
Foreign Direct Investment (USD millions)	0.0	24.0	13.0	12.0	18.0	175.0	30.0
Unemployment rate	28.3	31.4	37.7	31.9	36.0	34.5	na
Life Expectancy (years)	70.0	71.7	71.5	na	72.5	73.1	73.1

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights				3	3	4	4	4	4	3	3
Civil Liberties				4	3	3	3	3	3	3	3
Status				PF	PF	PF	PF	PF	PF	PF	PF

Introduction

The Republic of Macedonia (or FYROM) is the only republic to have seceded from the former Yugosla via without war, and it is often regarded as a model of a relatively stable country in transition. This reputation is only partially warranted. Since its independence in 1991, Macedonia has been a parliamentary democracy in which the country's two major ethno-linguistic communities (Macedonians and Albanians) have shared power. Despite this power sharing, Macedonia's years of statehood have been characterized by disputes over whether Macedonia is a unitary or a bi-national state, with all the institutions that such definitions entail. The country has weathered most of its crises without violence and the threat of imminent collapse. Several events, however (including the attempted assassination of President Gligorov in 1995 and the presence of an illegal Albanian-language university in Tetovo since 1997), have threatened Macedonia's social and political stability. Most recently, Macedonia confronted an influx of nearly 360,000 refugees from Kosovo. NATO's campaign against Yugoslavia brought into sharp relief the tentativeness of Macedonia's identity as a state, and compelled the country's citizens to consider whether they identify primarily with their "ethnic community," regardless of political borders, or with their country, including its ethnic, religious, and linguistic diversity. The short duration of the crisis precluded definitive answers to these questions.

Most Macedonians, when comparing their current situation with living in the former Yugoslavia, hold that they live in a "golden cage": They have their own state, but one that is poorer. They carry Macedonian passports, but encounter many visa restrictions. Despite favorable international assessments of their govern–ment's monetary policies, Macedonians see themselves becoming more impoverished. Historically, the health of Macedonia's economy depended on the domestic Yugoslav market and access to the Greek seaport at Thessaloniki. UN sanctions against Serbia during the Bosnian war and the embargo imposed by Greece from 1994 to 1996 severely choked Macedonia's economy. Unemployment has hovered officially around 30 percent, but unofficially it is closer to 50 percent. During the Kosovo war it rose to 70 percent. An unfavorable tax environment, unreliable banking institutions, and a questionable privatization regime, among other things, have discouraged foreign investments. Indeed, the 1998 elections focused on economic issues; the VMRO/DA coalition won the elections through promises of sparking economic recovery. This recovery has not materialized and, consequently, Macedonia still depends on a thriving gray economy and remissions of hard currency from Macedonians abroad.

Unlike other ex-Yugoslav republics, Macedonia recognizes national minorities and provides for their political, social, and cultural rights. Despite some communities' dissatisfaction with the implementation of their rights, Macedonia is still the most tolerant society in the Balkans. Macedonia, in short, is a country in transition, but one not entirely decided on its destination. It has established the institutions of a participatory and representative democracy, but is still locked in domestic and regional disputes over political legitimacy. It has subscribed to international conventions regarding minority rights, but still cannot define itself as a society that is both pluralistic and integrated. It has declared itself an open, free-market economy, but has not yet overcome the cronyism and corruption that would make it attractive to the world market. Eight years of independence are a short time in which to accomplish all these goals. Although Macedonia's path has been full of zigzags and setbacks, so far it has maintained enough political and social momentum to stay the course.

Democratization

POLITICAL PROCESS 3.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Elections to the parliament (*Sobranie*) took place in October (round one) and November (round two) of 1998. Unlike in 1994, these elections were not characterized by disputes over the process or results. International monitors, led by the OSCE (Organization for Security and Cooperation in Europe), declared that the elections had been conducted freely and fairly.

In the 1998 elections, the Macedonian public demonstrated its clear dissatisfaction with the policies of the SDSM (Social Democratic Union of Macedonia), a coalition government that had been in power since independence in 1991.

In an unexpected campaign tactic, the nationalist VMRO-DPMNE (Internal Macedonian Revolutionary Organization-Democratic Party for Macedonian National Unity), led by Ljubco Georgievski, formed a coalition with the newest Macedonian party, the Democratic Alternative (DA), led by Vasil Tupurkovski. The electorate, both Macedonian and Albanian, gave its overwhelming support to the opposition parties. Of the 120 seats in parliament, 49 were won by VMRO-DPMNE, 13 by the DA, and 11 by the "radical" DPA (Democratic Party of Albanians), led by Arben Xhaferi. The SDSM, led by former Prime Minister Branko Crvenkovski, won 27 seats, but it has remained in silent opposition since its decisive defeat. The Party for Democratic Prosperity (PDP, the Albanian coalition party in the SDSM government until 1998) won 14 seats; the Liberal Democratic Party (LDP) gained 4 seats; the Socialist Party 1 seat; and the Party for the Complete Emancipation of the Roma 1 seat, too. Although the VMRO and DA secured sufficient parliamentary seats to form a government, they nevertheless invited the DPA into a new multiethnic coalition. Parliament then elected Ljubco Georgievski as prime minister; neither Tupurkovski nor Xhaferi hold ministerial posts. Most ministries are in the hands of the VMRO, with the DPA holding the same portfolios that their Albanian predecessors from the PDP had held under the previous government: Labor and Social Policy, Transportation and Communications, and Science.

2. When did presidential elections occur? Were they free and fair?

Presidential elections are slated for autumn 1999. Although legally eligible to stand again, President Kiro Gligorov will not be his party's (SDSM) candidate due to his poor health and advanced age. Vasil Tupurkovski, head of the DA, had long been considered Gligorov's heir apparent. Tupur–kovski's chances of being elected, however, have plummeted in the months since the general elections, partly because of the Kosovo crisis. The primary cause of his decline, however, has been Tupurkovski's grandiose promises of economic recovery, which have not been realized. What characterizes the presidential race at this stage is the absence of qualified candidates from the VMRO, and the Macedonian public's deep alienation from candidates who have represented other parties for the past six or seven years.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Article 20 of the 1991 constitution gives citizens the right to form political parties (Article 20). They have used this right to create a highly pluralistic electoral system, which in 1994 and 1995 consisted of nearly 70 parties. Today, of the 26 registered organizations, there are only three serious Macedonian parties: VMRO-DPMNE, SDSM, and the Liberal Democratic Party (LDP). Minor Macedonian parties include the Socialist Party, led by Ljubislav Ivanov-Dzingo, and the Movement for All Macedonian Action (MAAK), led by Strašo Angelovski. Macedonia's Albanians belong predominately to the DPA and PDP. Minor Albanian parties include the National Democratic Party (NDP) and the Party for Democratic Action-True Path. Most of Macedonia's ethnic communities are also represented, usually by one, or at times several, parties; for example, the Democratic Union of Serbs, the Party Democratic Progressive Party of Romas, and the Democratic Party of Turks.

There is political participation by various parties on all levels of government. Local elections are quite different in outcome from elections to parliament. Thus, in the capital Skopje, the mayor of the entire metropolitan area is from the LDP, but the mayors of metropolitan Skopje's five municipalities are split between the VMRO and LDP. Likewise, throughout the country at least two Macedonian and Albanian parties hold local power, whether at the level of mayoralties or on city councils.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Macedonia currently has 26 registered political parties. No new parties have been registered over the past year. No parties have been banned and none of the existing parties has been declared illegal. Before the 1998 elections, however, the DPA was in an ambiguous position, with the SDSM government challenging its legitimacy as a way of discrediting the party's "radical" position on Albanian issues. Although the DPA was taken to court several times on these grounds, no actions were taken to deprive DPA politicians of their elected posts. As often occurs in Macedonia, politically sensitive issues are allowed to fade away without being addressed. Thus, the DPA has no legal standing as a political party. Officially, it still belongs to the party that was formed when the old PDP and NDP merged, creating the PDPA (Party for Democratic Prosperity of Albanians). When the DPA splintered from this party, it left behind the PDP and NDP, but was refused the right to register as an independent party. As a member of the VMRO/DA/DPA coalition, the DPA's legal status is no longer contested, but nor has it been resolved in the courts.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

The proportion of the population that belongs to political parties is unknown, as parties inflate membership rolls. Macedonian citizens usually do not identify with any party. Albanian citizens of Macedonia are likely to identify directly with one of their two major parties. Polling data, even when gathered, are usually inaccurate since citizens mistrust such information-gathering exercises.

Although women constitute over 50 percent of the population, there is a disproportionately low level of participation of women in politics generally, and in government in particular. Local nongovernmental organizations such as ESE (Organization for the Emancipation and Solidarity of Women) and CMUC (Center for Multicultural Understanding and Cooperation) have tried to raise women's political awareness and to bolster their political participation. Nevertheless, women tend to remain on the political sidelines and therefore occupy relatively few positions of power, especially at the national level. In the current government, only two women—Dosta Dimovska of the VMRO and Radmila Kiprianova of the DA—hold positions of power. After the 1994 elections, 3.8 percent of the MPs were women. Although this percentage doubled after the 1998 general elections, Macedonia still has one of the lowest levels of women's political participation in Europe, according to the ESE. There are no statistics indicating the specific gender make-up of political parties as such.

6. What has been the trend of voter turnout at municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Despite the growth of political cynicism, voter turnout remains strong. In the Parliamentary elections of October and November 1998, approximately 78 percent of registered voters turned out. Voter turnout for local and national elections tends to range between 70 and 80 percent. Gender-specific polling data are unavailable.

CIVIL SOCIETY 3.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations, and what is the size of their membership?

The Macedonian Center for International Cooperation (MCIC), which compiled the 1998 *Guide of Nongovernmental Organizations in Macedonia*, has not compiled a similar guide since. The most recent reliable information is that approximately 300 hundred international associations and domestic NGOs are registered in Macedonia. There are definitely more NGOs in Macedonia now, however, since the war in Kosovo has attracted a large number of volunteer organizations, some having registered in Kosovo and moved to Macedonia, and others coming to Macedonia directly from third countries.

Philanthropy and volunteerism are both rather alien concepts in Macedonia. Self-help traditionally is the domain of families—both nuclear and extended—or possibly of villages. The low level of citizen concern across traditional lines of personal responsibility is one of the major obstacles in the development of civil society in Macedonia, and consequently of the nongovernmental, voluntary, and charitable organizations that reflect civil society. Many NGOs are vestiges of Yugoslav-era organizations, which were "of" but not necessarily "for" the citizens. Furthermore, economic conditions and tax legislation both mitigate against the creation and sustainability of voluntary organizations and their support via philanthropy. The average Macedonian citizen is too concerned with day-to-day survival to contribute time or money to voluntary work. An extra 23-percent tax on philanthropic contributions, originally intended to thwart the use of nonprofits as a money-laundering tool, also discourages businesses from supporting the work of NGOs.

Polling data for participation in private volunteer efforts are unavailable. USAID and a number of its larger contractors have declared that approximately 25 percent of the population will have participated in NGO activities by the year 2001. These are rather vague assertions, and would be difficult to demonstrate empirically because of the indefinite number of members belonging to NGOs and the manipulation of membership figures by organizations to bolster the strength of their proposals to funders. Among the truly voluntary organizations are: the SOS Telephone, which operates in Skopje and Kumanovo; *Daja* and *Majka*, two Roma women's NGOs in Kumanovo; the association of Single Mothers (*Samohrani Majki*) in Štip; and the Organization of Macedonian Women in Gostivar. Overall, however, Macedonian citizens view NGOs

as a lucrative employment sector, particularly since the majority of NGOs receive their funding from international sources.

There are basically two categories of women's organizations in Macedonia: holdovers from the Yugoslav period and organizations created since independence. The former category consists of large umbrella organizations such as the Organization of Women of Macedonia. This NGO claims thousands of members, including subgroups representing women of specific ethnic communities: the Union of Serbian Women, the Union of Vlach Women, etc. Women's organizations that have arisen since independence are largely ethnically defined also; only rarely do they have an ethnically mixed leadership or membership. Foremost among these newer groups is the Skopje-based organization for the Emancipation and Solidarity of Women (ESE). One of the largest of the new, ethnically defined women's groups is the League of Albanian Women, headquartered in Tetovo but with branches throughout the country's heavily Albanian regions. In general, membership figures provided by all NGOs are highly misleading, and should not be taken as indicative of an organization's true makeup. Whereas organizations commonly will claim hundreds or more "registered" members, only a handful are active.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?
Indigenous NGOs must register and file financial reports with the government. Beyond this, the overall environment for nongovernmental organizations is rather hazy. There is no tradition of civic organizations functioning outside governmental control, which was also the case under former Yugoslavia. Thus, the role of NGOs in society is still ambiguous. The government tends to view NGOs as a necessary evil, part of the fabric of civil society being pushed by international donors and assumed by many of the European organizations in which Macedonia is seeking membership. For these reasons, NGOs do not face procedural obstacles such as being refused the right to register. Nonetheless, they are neither encouraged nor considered beneficial. Not having progressed much beyond the former centralized style of administration, the governments of independent Macedonia have treated information as the provenance of state, and have therefore been reluctant, and at times totally unwilling, to release information to NGOs. This has been evident in the cases of the Movement of Ecologists of Macedonia (DEM) and of ESE, both of which have attempted to influence the course of legislation in their areas of interest. For the most part, however, nongovernmental organizations have no particular expectations of government and few make an effective effort to make their presence known either to government or to the general public.

Several organizations (the Soros Foundation's Open Society Institute, and the Macedonian Center for International Cooperation) have tried to establish NGO resource centers that, among other objectives, would help nongovernmental organizations focus on legal and regulatory issues. Despite these efforts, however, NGOs are not active in this arena.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues is the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?
Nongovernmental organizations in Macedonia tend to have a very small core of activists and varying numbers of members who belong only on paper. The absence of local funding sources means that there is little chance of serious organizational development and thus little chance of building capacity. Typically, an NGO will bid on a project proposal once it has discovered that funding is available from a certain donor. If such funding is unavailable, NGOs are often dormant. It is therefore difficult to speak of organizational capacity in the abstract. International NGOs such as the STAR project, which for three years (1995 to 1998) worked on building the organizational capacity of women's NGOs, found it difficult to convince women of the need for building capacity as a skill that would prepare them over time to create and lead NGOs.

For most NGOs, management structure is a non-issue because of their small size and limited membership. Larger organizations, especially those functioning as umbrella groups for smaller NGOs (Movement of Ecologists of Macedonia, the Organization of Women of Macedonia, to take two), have management structures that delineate authority and responsibility. Brochures, booklets, handbooks, training primers, and other management-related materials have been created by international NGOs such as STAR, the Institute for Sustainable Communities, National Democratic Institute, and others, and have been made available locally in both Macedonian and Albanian.

Funders such as USAID have developed training programs. Among AID-funded NGOs, the Institute for Sustainable Communities (ISC) has been at the forefront in the training of

trainers. ISC has successfully created a group of mentor trainers that domestic NGOs can (and do) call upon for help in core organizational-development problems (strategic planning, budget preparation, report writing, etc.).

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Without international donor support, Macedonia's domestic NGOs would be unable to survive. Most do not levy membership fees and those that do collect such fees receive small sums, which do not contribute meaningfully to the organization's sustainability. NGOs in Macedonia are not tax-exempt in the way that 501(c) 3 organizations are in the United States. They receive limited tax concessions on funds used for certain projects, but are otherwise taxed on income.

NGOs are required by law to report revenue sources and amounts. Typically, however, they reveal their funding sources but do not fully disclose how funds were spent. This is done largely to avoid tax obligations. The practice of creating false receipts and writing financial reports based on such receipts is commonplace. Aside from government procurement opportunities at times of crisis such as the war in Kosovo, there is no evidence of government procurement of not-for-profit providers; nor of a not-for-profit sector ready to provide services if called upon to do so. Exceptions to this are organizations such as the Macedonian Red Cross.

NGOs can earn income through levying membership fees, but are otherwise restricted in their ability to generate income. There is a poorly defined demarcation between not-for-profit income generation and activities regulated as business. For example, the organization of Single Mothers (Štip) decided to use an international donor's funds to establish a laundry service, which was intended to generate income to support the NGO and to earn personal income for the women who ran the laundry. Although the donor was forbidden from providing funds to create a personal income-generating activity, the NGO simply disregarded this legal restriction. Their business was unable to generate sufficient income of any sort and soon folded.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Trade unions exist and function freely in Macedonia, under the jurisdiction of the Ministry of Labor and Social Policy. Precise figures on union membership, however, are unavailable. Generally, Macedonia's unemployment rate and the growth of small businesses since independence have diminished the size and importance of trade syndicates. Privatization has also resulted in worker redundancy and thus in smaller union membership.

Macedonia's agricultural sector has been private since Yugoslavia abandoned collectivization in the early 1950s. Agri-businesses in independent Macedonia are still very rare (the Bitola Dairy is a rare success story). Accordingly, the majority of Macedonia's farmers are private individual producers. International NGOs such as VOCA (a USAID contractor specializing in agriculture) have attempted to establish commodity-based farmers' associations, but with little success. Likewise, Macedonia does have professional and business associations, but they are not active in the development of the country's private business sector. As with nongovernmental organizations, membership figures for these associations are unreliable.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Public participation in politics takes several forms. Enfranchisement is clearly the most prominent. Membership in political parties is prominent too. Advocacy and lobbying are relatively new concepts in Macedonia. Training in interest-group development and in the implementation of interest-group strategies has been conducted by a small number of international NGOs, such as the 1998 STAR project (focusing specifically on women and women's groups). Citizens' rights to strike at the workplace also extend to their right to demonstrate in public, as long as proper permits have been secured. Public demonstrations have been occurring more often, particularly in the wake of the collapse of several pyramid schemes, such as TAT in Bitola, and the closure of factories such as the Makedonka textile plant in Štip. Defrauded investors in TAT not only demonstrated but also formed a political party with an anticorruption platform. There is also a political party of pensioners.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do

government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
Generally speaking, there is little public recognition of this sector, either by citizens or by the government. Certain organizations, atypical because of their large size or the wide scope of their work (Soros Foundation, UNHCR, Red Cross) have received attention, especially during the Kosovo war and its aftermath. Otherwise, few NGOs make much of a public impact. The Search for Common Ground in Macedonia, an NGO based in the US and Belgium, has worked to forge closer links between Macedonian NGOs and the media. It has encountered a high level of apathy toward NGOs by journalists, and disinterest on the part of NGOs to educate the media about their sector. When NGOs engage in public actions, such as the protests against industrial pollution organized by DEM, the media do cover these events. There are no ongoing NGO efforts in the media, however, to inform citizens on issues of general public concern. Like the media, government officials generally view NGOs as insignificant. Humanitarian organizations have become prominent since the Kosovo war, requiring government to engage with them. In general, however, politicians regard government as their exclusive domain and tend to dismiss NGOs categorically.

NGOs are infrequently involved in politics, and only rarely serve as lobbyists in the legislative process. Environmental and women's groups are among the few NGOs that take such initiatives: Under the umbrella of DEM (Movement of Ecologists of Macedonia), actions have been taken to advocate for greater environmental protection. Environmental groups have also contributed to the creation of Macedonia's National Environmental Action Plan (NEAP). ESE has been involved in lobbying for legislation protecting rights to maternal leave and other pieces of legislation in the area of family law. The government, in these instances, has taken such advocacy seriously.

INDEPENDENT MEDIA 3.75/7

1. Are there legal protections for press freedom?
Freedom of the press, freedom of speech, and protection from censorship are constitutionally protected (Macedonia's 1991 constitution, Chapter II, Article VI).

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Although there are penalties for libel, slander, and misinformation, there are no cases of these measures being used to harass or censor the media. During the Kosovo war, the government did publicly accuse two of Skopje's independent TV stations (A1 and Sitel) of anti-state activities, ("irresponsible journalism"), but the accusations led to no legal or other actions.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
The only media organization under direct governmental control is the state-run television and radio network MRTV. Until recently, it was the only radio and TV network with national coverage, serviced by stations in most parts of the country. There are no plans to privatize MRTV, despite vigorous arguments by the independent media that it should become a "public service broadcaster" along the lines of the BBC. Second, NIP Nova Makedonija (the publishing group that publishes the daily Macedonian-language papers *Nova Makedonija* and *Vecer*, the daily Albanian paper *Flaka e Vëllazërimit*, the thrice-weekly Turkish paper *Birlik*, and the Macedonian weekly *Puls*) is for all intents and purposes, government controlled, despite its privatization. The state owns approximately one-third of the company's shares. Appointments to positions of responsibility are made mostly on political rather than professional grounds.

All media besides MRTV and NIP Nova Makedonija are privately held. At times, however, the media are politically biased (TV Telma in Skopje, for example, is owned by the pro-LDP Makpetrol Company), or owned outright by political parties (Sitel TV in Skopje is owned by the president of the Socialist Party, Lj. Ivanov). In the past year, the government formally put the new broadcast licensing law into effect in an attempt to regulate the industry. Despite the licensing of both TV and radio stations, those without a concession have remained on the air without repercussions. The most significant outcome of the licensing process is that there are now two private stations (A1 TV and Kanal 77 Radio) with national coverage.

The past year has seen the appearance of two new daily papers in Macedonian (*Makedonija Denes*, which was preceded by its weekly *Denes*, and *Utrinski Vesnik*) and one in Albanian (*Fakti*). The major weeklies have remained unchanged, with the addition of *Kapital* that focuses on economic issues. For the most part, politically oriented publications such as *Makedonsko Sonce* and *Delo* have a tiny circulation that makes them minor players. Because of generally low levels of readership in Macedonia, any daily paper

with a circulation greater than 50,000 is considered successful. Of the NIP Nova Makedonija papers, only *Vecer* surpasses this level; *Nova Makedonija* claims a daily circulation of approximately 20,000, which is doubtful; and *Flaka* only prints about 3,000 copies. Among the private papers, *Dnevnik* and *Utrinski Vesnik* have the highest circulation, each approximately 50,000 copies per day.

Among TV stations, there are two tiers: a small number of successful and (more or less) professional local stations, and a large number of stations that do little more than rebroadcast entertainment that they have downloaded from satellite signals. The former category consists of stations such as A1 TV (Macedonian, Skopje), TV ART (Albanian, Tetovo), TV KISS (Serbian/Macedonian, Tetovo), TV TERA (Macedonian, Bitola), TV Festa (Albanian, Kumanovo), TV IRIS (Macedonian, Štip), and TV VIS (Macedonian, Strumica). Skopje alone has a plethora of TV stations, including two fulltime Albanian (TV ERA and TV TOSKA), eight Macedonian (A1, Sitel, Telma, TV Skopje, KRT, TV 5, Amazon, Skynet), two Roma (BTR and Šutel), and one Serbian (TV 96).

The airwaves are also overcrowded with radio stations, most of them in the entertainment business. Many local TV stations have affiliated radio stations. Because only Kanal 77 has national reach, it is difficult to rate radio stations as major and minor. In Skopje, Radio Uno, 103.7 FM, Radio Noma, and Radio Ravel are popular among Macedonians. Albanians tend to listen to Radio Vati, which became an important player during the Kosovo war as a channel for the dissemination of refugee-related information, especially for family reunification.

4. Are the private media financially viable?

Left to their own devices to generate income through circulation or advertisements, most private media would go bankrupt almost immediately. The broadcast media market is over-saturated and there is no economic basis for the existence of hundreds of players. The government does offer some support for independent media from the national budget, though these media complain of unfair disbursement policies. A major undertaking by the government is to redistribute to private media producers some DM 3 million per year from the TV and radio tax (fee) the state collects from households that own sets. Information on whether or how much of this fund has been disbursed, or to whom, is not available. Generally, the only financially viable broadcast media are those owned by individuals or companies able to subsidize them. Artificially low advertising rates offered by MRTV are one of the major obstacles to the media's financial health. The low rates prevent fair competition for the advertising revenues that the independent broadcast media depend on for their survival. Among the print media only *Dnevnik* is in the black. Its closest competitor is *Vecer*, which is published by NIP Nova Makedonija and therefore is not required to show a profit. The popularity of the relatively new *Utrinski Vesnik* is increasing, and this may become the second financially viable Macedonian-language paper.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

If defined as free of direct government intervention, the media are largely editorially independent. The editorial positions of the private media, however, are usually a reflection of their owners' politics. There is still little differentiation among journalists between news gathering and editorializing. Thus, the slant of the media is evident both in their reporting of events as well as in their commentaries. Media under direct (MRTV) or indirect (NIP Nova Makedonija) government control make no pretense of editorial independence. MRTV's general director is appointed by parliament, and changes in government are then reflected in the attitudes displayed by national TV and radio. Likewise, editors at the state-affiliated papers are politically appointed, and it is entirely "normal" for the party in power to make its wishes known to these papers (protestations of independence by their editors notwithstanding). For the most part, the influence of such interventions does not show up in the newsgathering itself, but in the tone taken when events are reported.

6. Is the distribution system for newspapers privately or government controlled?

Currently, only two distribution networks are in operation. The largest, by far, is owned by NIP Nova Makedonija and therefore caters to pro-government publications. The second, Tutun, though privately owned, also tends to be generally pro-government. Both have national distribution capacities. *Dnevnik*, in response to the distribution obstacles it encountered as an "opposition" paper, launched a virtual army of street hawkers, and also lowered its price from 30 to 5 (and now 10) *denari*. In response, NIP Nova Makedonija also lowered its prices, and now (one year later) allows its papers to be sold on the street.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

There are no data on the number of Macedonians using the Internet. It is generally considered to be small, since few people can afford computers. Nevertheless, access to the Internet is readily available, with several service providers in commercial competition: Ultra Communication's Unet, Informa, MOL (Macedonia On Line), and MPT (the post office). Noncommercial access is available to university-affiliated personnel through Marnet, whereas Soros's Open Society Institute offers NGOs free use of the net through its own server. There are no restrictions of any sort to private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

Macedonia has a Union of Journalists, which is a continuation of the Yugoslav-era journalists' organization. In 1995, IREX (International Exchanges and Research Board) supported the formation of a Journalists' Club for Interethnic Dialogue, intended as an alternative organization for progressive members of Macedonia's media. This club only lasted for a few months. Younger journalists tend not to join professional organizations, so this association does not represent the real number of active journalists in the country. Women represent a significant proportion of Macedonia's journalists, both in print and in broadcasting, though they rarely hold positions of authority (TV TERA in Bitola and previously A1 in Skopje have had women as their editors-in-chief). Likewise, the head of the Union of Journalists, Maria Dimovska, is a woman. No gender-specific statistics are available, however, on the number of women in media. Anecdotally, women are said to comprise well over half of Macedonia's working journalists.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's *Survey of Press Freedom* has rated Macedonia partly free from 1995 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 3.00/7

1. Is the legislature the effective rule-making institution?

Constitutionally, the parliament is Macedonia's only effective rule-making body. Its authority extends to passing laws, amending the constitution, and electing the prime minister. Other functions include appointing the head of Macedonia's national TV and Radio Network (MRTV). Legislative powers rest with the parliament and the prime minister, who is the head of government. The president, chosen separately through direct elections, is the head of state and is thus uninvolved with rule-making procedures.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

One of the primary criticisms leveled at Macedonia by independent observers is that it has become more rather than less centralized; this despite legislation devolving power to subnational levels. The country is divided into 123 *opštini* (singular: *opština*, municipality), each with its own locally elected mayor. Constitutionally, these municipalities are units of self-administration that are authorized to act on local issues involving community services (utilities, for example), urban planning, education, as well as "other fields determined by law." Conflicts arise, however, in exercising this authority, for two reasons: First, city councils often consist of members from opposing parties who cannot reach consensus on issues they need to resolve. Secondly, municipalities have only limited access to funds.

3. Are subnational officials chosen in free and fair elections?

The electoral process for local officials closely resembles national elections in its degree of freedom and fairness. Political parties receiving less-than-expected support are quick to level accusations of voter fraud. Even when elections have been declared free and fair by international observers, Macedonians generally assume that the party in power locally has managed to tip the balance because of its access to voter rosters or voter-registration cards. That city councils often consist of members from various parties is an indication, however, that fraud, which undoubtedly does occur, is not as widespread as the accusations would indicate.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

The legislative body does operate with some transparency, but while parliamentary sessions are open to the public, the public is not encouraged to attend or observe. The media report regularly on both the legislative and executive branches of government. Transparency has not been a hot topic in Macedonia, where citizens still do not commonly

think it their right to voice an opinion on the way government conducts its work; only on the results.

By law, any legislation being drafted must be announced to the public through the *Sluben Vesnik* (*Parliamentary Gazetteer*). The public then has an opportunity to read the draft and to comment. Once a law goes into its second draft, public comment is precluded. Rarely does the average citizen read the *Parliamentary Gazetteer*, and thus rarely is there public input on legislation.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments control their own budgets? Do they raise revenues autonomously or from the central state budget?
In theory, municipal governments have access to funds coming from local taxes and from the state budget. In practice, however, municipal governments tend to be under-funded, or at least to complain of insufficient funds to carry out their duties. Municipal governments are caught in a fiscal catch 22. On the one hand, they levy and collect taxes locally, and are constitutionally authorized to engage in "issues of local relevance." On the other hand, they are required to remit all tax revenues to the state, and then to request funds from Skopje based on budgets that local governments submit to the state. Local governments, consequently, complain that Skopje exercises too much control. This is the kind of centralization for which the Macedonian government has been criticized by international organizations engaged in reforming administrative practices.

6. Do elected local leaders and local civil servants known how to manage municipal governments effectively?
The greatest obstacle to effective local government is the poor cooperation between parties that control various departments or agencies. For example, in Skopje, the Municipal Sanitation Department is in the hands of one party and the administration of the country's only sanitary landfill (Drizla, about ten kilometers outside of Skopje) is in the hands of another. As a consequence, Skopje's solid waste is not deposited in the sanitary landfill but in a plain-earth landfill (*Vardar*), also administered by the party heading the Sanitation Department. Similarly, Mayor Penov of the Skopje metropolitan district has succeeded in launching a series of urban renewal projects, but the mayors of Skopje's five municipalities are from rival parties and have been unable to find common ground with the Penov government. In some cases, disputes over local government inefficiencies have been taken to court. Most often, however, no action is taken to address such grievances. The absence of effective municipal government is often cited as the source of rural under-development. For example, the Resen municipal government has not collected garbage from the villages belonging to its district, which has led to local water- pollution problems and to delays in the development of tourism. As is the case at higher levels of government, people complain that local civil servants refuse to provide services unless they are compensated. Over the past year, there have been several internationally sponsored (Dutch, Swiss, US) workshops intended to improve the quality of local government, as well as to elevate the level of understanding and cooperation between local government and domestic NGOs.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?
The Law on Self-government was adopted in 1995. The following year, Macedonia promulgated a redistricting law that increased the number of municipalities from 34 (previously voting districts) to 123. This 1996 Law on Territorial Division was ostensibly intended to facilitate the new proportional voting law by creating a larger number of districts that would be more representative. Albanians, however, object to this law as a form of gerrymandering.

Civil service reform has not occurred despite repeated suggestions by international organizations dealing with administrative reforms. Among observers of the Macedonian government, there is widespread agreement that profes-sionalizing the civil service is indispensable and would contribute substantially to citizens' overall confidence in government. Local civil servants are exclusively employees of local government, with the exception of employees in branches of national ministries, often located in the local government's office buildings.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.25/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
The Republic of Macedonia adopted its post-independence constitution in September 1991. The constitution is inter-

preted through the rulings of a nine-member constitutional court established in Section V of the 1991 constitution. Judges serving on the constitutional court are elected by parliament to a non-renewable nine-year term. Cases may be brought directly to this court, or may be heard upon appeal of a ruling by a lower court. Information on specific judicial enforcement of the constitution in the last year is not available.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

Human rights are cited specifically in the constitution. Among the rights enumerated are freedom of religion or conscience, the right to privacy and assembly, and freedom of speech. The constitution explicitly lists the right to own and inherit property "under conditions determined by law." There is also a guarantee for "freedom of the market and entrepreneurship."

3. Has there been basic reform in the criminal code/criminal law? Who authorizes searches and arrest warrants? Are suspects and prisoners beaten or abused? Are their excessive delays in the criminal justice system?

Reform of the criminal code occurred in 1996, when Macedonia replaced the old Yugoslav code that had been enforced even after independence in 1991. This reform was followed in 1997 by the new Code of Criminal Procedure. Among the significant provisions of the new code are limitations on "informative talks" (an old Yugoslav euphemism for interrogation), which the police had used —and often still use with impunity—to extract information from anyone they wish to.

The court issues search and arrest warrants. According to a 1995 law, police are prohibited from entering homes without a warrant. In addition, the constitution guarantees a right to the "inviolability of the home." Despite such legal protection, however, there are complaints of police entering homes without authorization. This was one of the most serious accusations against the police following the unrest in Gostivar (July 1997), which led to calls for police training in human rights and community-policing methods. There are also complaints that police engage in unwarranted arrests and prolonged detention. In one case (April 1998), an Israeli businessman, long resident in Macedonia, was arrested and held for 118 days before being charged with a crime.

Police abuse is rampant and has been cited on numerous occasions by international organizations such as the New York-based Human Rights Watch. Physical abuse is common both on the street and when prisoners are in custody. Non-Macedonians receive a disproportionate amount of abuse from the police, who usually are Macedonians. This is particularly true for the Roma. There are anecdotal reports of people in custody being beaten to death by the police. Albanian deaths from police violence during the Gostivar unrest in 1997 were well documented. Albanians have reported other instances of deaths from police violence in Skopje. Ethnic Macedonians are not immune from such violence, as could be seen in Bitola when the police used force to quell a demonstration by defrauded TAT investors.

Macedonian citizens report that they avoid going to court for several reasons, one of which is the lengthy delays in the justice system. Once a case is on the docket, the judicial process is painfully slow. Trials do not continue on a daily basis until the case has been resolved. Rather, should a trial not end on the day a case was heard, the next session is scheduled within 30 days of the present trial date. In this manner, a case can continue over an indefinite number of months.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

In addition to the length of court procedures, Macedonian citizens also avoid the system because they do not expect to receive fair or impartial judgments. This is particularly true of the country's Albanians, who regard the courts as fundamentally biased toward them. Trial procedures favor the prosecution over the defense, thereby making it structurally difficult to arrive at fair and impartial judgments. Most judges remain from the former Yugoslav period.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The popular perception in Macedonia is that the courts are subject to direct political influence. This is manifest in several ways. First, the courts are an extension of the police and tend to serve the prosecution. This relationship between the court and police determines what evidence is admitted, which witnesses are called and how they are questioned, and the nature of the final verdict. Secondly, the courts have conducted trials with an obvious political purpose and outcome. Among them have been several trials in which Albanians have received lengthy sentences for activities with

political implications. For example, in 1996 a group of Albanians was convicted of smuggling arms into Macedonia, despite the fact that the prosecution did not produce any weapons as evidence. In September of the following year, the Albanian mayors of Tetovo and Gostivar received sentences of 7 and 14 years respectively for their role in the events leading to the violent police intervention of July 7. Domestic and international objections to these sentences led to their reduction and eventual dismissal.

The courts are directly linked to the Ministry of Justice as can be seen in the advantage enjoyed by the police and prosecution in trials. Moreover, the judicial selection process is a reflection of party politics. Judges are nominated by a judicial council appointed by parliament, which links judges directly to the government.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Unlike in the West, law practice is not viewed as an elite profession. Young lawyers tend to go into private practice immediately upon receiving their degree. The number of such lawyers in private practice is increasing regularly; the current number is 1,050. They belong to the Macedonian Bar Association, the organization that grants licenses to practice.

At the University of Sts. Cyril and Methodius in Skopje, the Faculty of Law has one of the highest enrollment rates. To date, this faculty has graduated a total of approximately 10,000 people; or about 300 annually. Although women do attend the Faculty of Law, the number of women lawyers is still relatively low. Specific statistics are unavailable. According to the ABA's CEELI office in Skopje, approximately 70 percent of Basic Court judges, 25 to 30 percent of Appellate Court judges, as well as 6 of the 25 Supreme Court judges and one of the seven Constitutional Court judges are women.

7. Does the state provide public defenders?

The state provides public defenders in theory but rarely in practice. Over the past five years, attempts have been launched to organize lawyers interested in providing pro bono counsel to make up for this deficiency. In one such effort in 1995, the OSCE and the American Bar Association (through its NGO called CEELI, or the Central and East European Law Initiative) brought together lawyers to form a local NGO that would perform this function. Skepticism and the lack of a tradition for volunteerism both contributed to the failure of this idea.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

In a manner reflecting its Yugoslav legacy, Macedonia offers constitutional protection to all minorities in the preservation and expression of their cultural, linguistic, and religious identities. Minority rights are also protected in the European Council's Convention on Minority Rights, to which Macedonia is a signatory. Anti-discrimination based on gender is guaranteed both constitutionally and in legislation. Despite these guarantees, women activists assert that women in Macedonia face serious if subtle discrimination in employment, political participation, and education.

The effectiveness of minority-rights provisions has been the subject of at times acrimonious political and social debate. The government, and the ethnic Macedonian majority generally, maintain that the minorities (read Albanians) are the most privileged of any minority population in the Balkans, and thus interpret any demand by minorities for greater rights as a pretext for ulterior political ambitions. The minorities, and the Albanians in particular, claim that their rights exist on paper but are curtailed in practice by the majority in its desire to create a unitary Macedonian state. In this dialectic, issues unrelated to minority rights escalate into inter-ethnic conflicts. For instance, the debate around the legality of an Albanian-language school in Tetovo has mutated from a question of quality education for Albanians at the primary and secondary level into a question of whether the establishment of such an institution represents the first step toward Albanian secession from the republic. The question of educational quality has been eliminated from the debate entirely. As these political disputes continue, however, Macedonia remains a country in which each community enjoys wide-ranging rights for cultural, religious, and linguistic self-expression.

9. Are judicial decisions effectively enforced?

Judicial decisions are enforced on an unpredictable basis that encourages disregard for the law. This is true in virtually every domain of public and private life. A few examples: The government effectively decided in 1998 which radio and television stations may use the public airwaves, but has not taken any steps to penalize or shut down stations that continue to broadcast illegally. In 1997, the constitutional court ruled that flying the flag of a foreign country over

Macedonian governmental buildings was illegal, but did not implement this law until it was necessary to deploy armed special police forces to do so. The Albanian-language university in Tetovo repeatedly has been declared illegal, and yet it continues to function with the full knowledge of and tacit acceptance by national authorities.

CORRUPTION 5.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?

Macedonian citizens encounter corruption at every turn of life, both private and public. Official corruption is ubiquitous, and permeates government at virtually all levels. Macedonia prided itself on an image of a relatively corruption-free system, especially when compared to Mafia-infested societies such as Bulgaria and Russia, or the anarchy that characterized Albania. In fact, corruption has been so ingrained that it has become a normal part of day-to-day life. In the past several years, the country has been rocked by several turbulent corruption scandals. The collapse of several pyramid schemes, TAT in Bitola in particular, was connected directly to illicit financial dealings by officials in the Ministry of Finance, some of whom were forced to resign. Another scandal involved the diversion of arms and arms-procurement funds in the Department of Defense and the Macedonian Army, which until then had been considered one of the few institutions immune from corruption. Throughout the period of the UN sanctions against Yugoslavia and the embargo by Greece against Macedonia, officials from the Ministry of the Interior were involved in contraband as well as collecting bribes from materials smuggled across the Serbian, Bulgarian, Albanian, and Greek borders.

It is more than likely that an average citizen will have to pay a bribe in order to receive a service. Bribes are often no more than a pack of cigarettes or a bottle of alcohol offered as a token of appreciation for a service rendered. At all levels of business, and certainly when striking deals with any representative of government, it is at least necessary to wine and dine an official being approached, and then to express one's gratitude when the "favor" has been extended.

For Macedonian citizens, bribes are part of everyday life, rather than a way of influencing the higher echelons of power. There are virtually no services for which some form of payment is excluded. For students, bribes are required if not for university admission, then for professors to administer exams needed for graduation (DM 500 was the standard price in 1998). Health care is another prime example: Patients must pay for better rooms, for their families to be able to bring them personal belongings or extra food, and for access to the drugs allegedly covered by their insurance but which have somehow become "scarce." Any public service, such as telephone installation, involving technical or manual labor requires that the worker be bribed. The issuance of business licenses or of travel documents (whether passports or domestic documents such as residence permits) are subject to varying levels of payoffs. The average salary of a Macedonian civil servant is approximately DM 300.

2. Do top policy makers (the president, ministers, vice ministers, top court judges, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

Government officials and business are intimately connected. As was demonstrated by the scandals which shook Macedonia over the past year or so, top government officials (at the ministerial level) have had their hands deep in numerous business enterprises, including those shown to be highly corrupt. The privatization regime has been characterized by management buyouts, which have brought either current or recently retired government officials into the business world, where they can mine their government connections for profit. Although this corruption has diminished somewhat since the outer wall of UN sanctions against Yugoslavia was lowered, there are still ties between policy makers and black market operations throughout Macedonia. Depending on the strictness of international controls over materiel from Macedonia designated for Kosovo's reconstruction, a similar scenario is likely to develop there. Information on the legal or ethical boundaries between public and private sector activity was not available.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion?

Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
Although there is legislation regulating financial disclosure and forbidding conflict of interest, such laws are seldom enforced. Surveying the cases that public prosecutions have disclosed, the enforcement of such laws often aims for political rather than legal objectives. A rare anticorruption case that was pursued publicly was the prosecution of the individuals responsible for the collapse of TAT, which defrauded investors in Bitola of hundreds of millions of German marks. Despite this widely publicized trial, which resulted in convictions, the jail sentences were later dismissed and the same individuals have been reinstated to reconstruct TAT. Extortion is a crime according to the Macedonian Criminal Code. Racketeering is not explicitly dealt with as it is in US legislation. Macedonia operates under a Law on National Audit that is applicable to both the executive and legislative bodies of government.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?
To date, no public-opinion polls have been conducted surveying perceptions of public-sector corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
No particular anticorruption initiatives have been implemented, despite the surge of public concern with corruption following the TAT affair and other scandals. VMRO's parliamentary election campaign of 1998 largely focused on the SDSM's laxity in dealing with corruption, and on the need for cleaning up corruption in order to achieve economic reform and growth. Nevertheless, no steps have been taken to eliminate systemic or personal corruption. No anticorruption laws have been adopted since the passage of the 1996 Criminal Code. Information was not available on new investigations or prosecutions of national or local government officials. Although the anticorruption cases prosecuted over the past few years are considered to have a solid legal basis, they also include a political dimension. For example, Bitola, where the TAT scandal led to highly publicized prosecutions, is one of the VMRO's important strongholds. Because of this, there have been widely held doubts about the motives behind the final acquittal of the TAT defendants, who initially had been convicted of fraud and sent to jail.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public-education efforts?
Public intolerance of official fraud has not been measured in polls. It must be kept in mind that the only reliable body for conducting such polls is the Institute for Sociological, Political, and Juridical Research, which is affiliated with the University of Sts. Cyril and Methodius in Skopje. The institute is part of a state institution, which is not likely to be engaged in research critical of the government. Nonetheless, official corruption is certainly a topic of everyday discussion and there is an elevated degree of public cynicism due to the revelation of corruption at high levels. Corruption is not the subject of public-education efforts in Macedonia's media or schools.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
According to Transparency International (*Corruption Perception Index* 1999), Macedonia's score for 1999 was 3.3 on a scale where 0 = highly corrupt and 10 = very clean, and its ranking was 63rd of 99 countries.

Economic Liberalization

PRIVATIZATION 4.00/7

1. What percentage of GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
Approximately 70 percent of GDP comes from the private sector. About 62.4 percent of the country's employees work in the private sector; private-sector workers generate 76 percent of the profit in the entire economy. An exact assessment of the informal sector is unavailable, but unofficial sources put the figure at between $300 million and $500

million. Western financial officials estimate that the gray economy is equivalent to at least 20 to 30 percent of GDP.

2. What major privatization legislation has been passed? What were its substantive features?

The central legal document governing the privatization of socially owned enterprises is the 1993 Law on Transformation of Enterprises with Social Capital. Under it, small enterprises are privatized by employee buyouts (with employees purchasing at least 51 percent of the firm), by the sale of part of an enterprise through publicly auctioned shares, or by direct agreement with a prospective buyer. In addition, medium-sized companies can also be purchased by leveraged management buyouts. These agreements can be made with employees or outsiders who offer a business plan for the enterprise. The management group that offers the most attractive plan through a public tender is selected to control the enterprise; a down payment of just 20 percent of the enterprise's appraised value is required. The new ownership team must purchase at least 51 percent of the shares of the firm in no more than five installments; there is no interest charge. For large enterprises, the down payment is only ten percent.

Other privatization legislation includes the Foreign Investment Law, the Concessions Law, and the Securities Law, all adopted in 1993; the Law on Trading Companies (1996); and the Law on Issuing and Trading Securities (1997).

Under the Law on Transformation of Enterprises, 1,278 enterprises were slated for privatization: 113 large, 274 medium-sized, and 890 small-sized enterprises. By mid-1998, 1,160 had been completely privatized. In 1996, parliament passed the Law on the Transformation of the Enterprises and Cooperatives with Social Capital which use Agricultural Land. This law sought to privatize 150 agricultural enterprises and 210 agricultural cooperatives. The most important of these enterprises and cooperatives are the so-called agro-kombinats (which combine different agricultural and, sometimes, processing industries), which control less than 20 percent of Macedonia's agricultural land.

After signing an agreement with the IMF in April 1997, Macedonia promised to accelerate its privatization program by selling its large state-owned enterprises. Apart from the sale of Macedonia's largest state oil refinery in 1999, however, little progress has been made.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: Ninety percent of agricultural production is private. Agriculture accounts for 20 to 25 percent of Macedonia's total social product.

Housing and land: Most housing has already been privatized, since private ownership was permitted even under the Yugoslav regime. More than 85 percent of Macedonia's land is privately owned. In 1997, the government passed a controversial denationalization law to return property and land, or at least offer a compensatory sum, to owners whose assets were seized by the Communists.

Industry: Many large state-owned companies have yet to be privatized. Twenty-five money-losing enterprises have been restructured; the companies were broken up into smaller entities and many workers dismissed. Ten enterprises were liquidated.

Small business and services: Small businesses and services represent the fastest-growing sectors of the economy. Under the 1993 privatization act, more than 800 small businesses have been privatized, most of them in the service sector. The Yugoslav regime permitted small private businesses and the Macedonian government estimates that today there are more than 100,000 such firms.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Insiders dominated privatization in Macedonia. Yugoslav-era managers with close connections to politicians and to leading political parties took over many of the most viable companies. The enactment of the 1993 Law on Transformation of Enterprises with Socal Capital favored employee buyouts. In December 1997, the director of the Macedonian Privatization Agency admitted that in 90 percent of the privatizations, only one bid was recieved, and it usually came from insiders. Some 80 percent of the 1,000 companies privatized in the period from 1994 to 1997 were sold to well-connected managers and employees. Employee shares in privatized firms are usually illiquid because of the power of managers. Even though workers nominally own their enterprises, managers retain de facto control.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The privatization process was widely publicized by the government, the media, and the Macedonian Privatization

Agency. Labor unions have protested lay offs in inefficient state-owned enterprises. Manager-owners and private businessmen, however, many with close ties to the government, have benefited from privatization and contribute to various leading political parties that support it.

MACROECONOMIC POLICY 4.75/7

1. Has the taxation system been reformed? What areas have been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

In the post-Yugoslav tax system introduced in 1994, there are 8 different taxes instead of 16. The main taxes are: a personal income tax; a profit tax (corporate); a trade tax for goods and services; an excise tax; a customs tax; a property tax; an inheritance and gift tax; and an estates and rights trade tax. Special decrees determine the bases for calculating specific income taxes. Every month, the "average net Macedonian wage" (ANMW) is published. Wages and salaries in Macedonia usually are stated on a net rather than a gross basis. In determining taxable income, a standard deduction of 25 percent of ANMW is granted. Taxable income of up to double the ANMW is taxed at 23 percent; of 2 to 5 times the ANMW at 27 percent; and of more than 5 times the ANMW at 35 percent. The basic annual profit tax rate is 30 percent.

The Public Revenue Office is responsible for administering the personal income tax. Tax compliance and collection is a serious problem. In October 1997, the Finance Ministry observed that it found irregularities in more than half of the 9,000 audits it performed. It reported that tax evasion was a major reason why fewer funds were available for the budget. The ministry estimated that tax evasion was between 30 and 35 percent, with more than half of the nation's enterprises not paying taxes. An article in the November issue of *Vecer* said that the state has been incapable of collecting taxes for several years, and is contemplating a VAT in 1999 to boost revenues. In 1999, tax revenue fell substantially because of the Kosovo conflict, which brought about a decline in production.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Macedonia has implemented tight fiscal policies since 1995, thus achieving admirable macroeconomic stability. Its budget deficit is quite small (just 0.3 percent of GDP in 1998). The 1999 budget was adopted in March. It calls for $710 million in spending, which is 24 percent of GDP. Macedonia signed a $73 million loan agreement with the IMF in April 1997. It helped provide the needed discipline to enforce spending cuts and other fiscal reforms. However, the economic impact of the Kosovo conflict has put these objectives in doubt. A May 1999 donors' conference organized by the World Bank raised $60 million in grants and $192 million in loans. The Bank itself signed a $50 million agreement in April.

By the end of 1998, Macedonia owed $1.4 billion in foreign debt, with $1 billion of the total promised to official creditors. In March 1997, the government agreed to assume its portion of the former Yugoslavia's private debt to the London club. Repayment was rescheduled over a 15-year period (with a four-year grace period included as part of the agreement). Because of the disruptions caused by the Kosovo conflict, in April 1999, the Paris Club issued Macedonia a limited one-year moratorium on debt repayment. In early 1998, the outgoing government promised to privatize or liquidate 12 large loss-making firms, a promise that has yet to be fulfilled.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The legal framework for the banking and financial sector was enacted by a series of laws in 1992 and 1993 and by subsequent amendments, including the National Bank Act, the Banks and Savings Houses Act, the Securities Act, and the Law on Financial Transactions. The National Bank of Macedonia (NBM), set up in 1992 as an independent central bank, regulates the quantity of money in circulation, maintains the liquidity of banks, savings institutions, and foreign payments, and issues bank notes and coins.

The commercial bank sector consists of 21 universal majority private banks, 1 branch of a foreign bank and 21 savings institutions. Out of the 21 banks, 2 have li-

cense for domestic banking activities, but 19 are authorized for foreign exchange and foreign currency operations. Twelve are completely owned by domestic shareholders, 2 have foreign capital participation of more than 70 percent, 4 of more than 50 percent, and 3 of more than 10 percent.

In general, the banking sector is weak, with low loan collection rates and wide interest rate spreads. There is a need to develop a well articulated set of banking supervision policies and procedures. In 1997, several savings institutions, many of them pyramid schemes, became insolvent, most notably TAT, Alfa-S and Lavci. These scandals badly eroded already diminished public confidence in the banking system and Macedonian regulatory authority. On March 23, parliament dismissed NBM Governor Borko Stanoevski and Vice Governor Tome Nenovski.

Thirteen banks and savings houses set up a Deposit Insurance Fund. If a member bank fails, the fund will pay 75 percent of each household deposit. The National Bank insures savings deposits of up to 60 percent by a single depositor. In October 1997, Macedonia implemented a law on compensating savers for the 7,600 households that lost money with TAT's collapse, but the compensation represented only a fraction of the lost savings. Depositor groups staged several protests during 1997, blaming the government for neglect and collusion in the scandal.

In 1995, Macedonia launched a banking reform program with the goal of removing bad loans from banks' balance sheets and recapitalizing them. The program aimed at Stopanska, Macedonia's largest bank (it had $320 million in assets as of 1998, a market share of 35 to 50 percent). Though the plan envisioned Stopanska's privatization to the Austrian bank Die Erste, the latter pulled out in November 1998.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The Macedonian denar (MKD), introduced in 1992, was subsequently pegged to the German mark at a fixed level. Internal convertibility of the denar is permitted, and any foreign currency can be traded for denars in Macedonia. External convertibility is expected in a few years. Businesses may freely negotiate foreign currencies with licensed commercial banks.

The National Bank announces daily guidelines based on data from commercial banks, amounts of currency bought and sold on the local foreign exchange market, and information from foreign currency markets. Rates are adjusted daily and may vary among institutions.

In July 1997, the denar's value dropped 16 percent because of a deteriorating current account balance. It is now fixed at 31 Denar to the mark; this value was sustained even with the pressure of the Kosovo conflict in 1999. Currency reserves total $290 million as of March 1999.

The high inflation in the early 1990s led to wide fluctuations in the denar's value. Inflation has declined since the beginning of transition. It fell from 1,791 percent in 1992 to 3 percent in 1996. The government has successfully sustained this low level; in 1998, inflation was a mere 0.8 percent. The effects of Kosovo, however, led the government to estimate 1999 inflation to be 8 percent.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investing and lending? What government bodies have authority to regulate capital markets?

The legal framework for the securities industry was prepared in accordance with the EU Securities Law Directives. The main law that regulates these issues is the Law on Securities Issuance and Trading.

Securities, as the law defines them, are shares, bonds, treasury bills, commercial bills, treasury notes, and certificates of deposit. Securities can be issued after getting approval from the Security Exchange Commission (SEC), the main regulatory authority. The sale of securities is done through public offering. A public announcement for the issue and sale of securities appears in the print media within 30 days of an affirmative SEC decision. The public offering for securities issued by a foreign source must go through a broker. Applicants for listing on the MSE must be incorporated or otherwise established in Macedonia.

The Macedonian Stock Exchange (MSE) opened in March 1996 as a joint-stock company. The MSE has 17 members, of which 13 are banks, 2 are savings houses, and 2 are insurance companies. There are 140 licensed brokers.

The level of trading on the exchange is still low, though growing. In 1998, there were 3,400 transactions, worth 4.7 billion denar ($86.3 million). Government bonds are the principal securities traded. Among the reasons for the market's low liquidity include the lack of procedures for the protection of shareholders' minority rights, as well as the illiquid nature of worker shares in privatized firms. The capital gains tax on all individuals is 23 percent.

MICROECONOMIC POLICY 5.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The constitution and laws formally protect property rights. In July 1993, Macedonia became a member of the World Intellectual Property Organization (WIPO). The rights for industrial property, overseen by the Office for Protection of Industrial Property, include patent, model and sample, designs, and trade marks.

Macedonia passed a law On Expropriation in 1995. Under it, the government must submit an offer stating the type and level of compensation for property it is considering expropriating, proof showing ownership of the property that is being offered as a replacement for the expropriated property, and proof of procured funds for compensation of the expropriated property. The government must submit its proposal to the property registry in order to register the expropriation. Compensation is usually in cash or corresponding property. Complaints and challenges may be lodged with the Office of Legal and Property Affairs.

The government continues to grapple with a denationalization law that would return property to or compensate citizens whose property the Communists seized between 1944 and 1968. The law covers 37,000 hectares of agricultural land, 16,000 hectares of forest, 21,000 hectares of pasture, 258 apartment buildings, and other entities. The law excludes the restitution of church property. As of November 1997, the law had not been widely implemented. In February 1998, a citizens' group whose property was taken away under the denationalization law in Krivolak threatened to seek redress with the World Bank and international courts.

2. To what extent have prices been liberalized? What subsidies remain?

Most price controls have been lifted under a liberalization program. At the time of independence, the level of price controls on some products and services amounted to 25 percent of the retail price index. In 1992, it was decreased to 18 percent; in 1993, 15 percent; in 1994, 15.5 percent; and in the period from 1995 to 1997, 19 percent. Products still under government control include flour, bread, some post and telephone services, and some communal services. In agriculture, protective prices have been set up only for corn and tobacco.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is this law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Does regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

In the last several years, Macedonia has passed several laws on business formation: On Commercial Enterprises; On Accounting; On Bankruptcy and Liquidation; On Commercial Registration, and On Commercial Companies. Businesses can be organized as an individual entrepreneur, a partnership, a limited partnership, a limited-liability company, a joint-stock company, and a limited-stock company.

Businesses must register with the Trade Register, the Statistical Office, and the Payment Operations Service. Unreliable laws and bureaucratic delays are common. Commercial law (like all laws) must be published and publicized by the government. While commercial laws are meant to enshrine fair competition, the development of the private sector and privatization has been characterized by the advantageous position of enterprise managers with connections to the government and political parties.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Macedonia's judicial system is plagued by inefficiency and delays. Business and contract disputes fall under the purview of the Court at the Economic Chamber, according the Commercial Code. In international disputes, contracting parties who cannot reach a mutual agreement within six months can request arbitration by a tribunal consisting of an arbitrator from each side who nominate a chairman from a third state which maintains diplomatic relations with both contracting parties. If the parties cannot agree on a chairman within two months, the International Court of Justice will appoint one.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Competition policy in Macedonia is defined by a 1995 law on trade and the Cartel Act. The laws contains measures against restraint of trade, cartelization, and the abuse of monopoly power. The law provides for the creation of a Commission for protection against monopolistic behavior and restrictions of trade. Despite these laws, insider dealing by managers has clouded privatization. In one example, in 1995, a tobacco company owner used his influence to bar foreign tobacco capital from entering into the country. He also was reportedly behind the closing of duty free shops, the reduction of tobacco excise taxes, and the removal of the managerial team of a rival company. Government procurement has been marred by corruption, with contracts given out on the basis of connections and bribes.

Prominent manager-owners of large enterprises, many of them with past government experience, have used insider connections to limit competition (both domestic and foreign), land lucrative contracts, and receive other special considerations.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

In 1993, the government passed the Foreign Trade Law; in 1996, it adopted a new law on customs tariffs. The new law lowered tariff rates and sought to harmonize them with the European Union. Customs duties are levied on imported goods. In most cases tariff rates vary from 0 to 25 percent. The average customs duty is about 12 percent. Services are not subject to duties, levies, or fees. Many agricultural products are subject to special import levies in addition to any applicable tariff duties. Quotas apply to less than two percent of import categories.

Macedonia places no customs duties on exports. The government periodically imposes quotas on some exports. It subsidizes certain agricultural exports. There is no formal registration requirement either for exporting or importing. Corruption in customs is the greatest informal barrier to international trade. Greece lifted its 18-month trade blockade on Macedonia in 1995. Macedonia is a member of the US's Generalized System of Preferences (GSP) program, under which exports to the US face very low tariffs. In June 1999, Macedonia began negotiations with the European Free Trade Association (EFTA).

In 1998, exports amounted to $1.3 billion, with imports of $1.7 billion. Trade with the EU has made up an increasingly larger share of total trade. This is good news, but the Kosovo conflict punished Macedonia quite badly in 1999. Exports to its second-largest market, Yugoslavia, fell to insignificant levels from 18 percent of receipts earlier. Even worse, war-degraded transportation links (such as the impassible Danube) have made trade with neighbors 30 percent more costly in 1999. Exports traditionally routed through Yugoslavia to other markets (over half of the total) had to take far more circuitous paths. Total exports are likely to fall by a third in 1999.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The government has made a concerted effort to attract foreign direct investment by improving the legal environment for investing. The law sets up certain benefits for foreign investors, such as duty exemption on imports of equipment or other assets to be used for capital contributions, provided that the investor commits to a period of at least five years and holds 20 percent or more of the equity.

However, a weak banking sector, political instability in the region, low visibility, and an underdeveloped legal sector has resulted in a very small inflow of foreign capital compared with other Central and Eastern European countries. The total inflow of direct foreign capital between 1990 and 1996 was $36 million (compared with $4.5 billion to the Czech Republic). In 1998, foreign direct investment totaled $90 million.

Other factors that reduce foreign interest are the low purchasing power of Macedonians and an underdeveloped capital market. The World Bank ranked Macedonia 107th in the world in investment risk, behind Pakistan and Romania. A minister of development is quoted as saying that "there are ... other obstacles, such as the complicated procedures for obtaining permits, [and] the non-professional procedures of the banking mechanisms." He went on to say: "even when private or foreign capital has already penetrated ... management teams, in order to hold on to their seats, organize direct resistance, allegedly in the name of the workers."

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to

private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Reform in the energy sector has moved slowly. Most energy prices have, however, been liberalized. Structural reform of the sector received a boost in May 1999, when the government sold, for $32 million, a majority stake in OKTA, a major Skopje oil refinery, to a Greek-led consortium. A $150 million investment program aims to build a 220 kilometer pipeline from the port of Thessaloniki in Greece to Skopje, though only half or so of that figure will actually be invested in Macedonia.

Four-fifths of Macedonia's energy needs are satisfied by domestic production of thermo-and hydro-electric power; the rest is imported from Yugoslavia and Bulgaria. As a landlocked nation, it depends on shipments over land and pipelines for its gas and oil needs. Greece's embargo was in effect until 1995. Greece now exports much of Macedonia's electricity needs. In April 1999, Macedonia finalized an agreement with Bulgaria for the reconstruction of electricity cables; this agreement will diversify its supply of electricity. Russia remains a key supplier of oil, although it is refined in Bulgaria. A natural gas pipeline was constructed in 1995 to carry Russian gas from the Bulgarian border.

Elektrostopanstvo na Makedonija, an independent public utility, integrates the production, transmission, and distribution of electricity. Macedonia forms part of the European electrical energy system (UCPTE), with links to Yugoslavia, Greece, and Bulgaria. The government, with the financial help of international institutions, plans to maintain and upgrade its systems.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 591,773 in 1994. Women constitute 41 percent of the labor force. The adult economic activity rate for men in 1996 was 67 percent; for women it was 43 percent. In 1996, the male unemployment rate was 35 percent; the female rate was 44.5 percent. In 1998, the total unemployment rate was estimated at 35 percent. These rates are in all likelihood inflated, since agricultural workers could register themselves as unemployed. Unemployment is particularly bad in the Albanian-dominated western parts of the country and among young people. Macedonia has not released data on employment since October 1998, and on unemployment since December 1997.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The system of Social Insurance in Macedonia, which consists of health insurance and pension disability insurance, is financed through the budget and taxes on enterprises and wages. As in most transitional countries of Eastern and Central Europe and the former Soviet Union, the pension system is based largely on the pay-as-you-go benefit model. In Macedonia, pensions are administered by an extra-budgetary Pension Fund. The lack of a clear relation between years of contribution and pension benefits, the relatively generous pensions, the loose eligibility criteria, the low retirement age, a declining number of contributors, and weakening tax compliance—all of it puts downward pressure on revenues, leading to a crisis in the pension system. The Pension Fund is threatened with bankruptcy in the near future. Recent reforms have reduced minimum pensions for new retirees and brought benefits in line with contributions.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people com-

pensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

In January 1999, the average monthly wage was 9,620 denar ($183). Real wages rose by 6.5 percent from the same period a year earlier. Wage arrears are a problem; 16.8 percent of workers did not receive their wages on time in December 1998.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The elementary population has remained constant at around 260,000 since 1993. Secondary enrollment increased from 75,000 in 1993 to 84,000 in 1996, as did post-secondary enrollment, from 27,000 to 31,000 in the same period. Ninety-five percent of those eligible actually attended elementary school. The student-to-teacher ratio has remained constant at 20 students per teacher in elementary school, and 17 student per teacher in secondary school. Education expenditures increased from 5 percent of GDP in 1993 to 5.6 percent in 1996. There are two universities in Macedonia, in Skopje and Bitola.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 23 per 1,000 in 1998. The birth rate was estimated at 15.2 per 1,000 in 1999. The fertility rate was 2.1 in 1998. Life expectancy in 1998 was 71 for men and 75 for women.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

There were 219 doctors and 334 nurses/midwives per 100,000 people in 1993; 8.3 percent of GDP is devoted to health care; 7.3 percent of GDP is expended by the public sector.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The World Bank in 1993 estimated that less than 2 percent of the population lived on less than $1 a day, while 18.9 percent of the population lived on less than $2 per day. The average wage in January 1999 was less than the estimated cost of a minimal basket of goods for a family of four.

MOLDOVA

Polity: Parliamentary democracy
Economy: Mixed capitalist (transitional)
Population: 4,300,000
PPP (USD): 1,500
Capital: Chisinau
Ethnic Groups: Moldovan/Romanian (64.5 percent), Ukrainian (14 percent), Russian (13 percent), Gagauz (3.5 percent), Bulgarian (2 percent), Jewish (1.5 percent), other (1.5 percent)
Size of private sector as % of GDP (1998): 50

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	3.90	↓4.00	↑3.88
Rule of Law	na	na	5.00
Economic Liberalization	4.00	↓4.17	↑4.00

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	350.6	327.1	380.6	444.1	500.3	432.4	480.0
Real GDP growth (% change on previous year)	-1.2	-31.2	-3.0	-8.0	1.3	-8.6	-5.0
Inflation rate	1751.0	486.4	29.9	23.5	11.8	7.7	15.0
Exports (USD millions)	451.0	618.0	739.0	802.0	823.0	650.0	550.0
Imports (USD millions)	631.0	672.0	809.0	1056.0	1142.0	1048.0	900.0
Foreign Direct Investment (USD millions)	14.0	18.0	73.0	56.0	64.0	88.0	170.0
Unemployment rate	0.7	1.1	1.4	1.8	1.6	na	na
Life Expectancy (years)	67.4	66.0	65.7	66.6	66.5	67.5	64.4

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			5	5	5	4	4	3	3	2	2
Civil Liberties			4	5	5	4	4	4	4	4	4
Status			PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

Since its declaration of independence on August 27, 1991, Moldova has developed into an electoral democracy based on a multiparty political system with generally free and fair elections. Authorities in the separatist region of Transdniester, however, interfered with the ability of citizens in the territory to vote in the 1996 presidential and 1998 parliamentary elections. The government places some restrictions on certain civil liberties, such as freedoms of the press, religion, and assembly, and the judiciary is not fully independent of the executive branch. The authorities in Transdniester continue to engage in various abuses, including the harassment of independent media outlets and discrimination against Romanian/Moldovan language speakers.

The country continued to make progress in economic reform throughout much of the decade, including introducing a stable convertible currency, lifting price controls, supporting steady land privatization, removing export controls, and freeing interest rates. However, statistics from the government and international organizations indicate that half or more of the population lives below the poverty level. The general economic situation is worse in Transdniester. The economy remains based largely on agriculture, and the state must import much of its energy from Russia.

In a May 1999 national referendum called by President Petru Lucinschi, 55 percent supported creating a stronger presidency through means including increasing the his term from four to five years and enabling him to appoint the prime minister and cabinet, appoint the state prosecutor and judges, and dismiss the legislature if deputies block approval of laws for more than 60 days. Based on the referendum's outcome, President Lucinschi proposed revising parts of the constitution in August, a plan which caused increasing tensions between Lucinschi and the parliament. Moldova's economy was severely affected by the August 1998 Russian financial crisis. Exports declined, the trade deficit rose, and the value of the national currency, the *lei*, plummeted. In 1998, GDP declined by 8.6 percent and was projected to drop by about 5 percent in 1999. However, relations with international financial institutions improved after the government adopted an austere budget for 1999. The IMF resumed payment on Moldova's Extended Fund Facility, which had been suspended since 1997, and intended to grant $135 million in 1999. Negotiations regarding the status of Transdniester continued in 1998 and 1999, although little progress was achieved.

Democratization

POLITICAL PROCESS 3.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The most recent parliamentary elections were held in March 1998. According to local and international election monitors, including the Organization for Security and Cooperation in Europe (OSCE), Council of Europe, and Helsinki Committee for Human Rights, the elections were free and fair. Only four participants succeeded in overcoming the four percent threshold to enter parliament: the Communist Party, which received 40 seats; the Democratic Convention formed by the Rebirth and Conciliation Party, the Christian Democratic Popular Front, and many small political organizations, 26 seats; the Movement for a Democratic and Prosperous Moldova, 24 seats; and the Party for Democratic Forces, 11 seats. The last three political formations united in the Alliance for Democracy and Reforms, creating a parliamentary majority and forming the government.

2. When did presidential elections occur? Were they free and fair?

The last presidential elections took place in December 1996. Petru Lucinschi, the former speaker of parliament and the leader of the Movement for a Democratic and Prosperous Moldova, won with 54 percent of the vote and succeeded Mircea Snegur, the country's first democratically elected head of state, who received 46 percent. The elections were considered to be free and fair by local and international monitoring organizations, including the OSCE, Council of Europe, and IFES Moldova.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?
The electoral system is multiparty-based. All parties represented in parliament – the Movement for a Democratic and Prosperous Moldova, the Rebirth and Conciliation Party, the Christian Democratic Popular Front, and the Party for Democratic Forces – may be considered to be viable and functioning at all levels of government. The Communist Party, formally in opposition, has been active on various parliamentary commissions and in local administration.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
The Ministry of Justice of Moldova registers political parties, 29 of which were registered in 1999. According to amendments introduced to the 1998 Law on Political Parties and Organizations, a party must collect 5,000 signatures of support and have local organizations set up in at least two-thirds of the country's *judete* (districts) in order to be registered. Immediately after the August 1991 putsch in Moscow and Moldova's declaration of independence, the Communist Party was banned. After the Agrarian Democratic Party came to power in 1994, however, the Communist Party was allowed to reappear on the political scene. It succeeded in mobilizing part of the most conservative former Party and Soviet nomenklatura and recreating its central structures and regional organizations. Most of the its membership base is composed of the elderly and Russian-speakers attracted by the party's pro-Russian orientation.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
Exact statistical information about the number of party members is difficult to obtain. Based on the required minimum of supporters necessary for registration and the existing number of political parties and organizations, at least 90,000 to 100,000 people belong to political parties. The fact that parties must collect 5,000 signatures to register does not mean that these individuals necessarily become party members themselves. An estimated 15-20 percent of party membership is comprised of women. Most women are involved in organizations which are affiliated with political parties, including the Women's Association of Moldova and the National Association of Women, which are particularly politically active during election campaigns.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
The trend of voter turnout at the municipal, provincial, and national levels has been relatively stable in recent years, varying between 55 percent and 60 percent of citizens included on voter lists. In the capital city of Chisinau, however, less than 50 percent of the voters went to the polls in the 1996 local elections. While there are no exact figures on female voter participation, it is estimated that women vote in roughly equal numbers to men.

CIVIL SOCIETY 3.75/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
As of 1999, the Ministry of Justice has registered more than 1,400 nongovernmental organizations. The proportion of national to regional NGOs is 83.5 percent to 6.5 percent, respectively. The most effective groups working to support Moldova's NGO sector are the Soros Foundation Moldova, the Euro-Asia Foundation, the Rotary International Club of Chisinau, and the Philanthropy Foundation. The World Bank and the United States Information Service are also active in supporting NGOs. There are modest local efforts to increase philanthropy and voluntarism, which focus mostly on humanitarian aid and childcare. There is no available polling data regarding the proportion of the population active in private voluntary activity. The main women's nongovernmental organizations, the Association of Women of Moldova and the Christian Democrat Women's League, have several thousand members.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The Law on Public Associations (1997) and Law on Foundations (1999) regulate NGOs and stipulate their legal rights. There are no other governmental regulations on NGO activity. Registration of NGOs takes between two weeks and one month. NGOs pay revenue taxes for their permanent staff and some minor local taxes. The improvement of the legal and regulatory environment remains a central goal for some NGOs, including *Civitas*, the Association for Legal and Social Problems Investigation *Argus*, the Moldovan Center for Sustainable Development, the Center for Juridical Assistance, and the Helsinki Committee for Human Rights of Moldova.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The organizational capacity of NGOs varies, but it is generally limited to the relatively small number of active organizations. According to the Soros Foundation, approximately one-third of 1,4000 registered organizations are active, with the rest operating only sporadically. NGOs must establish the relations of authority and responsibility of their management structures in order to be legally registered. Information on NGO management is available in the Romanian and Russian languages. The Contact Center, registered in 1995 through a project of the Soros Foundation Moldova, provides assistance to local NGOs. The representatives of the Contact Center also serve as consultants and trainers for less developed organizations.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Financial stability and sustainability are the most serious concerns for most NGOs. Neither the government nor the private sector provides significant financial assistance to the not-for-profit sector. Most NGOs that have stopped operating have done so mainly because of a lack of funding. NGOs are required to pay their employees' personal income taxes, as the responsibility rests with the organization and not the individual employee, and they must also make payments into the Social Fund.

NGOs are required to disclose their revenue sources in their annual financial reports. There are no government procurement opportunities for non-profit providers of services. NGOs have the right to act as economic agents as long as the profit from their economic activities is used exclusively for their statuary goals.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Free trade unions operate throughout the agricultural, industrial, financial, and service sectors of the economy. All unions belong to the National Trade Union Federation, an umbrella organization, whose leadership tends to cooperate closely with the government and business management. While the majority of Moldova's workers and employers belong to trade unions. the number of people belonging to trade unions has declined in recent years because of growing unemployment and a decrease in the authority of trade unions. While there is no exact data available on the number of members of farmers' groups and small business associations, the membership of such groups is regarded as much smaller than that of trade unions.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Current legislation does not address the right of interest groups to participate in politics. Some business clubs, like Timpul, as well as cultural, religious, and war veterans' associations, occasionally attempt to act as interest groups. While these groups do not act illegally, their influence generally is minimal, as personal relations often play a greater role in influencing policy decisions.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
The public generally perceives the not-for-profit sector positively, largely because organizations active in the popular areas of environment protection, humanitarian aid, children and family care, education reform, and cultural development are visible to the public. Media coverage of NGOs focuses primarily on seminars or other activities organized by NGOs. The government is receptive to pressure from trade unions. Some professional associations, like the Writers' Union or the Association of Journalists, are active in Moldova's political scene, although they do not serve as interest groups representing exclusively one political viewpoint.

INDEPENDENT MEDIA 4.00/7

1. Are there legal protections for press freedom?
The constitution and the Law on the Press provide legal protections for press freedom.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
There are no legal penalties for libeling officials or for "irresponsible" journalism. A government official or private person who believes himself to be the victim of libel can seek and obtain compensation through the court system.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
The media are almost entirely privatized. Only the state-owned National TV and National Radio station and the newspapers *Moldova Suverna* (in Romanian) and *Nezavisimaya Moldova* (in Russian) are not privately owned. The major private media include the newspapers *Flux*, *Saptamina*, *Delovaia gazeta*, *Moldavskie vedomosti*; the independent television stations "NIT," "SunTV," and "Catalan TV"; and the radio stations "Antena C," "Radio d'Or," "Radio Contact," "Radio Nova," and "Micul Samaritan."

4. Are the private media financially viable?
The majority of private media rely on commercial and political advertising, and sometimes sponsorship, for their financial livelihood.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Most media are not fully editorially independent, as their newsgathering functions are directly affected by the interference of private owners or political organizations that provide financial sponsorship. Party newspapers such as *Dialog*, *Tsara*, and *Communist* are directly financed by political parties. Other papers, including *Flux*, *Saptamina*, *Tineretul Moldovei*, *Glasul Natiunii*, and *Moldovskie Vedomosti*, are affiliated with various political organizations and are financed by the publication of political and other advertisements.

6. Is the distribution system for newspapers privately or governmentally controlled?
The distribution system is largely controlled by the state owned company "Moldova Press" JSC, although private newspapers and journals may also use independent distribution facilities.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Seven percent of computer owners are connected to the Internet. There are no restrictions on Internet access to private citizens. One of the largest Internet service providers in the country, DNT Company, has about 30,000 clients. Data suggests that there are approximately 150,000 to 170,000 computer users in Moldova.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
The Journalists' Union is the primary association of professionals working in print media. Women constitute nearly half of all Union members. The Center for Independent Journalism, sponsored by the Soros Foundation, brings together young journalists.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Moldova "Partly Free" in 1994 and 1995, "Not Free" in 1996, and "Partly Free" from 1997 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.50/7

1. Is the legislature the effective rule-making institution?

Moldova's legislature is regarded as a relatively efficient rule-making institution. During a four-year period, the previous parliament adopted more than 2,000 laws and normative acts. Over 90 percent of draft laws introduced in parliament are presented by the government. While this creates a basis for cooperation between the executive and legislative branches, it also hinders the ability of parliament to limit the influence of business interests on various government ministries.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

A substantial decentralization of power occurred after territorial reforms were implemented. In 1998, parliament adopted the Law on the Administrative and Territorial Reform and the Law on Local Public Administration, which reduced the number of subnational units from the existing 40 rayons to 11 territorial units (judets and autonomous regions), effective July 1999. In mid-1999, parliament adopted the Law on Public Finance, which regulates the relationship between the central state and local budgets. Local authorities at the county and territorial level have the right to constitute local governments, to draft and adopt local budgets, and to administer their territories according to existing laws and without the involvement of central government representatives.

3. Are subnational officials chosen in free and fair elections?

Subnational officials are chosen in free and fair elections.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

The parliament and the government operate openly and transparently, and information about their activity is readily available to the media. Draft legislation, however, is not always accessible to the media and the public before being presented to the legislature.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipal governments have difficulty filling their budgets, raising local taxes, and carrying out their duties in general. Municipal governments control their local budgets, raise revenues autonomously, and have the right to receive payments and funds from the central budget. Most counties receive subsidies from the central budget based on their level of economic development. Certain areas, such as the more impoverished southern regions and those affected by natural disasters, receive more funds from the state budget.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The majority of elected local leaders and local civil servants lack the knowledge or expertise to manage municipal governments effectively. For example, in May 1999, approximately 80 percent of the mayors of municipalities, cities, and communes were elected for the first time. Special courses and training programs have been organized by the government through the Academy of Public Administration, the UNDP, and the Soros Foundation Moldova to improve the level of professionalism of local leaders and civil servants.

7. When did the constitutional/legislative changes on local power come into effect? Has there been a reform of the civil service code/system? Are local civil servants employees of the local or central government?

Reforms on local power began in 1998, and Moldova is still in the process of implementing these administrative reforms. The civil service code has been reformed. Local civil servants are employees of the local government. Only the officials of the prefectures, which represent the central government at the local level, are employees of the central government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.00/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
The first democratic constitution of the Republic of Moldova was adopted by parliament in 1994. The constitutional court was established at the same time to interpret and to enforce the law of the state. Over the past five years, however, there have been no judicial efforts to enforce the constitution. In 1998, the president launched an initiative to increase his power by changing constitutional provisions on presidential functions. A constitutional court decision that only parliament has the right to initiate a constitutional referendum effectively blocked the presidential initiative.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
The constitution provides for human rights, which include property and business rights.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?
Basic reform of the criminal code has been partially implemented. After Moldova signed the Human Rights Convention, a special governmental commission was established to develop the new criminal and civil codes, as well as their respective enforcement procedures. In the reformed code, judges authorize searches and issue warrants. Reports about suspects and prisoners being beaten appear occasionally in the local media. Excessive delays in the criminal justice system continue to be a serious problem.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
Most judges are not regarded as ruling fairly and impartially. The fact that they are appointed by parliament, rather than elected by the public, limits the opportunity for change in this area. The low salaries of judges (about US $100 per month) contributes to corruption in the judiciary. Few current judges remain from the Communist era.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The judiciary is free from direct political control by, but not from the influence of, government officials. Senior-level officials and parliamentarians can exercise pressure on judges regarding their rulings on certain cases. Courts are linked directly to the Ministry of Justice, which is responsible for the functioning of the judicial system, including logistics, remuneration, and staff.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
According to the Association of Lawyers of the Republic of Moldova, more than 90 percent of lawyers are in private practice, a number which has remained fairly steady during recent years. State and private institutions of higher education produce more than 1,000 new lawyers each year. Approximately 25 percent of lawyers and judges are women.

7. Does the state provide public defenders?
The state provides public defenders to those not able to afford an attorney.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Ethnic minority rights are formally protected by the constitution and in various international documents and agreements signed by Moldova as a member of the UN, the Council of Europe, and the OSCE. In the self-proclaimed republic of Transdniester, ethnic Moldovans are not able to learn in their native Romanian, with Russian language, history, and culture dominating the territory's educational system.

9. Are judicial decisions effectively enforced?
Judicial decisions are not effectively enforced.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption in the civil service is widespread and includes activities in which the state preserves its monopoly, including the registration of economic entities, licensing, and customs. However, the possibilities for civil servants to demand bribes from average citizens wishing to obtain a foreign passport, identity card, or driver's license is limited by the documents' already high price. An average citizen does not have to pay bribes to obtain most services, although many do so in order to receive services more quickly or easily. Because most of the national education system is private and state universities receive money from students based on signed contracts, corruption in this area has been reduced significantly. The average salary of mid-level civil servants is approximately US $40 per month (the minimal consumer basket is US $60 per month). A government minister's salary is approximately US $100 per month.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
The president, members of the government, and other top officials usually deny that they have direct ties with businesses. However, it is well known that various businesses sponsor election campaigns in order to advance their own political objectives. The civil service law creates the legal framework defining the public and private sectors, although ethical standards for boundaries between public and private sector activity are not often observed in practice. Frequent changes of government also result in the migration of state officials into private business.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
There are no specific laws that require financial disclosure or regulate conflicts of interest. Some widely publicized anticorruption cases were pursued in the courts, although most of the defendants were found not guilty. The acquittals were largely the result of the lack of experience of the secret service and of the special division of the Ministry of Internal Affairs dealing with such cases, which requires the presentation of reliable evidence in court. There are no special laws against racketeering, which is considered to be an ordinary criminal activity and prosecuted under existing laws. The executive and legislative bodies operate under the control of the Court of Accounts.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?
Some television stations and newspapers have studied the issue of corruption and concluded that most of the population views corruption as a major reason for Moldava's political, economic, and social problems.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
Over the past several years, the government has implemented no major anticorruption initiatives. In 1997, the government formed the special Unit for Struggle Against Organized Crime and Corruption, but its activity has been too politicized and has enjoyed little success. By presidential decree, 1998 was declared the year of fighting corruption. However, no leading government officials at the national or local level were prosecuted or investigated during the past year. In 1999, the government approved the State Program for Fighting Organized Crime, Corruption, and Protectionism.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
The results of a special study conducted by the mass media reveal growing public intolerance toward official corruption. However, anticorruption public-education efforts are severely inadequate.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Moldova was rated 75th out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 2.6 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 3.50/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
The size of the private sector has grown considerably over the past few years. As of mid-1999, the private sector accounted for approximately 60 percent of GDP, while mixed-property enterprises (private and state) produced another 10 percent. Approximately 66 percent of the labor force work in the private sector and 8 percent work in mixed private and state firms.

Since 1993, GDP figures compiled by the Department of Statistics have included an allowance for the shadow economy, which was estimated to account for 13 percent to 16 percent of official GDP during the period from 1993 through 1998. The IMF estimates that the size of the shadow economy is 29 percent of official GDP. According to another Moldovan source, the unofficial economy accounted for 34 percent to 36 percent of total GDP (official and unofficial) from 1993 through 1998 and 46 percent to 50 percent of official GDP. According to a group of Moldovan nongovernmental analysts, the shadow economy is even larger, comprising 60 percent to 65 percent of official GDP. These estimates suggest that the shadow economy is substantially larger than indicated by official statistics.

2. What major privatization legislation has been passed? What were its substantive features?
In 1991, parliament passed the Law on Privatization, and the use of a voucher model and "fast track" privatization process were adopted. Specifics of the Moldovan privatization program included the following: nominal bonds, distributed exclusively to Moldovan citizens, were not subject to trade; nominal values were determined according to an individual's employment record plus the equivalent of five years; and the bond entitled its bearers to a share of public property. The first mass privatization program, along with other related acts, was adopted in March 1993. In order to ensure equitable distribution, 50 percent of shares of processing enterprises were transferred to the main suppliers of raw agricultural products. The employees were allowed to purchase up to 20 percent of their enterprises' shares at preferable prices. USAID, TACIS, and Price Waterhouse provided assistance during various stages of the privatization process.

The second privatization program for 1995-1996 was adopted on May 5, 1995. The program outlined the extension of privatization, including the assets of state-owned enterprises, rented spaces, and adjacent territories; the elaboration of mechanisms for privatization (individual projects, public offerings); and the diversification of the means of payment. Nearly 100 laws and acts were elaborated, 115 centers for bond collection were established, and licenses for 53 investment funds and trust companies were issued. The program stipulated the privatization of 1,553 units, whose number increased to 2,065 as a result of the de-monopolization of some enterprises.

The third privatization program for 1997-1998 was adopted on July 25, 1997, and implemented on September 11. Among the objectives of the program were the modification of regulatory functions to create a favorable environment for entrepreneurship and the development of a capital market. However, the program was not adequately implemented because of financial crises in neighboring countries, a lack of interest by foreign investors, and contradictory interests of Moldovan businesses. In 1998, the government privatized less than 50 percent of the government-owned firms that it planned to privatize at the beginning of

the year. Parliament extended the program for two more years and introduced some amendments, including granting permission to sell bankrupt enterprises or unfinished construction projects for a symbolic price of 1 Moldovan leu and increasing the period of installment payments from three to five years.

During 1998 and the first half of 1999, 26 out of 102 large-scale enterprises to be privatized were sold through investment tenders. During the first 6 months of 1999, a total of 90 auctions for state property were organized and 54 items privatized. During this period, state property with a total value of 79 million lei (about $8 million) was sold, 30 percent more than during the same period in 1998. In December 1998, parliament passed a law aimed at privatizing the energy sector. In mid-1999, the long-awaited privatization of the public gas company Molovagaz took place. In July 1999, parliament passed a law that called for 51 percent of the shares of Moldtelecom, the national telecommunications operator, to be offered to a strategic investor. Currently, an international tender is under way to find a consultant to help the Competition Commission select potential buyers. Together with the IFC, the EBRD will help with the privatization of Moldtelecom by extending convertible loans and offering technical support. In the summer of 1999, the government took the preliminary steps toward privatizing the state-owned wine and tobacco enterprises. The privatization of telecommunications, wine, and tobacco production plants should be completed by the end of 2000.

Moldova made significant progress during 1998 and 1999 in breaking up and privatizing large-scale collective farms and in agricultural land reform. As of early 1998, about 30 large-scale farms were fully restructured. The third nationwide phase of the National Land Program, which received substantial financial and technical support from USAID and the World Bank, was launched in March 1998 and aims to complete the distribution of agricultural land titles to more than one million farmers in 2000. As of mid-1999, more than 900 state and collective farms out of 1,000 have been included in the program and are at various stages of the privatization process. The implementation of the National Land Program has been closely coordinated with a World Bank-supported project to create the National Cadastre. In mid-1999, parliament adopted a Law on Restructuring Agricultural Enterprises to make them easier to privatize, representing a major step toward fulfilling the National Land Program.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

The private sector generates 95 percent of total agricultural production and holds 82 percent of all agricultural land. The National Land Program focuses on creating new agricultural structures based on land titles, which should be received by more than one million village inhabitants. As of July 1999, local public administrations had received requests from 437,000 people requesting land plots to organize farms. Approximately 368,000 applicants have already received about 518,000 hectares of land in private ownership (out of 2,283,000 hectares of total agricultural land). Private farmers' share of total output is estimated to have reached approximately 60 percent.

As of early 1998, the private sector produced approximately 40 percent of total industrial output and employed 49 percent of industrial workers. The mixed-property enterprises employed 35 percent of industrial workers and produced 29 percent of industrial output. Housing privatization is almost complete, with approximately 91 percent of the country's housing now in private hands. Only seven percent of retail trade is public property. No more than 30 percent of building and assembly jobs are in the public sector. The private and mixed sectors account for 16 percent and 18 percent, respectively, of paid services.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Earlier voucher privatization programs entitled workers to receive 20 percent of the value of a privatized company in shares offered at preferential prices. Managers of the companies did not have, at least officially, any additional advantages, which in many cases led them to oppose privatization. Old and new nomenklatura are actively involved in the privatization of state property.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The population has a generally positive view of privatization, although this has been diminished recently. During mass privatization, 84 percent of vouchers were used by means of Privatization Investment Funds. In 1998, their dividends reached only 4 percent of the net assets worth, while the fee for managers amounted to 7 percent from net assets. The public receives considerable information on privatization issues both from the official government paper *Monitorul Oficial* and from the media. The information provided includes announcements from the Department of Privatization on tenders and discussions on the stage of privatization of various entities. Corruption and the influence of special interest groups are seen mostly in the key sectors of Moldova's economy—energy and agriculture (cereals, tobacco, and wine), as well as in the privatization of land plots and premises within city limits, especially in Chisinau, and in pharmaceutical products.

MACROECONOMIC POLICY 4.25/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?
Moldova's taxation system of is currently being restructured. Parliament has already approved three sections of the new Fiscal Code: general provisions, income tax, and value added tax. The remaining three sections are under discussion: excise tax, tax administration, and property tax. As of 1998, the new value-added tax was introduced in Moldova.

The tax rate for the basic government budget is 40 percent. The tax burden, calculated as a ratio of government tax revenues to official GDP, is 33 percent. The real tax burden for enterprises is in fact much greater—approximately 45 percent. For industry, the rate is 50 percent, for agriculture, 40 percent, and for construction, 38 percent. The heavy tax burden suppresses economic development and pushes many economic agents into the gray economy, reducing the tax base and aggravating the problem of budget deficits.

According to estimates of the Center for Strategic Studies and Reforms, a Moldovan NGO, tax evasion in Moldova increased from 4 percent of government revenues in 1994 to 32 percent in 1998. The average evasion increased from 14,000 thou lei per taxpayer in 1997 to 23,000 lei in 1998. In 1998, the Department of Financial Control and Revision enacted 8,085 controls, 10 percent less than in 1997. Revenue-collection agencies are overburdened, and agency workers receive extremely low salaries. In 1998, only 18 percent of legal entities were controlled.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?
Moldova's public finances deteriorated in 1998, mostly because of poor revenue collection. The budget revenue arrears increased by 522 million lei (6 percent of GDP). As of June 1, 1999, arrears to the government budget were 1,506.1 million lei—28 percent more than arrears registered at the beginning of the year.

By early 1999, arrears to the Social Insurance Budget were 451.6 million lei; as of May 1, these arrears reached 456 million lei. Pension arrears were 296.8 million lei at the beginning of 1999; as of May 1999 they had reached 348.5 million lei. The 1998 government budget cash deficit was 3.4 percent of GDP, a significant improvement over 1997. This improvement contrasts sharply with the deterioration in the balance of commitments. The deficit was 9.3 percent of GDP when the balance of commitments is taken into consideration. By the end of 1998, domestic expenditure arrears had reached 1,109 million lei (12.6 percent of GDP).

As of January 1999, the external state debt was $999.1 million or 61 percent of GDP; of that amount, $719.5 million is debt administered by the government, $176.4 million is debt owed to the International Monetary Fund, and $103.2 million are loans granted under the state guarantee. In 1998, budget subsidies for agriculture were 92 million lei or 3 percent of total state expenditures. The subsidies were allocated for the most part to the Ministry of Agriculture, irrigation, and viticulture. Within the 1998 budget, the transfers for price differences were 110 million lei or 3.6 percent of the total state budget expenditures.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The National Bank of Moldova (NBM) is independent from the government and reports to parliament. According to the law which established the NBM, the principal objective of the central bank is to maintain the stability of the national currency. In order to achieve this objective the NBM establishes and maintains monetary, credit, and exchange market conditions conducive to the orderly, balanced, and sustained economic development of the country and especially of the market-based financial and foreign exchange system.

Developments in the money and banking sector can be separated into two distinct periods. Through mid-1998, the pursuit of a restrained monetary policy, along with institution- building and monetary and banking reforms, had produced a sustained reduction in the inflation rate, a broadly stable market-determined exchange rate, and a strong demand for domestic financial assets. However, pressures were mounting because of budget deficits and increasing external debt and arrears. Thus, Moldova found itself in a vulnerable position when Russia experienced a financial crisis in August 1998. Despite vigorous NBM attempts to stabilize the situation, the demand for money fell, the demand for domestic financial assets collapsed, and the economy suffered a rapid dollarization.

Moldova's banking system consists of one state and 21 private banks. In 1992, the NBM put in place banking regulations to ensure the stable financial condition of banks and protect banking creditors and depositors. The NBM subsequently revised the regulations in March 1995, setting standards for the Moldovan banking system that were compatible with Basle provisions. The most important regulations included raising capital adequacy from 4 percent in 1996 to 10 percent in 1999, gradually moving to a level of 12 percent by 2000; classifying commercial banks' loan portfolios and compulsory risk provisions for covering losses in cases of the non-repayment of granted loans; monitoring loans greater than 10 percent of total capital; monitoring liquidity in the banking system on a daily basis; and limiting loans to affiliated persons and loans granted to a single client.

From January 1997, the NBM increased the minimal capital requirement to 8 million lei, or $1.7 million (in 1995 it was 1 million lei, or $230,000; from January 1996 it was set at 4 million lei, or $880,000). From the end of June 1999, the minimal capital requirement was 12 million lei, or approximately $1.1 million; from December 31, 1999, it will be set at 16 million lei. In May 1996, the banking system moved to an electronic settlement system, which now covers most current transactions. More than half of all commercial banks became members of SWIFT. Some banks have issued VISAs and other types of credit cards. As of January 1998, the Moldovan banking system began to implement international accounting standards. To protect depositors, the Law on Financial Institutions established that the payment of individual deposits will be a priority if a bank is liquidated. In this context, the National Bank prepared a draft law that would insure householders' deposits. However, the draft has a number of drawbacks, creating difficulties in establishing a deposit insurance fund, especially given the present financial situation of Moldova's banking system.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Moldova introduced its national currency, the Moldovan leu (MDL), in November 1993. The initial exchange rate of the leu was set at 3.85 lei per 1 US dollar. Later, the Moldovan Interbank Currency Exchange fixed the official rate. Moldova had a managed floating exchange rate regime, with the NBM intervening to achieve its monetary policy objectives by reducing major fluctuations in the exchange rate.

With the introduction of the Moldovan leu, a tight monetary policy, supported by the IMF, was implemented, which proved to be one of the most successful in the former Soviet Union. The leu was remarkably stable, and the yearly nominal depreciation index was 14.8 percent in 1994, 5.1 percent in 1995, 3.2 percent in 1996, and 0.2 percent in 1997. With the introduction of the national currency, restrictions on forex transactions were eliminated. After the NBM accepted Article VIII of the IMF Articles of Agreement in June 1995, the Moldovan leu became *de jure* convertible for current account operations and for some capital ac-

count operations. The gross foreign exchange reserves of the NBM have been increasing continuously, from almost zero at the end of 1992 to $366 million at the end of 1997.

The rate of inflation decreased sharply in the mid- to late 1990s. Annual inflation was higher than 2,000 percent in 1993, falling to 105 percent in late 1994, 23.8 percent in 1995, 15.1 percent in 1996, and 11.2 percent in 1997. In 1998, the inflation rate dropped further, and with four months of deflation, the rate was only 0.97 percent for the period of January through October. However, with the depreciation of the leu, inflation increased, so that the rate for 1998 as a whole reached 18.3 percent. In 1998, the NBM tried to maintain the exchange rate through interventions in the foreign-exchange market. Until November 1998, the leu was maintained at an artificially high level, causing a negative impact on the stock of international reserves.

Even before the August 1998 Russian financial crisis, massive sales of hard currency occurred on the Interbank Foreign Exchange market. For the first time since the introduction of the national currency, the NBM's net transactions at the Bourse were negative for seven months (from January to July 1998). During this period, the NBM's sales exceeded by $41 million the total amount bought on the market. Moreover, even after the crisis, the NBM intervened to defend the leu: between August and October 1998, the NBM sold all but $81 million of its reserves. Gross NBM foreign exchange reserves dropped $222 million (including dept-service payments) to $144 million by the end of 1998.

In November 1998, the NBM decided to stop selling hard currency, allowing commercial banks to determine the exchange rate. As a result, the national currency depreciated sharply from 6.40 lei to the dollar (November 1) to 9.71 lei to the dollar on December 1, 1998. The exchange rate then became relatively stable, thanks primarily to the NBM's strong enforcement of reserve requirements. Moreover, the leu had a slight appreciation (8.32 lei to the dollar on January 1, 1999) and the NBM managed to buy $16 million in the market. Depreciation resumed, but at a slow pace. By the end of March 1999, the exchange rate was 9.16 lei to the dollar, representing a new market equilibrium.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The capital market in Moldova is still under development and does not play a significant role in the economy. The Moldovan Stock Exchange, equipped with electronic trading places, was established in June 1995 with the help of USAID advisers. The volume of trade on the exchange registered $2.5 million in 1996, $38.1 million in 1997, $52.6 million in 1998, and $19.9 million in the first half of 1999. There are over 900 companies registered with the Stock Exchange, although only 62 of them meet one of the three listing requirements. In June 1998, the procedure for calculating market capitalization was modified in order to meet Western standards. Market capitalization as of January 1999 totaled $35.9 million, compared with $805.9 million as of June 1998.

The establishment of commodity exchanges has not been widespread, although the legislative framework has been put in place. The Law on Lease was adopted in 1996, but its mechanism was not well defined. Combined with excessively high bank credit rates, the law did not lead to a rapid development of the sector. Amendments to the Law on Collateral were introduced in April 1999, a move which is expected to spur lending.

The National Commission on Securities regulates capital markets and their participants: the independent registrars, the investment funds, trust companies, brokers, and the national depositary. The spring 1999 amendments to the Law on the National Commission on Securities are expected to improve the activities of securities markets.

The major problems of the capital market are insufficient liquidity of the market, low transparency of operations, a lack of confidence in the population toward the capital market's mechanisms, undercapitalization of commercial banks, inefficient corporate governance, and a lack of a unique price-forming mechanism. Possible solutions include the improvement of the legislative framework and its alignment to EU standards, the implementation of a rating system and of a comprehensive stock index, the introduction of a fiscal policy stimulating long-term savings and life-insurance, increased transparency, the protection of consumer rights, and the establishment of a deposit insurance corporation.

MICROECONOMIC POLICY 4.25/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Property rights are explicitly protected by the Moldovan Constitution, which guarantees fair market-price compensation for government expropriation of private land. Real estate property is de facto protected by the state. The Moldovan parliament adopted a law protecting intellectual property rights in 1995 and recently ratified six key international agreements on intellectual property. However, inadequate enforcement of intellectual property rights legislation remains a major problem.

A 1998 law created cadastre offices to register all types of real estate property. At present, the regional cadastre offices have been set up to register land titles (including both agricultural and non-agricultural land), real estate, and transactions. No government seizures of property have taken place in Moldova, except to repay debt owed to the government budget.

2. To what extent have prices been liberalized? What subsidies remain?

All prices on goods and services have been liberalized. Energy prices were liberalized in 1998 and their control is carried out by the National Agency for Energy Regulation. Direct subsidies to the agricultural sector continue, particularly through non-cash support. Crop production, gardening, and livestock are exempt from value-added taxes.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Laws allowing for the establishment and operation of businesses include the Law on Property (1991), the Law on Enterprises and Entrepreneurship (1992), the Law on Joint-Stock Companies (1997), the Law on Foreign Investments (1992), the Law on Restrictions on Monopolistic Activities and Development of Competition (1992), and the Law on Bankruptcy (1996). There are no impediments to citizens obtaining information on commercial legislation. However, because regulations are often unclear and non-transparent, they are not enforced efficiently and have contributed to an increase in corruption.

Disputes between economic agents are settled in the Economic Court. In March 1999, parliament adopted amendments to Moldova's bankruptcy law, simplifying and speeding up the bankruptcy procedure. Moldova's extensive bureaucracy stems from the government's continuing desire to regulate various spheres of economic activity.

There are no significant barriers to entry that seriously hamper competition. The 1999 Law on Licensing establishes licensing requirements for 106 kinds of activity. Twenty-one public administration agencies and the mayoralties of municipalities, cities, and villages all issue such licenses. Though licensing creates some barriers to entrepreneurship, the number of licensed types of activities is constantly decreasing. The registration of new enterprises usually takes between two and three weeks.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The court system, including the execution of courts' decisions, is extremely inefficient and non-transparent. Property and contract disputes are usually heard in the economic courts, and, at least in large cities, last on average six months; some cases, however, may last for several years. Disputants have the right to appeal judgments.

Thus far, seven commercial banks have gone bankrupt. During the "Intreprinzbank" investigation, 137 legal actions were launched from April to June 1997, out of which only 5 were finalized. The courts made decisions on the reimbursement of 41.4 million lei

in bank debts, but executors have yet to recover any compensation.

Important judgments are not usually published, the judicial review of administrative actions is not yet established, and there are no specialized bankruptcy courts. Under these circumstances, certain enterprises often resort to private coercive methods in order to settle their contract disputes.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Anti-monopoly legislation was adopted in 1992, but the protection of open competition and limiting of monopolies has been largely ineffective in practice. The draft of a new Law on the Protection of Competition has already been approved by parliament. A four-person Department of Anti-Monopolistic Activity and Protection of Competition operates within the Ministry of Economy and Reforms. The government has established an agency to procure, through open tenders, coal, black oil, and other products for public consumption.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Moldova has a liberal trade regime with a low import tax (6.8 percent in 1997, 4.3 percent in 1998, 4.2 percent 1999, and 8.8 percent in the offer to join the WTO). There are no export taxes, quantitative restrictions, or licensing on export and import transactions (excluding fuel, alcoholic drinks, and cigarettes). The custom user fee is 0.25 percent of the custom value of imported or exported products. At present, Moldova estimates custom fees according to international standards and WTO requirements. There are no significant informal trade barriers.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Foreign direct investment remains low, with a cumulative total of $342 million by the end of 1998 (including $86 million in 1998), a mere $95 per capita. In the first half of 1999, foreign direct investment totaled only $9 million because of the country's unfavorable investment climate. In 1998, the balance of payments deficit was slightly more than $50 million, compared to $400 million in 1997. In 1998, the portfolio investment became negative ($58 million) for the first time, including the full repayment of Moldova's first Eurobond, issued in 1996 ($30 million), as well as repayment of $41 million on domestic T-Bills. Medium and long-term loans added up to $80 million, the lowest total in five years.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

The former state electric utility monopoly, Moldenergo, was broken into nine separate firms specializing in generation, distribution, and transmission activities. The electricity distribution companies were privatized first, followed by the heat and power production plants. The privatization tender provides for a complete transfer of shares in the distribution companies. The controlling portfolio of the privatized heat and power production plants will be determined by the auction committee, but will not be less than 50 percent, plus one share of the total shareholders' portfolio of these companies. The privatization of distribution companies, as well as that of the generation companies, should be completed in 2000.

In the summer of 1999, the government announced an open international tender for the privatization of the electricity distribution companies. The investment bank Credit Commercial de France has been contracted as a privatization advisor for the five distribution companies. It has determined the necessary documents and compiled detailed information for possible applicants. To cover as broad a circle of investors as possible, the Department of Privatization and State Property Administration gave presentations in London and Washington on the privatization of these enterprises. Of the nine companies which applied for the preliminary selection, eight firms were admitted: Cinergy and AES (both US firms), EdF Saur (France), ESB International (Ireland), Union Fenosa (Spain), RAO EES (Russia), ABB (Switzerland), LuganskOblEnergo

(Ukraine). The EBRD is ready to invest $10 million for the restructuring of the Moldovan energy system in order to attract more investors.

The Russian gas supplier, Gazprom, took a majority stake in Moldovagaz and assumed responsibility for operations and collections of all future gas deliveries. Moldovagaz was registered on May 25, 1999. Moldova holds 36 percent of the shares, Gazprom, 50 percent plus one share, and the Tiraspol administration, 14 percent. An important component of the project is the privatization of the state fuel company Tirex-Petrol, whose individual privatization and debt-restructuring plan were recently approved by the parliament; the company is to be sold soon.

Moldova relies almost exclusively on imports for its energy sources; only 4 percent to 5 percent of its supply originates domestically. The Moldovan Power Station, the country's main electricity generating station, is located in Transnistia. While diesel and gasoline imports are relatively diversified (coming from Romania, Russia, and Belarus), the Russian firm Gazprom still dominates gas imports. There have been recent efforts to develop indigenous supplies of gas and oil. The US firm Redeco, for example, has a 20-year concession to explore for oil deposits in southwest Moldova. Private fuel importers now account for 80 percent of diesel and gasoline imports.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The national workforce, excluding Transdniester, includes 1,625,000 employed, 633,000 unemployed, and 1,659,000 economically active (45.4 percent of the total population). The official unemployment rate in 1998 was 3.75 percent. However, the unofficial unemployment rate calculated according to the ILO was 9.4 percent, with 11.4 percent for men and 7.3 percent for women.

Full unemployment compensation is extended for a maximum of nine months. Other benefits are extended for 20 months: one and a half times the minimum wage (27 lei, or US$ 5, hereinafter monthly figures) is offered to high school graduates, graduates of specialized schools, and individuals released from the penitentiary system; twice the minimum wage (36 lei, or US$ 6.6) is offered to university graduates, persons released from the army, women with children 14 or younger, persons having invalidity certificates of the II and III degree; 50 per cent of the average salary for the previous year goes to unemployed persons with less than 10 years of work experience; 55 per cent of the average salary for the previous year goes to unemployed persons with 10 to 15 years of work experience; and 60 per cent of the average salary for the previous year goes to unemployed persons having 15 years or more of work experience. Unemployment compensation diminishes every three months by 15 percent. The monthly unemployment benefit is 79.5 lei, or US$ 14.7, representing 31.7 percent of the average monthly wage.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The current pension scheme in Moldova is a publicly managed "pay-as-you-go" benefit system based on intergenerational transfers and the solidarity principle. There are no privately operated pension schemes, though a law on non-state pension funds was enacted in March 1999.

At present, the pension system covers approximately 758,000 citizens, accounting for one-fifth of the population. Of this total, some 560,400 benefit from old age-pensions (of these 150,900 are privileged pensions);

109,200 are pensions for invalids; 40,600 are pensions for loss of a breadwinner (or a descendant's pension); 39,300 are social pensions; and 8,500 are military pensions. The retirement age is 60 for men and 55 for women. The new Law On State Pension Insurance, enacted in October 1998, envisages gradually extending the statutory retirement age to 65 for men and 60 for women. The average retirement benefit in 1998 was 83.9 lei per month, representing 33.5 percent of the average wage in the national economy.

Though the range of social privileges is narrowing, there is a system of special benefits for disabled people, war veterans, and Chernobyl victims. These benefits relate to public transportation facilities, medicines, and communal service subsidies.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The country's average monthly income in local currency and dollar equivalents, respectively, was 108.4 MDL and $26.63 in 1994; 143.2 MDL and $31.82 in 1995; 187.1 MDL and $40.67 in 1996; 219.8 MDL and $47.78 in 1997; and 150 MDL and $27.78 in 1998.

As of January 1997, wage arrears totaled 360.1 million lei, of which 163 million lei were in agriculture, 41.9 million lei in industry, 18.6 million lei in construction, 14.3 million lei in public administration, 52.8 million lei in education, and 32.4 million lei in the health care field. By January 1998, total wage arrears had increased slightly to 362.6 million lei, with arrears of 183.6 million lei in agriculture, 43 million lei in industry, 19.2 million lei in construction, 23 million lei in public administration, 30.1 million lei in education, and 17.5 million lei in the health care sector. Total arrears increased dramatically by January 1999, to 638.6 million lei. Arrears grew in each of the sectors described above, to 217.8 million lei in agriculture, 65.3 million lei in industry, 29.3 million lei in construction, 86.3 million lei in public administration, 89.1 million lei in education, and 55.9 million lei in the health care field. During the first 11 months of 1998, wage arrears covered in-kind amounted to 226.6 million lei, including 4.6 million lei to public servants. Approximately 35 percent of pension payments from the Social Fund were paid in-kind. In more than 80 percent of private sector enterprises, wages are paid on time. In the other 20 percent, salary arrears generally last for less than three months.

The monthly incomes of men and women, respectively, were 374.59 lei and 327.43 lei for those who had completed higher education, and 232.89 lei and 171.67 lei for those with a secondary school education.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The annual size of the elementary, secondary, and post-secondary education school population increased from the period of 1993-1994 through 1997-1998. The elementary school population rose from 9,800 in 1993-1994 to 11,600 in 1994-1995, 14,000 in 1995-1996, 18,300 in 1996-1997, and 18,300 in 1997-1998. The secondary school population increased from 611,000 in 1993-1994 to 618,200 in 1994-1995, 628,800 in 1995-1996, 631,200 in 1996-1997, and 634,400 in 1997-1998. At the post-secondary level, enrollment grew from 46,900 in 1993-1994 to 49,400 in 1994-1995, 54,800 in 1995-1996, 58,300 in 1996-1997, and 65,600 in 1997-1998. The proportion of 8-18 year olds enrolled in Moldova's educational system remained steady at 99.5 percent in 1995-1996 and 1996-1997, and 99.6 percent in 1997-1998.

The national student to teacher ratio at the secondary school level increased overall from 6.1 in 1993-1994 to 13.2 in 1994-1995, 13.5 in 1995-1996, and 14 in both 1996-1997 and 1997-1998. At the post-secondary level, these figures were 10.6 in 1993-1994, 12.3 in 1994-1995, 12.7 in 1995-1996, 13.2 in 1996-

1997, and 14.2 in 1997-1998. The proportion of GDP spent by the state on education increased from 7.3 percent in 1993-1994 to 8.6 percent in 1994-1995 and 9.2 percent in 1995-1996, before decreasing to 8.6 percent in 1996-1997, 8.2 percent in 1997-1998, and 7.3 percent in 1998-1999.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Infant mortality rates (per thousand live births) grew slightly from 21.5 in 1993 to 22.6 in 1994, and then declined to 21.2 in 1995, 20.2 in 1996, 19.9 in 1997, and 17.8 in 1998. The birth rate decreased from 13.0 in 1995 to 12.0 in 1996, 11.9 in 1997, and 10.9 in 1998. Life expectancy rates remained fairly steady at 67.5 in 1993, 66.1 in 1994, 65.8 in 1995, 66.7 in 1996, 66.6 in 1997, and 67.0 in 1998. The life expectancy rates for men and women, respectively, were 64.3 and 71.1 in 1994, 61.8 and 69.7 in 1995, 62.9 and 70.4 in 1996, 62.9 and 70.3 in 1997, and 63.2 and 70.7 in 1998. The divorce rate was 3.2 in 1994, 3.4 in 1995, 3.1 in both 1996 and 1997, and 3.0 in 1998. The country's suicide rate (per 100,000 people) was 16.87 per in 1993, 17.86 in 1994, 18.22 in 1995, 17.86 in 1996, and 17.13 in 1997.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

The ratio of doctors and nurses, respectively, to the population was 251 and 90 in 1993, 249 and 92 in 1994, 252 and 96 in 1995, 250 and 100 in 1996, and 249 and 102 in 1997. The number of hospital beds per 10,000 inhabitants and the number of inhabitants per hospital bed, respectively, were 122.3 and 82 in 1995, 121.4 and 82 in 1996, 116.4 and 86 in 1997, and 112.4 and 89 in1998. The percentage of GDP devoted to health care increased from 15.8 percent in 1995 to 18.4 percent in 1996, and then declined to 14.9 percent in 1997 and 13.0 percent in 1998.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

There is no official poverty threshold because there is no legal framework for minimum living standards. Poverty is estimated based on household budget survey data. According to the Ministry of Economy and Reforms, the absolute poverty line in 1998 was 75.6 lei per month per person. A 1999 World Bank study estimated the absolute poverty line at 82.5 lei per month rate, which meant that 46 percent of the total population was living in poverty.

Rural poverty is 1.3 times higher than in urban centers. Data also indicate that families with dependent children are at a higher risk for poverty, as are unskilled laborers and the elderly. Women have a lower incidence of poverty than men, although this pattern reverses among the elderly.

There is a dramatic polarization of the population based on income criteria: 20 percent of the poorest people have only 3.4 percent of total income, while 20 percent of the wealthiest have 50.3 percent of total income.

MONGOLIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist (transitional)
Population: 2,400,000
PPP (USD): 1,310
Capital: Ulaanbaatar
Ethnic Groups Mongol (90 percent), Kazakh (4 percent), Chinese (2 percent), Russian (2 percent), other (2 percent)
Size of private sector as % of GDP (1998): 60

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	na	3.25	↑3.13
Rule of Law	na	na	3.75
Economic Liberalization	na	4.00	↑3.92

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	260.0	284.0	388.0	386.0	400.0	434.0	391.0
Real GDP growth (% change on previous year)	-3.0	2.3	6.3	2.6	4.0	3.5	3.5
Inflation rate	268.4	87.6	56.8	46.7	36.8	9.4	9.0
Exports (USD millions)	392.6	415.6	511.3	481.0	516.0	345.3	335.6
Imports (USD millions)	432.4	447.0	549.5	571.0	562.0	203.4	425.8
Foreign Direct Investment (USD millions)	7.7	6.9	9.8	5.0	7.0	na	na
Unemployment rate	na	8.7	5.4	6.5	7.5	5.8	na
Life Expectancy (years)	64.4	64.4	64.8	63.9	65.8	65.5	61.8

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	7	4	2	3	2	2	2	2	2	2	2
Civil Liberties	7	4	3	2	3	3	3	3	3	3	3
Status	NF	PF	F	F	F	F	F	F	F	F	F

Introduction

China controlled this vast Central Asian steppe and mountain region for more than two centuries until the overthrow of the Qing dynasty in 1911, and then again from 1919 to 1921, when Soviet-backed Marxists successfully rebelled against Chinese rule. Following three years of nominal rule by Buddhist lamas, the Mongolian People's Revolutionary Party (MPRP) formed a single-party Communist state in 1924. For the next 65 years, the Soviet Union controlled Mongolia's politics and economy. In December 1989, a group of academics and students defied the regime by forming the opposition Mongolian Democratic Union (MDU). In early 1990, the MDU formed the country's first opposition political party, the Mongolian Democratic Party. The government amended the constitution in May 1990 to end the MPRP's status as the sole legal political party following a series of MDU-organized street protests and hunger strikes.

Mongolia held multiparty legislative elections in 1992 and 1996, and multiparty presidential elections in 1993 and 1997. Incumbents lost power in the 1996 legislative elections, and in both presidential elections. Legislative elections are due to be held by June 2000.

The MPRP lost parliamentary power for the first time in 72 years in the 1996 legislative elections. The new government overhauled the tax code, decontrolled prices, and accelerated the privatization process. By mid-1999, the government had privatized nearly all small-scale and medium-size enterprises and had made progress toward its goal of selling off 60 percent of large state enterprises by the end of 2000. Mongolia's economy is heavily dependent on raw material exports and thus is vulnerable to external shocks. Falling world commodity prices and the regional financial crisis that began in 1997 contributed to sharply lower export revenues, an increase in the fiscal deficit, and a further deterioration of an already weak banking system.

Democratization

POLITICAL PROCESS 2.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

In Mongolia's first post-Communist legislative elections in July 1990, the MPRP took 357 of 430 seats in the Great *Hural* (parliament) against an unprepared, under-funded opposition. The MPRP also captured 33 of 53 seats in a newly-created Little Hural elected by party preference balloting.

The 1992 post-Communist constitution created a unicameral 76-member parliament. In the June 1992 legislative elections, which featured a 91 percent voter turnout, the MPRP won 70 seats; the reform-oriented Democratic Coalition, 4; the Western European-influenced Social Democratic Party, 1; and an MPRP-affiliated independent, 1. Despite winning few seats under the first-past-the-post system, the opposition won a credible 43 percent of the popular vote. The U.S.-based International Republican Institute noted that the electoral districts favored the rural areas, where the MPRP drew its bedrock support, and that the MPRP enjoyed ample funding, control over printing equipment and newsprint, and sufficient stocks of gasoline to campaign in the vast countryside.

In March 1996, the two leading parties in the opposition Democratic Coalition—the Mongolian National Democratic Party (NDP) and the Mongolian Social Democratic Party (SDP)— led the formation of a new, four-party opposition Democratic Union Coalition (DUC). The DUC ran a well-organized, issues-oriented campaign during Mongolia's second multiparty legislative elections in June 1996. With a 91 percent turnout, years amid a severe energy crisis, rising prices, and high unemployment, the DUC captured 50 seats to sweep the MPRP from parliamentary power for the first time in 72 years. The MPRP won 25 seats. The International Republican Institute reported that the main opposition parties had made considerable progress in closing the gap on the MPRP in terms of access to the media and resources. This was despite the fact that, earlier in the year, the MPRP-led government had changed the electoral law to provide public funds to the election campaigns of existing parties in proportion to the number of parliamentary seats each held. The MPRP received nearly 92 percent of the funds under this system.

In mid-1996, the constitutional court ruled that MPs could not hold cabinet positions. Following the June 1996 parliamentary elections, Premier Mendsaihan Enkhsaikhan of the SDP complied with the court ruling by forming a government composed of technocrats rather than MPs. In April 1998, a parliamentary resolution laid the groundwork for MPs to hold cabinet positions. The NDP, the larger of the two main coalition partners and an advocate of slower

reforms, forced Enksaikhan's government to resign and installed one of its own members, Tsakhiagiin Elbegdorj, as premier. In July, parliament ousted Elbegdorj's three-month-old government over allegations that the government had sold off a bankrupt state bank to cover up corrupt transactions. In the ensuing months, president Bagabandy exercised his constitutional power to reject several replacement candidates nominated by parliament.

On October 2, 1998, parliament nominated Sanjaasuren Zorig, the leading figure in the 1990 pro-democracy movement, to be prime minister. Bagabandy approved the nomination. The same day, unknown assailants murdered Zorig in his Ulaanbaatar apartment. On December 9, parliament confirmed Bagabandy's nomination of Janlavin Naran–tsatsralt, the Ulaanbaatar mayor, as premier.

2. When did presidential elections occur? Were they free and fair?

In 1990, an MPRP-dominated parliament appointed Punsalmaagiyn Orchirbat to the newly created post of state president for what was expected to be a five-year term. However, the 1992 constitution called for the president to be directly-elected for a four-year term, necessitating Mongolia's first direct, multiparty presidential election in 1993. The constitution gave the president the power to veto parliamentary decisions (subject to two-thirds override) and nominate the prime minister in consultation with the largest party or coalition in parliament. The president also serves as commander-in-chief of the armed forces.

In April 1993, the MPRP dropped Orchirbat as its candidate for the upcoming presidential election in favor of Lodongiyn Tudev, the hardline-Communist editor of the party organ *Unen* (Truth). The opposition Democratic Coalition subsequently named Orchirbat as its candidate. In the June 1993 election, held with a 90 percent turnout, Orchirbat won 57.8 percent of the vote to defeat Tudev, who won 38.7 percent.

Some 85 percent of registered voters turned out for the country's second multi-party presidential elections on May 18, 1997. The MPRP's Nachagyn Bagabandy, a former parliamentary chairman, won 60.8 percent of the vote against Orchirbat's 29.8 percent in the context of widespread voter concern over hardships caused by the DUC government's free market reforms. Zhambyn Gombozad, the candidate of the small Mongolian Traditional Unification Party, won the remainder. Both the 1993 and 1997 presidential elections were free and fair, and each resulted in a decisive opposition victory.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

There are at least two viable political parties at all levels of government. In 1996, the MPRP-controlled parliament defeated an electoral reform bill that would have replaced the first-past-the-post system with proportional representation in legislative elections. Parliament also amended the electoral law to transform the 26 multi-member constituencies into 76 single-seat districts. The majoritarian, single-member system has made it difficult for small parties to win seats. Only four parties won seats in the 1996 parliamentary elections.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Mongolia has 17 registered political parties. Eleven parties contested the June 1996 parliamentary elections and four won seats. The government has not banned any political parties.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Although voter turnout has been high in post-Communist elections, few Mongolians belong to political parties. In a country with 1.15 million eligible voters, even the largest parties have only several thousand members. There are no data on the proportion of party membership made up of women. However, female representation in politics is low. As of the end of 1998, women held just 8 of 76 seats in parliament. In December 1998, parliament approved the appointment of the first female foreign minister, but overall, few women hold senior government positions. Several female-based NGOs have actively campaigned for greater female representation in politics.

6. What has been the trend of voter turnout at municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Voter turnouts for parliamentary elections were 91 percent in 1992 and 91 percent in 1996. The 1993 and 1997 presidential elections had turnouts of 90 percent and 85 percent, respectively. Turnout has been high even though most rural voters had to travel considerable distances to reach a polling station. Local election turnouts are considerably lower, with a high of 64.2 percent in 1996. Although no data is available on the proportion of voters who are female, the high overall turnout for national elections suggests that women vote in considerable numbers.

CIVIL SOCIETY 3.25/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Mongolians have formed dozens of NGOs in recent years, including some charitable organizations. NGOs work in a range of areas, including public policy advocacy, democratic governance, voter education, legal advocacy, gender equity, human rights, and social welfare. Few NGOs are working directly to increase philanthropy and volunteerism.

There is no precise data on the proportion of the population that is active in private voluntary activity. Given the difficulties in coordinating private activity in a large, sparsely-populated country with poor communications systems, and the economic hardship that characterizes daily life for most Mongolians, it is likely that only a relatively small number of people are involved in NGO activities. According to the United States Department of State, at the end of 1998 Mongolia had approximately 36 female-based NGOs working on maternal and children's health care, domestic violence, equal opportunity, and related issues. Other female-led NGOs worked to increase the role of women in administrative and policy making positions and to influence public policy on women's issues. For example, the Women's Federation, an NGO with branches in all of the *aimag* (provincial) capitals, played a key role in placing micro-credit schemes and other women's development programs on the government's poverty alleviation agenda. The Women for Social Progress Movement, which is also represented throughout the country, implemented a highly successful voter-education project between 1994 and 1997. It has continued to conduct research, monitor government performance, and carry out public education programs on democratic governance, gender equity, and other issues.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The NGO registration process is relatively straightforward. The legal and regulatory systems are generally favorable toward civic groups. NGO activity involving legal issues usually involves educating citizens about their rights rather than trying to improve the legal and regulatory environment.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The organizational capacity of NGOs is limited. Most NGOs operate with relatively small staffs, and only a few, such as the Women's Federation, have more than a local presence. Most NGOs have a board of directors, and their staffs often include an executive director, a program coordinator, and a public relations officer. There is a small, but growing, body of literature on NGO management issues in the Mongolian language. Foreign NGOs have provided considerable expertise and training to their Mongolian counterparts. Only a few NGOs have the resources to serve as consultants or mentors to less-developed organizations. The Ulaanbaatar-based Liberal Women's Brain Pool (LEOS) is running an NGO Capacity Building and Institution Project supported by the Washington-based National Endowment for Democracy. LEOS and several other NGOs also conduct training-for-trainers seminars on women in development and other issues. In 1998, an NGO called the Center for Citizenship Education began a program to educate NGOs about their legal status, conduct management workshops, and provide manuals, handbooks, and information to other NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs are not financially viable, and depend in large part on foreign support. By law, NGOs are tax-exempt. There are no specific barriers to government procurement opportunities for NGOs although, overall, procurement procedures in Mongolia are often complex and opaque. NGOs are permitted to earn income and collect cost-recovery fees. Many earn rev-

enue by teaching sewing, typing, or other skills at below-market rates.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmer's groups, small business associations, etc.?
The constitution guarantees workers the right to join independent trade unions. In practice, unions are free from government control. Workers have the right to strike, except for those in industries that the government defines as essential, such as law enforcement and transportation. Collective bargaining is also legal, but in practice employers usually set wages.

Union officials estimate that more than 400,000 workers belong to trade unions, or about half the workforce. This figure is decreasing as large state enterprises are phased out and more workers become self-employed or work at small, non-unionized firms. The largest federation is the Mongolian Trade Unions Confederation. The Association of Free Trade Unions is also relatively strong. The Mongolian Trade and Industry Promotion Agency and other associations represent small businesses.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
There are no legal restrictions on the participation of interest groups in politics. In recent years student groups participated in the political process through public demonstrations, hunger strikes, petitions, and media appearances. NGOs are also involved in politics through lobbying, voter education campaigns, distribution of party manifestos, and occasional public opinion polling. Female-led NGOs have placed numerous issues on the policy agenda and have sought to increase female participation in politics. Nevertheless, after centuries of feudalism and seven decades of Soviet-style governance, the idea that ordinary people can participate in politics is novel. Moreover, because of the country's limited communications systems and low population density, grassroots activism is particularly difficult and expensive to organize.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
While it is difficult to measure public attitudes toward NGOs in Mongolia, there is little evidence of any negative attitudes or hostility toward civic groups. Moreover, the public has reacted positively to the work of many individual NGOs. For example, polls showed that 20 percent of the electorate reported benefiting from the 1996 pre-election civic education programs of the Ulaanbaatar-based Women for Social Progress organization. Some old-style politicians are suspicious of the growing influence of NGOs but, in general, politicians and government officials tolerate and are often receptive to NGO activity. NGOs actively use radio to deliver their messages, and newspapers often carry materials prepared by NGOs. The 1993 Law on the Government of Mongolia directs the government to cooperate with NGOs on the protection of human rights, although in practice there is little formal cooperation in this area.

INDEPENDENT MEDIA 3.00/7

1. Are there legal protections for press freedom?
The Constitution guarantees freedoms of press, speech, and expression. The government respects these freedoms in practice. In 1998, parliament adopted a media law that bans censorship of parliamentary legislation and publicly-available information, and also bans future legislation that would limit the freedom to publish and broadcast.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Under Mongolia's libel laws, it is relatively easy for public officials and other plaintiffs to prove harm. Journalists must pay costs even if they win a lawsuit. There are no legal penalties for "irresponsible" journalism. Since 1990, the government has not used the courts to harass journalists.

3. What proportion of the media is privatized? What are the major private newspapers, television stations, and radio stations?
In January 1999, a law came into effect banning state ownership of the print media. The government declared its two daily newspapers, *People's Right* and *Government News,* to be nominally independent pending their actual sale. The law

also required the new owners of former state-owned newspapers to change the papers' names for at least five years. In February 1999, a court sided with an association of independent publishers in ruling that while the larger of the two state-run dailies, the former *People's Right*, had changed its name to comply with the letter of the law, it had illegally solicited subscriptions and advertising using the *People's Right* name. By mid-1999, the government had still not sold the two state-owned daily newspapers.

In early 1999, Mongolia had 648 registered newspapers and periodicals, most of them private. Because of funding constraints, however, most publish irregularly and infrequently. Most political parties have at least one newspaper, although few parties have the resources to distribute their papers widely.

The 1999 media law required that state-owned television, radio, and wire services be pooled under a self-funding national public broadcasting system. By mid-1999, parliament had not decided how to implement the law. The state-owned Mongolian Radio is the most important source of information in rural areas, although private radio services are also available. The state-owned Mongolian Television runs the largest television service, although private operators also run several smaller stations. Several private companies offer cable television in Ulaanbaatar. Mongolians can also access foreign services via commercial satellite and cable television systems.

4. Are the private media financially viable?

Hundreds of private newspapers emerged following the 1990 democratic revolution, although most lacked proper funding and folded. Until the mid-1990s, most newspapers generally bartered goods for newsprint. Nearly all had to rent printing capacity, when available, from a sole, aging, government-owned press housed in the building of the then-ruling MPRP's daily newspaper in Ulaanbaatar. All newspapers now buy newsprint directly from private vendors, and supply is no longer a problem. However, most newspapers lack a sufficient advertising base to publish regularly. This is particularly true for newspapers (and radio stations) outside Ulaanbaatar, which tend to be dependent on funding and advertising revenue from local governments.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

Mongolian newspapers and magazines are editorially independent of the government and represent a wide range of views. Political parties own several periodicals, which reflect party views. The privately-owned FM radio stations are primarily geared toward entertainment and provide little news. The state-run broadcast media offer many views, but coverage occasionally favors the ruling party. In recent years, incoming governments often replaced the directors of the state media with their supporters. The 1999 media law committed the government to transforming the state broadcast media into an independent, publicly-owned system, and it remains to be seen if this will be enough to depoliticize management and provide more balanced coverage.

There are few constraints on the media's newsgathering function, although independent media sometimes complain of unequal access to government information and officials. Following the October 1998 murder of S. Zorig, a leading politician, the justice ministry prohibited newspapers from publishing stories about the case. Authorities did not sanction newspapers that defied the ban. In April 1999, unknown assailants attacked and seriously injured L. Munkhbayasgalan, a crime reporter for the private weekly *Seruulag* (Alarm Clock), in Ulaanbaatar. Munkhbayasgalan had been covering the trial of a politician accused of the attempted rape of another *Seruulag* journalist.

6. Is the distribution for newspapers privately or governmentally controlled?

Private firms distribute newspapers. In some remote areas the availability of newspapers is ultimately dependent on the efficiency of the postal service.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The first Mongolian Internet connection was established in 1995. Mongolia now has several thousand Internet users, mainly in Ulaanbaatar. The state places no restrictions on Internet access for private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

Major press associations include the United Alliance of Mongolian Journalists, the Mongolian Journalists' Union, and the Mongolia Free and Democratic Journalists. The Danish-funded Press Institute of Mongolia funds training and other programs for journalists. No data exists on the proportion of the membership of these organizations that

is made up of women, although women do play active roles in these groups.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?
Freedom House's *Survey of Press Freedom* has rated the Mongolian press as Partly Free since 1990.

GOVERNANCE AND PUBLIC ADMINISTRATION 3.50/7

1. Is the legislature the effective rule-making institution?
Under the 1992 constitution, the legislature is the effective rule-making institution, and this is respected in practice. The president nominates the prime minister, who comes from the party or coalition holding the largest number of seats in parliament and who must be approved by parliament. Under the constitution, a presidential veto of legislation can be overridden by a two-thirds majority of parliament. Since the opposition DUC coalition came to power in the 1996 legislative elections, parliament has become a forum for vigorous debate. That said, parliament and government agencies have failed in many cases to develop implementing regulations for laws. This lacuna grants government officials disproportionate latitude in interpreting and implementing laws.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
The constitution reserves to the provinces powers not specifically granted to the central government. The 1993 Law on the Government of Mongolia establishes the independence of local government bodies, but also instructs the central government to "provide centralized management" of the activities of the provincial and municipal governors. Local *hurals*, or legislatures, have legislative responsibilities at the provincial, county, and district levels. The two largest areas of local government responsibility are education and healthcare. Local governments are also responsible for local government administration, capital spending, cultural affairs, environmental protection, and other areas. However, power is still relatively centralized and most decision making is still in the hands of the central government.

3. Are subnational officials chosen in free and fair elections?
Mongolia is divided into 18 *aimags* (provinces), plus the capital city of Ulaanbaatar and two other municipalities, Darhan and Erdenet. The aimags are subdivided into 390 *soums* (counties), which are further subdivided into districts. The legislative bodies at the aimag, municipal (Ulaanbaatar, Darhan, and Erdenet), soum, and district levels are elected. There is no evidence to suggest that these elections are not free and fair. The prime minister appoints governors of the aimags and the municipalities from among candidates nominated by these local legislative bodies. In the October 1996 aimag and municipal elections, the MPRP won 14 of 21 legislatures.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?
Between 1990 and 1996, elected MPRP parliaments operated with limited transparency, held some debates in secrecy, and did not as a rule make voting records and floor statements available to the public. Since 1996, DUC-led governments have operated with considerably more transparency. Draft legislation is freely accessible to the media and the public.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?
Mongolia's fiscal system is highly centralized, although the central government, the aimags, and the soums all have independent budgets. According to the International Monetary Fund (IMF), in 1997, the central government's share of total government revenue was 77 percent, and its share of total government expenditures (excluding transfers to local governments) was 71 percent. Each year provincial governments submit budget requests to the Ministry of Finance (MOF). The MOF then calculates budgetary transfers to each province, based largely on the previous year's expenditure and price increases. Parliament then approves the state budget, which includes the transfers to provincial governments. Under this system, the provinces tend to underestimate their revenue capacities, overestimate their ex-

penditure needs, and overspend. Overall, the process is not transparent. In 1998, the central government provided transfer payments to all 22 provincial governments, although some governments were more successful in raising their own revenue than others. Four provinces raised revenues equal to less than 20 percent of their expenditures, while 4 provinces financed more than 90 percent of their expenditures through their own revenues. Local governments often lack sufficient revenues to carry out their responsibilities, particularly in capital expenditure.

Tax revenues are assigned either to the central or local government depending on whom the taxpayer is. Large state-owned enterprises and all commercial banks usually pay taxes to the central budget, while other enterprises pay taxes to local administrations. According to the IMF, most of the revenue assigned to local budgets consists of minor taxes and non-tax revenues. This system, a holdover from the Soviet era, also results in an uneven distribution of local revenues. Most private industrial enterprises, which are major taxpayers, are concentrated in only a few cities and aimags. In 1997, the richest aimag had a per capita revenue nine times higher than that of the poorest. The government is considering plans to reform the system.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Local officials lack sufficient human resources and expertise to manage municipal governments and deliver services effectively. Accounting and auditing systems are key areas that need to be strengthened.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The 1992 constitution delineated the current division of power between the federal and local governments. Authorities have not carried out a sweeping overhaul of the civil service system, although DUC-led governments have reduced the number of government ministries, agencies, and civil servants. Local civil servants are nominally employees of local governments, although in practice the central government often pays their salaries.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 3.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Mongolia adopted its post-Communist constitution in January 1992. The constitution, and the Law on the Constitutional Court, established an independent, nine-member constitutional court with the power to interpret the constitution and rule on the constitutionality of laws, decrees, treaties, national referenda, decisions by the central electoral authority, and other decisions by the president, government, and parliament. While the court has not had the opportunity to issue decisions on crucial constitutional issues, on lesser matters it has established itself as an independent arbiter. For example, in mid-1996, the constitutional court ruled that MPs could not hold cabinet positions. Following the June 1996 elections, the new prime minister complied with the ruling by naming a cabinet of unelected technocrats.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The constitution prohibits torture and other abuses; provides protection against arbitrary searches, arrest, and detention; and guarantees the right to a fair trial with due process guarantees. The constitution also guarantees freedoms of speech and press; freedoms of assembly and association; freedom of religion; freedom of internal travel and emigration; and the right to privacy.

The constitution recognizes and protects "the right to fair acquisition, possession, and inheritance of moveable and immovable property," and prohibits "illegal confiscation and requisitioning of the private property of citizens." In addition, the 1994 civil code explicitly recognizes the right to hold and transfer private property.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Basic post-Communist reforms of the criminal code instituted greater protection for suspects, although the government has not fully codified constitutional protections against arbitrary arrest and detention. Prosecutors must issue warrants for searches and authorize detention of suspects if charges are not brought within 72 hours, or for shorter periods of detention if the police did not actually witness the crime.

Police and prison officials reportedly sometimes beat or abuse detainees and prisoners. Prison conditions are poor and rising crime rates have caused severe overcrowding in detention facilities and prisons. According to official statistics, of 1,523 prisoner deaths between 1993 and 1998, 1,300 died of tuberculosis and other illnesses and 151 from starvation. The 1998 total of 242 prisoner deaths (including some from natural causes) represented 4 percent of the prison population of 6,172. Many prisoners enter prison already ill or severely malnourished because of the appalling conditions in police detention. Authorities have introduced several prison reform measures including ordering food from private companies to improve its quality, improving living conditions, retraining guards, and increasing prison staff. Authorities have also ended the practice of shaving prisoners' heads and forcing them to stand at attention before officials. However, prisoners are generally unaware of their rights, and some local authorities have not fully implemented the new laws and procedures. Delays in the criminal justice system are not excessive, although pre-trial detention is occasionally lengthy.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

There is little evidence to suggest that judges do not rule fairly and impartially. The constitution stipulates that suspects are innocent until proven guilty, guarantees the right to a public trial, and provides protections against self-incrimination. These due process rights are respected in practice. According to the U.S. Department of State, in 1998 Mongolian citizens made approximately 25 complaints about the judiciary to the local office of the United Nations High Commissioner for Human Rights (UNHCHR). Most of the complaints were about corruption. The UNHCHR referred the complaints to NGOs and the Ministry of Justice. Judges are nominated by the General Council of Courts, an independent administrative body, and are approved by the president. Most judges either served during the Communist era or received their legal education before 1989.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

The constitution provides for an independent judiciary and this is respected in practice. The judiciary receives its budgetary allowance directly from parliament and is not linked directly to the Ministry of Justice or any other executive body.

The post-Communist State Law of the Courts establishes the judicial structure and sets out mechanisms to ensure judicial independence. The regular court system consists of a Supreme Court, provincial courts, the capital district court, county courts, inter-county courts, and district courts. A 12-member General Council of Courts includes the chief justice of the Supreme Court, the state general prosecutor, the justice minister, and several sitting judges, and serves as a judicial independence watchdog. The General Council nominates judicial candidates for presidential approval; submits proposals on the required number of court personnel and on the remuneration of judges; submits a draft budget for the judiciary to parliament; and operates a judicial discipline committee. Supreme Court and lower court judges are appointed by the president for six-year terms and can be dismissed on the recommendation of the General Council under the terms specified in the State Law of Courts. The constitutional court has three members nominated by parliament, three by the president, and three by the Supreme Court, all of whom serve six-year terms.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Although there are no accurate figures, anecdotal evidence suggests that most lawyers are now in private practice. There is also no accurate data on the number of new lawyers produced each year. Anecdotal evidence suggest that most lawyers and judges are men, although women are increasingly entering the legal profession.

7. Does the state provide public defenders?

The constitution guarantees citizens the right of legal assistance. In practice, suspects and defendants have access to an attorney at all stages of the legal process, and the state provides an attorney if the defendant cannot afford one.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

The constitution prohibits discrimination on the basis of ethnicity, language, race, age, gender, social status, property, occupation, religion, creed, or education. The government generally enforces these provisions. Approximately 76 percent of the population are Khalkha Mongols, with smaller Mongol groups comprising another 13 percent. Turkic speakers make up seven percent of the population, with Chinese, Russian, and other minorities forming the remainder. There are few reports of discrimination against minorities.

The literacy rate for adult women is around 96 percent, close to that of men. In general, women have equal access to education and are prominent in the professions, though often at the mid-level rather than in senior positions. Women are also frequently involved in business start-ups. Wages for women, however, are lower than wages for men, and since 1989 the rate of women's employment has fallen. Analysts attribute the general paucity of women in high positions in government, the judiciary, and the private sector to unofficial discrimination based on traditional norms.

9. Are judicial decisions effectively enforced?
There is no evidence to suggest that judicial enforcement is a problem.

CORRUPTION 4.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Civil servants reportedly demand bribes to provide many routine services including issuing licenses and permits. In 1997, the government increased the pay of the 142,000 government employees by about 20 percent. Previously, the monthly salary for a typical civil servant was about $25 per month, while a minister made about $50. Compounding the problem, the government at times paid civil servants several months late.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Top policymakers generally do not have direct ties to businesses. Authorities have not clearly delineated the guidelines for appropriate conduct concerning the boundary between public and private sector activity. In practice, Mongolia's corruption problems have generally involved illicit bribes and kickbacks to politicians and bureaucrats rather than direct involvement in business by politicians.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
Existing laws on financial disclosure, conflict of interest, and racketeering are generally inadequate and authorize relatively minor penalties. Nevertheless, authorities have prosecuted several anticorruption cases (see below).

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?
Mongolian NGOs have generally not been active in the area of corruption. Anecdotal evidence suggests that there is increasing public discomfort with the level of official corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
Parliament passed an anticorruption law in spring 1996, and since then has not regularly issued other anticorruption laws and decrees. As of mid-1999, the government was considering amending the 1996 law to increase penalties for corruption, and had announced plans to establish an independent anticorruption commission. The State Audit Committee has vigorously investigated several public officials for alleged malfeasance, and courts have handed down several convictions in recent years. However, the October 1998 murder of S. Zorig, the infrastructure minister and leader of the Communist-era pro-democracy movement, set off an unprec-

edented anticorruption drive. Many Mongolians surmised that Zorig had been murdered because of his outspoken stand against corruption and to prevent him from exposing details of bribery involving state contracts. In the course of their investigation, police uncovered numerous suspect official transactions. In April 1999, parliament stripped three MPs of their immunity, and authorities detained two of them for questioning regarding the alleged rigging of a casino tender. This marked the first time any MP had been detained on suspicion of corruption.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
Press reports indicate that the public is increasingly outspoken against official corruption. Authorities have undertaken few anticorruption public education efforts.

7. How do corruption-ranking organizations like Transparency International and other major corruption-ranking organizations rate this country?
Transparency International's 1999 Corruption Perceptions Index ranked Mongolia 43rd out of 99 countries with a score of 4.3 (with the 99th country being the most corrupt, and 10 being the top score for least corrupt).

Economic Liberalization

PRIVATIZATION 4.25/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
In 1990, which began under single-party, Communist rule, the public sector accounted for about 90 percent of GDP. No data is available on the percentage of GDP that comes from private ownership, although in 1997, the latest year for which figures are available, private consumption accounted for 60.3 percent of GDP.

Although no data exists, anecdotal evidence suggests that the majority of the workforce is in the private sector. There is a large informal sector based around the traditional nomadic economy. Because free market reforms contributed to a decline in real incomes and an increase in unemployment rates, most herdsmen have little incentive to embrace the cash economy, particularly in a nomadic culture that has traditionally placed little emphasis on accumulating luxury goods or commodities. Instead, many herdsmen continue to barter. The government's practice of informally intervening in the market to affect supply and demand has created a black market in agricultural goods and other items.

2. What major privatization legislation has been passed? What were its substantive features?
The 1991 Privatization and Companies Law linked Mongolia's privatization program to the development of a capital market under a scheme in which individual citizens would get vouchers that they could then exchange for shares of privatized companies on the stock exchange. To initiate the privatization process, the government distributed vouchers to all citizens free of charge. Citizens could then use the vouchers to buy shares of companies through brokerage firms and the Mongolian Stock Exchange (MSE). The 1996 Law on State and Local Property established the procedures for valuation of property to be privatized; permissible methods of privatization; and the modalities for carrying out privatization by auction, trade, tender, sale of public shares and stocks, and joint venture.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?
The post-1990 MPRP government proceeded slowly on privatization and suspended the process entirely in the run-up to the 1996 legislative elections. The DUC government accelerated privatization and collected more total revenues from the privatization of state-owned enterprises between January and September 1997 than the MPRP government collected in 1995 and 1996 combined.

Agriculture: In the early 1990s, the MPRP government ended forced collectivization. In a country in which one-third to two-fifths of the population are nomadic herders, more than 97 percent of the livestock sector is now in private hands. Livestock numbers rose from 25 million in 1993 to 29.3 million by January 1997, the highest level in 50 years.

Housing and land: No data exist on the proportion of housing in private hands.

Industry: Large state enterprises still dominate the agroprocessing, transport, telecommunications, mining, and energy sectors. The government has pledged to privatize 60 percent of these entities, or more than 800 companies, by

the year 2000. However, the state retains a majority stake in many factories that are classified as privatized, and it is unclear to what extent the latest round of privatization will result in fully privatized companies.

Small business and services: The government has privatized nearly all small-scale and medium-size enterprises.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The 1996 Law on State and Local Property provides mechanisms for adjudicating claims of unfair practices in the privatization process. Critics have charged authorities with granting insider preferences in certain specific cases, although there have been few suggestions that the privatization process as a whole has been marred by widespread corruption. There is no evidence that labor has played an insider role in the privatization process.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The 1996 Law on State and Local Property requires the government to use the media to publicize information on the shares and dividends of an entity at least 30 days before it is to be privatized. The government does so and the public appears to have adequate information about the privatization process. At the same time, many Mongolians seem wary of privatization, which they equate with economic decline and rising unemployment. Most state workers apparently oppose privatization, as do conservative elements of the opposition MPRP.

MACROECONOMIC POLICY 3.75/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The 1992 General Law on Taxation defined the post-Communist tax system, the role of the State Tax Administration and tax inspectors, and the rights, obligations, and responsibilities of taxpayers. The 1992 Personal Income Tax Law delineated the country's income tax system. Prior to 1997, Mongolia's tax system consisted mainly of the enterprise income tax, individual income taxes, sales taxes, excise taxes, and customs duties. The system was characterized by complex rate structures, narrow tax bases, and large loopholes. In 1997, the government introduced major changes that reduced the number of corporate income tax rates from 4 to 2 (15 percent and 40 percent); reduced the number of individual income taxes from 5 to 3 (10, 20, and 40 percent); broadened the sales tax to include enterprises in the food, construction, and communication sectors; eliminated all customs duties except on alcoholic spirits; doubled the excises on petroleum products, wine, and spirits; and reduced the royalty rate on minerals. The government also increased government fees to improve cost recovery. There is no evidence to suggest that tax compliance has been a significant problem.

Mongolia's dependence on commodities exports makes its economy highly vulnerable to external shocks. By 1996, decreases in world prices for copper and other commodities caused tax receipts from commodities exporters to fall sharply. The regional financial crisis that began in 1997 reduced demand for Mongolian exports and further depressed already low commodity prices. This external shock sharply reduced tax revenues. In July 1998, the government introduced a 10 percent Value Added Tax to replace the existing sales tax, but in the face of declining tax revenues increased the VAT to 13 percent in August and increased the excise tax on petroleum products. In mid-1999, the government was considering additional revenue measures including a broad-based import duty at 5 percent and an excise tax on beer.

In 1992, the government established the General Department of National Taxation (GDNT) to handle tax collection and administration. In 1998 and 1999, the GDNT made progress in simplifying and computerizing the tax administration system and proceeded with taxpayer registration, but overall, the system continued to be overburdened and understaffed. In 1998, revenue as a share of GDP was 26 percent.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform, alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

Mongolia's fiscal policy generally encourages private savings, investment, and earnings. In 1996, the DUC government came into office promising to balance the state budget, but world copper prices plunged 33 percent, wiping out nearly one-quarter of state revenues. In July 1997, the IMF granted a new, three year, $45 million Enhanced Structural Adjustment Facility (ESAF) to replace an ESAF it had suspended under the previous government. During the course of the year, the government removed most import duties, but this reduced revenues by about 2.5 percent of GDP and ultimately the government had to raise new excises and duties.

In 1998, the regional financial crisis resulted in sharply reduced demand and further depressed prices for Mongolia's major export commodities—copper, gold, and cashmere—causing a deterioration of the fiscal and external accounts and costing the country roughly 9 percent of GDP. Copper alone had accounted for 15 percent of tax revenue in 1997. Major taxpayers including the giant Erdenet copper mine, which used to be the largest taxpayer in Mongolia, reported huge losses for the year, and corporate tax payments to the government fell sharply. Moreover, payments arrears by Erdenet and other enterprises to the Central Energy System (CES) and other utilities prevented some utilities from meeting their full tax obligations, and prompted the government to extend a costly emergency loan to the CES. Excise tax revenue also decreased due to a sharp decline in oil imports from Russia. The government responded by raising new levies, decreasing capital expenditures, and borrowing from domestic banks to cover revenue shortfalls. However, the trade shock, the central bank's efforts to maintain the stability of the exchange rate (which further hampered exports), and higher government expenditures on goods, services, and wages, contributed to an increase in the fiscal deficit from 8.6 percent of GDP in 1997 to 11.2 percent in 1998. In early 1999, the fiscal position worsened because of the continuing slump in commodity prices and increased expenditures to support bank restructuring and settle domestic and external arrears incurred in 1998.

In 1998 and 1999, Mongolia continued to require aid from the donor community to build up adequate foreign exchange reserves and finance public investment. The ratio of government debt to GDP was 55 percent in 1997, and increased to 59 percent in 1998. The ratio of total debt to GDP fell from 74.7 percent in 1997 to 70.9 percent in 1998. The ratio of total debt service to exports fell from 9.3 percent in 1997 to 6.2 percent in 1998. External debt accounted for nearly 90 percent of total debt. About half of the external debt is in long-term obligations to international financial institutions. There is also a substantial unresolved transferable ruble claim held by Russia relating to Mongolia's transactions with the former Soviet Union.

The social insurance/pension system is not sustainable (see Social Sector). In 1998, subsidies and transfers amounted to 6.3 percent of GDP.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The 1991 Banking Law established the legal basis for banking activities in post-Communist Mongolia. The law did not create an independent central bank; instead it charged the Bank of Mongolia (BOM) with "implementing the government's monetary policy." The BOM's activities include controlling the money supply; intervening in the foreign exchange market and taking other measures to insure the stability of the currency; managing official foreign reserves; determining capital adequacy ratios for banks; setting interest rates; acting as a lender of last resort to commercial banks; clearing interbank settlements; and licensing, regulating, and supervising commercial banks.

The BOM has adopted relatively tight credit and monetary policies, but inflation is still a problem. The post-Communist MPRP government brought inflation down from 325 percent in 1992 to a still high 53 percent in 1995. But in 1996, higher energy prices and a 26 percent expansion in the money supply contributed to a 59 percent inflation rate. Thereafter, successive governments maintained a tight monetary policy, bringing inflation down to 6.5 percent at the end of 1998. The principle instrument of monetary policy is the interest rate on central bank bills.

The banking sector does not conform to international standards. In 1996, the incoming DUC government faced a severe liquidity crisis in the banking sector and in December shut down two large, bankrupt state banks (which together accounted for nearly 50 percent of the banking system's total assets). Authorities also established two new government-owned banks and a debt recovery agency. In addition, the BOM formalized understandings with individual banks on monthly credit ceilings and minimum reserve requirements.

In 1998, the regional financial crisis contributed to a further deterioration of a banking system that, according to

the IMF and World Bank, was already weakened by deficient management, poor internal controls, inadequate enforcement of prudential requirments, delayed supervisory intervention, and inadequate legal, regulatory, and accounting frameworks. By mid-year, the country's banks were in crisis, with noncompliance with prudential requirements increasing, capital positions weakening, insolvencies deepening, profitability declining, and the stock of nonperforming loans increasing. At the end of August 1998, nonperforming loans totaled 41.5 percent of total outstanding loans, and 5 banks, representing about 30 percent of banking system assets, were insolvent. Authorities declared the Reconstruction Bank to be insolvent after a failed merger only three months earlier with the private Golomt Bank. The Reconstruction Bank had been the fourth largest bank and the largest provider of financial services to the government and to public enterprises. Its insolvency eroded confidence in the banking system.

In September 1998, the government amended the Banking Law to increase the minimum capital requirement and empower the BOM to ensure better bank management and financial disclosure. Notably, the amended law established a legal basis for bank audit standards. The BOM took steps to strengthen the prudential regulation of banks through changes in loan classification, accounting, and bookkeeping standards, and in methods for calculating risk, risk management practices, and liquidation criteria.

According to the IMF, the interbank money market is weak due to the illiquidity and insolvency of major banks, mistrust among banks, and the absence of an appropriate operating framework. As of mid-1998, the banking sector consisted of 18 commercial banks, with 100 branches, 394 sub-branches, and 33 savings points. Four banks account for 76 percent of bank assets. The government fully owns three banks that comprise 62 percent of total bank assets, and is a minority owner of 5 banks comprising 28 percent of total assets. There is no system for protecting depositors.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has the exchange rate been stable and predictable?

In 1993, the government permitted the *tugrik* to float. The tugrik is fully convertible on the current account. The foreign exchange market consists of an interbank market and an informal cash market.

Government policies and external shocks contributed to a 50 percent depreciation in the nominal exchange rate between 1996 and 1999. After the DUC government took power in 1996, it decontrolled most prices and adopted other radical free-market measures that contributed to higher inflation and a decrease in the value of the tugrik. In late 1997, parliament passed monetary policy guidelines for 1998 requiring the BOM to maintain the exchange rate within a five percent range of the end-1997 level. The regional financial crisis, however, caused a drop in world prices for copper and other key exports, which reduced foreign exchange revenues and caused the exchange rate to depreciate. The BOM intervened heavily in the foreign exchange market in an effort to adhere to the parliamentary guidelines, in the process further drawing down foreign reserves. By the end of 1998, gross international reserves had fallen to $121 million, or 11.5 weeks of import cover, despite an inflow of concessional external finance. The BOM eventually ceased its intervention in the foreign exchange market, and the exchange rate fell from 817 tugriks to the U.S. dollar in mid-1998 to 915 per dollar by the end of 1998. By mid-1999, the tugrik traded at more than 1,000 to the dollar.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The government created the Mongolian Stock Exchange (MSE) in 1991. In its first operational phase, from February 1992 to August 1995, the MSE allowed individual citizens to buy shares in newly privatized companies. In August 1995, the MSE began trading shares like a regular *bourse*. As of mid-1998, the MSE listed 430 firms, with a market capitalization of $53 million and a daily turnover of $15 million in 1997. Payment settlements have been affected by the banking sector's liquidity problems. Commodities markets are small and rudimentary. The government sells treasury bonds, treasury bills, and central bank bills. However, secondary markets are thin. The government plans to develop the interbank money market, introduce regular treasury bill auctions, and convert non-negotiable bank restructuring bonds into marketable securities. In 1994, parliament passed the Securities Law, which established the legal framework for regulating securities exchanges and set up the Securities Commission to regulate securities firms and the stock exchange.

MICROECONOMIC POLICY 3.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The constitution guarantees private property rights, including intellectual property. The 1994 civil code also explicitly recognizes private property and intellectual property, and guarantees the right to possess, use, and dispose of property. Mongolia is a member of the World Intellectual Property Organization and has acceded to its treaties. In 1993, parliament passed patent and copyright laws. In 1997, the government allowed housing privatization for the first time. The civil code and the 1996 Law on State and Local Property required the government to establish a land registry, and authorities complied. The 1996 law also instructed provincial governors to take an inventory and keep a general registry of local property, and most have apparently complied.

The civil code permits the government to expropriate land on the grounds of "special public need," with the requirement that authorities grant a one-year notice and compensate the owner. Unless otherwise provided by law or contract, the compensation must cover the price of land, immovable property on the land, and expenses. The owner has the right to challenge an expropriation or compensation package in court. There are no reports of illegal seizures or expropriations of land or other property.

2. To what extent have prices been liberalized? What subsidies remain?

The MPRP government began liberalizing prices in 1992. In 1996, the DUC government abolished the Price Consensus Commission, which had informally set prices for some basic commodities, and fully liberalized most prices. In 1997, the government eliminated remaining price controls on electricity, heating, water, and rent. Nevertheless, the government continued to use commodity purchasing decisions and other informal means to influence market prices. The government also continued to set power and heating tariffs, but raised them significantly and established an automatic increase mechanism to offset the effects of inflation and currency fluctuations.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The post-Communist Bankruptcy Law established legal procedures for declaring companies bankrupt, dissolving them, and protecting their creditors. Although the Bankruptcy Law and commercial laws are respected, the bureaucracy still retains many Communist-era officials who have resisted the free-market system. As such, entrepreneurs are sometimes hampered by informal bureaucratic interference in commercial operations. The actual procedures for owning and operating a business involve fairly straightforward registration and licensing requirements.

Urban citizens have access to commercial law, although such access is more difficult across the vast rural expanses. Commercial law appears to be applied fairly. According to an "Investment Climate Statement, 1999," prepared by the U.S. Department of Commerce, Mongolia's regulatory system "lacks experience and enforcement capability. The system is transparent in the sense that copies of the laws are readily available...and officials do try to live up to the spirit and letter of the legislation as written." Regulation and licensing requirements appear to be reasonably straightforward and neither impose significant costs nor create significant barriers to entry or hamper competition.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Although Mongolian courts generally adjudicate property and contract disputes in a fair and transparent manner, the court system is still rudimentary and often inefficient. As such, there are often delays in resolving commercial cases.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The post-Communist Law on Prohibiting Unfair Competition prohibits the government from restricting economic competition, prohibits most monopolies and other restraints on fair competition, establishes guidelines for government intervention to ensure fair competition and to regulate natural monopolies, and establishes the role of the courts in determining an entity to be a monopoly and handing down legal remedies. There is no evidence that insider dealing is a significant hindrance to open competition. Government procurement policies are complex and often opaque. An International Monetary Fund-sponsored program is promoting transparency and accountability in procurement by assisting officials in drafting and upgrading regulations and procedures for procurement of goods, civil works and related services, and infrastructure projects.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

In 1991, the Soviet Union and its former satellites accounted for 99 percent of Mongolia's imports and 94 percent of its exports. By 1997, trade with Russia and the former East Bloc countries accounted for only about half of Mongolia's total trade volume, with China, South Korea, and Japan accounting for much of the rest. Trade with Russia is conducted partially on a barter basis, including the use of Mongolian commodities to repay debts.

The post-Communist Customs Law established a unified system of customs duties and fees, as well as mechanisms for trade supervision and customs enforcement. The government began liberalizing tariffs in 1992, and in 1997, the reformist government took the radical measure of eliminating tariffs and taxes on all imports, except on alcoholic spirits. However, this move reduced revenues by about 2.5 percent of GDP, and along with the decline in commodity revenues, forced the government to raise new sources of revenue. In August 1998, the government imposed a $7 per ton excise on petroleum products, and in September authorities introduced seasonal duties on flour and vegetables. The government may also re-introduce a uniform tariff. There are no significant nontariff barriers.

Smuggling has contributed to a serious loss of state revenue. In mid-1997, the government imposed a tax on raw cashmere and camel wool exports. According to the *Far Eastern Economic Review*, in 1998 reported cashmere exports fell by more than 98 percent, which suggests that most of Mongolia's raw cashmere is apparently being smuggled out of the country.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The 1993 Foreign Investment Law has a stated aim of encouraging foreign investment and establishes guidelines for protecting the rights and property of foreign investors in Mongolia. The law permits foreign investors to establish fully-owned companies, dispose of property, and repatriate investments and profits. The law also explicitly bars nationalization or illegal expropriation of foreign-owned assets. In addition, the law guarantees equal treatment for Mongolian and foreign-owned companies. The government has encouraged foreign investment, particularly to exploit the country's vast reserves of oil, copper, gold, fluorspar, and other minerals. Foreigners cannot own land but may enter into leasing arrangements. According to the U.S. Department of State, the main barriers to greater foreign investment include an inadequate energy system and infrastructure, legal and regulatory deficiencies, petty corruption, and a small domestic market.

Mongolia acceded to the IMF's Article VIII in February 1996. In 1999, the World Bank observed that, "the exchange rate system is free of restrictions on current international payments and transfers."

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Authorities have carried out limited energy sector reforms. The state-owned Energy Authority (EA) controls power supply and distribution, although the government has signaled its interest in allowing private sector participation. Payments arrears by large enterprises to utilities continued to be a key problem.

As recently as 1996, Mongolia imported 99 percent of its oil from Russia. In recent years, there have been cuts in electricity service in some areas of Mongolia because of shortages in Russia of mazut, a low-boiling fuel oil imported for use by some coal-fired power stations. Foreign companies have begun developing domestic oilfields, which hold an estimated 6 billion barrels of reserves and should eventually reduce, if not eliminate, this dependence on Russia.

Energy exports must go either through Russia or China. Mongolia exports to Russia some of the five million tons of coal it produces each year. In 1998, Mongolia exported its first crude oil to China, via trucks.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

In 1998, Mongolia had a labor force of 859,300 workers, which included 350,000 herders and more than 100,000 industrial sector workers. Some 809,500 workers were employed on a full-time basis. The labor force participation rate was 68.0 percent.

The loss of Soviet subsidies and Council for Mutual Economic Assistance export markets; the ensuing collapse of the centrally planned economy; and the more recent closure and privatization of state-owned enterprises, have all contributed to significant increases in unemployment. As of March 1999, 48,913 workers were registered as unemployed, but the actual number of unemployed workers is believed to be far higher. The official unemployment rate is 5.8 percent; 6.4 percent for men and 5.2 percent for women. The burdens of restructuring have fallen disproportionately on women, who are often the first to be laid off. Moreover, women have fewer employment opportunities than men outside the state sector.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Mongolia's social insurance system consists of the Pension Insurance Fund, Benefits Insurance Fund, Work Injury Fund, Unemployment Insurance Fund, and Health Insurance Fund. Under the 1995 Social Insurance Law, employers and employees are required to make contributions to these funds, with a total contribution rate of 29 to 31 percent of employee wages. In 1997, the government allowed farmers, herdsmen, and private businessmen to enter the social insurance system, which formerly only covered people listed on government and private payrolls. The Pension Insurance Fund is the largest component of the system and operates on a pay-as-you-go basis, with contribution rates of 13.5 percent for employers and 5.5 percent for employees in the private sector. Government employees contribute 1.1 percent of wages, and the government contributes 17.9 percent. For the self-employed, participation in the pension system is voluntary and the contribution rate is 9.5 percent.

The retirement age is 60 for men and 45 to 55 for women, depending on years of service and number of children. Currently, the minimum pension is equivalent to the minimum wage. In 1999, the World Bank noted that, "the high and erratic inflation rates, plus the absence of automatic adjustments of pension benefits for changes in prices or average wage rates, make the link tenuous between contributions and benefits, and limit the incentives to contribute." There are large contribution arrears to the Pension Fund, and the base for pension contributions is narrow relative to the coverage of pension recipients. In May 1999, the *Far Eastern Economic Review* reported that the government was often paying pensions months overdue. The United States Agency for International Development is helping the government reform the pension system by introducing nationally defined individual accounts. This is designed to establish a closer link between paid contributions and benefit accruals, offer a better benefit structure for controlling future pension costs, and create a basis for the future transition towards a partially funded system. The transition to a fully funded system is not feasible in the near-term.

In 1998, social security expenditures amounted to 6.2 percent of GDP. Mongolians who do not participate in the pension system and who live under the minimum living standard fall under the Social Assistance Law and receive 50 percent of the minimum living standard as a social pension. There are specialized benefits for handicapped persons, the disabled, mothers with large families, and war veterans.

3. What is the country's average and median monthly income in local currency and dollar equivalents?

What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

In 1998, GNP per capita was $400. No data is available on the trend in average and monthly median incomes since 1993. Wage arrearages are not a major problem. Wage levels and other employment issues are decided in tripartite negotiations between employer, union, and government representatives. In practice, employers generally set wages. The legal minimum wage is approximately $14 per month, which is generally applied to simple manual labor. There is no accurate data on the difference between public and private sector median wages, and on the difference in median wages among men and women.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year-olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

As of the end of 1997, Mongolia had 645 primary and secondary schools with 435,000 students, and 125 higher and vocational institutions with 63,000 students. The government provides children with free, compulsory education through the age of 16. Until 1990, Mongolia had close to universal coverage of basic education. However, the country's transition to a market economy has reduced enrollment, particularly in rural areas. Most importantly, the privatization of livestock increased the demand for male child labor and many male children left school. In 1997, the enrollment rate for primary and secondary schools stood at about 88 percent, with the rates being 86 percent for males and 91 percent for females. In 1997, the national student-teacher ratio was 24:1, although in some rural areas the ratio was 10 to 15:1. As part of an "Education Sector Development Program" supported by the Asian Development Bank (ADB), the government plans to increase the student-teacher ratio in many rural areas and achieve a national average ratio of 30:1.

Education spending by the state amounted to 5.8 percent of GDP in 1993 and 5.5 percent of GDP in 1998. Twenty percent of the education budget goes to heating. In 1999, the government failed at times to pay teachers' salaries. Funding for education is the joint responsibility of the central and local governments. The extent of government expenditures varies with local fiscal resources. According to the World Bank, for the five richest provinces/cities, the central government provides no transfers to local budgets. For the poorest provinces, the central government provides almost the entire education budget. As of 1999, funding is based on several quantifiable variables, including the number of students, to encourage schools to increase enrollment rates, reduce redundant workers, and increase wages for teachers. There is a severe shortage of teaching materials at all levels.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Mongolia's health indicators worsened after the start of the transition period and only began recovering in 1994. According to the World Bank and the UNDP, infant mortality per 1,000 live births fell from 62 in 1992 to 35.3 in 1998. In 1998, life expectancy at birth was 64.3 years; 67.7 years for women and 61.1 years for men. No data is available on divorce and suicide rates.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

Mongolia had 26 physicians per 10,000 persons in 1996. No data is available on the trend in average wages for healthcare providers since 1993, although in general these professionals receive relatively low wages. There are 9.9 hospital beds per 1,000 persons. Health insurance premiums amount to 6 percent of wages, and are shared 50-50 by employers and employees. Premiums cover about 60 percent of health expenditure. In early 1998, the government approved a "Health Sector Development Program," supported by the ADB, which aims to strengthen primary health care, encourage private sector participation in health service delivery, rationalize health care staffing levels, and

upgrade staff qualifications. Healthcare spending by the state amounted to 3.8 percent of GDP in 1993 and 9.4 percent of GDP in 1998. Twelve percent of the health budget goes to heating.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The collapse of Mongolia's centrally planned economy and more recent economic shocks associated with the regional financial crisis contributed to an increase in poverty rates. A survey released in April 1999 showed that 35.6 percent of the population lived in poverty in 1998, down only slightly from 36.3 percent in 1995. Poverty is marginally higher in urban areas. The number of urban poor rose to 39.3 percent from 38.8 percent in 1995. In rural areas, the percentage fell to 32.7 percent in 1998 from 33.1 percent in 1995. The World Bank notes that, "Despite the efficiency gains associated with privatization, particularly in light of subsequent consolidation of herds, it has led to greater rural income inequality and marginalization of small herders."

Poverty has had a particularly severe impact on female-headed households. According to the World Bank's 1996 poverty assessment, women headed 18 percent of all households in Mongolia. Nearly 60 percent of individuals living in female-headed households are poor, as compared to 31 percent in male-headed households. Female heads of households tend to have less education and own fewer herding animals per capita than their male counterparts, and female-headed households tend to have fewer employed household members but an equal number of children relative to male-headed households. With external support, the government has initiated income generation programs targeting women in particular. Urban areas also have several thousand street children. There are no data on poverty rates among the elderly and pensioners.

POLAND

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist
Population: 38,700,000
PPP (USD): 6,520
Capital: Warsaw
Ethnic Groups: Polish (98 percent), German (1 percent), Ukrainian and Byelorussian (1 percent)
Size of private sector as % of GDP (1998): 65

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	1.50	↑1.45	↑1.44
Rule of Law	na	na	1.88
Economic Liberalization	2.00	↑1.92	↑↑1.67

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	2234.0	2399.0	3084.0	3486.0	3512.0	3887.0	3809.0
Real GDP growth (% change on previous year)	3.8	5.2	7.0	6.1	6.9	4.8	3.5
Inflation rate	36.9	33.2	28.1	19.8	15.1	11.7	7.5
Exports (USD millions)	13600.0	17000.0	22900.0	24400.0	27200.0	30300.0	25300.0
Imports (USD millions)	15900.0	17800.0	24700.0	32600.0	38500.0	43900.0	41200.0
Foreign Direct Investment (USD millions)	600.0	500.0	1100.0	2800.0	3000.0	6600.0	6500.0
Unemployment rate	16.4	16.0	14.9	13.2	10.5	10.4	na
Life Expectancy (years)	71.6	71.7	71.9	72.2	72.6	72.6	73.1

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	4	2	2	2	2	2	1	1	1	1	1
Civil Liberties	3	2	2	2	2	2	2	2	2	2	2
Status	PF	F	F	F	F	F	F	F	F	F	F

Introduction

During the 1990s, Poland has developed into a presidential-parliamentary democracy characterized by a multiparty political system and free and fair elections. The government respects basic civil liberties, including freedoms of religion, assembly, and movement, and the country enjoys an independent and vibrant media. Although the judiciary is independent, the courts continue to suffer from poor administration, financial constraints, and a lack of adequately trained personnel. Corruption remains a problem and prison conditions are generally poor.

Poland has made one of the most successful transitions to a free market economy in Eastern Europe, with single-digit inflation and rapid and extensive privatization programs. The government has launched privatization of major state enterprises, and reforms are underway in other areas, including the pension system and education. However, the large agricultural sector, which employs approximately a quarter of the labor force, continues to be handicapped by structural problems and a lack of investment. In 1999, the economy slowed, marked by a slight rise in unemployment, a fall in foreign investment, and lower levels of exports.

Poland's desire to join the European Union (EU) as quickly as possible continues to be an important factor in the country's political and economic policies. The often painful reforms necessary to bring Poland's legislation in line with the EU resulted in protests by farmers and a drop in public support for EU membership. In March 1999, Poland achieved one of its major foreign policy objectives when it formally joined NATO.

Democratization

POLITICAL PROCESS 1.25/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The last elections for the 100-seat Senate and the 460-member *Sejm* were held in September 1997. Under the 1993 electoral law, 391 members of the Sejm are elected by proportional representation in multi-seat constituencies and 69 seats by proportional representation among parties obtaining more than 7 percent of the popular vote. The Senate is elected in 47 two-seat constituencies and two three-seat constituencies. The Solidarity Electoral Action (AWS), a coalition of moderate and center-right forces, captured 201 seats in the Sejm and 51 in the Senate. The ruling ex-Communist Democratic Left Alliance (SLD), won 164 and 28; the pro-market Freedom Union (UW), 60 and 8; the Peasant Party (PSL), 27 and 3; the Movement for the Reconstruction of Poland (ROP), 6 and 5; and the German Social and Cultural Society Opole Silesia (MN), won 2 seats. Five independents were elected to the Senate. The elections were determined to be free and fair by foreign and domestic observers. Jerzy Buzek (AWS), a 57-year-old chemical engineer who played an important role in the Solidarity underground in the 1980s, was named prime minister. Members of AWS and UW hold key cabinet posts. Jerzy Buzek's tenure as prime minister has been the longest one in the Third Republic (since 1989).

2. When did presidential elections occur? Were they free and fair?

In November 1995, SLD leader Alexander Kwasniewski defeated incumbent President Lech Walesa, who had led Poland's independence movement as the head of the Solidarity trade union during the 1980s. Kwasniewski won the runoff election with 51.7 percent of the vote. The next presidential elections are scheduled for the autumn of 2000.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Poland is a multiparty democracy. The Communist Party monopoly ended following roundtable negotiations between the non-Communist opposition and the military regime in 1989, which led to the legalization of Solidarity and other political reforms. A new constitution, ratified by referendum in May 1997, enshrines political pluralism (Article 11), as did the earlier "Little Constitution" of 1992. Most major parties function at all levels of government.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
Under a 1993 electoral law aimed at reducing the number of parties in parliament (29 political groupings were represented in parliament after the 1991 vote; none had more than 13 percent of the vote), parties that failed to receive 5 percent (8 percent for parties campaigning in coalition) of the national vote would not be represented in parliament. In the 1997 elections, only five parties and coalitions cleared the thresholds: the AWS, the SLD, the UW, PSL, and ROP. In November 1997, AWS leader Marian Krzaklewski announced the formation of the AWS Social Movement (RS AWS) as a Christian-Democratic Party, and formally registered in December. Article 13 of the constitution bans parties that are "sympathetic to the totalitarian methods of nazism, fascism, and communism." According to the information provided by the Civil and Register Department of the District Court in June 1999, about 80 political parties were registered. The lack of accurate figures resulted from the fact that some of these parties were then still in the process of validation.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
Party identification and membership is low in Poland. Polls in 1997 showed that most voters could identify only 8 to 12 parties or groupings, while other studies cited in the press showed that 60 percent of Poles do not feel represented by any existing political party. In terms of declared membership, the largest party (in June 1999) is the Peasant Party (PSL), which claims about 150,000 members (of which fewer than 10 percent are women). The Freedom Union (UW) claims 22,000 members, with 30 percent of them being women. The Social Democracy Party of Poland (SdRP), the largest party in the SLD alliance, was dissolved and then united with the All-Poland Trade Union Alliance (OPZZ) to form the SLD. In September 1999, the SLD claimed 60,000 members. About 0.3 percent of those interviewed in a March 1998 poll admitted to being members of political parties or associations.

6. What has been the trend of voter turn out at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
The voter turnout in local and regional elections on October 11, 1998, was more than 45 percent in *gminas* and *voivodships*, and more than 47 percent in *poviats*. Turnout was much higher than in previous local elections in 1994 (34 percent). Nearly 16 percent of elected representatives were women.

CIVIL SOCIETY 1.25/7

1. How many nongovernmental organizations have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
The growth of Polish civil society has included the development of NGOs. There are approximately 30,000 nongovernmental organizations in Poland, though many are small, under-funded, or inactive. NGOs include professional, cultural, youth, sports, political, ecological, religious, women's, and democracy-building groups, as well as public policy think tanks, educational and academic associations, and charity organizations. Labor unions, political parties, and local economic organizations are excluded from this list. While corporate philanthropy is in its infancy, there are NGOs working with the newly emerging private sector to address pressing social and environmental issues. Voluntary charities, many of them associated with the Catholic Church, are active in helping the poor and the elderly. In several large cities there are active Voluntary Centers that organize training for NGOs and people who want to participate in voluntary activities. The main objective of the Warsaw-based Academy for the Development of Philanthropy is the encouragement of philanthropy at the local level in order to support community foundations throughout Poland.

Surveys reveal that 0.1 to 4.5 percent of the adult population have participated in one of Poland's NGOs. The most popular types of organizations are groups active in the education sector, especially parents' committees (4.5 percent), and church organizations or par-

ish communities (3.6 percent). The index of public activity indicates that the majority of Poles (77 percent) do not belong to any organizations. In comparison with polls from 1997, however, a considerable increase of public activity in organizations other than labour unions and political parties is noticeable. Surveys of public involvement in charity reveal that many Poles would contribute financially to support ill or handicapped children (61 percent), handicapped adults (48 percent), and children from orphanages (41 percent). While 48 percent of respondents in a 1998 survey declared financial contributions to charities, half did so during a national fund-raising event organized annually by The Great Holiday Aid Orchestra.

According to available data, the largest women's organization of a social and vocational character, with about 1 million members, is the Rural Housekeepers Association and Polish Women's League. The number of women's NGOs is estimated to be 250, varying in membership figures. The OKA (Information Center for Women's Organizations) located in Warsaw integrates various initiatives regarding women's issues.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues? To what extent is NGO activism focused on improving the legal and regulatory environment?

The legal and regulatory environment for NGOs is relatively positive. Most NGOs are associations or foundations registered with the court, with the exception of those associated with the church or whose activities are determined by international agreements (for example, the Red Cross). However, all foundations must be registered through only one court in Warsaw, resulting in long waiting periods for registration. Tax regulations concerning NGOs are liberal, with numerous tax exemptions for charity activities. From 10 to 15 percent can be deducted from the tax base for sums allocated to charity.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

NGOs that have received funding or technical assistance from Western foundations, governments, or international organizations, such as the U.S. Agency for International Development's DemNet project, which has awarded grants and worked with some 67 NGOs, tend to have a strong organizational capacity. In the last few years, several organizations have been active in providing services to the third sector, including the SPLOL-network, which combines five regional centers and a database KLON-JAWOR; the CSDF (the Civil Society Development Foundation); and Partners Polska. These organizations provide small, local NGOs with training and access to information sources. The weakness of small NGOs (although they have grown much stronger in the last two years) is a result of the fact that they mostly rely on volunteers who seldom have time to participate in training sessions.

4. Are NGOs financially viable? What is their tax status? Are they obliged and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

As elsewhere in Central and Eastern Europe and the former Soviet Union, most NGOs in Poland depend on Western organizations and institutions for a substantial part of their operating budgets, although a growing number of NGOs have discovered other sources of revenue and are becoming more self-sustaining. The financial situation of the third sector may deteriorate as a result of limitations of Western aid programmes such as UNDP or PHARE. Those funds contributed considerably to the tremendous development of NGOs from 1990 through 1995. They created the basis for the existence of think tanks and large networks and allowed for organizing training for local communities, publishing, and educational activities. The financial viability of NGOs further suffers from the lack of stability in the government's fiscal policy, such as frequent changes in the tax system and changes introduced in 1999 in the regulations governing the principles of financing NGOs by the local governments. As a result of those changes, some local NGOs involved in social care have suffered temporary, though serious, problems

in their operations. It is not yet common for businesses to make donations to NGOs.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmer's groups, small business associations, etc.?

The 1997 constitution (Articles 12 and 57) and other legislation allow for the formation of independent trade unions. Under the law, 10 people are necessary to form a local union and 30 to establish a national union. Unions must be registered with the courts. According to information provided by the VII Civil Registry Department of the Circuit Court, in 1999, 275 institutional labour unions, 167 federations, and 71 labor unions of employers were registered. The principal union federations are the National Alliance of Trade Unions (OPZZ) (the successor to its Communist-era namesake), and the Independent Self-Governing Trade Union Solidarity (NSZZ). Offshoots of mainstream Solidarity include the Christian Trade Union Solidarity and Solidarity '80. There is no reliable data on labor union membership or on the number of full-time union activists. As a rule, the membership figures provided by the unions are inflated. It is estimated that the number of NSZZ Solidarity members who pay membership fees is between 1.1 and 1.2 million. OPZZ claims about 2.5 million members. According to CBOS research, the total number of union members does not exceed 3 million. Most union members are skilled workers (28 percent), mid-level managers, or intellectuals (25 percent), while only 5 percent are peasants and just 1 percent is self-employed. Two-fifths of the employees in publicly owned industries and almost one-third of the employees paid from the central budget are union members. The union growing most rapidly in power is Samoobrona (Self Defence) of A. Lepper, which represents the interests of peasants. In 1999, this union organized blockages of public roads all around the country. According to a recent survey, 58 percent of respondents in a survey believe that employees are left to themselves and 63 percent hold that unions are inefficient in representing their interests.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

The constitution gives citizens the right to petition administrative agencies and public institutions (Article 61), and citizens have the right to lodge complaints with the Constitutional Court (Article 75.1). Lobbying activities are permitted and political endorsements are legal. Freedoms of association and assembly include the right to hold public demonstrations. State sector managers, business groups, trade unions, farmers' associations, and some NGOs are active in the political and policy process through direct meetings with government officials, providing government agencies with information and media access.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

The weakness of contacts between NGOs and the government is caused by the fact that NGOs still have no legal representation. Thus, they are unable to present the government in advance with any recommendations relating to their needs and concerns. They can only react to disadvantageous administrative and legal decisions after the government has adopted them.

INDEPENDENT MEDIA 1.50/7

1. Are there legal protections for press freedom?

Article 14 of the 1997 constitution safeguards "freedom of the press and other mass media." The 1990 Bill of Annulation of the Law on Control of Publications and Performances, the Abolition of its Control Organs, and the Change of the Press Law abolished censorship and loosened government control of the media. A media law adopted in December 1992 transformed state radio and television into joint-stock companies and led to the growth of private commercial television and radio stations. It prescribed that foreign ownership in broadcasting should not exceed 33

percent. Broadcasting is overseen by a nine-member National Radio and Television Broadcasting Council (KRRiTV).

2. Are there legal penalties for libelling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

There are several provisions in the Penal Code dealing with libel and defamation. Article 270 of the Penal Code states that anyone who "publicly insults, ridicules, and derides the Polish Nation, the Polish People's Republic, its political system, or its principal organs is punishable by between six months and eight years imprisonment." Article 273 imposes a prison term of up to ten years for anyone who violates Article 270 in print or through the mass media. The Penal Code also prohibits the use of media to "advocate discord" on national, ethnic, racial, or religious grounds, and prohibits offending religious sentiment.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Privatization of print media is virtually complete. Approximately 5,500 newspapers and magazines are currently published. The circulation of major dailies includes *Gazeta Wyborcza*, 508,000 daily and 671,000 on weekends; *Super Express*, 446,000 daily and 877,000 on weekends; and Rzeczpospolita, 289,000 daily and 305,000 on weekends. The circulation of the largest newspapers has decreased slightly over the last two years. There is a growing demand for specialised and professional publications. KRRiTV has granted 191 licenses for commercial radio stations and 24 licenses for television stations, including satellite television. The three most popular radio stations are RMF FM, Krakow (private), I Programme National Station (public), Radio Zet, and Warsaw (private). Other radio stations include III Programme National Station (public) and Catholic Radio Maryja. The two largest private TV stations, Polsat and TVN, are growing rapidly in popularity, with Polsat almost as popular as the state-run TVP-1. TVN's popularity in the regions in which it is broadcast almost equals that of the state-run TVP-2. In the cities, cable stations are widely available. Out of 12 million households in Poland, 3.6 million (30 percent) have access to cable TV. The growth of cable has sparked competition between two paid coded TV stations, Canal+ and Wizja TV.

4. Are the private media financially viable?

A new bill on radio and television, expected to be more liberal to foreign capital, was under discussion in parliament in mid-1999. The government wants to increase foreign ownership of media from 22 percent to 49 percent and waive all restrictions on satellite and cable television, part of a move to adjust to EU standards. In 1999, United Pan-Europe Communications and the coded television station Wizja TV entered the Polish market. Capital concentration may be observed in the press and in other media markets. In 1999, Agora Ltd (the publisher of *Gazeta Wyborcza*) entered the Warsaw Stock Exchange. Major foreign publishers operating in Poland are Norwegian ORKLA (with a 51- percent stake in *Rzeczpospolita*), Gruner & Jakre, Axel Springer, H. Bauer, Edipresse. The largest Polish editors are Prószynski & S-ka and Z.P.R.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The principle of editorial independence remains a key issue in the Polish media. While newspapers and magazines reflect political diversity and run the gamut from the far-left to the far-right, the independent media are pushing for editorial autonomy from private owners, many of them foreign-based. KRRiTV is ostensibly independent of the government but since parliament, the Senate, and the president's office nominate its nine members, politics plays a key role in the council's composition. Less then a month before the September 1997 elections won by the AWS-led opposition, the ruling SLD named new board members to the KRRiTV. Many of the members of the council, which appoints managers and monitors operations of state-owned television and radio stations, were loyal to the former ruling coalition. Reporters, editors, and managers of the state-owned stations resigned or were subsequently fired, and several popular political shows were cancelled. Some reporters have moved to the commercial stations RTL-7 and TVN, which offer news programming.

6. Is the distribution system for newspapers privately or governmentally controlled?
The system of press distribution in Poland has not yet been fully privatized. The state-owned RUCH S.A. remains the main distributor, controlling 60 to 65 percent of the market. The second largest distributor is a private firm, Kolporter, which controls 22 percent of the market. The remaining share of the market is divided between the private firms of YARDPRESS, INMEDIO, and GARMOND.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
The estimated number of Internet users is between 1.5 and 2.5 million individuals and growing rapidly. There are no restrictions on Internet access. Ninety percent of users can access Internet at their work place.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
The largest journalists' organization is the Journalists Association of the Polish Republic with almost 8,000 members, one-third of them women. The second largest is the Polish Association of Journalists, with about 2,000 members (no information is available, however, about women's membership in this association). The Chamber of Press Editors was established in March 1996 as a result of an initiative by the two largest organizations of editors—the Press Editors' Union and the Polish Association of Editors. The Chamber has more than 160 members of publishers of national and regional dailies and magazines. The most powerful editors of dailies belong to the Chamber, including Polskapresse, Orkla, Agora S.A., as do publishers of large magazines, such as H. Bauer, Axel Springer Polska, Twój Styl. The Chamber represents the interests of publishers before the Polish government. The Polish Journalists Association founded the Press Freedom Monitoring Center. Its mission is to protect and promote freedom of expression as it is envisaged in the European Convention on Human Rights' Article 10 and in Article 19 of the International Covenant on Civil and Political Rights. It protects journalists' freedom of access to information and their right to disseminate information, and it seeks to consolidate the system of independent mass media and to encourage the proper use of the principle of free speech.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom?*
Freedom House's annual *Survey of Press Freedom* has rated Poland "Free" from 1990 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 1.75/7

1. Is the legislature the effective rule-making institution?
Parliament, consisting of a Senate and a lower house, the Sejm, is the effective rule-making institution. The 1997 constitution limited presidential vetoes and clearly delineated the separation of powers.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
In 1990, the first Solidarity-led government introduced a local self-government law that laid the foundation for a new and decentralized system of local government. The gmina, or township, became the basic administrative unit, acquiring legal status, ownership of local assets, and responsibility for its own budget. The gmina elected a council that appointed executive officials to run it in accordance with the councillor's resolutions. Under the 1997 constitution, the gmina remained "the basic unit of local government." On January 1, 1999, the reform of the administrative system—one of four major reforms initiated by Prime Minister Jerzy Buzek—went into effect. The reform introduced 3 levels of local administration: a) 16 voivodships, b) 208 poviats and 64 townships, and c) 2,489 gminas. The main objective was to continue the self-government reforms started in 1990 by further devolving central government powers and obligations to self-governed voivodships, poviats, and gminas. The gmina level remains the lowest unit of local government. A major reform in the health sector in January 1999 was supposed to further the devolution of competence from central authorities to the local level in the responsibility for regional hospitals.

3. Are subnational officials chosen in free and fair elections?

According to the State Commission for National Elections, 63,765 councilors were elected during local elections held in October 1998. That number included 52,377 councilors in gminas, 10,290 in poviats, 855 in voivodships, and 175 district councilors in Warsaw gmina Centrum. In gminas, the AWS and the SLD took almost a quarter of the seats in the local councils (24 percent); in poviats, the parties took more than half (about 58 percent), and in voivodships more than three quarters (78.5 percent) of the seats. The Solidarity Electoral Action representatives in regional councils outnumbered those from the Democratic Left Alliance. In voivodship councils, the AWS has 40 percent of seats and SLD 38.5 percent; in poviats, the AWS has 30.5 percent and the SLD 27.5 percent; in gminas (including the Warsaw Municipal Council and district councils in the largest Warsaw gmina, Centrum), the AWS has 13.5 percent; the SLD almost 11 percent.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Executive and legislative bodies at the national level operate openly and transparently. Article 109 of the 1997 constitution states that "sessions of the Sejm are public," though a majority vote allows for closed-session deliberations. Texts of legislation and drafts are published and available to the media.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

The law of June 5, 1998, concerning voivodship authorities does not specify the extent to which voivodships are obliged to contribute to the national budget. Thus, despite implementation of reforms, the scope of decentralization of revenue management to local authorities is still insufficient. The financial means left at the disposal of local governments are far too limited. One of the strategic goals of the reform effort has been achieved only partially, primarily because the new poviat and voivodship authorities have not been equipped with adequate decision-making and revenue powers.

6. Do elected local leaders and local civil servants know how to manage municipal government effectively?

In general, the lower the level of regional government, the better the management of resources (gminas). In Warsaw, 5 different levels of management co-exist: 7 districts in gmina Centrum, 11 gminas, the city, the poviat, the voivodship. This structure of overlapping authorities often creates confusion over the decision-making process and is the source of various disputes. The cost of maintaining these bureaucratic structures and 800 councillors is enormous. A law reforming the structure of the capital has not been passed yet by parliament.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The implementation of the reform of administrative divisions put an end to a seven-year-long national debate. The key element of reform involves the different amounts allocated to central and regional governments from the national budget. Currently, the proportion ranges from 15 to 85 percent. The objective for the coming years is to increase local budgets, which would contribute to a more effective use of public funds. On December 18, 1998, the Sejm abolished a civil service law of July 5, 1996, and passed a new law, which went into effect in July 1999. The primary difference in the new law is a reduction in the number of categories of civil servants from several to only two: staff employed on the day when the new law went into effect, and civil service officials (the elite). The number of civil service staff is estimated to be 117,000, excluding the administrative staff and people holding political posts (such as ministers or deputy ministers). There were an estimated 100 officials at the end of 1999. One can become a civil service official after successful completion of a qualification procedure organized by the Chief of Civil Service, on graduation from the National School of Public Administration (KSAP), or on nomination according to the old law. The number of new civil service officials is determined by the national budget, although it is estimated that several hundred new officials will join the civil service every year. The new law stresses

competition and freedom of access to posts. All levels of public administration are obliged to inform the Office of Civil Service about vacancies, and this information is then published in the Civil Service Bulletin. Regional public administration (voivodships and poviats) employs about 30,000 people. Central government administration is separate from regional authorities; the law on civil service concerns only the former.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 1.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
Parliament adopted a new constitution in April 1997 that was ratified by public referendum in May. Over 53 percent of voters supported the document, with 46 percent against; turnout was 43 percent. The constitution was signed by the president on July 15, and came into effect in mid-September 1998. The constitution replaced the so-called "Little Constitution" that was signed into law by then-President Lech Walesa in November 1992 mandating a strong presidency. The new constitution delineated competencies more precisely and diminished areas of potential conflict by reducing and more clearly defining the role of the president. The president can still influence legislation through certain legislative initiatives, but his veto power has been limited. It also introduced the constructive vote of no-confidence, making it impossible to dismiss a government without appointing a new one at the same time.

The new constitution widened the prerogatives of the Constitution Tribunal and increased the number of justices from 12 to 15. According to Article 188 of the new constitution, the tribunal may rule on conformity to the constitution of statutes, international agreements, legal provisions issued by government bodies, the activities and purposes of political parties, and also settle jurisdictional disputes between state organs. Article 190.1 stipulates, "judgements of the Constitutional Tribunal shall be of universally binding application and shall be final." In February 1999, for the first time, a citizen won a case in the Constitutional Tribunal by lodging a constitutional complaint (a means of complaint introduced by the constitution of 1997 in cases when other ways of settling a dispute in court fail and when, in his view, the law violates human rights and freedoms guaranteed by the constitution). Janusz F. a soldier and a Jehovah's Witness, was told after the completion of his service to repay the costs of his education received during his service in the army. The judgement of the Tribunal is final, which means that the Ministry of Defence must prepare new regulations concerning refunding education costs. In mid-October 1999, the article of the constitution that expressed the judgement of the Constitutional Tribunal was put into effect. Prior to that date, parliament had been able to reject it by means of a majority vote.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
The 1997 constitution enshrines basic human rights and civil liberties, including freedoms of speech, assembly, association, press, and conscience. Chapter II on Rights, Liberties, and Obligations also establishes the principles of equality under the law, the presumption of innocence, and the inviolability of the home. An Ombudsman for Human Rights has the right to investigate alleged violations of human rights and civil liberties. Several articles safeguard the right to property ownership, inheritance, and freedom of economic activity.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?
In June 1997, the Sejm passed the new Criminal Code and the Code of Criminal Procedure, culminating an eight-year effort to restructure the criminal justice system. The codes, which went into effect in September 1998, replace codes from the late 1960s that had been modified piecemeal since 1989. The new law parallels provisions of the new constitution that extend the current 48-hour "initial arrest" phase to 72 hours and provide detainees with a limited right to counsel.

Search warrants issued by a court or prosecutors are required for entering private residences. In emergency cases, when a prosecutor is not immediately available, police may enter a residence with the approval of the local police commander. Legal and conservative political circles have criticized the new Criminal Code. The latter consider the Code too liberal toward criminals. A special commission at the Ministry of Justice has nearly completed an amended version of the Code.

In 1999, there were a few instances of particularly brutal police interventions. In May 1999, a former policeman was pronounced guilty of a fatal assault and sentenced to six years in prison. In June 1999, a 23-year-old from Sosnowiec was killed as a result of police intervention. Citizens of Sosnowiec collected almost 10,000 signatures in a petition addressed to the Chief Commander of Police condemning police brutality. According to a report prepared by the Chief Police Inspectorate, police are constantly exposed to dangerous and stressful situations. In 1998, policemen suffered 5,500 injuries, 25 committed suicide, and 8 were killed while performing their duties. Prison conditions are poor. The Ombudsman for Human Rights recommended that several detention centers should be closed or renovated and that the prison population should be reduced.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

While judges rule fairly in criminal and civil cases, the courts are plagued by poor administration, lack of trained personnel, and bureaucratic delays. According to a law amended on June 18, 1999 on "Revealing Employment or Cooperation with Security Forces in 1944 to 1990 by People Holding Public Positions," judges, lawyers, and prosecutors are obliged to submit vetting declarations to the Court of Appeal in Warsaw. This requirement is also obligatory for members of parliament, senators, and government officials. These declarations are verified by the Ombudsman for Human Rights who checks them against the records of archives in the UOP, the Ministry of Interior, the Ministry of Justice, the Ministry of National Defence, and the Ministry of Foreign Affairs. Suspecting falsified declarations, the Ombudsman may recommend court proceedings. By the end of 1999, approximately 24,000 people submitted their declarations. The Ombudsman verified about 1,200; in 30 cases he recommended court proceedings. In all cases the court shared the Ombudsman's doubts and started official proceedings. Out of 30 cases of suspected false declarations, 3 involved judges. The names of officials who admitted cooperation with security forces are published in *Monitor Polski*. As a result of these publications, several prosecutors were dismissed in 1999. The Minister of Justice explained her decision by "the loss of confidence to the prosecutors who admitted collaboration."

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

Poland's three-tiered court system consists of regional and provincial courts and a supreme court. The 1997 constitution expanded the competency of the Constitutional Tribunal. Judges are nominated by the National Judicial Council, created in 1989, and appointed by the president. The National Judicial Council consists of the chief justice of the supreme court, the minister of justice, the chief justice of the Superior Administrative Court (a presidential appointee), 15 justices chosen from among the Supreme Court and lower courts, and four members chosen by parliament. Judges are appointed for life and can be reassigned but not dismissed except by a decision of the National Judicial Council. The administration of the judicial system is vested in the hands of the minister of justice and the courts themselves.

Poland's judiciary is independent, although the role of the justice minister, president, and parliament in the selection of judges could potentially result in political influence over the court system. On August 20, 1999, the district prosecutor's Office in Warsaw discontinued further investigation into the involvement of the Office for State Protection (UOP) in surveillance of political parties' activists in 1992 and 1993. The UOP was found not guilty of any offense. Two months before that announcement, the district prosecutor was dismissed from his post. He then disclosed to *Przegld Tygodniowy* that he had been under strong pressure from deputy prosecutor general to end that investigation.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

According to the latest reports provided by the Ministry of National Education (December of 1998), 3,811 students graduated from law faculties at universities and 2,286 people completed extra-mural courses in law. The 1989 political changes and the move towards a market economy contributed to the rapid development of continuing/extra-mural education. Graduation from a law department is only a preliminary step in the process leading to full qualifications in law. Only a limited number of candidates are awarded these qualifications after an obligatory period of practice, and large legal corporations are not eager to employ new staff. During the first nine months of 1999, only 100 graduates were offered posititions of employment or apprenticeship. The Polish Bar Association has no statistics relating to the proportion of women lawyers and judges. In September 1999, the number of lawyers and judges active in their profession was 4,245. According to the Warsaw Chamber, about one-third of that number are women. The highest proportion of women in law is among judges: 56 percent of those judges working in courts of appeal are women, as are 66 percent of those in district courts; 35 percent of those in prosecution appeal offices, and 57 percent of those in district prosecution offices.

7. Does the state provide public defenders?
The 1997 constitution enshrines the right to counsel at all stages of a criminal proceeding. Once formal charges are filed, the defendant is allowed to study the charges and consult with an attorney provided at public expense if necessary. The Helsinki Foundation for Human Rights has questioned the proper implementation of the legal right to counsel, in particular when it concerns the poor. In many cases, the quality of the counsel is questionable.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
The constitution provides for equal rights regardless of sex or ethnic origin. Poland's population is 98 percent ethnically homogenous, with small Ukrainian, Belarusian, Slovak, Lithuanian, and German minorities. The electoral law exempts ethnic minority parties from the requirement to win five percent of the vote nationwide for parliamentary representation. In 1997, a party representing the German minority won a seat in the Sejm. Minority groups enjoy cultural autonomy, and many have established institutions and native-language publications. In March 1999, the Sejm rejected a bill on the equal status of women and men. The new retirement law states that women will receive lower retirement pensions because they are entitled to retire earlier (at 60) than men (at 65). Thus, the period of paying for the retirement fund is shorter for women. The Center for Women's Rights, one of Poland's major women's organizations, launched a campaign in 1999 against violence toward women and against sexual harassment in the workplace. In the spring of 1999, one of the lecturers at Opole University published a book, in a total sales volume of 350 copies, which denied the Holocaust in Oswicim. A court rejected a case against the author on the grounds of a "low degree of harmfulness."

9. Are judicial decisions effectively enforced?
In criminal cases, judicial decisions are effectively enforced. In civil cases, the length of judicial proceedings often influences their effectiveness, as the number of cases submitted to the courts is far too great to be dealt with effectively and promptly. In addition, the payment of debts by the bailiffs is particularly difficult to enforce.

CORRUPTION 2.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption is less widespread in Poland than in many other post-Communist countries. The greatest sources of corruption are the discretionary power of bureaucrats to issue licenses, conduct inspections, grant waivers, award contracts, and grant customs levies to firms, as well as a lack of transparency in the organization of public procurement tenders, especially in regional governments. Businesses often find that they must pay a "tax" to conduct a desired activity. For example,

tax authorities and the Ministry of Finance can arbitrarily decide to cancel tax assessments on a given company. More politically influential firms, such as the large but ailing state-owned enterprises, are the likeliest to be the beneficiaries of such actions. The average salaries of civil servants in the central government institutions are low in comparison with local governments which, depending on their level of prosperity, pay two to four times as much.

2. Do top policy-makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

In 1993, researchers surveyed 1,000 people formerly connected to the Central Committee of the Communist Party. They compared these individuals to the members of the new economic elite and discovered that the overlap in Poland was 28 percent. This compares to 30 percent in Hungary and 19 percent in Russia. The Polish public perceives ties between top party and government officials and financial elites. A February/March 1998 poll revealed that 31.6 percent of the public perceived such ties of the ruling AWS, 25.7 percent of the governing partner Freedom Union, and 29.1 percent of the opposition SLD.

The Sejm passed an anticorruption bill in August 1997 that restricted the ability of top state officials to be involved in private business. Such officials include the president, the prime minister, the speakers of the Sejm and the Senate, the heads of chancelleries of both houses of parliament, the head of the president's Chancellery, the chairman of the Supreme Board of Inspection (NIK), the president of the National Bank of Poland, presidents of the Supreme Court and of the Supreme Administrative Court, judges of the Constitutional Tribunal, the ombudsman, the chairman of the Polish Academy of Sciences (PAN), as well as other central and local government officials. There are still no legal regulations by which the closest family members of the above-mentioned would be obliged to hand over their private businesses to trusts for the duration of their relative's tenure. The ethical rule still prevails: what is not legally forbidden is permitted. Recently, some parties (SLD, UW) have expressed a will to introduce ethical codes that would be obligatory for their members.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The penalty for violating the anticorruption law is immediate dismissal from one's position. The law also requires top state officials to file asset disclosures for themselves and their spouses. A punishment of up to five years in prison is stipulated for those who supply false information. Finally, it requires that the State Electoral Commission maintain a register of substantial gifts and funded trips given to top state officials. The anticorruption law uses the term "other people performing public functions," which is a vague term and causes interpretation problems. Prosecutors usually pursue unveiled acts of corruption, but final indictments rarely follow.

In July 1996, the former mayor of Gdansk was arrested for having accepted a 50,000 deutsche mark bribe from a German company for a Gdansk insulation contract. In late 1996, the Minister of Foreign Economic Relations Jacek Buchacz left office after allegations surfaced about the granting of state guarantees to firms that were linked to him. In September 1997, the largest corruption trial to date began against the Poz-Sys firm, which was alleged to have bribed high-level officials in the State Fire Department in an attempt to win contracts for that firm's rescue equipment.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

Apart from Transparency International surveys, there have not been any other public opinion surveys conducted on the perception of public sector corruption with the support of reputable monitoring organizatoins. Such initiatives are expected in the year 2000. CBOS and the Public Opinion Research Center have noted in their polls growing public intolerance of official corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws

and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Bribery and other forms of corruption are crimes under Articles 239 through 245 of the Polish Criminal Code. Article 62 of the Budgetary Law specifies the warnings and penalties (including fines three times the average monthly wage) for such activity. Articles 65 through 68 of the Law establish commissions to investigate alleged instances of corruption. There are no standing anticorruption or investigative agencies. One of the most important anticorruption tools in Poland is the transparent government procurement system with its open bidding at all levels of government. Deputy Prime Minister Leszek Balcerowicz has called for an end to permits and quotas as a way to combat corruption. In addition, the Silesian and Warsaw voivods have introduced anticorruption telephone hot lines. The anticorruption law, however, is so narrowly conceived that it is difficult to implement. Last year, there was not a single major prosecution for violations of the law.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

According to recent polls, the public believes that corruption in Poland is increasing. In the last two years, the number of people who believe that most civil servants take personal advantage of their public functions rose from 55 percent in 1997 to 61 percent in 1999. The majority of respondents perceive widespread nepotism and favoritism in staffing governmental posts, assigning major contracts, and placing public orders. Areas perceived as the most corrupt are the health system, the local administration, and the judiciary.

7. How do major corruption-ranking organizations like Transparency International rate this country?

Poland was rated 44th out of 99 countries by Transparency International in its 1999 Corruption Perceptions Index, and it received a score of 4.2 (where 10 is least corrupt and 0 is most corrupt).

Economic Liberalization

PRIVATIZATION 2.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

In 1990, the private sector accounted for 18 percent of GDP and employed 48 percent of the labor force, including the historically privately-run agricultural sector. In 1997, the private sector accounted for 69 percent of gross domestic product (GDP) and employed an estimated 67 percent of the labor force. The launching of new private ventures, more than the privatization of state-owned enterprises, drove the expansion of the private sector in Poland. According to the Central Statistical Office, over five percent of the labor force is employed in the informal sector which, according to different domestic and foreign estimates, comprised between 16 and 19 percent of GDP in 1997.

2. What major privatization legislation has been passed? What were its substantive features?

The beginning of privatization in Poland dates from two separate laws passed in July 1990: the Office of the Ministry of Ownership Act and the Privatization of State-Owned Enterprises (SOEs) Act. In August 1996, a new Law on Commercialization and Privatization of SOEs replaced the latter act. As a first step, state enterprises were commercialized and converted into joint stock companies. During the next step, the most efficient privatization method was chosen for the company and the state. Multiple privatization strategies included sales of enterprises to domestic (either insiders or outsiders) and foreign investors, initial public offerings, and leasing. The most popular methods included direct privatization, capital privatization, and mass privatization.

Direct privatization involves the sale, contribution to a joint venture, or long-term lease of the assets of a state enterprise. From 1,734 state-owned enterprises that had started this process, 1,597 had been completed by March 31, 1999. Capital privatization involves first, the transformation of a state enterprise into a joint stock company owned by the State Trea-

sury, followed by the transfer of the shares of the company through a public offering or a negotiated sale to a strategic investor. By March 31, 1999, 252 state-owned enterprises were privatized through capital privatization.

Mass privatization in Poland began in 1995 when 512 large and medium-sized state-owned companies were approved for participation in the program. The transfer of the shares of these companies to 15 closed-end National Investment Funds (NIFs) was completed by December 1995. Each privatized company initially had the same shareholding structure: 33 percent held by a "lead" NIF; 27 percent distributed equally to all other NIFs; up to 15 percent distributed, free of charge, to employees; and 25 percent retained by the State Treasury. State-selected consortia of foreign and local professional fund managers who run NIFs restructure the companies to increase their worth before sale. Since the end of 1995, the structure of NIFs' assets has changed because of active management. In 1998, 21 companies managed by NIFs went through the initial public offerings and were listed on the Warsaw Stock Exchange, 14 companies were traded over-the-counter (OTCs) markets, 166 companies were sold to outside investors, and 31 companies went bankrupt. All adult resident citizens were entitled to participate in the NIF Program by purchasing for PLN 20 (less than book value) a Universal Share Certificate convertible into 15 shares, representing one share in each of the 15 NIFs. Out of 27 million eligible Poles, approximately 25.7 million acquired the certificates. As of December 31, 1998, 18.6 million certificates had been converted into NIF shares that are listed on the Warsaw Stock Exchange.

In 1998, the Council of Ministers accepted the "Program of Privatization Until 2001," an ambitious pan to privatize the remaining state assets in telecommunication, banking, insurance, energy, the oil sector, mining, armaments, airlines, and utilities. In November 1998, the Treasury Ministry completed the first stage of privatization of TPSA (Polish telecom), when 210,000,000 shares and depository receipts listed on the Warsaw and London Stock Exchanges were sold, constituting 15 percent of TPSA's share capital. An additional 15 percent of shares were given to employees and from 25 to 35 percent of share capital will be sold to strategic investors at the end of 1999 or beginning of 2000.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: In 1998, 83 percent of agricultural land was private, compared with 80 percent in 1989. However, because of the historical tradition of private land ownership and family farming in Poland, the average plot of agricultural land is small—7.7 hectares in 1998. The Agricultural Ownership Agency, set up to restructure and privatize state farms, took over 4.6 million hectares of land from which 728,000 hectares were sold.

Housing and Land: Poles are allowed to own private housing and land. Since June 1996, foreign firms and individuals can own an apartment, 0.4 hectares of land, or up to one hectare of agricultural land without a permit from the Ministry of Interior and Administration. Future changes in legislation depend on negotiations over EU accession.

Industry: In 1997, the private sector accounted for 65 percent of industry's gross output. The number of registered state-owned enterprises declined from 8,453 in 1990 to 2,790 at the end of March 1999. Of those remaining, most are in the process of liquidation, leaving approximately 1,200 to be privatized. The pace of privatization of "strategic"—politically sensitive branches of industry—significantly increased under the current AWS-UW coalition government.

Small Business and Services: By 1997, over 90 percent of small business and services were in private hands.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The Privatization of State-Owned Enterprises Act envisioned that 20 percent of the shares of privatized enterprises would be distributed among employees for free. In the very beginning of Poland's transition, this concession won majority support for the privatization process among workers and trade unions, including Solidarity. Insiders dominated Polish privatization, with the exception of direct sales to strategic investors, partly because the inflow of foreign investments from 1990 to 1994 was negligible compared with that in the Czech Republic and Hungary. Management and employees in small trade and consumer services sectors dominated the "small" privatization of their own firms, as they often were the

only bidders at auctions. The Law on Commercialization and Privatization of SOEs, in effect from January 1997, allowed the State Treasury to privatize firms without the consent of employees providing up to 15 percent shares for free.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

Of the four main political parties, the agrarian, post-Communist PSL has been the strongest opponent of privatization and is largely responsible for the slowdown in the privatization process in general and the mass privatization process in particular. PSL opposes the liberalization of land sales, and together with the ex-Communist SLD, is against any restitution claims. The SLD, identified with nomenklatura privatization, currently opposes privatization in "strategic" branches and the sale of assets to foreign investors. The public attitude toward privatization is often related to particular situations: workers in almost bankrupt enterprises in the defense sector, for example, strongly support privatization.

MACROECONOMIC POLICY 1.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The principal taxes of the Polish tax system are the corporate income tax (CIT), the personal income tax (PIT), the tax on goods and services (Value Added Tax or VAT), and the excise tax. There are also local taxes collected directly by the local authorities or tax offices acting on behalf of such authorities. Local taxes include the agricultural tax, the forest tax, and the real estate tax. The CIT is imposed at a flat rate of 34 percent on taxable income, down from 38 percent in 1998. Dividends are subject to a 20 percent flat withholding tax rate. The PIT is levied at progressive tax rates, which are currently 19, 30, and 40 percent, down from 20, 32, and 44 percent in 1998. The Value Added Tax, introduced in 1993, replaced the domestic and the import turnover taxes. The VAT is levied on all goods sold in or imported into Poland, as well as on services rendered in Poland. The VAT Law provides for standard tax rates of 22 percent, reduced tax rates of 7 percent (basic food products, products for children, and certain other services), 4 percent for pharmaceuticals, and 0 percent (fertilizers, exported goods and services, and some other specifically listed services). The VAT rates will be subject to further adjustments in order to fall in line with the EU VAT directives in the period from 2000 through 2002. Excise tax is levied, along with the VAT, on certain luxury goods at the manufacturing or importing stage as a percentage (ranging from 7 to 30 percent) of the manufacturer's price or of the customs' value of imported goods (plus customs' duties) or as a fixed amount in Polish zloty. High tax rates, together with high tax rates on wages, have resulted in labor market rigidity, with an 11 percent or higher unemployment rate. Many work in the informal sector.

In April 1999, the AWS-UW government accepted a radical tax reform program aimed at simplifying the system and significantly reducing taxes. The CIT will be lowered to 28 percent in 2001 and 2002, to 24 percent in 2003, and 22 percent in 2004. The PIT in 2000 will remain at the same level as in 1999.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

A radical and comprehensive stabilization plan called the "Balcerowicz Program" was implemented in January of 1990 in the face of 600 percent hyperinflation. The plan resulted in a steady decline in inflation (less than 6 percent in the beginning of 1999), reorientation of trade toward Western markets, and a revival of economic growth. Real GDP grew 2.6 percent in 1992, averaged more than 6 percent in 1994 through 1997, and achieved more than 4 percent growth in 1998 and 1999. Weaker performance in the later period resulted from a cooling of consumer spending in Poland and the August 1998 financial crisis in Russia. Most CEE and FSU countries registered a real GDP decline dur-

ing those years. The private sector accounts for the majority of economic growth in Poland.

Subsidies have been cut sharply, from over 40 percent of state spending in 1989 to around 1.9 percent in 1998. However, many subsidies have taken an indirect form—delayed payment or non-payment of wage taxes by the biggest state enterprises.

The state's budget deficit fell from more than 7 percent of GDP in 1991 to around 2 percent of GDP in 1997 through 1999, and is budgeted to fall below 2 percent of GDP in 2000. The general government deficit has followed the same trajectory, moving from 2.6 percent and 2.9 percent of GDP in 1998 and 1999, respectively, to an expected less than 2 percent in 2000. This represents a very ambitious target because of public sector reforms introduced in 1998 and 1999 and the monetization of hidden deficits in health care and state pension sectors.

Poland concluded agreements with the "Paris Club" in 1991 and the "London Club" in 1994 to restructure the equivalent of $33 billion and $14 billion of external indebtedness. Poland's public debt for the years 1994 to 1998 declined from 68 percent to 43 percent of GDP. The progress of macroeconomic reforms in Poland was recognized with an accession to the OECD in July 1996. Polish credit ratings are investment grade (BBB by S&P), and moving upward.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The National Bank of Poland (NBP) is governed by the Act on the National Bank of Poland of January 1989, as amended by the Act on the National Bank of Poland of August 1997 and the Banking Law of August 1997. The NBP is led by a president and a Management Board. The president of the NBP is appointed by the Sejm on the nomination of the president of Poland for a six-year term, with strictly limited rights of recall. The 1997 legislation confirmed the NBP's independence and is primarily intended to adapt Polish central bank regulations to the EU central banking system. The legislation also established a new NBP body – the Monetary Policy Council—headed by the president of the NBP, who has the responsibility of drawing up annual monetary policy guidelines. Under the 1997 legislation, the powers of the president of the NBP are separate from those of the Monetary Policy Council and the Management Board of the NBP. There are ten members of the Monetary Policy Council in total, the other nine being drawn from outside the NBP. Members are appointed for a tenure of six years. Under the Polish constitution, the Commission for Banking Supervision supervises the activities of banks through the General Inspectorate of Banking Supervision, which is a separate organizational unit within the structure of the NBP. The Law on the Banking Deposit Guarantee Fund provides deposit insurance for all banks. The fund, which is financed by mandatory bank contributions, provides full coverage of deposits up to the equivalent of Euro 1,000 and 90 percent of deposits within the range of euro 1,000 to 8,000. In the period from 2000 to 2003, the upper range of deposits with 90 percent coverage will increase from euro 11,000 to euro 20,000. Only until December 31, 1999, will deposits in the three major wholesale banks enjoy supplementary State Treasury guarantees up to the entire sum of the deposit.

Interest rates were freed in January 1990, but generally follow the interest rate policies of the NBP. Since 1995, the high level of liquidity within Poland's banking sector (because of significant capital inflows) has resulted in a lower effectiveness of the NBP instruments. Compared with 1989, when there were just 6 banks in Poland (plus 1,663 co-operative banks), the number of commercial banks had increased by 1999 to 79 (plus 1,100 co-operative banks). There were 36 banks with foreign shareholder majorities accounting for more than 51 percent of all commercial banks' equity capital. The latter proportion will rise to almost 60 percent at the end of 1999. By then, foreign banks will be able to establish their own branches in Poland. The AWS-UW coalition government rejected the former SLD government's plan to create two large banking groups around Bank Handlowy and Bank Pekao (before its privatization). The latter bank was sold to a strategic investor in mid-1999, and the government plans to privatize the remaining state banks by 2001.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

Exchange rate stabilization, which was a core of the Balcerowicz reform program, made the zloty internally convertible on January 1, 1990. Currently, the zloty is fully convertible on current accounts and partially convertible on capital accounts. The new foreign exchange law, in force since January 1999, allows for all capital account transactions with maturities beyond one year to be carried out with OECD partners, as well as for the invoicing of current-account transactions in zlotys. General exchange rate rules are established by the Council of Ministers upon consultation with the Monetary Policy Council. The implementation of exchange rate and monetary policy falls under the sole authority of the NBP.

Since 1990, the zloty's value has been pegged to the U.S. dollar, replaced in mid-1991 by a basket of Western currencies dominated by the U.S. dollar and the German mark. The basket can be treated as "theoretical parity," set up daily by the NBP as gauged to the foreign currencies and the rate of a crawling peg, with a monthly devaluation of the basket at a constant rate. The zloty can fluctuate within the band of +/- 15 percent against the central parity rate. Since 1999, the zloty has been pegged to a two-currency basket, which consists of the euro (55 percent) and the U.S. dollar (45 percent); the crawling-peg rate is 0.3 percent monthly. In real terms, the zloty has appreciated on average by 5 to 7 percent per year since 1995. The NBP has intervened only rarely, usually to weaken the zloty. Foreign reserves rose from $6 billion in 1994 to more than $26 billion by April 1999.

Since 1991, the principal monetary goal has been to lower inflation gradually and assure free convertibility of the zloty for most current account transactions, by slowing growth of the money supply and resisting sharp exchange rate adjustments. However, in September 1998, the Monetary Policy Council published its medium-term strategy for monetary policy (from 1999 to 2003), which makes direct inflation targeting central and which stipulates a floating currency as a desirable intermediate stage prior to EMU membership.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

Polish capital markets have been maturing slowly, based more on the establishment of laws than on spontaneous developments. The Warsaw Stock Exchange (WSE) was set up in April 1991 by the Act Establishing the WSE and the Law on Public Trading in Securities. The independent Securities Commission is considered one of the best in all of the CEE and FSU countries.

In June 1997, amendments to the Security Law allowed for the development of brokerage houses into investment banks, and liberalized and simplified procedures for initial public offerings and the trading of warrants and derivatives. In January 1998, subsequent amendments complying with OECD requirements and the EU legal acts came into force. They provide for securities lending and set basic rules to guarantee agreements and underwriting. In February 1998, the Act on Investment Funds was implemented, laying the legal groundwork for open-ended, close-ended, mixed, and specialized funds.

In 1991, there were 5 traded companies on the WSE; by the end of 1998, 117 firms were regularly traded on the primary floor, 51 firms on the secondary floor, and 15 firms on the free floor. Firms traded on the primary floor comply with standard capital requirements and exist over a longer period that firms traded on the secondary floor (where shares are also less liquid). Firms quoted on the free floor have less rigid capital requirements. Treasury bills and bonds are traded on the WSE and interbank market. In December 1996, the regular over-the-counter market came into existence. Shares, municipal bonds, and warrants can be traded on the market. The WSE is comparable to the Greek and Portuguese stock exchanges in terms of trading volume and the quantity of transactions, but lags in capitalization (a little more than 10 percent of GDP in April 1999). The market is one of the most liquid in the region, with transactions concluded in three systems: single-price auction, continuous trading, and block trades. At the single-price auction, price per security emerges during each session as a result of the orders submitted. Transactions can be concluded even for a single security. The share price can move a maximum of +/-10 percent from the previous session. In the case of bonds, a maximum price change is 5 percentage points. The continuous trading system is the same as on developed stock exchanges. In Poland it initially applied only to Treasury papers. In July 1996, though, the WSE introduced the continuous trading of shares

of the five companies with the biggest turnover. On August 1996, NIFs certificates and in July 1997, shares of NIFs started to be traded continuously. In 1998, futures on the WIG 20 index, warrants, and futures on the U.S. dollar exchange rate were introduced. Large packages of securities can be traded off-session as block trades. The value of securities in block trades must account for at least one percent of the total shares of a given company traded on the WSE. The price of securities in a block trade may differ up to +/- 40 percent from the previous session's price.

Other exchanges have been late in developing. The Warsaw Grain and Feed Commodity Exchange, Poland's first commodity futures exchange, was created in late 1995. In May 1996, the Council of Ministers Economic Committee decided to establish 8 regional national commodity exchanges and 25 regional exchanges, from which 4 were in operation in 1999. The development of capital markets reflects Poland's evolution. In 1991, bank loans were the only source of capital for expanding companies. Currently, short-term commercial papers, bonds (including municipal bonds), and shares are issued on the WSE floors or through the over-the-counter market. The establishment of pension funds in 1999 will have a decisive role in the future development of Polish capital markets.

MICROECONOMIC POLICY 1.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Article 64 of the constitution states that "every person has the right to ownership, other property rights, and the right of inheritance [which are] subject to legal protection that is equal for all. Ownership may be restricted only by law and only to the extent to which it does not arbitrage the essence of the right of ownership." A second form of property is property lease – 40 to 99 years in duration, and which can be extended for 99 additional years. Leases can be sold and inherited.

Article 21 states that "expropriation is admissible only for public purposes and upon equitable compensation." The Law on Land Management and Expropriation of Real Estate limits public "takings" for specified public purposes such as national security. It also provides for full compensation at market value. No cases of expropriation have occurred since reforms began in 1990.Registries in land, companies, and property liens are not fully developed. For example, if there is more than one lien on a property, the most recent is given priority, the opposite of comparable procedures in the West.

Poland has liberalized regulations on foreign property holdings, allowing foreigners to purchase land without having to apply for a permit from the Ministry of Interior and Administration. Foreign individuals can purchase residential apartments and own land after a five-year residency period. Foreign companies can purchase up to 0.4 hectares of land in cities and up to 1 hectare of land in the countryside. Regulations and applications remain difficult and confusing, but any future changes in legislation strictly depend on negotiations on accession to the EU.

A Patent Law Act was passed in 1993, followed by a Copyright Law in 1994. The Ministry of Culture and Arts has enacted three executive ordinances. A December 1994 ordinance establishes a Copyright Commission composed of culture and arts ministry appointees, which is charged with two tasks: to approve the tables of royalties proposed by the "collective administration societies" for works and performances, and to arbitrate disputes concerning royalties. Since the adoption of a new law in January 1998, companies established in the Polish market are entitled to the protection of intellectual property. The law is based on a new customs code, already in operation at Poland's borders, which is in line with WTO standards.

While enforcement of legislation has improved in recent years, changes have come slowly. In late 1994, the Polish government closed a major television broadcaster that used pirated material. The government has been less effective in curtailing software piracy. The Business Software Alliance, a U.S. anti-piracies trade organization, estimates that approximately 90 percent of software in Poland is pirated. Since 1997, Poland has been placed on the U.S. government's Special 301 "Watch List" because of U.S. concerns about the high rate of piracy. During 1989 through 1999, the number

of pirate software confiscations increased as the government took more active measures.

The members of the AWS-UW government coalition, which agree in principle on the restitution of property expropriated in the past by Communists, disagree on the details of related legislation because of its potential impact on public finances. Many properties, especially in urban areas, have unclear ownership. When relevant legislation is eventually enacted, former owners will enjoy first right of sale or disposal, according to a mid-1996 upper court ruling. The court also ruled, on a case-by-case basis, on the restitution of rights to the owners of movable property expropriated by Communists.

2. To what extent have prices been liberalized? What subsidies remain?

Prices were liberalized by a 1989 reform program. Controlled prices as a percentage of the goods and services in the Consumer Price Index fell to 11 percent. Major prices that remain partially controlled are housing rents and energy. Since 1998, changing these prices no longer requires government permission, but the changes cannot exceed the limits established by government-controlled bodies. In February 1997, the government permitted liquid fuel and gasoline prices to change without prior approval. However, the oligopolistic structure of the fuel market in Poland and the slow process of privatizing this sector, which will begin in 1999, remain the primary obstacles.

A May 1997 energy law established the Energy Regulation Office, which awards licenses to private energy producers and regulates electricity prices. The energy price for households increased from $0.02 in 1990 to $0.07 in 1998, and a further increase is scheduled to take place in the year 2000. Electricity prices under the law will be set on a national electricity exchange. At the beginning of May 1996, regional prices were introduced for electricity that are adjusted according to a number of factors, including reliability and continuity of supply, as well as distance.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Polish laws regarding the creation of new business are generally liberal and transparent. An explosion of businesses created during the early transition period, especially small service firms, resulted in the dynamic growth of the private sector's share of GDP.

Nevertheless, there is a degree of complexity involved in starting and running a business, which is related to the speed with which laws regarding business activity are amended. More than 220 laws, amended over 500 times, regulate business activity. Consequently, small firms must often employ professional assistance to comply with the laws. Arbitrary judgments in the administration of taxes and arbitrary enforcement of labor, health, and safety regulations are additional problems.

In January 1998, Balcerowicz, who also serves as finance minister, established a commission of businessmen and experts to identify particularly onerous regulations, though the results of its work have been negligible. In comparison to the rest of Central Europe, trade unions are strong in Poland and have at times taken an active role in the restructuring and management of changes in enterprises.

The amended 1934 Bankruptcy Act provides procedures for liquidating businesses. After comprehensive post-Communist reforms, bankruptcy filings increased sharply, peaking at 5,249 in 1993. As of June 1999, 1,612 state enterprises had begun the process of liquidation; 729 cases had been completed. Some problems in bankruptcy procedures remain; for example, the law prioritizes government and procedural costs above those of creditors, resulting in the latter having a much-diminished incentive to go after debtors.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The Polish legal system is based on French and German models. Important judgements are published with details of the judges' reasoning. The limited capacity of Polish courts greatly delays adjudication procedures.

Commercial cases are generally heard in court between one and two years after filing, and a judgment is rendered in about the same amount of time. Bankruptcy courts are similarly slow. Foreign investors have generally avoided Polish courts to resolve disputes, choosing either international arbitration or informal methods. A reform of court procedures is being implemented with the goal of increasing the number of out-of-the-court agreements (modeling itself on the Anglo-Saxon system), setting up municipal courts to deal with minor cases, and shifting arbitration on taxes and financial issues from the Tax Administration Offices to the courts. Private arbitration tribunals already exist in Poland. Under the Code of Civil Procedures, judgements rendered in these tribunals have equal binding force as those done by public courts. Poland is a signatory of several major international agreements on dispute resolution.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Poland's 1990 Law on Countering Monopolistic Practices which prohibits various forms of anti-competitive behavior, is enforced by the Office of Competition and Consumer Protection. Monopolies are defined as having a market share exceeding 40 percent. Until 1999, the office found monopolistic practices in approximately 100 cases.

Government policy itself often decreases competition, sanctioning monopolistic practices in sectors of the economy that have not been restructured and privatized. Polish Telecom has a sanctioned monopoly over international connections until 2003, but the government introduced competition in local and long-distance telephone services in 1999. The Office of Competition ruled that TPSA could no longer forbid cellular telephone providers from using non-TPSA networks. Growing monopolization of some sectors—the government has created several industry-wide holding companies (such as Nafta Polska in fuels)—will decrease as privatization of these sectors matures in the years from 1999 to 2001.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Poland acceded to the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) in July 1995, and as such is a member of the World Trade Organization. Poland is also a member of the European Free Trade Association and the Central European Free Trade Agreement, both of which requre a substantial reduction in import duties.

Average tariff levels have decreased gradually since 1994, after increases in the years from 1992 to 1993. The average-weighted tariff was 15 percent in 1995 and declined to approximately 7 percent in 1998. The import surcharge was eliminated on January 1, 1997. Tariffs are scheduled to decrease further over the next several years as a result of multilateral agreements with the EU, EFTA, and CEFTA, encompassing approximately 75 percent of Poland's trade, as well as pursuant to Poland's membership in the WTO. However, in February 1997, Poland re-imposed a previously suspended 10 percent tariff on grain and grain products, and in 1999 introduced quotas on grain that reflects the broader issue of subsidized foodstuffs imported from the EU countries.

Political considerations dictate which sectors enjoy protection. Economic reasoning favors further liberalization of trade, first within the CEFTA countries, then with the EU. Already, imports from countries outside the EU face much higher protection. Non-tariff barriers, such as certification requirements, product standards, and officials overworked because of the explosion of trade and transit activities in Poland also hinder trade liberalization.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The Foreign Investment Act of 1991 and subsequent amendments secured the opening of Poland to foreign investment. With the exception of "strategic" sectors, Poland does not require any local participation, ownership, or management in companies. Foreigners can generally enjoy complete ownership of new or existing Polish firms, and profits and dividends can be fully repatriated with no permit requirement. Remaining restrictions on foreign investment in joint ventures were removed by the March 1996 Joint Ventures Law. In April 1996 and January 1999, Poland partially eliminated controls on flows of capital.

Relative to other countries in the region, privatization in Poland has been quite open to foreign investors. Foreigners can purchase shares in privatized companies, including NIFs that are traded on the WSE and which represent ownership of many privatized companies. As for the "strategic" sectors, where there had been exceptions to liberal rules on foreign investment, the banking, insurance, telecommunications, steel, energy, transportation, and defense sectors are now open to foreign investors. Generally, domestic and foreign firms are treated equally under Polish investment law, with the exception of bids for public procurement contracts. Polish firms enjoy a mandated 20 percent price advantage, and 50 percent of the materials and labor in all contracts are required to be Polish. Foreign investors, however, enjoy extensive tax privileges in the so-called "free custom areas." An October 1994 law also established a "special economic zone" which extended tax privileges to areas with high unemployment. However, the EU requirements that the Polish government will follow stipulate the termination of new investors' entries into these zones in 2000. Foreign direct investment (FDI) increased considerably in 1995. The cumulative value of investments over $1 million from 1990 until 1998 is $27.3 billion. Germany and the United States are the largest foreign investors at $5.1 and $4.9 billion, respectively. The majority of investments were made in the manufacturing sector ($15.9 billion) and food industry ($4.5 billion).

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets? Poland's energy sector is among its least reformed sectors. Problems include obsolete technology, poor energy efficiency, excessive waste of raw materials, poor use of existing capacity, and environmental hazard, since nearly all primary energy consumption derived from fossil fuels in 1998. The dissolution of state ownership in the energy sector has consisted mostly of "minor privatization" or the contracting out of support services such as repair, transport, storage, and administration to private companies.

The energy market is protected from imports. The EU agreed in late 1996 to extend protection of the Polish fuel market until the year 2000. Under the agreement, custom duties will be gradually reduced. In return, Poland is obliged to continue fuel price deregulation, accelerate refinery privatization, remove non-tariff barriers such as quotas on fuels, and give equal treatment to all firms dealing with Polish refineries.

In May 1996, Poland merged one of the two main state-owned oil refineries and the main gasoline distribution network into Nafta Polska, an industry-wide holding company, with the goal of attracting foreign investors. Privatization of the Nafta Polska will take place in the last quarter of 1999. It is expected that the Treasury will offer 30 percent of its shares in a public offer on the domestic market and foreign stock exchanges. Another oil refinery, Rafineria Gdanska S.A. will be privatized in 2000. A majority stake will be offered to strategic investors through a public invitation to negotiations. The Polish Oil and Gas Company has a monopoly on the importation, transmission, storage, and distribution of natural gas. The privatization of the oil and gas sector is to be completed by year 2001.

Poland's oil and gas reserves are small, supplying less than 2 percent and 27 percent of domestic consumption in 1998, respectively. Historically, all gas imports have come from the Russian Federation. The Yamal gas pipeline currently being constructed stretches across Poland from Siberia to Western Europe. Oil import is more diversified, although some 80 percent of crude oil comes from Russia.

Total electricity generation in Poland exceeds increasing domestic consumption. Because of Poland's domestic coal reserves, electricity generation relies heavily on coal-fired power plants. The 1996 Energy Law created an Electricity Regulation Board responsible for licensing, supervising, and approving rates, levying fines, and arbitrating disputes between users and producers. Poland's electricity industry is organized into three tiers, consisting of companies concerned with generation, high voltage transmission, and distribution. All relevant companies are in the process of being organized into financially independent joint stock companies. The core institution in this sector is the state-owned Polish Power Grid Company, which purchases electricity from the 36 public power generation companies and from industrial self-producers and sells electricity to 32 local public distribution companies.

The Polish electricity system participates in the Western European power system. However, the privatization of power plants has been subject continual delays.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The national work force in Poland amounted to 17.2 million people in 1998, reflecting a decline from 17.5 in 1992. Almost 92 percent of the workforce is either employed on a full-time basis or employed in a part-time basis in their main workplace. Participation rates for both men and women declined from 70 percent and 54 percent in 1992 to 65 percent and 50 percent in 1998, respectively.

Before 1989, unemployment was not officially recognized in Poland for political reasons, and over-employment was evident in many enterprises. The unemployment rate fell from 16.4 percent in 1993 to just over 10 percent at the end of 1998 before rising to 12 percent in early 1999. This rise is mainly attributed to the increased willingness of people to register as unemployed, which is a result of health care system reforms implemented at the beginning of 1999. The unemployment rate for men and women declined from 12.5 percent and 15.1 percent in 1992 to 9.3 percent and 12.2 percent in 1998, respectively. There is neither hidden unemployment nor differences in unofficial data because of the beneficiary system of unemployment benefits and social protection in Poland.

The state provides unemployment compensation at the level of approximately 30 percent of the median wage. The compensation is related to the working period of the unemployed: the longer the period of work, the higher the compensation rate, reaching 80 percent for those who have worked less than five years, 100 percent for those who have worked from 5 to 20 years, and 120 percent for those who worked over 20 years. The duration of benefits depends on the unemployment rate in a particular region. If this rate is higher than the country average, benefits can last for 12 months, and six months if the rate is lower. If there is structural unemployment in the region, benefits can be granted for 18 months.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Beginning in January 1999, the pay-as-you-go pension system in Poland was replaced with a three-pillar system. The first pillar is an improved version of the mandatory pay-as-you-go system; the second, a compulsory private pension fund managed by private institutions and pension institutions; and the third, a voluntary capitalized fund, such as an employee pension scheme and individual pension insurance policies. For persons below 30 years old as of January 1, 1999, participation in the first two pillars is mandatory. Persons between 30 and 51 may choose whether to pay into a private pension scheme or remain in the pay-as-you-go scheme. The reformed pension scheme is intended to reduce state budgetary liabilities to the social security system and provide more liquidity in the domestic markets as a result of the significant flow of funds into privately managed pension funds.

Four social security funds and a state pension fund are administered by the state and are partially or wholly financed by contributions from employers. The social insurance fund and the labor fund are the largest extra-budgetary funds and rely on state budget transfers to supplement their own off-budget revenues. In the 1999 state budget, more than 20 percent of the revenues of the social insurance fund and almost 25 percent of the revenues of the labor fund came from state budget transfers. The pension reform and health care

reform implemented in 1999 revealed the hidden debt of the state pension fund and health care institutions, amounting to 1 percent of GDP, which must be financed by the state. Prior to 1996, social security benefits were indexed by law to average wages in the economy. Since then, they have been indexed by law to inflation, projected by annual budget acts. As a result of a rapid increase in average wages from 1994 through 1996, social security benefits also increased at an accelerated rate. The growth in social expenditures is attributable to a combination of adverse demographic trends, early retirement, higher unemployment, and the linkage of benefits to prices.

The retirement age is 65 for men and 60 for women. The average monthly retirement benefit was 57.3 percent of the median wage in 1993 and 67.8 percent of the median wage in 1998. The maximum proportion was reached in 1995 with an average monthly retirement benefit of 73.7 percent of the median wage. There are retirement privileges for certain groups like miners, teachers, service men and women, and for work under conditions that pose a health hazard. The pension system reform phases out most privileged groups, although a system of specialized benefits consists of two groups for disabled and one group for families. Additionally, farmers are entitled to obtain benefits after reaching the retirement age and making a transfer of their ownership rights (sale, inheritance, donation, etc.).

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Average monthly disposable income increased in nominal terms by approximately 30 percent per annum from 1993 to 1996, by 24 percent in 1997, and 18 percent in 1998. In 1993, the average monthly income was PLN 390.4 ($215) and in 1998 it increased to PLN 1,239 ($355). In 1995, wages in the public sector amounted to 109 percent of average wages in the Polish economy; private sector wages were at the level of 87 percent. In 1998, public sector wages remained at the same level as in 1995, and private sector wages increased to 94 percent of average wages in the economy.

In 1991, median gross wages in both private and public sector were PLN 188 ($94) for men and PLN 139 ($70) for women, which constituted a 26 percent difference, in dollar terms, in favor of men. During the next few years, the gap between median wages for women and men grew. In 1994, men's median wages were PLN 570 ($247) and women's PLN 412 ($178); in 1995, PLN 756 ($307) and PLN 535 ($217), respectively; in 1996, PLN 962 ($346) and PLN 672 ($242), respectively. In 1996, the gap between median wages for women and men reached 30 percent. Since reforms were started in 1989, there have been neither wage arrearages, nor compensation for cash arrearages in Poland.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The elementary, secondary, and post-secondary school population amounted to 5,278,000, 2,136,000, and 584,000 in 1993 and 1994, respectively. In 1998 and 1999 there were 4,741,000, 2,375,000, and 1,274,000 of elementary, secondary, and post-secondary education school population, respectively. In Poland, the law stipulates obligatory education of 7 to 14 olds and the proportion enrolled is 99.9 percent. The proportion of 15 to 18 year olds enrolled in the system increased from 83.8 percent in 1993 and 1994 to 87.9 percent in 1998 and 1999. The student-to-teacher ratio increased from 16.5 in 1993 and 1994 to 17 in 1998 and 1999. Public spending for education amounted to 5.4 percent of GDP in 1993, increasing steadily to 5.6 percent of GDP in 1998. In 1996, public spending on education reached the level of 1990, reflecting declining spending from 1990 to 1993 and a subsequent increase. The real cumulative GDP increase from 1993 to 1998 was 39 percent.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate has fallen considerably from 19.3 per 1,000 in 1990 to 13.3 per 1,000 in 1993 and 9.5 per 1,000 in 1998. There are no differences between the infant mortality rates in rural and urban areas. The annual birth rate declined from 2.6 per 1,000 in 1993 to 0.5 per 1,000 in 1998.

Life expectancy increased steadily for both men and women from 67.4 and 76 in 1993 to 68.5 and 77 in 1997, respectively. Divorces, after an increase from 39,800 in 1980 to 42,200 in 1990, declined to 27,900 in 1993 and 45,200 in 1998. The suicide rate almost doubled, from 0.38 per 1,000 in 1990 to 0.6 in 1998.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

The ratio of doctors and nurses to the population increased slightly from 2.2 per 1,000 and 5.3 per 1,000, respectively, in 1993, to 2.4 per 1,000 and 5.6 per 1,000, respectively, in 1998. The median wage in the health care sector amounted to 78.6 percent of the median wage in 1993, growing to 80.7 percent in 1998. The number of hospital beds decreased from 214,864 in 1993 to 203,924 in 1998, while the number of hospital beds per capita declined from 5.6 per 1,000 in 1993 to 5.3 per 1,000 in 1998. The percentage of GDP devoted to health care declined slightly from 6.7 percent in 1993 to 5.5 percent in 1998.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

Throughout the 1980s and 1990s, research on poverty has defined different poverty measures. Beginning in 1981, the Institute of Labor and Social Matters was required to measure and publish a social minimum, which, however, was never treated as a benchmark for other social categories. Nevertheless, there is strong pressure from trade unions and others to treat the social minimum as the poverty rate in Poland. According to some experts, the basket of goods and services included in the social minimum is too generous to be considered a poverty rate. This was reflected in the new law on social protection from 1996, where the social minimum was defined as a future criterion of eligibility to obtain state protection.

At the start of Poland's transition, a minimal pension was used as a criterion to obtain financial compensation from the state. From 1990, the minimum was set at 35 percent of the average salary, and, from 1994, it increased to 39 percent. Since 1996, as the new social law was implemented, this criterion was defined as a nominal amount indexed to inflation. The government decided to halt the nominal and real increase of the social minimum, because average wages have been increasing in Poland since 1994. For the first time, in 1994 the minimum was defined as the basket of consumer goods and services able to provide family foodstuffs and basic education for children. Another poverty measure is the Leyden Poverty Line.

Based on the social minimum rate, Poland started its transition in 1989 with 20 percent of the population impoverished. Until 1992, when real GDP began to grow, 14.4 percent of the population was poor, based on the minimum pension criterion, 35.5 percent was poor based on the Leyden Poverty Line, and 32.4 percent was poor according to the social minimum criterion. Beginning in 1994, the poverty rate according to different criteria began to decline. In 1994 and 1996, the poverty rate according to the existence minimum declined to 6.4 percent and 4.3 percent, respectively; according to the minimum pension from 15 percent to 13.8 percent, respectively; and according to the Leyden Poverty Line from 47.9 percent to 46.7 percent, respectively. There are three groups in Poland's population with a poverty rate higher than the average; the unemployed, the rural population, and families with many children.

ROMANIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist (transitional)
Population: 22,500,000
PPP (USD): 4,310
Capital: Bucharest
Ethnic Groups Romanian (89 percent), Hungarian (9 percent), other, including German, Ukrainian, Serb, Croat, Russian, Turkish, Roma (2 percent)
Size of private sector as % of GDP (1998): 60

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	3.95	↑3.85	↑↑3.19
Rule of Law	na	na	4.25
Economic Liberalization	4.63	↑4.50	↑↑4.17

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	1161.0	1331.0	1579.0	1571.0	1543.0	1695.0	1721.0
Real GDP growth (% change on previous year)	1.5	3.9	7.1	4.1	-6.9	-7.3	-4.0
Inflation rate	256.2	137.1	32.2	38.8	154.9	59.3	46.0
Exports (USD millions)	4882.0	6067.0	7882.0	8061.0	8431.0	8300.0	8561.0
Imports (USD millions)	6012.0	6550.0	9487.0	10555.0	10411.0	10911.0	10545.0
Foreign Direct Investment (USD millions)	97.0	341.0	417.0	263.0	1224.0	2040.0	1345.0
Unemployment rate	10.4	10.9	9.5	6.6	8.9	10.3	na
Life Expectancy (years)	69.6	69.5	69.5	69.1	69.0	70.1	70.8

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	7	6	5	4	4	4	4	2	2	2	2
Civil Liberties	7	5	5	4	4	3	3	3	2	2	2
Status	NF	NF	PF	PF	PF	PF	PF	F	F	F	F

Introduction

The Romanian constitution describes Romania as a sovereign, independent, unitary, and indivisible na tion state. The republic is governed by the rule of law in which human rights and freedoms, the free development of personality, justice, and pluralism are guaranteed. National sovereignty resides with the Romanian people who are represented through democratically elected representatives. Despite the constitutional guarantees the Romanian political system is in a transitionary state. Press freedoms guaranteed in the constitution are compromised by complex libel and slander legislation. The legal system is not fully developed and corruption is prevalent in varying degrees throughout society.

The transformation to a market economy has added pressures to an already unstable economic system. The drive for European Union integration has become the focus for economic development, straining political and social transition. Privatization and banking and taxation reforms are necessary changes but the economic structure is buckling under the strain. Economically, Romania knows where it wants to be in the next ten years but how to achieve it is proving increasingly difficult.

Although there are complex bureaucratic problems within the system, reform is being implemented. However, the full effects are yet to be clearly seen. Progress is slow; the government is weakening. President Constantinescu and his coalition government are lagging in the opinion polls in the run up to next year's general and presidential elections. At present, it seems unlikely that the full effects of their reform will be witnessed.

Democratization

POLITICAL PROCESS 2.75/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The elections for the two houses of the legislature took place in November 1996. The 143-seat upper house, the Senate, and the 328-seat Chamber of Deputies were both elected by proportional representation for a period of 4 years. The Organisation of Security and Cooperation in Europe (OSCE) International Observer Mission believed that the elections represented the will of the electorate and that the elections were free and fair They did express concern, however, about incomplete and inaccurate lists of voters. Recommendations were made that the electoral system should be simplified and made more transparent. Approximately 13,000 internal/national observers were involved in the supervision of the elections.

In the Senate elections, the Democratic Convention (CDR) took 53 seats; the Social Democratic Party of Romania (PDSR), 41; the Social Democratic Union (USD), 23; the Hungarian Democratic Union of Romania (UDMR), 11; the Greater Romania Party (PRM), 8; and the Romanian National Unity Party (PUNR), 7. Thirty-seven political parties contested the elections for the Senate. The results in the Chamber of Deputies reflected those of the Senate, with the CDR taking 122 seats; PDSR, 91; USD, 53; UMDR, 25; PRM, 19; and PUNR 18. A further 15 seats were assigned to parties representing minorities. Sixty-five political parties contested the elections for the Chamber of Deputies.

The CDR—itself a coalition of six parties, with the senior partner being the Christian Democratic Peasant Party (PNTCD)—joined with the USD and the UDMR to form a governing coalition. Radu Vasile of the PNTCD was elected Prime Minister following the resignation of Victor Ciorbea in March 1998. The senior opposition party is the PDSR, which is led by Ion Iliescu, the former President of Romania. The president of the Senate is Petre Roman, leader of the Democratic Party (PD). During the summer of 1999 mistrust and inappropriate statements have had the potential to affect the stability of the government coalition.

2. When did presidential elections occur? Were they free and fair?

The presidential election took place over two rounds in November 1996. The people elect the president for a four-year term of office. Emil Constantinescu (PNTCD) won the second round of the contest, garnering 54.4 percent of the vote against Ion Iliescu's (PDSR) 45.6 percent. In the first round, which included 16 candidates, Iliescu (32.2 percent) defeated Constantinescu (28.2 percent). The OSCE believed the election to be "free and fair" although concern was expressed about the absence of a permanent and professionally staffed Central Electoral Bureau which is regarded as a major weakness of the Romanian electoral system.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?
The electoral system in Romania is multiparty-based with parties and alliances representing not only the entire political spectrum but also minority groupings. The political parties and coalitions represented in parliament are, on the whole, involved on the regional and local levels. There is a system of government subsidies for the major parties.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
In 1992 there were over 250 political parties registered in Romania. They were required to be supported by 251 persons to be accepted as a legal party. In March 1996 Law 27 changed this requirement to 10,000 members domiciled in at least 15 counties. The number of parties or alliances has subsequently reduced to 57. The Communist Party had its registration revoked by the Supreme Court in 1994 as it was seen to be in contravention of a law that banned groups supporting extremist causes.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
There is no official data on this item. The parties do not provide reliable membership figures. The only figure that is accessible is that, of the 328 members of the Chamber of Deputies, 25 are women.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
There has been a downward trend since the first elections held in 1990. Legislative elections: 1992, 78 percent; 1996, 76 percent. Presidential elections: 1990, 86 percent; 1992, 76 percent; 1996; 73.2 percent. Local elections: 1992, 72 percent, 1996, 56 percent. Details on female voter participation are not available.

CIVIL SOCIETY 3.00/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/non-profit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
USAID figures show that the number of NGOs now registered in Romania is around 13,000. The Foundation for Civil Society Development suggests that about 23,000 NGOs have come into being since 1990; very few of them, however, actually operate. The Assistance Centre for NGOs (Centras) indicates that after an initial rapid rise in the number of NGOs—all of them hopeful to receive foreign aid—there is now only gradual growth in their numbers.

Romanian NGOs are non-profit organisations and have to be registered as such under the law of associations and foundations (Law 21/1924). Local funding remains difficult. The collapse of Communism opened a door for Romanian NGOs to establish themselves. They looked for funding both within Romania and abroad. Unfortunately, funds were extremely scarce at home and very little was forthcoming from abroad. In the West most interest came from charitable organisations that tended to favor causes such as the orphanages. As publicity dwindled, so, too, did funds. Today, NGOs find themselves with limited funding. There is a marked reluctance by Romanian commercial organisations to fund NGOs, largely because of the meager rewards to be reaped from such associations. The lack of a participatory and philanthropic ethos in society has affected the continuing development of NGOs.

Figures for the number of volunteers taking part in NGO activity are not available. Some evidence suggests that membership of NGOs linked to environmental issues consists of young people.

An enormous range of issues is covered by NGOs. Human rights, women's rights, health, the environment, checking government abuses, legal reform on a national level, the state of roads and pavements, and bringing modern conditions to villages at a local level. NGOs have also been created in the border areas, and where there are large non-Romanian populations, to try to eliminate or reduce ethnic tensions.

One Romanian NGO, concentrating on women's issues is the Partnership for Change (PC), working in collaboration with the trade union Energetica Women's Organisation. They aim to enhance women's awareness of gender issues, focusing on organisation, collective action, and establishing links with the media and local government officials. Figures relating to the size of this organisation are unavailable.

2. What is the legal and regulatory environment for NGOs (e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Romanian NGOs are regulated under Law 21 of 1924, a charity law reinstated by the post-communist governments of the 1990s. This law provides only a vague legal framework for NGOs, since it was originally established to deal with helping the poor.

To be legally constituted, an NGO has to be registered at the County Court. Law 21 sets forth provisions for establishing an association, the required content of the statutes, and the permits required from government ministries. A formerly complex procedure is now considerably simpler and less expensive. The government in 1998 introduced tax benefits linked to NGOs. These benefits go to both individuals and companies who make donations to NGOs. At the same time, public service broadcasting gains favorable tax treatment.

At a local level it is easier for the individual or group to be heard. Local councilors are more easily accessible and are thought to be more approachable and open. The public is allowed into local council meetings and although they cannot comment directly there are informal opportunities to be listened to. Other NGOs focus on improving legislation and checking on the power of the state. These include the Romanian Helsinki Committee, Transparency Romania Association (ART), *Liga Pro-Europa*, the Association of Lawyers in Defence of Human Rights, and the Foundation for Democratic Change.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management available in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Many NGOs have tended to focus on the volunteering of time as opposed to the donation of money. Most of them are organised and administered by volunteer staff supported by a few part-time workers. On the whole, their structures are poorly developed and few are professional in the way they conduct their affairs. The larger and better established NGOs often choose to follow a Western organizational model, though they may or may not be funded by Western organisations. These city-based and national NGOs tend to have formal management structures.

A Charles Stewart Mott Foundation report in 1996 recommended that establishing NGO resource, support, and training centers would help strengthen and develop the NGO sector. Part of their role would be to "develop an organisational culture and management style" appropriate to the region. At present, training tends to be led by foreign governments and institutions. The Soros Foundation, the Charles Stewart Mott Foundation, USAID, and the United Nations Development Program are some of the organizations that provide training opportunities for NGOs.

A group of trainers and experienced managers is thus growing across the NGO network. But there are few experienced senior managers and decision makers; successful NGO leaders tend to move into business or into politics. Training resources are generally available in the Romanian language. Training by means of networking with other NGOs is a growing phenomenon. This is particularly evident with environmentalist NGOs, in which the exchange of information takes place at a national level and is now being extended to an international level.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue resources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

NGOs do not have extensive financial resources. Half of the environmental NGOs operating in Romania have an annual budget of less than US $500. The slow privatization process in Romania has limited funding from companies investing in Romania. NGOs focusing on women's rights, the environment, seeding small businesses, and human rights tend to receive some foreign funding, but it is expected to continue only for the short term.

Funds are generally given by foundations, both national and international, but the money is usually only available to the larger, well-established, NGOs. The foreign investment in these larger groups can amount to 90 percent of their total funding. Between 1990 and 1997, USAID funded US $215 million of programs in Romania. The law on sponsorship allows companies and businesses to offer a maximum of five percent of their profits in money or in kind; NGOs can, by law, accept this funding but have to make a contractual agreement to do so. The government and parliament do not fund projects related to public participation although

there have been occasions when the remaining state-owned companies have funded NGO activities. The major city-based NGOs disclose their funding sources. NGOs can earn income, but they must reinvest this income for statutory purposes.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmer's groups, small business associations, etc.?
By law, trade unions are free to function without political interference. All private sector employees have the right to associate and form or join labour unions. Trade unions defend the rights and promote the professional, economic, and social interests of their members. Out of 11 million workers, half belong to approximately 20 nation-wide trade-union confederations or smaller independent trade unions. The three main confederations are the Fratia National Trade Union Confederation, the Alfa Worker's Confederation of Labor, and the National Union Bloc. The three confederations established a National Inter-Confederate Committee in 1995.

Economic reform and restructuring has resulted in downsizing and redundancies throughout the work force. These developments have reduced the membership of trade unions. For example, over the past year 140,000 employees from the railways have been made redundant. More than 30 percent of Romania's workforce labors in the agricultural sector. The National Association of Farmers of Romania and the Agrostar Trade Union represent farmers in the workplace. The majority of farmers are members of either organisation or both. Politically, farmers are represented by the Romanian Peasant Party. Farmers are also represented by smaller trade unions and can belong to co-operative associations. Small business associations, trade groups, and private enterprises can represent their members in the chambers of commerce found in major cities.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
The Romanian Constitution of 1991 provides for the basic rights of public participation. Individuals or groups have the rights of association, free assembly, free expression, and to access information and to petition. Since the legal framework for public participation is underdeveloped, the constitution tends to be the only reference point. Citizens have the right of access to justice; but "ordinary citizens" have no standing to take action in the Constitutional Court.

Even though NGOs are becoming more active in the political process, the main force of public pressure on the government is still the organized protest demonstration. There is such a fear of street demonstrations by Romanian governments that protests often gain a positive response.

The political process is supported and encouraged by a wide range of political parties, often representing minority interests. Other groups such as trade unions and business organisations lobby them in turn. NGOs are especially involved in the policy process; the influence of NGO think tanks, often with an international agenda and funding, also has to be taken into account.

The constitution requires that government work with social organisations in making laws, but it neglects to specify public participation as an element of the legislative process. Nothing in the Statute of the Parliamentary Chambers calls for public participation, nor is there anything that requires notification of proposed legislation.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
The constitution provides no formal means of accessing central government officials; thus the relationship between the NGOs and government is weak and limited to ad hoc cooperation. NGO experts are often called upon for advice and comment but this tends to be as a result of their expertise and not because they represent an NGO. Both the government and parliament have special departments which deal with relations with NGOs.

At a local level the relationship between NGOs and government is better because NGOs have direct access to elected officials and can motivate them to act. Councils can adopt a statute that obliges them to meet with the public on a regular basis. Citizens have a right to demand a meeting with an elected official. NGOs are rarely invited to join decision-making bodies, either on the local or national level.

NGOs tend to use their free access to the media as a means of educating the general public about the principles of public participation. NGOs still have a great deal of work to do in raising public awareness about the public's role within civil society. Local newspapers often focus on issues linked to NGOs but not on the NGOs themselves, limiting public awareness. They rarely play an investigative role to

support the work of, for example, an environmental group; nor do they have access to the range of information accessible to the Western media. Training on how to take advantage of the media is a key element in the future development of NGOs.

INDEPENDENT MEDIA 3.50/7

1. Are there legal protections for press freedom?
The Romanian press is protected by the constitution. Article 30 establishes the right to freedom of expression, prohibiting censorship. Article 30 also states that freedom of the press must not "be prejudicial to the dignity, honour, and privacy of the person, and the right to one's own image." It prohibits defamation of the nation and country, any attempt to instigate a war of aggression, any incitement to discrimination or public violence "as well as any obscene conduct contrary to morality." Civil liability lies with the author or producer of an artistic performance or with the owners of copying facilities, radio, and television stations. Criminal offences of the press are laid down by law. The Audiovisual Act No. 48 (1992) introduced a dual system for public and private media.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
The 1996 Penal Code sets forth penalties for libel and slander. A journalist can receive up to two years' imprisonment for libel and a five-year sentence for reporting false information that influences Romanian international relations and national security. The Libel Laws make it a crime to insult public officials. Legal penalties for "irresponsible" journalism generally fall under the auspices of the libel and slander provisions in Law No. 40 of the Penal Code.

The 1999 *Freedom House Press Survey* has reported that Libel Laws often diminish the freedom of expression and the freedom to information guaranteed by the constitution. Although not established to harass journalists deliberately, the laws are often used to intimidate the media, particularly at the local level. The *Survey* reported that over the last three years the Committee to Protect Journalists has noted 19 instances of harassment against Romanian journalists. Several Romanian journalists are imprisoned for libel and many journalists face libel suits.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
Much of the Romanian media is privatised. There are 50 private television stations and over 100 private radio stations. There are 15 national dailies and many more local dailies, most of which are privately owned. State television and radio largely control the electronic media.

There are several private newspapers, including *Evenimentul Zilei*, *Romana Libera*, *Ziua*, *Adevarul*, *Libertatea, and Sotidianul*. Some newspapers, such as *Vocea Romaniei*, the government paper, and *Dimineata*, the paper of the presidency, are supported by government subsidies. Most minority groups have their own newspapers, including the Hungarian *Romaniay Magyar Szo* and Germany's *Deutsche Algemeine Zeitung*. Private Television companies include Pro TV, Antena 1, Tele 7 abc, Dacia Europa Nova, Prima TV, and TV Sigma. Private radio stations include Radio Contact, Radio Pro-FM, Radio Total, Radio Delta, and Radio 2M.

The dual broadcasting system, introduced in 1992, led to the formation of the Romanian Broadcasting Corporation and the Romanian Television Corporation in 1994. These transformed the state broadcasting system into "editorially independent autonomous public services acting in the national interest." Both state and private media are regulated by the National Audiovisual Council (NAC).

State television includes Television Romania with three channels, which provides news to much of Romania. Radio Romania Actualitati is the public radio station reaching audiences all over Romania. The state media tend to reach even rural areas, while the private media tend to reach only urban areas.

4. Are the private media financially viable?
The weak Romanian economy is affecting all businesses, including the private media. Many news organisations are also inefficient, with too many employees and poor management. As a result private-sector media firms often rely on government or owner subsidies. This is particularly the case outside of Bucharest. *Evenimentul Zilei* is part of the Expres media group, which also features a magazine, a TV station, and a Radio station. Major private television stations are usually funded by private corporate investors, as are major radio stations. For example, Antenna 1, Tele 7 abc, Dacia Europa Nova, and Amerom are all well funded by corporate investors. Large media groups such as Media Pro Group and Contact Belgium fund major radio stations.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

To some extent the media are editorially independent, with various newspapers, radio stations, and television stations representing a cross-section of views. Nonetheless, private media are influenced by the opinions of their owners, and the state media tend to reflect the official line of the government. Moreover, the lack of financial support for and political independence of Romanian news organisations has led to some editors becoming susceptible to political pressures. The weekly journal *Atac la Persoane* has allegedly published anti-Semitic articles. The owner Dumitru Dragomir, also President of Professional Soccer League and Vice-Chairman of the Romanian Football Federation, has been investigated by the Romanian Soccer Federation, which has sought support from the prosecutors office and the Romanian intelligence services.

The Romanian Constitution guarantees access to information. Unfortunately, the condition is not strictly adhered to. Journalists and the public have little access to government information and are hampered by departmental secrecy. This affects the media's newsgathering functions. Rather than relying on official sources, reports will use anonymous and often unreliable information. The regulatory bodies of the media are appointed and controlled by parliament and are thus open to political influence. For example, senior members of the NAC are appointed by parliament.

The owners of private media organisations also affect the operation of newsgathering. They can regard their editors as mere tools to further their own careers. As a result, they encourage a particular emphasis in news coverage. The journalists themselves can also affect newsgathering: their wages are low and they can be bribed to provide favorable or unfavorable reports.

6. Is the distribution system for newspapers privately or governmentally controlled?

Although much of the media is privately owned, the government controls printing plants and distribution networks. The system is monopolistic and inefficient. However, a new media law has been introduced which necessitates that all radio and television stations have a contract for all programs that they broadcast. The hope is that the law will reduce piracy and allow for private distribution. Tudor Petan of Agape TV notes that "because of the new media law the radio and TV stations must have a contract for all the programs which they broadcast. This is good for us because now we can distribute our programs under legal conditions."

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

Previously, Internet access was confined to those who could afford it. Now, Internet access is becoming more widely available—in businesses, universities, libraries, and other public facilities. The Independent Journalists Federation (IJF) houses a Freedom Forum News Library linked to an Internet course. Participants in the course and visitors are entitled to use the Internet resources. Internet cafés exist throughout Romania and make it possible for the public to gain even greater access to the Internet. Some members of the population do have private access but actual figures are unavailable.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

One major such association is the Independent Journalists Federation (IJF), established in 1994. It is a non-profit organisation committed to promoting a free and independent media in Central and Eastern Europe. It has centers in the Czech Republic, Slovakia, Hungary, and Romania. The Centers for Independent Journalism offer training and support to professional journalists and students to meet specific local needs.

The IJF offers female journalists opportunities to meet, network, and discuss mutual problems. There are many women working in the Romanian media, but exact figures are difficult to come by. There is also little evidence that women reach the higher echelons of power within the private media agencies.

The Romanian Press Club acts on behalf of journalists. In response to the Interior Ministry's proposal to increase penalties for calumny, the Club requested that parliament refuse to debate the bill, which it views as a communist-era-style law aimed at restricting the pressman's freedom of speech. Again, figures for the proportion of women involved in the Press Club are unavailable. It is evident, however, that many women work for radio stations and the print media.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's *Survey of Press Freedom* rated Romania

Partly Free in 1991 and 1992, Free in 1993, and Partly Free from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 3.50/7

1. Is the legislature the effective rule-making institution?

The two houses of parliament act as the legislature, passing constitutional, organic, and ordinary laws. Organic laws include those establishing the system of governance and protecting the population: the organisation and functioning of political parties, for example, or the general statutory rules on religious cults. The government is entitled to amend laws and regulations through ordinances undertaken by "emergency rulings." Parliament must accept these rulings, however, before they can be introduced.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Subnational levels of government establish public administration in territorial-administrative units. Romania is divided into several regions such as Banat, Transylvania, and Moldavia. Each region has its administrative center and each town has its own local administration. Although based on the principle of local autonomy and decentralisation of public services, local authorities find themselves with little authority and are severely restricted by the lack of government funds.

3. Are subnational officials chosen in free and fair elections?

The last subnational elections for the whole country were held in June 1996. Mayors are elected in a one-person, one-vote system; the town and county counselors are elected on a list-based system. There were irregularities in the 1996 elections. The next elections are due to take place in June 2000.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Legislative and executive bodies generally operate openly and with transparency. The constitution provides that parliamentary sessions of the senate and chamber of deputies should be made public unless a secret session is deemed necessary. There is no constitutional provision requiring the presidency to be open and transparent, however. But the president does hold press conferences and releases information via his office.

Laws are published in the *Official Gazette* of Romania on the day that the law is enacted. There is no provision, though, for public discussion before the law is passed. The *Gazette* also publishes transcriptions of non-classified debates from both chambers of parliament.

The government's press office is required by law to coordinate and support "effective actions of a nature to ensure that the activity of the government remain known" through press conferences and briefings. Article 31 of the constitution establishes a person's right to access information of public interest. Under the same article, public authorities "shall be bound to provide correct information to the citizens of public affairs and matters of personal interest.

On the local level, Law 69/1991 requires that official regional agendas should be made public through the media and other means of publicity. However, members of the media can find it difficult to obtain information and are often forced to receive it from unofficial, anonymous, and often unreliable sources. The public can listen to local council meetings, although they are not allowed to participate in the debate.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Most municipal revenue comes from central government grants. The poor economic conditions the country is experiencing have meant that municipal government funding is restricted, making it difficult to carry out duties. To some extent municipal governments do control their own local budgets. However, they can be strongly influenced by the central government. They have little means of raising revenues autonomously. After the 1996 elections greater freedoms were promised but few have materialised. Some revenues can be raised from local taxes. The income generated from local taxation is minimal and varies from region to region, as do the methods of taxation. Municipal governments remain reliant on central government funding or grants from international institutions such as the European Bank for Reconstruction and Development, the European

Union, USAID, and the United Nations Development Program. These institutions have helped local governments with the infrastructure of public administration, giving them the tools through which they can raise revenues independently.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?
The management of municipal government is difficult and confusing. The role of elected local leaders and local civil servants remains unclear. Problems lie with a lack of coordination, coherence, continuity, policy-making, bureaucracy, and management capacities. The government has sought to remedy the problem by incorporating into its development program the reorganisation of the government ministries, and by clearly defining the role and responsibilities of public administration. The government has proposed to transfer some central administrative duties to the level of local administration, while also clarifying the role and responsibility of political offices with regard to those of administrative offices. Communications between central and local bodies are to be targeted and human resources are to be developed via the revision of occupational standards.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?
There have been few alterations to the Public Administration Law. As yet, there is no civil service code but a civil service law is being discussed in parliament. Its aim will be to define the role of civil servants and provide a basis for training them, thereby improving Romania's prospects for joining the European Union. The leader of the Democratic Party, Petre Roman, has underscored that the law is important for Romania's negotiations for admission into the European Union. The law creates the necessary framework for a professional civil service free of political influence. The law has been opposed, however, by the Social Democracy Party of Romania, complicating the coalition's efforts and delaying EU integration.

Mayors and local council members are autonomous from the central government. The government appoints a prefect to supervise the application of local public services that it requires. Indirectly, local civil servants are employed by the central government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.25/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
In December 1991 the Romanian Constitution was adopted after being endorsed by a referendum, although less than half voted in favor of the constitution. The constitution establishes a multiparty, bicameral parliamentary system, led by a directly elected president and regulated by a separate judiciary. The Constitutional Court interprets and enforces the constitution. Nine justices of the court are appointed for nine years; the president, the senate, and the chamber of deputies each elect three justices.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
The constitution provides a variety of human rights. Article 20 determines the Romanian stance on human rights, declaring an allegiance to the Universal Declaration of Human Rights and to the other covenants and treaties that Romania is party to. Human rights incorporated into the constitution include freedoms of the press, expression, movement, conscience, and equality under law. The right to private property is guaranteed to all. Romanians and foreigners are allowed to own property and to establish businesses.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?
In 1996 the Penal Code replaced the Communist criminal code. Since 1996 small amendments have been made to the Penal Code. Recent efforts to join the European Union have led the Romanians to develop a reform program to improve the implementation of criminal law. The program sets out to change the Code and thereby improve the punishment system, diversifying punishments and finding the balance between the harshness of punitive measures and the degree of

social risk from the crimes committed. For example, a new law is to be drafted to replace short terms of imprisonment with community service.

Bureaucracy and inefficiency cause excessive delays in the criminal justice system. The reform of the system addresses the problem of inefficiency. A major concern is how to incorporate European legislation into the Romanian legal system. The reform program aims to establish more efficient modes of cooperation between international and national penal procedures. Draft laws will be created on the organisation of technical and legal expertise, on legal executors, and on the performance of liberal professions. In drafting these laws, the problems of Romanian society will be considered along with the need to improve the legislative framework to comply with European legislation.

The constitution states that the "individual freedom and security of a person are inviolable" (Romanian Constitution). The search, detainment, or arrest of a person can only be performed under strictly legal conditions. A person cannot be detained for more than 24 hours. Arrest is made under a warrant, issued by a magistrate, which is good for a maximum of 30 days. The length of arrest may only be extended through a court ruling. The constitution also states that "the domicile and the residence are inviolable." No person may enter a home or residence without permission. Entry into a property is permissible by law if there is a warrant for arrest or a court sentence. Searches may be ordered by a magistrate, prosecutor, or by court order. Security officers may enter a property without a court order "to defend national security or public order" and for matters of health and safety which directly threaten other members of the community or individual persons.

Amnesty International has investigated human rights abuses in Romania for several years. Throughout the 1990s Amnesty International has received information implicating Romanian law enforcement officers of using excessive force in the restraint, arrest, and detention of prisoners. The most recent available report, published in March 1998, stated that "in a number of incidents reported to the organisation, the extent of the injuries suffered by victims was so severe, and the evidence that they were inflicted deliberately or repeatedly or intended to cause intense suffering so overwhelming that Amnesty International referred to them as cases of torture." Amnesty International also concluded that the consistency and regularity of the allegations received over several years suggests that police ill treatment of citizens is not restrained to just a few isolated cases. The findings of Amnesty International have been backed up by the Committee for the Prevention of Torture and Inhuman Degrading Treatment or Punishment (CPT). They visited Romania in 1995, although their report was not published in Romania until 1998. With regard to the police stations visited, the report concluded that "persons detained on suspicion of committing a crime, at the time of arrest and/or in the course of interrogation, face a not inconsiderable risk of being subjected by the police to ill-treatment, which is sometimes severe ill-treatment, even torture." The CPT visited Romania again in 1999. As yet, their report is unavailable.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Many judges in the Romanian legal system are holdovers from the Communist era. They are underpaid and many of their qualifications are outdated. Judges are appointed by the President on the proposal of the 15 members of the Higher Council of the Judiciary. The majority of judges are independent and subject only to the law, not their personal interests. There has been, however, some concern over corruption and the degree of political influence in judges' decisions. The legal reform program recognises that it is a legislative priority to fight corruption. Special emphasis is being placed on collaboration with the South East Europe Cooperation Initiative (SECI), a regional center to be based in Bucharest for fighting organised crime and corruption.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

Subject only to the rule of law, the courts should be free of political control and influence. But the Constitutional Court can have its decisions overturned by parliament, which introduces a degree of political influence into the legal system. This politicization undermines the independence of the courts and possibly the rule of law. Public Prosecutors are governed by the principles of legality, impartiality, and hierarchical supervision. Ultimately, they are responsible to the courts above them and to parliament.

It is not only the Constitutional Court that is directly linked to an executive body; the Ministry of Justice is responsible for appointing the 15 members of the Higher Council of the Judiciary. The members of the Council are chosen from among the judges of the Supreme Court, public prosecutors, and judges and prosecutors from the Court of Appeals of Bucharest. As an executive body, the Ministry of Justice is influenced by the political system. There-

fore, politicisation of the judicial system is, in theory and in practice, an ongoing possibility.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

A small number of lawyers practice privately in corporate and commercial law but most lawyers are state employed. Figures are unavailable on the exact number of lawyers graduating yearly or on the proportion of women employed as lawyers or judges. Although women do study law, few, if any, achieve the status of judge. The legal profession in Romania remains a male-dominated occupation.

7. Does the state provide public defenders?

The constitution states that each person is entitled to legal representation and the state provides public defenders. For defendants who are unable to afford legal representation, the Penal Code allows for an attorney to be appointed by the local bar association. In essence, this means that the citizen has access to legal redress. Translations are provided for ethnic minorities.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

The constitution recognises and guarantees the rights of those belonging to national minorities. The Romanian state should provide for the "preservation, development, and expression of identity" conforming to principles of equality and non-discrimination.

The largest minority group, the Hungarians, enjoys membership in the ruling coalition. Fifteen minority groups enjoy some degree of representation in parliament. The government has an exclusive department for the Protection of National Minorities. However, discrimination is an ongoing problem. The Justice Ministry took action in the Bucharest appeals court to outlaw the Greater Romania Party (PRM). The PRM was alleged to have contravened the constitution by inciting discriminatory acts against minorities in an article published in its weekly journal, *Romania Mare*. Despite legal protections and constitutional provisions, the Roma are still subject to discrimination, harassment, and violence. As a result, many Romanian Roma are seeking refuge in other countries, particularly Germany.

9. Are judicial decisions effectively enforced?

Bureaucracy blights the judiciary, its members are poorly paid, and they can be influenced by bribery. These problems can influence the way judicial decisions are enforced.

CORRUPTION 4.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?

Official corruption is widespread within the civil service. Bribes are often necessary when a citizen wishes to receive a service. Bribing officials can be beneficial in a variety of fields—health, transportation, banking, education, customs and excise, heavy industry, retail, government procurement, and local commercial offices. There are no official figures on the salaries of civil servants.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

President Emil Constantinescu and former Prime Minister Victor Ciorbea do not have direct ties to business. In 1997, Constantinescu introduced a new program to help fight corruption. He has established a national commission to fight organised crime and corruption and has reformed the government institutions charged with fighting corruption. But other top ranking officials do have direct ties to business.

Ethically, bribery and corruption infringe on the integrity of civil society and government. However, many Romanians regard it as a way of life. A public opinion survey conducted by Intermedia between 1998 and 1999 discovered that receiving a bribe was considered more corrupt than giving a bribe. Private sector corruption discourages potential investors. At present, corruption and bribery are punishable by fines or imprisonment, but not both. Fines are too low to be effective and the laws are inconsistently applied.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The 1991 Romanian constitution states that government ministers should not hold posts in the private sector incompatible with their ministerial role. Although vague and open to interpretation, this does prevent certain conflicts of interest. However, a law requiring financial disclosure does not exist. Anticorruption cases are being pursued, but they tend to involve low- or mid-level bureaucrats rather than senior officials. For example, allegations of corruption in the prosecutor's office in Craiova are being investigated.

The Criminal Code has laws against racketeering. Romania is a major drug trafficking route and racketeering is a problem. The transnational nature of drug trafficking requires international cooperation and the role of European legislation in all the nations affected. Article 139 of the constitution establishes a Court of Audit, which controls the "formation, administration, and use of the financial resources of the state and the public sector." The Court also has jurisdictional powers and reports to parliament annually on the accounts of the National Public Budget administration, including cases of mismanagement. The two chambers of parliament can request the Court of Audit to investigate and report on the management of public resources. The Court of Audit has members appointed by parliament who are independent and irremovable.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

The Corruption Perception Index (CPI), compiled by Transparency International (CPI), presented a survey of the perceptions of the general public and foreign investors on the levels of corruption in a particular state. Although past trends show a marginal improvement, CPI valued Romanian corruption at the poor level of 3.3 on a 10-point scale, with the most corrupt nation at zero.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Anticorruption initiatives include the 1997-2000 governance program, which sets out political, economic, and social reforms that aim to advance Romania toward European integration, combating problems such as corruption and privatization that the EU has listed as areas that need improvement. The program was implemented in January 1997 when President Constantinescu became the chairman of the newly established National Council against Corruption and Organised Crime. Yet gang rivalries in Brasov have suggested corruption in the police and in the public prosecutor's office, where action was, apparently, deliberately delayed before any real intervention occurred.

The Interior Ministry has reorganised the Anti-organised Crime and Corruption Brigade, disbanding teams fighting corruption, money laundering, illegal traffic of cars, prostitution and procurement, contract killings, and penal investigations. Many of the people from the Brigade now find themselves behind a desk rather than providing undercover investigations. The reorganisation was motivated by the need to create a unified and more efficient crime-fighting unit. The present anticorruption campaign is part of a crackdown on corruption at all levels in order to secure European Union membership.

Local government officials are more likely to be investigated and prosecuted than high-ranking government officials. At present several allegations of corruption and bribery are being investigated. In Craiova and Brasov public prosecutors are being investigated but, as yet, have not been prosecuted. At the national level accusations are made as part of political wrangling and few are ever investigated. However, Minister for Industry Radu Berceanu and the state secretary for the ministry will testify in the Sunoil case on their connections with the arrested owner of Sunoil, Liviu Constantin Nita. The Sunoil company in Ploiesti caused 113 billion lei in damages to the Petrobrazi refinery. There is no evidence to suggest that prosecutions target political opponents, but nor is there evidence to suggest otherwise.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

Educating people against corruption has become a priority for the Governance Program 1997-2000. A campaign to make the public aware of corruption and official activities to prevent corruption began in November. The campaign aims to change the public perception of corruption and to make

the public more aware of how they can help. The awareness programme involves publicity activities in the mass media. The activities were stipulated by the Institutional Capacity Development Programme and Consolidation of the Capacity for Fighting Corruption in Romania signed by the Justice Ministry and the United Nations Development Programme in July 1998. The program aims to assist the justice system in fighting corruption and to support the immediate implementation of anticorruption laws.

Between 1998 and 1999 Intermedia carried out a range of surveys across Central and Eastern Europe and the Southern Causcasus. The questionnaire included questions about perceptions of crime and corruption. The survey sample used 8 groups with 50 representatives from the government's executive branch, elected bodies, the state economic sector, the private business sector, public institutions, the military and security, media and culture, and science and religion. Intermedia discovered that there is growing intolerance to official corruption. Out of 100 Romanian officials, none accepts corruption, 5 don't like it, 37 disagree with it, 41 are angered by it, 16 are enraged and 1 didn't know. Despite the opinions of officials the general public have had little voice.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

In the Corruption Perception Index (CPI), compiled by Transparency International, Romania was positioned 63rd out of 99 countries, alongside Bulgaria, Egypt, Ghana, and Macedonia. The CPI measures the perception of the degree of corruption by businessmen, risk analysts, and the general public. Romania had a poorly perceived rate of corruption at a level of 3.3, the worst being zero. Six major international surveys were considered with little deviation between them.

Economic Liberalization

PRIVATIZATION 4.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

The percentage of GDP comprised by the private sector has increased significantly in recent years: from 35 percent in 1994 to 52 percent in 1996 to 58 percent by the end of 1997 (according to the US Commerce Department). The government announced in February 1999 its goal to raise the private sector to 80 percent of GDP by 2000. In 1996, 47 percent of the workforce was in the private sector. The informal economy is enormous. Virgil Magureanu, the former director of the Romanian Information Service (the domestic intelligence agency) has estimated the shadow economy at 35 to 38 percent of GDP. Outside observers argue it is larger still, as much as 40 to 50 percent of GDP.

2. What major privatization legislation has been passed? What were its substantive features?

The prerequisites for privatization were created through the corporatization of state-owned companies in 1990, removing them from central control and bureaucratic command. The National Agency for Privatization was set up in December 1991. The 1991 Privatization Law established the State Ownership Fund (SOF) and five Private Ownership Funds (POF). The SOF was granted 70 percent ownership in 6,400 commercialized enterprises, while the POFs were given the remaining 30 percent. The law specified that shares in the POFs would be freely distributed to all adult Romanian citizens residing in the country.

In 1995, privatization received a boost when the government issued vouchers to citizens to be used for direct subscription and transfer of shares in a wide list of commercial companies, as well as POFs. Furthermore, the amount of share capital to be distributed was raised to 60 percent. The distribution of vouchers ended in October 1996. The POFs were reorganized in November 1996 into Private Investment Funds (open-ended mutual funds).

A lack of political will, as well as foot-dragging on the part of the SOF, considerably slowed privatization. By the end of 1996 (coinciding with a shift in political power), the State Ownership Fund had privatized only 45 percent of the enterprises scheduled for privatization—mostly small enterprises. Only 24 percent of medium-sized and 13 percent of large enterprises had been privatized. The State Ownership Fund auctioned off its interest (40 percent) in only 30 enterprises or so.

To accelerate the process, the new government abrogated the old privatization laws in 1997. It placed the SOF under the authority of the Ministry of Reform in April 1997 and created a Privatization Ministry in December. Nevertheless, this was well short of the target of 3,600 firms for the year. Only $515 million was raised in 1997. Finally, most of the privatizations were focused on small (83 percent) and me-

dium-sized (13 percent) companies. Only four percent were large. In 1997, the SOF began to sell its minority stakes through the stock exchange. In June 1997, all the *regimes autonomes* (large industrial monopolies) were commercialized and ordered to be privatized.

Delays in the privatization of large-scale enterprises, especially state-owned monopolies, was due in part to the overly bureaucratic procedures of the SOF and also in part to political infighting in the Ciorbea cabinet. Hopes that privatization would take off following the fall of Ciorbea have not been realized. As of June 1998, the SOF had total or partial ownership of 5,500 enterprises. Only $700 million was raised in 1998 as against the $2.1 billion planned (a total of 1,650 firms). This disappointing figure led to the resignation in October 1998 of Sorin Dimitriu, the privatization minister and SOF chief. Radu Sarbu was appointed as his successor.

The pace of privatization has noticeably quickened under Sarbu. Nearly 1,000 companies were privatized by the SOF in the first four months of 1999. Yet it was the beginning of the privatization of the Romanian industrial "crown jewels"—the most important state-owned enterprises—that is most impressive. The privatization of Romtelecom, the state telecommunications provider, has been among the most eagerly awaited in Romania since reforms began. The sale of a 35 percent portion to OTE of Greece was completed in November 1998, for a price of $675 million. The privatization of the Romanian Postal Service began in April 1998. The French car-manufacturer Renault agreed to take a majority stake in Dacia—Romania's largest car manufacturer—in the summer of 1999 for $50 million, with a promise to invest $220 million more over five years. The 1999 privatization program envisions the sell-off of 64 large companies, including the national airline.

A new privatization law was passed in May 1999. It envisions a more streamlined privatization process. For example, ministries are now allowed to sell firms directly, instead of waiting to do it through the slow SOF. The law adopted new international standards for valuing companies. It also required the government to provide more information about a company to be sold, since fear of unknown liabilities had held back many potential buyers. Furthermore, the new law provides the government with the ability to indemnify buyers against undisclosed liabilities. Finally, it establishes new methods of privatization, such as liquidation and the sale of the properties and assets of state enterprises and *regimes autonomes*.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: Agricultural privatization has been fairly extensive, with 83 percent of farmland reverting to private ownership. The private sector accounts for 89 percent of agricultural production. The state owns the large agricultural intermediaries, as well as the national distribution and storage companies. Livestock farming is still state-dominated. In 1997, the government finally allowed restituted land to be sold. In April 1999, the cabinet approved the sale of Romania's 480 state farms, which should begin in June.

Housing and land: Tenants in state-owned housing had the option of buying the apartments they resided in on very favorable terms and most have taken advantage of this opportunity.

Industry: In the industrial sector, however, only 33 percent of the output is produced by the private sector.

Small business and services: Approximately 67 percent of service activities are now in the private sector.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

In the 1992-1996 period, insiders dominated the privatization process, especially in the privatization of smaller firms. Approximately 80 percent of the firms privatized in Romania were done through management and employee buy-outs, often at minimal costs.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The Democratic Convention parties, as well as the Democratic Union of Magyars in Romania, are strongly in favor of privatization; the Union of Social Democracy parties are moderately in favor of it. The formerly ruling Party of Social Democracy of Romania is neither strongly supportive nor opposed to privatization. When in power, it dragged its heels in the privatization process.

MACROECONOMIC POLICY 4.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance dif-

ficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The transition to a market economy has made the reform of the taxation system both necessary and possible. A value-added tax (VAT) was introduced in July 1993. Its basic rate is now 19 percent. There is a reduced rate of nine percent for foodstuffs and agricultural raw materials and services. A small number of products and services such as bread, fuel, and electricity for domestic use are exempt from VAT at the retail level. Excise taxes exist on numerous types of goods, such as liquor, tobacco, luxury items, and electronic equipment.

A new corporate tax structure was introduced in January 1995. The corporate profit tax is 38 percent. Firms with more than 299 employees and 10 Lei billion in annual turnover are entitled to index profit and payments to inflation and carry forward losses for a period of five years after the end of the financial year in which they were incurred. Smaller firms can only carry losses forward for 18 months from the day they incurred them. Some companies are taxed at a higher or lower rate. These include entertainment and gambling firms (60 percent), and companies that derive at least 80 percent of their income from agriculture (25 percent). Taxable profits of foreign entities are taxed at an additional rate of 6.2 percent (reaching a total of 44.2 percent).

Social security contributions paid by employers range from 23 to 33 percent of the employee's salary, depending on the job category. Other payroll taxes include a five percent unemployment fund contribution and a two percent health fund contribution. Employees pay a three percent pension fund tax and a one percent unemployment fund tax. Income taxes range from 5 percent to 60 percent in several brackets, and the average income is taxed at 28 percent. In addition to personal income tax, salary earners must pay a three percent pension fund contribution and a one percent unemployment fund contribution. These high rates of taxation on wage incomes have encouraged the emergence of a shadow economy.

Local taxes are generally composed of an annual tax (1 to 1.5 percent) on the book value of buildings, and various user fees such as those for the issuance of government documents. While actual tax rates are clearly set by the government, payment procedures are very complex and cumbersome. For companies, the tax system is much too complicated, requiring monthly reports and complicated submitting procedures. If a firm fails to submit its reports on time, it can be liable to large, although not always specified, fines at the discretion of the Tax Department of the Ministry of Finances. Four overlapping inspection bodies exist. The total tax burden is just below 30 percent of GDP. The VAT provides 30.8 percent of government revenue, income taxes 21.6 percent, profit taxes 18.3 percent, and excise taxes 12.6 percent.

In May 1999, President Constantinescu announced the formation of a commission designed to improve the cumbersome tax system. Generous tax breaks for major foreign and domestic investors were withdrawn in June 1999 at the behest of the IMF. The government has managed to bring down reported tax evasion from 4.3 percent of budget revenue in 1997 to 3.4 percent in 1998. Unreported evasion is likely to be higher, of course.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

The Iliescu government was noted for its profligate spending. Spending was used to raise the government's popularity, to the detriment of the state's finances. Loss-making state enterprises were propped up with subsidies. Deficits were financed by printing money, which fueled inflation.

The advent of the new DC government and its radical reform policy brought a greater degree of fiscal discipline, although with fits and starts. The budget deficit in 1997 was 3.7 percent of GDP, a big improvement from 5.8 percent in 1996. The new government's reformist bent led to the April 1997 IMF approval of a new $430 million loan agreement for Romania, followed by $500 million more in credits from other multilateral and official creditors, including the World Bank.

Subsidies have been large—2.1 percent of GDP in 1996—and have been offered in a non-transparent way through the central bank. Beginning in 1997, all government subsidies, such as those for agriculture, began to be financed transparently from the state budget. Almost 500 public corporations receive subsidies, although the government's goal is to reduce this number to 44. Subsidy levels were substantially reduced in 1997. This fuel street protests by public-sector workers in 1998. The government spent $200 million alone on compensating 60,000 coal miners following the closing of inefficient mines in 1997. Strikes and a violent march on Bucharest by militant miners in January 1999 ended only after the government agreed to pay raises and

the re-opening of two closed mines. Agriculture remains heavily subsidized.

Failure to conform to the structural reform component of the agreement led the IMF to suspend the loan in October 1997. The IMF agreement expired in May 1998 without full disbursement, the fourth such loan to do so. The budget deficit for 1998 ended at 5.7 percent of GDP. Romania's investment ratings was lowered by both Standard and Poor's (from to B+ to B-) and Moody's (from Ba3 to B1) in the fall of 1998. In September, the IMF noted that "plans for privatization of banks and large enterprises, restructuring or closure of loss-making enterprises and reform of state banks are well behind schedule. Scarce resources have continued to be channeled mainly to cover losses in ailing state enterprises."

Such pressure has been effective in pushing the government to implement more aggressive structural reforms in 1999. The 1999 budget, prepared with IMF assistance, was passed in record time. The budget deficit is planned to be 3.9 percent of GDP. The finance ministry identified 150 loss-making enterprises in November 1998. 49 of these are to be sold, 47 are being liquidated, and the rest restructured; 140 more mines are to be closed in 1999. In 1999, Romania had to repay $2.8 billion to foreign creditors. It avoided a feared default by making the full $900 million payment due in May and June by drawing down currency reserves. The World Bank had signed two credits worth $325 million in June.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

Romania initiated reform in its banking system by moving to a two-tier structure and by divesting the National Bank (NBR) of all commercial banking activities. Its main functions are monetary and foreign exchange policymaking, banking system supervision, international reserves (gold, foreign currency, special drawing rights), and the issue of currency. Several laws passed in 1998 have now made the NBR relatively independent. The NBR was forced to provide subsidized credit equal to 2.6 percent of GDP in 1996. This practice was abolished in 1997. Interest rates were deregulated in 1991.

The Romanian banking sector is among the weakest in the region. Bank lending as a share of GDP is just 25 percent, compared with 66 percent in the Czech Republic. Low liquidity ratios plague banks. The EBRD has estimated that nearly 60 percent of all Romanian bank loans in 1997 were non-performing. Two major private banks—Dacia Felix Bank and Credit Bank—failed in 1996. The NBR attempted to bail them out with enormous subsidies while waiting for foreign investors to salvage them. A year later, no such investors appeared and the NBR initiated liquidation procedures against the two banks. Both banks have appealed this decision in court.

The banking system is highly concentrated, with predominantly public-owned banks accounting for the majority of activity. A Bank Privatization Law was adopted in May 1997. It transfers ownership shares from the POFs to the SOF for the purpose of selling them. Nevertheless, actual privatization lagged in 1997 due to the banks' bad debt and inertia by politicians and bureaucrats. The following year saw dramatic moves. A 51 percent stake in the Romanian Development Bank was sold for $135 million to the French bank Societe Generale in August 1998. In April 1999, a 45 percent stake in Banc Post was sold to GE International Holdings and Banco Portugese de Investimento for $43 million. Bancorex, a state-owned bank notorious for its soft lending practices, will be liquidated beginning in July 1999. At this pace, half of the banking sector will be foreign owned by the end of 2000. It is hoped that such restructuring of the sector will lead to the stemming of indirect subsidization of state firms through the mechanism of loans from state banks, which are never fully repaid.

All commercial banks are members of the NBR's domestic interbank payment system, which has improved the efficiency of interbank transactions. Most transactions are in cash or through the payment system, as checking is almost unknown. It can take over two weeks to transfer money from a Romanian bank account to a West European or North American account.

In 1996, the National Bank set up a compulsory deposit insurance system in order to protect citizens' deposits at commercial banks. Parliament passed a bill that would protect private deposits up to 10 million lei per person per bank (approximately $1,300), an amount to be indexed to inflation. NBR has also taken steps to identify risky firms and individuals. Romania has very little in the way of credit analysis and risk assessment. In November 1996 a new surveillance arm within NBR became operational. The Department of Banking Risks Pursuit is to develop "blacklists" of banks with financial problems or which are assuming imprudent risks (e.g. lending without collateral), as well as of clients who have a poor borrowing record.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The leu was freed from heavy regulation only in early 1997. It was unified and made convertible in July 1997 under IMF pressure. It is not convertible on the current account for individuals or for capital exports.

Tight monetary policy led to a decline in inflation from 292 percent in 1993 to 27.8 percent in 1995, although it rose to 56.9 percent in 1996 and a crushing 155 percent in 1997 (although much of this amount was due to a one-off end of price controls, particularly in the energy sector). In 1998, the inflation rate fell back to 59 percent.

The leu's value has been continually depreciating in nominal terms since 1990. The average 1997 exchange rate dropped 132.5 percent from the level in 1995, with most of the drop coming in 1997 (from 4,000 in the beginning of the year to 8,500 at the end). The leu stabilized somewhat in 1998 (average rate: 8,876 leu:$1), but plunged again in 1999, to a rate of 15,855 leu: $1 by July. Despite this precipitous fall, high inflation has actually appreciated the value of the currency in real terms since 1995. The managed float of the leu is being replaced by a looser currency corridor system, wherein the currency will change in value at pre-announced rates against a basket of currencies. Foreign exchange reserves were $2.4 billion in March 1999, down from $2.9 billion in year-end 1998.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Bucharest Stock Exchange (BSE) began functioning in June 1995. Trading volume reached $3.5 million per session in May 1998, up from $1.1 million a year earlier; 101 companies were listed, up from 76. The low number of listings reflects fairly strict listing criteria. In August 1997, total market capitalization was $745 million, or a low 2.5 percent of GDP.

The RASDAQ over-the-counter market (modeled on the US NASDAQ) was established in September 1996, partly to handle the outcome of the mass privatization effort. Over 5,400 companies are listed on the RASDAQ, and weekly trading volume was $18.5 million in March 1998. Total market capitalization was approximately $1.8 billion in March 1998.

The volume of trading has remained low for several reasons. First, there has been a general lack of confidence by foreign and domestic investors in these markets. Legislation is lacking which governs foreign portfolio investment, although the government submitted a draft law to address this deficiency in April 1997. Foreign investors must pay a 1.5 percent tax every time they buy transferable securities. Minority shareholder rights are sometimes abused, and the Romanian government has been slow to react. Finally, fallout from the Russian financial crisis in 1998 cut Western enthusiasm for portfolio investment in Romania.

Romania adopted a securities law in 1994. It established the National Securities Commission (CNVM) with responsibility for regulating primary and secondary securities markets and their participants. The Commission established the BSE as a public entity. However, the BSE is effectively governed by its participant private sector members that form the Stock Exchange Association. It has share registry as well as settlement and clearing departments. An Exchange Arbitration Court exists to settle disputes.

In February 1997, the Romanian Commercial Bank launched Romania's first corporate bond, valued at $75 million. Eurobonds are increasingly popular devices for private sector lending. A secondary market for government securities is not well developed, though in April 1997 regulations in this area were overhauled. The Romanian Commodities Exchange was established in December 1992. Five regional exchanges were established a year later. Trading volume has been thin. There are no capital gains taxes in Romania.

MICROECONOMIC POLICY 4.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The constitution (Article 41) guarantees the protection of private property. Mineral and air rights are excluded. As a result of Law 18/1995, there exists a land registry—one that scarcely functions, however.

Several major laws protecting intellectual property have been passed since 1991, including a trademark law adopted in 1998. A new Romanian Office for Copyright Protection

has also been established. Romania is a party to numerous international conventions protecting intellectual property rights. Unfortunately, these laws are not enforced in fact. After initial enforcement, piracy has returned to what it used to be, with copied software, music, and movies being openly available.

2. To what extent have prices been liberalized? What subsidies remain?

The government removed price controls slowly, fearing social unrest, and political instability. By mid-1995, however, only 3 percent of prices on goods and services were controlled, though these were important prices—energy, foodstuffs, and agricultural products. These controls were lifted in a big price liberalization push in early 1997.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Law 31/1990 regarding the formation, dissolution, and transfer of businesses is generally respected. Its provisions, as well as those of its more recent amendments, not to mention the tax and customs laws, do not particularly help businesses to operate. All laws and regulations are published in the *Official Gazette of Romania* up to six months after adoption.

Forming a joint-stock company costs between $500 and $1,000 and takes between one and three months. Routine business activities like obtaining zoning permits, property titles, licenses, and utility hook-ups are burdensome and time-consuming. The lack of sophisticated equipment to process records (especially fiscal records) makes it difficult to create and run a business, even if the government is not doing anything deliberately to hamper its activities.

A new bankruptcy code was updated in January 1996. It meets minimum Western standards. It does not, however, apply to the large loss-making state enterprises.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Legal reform began in 1992. The first level of jurisdiction is the Ordinary Court, who can hear cases limited to no more than 10 million le The second level of jurisdiction is the County Courts and the Bucharest City Court, who hear cases above the 10 million lei level. Above these is the Court of Appeal. The highest level is the Supreme Court. Appeals may be made to higher levels of the courts. Waits for a trial average between seven months and two years in commercial centers. Judgements are executed between seven months and one year afterward.

Romanian judges, on the whole, have little experience with legal matters in a modern market economy, nor understanding of international business issues. In the past, courts have been known to make biased decisions and to be influenced by the executive branch.

As a result, third-party arbitration is important in adjudicating business disputes. Two important non-government arbitration courts exist. These are the Commercial Arbitration Court administered by the Chamber of Commerce and Industry, and the International Commercial Arbitration Court (which is a nongovernmental entity). Romania is a member of the 1958 New York Convention, which regularizes recognition, and enforcement of foreign arbitration awards. Romania is also a signatory of the European Convention on International Commercial Arbitration of 1961 and the ICSID Convention of 1965. Arbitration decisions are enforceable in Romanian courts.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

A competition law (31/1996) was adopted in April 1996, supplementing the earlier 1991 (11/1991) legislation. It establishes a Competition Council and Competition Office. It forbids anticompetitive behavior such as fixing prices, market-sharing agreements, rigging auctions, various abuses of monopoly power, and the like. The Council has authority to approve mergers and other such agreements. Insider dealing is prohibited by law. Government decision 156/1992 mandates a generally nondiscriminatory procurement policy. It does allow a ten- percent price advantage for domestic suppliers.

6. To what extent has international trade been liberalized? To what degree has there been simplification/

overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?
The state monopoly on foreign trade was abolished in 1990, and tariffs with low average rates have become the main instrument of trade policy. The authorities have avoided the use of quantitative restrictions (like licenses and quotas) on imports, despite difficulties in the balance of payments. Custom duties range from zero to 60 percent. In July 1995 duties were raised on basic raw and processed foods, including meat, butter, sunflower oil, and confectionery. Excise duties range from 15 to 300 percent and are levied on alcoholic drinks, tobacco goods, certain oil and gas products, and "luxuries." In 1997, agricultural tariffs were strongly reduced from an average 67 percent to 22 percent. The weighted average of customs duties is 11.7 percent. EU and EFTA members are granted preferential tariff treatment relative to non-members like the US.

Unfortunately, a common feature of Romanian trade policy is the pervasive "temporary" departures from statutory tariff levels. The frequency with which tariffs change presents difficulties for traders who can not make long-term plans based on the published tariff levels. In 1995, half of Romanian imports were subject to such "special arrangements," making the published tariff schedule partly irrelevant. In 1998, a temporary six percent duty was introduced, which is to be reduced gradually until December 2000.

Romania is a member of the World Trade Organization, and has signed agreements with the EU and the EFTA. It joined the Central European Free Trade Agreement in July 1997. There are five free trade zones in Romania: Sulina, Constanta-Sud, Galati, Braila, and Giurgiu. There is no evidence that Romania is trade-dependent on one or two other countries. Customs procedures are burdensome and many officials are corrupt. These officials frequently and suspiciously issue short-term customs exemptions for certain goods. While sanitary and safety standards are generally in line with ISO and Western European standards, they are not always applied in a transparent fashion.

A substantial number of export quotas and bans on exports exist (applicable especially to subsidized goods or those that were subject to price controls). Officially, these are deemed "temporary" but have been renewed annually. Customs duties are not, however, assessed on exports.

7. To what extent has foreign investment and capital flow been encouraged or constrained?
Legislation generally ensures that foreign investors are treated the same as domestic investors, including in the area of access to privatization. Foreign investors are allowed to wholly own firms, as well as to repatriate 100 percent of their profits. They are also allowed to own land. Visa, residence, and work-permit requirements are not discriminatory or overly burdensome. Article 5 of the Foreign Investment Law stipulates that foreign investments are not subject to expropriation. An exception is made for the "public interest," but only under due process of law and with "prompt, adequate, and effective" compensation. Capital flow for investment is not restricted, though foreign investors have to pay a 1.5 percent tax every time they buy transferable securities.

Foreigner incentives are granted incentives based on a few conditions. For example, investments over $50 million are granted customs exemptions and tax holidays. Further incentives for foreign investors that put them at a distinct advantage vis-a-vis their domestic counterparts were enacted in the form of a government decree in June 1997. After a high-profile battle with parliament, these extra incentives were removed in December.

By January 1999, foreign investment had only amounted to a relatively meager $3.75 billion (compared to the $17 billion in much smaller Hungary). Despite the attractions of the Romanian market, foreign investors were turned off by major problems engendered by the previous government, notably an intrusive bureaucracy, much corruption, and the lack of enthusiasm for foreign investment. Large deals involving the Romanian often become caught in political crossfire, and get bogged down. Smaller deals stand better changes for succeeding. Portfolio investment did increase in 1997, but a massive sell-off occurred in the summer when initial enthusiasm for the new government's policies wore off.

The first four months of 1999 saw only $58.1 million of direct foreign investment, the lowest total since 1990. A large portion of the drop was attributed to worries created by the Kosovo conflict.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
There has been only moderate reform of the energy sector, and most of that has come only in the past few years. A

recent government directive (63/1998) wholly reformulated energy regulation.

Energy prices until recently were controlled by the government and were heavily subsidized for both industry and consumers. As a result, energy consumption per capita was among the highest in the region. Previous attempts to raise energy prices resulted in payments arrears to producers. In 1997, however, energy prices were doubled and reached world levels by the end of the year. Consequently, energy use has become much more efficient.

The privatization of the state-owned energy monopolies, known as the *regies autonomes*, has been eagerly anticipated by investors. These include Romgaz, the gas provider, which is to be restructured into five separate units covering extraction, production, and distribution. Renel, the electricity provider, is also to be split up into separate parts in preparation for a final sale, planned for 2000-2001. In the oil sector, Petrom, a new national oil company, was established by the Ciorbea cabinet to integrate production and processing of oil and further reduce excess refining capacity. A 30 percent stake is being prepared for privatization. Conpet, the state pipeline company, is also being readied for partial privatization.

The government has attempted to reduce excessive manpower in the energy field. In 1997, the government released over 85,000 workers involved in mining and mining-related activities, and announced the closure of many mines; 140 more mines are to be closed in 1999, laying off over half of Romania's remaining 80,000 miners. Nearly 10,000 employees of Petrom (out of 48,000) were laid off, and 15,000 more at Renel (out of 93,000). The latter is scheduled to lose 15,000 more workers in the next few years.

Romania relies on imports of crude oil and natural gas from Russia and the Middle East. These raw materials are then processed in huge refineries at a high cost, because of antiquated technology. Recently, Romania signed an agreement with Russia regarding imports of gas and oil. In 1996, Romania rejected an offer from the Norwegian Government to connect it to Hungary, Germany, and Norway through a gas distribution pipe system. A parallel network of private gas pumps has appeared and is developing. Romania has large deposits of oil and gas. In 1997, it produced 6.5 million tons of crude oil and 15.2 billion cubic meters of natural gas. Nevertheless, 6.2 million tons of crude oil and 4.8 billion cubic meters of gas had to be imported to meet demand. Its proven oil reserves are sufficient for 30 years.

A World Bank/EBRD project to increase oil and gas production through new technology has already begun. Investments by Western Atlas and M. Drilling have already raised Romanian production. Other major foreign companies expressing interest in investing are Lukoil, Shell, Texaco, and British Petroleum. Foreign investment in the oil sector amounts to over $130 million. A 65 percent stake in the Petromidia oil refinery was sold to Turkey's Akmaya for $726 million in January 1999. Shell is establishing a joint venture with Romgaz worth several hundred million dollars. The nuclear power plant at Cernavoda (Canadian technology) began operating in August 1996. Its output accounts for 8 percent of Romania's total electricity needs, and could rise to 30 percent by 2000, when all four units at the plant will become functional.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 10.1 million in 1996. The unemployment rate was 8.2 percent in 1994. Unemployment increased through 1998 and reached 11.4 percent in May 1999. The male unemployment rate was 5.7, while that of females was 6.4 percent. According to the ILO, in 1997, 73 percent of males were economically active, while only 58 percent of females were active. Women constituted 44 percent of the labor force in 1995. In 1991, the government instituted an unemployment insurance program. As of 1994, the program covered 500,000 people and paid benefits equivalent to 1 percent of GDP. Employers pay five percent of an employee's salary to this insurance fund, while workers pay three percent of their salary.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement ben-

efit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?
The pension system is funded on a pay-as-you-go basis out of payroll taxes and budgetary transfers. This type of pension system is well known for its vulnerability to adverse demographic trends (which Romania is in fact experiencing). The retirement age has been increased to 65 for men and 60 for women, up from the previous ages of 60 and 55. Nevertheless, the ratio of pensioners to the working population is expected to rise to 20 percent by 2010 (from 17 percent in 1995), straining the financial integrity of the pension system. In December 1997, Labor Minister Alexandru Athanasiu announced a set of pension reforms that would introduce private pension accounts. Social transfers will total 10.5 percent of GDP in 1999.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?
Average wages were 1.47 million lei in April 1999 ($94). Real per capita income fell 18 percent from 1989 to 1994.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?
Elementary enrollment in Romania increased from 1.2 million in 1993 to 1.4 million in 1996. Secondary enrollment fell from 2.3 million to 2.2 million in the same period. Post-secondary enrollment increased from 360,967 in 1993 to 411,687 in 1996. Approximately 92 percent of eligible children were enrolled in primary school, and 73 percent in secondary school (1995). The student-to-teacher ratio in 1997 was 17 in pre-primary, 20 in the first level, and 13 in the second level. Public spending on education has increased from 3.2 percent of GNP in 1993 to 3.6 percent in 1996. The World Bank has provided loans worth $70 million to upgrade rural schools.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.
The infant mortality ratio was 23 per 1000 in 1998. The birth rate was estimated at 10 per 1000 in 1999, one of the lowest in all of Europe. As of 1998, life expectancy is 66 years for men and 74 years for women.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.
There were 1.76 doctors, 4.3 nurses/midwives, and 7.7 hospital beds per 1,000 people in 1994. Health workers' average wage was $60 per month in 1998, though the government agreed to a 30 percent raise after a strike in February of that year. The public sector expends 3.6 percent of GDP on health care, one of the lowest proportions in Europe.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.
According to the World Bank, 21.5 percent of the population was below the poverty line as of 1994. Only 19 percent of pensioners were below the line. Female pensioners were considerably poorer, however. On average, half of household income is spent on food.

RUSSIA

Polity: Presidential-parliamentary democracy
Economy: Mixed statist (transitional)
Population: 146,500,000
PPP (USD): 4,370
Capital: Moscow
Ethnic Groups: Russian (82 percent), Tatar (4 percent), Ukrainian (3 percent), other (11 percent)
Size of private sector as % of GDP (1998): 70

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	3.80	↓↓ 4.10	↓ 4.25
Rule of Law	na	na	5.25
Economic Liberalization	3.50	↓↓3.92	↓↓4.33

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	1135.0	1868.0	2348.0	2910.0	3056.0	1867.0	3211.0
Real GDP growth (% change on previous year)	-8.7	-12.7	-4.1	-3.5	0.8	-4.6	0.0
Inflation rate	875.0	309.0	197.4	47.8	14.7	27.8	100.0
Exports (USD millions)	44297.0	69600.0	81500.0	90200.0	88800.0	74800.0	73000.0
Imports (USD millions)	32806.0	48500.0	64000.0	73900.0	72200.0	57400.0	52000.0
Foreign Direct Investment (USD millions)	na	500.0	1700.0	1700.0	3800.0	1200.0	3500.0
Unemployment rate	5.3	7.1	8.3	9.2	10.9	12.4	na
Life Expectancy (years)	65.2	64.0	64.8	66.0	66.9	66.7	65.1

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			3	3	3	3	3	3	3	4	4
Civil Liberties			3	4	4	4	4	4	4	4	5
Status			PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

Russia's post-Soviet political system may be described as an electoral democracy in which the formal political rights of the citizenry, notably the right to vote in competitive elections, have been secured, but where civil rights are less well protected. Elections generally have been free and fair, but the rule of law is weak, democratic institutions are underdeveloped, there is little accountability of state officials to the citizens, and the legislature and judiciary have little control over the executive. The federal government's ability to influence the actions of regional governments is also weak. Politics are highly personalized and political parties poorly developed. Corruption is rife, with the concept of conflict of interest not widely assimilated: politicians often combine executive power with a direct or indirect interest in businesses affected by that power.

Since the collapse of the Soviet Union in 1991, Russia has faced continuing problems in its transition to a market economy. The early 1990s, which witnessed the brief period of "shock therapy" to spur economic growth, were marked by political struggles between the more reformist government of Boris Yeltsin and the parliament dominated by former Communists. Successive economic polices have been characterized by varying degrees of political commitment to reform, including often contradictory measures. Ongoing problems have included an inadequately developed legal and financial system, large budget deficits resulting from an inability to collect sufficient taxes, the prevalence of wage arrears, a large informal economy, an ailing banking system, high levels of actual unemployment, and widespread corruption throughout virtually all sectors of the economy.

Political uncertainty plagued most of 1998, as the year saw three prime ministers, numerous government reshuffles, and Boris Yeltsin's recurrent health problems. In early 1999, a failed impeachment vote against Yeltsin was closely followed by the parliamentary approval of yet another prime minister, Interior Minister Sergei Stepashin, to replace Yevgeny Primakov. The market crisis in Asia coupled with ongoing internal structural problems resulted in a worsening financial situation in Russia during the first half of 1998, culminating in the August 1998 devaulation of the ruble and ensuing financial crisis. The economy showed better than expected signs of recovery in 1999, with GDP growth for the year estimated at 1.5 percent, aided by high world prices for oil and gas.

Democratization

POLITICAL PROCESS 4.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?
An election to the lower house of the Russian parliament, the State Duma, was held on December 17, 1995. Under the electoral law, half of the 450 members were elected in single-seat constituencies; the other 225 were elected by proportional representation in accordance with party lists.

Each voter cast two votes: one for a single candidate and one for a political party or alliance. Of the 43 parties listed on the ballot in 1995, only 4— with a combined 50.49 percent of all ballots cast—cleared the 5-percent threshold required to win representation in the Duma. The final results were: the Communist Party of the Russian Federation (CPRF), 22.3 percent of the vote, 99 party-list seats, 58 single-candidate seats for a total of 157; Liberal Democratic Party of Russia (LDPR): 11.18 percent, 50 and 1 for a total of 51; Our Home is Russia, 10.13 percent, 45 and 10 for a total of 55; Yabloko, 6.89 percent, 31 and 14 for a total of 45. Single-candidate seats went to the following parties and alliances: Agrarian Party, 20 seats; Power to the People Bloc, 9; Russia's Democratic Choice, 9; Congress of Russian Communities, 5; Ivan Rybkin's Bloc, 3; Forward Russia, 3; Women of Russia, 3; Pamfilova/Gurov/Lysenko Bloc, 2; 12 other parties, 1 seat each; Independents, 77. Monitors from the Organization for Security and Cooperation in Europe (OSCE) and other international organizations judged the elections to have been free and fair. Under Article 83 of the constitution, the president of the Russian Federation appoints the prime minister. The appointment must be approved by the

State Duma but, if the Duma rejects the president's candidate three times, the president may appoint his candidate, dissolve the Duma, and call fresh parliamentary elections.

The prime minister selects the members of the government, with the exception of the "power ministers"—the ministers of defense, internal affairs, and justice, and the directors of the Federal Security Service and Foreign Intelligence Service—who are personally appointed by the president. Parliament has virtually no say over the composition of the government, which is not required to reflect the party/political coloration of the Duma. The Duma may pass a vote of no confidence in the government. But if it does so, the president is under no obligation to dismiss the government. If, however, the Duma votes no confidence in the government twice within three months, the president may dissolve parliament and call new elections. The government is, therefore, accountable to no one other than the president. Parliamentary elections were held in December 1999, and judged by the OSCE to have been free and fair.

2. When did presidential elections occur? Were they free and fair?

Russia's 1993 constitution guarantees citizens the right to change their government, and this right is observed in practice. The presidential election held in 1996 was the first time in Russia's 1,000-year history that citizens had chosen their leader. President Boris Yeltsin (who had been elected president of the Russian Republic in June 1991, six months before the collapse of the USSR) was re-elected president in a July 1996 run-off, defeating Communist Party leader Gennady Zyuganov by 53.82 percent to 40.31 percent. In the first round the previous month, Yeltsin had won 35.28 percent to Zyuganov's 32.04, while Aleksandr Lebed won 14.52 percent, Grigory Yavlinsky (Yabloko) 7.34 percent, and Vladimir Zhirinovsky (LDPR) 5.7 percent. OSCE monitors deemed the election free and fair. Yeltsin's campaign was bankrolled by a group of powerful financiers with extensive media holdings, commonly known as "the oligarchs."

3. Is the electoral system multiparty-based? Are at least two viable political parties functioning at all levels of government?

Article 3 of the constitution provides for free elections and Article 13 guarantees a multiparty system. These institutions are respected in practice. But Russia has few real political parties. In the State Duma, parties form coalitions which often shift and realign. The larger parties, such as the CPRF, Yabloko, and the LDPR are national parties and function at subnational levels. The CPRF is the largest, claiming 500,000 members. Other parties range from several thousand members to a few hundred. Personalities play a major role and many parties are formed around a single individual or group of individuals.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Along with other public organizations, political parties numbering more than 100 members must register their bylaws and the names of their leaders with the Ministry of Justice. As of December 1998, 131 parties and movements had been officially registered. A number of extremist groups, at both ends of the political spectrum, remained unregistered. Article 13 of the constitution prohibits activity by parties that advocate the violent overthrow of the state or the dismantling of the Russian Federation, that carry arms or that incite social, racial, national, or religious strife. On these grounds, the Justice Ministry has refused to register several parties and movements whose activities allegedly violate the constitution, among them Russian National Unity, Russia's largest radical nationalist organization. Also banned was the Confederation of the Peoples of the Caucasus, whose aims include the formation of an independent Islamic state in Russia's North Caucasus.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Opinion polls show that Russian citizens are strongly disinclined to join political parties, and that women are even less inclined to do so than men. Research by Harvard University's Timothy Colton in the mid-1990s found that, trade union membership excepted, the average Russian citizen belonged to less than one NGO, political party, professional association, or other independent organization. Political parties have tended to form around a single dominant personality rather than on the basis of a shared ideology or perceived common interest.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data relating to female voter participation?

At all levels, officially recorded turnout rates have declined from the implausibly high rates reported during the Soviet era. At the national level, turnout was just over 70 percent in the 1991 presidential election; 54.8 percent in the 1993 parliamentary election; 64.4 percent in the 1995 parliamentary election; 69.8 percent in the first round of the 1996 presidential election, and 68.9 percent in the second round. Data for female participation are not available but there is no evidence to suggest that women are less likely than men to exercise their right to vote. Women are nonetheless underrepresented among elected officials. Only 46 women were elected to the 450-member State Duma in December 1995, down from 58 elected in 1993. Turnout at the provincial level has tended to be lower than at the national level; turnout at municipal levels has fallen sharply since the collapse of the USSR. In some places, where local electoral law requires a minimum turnout of 25 percent to validate the vote, repeated efforts to elect municipal leaders have failed.

The decline in voter turnout seemed to be fed both by federal attempts to interfere in regional politics and by the undemocratic practices of some local politicians. In April 1998, the federal government put pressure on the authorities in Nizhnii Novgorod to annul the city's mayoral election after a former convict was elected to the post. In June 1998, incumbent President Rakhimov of Bashkortostan won re-election after his two major opponents were denied registration; Rakhimov ignored the efforts of the federal authorities to have the election invalidated.

CIVIL SOCIETY 3.75/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Article 30 of the constitution guarantees the citizen's right to freedom of association and allows for the creation of "public associations" (or NGOs). In general these rights are respected. Numerous charitable and humanitarian associations have been created in the past decade. They include human rights, ecological, cultural, charitable, women's and other organizations, and lobbying and advocacy groups. NGOs exist both in the big cities and at regional level, though they are more numerous in the former. Most function without government interference. However, some human rights NGOs have complained of harassment by local officials. By 1997, the Justice Ministry had registered almost 100,000 NGOs, 15,000 in Moscow and 4,000 in St Petersburg. Not all of them remained active, however. Only about a third (35,000) had re-registered by June 30, 1999, as required under legislation adopted in 1995 (see below for further details).

Russian women are very active in NGOs. One of the most organized and effective such organizations is the Committee of Soldiers' Mothers, founded in 1989 in the aftermath of Russia's deeply unpopular war in Afghanistan by a group of mothers who complained that their sons had been illegally drafted and inhumanely treated. The 1994 through 1996 war in Chechnya saw the organization grow into Russia's best-known NGO, campaigning for military reform. It redoubled its efforts following the dispatch of federal forces to Chechnya in the fall of 1999.

Although Russia has many *ad hoc* women's self-help organizations, the country lacks a feminist movement and feminism tends to be seen as an alien import. Russia has two political movements aimed at capturing the female vote: the Women of Russia movement (WR) and the Movement of Women of Russia (MWR). Both favor equal opportunities for women, but neither is a feminist movement. The first to be set up was WR, created in 1993 on the basis of the official Soviet-era organization, the Union of Soviet Women. WR is concerned primarily with social issues and supports the family, education, and children's welfare. It performed well in the 1993 parliamentary election, winning representation in the State Duma with 8.4 percent of the popular vote. It did less well in the 1995 election, failing to overcome the five-percent hurdle for Duma representation. In the run-up to the 1999 parliamentary election, WR split into two parties and MWR left to fight the election on its own. The

split was caused primarily by personality clashes; there was no ideological difference between the two organizations. MWR did not clear the five-percent hurdle in the December 1999 elections. Because of the high risk of kidnapping, Western NGOs have, since 1996, withdrawn from Chechnya and many other parts of the North Caucasus.

2. What is the legal and regulatory environment for NGOs (i.e., ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

NGOs must register their bylaws and the names of their leaders with the local branch of the Justice Ministry. Laws governing the activities of NGOs include the Civil Code (1994) and a series of 1995 statutes including the Law on Non-Profit Organizations, the Law on Public Organizations, and the Law on Charitable Activities and Charitable Organizations. NGOs were involved in drafting these laws. Local laws granting concessions to charitable organizations have been passed in Moscow, St Petersburg, and other cities. However, most NGOs are not tax-exempt.

All NGOs were required to re-register with the Justice Ministry by the end of June 1999. For most NGOs, the process presented few difficulties, but for some there were problems. In May 1999, a Moscow court upheld the Justice Ministry's refusal to re-register the Glasnost Foundation, one of Russia's oldest human rights groups. Officials denied that they had acted out of political motives and argued that the Foundation had submitted incomplete registration papers. Also refused re-registration was the Advocacy Center for the Environment and Human Rights. There was concern that the Justice Ministry might try to shut down those groups that had failed to meet the deadline. Such organizations risked finding themselves without the legal standing necessary to take part in elections, own property, or open a bank account, which would in turn prevent them from receiving grant money. An attempt to extend the deadline until July 1, 2000, was rejected by the Federation Council, the upper house of parliament. NGOs that focus their activity on improving the legal and regulatory environment tend to do so on an unofficial basis only.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants and mentors to less developed organizations?

Most larger NGOs, many of which are funded directly by or work closely with international institutions, are well-organized and have clear management structures. They provide information on NGO issues in Russian through the use of bulletins, reports, the media and, increasingly, the Internet. The Agency for Social Information (ASI) prepares weekly bulletins about NGO activities, management issues, conferences, and programs, as well as updates on legislation concerning NGOs. With technical assistance, seminars, exchanges, and other programs offered by the European Union (PHARE and TACIS), the U.S. Agency for International Development, and Western NGOs, Russia's NGO and voluntary sector is developing an expanding network of NGO practitioners and trainers available to advise less-experienced groups.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

The main problem for almost all NGOs in Russia is lack of money. Most face serious problems of financing and sustainability. The habit of supporting independent organizations is not deeply rooted among Russian citizens. According to the *Chronicle of Philanthropy*, 74 percent of Russians when polled could not name a single charity. Nor does the Russian tax system provide much incentive to those wishing to make charitable donations.

While some charitable organizations are tax-exempt, most NGOs are not. The fact that Russia has not yet implemented a long overdue reform of the tax code further complicates the situation. Russian government procurements are limited and many of the most successful NGOs rely heavily, if not exclusively, on financing from foreign foundations and grants and programs funded by foreign governments. The Salvation Army, for example, is involved in helping homeless people

in Moscow and St Petersburg, while Britain's *Big Issue* magazine, dedicated to helping the homeless help themselves, has supported the launch of a sister magazine in St Petersburg. However, NGOs are permitted to earn income and collect cost-recovery fees; for some, this is the main source of income.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?
Article 30 of the constitution guarantees the right "to create trade unions to protect one's interests." Approximately 60 percent of Russian workers belong to a trade union. This marks a decline from the Soviet period, when 98 percent of the working population belonged to the official, state-controlled unions. The subsequent fall in membership is attributable to the fact that the unions no longer perform some of their previous functions and to the proliferation of non-unionized jobs in the new, private service sector.

The majority of workers belong to unions affiliated to the Federation of Independent Trade Unions of Russia (FNPR), the successor-organization to the Communist-era unions and still by far the largest labor confederation in Russia. The FNPR owes its dominance to the fact that it still fulfills some of the functions of the Soviet-era unions and controls much of their property, including vacation facilities. Often its officials have long-standing ties to enterprise management. This puts independent unions at a disadvantage: they are small, tend to be faction-ridden, and command the membership of only eight percent or so of the workforce. When they have tried to defend their members' interests, e.g., by calling strikes, the independent unions have proved vulnerable to pressure from state officials and enterprise managers.

There have been strikes over the non-payment of wages but these have been poorly supported—especially in light of the widespread scale of the non-payments problem. Opinion data analyzed in early 1999 by the U.S. Information Agency (USIA) found that the number of Russian citizens participating in strikes and demonstrations was falling. USIA found that no more than 10 percent of citizens participated in strikes and demonstrations; those who did protest tended to be the same people each time; the number of such people was slowly but steadily declining. While seven percent of the respondents claimed to have taken part in the nationwide strikes of March 1997, only five percent took part in those of April 1998. The main reason given for striking was to protest wage arrears; the main reason given for not striking was the belief that industrial action would not have any effect.

The largest farmers' organization is the Association of Peasant Farms and Agricultural Cooperatives. The Agrarian Party of Russia (APR) represents collective and state farmers and workers in agriculture-related industries. Its leadership is dominated by the managers of state and collective farms who lobby for continued state support for their sector and against the legalization of private ownership of agricultural land. The APR won 20 constituency seats in the 1995 elections to the Duma, where it allied itself with the CPRF. In the run-up to the 1999 Duma elections, the party split, with one half leaving to join the Fatherland movement while the rest remained allied with the CPRF. The much smaller Russian Peasants' Party favors private ownership of agricultural land but has no representation in the Duma. Millions of Russians belong to consumer cooperatives and there are numerous business associations, trade councils, and economic lobbying groups throughout the country, though exact membership figures are not available.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?
Article 30 of the constitution guarantees the freedom of action of public associations; Article 33 guarantees citizens the right to appeal, both individually and collectively, to the state authorities. These rights are respected in practice. NGOs and other interest and lobbying groups use a wide variety of means to publicize their views and pursue their interests. The major interest groups involved in the political and policy process include the managers of wholly or partly state-owned enterprises and farms. Prior to August 1998, huge political power was wielded by the small group of seven ultra-rich financiers who made their fortunes in the late 1980s and early 1990s and who bankrolled Yeltsin's 1996 re-election campaign. The August 1998 financial crisis ruined several of the "oligarchs" (as they were popularly called) and weakened all of them, but

the linkage between political and economic power remained tight. This was true at both national and regional level.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
With some exceptions, such as the Committee of Soldiers' Mothers, most NGOs receive little coverage in the Russian media. Therefore, most Russian citizens know little about their activities and, at the national level, engagement between government officials and NGOs is not extensive. In general, the government is not receptive to policy-advocacy by NGOs. In some regions, NGOs have had some success working with local authorities on specific issues such as housing, public health and the environment. In general, however, Russian citizens do not expect their leaders to be receptive to pressure from the grass roots and do not perceive involvement in NGO activity to be a realistic method of defending their interests.

INDEPENDENT MEDIA 4.75/7

1. Are there legal protections for press freedom?
Press freedom is often described as one of post-communist Russia's most significant achievements. Article 29 of the constitution guarantees the right "freely to seek, receive, pass on, produce, and disseminate information by any legal means." Press freedom is also protected under the 1992 Law on the Mass Media. During the period under review, power to grant and suspend licenses to transmit on specific television or radio frequencies was shared by the Ministry of Communications and the national licensing agency, the Russian Television and Radio Service. In July 1999, these bodies and their functions were merged into a new Ministry for Press, Television, Radio Broadcasting, and Mass Communications.

Censorship is prohibited both by Article 29 of the constitution and by the Law on the Mass Media. However, the law also forbids the use of the mass media to commit criminal offenses or to incite social, racial, national, or religious strife. Authorities at both the national and regional levels have not been afraid to use economic and political pressure to try to influence media coverage. The state still controls the majority of the printing presses. Accreditation regulations have been used to circumscribe media access and freedom. In May 1998, President Yeltsin signed a decree turning state-owned regional broadcasting companies, until then controlled by the regional authorities, into affiliates of the official state media holding established in 1998, the All-Russian State Television and Radio Company (VGTRK). Commentators have warned of the threat to media autonomy represented by the takeover of important outlets by large financial groups whose owners have close links to government and their own agendas to pursue. In many instances, biased coverage and self-censorship have resulted. While this phenomenon is not unknown in the more established democracies, it was exacerbated in Russia by the August 1998 economic crisis. Faced with a sharp fall in advertising revenue, the media became ever more dependent on sponsorship from big business.

Since the Soviet period, there has been a shift in readership from national to regional newspapers. With the breakdown of national distribution, the circulation of the leading national newspapers fell dramatically. For example, the daily newspaper *Izvestiya* in 1999 had a print-run of 367,500, compared to 4.7 million in 1991. Outside the big cities, small local newspapers are sometimes the only reading available. The National Press Institute, which works to promote the development of local newspapers in Russia, has described the demise of the central press as a positive development that will, over time, encourage the growth of civil society. Other commentators warn that the shift will only increase the influence of provincial authorities, many of whom already act as laws unto themselves on their own territory. This may be done by indirect means, such as by denying access to printing presses or paper supplies to independent media while subsidizing publications that toe the official line. The Bryansk Oblast (region) administration, for example, controls all but 2 of the 15 or so newspapers in the region.

In some regions, the authorities resort to more direct measures. In June 1998 Larisa Yudina, editor of the only opposition newspaper in Kalmykia, was murdered in apparent retaliation for investigating reports of corrupt business practices by republic officials. For several years, Yudina had been forced to print her

newspaper outside the republic because of harassment by authorities. A member of Kalmyk President Kirsan Ilyumzhinov's staff was subsequently detained in connection with the murder. Meanwhile, Kalmykia's collective farmers received part of their wages in the form of free subscriptions to the local, subsidized, and "loyal" newspaper.

The 1999 military intervention in Chechnya resulted in a government clamp down on media freedoms while independent monitors declared that the media campaign preceding the December 1999 parliamentary elections to have been the dirtiest yet in Russia's post-Soviet history.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?

Often, court rulings on libel and defamation have been used to curtail journalists' freedom to criticize public figures. Libel is a criminal offense under the 1992 Law on the Mass Media and the 1991 Law on the Protection of Citizens' Honor, Dignity and Business Reputation. Many Russian politicians have availed themselves of this mechanism. Journalists have also been fined after being accused by the authorities of "abusing their journalistic privileges." Things do not always go the way of the elite, however. In November 1997, first deputy premier Anatolii Chubais filed libel suits against the radio station *Ekho Moskvy* and journalists Aleksandr Minkin and Sergei Dorenko, claiming that they had defamed his honor and reputation by accusing him of taking bribes. Chubais' complaint was upheld by the president's Judicial Chamber on Information Disputes (which has only recommendatory powers, and no judicial status), but his case was thrown out when it came before a Moscow municipal court in April 1998.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

In the post-Soviet period, some 80 percent of Russia's 6,000 newspapers and 4,000 magazines have been privatized, and big business has gradually replaced the state as the principal controller of the media. Many of the most important national newspapers are controlled by a handful of Russia's most powerful financiers. Boris Berezovsky's Logo-VAZ owns controlling stakes in the daily newspapers *Nezavisimaya gazeta*, *Novye izvestiya* and *Kommersant* and the weekly *Ogonek*. Vladimir Gusinsky's Media-Most owns the daily *Segodnya* and the weekly *Itogi*. Vladimir Potanin's Interros owns a substantial stake in the daily *Izvestiya*. In 1997, *Izvestiya*'s editor was forced to resign after the paper published an article alleging that then Prime Minister Chernomyrdin had amassed a private fortune through his links with the natural gas monopoly, Gazprom. Gazprom itself holds a stake in *Komsomolskaya pravda* and some twenty other media outlets. Mayor Luzhkov and the Moscow city administration have built up a media holding that includes Center-TV and the newspapers *Moskovsky komsomolets*, *Vechernyaya Moskva*, and *Literaturnaya gazeta*.

The state retains an important role. All but a few of the major media outlets remain dependent on the state for some form of subsidy. While approximately 1,600 television broadcast licenses have been issued, there are an estimated 525 private and state-owned and operated television stations. Russian Television (RTR) and Russian Public Television (ORT) transmit nationwide and to most of the former USSR. RTR is the flagship television station of the state-owned media holding, VGTRK. ORT is 51 percent state-owned but is considered to be under the control of Boris Berezovsky, who has appointed managers loyal to himself. Other nationwide TV stations are NTV (of which Gusinsky's Media-Most controls 70 percent and Gazprom also ownes a substantial share) and TV-6 (in which Berezovsky owns over 60 percent of the shares). Only RTR and the St Petersburg Channel 5 remain wholly state-owned.

NTV is Russia's leading private TV network. Unlike ORT and RTR, however, NTV's broadcasts do not reach homes in all regions of Russia. Like other independent media, it is vulnerable to government threats to revoke its license. In the past, the network's criticism of government policies got it into trouble but, after Gusinsky helped to bankroll Yeltsin's re-election 1996 campaign, NTV was given permission to broadcast around the clock. Wishing to reward his backers, and realizing their political power, Yeltsin appointed several leaders of media groups to government during his second term in office. This situation changed as the 2000 presidential election approached. Whereas the "oligarchs" had consolidated around Yeltsin's candidacy in 1996, there was no consensus among them over who should succeed Yeltsin in 2000. The latter

half of 1999 saw the outbreak of a media war in the press and over the airwaves.

The major radio stations are *Ekho Moskvy*, *Mayak*, and *Radio Rossiya*. *Ekho Moskvy* was managed by its journalists from 1990 to 1994, when it was forced for financial reasons to seek a partnership with Gusinsky's Media-Most.

4. Are the private media financially viable?
Classified ad newspapers, business publications, and sex/crime tabloids are flourishing, but many other media organizations face serious financial problems caused by fall in advertising revenue, decreases or elimination of state subsidies, and increases in printing costs. Coincidentally, the public's ability to afford newspapers has declined because of prolonged economic hardship. Only a few newspapers, such as the mass-circulation weekly *Argumenty i fakty*, have sufficient circulation and advertising revenue to be financially independent. Most newspapers rely on subsidies from the government or on powerful business interests. *Nezavisimaya gazeta*, for example, was forced to suspend publication in 1995 when, to protect the paper's independence, the editor refused to take state subsidies; it was re-issued only after a substantial investment by Berezovsky's LogoVAZ. *Obshchaya gazeta*, which gained a reputation for relative independence during the 1996 presidential campaign, eventually succumbed to financial constraints; in the summer of 1997, the paper revamped its format after investments from Gusinsky's Media-Most. In July 1999, *Kommersant*, the last of the quality dailies to resist takeover, lost its long battle for independence and fell under Berezovsky's control.

Even though regional and local newspapers have gained market share vis-a-vis the national press, many of them face difficulties because of the fall in advertising revenue and the fact that few people can afford to subscribe to them. A February 1996 law on financial support for the media tried to help by making publications, TV, and radio companies eligible for tax breaks and financial privileges as opposed to direct subsidies.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Because most major media outlets receive some measure of government subsidy and/or have outside sponsors or private owners with political connections, editorial independence has been increasingly threatened. Local officials exert political pressure, particularly in regions where local elites are in competition. With major media outlets increasingly controlled by big financial groups, media outlets reflect their political biases and the battles of the business concerns that control them. Opinion polls suggest that televised news, analytical programs, and even apparently serious publications have a very limited audience. The politicization of the media and the internecine squabbling between the elites reflected in the press contributed to this loss of influence.

6. Is the distribution system for newspapers privately or governmentally controlled?
Private distributors have sprung up throughout Russia but the former state-owned monopoly, *Rospechat*, remains dominant. Subscriptions must still be expedited through the state postal system, though local delivery and distribution through kiosks is now largely in the hands of smaller, private distributors. In broadcasting, only a small number of companies own transmitters, with the remainder renting time on those owned by the state.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Russian citizens have had access to the Internet since 1991 and use grew steadily throughout the 1990s. By mid-1999, an estimated 1.9 million Russians (1.3 percent of the population) were Internet users, up from 600,000 in 1997. Even the August 1998 devaluation of the ruble, which caused a sharp increase in the ruble-equivalent of the dollar-denominated tariffs charged by most Russian Internet service providers (ISPs), did not significantly dampen growth in the number of users. However, usage is still concentrated in large cities, and many Russian businesses are not highly computerized. According to a survey by COMCON, the Russian media research center, only 19 percent of Russian Internet users are female and only 10.4 percent are aged over 45 years.

There was widespread alarm in 1999 at reports of efforts by the Federal Security Service (FSB, the domestic successor to the KGB) to introduce a new system of surveillance for Internet users. Regulations

drafted by the FSB would allow the security services to monitor Internet communications, without obtaining a court order as required by law, through special equipment that Russian ISPs would be required to install and pay for themselves. ISPs were threatened that they would lose their licenses if they did not comply. When an ISP in Volgograd refused, it was put out of business on a technicality. The New York-based Human Rights Watch (HRW) warned that the new rules would compromise freedom of speech and endanger the further development of civil society.

8. What are major press and journalists' associations? What proportion of their membership is made up of women?

As in the Soviet period, the major professional organization is the Union of Journalists. There is also a large number of organizations set up with the aim of defending journalistic freedom and integrity, many of them at the regional level. Perhaps the most prestigious is the Glasnost Foundation, whose re-registration problems were referred to above. Women constitute slightly over 50 percent of the journalists working in Russia.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

The Freedom House's annual *Survey of Press Freedom* rated Russia "Partly Free" from 1992 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.50/7

1. Is the legislature the effective rule-making institution?

The Russian parliament is the Federal Assembly. It is described in Article 94 of the constitution as "the representative and legislative organ of the Russian Federation." It consists of two chambers. The upper house, the Federation Council, is made up 178 representatives of Russia's 89 "components of the federation" (republics and regions) who hold their seats *ex officio*. Refusing to acknowledge Russian sovereignty, the breakaway Republic of Chechnya has consistently declined to elect deputies. The lower house, the State Duma, consists of 450 elected deputies. The two houses share responsibility for legislation: a majority in both is required for most bills to become law, while a two-thirds majority in both is necessary to override a presidential veto. Parliament does not have a legislative monopoly, however. Article 90 of the constitution gives the president the right to issue decrees and directives having the force of law throughout the country. These may, like other laws, be appealed against to the Constitutional Court if they are held to violate the constitution. Some government ministries continue to issue administrative instructions which, while supposedly outlawed in the post-Soviet period, continue to play a quasi-legislative role.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Russia is an asymmetrical federation consisting of 89 "components of the federation" — 21 republics, 6 krais (territories), 49 oblasts (regions), 1 autonomous oblast, 10 autonomous okrugs (districts), plus the cities of Moscow and St Petersburg. According to Article 5 of the constitution, all the regions are equal in status, though this not the case in practice, since some of the autonomous okrugs are subordinated to the larger krais whose territory they adjoin. The regions enjoy significant autonomy, largely because the federal government has been too weak to rein them in. The respective powers of the federal government and the regions are laid out in Articles 71 through 73 of the constitution, but these provisions have less weight than the series of bilateral power-sharing treaties signed by the Russian Federation with 47 of its 89 components. These unconventional agreements have been credited with holding the Russian Federation together through the tumult that followed the collapse of the USSR. The center has long recognized, however, that the system was flawed. Because no two treaties are the same, they institutionalized inequalities between the regions; in addition, their lack of transparency gave rise to mutual suspicion and "leapfrogging" as each region tried to negotiate a better deal than it believed its neighbor had secured. Also enhancing regional autonomy is the fact that, also as of mid-1999, almost all of Russia's republics and regions had democratically elected presidents or governors.

Russia's 89 component republics and regions have only very limited rights to set tax bases and tax rates.

The center prescribes revenue shares between the federal and regional budgets for the main revenue-raising taxes (value added tax and corporate tax). The republics and regions do, however, have their own legislatures and many of their laws conflict with federal legislation. For example, Tatarstan's electoral law permits candidates to run unopposed, which is contrary to federal law. Russia's justice minister reported in 1997 that roughly one-third of the 16,000 regional laws examined by his ministry in the previous two years were at variance with federal legislation. The most glaring examples, during the period under review, concerned the February 1999 declaration by President Maskhadov that Chechnya was replacing the Russian Criminal Code with a new code based on Islamic Shariah law, and the legalization of polygamy in the neighboring Republic of Ingushetia. In many instances, the federal government simply ignored such anomalies. In others, it appeared powerless to intervene.

3. Are subnational officials chosen in free and fair elections?

All republic presidents and krai and oblast governors have been popularly elected. The chief exception is the Republic of Dagestan where, out of consideration for the complex ethnic composition of the population, the chief executive is not an individual but a State Council on which each of Dagestan's 14 indigenous ethnic groups are equally represented. The Republic of Mordovia, whose system of government is also anomalous, recently announced its intention of moving to a presidential system. In all other regions, governors have not only been elected but also, in many cases, have stood for re-election. Most mayors of cities are also elected, though in some republics they are appointed by the republic's president.

Electoral laws vary from region to region. Elections of regional and local leaders have generally been free but they have not always been fair. Often, irregularities, violations, and low voter turnout have undermined the results. In some regions, opposition candidates have complained that local officials had denied them access to the media, and there have been numerous complaints of harassment or intimidation of journalists. Nonetheless, the results of the elections were accepted in almost all cases. Some regional leaders secured re-election by pressuring local electoral commissions to disqualify their rivals. In Kalmykia in 1995 and in Tatarstan in 1996, Presidents Kirsan Ilyumzhinov and Mintimer Shaimiev ran for re-election unopposed, in violation of federal electoral law, which outlaws single-candidate contests.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Federal legislation enters into effect once it has been passed by both houses of parliament, signed into law by the president, and published in the government newspaper, *Rossiiskaya gazeta*. Presidential decrees are published by the president's office. But the habit of relying on administrative instructions, a holdover from the Soviet period, still makes itself felt, as does the use of unpublished legislation. Aleksandr Nikitin, a retired Soviet Navy captain, was arrested in 1996 and accused of revealing state secrets for his part in publishing a report on environmental hazards posed by naval nuclear installations in northwest Russia. The prosecution based its case on secret decrees and retroactive legislation. A final decision was pending as of June 1999.

The media for the most part have access to political leaders and government information, and Article 100 of the constitution states that sessions of parliament shall be open. There have been attempts, however, to strip journalists of their accreditation when their reporting has not pleased the State Duma, and both chambers of parliament have the right to hold closed sessions "as envisaged by their rules."

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Articles 130 through 133 of the constitution lay out the bases of local self-government. Article 132 states that "bodies of local self-government independently manage municipal property; formulate, approve, and execute the local budget; levy local taxes and duties; ensure law and order; and resolve any other local issues." In general, municipal governments in cities and rural districts are responsible for their own budgets and raise some revenue from taxes on municipally-owned business but, compared with the authorities at republic- and oblast-level, municipal governments are very weak.

Less than a quarter of their revenue comes from sources they control. (The cities of Moscow and St Petersburg are exceptions. They have the status of regions in their own right and therefore have regional, not local, governments.) Until the adoption in September 1997 of a new law on local government financing, municipal governments had to go cap-in-hand to their regional government for almost every ruble of their budget. The 1997 law was intended to give them more independence. Systematic information on the impact of the law is not available, but the impression is that relations between regions and municipalities remain very top-down. Meanwhile, provincial capital cities typically consider themselves hard-done-by "donors" to the poorer towns and districts in their regions.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Political patronage and a dearth of competent full-time civil servants undermine the effectiveness of local and municipal government. Governors and mayors in a number of regions and cities have been caught up in corruption scandals involving the misuse of funds. Sometimes, this is a case of a new governor getting even with a predecessor. In 1996, President Yeltsin signed a decree calling for periodic evaluation of the work of federal civil servants, but no such initiative was implemented on the regional and local levels.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The constitution delineates regional and local powers, though many features have not yet been codified into law. Numerous attempts have been made to reform the civil service, which has grown relentlessly in the post-Soviet period. In 1991, the government created a special organization for the selection and grooming of fast-track civil servants: the Main Administration for Training Civil Service Cadres (*Roskadry*). Yet there remains an acute shortage of efficient (to say nothing of honest) civil servants at all levels of government. A 1991 law prohibiting civil servants from engaging in private business was widely ignored.

The 1996 Law on the Bases of the Civil Service banned civil servants from simultaneously holding any other employment except teaching, research, or other "creative" jobs. Civil servants may not be members of either federal or regional legislatures or serve in local government. Prospective civil servants must report income and property. In 1996, President Yeltsin approved a system for evaluating and rating federal civil servants by a special commission. In 1997, the State Duma voted to reduce federal civil service staff by 30 percent, but the bureaucracy continued to grow. The majority of civil servants employed outside of Moscow are federal employees. However, activities for which the regions have primary responsibility (such as schooling) are staffed by people who are employees of the region. The staff of the regional administration are also employees of the regional government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.25/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Russian voters approved a new constitution by referendum on December 12, 1993. Article 1 defines Russia as "a democratic, federative, rule-of-law state with a republican form of government." The constitution provides for a strong executive and a bicameral legislature. It gives the president unusually strong powers, including the right to issue legally binding decrees and directives, to appoint senior members of the judicial and executive branches and, in certain circumstances, to dissolve the lower house of parliament, the State Duma. Presidential decrees and directives may, like other laws, be appealed to the Constitutional Court if held to violate the constitution.

The ability of the judiciary to interpret and enforce the constitution is weak since the powers of the Constitutional Court under the 1993 constitution are restricted. The Court does not, for example, have the right to select issues for consideration on its own initiative, and the range of those bodies that may submit issues

to it is also limited. Even when the Constitutional Court has made a ruling, no mechanism exists for enforcing the ruling. (In general, court rulings do not constitute a source of legislation under the Russian legal system.) Moscow's Mayor Luzhkov has been able with impunity to ignore three rulings by the Constitutional Court that his administration was violating citizens' constitutionally-guaranteed right to freedom of movement by retaining the notorious Soviet-era *propiska*, or system of residence permits. Other powerful regional leaders have also ignored judicial rulings when these have gone against them. In 1997, it took the personal intervention of President Yeltsin to force the authorities in the Republic of Udmurtia to comply with a Constitutional Court ruling that it should stop disbanding local government bodies. This was the first, and so far last, time the president had ordered one of Russia's republics to comply with a decision of the Constitutional Court.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The 1993 constitution meets world standards in its provision for human and civil rights. Article 2 defines the individual and his or her rights and freedoms as "the supreme value" of the state. Subsequent articles guarantee freedom of movement, conscience, belief, expression, association, and assembly. Article 46 guarantees the individual's right to judicial protection and affirms his or her right, "if all available means of legal protection inside the state have been exhausted," to appeal to international bodies for the protection of his or her rights and freedoms. Article 15 states that generally recognized principles and norms of international law and the international treaties to which Russia is party are a constituent part of its legal system; Article 15 adds that, if an international treaty to which Russian is party establishes rules other than those stipulated by Russian law, the provisions of the international treaty take primacy.

In 1998, Russia ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms; this gave Russian citizens the right to file appeals with the European Court on Human Rights in Strasbourg, whose rulings would henceforth be binding in Russia. A significant number of Russian citizens immediately availed themselves of the right to lodge an appeal, complaining mainly about prison conditions, though none had come before the Court at the time of writing.

In May 1998, the State Duma appointed communist parliamentarian Oleg Mironov as Human Rights Ombudsman. The post had been vacant for two years following the acrimonious departure of the first incumbent, human rights activist Sergei Kovalev. The powers of the office are restricted, since the Ombudsman has no power to make or change law and can only propose changes to laws he considers unjust, but Kovalev had imbued it with moral authority. At first, Mironov focused on violations of social and economic rights but, after pointed criticism from the liberal Russian media, he began also to speak out about violations of civil and political rights.

Implementation of the rights and freedoms guaranteed by the constitution remained patchy. The U.S. State Department's 1998 report on human rights worldwide (published in early 1999) found that human rights violations were still commonplace in Russia. Areas of particular concern included: lengthy periods of pre-trial detention; harsh prison conditions; arbitrary arrest and detention; violent hazing of army recruits; and the 1997 Law on Freedom of Conscience, which discriminated against minority religious faiths while placing others in a privileged position.

Article 34 of the constitution guarantees the individual's right freely to use his or her abilities and property for the purpose of entrepreneurial activity and for "other economic activity not prohibited by law." Article 35 guarantees the rights of private property and inheritance. Article 36 states that citizens are entitled to hold land in private ownership. However, the government's attempts to liberalize land ownership have been stymied by parliament, which has so far refused to countenance the creation of a free market in agricultural land. A handful of republics and regions have legalized the sale of land on their territory but, in the absence of a federal Land Code, there have been few buyers.

A new Civil Code has been adopted in stages, beginning in January 1995. It replaced the 1964 Civil Code of the RSFSR, which centered round the concept of socialist ownership. The new code caters for all the main forms of ownership. For details, see the section on the economy.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and

issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

A new Criminal Code was adopted in 1996 and entered into force on January 1, 1997, replacing the RSFSR Criminal Code of 1960. The 1996 Criminal Code included new sections protecting individual rights and freedoms and regulating economic activity. It decriminalized some activities that had been banned during the Soviet era while criminalizing others that were not included in Soviet-era legislation, such as money laundering, tax evasion, and securities fraud. It retained the death penalty but reduced the number of crimes carrying it from 31 to 5 (genocide, murder, and attempts on the lives of politicians, public figures, law-enforcement officers, and judges). For the first time, the code included chapters on liability for crimes against the constitutional rights and freedoms of citizens.

The international obligations into which Russia entered in the 1990s created an urgent need for a new Code of Criminal Procedure (CCP). A new CCP was drafted at the end of 1997 but became bogged down in bureaucratic infighting. Meanwhile, the CCP of 1960, with some amendments adopted over the years, remains in force. The Constitutional Court has declared several specific provisions of the 1960 CCP to be unconstitutional.

Search warrants and warrants for arrest are signed by a procurator (at the oblast, district, etc., level). The 1960 CCP gave procurators the authority to issue an order of detention without a judge's authorization. Although Article 22 of the constitution states that a suspect may not be detained for longer than 48 hours without a court order, the constitution's transitional provisions specified that this provision would remain in abeyance until a new CCP was adopted. Meanwhile, Russia has no tradition of *habeas corpus* and arbitrary arrest and detention remain significant problems.

Article 21 of the constitution prohibits torture, violence, and "other brutal or humiliating treatment or punishment." Russia took a significant step forward when, in September 1998, responsibility for administering the prison service was transferred from the Ministry of Internal Affairs to the Ministry of Justice. Human rights activists assert, however, that the most serious human rights violations tend to take place not in prison but in the first few hours after a suspect is detained and is being kept under investigation in a police lock-up. In a report published in November 1999, Human Rights Watch reported that Russian police routinely torture suspects in order to force them to confess. The report found that Russian courts commonly accept these forced confessions as grounds for conviction and that, with only a few exceptions, police are not prosecuted or even reprimanded.

Prison conditions remain extremely harsh and even, because of low health and sanitation standards, life-threatening. The prison service is chronically underfunded. Overcrowding is a particularly serious problem with some prisoners forced sleep in shifts because there are not enough beds. Overcrowding is blamed on a surge in the number of crimes being investigated and the acute shortage of judges to hear the trials (see below). With a prison population of over a million (800 convicts for every 100,000 citizens), Russia has one of the highest rates of incarceration in the world. In addition, the grant of bail is rare, leading to overcrowding in pre-trial detention centers. Overcrowding is the main reason for the epidemic of tuberculosis in Russian prisons and detention centers, where the TB infection rate is five times higher than in the population at large. Russia at present has more than 100,000 prisoners infected with TB. Some 12 percent of them are reported to be infected with the multi-drug-resistant form of TB, which is difficult and extremely expensive to treat.

Lengthy pre-trial detention is a serious problem. Although the CCP requires court consideration to begin no more than 14 days after the judge issues the order designating the location of the trial, congestion in the court system frequently leads to prolonged postponements.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Russia suffers from an acute shortage of qualified judges, with an estimated 1,500 vacancies in the profession. This makes for long delays before those accused of crimes are brought to trial and, given the infrequency with which bail is granted, causes long periods in pre-trial detention. This in turn encourages the spread of disease referred to above. A 1995 Law on Judges required judges to have had at least five years' experience in the legal profession and, in an effort to attract skilled lawyers to the profession, raised judges'

salaries and changed retirement provisions. However, the court system remains seriously underfunded. A precise number for communist-era judges is not available, but is believed to be high.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The 1992 Law on Judges established the independence of the judiciary for the first time. However, judicial independence is seriously threatened by the chronic underfunding mentioned above. Local courts have problems meeting their wage bills, buying equipment, paying telephone bills, and undertaking building repairs. This makes them easy targets for bribery and corruption.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
In 1991, there were only 27,000 practicing advocates. Recent estimates of the number of trained lawyers in Russia range from 22,000 to 50,000 (the latter figure includes judges and prosecutors as well as defense and business lawyers). Though exact statistics are unavailable, most lawyers continue to be employed by the state, though many moonlight in private practice, working for individuals or private commercial concerns. Many qualified judges and state procurators have quit and moved into the private sector, further undermining the efficiency of the judiciary. Most Russian judges are women; regrettably, this helps explain why the profession has low prestige and is poorly paid. Women are well represented in other branches of the legal profession also.

7. Does the state provide public defenders?
Article 48 of the constitution guarantees the right to qualified legal assistance and states that legal aid should be rendered free of charge as provided by law. The Criminal Code fleshes out this right by requiring the courts to appoint a lawyer if the suspect cannot afford one. In many cases, however, the indigent receive little legal assistance because funds are lacking to pay for trial attorneys and many public defenders are poorly trained.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Article 19 of the constitution guarantees equality of rights and liberties "regardless of sex, race, nationality, language, origin, property and position, place of residence, attitude toward religion, convictions, membership of public associations, and other circumstances." This includes the rights of persons belonging to ethnic minorities. Nonetheless there are frequent reports of discrimination against people from the North and South Caucasus, Roma, darker-skinned persons in general, and other non-Russians. Some of these attacks have been the work of members of far-right racist organizations but others, including arbitrary searches and arrests, have been carried out by police and other security forces under the pretext of fighting crime and enforcing residential registration requirements. There have been numerous cases of desecration of Jewish cemeteries and bombings of synagogues. The controversial 1997 Law on Freedom of Conscience discriminates against all but a handful of so-called "traditional" religions. Women face both domestic violence and discrimination in the workplace.

9. Are judicial decisions effectively enforced?
The weakness of the rule of law means that many judicial decisions are not effectively enforced. As mentioned above, the ability of the judiciary to interpret and enforce the constitution is weak since the powers of the Constitutional Court under the 1993 constitution are restricted. Even when the Constitutional Court has made a ruling, no mechanism exists for its enforcement.

CORRUPTION 6.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption and extortion pervade everyday life in Russia. Business people routinely pay bribes in order to

conduct their affairs, and government officials routinely accept and even demand them. Ordinary people going about their everyday business are also often required to pay bribes, for example, to get a bed for a hospital operation, to obtain a passport, or to register residency. Precise information on the salaries of civil servants is not available. It is, however, common knowledge that the salaries of low-ranking officials are pitifully low and liable to arrears of payment. Among police officers, for example, low salaries and wage arrears have fostered corruption and prompted many of the best officers to move into private employment as security guards.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

The concept of conflict of interest is not widely assimilated in Russia: politicians often combine executive power with a direct or indirect interest in businesses affected by that power and the boundaries between public and private sector activity are fuzzy. In 1993, researchers surveyed 1,000 people who had been connected to the Central Committee of the Soviet Communist Party in 1988. They compared these to members of Russia's new economic elite and discovered that the overlap was 19 percent—compared with 30 percent in Hungary and 28 percent in Poland. However, former members of the *nomenklatura* in Russia were much more likely to be found in the new political, cultural, and state-sector economic elite than were their Hungarian or Polish counterparts. The scandals that have come to light in the past couple of years over the way in which privatization was carried out in Russia have highlighted the ease with which members of the elite have moved between government and business, using their connections and positions to accumulate private fortunes. The old Soviet underworld has been largely replaced by sophisticated political-criminal organizations, often staffed by police and former security professionals. Mafia organizations have close relations with officials at many levels of Russian government.

3. Do laws requiring financial disclosure and disallowing conflict of interest? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

President Yeltsin has imposed financial disclosure requirements by decree on several occasions. For example, in May 1997, Yeltsin ordered all top officials to disclose their income. Most officials reported modest, and thus highly dubious, incomes relative to their lifestyles. Little has been done with the information that has been disclosed. Racketeering is punishable under Article 163 of the Criminal Code (extortion).

4. Have public opinion surveys of perception of public sector corruption been conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

Russian citizens have never had much confidence in the probity of their officials. A survey of 1,600 people conducted by the Public Opinion Center in April 1999 asked whether corruption could be eliminated or, at least, reduced, in Russia. Only 22 percent of respondents believed it could be eliminated; 59 percent believed that all that could be done was to reduce it; 12 percent believed that corruption could not even be reduced; and 7 percent had no opinion. The margin of error was 4 percent.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Anticorruption initiatives are announced frequently. In November 1997, the Duma passed an anticorruption law which was ratified by the Federation Council in December. However, President Yeltsin vetoed it on the grounds that it was unconstitutional. Three previous bills had been also vetoed by Yeltsin. In May 1997, Yeltsin issued a decree mandating competitive bidding for government contracts. None of these measures is known to have had any effect.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effec-

tive anticorruption public education efforts?
The public is reconciled to corruption, and there are no effective anticorruption public education efforts.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Russia was ranked 82nd out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index (CPI), and received a score of 2.4 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 3.75/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
According to the EBRD, as of the beginning of 1997, the private sector accounted for approximately 70 percent of GDP. Some 60 to 65 percent of the workforce is employed privately. Government has grown as well. The State Statistics Committee (Goskomstat) estimates that the informal economy represents about 25 percent of GDP (as compared with an average of 10 percent in developed nations). The Federal Security Service, on the other hand, estimates the informal economy to be 40 percent of GDP.

2. What major privatization legislation has been passed? What were its substantive features?
The first phase of Russia's privatization process began in 1992, on three separate tracks. First, local regions privatized small assets like service, retail, and trade firms. Second, workers and management at the large enterprises, which dominated the Russian economy, were offered preferential access to their company's shares through three separate options, the most popular of which gave workers a 51 percent share of their enterprise for nominal cost. Third, a voucher privatization plan was adopted, similar to the Czechoslovak scheme. A privatization voucher with a face value of 10,000 old rubles (about six weeks' average pay) was distributed to each citizen for the nominal price of 25 old rubles. Distribution ended in January 1993 and the vouchers were valid through the end of 1993. The vouchers could be used to buy shares in the person's workplace or in enterprises on the auction block, deposited with voucher investment funds, or sold for cash. More than 15,000 medium and large-sized firms, employing over 80 percent of the industrial workforce, were privatized in this phase of privatization. On average, 20 percent of these firms' shares were sold for vouchers.

The first phase of privatization was complete by mid 1994. The second phase, which emphasized cash sales of the remaining state-owned shares in enterprises, began shortly afterward. Although a primary goal was to privatize the "crown jewels" of Russian industry, sell-offs of these large firms languished in 1996 because of political pressure generated as a result of the 1995 loans-for-shares debacle and the 1996 presidential campaign.

In late 1995, the government auctioned off shares in state companies in exchange for long-term loans from Russian banks. Since the government has chosen not repay the loans, these banks began organizing the sales of the shares they seized as forfeited collateral. Major sales under these rules occurred in mid-1997, including that of oil behemoths Tyumen Oil Co., Yukos, Sidanko, Surgutneftegaz, and metals giant Norilsk Nickel. The banks organizing the share sales biased the auction procedures to favor themselves heavily. Not surprisingly, the organizers won in each case, and most commonly did so with only tiny increases over the minimum price.

Since the Duma passed the original privatization law in June 1992, privatization has been conducted in Russia through a series of executive orders issued by President Boris Yeltsin. A privatization law in July 1997 reintroduced the Duma into privatization policy making. This is important because, in theory, the Constitution mandates that adopted laws supersede executive decrees. A lack of controversial portions in the bill and its support for the status quo allowed it to pass with lopsided majorities in Parliament and to gain presidential approval. The major feature of the law requires the government to agree to an annual privatization program with the Duma at the same time the budget is considered. This means a better bargaining position for the legislature. The law bans loans-for-shares auctions and investment tenders. It

also makes it easier for the government to reverse privatizations where laws were violated. Finally, it establishes more realistic methods of establishing the market valuation of asset sales. However, it is vague in several major respects, including what technical grounds are sufficient for re-nationalization. No statute of limitations is specified, nor are the procedures indicated for the reversal of the privatization of shares sold to third parties.

There were other procedural changes in privatization policy. A government decree adopted in April 1997 mandated that the organizers of future auctions would no longer be the Russian Federal Property Fund by default, but rather the winners of a competition among financial consultants competing on the basis of their privatization plans. It was only in 1997 that the pace of privatization picked up substantially. Approximately 3,350 enterprises were privatized in 1997, bringing the cumulative total to nearly 127,000 firms, or 58.9 percent of the state-owned firms existing when the process began. There was an unprecedented increase in revenue. In 1997, privatization brought in 18.7 trillion old rubles (US$3.1 billion), far in excess of the budgeted R6.5 trillion.

The July 1997 auction of the giant telecommunications holding company Svyazinvest marked a turning point in the cash phase of Russian privatization, and has augured in a third phase. A 25-percent share in the company was sold to a consortium led by Vladimir Potanin's Oneximbank for $1.9 billion (significantly above the starting price of $1.2 billion). It was the first time a huge enterprise fetched a fair market price in a government auction. It was also the first time that there was vigorous competition between the large banks dominating the cash phase of privatization. Previous cash privatizations were rigged by collusion among major "competitors" who agreed on the winner and created phony competitors. After a failed attempt to lobby then-First Deputy Prime Minister Anatoly Chubais, the cartel broke down and the two consortia unexpectedly became competitors.

A second 25-percent share of Svyazinvestment was scheduled to be sold in September 1998 but those plans were scrapped. In 1998, Russian privatization revenues were only 20 percent of the R8 billion envisioned. The government only budgeted a modest R15 billion privatization revenue expectation for 1999. It should reach this low sum; a transaction for 1.5 percent of Gazprom was concluded in May 1999.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

In agriculture, some 95 percent of the 24,000 state and collective farms have been reorganized, but remain largely unreformed. The vast majority retained some form of collective labor organizations, and 34 percent retained their previous status as state and collective farms. Another 47 percent became joint-stock farms of the closed type (in which shares could not be obtained by people outside the farm), and 11 percent formed cooperative agricultural enterprises. The government announced in 1996 that since 1991, the amount of land held by state farms had shrunk from 124 million hectares to 34 million, while the cooperative sector's holdings had increased from 85 million to 137 million hectares and the private sector's from 4 million to 23 million hectares. Only four percent of Russian farmers run their own individual farms.

As for housing and land, millions of Russians, particularly the new class of business people, have built or bought homes and apartments. A lively independent market in apartment leases has sprung up in Moscow and St. Petersburg. On the other hand, land privatization, especially in urban areas, has moved slowly. Most land in Russian cities has not been privatized. The legislative basis for owning the land on which buildings stand is still unclear, despite constitutional guarantees of an inviolable right to property. There are approximately 55 million individual and 400,000 enterprise landholders.

Over 70 percent of state-controlled industry had been turned over to private ownership since market reforms began in 1992. Nevertheless, the crown jewels of industry remain state monopolies, and they still dominate almost every major industrial sector.

In business and services, there are about 1 million small businesses in Russia today, and they employ 9 million people, many in the service sector. By mid-1995, more than 95 percent of Russia's shops were privately owned. Most medium- and small-sized privately owned enterprises deal with retail, trade, and hospitality. It appears that this privatization is leading to significant restructuring. One survey showed that a quarter of managing directors have been replaced since 1992; one-quarter are new.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?
Insiders explicitly dominated the first phase of privatization. Preferential access by firm insiders fell in significance after the end of the first phase in 1994. By 1996, only 31 percent of the shares of newly privatized companies were distributed to insiders, down from 47 percent in 1993. The new 1997 privatization law officially eliminated most insider preferences. Whether this will hold *de facto* influence remains to be seen.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?
The voucher privatization process was very well publicized. By the deadline of January 1993, 144 million Russians, 97 percent of those eligible, collected their vouchers from every branch of Sberbank. The communists and agrarians are the most virulent opponents of privatization. These and other populists have labeled it a criminal process of giving away the national patrimony. The general opinion of privatization has fallen as the process has continued, largely because of a perceived association with economic decline.

MACROECONOMIC POLICY 4.75/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?
The Russian taxation system remains only partially reformed. It is fragmented, contradictory, excessive, nontransparent, and rife with delinquency. The following taxes are the major ones levied in Russia: corporate income tax (35 to 38 percent), income tax (12 to 35 percent), property tax (up to 2 percent), VAT (20 percent—10 percent on certain food products, which was reduced by 3 percent in January 1996), a Social Security contributions tax (28 percent from employers, 1 percent from employees), a general social insurance contribution tax (11 percent of total remuneration by employer), and an education tax (1 percent of payroll). The top income tax bracket was increased from 30 percent to 35 percent in 1997. The average income falls into the 12 percent rate. The number and the amount of taxes are often a crushing burden to business. It is entirely possible that a company's tax bill can exceed its profits. This invites tax evasion, most commonly performed by not registering businesses. Despite this evasion, Russia's total tax burden is a relatively heavy 25 percent of GDP. The firms that owe huge amounts in taxes have political connections. This allows them to avoid unpleasant consequences like bankruptcy. Tax arrears are constantly negotiated and renegotiated. This hidden subsidy, of course, invites more tax evasion.

Tax arrears rose tremendously in 1996 in the laxity engendered by the run up to the presidential election. An Emergency Tax Commission was formed in late 1996 to go after the biggest tax debtors. The government's efforts paid off in 1997, when large debtors like Gazprom, Sidanko, Sibneft, Rosneft, and UES Rossii (the electricity monopoly) settled large portions of their arrears. These one-off payments pumped up tax revenues in 1997 to about 70 percent of the level budgeted. Despite the lack of these unique payments, tax collection improved to 78 percent of the targeted levels in 1998.

The federal government has done its part in worsening the arrears problem. By tolerating the growth of monetary surrogates like Finance Ministry loan guarantees, tax exemption, and bills of exchange, it allowed tax payments to be made in non-cash form. It has also allowed firms to pay tax arrears through physical goods deliveries. Such non-ruble payments were officially forbidden in January 1998. Nevertheless, the oil companies to this day only pay 25 to 30 percent of their taxes in cash, and UES 35 percent. A Constitutional Court decision was issued in April 1997 that overruled a government decree raising taxes. It said that only the legislature has such power. A new simplified tax code has been delayed for several years because of heavy opposition in the Duma. The first part of the government's new Tax Code was implemented in January 1999. Changes include a new income tax, redistribution of VAT revenue from regions to the federal government, and a reduction of the corporate profits tax. It has imposed tariffs on resource exports as an easy way of gathering revenue.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?
Russian fiscal policy, while improved, is still unstable and deficit-plagued. The government is plagued by an inability to collect revenue (see above) and a willingness to spend beyond its means through loans. Budget agreements, while generating much rancorous debate in the opposition-dominated Duma, have been adopted roughly as proposed by the government for the past several years. In the 1995 to 1997 period, Russia appeared to have made substantial headway in restoring fiscal and macroeconomic discipline. It thereby secured the support of important international financial institutions and the Paris and London clubs. In January 1998, the IMF approved the next $700 million installment of the $10.2 billion extended fund facility loan first negotiated in 1996.

Russian progress ground to a halt in the wake of the disastrous August 1998 devaluation and effective default on much of its domestic debt. This was despite a last-minute, July 1998, $4.2 billion loan package from the IMF. It defaulted on its MinFin bonds in April 1999 and missed a required $855 million payment to the London Club in June. Russia, not surprisingly, has been almost entirely disbarred from raising capital internationally from both private and public sources.

Ironically, the lack of international capital has hardened the Russian government's budget constraint. It was finally forced to restore some semblance of fiscal stability. The first quarter of 1999 saw a 1.2 percent of GDP surplus before debt service. In 1998, the budget deficit was five percent of GDP. It restructured its domestic government debt (GKO and OFZ bonds) in April 1999, which reduced its outstanding debt from Rb 750 billion to Rb 550 billion. Non-interest expenditures fell to 9.8 percent of GDP in Q1 1999 from 9.8 percent in the same period a year earlier. This helped to secure an agreement on an additional $4.5 billion in IMF lending in late April 1999. Most of the amount, however, merely rolls over previous debt to the IMF. It was nevertheless critically important for Russia, which faced the possibility of defaulting on its debt to the Fund.

Debt service obligations cripple the spending ability of the government. In 1998, one-third of the budget was used to pay for interest on previous debt. In 1999, Russia was formally obligated to pay $17.5 billion to service its debt. Long-term debt restructuring will only happen after the government adopts a credible structural reform program; something that will certainly not happen before the 1999 to 2000 election cycle.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?
The devaluation-and-default policy combination in August 1998 devastated the banking sector. Many bank activities were frozen for three months. Large banks were especially hard hit, as investing in government securities and exchange markets constituted a major part of their business (at the expense of making loans). Bad loans account for 43 percent of the total; 500 of Russia's 1,500 banks were expected by the Russian Central Bank (RCB) to fail as of May 1999 as a result of the August 1998 crisis. Nearly all of these banks have been regional and/or small. The RCB has been considerably more circumspect about letting major banks fail. Only two large banks lost their licenses in the wake of the 1998 financial crisis, despite the estimate that 18 of the largest 25 banks in the country are considered insolvent. Many depositors were unable to remove their money from their accounts.

Since the early days of transition, the RCB has shown itself neither independent nor competently managed. It often printed money to cover enormous Russian deficits. The 1993 constitution formally safeguards the independence of the central bank. In 1995 an internal turnaround at the RCB took place with regards to monetary stability, at least. The government has in practice often violated the RCB's independence. For example, it has in the past transferred large amounts of money from the RCB to pay for regular budget expenditures (such as a June 1996 decision to transfer $1 billion to pay for social spending in the bankrupt Far North). The RCB has issued billions of dollars from its reserves to service external debt obligations.

In the first years of transition, RCB regulation of commercial banks was very lax. By the end of 1991,

1,500 banks were operating and this figure rose to 2,600 by 1994. As marketplace and regulatory pressures tightened, the number of banks fell to 1,847 by July 1997. Sixty-four bank licenses were revoked in the first half of 1999. Recent regulations include the increase in minimum capital requirements and minimum risk-weighted capital adequacy ratios, and tightening of liquidity ratios and exposure limits. International accounting standards were introduced system-wide in 1998. There are no legal controls on setting interest rates by private banks.

Banking is immature in Russia. Mortgages are almost unknown, and loans to enterprises for investment are marginal. In October 1997, loans to nonfinancial enterprises of a duration greater than six months represented only 3.5 percent of total bank assets. The banking sector is still small, with private deposits only at 148.5 billion rubles. Deposits at Sberbank accounted for 85 percent of all private savings in Russian banks. Only the two largest banks, Sberbank and Vneshtorgbank, remain majority state-owned. Sberbank, however, controls 30 percent of the entire sector's assets. Many private banks have the RCB as their major creditor. Consequently, the RCB is often not a self-disinterested player.

Bank services have been improving. Cash settlements, which once took up to two months to complete, can be done in less than two weeks and often overnight. Because of infrastructural and regulatory problems, a reliable inter-bank clearing system does not currently exist. Lending terms are, not surprisingly, long term—over thirty days. The major Russian banks form the core of what are called financial-industrial groups (FIGs). These banks hold strong equity interests in a variety of industrial enterprises. Large foreign banks have made some inroads in establishing operations. A new commercial banking bill, passed in January 1996, now directly authorizes foreign banks to establish full-service banks in Russia. However, foreign bank capital is limited to 12 percent of the total. Foreigners' actual share was about five percent as of January 1999.

The RCB has an "Early Warning System" to monitor bank health. It reviews the statistics of large banks on a daily basis and other banks on a monthly basis. The new bankruptcy code adopted in March 1999 gives the RCB additional powers to liquidate insolvent banks. Russia does not currently have a deposit insurance program. The Agency for Restructuring Credit Organizations (ARKO) was organized in April 1999, though its effectiveness has not yet been proven. The head of the RCB is the chairman of the new organization.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

In the 1995 to 1998 period, the ruble had been relatively steady in real terms against the dollar with admirable monetary discipline by the RCB. The exchange rate was managed with a corridor in 1995 and thereafter with a "crawling band." The ruble was re-denominated in January 1998; 1,000 old rubles now equaled 1 new ruble. This re-denomination was a success in that it was the first time in decades that the ruble was reformed in a non-confiscatory manner. Progress ceased with the disastrous simultaneous devaluation-default-float in August 1998. The ruble fell from Rb 6:$1 in year-end 1997 to Rb 20.6:$1 by the end of 1998. In April 1999, the ruble passed the Rb 25:$1 barrier, and is likely to fall to 33 rubles:$1 by the end of the year. International reserves have fallen to low levels ($6.7 billion as of the first quarter of 1999). This is because the government has resorted to using its reserves to service its international debt in the past year.

The ruble is fully convertible on the current account, and somewhat convertible on the capital account. This policy has begun to break down as the RCB has increasingly used stringent exchange controls to regulate the fall of the ruble. For example, foreign banks were forbidden in April 1999 from purchasing hard currency with rubles; 75 percent of foreign currency export earnings have to be sold (up from 50 percent). Hard currency accounts with licensed banks are permitted, and currency exchange can take place under the supervision of the Central Bank.

Russia experienced some of the worst post-transitional inflation in East Central Europe: 2,600 percent in 1992 and 940 percent in 1993. Seventy million investors lost 700 trillion rubles' ($140 billion) worth of savings they had in Sberbank, the national savings bank, because of this hyperinflation. Most of the blame for this massive surge in prices is to be laid at the door of the government and the RCB; the former inducing the latter to inject tremendous amounts of money into the economy, mostly in the form of subsi-

dies. Inflation began to spiral downward once a tighter monetary policy took hold in 1993. Progress has been fairly steady, with price increases falling to 198 percent in 1995 and 48 percent in 1996. Inflation fell further during 1997 to an average 14.6 percent. Monetary emissions were increased when the new RCB leadership came into power following the downfall of the liberal leadership in 1998. Consequently, 1998 inflation averaged 27.8 percent, and 1999 inflation is forecast to average 96 percent.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

With the adoption of new regulatory requirements, the number of exchanges in Russia fell rapidly in 1997, to 11 from the 120 in 1993. Despite recent improvements, Russian stock markets remain non-transparent and illiquid. Trading is active only in a handful of blue chips. Transactions are usually settled offshore.

By June 1999, market capitalization of Russia's equity markets was around $20 billion, far from its high of $72 billion in January 1998, and back to where it had been in 1995. The market is known for extreme volatility. By the end of 1997, there were 107 listings on the electronic Russian Trading System (RTS). Nevertheless, 60 percent of RTS's turnover is concentrated in the top 15 companies. Trading volumes have thinned in 1999; an average of $10 million a day or even less, down from $100 million a day in late 1997. RTS-2, the second-tier OTC market for less liquid shares, was established in December 1996. Seventy-two companies now trade in it.

The Moscow Interbank Currency Exchange (MICEX), which is owned by 32 commercial banks and other institutions, dominates the trade of currency, derivatives, and government debt. It began trading of equities in March 1997. By December of that year, turnover was $22 million daily. Large Russian companies have tapped successfully into international equity markets. By the end of 1997, 20 Russian companies had issued American Depositary Receipts (ADRs). However, domestic bond issues by Russian companies have not generally been successful. There are only about 1,000 private pension funds, with $630 million in assets in early 1997. Only about 40 percent of these are officially licensed, and even those that are frequently skirt regulations. In July 1995, a presidential decree established the legal framework for mutual funds. By mid-1997, nine mutual funds were licensed. Many existing voucher funds are expected to be converted to mutual funds.

Protection of shareholder rights is weak in Russia. Firms frequently maintain (and manipulate) their own share registrars, undermine voting procedures, issue new shares to dilute existing shareholder's property, and establish barriers to board representation of outside shareholders. Profits are often siphoned out of companies by management to avoid paying dividends. Enterprise management manipulates employee shareholders. Management finds ways to obtain voting rights to employee shares. Workers are often told that they must sell their shares to the management if they leave the company. There have been recent high-profile court cases where shareholder rights have been upheld, as well as denied.

The ministry-level Russian Federation Commission for Securities Markets (FCSM) was established in November 1994, and began the process of a more Western-style securities market regulation. A six-member board governs it, with a single chairman. In 1997 the FCSM became truly active for the first time. It and its newly established 15 regional offices relicensed all professional participants in the stock markets. It also instituted new examinations for qualifications. The Commission assumed responsibility for registering new stock issues in July 1997. The FCSM began to regulate share registrars in 1996. This has led the number of share registrars to fall from 500 in 1996 to 201 by the end of 1997. This change should lower transaction costs and improve reliability in securities transactions. In 1997, the FCSM began monitoring of companies operating in the securities markets. It also issued regulations to improve information disclosure by public companies.

The comprehensive Russian Law on Joint-Stock Companies was put into operation in January 1996. It expanded numerous shareholder protections, including the maintenance of independent share registries for companies with over 500 shareholders. Yeltsin signed a new law protecting shareholders into law in March 1999. It established tougher reporting requirements. This followed another securities law, which

enhanced the ability of the FCSM to investigate and punish shareholder rights violations.

Another important regulatory institution is the Professional Association of Securities Market Participants, the industry association that actually organized the RTS market in April 1995. It dictates clear rules to its more than 150 members, among them capital requirements, ethical conduct, and general trading behavior. Enforcement of these regulations has occurred, but remains spotty. The corporate bond market is still very immature. Lukoil filed papers for a bond issue with the FCSM in May 1999.

MICROECONOMIC POLICY 4.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Russia's constitution explicitly protects private property. Article 35 establishes the general right to property and the subsidiary right to due process and just compensation when property is nationalized. Article 36 specifically guarantees property rights in land. The checkered protection of such rights by the Duma and the judicial system qualifies the legal protections afforded by the constitution.

The legal basis for land ownership is only put into practice through presidential decrees, dating from October 1993. The Duma has refused to allow land to be traded freely despite the Constitution. This is because of the strong opposition of Communist and agrarian political forces to a liberal land market. The current Land Code from 1996 permits Russians to inherit and lease farmland, but buying, selling, and mortgaging are prohibited. Using land for collateral is illegal. Russians wishing to buy farmland have to have agricultural training or experience, and "owners" of such land are not allowed to sell it to others. Parliamentary legislation has been delayed for many years. Indeed, the Duma considers the 1996 decree unconstitutional. Yeltsin signed an urban land ownership decree in May 1997. Federal paralysis on land ownership may be becoming less relevant. The Saratov and Samara oblasts adopted liberal land codes in 1997 and 1998, and other regions are following suit.

Russia lacks a central land registry that would guarantee title to land. Land is registered in many regions with agencies that do not also handle buildings registration. Even where registries exist, the *de facto* legal protections afforded to such entries remain confused.

While Russian courts have rejected most appeals against privatization, there have been some notable exceptions. In the first high-profile privatization to be reversed, the Moscow Arbitration Court ruled in September 1997 that 41 percent of chemicals plant Cherepovets Azot be returned to the government. Oneximbank was found to have failed to meet the investment conditions required under the tender that was awarded to it.

Russia is a signatory of all the major international intellectual property treaties such as the Paris Convention, the Trademark Registration Treaty, and the Patent Cooperation Treation. Russian domestic legal protection for intellectual property was created through four laws passed in October 1992, which covered patents and trademarks. The Copyright Laws of July 1993 and July 1995 followed. In March 1995, Chernomyrdin created an inter-ministry commission to enforce intellectual property laws, composed of representatives from the Russian Anti-Monopoly Committee and the Russian Federation Committee on Patents and Trademarks. The Russian Criminal Code was revised in January 1997 to make violations of IPR a criminal offense.

Despite the existence of institutions protecting intellectual property rights, enforcement and implementation of these protections are notably lagging. Software, motion picture, video, music, and trademark piracy are rampant. An estimated 95 percent of software is pirated, while pirated films (85 percent of the total) are openly broadcast on Russian television. The U.S. alone is estimated to have lost nearly $1 billion in 1997 because of copyright violations. In 1997, Russia was placed on the "Priority Watch List" category of persistent IPR violaters, a status it has not lost. Patent protection is also deficient. U.S. attorneys in Russia have reported that inexperience in IPR issues in Russian courts is a major problem. Finally, the new IPR interministry commission receives little funding and is only active part-time, limiting its effectiveness.

2. To what extent have prices been liberalized? What subsidies remain?

Nearly all prices were liberalized in 1992 when reforms began. Almost 90 percent of wholesale and retail goods no longer have controlled prices. Controlled prices include the output of government-controlled monopolies, including gas, electricity, transportation, and telecommunications. Consumer prices for these goods are set much lower than those for producers. Housing costs are severely controlled. Rents cover only 27 percent of provision costs. These rent subsidies constitute over 40 percent of local government budgets. A recent reform plan envisages the gradual increase of housing prices to cost-recovery levels by 2003.

In July 1996, the Ulyanovsk region abandoned the subsidization of food prices—the last region to do so in Russia. In the wake of the 1998 financial crisis, several regions announced price ceilings for food products, but actual enforcement of these decrees has not been effective. An excess wage tax is levied on businesses paying more than six times the Russian minimum wage.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

The Russian business environment is now substantially liberalized. Regulations are sometimes a hindrance to business operations. In general, enterprises with more than 100 million old rubles in capitalization (currently about $18,000) must register with the government. This can entail lengthy delays.

One major problem for the development of a normal market economy in Russia is the multitude of decrees and regulations issued by the presidential administration, the government, and the various bureaucracies. They are very often vague, overlapping, and contradictory. Russia has only implemented parts of its new commercial codes. In addition, the policymaking process is not transparent. Worse, different bureaucracies and jurisdictions apply laws inconsistently. Lines of authority are also unclear: decisions of one institution can be overruled by another. Rapidly changing rules of the game, inconsistently applied, make the business environment unpredictable and, as such, not conducive to long-term investment. Vagueness has been a hallmark of Russian legislation and decrees. This is problematic because vagueness increases business uncertainty and reduces the profitability of forward-looking investment.

Criminal organizations extort "protection money" from both foreign and domestic firms. Figures are obviously hard to come by. One estimate is that 30 percent of Western firms in Moscow pay 10 percent of profits to criminal organizations. Even more prevalent is the "sweetener" that must be paid in closing a contract—up to 10 percent of the contract amount.

Bankruptcy is still far from being a credible threat. Bankruptcy courts and the Federal Bankruptcy Service's low capacity make it difficult to implement bankruptcies. In fact, only about 1,000 bankruptcies have been completed as of mid-1997. Political opposition, especially at the local levels, also slows bankruptcies. Under the new Civil Code, creditors have a relatively low priority. A new bankruptcy law was enacted in January 1998, and clears up the ambiguities in the bankruptcy legislation previously in force. Decisions regarding firms in bankruptcy proceedings are now to be fully regulated by arbitration courts. The law was only put into effect in March 1999.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

It takes less than six months for cases to be heard, and nearly a year on average for judgment to be made. There are rights of appeal. Important judgments are published. Independent dispute resolution is difficult to obtain in Russia. In addition to the problems of rapidly changing commercial rules, the judicial system is not equipped to provide prompt and experienced services. The All-Russian Council of Judges has argued that courts have received one-fifth of the money necessary to pay for administrative expenses. Numerous local courts have experienced difficulties in making wage, equipment, and security service payments. *Izvestiya* has

reported the case of one regional court that was able to function only because a local law firm paid its utility bills and allowed the judge to use its telephone. These conditions not only make the system more vulnerable to the temptations of corruption but, more generally, deter businessmen from using courts to resolve disputes. The lack of resources available for the judiciary means that the most able personnel leave for more lucrative positions in the private sector. Judges are also often the targets of criminal attacks.

Even beyond these resource difficulties, the presence of Soviet and inexperienced post-Soviet judges makes the consistent and correct adjudication of complex commercial disputes almost impossible. Pressure is often applied to obtain a politically desirable outcome. Even judicial decisions are not always binding. The situation is so bad that Western investors seek arbitration outside of Russia to resolve disputes. Within Russia, businesses can turn to the Arbitration Court of the Russian Federation (part of the court system) or the International Commercial Arbitration Court at the Russian Chamber of Commerce and Industry (if both parties agree). Recent (1997) legislation now allows foreign arbitration decisions to be legally binding in courts of law. Russia is a member of the International Center for Settlement of Investment Disputes. Using the Mafia as a "dispute resolution" device is popular because it is so hard to settle business problems in Russia legally.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The legal framework of Russian competition policy was enacted in the Law on Competition and Restriction of Monopolistic Practices in March 1991. It established the State Committee for Anti-monopoly Policy, which became a ministry in March 1995. The Committee has a broad mandate to fight anti-competitive behavior by both firms and government bodies. The Anti-Monopoly Committee initiated 1,240 investigations in 1996. In May 1997, a commission composed of the Committee and other federal agencies was created to enhance the prosecution of competition policy.

The presence of law does not guarantee enforcement. Laws prohibiting insider dealing of public companies exist but are widely flouted. Although a Law on Financial and Industrial Groups was passed in November 1995, the Committee has yet to address anti-competitive aspects of FIG behavior. Worst of all, cumbersome state and semi-private industrial monopolies (like Gazprom) still dominate large sections of the economy, with the explicit and tacit support of the government. The Trade Ministry, for example, has in the past encouraged the formation of industry-wide cartels to establish a floor on export prices of "strategically important" commodities. A recent presidential decree mandates open tendering of all government procurements. However, the government procurement code gives clear preferences to domestic firms. The government has even revoked tenders awarded to foreign businesses and given them to Russian firms.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Generally, Russia employs relatively light trade barriers. This has caused Russian trade to boom and the trade sector is a bright spot in the reforming Russian economy. However, the trend has often not gone in the right direction. In July 1994, for example, the average tariff was increased from approximately 7 percent to 11 percent. Another major tariff regime change in July 1995 accentuated this trend, increasing the average tariff from to 12.5 percent, with the minimum duty raised to 5 percent. In April 1996, a presidential decree raised tariffs even further on a broad range of goods, with average tariffs increased to some 13 to 14 percent, a level at which they have stabilized. Maximum duties, however, are approximately 30 percent. Tariffs on exports were increased in the wake of the 1998 financial crisis, primarily because of the relative ease of revenue collection. A three percent tariff surcharge imposed in July 1998 was removed in March 1999. An excise tax of 20 to 570 percent exists for luxury items, alcohol, tobacco, and autos.

Russia is currently a member of one free-trade organization (with its CIS neighbors). An EU association agreement came into force in December 1997. To Russia's chagrin, it is not yet a member of the WTO. Russia has MFN and GSP trade status with the U.S. Russia has successfully diversified its trading partners.

Non-CIS countries accounted for 77.3 percent of total trade in 1998, with the EU accounting for 40 percent.

Populist and agrarian political forces have been responsible for increasing non-tariff barriers on food, through such means as quality standards. The majority of imports face various types of certification, labeling, documentation, and customs requirements. These are constantly revised, and customs officials often impose arbitrary interpretations of such requirements. Customs processing is supposed to take no longer than a month.

In January 1993, a newly harmonized system for export licensing and quotas on strategic raw materials was adopted. A May 1994 presidential decree removed all export quotas as of July 1994. Exporters are required to pay a tax of about 20 percent on cash transactions (30 percent on barter) on most goods. Additional export tariffs exist on most goods, but these have been gradually reduced. Export controls remain on "strategic raw materials" like wheat, soybeans, un-denatured ethanol, natural gas, electricity, fertilizers, timber, cellulose, uncut diamonds, copper, nickel and aluminum, as well as on "strategic goods" like weapons. However, the registration procedure necessary to export these goods is not generally difficult. The March 1995 decree further liberalized the export sector. International trade was significantly hurt by the crisis. Exports fell from $18.5 billion in the first quarter of 1998 to $15.6 billion a year later; imports crashed from $18.3 billion to $9.4 billion.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Legally, the 1991 Investment Code guarantees equal treatment of foreign and native investors. However, there are many exceptions. In enterprises deemed strategic, (mostly in the energy and finance sectors), foreigners are forbidden to own more than 15 percent of shares. New foreign investment legislation adopted in July 1999 amended the 1991 law. In particular, it grandfathered certain investments from unfavorable legislation for a period of seven years. It also made it easier to restrict new foreign investment in more sectors of the economy.

Foreign investors do enjoy some important privileges. The only controls on profit repatriation are those on short-term government securities. Foreigners may have complete ownership of enterprises. There are no legal requirements on the personnel make-up of the firm. Russia also gives tax amnesties to large foreign investors engaged in manufacturing. Goods imported by firms with foreign investment that are directly necessary for manufacturing machinery can be imported duty-free. Finally, the 1991 Investment Code forbids nationalization of foreign investment except in cases when it serves the "national interest." However, any such nationalization can be appealed and prompt compensation is legally required. Formal restrictions on the extent of foreign ownership are sometimes bypassed. Gazprom is limited by law to 20-percent foreign ownership, but the actual amount is significantly higher.

Despite these legal protections, the Russian government lost the confidence of foreign investors in 1998 after it simultaneously defaulted on its debt and devalued its currency. Holders of its Treasury bills were left with less than five percent of their original value. After this dismal performance, it is little surprise that foreign investment fell to $1.2 billion in 1998, down from $6 billion in 1996 and $3.6 billion in 1997. On a per-capita basis, Russia trails its East Central European neighbors even more. Portfolio investment fell from $17.3 billion in 1997 to $8 billion in 1999. Russia has not yet adopted international accounting standards, forcing foreign companies to maintain two sets of books to conform to Russian and their home country's regulations.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Russia's energy sector is one of the biggest in the world. It is first worldwide in natural gas production, third in oil, and fourth in coal. Gazprom, the huge natural gas monopoly, owns a huge network built over twenty years—more than 140,000 km of main pipelines. The energy industry is significant also in its intricate ties with political elites. Energy monopolies are thus able to enjoy special privileges like subsidies of various kinds.

The energy sector, however, is plagued numerous problems. The first is payments, wage and tax arrears. Strikes are prevalent. There exists a vicious cycle of

companies not being paid by their customers and not having the cash flow either to pay their workers or their taxes. These arrears are partly the legacy of an irrational system of centralized state planning, but they mainly reflect the government's enforcement of an order prohibiting utilities from ending supplies to delinquent customers.

Another major problem is a crumbling and obsolete infrastructure. Gazprom, for example, needs billions of dollars to upgrade its systems, many of which are literally crumbling. Such investment is not likely to happen as long as governments restrict energy prices as well as the entry of foreign investors. Instead of liberalization, the government has pursued short-term, mutually incompatible solutions to the problems of the energy industry. In September 1996, for example, the government authorized the Finance Ministry to provide $94 million in loan guarantees for power plants. In August, these guarantees were restricted to exclude just this sort of subsidy. In February 1996, Yeltsin decreed the conversion of Rosugol, the state coal enterprise, into a joint-stock corporation. Under the pressure of management and unions, however, the state was simultaneously guaranteed complete ownership for three years. Regional governments present another obstacle to liberalization of the energy sector. They present heavy political opposition to energy sector restructuring.

Gas provided 51.2 percent of the country's energy requirements in 1998, while oil provided 20.8 percent and coal 16.2 percent. Compared to earlier times, the oil sector is substantially liberalized. This industry, unlike gas and electricity, was broken up into a dozen companies as it was privatized. In addition, oil prices as of October 1996 were some 75 percent of world prices, much more realistic than they used to be at 7 to 10 percent. Oil export tariffs were phased out entirely in July 1996, but were reintroduced in 1999. Lukoil is by far the largest company with estimated reserves of over 12 billion barrels and 53.7 million tons of oil produced in 1998. In May 1999, a Moscow court declared Sidanko, the sixth-largest oil producer, bankrupt and ordered it be placed under external management.

In December 1998, the Duma amended the country's 1996 production-sharing agreements law to provide a more inviting environment for foreign investors in Russia's oil and gas sectors. The previous regulatory regime, based on the 1996 production-sharing law, was very restrictive. Foreign interest in investing has risen in the period from 1997 to 1999.

UES, the electricity monopoly, announced a comprehensive restructuring plan in March 1999. The company seeks to reduce the importance of barter transactions in its business activities (cash makes up only 20 to 25 percent of its income). It was actually successful in collecting 84 percent of due payments in 1998. Its regional subsidiaries were less so, collecting only 57 percent. Gazprom is also plagued with non-payments. Russian consumers owe it over 109 billion rubles. The government proposed in early 1999 the creation of a Russian national oil company (larger than Lukoil) based on merging state-owned Rosneft with several smaller state oil companies. The plan was met with huge opposition, and it is uncertain that it will ever get off the ground.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 66 million in 1997. In 1996, the economic activity rates are 68 percent for men and 50 percent for women. The unemployment rates in 1996 are 9.3 percent (overall), 9.6 percent for men and 9.0 percent for women. The unemployment rate increased to 14.2 percent as of June 1999, the highest level ever recorded for Russia. On the other hand, many of those registered as officially employed work in the shadow economy (some for the purpose of evading the income tax); one estimate put this figure at 20 percent. The average benefit replaces about 15 percent of the average wage. 60 percent of those receiving unemployment benefits receive the minimum benefit. Few Russians bother applying for unemployment benefits.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

Russia has a number of extra-budgetary funds that finance social insurance policy. These are funded by payroll taxes and transfers from the main budget. Since they are constructed on a pay-as-you-go basis, their financing is unsustainable and inefficient. This is especially so given the graying of the Russian population. Compounding the problems are severe payments arrears by both private and state enterprises to these funds. In mid-1997, arrears to the Pension Fund alone were $12 billion. This situation has led to chronic payment problems to pensioners. Only 29 of Russia's 89 regions are paying out pensions on time.

Pensions, especially the minimum guarantees, have eroded significantly in real terms over the course of the Russian transition. At the same time, pensioners have done comparatively well. This is because many early pensioners continue to work, and most do not live alone (only 25 percent do). The official retirement age is 60 for men and 55 for women. There are 262 pensioners per 1,000 of the population, up from 228 in 1990 (a nearly 15 percent increase). Total government expenditures on social programs were nine percent of GDP in 1994.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Real wages have been significantly impacted by the August 1998 devaluation and subsequent inflationary rise. The average wage was 1,295 rubles/month ($48.5) in March 1999, a 41 percent drop in real terms from a year earlier. These low incomes underestimate actual household income and well being, since many families engage in (unregistered) small-scale trade and production. Barter trade is prevalent in Russia.

The Primakov government mounted a campaign to reduce wage arrears. In the enterprise sector, they reached 68 billion rubles in March 1999, a 20 percent drop from the amount in September 1998. In the public sector, arrears were 11.3 billion rubles in March, a decline of 12.4 percent. The contraction in the Russian economy since transition (only 1997 recorded a minimally positive rate of economic growth) is the biggest reason for the stagnation in real wages.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

According to UNECOSTAT, the elementary population rose from 7.74 million in 1993 to 7.85 million in 1994. The secondary school enrolment was 13.73 million in 1993. The post-secondary population fell from 4.59 million in 1993 to 4.46 million in 1994. Some 93 percent of the eligible population was present in elementary school. The student-to-teacher ratio in 1997 was 9 (pre-primary), 20 (elementary), 12 (secondary); in 1993 the ratios were the same. The proportion of GNP spent on education was 4.1 percent of GDP in 1993, and 9.6 percent of total expenditure.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 18 per 1,000 births in 1998, comparable with the rate seen in Italy and Austria in the 1960s. The birth rate was estimated at 9.6 births per 1,000 of the population. Life expectancy in

1998 was 61 years for men and 73 years for women. The suicide rate in 1995 was 41.5 per 100,000 people (WHO statistics).

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

In 1997, there were 4.7 doctors per 1,000 of the population. According to the WHO, in 1994, there were 6.6 nurses/midwives per 1,000 of the population. In 1995, 4.8 percent of GDP was spent on health care; 86 percent of that figure was spent by the public sector. The medical infrastructure is in terrible shape. For example, as many as one in five hospitals lack hot water and adequate waste treatment facilities.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The Russian poor are mainly composed of large families with children, single pensioners, the unemployed and disabled, and women. Elderly women are 44 percent more likely to be poor than elderly men. Pensioners as a whole, however, have the *lowest* levels of poverty of major groups in Russia. In 1998, 28.6 percent of the population was below the poverty line. The rate was 26.8 percent in late 1993.

SLOVAKIA

Polity: Parliamentary democracy
Economy: Mixed capitalist
Population: 5,400,000
PPP (USD): 7,910
Capital: Bratislava
Ethnic Groups Slovak (86 percent), Hungarian (11 percent), Roma (2 percent), Czech (1 percent)
Size of private sector as % of GDP (1998): 75

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	3.80	↑3.65	↑↑2.50
Rule of Law	na	na	3.13
Economic Liberalization	3.38	↓3.58	↑↑3.25

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	2253.0	2571.0	3240.0	3495.0	3624.0	3793.0	3851.0
Real GDP growth (% change on previous year)	-3.7	4.9	6.9	6.6	6.5	4.4	1.8
Inflation rate	23.1	13.4	10.0	6.0	6.2	3.7	12.5
Exports (USD millions)	5447.0	6691.0	8579.0	8831.0	9639.0	10667.0	10027.0
Imports (USD millions)	6379.0	6633.0	8807.0	11124.0	11720.0	12959.0	11145.0
Foreign Direct Investment (USD millions)	168.0	250.0	202.0	251.0	177.0	508.0	500.0
Unemployment rate	12.2	13.7	13.1	11.1	11.6	11.9	na
Life Expectancy (years)	72.4	72.3	72.3	72.7	72.7	72.9	73.5

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90*	90-91*	91-92*	92-93*	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	6	2	2	2	3	2	2	2	2	2	1
Civil Liberties	6	2	2	2	4	3	3	4	4	2	2
Status	NF	F	F	F	PF	F	F	PF	PF	F	F

*FH Ratings through 1992-1993 are for the Czechoslovak Federal State

Introduction

The years 1998 and 1999 witnessed important changes in Slovak society—changes largely brought about by the new political constellation that emerged from the 1998 parliamentary elections. During the period from 1994 to 1998, the authoritarian and confrontational policy pursued by the ruling coalition, which was made up of the Movement for a Democratic Slovakia (HZDS), the Slovak Workers Association (ZRS) and the Slovak National Party (SNS), destabilized democratic institutions and foiled Slovakia's ambitions to be one of the Central European states admitted to NATO and invited to negotiations on accession to the European Union. The results of the September 1998 parliamentary elections reversed these unfavorable trends. Thanks to efficient coalition strategies, four democratic parties won enough support from voters to form a new ruling coalition. Once this democratic and pro-European coalition, which had a constitutional three-fifths majority in parliament, assumed power, it enacted various legislative and other measures aimed at rectifying some of the deformations that had occurred during the previous administration.

The new government of Mikuláš Dzurinda committed itself to correcting past economic distortions. This commitment was quickly translated into an austerity package, and restrained fiscal measures were included in the 1999 state budget. The government was willing to take unpopular measures that had a negative impact on living standards, but which should, over time, improve the economy. Increased competition increased the transparency of the economy, and a new approach to privatization should gradually redress distortions in the business environment.

Democratization

POLITICAL PROCESS 2.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Elections to the National Council of the Slovak Republic (the parliament) were held in September 1998. A few months before the elections, the then-governing coalition, consisting of the authoritarian populist Movement for Democratic Slovakia (HZDS), the leftist Slovak Workers Association (ZRS), and the extreme-right-nationalist Slovak National Party (SNS), passed an amendment to Slovakia's Election Law. It considerably changed the rules of electoral competition. All opposition political parties expressed hostility to the amendment. It still preserved the proportional electoral system, which was introduced in Slovakia in 1990 after the collapse of the communist regime. Yet the amendment required that each member of a multiparty coalition reach a five-percent threshold before gaining seats in parliament, thus making it more difficult for coalitions to enter the parliament.

The amendment was initiated by HZDS, at that time the strongest party in the government. Its intent was to prevent a possible electoral victory of the Slovak Democratic Coalition (SDK). The SDK was established in July 1997 as an association of five independent parties: the Christian Democratic Movement (KDH), the Democratic Union (DU), the Democratic Party (DS), the Social Democratic Party of Slovakia (SDSS), and the Green Party of Slovakia (SZS). Public opinion polls revealed that the SDK had become the strongest political organization in the country, at least in terms of voter support. Under the pressure of the new amendment, the SDK had to alter its bylaws and register at the Slovak Interior Ministry as a single political party with five ideological platforms. All 150 SDK members had to give up their memberships in the five founding parties. Despite the fact that SDK was registered as a single political party, the five founding SDK parties preserved their organizational and ideological independence and continued their regular activities without participating in the elections as single parties.

The three political organizations representing the interests of the Hungarian ethnic minority in Slovakia—the Hungarian Christian Democratic Movement (MKDH), the Coexistence Movement, and the Hungarian Civic Party (MOS)—decided to merge. In June 1998, they formed the Party of Hungarian Coalition (SMK). The merger enabled them to run in the elections without risking the loss of ballots. The amendments to the Election Law, passed only a few months before elections, sparked significant concern among the citizenry. Experiences from previous years (especially the referendum on the direct election of the president in 1997, which the government foiled) increased the concern of nongovernmental organizations over whether the elections would be fair. In the spring of 1998, the "Civic

Campaign for Free and Fair Elections, OK 98" was launched, in which a number of civic associations participated, along with famous personalities from the public, cultural, and artistic worlds. Prior to the elections, representatives of many international organizations raised concerns about the amendment to the Election Law and about the conditions for fair electoral competition. Several weeks before the vote, HZDS tried to disqualify its main competitor, SDK, from the electoral campaign. HZDS filed a complaint with the Supreme Court against SDK's registration with the Central Election Commission. The Supreme Court rejected HZDS's complaint and decided in favor of the registration of SDK.

The OSCE observed the parliamentary elections on the 25th and the 26th of September 1998, and confirmed that the elections were carried out in a legal and acceptable manner, freely and fairly. The two opposition parties, the SDK and the Party of Democratic Left (SDL), organized parallel vote counts in order to prevent possible manipulation of the results. These dual counts confirmed the official results. HZDS received the most votes—27 percent and 43 seats in the parliament. SDK gained 26.3 percent of the vote and 42 seats (the Christian Democrats of the KDH, 16 deputies; the liberals of the DU, 12, deputies; the conservative-liberals of the DS, 6 deputies; the social democrats of the SDSS, 4 deputies; and the Greens from the SZS, 4 deputies). The SDL gained 13.7 percent of the vote and 23 seats; SMK received 9.1 percent and 15 seats, and the nationalist SNS gained 9.1 percent and 14 seats. The Party of Civic Understanding, or SOP, received 8 percent of the vote and 13 seats. The government took shape in October 1998 and comprises the SDK, the SDL, the SMK and the SOP. Mikuláš Dzurinda of the SDK is the Prime Minister. The government coalition is represented in the parliament by a constitutional majority of 93 deputies out of 150.

2. When did presidential elections occur? Were they free and fair?

During 1997 and 1998, the central issue of Slovak politics was the election of the president. According to the original wording of the Slovak constitution of 1992, the president is elected by a three-fifths majority (a qualified constitutional majority) in parliament. Michal Kovác, the first Slovak president, was elected in 1993. Already in 1997, it was clear that, because of irreconcilable differences between the government and the opposition parties, parliament would be unable to elect a new president after Kovác´s term expired in March 1998. In order to resolve this problem, the opposition parties initiated a referendum in 1997 for the direct election of the president. The referendum should have resulted in a constitutional change in the method of electing the president. The HZDS disagreed with this idea because it felt that its position would be threatened by success of opposition in referendum. President Kovác announced that a referendum would be held, but the Slovak Interior Ministry, acting on orders from Meciar´s government, foiled the referendum in May 1997. After President Kovác left office, parliament was unable to elect a new president. All attempts to adopt a law on direct presidential election during 1997-1998 failed due to HZDS rejection. Parliamentary elections in September 1998 led to the establishment of a new governmental coalition with a constitutional majority in parliament. In January 1999, parliament passed a constitutional law on the direct election of the president.

In May 1999, the first direct presidential election was held. The election was conducted freely and democratically. In the first round, 10 candidates participated; these were leaders of political parties and independent candidates. The two highest scoring candidates in the second round were Rudolf Schuster, the candidate of the ruling coalition parties SDK, SDL, SMK and SOP, and Vladimír Meciar, the HZDS candidate. Schuster won the elections, gaining 57.2 percent of the vote, while Meciar received 42.8 percent. Schuster's term of office lasts until June 2004.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Slovakia is a multiparty state with a parliamentary system. Parliamentary elections are conducted on the basis of the lists of candidates submitted by the parties. In Slovakia, there are at least 10 political parties with affiliates throughout the country. These parties are represented at the national, regional, and local levels.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

In Slovakia, there are about 100 legal political parties and movements. Under current law, political parties can be banned if they violate the constitution, seek to dismantle the democratic foundation of the state, strive to seize and preserve power, prevent other political entities from legitimately seeking power, or attempt to deny the equality of citizens. The same laws ban parties whose manifestos or actions jeopardize morality, public order, and civil rights and freedoms, or undermine the sovereignty and territorial integrity of the Slovak Republic. Since 1990, no political party

has been banned in Slovakia, nor has any party been forced underground.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

The precise membership of political parties operating in Slovakia is unknown. It is estimated that party members account for approximately five percent of the adult population. This relatively low percentage is the result of public mistrust in political parties. The exact number of female members of political parties is not known. The number of male members of political parties is estimated to be significantly higher. Only 273 out of 1618 candidates running in the 1998 parliamentary elections were women (17 percent of the total number). In the 150-member parliament, there are 20 female deputies (13.3 percent), and in the government there are 2 women out of 20 members (10 percent). Out of 136 mayors, there are 6 women (4.4 percent).

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

During the period between 1990 and 1994, voter turnout in the parliamentary elections declined but still remained fairly high. In the 1990 elections, voter turnout was 95.4 percent, in 1992 it was 84.4 percent, and in 1994 it was 75.7 percent. In 1998, the turnout to parliamentary elections increased significantly, to 84.2 percent. The high turnout was attributable to widespread dissatisfaction with the four-year rule of the nationalist-authoritarian government of HZDS, ZRS, and SNS. The parliamentary elections were transformed into a struggle for the character of the political regime and for the preservation of Slovakia's democratic process. One of the aims of the civic campaign by NGOs in "OK 98" was to mobilize citizens to vote, and this, too, helped boost voter turnout. Voter participation in the first presidential elections in May 1999 was also relatively high: 73.9 percent in the first round; 75.5 percent in the second round. Voter turnout in municipal elections has traditionally been lower compared with parliamentary elections (63.8 percent in 1990, and 52.4 percent in 1994). In 1998, turnout slightly increased to 53.59 percent. The generally lower municipal election turnout is due to a less intense election campaign at the local level, weaker involvement of party machinery, and less interest from the media. Sociological research demonstrates that the electoral behavior of Slovak citizens is not based on the condition of gender differences and that participation in elections is approximately equal between women and men.

CIVIL SOCIETY 2.25/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Four major phases in the development of civil society can be distinguished from November 1989 through 1999. Diversification took place till 1992. During this period there was an enormous growth in the number of NGOs. Consolidation and professionalization of the nongovernmental sector started approximately in 1992 and 1993. Emancipation was initiated by uneasy cooperation with the government after the 1994 elections; it was a period in which NGOs identified themselves as NGOs. Mobilization of NGOs started in 1997, at a time when political and legislative conditions adversely affected their functioning. Stabilization of NGOs after October 1998, foreshadowing a time in which NGOs will act as contributing voice within a normal liberal democratic system. This is the phase when the activist potential of NGOs increased.

The basic data on Slovak NGOs are recorded in several places, including the Statistical Office of the Slovak Republic, the Ministry of Interior, and the Ministry of Culture. The Service Center for the Third Sector, associated with the Slovak Academic Information Agency (SAIA-SCTS), also maintains records and publishes directories of NGOs and a monthly magazine, *NonProfit*. Because of their different operating procedures—in addition to the many changes brought about by new legislation—the statistics gathered by these various organizations are likely to differ.

In January 1999, the Ministry of Interior listed 13,625 organizations that could be considered as NGOs in a broad sense. Of these, 12,937 (95.1 percent) were civil associations (societies, clubs, associations, movements, trade unions, international nongovernmental organizations, various sports clubs) or their organizational units, 442 (3.2 percent) were

foundations, 206 (1.5 percent) were non-investment funds, and 40 (0.2 percent) were non-profitable organizations. The number of NGOs in Slovakia has not changed dramatically since 1998. Not all NGOs are active - it is estimated that only 1,300 to 2,000 are active on a daily basis. The most frequent fields of NGOs activities are sport, tourism, recreation, education, social welfare and charity work, health care, arts, environment, and human rights.

According to the preliminary data from the Statistical Office and research from the Center for Social Policy Analysis, NGOs employ 18,822 people (approximately 1 percent of the working population) and contribute approximately 1 percent to the GDP of the country. Opinion poll data (SPACE, 1999) on volunteerism and personal charity shows that the involvement in volunteerism of Slovak citizens is increasing: 13 percent in 1995, 19 percent in 1997, and 21 percent in 1999. Even more frequent than volunteering was donating—more than 49 percent of the people in Slovakia claim to have made a donation at least once in 1998. The extent of donating is even greater if we also include church collections, which have a long tradition in Slovakia.

After 1989, women began to join various organizations. More than 70 new organizations and initiatives were established. Some are associated with political parties (Christian-Democratic Union of Women of Slovakia, Association of Democratic Women's Left of Slovakia), others with social organizations (Association of Women in the Army, Association of Women Entrepreneurs of Slovakia), and others still were founded as independent women's organizations. Women's activity increased in international organizations (Zonta Club, The Federation of Women for World Peace, Professional Women's Forum, The Club of Roma Women in Slovakia, The Alliance of Women of Slovakia, ASPEKT, Fenestra, Pro Familia).

The only women's association before 1989 was the Slovak Union of Women, which changed its name after 1989 to the Democratic Union of Women. Later it was renamed the Union of Women in Slovakia (UZS). Most of its activities were reminiscent of traditional women's societies: needlework exhibitions, cooking contests, cosmetics and fashion courses, adult education focused on folk art, as well as occasional charity work. Also, most of the newly established women's organizations focus on traditional activities through collective activity (needle-work groups, care of people in need, care of children, e.g. by organizing contests, summer camps, educational events).

The exceptions among women's organizations are those non-traditional groups that seek to change gender stereotypes and divide power between women and men more equally. These groups are interested in the status of women in society and in the labor market, as well as their representation in crucial social and political offices. Their objective is to monitor the steps taken by governmental agencies toward establishing equal opportunities for men and women. The cultivation of gender sensitivity does not have much of a history in Slovakia and is limited to narrow enclaves such as ASPEKT, the Alliance of Women in Slovakia, Fenestra, and Pro Familia. Membership of these associations is limited; the only exception is the Union of Women in Slovakia, which has several thousand members.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The majority of NGOs in Slovakia operate under legal norms adopted after November 1989. The basic legislative framework for NGOs is provided by the Constitution of the Slovak Republic, which guarantees freedom of expression (Article 29), freedom of assembly (Article 28), and freedom of association (Article 29 and 37), though some other laws also apply.

The law On the Associating of Citizens regulates civic associations, the most frequent legal form of assembling. Religious societies are subject to the law On Freedom of Religious Belief and the Status of Churches and Religious Societies and the law On the Registration of Churches and Religious Societies. The status of the special interest associations of legal persons is regulated by the Civic Code, Section 20f-20j. There are special laws regulating the functioning of other associations (for example, professional bars with both compulsory and voluntary membership, non-professional chambers, the Slovak Red Cross, hunting associations, a fishermen's union, etc.). There are also non-profit legal entities founded under the Commercial Code (cooperative associations, business companies).

The 1996 law on foundations defines them as special associations of property, financial means, bonds, and other financial means of an assessable value. They are established primarily for the purpose of developing spiritual values, implementing and protecting human rights, or other hu-

manitarian goals, protecting the environment, conserving natural and cultural values, and assisting health and education. The specific purpose must be a public benefit. A foundation is obliged to document the sources of its property. A founder must deposit funds amounting to at least 10,000 Sk (roughly US$ 240), which within six months of its establishment must be increased to 100,000 Sk (and these funds cannot fall below this level). The Ministry of the Interior acts not only as the register, but also as the supervising institution with regard to foundations.

The law On Non-Investment Funds, adopted in 1997, establishes the legal framework for those foundations that do not have their own funds, but collect finances on an ad hoc basis or in a permanent way, and spend them for a specific purpose or for a public utility purpose. The law On Nonprofit Organizations Providing Beneficial Public Services, adopted in 1997, establishes guidelines for the creation, termination, and administrative and financial management of nonprofit organizations. Both legal entities and private persons may establish nonprofit organizations, which are then required to work for the fulfillment of the purposes for which they were established.

In the period from 1996 through 1998, NGO representatives evaluated the legal regulations pertaining to the operations of nongovernmental organizations as inadequate, and in many cases saw them as actually hindering their activities and development. There was a consensus among NGO leaders and the leaders of opposition political parties that there was a need to amend the relevant laws regulating the third sector. The position of the new government toward civil society and NGOs is fundamentally different from the previous government's. The whole legal framework for NGOs is to be changed at the beginning of 2000. Experts from both the Gremium of the Third Sector and the Ministry of Justice have prepared revised legislation for several types of NGOs. The Ministry of Justice is supposed to submit the legislation before the end of 1999.

The centralizing pressures unleashed by the Meciar government increased the level of professionalism among NGOs. Cooperation among NGOs improved, too, and it now seems that offering systematic legal advice has become a regular component of NGO activities.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

The Stupava Conference and the Gremium of the Third Sector are among the key factors in the development of civil society in Slovakia. In the last decade they helped develop the self-awareness of Slovak NGOs and improved their level of cooperation and strategic planning. The Stupava Conference is an annual conference of NGOs in Slovakia that evaluates the development of civil society, determines goals for the following year, and elects the Gremium of the Third Sector.

The Gremium of the Third Sector (G3S) is a voluntary advocacy group of elected NGO leaders that has been in operation since 1994. The G3S's core mission is to develop partnerships with representatives of state and local governments, the business sector, and international organizations. It pursues the interests of NGOs and publicizes their work, while developing cooperation and solidarity within the third sector itself.

In 1998, an extraordinary Stupava Conference—"Slovakia after Elections"—was held in Bratislava only a few days after parliamentary elections. NGOs had played a critically important role in informing voters, getting them to the polls, and monitoring the election. This daylong conference, attended by 300 activists and dignitaries, provided an opportunity to review the effectiveness of the Slovak NGO's OK '98 campaign for free and fair elections. NGOs in Slovakia have a relatively well-developed infrastructure, training base, and research base.

The best known service organization, the SAIA–Service Center for the Third Sector, was established in 1990. It performs administrative and organizational services for Gremium of the Third Sector, which does not have a legal existence. Its Bratislava headquarters and eight regional branches run workshops and provide training and consultation for NGO managers and activists. The most high-profile training organization is Partners for Democratic Change–Slovakia (Center for Conflict Prevention and Resolution), located in Bratislava.

Alongside the Gremium of the Third Sector has emerged the Donors' Forum, made up of leading representatives of grant-making foundations at work in Slovakia. There is every indication that the Donors' Forum will make an important contribution in rebuilding the infrastructure of Slovakia's civil society. Foundations from the Donors' Forum participated in financing the legal advisory service for NGOs, which has helped with the re-registration of foundations and in advising NGOs on how to respond toward laws aimed at regulating the third sector. The Donors' Fo-

rum played a crucial role in supporting the OK '98 campaign that helped overcome Slovakia's illiberal rule.

The organizational and intellectual level of the third sector was partly a consequence of the less satisfactory situation in other relevant sectors and in Slovak politics. Many people with an ethos for service in public affairs were attracted to NGOs partly because they had restricted career opportunities in politics and public service. After the parliamentary elections, however, doubts began to emerge over the long-term sustainability of NGOs in Slovakia since many highly skilled and well-known figures left the third sector for government positions.

However, most Slovak NGOs do not have long-term organizational, financial, and human-resource strategies. The NGOs vacillate between a lack of resources, which limits their activities, and an improved financial situation brought on by relative success. This instability undermines the professionalism of the NGOs. There are only a handful of organizations with coherently formulated missions and clear conceptions of how to carry those missions out. Most NGOs exist because of the enthusiasm of several volunteers whose activities may give an impression of an entire organization at work. The concept of having a participating board and membership is still new to Slovakia and will require considerable time to develop among NGOs. There is also little understanding of the separation between governance and program functions, with many boards taking an active role in the day-to-day management of the organizations. NGOs often have difficulty attracting board members.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

NGO organizations are, according to the 1992 law On Income Taxes, subject to taxes only when they have generated "income from activities executed for profit, or income from activities the execution of which can make a profit." Moreover, the income is taxed only if it is in excess of 100,000 Sk (US$ 2,400). Income acquired by inheritance or donation is not subject to taxation. Membership fees of civic associations, income generated from the primary activity of a nonprofit organization, yields from parish collections, and lotteries for public purposes, are all exempt from taxes. The same applies to contributions and scholarships awarded to individuals by foundations.

Donations for the funding of science and education, culture, the educational system, fire prevention, the promotion and protection of youth, and for purposes of a social, health-oriented, ecological, humanitarian, charitable, religious, sporting, or physical education kind, can be deducted from the tax base. The value of donations must, at a minimum, amount to 2,000 Sk (US$ 48) for legal entities and 2 percent of the total can be deducted from the tax total. In the case of individuals, it is 1,000 Sk (US$ 24) or 2 percent of the tax total. Donations for public utility purposes are deducted regardless of whether they are given to state, church, or private nonprofit organizations.

According to laws on the value-added tax and customs, goods and services financed by the EU PHARE program are exempt from VAT and customs. Similarly, goods for charitable purposes are exempt from customs duties, although these purposes are sometimes hard to prove. State-funded budgetary organizations are, in general, exempt from administrative fees. This, however, does not apply to nongovernmental nonprofit organizations, which are not, in principle, exempt from administrative fees, although they execute the same activities. The exception: those organizations that provide social services free of charge.

Foundations, though, are not allowed to engage in business, with these exceptions: leasing their property, organizing public collections, running lotteries, and organizing cultural, educational, social, or sports events. The law regulates the management of foundation property: among other things, it limits maximum administrative costs to 15 percent, prevents concurrent financing from state and municipal budgets, requires audits under certain circumstances, stipulates that annual foundation reports name donors, and requires that donors who give more than 5,000 Sk be reported to the tax office.

Financial assistance from the western democracies to both private and public NGOs has been instrumental in developing a vibrant civil society in Slovakia. The sustainability of NGOs is a growing concern, however. There are ongoing discussions about the diversification of sources, public funding, financial management, and strategic planning in the sector.

Few Slovak NGOs receive public subsidies. Subsidies are given to organizations that provide basic services for physically or mentally handicapped people and to organizations like the Slovak Red Cross. These subsidies are limited, though. Financial assistance comes from the ministries of labor, social affairs, and family; education, culture, health, interior, and envi-

ronment; and from individual state funds (administered by the appropriate ministry).

Special subsidies are given for certain activities of NGOs (for example, for publishing children's magazines and literature, etc.). Other subsidies may be paid by the state administration to providers of social services. Subsidies are paid on the basis of a special contract; the agencies and individuals providing these services must prove their expert abilities and civic and moral integrity before receiving payments, and they must present a completed insurance contract, too. State subsidies also go to private and church schools.

The activities of certain funds were subject to criticism because of the lack of transparency and unclear policies surrounding grant making during the Meciar government. The new government of Prime Minister Dzurinda significantly improved on the transparency of the distribution of money to Slovak NGOs. In fact, in a country with limited financial resources for large-scale activities, it is the government that expects help from NGOs—especially from those with international backing. Because of the lack of funds, the new government is trying to cooperate closely with Slovak NGOs.

While the business sector provides considerable funds, there is no reliable data on the exact extent of its support. Parish collections also come from private sources, i.e. from citizens. Foreign funds represent an invaluable and necessary source of funds, without which many projects and NGOs in Slovakia could not continue their work. In addition to private foreign sources for NGOs there are several programs launched by and supported by foreign governments.

Although finances raised by their own activities and membership fees currently make up a small percentage of NGO finances, the larger organizations with professional personnel are trying to increase the income flowing from their own activities, such as fees for courses, counseling publications, welfare activities, and the sale of products by the physically or mentally handicapped. Various charity fundraisers, such as concerts and art auctions, are becoming increasingly popular and indeed have became a regular feature of social life.

This trend, including the commercial activities of NGOs, will continue in Slovakia as well as in other transition countries and it put pressure on NGOs to become more professional. It will also bring heightened competition for financial resources.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The political influence of trade unions depends on the size of their membership and the effectiveness of members' action. In 1990 the Confederation of Trade Unions (KOZ) represented 2.4 million employees; by the end of 1998 its membership had contracted to 843,000. Although the most dramatic reduction of the unions' membership coincided with the first years of economic transition (almost 1 million persons had left KOZ by the end of 1996). KOZ designated 1998 a year for increasing membership, and sought to improve personal contacts with its members, organize protest rallies, and extend the scope of assistance to members. In addition to collective bargaining, KOZ offered other services such as legal aid, unemployment support, short-term financial assistance etc. A discussion started in 1998 about modernizing the operations of trade unions; it underscored the need to boost trade union professionalism.

The conflict between the government and KOZ was one of the underlying conflicts that shaped politics in Slovakia in 1998. In the ten years of post-communist transition the position of trade unions in the political system of Slovakia evolved through several stages. On the one hand, the trade union movement had, relatively quickly, reorganized, and adjusted to the new democratic environment. The enactment of collective bargaining legislation and the setting up in 1990 of the Council for Economic and Social Accord (RHSD) legitimized trade unions and established an equal status of unions vis-à-vis employers and the government. On the other hand, reformed unions found it difficult to gain the trust and support of the general public in a deteriorating social and economic situation.

Because of a tradition of non-violence and the early establishment of a tripartite mechanism, trade unions in Slovakia have relied on bargaining rather than other forms of action. Industrial action, especially strikes, for example, has been far less frequent than in neighboring countries. Despite a series of successful protest rallies, the unions failed in their drive to galvanize the membership base and halt their decline; KOZ's involvement in the election campaign, by increasing friction within the unions, may have accelerated their decline. In 1998, Slovakia experienced no major protests by the general public. In view of the deterioration of the eco-

nomic and social situation, the absence of protests was a major advantage, enabling the government to take unpopular measures without running excessive risks. The situation changed dramatically in 1999, however, as the government implemented several far-reaching economic measures, prompted by Slovakia's deteriorating economy, which has led to a decline in living standard among a large portion of the population.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

The main trends of interest group participation can only be evaluated in the context of its political system. Slovakia is a democracy with a strong parliament; hence it is logical to expect a strong lobbying system to evolve. Organizations tend to turn to members of parliament if they have no direct access to the cabinet and to do so during the final stages of legislation, i.e. immediately before parliament holds a vote.

Notwithstanding attempts by the previous government to gain control over independent organizations, the past ten years saw the establishment of a relatively modern, pluralist, and stable system of representing interests. However, Slovakia's economic woes do not bode well for a serene relationship among society's various groups. Social dialogue should represent both sides – employers and employees, physicians and patients, producers and consumers. Given the traditionally low public support for strikes, the lack of a tradition of strikes, and complicated rules that regulate strikes, the government need not be overly concerned that unpopular decisions could be countered with massive protests.

The number of Slovak entrepreneurs who belong to small business associations is relatively low. In 1998, fewer than 10 percent of all entrepreneurs belonged to such associations. Independent farmers are organized in the Union of Private Farmers, but the membership is also low. Independent farmers do not play a significant role in the political, social, and economic life of Slovakia (only 5.8 percent of Slovakia's workforce is employed in agriculture; most work for Agriculture Collective Farms).

In 1991 and 1992, Slovakia's parliament passed several laws that provided for new kinds of association: specialized chambers and trade organizations. This gave rise to various chambers of auditors, lawyers, tax accountants, architects, construction engineers, physicians, pharmacists, nursing professionals, farmers, food industry specialists, etc. The chambers system transferred some of the licensing powers from government authorities to interest-based organizations. By guaranteeing the monopolistic right to represent the interests of a given profession and to regulate it, the state was granting these organizations a public and official status, thus enhancing their potential influence. In 1998, in the light of upcoming elections, major interest groups sought to articulate clearly their demands, adopt a higher media profile, and communicate with the various political parties.

The Association of Employers' Unions and Associations (AZZZ), an umbrella organization of employers, is the best-known representative of business interests. AZZZ represented 36 member unions in 1998 and had 7 associated members. The Slovak Chamber of Commerce and Industry (SOPK) is another prominent body representing business. In 1998 SOPK was particularly vociferous in highlighting the pitiful situation of small and medium-sized businesses that had found themselves on the periphery of the government's attention. In addition to SOPK, there are several dozen other associations and umbrella organizations active in articulating and representing business interests in Slovakia. The Slovakia Entrepreneurs' Association (ZPS) was established in 1989 as the first Slovak organization of private entrepreneurs. In 1998 ZPS had 28 collective members and 78 regional offices with 19,280 individual members. The main objective of ZPS is to "contribute to building a modern and developed market economy" and its basic role is to "protect" the entrepreneurial class against attempts at limiting business rights and freedoms and to prevent measures that might worsen a market environment that guarantees equal rights to everyone.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

The authoritarian practices of Prime Minister Vladimír Meciar made cooperation between NGOs and the government almost impossible. Not only did government representatives refuse to cooperate with civic leaders but they also systematically attacked and defamed NGOs and their leaders, accusing them of being foreign agents, working against an independent Slovakia, and of not respecting the laws and democratic principles of the country.

The new government of Mikuláš Dzurinda is seen as open toward the decentralization of power and supportive of civic initiatives, human rights, and minority rights. The govern-

ment includes several politicians who worked in NGOs or served on the boards of directors of several NGOs. The government has declared the necessity to create more favorable conditions for NGOs to flourish and to involve them in various activities. Several ministries opened communication with representatives of NGOs and involved them on various committees. The Minister of Environment even signed an agreement of cooperation between his ministry and environmental NGOs. The government also created a new position of Deputy-Prime Minister for Human Rights, Minority Rights, and Regional Development. Pál Csáky, a representative of the Hungarian minority who holds this position, meets regularly with NGO leaders.

According to surveys, the image of NGOs in public opinion is positive. NGOs are perceived as the most useful organizations in terms of solidarity (NGOs assist hospitals, social welfare institutes, and needy people). Recently, however, people have become more aware of the usefulness of NGOs in advancing culture and the arts and in promoting community development, human rights education, and environmental protection. According to a May 1998 poll published by the Institute for Public Affairs, 63 percent of those questioned believed that NGOs should be active in increasing citizens' knowledge of and participation in elections; 66 percent responded that NGOs should promote fair election laws; 65 percent believe that they should help to organize election monitoring; and 61 percent stated that they should organize discussions to introduce candidates of various political parties.

Women are more likely than men to appreciate the usefulness of NGOs operating in health care and social welfare, promoting alcohol and drug prevention and treatment, community development, and education. Young people are more likely than older people to appreciate NGOs' role in promoting alcohol and drug prevention and treatment, culture and the arts, and environmental protection. And better-educated people are more likely than their lesser-educated counterparts to appreciate NGOs' work in advancing culture and the arts, alcohol and drug prevention and treatment, and democracy.

In the second half of 1998, NGOs were highly visible in the print and electronic media because of their large-scale involvement in the election. Despite massive attacks by the government coalition, the public tended to view the advocacy activities of NGOs positively. The public perception of NGOs after the parliamentary election of 1998 remains positive.

Between April 1998 and June 1999, the third sector received extensive media coverage. NGOs sought to inform the public about their activities and principles of operation. The majority of Slovak newspapers have reported on their efforts favorably. The most visible NGOs are those oriented toward charity, youth, and education. The great majority of newspapers reported the activities of NGOs in an objective way and attempted to create a decent level of discussion with an emphasis on dialogue between participants. The exception has been *Slovenská Republika*, which has covered the third sector exclusively from the point of view of the Meciar government; its editorials were intolerant, even aggressive, toward any disagreements with the government. In most newspapers, the nonprofit sector is frequently connected to a more general idea of a civil society.

A good example of the effectiveness of the Slovak third sector was the nation-wide election campaign "OK'98." In contrast to previous post-communist elections, the challenge of the 1998 campaign was to ensure the free and fair character of the election. Among the population, concerns were widespread about the possibility of dishonest and unfair party competition. A fear repeatedly voiced in public was that the obstructed referendum on the election of the president was a dress rehearsal for the manipulation of the upcoming parliamentary elections. In order to counter rising public fear, nongovernmental organizations entered the pre-election political fray, establishing Civic Campaign OK'98; an open, non-partisan initiative designed to help ensure free and fair elections.

NGOs monitored key electronic and print media and assessed their objectivity and political independence, helped the opposition to organize a parallel count, trained members of electoral committees, and organized domestic observers. These activities helped make the elections fair and prevent any attempts at interfering in the electoral process.

Many activists from Central and Eastern Europe were interested in the OK '98 campaign, especially after it succeeded so overwhelmingly. Thanks to cooperation with the Slovak Academic Information Agency and Freedom House, a seminar was held in March 1999 in Bratislava. The most important participants in the OK'98 campaign and 35 participants from Ukraine, Croatia, Serbia, Belarussia, Russia, the Kyrgyz Republic, the Caucasus, and Lithuania participated in the seminar. The aim of the seminar was to make these individuals familiar with the activities of Slovak NGOs in increasing the involvement of citizens in public affairs. The seminar was devoted mostly to representatives of those countries struggling with authoritarian regimes, where Slovak experiences are the most illuminating: Croatia and Yugoslavia.

INDEPENDENT MEDIA 2.25/7

1. Are there legal protections for press freedom? Press freedom in Slovakia is legally protected even though the Press Law dates from as far back as 1966 and several of its provisions are unsatisfactory. There is no censorship in Slovakia, the media are largely in private hands, and a dual system of electronic media is functioning. Sixteen drafts for a new media law have been prepared since 1990, but none was submitted to the parliament. Negotiations between the government and professional organizations of journalists were unproductive and tense prior to the 1998 parliamentary elections. Even in 1998 it was impossible to pass legislation to establish a standard media environment. The laws governing Slovak Television and Slovak Radio, which the new government coalition took pains to amend immediately after coming to power, enable party committees to control the public media. It seems as if not even the new leadership of the Slovak Ministry of Culture is sufficiently prepared to address media legislation.

According to laws passed in 1991, Slovak Television (STV) and Slovak Radio (SRo) are public institutions supervised by broadcast councils elected by the parliament. After the 1994 parliamentary elections, members of these councils were named exclusively by representatives of the previous Meciar's government. Funding for Slovak Television and Slovak Radio comes from fees paid by owners of televisions and radios, commercial advertising, and subsidies from the state budget.

Prior to the 1998 parliamentary elections, STV served as a propaganda tool for the ruling HZDS party. STV management realized that it could hold to its position of influence only if the government coalition won the elections. Before then, the opposition declared its intention to solve the STV problem promptly and firmly, but after the elections it behaved inconsistently. Only at the beginning of November 1998 did the coalition parties agree to adopt changes in the Council of Slovak Television and the Council of Slovak Radio. Parliament then elected new members of the Council of Slovak Television. The council in turn appointed a new director on 17 November 1998.

Media conduct during the election campaign was governed significantly by Act Number 187/1998 of the Collection of Laws. Amendments to the law did not permit campaigning in the private electronic media. The principal argument made by the coalition was that this provision follows from the previous law, which was valid during the 1994 parliamentary elections. In 1994, however, the position of the private electronic media in Slovakia was marginal: no private electronic television station existed at the time. During a review of the deputies' draft law in the parliamentary committees, the Slovak Syndicate of Journalists and the Association of Independent Radio and Television Broadcasters objected to it. Many organizations argued that in a democratic society the constitutional right to collect, disseminate, and access information should be restricted only in extreme cases—only, say, if there is a threat to national security, sovereignty, or territorial integrity. Even the campaign conducted by the Association of Independent Radio and Television Broadcasters, in which member radio stations and TV Markíza ran ads against the draft law several times a day, failed to influence the ruling coalition's decision.

One provision of the law prohibited "the broadcasting of election speeches and election programs and the publishing of any external expressions, which promote the contesting political parties at times other than those times reserved for political parties." The law also prohibited the media from publishing the results of public opinion polls during the two weeks before the election.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists? There are no legal penalties for libeling officials in Slovakia, or for "irresponsible" journalism. The only exception is Article 103 of the Penal Code, which penalizes defamation of the president. The previous government, until the end of its term in October 1998, frequently blamed independent journalists for working against the national interests of the Slovak Republic. After the elections there were no reports of journalists being harassed.

After the parliamentary elections, Slovak Information Service director Mitro confirmed that SIS (Slovak Information Service) had intimidated journalists by following them and monitoring their telephone conversations. Former prime minister Meciar physically attacked TV Prima reporter Vladimír Mišauer during the funeral of Ján Ducký in January 1999 (a former minister of economy who was murdered).

In 1998, newspapers and periodicals published freely, the basic conditions for a dual public-private broadcasting system were put in place, and no journalists were killed or imprisoned in connection with their work. For some time during Meciar's reign, press conferences following cabinet sessions were sus-

pended. Officials refused to provide information to private television and radio stations. This refusal could be considered a breach of the freedoms to access and disseminate information.

On 6 April 1999, a District Court in Ziar nad Hronom handed down a suspended one-year prison sentence to then-director of radio-communications Gabriel Szanto. Szanto ordered that no electricity be supplied to radio Twist's transmitter on the Sitno hill from 27 November to 4 December 1997. Szanto's behavior was considered one of the most brutal interferences with press freedom in recent history.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Slovakia has a dual system in all media spheres. The media system includes both public institutions (Slovak Television, Slovak Radio, and the Press Agency of the Slovak Republic), and private institutions such as television and radio stations, printed periodicals, and the private information agency SITA.

TV sets are found in 96.4 percent of households (1999). Advertising accounts for 0.4 percent of GDP (1998). Television has a 33 percent share of advertising.

There were no dramatic changes in the newspaper market in 1998. It is evident that the long-term survival of *Plus 7 dní, Zivot* [Life], *Slovenka* [Slovak Woman] and *Moment* is questionable. These periodicals may have a future if the price of daily newspapers can rise above 10 Sk (25 cents). There is a possibility for a news weekly which covers the events of the previous week and provides comprehensive analyses and above-average reporting to succeed. However, without foreign capital such a project is beyond the capabilities of Slovak publishers. The same holds true in the market for weekly TV programs.

State-owned Slovak Television broadcasts on two channels (STV1 and STV2). The most popular private television station, Markíza, has broadcast since 1996; another private television, VTV, broadcasts through satellite and cable networks. According to data released by the Broadcast Council, as of January 1999, there were another 63 license holders in Slovakia in addition to the public STV, Markíza, and VTV. Most licenses were issued for operating cable networks. Only eight licenses for terrestrial broadcasting have been issued. According to expert testimony, the so-called "other operators" have one million potential viewers.

At the end of August and at the beginning of September 1998, the Broadcast Council approved broadcast licenses for ten more television stations. The new stations will be able to broadcast via satellite as part of the ALTEV project. Digital data will be transmitted to the satellite. Signals will be received, decoded, and finally transmitted by the cable networks.

In 1998, the publicly funded Slovak Radio (SRo) maintained its dominant market position. In October 1998, the parliament selected a new Council of Slovak Radio as a result of coalition discussions. Later, the Radio Council confirmed the previous general director of the Slovak Radio in the same position. According to the Broadcast Council, 25 private radio operators broadcast in Slovakia. In 1998, there were 31 changes in the ownership of commercial radio stations. The turnover resulted from the economic difficulties that most broadcasters faced.

4. Are the private media financially viable?

The private media are financially stable. Contrary to expectations raised by the outcome of the 1998 parliamentary elections, foreign direct investment has not flowed into Slovakia more rapidly or extensively. Rules regulating cross-ownership of the media are still non-existent. "Vertical" structures, (in which the same owner owns various media outlets, such as printed periodicals, radio, and television stations), are not forbidden by Slovak law. But after a media "complex" is consolidated — as seems to be happening — its owners will no doubt consider selling it to foreign investors for profit. The most visible cases of cross-ownership in Slovakia are the publishing house Perex; the printing and publishing firm Danubiaprint, which attempted to build a chain of regional periodicals through the publishing house H–Press; and the publishing house Plus 7.

Even though the selling price of daily newspapers has risen, the market has stabilized. The daily newspaper *Nový Cas* still has the largest circulation among Slovak daily newspapers, followed by *Pravda* and *Sme*. Readership of *Práca* (a daily sympathetic to the trade unions) has declined and the paper is now barely profitable. It is unlikely that all three competing economic dailies — *Hospodárske noviny, Hospodársky denník and Národná obroda* — will survive in the future.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

After the parliamentary elections, the state-owned media (especially STV and SRo) started to fulfill their mission of providing non-partisan information to the public. Though before the election the news and political programs of

the private TV station Markíza were more objective and balanced than the state media, after it STV became more professional and now compares favorably with Markíza. STV was editorially independent in 1999 and there has been no governmental interference reported.

New media owners tend not to understand that publishing a newspaper is a business, with clearly defined rules of propriety. Often, publishers regard their newspapers solely as bearers of their own opinions or as a means for self-promotion. All daily newspapers have specific topics that remain taboo as a result. Publishers interfere with the content and opinion of their daily newspapers. In general, the commitment of editors-in-chief to the publishers is assured through generous financial compensation, far above what most other employees in the editorial office can expect. The editorial statutes do not protect journalists from publishers' interference. Despite the work of the Association of Slovak Periodical Publishers and the Slovak Syndicate of Journalists, efforts to meet the legal obligation to publicize regularly (usually once a year) the names of media owners have been unsuccessful.

During the second half of 1998, STV continued to be a mouthpiece for propaganda, and remained so until the change in management brought about by the parliamentary elections. The news and discussion programs were sounding boards for the propagandists from HZDS, rather than for the opposition or even for other coalition parties. STV news was based on three pillars of propaganda: providing selective information, frequent repetition, and appealing to sentiment and emotions instead of reason. The results of the monitoring conducted by MEMO '98 show that from the beginning of the election campaign until September 18, 1998, STV devoted 46.6 percent of its news programs to the government and 16.6 percent to the coalition parties, while only 13.4 percent were provided to opposition parties. The government coalition received positive coverage in the news, while the opposition received negative coverage. Between August 26 and September 26 1998, the government and ruling parties were allocated 62.2 percent of available airtime; only 15.2 percent of airtime went to the opposition.

Slovak Radio broadcast fewer propagandistic programs and provided more airtime for alternative opinions than STV. Unlike STV, Slovak Radio did not devote any airtime to editorials. The government received approximately 55 percent of airtime; parliament and other central bodies were given 36 percent. Meanwhile, the opposition received a maximum of 10 percent of the airtime. The coverage was informative, neutral, and positive in more than 25 percent of the news items

In its coverage of election campaign, TV Markíza gave significant space to the new Party for Civic Understanding (SOP). Some employees of TV Markíza were also SOP candidates in the parliamentary elections. MEMO '98 monitoring showed that SOP leaders were among the politicians who received the greatest amount of airtime on TV Markíza. The SSN monitoring also revealed that, while STV devoted 65.5 percent of its news programs to politically relevant news reporting, commercial television devoted as much as 75.7 percent.

6. Is the distribution system for newspapers privately or governmentally controlled?

The distribution of the press is privately controlled in Slovakia. However, the largest printing and publishing company, Danubiaprint, is a private company with strong links to Meciar's political party, HZDS. In 1998 the Presidium of the National Property Fund decided to sell 97 percent of the shares owned by Prvá novinová spolocnost, Inc. (First News Company), to Danubiaprint. The Association of Slovak Periodical Publishers and the Slovak Syndicate of Journalists protested against the decision. The Association filed a complaint with the Slovak Anti-Monopoly Office on the grounds that at the time of its privatization, Prvá novinová spolocnost was distributing 30 dailies and more than 650 magazines, and it also exported the Slovak press abroad. Danubiaprint, as an owner of PNS, printed 8 dailies covering the whole of Slovakia, 2 regional dailies, and about another 50 newspapers and magazines that covered the whole of Slovakia. The director of Danubiaprint was often seen with HZDS party leaders.

Soon, the publishers' concerns proved justified. PNS had kept the payments for the purchased periodicals, while Danubiaprint demanded that its printing services be paid for. The situation became critical in January 1999. From the periodical subscribers, PNS received payments one year in advance from periodical subscribers, but it owed millions of crowns to the publishers. The situation for publishers was critical and the Slovak Anti-Monopoly Office accepted the publishers association's complaint, and the concentration was prohibited.

On 15 April 1999, the Association of Slovak Periodical Publishers and the new Prime Minister Mikuláš Dzurinda agreed after their second meeting that publishers' repre-

sentatives would join PNS. The revitalization of PNS would be based on a thorough control of its finances.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

User profiles for the Slovak Internet were not available until 1997. Estimates were based primarily on the number of computer servers registered in the DNS system under their own names. Registration, however, is not necessary for using the Internet and there is no easy way to determine how many people are using a specific computer. The actual number of registered computers in Slovakia, recorded in the RIPE NCC organization in 1998, was 23,071. Previously, this number was multiplied by ten, to achieve a general estimate of the number of people using computers. Today this method is outdated and a more scientific method has been utilized.

In the last survey, completed by the firm Focus and Webner in September 1998 (it used a sample of approximately 1,000 respondents of the adult population), 21 percent of the adult population in Slovakia said that they used a personal computer daily or almost daily. Since the previous survey, conducted in 1997, the number of users had increased by five percent. The Internet has been used by 9.5 percent of the population, and this number has increased 4 percent since 1997. As Focus and Webner revealed, those who use the Internet "regularly or at least occasionally" are mainly younger respondents living in larger communities, with higher education, and higher income. The number of respondents who have heard about the Internet for the first time or did not know about it decreased from 29.8 percent in 1997 to 22.8 percent in 1998.

There are no restrictions on Internet access in Slovakia, nor are they any legal or administrative obstacles. There are about 15 private providers of Internet services. The first provider, in operation since 1990, was the academic network SANET, which connected Slovakia for the first time with the outside world. The computer network Changenet provides Internet access to several NGO organizations (101 at the beginning of 1999). The biggest obstacle for using the Internet is not the connection charges, nor is it even the price of PCs (which is decreasing), but expensive telephone lines. Those using the Internet have recently become interested in its commercial use; it is expected that access to the Internet will be increasing dramatically in the future.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

Since 1990, the major association of journalists in Slovakia has been the Slovak Syndicate of Journalists (SSN). SSN belongs to the International Federation of Journalists and it represents more than 80 percent of Slovak journalists (approximately 2,500 in January 1999). The previous Meciar government, in an effort to dominate the public sphere, initiated the creation of the pro-government Association of Slovak Journalists (ZSN). ZSN was committed to the previous ruling coalition. After the parliamentary elections of 1998, the membership of ZSN has decreased and its members have applied for membership in SSN. The Alliance for the Ethics of Journalists continued to operate in 1998.

Other important press associations are the Association of Slovak Periodical Publishers, the Association of Independent Radio and Television Stations, and the Union of Slovak Television Creators. Members of these associations now have been accepted as members of the Council of Slovak Television and the Council for Slovak Radio, appointed by the parliament.

Four years ago, leaders of the Slovak Syndicate of Journalists, the Association of Slovak Journalists, and the Association of Slovak Periodical Publishers had reached mutual agreement on the need to form a Media Council of the Slovak Republic to deal with ethical problems in the mass media. The groups agreed to form an Association for the Defense of Journalistic Ethics, a civic association of legal entities.

The Association plans to be registered by the Ministry of Interior. According to the agreed upon statute, the three organizations will nominate nine prominent persons to a Media Council. The Council will then make decisions on the basis of its ethical code—the Ethical Codices of the Slovak Syndicate of Journalists and of the International Federation of Journalists (IFJ). The Council will only deal with external complaints and will not intervene in existing legal disputes. It will be financed equally by all three organizations, not the state budget. There will be an obligation for the publisher whose employees have violated ethical principles to publish the Council's decisions about such violations; once a year the Council will publish all of its decisions. The proportion of women in journalists' associations varies; the highest in the SSN (35 percent).

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom* ?

Freedom House's annual *Survey of Press Freedom* rated Slovakia "Partly Free" from 1993 to 1998.

GOVERNANCE AND PUBLIC ADMINISTRATION 3.00/7

1. Is the legislature the effective rule-making institution?

The parliament is the supreme legislative body and the key rule-making institution. Parliament meets in continuous session unless its members call an adjournment. Its 150 deputies serve 4-year terms and are elected by "universal, equal, and direct suffrage by secret ballot" on a party list. Seats are awarded to political parties in proportion to votes received. Between 1994 and 1997, during the rule of HZDS, ZRS, and SNS, the number of bills passed in parliament continually decreased. However, in 1998 and 1999, the number of passed bills increased as a result of the new governmental coalition's activities. The legislative plan prepared by the new government foresees not only the passage of new laws but also amendments to the laws passed during Meciar´s rule. The legislative initiative rests with the government and its deputies in parliament. The government initiates the majority of the laws. Between 1994 and 1998, the government submitted 60 percent of the draft laws, while deputies in parliament introduced only 40 percent. Ninety-four percent of the bills submitted by the government were passed, compared to only 33 percent of draft laws prepared by MPs. In the same period, 313 laws in total were passed (258 were introduced by the government and 55 were introduced by deputies in parliament). The opposition introduced 6 laws and 27 laws were joint efforts of the coalition and opposition deputies in parliament. Laws are passed after three readings in at least two parliamentary sessions. In order to increase efficiency, the government can use a shortened legislative procedure, which allows the law to be dealt with in one parliamentary session. The opposition argues that, as a result of this procedure, its MPs have limited possibilities for contributing to the laws.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

The original concept of the relationship between national and subnational levels of government anticipated a dual public administration system in which parallel state and municipal-level governments would adhere to the European principle of "subsidiarity," where government functions are carried out at levels closest to the people. The government led by Meciar acted against the spirit of this concept. In 1996, a new territorial and administrative division and a state administrative reform were initiated. The role and powers of the central government and state administration were strengthened at the expense of local self-government. The concentration and centralization of power marked the entire period from 1994 to 1998. At the same time, the powers of local governments decreased. The establishment of actual self-governance did not accompany the division of the country into 8 regions and 79 districts as a result of the territorial and administrative reform. Municipalities are the basic unit of local administration as outlined in Article 64 of the constitution, and municipal officials are selected at the local level. Legislative assemblies at the municipal level have the power to pass ordinances, to approve budgets, and to call local referenda. Municipalities often consult with district officials concerning budgetary matters.

Dzurinda's new government pledged in its manifesto to undertake considerable change in public administration. The government established the post of plenipotentiary to address public administrative reform. The role of this official is to coordinate the efforts of the leaders of state institutions, local governments, political parties, and nongovernmental organizations in the process of reform. The governmental plenipotentiary has prepared a plan of reform, which envisions legislative, executive, and administrative measures aimed at the creation of a system of elected local bodies for the entire country. These newly elected local bodies would have increased authority and control over the state assets transferred to them. The stable financing of these local self-governing bodies would be achieved through decentralizing state financial resources.

3. Are subnational officials chosen in free and fair elections?

Mayors and representatives of municipal assemblies are chosen in local elections based upon "universal, equal and direct suffrage by secret ballot." The mayor serves as the local executive. In July 1998, the government coalition (HZDS, ZRS, and SNS) passed an amendment to the Law on Communal Elections. It changed the rules of electoral competition by introducing features of a combined electoral system for choosing candidates. It also set up strict ethnic quotas for the composition of local governments in the ethnically mixed municipalities. This amendment was meant to increase the role of the then-ruling parties (HZDS, SNS, and ZRS) in local government. It was also meant to restrict the influence of the opposition parties at the local level (especially the Party of Hungarian Coalition in the south of Slovakia) and to prevent victories of the opposition par-

ties in the elections in regional and district towns. In October 1998, the Constitutional Court ruled that an amendment to the Law on Communal Elections, passed by Meciar´s government coalition, was unconstitutional. Shortly after parliamentary elections, the parliament (where the government coalition SDK, SDL, SMK, and SOP had a majority) amended the law to its original wording. Moreover, the term of office of the local municipalities was prolonged (in fact, elections were announced for November 1998 but this proved impossible because of the Constitutional Court's ruling). Municipal elections were held on the 18th and 19th of December 1998. The elections were deemed free and fair. The ruling coalition was the most successful. Out of 79 mayors of regional and district towns, 57 mayors were elected from this coalition. The opposition had 13 mayors and 9 mayors were non-affiliated. As self-governing bodies on the regional and district levels were not established yet, elections on these levels were not held.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Most sessions of the parliament are open to the public; closed sessions must be defined by law or approved by a three-fifths majority of parliament. Since the 1998 elections, all sessions of parliament have been broadcast by public Slovak Television (STV), often late in the evening. Between 1994 and 1998, legislative and executive bodies exhibited a lack of transparency and there was little opposition oversight. The opposition was not represented in the parliamentary committees conducting oversight, or in the upper management of the National Property Fund that directed the privatization process. The privatization process was minimally transparent; drafts of some bills, such as election legislation and the Law on Municipalities, were prepared in secrecy by the government. The media, the public, and opposition deputies in parliament were all unable to receive timely information on the drafts of bills prepared by the government. After the 1998 parliamentary elections, the situation changed. The opposition now is adequately represented on all parliamentary committees and heads both committees overseeing the secret services. The government issues press releases and members of the government attend press conferences at the end of every session. The media have more opportunities to receive information about prepared legislation. The law on information will deal with access of the public to information about the activities of state institutions. Following extensive consultations with state institutions, nongovernmental organizations, and the media, SDK deputies in parliament prepared a draft law on access to information.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

The constitution provides that taxes are collected at the national and local levels. Although municipalities receive some subsides from the central government, they often do not have adequate funding to carry out the duties required of them by law. At present the central state controls 91 percent of tax revenues. Slovakia has a low level of fiscal decentralization. A big part of public administrative expenditure is financed from the state budget. Local governments and local administrators of state policy do not have adequate powers to make decisions about public finances. The share of expenditures for local government as a share of overall expenditures in public administration is 11.9 percent. Local governments and regional offices—the supreme state bodies in the regions—make decisions that affect only 13.8 percent of the public budget; the central government makes decisions that affect 86.2 percent. The elected local governments do not have the power to oversee local officials engaged in state administration. This lack of effective oversight has often led to an abuse of public finances for political and personal gain. Local governments complain that they do not receive sufficient funding from the central state for schools, health care, public transportation, culture, gas and electricity networks, and other local services. To cover their deficits, the governments of some of the larger towns and cities have decided to secure loans by issuing municipal bonds. These measures were only partially successful. The towns' debts increased and decision-making by municipal officials became increasingly dependent on creditors. In December 1998, Dzurinda's government announced that it would strive to increase the transparency of financial transfers in the state budget and to decrease the level of allocation of resources through the state budget. The government stated its intention to decentralize public finances and to strengthen the position of municipalities in securing appropriate sources of funding to provide services for citizens. The government's strategy for public administrative reform was based on a decentralization proposal that would allow local governments to manage approximately 50 percent of tax revenues.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The professional education and experience of mayors and other local officials is generally adequate. Many have long-term experience; others have had various sorts of professional training. Representatives of local governments regularly exchange information through a variety of means. The Association of Slovakia's Cities and Municipalities and the Union of Cities and Municipalities of the Slovak Republic seek to improve the professional education of elected local government officials through regular conferences, seminars, and workshops. Representatives of local governments from larger towns exchange information in K-8 (Club-8), which is an association of the mayors of eight regional capitals. Limited financial resources often undermine the efficiency of local government. Local governments have 19,000 employees and the state administration has almost 20,000. The professional skills of local civil servants vary; some work efficiently, others are criticized for not being forthcoming with citizens. Experts estimate that as many as 50 percent of local and state employees are not qualified for their jobs.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

Legislation in 1996 established 8 new regional and 79 new district offices of the central state administration. Officials at the regional and district levels are employees of the central state. Municipal officials are employees of the local government and are paid with fees collected by the municipality. According to Article 54 of the constitution civil servants may be denied the right to strike. The Law on State Service has not yet been passed. Shortly before the end of its term, the Meciar government prepared a draft law on the state service. Without a concise law on state service, the risk still exists of politically motivated dismissals of personnel within the state administration after every parliamentary election. The law could affect as many as 2,700 employees. The stabilization of state employment is difficult, as is the modernization of the state administration. Moreover, improving the professional education of state employees remains a problem. Dzurinda's government announced that a clear law on state service is being prepared, as is a special law on the status of public employees.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 2.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The constitution was adopted on September 1, 1992 and went into effect on October 1, 1992. The constitution guarantees fundamental rights and freedoms: rights to privacy, personal liberty, and to own property; freedoms of expression, petition, and peaceful assembly and association. It is based on the principles of democracy, republicanism, pluralism, rule of law, power sharing, checks and balances, and judicial review. While it mentions a socially and environmentally oriented market economy as a desired principle, it also emphasizes that the state shall not subscribe to any particular religion or ideology.

Article 124 established a Constitutional Court as an independent organ with jurisdiction over a broad range of constitutional issues. These include conflicts between constitutional provisions and laws passed by parliament, regulations passed by the government, or rules passed by local governments, conflicts between different governmental authorities, contested elections to parliament, and challenges to the results of a referendum. The court consists of 10 judges nominated by the president from a list of 20 nominees approved by the parliament. Judges serve for seven years. Cases may be brought to the Constitutional Court upon request of the president, the government, lower courts, or at least 30 deputies in parliament. Individual citizens who believe that their fundamental rights or freedoms have been violated may also bring cases. Despite the controversial nature of many of the cases it adjudicates, the Constitutional Court enjoys wide public support; from 1996 to 1999, it was regarded as the most credible political institution in the Slovak Republic.

In recent years the Constitutional Court has been asked to arbitrate some of the most intractable disputes in the brief history of the Slovak Republic. On several occasions during 1997 and 1998, Meciar's government, along with the coalition majority of HZDS, ZRS, and SNS in parliament, refused to comply with important rulings of the Constitutional Court. The parliament refused to comply with the following decisions: the loss of mandate by parliamentary deputy František Gaulieder; the nomination of Emil Spišak to the parliament as a substitute for a deceased SNS deputy; the referendum on the direct election of the president; and Slovakia's joining NATO. Such actions by the government coalition rejected the principle of an independent judiciary and undermined the stability of the constitutional system. After elections in September 1998, relations between the legislative and judicial branches greatly improved. The new parliament has respected all Constitutional Court decisions, including those involving amendments to the Election Law and the Law on Communal Elections. Following the Constitutional Court decisions on these laws, parliament amended the articles that the court declared unconstitutional.

The Constitution of the Slovak Republic was amended several times during 1998 and 1999. After President Kovác's term of office ended in March 1998, parliament was unable to elect a new president. The power to appoint a new government rested with the president. Therefore, there was a risk that if the presidential post remained vacant, the new government would not be appointed. In May 1998 parliament approved an amendment to the constitution that extended certain competencies—including that of appointing and recalling members of government—to the chairman of parliament. In January 1999, parliament passed amendments to the constitution changing the method of electing the president. The law provided for the direct election of the president and for the presidential veto power. Furthermore, the law stipulated that the president did not have the right to return laws to parliament that had already been established as constitutional. It also established a higher threshold for passing laws returned by the president to parliament (a simple majority of all deputies in parliament being required as opposed to a simple majority of those in attendance). The president is no longer entitled to participate in, preside over, or even to be present at the sessions of parliament. At the same time, the president gained the power to dissolve a dysfunctional parliament. Another provision of the law provides for the countersigning of some presidential decisions by members of the government.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

Article 12 guarantees fundamental rights to individuals "regardless of sex, race, color, language, faith, religion, political affiliation or conviction, national or social origin, nationality or ethnic origin, property, birth or any other status." Rights to privacy and personal liberty, including protection against unjust search and guarantees of freedom of movement and thought, are outlined by Articles 16 through 24. The death penalty is "inadmissible," according to Article 15. Property rights are protected by Article 20.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The Slovak Republic adopted the Czechoslovak penal code in 1994 with minor changes, and few amendments have been made since. In the summer of 1999, the parliament passed an amendment to the penal law (introduced by the government). The amendment established punishments for the "tunneling" of companies, tax and social security payment evasion, racketeering, and child pornography. The amendment also introduced a police agency for investigating organized crime. Dzurinda's government established a commission to deal with recodification of the penal law. According to the government's legislative plan, the new penal law should be passed in 2001. In 1998, human rights organizations recorded no cases of beating or humiliating detainees, persons taken into custody, or persons sentenced to imprisonment in Slovakia. Representatives of some Romani organizations complained about rough treatment of Romani citizens detained by the police. Investigations conducted by the ministry of interior did not confirm these allegations. Under the constitution, a detainee must be brought to a court within 24 hours or be released, and a judge must see the detainee within 24 hours to decide on the appropriateness of the arrest or to dismiss the case. The maximum admissible length of detention for persons taken into custody but not sentenced is six months; a judge may extend the custody to one year, the Senate may add another year, and the Supreme Court one more year. This means that the maximum possible length of custody before sentencing is three years.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

As of mid-1999, Slovakia had 1,120 judges who reportedly ruled fairly and impartially. The courts, however, are overloaded. Constitutional Court judges are required to withdraw from membership in political organizations and parties and are not allowed to hold other public offices, and may even be required to withdraw from business activities. They must hold a law degree and have 15 years of law experience. According to Article 154, "judges elected under the previous statutory enactments shall be deemed to have been elected to office for indefinite term under this constitution," thereby enabling judges who served under communism to retain their offices. Less than three-fifths of the judges active in 1998 had served under communism.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The Constitutional Court, seated in Košice, decides on the matters related to the observance of the constitution and remains independent from the rest of the judiciary. The court has regularly demonstrated its independence from the government. In the period from 1993 to 1999, the Constitutional Court declared unconstitutional 18 acts adopted by parliament, 3 governmental regulations, and 1 minister's decree. The Constitutional Court consists of 10 judges who are appointed for 7 years by the president and are selected from 20 candidates proposed by parliament. The Supreme Court in Bratislava is the highest court of general judiciary and its competence is nation-wide. The Slovak legal system is based on the principle of the separation of the judiciary from the legislative and executive. The precise jurisdiction of courts is defined by law and not by the constitution. The judiciary is constitutionally "independent of other branches of government at all levels." Judges are selected for a period of four years by the parliament on the advice from the Ministry of Justice and, at the end of their first term, the government nominates them for an unlimited tenure.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Although the proportion of lawyers working for the state was higher in 1998 than the proportion of lawyers in private practice, the number of lawyers choosing private practice has increased significantly. Currently, there are more than 1,100 lawyers registered in the Chamber of Defenders and more than 1,000 in the Chamber of Commercial Lawyers. Every year, approximately 570 students graduate from the three law departments in Bratislava, Banská Bystrica, and Košice. The number of female lawyers approximately equals the number of male lawyers. Fifty-eight percent of judges are women.

7. Does the state provide public defenders?
Article 50 of the constitution guarantees the right to public defenders. Public defenders, paid for by the state, are provided in courts at all levels for criminal cases. There is reportedly an increasing shortage of public defenders and state judges because private-sector work is far more lucrative than work in the public sector.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
The constitution and the laws prohibit discrimination and provide for the equality of all citizens, irrespective of sex, race, color, language, religion, nationality, or ethnic identity. Basic rights of the minorities and ethnic groups are enshrined in Articles 33 and 34, which guarantee minorities the right to develop their own culture, to use their mother language, and to establish their own minority associations and cultural and educational institutions. The constitution guarantees minorities the right to education in their native language and the right to employ their language for administration purposes. National or racial intolerance, as well as the support of movements pursuing the suppression of civil rights and liberties, are considered criminal acts under the penal code. There are laws, decrees, and programs to protect the rights of children, women, and people with disabilities. Slovakia is a multi-ethnic country. For ethnic Hungarians, who represent the largest minority, with a population registered at 567,000, or 10.8 percent of Slovakia's total population, the issue of minority rights is tied to political and cultural issues. The Roma (Gypsies), however, whose population is now estimated between 450,000 and 500,000, are the victims of social and economic discrimination. The Hungarian minority is characterized by high-level political mobilization, and its interests are represented in the parliament by the Party of Hungarian Coalition. None of the Roma political groupings has a parliamentary representation.

From 1995 to 1997, the situation of national minorities was negatively influenced by the restrictive and confrontational policies of Meciar's government. The practical implementation of the rights of minorities, such as the right to

use their native language and to develop their own culture, was difficult to achieve because of certain administrative measures enforced by the government. Meciar's government enforced a law on state language, for example, that prevented national minorities from using their own languages in official state contacts. The ministry of education decided to end a practice of issuing bilingual students certificates in schools with instruction in national minority languages. The ministry of culture radically cut funding for the cultural associations of the national minorities. Such actions provoked protests, including strikes and demonstrations, from members of these minorities. This hindered Slovakia's European integration effort. After elections in 1998, the position of national minorities significantly improved.

The Party of the Hungarian Coalition that represents ethnic Hungarians living in Slovakia has joined the new coalition government. A representative of the party was appointed Deputy Prime Minister for Human Rights, National Minorities, and Regional Development. Representatives of the SMK hold the positions of deputy speaker in parliament and of chairman of Committee for Human and Minority Rights. At the end of 1998, parliament adopted an amendment to the school law, which provided for issuing bilingual student certificates in bilingual schools. In the summer of 1999, the Law on Usage of Minority Languages enabled the usage of minority languages in official state contacts in municipalities where more that 20 percent of the citizens belonged to a national minority. The situation of the Slovak Roma remains complicated. They constitute one of the socially weakest, as well as one of the least educated groups, in Slovakia. Poor socio-economic conditions, discrimination in employment, and racially motivated violence committed against the Roma by skinheads led to emigration by some of the Romani population. In 1998 and 1999, hundreds of Slovak Roma traveled to Great Britain, Finland, Norway, and Belgium where they requested political asylum. However, at present they have not been granted political asylum in any country. Immediately after it took office, Dzurinda's government established the post of plenipotentiary to find a solution to the Roma problem. The officer filling the position had previously worked at length for the Slovak Helsinki Committee. The government prepared a strategy for solving the problems of the Roma. Unlike Meciar's government, the new government demonstrated a genuine interest in cooperating with the EU countries and the neighboring Czech Republic to solve Romani issues.

9. Are judicial decisions effectively enforced?
The effectiveness of the implementation of court rulings is sufficient. The most problematic issue is the length of court proceedings, which have lasted too long in several cases. The courts are overloaded with cases. This is directly linked to the privatization of the economy and to the subsequent enormous increase in the number of economy-related court cases. Since the special executive law is not in place, the citizen's right to be compensated for damages (as stipulated by Article 46 of the constitution), which have resulted from unlawful decisions of the courts or of state bodies, remains a problem.

CORRUPTION 3.75/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
In 1999, the agency FOCUS conducted a representative sociological survey, which revealed that 64 percent of Slovak citizens have personally encountered corruption. Research conducted by the Slovak Statistics Office in 1998 showed that 69 percent of the Slovak population felt that corruption was particularly prominent in the health service (this was because the citizens had the most extensive personal experiences in this area). Moreover, 34 percent of the population felt that corruption was widespread in education, 24 percent considered the judiciary the most affected by corruption, 22 percent identified privatization, 18 percent thought business, 17 percent thought the police, and finally 13 percent felt public administration was the most corrupted area. In 1998, the agency InterMedia conducted a survey among Slovak entrepreneurs. As many as 84 percent of Slovak entrepreneurs have encountered corruption in public administration. Entrepreneurs felt that corruption was particularly evident in the ministries and in other

central bodies of the state administration and among customs authorities. To a lesser extent, entrepreneurs identified corruption in district and regional offices, the courts, tax offices, and job centers. In 1998, the average salary of civil servants was 9,185 Sk, compared to a nation-wide average wage of 10,003 Sk.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

The law prohibits the president, cabinet members, parliamentary deputies, senior civil servants, judges, and public administrators from engaging in business activities. The independent media exposed the involvement of some deputies (from the ruling coalition of HZDS, ZRS, and SNS) in the non-transparent privatization process, during the years 1994 to 1998. Most often their questionable behavior involved the purchase of anonymous shares (bearer shares). The relatives of government officials and civil servants were also involved in widespread business activity. They were not abiding by the law. The new government coalition passed amendments to the law imposing a duty to register bearer shares in order to improve transparency and minimize corruption in the privatization process. The relations between the public sector and entrepreneurship are frequently being discussed, thanks to pressure from public opinion, the independent media, and nongovernmental organizations.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Conflict of interest legislation is in place but it is not sufficiently effective because business transactions can be carried out through relatives or other close associates. The independent media are analyzing corruption cases, clientelism, and suspicious links between politicians and lobbying groups pursuing particular interests. After the 1998 election, the media published information about abuses of the privatization process during Meciar's rule. In 1999, both the private and public media sought to expose various forms of questionable administrative activity within the ministries. These situations involved granting the license to operate a mobile phone network; offering a tender for a strategic consultant in Telecom privatization; renewing the state's participation in Nafta Gbely (which was privatized by Meciar's government in a shady way and which turned out to be disadvantageous to the state). Those members of Dzurinda's government, who could not prove their innocence in allegations of corruption and clientelism brought against them in the media, had to resign under public pressure. Those resigning included the Minister of Transport, the Minister of Post and Telecommunications, and the Economy Minister. In 1999, the head of the IT section in the executive office of the government, along with a member of the supervisory board of the state-owned Slovak Gas Company, resigned because they were suspected of conflict of interest. Also in 1999, parliament passed an amendment to the penal law designating special charges in criminal cases of racketeering. The supreme audit office oversees all public bodies including parliament and the government. In addition, the executive office of the government supervises the ministries.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

In 1999, the independent agency FOCUS and the economic think tank Center for Economic Development and Transparency International Slovakia jointly conducted sociological research on corruption in Slovakia. In 1998, a representative public opinion poll was conducted by the Institute for Public Opinion Research at the Slovak Statistics Office. In 1998, the private company InterMedia polled Slovak economic and political elites on how they perceived corruption. All of these polls demonstrated that many people believed that corruption was common and that it was not diminishing.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Meciar's government in 1995 launched a program called "Clean Hands." It was unsuccessful because the government pursued a clientelist model of connections between political and economic power, which was based on the non-transpar-

ent privatization process. The new government led by Mikuláš Dzurinda pledged in its manifesto to fight corruption and to pass more effective legislation to minimize it. In 1999, parliament passed an amendment to the penal law which established punishment for offering a bribe, as opposed to the previous legislation, which punished only those accepting a bribe. The amendment also established the position of special agent to detect corruption. A special unit to fight criminal acts of corruption exists within the Slovak police force presidium. In 1999, the Slovak government agreed that Slovakia would become a signatory to the Council of Europe agreement on money laundering, as well as to the OECD agreement on fighting corruption of foreign public officials in international business transactions. Slovakia participates in the joint Council of Europe and the European Union OCTOPUS project aimed at fighting corruption and organized crime. In 1998, Transparency International Slovakia (TIS) was established. Since, then the government has been inviting the organization to monitor tenders organized by the state. The Government asked TIS to help in drafting *the National Program to Fight against Corruption*. After the elections in September 1998, an investigation was launched in a number of privatization cases where there was a strong suspicion of corruption and harm to the public interest. These investigations have not been concluded.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

Public opinion polls show that a majority of the population accepts the existing level of corruption and tries to adapt to it. This attitude makes it difficult to introduce new measures to fight corruption. A solution might be a systematic change in health service, education, public administration, and tax legislation. The independent media contributed the most to the increased ambivalence of the public toward corruption. The truth about corruption seems to have left the public feeling that they can do little about it. TIS issues publications about the level of corruption in Slovak society. Education in this area will also be a part of the *National Program to Fight against Corruption*.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

In 1999, Transparency International ranked Slovakia 53rd, of 99 countries, with 3.7 points in the Corruption Perception Index.

Economic Liberalization

PRIVATIZATION 3.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

In 1998 Slovakia's private sector accounted for 82.7 percent of GDP, down 0.2 percent from 1997. In agriculture the private sector accounted for 95.3 percent, in industry 77.7 percent, in construction 83.8 percent, and in the services sector 96.8 percent. In the first half of 1999 the share of GDP generated by the private sector increased to 85 percent, up 2.5 percent in a year-by-year comparison. In agriculture, the private sector accounted for 96.9 percent of GDP, in industry its share was 80.2 percent, in construction 88.4 percent, and in services 95.9 percent. In June 1999 the private sector employed 82.6 percent of all employees, 91.5 percent of the construction industry, and 84.6 percent of the services sector.

2. What major privatization legislation has been passed? What were its substantive features?

In Slovakia the privatization process is in the purview of politics where there have been numerous legislative changes, a reflection of the important role of privatization in economic transition. On June 24, 1998 the Constitutional Court rescinded the law that gave preferential treatment to select groups to purchase bonds issued by the National Property Fund (NPF); namely, NPF debtors, banks earmarked for restructuring, and health insurance companies that underwrite supplementary pension insurance. This meant that, from July 17, 1998, the public could only use NPF bonds to pay the owners of housing (when buying out housing units) or use them on the securities market in exchange for NPF holdings. Since coming to office, the new government has sought to implement legislative changes that would redress privatization irregularities (on the basis of reviewing previous privatization decisions), punish law breakers, endorse the privatization of strategic enterprises and natural monopolies, and revoke bearer shares and anonymous partnerships. An amendment made it possible to file petitions seeking to rescind previous sale and purchase agreements and to recover assets already privatized.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: As of June 30, 1999, the private sector accounted for 96.9 percent of earnings in the agricultural sector, up 1.5 points from the previous year. Enterprises operating in the agricultural sector included agricultural co-operatives, state-owned farms, private companies, and private farmers. As one survey showed, as of the end of December 1997, the number of private farmers had increased from 7,581 to 16,909 during the period from 1995 to 1997; while the size of land they farmed had grown from 115,000 hectares (284,050 acres) to 193,000 hectares (476,710 acres). In 1997 a private farmer would on average work 8.4 hectares (21 acres) of land. As of December 1998 there were 18,784 privately owned farms, the structure of ownership representing the three types of businesses referred to above. Privately owned farms accounted for 99.8 percent of all farms; they farmed 2,114,000 hectares (5,221,580 acres) of land, which meant that private farmers tended 98.4 percent of arable land. Agricultural land is almost entirely privately owned; the state holds a mere 2 to 3 percent of the land (this information was provided by the Research Institute of Agricultural Economics, Bratislava, 1999). In the past years, the total surface of arable land has not changed: 2,443,600 hectares (6,035,692 acres) as of December 31, 1998.

Housing and land: At present, Slovakia does not furnish credible housing data; therefore, the actual number of housing units can only be estimated. Assuming that the 1991 level of 307 housing units per 1,000 persons still holds, the housing stock is estimated to have been 1,660,000 housing units at the end of 1998. However, estimates differ. Some sources report that at present there are as many as 313 housing units per 1,000 persons, quoting data from the international conference Euroconstruct in Barcelona. According to estimates by the Center for Economic Development, there were 302 housing units per 1,000 persons. This value was calculated on December 31, 1998, based on the 1991 census data on permanently utilized housing and adjusted by the Center using Statistical Office data on new housing construction and adjusted again using an annual housing stock shrinkage rate of 0.55 to 0.6 percent. According to this data, at the end of 1998 Slovakia had about 1,625,000 housing units. Two open questions remain: (1) what is the actual rate of decline in the housing units due to housing depreciation, mergers, or conversion to non-housing premises? And (2), what is the extent of unoccupied housing? It is assumed that the actual housing units will be documented after the next census in 2001. Housing ownership is undergoing constant change; private ownership is increasing as municipal and co-operative housing is converted to private ownership. Although estimates differ, it appears probable that nearly 65 percent of the housing stock is privately owned, the rest being divided about equally between co-operative and municipal (state-owned) housing. The proportion of the two major forms of housing utilization, owning and renting, has been changing gradually. Rented housing currently accounts for less than 40 percent of the housing stock (an estimate for 1999 by the Center for Economic Development, including cooperative housing).

Industry: On June 30, 1999 private sector enterprises reported 80.8 percent of all earnings in industry, up 1.2 points as compared to the previous year.

Small business and services: Private businesses operating in the services sector accounted for 95.5 percent of all earnings in the sector.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

The year 1998 witnessed the stagnation of the privatization process and controversial developments that corroborated the existence of links between privatizing investors and top politicians in the civil service, as well as family connections between privatizing investors and some government officials. This was revealed by the opposition, which directly exposed some politicians and managers for pilfering privatized companies for the benefit of relatives. In June 1998 Ivan Mikloš published in the press and posted on the Internet a list of such officials together with the enterprises that they had privatized on suspiciously soft terms by using front persons. The year 1999 was marked by a drive to revise concluded privatization contracts and privatization deals that had not been finalized.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

In its manifesto, the new government pledged to revise privatization contracts concluded under the previous administration (as there had evidently been many improper dealings) and to revoke privatization agreements and/or reprivatize underlying assets in instances where the law had been broken. The government also pledged to continue the privatization process and to pay out amounts due from NPF

bonds. In the period from January 20 to February 2, 1999, the Institute for Public Affairs conducted a telephone survey to poll public opinion on revising disadvantageous privatization contracts. Out of 1,806 respondents, 77 percent agreed with such revisions, 13 percent were opposed, and 10 percent were undecided. Revision was favored by a majority of men and women of all age groups, educational levels and occupations, urban and rural residents, as well as citizens of all administrative districts and regions. Most followers of the political parties, including the opposition SNS and HZDS, supported the proposed procedure; while supporters of SDK, SDL, SOP, and SMK were significantly in favor of such revisions; among members of HZDS the prevalence of support was relatively weaker. In 1998 and 1999 the privatization process was deemed stagnant, especially with regard to health care facilities, waterworks, and sewerage as well as strategic enterprises such as banks and public utilities). Many interest groups, especially medical professionals, have criticized the government's inaction.

MACROECONOMIC POLICY 3.25/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue collection body overburdened? What is the overall tax burden?

The principles of the taxation system have remained unchanged. No systemic change has been implemented in the taxation of individuals and corporate entities, in VAT, in excise taxes, or in the levies funding the pension, sickness, health, and employment insurance schemes. There have been a few partial changes and rate adjustments. One such change concerned corporate income tax paid by foreign investors in Slovakia. The new provisions apply to joint-stock companies, which have a 50 percent or greater share of foreign investment, which were incorporated after April 1999, and which are involved with the production of goods or services, except those in the banking and insurance industries, trade (retail and wholesale), and the stock market. A tax credit of 100 percent will be granted for 5 years to any investor who, for the duration of the tax credit, will invest either cash or assets worth at least 5,000,000 EUR into a company's equity. If invested in administrative districts with a high rate of unemployment, 2,500,000 EUR is required; if invested into select tourist industry services, 1,500,000 EUR is required. Other terms include a requirement for 60 percent of production to be exported (or 60 percent of earnings from tourism) and that the tax credit should be invested in tangible assets. If, during the term of the tax credit, an investor increases the company's equity again by at least 5,000,000 EUR (or 2,500,000 EUR as indicated above), he will be entitled, after the end of the current tax credit, to another 5 year, 50 percent tax credit.

The most significant change in tax rates was the increase, beginning in July 1999, of the lowest VAT rate from six to ten percent and the reclassification of some goods and services from the upper to the lower VAT bracket. At the same time, excises were increased on hydrocarbon fuels, including oil, as well as on tobacco products. A seven- percent import surcharge was introduced in June 1999. All these changes were part of an austerity package that the government had adopted on May 31, 1999 to deal with macroeconomic imbalances and a lack of competitiveness in the Slovak economy. As it happens, however, tax breaks for foreign investors are not being used as extensively as expected. The reason is that there exists a heavy administrative burden in proving that an investor has met all of the criteria for such breaks. Merchants and importers immediately reflected the higher VAT and excise taxes and the import surcharge in consumer prices, a move that generated inflation pressures.

Tax collection is fairly poor. In part, this is because of flaws in the existing tax legislation, inadequate enforcement, and the high burden of taxes and levies imposed on taxpayers. At the end of 1998 tax arrears were 38 billion Sk (5 percent of GDP) and in 1999 alone they went up by another 9 billion Sk. This led the finance minister to describe 1999 as a "tax year." In 1998, the tax revenues of the state budget were 152,987 billion Sk (98.3 percent of the target), up 7.45 billion Sk over 1997. Structurally, this increase was primarily due to higher revenues generated through the personal income tax (up 3.73 billion Sk; 109.3 percent of the target), corporate income tax (up 1.24 billion Sk; 88.7 percent), the withholding tax (up 1.976 billion; 95.3 percent), the excise tax (up 1.119 billion Sk; 100.3 percent), and the international trade tax (up 1.119 billion Sk; 97.8 percent). Tax revenues as a share of GDP, however, declined from 27.1 percent in 1994 to 21.3 percent in 1998. The most significant contributing factor to this was a shortfall in revenues generated by the corporate income tax, which diminished from 7.2 percent of GDP in 1994 to 3.4 percent in 1998. Precise data on the current tax burden are not available.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

An expansive fiscal policy encouraging government investment and household consumption resulted in a major disparity between domestic demand and supply, leading to a marked macroeconomic imbalance in the form of a twin deficit. High interest rates reduced private investment and aggravated the debt burden. The first step of the new government that came to power in the September 1998 elections was to formulate three austerity economic packages. The first package was designed to stabilize public finances, the second one focused on enhancing the competitiveness of the Slovak economy, and the third package was conceived to compensate the most disadvantaged groups for the effects of the first two packages.

These measures, however, proved insufficient, as a temporary stabilization quickly gave way to new difficulties, especially in May when the exchange rate plummeted in response to the continuing deterioration of the fiscal situation and the balance of trade deficit. In May, the government initiated a proposal designed to dramatically reduce public consumption. Real GDP growth tumbled from 6.5 percent in the third quarter of 1998 to 0.5 percent in the fourth quarter of 1998. The government's stabilization packages were reflected in slower GDP growth (1.9 percent in the first quarter of 1999 and 2.9 percent in the second quarter of 1999). In 1998, real GDP grew by 4.4 percent. Contributing to this expansion were the increases in consumer spending (4.9 percent), in government expenditures (0.2 percent), and in fixed capital (11.0 percent). The rate of growth decreased by 32 percent compared with 1997, while the 0.5 percent rate of GDP growth in the last quarter of 1998 suggested a general trend of declining growth.

These assumptions were also manifested in 1999, as the rate of GDP growth in the first 6 months of the year was a mere 2.4 percent. By the beginning of 1999 it became evident that the growth generated in the past by a rising foreign debt was not sustainable. This dramatic slowdown was a result of the economic policy pursued over the past three years and the avoidance of unpopular austerity measures (price deregulation, cutting state budget expenditures etc.), which at the macroeconomic level was reflected in fiscal expansion. The new government has sent positive signals having twice deregulated energy prices since coming to office. The 1999 budget was drafted along the same lines as in the previous year and did not bring about major changes in budgeting philosophy. The government first estimated future expenditures and then tried to plan revenues accordingly. A large budget deficit was one of the indicators of the 1999 currency crisis. The draft 2000 budget has been primarily derived from revenue estimates. In 1998, the actual government budget deficit was 19.2 billion Sk versus the 5 billion Sk target. On the revenues side (177.8 billion Sk) the shortfall of VAT (86 percent of the target) was the largest (down almost 9 billion Sk). On the expenditures side (197 billion Sk) the largest overruns were in capital expenditures (10.4 billion Sk above the target). The largest item of capital expenditures was highway construction. In 1998 government operations were overshadowed by a considerable increase in the cost of deficit financing. This had unavoidable implications for the 1999 budget (with a projected deficit of 15 billion Sk), government debt service costs totaling 20 billion Sk, more than 10 percent of all expenditures and almost 6 billion Sk over 1988. On December 31, 1998, government debt totaled 199.9 billion Sk, 27.9 percent of 1998 GDP.

The system of financing social and health insurance plans was not sustainable in the long run. In 1998 the government's failure to pay adequate amounts on behalf of insured persons under its coverage led to a crisis in the public health sector. The claims of health insurance companies on the government totaled 30 billion Sk (4.2 percent of GDP). Health spending has been declining as a share of the state budget. There are increasingly fewer entities contributing to health insurance funds. The implementation of multiple-source funding, equal treatment of state and non-state operators, preference for less costly outpatient care rather than more expensive in-patient services and, especially, greater emphasis on prevention would be a major move forward. At present "sick-leave" payment benefits annually total as much as 1.7 percent of GDP. This is because the "sick-leave" pay system is overly generous and abused and, therefore, in need of major reform.

In 1998, current transfers to the enterprise sector were budgeted at 13.4 billion Sk (6.8 percent of state budget expenditures). However, actual transfers to the enterprise sector proved higher, which necessitated budget adjustments, raising such transfers by nearly 1.0 billion Sk to 14.3 billion Sk (7.3 percent of expenditures).

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is

it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

No banking reform was implemented during the period in question. The biggest state-run banks (see below), however, suffered heavy losses because of problem loans. Their restructuring process is currently underway. The National Bank of Slovakia (NBS) is independent and its status has not changed during the period. During the period there have been no changes in the central bank's authority. The central bank has been relatively successful in managing monetary policy. The NBS has, in collaboration with the finance ministry, been able to reduce money market rates (3 month BRIBOR) by approximately 13 percent. Disregarding the exchange rate upheavals affecting the local currency from August to September 1998 and from May to June 1999, interest rates have remained fairly stable and have tended to decline.

The central bank may have lacked prudence when it tried to sustain (in August and September 1998) the exchange rate, spending $1 billion in two months but ultimately failing. On October 1, 1998 the NBS was forced to change the exchange rate arrangement, giving up the pegged exchange rate within bands ±7% and adopting a floating exchange rate, which led to a rapid depreciation of the currency. The exchange rate then evolved in a relatively stable fashion, gradually depreciating throughout the period (from 34.94 Sk to the US dollar in July 1998 to 36.83 in January 1999; however in the first six months of 1999 the exchange rate depreciated dramatically to 43.78 Sk to the dollar. Inflation was stable during the period, ranging from 7.4 to 5.9 percent. These developments resulted from the central bank's restrictive monetary policy, followed by signs later of a slight moderation in the restrictive policy.

As of June 1999 Slovakia had 24 commercial banks and branches of foreign banks, 2 specialized state-owned banking institutions, 10 offices of foreign banks, and 1 bank set up under a separate law (Eximbanka). At the end of 1998 the share of total banking sector assets held by state-owned banks (Všeobecná úverová banka, Slovenská sporitelna, Investicná a rozvojová banka under the receivership of NBS) declined below 50 percent for the first time. The private and semi-private banks that have emerged since 1989 are gaining stronger positions in the markets for loans and deposits. Private or mostly private banks already dominate the loan market, since a heavy burden of classified loans prevents state-owned banks from any further lending. With a deposit base expanding more than 20 percent a year, those banks with a large share of foreign capital are particularly prominent among the most successful financial institutions.

Of the 12 banks that reported net profits greater than 100 million Sk, 10 were dominated by foreign capital. In 1998, the cumulative net profit of banks with foreign capital operating in Slovakia was almost four billion Sk, while the aggregate financial balance of banks largely dependant on Slovak capital (excluding the three state-owned banks and Priemyselná banka) was not enough even to allow them to break even. If one uses domestic accounting standards, the losses of Slovak banks totaled 8 billion Sk; if one relies on international standards, the total is nearly 20 billion Sk. These losses were largely due to non-performing loans; some banks, however, have reported operating losses.

The net interest margins of Slovakia's banks (2.88 percent in 1998) and spreads (3.54 percent in 1998) have declined steadily since 1994. This trend does not result from declining interest rates but from the increasingly large share of non-performing bank assets associated with interest expense. In state-owned banks, the return on equity is either negative or almost zero, while in ten private banks this ratio is higher than 15 percent and, in some of the best banks, in excess of 50 percent. Return on assets was higher than 1.5 percent in 6 private banks only, with state-owned banks reporting either zero or negative values. Private banks had no problem meeting capital adequacy requirements, while state-owned banks and one private bank (Priemyselná banka) either had enormous difficulties meeting them or did not comply at all. In 1998 classified loans in the banking sector increased 4.5 percent (22 billion Sk), totaling 35.7 percent (142 billion Sk) of all outstanding loans. Problem loans accounted for 84 percent of classified loans. Available provisions covered, together with collateral, only two thirds of the banks' classified loans. Allowing for reserves and reserve funds, the projected non-provisioned loss of the banking sector was 23.3 billion Sk. Experts believe, however, that the actual non-provisioned loss is in fact higher, given problematic collateral valuations. Many banks have already conceded that most of their collateral could only be realized at a fraction of their book value.

Depositors are protected under the law on the Deposits Protection Fund, to which banks are contributing 0.1 to 0.3 percent of received deposits. The Deposits Protection Fund is a separate legal entity. Protection is accorded to non-anonymous deposits at 30 times (in banks) and 60 times (in mortgage loan departments) of the average monthly wage in the national economy (10,003 Sk in 1998).

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

In October 1998 the National Bank of Slovakia revoked the band for exchange rate fluctuations. The move had been prompted by several factors; first, the fiscal deficit in government finances accompanied in the third quarter of 1998 by a runaway increase in interbank rates; second, a deteriorating external position (deficit of foreign trade and current accounts) in the third quarter and a reduction in October 1998 of the import surcharge to zero, and third, this twin deficit exposed the local currency to unrelenting pressures, which the NBS sought to relieve by disbursing foreign reserves, whose stock diminished in 4 months from $3,770 million in July 1998 to $2,986 million in October 1998, or by $784 million.

The floating exchange rate of the national currency was first shaken in May 1999. That upheaval was due to negative developments in public finances, criticisms by international institutions, and persistent delays in implementing reform measures. The situation only normalized at the end of May when the government initiated a second rescue package envisaging measures such as the reintroduction of an import surcharge to stabilize the balance of trade deficit, an increase in the lower VAT rate from six to ten percent, and price deregulation to boost state budget revenues and reduce the fiscal deficit. In an attempt to sustain the exchange rate, the NBS responded to the crises in May and October by raising interest rates. The average interbank offer rate (BRIBOR) was 26.65 percent in October and 25.05 percent in May versus the average monthly rates of 13 to 17 percent during other months between July 1998 and June 1999. The Slovak currency is fully convertible in terms of current account transactions. As a result of exchange rate instability and following central bank interventions, on June 30, 1999 foreign reserves declined, compared with the previous year, from $3.79 billion to $2.95 billion; during the May crisis foreign reserves were $2.515 billion, barely the equivalent of 2.3 months' imports. Exchange rate policy changed dramatically after the Slovak currency departed from the pegged exchange rate arrangement (pegged against a basket consisting of 60 percent DEM and 40 percent USD, with a fluctuation band of ±7%) and adopted an independent floating rate, with the euro used as the reference currency. The central bank now influences the exchange rate exclusively through open market operations. The rate evolves in response to supply and demand. Following the implementation of the salvage package in May 1999 and the issue by the treasury of Eurobonds worth approximately 500 million EUR, the local currency has been appreciating and has remained stable vis-à-vis the two major global currencies (EUR and USD).

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The capital market is inefficient, non-liquid, and non-transparent. Notwithstanding achievements in setting up an institutional framework, Slovakia's capital market is still unable to establish a predictable environment; nor is it able to perform adequately its allocation and information functions in the economy. The market lacks major foreign investors. Securities price manipulation and insider trading have become fairly common. The main shortcomings in the law are the lack of adequate protection for minority shareholder against fraud and the lack of conditions that would encourage the growth of collective investment plans. Enterprises in need of investment can choose between issuing bonds on the primary market or taking a loan. The government's need to finance a large public finance deficit, which reduced private investment, has led to high treasury bond rates and a non-functioning capital market. For this reason, a vast majority of Slovak enterprises are financing their investment by issuing debt on international markets or by borrowing from banks.

The secondary bond and equity market is organized by the Bratislava Stock Exchange. The Stock Exchange trades in equity, treasury, municipal, bank, and corporate bonds, with treasury bonds clearly prevailing in terms of volume trading.

The equity index SAX is an indication of the crisis that has gripped the capital market. SAX is used to compare the current market capitalization of 12 selected equities with the market capitalization of the same set of shares on the

day the index was introduced and set at 100 points (September 14, 1993). In December 1998 SAX declined below the initial 100 points and in May reached a historic low of 75 points. Direct rather than anonymous trading is the prevailing norm on the Stock Exchange. The RM System also organizes the secondary equity market. The RMS equity index that comprises 100 companies representative of market developments was initially set at 1,000 points. At the beginning of 1999, the RMS was 550 points. In May, the RMS fell to 450 points. Since the primary and secondary equity markets are stagnant, conditions are not in place for trading in derivatives. The volume of trading on the commodity exchange is minimal.

The year 2000 should see the establishment of an independent authority in the financial with the powers to oversee the capital market, the insurance industry and, in 2002, the banking sector. However, at present, state supervision over the capital market functions inadequately, falls prey to political manipulation, and represents one of the major weaknesses of the capital market. The power to regulate the capital market is currently vested with the capital market department of the finance ministry.

MICROECONOMIC POLICY 3.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?
The Slovak constitution guarantees ownership rights. Expropriation is only possible under the law and in the public interest and it is subject to compensation commensurate with the full value of expropriated assets. Under the current foreign exchange law, non-nationals continue to be denied the right to acquire land. There has been no nationalization during this period. Several buyers of privatized enterprises have, however, returned their shares to the NPF as part of the process revising privatization decisions taken in the past. These instances, however, were confined to breaches of legislation that occurred during privatization or to the failure of buyers to abide by the terms they had agreed to with the NPF.

Protection of intellectual property is vested with the Industrial Property Office (industrial patents, discoveries etc.) and the copyright law. The courts resolve disputes, though, since the courts are overburdened, proceedings tend to be lengthy. Real estate registration is vested with specialized registries (cadasters). As of January 2000, bearer shares will be terminated. Pending that, all bearer shares should be converted to registered shares or entered in the securities register. Payment arrears (totaling 374.4 billion Sk at the end of 1998) and poor solvency represent another enduring—and worsening—economic problem. Another weakness is the disadvantaged status of creditors because of ineffective bankruptcy procedures. Only seven instances of bankruptcy proceedings were effectively resolved during 1998; the same number was resolved during the first six months of 1999. The new government rescinded the controversial Revitalization Act that, on a selective basis, provided for the liabilities of some enterprises to be waived and that contributed to deteriorating discipline in payments.

2. To what extent have prices been liberalized? What subsidies remain?
Ninety-eight percent of all prices have been liberalized. In 1999 the government raised several regulated prices (electricity, natural gas, water supply, and sewerage services,) in order to cut the gap between the rising costs of such enterprises and the regulated prices of their outputs. The government continues to subsidize the heating costs of households (3.6 billion Sk in 1998). Through state budget reallocation, in 1998 the government was subsidizing the enterprise sector at approximately 14.4 billion Sk. The largest subsidy goes to the agricultural sector (8.1 billion Sk in 1998, out of which 6.8 billion Sk were non-investment subsidies). Subsidies also go to the Slovak Railway (ZSR) to compensate the company for part of the loss it incurs by providing "public benefit services" and offering discounts to groups such as students and pensioners (2.2 billion Sk in 1998).

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and con-

sumers? Do they create significant barriers to entry and seriously hamper competition?

There are no significant formal obstacles to the formation and operation of businesses. However, small entrepreneurs especially are critical of the lack of transparency and the frequent amendments to the relevant legislation. To facilitate small business operations, the government is working to implement, beginning in 2000, a flat license fee offered to select categories of small entrepreneurs. Upon paying such fees at the start of a taxation period, entrepreneurs will be relieved of the requirement to maintain full-fledged accounts and will only have to record their earnings.

The rules for transacting business by corporations are spelled out in the commercial code, which has been amended twice since early 1998. The first amendment, enacted at the beginning of 1998, addressed the problem of limited liability companies avoiding their liabilities by setting up new entities. Under the new amendment, associates would not be allowed to incorporate a new company unless their existing companies have settled outstanding liabilities with the government (taxes, duties, and insurance contributions) and with employees (wages). The amendment also increased minimum statutory capital requirements from 100,000 to 200,000 Sk. Experience has since demonstrated that provisions intended to curb the practice of dumping past liabilities can be easily obviated. The purpose of the second amendment, which came into effect in July 1999, was to make the fraudulent siphoning of corporate funds more difficult by imposing restrictions on block voting by certain shareholder groups or by members of corporate governance bodies. The second amendment also provided for bearer shares to be issued exclusively in electronic, i.e. book-entry, form.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

As courts have large backlogs of work, proceedings tend to take a long time. Under the current bankruptcy law, creditors have the option of resolving their claims through legal proceedings; however, settlement proceedings can only be initiated by the debtor, so creditors are virtually denied the possibility of taking over a debtor's business in order to make it profitable and increase its value. Creditors can also resort to the courts for collection of debtors' assets.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The Act on the Protection of Competition (Slovakia's antitrust law) is the principal law regulating monopolies. The Antimonopoly Authority is responsible for overseeing compliance with the law. The commercial code also has several provisions against unfair competitive practices. Despite the existence of a Public Procurement Act and the requirement that all government enterprises and institutions hold public tenders for all purchases in excess of a certain amount, in practice tender organizers often resort to practices that lack transparency. The largest protest over such a deal followed a tender for a consultant in the privatization of Slovak Telecom as the ministry of transport had organized it. The tender criteria were altered after preliminary results had been announced so that, ultimately, the tender went to a different bidder than the one who had qualified under the original rules. Doubts were also expressed regarding the process of appointing a company to collect part of Russia's debt to Slovakia. Transparency International Slovakia, a non-government organization, has been an active partner of the government on issues of transparency and public procurements.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Slovakia has an open economy, as measured by the share of foreign trade turnover in GDP, which reached 116 percent at the end of 1998. In the same year, however, the external imbalance deepened, resulting in a highest ever trade deficit of Sk 80 billion, corresponding to 11 percent of GDP. In an attempt to thwart a disconcertingly high deficit in the balance of trade, on June 1, 1999 the government reintroduced a 7 percent import surcharge, which previously had been reduced to zero. The surcharge, which will be gradually phased out, is applied to imports from all countries, though exemptions are envisaged for a broad range of raw materials and other commodities. The currency depreciation that followed the abolishment of the fixed exchange rate regime in 1998 enhanced the price competitiveness of Slovak exporters and, accompanied by stabilization measures hampering domestic demand, reduced import growth.

As a result, the trade deficit by the end of the first half of 1999 was 30 percent lower than in 1998.

7. To what extent has foreign investment and capital flow been encouraged or constrained?
The generally low level of foreign investments did not increase in 1998 or 1999. In 1998 foreign investments into Slovakia were about $440 million, (2.2 percent of GDP). In the first six months of 1999 foreign investments were a mere $110 million, (1.2 percent of GDP). On April 1, 1999 the government passed an amendment to the Income Tax Act that provided tax credits for foreign investors. The credits would be extended after the government considered the investor's volume of investment, the share of exported production, and the amount of investment made in regions with high unemployment. Under a May 1999 decision of the finance ministry, foreign investors can apply for duties to be waived when importing select types of machines and equipment.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
The energy sector is still government-owned. However, plans envision the privatization of Slovenské elektrárne, (a state-owned joint-stock company generating and distributing electricity), and regional electricity distribution utilities. Slovenský plynárenský priemysel (a state-owned enterprise active in the import, storage, distribution, and transport of natural gas) will also be privatized. The government will retain a 51 percent share in all these companies. Slovakia continues to be almost 100 percent dependent on the import of Russian oil and gas.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?
The workforce has been steadily declining since 1993, when its size was 2,626,300. In the second quarter of 1999, Slovakia's workforce was 2,527,400 strong; 2,102,900 thousand (84.2 percent) were working and 400,300 (15.8 percent) were unemployed. Of those working, 98.1 percent held full-time jobs. Women accounted for 45.6 percent and men for 54.4 percent of the workforce.

In Slovakia there are three official ways of reporting unemployment. The first method, provided by the Ministry of Labor, Social Affairs and Family, reflects the number of persons registered with the National Labor Office; this method reported 496,038 persons out of work. The second approach (ILO methodology), taking into account the number of persons prepared immediately to accept a job offer, revealed 470,766 unemployed, corresponding to a 17.7 percent unemployment rate. The third approach, relying on selective labor force surveys, reported 400,300 jobless persons, which corresponded to a 15.8 percent unemployment rate. Women and men accounted for 45.5 and 54.5 percent of unemployment, respectively. All the above data were based upon June 1999 figures. The outlook for improving Slovakia's unemployment in the immediate future is bleak. It is estimated that the genuine number of the unemployed is 50,000 to 100,000 less than what official rates suggest, since some of those allegedly jobless individuals continue illegally to receive unemployment benefits while working, either in Slovakia or abroad.

The government pays unemployment benefits to those persons who have lost a job through no fault of their own and who have paid unemployment insurance premiums for at least 12 months during the past 3 years. Entitlement to receive unemployment benefits is limited to 12 months. The actual size of unemployment benefits depends on the average monthly assessment base. During the first 3 months the beneficiary receives 60 percent of the assessment base and 50 percent of it for the rest of the entitlement period. The maximum size of the unemployment benefit has been set at 5,400 Sk. Secondary school graduates and university graduates are not entitled to unemployment benefits before meeting the above criteria. At the end of 1998 the average unemployment benefit was 3,193 Sk.

2. Describe the national pension and retirement system. Describe public sector and private pension sys-

tems. Provide data on government pensions benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)

Before 1997 pension benefits could only be paid out of public funds based on compulsory pension fund contributions by employees and employers. Because of an aging population, this pay-as-you-go system is not sustainable. 1997 saw the establishment of the first private supplementary pension insurance plans based on voluntary and equal contributions by employees and employers. By June 30, 1999 the funds of these insurance plans had accumulated in excess of 1 billion Sk and coverage had been offered to 950 enterprises with 111,000 employees. Life insurance underwritten by commercial insurance companies is becoming a source for future pensions. Admittedly, at present there are only a few people receiving pension benefits from the new commercial funds, which have just recently started to operate. It is anticipated that the pension system will need to be reformed in the foreseeable future since the current funding is inadequate; the system may collapse as early as 2001.

Pension benefits are now paid by the state and are not subject to income tax. Actual benefits depend on employment duration and earned incomes. Under the law, an individual is entitled to a retirement pension on meeting 2 requirements: at least 25 years of employment and a statutory retirement age. As of December 1998 there were 771,800 pensioners (65.4 percent of all pensioners) receiving retirement benefits and 225,000 persons (19 percent) receiving disability benefits. The retirement age depends on type of occupation and, for women, on the number of children they have raised. Miners, pilots, seamen, and persons working in an extremely polluted environment can retire at 55 (or 58). Others are only entitled to retirement at 60. Women can retire at 57 unless entitled to retirement at 55. If a woman has raised 1 or 2 children, her retirement age is cut to 56 or 55 years, respectively. A woman with 3 or 4 children can retire at 54 and with 5 or more children at 53 years of age. In December 1998 the average pension benefit was 4,490 SK. In addition to state pensions, the local pension system also provides for disability and partial disability benefits, widow and widower benefits, orphan benefits, and social benefits. Furthermore, the above benefits can be supplemented by a special disability allowance. People with disabilities are entitled to higher deductions in the tax laws, depending on the severity of their disability.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrears (for example barter). What are the differences in public and private sector median wages and in median wages among men and women?

At the end of 1998 the average monthly income was 10,003 Sk, i.e. $250.10 (at $1= 40 Sk). The average monthly incomes of the population have been rising since 1993. While in 1993 the average monthly wages were 5,261 Sk, in 1998 they almost doubled, to 10,003 Sk. This growth, however, was only nominal and to a large extent influenced by inflation as expressed by the consumer price index, which on a cumulative basis has increased 84.6 percent in six years. Real wages are yet to achieve the pre-1989 levels (before the collapse of communism). Admittedly, these issues have been hotly debated, especially in recent years. Wage levels however, cannot be identified with just a few industries.

Transition problems have affected the textile, food, mining, as well as engineering industries. In most instances, wage problems were associated with specific enterprises in which deliberate actions taken by managers or privatizing investors stripped businesses of assets and left employees in a wage predicament. Employees affected by such actions are not considered unemployed and subsequently, they do not receive unemployment or social benefits. They are forced to live on their savings or on assistance from relatives and, often, parents who are themselves retired and dependent on modest government pensions. In such depressed areas local stores often provide people credit so that they can at least buy essential staples. In the countryside, the local population typically improves its living standards by raising produce on subsistence plots. This is a reason why the rural population is more impervious to income shortfalls than urban dwellers. In 1998 average wages for employees in government and subsidized organizations were 9,004 Sk, or 999

Sk (10 percent) less than in the economy as a whole. For example, in the education sector average monthly wages were only 8,607 Sk and in public health only 8,784 Sk. On the other hand, in other industries (i.e., the banking and financial sector) average monthly wages were far higher than the national average.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The number of pupils in primary schools decreased from 690,189 in 1993 to 645,941 in 1997. By contrast, the number of students in secondary schools went up from 318,133 in 1993 to 323,595 in 1997. Even more pronounced was the increase in the number of university students, growing from 61,257 in 1993 to 85,742 in 1998. This pattern was a reflection of baby boomers born in the 1970s enrolling in secondary schools and universities. In 1997 the national pupil-to-teacher ratio was 13.5 to 1. State budget expenditures on education expressed in current prices declined from 4.73 percent of GDP in 1993 to 3.94 percent of GDP in 1995. In 1996, expenditures increased to 4.78 percent of GDP followed by a decline to 4.26 percent of GDP in 1998.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

In 1997, 8.7 out of 1,000 infants born alive died before 1 year of age (a total of 514 infants). This ratio has declined gradually: in 1994 the infant mortality rate was 11.2 out of 1,000. The birthrate is also decreasing. In 1997, 11 babies were born per 1,000 of the population while in 1993 13.8 babies were born per 1000. In 1998 life expectancy at birth was 68.9 years for men and 76.7 years for women. Compared with 1997, life expectancy for men deteriorated by 0.3 years and remained unchanged for women. More than 90 percent of the Slovak population has married at least once. The marriage rate was 5.2 per 1,000 of the population (1997). In the 1990s the divorce rate was stable; in 1997 there were 1.7 divorces per 1,000 of the population. The Slovak Statistical Office does not report Slovakia's suicide rates.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to heath care. Provide data on the proportion of GDP expended by the public sector on health care.

In 1993, there were 35.55 physicians per 10,000 people, a number which declined to 34.5 in 1994 and 26.79 in 1995, and then rose again to 31.21 in 1996, 33.5 in 1997, and 34.74 in 1998. The number of nurses per 10,000 persons declined from 71.08 in 1993 to 70.25 in 1994, 64.17 in 1995, and 59.61 in 1996, before increasing to 70.37 in 1997 and 75.04 in 1998.

The average monthly salary of physicians has increased by 110 percent since 1994, to the current 17,438 Sk (1998 figures), or 74 percent higher than the average wages in the Slovak economy (10,003 Sk in 1998). In 1995, the average monthly salary was 10,054 Sk rising to 12,131 Sk in 1996 and 16,139 Sk in 1997. Nurses' average monthly salaries increased from 5,405 Sk in 1994 to 6,226 Sk in 1995, 7,004 Sk in 1996, 8,843 Sk in 1997, and 9,172 Sk in 1998. For paramedics, these figures were 3,984 Sk in 1994, 4,474 Sk in 1995, 5,163 Sk in 1996, 5,650 Sk in 1997, and 6,077 Sk in 1998.

From 1995 to 1997 average wages in the public health sector grew fairly rapidly despite the unsustainable nature of public finances. Wages only began to decline in 1998 as a result of expenditure reductions in the state budget. While in the period between 1994 and 1998 the average wages of physicians increased by 110 percent, those of nursing and equivalent staff went up by 70 percent, of paramedics by 53 percent, and of ancillary medical staff by 55 percent. Wages of physicians and all health professionals grew much more rapidly than the rate of inflation, which has increased by 50 percent since 1994.

The number of beds in hospitals has been declining as economizing measures are gradually being implemented. The number of beds per 10,000 persons has decreased from 79 in 1993 to 71 in 1994, rose again to 75 in both 1995 and 1996, and then decreased to 73 in 1997 and 67 in 1998. The total number of hospital beds during this period was 41,926

in 1993, 37,962 in 1994, 40,439 in 1995, 40,338 in 1996, 39,096 in 1997, and 35,593 in 1998. However, even this reduction fails adequately to address the critical situation in the health sector.

According to state accounts, health-care expenditures reached 6.4 percent of GDP in 1998.

7. What are the official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

Slovak statistics do not operate with the idea of "poverty," but instead use the idea of "material destitution." An individual is deemed materially destitute if his or her income falls short of a subsistence level as set out in an official regulation. A subsistence level is a threshold of net pecuniary earnings that should be sufficient for a household to meet its most modest requirements. In money terms, the subsistence level is 3,000 Sk ($72) per person per month, plus another 2,100 Sk ($50) for each additional jointly assessed adult and another 1,350 Sk ($33) for each dependent child. According to that definition, more than 10 percent of the Slovak population is currently poor. A joint survey carried out in 1995 by the Slovak Statistical Office together with the French INSEE used a different definition of poverty as part of their joint poverty project. This project was the most representative study on poverty ever conducted in Slovakia, distinguishing between monetary poverty, poverty in terms of living conditions, and subjective poverty. The monetary poverty line is generally determined to be 50 percent of average income, but in Slovakia the poverty line was drawn at 60 percent, because of insignificant income differentiation. According to that methodology, 12.1 percent of Slovak households were poor. In terms of poverty determined by the living conditions in a household, which assessed accommodation, nutrition, and availability of functional facilities, 13.4 percent of households in Slovakia were deemed poor. The subjective poverty rate was derived from the number of persons receiving social dependence benefits. While in 1993 this category of beneficiaries accounted for 7 percent of the population, in 1997 their share rose to 8.3 percent. In 1998 their numbers increased to 9.4 percent and in the first 6 months of 1999 their numbers exceeded the 10 percent threshold.

Unemployment is the most common cause of social dependence and, hence, material destitution. From 1993 to 1998 registered unemployed persons accounted for 77 percent to 88 percent of those receiving social dependence benefits, the ratio rising toward the end of the reviewed period. Given the direct correlation between the unemployment rate and the number of persons receiving social assistance, it should be emphasized that without addressing the unemployment problem, one cannot realistically expect to reduce the number of such beneficiaries and, accordingly, to reduce spending on the socially dependent.

SLOVENIA

Polity: Presidential-parliamentary democracy
Economy: Mixed capitalist
Population: 2,000,000
PPP (USD): 11,800
Capital: Ljubljana
Ethnic Groups Slovene (91 percent), Croat (3 percent), Serb (2 percent), Muslim (1 percent), other (3 percent)
Size of private sector as % of GDP (1998): 50

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	2.00	↑1.95	↑1.94
Rule of Law	na	na	1.75
Economic Liberalization	2.38	↑2.17	↑2.08

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	6370.0	7231.0	9418.0	9439.0	9103.0	9779.0	9789.0
Real GDP growth (% change on previous year)	2.8	5.3	4.1	3.5	4.6	3.9	3.5
Inflation rate	31.7	21.0	13.5	9.9	8.4	8.0	6.3
Exports (USD millions)	6083.0	6829.0	8350.0	8370.0	8407.0	9095.0	9596.0
Imports (USD millions)	6237.0	7168.0	9305.0	9252.0	9179.0	9870.0	10532.0
Foreign Direct Investment (USD millions)	111.0	131.0	170.0	178.0	295.0	154.0	320.0
Unemployment rate	9.1	9.0	7.4	7.3	7.4	7.9	na
Life Expectancy (years)	73.3	73.4	73.5	74.5	74.7	74.4	75.4

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			2	2	1	1	1	1	1	1	1
Civil Liberties			3	2	2	2	2	2	2	2	2
Status			F	F	F	F	F	F	F	F	F

Introduction

Slovenia, one of the region's smallest but most prosperous and stable states, declared independence from a fraying Yugoslavia in June 1991. Since then, Slovenia has been characterized as a constitutional parliamentary democracy with free and fair elections, a national assembly with full legislative power, and an independent judiciary. Human rights are guaranteed by the constitution and by statute, and enforced by the judiciary. In a recent survey of global corruption conducted by Transparency International, Slovenia was rated the least corrupt country among the nations of the former Soviet Union and Eastern Europe.

During the years since independence, Slovenia has continued to make progress toward developing a market economy. The country's currency is fully convertible and stable, and inflation has remained in the single digits for the last several years. While most small businesses and agricultural enterprises are now in private hands, the privatization of larger state holdings, including utilities, has not occurred as quickly as planned. Slovenia's openness to foreign trade, most of which is conducted with EU member states, has been a significant factor in the country's strong economic performance.

Recent policy in Slovenia has focused on implementing the necessary reforms for accession to the European Union. Aside from important economic measures, reforms aimed at bringing Slovenian social, criminal, and human rights legislation into line with EU standards have improved the atmosphere for civil and political rights.

Democratization

POLITICAL PROCESS 2.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

Slovenia held its first multiparty elections in December 1992. Prime Minister Janez Drnovsek's Liberal Democratic Party (LDS), the linchpin of the center-left governing coalition, emerged as a growing force in the contest, which was considered to be generally fair and free of irregularities.

The most recent general elections were held in November 1996. The LDS gave a strong showing, although several formerly marginal, right-wing parties gained popularity over such issues as European Union (EU) integration, the influx of foreigners, Bosnian refugees, and agricultural protection. The elections were inconclusive: the LDS won 27.1 percent of the vote and 25 of the National Assembly's 90 seats. Despite a three percent increase in the popular vote, the LDS lost five legislative seats, while its coalition partner, the Christian Democratic Party (SKD), won only nine seats—six fewer than in 1992. These seats were picked up by the Slovenian People's Party (SLS, 19 seats) and the Social Democrats (16 seats). Both of these parties are right wing and conservative, and made it difficult for Drnovsek to assemble a coalition government. The ultraconservative Social Democrats (SDS), led by former defense minister Janez Jansa, won 16 seats.

After three months of political deadlock, party leaders agreed on a left-right coalition of the LDS, Marjan Podobnik's SLS, and the small DeSUS pensioners' party in February 1997. Drnovsek remained prime minister. Slovenians also voted in November for the 40-member National Council, the upper chamber of parliament, which has substantially limited powers. The National Council may propose the enactment of statutes by parliament, give its opinion to parliament, require that parliament reconsider a statute, call a referendum, or call a parliamentary inquiry. Councilors are elected to five-year terms.

2. When did presidential elections occur? Were they free and fair?

Free and fair presidential elections were first held in December 1992, with Milan Kucan winning 63.5 percent of the vote. Kucan, the former local leader and head of the Slovenian League of Communists, won popular support in 1990 when he legalized several alternative political parties and youth movements, thereby advancing political pluralism in the face of Serbian leader Slobodan Milosevic's growing power.

Kucan was re-elected on November 23, 1997 with 65 percent of the vote. Seven other candidates ran as well, including SLS candidate Janez Podobnik, the speaker of parliament. Podobnik came in second with 18.4 percent of the vote. The election was considered to be free and fair.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?
Of the electoral systems in the former Yugoslavia, Slovenia's most closely resembles those in the West. Dozens of political parties, which span the spectrum of political views, contest elections at every level. Independent candidates and candidates with multiparty affiliations figure prominently in local elections.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
For a country with only 1.5 million eligible voters, Slovenia boasts a considerable number of political parties. At least 31 parties participated in 1996 general elections. The political scene, however, revolves mainly around four parties: the LDS, SKD, SLS, and the Social Democratic Party of Slovenia (SDSS). Eight national parties are represented in the legislature, including the LDS, the SLS, DeSUS, the SDSS, the SKD, the United List of Social Democrats (a coalition of former Communists), and the Slovenian National Party (SNS, an extreme right-wing group). In addition, the constitution mandates that a seat be reserved for each of the two main ethnic minority groups, Italian and Hungarian. No political parties have been banned or declared illegal.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
Figures on popular participation in political parties are difficult to obtain. However, the Slovenian government's Women's Policy Office published statistics on the share of women in the membership structure of parliamentary political parties in 1997. According to these statistics, 31 percent of the DeSUS party, 30.1 percent of the LDS, 28 percent of the SDSS, 60 percent of the SKD, 35 percent of the SLS, and 35.6 percent of the ZLSD were women. The LDS claims to have some 18,000 members.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
Voter turnout has declined since 1992. General elections in 1992 saw a turnout of 80 percent. In December 1994, turnout in municipal elections was only 60 percent in the first round and 50 percent in the second round. General elections in 1996 saw a 50 percent turnout. About 55 percent of voters turned out for November 1998 municipal elections. Data on female voter participation were unavailable.

CIVIL SOCIETY 1.75/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?
In 1989, over 100 grassroots organizations were estimated to exist, along with ten alternative political parties. Slovenia's relatively liberal political climate made it an exception among Eastern European countries. Since independence, Slovenia's nongovernmental sector has declined, reflecting the country's small population and reasonable, though not extraordinary, government safety net. Most NGOs aim to increase levels of technical competence in business and public policy administration or to provide university faculty or media training. Many are involved in environmental issues, and there are also a number of gay and lesbian political and support organizations, marketing associations, religious organizations, and organizations to promote awareness about social issues such as sexual harassment in the workplace. Amnesty International and the Helsinki Monitor have offices in Slovenia as well.

The Slovenian government has devolved some of its responsibilities to "institutes" or "foundations" that grew out of the Communist system, yet are classified as non-profit. Some of these are financed privately and some publicly, although they are generally independent of direct state administration. The government,

however, retains indirect influence through representatives who serve on the institutes' administrative bodies. Since these institutes address broad welfare issues, the government doesn't fully recognize the contribution of western-style, independent NGOs, and instead views them with suspicion.

There are organized women's groups within major political parties, including the LDS, the SLS, SDSS, SKD, and the United List of Social Democrats. Some of the major nongovernmental professional women's groups include the Women's Section of the Managers' Association and the Slovene Policewomen's Network. Politically active women's groups include the Prenner Group, which promotes the status of women in society; the Slovene Women's Society for World Peace, which undertakes charity work and promotes a greater social role for women; the Women's Counseling Service, which provides assistance and support for women who suffer abuse or need psychological counseling; and the City of Women, which promotes gender equality. Several nongovernmental women's groups belong to the Autonomous Women's Groups, a network of women's NGOs that cooperates with international and foreign organizations to promote women's issues. In addition, there are numerous crisis and help lines for women who are victims of violence. Membership figures are difficult to obtain. One leading group that deals primarily with women's gay rights issues, Sekcija LL, has around 200 members throughout Slovenia, but most of them are not involved with the group's activities.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Slovenia's legal system permits two types of non-profit organizations: associations and foundations. Aside from these, the law refers to non-profit activities of commercial companies, political parties, unions, and religious groups. Most of the more than 12,000 associations in Slovenia are involved in activities such as sports, culture, and fire fighting. The 1995 Law on Associations differentiates between associations working for public benefit and those working for the benefit of their members only. The law does not explicitly regulate public benefit associations, but refers to special regulations regarding public interest service in a given area. Under the 1995 Law on Foundations, a foundation is a legal person that must be established for beneficial and/or charitable purposes. The law explicitly distinguishes between foundations that are generally beneficial and those that are charitable. The aim of a foundation must be long-term in nature.

Associations must register on the local level with state administrative bodies. Decisions regarding establishment of an association may be appealed to the ministry of internal affairs or to the Supreme Court. The bodies that grant permission for the establishment of a foundation are ministries with jurisdiction over those areas in which the foundation will function. There are special accounting standards for commercial companies, associations, and other non-profit organizations. Under the Law on Associations, the state does not exercise supervisory power over associations beyond the point of initial registration. Other laws governing specific fields of activity may affect associations functioning in those areas. The state may exercise significantly more control over foundations, as the ministry with jurisdiction over the activities of the foundation is seen as the supervisory body of the foundation. The law does not explicitly prohibit the establishment of associations or foundations directly or indirectly for political aims.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

According to the Regional Environmental Center, which reports on the status of some 120 environmental NGOs in Slovenia, most NGOs have weak organizational structures, small memberships, and very few, if any, paid staff members. Environmental NGOs, however, have been successful at cooperation on common issues despite differences in organizational patterns, working goals, and methods. According to the Open Society Institute, most women's NGOs have informal structures and few if any full-time staff employees. Networks of cooperating women's groups do exist, but cooperation is generally limited to common actions or conferences. More experienced groups guide and pro-

vide assistance to others on a limited basis. Information about NGO management issues, to the extent that it exists, is available in Slovene.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Slovenian NGOs generally lack financial resources and generate little income. Thus, they depend on external sources of funding to conduct programs. Foreign financing is often distributed to indigenous organizations through re-granting organizations. Few foundations or organizations support NGOs financially, and most of the international organizations that support NGOs in other countries do not currently have active granting programs in Slovenia. The U.S. AID closed its office in Slovenia in 1997.

NGOs may earn income, but under the Law on Associations, an association may not be founded with the sole purpose of making a profit. Existing tax legislation does not encourage the development of the nonprofit sector. Tax exemptions and tax deductible contributions are permitted only under special conditions. Both foundations and associations may request government funding, but regulations on the disposal of public funds define the conditions under which funds may be awarded. Foundations must submit yearly reports on their financial management to the appropriate governing bodies.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

The constitution protects the right to form unions, bargain collectively, and strike. In 1993, the National Assembly passed legislation restricting strikes by some public sector employees. For a total national workforce of about 850,400, there are two major national labor unions, each with constituent branches throughout the country; several unions for government administrative workers; and a number of small business associations. The Association of Free Trade Unions is an independent trade union federation. The Association of Trade Unions is the de facto successor of the Communist trade union federation. Unions are independent of the government, though individual union members hold positions in the legislature. According to the European Commission, approximately 50 percent of Slovenian workers belong to trade unions. The Union of Workers in State Organs and Organs of Local Communities covers workers employed in state or local administration. It includes some 13,500 members, or about 45 percent of state or local administrative workers. The Police Union, with about 4,000 to 5,000 members, covers only public servants in the interior ministry.

Most farmers are represented politically by their political parties. The three major small business associations, the Association of Employers of Slovenia, the Chamber of Crafts of Slovenia, and the Association of Employers in Small Businesses, Catering, Intellectual Services, Tourism, Trade, and Freight Transport, signed an economic and social agreement that set up a council to determine wage and social policies. According to the Chamber of Crafts of Slovenia, Slovenia's small manufacturing and skilled trades sector employs almost 130,000 Slovenes, or nearly 20 percent of all employed people. At the beginning of 1998, the Chamber of Crafts numbered some 51,400 workers.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Citizens are free to lobby the government. The constitution explicitly provides for two fundamental forms of direct democracy: referenda and popular initiatives. Though American-style pressure groups do not exist, other groups are active. Trade unions strike, small business associations conduct policy negotiations with the government, and citizens petition, demonstrate, and engage in media debates. Members of trade unions and other interest groups are called upon to comment on draft legislation related to their activities. In addition, citizens wishing to unite communities into larger municipalities, and thus gain greater legislative autonomy, can do so by referendum. Certain ethnic Hungarian communities have exercised this right. In accordance with the 1992 Law on the National Council, the Council includes 22 members elected by the municipalities to represent their local interests, four employer representatives, four employee representatives, four representa-

tives of farmers, small business, and the self-employed, and six representatives of non-profit organizations.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
Interest groups or other associations are not consulted during the pre-parliamentary stages of the legislative process, but each piece of legislation must be submitted to the National Council. The Council often consults with NGOs on draft laws. In recent years, informal consultations with different interest groups have taken place during the preparation of major pieces of legislation. For example, an agreement on pension reform reached among trade unions, employers, and the government in May 1999 formed the basis of legislation that is expected to be adopted by parliament by the end of 1999.

INDEPENDENT MEDIA 1.75/7

1. Are there legal protections for press freedom?
Article 39 of the constitution guarantees the right to "collect, receive, and circulate information and opinions." Historically, Slovenia's media were relatively free for a socialist country, and unlike its neighbors, Slovenia has enjoyed free access to Western media. Currently, the greatest threats to freedom of the press stem not from government control, but from self-censorship, indirect political pressure, and journalistic inexperience resulting from more than 40 years of authoritarian Communist rule.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Article 169 of the civil code prohibits insulting officials. That law was last used in 1996 to prosecute a journalist. In April 1999, the criminal code was amended so that persons who disclose state or military secrets will not be punished if the disclosure aids in exposing "irregularities" in the organization of the intelligence services or the military, or if the disclosure or publication has no detrimental consequences for the state.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
According to the World Association of Newspapers, the privatization process for newspaper publishers is complete. One of three publishing houses has entered the stock market. The top daily newspapers are *Delo*, with a declared circulation of 91,000, *Slovenske Novice* (80,000), *Vecer* (73,000), *Dnevnik* (71,000), and *Ekipa* (25,000). In addition, there are about five regional, two national, and three local non-dailies, with a total circulation of about 330,000. Radiotelevisija Slovenija (Slovenia Radio-Television, or RTV) broadcasts in Slovene over three radio stations and two television channels. It is reportedly moving toward privatization but is still government-subsidized. There are four private commercial national television stations: Gajba TV, Kanal A, POP TV, and TV3. There are at least 42 private local television stations. There are also some 68 private national and local radio stations. The most popular include Radio Maribor and Radio Student, which has been a popular independent voice for almost 20 years.

4. Are the private media financially viable?
A small domestic market and a lack of diversified funding contribute to intense competition among Slovenian media. Private, independent media are more susceptible to financial difficulties, as previously state-owned media tend to have greater capital assets. Immediately after independence, the Slovenian government set up the Fund for Pluralization of the Media, which sought to support smaller papers. It was abolished in 1992 for no clear reason. Even well-funded papers cannot count on a diversified funding base to insulate them from sudden financial difficulties.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Slovenian media are generally editorially independent, though print media enjoy greater freedom than broadcast media, which rely to some degree on government funding. Libel legislation, journalistic inex-

perience, and the legacy of more than 40 years of authoritarian rule continue to affect the media through political pressure and self-censorship. Slovenian journalists have complained about editorial dependence on economic or political interests, about inexperienced journalists who report crudely or ignorantly, and about economic competition, which gives rise to sensationalism. However, the media offer a full range of opinions and ideas. The election law requires the media to offer free space and time to political parties at election time. Television networks routinely give public figures and opinion makers from across the political spectrum access via a broad range of public interest programming.

6. Is the distribution system for newspapers privately or governmentally controlled?
Independent vendors privately control the distribution system for newspapers in Slovenia.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
According to Research on Internet in Slovenia (RIS), as of September 1998, some 360,000 people, or 18 percent of the total population, had used the Internet at least once. Some 19 percent of people aged 15 to 65 had used the Internet in the last 3 months, and about 12 percent of people aged 15 to 65 reported that they use the Internet on a monthly basis. As of October 1998, there were approximately 37 Internet service providers in Slovenia, and about 1,060 computers connected to the Internet per 100,000 residents. There are no laws that explicitly govern Internet use, but legal restrictions on violent content and pornography in the media cover the Internet as well. These restrictions have not been widely used to hinder the flow of information, as evidenced by the proliferation of sexually explicit material available on servers in Slovenia.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
The Slovene Journalistic Society was established in 1944. Today, some 95 percent of Slovenian journalists belong to the Society. Data on membership were not available.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?
Freedom House's annual *Survey of Press Freedom* rated Slovenia "Partly Free" in 1994 and 1995, and "Free" in 1996 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 2.25/7

1. Is the legislature the effective rule-making institution?
The constitution provides for a clear distinction between branches of government, with the legislature clearly in control of rule making. The legal distinction is fully observed in practice. The legislative process is slowed by procedure, which requires three readings of every piece of legislation, and by disagreement among coalition members. The proposal for a new Parliament Standing Order, which would provide for a new parliamentary procedure, was prepared in November 1998. However, it has not yet passed because of difficulty in obtaining a two-thirds majority.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?
As Slovenia has only 2 million inhabitants, regional government does not exist. Instead, the government has created decentralized administrative bodies under the supervision of the ministries that manage affairs within their ministries' field of activity. The heads of these bodies are appointed and dismissed by the government, and they are authorized to supervise the activity of local authorities.

The present system of municipalities came into force in January 1995. It is a single-tier system of local government, in which the municipality performs only local tasks. Cities and towns that have the status of "city municipality" may be required to carry out specific tasks that fall under the jurisdiction of the state and are related to the development of the city or town. A municipality is created by law after a referendum with the participation of the residents in the particular area. There are currently 192 municipalities, but this number may change, as municipalities can join and form

provinces or other larger self-governing communities. Municipalities have authority over town planning, trade and industry, housing, gas, heating, water supply, sewage, trash collection and disposal, roads, transport, ports, education, welfare homes and services, social security, health protection, fire protection, civil protection, parks, cultural institutions (theatres, concerts, museums, libraries), sports and leisure, and tourism.

3. Are subnational officials chosen in free and fair elections?

Municipal councilors and mayors are elected in free and fair elections every four years. The mayor represents the municipality and heads the municipal administration. Voting rights are the same as for national elections, with the additional requirement that a voter be a permanent resident of the municipality in which he votes. Elections were last held in November 1998.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Executive and legislative bodies operate openly. State and local laws, acts, and other regulations are published in the Official Gazette of the Republic of Slovenia. The Gazette also includes public tenders, public advertisements, and judicial decisions, as well as international agreements or contracts signed or ratified by the government. This information is available on the Internet, on CD-ROM, on diskette, or by written request, in Slovene as well as in foreign languages. Although the constitution provides for it, there is no law at present guaranteeing openness in measures undertaken by the administration. As part of its push for EU membership and in compliance with OECD regulations, the government has attempted to bring its legislation into line with that of the EU and has regularly published economic statistics.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Municipalities are self-financed from local taxes and other duties, and from revenues received from municipal property. Tax revenue generally represents about 46 percent of local authorities' total revenue. Economically underdeveloped municipalities that cannot execute their tasks with their own financial resources may receive additional funding from the state.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The development of local government is still underway. A Strategic Plan for Administrative Reform in Slovenia, approved in 1997, is progressing, as are initiatives to bring the Slovenian administrative system into line with the standards of developed EU countries. Targets of reform include: further decentralization of decision making and devolution of authority; improved accountability of civil servants; a competitive marked for administrative service providers; and improved resource management and use of available information technology. The European Commission reported in 1999, however, that overall, public administrative reform has not achieved sufficient progress. The implementation of reforms has slowed. A Program Council for Public Administrative Reform, formed in 1998, has not become operational. No comprehensive approach or training strategy has been implemented, and the government has not yet adopted a draft Civil Service Law.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The division of tasks between state and local governments was outlined in the 1994 Law on Local Government. The number of municipal authorities was increased from 62 to 147, and responsibility for both state and local tasks was taken out of the hands of local governments. State tasks are now administered locally through administrative units linked to the national ministries. The officials in charge of these units are nominated by the central government. Local tasks are carried out through the municipalities, whose leaders are employees of the local government. The Constitutional Court decides disputes as to jurisdiction between the state and the municipality. There is currently no full statutory basis for a civil service, nor any clearly stated set of principles governing the role of the civil service. A Civil Service Act is still in preparation.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 1.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

The constitution was adopted in December 1991, after Slovenia's declaration of independence from the former Yugoslavia. The Constitutional Court is composed of nine judges appointed by the national assembly upon presidential recommendation for a nonrenewable nine-year term. The court ensures that laws, decrees, and regulatory acts issued by local authorities are consistent with the constitution, international treaties, and the general principles of ratified international law. It also rules on requests from appellants who feel that their constitutional rights have been violated. The president, the government, or one-third of the members of the national assembly may ask the court to rule on whether an international treaty to be ratified is consistent with the constitution. Article 160 of the constitution empowers the Constitutional Court to rule on jurisdictional disputes between courts and other state bodies.

In January 1999, the National Council filed a petition with the Constitutional Court to establish the unconstitutionality of articles of the Act on the Coat-of-Arms, Flag, and National Anthem of the Republic of Slovenia and on the Flag of the Slovenian Nation. According to the National Council, provisions of the act that allow for the display of the national flags of the Italian or Hungarian national communities and for the playing of these communities' national anthems at certain events are unconstitutional if the national flags of the Italian and Hungarian communities are identical with those of the Italian or Hungarian states. As such, the flags would represent an encroachment on Slovenia's sovereignty. The Constitutional Court decided that the right of both communities to use their national symbols freely is protected under Article 64 of the constitution, and thus the disputed provisions of the act are not unconstitutional.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

Section II of the constitution addresses human rights explicitly. Although there is a provision for the suspension of these rights in a state of emergency, certain rights, such as the inviolability of human life, may not be suspended at any time. The constitution covers most rights generally found in Western constitutions, such as due process, freedom of movement, freedom of expression, and freedom of conscience. Intellectual property rights are also covered. The rights of ethnic Italians and Hungarians are explicitly detailed, and the constitution grants them the right to use national symbols freely and to bilingual education.

Business and property rights are guaranteed under Articles 66 through 79 of the constitution, though the property rights of foreigners are limited. Article 68 of the constitution was amended in 1997 in compliance with the European Union Association Agreement, allowing foreigners to own property in accordance with a law or international agreement ratified by parliament. According to the European Commission, little progress has been made with regard to denationalization (the process of returning property to persons dispossessed by the Communist regime). A special office for denationalization was established in March 1999 to act as a coordinating body, but its mandate is not clear. A land registry exists but has not been computerized. Only 33 percent of total claims have been restituted.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The criminal code was adopted in September 1994 and came into effect on January 1, 1995. The constitution prohibits abuse and "humiliating punishment or treatment" of prisoners, and such treatment has not been reported. No human rights organizations have complained about prison conditions or abuse. Changes to the Penal Code and to the Law on Criminal Procedure were introduced in 1997 in order to bring Slovenian legislation into line with European standards and to address "new" forms of crime, such as money laundering, corruption, and computer hacking. Amendments to the law on penal procedures related to the

use of special investigation methods and means entered into force in January 1999.

Detainees must be advised in writing within 24 hours, and in their own language, of the reasons for detention. Detention may last up to six months before charges are brought. Once charges are brought, detention may be prolonged for a maximum of two years. Because the judicial system is overburdened, justice is frequently a protracted process. In some instances, criminal cases have been reported to take up to five years to come to trial. According to the U.S. State department, the problem is not widespread, and defendants are released on bail except in the most serious criminal cases.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?
Slovenian judges rule fairly and impartially. The judicial system is composed of district courts, regional courts, a court of appeals, and the Supreme Court as the highest court. Judges, elected by parliament on the nomination of the Judicial Council, are constitutionally independent and serve indefinitely, subject to an age limit. The Judicial Council is composed of six sitting judges elected by their peers and five presidential nominees elected by the state assembly. The nine-member constitutional court rules on the constitutionality of legislation. To balance the number of Communist-era judges, the government chose judges who had either spent substantial time studying law outside the socialist bloc or who had served on international commissions. Lengthy exposure to international standards of rule of law has created an independent court system.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The courts operate as an independent branch of government and are not linked to any executive body. The Judicial Council, which administers the judiciary, is partially elected by parliament upon presidential nomination and partially selected from among sitting judges. According to the European Commission, the main problem facing the Slovenian judiciary is inefficiency.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Currently, there are about 800 to 850 full practicing lawyers in Slovenia, all in private practice. A person who graduates from a faculty of law must work on a court of law for two years as an apprentice, and then take an exam. Once that exam is passed, the graduate must work for another two years in a law office before he or she is allowed to register with the Lawyers Chamber and thus to represent clients before the court. There are two law faculties in Slovenia: the University of Ljubljana and the University of Maribor. According to the Legal Information Center of the Constitutional Court, 241 people graduated from the University of Ljubljana law faculty in 1999. Of these, 150 were women. Of 144 graduates from the University of Maribor in 1999, 117 were women. Of the 800 to 850 members of the Lawyers Chamber, about 396 are women. Of the nine judges on the Constitutional Court, four are women. According to the Women's Policy Office of the government, as many as 63 percent of sitting judges in Slovenia are women. Women comprise some 72 percent of district court judges, and only 31 percent of Supreme Court justices.

7. Does the state provide public defenders?
The constitution guarantees the right of a defendant to an attorney. This guarantee is respected in practice.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Article 64 of the constitution grants Slovenia's Italian and Hungarian communities the right to education, media, and legal defense in their own languages. These two communities are also granted cultural autonomy in those areas in which they are the dominant ethnic group. Each group is represented by a deputy in the national assembly who has the power to block the adoption of laws that concern the exercise of the specific rights of these communities or their status. The Italian and Hungarian communities also have the right to promote their ties with Italy and Hungary.

Although a general protection law on the Roma (gypsy) community (some 7,000 to 10,000 people in Slovenia) has not yet been prepared, the Roma community is protected legally under Article 65 of the constitution, the 1993 law on local self-government, the

law on local elections, and education regulations. The law on local self-government guarantees political representation of the Roma, but only one municipal council includes Roma. The European Commission applauded the government of Slovenia for its commitment to supporting the Roma community and to finding solutions to outstanding problems with regard to minority rights.

9. Are judicial decisions effectively enforced?
Judicial decisions are effectively enforced.

CORRUPTION 2.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
The European Commission has reported that public confidence in the civil service is variable, and that widespread corruption is not a problem. Anecdotal evidence suggests that bribe requests are not standard practice in the attainment of services. Accusations of insider deals and a lack of transparency have surrounded the privatization process.

The gross basic pay of civil servants, as set out by the Law on Salary Ratios in Public Institutions, State Organs, and Organs of Local Governments, is comparable to that of workers in the private sector. The average monthly salary of a private sector employee is about $850, whereas the average monthly base salary of a civil servant is around $784. Base pay ranges from around $460 at the lowest level to about $1,960 at the highest, for the head of an administrative unit. In addition to base pay, public servants also receive bonuses depending on number of years worked, difficult conditions of work, unpleasant work hours, or special responsibilities. Some fringe benefits, such as housing and payment of tuition fees, may also be included in a civil servant's pay.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Slovenia's Law on Workers in State Organs (LWSO) sets out mechanisms to prevent incompatibilities and conflict of interest between officials and private business. For example, Article 27 of the LWSO prohibits senior officials from performing the same or similar types of jobs for private businesses and companies as they perform within the administration. Lower level officials are allowed to work for private businesses and companies on a contractual basis, but only if they obtain explicit authorization from the heads of their administrative units. Inspectors are not allowed to perform jobs outside the administration in the field of their competence. These ethical standards are observed in practice.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
The Law on Workers in State Organs addresses conflict of interest between officials and private business. According to Slovenian sources, ten state employees have been denounced in the past two years for accepting bribes, whereas 39 people were denounced for offering bribes. Only two state employees have been convicted of corruption in the past two years.

The current system of public administration provides for several internal and external control and oversight mechanisms. To ensure financial propriety in public administration, there are internal financial controls, control by a special supervisory department of the ministry of finance, and control by the court of audit. Higher administrative bodies may verify the legality, the professional nature, or the appropriateness of a decision by a lower administrative body. An inspectorate may be established to supervise the execution of laws and legal norms in a ministry's area of competence.

The constitution provides for a Court of Audit, whose powers and administration are determined by the 1994 Law on the Court of Audit. The court functions independently and is responsible for auditing

state finances, the state budget, and funds spent for public purposes, including funds spent by local self-governing bodies. Members of the court are appointed by the national assembly on the proposal of the president. Aside from budget inspection and the Court of Audit, there are no wide-ranging mechanisms for preventing corruption. Only certain officials are subject to financial disclosure.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

According to the Institute of Criminology at the Ljubljana Faculty of Law, no systematic survey of the perception of public sector corruption in Slovenia has been conducted. However, other surveys have included questions on corruption. A 1998 public opinion survey asked the question "Do you agree that today in Slovenia a man can climb to the top only using unfair means, i.e.: corruption?" The responses were as follows: 14.3 percent of respondents strongly agreed, 25.9 percent agreed, 26.5 percent neither agreed nor disagreed, 24.2 percent disagreed, 4.2 percent strongly disagreed, and 4.9 percent did not know. Two international crime victimization surveys were conducted in 1992 and 1997. A low number of respondents (less than 2 percent) reported having been victimized by public sector corruption. In addition, an ad-hoc opinion survey by the *Dnevnik* newspaper concluded that many think that the level of corruption in Slovenia is considerable, but very few respondents can remember any particular incident.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

The Slovenian criminal code penalizes criminal offenses against the economy. Criminal acts of corruption, such as bribery in commercial enterprises, are defined in Articles 247 and 248, while bribery of officials is included in Articles 267 and 268. Initiatives to combat corruption have been included in efforts to ensure compliance with EU requirements. The law on penal procedures was amended in October 1998 and the penal code was amended in March 1999. Both sets of amendments contain anticorruption measures. The penal code amendments extend the maximum allowable prison sentence from 20 to 30 years and introduce other more severe penalties for economic crime, organized crime, corruption, bribery, and money laundering.

In 1998, Slovenia ratified the Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime. In April 1999, Slovenia signed the Council of Europe's Agreement Establishing the Group of States Against Corruption (GRECO). In May 1999, Slovenia signed the Council of Europe Criminal Law Convention on Corruption. In February 1999, the government initiated the preparation of a methodology for gathering statistics on organized crime and corruption, and a code of ethics for public employees. Some ministries have codes of conduct for their employees, with internal committees in charge of implementation. Otherwise, there is no common code of conduct for all public officials.

The European Commission reported that only two state employees have been convicted in the past two years for corruption, while ten were denounced for accepting bribes. A report from the Corruption and Organized Crime in States in Transition (OCTOPUS) joint project between the European Commission and the Council of Europe states that many corruption cases related to privatization are concealed under criminal charges of abuse of position and fraudulent contracts because corruption is difficult to prove.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

According to informal assessments of public perceptions of official corruption (systematic surveys have not yet been conducted), people generally believe that there is considerable corruption in Slovenia, but very few people can point to a particular incident. Thus, there is little evidence of growing public intolerance of official corruption. For further information about public opinion on corruption, please see Question #4. There are no anticorruption public education efforts taking place at this time.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Slovenia was rated 25th out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 6.0 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 2.25/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
According to a report by the European Commission, the private sector in Slovenia currently accounts for only 50 to 55 percent of output and employment. The informal sector of the economy has been estimated at anywhere from 17 to 30 percent of GDP. One measure of the sector is the extent of undeclared employment: while recorded unemployment is over 14 percent, an ILO labor market survey put actual unemployment at only 7 percent.

2. What major privatization legislation has been passed? What were its substantive features?
In the communist period, Slovenian companies were "socially owned" rather than state owned. They were formally without legal owners. Their managers were not appointed by owners or nominated by the state. Staff worker councils nominated them, though often with a direct or indirect suggestion by the state. Consequently, privatization has been more decentralized than in other countries. Individual companies had a high degree of autonomy, giving them much more latitude to make privatization decisions relative to central authorities.

The Law on Ownership Transformation was adopted in 1992 and modified subsequently. It required privatizing companies to transfer 40 percent of their shares to one of three institutional investment funds, shares of which are held by the population. For the remaining portion, there were three main options for privatization: internal distribution of shares in exchange for vouchers, internal buyouts, and public share sales. Companies could choose which option they wanted, within set deadlines. Not surprisingly, internal ownership of the first or second form was the most popular. The authorities also created the autonomous Agency for Privatization in order to control and monitor the privatization process.

By the end of the large-scale privatization process in 1998, 1,600 state-owned firms were actually privatized. Insiders now own a large majority of firms. The conclusion of mass privatization was supposed to have come in January 1999. In a November 1998 law, the government agreed to cover the so-called "privatization gap." This is the $960 million difference between the value of the ownership certificates given to the population and the amount of equity actually transferred into private ownership. The government promised to publish a list of properties it would give away to cover the gap, but failed to do so as promised in January. The pension law passed in June 1999 indirectly addressed the gap. It promised to convert privatization promises into pension promises. In other words, individuals could choose to transfer their vouchers into their pension funds. A new round of privatization is scheduled to begin in late 1999. Unfinished privatization business remains in banks, utilities, and other large state firms.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?
According to the World Bank, 93.4 percent of private sector enterprises in 1996 were small, primarily trade and service entities. Over 90 percent of agriculture is in private hands. 1,600 companies were privatized in the 1992 to 1998 period, most of them small.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?
Management and employee buyouts were behind most privatization efforts. Management and staff of formerly socially owned autonomous companies were allowed and encouraged to acquire and buy shares in their own enterprises. Most employees opted to buy shares in their own companies, since they believed that this

would help them keep their jobs. As of the end of 1998, about 76 percent of the privatized companies are controlled by insiders. However, outsiders, such as voucher funds and state investment funds, own many of the largest companies.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?
Public awareness of privatization has been high, especially in the mass privatization program. As would be expected, workers tend to be more hesitant about privatization because the necessary Restructuring which follows invariably leads to reductions in staff.

MACROECONOMIC POLICY 2.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?
Following a comprehensive tax reform during the period from 1990 to 1993, corporate profits are taxed at a flat rate of 25 percent. Personal income tax is progressive, with a minimum rate of 17 percent and a maximum rate of 50 percent. A sakes tax of 20 percent for goods and 5 percent for services and equipment was introduced. Dividends are taxed at 25 percent for residents and 15 percent for non-residents. In January 1997, a 30 percent capital gains tax on securities held by individuals for less than three years was introduced, though gains made on first sale of shares bought during mass privatization were exempt.

The government has gradually reduced the employer's portion of social security contributions from a very high 50 percent in 1992 to 38 percent in July 1997. To make up the shortfall, a selective payroll tax was introduced in July 1996. In the middle of 1997, the progressive scale of the payroll tax was changed to ease the burden on lower wages. Furthermore, customs rates were reduced at the beginning of the year, following the adoption of the Europe Agreement, which substantially cut the receipts from this source. But the sales tax on oil products was raised slightly and a new tax on carbon dioxide was introduced in January 1997 to provide a new tax source as well as a fiscal instrument to promote environmental protection.

A new round of tax reform in Slovenia was launched in March 1999 to harmonize its tax code with European Union standards. The value-added tax (VAT) was introduced in July 1999 to replace sales taxes. The standard rate is 19 percent with a lower rate of 8 percent for food. A new motor vehicle tax (varying from 1 to 13 percent based on the sale price) was introduced at the end of June. The income tax is also expected to be reformed. The current tax collection authority was set up in mid-1996 to improve revenue collection, especially in the informal sector. Legislation giving more authority to tax inspectors came into effect in July 1997.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?
Fiscal policy reflects an overriding concern for entrance into the European Monetary Union. Slovenia already meets 3 of the 5 requirements on public debt (less than 60 percent of GDP), budget balance, and currency convertibility and stability. Slovenia still falls short on inflation and interest rates, which are both too high.

Slovene fiscal policy has been admirably prudent, running a balanced budget for several years. However, the government recorded deficits of 1.2 percent of GDP in 1997 and 0.8 percent in 1998. The 1999 budget deficit target is 0.7 percent. Total external debt was $4.9 billion at the end of 1998, or about 25 percent of GDP. In June 1996, Slovenia came to an agreement with the London Club of commercial lenders to assume responsibility for 18 percent ($812.5 million) of the former Yugoslavia's commercial debt. This allowed Slovenia to make its first international bond issue in July 1996, which was quickly oversubscribed. In May 1998, Slovenia was the first post-communist country to issue euro-denominated Eurobonds, in the amount of 500 million Ecu ($560 million).

Moody's and Standard and Poor's both give Slovenia the highest rating of all the transitional countries. Slovenia's total external debt is $4.9 billion, an in-

crease from 1994's level of $2.3 billion. The European Commission in its October 1998 report criticized the level of subsidies to loss-making enterprises, estimated at 4.4 percent of GDP. Some of these subsidies come from the Development Fund. This was originally set up to provide emergency funding to stabilize enterprises that were salvageable, or to initiate procedures to do away with those with no realistic prospects of survival.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The Bank of Slovenia was established as the country's central bank in 1991. The bank's primary task is to ensure currency stability and liquidity of payments within the country and with foreign countries. The Bank is a non-governmental independent institution; it is obliged to present a report on its operation to the parliament once every six months. The bank supervises the banking system but not other financial intermediaries or non-banks. It conducts no corporate business and no business with natural persons. The bank is not allowed to take out loans abroad for its own account nor for the account of third persons.

As of the end of 1998, Slovenia had 25 banks, 6 savings banks, and 70 savings cooperatives. These numbers are considered too many for such a small country. Three major foreign banks operate, though 12 more have some foreign participation. The three largest banks (Nova Ljubljanska banka, SKB banka, and Kreditna banka Maribor) manage more than half of all the sector's assets. While only SKB is private, the government has announced plans to privatize the other two large banks. Many of the smaller banks are inefficient, and consolidation of the sector has proceeded slowly. The government holds about 40 percent of banking sector assets. Banking assets are low, at 70 percent of GDP.

The sector has been over-regulated, which adversely affects competition and access to credit by local firms. For example, there are punitive restrictions on companies wishing to finance activities in Slovenia by taking out loans abroad. A banking law adopted in January 1999 liberalized rules for foreign participation in Slovenian banking, allowing them to open actual branches rather than just subsidiaries. It also eased restrictions on capital movement.

A bank rehabilitation agency was founded in October 1991. In 1993, the government began issuing rehabilitation bonds for non-performing loans on bank balance sheets. The rehabilitation program was formally complete in June 1997. Most banks are well capitalized, even too much so, with a capital adequacy ratio of 21.7 percent. Bad assets comprised only 3.3 percent of total assets in June 1998, a big fall from 17.3 percent in 1992. A cartel agreement among banks sets a ceiling on interest rates paid to depositors.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The Slovenian tolar was introduced in 1991. The government accepted the obligations of the IMF Article VIII to establish full current account convertibility in 1995, though the currency had been de facto convertible for current account purposes since early 1992. It is not fully convertible on the capital account.

At first, the tolar was allowed to float freely, but it depreciated heavily. As it stabilized and inflation dropped, the Bank of Slovenia adopted a managed float against the German mark. The aim was to keep the real exchange rate stable, as Slovenia has a small monetary base and so is susceptible to swings in capital inflows. In the mid-90s, the higher level of inflation in Slovenia and the attractiveness of portfolio investment opportunities led to increased capital inflows and a real appreciation of the tolar. As inflation has fallen, the tolar has seen a modest real depreciation (which began in 1999). In 1998, the average exchange rate was 166 tolar per $1.

In February 1997, the Bank of Slovenia restricted capital inflows through various instruments to reduce the pressure on the tolar. After public criticism and a severe drop in the stock market, these controls were softened in July of that year. They were eased further in early 1999. For example, foreigners are only required to keep Slovene securities for four years (unless sold to another foreigner), rather than the previous seven. Total foreign exchange reserves held by the central bank were $3.6 billion in December 1998.

In 1989, Slovenia and the rest of Yugoslavia experienced severe hyperinflation: 1,300 percent. Successfully disciplined monetary policy caused the inflation rate to fall below 100 percent in 1993. Since then, inflation in Croatia has been steadily declining: 13.4 percent in 1995, 9.9 percent in 1996, 8.4 percent in 1997, and 8 percent in 1998. It is expected to fall to six percent in 1999.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

Slovenia's capital market is relatively impressive by regional standards. Market capitalization of the Ljubljana Stock Exchange (LSE), founded in 1989, was 710.3 billion tolar ($4.4 billion) in 1998, compared with 399.3 billion tolar ($2.3 billion) in 1997. This includes both traded equities and bonds.

In February 1999, 103 companies were traded on the LSE, and 60 more were being prepared for listing. Many of these companies had been privatized earlier in the period from 1994 through 1998. The market is still comparatively illiquid, with annual turnover of only about a quarter of total capitalization. The majority of trades involve only five companies. With few exceptions, Slovenian companies have not yet used the LSE as a means of raising new capital. In January 1995, an over-the-counter market was opened on the LSE with eight companies acting as brokers. Futures trading began in March 1996. A commodity exchange was established in 1994, but closed down in 1998.

There are a number of restrictions on foreign portfolio activity. A foreign investor must establish a "custody account" in a local bank, or he is forbidden to sell to a Slovenian for a period of seven years. These requirements had instantly negative consequences for the LSE: a 20 percent fall in share prices. These controls were, however, liberalized in February 1999. The seven-year period was shortened to four. In June 1999, the Bank of Slovenia decided to shorten the period even further, to one year.

Issues of government bonds currently dominate the bond market. A functioning secondary market for short-term government securities and a more long-term corporate bond market are still to be established. Slovenia's capital markets are regulated by the Securities Market Agency, which is under the authority of the Ministry of Finance. The EBRD has praised Slovenian capital markets regulation.

MICROECONOMIC POLICY 2.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Property rights are guaranteed under Articles 66 through 79 of the constitution, though the property rights of foreigners are more restricted. Under the Association Agreement with the EU, signed in 1996, Slovenia promised a gradual deregulation of land ownership. To that end, Article 68 (which states that foreigners are permitted to own land in Slovenia only through inheritance and only when there is reciprocity for Slovenian citizens) was amended in July 1997. The Constitutional Law on Amending Article 68 allows foreigners to own property in accordance with the law or international agreement ratified by parliament. Foreign ownership rules were further liberalized in February 1999.

Slovenia's intellectual property legislation is compatible with EU standards. The 1992 Law on Industrial Property grants and protects patents, model and design rights, trademark and service marks, and appellations of origin. Legal rights take effect from the filing date. Patents have a life of 20 years, model and design rights last for 10, and trademarks are granted for 10 years but may be continually renewed. International applications filed in member countries of the International Union for the Protection of Industrial Property are afforded priority rights in Slovenia. The priority period is 12 months for patents and 6 months for model and design rights. The Law on Industrial Property also provides for compulsory licenses. The government may confer these after a determination of the "public interest" or if the patent is "insufficiently" used. If compulsory licenses are issued, patentees are

compensated. The 1995 Copyright and Related Rights Act regulates copyrights in Slovenia in both traditional and new technologies.

Slovenia acceded to the Trade Related Aspects of Intellectual Property (TRIPs) agreement as a developing country in January 1996. Slovenia is a member of the World Intellectual Property Organization. Slovenian law establishes a variety of civil and even criminal sanctions for violations of intellectual property. A Slovenian Copyright Agency exists. In practice, Slovenian enforcement has been lackadaisical. In 1997, only 25 cases were prosecuted.

According to the U.S. Department of Commerce, there are no outstanding investment expropriation disputes in Slovenia. National law gives adequate protection to all investment. There is an ongoing dispute with those whose property was expropriated by the Communist Yugoslav government after World War II. These claims are being addressed by specific national legislation, though the process is notoriously slow. A land registry office exists in Slovenia.

2. To what extent have prices been liberalized? What subsidies remain?

The majority of prices have been liberalized by mid-1994. As of early 1998, controlled prices accounted for 28 percent of the retail price index. Prices of goods and services such as energy, basic foodstuffs, telecommunications, and much of the transport sector are still administered. Prior low prices meant an inefficient amount of energy consumption, and this has changed as energy prices have crept close to EU levels. Telecommunication prices were effectively increased by 100 to 174 percent in 1997. Direct budget subsidies are limited, and apply only to certain foodstuffs and public services (such as passenger traffic). In total, they add up to about three percent of the budget.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Private enterprise is protected by law in Slovenia. Almost all business activities are open to domestic and foreign businessmen. Bureaucratic procedures for starting a business are generally transparent, though current legislation is incomplete and may be rather complex. Commercial laws are usually drafted by legally trained personnel and published within a month of being passed. Regulation and licensing requirements do not impose prohibitively high costs on businesses and consumers. The cost of forming and registering a limited liability company may exceed $1,000. The process takes one to three months. This is an improvement, since the registration process had taken a year earlier. Several bankruptcy procedures exist, including those that can be initiated by creditors. They are in fact utilized in Slovenia.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The Slovenian legal system is fairly modernized, though somewhat inefficient. Important judgments are usually published and accessible to practitioners and provide written reasons for court decisions. According to the European Bank for Reconstruction and Development, there is meaningful right of appeal from first-instance court decisions. It appears that there is an independent right of judicial review of administrative action. On average, a party may be expected to wait between seven months and one year for a commercial case to be heard on the merits by a court in the most important commercial center and between seven months and two years for a final judgment and payment of a sum of money to be executed.

Unless the parties to a dispute have agreed to binding arbitration for disputes, the regional court specializing in economic issues has jurisdiction over business disputes. The parties, however, may agree in writing to settle disputes in another court of jurisdiction. The parties may also exclude the court. The district court of Ljubljana has exclusive jurisdiction over intellectual property cases. This was done through the 1994 Law on Courts to improve specialization of judges in this field and increase the speed of proceedings.

A Permanent Court of Arbitration within the Chamber of the Economy is an independent institution that arbitrates both domestic and international disputes. Slovenia is a signatory to major international arbitration accords such as the 1958 New York Convention and the 1961 European Convention. Arbitration decisions are enforceable.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The 1993 Law on Protection of Competition prohibits anti-competitive behavior. It provides for two institutions to implement the law: the Competition Protection Bureau (CPB), which handles restrictions on competition, dumping, and subsidized imports, and the Trade Inspectorate, which deals with unfair competition, illicit speculations, and restrictions on free market access by state or local authorities. These bodies rely on courts to ultimately level sanctions against violators. However, though the CPB has issued a number of decrees, the courts have yet to level a single fine. In July 1997, the Constitutional Court found the mobile telephone monopoly of the state-owned company Mobitel illegal.

A 1997 law regulates public procurement. Domestic suppliers enjoy a 15 percent price advantage over foreign competitors. Even where a foreign supplier is selected, it has to import Slovene goods of equal value. Slovenia is not a member of the WTO agreement on government procurement. A Public Procurement Unit under the Ministry of Finance is in charge of monitoring the public procurement system, preparing new legislation, and issuing instructions. According to the law, an independent Audit Committee will be appointed by parliament to rule on all requests for audit of decisions.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Slovenia's openness to trade has been one of the most important elements in its strong economic performance since independence. Its total trade (exports plus imports) amounts to more than 116 percent of GDP. Most of this trade is with countries in the EU. In 1998, Slovenia had $9 billion worth of exports and $10.1 billion of imports. Germany and Italy are Slovenia's biggest individual trading partners.

In 1997, customs rates varied from zero percent to 27 percent and the weighted average MFN tariff rate was 10.7 percent. Some 98 percent of imports are free from quantitative restrictions. A special (10 to 20 percent) export tax is charged on "strategic" raw materials such as lumber. The government has committed to further liberalization and non-tariff barriers, which are still substantial in some sectors such as telecommunications, electrical equipment, textiles, and agriculture.

Slovenia became a full member of the GATT in 1994 and the World Trade Organization in July 1995, and joined the Central European Free Trade Agreement in January 1996. It is also a member of the European Free Trade Agreement. Its Association Agreement with the EU was signed in June 1996 and came into force in July 1997. The Agreement establishes the gradual reduction of trade barriers to zero over a five-year period. Slovenia is among the five Eastern European countries that the European Commission has recommended to be included in negotiations in the next wave of EU enlargement. It has bilateral free trade agreements with a number of countries. Free trade zones exist in Celje, Ljubljana, Maribor, Nova Gorica, Sezana, and Koper.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

The Law on Foreign Investment protects foreign companies' rights. Foreign companies enjoy a fairly liberal business environment simply because Slovenia itself is fairly liberal. Foreign companies can take on every form of organization allowed by law. Profit repatriation is permitted.

Nevertheless, foreign companies remain under strong restrictions. In addition to delays in obtaining property, foreign investors are restricted in the composition of their management boards. Slovenian-registered companies have to be managed by a Slovenian citizen, or by a majority of them, if there are several. The director of a company, may, however, be a foreigner. In practice, these restrictions have been only loosely enforced, or complied with through figurehead managers.

In July 1997, parliament passed a Law on Takeovers, which gives the government a powerful role in protecting large enterprises from hostile foreign bidders. Under the law, a full bid must be made when an investor seeks to acquire a voting stake of over 25 percent in any company whose shares are publicly traded, and in any company with more than 500 shareholders which was valued at more than one billion tolars for privatization. The government will have full discretion to block or approve all takeovers of privatized companies valued at more than 800 million tolars. The law affects between 100 and 150 companies and is valid for five years. Foreign ownership is further restricted in what are considered "strategic" sectors. These include defense, rail and air transportation, communications, insurance, publishing, and the mass media.

Restrictions on foreign portfolio investment in the form of mandatory custodial accounts exist in Slovenia. The required period used to be seven years. However, this limit was loosened to four years in February 1999 and to one year in June 1999. Foreign companies, while permitted to establish branch offices and legal entities in Slovenia, are also restricted from establishing representative offices in Slovenia. Foreign investors are also restricted in obtaining credit. In order to obtain credit from abroad, a foreign company must deposit 40 percent of the loan amount with a Slovenian bank. This deposit is returned when the foreign debt is paid off. Issuance of visas is a moderate obstacle to foreign business practice. Visa applications are often completed in three weeks, but have taken as long as six months. New rules liberalizing foreign ownership of property were introduced in February 1999.

Despite its ambivalence about foreign investment, Slovenia's actual comparative performance in foreign direct investment (FDI) has been positive. Cumulative FDI from 1989 to 1998 measures approximately $1 billion, the fifth highest in the region in terms of FDI per capita behind Hungary, the Czech Republic, Estonia, and Latvia. FDI inflow was $154 million in 1998, down from $295 million a year earlier. 1999 inflow is expected to be even lower.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Slovenia's energy infrastructure, specifically distribution and production, is state-owned. Slovenia's energy production breaks down into nuclear power (37 percent), thermal energy (39 percent), and hydroelectricity (24 percent). Prices for energy products are close to EU levels; retail electricity is 16 percent lower. Liberalization and privatization of the electricity monopoly, Eles, is currently being examined and could occur in 2001.

In December 1998, Petron, the country's largest oil company, was sold to two state banks and Sava, the country's largest tire manufacturer. The national oil and gas distribution company doubled investment in its facilities in 1999 to 12 billion tolar from 6.5 billion in 1998. It also signed a cooperative agreement with its Croatian counterpart, INA, in July 1999.

Slovenia has minor oil reserves and relies heavily on oil imports. The Adria oil pipeline, with a capacity of approximately 15-million barrels per year, links Slovenia with Croatia and Yugoslavia. Oil production is less than 500 barrels per day, while proven oil reserves are less than 50-million barrels. The Lendava refinery is the sole refinery and covers 30 percent of Slovenia's petroleum needs. Slovenia distills 12,000 barrels per day of crude oil. Oil consumption was 45,000 barrels per day in 1995. A lack of sufficient storage capacity for oil is a problem in Slovenia, and without a remedy, Slovenia could face an oil supply shortage.

Slovenia also has minor natural gas resources and is dependent on gas imports. The sole suppliers of gas imports to Slovenia are Algeria and Russia, with a 40 percent and a 60 percent share, respectively. Russia supplied approximately 20.4 billion cubic feet (bcf) in 1995. Domestic gas production is approximately 459 million cubic feet (mcf) annually. Proven reserves of gas in Slovenia are limited. These reserves are only equivalent to half the gas imported in 1994. Slovenia has 552 miles of gas pipeline that supplies up to 45 bcf per year of gas. Geoplin, the state-owned gas company, is involved in trade and transit of natural gas and is supported by 12 distribution companies. Gas consumption was 34 bcf in 1995. As in the case of oil, limited storage capacity of natural gas could pose future problems. Slovenia and Croatia each own a 50 percent stake in the nuclear plant at Krsko. In July 1998, following a dispute over payment with Croatia, Slovenia suspended the export of electricity from the plant to Croatia.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force numbered 871,000 in November 1998. In 1997, the adult economic activity rates were 65 percent for men and 52 percent for women. Unemployment under the official Slovenian definition was 14 percent in April 1999. Under the International Labor Organization definition, it was 7.4 percent. The unemployment rate is basically equal for men and women. The government has an "active employment program" wherein unemployed people are given subsidized jobs in public works and other such sectors. The program will cover 114,000 people in 1999.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The current pension system in Slovenia is pay-as-you-go, where current workers and their employers finance the pensions of current retirees. The system is well known for its unstable finances, especially given adverse demographic trends (an ageing population).

According to the European Bank for Reconstruction and Development (EBRD), the payroll tax and its 13.6 percent ratio of pensions to gross domestic product (GDP) are high by European standards. There has been a sharp decrease in the ratio of contributors to pensioners. The elderly dependency ratio is projected to rise from the current 48 percent to 90 percent in 2040. Possible models for reform of the pension system are being evaluated.

A white paper on changes to the state pensions system was published in December 1997. Its call for the introduction of private pensions met very powerful opposition, especially from organized labor, and the notion was temporarily shelved. A new proposal was introduced into parliament in March 1999. Pension ages are to rise from the current 60 to 63 for men and 58 to 61 for women. Those retiring later would receive even more compensation. The law introduces the concept of partial retirement, where someone could combine a half salary and a half pension for some years before full retirement. The pension reform law is expected to be adopted in the year 2000. In 1997, over 34,000 people received supplemental social security benefits. Beneficiaries tended to be single, unemployed, and young.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Real wage growth was rapid in the mid 90s (15.3 percent in 1996 and 11.7 percent in 1997) and has slowed since. The average wage was 168,530 tolar ($896) per month in April 1999. This is one of the highest wages in the whole of the post-communist region. The Minimum Wage and Wage Adjustment Mechanism Act, passed in July 1997, set a level of 59,150 tolars ($342). The amount is indexed to inflation. The law was scheduled to end in June 1999, to be replaced by a new incomes policy.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993?

What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

According to UNECOSTAT, the elementary population was 102,000 in 1993 and 99,000 in 1996. The secondary school enrolment was 212,000 in 1993 and 212,500 in 1996. The post-secondary population rose from 42,000 in 1993 to 51,000 in 1996. Some 94 percent of the eligible population was present in elementary school. The student-to-teacher ratios in 1993 were 12 (pre-primary), 16 (elementary), 16 (secondary); in 1997 the ratios were 11, 14, and 15, respectively. The proportion of GNP spent on education was 5.8 percent of GDP in 1993, falling to 5.5 percent in 1994 and rising again to 5.8 percent in 1995.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 7 per 1000 births in 1998. The birth rate was estimated at 8.97 births per 1,000 of the population in 1999. Life expectancy in 1998 was 71 years for men and 78 years for women (WHO, CIA statistics). The suicide rate is high. Of the 1,861 violent deaths in 1997, 593 were suicides.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

There are 25 doctors and 68.6 nurses/midwives per 10,000 of the population. In 1995, 7.3 percent of GDP was spent on health care.

7. What are official and authoritative non-governmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

No detailed statistics on poverty rates were available.

TAJIKISTAN

Polity: Presidential (transitional)
Economy: Statist
Population: 6,200,000
PPP (USD): 1,126
Capital: Dushanbe
Ethnic Groups Tajik (65 percent), Uzbek (25 percent), Russian (4 percent), other (6 percent)
Size of private sector as % of GDP (1998): 30

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	6.20	↑↑5.95	↑↑5.69
Rule of Law	na	na	5.88
Economic Liberalization	6.13	6.13	↑6.00

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	122.0	141.0	82.0	174.0	198.0	213.0	211.0
Real GDP growth (% change on previous year)	-11.0	-18.9	-12.5	-4.4	1.7	5.3	5.0
Inflation rate	2884.8	350.3	682.1	422.4	85.4	43.1	12.0
Exports (USD millions)	456.0	559.0	779.0	770.0	746.0	637.0	681.0
Imports (USD millions)	615.0	659.0	811.0	761.0	785.0	766.0	738.0
Foreign Direct Investment (USD millions)	9.0	12.0	20.0	25.0	30.0	34.0	29.0
Unemployment rate	0.8	1.2	1.3	1.6	1.8	3.1	na
Life Expectancy (years)	62.2	66.0	68.3	70.4	68.3	67.2	64.3

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			3	6	7	7	7	7	6	6	6
Civil Liberties			3	6	7	7	7	7	6	6	6
Status			PF	NF	NF	NF	NF	NF	NF	NF	NF

Introduction

Civil conflict along regional and clan lines, political violence, and state repression has characterized this Central Asian country since independence from the Soviet Union in September 1991. In May 1992, Communist hardliners rejected a power-sharing agreement that would have given cabinet posts to two opposition parties, the Islamic Renaissance Party (IRP) and the secular, pro-Western Tajikistan Democratic Party (TDP). In June, a civil war began between Communist forces drawn largely from the northern Leninabadi and southwestern Kulyab regions, and an opposition consisting largely of the IRP and TDP and centered on the eastern Gharm and Gorno-Badakhshan regions. IRP-TDP forces took control of the government in September 1992 but quickly suffered a series of military defeats. In November, an acting president handed power to Emomali Rakhmanov, a leading Communist Party member and ethnic Kulyabi leader. In December 1993, secular and Islamic opposition groups formed the United Tajik Opposition (UTO), which fought government troops and elements of a Russian-dominated Commonwealth of Independent States border force from its bases in northern Afghanistan.

In June 1997, the government and the UTO formally ended the civil war by signing a Tajik National Peace Accord in Moscow. The accord called for opposition soldiers to be merged into the regular army, provided an amnesty for UTO members, and established a 26-member National Reconciliation Commission (NRC), with seats split evenly between the government and the UTO. The accord charged the NRC with implementing peace agreements, repatriating and assisting refugees, and introducing legislation for fair parliamentary elections.

The collapse of the Soviet Union ended the transfers from Moscow that had sustained this former Soviet republic's economy. The transition to a market economy has been hampered by the civil war, which killed tens of thousands of people, geographic isolation, natural disasters, and a lack of political will. The government has largely met its macroeconomic stabilization commitments to the International Monetary Fund and has liberalized many prices, but overall has carried out relatively few economic reforms. Privatization has proceeded slowly and has been plagued by corruption and insider dealing.

The peace process has been plagued by local insurrections, political assassinations, and repercussions from the failure to include representatives from the northern Leninabadi region, and disputes between the government and UTO over the appointments of UTO members to 14 ministerial posts. Nevertheless, by the end of 1998 nearly all exiled UTO leaders and tens of thousands of Tajik refugees from Afghanistan had returned, and the government had largely fulfilled a pledge to name UTO figures to 30 percent of senior government positions. In 1999, the government and UTO continued to haggle over the UTO's allotment of ministerial posts. In June, Rakhmanov rejected a UTO request for its senior military commander to be named defense minister as its fourteenth and last cabinet appointment. On June 30, the UTO missed a deadline for all of its fighters to either join the national army or police or return to civilian life, although UTO leaders said 6,000 of its fighters had complied.

Democratization

POLITICAL PROCESS 5.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

This strife-torn Central Asian nation has not held free and fair elections at any level since achieving independence in 1991. The 1994 constitution created a 181-member parliament that is directly elected for a five-year term. The February 26 and March 12 parliamentary elections took place amid continuing civil conflict and with a ban in place on the four main opposition parties. Independent, pro-government candidates won the majority of seats, with pro-regime parties winning the remainder: the Communist Party of Tajikistan (CPT) won some 60 seats; the People's Party, 5; the Party of Popular Unity and Accord, 2; and the Tajik Party of Economic and Political Renewal, 1. Forty percent of the MPs had held seats in the old Supreme Soviet, which had been elected under Soviet rule in 1990 and had

contained 227 Communist members out of 230 deputies. Many other MPs were heads of local and regional governments who had held on to their posts after independence. The United Nations, the Organization for Security and Cooperation in Europe, and the European Union declined to monitor the elections due to the continued fighting and the ban on the leading opposition parties.

In early 1998, the government pushed back parliamentary elections scheduled for June into 1999. In March 1998, Khodzhi Akbar Turadzhonzoda, a key UTO leader who had spent five years in exile, took office as first deputy premier in the government. By mid-1999, Rakhmanov had appointed UTO members to 13 out of the 14 cabinet seats promised to the UTO under the 1997 accord. Parliamentary elections are now due by February 2000.

2. When did presidential elections occur? Were they free and fair?

In September 1991, Rakhman Nabiyev, a former Communist Party first secretary, emerged as president following the resignations of two predecessors. Nabiyev was the latest in a long line of Communist Party elites from the northern Leninabad region who had dominated the Soviet republic's politics since the end of World War II. In the November 1991 presidential elections, Nabiyev defeated six challengers representing democratic, nationalist, and Islamist groups in a two-round election marred by vote-rigging and other irregularities. Notably, in the second round, the Islamic Renaissance Party (IRP) backed the candidate of the secular, pro-Western, opposition Tajik Democratic Party (TDP), marking the emergence of an IRP-TDP opposition alliance. Southern Kulyabi leaders joined the Leninabadi elite in backing Nabiyev.

As Tajikistan's civil war intensified, in September 1992 Communist hardliners forced Nabiyev to resign. After Nabiyev supporters gained control of the Kulyab and Kurgan-Tyube regions, in November Emomali Rakhmanov, an ethnic Kulaybi and the leader of the pro-Nabiyev forces in Kulyab, took power from an acting president and abolished the post of president. In July 1994, the Supreme Soviet approved a draft constitution reestablishing a presidential system, and scheduled a constitutional referendum to be held concurrently with presidential elections.

Rakhmonov won the November 6, 1994 presidential elections with a reported 58 percent of the vote against Abdumalik Abdullajanov, a former premier from the Leninabad region. The election law effectively prevented most opposition candidates from standing. The IRP and the TDP boycotted the vote, although some secular parties backed Abdullajanov. The state-run media barely covered Abdullajanov's campaign, and massive fraud and intimidation marred the polling. The United Nations and the Organization on Security and Cooperation in Europe refused to monitor the vote due to the restrictive election law. A concurrent referendum approved a constitution that vested strong executive powers in a directly elected president who is limited to serving two consecutive five-year terms. The president can appoint and dismiss the prime minister, judges, and other senior officials, subject to parliamentary approval, and is commander in chief of the armed forces. Members of the president's Kulyabi clan dominate the Rakhmanov administration. Presidential elections are due by November 6, 1999.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

The electoral system is only nominally multiparty-based. Several opposition groups fielded candidates in the 1991 presidential elections, which were neither free nor fair. The government banned the four main opposition parties in 1993 and prevented most opposition candidates from contesting the 1994 presidential elections. Only pro-government parties contested the 1995 parliamentary elections. The banned IRP and TDP urged citizens to boycott the vote. There are no competitive elections at other levels of government.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

In the Soviet era the Communist Party of Tajikistan (CPT) was the sole legal party. It currently draws its support from the northern, industrial Leninabad region and other areas with ethnic Russian or Uzbek concentrations. President Rakhmanov is identified with the CPT, although neither he nor his government ministers use any party affiliation. After being briefly banned after independence, the CPT regained its dominant status when the government outlawed four main opposition parties in June 1993: the anti-Communist Tajik Democratic Party

(TDP), which draws its support from the Gharm and Gorno-Badakhshan regions; the rural-based Islamic Renaissance Party (IRP), which calls for an Islamic state; the Lali Badakhshan movement, a Pamiri-based party that seeks autonomy or independence for the Gorno-Badakhshan region (the Pamiris are Ismaeli Muslim and regard themselves as ethnically distinct from Tajiks); and the *Rastokhez* (Rebirth) Movement, an anti-Communist, nationalist-religious party.

In 1993 and 1994, pro-government politicians formed several parties: the leftist People's Party (PP); former premier Abdumalik Abdullajanov's northern-based Party of Popular Unity and Accord (PPUA); the northern-based People's Democratic Party; the business-oriented Party of Economic and Political Renewal (PEPR); and the Union of Progressive Forces. The PP, PPUA, and PEPR won a total of eight seats in the 1995 legislative elections. In 1995, the government recognized a faction of the TDP.

The Kulyabi-dominated Rakhmanov administration began marginalizing its erstwhile Leninabadi allies after Abdullajanov unsuccessfully challenged Rakhmanov in the 1994 presidential elections. In July 1996, Abdullajanov founded the Leninabadi-based National Revival Movement (NRM) with the goal of bringing the Leninabadis into the peace talks then being held between the government and the UTO under United Nations auspices. The government harassed and arrested NRM members and suspected sympathizers, and censored most media coverage of the movement. In May 1996, the NRM organized mass demonstrations in Leninabad calling for the removal of Kulyabi officials from local police and government posts. In the ensuing year, authorities arrested several NRM figures, particularly after an April 1997 assassination attempt on President Rakhmanov.

In May 1998, parliament adopted a draft law prohibiting the establishment of religious-based parties, which would have been particularly damaging to the UTO. Amid national and international criticism, in November parliament passed a modified version of the law that prohibited political parties from receiving support from religious institutions. In 1998, authorities also allowed the new Party of Justice to register, bringing the total number of registered parties to 12. However, the government continued to ban three of the four parties suspended in 1993—Rastokhez, Lali Badakhshan, and the IRP-as well as a TDP faction. Authorities scheduled a constitutional referendum for September 26, 1999 (see Rule of Law section below) that will include an amendment on the legalization of religious-based political parties.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

There are no data on the proportion of the population that belongs to political parties. Most parties draw their core support from regional strongholds. Only the CPT has branches in all of the republic's regions. At the end of 1998, only five women held parliamentary seats, and there was only one female minister. No accurate data exist on the proportion of party membership made up of women. However, women play only a minor role in politics, and it is likely that this proportion is small.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Due to the civil war and continuing violence in the countryside, municipal and provincial elections have not been held on a regular basis since the dissolution of the Soviet Union. In the national presidential elections and constitutional referendum held on November 6, 1994, turnout was reportedly 90 percent; however, the opposition claims that votes were cast for many citizens who had fled as refugees to Afghanistan and other neighboring states. Similarly, the opposition disputed the government's claim of an 85 percent turnout in the February-March 1995 legislative elections. Since international organizations declined to send observers due to their concerns over the fairness of the polls, these figures cannot be corroborated. There are no data on female participation.

CIVIL SOCIETY 5.25/7

1. How many nongovernmental organizations (NGO) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the

major women's nongovernmental organizations and what is the size of their membership?
A 1998 paper by the Dushanbe field office of the U.N. Office for the Coordination of Humanitarian Affairs (UNOCHA) reported that more than 300 NGOs are officially registered. However, many are inactive due to a lack of funding. Only 35 NGOs are located outside Dushanbe and Khujand. Many NGOs are essentially one-man enterprises comprised of Soviet-era elites who solicit international donor funding and provide limited, poorly-targeted services that largely ignore rural areas. Some of these elite-run NGOs are mainly engaged in business activities. There are also several unregistered NGOs that carry out activities with international donor support. It is not clear how many charitable organizations exist.

There are few locally-led efforts to increase philanthropy and volunteerism. International donors are concerned that a new culture of dependency is being created under which foreign donors will be seen as the natural source of funding for NGOs. There are no accurate data on the proportion of the population that is active in private voluntary activity.

Like many NGOs in Tajikistan, women's NGOs tend to deal mainly with "elite" interests and the needs of urban women, including the promotion of female-led businesses and electoral participation. However, several female-based NGOs have established crisis centers and income generation projects targeted to grassroots needs. According to UNOCHA, women's NGOs generally avoid sensitive issues, including raising awareness of women's rights; legal affairs; equality in employment and educational opportunities; the role of religion in society; domestic violence and rape; and access to healthcare. Major women's NGOs include the "Simo" Women's Association in Dushanbe, the Khujand Association of Businesswomen, the Dilafruz Association of Businesswomen in Khujand, and Lady Leader International-Intellectual Club for Businesswomen in Kurgan-Tyube.

2. What is the legal and regulatory environment for NGOs (i.e ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?
The 1990 Law on Social Organizations establishes the legal framework in this area but was drafted at a time when few NGOs existed. Many NGOs criticize the law for providing inadequate protections and being overly broad in scope. The law covers political parties, trade unions, and groups dealing with women, children, youth, and veterans. It defines NGOs as social associations, which have membership bases, although social associations are only one form of NGO, and not all NGOs have membership bases. Moreover, the law restricts NGOs to specific activities.

The 1990 law requires all NGOs to register with the Ministry of Justice. Documents must be submitted in Russian and Tajik, which often puts a burden on NGOs and delays registration. According to UNOCHA, registration officials closely scrutinize NGO work plans and often demand modification or omission of clauses, and the 1990 law provides NGOs with little protection against these and other arbitrary practices. Depending on the scope and nature of the proposed activity the cost of registration can be up to $500, which poses an additional constraint. However, the main obstacles to NGO formation are the government's intolerance of dissent and the country's tenuous security situation. A report by the New York-based Soros Foundation's Central Eurasia Project suggests that the overall NGO environment in Tajikistan "is more the result of a disabled state apparatus than a consequent regime of legal regulation or promotion." Most NGOs avoid political issues and there is little apparent activism focused on improving the legal and regulatory environment.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?
Most NGOs in Tajikistan are fairly rudimentary and have ill-defined management structures. There is little information on NGO management issues in local languages. Given the small size of the NGO sector and the limited institutional capacity of those that exist, there is little opportunity for the relatively more established NGOs to take on mentor roles to their less developed counterparts. There are few if any domestic networks or coalitions that allow like-minded NGOs to share

information and experiences. Since most international donors are based in Dushanbe and to some extent in Khujand, the few NGOs outside these cities have had even less exposure to the limited training and networking supported by the donors.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs are not financially viable. In general, the only viable NGOs are those run by Soviet-era elites who enjoy close relations with the government, or NGOs that have managed to become implementing partners with international donors (often the two categories overlap). International donors have been largely unable to place the funding of these NGOs on a sustainable basis.

There are no real tax incentives to promote domestic financing of NGOs. Few government procurement opportunities exist for NGOs in Tajikistan's statist economy. The Law on Social Associations does not clearly establish the extent to which NGOs can be involved in commercial activities. In practice, most NGOs have not developed cost-recovery activities.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Tajikistan is a member of the International Labor Organization and has signed its convention on worker's rights. The Law on Social Organizations and the Law on Trade Union Rights and Guarantees provide for freedom of association. In practice, trade unions in Tajikistan are state-controlled, and the state and employers largely ignore labor rights. All state enterprise workers belong to the official Confederation of Trade Unions, a Soviet-era umbrella organization of 20 separate labor unions, which controls access to pension funds, health care benefits, housing, day care, and other social services. The confederation claims a membership of 1.5 million workers. The separate, state-controlled Trade Unions of Private Enterprise Workers includes registered unions in more than 3,000 small and medium-size enterprises covering some 40,000 employees. Nearly every nonagricultural worker in the formal sector belongs to a trade union. Union membership is decreasing as authorities continue to slowly privatize state enterprises.

Workers must take disputes to a mandatory arbitration process before they can hold strikes. Both unions have pledged not to hold strikes given the country's dire financial situation. Collective bargaining is legal, although the prevailing economic conditions give workers little leverage. All farmers belong to the state-controlled Union of Agricultural Workers. Several small business associations exist, including the Dilafruz Association of Businesswomen and the Tajik Center for Entrepreneurship and Management in northern Leninabad province.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Despite constitutional guarantees of freedom of association, the government maintains tight control over any NGO that it believes has a political agenda. For example, in 1998, authorities ordered a planned seminar on "Women and Elections" in the southern city of Qorghon Teppa to be transformed into a less-visible roundtable. In practice, NGOs almost always avoid any political or policy-related issues.

NGOs and political groups must obtain a permit to hold public demonstrations or rallies. Authorities occasionally granted permits for politically-oriented demonstrations, but in some cases carried out reprisals against organizers. Authorities have at times used excessive force in breaking up demonstrations. In one of the most notorious cases, in May 1996, several thousand people demonstrated in Khujand, Ura-Teppe, Kanibadam, and other cities in the Leninabad region following the murder of a prominent Leninabadi businessman. After demonstrations in Ura-Teppe turned violent, soldiers reportedly fired into a crowd, killing at least one person. In the months following the demonstrations, authorities searched the homes of many organizers.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

It is difficult to determine the public's attitude toward NGOs in the absence of polling data or other reliable indicators, although there is no evidence that these attitudes are negative. The Tajik government is generally hostile to NGOs and has discouraged the formation of human rights NGOs. UNOCHA noted that some government officials have publicly called NGOs "agents sold to foreign interests." Even where NGOs provide basic social services that the government is unable to provide, officials often view these activities as a challenge to their authority. In addition, many established NGOs are headed by ex-Soviet elites, who often see newer NGOs as competitors for funding and try to block their activities. Media coverage of NGOs is limited.

Officials rarely engage with NGOs and are not receptive to NGO policy advocacy. The few government programs to strengthen NGOs and assist them in developing projects for women have made little effort to reach outside the traditional political establishment. At a U.N.-sponsored conference in Dushanbe in March 1998, several NGO representatives indicated that they lacked a clear understanding of what the government perceives the role of NGOs to be, and of how NGOs could cooperate with the government.

INDEPENDENT MEDIA 5.75/7

1. Are there legal protections for press freedom?
Both the 1991 Law on the Press and the 1994 constitution guarantee freedom of the press. The constitution also outlaws all forms of state censorship, and guarantees all citizens the right of access to the media. In practice, the government and armed groups routinely ignore these rights.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
The 1991 press law introduced penalties for libeling officials and penalties for "irresponsible" journalism, which include jail terms and fines. The government has generally relied on heavy-handed tactics and self-censorship by journalists (see question 5), rather than legal action, to subjugate the press.

3. What proportion of the media is privatized? What are the major private newspapers, television stations, and radio stations?
Roughly 200 periodicals are published in Tajikistan, including some 50 newspapers that are either independent or party-affiliated. Two new private newspapers began publishing in 1998. One is affiliated with the UTO's fighters; the other, with UTO members of the National Reconciliation Commission. Like most newspapers, both have small circulations.

The broadcast media is dominated by government services. State-run Tajik Radio is the major radio service. The UTO also operates a radio station. The only national television service is the state-run Tajik Television. There are 11 independent television stations, although two have suspended operations due to financial problems. Some of these stations have independent broadcast facilities, although most have to rely on state studios. According to the U.S. Department of State, the process of obtaining a license for an independent television station is time consuming and requires the payment of high fees and costly bribes, although authorities have not prevented any station that wanted a license from getting one. Most major Russian dailies and the two leading Russian television channels are available.

4. Are the private media financially viable?
Most private media are not financially viable. Due to low advertising revenues and circulation bases, few papers publish daily. The government subsidizes many publications, while political parties owned or otherwise supported most others. The private broadcast media face serious shortages in funding and technical equipment.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
Despite legal guarantees of press freedom, in practice the government substantially influences the content of print and broadcast media through its control of the printing presses and the supply of newsprint; private television stations' dependence on state broadcasting facilities; and the private print media's dependence on government subsidies. Government officials also give journalists informal guidelines regarding news coverage and occasionally threaten to shut publications.

As a result, private newspapers and broadcast media are rarely critical of the regime, and journalists practice considerable self-censorship. President Rakhmanov took over direct control of the state broadcast media in 1994 under the guise of ensuring its objectivity. In practice, the state broadcast services generally feature positive coverage of the executive branch and pro-government parties and largely ignore the views and activities of opposition groups.

According to the Moscow-based Glasnost Foundation, as of mid-1998 more than 60 journalists had been killed in Tajikistan since 1992. This includes the June 1998 murder of Meirkhaim Gavrielov, the editor-in-chief of the newspaper *Donish*. Official investigations into the murders of journalists have failed to bring any substantive results. In 1998 and 1999, journalists continued to receive death threats, and the UTO and other armed groups took journalists hostage on several occasions. The government continued to arrest and harass Leninabadi-based journalists, deny Leninabadi newspapers permission to use government-run printing houses, and otherwise restrict coverage of the Leninbadi-based NRM and of sensitive events in the region.

6. Is the distribution system for newspapers privately or governmentally controlled?

The government owns and operates most printing houses and the major newspaper distribution networks.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

The U.S.-based Central Asia Development Agency first provided Internet access in Tajikistan in 1995. Many people who access the Internet do so through public communications centers. While the number of people who use the Internet is not known, as of 1998 only around 1,500 people in Tajikistan had e-mail addresses. The main restrictions on access appear to be financial rather than the result of government policy.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

There are several press and journalists' associations, including the Umeda Information Center, the Writers Union of Tajikistan, and the Union of Journalists. It is not clear what proportion of their membership is made up of women. The Moscow-based Glasnost Foundation is particularly active in monitoring press freedom.

9. What has been the trend in press freedom as measured by Freedom House's Survey of Press Freedom?

Freedom House's annual *Survey of Press Freedom* rated Tajikistan "Not Free" from 1991 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 6.25/7

1. Is the legislature the effective rule-making institution?

The 1994 constitution established a 181 member Supreme Assembly (parliament) that is nominally the highest legislative body and can override a presidential veto by a two-thirds majority. In practice, the Rakhmanov administration dominates the legislature, and in a broader sense, Rakhmanov's southern Kulyabi clan has a virtual monopoly on power. The president often sets policy by decree, bypassing the legislature entirely. Russia is a key supporter of the Rakhmanov regime and maintains a 25,000-strong, Russian-dominated CIS peacekeeping force in Tajikistan. Tashkent also exercises influence on Tajik politics through the provision of economic and humanitarian assistance, and because almost all overland and rail transport must pass through Uzbekistan.

The June 1997 peace accord between the government and the UTO established a National Reconciliation Commission (NRC) that is overseeing implementation of the accord's provisions. This arrangement has raised questions about whether constitutional amendments proposed by the NRC have the same status as those proposed by parliament.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Political power in Tajikistan remains highly centralized. The national parliament can disband local legislatures and call new elections if it declares local bodies to be in violation of national law. The Rakhmanov government is dependent on the Rus-

sian-dominated CIS peacekeeping force and on mercenary military commanders for internal security in some areas. A Russian-led, but mainly Tajik-based, Russian Border Guard Force (RBGF) has primary responsibility for guarding the border with Afghanistan. Even in some nominally government-controlled areas, Dushanbe's writ extends only in the daytime. Moreover, large parts of the country are entirely outside the government's control, and are run by local strongmen who vie for control of the country's cotton, metals, and narcotics trade. Armed groups are particularly active in southern Tajikistan.

Most cities have few government institutions. In some cases, strongmen have prevented Dushanbe-appointed heads of local government from sitting. In a series of incidents in August 1998, gunmen assassinated the head of the local government in Shakhrinau, and the mayor and several other officials in Tursunzade. In January 1999, assassins killed an assistant governor in the Leninabad region. In the mountainous and isolated eastern Gorno-Badakhshan region, the central government's influence is weakest and international aid groups provide most services.

3. Are subnational officials chosen in free and fair elections?

Tajikistan is divided into 19 administrative regions, plus the capital of Dushanbe. Under the 1994 constitution, the president appoints heads of regional governments, subject to confirmation by local legislatures. The president can also remove local officials. In practice, President Rakhmanov has appointed and removed local officials at will. The state has held elections to regional and municipal legislatures on an irregular basis since 1991. The 1997 peace accord calls for regional elections to be held with the full participation of all opposition groups, but none have yet been held.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Under the Constitution, citizens are entitled to receive information on the functioning of all branches of government. In practice, government institutions at all levels operate with a minimum of transparency. There are no mechanisms for transparency in the executive branch. Parliamentary sessions are partially broadcast on national television, and both the legislature and government newspapers publish transcripts of parliamentary deliberations. However, substantive debate, to the extent it occurs, is carried out in closed-door sessions. Draft legislation is not easily accessible to the media and public.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Due to the country's anemic economic output, lax tax collection, and considerable informal sector, municipal governments do not have sufficient revenues to carry out their functions. Central authorities must approve municipal budgets. Previously, all locally collected revenues were turned over to the national government, which then allocated funds to the regions. Under the 1996 tax code, regional governments retain a set portion of local revenue as it is collected.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Entry into and progress within the civil service continued to be dominated by local families and patronage networks. The majority of civil servants have no specialized training in public administration. Moreover, politicians frequently shuffled civil servants regardless of skills or ability. As such, local governments are generally inefficient and provide few services.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

There have been no substantive constitutional or legislative changes on local power. The 1994 constitution confirms the president's power to appoint and dismiss heads of local governments, and grants no substantive power to the localities. The government has not reformed local or national civil service codes. Local civil servants are nominally employees of local governments; in practice, they are controlled by central authorities or by local strongmen.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.75/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?
Voters approved Tajikistan's post-Communist constitution in a November 1994 referendum. The referendum was held concurrently with a presidential election that the opposition boycotted and was marred by irregularities. According to official results more than 90 percent of participating voters approved the constitution. The UTO maintains that this referendum was neither free nor fair. The constitution vests executive powers in a president who is directly elected for a five-year term, with a two-term limit. The president appoints the government, the chairman of the National Bank, the head of the constitutional council, the state prosecutor, and the heads of regional administrations.

Although the constitution provides for an independent judiciary, Tajik judges lack judicial independence and in practice have little power to enforce the constitution. The constitution does not provide for judicial review. A constitutional court began functioning in 1997, but so far it has not enforced or interpreted constitutional provisions.

On June 30, 1999, parliament voted to hold a referendum on constitutional amendments on September 26 as called for under the June 1997 peace agreement between the government and the UTO. Voters will have a straight yes-or-no choice on the entire package of amendments. The amendments would extend the presidential term to seven years, but with a one-term limit; create a full-time, two-tier parliament to replace the existing single-chamber body, which meets sporadically; and permit the establishment of religious-based political parties.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?
The constitution provides for an independent judiciary, the right to privacy in the home, freedoms of speech and press, freedoms of assembly and association, freedom of religion, and the right to travel internally and abroad. In 1998, the World Bank reported that existing legislation provides only weak protection for property rights and permits significant state intervention in private commercial activity. The Bank has recommended that the 1991 Law on Property Rights be revised to expand protection for private property holders.

The government controls perhaps only 20 percent of the country, and in some areas, only during the day. In 1998 and the first half of 1999, government forces, UTO fighters, and local strongmen continued to carry out extra-judicial killings, disappearances, kidnappings, beatings, extortion, and other abuses against civilians and combatants with impunity. The government rarely, if at all, prosecuted members of the security forces implicated in abuses. The government also resorted to dozens of politically motivated arrests and detentions and is believed to hold several hundred political prisoners, although lack of independent access to prisons makes reliable estimates impossible. According to the U.S. Department of State, the RBGF has repeatedly been implicated in rights violations against civilians and controls much of the drug trade in the southern Shaartuz region.

According to Human Rights Watch, during fighting between government troops and a UTO faction in March and April 1998 soldiers raped and tortured numerous civilians and looted and torched homes. International observers estimated that between 25 and 35 civilians were killed. In July 1998, government forces reportedly killed several civilians during a raid on territory held by a rogue UTO commander east of Dushanbe. After renegade colonel Mahmud Khudoberdiev mounted a November 1998 insurrection, government troops carried our retaliatory abuses against civilians. During the year, gunmen assassinated several government and UTO members, mostly in Dushanbe, and in August armed assailants killed three unarmed members of the United Nations Mission of Observers to Tajikistan and their driver in a remote valley in central Tajikistan. On March 30, 1999, gunmen assassinated Safarali Kenjaev, who had briefly chaired the Supreme Soviet in 1992. In the first half of 1999, clashes also continued between RGBF units and rogue opposition units and local strongmen.

The constitution guarantees the rights of all persons regardless of gender, but women face significant

societal discrimination. According to the United Nations Development Program (UNDP), in 1998 women held only 5 seats in parliament, 2 out of 15 ministerial posts, and 18 percent of management posts. In 1995, the World Bank estimated that more than 40 percent of women had no access to land. Domestic violence is reportedly common, although most cases apparently go unreported, and of those that are reported, few are investigated. According to the U.S. Department of State, there are frequent reports of abduction of brides and trafficking of women. Authorities have taken little action against these practices. In rural areas, Islamic fundamentalists reportedly harass women for not wearing more conservative dress.

The constitution guarantees freedom of religion. Under the Law on Freedom of Faith, the state council of ministers oversees a Committee on Religious Affairs, which registers religious communities and monitors their formal activities. However, several minor, unregistered groups operate with few restrictions. This lends credence to the view that the government uses the registration process to monitor and control Islamic religious affairs in this predominantly Muslim country. The government has replaced the independent *Muftiyat*, or Islamic leadership, with a government-controlled Council of the Islamic Center. In 1996, the government committed itself to establishing a human rights ombudsman, but it has yet to do so.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The criminal code is a holdover from the Soviet era and has not been reformed since independence. The code places few checks on the power of procurators and police to arrest persons, and presumes the accused to be guilty. By law, police need the approval of a procurator to search homes, except in exceptional circumstances. In practice, police and soldiers routinely carry out arbitrary searches and seizures. Authorities also frequently harass or arrest opposition figures on trumped-up charges of narcotics smuggling.

Prison conditions in Tajikistan are life-threatening due to overcrowding and unsanitary conditions. In 1996, the International Committee of the Red Cross (ICRC) instituted an emergency food program in response to reports that many prisoners had died due to starvation and lack of adequate medical care. In July 1998, the ICRC halted the program, citing misuse of food rations among other reasons. According to Human Rights Watch, the death rate among the country's roughly 7,000 prisoners increased soon afterwards.

Security officials routinely beat and torture detainees to extract confessions. In April 1997, Tajik security forces massacred scores of prisoners while crushing a prison riot in Khujand in Leninabad province. The protesters had demanded quicker trials for detainees, hospitalization for those seriously ill, improvements in prison conditions, and more equitable sentences for many of those imprisoned. The Khujand prison was built to hold 300 inmates, but at the time of the riots held 800. The government continued to grant the ICRC access to convicted prisoners, but not to those in pretrial detention, where most abuses occur.

The criminal code permits authorities to detain suspects for up to 15 months without judicial approval, subject only to the approval of the local procurator, regional procurator, and the procurator general, depending on the length of time involved. By law, prosecutors must bring a case entered for trial before a judge within 28 days. In practice, suspects often wait months before trial after the case has been entered. The constitution guarantees privacy rights in the home and in correspondence, telephone conversations, and other areas. However, authorities routinely violate these guarantees.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Many judges are poorly trained and lack sufficient legal competence and experience. Courts in Leninabad, in particular, are accused of handing down disproportionate sentences. There are no data on the proportion of judges that remain from the Communist era, although the government has made no explicit attempts to remove such judges.

5. Are the courts free of political control and influence? Are the court's linked directly to the Ministry of Justice or any other executive body?

According to the constitution, the judiciary is an independent and autonomous branch of government. Nevertheless, the constitution grants the president the power to appoint and dismiss prosecutors and judges at the municipal, regional, and provincial levels and in

military courts, subject to parliamentary approval. Because the legislative branch does not function as a true check on the executive, in reality most judges depend on the executive branch for their positions. Judges from the Supreme Court and the Higher Economic Court are elected, although in Tajikistan this provides little protection from government interference. In practice, the judiciary is not independent. The government, the UTO, and local military commanders and warlords all pressure prosecutors and judges to abandon some criminal trials and hand down more severe sentences in others. Bribery of judges is reportedly widespread.

The American Embassy in Dushanbe reported that, in the context of foreign investment, "Private parties generally believe that courts will recognize their legal rights against other private parties. They do not believe that the courts would enforce such rights against the state." The Embassy noted, however, that one venture successfully sued the government over a tax matter.

In a case that apparently reflects the political pressures on the judiciary, on March 12, 1998, the Supreme Court sentenced five men, including Abulhafiz Abdullajanov, the brother of NRM leader Abdumalik Abdullajanov, to death on charges of participating in the April 1997 assassination attempt on President Rakhmonov. The sentence followed a closed trial. Human Rights Watch reported that officials beat the codefendants until they incriminated Abdullajanov, whom authorities had initially arrested on apparently fabricated narcotics charges. President Rakhmonov removed a judge who had issued a ruling in favor of the defendants; the government later claimed the judge was removed for taking a bribe.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Only a small proportion of Tajikistan's lawyers are in private practice, although, according to the Independent Lawyers Association, the number is growing. The country's higher education system appears to produce only a handful of new lawyers each year. It is not clear what proportion of lawyers and judges are women. However, women are underrepresented in the professions, and it is likely that this proportion is small.

7. Does the state provide public defenders?

The 1994 constitution obligates the state to provide public defenders to the accused at all stages of a criminal investigation and trial. Previously, the state only provided public defenders immediately before trial. In practice, many of those arrested do not receive prompt access to an attorney, and some do not receive any legal counsel.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

Tajikistan's population is 65 percent Tajik; 25 percent Uzbek; 3 percent Russian and Russian-speaking nationalities; with other, smaller minorities comprising the remainder. The constitution bans discrimination on the basis of nationality, race, or religion. Both the 1994 constitution and the 1990 Law on Language make discrimination on the basis of ethnicity or language illegal. While maintaining that Tajik, a Persian-based language, is the state language, both documents establish Russian as the language of inter-ethnic communication. The constitution stipulates that a citizen of any of the republic's ethnic groups has the right to demand and receive government information in his or her language, while the Law on Language mandates that official government documents be made available in three languages: Tajik, Uzbek, and Russian.

According to human rights monitors, minority groups remain the target of pervasive discrimination and occasional violence. Following the civil war, more than 60,000 Gharmi and Pamiri-descended people fled to Afghanistan to escape reprisals by government security forces. Nearly all have returned, but they face occasional physical abuse and confiscation of property, and are frequently denied employment. Since the 1997 peace accord, numerous Uzbeks have been murdered in the Parij district. Ethnic Russians, Ukrainians, Kazakhs, Kyrgyz, and Uzbeks face discrimination and many have left Tajikistan. Local Tajik minorities in the Uzbek-dominated areas around Tursonzade also reportedly suffer discrimination.

Tajikistan's Jewish community consists of Bukharians who trace their roots in the region to the fourteenth century, along with Ashkenazic Jews who arrived after World War II. In 1989 there were 20,000 Jews in Tajikistan, although most have since emigrated

and only 2,000 remain. Jews are occasionally attacked in incidents with anti-Semitic undertones. Some Muslim extremist groups have instigated attacks on Christians.

9. Are judicial decisions effectively enforced?
The judiciary in Tajikistan is not independent, and in practice the government enforces decisions to the extent that it suits its interest.

CORRUPTION 6.00/7

1. What is the magnitude of corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
The civil service is reportedly hugely corrupt. Bribery is reportedly necessary for many, if not most, public transactions with the government. In 1998, the American Embassy in Dushanbe reported that, "corruption is pervasive, but especially in police, the courts, tax system, customs, banking, privatization, and government procurement." The embassy also observed that, "corruption is becoming an integral part of the state system." A minister's monthly salary is about $30. The average salary in the public sector is about $8 per month, $5 for those working in education and healthcare. Most civil servants must find additional work to supplement their incomes.

2. Do top policy makers, (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
Authorities conducted Tajikistan's privatization process in an arbitrary, non-transparent manner that resulted in the sale of many companies to government officials and their relatives, and to leaders of armed factions. The government does not have an effective policy to combat corruption, and has not developed formal legal and ethical standards in this area.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?
The legal framework regarding financial disclosure and disallowing conflict of interest is inadequate. The government's few publicized anticorruption cases are widely believed to have been politically motivated. There are no laws against racketeering. The presidential administration and parliament operate with a minimum of transparency. Tajikistan is not a signatory to the Organization on Security and Cooperation in Europe's convention on combating bribery.

4. Have there been public opinion surveys of perceptions of public sector corruption conducted with the support of reputable monitoring organizations? What are the principle findings and year-to-year trends?
While corruption is undoubtedly pervasive in Tajikistan, in the current political climate NGOs do not publicly raise the issue of corruption. Consequently, local monitoring organizations have not carried out surveys of perceptions of public sector corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?
The government has implemented few serious anticorruption initiatives. Anticorruption laws and decrees are inadequate and enforcement is weak. The few prosecutions for corruption have apparently been politically-motivated.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
As Tajikistan has little experience with public opini3on polling, it is difficult to determine public attitudes

regarding official corruption. The government has not initiated effective anticorruption public education efforts.

7. How do major international corruption-ranking organizations like Transparency International rate this country?
Transparency International and other major corruption ranking organizations have not rated Tajikistan.

Economic Liberalization

PRIVATIZATION 6.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
Tajikistan's economy remains heavily statist, with the private sector contributing only 20-30 percent of GDP. Production from recently privatized joint-stock companies appears to be minimal, reflecting the overall dire state of the economy. Many factories suffer from shortages of spare parts and raw materials, and operate only a few months a year.

In 1998, the private sector employed more than 57 percent of the working population. During the civil war, the government largely neglected the economy and did not pay civil servants and pensioners for extended periods. This gave rise to a considerable black market that employs many private sector workers. Many transactions involving government agencies and state enterprises involve barter, in-kind payments, and other non-formal mechanisms. Local warlords continue to control a substantial portion of private economic activity, particularly in central and southern Tajikistan. Narcotics trafficking is widespread.

2. What major privatization legislation has been passed? What were its substantive features?
Parliament adopted a privatization law in 1991, but the civil war largely prevented its implementation. Since 1994, parliament has also passed laws on property rights, entrepreneurship, enterprise regulation, and joint stock companies. The 1997 Law of the Republic of Tajikistan on Privatization of State Property establishes the main legal framework in this area.

Initially, the government charged agricultural collectives and state enterprise managers with formulating privatization plans, which would then be approved by the sectoral ministries and local governments. The World Bank pointed out that the collectives and state enterprise managers had the most to lose from privatization and could not be counted on to initiate the process. In 1995, the state instead adopted a top-down approach to privatization, in which the central government identified enterprises to be sold.

The first stage of privatization began in 1992, and resulted in the sale of numerous shops, restaurants, and other small enterprises. The second phase began in 1997 and involved medium-sized enterprises. The third and final phase, involving large enterprises, was scheduled to begin in 1998. By mid-1999, the process had barely begun. Medium and large-scale enterprises are being privatized through either share auctions or on a case-by-case basis, generally via leveraged buyout.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?
In 1998, Tajikistan privatized more enterprises than in any other year, but overall, the process has been slow and uneven. Authorities failed to meet a key March 30, 1999 target for completion of small enterprise privatization agreed to with the International Monetary Fund (IMF) and World Bank.

Typically, the government puts modest pressure on relevant ministries to speed privatization when an IMF deadline is approaching, but as soon as the deadline passes, government pressure wanes. Moreover, the go-ahead to privatize any entity requires approval at many levels. Low-level bureaucrats and directors of medium and large enterprises frequently frustrate the privatization process.

Even after authorities approve small-scale entities for privatization and try to auction them off, many enterprises repeatedly go unsold because officials set unreasonably high prices. The officials do so even though many state factories are idle and have been stripped of their parts. High prices have also been an obstacle to the privatization of medium and large enterprises. Some observers also cite the high cost of the valuation and privatization registration process as an

obstacle to medium and large-scale privatization. Still another problem is that even after some medium and large enterprises are sold, the buyers fail to pay for the shares within the specified time frame.

Tajikistan's government has made limited progress on land reform. The agricultural sector, which has about 9.6 million hectares of land under cultivation, accounts for 28 percent of GDP and is still dominated by *kolkhozes* (large collective farms) and *sokhozes* (state farms). In 1997, 46 percent of agricultural output was in the non-state sector, but this figure includes the collectively-held kolkhozes. The government is committed to transforming the kolkhozes into individually run farms, or into farms run by a group of private farmers having the right of inheritance leasing, which allows the lessor to pass control of the property being leased to an heir. While many kolkhozes and sokhozes have been converted to joint stock enterprises, they continue to operate as state enterprises with little improvement in the incentive structure for producers.

During the Soviet era, the state forced farmers into a one-crop cotton culture. Cotton is still the major cash crop and accounts for about two-thirds of the gross production value of the agricultural sector. In recent years, the government has reduced the proportion of output purchased by the state, and has given producers the right to sell freely the remainder.

The privatization of cotton ginneries is the most important aspect of Tajikistan's privatization program. In January 1999, the government liquidated Glavkhlopkoprom, the Soviet-era state cotton procurement agency, and created several firms that are acting as intermediaries by assisting individual kolkhozes in buying inputs and selling their cotton. Some of the kolkhozes are already dealing directly with suppliers and buyers. However, progress in privatization has been hampered by a lack of cooperation from the ginneries and by political opposition to ceding control of one of the government's main sources of hard currency. IMF and World Bank missions in fall 1998 pressed the issue with the government, and on March 13, 1999, authorities sold six cotton ginneries via a tender process. However, the government missed IMF and World Bank targets for completing the privatization of the ginneries by the end of the second quarter of 1999.

Because approximately 70 percent of the population lives in rural areas, and because most of the poor are in rural areas, primary objectives of the World Bank's second Country Assistance Strategy (July 1998), covering FY99 through FY01, are to privatize agricultural assets, enhance market incentives, and invest in rural infrastructure.

The most successful aspect of privatization has involved small enterprises, although even this process has encountered major problems. Officially, Tajikistan has some 3,100 small private enterprises. The government's IMF-backed medium term economic program required authorities to privatize 2,000 small enterprises between January 1, 1998 and March 30, 1999. Although authorities sold 1,175 small enterprises in 1998 (out of 1,577 offered), they failed to meet the March 1999 target. Nevertheless, by May 1999, more than 80 percent of small enterprises were in private hands. The new IMF-agreed target calls for completion of small enterprise privatization by December 31, 1999.

Under terms agreed with the IMF and World Bank, authorities pledged to privatize 70 medium and large enterprises by the end of 1998, and 120 by March 31, 1999. By mid-1999, authorities had privatized only 11 percent of medium and large enterprises. Even the initial process of enterprise restructuring in the aluminum, cotton, and energy sectors to prepare enterprises for privatization has lagged behind program targets. In some cases the government has maintained a share of more than 40 percent in privatized medium and large enterprises.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Privatization in Tajikistan has largely been an insider's game. According to one poll, 74 percent of citizens cannot take part in the privatization process, mostly for financial reasons. Analysts say the average Tajik's savings are equal to about 1,000 Tajik rubles, which corresponds to the price of two kilograms of meat. Many citizens lost their right to participate in privatization because they were refugees when the government distributed privatization vouchers.

Officials reportedly rigged many privatization auctions, and insider groups intimidated potential buyers of shares. As a result, authorities often sold state enterprises to government officials, their relatives, and other elements of the political elite, and to leaders of armed factions, many of whom have gained wealth through

illicit activities including trafficking drugs and operating road checkpoints. The World Bank noted that the process of valuation of state enterprises is inefficient and lacks transparency. According to a 1998 assessment by the United States Department of Commerce's Business Information Service for the Newly Independent States, "the (privatization) program has reportedly been plagued by corruption."

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

There are no reliable gauges of public opinion of the privatization process. Given that the privatization process has been conducted with a minimum of transparency and has resulted in the wholesale transfer of state assets to insiders, there is undoubtedly considerable public skepticism. A telling anecdote involves the June 1998 purchase of 60 percent of the shares in AO Komron, a large cotton ginnery, by a Luxembourg-Tajik joint venture. Authorities barely advertised the tender offer, and there was little competition at the auction. Newspapers soon began publishing angry letters deploring the sale of the cotton industry to "foreigners," and calling for the government to retain control over the industry. Nevertheless, an investigation found that the shares had been sold at twice the book value. The new owners paid back taxes on the facility and invested to upgrade the infrastructure.

MACROECONOMIC POLICY 6.00/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

In November 1998, parliament adopted a new tax code that reduced the number of taxes and other mandatory payments by more than half, and lowered the maximum income tax rate from 40 percent to 35 percent. The code went onto effect in January 1999. The Tajik government has also begun applying excises to a larger number of goods and has made an effort to address the growing problem of tax arrears and noncompliance. However, the tax system is still chaotic and poorly administered, and collection is often arbitrary. The government gets most of its tax revenue from medium and large state enterprises, including the state-owned aluminum operations and the government-dominated cotton industry, and from its ownership shares of up to 40 percent in many privatized businesses. There is also a 20 percent value added tax (VAT) and a sales tax.

Tajikistan's medium-term economic strategy envisions an increase in the revenue-to-GDP ratio from less than 14 percent of GDP in 1997 to more than 16 percent of GDP in 2001. The government committed itself to replacing the sales taxes on cotton, aluminum, and other commodities with the VAT, and to eliminating most remaining allowances, preferences, and exemptions for individual income and profits taxes.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

By the time the government began to take the first tentative steps toward fiscal reform in 1995, Tajikistan's economic situation was dire. The government initially introduced spending cuts and liberalized some prices. In 1996, the government entered into a standby credit arrangement with the IMF, and received a rehabilitation credit from the International Development Agency. However, the government's record of meeting its commitments under these arrangements has been mixed. Revenue collection has improved (in part due to the recovery of cotton production). The budget deficit as a percentage of GDP fell from 31.2 percent in 1992 to 3.3 percent in 1997. Yet the IMF remained concerned about a "large quasi-fiscal deficit" resulting from directed central bank credits, and the state sector's huge arrears in inter-enterprise payments, taxes, and bank loans.

In June 1998, the government adopted a medium-term economic adjustment and reform program under a three-year, $128 million IMF Enhanced Structural Adjustment Facility (since increased to $134 million) and a World Bank Structural Adjustment Credit. The World Bank also agreed to provide support for poverty reduction, post-conflict rehabilitation, economic reform,

and institution building through its second Country Assistance Strategy, which covers the period FY1999 through FY2001. As part of these agreements, from mid-1999 the government committed itself to financing its deficits primarily through external loans, treasury bills, and privatization proceeds rather than through central bank financing. The government also committed itself to addressing the damage caused by heavy floods and mudslides in May 1998.

Two external shocks undermined the reform program. Tajikistan's terms of trade deteriorated as world market prices for cotton and aluminum, the two main export products, declined sharply in 1998 and remained low in 1999. Meanwhile, import prices for oil, flour and other commodities increased. Second, the collapse of the Russian ruble adversely affected the Tajik economy. The external shocks contributed to an increase in the fiscal deficit to 3.8 percent of GDP.

In 1998, the government made significant progress on rescheduling the country's foreign debt, while clearing all non-reschedulable arrears. In 1999, external debt service constituted only 7 percent of export earnings. The government has committed itself to restricting new borrowing to loans extended on highly concessional terms.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The legal framework for the banking sector is established primarily by the constitution; the May 1998 Law of the Republic of Tajikistan on Banks and Banking Activities; The Law of the Republic of Tajikistan on the National Bank of the Republic of Tajikistan; and the Gosbank Rules Governing the Regulation of the Activities of Commercial and Cooperative Banks.

The National Bank of Tajikistan (NBT) is the central bank and is headed by a chairperson appointed by the president and confirmed by parliament. The NBT is nominally independent, although in practice it appears to be under central government control. Under Tajikistan's 1998 commitments to the IMF and World Bank, after mid-1999 the central bank will not be permitted to finance the government deficit.

According to the IMF, the government's major achievement in its financial reforms has been macroeconomic stabilization. Inflation declined from 40.5 percent in 1996 and 163.6 percent in 1997 to 2.7 percent by the end of 1998. Authorities maintained a tight monetary policy in early 1999 to offset the effects of the Tajik ruble's depreciation in the face of declining terms of trade. In April 1999, the year-on-year inflation rate was 11 percent, a relatively modest rate given the external shocks. In 1998 and the first half of 1999, reserve money remained within planned targets. The NBT now extends virtually all gross credit through credit auctions.

The central bank establishes an interest rate for bank refinancing, which is often negative in real terms and tends to discourage savings. Commercial banks can and do set their own rates, which are higher than the NBT's rate. Because of the shortage of domestic capital and the relatively small size of banks, local credit is limited.

In 1994, the government began taking tentative measures to reform Tajikistan's private banks with the support of the World Bank, the IMF, and the European Bank for Reconstruction and Development. A key problem is that many of the Russian-speaking professional staff of the NBT and the private banks have left the country. This has eroded the NBT's capacity to regulate private banks, and has made it more difficult for private banks to manage their accounts and payments systems. In practice, most private banks are still poorly supervised, do not adhere to international regulatory and accounting standards, and continue to lend money to traditional clients regardless of creditworthiness. According to the IMF, in 1998 nonperforming loans averaged roughly 50 percent of outstanding loans at commercial banks. Long-term overdrafts persist in NBT settlement accounts.

In a positive development, the NBT raised the statutory minimum capital requirements for joint stock, commercial, and private banks from $300,000 to $1,000,000, effective January 1998. At that point, the country had 27 commercial and private banks, but following the introduction of the tightened requirements, only 19 banks remained (all are based either in Dushanbe or in the Leninabad region). The NBT also introduced a minimum working capital requirement of $500,000, effective January 1998, which will be increased to $750,000 in July 1999 and $1,000,000 in January 2000.

Under a 1997 memorandum between the NBT and the World Bank, the government ordered the largest

commercialbanks—Agroinvestbank, Tajikbankbusiness, Sberbank, and Vnesheconombank—to increase their statutory capital, reduce expenditures, increase the collection of loans, and liquidate unprofitable branches by November 1998. Beginning in fiscal year 1999, authorities also subjected the major banks to independent audits according to international financial standards, and required them to issue audited financial statements. The large banks have made mixed progress in these areas. The NBT will subject the remaining commercial banks to similar requirements in fiscal year 2000. In April 1999, the government took over the management of Tajikbankbusiness due to noncompliance with prudential regulations.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are hard currency reserves? Has exchange rate policy been stable and predictable?

The Tajik ruble is weak and has little credibility. Although numerous laws require business to be conducted in Tajik rubles, most market activity is transacted in U.S. dollars, Russian rubles in the Leninabad region, or, in certain areas, Uzbek *sum*. Since 1995, when the NBT introduced the Tajik ruble as the national currency to replace the Russian ruble, the NBT has held currency auctions at the Tajik Interbank Currency Exchange, a closed stock company established by eight commercial banks. The NBT is supposed to hold these currency auctions regularly to establish the market exchange rate for the ruble. In practice, the government essentially fixes the rate, and authorities have suspended the auctions at times due to a shortage of hard currency reserves. During 1998, the spread between the official exchange rate and the black market rate increased from roughly 7 percent to around 20 percent, reportedly due to informal restrictions on the availability of foreign exchange. By late May 1999, the spread had decreased to about 12 percent.

Although by law the currency is convertible, in practice foreign exchange offices and banks often refuse to sell U.S. dollars. By the end of 1996, gross international reserves stood at $14 million, or .3 months of imports. By the end of 1998, gross reserves had increased to $65 million, or 1.4 months of exports. However, by end of the first quarter of 1999, gross international reserves had decreased to $52 million.

The exchange rate policy has been neither stable nor predictable, partly due to external factors. In 1998, Tajikistan faced two major external shocks: Russia's financial crisis and a decline in world market prices for cotton, the country's main export product. The external shocks, combined with the government's loosening of fiscal policies, contributed to the Tajik ruble's decline from 754 to the dollar in early September to 781 to the dollar by mid-October (and from 830 to 935 to the dollar on the black market). Authorities responded by selling an additional $6 million dollars in September and October, increasing the frequency of currency auctions, raising interests rates by two to three percentage points, and tightening monetary policy. By mid-May 1999, the nominal exchange rate had depreciated 35 percent against the U.S. dollar since August, although the rate of depreciation had decreased. According to the IMF, the real exchange rate remains largely undervalued, as indicated by low dollar wages compared with other countries in the region.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investing and lending? What government bodies have authority to regulate capital markets?

The spring 1998 session of parliament passed World Bank-recommended amendments to the post-Communist Stock Exchange Law, which regulates securities trading. The stock exchange held its first stock auction in March 1998. Several commodities exchanges also function. However, there is still no cotton exchange, even though cotton is the major agricultural commodity. Authorities effectively set cotton prices and control export marketing. The tiny capital markets consist mainly of central bank credit and treasury bill auctions.

MICROECONOMIC POLICY 6.00/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including

measures for compensation and challenge? Have any seizures taken place?
Article 12.2 of the 1994 constitution guarantees "the protection of all forms of property, including private property." Article 32.1 states that "Every person has the right to ownership and inheritance." Earlier, in 1992, parliament approved legislation that gave Tajik citizens the right to own, lease and inherit land. The 1996 Law of the Republic of Tajikistan on Property establishes the primary legal framework for intellectual property, real estate, and business property.

Tajikistan joined the World Intellectual Property Organization's permanent committee in the field of industrial property protection in 1994, thereby committing itself to international conventions in this area. Despite laws protecting intellectual property rights, piracy in computer software and video cassettes continues to be a problem.

In June 1998, the World Bank approved a $50 million Structural Adjustment Credit designed in part to help the government establish a centralized registry for privatized enterprise shares as a measure to protect shareholder's rights. The government also committed itself to establishing a land registry by September 1999. Agricultural land remains under state ownership but can be leased, and these lease rights can be inherited and sold. In 1994, the government recognized rights to 30,000 acres of squatter-occupied farmland and made an additional 20,000 hectares available to private farmers. Article 32.2 of the constitution restricts the state's right to appropriate property, and requires the state to pay compensation in cases of appropriation. The actual procedures for expropriation, compensation, and appeal have yet to be worked out in law and practice.

2. To what extent have prices been liberalized? What subsidies remain?
The government has fully liberalized prices of fruits, vegetables, bread, and livestock products and inputs. Authorities have also replaced the universal bread subsidy with targeted food subsidies to the most vulnerable groups. Price controls remain on utilities and transportation. State-owned enterprises informally set many prices for raw materials and outputs. For example, prices for raw cotton are less than half that of the world market price. In the energy sector, the government subsidizes consumers by setting electricity tariffs below cost. Further, the government continues to distort prices in many sectors through subsidies to industries.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?
Article 12.2 of the constitution guarantees freedom of "economic activity" and "entrepreneurial activity." Although legislation governing the ownership and operation of a business exists, in many cases the government has not enacted implementing mechanisms provided for in these laws. For example, despite the provisions established by the 1992 Law on Bankruptcy, authorities have forced few insolvent companies into bankruptcy. In spring 1998 parliament approved amendments to the laws on collateral, joint stock companies, and bankruptcy prepared under World Bank tutelage.

The World Bank considers barriers to private enterprise to be high for several reasons. Bureaucratic inefficiency and delays add to the time and cost involved in setting up a business. Entrepreneurs generally must pay bribes to authorities and criminal syndicates. Private enterprises generally have limited access to commercial real estate and other physical assets, which are largely controlled by state enterprises. Additional obstacles include difficult entry and exit rules, difficulty in raising working capital, a general lack of access to business information, contradictory decrees, and an inadequate business law framework.

Moreover, in entire parts of the country, the economy remains outside central control and private economic activity is carried out at the whim of local strongmen. Even goods produced in government-controlled areas that are being transported to other parts of the country can have their prices tripled by the need to bribe warlords for safe passage.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and con-

tract disputes? What alternative mechanisms for adjudicating disputes exist?

In 1997, the government created a Higher Economic Court (HEC), which is governed by the 1994 Constitutional Law on Economic Courts, the 1995 Legal Code, and the Economic Procedures Code. The HEC's mandate covers any economic disputes arising from civil, administrative, business, or other economic relationships. Fifteen-judge panels decide cases. Plaintiffs are required to pay up-front legal expenses of 10 percent of the suit's sum, which may serve to limit the number of cases brought to the HEC. Only legal entities, as opposed to individuals, may bring cases.

Observers generally consider the HEC to be relatively competent and professional. In 1998, judicial authorities established regional economic courts in Gorno-Badakhshan, Leninabad, and Khatlon provinces, and in Dushanbe, the capital. Individuals must bring economic disputes to civil courts, which are corrupt and inefficient. The executive branch, local warlords, and criminal syndicates pressure judges to make favorable rulings. As such, individuals lack an effective, transparent, and efficient means of resolving property and contract disputes, and the private property of citizens is not adequately protected. There are no formal alternative mechanisms for adjudicating disputes.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

Tajikistan's business culture is based more on power and personal connections than on competitive processes and the rule of law. Large state enterprises still dominate almost every sector of the economy, including supply networks and transport. The government supports state enterprises through preferential credits and tariffs, lax enforcement of overdue power bills, and other means. Parliament passed an anti-monopoly law in 1993, and the government created an anti-monopoly department in the ministry of the economy to enforce it, but authorities have generally not enforced anti-monopoly provisions. Opposition groups have accused local governments of allowing nepotism and corruption to guide the control of local economic assets, regulation of private business, and distribution of land rights. Local warlords, Mafiosi, and drug traffickers control a considerable share of economic activity. The procurement process is neither open nor unbiased.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Tajikistan's exporters and importers have been hampered by civil unrest, limited foreign currency holdings, and geographical isolation. Most trade is in government hands through state-owned enterprises or stakes in private enterprises. Increasingly, Tajikistan has become a transit point for drugs flowing from Afghanistan to Russia and Western Europe.

There are no export tariffs on cotton and aluminum, two of the country's main export commodities. Hard currency profits of Tajik exporters are free of any taxes except for profits on cotton and aluminum exports, which are taxed at 5 and 25 percent, respectively. In January 1998, the government introduced a uniform 5 percent duty on nearly all imported goods, although an often-predatory customs service reportedly applies tariffs in an arbitrary manner. The government also eliminated most VAT exemptions for goods imported from non-CIS countries. Customs procedural fees include a .15 percent fee assessed on the contract price.

In February 1999, Russia, Belarus, Kazakhstan, and Kyrgyzstan accepted Tajikistan into their customs union. In the context of the 1999 budget, the government planned to remove most of the few remaining import duty exemptions, and to remove import and export licensing requirements for most goods.

Certain informal trade barriers exist. For example, exporters must secure advance payments from buyers and obtain government permission before exporting cotton, aluminum, wool, and certain other goods. There are no quantitative restrictions on imports, although authorities must approve the contracts for the import of certain commodities. At times, armed violence has sharply curbed imports.

Most of Tajikistan's freight and passenger transportation must be run through Uzbekistan. Tashkent has intermittently closed critical roads and railways,

blocked the entrance and exit of freight, and tightened customs rules in order to pressure Tajikistan into paying debts for fuel supplies. The Tajikistan government is building a 20-mile road that will give the country access to the Karakoram Highway between China and Pakistan.

7. To what extent has foreign investment and capital flow been encouraged or constrained?
The government has generally encouraged foreign investment, particularly in the mining and hydroelectric sectors. The 1993 Law on Foreign Investment is favorable to foreign investment and prohibits nationalization.

Nevertheless, registration procedures remain cumbersome, decrees are often unclear and contradictory, and the bureaucracy frequently stalls implementation. By one estimate, registration of a joint venture takes three weeks of intense work by a Tajik local representative who is familiar with processing the necessary paperwork with the ministry of finance, the state statistical committee, local administrative and tax officials, and the ministry of foreign economic relations. According to the American Embassy in Dushanbe, "Despite an apparent transparency of procedures, there are some secret instructions, which complicate the registration procedure...all decisions concerning foreign investments are taken only after the approval of officials from the presidential administration."

The implementation and juridical support of the relevant laws are rudimentary. Full texts of laws affecting foreign investment are usually not published until six months after enactment, and important court decisions are not published or are otherwise inaccessible to investors. Payments on export-import operations of joint ventures cannot be held in offshore banks. Foreigners can lease but not own land.

Foreign entities are limited to a 49 percent ownership stake in state enterprises or enterprises with some state ownership. Foreign investors can establish fully-owned subsidiaries and there are no restrictions on the percentage of foreign ownership in a joint venture. The law grants tax holidays, with a maximum five-year tax holiday on profits for investments of more than $1 million. There are no restrictions on repatriation of profit and capital by foreigners. However, the central bank has at times suspended hard currency auctions due to shortages of hard currency reserves, and largely for this reason currency convertibility is at times limited.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?
Under plans agreed to with the IMF and World Bank, the government committed itself to raising electricity prices to cost recovery levels for all customers and installing gas meters in parts of the country by 2001, and to not interfere with energy companies' policy of cutting off service to customers not paying current obligations. But overall, there has been little reform of the energy sector, which is characterized by heavy state involvement, cross subsidies, distorted price mechanisms, payments arrears, and severe shortages.

Tajikistan is self-sufficient for less than 50 percent of its oil, natural gas, and coal needs. In recent years, Uzbekistan has cut off gas and electricity supplies when Tajikistan has fallen behind in its payments, often because Tajik industrial enterprises and ordinary citizens neglected to pay for gas. Tajikistan pays for some Uzbek gas by allowing rail shipments of Uzbek goods across its territory.

The Rakhmonov government has taken steps to reduce the country's energy dependence on Uzbekistan, primarily by signing a 1997 tripartite agreement covering economic and cultural relations with Turkmenistan and Iran. As part of the deal, Turkmenistan provides Tajikistan with reduced-cost fuel and natural gas. The government is also seeking foreign investors to develop domestic gas fields.

Tajikistan is the third largest producer of hydroelectric power in the world, after the United States and Russia. But while hydroelectric production represents 76 percent of the country's electricity output, it supplies less than half of Tajikistan's total energy needs. Tajikistan does export electricity, mainly to Uzbekistan, but it also imports electricity, mainly from Uzbekistan. The hydroelectric system suffers from under-investment, a deteriorating infrastructure, and payment arrears.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The end of Soviet-era emigration restrictions and the country's civil war contributed to a net population outflow, which began at independence and peaked in 1993. Many of those who emigrated were ethnic Russians and Ukrainians, who were also among the best-educated members of the population. Tajikistan has since suffered from a shortage of skilled manpower. At the same time, the economy has failed to create a sufficient number of jobs for the population at large. Officially, only 3 percent of the working age population is registered as unemployed. However, according to the United Nations Development Program (UNDP), in 1998 up to 51.5 percent of the population was unemployed, with the unemployment rate for women at 53 percent. With factories operating at low capacity, employers have laid off or furloughed many workers for extended periods. Unemployment is highest in rural areas. The government committed itself to designing a comprehensive program of unemployment compensation benefits by October 1999.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The existing social safety net is poorly targeted and inadequate. In 1999, the pension system was funded in part through a 37 percent payroll tax on the monthly wage bill of enterprises, of which 85 percent went to the pension fund and 15 percent went to the social insurance fund. In FY 1999, public pension expenditure was three percent of GDP. The government provides free electricity to war veterans, invalids, and Chernobyl victims. There are no private pension systems.

The government is reforming the pension system under IMF and World Bank auspices as part of a comprehensive restructuring of the social welfare system designed to introduce a new, unified social assistance scheme in 2000. The government committed itself to increasing the age for pension eligibility, freezing working pensioners' benefits, tightening early retirement provisions, introducing individual retirement accounts, and introducing workers' contributions for pensions.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Tajikistan's GDP declined by 40 to 45 percent between 1991 and 1995, but has since increased somewhat. According to the World Bank and IMF, per capita GDP rose from $106 in 1995 to $213 in 1998. The average monthly wage rose from $9.20 in 1995 to $11.10 in 1998. The government provides subsidies to workers and their families at the minimum wage. The government adopted a wage indexation law for state employees in 1993, but has not implemented the law.

In 1998 the government eliminated arrears on wages and cash compensation payments. Previously, wage arrearages had been severe, and some government offices and businesses had compensated by providing in-kind payments of food or goods. Median wages for women are often considerably lower than median wages for men, though no hard figures exist regarding this differential.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year-olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

Tajikistan's education system is still based largely on the Soviet model. The civil war destroyed many schools, and many of the remaining schools have either been abandoned or lack heating. The enrollment ratio for youths between 6 and 23 years old is 62 percent. The UNDP reports that the dropout rate for primary school appears to be 20 percent for boys and 25 percent for girls. Observers believe that the dropout rate after ninth form is even higher. The problems of low enrollment and high dropout rates occur in the context of severe economic hardship and the government's decision to end its policy of transporting children to school. Data on the student-teacher ratio are not available, although there is a clear shortage of teachers. There are also serious shortages of textbooks and other teaching materials.

In 1997, total expenditure on education was 14 percent of government spending, or 2.6 percent of GDP. It is not clear how this compared with earlier post-independence years, although in general, social sector spending has declined since independence.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

Tajikistan's infant mortality rate was 27.6 per 1,000 live births in 1997, a decline from 40 per 1,000 live births between 1991 and 1994. The crude birth rate is 23.2 births per 1,000 people. Life expectancy in 1997 was 65.5 years for males and 71.2 years for females. According to the most recent statistics available through the World Health Organization, the suicide rate was 3.7 per 100,000 people in 1992. No data were available on divorce rates.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

Since independence, several hundred thousand people have emigrated from Tajikistan, among them many health personnel. While there are no figures on the ratio of doctors and nurses to the population, the ratio is certainly low, and the government has done little to improve the skills of those healthcare workers who remained in the country. There are no figures on average and median monthly wages for doctors, nurses, and medics, although anecdotal evidence suggests that these professionals receive very low wages. Data on the total and per capita number of hospital beds are not available.

The combination of IMF-mandated fiscal orthodoxy, the country's impoverishment, and the deleterious effects of corruption and mismanagement has left little money for healthcare and other social spending. Tajikistan's social spending per capita remains among the lowest in the transition economies, forcing extended family networks to provide the bulk of the social welfare net. Access to adequate healthcare has been declining, and the UNDP reports a significant increase in the number of deliveries taking place at home without trained assistance.

Between 1990 and 1997, government health expenditures fell from $6.20 to $2.70 per capita. In 1998, government spending on healthcare amounted to 8.6 percent of GDP. The UNDP reports that nearly the entire health budget was spent on salaries, leaving little left over for human resource development, equipment, commodities, transport, and repair and maintenance of facilities. Much of the existing healthcare equipment is either obsolete or out of service. There are also reports that the Ministry of Health has mismanaged healthcare funds. Because the central government only controls a fraction of the country, it cannot provide services to many areas. In general, urban populations have better access to healthcare than rural ones.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and

poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.
According to the IMF and World Bank, in 1997 up to 85 percent of the population lived below the poverty line. This included 12 percent of the population in severe poverty (under U.S. $13 per month), and up to 5 percent destitute. No accurate data exist concerning the breakdown among various segments of the population, or from earlier periods.

TURKMENISTAN

Polity: One-party presidential dictatorship
Economy: Statist
Population: 4,800,000
PPP (USD): 2,109
Capital: Ashgabat
Ethnic Groups Turkmen (77 percent), Uzbek (9 percent), Russian (7 percent), Kazakh (2 percent), other (5 percent)
Size of private sector as % of GDP (1998): 25

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	6.90	6.90	↓6.94
Rule of Law	na	na	6.38
Economic Liberalization	6.38	↓6.42	6.42

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita	1191.0	552.0	562.0	424.0	450.0	421.0	537.0
Real GDP growth (% change on previous year)	-10.0	-18.8	-8.2	-8.0	-26.1	4.2	17.0
Inflation rate	3128.4	2562.1	1105.3	714.0	83.7	16.8	20.0
Exports	2693.0	2176.0	2084.0	1691.0	759.0	614.0	1099.0
Imports	1593.0	1691.0	1644.0	1532.0	1004.0	1137.0	1009.0
Foreign Direct Investment	79.0	103.0	233.0	129.0	108.0	110.0	100.0
Unemployment rate	na	na	3.0	na	na	na	na
Life Expectancy (years)	66.4	66.0	64.6	65.1	65.7	65.4	61.1

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			6	7	7	7	7	7	7	7	7
Civil Liberties			5	6	7	7	7	7	7	7	7
Status			PF	NF	NF	NF	NF	NF	NF	NF	NF

Introduction

Since the establishment of Turkmenistan's independence in 1991, President Saparmurat Niyazov has led the country as an authoritarian ruler who has fostered an elaborate cult of personality centered on his adopted title of Turkmenbashi (leader of the Turkmen). The president's birthday is a national holiday, monuments to Niyazov are found across the country, and the state-controlled media lavish constant praise on the president and his policies. In practice, there are few checks on executive power. Turkmenistan is a single party state, and there is little separation between the party and the state. Nearly all outspoken opponents of the regime have either spent time in prison, are currently imprisoned, or are in exile. The legislature and judiciary enjoy no genuine independence from the executive branch. The government controls or restricts various civil liberties, including freedoms of the press, assembly and association, religion, and travel abroad.

Turkmenistan's economy remains dependent on state control and there have been few reforms of the Soviet command system. Turkmenistan contains among the world's largest known natural gas reserves, which, along with oil, account for much of the country's export revenues. Despite this wealth of natural resources, the potential of the country's energy sector continues to be limited by a lack of adequate export routes. The economy suffers from a large trade deficit and foreign debt, and corruption, poor infrastructure, and an inadequate legal environment discourage foreign investment. The predominantly state-controlled agricultural sector, especially cotton cultivation, employs nearly half of all workers, and most of Turkmenistan's citizens live in poverty.

In April 1998, authorities released four members of the so-called Ashgabat Eight, a group of political prisoners held in connection with an unprecedented mass demonstration in July 1995 that protested economic hardships and called for new presidential elections (the Ashgabat Eight included a ninth individual whose arrest was not initially disclosed). Earlier, one member of the Ashgabat Eight had died in prison and authorities had released two others. In June 1999, authorities arrested Pirikuli Tangrykuliev, a former Supreme Soviet deputy and a critic of the Niyazov regime, after Tangrykuliev announced plans to contest the December 1999 parliamentary elections. In mid-1999, negotiations were proceeding between Turkmenistan and an international energy consortium to build a gas pipeline from Turkmenistan across Azerbaijan and Georgia to Turkey.

Democratization

POLITICAL PROCESS 7.00/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international monitoring organizations? Who composes the government?

The Turkistan Soviet Socialist Republic held single-party elections to the 175-member Turkmen Supreme Soviet in January 1990. The 1992, post-independence constitution created a bicameral parliament consisting of a 150-member *Khalk Maslakhaty* (People's Council), which meets at least once per year to establish broad policy guidelines and consider constitutional amendments, treaties, and referenda; and a smaller 50-seat *majlis* (assembly) that is directly elected for a five-year term and performs legislative functions. The People's Council is chaired by the state president and includes the 50 assembly members; 1 directly elected member from each of the country's 50 districts; 10 appointed regional representatives; the cabinet ministers; regional, district, and city governors and mayors; the chairmen of the Supreme Court and the Economic Court, respectively; and the General Prosecutor. There is no prime minister. The Supreme Soviet became the parliament following the adoption of the constitution, pending new elections.

The December 11, 1994 legislative elections bordered on the farcical—51 candidates "contested" the 50 assembly seats, and officially 99.8 percent of the population turned out to vote. President Saparmurat Niyazov selected the candidates on the basis of loyalty and nearly all belonged to his Democratic Party of Turkmenistan, the sole legal political party. The remaining candidates were nominally independent but firmly pro-Niyazov. The government did not per-

mit foreign observers to monitor the polls, which were neither free nor fair. In April 1999, Niyazov said he would not permit the Organization for Security and Cooperation in Europe or other international observers to monitor parliamentary elections scheduled for December 12, 1999.

2. When did presidential elections occur? Were they free and fair?

In January 1990, single-party elections in the Turkistan Soviet Socialist Republic brought to power Saparmurat Niyazov, the first secretary of the Turkmen Communist Party since 1985, as chairman of the Supreme Soviet. On October 27, 1990, Niyazov ran unopposed in an election for the new post of executive president. The 1992 constitution vested strong executive powers in a president, who must be an ethnic Turkmen and is directly elected for a five-year term. The president may not serve more than two consecutive terms. The president has the power to issue decrees, resolutions, and orders that have the force of law, except regarding constitutional amendments or criminal code revisions; appoint all executive, judicial, and regional officials; initiate legislation and budget proposals; and veto parliamentary proposals. The president also serves as commander-in-chief.

Niyazov ran as the sole candidate in the June 21, 1992 presidential elections. The government announced the election barely a month before polling day. Official results gave Niyazov 99.5 percent of the vote under a reported 99.9 percent turnout. The government did not permit foreign observers to monitor the vote, which was neither free nor fair. In a January 15, 1994 referendum, a reported 99.9 percent of participants approved the extension of Niyazov's rule until 2002, eliminating the need to hold elections scheduled for 1997 and effectively making Niyazov president-for-life. International observers did not monitor the referendum, which was neither free nor fair.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Turkmenistan is a single-party state. President Niyazov's Democratic Party of Turkmenistan Party succeeded the Soviet-era Communist Party of Turkmenistan in December 1991 and is the sole legal political party.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

Article 28 of the constitution guarantees citizens the right to establish political parties, except for parties based on nationality or religion. The 1992 Law of Turkmenistan on Social Associations (as amended in 1994) states that social associations are formed by holding founding conventions or general meetings, and that in the case of political parties, delegates to the founding convention or general meeting must represent at least 1,000 people. Otherwise, the registration process for parties is the same as that for NGOs, which in theory is relatively straightforward. In February 1999, President Niyazov reiterated to his cabinet that citizens could freely form political parties.

In practice, though, the government has banned opposition parties or prevented their formation, and the sole legal party is Niyazov's Democratic Party of Turkmenistan. Niyazov has claimed that the government refused to register some opposition parties because they were vehicles of foreign intervention in Turkmen politics, but has offered no evidence to support this claim.

Several of the banned parties are nominally active, but they play virtually no role in the political process and the Committee for National Security, the successor to the Soviet-era KGB, harasses their members. These unregistered parties include the Moscow-based Movement for Political Reforms; the Party of Democratic Development of Turkmenistan; the Unity of Voice Movement; the Islamic Renaissance Party; and the Turkestan Party. The oldest of these groups, the Unity of Voice Movement, or Agzybirlik, was formed in 1989 by a group of intellectuals and banned by the government in 1990.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Niyazov's Democratic Party of Turkmenistan claimed a membership of 60,000 in early 1995. However, given the lack of a competitive party system, party membership appears to be solely a means of professional advancement. No data are available on the proportion of party members who are women. Politics and government are largely male preserves. Women do occupy several key state positions including deputy chairperson of parliament, but hold only nine parliamentary seats and no cabinet positions, and are underrepresented in the bureaucracy.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

By official account, turnout was 99.9 percent for the June 1992 presidential elections; 99.9 percent for the January 1994 referendum on extending the president's tenure; and 99.8 percent for the December 1994 parliamentary elections. Anecdotal reports suggested that actual voter turnout was low in all cases. No data are available on the turnout for local elections, or on the actual level of female voter participation.

CIVIL SOCIETY 7.00/7

1. How many nongovernmental organizations (NGO) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally-led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

The Ministry of Justice prevents most NGOs from registering, but authorities tolerate the activities of several dozen unregistered NGOs that have nonpolitical agendas. The USAID-funded Counterpart Consortium Turkmenistan, which was established by the U.S.-based Counterpart International, Inc., maintains a database of 210 "nongovernmental organizations" with whom it works with (with the term "nongovernmental organization" covering NGOs, local "initiative groups," and, in some cases, quasi-governmental organizations). Only 16 of these 210 groups are registered with the government, including 9 groups that are branches of the quasi-governmental National Women's Union based in Ashgabat. Counterpart Consortium notes that the Ministry of Justice maintains a separate list of "Registered Public Organizations in Turkmenistan" that includes 119 groups. Most of these are holdovers from the Soviet era and many are no longer active

There are few locally led efforts to increase philanthropy and volunteerism. No data are available on the proportion of the population that is active in private voluntary activity, but anecdotal evidence, and the small size of the nongovernmental sector, suggest that relatively few citizens are involved in civil society. Several unregistered, female-led NGOs provide services including psychological and legal counseling to female victims of violence and discrimination; legal education; and skills training. Most of these groups have, at most, several dozen members. They include the Anna Women's Club, the Ynam Club, and Zaman, which are located in Ashgabat and provide legal and psychological counseling to women, and Lukman in Dashkhovuz, which focuses on reproductive health issues. There are also several associations of businesswomen, including the Center of Businesswomen and the Women's Issue Club, both located in Ashgabat.

2. What is the legal and regulatory environment for NGOs (i.e ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Article 28 of the constitution guarantees citizens the right to form "social associations," or NGOs. The 1992 Law of Turkmenistan on Social Associations (as amended in 1994) stipulates that citizens form and register social associations by holding a founding convention or general meeting; drafting a charter; and submitting an application along with the charter to the ministry of justice or the appropriate local body (depending on the geographical scope of the NGO's activities). In practice, the government denies registration to most NGOs.

The 1992 law guarantees NGOs the right to engage in a variety of activities (see below), but does not articulate a set of legal rights or otherwise provide protection from arbitrary state action. The law authorizes state agencies to monitor the financial operations of NGOs, including their sources of income, amounts of contributions, and payment of taxes. The law also authorizes the ministry of justice to monitor NGOs' compliance with their charters by, among other means, sending ministry representatives to participate in NGO activities. NGOs function under constant threat of reprisal and, as such, do not advocate for legal or regulatory reforms or otherwise engage in political activities.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate au-

thority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Most NGOs have less than a dozen members and therefore have simple, lean management structures. Some international NGOs provide information on management issues, generally in English or Russian. A few domestic NGOs provide legal and management advice to less developed organizations. Right, an NGO based in Ashgabat, provides legal advice to other NGOs. The Information and Consulting Center distributes information on management issues, helps NGOs develop grant proposals and find funding sources for projects, and provides information technology training for administrators and webmasters of local NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs are dependent on funding from foreign governments, foreign nongovernmental organizations, or international nongovernmental organizations. NGOs enjoy few tax benefits. According to an April 1998 report by the United States Embassy in Ashgabat, religious organizations and entities that are engaged in educational activities approved by the government are exempted from profit tax payments. However, it is not clear how many entities have taken advantage of this benefit.

The 1992 Law of Turkmenistan on Social Associations (as amended in 1994) authorizes state agencies to monitor the fiscal records of NGOs, including their revenue sources. There are few procurement opportunities for NGOs in Turkmenistan's statist economy. The 1992 law permits NGOs to gain income from membership fees; voluntary contributions and donations; fees from lectures, exhibitions, and athletic and other events; lotteries; publishing and other commercial activities; and any other legal activities.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Under the 1992 Law of Turkmenistan on Social Associations (as amended in 1994), citizens can form trade unions by holding a founding convention or general meeting in which the delegates represent at least 1,000 people. In practice, the government controls all trade unions. The Soviet-style Colleagues Union is the only legal trade union federation and claims 1.6 million members. Unions rarely act as true labor advocates, and employers flout worker's rights with impunity. Workers lack the right to hold strikes or bargain collectively. No data are available on the trend in union membership.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

The 1992 Law of Turkmenistan on Social Associations (as amended in 1994) states that social associations can include political parties; trade unions; women's and veterans organizations; scientific, technical, cultural, athletic, and other voluntary societies; foundations; and other citizens' groups, as well federations of associations. The law permits NGOs to distribute information about their goals and activities; represent the legal interests of their members in state bodies; establish media outlets and publish freely; and carry out other activities not prohibited by law. Nationwide NGOs can also introduce draft legislation in parliament.

In reality, the Niyazov regime does not permit interest-group participation in politics. Nearly all NGOs work in nonpolitical fields including agriculture, cultural affairs, business promotion, youth activities, the environment, education, science, healthcare, and the provision of aid to the disabled. There are no formal human rights organizations, and the government harasses the few groups that work to protect rights, such as the Ashgabat-based Russian Community.

The government has organized several tightly controlled organizations that ostensibly fill a niche occupied by NGOs in democratic societies. In 1996, a state-organized National Institute for Democracy and Human Rights that reports directly to President Niyazov began operating. It mainly receives complaints from citizens, mostly regarding the judicial process, and issues replies. Institute personnel have also conducted investigative tours of prisons and met with local and

regional authorities. In practice, the Institute has little if any power to obtain redress.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?
In general, the government views NGOs with suspicion, an attitude most evident in the fact that authorities usually deny registration even to NGOs with nonpolitical agendas. It is difficult to determine the public's attitude toward NGOs due to the absence of public opinion polling or other accurate means of aggregating citizens' preferences. Few citizens are involved in NGO activities, but this may reflect the threat of government sanctions more than negative public attitudes toward NGOs. Media coverage of NGOs is virtually nonexistent. Government officials rarely engage with NGOs. Due to the hostile environment they face, NGOs refrain from policy advocacy.

INDEPENDENT MEDIA 7.00/7

1. Are there legal protections for press freedom?
Article 26 of the constitution guarantees freedom of expression. The 1991 Law on Press and other Mass Media stipulates that constitutional guarantees of free expression include press freedom.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Articles 132 and 192 of the criminal code make libel a criminal offense. Libel in the mass media is punishable by either a fine or up to two years of forced labor. Libel of a state official is punishable by a prison term of up to five years. There are no specific legal penalties for "irresponsible" journalism. The government controls the media so tightly through prior censorship and other means that in practice newspapers and broadcasters do not make comments that could be construed as libel.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
The Niyazov regime does not permit private print or broadcast media. At independence, authorities closed several autonomous newspapers and magazines published by individual ministries and other state institutions.

Niyazov issued a decree in 1996 declaring himself founder and owner of all national newspapers. The major newspapers are the Turkmen-language *Turkmenistan* (circ. 70,000) and the Russian-language *Neutral Turkmenistan* (which received its current name in December 1995 after the UN General Assembly granted Turkmenistan the special status of a neutral state, circ. 40,000). Two nominally independent newspapers, *Adalat* and *Galkynysh*, were in fact created by presidential decree and are under state control. In recent years, authorities frequently seized Russian newspapers from arriving passengers at the Ashgabat airport. However, in 1998 and early 1999, Russian and Western newspapers were often available in hotels in Ashgabat.

The state-owned National TV and Radio Broadcasting Company is the sole domestic broadcaster. First Channel of Turkmenistan TV broadcasts nationally in Turkmen and Russian. The Ashgabat Channel (or Second Channel) broadcasts mainly in Turkmen to the capital region. Radio-1 broadcasts nationally and features mainly news and entertainment. The National TV and Radio Broadcasting Company delays and censors ORT television and Radio Mayak broadcasts from Russia. Radio Liberty's Turkmen Service broadcasts a one-hour program in the Turkmen language three times per day on short wave. Authorities permit few foreign journalists to enter the country and often restrict the movement of those allowed to enter.

4. Are the private media financially viable?
Given that all media are state-owned, their viability is subject only to Niyazov's whim. Journalists are civil servants and the government funds newspapers largely out of the state budget. Advertising and sales amount to only a small portion of newspapers' income. The government imports and strictly controls the distribution of newsprint, which Turkmenistan does not produce, and controls the availability of equipment and other material required for publishing.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?

The Organization for Security and Cooperation in Europe's (OSCE) Representative on Freedom of the Media reported in February 1999 that Turkmenistan is characterized by a "virtual absence of media freedom," and "offers no independent media nor any healthy debate on the issue." In May 1998, the New York-based Committee to Protect Journalists (CPJ) cited President Niyazov as one of the world's "Ten Enemies of the Press."

The 1994 Rules for Publishing in Turkmenistan place numerous restrictions on the press. Most notably, the rules authorize the cabinet-controlled Committee on Protection of State Secrets in Press and other Mass Media to exercise prior censorship over all print and electronic media. Each newspaper editorial board reportedly has a designated employee who maintains regular contact with the Committee on Protection. The 1994 Rules on State Licensing of Publishing Activity require all publications to obtain a permit from the Committee on Protection. In February 1998, the government ordered all publishing houses and printing establishments to obtain a license and register their equipment.

The presidential press service and the department of press issue guidelines for political content. Party functionaries hold most key positions in the main newspapers, television channels, and radio stations. Overall, the government prohibits the media from covering opposition views, criticizing the president, or reporting on Turkmenistan's political or social problems, with the exception of the president's frequent criticism of government officials. News segments on both domestic television channels are almost entirely devoted to coverage of Niyazov's activities and speeches, and slavishly praise and promote the president's policies and nationalist ideology. In March 1999, Radio Free Europe/Radio Liberty noted that the media, "regularly portray Niyazov as a genius or in the role of a wise and benevolent father figure."

Authorities have fired several journalists from their jobs with the state-owned media for deviating from the government's guidelines on political content. In January 1999, officials fired Galina Shipotkina from her position at the state-owned *Neutral Turkmenistan* newspaper after she attended a dissident journalists' meeting in Ashgabat (see below).

Radio Liberty's (RL) short-wave broadcasts are the only alternative, non-state source of information in the Turkmen language. CPJ has documented a regular pattern of state-sponsored abuses against RL journalists, including harassment, beatings (often severe), and detention. Only two RL stringers use by-lines; the others write anonymously or use pseudonyms. In September 1998, authorities detained a former presidential spokesman for several days in Ashgabat on apparently fabricated corruption charges after he had criticized President Niyazov and accused the government of mismanagement in a June RL interview. The OSCE's Representative on Freedom of the Media also reported that, paradoxically, there is a proliferation of satellite dishes in Ashgabat.

6. Is the distribution system for newspapers privately or governmentally controlled?

The government controls the distribution system for newspapers.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

In November 1997, the government announced the opening of a public Internet-access center in Ashgabat. Until then, the only publicly available Internet and e-mail service was routed through Russia and accessed through the Ashgabat Ecology Club. CatNet, the country's largest e-mail provider, has established some 500 e-mail accounts in Ashgabat, a figure that suggests that the proportion of the population that is connected to the Internet is negligible. It is not clear whether the government places any restrictions on Internet access to private citizens or whether high costs and the country's poor infrastructure limit the number of private accounts.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The European Commission reported in 1997 that a 1995 presidential decree (the text of which has never been made public) apparently dissolved all independent associations of intellectuals, including the Journalists' Union of Turkmenistan. Currently, all press and journalist associations are under government control. They include the Turkmen Branch of the Central Asian Association of Journalists, located in Ashgabat; the Ashgabat-based Women in Media of Central Asia; and the "Initiative" Center of Young Journalists at Turkmen State University, which offers training to prospective

journalists. No data are available on the proportion of their membership that is made up of women.

In January 1999, Committee for National Security agents broke up a meeting of journalists in Ashgabat at which participants planned to announce the formation of an independent journalists' association. In February, the OSCE's Representative on Freedom of the Media reported that his advisor had been scheduled to meet in Ashgabat with journalists who were either not employed by the state media or unemployed. None showed up, and some invited journalists reported that intelligence agents had warned them not to participate in the meeting. Others told OSCE representatives that they did not attend the session due to fear of government reprisal.

9. What has been the trend in press freedom as measured by Freedom House's Survey of Press Freedom?

Freedom House's annual *Survey of Press Freedom* has rated Turkmenistan "Not Free" from 1992 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 6.75/7

1. Is the legislature the effective rule-making institution?

Article Four of the constitution states that the government is based on the principle of separation of powers between the legislative, executive, and judicial branches. Article 68 of the constitution grants the president, deputies of parliament, and the cabinet of ministers the right to introduce legislation in parliament. In practice, President Niyazov has consolidated state power in his hands, handpicks the nominees for parliament and maintains tight control over the body, and frequently bypasses the legislature entirely by ruling by decree. According to the U.S. Department of State's report on human rights in Turkmenistan in 1998, parliament does debate and amend draft legislation, but otherwise has no real independent power. The numerous presidential decrees, legislative acts, and administrative regulations are often contradictory. In April 1999, Niyazov told parliament that he would chair a commission that will draft amendments to the constitution transferring some of the president's executive powers to parliament, effective following the December 1999 elections. Given Niyazov's record of consolidating executive power, and his intolerance of dissent, few changes are likely in practice.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Article 82 of the constitution vests executive authority over local governments in the governors of the regions, districts, and towns, although Article 81 subordinates the governors to the president. Under Articles 85 and 86, towns, villages, and settlements have elected councils whose duties include setting basic local priorities in economic, social, and cultural development; approving the local budget; establishing local taxes and tariffs; and making decisions on the use of natural resources. In practice, Turkmenistan is a highly centralized state, and local authorities have perhaps even less power than they did under the Soviet system.

3. Are subnational officials chosen in free and fair elections?

Under the Article 81 of the constitution, the president appoints and can dismiss governors of the regions, districts, and towns. Niyazov regularly shuffles, dismisses, and often reappoints governors. Towns, villages, and settlements have local councils that in theory are directly elected and serve as representative bodies. In practice, these elections are neither free nor fair.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Article Five of the constitution stipulates that "legal acts" of government bodies be published for general notice or otherwise made available to the public, with the exception of acts that contain vaguely-defined, "state or other legally protected secrets." Article 26 guarantees citizens the right to "receive information," subject to the broad qualification that this information is not a "state, official, or commercial secret." In practice, executive and legislative bodies operate with a minimum of transparency. The state media publish legislation only after it becomes law.

According to an August 1998 International Monetary Fund (IMF) report, the ministry of the economy and

finance (MEF) does not make public the state budget. Compounding this lack of transparency, a large number of ministries remain off-budget, including "self-financing" ministries that generate their own resources mainly through commercial activities. In addition, the MEF has no control over the revenues and expenditures of four state funds created by presidential decree between 1996 and 1998 in the energy, agriculture, transport and communications, and health sectors. The funds manage the resources of state enterprises in their respective sectors, and receive their revenue directly from the sale of goods and services. Moreover, many ostensibly on-budget ministries have revenues that are not included in the regular budget.

The IMF noted in its report that it has an institutional policy of encouraging governments to prepare budgets according to economic categories such as wages and interest in order to make fiscal management and projections more transparent. In 1998, the MEF presented the budget on the basis of economic classification for the first time, alongside its traditional functional classification system.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Turkmenistan is divided into five administrative *velayats* (divisions), headed by governors. Ashgabat, the capital, is geographically located in Ahal Velayat, but does not come under the velayat's administrative jurisdiction. The velayats are subdivided into districts, villages, and towns.

Local governments generally lack sufficient funding to carry out their duties. They are financed by transfers from the central government and by limited tax revenues. According to the IMF, in 1997 the central government collected 90 percent of total taxes, with local governments collecting their 10 percent share through the personal income tax, the property tax, local taxes and fees, and a small share of the profit tax. Local government expenditure accounted for about 33 percent of total government expenditures. The primary local government expenditures are on education, health care, investment, operational spending, and subsidies. Municipal governments have little control over their budgets.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

The quality of public administration in Turkmenistan is poor. President Niyazov's practice of frequently shuffling local leaders, civil servants' relative lack of training, and local governments' limited resources all contribute to poor service delivery.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

There have been no significant constitutional or legislative changes on local power since independence. The government has also not carried out civil service reform. Local civil servants are generally appointed and employed by the central government.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 6.75/7

1. Is there a post-Communist constitution? How does the judiciary interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

In May 1992, the Supreme Soviet approved a post-independence constitution that was drafted without public consultation. The constitution does not grant the judiciary the right of constitutional interpretation, nor does it make explicit provisions for judicial enforcement of the basic law. In practice, the judiciary has no independent power, and has played no role in interpreting and enforcing the constitution.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The constitution guarantees freedoms of expression, assembly, association, and religion, and the right to move freely within the country. Article Nine guarantees citizens the right to own private property, including the

"means of production," land, intellectual property, and other material and intellectual "items of value." Article 18 of the constitution states that men and women have equal civil rights. Article 21 prohibits torture or cruel, inhumane, or degrading treatment or punishment. Articles 22 and 23 guarantee the right to privacy. However, Article 19 conditions the exercise of rights and freedoms on the vaguely-defined stipulation that they do not "violate . . . social order, or harm national security."

In practice, state agents violate human rights with impunity. The Committee on National Security (KNB), the successor to the Soviet Committee for State Security, or KGB, and the criminal police, a separate entity under the ministry of internal affairs, cooperate on internal security matters and regularly monitor the activities of suspected or actual government critics or dissidents. Authorities do not permit peaceful opposition demonstrations. The government requires citizens to carry internal passports, which record place of residence, as a form of identification. Citizens must obtain exit visas to travel abroad, and in practice the government restricts international travel.

Despite constitutional guarantees of equal rights for women, state practices and traditional norms restrict employment and educational opportunities for women. According to the U.S. Department of State's report on Turkmenistan's human rights record in 1998, women are underrepresented in the upper levels of state-owned enterprises and work mainly in the health care and education fields and in service industries. Domestic violence against women is reportedly common.

There is no state religion in this predominantly Sunni Muslim country. The Law of Turkmenistan on Religious Organizations (as amended in 1996) requires religious groups to have at least 500 adherents who are Turkmen citizens and over age 18 in order register with the government. The only groups that meet these requirements are the Sunni Muslim and Russian Orthodox Christian communities. The government reportedly applies the 500-member standard on a regional rather than national basis, meaning that religious groups seeking to register in a particular city need to have at least 500 adherents in that city. Consequently, Catholics, Seventh Day Adventists, Lutherans, Baptists, Bahai's and other groups have an ambiguous legal status.

In 1998 authorities reportedly raided and seized religious materials from Protestant churches. In April 1999, a Russian journalist who had recently visited Turkmenistan told RFE/RL that he had heard reports of official harassment of Baptist and other Christian congregations. According to Amnesty International, in recent years authorities have imprisoned several Jehovah's Witnesses for their conscientious objection to military service.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

In June 1997, the rubber-stamp parliament approved a new criminal code, although it contains few true reforms. In April 1999, the Moscow-based Interfax news agency quoted President Niyazov as saying, "Outrages in law enforcement agencies, such as illegal accusation or detention of citizens, still take place." Nevertheless, Niyazov's repressive style of government suggests that in practice he condones such actions.

Police and other officials reportedly routinely use force to obtain confessions from detainees. The United States Department of State said in its report on human rights in Turkmenistan in 1998 that security forces at times denied detainees medical treatment and food in order to coerce confessions. Prison conditions are poor and fall far short of international standards, and in recent years several prisoners have died due to overcrowding or lack of medical attention. Officials frequently abuse prisoners. In February 1999, President Niyazov said his government had released more than 60,000 prisoners under amnesties since 1991. In May, the president said the government had released 30,000 convicts under an amnesty in 1998, and about 6,000 people remained in jail. None of these figures could be confirmed. Prison officials reportedly often requested bribes to implement releases under amnesties.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

Article 42 of the constitution protects citizens from having to give testimony against themselves or close relatives. Article 105 mandates that all trials be open to the public, and Article 108 guarantees defendants the right to obtain legal assistance at any stage of the legal process. The criminal code guarantees defendants the right to have a public trial, to be represented by a defense attorney, to have access to evidence, and to call

witnesses to testify on their behalf. In practice, judges frequently arbitrarily deny due process rights, and corruption in the judiciary remains a serious problem. The government has not carried out any real reform of the judicial system. While no data are available, this suggests that most judges remain from the Communist era.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
The judiciary consists of a Supreme Court, 6 provincial courts, and 61 district and city courts. Article 101 of the constitution declares judges to be independent and prohibits any outside interference in judicial activities. Under Article 102, the president appoints all judges for five-year terms, and only a court can dismiss a judge, and only for a reason enumerated in the law. In practice, President Niyazov controls the judiciary and freely dismisses judges. In theory, parliament must confirm the president's appointment of the chairman of the Supreme Court, although in practice this approval is pro forma.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
According to the U.S. Department of State's report on human rights practices in Turkmenistan in 1998, there are no independent lawyers available to represent defendants, with the exception of a few retired legal officials. As such, most defendants are represented by attorneys employed by the state. No data are available on the number of new lawyers produced by the higher education system, or on the proportion of lawyers and judges that are women. Given the government's discrimination against women in employment opportunities, it is likely that women are underrepresented in the legal profession and judiciary.

7. Does the state provide public defenders?
The court appoints a lawyer to defendants who cannot afford to pay for one. Public defenders generally only see their clients at trial.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Ethnic Turkmen comprise some 77 percent of the population; Uzbeks, 9 percent; Russians, 7 percent; with the remainder consisting of Kazakhs, Armenians, Azeris, and other groups. Article 17 of the constitution guarantees equal rights and freedoms for all citizens regardless of nationality, ethnicity, language, or religion. However, Article 13 designates Turkmen as the official language, which potentially disadvantages ethnic minorities in education and employment opportunities. The Turkmen language is a mandatory subject in the schools, although in some schools it is not the language of instruction. Russian language instruction and usage are widespread. By presidential decree, all official documents and declarations must be issued in the Turkmen language by July 1999. Previously, many documents and declarations had been issued in Russian, which serves as a link language between ethnic groups.

Minorities are underrepresented in government, the bureaucracy, and parliament. The government favors ethnic Turkmen for employment and promotion opportunities in the state sector and the civil service, and effectively limits employment and educational opportunities for ethnic minorities. A 1995 agreement between Moscow and Ashgabad gave ethnic Russians the right to hold dual citizenship.

9. Are judicial decisions effectively enforced?
The state enforces judicial decisions to the extent that it suits its interests to do so. Judges do not rule against the interests of the state or state actors, so there are no test cases in which the state is required to enforce judicial decisions that adversely affect its interests. Officials reportedly demand bribes to enforce many routine judicial decisions.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?

Government officials at all levels reportedly demand bribes to provide most basic services. Judges and law enforcement officials are notoriously corrupt, at times using the threat of detention or imprisonment to collect bribes. In recent years, President Niyazov has announced amnesties for several thousand prisoners, but many of those amnestied reportedly had to pay their jailers in order to be released. Prisoners must pay bribes to receive basic necessities. The United States Department of Commerce reported in its June 1999 "Commercial Overview of Turkmenistan" that, "Complaints of corrupt and inept practices have marred the foreign investment environment."

The European Commission reported in 1997 that the median income for civil servants was roughly $10 per month. According to the IMF, in the fourth quarter of 1997, the average wage for central and local government employees at the administrative level was 213,935 *manats* per month, or roughly $51 (USD 1 = 4,165 manats in April 1998).

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

President Niyazov and his close advisors are widely believed to have direct ties and interests in the agricultural, energy, and industrial sectors of the economy. Niyazov vets major contracts and frequently awards contracts for political reasons with little regard for the feasibility and economic viability of the project or the competency of the contract recipient. There are no formal boundaries between public and private sector activity either in law or in practice.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The United States Embassy noted in a July 1998 report that, "Turkmenistan does not have laws, regulations or penalties to combat corruption effectively." Authorities have pursued few, if any, anticorruption cases. Executive and legislative bodies operate with a minimum of transparency and are not subject to audit and investigative rules.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principle findings and year-to-year trends?

The government does not permit the formation of monitoring groups that might carry out surveys of perceptions of public sector corruption.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

The government has not carried out any major anticorruption initiatives. President Niyazov frequently criticizes government officials and agencies for corruption and has dismissed several officials for alleged corruption. However, most officials dismissed for corruption are never formally charged with any crime.

In April 1997, Niyazov fired the prosecutor general, and accused prosecutors of incompetence and corruption and of prosecuting innocent people rather than criminals. In January 1999, President Niyazov dismissed Deputy Premier Boris Shikhmuradov for allegedly being involved in the leasing of a bookstore to companies that did not sell books. In June, Niyazov dismissed three senior officials, including the chairman of the National Radio and Television Company, for embezzlement and taking bribes worth up to $1 million. There is no evidence that courts have prosecuted any of these officials.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

There is no public opinion polling in Turkmenistan, so it is impossible to determine public attitudes regarding public sector corruption. Aside from Niyazov's occasional firings of public officials for alleged corruption, the government has not carried out any anticorruption efforts.

7. How do major corruption-ranking organizations like Transparency International rate this country?
Transparency International and other major corruption-ranking organizations have not rated Turkmenistan.

Economic Liberalization

PRIVATIZATION 6.75/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
According to Turkmen government estimates, the officially recognized private production or service units employed about 22 percent of the labor force and accounted for 10.1 percent of the gross domestic product (GDP) in 1995 (4.4 percent excluding private agriculture). Government estimates indicate a total private sector share of GDP of about 18 percent in 1995, including the "home industry" and Sunday market trading. In 1997, the European Bank for Reconstruction and Development (EBRD) estimated the total private sector as unlikely to exceed 25 percent of GDP. The government does not utilize international accounting methods and generally withholds information on the economy. There are no data concerning Turkmenistan's informal economy.

2. What major privatization legislation has been passed? What were its substantive features?
Turkmenistan's economy remains dependent upon central planning mechanisms and state control. The government, however, has taken a number of steps that appear designed to give the impression that it is being won over to the cause of economic liberalization. It also often announces grandiose programs of reform that lead nowhere. Information on privatization and the functioning of a market economy is not widely available due to the government's information policy and its fundamental hostility to the process.

In 1993, the State Property and Privatization Agency was established. At the close of the year, the government enacted a law on privatization which resulted in the privatization of about half of the minuscule trade and service sector (catering shops, barbershops, etc.) in 1995 and 1996. In January 1994, a program of economic reform, "Ten Years of Prosperity," was enacted with the approval of the Khalq Maslakhati. Key elements of the plan included the privatization of state enterprises and the reform of land ownership, including the privatization of collective and state farms.

In the spring and summer of 1997, the government issued a presidential order and three presidential decrees privatizing industrial enterprises and allowing the auctioning of small- and medium-size enterprises. Up to 330 firms were concerned. Some 45 "crown-jewel" firms were exempted from privatization according to these decrees. The government has announced intentions to auction enterprises that have fewer than 100 workers and do not need significant investment. The transformation of larger state enterprises (more than 330 employees) into private joint stock companies is planned through a process of mass privatization. In May 1998, the government announced plans to reorganize 18 industrial firms to prepare them for privatization.

While ambitious, these plans have yet to take off. In 1997, for example, the government raised only $12.6 million from privatization. By October 1998, Turkmenistan had sold 1,933 of the 4,343 targeted firms since 1994. Nearly all of these firms are small-scale.Foreign and Turkmen individuals and legal entities are allowed to participate on an equal footing in privatization. Private investors, including foreigners, can become majority owners of privatized enterprises. However, this is subject to the approval of the Council of Ministers who can also arbitrarily decide to cancel a sale three months from the day of agreement.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?
State and collective farms dominate Turkmen agriculture. Land has only been leased to farmers under promises of good behavior. Farmers are permitted to hold only an estimated three hectares of land, which cannot be traded. The government retains control over all inputs, access to irrigation, and equipment, pricing, transportation and international markets. Compulsory purchases are the rule in agriculture. There are only 100 private farmers in the entire country. Land remains under state control. A 1996 law makes Turkmen eli-

gible to own land, but does not grant them the right to sell, exchange, or transfer it. Housing has been privatized to a modest extent and remains heavily subsidized by the government. Industry remains overwhelmingly state-controlled. Industry accounts for only 1.5 percent of all assets privatized to date. Most of the tiny service sector was privatized after 1993. According to the U.S. Department of Commerce, there are 23,500 private enterprises operating in Turkmenistan.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?
According to the EBRD, large-scale privatization is usually initiated by line ministries, which formally hold the ownership rights in public enterprises. In 1996, six departments of the Ministry of Agriculture (which is responsible for the bulk of industrial enterprises outside the energy sector) were turned into so-called associations that are to act as holding companies in its care. This type of privatization clearly favors established political elites and cronies of President Niyazov. In May 1994, Niyazov issued a presidential decree creating a voucher privatization process with preferences for workers.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?
As Turkmenistan is an effectively closed society, it is impossible to determine which groups support or oppose privatization. Niyazov clearly does not support privatization.

MACROECONOMIC POLICY 6.25/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?
The government is trying to broaden the tax base in the face of a massive shortfall in gas revenue, particularly in 1997. Although international lending institutions and individual donor countries have undertaken to support the government's avowed desire to do so, it is unclear if a reformed tax system is a government priority. The existing tax system has been built on an ad hoc basis without concern for the practicalities of implementation. Changes to the contradictory and often incoherent tax system were made in 1997, but details are unavailable. Although income and corporate taxes range from 25 percent to 35 percent, there are no tax laws detailing specific rates, liability, and collection procedures. As a result, rates often are applied arbitrarily. The government also imposes a 20 percent value added tax (10 percent for foodstuffs) and various taxes on foreign exchange earnings and capital gains. A 25 percent profit tax exists as well as a 15 percent dividend tax on income from dividends, copyrights, licenses, leases, royalties, and other incomes. There are various exemptions available, especially for foreign investors.

Tax arrears in 1997 reached 600 billion manat, or 21 percent of total revenue. A major shortfall in tax revenue occurred in the first half of 1999. Official tax arrears increased to 1.75 trillion manat, though of course the real level is likely higher. Much of the taxes paid to the government are in the form of goods and services.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is there financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?
The official budget was essentially balanced in 1996 and 1997, but the deficit increased to 3 percent of GDP in 1998 and is estimated at the same level for 1999. However, major expenditure items are off-budget, thereby distorting the real versus reported deficit. Delayed payment of wages and pensions, a regular feature of post-Communist Turkmenistan, also serves to artificially improve appearances on the expenditure side.

Moody's, the credit rating agency, gave Turkmenistan's sovereign debt a B2 rating in December 1997. It is the lowest speculative grade given to any of the post-communist countries of eastern Europe and the former Soviet Union. Total foreign debt as of year-end 1998 was $1.8 billion, an increase from 1994's $431 million. Debt service obligations in 1999 were $650 million, as com-

pared with $290 million projected earnings for gas exports. The IMF recalled its representative from Ashgabat and is unlikely to help the country in the near future, given the completely unreformed character of its economic policies. In 1996, price subsidies amounted to 4.2 percent of budgetary expenditures and 15 percent to pensions.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

Banking reform has hardly occurred in Turkmenistan. The Central Bank of Turkmenistan is not independent, but rather acts as the government's main lending institution. It attempts to implement monetary policy, but lacks the necessary mechanisms and authority to do so. Some autonomy was granted in 1997 in an attempt to stabilize the freefalling economy. Yet the sacking of reformist central bank governor Khudayberdy Orazov (who successfully battled hyperinflation) in May 1999 clearly showed the limits of this policy.

There are two state banks (Vneshekonombank and Sberbank), a state agricultural bank (Dayhan or Peasant Bank), and 13 commercial banks. The first three dominate the financial sector with control of over 83 percent of bank credits. In January 1999, 52 former state agricultural banks were converted into the Peasant bank. As of December 1996, 90 percent of bank credit was extended to state enterprises, which also hold most bank deposits. Private enterprises have little access to credit.

Presidential decrees have the power to restructure private commercial banks into state commercial banks. In December 1998, three banks were converted in this way and restricted into narrow areas of financial activities. The minimum reserve requirements were increased to manat 500 million from 100 million in July 1997, following an increase from 25 million manat to 100 million in February 1996. There is no depositor insurance in Turkmenistan. A liquidity crisis at the end of 1998 forced an emergency merger program to reduce the number of banks.

An Interbank training center was established in 1995 to train staff for commercial banks. An estimated 300 students have gone through its program. In June 1997, the government established the Interbank Council to oversee the reorganization of the banking system. The status of this endeavor and the government's commitment to such reorganization are uncertain. In September 1999, Niyazov dismissed the chairman of Turkmenistan's Vneshekonombank (the official foreign trading bank) for failing to attract foreign investment and reporting an allegedly false foreign debt figure to the International Monetary Fund.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has the exchange rate policy been stable and predictable?

Turkmenistan introduced its currency, the manat, in November 1993. The Central Bank and government control the main foreign exchange market. Access to foreign exchange auctions is limited, allowing the Central Bank to set the official rate. There is also a smaller foreign exchange market operated by commercial banks. The commercial bank rate generally values the manat at 30 percent below the official rate. The country has attempted to unify the official and commercial bank rates three times, with the last try failing in October 1998. As of September 1999, the official exchange rate was 5,200 manat per $1. The black market rate was a much weaker 14,500 manat per $1.

According to the EBRD, since January 1997 the central bank has aimed at stabilizing both the exchange rate and the domestic price level by injecting additional foreign exchange into the banking sector. The size of Turkmenistan's hard currency reserves are estimated at $1.8 billion, though the central bank's reserves have fallen as low as $100 million in mid-1999.

Though currency is in theory convertible, a hard currency shortage makes it difficult to exchange money. In November 1998, a violent crowd overpowered police in front of a branch of the Peasant Bank, protesting the shortage. Since December 1998, the manat has been convertible only for capital goods imports. Individuals can exchange for hard currency only for personal emergencies.

Hyperinflation gripped the Turkmen economy in the mid-1990s, averaging nearly 1,250 percent from 1994 through 1996. It was cut drastically to 84 percent in 1997 and even more in 1998 to a comparatively low 18 percent. Inflation in 1999 was estimated at 24 percent.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

Capital markets are undeveloped in Turkmenistan. There is a State Commodity Exchange in Ashgabat, founded in August 1994. There is no stock market in Turkmenistan, though officials claimed they were working on one in March 1998. The government has been selling small amounts of Treasury bonds to local commercial banks since August 1996.

MICROECONOMIC POLICY 6.25/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The concept of private property and its protection is not well known or widely accepted in Turkmenistan. A genuine real estate market does not exist; citizens may own property but cannot sell, trade, or transfer it. While the right to own land does exist under Article 9 of the constitution, few citizens own any. Niyazov signed a law protecting intellectual property rights in September 1992. The country is not currently a member of the major international intellectual property conventions.

2. To what extent have prices been liberalized? What subsidies remain?

According to the EBRD, during the course of 1995 and 1996, Turkmenistan's formerly comprehensive system of price controls was loosened significantly. A wide range of basic goods, including meat, sugar, vegetable oil, tea, bread, salt, and flour, were subsidized until spring 1998. In March 1998, although accompanied by wage increases, subsidies were removed from the prices of most items sold in state shops. Gas, electricity, and water are still provided essentially free of charge. Price controls apply to rent, telecommunications, transport, and selected construction materials. The number of goods and services that remain subject to price controls has been reduced from more than 400 to about 20.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Does regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Small businesses in the trade and service sector are permitted. The laws that regulate them, including numerous presidential decrees, legislative acts, and administrative rules are not only contradictory, but changes are often applied retroactively. Private citizens are poorly informed concerning commercial law and there are few private lawyers available to provide them with professional advice. Although a bankruptcy law was passed in June 1992, few companies have been forced into bankruptcy to date. The state retains extensive influence and coercive power over the private sector. For example, it has reserved the right to control employment in privatized enterprises. Licensing procedures involve navigating a corrupt bureaucracy.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The court system is unreformed. It lacks the resources, independence, and experience necessary to handle commercial disputes. Judges are inept and corrupt. The situation is even more hopeless with regards to disputes with the state. Disputes tend to be resolved through informal channels, not institutionalized ones.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The state dominates the most profitable, and potentially profitable, sectors of the economy such as energy, agriculture, and industry. Competition is an alien concept and can be seen only to a very modest extent among small businesses that have cropped up. Some competition has been introduced to government procurement contracts through international tenders. Previously, they were awarded for purely political reasons, and some still are.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

No tariffs are charged on imports or exports, except for excise duties on specific goods. In 1997, the number of items subject to excise taxes rose from 11 to 104. Delays, paperwork, and corruption constitute informal trade barriers. There are formally few quota restrictions on imports and exports, but most foreign trade is subject to licensing. Since 1994, all export and import transactions (with the exception of cotton, oil, and natural gas) by law have to be processed and endorsed at the official State Commodity and Raw Materials Exchange (CRME). Foreign trading companies must pay a 0.2 percent commission. A 6 percent tax on income from international cargo transport is charged. Furthermore, they must be licensed by the CRME. These licenses are auctioned off. Reportedly, a close personal relationship with someone on the CRME is quite "helpful."

Exports totaled $614 million in 1998, a big drop from $2.1 billion in 1995. Imports fell from $1.6 billion in 1995 to $1.1 billion in 1998. Trade with CIS countries accounts for about half of total trade. Ukraine is Turkmenistan's largest trading partner, followed by Iran. Turkmenistan has enjoyed MFN status from the United States since October 1993. A rail link between Iran and Turkmenistan opened in May 1995. It has significantly cut transport time from Europe to the country. The country did not join the customs union established by other CIS countries in 1996. Turkmenistan is not a member of any free trade arrangements.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Turkmenistan officially welcomes foreign investment in all areas. In practice, corruption, forced contract renegotiation, and poor infrastructure have dampened investors' ardor to enter the market. The tax and legal environment are uncertain and harsh.

A May 1992 law on foreign investment is the main regulatory vehicle. It requires that foreign investors report quarterly to the Ministry of Foreign Economic Relations. Foreign investments that combine with export/import transactions must be approved by the State Agency for Foreign Investment. Following approval, foreign companies need to complete registration documents and apply for an export license as well. Large investments must have the personal approval of President Niyazov, who is known for being arbitrary and unpredictable.

Since the passage of a new law on hydrocarbon resources in March 1997, the government has been actively courting energy multinationals to participate in the development of Turkmenistan's large oil and gas reserves in particular, through production sharing agreements and as minority joint venture partners. Few have taken the country up on the offer.

Though not a formally requirement, almost every single company investing in Turkmenistan forms a joint venture with a local company. Ten free economic zones have been in operation since 1992. In these areas, foreign investors have formally unrestricted rights to accumulate and repatriate profits. They also have the freedom to set their own prices. Reinvested profits are exempt from taxation in these zones, and profit taxes are not levied for the first three years of profitable operations. However, these zones are hardly used, mainly because of infrastructure problems. Total cumulative foreign direct investment since independence until the end of 1998 is just $727 million.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

The energy sector is the most important one in Turkmenistan. It has hardly been restructured at all, however. The country has one of the largest natural gas reserves in the world, with an estimated 2.86 trillion cubic meters (and possibly 4.5 trillion more). It

also has substantial on and offshore oil deposits, estimated to be as high as 6 billion barrels by the government. The Office of the President controls the sector and there are no plans to privatize any portion of it. Traditionally, some two-thirds of Turkmenistan's budget comes directly from gas export revenues. Gas has provided anywhere from one-third to two-thirds of the country's GDP.

In November 1994, Ukraine's debt to Turkmenistan was restructured as a seven-year loan paying eight percent annually. Total outstanding gas debt as of the end of 1997 was $563 million. In December 1998, Ukraine and Turkmenistan signed a gas export agreement. Forty percent of future gas will be paid for in cash, and the rest through barter of goods and services. The resumption of gas exports to Ukraine allowed for the first signs of economic growth in the country in many years. However, Ukraine again began building up arrears and asked for a suspension of exports in May 1999. At the end of 1998, Azerbaijan settled its gas debt to Turkmenistan with its own gas reserves.

Turkmenistan seeks significant investment and Western participation in the exploration, exploitation, and transport of Turkmenistan's hydrocarbons in eleven major geological blocks. Legislation to encourage this passed in 1997, after it became apparent Turkmenistan could not become a new Kuwait, as it declared its intention to do, without attracting foreign investment. In fact, though foreign companies have come in force to the other Central Asian republics, they have avoided Turkmenistan because of its unfavorable investment climate.

Aside from a small pipeline to Iran, which became operational in 1997, Turkmenistan remains dependent upon exporting its gas via the Russian pipeline system. In 1994 and 1995, Russia unilaterally thwarted Turkmenistan's ambitions to sell its competing gas to Western countries and instead directed the flow solely to Commonwealth of Independent States countries in the South Caucasus and Ukraine. This was painful because these customers (Ukraine being the biggest) do not pay in hard currencies and go through prolonged episodes of payment arrears. In 1995, Turkmenistan's gas output fell to less than half of its pre-1990 level. In March 1997, Gazprom restricted the flow of gas through the northern gas pipeline to Ukraine and the Transcaucasus after Niyazov suspended a Russia-Turkmenistan gas joint venture.

In the face of this, Turkmenistan has declared its desire to export gas via Iran to Turkey, via Iran or Afghanistan to Pakistan and India, and potentially under the Caspian Sea to Azerbaijan from where it would cross Georgia into Turkey. All of these potential export routes remain problematic for political and commercial reasons. In August 1999, the government signed a preliminary agreement with an international consortium to build the 2,000-kilometer Trans-Caspian pipeline, at an estimated cost of $2.5 billion. However, the project is subject to heavy Azeri demands for concessions (not to mention disputed oil fields with Turkmenistan) and uncertain Turkish demand for the gas. The country's two oil refineries (Turkmenbashi and Chardzhou) are in need of reconstruction and operate far below capacity.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The official unemployment rate, which measures only the registered unemployed, was 1 percent in 1997. Of course, there are large numbers of unregistered unemployed, as well as underemployed workers. An employment guarantee exists, though it is particularly problematic considering the country's high population growth and significant excess employment in the state sector. The official trade union, the Federation of Trade Unions (FTU) has used travel restrictions to prevent workers from changing jobs or moving.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees

covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

According to the EBRD, the social security system is partly financed by payroll taxes set at 30 percent of wages in the enterprise sector and 20 percent in agricultural associations. Public pensions were provided to approximately 425,000 people in 1995. The demographic trend in Turkmenistan is a boom in the young population—only 4 percent of the population is over the age of 65. This huge influx of young workers may help to ameliorate the traditional problems of pay-as-you-go pension systems.

In July 1998, Turkmenistan increased the pension age by two years, to 62 years for men and 57 years for women. Pension insurance premiums were also increased from the previous one percent to at least four percent of the earnings. The actual amount depends on a contract to be signed by individuals with the social welfare ministry and an authorized bank.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The average monthly wage in mid-1999 was 400,000 manat. This amount is equivalent to $30 at the black market exchange rate, down from $40 a year earlier. Wage arrears are a problem.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

UNESCO does not carry statistics on educational issues in Turkmenistan. The 1999 UN Human Development Report indicates that the combined primary, secondary, and tertiary enrollment level is 90 percent. The report's education index for Turkmenistan is 0.95, which was quite high on even world standards, and among the best amongst the transition countries. The proportion of GDP spent on education averaged 3.4 percent from 1994 to 1997, about half the level of developed countries. About 98 percent of the population is literate.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate was 55 per 1,000 births in 1998. The birth rate was estimated at 25.9 births per 1,000 population in 1999. Life expectancy in 1998 was 62 years for men and 69 years for women. The divorce rate in 1996 was 18 percent of all marriages. (WHO, CIA, UN statistics). According to the most recent statistics listed with the World Health Organization, the suicide rate in Turkmenistan declined from 8.1 per 100,000 people in 1990 to 5.8 per 100,000 people in 1994.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

There are 35.3 doctors and 119.5 nurses/midwives per 10,000 population in 1994. In 1995, 1.2 percent of GDP was spent on health care. In that year, there was one hospital bed per 97 persons. There is a medical insurance premium of four percent of the earnings on individuals' wages.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among

males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.
According the 1999/2000 UN World Development Report, in 1993, 4.9 percent of the population lived on less than $1 (at PPP) per day, and 25.8 percent lived on less than $2 (at PPP) per day.

UKRAINE

Polity: Presidential-parliamentary democracy
Economy: Capitalist-statist (transitional)
Population: 49,900,000
PPP (USD): 2,190
Capital: Kiev
Ethnic Groups: Ukrainian (73 percent), Russian (22 percent), Jewish (1 percent), other (4 percent)
Size of private sector as % of GDP (1998): 55

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	4.00	↓↓4.25	↓4.31
Rule of Law	na	na	5.25
Economic Liberalization	4.25	↓↓4.75	↑4.58

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	631.0	728.0	720.0	872.0	994.0	846.0	1048.0
Real GDP growth (% change on previous year)	-14.2	-23.0	12.2	-10.0	-3.2	-1.7	-2.5
Inflation rate	4734.9	891.2	376.7	80.2	15.9	11.0	45.0
Exports (USD millions)	12800.0	13900.0	14200.0	15500.0	15400.0	13700.0	13000.0
Imports (USD millions)	15300.0	16500.0	16900.0	19800.0	19600.0	16300.0	14900.0
Foreign Direct Investment (USD millions)	200.0	100.0	300.0	500.0	600.0	700.0	600.0
Unemployment rate	0.3	0.3	0.5	1.3	2.3	3.7	na
Life Expectancy (years)	67.9	67.9	67.1	67.4	67.4	68.7	65.9

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			3	3	4	3	3	3	3	3	3
Civil Liberties			3	3	4	4	4	4	4	4	4
Status			PF	PF	PF	PF	PF	PF	PF	PF	PF

Introduction

Since becoming an independent republic in 1991, Ukraine has developed into a presidential-parliamentary democracy with multiparty national and local elections. Despite reports of irregularities, the 1994 presidential and parliamentary elections and the 1998 parliamentary vote were deemed generally free and fair by international observers. The government restricts some civil liberties, including freedoms of the press, assembly, association, and privacy. Abuse of detainees and prisoners by police is reportedly widespread, and prison conditions are often extremely harsh. The judiciary is inefficient, overburdened, and subject to political interference. Corruption continues to be a serious issue, with anticorruption legislation selectively enforced against primarily lower-level officials.

Throughout most of the 1990s, Ukraine has been slow to implement economic reforms and move from a centrally-planned to a market-based system. After the country's independence was achieved in 1991, the government established the legal framework for privatization. However, widespread resistance within the government and parliament slowed and even reversed some reform attempts. Limited progress was achieved following the election of Leonid Kuchma as president in 1994, including efforts to liberalize prices and reduce trade barriers and subsidies to some state-owned firms. Nevertheless, the continuing lack of significant progress, particularly in the agricultural sector, has led to financial difficulties throughout the country. Many industrial enterprises have reduced or ceased production, the state continues to control large portions of the economy, and wage arrears remain a problem.

Parliamentary elections in March 1998 resulted in a victory for the Communist Party and its left-wing allies, leading to conflicts with President Kuchma over the pace and extent of economic reforms. After months of deadlock, parliament elected Aleksandr Tkachenko, a leading member of the anti-reform Peasants Party, as parliamentary chairman in the summer of 1998. Tkachenko used his position to stall political and economic reforms and call for a move in Ukraine's foreign policy orientation from the West to Russia. However, between 1998 and mid-1999, the balance of political forces in parliament gradually shifted away from the left to the center-right. The August 1998 financial crisis in Russia, one of Ukraine's main trading partners, resulted in a sharp decrease in Ukraine's export revenues.

Democratization

POLITICAL PROCESS 3.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?
The most recent elections for the 450-seat unicameral parliament, the Verkhovna Rada, were held on March 29, 1998 in accordance with a new election law, adopted in December 1997. The law changed the previous majoritarian system into a proportionate-majoritarian model, with 225 seats to be filled by winners in majoritarian (single-member) constituencies and the other 225 seats filled by candidates on election lists of political parties and blocs that manage to clear a 4 percent threshold for representation. The new election law abolished the 50 percent turnout provision that resulted in numerous runs-off in the 1994 elections, and political parties were given a significant role in the election process for the first time. In all, 21 parties and 9 blocs competed in the elections, but only 8 received the necessary 4 percent of the votes. The new parliament includes 141 (31.47 percent) non-partisan MPs, 117 members of the Communist party (26.12 percent), 43 members of the Ukrainian People's Movement Rukh (9.6 percent), 28 (6.25 percent) members of the People's Democratic party (the "party of power," led by Prime Minister Valery Pustovoitenko and joined by most of high-ranking executive officials), 20 members of Hromada (4.46 percent), 19 members of the Green party (4.24 percent), 16 members of the Socialist party (3.57) that came to the parliament in a block with the Peasants' party (12 members, 2.68 percent), 13 members of the United Socialist Democratic party (2.9 percent), 11 members of the Progressive Socialist party (2.46 percent), 8 members of the Agrarian party (1.79 percent). The Party of Reforms and Order and

the Congress of Ukrainian Nationalists had three members in the parliament each (0.67 percent). The Christian Democratic party, the Party of Regional Renaissance and the Ukrainian Republican party had two MPs (0.45 percent) each, and the Union party, the Interregional Reform Block, the Democratic party, the Social National party, the Liberal party, the Ukrainian Christian Democratic party and the Christian People's Union have one MP (0.22 percent) each. The proportion of women in the parliament increased by 1.7 times and reached 7.9 percent.

Initially, the parliament had 8 factions: the Communist faction (121 seats), the bloc of the Socialist and Peasant parties (35 seats), the Rukh faction (47 seats), the Hromada faction (40 seats), the Green Party faction (24 seats), the People's Democratic Party faction (92 seats), the Progressive Socialist faction (16 seats), the faction of the Socialist Democratic Party (United) (25 seats), as well as 39 independent MPs. After a long process of "restructuring," re-distribution of forces, and the emergence of new alliances, the number of factions and groups increased and their membership changed noticeably. By the end of March 1999, there had been 14 factions and groups: the Communist faction (122 MPs), the Socialist faction (24 MPs), the Peasant faction (15 MPs), the Rukh First faction (16 MPs), the Rukh faction (30), the Hromada faction (17 MPs), the Green Party faction (26 MPs), the People's Democratic Party faction (55 MPs), the Progressive Socialist faction (13 MPs), the faction of the Socialist Democratic Party (United) (26 MPs), the Independent group (18 MPs), the Reforms-Congress faction (14 MPs), the Renaissance of Regions (27 MPs), the Batkivshchyna ("Fatherland) faction (23 MPs), and 21 "non-aligned" MPs. However, the migration of MPs between factions, split-ups and emergence of new factions and groups became a common practice. By the end of 1999, 446 MPs were divided between the Communist faction (113), the faction of the Socialist Democratic Party (United) (38), the Vidrodzhennya Rehioniv ("Renaissance of Regions") (38), the Batkivshchyna (36), the Working Ukraine (24), the People's Democratic Party faction (26 MPs), the People's Rukh of Ukraine (23), the Left Center (a block of the Socialist and part of the Peasant factions, 22 MPs), the Rukh-First faction (18 MPs), the Green Party faction (17 MPs), the Independent group (14), the Reforms-Congress faction (14), the Hromada (12), the Peasants' faction (12), and 39 "non-aligned" MPs.

The 1998 elections were followed by about 90 lawsuits challenging actions of local election authorities. As a result, re-elections were ordered in several constituencies where the elections were judged invalid by courts due to a number of violations. Although national and international observers (like the nongovernmental Committee of Ukrainian Electors and the OSCE mission) reported violations of the election law (for instance, the lack of space where voters could mark their choices in privacy, or military officers "helping" their soldiers to fill out their ballots, or harassment of journalists), the elections were judged free and fair. Official observers of the Parliamentary Assembly of the Council of Europe reported no violations that could have had significant effect on the election results, and the elections were recognized as democratic in general. According to IFES opinion poll, conducted in early June 1998 in most of Ukraine's regions, 36 percent of the respondents generally believed in the fairness of the elections for all candidates and parties, while 40 percent had the opposite view. Asked if, in their opinion, votes had been counted fairly, 32 percent answered positively, while 34 percent generally disagreed. The elections in general were recognized free and fair by 39 percent of the respondents, while 37 percent argued they had been "unfair." The pre-election campaign was described as generally fair only by 32 percent of the respondents, while the opposite view was shared by 43 percent.

A major problem was the ineligibility of some 80,000 to 140,000 Crimean Tatars. After the law "On Election of People's Deputies to the Supreme Council of the Autonomous Republic of the Crimea" was adopted, protest actions, organized by the Crimean Tatar Medjlis, took place in a number of Crimean cities and towns in February-March 1998. Crimean Tatar leaders demanded to maintain the 1994 law "On Election of People's Deputies of the Supreme Council of the Crimea" which granted proportional representation of all former forcibly displaced ethnic groups. In 1994, the Ukrainian legislature made an exception for non-citizens, allowing them to vote at their places of permanent residence, and Crimean Tatars had 14 representatives in the previous Crimean parliament. At its final session on March 24, 1998, the Ukrainian parliament voted down an amendment to the law "On Election of People's Depu-

ties to the Supreme Council of the Autonomous Republic of the Crimea," designed to permit over 80,000 non-citizen Crimean Tatars to take part in the general and local elections. The rejection of the amendment, mainly due to the vote of Communists and other left-wingers, caused clashes with law-enforcement forces.

The parliament is divided into 22 permanent committees responsible for forming legislation in all political, economic, and social spheres. It took the parliament almost two months and 20 rounds of voting to elect the Speaker. Leader of the Peasants' party Oleksandr Tkachenko got 232 votes, slightly over the necessary minimum of 226 votes. Communists, Progressive Socialists, the Left Center, the Hromada, the Social Democrats, and the Greens supported him.

The Ukrainian government is not formed by a victorious political party or by a coalition. Instead, a prime minister, nominated by the president and approved by the parliament, selects candidates for ministerial positions and submits the nominations to the president for appointment. Therefore, the parliament has practically no control over the government, and its only lever of influence is to reject a nominated candidate for the position of the prime minister or to reject the government's program. Ukrainian Prime Minister Valery Pustovoitenko, who succeeded the ousted Pavlo Lazarenko in July 1997, belongs to the pro-presidential People's Democratic Party (PDP). After the 1998 parliamentary elections, in which 26 ministers and heads of state departments, as well as 20 senior civil servants of the governmental apparatus ran for seats, a number of government officials moved to the parliament, while some of them, including Prime Minister Valery Pustovoitenko and Minister of the Cabinet Anatoly Tolstoukhov, chose to remain in the government.

2. When did presidential elections occur? Were they free and fair?

The first presidential election was held on December 1, 1991. Of 95 candidates allowed to collect petition signatures, 7 managed to collect the needed minimum of 100,000 signatures to register as candidates. Then-chairman of the Verkhovna Rada, Leonid Kravchuk, won 61.6 percent of the votes, Rukh leader Vyacheslav Chornovil obtained 23.2 percent, national democrat Levko Lukianenko got 4.5 percent, pro-market economist Volodymyr Hryniov received 4.2 percent, academician Igor Yukhnovsky, MP, obtained 1.7 percent, and chairman of the People's Party of Ukraine Leonid Taburiansky, MP, won 0.6 percent of the votes cast.

Seven candidates competed in the second presidential elections held on June 26, 1994. In the July 10 run-off, former Prime Minister Leonid Kuchma defeated incumbent President Leonid Kravchuk, winning 52 percent of the vote. The elections were judged free and fair by international observers and the IFES. The next election is scheduled for October 1999.

3. Is the election system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Since the government is not party-based, it would be incorrect to state that some political parties "function" at all levels of government. The role of the "party of power," earlier performed by the prime minister's People's Democratic Party (PDP) has been contested lately by the United Social Democratic Party. Eight parties managed to mobilize enough voter support to be represented in parliament. Most political parties share similar agendas with hard-to-enforce socio-economic pledges. Sub-national and local elected bodies include representatives of different political parties and non-partisan deputies, though their election is not directly linked to party affiliation.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

To date, 106 political parties have been officially registered with the Ministry of Justice, but many of them remain insignificant or even purely nominal, and are largely based on personalities of their leaders. In 1995, the Ministry of Justice annulled registration of the extreme right Ukrainian National Assembly-Ukrainian National Self-Defense (UNA-UNSO), but the registration was renewed after the UNA split from its paramilitary wing, the UNSO. Major political parties include: the Communist party (Petro Symonenko), the United Socialist Democratic Party (Victor Medvedchuk), the Socialist party (Oleksandr Moroz), the People's Democratic Party (Anatoly Matvienko, then Valery Pustovoitenko). Within the last year, many major political parties have undergone internal divisions and dramatic changes in leadership. The Ukrainian People's Movement Rukh, after the death of its long-standing leader Vyacheslav Chornovil, split up into two wings, led by

Hennady Udovenko and Yuri Kostenko. Subsequently, the court judged the Udovenko wing to be the only legitimate Rukh. The Hromada, overtly oppositional to the president and government and chaired by Pavlo Lazarenko, lost its influence after ex-prime minister Pavlo Lazarenko was announced wanted on power abuse charges and fled to seek political asylum in the U.S. and many of its members "migrated" to the Batkivshchyna, led by Lazarenko's former ally Yulia Tymoshenko.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Polls conducted by the IFES in 1994 showed that the total membership of Ukraine's political parties amounted to one million people, i.e., about 3.8 percent of eligible voters or 2 percent of the population. By January 1998, over two million Ukrainians were members of political parties; (by the parties' own estimates, though the number of active dues-paying members is much smaller). Women remain a minority of party members except in two parties led by women: Natalia Vitrenko's Progressive Socialist Party, and Valentyna Datsenko's Party of Women's Initiatives. Accurate figures on the proportion of women in party membership is unavailable, but may be surmised by looking at the proportion of women in parties' election lists. Although women comprise over 60 percent of Ukrainian voters, the proportion of women in parties' election lists demonstrated their under-representation in political activity. Women comprised 22.9 percent in the Progressive Socialist Party list, 21 percent in the list of the "European Choice of Ukraine," 18 percent in the United Social Democratic Party list, 12 percent in the Communist party list, 11.6 percent in the Green party list. The People's Democratic Party gave 10 percent its election list to women, while the Rukh gave 9.7 percent, the Socialist and the Peasant parties gave 9.3 percent of their list to women, and the other major party, the Hromada, had only 6.6 percent of women on its extensive election list. In general, women – particularly popular actresses, singers, or public activists - were used "instrumentally" for the campaign purposes.

6. What has been the trend of voter turnout at the municipal, provincial and national levels in recent years? What are the data related to female voter participation?

Voter turnout has dropped gradually from over 84 percent in the 1991 presidential election to 76 percent in the first round of the 1994 parliamentary election and 61 percent in the second round. In subsequent rounds, the turnout usually was slightly more than 50 percent. In many areas, especially Kyiv, Kharkiv, Luhansk, and the southern part of Ukraine, turnouts at the run-offs were significantly lower – 42 to 44 percent— as voters seemed apathetic about taking part in repeated run-offs. In the 1994 presidential election, voter turnout was 68 percent and 71 percent in the run-off. The pattern remained in the March 1998 parliamentary and local elections. The voter turnout differed from over 70 percent in Western Ukraine (Ternopil, Lviv, Ivano-Frankivsk) to slightly more than 40 percent in Kyiv and the Crimea. The mayoral elections in Kyiv in May 1999 gathered 49.42 percent of eligible voters, of whom 76.39 percent supported the acting mayor.

CIVIL SOCIETY 4.00/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Under the law, NGOs (officially referred to in Ukraine as "public associations of citizens") may have an international, national, or local status and, accordingly, be registered by the Ministry of Justice or local state authorities. While the Ministry of Justice maintains statistics of national and international NGOs, it is difficult to obtain accurate data about subnational NGOs. About 4 percent of NGOs are registered as national organizations, about 40 percent are regional, and 30 percent are local organizations. The rest are registered as international NGOs, and many operating NGOs are not registered at all. In 1999, there were about 30,000 registered public associations (according to study of the Innovation & Development Center, Kyiv), a rapid increase from

about 4,000 registered by the end of 1995, though not all of them were operating actively. These include over 800 national (i.e., having branches in at least 14 of Ukraine's 25 regions) and international associations, about 300 charities, 36 national youth organizations, 20 national and over 100 subnational environmental groups, 65 national minority organizations, 70 art and culture groups, 215 women's groups, over 30 national human rights organizations, 25 national religious organizations with hundreds of local branches, and 22 national charity foundations, as well as 29 public organizations to help victims of Chernobyl. There are also 23 national organizations aiming at helping the disabled and the elderly. The largest number of Ukrainian NGOs work in the field of advocacy for rights of women, children, students, the poor, the unemployed, large families, and the disabled. About eight percent of NGOs work in the sphere of protecting human rights. Most NGOs operate in major cities including Kyiv (20 percent), Kharkiv (17 percent), Lviv (8.5 percent), Odessa (8.3 percent), and Donetsk (5.5 percent).

Philanthropy and volunteerism are insufficiently developed in terms of traditions and institutions and are usually connected to election or outreach campaigns. When asked by IFES in June 1999 whether they worked as volunteers for an NGO, 91 percent of the respondents answered negatively. When asked whether they would like to volunteer for an NGO, 5 percent answered "absolutely yes," 20 percent - "possibly," 15 percent said, "depending on circumstances," while 41 percent responded "absolutely not," and 14 percent said "possibly not." Major women's NGOs include the Lybid International Federation of Business Women (300,000 members), the Union of Ukrainian Women (4,500), the Berehynya Women's Association of Kharkiv Region (3,000 members), the Union of Ukrainian Women (about 40,000) the Luhansk Regional Women's Association (1,200), the Interethnic Women's Council of the Association of People's of the Crimea (1,200), Olena Teliha Ukrainian Women's Society (1,000), the Association of Women's Organizations of Donetsk (500), and the Bukovyna Women's Community (1,000).

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The draft law "On Nongovernmental Organizations" is still under discussion in the parliament, and current legislation that regulates the NGO environment does not distinguish between NGOs, political parties, and trade unions. Currently NGO activities are regulated by the Constitution, laws "On Associations of Citizens," "On Charity and Charitable Organizations," "On Creative Workers and Creative Associations," "On Corporate Tax," "On Value Added Tax," as well as by resolutions of the Cabinet of Ministers and regulations adopted by the State Taxation Administration. Registration of an NGO is onerous: it requires submission of numerous documents to the local state administration, the local executive committee, or the Ministry of Justice (for national and international NGOs). Registration takes at least two months after all documents have been submitted: i.e., application, four copies of statute documents, minutes of the foundation meeting, information about founders and administration, receipt of payment of registration fee. Then, within a month, the NGO must be registered with the Department of Statistics, the State Taxation Administration, the bank where the NGO's account is opened, the Ministry of the Interior (the department that authorizes making the organization's seal), the Social Insurance Fund, and the Pension Fund. All these authorities also require submission of a number of documents and fees. If the procedure is not completed within a month, the new NGO may be fined by any of the above-mentioned bodies. Because of this complicated procedure a number of public organizations and associations that exist *de facto* do not register with the Ministry of Justice (for national or international organizations), regional departments of justice (for regional NGOs) or local state administrations (for local organizations) *de jure (*i.e., to receive official registration certificate, bank account and seal), but announce themselves as informal groups. The *de facto* method of NGO founding is known as "declarative," followed, at some point, with legal registration. This is why many Ukrainian NGOs have different foundation and registration dates.

Because of the lack of a clearly identified status, NGOs are effectively excluded from government procurement operations. Formally, tax exemption exists for charities, in accordance with the Law on Charity and Charity Organizations adopted in September 1997,

but the provision is often not used in practice because of the juridical deficiencies in the law. The draft Civil Code, currently debated by the parliament, does not contain any reference to nongovernmental organizations. Currently a number of public policy NGOs, including the Institute of Civil Society and the Pylyp Orlyk Institute for Democracy, focuses on improving the legal and regulatory environment by means of offering expert analysis and alternative draft legislation on NGO issues. Their efforts are undermined by the lack of understanding and support on the part of the government and parliament. Many NGOs that could effectively lobby improvements of NGO status – primarily, veterans' organizations and women's groups — rely heavily on state support, while most of educational, children's and sports groups are profit-making organizations.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Organizational capacity of Ukrainian NGOs has been improving noticeably, primarily because of international assistance and development of domestic resource centers and NGO networks, but it is still a widespread practice for NGO leaders to combine intellectual and "spiritual" leadership with practical office and financial management. Many of Ukrainian NGOs outside Kyiv and regional centers remain institutionally weak and their management structures do not clearly delineate authority and responsibilities of every member and/or employee. Usually a Ukrainian NGO (more seldom, an independent think tank) consists of a leader and a group of his followers and supporters who are often the leader's friends or relatives. While increasing numbers of NGOs have boards of directors, independent supervisory boards, formalized mission statements, policies, internal procedures and rules, as well as job description and employee contracts, such NGOs still remain a minority, and most of them are based in Kyiv, where the largest amount of NGO management knowledge, resources, and experience is concentrated. Ukrainian-language and some Russian-language and English-language information and translated materials on NGO management are available free of charge in major cities and regional centers but scarce in smaller towns and rural areas. A dozen foreign assistance programs and joint Ukrainian-Western projects provide experienced trainers that may serve as consultants to new and developing NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs rely on donations and grants from foreign and domestic sources. Although an increasing number of NGOs has benefited from a growing interest of corporations, individuals, and society groups in NGO activities, only a small minority enjoyed the philanthropy of local donors. According to a survey conducted by the Innovation and Development Center (Kyiv) in mid-1999, only 16 percent of the surveyed NGOs had successful experience of attracting local corporate funding, while 39 percent of the respondents said the results had been below their expectations, 28 percent described them as "unsuccessful," and 17 percent never used funding from local corporations.

Tax-exempt status exists only for a limited number of veterans' and Chernobyl victims' organizations, as well as for some organizations of children and the disabled. Partial taxation benefits (like exemption from paying the value-added tax and the capital gain tax) exist for organizations formally registered with the local authorities as non-profits. NGOs are obliged to disclose revenue sources, and most of them do so when acknowledging support for particular activities and in their reports to donors, but double bookkeeping, when only part of the income is actually documented, is often the case. Government procurement opportunities for private, not-for-profit providers of services are virtually non-existent. NGOs may not earn income or collect cost recovery fees that would be tax-exempt, even if the money were to be spent on non-profit activities or maintaining the NGO. Instead, an NGO may be the founder or co-founder of a commercial entity that would donate part of its profit to the NGO. In such cases, any income, cost recovery fees included, is taxed as regular corporate income.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is numerical/proportional membership of farmers' groups, small business associations, etc.?

The number of unionized workers has been decreasing steadily with the growing unemployment and development of the private sector. The trade union movement ceased being a major social and political force. Today it is divided into a number of organizations and groups, including the official Federation of Trade Unions (a successor to former Soviet state-sponsored trade unions, the formal number is reported to be 18 million members, which traditionally includes practically all workers and staff of state-owned enterprises and employees of the state-owned sphere). Most of official trade unions formally unite employers, managers, and workers who are members of the same unions. The three-million-strong National Confederation includes some independent trade unions: the Free Trade Unions of Miners of Donbas, the trade union association of pilots PALS, and the Solidarnist federation of regional trade unions that unite workers of co-operatives, as well as small and medium enterprises and joint-stock entities. The Association of Free Trade Unions of Ukraine, dissolved because of internal conflicts in April 1996, had represented a genuine free trade union force. It included unions of miners, sailors, civil air dispatchers, aviation ground crews, scientists, and locomotive engineers and had a total membership of about 150,000. The proportion of the unionized labor force has decreased to no more than 60 percent (formally, it was estimated to be up to 90 percent in the state-owned sector, as most of employees of state-owned enterprises and institutions never officially quit the public-sector trade unions). Membership is mostly formal since wage arrears and low incomes prevent workers from paying dues, trade unions' fail to protect the interests of their members, and most Soviet-era benefits to trade union members have been abolished. Another disincentive for trade union membership is employment in the private sector, primarily small and medium enterprises, where trade unions are practically non-existent and discouraged by owners.

Farmers' groups exist at local levels but they are not numerous and unite about five percent of farmers. There are just a few significant private farmers' groups that provide information, advocacy, and legal consultations, in addition to several regional farmers' associations, particularly active in the Western Ukraine, the Kharkiv, Kherson, and Donetsk regions. The major organizations include the National Farmers' Associations and the Ukrainian League of Agrarian Enterprises (accurate membership of both is unavailable). The left-wing Peasants' Party and the centrist Agrarian Party claim to represent interests of collective and independent farmers, respectively. Groups representing small and medium business interests have sprouted all over the Ukraine to lobby through over 40 national and some 200 subnational associations of entrepreneurs. An accurate figure for overall membership in these groups does not exist; the major group, Ukrainian Union of Small, Medium and Privatized Enterprises, reports its membership to be over 12,000 enterprises, employing from 10 to 3,000 persons each. According to the State Committee for Enterprise Development, about 54 percent of adult Ukrainians are engaged in small business, and a substantial proportion are members of local or national business associations, even though their membership may be limited to receiving information and publications disseminated by business associations.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Legal forms of interest group participation in politics include political parties, business and other public associations, NGOs, and trade unions. Veterans, Chernobyl groups, minority organizations, environmental movements, and pensioners seek to influence policy-making, mostly by public protests. Private businesses, state-owned industrial enterprise, and managers of the state-owned agrarian sector lobby their interests through their MPs and political parties. The "directors' lobby" of large state-owned enterprises and major collective and state farms seek to influence policy by running for seats in the parliament either in majoritarian constituencies or with political parties; so do major private business owners.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

Both the public as well as the policy-making community have shown an increasing awareness of the role of NGOs as providers of information, know-how, and services, as well as that of vehicles of public participation. In particular, local authorities have begun to show interest in taking part in NGOs' actions, targeted at helping the poor, children, or the disabled. According to the June 1999 poll by IFES, 12 percent of 1,200 respondents throughout Ukraine believe NGOs are "absolutely needed" (a decrease from 18 percent who thought so in 1996), 11 percent think they are "very needed" (a decrease from 33 percent in 1996), 39 percent of the respondents argue NGOs are "not very much needed" (an increase from 15 percent in 1996), 11 percent who believe NGOs are "not needed at all" (10 percent in 1996). 3 percent of the respondents said the need for NGOs in the society "depended on circumstances, and 21 percent found the question hard to answer. When asked why NGOs were needed, 26 percent answered "for advocacy," 23 percent believed NGOs served for self-expression, 15 percent viewed them as an "ingredient of democracy," 8 percent NGOs were intended "to make people closer," and 19 percent could not answer the question.

A number of new NGOs have been established and are run by retired political leaders and former senior civil servants. Some governmental institutions like the Ministry of Social Policy and Labor, the Ministry of Foreign Affairs, and the Ministry of Justice, show readiness to cooperate with NGOs and nongovernmental think tanks, while other ministries and departments tend to ignore them. Government officials seek advice of NGO experts (often informally), participate in events organized by NGOs, and receive NGO publications and research materials. Lately, there has been growing attention of governmental agencies to policy papers offered by respected think tanks, but the general attitude of government officials to NGO policy advocacy is sceptical. Media coverage is usually positive or neutral, depending on the affiliation of specific NGOs. Most NGOs are experienced in dealing with the media and often act as newsmakers to attract media attention and secure publicity.

INDEPENDENT MEDIA 5.00/7

1. Are there legal protections for press freedom?
A number of Ukrainian bills provide for media freedom, although other bills make the media and individual journalists dependent and sensitive to pressure—for instance, the law "On State Support of the Media and Social protection of Journalists" (1997) that legalized preferential treatment for "loyal" media. The press law (1991) declared protection of freedom of speech, but referred only to the print media. The constitution (June 28, 1996), the law "On Information" (1992), and the law "On Television and Radio Broadcasting" (1994) provide for freedom of speech. Since most of the print media use state-owned publishing houses and the distribution system, and broadcasters utilize state-owned frequencies and airtime, overt censorship is replaced with economic levers of influence. Major media outlets are divided among several leaders of strong business-political groups and therefore favor "their" politicians and criticize competitors. Freedom of the press is limited by the Criminal Code that stipulates persecution for "degrading a person's honor and dignity," or "deliberate humiliation," as well as by the Law on Operative-Investigation Work and the Regulation on the General Department for Protection of State Secrets in the Mass Media. The 1994 Television and Radio Broadcasting Law also prohibits dissemination of "state secrets" and envisages liability for "ungrounded refusal to provide relevant information" to law-enforcement agencies and "intentional concealment of information."

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
The law does not explicitly forbid libeling the state's leadership and officials (except for the president) but imposes disciplinary, administrative, and criminal liability for "damaging the honor and dignity of a person" without distinguishing between protection of privacy of an ordinary individual and information about a politician as a public figure. Article 125 of the Criminal Code prescribes imprisonment of up to five years for libel. In recent years, journalists have been sued for "damaging the honor and dignity" of a politician. An editor of the *Opositsiya* newspaper, Ivan Makar, was given

a two- year suspended sentence in 1996 for libeling the president and his staff. His appeal was rejected, and in 1997, a higher court confirmed the sentence. In May 1993, the parliament amended the legislation with a ban on false information "damaging the business reputation of citizens and organizations." Crimean journalist Tatyana Korobova had to face a criminal lawsuit against her on charges of libeling Crimean MP Lev Mirimskiy, who protested against her writing about his criminal connections. Lately, suing the media for "damaging reputation" or "humiliating dignity" and demanding huge (sometimes, in six-zero figures) amounts of money as compensation for "moral damage" has been practiced broadly by politicians. In September 1998, a Kyiv-based borough court rejected the 500,000 UAH compensation claim from the Hromada party to then-presidential chief of staff Yevhen Kushnariov, who reportedly said that "no honest person would come close to that party," but made the Ukrainian Press Group, the publisher of the Den newspaper, pay substantial compensation for "moral damages" to Kushnariov. At the end of 1997, ex-prime minister Pavlo Lazarenko sued the *Ukraina Moloda* for an article accusing him of corruption. The court judged that one-fourth of the information in the article was false, and made the newspaper publish a formal retraction. No official reaction to facts that had not been dismissed as false followed. In early 1998, Lazarenko's former business partner Yulia Tymoshenko, MP, received 200,000 UAH as compensation for "moral damages" from the *Ukraina Moloda*, though before the trial the newspaper had officially refuted its own information and publicly apologized.

Minister of the Interior Yuri Kravchenko sued the *Kievskie Vedomosti* for a serious of articles charging him with abuse of power and diverting public funds. In June 1998, the Kyiv-based borough court judged that the *Kievskie Vedomosti* had to pay the minister 5 million UAH, and two authors of the articles had to pay 20,000 and 7,000 UAH, respectively, for "moral damages." Six months later the Supreme Court abolished the judgement.

The Vseukrainskie Vedomosti, then close to ousted prime minister Pavlo Lazarenko, ceased to exist after the Chernivtsi regional court judged it should pay 3.5 million UAH to the Dynamo Kyiv soccer club for reporting about the club's intention to sell one of its key players to a foreign club. In January 1998, the Pravda *Ukrainy*, a newspaper closely linked to Pavlo Lazarenko that published a number of critical materials about top government officials, was closed down by the order of then Minister of Information Zinoviy Kulyk. The official reason for closing the private newspaper was its invalid registration certificate. Meanwhile, under the current law, publishing a newspaper can be suspended only by the decision of its founders or the court. The operation against the Pravda *Ukrainy* was carried out by the Ministry of Information with the help of a variety of state agencies: the Customs Committee, the State Post Office, the Taxation Administration, the Ministry of Finance, the Ministry of Justice and the Office of Attorney General. The parliament reacted with a formal protest against "violation of the law" by the Ministry of Information and demanded that the president dismiss Minister Kulyk, but the demand remained unanswered. Although in February 1998 the Supreme Arbitration Court judged the actions of the Ministry of Information to be illegitimate, Minister Kulyk announced his ministry did not receive the judgement. Later on, the judgement was annulled by the Office of Attorney General – an action that, according to the parliamentary ad hoc investigative commission dealing with the case, was against the law. At the end of September 1998, editor-in-chief of the Pravda *Ukrainy* Oleksandr Horobets was arrested on charges of attempted rape of one of his staffers. Commenting on the arrest, some media referred to his earlier announced intention to sue some officials and media outlets and demand 10 million UAH as compensation for moral damages and lost profit (in 1998, $1 = 3.4 UAH).

Shortly before the parliamentary elections, an influential analytical weekly TV program Pislyamova ceased to exist. Commenting on his decision to withdraw, its author Oleksandr Tkachenko said otherwise he would be forced to perform orders of the authorities. The *Polityka* newspaper has been closed several times after strongly negative publications about top executive officials and corruption in the executive branch.

Additional levers of control over the media were created by the presidential decree "On Improving the State Management of the Information Sphere" (September 1998) that finalized the competition between the legislature and the executive branch for the control over the country's main national channel, UT-1, covering up to 98 percent of the territory and the only channel received in a number of remote rural areas. In addition to granting "state support to the media," the decree made the State Information Agency DINAU and

the State Television and Radio of Ukraine directly subordinated to the Cabinet of Ministers.

Taxation also proved to be an effective tool for blocking a newspaper's or TV station's accounts and paralyzing its work. A conflict between one of the owners of the STB with members of the presidential circle resulted in a massive investigation of the company's financial affairs and the seizing of all of its accounts by the tax police. The pressure on the station ceased only after the owner sold its share and left the company.

The Law on State Secrets specifies an extensive list of topics that may not be addressed by the media. In May 1997, the Cabinet adopted a regulation that further defined state secrets to include information on executions, the state of prisons, pre-trial detention blocks, and centers for the forcible treatment of alcoholics. Some journalists say they have experienced intimidation, including the threat of arrest, and violent assaults for reporting on crime and official corruption. According to journalists, the deaths of three prominent colleagues – Kievskie Vedomosti, the correspondent from Luhansk, Petro Shevchenko, and the editor of the newspaper *Vechernaya* Odesa, Borys Derevyanko – were linked to their journalistic investigations. In July 1999, one of STB's leading TV journalists, Marianna Chorna, committed suicide as a final argument against the pressure of the TV channel's management and the authorities. Journalists believe that a large percentage of the 42 crimes committed against the press community in 1996 and the first half of 1997 were linked to their professional activities.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

By the end of 1998, there were 7,622 registered printed media in Ukraine, 4,622 of them disseminated locally and regionally, and only 2,354 of the latter published regularly. About 50 percent of the print media have been established and co-owned by state administrations and councils of all levels. Most private newspapers are owned by "working collectives," which in practice means their real owners choose to remain unnamed. About five percent of print media are private investments with clearly identified owners. Only 700 publications have a circulation of 10,000 copies or more. Of 450 nation-wide newspapers disseminated through subscription, 208 are published in Ukrainian. There are also a few state-sponsored national minority publications and broadcasts. There are 25 regional and 2 national state-owned television and radio stations, and 4 major privately owned (though unofficially influenced by representatives of the executive branch) national TV channels that reach at least 70 percent of the country's population each. More than 740 private and public-private television and radio companies, and TV and radio news and information agencies have sprouted across the country, largely thanks to the development of cable TV.

The official Ukrainian National Information Agency and DINAU have to compete with independent Interfax-Ukraina, UNIAR, UNIAN, the Ukrainian Press Agency and the International Media Center. The major privately-owned media include the newspapers *Zerkalo Nedeli*, *Fakty*, *Den*, *Segodnya*, *Kievskie Vedomosti*, *Halytski Kontrakty*, and *Biznes*; and the TV channels Studio 1+1, Inter, ICTV and STB; Gala Radio, Radio Super Nova, Radio Kievskiye Vedomosti, Nashe Radio, Music Radio, and Radio Lux.

4. Are the private media financially viable?

Most private media are financially viable, although they have to compete with state-owned media that are exempt from high taxes and provided with a number of other benefits under the 1994 law "On State Support for the Press." Because of rising subscription rates, circulation has dropped dramatically from 63.7 million in 1992 to slightly over 15 million in 1998. Though the private media suffer from a heavy tax burden and remain substantially dependent on the state-owned printing facilities and distribution system, the emergent trend has been the improvement of their financial viability because of the attraction of business funds, advertising, and increasing numbers of subscribers and readers, as well as affordable prices and a broad network of private distributors. Private electronic media are also dependent on the state that is the sole owner of broadcasting frequencies, leased to TV and radio companies on certain conditions subject to competition and regular renewal. Advertising rates are high and depend on the circulation of a newspaper and its target audience, ranging from the equivalent of US$ 0.7 per cm2 of newspaper space in a local newspaper, and from about US$ 4 per cm2 of space in a national newspaper. Television advertising rates range from about US$ 5 per second at a local

TV channel to US$ 200 to 300 per second at a national TV channel during a general election campaign. Many newspapers, TV stations, and radio stations have successfully increased the volume of their advertising, but real revenues raised from advertising are a closely guarded secret.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
State-owned media generally reflect government views or the views of elected authorities (each of these two groups of state-owned media has been highly critical of the other branch of state power within the parliamentary and presidential election campaigns, in which elected authorities often compete with executive officials). The major private media tend to be less biased than the state-owned media, though their contents are often controlled by owners and sponsors. Independent, party, and business publications often express views at odds with the official line. The newsgathering functions of the media are affected by interference from the state bodies and financial-political interests linked to the owners, who may be reluctant to disseminate information about selected officials or representatives of interest groups that may have direct or indirect links to them. Or, on the contrary, they may order the gathering and publication of sensitive materials about their competitors and rivals. The law "On State Secrets" delineates a number of issues the coverage of which is limited and subject to special rules. Private owners often discourage journalists from gathering information that may affect their financial or political supporters.

6. Is the distribution system for newspapers privately or governmentally controlled?
Most newspapers and magazines are disseminated through state-owned press kiosks, though there are numerous privately owned news stands at train stations and other public locations. About 50 percent of the total circulation of newspapers is disseminated by subscription through the state postal service, Ukrposhta.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Accurate figures are unavailable, but the estimated number of Internet users ranges from 300,000 to 1 million (according to International Center for Information Technologies). At least 100,000 corporate users, NGOs, governmental agencies, and educational institutions have Internet access, and many have official websites. The amount of Ukrainian and Russian-language information in the Internet has also been growing rapidly. There is also a growing number of privately owned "Internet cafes." However, most Internet users live in major urban areas. The estimated proportion of Internet users among the population is about 1 percent, a rapid increase from about 0.5 percent last year. The increase is mainly due to the arrival of more Internet providers to the market, offering a broader variety of cheaper services, and a decrease in computer prices. But relatively expensive service (from $0.50 to $0.80 per hour on-line or $50 monthly for unlimited 24-hour access) and the poor quality of telecommunications links constrains access to the Internet. There are no formal restrictions on Internet access to private citizens.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?
The official professional organization, the Association of Journalists of Ukraine, transformed from a Soviet-time entity, is supported by state funding and viewed by most journalists as a relic. Major independent press and journalists' associations include the Association for Protection of Journalists, the Freedom of Speech Center, the Crimean Center of Independent Political Analysts and Journalists, Center for Journalism Research, Kyiv Press Club, Ukrainian Media Club, and the Institute of Mass Information. The organizations have loose membership, so the exact figures of either the total membership, or the proportion of women belonging to them, are unavailable. In the latter case, it is estimated that the percentage of women exceeds 55 percent. About 80 percent of journalism students nowadays are female, an increase from about 60 percent 15 years ago.

9. What has been the trend in the press freedom as measured by Freedom House's Survey of Press Freedom?
Freedom House's annual *Survey of Press Freedom* rated Ukraine "Partly Free" from 1992 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 4.75/7

1. Is the legislature the effective rule-making institution?

Although the new constitution (June 1996) set the framework for distribution of powers between the president and the parliament, it did not limit the president's control over key appointments, his direct supervision of regional authorities, and the power to issue decrees and competencies that the president wrested from parliament under the constitutional agreement on June 7, 1995. Contrary to the hopes of advocates for the introduction of a majoritarian-proportionate election system, the expected "constructive majority" in the parliament has not been created, and the presence of 14 factions and groups, several dozen "business MPs" who combine (illicitly) work in the parliament with doing their business activities, and internal conflicts between the left and right wings hinder parliament's law-making ability. While the parliament passes laws, the president also has lawmaking initiative and the power of decree, though his power to issue economic decrees when there is no relevant legislation ended in late June 1999. Furthermore, the Cabinet of Ministers may adopt resolutions and by-laws that sometimes change the meaning of laws. A strong anti-presidential grouping does not have a majority and is being challenged by a strong pro-presidential wing; their confrontation hinders the parliament's law-making ability. In addition, the parliament's work is often blocked by the lack of quorum.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

In August 1994, a presidential decree made local councils and their executive committees ultimately subservient to the president. Heads of regional state administrations – local representatives of the President – hold real power in the regions. While local authorities have proved to be far more efficient in collecting taxes, achieving growth, and conducting privatization, and the aggregated local budgets have reached a slight surplus, administrative reform, including a reform of subnational bodies of power and their financial systems, remains to be achieved. Article 143 of the constitution and the law "On Local Self-Governance in Ukraine" (May 1997) are aimed at decentralizing substantial power to subnational bodies. The structure of local administration is complex: it consists of 24 regions (oblasts), divided into "cities-of-oblast-importance" that may consist of several boroughs, and districts (rayons), divided into villages and towns. The current local self-governance system includes territorial communities, local councils led by chairmen elected directly; local councils' executive committees, and district and regional councils. The executive committees are controlled by councils and the relevant bodies of the executive branch – a provision suggesting that the division of branches of power has yet to be introduced. The executive branch is represented locally by state administrations, appointed directly by the president. Territorial communities may call local referenda to decide on local issues and initiate local initiatives within their authority.

The powers of local authorities include the development of local economic, social, and cultural programs, approving local budgets, introducing local taxes and dues, privatization and the use of local public property, the creation of free trade zones, the establishment and financing of local police forces, and the choice of working language to be used at sessions of local self-governance bodies. Councils of People's Deputies deal with purely local issues, such as the establishment and control of communal enterprises and organizations; the development and implementation of local social and cultural projects; and the management of communal property. They adopt and control the budgets of their territorial unit and establish local taxes. District and regional councils adopt programs of social, economic, and cultural development, and set and control district and regional budgets. The powers of a local council may be terminated by the parliament if it decides that the council's actions contradict Ukrainian law. The Crimean authorities are granted greater powers than those of any of Ukraine's other regions. The Crimean Council of Ministers operates a budget approved by the Crimean parliament with a substantial degree of independence from central authorities. Previously the Crimean parliament adopted several major bills at odds with the national legislation, but more recently the Crimean authorities have demonstrated more readiness to coordinate their law-making activities with the central authorities.

In some cases, the executive directly interfered with affairs of local self-governance. In January 1998, Presi-

dent Kuchma resolved the rivalry for seats in the Yalta city council by introducing direct presidential rule in the city and appointing his representative as a temporary city chairman. Later on, Secretary of the National Security and Defence Council Volodymyr Horbulin described the situation in Yalta as re-division of property and "fight for the resort complex." In May 1998, the president appointed his representative, vice prime minister Mykola Biloblotsky, to the position of the city chairman of Odessa, quoting "the state of political, economic and criminal emergency in the city," after the regional court found the mayoral elections illegal and a new election was scheduled to take place in several months. The Council of Europe reacted to the confrontation in Odessa by warning Ukraine about possible sanctions or even exclusion of the country from the organization for violating the Local Self-governance Charter.

3. Are subnational officials chosen in free and fair elections?

Members of local councils are elected directly, and the 1998 elections were held at the same time and the same polling stations as the parliamentary elections. Oblast and rayon councils are elected through majoritarian multi-member constituencies while other councils are elected through majoritarian single-member constituencies. Chairmen of city, town, village and borough councils are elected directly through majoritarian constituencies. Local elections, judged by international observers of the OSCE and the IFES as free and fair, were held simultaneously with parliamentary elections on March 29, 1998.

The law "On the Capital of Ukraine – City of Kyiv" (1998), the absence of which served as a formal pretext to hold local elections in Kyiv simultaneously with the 1998 parliamentary elections elsewhere in Ukraine, gave broad powers to city self-governance authorities over public property, privatization, and local finance. Instead of direct elections, the head of the city council Oleksandr Omelchenko, then chairman of the city regional administration, appointed by the president, was elected by 57 out of 68 of the Kyiv council deputies. Thus, he combined the offices of an elected representative and an appointed executive official, which contradicted the constitution and the law "On the Status of Deputies of Local Councils of People's Deputies." In May 1999, Oleksandr Omelchenko was finally elected the mayor of Kyiv in direct elections by 76.39 percent of 49.42 percent of eligible voters who came to the polling stations. His strongest competitor, Hryhory Surkis, who won over 17 percent of the votes, sued, charging Omelchenko with abuse of power, forgery, and misuse of public funds. Although the court recognized the charges and judged the election invalid, the judgement was later annulled by the Supreme Court of Ukraine.

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Neither executive nor the legislative bodies operate with full openness and transparency, and detailed data about spending of public funds and state procurement are unavailable. The media are often not allowed to cover committee sessions, and parliamentary voting statistics are recorded irregularly, with some votes taken in closed session. Most documents and draft legislation are not available to the public. Media access to lawmakers has been complicated by the resolution of the parliament, initiated by Speaker Oleksandr Tkachenko in the spring of 1999, limiting the number of media outlets and reporters to a selected few and making the access rules very difficult for NGOs and pressure groups. In May 1999, regular broadcasting of parliamentary sessions on national TV and radio was terminated. The official reason was the failure of the legislature to pay the state-owned broadcasters, the UT-1 television channel and the Ukrainian Radio. Draft legislation is relatively accessible to the media (thanks, as a rule, to journalists' personal-professional connections at the parliament's press service, staff, and from friendly MPs), as well as via the parliament's official Internet site. But it is practically inaccessible to the general public, though theoretically any voter may request draft documents from the parliament's secretariat or his MP.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

The national government collects 19 categories of taxes, including VAT, income tax, land and property taxes, and payments to social security funds. Local authorities collect 15 categories of local taxes, including com-

munal, hotel, transport, and market taxes, that go to local budgets. In 1997, local budgets received 14.5 billion hryvnyas (121.5 percent of annual budget allocations) and spent 14.4 billion hryvnyas. Only three regions – Donetsk, Dnipropetrovsk, and Kharkiv – and the city of Kyiv donate to the state budget, while other regions live on subsidies from the central government. Municipal governments are traditionally short of funding. Their scarce local budgets make them heavily dependent on the state and largely limit their self-governance abilities. Only the local authorities in Kyiv and Sevastopol, as cities of state subordination, are entitled to gather their own revenues in full. The reform of the budget system is designed to change the approach to relations between the central and local budgets so that local authorities will be able to keep most of the money collected locally in order to fund local social security nets and economic development projects.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Many of the elected local leaders and appointed local civil servants are former Communist-era apparatchiks. Most local councils lack qualified personnel, and many lack elementary management skills applicable to the changing socio-economic and political conditions. The Institute of Civil Service, designed to train civil servants in good governance, was established in 1993, but its graduates are few. Previously, civil servants did not receive special professional training. Today many educational institutions offer courses in governance and public administration. In addition, there are a number of technical assistance programs sponsored by international donors and offering seminars and workshops for civil servants.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The Law on Local Councils of People's Deputies was adopted in March 1993 and amended in 1994 and 1995. It provides for the election of heads of local councils directly by citizens and makes local councils accountable to the Cabinet of Ministers and subordinated to higher-ranking councils. Local councils' executive committees are accountable to both local councils and local state administrations. A new Law on Local Self-Governance, adopted by the parliament in April 1997, stipulated that local councils' powers include management of communal property and the running of local budgets. The Law on State Service, adopted in December 1993 and amended in 1995 and 1996, acts as a civil service statute and defines the rights and responsibilities of civil servants. It prohibits civil servants from misusing their authority, but provides for no mechanism to enforce these prohibitions. The law also prohibits appointment of individuals with criminal convictions incompatible with civil service and demands annual disclosure of the financial standing of civil servants and members of their families (but it specifies no liability for failure to do so or for presenting false data). In general, sanctions for abusing the civil service regulations are soft. Internal investigation and suspension for up to two months are initiated in cases of poor performance that caused loss of human lives and major damages to individuals, state, or organizations. Civil servants are subordinated to the General Department of Civil Service of the Cabinet of Ministers, though local civil servants are nominally employees of local governments. The law gives civil servants the right to acquire information within their competence from a variety of sources and grants a number of socio-economic benefits. There are seven categories and 15 ranks of civil servants; admission to the civil service and career promotion occurs through the system of a cadre reserve, left over from the Soviet period.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 4.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Until mid-1996, Ukraine was governed by the 1978 Constitution of the Ukrainian Soviet Socialist Republic, modified since independence by introduction of a presidency and a multiparty system. A new constitu-

tion, based on the draft introduced by the Joint Constitutional Commission, was adopted on June 28, 1996 after a series of debates and a presidential decree to hold a referendum on the constitution on September 25, 1996. The constitution, especially provisions for the presidency and private property, was obstructed by the left, which claimed it violated the rights of the "working people." The law adopting and enacting the constitution received 338 votes "for" with 18 votes "against," and five abstentions. Twenty-six MPs did not vote and 37 other members of parliament did not attend the session. The constitution is interpreted by the Constitutional Court. Examples of enforcement of the constitution by the Constitutional Court include introduction of a new party-based election law, the review of the establishment of the National Bureau of Investigation (NBI) which many MPs saw as an illicit military formation, and the judgement to lift the president's decree abolishing taxation incentives for foreign investors, granted by previous laws.

2. Does the constitutional framework provide for human rights? Do the human rights business and property rights?

Chapter II of the constitution guarantees broad human rights and civil liberties, including political liberties, religious rights, and minority rights. Article 41 stipulates private property rights, and Article 42 guarantees the right to engage in free enterprise and provides for protection of fair competition in business. Before the new constitution was adopted, several statutes and laws dealt with religious, minority, and human rights. A special parliamentary committee for human rights was established, but its powers and enforcement mechanisms remain murky. To enhance human rights protection, in December 1997 the parliament adopted the law "On the Authorized Representative of the Verkhovna Rada for Human Rights," introducing the office of the Ombudsman whose duty is to react to complaints of individuals and MPs about human rights abuse or use his/her own initiative to enforce human rights provisions and norms.

De facto human rights include the rights to own business and property. Private property exists but has little respect in the society, and mechanisms intended to protect it are ill defined. In June 1995, President Kuchma decreed that an enterprise's land and buildings be included in any sale, except in the often-invoked case of historic sites. A draft condominium law proposed in mid-1995 to regulate the rights of co-owners in a building has not been adopted yet.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

Reform of the court system and civil codes continues at a slow pace. In November 1991, a new law on the prosecution redefined its powers, stripping it of many of its court oversight functions. The active Criminal Code and Criminal Procedural Code were adopted in December 1960. Since 1991, the former has undergone 57 amendments, and the latter has been amended 40 times. In June 1995, Kuchma established a presidential committee on legislative initiatives and a committee to draft new versions of Ukraine's legal and criminal codes. Currently, there are two versions of the draft Criminal Code of Ukraine, one developed by experts of the Cabinet of Ministers, another prepared by the Parliamentary Committee for Law and Law Enforcement, both under discussion by parliamentary committees. Although both drafts have drawbacks, they are an improvement over the current Criminal Code adopted in 1960 and amended in February 1993. A March 1992 law abolished the exile and deportation of Ukrainian citizens as methods of punishment. By law, citizens are allowed to appeal their arrest either to the court or to the prosecutor, and must be released if not charged within 48 hours. A prosecutor must issue an arrest warrant if detention exceeds three days. By law, searches are authorized and warrants are issued by the prosecutor, but in July 1994 this law was amended by Kuchma's decree on organized crime. The amended law permitted police to hold suspected criminals for up to 30 days and to raid suspected criminal locations without search warrants. Although judges must initiate trials within three weeks after the charges are filed, the shortage of judges and delays in the court system have repeatedly led to violations, with suspects detained for months. Torture and abuse of prisoners is prohibited by law, but conditions in overpopulated and underfunded prisons are extreme and at odds with internationally recognized norms. According to independent reports, inmates are sometimes beaten and abused by other inmates or by prison personnel.

4. Do most judges rule fairly and impartially? How many remain from the Communist era?
Though impartiality of judges is stipulated and guaranteed by law, many judges on subnational levels remain sensitive to local administrations' pressure (usually exerted in the form of a personal request or order from a high-ranking official). Local authorities provide judges with free housing and broad benefits. It is expected that the impartiality of judges can be guaranteed by their lifetime appointment and immunity from prosecution. Bringing a judge to trial even if there is good evidence of his or her crime is possible only with the permission of the parliament. Last year the Ukrainian parliament allowed the bringing to trial of several judges who had been charged with taking bribes. However, nowadays several cases involving corrupt judges have been suspended, since whereabouts of the accused are unknown. According to court statistics for the Odesa region, 270 judgments of the region's courts in 1998 were subsequently canceled by higher courts. More than 30 percent of the cancellations were caused by direct violations of laws during the trial procedures. Within the past year, the Department of Justice received 2223 complaints about mistreatment and violations by judges, and several hundred similar complaints were sent to the Qualification Commission of Judges.

Meanwhile, the commission has heard only 13 personal cases. Only three judges were made to face liability, and only one of them faced an adequately strict penalty. "We cannot make a judge liable if his judgment, or even ten of his judgments have been annulled. A judge cannot be punished if that was his perspective," said the chairman of the Qualification Commission, giving a carte blanche to unscrupulous representatives of the judiciary. Speakers at a recent regional conference of judges have repeatedly stressed that their performance is equivalent to the rate of state support they receive. In reality that means that if a regional court receives 8,000 UAH from the national budget (salaries not included) from the Ministry of Justice per year, and spends 88,0000 within the same period, there is no effort to find out the origin of the rest. Polls conducted by the International Center for Policy Studies in 1999 show that many Ukrainians do not believe that all or most judges judge impartially. Currently there are about 5,600 judges; 35 percent of them specialize in civil law, and 65 percent in criminal law. To qualify for a town or district judge, a candidate has to be at least 25 years old and have at least 2 years of law practice, and a regional judge has to be at least 30 years old and have at least 10 years of law practice, including at least 5 years of experience as a judge. An accurate number of judges who have kept their positions from the Soviet era is unavailable. According to the law "On Status of Judges" (1993), judges of general and military courts are elected for 10 years, and may be re-elected for a new term until they reach retirement age of 65. Recently, steps have been made to introduce the election of judges for an unlimited term.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?
According to the 1996 constitution, and the Law "On Status of Judges" (last amended in February 1994), the courts are totally independent and free from political control, and the judiciary is funded independently, not through the Ministry of Justice. However, since the legislature, the executive, and the judiciary have not been completely separated in the Ukraine, the investigation, interrogation, and prosecution remain within the scope of the executive. The attorney general and deputy attorney general are nominated by the president and confirmed by parliament. Judges are selected by parliament on the basis of recommendations of the Ministry of Justice. State and local prosecutors are appointed by the attorney general. Though the law stipulates liabilities for attempts to influence or limit independence of the judiciary, courts and prosecutors' offices, especially at oblast and local levels, seem to be closely attuned to local administrations' interests. The current system of verification and control over decisions and sentences also requires substantial changes. Although an independent bar exists, the legal profession still faces challenges in defining its role and relationship to other legal structures, as well as finding trained personnel. The judiciary is overburdened and lacks sufficient funding and staff.

The Constitutional Court was established in October 1996. It consists of 18 judges who must be citizens of Ukraine, at least 40 years old, graduates in law with at least 10 years of relevant professional experience, residents of Ukraine over the last 20 years, and fluent in Ukrainian. The requirement of ten years' professional experience means that all members of the Con-

stitutional Court worked under the Soviet system. The president, parliament, and the Congress of Ukrainian Judges appoint six judges each to the Constitutional Court for a single term of nine years. The Supreme Council of Justice, established in January 1998, is an independent body designed to ensure fairness and professionalism of the judiciary. It consists of two sections: one dealing with nominations and resignations of judges, and a disciplinary section, dealing with complaints and investigation of offenses committed by judges and attorneys. The parliament, president, the Congress of Ukrainian judges, the Congress of Ukrainian Lawyers, Congress of Representatives of Ukrainian Law Schools, and Law Academics appoint three members each to the Supreme Council of Justice, and the national conference of the prosecutions officers appoints two members. Chairman of the Supreme Court, the Minister of Justice, and the Attorney General are members of the Supreme Council of Justice by profession. Activities of this entity are funded from the national budget. A member of the Supreme Council of Justice has to be at least 35 and have at least 10 years of working experience in the judiciary, which in practice means that all members served under the Soviet regime.

The Law On State Executive Service (March 1998) introduced executive bodies of the Ministry of Justice that are established to enforce judgements of courts. Leadership of the national and local offices of the State Executive Service of the Ministry of Justice are appointed by the Minister of Justice and controlled by the Ministry of Justice.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

Of approximately 55,000 legal professionals in Ukraine, about 30 percent are in private practice, an increase from 20 percent or so the previous year. The number of lawyers in private practice is increasing and many combine working for the state and private practice. There are 20 national and subnational associations of legal professionals. The major national lawyers' associations are the 1,500-strong Union of Ukrainian Lawyers and the Union of Ukrainian Attorneys that unites 1,250 members.

7. Does the state provide public defenders?

The law grants public attorneys from the moment of detention, though in reality it is often not the case. Private attorneys are usually hired by defendants with the means to afford them. By law, defendants are entitled to have free public attorneys only in criminal cases.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

In the fall of 1991, Article 66 of the Criminal Code of the Ukrainian SSR was amended with provisions introducing penalties for acts of discrimination against citizens based on their race, national origin, or religious beliefs. On November 1, 1991, parliament issued a declaration guaranteeing equal political, economic, social, and cultural rights to all individuals and nationalities in Ukraine. Article 24 of the 1996 constitution prohibits any discrimination or privileges based on race, political, religious, or other views, gender, ethnic and social origin, language, or other features. Ethnic minority rights are granted by Articles 10 and 11 of the constitution and the Law on National Minorities (June 1992). The law stipulates respect for ethnic minorities' traditions, religions, and languages, and guarantees support of development of national identity and self-expression. The policy is pursued through the national and subnational committees for inter-ethnic relations, operating within legislative bodies, through establishment of national minority advisory committees and departments within local councils and executive authorities.

Ukraine's ethnic minority policy is implemented by the State Department of Nationalities; the Council of Representatives of National Minority Associations at the Department monitors the observance of ethnic minority rights. The law guarantees the right of national-cultural autonomy, education in national languages, development of national culture, the use of national symbols, celebration of national holidays and practicing national religions, and the development of literary, cultural, mass media, and education associations. In places where an ethnic minority constitutes the majority of population, the national language may be used alongside Ukrainian in state and public offices and institutions. Representatives of ethnic minorities can be elected or appointed to all levels of government. Citizens of Ukraine are free to choose their nationality and maintain relations with, and receive assistance from,

representatives of their ethnic group abroad. Ukraine's national budget allocates funds for ethnic minorities' needs, including the return and re-settlement of some 300,000 representatives of ethnic minorities deported by Stalin from Ukraine.

9. Are judicial decisions effectively enforced?
Enforcement of judicial decisions is effective in criminal cases and insufficiently effective when private economic and social rights and individual interests are involved - mainly thanks to the absence of a tradition of respect for private property (under the Soviet Union, the penalty of offence against state property was always more severe than for a similar offence against other individual's property), the inadequate legal framework, and the multitude of cases when social rights are affected (i.e., the government's and enterprises' failure to prevent wage arrears). The law "On State Executive Service" (March 1998) introduced executive bodies of the Ministry of Justice that are to enforce judgements of the courts. Leadership of the national and local offices of the State Executive Service of the Ministry of Justice are appointed by the Minister of Justice and controlled by the Ministry of Justice.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption is widespread at all levels. Many services are subject to bribery, including university entrance, hospital admissions, telephone installation, licenses for operating businesses, and processing of official documents. However, the emergence of private universities, health services, telephone companies, and other "deficit" services has spared a number of better-off Ukrainians the trouble of "petty corruption." However, in services that remain the monopoly of the state, bribes are reportedly often offered and taken. Bribes may be offered to, or solicited by, the traffic police, by passport and visa registration offices for speeding up the procedure, and by law-enforcement officers for evading or easing punishment. Low salaries (from about 150 to 400 hryvnyas) for civil servants stimulate bribery and extortion.

Corruption in the government has damaged Ukraine's international image and put foreign assistance to Ukraine at risk. In the period from April to September 1997, a number of large foreign investors, among them Coca-Cola, Cargill, Motorola, and Proctor&Gamble complained about corruption in the government and considered canceling investment projects. The U.S. Congress held hearings on mistreatment of American businessmen, which nearly resulted in the suspension of U.S. assistance to Ukraine.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?
According to the law "On Fighting Corruption," civil servants at all ranks may not engage in profit-generating activities. However, the provision is not enforced effectively, as the law does not provide an enforcement mechanism, but leaves loop-holes like allowing civil servants to perform "creative activities" that may include research, consulting, lecturing, etc. While top officials formally resign from their positions as heads of companies or banks after their appointment or election, they continue to promote their interests, usually as "honorary presidents" of their businesses. Numerous articles in the press disclosing the corruption and business ties of top-ranking policy-makers have not been refuted, but no official reaction has followed in most of the cases.

Notwithstanding frequent allegations in the media, pointing out the links between senior officials and businesses, no anticorruption processes involving leading government officials at the national level have occurred. The exception is Pavlo Lazarenko. In July 1997, President Kuchma fired his former Dnipropetrovsk ally, Prime Minister Pavlo Lazarenko, after a series of articles in the Western and Ukrainian press blaming Lazarenko for rampant corruption in the government. Lazarenko was believed to have ma-

jor personal stake in Ukraine's largest gas trader at that time, a private company, run by a friend, who benefited from government guarantees and patronage. Yet, officially, the reason for his resignation was said to be "poor health." Later on, after Lazarenko became the leader of the Hromada party (the party's parliamentary faction), a vehement critic of the president, and the incumbent's likely rival in the presidential race, a criminal case was opened against him for abuse of power, operating illegal accounts abroad, and diverting at least 2 million of public funds. After repeated demands by the Attorney General of Ukraine, in early 1999, Pavlo Lazarenko was stripped of his parliamentary immunity and almost arrested on charges of abuse of power and deliberate misappropriation of budget funds, but fled to the United States. He was arrested by the U.S. immigration for presenting an invalid visa, and subsequently appealed for political asylum. Currently his case is being reviewed by the U.S. immigration court. Lazarenko is also wanted by the Swiss police on charges of money laundering.

A "code of ethics" for civil servants is stipulated in the Law "On Civil Service" (1993) that prescribes every civil servant to "perform professional duties diligently," "treat citizens, senior officers and staff with respect; show high culture of communication." Civil servants are not allowed to engage in actions that may "damage civil service interests or have a negative impact on reputation of civil servant," "engage in actions that contradict national interests of Ukraine, complicate operation state agencies"; commit actions that may be regarded as abuse of office for the sake of receiving some gains or "actions that under the current law can be regarded as corrupt," show bias or preference for selected enterprises, institutions or individuals, and "engage in bureaucratism."

While legally no official or civil servant can combine work in the public office and private sector activity, ethical boundaries between public and private sector activity are vague and often not observed in practice. Neither business ethics nor civil servants' code of conduct have been clearly formulated and observed, although lately there have been occasional efforts, mainly stemming from the business community, to address business ethics issues and demand the ethical behavior of civil servants as it becomes increasingly difficult to compete.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

There is no specific law requiring civil servants to disclose their financial standing, but a number of high-ranking officials have submitted their income declarations. By law, such disclosure is demanded from every presidential candidate, but there is no stipulation that other elected authorities or appointed officials must do so. Also, although the law stipulates liability "in accordance with the current legislation" for giving false information in an income declaration, no official verification of income declarations of high-ranking officials and members of the parliament has been publicized. Such declarations tend to understate earnings and property by reporting their "official" salaries, which are relatively low. The law "On Civil Service (Limitations Related to Appointment to the Civil Service)" bans a person from election or appointment to a position in a state body and its apparatus if, when appointed, he will be directly subordinated to persons who are his close relatives by blood or by marriage. The law "On Fighting Corruption" prohibits civil servants and other persons authorized to perform state functions from using their authority to assist individuals or legal entities in their entrepreneurial activities or in receiving subsidies, subventions, loans, or benefits "for the purpose of receiving illicit reward in the form of material benefits, services, privileges or other advantages."

Civil servants, including elected officials, may not engage in enterprise directly or through intermediaries, or act as solicitors for third persons in the affairs of state bodies, or do any part-time work (except research, teaching, creative activity, or medical practice). Furthermore, they may not be members, personally or through a representative, of a board of governors or other executive body of enterprises, loan and finance entities, businesses, organizations, associations, societies, or cooperatives engaged in enterprise. The law "On Status of a People's Deputy of Ukraine" provides that an MP may not occupy any other business or service position, except teaching, research, and "other creative work"; he may not receive gifts or awards from foreign governments or foreign and Ukrainian institutions, organizations, and enterprises irrespective of their form

of ownership, "except for teaching, research, and other creative work." According to the law, occupation of a paid position is incompatible with the MP mandate and leads to annulment of membership in parliament. However, the obscurity of the formulation of "other creative work" leaves the provision unenforced.

There is no public control over spending of public funds and provision of services by the state, and the government is the only eligible controller of its agency's activity. The law "On State Control and Verification Service of Ukraine" (January 1993) defines the duty of the state audit agency as state control over the spending of funds and materials resources by governmental agencies, state-funded institutions and organizations that receive public funds. The agency is funded directly from the national budget and chaired by deputy minister of finance, appointed by the Cabinet of Ministers at the recommendation of the finance minister. Local control and verification agencies are led by officers appointed by the chairman of the national control and verification agency. The Auditing Chamber operates to control the observance of the budgeting legislation, and the Office of Attorney General performs general oversight of law-compliance and law-enforcement.

Notwithstanding numerous statements of top-ranking state officials about corruption in governmental agencies, no major public trial of a high-ranking official accused of corruption has occurred so far. Reports of regional representatives of anticorruption divisions indicate that only minor local bureaucrats have been brought to trial. Since 1993, the Ukrainian press published over up to a thousand articles raising the issue of corruption at the top levels of the state. The lack of tangible results of fighting corruption, investigative journalism notwithstanding, has led to the public perception of corruption as a phenomenon that nobody wants to tackle and which has become an inevitable part of state power. According to results of a recent opinion poll conducted by the Kyiv International Institute of Sociology and the Ukrainian Legal Foundation in October 1998, of 2,111 adults who took part in the poll 39 percent believe that bribery is encouraged by giving too many rights to officials, 38 percent think that the reason is the immunity of members of the parliament and judges, 33 percent quote insufficient control over implementation of laws. Twenty-seven percent believe that bribery is made easy by delays in adoption of adequate legislation and by the permission for civil servants to open anonymous bank accounts; 26 percent argue that the problem is linked to the failure of development of the civil servants' "Code of ethics" and by remaining loopholes in the legislation. Other reasons, quoted by more that 15 percent of the respondents (who could choose more than one answer) include insufficient control over budget spending (24 percent), possibilities to avoid liability for breaking the anticorruption legislation (19 percent) and support for organizations and businesses owned by friends or relatives (17 percent).

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

According to an opinion poll of 1,200 nationally representative adults conducted by the Socis-Gallup in June 1999, 62 percent of Ukrainians think corruption is widespread in the state agencies but regard it as a "fact of life"; 26 percent believe corruption is "rather common"; and only 2 percent say it is "rather rare." Sixty-nine percent of the respondents see corruption as a "very serious problem"; 21 percent think it is "rather serious"; and 47 percent define corruption as the main factor in blocking economic reforms. The proportion of respondents who believe corruption in state agencies is widespread decreased five percent since 1998. According to the respondents, the first place in the ranking of corrupt civil servants is shared by top-ranking executive officials and the militia (81 percent); second place belongs to customs officers (80 percent); and the third belongs to taxation officers (79 percent). The respondents' list of corrupt civil servants includes members of the Ukrainian parliament and judges (73 percent); members and staff of the Cabinet of Ministers (72 percent); the Presidential Administration (65 percent); private businessmen (64 percent); Ukrainian banks (61 percent); and the management of foreign companies (42 percent). Meanwhile, only 5 percent of the respondents defined corruption as one of the reasons for their dissatisfaction with the current situation in the state, and 5 percent said fighting corruption may be an effective method of improving the situation.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice, or have they targeted political opponents?

In July 1994, following one of his major campaign pledges, newly-elected President Leonid Kuchma started an attack on corruption was the decree "On Urgent Measures of Enhancing the Struggle Against Corruption." The law "On Fighting Corruption," adopted in October 1995, defined corruption as an "activity of persons authorized to perform state functions, aiming at illicit usage of their authority for receiving material benefits, services, privileges, and other advantages." The "persons authorized to perform state functions" include state officials and civil servants of all 14 levels. In April 1997, the list was amended to include members of the Ukrainian parliament, members of the Crimean parliament, elected representatives of village, town, city, district, regional councils and chairmen of district and regional councils. In April 1997, Kuchma decreed the establishment of the National Bureau of Investigation (NBI) as part of an effort to show the international community the determination to fight corruption. So far, the parliament has not adopted a law that would provide legal framework for operation of the NBI as a special entity designed to serve the task of preventing corrupt links between civil servants and officials and criminals. In April 1999, Attorney General of Ukraine Mykhailo Potebenko was appointed by President Kuchma to the position of the chairman of the NBI, thus, *de-facto* making the agency subordinate to the Office of Attorney General. In accordance with the National Program for Combating Corruption, enacted by presidential decree in April 1997, a working group of representatives of ministries, departments, and experts of the Ukrainian Academy of Legal Sciences, led by Minister of developed the Concept of Combating Corruption in Ukraine in 1998-2005, adopted by the president's decree in April 1998. The law "On Fighting Corruption," amended in 1997 and 1999, and other anticorruption legislation create the necessary legal framework for fighting corruption. However, thus far the adoption of anticorruption laws and decrees has produced few results. Partly, pursuing corruption charges against officials is complicated because only two months are given by law to complete investigation and submit the case to court, otherwise the case is closed down.

In January 1999, Ukraine joined the Convention on Criminal Law in the field of fighting corruption, initiated by the Council of Europe. The Convention is a part of measures taken to implement the Council's anticorruption agenda that envisages coordination of European countries' national legislations and improvement of their cooperation in the field of fighting corruption both in governmental bodies and the private sector. The Ukrainian-American Center for Study of Organized Crime and Corruption has been opened in Kharkiv within the National Law Academy of Ukraine, following an agreement signed with the American University in November 1998.

In early 1999, an offensive on corruption was launched in the Crimea, resulting in arrests of over two dozen members of local councils, mayors, deputy mayors, senior officials of district state administrations. In 1998, the Crimean Office of Public Prosecution was the only one in Ukraine that filed lawsuits demanding cancellation of registration of some parliamentary candidates suspected of corruption and criminal connections. The efforts resulted in closing the way to the Crimean parliament for half a hundred of criminal "authorities." Officials convicted for their corrupt practices included ex-mayor of Yalta, ex-Minister of Tourism of the Crimea, and two members of the Crimean parliament. Three top elected Crimean officials, including ex-speaker of the Crimean parliament, fled.

The NGO sector has proven to be remarkably active in promoting public awareness of the need to counter corruption. In Zaporizhya, a group of NGOs had organized a number of rallies and pickets for several months to protest re-election of a mayor charged with corruption and fraud. In Donetsk, the Partnership for Integrity, a public anticorruption initiative, works as a forum for communication between businessmen and the regional authorities, and offers seminars on preventing corruption and forming policies and ethics of conduct for civil servants.

A number of think tanks, including the Ukrainian Center for Independent Political Research, the International Center for Policy Studies, the Ukrainian Legal Foundation, have focused on monitoring anticorruption efforts and conducting surveys of public opinion on corruption.

According to anticorruption statistics provided by law-enforcement agencies to the parliament's Committee for Legal Provisions for Law Enforcement and Fighting Organized Crime and Corruption, Ukrainian courts received 2,754 protocols on corruption during nine months in 1998. Guilty verdicts were issued only in 1,188 cases (43 percent), and most convicted civil servants had to face so-called "administrative liability," i.e., fines. Of 208 lower-ranking officials brought to trial on corruption charges, 54 had stayed in office after trials, though found guilty. In the Transcarpathian region, for instance, only 16 out of 194 charged civil servants were convicted and made pay up to UAH 425 in fines (US$ 108 at the 1998 exchange rate).

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
Results of an opinion poll on bribery and trends in corruption held at the end of 1998 by the Kyiv International Institute of Sociology and the Ukrainian Legal Foundation in Kyiv and several other cities suggest that bribery is viewed as a "normal" part of our life. Although pursued cases of bribery account for only 0.5 percent of all crimes, public intolerance of corruption among civil servants has been growing steadily but slowly. 72 percent of the respondents said they had experienced extortion of bribes by bureaucrats, and 52 percent believed it is better to give a bribe than to receive the needed service the official way. Only 25 percent of the respondents insisted on the opposite.

Anticorruption and public integrity education efforts have been made by NGOs and business associations with support of major international donors and institutions like the USAID and the World Bank. Although Ukrainian society is increasingly aware of the damage done by corruption, public and private sector initiatives to counter it are scarce. A study conducted by Corruption Watch/UCIPR in 1998 ans 1999, showed that up to 90 percent of individuals approached with the demand of giving a bribe chose not to protest or complain, even though some 30 percent would not yield to the demands.

7. How do major corruption-ranking organizations like Transparency International rate this country?
Ukraine was ranked 75th out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 2.6 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 4.50/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
The private sector share of GDP, as of mid-1998, totaled 55 percent. As of 1997, the share was 50 percent of GDP. These figures represent rough EBRD estimates. Nearly 55 percent of the labor force was employed in the non-state sector in 1998. Employment as a share of the labor force in state, collective, and private sectors was 31.3 percent, 34.0 percent, and 20.9 percent, respectively, in 1998. However, the major stock in a collective enterprise may be held by the state. Therefore, the actual share of the labor force employed in the private sector is below 55 percent. According to the State Statistics Committee, 50.8 percent of employed persons were working in the private sector in the first half of 1999, while according to a survey conducted in November 1998 by the International Labor Organization (ILO), 63.7 percent of the employed were working in private sector of economy.

EBRD in 1998 reported the informal sector of the economy to be 40-50 percent of the official GDP According to World Bank and German Advisory Group estimates, value added by the informal sector in 1995 ranged from 47 percent to 106 percent of the official GDP.

2. What major privatization legislation has been passed? What were its substantive features?
According to the Constitution, the main privatization document is the law on "Privatization Program." Before June 1999, pursuant to the transitional statements in the Constitution, the president could have enacted the program by Decree, if parliament failed to legislate it. From now on, if parliament fails to legislate the program, the previous year's program continues to be in force.

The privatisation program for 1999, signed by president, puts more emphasis on cash privatisation and market pricing of privatisation sales, as opposed to certificate privatisation. According to the new regulations on cash auctions, one bid is enough to hold an auction (prior to that, two bids were required). However, the ban on selling shares at a price of less than 70 percent of nominal value has not as yet been cancelled. The state can retain shares in "strategic" companies, but only in lots of 25 percent and 50 percent, plus 1 share. This norm is often violated, however, mainly at the initiative of the National Agency on State Corporate Rights Management, founded in July 1998. In May 1999, the corporatisation of the natural monopolies Ukrtelecom and Ukrpost was permitted. Privatization of unfinished construction projects was also simplified. Investors were given a number of tax concessions.

The Presidential Decree "On the sale of land plots of non-agricultural usage" of January 1999 features a first step toward a market in land. It permits the privatization of land plots, where privatized enterprises are located. This market has considerable potential: the overall area of non-agricultural land is 500 thousand hectares or 0.5 percent of Ukrainian territory. Fifty-thousand enterprises with unregulated issue of land property have been privatized.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: The portion of agricultural land owned by individuals and farmers in 1998 totaled 19.6 percent, while their share in the total agricultural output reached 59.3 percent. From April 1, 1998 to June 30, 1999 the number of private farms decreased slightly, from 35,902 to 35,509.

Housing and Land: As of January 1, 1999, 73.8 percent of the total living space in Ukraine was private. The number of privatized flats rose from 3,756,500 to 4,293,800 over the period from June 30, 1998 to June 30, 1999.

Industry: Over the period from April 1998 to June 1999, the share of non-state enterprises in the total number of large and medium-scale industrial enterprises rose from 78.1 percent to 83.9 percent. Their share in total industrial output fell from 65.9 percent to 68.6 percent.

Business and Service: In 1998 there were 151 thousand small enterprises in Ukraine, all of which were private. The number of small enterprises per 10,000 people rose from 27 in 1997 to 30 in 1998. The number of privatized small-scale enterprises grew from 47,853 as of July 1, 1998 to 51,096 as of July 1, 1999. Small business was growing mainly in trade and public catering, which together represent 51 percent of the whole number of small enterprises.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

During the period under consideration, management and workers actually lost the ability to get large share lots during privatization because of statutory-fund indexation and the end of voucher privatization. Voucher privatisation was halted in January 1999 and compensation-certificates privatisation was stopped in March 1999. According to the Privatisation Program, workers are allowed to buy shares up to a nominal value of 750 UAH (ukrainian currency - hryvnia), but only for cash. Prior to that, workers were paying by vouchers, whose nominal value exceeded the market value more than tenfold, or by compensation certificates, whose market value was five times lower than nominal.

Now that only cash payments are permitted, the attractiveness of insider privatisation is diminished. The same is true of the five percent of shares, which, according to the Privatisation program, can be bought by management. Statutory fund indexation by the fixed assets rate from 1996 made the price of shares three to ten times higher than the market price. Nowadays, insiders typically buy three to five percent of shares during the preferential period.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

The public attitude toward privatization has become more positive, as many privatized enterprises show better results than state-owned ones. There is no major threat or pressure for re-nationalization on the part of the general public. The chances of parliament enacting a moratorium on privatization are very low, experts believe.

The cash privatisation of some attractive enterprises, including monopolies, is at the center of the struggle between foreign investors and domestic financial-industrial groups. Domestic bidders often do not have enough funds to compete with foreigners, and are looking for other ways to win. The newly founded National Agency on State Corporate Rights Management has become a lobbyist for domestic competitors. The State Property Fund, while remaining the owner of state property, has transferred the function of management to the National Agency. The Agency should determine managers on the basis of auctions. During the first year, however, the Agency conducted only a few auctions, though there are 5,300 state-owned enterprises. Despite this, the institution of state property managers, though inefficient, is becoming an alternative to privatisation. The Cabinet of Ministers has also retained the right to appoint the managers without any auctions.

MACROECONOMIC POLICY 4.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

Although changes in taxation occur frequently, there is no consistent policy on reforming the tax system. The major problems plaguing Ukraine's tax system remain: high compliance costs faced by taxpayers, unequal distribution of the tax burden, and ad hoc introduction of unjustified taxes in order to increase budget revenues.

The most important changes in the period under consideration were the following. First, imposing a single tax for small- and medium-size businesses. The single tax significantly reduced compliance costs for small and medium businesses. Second, imposing a fixed tax for agricultural producers. Although the fixed agricultural tax significantly simplifies accounting and reporting systems for agricultural companies, its implementation, together with exempting agricultural producers from the Value-Added Tax, can be considered as an indirect subsidy to agriculture. Third, deductions to the Chernobyl Fund were cancelled as of January 1, 1999. This cancellation resulted in the reduction of the total payroll taxes to 37 percent from 49 percent, as well as in reduction of tax compliance costs. Fourth, new levies to the pension fund have been introduced; the basis for calculating the levy for mandatory state pension insurance was enlarged to include currency operations, real estate acquisitions, cellular telecommunication and other services.

Tax compliance is low and deteriorating. Total tax revenues declined to 19.3 percent of GDP in the first half of 1998 from 21.4 percent in the first half of 1998. The accumulated overdue indebtedness of companies on payments to budgets has grown to UAH 12,539 million (11 percent of GDP) as of July 1, 1999.

Frequent inspections and fines for tax evasion enforce tax compliance. Since a 30 percent share of fines goes to the revenues of the Tax Administration, tax inspectors are encouraged to increase the number of inspections and amount of fines. Meanwhile, large companies linked to the government lobby for tax privileges and exemptions. In response, the International Monetary Fund has required creating a special department to deal with the largest taxpayers and to enforce compliance.

The level of revenues to the consolidated budget decreased from 28.7 percent of GDP in the first half of 1998 to 25.5 percent in the second half of 1999. The actual tax revenues to the consolidated budget totaled 19.3 percent in the first 6 months of 1999, as compared with 21.4 percent in the same period in 1998. The budget for 1999 provides for tax revenues amounting to 20.4 percent of GDP.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

The most important alteration of budget policy has been a movement toward a more transparent budget process. Efforts are being made to develop the system of the State Treasury to ensure transparent budget execution. In particular, the State Treasury now tracks most central budget operations. However, the execution of local budgets remains uncontrolled, lead-

ing to significant distortions in local public expenditures. The large share (21.3 percent in the first half of 1999, according to the State Treasury) of non-monetary revenues in local budgets contributes to the lack of transparency and stimulates discretion in local spending. The draft budget for the 2000 fiscal year suggests the inclusion of all extra-budgetary funds of budget-financed organizations as a special earmarked fund of the State Budget.

The government has been steadily reducing its budget deficit. In the first half of 1999, the budget deficit was 0.8 percent as opposed to 3.7 percent in the first half of 1998. The budget deficit in 1998 was 1.9 percent. For the first time, the government has submitted a draft budget for 2000 that provides for a budget surplus in the amount of 0.4 percent of GDP. Tighter budget policy is expected to increase government savings and consequently reduce the crowding out of private investment.

The overall state debt totaled $11.5 billion as of January 1, 1999 (39 percent of GDP), including $3.2 billion of domestic debt and $9.5 billion of external debt. However, the latter includes $3.1 billion debt to Russia that will be settled against the Russian Black Sea Fleet rental payments to Ukraine. The extra-budgetary Social Insurance Fund is administered by trade unions and financed through payroll contributions. The bulk of the fund's expenditures is for sickness benefits (more than half) and the maintenance of sanatoriums and health resorts (around 30 percent).

The financing of social insurance is not sustainable. Since the Social Insurance Fund pays the wages of sick workers, enterprises are able to shift some wage costs to the Social Insurance Fund. The benefit covers up to 100 percent of the wage for as much as four months at a time, thus encouraging frequent use of sick leaves. The provision of medical rehabilitation and recreation services is inefficient and nontransparent. Vouchers for these services are often provided to workers at substantial discounts (the average rate of cost recovery for vouchers is estimated at around 10 to 12 percent), with the remainder being financed by Social Insurance Fund. There may also be some arbitrariness in the determination of the voucher price, since the enterprise trade union committee fixes the price based on earnings and employment record, age and family status, previous use of the facilities, and other qualitative criteria.

The financing of the Pension Fund is also not sustainable, for the following reasons: the ratio of taxpayers to pensioners is constantly decreasing because of the demographic situation, early retirement age, and widely used pre-term retirement practices; there is no clear separation between its own funds and the funds of other sources (national and local budgets, Chernobyl and Employment Funds; and general economic problems (high share of the shadow economy, low real wages).

The conclusion about the sustainability of the Pension Fund financing depends on the method of financial analysis used. The cash method currently used in Ukraine reflects those contributions to the Pension Fund and payments to pensioners that are made during the course of the year, not contributions and payments that should be made. Consequently, the budget is almost always balanced and can even contain a small surplus. In reality, there are huge arrears to the Pension Fund on the part of taxpayers (enterprises and individuals), national and local budgets, the Chernobyl and Employment funds, as well as huge arrears of the Pension Fund to pensioners. The arrears of all the abovementioned during the first half of 1999 amounted to 1.4 million UAH (without taking into account arrears of the previous periods). Arrears to the Pension Fund from taxpayers amounted to 1.2 million UAH in June 1999. Arrears of the Fund to pensioners in June 1999 reached 2 million UAH. In 1998 the corresponding figure was 1.8 million UAH. Meanwhile, for the year 1999 the officially used cash method gives a budget surplus of 47 million UAH. Using the cash method for incomes to the Pension Fund and an accrued-expenditures basis for expenditures, the result is that, in 1998, the deficit of the Pension Fund was 647 million UAH.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The law "On the National Bank of Ukraine (NBU)," approved by the parliament on May 20, 1999, declares the political independence of the NBU, its economic autonomy, and the transparency of its banking system. It also forbids the NBU from covering the budget defi-

cit through direct crediting and to operate in the primary T-bills market (OVDP). The main function of the NBU is to ensure the stability of the Ukrainian currency—the hryvnia. Additional functions are to support the stability of the banking system and prices. However, the Law contains provisions that actually restrict NBU independence. The newly created Council of the NBU, which is the bank's superior body, has been given the authority to develop the principles of monetary policy, give recommendations to the NBU board, and to veto and approve decisions of the Board. The potential danger is that the Council, half of whose members are nominated by the president and half by parliament for a 7-year term, and who are granted significant authority but not responsibility, will be tempted to soften monetary policy. The president has submitted a draft law that limits the authority of the Council of the NBU.

The NBU is effective in setting and implementing monetary policy. The main problem lies in the unstable regulation of commercial bank activities. The instability is caused by the NBU's attempts to use regulatory tools to overcome financial crises. The threat of frequent changes in regulations, especially the use of administrative instruments, discourages potential investments in the banking sector.

The profitability of commercial banks has diminished. Commercial banks sustained losses of 46 million UAH ($11.5 million) in the second quarter of 1999. The reasons for the sharp decline in profits included the collapse, after the Russian crisis in August 1998, of the high-yield T-bills market, higher obligatory reserve requirements (17 percent from February 1999 on), and prohibition of arbitrage operations with foreign exchange and interbank operations. After two semi-voluntary T-bill rescheduling moves (in October 1998 and February 1999) and considerable losses, banks were reluctant to buy T-bills.

In January 1999, the NBU introduced a new account plan and obliged banks to conduct auditing according to international norms of reporting. The new reporting form provides a more transparent and clear reflection of the bank's financial condition.

The Personal Deposit Fund was established in February 1999. It guarantees deposits up to 500 UAH. Despite the fact that 131 banks belonged to the Fund, it actually did not work, because most contributions to the Fund were non-liquid T-bills.

A low level of capitalization is one of the major problems facing the Ukrainian banking system. Capital requirements are stated in EURO terms. Ukrainian commercial banks are required to keep their capital in hryvnias (the domestic currency), so devaluation automatically lowers the capital in terms of the EURO. The total capital of Ukrainian commercial banks equals $1.2 billion. In June 1999, only nine banks had capital worth more than 10 million EURO. As of July 1, 1999, 93 of 164 acting commercial banks failed to comply with the requirement to own capital, which should have been by that date in the range of 1 to 5 million EURO. Twenty-eight banks with foreign capital were operating as of July 1, 1999. Banks with foreign owners were permitted in January 1999 to keep their capital in hard currency, but only in a special account in the NBU; 153 banks (161 on April 1, 1998) have a license for foreign exchange operations.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

The exchange rate in Ukraine is based on a dollar exchange rate corridor, or band. At the beginning of 1998, the band moved from 1.8 UAH to 2.25 UAH. Large short-term outflows intensified exchange rate pressure. First, the NBU responded by drawing on its reserves, then, after the Russian crisis, a new band of 2.5 UAH to 3.5 UAH was introduced. The hryvnia quickly slid to the bottom of the band and was fixed at the rate of 3.43 UAH until March 1999. Then the hryvnia devalued to 4vUAH.

The hryvnia is convertible on current account transactions. However, starting in September 1998, the NBU resorted to foreign exchange controls, of which the most important were a 50 percent export-receipts surrender, a ban on the interbank market, a ban on import contract prepayments, and restriction of an open foreign exchange position. The interbank market was resumed in February 1999. Controls turned out to be counterproductive at least in two respects: a revival of the black market (with premiums up to 20 percent) and a rapid decline in trade volume, down almost a quarter. International reserves (excluding gold) fell from their peak of $2.4 billion in the first quarter of 1998 to $0.7 billion a year later. In June 1999, reserves amounted to $0.9 billion.

External shock (the Russian crisis) and low reserves have made the NBU unable to prevent two quick, but moderate, at least compared with Russia, exchange-rate devaluations (in October 1998 and March 1999). In all other cases the exchange rate policy was stable and predictable, aiming at preventing sharp devaluation. Large external debt payments due in 2000 ($3.1 billion) and 2001 ($2.7 billion) comprise a major risk for the exchange rate in the near future.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

A somewhat developed capital-market infrastructure exists in Ukraine. Two over-the-counter markets are operating—the PFTS, where most transactions take place, and the PTIS. Three stock exchanges are working in Kyiv: the Ukrainian Stock Exchange, the Ukrainian Interbank Foreign Exchange Market, and the Kyiv Interbank Stock Market. Another stock exchange is situated in Donetsk (the Donetsk Stock Exchange), and yet another in Dnipropetrovsk (the PFB).

The organized market comprises only 5 percent of overall capitalization, which is equal to 1 billion hryvnias per month. The Securities and Stock Market Commission ruled to trade large lots of shares of enterprises in the organized market. There are 800 licensed traders, 360 registrars, and 65 depositors in Ukraine. There are 14,000 open joint-stock companies and more than 20,000 closed joint-stock companies.

The law "On the National Depository System and Electronic Exchange of Securities" approved in March 1999 distinguishes between two forms of securities — documentary and non-documentary. Issuers that have more than 500 shareholders are required to use an independent registry. The law also founded the National Depositary; according to an agreement between Ukraine and USA, it will be a non-profit organization for ten years.

The government securities market is almost dead after two moves to reschedule T-bills rescheduling in October 1998 and February 1999. Beginning in October 1998, the Ministry of Finance has sold T-bills on the primary market only to the National Bank of Ukraine. Basic legislation for a derivatives market exists, but these instruments are still not widely used. In the first half of 1999, stock prices bottomed out at the lowest level in recent years. On average, stock prices amounted to 10 to 15 percent of the maximum prices in the market (in the summer of 1997).

MICROECONOMIC POLICY 4.75/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

The Tax Administration has the right to unilaterally seize the bank assets of firms indebted to the budget and extra-budgetary funds (referred to as "Kartoteka-2"). If taxes are not fully paid, all transactions but tax payments are terminated. There are proposals to cancel this debt-requisition system. According to the presidential decree "On the procedure of taxpayer debt reimbursement to the budget and extra-budgetary funds" dated June 28, 1999, the practice of seizing funds from bank accounts without a proper court decision and arrears registration will be suspended (later, in September 1999, parliament vetoed the decree, but a very similar draft law was submitted).

2. To what extent have prices been liberalized? What subsidies remain?

No further liberalization of consumer prices has been accomplished during this period. The state controls some basic foodstuffs and utility and housing services. However, disputes between the legislative and the executive bodies on the right to establish prices and tariffs for utilities and housing have been going on for months. Finally, the parliament has overturned the presidential veto imposed on the law prohibiting the increase of prices and tariffs. Prices and tariffs cannot be raised, according to this law, before social arrears are repaid; they have to be fixed at the level of June 1, 1998. In most regions, tariffs actually increased by 20 to 25 percent after the government decision, but after the law was adopted, some regions experienced a re-

versal. Roughly 70 percent of the cost of utilities and housing agencies are covered by the prices and tariffs.

The heating sector maintains a system of privileges that applies discounts of 25 percent, 50 percent, 75 percent, or 100 percent to the heating bills of various groups (military personnel, war veterans, Chernobyl victims, and so on). These jeopardize the financial sustainability of heating companies because municipalities do not adequately compensate them for the discounts. In the first half of 1999, local budgets spent UAH 364 million on household subsidies related to communal services.

A major subsidy goes to the coal-mining sector. The budget for 1999 and the draft budget for 2000 allocate UAH 1.1 billion for support of coal mining companies. In the first half of 1999, UAH 600 million was spent by the state in support of coal mining companies.

The budgetary item classification provides for the following subsidies: to communal utilities, price regulation of coal, natural gas, local automotive transportation services, local electric transportation services, and communal utilities.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

A resolution of the Cabinet of Ministers, "On the official registration procedure for business entities" dated May 25, 1998, brought some improvements to facilitate and speed up the registration of business entities. This resolution contains a full list of the documents required to register a business entity. Now the application documents may be sent to the regulatory body by mail. In addition, top managers are no longer required to be present during the registration process.

The Presidential Decree "On some actions on deregulation of entrepreneurial activity" dated July 23, 1998, was a crucial effort to improve the legal, financial and economic framework. The number of field tax audits and opportunities for corruption during these audits were reduced.

In May 1999, the minimum amount of statutory capital was reduced to the equivalent of 100 minimum monthly wages. Prior to that, the required minimum statutory capital amounted to 625 minimum monthly wages, or roughly $13,000, which hindered entry into business. Most procedures for registering and licensing are not described in detail. Public officers' responsibilities for withholding information or licences are not clearly defined. Thus, clerks, depending on their wishes, are able to delay any procedure. During the first half of 1999 there were five amendments to Article 4 of the Law "On entrepreneurship," which defines the activities requiring licenses.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

Court procedures remain fair, but slow. Information about court trials is open. Bankruptcy procedures used as a way of enforcing property rights is inefficient, because the process is usually slow and indexation against inflation is absent.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The state remains the main monopolist, and its procurement policies remain non-transparent. There were 430 non-natural monopolies in Ukraine as of January 1999.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Laws adopted during the period from April 1998 to July 1999 have been contradictory: some establish import or export barriers while others abolish restrictions and foster free trade.

Frequent changes to import duties complicate import activities. The ever-changing nature of the legislation is exacerbated by the existence of several authori-

ties eligible to set duty rates. The Law "On the implementation of special measures regarding imports to Ukraine" adopted on December 22, 1998 enables Ukrainian companies to apply for the implementation of special measures regarding imports if the increase in the given goods and services threatens "significant harm to domestic producers," even if the company in question is a monopolist. Frequent changes to legislation were one of the reasons for the severe shortage of petroleum products in summer 1999. Capital controls imposed by the NBU contributed to the decline in consumer imports in the first half of 1999.

The Law "On scrap metal," dated May 5, 1999, envisages the establishment of an export quota for ferrous scrap metal, and a full ban on non-ferrous scrap metal exports. The tug-of-war between the president and parliament on the issue of a 30 percent duty on sunflower seed exports created much uncertainty in the agricultural product markets (the issue was resolved with the adopting of the law "On the rates of export duties for the seeds of some oil crops" in September 1999 that set a 23 percent duty on sunflower seeds.

The Ministry of Foreign Economic Relations and Trade still have the power to stop company activities, temporarily, "in cases when the activity may hamper the interests of national economic security."

In 1998, the major destinations of Ukrainian exports were: Russia (18.8 percent of total exports), China (4.8 percent), Turkey (4.5 percent), and Germany (4.1 percent). The major origins of imports were: Russia (36 percent of total imports), Germany (6.4 percent), and the USA (3 percent). In the first half of 1999, exports totaled $774 million (52 percent of GDP) while imports amounted to $7143 million (48 percent of GDP).

7. To what extent has foreign investment and capital flow been encouraged or constrained?

In 1998, Ukraine managed to attract $743 million in direct foreign investment. The largest investments came from the USA (18.3 percent of the total), the Netherlands (9.5 percent), Germany (8.3 percent), the UK (7.5 percent) and Russia (6.7 percent). The net inflow of foreign direct investment totaled a meager $157 million in the first half of 1999. Potential investors are scared off by the perception of political and economic instability.

During the last year the government took steps to attract foreign investment. However, the government did not develop an integrated policy focused on the improvement of the investment environment. No foreign investment-specific legislation was enacted or amended.

An individual can take up to $10,000 or the equivalent amount in foreign currency per one trip abroad, including $1,000 without needing permission and an additional $9,000 with easily obtained permission that costs around 1 percent of the sum. A legal entity has to obtain a license from the National Bank to make investments or open an account abroad.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Essential components of a competitive power market structure—called the Energorynok—are in place, and the wholesale market is functioning. Generator scheduling, dispatch, and settlement operations comply with the Energorynok Members Agreement, and in September 1998, the National Electricity Regulatory Commission lifted the cap on generators' price bids.

Over the period from March 1998 to June 1999 cash collections grew slightly, from 15 to 30 percent for distributors and from 16 to 30 percent for generators. The debts of distribution companies to the energy market fell from $129 million to $100 million during the same period. Though customer debt for electricity fell in 1998, it was still unsustainably high ($1.5 billion in August 1998).

The culture of non-payment for electricity is condoned and even aggravated by the Ukrainian government. Government agencies are responsible for two-thirds of unpaid electricity bills. Unpaid consumption—whether through privileges, subsidies, unauthorized connections, or non-reporting or misreporting of consumption—absorbs 20 percent of generated electricity.

Competition among generating companies has been limited. As a result, generation and distribution costs continue to be above normal levels. Rampant barter increases fuel costs by 20 to 30 percent. Power companies are overstaffed and saddled with social assets, and deferred maintenance and modernization hurt technical efficiency.

The government has addressed the non-payment problem in the power sector by issuing a series of decrees, commanding minimum cash-collection rates and calling for suspended power supply for delinquent customers. So far, the impact of these directives has been limited.

On March 24, 1999 the Cabinet of Ministers issued a resolution, "On urgent measures to stabilize financial conditions at enterprises in the power sector," which approved a new procedure for supplying electricity to customers. The procedure entails that electricity supply should be stopped for those customers who do not pay in full for the electricity they consume, or who do not follow the predetermined schedule of redeeming arrears. The procedure also defines the mechanism for calculating the maximum amount of electricity to be supplied to distribution companies. Thus, distributors have additional incentives to cut off debtors and make timely payments o electricity generating companies, while customers will be motivated to settle accounts with suppliers on time.

Another Cabinet of Ministers resolution, "On approving measures aimed at improving financial conditions in the power sector of Ukraine in 1999 and 2000," dated May 19,1999, envisages cutting off the supply of power to all debtors, except in cases stipulated by legislation. Implementation of the resolution increased the number of disconnected debtors, which led to an improved rate of payments for supplied electricity.

Aiming to curtail barter transactions, in Q4 of 1998 the government introduced a 20 percent VAT on barter-electricity deals. The reduction of barter payments immediately translated into overall lower collection levels and no change in cash collections. Facing lower collection rates and pressure from the generating companies, the government altered its position by drafting a resolution which abandons the VAT on barter, providing yet another indicator of inconsistency in economic policy.

In February 1998, a presidential decree ordered the government to establish Naftogaz, a company whose assets include everything that the state owned in the oil and gas industry. In April 1998 another presidential decree ordered the transfer of responsibility for the regulation of the gas industry from the Ministry of Economy and the State Oil and Gas Committee to the National Electricity Regulatory Commission. Given the time required to recruit gas specialists and implement necessary organizational changes, the National Electricity Regulatory Commission had not begun to function by late 1998.

In August 1998, Ukrgazprom was abolished, and its production, transmission and distribution, and trading functions were formally separated by establishing three companies—Ukrgazproduction, Uktransgaz, and Trading House Gaz Ukraine. The newly created companies were subordinated to the state-owned Naftogaz. Naftogaz also received a 50 percent plus one share of Ukrnafta, 100 percent of state shares in the oil pipelines in the Druzhba and Prydniprovsky, and state shares in the offshore gas producer Chornomornaftogas and smaller gas companies.

As of October 1998, regular gas auctions became organized. Despite small trade volumes at the auctions, gas traders and large consumers could now pay cash for gas—based on freely negotiated prices—from gas producers and Ukrgazprom's successor.

In 1999, in addition to the gas received from the Russian gas company Gazprom as payment in kind for gas transit, Naftogaz began to purchase gas from Russia, using primarily barter payments. Russia remains the major supplier of gas to Ukraine, restricting transit through its territory of gas from Central Asia that might otherwise go to its neighbor.

The coal sector's output has declined rapidly, the demand for subsidies is rising steadily, and the prospects for improvement are diminishing. Annual budget subsidies to the coal sector total $585.5 million—about 6.6 percent of budget revenues and 15.9 percent of the budget deficit for 1998. The state budget for 1999 envisaged more than $370 million in subsidies. However, an amendment to the budget, enacted in June because of potential social unrest in the coal regions, increased this amount twofold.

As part of the World Bank's Coal Sector Adjustment Loan that was approved in 1996, the government placed all mines into one of three categories: viable mines, uneconomic mines, and mines with uncertain status that could eventually go to either of the first two categories. Viable mines were to be grouped into commercial holding companies, uneconomic mines were to be closed, and mines in the third category were to receive temporary operating subsidies under strict rules and conditions. But this model has temporarily failed. In December 1996 Ukraine received $150 million. After that, the World Bank's Coal Adjustment Loan

was not disbursed until 1999. The second tranche of the loan ($150 million) started coming to Ukraine in March 1999. From early 1998 to early 1999, about 50 loss-making mines were closed or in the process of liquidation.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The size of the national workforce was 29.5 million at the end of 1998, down from 29.8 million at the end of 1997. The workforce constitutes 59 percent of the whole population of Ukraine. The Ministry of Statistics Survey conducted in November 1998 by ILO methodology showed that the economically active population aged 15 to 70 years was 25.9 million, having declined from 26 million in November 1997. The proportion of full-time employed to all employed Ukrainians, was 65.4 percent, or 58 percent of the labor force. The overall participation rate for adults of non-retirement age was 70.7 percent. The rate for men was 73.6 percent while the rate for women was 68.2 percent.

The official unemployment rate was 4 percent as of July 1, 1999, having grown from 2.9 percent on July 1, 1998. For men the rate was significantly lower than for women —2.8 percent on July 1, 1999 versus 4.6 percent. By ILO methodology the unemployment rate in November 1998 was 11.3 percent. The rate for men was 11.9 percent, while the rate for women was 10.8 percent.

The government pays unemployment compensation. Unemployed persons, if they have worked no less than 26 weeks during the year before registering in government centers, are paid 50 percent of the average wage in the latest place of work but no more than the regional average wage in the previous month and not less then the minimum wage set by law. If one does not fit these criteria one receives compensation in the amount of the minimum wage set by law. The compensation starts being paid on the eighth day after registration and continues for 1 year, 180 days for those who did not work for the last three months.

The average unemployment compensation was 35 percent in June, 1999 (median wage for June, 1999 was 127.36 UAH; the average size of unemployment compensation in June 1999 was 44.82 UAH).

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension system currently in place in Ukraine is a pay-as-you go system. Retirement policy is under the jurisdiction of the Ministry of Labor and Social Policy. Financial management of the system is the responsibility of the Pension Fund. The Pension Fund is financed through payroll contributions, as well as through direct transfers from national and local budgets, Chernobyl and Employment funds, and some big enterprises. Nineteen laws regulate pension provision in Ukraine. A total of 13,958,500 people receive pensions in accordance with this law. There are the following categories of pensions: old-age pensions (78 percent of all pensions), those for the disabled (11.7 percent), for dependent persons (6.1percent), for long service (0.9 percent) and social pensions (3.2 percent). All retirees are covered by public pensions in Ukraine.

Government pension benefits are set in accordance with the category of pension, at the following levels: old-age pensions at 59.79 UAH per month, pensions for the disabled at 57.96 UAH per month, pensions for dependent persons at 43.65 UAH per month, pensions for long-service at 63.39 UAH per month, and social pensions at 35,98 Hr per month. Retirement age is 60 for men and 55 for women. The average pension amounts to 57.86 UAH per month (the minimum pen-

sion is set at 16.6 UAH per month). The average monthly pension benefit constitutes 39 percent of the average monthly wage. For different categories of pensions the ratio of the average monthly pension benefit to the average monthly wage is the following: old-age pensions, 40.4 percent, pensions for the disabled 39.1 percent, pensions for dependent persons 29.5 percent, pensions for long-service 42.8 percent, and social pensions 24.3 percent. In June 1999, the average monthly pension benefit constituted 45.5 percent of the median monthly wage.

There is a system of specialized benefits to specific groups. Those groups receive the following monthly benefits: military personnel and disabled after World War II, 145.57 UAH per month (or 251.6 percent of the average pension); civil servants, 158.16 UAH per month (or 273.3 percent of the average pension); office of the Public Prosecutor, 278.23 UAH per month (or 480.9 percent of the average pension); Chernobyl victims, 226.80 UAH per month (392 percent of the average pension); deputies, 481.17 UAH per month (831.6 percent of the average monthly wage).

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The average monthly income in June 1999 was 104 Hr per person in local currency, or $26 per person in dollar equivalent. Despite the fact that the total population has decreased from 51.7 million people in 1994 to 50.1 million people in 1998, the reduction trend in average monthly incomes persists. The only exception was the year 1997. In 1994 the average monthly income amounted to 79.4 UAH (or $76.3) per person, in 1995 it was 72.8 UAH (or $40.7) per person, in 1996 it was 65.7 UAH (or $34.7) per person, in 1997 it was 71.7 UAH (or 37.7) per person, in 1998 it was 70.4 UAH (or $20.5) per person.

Wage arrears constitute a serious problem. The total of wage arrears has increased from 6,092 m UAH in June 1998 to 7,108 m UAH in June 1999. Arrears accumulated during the first half of 1999 constituted 45.9 percent of the amount of wages to be paid. The worst arrears are in agriculture (30 percent), machine building (11.2 percent), construction (8.9 percent), transport (4.8 percent), communal services (3.1 percent), and energy sectors (2.8 percent). People compensate for cash arrearages by consuming agricultural products they produce at their individual subsidiary plots and by selling agricultural products at the markets. During the first half of 1999, real income from selling agricultural products grew by 30.2 percent compared with the corresponding period from 1998. In many cases wages, are paid in kind, and products received for wage payment are later sold in the market. Data on the exact proportion of wages paid in kind are not available. Other ways used to compensate for absent wages include renting out real estate and selling material assets.

The average monthly wage for the first half of the 1999 was 163.3 UAH (or $41.4) per person, 186.4 UAH (or $47.2) for men and 140 ($35.5) for women. The average monthly wage in the public sector was 178.7 UAH (or $45.3) per person; in the collective sector it was 148.4 UAH (or $37.6) per person, and in the private sector it was 130 UAH (or $32.9) per person. The median wage in June 1999 was 127.3 UAH (or $32.2) per person.

4. What has been the annual size elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

The number of children enrolled in pre-school education decreased in from 1,535600 in 1995 to 1,341,600 in 1996 to 1,228,000 in 1997. The ratio of children who attend pre-school institutions (kindergarten) declined from 44 percent in 1995 to 41.3 percent in 1996 and 38.5 percent in 1997. The total number of pupils enrolled in secondary day education institutions decreased from 6,925,000 in 1995 to 6,933,000 in 1996 and further to 6,886,000 in 1997. The number of secondary education pupils in 1998 was 6,987,000; 528,000 were studying in vocational schools in 1998. In 1994, education spending constituted 5.3 percent of GDP; it has fallen to 3.8 percent of GDP in 1999.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate (children aged less than 1 year per 1,000 live births) constituted 12.6 in the first half of 1999, the same as in the first half of 1998. The infant mortality rate has been continuously decreasing since 1993, when it was 14.9 per 1,000.

The rate of live births has declined through recent years. In 1998, 8.38 children were born per 1,000 people, while in 1997 the rate of live births was 8.7; in 1993 the number was 10.7. Life expectancy at birth was declining until 1995, then it started to grow. In 1995, at the bottom point, it was 66.9 years. In 1998 this parameter constituted 68.1 years. The number for females was higher than for males: 73.5 to 62.7.

The suicide rate, after several years of increasing, started to decrease in 1998. The peak was in 1997: 30 per 100,000 of population. It was 29.7 in 1998 and kept declining in the first half of 1999. The rate in the first half of 1999 was 14.6.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

The ratio of doctors to the population increased slightly from 45.1 per 10,0000 in 1995 and 1997 to 45.5 per 10,000 in 1998. The ratio of nurses declined from 116.5 per 10,000 in 1995 to 112.7 per 10,000 in 1997 and 111.7 per 10,000 in 1998.

The median wage for medical personnel in June 1999 was 111.22 UAH, growing from 110.86 as of December 1998, but the real median wage declined by 7 percent. The real average wage in 1998 declined by 9 percent from 1997.

The number of hospital beds has continuously decreased in recent years. It fell from 639,000 in 1995 to 503,000 in 1997 and to 483,000 in 1998. The number of hospital beds per 10,000 fell to 97 in 1998, compared with 100.2 in 1997, and 125.1 in 1995.

The percentage of GDP devoted to health and social care was 4.5 percent in the first half of 1999, declining from 5 percent for the same period of 1998. The relevant number for 1998 is 4.2 percent.

The proportion of GDP expended by the public sector on health care declined to 3.5 percent in 1998 compared with 4.3 percent in 1997. The figure for whole 1999 constitutes 2.9 percent.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

Ukraine has not defined the poverty level in legislative documents; today, the "minimum subsistence level" is the closest concept to it. The Constitution of Ukraine guarantees a "sufficient living standard" to all Ukrainians and "a living standard not lower than the minimum subsistence level established by Law "to those individuals who live on social benefits and assistance. The Constitution uses this term but does not define it. It envisaged including this definition in a Law "On the minimum Subsistence Level". A number of drafts of this law were prepared by the Ministry of Labor and Social Policy but none have yet been adopted by the parliament. Meanwhile, the minimum subsistence level is set by a special law every year.

Data on the number of people with incomes lower than the minimum subsistence level and their share of the total population are available starting from the year 1995. In 1995, the minimum subsistence level was set at 48 UAH per month (or $32.6) and 21 million people (or 41 percent of the population) had incomes below this level. In 1996 the minimum subsistence level was set at 68.1 UAH per month (or $37.2); 14.6 million people (or 28.5 percent of the population) had incomes below this level. In 1997 the minimum subsistence level was set at 70.9 UAH per month (or $38.1); 13 million people (or 25.7 percent of the population) had incomes below this level. In 1998 the minimum subsistence level was set at 73.7 UAH per month (or $30.1) and 14.4 million people (or 28.5 percent of the population) had incomes below this level. For the first half of the year 1999 the minimum subsistence level was set at 90.7 UAH per month (or $26.5, if the exchange rate of the beginning of the year 1999 is used) and for the second half of the year 1999 at 118.3 UAH per month (or $29.6, if the exchange rate of June 1999 is used).

UZBEKISTAN

Polity: Dominant party presidential dictatorship
Economy: Statist
Population: 24,400,000
PPP (USD): 2,529
Capital: Tashkent
Ethnic Groups: Uzbek (80 percent), Russian (5.5 percent), Tajik (5 percent), Kazakh (3 percent), Karakalpak (2.5 percent), Tatar (1.5 percent), other (2.5 percent)
Size of private sector as % of GDP (1998): 45

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	6.35	↓ 6.45	↑ 6.44
Rule of Law	na	na	6.25
Economic Liberalization	6.25	6.25	6.25

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	233.0	255.0	442.0	590.0	609.0	591.0	626.0
Real GDP growth (% change on previous year)	-2.3	-4.2	-0.9	1.6	2.4	3.3	3.0
Inflation rate	1231.8	1550.0	315.5	56.3	73.2	29.0	29.0
Exports (USD millions)	2877.0	2940.0	3475.0	3534.0	3695.0	2888.0	2537.0
Imports (USD millions)	3255.0	2727.0	3238.0	4240.0	3767.0	2816.0	2544.0
Foreign Direct Investment (USD millions)	48.0	73.0	-24.0	90.0	167.0	226.0	226.0
Unemployment rate	0.3	0.4	0.4	0.4	0.4	0.6	na
Life Expectancy (years)	69.0	69.0	67.5	69.4	69.2	67.5	63.9

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights			6	6	7	7	7	7	7	7	7
Civil Liberties			5	6	7	7	7	6	6	6	6
Status			PF	NF	NF	NF	NF	NF	NF	NF	NF

Introduction

In spite of its claim of being a democratic republic, Uzbekistan has developed into a consolidated autocracy since gaining independence in 1991. The only president of its post-Soviet era, Islam Karimov, has successfully removed any challenges to his authority by banning credible opposition groups and ensuring that elections and referenda are not free and fair. While the constitution and legal code of Uzbekistan detail various freedoms and rights, the reality is that government limitations on the grounds of "state stability" preclude the real exercising of these rights. Opposition figures, religious groups, and ethnic minorities all experience problems to varying degrees in the country, and NGOs and the media are severely curtailed. Corruption remains a problem, although President Karimov is making an effort to curb its effects.

While Uzbekistan has the potential for a viable economy – given the resource and labor base in the country – it continues to experience serious economic problems. Privatization of smaller businesses has taken place, but similar programs for large export-based industries and agriculture have not developed. More importantly, fiscal and monetary policies remain out of step with recommendations of international financial institutions. The som is not a convertible currency and there exists a thriving black market in currency exchanges, with rates exceeding four times the official exchange rate. Because of its geography, Uzbekistan is required to cooperate with other states to conduct trade. But agreements with neighboring states are not always honored and links to outside markets tend to be hampered by delays and bribes at the borders.

While the Russian economic crisis of August 1998 did not have as severe an impact on Uzbekistan's economy as some observers had thought, the downward trend of trade to the north has damped the economy. The country's inability to establish a stable, convertible currency remained the primary economic issue of 1998 and 1999 with no real solution in sight. The tendency in Uzbek politics to not have official challenges to the president's leadership has been cast as a positive indication that the citizens of Uzbekistan seek stability. This is all the more important in light of the February 1999 bombings in Tashkent, which were blamed on Islamic radicals, as well as actions by the Islamic Movement of Uzbekistan in the summer of 1999. The threat of Islamic groups gaining power in the country, or at least destabilizing the regime, is viewed as most critical by the government today. Increasingly, foreign governments and companies working in Uzbekistan are expressing this sentiment, too.

Democratization

POLITICAL PROCESS 6.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

The most recent national legislative elections took place on December 25, 1994. The Oliy Majlis (Supreme Council or Legislature) is comprised of 250 members, each representing a single-member district. The electoral system requires that the winner receive 50 percent plus 1 of the vote. In the 1994 election, this outcome occurred in 205 districts. Runoff elections for the remaining seats took place on January 8, 1995 (for 39 seats) and January 22, 1995 (for 6 seats). At the time, there were only two registered political parties: the Halq Demokratik Partiiasi (People's Democratic Party, or HDP), and the Watan Tarakiati Partiiasi (Progress of the Fatherland Party, or WTP). The HDP, the successor party to the Communist Party of Uzbekistan, won 69 seats and the WTP won 14 seats. Independent candidates, the majority of which represent local and regional councils, captured the remaining 167 seats. That 124 of these legislators were also members of the HDP suggests that the party actually won 193 of the 250 Oliy Majlis seats.

During these elections, instances of "family voting" and over-reporting of voting results were noted by international observers. In addition, opposition parties such as Erk, and individuals such as Shukhrullo Mirsaidov, were not allowed to run. Obstructionist registration laws prevented this from happening. As a consequence, international observers and organizations considered the 1994 and 1995 elections to be "not free and fair." The OCSE, the US Department of State, and other organizations – including several international NGOs – all criticized the Uzbek elections at that time.

The next legislative elections are scheduled for December 1999. Throughout the summer, both the US government and the OSCE declared that they would not send observers on the

grounds that there was no noticeable change in the electoral climate of the country.

Uzbekistan's political system is a presidential one. In the past eight years, it is evident that the legislature has nominal input in the formulation of the government. The government is comprised of presidential appointees, including the Prime Minister, Otkir Sultanov. The Chairman of the Oliy Majlis, Erkin Khalilov, is elected by fellow parliamentarians and is part of the president's cabinet. Legislative decisions always follow presidential decrees and, to date, there have been no disagreements between the Oliy Majlis and President Karimov.

2. When did presidential elections occur? Were they free and fair?

Uzbekistan is scheduled to hold presidential elections on January 9, 2000. Prior to this, the only post-independence presidential election took place on December 29, 1991. At that time, the last Soviet-era First Secretary of the Uzbek Soviet Socialist Republic (and only president of the Uzbek SSR), Islam Karimov, defeated Muhammed Solih of the opposition party Erk ("Will") by a margin of 86 percent to 14 percent. The election was not considered free by international observers, although domestic analysts note that it was a *contested race* and therefore "free and fair." However, limitations on Solih's campaign, including restrictions on rallies, dissemination of information, and media attention, as well as the prohibition of candidates from other parties, most notably Birlik's Abdurahim Pulatov, supports the international observers' conclusion.

On March 26, 1995, a referendum was held to extend President Karimov's term in office until the year 2000. It easily passed with 99.6 percent voter turnout and a 99.3 percent "yes" vote. The Oliy Majlis rejected Karimov's suggestion that this extension be considered his "second term," allowing him to compete in the January 9, 2000 election. To date, only one opponent has declared his candidacy. As a Karimov loyalist, Abdulkhafiz Jalalov has thus far only presented his ideas and has neither criticized Karimov's presidency, nor even contrasted his views and policies to those of the incumbent president. Indeed, the Uzbek media refers to him as an "alternative candidate," not an opposition candidate.

Looking ahead to the 2005 elections, some observers have noted that technically, the January 2000 election could be considered Karimov's "first" under the current constitutions, which was ratified in December 1992 – a year after his 1991 electoral victory. This strategy is also being considered in other Central Asian and Caucasus states, so it would not be surprising to see Karimov successfully continue his presidency in 2005.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

According to all official Uzbek sources, Uzbekistan is a multiparty system, with both the 1991 presidential and 1994 legislative elections listed as multi-party/multi-candidate races. Two parties were officially registered to field candidates in the 1994 Oliy Majlis election.

Because politics in Uzbekistan is centered on the presidential apparatus, party politics have become less important over the years. President Karimov himself left the HDP in 1996 as he felt the president should remain "above party politics." Of the registered parties listed below, only the HDP has a significant network outside of the capital city of Tashkent. It is also important to note that as local executive positions are appointed, party affiliation appears to be less important.

4. How many parties have been legalized? Have any parties been banned or declared illegal?

At present, there are five legally registered political parties in Uzbekistan. These include the HDP and WTP, and three parties registered since the 1994 elections: the "National Revival Democratic Party" (Milli Tiklanish Demokratik Partiiasi, MTDP), the Adolat ("Justice") Social Democratic Party of Uzbekistan, and "Fidoqlar" ("Self-Sacrificers").

The Halq Demokratik Partiiasi (HDP, or People's Democratic Party) is the successor to the Communist Party of Uzbekistan (CPUz), renamed as such in August 1991. Following the failed anti-Gorbachev putsch of that month, Islam Karimov (then President of the Uzbek SSR) resigned from the Communist Party and had the CPUz reformed into the HDP. Conveniently, it was able to occupy the office space, publications, and organizational and financial network of the CPUz, making it easy to maintain a prominent position in the country. It remains the single-largest party in the country and the one with the widest name-recognition.

The WTP was founded in 1992 and, under the chairmanship of Anvar Yuldashev, considers itself to be a "loyal opposition" to the HDP. According to its party program, it emphasizes the role of private property owners in the political process. The Milli Tiklanish Demokratik Partiiasi ("National Revival Democratic Party," or MTDP) and the Social Democratic Party "Adolat" (Justice) were both founded in

1995 and likewise consider themselves constructive, or loyal, opposition parties to the HDP. Forty-seven previously declared independent members of the Oliy Majlis, for instance, founded Adolat. The MTDP considers itself to be a promoter of past reformist movements in Uzbekistan (namely the "Jadid movement" of the 1910s). Adolat advocates the concept of "rule of law."

On December 28, 1998, a fifth party, Fidoqlar ("Self-Sacrificers") registered. Positioning itself as a party for the younger generation, Fidoqlar considers itself a supporter of the Karimov presidency and a vehicle through which the younger generation can become involved in politics. Indeed, Fidoqlar was officially the party that proposed Karimov's candidacy for the January 2000 election (the HDP officially proposed Jalalov's candidacy).

A common thread in each of these parties is the belief that political parties should not be disruptive to the stability of a political system. "Opposition," as defined in the West, is something not desired at this stage in Uzbekistan's development as the parties and groups must learn to work together. Accordingly, Uzbek officials do not see a logical inconsistency in having a multi-party system that is not "opposition-based."

Not surprisingly, then, opposition parties have been banned, or declared illegal. The most noteworthy illegal parties remain Birlik, Erk, and the Islamic Renaissance Party (IRP). Birlik ("Unity") was founded in 1988 as a social movement advocating greater Uzbek cultural and linguistic rights. With independence in 1991, it attempted to become a political force against Karimov's HDP. However its leader, Abdurahim Polat, was unable to participate in the 1991 presidential election. After a series of crackdowns, the organization was not allowed to re-register in 1993. Its leaders remain in exile, however in 1998, Abdurahim Polat declared his intent to return to Uzbekistan and re-active Birlik. Through the summer of 1999, he remained in exile.

Members of Birlik who split over ideological and tactical differences with Polat formed Erk ("Will") in April 1990. Its leader, Mohammed Solih, was allowed to participate in the 1991 presidential election, and received 14percent of the vote. Conflicts over its right to hold rallies and issue its news publication lead the government to deny the party's re-registration effort in 1993 and, like Birlik, its leaders went into exile. The February 16, 1999, bombings in Tashkent have made it difficult for Erk and Birlik members as many have been arrested or interrogated over possible involvement. Former Vice President Shukhrullo Mirsaidov, once an insider in the political system, formed the Forum for Democratic Forces later that year in an attempt to unite the opposition groups, but with no success. Unlike the other figures, Mirsaidov remains in Uzbekistan. In late 1998, Mirsaidov's family had property and possessions confiscated by the government – on grounds that this was part of the financial penalty assessed during his trial and conviction in 1996. In addition, he and his family have faced periodic bouts of harassment by police officials in the past year.

Two religious groups — the Islamic Renaissance Party (IRP) and Adolat ("Justice" — not to be confused with the Adolat Social Democratic Party) — have never been allowed to register. Abdulla Utaev headed the former, until his disappearance in December 1992. Since that time, its officials have remained in hiding or in exile. Adolat was founded in 1991 and advocated a return to an Islamic-based political system (predating the Soviet period). Twelve members of its leadership were imprisoned in 1993 for various crimes. And while the current status of these two groups is unclear, for the past three years, President Karimov has repeatedly warned of an "Islamic threat" in Uzbekistan and the government continues to arrest and try individuals suspected of having links with these organizations. The September 19, 1996, law on political parties explicitly prohibits the formation of political parties based on religious grounds, thus sealing the legal fate of these groups. In that legislation, it is also illegal for all parties to accept financial support from state, foreign, religious, or anonymous sources. In addition, foreigners, military personnel, and "stateless people" may not join political parties.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?

Party membership in Uzbekistan is difficult to gauge, especially if one seeks to include membership in unregistered parties. As of 1999, the HDP claims membership of 517,600. Both the WTP and Adolat declare that they have at least 30,000 members. Fidoqlar and the MTDP have 15,000 and 10,000 members, respectively. Realistically, these numbers are likely inflated, with most political organizations membership numbers in the low 1,000s. In 1996, President Karimov officially left the leadership of the HDP, suggesting that party politics is not strong in Uzbekistan. This was further underscored in a public opinion survey by the International Foundation for Electoral Systems (IFES) which discovered that only 3 percent of those questioned stated that they would be interested in joined a political party at

all. A more recent Uzbek government poll suggested that party affiliation and recognition was not strong. Only 38.6 percent of the respondents knew of the HDP; 17.8 percent said the same for Fidoqlar, and numbers for the other three parties were even less. Recognition of independent candidates – those fielded by local councils – was much higher, at 51.3 percent. The government figures quoted above, however, are the only published ones, thus they have to be used as benchmarks of party membership and support. These figures are not broken down by gender, so it is impossible to accurately assess the percentage of women among party members.

6. What has been the trend in voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?

Officially, voter turnout is extremely high, at noted above. These Soviet era-like numbers are mostly for international consumption and to help legitimize the president's image in the country. Anecdotal stories of voter coercion, multiple voting, and fabrication of results from polling places exist, further suggesting that tallies of 93 to 99 percent voter turnout are not true. Of those surveyed in an IFES poll, 81 percent said they voted in the 1994 legislative election, and 78 percent said that they participated in the 1995 referendum to extend Karimov's mandate. Only 39 percent could name their district's deputy to the Oliy Majlis.

Because of a lack of international participation in observing elections, it is hard to assess the level of female voting in Uzbekistan today. Because of instances of family voting, women are less likely to be seen as polling stations, but could very well be represented in the ballots submitted by family members. Again, it is important to stress that this is based on anecdotal evidence.

CIVIL SOCIETY 6.50/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

NGO activity in Uzbekistan is still largely the product of two groups: external assistance programs and the Uzbek government itself. According to official Uzbek data, there are currently 2,300 different registered NGOs in Uzbekistan. These include nation-wide organizations such as the Mahalla Foundation, Association of the Disabled, and the Veteran's Fund "Nuroni." There are also specialized organizations that focus on key environmental or social issues, such as ECOSAN, Soglom Avlod Uchun ("For a Healthy Generation"), and the Umid ("Hope") Foundation. Finally, there are government-sponsored charity groups, such as the Children's Fund and the Fund for the Social Protection of Orphanages.

The notion of "government-backed" NGOs is common in Uzbekistan, as it is still difficult to obtain private funding for such enterprises. In particular, the nation-wide groups almost require some form of government assistance. This is true of organizations like Kamolot, a youth organization founded on principles much like the old Komsomol, Watanparvar ("Patriot"), which is a volunteer military support group, and the Oltin Meros ("Golden Heritage") charity group. The Uzbek Muslim Board also receives support from the Uzbek government in its efforts to build mosques and religious schools. With the recent concern over Islamic fundamentalism, support for religious-based organizations has been carefully monitored, with the Uzbek Muslim Board now acting as a "clearing house" for clerics and religious educators. If the Board does not sanction a particular religious group, that group cannot obtain a permit to open a mosque or school.

In the early 1990s, there were several NGOs active in Uzbekistan, particularly the social movement Birlik ("Unity"), the Committee to Save the Aral Sea, and Samarkand, the latter being an organization set up to help ethnic Tajiks living in Uzbekistan. By 1994, each of these organizations was not allowed to re-register and are thus illegal today. The same can be said for the Human Rights Society of Uzbekistan (HRSU) and the Independent Human Rights Organization of Uzbekistan (IHROU), both of which have tried to register since the mid-1990s. The former was permitted to hold a plenary meeting in Tashkent in 1998, but promises of government acceptance of this organization have not materialized. A prominent figure in the latter group, Mikhail Arzhinov, has been subjected to government harassment and beatings, and his group, too has not been registered.

Women's organizations do exists, with membership figures unavailable at present. The official women's NGO is the Women's Committee of Uzbekistan, which is does lend

its name to support legislation from the government on women's issues. Smaller, but often effective NGOs focus on women's health and safety, as well as employment. The Association of Women's Entrepreneurs in Samarkand is a case in point. In 1991, an opposition group called "Tumaris" was formed (named after a legendary Turkestani woman-warrior) that became involved in the politics of Erk and Birlik. Because of this political association, its registration was not renewed in 1994.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

The 1994 Law on Associations sets the guidelines by which all nongovernmental organizations must register. If they are nationally based, they must register with the Ministry of Justice. If locally based, they must register with their respective Wiloyat Department of Justice, which in turn, must abide by national policy. The pertinent ministry reserves the right to reject an application out of hand. For example, organizations affiliated with the former Erk and Birlik parties have been routinely denied registration. Likewise, religious-based groups – especially local mosque communal associations – have difficulties in registering due to the prevalent concern over "militant fundamentalism."

In April 1999, the Uzbek government passed the Law on Nongovernmental and Non-Commercial Organizations. In theory, this law allows for NGOs to develop without the necessary consent of the government. As it has just been implemented, it is too early to tell how effective it will be. NGOs in Uzbekistan are not involved in the actual development of the legal and regulatory environment at present, although that may change. A number of locally based NGOs have held forums on improving access and support Oliy Majlis candidates to run for office. The December 1999 parliamentary election will be a key test for such initiatives, begun in late 1998.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

While increasing in number each year, the organizational capacity of NGOs in Uzbekistan is weak. At present, government or international support is often required. The fact that most citizens find it difficult to devote time to NGO activities, in lieu of working to earn income, is a reality that adversely affects even those who express interest in such programs.

Yet, there is now a cadre of several thousand Uzbekistani citizens who are directly involved in running NGOs – from small, locally based organizations to the national programs based in Tashkent. NGO training programs, particularly through such programs as the Open Society Institute, have paid off. Since 1997, organization such as the Junior Achievement, the Tashkent Association of Attorneys, and the PROGRESS Center in Nukus, Karakalpakstan received managerial assistance in this manner. Likewise, USAID has played an active role in fostering a network of locally based NGOs in Uzbekistan, particularly in the cities of Fergana, Qoqand, Tashkent, Bukhoro, and Samarkand. As a result of these programs, information is now available in Russian and in Uzbek for those wanting to develop NGOs.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

The financial viability of NGOs in Uzbekistan remains a difficult issue for these organizations. The government-sponsored and foreign-assisted organizations are viable at present, although if such funding is withdrawn, the likelihood of continued activity for the affected groups is questionable. Corporate support is desirable, however most firms do not have the capacity to get involved in philanthropic work. The April 1999 law does outline the financial parameters of NGO activity in Uzbekistan, noting that they must disclose financial information and are allowed tax-exempt status. At present, such information is not readily available from the government.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

There are no free trade unions in Uzbekistan. Through 1999,

the only trade unions allowed are government-sponsored trade associations and shop-floor organizations. About 25 percent of the labor force is in the Ministry of Labor Trade Union. The government-formed Employment Service Fund, set up in 1992, still exists to help workers on issues of health insurance, unemployment benefits, and other welfare matters. Farmers groups and small business associations also exist, but at present remain at a very basic level. Groups in this category focus largely on the dissemination of information regarding new government policies and presidential decrees. Assistance programs remain under the control of the respective government agencies and are not seen as a function of associations.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

For the most part, interest groups – defined as organizations focused on a set of issues, not political views – are not involved in politics. One will see instances of groups presenting information on a variety of issues, ranging from the problems of the Aral Sea to women's rights, but not to the extent that they are lobbying members of the Oliy Majlis. The reason for this is two-fold. First, those asked acknowledge that the legislature is not the "political power" in the county, thus for any information they want to present, it is imperative that it go to the presidential apparatus. Second, there are strict penalties against "influence peddling" which are vague enough to translate into potential prosecution of lobbyists who are advocating something diametrically opposed to the government's position. Sadly, one only sees in the public media examples of organizations calling for greater support of the president or "approval" of specific acts of government.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

Two factors weigh in heavily when evaluating the public's perception of the NGO sector: the statist tradition of the Soviet era and the reliance on family relations to address local problems. The former has resulted in the expectation that the government will, or should, take care of matters often taken up by NGOs. These include health-related issues, legal affairs, or employment associations. The latter – family reliance – ideally should be the level at which social and communal affairs are addressed. Without question, the biggest obstacle facing rape crisis centers, substance abuse programs, and maternity/pre-natal care organizations is the need to "enter into" a domain typically perceived to belong to the private workings of a family. Results from survey work support this assumption. While 51 percent of unmarried respondents felt it possible to form NGOs at the local level in Uzbekistan, only 39 percent of married respondents felt the same. In the same survey, only 28 percent even claimed to know of existing NGOs operating in their community. A potentially positive indicator for the future is that while unaware of current NGOs, a healthy percentage noted that they would consider joining such groups if they existed. For example, 46 percent said they would join an organization that "helps people," 27 percent said they would join a woman's organization, and between 12 and 16 percent said they would consider joining groups that focus on issues ranging from the environment, education, youth, and religion.

In public declarations and in interviews, government officials state that they support the NGO sector in Uzbekistan. In this context, even foreign-assisted organizations are positively viewed. There are guarded comments made about the problem of religious-based organizations in the county (especially Islamic groups) and those that are involved in the media. Such efforts are viewed as challenging the state's authority in certain sectors.

Media coverage of NGO activity is limited to that of the state-supported organizations. Events surrounding the founding meeting or specific activities of a group are mentioned in the local papers. As NGOs must work with government officials to get registered, there is contact between the NGO community and officials. Anecdotal evidence and limited interviews offer a picture where foreign-backed and autonomous NGOs prefer to operate with minimal government assistance/involvement, if possible. The government-sponsored organizations are clearly linked to officials. In short, the government does not really have to contend with the question of NGO policy advocacy, at least since the mid-1990s when the last of the NGOs critical of the government were prohibited from re-registering.

INDEPENDENT MEDIA 6.50/7

1. Are there legal protections for press freedom?

The constitution of Uzbekistan guarantees freedom of the press. Successive laws in May 1996, April 1997 and Decem-

ber 1997 further clarified the mechanics of registration and legal protection. Registration guidelines for radio and television media were set in the May 1996 legislation. In April 1997, the government approved of laws protecting journalists' sources and the right to "access of information" for registered reporters. Finally, in December of that year, the Oliy Majlis enacted a more detailed Law on the Mass Media. This law is a "double-edged sword." On one hand, it explicitly protects journalists from government harassment and prosecution. On the other hand, it sets strict guidelines on source usage, factual corroboration, accountability and the bases for libel and slander. In short, while a legal framework exists for press freedom, embedded within it are means by which the government can limit the media. Not surprisingly, a top editor was quoted as saying that "the main task of journalists in our republic is to help the State and president, to educate the people to work in peace and assure the great future of Uzbekistan." The notion of the "Fourth Estate" appears not accepted in Uzbekistan: that is, the media does not see itself as an active part of the political process, but rather a means by which the government can present its views and policies.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
Journalists who are convicted of libel, public defamation of the president, the irresponsible journalism are subject to financial penalty and possible imprisonment. As noted above, this is outlined in the Law on the Mass Media. Because the media are either state-run, or exercise self-censorship on political and economic issues, the threat of prosecution has been sufficient. Several cases in the past year are evidence that the government takes the notion of libel seriously. For example, the Syrdarya Wiloyat court found a Samarkand-based radio journalist by the name of Shadi Mardiyev guilty of "defamation, illicit handling of foreign currency, and extortion," stemming from a satirical report he made in 1997. He was sentenced to an 11-year prison term in June 1998. In 1999, the international organization Committee to Protect Journalists called for Karimov to release Mardiyev on grounds of ill health.

On occasion foreign journalists have run into trouble with the government – particularly those from the Russian media. In the mid-1990s, several journalists from *Nezavisimaya gazeta*, *Izvestiia*, and Interfax were harassed and forced to leave the country. The publications *Kommersant*, *Argumenty I fakti*, and *Trud* have all experienced problems in disseminating their papers in 1999, as have the radio stations Mayak and Evropa Plus Tashkent, the latter being an affiliate of Evropa Plus in Moscow. "Unknown assailants" beat two Russian journalists in August 1999 shortly after meeting a known Uzbek dissident. Western news agencies have also experienced problems. The BBC, for example, had its contract for medium-wave broadcasting not renewed at the end of 1998. In the late-1990s, journalists who worked with the secular opposition in the past have also experienced some difficulties.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?
While the law permits independent media, by the end of 1999, it is still the case that the vast majority of all media are state-run. Indeed, the major television and newspaper entities often reside in the same buildings, making it easier to control distribution and content. This is the case for the National Television Company of Uzbekistan, UzTV, Uzbek TV Channel 1, Uzbek TV Channel 2, and Uzbek TV Channel 4. Likewise, *Uzbekiston Ovozi*, *Uzbekiston Adabieti va Sa"nati*, *Marifat*, *Turkiston*, *Watan*, *Mulkdor*, the English-language *Uzbekiston Ovozi Times*, and the Russian-language *Pravda Vostoka*, *Uchitel Uzbekistana* and *Vecherni Tashkent* are all housed in the same "newspaper building."

The private media have grown in recent years. For example, of the nearly 500 newspapers and magazines, almost 40 are commercial, obtaining support through advertising. An April 1998 study indicated that there were 66 national, 68 regional, and several hundred local and municipal publications. There are also a score of independent radio and television stations in the major cities of Tashkent, Samarkand, Bukhoro, and Urgench that rely heavily on subscriptions for support. It is important to note that while these papers may be financially independent, they are still subject to the same editorial restrictions as the state-run entities. Any paper that does not abide by the content rules in place is illegal. This holds true for the papers smuggled in from the opposition groups Erk and Birlik.

4. Are the private media financially viable?
Private media within Uzbekistan are funded through advertising revenues, some international agency support, and even government assistance. The first is primarily from foreign corporations and joint ventures advertising their products in the papers. The second comes from TACIS and USAID assistance to journalists (through such organizations as

Intermedia). In addition, foreign news organizations also employ a small core of Uzbek journalists – these include the BBC and Radio Liberty. Government assistance is in the form of tax breaks and some in-kind assistance. Each form of assistance is generally seen as not being sufficient to sponsor viable media in the country. Media outlets that are declared illegal, such as the underground paper *Erk*, are financed from abroad. The same was true for the short-lived *Mustaqil haftalik* (1990-1993) and the several publications entitled *Birlik*.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government and private owners?

Censorship of the media is commonplace in Uzbekistan, both formally and informally. While Article 67 of the constitution explicitly forbids censorship of the media, as do the laws noted above, the situation for journalists has not improved. Formally, there exists the State Control Inspectorate, which was established by the State Committee on the Press, which is supposedly only concerned about the "protection of state secrets." The "Qanoat" ("Moderate") Center was also set up to review religious-based materials and media outlets. Instances of censorship range from the obvious to the subtle. Articles critical of the government's policies are not acceptable, nor are features that focus on the plight of the poorer citizens of Uzbekistan. Photojournalists have also noted, in conversation, their inability to have pictures revealing the "underside of life" published in any legal paper – state-run or private. Less obvious are the prohibitions on the usage of certain "inflammatory" words. These include the word "dictator" in reference to the president, or the word "crisis" when discussing the economy.

Given that such an environment has existed almost continuously since the Soviet period, most editors and journalists practice self-censorship. Following the behavior of their Soviet-era existence, journalists in Uzbekistan simply do not attempt to publish stories that may be deemed controversial. The state-run papers are devoid of articles on government corruption and poverty, unless it is an expose of a recently sacked government official. Stories critical of president Karimov – or even ones that question his policies – are noticeably absent. *Hurriyat* ("Freedom") has often been touted as an example of an editorially independent publication. However, after a serious of articles written in 1997, which criticized the government's policy on censorship, the editor, Karim Bahriev was forced to resign. Since that time, the publication has not been confrontational towards the government. A similar situation appears to be developing for a television station in Urgench. In 1999, ALC and the Gulistan-based Aloka-AK were shut down on the grounds that they had not complied with the government's re-registration policy. The real reason, according to representatives from these stations, was that they ran programs critical of the upcoming legislative and presidential elections. ALC plans to sue the government on the basis of illegal closure due to editorial restrictions – a first for Uzbekistan.

As already noted, newsgathering is subject to controls from above. The media was particularly supportive of the "democratic nature" of the party registration and electoral procedures carried out in 1998 and 1999, noting the emergence of a new political party, Fidoqlar. This was viewed as an effort to counter the "unjustly negative" coverage by international media – Western and Russian – of the political system in Uzbekistan. The influence of the government also applies to how a story is told and investigated. An example of this was the coverage of the series of bombings that took place on February 16, 1999, in Tashkent. The "Islamic fundamentalist connection" was underscored and the proceedings of the subsequent trials were duly reported. Those who disagreed with the government's view and conclusions were not allowed to air their opinions, outside of using the international media, such as Radio Liberty and the BBC.

6. Is the distribution system for newspapers privately or governmentally controlled?

While independent newspapers do exist, the distribution system remains largely under government control. Kiosks and newsstands are independently operated, but they receive their newspapers from a central distribution source, which services the state-run media. The independent publications, mostly business journals, are generally distributed in Tashkent kiosks. The fact that the government controls the supply sources of paper and printing material effectively reinforces this situation.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?

Uzbekistan remains, in mid-1999, a low-internet usage country. The small number of computers, poor communication system, and restrictive laws has stunted the growth of Internet access in the country. Up through 1998, the major obstacles were physical – limited technology and communication lines. In 1998, the government passed a very restrictive law on Internet usage, modeling it after the one

that exists in the People's Republic of China and Belarus. Basically, the government has control of Internet sites and with the exception of Western-run Internet centers, such as CAFÉ and the Uzbek-American Business Center, can control who can log on. These include the public access Internet sites such as the Ustoz Foundation, as well as the system available at the University of World Economy and Diplomacy (both set up with international assistance). In addition, one presumes that the sites visited by such users can also be monitored. The government defends this policy by noting that extremist groups are communicating via the Internet, citing the web page of Erk and the Human Rights Society of Uzbekistan.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

The Association of Uzbek Journalists is the only sanctioned press organization in the country. At present, membership figures are not available.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Uzbekistan "Not Free" from 1994 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 6.25/7

1. Is the legislature the effective rule-making institution?

According to the Uzbek constitution, the Oliy Majlis is the "political authority" of the country. Chapter 17 notes that it is the body responsible for initiating and passing legislation, as well as executing policies from the government. This work is delegated to one of the official standing committees, which are comprised of a varying number of legislators. The Oliy Majlis meets on a regular basis, with sessions in the winter/spring and fall, respectively. Special sessions are also called to order on an irregular basis, meaning that that the legislature is in session for much of a given year.

Much of the time in session is spent discussing and passing presidential decrees and resolutions. This is not unexpected, as the president is listed in the constitution as also having legislative powers. The inability to demarcate the actual legislative responsibilities among the branches of government remains open to interpretation, much to the advantage of the president. As a consequence, the president continues to dominate legislative sessions. To date, the representative body has not countered any proposal offered up by the chief executive.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

Uzbekistan is a unitary state with political power maintained at the national level. At present, Uzbekistan is divided into twelve wiloyatlar (formerly known as oblasts), the Autonomous Republic of Karakalpakistan, and the city of Tashkent. Each of these entities has a hokim (governor) and a Wiloyat majlis (regional council). Below the wiloyat level, there are raions (districts) and mahallas (neighborhoods). Much like their Soviet predecessors, raion governments are really administrative extensions of the center. All policy initiatives at these levels must comply with national legislation and presidential decrees.

But there has been a move in the past two years to decentralize some of the decision-making authority. The mahalla, for example, has become more than the mikroraion or qishlaq entities that existed in the Soviet era. Mahalla leaders are chosen by local custom – with the chief executive (aqsaqal, or "white beard") being the village or apartment block "elder." According to Uzbek sources, mahallas should serve the following purpose: to promote citizens' rights in public affairs; to involve citizens in solving local social and economic problems; to hold public events; to assist in enforcing the law; and to promote inter-ethnic cohesion. To this end, mahallas are allowed to have their own property, financial assets and a limited budget. In addition, they may apply for credits with the National Bank of Uzbekistan. These guidelines were outlined in the 1999 Law on Mahallas. Uzbek dissidents are quick to note that mahalla governments also maintain dossiers on individual that reside in a given neighborhood. In particular, there is interest in individuals who express strong religious affiliations. Thus, it is argued, the mahallas retain a very important "surveillance role" for the central government.

A public opinion survey conducted in 1996 by the International Foundation for Electoral Systems (IFES) noted that among Uzbek citizens, the mahalla was the second most influential political unit – after the President. This compliments the president's intention of having the mahalla act as a "first line of defense" for social and domestic problems.

The same cannot be said for the wiloyat level, which remains subservient to the central government.

3. Are subnational officials chosen in free and fair elections?

Wiloyat hokims are appointed (and dismissed) by the president. In highly publicized cases, the hokims of Samarkand and Navoi were dismissed on charges of corruption in November 1998. Other subnational officials have been similarly removed, or fired for incompetence and an inability to provide services. The latter is a difficult accusation to avoid, given that the hokims have little authority over the revenues they receive, while retaining the responsibility for administering the wiloyat accordingly.

Regional councils are elected in local polling. In some instances – with examples shown in Samarkand and Bukhoro – these contests are multi-candidate affairs, with as many as 10 or more running for a single seat. Because these offices are not deemed important, party affiliation is relatively weak. In addition, because opposition candidates are not allowed to register to run for office, these elections are also not deemed "free and fair."

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

In general, executive sessions are closed to the public. Legislative sessions are more accessible, but as they are rarely involved in the actual drafting of laws, the process remains a closed one. However, when presidential decrees are announced, they are readily accessible in the media and are often cited verbatim. The same holds true for laws passed by the Oliy Majlis.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Local governments receive most of their fiscal support from the national government. To the extent that they actually receive sufficient funds to operate, local and regional governments do have discretionary power over how the money is spent. Some of the larger urban areas, such as Tashkent, Samarkand, and Bukhoro, are able to raise their own revenues in the form of business taxes. However, collection rates are low and the total amount remains below what the hokims require. As noted above, the recent law on the mahallas allows the lowest level of government some budgetary authority. Exact figures and percentages are not available at this time.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

While most of Karimov's personnel decisions at the wiloyat level can be attributed to political reasons, the case can be made for a real need to find competent managers at the subnational level. In November 1998, for example, he replaced the top officials in several wiloyat (noted above) with individuals who have backgrounds in management and finance. In addition, there has been no shortage of investigations at the local level on issues of corruption or on presidential rhetoric regarding the need for civil servants to ask responsibly. Unfortunately, low salaries and an extensive patronage system in place long before 1991 continue to plague the ability of municipal governments to manage effectively. Equally important is the fact that since the system is so reliant upon the president himself, most officials simply wait until Karimov issues a decree before acting.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

Uzbekistan's rules on local power have come in three waves: the 1992 constitution, the 1994 Law on Elections to Wiloyat, Regional, and City Councils of Peoples Deputies, and the 1999 Law on the Mahalla. The first established the basic rules of local government, noting the rights and responsibilities of local power. The second set the guidelines for electoral practices. The third further delineated the rights (including revenue-acquisition) of the local mahallas. However, because the system is a unitary one, all employees are ultimately responsible to the central government. While there is an effort in the past year to further increase the ability of local officials to act on their own (within proscribed guidelines), the tendency still exists for sub-national officials to wait until the presidential apparatus issues a decree or passes a law before they act.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 6.50/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

Uzbekistan has had one constitution since independence, which was ratified by the Oliy Majlis on December 8, 1992. The document details the responsibilities of the various political organs as well as the rights and responsibilities of citizens in the country. The American Bar Association's CEELI Project (Central and East European Law Initiative) submitted a report during the time of the constitution's ratification, which raised questions about the document's clarity. The constitution declares that the Oliy Majlis is the highest body of government. Yet, at the same time, the President is allowed to propose legislation, sponsor referenda, veto parliamentary acts, and dissolve the Oliy Majlis. At present, there have been no cases heard in which the political authority of the national or local levels of government has been called into question. There appears to be unanimity on the issue of presidential authority with respect to political power. For example, the court ruled in 1999 that the January 9, 2000, election of President Karimov would be his "first presidential election" under the 1992 constitution, thus allowing him to work within the proscribed guidelines of his two-term limit. This has not been an issue of contention among the elected political figures in Uzbekistan, though, for as early as 1995, legislators have called upon President Karimov to be "president for life," a position he currently opposes.

The only time the judicial system has clarified the constitution has been in cases pertaining to citizen's freedoms – particularly the freedom of assembly and the freedom of speech. As noted earlier, the media is curtailed in its activities. Also, the ability of groups to meet – even if to organize a means by which they can legally register – has been denied. All major international human rights organizations, from Amnesty International to the Human Rights Watch, list the specific cases involved. In each report, it is clear that former members of Birlik and Erk, as well as current political activists in Uzbekistan, are subjected to government harassment and abuse, often after attempting to petition to hold meetings or rallies. For example, in January 1999, a group of 100 women were detained after gathering to protest the arrests of their male relatives. One of the women, Mukhtabar Akhmedova, was fined a portion of her monthly pension for allegedly organizing the event.

One of the more critical issues in recent judicial rulings on the constitution has been over the issue of "church-state" relations. Specifically, President Karimov is adamant about reinforcing the notion of church-state separation. In 1998, and again in 1999, religious figures were prosecuted on the grounds that they were fomenting religious-based politics in Uzbekistan. Such "wahabbi" groups *de facto* violate the constitutional limitations on religion-based politics. Thus, groups like Adolat, the Islamic Renaissance Party, and Odamiylik va Insonparvarlik ("Humanity and Human Values"), as well as independent muftis and imams have been subjected to arrests and government surveillance. This was evident in the late-1997 and early-1998 trials of religious figures in the Fergana Valley who were deemed responsible for the November 1997 murders of government officials in Namangan. Registration laws for religious organizations have even been problematic for non-Islamic groups, especially Protestant and Evangelical faiths. The Uzbek government retorts by saying that they are simply enforcing the Law on Freedom of Conscience and Religious Organizations, which prohibits proselytism and the private teaching of religious principles. A case in point was the June 1999 trial and conviction of three Baptist Christians in Karakalpakistan. Under pressure from the U.S. Congress, which threatened to "re-evaluate" assistance to Uzbekistan, the three were released in August of that year. The major international human rights organizations, as well as the U.S. Government and OSCE monitor the status of these organizations and the litany of problems they encounter.

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The constitution is quite explicit in the rights provided to citizens of Uzbekistan. Chapters 7 through 10 list various rights, including the right to assembly, free speech, gender and ethnic equality, and freedom of religious choice. A superficial reading suggests that these rights are inalienable, however, chapter 11 provides a caveat for the government: if the above-mentioned rights infringe upon the rights of society, the state, or other citizens, they may be limited. Since technically, this means that the government can limit the rights of those it feel "infringe upon the state (i.e., the gov-

ernment)," it is no surprise that campaigns against opposition figures and groups have taken on a constitutional hue.

The right to engage in business is listed in chapter 12 of the constitution, and the right to own property is noted in chapter 9. Since 1996, the government has enacted numerous laws in private property ownership, the establishment of businesses, and the method of taxing private enterprises and property. While on the one hand, the government is trying to entice outside investment into the country; the lack of a real legal environment for businesses has stunted such efforts.

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The Uzbek criminal code of 1995 is still in force and no major changes have taken place in the last four years. From all appearances, the government is adamant about publicly promoting its advocacy of these laws. In particular, cases involving drug traffickers are highlighted in the press, as are any capital offenses in which the sentences have been carried out.

Search warrants are authorized and issued by the local militia, at both the mahalla and district levels. There have been no challenges to the legality of searches other than the complaints of political dissidents, who are generally charged with offenses unrelated to their political activity (i.e., possession of narcotics, illegal firearms, etc.).

All human rights organizations that report on Uzbekistan note the continued problems of prisoners being beaten and abused while in custody, and of generally poor treatment of prisoners. Political prisoners, in particular, have had difficult times. The International Helsinki Federation for Human Rights lists political prisoners who have experienced mistreatment in prison or delays in their trials. Among the 120 names cited in their 1999 report are such figures as Shovrik Ruzimurodov, Talib Mamajanov, and Nosir Yusupov – all of whom have complained of being beaten or tortured to elicit confessions. The latter was subjected to electroshock treatment, among other things. This has been especially true of suspected "religious terrorists," whose audio or video confessions are deemed admissible in court, despite the obvious evidence of torture and abuse. Finally, there are some reports of labor camps in Uzbekistan located in the Ust-Urt Plateau, in Karakalpakistan. Unconfirmed reports by opposition figures note that at of 1999, there are over 15,000 prisoners in such camps; the government puts the figure at closer to 6,400.

At present, excessive delays in the judicial system do not appear to be chronic. Indeed, it may be the case that Uzbek justice is "too swift." Trials and sentencing – including executions – take place fairly quickly, thus creating the problem of potentially innocent victims suffering for crimes they did not commit. On the other hand, some trials of political prisoners have sometimes been delayed under the pretext of finding a "neutral court."

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

In cases involving political opposition figures, international human rights associations evaluate the judicial system negatively. For instance, the judge stopped the trial of two defendants – Abdulkhai and Muradullo Igamberdiev – when monitors from Human Rights Watch appeared in the courtroom (the official reason was that the courtroom was "dirty" and did not have a proper Uzbek flag in it). While assured that the trial would continue on time the following day, the monitors discovered that it had been moved to another venue. Human rights organizations have also catalogued instances of justices demanding bribes from defendants to reduce sentences, suggesting that the system is rife with corruption. Since there are no penalties and/or restrictions on judges with Communist era experience, a relatively high percentage of judges from that period remains.

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

According to the constitution, the judicial system is independent of the other branches of government. The reality is, though, that it remains tied to the executive branch. The president has the power to appoint and dismiss justices at all levels with the approval of the Oliy Majlis. The legislature has yet to challenge a presidential decision in this area, thus *de facto* the president controls the Supreme Court, the Constitutional Court, and the Higher Arbitration Court.

Technically, the courts are not linked to the Ministry of Justice. However, given that the Ministry is part of the presidential apparatus which itself oversees court appointments, an informal link most likely exists. This linkage is suggested in the series of trials that have taken place following the February 16, 1999, bombings in Tashkent. While hundreds, perhaps thousands were arrested or detained (the government and opposition calculations differ radically), scores of trials actually took place. In July 1999 alone, sixteen men were given prison terms of 10 to 20 years each, and another six

were sentenced to death. Among those arrested in connection with the crime have been political activists who oppose the Karimov administration. For example, Ismail Adylov, a member of the IHROU was sentenced to six years in prison for "attempting to overthrow the constitutional order" of Uzbekistan. In addition, in the spring of 1999, the brother of exiled political activist Muhammed Solih disappeared, presumably arrested by government officials.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?

The Uzbek legal system allows for private practice lawyers. The fact of the matter is that most still work for the state, especially in the procuracy and judiciary. Data on the composition of lawyers, etc., are not available.

7. Does the state provide public defenders?

According to Article 117 of the constitution, all defendants are entitled to legal assistance. In the past two years, this has been evidenced in several highly publicized political cases.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?

Since 1991, President Karimov has stressed his support for minority rights, even to the point of noting that opposition groups in Uzbekistan are "Uzbek nationalists," and thus a danger to the non-Uzbeks in the country. Given that Uzbekistan is around 22 percent non-Uzbek, the ethnic issue is important to domestic stability. In particular, the Russian and Tajik minorities have been of concern for the government. In the case of the Russians, cultural centers exist in Tashkent, Samarkand, and Fergana, which have large Russian communities. Tajik cultural centers do exist in Samarkand and Bukhoro, however these are closely monitored as some Tajik activist groups (such as "Samarkand") have been banned for being too nationalistic.

In spite of these assurances, ethnic minorities continue to leave Uzbekistan, albeit at a slower rate that earlier in the 1990s. For example, over 400,000 Russians left between 1989 and 1994, while only 30,000 have left since that time. Interviews with Russian émigrés suggest that most are leaving out of concern that the region could become unstable, that they're viewed as "second class citizens," or that there is a sense of isolation from their Russian language and culture. It is important to note that these are perceptions, and that the Uzbek government has not practiced any open form of anti-Russian discrimination. Even that language policy that dictates Uzbek as the national language has been slow to evolve, suggesting that Russian will remain important for at least the immediate future.

9. Are judicial decisions effectively enforced?

As noted above, judicial decisions involving criminal and civil cases are enforced rather expeditiously. Political cases are also enforced. To assist in interpreting human rights law in Uzbekistan, the Uzbek government created an office of the Human Rights Ombudsman, currently held by Sayora Rashidova. Ombudsman Rashidova notes that there have been over 300 laws passed that relate to human rights issues, particularly in the area of free speech and freedom of religion. Her office is in charge of hearing petitions that address concerns over the government's implementation of human rights laws. In addition, the National Human Rights Center, headed by Akmal Saidov issues reports on the government's progress in the area of human rights. Both of these institutions are cited as examples of how the Uzbek government is laying the legal foundation for a "rule of law society." Critics contend that the problem in not in the government's effective enforcement of judicial decisions, but rather in the dubious nature of the decisions themselves.

CORRUPTION 6.00/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport, or other official documents? What is the average salary of civil servants at various levels?

There has been no research on specific types of corruption in Uzbekistan to date, although it does play a role in other assessments of the country. Anecdotal evidence and personal experiences of citizens of Uzbekistan suggest that it remains a serious problem. Most will note that bribes are required to expedite basic services, including utilities and housing issues, education and business. It is common for students to pay bribes to enter a university, receive fours

and fives (highest marks), receive credit for courses not taken, and to be exempt from the annual fall cotton harvest campaigns. Likewise, if one owns a business, inspections, licenses, and shipment fees are all subject to bribes. The rates on these vary depending upon location (higher in Tashkent than in the other cities) and level of education (university versus gymnasium).

At the same time, there is a general recognition that this is "part of the system." On average, higher civil servants receive salaries of $20 to $25 month, with customs officials and police officers receiving less (around $12 a month). Coupled with problems of wage payment delays of several months – admittedly not as serious as in other former Soviet states – the "justification" of extorting bribes is made.

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

The notion of government officials having connections to business is not seen as a serious problem in Uzbekistan, largely because the profitable export-based industries remain state-run. The elite in Uzbekistan is a fairly small group, thus it is common for there to be overlapping interests. It is expected that there is an overlap of responsibilities among top officials. President Karimov himself has a controlling interest in cotton exporting.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

The Uzbek legal code does require financial disclosure and such information has been used in anticorruption cases. In particular, the government has used such information against local hokims and regional officials as justifications for dismissal. The most highly publicized case to date is that against former Vice President Shukhrullo Mirsaidov. In 1994, he was convicted of embezzlement and misappropriation of state funds. His sentence did not include jail time, however he was forced to pay a fine in excess of $1 million, paid largely through the confiscation of his properties and possessions (including a fleet of new cars). Mirsaidov challenged the court's ruling in 1996 and lost.

In the past year, there have been two key cases involving corruption. In November 1998, Karimov dismissed his most senior aide, Ismail Jurabekov, who had headed various ministries during the past six years. While Jurabekov officially "retired due to his advanced age" (he was 67 at the time), rumors circulated that the minister was involved in illegal activity in the cotton export sector. Indeed, throughout 1999, discussions in which his name was linked to "conflict of interest" charges surfaced. To date, no formal investigation has taken place.

Such ambiguity did not befall another minister in a similar situation. Tax Committee Chairman Murodillo Qurolov was sacked in October 1998 for abuse of power and corruption. The media detailed his crimes, including the practice of holding "ostentatious weddings and funerals" for family members. On the day of the arrest, Qurolov's assistant, Masur Zakirov, committed suicide by jumping out of his fifth-floor office window. Within a month, the hokims of Samarkand and Navoi were also removed from office for the same offenses.

In the past year, President Karimov has brought attention to the issue of corruption at the higher levels of government, calling for an end to public displays of wealth that traditional weddings and rituals require. Noting "these habits are in our blood and bones," Karimov actually went so far as to pass a decree discouraging such practices.

4. Have there been public opinion surveys of perceptions of public sector corruption conducted with the support of reputable monitoring organizations? What are the findings and year-to-year trends?

As noted above, corruption remains a topic understudied in Uzbekistan. The International Foundation for Election Systems (IFES) included questions on corruption in its 1996 survey. In addition, US government offices (USIA and US Department of Justice) have also looked at the issue. At present, the only Uzbek partner with which these groups have worked is the "EXPERT" Sociological Center, which is considered to be a reputable and professional Tashkent-based organization.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

The Uzbek government has passed legislation addressing the issue of corruption. The existing legal code passed by the Oliy Majlis in 1993 also proscribes penalties for corruption. Up through the end of 1998, it was traditionally the case that while government officials were periodically chastised for being "corrupt" and removed from office, the rhetoric did not translate into prosecution. With the cases noted above, this may not be the case anymore. From the small sample of cases that exist, there is some evidence that such prosecutions are targeted for political reasons. For example, Abdurauf Gafurov, a kazi (Muslim judge) in the Fergana Valley, was convicted of embezzlement and sentenced to three years in prison in 1994. In November 1996, he had an addition two years added to his prison term for "disobeying prison officials." However, as noted in a previous section, it is often the case that political opponents are usually not investigated for corruption, but rather for possession of illegal materials.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?

Objective polling which includes questions on corruption note that it is a "concern," but are not specific as to the types and extent of corruption. However, the 1996 IFES poll indicated that less than 2 percent of the respondents considered corruption to be a major issue in the country. Dr. Nancy Lubin has also conducted survey work touching on issue of corruption. For example, in the mid-1990s, she noted that over 45 percent of the respondents felt that government officials were either "members of the mafia, or connected to the mafia." She also noted that ethnic Russians considered corruption among Uzbek officials to be commonplace. There is no indication that such views have changed since that time. At present, there is no systematic anticorruption public education effort in Uzbekistan. With President Karimov's recent elevation of corruption as a "serious social problem," this may change in the coming year.

7. How do major international corruption-ranking organizations like Transparency International rate this country?

Uzbekistan was ranked 94th out of 99 countries surveyed in Transparency International's Corruption Perceptions Index, and received a score of 1.8 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 6.25/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?

Most outside estimates conclude that no more than 20 to 25 percent of Uzbekistan's GDP is actually generated from private firms, in spite of the government's claim that the figure is closer to 50 to 70 percent. Interestingly enough, *private consumption* as a percentage of GDP is 61 percent, according to the UNDP. These numbers can be explained by the fact that the government counts firms that are heavily subsidized by the state as "private." In addition, on a per institution basis, private firms are faring better than their state-run counterparts. This is especially true for the service sector.

Labor force statistics are likewise difficult to ascertain, but outside sources place the percentage at around 25 to 30. According to the Uzbek government, over half of the labor force is in the private sector. The higher numbers are attributed to the fact that the labor-intensive agricultural sector is considered largely "privatized." With approximately 3,515,000 of the 8,680,000-labor force, agriculture remains a key sector. In addition, the over 1.5 million workers in the construction, trade, and transportation sectors are, in fact, largely in the private sector.

There are no valid estimates of the informal sector of the economy, although the government repeatedly complains about a lack of tax collection and true accounting of the economy. In addition, given the discrepancy between the official and unofficial currency exchange rates (at nearly four to one in June 1999), one can assume that a reasonable volume of informal trade is taking place. Foreign studies assume that the informal sector comprises up to 30 percent of the total economy, however such generalizations should be viewed as estimates only and not as statistical certainties.

2. What major privatization legislation has been passed? What were its substantive features?

Uzbekistan has had one of the least aggressive privatization policies in all of the former Soviet Union. This has been largely because there is the belief that major export-based firms should remain in state hands, coupled with the

president's insistence that Uzbekistan develop "step-by-step" without any "shock therapy" remedies. The Uzbek government first addressed the issue of privatization in the 1991 Law on Denationalization and Privatization, although no serious effort to implement it took place for several years. In early 1993, 35,000 small-sale enterprises were privatized, followed by 15,000 medium-scale enterprises being privatized in 1994-1995. In the latter group, the state retained up to a 26percent stake in each venture, with the collective keeping 25percent, and the remaining 49percent being sold off to individuals for cash or as part of the Privatization Investment Funds (PIF). A Mass Privatization Program (MPP) was announced in October 1995 and put into effect in fiscal year 1996 with the goal of having 60 percent of Uzbekistan's GDP come from the private sector. To do this, over 3,000 state-run firms were to be sold so that at least 51 percent of the ownership would be public. This was met with most results. Since that time, the government issued a more comprehensive set of decrees to work out discrepancies in the privatization program. Specifically, these decrees addressed land ownership and transfers, taxation of private property, and foreign ownership of private property. Finally, in October 1997, a commission under the leadership of Prime Minister Utkir Sultanov was set up to examine the privatization of agriculture.

By most accounts, privatization efforts slowed down in 1998 and 1999. During the first half of 1999, for example, there were only 263 firms privatized, earning the government a mere 0.4 percent of that period's GDP. The hope was to earn at least 1.5 percent of GDP through privatization efforts during that time frame. Indeed, the high-water mark for income earned through privatization efforts remains the anemic 0.8 percent of GDP in the years 1995 and 1996. The continued problems with currency convertibility and the overall sluggishness of the economy have deterred potential buyers. Most dramatic was the spring 1999 failure to privatize the Almalyk Mining and Metallurgical Combine, of which the government owns a 46.5 percent stake. Thus, through 1999, heavy industry, energy, and major export commodities (especially cotton) remain under state control. Privatization, at this point, remains stalled. President Karimov himself noted such shortcomings in a speech to the Cabinet of Ministers that reviewed the first six months of 1999.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: The government claims that 98 percent of all agricultural lands are now privately owned. Because most agricultural enterprises are collective farms, these were technically "privatized" when they were turned over to the families that ran them. Payments to the state and guidelines for products remain, though, suggesting that the farms are not completely private. These goszakaz payments are a continuation of the Soviet era in which the landowners are compelled to sell a certain percentage of their crop to the state at a designated rate, well below the market price. For example, in 1998, the procurement rate for cotton was at a mere 23 percent of the world market price – well below the 50 percent return that existed in 1997. In addition, the government is still setting strong guidelines for crop choice – as it continues to emphasize agricultural self-sufficiency for Uzbekistan. The privatization status of the agricultural sector is a politically sensitive issue, given the fact that over half of Uzbekistan's population, and over 40percent of the labor force, are in this sector. Indicative of the current system's inefficiency, it is estimated that only 31 percent of Uzbekistan's GDP for 1999 will come from the agricultural sector. A partial explanation can be found in a presidential report of early 1999, in which it was stated that 28,500 private farms received 580,000 hectares of land. This allocation amounts to only 20.4 hectares per farm – a figure too small to make them meaningful economic entities. The state-run farms, in contrast, remain much larger. There is no indication that the larger industrial farms will be privatized any time soon.

Housing and Land: Privatization of this sector moved fairly rapidly. In September 1992, individuals were given the option of purchasing their apartments for an average cost of three months' salary. Homeowners went through a similar process in March 1994. In addition, the government made it possible for individuals to build private residences. At present, a system is in place for citizens to own their own dwelling. In addition, a 1996 decree permitted foreigners to purchase property. In all, this should stimulate the construction sector as new homes, particularly in the suburbs of Tashkent, are being built. Almost 14 percent of all construction in Uzbekistan is for private residences. Non-agricultural land is also legally available for purchase at market prices. The biggest obstacle for private purchase of housing and land, though, remains the ability of the average Uzbekistani citizen to actually buy something. Bank lending remains very restrictive and most prices, especially in Tashkent, remain prohibitively high.

Industry: At present, 27 percent of Uzbekistan's GDP

comes from industry. Privatization has been less successful in the industrial sector, mainly because this sector contains much of what's considered "strategic," including heavy industry, energy, and the export production sector. These businesses still rely on quotas from the government and bonuses for plan performance, much like the pre-1991 period. In June 1999, the Kabool-Uzbek Company officially opened. This is an Uzbek-South Korean joint venture project based in Tashkent that will focus on value-added textiles (finished products, as opposed to raw cotton exports). It is estimated that up to $1 billion will be invested in this project during the next five years. Privately owned small and medium-sized firms employ approximately 400,000 people, or less than five percent of the total labor force. Until there can be more opportunities and legal protection for such businesses, it is doubtful that this sector will develop as quickly as the government hopes it can.

Business and services: Comprising 42 percent of Uzbekistan's GDP, the service sector is not only the fastest growing, but also the largest sector of the economy as far as output is concerned. It is important to note that while this sector has witnessed significant privatization, much of it in state hands. This is due to the fact that while nearly 50,000 small-scale businesses are considered privately owned by the EBRD, the larger companies are state-run firms or state-run joint-ventures. Reconstruction of the airports in Tashkent, Samarkand, and Bukhoro (over $300 million spent thus far) is viewed as a first step in reviving the tourist industry in Uzbekistan, which has fallen flat since independence.

4. What has been the extent of insider (management, labor, nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

As with other states of the former Soviet Union, Uzbekistan has had instances of former managers of businesses and firms buying out companies outright, or at least gaining a majority share. The nomenklatura, in general, has had an unfair advantage since they controlled the privatization auctions and knew ahead of time what was to be auctioned. While many of the larger businesses have been purchased by the former Communist elite, there are instances of entrepreneurs acquiring small and medium-scale business, including several hotels. In particular, there is a thriving privately-owned "bed and breakfast" hotel community in Samarkand and Bukhoro. Obviously, complete statistics on such activity are unavailable and most of what is known is anecdotal.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

In general, the public is aware of the government's privatization efforts. While decrees are published in the daily newspapers – especially in *Halq sozi*, the official paper – opinion polls suggest that there is only a passing interest of the program among the general public. Support, however, seems to be high, as it is unlikely that the general population would question any of Karimov's policies. At the same time, severe limitations on most citizens' disposable income preclude them from actually partaking in the privatization process. The extent to which privatization has directly affected the population has been in the area of home and apartment sales.

Since interest group activity is almost non-existent in Uzbekistan, it is not surprising that there are no real concerted efforts to either support or oppose the government's policies. Indeed, since there has been little done in the way of privatization over the past two years, such discussions are very rare. In late 1997 and early 1998, there was some public discussion in the Uzbek press over the issue of privatizing agricultural land. Since that time, however, efforts in that sector have stalled, as it appears that the government is satisfied with the current status of "cooperate farms" deemed as "private farms."

MACROECONOMIC POLICY 6.25/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

The tax system in Uzbekistan remains a constant problem for the government, largely because expenditures continue to exceed revenues. Unfortunately, a stagnant economy suggests that this will not change any time soon. Since 1991, the government has passed various pieces of legislation concerning tax collection and rates. These include a 20 percent capital gains tax, a 17 percent value-added tax, and a 40 percent payroll tax. Income and corporate taxes are both on sliding scales, with the highest being 45 percent and 37 percent, respectively. The highest individual

rate applies to those whose incomes exceed the minimum wage by 15 times. These new rates were established in the Tax Code adopted by the Oliy Majlis in April 1997 and implemented on January 1, 1998. In addition, there are land and property taxes, mining taxes (user rights), and a limited set of local taxes. The latter are being instituted at the Wiloyat and city level and have been in place since 1998.

Tax compliance remains a problem in Uzbekistan largely because collection itself is uneven. Individual taxes, for example, are to be mailed in "voluntarily." Other taxes are collected at the time of sale or transaction, making it easier to keep records of who pays and who does not. Roughly 80 percent of all tax revenues come from individual and corporate taxes, as well as social security contributions withheld from salaries. The remaining taxes noted about constitute less than 20 percent of tax revenues, suggesting that land ownership is still the exception, not the rule, and that collection of such fees is not complete. Since 1991, tax revenues have made up between 19 and 31 percent of GDP, with government expenditures running, on average, about 10 percent higher. The gap is usually made up from profits derived from state-run export industries. One positive sign is the following: the tax revenue rate in the last three years has actually increased, to 31 percent of GDP in the last year. This "plus" has been offset by the downward spiral of the currency value, as noted below, as well as the flat rate of foreign investment. The latter could pose a problem for tax collection in the future as value added and industrial taxes are heavily dependent upon joint venture activity.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals?

While the government claims to be supportive of private savings and investment, the reality is that most people do not have the disposable income sufficient to do so in any great amounts. Inflation, wage arrears, underemployment, currency devaluation, and banking regulations that tend not to protect investors accounts have all taken their toll. On the level of fiscal policy, the Uzbek government is trying to maintain a deficit at, or under, 3.5 percent as required by international financial institutions (the World Bank and IMF). Government sources state that Uzbekistan maintained a deficit of 3.1 percent in 1998, although international financial institutions question that amount. With an acknowledged 12 percent decrease in trade, as opposed to an expected 9 percent increase, the Uzbek government experienced a $388 million shortfall for FY 1999. As of July 1999, it is predicted that Uzbekistan will have a 7.1 percent budget shortfall (of a projected $2.04 billion budget).

Uzbekistan maintains a system of subsidizing consumer goods and welfare measures, particularly for the poor. It is estimated that nearly 50 percent of budget expenditures go to support these measures, although some experts note that this *percentage* is declining as government investment measures are increasing. In early 1999, President Karimov pushed through legislation that increased the subsidy payments to the poor (pensioners and the unemployed). To counter the extra costs, the price of basic staples increased by 20 percent in May 1999 and the price of public transportation rose 67 percent at the same time.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private banking sector? Does it conform to international standards? Are depositors protected?

The banking sector in Uzbekistan is still fraught with problems. Because of government concerns that the system is too fragile, heavy restrictions are currently in place for just about every aspect of bank activity. This was particularly evident following the dramatic devaluation of the Uzbek som in the fall of 1996 when the government decreed that only two banks could work with hard currencies, and when additional restrictions were put in place for citizen access to bank accounts. In short, "banking policy," as such, remains reactive, not progressive.

At present, there is a two-tiered banking system, with the Central Bank of Uzbekistan and the National Bank for Foreign Economic Activity considered "first-tier" banks, and thirty-one commercial banks being "second-tier" banks. The first two banks are permitted to purchase and sell hard currencies, while the others are restricted to som activity only. In addition, the CBU is responsible for issuing currency, setting interest rates, and regulating the use of foreign currency in Uzbekistan. In addition, it continues to regulate the types of transactions of enterprises, still requiring interbank transfers. The CBU is not independent and must respond to government decrees. If banking regulations are

loosened, one can expect to see an increase in the number of banks: this is largely due to the fact that the Law on Banks and Banking allows for a bank to be established with as little as 6 million som in reserve. A decree issued in April 1997 on private banks should allow this to happen, although at present, there are only four such entities. At present, even the private banks are connected to the government. Uzagroprombank, for example, is designated as a private bank although Uzkhlopkoprom, the government's cotton agency for purchasing and ginning, owns 33 percent of its shares.

In principle, depositors are protected in Uzbek banks. However, banks set their rates according to the official currency rate, thus any activity dealing with foreign currency will automatically take a loss of almost 75 percent. In addition, bank rates do not keep up with inflation, thus depositors find it discouraging to even set up savings accounts. For example, six-month treasury bills yielded 18.01 percent in June 1999, an 11.49 percent loss off the year-on-year inflation rate of 29.5 percent as of that month. That the CBU's refinancing and interest rate is a mere three percent does not boost consumer confidence. Not surprisingly, local currency deposits are 7.7 percent of GDP and foreign currency deposits are a mere 1.5 percent. Following a June 1999 meeting with Uzbek banking representatives, the EBRD announced that it would lend $67 million to four Uzbek banks for trade finance. The goal is to improve the ability of these banks to actually lend money to joint venture activity in spite of inter-enterprise payment arrears, which ironically have occurred because of regulations on the banks themselves.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

As noted above, a major problem in the Uzbek economy remains the currency, the som. Officially introduced in June 1994 (with a coupon version introduced in November 1993), the Uzbek som remained somewhat stable until the fall of 1996. At that time, the Uzbek government initiated a program to make the som a convertible currency, but within months, found the value of the som dropping precipitously. The value, which stood at 38 som/ $1 in the summer of 1996, fell to 55 som/$1 at years' end. By the end of 1998, the official rate was 110 som/$1, and in July 1999, the rate dropped further to 124 som/$1. The government sets the official exchange rate. The fact that the som is still not a convertible currency makes it difficult to really view the official rate as a "real" rate.

The devaluation of the Uzbek som, as well as strict regulations on hard currency access has adversely affected private savings, investment and earnings. In addition, the high inflation rates of the past (1,100 percent in 1994, 425 percent in 1995, and 105 percent in 1996) have not helped. Yet, the inflation rate has dropped to under 30 percent for both 1998 and 1999. If these lower figures can be maintained, one can expect to see increased confidence in the economic system. The November 1993 conversion from the ruble to the som-coupon and the subsequent June 1994 conversion to the official som also adversely affected the total amount of individual savings. In both instances, the government set limits on how much money one could transfer. Reports of people losing 80 to 90 percent of their savings were common.

A critical economic problem for Uzbekistan in 1998 and 1999 is the fact that the unofficial (black market) rate for the som is not stable and is rapidly pulling away from the official rate. For a short while in 1996, the official and unofficial rates were so close that the black market in som trading was tailing off. However, by the end of 1996, the black market rate was 120 som/$1 and by the end of 1998, it stood at over 400 som/$1. In mid-1999, the unofficial rate topped 470 som/$1, meaning that there was nearly a 4:1 ratio of the unofficial to official exchange rates. Continued reluctance on the part of the government to loosen hard currency access in the country will, unfortunately, mean that the currency problems are not over. The Uzbek government has stated that it will sign Article VIII of the IMF's Articles of Agreement in FY 2000, which effectively means that Uzbekistan must create conditions for a fully convertible currency. As of July 1999, however, it is too early to tell how much the Uzbek government can, or will, do.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investing and lending? What government bodies have authority to regulate capital markets?

The capital market in Uzbekistan remains weak, and its prospects are not helped by the continuing currency problems. A Central Asian Stock Exchange was established on March 15, 1994 with Karimov's decree On Economic Communities. This decree allows for the circulation of corporate, employee and joint-stock company shares, govern-

ment bonds (both national and local), corporate bonds, and promissory notes (state, commercial, common and transferable). Securities have to register with the Ministry of Finance before they become part of the stock exchange. To date, the "Tashkent" Stock Exchange, as it is called, operates with daily volume of trade under $1 billion; thus it is still small enough to not be considered influential at this time. It is believed that most of the firms on the Exchange are either owned by the state or by employees of the Exchange itself, making it an "insider operation."

MICROECONOMIC POLICY 6.25/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

According to the constitution and the decree On Private Property, such rights are guaranteed. Housing and land ownership is registered at the raion-level and taxed accordingly. There are also Laws on Expropriation and Compensation, which have been tested in the "old city" section of Tashkent, where thousands of traditional Uzbek homes were destroyed and replaced with apartment blocks, for sanitary reasons. The issue of property rights has been absent from the legal system, although a citizens' group challenging the urban renewal program will also be test for the court.

Laws on intellectual property rights are not enforced and in most major Uzbek cities, it is common to see, and possible to obtain pirated copies of computer software, reprinted books, and cassettes, CDs, and videotapes.

2. To what extent have prices been liberalized? What subsidies remain?

Uzbekistan has been slow to liberalize prices, as compared to the other former Soviet states. President Karimov argues that a step-by-step approach is preferable, especially in light of the disastrous price liberalization of January 1992. Since that time, prices on most products have been liberalized with government subsidies existing for basic commodities (bread, flour, tea, cottonseed oil, etc.,). These basic subsidies, however, increased dramatically in the spring of 1999, with increases of up to 20 percent recorded. The concept of "price" must factor in the very real problem of currency value. As noted, the unofficial exchange rate is four times that of the official rate. This has meant that prices in the bazaars tend to be much higher than prices in the state-run stores. Likewise, prices in foreign-run stores will be higher for, although they must be priced (and sold) in soms, the values reflect a hard currency price.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

It is possible to own and operate a business in Uzbekistan, and a set of laws exist that outline procedures for setting up such enterprises. These include the Laws on Entrepreneurship, on Enterprises, and on Foreign Economic Activity. Financial and bureaucratic obstacles exist and are often too difficult to individual entrepreneurs to legally overcome. Rumors of "Mafia protection" rings also plague the business world, especially in the service sector. Citizens do have access to laws and rules on setting up businesses, with the major laws published in the news dailies. Obtaining information at the regional or city offices can be a problem, but again, such documents do exist.

In 1999, the Uzbek government started highlighting the problem of bankruptcy. As of July 1, 1999, outstanding debts to the national budget totaled 89.6 billion soms. While much of this is tied to the state sector (particularly the energy industry), the joint venture community is also being targeted. Data from the Supreme Economic Court note that 410 enterprises were declared bankrupt in the first half of 1999, as compared to 436 from all of 1998. Of these, 93 and 177 have actually been shut down, respectively. In addition, an additional 312 companies "show signs" of bankruptcy, with the government declaring that at least 142 of these should also be shut down. So far, only 29 have actually filed for bankruptcy and three have actually shut down. The current Law on Bankruptcy is too cumbersome and slow to deal with these issues and the backlog is having a negative effect on

the economy. A July 1999 decree was announced that would set a maximum 12-month time limit for the bankruptcy of a firm in which the government has partial ownership.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

As noted earlier regarding the criminal and civil courts, it can be said that while the institutions exist, their ability to get things done is limited. Uzbek law is often clear on issues of property rights and contract obligations, however, the enforcement of such laws is suspect. Joint ventures and foreign companies working in Uzbekistan still consider the political contacts to be of utmost importance. Disputes over property rights and pricing – as evidenced in the energy sector – are resolved through meetings with government officials. Major companies even deal with President Karimov directly. Anecdotal evidence suggests that, at the local level, individuals are turning to the mahalla councils and leaders for advice and arbitration. In many ways, this follows upon a legal custom that predates the Soviet period. There are no data on how many cases have been publicly brought up concerning these issues, nor of their resolution.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

As the state still controls the major export industries in Uzbekistan and has shares in joint venture partnerships, competition is not really a factor. Competition is really only an issue for small or medium sized businesses. Legally, it can and does exist, although the modest advertising and sales environment limit what entrepreneurs can do. Inside dealing is rumored to be very important, especially in landing lucrative joint venture capital. This is especially true for joint venture deals with foreign companies, where often members of government are given opportunities to participate early in the process. There is no information on government procurement policies and on the bidding process.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Foreign trade is encouraged, but the government still utilizes a series of controls that de facto discourage trade. Fees, registration requirements, and the restrictions on hard currency usage all prevent foreign trade from expanding in Uzbekistan. In 1998, exports amounted to $3,218.1 million and imports stood at $3,124.6 million, leaving a trade surplus of $93.5 million. While no official statistics are available for the first half of 1999, it is estimated that exports are roughly $1,656 million and imports are $1,551 million, creating a trade surplus of $105 million. Cotton and energy make up the majority of export products, with cotton sales representing nearly 44 percent of the total 1998 export earnings. The increase in oil prices in late 1998 and early 1999 has also helped the modest energy export sector. Trade with CIS countries continues to remain high, with over 40 percent of exports and nearly 30 percent of imports. Trade with non-CIS states has increased by more than three-fold since 1994, and remains a priority of the Karimov government.

To enhance foreign trade, President Karimov enacted the Customs Code on March 1, 1998, which lists VAT, duties, licensing fees, costs for storage and transport, and regulations on what companies can export to other CIS states. In short, the government has every intention of spurring the current growth in trade to even higher numbers. How these new regulations will be applied (fairly or not) remains to be seen and companies still complain of bribe requirements — especially in working with subcontractors. Making matters worse has been the deteriorating relations with Uzbekistan's immediate neighbors. Customs check-points along the Uzbek-Tajik, Uzbek-Kyrgyz, and Uzbek-Kazakh borders are typified by long delays and excessive fee requirements. In early 1999, for example, the Uzbeks imposed a $300 fee for each truck crossing the Uzbek-Kazakh border. Under the pretext of security, Uzbek border officials have even turned away vehicles from both Kazakhstan and the Kyrgyz Republic. These measures seem to ignore the fact that Uzbekistan is part of the Central Asian Economic Community (CAEC).

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Since 1995, this has been a major political issue for President Karimov. Largely in the form of joint-venture (JV) enterprises, foreign investment has been fairly active in Uzbekistan. Significant reform measures were enacted in 1996 that included allowing foreign companies (or individuals) to own property, take advantage of tax holidays (including a seven-year grace period for companies investing in

the manufacturing industries), and have monopoly rights in certain sectors. A July 1996 decree on JV investment also eased the requirements on forming such ventures. Logistical and cost barriers still exist, including high tax rates on JV profits (as noted above), thus dampening enthusiasm on the part of foreign companies to get involved. Weak transportation routes and an uncertain regional market are also factors that can dissuade foreign investors. To counter this, the Uzbek government declared in the summer of 1999 that it is possible for foreign companies to obtain management control of state sector firms, depending upon the amount invested. It is still too early to tell if these comments, usually made by Deputy Prime Minister Viktor Chzhen, are simply rhetorical, or actual changes in Uzbek policy.

Companies on the magnitude of Newmont Mining (US), Coca-Cola (US), Daewoo (South Korea), British-American Tobacco (UK), and Samsung (South Korea) have had fewer problems in setting up their ventures. According to US statistics, cumulative foreign investment in Uzbekistan topped $400 million in 1998. Turkey and the United States are now the top two investors. Other key investors include Germany, South Korea, the United Kingdom, and China. According to the Uzbek government, foreign investment increased 1.6 percent in early 1999, as compared to the first half of 1998. This makes up 26 percent of total capital investment in Uzbekistan. At the same time, President Karimov has also raised concerns over the sluggishness of starting new capital investment projects, noting that 82 of 108 new projects that were to be funded in 1999 had not even started by June 1999.

Recent problems in currency convertibility and the legal barriers in the country are actually causing a reduction in foreign investment. According to the Uzbek-American Chamber of Commerce, 19 companies ceased operations in Uzbekistan in 1998 and early 1999. Even Newmont Mining, the largest foreign company working in Uzbekistan, is starting to re-evaluate its position in the country. Major international financial institutions are likewise skittish about working in Uzbekistan. In 1996, the IMF withheld a promised loan on the grounds that the Uzbeks were not complying with their guidelines. The EBRD, for one, have contributed over $882 million for various projects in Uzbekistan since 1993, largely for support of infrastructure developments – both physical and financial. The current Uzbek debt to the EBRD is nearly $400 million of that amount.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets?

Because the state considers it to be of "strategic importance," the energy sector remains under government control. Uzbekistan has relatively large reserves of oil and gas and can become a regional exporter of the latter, once the transport infrastructure is developed more fully. Natural gas production increased from 41.9 bcm to nearly 54.8 bcm during the period 1991 to 1998, and experts note that this trend should continue. Oil production stands at slightly more than 8.1 million metric tons (1998). This latter figure is a 189 percent increase from the 1991 production figure of 2.8 million metric tons. As the sole proprietor of energy in the country, the government also continues to subsidize public energy use, stating that it will do so at least until the year 2000. Through 1998, industrial users were still paying significantly more than individual consumers – over 203 percent more – although this is a radical drop from recent years, when they paid upwards of 800 percent more than the previous year. Subsidies to the public mean that, on average, consumers pay 41 percent less than the world market price. Unfortunately, because of supply bottlenecks and shortages, it is not uncommon for drivers to buy gasoline from roadside vendors at a rate nearly 50 percent higher than the official rate. Coal and electricity production also meet the public needs, precluding exports of these energy goods.

A major part of Uzbekistan's energy development has been the assistance of foreign companies. For example, Enron Gas has been instrumental in developing the various gas production facilities in the country. In addition, international companies from France, Germany, and Japan are also involved in developing refineries in Bukhara and Nawoi. It is the Uzbek government's position that such assistance is needed to ensure the proper exploitation of these resources. The biggest single problem facing the energy sector is transportation. Although domestic use will continue to increase (with population growth and industrial expansion), the need to export exists. However, as Uzbekistan is a doubly-landlocked country, pipelines must travel through at least two countries to get to reasonable markets. Recent discussions on whether Uzbek energy will pass through a Trans-Caspian pipeline that the United States supports, or through the energy grid of Russia that currently exists, is a topic of intense debate. In 1998, Uzbekistan planned to export nearly 10 bcm of gas, mostly to neighbor-

ing states. However, production problems and controversy over payment arrears limited to real amount of exports to a mere 3.5 bcm (for $81 million). Early estimates for 1999 point to a tripling of this profit amount, as agreements totaling $255.2 million have been signed with Ukraine ($115.2 million), Kazakhstan ($90 million), and the Kyrgyz Republic ($50 million). By mid-year, no figures were available regarding actual export statistics. The bottom line, though, is that Uzbekistan can at least maintain enough energy to satisfy domestic needs, which is a positive sign for the economy.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The labor force in Uzbekistan is estimated to be 8,733,000 (out of a working age population of 11,826,000). By sector, this force is broken down as follows: Agriculture – 3,515,000; Service – 1,952,000 (of which 1,070,000 are in education and 500,000 are in health); Industry – 1,109,000; Trade – 715,600; Construction – 550,000; Transport and Communication – 360,000. These numbers are assuming full-employment, although most likely an undetermined percentage is actually "underemployed." In Uzbekistan, 38.2 percent of women over the age of 15 work, which is 85.7 percent of the male economic activity ratio. This means that women make up 46 percent of the *labor force*. There is a large female representation in the agricultural and service sectors.

Official unemployment calculations remain at the absurdly low level of 0.4 percent, or 35,400 registered "unemployed." Unofficial estimates put the figure at closer to 20 percent, understanding that in the rural regions, the rate is even higher. The reason for the small number of registered unemployed is most likely the result of individuals opting not to go through the actual process of registration. Unemployment benefits are calculated in terms on the official minimum salary (see below) with modifications made for family size. Technically, a person can receive such benefits for up to a year, if they are even paid.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The pension and retirement system in Uzbekistan is completely state-run. Women can retire at age 55 and men at age 60, much along the former Soviet lines. As pensions are centrally administered, the calculation of benefits and method of distribution are regulated. The basic pension was raised from 2,100 to 2,520 per month soms on January 1, 1999. On August 1, 1999, this was raised again to 3,340 soms. While officially this is $23 a month, the real exchange rate is more like $7 a month, which is almost of a fourth of the median income. There are modest benefits for the disabled and for orphans. In addition, the government has established additional support means for those living in the Aral Sea region.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

Average salaries for 1999 were estimated to be 12,217 soms per month (average for April-May 1999). In 1998, the average salary was between 6,779 and 10,987 soms per month (first and fourth quarter calculations). Using the official exchange rate, the 1999 average salary translates to $105 per month. However, the black market exchange rate drops this to a mere $25 per month. The minimum wage increased from 1,100 to 1,320 soms per month on January 1, 1999. In August 1999, a presidential decree raised the minimum salary again to 1,750 soms a month. The overall trend

has been one of salaries not keeping up with inflation – at least for the average and minimum salaries. Every January 1st, the government does adjust state-dictated salaries to account for the price increases of the previous year. Helping the situation is the fact that inflation has been below 25percent per annum for the last two years.

Anecdotal evidence points to a problem in wage arrears for some sectors. One of the hallmarks of the Uzbek economic reform agenda has been a strong emphasis on basic needs. Salaries and basic staples are available, even if in nominal amounts. The only serious episode of wage arrears took place in 1991-92, when Uzbekistan was still dependent upon Russia for its money supply and in the shorter periods of November 1993 and July 1994 when currency changes took place. The one sector that has consistently experienced wage problems has been agriculture. The cooperative farms are run in a fashion similar to the prior collective farms and receive "in kind" payments throughout the year (seed, farm implements, fertilizer), which is then counted against the cash payments made at harvest time. Because the cash payments are based on a government scale and not market rates, often farmers receive little in the way of money.

Figures differentiating salaries for men and women are not available. Outside sources, such as the UNDP and World Bank, rely on a standard figure of women receiving 75 percent of the salaries earned by men. One can also surmise that because women tend to occupy lower paying positions, their median salaries would likewise be lower.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

Uzbekistan is a relatively young country, with 40 percent of the population below the age of 15 and over 50 percent of the population under the age of 20. Due to the fact that school cycles have become irregular in the countryside, largely due to a lack of teachers and facilities, as well as a need for families to send their children to work at an earlier age, total enrollment figures are not readily available. According to official statistics, the combined First to Third grade enrollment percentages are 74 and 78 percent for girls and boys, respectively. Overall primary education enrollments are listed as being 77 percent by the UNDP, as compared to 83 percent by UNICEF. Secondary school enrollment percentages for males and females are 99 and 87 percent, respectively. A foretaste of a continued downward trend is evident in Kindergarten enrollments, which now stand at a mere 20 percent of children in the 5-and-under age group. This is a significant drop from the 31 percent of the same cohort in late 1992. Enrollment trends in the lower age groups suggest that this will continue for at least the near future. On the other end of the educational spectrum, students are leaving early to find work. Only 17.6 percent of 19 year olds were in some educational facility, down from the 1992 figure of 30.8 percent. Interestingly, the government still claims that Uzbekistan's adult literacy rate to be nearly 100 percent for both men and women.

Spending percentages underscore a serious fiscal problem for education in Uzbekistan. The government has tried to devote more money to public education in recent years, but a sagging economy has prevented that from taking off. At present, the government spends roughly 8.1 percent of Uzbekistan's GDP on public education, which is 21.1 percent of total government expenditures. This is in contrast to the 11.6 percent of GDP spent on education in 1993. Within the current amount, the government spends, on average, 69.9 percent of its education budget on primary and secondary education, and 9.7 percent on higher education.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

According to the UNICEF "The State of the World's Children 2000" report, the infant mortality rate in Uzbekistan is 45 per 1,000 live births. The "children under five" mortality rate is 58 per 1,000 live births. There is also a maternity mortality rate of 55 per 100,000 live births. Birth rates are reported to be 3.4 children per woman, down from the 1975 average of 5.5. At present, 10.9 percent of all births are to mothers under the age of 20. With a crude birth rate at four times the crude death rate, it is easy to see that the population of Uzbekistan will continue to grow at a steady rate. Life expectancy in Uzbekistan is listed as 67.5 years (70.7 years for women and 64.3 years for men). Official Uzbek sources put the rate slightly higher at 68 years.

The divorce rate in Uzbekistan remains a low 12 percent. Again, the social stigma of divorce among ethnic Uzbeks remains a powerful force against having a divorce. While such figures are not available, it would not be surprising to see that the majority of the divorces have taken place among the urban population – especially in mixed marriages and among the Slavic minority, communities not tied to the traditional rural views of marriage.

Information on suicide rates is largely unavailable, mostly because suicide carries such a negative stigma in Uzbek society. In the past decade, there have been periodic reports in the media – especially the Russian media – of the problems surrounding the suicide rates of young women. Reports of self-immolation surface on occasion – a form of suicide which is seen as a "protest" of sorts for young women who feel that they will not have the same opportunities as their male siblings. Such reports are irregular and should not be considered a "trend" in Uzbek society. According to the most recent statistics listed with the World Health Organization, the suicide rate in Uzbekistan was 6.2 per 100,000 people in 1993.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the by public sector on health care.

While there have been efforts to improve the health care system by international organizations, gathering basic statistics remains a problem. Current estimates of doctors and nurses in Uzbekistan, for example, are at 335 and 1,032 per 100,000 citizens, respectively. However, these are figures that have been used for much of the late-1990s. Unfortunately, these numbers are expected to drop in the next several years, given that there are less than 1,500 Uzbekistani citizens enrolled in medical schools – an amazing drop of nearly 70 percent from the 1991 enrollment level of 4,800 students. The last year of estimates of hospital beds per capita was in 1997, at which time the level was 7.3 beds per 1,000. This is actually a drop of almost 20 percent since 1993. There are an estimated 1,300 medical facilities in Uzbekistan, with quality and resource bases varying dramatically. In the major cities, problems of supplies, new equipment, and medicine appear to be less of a problem than in years past, largely because of external assistance and a small, but growing pharmaceutical industry that has emerged in Tashkent.

In 1998, the government spent 3.3 percent of GDP on health care, below the Central Asian average of 4.2 percent. The government is evaluating a form of health insurance to cover costs at private health facilities, but at present no decision has been made. It should also be noted that these figures only pertain to "modern" medical facilities. Traditional medicinal care, which is widely practiced in the rural regions of Uzbekistan, is not factored.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

It is difficult to determine poverty rates in Uzbekistan given the paucity of data and the fact that many in the rural communities survive on non-factored wages and produce. The few studies on this issue point to an obvious problem in the countryside: the majority of Uzbek citizens are in severe economic straights. The poverty rate in Uzbekistan is listed as approximately 1800 soms per month, which translates to $15 at the official rate, or $4 at the black market rate. With that figure in consideration, 63 percent of Uzbekistan's citizens live below the poverty level. This percentage has not been broken down by gender or age group, but one can assume that women and elderly make up a disproportionate share of this group. Given the average pension and minimum wage amounts noted above, this is a reasonable assumption. Again, because of slippage in the ability of the state to keep pensions, benefit payments, and minimum wages apace of inflation, the relatively high percentage is likely. It is also known that in 1997, 49.9 percent of families applied for some form of child benefits, with 33 percent receiving them. These numbers have been steadily increasing since 1993, as both the population increases and the economy in general fails to expand. International agencies, such as the World Bank and the UNDP, have pointed to the problem of poverty as being of utmost importance for the coming decade. If basic needs are not met, the possibility of social unrest only increases.

YUGOSLAVIA

Polity: Presidential-parliamentary
Economy: Mixed statist
Population: 10,600,000
PPP (USD): 2,300
Capital: Belgrade
Ethnic Groups: Serbian (63 percent), Albanian (14 percent), Montenegrin (6 percent), Hungarian (4 percent), other (13 percent)
Size of private sector as % of GDP (1998): 40

NATIONS IN TRANSIT SCORES

	1997	1998	1999-2000
Democratization	na	4.90	↓↓5.50
Rule of Law	na	na	6.00
Economic Liberalization	na	4.83	↓↓5.33

KEY ANNUAL INDICATORS

	1993	1994	1995	1996	1997	1998	1999
GDP per capita (USD)	1443.0	1484.0	1487.0	1018.0	1087.0	1123.0	911.0
Real GDP growth (% change on previous year)	-28.0	6.5	6.0	4.3	7.4	2.6	-19.3
Inflation rate	na	na	71.8	90.5	23.2	30.4	42.0
Exports (USD millions)	na	1500.0	1400.0	1800.0	2700.0	2900.0	1500.0
Imports (USD millions)	na	1900.0	2400.0	4100.0	4800.0	4800.0	3300.0
Foreign Direct Investment (USD millions)	25.0	0.0	0.0	0.0	0.0	na	na
Unemployment rate	24.0	23.9	24.7	26.1	25.6	27.2	na
Life Expectancy (years)	72.6	72.6	72.6	na	na	72.8	74.9

FREEDOM IN THE WORLD RATINGS, 1989-2000

	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-98	98-99	99-00
Political Rights	5	5	6	6	6	6	6	6	6	6	5
Civil Liberties	4	4	5	5	6	6	6	6	6	6	5
Status	PF	PF	NF	PF	NF	NF	NF	NF	NF	NF	PF

Introduction

Since Serbia and Montenegro proclaimed the formation of the Federal Republic of Yugoslavia (FRY) in April 1992, their common state has had a precarious existence. Formed in the midst of the wars in the neighboring former Yugoslav republics of Croatia and Bosnia-Herzegovina, and claiming to be the sole legal successor to the previous Socialist Federal Republic of Yugoslavia (SFRY), the FRY since its creation has been plagued by a host of problems. International economic sanctions, war in neighboring states involving ethnic brethren, considerable domestic political opposition to Slobodan Milosevic's rule, disagreements between the two federal partners, and unrest in the formerly autonomous Yugoslav province of Kosovo have all made the "third Yugoslavia" an inherently unstable entity. The FRY has not held free and fair elections since its establishment in 1992, and members of independent political parties face frequent harassment by the authorities. The government limits various civil liberties, including freedoms of the press and religion, and the judiciary is largely controlled by Milosevic's regime. In 1997, a new leader in Montenegro, Milo Djukanovic, emerged to provide the most significant challenge to Milosevic's rule in the country that had yet emerged, and under Djukanovic, Montenegro has slowly pursued a strategy of disassociating itself from the Milosevic regime, if not from the Yugoslav federation itself. Meanwhile, in Kosovo, the Kosovo Liberation Army (KLA) began an uprising against Serbian control in the province in 1997.

Economically, citizens of the FRY have experienced a precipitous drop in their living standards since the disintegration of the former Yugoslavia; according to some estimates, average per capita GDP in the FRY in 1999 was one third of its 1989 level. Wars and international economic isolation have played a significant role in the economic downturn, as has the Milosevic regime's consistent refusal to engage in meaningful economic reform. Much of the regime's strategy for maintaining power in such unfavorable circumstances has revolved around distributing control over state-owned companies to political allies and allowing a large black market to flourish. NATO's bombing campaign against Yugoslavia itself has been estimated to have done some $30-40 billion worth of damage to the FRY's economic infrastructure.

International concern over the fighting in Kosovo continued to grow throughout 1998, culminating in March 1999 with NATO's attacks on the FRY. The settlement that ended the conflict in June 1999 effectively, in practice if not in theory, removed Kosovo from Belgrade's legal control. Although the agreement recognized Yugoslavia's continuing territorial claim to sovereignty over Kosovo, the practical day-to-day administration of the province was turned over to a UN-led civilian administration. In the immediate aftermath of the Yugoslav army's withdrawal, Albanian attacks against Serbs, Roma, Turks, and other minorities in Kosovo led to a new round of forced expulsions of over 100,000 people. By mid-1999, the FRY had effectively disintegrated into three distinct political entities: Kosovo, under NATO/UN control, Montenegro, where Djukanovic was maintaining a precarious peace amongst rival elements in Montenegrin society, and Serbia (together with the FRY's other "autonomous" province, Vojvodina), where Milosevic was fully in charge. Despite the disastrous results of the Kosovo conflict, the Serbian opposition was unable to launch a serious campaign against the regime, partly due to infighting amongst its leaders, and partly due to the fact that an impoverished, demoralized population was unable and/or unwilling to risk civil war in Serbia itself.

Democratization

POLITICAL PROCESS 5.50/7

1. When did national legislative elections occur? Were they free and fair? How were they judged by domestic and international election monitoring organizations? Who composes the government?

In April 1992, Serbian and Montenegrin delegates in what was left of the Federal Assembly of the Socialist Federal Republic of Yugoslavia (SFRY) adopted a constitution for a new Federal Republic of Yugoslavia (FRY), composed of Serbia and her two autonomous provinces, Kosovo and Vojvodina, and Montenegro. The FRY was proclaimed on April 27, 1992, and in May 1992 elections were held for a body to succeed the SFRY's Federal Assembly. The new FRY constitution

created a bicameral Federal Assembly. The upper house is the forty-member Chamber of Republics in which Montenegro and Serbia have equal representation. The republican assemblies elect their respective members to the federal Chamber of Republics. Delegates to the 138-member Chamber of Citizens are elected according to a complex formula in which 108 delegates are assigned to Serbia and thirty to Montenegro. In each case, some delegates are popularly elected (in Serbia, 54; in Montenegro, 24) while the remainder are elected according to constituency majorities. Delegates in both chambers serve four-year terms.

Elections for the Federal Assembly were held in November 1996. An alliance composed of the ruling *Socijalisticka Partija Srbije* (the Socialist Party of Serbia, or SPS), the *Jugoslovenska Udruzena Levica* (the Yugoslav United Left, or YUL), and *Nova Demokratija* (New Democracy, or ND) won a plurality of 64 seats in the 138-member Chamber of Citizens. The SPS's sister party in Montenegro, the Democratic Party of Socialists of Montenegro (*Demokratska Partija Socijalista Crne Gore*, DPSCG) won an additional 20 seats. The three main opposition parties in the *Zajedno* (Together) coalition (the Democratic Party, the Serbian Renewal Movement, or SPO, and the Civic Alliance) won 22 seats, while the main right-wing nationalist opposition party, the *Srpska Radikalna Stranka* (the Serbian Radical Party, or SRS) won 16 seats.

The two republics each have popularly-elected, unicameral assemblies, with delegates serving four-year terms. The Serbian Assembly (*Skupstina Srbije*) has 250 seats. Delegates are elected according to a proportional-representation system, although the Serbian government was in 1999 considering the adoption of a first-past-the-poll system, which would favor Milosevic's SPS. In the December 1993 elections for the Serbian Skupstina, the SPS won 123 seats; a multiparty opposition movement, the *Demokratski Pokret Srbije* (the Democratic Movement of Serbia, or DEPOS) won 45; the SRS won 39; the Democratic Party 29; the Democratic Party of Serbia 7; the Democratic Community of Vojvodina Hungarians 5; and a Sandzak-Moslem-Kosovo Albanian coalition, the Party of Democratic Action/Democratic Party of Albanians won 2.

Two leading opposition parties, Zoran Djindjic's Democratic Party and Vesna Pesic's Civic Alliance, boycotted the latest elections for the Serbian Skupstina in September 1997. Milosevic's ruling left-wing coalition lost its governing majority, gaining only 110 seats. The SRS, on the other hand, significantly increased its share of power, gaining 82 seats. Vuk Draskovic's SPO also improved its standing, winning 45 seats in the Skupstina. Other smaller parties, including one representing Vojvodina Hungarians and another representing Sandzak Muslims, shared the remaining 13 seats. Serbian politics took a turn to the nationalist right in March 1998, when the SRS president, Vojislav Seselj, was named deputy prime minister in the new Serbian government. In January 1999, what could loosely be called a government of national unity was formed when Vuk Draskovic joined the federal government as a deputy prime minister. Four of his fellow SPO members were also given ministerial positions. Draskovic's tenure in government was cut short, however, when he was purged in April 1999 after criticizing Milosevic's policies during the NATO intervention in the Kosovo conflict.

In the November 1996 elections for the 71-seat Montenegrin Assembly (*Skupstina Crne Gore*), the ruling DPSCG won 45 seats; the Liberal Alliance 19; the Party of Democratic Action 3; the Democratic Alliance of Montenegro, 2; and the Democratic Union of Albanians 2. In 1997, the DPSCG split into two factions, one supporting the pro-Milosevic Montenegrin president, Momir Bulatovic, and the other supporting Milo Djukanovic, another leading DPSCG member who favored greater autonomy for Montenegro within the Yugoslav federation. In the most recent elections to the Montenegrin Parliament, held in May 1998, the Djukanovic-led coalition "Za Bolji Zivot" ("For a Better Life") won 42 seats, Bulatovic's Socialist People's Party of Montenegro won 29 seats, the Liberal Alliance of Montenegro, 5, and the Democratic Union of Albanians, 1 seat. In contrast to elections held in Serbia, the Organization for Security and Cooperation in Europe (hereafter, the OSCE), has deemed elections held in Montenegro to be "free and fair."

The Kosovo Albanian population consistently boycotted Serbian and Yugoslav elections from 1989 on. In 1990, Serbian authorities had promulgated a new republican constitution that rescinded the broad autonomy Serbia's two provinces, Kosovo and Vojvodina, had enjoyed since 1974. Albanian delegates in the Kosovo Assembly responded by declaring Kosovo a constituent republic in Yugoslavia (but independent

of Serbia), to which Serbian authorities responded by dissolving the Kosovo Assembly. In May 1992, Kosovo Albanians held elections for a new assembly, and elected Ibrahim Rugova "president" of the self-declared "Republic of Kosovo." Serbian authorities immediately declared the elections illegal. However, the Kosovo Albanian's state remained unrecognized by the international community. On March 22, 1998, Kosovo Albanians again held elections for their self-declared parliament and presidency. Despite a boycott of the elections by several smaller Albanian parties, Rugova was again overwhelmingly elected president.

2. When did presidential elections occur? Were they free and fair?

The Federal Assembly elects the Yugoslav president, who must obtain the approval of both Montenegrin and Serbian delegates. The Yugoslav president, in turn, nominates the federal prime minister. According to the FRY constitution, the federal president and the federal prime minister cannot be from the same republic, and the federal president is limited to only one four-year term. The first FRY president was Dobrica Cosic, a well-known Serbian writer and dissident during the Titoist period. In June 1993 Cosic was ousted by Milosevic and replaced by Zoran Lilic, a Milosevic protégé with no independent authority. Since Milosevic himself was constitutionally prohibited from serving a third consecutive term as Serbian president, he took over Lilic's position as Yugoslav president in July 1997. At the same time, Milosevic's party also proposed constitutional changes so that the Yugoslav president would henceforth be popularly elected. This was widely seen as a precautionary move, given Milosevic's increasing unpopularity in Montenegro.

According to the FRY Constitution, the Yugoslav presidency is a largely ceremonial post. In reality, however, Milosevic's control over the SPS and various state security organs makes him by far the most powerful man in the country.

The president of Serbia is popularly elected. Slobodan Milosevic won the first multi-party elections in December 1990, and was re-elected in December 1992. In 1997, the SPS nominated Zoran Lilic (see above) as its candidate for the Serbian presidency. After failing to win in the first two rounds in September and October, Lilic was replaced by Milan Milutinovic as the SPS candidate. The primary opponent to both Lilic and Milutinovic was the SRS leader, Vojislav Seselj. In a fourth round of elections in December 1997, Milutinovic beat Seselj amidst widespread rumors of ballot stuffing to assure a 50 percent turnout. Little complaint was heard from the international community, however, because Milutinovic was felt to be an infinitely more acceptable figure than the more nationalist Seselj.

The President of Montenegro is also popularly elected. Milo Djukanovic, the former Montenegrin Prime Minister who broke with Milosevic and his Montenegrin loyalists during the Serbian opposition protests in the winter of 96/97, was elected president of Montenegro in multi-party elections in October 1997. Djukanovic's victory was disputed by his opponent and predecessor as president of Montenegro, Momir Bulatovic, who accused the Djukanovic camp of widespread vote fraud. Despite rumors that Bulatovic was planning a coup and that Milosevic wanted to impose a state of emergency in Montenegro, strong international support for Djukanovic helped keep him in office, and the confrontation between Djukanovic and Milosevic, and between Montenegro and Serbia, continued.

None of the elections held in Yugoslavia over the past several years, whether at the national, republican, or municipal levels, can be considered to have been "free and fair." Regarding the several rounds of presidential and parliamentary elections in Serbia in the latter half of 1997, for instance, an OSCE report noted that the "overall election process in the Republic of Serbia is fundamentally flawed," and the US State Department has claimed that "in practice citizens cannot exercise the right to change their government." Opposition parties are routinely denied access to state-owned media (see below), and the Milosevic regime manipulates the electoral process in numerous ways.

3. Is the electoral system multiparty-based? Are there at least two viable political parties functioning at all levels of government?

Yugoslavia's system is multi-party based. The FRY Constitution guarantees citizens freedom of political association (Article 41). At the federal Yugoslav, republican, and municipal levels several parties compete in elections and participate in government. The actual power and influence of the various parties varies significantly. The SPS, for instance, by virtue of

its control over the state security forces, the most important mass media, and the most important segments of the economy, has a disproportionate share of power at all levels of government. Nevertheless, over the course of the past few years, the SPS has lost its exclusive control of government institutions, and has been increasingly forced to form coalitions with opposition parties.

4. How many parties have been legalized? Have any parties been banned or declared illegal?
As of 1995, there were approximately 200 parties functioning at the federal and republican levels. Many of these, however, were small parties with little or no infrastructure or coherent political platform. Article 42 of the FRY constitution forbids any political parties/organizations that advocate the violent overthrow of the constitutional order. In the fall of 1997, Serbian officials prevented a party representing Muslims in the Sandzak, Sandzak-Dr. Lasim Ljajic, from forming an electoral coalition with the Kosovo-based Democratic Reform Party of Muslims.

5. What proportion of the population belongs to political parties? What proportion of party membership is made up of women?
Exact figures on political party membership are difficult to come by because many parties are reluctant to release such data. Within Serbia itself, if one excludes the Kosovo Albanian population (which has been boycotting elections since 1990), and Hungarians in Vojvodina (who vote for their own ethnically based parties), the Serbian electorate can be divided into four segments. The first consists of those who abstain from voting altogether. The second consists of SPS/YUL voters. The third consists of SRS supporters. The fourth segment votes for the rest of the opposition parties, such as the SPO, the DS, the GSS, etc.

The SPS claims a membership of approximately 600,000, making it by far the largest political party in Yugoslavia. *Nova Demokratija* claims to have 40,000 members. Official membership figures, however, do not generally reflect a party's overall level of popular support. Such information is better determined by analyzing voting results since 1990. Public support for Milosevic's SPS, for instance, has declined considerably over the past eight years; in the 1990 elections, the SPS gained over 2,300,000 votes, while in the 1997 elections, this number fell to 1,200,000. Vuk Draskovic's SPO has consistently won between 700,000 and one million votes over the past eight years. Support for Vojislav Seselj's SRS also fluctuates considerably; in the elections between 1990 and 1997 the SRS gained anywhere between 600,000 and 1,038,000.

Reliable figures for Montenegrin political parties are also difficult to obtain. Of Montenegro's approximately 450,000 registered voters, however, it is generally assumed that most Montenegrins who identify themselves more as Serbs, or favor close ties with Serbia, vote for Momir Bulatovic's wing of the DPS-CG. Milo Djukanovic's recent electoral successes, on the other hand, are due to the votes his faction of the DPS-CG has received from Albanians, Croats, and Muslims in Montenegro, along with that segment of the Orthodox population that has traditionally favored Montenegrin independence.

No information is available for the percentage of women registered in political parties. Legally, there are no restrictions on women's participation in politics, and women are active in political organizations; nevertheless, they are underrepresented in party and governmental offices, holding by one estimate less than 10 percent of the ministerial level positions in the Serbian and Federal governments.

6. What has been the trend of voter turnout at the municipal, provincial, and national levels in recent years? What are the data related to female voter participation?
Voter turnout throughout the former Yugoslavia was traditionally high. In the 1990 elections, well over 70 percent of the eligible electorate turned out. In more recent elections there have been signs of "voter fatigue." Due to the boycott of the September 1997 Serbian elections, for instance, many observers questioned the Republican Electoral Commission's claim that 62 percent of the electorate had turned out. In subsequent runoff elections for the Serbian presidency voter turnout hovered at or below the 50 percent level. In the October 1997 presidential elections in Montenegro, voter turnout was approximately 73 percent. Information regarding female voter turnout is unavailable.

CIVIL SOCIETY 5.25/7

1. How many nongovernmental organizations (NGOs) have come into existence since 1988? What is the number of charitable/nonprofit organizations? Are there locally led efforts to increase philanthropy and volunteerism? What proportion of the population is active in private voluntary activity (from polling data)? What are some of the major women's nongovernmental organizations and what is the size of their membership?

Hundreds of organizations have been formed since 1988, although the exact number and the size of their memberships are difficult to determine. NGOs in the FRY are still officially registered as "social organizations" or "associations of citizens" in accord with the terms used during the socialist period. According to the Federal Statistics Office, in 1994 there were 18,937 registered "social organizations" and 1,349 registered "associations of citizens." All of these, however, had originated during the socialist period. Since 1991, observers believe another 500 have been formed, the most numerous being ecological and humanitarian organizations, followed by human rights oriented NGOs.

In 1991, a very vocal Belgrade-based "Center for Anti-War Action" emerged, and a "Humanitarian Law Center" was also founded. There are also Helsinki Committees active in Belgrade, Pristina, and the Sandzak. The Helsinki Committees in Belgrade and Pristina often collaborate in monitoring the human rights situation in Kosovo. The Serbian Orthodox Church is active in providing charitable assistance to refugees and the poor. In Kosovo, a predominantly-Serbian organization of citizens known as the "Serb Resistance Movement" has organized to protest the Milosevic regime's policies in that province. The Students Club in Belgrade and the Independent Union of Students in Kosovo have also played prominent roles over the past several years. Several environmental and women's rights groups are also active; among the latter, some prominent ones are the Belgrade-based "Women in Black," "Krajina and Tara," "Tera," "Woman" (an association of single mothers), and the Pristina-based "League of Albanian Women" and "Mikya."

An interesting development in early 1999 was the rise of so-called "Citizens' Parliaments" in various parts of Serbia. The organizational center of this movement was in the town of Cacak. Spokespersons for the Citizens' Parliaments claimed that their primary goal was the protection of civil rights, but their spontaneous emergence was in part a reaction to what was widely perceived to be an ineffectual, discredited opposition. Most of these movements, in fact, intentionally avoided developing ties with existing opposition parties.

2. What is the legal and regulatory environment for NGOs (i.e. ease of registration, legal rights, government regulation, taxation, procurement, and access-to-information issues)? To what extent is NGO activism focused on improving the legal and regulatory environment?

Although legal provisions for registering NGOs are relatively liberal at the Federal level, politically active NGOs often have to confront various forms of governmental harassment. By virtue of being able to cause problems for businesses, the government can discourage corporate/business support for the NGO community. Humanitarian assistance is tax exempt, according to current tax laws, only if it is distributed through the Red Cross or the Office of the Serbian Refugee Commissioner. Revenue used to support programs and core administrative costs are not subject to taxation. Laws on citizen's associations at the republican and Federal levels have not been brought into conformity with the republican and Federal constitutions, and there is no legal framework for international NGOs; consequently, all find themselves in various forms of legal limbo.

The operating environment for NGOs in Yugoslavia fluctuates according to the international situation. In 1997, there was a mild improvement in the position of NGOs in Serbia proper, as some observers noted that the Milosevic regime allowed more foreigners affiliated with international NGOs to enter the country. International monitoring groups claimed that in general, they were free to conduct their activities. On the other hand, domestic NGOs have charged that the government was illegally obstructing their activities. For instance, a Belgrade-based NGO which monitors elections (CeSID, the Center for Free Elections and Democracy) in November 1997 claimed that the government had denied them the right to monitor the presidential and parliamentary elections in Serbia in September. In subsequent legal proceedings initiated by CeSID, the Serbian Supreme Court upheld the government's refusal to allow CeSID a role in elections monitoring. International NGOs have also re-

ported unacceptably long delays in getting visas for their personnel. In Montenegro, the government has promoted more open and liberal policies towards NGOs.

3. What is the organizational capacity of NGOs? Do management structures clearly delineate authority and responsibility? Is information available on NGO management issues in the native language? Is there a core of experienced practitioners/trainers to serve as consultants or mentors to less developed organizations?

Despite the large number of NGOs and citizens' association that are on the books, only about a dozen Belgrade-based NGOs have well-defined missions, established reputations, loyal donors, and defined sets of activities. This core group consist primarily of human rights, anti-war, and women's NGOs. However, a new generation of NGOs has grown up in cities outside of Belgrade. An NGO support center, the Belgrade-based Center for the Development of the Not-for-Profit Sector, provides some legal assistance to NGOs, consultation services, and issues a directory of NGOs in the country. There is also a local cadre of activists who can teach NGO management skills. Nevertheless, observers believe that more specialized training is needed for activists and members in NGO management, budgeting, fundraising, etc. New NGOs also frequently lack office space and equipment (e.g., telephones, fax machines, computers, e-mail and internet access, etc.). The availability of volunteers is not fully exploited.

4. Are NGOs financially viable? What is their tax status? Are they obliged to and do they typically disclose revenue sources? Do government procurement opportunities exist for private, not-for-profit providers of services? Are NGOs able to earn income or collect cost-recovery fees?

Most NGOs operate on shoestring budgets, and make do from grant to grant. Most NGOs depend upon volunteer support. Activists generally lack fundraising skills. The depressed state of the Yugoslav economy means that most NGOs will remain dependent on the international donor community for some time to come. Some NGOs receive in-kind support (e.g., the use of office space) from reform-minded municipal authorities in cities and towns run by the opposition. Another way for NGOs to raise funds is by charging for services and engaging in other revenue-raising activities.

5. Are there free trade unions? How many workers and what proportion of the workforce belong to these unions? Is the number of workers belonging to trade unions growing or decreasing? What is the numerical/proportional membership of farmers' groups, small business associations, etc.?

Article 41 of the FRY constitution guarantees workers the right to form free trade unions. All workers except military and police personnel are entitled to join or form unions. Out of a total estimated labor force of 2.3 million, the government controlled "Alliance of Independent Labor Unions" has an estimated membership of 1,000,000. The independent "United Branch of Independent Labor Unions" has about 170,000 members. Other unions are smaller and more sector-specific; for instance, the Union of Bank Employees claims some 12,000 members. Numerous smaller unions representing transportation workers, educational employees, journalists, retirees, etc., are very active, at least judging by their proclivity to strike. The independent unions, however, still have not reached the critical mass needed to organize successful, countrywide general strikes. Independent unions suffer from regime attempts to suppress their activities; for instance, unions are often prohibited from busing their members to strikes or demonstrations held in different parts of the country.

6. What forms of interest group participation in politics are legal? What types of interest groups are active in the political and policy process?

Articles 39 and 41 of the FRY constitution grant citizens the freedom to form political parties and organizations, and freedom of assembly. There are numerous organized interest groups in the country, representing ethnic constituencies (e.g., especially prominent are those representing Albanians, Hungarians, Muslims, and Roma (Gypsies), business interests, such as the Yugoslav Chamber of Commerce and Industry, women's rights groups, etc.

7. How is the not-for-profit/NGO sector perceived by the public and government officials? What is the nature of media coverage of NGOs? To what extent do government officials engage with NGOs? Is the government receptive to NGO policy advocacy?

Government officials associated with the ruling regime generally view NGOs (especially those with international connections) in suspect terms. Often they are accused of being "traitors" or "foreign mercenaries." NGOs also suffer from the fact that they are not a traditional form of social activism in these regions; consequently, the local population often views them as "mercenaries" working for foreign interests. Moreover, there is in general a certain ignorance about what functions NGOs are supposed to perform in society. NGOs are usually viewed more favorably in towns and cities where the opposition has come to power. Independent/alternative media treat NGOs in more favorable terms, although the NGO community itself has frequently failed to understand the need of publicizing its activities through the local press.

Federal and republic-level organs of government are generally perceived to be uninterested and unresponsive to NGO policy advocacy. Little contact takes place between NGOs and government bodies. There have also been reports of a certain amount of self-censorship on the part of NGOs for fear of governmental reprisals.

INDEPENDENT MEDIA 5.75/7

1. Are there legal protections for press freedom?
Articles 36 and 38 of the FRY Constitution guarantee freedom of the press and prohibit censorship, with one stipulation: press/media outlets enjoy these freedoms only if they are registered with the government. In practice independent/alternative media have frequently been subjected to numerous forms of legalistic/bureaucratic harassment. By 1998/99, as opposition to the Milosevic regime grew, this turned into outright persecution. A new media law presented in February 1998 on the allocation of frequencies for TV and radio stations, for instance, drew considerable criticism from the independent media because of its ambiguity. The new regulation imposed undisclosed fees for the allocation of frequencies, leaving officials free to price independent media houses out of business. Another feature of the new regulation warned that applications for a frequency would not be processed if technical details (for instance, how far the signal of a certain transmitter will carry) in the application were incorrect. Since the methodologies for testing such things varies, this left considerable scope for arbitrary determinations that an application was "technically incorrect."

In October 1998, with the threat of NATO bombardment imminent, the Serbian government passed a decree on media conduct in a situation of immediate war danger, which enabled it to close or impose punitive measures against any media of its choice. The decree resulted in the closure of several independent papers, including *Danas*, *Dnevni Telegraf*, *Evropljanin*, and *Nasa Borba*. After the immediate crisis passed, many of the measures were adopted as permanent legislation.

When the NATO bombing campaign began on March 24, 1999, a new set of decrees were passed which established a system of wartime censorship. Media houses were provided with suggested "language" for describing NATO, the KLA, etc., and journalists were prohibited from reporting on military or civilian casualties. In April, the publisher of *Dnevni Telegraf*, Slavko Curuvija, was assassinated in Belgrade. His murderers were never found. Many independent journalists were also taken into temporary custody during the war. In a very controversial act, Yugoslav media also came under attack from a different source—NATO itself, when cruise missiles destroyed the building housing *Radio-Televizija Srbije* (RTS), killing 16 reporters, editors, and technicians.

2. Are there legal penalties for libeling officials? Are there legal penalties for "irresponsible" journalism? Have these laws been enforced to harass journalists?
There are laws on the books against slandering private individuals and government officials, but prior to 1998 the Milosevic regime had rarely used such forms of harassment. The October 1998 decree on the media included provisions allowing media outlets to be fined for publishing items of a personal nature without the consent of the concerned individual. The decree also allowed private individuals or organizations to sue media outlets for being "insufficiently patriotic" or for disseminating information that does not uphold "the territorial integrity, sovereignty and independence of the country." Most often, the legal penalties for such actions have been the imposition of exorbitant fines against the accused, with the intent of destroying their financial viability.

3. What proportion of media is privatized? What are the major private newspapers, television stations, and radio stations?

Yugoslavia has a plethora of both electronic and print media outlets. According to one estimate, in 1997 there were 300 privately owned radio stations and 100 privately owned TV stations in Yugoslavia. Belgrade now has 12 daily newspapers. In Yugoslavia as a whole, there are 27 daily newspapers, 171 weeklies or biweeklies, and 188 monthlies.

The largest and most influential media in Yugoslavia, however, both electronic and print, are state-owned. The most important TV station is the only government-owned station RTS, with a signal covering most of the country. RTS's editorial policy is strictly pro-government; during the 1997 electoral campaign, for instance, the Humanitarian Law Center in Belgrade claimed that all of the opposition parties combined received only one-fourth of the airtime RTS devoted to the ruling SPS-coalition. A primary demand by the opposition since 1990 has been greater access to state-owned media. The most memorable feature of the winter 1996/97 opposition protests was the sight of tens of thousands of demonstrators rattling pots and pans and blowing their car horns during the broadcast of RTS's main evening news program.

Montenegro and each of the provinces have their own state television services as well. In 1997, after the relationship between Montenegro's state-run television network (*TV Crna Gora*), and the Milosevic-controlled RTS soured, *TV Crna Gora* began broadcasting a more objective and open news-information program. Under *TV Crna Gora's* new editorial leadership, opposition political parties began to receive more coverage, and collaboration with independent news media in Belgrade, such as Radio B-92 or Belgrade's Studio B television station increased. By way of contrast, *TV Crna Gora* in 1997 stopped rebroadcasting RTS's main nightly news program. Among the most important print media in Montenegro are *Vijesti* and *Monitor*.

In both Kosovo and Vojvodina, there are RTS broadcasts in Albanian or Magyar, respectively, although the editorial slant is pro-Milosevic. Yugoslavia also has numerous print media for ethnic minorities published in their native languages, e.g., Novi Sad's *Magyar Szo,* a Hungarian-language daily (est. circulation: 26,000), or Pristina's *Koha Ditore*, an Albanian-language newsmagazine edited by a well-known Albanian activist, Veton Surroi. In 1998, a new Albanian language daily, *Koha Sot*, began publishing with a circulation of 35,000, with an editorial line pursuing a middle line between the more militant *Koha Ditore* and the pro-Rugova elements in the Albanian population.

The largest print daily in Yugoslavia is the Belgrade-based *Politika* (estimated circulation: 200-300,000), again with a pro-Milosevic editorial line. There are a variety of opposition publications, and their popularity has increased in recent years. According to one report, in 1997 the overall circulation of the independent press surpassed that of the state media. The Belgrade-based newsweeklies *Vreme* and *NIN* are strongly anti-regime. In recent years, tabloids such as Belgrade's *Blic* have also gained in popularity. In 1998, however, as part of Milosevic's overall crackdown, a number of print media, such as *Nasa Borba*, *Demokratija*, *Dnevni Telegraf*, and *NT Plus* were closed, as well as the weekly *Evropljanin*.

Among the most important privately-owned electronic media are Belgrade's B-92 radio station and Studio B independent television station. B-92 has long been noted for its strong anti-war stance, and during the winter 96/97 Belgrade demonstrations actually gained many new listeners as people tuned in to get more objective reporting as to what was going on around the country. B-92 has also organized a network of 24 opposition radio stations throughout Serbia, Vojvodina, and Montenegro. All told, the network's program reaches 70 percent of Serbia's population. After the NATO bombing campaign began in March 1999, one of the regime's first acts was to arrest B-92's editor-in-chief, Veran Matic. (Matic was subsequently released, although B-92 was forced to operate under strict governmental supervision for the duration of the war.)

Over the past several years, Belgrade's Studio B television station provided opposition parties with much more coverage than they could receive on RTS. Studio B's signal, however, only reaches limited parts of Belgrade, and over the past several years the government has repeatedly refused to allow Studio B to obtain a stronger transmitter. Opposition cadres from the Zajedno coalition took charge of Studio B after the results of the 1996 municipal elections were recognized, but in September 1996 squabbling among opposition parties led Vuk Draskovic's SPO to purge the station of Zoran Djindjic's supporters. Opposition figures subsequently claimed the Studio B had become the SPO equivalent of Milosevic's RTS.

The most important privately owned television station is BK Television, owned by three brothers who made their fortune in banking. Although originally close to Milosevic, their television station increasingly began to criticize regime policies, and in March 1997 the state temporarily suspended BK television's broadcasts outside of Belgrade to prevent Serbia's wider population from learning about the extent of the opposition movement. More recently, BK television has again adopted a more pro-regime line.

4. Are the private media financially viable?
Only a very few, such as BK Television. Many, such as *Vreme* and Radio B-92, depend on foreign donations to survive. In March 1997, the Serbian government proposed new draft legislation requiring the various media to disclose any funding they receive from abroad. Another feature of the legislation, prohibiting any radio or television station from broadcasting to more than 25 percent of the population, had to be dropped after the Zajedno coalition threatened to boycott the upcoming elections.

5. Are the media editorially independent? Are the media's news gathering functions affected by interference from government or private owners?
State-owned media tow the government/party line. Private and independent media, on the other hand, have completely independent editorial policies. Many newspapers, magazines, and radio stations are vehemently anti-regime. The Milosevic government tolerates this state of affairs because these same media have relatively little impact on public opinion. The limited impact independent media have is mainly the result of two factors. First, given the economic situation, most people simply cannot afford to buy alternative/independent publications. Second, Yugoslavia's rural population relies mainly on state-owned media for information. Nevertheless, on some occasions the regime decides not to take any chances; thus, in the run up to the Serbian elections in the summer of 1997, the Milosevic government temporarily shut down 77 private radio and television stations around the country.

6. Is the distribution system for newspapers privately or governmentally controlled?
Newspapers and other print media are disseminated through several well-established distribution chains, most of which are government affiliated, e.g. the *Politika* publishing house's kiosk chain. In larger cities independent publications are easily obtained, even at state-owned kiosks. The terms under which government-owned chains distribute independent publications, however, are usually financially unfavorable. The government-owned chains also frequently delay or postpone payment to independent media outlets, which, given the level of inflation, means that newsstand earnings are usually worthless. A common form of government harassment has been to deny independent publications newsprint, or to make the cost of newsprint prohibitively expensive.

One consequence of the NATO bombing campaign has been to make it even more difficult for independent media outlets to distribute their publications. Damage to the telecommunications system has made it more difficult to gather news and information, and damage to bridges and roads has made it more difficult to distribute papers.

7. What proportion of the population is connected to the Internet? Are there any restrictions on Internet access to private citizens?
Precise figures on the proportion of the population connected to the Internet are not available. There are 4.95 internet hosts per 10,000 people in Yugoslavia.

Limited access to the Internet is more the result of a lack of computers than of government restrictions. Although Yugoslav citizens had been in the first wave of Internet users in the early 1990's, a permanent satellite link to the Internet was only established in February 1996, courtesy of a Norwegian provider. In November 1995, with help from the Soros Foundations, Belgrade's Radio B-92 founded Opennet, which was originally restricted only to Serbia's academic network. According to one estimate, one Yugoslav citizen in one thousand is a regular Internet user. Early in 1998, Yugoslavia's largest Internet services provider, EUNET, signed up its 20,000th subscriber. Many individuals have access to the Internet through academic and governmental institutions, or through various business enterprises; according to some informal estimates, the total figure stands at approximately 300,000 people. Belgrade also has "Cyber Cafés" where people can stop by and log on.

The Internet quickly became an important battleground between the Milosevic regime and Serbian civil

society. In November 1996, after widespread protests erupted throughout Serbia to protest the Milosevic government's annulment of municipal election results, Radio B-92 began to broadcast reports on the protests via the Internet. The regime then tried to jam B-92's radio signals, to which B-92 responded by using a computer program called RealAudio (which carries sound through the Internet) to relay its radio programs, allowing Internet users both in and outside of Yugoslavia to listen to B-92's programs. The US manufacturer of RealAudio subsequently donated more powerful equipment, which allowed more than 500 people to listen to the Internet broadcasts simultaneously. Rumors (which were impossible to confirm) circulated at the time that the regime had pressured Internet service providers into disconnecting Serbia from the World Wide Web.

The cyber war between the Milosevic regime and Radio B-92 heated up again in October 1998, after Serbia's new media legislation was passed. The Serbian government placed a filter on web browsers at the University of Belgrade, which blocked B-92's site, and similar ones. B-92 responded by asking contacts outside of Yugoslavia to copy their website and then distribute B-92's reports by email. On December 28, 1998, the regime again had to admit defeat and removed the filter. During the 1999 NATO bombing campaign, B-92's website was shut down.

In Kosovo, the Albanian-language daily newspaper *Koha Ditore* established Kosovo's first email system Zananet, in 1994, as part of the ZaMir network. By March of 1999, there were four Internet service providers in Kosovo: Pronet (owned and managed by Albanians), Eunet, Co.yu, and the PTT. Prior to the NATO bombing campaign against Yugoslavia, Pronet's staff frequently had to hide its equipment from police raids. Pronet was estimated to be serving several hundred users. Radio 21, and independent Albanian radio station based in Pristina, also managed to broadcast its reports via the Web. In the aftermath of the Kosovo conflict, Anonymizer.com, an Internet gateway which has an anonymous email service, created the Kosovo Privacy Project, which offered anyone in Yugoslavia a dedicated gateway through which they could send their email, without any possibility of being monitored by, for instance, Milosevic's security forces.

8. What are the major press and journalists' associations? What proportion of their membership is made up of women?

Among the more important professional journalistic organizations in Yugoslavia are the Association of Independent Electronic Media (ANEM); LOCAL PRESS, an organization of independent local magazines in Serbia; and NUNS (National Union of Independent Journalists). Information on the proportion of women in their membership is not available.

9. What has been the trend in press freedom as measured by Freedom House's *Survey of Press Freedom*?

Freedom House's annual *Survey of Press Freedom* rated Yugoslavia "Not Free" from 1991 through 1999.

GOVERNANCE AND PUBLIC ADMINISTRATION 5.50/7

1. Is the legislature the effective rule-making institution?

The trend in recent years, and especially in 1997, has been for the SPS party leadership, and especially Milosevic himself, to determine the outlines of policy, which the SPS-dominated Federal Assembly then rubberstamps. In 1997, the Federal Assembly convened only one time, and one report charged that "decisions are taken at one power center and then take the shape of decrees, written or oral instructions, many of which are not even published." This state of affairs has become more pronounced as the Milosevic regime has slowly lost its exclusive monopoly on state institutions and has had to allow opposition forces into government institutions. In Montenegro, for instance, the reformist victory in October 1997 forced Milosevic loyalists out of office. In Serbia, the opposition parties' victory in the November 1996 municipal elections gave them a toehold on power at local levels, and the September 1997 Serbian parliamentary elections gave non-SPS parties a majority in the Serbian *Skupstina*.

2. Is substantial power decentralized to subnational levels of government? What specific authority do subnational levels have?

According to the FRY constitution, the republics enjoy considerable autonomy, and the right to local self-government is guaranteed (Article 6). In practice, however, while Milosevic's Montenegrin protégé, Momir Bulatovic, was president in Serbia's federal partner, most decision-making was centralized. After October 1997, the Djukanovic leadership began to reassert its authority and standing as an equal partner in the federation. Within the republics, there is a high degree of centralization; for instance, the republican education ministries design school curricula, textbooks, etc., which then have to be implemented throughout the republic. Similarly, prices for various utilities are determined at the republic level, not at the municipality level. Most importantly, the police forces in both republics are highly centralized. Most political parties are highly centralized as well, largely because of the fact that the support they garner is more a function of their leader's charisma than the party's political program per se.

3. Are subnational officials chosen in free and fair elections?

Subnational officials are not chosen in free and fair elections. As noted above, the ruling party has numerous ways to influence the outcome of elections. For instance, the OSCE's special representative for Yugoslavia, Felipe Gonzales, noted in his December 1996 report after a fact-finding trip to Yugoslavia the existence of "deficiencies (of a structural nature) in the electoral system that make it possible to falsify or circumvent the sovereign will of the citizens." Similarly, a recent analysis of the human rights situation in Yugoslavia noted that "in practice, citizens cannot exercise their right to change their government."

Since the first multi-party elections in 1990 at the beginning of the post-communist era, opposition parties have consistently charged the regime with committing outright vote fraud. The most notorious case of vote fraud came after the November 1996 municipal elections in Serbia. Opposition parties won power in most of Serbia's largest urban areas, including Belgrade, Nis, and Kragujevac. The Milosevic regime, however, refused to acknowledge defeat and declared the elections invalid. Wide-scale, massive protests then erupted throughout Serbia, developing into a three-month long protest movement, with nightly marches and demonstrations by opposition parties. In February 1997, under severe international pressure, Milosevic was forced to back down, and a "*lex specialis*" (i.e., a "special law") was passed in the Serbian Skupstina accepting the opposition parties victory (the constitutionality of the law itself, however, was questioned by most observers).

4. Do the executive and legislative bodies operate openly and with transparency? Is draft legislation easily accessible to the media and the public?

Sessions of the Federal Yugoslav Assembly, or the Serbian or Montenegrin Skupstina's are frequently televised or otherwise covered by the press; however, much of the actual decision making takes place behind closed doors. Milosevic's SPS often tries to act unilaterally. For a recent appearance of Yugoslav delegates before the European Parliament, for instance, the SPS tried to send its own cadres, with their own platform, without including opposition members or Montenegrin officials.

5. Do municipal governments have sufficient revenues to carry out their duties? Do municipal governments have control of their own local budgets? Do they raise revenues autonomously or from the central state budget?

Although municipal governments do raise some revenues autonomously (e.g., turnover taxes from the sale of property, issuing various types of personal identification, the sale of vehicle license plates, setting prices of public transportation, etc.), most rely on supplemental funding from the central government. One World Bank specialist on Yugoslavia noted, "It is hard even to say what local government is when all of the money goes to the central government."

After losing the 1996 municipal elections in several Serbian cities, Milosevic's SPS cadres essentially emptied municipal coffers before the opposition could take power. The Milosevic regime then resorted to "punishing" municipalities that had voted for the opposition by denying them funds from the republican budget. Central authorities have also begun a campaign to reduce local competencies; for instance, municipal government's recently lost the right to grant foreign companies concessions for communal utility services.

6. Do the elected local leaders and local civil servants know how to manage municipal governments effectively?

Most local leaders and civil servants generally know how to manage municipal governments effectively. After the opposition victory in the 1996 municipal elections, however, there were numerous reports of local municipal councils being deadlocked. It also became apparent that, given the fact that many opposition members had never served in government, they had not developed the necessary political or bureaucratic expertise needed to run local governments effectively. Their situation was made even more difficult by the SPS's concerted efforts to portray opposition leaders as incompetent bunglers. In early 1997, critics charged that the SPS-led Serbian government created a new "Ministry for Local Self-Government" to maintain the regime's control over municipalities in which the opposition had won.

One of local government's most important responsibilities is drawing up voter's lists. With elections planned for various levels of government in 2000 and 2001, in mid-1999 it was widely assumed that the Milosevic regime would attempt to remove this power from municipal authorities in an effort to increase its ability to manipulate election results.

7. When did the constitutional/legislative changes on local power come into effect? Has there been reform of the civil service code/system? Are local civil servants employees of the local or central government?

The only major constitutional/legislative changes on local power to have been enacted, i.e., those rescinding the autonomy of Kosovo, came into force in 1989-90 and preceded the establishment of the FRY.

Local civil servants are the employees of local municipal governments. This allowed the opposition parties in the 1996 municipal elections to engage in a significant purge of SPS officials at the local level in many of Yugoslavia's biggest cities. For instance, soon after the opposition victory in Belgrade was recognized, the opposition quickly installed its own cadres in Belgrade's Studio B television station, which is officially owned by Belgrade's City Assembly. There has been no meaningful reform of the civil service code/system in the post-1992 period.

Rule of Law

CONSTITUTIONAL, LEGISLATIVE, AND JUDICIAL FRAMEWORK 5.75/7

1. Is there a post-Communist constitution? How does the judicial system interpret and enforce the constitution? Are there specific examples of judicial enforcement of the constitution in the last year?

A new constitution was promulgated in April 1992; however, the Serbian and Montenegrin republican constitutions still have not been brought into agreement with the federal constitution. The election of Milo Djukanovic as Montenegrin President has significantly complicated the FRY's constitutional system; for instance, in 1997 Montenegro adopted a law by which it no longer recognizes decisions by federal judicial organs. The judicial system is generally considered to be controlled by the Milosevic regime (see below).

2. Does the constitutional framework provide for human rights? Do the human rights include business and property rights?

The 1992 FRY constitution guarantees all Yugoslav citizens all human rights and civil liberties, regardless of ethnicity, race, gender, religion, or political creed, in accordance with international practice. Citizens are guaranteed freedom of assembly, a free press, the right to own property, etc., and national minorities are guaranteed the right to use their own language in educational institutions and in legal proceedings.

In practice, however, these rights have been difficult to implement, most notably in the case of the Kosovo Albanians. After the beginning of the KLA armed rebellion in Kosovo in late 1997, random abuse of human rights and civil liberties increased significantly. In fact, the Milosevic regime's dismal human rights record affected all of Yugoslavia's citizens, regardless of ethnicity. There were, however, significant differences between the human rights records in Serbia and Montenegro, as the latter's security apparatus was found to have "a relatively clean human rights record since 1995."

3. Has there been basic reform of the criminal code/criminal law? Who authorizes searches and

issues warrants? Are suspects and prisoners beaten or abused? Are there excessive delays in the criminal justice system?

The former SFRY's Federal Criminal Code remains in force, although work on a new criminal code has been ongoing for the past several years. The FRY constitution prohibits the use of torture against detainees or criminal suspects, but human rights organizations have documented numerous cases of abuse and beatings by security forces, especially in Kosovo and in Belgrade during the winter 96/97 demonstrations. In theory, judicial authorities authorize searches and issue warrants; in practice, however, the police often do these things on their own. The criminal justice system is also hampered by the fact that it often takes months, or even years, for cases to reach the courts, and executive institutions generally show little interest in enforcing judicial decisions.

4. Do most judges rule fairly and impartially? Do many remain from the Communist era?

The majority of judges are leftovers from the communist period. Most observers believe that judges do rule fairly and impartially on cases that do not concern politics. Court proceedings are conducted in public, unless there is a perceived need to protect government secrets, public order, or public morality. There have been charges that in the early 1990s many non-Serb judges were dismissed from their positions, particularly in Vojvodina.

Defense attorneys have frequently complained that they were denied access to detainees or had difficulties acquiring copies of official indictments. Some judges were also found to be preventing defense attorneys from reading court files. The judicial system also seems more willing to support human and civil rights in Serbia proper, whereas in Kosovo and the Sandzak, judges frequently are seen to be supporting the actions of the state security apparatus.

On several occasions, judges have proven to be fairly independent of the ruling party. For instance, in a 1998 case in Sremska Mitrovica, the Federal Ministry for Telecommunications confiscated the transmitter and other equipment of a local independent radio station. The local judge, however, ruled in the radio station's favor, and ordered the ministry to return the equipment. In February 1998, judges in Novi Sad and Vrsac refused to enforce the controversial "Decree on Measures of Financial Discipline" (see below).

5. Are the courts free of political control and influence? Are the courts linked directly to the Ministry of Justice or any other executive body?

According to the FRY constitution, there is a strict separation of powers between the executive, legislative, and judicial branches of government (Article 12), and justices in the Federal Constitutional Court, the Federal Court, and the Federal Public Prosecutor are not allowed to belong to political parties (Article 42). In practice, however, on matters of political importance to the regime the judicial system often acts as an adjunct of the SPS. Since the tenure of judges and their salaries are not fixed, they are susceptible to regime pressure when deciding on cases with political implications. The prime example of this came in the wake of the 1996 municipal elections when the court system overturned opposition victories in several cities throughout Serbia. Similarly, despite the fact that over sixty criminal charges had been filed during 1997 in the Serbian court system against Belgrade policemen for using excessive force against demonstrators during the winter 96/97 demonstrations, as of November 1997, no one had yet been held accountable for these abuses.

In another example of a judicial ruling having political undertones, in December 1997, the federal state prosecutor overturned a decision by the Montenegrin Supreme Court which declared the anti-Milosevic wing of the DPSCG to be the legitimate successor to the formerly united party. The OSCE's Gonzales Report noted that reform of the judicial system with regard to the election process was one of the most urgently needed reforms for Yugoslavia. Similarly, in late 1998, the Federal Constitutional Court ruled against allowing the Montenegrin president to select all 20 Montenegrin representatives to the Federal Assembly's Chamber of Republics, a move which reversed a 1994 decision which allowed Milosevic's ruling coalition to do the same while he was Serbian president.

Over the past several years, criminal investigations have been used to intimidate and harass political opponents of the Milosevic regime. All of the major opposition leaders, including Vuk Draskovic, Zoran Djindjic and Vojislav Seselj in Serbia, Novak Kilibarda in Montenegro, and Azem Vlasi in Kosovo, have been

charged with criminal wrongdoing for their activities. More recently, in February 1998, the former Montenegrin president, Momir Bulatovic, was also charged by a Montenegrin court with actions destabilizing the "constitutional order" (Article 114 of the Yugoslav Criminal Code) for allegedly organizing a protest demonstration in Podgorica in which several people were hurt.

6. What proportion of lawyers is in private practice? How does this compare with previous years? How many new lawyers are produced by the country's system of higher education? What proportion of lawyers and judges are women?
Unless a lawyer is working for the government, most lawyers are in private practice. In Belgrade alone, there are some 2,900 practicing lawyers. No information is available on the proportion of female lawyers and judges.

There are five law schools in the FRY, which in 1998 had a total of 21,550 enrollees (12,582 of which were female). Over the past four years, about 1000 students have graduated annually, over fifty percent of whom were women.

In July 1998, the regime passed a new Act on Lawyers, which allows the regime to exercise more control over the legal profession. The new legislation was attacked by several human rights monitoring groups as being an attack on lawyer's independence and an infringement on the lawyer-client relationship.

7. Does the state provide public defenders?
The state is obligated to provide a suspect/detainee with a public defender if they cannot provide one for themselves. The accused also has the right to have court proceedings translated into his/her native language.

8. Are there effective anti-bias/discrimination laws, including protection of ethnic minority rights?
Numerous anti-bias/discrimination laws exist; for instance, Articles 44-48 guarantee national minorities the right to education and information media in their native language, the right to form educational and cultural institutions, and the right to foster relations with co-nationals outside the borders of the FRY. Article 50 also makes incitement or encouragement of national, racial, or religious hatred or intolerance unconstitutional. With respect to the Kosovo Albanians and the Muslims in the Sandzak, however, these protections have frequently been violated.

9. Are judicial decisions effectively enforced?
Enforcement of judicial decisions depends upon the consent of executive bodies. Since the courts rarely rule against the interests of the regime, law enforcement and security institutions do enforce rulings made by the courts. This general rule has, however, become complicated by the Djukanovic government's continuing drive to increase Montenegro's autonomy from Belgrade. The federal constitution declares that it is up to the constituent republican authorities to enforce decisions of the Federal Constitutional Court; however, since the Djukanovic government no longer recognizes that court's rulings, it has also refused to enforce any of its decisions.

CORRUPTION 6.25/7

1. What is the magnitude of official corruption in the civil service? Must an average citizen pay a bribe to a bureaucrat in order to receive a service? What services are subject to bribe requests – for example, university entrance, hospital admission, telephone installation, obtaining a license to operate a business, applying for a passport or other official documents? What is the average salary of civil servants at various levels?
Corruption in Yugoslavia has grown over the past several years, partly as a result of the sanctions, and partly as a result of internal corruption within the regime itself. The extent and levels to which corruption in official circles has reached is indicated by the fact that in 1997, several close associates of the Milosevic family were gunned down, gangland style, on the streets of Belgrade. No one has been held responsible for these killings.

Corruption takes numerous forms in Yugoslavia. A longtime Milosevic loyalist, for instance, is in charge of the federal customs agency, which allows Milosevic and the SPS to control the flow of goods into and out of the country, and to impose arbitrary financial penalties and fees on individuals crossing the border. Although not officially bribes, a common practice throughout the former Yugoslavia was to provide doctors and nurses with "gifts" as an inducement to provide patients with better care. This practice has become even more widespread since sanctions were imposed in 1992 and the

health system has broken down. There have also been charges that some professors at Belgrade University are charging students bribes for passing grades. Protection rackets have become common in larger cities, and municipal authorities often charge kiosk operators considerable sums for the privilege of operating on city property. Because of the overall economic depression, salaries for civil servants have declined considerably; instructors at Belgrade University, for instance, were reported to have refused to collect their salaries because they were insultingly low. The average monthly salary of a government employee in 1996 was 901 dinars (approximately $163 (US) according to December 1996 exchange rates).

2. Do top policy makers (the president, ministers, vice ministers, top court justices, and heads of agencies and commissions) have direct ties to businesses? What are the legal and ethical standards for boundaries between public and private sector activity? Are they observed in practice?

Many leading members of the Milosevic regime are the directors of large state-owned enterprises. Directors and top management of other leading economic enterprises also owe their positions to their support for the regime. These ties are especially important in several strategic sectors of the economy, notably those that involve the importation of products such as fuel or pharmaceuticals. Enterprises in these sectors have the right to draw hard currency from the National Bank of Yugoslavia (NBY) to pay for their imports at the official exchange rate. They can then quickly sell the hard currency on the black market for a hefty profit. Similar monopolies exist for basic staples such as sugar, or highly taxed items such as coffee and cigarettes. In 1997, the Yugoslav government decided that henceforth enterprises would only be able to draw hard currency from the NBY for the import of pharmaceutical products and fuel, indicating that they might be trying to clamp down on widespread abuse of the system.

A typical example of the close ties between the Milosevic family, large businesses, and organized crime was Zoran Todorovic, the director of a Belgrade oil company, who was also the secretary-general of YUL, the left-wing political movement founded by Milosevic's wife, Mira Markovic. Todorovic was assassinated in Belgrade in October 1997. Mirko Marjanovic, the premier of the Serbian republican government, is also the director of the "Progres" enterprise, which has exclusive control of the Yugoslav fuel trade market with Russia. The vice-president of the Serbian government, Slobodan Radulovic, is also the director of "S Markets" a chain of small grocery stores. Milorad Vucelic, the vice-president of the SPS, is the owner and director of the "Komuna" publishing conglomerate. Dragan Tomic, the speaker of the Serbian Skupstina, is also the director of Jugopetrol, one of Yugoslavia's largest oil companies. Legal and ethical standards boundaries between private and public sector activity are seldom, if ever, practiced.

3. Do laws requiring financial disclosure and disallowing conflict of interest exist? Have publicized anticorruption cases been pursued? To what conclusion? Are there laws against racketeering? Do executive and legislative bodies operate under audit and investigative rules?

Currently, the FRY does not have laws requiring financial disclosure or disallowing conflict of interest. Although many prominent officials have been arrested and tried for corruption recently, critics charge they were arrested because they had fallen afoul of the regime politically rather than for their criminal activities.

4. Have there been public opinion surveys of perception of public sector corruption conducted with the support of reputable monitoring organizations? What are the principal findings and year-to-year trends?

A 1998 study by the UN Interregional Crime and Justice Research Institute (UNICRI) reported that 17 percent of respondents in Yugoslavia claimed they were the victims of official corruption, as opposed to an 11 percent global average. Longer-term data are not available.

5. What major anticorruption initiatives have been implemented? How often are anticorruption laws and decrees adopted? Have leading government officials at the national and local levels been investigated and prosecuted in the past year? Have such prosecutions been conducted without prejudice or have they targeted political opponents?

Both government and opposition figures frequently call for crackdowns on corruption; for instance, the SPS candidate for the Serbian presidency in 1997, Milan Milutinovic, made a drive against corruption one of the

pillars of his electoral campaign. In October 1997, the federal government called on judicial authorities to make corruption trials a priority. But given the fact that the Milosevic regime is founded on widespread corruption, little ever comes of such calls. When individuals are publicly charged with corruption, it is almost invariably because they have run afoul of the regime. In February 1998, Nenad Djordjevic, the vice-president of YUL (and a close political associate of Mira Markovic, Slobodan Milosevic's wife) was arrested for embezzling millions from the republic health insurance fund. Rumors circulating in Belgrade, which were impossible to confirm, however, suggested that Djordjevic's demise was the result of his close ties to the new, anti-Milosevic Montenegrin leadership. Numerous similar such cases have been publicized as well.

The government has not implemented any serious anticorruption initiatives as of yet. In September 1997, however, a group of 35 prominent Yugoslav economists published a plan for radical economic reforms in the FRY. Among their proposals was a call to have all property illegally obtained by party/state/regime functionaries between 1991 and 1997 confiscated.

6. Is there growing public intolerance of official corruption as measured in polls? Are there effective anticorruption public education efforts?
No anticorruption public education efforts have been initiated in recent years. Public intolerance of official corruption, however, is evident in the continuing secular decline in the popularity of those individuals currently in power. This is most notable in the case of Vuk Draskovic, the leader of the SPO, who is considered by much of the general public to have sold out to Milosevic in exchange for getting control over Belgrade's municipal government.

7. How do major corruption-ranking organizations like Transparency International rate this country?
Yugoslavia was ranked 9th out of 99 countries surveyed in Transparency International's 1999 Corruption Perceptions Index, and received a score of 2.0 (where 10 represents the least corrupt and 0 the most corrupt).

Economic Liberalization

PRIVATIZATION 5.00/7

1. What percentage of the GDP comes from private ownership? What percentage of the labor force is employed in the private sector? How large is the informal sector of the economy?
The private sector accounts for approximately 40 percent of GDP. The vast majority of officially registered businesses are in fact privately owned; according to one estimate, in 1995 this figure stood at 91 percent. Most of these are so-called micro-companies employing less than ten people. All told, some 27 percent of Yugoslavia's workforce is officially registered in the private sector; however, the actual figure is believed to be much higher because many individuals are working in the black or gray markets. The agricultural sector of the FRY economy accounted for 77 percent of private sector GDP in 1998. In 1994, the private sector accounted for 55.2 percent of all profits in the Yugoslav economy and 29.4 percent of total income, despite the fact that the private sector accounted for less than 3 percent of the total fixed capital in the Yugoslav economy. The "shadow economy" is estimated to have accounted for almost 41 percent of GDP in 1995. According to some estimates, between 30-40 percent of average household income is tied to earnings from shadow economy activities.

2. What major privatization legislation has been passed? What were its substantive features?
The FRY Constitution explicitly states that the FRY will have a market economy (Article 13). An initial privatization campaign in 1991-1993 offered managers and workers the right to buy shares in their enterprises on privileged terms, but the campaign went awry when hyperinflation set in and it became difficult to establish the true value of firms and assets. In 1994, the Property Transformation Revaluation Act annulled the privatization of 87 percent of the enterprises that had previously been privatized—effectively, the bulk of the economy was returned to state control.

A new privatization law in Serbia, named the "Law on Ownership Transformation," was passed by the Serbian Skupstina on July 21, 1997, and came into

effect on November 1, 1997. All told, between 4.5 and 5 million citizens were eligible to take part in this privatization program. According to the new law, 60 percent of the shares in state-controlled and socially owned enterprises would be distributed free to workers and managers, as well as to public-sector employees, pensioners, and farmers, in the form of coupons. The state pension fund was to be allocated 10 percent of the shares. The remaining shares were to be offered at a discount to employees before being made available to foreign investors. Critics pointed out, however, that the proposed legislation did not make privatization of state-owned and socially owned enterprises mandatory, nor did it set deadlines according to when privatization had to occur. Moreover, since many of the enterprises up for privatization are unprofitable and perpetually in the red, the actual value of the shares' individuals will receive will be negligible. By March 1998, no enterprises had been privatized according to the new legislation.

Although 1999 had been heralded as the "Year of Small and Medium Sized Firms" by the Serbian government, the NATO bombing campaign effectively put a halt to any economic reform programs for the year.

Privatization has progressed somewhat further in Montenegro, although a high-ranking U.S. government official recently stated that Montenegro's privatization program as of mid-1999 could only be awarded a "gentlemen's C." The republican Skupstina had passed a "Law on Ownership and Control Transformation" in 1992, which allowed enterprises to be privatized in various ways, such as the issuance and sales of shares under privileged conditions for employees of enterprises to be privatized, debt-equity swapping, investment in an enterprise (i.e., raising additional capital), the sale of enterprises to their respective managements, etc.

According to one estimate, 95 percent of the enterprises in Montenegro had undergone ownership transformation by September 1997. Fifty-six enterprises, with a net worth of 128 million DEM, had been completely privatized, and the private sector was estimated to account for 30-35 percent of Montenegro's GDP. One major enterprise, the Niksic brewery, was bought by a Belgian firm. After Milo Djukanovic was sworn in as president on January 15, 1998, the government promised more radical moves towards privatization. Western firms such as Merrill Lynch and Coopers and Lybrand have been involved in deals to privatize a variety of enterprises, including an aluminum combine, a health spa, a tobacco factory, and are bidding for concessions to build a hydro-electric plant.

3. What proportion of agriculture, housing and land, industry, and small business and services is in private hands?

Agriculture: Over 75 percent of the arable land in Yugoslavia is privately owned.

Housing: Yugoslavia's housing stock at the end of 1995 was estimated to comprise 3,123,000 units, of which 687,000 (approximately 22 percent) were state/socially owned.

Industry, Small Business and Services: According to one estimate, of the 219,763 enterprises registered in the industrial sector of the economy in 1996, 143,774 (65.4 percent) were privately owned. Medium-sized enterprises are defined as those employing up to 500 people; small enterprises can mean a kiosk, a counter at a flea market, or a boutique. According to official statistics, some 200,000 people are employed in small-sized enterprises, but the real figure is believed to be twice that number. Altogether, small- and medium-sized firms legally employ some 700,000 citizens.

Larger industrial enterprises, such as the steelworks in Smederevo or the Zastava automobile plant in Kragujevac, remain state-owned, although prior to the NATO bombing campaign foreign investors had shown some interest in acquiring these enterprises. In the case of Zastava, for instance, exploratory talks had taken place with Skoda. The NATO bombing attack on Yugoslavia severely damaged both plants. Of the remaining state-owned enterprises, privatization of small enterprises (e.g., food processing plants) is expected to go the quickest.

4. What has been the extent of insider (management, labor, and nomenklatura) participation in the privatization process? What explicit and implicit preferences have been awarded to insiders?

Insiders have taken considerable advantage of the economic "reforms" enacted to date. Under the terms of the Property Transformation Revaluation Act (see above), ownership of many enterprises was turned over to their largest debt-holders, which generally tended to be state-owned banks; thus, bank directors and managers were installed on the managerial boards of most of the

largest enterprises in the country. Since the bank managers themselves, however, were generally SPS-loyalists, the Milosevic regime succeeded in actually increasing its control over the economy after 1994. Individuals close to the regime are given a wide variety of privileges, such as easier access to credit and hard currency, tax waivers, or special permission to import scarce goods into the country.

5. How much public awareness of and support for privatization has there been? What is the nature of support and opposition to privatization by major interest groups?

Although most government officials claim to support economic reform and restructuring, concrete action has been slow in coming, partly due to the difficulties imposed by the international sanctions, and partly because control of large state-owned enterprises is one of the main instruments the Milosevic regime uses to stay in power. Many leading figures in Milosevic's SPS are the directors of these state-owned enterprises, through which they are able to obtain large loans from the NBY at low interest rates and then sell the funds on the black market. Public support for privatization is also lower among employees of large, unprofitable state owned enterprises who stand to lose their jobs if those enterprises were forced to operate according to market criteria. On the other hand, support for privatization has been strongest among people who own small businesses and firms, primarily found among the younger, better-educated, urban population. A leading reformer in the FRY government, Danko Djunic, has also claimed that there is a critical mass of people in the government itself who are pressing for reform. In Montenegro there has been more widespread government and popular support for privatization (see above). In the wake of the destruction caused by the NATO bombing campaign, it was widely believed that the Milosevic government would have to engage in a large-scale sell-off of state-owned enterprises to keep the regime afloat.

MACROECONOMIC POLICY 5.50/7

1. Has the taxation system been reformed? What areas have and have not been overhauled? To what degree are taxpayers complying? Is tax compliance difficult to achieve? Has the level of revenues increased? Is the revenue-collection body overburdened? What is the overall tax burden?

In July 1996, a new federal tax law significantly modified the previous tax system. The legislation provided for a variety of new taxes, including a surtax on trade and/or the import of various goods (with rates ranging from 5-70 percent, depending on the type of good), a commodity sales tax on all items sold to the end buyer (with proportional rates ranging from 10-20 percent), a services sales tax (with a 10 percent rate), a profit tax on enterprises (ranging from 20-30 percent, with the rate set by the republics), a progressive income tax (with rates from 20-40 percent), and a property tax (also with rates set by the republics). For the 1998 fiscal year, the FRY government expected to raise 40 percent of its revenue from sales taxes, and 31 percent from customs duties.

Tax compliance has been very difficult to enforce. Use of checks and credit cards over the past few years has been minimal, so individuals leave no paper trail of their financial activities. Most people now prefer to make their transactions in cash using hard currencies. Widespread tax-avoidance, has, to some extent, been accepted by the regime for the past several years for the sake of social peace; moreover, strictly imposing tax regulations would only worsen the Yugoslav economy's liquidity problems. Adding to the overall problem of tax compliance is the fact that regime supporters have frequently been granted tax waivers for various imported goods. For instance, it is estimated that only half of the revenue that should be raised from the sale of cigarettes is actually collected, because many individuals close to the Milosevic regime, or a part of it, control the cigarette trade in Yugoslavia.

In recent years, the government had given some indications that it was determined to begin enforcing tax collection more seriously. In February 1998, the Serbian government proposed a very controversial "Decree on Measures of Financial Discipline." According to the new law, individuals wishing to sell their private property (such as apartments, houses, or automobiles) had to go through local municipal officials, who would determine the property's value, and payment had to be made through domestic banks in dinars. Although ostensibly intended to improve the state's ability to collect turnover taxes on the sale of property, the decree immediately met with almost universal condemnation.

The private sector is bearing the brunt of propping

up the regime. Since state and socially owned enterprises have been unprofitable for several years, the private sector has had to make up for the public sector's weaknesses. This has resulted in a relatively high tax burden being placed on both individuals and enterprises in the private sector. In February 1998, the federal government began discussing measures to squeeze more money out of the gray economy, including the introduction of a VAT tax and of non-cash payment mechanisms to reduce the amount of cash in circulation.

In response to the growing crisis in Kosovo, on October 5, 1998, the Yugoslav Federal Parliament passed a Law on Financing Extraordinary Costs of Defense of the Country, which levied a "war tax" of from 0.6 to 4 percent on all goods to finance the defense budget. After the widespread damage caused by the NATO bombing campaign, the FRY government adopted a new set of taxation policies in an effort stimulate reconstruction and economic growth. All products and materials used for reconstruction or replacement of destroyed assets can now be obtained without paying a turnover tax. Replacements of destroyed equipment and machinery can be imported without paying customs duties if the equipment is not produced in Yugoslavia. Humanitarian aid brought in by the Red Cross is exempt from sales tax, and if the aid is not produced in Yugoslavia, is exempt from customs duties as well. The same applies to environmental equipment. To finance increased state defense costs, however, the government introduced a variety of new sales taxes of varying rates.

2. Does fiscal policy encourage private savings, investment, and earnings? Has there been any reform/alteration of revenue and budget policies? How large are budget deficits and overall debt? Is the financing of the social insurance/pension system sustainable? What proportion of the budget is taken up by subsidies to firms and individuals? As a result of the regime's decision to confiscate citizen's hard currency accounts in the early 1990s, the collapse of pyramid lending schemes in 1993, and the hyperinflation of 1992-93, individuals have had little incentive to invest or save. In 1997, for instance, it was estimated that FRY citizens, on average, have less than twenty dinars, i.e., less than $3 (US), on deposit in Yugoslav banks. The government is estimated to owe citizens between $3.5—4 billion (US) in hard currency confiscated from private bank accounts. Internal debts to banks and between companies were estimated to be approximately $4 billion (US) in 1996. The budget deficit for 1996 was estimated to be $1 billion (U.S.), or six percent of GDP. Added to these internal debts are Yugoslavia's external debts, estimated to be $11.2 billion (US) in 1995. Altogether, the FRY's debt as a percentage of GDP was estimated at some 75 percent in 1997.

In 1997, the situation worsened as the FRY pension fund alone ran a deficit of some $1.26 billion (U.S.), and the payments that were made were only possible thanks to the sale of a large stake of the Serbian telecommunications system to Italian and Greek investors. Financing of the social insurance/pension system is not sustainable, as is evident by the fact that pensions have been paid out on a very irregular basis over the past several years. According to one estimate, in 1998 the government owed 1.2 million pensioners some 5,000 dinars (approximately $830 US) each in pension arrears. As of mid-1999, the government was estimated to owe pensioners and state employees 18 billion dinars in wage and pension arrears.

To make up for chronic budget deficits and help fund the government, the Milosevic regime over the past several years has devised several schemes to "squeeze" money out of the population and/or the shadow economy. One such scheme in the early 1990's involved a well publicized campaign issuing government bonds for the reconstruction of Serbia; once hyper-inflation set in, however, individuals who had purchased these bonds suffered net losses. Another scheme involved the pyramid lending scandals of 1993, in which millions of citizens invested their hard currency savings in private banks which offered monthly interest rates equivalent to yearly interest rates in western countries. The owners of these banks had close ties to the Milosevic regime. The entire system collapsed within months, however, as soon as the first withdrawals from these banks started a rush on the entire system. Many of the street dealers who buy and sell hard currencies are controlled by Milosevic's secret police.

3. Has there been banking reform? Is the central bank independent? What are its responsibilities? Is it effective in setting and/or implementing monetary policy? What is the actual state of the private

banking sector? Does it conform to international standards? Are depositors protected?

Banking reform, as is true of economic reform in general, has been held up by a combination of domestic political obstruction and the constraints imposed by Yugoslavia's diplomatic and economic isolation. In January 1998, Danko Djunic, the leading reformer in the federal government, claimed that bank restructuring was impossible without assistance from the IMF or the World Bank.

The man credited with developing the successful anti-inflation program of 1994, former NBY Governor Dragoslav Avramovic, began openly criticizing the Milosevic regime in April 1996, but by May 1996, Avramovic had already been dismissed from his position. Since then, the NBY has lost much of its independence.

The private commercial banking sector is in a desperate situation. Most banks suffer from severe liquidity problems. Many Yugoslav citizens lost faith in the banking system (and their savings as well) with the collapse of several pyramid lending schemes in 1993 (see above). Total current holdings of the 100-odd private commercial banks were estimated to be about $15 billion at the end of 1996. Talks with the London Club of international banks to restructure Yugoslavia's estimated $1.94 billion commercial debt broke off in October 1997 without a settlement. The Yugoslav delegation had requested an 80 percent write-off of their debts' value, and the remainder restructured as a 25-year loan with a nine-year grace period. Yugoslavia's total external debt is believed to be between $10-12 billion.

As of mid-1999, commercial lending rates in Serbia are restricted to 2.2 percent per month, while the average inflation rate is considerably higher. Bank officials also complain that government regulations restrict bank credit activity. An official for Jugobanka, for instance, claimed that only 10-15 percent of Jugobanka's capital was available for commercial lending. Zoran Jeremic, the head of Valjevska Banka, claimed that 50 percent of the Serbian banking sector's lending was "immobilized" in activities yielding no interest income, while another 30 percent was affected by central bank reserve requirements, further reducing the income-raising potential for the banking sector.

The Montenegrin government, for its part, has been somewhat more successful in its forays into world financial markets. Over the past few years, the Montenegrin government has assumed responsibility for $170 million in debts to international banks that Montenegrin enterprises had run up; by so doing, however, it reduced Montenegro's external debts by one third, bringing it down to an estimated $340 million.

Individual depositors in Yugoslavia have also suffered from the Milosevic government's policies. In 1992, the regime froze $6.5 billion worth of private hard currency accounts held by Yugoslav depositors to help fund the war effort. In late 1997, the federal government was working on ways to return those monies to restore some confidence in the banking system.

Current plans for bank reform envision a consolidation of the private banking system through a series of mergers among smaller banks. Balance sheets would then be "cleaned up," and non-performing loans transferred into an envisioned "bad loan bank." One aspect of this effort was a decree by the NBY that as of January 1, 1998, illiquid banks could only allow depositors to withdraw 300,000 dinars (approximately $50,000), regardless of how much the depositor had on account, unless the bank's reserves could cover the transaction. The move was apparently designed to encourage depositors to begin withdrawing their monies from illiquid banks and depositing them in more liquid banks. In early 1998, the FRY government was reviewing draft legislation that would convert many short-term outstanding loans in agriculture, tourism, and the electrical energy and railway systems into long-term (15 year) credits, or transform current credits into public debt to be repaid in ten years. Other planned legislation for 1999 included a new law intended to make the National Bank of Yugoslavia a completely independent institution, amendments to legislation on banks and payment operations, and laws regulating the capital and securities markets.

After the EU lifted sanctions on the FRY in 1996, banks in Austria, Germany, Switzerland, and several other European countries expressed interest in investing in Yugoslav banks. For instance, British, Dutch and Austrian banks (and, reportedly, some American investment funds) have purchased shares in Vojvodjanska Banka, a Novi-Sad based bank, valued at several hundred million marks. Similarly, plans were underway to establish the first Yugoslav-Chinese bank (in a deal between Beobanka and Chinese Bank, the largest bank

in the PRC). Yugoslav banks have also been active in Russia. Jugobanka is the majority shareholder in Veksim Bank in Moscow. Veksim Bank reportedly has an annual turnover of $580 million. Veksim Bank is in charge of servicing credits to the FRY approved by the Russian government. The first foreign credits raised after the sanctions regime was lifted, from the Australian-New Zealand Investment Bank, was raised on the basis of bonds issued by Beobanka Group.

In contrast to the situation obtaining in many other spheres of social, political, and economic life, the Yugoslav Banks' Association membership in the Commission for Banking Technique and Practice (a branch of the International Trade Chamber in Paris) was not discontinued during the sanctions. All Yugoslav banks authorized for operations abroad are members of the Brussels-based SWIFT system, which allows international payments transactions to be done electronically.

After the NATO bombing campaign began and a state of war was proclaimed, the NBY assumed control over all business loans, and prohibited the closing of existing banks or the opening of new ones. Consolidation of the banking sector, which was already underway, was postponed.

4. How sound is the national currency? Is the value of the currency fixed or does it float? How convertible is the currency? How large are the hard currency reserves? Has exchange rate policy been stable and predictable?

In the late 1980s and early 1990s, the Yugoslav *dinar* lost much of its value. Inflation began spiraling upward in 1991, averaging 120 percent in that year, but by 1993 it had reached an unprecedented 116,540,000 percent. In January 1994, the NBY, led by former Governor Dragoslav Avramovic, initiated an austerity and stabilization program introducing a new "super dinar" pegged at a fixed rate to the German Deutsche Mark. This succeeded in bringing inflation down to 3.3 percent in 1994, but by 1995 it had again risen to an average annual rate of 120 percent. On November 25, 1995, the federal government passed a Foreign Currency Transactions Law pegging the dinar to the Deutsche Mark at a rate of 3.3:1. To control the growth in the money supply, the NBY in August 1996 increased the mandatory reserve requirement for banks to 10 percent, and in November 1996 the mandatory reserve requirement was again increased to 15 percent.

In 1997, inflation was less than 10 percent according to official statistics, although some economists have challenged these estimates. For most of 1997, the dinar was fixed at a rate of 3.5:1 against the Deutsche Mark, but fluctuated on the black market anywhere between 3.5 and 5. At the end of 1997, the federal government announced plans to maintain a restrictive monetary policy, and pledged to keep growth in the money supply below GDP growth for 1998. Nevertheless, inflationary pressures continued to mount, and in March 1998, the government was forced to devalue the dinar by bringing the official exchange rate down to 6:1 to the Deutsche Mark. After the Kosovo conflict, pressure mounted on the government to devalue the dinar to its new black market rate of 14 dinars to the DEM. Independent economists claimed inflation could exceed 100 percent for 1999. Under the state of war declared in March 1999, prices of all vital goods and services (e.g., transportation of goods and passengers by air and rail, PTT services, public utility services, educational and information services, etc.) are to be kept at their levels as of March 23, 1999.

Central bank reserves in 1998 were estimated to be below $200 million – less than one month's worth of imports. By mid-1999, this figure had fallen to $150 million. In addition to hard currency reserves, the FRY also has 1.3 million troy ounces in its gold reserves. The Milosevic regime has also hidden significant sums of money in secret bank accounts in Cyprus.

5. Is there a functioning capital market infrastructure? Are there existing or planned commodities, bond, and stock markets? What are the mechanisms for investment and lending? What government bodies have authority to regulate capital markets?

The Belgrade Stock Exchange reopened in 1990 after being closed for almost fifty years. Foreign countries, particularly Britain and Italy, partially financed its activities. The Podgorica (formerly Titograd) Stock Exchange opened in 1996. Securities trading in both exchanges is limited due to the fact that privatization has just begun, and the regulatory infrastructure for widespread stock and bond trading barely exists. Most activity involves trading short-term (30 day or less) commercial paper and government bonds, while the sale of stocks is practically non-existent. In 1997, both the number of transactions on the Belgrade Stock Exchange

and the value of those transactions fell. In the first three months of 1998, 1,808 transactions worth 1.6 billion dinars (approximately $267,650,000 million) were made on the Belgrade Stock Exchange, which at the time listed 39 different stocks. No stocks are being traded on the Podgorica Stock Exchange as of yet, but that is expected to change with the planned distribution of privatization vouchers to 450,000 Montenegrin citizens.

Investors are reluctant to participate in financial markets, as is evident from the fact that less than one percent of financial transactions and deals go through established brokerage houses. Most deals take place directly between buyers and sellers of bonds. Potential investors are at a significant disadvantage because brokerage houses and the stock markets themselves cannot provide them with a good sense of the various risks and costs associated with particular investments. The documentation various firms provide is not reliable, and accounting procedures are also poor.

Given their relative weakness, commercial banks do not play a large role in the capital markets; consequently, the NBY performs many of the functions commercial banks would typically perform in the west. Foreign observers and domestic critics charge that investment funds and bank credits are often allocated on the basis of political rather than market criteria.

In February 1998, the Yugoslav government signed a deal with West-Merchant Ltd., a London-based investment bank, for long-term cooperation on privatization and foreign investment. Among the most attractive potential investments were Yugoslav Airlines (JAT), and a variety of breweries and publishing houses. Real privatization, however, will create a greater need for the establishment of exchanges for stocks and investment funds.

MICROECONOMIC POLICY 5.50/7

1. Are property rights guaranteed? Are there both formal and de facto protections of private real estate and intellectual property? Is there a land registry with the authority and capability to ensure accurate recording of who owns what? What are the procedures for expropriation, including measures for compensation and challenge? Have any seizures taken place?

Article 51 of the FRY constitution explicitly recognizes the right to own property, and Article 53 guarantees intellectual property rights. Yugoslavia is also a signatory to numerous international agreements and conventions protecting copyrights and patents; most recently, in February 1997 Yugoslavia became a member of the Patent Cooperation Treaty (PCT), allowing foreigners to apply for patents in Yugoslavia. Yugoslavia's international isolation, however, has meant that there is often little incentive to prosecute violations of international intellectual property rights.

In February, 1999, the Serbian government announced the takeover of the Belgrade plant of ICN Pharmaceuticals Inc., owned by a prominent opponent of the regime, the Serbian-American businessman Milan Panic. The takeover was believed to have been motivated partly out of political considerations, but also to avoid paying ICN $175 million owed to the company for medicines provided to the Yugoslav state health care system. Serbian government officials charged that ICN Pharmaceuticals had not met its obligations under a contract signed in 1990. In 1998, the Serbian Health Fund defaulted on $39 million in notes payable to ICN.

2. To what extent have prices been liberalized? What subsidies remain?

The last SFRY government (led by Ante Markovic) had liberalized prices on the vast majority of goods as early as 1990. During the wars in Croatia and Bosnia-Herzegovina, the Milosevic government tried to control the price of basic staples, but the hyperinflation of 1992-1993 made such efforts pointless. The government continues to control prices on approximately 500 goods, ranging from machinery to paper products or food, and producers of these goods must ask the Federal Ministry of Trade for permission to raise prices. The government's ability to control the importation of various goods means that it can also informally set prices for imports by withholding supply whenever prices drop for particular items. Similarly, by applying political pressure it can force producers to maintain the prices of staples such as milk, bread, meat, sugar, and cooking oil; predictably, however, producers usually respond by cutting back on production. Goods and services for which prices are still set by the government include things such as inland railway traffic, the main postal and telephone services, medicines, and

electricity prices. The government also subsidizes various agricultural products such as livestock, edible oil, and other foodstuffs. During the NATO attack on Yugoslavia, the FRY government froze prices on a wide range of goods and essentially resorted to a command economy.

3. Is it possible to own and operate a business? Has there been legislation regarding the formation, dissolution, and transfer of businesses, and is the law respected? Do there exist overly cumbersome bureaucratic hurdles that effectively hinder the ability to own and dispose of a business? Are citizens given access to information on commercial law? Is the law applied fairly? Do regulation or licensing requirements impose significant costs on business and consumers? Do they create significant barriers to entry and seriously hamper competition?

Yugoslav citizens are constitutionally guaranteed the right to own their own businesses. Even during the communist era, Yugoslav citizens had the right to own and operate small businesses that employed up to five people, or, in the case of agriculture, to own up to ten hectares of land. The formation of businesses is a straightforward procedure, and tens of thousands of Yugoslav citizens have registered their own businesses over the past several years (see Privatization, above). There is a free flow of information on the various aspects of commercial law, and changes are regularly published in the FRY's Official Gazette (*Sluzbeni Glasnik*). Regulations or licensing requirements, in most cases, are only problematical where business activities can damage the regime's interests (e.g., licensing a media enterprise), or where regime members/supporters have significant personal business interests, in which case the bureaucracy can significantly hamper competition.

4. Are courts effective, transparent, efficient, and quick in reaching decisions on property and contract disputes? What alternative mechanisms for adjudicating disputes exist?

The FRY's legislation regarding investment disputes is generally considered to be in accord with international standards. The FRY accepts binding international arbitration for investment disputes between foreign investors and the state. The main problems are inconsistent implementation and lack of enforcement of judicial rulings both for foreign and domestic investors. Foreign observers have also complained that government and judicial decisions often seem to be influenced by the ruling party. Although bureaucratic and regulatory procedures are neither transparent nor efficient, prior to March 1999, the FRY government was believed to be making legal, regulatory, and accounting systems more transparent in accordance with international standards.

5. Is business competition encouraged? Are monopolistic practices limited in law and in practice? If so, how? To what degree is "insider" dealing a hindrance to open competition? Are government procurement policies open and unbiased?

The FRY constitution prohibits the creation of monopolies, and explicitly states that "terms of business shall be the same for all" (Article 74). In practice, however, individuals and enterprises associated with the Milosevic regime have been granted import monopolies for a wide range of goods, including fuel, pharmaceuticals, and cigarettes. There have also been numerous charges that government employees are frequently instructed to buy goods/supplies from individuals and firms with close ties to the regime.

6. To what extent has international trade been liberalized? To what degree has there been simplification/overhaul of customs and tariff procedures, and are these applied fairly? What informal trade barriers exist?

Yugoslavia currently adheres to the "Customs Valuation Agreement" negotiated under GATT but now assumed by the World Trade Organization (WTO), which provides for fair, uniform, and neutral valuations of imports and exports. Yugoslavia is also an adherent to the Convention covering Anti-Dumping Duties administered by the WTO, and has signed the Convention on Subsidies and Countervailing Duties, although acceptance is pending. Duty rates in 1997, most of which are ad valorem, were in the zero-40 percent range, although most were in the 5-20 percent range. The exception to this is in food products, where, to protect domestic fruit and vegetable producers, duties were raised to as much as 200 percent on April 1, 1997. In addition to customs duties, imports to Yugoslavia are subject to a cumulative 16 percent import tax ad valorem.

In late 1997, the federal government announced a Foreign Trade Regime Liberalization Program that was supposed to become effective in 1998. According to the new proposals, 96 percent of the total monetary value of exports and 90 percent of the total monetary value of imports would be regime-free. In early 1998, amendments to the Customs Tariff Law were being discussed to bring tariffs and duties in line with World Trade Organization regulations by 2002. According to the proposed amendments, the average duty rate for imports is to fall from 16 percent to 13.45 percent. The duty rate for consumer goods was scheduled to be in the 30-40 percent range, for raw material and semi-finished goods, 1-3 percent. Duties on certain highly profitable commodities, however, continued to be maintained at relatively high rates. As of mid-1999, for instance, the duty rate on cigarettes was 70 percent, while the rate on alcohol was 50 percent.

The easing of the sanctions regime in 1995 resulted in a small decline in Yugoslavia's trade deficit; in 1996, exports were 44.9 percent of imports, while in 1997, they rose to 49.3 percent. The trade deficit for 1996 was $2.26 billion, approximately 15 percent of GDP. Two thirds of FRY imports in 1996 consisted of raw materials and semi-finished goods, mainly industrial inputs. Capital goods accounted for 14 percent of imports, and consumer goods the remaining 19 percent. Most FRY exports consist of raw materials, semi-finished goods, and food and chemical products. The FRY's main trading partners are Germany, Italy, Russia, FYR Macedonia, and the Republika Srpska. In 1997, the trade deficit was again estimated to be around $2.2 billion.

International trade to, through, and from Yugoslavia was severely disrupted by the NATO attacks on the country. Three important bridges across the Danube at Novi Sad were destroyed during the NATO bombardment, blocking the river to shipping between the Black Sea and Central Europe. In 1998, 40 million tons of freight was shipped via the Danube. FRY authorities insist that they will not open the Danube to international shipping until NATO countries pay to rebuild the bridges. Yugoslavia was also an important transportation route for goods being shipped from northern, western, and central Europe to the southeastern part of the continent. The destruction of many bridges and stretches of roadway along the Belgrade-Nis highway disrupted these trade flows, however, significantly increasing transportation costs for exporters and importers in the region. All together, some 50 road bridges, 19 railway bridges, and 12 airports were severely damaged during the NATO bombing campaign.

Regulatory changes regarding foreign trade introduced during the state of war in 1999 included a quota or permit system for all imports and exports, with the exception of pharmaceutical and oil derivatives, and a special customs duty of 250 percent above regular duties on imports of goods above the regular quota for those goods.

7. To what extent has foreign investment and capital flow been encouraged or constrained?

Yugoslavia's international trade and ability to attract foreign investment has been extremely limited because of the sanctions regime imposed on Yugoslavia by the UN Security Council in May 1992. After the signing of the Dayton Peace Agreement in December 1995, the UN Security Council suspended the original sanctions regime and allowed Yugoslavia to resume trade with the outside world. In October 1996, the UN Security Council lifted the original sanctions regime completely (Security Council Resolution 1022/1996). In April 1997, the EU granted the FRY preferential trade status, but then revoked it in December after the Milosevic regime failed to make any progress towards democratization as outlined in the Gonzales Report. In contrast to the Europeans, the US has consistently favored keeping the FRY economically isolated. The EU and the U.S. again imposed a wide range of sanctions in March 1998, and in 1999, a flight ban was also introduced for Yugoslav air carriers.

Officially, foreigners enjoy the right to own property and businesses on the basis of reciprocity, i.e., to the same extent that Yugoslav citizens enjoy those rights in the foreigner's country. Foreigners also have the right to seek arbitration in foreign courts in disputes. The government does reserve the right to expropriate property "in the public interest;" however, there were no reported cases of such actions in 1997, although in earlier cases compensation for expropriated property fell below market value. Expropriation and nationalization are prohibited in free zones. Repatriation of capital for foreigners is free of restrictions. However, there have been complaints that high tariffs and surcharges have made it too expensive for foreign firms to import the quantity of goods needed to launch opera-

tions on a larger scale. Foreign investment in Yugoslavia is not screened by any particular criteria, and no discriminatory or preferential export or import laws affect foreign investors. Although there is no formal discrimination against foreign investors, there have been charges that FRY law and institutions have been manipulated by domestic firms to give them an advantage over foreign firms.

An important first step in opening Yugoslavia's economy to foreign investment was made in 1989 with the adoption of the Foreign Investment Law, which allowed foreigners to invest in various sectors such as tourism, insurance, and financial services. In 1994 the FRY government passed a "Law on Foreign Investment." A primary feature of the 1994 legislation set up free economic zones in key import-export points, e.g., airports, river and sea ports, and along major international highways. Both domestic and foreign investors in these zones were given a wide variety of customs and tax incentives to stimulate their operations, such as extended tax breaks of up to six years in Serbia and ten years in Montenegro. Similar incentives exist for firms operating outside of the free zones. In mid-1996 privatization legislation was further liberalized by a "Law on Changes and Supplements to the Law on Foreign Investment." The 1996 legislation allowed foreigners to obtain concessions in the fields of energy production, transportation, telecommunications, and the forest and lumber industries. For instance, foreign firms have obtained concessions to build a highway between Nis and Dimitrovgrad, a bridge over the Drina river, and parking lots in Belgrade. A French firm, Saur Internationale, is in negotiations to operate Belgrade's public waterworks system.

In the past two years, the government has made further efforts to encourage foreign investment, but critics charge the government's efforts reflect a need to obtain cash to keep the economy afloat rather than a real desire to restructure the economy. In June 1997, the Serbian government signed a major deal to privatize the Serbian telecommunications system by selling a 49 percent share (worth 1.6 billion DEM) to two foreign investors: Italy's Stet and Greece's OTE. The money, however, was used to cover back-payments to workers and pensioners before the September 1997 elections. The Greek conglomerate MITILINEOS has also invested in the Trepca mine complex near Kosovska Mitrovica, a deal involving a five-year business arrangement valued at $500 million, and Greek investors are also reported to be interested in Yugoslavia's banking sector as well.

Montenegro, for its part, has been promoting itself as a center for offshore business activities; in July 1996, for example, the Montenegrin Skupstina passed an "Offshore Companies Act" granting substantial tax benefits to foreign entities operating in Montenegro. Montenegro is also trying to attract foreign investors for its plan to privatize its tourist attractions.

Yugoslavia has considerable potential to attract foreign investors; the *Financial Times*, for instance, called it "Europe's last big untapped market." Part of the attraction is due to the fact that salable assets are significantly undervalued. Moreover, despite the "brain drain" of the 1990s, Yugoslavia still has a well-trained and competitively priced workforce. Potential foreign investors, however, have been put off by the uncertain political climate (e.g., the Kosovo conflict, political unrest in Montenegro, the continuing problems in Bosnia-Herzegovina), the re-imposition of sanctions against the FRY, and the lack of transparency in the government's privatization program.

Foreign investment and capital flow have also been constrained by an "outer wall" of sanctions the U.S. imposed on Yugoslavia in 1996. After the UN Security Council lifted the original sanctions regime, Yugoslav critics charge that the U.S. "moved the goalposts" by announcing a new set of conditions that Yugoslavia had to fulfill to gain membership in the IMF and the World Bank. These new conditions include handing over war crimes suspects, real progress towards democratization, and agreement with the other former Yugoslav republics on sharing the SFRY's assets. Yugoslav economists claim that the FRY has fulfilled all of the economic criteria for re-joining the IMF, but the U.S. government refuses to lift the sanctions or to allow aid for reconstruction to the FRY until Slobodan Milosevic is removed from office.

All told, the international sanctions have had very severe long-term consequences for Yugoslavia's economy and society. Academician Branislav Soskic of the European Center for Peace and Development in Belgrade has claimed that overall losses attributable to the sanctions in the period 1991-96 amount to $61.95 billion. In the first two years of the sanctions, almost ten percent of Yugoslavia's workforce employed in scientific research and development left the country. Com-

bined with the outflow of young, educated individuals from other segments of the economy, the loss of this demographic group – the natural backbone of opposition to the Milosevic regime – has severely weakened the opposition movement in Serbia.

8. Has there been reform of the energy sector? To what degree has the energy sector been restructured? Is the energy sector more varied, and is it open to private competition? Is the country overly dependent on one or two other countries for energy, including whether exported fuels must pass through one or more countries to reach markets? Production from the FRY's thermal power stations and hydroelectric power stations fulfill Yugoslavia's electricity needs (the two sectors provide 68 percent and 32 percent, respectively, of total electricity generated). Both sectors are still state-owned. Reform of the rest of the energy industry has also been negligible. The government controls who has the right to obtain import licenses for mineral fuels, and these licenses invariably go to individuals with close ties to the regime. The sanctions regime in place in various ways since 1992 has allowed organized smuggling rings to earn vast sums of money circumventing the blockade and importing fuel. Currently, Yugoslavia owes some $500 million to Russia (for gas), and China (for oil), but it continues to import fuel through barter arrangements with these countries. According to one published report, in July 1999 Yugoslavia owed Russia's Gazprom some $260 million. Some reports have suggested that Yugoslavia may have to settle its energy debts to Russia and China by giving them shares of state-owned enterprises scheduled for privatization.

Overall, the energy sector is in desperate shape. Both the state oil company (NIS) and the state electrical company (EPS) in Serbia are running large deficits. In 1996, NIS had debts of approximately 617 million dinars (according to the exchange rate then in effect, over $127,000,000), including some 228 million dinars it owed the federal government in excise taxes. EPS had debts totaling 582 million dinars ($120 million), while at the same time its customers owed EPS 766 million dinars (approximately $158 million). Part of the reason for the deficits is the fact that, despite recent price increases, Serbia still has the lowest electricity prices in Europe, and gasoline prices in Yugoslavia are lower than in Western Europe. The price of gasoline in Belgrade (when it could be found), however, doubled after the Kosovo conflict.

The NATO attacks on Yugoslavia did severe damage to the country's energy-production capabilities. A third of Serbia's power grid and its two largest crude oil refineries were destroyed during the bombing. In the aftermath of the NATO bombing, the UN estimated that Yugoslavia would only be able to produce 50-70 percent of its electrical energy requirements during the winter. This increased Yugoslavia's dependence on Russian gas supplies, which effectively became almost the only source of fuel to heat individual households and to keep industries running through the winter. The Kosovo War also highlighted Hungary's importance to Yugoslavia, through which Russian gas supplies transit. Hungary shut off gas supplies to Yugoslavia in keeping with the Western fuel embargo on the country. Afterwards, restoring the flow was hampered due to a debt of $20 million Yugoslavia owed Hungary for the transit of gas through Hungarian territory.

Overall industrial growth and development will be impossible without significant reform and reconstruction of the energy sector. According to 1996 estimates, the Yugoslav energy sector needed some $700 million in investments for infrastructure modernization and improvement; this figure will be considerably higher given the destruction caused by the NATO bombing campaign.

Plans have been made to privatize state energy conglomerates and sell shares to foreign investors, which should significantly restructure the energy sector. Plans are already underway to sell minority stakes in EPS and NIS, which also owns a large network of gas stations.

Social Sector Indicators

1. What is the size of the national workforce? What proportion of the workforce is employed on a full time basis? What are the labor force participation rates for adult non-retirement age women and men? What is the overall official and unofficial unemployment rate and what is the unemployment

rate for men and women? Does the state provide unemployment compensation; if so, how is it calculated and how long is it paid? What proportion of the median wage does unemployment compensation constitute?

The size of the Yugoslav workforce in 1998 was estimated to be five million. Women comprised some 42.7 percent of this figure. The labor force participation ratio of female to male citizens was 0.7.

As of mid-1999, there were an estimated 2 million unemployed persons in Yugoslavia, more than half of whom are under 30 years old. (This figure includes both officially unemployed individuals and those laid-off from their places of employment). Some 100,000 individuals were employed in factories destroyed by NATO bombing; a further 500,000 workers were employed in factories directly dependent upon those destroyed factories.

Unemployment benefits are roughly equivalent to the minimum wage, which in 1998 varied from 250-500 dinars (approximately $20-40 US). The minimum wage, however, is not enough to cover minimal expenses for a worker and his/her family. In 1998, the cost of food and utilities for a family of four was estimated to be 2,150 dinars ($230 US).

Women are entitled to at least 270 days paid maternity leave covering the period before and after childbirth, and hospital stays and maternity care are free of charge.

2. Describe the national pension and retirement system. Describe public sector and private pension systems. Provide data on government pension benefits and indicate the proportion of retirees covered by pensions. What is the retirement age for men and women? What is the average monthly retirement benefit and what proportion of the median wage does it constitute? Is there a system of specialized benefits for specific groups (for example, the disabled or certain groups like Chernobyl victims)?

The FRY's pension system has been in crisis for several years. Along with the other social welfare insurance programs, the pension system is largely financed by the high level of payroll taxes in the country. In 1997, FRY pension fund alone ran a deficit of some $1.26 billion (U.S.), and the payments that were made were only possible thanks to the sale of a large stake of the Serbian telecommunications system to Italian and Greek investors. Pensions have been paid out on a very irregular basis over the past several years. According to one estimate, in 1998 the government owed 1.2 million pensioners some 5,000 dinars (approximately $830 US) each in pension arrears. As of mid-1999, the government was estimated to owe pensioners and state employees 18 billion dinars in wage and pension arrears.

In 1998, there were 1,333,300 individuals receiving pensions in the FRY. Of these, 81,906 were in Montenegro, and 1,251,394 in Serbia. Private sector employees, including agricultural workers, are required to pay a portion of their salaries into special funds providing benefits to people not employed in the state/social sector.

Individuals can be eligible for old-age pensions, disability pensions, or social-welfare pensions (a category for individuals suffering either from a physical or mental handicap, or cases of destitution where the individual is not covered by unemployment benefits). Immediate family members of a deceased individual also have the right to obtain the deceased's pension benefits.

Male adults in the FRY can retire after 60 years of age, and women can retire at the age of 55, if they have completed 20 years of employment. Alternatively, a male can retire after 40 years of employment at any age after 50; women can retire after 35 years of employment at any age after 50. Pensions are based on average monthly earnings for any ten year period in which the individual in question was enjoying their maximum salary (the pension basis). The formula for determining pensions depends on the number of years an individual was employed. A male with 15 years of employment is entitled to 35 percent of their pension basis, and an additional 2 percent for every additional year of employment Females employed for 15 years are entitled to 40 percent of their pension basis; for each additional year (up to 20 years of employment) they are eligible for an additional 3 percent of the pension basis, and for each year of employment after 20 years, for an additional 2 percent. The maximum amount allowed for old age pensions is 85 percent of the pension basis. Similar formulas exist for determining disability pensions. What this system means in practice is that on average, pensioners receive 85-87 percent of the average monthly earnings during their last five years of employment.

3. What is the country's average and median monthly income in local currency and dollar equivalents? What has been the trend in average and median monthly incomes since 1993? Are there major problems in wage arrearages? If yes, describe their extent and scale, providing some detail related to the sectors of the economy in which arrearages are most pronounced. Describe how people compensate for cash arrearages (for example, barter). What are the differences in public and private sector median wages and in median wages among men and women?

The average monthly salary in Yugoslavia in 1999 was 1,304 dinars (81.5 DEM or $45.2 US at 1999 levels). Since 1994, after factoring in inflation rates, Yugoslav citizens have experienced an almost continual decline in their incomes. Average monthly salaries in 1994 were 102 DEM; in 1995, 93.5 DEM; in 1996, 128.5 DEM; in 1997 (the year a 49 percent stake in the Serbian state telecommunications system was sold to foreign investors), 160.2 DEM; in 1998, 130 DEM; and in 1999, 82 DEM.

Wage arrearages are a major problem in the economy, especially for workers employed in the public sector. Monthly wages are often several months behind. One of the ways in which the regime ameliorates public dissatisfaction with such a situation is by being lax in the collection of utility payments. Barter is another significant way in which individuals make do; often, in lieu of their salaries, individuals are allowed to have some of the products their firm produces, which they are then free to sell on the gray or black markets. Also, many individuals in the FRY still have strong ties to the countryside, and are able to obtain basic foodstuffs from relatives or friends in their native villages.

Private sector wages are generally somewhat higher than private sector, but specific percentages are not available. Although women are officially entitled to equal pay for equal work, traditional patriarchal societal attitudes often prevent women from reaching higher levels of management.

4. What has been the annual size of the elementary, secondary, and post-secondary education school population since 1993? What is the proportion of 8-18 year olds enrolled in the educational system and what has been the trend since 1993? What is the national student-to-teacher ratio? Provide basic data on public spending for education since 1993: what is the proportion of GDP expended on education by the state, and how has this proportion changed since 1993?

In the 1997-1998 school year, there were 877,445 students enrolled in elementary schools, 355,311 enrolled in secondary schools, and 46,821 students enrolled in institutions for higher education. The proportion of 8-18 year olds enrolled in the educational system in 1995 was 72 percent. The national student to teacher ratio in 1998 was 18:1 in the elementary school system. Total expenditure on education as a percentage of GDP in 1990/91 was 4.5 percent.

The educational system in Kosovo has been especially disrupted by the problems in the country. In 1990, the Milosevic regime closed Albanian schools in the province due to the unwillingness of Albanian instructors to offer a curriculum authorized by the Republic of Serbia, including course in Serbian history and language. Subsequently, Albanians in the province created a parallel school system for primary, secondary, and post-secondary education. In 1996, symbolic progress was made in reintegrating Albanians into the official school system when Milosevic met with Albanian leader Ibrahim Rugova, under the auspices of the Saint Egidio society, to bring Albanian students back into official classrooms. The effort, however, made little actual progress.

5. Provide data on infant mortality, birth rates, life expectancy (both male and female), divorce rates, and suicide rates, and trends over recent years in these spheres.

The infant mortality rate in Yugoslavia in 1998 was reported to be 13 per 1,000 live births. Life expectancy in 1998 was 72 years; for males, the figure was 70 years, for females, 75. The crude birth rate in Yugoslavia was listed at 11 per 1000 people. There were 7,947 divorces recorded in 1997. In 1996, there were 5.4 marriages per 1000 people in the FRY, and 0.7 divorces. There is no recent information available on suicide rates, but in 1997 there were 1,776 recorded cases of suicide; of those, 1,216 suicides were committed by males, and 550 by females. The number of divorces and suicides have both increased incrementally in recent years.

6. Provide data on the ratio of doctors and nurses to the population. What is the trend in average and median monthly wages for doctors, nurses, and medics since 1993? Provide data on the number of hospital beds and on the number of hospital beds per capita. Provide statistics on the percentage of GDP devoted to health care. Provide data on the proportion of GDP expended by the public sector on health care.

From 1990-1998, there were on average 2.0 physicians per 1000 members of the population in Yugoslavia. The number of hospital beds per 1000 people equaled 5.3. Long-term data on average and median wages for doctors, nurses, and medics is unavailable; however, the average doctor in 1998 was making approximately 1,800 dinars per/month ($165), while a cardiologist earned approximately 3,500 ($320). Throughout the 1990s, total Yugoslav expenditure on health care has been approximately 7 percent of GDP. In 1995, the average Yugoslav citizen spent $91 (US) on health care.

7. What are official and authoritative nongovernmental data concerning the scale of poverty and poverty rates? What is the poverty rate among males, females, and the elderly and pensioners? Provide trends in poverty rates since 1993.

The Yugoslav population has experienced a continual downward trend in its standard of living since 1990. Estimating overall poverty rates is difficult due to the significant disparities between the way in which poverty affects the urban and rural populations; however, a 1999 study showed that according to official statistics, 30 percent of the population fell below the poverty line. Some 100,000 people are believed to be using soup-kitchens on a regular basis. An earlier study, tracing the years 1990-94, showed that some 23.5 percent of the population was at or below the poverty line. During this period, the percentage of the urban population at or below the poverty level rose from 8 percent in 1990 to 30 percent in 1994; while for the rural population the respective figures rose from 7.1 percent to 11 percent.

Nations in Transit
1999-2000

How are democracy and market reforms faring in East Central Europe and the former Soviet Union? Is civil society expanding or shrinking? Are the media free or fettered by official constraints? To what degree are nations governed by the rule of law? Are human rights respected? Do taxation and trade policies, property rights reforms, banking laws, privatization, and macroeconomic policies encourage or encumber private sector development and economic growth?

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An essential tool for those concerned with the future of democratizing East Central Europe and the newly independent states of the Soviet Union....comprehensive and reliable.
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ISBN 0-7658-0773-4
EAN 9 780765 807731 90000 >

Library of Congress: 00-046720
Printed in the U.S.A.

ISBN: 0-7658-0773-4