

Trade Developments

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Proposed Technical Assistance Activities to Support Economic Growth and Trade Expansion in Yemen *Options Paper*

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Sponsored by USAID's Bureau of Economic Growth, Agriculture and Trade (EGAT) and implemented by Nathan Associates Inc., the Trade Capacity Building (TCB) Project, 2001–2004, helps developing countries assess their trade constraints and prioritize their trade-related technical assistance needs. The project provides trade experts for short-term technical assistance in developing countries and assists USAID Missions in designing, implementing, monitoring, and evaluating technical assistance that will stimulate economic growth and reduce poverty. Electronic copies of reports and materials related to trade needs assessments, resource guides, and trade training workshops are available at www.tcb-project.com. USAID Missions and Bureaus may seek assistance and funding for activities under this project by contacting John Ellis, USAID/EGAT, TCB Project Task Manager at jellis@usaid.gov.

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Foreword

USAID requested that Nathan Associates Inc. provide a menu of at least four priority technical assistance projects that USAID could implement to address trade capacity-building needs in Yemen that were identified in the draft Diagnostic Trade and Integration Study (DTIS) of August 2003, which was prepared under the auspices of the Integrated Framework (IF) for Technical Assistance to Least-Developed Countries. USAID's request specified that one of those projects involve developing capacity in the Yemeni public and private sectors to analyze the economic impacts of trade policy options. It further specified that one or more projects be appropriate for technical assistance provided by one or more U.S. Government entities.

The Nathan team producing the report included the following consultants: Dr. Maurice Girgis (team leader, specialist in private sector development and agriculture); Dr. Juan Buttari (private sector development and commercial and legal framework issues); Dr. Dale Larsen (trade institutional capacity building and fisheries); and Dr. Ahmed Ghoneim (trade policy reform). The report was produced under the auspices of the Trade Capacity-Building Project (PCE-I-98-100016, Task Order 13), under the direction of Erin M. Endean, Chief of Party.

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1. Globalization and Development in Yemen

Yemen has a population of 19.4 million, an annual population growth rate of 3 percent, and an average life expectancy at birth of 61 years. In 2002, Yemen's per capita gross domestic product in constant 1995 US\$ was \$314.¹ When its economic growth record, private sector participation, and business environments are compared with other countries in the Middle East and North Africa (MENA), Yemen mostly ranks at the bottom. In comparison to other countries in the region, for example, Yemen's economy has suffered more unstable growth; its exports are more dominated by volatile oil and other resource-based products; its unemployment is among the highest, while the projected growth of its labor force for the next decade is the largest; government dominance is among the strongest; education levels are rising modestly but their impact on economic growth is minimal; its share of foreign direct investment is negligible; the quality of its investment and trade environment lags; governance and transparency are inadequate; tax administration and judicial systems are cumbersome; its corruption index is among the highest; and its attempts to move beyond initial macroeconomic stability reforms have faltered.

Soon after gaining its independence, Yemen adopted political and economic systems that advocated a strong government, especially in the former South Yemen. The prevailing interventionist development paradigm fit well with paternalistic, command-style management of the economy. Thus, the private business sector was dismantled and replaced by an ever-expanding public sector that became the largest investor, consumer, trader, and employer, with its economic activities often accounting for as much as 75 percent of GDP.

By 1995, a host of national and international forces persuaded Yemen to abandon its development strategy. The most potent force was the mounting evidence against interventionist policies: chronic government deficits, shortages of foreign exchange, inflation, unsustainable government spending, disappointing performance of public sector companies, unmanageable deterioration in basic infrastructure.

Starting in 1995 Yemen implemented first-generation reforms to achieve macroeconomic stability. By exercising fiscal discipline, removing subsidies, liberalizing prices, and achieving a more open economy, Yemen avoided an economic crisis. Black markets for foreign exchange disappeared, public debt and foreign debt service ratios declined, inflation slowed, and balance of payments deficits fell. The results, while encouraging from an economic viewpoint, were not well received by Yemenis. The average family's budget was strained when subsidies on basic goods were removed, when the government froze its hiring, and when the government reduced its spending—spending that had long been the engine of growth. This situation prompted a deliberate slowdown in implementation of second-generation reforms, namely, private sector development (PSD).

¹ In terms of purchasing power parity, the World Bank reports that Yemen's per capita GDP in 2002 was \$782.9. This reflects the real purchasing power of the Yemeni Rial (i.e., per capita GDP in Yemen bought a specified bundle of goods and service valued at \$782.9).

Yemen is at the crossroads where discernible progress on PSD is necessary for sustainable pro-job growth. Towards this end, Yemen must take steps to foster a dynamic wealth-creating private sector environment, especially for labor-intensive small and medium size establishments that have potential for growth. Other enablers include judicial reforms, deregulation, financial sector expansion and deepening to make financial services available to firms of all sizes, improved land titling system, fair and efficient tax administration, enhanced performance at customs clearance and administration, intellectual property rights, and reduced tariff rates. Many of these reforms can take place in the short- to medium-term; a few, such as judicial reform and streamlined tax administration, will take much longer. Indispensable to these reforms is adequate infrastructure. As evidenced by the recent experiences of other developing countries, the confluence of these reforms boosts PSD, trade, and investment. Such reforms also exert a salutary influence on governance, transparency, accountability, the rule of law, and respect for rights.

In some cases PSD requires introducing appropriate public policies; in others it requires institution building. Given its rudimentary stage of development, Yemen requires both. For instance, it will not be sufficient to introduce a new competition law to address Yemen's lack of competitive markets. Why? Yemen lacks the legal foundation, institutions, and human resources necessary to identify monopolistic practices and prosecute violators in a court of law. A technical assistance project that addresses less than this entire package will ultimately fail. A sound project, conversely, must address three critical factors: (1) reform legislation, (2) institution building, and (3) human resource development. (This same pattern applies for introducing an intellectual property rights regime or a new land titling system.) Human resource development and institution building have the greatest affect on the development process, but are often the most difficult to pursue. At present, Yemen lacks many of the institutions that promote the common good, social cohesion, and collaborative spirit, all of which are critical agents of change.

A major concern of development assistance is sustainability. At a national level, where potential projects must encompass all three critical factors, the interlinked viability of projects is apparent. Hence, carrying out a project in the absence of all others may make it unsustainable, for the supporting network of institutions and laws and regulations do not exist. It is much easier, for instance, to establish a professional association if the necessary supporting institutions already exist. The new association benefits from the laws, traditions, modus operandi, and good and bad governance examples of existing institutions. Thus, the "big push" theory of development advocates large-scale efforts to build momentum so development can not only "take off" but also sustain a positive trajectory. Executing one project at a time is less likely to induce growth or reduce poverty than several projects executed simultaneously.

Given this context, the suggested pilot projects are designed to contribute directly and immediately not only to economic growth, but also to the objective of sustainability outlined in the preceding paragraph. Each pilot project is directly linked to PSD. Timing and sequencing are discussed below.

2. Vetting Process and Selection Criteria

APPROACH AND CONSULTATIONS WITH STAKEHOLDERS

A team of Nathan Associates specialists initiated the project in December 2003 with a thorough review of literature and documentation. The team examined the DTIS, World Bank technical assistance reports, Yemen's Memorandum on the Foreign Trade Regime (part of its application for accession to the WTO), Yemen's Poverty Reduction Strategy Program, and the progress reports and implementation plans of other economic growth promotion programs.

From January 18–29, 2004, the team conducted a mission to Yemen to build a menu of projects to propose to USAID/Yemen pursuant to USAID's request. Before leaving for Yemen the team consulted with USAID, USTR, Department of State, other U.S. Government organizations, and the World Bank in Washington, D.C., and with the United Kingdom's Department of International Development (DFID) in London.

During its first week in Yemen, the team consulted with USAID and Yemen-based representatives of other international donors (e.g., World Bank, the German Development Cooperation—GTZ, the Netherlands, Japan, and UN Development Programme—UNDP) to

- Survey past assistance programs,
- Assess the effectiveness of such programs and identify causes of failed or discontinued programs,
- Learn of current and future assistance plans,
- Ascertain gaps in current TCB funding vis-à-vis the DTIS technical assistance matrix, and
- Explore potential for collaborating with donors to co-finance recommended projects.

The team also met with government officials in Yemen's ministries and other government organizations (e.g., Central Bank of Yemen, General Investment Authority, Social Fund for Development, Yemen Authority for Standardization, Quality Control and Metrology) to discuss specific technical assistance areas and to ascertain government views on areas that could benefit from pilot projects.

To identify development priorities in light of daily business operations, the team also consulted with representatives of medium-size establishments; private associations, such as Chambers of Commerce and Industries; financial institutions, including the Al Tadhamon Islamic Bank; exporters and importers, industrialists and traders; farming and fisheries enterprises; and family and open shareholding companies. To the extent that Yemen's prospects for growth depend on private sector development, the consultations clarified private sector priorities. The team also consulted with several faculty members from public and private universities and colleges, but was not able to identify a local research institute. Appendix A lists interlocutors by name, title, and subject discussed.

The team focused on trade capacity building, pro-growth measures, and private sector development. Few areas were excluded except health, education, and major infrastructure projects.

The team spent the second week in Yemen vetting priorities. During the intervening weekend, the team engaged in internal deliberations of findings from the first week's meetings. The team developed a preliminary list of priorities using selection criteria, the survey of supporting literature, and its own expertise. Some projects were discarded, either because other donors are supporting them (e.g., WTO accession) or because project viability is contingent on as-yet unaddressed prerequisites (e.g., investment promotion, establishment of a stock market). The team then evaluated each possible project against the selection criteria. The team shared its tentative list of proposed pilot projects with USAID and State Department staff at the U.S. Embassy in Sana'a. There were no objections to any projects.

A FIRST CUT AT SETTING PRIORITIES

On the basis of the DTIS report's technical assistance matrix and interviews and consultations with donors and private and public sector officials, the team built a list of possible projects. The team narrowed the 70+ technical assistance ideas presented in the DTIS matrix to the following 26:

1. Build local capacity to evaluate the viability and worthiness of regional economic integration possibilities with the Gulf Cooperation Council, EU Partnership, Arab Free Trade Area, future USA-MENA FTA slated for 2013 and current Trade and Investment Agreement with the United States.
2. Legislate and implement new intellectual property rights laws, and support WTO accession.
3. Revise existing competition law and implementation procedures.
4. Reform existing customs valuation system, which is not compatible with the WTO.
5. Evaluate and reform labor laws.
6. Establish a local research center to conduct independent, sophisticated economic public policy assessment and evaluation studies.
7. Increase fisheries exports through a series of changes in policies, practices, standards, baseline data and basic transport and cooling infrastructure.
8. Provide for interministerial trade policy coordination.
9. Judicial reform.
10. Customs administration reform: administration, corruption, pre-shipment inspection, drawbacks, etc.
11. Aden: Free zone and port expansion.
12. Tourism: policies, promotion techniques, and infrastructure.
13. Export promotion: trade financing, export credit, partnership with foreign counterparts.
14. Develop an efficient and well-equipped national standards and specification agency.

15. Develop a national calibration and testing laboratory.
16. Facilitate access to credit by smaller enterprises and/or banking sector reforms.
17. Streamline regulatory regime (including agricultural) in tandem with the Ministry of Planning and International Cooperation's "Investor Empowerment" project and the World Bank's forthcoming "Investment Climate Survey" project.
18. Packaging: specialized industries in the area of packaging materials. The Japanese may contribute to this project.
19. Develop small and medium size establishments.
20. Land titling and property rights in general.
21. Commercial law reform: new draft law is needed.
22. Reforms of current tendering procedures and practices of government procurement transactions.
23. Create a business development center to provide services such as an incubator, seed money and project ideas, especially those with backward linkages to already existing enterprises.
24. Activate agricultural and livestock facilities at Sana'a University.
25. Revive historical community partnership to replace existing cooperatives to promote quantity and quality of agriculture output.
26. Build local private business, professional, and industrial associations.

These ideas were among the top priorities reported by interviewees. To be sure, this list does not include some basic development needs whose financial requirements far surpass current USAID appropriations (e.g., education, health, manpower planning, vocational training, mega infrastructure projects) or in which other donors are already involved.

THE SECOND CUT: ADDITIONAL SELECTION CRITERIA

The team then narrowed these 26 ideas to 11 top priority projects using the six criteria described in the following paragraphs.

Technical Soundness

Each project must be technically sound. Its benefits must be well delineated and its required inputs must be identified and made available through technical assistance. The relationship between the required inputs and the expected outcome must be clear and straightforward. Its success must be independent of other events or requirements external to the project. Additionally, its outcome must also be compatible with either TCB or PSD, or both.

Relevance to Integrated Framework and Trade Capacity Building

In accordance with the terms of reference for this assignment, projects must be relevant to the scope of work defined in the IF's DTIS. But very few ideas can be eliminated outright as irrelevant to the DTIS or to trade capacity building (TCB) more generally. The team therefore

devised a two-track path for this criterion: the first is relevance to DTIS/TCB while the second is short-term growth prospects. By combining the two, the team was able to mix short-term growth benefits with long-term institutional benefits of the sort typically featured in the DTIS. For example, the two projects dealing with increasing fisheries production and revitalizing the livestock reproduction center at Sana'a University accentuate supply-augmenting measures that are oriented strictly to short-term growth. But other measures that support the DTIS and TCB are included (e.g., customs valuation, intellectual property rights, competition law, building local capacity in the private and public sectors in carrying out economic assessment studies of alternative trade policy options).

Sustainability

At the end of a technical assistance program, project work ought to be able to continue independent of the program, serving the same beneficiaries and playing the same role. Sustainability is important in view of the multitude of foreign assistance projects that, history shows, were abandoned when assistance inflows dried up. Sustainability requires that project design include elements that guarantee the project's financial viability in the absence of development assistance. Where a new regulatory regime is instituted, project sustainability will depend on the government's commitment to the project. Even here, the commitment of the government must be secured in advance before the project is carried out.

Sequencing

Projects often depend on or assume the existence of other institutions or policies. For instance, a critical mass of public shareholding companies must precede a stock market. Establishing a stock market is not worthwhile if most private enterprises are family-owned units that usually refrain from going public in order to protect their privacy, which is the case in Yemen. Therefore, the idea of a stock market in Yemen must be deferred. Similarly, developing Yemen's fisheries sector and establishing quality-testing stations to promote exports must be preceded by another significant effort: population dynamics and fish stock assessment of fisheries resources in Yemen's territorial waters. In this case, as described later in this report, because one project depends on the other and because of the economic significance of the fisheries sector, the team recommends combining the efforts in a single project that has two consecutive phases.

Relevance to and Availability of USAID Resources

We were advised by USAID to consider relevant projects without being constrained by current funding levels to USAID/Yemen. We therefore considered projects at a variety of cost levels, although we did not evaluate the relative merit of large-scale infrastructure projects, whose costs would be considerably beyond USAID financial resources and scope. We were advised that USAID funding might be supplemented by funds from other U.S. government agencies and collaboration with other international or bilateral donors.

Collaboration with Other Donors

Although this was not used as a selection criterion in a strict sense, we took care to identify, where possible, potential collaborators for technical assistance activities in Yemen. Potential activities that appeared to be adequately and fully funded by other donors were excluded; where

we identified gaps in activities funded by other donors (e.g. European assistance to Yemen's WTO accession bid) we suggested an appropriate and complementary USAID activity.

ADDITIONAL VETTING WITH STAKEHOLDERS

Following assessment of the proposed 26 projects according to criteria earlier discussed, team members considered inputs from interviews with private and public sector officials in Yemen. Project ideas most frequently suggested by interlocutors included (1) measures to promote the growth of the fisheries sector, (2) strengthening the government's standardization and specification regulatory function, (3) judicial reforms, (4) government deregulation, (5) human resource development including training and vocational education (6) development of SMEs, (7) creating modern packaging industries, (8) improving financial intermediation especially with regard to banking reforms and (9) expanding and implementing planned modernization of the Aden port.

Our list includes some of these projects, as shown below. However, some projects were excluded based on the following further considerations. For instance, the IMF and DFID are involved in financial intermediation and UNDP, GTZ, and the World Bank are working on human resource development; moreover, both projects require long-term commitments accompanied by substantial budgets. Others, such as the establishment of packaging materials industries, were excluded on the grounds that they are best left to the private sector. Promotion of tourism was excluded not because other donors address it but because it requires significant fact-finding and additional diagnostic studies, activities that are less urgent from USAID's viewpoint; furthermore, its subsequent activities are likely to be concentrated in mega infrastructure projects, which again are less urgent. In some cases, the suggested idea was refined further, as has been the case with SMEs where our proposed activity focuses on only medium establishments. This was based on two pertinent facts: (1) small establishments are very small (less than four workers) and their contribution to employment and values added will always stay small; in other words, their growth potential in the Yemeni context is severely limited, and (2) large family establishments appear to possess the resources and political connections that enable them to cope with government regulations and inadequate financial intermediation. Our focus thus shifted from SMEs to only MEs.

Yemeni stakeholders did not express priority interest in two areas that U.S. officials had expressed the desire to support in Yemen: accession to the WTO and support for the priorities identified in the Diagnostic Trade and Integration Study under auspices of the Integrated Framework. In fact, we learned that the private sector is—misguidedly—anti-WTO. Only government officials who are involved in WTO and IF at the MIT and MOICP suggested their inclusion as possible technical assistance ideas. We excluded from our “short list” WTO accession as a unified project, in part because of the range of activities under this umbrella that are already being supported by the European Union. We focused instead on specific initiatives that fit in with our selection criteria and which are not currently funded by other donors. These consist of intellectual property rights, customs valuation and competition law. To be sure, these reforms are central to private sector development as well. Finally, it should be mentioned that had the team had additional time in the field, the Aden port project, which appears promising on the surface, would have been examined in depth to determine whether or not it can be recommended as a pilot technical assistance project.

3. Proposed Projects

The final list of proposed projects contains 11 technical assistance activities. The proposed projects are loosely grouped in three areas:

1. Trade policy reform and institution building;
2. Private-sector development; and
3. Measures to stimulate output and export growth in the near term.

Each project is described at length in Appendixes B through D. The profile of each suggested project covers project objectives, strategic context and background, project tasks and sequencing considerations, performance evaluation indicators, sustainability issues and provisions, potential donor partners, risks, and budget. The projects are generally intended for quick start up without significant additional research and/or investigation. The budgets are illustrative cost estimates. Actual costs may vary somewhat from these estimates, depending on the specific scopes of work developed.

PROJECT MANAGEMENT

In an attempt to reduce waste and avoid unnecessary delays, it was suggested that a special committee or a council be established to oversee implementation of the proposed projects. Such a council might be comprised of participants from the Yemeni government, representatives from the private sector, and USAID staff. The concept provides an example of possible meaningful collaboration between the public and private sectors. It is also designed to enhance public awareness of the issues at hand, marshals support at the grass roots for the introduction of PSD or TCB reforms, creates a lobbying group that could exert pressure on the government and members of the Parliament to enact the proposed reforms and secure needed government resources to ensure sustainability of government-sponsored projects (such as the competition law, intellectual property rights, land titling and customs valuation undertakings).² The proposed council should seek to obtain such guarantees prior to project start up. The life cycle of the proposed council moves in tandem with that of the proposed projects.

TRADE POLICY REFORM AND INSTITUTIONAL DEVELOPMENT

The following projects are supported by, complement, and supplement a current EU-funded project in Yemen to assist Yemen's application to accede to the WTO. The selected projects are as follows:

1. ***Strengthening Protection for Intellectual Property Rights.*** Yemen's rudimentary patent law needs to be redrafted. Other IPR areas, such as industrial design and copyrights, do

² These reforms come under the regulatory function of the government. It is therefore incumbent on the government to provide resources that guarantee the projects' continuity after donors, such as USAID, have initiated, guided, and funded the necessary reform.

not exist. These reforms are required to meet WTO membership conditions. The project aims to draft new laws and operational bylaws; create the institutions required to implement the new regime; train the government, the private sector, lawyers, and judges in the new system; and promote awareness of the system's benefits and appeal process.

2. ***Customs Valuation Reform.*** The present system is not efficient and does not comply with WTO requirements. The purpose of this project is to draft a new customs valuation law that will be WTO-compatible, build the human capacity required to implement it, and inform importers of their rights and obligations. Follow up plans are also introduced to assist customs officials in resolving implementation obstacles.
3. ***Revising and Implementing Competition Law.*** An old competition law was passed but not enforced because its bylaws were never written. The purpose of this project is to enhance competition in the local market by introducing a more comprehensive law along with its bylaws; developing the supporting institutions; and training government officials, private businessmen, lawyers, and judges on the new law.
4. ***Building Trade Knowledge and Analytical Capacity.*** This project consists of two phases. The first phase will build the capacity of government officials to conduct economic assessments of trade and development options. Currently, Yemen's public sector is practically devoid of these skills. The second phase will establish a private research/training economic and business center to carry out empirical, investigative, and evaluative analyses of public policies and to recommend actions to boost trade and investment. It will also advocate PSD reforms.

Details on each project are provided in Appendix B.

PRIVATE SECTOR DEVELOPMENT

5. ***Reforming Land Titling.*** Yemen's land tenure system is a mixture of private land owned under modern and customary titles with no effective means of securing and defending titles. This deters investment. The project proposes a sequence of steps to stimulate donor and public sector action toward resolving the land titling problem and creating a mechanism for facilitating consensus on a policy and action plan.
6. ***Facilitating Access to Credit for Medium-Sized Firms.*** Yemen's medium-sized private firms could grow significantly if credit and other constraints were relaxed or removed. The project proposes a mechanism for raising management skills, improving enterprise productivity and competitiveness, and building enterprise linkages. It also proposes an alliance between USAID and local private banks to facilitate access to credit at commercial rates.
7. ***Enhancing Commercial Courts and Alternative Dispute Resolution Mechanisms.*** Broad-based economic growth in a free market cannot be achieved unless economic agents believe that their property rights are secure and that they have recourse to efficient dispute resolution. The project proposes a two-pronged approach to strengthening Yemen's commercial courts and enhancing a parallel conciliation, mediation, and arbitration system. The core ideas involve supporting two model courts and one, or perhaps two, arbitration centers that could be replicated in other parts of the country.

8. ***Streamlining Regulations and Regulatory Procedures.*** The evidence that SMEs are the largest contributors to employment generation and value-added growth around the world, including the MENA region, is strong. In spite of recent liberalization reforms, Yemen's SMEs encounter delays, high fees, and corruption in obtaining licenses, permits, electricity and water connections, and permits to introduce modern hybrid products in the agriculture sector. This project will assess each major regulation and will recommend ways of streamlining them.
9. ***Equipping and Staffing National Standards/Testing Stations.*** The agriculture sector in Yemen remains one of the largest in terms of employment. Its export growth, however, is stifled because of the lack of testing stations to assess and ensure product quality, shelf life, and other specifications. This project will help establish such stations near production centers in at least two locations. To this end, technical assistance will provide hands-on training as well as help equip centers with needed testing equipment.

Details on each project are provided in Appendix C.

MEASURES TO STIMULATE OUTPUT AND EXPORTS IN THE NEAR TERM

Both of the following projects are intended to foster short-term output and export expansion. They focus on the important fisheries and livestock sectors. Human resource development is taken into account as an important long-term ingredient of growth.

10. ***Promoting Fisheries Exports.*** Fish is abundant in Yemen but production and export face two major hurdles. On the production side, stock management techniques must be improved, a task that can be addressed, first, by means of an in-depth stock assessment and population dynamics study. Exports, especially to the EU, also encounter major difficulties because of the lack of standardization, quality and specification testing, codification, and certification. This project will address both obstacles.
11. ***Promoting Livestock Exports.*** The College of Agriculture at Sana'a University has idle production capacity. Its faculty members and veterinarians are interested in using the available space. The proposed project will provide the resources needed to start up reproduction and breeding of new livestock varieties. Its implementation will be staged over time to ensure success, sustainability, and accountability.

Details on each project are provided in Appendix D.

COMPARATIVE ANALYSIS

The following table provides an overview of proposed activities by duration, budget, and impact on human resources and institution building. These activities offer a flexible and versatile program that should advance USAID's economic growth plans. In view of the relative uncertainty of budget resources available for these activities, the team came up with a set of projects that encompasses relatively broad budget ranges. This should add flexibility to resource programming. The proposed illustrative budgets range from \$200,000–\$4.8 million.

| Project | Duration (Years) | Illustrative Budget (\$ US) | Human Resource Development | Institution Building |
|--|------------------|-----------------------------|----------------------------|----------------------|
| TRADE POLICIES AND INSTITUTIONS | | | | |
| 1. Strengthening Protection for IPR | 2 | 1,000,000 | √ | √ |
| 2. Customs Valuation Reform | 2 | 500,000 | √ | √ |
| 3. Revising and Implementing Competition Law | 1.5 | 700,000 | √ | √ |
| 4. Building Trade Knowledge and Analytical Capacity | 2 | 1,700,000 | √ | √ |
| PRIVATE SECTOR DEVELOPMENT | | | | |
| 5. Reforming Land Titling | 0.33 | 200,000 | √ | √ |
| 6. Facilitating Access to Credit for Medium-Sized Firms | 2 | 2,300,000 | √ | √ |
| 7. Enhancing Commercial Courts and Alternative Dispute Resolution Mechanisms | 2.25 | 4,800,000 | √ | √ |
| 8. Streamlining Regulatory Procedures | 1 | 300,000 | √ | √ |
| 9. Equipping and Staffing National Standards/Testing Stations | 1.83 | 1,200,000 | √ | √ |
| MEASURES TO STIMULATE OUTPUT AND EXPORTS IN THE NEAR TERM | | | | |
| 10. Promoting Fisheries Exports | 2 | 4,100,000 | √ | √ |
| 11. Promoting Livestock Exports | 2 | 300,000 | √ | √ |

While all of the suggested projects address constraints to Yemen's economic growth and trade capacity, the opportunity to choose among a range of budget sizes is likely to enhance USAID's ability to propose joint endeavors to other donors, the private sector, and the authorities. Likewise the range of project durations—from a few months to more than two years, with a modal duration of two years—provides flexibility. Several of the proposed projects—competition policy, land titling, and commercial court/dispute resolution—would be well suited to technical assistance from U.S. government entities, such as the U.S. Commerce Department's Commercial Law Development Program.

Taking into account the mixed record of the Yemeni authorities' resolve to meet their commitments, USAID may want to explore short-duration low-budget activities. This is not necessarily the best approach, and the team is neither suggesting nor discouraging it. But as the Mission develops its economic growth activities, it is a factor that bears consideration.

Finally, all activities will have positive impact on human capital through training and establishing new institutions or strengthening existing ones.

FURTHER PRIORITIZATION OF PROJECTS

In this section, an attempt is made to examine the issue of project prioritization as well as sequencing amongst the 11 selected project ideas. Assuming that USAID applies a finite budget

constraint to the selection of the proposed projects, and assuming further that the list of the proposed projects is not altered, what is the best possible manner in which these ideas can be pursued?

The answer will depend on a number of critical factors and criteria. For example, the absolute top priority (i.e., the first in the sequencing of the proposed projects) will be given to the project that has the smallest budget, the shortest duration, the smallest risks and the maximum potential impact on the development process, trade promotion, job creation and poverty reduction.

With these criteria in mind, the standardization and specifications project is suggested first because of its potential substantial impact on agro-business production as well as fisheries, on job creation and because of its direct contribution to the growth potential of exports to the EU and neighboring GCC countries, notably Saudi Arabia. These repercussions are likely to be felt within a relatively short period of time; additionally, the project is doable and it can be carried out by specialized USG entities.

Deregulation is suggested next because of its widespread impact on the regulatory framework, whose reform will have immediate impact on investment climate, be it local or foreign. Its budget is relatively small, its duration is relatively short and its associated risks are minimal.

Customs valuation reform is selected next because of its complementarity with deregulation. Again, considering the budget, duration and potential impact of the customs project on development, it is given priority because it reinforces deregulation reforms and because the two projects both contribute to private sector development.

The fourth-ranked project also is critical to private sector development: it aims at empowering medium-size establishments because research has shown that these firms provide the most effective way of creating substantial job opportunities, especially if deregulation has been carried out, capital requirements considerably scaled down and standardization of fruits, vegetables and fisheries can be certified by government testing stations near production sites. These factors combined give impetus to energizing the private sector.

Though land titling is critical for establishing new businesses, it is less critical for small- and medium-sized establishments, which we are targeting within the envisioned development strategy. Moreover, the full eradication of this problem will consume considerable time in view of the large stock of accumulated land ownership disputes. Yet, it is placed among the top five priorities because of the urgent need to provide Yemen with a new workable system that, in due course, will be adopted throughout the country.

Next in line is competition law. Enforcing competitive conditions in the market place will enable medium establishments to expand, for large firms currently control production, imports and exports. The law will also simplify entry of new businesses and curb monopolistic practices, both of which will enable SMEs to experience growth, which they have not seen during the last two decades. Concomitant with deregulation, reforming customs valuation, introducing new methods of settling property (land) rights and providing micro financing for SMEs, there will be a new awareness in the country regarding the new enhanced role of the private sector in development.

To support this change in the country's economic structure, as well as the increasing importance of trade to the economy, private sector, and government, it will be appropriate at this juncture to help Yemen build local capacity in terms of evaluating trade policy options and carrying out empirical research studies that support private sector development.

The next two projects directly influence supply in that the first aims at enhancing Yemen's base line knowledge of its fish stock and fish population dynamics and the second aims at improving local animal breeds through crossbreeding at Sana'a University, among others.

Intellectual property then is advised for implementation. Its relatively low priority among the top 11 pilot projects is attributed to its limited impact in view of Yemen's small market.

This is not the case, however, with judicial reform, which is our 11th priority project. The rationale for this choice is grounded in the fact that judicial reform is strongly interlinked with basic political reforms, which are typically slow in coming in the Middle East and North Africa region as a whole.

Appendix A

PERSONS INTERVIEWED

Name Isam S. Luqman
Job Title General Director, Agricultural & Fisheries Promotion Fund (AFPPF)
Subjects Technical assistance to the fisheries industry

Name Hassan M. Al-Kbous
Job Title Vice Chairman, Al-kbous Industrial Trade and Investment Group
Subjects The businesses of the Al-Kbous Group

Name Mohamed Mohamed Salah
Job Title Chairman of the Board, Alrawadah General & Agencies Company
Subjects The businesses of his company.

Name Mohammad Al-Saeedy
Job Title Chairman of the Board of Trustees, Applied and Social Sciences University
Subjects Plans for the growth of the University.

Name Dirk A. Seelemann
Job Title Director, Consulting and Development Center, Applied and Social Sciences University
Subjects Plans for the University

Name D. Amin M. Mohie Al Din
Job Title Chairman, Central Statistical Office (CSO)
Subjects Technical Assistance for the CSO

Name Hafedh F. Mayad
Job Title Chairman, Cooperative and Agricultural Credit Bank (CSCB)
Subjects Technical assistance to fisheries.

Name Nagib A. Hamin
Job Title Chief, Communication and Coordination Office with the World Trade Organization (COO-WTO), Ministry of Industry & Trade
Subjects Window II assistance

Name Ahmed Gabir Al-Sanabani
Job Title Deputy Chairman, Customs Department
Subjects Customs

Name Jan-Bernard De Milito
Job Title Temporary Representative, European Union
Subjects EU aid to Yemen.

Name Mohammed A. Saeed
Job Title Chairman of the Board, Federation of Yemen Chambers of Commerce and Industry.
Subjects Business and government in Yemen.

Name Ahmed A. Ghaleb
Job Title Deputy Minister, External Relations Department, Ministry of Finance
Subjects Yemen's technical assistance needs, banking.

Name Gert van Santen
Job Title Fisheries consultant
Subjects Fisheries. Mr. van Santen wrote the fisheries component of the DTIS

Name Habib Sheriff
Job Title Program Officer, German GTZ
Subjects New GTZ work for the EU.

Name Amin Muhyadi
Job Title Chairman, Housing Bank
Subjects Various topics.

Name Ahmed T.N. Al-Absi
Job Title General Manager, International Bank of Yemen
Subjects Various topics.

Name Abdul Hafiz Nagi M. Al Samah

Job Title Deputy, Directorate Marketing Services Sector, Ministry of Fish Wealth

Subjects Technical assistance priorities.

Name Mohammad Al-Sabri

Job Title Deputy Minister for Economic Forecasts, Ministry of Planning and International Forecasts

Subjects Various topics. Al-Sabri worked on the DTIS.

Name Nabil A. Shaiban

Job Title Director General, International Cooperation with Europe and the Americas, Ministry of Planning and International Cooperation.

Subjects Technical assistance priorities.

Name Dawood A. Othman

Job Title Head, Department of Economics, Sana'a University

Subjects The University and a new research institute

Name Ahmed M. ElAghil

Job Title Chairman, Union of Agricultural Importers

Subjects Agriculture

Name Ahmed A. Al-Hamdani

Job Title Chairman, Watabi Bank

Subjects Technical assistance priorities.

Name Robert E. Hindle.

Job Title Representative, World Bank

Subjects World Bank priorities: (i) education, especially for girls, (ii) water management, (iii) environment for private investment, and (iv) anti-corruption. Hindle's own priorities: (i) land titling, (ii) financial sector, (iii) corruption in taxation and customs, and (iv) lack of standards. The World Bank might collaborate on an institute.

Name Robert D. Innes

Job Title U.S. Maritime Advisor to Yemen

Subjects Yemeni Coast Guard

Name Musaddaq Ali Al-Saruri
Job Title Head, Planning & Research Department, Small Enterprise Development Fund
Subjects The Fund

Name Zein S. Alhibshi
Job Title Manager, Trade Services, Tadhamon International Islamic Bank
Subjects Islamic banking.

Name Sander H. H. Janssen
Job Title Second Secretary, Royal Netherlands Embassy
Subjects Various topics.

Name Noman M. Al-Mulsi
Job Title Secretary General, Yemen Export Supreme Council
Subjects Work of the Council

Name Yoji Hattori
Job Title First Secretary, Embassy of Japan
Subjects Japanese Aid

Name John T. Everett
Job Title President, Ocean Associates, Incorporated
Subjects Fish stock assessment and quality testing stations.

Name James W. Rawley
Job Title Resident Representative, UNDP
Subjects Priorities and UNDP Program, focusing on Millennium Development goals; are also supporting a think-tank type institution for engagement on key policy issues (not restricted to economics). Also working on anti-corruption and on reform of the judicial system (focus is not on commercial law but on human rights and access to general judiciary. They are interested in collaborating with other donors.

Name Ali Mohammed Abdullatif
Job Title Director of Small Industries, Min. of Industry and Trade
Subjects Priorities

Name Mohamed A. Moghram
Job Title Assistant Professor, Faculty of Law, Sana'a University
Subjects Rule of law and performance of the judicial system

Name Moh'd Naji Allawo
Job Title Chairman, Allawo Corporation for Advocates
Subjects Rule of law and performance of the judicial system

Name Mahamed Jaffer Kassim
Job Title Deputy Minister of Justice
Subjects Priorities

Name Hisham Ali
Job Title Undersecretary, Ministry of Culture and Tourism; Head of the National Committee on Intellectual Property Rights.
Subjects Priorities, especially IPR

Name Abdel Ghani Hamid Mohamed
Job Title General Director of the International Relations Unit, Ministry of Industry and Trade
Subjects Priorities, technical assistance needs of MIT

Name Fadhl Mansour
Job Title General Director of Industrial Property Protection, Ministry of Industry and Trade
Subjects Priorities; especially IPR

Appendix B

TRADE POLICIES AND INSTITUTIONS

Project 1. Strengthening Protection for Intellectual Property Rights

PROJECT AND BUDGET SUMMARY

The proposed project provides technical assistance to the Government of Yemen (GoY) to ensure that its Intellectual Property Rights (IPR) Law is fully consistent with the Trade Related Aspects of Intellectual Property Rights (TRIPS) Annex to the World Trade Organization (WTO) Agreement. In addition, the proposed project will provide technical support and other assistance needed to assist Yemen in enforcing the law. The project's main activities will consist in training GoY officials, lawyers and judges. It will also raise the awareness of the business community as to the value to businesses of the IPR protection, how to make practical use of the benefits of IPR protection, and how to register for protection, file a complaint and appeal an administrative ruling.

The total budget is estimated at approximately one million US dollars, all of which is directed towards drafting the new IPR laws and their executive regulations in addition to training national stakeholders locally and two local judges overseas. This estimated budget also includes some provisions for facilitating the actual enforcement of the new IPR regime. A detailed budget is presented at the end.

PROJECT OBJECTIVE

The main aim of the project is to help Yemen develop legislation and a system to ensure the implementation of a comprehensive Intellectual Property Rights (IPR) law (or a number of laws which include all aspects of TRIPS) in compliance with the TRIPS Agreement. The technical and financial assistance provided by USAID will help in drafting any TRIPS-required portions of the IPR laws which are not covered by the present legislations, for example sections on geographical indications, undisclosed information, semiconductor topographies and anticompetitive behavior in contractual licenses need to be included in the legislation.

RATIONALE

Past efforts undertaken by the World Intellectual Property Organization (WIPO) in Yemen have helped to institute the current patent law. The proposed technical assistance is designed to extend WIPO's previous efforts to make Yemen's laws conform to TRIPS into the remaining areas of IPR protection, which are not in conformity with TRIPS. This technical assistance is designed to fill in this gap. Moreover, it will accelerate Yemen's accession process to the WTO in that it would render it in full compliance with the requirements of the TRIPS Agreement, a necessary condition for WTO accession. Yemen's business community will reap the benefits from instituting a new and this should

diminish the Yemeni business community's current negative attitude toward WTO accession. Finally, from an economic viewpoint, past empirical research strongly corroborates the fact that the establishment of a fully operating IPR system promotes economic development by encouraging both foreign and domestic investment, expanding trade and increasing technology transfer.

STRATEGIC CONTEXT

USAID has successfully implemented projects in a number of developing countries to assist them in developing intellectual property rights systems that are consistent with the WTO TRIPS Agreement and that effectively protect the rights of creators, inventors, and artists—domestic as well as foreign. The case of Yemen is analogous to that of other countries in the region, which had some IP laws and regulations, but which were not in full compliance with the TRIPS Agreement, and have faced severe problems in implementation and enforcing intellectual property rights. USAID can build on its regional experience in this regard.¹

BACKGROUND

In the process of acceding to the World Trade Organization (WTO), the Government of Yemen (GoY) is undertaking a number of reforms to comply with WTO rules and regulations. The GoY has already been receiving financial and technical assistance from other donors, especially the European Union (EU), to facilitate the accession process. One of the main areas that require reform is compliance with the WTO/TRIPS Agreement.

The government started to apply one aspect of the IPR law through the issuance of an executive decree concerning patents in 1994. At the present time, there is a new draft copyright law that is awaiting approval from the Council of Ministers before it is sent to the Parliament for ratification. However, other legal amendments or executive decrees concerning industrial design, trademarks and geographical indications are absent. As a result of the government's modest efforts in this field to date, Yemen is not in compliance with the TRIPS Agreement. On the other hand, due to the complexity of the topics covered by IPR, especially with regard to TRIPS regulations, Yemen, as with many developing countries, is seriously in need of technical assistance that can give it the impetus to complete its IPR reforms and to bring it into compliance with WTO/TRIPS.

Matters related to IPR are distributed between the Ministry of Culture and Tourism (MCT) and the Ministry of Industry and Trade (MIT). The former is responsible for copyright laws while the latter regulates and oversees other IPR issues, including the industrial property offices. MIT has four IPR departments: Patents & Industrial Designs; Trademark Registration; Trademark Depository; and Public Awareness. The four departments have a total of 29 employees, with limited computer facilities, no library to keep them updated to current developments in the field and limited supplies of advanced and automated office equipment. More importantly perhaps, is the observed lack of skills and knowledge of current IPR-related issues.

¹ A highly successful USAID-funded project to strengthen intellectual property rights in Egypt is described at <http://www.usaid-eg.org/detail.asp?id=266>.

For drafting IPR laws the government has been depending on foreign experts. For implementation, it is difficult to do likewise. The government of Yemen must possess the resources required to maintain effective implementation of existing laws. Presently, the GoY merely reacts to complaints instead of acting proactively. This is attributed to the lack of mechanisms, laws or empowerment to prosecute IPR infringers. This discourages complaints from injured parties and results in violations going unreported. All in all, the government's limited capacity, from a legal and human resources standpoints, coupled with an inadequate awareness of the rights of intellectual property holders, have collectively stifled the government's role in combating piracy and counterfeiting.

At MIT, three sub-committees have been established under the auspices of the National Committee for WTO Accession. The first two committees deal with trade in goods and services respectively, while the third is a special committee devoted to addressing IPR issues.

As mentioned earlier, WIPO assistance has helped the GoY upgrade its patent legislation (enacted in 1994) and provided some advisory and technical assistance to establish MIT's trademarks, patents and industrial design departments. However, with the exception of patents, the remaining executive regulations have not been drafted.

As for the copyrights laws and legislation, the Ministry of Culture and Tourism has drafted amendments to the existing law in order to be in full compliance with the TRIPS Agreement. However, the amendments still have to receive parliamentary ratification.

In addition, neither the copyright nor the patent legislation cover such topics as geographical indications, topographies (integrated circuits layouts), undisclosed information (especially those related to trade secrets), and finally anti-competitive behavior in contractual licenses.

PROJECT DESCRIPTION

This proposed technical assistance project will require a broad array of professional expertise including expertise in drafting new laws and regulations, implementation and enforcement techniques, manpower training, public awareness programs and public policy monitoring techniques. The suggested IPR technical assistance program in Yemen is divided in three main tasks: (1) drafting of IPR legislation, regulations and decrees; (2) increasing public awareness, and (3) monitoring enforcement. An attempt is made below to delineate and measure the technical assistance components required for each of the three tasks.

Task 1. Drafting New IPR Legislation

This task will involve the expertise of both local and international legal professionals. The local professionals should be specialized in the drafting of laws in Arabic and in the context of the Yemeni legal system. The international IPR specialists should be experienced in drafting laws, executive regulations and decrees to meet international norms and the requirements of the WTO/TRIPS Agreement. These legal experts should be familiar with the relevant areas of protection which are not currently addressed in the present Yemeni IP Laws.

Local Experts

Knowledge of existing laws and the Yemeni judicial system, Arabic language often used in legal documents, the manner in which new laws fit into the existing legal system and the appeals process, is necessary to ensure that the proposed laws, executive regulations and decrees will be accepted by both the Parliament and the Judiciary in Yemen. In addition, a good working knowledge of the process of ratification by the Parliament would be useful so that the new laws would not encounter undue delays. Furthermore, a familiarity with the current procedures for registering patent, trademarks and industrial designs in Yemen, as well as familiarity with the law enforcement structure in Yemen is critical to ensure the drafting of executive regulations and decrees which will be used and implemented by the Yemenis. We envision that this task would require one legal professional from within the Yemeni legal profession and another legal professional from a neighboring Arab country, or one who is familiar with common jurisprudence in the Arab countries, and who has practical experience in similar matters Yemen or other Arab countries.

International IP Experts

We recommend that two international IP experts, who are well versed in similar laws in other WTO members and in the TRIPS requirements, be employed to work on the drafting of legislation and executive regulations. It would be preferable if these experts had experience in the aspects of TRIPS which are new to the Yemeni legal system (i.e., semiconductor topographies, geographical indications, undisclosed information, etc.).

Scope of Works for the Legal Experts

The local and international legal experts will work together to advise Yemen on the best path possible towards meeting its WTO obligations. The legal experts will consider all possibilities including amending existing laws, enacting a comprehensive code and enacting numerous IP-related laws and/or decrees (i.e., a copyright law, a trademark law, and so forth). Drafting the executive regulations is another major task that must be undertaken so that the laws, once enacted, are operational. In the past, laws have been enacted without their attendant executive regulations (known in Yemen as the Executive Decrees), which render the laws useless since the method of application, including exacting penalties, are not specified.

Given the current status of the judicial system, the experts should perhaps consider the possibility of establishing a specialized IP or commercial court that will handle IPR cases, for it is feared that if it were placed within the current system it is likely to be tarnished by the same inefficiencies and problems that characterize the current judicial structure. This court may be designed to start small and expand as the caseload grows over time. Additionally, the team of experts should give sufficient considerations to Yemen's current inadequate human and technical capabilities, while keeping in mind the dynamics of a new project, where one would expect the GoY would be able to address issues of increasing complexity over time.

The expected duration of Task 1 is one year. The international experts will work in Yemen, in the Ministry of Industry and Trade headquarters, with their local counterparts for four weeks to determine the proper approach for Yemen (a comprehensive law, amendments to existing laws, or

piecemeal legislation). The international experts will then draft legislation in English from the United States (one month). The local experts will take this proposed legislation translate it into Arabic and ensure the legislation is applicable to the Yemeni situation. The local experts will work with local government officials to ensure the final draft is acceptable to them and can be enacted by the Parliament (one month's time). The international experts will then return to Yemen to work with the local experts to draft the executive regulations to their proposed legislation (three weeks). When the executive regulations are completed the team leader will finalize the draft laws and their executive regulations with local government officials to ensure that their advice has been reflected in the executive regulations as well. It is expected that it may take the remainder of the year, or more, for the law/s to be enacted by Parliament and the executive decrees to be issued. During this time the Chief of Party will be available for consultation and possibly to return to Yemeni for discussions on the proposed legislation or hold a seminar for legislators, business persons and journalists on the proposed legislation and the benefits for Yemen.

If the GoY so desires, the international experts might advice the government on the benefits to Yemen of joining various IP protection treaties. To date, Yemen is not a signatory to a single IP treaty. The experts could write a paper about each treaty and the benefits of acceding to each.

Task 2. Public Awareness and Training

Task 2 will begin simultaneously with Task 1 and continues until the legislation has been enacted, or the end of two years. This task is divided into two phases. Phase 1, which will be six months in duration, will focus on training concerned government officials, judges, lawyers, journalists and private businessperson. The purpose of this phase is to raise public awareness about what is IPR, why it is important to protect IPR, why IPR is beneficial to developing countries and what are the major international IPR issues. The efforts of three experts will focus on the significance of the IPR worldwide, the expected benefits to local producers, and their existence as a necessary condition to attract foreign investment and encourage trade, on issues related to the implementation and enforcement of the new laws and on specific aspects of the TRIPS Agreement of the WTO. Tit is recommended that experts consist of a public awareness specialist, and IP legal expert and someone familiar with enforcement of IP rights.

The Chief of Party, in conjunction with the public awareness specialist will draft a public awareness plan for approval by USAID. This plan shall include a series workshops and seminars for various sections of the Yemeni society. As much as possible, training should be provided either directly in Arabic or with the use of interpreters. All training materials should be translated, or existing Arabic-language IP materials used (such as Arabic language versions of IP treaties) provided.

Workshops are suggested to address four sectors of society: government officials and parliamentarians, lawyers and judges, journalists and private businesspersons. It is recommended that journalists be trained because their articles and reports are the source of information for the majority

of the public. If they adequately understand the issues and the benefits they should report on the benefits of enacting the new proposed legislation².

Some workshops/seminars may have 50-100 attendees, for example a workshop on “What Is IPR and IPR Benefits for Developing Countries,” and others may be designed for attendance by only 10 persons. For example, a special 4 day workshop might be given to employees of the Trademark Registration Office on trademark registration guidelines. Members of one group may attend workshops of other groups depending on the topic presented. The Public Awareness Plan to be developed by the Chief of Party will determine the topics, timing, and so forth of the proposed workshops. However, we envisage a need to hold at least ten workshops.

By the end of this phase, we expect the following objectives to be met:

- Increased support at the grass roots level for the new IP legislation by delineating the positive benefits of applying IPR and the trade offs involved should they be absent,
- Enhanced public awareness of the new IPR regime in its broad context,
- A selection of candidates from the groups that would serve on a council, the IPR Council, whose objective will be to provide overall support and follow up to the process of instituting the new IPR protection regulations.

Six months into the life of the project, and IPR Council should be established. It would include in its membership representatives from all stakeholders: key government officials, well known judges and lawyers and prominent business community leaders, in addition to USAID. The primary functions of the Council would be to offer guidelines to the process of introducing the new laws, amendments and regulations from the draft stage to their final ratification, redirecting the process when it runs into unexpected turns and generally act as a lobby for the instituting the new IP regime. Honorary service on the Council membership will be at no cost to the project.

After the completion of the draft laws, it is suggested that two Yemeni judges be selected to receive specialized training in a neighboring Arab-speaking country in matters related to IPR protection regulations. This training should be undertaken in a WTO member country such as Jordan, Egypt or Morocco. This training might include taking a diploma course in IP at Cairo University, or participating in IP training at the Egyptian Patent Office or perhaps, participating in a similar program in Jordan or another Arab country which is a WTO-member. The duration of the training period would be for six to nine months for each judge. Further, it is suggested that the training program be staggered to allow for the learning experience factor from the first training program. Thus, the total duration of the training would last for 12 to 18 months, 6 to 9 successive months for each of the trainees.

Towards the end of the second half of the year, workshops would focus more on the specific laws and executive regulations that had been drafted through Task 1 and on implementation procedures and problems, rather than the definitions, purpose and benefits of IP protection. The experience gained from the first round of workshops should be worked into the design of the second round. The

² See the successful impact of training journalists on IPR in the Final Report of the USAID/Egypt Technical Assistance for Intellectual Property Rights in Egypt (TIPRE) Project, 2003.

planned workshops may be offered to the same group of beneficiaries and to others as well. The selected speakers/experts would probably be drawn more from agencies that are specialized in IPR law enforcement. Speakers might include persons from the Department of Justice, sitting District Court judges, persons from IP associations, such as the International Anti Counterfeiting Coalition (IACC).

Task 3. Facilitation of the Progress of Implementation

Sometimes good laws are ratified but then neither implemented nor enforced. In order to prevent this results and because the TRIPS Agreement includes provisions on enforcing IPR, we suggest visits be made by experts to Yemen during the second year of the project to help facilitate the enforcement stage. A plan of three visits taking place each four months and lasting for two weeks each is suggested. By the end of the third stage, the IPR Council would no longer exist.

HUMAN RESOURCE DEVELOPMENT

The project will help in enhancing human resource development in three respects: First, it will upgrade the capabilities of GoY IP officials, lawyers and judges to understand, apply and follow transparent rules and regulations in accordance with the TRIPS Agreement of the WTO. Second, it will create the first cadre of judges specialized in IPR cases as two young Yemeni judges are recommended for overseas training. Third, it will raise public awareness, especially in regard to the major beneficiaries of the new regime, the local business community, in terms of their rights, obligations and due process.

SUSTAINABILITY

The reform of the IPR system embodies in-built sustainability for as long as all the required components of the system are in place. Thereafter, it should have its own momentum to carry it through. Consequently, the suggested technical assistance during its early stages of development is indispensable to provide it with the push it needs to take off. The essential conditions required in the components consist of enforceable laws and well-trained judges. For this reason, it is critical that the new IPR regime would take into consideration Yemen's inadequate human and technical capacities.

While it may be possible for the continuity of funding to be achieved from financial fines collected from IPR infringers, and/or registration fees received by the Patent and Trademark Offices, the GoY support must be the backbone of the new IPR system. Possibly IP Offices may be able to retain some fees they will receive from local registrations or from international registrations received in Swiss Francs from WIPO, when Yemen accedes to various IP treaties.

COLLABORATION WITH OTHER DONORS

The strongest potential for collaboration is within the EU-Yemen technical assistance entitled "Support to Yemen's Accession to WTO", which has a budget of €7 million. The project advocates coordination with other international donors in a list of activities, one of which highlights the need for IPR reform (mentioned in Activity Area No. 4). The Project could also coordinate with the World

Intellectual Property Organization to determine exactly what they have done for Yemen in terms of equipment, software and training provided and what they plan to do for Yemen in the next few years. The proposed project could then build on the work WIPO has undertaken and intends to undertake for Yemen. It should also be mentioned here that the GoY has been receiving financial and technical assistance from WIPO and that according to government officials, WIPO's assistance has been very effective except it fell short of the needs to expand IPR beyond the patent stage.

PERFORMANCE INDICATORS, DELIVERABLES AND BENCHMARKS

There are several indicators that can be adopted to measure the progress of the technical assistance provided. The indicators will differ according to project tasks.

Task 1. Drafting New IPR Legislation

Short-term indicators include

- New legislation is drafted in Arabic in a manner consistent with WTO TRIPS Agreement;
- Executive regulations, executive regulations and/or Ministerial Decrees for implementing these laws and other IPR legislations are drafted and include the necessary mechanisms for implementation; and
- The drafted executive regulations take into consideration Yemen's current inadequate human and technical capabilities in addition to its relatively weak enforcement apparatus.

Medium-term indicators:

- The number of patents and trademarks registered annually in Yemen have increased. This indicator will illustrate an increase in awareness about the benefits of IPR protection as well as an increase in the belief that their rights will be enforced.
- The laws are enacted and not simply issued and ratified by the Parliament and then shelved as in the case with some other laws (e.g., Competition Law).

Task 2. Enforcement and Public Awareness

Medium-term indicators include:

- The number of trained, qualified IPR personnel capable of implementation should increase from zero at the present time to the targeted number of trained people; we suggest 40-50 including government officials and lawyers/judges.
- Two Yemeni judges are trained overseas.
- Workshops are well attended and public awareness is bolstered.
- The new IPR regime is approved by the Council of Ministers and ratified by the Parliament.

Task 3. Facilitation of the Progress of Implementation

Long-term indicators:

- The number of complaints should decrease after a period of implementation. The decrease could follow an increase resulting from enhanced public awareness.
- The number of IP cases filed in court should increase as people become more aware of their rights and have confidence in the new IP regime.
- The number of fines, the total amount of fines for IP violations should increase.

RISKS

Government officials may be reluctant to implement the law. Monitoring and the expectation of sanctions from other WTO members due to non-compliance, once Yemen joins the WTO should tend to minimize this risk.

Project 2. Customs Valuation Reform

PROJECT AND BUDGET SUMMARY

This initiative will provide technical assistance so that Yemen's Custom Law complies with the Customs Valuation Agreement of the WTO. The activity will train customs officials so that they can implement the new law. Finally, the project will help raise the business community awareness of the benefits of the new law, how to make use of it, and the appeal procedures. Project implementation will consist in three phases: (1) drafting legislation; (2) law implementation and enforcement; and, (3) monitoring progress. Accordingly, the project will require experts in: drafting laws and regulations; law implementation; training and raising public awareness; and program monitoring. Envisaged life of project is two years.

Total cost of project is estimated at approximately \$500,000.

OBJECTIVES

The main aim of the project is to help Yemen develop legislation and a system that is in full compliance with the Customs Valuation Agreement of the WTO. Other important and related objectives are training customs officials in the implementation of the new legislation, and raising the awareness of the business community of the benefits of the new law, how to use it, and how to appeal decisions deemed unfair.

RATIONALE

Customs valuation is of great importance for several reasons. For example, compliance with WTO rules and regulations will lessen the corruption and smuggling prevalent on Yemen's borders. It also will decrease the transaction costs of trade. Once customs valuation is reformed and is in line with the WTO Customs Valuation Agreement the reform will have a strong impact on trade facilitation and thereby contribute to economic growth.

The DTIS mentions that a new customs law was drafted with IMF technical assistance in 1997 and that this draft law has devoted attention to bringing the customs valuation process in line with the WTO requirements (see DTIS, p. 74). It seems that the other areas of customs reform, including the introduction of the Automated System for Customs Data (ASYCUDA), and the improvement of inspection procedures, have gained the lion's share of the donors' attention and the priorities identified by the DTIS¹. An important gap has therefore been left for USAID intervention: customs valuation reform.

¹ The DTIS has paid less attention to the customs valuation reform, despite its importance for facilitating trade.

STRATEGIC CONTEXT

That reform of customs valuation in line with the Customs Valuation Agreement of the WTO is fully consistent with U.S. government objectives and priorities for developing countries. USAID and/or other U.S. agencies have funded or provided technical assistance to similar projects in other countries as a component of trade facilitation programs.

BACKGROUND

In its process of accession to the WTO, the Government of Yemen (GoY) is undertaking a number of reforms to comply with WTO rules and regulations. The GoY has already received financial and technical assistance from other donors, especially the European Union (EU) to facilitate the process of accession. Still, Yemen's customs valuation regime is still not consistent with the Customs Valuation Agreement (CVA) of the WTO. While the EU has provided broad ranging assistance on WTO accession matters, it has not focused on customs valuation.

The Customs Authority in Yemen is currently following the Brussels System in its customs valuation, while adhering to the customs procedures stipulated in the Customs Law No.14 for the year 1990.

According to Article 36 of Law 14 the Customs Authority determines the ordinary value of goods according to a number of criteria including, among others:

- Cost Insurance and Freight (CIF) value of goods. According to the law it is presumed that the goods have been handed over to the importer at the place of entry at the border and that the seller or exporter has incorporated in the value all expenses up to the point of entry.
- The costs of transportation within Yemen, including fees and taxes imposed on imported goods after entering Yemen do not fall within the concept of ordinary value.
- The Customs Authority has the right to increase the declared value to reflect 'true' value, if the invoiced price "appears" underestimated.

Moreover, according to Article 37 of the same law:

- The customs declaration must be accompanied by an original invoice, authenticated by the exporter's Chamber of Commerce or any other body approved by the Customs Authority.
- The Customs Authority has the right to accept two separate documents stating origin and price.

In consequence, the Customs Authority enjoys ample room for valuating the goods using unclear, unpredictable and often exaggerated standards.

In addition, Article 280 states that part of the fines collected are to be distributed among government officials. Naturally, this encourages adding obstacles to classify traders as not complying and to thereby increase the collection of fines. This is not consistent with the WTO Customs Valuation Agreement. When the Customs Administration rejects an authenticated invoice, the WTO Agreement, which relies principally on the authenticated transaction value, sets five standard methods to arrive at the right value.

The current system encourages bribery, corruption, smuggling and other obstacles that hinder trade flows. The law offers the importer the right of appeal. The Customs Administration has set up a dispute resolution system which comprises a committee consisting of the customs assessor, a Customs Administration representative and a representative from the Ministry of Finance. After the appeal is made by the importer, the committee announces its ruling, which is considered final. Available evidence indicates that this system is hardly used by importers. This is attributed to the fact that the appeal process is lengthy and costly, hence traders avoid it. The current valuation system leads, in general, to overpricing of imported material, which results in higher prices for the goods produced in Yemen (both for the domestic market and for subsequent export.)

Customs valuation is an important pillar of customs reform. There are other ongoing activities in this regard (e.g. the second phase of the ASYCUDA program). Moreover, reportedly, there is a plan for customs reform likely to be presented to the Cabinet very soon. Such plan includes the lowering of tariff rates to a uniform 5 percent.

Accordingly, customs valuation reform is a perfect fit to overall customs reform. The earlier the customs valuation reform is undertaken, the better for ensuring the success of customs reform. It is important to start customs valuation reform promptly because its enforcement and implementation requires a learning-by-doing period. One has to consider that implementation and enforcement are important phases of the customs valuation reform.

In principle, customs valuation reform ought to proceed in tandem with general customs reforms. Recent evidence from Egypt indicates that the customs valuation problems have hindered the overall customs reform. Importers contend that only minor improvements in overall performance have occurred. Thus, delays in reforming customs valuation in Yemen are likely to stifle the envisioned progress of the whole customs reform package. Indeed, it is surprising that this matter has received limited support from other donors.

PROJECT DESCRIPTION, SEQUENCE OF ACTIONS AND SKILLS

The reform of the customs valuation process can be divided into three main tasks. To guarantee success, financial and technical assistance will be required throughout the reform process. Such assistance can be pre-determined and quantified in terms of time and funds required as shown in the illustrative budget.

Task 1. The Legislative Phase

This phase involves drafting the reform law. Its duration is projected to last for six months. It requires two legal experts, preferably with working knowledge of the local language, who will spend one month helping the GoY officials draft the law. They should be in continuous contact with government officials to ensure that their advice is reflected in the drafted by-laws as well. According to the Customs Law, there is a Higher Council on Tariffs headed by the President. Hence, one suspects that the customs valuation reform will have to be legalized in a new law that will require the approval of the Higher Council on Tariffs.

Task 2. Implementation and Enforcement

Work on implementation and enforcement should start towards the end of Task 1 but even before the law has been issued by the Higher Council. Its projected duration is one year, consisting of two consecutive half-year phases. During Phase 1, which lasts for the first six months, the efforts of two experts are required - an academician specialized in WTO issues and an officer of the US Customs Authority - to focus on training customs officials and members of the private business community (e.g. from the country's 20 Chambers of Commerce and Industry, the Businessmen Council and the Industrialists Society) on the significance of the new system, its benefits, conditions & requirements, implementation and enforcement and appeal mechanism in accordance with the Customs Valuation Agreement of the WTO. The focus in Phase 1 should be on training, especially on training would-be government trainers from the Customs Administration. In view of the low English competency levels among potential trainees, training materials must be translated into the local language (Arabic).

Training workshops should start by identifying 60 of the best and brightest customs officials, 20 government officials from relevant ministries, five commercial/corporate judges and 10 from the business community's associations including some from the relatively larger trade importers and industrialists. Four different generic workshops would take place during Phase 1, each of which would last for four days for training customs officials and two days for all others (business community, judges and non-Customs government staff). Seminars held in Sana'a would include selected Customs officials from the Customs Administration in Sana'a (supervisors) and Aden. However, since the new system ought to be applicable across all Yemen's ports and harbors, other workshops will be conducted at Hudaydah, al Mukallah, As Saif, Ras Issa, Mocha and Nishtum. The Federation of the Chambers of Commerce and Industry could collaborate as an active partner.

During Phase 2, similar effort will be required either to retrain the same beneficiaries or to train new participants in similar workshops with two major differences: emphasis will be placed on the exact framework and stipulations embodied in the new legislation and on implementation.² The Workshops will focus on details of implementation, definitions, codes, general rules, exceptions, and the appeal system and they would also advise on ways of overcoming practical implementation problems. A pilot pre- and post-training questionnaire can be distributed in the two sets of workshops to measure progress.

Task 3. Monitoring

As task 2 is drawing to an end, the year-long monitoring phase may begin. This would involve expert advice on the actual procedures employed in Aden and al Hudaydah ports and in Sana'a airport by hands-on experts from the US Customs Administration. The visits will continue over the next six months to ensure proper implementation. A suggested plan involves three visits, each two weeks in duration, with the visits taking place at four month intervals.

² It is assumed that passage of the drafted law will take six months. Phase 2 of Task 1 should not start unless the new valuation system is enacted into a law.

COLLABORATION WITH OTHER DONORS

There is great potential for collaboration with other donors. This is especially the case with the EU's WTO accession support project, which is funded at the Euro 7 million level.

The EU's technical assistance titled "Support to Yemen's Accession to WTO" advocates coordination with other international donors in projects related to the WTO accession, which includes customs valuation (mentioned in activity area No. 1). It also highlights customs valuation reform (activity area No. 4) as a topic for potential collaboration.

In addition, the GoY has started implementing the second phase of the Automated System for Customs Data (ASYCUDA). This activity comprises three phases. According to officials from the Customs Authority, the UNCTAD and the British DFID financed the first phase jointly. The second phase, which started January 2004, is co-financed by DFID and the GoY. Present plans are still not very clear about phase 3; however, according to GoY officials they are contemplating assistance from various donors (Germany, Kuwait, China). USAID may want to explore the possibility of collaborating with some of these countries on customs valuation.

PERFORMANCE MONITORING, DELIVERABLES AND BENCHMARKS

There are several indicators that can be adopted to measure the progress of the technical assistance provided. They differ in accordance with the scope and nature of each task.

Task 1. The Legislative Phase

The proposed technical assistance should be judged on its ability to produce a draft law that is fully in compliance with WTO Customs Valuation Agreement. It should also ensure that the drafted by-laws (or the executive decree) include practical, simple and unencumbered implementation mechanisms.

Task 2. Implementation and Enforcement

The number of trained qualified customs personnel who are capable of implementing the law should meet the numeric targets set above. The same is true with respect to non-Customs Administration trainees. This indicator would reflect the effectiveness of USAID's training activities.

Task 3. Monitoring

A pilot survey of importers at the beginning and again six months into implementation of the new system would gauge the degree of satisfaction with the application of the new system. Moreover, the number of appeals submitted to the courts or the Customs Authority is another yardstick. Note however that an increase in the number of appeals may in effect reveal the success of the system, for it may reflect the trust, acceptability and effectiveness of the implementation stage. It should decrease thereafter because both government officials and traders would have become accustomed to the new system. To ensure the credibility of this test, it should be taken at least one year after full implementation and again two years hence. The sign of progress is likely to be reflected in a decreased number of appeals over time, holding the volume of trade constant.

RISKS

Government officials might be reluctant to implement the new law. Monitoring accompanied by the expected sanctions from other WTO members in case of non-compliance will minimize the risk.

SUSTAINABILITY

The reform of customs valuation is expected to be sustainable at least in the first two phases (legislative and implementation) during which a system for the monitoring phase can be developed. What is needed is to set up a system, ensure it is working and monitor its performance for a while. If this is well implemented then there will be no further need for assistance.

BENEFICIARIES

The Ministry of Finance and the private business community will benefit from customs valuation reform. Revenue collections may increase, as reforms inhibit the diversion of revenue to corrupt customs authorities. Production costs for goods made in Yemen using imported inputs will likely fall, making Yemeni products more competitive in global markets.

Project 3. Revising and Implementing Competition Law

PROJECT AND BUDGET SUMMARY

The project seeks to promote competition in Yemen's markets by, among other activities, facilitating the drafting of the executive decree required for the new competition law, supporting the establishment of an effective Competition Authority and providing required training in anti-trust enforcement. Project success would result in a more competitive economy able to more fully benefit from its participation in the international trade community. Contemplated life of project is 18 months. Total budget is estimated at \$700,000.

INTRODUCTION

As a part of its process of accession to the WTO, the Government of Yemen (GoY) has undertaken a number of reforms to comply with WTO rules and regulations, some of which belong to the "behind the borders" types of reforms. One such reform deals with the enacting of a competition or anti-trust law. In their totality, these reforms aim at eliminating market rigidities and making for free and competitive markets.

A competition law was passed in 1999 entitled "Promoting Competition and Prevention of Monopoly." However, it has not been implemented since its passage. A new draft of a modified law was completed in 2003 ("Enhancing Competition and Prevention of Monopoly"). This draft law is currently under review in the Council of Ministers. Its approval is contingent on the issuance of its bylaws (known as the Executive Decree). The decree will include definitions, provisions, sequencing and penalties designed to streamline the law's operability. Once approved by the Council, it will be signed by the President and sent over to the Parliament for ratification.

Since competition law is an integral part of the overall private sector development and poverty reduction strategy, the absence of an operable competition law could negatively affect other reforms. As competition law is a relatively new field for the Yemeni authorities, and since it is a complex process that requires more than the passage of a new law, donors' contribution in the form of technical assistance is necessary.

The European Union has recently (2003) signed a €7 million technical assistance program to help Yemen with its accession to the WTO. In it, the EU recognized the importance of creating competitive conditions in the local market and, consequently, included it among the areas covered by the agreement. In contrast to other components of the program, the agreement with the EU gives scarce attention to competition law.

In meetings with senior staff at the Ministry of Industry and Trade, including the Minister, there was a consensus that Yemen is pursuing the passage of a new competition law but that the country

lacks the know-how, especially with regard to the steps required to implement it. It was also noted that competition policy comes under the “Singapore Issues” in the context of WTO negotiations toward the “Doha Development Agenda.” Although consensus among existing WTO members has been elusive regarding whether or how to proceed on this topic, WTO accession requirements could in the future encompass commitments in this area.

PROJECT OBJECTIVES

The main aim of the project is to help Yemen develop the proper policies and the supporting legislation and institutions required to put a workable competition law in place. Taking the country from a dormant and inadequate system into a full-blown system that promotes competition and limits monopolistic practices in the local factor and commodity markets is the ultimate objective of the proposed technical assistance.

STRATEGIC CONTEXT

The project will contribute to having free competition determine market outcomes. Currently, monopolies, oligopolies and monopolistic business practices are ignored. With the proposed project, the forces that ordinarily lead to such an outcome in developing countries, especially in government-controlled small economies, would be monitored and reigned in as needed. Such change would create the type of business climate that supports competition amongst local suppliers and allays fears of foreign competition. These are concepts that the USG supports to help developing countries establish democratic institutions, effect transparency and accountability, and strengthen the rule of law.

BACKGROUND AND MAIN SECTOR ISSUES

The high degree of business concentration and widespread monopolistic practices in Yemen are due to:

- The small size of the economy and the dominance of public sector enterprises -- many of which enjoy a virtual monopoly.
- The structure of the Yemeni private sector, which is likewise biased towards large establishments. These are typically family-owned corporations that are involved in trading, services and some manufacturing. Such conglomerates are small in number but probably strong in market influence in view of their size and close connections to the government elite.
- The high concentration ratios observed in the banking sector, insurance, electric power, extraction, real estate and other financial services.

According to interviews with Government officials at the Ministry of Industry and Trade, which is responsible for the execution of the competition law, the existing law has not been enforced for the following reasons.

- The law failed to establish a Competition Authority institution with the responsibility of enforcing the law. Hence, there are neither judges nor courts structured to handle anti-trust

cases. An executing body with the legal power to enforce the rulings of the Competition Authority is also absent.

- The lack of human capacity in the public sector to understand the nature of the law, learn from other countries' experience, avoid pitfalls and introduce safeguards, indicate a lack of the conditions needed to ensure the emergence of a “doable”, workable law.
- An absence of financial and human resources to implement the law. Currently, the Competition Law Administration is a full-fledged Division at the Ministry, consisting of only three staff members: a Director and two deputies.¹
- There are no staff members trained to address competition issues.
- On matters of legal structure, the previous law failed to
 - Deal with mergers,
 - Provide an operational definition of “dominant position”,
 - Mete out effective fines (e.g. first violation, only YR 10,000 or less than \$60; second violation, YR 100,000 or less than \$600, followed by imprisonment)
 - Define geographical boundaries.

In contrast, the new draft law specifies that:

- Potential mergers must be a priori approved,
- Dominant position is defined as having more than 50 percent share of the market,
- Fines are raised to YR 100,000 for first violation, followed by a prison term of not less than 5 years for the second violation,
- Geographic vertical and horizontal distribution arrangements and/or price fixing are explicitly included.
- The new law gives the office of the Prime Minister the right to interfere in the decisions made by the Competition Authority, a clause that was not included in the old law.

Both laws, generally, are conventional in that they follow the guidelines set by the UNCTAD model law, albeit more simplistically. Both overlook a number of issues such as vertical restraints and product definition (e.g. physically and geographically); however, such issues may be addressed in the bylaws or the follow-up executive decree.

Concerning the supporting environment needed to enforce a competition law effectively and efficiently, Yemen is adopting a number of relevant changes, including: a more liberal trade environment encompassing lower tariff rates, privatization, and a new investment law. For instance, the GoY has already sent to the Parliament a draft bill that would reduce tariff rates across the board. As these additional complementary pillars are put in place, the operability, adherence to and

¹ That this Division has not had a workload for the last two years indicates that interest in promoting competition has historically been minimal.

effectiveness of the competition law would be enhanced significantly. Business development would also benefit greatly.

PROJECT DESCRIPTION

The project focus is on providing technical assistance for:

- Drafting the executive decree of the new draft Competition Law,
- Establishing a Competition Authority,
- Training the staff of the Authority officials and judges on the execution of the new law,
- Raising public awareness within the business community of the potential benefits of the new law, types of monopolistic practices considered illegal in the law, ways of making use of its provisions when violations occur, and due process procedures.

The project is heavily intensive in the use of a wide range of professionals. Such professionals would include, for example, technical experts for drafting laws and regulations (e.g., lawyers, economists), training experts, mass media experts, and public policy cost-benefit analysts responsible for measuring the impact of the new law on the Yemeni business community and on economic performance in general. The project has three phases as described below. Time benchmarks will be used to determine whether project pre-conditions are being met—if they were not, the further continuation of the project would be called into question.

PROJECT TASKS

Task 1. Drafting the Executive Decree and Training Officials

Phase 1. Drafting of the Executive Decree

The project is to start during the first half of 2004. The first phase lasts for three months. The objective would be to draft the executive Decree or the bylaws of the new competition law. In the bylaws is where procedures, sequencing, requirements and definitions are delineated in ways that do not conflict with existing laws. The structure of the Competition Authority is also determined along with its procedural set up, levels of authority, permissible evidence, confidentiality conditions, fines and enforcement of enacted rulings.

This will require the services of two legal experts, an English-speaking individual with relevant experience along with a legal Arabic-speaking expert with competency in the English language as well. This mix is advisable to avoid misinterpretations and/or conflicts with existing laws. It is envisioned that Phase 1 of Task 1 will be accomplished in two months.

The two experts are expected to work closely with local judicial experts. Part of their work involves the identification of interministerial roles, new approvals from other ministries (e.g. new budget line for the Competition Authority at the Ministry of Finance), possible approvals from the

Council of Ministers of new bylaws as well as the possible ratification by the Parliament of certain segments of the new Executive Decree.

Phase 2. Training of Competition Law Officials

Phase 2 involves a key decision point that is dependent on the government taking action to increase the staff (professional and judges) from the current three to fifteen individuals. If so, this phase can proceed.

The training will take place in Yemen by an Arab-speaking expert with relevant experience of a working competition law and a competition authority. There are currently four Arab countries that have officially adopted a competition law: Jordan, Morocco, Tunisia, and Algeria. Due to language considerations, Jordan and, to a lesser extent, Tunisia are better suited based on linguistic communications skills.

A carefully selected group of government officials, comprising four Authority professionals and two judges would spend a year working with anti-trust bodies in at least two Arab countries. This external training is preferable to local training. Constant contact with colleagues abroad with similar interests, and the daily interaction from working on diverse issues that arise only within a functioning body are significant benefits.

Meanwhile, additional internal training is recommended for local staff and judges. The number of proposed trainers during this phase is one US Arabic-speaking expert and two regional Arabic-speaking lawyers and/or judges, economists and government officials with practical working experience in anti-trust laws and comparable Competition Authority elsewhere. The trainees include officials from the Ministry of Industry and Trade and from the Competition Authority. A suggested number is 20 officials. The training would last for a period of two months staggered over a three-month period to avoid reaching diminishing returns if the training were to continue for two months uninterrupted.

Task 2. Setting up the Competition Authority

This task will start soon after the completion of Task 1. Its duration will be for a year. A key decision point regarding whether or not this task commences, however, is contingent on meeting the following conditions:

- The new Competition Law has been ratified by the Parliament.
- The government has agreed to bolster the manpower required to administer the law adequately,
- The government has agreed in principle to allocate the required space for the new Authority staff.

Phase 1. Setting up the New Authority

The objective of this phase is to design the administrative, professional and organizational structures of the new entity. Given a strategy to incrementally expand the Authority as the need for more

resources appears over time, it should start with sufficient resources to make it effective. The outcome of this phase will consist of detailed descriptions and specifications of the administrative structure, manpower requirements along with their qualifications, space requirements, information network requirements and office supplies including computers and other office automation tools. In general, these specifications will be based primarily on the duties and functions specified in the Law and its Executive Decree. This phase will take six months and will require the expertise of a professional (for three months) with similar experiences in other developing countries as well the US and other Western nations.

Phase 2. Implementation

This phase is designed to last for six months following phase 1. The key decision point for this stage (to go ahead or not) would depend on meeting all the following conditions:

- The four staff and judicial trainees have returned from their one-year training programs abroad
- The organizational structure has already been completed, and
- The government has already met the manpower and space requirements.

It is suggested that the same experts who trained the domestic officials in Yemen in Phase 2 of Task 1, along with the expert who designed the structure of the new entity, be present periodically during the following six months. This is to help the new staff start the operation of the new institution properly and consistently with the results achieved in the preceding phase. Four visits, each for a period of three weeks, seem appropriate.

Phase 3. Public Awareness Campaign

To avoid having the Competition Authority work in vacuum, especially during its early stages of development, a media campaign would achieve the following objectives:

- Explain the rationale and expected benefits of the new institutional set up.
- Impart information on practices that are considered anti-competitive – i.e., those that would be investigated and prosecuted under the new law.
- Provide guidelines for potential injured parties regarding the steps approved in the law on how a monopolistic practice can be prosecuted under the new law.
- Describe the due process embodied in the law.

Towards this end, USAID experts together with the officials and judges who were trained abroad may hold a public awareness and policy advocacy seminar. This is to be undertaken under the auspices of the Ministry of Industry and Trade and civil society associations such as the Federation of Chamber of Commerce. The seminars may be held in Sana'a and Aden. We suggest six public awareness seminars designed for specific groups of stakeholders, e.g. judges, business community, consumer associations and government officials, at the rate of two seminars each week during the stay of the experts. It is expected that this phase will be accomplished within three months.

Phase 4. Monitoring the Progress of Implementation

It is critical that the new competition law is implemented and followed up in accordance with the overall vision embodied in the project's deliberations, recommendations, training and infrastructure. In light of the present inadequacies of the judicial system, including the lack of enforcement of court rulings, it is vital that the new system is insulated from such a cultural drag. To this end, it is suggested that occasional evaluations take place throughout the year following the end of the last phase. The objective of this phase is to advise authorities on the progress of the new institution and suggest remedial, corrective measures that will help it circumvent the problems encountered in the course of implementing the law. An expert in anti-trust law, procedures and rulings is suggested, for three visits taking place each four months and lasting for two weeks each.

PROJECT RATIONALE

Competition Law is a concept that has long been in existence in developed as well as in developing countries. Its application in Yemen is prompted by the need for it as well as Yemen's accession to the WTO. It is a concept whose time has come in Yemen. Due to its complex nature, however, Yemen is unable to put it in place. Yet, once it is place, it should be sustainable by a government entity responsible for enforcing national laws. Thus, its future sustainability is not in question. What is required at the present time is a "first big push" for the concept to take off. Since other donors have paid little attention to it, the technical assistance provided by USAID will fill in an important gap in Yemen's effort to improve free market mechanisms and increase private sector participation. Additionally, the US Government has long advocated the existence, practice, enforcement and monitoring of a competition law in developing countries.

To avoid decay in the implementation process, the government should be advised to provide judges with additional 'special allowances' that will be sufficient to eliminate the need for unwarranted and illegal practices. The additional salaries may be financed in part from the Competition Authority's fees and fines imposed on violators.

POTENTIAL PARTNERS

There is potential for collaboration with other donors. The strongest possibility lies with the technical assistance framework provided by the EU's assistance to Yemen with its application to accede to WTO. Such framework alluded to the need to strengthen competition in the local market (See Activity Area 4 of the agreement). Another possibility is the UK's planned expansion in its technical assistance program in Yemen. According to a briefing from the London staff at the Department for International Development (DFID), starting in 2005, 90 percent of the UK's development aid will be directed to low-income developing countries such as Yemen. In addition, both The United Nations Economics and Social Commission for Western Asia (ESCWA) and the World Bank Institute are potential partners in the training areas.

PROJECT SEQUENCING

Besides addressing basic development needs in education, health and infrastructure, donors are focusing also on private sector participation as the means through which pro-job growth can be

realized. These areas complement the effects of competition law implementation. To wit, the GoY has been collaborating with donors on customs reform in two areas: (1) reducing tariffs to facilitate trade and eliminate smuggling, among others, and (2) installing a modern information network that aims at streamlining customs administration load and, hence, reducing the cost on importers. Other harmonizing areas of reform relate to privatization and investment promotion. In this report, a number of reinforcing and harmonizing technical assistance projects are proposed. These include the introduction of a customs valuation system that will be in line with WTO's, de-regulation, land titling, judicial reform with emphasis on commercial dispute resolution, making financing available for small and medium enterprises, and local trade capacity building measures.

POTENTIAL BENEFITS

Available evidence indicates that Yemen has followed through with first-generation reforms that aimed at achieving macroeconomic stabilization. However, it has failed to implement second-generation reforms that are centered around private sector development, economic integration with the world economy and job creation. Strengthening competition in the local Yemeni market by eliminating all forms of monopolistic practices and removing government regulations that limit competitive behavior are necessary for Yemen's transition from first- to second-generation reforms. In addition, this technical assistance will have the following benefits as well:

- Open, competitive business environments that lead to lower costs (and hence prices), improved product quality, higher levels of consumer satisfaction, an enhanced export capability and new product lines, among others.
- Competitive markets that result in greater consumer welfare levels and optimal resource allocation due to the elimination of inefficient producers.
- Greater competition among commodity producers and owners of the basic factors of production (land, labor and capital) that lessens unearned economic rents and corruption, and ensures the ability to realize the highest possible incomes.
- Competition that supports trade facilitation and trade capacity building.
- Competition that reduces the current high transaction costs of doing business, thereby addressing one of the more important "behind the border" issues needed to ensure a full-fledged market economy.
- Since a multilateral agreement on competition may soon be reached under the auspices of the WTO, this project will help Yemen prepare itself for this seeming eventuality.
- The establishment of a competition law and its associated trade capacity building measures, both institutionally and in terms of human resource development, will likely have spin off effects resulting from upgrading the capabilities of government officials and commercial judges.
- The new law contributes to unlocking private sector governance issues.
- The new law will eliminate the widespread oligopolies observed in the private sector services sector. A recent example is the shipping and trucking services from Aden to San'a, which has

been monopolized by a few business concerns. Its removal in January 2004 led to immediate reductions in fares, reaching 50 percent of previous monopolistic prices.

- Allowing competition internally will force local producers to be prepared to face (1) competition in prices, services, quality and credit facilities, and (2) the expected impact of signing free trade agreements (FTAs), e.g. future USA-Yemen FTA, Common Arab FTA, possible membership in the Gulf Cooperation Council (GCC) customs union and a possible EU-Yemen partnership agreement. Opening up contestable markets will energize both the private and public sector enterprises.
- By eliminating monopolies, entry of new business firms into the market will be eased up substantially, which would result in pro-job growth expansion.

BUDGET

The proposed budget covers a period of a year and half designed to include the project life cycle from drafting the bylaws to assisting the staff during the start up of operations. It also includes an additional year planned for in-depth evaluation and, if needed, recommending corrective actions to ensure its effectiveness and survivability.

A recent survey in seven developing countries undertaken by the Center for International Trade, Economics and Environment (2001) showed that the annual operating budget for their respective Competition Authorities ranges from about \$98,000 in Sri Lanka to \$7 million in South Africa. Employment ranges from 5 in Sri Lanka to 152 in India. India also has the largest annual budget, \$406,582, as shown in Table 3. In a relatively small country like Yemen, with its low wages and a likely staff of 25 individuals, the annual budget is likely to be less than \$100,000.

RISKS

Though the project is clearly doable, it faces some risks that may either delay its implementation or derail its progress. First, special interests may influence the government, causing it to delay its approval of the draft law. Those that stand to lose consist of:

- Large government enterprises accustomed to protective tariffs and that have blocked entry of new competitors;
- Large family enterprises that work in either a pure monopolistic situation (only one producer) or in an oligopolistic situation (a few producers that act in collusion).

Moreover, because the lack of competitive behavior is often precipitated by government regulations, it implies the presence of corruption and rent seeking activities. Those beneficiaries, too, are likely to attempt to derail the process.

Second, even if the draft law is approved by the Council of Ministers and signed by the President, it may be holed up in the Parliament due to the private sector resisting its ratification. A similar draft law has been under discussion in the Egyptian Parliament for more than five years.

BENEFICIARIES

The beneficiaries from this TA include:

- The Ministry of Trade and Industry
- The Ministry of Justice
- Private sector business community
- Chambers of commerce and Industry
- Public sector enterprises
- Potential business entrants as the law will relax the conditions restricting entry into the market
- The legal profession including attorneys and court judges; and
- Consumer protection associations.

Annual Budget of Competition Authorities in a Sample of Selected Countries

| | India | Kenya | Pakistan | S. Africa | Sri Lanka | Tanzania | Zambia |
|--|------------|-----------|-----------|-----------|-----------|----------|-----------|
| Annual Budget US\$ (2000) | 406,582 | 235,892 | 325,919 | 7,742,678 | 97,870 | 162,056 | 193,005 |
| Pattern of expenditure % share (2000) | | | | | | | |
| Salaries and honoraria | 66 | 54 | 331 | 41 | 43 | 18 | 81 |
| Establishment Cost | 31 | 36 | 16 | 21 | 53 | | 0 |
| Books, periodical etc | 2.21 | | 0.49 | | 0.80 | | 0 |
| Research and Investigation | | | | 7.1 | 0.39 | | 11 |
| Printing/publication | | | | | 2.33 | | 1.98 |
| Meeting/conferences | 0.66 | 0.33 | | 3.6 | 0.18 | | 5.87 |
| Other | | | | | | | |
| Staff (2000/2001) | | | | | | | |
| Full-time | 4 | 1 | 3 | 1 | 1 | 1 | 0 |
| Part-time | 0 | 0 | 0 | 8 | 5 | 0 | 12 |
| Professional | 23 | 24 | 5 | 37 | 7 | 2 | 5 |
| Support | 125 | 6 | 25 | 32 | 7 | 3 | 6 |
| Total | 152 | 31 | 33 | 78 | 20 | 5 | 23 |

NOTE: Pattern of expenditures for Pakistan is for 1999

SOURCE: CUTS Center for Competition, Investment and Economic Regulation(2003), "Pulling Up Our Socks, A Study of Competition Regimes of Seven Developing Countries of Africa and Asia: The 7-UP Project", India, Jaipur: Jaipur Printers P. Lt

Project 4. Building Trade Knowledge and Analytical Capacity

PROGRAM AND BUDGET SUMMARY

The proposed project enhances Yemen's trade capacity in two ways. First by training government officials and interested members of the civil society on essential policy relevant tools and issues, it will help develop the government's expertise to formulate and implement economic and related policies that meet Yemen's needs. Secondly, through an independent "think-tank" institution it would raise the general level of professional knowledge in economics, promote educated public discussion on key policy issues for Yemen, and, when called upon, reinforce the authorities' capacity to analyze problems and arrive at adequate policy solutions. The program would have a life of at least two years. The total cost of the program is estimated at some \$1.7 million.

OBJECTIVES

USAID defines "trade capacity" as the ability of a country to do three things: (i) participate in trade negotiations; (ii) implement trade agreements, and (iii) respond positively to trade opportunities. These abilities enable a country to trade more extensively, and to enjoy the economic growth and poverty reduction that trade provides. Enhancing all three elements of Yemen's trade capacity is the goal of this technical assistance program.

For instance, in its negotiations to join the WTO, Yemen must respond to requests by current WTO members. For this, Yemen needs a greater capacity to anticipate the effects of these requests on the Yemeni economy, and how to implement these requests and the general obligations of membership, such as in the area of customs valuation. Similar needs will accompany Yemen's efforts to join the Gulf Cooperation Council (GCC), or negotiate with the Greater Arab Free Trade Area and with the United States for a free trade area. In the case of the GCC, Yemen seems more interested in GCC membership than GCC members are in having Yemen join. But with sound arguments and analysis, Yemen could change minds. Finally, a combination of heavy reliance on oil exports and a multitude of economic deficiencies have engendered widespread indifference toward new export products and markets, and pessimism regarding Yemen's ability to exploit such opportunities. Training and research could both create awareness of new export opportunities, and by suggesting solutions to economic problems, foster optimism among investors.

STRATEGIC CONTEXT

The declared goal of the U.S. government is to promote global economic growth through free markets and free trade. It pursues this goal through such institutional arrangements as the Integrated Framework, and through such vehicles as trade capacity building.

For multiple reasons, the U.S. government is putting special emphasis on economic reform in the Middle East, with one trade-related goal that of establishing a Middle East Free Trade Area by 2013. The least developed country in the region is Yemen. Like most poor countries, Yemen's problems are legion: reliance on a single product, oil, for more than 90 percent of its merchandise exports, even as reserves are declining and oil exports are expected to decline; a high birth rate; unsustainable water use; terrorism, and unfriendly relations with many of its relatively affluent neighbors and main trading partners around the Persian Gulf, especially Saudi Arabia.

Fortunately, following a civil war in 1994, the government of Yemen has set the country on a course of more market- and outward-oriented development. For instance, it has:

- Unilaterally lowered its import tariffs.
- Applied to join the WTO.
- Attempted to join the Gulf Cooperation Council, a free trade area.
- Recently signed a Trade and Investment Framework Agreement (TIFA) with the United States.
- According to a Deputy General at the Ministry and Planning and International Cooperation, Yemen also wishes to negotiate an investment treaty and a free trade agreement with the United States.

Unfortunately, Yemen lacks the human capacity to continue and implement these initiatives in a timely fashion. The purpose of this technical assistance proposal is to enhance that capacity.

PROJECT DESCRIPTION

The project would have two phases.

Phase I

In the first phase, to last two years, training would be provided to Yemenis by:

- Resident advisers working in essential ministries. Working alongside Yemeni officials and civil servants, they would provide day-by-day, immediate and sound policy advice, and train Yemenis by demonstration. They would also provide periodic workshops on selected topics.
- Visiting trainers, who would provide workshops on topics for which the resident advisers were ill equipped.

The workshops should be open to all government employees and interested outsiders, such as academics, business people, and employees of non-governmental organizations. In interviews, Yemeni businessmen showed a high level of contempt for government officials and civil servants;

joint participation in workshops could establish acquaintances and understanding between the two groups.

The resident advisers should be placed in ministries according to the following priorities:

- The Ministry of Planning and International Cooperation.
- The Ministry of Industry and Trade.
- The Ministry of Finance.
- The Central Bank.

The highest priority is given to MoPIC because it is supposed (but often fails) to act as a policy coordinator among the other ministries, and can influence trade-related investment decisions. The second priority, Ministry of Industry and Trade, is responsible for trade negotiations. It is important that two advisers be provided to so that:

- They can assist and advise each other.
- If one should leave unexpectedly, there will be continuity in the program.

Examples of trade capacity building topics, including negotiating (N), implementing (I), and responding to opportunities (R), that could be taught in workshops include:

- Modeling the effects on the domestic economy of increased openness to international trade. (N,I)
- Domestic impediments to Yemeni exports. (R)
- Services trade. (R)
- Trade and poverty. (N, I, R)
- The role of direct foreign investment in trade and development. (R)
- Trade facilitation, e.g., customs, standards, payments, mediation of disputes. (N,I,R)
- WTO dispute settlement procedures and experiences. (I,R)
- Intellectual property law in developed countries; also the WTO TRIPs Agreement. (I,R)
- Optimal tariff policy, including applied tariff rates. (N,I,R)
- The experience of other developing countries with various exchange rate regimes. (R)
- Antidumping and countervailing duty laws and procedures in developed countries. (I,R)
- Preferential trade agreements. (N,I,R)
- Competition law and policy in developed countries, including its relationship to trade. (N,I,R)
- Electronic commerce. (R)
- Input-output analysis as a planning tool. (N,R)
- A long-run energy plan for Yemen, including oil, gas, and electricity. (R)
- Yemen as an entrepot. (R)
- Yemen as a manufacturing country. (R)
- Policies to mitigate corruption. (R)

The training sessions should be full-time, i.e., day-long. Since the trainees will have other responsibilities, 3-5 days is a reasonable workshop duration. The resident trainers should be expected to conduct one workshop per quarter, with another workshop by a visiting trainer each quarter, for a total of eight workshops per year.

The trainers, both resident and visiting, should be recruited by a consulting firm. The trainers should have experience with both developed and developing country governments, be experienced teachers, and of course be masters of their subject.

The trainees must be at least college graduates, with some training in economics, and experienced with personal computers. Each workshop should include participants from both inside and outside government, and especially from business. The government participants should be chosen jointly by ministers and the resident trainers. Participants from outside the government may volunteer. Since they will be unpaid by the program, their expressed interest will likely be genuine.

Phase II

The second phase of the project would entail establishing a permanent, independent think tank in Sana'a. Like think tanks in the United States and elsewhere, it would perform several functions:

- Conduct and publish applied policy analysis.
- Provide a venue for training.
- Be a source of expert commentary for journalists.
- Prepare talented young people for high government service, and provide a temporary respite from government service for senior officials.
- Provide assistance, a liaison, or at least a point of contact, for non-resident researchers, including international organizations and expatriate Yemenis, doing research on Yemen.
- Conduct contract research, to obtain revenue for the think tank, to ensure researchers are aware of genuine problems in various sectors of society, and to remedy the lack of local consulting services in Yemen.
- Stimulate quality research at local universities.
- Encourage the collection of better data by the government's Central Statistical Office.
- Promote private sector development.

This think tank would have two examples to follow. The first is the Salvadoran Foundation for Economic and Social Development (FUSADES), in El Salvador, founded with the help of USAID in 1983. The second is the Egyptian Center for Economic Studies (ECES), in Egypt, founded with the help of USAID in 1992. Scholars should be of three types:

- Resident scholars who would work full-time at the think tank and be readily accessible to government officials.
- Non-resident scholars who would work part-time for the institute and reside elsewhere, such as in Yemen but outside of Sana'a, or in other Arab countries.
- Adjunct scholars would be young and unpaid, but would have access to the resources of the institute. They would benefit from the prestige of their association with the institute, the institute would publish their work (if suitable), and if successful, they could in the future become paid resident or non-resident scholars.

For the sake of its integrity, credibility, and inclusiveness, it is essential that the think tank be independent of all existing institutions. Toward these same ends, it must have a large board of directors representing the government, non-profit organizations, and private business; and drawn from throughout Yemen. (FUSADES has 25 board members and a further five “advisors.” ECES has 26 board members, including the Executive Director (ED). Also toward these ends, resident, non-resident, and adjunct scholars must also be drawn from throughout Yemen, the Arab world, and occasionally, from developed countries. Yemen has much to learn from both the successes and failures of more advanced Arab and Muslim countries. As quickly as possible, to minimize the appearance of bias, the think tank must diversify its sources of funding to include all sectors of society, with no one sector dominating. It must pay salaries at a level adequate to enable scholars to focus on their research, and to attract expatriate Yemenis back home to Yemen.

The first, and among the most difficult tasks will be choosing the board of directors, which will write the charter and hire an executive director, who will hire the research staff. Intense American involvement in choosing the board and writing the charter is unavoidable; extreme care must be taken to avoid the appearance of bias. Ideally, an American who was involved in the creation of FUSADES or the ECES would be involved in these early steps.

Choosing the board, renting offices, and bringing on an executive director would take an estimated six months. Since the board would serve pro bono, virtually no expenses would be incurred during this time. The illustrative budget below starts when the ED starts work. It is estimated that the ED will require a further three months to recruit the scholars, so the budget includes their expense for only 21 months.

As for the size of the institute, the essential requirement is that it be of a size that provides sufficient intellectual stimulation and support, and meets the needs of Yemeni policymakers and opinion leaders. There is no clearly necessary size, but ECES, for instance, has six resident economists, and two non-resident “collaborators.” (One collaborator is the well known Latin American economist, Hernando de Soto, who has done research and published on Egypt. The other is a research manager at the World Bank, a non-Arab Canadian, who has also done research and published on the Middle East.) As another example, an institute proposed by the United Nations Development Program (see below) would begin with ten scholars.

It is proposed that the institute begin with four resident and four non-resident scholars. This reflects two considerations. First, a minimum of four residents is judged to be the necessary provide an environment congenial to scholarship. Second, while the output of the institute must be of good quality and genuinely useful, a country as small and as poor as Yemen does not have an abundance of trained and talented economists. Finding more than a competent ED and eight scholars would probably take too long. A professional staff of nine represents a balance between quality and timeliness. Of course, to the extent the institute is successful in both attracting scholars and money from new sources, over the years it will grow.

PROJECT RATIONALE

As in most least-developed countries, the best government officials and civil servants are good, but they are few in number and the vast majority are weak in their technical abilities and policy understanding. Training builds necessary trade capacity and improves policy immediately, and also

makes beneficiaries aware of types of knowledge that they can pursue on their own. The benefits of free markets and free trade, the many obstacles in Yemen to private sector development, the most effective ways to alleviate poverty, etc., are not intuitive; they usually must be taught formally.

Unfortunately, Yemen's free-market initiatives are being undertaken partly in the vague hope of benefits, and partly in imitation of other countries. There seems to be little understanding in the government or among the public of the benefits or the obligations of these policies. Moreover, the government has little ability to negotiate with foreign governments, or to shape public opinion and build broad political support for liberal policies at home.

For instance, according to the Chairman of the Central Statistical Office, which is a part of the Ministry of Planning and International Cooperation (MoPIC), MoPIC has only three people whom the Chairman described as "researchers." Similarly, at the Finance Ministry, a Deputy Minister described the ministry's international planning and research as "not big and not good," and "weak." The person in the Ministry of Industry and Trade (MoIT) responsible for WTO accession has turned to experts outside of Yemen because the required expertise is unavailable within the country. Relying on outside experts is both slow and fails to create a sense of ownership within Yemen for the policies necessary for WTO membership.

The government has little recourse to academic economists or think tanks. In the Department of Economics at the nation's top university, Sana'a University, most of the courses are taught by adjunct professors who are mostly government officials and civil servants seeking to augment their low government salaries. The "full-time" faculty consists of only 9-10 members who themselves moonlight at other jobs to augment their meager university salaries, and have no time for research or policy analysis, writing and public speaking. Moreover, the Department lacks computers and Internet access, and has not received a "publication" of any kind since 1989. Therefore, although some of the faculty members were trained in the West, including the United States, they are unable to keep up with new developments in economics or to write policy recommendations for the government. At one point, the Department established a research center, but it received no funding from the University and failed to produce any output. Although many of the adjunct professors work in government, the government does not turn to the University for advice. For instance, although at one time there was discussion that the Department would assist MoIT with WTO accession, MoIT has never requested such help, probably because of a lack of confidence in the competence of the professors. Professors rarely write for the general public or address economic issues on radio or television.

Finally, the public, including most business leaders, is opposed to Yemen's membership in the WTO. This opposition is based mainly on a poor understanding of the rights and duties that membership entails.

SUSTAINABILITY AND RISKS

The main risk is that the best and brightest Yemeni government officials and civil servants, i.e., those most able to benefit from training, would leave government service, while underpaid university professors may fail to devote themselves conscientiously to teaching and writing on topical policy issues.

As for the government sector, reforms now underway to reduce the size and increase the pay of civil servants may mitigate this problem. As for academics, the think tank will provide a long-term vehicle for the use and dissemination for this knowledge

As for the sustainability of the think tank, it must attract revenue from multiple sources, e.g., wealthy individuals; businesses; labor unions; the government; and foreign and domestic non-governmental organizations, such as foundations; and consulting revenue. Judging from the success of FUSADES and the ECES, this is certainly possible. After two years, the institute should be weaned from USAID support over a period of three years.

A risk to the think tank stems from the fact that Yemen is a tribal society, and promoting the interests of one's fellow tribe members, regardless of expertise, is common and often taken for granted. This feature of Yemen must be partly resisted and partly accommodated. It can be resisted with performance standards. And it can be partly accommodated with a large and diverse board of directors and set of adjunct scholars.

POTENTIAL PARTNERS

Regarding Phase I, the leading candidate is the World Bank Institute. In addition, the European Union is very active in training in Syria, and might like to collaborate under its program to assist Yemen to join the WTO (which is described in the Customs Valuation and Competition Policy projects).

Regarding Phase II, the World Bank representative in Sana'a expressed an interest in supporting a think tank of this type.

It might be noted that the United Nations Development Program is well along on a plan to establish a think tank in collaboration with the Ministry of Planning and International Cooperation. This think tank is to focus on poverty reduction. The research program includes trade only to the extent it affects poverty. In principle, it would be possible for USAID to collaborate with the UNDP and expand the mandate of their think tank to include trade capacity building. However, the problems associated with collaboration with the UNDP and the involvement of the Ministry of Planning and International Cooperation render USAID participation inadvisable.

Appendix C

PRIVATE SECTOR DEVELOPMENT

Project 5. Reforming Land Titling and Enforcement

PROJECT AND BUDGET SUMMARY

This paper proposes an approach to stimulate donor and Government of Yemen interest in the final resolution of the land titling issue the country faces. The effort is an integral part of a broader thrust in Yemen to develop confidence in the rule of law and in the conviction that property rights will be recognized and enforced.

What is proposed is, first, the preparation of a policy-recommendation paper based on prior studies done on the issue. The paper would be the basis for convening, as a second step, a workshop bringing together the civil society, the public sector, and the international community to discuss the recommendations and try to achieve consensus on the best policy course regarding the enforcement of land property rights. Acting on the workshop recommendations, USAID and other donors could commit to a project to help Yemen solve the problem it faces regarding the recognition and enforcement of property rights.

The budget for the initiative proposed is estimated at some \$200,000 of which USAID (perhaps with other donors) would contribute approximately 95 percent. The remaining 5 percent would be divided between the Government of Yemen and the civil society. This budget does not include the cost of an actual project for strengthening property rights enforcement.

OBJECTIVE

It is proposed that USAID/Yemen act as a catalyst to the resolution once and for all the problem of identifying, securing and defending title to land in Yemen. By so doing the activities proposed would serve to strengthen the effectiveness of property rights in the country.

RATIONALE

A weak system of property rights enforcement is a major deterrent to economic growth in a market-based economy. In Yemen there is an absence of effective means of identifying, securing and defending title to land. Most cases before the courts in Yemen are disputes over land, and most involve multiple claims or the location of boundaries.¹ Unless land titling and property rights to land are enforced in a way deemed fair by the Yemeni society, efforts by international donors to promote a self-sustaining development process in Yemen have scarce chances of success.

STRATEGIC CONTEXT

The United States Government (USG) is supporting the evolution of political systems in the Middle East toward democratic forms of government based on free market economies. The

¹ Diagnostic Trade Integration Study – Component Studies, p 21, March 2003.

proposed activity would be an important component of such policy orientation in Yemen and would be a basis on which a process of rising standards of living for Yemenis would build.

BACKGROUND AND MAIN SECTOR ISSUES

The Survey Authority and Land Registration of Yemen was reorganized in 1991 and is an autonomous agency. Among other activities, it is responsible for: (1) conducting aerial and field surveys in the country including all privately owned land; (2) registering privately owned land after assigning land tiles and demarcating areas and boundaries; and, (3) ensuring the protection of land rights by issuing title deeds. Nonetheless, unfortunately, securing and making effective property rights on land is a major problem in Yemen. And the problem is especially acute in urban and downtown urban areas where land prices are very high.

There is no modern unified land tenure system. The current system is a mix of private land owned under modern and customary titles; it fails to provide the evidence needed to protect rights to landed property. As indicated in a recent assessment, “it is difficult for investors to ensure that they have acquired clear title to parcels of land. According to law every landowner has to register his or her title in the Land Registry”.² If this is not done the landowner risks losing the land. “Unfortunately the law does not provide that if a landlord fails to register title he or she shall not acquire the legal estate. Thus registration of title land does not provide indefeasible title.”³ A consequence is paralysis of the court system as relates to the effective recognition and enforcement of property rights over land – courts are reluctant to enforce eviction of defaulters. In fact, court dockets are full of cases involving claims over lands whose resolution is slow, uncertain and ineffective. Moreover, reportedly, the Ministry of Justice acknowledges documents not registered with the Land Title Registry.

This situation to a great extent explains commercial banks’ reluctance to lend to other than large size family-owned enterprises frequently linked to the banks as main shareholders. It is difficult to use land as an effective source of collateral for bank loans and such difficulty constrains private and foreign investment. Borrowers can delay judgment almost indefinitely and can avoid enforcement if judgment is given.⁴

At present no donor is working on resolving the issue of land titling (or property rights in general). More seriously, among segments of the donor community there is the sense that the situation is so difficult as to be close to helpless.

Yet, leaving matters as they stand augur badly for Yemen’s potential to stimulate domestic investment (substantial domestic savings are being invested abroad), much less attract foreign investors. In such context, the benefits derived from international trade are sharply curtailed. The activities proposed below are intended to help break the impasse.

PROPOSED ACTIVITIES

It is proposed that USAID/Yemen experiment with a set of gradual steps potentially leading to a full-blown project to ensure adequate cadastral, titling, registration, recognition and enforcement of property rights over land. But a project would require consensus among donors, government

² Diagnostic Trade Integration Study - Overview, p 54, August 2003.

³ Ibid.

⁴ Ibid.

and the civil society. The first three sequential steps outlined below are designed to achieve such consensus and are the core of the present proposal. The remaining two steps are suggested as inputs for the eventual project.

1. A policy-oriented analytic review of relevant studies, issues and potential solutions. The review should come up with:
 - A roadmap of changes in regulations, policies, institutions and practices recommended for the effective recognition and enforcement of property rights over land.
 - A clear set of practical suggestions regarding time-phased actions to mobilize civil society and public sector support for the actions recommended.
 - Criteria for allocating responsibilities among donors, the civil society and government regarding who does what, when and how.
2. Organizing a 3-day workshop for the discussion of the recommendations from step (1), the review of alternative actions, and most importantly obtaining consensus on the measures and assistance called for. The workshop should be preceded by a widespread dissemination of the review ensuring that all active sectors within the Yemeni society understand the nature and relevance of the problem and the essence of the proposed solutions. Participants in the workshop would include high-ranking public sector decision-makers, representatives of the civil society including aldermen of tribes or families, members of the academic community, international donors, and national and international specialists on the subject of land titling, registration and property rights enforcement.
3. The creation of a post-workshop committee to develop a detailed action plan that implements the workshops conclusions through a joint donor-Government of Yemen (GOY) project.
4. The formulation of the project. In line with prior recommendations such project could include technical assistance for law and regulation reform to the extent needed, training in land surveying, border demarcation and titling, and the creation of a special tribunal or alternative land dispute resolution mechanism to deal with the caseload of pending disputes. By themselves the technical and social ramifications of land disputes justify such special mechanisms.
5. The special tribunal would develop a hierarchy of claims and award title to holders of claims with the greatest merits. Claims or titles of dubious nature should be dismissed. The evaluation of cases could start in areas where the conflicts are less intense – peri-urban or agricultural zones for example. In cases where it is hard to determine priority, the tribunal could determine partition, fair compensation (including the distribution of public lands as available), or the possibility and terms of joint ownership.

Summing up, the outcome of a successful consensus-building process followed by a relevant project would be the settlement of most pending disputes over land and an efficient and effective system of land registration and property recognition.

ACTION SEQUENCING

The main activities would follow the sequence noted in the previous section. This section comments only on the steps leading to but not including project elaboration.

The first step would consist in the identification of an expert in land titling and registration issues. This person would be responsible for drafting the policy-oriented analytic review mentioned above.

The preparation of the review would entail five workdays in the U.S. (at least two in Washington D.C.) for interviews and collection of relevant material. This stage would be followed by three weeks in Yemen for consultations and further collection of documentation and data. This would be followed by four weeks for draft preparation either in Yemen or in the U.S. After completion the draft would be distributed among international donors, the Yemeni authorities and the civil society for comments and reactions. Two weeks after the distribution of the draft its author would use two additional weeks, preferably in Yemen, for final report preparation taking into account comments received. The final revised document would be widely distributed among the international community, the Yemeni authorities, and the civil society.

Simultaneously with the report preparation phase, a contractor would make the necessary arrangements for the workshop. Representatives of the Yemeni, civil society, and the international community would be invited. Also, in addition to the author of the report, four other international experts on land registration and titling issues would be invited and asked to publicly comment on the report to promote its discussion during the workshop proceedings. The workshop would close with the presentation of a summary of the proceedings outlining points of consensus, contention, and, as possible, workshop recommendations. The workshop would also be the occasion for selecting a government-civil society-international donor committee responsible for the action plan preparation. Such action plan would include suggestions for the actual project.

LIFE OF ACTIVITY AND EVALUATION

The life of the activities contemplated in the previous section would last some four months. The time frame would be as follows:

- Three and half months for workshop and initial report preparation. Report preparation would require 2.5 person months.
- Three days for workshop implementation and action plan committee designation
- Three weeks for action plan preparation by members of the action plan committee.

After the preparation and distribution of the action plan, USAID and other donors, in consultation with the Yemeni authorities and civil society, would decide whether to go ahead or not with a project. No evaluations would be required up to this point. A key factor in deciding whether to go ahead with a project or not would be the degree of consensus reached during the workshop and the reactions to the action plan.

BUDGET

The budget proposed refers only to the activities that, as per the description above, would lead to an actual project design. The total cost of these activities is estimated at approximately \$200,000

of which USAID (and, perhaps, other donors) would cover some \$175,000. The remainder would be covered by the Yemeni public and private sector in equal amounts.

POTENTIAL PARTNERS

As indicated no donor is at present contributing resources to solving the land titling issue in Yemen. This however does not mean lack of interest.

The World Bank for example is in the process of reviewing a draft report touching on land titling.⁵ Accordingly, although the Bank does not at present contemplate projects dealing with land titling, its interest in public sector reform and in achieving the millennium goals suggests that it might be potentially interested in a well-designed project if it has GOY backing.

The link with the millennium goal of reducing poverty can be easily established using De Soto's insight that a key problem in developing countries is being able to use assets to create capital.⁶ When rights to assets are not recognized or enforced, such assets cannot be used as capital, cannot be traded except within narrow circles, cannot be used as collateral for loans, nor can they be used as a share against an investment. Isn't this precisely what happens in Yemen where small and medium enterprises are blocked in their access to credit because their property rights to land are neither recognized nor enforced?

If such rights were duly registered, and recognized and enforced by courts the potential for enterprise growth and the stimulus to entrepreneurial drives would increase immensely. As many of the persons running small and medium enterprises, or working for them, are of low income, progress toward resolving the land titling issue would translate into progress toward reducing poverty and achieving millennium goals.

As other donors, the British Department for International Development (DFID) for example, are as well targeting millennium goals as priority objectives, they should also be considered potential partners. Likewise the solution of the issue is relevant to the banking sector and to larger enterprises that have an interest in commercial banks and would benefit from stronger backward and forward linkages with other local or foreign enterprises. After all, land survey services and property management are tradable services.

On the government side, the Survey Authority and Land Registry have to be involved. The same goes for the Ministry of Justice and the Ministry of Legal and Parliamentary Affairs and the organs of the Judiciary.

PERFORMANCE INDICATORS

The success of the activities suggested would be signaled by the participation of the public and private sector, as well as other donors, in the workshop suggested and, especially in their committal to take part in a project to address the land titling issue. The production of the analytic review and the workshop itself could be used as intermediate indicators of progress.

⁵ Unfortunately the team had no access to the draft.

⁶ Hernando de Soto, *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else*, Basic Books, paperback edition, July 2003.

RISKS AND ASSUMPTIONS

The key assumption is that the approach proposed will be able to attract the interest of the government, other donors and the civil society. An implicit assumption is that the analysis will come up with a resolution that is politically feasible and makes economic sense. The risks are the obverse of the assumptions.

Project 6. Facilitating Access to Credit for Medium-Sized Firms

PROJECT AND BUDGET SUMMARY

The project is aimed at facilitating the growth of medium-sized enterprises through: (a) the provision of training, technical assistance in business practices, market information and enterprise linkages; and, (b) facilitating such firms' access to credit from commercial banks at commercial rates. Two key instruments for achieving these purposes are the creation or nurturing of an Association of medium-sized enterprises and the application of USAID's Development Credit Authority. Enhancing the potential of enterprise growth in Yemen is a pre-condition for economic growth that reaches all income population groups. Also for fully partaking in the benefits of expanded international trade under World Trade Organization rules.

The contemplated life of project is two years with a possible extension to three. The basic annual project budget is estimated at approximately \$2.3 million over two years. The geographical scope and depth of the project could be expanded through the participation of partner donors.

OBJECTIVES

The direct project objective is to reduce widespread poverty by helping small to medium-sized enterprises enhance their: (1) competitiveness through efficient management and resource allocation; (2) capacity to grow; and, (3) increase their contribution to Yemen's wealth creation. Indirectly the project seeks to promote a more efficient and dynamic private sector by fostering enterprises links and competitive markets.

RATIONALE

Economic growth is the single most important determinant of poverty alleviation. In wealth-creating market economies the private sector is the engine of growth. Such role can be accomplished only when the economic setting encourages entrepreneurial drive, firms have opportunities to compete and expand in domestic or foreign sectors, and hard work, efficient resource allocation, and measured risk-taking are generally rewarded by high returns, be it in the form of rising real wages or profits. In today's Yemen, for reasons explained below, by and large private sector firms are not dynamic and are ill positioned to provide the impetus for growth. The present project seeks to address some of the key constraints that hinder private sector development.

STRATEGIC CONTEXT

The project is an important part of the United States Government's (USG) strategy to help low income countries improve their standards of living through greater integration in the global economy. An important dimension of such strategy is to help countries such as Yemen increase their share in the benefits of international trade under World Trade Organization rules.

BACKGROUND AND MAIN SECTOR ISSUES

The size distribution of non-agricultural enterprises in Yemen is extremely skewed toward very small firms with only some medium-size firms. It is estimated that such very small firms account for some 96 percent of enterprises in Yemen (excluding agriculture, fishing, and forestry). The economy is essentially controlled by a small group of larger family owned firm conglomerates.

According to a year 2000 survey, the universe of small and medium sized firms (SMEs) was over 310,000 enterprises in non-primary activities.¹ The distribution of such enterprises and total employment by number of employees per enterprise is shown in Table 1.

Table 1. Enterprises and Employment by Enterprise Size

| | Enterprises | | Employment | |
|-----------------------------------|-------------|-----|------------|-----|
| | Number | % | Number | % |
| Micro, self-employed (1 employee) | 224,000 | 72 | 221,050 | 46 |
| Small (2-4) employees) | 76,000 | 24 | 183,914 | 38 |
| Medium (5-50 employees) | 10,800 | 4 | 79,994 | 16 |
| Total | 310,800 | 100 | 484,958 | 100 |

SOURCE: MSE Baseline Survey

The private sector's contribution to Yemen's Gross Domestic Product (GDP) was only 44 percent in the year 2000.² Moreover, while the industrial sector contributed some 33 percent of GDP, most of it was accounted for oil related activities. The non-oil-manufacturing sector accounted for only some 9 percent of GDP. Agriculture contributed some 19 percent and services accounted for the largest proportion with approximately 48 percent—of which government accounted for some 45 percent of services value added.³

Given that the survey SMEs excluded primary activities and related only to privately owned enterprises, one may infer that such SMEs accounted for a very small proportion of GDP (more below). They are concentrated in a few sectors—manufacturing, construction, wholesale and retail, repair, hotels and restaurants, transport and communications, for example. Moreover, as trade, hotels, and restaurants account for some 12 percent of the employed labor force it is plausible that Table 1 SMEs accounted for a proportion not much higher than that.⁴

¹ Koos van Elk and Paul Wijmenga. 2000. MSE Baseline Survey, Yemen, Final Report on a Nation-wide baseline survey among micro and small business enterprises (MSEs) in Yemen. Prepared for the Social Fund for Development and the World Bank. November. The survey did not include (1) schools, hospitals, and welfare organizations; (2) agricultural, fishing, forestry or mining activities; and, c) activities that produced mainly for own consumption. Hereinafter this study will be referred to as the MSE Survey.

² World Bank. 2002. The Republic of Yemen Economic Growth: Sources, Constraints and Potentials. May 31. p 41.

³ Ibid, pp v, and 7.

⁴ See Republic of Yemen, Poverty Reduction Strategy Paper (PRSP), 31 May, 2002, p 30.

SMEs perform poorly in general.⁵ By far most of them reflect subsistence or marginal activities and operate in stagnant markets. By and large, only the medium-sized enterprises are perceived as having potential for economic growth.⁶ The estimate that around half of the SMEs were established more than 14 years ago suggests their inability to expand or prosper and reinforces this conclusion.

Fifty percent of the SMEs entrepreneurs are older than 39 years with some 21 percent aged between 45 and 54. Ninety percent of SME entrepreneurs are married, half of them operate from a commercial building, one third is mobile, and some 10 percent operate from their homes. Their education level is low – 66 percent are illiterate or semi-literate – a fact that underlines the importance of training. By far most of the SMEs sell to final consumers thus indicating weak or non-existent linkages with larger firms.

Female entrepreneurs account for only 3 percent of the SMEs. They are concentrated in textiles and operate in rural areas. Eighty-one percent of them is illiterate (more than twice the proportion for male entrepreneurs) and they operate from their houses.

In general SMEs face inadequate infrastructure, high competition, and insufficient demand. Established SMEs complain of market stagnation and high input prices. New SMEs underline lack of capital and finance, market stagnancy, and high tax burdens. As relates to the manufacturing sector, SMEs are characterized by:⁷

- High degree of industrial and geographical concentration
- Family and private ownership
- Very low ratio of value-added to inputs
- Self-financing of investment and activities.

Manufacturing SMEs are concentrated in food processing, textiles, clothing and leather, woodwork and furniture, non-metallic construction manufacturing and metal products. About a quarter of SMEs are in the following governorates Sana'a, Ibb, Taiz, Dhamar, Lahj, and Hodydah.

Summing up, most enterprises in Yemen are very small with only a few of them, enterprises of 5 to 50 employees, offering real potential for growth. It is to such enterprises that the following technical assistance or training interventions by USAID are most promising:

- Pricing, production technology, quality control, business management including accounting methods, business planning, inventory control, and marketing.
- Access to financial services. This implies assistance in the identification of financially sound projects and technical assistance in the preparation of project and loan proposals.
- Equipment selection.

In addition, and as explained below, medium-sized enterprises with potential for growth seem to lack effective business links. Such links would facilitate the dissemination of relevant knowledge

⁵ Unless otherwise indicated the thrust of the following paragraphs reflect the main conclusions of the MSE survey.

⁶ This conclusion is based on the analysis of MSE Survey mentioned above.

⁷ Based on Institutional Development of Micro and Small enterprise sector in Yemen. No author or date although the document seems to have been prepared by an international donor in late 2002 or in 2003.

and provide a channel through which the enterprises might be more effectively represented among the civil society.

PROJECT DESCRIPTION

The project is a phased 3-pronged pilot initiative. Its main elements are:

1. The creation or reinforcement of an association (hereinafter the Association) of medium-size firms (i.e., of five to fifty employees) that would serve two roles. First, it would be a channel through which technical assistance, training, general market information, and business-to-business linkages would be provided to member firms. Second, under a solidarity principle it, along with its member firms, would act as a second level guarantor of loans taken by members firms provided loan proposals are certified by the Association as worthy. The Association would be run by a Board of Directors in which the international donor community would have the right to veto loans decisions and policy determinations to the extent consistent with the laws and regulations governing the actions of the individual donors.
2. The use of USAID's Development Credit Authority to assume part of the credit risk undertaken by commercial banks when lending to the association member firms. That means that the United States Government through the Development Credit Authority would act as a third-level partial guarantor of loans to the members firms if the Association, or its member firms, fail to fully pay back good faith loans from commercial banks. To minimize the risk of moral hazard by the Association and its community of members (i.e. not meeting obligations as second-level guarantor) USAID and donor partners would have the right to cancel the project and stop disbursements. Such would happen if the Association or its community of client-members does not comply with their obligation to make good on loans taken by members.
3. The negotiation with selected commercial banks to encourage them to seriously consider lending to creditworthy projects under the conditions described in the preceding sections (1) and (2).

The proposed activity would work as follows.

Association

USAID would explore the potential of existing entities that provide services to SMEs to act as the Association. If none is found, USAID in concert with other donors, and after consultation with SMEs and chambers of commerce would seek to establish the Association.

The Association would be an independent private organization responding only to its members and Board of Directors. It would seek members among medium size firms that meet minimum business standards and are willing to pay a monthly fee to the Association to cover part of the Association operating costs and add to a contingency fund to be used in case of member defaults on loans. (The contingency fund could be given legal standing as a separate entity, and Insurance Guarantee Company, for example.) The member firms would also pay for part of the costs involved in services received from the Association. Moreover, acting solidarily must be willing to add to the Association resources (or to the Insurance Guarantee Company's)

to meet payment obligations resulting from loans by commercial banks to the Association firms when needed (i.e., in case of firm default).

To minimize the risk of moral hazard by its member firms the Association would provide, when needed, timely technical assistance for the preparation of loan proposals. It would also assume, directly or through the Insurance Guarantee Company, the role of guarantor of loans to its members only after it approves the loan proposal after a careful but prompt review of any such proposal. Member firms that default on their loans would automatically lose their membership in the Association.

Besides the role described above in financial transaction between commercial banks and its member firms, with the help of USAID and other partners, the Association would provide a diverse training programs to its member firms in areas relating to business administration and business-to-business linkages. Moreover, with donor support, the Association would sponsor workshops to discuss business practices and market opportunities.

Commercial Banks

Several solid banks have indicated their interest in principle to participate in a project such as the one outlined above (more on this below). From a development perspective one objective would be to demonstrate to the banking sectors that lending to medium-size enterprises makes banking sense once there is a technical assistance infrastructure on which such enterprises can rely for training and the formulation of creditworthy loan requests. In this light the endeavor proposed here would be of a pilot nature with the potential of strong positive externalities.

At present the banking sector is not really intermediating between savers and investors. Besides opening a new market for commercial banks the project could provide an impetus for the development of new banking technologies for dealing with other but the largest closely linked enterprises. To these ends USAID/Yemen should consider the use of USAID Development Credit Authority.

Development Credit Authority

Financial services can play a dynamic role in development. Unfortunately for reasons previously explained, banks in Yemen lend only to well-established large firms. This is not really a market failure but a natural market response to the institutional conditions prevailing in Yemen. While USAID and other donors work with the Government of Yemen eliminating the obstacles that hinder effective banking, in the interim, USAID could help facilitate the process of allocating savings to worthwhile projects from medium size firms through the use of USAID Development Credit Authority (DCA).

The DCA provides USAID Missions the authority to issue loan guarantees to private lenders, particularly for local currency loans. These guarantees cover up to 50% of the risk in lending to projects that advance USAID's development objective.⁸ A DCA loan guarantee can make funding available to specific sectors where the need exists to encourage sustainable local economic growth.

USAID-assisted training that helps banks better perform cash-flow analysis, due diligence and risk management on loans to underserved sectors often complements DCA loan or bond guarantees. The combination of partial guarantees and training has introduced local financial

⁸ A full description of USAID' DCA can be found on the USAID web page.

institutions to new lending opportunities in various sectors. At this time it is not clear whether absent the institutional constraints that hold back bank lending to smaller enterprises—a non-effective judiciary and poor enforcement of property rights especially in connection to land—donor-assisted training in banking practices would be needed. Nonetheless, this is something that USAID could explore with the banks and other donors—International Monetary Fund, for example.

In addition to mobilizing financing for specific projects, DCA partial guarantees help demonstrate to local banks that loans to underserved sectors can be profitable. This fosters self-sustaining financing because lenders become willing to lend on a continuous basis without the support of guarantees from USAID or other donors. DCA is a powerful catalyst for unlocking the resources of private credit markets to spur economic growth while advancing development objectives.

The following are some of the guiding principles governing the use of the DCA.

- DCA is principally intended for credit enhancement purposes and may be used where (1) the Agency's sustainable development objectives may best be achieved effectively using credit and (2) the risks of default may be reasonably estimated and managed.
- DCA is not a separate program but rather a financing tool to be used in addition to or in lieu of grant funding where appropriate. Accordingly, the principles and policies applicable to the use of development assistance grant funding are presumed to be equally applicable to DCA funding, unless otherwise indicated.
- DCA loan and bond guarantee agreements will be utilized only when the partner is a non-sovereign entity. No sovereign loan or bond guarantees are permissible under DCA.
- DCA shall be a demand-driven initiative, with Operating Units having primary responsibility for designing, authorizing, and implementing activities in support of approved strategic objectives and within Administration and Congressional priorities for assistance.
- DCA operations require a clear separation of responsibility for assessing the developmental soundness and the financial soundness of each activity, with the later responsibilities entrusted to a credit review board within the Agency.
- DCA requires true risk sharing. For loan and bond guarantee transactions, USAID shall not cover more than 50% of a lender's risk.
- DCA financing shall not be used unless it is probable that the transaction would not go forward without it, taking into consideration whether such financing is available for the term needed and at a reasonable cost.
- DCA assistance shall be made at or near market rates

As needed, for other guiding principles and modus operandi USAID/Yemen is encouraged to contact the Development Credit office at the Economic Growth Agriculture and Trade Bureau at USAID headquarters.⁹

⁹ How relevant are DCA guidelines to an Islamic country such as Yemen? Most Yemeni banks are private non-Islamic banks. Liabilities of Islamic Banks to residents other than current accounts are classified as investment deposits and are included with time deposits. Classification of resident's current accounts at the Islamic Banks is the same as for other commercial banks. Claims (placements and investments) by the Islamic

ACTION SEQUENCING

The project would be developed in two phases. The initial phase would essentially consist in the preparation of an Action Plan for project implementation, a final assessment of potential partners (see below for tentative suggestions) with discussions with them hopefully leading to an understanding regarding a joint enterprise. Interventions by the Development Credit Authority aside the first phase would require one person-month of consulting assistance. Its outcome would be a detailed action plan with dates for specific actions, suggested division of labor between USAID/Yemen and other partners (donors, private, sector and government as appropriate) in line with the recommendations made in this report, and a revised budget. Also, during the first phase and in consultation with USAID/Yemen, officials of USAID Development Credit Office would carry out the analysis required for the preparation of a Development Credit Authority project in Yemen.

The second phase would consist in project implementation. Among others activities it would include the creation of the Association, training workshops for Association trainers and participating medium-sized firms, the provision of technical assistance by the association, and the establishment of the Development Credit Authority facility as previously discussed.

It is suggested that the project initially concentrate its activities in centers where the medium-sized beneficiary firms would be easier to reach – Sana’a City or Aden, for example. The project activities would gradually expand to other areas as a function of experience, results, and the comparative advantage of other donor and non-donor partners. End-of-project success would be signaled by an Association that is effective and financially self-sustainable, and by local banks willing to engage in lending to medium-sized enterprises without the assistance or subsidization of outside donors.

LIFE OF PROJECT AND EVALUATIONS

The project is envisioned to last two years with the possible extension of an additional year. An evaluation of project progress should be undertaken at the end of the first year to assess whether results are being obtained as planned and recommend correction actions as necessary. A second evaluation would take place before the end of the second year to determine whether the one-year extension is justified.

BUDGET

It is estimated that the core project would cost \$2.3 million over a two-year period. This amount would vary depending on the geographical scope of the project and the contributions made by other donors.

banks are treated as loans and advances. (See Republic of Yemen, Comprehensive Framework, Financial Sector, IMF, General Data Dissemination System, at the IMF website.) Islamic banks have a tradition of serving smaller enterprises. Given that Islamic banks do not pay or collect interest, invest clients' deposits and "share" the profits, the issue for DCA is whether Islamic banks investments in smaller enterprises could be treated as loans from the perspective of the DCA. At a practical level this seems manageable. Nonetheless, it is a legal issue to be raised with DCA management at USAID. In any case, the issue does not affect non-Islamic banks.

POTENTIAL PARTNERS

Several donors and initiatives in behalf of micro, small and medium enterprises have taken place in recent years. Among them:

- Support by the United Nations Capital Development Fund to the Small Enterprise Unit within the Ministry of Industry and Trade
- German Development Cooperation (GTZ), currently working in a few governorates including Taiz and Aden. GTZ's emphasis is on vocational training, business development advisory services and promoting self-help efforts. GTZ engaged on micro-enterprise lending but decreased or stopped these activities and is now reconsidering next steps in the financing area.
- Social Development Fund. Besides assistance to SMEs, the Fund engages in self-help community projects and in non-government organization (NGO) strengthening.
- The Small Enterprise Development Fund (SEDF). This entity first started as a unit of the no-longer existent Industrial Bank and became an autonomous state enterprise entity in the 2002. The Fund received a transfer of funds from the former Industrial Bank Small Enterprise Unit. The Fund counted on assistance from The Netherlands Embassy but such assistance did not materialize or was stopped early. Besides the across-the-board reduction in The Netherlands' development assistance to Yemen, another factor that may have influenced the stoppage of Dutch assistance to this entity was that the Dutch envisioned an independent SEDF. At present SEDF's board of directors is formed by several ministers which, especially given the governance problems Yemen faces, makes it subject to political manipulation (although none was confirmed).

It is recommended that USAID/Yemen explore joining efforts with GTZ and discuss the possibility of working through the SEDF provided that SEDF becomes an independent private organization. GTZ has significant experience in working with small enterprises using credit solidarity concepts such as proposed in this paper.¹⁰ It is strongly recommended, however, that USAID stay away from micro-lending schemes and focus instead on medium-sized enterprises with real potential for growth.

On the condition that the Government of Yemen allows SEDF to become independent prior to any assistance from USAID/Yemen, SEDF is recommended as a potential partner (perhaps playing the role of the Association). It has undergone a learning process in identifying creditworthy activities, has a cadre of motivated officers and has access to the type of enterprise of interest for the present process. On the downside, however, the institution is operating with very limited capital, needs technical support in management information systems, and needs to enhance its management and technical assistance capacities.

As relates to Banks that should be considered for collaboration through the Development Credit Authority, it is suggested that USAID contact the following banks:

- International Bank of Yemen (Mr. Ahmed Thabit Al-Absi, General Manager)
- Watani Bank For Trade and Investment (Dr. Ahmed A. Al-Hamdani, Chairman)

¹⁰ GTZ has also significant experience in bank lending schemes to provide access to credit for small enterprises. While so does USAID, a partnership under the conditions proposed here would enhance the Global Alliance Initiative that USAID encourages.

- Tadamon International Islamic Bank (Mr. Mohamed Abdo Saeed, Chairman of the Union of Chambers of Commerce and member of the Board of Directors of Tadamon; Dr. Abdul Zawi R. Othman, Director, Foreign Investment Department)

The interest of these banks in the ideas presented in the present report was confirmed through personal interviews with the persons mentioned and their associates. The meeting with Mr Saeed was held in his capacity as Chairman of the Union of Chambers of Commerce but he endorsed the ideas discussed. One should reiterate that working with an Islamic Bank may require some adjustment to the procedures used in dealing with non-Islamic commercial banks but such adjustments should be feasible. Another Bank that was mentioned as a potentially interested bank was the Yemen Commercial Bank – this bank was not visited due to time constraints.

PERFORMANCE INDICATORS

Measures such as number of workshops held, persons trained, loans disbursed, loan-payback record, and number of firms reached could be used as intermediate indicators of progress. Enterprise growth (as measured by sales volume, number of full-time employees, increased linkages to other enterprises, for example) could be used as an indicator of ultimate impact. USAID/Yemen would have to establish benchmarks and measure progress against such benchmarks. For example, one would expect that member enterprises of the Association would perform better than non-member firms in terms of variables such as sales growth, jobs created, and linkages to other firms. The specific indicators chosen by USAID would depend on data availability and other practical considerations.

RISKS AND ASSUMPTIONS

Project success depends on the government maintaining good macroeconomic stewardship, on implementing policies to decrease the cost of doing business in Yemen, making progress to enable commercial banks to effectively intermediate between savers and investors, enforcing property rights, and clearly maintaining a policy orientation that favors a market-based open economy.

In this light other recommendations made in other sections of the present report are complementary to the preceding suggestions.

SUSTAINABILITY

Success by the project would imply an Association able to strengthen member firms by enhancing their management and providing needed technical advice. Such firms would be able to develop bankable projects and eventually pay the association fees that cover the operation costs of the Association. The Association should be financially self-sustainable at end of project. Likewise, commercial banks would be expected to have learned that providing financial services to medium-size enterprises can make good business sense. At such point further assistance by a donor institution to the Association would no longer be needed. Success might also lead to replicating the project in other zones or, not impossibly, a self-replicating process by the market without need of further donor intervention.

Project 7. Enhancing Commercial Courts and Alternative Dispute Resolution Mechanisms

PROJECT AND BUDGET SUMMARY

This pilot project is directed to strengthening the commercial court system and an alternative commercial dispute resolution mechanism outside the courts. In both cases an aim is to enhance the independence, competence, timeliness, and perception of probity of the performance of both institutions. The project will rely on technical assistance and training to achieve its goals. A first phase involving the collaboration of the authorities, the private sector, and USAID will result in an action plan with details and benchmarks for implementation. The second phase will consist in the implementation of the action plan and will involve two components. The first component relates to enhancing the competence of commercial court judges and courts procedures in two “model” courts – in Sana’a and in Aden. The second pursues analogous objectives by strengthening conciliation, mediation, and arbitration in one, and possibly two, centers (also in Sana’a and Aden). An effective alternative commercial dispute resolution mechanism will decrease the burden on the commercial courts. Pilot project success should lead to the replication of model courts and expanded formal arbitration in other zones of the country. Life of project is estimated at two years and three months.

Total cost of project is estimated at approximately \$4.8 million with international donors (USAID and/or others) bearing more than 90 percent of the cost.

OBJECTIVE

The project’s objective is to reform the system of commercial dispute resolution to make its decisions timely, transparent, effective, and based on standards of justice deemed fair. In other words, without infringing on cultural traditions, the project seeks to help Yemen integrate its legal system into the global contemporary legal framework for the settlement of domestic and international corporate disputes.

RATIONALE

Lack of confidence in the objectivity and effectiveness of commercial dispute resolution is at the core of factors impeding the development of the private sector. Accordingly, it is a major deterrent to achieving Yemen’s potential to benefit from international trade by exploiting its comparative advantages in a world of fast technological changes and fast growth in the stock of knowledge.

The Diagnostic Trade Integration Study (DTIS) describes the situation by pointing out that “the quality of the judiciary appears to be at the heart of the matter. Without judicial reform and security of property and contracts the payoff from technical assistance in other areas is unlikely to be high... In Yemen, deeper than regulatory constraints are problems with the institutions and

systems that should protect property rights and enable efficient contracting. The performance of the judicial system and the mechanisms for ensuring compliance with judicial decisions is a major problem area.”¹

STRATEGIC CONTEXT

The project will be an integral component of the United States Government (USG) policy to help developing countries raise the incomes of all population groups, especially the poor, by promoting the fundamental institutions of democracy and facilitating the development of wealth-creating private markets. Achieving such objectives will enable Yemen to better share the benefits derived from its integration in the global economy under the World Trade Organization (WTO) rules.

Moreover, the project is an excellent fit to the USG initiative to create a US-Middle East Free Trade Area by 2013. Under this plan the US has pledged to take graduated steps with each country in the region to help these countries build trade capacity, join the (WTO), negotiate Bilateral Investment Treaties and Trade and Investment Agreements, and take part in bilateral Free Trade Area negotiations.

BACKGROUND AND MAIN SECTOR ISSUES

The judicial system in Yemen comprises: ²

- The Supreme Court as the highest court
- The appeals courts
- The courts of first instance
- The Attorney Prosecution Office

The High Judiciary Council is responsible for selecting and appointing judges. The Council is chaired by the President of the Republic.

Among the courts of first instance one has:

- The ordinary courts—these are courts of first instance with competence to hear civil, criminal, administrative, divorce and matrimonial cases
- Public venue courts that are competent to decide criminal cases relating to taxes, custom duties, levies, misappropriation of public funds, embezzlement and bribery.
- Specialized criminal courts.
- Commercial courts. There are six commercial courts in Yemen. These courts are intended to deal with cases affecting commercial disputes.

There is widespread dissatisfaction with the performance of the judicial system in general and the commercial courts in particular. In reaction, the Government of Yemen (GoY) has identified the need to improve the performance of the judiciary, general prosecutors and courts.

¹ Diagnostic Trade Integration Study (DTIS), Overview, pp 50-1, August 2003.

² DTIS, Component Studies, p 38.

Moreover, the GoY has underlined the need for enhancing the inspection and financial control units of the courts, as well as for the swift implementation of court rulings.³

In addition, the GoY underlines the need of raising the expertise of members of the Judicial Authority through regular training programs and workshops. The GoY sees such training as a priority “to assist in speedy actions and rulings on matters of conflict.” In connection with the commercial courts there is a large backlog of cases—meaning a delay of years in many cases -- and judgments are frequently perceived as inconsistent with the law. In addition, the PRSP makes clear that the country needs to develop or improve the information system and database within the Judiciary to strengthen the role of the judicial police.⁴

The situation is well reflected in the DTIS’ comment that “lack of confidence in the judicial process is acknowledged to be an impediment to private sector activity. At the judicial level, there is a need for well functioning commercial courts and effective mechanisms to enforce judgments in order to give banks the confidence to lend to a broader group of investors.”⁵

A result of this and related state of affairs is that many Yemeni investors are investing overseas, not in Yemen. In the face of such lack of confidence in the future of the economy by local businesspeople, attempts to attract private foreign investment are almost certainly doomed to failure.

According to the Constitution, the judiciary is financially and administratively independent and it represents an impartial power; however, the general perception is that judges are appointed on the basis of their connections, subject to influence from the Executive branch and frequently not impartial. The following factors have been identified as affecting the commercial courts:⁶

- The qualifications and experience of judges is by and large inadequate. The High Judiciary Institute is not well equipped to training judges for services on the commercial court.
- The judiciary is widely perceived as corrupt – a consequence is little confidence in the judicial system and lack of willingness by the people to use the courts to resolve disputes.
- Frequent relocation of courts due to lack of permanent premises. This adds to delays in the judicial process.
- Inadequate protection for judges.
- No clearly established or adhered to principles of jurisprudence.
- Laws are not easily accessible.
- The consequences of inadequate training of judges are compounded by the interaction of precepts of Sharia Law and the commercial laws of the country.
- The mechanism for enforcing decisions is weak.

The commercial court system consists of 6 primary laws and a court of appeal. Parallel to such system there is a Center for Conciliation and Arbitration. This is a non-profit non-governmental

³ Republic of Yemen, Poverty Reduction Strategy Paper (PRSP), 2003-2005, p 88, 31 May 2002.

⁴ Ibid., pp 88-89 and 109.

⁵ DTIS, Overview, p 47.

⁶ Ibid., p 57.

institution that uses a list of accredited arbitrators and conciliators to settle disputes. The Center also offers training for commercial judges. It is reported that while the commercial courts see the Center as a valuable and effective resource, the Center's verdicts are not binding. The Center has no offices outside Sana'a and complaints must be registered in person in the Sana'a office. Fees vary according to type of dispute and they are lower than standard court fees. While the Center has potential for expediting the resolution of commercial disputes, the fact that its decisions are not binding and that Courts tend not to support the Center's decisions discourage the private sector from utilizing the Center as a mechanism for dispute resolution.

As the GoY seems to recognize, the impact of the economic reforms has been considerably weakened because key institutional processes, including judicial reforms, were not given adequate attention or implementation. Yet, while there have been some reforms, by and large, the modernization of the commercial courts requires introducing and assimilating updated judicial methods, the creation and development of information systems, and support for the establishment and effectiveness of judiciary Enforcement Officers. Moreover, corruption and the inefficiency of the Yemen's courts remain basic obstacles for economic and social development.⁷

PROJECT DESCRIPTION

The project would pursue a 2-pronged phased approach. One prong consists in strengthening the effectiveness of the commercial courts. The second relates to strengthening the parallel conciliation, mediation and arbitration system to decrease the caseload of the commercial courts. Both in regard to the courts and conciliation or arbitration the project will seek to enhance the independence of the institutions and protect them from political meddling, increase their knowledge of relevant law and procedures, ensure timely case resolution, and make the decisions binding within the limits of constitutional law.

The project will be carried out in two phases. The first one will involve forming a committee consisting of the GoY, the private sector and participating international donors a committee (the Planning Committee), which will be advised by :

- An international expert in commercial courts with experience in the Middle East. This expert would act as project manager and senior advisor to the commercial court in Sana'a.
- A legal scholar specializing in commercial law and courts designated by the GoY.
- A practicing lawyer experienced in commercial disputes designated by the civil society – Chambers of Commerce, Lawyers Associations and representatives of small and medium-sized businesses.

The establishment of the Planning Committee should take place no later than a month after the start of the project. The function of the Committee will be to develop an action plan that achieves the project's objectives and include pertinent recommendations. The action plan shall include suggestions for baseline and benchmark information to enable all interested parties to monitor project progress.

⁷ PRSP, p 27.

The Committee shall finalize the action plan no later than two months after its establishment. This 2-month period will include consultations and vetting with the Yemeni civil society, the GoY, and the international donor community.

Based on existing literature and analysis of the Yemeni situation the action plan will establish a priority list of factors adversely affecting the performance of the commercial courts and the Conciliation Center. Accordingly, the action plan shall include problem identification, solutions, deadlines for implementation of solutions, benchmark performance indicators, progress monitoring mechanisms, and expected results.

Quite aside from the obvious need to secure the autonomy of the commercial courts as part of an independent Judiciary, and to prevent their control by the Executive Branch, in preparing the action plan the Planning Committee will pay attention to such factors as follow. One is the need to consider that the present administrative organization of the courts, together with a broad degree of legal discretion and procedural complexity, may allow judges and court personnel to extract illicit fees from services rendered. Specifically, a large concentration of administrative and jurisdictional power within the judges, a significant number of complex procedural steps, and a lack of procedural transparency within the courts are conducive to judicial ineffectiveness and corruption.⁸

Likewise, the current uncertainty relating to prevailing doctrines, laws and regulations result in substantial inconsistencies in the application of jurisprudence. Among other factors the uncertainty and inconsistency reflect incompatibilities between religious beliefs and secular jurisprudence, lack of a legal database, and defective information systems within the courts. Such state of affairs discourage the demand for court services, and foreign entrepreneurs from considering joint ventures with Yemeni firms or sole ventures -- regardless of what investment concessions are provided. Not surprisingly the lack of practice of formal effective alternative dispute resolution mechanisms give the courts a virtual monopoly on commercial dispute settlement that compounds the preceding problems.

In its action plan recommendations the Planning Committee will consider the success with measures such as: simplifying the procedural code, reinforcing alternative dispute resolution mechanisms, and enhancing the effectiveness of commercial court administration offices that support the court in court notifications, budget and personnel management, and cash and case flow. Strengthened support offices would reduce the high and not properly monitored concentration of tasks for which judges are responsible.

In preparing the action plan, as well as in project implementation, it is important not to forget the principal-agent issue that might arise due to the time phasing of costs and benefits and the tension between social benefits and individual costs. Individual officials in the Judiciary (and in other branches of government as well) are likely to weigh heavily the short-term costs to them of effective reforms – loss of income and power.

There is no doubt that the Yemeni society at large will benefit from reforms that translate into effective commercial dispute resolution institutions. Even officials in the Judiciary are likely to experience long-term benefits in terms of respectability, job stability, independence, professional growth and even higher official wages (resulting from a revised remuneration scale). But the professional literature and the reform experience point to the conflict resulting

⁸ For the experience in other regions one can refer to Edgardo Buscaglia, “Corruption and Judicial Reform in Latin America”, *Policy Studies Journal* 17, no. 4, 1997, pp 273-295.

from the short-term long-term sequence of individual costs and private and social benefits as a factor that delays judicial (and broader legal) reform implementation.

Therefore to attempt to overcome these obstacles USAID and its partners in the commercial court reform project should consider supporting a reform sequencing that, from early on in the reform process, provides short-term benefits to at least partially compensate judiciary and other officials responsible for implementing the changes from the loss of rents. Such measures as more generous pay scales, greater job stability, increased physical security, bigger budgets, early retirement packages, and non-arbitrary promotions of judges and clerks can help. Clearly, these measures should be linked to the larger reform of the judiciary and the ongoing process of public sector reform.

While, as mentioned, the Committee will consult with the civil society, the government and other donors, it should perform its tasks independently. Barring extraordinary events (acts of God or force majeure), if the Committee is not able to produce the action plan within the time period indicated and receive the support of the GoY, the Civil Society, and international donors, the project shall be considered not feasible and will end at such point.

The second phase will consist in project implementation along the two tracks mentioned above. As it relates to the commercial courts, the project shall provide technical assistance and training to develop two model courts, one in Sana'a the other in Aden. To develop the model courts the project will provide, among others:

- Adequate permanent premises.
- Recommendations and technical assistance for their implementation, to ensure that judges are appointed on the basis of competence, with no political meddling, and with adequate protection against attacks or vindictive actions resulting from their decisions.
- Training in commercial law to judges, court staff and lawyers specializing in commercial law.
- Workshops bringing together foreign and Yemeni experts to introduce and review pertinent issues relating to commercial local and international law, and commercial courts performance and independence.
- Training on human resources management, case management, and financial administration including budgeting.
- Help to develop an information system that facilitates the access by judges and other relevant parties to pertinent legal documentation (e.g., texts, journals, case studies) including a data base of precedent cases.
- A review of the adequacy of existing courts fees and recommendations for introducing a new scale of court fees as appropriate.
- Recommendations and assistance for the creation of an effective “judicial police”.

The model commercial courts shall be established taking into account the principles that follow.

- Differential case management (different rules for cases of differing complexity)
- Timely judicial management.

- Monitoring and control of complex cases
- Encouragement of cost-effective discovery through voluntary exchanges of information and cooperative discovery devices
- Good-faith efforts to resolve disputes before filing motions
- Enforcement of a requirement that the “model courts” publish the number of “old” cases not yet resolved by each court – for example, cases still in the docket one year after filing.
- An early-trigger mechanism that would refer appropriate cases to the Center for Conciliation and Arbitration.⁹
- Support by the Courts of the Decisions by the Center for Conciliation and Arbitration so that, in practice, decisions by such Center be generally binding.

The second prong of the project will consist in strengthening and ensuring the transparency, effectiveness, and trustworthiness of the Center for Conciliation and Arbitration. Arbitration (as well as conciliation and mediation) is increasingly accepted methods of resolving commercial disputes that relieve the pressure on the commercial courts. But arbitration needs to be supported by appropriate legislation. The purpose of an arbitration statute is the fair resolution of commercial disputes by an impartial arbitrator with minimum delay and expense, and granting adequate powers for the arbitration center to conduct its work effectively. Accordingly, in the spirit of promoting a private-public sector alliance, the project will encourage the drafting and passing of such legislation.

The concept is that an efficient Center for Conciliation and Arbitration would provide a fast track for dispute resolution as an alternative to the court system. Accordingly, following the recommendations of the first-phase Planning Committee, the project would seek to strengthen, first the Center’s only operating office in Sana’a. If the results prove encouraging the project would provide technical assistance for the establishment and operation of a second office in Aden.

Cases brought to the Center would come from two sources. One source would be the cases sent to the Center from the court system as per point (7) above. The second would be cases directly brought to the Center for resolution through conciliation, mediation, and as needed, binding arbitration rather than through litigation.

The project would provide assistance to enhance the Center’s role in training and identifying arbitrators and conciliators to settle commercial disputes. As needed it would also provide technical assistance to the Center in the management of its caseload and finances including an assessment of fees charged and recurring costs.

As previously indicated, the Center’s effectiveness will be bolstered significantly if regular courts endorse its rulings. If such does not happen, and the present situation continues, efforts to enhance the Center would not be worthwhile. More ominously, failure to enhance the use and relevance of the Center should raise questions as to the viability of the project as a whole.

⁹ Guidance as to the identification of such cases may come from the Legislative Branch, the Supreme Court or the High Judiciary Council. Complementarily, the project could finance a workshop to examine the issue in light of the Yemeni and international experience with alternative dispute resolution mechanisms and make recommendations on both process and the substance of the cases.

The point is that if a country does not develop a reputation for handling commercial disputes impartially, accurately, and in timely fashion it will rank poorly in international country risk comparative assessments – as is the case of Yemen at present.¹⁰ Countries in such situation cannot expect to attract foreign investors (except for the exploitation of indigenous resources such as oil or protected sectors) and are likely to see their own investors exporting capital as, as mentioned, is happening in Yemen.

Now, it might be argued that in Yemen there is a long tradition of dispute resolution through informal processes and there is no doubt that these processes are useful. The process essentially consists in taking the issue to a tribe alderman after agreeing to abide by that person's decision. The process works because both parties have something to gain from the transaction or because neither party is willing to risk its reputation or jeopardize its family or tribe by renegeing.¹¹ However, the impact of such informal dispute resolution mechanisms is greatly limited. It is unlikely that foreign investors or firms will accede to such processes, for example.

Moreover, complex or long-term contracts of the type needed in contemporary business transactions are unlikely to abound in such settings. And one can conjecture that new firms or entrepreneurs are still subject to the vagaries of family or tribe connections. Trust, the sine qua non for wealth creating market economies, will be too limited. And a result will be lack of firm mobility (entry and exit), firm growth, and the exploration of new ideas or with new technologies. In other words, the transaction costs of doing business are too high when one is limited to trade with only known and reliable partners.

ACTION SEQUENCING

Carrying out this project will require negotiations and coordination with other donors, besides commitments from the GoY and the private sector. Once and if agreement is reached, as mentioned in the previous section, the initial project phase (some three months) would be used to develop an action plan with support of the donors, public sector and the civil society (Yemeni private sector). The project manager (and in the later phase also senior advisor to the Sana'a court) would be the point person to mobilize the support envisaged from other donors, the authorities and the private sector as per prior discussions between USAID/Yemen and the other parties.

The implementation or second phase would start as per the timetable in the action plan— hopefully immediately after the plan's approval by the donors, the government and the private sector. The focus would lie on the enhancement of commercial courts in Sana'a and in Aden, simultaneously with support to the Center for Conciliation and Arbitration's office in Sana'a. Work on the Sana'a and Aden courts would proceed in tandem. Support for a second conciliation and arbitration office in Aden should come later and build on the experience gained thus far.

¹⁰ A case in point is the classification of "mostly unfree" given to Yemen in The 2004 Index of Economic Freedom published by the Heritage Foundation and the Wall Street Journal. One of the criteria used by the Index for such classification was the low level of protection given to property rights. Such conclusion was based on a negative perception of the judiciary and of the degree to which laws and contracts are enforced.

¹¹See Cheryl W. Gray, "Reforming Legal Systems in Developing and Transition Countries" in <http://www.worldbank.org/fandd/english/0997/articles/0140997.htm>.

LIFE OF PROJECT AND EVALUATIONS

The project is expected to last two years and three months including the period for action plan preparation. An evaluation should take place midway through the second phase or earlier if advisable. Such evaluation will be one basis for determining whether the project is worth pursuing and changes that may be needed. The evaluation could be done internally by USAID's Center for Development Information and Evaluation (CDIE) or by an outside party. Assuming that the project continues a final evaluation would be done to assess impact and lessons learned.¹²

BUDGET

The total cost of the project is estimated at some \$4.8 million over two years. Given the pilot nature of the project, one should note that focusing only on one commercial court and/or one office for conciliation, mediation, and arbitration could scale the project down. Likewise, depending on the assessment during action plan preparation, the number of workshops could be reduced. Alternatively, as the topic is of fundamental importance, success with the project in Sana'a and in Aden might lead to replication in other areas of the country.

POTENTIAL PARTNERS

Other donors have undertaken efforts at judicial sector reform. The United Nations Development Programme (UNDP) has allocated \$1 million for reforming the justice sector in Yemen and is seeking some \$1.2 million from other sources. The UNDP project is focused on improving the access to justice for citizens. While the main interest is not necessarily on commercial issues, there should be synergies worth exploring in the efforts of both USAID and the UNDP.

For instance, the challenge of how to strengthen the independence of the courts is a cross-cutting issue in Yemen's judicial system. The same can be said for ensuring the probity, and competence of judges, and the timely disposition of cases. Analogously, conciliation, mediation, and arbitration techniques have ample application beyond the realm of strict commercial issues—in community and family disputes, for example.

As Yemen's Ministry of Justice (MOJ) has the de facto supervision over all courts and judges, the MOJ is likely to be the main GoY's counterpart to USAID and has expressed interest in working with USAID on the themes proposed in this document.¹³ While the Ministry acknowledges many of the weaknesses mentioned here and in other documents, it claims that the GoY now has the political will to reform and that there are advances in judicial reform.¹⁴

The performance of commercial courts will in part depend on the quality of prevailing commercial laws. As the Ministry of Legal and Parliamentary Affairs (MOLPA) is responsible

¹² It is assumed that the evaluations would be financed from Bureau's funds for monitoring and evaluation.

¹³ The team met with Dr. Mahamed Jaffer Kassim, Deputy Minister of Justice, who expressed interest in learning about the team's recommendations.

¹⁴ It was claimed, for example, that several corrupt judges have been removed from the bench and that judges salaries are being raised.

for reviewing legislation proposals submitted by the Executive, this is another key ministry whose support for the project will be important.¹⁵

Among other donors, the Netherlands and the World Bank are collaborating in public sector reform. As commercial court reform is a subset of public sector reform, progress in the former will depend to an extent on what happens with the latter. Accordingly, continuous consultations with both donor institutions are strongly recommended.¹⁶

Other partners would include private sector institutions—among others, manufacturing and trading firms, chambers of commerce, law firms, universities and banks should be brought into the project process for consultation and potential support. Firms consulted should not be limited to the large and well-established firms but should also include especially medium size firms that probably face the greatest barriers to their potential for growth.

PERFORMANCE INDICATORS

Such measures as number of judges and judicial staff trained, suggested changes in law or procedure, number of workshops held and assessment of participants as to their usefulness, and support by the Yemeni private sector to the project (as measured by financial contributions, attendance to and participation in workshops) could be proposed in the action plan as intermediate indicators of progress. Ultimate impact could be measured by indicators such as changes in caseload and financial management in both the courts and arbitration center, allocation of adequate and permanent premises for the commercial courts, change in the average time required to resolve cases in commercial courts, proportion of cases pending relative to cases filed, growth in the number of cases submitted for conciliation and arbitration, and perception by the private sector of the efficacy and fairness of the commercial courts and the conciliation and arbitration center—changes in such perception could be monitored by simple surveys of selected firms, for example.

RISKS AND ASSUMPTIONS

The key assumption is that there will be broad and deep support within the authorities for commercial court reform, especially support by the Ministry of Justice and other public sector agencies involved in the administration of justice. Likewise, it is assumed that the project will be able to mobilize broad support for its objectives among the civil society, especially the business and legal communities, and academicians analyzing legal or commercial/trade issues. It is also assumed that the project will be well received by the international donor community.

Another important assumption is that the majority of individual judges, judicial clerks, and other judicial staff will react favorably to the project once they become aware of the project long term implications for the country. Moreover, the achievement of project objectives assumes that the government will accelerate the pace of public sector reform and of reform of the judiciary in general.

As the record of reform in this area is mixed, it is suggested that any donor contribution take place only after public sector commitments are met as the project process moves on. The

¹⁵ MOLPA is deemed as technically weak and thus may need support from the donor community for the passing of modern market-friendly legislation.

¹⁶ Having tried their hand at reform of the judiciary at one point or another the experience and advice of both donors should prove of immense value.

reaffirmation of the GoY of its support (as agreed in the action plan) for the envisaged reforms through concrete actions before donor resources are disbursed would act as a catalyst to mobilize support from the private sector and other donors. As may be inferred from the illustrative budgets presented here, the GoY contribution is relatively modest when contrasted with total project costs. The front-loading of GoY concrete actions or contributions will help avoid the failure of similar past attempts.

Project 8. Streamlining Regulatory Procedures

PROJECT SUMMARY AND BUDGET

Empirical research on the history of foreign direct investment flows indicates that the financial concessions normally offered in developing countries are not effective in attracting foreign investors, for what matters the most is having a favorable investment environment. A major determinant of investment climate is the government's regulatory framework. Recent evidence from Yemen shows that establishing a business entity, obtaining permits and approvals and connecting public utilities (electricity, water and telecommunications) take months. Besides that, businessmen incur substantial expenses in terms of official fees and unofficial payments. Additionally, capital requirements are considered severe by international standards.

This pilot project is designed to assist Yemen in streamlining regulatory procedures, lowering transactions costs and shortening approval delays. By streamlining the structure of government regulations, the largest beneficiaries will be small and medium establishments, which are the major contributors to employment generation and, thus, poverty reduction.

This project is estimated to cost approximately \$300,000 to implement.

BACKGROUND

The private sector in Yemen is relatively small and its contribution to the gross domestic product is unstable because of the dominance of the oil sector and its vulnerability to oil price fluctuations. The relative weight of the private sector, furthermore, fell during the late 1990s. The majority of the private sector activities are in the services sector (e.g. trade, tourism and transportation) rather than the production sector such as manufacturing where productivity and wages are typically higher. Small firms dominate the private sector where no less than 95 percent of the firms had 3 or fewer workers in 1999. It is also noted that neither the number nor the growth of the small size establishments changed much during the late 1990s.

These are strong indicators of a private sector that faces restrictions, regulations and unfavorable investment environment in Yemen, among others. The World Bank reports in 2002 “the structure of the private sector in Yemen suggests the presence of significant barriers to growth in value added and specialization of firms.¹” The World Bank’s global survey of governance conditions in 2003 indicates also that the private sector in Yemen faces problems of corruption, the absence of the rule of law, inefficient judicial system and restrictive regulatory

¹ The World Bank, (2002). *Economic Growth in the Republic of Yemen*, Washington, D.C., p. 56.

framework.² In five of the six clusters of indicators, Yemen ranked in the bottom 25% among 188 other countries. This project will address the regulatory framework³.

OBJECTIVES

The primary aim of this proposed technical assistance is to deregulate the Yemeni economy from the complex bureaucratic procedures that control establishing a business; obtaining a license; commercial registration and power, water and sewage connections. By streamlining the procedures, reducing their number and rationalizing their costs, we expect that many aspects of the rent-seeking activities associated with obtaining permits and licenses will be reduced, corruption diminished and the cost of transactions decreased. Knowing that small enterprises contribute the most to employment and value added, and given Yemen's high unemployment problem, and since small enterprises are the least able to afford the delays and informal payments, this technical assistance should empower these small firms, increase their numbers and contribute to their value-added growth and job creation capacities.

More specifically, the project is expected to:

- Increase the number and economic vitality of small- and medium-sized establishments (SMEs), and thereby facilitate job creation as well as lower current rates of unemployment and poverty;
- Improve the business environment, by reducing transaction costs as well as eliminating the sources of some of the informal payments that today are widespread.

STRATEGIC CONTEXT

Secretary John Snow of the US Treasury noted at the Dubai Annual Meetings in 2003 the significance of improving investment climate and the promotion of SMEs as a means to address poverty reduction. This strategy is essential to improve the standards of living, reduce the number of families under the poverty level, open up new business opportunities, and engage more of the young, educated and unemployed youth in productive activities rather than being on the fringe which makes them easy prey for extremist groups.

This project directly supports the Integrated Framework, which is backed by the USG. Furthermore, by improving the standardization and specifications of fisheries resources to meet export market requirements and by providing new microfinancing avenues for medium-sized establishments, as suggested in two of the other technical assistance projects submitted herewith to USAID, SMEs' export of the country's abundant fisheries resources should be able to increase.

BACKGROUND

According to the results of the Private Sector Survey undertaken by the World Bank in November 2001, establishing a business in Yemen takes about five months on average.

² Kaufman, Daniel, Art Kraay and Pablo Zoido Lobaton, (2004) "*Aggregating Governance Indicators*".

³ This report includes other private sector supporting reforms that will address some of the other business enablers which have contributed to Yemen's low ranking (e.g., land titling, microfinancing, judicial reforms, standardization and specifications and customs valuation.)

Connections to services (electricity, water, sewage, municipality and telecommunications) take about one month each, especially electricity where delays are longer and costlier. Electricity connection was reported as the severest constraint facing small establishments, the second most severe constraint facing medium size establishments and the 5th ranked constraint from the viewpoint of large establishments. This points out the relative ease with which large firms in Yemen are able to handle government restrictions and regulations, despite the fact that their power requirements are typically larger and more complex, than SMEs.

The survey also reveals that 86.4% of the respondents reported irregular payments made to obtain licenses and permits, 82.2% to obtain public services connections, 85.6% to tax authorities and 68.5% to clear customs. The official costs (i.e. government fees) of starting a business add up to some YR 450,000 while the unofficial costs amount to some YR 400,000, totaling some \$4,594—10 times the level of per capita income. Invariably, licenses and permits require periodic renewals, which involves repayments of official fees and unofficial payments. Joint stock firms face, in general, higher fees across the board than small single proprietorships or similarly small legal entities.

Besides the fees, capital requirements represent another major hurdle, especially for SMEs⁴. For instance, capital requirements for public trading, import or export companies is YR 5 million, or \$27,000 which is equivalent to 60 times the level of per capita income⁵.

Typically, a new firm must establish its legal structure at the Companies Department then obtain commercial registration at the Commercial Registry Department, both of which are at the Ministry of Industry and Trade (MIT); then it must chase the Municipality for a building permit; the Tax Administration to obtain a Tax Card; the Labor Ministry to obtain a Labor Social Coverage certificate⁶; and the Power, Water and Telephone Authorities to obtain the required connections. While large investment projects are entitled to use the one-stop window at the Investment Promotion Authority, SMEs are neither entitled to the concessions granted to large establishments nor are they spared the trouble of chasing after all the above-mentioned government authorities to start a new business. Not only that, it is customary for the applicant himself to physically move the documents from one function (or signature) to another within the same Department, where unofficial payments are made at each step to expedite the processing of the paperwork.

During our meetings with the different regulatory functions at MIT, it was evident that there were duplications, unnecessary steps, lack of benchmarks and deliberate delays to justify informal payments.

BENEFITS

The expected benefits from this project consist of the following:

- Reduce time and expense to new establishments, including capital requirements, Streamline procedures, establish benchmarks and automatic approvals in case of delays,

⁴ In some countries, capital requirement is zero (e.g. Israel).

⁵ The required capital in the case of a bank is YR 2 billion and insurance companies YR 100 million and it is currently being raised to YR 500 million.

⁶ Insurance payments for workers amount to 9% of net wages.

- Reduce the causes of unofficial payments by minimizing contacts between the investor and the regulator,
- Enhance investment climate,
- Improve business regulatory framework,
- Strengthen competition,
- Reduce the size of the informal sector by easing up on restrictions applied to formal entities, and thereby increase tax revenue,
- Establish business linkages between large establishments and medium and small firms that can supply them with parts, components or services.

It should be noted that the new system would result in financial losses to government employees who have long relied on unofficial payments to supplement their meager government pay. It would also place pressure on their workloads as automatic approvals are invoked if delays are encountered.

STAKEHOLDERS

The primary stakeholders of the proposed project include MIT, SMEs, Chambers of Commerce and Industries, Ministry of Finance, the Investment Promotion Authority and the Customs Administration.

PROJECT DESCRIPTION

The proposed technical assistance project would encompass the following four tasks.

Task 1. Documentation of Current Regulations

The objectives of this task would be to determine the scope of the project by identifying the specific administrative functions that will be covered. It will aim also at studying the existing laws and regulations in order to document the procedures from the regulator and investor's viewpoints. This would help identify discrepancies between procedures and regulations and assess whether the suggested changes would require new draft laws or they can be implemented through Ministerial Decrees. This task would require an expert for a period of 6 weeks, four of which will be spent in Yemen.

Task 2. Reforms

Based on the results obtained from Task 1, a new structure of approvals, recommendations for streamlining existing processing of paperwork, setting reasonable capital requirements, new benchmarks and automatic approvals will be suggested. The need to reorient the role of the government will also be stressed in the context of its perception of its overwhelming regulatory function vis-à-vis its potential national strategist role in trade and investment promotion. The suggested changes will focus on three issues:

- Whether or not the approval or the license is necessary; if it is necessary, how investors can apply for and obtain it with minimal delays.
- The best paper flow procedures to accomplish deregulation objectives and minimize contact between investors and regulators.

- Reasonable fees.
- Reasonable and practical capital requirements for different activities and sizes.
- How the numerous methods of treating different legal entities and functions (commercial, industrial, agencies, subsidiaries, etc) can be consolidated in a simple manner.

This task will require the expertise of a public administration specialists and lawyers. It is suggested that two such experts at 12 weeks each would be able to draft the new system.

Task 3. Presentation and Feedback

Upon completing the new regime, it will be presented to MIT along with the other regulatory bodies in order to explain the rationale, the new procedures, the fees, capital requirements, the expected results and the net benefits to the economy and private sector participation. This task will require the services of one of experts employed in the preceding task for two weeks in Yemen in addition to another four weeks to finalize the new regime. It would be useful if, after receiving the feedback from government regulators, a semi-finalized system is prepared and presented to all beneficiaries in Yemen, including a sample of SME owners.

Task 4. Recommendations and New Regulations

In this task, the final form of the new set of regulations will be prepared and then translated into the local language. Those that can be implemented through Ministerial Decrees will be prepared as draft decrees ready for the Minter's issuance and those that require new laws will also be provided in the form of draft laws.

PROJECT MANAGEMENT

In order to manage this project, it is suggested that a committee or a council be established to give advice and feedback on progress on a continuous basis, to follow up on implementation and to put pressures from the beneficiaries on the government to follow through. It is further suggested that it include representatives from the MIT, Electricity board, water, communications, Ministry of Planning and International cooperation, Chambers of Commerce from Sana'a and other governates, SMEs and the USAID.

PERFORMANCE CRITERIA

The following yardsticks maybe employed to assess the performance of the proposed technical assistance:

- The number of licenses and permits compared to the existing system,
- The number of days it will take to establish a new business entity compared to the existing structure,
- The magnitude of the costs (government fees) and capital requirements, before and after,
- The projected increase in government revenues as a result of streamlining past regulations.

RISKS

The only major risk involved stems from the possibility that government regulators would resist the suggested reforms.

Project 9. Equipping and Staffing National Standards/Testing Stations

ACTIVITY AND PROJECT SUMMARY

The proposed technical assistance activity aims at re-establishing Yemen's national standardization and specifications authority (the Authority). Although a law establishing the entity was enacted in 2000, its operational bylaws have not been issued yet. The entity, which started operations in 1983, has long been dormant due to the lack of trained personnel, modern equipment and testing tools. In the absence of an alert and vigorous government investigation to ensure the quality of imported (as well as domestic) goods, it is reported that Yemen has become the dumping grounds for low quality and often unsafe products from abroad. This applies especially to imported animal feed and pesticides.

The proposed technical assistance activity would help the national standards authority draft the required bylaws; improve its ability to test and certify agro-based products, fisheries and pesticides; provide the standards authority with the required equipment; and train its manpower on new tools, procedures and manuals. It would also help the Authority obtain accreditation from the EU for the purpose of certifying fish exports to its member states.

This activity enterprise has a projected cost of about \$1.2 million. To ensure sustainability at the end of the technical assistance, it is suggested that another technical assistance activity be supported to privatize the Authority while expanding its scope of work to include calibration of tools and equipment for a fee (e.g., aviation, military and industrial applications). This would require additional funds beyond that projected for the activity described herein.

INTRODUCTION

One of the fundamental infrastructure components of a developed country is the availability of standardization, specification and testing laboratories that set standards and specifications for the quality of goods and services, whether produced locally or imported from foreign countries, for the purpose of protecting consumers in accordance with pre-determined health and safety requirements. The government exercises this important regulatory function by verifying the specifications claimed by producers in government laboratories in accordance with well-established scientific testing procedures. In Yemen, only the skeleton of such service exists. As there are numerous benefits and beneficiaries of this function, the purpose of this technical assistance project is to help Yemen upgrade its facilities, train its staff, and obtain international accreditation.

RATIONALE

Numerous factors contributed to the selection of this technical assistance, the most important of which are the following:

1. Food safety in Yemen is compromised owing to the lack of active investigative government effort of both locally produced and imported goods,
2. Current agriculture production is carried out without a regulated use of pesticides,
3. Producers are not knowledgeable of accepted specifications and standards,
4. The absence of vigorous testing and verification of claimed specifications and ingredients, especially in food products, make violators go unreported, which encourages the exportation of faulty and unsafe products to – and from -- Yemen,
5. The lack of certifiable and reliable information on Yemen’s local production, specifications, transportation, storage and handling have caused potential importers to stop buying products from Yemen,
6. The slow pace at which the Authority conducts its tests at the present time has caused losses and numerous complaints from local foodstuff importers. It is reported that the recent reforms of the customs administration, which have cut down the clearing time from days to hours, have been negated by the delay caused by the national Standardization Authority.
7. The tremendous effort currently exerted by Yemen in collaboration with the EU to accede to the WTO is marginalized by Yemen’s inability to export its most competitive products (e.g. agro-based products and fisheries).

OBJECTIVES

The proposed technical assistance activity aims at enforcing food safety measures by enabling the national standardization center to conduct reliable inspections of locally produced and imported products through setting up adequate testing laboratories and developing manuals and technical testing procedures. Moreover, by upgrading the overall quality of the current national center’s physical and human assets, it will contribute significantly to the expansion of exports of locally produced goods, notably fruits, vegetables and fish to the EU and the neighboring Gulf Cooperation Council (GCC) countries.¹ Recent evidence from the EU countries and Saudi Arabia indicates that the absence of certified and reliable products have led to commercial disputes and lost export opportunities.

STRATEGIC CONTEXT

The proposed technical assistance activity will bear directly on Yemen’s trade capacity building in that it will facilitate the flow of trade, which has been hampered thus far due to the unavailability of a well functioning standardization and certification center. It will benefit Yemen, by helping ensure the quality of both imports and exports. It will also have benefits for U.S. exporters, which generally provide products surpassing those coming from lower-cost countries, but which may have suffered competitive losses when the more costly U.S. products are essentially indistinguishable from products imported into Yemen from other sources of supply.

¹ The GCC consists of Bahrain, Kuwait, Qatar, Oman, Saudi Arabia, and the United Arab Emirates.

BACKGROUND

In 1981, a Specification and Standardization Department was established at the Ministry of Economy and Trade. During the following year, the department began operations with a limited supply of testing apparatus, and able to deal with issues related to food safety only. The UNDP, in collaboration with Oman, financed the establishment of the current building to house the department staff. In 1989 and again in 1999, the department was restructured and renamed. The latest restructuring occurred in 2000 by virtue of a Presidential Decree. It is now called the Yemen Authority for Standardization, Quality Control and Metrology (YASQCM).

A detailed review of the Authority indicates that the only dynamic changes that have happened over the last two decades have been the Authority's frequent administrative restructuring. Its infrastructure—physical and human—remains rudimentary, at best. In a recent report prepared by the Authority, its current weaknesses are outlined as follows:

- Lack of skilled manpower to carry out effective food safety procedures, especially at or near production sites,
- Limited training opportunities in an environment of constantly changing technologies,
- Inadequate regulation, legislation, and enforcement mechanisms,
- Dated analytical tools, equipment and procedures,
- Total absence of a modern information network that links remote centers with headquarters in Sana'a,
- Inability to obtain international accreditation.

The Authority faces several challenges. First, key policy makers do not seem to fully understand their responsibilities and role in the economy, which explains the inadequate financial and manpower support it has been receiving from the government. Second, due to its complex nature in terms of its procedures, codes and scientific equipment, Yemen cannot turn it around using local capabilities, for these do not simply exist in Yemen. Even if the resources are made available by the government, it has no way of knowing how to proceed on its own. This situation prompted the idea of providing Yemen with the knowledge and resources needed through a USAID technical assistance program.

PROJECT MANAGEMENT

It is suggested that a special committee be formed to manage the project in the field; this committee will oversee its progress and provide advice and redirect its progress, if it encounters unexpected turns. The committee, which acts in an advisory capacity only to USAID, should include representatives from local producers (agriculture, industry and fisheries), the Minister of Industry and Trade, the Authority and USAID.

PROJECT DESCRIPTION

The project is designed for implementation in three major segments, or "tasks." In view of its highly specialized nature, each task will require the expertise of individuals familiar with the complexity of the suggested work scope. These specialists will describe and estimate the time, financial resources and extent of training needed in each stage. Here, an attempt is made to

outline the suggested scope of work and its potential benefits. Cost estimates, even illustrative estimates, are not reported for each stage here since one needs to determine the ‘appropriate’ required apparatus, price them (some new centers will be suggested near production centers) and gauge the extent of training needed on such new tools.

Task 1. Drafting New Bylaws

Republican Decree No. 52 for the year 2000 sets out the duties and responsibilities of the Authority in some general terms that are sufficient for its operation. However, the accompanying bylaws have not been issued. The bylaws should address the following issues:

1. General description of the principles governing the preparation of standard specifications, especially as they relate to food safety,
2. Hygienic conditions required in food products,
3. Food additives,
4. Regulation regarding the use of pesticides or combinations thereof,
5. Food packaging and labeling,
6. The extent of government supervision of claimed specifications in the media,
7. Transport, storage and handling conditions of food and other products,
8. Guidelines for the sampling procedures of local and imported products,

This task requires knowledge of past experiences in countries with which Yemen trades extensively, or has the potential of doing so in the future. Hence, it is suggested that three experts be assembled to help draft the bylaws; one should be from the United States, another from the EU and the third from the GCC. The three would meet in Yemen for two weeks to set up the scope, the general outline, and the direction as well as the extent of regulations in the bylaws. This will be done in consultation with key policy makers (e.g., the Minister of Industry and Trade who heads the Authority’s Board of Directors and the Chairman of the Federal Chamber of Commerce and Industry) and with the senior staff of the Authority to guarantee ownership. Subsequently, the specialists will prepare the bylaws and the team leader will put them all together in a draft form. After having the bylaws translated into the local language (Arabic), the team leader will finalize them during a short visit to Yemen. The duration of this task is four months.

Task 2. Capacity Building

The duration of this task is estimated at 12 months. The objectives will focus on performing Hazard Analysis and Critical Control Point (HACCP) and microbiological risk analysis on fruits and vegetables in addition to inspecting and certifying specification of exportable fish. The task will also address building local capacity in the area of pesticides usage. In all three cases, the Authority will require the following:

- Knowledge of the protocols prevailing in the importing countries,
- The establishment of testing procedures, manuals and logbooks,
- Purchase of the required tools and equipment,

- Training the staff on the new tools and procedures,
- Assistance in advising local producers on methods of complying with food security and other protocol requirements, e.g. Minimum Residue Level of pesticides in agro-based products,
- Building an information network that would store information efficiently at headquarters and interlink Sana'a with other remote centers.

Task 3. Accreditation

Subsequent to the progress made in the preceding task, the next step would be to apply for accreditation from the EU with regard to fish exports in particular. This will require knowledge of the EU's directives, the availability of physical and human assets at the Authority that are in compliance with the EU's requirements, the availability of manuals, the efficiency of the Authority's delivery system as well as its capability to work closely with fish exporters and independent testing laboratories. The duration of this task is about six months.

ILLUSTRATIVE BUDGET

The estimated cost of conducting Task 1 is about \$150,000. As for Task 2, the Authority has estimated the cost of the required tools, apparatus and equipment at \$500,000. By adding another \$250,000 for staff training in Yemen, at manufacturer's sites and elsewhere plus another \$300,000 for a remote computer network, furnishing the current centers at Taiz, Hodydah and Aden with specialized equipment and computing machinery, the total projected budget for the project will be approximately \$1.2 million.

POTENTIAL PARTNERS

To the extent that a good portion of this technical assistance is tied to the flow of trade between Yemen and the EU, and because EU-specific expertise is required, a collaborative effort with the EU is suggested. At a minimum, the EU's contribution could be in kind (i.e., experts, manuals, procedures, protocols, professional assistance on how Yemen can obtain EU accreditation). However, given differences between the EU and the United States with respect to risk assessment and conformity procedures, the U.S. may wish to ensure that it retains a significant role in standards-related activities in Yemen, rather than support efforts led by the EU.

BENEFICIARIES

The suggested technical assistance will benefit a very large segment of the Yemeni society in that it covers all local producers of agriculture products and fisheries, exporters of the same products, importers of food products and pesticides, extension services, and retailers of foodstuffs.

SUSTAINABILITY

The most serious threat to the viability of this technical assistance project is the absence of firm built-in guarantees of its continuity after the technical assistance ends. The Authority would

require additional funds for maintaining its equipment in running order (i.e., maintenance contracts with manufacturers) and keeping its technical staff up to date in training.

The fear of lack of continuity maybe addressed at the end of this technical assistance by another activity that would look into the possibility of turning the Authority into a private sector entity under government regulatory oversight; follow-on activities also could help expand the new entity's scope of services to include fee-based services to support the calibration of industrial, aviation and military tools and equipment.

For the purposes of this memorandum, we have not provided a specific budget for such follow-on activities. It will require the talents and skills of experts from the United States who are familiar with the operations of private sector testing laboratories like the Underwriters Laboratories Inc. (UL) to chart bold and innovative ways in which such an enterprise will survive in a small economy such as Yemen's.

Appendix D

MEASURES TO STIMULATE OUTPUT AND
EXPORTS IN THE NEAR TERM

Project 10. Promoting Fisheries Exports

PROJECT AND BUDGET SUMMARY

The project proposes to enhance Yemen's fisheries industry by supporting a fish stock assessment initiative and the establishment of two new export testing stations. The assessment would be carried out by sampling through systematic fishing in Yemeni waters and analyzing the data to infer the size and composition of the total stock. New export stations would help meet quality control requirements for exporting fish. The new testing stations would be in Hudaydah (Red Sea) and in Mukallah (Gulf of Aden). Contemplated life of the project is two years, with a total budget of approximately \$4.1 million, of which some \$2.3 million would be for the stock assessment and \$1.8 million for the new stations.

OBJECTIVES

The objectives of this project are to increase Yemeni fisheries production, exports, employment, and technical knowledge; and to alleviate poverty.

RATIONALE

Technical assistance can help Yemen increase fisheries production and exports. The project, moreover, would provide food and wealth to a broad geographic area; the fishing industry is geographically dispersed, including in areas of high poverty. It would build on traditional skills that are abundant in Yemen, and take advantage of Yemen's competitive boatyards to manufacture fishing boats. Finally, it would help Yemen to build industries supplying the fishing/boating industries it now has; a number of inputs into these industries, such as hooks and nets, are now imported but are appropriate for manufacture by a country at Yemen's level of economic development.

STRATEGIC CONTEXT

A critical fact about Yemen is that over 90 percent of merchandise exports consist of oil, and, as reserves are depleted, these exports are widely expected to decline. And even if the oil were not running out, it is never good for a country to be so reliant on a single export product. Moreover, Yemen needs expanding exports to match the expanding imports which will accompany economic growth and import liberalization. Consequently, Yemen must find new, non-oil sources of exports. It is a goal of the U.S. government to expand Yemen's trade capacity, and one of the elements of trade capacity is the ability to respond to trade opportunities. Fortunately, there is general agreement that Yemen has a significant and largely unexploited opportunity to expand output and exports from its fisheries industry. Almost all data on the industry are poor and therefore must be viewed

skeptically, but the Second Five Year Plan, cited and apparently endorsed by the DTIS (p.86), states that in 2000 the industry caught 135,000 tons of fish, while the potential catch was 350,000-400,000 tons. Estimates of the number of people who “depend” on the fisheries industry range from 220,000 to 400,000 (the latter from the DTIS, p. 84).

The fishing industry has two rather separate sectors. The artisan sector uses relatively small boats and operates close to shore. In Yemen, it accounts for about 80-85 per cent of the catch. The industrial sector operates larger boats farther from shore, and accounts for the remaining 15-20 percent of Yemen's catch.

Artisanal fisheries directly employ an estimated 41,000 fishermen using over 9,000 boats. These fishermen are dispersed along Yemen's long, 2,500 km coastline. An improvement in their incomes therefore serves to disperse income over a wide geographic area. The artisanal fishermen use different fishing methods depending upon the target species and season; these include seines, handlines, gillnet and traps. The most important species include tunas, large jacks, sardines, mackerel, barracuda, snappers, solefish, shrimp, lobster and cuttlefish.

In the industrial sector, there are 23 registered fishing companies, 11 in the Red Sea and 12 in the Aden Gulf and the Arabian Sea. These companies use 130 boats to catch about 20,000 metric tons of fish, principally demersal fish and cuttlefish. The boats are allowed to operate in the Red Sea beyond six miles from shore, and five miles from shore in the Gulf of Aden and the Arabian Sea. The fishing companies are all privately owned, and are both foreign and local. However, illegal industrial fishing by foreign vessels is common. Industrial fishing operates almost entirely offshore and provides virtually no employment in Yemen. Some industrial fishing is by agreement with the Yemeni government. It provides revenue to the government, and is counted among Yemen's fish exports. But some industrial fishing is illegal, i.e., the ships do not register with the Yemeni government and do not pay the required fees, and provides Yemen with no benefits whatsoever. The government has built a considerable number of fisheries facilities along the coast, including cold storage facilities, ice plants, workshops, fuel depots, processing and packaging facilities and fishing gear stores. Increasingly, the private sector is contributing to the development of the sector with ice plants, cold storage facilities, fish markets, canning factories, and processing facilities.

Proper management and maximal sustainable exploitation of the fish stock requires an accurate assessment of the stock's size and composition. The last such assessment was conducted in 1984 by the UN, to ascertain the size and composition of fish species in the Exclusive Economic Zone (up to 200 nautical miles from shore), particularly migratory fish such as tuna, mackerel and marlin and by exploiting mesopelagic fish.

The 1984 assessment (as well as earlier surveys in 1973, 1975, and 1984) was conducted with the fisheries research vessel, the Dr. Fridtjof Nansen (shown in the picture below), which then was, and is now, operated by the Institute of Marine Research, Bergen, Norway. In 1989-1990, a limited stock assessment was done within the three-mile zone of Yemen's territorial waters in the Gulf of Aden and Arabian Sea by the former Soviet vessel, Ictiolog. But no complete stock assessment studies have been carried out in the Red Sea and no reasonably comprehensive survey has been done since 1984. Therefore, the vast majority of available information is the result of the 1984 survey.

Fisheries research in Yemen is carried out by the Marine Science and Resources Centre (MSRRC), which was established in Aden in 1983. Opinions vary regarding the quality of this institution. Unfortunately, it lacks a research ship necessary to do a comprehensive stock assessment.

Yemeni fish are exported through two main channels. Some are chilled or frozen and shipped by air. Other fish are canned and shipped to foreign markets by sea. Some of both types are shipped overland to Saudi Arabia. Yemen also has untapped potential for exports preserved by means of small-scale smoking. These would be exported by sea.

Two problems in the industry are noteworthy. The first, already noted, is illegal fishing. This flourishes because Yemen has virtually no means to stop it. The second problem, which is ironic because of the general under fishing, is over fishing of some species in some locations. Technical assistance would be useful at all stages of the fishery supply chain. Fortunately, the stages are independent in that efficiency improvements at any one stage would improve the supply chain's overall efficiency.

Interviews in Yemen revealed general agreement on the type and ranking of Yemen's most pressing fisheries technical assistance needs. The highest priority is a comprehensive assessment of the fish stock. The next highest priority is assistance to reduce illegal industrial fishing. And the third most important need is additional fish-testing and quality-control stations for exports.

Fortunately for Yemen, the second-ranked assistance need, reduction of illegal fishing, is already being provided by the U.S. government in the form of help with the creation of a Yemeni Coast Guard. This ten-year program began in 2002. In 2003, the U.S. provided Yemen with seven old U.S. Coast Guard vessels suitable for patrolling out to a distance of 35 miles, plus an eighth vessel to be cannibalized for parts, plus \$4.5 million in additional spare parts and maintenance tools, plus training. This fleet is much too small to completely control illegal fishing, but it is a good start.

PROJECT DESCRIPTION SUMMARY

This leaves unmet needs for two programs, a fish stock assessment and new export testing stations. As for a fish stock assessment, this has two components. First, the fish stock must be sampled by systematic fishing throughout Yemeni waters. This should be done by an industrial fishing boat with on-board expatriate experts. And since fish move about with the seasons, the sampling must be done over several seasons, i.e., two years. Scientists from the Marine Science and Resources Centre in Aden should participate to the maximum extent possible so they can learn from their developed country colleagues.

Second, the data derived from the fish samples must be analyzed using sophisticated statistical techniques to infer the size and composition of the total stock and population dynamics. This analysis must be done in a developed country.

In detail, the program should be carried out in the following steps:

- Review prior stock assessments (5 acoustic surveys in 1975-76 and 34 days in 1984) including a description of their design, methodology and results.
- Contract with a stock assessment provider, including a vessel and scientific support. US firms and universities are available, but the previous world-renowned provider, the Institute of Marine Research in Bergen (Norway), should be considered due to its prior experience. Yemeni fisheries experts should be involved in all phases of the work.
- Conduct three local workshops to gather information from local fishers, and government and university scientists; to gain their support and cooperation; and to reach a consensus on

assessment priorities. One day of each workshop should be devoted industrial (all types) fishers, and the second devoted to artisanal fisheries (all types).

- Conduct a stock assessment for 8 seasons (4 seasons for 2 years) using a local midwater trawler or purse seiner and one bottom trawler, or a combination multipurpose research vessel such as the Dr. Fridtjof Nansen. The effort would require 70 Days at sea/year. The preliminary objectives, to be adjusted by the workshop results, are:
Acoustic survey of the small off-bottom (pelagic) fish resources on the continental shelf.
Trawl survey of the bottom (demersal) fish resources in the 20-200 meter bottom- depth zone.
Charting of the main hydrographic conditions of Yemeni waters.
- Analyze survey results in such a manner as to (i) serve as a base-line for conservation and management, (ii) provide comparison with the 1975 and 1984 exploratory surveys, and provide useful information to Yemeni fishers.
- Translate findings into Arabic and prepare presentation materials.
- Conduct follow-up workshops to review findings with fishers and the business community, at the same venues as during the planning phase.

As for fish inspection stations, one of the most significant requirements for exporting to many countries is that seafood be inspected and certified as to its wholesomeness by a competent authority prior to export. Unfortunately, the import and export regulations are very complex and difficult to understand and meet, whether by the fisherman, the processor, or the government inspector. There is a need for education and training, as well as appropriate and required equipment.

Most countries, including Yemen, are members of the Codex Alimentarius Commission, a joint program of the World Health Organization and the Food and Agriculture Organization. The Commission establishes seafood principles and guidelines, including the “Principles for Food Import and Export Inspection and Certification.” Some countries, such as the EU, an otherwise very attractive market for Yemeni fish, impose additional restrictions. Since EU standards are the strictest, if the stations meet EU standards, they will almost certainly meet the standards of all countries.

The EU regulations are particularly difficult to understand and to meet, with some requiring certification of individual seafood processing plants and fishing vessels. For example, EU Directive 91/ 493/EEC specifies the requirements for handling and marketing fishery products. The directive is based on “Hazard Analysis Critical Control Point” (HACCP) principles, and it defines the practices governing fish production, handling, processing, packaging, and transporting of fishery products destined for the EU. It also imposes strict standards regarding construction of buildings, equipment, purification tanks, and storage tanks intended for holding fish prior to export. On-premises laboratories, strict record keeping, and accurate labeling are other requirements. EU conditions also require that fish processors and exporters organize an industry association to ensure self-monitoring on matters of fish quality.

Yemen has only one facility, in Aden, equipped to certify seafood as meeting the standards of an importing country. This is a major bottleneck, particularly to the export of non-frozen products, which are highly perishable, and also the most highly valued. Samples are sent overland from the Red Sea coast, and from the Gulf coast partly by land and partly by air from Mukalla. Consequently,

there was wide agreement in Yemen that additional testing stations were needed in Hodayday on the Red Sea coast and Mukallah on the Gulf of Aden.

Although the exact details of the testing stations cannot be specified until the completion of the first step listed below, the two proposed testing stations can at least be described in general terms. The buildings require about space of about 200-400 square meters. Each would have about nine employees, including the director plus four employees to prepare samples and do simple tests, and four employees to do for more sophisticated tests. The staff would: (i) inspect samples sent to them by field inspectors, (ii) prepare certifications that the plant producing the seafood, or preparing it for shipments, was under the approval of a HACCP plan, and (iii) the requisite numbers of samples have been inspected and met the requirements of the importing nation. The stations are subject to unannounced inspections at least ever six months by the importing country or its agents. If a deficiency is found, the station is placed under closer scrutiny.

The equipment required for such stations is not special, e.g., microscopes, reagents, and equipment, which is quite common, to test for specific contaminants such as pesticides, PCBs, heavy metals. In addition to such equipment, an important role in fish inspection is played by human eyes and noses. However, occasionally a special, non-routine problem requires that a sample be sent to a sophisticated laboratory in a developed country.

The inspectors require some special training in the use of the equipment, and in detecting particular smells and visual clues. In such inspection stations in the United States, the simple tests are usually done by high school graduates; the more sophisticated tests and such tasks as equipment calibration by either college graduates, usually with degrees in food science), or less educated but highly experienced testers; and the facility director usually has a bachelor's or master's degree.

Since food inspection is so common in the world, there are special schools, experienced trainers are readily available, and self-study over the Internet has become common. Equipment manufacturers also provide training. At the existing station in Aden, as of 1998, the staff included people with Yemeni bachelor's degrees and Russian master's degrees. New-staff training might be provided by visiting trainers at the Ministry of Fish Wealth's Fisheries Training Institute in Aden, such that the Institute's faculty could also benefit and provide better training in the future.

In detail, the program should be carried out in the following steps:

- Develop equipment specifications and a facility design necessary to meet the most stringent national import standards needed for Yemen seafood export products.
- Review the adequacy of the existing certification facility in Aden and upgrade equipment, at a cost estimated at \$50,000.
- Contract for construction and outfitting of the facilities.
- Develop training and instruction materials for inspectors using the new equipment.
- Develop an instruction and requirement brochure for fishers and processors to facilitate gaining certification of products.
- Develop a similar presentation for use by extension agents in meetings and discussions.

SUSTAINABILITY AND RISKS

These are quite low-risk projects. The stock assessment would be conducted by experienced personnel from developed countries. As for the quality testing stations, they can be expected to survive because: (i) they earn fee income, and (ii) the Yemenis are already successfully operating a station of this type.

POTENTIAL PARTNERS

The leading candidates for collaboration are the International Fund for Agricultural Development (IFAD), a specialized agency of the United Nations based in Rome, which has helped to fund the existing station in Aden; and the FAO's Major Programme on Fisheries. In addition, since the European Union is one of the main targets for fisheries exports and has uniquely high standards, it may wish to participate in the funding, especially if it can participate in the implementation.

Project 11. Promoting Livestock Exports

PROJECT OBJECTIVES AND BUDGET

This project has short-term and long-term objectives. The short-term objectives are to revive the use of the available facilities, engage the faculty in carrying out valuable experimental research, and examine the likelihood of the private sector adopting the same experiment on small farms, raising sheep, cattle, poultry, and/ or rabbits. Human resource development is another major objective. Faculty members and student research associates will have an opportunity to learn and eventually master crossbreeding activities and to study the relation between growth and factors contributing to it (e.g., quantity of feed, feed ingredients, climatic conditions, vaccinations).

The long-term objective focuses on the possibility of generating better cattle, sheep, and poultry breeds that are capable of coping with the local environment. If this experiment provides encouraging findings, it may be up scaled to a commercial level outside the university setting in a private sector enterprise. This project, if implemented in all phases outlined below, is projected to cost approximately \$300,000.

BACKGROUND

The agriculture sector's value added in 2000 constituted 15.3 percent of GDP, of which fisheries contributed 1.1 percent, Qat 4.2 percent and farming, livestock and forestry the remaining 10 percent. Its importance to the economy, however, is best seen by its capacity to create jobs. According to available data, 54 percent of Yemen's total employment is in the agriculture sector and more than 75 percent of the population live off the jobs created in this sector. The disparity between its low value added and employment shares is attributed to low labor productivity, underemployment, and seasonal employment. The growth record of the agriculture sector has been seriously affected by droughts. This is clearly seen in 1991 and 1994. Over the period 1996–2000, the average annual growth rate increased significantly to 5.5 percent as a whole versus 12.3 percent for fisheries, 6.9 percent for farming livestock and forestry and only 2.3 percent for Qat.

Livestock plays a significant role in providing animal protein to a large segment of the population. In Yemen, there are eight breeds of sheep, all of which are in-bred. The most common breed of cattle is the small humped, short-horned Zebu type. It is bred indigenously and is characterized by low productivity but high adaptability to the harsh local environment. The anticipated population growth along with associated ecological challenges would be best handled by developing new livestock breed with high productivity and higher efficiency of animal meat production. It is not sufficient to produce animal protein more efficiently; quality must also be maintained or improved.

Consumers in Yemen prefer lamb to beef. However, their consumption extends to poultry and rabbits as well. Lamb meat in Yemen is more costly as a result of the interplay of demand and

supply. Yemenis also prefer locally produced lamb to the less expensive Australian variety routinely imported in neighboring countries like Saudi Arabia. Research has shown that the reproduction performance and the growth of the local sheep varieties are low and, hence, if left without intervention, the supply will fall short of demand. Consequently, this project will seek to test the possibility of improving the genetic potential of local breeds to increase the quantity and quality of the local variety through cross breeding with a superior breed such as Hampshire or the Rhmani, which is available in the Middle East.

The college of agriculture at Sana'a University has most of the facilities required to carry out this experiment. Most of its facilities are idle.

STRATEGIC CONTEXT

Given advanced U.S. technological know how in cattle and poultry industries, Yemen will benefit greatly in adopting such technologies in the rehabilitation and reproduction of animals. Disseminating U.S. know how on a wide scale should enhance scientific, academic, and government interchanges and dialogue between the two countries.

DESCRIPTION

The Livestock Production Department at the College of Agriculture at Sana'a University is the primary educational institution that graduates students specialized in animal production (sheep, livestock, poultry, rabbits). The department has four units: lamb and sheep; cattle; poultry and rabbits. It has 12 fulltime faculty with broad academic backgrounds from the United States (2), Austria (1), the former Czechoslovakia (1), Iraq (4), and Egypt (4). Their Ph.D. specializations range from breeding, animal feed, and animal reproduction to veterinarian services. The college has the facilities required to revive its involvement in animal rehabilitation and reproduction. Because of a lack of financial resources, the facilities are currently idle.

During meetings at the college, the faculty expressed a strong desire to restart the animal reproduction activity if the financial resources required to acquire the animals as well as their feed and vaccinations for a year are made available, at which time the experiment will become financially self-sustainable from the proceeds of livestock breeding.

The project would begin with the college purchasing the animals according to certain specifications (i.e., to serve specific purposes). It will employ the faculty and current research associates to manage the acquired animals, conduct the research, collect the evidence, enter the data on the computer and carry out diagnostic analyses, on which basis they expect to prepare scientific papers for professional meetings. The faculty and assistants will not be paid fixed monthly payments for their involvement in the project. The program will have one or two low-skill workers fully employed. The program will also hire a fulltime accountant who will be employed by USAID to monitor and records project costs and revenues. Overall supervision of the technical assistance will be the responsibility of the office of the University President. Periodic reports will be submitted to the office of the President along with the associated cash flow status.

At the end of each six months, about 30 percent of net returns (revenues minus running expenses) will be distributed to the faculty and research assistants in the form of honorariums to

partially compensate them for their work and to link their performance with the revenue from animal reproduction; the remaining 70 percent will be set aside for reinvestment and improvements.

A council consisting of private sector investors from livestock industry, the University President office, the Dean of the College of Agriculture, Department head and two faculty members (e.g. Animal Production and Accounting Department) should be established.

The project has four tasks, each of which is explained briefly below.

Tasks 1. Lamb and Sheep

During the first task, the project will acquire 100 local ewes and 10 local rams plus 20 imported rams from Syria and Egypt. The imported varieties are known for higher productivity and strong adaptability, conditions that will be examined during the experiment. The purpose of importing the superior breed will be to crossbreed local ewes and study the impact on fertility versus offspring of the local breeds under controlled conditions. Based on experience at the college, the following table describes the relationship between body weight and amount of roughage barley hay required, all per day per Kg:

| Body weight (Kg) | Concentrate mixture (g/day) | Roughage barley hay (g/day) |
|------------------|--------------------------------|--------------------------------|
| 12-15 | 200 | 400 |
| 16-25 | 250 | 600 |
| 26-35 | 300 | 700 |
| Breeding ram | 350 | 800 |
| Pregnant ewe | 400 | 800 |
| Lactating ewe | 500 | 800 |

It is expected that the animal feed mixture will be made up of maize (25%), wheat bran (25%), cotton seed meal (25%), barley (22%), salt (1%), and mineral mixture (2%). These weights are subject to change as the results are evaluated and improved upon. Six months after the project starts, it is suggested that an expert in this field visit the field to provide advice on the process and the evaluation methods. The expected cost of this task is about \$80,000, roughly half of which will be invested in buying the animals and their feed for a year.

Task 2. Poultry Production

Provided that the management and operation of Task 1 meets stated objectives and the council approves it, the second task should start immediately after six months from the start of Task 1. This task will focus on poultry production, for both meat production and egg laying.

The size of the experiment depends on the space available at the college. It is expected that they will start with 1,000 chicks with a 6-cycle production schedule each year. The cost of the birds, feed, vaccination, sterilization, gas heating in winters, etc. are estimated. Soon after this phase starts, it will be supplemented by another 1,000 egg-producing chickens, which are to be 20 weeks old.

These two phases will continue for about 4–6 months, when a specialized expert will once again be requested to visit their station to provide advice on ways of improving the breed, efficiency and

maintenance. The total cost of this stage is about \$70,000, of which roughly one third covers the cost of the chicks and chicken plus their feed and vaccinations.

Task 3. Livestock and Milk Production

This task should start six months after the start of Task 1, or a year after the start of the project. As in the previous task, the start up time of Task 3 is another key decision point where an assessment has to be made to decide whether or not the project should be continued or terminated based on its management and operation during the first year. When Task 3 is approved, the project will move from lamb to poultry to livestock. It is planned that 20 pregnant Holsteinfriesian cattle and 3 bulls will imported from the United States. The objective of this task will be reproduce this variety in Yemen. Moreover, it is suggested that automated milking equipment, milk holding units, a small pasteurization unit, and a simple packaging unit be purchased from the United States to introduce healthy and more modern knowhow to the milking process in small farms in Yemen. After six months from the start of Task 3, a hands-on expert from the United States should visit the stations for 4 weeks to provide advice and redirections, if necessary. This task will cost about \$150,000.

BENEFITS

- Reproductive performance of local sheep increased by improving the management and feed supplementation, cross-breeding, and selection of “optimal” indigenous breeds depending on lamb body weight at around six months old.
- Idle facilities at the Agriculture College revived.
- Enhanced extension and training services for Agriculture College students.
- New, more robust and superior U.S. cattle breed introduced.
- Results of experiments disseminating through the college’s extension services to small farms in Yemen, thereby increasing private sector participation.

RISKS

There are two types of risks associated with this technical assistance project: (1) veterinarian diseases that would wipe out the entire animal population, and (2) project mismanagement.