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PROGRAM FOR A LEGAL INFRASTRUCTURE FOR A MARKET ECONOMY IN KYRGYZSTAN AND TAJIKISTAN (COMMERCIAL LAW REFORM) FINAL REPORT



SEPTEMBER 2005

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

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PROJECT OVERVIEW

This Final Report covers the activities of the ARD/Checchi Joint Venture Program for a Legal Infrastructure for a Market Economy (the “Project”) during the period from October 1, 2002 to August 4, 2005 (the reporting period), the final term under Task Order PCE-I-814-97-00038. The tasks under this task order fell under USAID’s Strategic Objective 1.3 for Kyrgyzstan and Tajikistan, “Improved Environment for the Growth of Small and Medium Enterprises,” under the Support for Economic Growth and Institutional Reform (SEGIR) Project for Legal and Institutional Reform indefinite quantity contract. The Project’s tasks were directly related to Intermediate Result 1.3.3, “Increased Implementation of Laws and Regulations.”

As of October 1, 2002, the Project was tasked to develop and carry out a broad range of programs designed to assist in establishing the legal and institutional framework necessary to support a market-based economy in the Kyrgyz Republic and Tajikistan. The activities carried out during this period built on the work that the Project had already completed during the first five years under the task order.

In accordance with this task order’s Scope of Work, the ARD/Checchi joint venture developed and carried out activities in four major areas as follows:

1. Legislative Reform

- Legislative drafting
- Rapid rural appraisal of issues affecting land markets
- Improvements to the legal regime and administration of the land reserve fund
- Support of the Administrative Procedures Act

2. Judicial Reform

- Judicial training in civil, criminal, and commercial law
- Support for the Judicial Training Center
- Support for judicial reform (operations and administration)
- Support for judicial reform (legal basis for independence)

3. Building Constituencies for a Market Economy

- Preparation and dissemination of legal information
- Support for joint programs with local professional organizations
- Support for programs for progressive local businessmen

4. Market Reforms

- Support for the Legal Assistance to Rural Citizens Project and the Kyrgyz Land Reform Project
- Support for the Commercial Arbitration Association

- Technical assistance for farm restructuring as a part of an Asian Development Bank (ADB) irrigation project
- Assistance to the National Procuracy

KYRGYZSTAN

The Kyrgyzstan component of this activity was implemented by an expatriate and local staff located in Bishkek under the direction of Brian Kemple, Chief of Party. The Project satisfied or more than satisfied almost all of the benchmarks and performance objectives established by the United States Agency for International Development (USAID) for the Project's work during the reporting period. Benchmarks and performance objectives were not satisfied only in those areas where political circumstances made it impossible to carry out the work as planned, i.e., with respect to certain areas of judicial reform and the development of an Administrative Procedure Code.

In addition, the Project was a major force for legal reform in Kyrgyzstan, with several significant accomplishments. These include:

- Carrying out major initiatives in land reform, including identifying the major problems affecting land markets in the rural sector; developing a sweeping package of amendments to the major land laws that addressed these and many other problems; and developing a framework for remedying the problems affecting the Land Reserve Fund;
- Developing, maintaining, and expanding a database of judicial opinions, thereby establishing the only public record in Kyrgyzstan of what cases Kyrgyzstani courts are deciding and how they are deciding them. Such information is essential in order to determine how laws are being applied and where the problems lie, to make the courts accountable for their decisions;
- Developing and getting passed a modern Law on Pledge and Mortgage;
- Facilitating the signing of a Memorandum of Understanding between USAID and the Supreme Court, causing the courts to make a formal commitment, for the first time, to support important judicial reform initiatives such as a comprehensive program of judicial training and the judicial opinion database and created possibilities for cooperation in other areas of judicial reform;
- Establishing the International Court of Arbitration;
- Identifying a very promising avenue for development efforts—working directly with businessmen to teach them how to use the law in their business and to make them a vocal constituency for the rule of law. This work was the result of the Project's own explorations and analysis, the findings of which are set forth as Appendices 1 and 2 to this Final Report; and
- Producing a wide range of unique, comprehensive and innovative legal information products on Kyrgyzstani law and practice. The Project became a leading source of legal information in Kyrgyzstan.

TAJIKISTAN

USAID's overall country program strategy in Tajikistan for the years 2001–2005 has focused on supporting the country's transition to a market economy. Within this strategy, the Legal Infrastructure for a Market Economy Project in Tajikistan (LIME-TJ) was conceived as USAID's principal vehicle for providing technical assistance in the commercial law development area, with the goal of encouraging a legal environment conducive to the growth of private enterprise in the form of small and medium businesses.

Over a 46-month period, from September 2001 through August 2005, LIME-TJ provided technical and financial assistance to improve economic laws and regulations, strengthen legal institutions, and improve the professionalism of lawyers and judges throughout Tajikistan. Building on the accomplishments of the USAID Commercial Law Project which preceded it, LIME-TJ worked in four main objective areas:

1. *The Project provided critical technical assistance for drafting and implementing essential legislation required for a market economy.* LIME-TJ provided technical assistance to the Government of Tajikistan (GOT) in drafting to conclusion specific pieces of commercial legislation, supporting passage of draft laws, implementing legislation that had been adopted, and establishing a program to train law drafters in the fundamentals of legislative drafting. The Project's efforts in this area led to the drafting, enactment, and implementation of several significant laws.
2. *The Project supported court and judicial reform and court modernization.* LIME-TJ assisted in the process of creating a more modern court and judicial system, including qualification examinations for judges, establishment of a body to administer the courts, and computerization of some courts.
3. *The Project organized and institutionalized professional training for judges and lawyers.* LIME-TJ provided professional training for judges and lawyers, both in Dushanbe and regionally throughout Tajikistan, with a focus on impartial and informed dispute resolution by judges and a view toward institutionalized training. The Project's efforts in this area contributed to the establishment of country-wide training of judges and lawyers and a judicial training center through which Tajik judges are using advanced interactive teaching methodology to train their fellow judges.
4. *The Project sponsored a wide information dissemination program and provided other support for constituencies of legal reform.* LIME-TJ developed mechanisms to collect and distribute Tajik laws more widely and worked to strengthen both public and private sector organizations and institutions involved in the legal reform process.

Project Organization, Staffing, and Implementation Context

LIME-TJ was implemented by the ARD/Checchi Joint Venture under a SEGIR-LIR task order. ARD/Checchi fielded exceptionally qualified project directors, both of whom worked well with USAID, the Embassy, other international donors, and the Project's counterparts. The directors were supported by an outstanding group of Tajik technical and administrative staff as well as by expatriate and regional short-term advisors. At the outset of the Project, Tajikistan was still recovering from a bloody civil war, and travel restrictions prevented ARD/Checchi's Project Director, Robert Underwood, from maintaining a full-time presence in the country. After these travel restrictions were removed, Mr. Underwood moved to Tajikistan on a full-time basis in the spring of 2002. Mr. Underwood remained with the Project until August 2004, when William Kennedy assumed responsibility for the leadership of the Project.

To implement its ambitious activities, the Project had to manage its relationship with numerous counterparts, including the Legal Department of the President's Administration, the Ministry of Justice, the Supreme Court, the Higher Economic Court, the Constitutional Court, the Council of Justice, the Judicial Training Center, the National Chamber of Advocates, the eight regional *oblast* level courts, the Faculty of Law of the Tajik National State University, and the Tajik Parliament.¹ To the governmental counterparts, stability and consolidation of power continued to be more important than reform or economic growth, hampering many project activities. To work effectively in Tajikistan, ARD/Checchi developed close working relationships with the legal office of the President's administration and the Ministry of Justice. Even today, effective legal reform work in Tajikistan would be impossible without these ties. In the area of court reform, it is important to note that the Project's

¹ We have compiled a list of 91 individuals whom we have relied on as counterparts in implementing LIME-TJ. A list of these individuals is attached as Appendix A. These individuals are from both governmental structures and nongovernmental organizations.

dramatic early success in the area of judicial qualification testing² led to a temporary cooling of relations with the Council of Justice that effectively limited an ambitious court modernization program to the Supreme Court and the Higher Economic Court.

² Seventy-nine sitting judges, nearly 25 percent of the entire judiciary, were removed from the bench because they failed to pass judicial qualification tests developed with LIME-TJ support and administered in July 2000, September 2000, and March 2002; numerous candidates for judicial positions were also removed from consideration due to failure.

ACRONYMS AND ABBREVIATIONS

CIB	Kyrgyz Credit Information Bureau
CTO	USAID Cognizant Technical Officer
EBRD	European Bank for Reconstruction and Development
E&E	Europe and Eurasia
GOT	Government of Tajikistan
GSAC	World Bank Governance Structural Adjustment Credit
ICA	International Court of Arbitration
JSC	Joint Stock Companies
JTC	Judicial Training Center
LARC	Legal Assistance to Rural Citizens
LIME-TJ	Legal Infrastructure for a Market Economy Project in Tajikistan
MOU	Memorandum of Understanding
NASMB	Tajik National Association of Small and Medium Business
NB	National Bank
NGOs	Nongovernmental Organizations
OSCE	Organization for Security and Cooperation in Europe
SEGIR	Support for Economic Growth and Institutional Reform
SEGIR-LIR	Support for Economic Growth and Institutional Reform Legal and Institutional Reform
STI	State Tax Inspectorate
TOT	Training of Trainers
UNCITRAL	United Nations Commission on International Trade
USAID	United States Agency for International Development
VAT	Value-added Tax
WB	World Bank

I.0 DESCRIPTION OF THE WORK PERFORMED

Set forth below is a description of the Project's work and accomplishments in each area of activity prescribed in the Scope of Work to the task order, as modified by United States Agency for International Development (USAID)-approved Work Plans. A separate section has been written for each area of activity and contains (1) a description of the general tasks; (2) a description of the specific Objectives established for that area of activity; (3) a summary of the Project's performance with respect to the Objectives; and (4) a detailed description of the Project's activities and accomplishments in the area.

I.1 LEGISLATIVE REFORM

KYRGYZSTAN

I.1.1 Legislative Drafting

Description of the Tasks

The Project was tasked to play an important role in working with Kyrgyzstani legislative and governmental institutions in the drafting of important commercial laws and to continue its efforts developing and implementing the commercial legislation necessary for the efficient operation of a modern, market-based economy. In addition, as appropriate, the Project was tasked to develop initiatives in response to events, i.e., when circumstances arose that created some likelihood that the draft legislation would find support and be acted upon.

Performance Indicators for October 2001–September 2002

- Lobbying for revisions to Land Governance Law
- Lobbying for and drafting revisions to Land Code
- Development of relevant additional laws, e.g., On Takings and On Change of Land Use
- Development of regulations under the Land Governance Law

The Project will organize seminars, workshops and roundtables in connection with the foregoing activities when and as called for, as determined in consultation with the cognizant technical officer (CTO).

Objectives for October 2002–September 2003

- Participate in ongoing work of legislative drafting groups to develop commercial legislation (4Q 2002 and ongoing)

- Conduct discussions with representatives of the Kyrgyz government to determine which legislation the Project will support through legislative drafting working groups (4Q 2002 and 1Q 2003)
- Commence sponsorship of or participation in at least five additional legislative drafting working groups (4Q 2002 and 1Q 2003)
- Conduct an initial conference and then a follow-on conference with participants from the National Conference of State Legislatures for select groups of Kyrgyz drafters (2Q 2003 and 3Q 2003)
- Completion of draft legislation by working groups (3Q 2003), with each working group having produced at least one substantive law

Performance Objectives for October 2003–September 2004 and October 2004–August 4, 2005

Develop at least five pieces of legislation significant for private property rights and a market economy that have a reasonable prospect of being adopted into law and implemented effectively, and that, when implemented, will significantly and directly improve the prospects for the further development of commercial business and a market economy in Kyrgyzstan.

Summary of the Project's Performance

The Project more than satisfied the requirements set for drafting legislation. The Project played a leading role in the development of a number of important laws and regulations, as described below. Note that as concerns the activity to provide training in the craft of legislative drafting, prevailing circumstances were such that it would have been impossible to carry out that work effectively, i.e., that would result in increased capacity. This is because there was no effective constituency in government or Parliament—where most of the drafting takes place—to support such a program, i.e., there was no agency or structure that was positioned to receive such assistance and use it effectively. The reasons for this include a lack of local political and budgetary commitment to create cadres of technical specialists to serve in government and Parliament. The Project therefore considered that it did not make sense to carry out that activity.

Description of the Work Performed

The Project played a leading role in developing the following laws, as described below.

Law on Normative Legal Acts. The Project has been a consistent voice advocating sweeping reform of this fundamental law, which governs a range of issues that form the basis for applying codes, laws and regulations. Truly fundamental questions, such as 1) the hierarchy (i.e., relative authority) of laws; 2) how to deal with a law (especially regulatory acts) that was adopted in violation of prescribed procedures; and 3) how to resolve conflicts between and within laws, as well as how to resolve ambiguous provisions of a law, are not established in legislation—and yet they must be in order to provide the consistency of application, order, and clarity that are absolutely necessary for the legal system as whole to function rationally and predictably.

Work on this law arose out of the investment matrix process. Working with the Ministry of Justice and private experts, and drawing upon the experience of both western European and formerly communist eastern European countries, the Project developed and advocated the adoption of a package of sweeping amendments to address existing problems. (This included the proposal to elevate this law in status to that of a constitutional law, which has a higher status and is more difficult to amend than other laws.) The law, when adopted, will provide a much more consistent, organized, and logical basis for the application and implementation of all legal instruments, including regulatory acts, and will provide a basis for clear and harmonized understanding of the interrelationships of laws. This will lead to greater predictability and clarity in the implementation of law.

A number of the reforms advocated by the Project have gained momentum in conjunction with the attention paid to the constitution since the March events. We anticipate that the package of amendments spearheaded by the Project will be accepted in the coming months.

On the Conservation, Liquidation, and Bankruptcy of Banks. At the request of the National Bank (NB), the Project provided legal expertise and review of a NB-developed draft. Project recommendations streamlining processes and analyzing the law's relation to other laws in order to eliminate conflicts with those laws were incorporated into the NB's draft.

Code of Administrative Responsibility. The Project has advanced the position that several articles of the Code of Administrative Responsibility require change. This code is deceptively named—to the western lawyer or observer, the common inference is that this code governs the responsibility of state agencies and their representatives when they deal with the public, when in fact, in large part, this code establishes the responsibilities of, and penalties imposed upon, the private citizen or business when they interact with government. Draft amendments governing the rights, responsibilities, and penalties for both private sector and state sector actors for violation of legal requirements (e.g., registration of normative acts, fines, and overreaching by state actors) have been developed. Advancement of these amendments requires the identification of a parliamentary sponsor which has not been possible due to the March overturn of the government and subsequent focus on political issues related to establishing the new government.

On Administrative Procedures. Appropriate procedures for resolving questions of regulatory decision-making is a vital component of a regulated free market. To that end, World Bank (WB) Governance Structural Adjustment Credit (GSAC) conditionalities addressing administrative procedures were developed and the World Bank sought the Project's assistance in evaluating existing procedures and crafting amendments which would both simplify the existing order and provide for greater transparency and predictability to those procedures which govern the resolution of questions relating to regulatory oversight of private actors. However, subsequent to the initial draft conditionalities and the WB's request, the conditionalities related to an Administrative Procedure Code were weakened to irrelevancy.

The ARD/Checchi team agreed to assist the WB to prepare the technical notes for the conditionalities related to administrative procedure—these also include the Law on Normative Acts. The team labored hard, providing extensive information on the kind of changes needed. No further action has been taken by the WB since that time.

On Inspections. The proposals enshrined in this draft law, developed jointly with the Pragma Trade Facilitation and Investment Project, introduce the fundamental principle that the purpose of inspections is compliance with regulatory requirements rather than revenue generation for the inspecting state agency. This principal is realized by specifying that initial inspections cannot result in fines or sanctions, but rather only written guidance and warnings regarding discovered violations. Subsequent re-inspections are limited to violation discovered in the initial inspection, and only if violations are not remedied can a fine be levied. Finally, all fines are held in abeyance if the business appeals, either through the Administrative Procedures Code or a court. This law is radical in its focus on compliance rather than sanctions, and, when adopted, will mark a sea change in government practices and constitute a significant measure against corrupt practices. We have garnered the necessary parliamentary support for passage of this law.

The “Green Book.” The Project spearheaded a comprehensive effort of involved USAID projects to develop a sweeping package of amendments to the major land laws, in order to bring the laws closer to the realities of rural life and address emerging problems. This legislation represents the lone such effort in Kyrgyzstan today, and draws on the findings of the RRA and the Project's own accumulated knowledge and experience.

The proposed amendments are packaged together in what has come to be known colloquially as the “Green Book.” They include 1) the Law on Introducing Changes and Additions to the Land Code; 2) the Law Bringing the Land Code into Force; 3) the Law on Introducing Changes and Additions to the Law on the

Governance of Agricultural Land; and 4) On the Interpretation of Point 7 of Article 6 of the Law On Introduction and Entry into Force of the Land Code.

The Green Book represents a sweeping and comprehensive, integrated proposal for harmonizing and improving a wide-ranging package of proposals for all key laws impacting ownership and use rights, transactions, regulation, and, ultimately, markets in real property. These several laws address, in one way or another, questions associated with property ownership in Kyrgyzstan were developed over time in a fractured manner; each was seemingly drafted in isolation from each other and from the Civil Code. As such, there existed an enormous amount of uncertainty arising from frequent ambiguities in each of the laws, conflicts within and between these laws, and unanswered questions regarding municipal land governance, zoning, sale of state owned lands, takings and eminent domain, easements and servitudes, registration, and the role of several disparate state agencies and ministries in the regulation and management of land issues. The entire package was unveiled at a National Land Policy Conference in November 2003. The Project secured political support from a parliamentary deputy who sponsored the amendments' introduction into Parliament. Unfortunately, this deputy was not reelected, and due to the March overturn of the government, the legislation has not advanced. The legislation has not yet been acted on in Parliament, but we remain confident that it will be adopted.

On the State Registration of Rights to Real Property and Transactions Involving Real Property. A package of amendments to this law, which addressed questions of processes for registration, access to information, and what information would be gathered and provided by the state were developed and provided to Parliament.

On Commercial Arbitration. The Project played a leading role in establishing commercial arbitration in Kyrgyzstan. The Project developed the law that laid the basis for commercial arbitration and successfully lobbied for the law's passage. The Project then acted as the primary sponsor of the International Court of Arbitration (ICA) in Kyrgyzstan.

Delays in the development of the ICA were caused by a number of circumstances, including the changes to the national constitution in the 2002 referendum, the need to amend the Civil Procedure Code, and resistance by the courts (which is continuing). Despite those difficulties, the ICA has become an established and active institution. Its director and deputy director are among the most well respected commercial lawyers in Kyrgyzstan. They have developed extensive contacts with other arbitration associations throughout the world and have carried out numerous public information, outreach, and educational activities on commercial arbitration and the ICA. As a result, the ICA currently has 135 registered arbitrators, of whom 60 are foreigners who live outside of Kyrgyzstan, and the ICA is experiencing a steady increase in inquiries and arbitration cases. The ICA has handled 11 arbitration cases to date. The three most recent cases involved Turkish, Ukrainian, and Chinese companies, respectively, who are doing business in Kyrgyzstan. A large and ever-growing number of local business persons, companies, and banks are including arbitration clauses in their contracts.

We can expect the ICA to continue to grow in stature and importance and, thus, help create an additional incentive for foreign companies to do business in Kyrgyzstan. At the same time, we do not expect them to become self-sustainable in the near future. We believe this institution will need—and deserves—continued support from donors.

On Introducing Changes and Additions to the Civil Code; and On Introducing Changes and Additions to the Civil Procedure Code. The Project took a very active part in the working group formed by presidential order to bring the Civil Code and the Civil and Commercial Procedural Codes into conformity with the constitution, following substantial amendment to the constitution in the spring of 2003. These two codes form the basic legal documents for the regulation of civil and commercial relations, and the procedures for resolving disputes and legal questions arising from civil and commercial relations. The Project was instrumental to efforts within the working group on several chapters of these two codes involving such issues as joint stock companies, securities markets, contracts and transactions, sale of real property, pledge,

mortgage, rights to communal property, agricultural land and business issues, and municipal property. Provisions in the Civil Procedure Code relating to judicial practice (especially to the treatment of commercial arbitration awards by courts) and the judicial recognition and enforcement of these awards were particularly led by the Project. All of these amendments have been passed into law.

Tax Code. The Project supported the work of private sector tax experts in the drafting process for the draft Tax Code. Most of the experts' recommendations and approaches were not accepted at the time by the Ministry of Finance, which oversaw the drafting process.

The recommendations proposed by the private experts and advocated by the Project involved acknowledgment that other laws necessarily had to be recognized in the drafting process in order to ensure that no conflicts between tax legislation and other key laws governing commercial activities, such as the Civil Code, would be present in the law. This principle is vital to a well-functioning economy and efficient tax collection because conflicts would place business in the unfortunate position of having to choose either to jeopardize the legal enforcement of their transactions or face onerous penalties under the tax regime. Additional focus was required in tax administration, inspections, licensing, etc. in order to reduce the transactions costs and diversion of firm resources necessary for full compliance with the tax legislation.

Following the political changes in March 2005 a number of the new highly-placed government officials and parliamentary deputies expressed support for the private sector experts' approaches toward the existing draft. It appears likely now that the draft Tax Code will be revised to reflect many of these views. We believe this is a very good development, as it will effect tax reform along those lines recommended by the Investment Summit and in such a way as to reduce overweening state control and encourage the development of an open market economy.

On Pledge [and Mortgage]. The passage of this law, which governs both the pledge of personal properties and the mortgage of real property, is a major success, and it reflects a long period of intensive work, both on the technical side of drafting the law and on the political side of gathering support for the law. This law constitutes a harmonization of norms governing pledges and mortgages, introduces greater consistency between the law and the Civil Code, and simplifies already existing credit operating procedures, especially with respect to the legal constraints and mechanisms required to extend secured credit. This law introduces international best practices and, most importantly, speedier foreclosure procedures that will result in lower interest rates and more vibrant and competitive lending practices and land markets. Additionally, the drafting process resolved a number of existing ambiguities within the law and eliminated many conflicts between the existing, separate laws on pledge and on mortgage, as well as conflicts with the Civil Code and other laws.

On Joint Stock Companies. Investigation of the legislative base governing the function of joint stock companies (JSCs) revealed that numerous reforms were necessary to rationalize and increase the clarity of the legislation. The Project, in cooperation with private experts, developed proposals effecting two pieces of major legislation and ten regulations governing the formation, liquidation, conduct, and responsibilities of JSCs. Following a major conference including private and international experts, parliamentary deputies, and the presidential administration, the Project spearheaded a working group effort to develop a draft law which achieved the goals of addressing problems with, filling gaps in, and rationalizing the legal framework.

Approximately 60 percent of the Project's advocated reforms were adopted. A small number of parliamentarians whose private commercial interests were implicated by the proposals blocked the remaining provisions.

On Securities Markets. A number of disjointed provisions governing the interplay between private market participants and state agencies created barriers to the effective operation of securities markets in areas such as the issue of security instruments, the registration of ownership, transactions in and pledge of securities, state and local government instruments, and harmonization with other legislation. The Project, in cooperation with local stakeholders, developed a package of reforms which is presently in parliament.

On the *Advokatura*. The *advokatura*, i.e., the body of trial lawyers who may represent clients in criminal proceedings, has been essentially unreformed in Kyrgyzstan since Soviet times. The Project succeeded in developing and getting adopted the new Law on the *Advokatura* that is designed to prevent excessive state control and influence over these lawyers on the one hand, and, on the other, to prevent these lawyers from acting as a closed guild accountable to no one. There was opposition to Project's drafts from interests that reflected one or the other of these positions, but we were also able to elicit support for our approach in a number of quarters. We believe this is a necessary step to reforming the bar in Kyrgyzstan.

On Cooperatives. The Project has, through its activities with farm restructuring and land issues, monitored this law, which has a significant impact on the operation of agricultural enterprises (many former collective farms have been converted to cooperatives), and has the potential to provide much needed stimulus to the development of small agricultural enterprises. The existing law, developed in cooperation with GTZ and based on the German experience, contains many conflicts with the Civil Code and ambiguities relating to the tax treatment of agricultural cooperatives.

Subsequent amendments to this law eliminated the "one member one vote" principle of governance within the cooperative. In February 2005, amendments were developed to the Law on Cooperatives that re-institute this principle. (The Project had been a vocal proponent of overturning the previous set of amendments which had destroyed it.)

With the advent of these changes, the Project began work to harmonize the law with the Civil Code (with which there are a few conflicting norms) when that proves to be feasible with the new parliament and government. Additionally, the Project is opening discussions with parliamentary deputies to identify advocates for changes to the Civil Code in order to harmonize the legislation.

However, due to the political events of March 2005 and the subsequent focus on more pressing political priorities, it has not been possible to enlist the necessary parliamentary sponsor to advance these proposals.

On a Credit Information Bureau. The Project was asked to provide legal expertise on the development of a draft law creating the necessary framework establishing the legality of sharing credit information by the European Bank for Reconstruction and Development (EBRD) Micro Finance project. This law provides the basis for the establishment and operation of a Credit Information Bureau (CIB). This bureau already exists as a private institution; however, commercial banks were hesitant to commit to participation and receipt of benefits from a CIB until such a time as uncertainties and potential liabilities for sharing personal information were resolved in law. The Project worked closely with the EBRD, the National Bank, the CIB, and commercial banks, as well as a German CIB to develop a draft law which explicitly satisfies the legal uncertainties which troubled banks and constituted a barrier to full operation of the CIB. The draft was completed and the interested stakeholders will lobby for its passage and implementation.

The Project played a leading role in developing the following laws, as described below.

Regulations related to the registration of property rights. These include 1) On the Registration of Ownership and Use Rights of Real Property; 2) On the Types of Documentation Certifying Rights to Real Property; 3) On the Procedure for Registering Rights to Land Parcels Underlying Privatized Buildings and Structures; 4) On the Procedure of State Registration of Rights to Land Parcels Underlying Buildings and Structures Privatized before Land Code Entered into Force. The Project worked closely with other USAID projects, GosRegister (the national land registration agency and primary government actor in land matters), and other agencies to develop a consistent scheme for the registration of property rights and successfully instigated a prosecutorial challenge to the regulation governing the registration of land parcels appurtenant to privatized properties which did not comply with other law. This package of regulatory acts is vital to establishing and demonstrating title to ownership of real property, a necessary prerequisite to any transaction involving real property. The Project labored extensively to provide a harmonized, consistent, transparent and practical framework, which has been incorporated and adopted virtually as the Project sought.

Model regulation on administration of the Land Reserve Fund. See the description of this work in Section 1.1.3.

State tax inspectorate regulations on tax issues in bankruptcy. The Project participated actively in a working group formed to draft regulations for the state tax inspectorate (STI) on tax treatment during bankruptcy. The Project agreed to fund the participation of two private specialists in the working group, which included specialists from the Ministry of Finance, the STI, and the State Property Fund.

Draft regulation on changes to the regime of classification of agricultural land. The Project developed a set of proposals to simplify the procedures for the classification of agricultural land, which are extremely complicated and burdensome. A draft analysis and proposal for amendment to this regulation (*postanovlenie*) were prepared by the Project and provided to Parliamentary Deputy Jurayev's staff. This work product, and an additional two drafts prepared independently by Jurayev's staff, were then circulated to the government. No additional action has been taken, and given the uncertainty gripping the government and new parliament, we do not expect any action to be taken in the near future.

GosRegister instructions that implement favorable parliamentary interpretation on privatized land. In spring 2004, parliament adopted an "Official Interpretation of the Law Bringing the Land Code into Effect" that was largely the result of efforts of the Project and Urban Institute to address a detrimental policy promulgated by GosRegister. The interpretation states that land appurtenant to buildings privatized before 1999 will be deemed to have passed into private ownership with the buildings. The Project developed draft instructions for GosRegister to facilitate implementation of the parliamentary interpretation. The process of approval for the instructions was delayed by the events of March 2005 and their aftermath. The Project remains hopeful that the instructions will be adopted.

1.1.2 Carrying out a Rapid Rural Appraisal of Issues Affecting Land Markets

Description of the Tasks

Years preceding the period covered by this Final Report witnessed a number of important developments in land reform in Kyrgyzstan. In September 2001, Kyrgyzstani citizens acquired the legal right, under the Law on Land Governance, to purchase and sell agricultural land. In addition, with donor financial assistance, Kyrgyzstan has created a State Registration Agency that is responsible for registering all rights in land and all transactions involving land. Furthermore, a state Land Redistribution Fund was created with the declared purpose of providing relief to impoverished rural residents. USAID, for its part, dedicated a significant part of its program of technical assistance in Kyrgyzstan to foster and facilitate a progressive and effective land reform program.

USAID had limited information on whether, how, to what extent, and with what success these reforms were being implemented and realized at the local level. The Project was therefore tasked, subject to further direction by USAID, with carrying out follow-up research—a rapid rural appraisal—to determine the state of land reform in Kyrgyzstan. The research was to address issues along the following lines: 1) the types and extent of conflicts over land that were occurring in Kyrgyzstan and the causes of those conflicts; how these conflicts were being resolved; how current legislation was being interpreted; and what difficulties existed in implementing the current legislation; 2) problems surrounding the registration of land rights and land transactions; 3) problems and issues surrounding the management and operation of the Land Redistribution Fund; how was the new legislation on the fund being implemented; what difficulties existed with implementation of the new legislation; and what was happening to those who no longer had free access to fund land; and 4) constraints to carrying out land transactions; who was affected by these constraints; how land market restraints were affecting market productivity and economic development. The RRA was also to include a brief investigation of (5) the problems being created by the conflicts between customary law and statutory law, as those problems affect land rights and land distribution in Kyrgyzstan today. Finally, the research was to look briefly at (6) pasture land issues and concerns.

The findings provided by this research were to help USAID determine its future policies and programs in the area of land reform and to provide case material for a land policy conference that USAID tentatively planned to conduct in Kyrgyzstan in 2003 to heighten awareness of land reform issues and to promote further concerted and progressive action in land reform at a variety of levels of Kyrgyzstani government and society. The research findings were also expected to provide concrete direction for further legislative drafting in this area.

In addition to carrying out the research described above, the Project was tasked with organizing the development of research templates for data collection for the USAID-funded land reform projects in Kyrgyzstan, to help these projects to better understand the impacts of their activities, determine where modifications in activities might be needed, and to contribute to a better understanding of how land reform was affecting USAID strategic goals.

Program Objectives

- Subject to further direction by USAID, design and carry out research of the issues outlined [in the Scope of Work], and present an analysis of the findings in a written report to USAID. (2Q 2003)
- Subject to further direction by USAID, organize and sponsor a conference or workshop on land policy that is informed by the research described above. (3Q 2003)
- Develop research templates for data collection for USAID-funded land reform projects in Kyrgyzstan. (2Q 2003)

Summary of the Project's Performance

The Project fully satisfied these objectives.

Description of the Work Performed

Rapid Rural Appraisal. The Project carried out an intensive RRA in the summer of 2003 to gain on-the-ground information to assess the state of rural land markets and land use. The research was carried out in a number of rural locales in Kyrgyzstan. The research identified three main areas of concern that are addressed and described in the research team's final report: 1) barriers to land markets; 2) administration and use of the land reserve fund; and 3) pastures.

The findings served as the basis for a large national conference (described below), where the findings and recommendations generated broad discussion among local specialists. In addition, the research provided guidance for further USAID land reform efforts.

Land Policy Conference. The Project assisted USAID in organizing and carrying out, in November 2003, a conference on rural land reform in Kyrgyzstan. The conference was attended by over 100 persons who represented a broad spectrum: state officials, local government representatives, technical specialists, and farmers. Participation was active and involved.

The conference was organized around the issues identified in the report of findings from RRA that the Project carried out earlier in 2003. That work was led by Malcolm Childress and Renee Giovarelli who conducted intensive research in a number of regions of Kyrgyzstan. They completed their report in October, and it was distributed to invitees well in advance of the conference.

The researchers identified and discussed three major areas of concern related to land reform and rural development: 1) barriers to transactions in agricultural land; 2) issues surrounding the use and management of the Land Reserve Fund; and 3) the emerging crisis affecting pasture lands. They prepared presentations on each of those subject areas. Each presentation was followed by a panel discussion involving a number of local officials, specialists, and citizens.

The report was very well received. Its findings were validated by many local commentators who took part in the panel discussions. The report was accepted as an objective and professional effort to address important problems, and a number of participants expressed real gratitude to USAID for this work. The Project used the conference to distribute the extensive compendium of proposed changes to the major land laws, described above.

We consider that this conference successfully focused attention on the most pressing problems affecting land reform in Kyrgyzstan today and has given impetus to efforts to address them. The Project will actively help develop a program of activities designed to carry that work forward.

1.1.3 Improving the Legal Regime and Administration of the Land Reserve Fund

Project Objective for October 2003–September and October 2004–August 4, 2005

The Project will develop a proposal for USAID's review to carry out an on-the-ground analysis of the administration of the Land Reserve Fund in three selected localities and will develop recommendations for legislative drafting and other efforts to achieve necessary reforms in the administration and use of the fund. The proposal will be presented to USAID in 4Q 2003 and will set a timetable for further activities.

Summary of the Project's Performance

The Project fully satisfied this objective.

Description of Work Performed

Twenty-five percent of arable land in Kyrgyzstan is owned by the state and managed through the Land Reserve Fund. Initially created to serve as a reserve to redress inequities occurring in the land privatization process, the fund soon became a major source of revenue for local governments who administer the fund locally. A lack of transparency, cronyism, and conflicting policy priorities have occasioned wide-spread mismanagement of a resource that is of great significance for many rural communities.

Building on the findings of the rapid rural appraisal, the Project launched a pilot study of the management and use of the Land Reserve Fund in three very disparate locales. On the basis of our findings, we developed a new model regulation for the Land Reserve Fund. That model regulation has been endorsed by GosRegister. We expect the model regulation to be submitted to parliament this fall.

1.1.4 Administrative Procedures Act

Description of the Tasks

The Project long advocated the need for a Code of Administrative Procedure that would impose more transparency and accountability on state agencies and would establish clear and simple rules for citizens challenging actions by state agencies. In our view, bringing the executive branch itself into conformity with the rule of law was crucial to the viability of legal reform in the Kyrgyz Republic. The executive branch was the locus of most political power in Kyrgyzstan and, of the three branches of government, had undergone the least substantive reform. There was no adequate system of institutional checks on governmental regulation of private activities in Kyrgyzstan, which greatly inhibited the emergence of a healthy, formal private sector. The Project was tasked with developing a program that would have as its goal the drafting, adoption, and implementation of an Administrative Code along the lines of the United States' Administrative Procedures Act.

Because such reforms would directly undermine the entrenched interests and motivations prevailing in Kyrgyz governmental agencies, we recognized that it was highly likely that these reform efforts would encounter much resistance. We therefore believed that such an initiative could succeed only with the firm

support of the World Bank through its GSAC conditionalities. The Project was therefore forced by circumstances to carry out its work in coordination with, and within the limits of, the activities of the World Bank in this area.

Project Objectives for October 2002–September 2003

- Identify by 2Q 2003 government and parliamentary officials and one or more government agencies with whom to develop this initiative.
- Conduct at least three workshops on administrative procedures reform with possible participation of experts from the US, the Netherlands, and/or a country in the Europe and Eurasia (E&E) region. (3Q 2003; 4Q 2003)
- Organize a study visit to the Netherlands and/or another appropriate country in the E&E region for a Kyrgyzstani delegation selected to participate in the development of an Administrative Procedures Code in Kyrgyzstan. (2Q 2003)
- Prepare a policy paper (i.e., a suggested road map) on administrative procedures reform in Kyrgyzstan. (4Q 2003)

Performance Objectives for October 2003–September 2004 and October 2004–August 4, 2005

The Project will carry out an analysis of the Administrative Procedure Code that is being developed by the Government in the hope of satisfying GSAC conditionalities. If the Project finds that this law is unsatisfactory both with respect to GSAC conditionalities and in its own right as a code of administrative procedure, the Project will provide its analysis to the World Bank. If the World Bank agrees with the Project's positions, the Project will develop amendments to the code and seek to use the GSAC conditionalities as leverage for their adoption. (1Q 2005)

Summary of the Project's Performance

The Project fully satisfied the objectives elaborated for 2003–2005. As of the end of the reporting period, however, our efforts had not yet resulted in the imposition by the World Bank of stricter conditionalities or in the adoption of a satisfactory Administrative Procedure Code.

Description of the Work Performed

In 2002–2003 it became apparent, for the reasons mentioned above, that the Project would not be able to carry out this program effectively without additional leverage provided by the World Bank.

The Project had developed its own outline for the principles and features that an administrative procedure code would need to exhibit in order to be effective and realistically implementable in today's Kyrgyzstan. We provided these ideas to the World Bank GSAC team who were negotiating loan conditionalities with the Government of Kyrgyzstan. In our view, the conditionalities that emerged from those negotiations were unsatisfactory—they could easily be met without undertaking the reforms necessary for curtailing the arbitrary practices and procedures of state agencies.

We also carried out an analysis of the code that was adopted by the government with the hope of satisfying GSAC conditionalities. We found that this law failed to meet both the GSAC conditionalities and our own criteria law on administrative procedure. We provided that analysis to the World Bank. Since then, there have been no further developments in this area.

The Project also worked closely with the Ministry of Justice, during the tenure of Deputy Minister Nurlan Alymbayev (who had previously worked on USAID projects), to carry out tasks aimed at improving the effectiveness of the ministry's review of proposed legislation and at creating some transparency in the legislative process. In that connection, we completed work on an Ministry of Justice handbook for reviewing

legislation and produced two publications to assist citizens wishing to challenge actions and non-actions by the state or to challenge the legality of laws and regulations.

TAJIKISTAN

1.1.5 Legislative Drafting and Implementation

Assessing and Prioritizing Tajikistan's Legislative Drafting Needs

LIME-TJ worked cooperatively with the Tajik government and USAID to define a common strategy for commercial law development in Tajikistan. To accomplish this, Legal Infrastructure for a Market Economy Project in Tajikistan (LIME-TJ) conducted annual roundtable meetings to engage representatives of the President's administration, Parliament, and ministries and departments in a comprehensive planning session for commercial law drafting. Each year the seminar produced a written agenda, establishing a three-level set of agreed upon priorities for commercial law drafting in Tajikistan. The agenda was used by both LIME-TJ and the GOT throughout the year as guidance on drafting priorities. The Project organized and conducted these legislative priority seminars in July 2002, September 2003, and September 2004.

Training Legislative Drafters

ARD/Checchi prepared a new cadre of Tajik professionals who are now teaching their colleagues the fundamental techniques of modern legislative drafting. Tajikistan had no organized program for teaching legislative drafting prior to LIME-TJ. Curricula of the law faculties at Tajik universities also paid little attention to this area. LIME-TJ used a three-phase approach to develop these trainers in legislative drafting:

- *Phase I – Learning the Subject Matter.* Officials from various State agencies, ministries, and the President's administration participated in training sessions on advanced legislative drafting approaches. Training sessions were interactive, using modern adult learning techniques including lectures, group discussion, and case study. About 125 civil servants were trained during Phase I of the program, which was conducted in two sessions.
- *Phase II – Learning to Teach the Subject Matter.* LIME-TJ sponsored the training of trainers (TOT) seminars specially designed to create teaching capacity in the area of legislative drafting. Eight graduated from a course at the International Legislative Drafting Institute at Tulane Law Center, and 12 graduated from a follow-up program in Tajikistan.
- *Phase III – Teaching the Subject Matter.* To ensure sustainability of the legislative drafting training program, LIME-TJ worked with an experienced local NGO, the National Association of Small and Medium Business (NASMB), to prepare for and deliver the final and most important phase of training. Because numerous trainers were needed and uniformity of training was sought, LIME-TJ worked with NASMB to develop a training module to be used by all trainers. Using this module as the backbone of training, a series of six legislative drafting seminars was conducted by LIME-TJ and NASMB for legislative drafters in different venues throughout the country in Dushanbe, Khujand, and Kurgan-Tyube. The seminars taught drafting fundamentals in the context of Tajik legislation, using legal exercises developed locally. All in all, 172 lawyers and civil servants who draft laws or regulations participated in the training and were awarded certificates of completion.

Developing a Legislative Drafting Manual

LIME-TJ assembled a working group of local legislative drafting experts, all of whom participated in Project training and TOT, to develop a manual on the fundamentals of legislative drafting. The working group, which consisted of representatives of the President's administration, the Ministry of Justice, and academia, was established in December 2004 and developed an action plan and strategy for developing the manual. LIME-

TJ provided technical assistance and significant supporting documents, including drafting manuals, from several other countries. As of the end of LIME-TJ, the working group has completed drafting work on a 110-page manual consisting of 4 chapters. The manual contains basic techniques and principles of legislative drafting that have been recognized as international best practices, as well as significant specific guidance culled from the laws and regulations of Tajikistan. It contains numerous examples of good and bad drafting techniques to illustrate the authors' points clearly. Currently, the manual is being reviewed by LIME-TJ staff attorneys and edited by a professional text editor. It will be ready for publication within the next 60 days. The next step after publication will be distribution of the manual both to legislative drafters throughout the government and to the major law faculties in Dushanbe, where two high level professors have agreed to use the manual as the primary text for a new course in legislative drafting.

LIME-TJ Support for Drafting Specific Laws

LIME-TJ worked on an impressive array of laws critical to supporting the development of a market economy. Appendix C contains a listing of all laws that LIME-TJ provided support to the GOT to draft, review, or amend. As reflected in the appendix, some draft legislation required a multi-year effort with multiple donors and multiple governmental agencies involved. For other laws, LIME-TJ was the only source of technical assistance in developing the draft law. In either event, LIME-TJ's approach was to support an indigenous effort to draft and amend laws and to provide international expertise at strategic stages in the process to assure that the laws corresponded to the extent possible with international best practices. LIME-TJ senior attorneys acted as reporters for official and sometimes unofficial working groups. Below are some examples of the most significant legislation on which LIME-TJ worked.

Civil Code, Part III

The value of the Civil Code to Tajikistan is vital. It puts into place the fundamental building blocks of a civil society based on the rule of law, particularly the building blocks of economic activity. Parts I and II of the Civil Code were developed with varying levels of input by the predecessor USAID Commercial Law Project and were adopted in 1999. Part III of the Civil Code covers intellectual property law, inheritance law, and private international law. Drafting was supported by LIME-TJ, with most suggestions and recommendations of international experts taken into account and addressed in the final law. After numerous delays and further extensive debate, the Parliament passed the law, and the President signed it into law on March 1, 2005.

General Administrative Procedures Code

LIME-TJ worked to raise consciousness regarding the necessity for improving public administration through adoption of an administrative procedures law for more than three years. Efforts culminated in the appointment by the government of a working group in February 2005. In light of the priorities identified at the two most recent legislative priority workshops (2003 and 2004), LIME-TJ supported seminars and workshops on administrative procedures. In March 2004, LIME-TJ organized and conducted a study visit and workshop on administrative procedure law for a high-level delegation in Washington, D.C. The delegation included representatives from the President's administration, the Ministry of Justice, Parliament, the General Prosecutor's office, and academia. After the delegation returned to Tajikistan, its members collectively submitted a report to the President explaining the urgency of preparing a new law on administrative procedures. This report met with serious opposition in the government; thus the intended working group to prepare the law was not constituted. Despite this setback, LIME-TJ continued to work with members of the delegation and, in time, garnered support within the president's office and the government to launch a working group, constituted pursuant to a Presidential decree in February 2005. Headed by First Deputy Minister of Justice Gulchera Sharipova, this working group has made stunning progress in less than six months. It has reviewed model codes from many different countries, decided on the format and outline for a Tajik law, met twice with international experts, and completed a draft law in Russian and Tajik. LIME-TJ attended and supported all meetings of the working group, which occurred more than once a week, serving as reporter for the law and facilitating regular exchange with international experts in the United States and the Republic of Georgia. The scope of the law includes rule making procedures by executive agencies,

procedure of adjudication in executive agencies, and access to judicial review. Just as LIME-TJ is ending, the working group has submitted the draft law to the government for review by executive agencies and ministries.

Civil Procedure Code

LIME-TJ supported the drafting of this crucial law for more than four years. Support included study trips outside Tajikistan, provision of extensive background documentation, significant investment of attorney time for four years, investment of significant funds, repeated translation and copying of the voluminous law, and facilitation of widespread comment and review on the draft law, most notably by the judiciary that will be most affected by the law. The process was complex and often frustrating, most vividly illustrated when a dispute between the lead international experts of GTZ and the Minister of Justice who chaired the working group became heated and caused progress to grind to a halt in late 2004. However, the result was worth the difficulty. The Civil Procedure Code is the first major Tajik law to have been drafted in Tajik language. It establishes the rules, practices, and guidelines for resolution of civil cases and provides the legal community with clear guidance at all stages of litigation in the Tajik courts. Courts all across the country have been waiting impatiently for its passage. It is expected to provide a much easier mechanism for dispute resolution in the courts of general jurisdiction in Tajikistan, and businesses and individuals alike will benefit from its enactment. The code is now complete in both Russian and Tajik languages, is undergoing final changes in the working group in accordance with comments from government agencies, and is to be submitted to Parliament by the President in the first quarter of 2006.

Economic Procedure Code

Like the Civil Procedure Code, this law will establish the fundamental procedural rules for resolving disputes, but in the economic courts. LIME-TJ has provided technical support, international expertise, and background documentation for this working group since it was formed in August 2003. Under the leadership of Bakhtior Khudoyorov, the working group completed a draft of the code in June 2005, using as a model many provisions from the most recent Russian procedural code for the commercial courts, which was adopted in large part to meet Russia's obligations under the European Convention on Human Rights. The Tajik draft was submitted to an internationally recognized expert at the Supreme Commercial Court in Russia, who provided an extensive written commentary. The working group then met with the international expert from the Supreme Commercial Court and many of her colleagues in Moscow and visited all levels of the commercial courts to achieve a better understanding of how to draft some of the more controversial provisions. Based on the recommendations of the Russian expert and the lessons learned in Moscow, the working group is now finalizing the code for submission to the government. The working group has inserted preliminary injunctive measures, reduced appeal time periods, and made other changes to assure that the Code meets with international best practices. The President has indicated that the law will be submitted to Parliament in the first quarter of 2006.

Law on Pledge of Moveable Property

LIME-TJ assisted the Tajik government with this law from inception through implementation. Previously, the law on pledge covered both moveable and immovable property. But analysis of practical experience showed that banks and other lending institutions were not using moveable property to secure loans, leaving a vast store of wealth untapped from the standpoint of accessing credit. Primarily, banks were securing loans with movable property, as no workable conditions for moveable property security were prescribed by the old law. To create a better climate for economic growth, LIME-TJ supported the process of modernizing the secured financing system for moveable property.

- **Drafting Phase:** LIME-TJ supported a governmental working group headed by Deputy Minister of Justice Rustam Mengliev to draft a new pledge law, taking into account modern best practices of secured financing. These concepts were entirely new in Tajikistan. LIME-TJ engaged an international pledge expert, Yair Baranes, in the drafting process and actively sought and considered input from other donors such as EBRD. The draft law was adopted on March 1, 2005. Provisions on the computerized pledge

registry will take effect a year after adoption, on March 1, 2006, to give the Ministry of Justice and the users time to practice using the new system.

- **Implementation Phase:** This phase began immediately after passage of the pledge law and is ongoing. LIME-TJ purchased furniture and office equipment for the new pledge registry department; provided technical assistance in how to set up the office; provided the server, workstations, and other computer equipment that will run the registry; purchased the registry software from an experienced contractor; and began the training process for pledge registry staff and lending institutions. LIME-TJ also assisted the Ministry of Justice to prepare the highly technical regulations that will govern operation of the pledge registry. Before purchasing the furniture, hardware, or software, LIME-TJ entered into a letter agreement with the Minister of Justice to clarify the obligations of each party and the goals of the pledge registry.

Law on State Registration of Rights in Immovable Property

LIME-TJ supported development of a new Tajik law on registration of rights in real property. The official government working group, formed in February 2004, met for several months with LIME-TJ support. Land use is highly controversial in Tajikistan, causing work to be slow. A first draft of the registration law was released by the Ministry of Justice in the second quarter of 2005 and distributed among the working group members and the State Land Committee. The draft immediately raised a storm of controversy, with the State Land Committee arguing that the structure of the draft violates Tajik law, most prominently the State Land Code. A significant degree of interagency rivalry exists between the Ministry of Justice and the State Land Committee, with both entities vying to control the registration process. To help alleviate that difficulty and to provide clarity to others in the government, in May 2005, LIME-TJ sponsored a two-country comparative study tour in Russia and Armenia, each of which has taken a different approach to maintaining a land rights registry. This study tour was specifically designed to bring international expertise and best practices to bear on the questions facing the working group. Experts from Russia, Sweden, and the United States accompanied the delegation on the study tour and provided input and insight.

Amendments to Civil Code Parts I and II

Part I of the Civil Code was passed on June 30, 1999. Part II was passed on December 11, 1999. Unfortunately, due to hurried translation of both parts into Tajik language, wide variations exist between the original Russian texts and the official Tajik versions. Because the Civil Code is such a fundamental cornerstone of civil and commercial law, the language variation created serious uncertainties and lack of uniformity in application. LIME-TJ worked to solve the problem by hiring a team of local translators and legal experts to harmonize the Tajik language version with the original Russian text. Because the law is so large, this was an ambitious project. The revised Tajik text was completed and presented to the government in June 2005. The next step for USAID should be to proceed with comprehensive amendments to the Civil Code, working with existing expertise in Tajikistan.

Implementation of Commercial Legislation

The mandate of LIME-TJ was not only to facilitate the drafting process, but also to provide significant support for the implementation of the laws enacted. As reflected in other parts of this report, the implementation of laws included extensive public awareness campaigns; training of judges, lawyers and other legal professionals; training of others in government and the private sector; and preparation and distribution of commentaries. In this section, we provide two examples of LIME-TJ's comprehensive approach to implementation of legislation.

Bankruptcy Code

LIME-TJ provided extensive implementation assistance for the Tajik bankruptcy law, which was drafted without LIME-TJ assistance and adopted in December 2003. Implementation support included two months of training for bankruptcy trustees, who then received formal accreditation from the Higher Economic Court; support for a new Tajik Bankruptcy Trustee Association; training for judges; training for tax inspectors;

training for economic faculty professors at universities across Tajikistan; an interactive training video for judges on bankruptcy law; and a public information campaign that included preparation, publication, and distribution of five educational brochures on the new law.

The old insolvency law was adopted in 1992 but did not include modern notions of bankruptcy. Tajik courts considered ten applications on recognizing a debtor as insolvent during the period 1992–2003, but actual proceedings were initiated in only one case. The main reasons for such passive implementation of the law were lack of knowledge among judges and lawyers, an undeveloped sub-legal base, and lack of trained bankruptcy trustees. Thanks to LIME-TJ intervention, members of the recently established Tajik Bankruptcy Trustee Association have assumed responsibility as trustees for 13 cases, three of which they have managed to conclusion and the other ten are still pending. Over 70 additional bankruptcy applications have been received by the courts.

LIME-TJ's implementation plan consisted of three main components: trainings, publications, and institutionalization of bankruptcy trustees. LIME-TJ conducted more than 15 training seminars for lawyers and economists in different regions of Tajikistan. Additionally, 15 Tajik judges participated in a two-week bankruptcy training program at the Russian Academy of Justice in October 2004. Because of a push by LIME-TJ to get bankruptcy concepts into the curricula at institutions of higher learning, bankruptcy management is presently included in the curricula of ten economic faculties at universities in Tajikistan. None included it before LIME-TJ. LIME-TJ prepared and published 3,500 copies of five different brochures on various aspects of bankruptcy. LIME-TJ selected on a competitive basis 20 lawyers and economists who participated in a two-month training program at the International Banking Institute in St. Petersburg, Russia. The attendees of this training established a new Trustee Association of Tajikistan in December 2003, which presently includes more than 40 members. With LIME-TJ support, the association conducted 14 one-day training seminars for approximately 350 economists, lawyers, and entrepreneurs on financial analysis in bankruptcy procedure during 2005.

Consumer Protection Law

The new consumer protection law was signed into effect on December 15, 2004. LIME-TJ designed and carried out a comprehensive public awareness campaign and professional training program to ensure that the law is implemented properly. LIME-TJ support included radio public service announcements in Tajik and Russian languages, newspaper columns in the Tajik newspaper with widest circulation, educational brochures explaining the rights and obligations of businesses and consumers, lawyer training seminars in all regions of the country, and an interactive judicial training video to demonstrate to judges how to most effectively resolve consumer protection disputes in accordance with the law. Implementation assistance was carried out in cooperation with two Tajik consumer NGOs, reinforcing their roles as key players in this area of the law and helping them develop additional institutional capacity.

1.2 JUDICIAL REFORM

KYRGYZSTAN

1.2.1 Judicial Training in Civil, Criminal, and Commercial Law

Description of the Tasks

During its previous four years under the task order, the Project amassed considerable experience at developing and carrying out training programs for judges. The Project was tasked with working more intensively with Kyrgyzstani judges and the Judicial Training Center (JTC) to develop a local, sustainable capacity to carry out regular seminars on current issues in law and practice in the areas of commercial, civil, and criminal law.

Project Objectives for October 2001–September 2002

- Beginning in October 2001, hold an average of at least one judicial training seminar per month for the duration of the contract (excluding the months of July and August, when judges are not available for training). (Ongoing)
- Develop courses on legal analysis and writing judicial opinions. (4Q 2001)
- In addition to the training referenced the first benchmark, beginning in January 2002, provide at least two courses per quarter on legal analysis and writing judicial opinions (one course on each subject per quarter). (Ongoing)
- Develop and publish training materials produced in connection with the training courses referenced above, and make such materials available for wide distribution, as project resources permit and as the CTO may approve. (3Q 2002)

Project Objectives for October 2002–September 2003

- Conduct two Phase 1 “Train the Trainers” workshop at the National Judicial College (Reno, Nevada) or another appropriate institution for a group of at least 10 Kyrgyzstani judges, with emphasis on commercial law and civil and criminal law. (4Q 2002)
- Conduct two Phase 2 joint workshop in Central Asia in which the participants from Phase 1 training are paired with foreign experts to train a group of their peers in their respective areas of law. (1Q 2003)
- Conduct two workshops with local and foreign experts (perhaps from the US and the Netherlands) aimed at improving Kyrgyzstani judges’ professional skills. Suggested topics include legal reasoning and analysis and writing judicial opinions. (2Q 2003)
- Support at least one Phase 3 training event (seminars conducted by trained judges) per month in, respectively, selected commercial law topics and selected civil and criminal law topics (no more than two-thirds of the workshops will be conducted in Bishkek). (beginning in February 2003)
- Work to increase the involvement of rank and file judges in the design of the commercial law, civil law, and criminal law judicial training program. (Ongoing)

Performance Objectives for October 2003–September 2004 and October 2004–August 4, 2005

Development and implementation of an effective program of technical assistance to the Kyrgyzstani judicial system along the lines set forth in the memorandum of understanding (MOU) prepared by the Project and USAID and was executed by the Supreme Court and USAID on March 16, 2004. The MOU provides for a judicial training program, further development and dissemination of the judicial opinion database, and the publication of official clarifications of the Supreme Court.

Summary of the Project’s Performance

The Project made great accomplishments in furthering judicial reform during the reporting period, in the face of a number of uncongenial factors, which are described below. The Project’s accomplishments include 1) developing and carrying out an extensive program of judicial training, attended by the production of extensive materials on law and practice; 2) developing, maintaining, and expanding the judicial opinion database, the only available source of information on what cases courts are hearing and how they are deciding them; and 3) facilitating the signing of a MOU between USAID and the Supreme Court, which elicited the official support of the court for the training program and the database, and created possibilities for cooperation in other areas of judicial reform.

The Project was not able, however, to satisfy all of the benchmarks and performance objectives for this area of activity, for the reasons described below.

Description of the Project's Work

Background. In September 2000, the US Embassy imposed a general ban on all US assistance to and cooperation with the Kyrgyzstani courts. This was a reaction to the role of the courts in the most recent parliamentary elections: the courts upheld trumped-up charges and falsified claims against contenders who opposed then President Akayev or planned to run against him in the 2000 presidential elections.

One year later, that ban was lifted, and USAID tasked the Project once again with carrying out a program of judicial training and fostering judicial reform in a variety of areas. The Project commenced working with both court systems—the commercial courts and the courts of general jurisdiction—and was able to carry out a number of judicial seminars through 2002.

When Nelya Beishenaliyeva became Chairman of the Supreme Court in 2002, however, the level of cooperation with the Project decreased considerably; Ms. Beishenaliyeva did not support judicial training and did not welcome USAID “intrusion” in any other areas of judicial reform. Participation by general court judges in judicial training activities dropped sharply and that which did continued demonstrated declines in earnestness and sincerity. Often, the same judges would be repeatedly sent to trainings, and attendance was very poor. Ms. Beishenaliyeva also did not allow her courts to participate in the judicial opinion database project.

The Project was able to continue working with the commercial courts, with whom a close working relationship had developed. (The commercial courts were staffed with judges who were younger and generally more open to modern ideas than the judges of the courts of general jurisdiction.) That cooperation came to an end in early 2003, when these courts were merged with those of general jurisdiction as a part of the amendments to the constitution carried out by popular referendum in February 2003. Cooperation with the courts became practically impossible. While the reorganization process took several months and courts were reorganized and the commercial court judges were reassigned, the primary reason for the difficulty was the attitude of the Supreme Court chairman.

In an effort to remedy the situation, the Project proposed to USAID that they enter into a MOU with the Supreme Court. It was hoped that, while Ms. Beishenaliyeva might ignore the overtures of an individual USAID project, she would not decline a proposal directly from USAID. USAID, with the Project's active involvement, drafted an MOU that called for the courts to help develop and support a comprehensive program of judicial training; support the continuation and expansion of the judicial opinion database; and allow USAID to propose issues for clarification by the Supreme Court where judicial practice was unclear or contradictory. In exchange, USAID agreed to consider providing assistance to the courts in the form of modern computer and office equipment.

In a letter sent to USAID in December 2003, Chairman Beishenaliyeva declined to enter into the MOU. The situation changed diametrically in February 2004, however, when she stepped down as chairman and Kurmanbek Osmonov was appointed in her place. Mr. Osmonov had been a judge in the Constitutional Court and had served as a Parliamentary Deputy and as the Minister of Justice. He was aware of the Project's activities in the areas of judicial training and judicial reform, and he welcomed the proposed MOU. The MOU was signed between USAID and the Supreme Court on March 16, 2004 (see below).

Since that time cooperation has been complete and unimpeded. The courts supported the judicial opinion database and judicial training. The events of March 2005 and their aftermath necessitated a hiatus in training, due to political turmoil in the country and within the judicial system itself. Some judges were vilified for election-related decisions, and the Supreme Court building in Bishkek was seized and held for several weeks by demonstrators. Despite the turmoil in the country, the Project was able to advance both the judicial training and the database projects forward with success following the signing of the MOU.

Memorandum of Understanding. The Project played a leading role in bringing about the signing of a Memorandum of Understanding between the Supreme Court and USAID. The MOU commits the Supreme Court to support the maintenance and expansion of the judicial opinion database and the development of a comprehensive judicial training program. The MOU also marks an important step in opening the courts up to formal and direct collaboration with donor organizations. The Kyrgyzstani courts have traditionally been closed and opaque; they have rarely ventured to formalize their relations directly with donors and have not been quick to formalize their own commitments to support donor initiatives. The MOU constitutes a departure from past practice and may lay the ground for broader cooperation with the courts in reform efforts.

Judicial Training Activities. During the Reporting Period the Project carried out a total of 22 judicial training seminars, in which a total of 432 judges participated.

	Oct.–Dec. 2001	2002	2003	2004	Jan.–July 2005	TOTAL
No. of Seminars	2	14	8	6	4	34
No. of Participants	48	266	104	160	102	680

Seminars conducted, by region	
Bishkek	14
Osh	6
Cholpon-Ata	1
Balykchi	1

Seminars conducted, by duration	
One day	4
Two days	4
Three days	14
Four day	3
Five days	9

Extensive Judicial Training Materials. The Project included, as a part of the MOU, an appendix that described the standards and criteria to be met for written materials prepared for judicial training. The Project carried out elaborate review and reworking of all draft materials prepared by lecturers and rejected those that did not meet our standards. Nevertheless, by the end of the reporting period, the Project had compiled completed materials for a total of 51 topics for judicial training, with materials for an additional six topics being nearly completed. The materials are distributed to participants at the judicial training seminars and serve as an important, additional source of legal information.

Additional Training Activities.

- Two 2-day seminars for notaries (April and May 2005); 37 and 49 participants, respectively
- One 5-day seminar for judicial enforcement officials (February 2005); 31 participants
- Two-day seminar for state Tax Department officials on judicial practice in tax matters (April 2003); 36 participants

Roundtables to Identify Issues in Practice. In addition, in 2001/2002 the Project carried out six roundtables with non-judge legal professionals to elicit ideas for issues that should be addressed in training for judges. These discussions addressed tax, bankruptcy, land reform, procedure codes, and enforcement of judgments. These steps were taken because legal practitioners usually have a much better sense than the judges themselves of judges' weaknesses or incorrect understanding of the law.

Judicial Testing. The Project introduced the idea of having judges tested on seminar topics immediately following the training seminar. We believed that it was important to introduce a measure of accountability and discipline in the training program. In 2004, we obtained the approval of Chairman Osmonov for this idea and developed a computer program that would allow participants to take the test on computers at the Judicial Training Center. We proposed this approach in order to allow judges to be tested objectively, eliminate opportunities for cheating and other subjective factors, and streamline the examination process.

By the end of the reporting period, participants in four seminars had undergone testing. The success was partial, however, because not all of the judges were comfortable taking the tests by computer, and the center did not force them to do so.

We believe that USAID or the successor project should revisit this issue. Nevertheless, we consider it a victory and a major step forward that testing of judges at training seminars has been introduced.

1.2.2 Support for the Judicial Training Center

Description of the Tasks

In the course of its work in the area of judicial reform during the reporting period, the Project was tasked with seeking ways to expand and intensify the scope of its work with the Judicial Training Center, with the objective of developing the capacity for creating, maintaining, and administering a comprehensive, modern program of judicial training.

Project Objectives for October 2002–September 2003

- Work collaboratively with JTC personnel to develop by the end of 1Q 2003 a curriculum of at least six judicial training modules and materials on commercial law and practice. The first two modules will be implemented in 2Q 2003, and all of them will be implemented by 3Q 2003.
- Work collaboratively with JTC personnel to develop their capabilities to develop and carry out a comprehensive, country-wide judicial training program. (Ongoing)
- Work to involve rank and file judges in the design of the center's judicial training program. (Ongoing)
- Work to build the necessary political support for the center within and outside the judicial branch so that its funding will be increased and maintained when support from the Project ends. (Ongoing)

Performance Objectives for October 2003–September 2004 and October 2004–August 4, 2005

The Project has reported on the low level of institutional capacity of the JTC. As the judicial training program is allowed to go forward, the Project will monitor the center on an ongoing basis for opportunities to provide it with effective and meaningful technical assistance that will raise its institutional capacity and level of operations. (Ongoing)

Summary of the Project's Performance

The Project made all reasonable efforts to help develop the JTC's institutional capacity. Although the Project received the support and cooperation of the JTC in the Project's program initiatives, owing to circumstances described below the Project was not able to increase the center's capacity as an institution.

Description of the Work Performed

There have been significant and persisting problems to overcome in carrying out this task. The JTC is a state institution, and, since its founding in 1998, it has had an austere and inadequate budget that covers only minimal salary levels for a small staff and modest amounts for accommodations and per diems for judges who come to Bishkek for training. For example, no funds have been provided to the JTC for producing and distributing training materials, which are an indispensable component of any training program, nor for staff training and development. For all state employees, salary levels are typically exceedingly low, which would keep most serious professionals from accepting employment there. The successes achieved in judicial training in Kyrgyzstan are due to the support and initiatives of outside donors, first and foremost, this Project, and the efforts of the two JTC directors, Anarkul Toksobayeva and Dilfuza Boronbayeva. The limited financial and political support that the JTC receives from the state, in our view, indicates the low priority that is

accorded to judicial training in policy-making circles. This was exacerbated by former Supreme Court Chairman Nelya Beishenaliyeva's lack of support for judicial training.

The Project has always enjoyed a constructive working relationship with the two, successive directors of the JTC. Owing to the circumstances described above, however, it has not been possible for the Project to carry out institutional reform of the center other than by working with staff and acquainting them with our methods and approaches. The JTC has always supported and facilitated our efforts to the best it could, but it has been unable to establish itself as a viable institution in its own right.

1.2.3 Judicial Reform (Operations and Administration)

Description of the Tasks

Comprehensive judicial reform has remained a pressing need in Kyrgyzstan. The Kyrgyzstani judicial system has been divided, institutionally and politically, and there has been no single institution to serve as a counterpart for all of the activities contemplated, nor does there appear to be consensus within the judicial system on how reform-related issues should be addressed. The Project was tasked, however, with promoting discussion and generating consensus, where possible. The Project was also tasked with developing or continuing initiatives in the areas described below, as opportunities arose, using whatever venue and approach appeared to offer the best chance of success at the time, e.g., working directly with one or more courts, working with parliament, or working through another donor organization's initiative.

The Project was also tasked with initiating a court monitoring activity to follow court performance as closely as possible. The activity would both provide empirical information to inform other reform initiatives, and might also have a chilling effect on judicial misconduct.

Project Objectives for October 2002–September 2003

- Continue providing select Kyrgyz courts with case and court management software, as well as training on how to use the software. (Ongoing)
- Make specific recommendations by 2Q 2003 concerning whether and when to bring in technical advisors from the Administrative Office of US courts to provide consultation on 1) court computerization and information policies and management; and 2) court administration and personnel management.
- Develop (by 1Q 2003) and provide support for a law that creates a progressive institution of judicial self-governance (e.g., similar to the Council of Justice that has evolved, with the Project's assistance, in Tajikistan) and provide assistance if such an institution should emerge. (Ongoing)
- If an acceptable law on enforcement of judgments is adopted by parliament, provide technical assistance and training to enforcement officials and related judicial personnel and legal professionals.
- Work with judges, parliamentary deputies, political officials, other donors, and others, as appropriate, to develop realistic, comprehensive strategy and conception of judicial system with corresponding budgetary requirements. (Ongoing)
- Develop by 1Q 2003 a strategy and relations with implementers for a court monitoring program and conduct a train the trainers program for court monitors in 1Q 2003, provide support for monitoring routine trials and proceedings and the court's observance of legal requirements of public access and openness (2Q 2003, 3Q 2003), and publish findings of first group of monitors. (3Q 2003)
- To the extent the Constitutional Court proves receptive, provide instruction for judges of the court on constitutional jurisprudence.

Performance Objectives for October 2003–September 2004

As stated in the MOU, the Project will explore the feasibility of further developing and applying the case and court management software in close cooperation with the former Highest Commercial Court. Any Project initiative will be carried out in the context of the World Bank grant to the Supreme Court to set up an internal information system within the courts. (3Q 2004)

Summary of the Project's Performance

The Project was not able to sustain any initiatives in this area for the reasons described below.

Description of the Work Performed

Prior to and throughout the reporting period, there was no sincere effort by the Kyrgyzstani authorities, i.e., the president's office, the parliament, and the judicial leadership, to reform the judicial system in a comprehensive and systematic fashion and help it assume its place as a professional and independent branch of power, despite considerable attempts to familiarize local policy-makers with Western experience and alert them to potential issues. It has been widely perceived that the courts have become more corrupt and subject to political control over recent years, with growing challenges to the authority of the current regime. The judicial leadership's first task has always appeared to be to ensure that judges' decisions reflect the interests of persons with power and influence whenever that is necessary. That persisting perception, confirmed by the courts' actions in the most recent parliamentary elections, in part fueled the popular dissatisfaction that led to the events of March 2005.

With cooperation with the majority of the courts at a standstill throughout most of 2002 and 2003, it was not possible to carry out programs in case and court management that required the support of the highest authorities or to obtain the courts' cooperation in court monitoring.

When cooperation resumed after the signing of the MOU in February 2004, we were able to enter productive discussions with the Supreme Court, the World Bank, and the private firm hired by the Supreme Court to develop the court information management system contemplated by the World Bank grant. In light of the information received work being carried out on the management system, the Project concluded that it would not be feasible to incorporate the case and court management software previously developed by the Project and the former Highest Commercial Court, however desirable and reasonable that would have been.

1.2.4 Judicial Reform (Legal Basis for Independence)

Description of the Tasks

In addition to the reforms noted above, reforms in the following areas were necessary in order to create an independent and effective judiciary in Kyrgyzstan: 1) judicial appointment and dismissal; 2) a code of ethics and enforcement mechanisms; and 3) judicial powers.

The Project was tasked with seeking to help accomplish these reforms by proposing revisions to the Civil Procedure Code, working in this effort with the courts and/or parliament, as circumstances permitted.

Project Objectives for October 2001–September 2002

Developing activities with the participation of the judiciary, parliament, and the executive branch, with such activities to include occasional seminars, working groups, and other constituency-building activities, as follows.

1. Judicial Appointments and Removal:

- Technical support for development of a Code of Judicial Ethics;
- Rules and regulations governing the work of a judicial qualifying commission;
- Assistance to parliament, which is likely to be charged with appointing judges, that imparts US experience;
- Technical assistance on developing law and rules governing the appointment and removal/impeachment of judges; and
- Technical assistance in developing a judicial qualification exam (applying the Project's experience and achievements from the contractor's project in Tajikistan).

2. Judicial Self-governance:

- Developing a program of technical assistance on judicial self-governance, imparting US and Russian experience, with active parliamentary participation, that would take the form of workshops followed by legislative drafting efforts.

3. Reforming the Structure of the Judicial System:

- Providing technical assistance in analyzing and developing a strategy for the structural reform of the judicial system that reflects Kyrgyzstan's needs and its available resources. Such a strategy would need to address fundamental issues such as the number and organization of courts, the number of judges, the number of support personnel, appropriate salary levels, and the proper place and role for the court.

Project Objectives for October 2002—September 2003

- Draft proposed revisions to Civil Procedure Code addressing 1) judicial appointment and dismissal (4Q 2002) and 2) judicial code of ethics. (2Q 2003)
- Provide support to parliament and/or appropriate judicial authorities for adoption of proposed revisions to Civil Procedure Code. (Ongoing, beginning 1Q 2003)

Summary of the Project's Performance

The Project seized opportunities presented by the constitutional reform process that began in May 2005 and developed and proposed amendments to the constitution that would lay the basis for a judicial system that is free from outside political control and accountable to society. While the outcome of the constitutional reform process remains uncertain, we are very pleased that we have been able to generate interest and support for our proposals for judicial reform in a public forum. We believe that we have opened public discussion of these ideas in Kyrgyzstan and that they will find increasing resonance in society.

Earlier efforts to promote judicial independence produced few tangible results, owing to the political situation described in Section 1.2 and 1.3 above, i.e., the lack of political will to reform the judicial system in a comprehensive fashion. For these reasons, the Project was not able to advance the designated tasks in this area.

Description of the Work Performed

Constitutional Reform/Judicial Reform. Through its work with businessmen and business associations in Kyrgyzstan (described in Section 1.3 below), the Project was able to find a public forum for its proposals on judicial reform through the constitutional reform process. As noted above, there has never been sufficient political will among Kyrgyzstani policy-makers to carry out wholesale, comprehensive judicial reform that would tear the courts from their Soviet roots and put them on a modern footing. Society at large was indifferent as well.

The events of March 2005 revealed, however, that citizens have seen the need for overhauling the judicial system. The Constitutional Assembly that was convened contained a number of representatives who shared these aspirations, but they lacked ideas on how to proceed. The Project developed and recommended constitutional amendments that would lay the basis for a judiciary that is both politically independent and accountable to society. The Project worked closely with members of the assembly working group and persuaded them to accept these proposals. The Project's recommendations must still be adopted by the entire Constitutional Assembly, and the constitutional reform process—as well as the road to judicial reform—remains tortuous with an uncertain outcome. Nevertheless, we are pleased to have been able to generate interest and support for our proposals for judicial reform in a public forum. We believe that we have opened public discussion of these ideas in Kyrgyzstan and that they will find increasing resonance in society.

Other Reform Efforts. In 2002, Project lawyers worked closely with Supreme Court judges and drafted extensive amendments to the Civil Procedure Code. Amendments drafted by the Project constituted the major part of the work done and provided for, among other things, increased judicial powers. The Supreme Court submitted the draft to parliament, but no action was taken on the drafts, and the Supreme Court appeared to retract its support for the draft.

Later, the Project took the lead in developing amendments to the Law on the Enforcement of Judgments, with the same result: cooperation with the Supreme Court judges was constructive and productive, but the court was not energetic or effective in pressing for the adoption of this much-needed legislation and there were no other local constituencies advocating for it.

TAJIKISTAN

1.2.5 Court and Judicial Reform and Court Modernization

Judicial Independence Increased

Six years ago, management of the court system was under the direct control of the executive branch of government through the Ministry of Justice. With assistance from LIME-TJ, Tajikistan developed new legislation establishing a Council of Justice that now controls administration of all *oblast* and District level courts. (The high courts are self administered, but they have also received extensive support from LIME-TJ to improve the environment in which their judges work—see below.) The law establishing the Council of Justice was adopted by the President and took effect in December 1999. The Council of Justice is at least nominally independent now, and stands to become more independent given more time and resources. It has played a key role in developing the Judicial Training Center, successfully advocating for increased court budgets, increased tenure for judges, increased number of judges, and higher judicial salaries.

Judicial Examination

Like the USAID Commercial Law Project before it, LIME-TJ continued to push hard for increased judicial professionalism. LIME-TJ sponsored preparation and administration of a third judicial examination in March 2002. There were 102 sitting judges and 56 judicial candidates who took the examination; eighty-eight of the judges (87 percent) and thirty-five (62 percent) of the judicial candidates passed the exam. Judges and

candidates that failed the exam were removed. Although the examination process was difficult from the personnel and political standpoints, it provided the country with a strong, merit-based system of judicial promotion. In this regard, Tajikistan's judicial examination process completely reshaped the Tajik judiciary.

Progress in Court Reform

The judicial examination process was controversial, and after new leadership was installed at the Council of Justice, the judicial examination process came to a halt. For many months, it was unwilling to cooperate further with LIME-TJ on any court or judicial reform activity. Moreover, the courts in Tajikistan are extremely closed environments, as the bulk of their decisions are considered to be state secrets. Despite the difficult environment in Tajikistan, LIME-TJ has taken meaningful steps in assisting the process of reforming the courts. LIME-TJ established a Judicial Reform Committee made up of key judges and Council of Justice members in 2002. This Judicial Reform Committee prepared recommendations aimed to improve independence of judiciary, some of which were implemented in laws and other acts. For instance, on the basis of recommendations provided by the committee, changes were made to the Constitution that increased judges' terms of service from 5 to 10 years. Differentiation of the service terms for representatives of the three branches of government (legislative: 5 years, executive: 7 years, and judicial: 10 years) are a criterion of the principle of separation of powers.

Court Automation

With guidance from LIME-TJ, the Judicial Reform Committee also developed a plan to automate court functions and create re-usable electronic templates for frequently used court documents. USAID entered into a Memorandum of Understanding with the Supreme Court and the Higher Economic Court in October 2004 setting forth the agreement by USAID to provide computers and training and the agreement by the courts to provide access and cooperation. LIME-TJ completed implementation of this program in both high courts in March 2005. Judges who previously used manual typewriters or pens to complete their decisions and other documents are now using word processing programs on new computers. Court documents are more uniform as a result of the development of computer-based templates. LIME-TJ provided computer training for these judges and paid for the new computer equipment at the courts. LIME-TJ also provided judges at these courts with automated, searchable access to all the laws of Tajikistan on the Adlia legal database. The Court Reform Committee that LIME-TJ helped establish advocated for increasing both the period of judicial tenure and judicial salaries. Both of these goals were achieved.

Ethical Standards Applied to Improve Judge Behavior

In October 2004, the Association of Tajik Judges adopted a Code of Judicial Ethics, which was developed with assistance from LIME-TJ. Since adoption of the code, the association has recommended sanctions against eleven of its members. The code contemplates three levels of sanction: warning, censure, and dismissal. Of the eleven recommendations brought to the Council of Justice since October, eight have resulted in warnings being issued by the council, while three have resulted in censure.

Judicial Resource Centers

LIME-TJ funded and developed seven research libraries at regional level courts across Tajikistan. The centers include study tables and chairs, custom-made book shelves, hundreds of new legal books, proper lighting for study, heating and cooling, and a computer for legal research equipped with standard office software and the LIME-TJ Adlia law database. LIME-TJ implemented the judicial resource center project in cooperation with the Council of Justice, which funded all repairs and upgrades necessary to the rooms in each court. To help the courts better serve the public, LIME-TJ also provided each *oblast* court with a new photocopier and initial assistance with office supplies. The Council of Justice agreed to provide additional budget funds for the equipment maintenance and supplies needed in the future.

I.2.6 Professional Training for Lawyers and Judges

Training for Lawyers

LIME-TJ worked to improve lawyers' professional skills with regard to commercial law on the basis of the Civil Code and other relevant laws. Following its judicial training model and again making use of local instructors, US training institutes, and comprehensive workshop materials, LIME-TJ created a class of well-trained legal professionals capable of handling the legal complexities of a modern market economy. In 2002, LIME-TJ funded a one-week Training of Trainers program for 20 Tajik lawyers at the International Development Law Organization in Rome, Italy. During the ensuing three years, LIME-TJ worked with these trainers to conduct 31 regional lawyer training seminars for approximately 785 lawyers. In addition to their training activities, several members of the LIME-TJ cadre of lawyer trainers actively were involved in developing the LIME-TJ Lawyers Handbook, volumes 1 and 2.

Training for Judges

Judicial Training in Dushanbe and Regions

Six years ago, there was virtually no judicial training in Tajikistan. Judges who had received training generally obtained it in Moscow—before the fall of the Soviet Union. There were no judicial trainers in the country. LIME-TJ carried out an extensive judicial training program both in Dushanbe and throughout the country. LIME-TJ provided extensive training of trainers, resulting in a solid cadre of judge trainers—now numbered at more than 30. In total, 21 regional training events were conducted by LIME-TJ, providing continuing judicial education to more than 600 judge participants.

Institutionalization of Judicial Training

With guidance and support from LIME-TJ, the ad hoc regional training program evolved carefully into an institutionalized system through the Tajik Judicial Training Center, created in 2004 under the authority of the Council of Justice. LIME-TJ provided significant support to organize and equip the training center. Since the Judicial Training Center commenced its operations in September 2004, it has been providing steady, two-week training sessions to more than 20 judges a month. So far, approximately 260 judges from District and *oblast* courts have attended this training. LIME-TJ cooperates with the Soros Foundation and Swiss Development Agency to fund all of this training. The curriculum is a broad-based study of general substantive law, both criminal and civil, as would be expected in a situation where the concept of institutionalized training for judges is so new. Beginning in January, 2005, after months of suggestion by LIME-TJ, the Judicial Training Center began testing judges undergoing training to determine the impact of the training program on judge knowledge. Two 50-question multiple choice tests are now administered to all training participants, one before training starts and one at the end of training. Test results demonstrate a marked improvement in knowledge gained during the course. All judges being trained at the Judicial Training Center are active, sitting judges. They are taking this increased knowledge back to their respective courts and applying it in their decisions.

Judicial Training Equipment and Videos

LIME-TJ has produced a video library of eight interactive judicial training programs on DVD. Each video covers a key topic facing judges and provides realistic, in-court scenarios of how judges should handle difficult situations and apply the law fairly. The videos are created in both Russian and Tajik. One video covers judicial ethics. The others cover various areas of substantive and procedural law. LIME-TJ worked with the Council of Justice and the High Courts to develop schedules for all judges to watch them. LIME-TJ also provided DVD equipment and new televisions to the high courts and all regional courts for use with the DVDs so that judges from all regions of the country can view them. The scripts for these videos were developed by Tajik judges; judges and court staff members acted in them. One reason they are effective is because judges played such a key role in developing them.

I.3 BUILDING CONSTITUENCIES FOR A MARKET ECONOMY

KYRGYZSTAN

I.3.1 Preparation and Dissemination of Legal Information

Description of the Tasks

Available legal information in Kyrgyzstan falls far short of the requirements of a market economy and an open, democratic society. Private firms are inhibited by existing market conditions from introducing a broad range of legal information products, and the state has thus far produced little legal information that is easily accessible or in a useful and comprehensive form. In addition, there are few, if any, local organizations in Kyrgyzstan that, without outside assistance, could sustain training activities for legal professionals and other activities to promote public dialogue and discussion of legal reform issues. Very little information on legal matters is published or transmitted through the mass media that. Yet these are all necessary components of a democratic legal culture. For that reason, the Project was tasked to continue actively operating in this area.

The Project was tasked with carrying out its activities in three separate areas: 1) producing commentaries, journals, digests, databases, etc.; 2) carrying out roundtables, seminars, and conferences on commercial law topics; and 3) producing a regular television program on tax and other legal issues.

Commentaries, Journals, Digests, and Databases. In order for the rule of law and a participatory legal culture to arise, it is important that the public have ready access to accurate, comprehensive, and intelligible legal information. The Project became a primary source in Kyrgyzstan of explanatory, analytical legal information for legal specialists, business, and the educated public.

The Project was tasked with preparing and broadly distributing a wide range of legal information, in hard copy and/or electronic form, as appropriate, as described and listed below. The Project was also tasked, where feasible and reasonable, to issue its products in the Kyrgyz language and in Russian. (Note: Prior to 2002 it was not technically possible to produce electronic information in Kyrgyz.)

Objectives for October 2001–September 2002

- Developing a CD-ROM package with search software for the *Land Law Digest*. (4Q 2001)
- Distributing 1,000 copies of the *Land Law Digest* on CD-ROM (1Q 2002)
- Establishing a Web site for the *Land Law Digest* (1Q2002)
- Republishing and distributing GosRegister materials (2Q 2002)
- Updating and republishing the *Land Law Digest* on CD-ROM (3Q 2002)
- Publishing six issues of *Expert.kg* (Ongoing)
- Producing five booklets on tax issues (Ongoing)
- Completing a project to publish 20 brochures on legal topics written for the educated non-specialist. The brochures will be published in quantities of 1,000 copies and distributed to the public through the Chamber of Tax Consultants and the Lawyers Association.

Objectives for October 2002–September 2003

- Produce updates to *Commentaries to the Tax Code* Once a year; 800 copies

• Produce updates to <i>Commentaries to the Civil Code</i>	Once a year; 800 copies
• Publish <i>Law and Business</i> journal	Six issues; 1,500 copies per issue
• Publish <i>Tax and Law</i> journal	Four issues; 500 copies per issue
• Produce updates to the <i>Land Law Digest</i>	Once a year; 400 copies
• Produce form book of standard contracts (Proposed topic: commercial law practice)	Once a year; 200 copies
• Produce materials for commercial law/civil practice	Once a year; 800 copies
• Produce public information brochures on topics of general and commercial interest	Five brochures per year; 800 copies per brochure
• Produce Web sites for legal information for Chamber of Tax Consultants and Lawyers Association	Updated weekly
• Produce Judicial Opinion Database	3,000 opinions by 3Q 2003; at least 2 editions per year; 500 copies per edition

Performance Indicators for October 2003–September 2004 and October 2004–August 4, 2005

Performance indicators for these activities include 1) developing and publishing a wide range of legal information products; 2) developing and holding (on average) one roundtable, seminar, or conference per month for legal and other professionals on current issues in commercial law and practice, tax law and practice, or legal and judicial reform; and 3) successfully training businessmen as trainers and developing and carrying out further training programs among relevant constituencies in society using our innovative approach.

Summary of the Project's Performance

The Project more than satisfied the benchmarks and performance objectives for this area and became a primary source of legal information in Kyrgyzstan. The Project produced a wide range of comprehensive, practice-oriented legal information products that are unique and significant for the development of a market economy and rule of law. These include the judicial opinion database; *Commentaries to the Tax Code*, which is highly praised by local specialists; the *Dictionary of Kyrgyz Legal Terms*, to help the Kyrgyz language develop as a one of modern legal discourse; our six-volume set of *Commentaries to the Civil Code*; databases including the *Electronic Litigation Guide*, the *Electronic Guide to Notarial Transactions*, and the *Land Law Digest*; and two regular journals, *Law and Business* and *Tax and Law*; as well as other publications.

Description of the Work Performed

The Project produced the following legal information publications and products during the reporting period.

Commentaries to the Civil Code. This is a six-volume set of commentary and elucidation of the entire Civil Code of the Kyrgyz Republic, i.e., Parts I and II. The purpose of the commentaries is to make each provision of the Civil Code intelligible to the educated non-specialist and, thereby, increase the likelihood that the Civil Code will come to be understood, embraced, and used by Kyrgyzstani society at large. The commentaries have been written with an emphasis on the practical application of each provision in Kyrgyzstan today, using real-life examples where possible. The Project organized the development of *Commentaries to the Civil Code*, primarily using local legal practitioners as contributors.

The Civil Code is perhaps the single most important law in Kyrgyzstan today, for it establishes the legal basis for all civil and commercial relations. Despite the Civil Code's great importance, the commentaries are the

first such supplement to the Kyrgyzstani Civil Code that has been produced. We believe that they will meet a great need felt by law students and teachers, laypersons and legal professionals alike.

The six-volume set is approximately 3,400 pages long, 1,500 copies were printed, it exists in electronic form, and it was completed in July 2005.

Dictionary of Kyrgyz Legal Terms. While Russian remains the primary language of legal discourse, the knowledge and use of Russian by non-Russians in many areas of Kyrgyzstan is declining. The development of the rule of law has been hampered in Kyrgyzstan by the absence of a concerted effort to develop the Kyrgyz language as a medium of modern legal discourse. Most legislation and judicial opinions in Kyrgyzstan are drafted initially in Russian and then translated into Kyrgyz. The translation is often inconsistent and unclear. As a result, Kyrgyz usage lacks uniformity, and many modern legal concepts—typically those concepts fundamental to democracy and a market economy—have not found satisfactory reflection in the Kyrgyz language.

The Project sought to help address this problem by developing a comprehensive dictionary of legal terms in Kyrgyz in order to help create the basis for uniformity in the usage of legal terms in Kyrgyz, thereby helping the Kyrgyz language become a language of modern legal discourse in its own right. We see this as a fundamental prerequisite to the development in Kyrgyzstan of a rule of law.

The dictionary is in one volume, it is approximately 1,000 pages in length, 3,000 copies were printed, it is available in electronic form, and it was completed in July 2005.

Commentaries to the Tax Code. Our *Commentaries to the Tax Code* contains a detailed analysis of the provisions of Kyrgyzstan's Tax Code along with descriptions of the most commonly encountered problems and recommendations on how to deal with them. The main purpose of the commentaries is to help tax officials, lawyers, businessmen, and the general public to better understand the Tax Code and the peculiarities of its enforcement. These commentaries were developed by lawyers, auditors, tax consultants, and tax officials, i.e., practitioners who study and apply the tax law as a part of their profession. As a result and by design, the *Commentaries to the Tax Code* are practical rather than theoretical. Particular attention has been paid to the complexities and challenges associated with application, making this a particularly useful source of practical guidance. The commentaries enjoyed tremendous popularity.

The commentaries are in one volume, it is 468 pages in length, and 1,500 copies were published.

Electronic Litigation Guide. This guide is a unique legal information system that provides the user with all of the forms used for motions and pleadings in criminal, civil, commercial, and administrative law judicial proceedings along with commentaries and explanations that link the forms to the underlying laws and regulations. Materials included in the guide reflect the extensive experience of a renowned Kyrgyzstani attorney, Ms. Gulguna Kaisarova.

For the majority of procedural actions, the *Electronic Litigation Guide* includes selected acts of national and international legislation, an overview of judicial practice, and a list of documents necessary at successive stages of the adjudication process in order to maintain a consistent position. The guide also contains comments by experts and excerpts of speeches and arguments made by attorneys before courts. The CD-ROM version of the guide enables an attorney to create his own computer database of clients and court trials.

Many of the court forms included in the *Electronic Litigation Guide* for criminal defense are also included in the Project's hard-copy publication, *The Attorney's Handbook: Protecting Citizens' Rights in Criminal Proceedings (Pretrial Stage)*.

The guide is 258 pages long and has been distributed in an edition of 1000 copies. A CD-ROM edition is available.

Electronic Guide to Notarial Transactions. This guide contains the legal forms used by the notary in everyday practice. Documents included in it are recommendations meant to simplify the notary's work.

The guide contains a variety of forms: powers of attorney, applications, contracts, instructions, acts, certificates, acts of prohibition, etc. The guide has a convenient interface that provides the user with easy access to the information on issues of Kyrgyzstani law necessary to perform notary actions, introduce changes and amendments to forms, and print them out. This information system allows for searches for forms in the following sections: “General Provisions,” “Transaction Certification,” “Fact Certification,” and “Other Notary Actions.”

The CD-ROM version of the guide enables a notary to create his own database of clients and forms.

Law and Business. The Project’s *Law and Business* journal was developed to serve as a medium for disseminating topical information on Kyrgyzstani commercial law and related business issues to legal and business communities and policymakers. Throughout the Reporting Period, the journal had been published in both Russian and English versions, and the July 2005 issue was published in Kyrgyz. An underlying motive to publishing the journal was to counter the stereotypical thinking and sense of fatalism prevalent in Kyrgyzstani society that holds that law is useless and irrelevant to the needs of businessmen and citizens alike, by demonstrating how the law can be used in a practical way to protect one’s rights and advance one’s interests. In our view, that fundamental attitude must be changed in order for a rule of law to take hold in Kyrgyzstan (as well as other post-Soviet societies).

In the journal, we addressed complex issues, illustrated legal problems surrounding the conduct of business in various sectors of the economy, discussed issues concerning the legal regulation of social relations, and described instances where law has been used successfully to protect businessmen’s rights and interests. The journal contained the following regular features: “Business Issues”; “The Law and Life”; “Issues and Opinions”; “News on Third-Party Arbitration”; “Corporate Governance”; “Young People Have the Floor”; and “Regulating Technical Matters.” In addition, we distributed a number of databases and other legal and related information in CD-ROM format with the journal as a bonus to readers. In some cases, special issues were produced on individual topics.

Our efforts to tailor the journal to address practical issues were rewarded with a steady increase in interest, demand, and participation by the public and professional communities. As a result, both the readership and the issues themselves grew in size (see the information below). While the journal was styled to come out every two months, the Project increased that frequency with special issues.

	Oct.–Dec. 2002	2003	2004	Jan.–July 2005	Total
No. of issues in Russian	2	6	8	3	19
No. of issues in English	2	6	6	2	16
No. of issues in Kyrgyz	—	—	—	1	1
Average page length (Russian)	36	41	77	153	

Special issues:

- *On Judicial Reform*, August 2004
- *Civil Procedure Code*, October 2004
- *Land and Real Property; Law on Mortgage* (also in Kyrgyz), April 2005
- *Administrative Responsibility*, July 2005

Databases created and distributed on CD-ROM:

- *The New Labor Code*, September 2004
- *Taxes: Yesterday, Today, and Tomorrow*, November 2004

- *E-library: Law in Aid of Business*, December 2004
- *Database of Ministry of Justice*, February 2005
- *Database of Ministry of Justice (updated)*, April 2005
- *Database of Ministry of Justice (updated)*, July 2005

Issues were distributed, on average, in editions of 1,100 copies.

Tax and Law. This is a professional journal addressing issues of tax law and accounting and related commercial law. *Tax and Law* is published by the Chamber of Tax Consultants with the financial support of the Project. Soon after it first appeared in November 2002, the journal became popular, and it now has about 700 permanent subscribers. (Note: the journal was first introduced under the name *Expert.kg*.)

Tax and Law provided the reader with analytical articles on a wide variety of tax issues, practical recommendations on keeping one's tax records and filling out tax documents, responses to taxpayers' questions from officials of the Revenues Committee and from private tax consultants, discussions of proposed laws, an analysis of judicial practice, new development in tax law, and information on tax issues in the "far and near abroad," along with many other features. All materials were compiled and prepared by members of the chamber. The journal contained the following regular features: "The Complicated Made Simple"; "An Expert's View"; "Questions and Answers"; "Hotline"; "Timely News"; "Customs Matters"; "Lawyer's Advice"; "New Developments in Legislation"; and "On Accounting." The Ministry of Finance and the Revenues Committee also provided informational support for the journal.

Tax and Law was published on monthly basis. Over the Reporting Period, a total of 32 issues were published, averaging 36 pages an issue. When the journal was first begun in 2002, 300 copies were printed. Owing to increasing popularity and demand, the size of each printing rose steadily and by 2005 reached 1000 copies per issue. The journal received many reports from readers of specific instances where information provided by the journal enabled them to solve concrete problems in tax law and accounting.

Database of Judicial Opinions. The Project has developed a *Database of Judicial Opinions*. The database contains opinions in electronic form with direct links to any cited statute or decree that are also contained in the database. The opinions are presented in their original language (i.e., Russian or Kyrgyz), and the cited legislation is in the same language. Prior to the creation of the database, there was no public access to a comprehensive body of judicial opinions in Kyrgyzstan—in short, there was no way to know what kinds of cases Kyrgyzstani courts were hearing or how they were deciding them.

Public access to judicial opinions is essential for a number of reasons. First of all, courts' understanding and application of the law is an important part of a legal culture—judicial decisions show where the law is unclear or contradictory, indicate the extent to which the law is inconsistent with existing realities, and sheds light on where changes to the law are necessary. Publishing judicial opinions makes legal research and analysis possible and creates the possibility for judicial practice to become more predictable and consistent. In addition, public access to judicial decisions imposes a necessary measure of transparency and accountability on the courts. This is particularly important in post-Soviet societies.

Prior to the signing of the MOU with the Supreme Court, the database was limited to the opinions of the commercial courts. With the unification of the court systems, we were able to expand greatly both the number of opinions in the database and the number of courts providing them.

As of January 1, 2002, the database contained approximately 12,500 judicial opinions, approximately 2,000 of them in Kyrgyz. At present, the database contains over 22,000 opinions, approximately 2,400 in Kyrgyz.

The number of participating courts has increased from the 15 courts of the former commercial court system to 36 courts today (roughly 60 percent of the total number of courts in Kyrgyzstan) that are located throughout the country.

A persistent problem in the courts has been outmoded information management methods. Traditionally, judicial opinions were kept by the courts in a single copy stitched into large case files. The Project has used the database project to help the courts adopt more modern management practices and archive their opinions in electronic form. Following the signing of the MOU, we provided each of the participating courts with the computer equipment necessary for them to do this. As a result, over 80 percent of the opinions that we now receive from the courts for inclusion in the database are provided to us in electronic form.

Land Law Digest. The Project developed and updated the *Land Law Digest*, which contains comprehensive information about the regulation of land relations in Kyrgyzstan. A search system makes it possible to compare Kyrgyzstani land legislation with that of selected other commonwealth of independent states (CIS) countries and contains reviews of official legal clarifications, model contracts, and contact information for the state agencies that are involved in land reform implementation.

The *Land Law Digest* contains the following sections:

- Land legislation (in Kyrgyz and Russian);
- Commentaries (e.g., clarifications by state agencies, articles, and materials from training programs);
- Sample document forms;
- Business information (contact information of state agencies and international organizations involved in land reform);
- Frequently asked questions; and
- Legislation of other CIS countries (Russian Federation, Uzbekistan, Kazakhstan, Belarus).

Collection of materials on human rights. The Project compiled a 600-page collection of materials on human rights. This contains both the international conventions related to human rights to which Kyrgyzstan is a party, as well as relevant local legislation.

“My Rights” public information brochures. The series brochures provides basic information on the legal issues that are most commonly encountered by Kyrgyzstani citizens in everyday life. During the Reporting Period, the Project, together with the Chamber of Tax Consultants, published six different brochures on the following subjects:

• Accounting for Beginners	• Taking a Civil Case to Court
• Choosing Your Tax Strategy	• A Handbook on a Depositor’s Rights
• The Respective Rights of Taxpayers and the State Tax Inspectorate	• Taking a Case to Commercial Court
• Calculating Taxes that are to be Withheld at the Source	• A Shareholder’s Handbook
• International Taxation	• A Driver’s Rights and Duties
• Standard Civil Contracts, with commentary	• Defending Human Rights in Kyrgyzstan
• You and the Notary	• Penalties for Tax Law Violations
• The Tax Treatment of Not-for-Profit Organizations	• How to Start a Business
• A Businessman’s Rights and Obligations under the Customs Code	• Sectoral Taxation
• How to Pay No More Tax Than You are Required by Law to Pay	• Consumers’ Rights
• How a Lawyer Can Help	• Seeking Compensation for Damages from Unlawful Acts by State Officials
• Transactions in Real Property	

The brochures averaged 40 pages in length and were issued in 2003–2004 in editions of 1,000 copies each.

“The World of Legal Entities” brochures. The Project and the chamber published two booklets of the above series on the following subjects:

- All the Secrets of Registering Limited Liability Companies. 114 pp., 500 copies, January 2004.
- All the Secrets of Registering as Individual Entrepreneurs, 66 pp., 500 copies, March 2004.

Regular features in *Obschestvennyi Reiting*. The Project sponsored the appearance in the local newspaper, *Obschestvennyi Reiting*, of numerous articles on commercial law subjects.

Other Publications:

Collection of Normative Legal Acts Governing the Judicial Enforcement Officers. July 2005, 480 pp., 500 copies.

The Law on Joint Stock Companies (in Kyrgyz and Russian), July 2, 2005, 173 pp., 200 copies. (prepared for the judicial training program)

The Labor Code of the Kyrgyz Republic (in Kyrgyz and Russian). July 2005, 255 pp., 100 copies. (prepared for the judicial training program)

The Code of Family Relations the Kyrgyz Republic (in Kyrgyz and Russian). July 2005, 220 pp., 100 copies. (prepared for the judicial training program)

Third-party Arbitration in Kyrgyzstan: Emergence and Development. 2005, 234 pp., 560 copies.

The Criminal Procedure Code of the Kyrgyz Republic (in Kyrgyz and Russian). 2005, 591 pp., 100 copies. (prepared for the judicial training program)

The Criminal Code of the Kyrgyz Republic (in Kyrgyz and Russian). 2005, 438 pp., 100 copies. (prepared for the judicial training program)

The Civil Procedure Code of the Kyrgyz Republic (in Kyrgyz and Russian). 2004, 452 pp., 1000 copies.

Handbook on Applying the Rules for the Registration of Normative Legal Acts of State Agencies and Bodies. 2004, 69 pp., 500 copies.

Tax Law. 2003, 288 pp., 500 copies.

The Law on the Enforcement of Judgments and the Status of Judicial Enforcement Officers. October 2002, 114 pp., 500 copies.

The Project Web site. The Project maintained an ever-expanding Web site to serve as an additional source of legal information. The site contains a wide range of information about the Project’s activities and legal reform issues and developments in general. The Web site also provided direct links to the text of the majority of the Project’s publications and legal products. Over 30,000 visits (“hits”) to the site were recorded over the Reporting Period. The Web site’s address is www.ard-cccchi.kg.

In an effort to prompt increased awareness of the resources available on the Web site, the Project carried out a promotion program that provided law students and faculty members with free access to the site and other linked sites for two months.

Electronic library of English translations of local laws. The Project produced English translations of a number of key commercial laws, formatted in opposing Russian and English language pages. These are directly accessible through the Project’s Web site.

I.3.2 Joint Programs with Local Professional Organizations: Roundtables, Seminars, and Conferences on Commercial Law Topics

Description of the Tasks

In close coordination with local counterpart professional organizations, such as the Lawyers Association of Kyrgyzstan and the Chamber of Tax Consultants, the Project was tasked with carrying out regular roundtables, seminars, and conferences on current issues in commercial law and practice; tax law and practice; and legal and judicial reform. These activities were to be designed for legal professionals and entrepreneurs. Such seminars would be an important means of disseminating information, promoting the discussion of legal issues, including the private sector in the legal reform process, and fostering horizontal links among the professional and business communities. The seminars would provide support and visibility to local counterparts, foster the emergence of a legal culture generally, and also provide valuable feedback on legal issues and problems, information the Project could apply in its other activities.

Objectives for October 2001–September 2002

- Carrying out one seminar or workshop per month (excluding the months of July and August) (Ongoing)

Objectives for October 2002–September 2003

- Produce and air at least 36 minutes of television programming on tax and other legal issues per month

Objectives for October 2002–September 2003, October 2003–September 2004, and October 2004–August 4, 2005

- Conduct, on average, one roundtable, seminar, or conference per month on current issues in commercial law and practice, tax law and practice, or legal and judicial reform (Ongoing)
- Prepare and publish written materials for distribution to participants at roundtables, seminars, and conferences (Ongoing)

Summary of the Project's Performance

The Project more than satisfied the benchmarks and performance objectives in this area. Our primary partner was the Chamber of Tax Consultants, because they have been the most committed and active of all of our potential counterpart organizations in Kyrgyzstan.

Description of the Work Performed

Training seminars on commercial law and tax topics. During the Reporting Period, the Project and the Chamber of Tax Consultants carried out a total of 71 seminars on tax and commercial law subjects, in which a total of 1,520 persons participated (1,125 women and 395 men). The seminars were carried out in Bishkek, Karakol, Osh, Tokmok, Naryn, Kajisai, Kochkorka, Kara-Balta, Belovodsk, and Cholpon-Ata.

Extensive learning materials were prepared and distributed at each seminar. Breakdowns of the topics and locations of the seminars, respectively, are shown below.

TOPIC	NO. OF SEMINARS
Taxation in the Kyrgyz Republic	12
Tax and the law of business	10
The tax treatment of not-for-profit organizations	7
The treatment of individual entrepreneurs	7
Recent developments in tax law	11
Filling out tax declaration forms	6
Taxation in transactions with securities	1
Customs law	6
For lawyers in the tax inspectorate	1
Tax planning	1
The land tax and local taxes	2
Special features of tax treatment in the Karakol free economic zone	1
The taxation of credit unions	1
Making the transition from a tax patent to registering as an individual entrepreneur	1
Special aspects of taxation and accounting in the construction industry	1
Taxation in export-import transactions	1
Tax and customs law	1
For executives	1
LOCATION	NO. OF SEMINARS
Bishkek	45
Tokmok	8
Osh	5
Karakol	5
Naryn	2
Kara-Balta	2
Cholpon-Ata	1
Kajisai	1
Belovodsk	1
Kochkorka	1

In addition, the Project and the Chamber of Tax Consultants carried out a total of three seminars for the legal staff of the State Tax Inspectorate, a roundtable for accountants and finance specialists of local commercial banks on current tax issues related to banking activities, and a series of seminars on tax planning.

Roundtables for tax specialists. The Project and the chamber also held five roundtables for tax specialists that addressed particularly thorny questions in tax law surrounding the land tax, value-added tax (VAT), and unresolved tax issues arising out of privatized collective farms.

Regular television program on tax and other legal issues. The Project produced a total of 27 television shows for our television series, *Nalogi.kg*, which we developed and produced jointly with the Chamber of Tax Consultants. The shows addressed topical issues of interest to the educated viewer and averaged 20 minutes in length. We stopped producing the show when we believed that available human resources necessary to produce it had been exhausted.

Hotline on tax issues. Beginning in October 2003, the Project and the Chamber carried out a hotline that allowed citizens to ask private tax specialists questions about tax issues. The rationale for this program was that it was difficult for citizens to find qualified tax specialists in many regions of the country. The hotline functioned by telephone, e-mail, and face-to-face interactions. The hotline addressed questions on law, taxes, and accounting. Since its inception, the hotline received a total of 637 inquiries by e-mail, 3,007 inquiries by email, and 1,054 walk-in visitations.

1.3.3 Programs for Progressive Local Businessmen

Description of the Tasks

In 2003, at its own initiative the Project sought to determine why citizens in Kyrgyzstan, as a rule, did not challenge the customary practice of the state of violating or ignoring its own laws. In our view, this was a serious impediment to the emergence of a rule of law in Kyrgyzstan. In particular, we focused on the business community, on the assumption that they were often the most proactive, dynamic people in the society, that they had progressed farthest from traditional Soviet attitudes, and that they would seek to minimize outside interference in their own affairs. The results of our inquiry—carried out through numerous roundtables and meetings with the business community—surprised us, for we discovered that business people by and large did not think about the law and did not believe that there was any reason for them be familiar with it. We discovered that most business people, like most people in Kyrgyzstani society, had the same attitudes towards law as they had in Soviet times, i.e., they viewed law as an instrument of state used to achieve its own ends. Even though the law itself had undergone a complete revolution (consider, for example, the establishment of private property rights), most people here simply did not think or believe that they could use the new laws to protect their rights and advance their interests.

Our first efforts to train businesspeople produced positive results—many business people came to see that the law was indeed relevant to them and could and should be incorporated in their daily affairs. USAID then tasked us to continue this work.

Objectives for October 2003–September 2004

- Develop and carry out a “Train the Trainers” program for a group of 12 to 20 businessmen (To be completed in 1Q 2004)
- Develop and begin to carry out further training programs for businessmen and other non-specialists, using those businessmen who successfully completed the course described in above as trainers. (To commence in 2Q 2004)

Objectives for October 2003–September 2004

- To expand the number of entrepreneurs who receive the Project’s basic orientation course in the relevance of law for business
- To identify additional entrepreneurs who can serve as trainers for other activities with businessmen
- To provide more intensive instruction in specific areas of law relevant to business in which entrepreneurs have expressed interest
- To increase the level of entrepreneurs’ interest and participation in developing laws and regulations affecting business and in defending their legal rights
- To build links among entrepreneurs and between entrepreneurs and lawyers in order foster common efforts to promote legal reforms that will provide more protections for local business and help create conditions that will bring local business out of the shadow economy and into a formal legal regime.

Note: The activities will include 1) repeating and formalizing the Project’s introductory course, augmented with additional trainers; 2) developing courses in specific areas of law relevant to business, most particularly tax law, customs law, and labor law; 3) holding roundtables under the auspices of the Business Club and other business associations on current law and practice issues and draft legislation that are relevant to business; 4) identifying and raising problematic legal issues impacting business and advocating for their resolution using various avenues of approach—analyzing judicial opinions, providing assistance in bringing cases to court that implicate legal issues important to business (especially cases where state agencies are involved), soliciting

clarifications from the Supreme Court on such issues, and 5) creating and producing legal information in a form that entrepreneurs can readily use, e.g., in the *Law and Business* journal, through the Project Web site, and perhaps in other formats.

Summary of the Project's Performance

The Project substantially satisfied the benchmarks and performance objectives set for this area of activity. We were not, however, able to carry out training activities for businessmen on a systematic basis in 2005, owing to the political situation leading up to and following the events of March 2005. The links that we developed with the business community, however, facilitated participation in policy forums and, most importantly, the constitutional reform process that took place over the period from April through June 2005.

We believe that, for the reasons set forth in Attachments 1 and 2, we have identified a very promising and important avenue for further work by USAID.

Description of the Work Performed

Background. In a white paper sent to Mark Urban on October 14, 2002, Project Chief of Party Brian Kemple presented his ideas on the true nature of the state in Kyrgyzstan and made recommendations to USAID on how it should revise its development strategies in response. (That paper is attached to this Final Report as Attachment 1.) The paper presented the author's conviction that state structures in Kyrgyzstan did not have an interest in developing a rule of law and were incapable of fostering real legal, economic, and social reform along Western lines and that they usually obstructed and undermined efforts to do so. The paper urges USAID to look for suitable constituencies in Kyrgyzstani society itself and, directly with those constituencies, build reform from the ground up, rather than trying to introduce reforms through state structures. The paper further noted that businessmen—people engaged in small and medium enterprise—were one such potential constituency.

Experience showed, however, that businessmen (as with most Kyrgyzstani citizens) did not protest unlawful actions by state bodies. In the spring of 2003, we launched a formal effort to determine why this was the case. We reported our findings to USAID in a memorandum of June 23, 2003, Attachment 2 to this Final Report.

We learned that most businessmen regarded the law as something to be protected *from*, rather than a source of protection for them. Their views about the law remained unchanged from the Soviet era, i.e., they saw law as an instrument used by the state to further its own ends. At the same time, they were largely unaware of the sweeping changes that had taken place in the law during the last half of the 1990s, which embody completely different principles than their Soviet predecessors.

When we acquainted businessmen with the laws that were most directly relevant to their business (the Tax Code, the Labor Code, and contract law), many of them saw that they could make sense of these laws and use this knowledge constructively. The business people came to see that they had caused many unnecessary problems for themselves through their own ignorance of the law. Many expressed an interest in expanding their study of the law, with the intent to continue to use it in regards to their business. We subsequently heard many accounts of applications of newly-acquired knowledge and understanding, including successful defenses of businesses against predacious state officials. Many of the participants said the knowledge gave them a new confidence and diminished feelings of helplessness experienced when dealing with state agencies. Two businessmen who completed a course created a private agency to help businesses deal with inspections.

Activities. The Project carried out the following activities:

- Three exploratory roundtables with a broad range of participants to begin the inquiry;
- Three roundtables solely with members of the business community, which generated their interest in further study;

- A six-week course for the approximately 40 employees of interested businessmen, where the basics of the areas of law of relevance to their professional duties were taught;
- Two lengthy evening courses of several weeks' duration carried out with approximately 20 businessmen attending each course, from which groups trainers for future trainings were identified;
- Separate meetings with the 18 members of the Bishkek Business Club who expressed an interest in attending a course tailored for them; and
- Two roundtables for local businessmen (organized together with the USAID Trade and Foreign Investment Project), where a Kazakhstani businessman, Pavel Beklemishev, spoke about his own experiences using the law to protect his business.

We began preparations for developing the course for the Bishkek Business Club members and also began preparing training materials of more general application for two groups—managers and rank-and-file staff. The events of March 2005 and their aftermath intervened, however; and we were not able to carry these courses out.

Results

1. Many businessmen and their employees learned that law is relevant to their business and can be used to protect one's rights and advance one's interests.
2. We have generated increased interest among businessmen in learning more about the law.
3. We have witnessed an increased interest among businessmen in specific laws and a readiness to take part in the drafting process, through review and comment.
4. There has been a marked increase in the activism and involvement of businessmen in commenting on public policy issues.
5. Our efforts to reach out to business people and business associations to further extend these activities enabled us to develop close ties with a number of business persons and have enabled us to involve them further in our work.

While we cannot take full credit for the results 3 and 4, we believe that our work gave impetus to currents in society that were developing.

TAJIKISTAN

1.3.4 Information Dissemination and Support for Constituencies of Legal Reform

LIME-TJ has implemented several legal dissemination projects that have greatly enhanced the quality of judicial and legal professionalism in Tajikistan. These projects have also had an impact on the development of NGOs, business associations, and trade groups. The dissemination projects can be roughly categorized into four areas:

1. **Adlia legal database:** LIME-TJ developed Tajikistan's first comprehensive legal database. The database currently contains more than 4,300 Tajik laws and normative acts, regulations, decrees, and orders. It is updated weekly, with two full-time LIME-TJ employees dedicated to maintaining it. As of August 2005, LIME-TJ has distributed approximately 1,236 copies of the database in CD-ROM format to a host of organizations, individuals, ministries, embassies, and institutions.
2. **Civil Code Commentary:** LIME-TJ completed work on developing a Commentary to the Civil Code, Volume I. The work started in October 2002 and was completed two years later. LIME-TJ founded a

working group of six persons, including practicing lawyers, judges, and academics dealing with commercial law. The final product is a handsomely bound, 700-page commentary, the first of its kind in Tajikistan. It includes the articles of the code, with commentary and analysis on each article. The Civil Code Commentary is in heavy demand and is used by judges, law enforcement bodies, advocates, scientific workers, students, and others interested in civil legislation. LIME-TJ published 1300 copies of the book and distributed them to judges, lawyers, government ministries and departments, institutions of higher education, libraries, and NGOs free of charge.

3. **Economic Bulletin:** LIME-TJ worked closely with the Higher Economic Court in developing a bimonthly economic bulletin that is provided to judges, lawyers, and other members of the legal profession. The purpose of the bulletin is to provide an update on the development of laws affecting commercial relationships in Tajikistan, as well as to give the Tajik judiciary an insight into the decisions of their judicial colleagues (thus, the establishment of a quasi-precedent type decision-making process). Fourteen issues of the Higher Economic Court Bulletin were released between 2002 and 2005. They contained 14 professional articles written by LIME-TJ project lawyers. Additionally, the bulletin became another way of implementing the bankruptcy law; trustee managers published four articles on enforcement of the law.
4. **Publication of laws, codes, and other legal works:** LIME-TJ continues to identify target areas and opportunities where it can make an immediate impact on the legal profession through the creation and distribution of legal material. As of August 2005, these projects have included the publication and distribution of numerous publications. A sample list of these publications can be found in Appendix E. LIME-TJ in total published and disseminated more than 15,000 copies of legal publications funded by USAID during the period of 2001–2005.

I.4 SUPPORTING MARKET REFORMS

KYRGYZSTAN

I.4.1 Support for the Legal Assistance to Rural Citizens Project and the Kyrgyz Land Reform Project

Description of the Tasks

The Project was tasked with continuing to support the Legal Assistance to Rural Citizens (LARC) Project, which was funded jointly by USAID and the Swiss Government, by providing regular consultation to the LARC legal staff and assisting in developing and carrying out an annual training program for them in Jalal-Abad, Kochkor, and other agreed-upon sites. In addition, the Project was tasked with providing, on an as-needed and as-requested basis, assistance to the Kyrgyz Land Reform Project (implemented by Chemonics, Inc.) in researching, preparing, and reviewing, for technical and substantive accuracy, training seminar/workshop materials, informational brochures, and/or other materials relating to land law-related issues.

Objectives for October 2001–September 2002

- Carrying out monthly on-site consultations to LARC legal staff (Ongoing)
- Developing and carrying out an intensive training seminar for new legal staff hired as a part of LARC's expansion (January 31, 2002)
- Completion and distribution of Form Book (1Q 2002)

Objectives for October 2002–September 2003

- Provide consultation to LARC legal staff on a monthly basis
- To the extent that LARC is agreeable, assist in developing and carrying out an extensive training seminar for LARC’s legal staff in Kyrgyzstan (1Q 2003)
- Meet regularly (at least once per month) with representatives of the Kyrgyz Land Reform Project to exchange and discuss information relating to prevalent land-related issues (as observed by the land reform project in the course of its work in rural Kyrgyzstan, or as gathered from the Project’s training of, and other meetings with, LARC legal staff), which the Project might be able to address through its work with the parliament on national legislation and policy issues (Ongoing)
- If, and as directed by USAID, the Project will support and participate in an editorial review board to review for consistency and accuracy all materials on land reform matters that are prepared for publication by any USAID project in Kyrgyzstan.

Performance Indicators for October 2003–September 2004 and October 2004–August 4, 2005

The performance indicators for these activities included providing consultation and training, as needed, on an ongoing basis to the LARC and Land Reform Projects

Summary of the Project’s Performance

The Project fully satisfied the benchmarks and performance indicators for this area of activity.

Description of the Work Performed

The Project carried out the following activities in this area:

Continuation of public information campaign for land rights program.

Public Information Spots. The Project solicited and received USAID approval to carry out a “second wave” of the electronic media portion of the land rights public information campaign that had been previously developed and carried out by the LIME Project and the USAID Land Reform Project. The Project arranged for the television and radio public information spots to be aired again over an eight-day period to coincide with the second wave of visits to villages by the Land Reform Project specialists that was scheduled to commence on October 15 and conclude in early November.

Television Program. The Project aired over national KTRTV three separate programs in a 25-minute long format entitled “Land and Farmers.” The program featured interviews with local rural people, PIC specialists, Mr. Omuraliyev of GosRegister, Edwin Hyde, a foreign expert on registration systems who is working with GosRegister, and Project staff.

Form book for transactions in agricultural land. The Project, together with the LARC project, completed and distributed 215 copies each of Russian and Kyrgyz versions of a *Form Book of Common Transactions in Agricultural Land*. The books were distributed primarily to local nongovernmental organizations (NGOs) and officials of local self-governments.

Two-week training seminar for new LARC lawyers. In January 2002, the Project developed and carried out its third successive training seminar for the new crop of LARC lawyers. The Project was responsible for organizing the seminar, developing the academic program, and preparing most of the lectures. Staff from the USAID Land Reform Project, private practitioners, and government officials also presented lectures. Extensive materials were prepared and distributed. The seminar was very highly praised by the LARC attendees. The seminar provided training on over thirty separate topics related to land law and land reform.

Consultations to LARC field offices. In 2002, the Project made monthly visits to local LARC offices to provide consultation to their lawyers on legal issues. LARC later requested that these visits be suspended pending the reorganization of the LARC program.

Support for seminar sponsored by Swede Survey. The Project co-chaired and made a presentation at a seminar organized and funded by Swede Survey, which provided technical assistance to GosRegister as part of the terms of a World Bank loan. The seminar was devoted to issues surrounding women's property rights in the rural sector.

Work on the "Red Book" of the USAID Land Reform Project. The Project, together with the USAID Program for Local Self-government, carried out extensive review, analysis, and editing of the "Red Book," a publication of land reform information developed by the USAID Land Reform Project for the rural population.

Regular participation in the editorial board for USAID materials on land law. The Project played a leading role in the pre-publication review of materials prepared by other USAID projects on rural land issues.

I.4.2 Commercial Arbitration Association

Description of the Tasks

Commercial arbitration is an essential alternative for serious investors and business people, local and international, who need and want an alternative dispute resolution mechanism that is faster, simpler, and more reliable than the problem-ridden judicial system. With the Project's participation, a very progressive draft law on commercial arbitration was prepared and submitted to parliament. The Project was tasked with facilitating the adoption of that law and, if the law was adopted, with undertaking to organize a permanent, impartial arbitration organization, similar in form to the American Arbitration Association.

In connection with this initiative, the Project was to undertake to accomplish the following by the end of 3Q 2003 (assuming adoption of a suitable law on commercial arbitration):

Objectives for October 2002–September 2003

- Form a legal entity, possibly an NGO, carefully tailored to meet the requirements of the likely law on commercial arbitration (3Q 2003)
- Work to help staff the new organization with the leadership, administrative, and clerical positions necessary for it to begin its functions
- Provide reasonable technical assistance (not including premises) to help make the new organization a going concern
- Help the new organization develop a systematic plan to advertise its services and prepare brochures and materials demonstrating the advantages of commercial arbitration to the business and larger economic community and the quality and availability of its services
- Assist the new organization in developing a working set of arbitration rules and procedures conforming to the Law on Commercial Arbitration that will enable the organization to conduct its business on a sound financial basis and pay all of its expenses, including compensation for arbiters
- Work with the new organization to recruit a suitable pool of arbitrators from among the most qualified representatives of Kyrgyzstan's business and legal community

- Using short-term technical assistance, develop and provide training and continuing education to the new organization's arbitrators on dispute resolution, conciliation skills, and other professional values useful for arbitrators
- Develop a three-year sliding scale budget for supporting the new organization as outlined above, with a goal of full self-financing after the third year
- Resources permitting, and subject to CTO approval, fund a study visit to the United States and/or a country in the E&E region for Kyrgyzstani legal practitioners and Project staff to study the commercial arbitration experience of those countries

Performance Indicators for October 2003–September 2004

- The Project will help the ICA develop additional forms of dispute resolution suitable for small businesses in Kyrgyzstan. (Ongoing)
- The Project will seek larger political support for the ICA among the donors, international arbitration organizations, and the local and foreign business communities in order to bring more effective pressure on the Kyrgyzstani authorities so that they will cease efforts to impede the successful emergence of the ICA. (Ongoing)
- The Project will seek to secure commitments from other donors to provide financial assistance to the ICA over the next three to five years. (Ongoing)
- The Project will seek to secure provisions in the Civil Procedure Code that reinforce rather than inhibit third-party commercial arbitration. (Ongoing)

Performance Indicators for October 2004–August 4, 2005

The Project is tasked with securing increased political and financial support for the ICA inside and outside Kyrgyzstan.

Summary of the Project's Performance

The Project has satisfied the benchmarks and performance objectives set for this activity and has achieved success in what was a very uncertain venture. The ICA has become an established and functioning arbitration organization and has received and satisfactorily resolved several arbitration disputes. It has actively promoted commercial arbitration in Kyrgyzstan and developed a good reputation within the country. The ICA has also established ties with, and generated the interest of, a number of foreign arbitration associations. It has also established a list of arbitrators that is considerable both qualitatively and quantitatively. The ICA has been effective at lobbying for progressive legislation that is needed to undergird commercial arbitration in Kyrgyzstan; and it has been successful at defeating undesirable legislative initiatives aimed at undermining commercial arbitration. Both foreign and local companies have turned to the ICA for arbitration, and there is increasing interest among local businessmen, for whom arbitration is unfamiliar.

Challenges remain, however: the ICA's political position is not fully secure, as the courts seem not to have fully accepted its proper role and have not always been fully supportive. In addition, the ICA has not yet succeeded at becoming self-financing. We believe that the ICA will continue to need donor support, even as an increasing number of cases are brought before it. We believe that the ICA deserves continued assistance, both material and political.

Description of the Work Performed

The Project developed a very progressive law establishing the legal basis for commercial arbitration, and that law was developed and adopted as drafted in 3Q 2002. The Project then began efforts to organize and form a local arbitration association in Kyrgyzstan. In 4Q 2002, the Project completed the registration, organization,

and staffing of the organization, which was established as the Commercial Arbitration Association in Affiliation with the Kyrgyzstan Chamber of Commerce and Industry (later renamed the International Court of Arbitration in Affiliation with the Kyrgyzstan Chamber of Commerce and Industry). The project director and deputy director acted as founders of the organization and also served on the board of directors. In that capacity, they assisted in the selection of other board members and ICA personnel.

In addition, the ICA accomplished the following during the Reporting Period:

1. The board of directors developed and approved all internal rules and procedures governing the operations of the ICA. These included:
 - The ICA charter and by-laws;
 - The rules and procedures governing arbitration;
 - The rules and procedures for expedited arbitration;
 - The rules on arbitration fees;
 - The ICA’s model arbitration clause for agreements; and
 - The rules on compensation for arbitrators.
2. The ICA amassed a total of 135 qualified specialists from 20 countries that have agreed to serve as arbitrators. (Sixty-four of them are experienced international arbitrators.) They are from the US, the United Kingdom, Sweden, Switzerland, France, Russia, the Netherlands, Belarus, Turkey, Kazakhstan, India, Croatia, Rumania, Austria, Korea, Poland, Italia, Ukraine, and Uzbekistan.
3. Since February 2004, when the ICA was able to commence operations, it has received a total of 15 requests for arbitration. Five were arbitrated to conclusion, and three resulted in amicable agreements by the parties. At present, there are five matters in process.
4. The ICA carried out a wide range of activities designed to inform the business community about the possibilities and advantages offered by commercial arbitration and to create a favorable climate for the further development of arbitration in Kyrgyzstan. These included the following:
 - Three seminars provided on the topic, “Alternative Methods of Dispute Resolution in Kyrgyzstan,” with funding provided by USAID through the Academy for Educational Development program, for businessmen and lawyers in Bishkek and Osh. A total of 98 persons attended.
 - A national forum was held jointly with the Government and the Investment Roundtable, with financial support from USAID, the Organization for Security and Cooperation in Europe (OSCE) and the Center for Corporate Governance, with the participation of the national president, deputy prime minister, chairmen of the constitutional and supreme court, judges and representatives of international donors, and the business community.
 - Four training seminars were held for ICA arbitrators on the topic of “Arbitration in Kyrgyzstan: The Legal Framework and Practical Aspects.” The seminars were carried out in an interactive way where the arbitrators participated in mock arbitrations using existing laws.
 - An international conference was organized by the ICA and the Arbitration Institute of the Stockholm Chamber of Commerce, with funding from the USAID LIME Project and the Swedish Agency for International Development on the topic, “International Commercial Arbitration: Laws, Rules, and Practice.” Sixty-three persons attended.

- A roundtable was carried out jointly with the USAID Land Reform Project on the topic, “Current Issues in Commercial Arbitration.” Taking part in the roundtable were experts from the United Nations Commission on International Trade (UNCITRAL), the Royal Institute of Arbitrators (the UK), the All-Russian Academy of External Trade (Moscow), and the Moscow Regional Commercial Court, judges from the Supreme Court, and local courts of Kyrgyzstan and ICA arbitrators.
 - Three conferences for managers and in-house lawyers from local businesses and representatives of local self-government in Chu, Issyk-Kul, and Jalal-Abad *oblasts* on the topic, “Arbitration: An Effective Means of Resolving Business Disputes,” with financial support from the Soros Foundation, Kyrgyzstan. One hundred and seventy-three persons attended.
 - In addition, the ICA carried out a total of ten seminars on arbitration with the following institutions and organizations: the Center for Corporate Governance, the National Bank, the Kyrgyzstan Agricultural Finance Corporation, the micro-lending company, Bai-Tushum, and the American University in Central Asia. The ICA also met on numerous occasions with businessmen, bankers, and insurance and micro-finance institutions.
5. The ICA established cooperative relations with a number of established international arbitration organizations, including:
- The International Court of Arbitration of the Russian Federation;
 - The Arbitration Institute of the Stockholm Chamber of Commerce;
 - The International Court of Arbitration of Kazakhstan;
 - The International Court of Arbitration of the International Chamber of Commerce; and
 - The International Court of Arbitration of Rumania.

ICA management took part in a number of conferences and symposiums, including:

- A conference in Moscow, “Arbitration in Russia: New Laws, Practice and Challenges”;
- A conference in Stockholm, “Arbitrations, Agreements, and Dispute Resolution”;
- A conference in Beijing, “New Horizons for International Commercial Arbitration,” which was organized by the International Council of Commercial Arbitration; and
- A regional symposium for newly-independent state on the topic, “Current Issues in Resolving Commercial Disputes using Alternative Methods for Dispute Resolution.”

The Director of the ICA:

- Gave an address at the first session of the Twelfth Economic Forum of the OSCE, “Supporting Small and Medium Business,” in Yerevan, Armenia; and
- Took part as an expert on Kyrgyz law in an arbitration proceeding that was conducted in London by the London Court of International Arbitration, in a complaint filed against the Government of Kyrgyzstan.

The Deputy Director of the ICA:

- Took part in a seminar on international commercial arbitration held in Istanbul, Turkey that was organized and financed by the Organization for Economic Cooperation and Development;

- Took part in an international conference held in Moscow, “On the Recognition and Enforcement of International Arbitration Decisions”; and
 - Gave an address and the annual conference of the International Association of Taxpayers, held in Australia.
6. The ICA prepared and published a total of 60 articles and other pieces in a variety of journals and newspapers in Kyrgyzstan.
 7. ICA management played a crucial role in the work to revise the Civil Procedure Code to bolster requirements that arbitration decisions be enforced by state judicial enforcement officials.
 8. The ICA prepared and published a booklet in Russian and English, “Rules and Procedures of the International Court of Arbitration in Affiliation with the Kyrgyzstan Chamber of Commerce,” with financial support from the Soros Foundation, Kyrgyzstan; and a book, “Arbitration in Kyrgyzstan: Emergence and Development,” a collection of materials from the National Forum, with financial support from the USAID LIME Project. The ICA also commissioned the development of public service announcements on the ICA, which were broadcast over local radio and television.

I.4.3 Technical Assistance for Farm Restructuring as Part of an Asian Development Bank Irrigation Project

During the two years prior to the period covered by this Final Report, the Project provided ongoing legal assistance to the Asian Development Bank-sponsored Irrigation Project. The goal of that project is to refurbish outmoded and inoperable irrigation systems on approximately 30 large farming enterprises in Chu *Oblast*. At the Project’s urging, the ADB agreed to require that enterprises be restructured and reformed to bring them into conformity with existing land reform legislation as a precondition to receiving assistance. The Project proposed this initiative to address the continuing injustice being visited on members of many of the large farming enterprises in Chu *Oblast*, which are largely unreformed, with control illegally vested in Soviet-style management. In those enterprises, rank-and-file members were often not allowed to determine which land parcel belonged to them, and they were being prevented from exercising their rights under current law to be informed of management decisions, to take part in the management of the enterprise, and to withdraw from the enterprise in order to farm on their own.

Objectives for October 2003–September 2004 and October 2004–August 4, 2005

The Project was tasked with continuing to carry out the following tasks in connection with this work, on a timetable dictated by the ADB’s schedule for engaging the enterprises.

- The Project will interview management, rank-and-file members, officials and other relevant persons, and will examine charter documents and records. (Ongoing)
- The Project will prepare a memorandum on each enterprise detailing the matters that need to be addressed to bring the enterprise into conformity with current law, with recommendations on how to accomplish these changes. (Ongoing)
- The Project will assist in drafting the revised charter and other documents. (Ongoing)
- The Project will assist as needed in the restructuring process of the enterprise if and as that is begun. (TBD)

Additional Objectives added for October 2004–August 4, 2005

- With respect to four selected enterprises that have been restructured, the Project will develop and carry out training for the members on the restructuring and its implications for them. The Project has selected

the enterprises on the basis of their readiness to cooperate in good faith and the degree of members' involvement and interest. (1Q–2Q 2005)

- The Project will produce and publish a collection, with commentary, of standard form charter documents and operating (and other) agreements relevant to agricultural enterprises and water user associations. (2Q 2005)
- The Project will assess the merit of participating in a recently announced effort of the Ministry of Agriculture to create an improved legal regime for agricultural enterprises and will report its recommendation to USAID. (TBD)

Summary of the Project's Performance

The Project satisfied the Objectives for this area of activity, in view of the fact that the timetable for our activities was dictated by the schedule and priorities of the ADB Irrigation Project.

Description of the Work Performed

The Project served as the source of legal expertise for an ADB project aimed at refurbishing the irrigation systems of approximately 30 large farm enterprises in northern Kyrgyzstan (*Chu Oblast*). At the Project's recommendation, the ADB agreed to require the enterprises to bring their management and operations into compliance with important land reforms, as a condition to receiving ADB assistance. We saw this as an opportunity to address the problem that many of these enterprises continued to be run in an autocratic manner by former Soviet managers, with no accountability to the members who were largely unaware of their rights as shareholders and effectively disenfranchised.

The Project worked with ten very large enterprises and 35 others ranging from small to intermediate in size. The Project both advised management and met with enterprise members to describe to them how the enterprises should be organized and to explain to members their rights and obligations under the new laws. Of those ten large enterprises, six have become fully reregistered and restructured, and three are in process. The remaining 35 enterprises are in various stages of restructuring.

The Project also worked with eighteen water user associations and facilitated agreements between the associations and local self-governments that enabled the associations to become full-fledged, standalone organizations. The Project also worked with eighteen local self-governments who wanted to facilitate and promote the restructurings. The Project took part in numerous town meetings with enterprise members and local self-government officials, answering questions and inquiries, etc.

We have witnessed the transformation of many members of these enterprises from passive agricultural workers to active economic stakeholders who are apprised of their rights.

The Project prepared two booklets, on cooperatives and farmers' enterprises, respectively, that the ADB plans to publish and distribute.

1.4.4 Assistance to the National Procuracy

In 3Q 2003, the Project was given the additional task of providing the national and regional offices of the Kyrgyzstani Procuracy with computer software and training to increase the procuracy's capacity to collect, manage, and report information related to economic crimes and other cases involving the application of commercial legislation. The Project was called to draw upon the expertise that it gained in helping develop case and court management software for the commercial courts and the Court Department. As a part of this activity, the Project was also to provide computer hardware and related equipment to facilitate the procuracy's use of the software and training provided.

Objectives for October 2003–September 2004

- Develop case management software for the procuracy’s use in tracking investigations and generating reliable statistics and other information on the investigation and prosecution of economic crimes (4Q 2003)
- To the extent possible within the available funding dedicated to this activity, provide up to ten sets of computer equipment (tower, monitor, and related hardware) to the national procuracy office up to fourteen sets of computer equipment to the procuracy’s regional offices (two sets for each of the seven regional offices) (1Q 2004)
- To the extent appropriate (to be determined jointly by the CTO and the Project), provide software, forms, and computer equipment and training to procuracy training center (1Q 2004)
- Provide training to a total of at least 70 procuracy personnel on use of the case management software, forms, and computer equipment (2Q 2004)

Performance Indicators for October 2004–August 4, 2005

The project was charged with helping the National Procuracy of Kyrgyzstan develop an information system that can provide comprehensive and up-to-the minute information on the investigation and prosecution of economic crimes and any other areas of crime that may be of interest to the United States Government.

Summary of the Project’s Performance

The Project fully satisfied the benchmarks and performance indicators for this activity. The information system, developed by the Project, has won high praise from US government specialists as being “world-class.” In addition, the information system has been designed to enable the national procuracy to produce information on every area of its investigation and prosecution activities—not just in the areas of economic crimes or human trafficking—which may prove useful for other US government policy objectives.

Description of the Work Performed

At the request of the US Embassy in Bishkek, we developed and fielded a customized case management software system for the General Procuracy which was to serve as a basis for establishing communication to the US government on cases involving trafficking in persons.

In the early stages of analyzing the practices and needs of the procuracy, as related to the development of the software, it became clear that a narrowly focused (i.e., human trafficking cases only) system would not in practice be systematically and reliably employed by the procuracy. Such assistance would have amounted to little more than transferring a small number of computers to the procuracy with little or no measurable impact. We therefore sought, and accomplished, a significantly farther ranging system. The ultimate result is that the system will now reach *all* issues associated with virtually all criminal investigations and prosecutions in the Kyrgyz Republic. The case management software that was developed includes all criminal offenses detailed in the Kyrgyz Criminal Code, as well as some selected additional legislation, and is applicable to all stages of the procuracy’s processes, from the receipt of complaints, to initiation of investigation, prosecutions, and extending through to tracking of penalties. The software design specifications contemplated a ten-year minimum life for the software, the necessary flexibility in design to accommodate frequent changes to legislation while preserving the integration of data across changes, and the capacity to handle the extension of the system to the lowest level in the event the resources became available to in fact do so.

The development of this system built upon existing case management systems developed by the USAID LIME Project for the Kyrgyz courts and existing contacts with the General Procuracy. The system contemplates integrating the General Procuracy, the eight *oblasts* (seven geographically defined *oblasts*, and the Special Department of the Procuracy which, organizationally, has the same status as an *oblast*), and the republican cities of Bishkek and Osh (which themselves are categorized as analogous to *oblasts*).

This system covers the entirety of internal processes, and coverage extends to the entire body of criminal investigations and prosecutions throughout the republic. This system covers down to the *oblast* level and has been implemented within the Procuracy. US Embassy personnel tracking this work have expressed very high praise for the case management system that we developed.

I.5 TAJIKISTAN: SIGNIFICANT ISSUES AFFECTING IMPLEMENTATION

This section provides a description of the most significant issues affecting implementation and impact of assistance in the legal sector in Tajikistan. Below is a listing of issues that USAID should be aware of and prepared to confront in the future:

- 1. Registration/Publication of Laws and Regulations.** For a modern, market-based economy to function properly, a centralized system of organizing and publishing all laws and regulations must exist. Currently Tajikistan has a fractured process. All laws and regulations are required to be registered at the Ministry of Justice and published before coming into effect. However, the mechanism for doing so is unclear and under-funded; the requirement is not being implemented effectively. Often ministries and other organs of government adopt rules and regulations without properly notifying the Ministry of Justice or providing required copies. Access to the laws is complicated by this state of affairs. In many cases, it is difficult to ascertain what the law is, with some governmental bodies charging citizens or businesses exorbitant fees for copies of their rules. Many within the government indicate that it is sometimes difficult for them to obtain copies of regulations. Clear intra-governmental rules must be adopted and enforced, and a sustainable mechanism for providing public access to all laws and regulations must be developed. The Ministry of Justice has strongly indicated its willingness to participate in reforming this process. Publication may require donor assistance initially, as it can be prohibitively expensive to establish and maintain a proper government publishing operation. We are aware of a project devoted solely to the registration and publication of laws developed by USAID in Azerbaijan. The best way for USAID to begin the process of correcting these defects is to support an amendment process for the Law on Legal and Normative Acts.
- 2. Legal Basis of Legislative Drafting.** The registration and publication problem described above is indirectly linked to the Tajik Law on Legal and Normative Acts. This law is the basic guidance for how laws should be structured and drafted. It is out of date and in serious need of amendment. The Ministry of Justice is aware of many of the problems in this law and the need to revise the legal framework upon which legislative drafting rests. It has requested technical and financial assistance from LIME-TJ to amend the law. This law should more clearly set forth the rules about the central registration process, including a requirement that electronic copies of all final laws and regulations in both languages be forwarded to the Ministry of Justice for publication prior to the effective date of the law or regulation.
- 3. Internet Access.** Lack of reasonably priced, quality Internet access and affordable Web site hosting is putting a damper on public access to laws and other information and on government efforts to achieve greater openness and citizen involvement. The World Bank is supposedly working on a program of electronic government, but the government entities we deal with are unaware of how this program will impact them. Donors need to focus on the issue of increased Internet access (particularly, high-speed access) in Tajikistan. Internet access is no longer a luxury item that can be afforded only in highly developed countries. Because so much of global commerce and information exchange takes place via the Internet, adequate access to this medium should be a priority.
- 4. Property rights.**
 - a) Legal Framework for Common Ownership and Responsibility for Privately Owned Real Property.** Poorly maintained (and, in many cases, hazardous) apartment buildings dot the landscape of cities and towns throughout Tajikistan. Although it is typical for the interior of dwelling units to be clean and well maintained, common areas and facilities (stairwells, halls, lighting fixtures, water

and sewer infrastructure, entryways, roofs, and building exteriors) are often poorly maintained or no longer maintained at all. These matters were previously attended to by organs of the government, which owned all housing. Although it is complicated, given political will and a fair scheme, to establish enforceable common ownership and maintenance schemes in existing buildings or neighborhoods with many owners, it can be done. Reform in this sector would be best undertaken by a project specialized in reform of real property law.

- b) **Real Property Secured Financing.** The International Finance Corporation has said it will develop a mortgage law for Tajikistan. Currently, a newly established International Finance Corporation project is studying the matter. Representatives of the Ministry of Justice have been outspoken in meetings with LIME-TJ about their preference to work with USAID to develop this law and implement it at the Ministry of Justice, in coordination with the implementation of the new pledge law. It will be imperative in the future for USAID to maintain involvement in the mortgage law and a good cooperation with the International Finance Corporation on this matter.
5. **Corporate Governance.** The draft Law on Joint Stock Companies, for which the Project provided substantial support, still languishes in Parliament. It is unclear why the law has not passed yet.
6. **Judicial Training.** The Presidential administration recently re-appointed judges in the Supreme Court and Higher Economic Court. Unfortunately, many experienced and well-trained judges with knowledge of commercial law topics were not re-appointed. Most judges on the Higher Economic Court now do not have necessary commercial law knowledge, particularly of the bankruptcy law, which is rapidly becoming critically important. Several dozen new bankruptcy cases have been filed in the Higher Economic Court, and judges there are not versed in how to handle or resolve them.
7. **Bankruptcy Trustee (Anti-crisis Manager) Association.** This recently established NGO is now the most significant repository of bankruptcy law expertise and related training capacity in Tajikistan. Its members also have significant expertise in various other areas of Tajik commercial law and business training. USAID provided modest initial support to the Bankruptcy Trustee Association for the first six months of its life for the association to commence its operations, but the association is still not yet fully sustainable. Its revenues from training fees and other sources were sufficient to pay its office rent through the end of August 2005, but, without some further support, its members may have to abandon the office soon.
8. **Tajik Civil Code Amendments.** A host of commercial law related amendments to the Civil Code are needed soon. For example, at least three key amendments are critical to successful implementation of the new pledge law. Also, amendments are needed for implementation of a mortgage law and the law on state registration of rights in real property. Tajikistan must develop a mechanism for regular expert review of its fundamental codes (Civil, Criminal, and Administrative) and amendment where necessary in order to keep the codes in harmony with the evolving legal environment. The Civil Code is the most pressing fundamental law from a commercial/economic standpoint. International expertise is needed to help guide the amendment process and ensure that international best practices are at least considered.
9. **Regional Expertise.** All legislative drafting and implementation programming should be designed to integrate regional expertise from former Soviet Republics with Western expertise. Because Tajikistan lags behind much of the region in developing a commercial law framework, regional experts with both language skills and experience implementing the same types of reforms, are very valuable to the process.
10. **Judicial Reform:**
- a) Tajikistan should develop a more open process of selecting and qualifying new judges;

- b) There should be increased representation on the Council of Justice for *oblast* and District court judges and civil society;
- c) Focused study trips should be designed to better prepare judges to play necessary role in an independent judiciary—under a program design that continues to foster a culture of judicial independence among judges; and
- d) The proper role of the Council of Justice needs clarification in the constitutional laws.

11. Court Reform.

- a) Significant investment is needed in court facility improvement, hardware acquisition, and training for the *oblast* and District court judges and staff.
- b) Court reform work should continue with a standing body of reform-minded judges and court administrators at all levels of the Tajik court system.
- c) USAID should continue the dialog with the Council of Justice about the need for court reform in the *oblast* and District courts, using successes in the high courts as a model. A publicly available database of judicial opinions is a good starting point, but also the computerization of courts should move to lower level courts.
- d) The draft Criminal Procedure Code has languished in the drafting process for nearly ten years. This law is critical to curbing human rights abuses. It needs to be finalized and put before Parliament in an open and transparent fashion.

12. Public Administration. Tajikistan citizens and businesses need a more efficient and transparent system of public recourse against arbitrary or improper government decisions. This can be accomplished through continued support for the drafting of an Administrative Procedures Code, educating government officials about the draft law, creating public awareness of why it is needed, and support for its passage. Because the concepts behind this draft law are so new to Tajikistan, it is likely to face significant opposition when it is submitted to the government for official review and comment. USAID should be prepared to support it at the highest levels.

APPENDIX A.

COMMUNICATION TO USAID I

October 14, 2002

To: Mark Urban

From: Brian Kemple

ARD/Checchi Legal Infrastructure for a Market Economy Project

Dear Mark,

I would like to share with you some further thoughts on how USAID can advance economic and political reforms in Kyrgyzstan more effectively. I have been working in Kyrgyzstan for some time now, and I am acutely aware of the difficulties that donor programs have faced in fostering real, self-sustaining change here. Our Project now has had the good fortune of receiving a three-year extension of our contract. This gives us the opportunity to take a more long-term, systematic approach to the work that we will be carrying out. I want to do everything we can over these next three years to lay the basis for real change in Kyrgyzstan, change that will benefit the people of this country and also further US policy here and in the Central Asian region. With that goal in mind I would like to take a fresh look at the situation in Kyrgyzstan today and the work advanced by donors to date.

As I survey the landscape, I have to say that donor assistance has, in general, failed to create the basis for real change in Kyrgyzstan, and many individual programs, as they are constituted today, may have no lasting impact here. We have very good professionals in Kyrgyzstan within USAID and in USAID projects. They are a very experienced group of people who are conscientious and committed to their work. I do not think that that any other donor organization is doing as good a job as USAID – in my view USAID programs rank at the top of donor programs here, in terms of planning, commitment and professionalism. That view is often echoed by local people here. So what I have to say is not intended as criticism of any particular persons or US officials.

The False Assumption Underlying Donor Assistance.

The ultimate goal of USAID's work in Kyrgyzstan is and must be the creation of an open civil society. As I now view things, however, most foreign assistance provided in Kyrgyzstan in pursuit of that goal is based on a false assumption that frustrates progress towards it. That basic assumption is that there is a system in place here within which to work, and that that system has the latent potential to become the basis for a civil society.

Overall US and USAID strategy in Kyrgyzstan and throughout the region has centered on providing *system-to-system* assistance, i.e., assistance premised on (1) working with existing governmental structures and institutions and (2) helping them develop and transform themselves so that they begin to function as their Western counterparts do. Assistance programs have been designed to use the existing system of structures and institutions as the starting point for that transformation. It has been believed that the successful transformation and development of those institutions would help create the conditions for the evolution of other sectors of the economy, polity and society, because the transformed system would naturally exert its

influence and guide development throughout the country in furtherance of those reforms. I believe that both premises fail to accord with the realities of Kyrgyzstan today.

What do we find if we examine the record of donor-to-Government assistance? On the one hand, the governmental structures in Kyrgyzstan have been singularly noteworthy throughout Central Asia for their acceptance of donor assistance and their willingness to participate in donor programs. They have generally cooperated freely. (The donor community has usually attributed this to Kyrgyzstan's being a more democratic country than its neighbors, and Kyrgyzstan's rulers have been adept at exploiting this image. I think that Kyrgyzstan is, indeed, different from its neighbors and presents special opportunities for fostering progressive change, but for different reasons, which I will discuss later.)

Indeed, donor programs in Kyrgyzstan have not encountered any real resistance by government institutions, or even the kind of active give-and-take that naturally arises in a directed and energetic collaboration. At first glance this seems strange, since it is a basic rule that every organization or system seeks to defend its own interests. By rights the system of governance here should seek to impose its own terms, conditions and priorities for donor assistance. Why does that not happen in Kyrgyzstan?

At the same time, however, while governmental structures are receptive to nearly every program of donor assistance that is proffered, such programs are seldom if ever truly and effectively implemented. We all know that a new law or procedure, for example, is effective only to the extent that it is applied to real issues and problems as they arise and changes the relations – economic, social, political – that the law or procedure was intended to address. Thus far this has happened only in exceptional cases.

I see a common explanation for all of these phenomena: there is no State as such in Kyrgyzstan; there is no true State-based system of governance in Kyrgyzstan. *There is no system per se.* There are just people with power. The power of those people derives not from a political system, but from what each of them possesses and commands in his train. His/her influence stems from his own personal power, which may be based on wealth, control over a particular business or economic activity, family or clan ties or some other affiliation. A basic distribution of local wealth took place here, as in every Central Asian country, when the Soviet Union broke up. That process is long over; the pie has been divided up. The existing power allocation reflects this original distribution of wealth and what has been developed with it.

State structures, and the *apparatus*, of course, have continued to exist and function after the break-up of the Soviet system. In form they remain a holdover from the Soviet era and their working culture has not changed much from those days (here I have in mind the executive branch; Parliament is an exception to this, in the sense that there have been glimmers of rough-and-tumble democracy there at times). But whereas in the past the *apparatus's* power stemmed from the authority of the Soviet State and the Communist Party, that fell away with the demise of the Soviet Union, and the State structures became subject to the control of people who exercise personal power. At the initial stages control of State structures undoubtedly helped the new rulers amass and consolidate their power and acquire wealth, but that power, like the wealth, remained in private hands and did not pass to the State structures. Thus, State structures and institutions do not really have much power apart from that of the persons who direct them, and they are staffed in reliance on ethnic, clan and other personal ties. (That is why, when a new Minister comes to power, many or all of the people in the Ministry may be replaced.)

Conversely, a person's influence and power does *not* depend on his political office, except and insofar as that indicates his affiliation to a power base; rather, the reverse is usually true – people with political, social and economic power are appointed to high-ranking positions in government structures. (Indeed, since we can reliably believe that high-level positions in Government are paid for, only people with means are able to hold a position of power as a general rule.) Most people in government structures are functionaries subordinate or tied to persons who do have power. A high-ranking position in the bureaucracy usually, of course, enables the holder to further his wealth and influence and enhance his own personal power.

In Kyrgyzstan there is no countervailing source of power or influence with a claim to something larger than personal wealth and influence; there is no system of institutions or agencies that can act independently from the assemblage of concentrations of personal power, or that can effectively regulate or act on them. A corollary of this is that no person or institution can truly act in the name of the State – each person’s ability to have his directives carried out depends on his personal authority and influence. As a consequence the State is very weak, and State institutions do not really govern the country. Today there is no person or institution who truly rules the entire country. As you know, the Kyrgyz are divided regionally and by clans, and the distribution of power and influence is such that no one in Kyrgyzstan today has the personal power necessary to control or manage events throughout the entire country (not to mention events beyond its borders). The constant attention to balancing North and South affiliations in appointments is one manifestation of this situation.

This all sheds light on why programs and initiatives are allowed freely into the country, as long as they bring money with them – because the State institutions and officials as such have nothing to lose, since they fully expect that changes in laws and procedures will not by themselves alter the allocation of power and authority within the bureaucracy or how the bureaucracy functions as an extension of that power.

The USAID Policy Objective of Creating a Civil Society in Kyrgyzstan Requires a New Emphasis.

If what I have described above is true, it is time for USAID to reexamine how it goes about trying to achieve the goal of creating a civil society in Kyrgyzstan. First of all, it is time to recognize that working through State governmental institutions (and perhaps all State institutions) as institutions will not produce the desired results – as institutions, (1) they are not part of a larger, coherent system with its own independent authority; (2) their influence on developments within the country is severely limited, since they have no life or authority apart from that of the persons running them; and (3) they are not capable of adopting and adapting innovation, nor of formulating and implementing policy to any effect. There are, in fact, really no institutions here as presently constituted that USAID can use as partners who can serve as the basis for the real development of a civil society. Existing State institutions are not only internally incapable of this; they have no inherent legitimacy for most Kyrgyzstanis. They cannot serve as partners in engineering social change.

The question then arises: Where do we look to build the constituency for a civil society in Kyrgyzstan if existing State institutions are incapable of serving as real partners in this? I have made a lot of efforts to find an answer, and I have come to believe that we must look to and work with the people who live here. In order for civil society to be a reality here, support and a desire for it will have to be created in the hearts and minds of the people who live here.

In taking this approach, we will have to recognize that the constituency for the values and principles that the US wants to see take root here cannot be *developed* on any existing foundation. It will have to be *built from scratch*.

In formulating a macro-level policy on how to reach people here, we would do well to study Soviet history. Before the Soviet Union arose, there was no articulated, organized ideology that provided the basis for the prevailing social order in Central Asia. It was with the development of the Soviet Union that a system of ideas was advanced to unify the populations of the region and marshal their efforts in building a new State. Whatever the ultimate merits of that effort, the fact remains that the populations here were motivated by an ideology. There was, of course, a large element of coercion and fear. But there were positive ideals as well that for a time were seen as justifying the coerciveness of the system. This is especially true of Central Asia, where the Soviet order introduced people to the basic elements of Western society, albeit often in a stunted or limited form – mass education, health care, housing and roads, and there remains an abiding belief among people here that the Soviet Union brought more good than harm.

The old order was discredited, or at least failed to survive. But while the Soviet ideology may have fallen away, people’s desire for, and susceptibility to, ideology and organizing ideas remain. As yet, however, no new

ideas have filled the ideological vacuum here. No ideas have taken hold that impart legitimacy to the State or provide the people here with hope. People here have nothing to believe in.

The prospect of money and wealth is not enough to motivate them to build a new social order. People will accept money gladly, of course, but the provision of money or the prospect of enrichment alone will not spur them to do more than see to the day at hand. Capitalism and private economic enterprise are seen here solely as forms of economic activity – ways to get rich – and are often identified with narrow self-interest. (How could it be otherwise, given that so much expropriation and thievery have been committed here in the name of privatization and the transition to a market economy?) ***More often than not, no connection is made to the deeper principles that Americans see as fundamental and as justifying the excesses and disparities that capitalism can bring: the inherent dignity and freedom of the individual and his right to pursue life, liberty and happiness; and the primacy of the individual's responsibility for himself and for his society.***

If we want to win over and mobilize the people of Kyrgyzstan to build a civil society, we must find a way to inspire them with these ideas and relate these ideas to their lives. Americans are probably among the most idealistic peoples on earth, but we have not been particularly effective at propagating our ideals here, partly, I believe, because we have wrongly focused on State governmental institutions as partners in and vehicles of reform.

Kyrgyzstan Offers Real Opportunities for Building a Civil Society.

I think Kyrgyzstan offers real opportunities for a US policy in this area, more than the other countries of this region. The State here is weak, and no person or group has total power, so there is no overarching authority to be reckoned with at every step and there is more ready access to people. For their part, people here are open and receptive to new and positive ideas. They are fundamentally secular in outlook, lack deeply entrenched chauvinism and are very responsive on a personal level. The absence of a panacea or quick fix for the economy (e.g., oil, gold, etc.) after some hope and searching, actually creates fertile ground for new initiatives from outside.

Reaching Out to the People Here.

Our task must be to disseminate the ideas of a civil society and inculcate them in the local populace. How do we do that? I am not advocating a public information campaign. The general population is poor and dispirited. Most people are consumed with eking out a living and making it to the next day. It will take much more than a campaign of slogans to reach them. Moreover, as foreigners we can not reach people in a way that inspires belief and action. However much local people may genuinely admire our message or our ways, those people often do not believe that those things have relevance for their own lives, because they do not see how those things can be applied here. Furthermore, our values and ideas have to be adapted and tailored in a way that makes them comprehensible and relevant to people's lives here. For all of the above reasons, we need local people to promote the values that we want to take root here.

Accordingly, we need to base our approach on identifying and forming partnerships with like-minded, active and progressive persons in this society. I do not mean soliciting grants to develop projects. We need to work with people who are already embodying or advancing these ideas on their own, directly or indirectly, in their own work and activity; who are trying to do something without relying solely on external support; and who can therefore speak with authority because they are struggling with the same issues and problems and on the same terms that everyone else is. We have to enlist such people to take our message, modify it to reflect local conditions and give it legitimacy for local people. It is a source of hope that even in the conditions prevailing in Kyrgyzstan today, there are local people who are carrying out projects successfully in business, education and the humanitarian sphere that are reaching and helping the people who live here.

We must form partnerships with such local people. These have to be real partnerships – again, I am not talking about a grants program. Local businessmen tell us that we have to be careful when it comes to dispensing sums of money. We all have seen examples where money has been misapplied or misappropriated,

and I think that we have to take this caveat seriously. The culture and values here will have to change before most people will regard contractual commitments in the same way that we do in the West, and before people here will stop living only for today. I am advocating an approach based on partnerships where USAID provides some financing, financial control and policy oversight and local counterparts develop programs consistent with our message and then carry it out. Under this approach, the programs would be developed and organized around the people here that we have identified as potential partners.

The success of our partnerships will depend on our local partners. We have to choose them very carefully, applying the criteria that I have mentioned above, and work with them closely.

What our Project is Already Doing in This Direction.

I am urging USAID to reexamine its approaches to working in Kyrgyzstan, but I am not recommending scrapping wholesale what we or USAID is doing now. First of all, it is necessary to continue contact and cooperation with Government structures, but this should be done in keeping with revised priorities – i.e., as a matter of political necessity rather than as a substantive part of USAID’s development strategy. There are, of course, progressive, reform-minded people in government structures, and it is good to identify them. To date, though, there seems to be little they can do to change the existing power structures and bureaucracies from inside in any fundamental way.

Secondly, I believe that much can be done to apply this approach within existing programs and projects. I have already taken a number of steps consistent with this approach within the context of our own Project:

Efforts to understand better how to make our work relevant to people in Kyrgyzstan. Over the past two years I have made very concerted efforts to understand better the life and mentality of people here, government officials and citizens alike; to identify the problems encountered in trying to bring out progressive social change; and to seek out local people here who are working reliably toward that goal. My search for understanding took me far beyond the sphere of law and legal reform. I have met with a number of progressive people working in a variety of social spheres and professions in Kyrgyzstan. That close consultation has helped me form the views and ideas that I am expressing now.

Contacts with local organizations to promote the values of a civil society. I have met with the staff of a progressive and active law firm here to help them better understand the role they should play as professionals in developing the legal profession as a component of a civil society. I stressed personal and professional responsibility and initiative; the need to apply one’s knowledge to creative problem-solving, and the appropriate attitudes to take toward their firm, their clients and government agencies. My comments were well received, and I intend to continue this kind of activity.

Working with our Project Staff. If we are to advance the values of a civil society in Kyrgyzstan at large, it is necessary that we instill them in our own staff. The approach of finding partners in society applies to our own staff members as well. It is necessary that they become active proponents of the values and principles that we are promoting, because only local people can establish those values here. This entails not only that the staff members ascribe to those values, but that they be ready and able to take them to our constituencies in society.

Our lawyers have become very good professionals, and they are excellent at carrying out our Project’s programs. But I am taking measures to prompt our lawyers to assume a larger role for our Project and for themselves. It is important that they see and believe that the future of Kyrgyzstan, their country, depends on people like them working to improve the lives of the people around them. I want to do everything I can to help our local staff become real representatives of the values we are promoting here, in word and in action. This will require them to overcome the passivity and fatalism that is so prevalent here and that they will encounter in their fellow citizens.

I believe that there is a lot we can do that will not only make our staff more effective at carrying out our work, but will also help prepare them to carry on independently and make an active contribution to their society after our Project ends.

Working with Local Specialists. As you saw at our most recent reception, we work with local specialists to generate our legal information products and carry out other reform initiatives. Over the years we have identified a number of reliable and very qualified legal and technical experts and firms, who have helped us create a small professional network of like-minded persons. We will continue to employ and expand this approach in our work.

Commercial Arbitration. Among the tasks in our new Scope of Work is the creation of a not-for-profit commercial arbitration chamber in Kyrgyzstan. (This comes on the heels of the adoption of a law on commercial arbitration in which we took the lead role in drafting.) This project advances the ideas that I have outlined here. Forward-thinking local people have agreed to serve on the Board of Directors of the organization (on which representatives of the Project also sit), and the work of the chamber will be led by two local lawyers who successfully developed their own private law practices and who are dynamic, progressive and committed. In addition, this represents one of the first efforts to develop an institution of social importance outside of the government system. If successful, this initiative will establish an important precedent.

Analytical research. Given that the approach articulated here requires us (and USAID projects generally) to reach out to individuals and organizations throughout society in search of potential partners, it is extremely important that we have a deep and broad understanding of Kyrgyzstani society -- its sub-groups, undercurrents, regional characteristics, leading personalities and organizations, business activities, etc. Much of this information is below the surface and not readily available. I have identified people here who can help us shed light on such issues. I intend to commence research and analysis at a modest level of expense and begin to compile a database of such information for the use of USAID projects.

Future Directions for USAID.

Educational institutions and youth. Right now I have only some general ideas on what specific new directions USAID should consider undertaking. For one thing, I think that too little emphasis has been given to a large potential constituency for a civil society in Kyrgyzstan – university students. They number in the hundreds of thousands here. They are needed both as advocates for and builders of the civil society of tomorrow; and also to supply the specialists and professionals that Kyrgyzstan needs in order to function on an international level. Today Kyrgyzstan sorely lacks people who can adopt new ideas, policies and approaches, adapt them to local conditions, and apply them effectively.

The educational system as it is currently constituted cannot educate the new generation of specialists that is needed for tomorrow. The educational system here is spontaneous, chaotic and completely disconnected. It does not have any uniform direction or any single ideology, and everything is on a strictly commercial footing. As with the State, there is really no educational “system” as such. Yet this also leaves the door open to USAID to introduce its own policies and programs and play a large role. A potential constituency is there, and there are really no local obstacles to USAID’s reaching out to it. But whatever other initiatives USAID might develop with respect to administrative and pedagogical reform, USAID should also employ the approach I recommend above, using leading local pedagogues and others to reach out to students directly, get in touch with them., their ambitions and hopes and the despairing conditions in which they find themselves today and help them seek solutions.

Business Community. The local business community should be a natural constituency for our message and a force for change that should be tapped. We are going to explore ways of working with them directly and test these ideas against local reality.

Another potential constituency is a sub-group of the business community that has remained largely untouched by donors -- the mass of *chelnoki* (shop-tourist traders) who operate in the huge Dordoi outdoor market outside of Bishkek. Those people are engaged in real rough-and-tumble commerce that they carry out through their own initiative. (The Dordoi is nearly a world unto itself, and is effectively beyond the control of

the State.) Those traders are a potential source of a middle class here. I believe that USAID might be able to find the makings for an initiative to help make this happen (perhaps a la De Soto).

Kyrgyzstan remains in many ways a *tabula rasa* and a fertile ground for direct interaction with its people. Those opportunities should be exploited. I think USAID would be well advised to search its past for analogous situations. I recently met a delegation of Korean lawyers and economists, and was very impressed by what Korea achieved in the past 50 years. As they noted, following the Korean war in the early 1950's, when all infrastructure was destroyed, the US provided assistance until the mid-60's that brought South Korea back to its pre-war level. As a part of that process the underpinnings for the feudal order were destroyed, and the basis for a civil society was created. I recognize the differences between the Korean and Kyrgyz cultures, but I am curious to see if there are any lessons from that experience that we can apply here, and am looking into that question.

APPENDIX B.

COMMUNICATION TO USAID 2

June 23, 2003

To: Mark Urban

From: Brian Kemple

ARD/Checchi Legal Infrastructure for a Market Economy Project

Report on Our Findings to Date from Our Search for New Ways to Cooperate Directly with Local Businessmen in Kyrgyzstan

Introduction

In my letter to you of October 14, 2002, I outlined my conviction that donor agencies should adopt a different approach in their work in Kyrgyzstan. More specifically, I made the argument that State structures in Kyrgyzstan are incapable of fostering real legal, economic and social reform along Western lines and usually obstruct and undermine efforts to do so. In my view donors should look for suitable constituencies in Kyrgyzstani society itself and build reform from the ground up directly with those constituencies, rather than trying to introduce reforms through State structures. I noted in my letter that businessmen – people engaged in small and medium enterprise – were one such constituency.

Our Project launched an exploratory initiative to test these ideas and to develop them further. Brian Kemple, director of the Project, together with two local specialists, Sergei Razvin and Vladimir Samarsky, carried out extensive investigation and research and developed the conception for our initiative to explore new ways for international donors and local businessmen to cooperate directly. In January we began to apply that approach concretely. We formally announced “A Search for New Ways of Cooperation between Donors and Businessmen in Kyrgyzstan.” As we have previously reported, we conducted a number of round-tables with groups of businessmen and others. Those discussions led us, in turn, to develop and carry out a course on law for businessmen and their employees.

The training program was designed and carried out by Vladimir Samarsky, private lawyer and businessman. The course reflected the basic principles that we propounded in developing this initiative. The course differs markedly in its approach, method and structure from the courses that are usually taught by USAID projects and other donors.

Our search, along with the non-traditional training course that resulted, yielded some very valuable information and insights. In all modesty, I believe that the lessons that we have gained through this work hold an important key to carrying out real, positive economic, social and, ultimately, political reform in Kyrgyzstan. Those lessons could productively inform USAID efforts in a multitude of areas. I hope they will be considered. For our part, we intend to continue working with local businessmen along the lines that we describe below.

This document is a formal report on the training that emerged from our discussions with businessmen, and on the information that it gave us. I am also using this report to relate the conclusions that we have drawn to the larger issue of the problems facing reform in Kyrgyzstan and ways to overcome them.

General Background and Theses

1. *Kyrgyzstan needs real economic growth in order for economic, legal and other reforms to take hold.* I believe that the reforms we seek will only be possible if there is real, horizontal economic growth and a reduction of poverty. Kyrgyzstan is very poor, with much of the population living at the subsistence level. The country has not yet attained the ability to become self-sustaining. In the past, Kyrgyzstan was subsidized by the Soviet system. Today, it is being subsidized by international financial institutions. This is keeping the country afloat, but is not by itself creating the basis for the local production of wealth that would reduce this dependency and would put Kyrgyzstan on a productive course of development.

2. *Only private, unfettered economic activity can generate real economic growth.* I believe that the business community provides the only real potential for developing the economy and society of Kyrgyzstan in a progressive way. Most people in Kyrgyzstan today live in straitened circumstances. They are fatalistic and are just trying to make ends meet. Businessmen, however, demonstrate different attitudes and values. They show initiative, determination and a willingness to assume personal risk in very formidable conditions. They are trying to build something for the future. In addition, they are generally interested only in creating or producing something new of their own -- they are not seeking to take something away from others. They just want to be allowed to develop their business in a civilized business environment that allows them to enjoy the fruits of their hard work and protects them from unfair and predatory actions by others, including the State.

State agencies here operate under completely different principles. They reflect Soviet attitudes overlaid with traditional quasi-feudal values. They do not see themselves as having a mission to serve the public; rather they believe that the public must serve them. They are sustained by corruption and use their power to transfer wealth from the population to themselves. The unstated but evident view among most State officials here is that citizens' first obligation is to make money for the State, to generate tax and other revenue (which, by the way, is never fully accounted for). High-ranking officials are often expected to pay for their positions and then seek to recoup their investment. State officials live for today, without regard for the long-term consequences of their actions. They seek to control private economic activity so as to meet their own immediate or short-term objectives. Owing to the culture and practices that have developed in State structures in Kyrgyzstan, and to the principles and interests that guide their behavior, I believe that State structures simply cannot and will not act in a way that generates real, self-sustaining economic growth for the country.

3. *The private sector is currently in a position of self-imposed dependency on and subordination to State structures, and meaningful economic growth will not occur as long as that continues.* The State does not have much genuine authority; however, the condition of the business community and the resulting power relationship between the State and private business here allow State structures to have a much greater influence in the country's affairs and its course of development than they should, and hampers the development of a private sector.

There are many factors that account for this situation, but I believe that a major reason is that Kyrgyzstani businessmen are unaware of the role that law can play, even in the conditions prevailing in Kyrgyzstan today.

One of the most important of our findings is that even among sophisticated and successful businessmen and experienced employees, there is virtually no knowledge of the law or how it applies to their own business activities.

As we have noted before, today's businessman sees the law as something to be protected from, rather than as a source of protection for their legitimate rights and interests. This attitude likely results from a number of factors: (1) traditionally, and certainly in Soviet times, the law was always used to justify State control over its citizens, and it was not adopted with citizens' input; (2) in Soviet times the law was a largely theoretical body of knowledge that, apart from criminal law, was not integrated into the lives of citizens; issues surrounding

property rights, economic activity and labor rights were resolved politically, through political institutions, and not through the legal system. (3) the businessman's encounters in post-Soviet Kyrgyzstan with legal issues and disputes, most often involving State bodies, have only reinforced the view that the law is something used by the powerful against those who are weaker (even though many disputes are caused or exacerbated by the businessman's own ignorance of the law).

Accordingly, the local businessman typically does not seek legal advice before undertaking action or structuring a transaction, and he does not make his employees aware that they should understand how to carry out their work in accordance with the law. As a consequence, businessmen and business enterprises are continuously, and often inadvertently, violating the law in one way or another. They are endlessly creating problems for themselves that could otherwise be avoided. This makes them very vulnerable before State agencies that audit and regulate their activities.

(A serious, related problem that I will discuss elsewhere is the virtual absence in Kyrgyzstan, with a few notable exceptions, of business lawyers, i.e., legal professionals who understand the needs of business and businessmen, and who are ready and able to advise them and defend their interests effectively)

This, taken together with the culture prevailing in State bodies, reinforces a relationship between business and the State like one between unwilling Vassal and cash-strapped Lord. Businessmen are continuously fighting for survival by "fixing" one problem after another with State regulators. As a result, much business activity takes place off the books and in the shadow economy, and the business sector is diffuse and relies on accommodations by the State. Businessmen are not united and do not at present represent any kind of countervailing force that could oppose the actions of State bodies. In addition, they have not yet realized that the law could be written and applied in a way that reflects policies that support and protect their interests.

4. Training courses in law for businessmen and their employees that are based on and apply our approach can change their attitudes about law and its relevance to their business. This in turn can lead them to change their business practices and help them put their activities on a sounder legal and business footing. Over time, if carried out in a systematic way, such training could help forge a new awareness among businessmen here that could cause them to join together and begin to advocate for and defend their interests through legislative and, ultimately, political action. In my view, this would lay the ground for the emergence of a middle class that would defend its interests in society. This would greatly strengthen the prospects for a rule of law in Kyrgyzstan, and would have very important positive implications for all of society.

Our approach and our findings will be explained in detail below.

It may seem paradoxical that I am advocating training courses in law even as we report on how legal and State institutions in Kyrgyzstan do not work, the courts are corrupt and the law is often not implemented or is misapplied. Despite all of the negative phenomena that I have just described, it remains the case that the law is not and cannot be ignored completely. Judicial cases can be won on the merits. The legal mechanisms are in place to hold State agencies much more accountable for their actions and to make them more law-abiding, than they are commonly forced to be. In the prevailing political and legal environment here, however, it is only possible to get a fair and lawful result if there is an effective demand for it from below.

It is much harder to miscarry justice when the intended victim knows the law and has conducted his affairs in accordance with the law. Egregious cases of course occur and will continue. It is my conviction, however, that the more businessmen put their affairs on a legal footing and solicit and receive effective legal advice as an integral part of their activities, the more difficult it will be for the State or powerful persons to abuse their rights.

Yet, while even under existing law businessmen can increase their protection from unfair practices if they learn to conduct their activities in accordance with the law, I believe that such a change in businessmen's awareness and attitudes would have much bigger implications. Businessmen would come to see that it is important to participate in and influence the process whereby policies are determined and laws are adopted. An ultimate outcome of the kind of training and other donor activities that I am advocating is that

businessmen (or other promising constituent groups in society – e.g., students and young people) will come to see the need to create and be a part of civil society, rather than operate in anonymous autonomy or accept the *status quo*.

5. *The scenario that we describe would not only address directly the need to spur economic growth; it would lay the foundations for a civil society and the rule of law.*

Our Search for New Ways of Cooperation between Donors and Businessmen in Kyrgyzstan

Guiding Principles

1. *To work with businessmen directly.* I have already described the reasons that prompted our Project to seek for ways to work with businessmen in Kyrgyzstan. We also determined that we wanted to work with businessmen directly, rather than through associations. As we reported in our monthly report for January 2003,

“In Kyrgyzstan most business associations have been formed on a command basis, from the top down. They are typically used to generate revenue for elections and other projects and functions for highly placed State officials in exchange for some amount of protection. Their members have little or no say in the organizations’ policy formulation. We believe that joint activities with such organizations should be proposed only if the goals for cooperation are closely identified and defined in advance and directly further the Project’s goals.”

2. *To base any cooperation on the businessmen’s concrete needs.* A fundamental principle of our search was to seek to identify the businessman’s real *needs* related to his business and to determine what common interests our Project might have with the businessmen and where we could address his/her needs.

It is a fundamental principle for effective assistance that the assistance be addressed to the counterparts’ real needs. This is not always done. Programs are often designed to reflect the donors’ goals or how the donors view the development process writ large. Unless, however, donors’ programs address the necessary counterparts’ real needs, the counterparts will not understand the purpose of the assistance and the programs will not go forward effectively.

It is important to distinguish the businessman’s needs from his problems – they are not the same thing. The businessman will usually begin by discussing his current problems, which he knows intimately. More often than not the businessman’s recurring problems are symptomatic of larger difficulties – e.g., he has an immediate legal problem that needs attention, but the problem arose because of his ignorance of what the law requires for running his business. Our experience shows, however, that businessmen do not always recognize these deeper needs, which often are lodged in their assumptions, attitudes and general world-view and not readily examined. The goal of our assistance should not be to help counterparts solve their immediate problems, but to identify and address the situations that chronically give rise to problems, i.e., their needs.

As reported, over the period from January through March we held four round-tables with businessmen and others, and the roundtables helped us identify a very important need that it is within our Project’s area of activity: *We identified the businessman’s need to find protection for themselves and their business within the law, and to bring more orderliness and professionalism to their activities.*

3. *To develop a program only on the basis of a true partnership with the counterparts, i.e., only if there is a sincere and informed expression of interest by the counterparts and only if they are ready to sacrifice some of their own resources for it.* Much donor assistance has been directed to counterparts who have no real interest in the intended results of the program and who are not willing to devote any significant resources of their own to achieving those results. This is certainly true of many or most programs with State structures in Kyrgyzstan. For the reasons that I have outlined, State structures in Kyrgyzstan today are generally incapable of serving as true partners. I am not advocating that we cease working with State structures. But I think it is important to see assistance to them as political, rather than as assistance that will further economic development.

(How do we apply this principle in the NGO sector? I think an important principle should be to assist those individuals and organizations who are already trying to do something, with or without outside assistance. If a local individual is dedicated, he/she can accomplish things here without outside assistance. I believe that we should try to identify those people and organizations who are taking action to help their fellow citizens or improve society without relying on grants from donors. An entire industry has emerged of NGO's who exist primarily in order to receive grants. Such NGO's do not necessarily share the donor's values or goals; they tend not to be very effective, and support for them degrades the donor-local counterpart relationship.)

As concerns our discussions with the business community, businessmen came to express a desire for legal training for themselves and their employees, if it was relevant to them and was not general instruction of the sort that they had received in other donor programs. (*They also expressed a readiness to pay for such training -- this was the first time that I had experienced such an attitude in Kyrgyzstan.*)

The businessmen issued a formal Appeal to us to provide donor assistance by organizing and carrying out a course on "the Legal Preparation of Businessmen and their Employees for their Activities." This enabled us to begin the second stage of the search – to organize and carry out specific training designed to test whether it made sense to go forward with this initiative of seeking direct collaboration with businessmen.

Design of the Training Program

For this initiative our Project developed a different approach from what is commonly used in Kyrgyzstan in training activities:

1. *The instruction was not based on a predetermined training plan.* Instead, the approach was premised on identifying the concrete needs of the people who would be receiving the training, and on having the training address those needs. This approach has a number of important advantages: (1) It heightens participants' interest and participation. The participants see that the information conveyed by the training is directly relevant to them. (2) It provides information that the participants can and will be inclined to use in their work. (3) It makes the participants aware that laws are relevant to them and have a structure and a purpose. Getting participants to understand this marks the first step to changing their attitude about the law generally.
2. *The avowed purpose of the training was to help the businessmen and their employees learn to find protection for themselves and their business activity in the law.* This was to be accomplished by instructing them in the law as it relates to their specific business and their specific tasks.
3. *It was essential that the instructor be someone from the businessmen's milieu* who understands (1) businessmen's problems and needs; (2) the kinds of business transactions that are typically used; and (3) the respective mentalities and practices of businessmen and State regulators. The instructor must also understand the donor's concerns and the philosophy underlying the training. In short, the person had to be a progressive thinker, a legal specialist, a businessman, and a business lawyer all in one. We were very fortunate to find such a person in Vladimir Samarsky, who heads his own law firm here and has extensive experience representing local business.
4. *It was essential that the program reflect basic principles of partnership and mutual obligation.* In order for cooperation to produce results that will make a difference after the program has ended, both sides have to commit to work together and to have a stake in the outcome.

We employed the following procedures to put our cooperation on a clear and official footing:

- a) I appointed Vladimir Samarsky as our Project's official representative in this matter and made him responsible for designing the training program and carrying it out, on the basis and employing the principles that I have described.
- b) We requested each participating businessman to provide us with a Letter of Guaranty in which they obligated themselves to require their employees to attend, to take active part and to treat their participation in

the training as a part of their job. The businessmen agreed to have the training take place during working hours. This reciprocal obligation from the businessmen allowed us to plan the seminar.

5. *The training had to be directed at the participants' actual level of knowledge and understanding of the law.* Since the purpose of the training was to provide practical help to specific individuals, it was necessary to tailor the training to their level of sophistication about the law. People, no matter how intelligent they are, cannot absorb information that is conveyed at a higher level of sophistication or complexity than their current knowledge in the area. If information is conveyed at a higher level of sophistication, they simply will not be able to digest it and to relate it to what they already know. This will stymie further learning.

(I believe that a very common problem with donor-sponsored training programs in Kyrgyzstan is that the donors assume a higher level of understanding of a subject than the target audience in fact possesses, or mistakenly assume that everyone has a common set of assumptions. Too little attention is paid to ascertaining the target audience's level of knowledge before training is designed.)

The first session of the training was devoted to ascertaining the participants' level of knowledge of the law and the legal system in Kyrgyzstan. We were frankly surprised by what we found: *a near-total lack of understanding of the legal system, of basic legal principles and how those principles are related to specific business transactions and activities in practice. We found that the businessmen and the employees taking part in the training were completely defenseless before the law.*

In our original conception of the course, our goals were (1) to bring the employee-participant's level of competency with respect to the law as it applied to his/her particular duties and activities into conformity with current legal practice; and (2) to train him/her to use this knowledge effectively in his/her work.

When we learned that the participants had virtually no systematic or practical knowledge of the law and the legal system, we realized that we would have to set ourselves a different task and change the focus of the course. The training would have to be re-designed to give participants a very basic introduction to the legal system and to the relations between the State and the private businessman. We would seek to give the participants a basic orientation, while still trying to show the participants how the law is related to his/her own business activities.

Further, the course would also be designed to show:

- How various transactions and business activities fit into the legal system;
- The place and role of the businessman in the legal system, i.e., show that he/she can simultaneously possess different legal statuses in connection with his activities; and
- How transactions are structured and the role of the businessman in his transactions.

Thus, at the outset we could not provide the participants with concrete knowledge for them to apply. We would just open their eyes to the need for such knowledge. Mr. Samarsky developed a new approach for the course that reflected this revised task.

6. *The training must be tied directly to the reality in which the participants live and work.* If we want the training to make a difference, it must show the participants how to apply the acquired knowledge and information in the conditions prevailing in Kyrgyzstan today. The instruction must be directly tied to that reality. It is not enough, for example, to describe what the law requires. Our training brought to light that many provisions of many laws simply cannot be applied as they are written. This is particularly true of labor law. The standards and requirements that current labor law imposes on employers bear no relation to the conditions in which companies are forced to operate here. Yet State regulators and private parties still seek to enforce the law as written against employers. The employer cannot simply ignore the law (which is their most common stratagem); he must develop practices and policies that allow him to run his business and not to be chargeable under the law.

This is but one example of the inherent conflict between laws as they are drafted in Kyrgyzstan and the realities in which the people live who are regulated by the laws. To be effective, instruction must present information in the light of this situation; otherwise the information will be of no practical use to people here. Training programs as a rule do not do this.

The Training Program

The course of instruction was carried out over the course of three months. It consisted of 16 four-hour sessions held from 8 a.m. until 12 p.m. A total of twenty persons began the course. Fourteen of them participated actively and can be considered to have completed the course successfully. The participants attended the course sessions during working hours. Taking that into account, attendance was high. The participants represented a total of eleven companies, along with two individual entrepreneurs. (Mercy Corps also took part.)

The training covered labor law, commercial (civil) law and criminal law. Mr. Samarsky received the permission of participating firms to use examples taken from their experience to illustrate his points.

The participants took part in a disciplined and sincere way. They completed their homework assignments, demonstrated real interest in the subject matter and asked questions that showed they were engaged. Overall they had a positive attitude to the course and to Mr. Samarsky's approach.

While the participants' behavior suggests that our approach was correct and effective, we wanted to get participants own feedback on the quality, effectiveness and overall impact of the training, and on Mr. Samarsky. We asked the participants and their employers to provide us with their own assessment, if they desired to do so. We did not distribute questionnaires, since we did not want to force the participants to respond; rather, we wanted to get their objective opinions and to allow them to choose whether to respond or not. We received letters from a number of participants and employers that confirm the conclusions set out below.

Conclusions

With respect to the participants:

- We received very positive comments on how the course was organized and carried out.
- We received confirmation that it was correct to insist on mutual obligations. This laid the basis for true cooperative effort and produced constructive attitudes and a commitment to work on the part of our counterparts.
- The comments also confirm that we set the proper tasks and goals for the course, i.e., using the participants' existing level of understanding as our starting point, and tailoring the information and the teaching method to that level. Moreover, the comments we received indicate that it was correct to orient the course on the businessmen's real, individual needs, rather than seeking to impart some amount of objective information selected in advance. Our chosen approach made it possible to provide the participants with the information that was directly relevant to their needs and corresponded to their ability to absorb the information and to use it constructively.
- The participants' comments indicate that we gave them a basic orientation in the legal system and changed their attitude about the law. The participants themselves came to see how important it is to have a basic understanding of the law as it relates to their work and to be able to apply that knowledge effectively. Once they realized that this knowledge was important to them, they themselves began to want to receive it. *A majority of the participants expressed a desire to continue such kinds of study.*

This is one of the most significant outcomes of the course – “ordinary” business employees who formerly knew nearly nothing about law and did not take it into account when they carried out their work came to realize that the law is something that they should know about; and that

knowledge of the law that is directly relevant to their work will help them carry out their work more effectively and with fewer problems. This realization prompted a genuine desire to learn more.

- *This amounts to a real change in their perspective, attitudes and awareness. The participants came to see that they can find some protection for themselves and their activities in the law, whereas previously they sought protection from the law.*
- In addition to the positive feedback that we received from the participants, we also received a number of inquiries from other businessmen who heard about this course by word of mouth. It appears that there is a lot of potential demand for such training programs.

With respect to our Project and USAID:

We believe that the results of our search and our training course have very great implications for building a market economy and civil society in Kyrgyzstan and offer tremendous promise. I believe that this approach should be pursued further by USAID projects in Kyrgyzstan. Important elements of this approach are (1) that the target audience openly expressed their desire for assistance, through a formal Appeal;

(2) that emphasis was placed on identifying their needs; (3) that the target audience had a sincere desire for this form of assistance and was willing to work hard in order to get some benefit from it; and (4) the instruction embodied the principles and approaches described above.

We also believe that this effort has provided valuable experience for further explorations by donor agencies of ways to work with the business community here and lays the basis for close long-term cooperation. Such work should continue.

As concerns our Project, we will pursue and develop further initiatives along these lines (note that we have been approached by the mayors of Kara-Balta and Karakol for training for local businessmen and specialists). We also want to make this learning available to other USAID projects and other donors and will prepare materials that outline these ideas for donors and local constituencies. In addition, we intend to carry out further research and investigation, taking our direction from our findings to date, in order to develop additional proposals for fruitful initiatives for USAID in Kyrgyzstan.

APPENDIX C. KEY COUNTERPARTS OF THE USAID COMMERCIAL LAW PROJECT

TAJIKISTAN

Presidential Office 80 Rudaki Avenue				
	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
1.	Davlatov Jumakhon	Chief of the Legal Department of the Presidential Office	21 30 29	Legislative drafting
2.	Negmat Buriev	Chief of the Department of Economy and Investments of the Presidential Office	21 57 41	Legislative drafting
3.	Nargis Bozorova	Deputy Chief of the Legal Department of the Presidential Office	21 65 77	Legislative drafting
4.	Mukumova Sabohat	Adviser to President of RT on Legal Issues	21 25 18	Legislative drafting
5.	Khudoyorov Bakhtior	Chief of the Department of the Presidential Office		Legislative drafting
6.	Murodov Dustmurod	Adviser to President of RT on Legal Issues		Legislative drafting
7.	Mirzoev Khursandmurod	Adviser to President of RT on Legal Issues	21 30 29	Legislative drafting
8.	Samadov Navruz	Chief Specialist of the Legal Department of the Presidential Office	21 39 13	On creation of Tajik legal database Adlia
Majlisi Oli (Parliament) 42 Rudaki Avenue				
	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
9.	Davlyatov Ubaidullo	Deputy Chairman of the Majlisi Namoyandagon	21 13 44	Legislative drafting
10.	Rakhimov Makhmad	Member of Majlisi Namoyandagon, Deputy Chairman of the Committee	21 31 67	Legislative drafting
11.	Khalikov Abdumanon	Member of Majlisi Namoyandagon, Chairman of the Committee on Defense,	21 63 44	Legislative drafting

		Security and Law and Order		
12.	Sherkhon Salimov	Member of Majlisi Namoyandagon, Chairman of the Committee on Legislation and Human Rights	21 78 93	Legislative drafting
13.	Zoirov Sharofidin	Chief of the Legal Department	21 24 77	Legislative drafting
14.	Abdullaev Abdakhad	Chief of the Computerization and Mass Media Department	21 63 72	On creation of Tajik legal database Adlia
15.	Krivosov Sergei	Deputy Chief of the Computerization and Mass Media Department	21 13 42	On creation of Tajik legal database Adlia

**Ministry of Justice
25 Rudaki Avenue**

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
16.	Khamidov Khalifabob	Minister of Justice	21 44 05	Legislative drafting
17.	Sharipova Gulchekhra	First Deputy Minister of Justice	21 87 97	Legislative drafting
18.	Imomov Azizmat	Deputy Minister of Justice	21 44 05	Legislative drafting
19.	Mengliev Rustam	Deputy Minister of Justice	21 44 05 21 53 67	Legislative drafting, creation of Tajik legal database Adlia and establishing Code of Laws, On creation of Tajik Registry of the Pledge of Movable Property
20.	Abdulloev Rasul	Head of the Legislative Drafting Department	21 44 05	Legislative drafting and On creation of Tajik legal database Adlia
21.	Mustafakulov Shavkat	Head of the Department of Pledge Registry	21 44 05	Legislative drafting, On creation of Tajik Registry of the Pledge of Movable Property
22.	Yamakova Khadicha	Senior specialist of the Legislative Drafting Dept.	21 44 05	On creation of Tajik legal database Adlia
23.	Guyurov Shukhrat	Head of the Registry Pledge Department	21-83-33	On creation of Tajik Registry of the Pledge of Movable Property
24.	Juraeva Shmsiyabonu	Chief State Notary	27-93-49	Legislative drafting, Lawyer Training, On creation of Tajik Registry of the Pledge of Movable Property

**Council of Justice
20 Karamova Street**

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
25.	Abdulloev Nusrat	Chairman of the Council of Justice	21 07 74	Legislative drafting, judicial training, court reform and administration
26.	Uysuf Salimov	Deputy Chairman of the Council of Justice	21 13 58	Legislative drafting, judicial training, court reform and administration
27.	Safar Sangakov	Chief of CoJ Administration	24 20 34	Judicial training, court reform and administration
28.	Kanoat Khamidova	Director of the Judicial Training Center	24 20 71	Judicial training

**Tajik State National University (TSNU)
17 Rudaki Avenue**

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
29.	Makhmudov Makhkam	Dean of the Faculty of Law	24 65 03	Legislative drafting
30.	Usmanov Ochilboi	Professor/Chief of the Civil Law Chair	24 65 03	Legislative drafting

31.	Mengliev Shomurod	Professor/Chief of the International Law Chair	24 65 03	Legislative drafting
32.	Khalikov Abdurakhim	Deputy Dean of the Faculty of Law		Judicial Training
33.	Sharipov Tagdirsho	Professor on Criminal Law		
34.	Bakhriddinov Subhiddin	Professor on Judicial Law and Prosecutors Supervision Chair	24 65 03	Legislative drafting
35.	Nodirov Fozilbek	Deputy Dean of the Faculty of Law		Legislative drafting
36.	Khalikov Karomatullo	Professor on Constitutional Law		Lawyer training
37.	Safarov Inom	Professor on State and Law		Lawyer training
38.	Gafurov Abdukhalil	Professor on Entrepreneurial Law		Lawyer training
39.	Shomakhmadov Basir	Professor on Civil Law		Lawyer training, legislative drafting, banking law analysis
40.	Shonasriddinov Nazriddin	Chief of the Commercial and Entrepreneurial Law Chair	24 65 03	Legislative drafting, Judicial Training, Lawyer Training
41.	Nosirov Aloviddin	Fellow of the Commercial and Entrepreneurial Law Chair	24 65 03	Lawyer Training, Bankruptcy Law Implementation
42.	Mirboboev Rakhmatullo	Deputy Dean of the Economic Faculty	70 85 65	Bankruptcy Law Implementation
43.	Gayurov Shukrullo	Professor on Entrepreneurial Law		Legislative Drafting
44.	Iskandarov Zainiddin	Deputy Dean		Seminars for Legislative Drafters

Tajik and Russian (Slavonic) University

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
45.	Elnazarov Davlat	Dean of the Faculty of Law	27 53 37	Seminars for Legislative Drafters
46.	Tuleev Igor	Professor on Entrepreneurial Law	27 53 37	Seminars for Legislative Drafters

Supreme Court

1 Negmat Karabaeva Street

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
47.	Khojaev Izbillo	Chairman of the Supreme Court of RT	33 48 21	Court reform and administration
48.	Vatanov Makhmadali	1st Deputy Chairman of the Supreme Court of RT	33 48 21	Court reform and administration, judicial training and computerization of Dushanbe city court
49.	Pirov Gulom	Deputy Chairman of the Supreme Court of RT	33 48 21	Court reform and administration
50.	Dodometov Fahriddin	Judge of the Supreme Court		Judicial training
51.	Azizov Zafar	Judge of the Supreme Court	33 92 51	Judicial training
52.	Tagir Kadirov	Judge of the Supreme Court	33 89 12	Judicial training
53.	Sairov Makhmadiso	Judge of the Supreme Court	33 01 29	Judicial training
54.	Khodjaeva Lola	Judge of the Supreme Court	33 72 54	Judicial training

Higher Economic Court

3 Foteh Niyozzi Street

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
55.	Amirkhuja Goibnazarov	Chairman of Higher Economic Court	21 18 13	Court reform and administration, publishing of Bulletin
56.	Shirinjanova Marina	First Deputy Chairman of the	21 16 78	Court reform and administration,

		Higher Economic Court		judicial training, publishing of Bulletin
57.	Naim Mansurov	Deputy Chairman of the Higher Economic Court		Court reform and administration, publishing of Bulletin
58.	Abdullo Babakhanov	Judge of the Higher Economic Court	27 60 14	Court reform and administration, judicial training, publishing of Bulletin
59.	Yusupova Zulfiya	Judge of the Higher Supreme Court		Court reform and administration, judicial training, publishing of Bulletin

General Prosecutor Office
126 Sino Avenue

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
60.	Bobojon Bobokhonov	General Prosecutor	35 56 35	Legislative Drafting, Legal Dissemination
61.	Sharif Rajabov	Deputy General Prosecutor		Legislative Drafting, Legal Dissemination
62.	Madibragim Olimov	Chief of Division	35 22 10	Legislative Drafting, Legal Dissemination
63.	Mamajon Khairulloev	Chief of Division	35 95 95	Legal Dissemination
64.	Mavluda Khotambekova	Deputy Chief of Division	35 22 10	Legislative Drafting

Trustees Association

20 Tursun Zadeh Street

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
65.	Takdir Sharipov	Director	24 72 70	Bankruptcy Law Implementation
66.	Davron Kurbonaliev	Deputy Director	61 88 33	Bankruptcy Law Implementation
67.	Sharafnisso Abdugafarova	Manager	24 72 70	Bankruptcy Law Implementation

Association of Judges

61 Mushfiki Street, Apartment 61

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
68.	Abdullaev Nusrat	Chairman of the Association, Chairman of the COJ	33 14 88	Court reform and administration, judicial training
69.	Sangakov Safar	Deputy Chairman of the Association,	27 55 97	Court reform and administration, judicial training
70.	Gulomov Makhmud	Chairman of the Sogd <i>Oblast</i> Court	27 55 97	Court reform and administration
71.	Azizova Mukhabbat	Chairman of the Khatlon <i>Oblast</i> Court		Court reform and administration, judicial training
72.	Khakimov Karim	Chairman of the Dushanbe City Economic Court		Judicial training
73.	Khalikova Shahodat	Chairman of the Sogd <i>Oblast</i> Economic Court		Court reform and administration
74.	Sharopov Obid	Chairman of the Bobojon Gafurov District Court		Judicial training

Private Lawyers

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
75.	Mirzoev Matin	Director of the Law Firm "IntelCom"	24 25 14, 31 32 45	Lawyer training
76.	Latipova Lola	Trial Attorney, Human Rights Center	27 29 40 35 14 03	Lawyer training

77.	Kaumova Zulfiya	Trial Attorney, Law Firm “Contract”	21 27 38 23 09 20	Lawyer training
78.	Sharopova Dilafuz	Trial Attorney, Law Firm “Contract”	21 27 38 23 09 20	Lawyer training
79.	Nazirov Nazirbek	National Patent Center	27 55 97 23 34 25	Lawyer training
80.	Kamolova Elena	Association of Lawyers “Open Doors”	21 27 71 36 89 35	Lawyer training
81.	Madjidov Alisher	“Contract”	35 50 23	
82.	Shonasriddinov Nazriddin	Professor of TSNU		
83.	Khalimova Nargis	CARE International, Assistant	21 00 91	
84.	Saidova Rano	Advocate	27 17 30	
85.	Sultanova Takhmina	TS University	34 65 44	
86.	Sadullaev Shodmon	Agency “Intelcon”	21 40 68	
87.	Kayumova Kanoat	Advocate	61 07 27	
88.	Sultonov Uktam	Advocate	505 33 22	

**National Association of the Small and Medium Business
10/1 Studencheskaya Street, Office 54**

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
89.	Uljabeva Matluba	Chairman of the National Association of the Small and Medium Business	505 00 08	Seminar for Legislative Drafters
90.	Firuz Nosirova	Manager	24 78 56	Seminar for Legislative Drafters

**Hukumat of Dushanbe City
46 Rudaki Avenue**

	NAME	TITLE	PHONE	COUNTERPART ACTIVITY
91.	Makhmudov Narzullo	Chief of the Legal Department of the Hukumat of Dushanbe City	23 28 23	Seminar for Legislative Drafters

APPENDIX D. LEGAL ASSISTANCE PROVIDED—TAJIKISTAN

LAWS DRAFTED WITH PROJECT ASSISTANCE

- Administrative Procedure Code
- Law “On Joint Stock Companies”
- Law “On Pledge” (adopted 1 March, 2005)
- Civil Code, Part III (adopted 1 March, 2005)
- Law “On Bankruptcy” (adopted 8 December, 2003)
- Law “On Consumer Protection Rights” (adopted 9 December, 2004)
- Law “On Normative – Legal Acts” (adopted 8 December, 2003)
- Civil Procedure Code
- Economic Procedure Code
- Law “On State Registration of Rights in Immoveable Property”
- Amendments to Civil Code, Parts I & II

DRAFT LAWS REVIEWED BY THE PROJECT

- Constitutional Law on Prosecutors
- Law “On Private Medical Practice”
- Law “On Charitable Activity”
- Law “On Limited Liability Companies”
- Law “On Dekhkan Farms”
- Law “On State Registration of Legal Entities”
- Law “On Microfinance Organizations”

- Law “On Introduction of Amendments to the Constitutional Law on Courts”
- Law “On Introduction of Amendments to the Law on National Bank”
- Law “On Introduction of Amendments to the Law on Banks and Banking Activity”
- Draft Law of RT on “Amending and Changing the Law of RT on “Trade Marks and Service Marks,” National Patent Information Center of RT
- Draft Law of RT on “Inventions,” National Patent Information Center of RT and Ministry of Justice of RT
- Draft Law of RT on “Industrial Samples,” National Patent Information Center of RT and Ministry of Justice of RT
- Draft Law of RT on “Amending and Changing the Law of RT on “Copyright and Relevant Rights,” President’s of RT Executive Apparatus and Ministry of Justice of RT
- Draft Law of RT on “Trade,” Ministry of Economy and Trade of RT
- Draft Law of RT on “Licensing of Some Activities,” TFI Project Pragma Corporation
- Draft Law of RT on “Investments,” TFI Project Pragma Corporation
- Draft Regulations on Licensing of Some Activities, TFI Project Pragma Corporation, Ministry of Justice of RT

LEGAL OPINIONS AND CONSULTATIONS

- National Bank regarding new Bankruptcy Law
- Tajik Government, Parliament, and some Donors was provided with “Strategy in Development of Commercial Legislation” (2002, 2003, and 2004)
- Chamber of Commerce regarding Alternative Dispute Resolution
- European Bank of Reconstruction and Development on Corporate Governance in Tajikistan
- European Bank of Reconstruction and Development regarding Banking Legislation
- Asian Development Bank regarding Legislation on Companies
- International Finance Corporation regarding Corporate Governance
- Microfinance Centre for Central and Eastern Europe and the Newly Independent States regarding Banking, Pledge, and Corporate Legislation
- American Bar Association (ABA/CEELI) regarding “Continuing Legal Education” and “Access to Justice”
- Internews regarding Labor Dispute Resolution
- ACDI/VOCA on matters relating to the Law “On Dekhkan Farms” and Land Code
- Swedish Institute for Public Administration regarding Land Reform

- The Project consulted notaries, EBRD, EBRD project, micro-loan and micro-credit organizations, and World Bank consultants on registering pledge and mortgage issues and registering pledge on movable property.
- World Bank and ITCA/TACIS on the issue of legal protection of intellectual property in Tajikistan

LIST OF PROJECT SPONSORED OR FACILITATED STUDY TRIPS

December 2001

Advanced Principles of Modern Drafting, in Almaty, Kazakhstan, December 10–14, 2001; 25 participants

March 2002

On March 15–17, 2002, meeting of the Court Reform Committee was held in Bishkek. Eight judges participated

September 2002

On September 7–14, 2002, TOT Lawyer Training, Phase 1 in IDLO (Rome, Italy) was conducted. Twelve lawyers participated.

October 2002

From October 25– November 10, 2002, TOT seminar for the judges-trainers in Reno, Nevada, was conducted. Eleven judges have been selected from judges of the Supreme Court of RT, Higher Economy Court of RT, Constitutional Court of RT, *oblast* and Districts courts, academicians, and Tajik Council of Justice. Future trainers for judges have been trained.

November 2002

On November 11–15, 2002, TOT Lawyer Training, Phase 2 in Almaty was conducted. Twelve lawyers have participated in it. Two trainers from IDLO ran that course.

February 2003

Bremen, Germany, meeting of drafters of the Law on “Joint Stock Companies” with international experts from Germany, Russia, and the United States on February 22–28, 2003. Participants discussed the initial Draft Law, which was later amended in this regard.

August 2003

A group of twelve judges, lawyers, and economists attended a two-week familiarization program on the Bankruptcy Law implementation at IBI, St. Petersburg, Russia.

November 2003

Advanced Principles of Modern Drafting, in Almaty, Kazakhstan, November 3–7, 2003; 25 participants

December 2003

On December 15–19, 2003, TOT Lawyer Training, Phase 1 in IDLO (Rome, Italy) was conducted. Eleven lawyers participated.

March 2004

On March 2–5, 2004, TOT Lawyer Training, Phase 2 in Bishkek was conducted. Eleven lawyers have participated. Three local trainers ran that course.

March 2004

Five representative of the Government of RT participated in a training program on the United States administrative legislation, which took place at the International Law Institute in Washington, USA on March 22–31, 2004.

March 2004

“Enforcement of the Pledge Legislation in the Kyrgyz Republic” Seminar in Bishkek, Kyrgyz Republic, March 30–April 2, 2004; 5 WG members participated.

April 2004

Twenty lawyers and economists were selected and participated in a two-month training course at the International Banking Institute in St. Petersburg, Russia, Anti-crisis Management Faculty during the period of April 1–May 28, 2005. All attendees were accredited by HEC and started working as Trustee Managers upon returning to Tajikistan.

June 2004

TOT for Legislative Drafters, in New Orleans, Louisiana, USA, June 14–25, 2004; 8 people participated.

October 2004

Roundtable for Completing the Tajik Draft Law “On Pledge,” in Almaty, Kazakhstan, October 3–9, 2004; 8 WG members participated.

October 2004

Fifteen Tajik judges from SC, HEC, and regional economic courts participated in a training program on Bankruptcy Law Enforcement at the Russian Academy of Justice, Arbitral Courts Faculty on October 17–29, 2004.

April 2005

Establishing a Pledge Registry in Tajikistan, in Sarajevo, Bosnia, April 16–23, 2005; 6 people participated

May 2005

May 14–25, 2005, TOT seminar for the judges-trainers in NJC, Reno, Nevada, was conducted. Twelve judges and JTC governors have been selected from judges of the Supreme Court of RT, Higher Economy Court of RT, *oblast*, and Districts courts, and academicians in competition

May 2005

Participant Training Program, “Alternative Approaches to State Registration of Rights in Immoveable Property,” in Moscow, Russia and Yerevan, Armenia, May 22–29, 2005, 5 WG members participated.

June 2005

June 19–25, 2005, 6 members of the Economic Procedure Code working group attended meetings in Moscow with an international expert from the Supreme Commercial Court and many of her colleagues, and visited all levels of the commercial courts to achieve a better understanding of how to draft controversial EPC provisions.

APPENDIX E. REPRESENTATIVE LIST OF PUBLICATIONS— TAJIKISTAN

1. Svod Zakonov (the primary legal tool for practicing lawyers)
2. Tajik Civil Code, Parts I, II, and III
3. Commentary to the Civil Code, Volume 1
4. Collection of Constitutional Laws
5. Collection of Codes
6. Collection of SC Plenum Resolutions
7. Lawyer Handbook, Volumes 1 and 2
8. Collection of Procedural Acts related to bankruptcy case trials
9. Guide book on legal entities
10. Brochures on bankruptcy
11. Brochure on property rights
12. Consumer protection brochures for businesses and citizens

APPENDIX F. LIST OF COUNTERPARTS

List of counterparts of the USAID Legal Infrastructure For a Market Economy Project implemented by ARD/Checchi within the period from 2002 to 2005

Note: an asterisk (*) indicates that the person listed no longer occupies the position described.

1. Judicial Reform

Counterparts

##	FULL NAME	ORGANIZATION, JOB POSITION	PHONE	NOTE
1	Cholpon Tursunovna Baekova	Constitutional Court, Chairperson	66 13 53	Participation in judicial reform
2	Kachyke Esenkanovich Esenkanov	Association of judges, Chairperson	62 15 17	Participation in judicial reform
3	Almir Mirdiazovich Boobekov	Head of Secretariat of the Constitutional Court	62 15 13	Contacts with the Constitutional Court
4	Aibek Abubakirovich Davletov	First Deputy Chairperson of the Supreme Court	66 30 47	Participation in judicial reform; Implementation of the Memorandum of USAID with the Supreme Court
5	*Kabylbek Ogonbaevich Jumashov	Adviser of the Chairperson of the Supreme Court of the Kyrgyz Republic		Implementation of the Memorandum of USAID with the Supreme Court
6	*Ulan Melisovich Satarov	Head of the Sector of Summarizing Court Practice and Analyzing Statistics of the Secretariat of the Supreme Court	66 54 56	Implementation of the Memorandum of USAID with the Supreme Court

2. Judicial Opinion Database (“JODB”)

Counterparts

7	Aibek Abubakirovich Davletov	First Deputy Chairperson of the Supreme Court	66 30 47	Implementation of the Memorandum of USAID with the Supreme Court; and courts’ participation in the JODB
8	*Kabylbek Ogonbaevich Jumashov	Adviser to the Chairperson of the Supreme Court of the Kyrgyz Republic		Implementation of the Memorandum of USAID with the Supreme Court; and courts’ participation in the JODB

9	*Ulan Melisovich Satarov	Head of the Sector of Summarizing Court Practice and Analyzing Statistics of the Secretariat of the Supreme Court	66 54 56	Implementation of the Memorandum of USAID with the Supreme Court; and courts' participation in the JODB
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3. Judicial Training Program

Counterparts

10	*Anarkul Kalykovna Toksobaeva	Director of Judicial Training Center	65 40 05	Implementation of the training program
11	Dilfuza Salimovna Borombaeva	Director of Judicial Training Center	65 40 05	Implementation of the training program

4. Information Tracking and Reporting System for the National Procuracy

Counterparts

12	*Myktybek Yusupovich Abdyldaev	Prosecutor General		Implementation of the Project to create the information system
13	Sumar Khavazovich Nasiza	Prosecutor General Office, Head of the Department of Organizational Support		Implementation of the Project to create the information system; member of working group
14	Irina Sultanovna Baikulova	Prosecutor General Office, Deputy Head of the Department of Organizational Support	62 59 61	Implementation of the Project to create the information system; member of working group
15	Elena Igorevna Begma	Prosecutor General Office, Prosecutor of the Department of Organizational Support	62 59 91	Implementation of the Project to create the information system; member of working group
16	*Nikolai Pak	Prosecutor General Office, Computer specialist		Technical consultant to IS Project
17	*Iaroslav Grevtsev	Prosecutor General Office, Computer specialist		Technical consultant of IS Project
18	Rayimbek Kasymovich Sultanov	"Econsoft" Ltd., Director		Head of firm contracted by Project to develop the IS
19	Altynai Sulaimanova	National Council on Human Trafficking Fighting, Coordinator	66 68 63	Coordination for IS Project

5. Creation of information system for the Court Department under the Ministry of Justice

Counterparts

20	*Marat Salievich Bakiev	Director of the Court Department	68 13 90	Implementation of IS Project in the Court Department
21	Asim Sharshenbaevich Ayilchiev	Deputy Director of the Court Department	68 09 95	Implementation of the IS Project in the Court Department; member of the working group

22	Liubov Evtifeevna IVATSCHENKO	Head of the Sector of Information and Analytical Work in the Court Department	28 36 41	Implementation of the IS Project in the Court Department ; member of the working group; creation of statistics software
23	Aida Meimanalievna TILIKEEVA	Head of the Section of Control over Execution of Judicial Acts under the Court Department	68 11 76	Implementation of the IS Project in the Court Department; member of the working group

6. Cooperation with the Ministry of Justice to create the Handbook on the Preparation and Registration of Normative Legal Acts and Other Acts, and legal information

Counterparts

24	*Nurlan Satylganovich ALYMBAEV	Deputy Minister of Justice	66 54 19; 78 36 33	Creation of the Handbook
25	Erkin Tobokelovich MAMYROV	Deputy Minister of Justice	65 64 77	Cooperation with the Ministry of Justice in IS legal information for notaries
26	*Bekbolot Bolotovich JANALIEV	Head of the Department of Lawmaking of the Ministry of Justice	65 64 84	Creation of the Handbook
27	Rinat KHUZNAKHMETO V	Department of Lawmaking of the Ministry of Justice, chief specialist	65 64 81	Creation of the Handbook
28	Valery Kundusovich NISHANOV	“Professional manager” consulting company, Logistics specialist	66 15 17, 0 517 71 55 62, 66 43 52	Creation of the Handbook
29	Ainura Kadyrovna SALIEVA	Head of the Department of information and support of the Ministry of Justice	65 64 85	Cooperation in the field of legal information

7. Creation, development and support of the Judicial Opinion Database, the Electronic Litigation Guide, The Electronic Guide to Notary Transactions and the Land Law Database; and the publication of the books, *Commentaries to the Civil Code of the Kyrgyz Republic, A Trial Lawyer’s Handbook* and *Handbook for Notaries*

Counterparts

30	*Nurbek Bektenovich ALISHEROV	General Director of “Toktom” Information Center, JSC	43 43 55, 54 10 27	Creation of the Database and the IS
31	Kubyt Nasbekovich KARTANBAEV	Director of “Toktom” Information Center, JSC	43 43 55, 54 10 27	Creation of the Database and the IS
32	Leonid ULITSKYI	Specialist, “Toktom” Information Center, JSC	43 43 55, 54 10 27	Creation of the Database and the IS
33	Kanat KARTANBAEV	Specialist, “Toktom” Information Center, JSC	43 43 55, 54 10 27	Creation of the Database and the IS
34	Natalie NIKITINA	Lawyer, “Toktom” Information Center, JSC	43 43 55, 54 10 27	Creation and maintenance of the JODB and IS
35	*Natalie ALENKINA	Lawyer, “Toktom” Information Center, JSC	43 43 55, 54 10 27	Creation and maintenance of the JODB and IS

		Procurement and installation of equipment for courts and procuracy offices		
36	Igor Borisovich GORSHKOV	Director of “Information Technologies” (“Navigator”) Company	211 700, 611 007	Equipment procurement
37	Denis KARABANOV	Director of “Compass” JSC	62 13 54	Equipment delivery

8. Creation of the web-site, procurement of equipment, installation of the local network for the National Procuracy, the development of case assignment software for the Supreme Court and other case management software

Counterparts

38	Kybanychbek SHEYITOV	General Director of “Inter Alliance” JSC	21 08 08, 69 03 33	Management
39	Timur OSMONKULOV	“Inter Alliance” JSC, manager		Management
40	Tabyldy ASANOV	“Inter Alliance” JSC, IT specialist	21 08 08, 69 03 33	Software development
41	*Rafail SHININ	“Inter Alliance” JSC, IT specialist	21 08 08, 69 03 33	Designing and maintaining the Web site

9. Consulting on information systems, equipment procurement and maintenance of the Project’s equipment

Counterparts

42	*Pheroz KHAN , Javed KHAN , Tabriz KHAN	“CMS”		computer consulting
43	*John ATWOOD	Private consultant		computer consulting
Creation of “Electronic Litigation Handbook” LIS				
44	*Gulguna Midkhatovna KAISAROVA	Attorney, private lawyer		Creation of the “Electronic Litigation Handbook” LIS
45	*Michail Yurievich ALESHIN	Attorney, private lawyer		Creation of the “Electronic Litigation Handbook” LIS

10. Preparation of the series of public information brochures “The World of Legal Entities”

Counterparts

46	*Erzhan OMAROV	Lecturer, KRSU, Faculty of Law		Author
47	*Galina KOLBASNIKOVA	Student, KRSU, Faculty of Law		Author
48	*Eugenia MUKOVNIKOVA	Student, KRSU, Faculty of Law	(0502) 504194 661969	Author

11. Creation of the “Electronic Guide to Notary Transactions” Information System

Counterparts

49	Anarkul Karagulovna ALCHIEVA	Private notary	662440	Creation of forms and commentaries
50	Gulmira Begalievna ALYMBAEVA	Private notary	546142	Creation of forms and commentaries

51	Damira Chonoevna ALSEITOVA	Private notary	652440	Creation of forms and commentaries
52	*Askar TULIEV	Specialist		Documents processing
53	Gulnura Renatovna KOMANOVA	Private notary	549111	Expert review
54	Marina Yurievna ANSIMOVA	Private notary	549111	Expert review
55	Saltanat Kumenovna USUPBAEVA	Private notary	211998	Expert review

12. Producing Commentaries to the Civil Code of the Kyrgyz Republic

Counterparts:

58	Kuntugan Akhmedzhanovna DOSPAEVA	Judge of Bishkek City Court	68-19-23	Participation in development and discussion of the Commentaries to Part II of the Civil Code
59	Baktygul Kydyrgychevna AMANALIEVA	Judge of the Supreme Court of the Kyrgyz Republic	66-34-58	Participation in development and discussion of the Commentaries to Part II of the Civil Code
60	Aibek Abubakirovich DAVLETOV	Supreme Court of the Kyrgyz Republic, First Deputy Chairperson	66 30 45, 66 29 43	Participation in development of the Commentaries to Part I of the Civil Code
61	Indira Mukashevna AITBAEVA	Deputy Chairperson of Chu Oblast Court	(03138) 5-47-39	Participation in development and discussion of the Commentaries to Part I of the Civil Code
62	Bekbolot BEKIEV	Deputy Minister of Justice		Participation in development and discussion of the Commentaries to Part I of the Civil Code
63	Rakhimberdy Abdykalykovich SALIEV	Chairperson of Bishkek City Court	68-17-95 68-17-93	Participation in development and discussion of the Commentaries to Part II of the Civil Code
64	Natalia Sidorovna GALLIAMOVA	International Court of Arbitration under the CCI of the Kyrgyz Republic, Deputy Chairperson	66 09 52	Editor of the Commentaries to Part I of the Civil Code; participation in development and discussion of the Commentaries to Parts I and II of the Civil Code
65	Nurlan Satylganovich ALYMBAEV	TACIS Project for Assistance in Development of Employment Policy in the Kyrgyz Republic, Deputy Director	65-54-19 78-36-33	Reviewing and participating in discussion of certain chapters of the Commentaries to Part II of the Civil Code
66	Bakyt SAPARALIEV	“Kalikova and Partners” Law Firm, Lawyer		Reviewing and participating in discussion of the fifth section of the Commentaries to Part II of the Civil Code
67	Ainura Asanovna OROZALIEVA	Head of <i>III MOII</i> Department under KSNU	62-23-95	Participation in development of Commentaries to Part I of the Civil Code

68	Anara Natuevna NIAZOVA	Head of the Department of Civil Law and Process in KRSU	29-23-60	Participation in development of Commentaries to Part I of the Civil Code
69	Kanat Kerezbekovich KEREZBEKOV	KSLA, rector	65-01-90 65-77-14	Participation in development of Commentaries to Part I of the Civil Code
70	Bolot Jusupbekovich AKMATOV	Chairman of Inter-Rayon Court for Economic Disputes of Osh Oblast	5-92-13 5-94-87	Participating in development and discussion of Commentaries to Part II of the Civil Code
71	Anarkul Kalykovna TOKSOBAEVA	Judge of Bishkek City Court	68-14-13	Participation in development and discussion of the Commentaries to Part II of the Civil Code
72	Rakhimberdy Abdykalykovich SALIEV	Chairman of Bishkek City Court	68-17-95 68-17-93	Participation in development and discussion of the Commentaries to Part II of the Civil Code
73	Nurgul Ayipovna SATYBALDIEVA	Judge of Bishkek City Court	68-18-34	Participation in development and discussion of the Commentaries to Part II of the Civil Code
74	*Galina Andreevna LIULIAKOVA	Judge of Bishkek City Court	47-81-83	Participation in development and discussion of the Commentaries to Part II of the Civil Code
75	Madina Akramovna DAVLETBAEVA	Deputy Chairperson of Pervomaisky Rayon Court of Bishkek	62 19 43	Participation in development and discussion of the Commentaries to Part I of the Civil Code
76	Omurgul S. BALPANOVA	Head of the Kyrgyzpatent Law Department	65-05-36	Participation in development and discussion of the Commentaries to Part II of the Civil Code
77	*Irina Iakovlevna POLIAKOVA	Attorney	Emigrated for Israil	Participation in development and discussion of the Commentaries to Part II of the Civil Code
78	*N.M. ASEINOVA	Judge of Pervomaisky Rayon Court of Bishkek	Moved to Russia (Kazan)	Participation in development and discussion of the Commentaries to Part II of the Civil Code
79	Aisuluu D. CHUBAROVA	Lawyer	65-05-36	Participation in development and discussion of Commentaries addressing Intellectual Property (Part II of the Civil Code)
80	Kunduz Jumadilovna SABYROVA	Docent of ГППП Department of KSLA	65-89-04	Participation in development of Commentaries to Part I of the Civil Code
81	Janyl Sadyevna ALIEVA	Chairperson of Pervomaisky Rayon Court of Bishkek	66-21-32 66-21-31	Participation in development and discussion of the Commentaries to Part II of the Civil Code

82	Anarbek Kasymovich ISMAILOV	Urban Institute, Lawyer	62-43-18	Participation in development and discussion of the Commentaries to Part II of the Civil Code
83	Erkinbek Bozhoevich TOKTOMAMBE-TOV	Deputy Chairperson of Chu Oblast Court	(03138) 5-48-78	Participation in development and discussion of the Commentaries to Part II of the Civil Code
84	*Elena V. SOLOVIEVA	Project Coordinator	Emigrated to Australia	Coordination of the Commentaries project
85	Alia Abdysatarovna KALYBAEVA	KRSU, Deputy Dean of Law Faculty	28-27-76, 28-29-09	Participation in development and discussion of the Commentaries to Part II of the Civil Code
86	Nikolai LIMANSKY	KRSU		Participation in development and discussion of the Commentaries to Part II of the Civil Code
87	Nurbek Bektenovich ALISHEROV	“Akademia” Publishing House, General Director	24 26 03	Publication of the Commentaries
88	Zarina Saidovna GAISUMOVA	Project Coordinator	(0502) 342258	Program assistant
89	Liubov Mikhailovna CHELNOKOVA	Proofreader	62 41 53	Proofreader of the Commentaries to Part II of the Civil Code
90	*Nina Georgievna KOSHELEVA	Proofreader	68 23 29 48 53 36 Moved to Russia (Moscow)	Proofreader of Commentaries to Part I of the Civil Code

13. Publishing Commentaries to the Tax Code of the Kyrgyz Republic, Project brochures

Counterparts

91	Nurbek Bektenovich ALISHEROV	General Director of “Academy” Publishing House	24 26 03	Publisher
92	Yuri Nikolaevich VATSCHENKO	Director of “Premier” JSC	66 61 40	Printer

14. Creation of “Tax Consultant” Database

Counterparts

93	Sergei Vasilievich SABKO	“Consultant” JSC	65 48 84, 65 49 49	Creation of forms and documents
94	Artur ALAPAEV	“Consultant” JSC	65 48 84, 65 49 49	* Preparing software for the Database

15. Dissemination of Commercial Legal Information Systems

Counterparts

95	*Saula KIMALAEVA	“Adviser” JSC, Director	66 41 04	Subscriptions
96	Nuripa MALABAEVA	“Adviser” JSC, Specialist	66 41 04	Subscriptions
97	Nurbek Bektenovich	General Director of	43 34 45, 52	Subscriptions

	ALISHEROV	“Toktom” Information Center, JSC	10 27	
98	Nazira KADYRKULOVA	“Toktom” Information Center, Head of Sales Department	43 34 45, 52 10 27	Subscriptions
99	Aisuluu JAICHIEVA	“Toktom” Information Center, Manager of the Sales Department	43 34 45, 52 10 27	Subscriptions

16. Cooperation with the Lawyers Association of Kyrgyzstan, the Chamber of Tax Consultants, law clinics and the Association of Barristers; and in the dissemination of legal information

100	Irina Vitalievna KEMPLE	Director, Chamber of Tax Consultants (CTC)	66 13 08	Organizing joint activities
101	Alexander KRIVOKLIAKIN	Lawyer, CTC	66 13 08	Coordinator
102	Diliara MULIUKBAEVA	Director, Lawyers Association of Kyrgyzstan	42 68 69, 54 27 79	Organizing joint activities
103	*Alia Abdysatarovna KALYBAEVA	Head of Law Clinic of Kyrgyz-Russian (Slav) University	29 23 60	
104	Galina Viktorovna DADABAEVA	“Legal Aid” PF, Director	54 56 58, 52 07 91	
105	*Valentina Ivanovna MEZHERITSKAYA	Legal Information Center, Director	62 39 30	Organizing joint activities
106	Gulniza Kozhomovna KOZHOMOVA	The Bar of Bishkek and Chu oblast, Association of Barristers		Organizing joint activities

17. Development and Promotion of the Draft Laws “On Amendments to the Land Code of the Kyrgyz Republic,” “On Amendments to the Law “On Land Governance,” and other legislation related to land law

Counterparts				
107	Buribai Juraevich JURAEV	Jogorku Kenesh of the Kyrgyz Republic, Deputy	27 16 53	Parliamentarian; sponsor of the draft legislation
108	Azimbek Anarkulovich BEKNAZAROV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 70 30	Parliamentarian
109	Marat Abdyrazakovich SULTANOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 18 17	Parliamentarian
110	Kubatbek Kalbekovich BAIBOLOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 19 86	Parliamentarian
111	Edil Kalmakovich MAMYTBEKOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	27 72 32	Assistance in promoting the drafts
112	Anarbek MATISAKOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Consultant	27 18 81	Assistance in promoting the drafts
113	Damira TYNYBEKOVA	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Consultant	67 18 01	Assistance in promoting the drafts

114	Tolobek Esengulovich OMURALIEV	State Agency for Registration of Rights to Immovable Property, Director	66 51 49, 22 28 72	Assistance in promoting the drafts
115	Akasbek ABDYRASHITOV	Head of the Sector of Agrarian Policy in the Administration of the President of the Kyrgyz Republic	62 62 63	Assistance in promoting the drafts
116	*Anarbek Kasymovich ISMAILOV	Head of the Legal Department in the Administration of the President of the Kyrgyz Republic	21 23 32	Assistance in promoting the drafts
117	Baktygul Janybekovna JEENBAEVA	Chief Executive of KAFC	66 51 33	Assistance in promoting the drafts
118	Erkin Tobokelovich MAMYROV	First Deputy Minister of Justice of the Kyrgyz Republic	66 28 49, 66 28 47	Assistance in promoting the drafts
119	Narynbek ISABEKOV	State Agency for Registration of Rights to Immovable Property, Head of a Sector	66 50 12	Assistance in promoting the drafts
120	Erkingul ISAKOVA	State Agency for Registration of Rights to Immovable Property, Head of a Sector	62 11 62	Assistance in promoting the drafts
121	Asker Tukeshovich ALIEV	Ministry of Agriculture, Water Resources and Processing Industry, Head of the Department of Agrarian Reforms	62 56 72	Assistance in promoting the drafts
122	Kachkynbai Dandabaevich KADYRKULOV	Chief Executive of FSKSR	68 20 13	Assistance in promoting the drafts
123	Askar Abdykalykovich MOMBEKOV	Expert of the Sector on APC and Nature Management of the Secretariat of the Prime-Minister of the Kyrgyz Republic	66 52 00	Assistance in promoting the drafts
124	Maksatbek TASHBOLOTOV	“Kalys-Consult” PF, Director	21 83 06	Assistance in promoting the drafts
125	Mergul Ryskulbekovna BOBUKEEVA	“Kalys-Consult” PF, Lawyer	21 83 06	Assistance in promoting the draft laws
126	Ashym Myrzakanovich SAPARALIEV	Specialist of WB Project, LAR component	62 37 12	Assistance in promoting the drafts
127	Kubat Asanovich KUDAIBERGENOV	Lawyer of WB Project, LAR component	62 37 12	Assistance in promoting the drafts
128	Azimzhan Joldoshevich JOLDOSHEV	Deputy Director of the State Registry (GosRegistr)	66 48 01	Assistance in promoting the drafts
129	Gulnara BAIMAMBETOVA	Director of “In Support of Business Women” Association	65 69 67 585209	Assistance in promoting the drafts

18. Developing, circulating, and promoting the draft law “On Pledge”

Counterparts

130	Erkinbek Tobokelovich MAMYROV	Deputy Minister of Justice of the Kyrgyz Republic	66 28 49, 66 28 47	Assistance in promoting the draft law in Jogorku Kenesh
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131	Marat Abdyrazakovich SULTANOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 18 17	Assistance in promoting the draft law in Jogorku Kenesh
132	Asel Useinovna MAMBETALIEVA	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 18 17	Assistance in promoting the draft law in Jogorku Kenesh
133	Buribai Juraevich JURAEV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	27 16 53	Assistance in promoting the draft law in Jogorku Kenesh
134	Ulan SARBANOV	NBKR, Chairman of the Board	21 75 93,669011.	Assistance in promoting the draft law in Jogorku Kenesh
135	Olga Ivanovna STEPANOVA	NBKR, Head of Legal Department	21-33-44	Developing and promoting the draft law
136	Baktygul Janybekovna JEENBAEVA	Chief Executive of KAFC	66-51- 33	Participating in development and discussion of the draft law
137	Janyl ABDRAKHMANOV A	International Business Council, Lawyer	68-09-20 janyl@ibc.kg or janyla@mail.ru	Participating in improvement of the draft law law
138	Dilfuza Salimovna BORONBAEVA	Judges Training Center, Director	64 40 05	Participating in development of the draft law
139	Chinara MAMIDINOVA	Ministry of Justice of the Kyrgyz Republic, Head of the Sector of Legal Expertise	65-65-01 0 (502) 502-700 kyzym@mail.ru mamidinova@minjust.gov.kg	Developing and promoting the draft law
140	Marina Yurievna ANSIMOVA	Private Notary	549111	Developing and participating in discussion of the draft law
141	Aibek IZAEV	Legal Specialist НБКР (NBKR)	21-33-44	Developing and participating in discussion of the draft law
142	Valentina Yakovlevna REDCHENKO	Head of Central Lien Registry (CLR)		Developing and participating in discussion of the draft law
143	Galia Gattarovna SHAFEEVA	Legal adviser in “Bai-Tushum” MK	211642; 900-464	Participating in discussions of the draft law
144	Olga Nikolaevna NOCHEVKINA	Director of Specialized Consulting Company, Registrar	213-786	Registering pledge transactions with JSC shares
145	Chinara ARAPOVA	Deputy Director of “Chemonics” Land Reform Project	65 04 58; 650 601; 651 370	Joint participation in discussions of draft laws referred to pledge and agricultural cooperative societies

19. The Development and promotion of the Law “On Agricultural Cooperatives” of 1999, participation in the work of the Working Group (formed within the framework of GTZ Project for development of agricultural cooperatives) for developing amendments to the Law “On Agricultural Cooperatives” of 2004 and a Model Charter for agricultural cooperatives

Counterparts

146	Rudiger HULZEN	Director of GTZ Project for development of cooperative societies		Developing and participating in discussions of draft laws and Model Charter
147	Karl AISHER	Head of the group of experts	German Association of Raiffaizen Cooperative Societies	Discussing legislation of the Kyrgyz Republic related to agricultural cooperatives
148	Kambarali Zholotaevich KASYMOV	First Deputy Minister of Agriculture, Water Resources and Processing Industry of the Kyrgyz Republic	625 366	Supervising the work of the Working Group for development of the Conception of Agrarian Policy in Kyrgyzstan for the period of up to 2010
149	Kubatbek ABDRAKHMANOV	GTZ Project for development of cooperative societies, Lawyer		Development and participation in discussions of draft laws and Model Charter
150	Tilek ASHIMOV	Chairman of “Raiffaizen in Kyrgyzstan” Public Fund for development of cooperative societies	600841; 21 82 38	Development and participation in discussions of draft laws and Model Charter
151	Jenevieva KAHILL	Senior Adviser for Agriculture of the Pragma Project	(3222) 23519; 23-617, 23-703	Participation in joint seminar on agricultural cooperative societies in Osh
152	Jyldyz KOZHOBKOVA	Coordinator of regional centers of the “Strengthening the System of Court of Arbitration and Legal Support” Project	21 76 38; 21 83 06; 21 82 64	Participation in joint seminar on agricultural cooperative societies
153	Mergul BOBUKEEVA	“Kalys-Consult” PF, Senior Lawyer	21 76 38; 21 83 06; 21 82 64	Participation in joint activities (roundtable discussions, seminars on agricultural cooperative societies)
154	Gulia Aimanovna OSMONBAEVA	“Development of Agrobusiness in the Kyrgyz Republic” Project of “Soros-Kyrgyzstan” Fund, Director	63 17 06	Participation in joint activities (roundtable discussions, seminars on agricultural cooperative societies, etc.)

20. Project for restructuring agricultural enterprises in Chu Oblast within the framework of cooperation with the Project of Regional Development of Agriculture funded by the Asian Development Bank

Counterparts

155	Peter GOODMAN	Head of PRDA (ABD), Regional Development Expert	63 13 91; 63 13 88; 63 13 89;	Organizing analysis and monitoring of the legal status of agricultural enterprises in Chu Oblast
156	Mark KROKER	Head of PRDA (ABD) Group, Farms Development Specialist	63 13 85; 996 517780175	Organizing analysis and monitoring of the legal status of agricultural enterprises in Chu Oblast
157	John F. VITTLE	ABD, Senior Economist	(632)632-4444	

158	Klifford KHENKEL	PRDA (ABD), drainage/irrigation engineer	432537	Preparing Plan of Activities for carrying out a legal analysis in agricultural enterprises of Chu oblast
159	Kuvatbek Sh. BALAEV	PRDA (ABD), economist	63 13 91	Preparing analysis of agricultural enterprises of Chu oblast
160	Maksatbek TASHBOLTOV	“Kalys-Consult” PF, Director	21 76 38; 21 83 06; 21 8264	
161	KYSHTOBAEV	PRDA (ABD), manager	63 13 91; 63 13 89	Organizing study and monitoring of legal status of agricultural enterprises of Chu oblast
162	Raisa Vasilievna SIDORENKO	PRDA (ABD), manager’s assistant	63 13 88; 63 13 89; 63 13 91	Organizing study and monitoring of legal status of agricultural enterprises of Chu oblast
163	Richard MALINS	Kyrgyz Government Project for development of sheep breeding, Financial and Administrative Matters Expert	996-3312-221577	Participation in the discussion of the work of agricultural enterprises of Chu oblast
164	Dinara Tologonovna JUMAKANOVA	PRDA (ABD), Farms Development Adviser	63 13 88; 63 13 89	Joint business trips to farms of Chu oblast (questionnaire and analysis of legal status of agricultural enterprises)

21. Developing recommendations to improve the law “On Joint Stock Companies” and promoting the draft law “On the Securities Market”

Counterparts

165	*Zainidin Kurmanovich KURMANOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	27 16 20	* Parliamentarian
166	Kubatbek Kalbekovich BAIBOLOV	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 19 86	Parliamentarian
167	*Asel Useinovna MAMBETALIEVA	Jogorku Kenesh (Parliament) of the Kyrgyz Republic, Deputy	67 18 17	* Parliamentarian
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