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Task Order No. 3

**USAID/Georgia Business Climate Reform**

Quarterly Report

(Sept. 20, 2005 – Dec. 19, 2006)

**A. SUMMARY:**

USAID Business Climate Reform's first quarter was a period of intense activity as the project simultaneously began to deliver technical assistance, engaged with Government of Georgia (GoG) counterparts in work planning, and attended to the myriad administrative details required for successful project start-up. This, the project's first quarterly report, pioneers a quarterly reporting format that requires feedback from USAID to become more useful in supporting USAID monitoring and reporting functions. The report will discuss in order:

- **Technical Achievements** and activities to improve the business climate in Georgia;
- **Administrative Issues**, including project startup and the status of work planning with the project's five GoG counterpart agencies, including the Customs Department, Ministry of Economic Development (MoED) and its Georgian National Investment and Export Promotion Agency (GNIEPA), National Agency of Public Registry (NAPR), State Minister on Reforms Coordination, and the Tax Department.
- **Key Issues/Activities for the Next Reporting Period;**
- **Quarterly Project Financials;** and,
- **List of Attachments** that document the issues and activities reported in the narrative.

Three first quarter developments will shape the entire course of the project's life:

- USAID delivered clear instructions that the project is to support implementation of the GoG's reform priorities. This development has given the GoG unprecedented influence over the project's agenda and the allocation of its resources. The degree of consultation and cooperation required to implement these instructions has been both more time consuming and more rewarding than anticipated.
- USAID's directive and project design has produced generous access to GoG officials. A November 1, 2005 GoG edict established a nine-member Coordination Team chaired by State Minister of Reforms Coordination Kakha Bendookidze. The seriousness with which these counterparts take their responsibilities is much appreciated. They have been available to us to develop work plans, review drafts, and propose changes that have

materially improved our approach. While taking somewhat longer to complete a work plan, it is already clear that the collaboration mandated by USAID is more efficient. It creates more opportunities to begin technical assistance earlier, provides the project with an opportunity to influence the GoG's reform agenda, and promotes consensus with GoG counterparts, and with other donors.

- Our technical proposal and the USAID project design to which it responded anticipated a significant role for the project in supporting the Prime Minister's Business Council to develop its capacity to promote public-private dialogue and an increased role in setting in setting the GoG's reform priorities. However, for a variety of reasons, the Coordination Team determined that the public-private dialogue function should be relocated from the Business Council to the Georgian National Investment and Export Promotion Agency. Despite initial concerns that this might reflect a diminished commitment to public-private dialogue, we are increasingly optimistic that the evolving work plan with GNIEPA will result in more opportunities for meaningful public-private dialogue than originally anticipated under the Business Council model.

## **B. TECHNICAL ACHIEVEMENTS:**

The project began delivering technical support to GoG business climate reform initiatives while still engaged in project startup and work planning. The activities described below are all included in the project's work plan, which will soon be finalized.

### **1. Improved legislative, policy, and regulatory framework for businesses:**

Minister Bendookidze works with the project in two distinct roles: 1. He is the GoG official "assigned to reflect the priorities of the Government of Georgia in coordination with the Georgia Business Climate Reform Project," Edict of the Government of Georgia No.455, November 1, 2005. 2. As State Minister on Reforms Coordination, he is also the head of the project's principal counterpart for legislative, policy, and regulatory framework development. During meetings with the project, Mr. Bendookidze has stated that he will wait to identify his priorities until after work plans with the four other agencies are completed and appropriate funds allocated. Accordingly, the project expects rather more activity in this area in the next quarter, after work planning is completed. During the current reporting period, the project accomplished the following:

- A Roadmap on Accession to the Hague Convention on Abolishing the Requirement of Legalization for Foreign Public Documents was delivered to Minister Bendookidze at his request. Georgia's adoption of this convention will greatly simplify the registration process for a foreign business entity, as well as reducing its cost. The State Minister has met with the Ministries of Justice and Foreign Affairs, which were tasked with developing a work plan for accession.
- Preliminary comments on a draft bankruptcy law were provided.
- The project identified a municipal waste disposal procurement expert on an urgent basis to assist the City of Tbilisi in tendering garbage collection contracts that were about to expire. The expert was fielded by USAID's CELD project, and the City reports great satisfaction with results to date, which can provide a model for similar tenders.

- At the request of USAID and the NAPR, the project commented on the a draft Charge (Pledge) Registry Concept paper, suggesting that the scheme envisioned was too complicated, cumbersome, and costly to implement, use, and maintain.
- The project also suggested that the pending Law on Land Registration be amended to provide sufficient time for implementation. The current draft, which is expected to pass the Parliament during December, allows only two months after enactment to draft new regulations, design and implement new business processes, and train staff to carry them out.

## **2. Streamlined registration systems and procedures for companies, immovable and moveable properties and collateral:**

The project made significant strides in streamlining business and collateral registration procedures:

- A draft standardized methodology for quantifying the benefits of streamlining registration systems and procedures was provided to USAID and GoG for review. The methodology will also be used to calculate the benefits of simplified regulatory procedures, licensing, and permits.
- The project invited the representatives of the Tax Department, NAPR, and USAID SME Project to meet together to discuss ways to improve cooperation between the two agencies and increase the efficiency and accuracy of NAPR's tax lien registry. These improvements will better serve Tax Department enforcement needs and the needs of the private sector. As a result of the meeting, a joint task force was formed and two subcommittees established:
  - The legal subcommittee is drafting a Joint Order of the Ministries of Justice, which has jurisdiction over NAPR, and Finance, which has jurisdiction over the Tax Department. The Joint Order will clarify and streamline the process of registering and canceling tax liens.
  - The IT subcommittee has already produced agreement between the two agencies on the specific information NAPR requires from the Tax Department to register a tax lien in the form necessary to provide notice of its existence to third parties. The Tax Department is now updating previously filed liens to provide the agreed-upon information. The IT subcommittee is also developing recommendations for transferring paper-based lien records into a searchable NAPR database.
- The GoG Coordination Team accepted the project's recommendation that the first regulatory streamlining initiative would be focused on unifying business registration, which was recently transferred from the court system to the Tax Department, with tax registration. This initiative is serving as a pilot to train project staff, develop streamlining systems and reporting formats, demonstrate the benefits of regulatory streamlining, and test the project's methodology for quantifying the value of savings to the GoG and private sector. The project will submit its recommendations for unifying the process in the next quarter. Results achieved during the current reporting period include:

- A regulatory map of the business and tax registration processes was prepared. The regulatory map charts the flow of tax registration as prescribed by law, with step-by-step descriptions of the mandated business registration processes for limited liability companies, limited partnerships, joint stock companies, individual entrepreneurs, and branches of foreign corporations.
- Based on the regulatory map, redundant steps in the two processes were identified, providing a basis for the project's recommendations for a unified process, which will be delivered in the next reporting period.
- Regulatory streamlining team members met with business and tax registration officials at three Tax Inspectorate offices, Didube-Chugureti, Vake-Saburtalo, and Mtatsminda-Krtsanisi/Isani-Samgori, to map the business processes they use to implement regulatory requirements. Team members also gathered contact information for businesses that were registered during November 2005, to use in holding focus groups and a phone survey to determine the time requirements, costs, and administrative burdens associated with business and tax registration.
- A focus group for newly registered businesses was conducted to identify the costs and administrative burdens associated with business and tax registration processes. Participants consistently reported that the registration processes uniformly exceed statutory time limits, but that no rent-seeking occurs. But, one participant noted that his registration was delayed because the registration officer was in custody pending the outcome of an investigation into whether the officer had accepted a bribe.
- The regulatory streamlining team met with Amiran Tavartkiladze, the head of the Tax Administration Registration Department to discuss merger of tax and business registration processes. The Tax Department supports unification and will propose appropriate amendments to the Tax Code and Law on Entrepreneurs to authorize an efficient, unified process.

### **3. Reduced, rationalized, simplified regulations and procedures for licensing, permits, standards, and inspections:**

The project worked with the Office of the State Minister on Reforms Coordination to organize the process of finalizing implementation of the new Law on Licenses and Permits. Measures taken include:

- The project prepared a comprehensive table of the status of all 144 licenses and permits covered by the law. For each license and permit, the project identified the agency responsible for drafting regulations governing issuance, whether a regulation had been issued, and, if so, the legal citation for the regulation. The project's research showed that no regulations have been drafted for 40 licenses and permits. The table was used by the State Minister's Office to identify its priorities for which of the licenses and permits needing regulations should be addressed first.
- The project is now meeting with licensing and permitting officials to assess the status of their work on issuing regulations, drafting new sectoral laws, and drafting amendments to other laws as required by the Law on Licenses and Permits.

#### **4. Rationalized, orderly, even-handed, and user-friendly tax and customs procedures:**

Work planning with the Tax and Customs Department led quickly into delivery of support in a variety of areas with each agency.

##### **a. Customs Department:**

The project worked with the Customs Department and a private sector customs task force to organize a weekend retreat in Gudauri Dec. 16-19 to refine draft secondary legislation necessary to implement a new Customs Code that is pending in Parliament. The project supported the parties in developing an agenda, and agreeing on joint priority list of issues for discussion. The project funded participation by GoG representatives. The retreat, led by the Customs Department Chairman, produced agreement on a wide range of improvements to the draft secondary legislation, that will simplify the new regime and reduce compliance costs. Private sector representatives reported great satisfaction with the results of the retreat. Participants reported significant progress on simplifying the new regime and reducing compliance costs.

The project developed an excellent working relationship with the US Customs team based at the US Embassy. This has enabled both organizations to coordinate and begin to implement a joint plan to support the Georgia Customs Department. A series of meetings with The Chairman of the Customs Department and top level staff have focused on advice on organizational structure, training, outreach, workflow improvement and other matters. We have also conducted an initial review of the Customs Department's information technology system, and are working with both US Customs and UNCTAD in planning and costing the conversion of the Customs Department's ASYCUDA++ system to ASYCUDA World on an Oracle data base. We are also assisting in enhancing data exchange between the Customs and Tax Departments.

##### **a. Tax Department:**

Key activities undertaken with the Tax Department during the first quarter of the project's life included:

- The project provided advice and an illustrative framework for drafting a 2006 initial Strategic Business Plan as requested by the Prime Minister.
- Advice and assistance was provided to the Tax Department's IT personnel on implementation of an overall Tax Administration Portal/Website that will incorporate excise tax web functions developed with USAID funding. The web site will permit electronic filing of tax returns later in 2006.
- Recommendations on restructuring tax administration training to better support the new functional organization structure were provided to the Tax Department's Chairman.
- The outline of a structure for development of a formal private sector tax advisory panel composed of attorneys, tax practitioners, and other private sector representatives to comment on proposed changes in tax laws, regulations and procedures prior to implementation was provided. (The Chairman has already ordered creation of a tax advisory panel made up of accounting professionals and we are working with him to establish formal panels and/liasion activities with the business community)

- The project provided the Chairman with a process to manage the implementation of their new functional organization. The document discusses the appointment of an implementation committee, outlining its composition and necessary activities.
- The Tax Department was also provided with materials on best practices for managing a functionally based tax administration, organizational recommendations and models, and data flow diagrams for a model functional organization. These and related materials will be used for an off-site workshop for all top level Tax Administration headquarters and regional managers scheduled for early March, 2006.

## **C. ADMINISTRATIVE ISSUES**

### **1. Project Startup:**

The project mobilized on October 10, 2005, and immediately began interviewing and contracting with proposed team members, recruiting for vacant positions, and embarking on a fast-paced round of consultations with USAID and GoG counterparts. The consultations produced agreement on a three-pronged strategy to launch the project that simultaneously incorporated project startup activities, work planning, and early delivery of technical support for GoG initiatives.

The project's three-day Startup Workshop, Nov. 1-3, brought team members together for the first time and achieved several key objectives essential to a successful launch:

- Extensive participation by USAID and GoG representatives throughout the three-day workshop helped instill a shared vision for project directions, results, and expectations.
- USAID Deputy Mission Director Robert Wilson and GoG State Minister on Reforms Kakha Bendokidze both participated and provided clear, consistent guidance on project relationships and mission.
- Project CTO Irina Gabriadze and USAID Regional Legal Advisor Ann Marie Yastishock informed the project team about USAID policies, procedures, and ethical requirements.
- The project's Home Office Director, Eric Reading, introduced contractor policies and procedures, and led a spirited discussion of Chemonics' approach to ethics based on case studies reflecting issues likely to arise in the course of our work.
- The final day of the workshop was devoted to work planning and assuring that all team members knew what they would do, starting when they showed up for work for the first time the next day, to complete project startup, develop a first-year work plan, and begin immediate delivery of technical support for GoG reform priorities.
- The foregoing, supplemented with team building activities, produced another key objective that has contributed immeasurably to our subsequent work. We emerged as team committed to common objectives with deep mutual respect for the talents and professionalism of our colleagues.

Project startup also produced a more profound understanding of the importance of our work. We came face to face with the regulatory burdens facing the private sector in Georgia. Project registration was an expensive, cumbersome, time-consuming process of navigating a maze of intricately linked administrative complexities that delayed us and distracted us from doing our work. As requested by the State Minister, we are preparing a case study of our

own trip through the bureaucratic maze, including an accounting of the costs imposed, that will be submitted in the next quarter.

## **2. Work Planning:**

After extensive consultations with GoG counterparts and the Coordination Team, and other donors, the project's first year work planning was almost complete at the end of the first quarter. As requested by the GoG, the project worked with its five counterpart agencies to develop individual work plans that have been vetted with the Coordination Team in an iterative process. The reform priorities identified by the different agencies will improve the business climate in a broad variety of complementary ways:

- Support for the Customs Department, coordinated with US Customs advisors, will produce a new, more efficient customs regime; a model customs office; a web-based import/export guide; improved IT capacity; and streamlined border clearance procedures.
- The project will support GNIIEPA, in developing an investor services unit that will operate an investor information center, investment and privatization hotline, and provide logistical support for improved public-private dialogue.
- The work plan with NAPR, includes supporting implementation of the new Law on Land Registration and the agency's new land registration software. The project is also working with NAPR and the Tax Department to improve the reliability and efficiency of the tax lien registry.
- Major elements thus far identified in the project's collaboration with the State Minister on Reforms Coordination, involve finalizing implementation of the Law on Licensing, ongoing streamlining of regulatory processes like construction permitting, and support in administering a baseline survey using the GoG's new Regulatory Impact Assessment tool.
- Support for the Tax Department, will include building planning capacity with specific deliverables including a long-term Strategic Plan, training plan, and IT plan. The project is also assisting the Tax Department in unifying business and tax registration processes, and improving taxpayer services by developing a call center and model office.

Project management has found the nature of the work planning process mandated by USAID a unique professional privilege and challenge. We were not prepared for the complexity involved in launching a project with a clear mission – improve the business climate in Georgia – but no specific tasks. Rather, we were tasked with supporting the reform priorities of the GoG. The process of working with the GoG to identify those priorities and allocate resources among them has been a unique experience, and we offer the following observations:

- USAID's project design and instructions to support the GoG's reform priorities is a fundamentally different approach to development. The ability to meet with counterparts and say, "we have these resources available, how shall we deploy them," helps open doors and facilitates access to counterparts.

- This Government has been responsible and responsive. It has helped us shape the consultation process, and develop work plan objectives that will indeed improve the business climate.
- The richer, deeper process of consultation and collaboration that USAID's approach requires produces unanticipated dividends. These include a better understanding of our counterparts and their needs; more opportunity to witness and sometimes to participate in policy making as the reform priorities we will support are identified; and greater willingness by counterparts to accommodate or embrace matters of policy that are important to USAID.
- Supporting the GoG's priorities rather than pursuing our own has required us to be more diligent in seeking out other donors working in related areas and coordinating more closely with them than we might have otherwise done.
- We are pleased that the design of resource delivery systems for the project have enabled us to address the GoG's priorities. In particular, the technical competencies of long-term team members provide the skills necessary to lead support for GoG initiatives. The availability of short-term Georgian and expatriate LOE, the Special Activity Fund, and the Training Fund, give us the flexibility to mobilize more specialized expertise as the occasion arises.

#### **D. KEY ISSUES/ACTIVITIES FOR NEXT REPORTING PERIOD**

Among the key issues that must be address in the next reporting period are the following:

- Once the GoG and USAID approve the initiatives identified as priorities by our five counterpart agencies, the project must budget the resources to accomplish them. If resources prove insufficient, the GoG and USAID will be asked to prioritize the priorities.
- A performance monitoring plan must be developed, with specific indicators, to measure project performance. Given the nature of the project design, the indicators will measure not just the project's performance but the results of the GoG's reforms.
- Implementation of a performance monitoring plan that measures results will be a key ingredient in development of a communications strategy for the GoG. Currently, the Government does not adequately communicate the results of its reforms. For example, the sweeping reforms which reduced the number of licenses and permits from 900 to 144 eliminated a monthly fee of 15 GEL for taxi drivers. However, many are still paying. This illustrates both the Government's failure to communicate what it has done and a missed opportunity to quantify tangible benefits.
- GoG counterparts have requested support in IT implementations. However, agencies are using unlicensed software in many cases. The project is working with the local vendor for Microsoft and Oracle software to negotiate reduced prices. Unless licensed software is made available, the project will be unable to support very important initiatives.