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**KAZAKHSTAN**

# JUDICIAL EDUCATION PROJECT (KJEP)

**YEAR 1 WORK PLAN  
OCTOBER 1, 2009 – SEPTEMBER 30, 2010**

**A Task Order Under the Rule of Law IQC  
Contract No. DFD-I-06-04-00171-00  
USAID/CAR Regional Mission**

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## INTRODUCTION

### CONTRACT BACKGROUND

Chemonics signed the Kazakhstan Judicial Education Project (hereinafter referred to as KJEP or Judicial Education Project) contract on October 1, 2009 with an end date of October 1, 2011. This contract builds upon the existing successful partnership between the U.S. Government and the Supreme Court of the Republic of Kazakhstan fostered under the Chemonics-implemented Kazakhstan Judicial Assistance Project (KJAP) and aims to provide targeted assistance to help Kazakhstan's judiciary enhance its understanding and treatment of commercial law issues and fuller participation in the global trading system. Key areas of focus improve judicial education and the judiciary of Kazakhstan's capacity to effectively administer commercial law cases in accordance with international standards, which creates an environment fostering investor confidence that Kazakhstan's judiciary will handle any disputes justly and fairly.

### PROJECT OVERVIEW

Kazakhstan is simultaneously reforming its economic and legal infrastructure to become one of the 50 most competitive economies in the world. While the country has significantly improved commercial laws in recent years, difficulties implementing such laws undermine confidence in the judiciary's ability to uphold contractual rights and to fairly resolve commercial disputes. The Judicial Education Project will enhance quality and competence in commercial adjudication through interventions focus on two areas: (i) judicial education; and (ii) court personnel capacity. These program areas are mutually reinforcing and by strengthening the court system contribute to the realization of Program Sub-Element 2.1.3.1: Justice System Actors which ultimately feeds into the U.S. Government Foreign Assistance Objective: Governing Justly and Democratically.

The favorable judicial reform climate provides an exceptional amount of domestic support for KJEP. Such support is driven by (i) international attention focused on the country and (ii) the close and productive relationships KJAP developed with the judiciary. Working closely with its Kazakh counterparts — particularly the Supreme Court, the Institute of Justice, and others as appropriate — KJEP seeks to accomplish its objectives through targeted activities centered around those commercial law matters (e.g., competition, intellectual property rights, contracts, etc.) that are anticipated to be at the fore of businesses, both domestic and international, as the country solidifies its trading relations with neighbors and seeks to expand into other markets (e.g. FSU, Eastern bloc, Asia). Through a collaborative process, KJEP will work with its Government of Kazakhstan (GoK) counterparts to design and implement activities focused on strengthening judicial institutions and improving their performance. This consultative approach encourages local ownership for reform efforts to help make KJEP's activities sustainable.

KJEP will further ensure the sustainability of its activities by working not just to deliver trainings, but to build the capacity of its counterparts and create frameworks and systems to serve the judiciary and country in the future. A final means for ensuring program sustainability is leveraging resources, for example monetary or in-kind contributions from the GoK, to prepare them to absorb the costs for ongoing reform efforts.

This work plan is for Year 1 of the KJEP contract: October 1, 2009 – September 30, 2010.

## **ROLE OF THE PROJECT**

KJEP has two components, both related to the project's goal of increasing the capacity of Kazakhstan's judiciary, with particular focus on economic courts, to handle commercial law issues:

1. Judicial Education and Commercial Law Training Improved
2. Court Personnel Capacity Increased

These two components are divided into distinct "tasks," each of which contributes to the realization of the component.

The Kazakhstan project team consists of a two-person technical team: the Chief of Party (COP) and the Deputy Chief of Party (DCOP). The field office (FO) is in Almaty, Kazakhstan.

The Washington, DC-based home office (HO) management team consists of a director, manager, and associate. This team of development professionals provides daily support to the field office at no additional cost to the contract, being covered out of HO overhead.

## **LINKAGES TO OTHER PROJECTS**

The KJEP project will continue to work in tandem with other U.S. Government-supported projects, including the USAID-funded Regional Trade Liberalization and Customs (RTL) project to leverage any opportunities to deliver joint trainings to the larger legal and technical expert community. The RTL project is presently undergoing work planning and KJEP COP Julia Maliyeva will contact the team leader to identify any opportunities for collaboration. Close coordination with this project and others mentioned below under "Donor Coordination" is intended to enhance information exchange, identify synergies, and reinforce the Mission's overall portfolio to broaden and deepen the impact of KJEP.

## **DONOR COORDINATION**

Given the number of USAID and other donor initiatives providing in-country assistance and the resulting need to coordinate KJEP's work, we will convene quarterly meetings with other donor programs providing commercial law assistance and training to the judiciary. The meetings will alternate between Almaty and Astana to foster participation by both European and other bilateral donors as well as USAID. When USAID cannot attend, COP Julia Maliyeva will keep the USAID technical office apprised of discussions from these meetings. Specifically, KJEP will work with the European Union's Policy Dialogue Advice Programme (PDAP) to share information and stay apprised of any policy shifts that may affect KJEP's activities (i.e., legislative developments requiring a shift in training subject matter). The Gesellschaft für Technische Zusammenarbeit (GTZ) is providing international trade-related assistance to the U.N. Special Programme for Economies in Central Asia and training to

economic courts. Our team will collaborate with them as possible to leverage funding, access expertise, and sponsor joint events to bring judicial officials together with the larger community of specialists involved in the improvement of Kazakhstan's commercial law and trade environment. Participants of the donor coordination meetings will share information about program activities, challenges, solutions, and lessons learned. The meetings will enable our team to effectively plan activities, identify opportunities for collaboration and leveraging resources, and avoid duplication.

## DETAILED WORK PLAN

### Component 1: Judicial Education and Commercial Law Training Improved

The Supreme Court of the Republic of Kazakhstan through the Institute of Justice (hereafter referred as the "Institute") is responsible for ensuring the comprehensiveness of judicial education for judge candidates and ongoing education for sitting judges. Building the Institute's capacity with respect to subject matter knowledge about commercial law issues is critical for providing initial and continuing education to economic court judges.

#### Task 1: Coordination with Supreme Court and Institute of Justice

**Overview:** USAID designed KJEP's scope of work based on the Supreme Court's request for specific assistance to help Kazakhstan's judiciary enhance its adjudication in commercial law issues. Ensuring that KJEP's programming addresses the Supreme Court's needs and ultimately meets its overarching goal, it is necessary to establish a good understanding of the Supreme Court's priority interest areas.

#### Key Activities under this task area include:

- Facilitating development and finalization of a memorandum of understanding (MOU) to govern USAID's assistance and the Supreme Court's contribution. KJEP project staff will meet with the Supreme Court's Acting Head of the International Department, the Director of the Institute of Justice, and the Supreme Court's Judicial Education Department.
- Identify Supreme Court's priorities for substantive training courses and its cost-share contributions (e.g., either in-kind or partial funding of training participant expenses) as demonstration of its commitment to reform efforts.
- Identify the most appropriate Supreme Court departments for the project to access for information (e.g., court records to help identify trends) that will inform project planning.
- Organize and hold MOU signing/project launch event in Astana.

**Resources:** USAID, with contributions from the KJEP project staff, will lead this task to frame the obligations for both the Supreme Court and the USG that form the foundation for the project's assistance. The KJEP home office will serve as a resource and provide any necessary assistance.

**Expected results/Timing:** Signed MOU between USAID and the Supreme Court of the Republic of Kazakhstan. A project launch event timed in conjunction with the MOU signing is anticipated for late January or early February 2010.

## **Task 2: Training Needs Identified**

**Overview:** Kazakhstan has amended several laws to conform to international standards related to commercial issues, and additional changes will be made in the near term. To apply the laws properly, the judiciary will require specialized trainings. The Supreme Court has identified training in the follow substantive technical areas: intellectual property, copyrights, patents, and international arbitration. Kazakhstan as a former Soviet Union (FSU) country faces unique challenges and it will be important that trainings are geared toward solving these challenges. KJEP's training assessment will also identify areas outside the above – perhaps including trademark infringement – to ensure that the project's activities under Task 3 and Component 2 are well informed.

### **Key Activities under this task area include:**

- Conduct training needs assessment. In October 2009, the Supreme Court distributed a needs assessment survey to all courts.
- KJEP will review the data collected from this survey and provide analysis that includes best practices with respect to assessing training needs and prioritizing training activities based on these findings. In carrying out this activity, project staff will work closely with the Supreme Court's judicial education department (Justice Suleimenova and her staff) who will observe and learn how to conduct an assessment and evaluate the information received. The objective here is to build the Supreme Court's capacity so they are more effective in their positions. Having worked closely with project staff in Year 1, it is anticipated that the Supreme Court's judicial education department staff will apply lessons learned, sharing them also with regional training coordinators (16 judges one from each region are selected to keep the Supreme Court informed about region-specific training needs), as they undertake the training needs assessment later in Year 1 to inform the project's Year 2 activities.
- Explore the potential benefits of creating a training needs assessment database to capture the existing experience and capacities of staff in judicial institutions.
- Develop a detailed plan for trainings to cover priority areas that are identified in the analysis— anticipated to include intellectual property, enforcement of arbitral awards and international judgments, patent rights, authors' rights, and international arbitration — to address difficulties that Kazakhstan will face (based on what has been learned from other FSU and Eastern bloc countries).

**Resources:** DCOP Sholpan Tashmukhambetova, based in Astana where counterpart offices are, will lead this activity. The project will identify an international expert specializing in judicial training needs and strategy development to review and provide value-added insight to incorporate best practices.

**Expected results/Timing:** Draft training plan and delivery schedule submitted to USAID and the Supreme Court by November 30, 2009.

### **Task 3: Judicial Education Capacity Increased**

**Overview:** As the Institute is the principal judicial education body in Kazakhstan, it is critical to the sustainability of KJEP's efforts to understand its strengths and weaknesses. Presently, the Institute has not incorporated commercial law courses into its Magistrates Program curriculum. On an annual basis, the Institute holds a two-week seminar series as part of its continuing education program. However, the series does not have the capacity to reach all 185 economic court judges so the project anticipates the need for other training activities, as well as teaching methodologies like distance learning, to reach all economic court judges (see Component 2, Tasks 1 – 4).

#### **Key Activities under this task area include:**

- Survey Institute of Justice administration and instructors to identify needs and priority assistance areas.
- Participate as an observer during the Institute's upcoming planning session that will set its 2010 programs.
- Meet with the Institute's director to determine local capacity to support distance learning technologies.
- Assist in developing curriculum.
- Review the 2009 seminar series for commercial law courses for any gap areas with the assistance of one or more subject matter specialists. Help develop the 2010 seminar series curriculum.
- Develop the Supreme Court's and the Institute's resources by broadening their regional network and access to technical specialists and materials. Additionally, KJEP will deliver a resource package for each training activity which includes relevant background and research documents, training materials, and administrative resources (e.g., short-term employment contracts for technical services, vendor contracts).

**Resources:** DCOP Sholpan Tashmukhambetova will attend the Institute's December planning meetings. Short-term experts from within Kazakhstan or internationally will provide the necessary subject matter expertise to develop training materials.

**Expected results/Timing:** The activities under this task will begin on or about December 2009 and continue for the remainder of the project's first year.

### **Component 2: Court Personnel Capacity Increased**

#### **Task 1: Regional Study Tour**

**Overview:** The Supreme Court is keenly interested in increasing judges' knowledge of commercial law issues in the context of challenges that are specific to FSU countries. There are several such countries, like Moldova and Ukraine, which are undergoing commercial law reforms with varying degrees of success. Broadening the community of countries to include those from the Eastern bloc, such as Poland, Hungary, the Czech Republic, and Bulgaria, accounts for an additional group of countries whose courts have accumulated recent, practical experience implementing commercial laws. A study tour to one of these countries can provide a forum where the judges of Kazakhstan learn about the distinct challenges and solutions employed by such countries. Additionally, the project will explore with the

Supreme Court whether an international training program (i.e., the CEELI Institute's Intellectual Property Rights Enforcement program, or programs through the International Union of Judicial Officers (UIHJ)) offer appropriate opportunities.

**Key Activities under this task area include:**

- Though the training needs assessment will identify much of the information needed to select the most appropriate study tour destination, project staff will also discuss with the Supreme Court any specific expectations it may have with respect to this activity.
- Identify study tour location. Doing so, the project will also take into account activities undertaken by the EU, GTZ, and USAID's RTLC project for joint programming opportunities or other resource leveraging.
- Work with the Supreme Court to select one judge from each of the 16 Economic Courts to participate in the study tour. Selection criteria will be included in the MOU language. KJEP will work with the Supreme Court to issue an announcement to all of the Economic Courts for a competitive recruit process incorporating minimum qualifications that each applicant should meet for consideration. Additionally, the project plans to have each of the selected attendees deliver one peer training in their home court as a condition for participating in this activity.
- COP Julia Maliyeva and DCOP Sholpan Tashmukhambetova will accompany study tour participants.
- Third country training logistics will be administered either through a center (like the CEELI Institute) or the use of a TCN consultant or organization under a subcontract.
- Survey selected participants on training-of-trainer concepts and skills, and conduct orientation prior to study tour. The location of the orientation will depend on the point of departure for the study tour, whether Almaty or Astana.
- Collect pre-training evaluations from each identified participant.
- Collect post-training evaluations from each study tour participant.

**Resources:** DCOP Sholpan Tashmukhambetova will liaise with the Supreme Court and the organization or individual handling logistics for the study tour. The project's training specialist will coordinate with the Chemonics home office to ensure that training participants are properly reported to TraiNET. The Chemonics home office will assist with formal approval requests and waivers (if necessary) for this activity.

**Expected results/Timing:** Study tour completed on or about April 2010. Increased capacity of 16 Economic Court judges.

**Task 2: Judge-Trainers and Peer Trainings; Identification of Model Judge-Trainers**

**Overview:** Increasing the judiciary's knowledge and understanding of commercial law issues will be achieved through subject matter trainings for all judges, but the project will also build sustainability through the creation of trained judge-trainers who will further train their peers. The end goal is to build internal capacity within Kazakhstan's judiciary, specifically the country's Economic Courts and court personnel in other courts (rayon courts) which also review commercial law cases. This activity will engage participants from the study tour (Component 1, Task 1) to prepare and deliver one training session to court personnel from their home region. Upon completion, judges will have the knowledge to administer

commercial law cases within their own courts and have developed training expertise upon which the Supreme Court and the Institute may rely for future training delivery or curriculum development. To build on this activity, KJEP intends to select a group of model judges (3-5) who will deliver two subject matter trainings in Year 2.

**Key Activities under this task area include:**

- Each judge who attends the regional study tour (Component 2, Task 1 described above) will deliver one training to judges and relevant court personnel in their home courts.
- Prior to training delivery by the study tour participants, the project will deliver four, regional, half-day, training-of-trainer sessions.
- Project staff will work with each model judge to develop or compile training materials, advise on training delivery (i.e., identifying the most effective means for relaying the subject matter through presentation, case studies, discussion groups, etc.), and assist with training logistics (e.g., advertising the course to appropriate target audience, producing training materials).
- Prior to training delivery, each judge-trainer will collect pre-training evaluations to gauge participant knowledge of the training topic.
- Following each training, KJEP will collect participant evaluations polling their opinion as to the content's usefulness and effectiveness of the trainer.
- COP Julia Maliyeva will review all of the training evaluations and observer feedback and identify 3-5 judges who successfully delivered their trainings and recommend them to the Supreme Court to serve as model judge-trainers. Project staff will attend as many of these trainings as possible depending on the demands of other project activities and the actual scheduling of such trainings by individual judges.
- Package information and submit to the Supreme Court for its record-keeping purposes.

**Resources:** COP Julia Maliyeva will lead this component with assistance from DCOP Sholpan Tashmukhambetova and Training Specialist Tatyana Rudchuk as training observers to cover as many individual peer trainings as possible. In Year 2, KJEP will work with the model judge-trainers and support them as they work on developing and delivering two peer trainings.

**Expected results/Timing:** The activities under this task will begin on or about May 2010. We anticipate that all participants will complete training delivery by the end of July 2010. This activity is intended to reach a wider target audience (than groups targeted in Task 1 and Task 3) of individuals who work with the courts on commercial law matters. If each training targets 15-20 participants (e.g., judges, lawyers, court personnel), this activity will have increased the capacity of 240 – 320 judicial sector personnel.

**Task 3: Seminar for Economic Court Judges**

**Overview:** The Institute plans to hold its annual two-week continuing legal education program for judges in Spring 2010 – the dates will be solidified during the December 2009 planning session. The project will seize this opportunity to deliver one, two-day training on commercial law issues. The subject areas will likely include intellectual property rights,

copyrights, and patents, unless the training needs assessment (see Component 1, Task 1) identifies other more pressing subject areas.

**Key Activities under this task area include:**

- Engage local and international experts to review the Institute's existing training materials and identify any missing elements. The purpose of the expert review is to ensure that the training materials incorporate commercial law topics and provide FSU-, Eastern bloc-, and trading partner-specific case studies and solutions.
- Develop training materials and resource materials.
- Review training materials with the Supreme Court's judicial education department and the Institute to confirm that the contents meet their needs. Finalize materials.
- Deliver training. Whenever possible, the project will seek to identify a sitting judge from Kazakhstan's judiciary to team with a subject matter specialist to increase participant receptivity.
- Collect participant evaluations following each training polling their opinion as to the content's usefulness and effectiveness of the trainer.
- Package information and submit to the Supreme Court for its record-keeping purposes.

**Resources:** DCOP Sholpan Tashmukhambetova will lead this component with assistance from local and international subject matter specialists as appropriate.

**Expected results/Timing:** The seminar will take place in April/May 2010 or when scheduled by the Institute. Increased capacity of 25 judges.

**Task 4: Regional Intellectual Property Trainings for Economic Court Judges**

**Overview:** In October 2009, a letter from the Supreme Court specifically identified its interest in two regional trainings for Economic Court judges focusing on intellectual property rights. Recognizing that other capacity building activities described above will have a limited reach, KJEP will extend the project's technical activities in a manner that targets judges who were unable to attend the study tour, peer trainings, or the Institute's continuing education program by holding a regional training. The location of the regional training will depend on which area had the least representation during prior project training activities, or which exhibits the greatest need for training in intellectual property based on findings from the training needs assessment. Ideally training needs will also reflect caseload trends from individual Economic Courts.

**Key Activities under this task area include:**

- Develop training materials and resource materials.
- Review training materials with the Supreme Court's judicial education department to confirm that the contents meet their needs. Finalize materials.
- Deliver training. Whenever possible, the project will seek to identify a sitting judge from Kazakhstan's judiciary to team with a subject matter specialist(s) to increase participant receptivity.

- Collect participant evaluations following each training polling their opinion as to the content's usefulness and effectiveness of the trainer.
- Package information and submit to the Supreme Court for its record-keeping purposes.

**Resources:** COP Julia Maliyeva will lead this component with assistance from DCOP Sholpan Tashmukhambetova and Training Specialist Tatyana Rudchuk. The project may also need to call upon subject matter experts as needed to review training materials.

**Expected results/Timing:** The regional training will be held in September 2010. The trainings will build capacity among the judiciary.

#### **Task 5: Conduct KAS of Economic Court Personnel**

**Overview:** In addition to the training needs assessment discussed above (see Component 1, Task 1), the project will work with designated court personnel to conduct a knowledge, attitude, and skills (KAS) analysis of economic court staff. The KAS will give courts insight about the causes of ineffectiveness in their handling of commercial law issues. For example, the analysis will shed light on whether ineffectiveness can be resolved through training, reallocation of workloads and resources, or introduction of new procedures. Such procedures may address the judiciary's efforts in public education as well as internal education.

#### **Key Activities under this task area include:**

- Conduct a knowledge, attitude, and skills survey of all judges and relevant court personnel. The purpose of this survey is to gauge court personnel's familiarity with commercial law issues and the practices they employ in adjudicating cases, keeping abreast of relevant developments, and disseminating new standards of practice as they evolve. These surveys will be analyzed and transformed into recommendations to help ensure ongoing learning opportunities and administrative capacity for effective commercial law adjudication in Kazakhstan's economic courts. KJEP will follow up on KAS recommendations in the Year 2 training plan and other Year 2 work plan activities.
- Develop reference guide/toolkit which judges and court personnel can maintain in the court's research room (this is traditionally used to house procedural codes and relevant legislative amendments). The reference guide will offer key materials from project trainings. For example, summaries of commercial law issues, list of publications and other materials available in print or on the Internet, and case studies examining case decisions which judges may consult as guide documents, will be compiled into a comprehensive repository. KJEP will investigate producing electronic and interactive formats for the reference guide.

**Resources:** COP Julia Maliyeva will lead this component with assistance from DCOP Sholpan Tashmukhambetova and Training Specialist Tatyana Rudchuk to compile the resource materials.

**Expected results/Timing:** The activities under this task will begin on or about June 2010 and continue for the remainder of the project's first year as well as the second year.

## **REPORTING REQUIREMENTS**

KJEP will submit all reports as stipulated by the KJEP task order and the Rule of Law IQC, including monthly, semi-annual, annual, and final reports.