

PD-ABL-690

9/2/95

INSTITUTIONAL REFORM AND THE INFORMAL SECTOR
AT THE UNIVERSITY OF MARYLAND AT COLLEGE PARK
2105 Morrill Hall, College Park, Maryland 20742
IRIS CENTER OF UNIVERSITY RESEARCH CORPORATION, INTERNATIONAL



QUARTERLY REPORT

Reporting Period: April 1 - June 30, 1995
BOA Number: ANE-0015-B-00-1019-00
AID Project Office: G/EG/EIR (O. Koropecky, 522 SA-2)
AID Office funding delivery order: G/EG/EIR
AID Office project: Institutional Reform and the Informal
Sector (IRIS) Project

Institutional Reform and the Informal Sector (IRIS) Project

Quarterly Report: April 1 - June 30, 1995

INTRODUCTION

The Institutional Reform and the Informal Sector (IRIS) Project was authorized on May 24, 1990 through a cooperative agreement between the U.S. Agency for International Development (USAID) and the IRIS Center at the University of Maryland at College Park. An accompanying basic ordering agreement allows for AID Missions to buy into the technical assistance activities, to meet objectives specific to the respective country. The goal of the IRIS project is to support institutional reforms that enhance competitive markets and democratic processes. The purpose of the Core cooperative agreement is three-fold and includes the following:

- To promote better institutions (legislative reform, regulatory reform, improved organizational structures, and strengthened decision-making processes);
- To build awareness of the role of institutions in economic development; and
- To expand the knowledge base on the relationship between institutions and economic growth and examine new approaches to institutional reform.

The objectives of both the cooperative agreement and the respective basic ordering agreements are met with a variety of project inputs, defined by their appropriateness to the specific needs of a country or the international development community at large. Organizational development objectives are addressed through publications, workshops, technical assistance, and training. Collaborative research objectives call for designing technical assistance packages. Training needs are met with short term in-country and third-country programs, short-term US programs and/or internships. Information dissemination and outreach objectives are addressed through the IRIS clearing house and the IRIS newsletter. The development of a knowledge base for strategic approaches is furthered through working papers, books, monographs, articles, conferences, workshops, and seminars.

The status of project interventions and the resulting impact is reported to USAID on a quarterly basis, as defined in the cooperative agreement and nine (9) delivery orders currently in effect. The following report provides an overview of project activities and impact for the core project (Section One) and the respective field projects (Section Two) for the period April 1 - June 30, 1995.

SECTION ONE: CORE REPORT

I. PROGRESS TOWARD ACHIEVING PROJECT PURPOSES: FIELD PROGRAMS

A. Promoting better institutions

1. Legislative reform initiatives

a. Plans for reporting quarter

- **Bulgaria, Macedonia.** The hiring of LTAs and local staff and the opening of offices would be completed.
- **Lithuania: Collateral Law.** IRIS/Lithuania would obtain "nutarimas" from the Lithuanian government, making the Work Group officially responsible for reforms related to movable property. The Work Group would be expanded to include drafters of current hipotekas law and members of the Lithuanian Commercial Bankers' Association. An inventory of conflicting statutory and regulatory provisions and legislative initiatives would be produced.
- **Nepal: Company Law.** IRIS would support the tabling of the Company Law by the Ministry of Industry, expected in July 1995.
- **Nepal: Consumer Protection Act.** IRIS would support the tabling of this Act by the Ministry of Supplies, also expected in July 1995.
- **Nepal: Contract Law.** The Nepal Law Society was expected to complete a draft law in June.
- **Poland: Collateral Law.** IRIS would continue to assist John Olaison of the Norway Group in realization of the central registry project. IRIS would work on engaging the Council of Ministries as it considers the draft Collateral Law as the head of the project. IRIS may organize an inter-ministerial workshop under auspices of the Council of Ministries and the World Bank to discuss various aspects of the Central Registry project.

b. Activities during quarter

- **Bulgaria, Macedonia.** IRIS-Central Europe added a long-term advisor (Mark Beesley) in Sofia and during the quarter sent a temporary long-term advisor to open an office in Skopje.
- **Lithuania: Collateral Law.** IRIS/Lithuania overcame opposition to its efforts to develop a separate law related to movable property. The Work Group was expanded to include drafters of current law, and an inventory of related provisions was produced. In response, the Ministry of Justice crafted extensive amendments to the existing law, which were submitted to the Seimas and are to be considered by the full Seimas by July 1995. Several "consensus-building" activities were undertaken during the quarter, which involved the Lithuanian Commercial Bankers Association and the Bank of Lithuania.
- **Nepal: Consumer Protection Act.** Progress delayed by dissolution of parliament.

- **Nepal: Contract Law.** English and Nepali final drafts were completed.
- **Poland: Collateral Law.** The draft was approved by the Social and Economic Policy Committee of the Polish Council of Ministers in June.¹ Progress on the central registries project was delayed, but IRIS took part in numerous meetings in conjunction with the World Bank mission to secure the broad consensus necessary for central registry reform to move forward.

c. Plans for next quarter

- **Nepal: Company Law.** The Nepal Law Society is expected to complete in August 1995. In addition, reviews will be undertaken of the foreign investment provision in Industrial Enterprise Act and difficulties of small business with export and registration policies and procedures.
- **Russia: Civil Code.** IRIS will provide support to the Research center for Private Law during legislative drafting and debate, and will publish (in cooperation with the EBRD) the proceedings of the Conference on Secured Commercial Lending.

2. Regulatory reform activities

a. Plans for reporting quarter

- **Mongolia: Competition Policy.** IRIS/Mongolia would conduct follow-up technical assistance on implementation of the Law on Prohibiting Unfair Competition.
- **Nepal: Central Depository System at the Nepal Stock Exchange.** The Policy Dialogue Committee was to review this commitment after the Annual General Meeting of the Stock Exchange, which was expected to implement IRIS recommendations.
- **Poland: Intellectual Property Reform. Model Contract Project.** A manual of model contracts for technology commercialization would be completed in the beginning of May. Efforts would be made to have it printed by KBN during this quarter.

b. Activities during quarter

- **Mongolia: Competition Policy.** IRIS-College Park was unable to staff the activity on developing procedures for enforcement of the Law on Prohibiting Unfair Competition in the time frame requested by the National Development

¹ On July 18, the Council of Ministers approved the draft collateral law with only minor revisions. The draft is now up for consideration by the Sejm.

Board.

- **Nepal: Stock Exchange.** IRIS consultant Andrew Haber completed a draft report to improve information flow at the Exchange.
- **Poland: Intellectual Property Reform. Model Contract Project.** IRIS-Central Europe signed a contract with the Institute for the Protection of Intellectual Property at the Jagiellonian University to complete the Polish half of the Model Contracts book. The English half was republished by the Polish State Committee for Scientific Research on March 15.

c. Plans for next quarter

- **Mongolia: Environmental Policy.** IRIS will conduct follow-technical assistance on market based incentives in air quality regulations.
- **Nepal: Stock Exchange.** A TOR will be readied for PR assistance to the Securities Exchange Board (SEBNO); emphasis will be on educating the public about the capital market.
- **Poland: Intellectual Property.** Completion of the Polish half of the Model Contracts book is expected in July.

3. Improved organizational structures

a. Plans for reporting quarter

- **Mongolia: Insurance Law.** IRIS would assist in developing a general insurance law and regulatory framework.

b. Activities during quarter

- **Mongolia: Insurance Law.** Assistance to drafters of a new insurance law is now being provided by another donor.
- **Nepal: Business Development.** Local IRIS consultants are helping small businesses with product development, product identification, and marketing. Preparatory work was undertaken on assistance to various organizations such as the Janakpur Women's Development Center, Women Entrepreneur Association of Nepal (WEAN), and the Small Business Promotion Program.

c. Plans for next quarter

- **Mongolia: Insurance Law.** IRIS will conduct follow-up technical assistance on training relevant to insurance law and regulatory framework. IRIS-Mongolia will develop an agenda for assistance, while IRIS-College Park will identify and hire appropriate experts in the area of insurance regulation.

4. Strengthened decision-making processes

a. Plans for reporting quarter

- **India: Enhanced dialogue on policy reform.** Activities for next quarter include publishing policy papers in IRIS-India Working Paper Series, solicitation of policy analysis proposals and commissioning of papers, planning of Distinguished Speaker Conferences to be held in November 1995 and January 1996, planning of Indo-American scholarly exchange program, and preparations for video teleconference on "Democracy and Economic Development: Friends or Enemies?"
- **Mongolia.** IRIS would conduct a fifth workshop, on economics for the media, and begin preparations and background research for sixth workshop on corporate governance.
- **Russia: Civil Code.** IRIS/Russia and the Research Center on Private Law would complete the translation and publication of the Uniform Commercial Code. May workshops will provide Russian law-makers with assistance on drafting Part II of the Civil Code, including banking, sales, and leasing.

b. Activities during quarter

- **India: Enhanced dialogue on policy reform.** A policy analysis program was launched in collaboration with the National Institute for Public Finance and Policy.
- **Mongolia.** The fifth workshop in the IRIS/Mongolia series targeted journalists in their roles as multi-directional information conduits and facilitators of public discourse. Held during May in Ulaanbaatar, the workshop introduced fundamental concepts of economics to a group of thirty journalists from newspapers, radio, and television. The workshop instructors particularly emphasized several topical examples to illustrate how economic knowledge could be practically applied by journalists. At the request of Member of Parliament Ochirhuu (also Advisory Committee member) IRIS co-sponsored a roundtable discussion on development of effective corporate governance during the workshop with the National Association of Corporate Directors and the Enterprise Management and Restructuring Center.
- **Russia: Civil Code.** The translation of the UCC was completed, with publication expected in the Fall. Workshops were held in May on selected aspects of Part II of the Civil Code. [Please see "impact" section of this report.] Part II of the Code was translated and widely distributed in Russia and the US, and comments from Western law firms in Russia were distributed to the drafters of the Code.

c. Plans for next quarter

- **India: Enhanced dialogue on policy reform.** Policy analysis proposals will be reviewed and selected, an Indo-American Scholarly Exchange program will be launched, and planning will be undertaken for a series of conferences.
- **Mongolia: Corporate Governance.** Conduct preparations--including interviews with officials from government, political parties, and regulatory agencies, editors, reporters, academics, members of parliament, and the foreign assistance community--for the last workshop in the IRIS/Mongolia series.

B. Disseminating information to build awareness of the role of institutions in economic development

1. Forums, conferences, presentations

a. Papers presented at Scholarly Meetings by IRIS staff and consultants:

A conference entitled "Russian Reforms: Established Interests and Practical Alternatives" took place in Moscow on April 12-15, 1995, to discuss causes and consequences of the fragmentation of the Russian institutional and economic fabrics, and to outline policy alternatives reflecting the role of the interest groups in the Russian society.

James Anderson represented IRIS at the "State Seminar of the People Engaged in Production and Trade," sponsored by the Government of Mongolia and held in April 1995 in Ulaanbaatar.

In April, IRIS/Mongolia co-sponsored with the Asia Foundation a roundtable discussion of "Views on the Status of Political and Economic Reform and the Need for Continued Assistance." Topics addressed included international relations, the progress and set-backs of economic reforms, and civil society in Mongolia.

IRIS-Nepal supported a day-long workshop that discussed possible policy directions for the FY 1995/96 budget. The Prime Minister as well as the Minister of Finance attended the discussions. The media provided extensive coverage on the workshop.

IRIS/Central Europe co-sponsored a lecture by former Chilean Minister of Labor Dr. Jose Pinera on pension law reform on June 8, 1995. A large audience heard Dr. Pinera describe how Chile's private pension system increased pensions for poor people and permitted the formation of a capital market to buy privatized state industries.

Mancur Olson (IRIS conference, April 14, Moscow) "The Devolution of Power and the Societies in Transition"

Mancur Olson (American Law and Economics Association, May 12, Berkeley, CA) "Property & Contract Rights Under Democracy & Dictatorship."

Mancur Olson (Cambridge, MA, May 26) Workshop on "The Wealth and Poverty of Nations."

Mancur Olson (IMF, June 1) "Capitalism, Socialism, and Dictatorship"

Mancur Olson (Southeastern Association of Regulatory Utility Commissioners, Williamsburg, VA, June 6) "The New World of Regulation."

Mancur Olson (University of Trento, June 20) "The Economics of Autocracy and Majority Rule."

Mancur Olson (CEIS Conference on Institutions and Economic Organization in the Advanced Economies, Rome, June 21) "Why Poor Institutions Promote Corruption."

Mancur Olson (Robert Schuman Centre, Florence, June 23) "The Varieties of Eurosclerosis: The Rise and Decline of Nations Since 1982."

b. Training Provided to Scholars from LDCs and the NIS:

49 Kazakh professors of economics are enrolled in an IRIS summer program providing courses in micro- and macroeconomics, money and banking, law and economics, public finance, and industrial organization.

The World Bank's Economic Development Institute has invited IRIS/Lithuania director John Corrigan to teach the collateral law section for a seminar entitled "Development of a Commercial Law Framework for the Baltic States," to be held 3-14 July 1995 in Vienna.

IRIS/Russia will provide seminars and training on the new Russian securities legislation.

2. Publications

a. Working papers:

Philip Keefer and Steve Knack, "Property Rights, Inequality and Growth," IRIS Working Paper No. 153, April 1995.

Deborah Brautigam, "Indigenous Institutions and Industrial Development in Eastern Nigeria." IRIS Working Paper No. 154, April 1995.

Peter C. Ordeshook, "Lessons for Citizens of a New Democracy," IRIS Working Paper No. 155, April 1995.

Peter C. Ordeshook, "Russia, Federalism, and Political Stability," IRIS Working Paper No. 156, April 1995.

Peter C. Ordeshook, "Russia, Federalism, and Political Stability," (Russian version), IRIS Working Paper No. 156a., April 1995.

Karla Hoff, "Book Review: *Local Suppliers of Credit in the Third World, 1750 - 1960*," IRIS Working Paper No. 157, April 1995.

Peter C. Ordeshook and Olga Shvetsova, "If Hamilton and Madison Were Merely Lucky, What Hope Is There for Russian Federalism?" IRIS Working Paper No. 158, April 1995.

Avner Grief, "Markets and Legal Systems: The Development of Markets in Late Medieval Europe and the Transition From Community Responsibility to an Individual Responsibility Legal Doctrine," IRIS Working Paper No. 159, April 1995.

Matthew D. McCubbins, "Utility Regulation, Economic Development, and Political Stability: The Contrasting Cases of Argentina and Chile," IRIS Working Paper No. 160, May 1995.

Linda Cohen, Matthew D. McCubbins, and Frances Rosenbluth, "The Politics of Nuclear Power in Japan and the United States," IRIS Working Paper No. 161, May 1995.

Peter Ordeshook, "Constitutions for New Democracies: Reflections of Turmoil or Agents of Stability?" IRIS Working Paper No. 162, May 1995.

Barry Eichengreen and Pablo Vaquez, "Institutions and Economic Growth: Evidence for Postwar Europe," IRIS Working Paper No. 163, May 1995.

Mariana M. Kotzeva and Enrico Perotti, "Exogenous and Opportunistic Financial Arrears: Evidence from a Survey of Bulgarian State Managers," IRIS Working Paper No. 164, June 1995.

James Roumasset, et al, "Specialization and Coevolution of Agricultural Markets," IRIS Working paper No. 165, June 1995.

Kenneth Koford and Jeffrey Miller, "Contracts in Bulgaria: How Firms Cope When Property Rights are Incomplete," IRIS Working Paper No 166, June 1995.

Nicholas Sanchez and Jeffrey Nugent, "Breaking the Policy Gridlock on Grazing and Other Uses of Public Lands." IRIS Working Paper No. 167, June 1995.

Jeffrey Nugent and Nicholas Sanchez, "The Local Variability of Rainfall and

Tribal Institutions: The Case of Sudan," IRIS Working Paper No. 168, June 1995.

b. IRIS Reprints:

Peter C. Ordeshook, "Reexamining Russia: Institutions and Incentives," *Journal of Democracy*, Vol. 6, No. 2, April 1995, pp. 46-60. IRIS Reprint No. 61

Daniel T. Ostas and Burt A. Leete, "Economic Analysis of Law as a guide to Post-Communist Legal Reforms: The Case of Hungarian Contract Law," *American Business Law Journal*, Vol. 32, No. 3, 355-398. IRIS Reprint No. 62

Marek M. Kaminski, "Arrow's Theorem: An Example of the Axiomatic Method in the Social Sciences," *Studia Socjologiczne* (3/4) (134/135) 1994, pp. 73-92. IRIS Reprint No. 63

c. IRIS Country Reports:

Praveen M. Dixit, "Economic Reform in Nepai: A Cursory Assessment," IRIS Country Report No. 17, May 1995.

Additional Publications by IRIS staff:

Mancur Olson, "The Secular Increase in European Unemployment Rates" in *European Economic Review* 39 (1995) p. 593-599.

Mancur Olson, "The Devolution of the Nordic & Teutonic Economies" in *AEA Papers and Proceedings*, May 1995, p. 22-27.

Mancur Olson, "The Varieties of Eurosclerosis: The Rise and Decline of Nations since 1982" in Europe's Post-war Growth, Nicholas Crafts and Gianni Toniolo (eds.), Centre for Economic Policy Research.

C. **Expanding the knowledge base on the relationship between institutions and economic growth and examining new approaches to institutional reform.**

The IRIS Index Project: During the second quarter work has continued on the paper "Property and Contract Rights under Democracy and Dictatorship" and a revised version was presented at the Berkeley meetings of the American Law and Economics Association, May 12-13. The group also completed two chapters for the planned IRIS book, Institutions and Economic Development, which was sent to the publisher in June. Publication is planned before the end of the year. The book will contain, in addition to these two chapters based on Index work, chapters by Olson, Murrell and Korsun, Cadwell, and Clague.

Additional areas of on-going research by IRIS staff and fellows include an examination of the impact of caste on labor and tenancy markets in rural India (Anand Swamy); the relation between income and literacy growth in

India (Swamy); the existence of scale and technical inefficiency in Indian firms and the impact of liberalization on such inefficiencies (Fikkert); the effects of regime type and duration on foreign direct investment (Fikkert); and several issues related to China's successful economic reforms, including industrial agglomeration and the effects of training and compensation on labor turnover (Fikkert).

II. PROJECT IMPACT

A. Achievements During Quarter.

Ukraine: Competition Policy. IRIS resident advisors have assisted the Antimonopoly Committee of Ukraine (AMC) in drafting legislation on unfair competition and natural monopolies, training personnel, and undertaking a public education campaign. The AMC, upon the advice of IRIS, has created an Office of the Secretary, which permits improved case-load management, accountability to the public, and consistency in policy-making. IRIS helped draft an administrative code for the AMC, which provides for improved internal decision-making and management structures and which attempts to resolve difficulties inherent in a commission that is a law enforcement agency with quasi-judicial powers. Ongoing training includes topical seminars, a university-style course on economics and antitrust, and training conferences for regional AMC staffs. A international conference will be held in Kiev in October.

Poland: Collateral Law. The draft was approved by the Social and Economic Policy Committee of the Polish Council of Ministers in June. On July 18, the Council of Ministers approved the draft collateral law with only minor revisions. The draft is now up for consideration by the Sejm. To help build public support for the reform, a TV program co-produced by IRIS/Central Europe with Polish TV Channel ONE was aired on prime-time evening TV on June 6. The program, called "How to Make Money out of Bankruptcy," showed in a drama how the present Polish collateral law system enables dishonest businessmen to use the same collateral over at numerous banks while moving it from one bankrupt company to another. The forty-minute drama was followed by a talk show where Polish experts responded to questions by the host. An audience estimated at 2 million persons saw the program.

Russia. Policy Analysis. A study by Evgeny Gontmakher, Deputy Chairman of the Council on Social Policy with the President of the Russian Federation, is being used in drafting the "Program of Stabilization of Living Standards of the Population of the Russian Federation," authorized by President Yeltsin. In its current version, the program provides for welfare payments to the poor, funded from the federal budget. The project's outputs are also being used by the drafters of laws on indexation of the minimum wage and basic pension benefits.

The results of a project by Lev Jacobson on public services provision under the transition have been used in drafting laws "On Non-Profit Organizations" and "On Charity

and Charitable Organizations." (The latter passed a second reading in the Duma in May 1995.) Materials developed under the project related to the health care reform and to medical insurance have been passed to the Ministry of Health and Medical Industry, and Duma committees of the on health care, labor and social policy, economic policy, and property and privatization. Recommendations on privatization of educational institutions and cultural facilities have been submitted to the State Committee on Post-Secondary Education and to the Ministry of Culture of the Russian Federation. The project's findings have also been used in incorporated in programs on social safety nets and the development of public services in Moscow, and economic and social rehabilitation for the Bryansk region.

Recommendations developed by Igor Kolosnitsyn in a study of income distribution and inequality in Russia will improve the quality of the household budget surveys used by the State Statistical Committee by reflecting changes in income composition and expenditure patterns. This project also recommended the abandonment of the current social safety net system, which is pegged to the minimum wage and basic pension benefits, and its replacement by a modern welfare system.

Related to Sergei Malakhov's analysis of enterprise financial behavior under price liberalization, proposals on tax reform—aimed at reducing the tax burden on firms while preserving the tax base—have been filed with the Government and Parliament of the Russian Federation. Responding to these proposals, the Ministry of Finance has passed new regulations on indexation of firms' working capital. Proposals to ease the interenterprise arrears crisis and to improve payment mechanisms are being considered. A methodology for establishing independent intersectoral clearing houses and centers has been implemented, and a decree is being prepared to establish a state clearing house for firms' promissory notes.

Based on Roustem Noureev's study of institutional aspects of the credit market development, a set of recommendations has been prepared on bringing the Russian banking in line with international standards. The recommendations, which emphasize the necessity of creating in Russia a Federal Deposit Insurance Fund, have been discussed with the officials of the Ministry of Economy and the deputies of the Duma working to draft a law on deposit insurance. Regional authorities were consulted on means to regulate the banking system at the local level. A system for financial analysis of borrowers' credit-worthiness, aimed at preventing a liquidity crisis in Russian banking, has also been introduced at several commercial banks and is under consideration at the Russian Central Bank.

An analysis by Sergei Prikhodko of the Russian foreign trade legislation and regulations from the viewpoint of the World Trade Organization's requirements was used by the Ministry of Foreign Economic Relations to answer questions sent to the Russian Government from GATT Headquarters. The project's materials have been included in the *Russian Extractive Industries' Investment Guide* prepared by the Ministry of Economy and the State Committee for Natural Resources.

Findings from a study by Alexander Radygin on secondary markets for corporate control were used in the development of the post-voucher privatization model, formation of the Russian Government's strategy for attracting foreign investment into Russian firms, and drafting of guidelines for the development of the Russian stock market. The impact of the

project is reflected in the draft law on the stock market, a draft law on joint-stock corporations, and the President's decree on the second (cash sales) stage of privatization.

Sergei Sinelnikov's examination of factors affecting tax revenue in Russia have provided insights into the impact of the Russian tax system on macroeconomic indicators, as well as on behavior of individual firms. These findings were used in budget amendments presented by the "Russia's Choice" faction in the Duma. As a result, more realistic estimates of the tax revenue were put in the budget. Based on the project's findings, the "Russia's Choice" faction initiated several legislative acts that have revoked some previous tax privileges and exemptions. Proposals on tax reform, to be included in the 1996 budget, have been submitted to the Ministry of Finance and the President's Administration.

Sergei Tsukhlo developed a system of regular surveys of the Russian industrial firms, in particular in the areas where official statistics are either inadequate or missing altogether. The system reflects changes in market structure, patterns of demand, competition, and managers' expectations. Since the results of Tsukhlo's project are immediately communicated to the President's economic advisors, they have a strong impact on Russian economic policy. The State Anti-Monopoly Committee uses the project's findings on patterns of competition in the Russian Economy. The State Statistical Committee is interested in including the data on competition in the Russian official statistical system. The results of the project appear regularly in *Financial Izvestia*, Russia's leading economic and business periodical.

Materials of a project by Alexander Yakovlev on financial futures markets have been included in the annual report of the Commission on Commodity Exchanges with the Russian Government. The project's outputs are being used by the Working Group established by the Commission on Commodity Exchanges and the Russian Commodity Exchanges Union to draft a new version of the law "On Commodity Exchanges and Commodity Trade." The leading Russian futures exchanges have used the results of the study to improve trade technologies and to strengthen the reliability of trading in US dollar-denominated futures contracts.

Elena Zhuravskaya has examined the economic behavior and incentives of privatized enterprises. The results of the study are disseminated through the *Russian Economic Barometer*, an independent bulletin, published quarterly, that monitors microeconomic aspects of transition based on monthly surveys in 200 industrial enterprises and 50 banks all over Russia. The project's analysis on raising investment capital and restructuring of Russian firms has been used by the State Property Committee in drafting guidelines for post-voucher privatization. The results of the study have also been presented at hearings in the Duma on the priorities of the Russian social and economic policy set in the President's address to the Federal Assembly of the Russian Federation.

In addition to the direct impact of the IRIS/IET collaboration on market-oriented reform in Russia, the project's outputs are used in courses taught at Moscow State University, the Higher School of Economics—a newly established Western-style economic university in Moscow, and Academy of National Economy with the Government of the Russian Federation. They also have been used by Lev Jacobson in writing the first Russian textbook on public economics.

NIS: Model Civil Code. In May, the Inter-Parliamentary Assembly of the Commonwealth of Independent States adopted Part II of the Model Civil Code, designed to assist law-makers as they revise their Soviet-era Codes. Significantly, unlike with the first part, the second part of the Model has been adopted before the Russian Parliament has begun to debate Part II of the Russian Code. This strengthens the collaborative process whereby representatives from across the CIS work together to develop model legislation and not simply borrow the Russian example. In fact, the head of the Russian Civil Code drafting team acknowledged that certain parts of the Model are better than the Russian draft and that the Russians intend to integrate what they have learned from their CIS colleagues into their own version. In April, IRIS experts Professors Robert Summers and James White worked with the CIS group in the Netherlands to help them improve the banking and sales law sections in the Model Code.

Russia: Civil Code. In May 1995, IRIS and the Research Center for Private Law conducted a series of workshops on banking transactions, inheritance, franchising, commercial and residential leasing, intellectual property, and insurance. IRIS assembled a team of Western legal experts to work with those responsible for drafting, officials in charge of reviewing the document on behalf of the Government, and parliamentary staff members engaged in the legislative review process. The workshops were scheduled at an opportune time because as the drafters revised the text prior to submitting it to Parliament. During each of the six sessions, members of the drafting team stated that they planned to make changes in the Code based on their discussions with IRIS. For example, following advice by IRIS expert James J. White, of the University of Michigan, the drafters included provisions enabling banks to offer floating interest-rate accounts. The earlier draft enjoined banks from altering interest rates without government approval. This policy would have forestalled the development of an effective banking system, particularly in a high-inflation environment, and could have led to many bank failures. White, by explaining the pro-consumer aspects of this reform, overcame the objections of State Duma members who were concerned that their Parliamentary colleagues would resist this reform. White noted that, in the absence of the reform, the likely bank failures would force the government to engage in an expensive bailout or result in consumers losing their deposits.

Further important changes that emerged from the workshops:

Inheritance: The drafters agreed to permit execution of wills despite the testator's failure to adhere to all formalities, an important change as wills become a key vehicle for protecting property rights.

Franchising: The drafters agreed to consider allowing the franchisor the right to maintain control over prices, within limits set by anti-monopoly legislation, accepting the argument that price is a critical part of the franchise's identity.

Leasing: The drafters agreed to differentiate between minor and major defects as grounds

for termination of a lease contract and to expand on tenant remedies in lieu of termination. Failure to adopt this change would have created distortions in the commercial and residential leasing market.

Intellectual Property: The drafters agreed that trademark protection should extend beyond the strict class of goods in which a trademark is registered to other similar classes. For example, a trademark registered for jeans would be enforced against its unauthorized use on shoes if such use would be confusing to the consumer. This change not only expands the intellectual property protection afforded under Russian law, but it also reduces firms' costs by relieving them of the need to register in multiple classes at significant extra cost.

Insurance: The drafters agreed to include a general definition that will permit new forms of insurance without requiring new legislation. This flexibility is important given the speed with which the Russian insurance industry is growing.

In addition to organizing these workshops, IRIS solicited commentaries on the entire text of Part II from over 15 western law firms, as well as accounting firms and other USAID-funded organizations engaged in legal reform. Foreign law firms and businesses operating in Russia, because of their dual knowledge of Western and Russian commercial law and practice, are perhaps the best equipped to identify specific shortcomings in legislation. Their comments will be distributed to the Research Center to assist them in revising the draft Code.

Russia: Regional Codes. A March 1995 workshop brought together representatives of regional governments, legal scholars and other experts from 27 regions of the Russian Federation to review the development of constitutional charters for the Russian regions. The workshop led to a set of recommendations that were circulated across the country by the President's Analytic Administration through the Council of Federation. These recommendations emphasize the need to restore a balance of power between the legislative and executive, accelerate the development of the judicial system at the regional level, provide the legal foundations for local government, and the need to coordinate the regional codes with the Federal Constitution.

Russia: Economic Policy. An April 1995 conference in Moscow organized by IRIS, the IET, and the Analytical Center with the President of the Russian Federation examined how the Russian reform can cope with widespread corruption and lobbies, the legal and economic prerequisites for stabilization and growth in Russia, and how to consolidate the country's reformist forces and reach a social consensus on a platform of economic reform. The 400 participants in the conference included 50 members of the Russian parliament, experts and policy-makers from the Russian government, leading scholars, and representatives of the business community, international organizations, press, and embassies. The conference received extensive and favorable coverage in the Russian and international media. The conceptual framework and even the new terminology offered at the conference appeared to be a welcome contribution to analyses of the

current economic and political situation in Russia. Given the interest expressed in the conference by the participants, attendees, and the media, it was decided to publish in Russian and English an edited volume of the conference materials, which will be made available in advance of the federal elections campaign in Russia, serving as a valuable reference for the Russian public and contribute toward better understanding of political platforms and policy options.

Russian legislation establishing a regulatory scheme for "natural monopolies," which received a third reading in the Duma in May, benefited from two IRIS activities. A seminar on price regulation in December convinced key policy makers not to proceed with broad price re-regulation, according to the Deputy Minister of the Economy. At the same time, an IRIS team in Moscow has supported the Ministry of Economy in developing the draft about to be considered by the Duma.

B. Core Administrative Functions

1. Research dissemination.

Final Report. Work on this report has been postponed until January 1996.

Requests for IRIS publications.

Period	Number of requests	Items requested
1/1/95-3/31/95	Total: 21	Total: 60
	USAID: 1	USAID: 1
4/1/95-6/30/95	Total: 63	Total: 284
	USAID: 8	USAID: 56

WAFERS. No WAFERS were held in this quarter; a talk by Grigorii Yavlinskii, leader of the liberal Duma faction "Yabloko," is planned for September 6th.

UPDATE. An Update was completed and mailed in early May; another is planned for late August.

"Lessons Learned" from Field Programs. Materials have been received from several IRIS field programs and will be utilized in IRIS presentations at an G/EG workshop in September.

Economic and Political Institutions Book. Revised drafts have been received and production editing completed for 18 of the planned 20 chapters. The draft book was distributed to prospective publishers in June.

Research Review. Preliminary material will be developed and presented at the September workshop.

2. Scholarships/internships

a. Activities planned for reporting quarter

IRIS/IET Young Scholars Program. Final selection of young scholars would be made, and placements arranged.

b. Activities during quarter

IRIS/IET Young Scholars Program. Two Russian students were placed in a PhD program in Economics at the University of Chicago Business School.

c. Activities planned for next quarter

None.

3. Other Issues: None.

4. Financial Data: Following page.

5. Attachments: None

SECTION TWO: QUARTERLY FIELD REPORTS:

Central Europe, India, Mongolia, Nepal, and Russia

Quarterly Field Report: Central Europe

I. ADMINISTRATIVE DATA

Reporting Period: April 1, 1995 - June 30, 1995

BOA Number: ANE-0015-B-1019-00

Delivery Order Number: 18

AID Project Office: G/EG/EIR (Orest Koropecky, 522 SA-2)

AID Office funding delivery order: EUR/RME (Susan Gurley 4733 NS)

AID Office project: Institutional Reform and the Informal Sector (IRIS) Project

II. PERFORMANCE INFORMATION

1. Project purpose summary statement:

A. Project Purpose: The purpose of the IRIS-Central Europe¹ (Delivery Order 18) project is to create a positive commercial law institutional framework for the development of the financial sector in Poland and five other countries (Lithuania, Macedonia, Bulgaria, with limited activities in Croatia and Albania). This purpose is being accomplished by assisting these countries to reform their collateral and bankruptcy laws.

B. Relationship to USAID Program Strategy: Poland has been one of the most successful of the C&EE countries in the transition to a market economy. There continues, however, to be a great need to create employment and to expand the private sector, especially the SME sector where most new job creation occurs.

An important constraint to job creation and private sector expansion is the lack of credit. Numerous USAID financed studies and projects, the World Bank and the European Bank for Reconstruction and Development have identified the absence of a modern commercial banking system as one of the principal blocks to further development. Without it, private capital (foreign or domestic) cannot flow into the region for lending to credit-worthy firms. This has not happened because Poland, and indeed each of the countries of C&EE, lacks an effective collateral law which would enable banks or other creditors to do asset-based lending to new and existing firms. At present, the only effective collateral is cash on deposit at the lender. Banks fear to lend, knowing collection is uncertain and difficult. If an effective collateral law with a central registry to prevent fraud were enacted, commercial lending to the private sector would increase dramatically.

The IRIS-Poland II project assisted Poland in drafting a new collateral law, and IRIS-Central Europe is assisting Poland to implement a collateral law and to use the lessons learned in the other countries of C&EE. IRIS has

¹ The IRIS-Poland Project III changed its name to IRIS-Central Europe effective February 1995. The new name better reflects the new regional scope of the Warsaw office and is deemed less likely to arouse political apprehension in countries such as Lithuania, where there have been conflicts with Poland in the past.

encouraged the participation of local legal and banking associations in reforming their societies, leveraged upon other assistance and programs of USAID, the World Bank, and EBRD to the financial sectors, and will lead to sustainable economic development by making bank credit available to new and existing businesses starved for credit. IRIS-Central Europe has now added long-term advisors in Lithuania and Bulgaria to begin the same process, and during the quarter sent a temporary long-term advisor [LTA] to open an office in Skopje.

C. Highlights of program progress during the reporting period:

1. *Poland/Central Europe*

Polish Collateral Law Reform. The major focus of IRIS-Central Europe continues to be Polish collateral law reform.² Since its inception, IRIS has been working with the top legal experts of Poland who form the advisory Commission for Reform of the Civil Code [CRCC], the Polish Ministry of Justice [MOJ], the National Bank of Poland [NBP] and Polish and foreign legal scholars to draft a collateral law which can be presented to the Polish Parliament for enactment. The main accomplishment of IRIS-Central Europe has been the creation and support of a local **Polish-led** coalition of academic, government, and business leaders interested in collateral law reform.

The second quarter of 1995 was characterized by the consideration of the draft collateral law by the Polish Council of Ministers -- a normal preliminary step before its submission to the Sejm or Polish Parliament. The draft was referred to the Social and Economic Policy Committee and approved by it in June. In the Council of Ministers, it faced two major hurdles. The first was the requirement that the Minister of Finance agree to the elimination of the system of secret tax liens proposed by the draft. After several weeks of discussion, the MOF agreed to address this through the submission of articles in the new proposed tax law. Under this proposal, any tax liens against real estate would be required to be filed in the perpetual book where all mortgages are normally filed. Precedence would be determined by date not by category. Tax liens against personalty will be registered in a newly created tax lien register, but priority with other public registers (i.e. the newly proposed pledge register) will be determined by the earliest filing date. While the creation of a second registry for tax liens on personalty is duplicative, the impact of this is the creation of the system of priorities which IRIS has been recommending.

The second issue was the elimination of the bank execution title, called the *tytuł wykownawczy*. Under present Polish laws, banks can collect debts without judicial process with the help of bailiffs. The NBP and the banks have been loath to give up this power. To foster a compromise, IRIS has met with bank representatives and signed a research contract with the Education Foundation of the Union of Polish Banks to research the actual practice of the

² Collateral law (sometimes called "secured transactions" or the creation of "charges" or "liens") is the legal institution whereby a creditor can take a "collateral interest" in certain goods (often those purchased by means of the loan) of the debtor. In case of default, the creditor is allowed to repossess and sell those goods ahead of other creditors to satisfy the loan.

use of the bank execution title. This report will be ready when the Sejm considers the draft.

The NBP has been holding up the draft in the Council of Ministers, but on June 20, IRIS submitted a memorandum to and met briefly with Mr. Robert Clarke, former US Comptroller of the Currency, now a Barents KPMG consultant to the NBP. He raised this issue with Hanna Gronkiewicz-Waltz, president of NBP. At the end of the quarter, IRIS legal experts were meeting regularly with the NBP experts to resolve this issue. IRIS has suggested that the execution title be retained for several years until present loans are paid off and then that the privilege apply only where the debtor has agreed in his loan agreement to such a procedure. In this way, the practical needs of the banks will be satisfied and the impropriety of their being above the law will be resolved.

At the end of the quarter, the collateral law is waiting for a last approval by the Council of Ministers before being sent to the Sejm. The former minister of Justice, Włodzimierz Cimoszewicz, is now Vice-Marshall of the Sejm, and is ready to ensure sympathetic consideration of the collateral law draft when it is submitted there. IRIS consultants met with him on July 4 to brief him on the status of the law and issues in the central registries project.

On a sad note, Professor Witold Czachórski passed away in June. The distinguished scholar and longtime IRIS consultant had been a leading force in bringing about collateral law reform in Poland.³

Central Registry. The organization of a central pledge registry is a key portion of collateral law reform. For it to be effective, it must be planned in a manner that will allow it to become part of a centralized system of registries along the Norwegian model where the system is self-supporting. Information from many ministries is brought together and then sold on line to banks, lawyers, notaries, and others needing the information. During the quarter, this aspect of the reform stalled owing to the desire of the Ministry of Justice to do the project solely with the Norwegians and without the active participation of other ministries or USAID groups. On May 31, IRIS arranged a meeting between the Norwegians, PADCO, and Peter Kyle, Esq. of the World Bank to discuss the progress of the central registries project. Mr. Kyle told the Norwegians bluntly that the inexperience of the MOJ and the Norwegians with international borrowing made the present plan a waste of time. The WB would not write a check for \$70 to \$100 million dollars on the basis of the study which the Norwegians and the MOJ were preparing. WB rules require that it participate actively, hire the outside experts, and prepare the study itself for submission to its board. Kyle said that talk of the EBRD's financing the study was unlikely in view of the large sum involved -- beyond EBRD's lending capacity for such a project.

In the ensuing weeks, IRIS diplomatically passed Mr. Kyle's message along to its contacts at the MOJ, Council of Ministers, and the MOF. By the

³ See Attachment II.

end of the quarter, the MOJ seemed to be opening up the project to other agencies, calling interagency meetings, and realizing that it must open up the entire process to secure the essential WB financing for realization of the project. In late June and early July, IRIS took part in numerous meetings in conjunction with the WB mission to secure the broad consensus necessary for central registry reform to move forward.

IRIS sent its main legal expert, Prof. Feliks Zedler, chairman of the Central Registries Project steering group, to Norway in mid-May on a fact-finding trip with the MOJ Commission.

Bankruptcy. IRIS assisted Deloitte & Touche to organize the April 26 bankruptcy conference by arranging meetings with Vice-Minister of Justice Zielinski, assisting with administrative arrangements, and supplying the site for the conference.⁴ In May, the Polish Juridical Institute issued a book on Polish bankruptcy practice by Prof. Jan Bról. IRIS-CE supported this project, wrote the English summary of the book, and assisted in its distribution to key policy makers.⁵ At the end of the quarter, plans were made to support a drafting group headed by IRIS consultant, Prof. Feliks Zedler, of Poznań. On June 6, Polish Television aired at 10:15 pm on prime time, the film jointly produced with IRIS-CE, "How to Make Money on Bankruptcy." Reviews were good. The film, as well as the earlier IRIS film on intellectual property issues, have had English sub-titles added so that they can be viewed elsewhere.⁶

Intellectual Property Reform. Internet. IRIS computer consultant Adam Wasilewski was retained by USAID-Warsaw to do a study on how to connect all USAID contractors in Poland to the Internet. Although this is a separate contract of Mr. Wasilewski, it grew out of his experience from connecting IRIS-Poland to Internet for IRIS's communication needs. IRIS-CE conducts almost all its communications with IRIS-College Park, Maryland, and its offices in Vilnius, Sofia, and Skopje by e-mail through Internet, saving many thousands of dollars monthly.⁷

Model Contract Project. IRIS-Central Europe signed a contract with the Institute for the Protection of Intellectual Property at the Jagiellonian University to complete the Polish half of the Model Contracts book. The English half was republished by the Polish State Committee for Scientific Research (equivalent of the Polish Ministry of Science) on March 15. The Polish half was 90% complete by the end of the quarter.

Collateral Law Survey. Much of the missing information in the Survey was obtained making it 99% complete. A new acknowledgements

⁴ See Attachment XIV.

⁵ See Attachment VII.

⁶ See Attachment III.

⁷ See Attachment I.

section was added, giving detailed contact information for those experts in the region who participated. The Survey has received wide recognition, being referenced in the *Economist: Business Eastern Europe*⁸ and a German Publication, *Ost Wirtschaft Report*⁹. Hugh Pigott, member of the Editorial Board of *Butterworths Journal of International Banking and Financial Law*, became acquainted with the survey while at the Ukrainian Collateral Law conference. Mr. Pigott passed it along to the other board members at *Butterworth's* and a decision was reached to publish the survey in the September issue. It was agreed that URCI would retain the copyright and IRIS would be given 200-300 copies to disburse at their own discretion

Other activities included co-sponsoring with the concurrence of the local USAID office a lecture by former Chilean Minister of Labor Dr. Jose Pinera on pension law reform on June 8, 1995.¹⁰ A large audience heard Dr. Pinera eloquent description of how Chile's private pension system increased pensions for poor people and permitted the formation of a capital market to buy privatized state industries now making profits which go to pay for pensions.

2. Lithuania.

As the quarter began, a potentially divisive rift was developing between the two groups most active in collateral law reform in Lithuania. The group of individuals who drafted the currently ineffective "Hipotekos Istatymas", and who had previously been supportive of the Ministry of Justice's attempt at producing a separate law and system for the collateralization of movable property, reversed their position, and contended that their 1992 law was capable of governing all secured transactions in Lithuania. MOJ officials asked IRIS to opine as to the propriety of a law, which purports to govern the collateralization of both types of property and otherwise assist with regard to averting what would have been a time consuming and negative turn of events.

IRIS-Lithuania project director John Corrigan, who had already provided an opinion letter for the MOJ and the Vice-Chairman of the Seimas, approached the drafters of the Hipotekos Istatymas, and suggested several meetings to discuss the practical reasons that underlie the separation of the two systems in all western systems, to discuss how the Hipotekos Istatymas might be amended, and finally to discuss secured transactions law in general. The drafters agreed, and throughout April such meetings occurred. Early in the process, Corrigan suggested that the pace of the reform would quicken if they were to work with the official drafting team whose work IRIS was supporting.

⁸ See Attachment XI

⁹ See Attachment XII.

¹⁰ See Attachment X.

They agreed after meeting with Jadvyga Aleksaite, Chief of the MOJ's Private Law Division, and with Daina Petruaskaite, a staff lawyer at the MOJ. Shortly thereafter, they and the Ministry agreed that the Hipotekos Istatymas was, indeed, better suited to immovable collateral, and, in a small compromise, to movable property that is subject to general registration (e.g. automobiles). They crafted extensive amendments to the Hipotekas Istatymas, including three that Corrigan specifically suggested: (1) that the law permit the attachment of a previously created security interest to "after acquired" property; (2) that, to the extent that the Hipotekas Istatymas will govern the collateralization of certain types of movable property, it should allow collateral to be described categorically; and (3) that the law should deliberately instruct the MOJ to draft a law governing the collateralization of movable property as soon as possible (the Lithuanians chose to insert "before 1 January 1996"). The amendments were submitted to the Seimas and are to be considered by the full Seimas by July 1995.

In the course of this process, Corrigan invited three drafters to become part of the "movables" effort and to become IRIS consultants. All three of them enthusiastically agreed and quickly completed necessary formalities. Thereafter, in May, Corrigan continued his "primer sessions" with these three individuals, covering such issues as the scope of the law's coverage, type of property governed by the law (including accessions and fixtures), and "enterprise" security interests.

A common complaint in Lithuanian legal and business circles is that too few business persons or bankers are concerned about collateral law at all. To involve these constituencies in collateral law reform, Corrigan undertook several "consensus building activities during the quarter. On 7 June, Corrigan spoke before the Lithuanian Commercial Bankers Association monthly meeting. The group meets 8-10 times per year to discuss issues of concern to the banking community. Earlier in May, Corrigan met with reporters from *Verslos Zinios* (Business News) a Lithuanian business weekly launched in mid 1994 with very wide circulation within Lithuania. Corrigan and the reporters discussed the need for collateral law reform in transition economies, IRIS-Lithuania's goals, and the status of collateral law in Lithuania. The next day, at Corrigan's suggestion, the reporters interviewed Jadvyga Aleksaite (MOJ), and Rasa Melinkiene, one of the drafters of Hipotekas Istatymas. The following week, *Verslos Zinios* published a front page lead article on the subject, extensively quoting Corrigan and Ms. Melinkiene. In late May and in early June, Corrigan met with Laime Cernaite, Vice Chairman of the Board of the Bank of Lithuania, in an effort to involve Lithuania's Central bank in Collateral Law Reform. As a result, the Central bank has proposed one individual to work with the IRIS supported drafting group.

Finally in June, the World Bank's Economic Development Institute invited Corrigan to teach the collateral law section for a seminar entitled "Development of a Commercial Law Framework for the Baltic States", to be held 3-14 July 1995 in Vienna. IRIS nominated five Lithuanian participants for the seminar.

3. *Bulgaria.*

On May 25, after one week of orientation in Poland reviewing IRIS-Central Europe operations and procedures, Mark Beesley launched IRIS' activities in Bulgaria. Mr. Beesley is a former CEELI Commercial Law Liaison who worked in Sofia from January 1994 to March 1995.

IRIS-Bulgaria expects to build on the collateral law reform framework Beesley helped establish with the Center for the Study of Democracy (CSD), a think-tank and nucleus for commercial law reform in Bulgaria. In addition to drafting a work plan, organizing a small office at the CSD and hiring an office and project coordinator, Director Beesley has identified and met with the core members of a collateral law "Drafting Group". The Group will officially commence its work in July, but began on June 8 meeting on a weekly basis to organize itself and identify impediments to passing a workable secured transaction statute. At its first informal meeting, the group elected CSD lawyer and Bulgarian American Enterprise Fund counsel Stephan Kyutchukov as its chairperson. CSD has issued newsletters highlighting earlier CEELI-IRIS cooperation in collateral law reform (see Attachment 8).

In mid-June, Beesley and Kyutchukov met with Bulgarian Minister of Justice Mladen Chervenakov to review IRIS objectives and secure the Ministry's support for those objectives. The Minister stated that he backs IRIS's efforts completely and asked Beesley to help the Ministry draft a legislative agenda to help secure approval of a new law.¹¹ He also asked that IRIS coordinate its work with Vessela Stancheva, a lawyer at the Ministry and member of its Legislative Council. Ms. Stancheva is familiar with collateral law issues and attended the February IRIS Collateral Law Conference in Warsaw.

One of the more substantial objectives for IRIS-Bulgaria is to help develop and implement a central pledge registry system. Beesley and Kyutchukov met with World Bank Economist Lubomir Mitov in mid-June to discuss World Bank participation in accomplishing this and other collateral law objectives. Mr. Mitov declared that the World Bank enthusiastically welcomes IRIS to Bulgaria. He noted that a soon-to-be-released Bulgaria private sector assessment highlights Bulgaria's collateral law problems and he agreed that the World Bank can play a key role in helping to develop a central pledge registry. As an initial effort to cultivate interest in and understanding of registry systems, IRIS and the World Bank have agreed to sponsor a Pledge Registry Development Conference, tentatively scheduled for October 5 and 6. This will follow the visit of several key Bulgarians to Norway from August 23 through 27 to view the Norwegian central registry system sponsored by IRIS-Central Europe for participants from the entire region.

After consultations with USAID, the Ministry of Justice and numerous Bulgarian jurists, IRIS-Bulgaria prepared a draft work plan. The plan, modelled on the IRIS-Poland Project, will be ready for distribution in July.

¹¹ See Attachment XIII.

4. *Macedonia.*

As no LTA had been chosen, William Rich of IRIS Central Europe was sent to Macedonia as acting director until the permanent LTA could be put in place. Mr. Rich arrived in Skopje on 6 June 1995 and began the work of setting up the drafting team, identifying the collateral law contact group and seeing to the administrative responsibilities of setting up the office. Professor Stefan Georgievski of the Law Faculty of Cyril and Methodius University, identified by Ronald Dwight as the top expert in the country, is the prospective Collateral Law Coordinator and leader of the drafting team. The make-up of the full drafting team is still being discussed. Prof. Georgievski will also work closely with two judges experienced in secured transactions. For the broader contact group Rich met with appropriate contacts at the Ministry of Justice, Ministry of Finance, The World Bank, the National Bank of Macedonia as well as USAID contractors, the IMF, and other bodies working on bank restructuring. Under Secretary Dragan Tumanovski, the main contact at the MOJ, agreed to provide one representative from the MOJ and one from the judiciary to participate in the inspection trip to the Norwegian Central Registries. The third Macedonian will be chosen by the drafting team.

At first Rich explored the option of locating space within the Law Faculty, but decided that it would not be in the best interest of the program. Another space was located, which is inexpensive, spacious, comfortable and conveniently situated in the center of Skopje. Arrangements will be finalized in July. It was determined that IRIS-Macedonia should be registered as a representative office of a foreign company. A lawyer with competitive rates was identified to handle this. After the registration is completed, computer and office equipment can be purchased tax free.

5. *Croatia.*

It was decided to invite two Croatians involved with collateral law reform to participate in the visit to the Norwegian Central Registries in August 1995, using USAID funding set aside for collateral law. William Rich spoke to one contact who identified Professor Mihaljlo Dika as the best candidate to go. IRIS contacted the USAID mission in Zagreb, and others, regarding this but received no response.

6. *Albania.*

William Rich spoke with the CEELI representative in Tirana and made tentative plans to visit Albania in July 1995. The purpose of the trip will be to determine the climate for possible collateral law work there and to possibly identify an Albanian participant for the Norwegian Central Registries Trip.

7. *Ukraine.*

Although IRIS-Central Europe is not funded to work directly in Ukraine, it was asked to assist the IRIS-NIS project in initiating collateral law

reform activities in the Ukraine. All this technical assistance was paid for by funds earmarked for the Ukraine and not from any IRIS-CE funding. Clara Lipson of USAID-Washington and IRIS-NIS organized a two-day seminar followed by a public policy breakfast on collateral law in Kiev from May 15 to 19. IRIS-CE Director Ronald A. Dwight, Dr. Tomasz Stawecki of the Warsaw University School of Law and IRIS collateral law coordinator, and Hugh Pigott, Esq., IRIS collateral law consultant and former partner at Clifford, Chance all went to Kiev to assist Ukrainians meeting to review their collateral law situation and plans for improvements. The two-day workshop was followed by a public policy breakfast with the President of the National Bank of the Ukraine. Plans are now underway for the launching of a collateral law project at the request of the National Bank. IRIS-CE is making suggestions and recommending personnel to assist this separate project.

2. Progress report

POLAND/CENTRAL EUROPE

A. Technical Implementation

Activities Planned for Reporting Quarter	Current Status	Explanations
Collateral law project	2	Ronald Dwight met with Mr. Kazimierczak and Mr. Krysiak of the Polish Development Bank to discuss collateral law (6 Apr). Meeting with Prof. Zedler (6 Apr). Meeting with Marcus Rodlauer from the International Monetary Fund (25 Apr). IRIS negotiated hiring, as external consultant, Prof. Anna Fornalczyk (former President of the Antimonopoly Office) who is now member of the board in one of the major banks to do lobbying for collateral law. Meeting with Tomasz Stawecki (29 May, 20 Jun).
Annual meeting of EBRD in London	1	Ronald Dwight and IRIS consultant - Tomasz Stawecki traveled to London (8 Apr - 11 Apr) to participate in EBRD meeting. They also took part in the London Meeting on Investment in C&EE (8 Apr).

Cooperation with Center for Strategic & International Studies (CSIS)	2	William Rich and Artur Nowicki, of IRIS-CE met with Jeffrey Abramson from CSIS (11 Apr). IRIS representative Witold Sulimirski took part in CSIS-U.S. Europe - Poland Action Commission at the Plenary Session in Berlin. William Rich prepared materials ¹² (19-20 May).
Moscow Economic Conference	1	Ronald Dwight traveled to Moscow and spoke at conference organized by Yegor Gaidar (13 Apr - 15 Apr).
Central Registry Project	2	Official Introduction Meeting of the Polish National Judaical Register Center (CORS) was made in Popowo Conference Center of the Ministry of Justice (18 Apr). Ronald Dwight met with Mr. Bylica at the Council of Ministries (12 Jun).
Cooperation with the British Chamber of Commerce	2	Third Annual General Meeting of the Chamber's members at the British Embassy Commercial Section was organized (24 Apr). Monthly breakfast meetings (27 Apr, 31 May, 29 Jun).
Coordination with the World Bank	2	Ronald Dwight met with Peter Kyle (24 Apr, 25 Apr with Tomasz Stawecki, 30 May). Ronald Dwight, Ewa Szymańska, IRIS Vice Director, and Artur Nowicki, IRIS legal advisor, met with the World Bank representatives (30 Jun).

¹² See Attachment XV.

Bankruptcy Project	2	Ronald Dwight met with Richard Coates from Deloitte and Touche (24 Apr). Deloitte and Touche, with IRIS assistance, organized one day conference on Insolvency issues (26 Apr). ¹³ Ronald Dwight attended Deloitte and Touche Bankruptcy Conference in Macedonia (11-12 May). Meeting on Bankruptcy at Deloitte and Touche (30 Jun).
Educational films about collateral law and intellectual property (technology commercialization)	1	The film on intellectual property "Supez" was broadcast (25 Apr). ¹⁴ Collateral law film "How to earn money on bankruptcy" was broadcasted (6 Jun) and was followed by studio discussion of Tomasz Stawecki and Judge Dariusz Czajka. About 1.6 mln viewers watched each of the films. ¹⁵
Cooperation with the foundation CASE	2	Ronald Dwight met with Ewa Balcerowicz, CASE Vice-President (27 Apr). Meeting (23 May). Seminar on Development paths of international financial markets organized by CASE and Polish Credit Bank.
USAID	2	One day meeting of USAID in Jablonna (28 Apr). Meeting with USAID Banking Specialist Artur Wielkoszewski (5 May, 6 May). Networking meeting at U.S. Embassy (25 May, 29 Jun). CASE briefing for USAID (22 Jun). Meeting with John W. Wojtowicz (23 June).

¹³ See Attachment XIV.

¹⁴ See Attachment VI

¹⁵ See Attachment III.

SMEs and investment and business related activities	1	Ronald Dwight participated in the office opening of the Polish Federation of Independent Entrepreneurs (5 May). Polish Issuers and Investors Forum (24 May, 21 Jun). Ronald Dwight participated in the meeting at the Ministry of Industry and Trade on Stimulation and Growth of SMEs in Poland through the Reform of Financial Sector Policy (14 Jun). Task Force meeting for the Development of SMEs (21 Jun). Presentation on State policy toward SMEs given by Parliament Group of Entrepreneurs, Gemini Project and the Ministry of Industry and Trade at Sejm (29 Jun).
Expansion of program to Macedonia	2	Ronald Dwight traveled to Skopje to participate in the Workshop Insolvency Issues (10-12 May). William Rich traveled to Skopje as acting director until LTA could be hired (6 June).
USAID Ukrainian Collateral Law Conference	1	Ronald Dwight and Tomasz Stawecki traveled to Ukraine to participate in the conference in Kiev (16-18 May).
Cooperation with PADCO	2	Ronald Dwight met with John Olaisen and PADCO representatives (23 May). Meeting with Roman Pryjomko (26 May). Meeting with PADCO and John Olaisen (31 May).
Cooperation with the Warsaw Institute of Banking	2	Meeting (25 May, 6 Jun).
Social Insurance Reform project	2	Ronald Dwight met with Nicholas Studziński (30 May). Conference on the Reform of Social Insurance as a Condition of Economical Growth (8 Jun) organized by Adam Smith Center.
Real Estate conference in Cracow	1	Ronald Dwight participated in the conference on Real Estate market reform organized by Cracow Real Estate Institute (9 Jun).

Cooperation with Foundation of Education and Banking Research	2	Artur Nowicki IRIS legal advisor met with Prof. Antoni Kantecki the president of the Foundation of Education and Banking Research (16 Jun, 20 Jun, 26 Jun). Signing of an agreement (Jun 29).
Interviews concerning collateral law.	1	Louisa Vinton of the Economist Intelligence Unit interviewed William Rich (21 May) and Ronald Dwight (23 May). Front page article appeared 29 May 1995. ¹⁶ Artur Nowicki was interviewed on Polish Radio Program I (11 May).
Preparation of the Polish Model Contracts for Technology Commercialization Projects.	3	Prof. Michal du Val and doc. Wojciech Tabor will complete their book on July 18.

- (1) Action completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

Major Activities Planned for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Collateral law project in Macedonia		Hire LTA in US.
Intellectual property workshop	13/09	IRIS will assist High Pressure Research Center and CETE in the preparation of a workshop on intellectual property. This workshop will be organized at the International Conference on High Pressure Physics held in Warsaw.

B. Project Administration

Planning Activities for Reporting Quarter	Current Status	Explanations
Purchasing of computer equipment	1	
Hiring Ewa Szymańska	1	Ewa Szymańska (advisor to the former President of the Antimonopoly Office) will be a vice director at IRIS.
Hiring Roman Groysman	1	

¹⁶ See Attachment XI.

Damian Sobień's trip to Lithuania	1	Damian Sobień went to IRIS-Lithuania to establish there a financial system.
Hiring Monica Gessner	1	Monica Gessner has been working on IRIS budgeting system.
Lease extension	1	IRIS renegotiated the office lease agreement with American Studies Center.

Current Status Key:

- (1) Action completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

Activities Planned for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Hiring of receptionist to replace Robert Byers	8-9/95	IRIS Warsaw office
Hiring of driver to replace Witold Zawisza	8-9/95	IRIS Warsaw office
Hiring of financial assistant	8-9/95	IRIS Warsaw office

III. FINANCIAL DATA

To Be Defined.

LITHUANIA

A. Technical Implementation

Activities Planned for Reporting Quarter	Current Status	Explanations
Extract agreement from the drafters of the current law regarding separation of movables from immovables	1	Corrigan met on several occasions with drafters of "Hipotekas Istatymas": Rasa Melinkione, Dalia Vidickiene, Salomcja Rasinskaite of New Economic Institute (NEI). As a result NEI retracted its opposition to IRIS's and MOJ's efforts at producing separate law on movables (April).

Activities Planned for Reporting Quarter	Current Status	Explanations
Deliver Lithuanian language translations of relevant law review articles.	1	IRIS-Lithuania translated into Lithuanian essay by Professor John Spanogle, articles by Heywood Fleissig of WB, and US style commercial loan agreement (April).
Expansion of Collateral Law Work Group.	1	The 3 drafters of "Hipotekas Istatymas": Rasa Melinkione, Dalia Vidickiene, Salomeja Rasinskaite agreed to work as IRIS consultants and completed a biosheet (May). Corrigan met with Laime Celnaite of Lithuanian Central bank regarding inclusion of member of banking community (May).
Produce itemization of conflicting statutory regulations and legislative initiatives.	1	Completed and delivered to MOJ (May).
Consensus building article and public speaking engagements.	1	Corrigan worked with reporters and MOJ officials on an article emphasizing importance of collateral law. <i>Verslos Zinios</i> (Business News) published cover story on the subject, extensively quoting Corrigan and including his picture (11 May). Corrigan addressed Lithuanian Commercial Bankers' Association regarding claim enforcement and western remedies (May).

Activities Planned for Reporting Quarter	Current Status	Explanations
Interdonor coordination	1	Corrigan met and discussed secured transactions with Barbara Lee, WB Country Director; James Riley Pitt, EBRD Senior Banker for the Baltics; Jan Hendrik Rover, EBRD Secured Transactions Project; Alan Babbington Smith, EBRD Economist and member of the Board of Directors Lithuanian Development Bank; Ulf Hindtrom, Nordic Investment bank. Corrigan Discussed collateral law component of WB upcoming "Commercial Framework for the Baltic States" (26, 31 May).

B. Project Administration

Planning Activities for Reporting Quarter	Current Status	Explanations
Contact with AID mission	1	Informal interim report delivered, meetings with Mission Rep. Nicholas Jenks conducted, meeting with other staff members.
Purchase computer, printer and dedicated phone line	3	Procurement documentation submitted to AID- Washington (26 May).
Obtain laptop.	1	Delivered 10 April.
Financial reports/Replenish working account	1	Tranches submitted every 14 days, bank reconciliation statement at the end of each month.
Obtain completed biosheets from Lithuanian consultants.	1	Obtain AID Vilnius relevant local hire pay scale information.

Current Status Key:

- (1) Action completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

A. Technical Implementation

Activities Planned for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Coordination with Ministry of Agriculture officials and Agriculture Committee members who oppose "movables" effort.	9/95	IRIS-Lithuania
Obtain unequivocal decree that Seimas and government desire separate movables draft, and that draft will be accorded all due consideration when produced.	9/95	IRIS-Lithuania
Elicit assistance of WB's Financial and Enterprise Sector Reform Team regarding locally based opposition to movables law.	9/95	IRIS-Lithuania
Produce initial scope of coverage draft with those group members willing to work to produce a draft in the absence of a relevant decree from the Seimas. Alternatively, establish relationship with Min. of Agriculture in the event that the amendments referenced above are not enacted by the Seimas.	8/95	IRIS-Lithuania
Continue consensus building activities by producing follow up article for <i>Verslos Zinios</i> and further public speaking engagements.	9/95	IRIS-Lithuania

B. Project Administration

Planned Activities for Reporting Quarter	Current Status	Explanations
Continued AID coordination	7-9/95	IRIS-Lithuania
Finalize arrangements for payments of individuals	8/95	IRIS-Lithuania
Prepare level of effort estimates	8/5/95	IRIS-Lithuania
Complete budget projections	8/15/95	IRIS-Lithuania

Hire one receptionist/support person	9/1/95	IRIS-Lithuania
Obtain computer equipment referenced in the previous section	8/1/95	IRIS-Lithuania
Minor office renovations	9/10/95	IRIS-Lithuania

BULGARIA

A. Technical Implementation and Project Administration

Activities Planned for Reporting Quarter	Current Status	Explanations
Office Space	2	Mark Beesley met with officials from the Center for the Study of Democracy to discuss leasing agreement (6 June).
Collateral Law Drafting Group	2	Beesley met with core members: law professors Angel Kalaidjiev, Alexander Katzarsky; Judge Borislav Belazelkov; attorney Silvy Cherev and CSD Program Coordinator and Bulgarian American Enterprise Fund Counsel Stephen Kyutchukov (8 June).
Cooperation with Ministry of Justice	2	Beesley met with MOJ Advisor Vessela Stancheva to discuss Beesley's letter to Minister of Justice and to solicit Stacheva's participation in drafting group (9 June). Beesley and Kyutchukov met with Minister of Justice Chervenjakov and Stancheva to review IRIS's objectives and seek MOJ cooperation (16 June).

Activities Planned for Reporting Quarter	Current Status	Explanations
Cooperation with USAID	2	Beesley met with AID rep John Tennant and Private Sector Officer Skip Kissinger to provide entry briefing and review IRIS's objectives (16 June). Beesley attended AID Business Sub group meeting and briefed participants on IRIS's objectives (19 June). At USAID request, Beesley arranged for AID SME advisors to meet with Kyutchukov and Kalaidjiev. Beesley, Kyutchukov and Kalaidjiev. discussed the legal framework in Bulgaria and how it effects SME development (22 June).
Cooperation with World Bank	2	Beesley and Kyutchukov met with WB Economist Lubomir Mitov to discuss WB participation in the collateral law project and assistance in developing a registry system (15 June).
Meeting with U S Ambassador William Montgomery	1	Beesley gave briefing and review of IRIS objectives (13 June).
Meeting with U S Commercial Attache Patrick Hughes	1	Beesley discussed bankruptcy, foreclosure and collateral law and also answered questions on intellectual property law.

MACEDONIA

A. Technical Implementation and Project Administration

Planned Activities for Reporting Quarter	Current Status	Explanations
Office Space	1	Space in center of Skopje located, usable as office and/or living space. Contract and first rent installment paid 5 July.

Planned Activities for Reporting Quarter	Current Status	Explanations
Collateral Law Drafting Team	2	William Rich met several times with various members of the team. Professor Stefan Georgievski was tentatively identified as leader of the effort and he recommended three junior colleagues at the Law Faculty to work with him: Vesna Pendovska, Sasho Georgievski and Goran Koevski. All received model drafts to review and Biodata sheets to complete (June). The composition of the team was discussed with AID.
Cooperation with Ministry of Justice	2	Rich met with Undersecretary Dragan Tumanovski, the main contact person at the MOJ, to review IRIS's agenda and choose Norway Group (14 June). Rich sent formal letter to Tumanovski, proposing that he select representative from MOJ and Courts for Norway trip (25 June).
Cooperation with Ministry of Finance	2	Rich met with Venislav Efremov, manager of Legal Services - Property law Affairs to discuss IRIS agenda and central pledge registry (26 June).
Collateral Law Group	2	In addition to MOF and MOJ, Rich met throughout the month with various other experts to be included at different levels in the collateral law project: Diane Mendoza, Leslie Mathews, advisors to the Governor of the Bank of Macedonia (bank restructuring); James Satterfield, Barents; Snažana Bundaleska National Bank of Macedonia; Alberto Eugren, The World Bank (June).

Planned Activities for Reporting Quarter	Current Status	Explanations
Registration	2	Attorney identified to handle registration of IRIS upon receipt of documentation from CP.
Norway Central Registries Trip	2	Decision made to take member of drafting team, representative from MOJ and from courts.

Current Status Key:

- (1) Action completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

III. FINANCIAL DATA To be supplied.

IV. ATTACHMENTS

Attachment I USAID Internet Report by Adam Wasilewski

Attachment II Notice of Witold Czachórski's Death

Attachment III Notice, newspaper advertisements and review of IRIS film *How to Make Money in Bankruptcy*

Attachment IV White and Case Report "Polish Business Legislation"

Attachment V Report from the Ministry of Industry and Trade, which mentions the Law on Registered Pledges and the Pledge Registry (Polish and English).

Attachment VI Announcement for IRIS co-produced film *Supez*

Attachment VII Book on bankruptcy in Poland by Dr. Jan Brol, co-sponsored by IRIS.

Attachment VIII Bulgarian Magazine *VESTI* mentioning collateral law and IRIS Bulgaria Director Mark Beesley

Attachment IX Book *Poradnik Kredytowy Bankowców* (Credit Advisor for Bankers) with article by Ronald Dwight

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- Attachment X Program and articles concerning IRIS co-sponsored conference organized by the Adam Smith Center, featuring Dr. Jose Pinery.

- Attachment XI "No Deposit No Return", article in *The Economist Intelligence Unit: Business Eastern Europe*, about Polish Collateral Law, quoting William Rich, Ronald Dwight and mentioning collateral law survey.

- Attachment XII Fax from firm AGV, which refers to the mention of the Collateral Law Survey in the German press.

- Attachment XIII Correspondences between Mark Beesley and Bulgarian Minister of Justice

- Attachment XIV Program for Deloitte and Touche Bankruptcy Conference

- Attachment XV Materials, Article from *Zycie Gospodarcze*, and report from CSIS Berlin Conference

#2 D:\WP51\RD\QTL.Y.15



Internet Reasearch for USAID

PART I

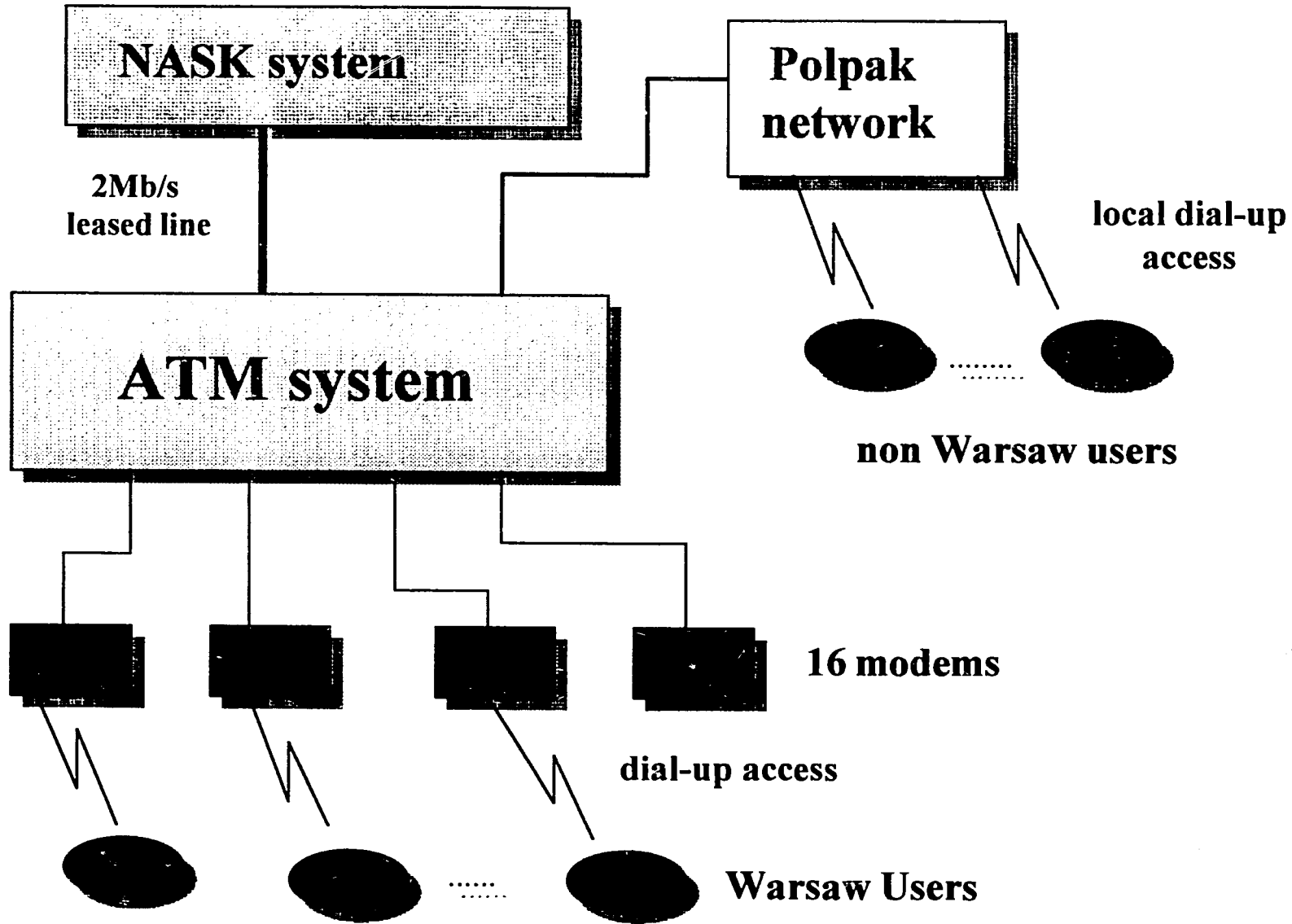
**STUDY:
Internet Access for USAID
Contractors**

PART II

Adam Wasilewski, Computer Consultant,
ul. Czeczota 15/3,
02-607 Warszawa, Poland
email address: irisa@plearn.edu.pl

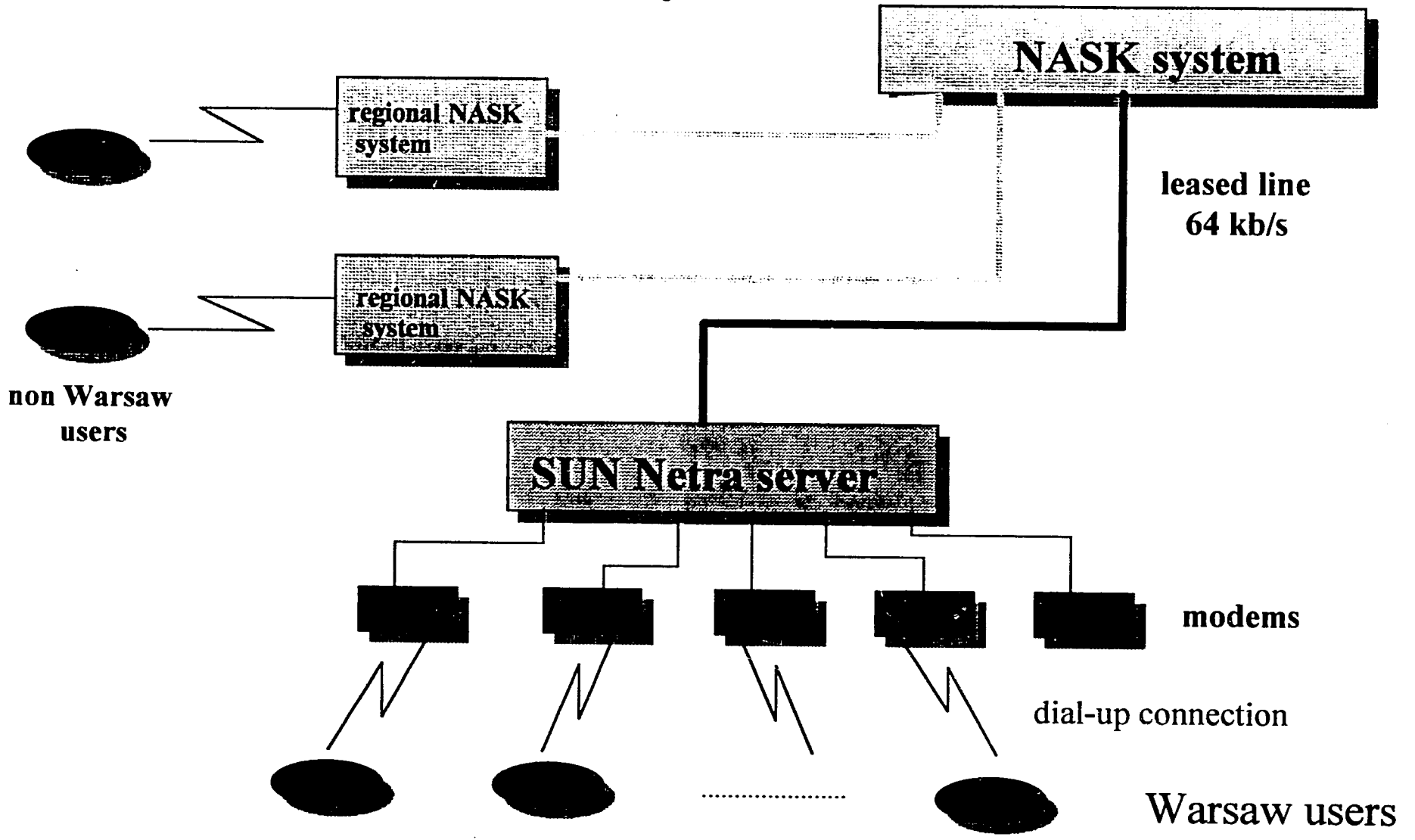
Warsaw 12/06/1995

The chart of the ATM system



2/2

The chart of USAID system



ouswadczeniem Grojecka 77, 659 22 00, 658 17 23, 658 17 65

- Agencja Ochrony zatrudni pracowników z bronią ostrą, gazową i bez broni. Biuro: Warszawa, ul. Augustówka 1, w zakładzie Prefabet, I p.pok 16 - tel. 40 99 09, 42 72 71 wew 140, w godz. 9.00 - 14.00.
- Agencja zatrudni mężczyzn do ochrony z bronią i bez tel. 37 18 10
- Apteka na Ochocie zatrudni technika farmaceutycznego, 23 51 34
- Asystentka dyrektora, jęz. angielski, dobrze widziana znajomość marketingu. Zgłoszenia 21.06.95 od 12.00 do 16.00 Lang-Rover W-wa ul. Marszałkowska 27/35
- Atrakcyjna praca dla osób do 30 lat - 663 43 00; 663 98 10 w. 1007.
- Autoalarmista staz; 781 97 02

- z zagraniczną zaprasza elokwentnie panie z wykształceniem min. średnim. Po okresie próbnym etat, stałe wynagrodzenie, premie - 46 51 11, 46 40 40, 46 04 47.
- Do serwisu sprzętu biurowego - samochód, pożądanym angielski, tel. 38 40 81, 14.00-16.00
- DO sklepu ogólnospożywczego zatrudnię 40 91 90.
- Do sztablatury 31 26 07
- Do wykładzin, sufitów, remontów - pracowitych 614 68 52.
- Do wylewania posadzek betonowych - 15 08 39 po 20.00
- Duża firma marketingowo-dystrybucyjna poszukuje: sekretarki, kierownika badań marketingowych i organizatora projektów. Prosić Emilję Szymkiewicz, tel. 620 63 99.

- Elektrykom, elektromechanikom - 663 40 80.
- Emeryta-renciście do prowadzenia zakładu obróbki skrawaniem - ślusarskim w zakładzie zamiejscowym + hotel, tel. 751 27 84
- Energicznym handlowcom, ekspedientce, bielizna 614 40 19
- Farmaceutom - 617 65 54.
- Firma bankowa zatrudni młodą po maturze do sekretariatu. Tel. 628 71 03, 621 24 67 godz. 8.00 - 16.00
- Firma budowlana zatrudni kierowników budowy, majstrów (wyjazdy zagraniczne) oraz murarzy, tynkarzy, malarzy, blacharzy, dekarzy, glazurników, kamieniarzy, cieśli. Nowbud; Ciołka 16 pok 427.
- Firma budowlana zatrudni sztukatorów do pracy w Niemczech z ważnym paszportem, 663 98 10 / 20, wew. 1287

- Firma polsko-austriacka zatrudni eksport manager wykształcenie wyższe mężczyzna wiek 25-30, biegły j. rosyjski, PC, prawo jazdy. Zainteresowane osoby prosimy o kontakt, tel. 46 46 58, 46 44 77
- Firma polsko-austriacka zatrudni kierownika produkcji wykształcenie średnie techniczne, mężczyzna wiek 28-35, podstawowy j. angielski, PC, prawo jazdy zainteresowane osoby prosimy o kontakt, tel. 46 46 58, 46 44 77
- Firma poszukuje młodego mechanika z niemieckim, do serwisu - 37 36 97
- Firma poszukuje młodej sekretarki, niemiecki pożądanym - 37 36 97
- Firma produkcyjna w Raszynie zatrudni operatorów maszyn. Wymagane średnie wykształcenie techniczne, tel. 720 26 14, 720 26 15, 720 50 49

fachowości, 10 92 11

- Handlowcowi - angielski - 617 65 54.
- Handlowcowi, wyższe wykształcenie elektroniczne lub informatyczne, bardzo dobry j. angielski. Odpowiedzialne stanowisko, produkt menedżera w grupie profesjonalnych urządzeń komputerowych, 41 00 56.
- Handlowiec, nieruchomości - 663 40 72

IZBA GOSPODARCZA zatrudni do DZIAŁU INFORMACJI WYMAGANIA: znajomość programów word, excel, jęz. angielski i niemiecki, samodzielność, odpowiedzialność, tel. 628 45 05

- Kaskierki do sklepu spożywczego Czerniakowska 203 758 03 35
- Kelnerki, kelnerów, restauracja, Grojecka 42, 22 12 67
- Kierowca kat. „C” do dystrybucji lodów, Konstancin, 756 40 32
- Kierowcę z własnym 126 p pizzerii „Vesuvio” Cynamonowa 3a Ursynów
- Kierowcy 633 33 08
- Krawcowe - bardzo dobre warunki 23 91 91
- Krojca 1/2 etatu, 34 20 11
- Księgową z min. 5-letnim stażem pracy, wiek do 40 lat - 27 95 44.
- Księgarnia - muzyka, 34 22 56.
- Księgową - energiczna osoba do działu księgowości, znajomość pełnej księgowości, komputer 45 36 75.
- Kucharkę, garmazerkę do baru, pomoc do bufetu, 25 44 23.
- Kwiciami Pi. Wilsona zatrudni młodą
- „Libella” Sp. z o.o. zatrudni od zaraz pracowników do działu administracji, wykształcenie średnie. Tel. 46 59 68 w godz. 8.00-15.00
- Lubisz głośną muzykę, fajną atmosferę, chcesz dobrze zarobić - 38 93 33.
- Magazyniera z uprawnieniami na wózek widłowy przyjmę do pracy w hurtowni, doświadczenie w branży elektrycznej mile widziane, tel. 46 04 69 w godz. 13.00-16.00
- Malarza 1/2 etatu; 35 98 36
- Malarz - glazurnik 672 32 98
- Malarzy-gipsiarzy, monterów ścianek gipsowych tel. 620 88 15

13 czerwca 1995 roku w Portugalii zmarł nagle nasz serdeczny przyjaciel i wspinały Człowiek

ROGER MARTINS

Jego śmierć jest dla nas głębokim wstrząsem. Pragniemy Go pożegnać nabożeństwem żałobnym, które odbędzie się w dniu 23 czerwca 1995 roku (piątek) o godz. 18.00 w katedrze polowej WP pod wezwaniem Królowej Polski, ul. Długa 13/15

przyjaciele

W dniu 16 czerwca 1995 roku zmarła w wieku 84 lat

ŚTP

MAGDALENA PAŃKOWSKA

doktor stomatolog
Nabożeństwo żałobne odbędzie się w dniu 23 czerwca 1995 roku, o godz. 11.45 w kościele św. Wincentego (drewniany) na Bródnie, o czym zawiadamiają z głębokim żalem mąż, synowie z żonami i wnuki
Za zaistniałą pomyłkę przepraszamy

Naszej Drogiej

Celine Włodarczak

najserdeczniejsze słowa współczucia z powodu śmierci Męża i naszego Przyjaciela

EDMUNDA WIODARCZAKA

składają pogrzebi w smutku
Litwiescy i Wędzichowie

Naszej drogiej Koleżance

Bronisławie Jabłeckiej

nauczycielce Szkoły Podstawowej nr 335 w Warszawie-Bemowie serdeczne wyrazy współczucia z powodu śmierci

MATKI

składają

koleżanki i koledzy z pracy i rodzice klasy II A

Szanownej Pani

Antoninie Czachórskiej

wyrazy głębokiego współczucia z powodu śmierci Męża prof.

WITOLDA CZACHÓRSKIEGO

składają

dyrektor IRIS-Central Europe,
Ronald A. Dwight i współpracownicy

W dniu 18 czerwca 1995 roku odszedł od nas w wieku 72 lat najukochańszy Mąż, Tatus i Dziadziuś

ŚTP

ADAM SIOMKA

Msza żałobna odbędzie się w sobotę 24 czerwca 1995 roku, o godz. 11.00, w kościele św. Franciszka z Asyżu przy ul. Hynka, po czym nastąpi wyprowadzenie do grobu rodzinnego na Cmentarz Bródnowski, o czym zawiadamiają pogrzebi w głębokim bólu żona, córki, zięciowie, wnuczki, wnuki, prawnuczki i rodzina

Zarobić na bankructwie

(A) „Jak zarobić na bankructwie” – to tytuł filmu wyświetlonego wczoraj na konferencji zorganizowanej przez Ministerstwo Sprawiedliwości i polsko-amerykańską firmę Iris. Konferencja poświęcona była przygotowywanemu projektowi ustawy o zastawie rejestrowym.

Zastaw polega na tym, że dłużnik daje wierzycielowi jako gwarancję spłaty długu jakiś przedmiot. Jeśli

dług nie zostanie spłacony – przedmiot ten przechodzi na własność wierzyciela. Przedstawiony wczoraj projekt zakłada powołanie instytucji zastawu rejestrowego, czyli takiego, w którym zastawiona rzecz może pozostać w dyspozycji dłużnika.

Obowiązujące przepisy o bankowym zastawie rejestrowym są niedoskonałe. Aferzyści potrafią wielokrotnie zastawiać tę samą rzecz. Dopiero powszechnie dostępny, skomputeryzowany rejestr pozwoliłby kredytodawcom na szybkie sprawdzenie faktycznego stanu majątkowego osób ubiegających się o pożyczkę.

Projekt przewiduje też wprowadzenie znanej na Zachodzie tzw. umownej samopomocy. Gdyby dłużnik przestał wpłacać kredyt, bank mógłby sam – bez pośrednictwa sądu ani komornika – zajmować zastawione rzeczy i sprzedawać je na licytacji. Ale to tylko pod warunkiem, że dłużnik zgodziłby się na to już na początku, podpisując z bankiem umowę kredytu. (Jotka)

Jąbrowska i Barbara Warpechowska

28 IV G. G. Wykonane

IRIS Central Europe

uprzejmie zawiadamia, że
6 czerwca 1995 (wtorek), o godzinie 22:15
w programie I TVP zostanie pokazany film pt.

w ramach cyklu "Ludzie-Władza-Pieniadze"

Produkcja: Apple Film Production
Reżyseria: Jerzy Krysiak
Scenariusz: Jerzy Morawski, Krzysztof Krauze

Film ten został sfinansowany przez TVP, Program I oraz IRIS
[ze środków pochodzących od Amerykańskiej Agencji Rozwoju Międzynarodowego (USAID)].
Historia przedstawiona w filmie ilustruje sposoby nieuczciwego korzystania
z istniejącego systemu zabezpieczania wiarygodności pieniężnych.

IRIS Central Europe

has a pleasure to inform you
that on June 6, 1995 (Tuesday), at 10:15 p.m. the film

will be broadcasted
on Channel I of Polish Television

Producer: Apple Film Production
Director: Jerzy Krysiak
Script: Jerzy Morawski, Krzysztof Krauze

This film was co-sponsored by Polish Television, Channel I and IRIS
with funds supplied by USAID. Although a drama, it illustrates how the existing
collateral and bankruptcy law can be used by dishonest businessman.
It will be followed by a short discussion by group of experts.

45

TVP

1 PROGRAM

06:00 Kawa czy herbata?
 Audiotele: 070055560 (2).
 07:45 V.I.P. - rozmowa Jedynki
 08:00 Pierwsze pocałunki
 08:30 Wszystko dla dzieci
 09:00 Władomości
 09:10 Mama i ja
 09:25 Domowe przedszkole
 09:50 Porozmawiajmy o dzieciach
 09:55 Muzzy - angielski dla dzieci
 10:00 Jolly Joker (4/22) - serial
 10:50 Muzyczna Jedynka
 11:00 Giełda pracy, giełda szans
 11:20 Zaproszenie do stołu
 11:30 Videofashion - magazyn mody
 11:50 Sto lat - magazyn
 12:00 Władomości
 12:10 Agrobiznes
 TELEWIZJA EDUKACYJNA DO 14:50
 12:15 Magazyn „Notowań”
 12:40-14:50 Atom, gwiazdy, życie
 12:40 Korepetycje z fizyki
 12:55 Księga cudów techniki
 13:10 Wielkie odkrycia w nauce
 I technice
 13:25 Pajęczyna
 13:40 Kamienie z tej i nie z tej Ziemi
 13:55 Tyk matematyki
 14:10 Kuchnia
 14:25 Joystick - magazyn
 14:45 W świecie nauki
 15:00 Muzyczna Jedynka
 15:30 Śmietnik - magazyn ekologiczny
 16:00 Pierwsze pocałunki - serial
 16:25 Ale biennale! - studio festiwalowe
 X Biennale Sztuki dla Dziecka
 w Poznaniu
 17:00 Telexpress
 17:20 Aria ze śmiechem
 17:40 Automania - magazyn
 18:10 Simpsonowie
 18:30 Sensacje XX wieku:
 „Na własne ryzyko”
 19:00 Wieczorynka: Pszczółka Maja
 19:30 Wiadomości
 20:10 „Parada” - film USA 1984
 Reż. Peter H. Hunt, wyk. Michael
 Learned, Fredric Forrest
 21:45 Pół dnia



1 TVP 22:15

LUDZIE, WŁADZA, PIENIĄDZE

Czy w działalności gospodarczej obowiązuje zasada: „to, co nie zabronione, jest dozwolone”, czy obecny stan prawny sprzyja nieuczciwym biznesmenom, jakie instytucje czuwają nad przestrzeganiem prawa w działalności gospodarczej? – dyskutują sędzia Dariusz Czajka, dr Tomasz Stawicki, prawnik z UW i doradca bankowy oraz przedstawiciel wydziału przestępstw gospodarczych z KG Policji.

Na zdjęciu kadry z filmu Jerzego Krysiaka „Jak zarobić na bankructwie”. Film będzie wprowadzeniem do dyskusji.

Reż. Jacob Goldwasser, wyk.: Arie
 Maskuna, Daphna Rechter, Moti Giladi.
 00:00 Panorama
 00:05 Noce z Januszem K.:
 „Maskarada” - film polski 1986
 Reż. Janusz Kijowski, wyk. Bogusław
 Linda, Adrianna Biedrzyńska
 01:45 Zakończenie programu

POLSAT

KANAL 35

08:00 Ritchie Rich (10)
 08:30 Szczęśliwy rzut
 09:00 Sąsiedzi (360) - serial
 09:30 Jesteśmy - magazyn (powt.)
 10:00 Szpital miejski (88) - serial USA
 10:50 Film na telefon (powtórzenie)

Reż. Jan Batory, wyk.: Maja Wodecka,
 Olgierd Łukaszewicz, Andrzej Lapicki.

21:45 Kurler Warszawski
 22:00 Rozmowa dnia
 22:30 Wścieł z Ratusza
 22:45 Warszawskie premiery
 23:00 Look Ahead (108)
 23:15 Czerwony karzeł
 23: .5 Pożegnanie

INNE TV

CANAL 5

07:00 08:00 Program nie kockowany 07:00
 BBC News 07:30 Diabełski młyn 08:00

mecum abonenta 18:30 Puchary zostały
 rozdane... - reportaż 19:00 Nasz człowiek
 w Parlamencie - serial 19:30 Klementynka
 20:00 Prototyp - film sf USA 1991 21:30
 City sport - magazyn 22:00 Piosenki ze zgry-
 zem 22:30 Blok reklamowy

PORION

09:00 Słońce o poranku 09:45 Studio Ursynat
 10:00 Blok reklamowy 10:30 Szpital Prze-
 mienienia - film polski 1979, reż. Edward Że-
 browski, wyk. Piotr Dejmek 12:00 Bohatero-
 wie nieba - film japoński 1980 13:30 Łączy-
 my się z kanałem Porion 2 16:30 Blok rekla-
 mowy 17:00 Z muzycznym autografem 17:30
 Okiem reportera; pogoda; Reklama 17:55
 Stawni ludzie w liczbach i kosmosie 18:15
 Piosenka z dedykacją 18:20 Masz prawo do...
 18:40 Z własną kamerą 19:10 Warszawski
 Nurt Basketu Amatorskiego 19:25 Drzwi - gra-
 fika komputerowa 20:00 Wydział zabójstw -
 serial USA 21:30 Supermodelka 22:00 Golem -
 film polski 1980, reż. Piotr Szulkín, wyk.
 Marek Walczewski 23:30 Studio Ursynat
 00:00 Kanał Porion 2; Telegazeta całą dobę

PTK 2

17:35 Zorro 18:00 Tylko wtedy, gdy się śmie-
 je - serial 18:30 Maria - telenowela 19:15
 Naturalne cuda Europy: Parki narodowe - se-
 rial dokumentalny 20:10 9 1/2 Ninjas - ko-
 media sensacyjna USA 1990, reż. Aaron
 Worth, wyk. M. Phenicie 21:35 Sekrety no-
 cy - reportaż 22:10 BET w PTK 2 - muzyka

ATV

18:25 Z różą w pięści (2) - serial 19:15 Co
 nas czeka? 19:20 Niedobrana para: „Najła-
 choroba Feliksa” - serial 19:45 Program lo-
 kalny 20:00 Wyprawa do Xapatan - gra 21:20
 Konkurs filmowy 21:25 Palcem po mapie
 magazyn 21:55 Rewolwer i melonik: „Urlo-
 powa gorączka” - serial 22:40 Na dobranoc

TV SAT

RTL

07:35-11:00 Seriale 11:00 Właściwa ce:

02:25 Dni chwały (1/6) - serial USA 1990,
 reż. Sam Weisman 03:15 The Stand (ost.)

SAT 1

09:30 Magazyn sportowy 10:00-17:00 Se-
 niale 17:00 Zaryzykuj! 17:30 Magazyn regio-
 nalny 18:00 Idź na całość! 19:00 Wiadomo-
 ści 19:15 Sport w SAT1 19:30 Kółko fortuny
 20:15 A.S. - serial 21:15 Hunter - serial
 22:15 Ulrich Meyer: Ludzie z nagłówków pra-
 sowych 23:00 Spiegiel TV - reportaż 23:35
 The Mummy's Shroud - horror angielski 1966,
 reż. John Gilling 01:15-05:40 Seriale

PRO 7

07:45-10:10 Seriale 10:10 Million lat przed
 naszą erą - angielski film przygodowy 1966
 (powt.) 12:05 Hart to Hart - serial 13:00
 Aniołki Charliego 14:00 Arabella Kiesbauer
 - talkshow 15:00 Ulice San Francisco 16:00
 Prawnicy z Miasta Aniołów - serial 17:00-
 18:25 Seriale animowane 18:25 Alf 19:00
 Roseanne - serial 19:30 Taff - magazyn in-
 formacyjny 19:55 Wiadomości 20:15 Any-
 thing to Survive - film 1990, reż. Zale Da-
 len, wyk. Robert Conrad 22:15 Reporterzy -
 magazyn publicystyczny 23:05 The Bounty
 Hunter - thriller USA 1989, reż. Robert Ginty
 00:40 Wiadomości 00:50 Wojna w kos-
 mosie - japoński film sf 1959 (powt.) 02:25
 Wiadomości 02:35 Aniołki Charliego

TNT

06:00-20:00 CARTOON NETWORK 20:00
 Coś wartościowego - dramat USA 1957, reż.
 Richard Brooks 22:00 Zagubione dni - dra-
 mat USA 1942, reż. Menyn LeRoy 00:15
 Śmierć cicha na starcie - dramat USA 1960,
 reż. Charles Frend 01:35 The First of the Few
 - film USA 1943, reż. Leslie Howard 03:35
 The Perfect Gentleman - film USA 1935, reż.
 Tim Whelan, wyk. Frank Morgan 04:45 Ter-
 ror w pociągu - angielski film sensacyjny
 1953, reż. Ted Tetzlaff, wyk. Glenn Ford

TV POLONIA

07:00 Panorama 07:10 Dzień dobry z Polski
 09:00 Wiadomości 09:15 Klemens i Klemen-
 tynka (7, 8) - serial 09:35 Film animowany
 09:55 W labiryncie (72, 73) - serial 10:55

cze długo poczekać.


Tymczasem swych wielbicieli nadal nie zawodzi akcje Okocimia 2, które wczoraj znów wzrosły w maksymalnym stopniu. Ale - uwaga! - tym razem nie doszło już do oferty kupna. Podczas do-grywki makler-specjalista chciał kupić 172 akcje. Inwestorzy sprzedali mu tylko 17. Makler zrównoważył rynek, do-rzucając brakujące akcje z własnej puli.

Niektórzy spekulują, że zrobił to, bo prezes giełdy Wiesław Rozhucki nie zniósłby psychicznie trzeciej z rzędu oferty kupna i giełda ponownie zawie-siłaby notowania Okocimia 2.

akcji serii A i B o wartości nominalnej 5 zł. W ramach prawa poboru dotych-czasowi akcjonariusze będą mogli kupić jedną nową akcję za dwie stare. - Jeśli w II terminie pozostaną akcje, to za-ferujemy je wszystkim zainteresowa-nym inwestorom - powiedział Kociu-ba.

Przypomniał, że seria A składa się z ok. 42 tys. papierów uprzywilejowa-nych i 109 tys. papierów na okaziciela, nie dopuszczonych do obrotu publicz-nego. Zarząd chce, by te ostatnie akcje trafiły jak najszybciej do obrotu. (P)

KOB




IRIS Central Europe

zawładania, że dziś o 22.15 w programie I TVP, w cyklu „Ludzie-Władza-Pleniądze”, zostanie pokazany film

„Jak zarobić na bankructwie”

Produkcja: Apple Film Production,
Reżyseria: Jerzy Krysiak,
Scenariusz: Jerzy Morawski, Krzysztof Krauze



Film ten został sfinansowany przez TVP, Program I oraz IRIS [ze środków pochodzących od Amerykańskiej Agencji Rozwoju Międzynarodowego (USAID)]. Historia przedstawiona w filmie ilustruje sposoby nieuczciwego korzystania z istniejącego systemu zabezpieczenia wiarytelności pieniężnych.

95740K05-05q-ab

GAZETA WYBORCZA Wtorek 6 czerwca 1995

PAGE

23



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W A P

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17,80	53,00	PROCHNIK	20,50	20,20	1,5%	50	1222	8,6	8,6	1,48	30,75	S	131	100,0%
8,95	29,00	RAFAKO	20,80	20,40	2,0%	1484	35681	10,6	11,2	2,39	187,20	-	-	-
4,60	13,50	REMAK	10,50	10,30	1,9%	315	15006	12,3	12,3	1,79	21,00	S	9238	100,0%
16,40	47,80	POLIMPEX	45,00	42,00	7,1%	1991	22117	9,3	9,3	1,49	179,64	S	1666	100,0%
1,64	5,40	SOKOŁÓW	2,25	2,25	4,4%	755	160652	11,9	14,8	1,00	64,63	-	-	-
17,10	29,90	STALEXP	23,20	22,70	2,2%	936	20146	5,6	5,7	0,83	205,24	-	-	-
17,20	33,50	STALEXP2	23,30	22,80	4,4%	83	1737	-	-	-	-	-	-	-
13,10	31,50	SWARZEDZ	22,00	22,10	-0,5%	194	4418	20,9	20,9	1,17	77,00	-	-	-
13,80	52,00	TONSI	20,70	20,00	3,5%	81	1954	11,4	11,4	2,33	31,05	-	-	-
7,25	31,70	UNIVERSAL	8,70	8,20	6,1%	1057	60763	15,9	19,9	1,12	195,75	-	-	-
10,30	29,00	VISTULA	12,00	11,20	7,1%	535	39026	7,3	8,3	1,74	72,00	S	765	100,0%
70,00	84,50	WARTA	72,00	72,00	0,0%	388	2693	9,2	11,8	2,28	249,23	S	1569	100,0%
4,05	19,25	WBK	5,70	5,20	9,6%	1200	105298	4,9	5,8	2,11	392,25	S	11108	100,0%
110,50	225,00	WEDEL	146,00 na 60%	138,00	5,8%	968	3314	15,9	18,6	2,90	728,00	S	754	1,7%
20,20	57,00	WOLCZANKA	27,00	26,50	1,9%	183	3381	8,5	9,9	1,43	56,70	-	-	-
127,50	290,00	ZYWIEC	178,00	170,00	4,7%	1768	4966	20,8	23,9	2,66	534,00	S	1169	100,0%
5904,7	12507,0		7677,9	7677,9	5,1%	Razem:	Razem:	8,0	8,6	1,67	Razem:			
577,8	1229,1		745,6	745,6	5,2%	4207	1616569				8860,05			

RYNEK ROWNOLEGŁY

13,40	55,00	AMERBANK	14,70	14,40	2,1%	41	1395	11,7	11,7	0,97	39,69	K	785	100,0%
13,30	50,00	DOMPLAST	22,50	21,50	4,7%	260	5773	9,1	9,1	2,58	67,50	S	4413	100,0%
14,70	35,00	DROSED	23,90	23,60	1,3%	225	4711	7,2	8,5	1,52	36,81	S	244	100,0%
10,70	37,80	EFEKT	16,90	16,00	5,6%	441	13053	10,5	10,5	1,28	19,01	S	5190	100,0%
8,70	14,00	ELEKTROEX	9,60	9,60	-0,0%	50	2592	8,8	11,5	0,91	20,80	K	391	100,0%
9,50	17,10	INDYKPOL	10,30	10,20	1,0%	105	5105	9,2	9,9	1,43	32,18	S	2777	100,0%
37,00	45,00	JUTZENKA	42,00	40,00	5,0%	853	10159	5,5	6,4	4,67	54,04	K	1976	100,0%
3,55	15,80	KRAKCHEM	6,30	5,85	7,7%	350	27783	12,8	12,8	1,14	18,89	S	9052	100,0%
3,60	9,70	MOSTALZAB	6,50	6,30	3,2%	700	53833	10,1	10,5	2,26	68,22	S	18699	100,0%
6,35	37,00	PROCHEM	8,00	8,00	0,0%	451	28204	8,4	9,1	1,58	40,00	S	1404	100,0%
818,0	1334,8		1058,1	1058,1	2,4%	Razem:	Razem:	8,8	9,3	1,69	Razem:			
						3477	152608				396,94			

OBLIGACJE

	Wzrost	Wzrost	Wzrost	Wzrost	Wzrost	Wzrost	Wzrost	Wzrost	Wzrost
Roczne 3/96 (R0396)	103,5 na 55%	103,2	0,3%	9,53	262	1157	S	424	0,0%
Roczne 9/95 (R0995)	101,8 na 73%	101,7	0,1%	28,39	283	1087	S	1457	0,0%
Roczne 12/95 (R1295)	103,0	102,7	0,3%	18,06	105	434	-	-	-
Trzyletnie I seria (PPT1)	101,5	101,3	0,2%	2,76	140	672	-	-	-
Trzyletnie II seria (PPT2)	102,2 na 54%	102,2	0,0%	2,84	96	455	K	500	0,0%
Trzyletnie III seria (PPT3)	102,2 na 34%	102,3	-0,1%	2,78	440	2095	S	1500	33,3%
Trzyletnie IV seria (PPT4)	102,5 na 59%	102,6	-0,1%	2,68	175	831	S	1000	0,0%
Trzyletnie V seria (PPT5)	102,4	102,5	-0,1%	2,68	417	1983	S	500	100,0%
Trzyletnie VI seria (PPT6)	102,4	102,7	-0,3%	2,68	46	218	-	-	-
Trzyletnie VII seria (PPT7)	102,3 na 90%	102,7	-0,4%	2,68	22	103	K	1020	0,0%
Trzyletnie VIII seria (PPT8)	102,4	102,7	-0,3%	2,68	46	218	-	-	-
Trzyletnie 2/98 (T20298)	102,5 na 16%	102,7	-0,2%	2,34	641	3057	S	1227	61,1%
Trzyletnie 8/97 (T20897)	102,6 na 91%	102,7	-0,1%	2,34	177	842	S	3618	0,0%
Trzyletnie 11/97 (T21197)	102,6 na 67%	102,7	-0,1%	2,34	404	1923	S	3000	0,0%

ATTACHMENT IV

POLISH BUSINESS LEGISLATION

Suggested Amendments

*Summary of the report prepared under the auspices
of the American Chamber of Commerce in Warsaw
at the request of American Investment Initiative in Poland
a Program of the Financial Services Volunteer Corps, New York,
under a grant from the United States Agency for International Development
by WHITE & CASE (POLAND) Ltd. (in cooperation with UNI-EXPERT)*

Warsaw, March 1995

MINISTERSTWO PRZEMYSŁU I HANDLU

**MAŁE I ŚREDNIE PRZEDSIĘBIORSTWA
W GOSPODARCE NARODOWEJ
POLITYKA WOBEC MAŁYCH I ŚREDNICH
PRZEDSIĘBIORSTW**

(przyjęta przez Radę Ministrów 6 czerwca 1995 r.)

Warszawa, maj 1995

THE MINISTRY OF INDUSTRY AND TRADE

**"SMALL AND MEDIUM ENTERPRISES
IN THE NATIONAL ECONOMY"**

**POLICY TOWARDS SMALL AND MEDIUM SIZED
ENTERPRISES**

(adopted by the Council of Ministers on June 6, 1995)

(THIS DOCUMENT WAS TRANSLATED FROM POLISH BY GEMINI)

Warsaw, June 1995

IRIS Central Europe

uprzejmie zawiadamia, że

**25 kwietnia 1995 (wtorek), o godzinie 22:15
w programie I TVP zostanie pokazany film pt. "Supez"
w ramach cyklu "Ludzie-Władza-Pieniądze"**

Produkcja: Apple Film Production

Reżyseria: Jerzy Kryślak

Scenariusz: Jerzy Morawski, Krzysztof Krauze

W głównych rolach: Sylwia Głaszczyk, Ronald A. Dwight, Monika Świątaj

Film ten został sfinansowany przez TVP, Program I oraz IRIS [ze środków pochodzących od Amerykańskiej Agencji Rozwoju Międzynarodowego (USAID)]. Historia przedstawiona w filmie ilustruje aktualne w Polsce problemy związane z ochroną własności intelektualnej jak również szersze zagadnienie ważności reform prawnych.

Z powodu ograniczonego budżetu oraz trudności ze znalezieniem odpowiedniego aktora (mówiącego po angielsku z akcentem amerykańskim) Ron Dwight został poproszony o zagranie roli amerykańskiego businessmana.

IRIS Central Europe

has a pleasure to inform you

**that on April 25, 1995 (Tuesday), at 10:15 p.m.
the film "Supez" will be broadcasted
on Channel I of Polish Television**

Producer: Apple Film Production

Director: Jerzy Kryślak

Script: Jerzy Morawski, Krzysztof Krauze

Starring: Sylwia Głaszczyk, Ronald A. Dwight, Monika Świątaj

This film was co-sponsored by Polish Television, Channel I and IRIS with funds supplied by USAID. Although a drama, it illustrates contemporary problems in intellectual property issues and broader issues of the importance of legal reform and public sector support for that reform.

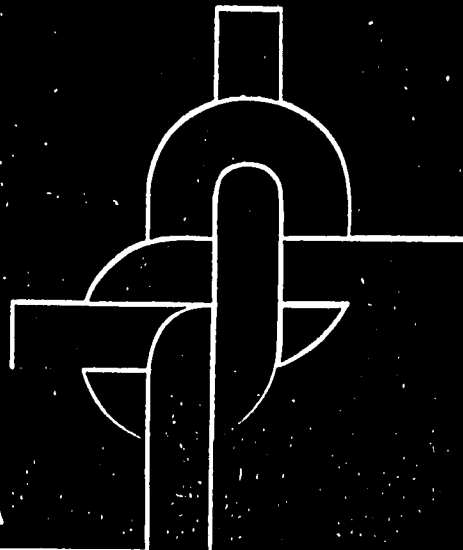
Owing to the slim budget and difficulties in finding an American-accented Polish actor, Ron Dwight was asked to play of the American businessman role in the film.

Instytut Wymiaru Sprawiedliwości

JAN BROL

PRAWO UPADŁOŚCIOWE

w świetle praktyki sądowej



OFICyna  NAUKOWA

Recenzenci
prof. dr hab. *Marek Saffan*
dr *Jacek Krauss*

Projekt okładki i stron tytułowych
Magdalena Maria Gozdek

Redaktor
Ewa Pajestka-Kojder

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& U.R.C.L. (University of Maryland)
Warszawa 1995

Książka powstała dzięki pomocy IRIS-Poland Project
— programu Uniwersytetu Maryland —
finansowanego przez United States Agency for International Development

ISBN 83-85505-41-5

OFICyna NAUKOWA
Wydanie pierwsze
Ark. wydawniczych 13, ark. drukarskich 16
Papier offsetowy kl. III, 80 g
Skład i łamanie *Michał Świaniewicz*
Druk Zakład Poligraficzno-Wydawniczy RAGRAF

W Chile każdy pracujący przeznaczą 10 proc. pensji na fundusz emerytalny

BEZPIECZNA KASA

Rozmowa z dr. JOSE PINERA, byłym chilijskim ministrem pracy

– Jest pan twórcą systemu ubezpieczeń społecznych, w istocie bezpieczeństwa społecznego, uważanego za najlepszy na świecie. Jakie są jego główne założenia?

– W nowym systemie składka emerytalna, wynosząca 10 proc. miesięcznego zarobku, jest przekazywana na rachunek osobisty pracownika. Pieniądze są chronione przez konstytucję, aby żaden rząd nie mógł zawłaszczyć tych oszczędności. Kapitały są inwestowane przez fundusze emerytalne w bardzo bezpieczne i opłacalne przedsięwzięcia. Po osiągnięciu wieku emerytalnego ubezpieczony wykupuje emeryturę dla siebie, żony i dzieci do lat 21. Jeżeli kogoś nie stać na wykupienie emerytury, państwo gwarantuje mu emeryturę minimalną.

– Kiedy pracujący płaci pierwszą składkę?

– W pierwszym miesiącu pracy pracodawca pyta młodego człowieka o to, któremu funduszowi emerytalnemu ma co miesiąc przekazywać 10 proc. jego zarobków. Jeśli ubezpieczony ma



Jose Pinera: „Po 15 latach obowiązywania nowego systemu ubezpieczeń emerytury są wyższe niż wypłacane według starych reguł”

POLSKO-CHILIJSKA WYMIANA HANDLOWA

Według Banco Central, wartość polskiego eksportu do Chile w 1994 r. wyniosła 8,056 mln USD, natomiast import sięgnął 3,698 mln USD. Z Chile sprowadzamy przede wszystkim koncentraty cynku, związki boru, miedź, kawę, herbatę, owoce oraz agar. Z Polski do Chile eksportuje się wiele towarów w niewielkich ilościach, głównie mleko skondensowane i mleko w proszku, produkty ziemniaczane, półwyroby ze stali, sprzęt gospodarstwa domowego, produkty chemiczne, silniki elektryczne, papier, aparaturę pomiarową, tekstylia i wódkę „Wyborową”. Część dostaw trafia na chilijski rynek przez zachodnich pośredników. Niedawno wznowiono eksport polonezów i traktorów z Ursusa. Podpisano też kontrakt na produkcję 14 polskich kontenerowców o łącznej wartości ok. 380 mln USD.

zamiar przejść na wcześniejszą emeryturę, można podnieść stawkę do 20 proc. płacy. Fundusze emerytalne są tworzone przez przedsiębiorców, inwestorów zagranicznych, a nawet

związki zawodowe. Konkurencja jest najlepszym sposobem na obniżanie prowizji. Ulokowane pieniądze przynoszą wysoką stopę zysku – przeciętnie 13 proc. powyżej inflacji. Wszystkie fundusze brały udział w prywatyzacji gospodar-

ki, kupując 30-40 proc. udziałów w prywatyzowanych spółkach. Jest paradoksem, że dopiero w prywatnej gospodarce spełniły się niektóre mądrze Karola Marksa. Nie przez przekazanie władzy biurokracji komunistycznej, lecz dzięki przekazaniu własności bezpośrednio robotnikom.

– Jakiej gwarancji, że fundusz nie zbankrutuje?

– Fundusze emerytalne mogą inwestować tylko w bardzo bezpieczne przedsięwzięcia, np. obligacje. Obowiązuje także ścisła zasada maksymalnej dywersyfikacji. Po 15 latach obowiązywania nowego systemu emerytury są wyższe

niż wypłacane według starych reguł. W Polsce ciągle dyskutujemy nad reformą ubezpieczeń społecznych.

– W Polsce ciągle dyskutujemy nad reformą ubezpieczeń społecznych.

– Stary chilijski system był podobny do polskiego, gdyż także zarządzało nim państwo. W Chile składka emerytalna stanowiła 20-25 proc. pensji. Słyszę, że w Polsce wynosi ona 45-47 proc. Nie chce mi się wierzyć. Tragedia polega na tym, że parlament w każdej chwili może zmniejszyć lub zwiększyć wymiar emerytury. Określenie pozostających w gestii państwa ubezpieczeń mianem systemu bezpieczeństwa społecznego jest zartem. Nasz nowy system funkcjonuje bez zmian od 15 lat. Niezmiennosć reguł gry gwarantuje poczucie bezpieczeństwa.

ВЕСТИ

на Правната програма

Issue No 3 на Центъра за изследване на демокрацията

March 1995

Vesti (Vesti) – Newsletter of the Law Reform Program of the Center for the Study of Democracy

Published in English and Bulgarian

"VESTI" INFORMS

BULGARIAN COLLATERAL LAW CONFERENCE

The Center for the Study of Democracy organized an international conference on Bulgarian Collateral Law which was held on 30 - 31 January in Sofia. The Conference was sponsored by the American Bar Association's Central and East European Legal Initiative (CEELI), the Government of Canada and the Hanns Siedel Foundation in Munich, Germany. Additional support for the

Conference was provided by the American Agency for International Development (USAID), the IRIS - Poland Project, Warsaw, Poland, the European Bank for Reconstruction and Development (EBRD), the World Bank, the Sofia City Court, Sofia University Law School, and Chernev, Komitova and Partners law firm.

The purpose of the Collateral Law Conference was to study existing law and identify its problems, review the

(Continued on page 2)



Stephan Kyutchukov, Silvy Chernev and Borislav Belazelkov discuss the foreclosure procedure under Bulgarian law and answer participants' questions

IN THIS ISSUE:

- The urgent need for a collateral law reform in Bulgaria
- Bulgarian-American Economic Forum to encourage bilateral investment and trade
- Formation of a working group on practical bankruptcy issues in Bulgaria
- The Bulgarian Draft Law on Not-for-profit Organizations was finalized
- Second international seminar *Training of Trainers*
- How to establish a more favorable environment for the development of the leasing sector in Bulgaria
- A course of seminars on GATT/World Trade Organization
- Vesti introduces Jerri Stewart and Sandra Mitchell - the new CEELI liaisons in Bulgaria

ATTACHMENT IX

TWIGER

ROBERT PATTERSON

**PORADNIK KREDYTOWY
DLA BANKOWCÓW**

BIBLIOTEKA BANKOWCA

PROGRAM KONFERENCJI

9.30 ROZPOCZĘCIE KONFERENCJI

9.40 CHILIJSKA ZMIANA SYSTEMU
UBEZPIECZEŃ EMERYTALNYCH JAKO
MODELOWE ROZWIĄZANIE
*Dr Jose Piñera, były Minister Pracy i Spraw
Społecznych Chile /1978-80/*

10.10 DYSKUSJA

11.00 - 11.20 PRZERWA NA KAWĘ

11.20 MITY O EMERYTURACII
*Dr Krzysztof Ostaszewski, Uniwersytet
Louisville, USA*

11.50 UBEZPIECZENIA I ŚWIADCZENIA
BUDŻETOWE A BEZROBOCIE
*Doc. Dr Jan Maciejka, Instytut Nauk
Ekonomicznych PAN &
Centrum im. Adama Smitha*

12.20 DYSKUSJA

13.00 WYPOWIEDZI PODSUMOWUJĄCE
DYSKUSJĘ

13.30 ZAKOŃCZENIE KONFERENCJI

WYSTĄPIENIA PRELEGENTÓW
I DYSKUTANTÓW BĘDĄ TŁUMACZONE

CENTRUM im. ADAMA SMITHA
ul. Bednarska 16, 00-321 Warszawa
tel. & fax: 621 47 07, fax: 628 06 14

Przyjazd Dr Jose Piñery do Polski na zaprosze-
nie Centrum im. Adama Smitha jest możliwy
dzięki znaczącej pomocy

INTERNATIONAL CENTER FOR ECONOMIC GROWTH



SPONSORZY



FIDELIA



IRIS

IRIS-POLAND PROJECT



POLSKA FEDERACJA
NIEZALEŻNYCH PRZEDSIĘBIORCÓW


RZECZPOSPOLITA



ATTACHMENT X

KONFERENCJA ODBYWA SIĘ W SALI KINOWEJ STOWARZYSZENIA DZIENNIKARZY POLSKICH,
UL. FOKSAI 3/5 W WARSZAWIE

W Chile każdy pracujący przeznaczą 10 proc. pensji na fundusz emerytalny

BEZPIECZNA KASA

Rozmowa z dr. JOSE PINERA, byłym chilijskim ministrem pracy

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– W pierwszym miesiącu pracy pracodawca pyta młodego człowieka o to, któremu funduszowi emerytalnemu ma co miesiąc przekazywać 10 proc. jego zarobków. Jeśli ubezpieczony ma



Fot. K. Wojda

Jose Pinera: „Po 15 latach obowiązywania nowego systemu ubezpieczeń emerytury są wyższe niż wypłacane według starych reguł”

POLSKO-CHILIJSKA WYMIANA HANDLOWA

Według Banco Central, wartość polskiego eksportu do Chile w 1994 r. wyniosła 8,056 mln USD, natomiast import sięgnął 3,698 mln USD. Z Chile sprowadzamy przede wszystkim koncentraty cynku, związki boru, miedź, kawę, herbatę, owoce oraz agar. Z Polski do Chile eksportuje się wiele towarów w niewielkich ilościach, głównie mleko skondensowane i mleko w proszku, produkty ziemniaczane, półwyroby ze stali, sprzęt gospodarstwa domowego, produkty chemiczne, eilniki elektryczne, papier, aparaturę pomiarową, tekstylia i wódkę „Wyborową”. Część dostaw trafia na chilijski rynek przez zachodnich pośredników. Niedawno wznowiono eksport polonezów i traktorów z Ursusa. Podpisano też kontrakt na produkcję 14 polskich kontenerowców o łącznej wartości ok. 380 mln USD.

zamiar przejść na wcześniejszą emeryturę, można podnieść stawkę do 20 proc. płacy. Fundusze emerytalne są tworzone przez przedsiębiorców, inwestorów zagranicznych, a nawet

związki zawodowe. Konkurencja jest najlepszym sposobem na obniżanie prowizji.

– Jakże są gwarancje, że fundusz nie zbankrutuje?

– Fundusze emerytalne mogą inwestować tylko w bardzo bezpieczne przedsięwzięcia, np. obligacje. Obowiązuje także ścisła zasada maksymalnej dywersyfikacji. Po 15 latach obowiązywania nowego systemu emerytury są wyższe niż wypłacane według starych reguł. Ulokowane pieniądze przynoszą wysoką stopę zysku – przeciętnie 13 proc. powyżej inflacji. Wszystkie fundusze brały udział w prywatyzacji gospodar-

ki, kupując 30-40 proc. udziałów w prywatyzowanych spółkach. Jest paradoksem, że dopiero w prywatnej gospodarce spełniły się niektóre założenia Karola Marksa. Nie przez przekazanie władzy biurokracji komunistycznej, lecz dzięki przekazaniu własności bezpośrednio robotnikom.

– W Polsce ciągle dyskutujemy nad reformą ubezpieczeń społecznych.

– Stary chilijski system był podobny do polskiego, gdyż także zarządzało nim państwo. W Chile składka emerytalna stanowiła 20-25 proc. pensji. Słyszysz, że w Polsce wynosi ona 45-47 proc. Nie chce mi się wierzyć. Tragedia polega na tym, że parlament w każdej chwili może zmniejszyć lub zwiększyć wymiar emerytury. Określanie pozostających w gestii państwa ubezpieczeń mianem systemu ubezpieczeństwa społecznego jest żartem. Nasz nowy system funkcjonuje bez zmian od 15 lat. Niezmienność reguł gry gwarantuje poczucie bezpieczeństwa.

- Niektórzy twierdzą, że mógł pan go wprowadzić tylko dzięki ochronie Pinocheta.

- System można było wprowadzić tylko dlatego, że był dobrym pomysłem. Trzeba było przekonać setki osób. Na początku rząd nie akceptował tego rozwiązania. Jako minister pracy często występowałem w telewizji i uczestniczyłem w wielu dyskusjach z przeciwnikami pomysłu. Nie było wyborów, ale istniała swoboda debaty gospodarczej. Mogę pojechać do każdego demokratycznego kraju i przedstawić zalety naszego systemu. W Argentynie, Peru i Kolumbii parlamenty uchwaliły reformę systemu ubezpieczeń społecznych według wzoru chilijskiego. Jestem przekonany, że nasze rozwiązanie zyska jeszcze więcej zwolenników. Zmniejsza się liczba ludzi aktywnych zawodowo, mogących „finansować” emerytów. U nas każdy sam dba o własną emeryturę, a składka jest niezależna od tendencji demograficznych. Bomba zegarowa tkwi w systemie zarządzanym przez państwo.

FUNDUSZE BEZ RYZYKA

Gdy na początku lat 80. w wyniku rosnącego bezrobocia gwałtownie zwiększały się budżetowe wydatki na zasiłki, władze Chile zdecydowały się utworzyć narodowe fundusze emerytalne. Każdy pracownik miał prawo wybrać formę ubezpieczenia. Większość obywateli została udziałowcami funduszy, które od ponad 10 lat są największym inwestorem instytucjonalnym w Chile. Spośród 21 działających 13 gra na giełdzie.

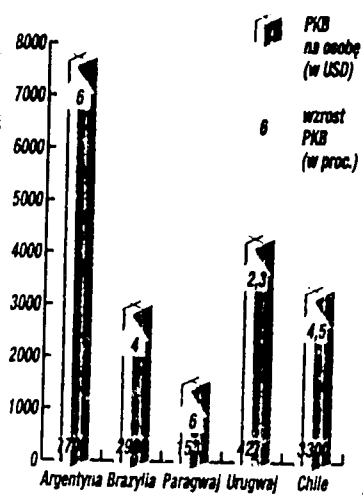
Działalność funduszy polega na zarządzaniu rachunkami, pobieraniu składek, inwestowaniu powierzonych im pieniędzy oraz wypłacaniu emerytur i rent. Ich funkcjonowanie reguluje ustawa, a nadzór sprawuje wyspecjalizowana instytucja rządowa. W 1994 r. zasoby chilijskich funduszy emerytalnych były równe prawie 45 proc. PKB tego kraju.

Polityk musi mieć świadomość przyszłych potrzeb i nie wolno mu myśleć tylko o wygraniu najbliższych wyborów.

- Czy nowy system jest akceptowany przez chilijskich przywódców związkowych?

- Oczywiście, chociaż „starzy” działacze, którzy wchodzili w skład róż-

Produkt krajowy brutto w 1994 r.



GOSPODARKA CHILE

W 1994 r. dochód narodowy Chile wyniósł 45,6 mld USD, inflacja – 9 proc., zadłużenie zagraniczne – 21,6 mld USD, a rezerwy dewizowe – ok. 14 mld USD. Zagraniczne inwestycje sięgnęły 3,2 mld USD, z czego 60 proc. przeznaczono na maszyny i urządzenia wykorzystywane głównie w przemyśle wydobywczym. Największy kapitał zaangażowany jest w górnictwie miedzi, złota, srebra i molibdeny. Sporo inwestuje się również w rozwój telekomunikacji i transportu.

W 1994 r. wartość chilijskiego eksportu wyniosła 11,575 mld USD, zaś import – 10,879 USD. Do głównych towarów eksportowych należą miedź, świeże owoce, celuloza, drewno i mączka rybna. Najczęściej importuje się ropę naftową, węgiel, gaz ziemny, oleje jadalne, mięso wołowe, bawełnę, tkaniny syntetyczne, papier, aparaturę elektryczną, sprzęt komputerowy, samochody, autobusy, telewizory, kosmetyki, obuwie i odzież.

nych ciał państwowych, na początku odnosili się do niego nieprzychylnie. Nowy system odbierał im władzę nad funduszem emerytalnym. Szybko jednak zorientowali się, że 90 proc. robotników wybrało nowy model. Nie sądzę, aby robotnik chilijski tak bardzo różnił się od amerykańskiego czy polskiego. Łączy ich dążenie do wolności i godności. Jeśli polityk to rozumie, jest mężem stanu, a nie zwykłym politykiem zawodowym.

- W jakim stopniu nowy system emerytalny wpłynął na życie gospodarce Chile?

- Zmieniliśmy je całkowicie. Ogromnie wzrosły oszczędności. Przedtem wynosiły 10 proc. PKB, teraz sięgają 26 proc. Pod tym względem nie jesteśmy gorsi od Korei Południowej czy Tajwanu. Stworzono solidne podwaliny pod inwestycje, dzięki czemu nie jesteśmy uzależnieni od wielkiego kapitału zagranicznego. Nie dotknął nas kryzys meksykański; kapitał nie zaczął „emigrować” z Chile. Oszczędności przyczyniły się do podniesienia stopy wzrostu gospodarczego. W latach 70. wynosiła ona przeciętnie 3 proc., w ciągu ostatnich 10 lat – 7 proc. Nie wypada mi się chwalić, ale prof. Gary Becker, laureat Nagrody Nobla w dziedzinie ekonomii, uważnie zbadawszy nasz system ubezpieczeń, stwierdził, że główną przyczyną wzrostu była reforma emerytalna.

- Czy nowy system przyczynił się do spadku bezrobocia?

- Dość zdecydowanie. Teraz wynosi ono 6 proc., a jeszcze kilka lat temu sięgało 10 proc., zaś w pierwszym roku reformy nawet 15 proc. Hiszpania – po wielu latach rządów socjalistów – ma 24 proc. bezrobotnych. Nasz system nie kosztuje tak wiele ani robotnika, ani pracodawcy, który chętniej zatrudnia nowych pracowników. Poprawiliśmy sytuację na rynku pracy i rynku kapitałowym. Ich sprawne działanie ma najważniejsze znaczenie dla wzrostu gospodarczego.

- Czy system chroni przed ewentualnymi oszustwami?

- Stworzyliśmy wiele takich zabezpieczeń. Najważniejsze jest oddzielenie zarządcy funduszu emerytalnego od samego funduszu. Pod względem prawnym i ekonomicznym są to dwie odrębne instytucje. Zarządzająca spółka prywatna urzeczywotnia się w prowizji, która jest znana z góry i nie może się zmienić. Zarządca decyduje o inwestycjach funduszu, ale zysk przekazywany jest na rachunek ubezpieczonego. Przejrzystości systemu pilnuje rada nadzorcza. Publikuje ona informacje na temat inwestycji i zysków poszczególnych funduszy. Dokumenty funduszy są chronione przez bank centralny. Przez 15 lat nie było żadnej afery.

Rozmawiał Roman Strzemiecki

Business Eastern Europe

A WEEKLY REPORT: BUSINESS, FINANCE & INVESTMENT

No deposit, no return

An efficient collateral system is the backbone of commercial lending, but Eastern Europe is only beginning to lay the proper legal foundations

Inadequate security for loans is one of the principal institutional weaknesses inhibiting the flow of capital into, and within, Eastern Europe. No country has yet established a central pledge registry; there is no way to verify that collateral is unencumbered by prior claims. In Poland "you can pledge a car at five different banks and then drive it out of the country", says William Rich of IRIS-Central Europe, a USAID-funded group promoting legal reform in the region*.

In sum, no asset-based loan is fully secure. Banks are reluctant to lend to local companies, and tend to require exorbitant amounts of security in the form of cash deposits (which can even exceed the loan's value). The deficiencies also make foreign investors hesitate, as acquisitions or credits to local partners can founder on hidden but costly liabilities.

East European legal practice remains excessively "debtor-protective". The interests of secured creditors can easily be slighted. Other factors hinder asset-based lending:

- Creating an enforceable security interest is costly, as fees are generally calculated as a percentage of the debt secured. Ukraine has a 5% notarial fee, for example. In the USA, the procedure normally costs no more than \$5.
- Court costs to enforce the interest after default are also high, amounting to as much as 12% of the debt secured (excluding lawyers' fees).
- The collateral market is underdeveloped; bankers cannot be sure that pledged assets will be redeemable, or at what value.
- Court proceedings are protracted. "If you take a long time to execute, collateral has a way of disappearing," says IRIS's director, Ronald Dwight.
- In some countries, third parties, including the state, can jump ahead of secured creditors to press claims in bankruptcy proceedings.

The Polish hierarchy is particularly unfavourable. Secured creditors come sixth in line for compensation in settling bankruptcy claims; overdue taxes rank third. This means that the Ministry of Finance can step in at any point during bankruptcy proceedings to claim assets put

up as collateral if there are any unpaid taxes. Such tax liens need not be recorded anywhere, so owners (new and old) can long remain in the dark.

Although domestic firms are the most frequent victims, at least one major Western company (which insists on anonymity) has suffered the consequences. Two years after making a multimillion dollar acquisition, the firm faced a claim for back taxes from the Ministry of Finance. The company was forced to engage in costly litigation with the Ministry of Privatisation, which had claimed that the state firm was debt-free; until the case was settled, the property could not be sold or used as collateral.

Polish leap-frog

Change is under way, if slowly. The EBRD has drafted a model collateral law and is pressing the region to adopt its provisions. Poland, where the defects are most glaring, is expected to consider a new law this year which would make its system the most modern in the region. A central pledge registry would be created; the Ministry of Finance would have to register tax liens like any other secured lender. Companies and banks may have to lobby to win this point, however, as the finance minister has avoided taking a clear stance.

Work on a computerised registry has already begun, based on Norway's self-financing system (where a publicly owned corporation sells registry information on-line). But decades will be needed to complete a central land registry system.

Western legal norms of behaviour are as important as good laws in making asset-based lending effective. Legal reform is likely to solve many of central Europe's problems, but countries with a weak tradition of the rule of law give cause for concern. Russia has adopted a progressive Civil Code, but the courts there seem apt to disregard (or the authorities to ignore) its provisions.

LOUISA VINTON

* *A Survey of Asset-Based Lending in Central and Eastern Europe*, available from IRIS-Central Europe, Ksawerow 13, PL-02656 Warsaw; tel/fax: (48.22) 45 18 56.

E·I·U

The Economist
Intelligence Unit

May 29, 1995

Debt doubts

The perils of East European collateral provisions Page 1

Out of Moscow

TV advertisers begin to tailor advertising to Ukrainian tastes Page 4

Hungary

How Western investors can avoid future liabilities for past pollution Page 5

Lobbying

The first in a BEE series on government relations in Eastern Europe

Slovakia: Western-style advocacy takes a back seat to crony connections Page 6

Czech Republic: Success depends on the government's bottom line Page 7

Kyrgyz Republic

Bishkek's tiny stock exchange starts trading Page 8

Features

Spotlights 2
What's new in your industry 9
Finance 12

Vol XXIV No. 22

RG

AGV

T E L E F A X

IRIS CENTRAL EUROPE
Ksawerow 3

PL 02 656 WARSAW

Telefax No.: 0048 - 22 - 45 18 56

Wiesbaden, June 30, 1995
G/Sel

Gentlemen,

from Ost Wirtschaft Report, a German publication,
we obtained the information, that from IRIS Central
Europe a "Survey of Asset Based Lending in Central
and Eastern Europe" can be ordered.

We are interested in this report and should like to
enquire about the procedures to receive it. Please
be so kind to send us the appropriate information.

Kind regards

AGV International Leasing GmbH


Dr. G. Glauzel

ATTACHMENT XIII

Translation of letter from Minister of Justice Mladen Chervenjakov to IRIS-Bulgaria
Director Mark Beesley:

MINISTRY OF
JUSTICE
1 Slavyanska Street
Sofia 1000

TO
MR. MARK BEESLEY
DIRECTOR
IRIS - BULGARIA
CENTER FOR THE STUDY OF
DEMOCRACY
1 Lazar Stanev Street
Sofia 1113

15 June 1995, Sofia

Dear Mr. Beesley,

Thank you for your letter of 9 June regarding IRIS's offer to assist in reforming Bulgaria's collateral law. As we discussed when we last met, I believe that enacting a modern collateral law and establishing a central pledges registry system will help improve the credit environment and is important for Bulgaria. Implementation of a modern collateral law should help open doors to enterprising individuals and small and medium sized businesses whose initiatives are currently inhibited by lack of financing.

I agree that IRIS may use expert technical assistance funds of the US Agency for International Development to assist our reform efforts. I ask that you coordinate your work with Ms. Vessela Stancheva -- an expert at the Ministry and member of the Ministry's Legislative Council.

I am pleased to learn that you have returned to Bulgaria to direct IRIS's collateral law reform project. We look forward to working closely with you and in the near future reviewing IRIS's plans for reform.

MINISTER

signed and sealed/
Mladen Chervenjakov

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**Deloitte &
Touche**



**BANKRUCTWA W EUROPIE ŚRODKOWEJ I WSCHODNIEJ
ORAZ ICH PRAWNE KONSEKWENCJE**

9:30 - 10:00 *Rejestracja uczestników - kawa/herbata.*

10:00 - 10:45 *Otwarcie konferencji.*

**Minister Sprawiedliwości Jerzy Jaskiernia
Ambasador USA w RP Nicholas A. Rey**

10:45 - 12:45 *Sesja przedpołudniowa:*

**Prezentacja raportu - wyniki badań w krajach regionu - Arlene
Mirsky, Richard Coates.**

Wnioski z raportu dotyczące Polski - Andrzej Koliński

**Komentarze do raportu - Zbigniew Strus, Sędzia Sądu
Najwyższego.**

12:45 - 14:15 *Lunch*

14:15 - 17:00 *Sesja popołudniowa*

14:15 - 15:45 **Dyskusje panelowe:**

* **Reforma sądownictwa - szkolenie i wspomaganie logistyczne dla
środowiska sędziowskiego - Maria Majewska-Jurys, Sędzia Sądu
Rejonowego; Pałacyk;**

* **Doskonalenie zawodowe syndyków - Feliks Zedler, Uniwersytet
Adama Mickiewicza w Poznaniu; Rada Europy, sala 201;**

* **Lekcja restrukturyzacji finansowej przedsiębiorstw i banków -
Leszek Pawłowicz, Instytut Badań nad Gospodarką Rynkową; Rada
Europy, sala 207.**

15:45 - 16:15 *Przerwa na kawę - Pałacyk*

16:45 - 17:00 **Prezentacja wyników dyskusji; prezentacja Programu USAID oraz
możliwości dodatkowej pomocy technicznej w ramach Programu -
Pałacyk.**

17:00 *Zakończenie konferencji.*

18:00 - 20:00 *Koktajl - Muzeum Xawerego Dunikowskiego w Królikarni.*



Center for Strategic & International Studies
Washington, DC

June 15, 1995

U.S.-EUROPE-POLAND ACTION COMMISSION

REPORT OF BERLIN PLENARY SESSION

OVERVIEW. On May 19-20, 1995, 70 commissioners and guests of the U.S.-Europe-Poland Action Commission met with senior leaders of the Polish government and conducted a cooperative review of 19 actions supporting Poland's economic, political, and security development. These actions reflect seven months of cooperative work to develop consensus among Polish and foreign business leaders and leaders from other fields, as well as to gain the involvement and insights of key members of the staff of Polish government ministries. This highly successful meeting was hosted by the Governing Mayor of Berlin, Mr. Eberhard Diepgen, and was supported by Mr. Jock Covey, Chief of the U.S. Mission in Berlin.

Deputy Prime Minister Grzegorz Kolodko led the very strong Polish government delegation participating in this plenary session, and carried a letter of appreciation and encouragement from Prime Minister Jozef Oleksy. A last minute change in the Prime Minister's requirements prevented him from traveling to Berlin and speaking to the commissioners as planned.

GOALS. Commission chairman Dr. Zbigniew Brzezinski reminded commissioners that the overarching goal for actions recommended by the Commission is to assist Poland's integration into the European Union and NATO. Co-chairman Mr. Percy Barnevik added a second goal of supporting a three to five-fold increase in foreign direct investment in Poland. Co-chairmen Mr. Cezary Stypulkowski highlighted the plenary session objective of gaining government agreement to act on concerns raised by the Commission's recommended actions. Dr. Brzezinski stressed that these actions are offered in a friendly and constructive spirit and that the Commission is a cooperative enterprise meant to help Poland.

RESULTS.

• 18 actions were developed with and recommended to the Polish government for evaluation and implementation.

- 15 actions have been acted on by the government or were agreed to and implementation is beginning.

- 3 actions are still under discussion with the government.

• a 19th action, on inequitable trade barriers, is under evaluation by the staff of President Jacques Santer of the European Commission.

A Lobby Instead of a Grandfather from our Berlin correspondent

A strong lobby is no less important than good economic indices and the growth of democracy, for we know that it is not only what is said but who says it, especially if we have to convince the European Union, NATO and the international business community that the new outlook for Poland is good. If the target is that lofty, the lobby has to be sufficiently influential. Just like the US-Europe-Poland Action Commission, a name which does not really translate well into Polish. In fact, it is a pro-Polish lobby created in 1991 by the initiative of Prof. Zbigniew Brzezinski, who managed to bring together the cream of world investors from six countries, mainly from the USA, as well as political and economic leaders of the Polish transformation. Suffice it to say that co-chairmen of the Commission are the President of the world's largest energy corporation, ABB, Mr. Percy Barnevik and the president of the Polish Commercial Bank, Mr. Cezary Stypulkowski. The main objectives of the Commission are to develop and promote methods of economic growth and foreign investment, provide support for the military sector conversion for civilian production, and assist Poland's integration into UE and NATO. Zbigniew Brzezinski admits that the recommendations presented to the government are not always followed, but they are always considered and discussed. Mr. Grzegorz Kolodko, vice premier and finance minister, a guest of the recent Berlin session, was encouraging investors to buy not only the "raisins" but also "the dough," meaning all kinds of enterprises.

Of course, none of the VIP guests had to wait in the traffic jam on the Polish-German frontier, but efficiency of transportation and frontier crossings was one of the important subjects under discussion. Another leading theme was an urgent need to prepare legislation on collateral. In Poland, interests of foreign creditors are almost at the end of the line in the event of bankruptcy. Other countries of our region offer much better conditions in this respect.

A special guest of the meeting was Mr. Ronald Freeman, Vice President of EBRD. His message was contained in the following anecdote: While in Tokyo, he asked a Japanese businessman why there is little commitment in Eastern Europe, including Poland. The answer was "Not every Japanese person has a Polish grandfather." We should take the punchline of this story seriously. Sentimental investments and sentimental motives are definitely not enough to meet the needs of the Polish economy and face competition in attracting big capital which is looking at Poland but still investing elsewhere.

Bogda Zukowska

Requirements for Secured Lending

A Comparison of the United States and Poland

	US	Poland
◆ It must cost little to create an enforceable security interest	<i>A security interest can be registered in most states for approximately \$5.00. It needs to be registered only once in five years, and covers after-acquired property.</i>	<i>In order to create a mortgage on real property, it is necessary to pay a combination of notarial fees, stamp duties, and court costs. All of these are a percentage of the debt secured, making the cost in some cases exorbitant.</i>
◆ It must cost little to enforce the security interest.	<i>The secured creditor can seek either judicial or non-judicial recourse after default. Non-judicial recourse includes the right to repossess the collateral peacefully, to disable the collateral or make direct collections of accounts.</i>	<i>There are a variety of court costs and bailiff fees that are a percentage of the debt secured. Their combined cost can be as high as 12 percent of the amount secured, not including attorneys' fees. Voluntary submission to execution can cost as much as 25 million old Polish Zloties (over \$1000).</i>
◆ The security must produce real commercial value for the lender when enforced.	<i>The secured creditor controls the resale of the collateral, and is first in line to receive the proceeds from that sale.</i>	<i>There is no developed market for selling collateral, making it impossible to determine the future value of some types of property. Also, the value of collateral is eroded by lengthy, uncertain enforcement proceedings and lack of secured creditor priority.</i>
◆ The lender must be able to determine, with certainty and at little cost, before the loan is made, whether any other lender has a better claim to the security.	<i>For most types of collateral, there is a single public registry where a creditor can check for previously filed security interests.</i>	<i>There is no central registry for movables making it impossible to ascertain whether the collateral has been charged with an existing security interest. The Ministry of Finance is not required to give any public notice whatsoever that a tax lien has been filed.</i>
◆ The lender must be protected from the claims of third parties, including secured and unsecured creditors, the trustee in bankruptcy and purchasers of the security.	<i>The secured creditor is protected against all unsecured creditors, the trustee in bankruptcy, and most subsequent secured creditors and purchasers of the collateral.</i>	<i>The secured creditor's rights in bankruptcy are severely infringed upon by Art. 1025 of the Code of Civil Procedure. An unsecured bank loan has priority over a secured debt from a non-bank creditor. Subsequently filed security interests can take precedence over previously filed ones.</i>

Requirements for Secured Lending

A Comparison of the United States and Poland

	US	Poland
◆ It must cost little to create an enforceable security interest	<i>A security interest can be registered in most states for approximately \$5.00. It needs to be registered only once in five years, and covers after-acquired property.</i>	<i>In order to create a mortgage on real property, it is necessary to pay a combination of notarial fees, stamp duties, and court costs. All of these are a percentage of the debt secured, making the cost in some cases exorbitant.</i>
◆ It must cost little to enforce the security interest.	<i>The secured creditor can seek either judicial or non-judicial recourse after default. Non-judicial recourse includes the right to repossess the collateral peacefully, to disable the collateral or make direct collections of accounts.</i>	<i>There are a variety of court costs and bailiff fees that are a percentage of the debt secured. Their combined cost can be as high as 12 percent of the amount secured, not including attorneys' fees. Voluntary submission to execution can cost as much as 25 million old Polish Zloties (over \$1000).</i>
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THE RIGHTS OF A SECURED CREDITOR IN CENTRAL & EASTERN EUROPE

Priority of Satisfaction in Bankruptcy

BULGARIA	CROATIA	CZECH REP.	ESTONIA
<ol style="list-style-type: none"> 1. Secured creditors; 2. Lien creditors; 3. Bankruptcy costs; 4. Employee claims; 5. Social Security claims; 6. Gov. claims (taxes); 7. Post insolvency claims; 8. Others 	<ol style="list-style-type: none"> 1. Bankruptcy costs; 2. Secured creditors; 3. Employee claims; 4. Claims incurred in business dealings of the debtor; 5. Government claims (taxes) 6. Other creditors paid proportionally from remainder. 	<ol style="list-style-type: none"> 1. Secured creditors and others entitled to separate satisfaction. 2. Employee claims; 3. Taxes, duties and social security claims 4. Others (unsecured creditors) 	<ol style="list-style-type: none"> 1. Bankruptcy related expenses; 2. Secured creditors; 3. Wages and wage income (pensions, attorney fees, alimony) 4. Taxes and social security; 5. Others
HUNGARY	LITHUANIA	LATVIA	MACEDONIA
<ol style="list-style-type: none"> 1. Proceedings costs including certain employee claims; 2. Secured creditors; 3. Alimony/child support 4. Claims arising from civil suits against debtor; 5. Taxes and social security claims 6. Others 	<ol style="list-style-type: none"> 1. Secured creditors; 2. Employee claims; 2. Court and admin. costs of proceedings, 3. Taxes and social security claims 4. Unsecured claims, others 	<ol style="list-style-type: none"> 1. Employee claims; 2. Government claims (taxes); 3. Social Security claims; 4. Environmental damage; 5. Secured creditors; 6. Due claims of general creditors; 7. Others 	<ol style="list-style-type: none"> 1. Secured creditors; 2. Bankruptcy costs including certain employee claims; 3. Taxes and social security; 4. Others
POLAND	ROMANIA	SLOVAKIA	SLOVENIA
<ol style="list-style-type: none"> 1. Execution costs; 2. Employee claims; 3. Taxes; 4. Usufruct fees; 5. Bank loans 6. Secured creditors 7. Creditors who have started execution proceedings; 8. Others 	<ol style="list-style-type: none"> 1. Secured creditors and taxes; 2. Court fees; 3. Estate admin. costs; 4. Employment contract claims; 5. Alimony; 6. Unsecured creditors 	<ol style="list-style-type: none"> 1. Secured creditors; 2. Proceedings' costs; 3. Employees' claims; 4. Taxes, social security dues; 5. Others 	<ol style="list-style-type: none"> 1. Secured creditors; 2. Employee claims; 3. Certain obligations to other enterprises. <p>All unsecured creditors share equally, <u>including taxes!</u></p>

Source: *A Survey of Asset-Based Lending in Central and Eastern Europe*, IRIS-Central Europe - William A. Rich, Coordinator

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IRIS-CENTRAL EUROPE

Funded by The United States Agency for International Development

Quarterly Field Report: IRIS-INDIA

I. ADMINISTRATIVE DATA

Reporting Period: April 1, 1995 - June 30, 1995

BOA Number: ANE-0015-1019-00

Delivery order Number: 13

AID Project Office: G/EG/EIR (O. Koropecy, 522 SA-2)

AID Office funding delivery order: G/EG/SMIE

AID Office project: Institutional Reform and the Informal Sector (IRIS) Project

II. PERFORMANCE INFORMATION

I. Project purpose summary statement:

- A. Project Purpose: The objective of this program is to increase the understanding and awareness of the institutional aspects of economic issues in India and to generate a better knowledge base for decisions about economic policy. This will be achieved by carrying out (i) a policy analysis program, (ii) an Indo-American scholarly exchange program, (iii) conferences, and (iv) publications. The policy analysis program examines the current institutional framework in India, explores whether this framework constrains the economic liberalization process and determines whether there is a need for reform. IRIS will disseminate the results of policy analysis to the research community, to politicians and government officials, to the media and the public in India through conferences and publications.
- B. Relationship to USAID Program Strategy: The USAID program strategy in India is to help India make progress towards sustainable development by focusing on three primary program objectives: accelerating broad-based economic growth, stabilizing population growth, and protecting the environment. IRIS activities in India--as a part of the Mission's Technical Assistance and Support Project (TASP)--contribute to Mission objectives, especially to the objective of accelerating broad-based economic growth by providing economic policy analysis results and advocacy to increase the competitiveness of the Indian economy and to improve the financial and regulatory environment.

- C. Progress toward Project Purpose during the Reporting Period: The purpose of this project, namely increasing the understanding and awareness of the role of institutions in economic development in India and generating a better knowledge base for decisions about economic policy, has been furthered during the reporting period. The IRIS sponsored policy paper "The Food Corporation of India: Successes and Failures in Indian Foodgrain Marketing" by Ashok Gulati, Pradeep Sharma, and Satu Kähkönen generated and revived public debate on Indian foodgrain and rice marketing policies and buffer stocks. The results of the paper have been presented and discussed in Indian newspapers and magazines. Further, the task of revising the best of policy papers into a publishable form continued. Work also continued on the book which will include some of the best papers of the program. At the same time, IRIS in collaboration with the NIPFP solicited new policy analysis proposals throughout India and the United States. About 750 Policy Analysis Program brochures were mailed to Indian and American universities and research institutes. The program was also advertized in the two leading Indian newspapers--*The Times of India* and *The Economic Times*--and in the Indian journal *Economic and Political Weekly*. In addition, IRIS and the NIPFP issued a press release on the launching of the program. As a result, IRIS received over 400 inquiries about the program during the reporting quarter, and the proposals started coming in. The planning and organization of conferences proceeded also at a good pace. Unfortunately, the final agreement with CDE regarding their participation in the program broke down over compensation rates. Alternative arrangements for logistical support were, however, immediately made. IRIS hired a New Delhi-based PR-firm to organize the press coverage of IRIS events in India, and to help with conference promotion, organization, implementation, and follow-up. The rest of the CDE functions were taken over by NIPFP. IRIS is also working on getting the CDE staff re-involved in the program. Individuals scholars associated with CDE are approached directly and invited to participate in the program.

2. Progress report

A. Technical Implementation¹

Activities Planned for Reporting Quarter	Current Status	Explanations
Revision (by Scholars) of Best Policy Papers for Publication.	2	See Attachment I for the list and status of the IRIS sponsored policy papers. Copies of papers revised and completed during the quarter attached.
Publishing Policy Papers in IRIS/India Working Paper Series.	3	Publications delayed because of other urgent activities.
Book	2	IRIS is editing the best policy papers and publishing them as a book. Publishers contacted during the quarter.
Public Debate on India's Foodgrain Marketing Policies	2	IRIS policy paper on the Food Corporation of India generated and revived national debate in India on Indian foodgrain and rice marketing policies. See Attachment II for copies of some of the press coverage.
Solicitation of Policy Analysis Proposals.	2	IRIS, with the help of NIPFP, solicited policy analysis proposals throughout India and the USA. About 750 Policy Analysis Program Brochures were mailed to universities and research institutes in India and the USA. See Attachment III for a copy of the Policy Analysis Program Brochure.

¹ Status of activities as defined in the delivery order.



Advertising Policy Analysis Program.	1	IRIS advertized the Policy Analysis Program in the following Indian newspapers and journals: (1) <i>The Times of India</i> (2) <i>Economic Times</i> (3) <i>Economic and Political Weekly</i> . See Attachment IV for copies of advertisements.
Press Release of Launching of Policy Analysis Program.	1	IRIS and NIPFP issued a press release on the launching of the program. See Attachment V for a copy of the press release.
Inquiries of the Policy Analysis Program.	2	IRIS received over 400 inquiries (faxes, letters, e-mails, phone calls) about the program during the quarter.
Forming of Proposal Review Committee	1	IRIS formed a Proposal Review Committee of Indian and American scholars to review and select the proposals. The members of the Committee will be as follows: IRIS: Dr. Mancur Olson Dr. Satu Kähkönen Dr. Brian Fikkert Dr. Anand Swamy Mr. Brian Steinhardt NIPFP: Dr. Parthasarathi Shome Dr. Indira Rajaraman Dr. Gupta Dr. Mishra
Planning of Distinguished Speaker Conference to be held in November 1995.	2	See Attachment VI for a summary of the status of IRIS conference plans in India.
Planning of Distinguished Speaker Conference Series to be held in January 1996.	2	See Attachment VI for a summary of the status of IRIS conference plans in India.

Planning of Tele-Video Conference on "Is Democracy Slowing Down India's Economic Growth?"	2	See Attachment VI for a summary of the status of IRIS conference plans in India.
Planning of Indo-American Scholarly Exchange Program.	3	Launch of the program delayed by other pressing activities.

Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Publishing Policy Papers in IRIS-India Working Paper Series.	9/95	IRIS
Book.	12/95	IRIS, Scholars and Publisher
Review and Selection of Policy Analysis Proposals.	8/95	IRIS and NIPFP
Contracting with Scholars.	9/95	IRIS
Commissioning of Policy Papers.	9/95	IRIS, NIPFP
Organization and Marketing of Tele-Video Conference.	9/95	IRIS, Worldnet TV, Genesis PR
Worldnet Tele-Video Conference on "Is Democracy Slowing Down India's Economic Growth?"	9/95	IRIS, Worldnet TV, Genesis PR
Planning of Distinguished Speaker Conference to be held in November 1995.	11/95	IRIS, NIPFP, Genesis PR
Planning of Distinguished Speaker Conference Series to be held in January 1996.	1/96	IRIS, NIPFP, Genesis PR
Launching of Indo-American Scholarly Exchange Program	9/96	IRIS

B. Project Administration

Activities Planned for Reporting Quarter	Current Status	Explanations
Finalization of Work Plan.	1	Refinements of the Work Plan discussed in considerable detail with USAID/India. Work Plan approved.
Finalization of Expenditure Projection.	1	Expenditure Projection approved.
Revision of Policy Analysis Program Brochure.	1	See Attachment III for a copy of the Program Brochure.
Subcontracting with NIPFP.	1	
Alternative arrangements for logistical support in India.	1	See Attachment VII for a plan for replacement of CDE functions.
Travel of IRIS/India Project Director and IRIS Field Director to New Delhi to (i) interview Indian PR firms and select one to do PR work for the project, (ii) meet with NIPFP, (iii) meet with other relevant scholars and journalists.	1	<p>IRIS/India Project Director: June 11-25, 1995</p> <p>IRIS Field Director: June 6-15, 1995</p>
Hiring of Indian PR firm to (i) organize the press coverage of IRIS events in India, and to (ii) help with conference promotion, organization, implementation, and follow-up.	1	<p>IRIS solicited offers from around 30 PR firms in India. IRIS/India Project Director and IRIS Field Director interviewed the firms with best offers in June in New Delhi. Genesis PR, a New Delhi-based woman-owned firm, was chosen to do the work. The selection was based on the following criteria: (i) quality and reputation of the firm, (ii) cost, and (iii) capability to undertake administrative tasks.</p>

Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed

TH

(4) Action canceled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Finalization of Subcontracting with Genesis PR.	7/95	IRIS, Genesis PR
Preparation of Marketing Materials for the program.	10/95	IRIS, Genesis PR
CDE Participation	10/95	IRIS

3. Other problems/issues and intended steps toward resolution:

Final agreement with CDE regarding their participation in the next phase of the program broke down over compensation rates. Individual scholars associated with CDE will be approached directly and alternative arrangements for logistical support in India are being made.

III. FINANCIAL DATA Please see attached.

IV. ATTACHMENTS

- Attachment I: List of IRIS sponsored policy papers and their status.
- Attachment II: Press on IRIS Policy Paper on the Food Corporation of India.
- Attachment III: Policy Analysis Program Brochure
- Attachment IV: Policy Analysis Program Advertisements
- Attachment V: IRIS-NIPFP Press Release of May 1995
- Attachment VI: IRIS/India Conference Plans
- Attachment VII: Plan for Replacement of CDE Functions

ATTACHMENT I to the IRIS/India Quarterly Report for April-June 1995

List of IRIS/India Sponsored Policy Papers and Their Status

IRIS-INDIA Policy Analysis Program
Institutions, Incentives and Economic Reforms

Papers Revised and Completed:

Dr. Dilip Mookherjee (Indian Statistical Institute, New Delhi) and Dr. Arindam Das-Gupta (National Institute of Public Finance and Policy),

* *"Reforms in Indian Income Tax Enforcement"*.

* *"Tax Amnesties in India: A Theoretical and Empirical Analysis."*

* *"Recent Trends in Income Tax Administration in the CIAT Countries."*

* *"Income Tax Enforcement in Spain."*

* *"Reforms in Income Tax Enforcement in Mexico."*

Dr. Kenneth Kletzer and Dr. Nirvikar Singh (Department of Economics, University of California, Santa Cruz),

"Indian Fiscal Federalism: Political Economy and Issues for Reform".

Dr. Anil Deolalikar (Department of Economics, University of Washington) and Dr. Prem Vashishtha (National Council for Applied Economic Research),

"The Health and Medical Sector in India: Potential Reforms and Problems".

Dr. Mrinal Datta Chaudhuri (Delhi School of Economics),

"Labor Markets as Social Institutions in India".

Dr. Brian Fikkert (Department of Economics, University of Maryland),

"Reforming India's Technology Policies: The Impacts of Liberalization on Self-Reliance and Welfare."

Dr. Ashok Guha (School of International Studies, Jawaharlal Nehru University),
*"The Design of Decision Making: A Study in Economic Administration with
Special Reference to Indian Economic Reform"*.

Dr. Govinda Rao (National Institute of Public Finance and Policy) and Dr. M.R.
Narayana (Institute for Social and Economic Change),
"Fiscal Reforms and the Role of Sub-Center Governments".

Dr. Ashok Gulati (National Council for Applied Economic Research), Dr. Pradeep
Sharma (Planning Commission) and Dr. Satu Kähkönen (IRIS),
*"The Food Corporation of India: Successes and Failures in Indian Foodgrain
Marketing"*.

Dr. Pradeep Agrawal (Indira Gandhi Institute of Development Research),
*"Regulation and Reform of the Financial Sector in India: An Analysis of the
Underlying Incentives "*.

Dr. Kaushik Basu (Cornell University and Delhi School of Economics),
"Legal and Institutional Prerequisites of Market Reform in India".

Papers Completed:

Dr. Anand Gupta (Indian Institute of Management, Ahmedabad),
"Privatization and India's Economic Reforms".

Dr. D.M. Nachane (Department of Economics, University of Bombay),
"Intellectual Property Rights in the Uruguay Round: An Indian Perspective".

Dr. Shashi Kolavalli (Indian Institute of Management, Ahmedabad),
"Options for Improving Performance of Irrigation Systems in India".

Dr. Ramaswamy Aiyar (Institute for Financial Management and Research, Madras)
and Dr. Hanumantha Rao (Institute for Financial Management and Research, Madras),
"Indian Energy Scene--Problems and Prospects".

Dr. Isher Ahluwalia (Center for Policy Research),
"Industrial and Trade Policy Reforms in India".

Dr. Bibek Debroy (National Law School of India University),
"Consumer Protection Legislation in Public Utilities in India".

Dr. R.J. Mody (Sardar Patel Institute of Economic and Social Research),
"Reforms in Non-Bank Financial Intermediaries".

Dr. E. Sridharan (Center for Policy Research),

"Coalition Theory and Indian Politics: Implications for Public Policy".

Paper Under Revision:

Dr. Dilip Mookherjee (Indian Statistical Institute, New Delhi) and Dr. Arindam Das-

Gupta (National Institute of Public Finance and Policy),

"Manpower Productivity and Organization in Tax Assessment."

ATTACHMENT II to the IRIS/India Quarterly Report for April-June 1995

Press on IRIS Policy Paper on Food Corporation of India

The impact of procurement

THE Government started controlling Indian foodgrain marketing in 1939 at the outbreak of the Second World War. The impetus for intervention, however, was the Bengal famine of 1943. The committee that was set up to explore the reasons for the famine concluded that it was due to the failure of the foodgrain distribution system as the grain markets across the country were not integrated.

According to the committee's report, there was no shortage of grains in India as a whole in that year. To correct this market failure, the Government became heavily involved in the Indian foodgrain marketing.

The Department of Food under the Ministry of Agriculture was assigned the task of managing the Indian food economy. Its main functions were to import and procure grains, maintain Central reserves, control and regulate prices, and construct and hire storage facilities. Ever since, the foodgrain sector has been controlled, barring a few episodes of free trade.

In 1957 as foodgrain prices were on the rise, a Government Foodgrains Enquiry Committee recommended State trading in the foodgrain market. Specifically, the committee advised the Government to establish a Foodgrains Stabilisation Organisation which would not only take over a part of the tasks of the Department of Food but would also operate as a trader in the grains market.

Government intervention in foodgrain marketing as a trader was deemed necessary on two counts: (1) to ensure efficiency of foodgrain markets, that is, to ensure the stability of foodgrain prices avoiding large differences between the producer and consumer prices and prices across the market, and to ensure availability of grains across markets over time; and (2) to counterbalance the speculative activities of private traders.

The premise was that Indian foodgrain markets are inefficient and unintegrated. Private traders were considered primarily responsible for this inefficiency and price rises. They were viewed as profiteers who hold speculative stock to earn undue profits. It was believed that their speculative activities could be countered only by holding large stocks or through imports, both of which had to be in the public sector to be effective.

The assumption was that, unlike private traders, a public sector agency would act in the social interest. It was also recognised that market prices of foodgrains were bound to fluctuate since the supply of foodgrains depends heavily on monsoons and the aggregate de-

Ever since the Government started active intervention in the marketing of foodgrain way back in the late thirties, the impact of procurement on the market has been a matter of debate. Here, Ashok Gulati, Pradeep K. Sharma and Satu Kahkonen assess the implications of the working of the Food Corporation of India for both growers as well as consumers.

mand for foodgrains in India, where about 40 per cent of the population lives below the poverty line, is price inelastic.

Given the price inelasticity of demand, an increase in food prices would erode the real income of the population, particularly that of the poor who spend a major share of their income on food. Also, fluctuations in prices would affect adversely the long-term investment and production decisions of growers and, in the short run, might lead to sub-optimal allocation of resources. Therefore, intervention to stabilise prices was warranted.

Previous studies of Lele and Moore and Jhali and Khuro (1973) on Indian foodgrain marketing have, however, found that Indian foodgrain markets are efficient and integrated and that private traders are not profiteers. The inter-market price correlations are high and the price difference between markets does not exceed the transport costs.

According to these studies, private traders' storage activities are normal and they respond to off-season price rises to make profits, which is a normal trading activity. Further, because the number of traders is so large, it is unlikely that they can collude to earn above-normal profits.

Moreover, according to these, if the market prices are found to be less correlated, it was not because of any inherent weakness in the marketing system but because of infrastructural bottlenecks such as lack of roads. Therefore, Government intervention in these counts is not warranted. However, fluctuations in prices due to fluctuations in the supply of foodgrains may necessitate interference, according to them.

In 1965 the Food Corporation of India was set up under the Food Corporation of India Act (1964) as the sole agency of the Central Government to purchase, store, transport and distribute foodgrains. Until 1980-81, the FCI was also handling coarse cereals but since then it has confined its operations to wheat and rice.

Though the task of handling coarse cereals

was entrusted to NAFED, from 1989-90 it has once again become the FCI's responsibility. The Corporation also distributes levy sugar in certain States and imported sugar through the public distribution system.

Even though the specific duties of the FCI have changed over time, its main objectives, which reflect the rationale behind government intervention, have remained the same. They are: (1) provision of price support to farmers by procuring foodgrains at a support price; (2) distribution of foodgrains at subsidised prices throughout the country; and (3) maintenance of buffer stocks to ensure national food security. In achieving these objectives, the FCI was envisioned to operate along commercial lines competing with other traders.

The impact of procurement on producer income depends on whether the weighted average of the procurement price and the open market price is higher or lower than the price that would have prevailed in the absence of government procurement, given that growers are obliged to sell a share of their production to the FCI. If it is higher, then there is a net gain to growers from government intervention. If the weighted price is lower, then growers suffer a loss. Even though the procurement price is generally lower than the market price, the net effect on growers is unclear since the government procurement raises the open market prices.

Previous studies on the impact of procurement policies on farmers' welfare show that the weighted average of the procurement and the market price has been higher than the market price that would have prevailed without government intervention and growers have benefited from the procurement system.

These studies can, however, be faulted on five counts. First, the calculation of the weighted average price depends on weights which are not independent of prices. Their argument — that there is a such a large difference in price elasticities of low- and high-income consumers that a reduction in the open market supply (due

to procurement may not lead to any significant reduction in demand — may hold water when the gap between the procurement and the market price is small.

If the gap is large, growers, to avoid income loss, would sell less to the Government and more in the open market than if the gap were small. In this situation, the Government would be likely to impose movement restrictions from surplus to deficit States. This might neutralise the gains the growers would have had in the form of higher open market prices.

Second, like growers, consumers also try to circumvent procurement if the difference between the controlled and open market price is large. High-income consumers may try to get their supplies from the subsidised market, while the low-income consumers may try to sell their share of subsidised supplies in the open market at high prices.

Third, the opportunity to sell in the open market may not be equally available to all growers whose procurement shares differ depending on the State, region and holding size. The net outcome for individual growers could be difference because of these factors.

Fourth, the procurement operations are regionally concentrated. For example, in 1988-90, Punjab, Haryana and Uttar Pradesh contributed almost the entire wheat procurement though they generated only 69 per cent of the total production. Similarly, these States contributed 63 per cent of the rice procurement while their share of total rice output was only 23 per cent. The impact of procurement on growers may differ from State to State.

Fifth and finally, all these studies use domestic open market prices, not world prices, to work out income gains/losses. This may be appropriate given the fact that the focus is on the effects of procurement and that free trade in foodgrains is prohibited. However, since free trade would have been, and is an option for the Government, the income gains/losses are calculated using world prices as a point of comparison.

Their conclusion is that growers would have been better off under free trade than under procurement and autarky. Compared to free trade, procurement has hurt growers of food grains.

(To be continued)

Ashok Gulati is with the ICAR, Pradeep Sharma is in the Indian Economic Service, and Satu Kahkonen is attached to the Department of Economics, University of Maryland.

Just a food subsidy scheme

ONE of the goals of the Food Corporation of India is distributing foodgrains through the public distribution system, especially to the weaker sections of society, at reasonable and uniform prices.

The PDS which was devised as a rationing mechanism for the market-dependent urban population or as an anti-inflationary measure in its initial years is no longer so visualised after over 50 years of its existence. Changing conditions in the Indian foodgrain economy, have changed the role of the PDS over the years. Today, the system aims at protecting low-income consumers and is seen as a programme supplementary to anti-poverty programmes. In practice, however, it operates as a universal food subsidy scheme notwithstanding some recent attempts to target PDS supplies.

Thus the public distribution system aims at achieving the following objectives: (1) to provide foodgrains to low-income consumers so as to maintain per capita food availability and stabilise consumption; (2) to stabilise the consumer prices of foodgrains by supplying foodgrains through the system at prices which are below those prevailing in the open market and thus act as an anchor to inflation; and (3) to transfer income to low-income consumers to raise their nutritional standards and equalise foodgrain consumption.

The PDS State Governments ensure the smooth functioning of the PDS. The corporation procures foodgrains for the Central pool which is then allocated or sold to the State governments. The Central government determines the inter-state allocation. Its decision, though not clearly defined, appears to be based on the demand of State governments, State foodgrain production, the past State offtake from the system and the financial capacity of a State. The distribution of foodgrains through fair price shops and employment programmes is the responsibility of the State governments and the corporation. State Governments also run their own PDS schemes which further subsidise foodgrains issued to them by the Central Government.

The role of the public distribution system in the total consumption of rice and wheat in India is relatively small. The NSS Report of the 42nd Round on Utilization of the Public Distribution System (1986-87) reports the following shares of the system in total purchases of rice and wheat by all expenditure classes: rice 16.76 per cent (rural), 19.92 per cent (urban); wheat 12.64 per cent (rural), 19.33 per cent (urban). These percentages imply that both the rich and the poor depend on the open market to a great extent. However, since the poor spend relatively a larger fraction of their income in foodgrains, the high-income people, their utility, some gain from an efficient PDS and a better

Created 50 years ago to reach foodgrains at rational prices to the poor, the public distribution system has redefined itself for anti-poverty drives and low-income consumer protection. While these moves have been largely successful, sufficient foodgrains are yet to reach the poor, say Ashok Gulati, Pradeep K. Sharma and Satu Kahkonen.

Has the PDS enhanced the availability of foodgrains to the poor? Since 1965, the net availability of foodgrains - defined as the total of (net) domestic production, net imports and depletion in stocks - has considerably improved in India, largely due to the increased domestic production. Distribution of foodgrains through the public distribution system has also increased since 1965. The combined per capita distribution of rice and wheat increased from 17.22 kg in 1973-74 to 21.74 kg in 1988-89. Though the distribution of wheat declined from 11.16 kg to 10.14 kg over that period, the increase in the distribution of rice from 6.06 kg to 11.6 kg more than compensated the decline. However, this is not sufficient to satisfy the needs of all poor households. A Committee of Ministers on the public distribution system has calculated that the PDS would have to supply at least 29 kg a month to households living below the poverty line to raise their level of nutrition, though even at this level, it would only meet 50 per cent of their requirement.

A major achievement of the public distribution system has been the successful management of foodgrain availability during the drought years. Droughts affect the system in two major ways. First, by reducing the foodgrain supply, they increase the rural demand for public distribution. Second, the reduced supply raises the open market price of foodgrains. As a result, the gap between the open market price and the issue price widens causing an increased demand pressure on the system. This leads to a sharp depletion in stocks and imports. The role of imports has, however, decreased and the depletion of stocks has increased since 1965. In the drought year 1987, stock depletion contributed as much as 74 per cent of the total supplies of wheat. In previous drought years, this percentage had been 30 per cent to 40 per cent.

Some studies show even though there have been sharp turns in consumer prices of foodgrains since 1965, the nominal prices have been fairly stable and the real prices of rice and wheat have declined. Between 1966 and 1990, the real price of wheat declined annually by three per cent and that of rice by two per cent. Variability in nominal rice and wheat prices has also declined in the last decade.

Has the public distribution system been able to target successfully supplies to the poor and to ensure equity in foodgrain distribution?

Further, have supplies been distributed to those States and rural areas where a bulk of the poor live? The answers to these questions are negative: the targeting of supplies to the poor had failed.

State-wise distribution of foodgrains has not been targeted to States with high poverty levels. In 1990, Bihar, Madhya Pradesh, Rajasthan, Orissa and Uttar Pradesh together obtained less than 16 per cent of rice and wheat distributed through the PDS, though over half of the Indian poor live in these States. The correlation between shares in the PDS and shares in population below the poverty line across States is as low as 0.25.

Further, the quantities of foodgrains purchased per poor person through the system is higher in urban than in rural areas. The correlation between shares in the PDS and shares in urban population is high (0.56), implying an urban bias in the system. This is true for rice and wheat. Kerala stands apart with a significant rural bias. The urban bias is also fairly weak in Andhra Pradesh.

Thus, while the public distribution system has been successful in ensuring the overall availability of foodgrains and the stability of consumer prices, it has failed to target supplies to the poor. Inter-state differences in the distribution of foodgrains are glaring and do not conform to poverty levels in these States. Rather, the share of urban population is a major determinant of offtake. This hints at an urban bias in the system. The pro-rich and the poor are beneficiaries, it is very likely that the advantage will go to the rich.

The third and final objective of the FCI is to ensure national food security through the maintenance of adequate buffer stocks. The policy of maintaining buffer stocks has been followed in India since the mid 1970s. The corporation has been successful in reaching this objective, even though buffer stocks have not necessarily been at the desired levels.

The basis of maintaining a buffer stock is to smoothen fluctuations in price and availability by accumulating stocks during bountiful years and by depleting them in the years of shortages. This activity is supposed to help both the producer and the consumer. It helps the producer because, if the buffer stocks are not kept, the producer would suffer losses due to falling prices. It helps the consumer because in the absence of buffer stocks, the

availability of foodgrains are seen as means to stabilise prices, availability and incomes.

Keeping stocks is not the only, or necessarily the best, method to stabilise foodgrain prices and availability. It can be achieved also by trade, that is, by exporting foodgrains in the years of surplus production and importing them in the years of short crops. The decision whether to store or trade should be based on the comparison of the cost of storage with the gains from exporting now and the cost of importing at a later date.

The feeling among managers of Indian food policy, however, has been that India gets a low price as an exporter but has to import at a high price when it enters the market. This has prompted them to favour the storage even if at a higher cost. Foodgrains are imported only if the stocks are inadequate to meet the needs.

How much public storage is adequate depends on what the objectives of the Government are. The storage size differs depending on whether the objective of buffer stock is protection against droughts and severe food shortages, or if in addition the goal is to achieve price stability.

Too little storage can create a psychology of scarcity and raise prices. Excessive storage, on the other hand, can be costly. Further, by narrowing down seasonal price fluctuations, buffer stocks can reduce private storage.

In India, foodgrain stocks have been rising over time and they reached a peak of 31.7 million tonnes in May, 1994. At the current level of offtake, of less than one million tonnes a month, the present stocks are equal to over two years of PDS supply. Assuming the primary task of buffer stocks in India is to provide insurance against severe shortages, is this level of stocks desirable, in the sense that it follows the official policy goals?

The level of actual foodgrain buffer stocks substantially from the desirable or target level in India. In the case of rice, actual stocks have been far below the desired levels, whereas in the case of wheat the actual stocks have been excessive.

To summarise, PDS did achieve some sort of a national food security but its actual stock levels were very different from what was desired by the expert committees of the Government. Further, the corporation has benefited both producers and consumers by stabilising prices and foodgrain availability. The corporation, however, failed to target the distribution of its foodgrains to the poor.

(To be concluded)

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A revenue-cost analysis

HOW economically efficient has been the Food Corporation of India? Economic efficiency is when operations are carried out at least cost and when revenues cover costs. The Corporation was established on the premise that it operates as a commercial company competing with private traders. It was expected to gain a sizeable share of the market simply by virtue of its large size and financial strength. The assumption was that the sheer volume of operations would allow it to exploit the economies of scale and keep its operational costs down. That was expected to help it to stay commercially viable and competitive in an environment where its purchase and selling prices are beyond its control.

This, however, has not happened. The cost of the Corporation's operations has far exceeded its revenues, and it would not have been able to operate without a subsidy from the Government. Its costs are much higher than those incurred by private traders which function in a much more restrictive environment than the Corporation. Unlike private traders, the FCI enjoys concessional freight and credit rates and is free from selective credit controls, the Essential Commodities Act, and movement restrictions.

Has the Corporation been able to cover its operational costs with its revenues? The economic cost of FCI operations per unit (that is, per quintal) consists of the procurement price, and procurement and distribution costs per unit. The Corporation's revenues are measured by the average sales realisation which is the weighted average of issue prices at which it has sold foodgrains to State Governments. Since issue prices are fixed by the Central Government, the Corporation has no control over the average sales realisation. If the average sales realisation falls short, Government reimburses the difference to the Corporation as a consumer subsidy.

The Corporation also incurs costs by carrying buffer stocks. These costs are, however, totally reimbursed by the Central Government. Thus, the total subsidy bill, if any, to the Corporation comprises the consumer subsidy and the cost of carrying buffer stocks.

The average sales realisation of the Corporation has not covered the economic cost in 1978-93. The ratios of average sales realisation to the economic cost of wheat and rice shows that these have been sharply declining over the years. In 1992-93, the average sales realisation covered barely 55 per cent of the economic cost of wheat, and 76 per cent that of rice.

That the average sales realisation has fallen short of the economic cost means that the Cor-

While the Food Corporation has done well on the security front with its buffer stocks, the yawning gap between revenue and cost has made subsidy levels alarming. Buffers can be kept in foreign exchange, instead of warehouses, and even out fluctuations by export-import. This, among other things may make the national foodgrains warehouse rethink its role, say
Ashok Gulati, Pradeep K. Sharma and Satu Kahkonen.

poration has not been able to operate without a Government subsidy. Since the economic cost per unit has risen at a higher rate than the average sales realisation, the gap between costs and revenues has been widening over time and the FCI subsidy increasing correspondingly. The consumer subsidy on per unit of rice increased from 21.36 per cent of average sales realisation in 1980-81 to 32.29 per cent in 1992-93. For wheat, the rise was from 31 per cent to 30.45 per cent over the same period. The cost of carrying buffer stocks also increased from Rs. 76.54 crore in 1974-75 to Rs. 450.69 crore in 1992-93. The total food subsidy thus increased from Rs. 661.54 crore in 1980-81 to Rs. 1,674.46 crore in 1992-93.

In the case of rice, price-setting has been a problem: the weighted average of the selling price of rice has been lower than the procurement price. The average sales realisation of rice covered the procurement price until 1978-79, but not beyond. In other words, since 1980 the FCI has sold rice at a lower price than it purchased it. By contrast, the average sales realisation of wheat has been covering the procurement price in all the years.

At the same time, the economic cost of the FCI's operations has risen sharply. The economic cost of wheat has risen at an average annual rate of 6.74 per cent. For rice, the cost of procurement and distribution has gone up at a rate of 7.43 per cent per annum. The economic cost of wheat and rice has risen at a higher rate than the procurement price, implying that the per unit procurement and distribution costs have galloped. The economic cost of wheat has been about 30 per cent to 90 per cent higher than the procurement price of wheat. The economic cost of rice has been lower than the cost of wheat because rice is purchased directly from millers.

Have the Corporation's per unit procurement and distribution costs been excessive compared to those of private traders? It is probable that the Corporation has failed to cover its costs with its revenues, not because its costs

have been excessively high but because it has been obliged to sell its foodgrains at less than a market price. To find out whether its costs are comparable to those of private traders, the economic cost is compared with revenues at wholesale prices that the Corporation would have obtained had it sold its foodgrains in the open market. The wholesale price, like the economic cost and unlike the procurement price, is formed after all expenses are incurred and the traders have earned their profit margins.

It turns out that the Corporation's costs of wheat procurement and distribution have been excessive. Even if the Corporation could have sold its foodgrains at the going wholesale prices, it would have needed a subsidy to continue its operations.

At an all-India level, the Corporation's cost of procuring and distributing wheat has been substantially higher than its revenues would have been at wholesale prices. At the State level, the economic cost of wheat has been higher than the wholesale price, notably in surplus States. The economic cost of rice, however, exceeds the wholesale price only in surplus States. At the all-India level, the economic cost of rice is comparable to that of private traders. However, the State-level analysis has some caveats, and correcting them would show that the economic cost of rice had also been excessive.

The overall conclusion is that while there have been some benefits from the FCI operations to both producers and consumers, there have also been significant failures which would warrant a reform. The Corporation has been successful in improving the overall availability of foodgrains, stabilising the prices of foodgrains, and in ensuring national food security through buffer stocks. It has, however, failed on the following: first, the Corporation has been unable to cover its operational costs by its revenues. The gap between its revenues and costs has only increased over the years. As a result, subsidy has been mounting at an alarming rate.

The fiscal imbalance of the Corporation reflects on partly a pricing problem. For example, since 1980 the average issue price of rice has been lower than the procurement price. The main reason for this imbalance, however, has been that the costs of operations—in particular, the distribution costs—have been excessive compared to those of private traders.

Second, the Corporation has been ineffective in distributing foodgrains through the PDS to poor consumers and regions. The distribution of foodgrains across States reveals a bias in favour of States with a high urban population and against States with high poverty. Large amounts of foodgrains also leak from the public distribution system to the non-poor. Leakages are bound to occur when there are dual markets and the prices vary across them. They happen because the situation creates incentives for individuals to try to circumvent procurement and controls, and siphon off commodities from the controlled market to the uncontrolled open market where prices are higher.

The solution to these problems needs reconsideration of the role of the FCI in the Indian foodgrain marketing system. Should its tasks—that is, the procurement of foodgrains, the distribution of foodgrains through the PDS, the maintenance of buffer stocks, and the canalisation of imports and exports of foodgrains—remain unchanged? Or should it concentrate on just one or two of these activities, if any?

One reason for the Corporation's failures is the expense of its operations: it is involved in all aspects of foodgrain marketing, from buying gunny bags to constructing storage godowns, even if its involvement was not economically justified. In the short run, it would be worth considering contracting some of these activities to private sector agents who are specialised and can carry out the task at less cost than the Corporation. For example, the responsibility of foodgrain storage could be assigned to warehousing corporations whose storage costs are less than those of the Corporation. For example, the responsibility of foodgrain storage could be assigned to warehousing corporations whose storage costs are less than those of the Corporation. Further, to reduce the leakages and to increase the accountability of these corporations, the foodgrains should be weighed before storage. Also the transportation of foodgrains could be given to the private sector.

(Concluded)

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BUFFER STOCK

Problems of Plenty

Surplus foodgrain stocks pose a dilemma for the Government

YASBANT NEGI



IN an economy of shortages, government agencies are expected to be well geared for tackling problems. But give them overflowing granaries, and they flounder. The Food Corporation of India (FCI), the chief procurement agency of the Government, is grappling with a swelling stock of foodgrains for two years and the strain is beginning to tell.

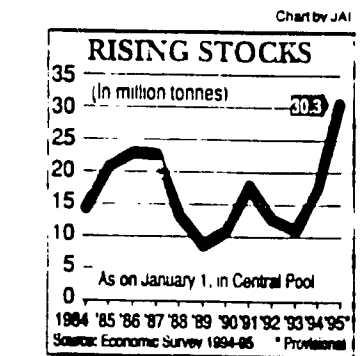
The excess buffer stock of rice and wheat with the Government has locked up capital worth Rs 8.425 crore—much more than the estimated Union budget deficit of Rs 5,000 crore for 1995-96. If the amount in the granaries is large, the extent to which the buffer stock has overshoot targets is alarming. On April 1, 1995, the FCI's stocks totalled 26.4 million tonnes—17.7 million tonnes of rice and 8.7 million tonnes of wheat—which is far beyond the 14.5 million tonnes recommended for operational requirements and use during an emergency by the Buffer Stocking Committee in the Food Ministry. Add to that the procurement by state agencies and the stock vaults past the required amount by 100 per cent.

What's worse, it is estimated that the FCI will procure another 13 million tonnes of wheat between April 1 and June 30. Hard-pressed for room, it will have to opt for open storage for the incoming rabi crop. A forbidding prospect.

An FCI granary: hard-pressed for room

considering its record of storage and transit losses, which stood at Rs 214 crore in 1993-94. Ashok Gulati, head of the agriculture and rural-development wing of the National Council of Applied Economic Research, says just 65 per cent of what the FCI distributes reaches consumers because of improper weighing and pilferage during transportation.

Besides leaving the targeted consumers in the lurch, these loopholes add to the pressures on the economy. As the FCI's issue price is much lower than its economic cost—which comprises expenses on procurement, storage and distribution—the Government is forced to plug the gap with a subsidy, which was around Rs 5,100 crore last year. Experts, however, point out that the FCI cannot paper over its blemishes by citing the lower issue price. "The FCI's inefficiency reflects in the fact that even if it sold at the market price, it wouldn't recover the economic cost," says Gulati. Officials at the FCI say the agency has no option but to procure. Says A.V. Gokak, managing director of the corporation: "There's an open-ended commitment by the Government to offer minimum support prices to the farmers. At the given procurement prices,



The Cost of Carrying (as on April 1, 1995)

- Average cost of stocks*: Rs 670 per quintal
- Actual stock: 30 million tonnes
- Buffer stock norm: 14.5 million tonnes
- Capital locked up owing to excess reserves: Rs 8.425 crore

the FCI is bound to buy from the farmers, however much they offer."

Other factors on the supply and demand fronts have also fed the problem. While seven normal monsoons in succession have ensured better crops, the off-take from the Public Distribution System (PDS) has been on the decline in the wake of rising issue prices. According to the 1994-95 Economic Survey, the off-take of both wheat and rice has been declining for the past three years.

Export is a possible solution for reducing the excess buffer, but the FCI's non-competitive prices stand in the way. Gokak concedes that the FCI's bid to double in direct exports fell through. As an alternative, the agency is making open market sales of wheat to the State Trading Corporation which sells it abroad. For rice, the FCI has been granted the authorisation to export this March. The FCI is also trying to offload stocks in the open market.

Such efforts alone may not be enough. "The FCI's role should gradually be reduced," says Gulati. Its operations belie the premise of the the FCI Act that it should be run as a commercial company. Private players, who are hemmed in by curbs on stocks and exports as grains fall under the Essential Commodities Act, have to be given more leeway. The country, say experts, can now afford to allow such a move as it has put behind it the days of chronic food shortage. The question is: Will the Government go against the grain?

—MONICA RAINA

Exports could reduce the excess buffer stock, but the FCI's non-competitive prices get in the way.

DEBATE

ISSUES

- To what extent should the kharif prices be revisited?
- How does one deal with the enormous stockpile of food grains?
- Should rice trade and prices be globalised?
- What infrastructure is essential for rice exports?

Chaudhuri Devi Lal
Former deputy prime minister

THE support price of kharif crops should be raised sufficiently to bridge the gulf between market prices of the consumer goods manufactured by the industry and food-grains prices. In fact, the same policy should be adopted for all farm products.

While fixing the minimum prices, the government must take into account the cost of production, including the wages of all family members who are involved in farming. However, it is doubtful the bureaucrats will ever allow a fair deal to the farmers for the simple reason that the bureaucrats, have been, by and large, anti-farmer and anti rural. My draft agriculture policy, stated that it shall be the government's endeavour to ensure the farmer a remunerative price for his produce.

The minimum procurement price of coarse paddy should be Rs 600 per quintal. In other words, its price should be raised by about 70 per cent over last year's support prices. Any thing less than this cannot compensate

for the hike in the rates of canal water cess, electricity and diesel and the overall price rise. Also it is essential that the support prices are announced before the sowing starts and the prices reviewed during harvest.

It is time that India entered the international food market in a big way. Since the United States and the European Union have started slashing export subsidies on wheat, India can capture the wheat market of its neighbours like Sri Lanka, who are in the list of countries where the US government has curtailed the export subsidy by half.

In 1980, I had conducted by experts on the feasibility of exporting grains. It was found that considering the money spent by the Food

Corporation of India on annual wheat stocking, it would be worthwhile to export wheat, even at a small loss. And now, when the US and the European Union are withdrawing subsidies in wheat export, there would not be any loss.

There is a growing demand for Indian rice, both basmati and non-basmati in the overseas markets, including China, Bangladesh and West Asia. Due to crop failures in South China, Indonesia, Thailand and Australia, the demand for Indian grains has shot up further.

If our trade missions abroad do serious homework, the export of food grains from India can be as high as four million tonnes. The export commitment should be announced before harvesting begins. We did that when I was the Union agriculture minister. If

the export quota is announced after the farmer has sold the produce, the benefit of export will go to the trader and the stockist. Therefore, it is essential to announce the export commitment early, so that a part of the benefit flows to the farmers.

We should globalise the prices of rice and other food grains. However, in the garb of globalisation, middlemen must not be allowed to pocket the profit. Some mechanism will have to be devised to give a bonus to the farmer in case the globalisation brings any reward.

But the existing infrastructure facilities in ports, shipping and warehouses near the ports, particularly near Kandla — the major port for food grain export — is inadequate to handle this magnitude of exports. Then, there is inadequate facilities for export grading and re-packaging.

In 1989, when I was deputy prime minister, I had earmarked about Rs 500 crore for augmenting the infrastructure for exporting farm products. But unfortunately, this allocation was never utilised.



Ashok Gulati
Director, NCAER

THE GOVERNMENT should procure at the free market price. If the free market price falls, the government would procure at a lower price, and if the price goes up, the procurement price would rise.

The support price should be frozen and even reduced if the market price falls. By free market price, I mean, the price at which there is no levy and the exports are on OGL.

A huge stock of food grains at its command gives the government now a perfect situation for clearing the muck that has been created in the food grains pricing policy.

Instead, it seems, the government would raise the procurement price by three to four per cent, which will further raise the stock of food grains with it.

The first thing the government should do to deal with the enormous stock of food grains is to take out rice and wheat from the Essential Commodities Act.

At present, the Food Corporation of India is holding more than double of what it should. The Export Committee has recommended that the government should not hold more than 14.5 million tonnes of food grains on April 1. But it was holding around 30.5 million tonnes.

This is almost criminal. This would actually mean food grains worth Rs 8,000 crore is being locked up. This has been creating inflationary pressures. One has to be clear about the role of the Food Corporation of India.

To deal with the problem, private traders have to be allowed to hold stocks without any restrictions. At present, they are allowed to hold only a limited quantity. Banks do not give them credit to hold more than a certain quantity. They should be provided with financial support to stock



more food grains. Besides that the government should use food grain stocks to launch employment generation programmes to build rural infrastructure.

The other option is to export. But it must be kept in mind that the international market is not hungry for Indian food. India can not afford to export more than 3 million tonnes of rice at a time. Even by the end of the century we would not be able to export more than 5 million tonnes of wheat.

So the most important thing is to streamline domestic trade.

Private traders should be allowed to store food grains even for export purposes too. Rice trade should be opened up for exports. But there should be a 5 to 10 per cent duty on rice exports.

Simultaneously, the government should waive the purchase tax which is around four per cent at the moment.

The government should take at least three important steps to promote rice exports.

One, rice milling should be taken out of the small scale sector. Modern rice mills will have to be

promoted which can come up more easily in the large sector than the small sector. De-hoarding and polishing are highly specialised jobs and should not be left to the small-scale sector.

Two, there should be a direct goods fast train or highways from the major rice mandis like Khanna, Ludhiana and Amritsar to Kandla, the port which handles most of the food grains trade.

Bulk of the rice exports are to the Gulf region which would be exported from Kandla. So that food grains can be procured from the railway station. Indeed, ports should have bulk loading facilities.

The next step would be to promote Indian brands abroad.

Kirit Parekh
Director, IGIDS

THE procurement price of food grains for the kharif season should not be raised by more than four per cent. This is essential to bring the rate of inflation under control.

One factor responsible for the high inflation in the recent past is the steep hike in procurement prices by around 40 to 50 per cent.

It is obvious that effective demand at the present support price is inadequate to clear the supply. The result is buffer stock of around 31 million tonnes of food grains. If the price is raised further, demand will fall. This will further raise the stock of food grains with the government.

This is becoming like a vicious cycle. In fact, I would say the real price of food grains should fall, so that the demand is raised.

If the procurement price goes up by less than four per cent, the real price of food grains will fall by around six per cent (taking last year's inflation rate at 10 per cent).

There is a huge buffer stock of food grains. But that does not mean that everyone is well fed. It actually means that there is less purchasing power with the poor to buy this stock.

The problem is related. Stockpiles are entirely the result of not having enough purchasing power at the existing prices. What you need to do is to raise purchasing power. In addition to wages, you need to give food coupons which will reduce food stocks.

Do not think that the option to export or open market operations exist. Total world rice trade is around 15 million tonnes. India's stocks of rice is around 18 million tonnes. If we enter the world rice market in a major way the international price of rice would collapse. The quantum of world trade in



wheat is relatively larger. But if we wish to trade wheat, we will have to compete with major wheat exporters like the EC or the US that highly subsidise exports. Once faced with competition, they would get increased subsidy from their governments.

So, the competition would actually be between their treasury and the Indian government's treasury. Whoever gives more subsidy, would be able to export more.

We have just completed a study which concludes that rice trade and price should be globalised with the recognition that India is a very large trading country. Which means India's entry in wheat trade can influence world prices substantially.

So, we should enter international market at the optimal level which does not depress the international price much.

Our study shows that this optimal level would be less than half a million tonne. India can be a long term exporter of rice by displacing the existing exporters by undercutting prices.

If India can age out other rice exporters overtime, as Vietnam has done, the export option would be open in that case.

Therefore, the government should impose an optimal tariff rate. Our study shows that optimal tariff level, which will not disturb the international price of rice, would be around 25 per cent.

I think rice export is a non starter at the moment.

We are already exporting around half a million tonne of basmati rice. We can export another half a million tonne without facing much infrastructure bottleneck.

If we wish to export over 5 million tonnes of wheat, we will have to create bulk grain handling capacities at the ports.

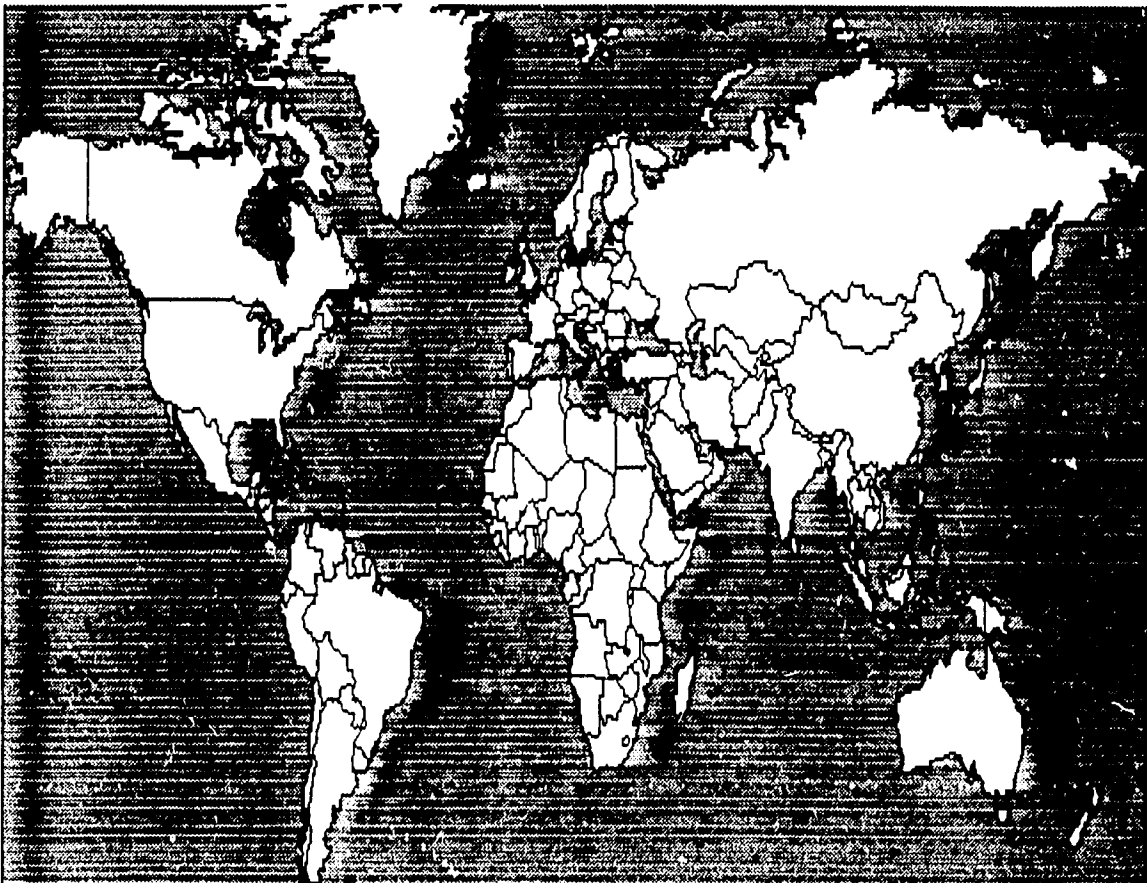
ATTACHMENT III to the IRIS/India Quarterly Report for April-June 1995

Policy Analysis Program Brochure



Institutions, Incentives, and Economic Reforms

Policy Analysis Program: Call for Proposals



POLICY ANALYSIS PROGRAM

The Center for Institutional Reform and the Informal Sector (IRIS), jointly with the *National Institute of Public Finance and Policy (NIPFP)*, is carrying out a policy analysis program on institutional and economic reform in India. The program sponsors policy analysis that explores whether and how the Indian current institutional arrangements impede economic reforms at the central and state levels and how they might be altered to promote equitable economic growth and the reduction of poverty. The current program will be an extension of the IRIS Center's Policy Analysis Program that was launched in September, 1993. That program generated substantial analysis, exploring such varied topics as the role and performance of the Food Corporation of India in Indian foodgrain and rice marketing to the role of foreign direct investment in India's technology policy.

Institutions in Economic Development

What are institutions? Institutions are understood as the rules and arrangements that govern the economy and economic policymaking. They include the fundamental political, social, and legal rules that establish the basis for production, exchange, and distribution. Examples are the rules governing elections, property rights, and the right of contract. Institutions are often referred to as social capital since they arise from social interaction: they emerge out of decisions of individual actors to obey the rules or to act collectively to change them. The rules can be either formally written down and enforced by government officials or unwritten and enforced by informal sanctions.

Why do institutions matter in economic development? A country cannot achieve economic progress and efficiency simply by having the government not interfere with the economy. A thriving market economy does not emerge automatically. It requires institutions that most people in the economically developed democracies take for granted, but many developing countries are lacking. For example, the incentives to save and to invest depend upon individual rights to marketable assets--on property rights. These rights assure individuals, and the firms they create, that they can best advance their interests by being as productive as possible and engaging in mutually beneficial trade. Further, if there is no right to create legally secure corporations with limited liability, the private economy cannot properly exploit those productive opportunities that are too large for most individuals to undertake. If there is no legal framework to encourage innovation through patents and copyrights or to facilitate risk-sharing through insurance and hedging in futures markets, there will be too little innovation and risk-taking in the economy. Thus, appropriate economic institutions are essential for economic development. They structure individual incentives in production and exchange and, thereby, either impede or enhance economic growth and equitable economic development.

A proper set of institutions can also have powerful equality-promoting effects. There are institutions which can enable individuals with little property and without political connections to make investments in themselves and in their enterprises so that they can accumulate wealth. Fair and transparent procedures for the enforcement of property rights, contracts and business regulation open the way for competition and for the participation of low- and middle-income people.

There is a great deal of consensus among economists and other analysts of economic development on the kinds of policies and institutional arrangements that lead to poverty reduction and economic growth. A stable macroeconomic environment, open trade and investment, free operation of product and factor markets together with a legal and regulatory environment that is supportive of exchange, efficient public investment in infrastructure and human capital are the kind of arrangements that not only promote economic growth, but also are the way to reduce poverty dramatically in the long run. The policies and institutions governing economic life in India, however, are increasingly recognized as key constraints to broad-based economic growth. Burdensome procedures, complicated regulations and ineffective redress for contract breach distort the incentives of economic actors and hinder equitable development. This begs the question: Why are better policies not adopted? Why do labor market institutions that impede progress persist? What are the obstacles to creating an institutional environment which can harness the vast energies of the Indian people to the wheel of progress?

Understanding the obstacles to policy and institutional reform in India requires analysis of the problems of collective action. Government policies are the outcomes of political struggles in which organized interest groups play a great role. Similarly, institutional arrangements, both formal and informal, are strongly influenced by the pressures of interest groups, whose goals are often quite distinct from those of society at large. The policies and institutions, however, are also shaped by the intellectual environment within which the policy debates takes place. Thus, an understanding of the roles of interest groups and ideology in the formation and reform of policies is vital for bringing about the new policy and institutional framework that will enable India to conquer poverty and realize her economic potential. This program aims to enhance that understanding and explore how these institutional arrangements might be altered to promote equitable development.

Objectives of the Program

The objective of the program is to promote the design and adoption of economic policies and institutions that would encourage economic growth and ultimately reduce poverty in India. Strategies to alleviate poverty can be divided into three categories: providing goods and services directly to the poor, like famine relief; spending resources directly on the poor, by such means as increasing literacy and improving health care and housing programs; and implementing policy reforms and institutional improvements which will accelerate equitable economic growth raising incomes and living standards of the poor. While the first strategy can be justifiable, especially in the event of disasters, the second and the third ones are superior if the aim is to enhance long-term sustainable development. This program uses the third strategy to attempt to improve the economic environment for the poor.

Further, the program aims to increase the understanding and awareness of the institutional aspects of economic issues in India, and to generate a better knowledge base for decisions about economic policy. The program seeks to raise the quality of discussion about the effects of institutions on economic development by providing policy analysis results to the research community, to politicians and government officials, and to the media and the public. The purpose is not to ratify a preconceived set of conclusions, but to support serious inquiry and let the findings speak for themselves.

Themes and Topics of Policy Analysis

The analyses supported will illuminate the legal, political, and organizational arrangements which are relevant for policy formulation and economic reforms in India. The analysis will be guided by an appreciation of the incentives and the constraints facing all the actors in the complex relationship between business and government agencies and between government and special interest groups. Attention will be given to how these interactions might be altered in a more productive direction. The analysis will be unified by this focus on how the rules of the game affect the relationships among business, government, and the public; and hence affect the rate of economic growth and equitable economic development; and how these rules and institutions might be altered to encourage a more efficient and progressive economy.

The program supports policy analysis in the following five areas: (1) Governance and Economic Development, (2) Agricultural Parastatals, (3) Public Enterprise Management and Industrial Deregulation, (4) Fiscal Federalism and Tax Administration, and (5) Women's Property Rights and Fertility, Poverty and Economic Development. Comparative studies of policies and institutions in India and other countries are strongly encouraged since they will help to identify characteristics of successful reforms which would benefit India. Strong emphasis is also given to state level analysis. There is no specific set of specific topics for papers, but an illustrative list of topics for each of these areas is as follows:

I. GOVERNANCE AND ECONOMIC DEVELOPMENT

Governance is defined as the act or process by which authoritative power is exercised. Good governance is vital for economic development because it complements sound economic policies. For example, efforts to encourage private production and market-led growth may not succeed unless investors face clear rules and institutions that reduce the uncertainty of future government action or inaction. A society cannot have much borrowing and lending or obtain many of the gains from mutually advantageous trade unless individuals and firms have the right to make contracts with one another that will be impartially enforced. Public expenditure reforms may fail if accounting systems are so weak that budgetary policies cannot be implemented or monitored, or if procurement systems encourage corruption. The aim here is to illuminate the system of governance in India; examine whether it impedes the economic liberalization process and to identify the problem areas and suggest how they might be altered in a more productive and equitable direction.

Illustrative topics include the following:

State level case studies on the requirements for setting up a business. What kind of clearances are required? Do the regulatory environment, tax structure, property rights, and access to credit and other forms of finance inhibit economic activity? Is bribery necessary to conduct business in India? Is the regulatory environment friendly towards new businesses and competition or are there entrenched interests that hinder entry? How can the regulatory environment be improved to encourage production and investment and discourage influence activities? Does this require changes in the incentive structure in the regulatory bodies and the bureaucracy? What kinds of changes are necessary?

Case studies of the decision-making processes in state and local governments. Analysis of successes and failures in the design of incentives for an efficient, accountable, and transparent public sector. What is the incentive structure in the bureaucracies; for elected officials? Are there policies that are generally recognized to be superior in terms of efficiency and equity that are not being implemented? Are there avenues of influence that distort the decision-making process? Who might utilize these avenues and for what purpose? Can the incentive structure be adjusted in such a way as to encourage a more efficient and transparent decision making process?

Empirical evaluation of the informal market activities in Indian states. How big is the informal sector? What type of businesses engage in informal activity? Why do they operate in the informal instead of the formal sector? In what ways can local, state and federal policies be amended and simplified to encourage movement towards the formal sector? Evaluation of the losses to the society from the informal sector activities?

Analysis of the contract enforcement regime in India, for example, through a questionnaire to business people asking them (i) to evaluate the problems they face, and (ii) to assess how much of their revenue would they be willing to give up if the problems were eliminated (contingent valuation). Can the economic losses from the operation of the Indian courts be quantified? Could contract enforcement be strengthened by a more permissive legal stance toward voluntary binding arbitration? How does the state of contract enforcement in India compare with that in other developing countries? Are there alternative regulatory mechanisms for contracts enforcement?

Evaluation of the property and land rights in India. Are these rights secure? If not, why not and what should be done? What is their economic impact? What is the scope of land reform with special reference to land consolidation?

II. AGRICULTURAL PARASTATALS

The government intervenes in the agricultural marketing process in India through marketing boards and cooperative organizations. These parastatals are part of the public sector and have sprung up in response to many different impulses. These include the attempt to stabilize commodity prices, to protect small farmers, and to control the market. Examples of parastatals include the Cotton Corporation of India, the State Trading Corporation, and the Jute Corporation of India.

The aim here is to evaluate the role and performance of Indian agricultural parastatals. What effects, both good and bad, has the parastatal had on the economy? Has the parastatal reached its set objectives? At what cost? Is it efficient at doing what it originally set out to do? What is the incentive structure for the staff? Who benefits from its existence, who does not? Does a parastatal serve a purpose in a liberalized economy? If necessary, how should the parastatal be reformed? How does the commodity marketing in India compare to the marketing of that specific commodity in other countries?

III. PUBLIC ENTERPRISE MANAGEMENT AND INDUSTRIAL DEREGULATION

Given the breadth of the Indian public sector, its performance is critical for the economic reform efforts. The focus here is on the deregulation of the Indian telecommunications, power, and banking sectors, whose efficient functioning is crucial for private sector development. The deregulation of these sectors has already started, but many issues still need to be resolved before their reform is complete. The aim here is to explore this deregulation process from the political economy point of view. In particular, it is important to assess how to proceed with deregulation and, if appropriate, with privatization. Further, the aim is to examine how the current legal and regulatory framework and competitive environment should be amended to make these reforms successful.

Illustrative topics include the following:

A survey exploring what the citizens and entrepreneurs of different cities/states think of the public utilities and related agencies that deliver services in the city/state. How satisfactory are the public services? What specific aspects are satisfactory or unsatisfactory? What does it cost for users to get the service or to solve the problems associated with getting these services? Has the efficiency and quality of public services improved as a result of economic reforms?

Analysis of what should be the appropriate roles of the government and private sector in these areas. In which areas might gains from privatization best be realized? In which areas might corporatization or deregulation be the best solution? What is the appropriate speed and sequencing of deregulation and privatization in India. Should the public sector

enterprises be restructured before privatization? Evaluate enterprise restructuring in India. Are there legal and regulatory obstacles to mergers and acquisitions or liquidations? What can India learn from the experiences of other countries with deregulation and privatization?

Empirical evaluation of the current performance of each of these sectors. For example, an examination might include a description of the adequacy of electricity supply in Indian states. What effects, both good and bad, have State Electricity Boards and the Coal India Ltd. had on the performance of the power sector and on the overall economy? Are their operations efficient? What are the problems?

Analysis of the impact of enterprise restructuring and liquidations on labor. Evaluation of the Indian unemployment insurance system and retraining programs. How to develop safety nets, including a social security system?

Benefits from deregulation and privatization depend on the regulatory and competitive environment in which the newly-privatized firms operate. Is the current institutional environment deterring the private sector participation and foreign investment in these sectors? For example, deregulation and privatization envisages a major role for a stock market. Are the Indian stock market and related regulations adequate? What are the effects of barriers to internal and external trade on the private sector participation?

The political economy of deregulation and privatization: how do political arrangements constrain the process? How can these constraints be overcome?

IV. FISCAL FEDERALISM AND TAX ADMINISTRATION

The Indian fiscal federal structure, within which tax, transfer and public spending programs are designed and implemented, can be a major tool or impediment to Indian economic development and the alleviation of poverty. It is important to examine the working of the Indian fiscal federal structure from the political economy point of view. Does the current structure impede equitable development and how? Identify the problem areas and suggest how they might be improved in a more productive and equitable direction within the existing political constraints.

The illustrative list of topics for this area includes:

Analysis of the adequacy of infrastructure supply, road construction and maintenance, electricity supply, goods distribution systems run by the government in different states. Analysis of interest group pressures and bureaucratic failures in government services delivery, as well as successes. Can state and regional variations in government performance be explained by differences in governmental structures or an incentive system?

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Evaluation of the efficiency and equity of governmental social services such as health in different Indian states. Analysis of interest group pressures and bureaucratic failures in government services delivery, as well as successes. Can state and regional variations in government performance be explained by differences in governmental structures or an incentive system? What is the impact of center-state jurisdictions over health care expenditure in service delivery? Do government services adequately reach the most vulnerable sections of the population? What role can the private sector play in the provision of health care services? How do private and public sector health care providers compare with respect to cost and efficiency?

Evaluation of the efficiency and equity of governmental social services such as education in different Indian states. Analysis of interest group pressures and bureaucratic failures in government services delivery, as well as successes. Can state and regional variations in government performance be explained by differences in governmental structures or an incentive system? What is the impact of center-state jurisdictions over education expenditure in service delivery? How crucial has the role of the state been in the formation of an educated workforce? What role can the private sector play in the provision of educational services?

Study of the role of the Indian pharmaceutical industry in improving Indian health care. Is the Indian pharmaceutical industry responding to the health needs of the population? What is the appropriate patent regime for this sector? Is the regulation of antibiotics (which generate externalities) appropriate? How can cost recovery be utilized to channel more resources into the health care system? Is more cost recovery appropriate for medical education?

Evaluation of the Indian fiscal federal system. Has the Indian fiscal federal system created opportunities for rent-seeking, dissuaded investment and production decisions and harmed domestic and foreign trade? What has been its impact on state finances? How can the situation be corrected?

Analysis of the economic impact of commodity taxes at the state and local level. What are the causes and consequences of octroi, central sales taxes, and differential state tax structures? How can the state taxation system be simplified and improved?

Studies on tax administration in India: Income taxes: Analysis of the political economy of Indian income tax administration reform. Can social acceptance of income taxation be improved in India? How? Can the base for income tax be increased? How? Is there a scope for changes in the tax laws and administration to widen the coverage? How to proceed with computerization and organizational reform? What lessons can be drawn from the experience of other countries with a similar environment.

Corporate taxes: Evaluation of the corporate tax enforcement in India.

Customs duties: Analysis of customs fraud in India.

V. WOMEN'S PROPERTY RIGHTS AND FERTILITY, POVERTY AND ECONOMIC DEVELOPMENT

With a population that will reach one billion by the year 2000, India will surpass China as the most populated country on earth early in the next century. How have the fertility rates in India been affected by the country's institutions, in particular, by women's property rights? That is, what impact have female property rights, the lack of social security and pensions, and the dowry system had on fertility in India? Further, what kind of impact has the high population growth rate had on economic development?

The illustrative list of topics for this area includes the following:

Analysis of how women's property rights (the right to own property, the right to inherit property, the right to retain one's property and children in the event of the husband's death) affect fertility, poverty and economic growth. How do women's property rights affect the intrahousehold distribution of money and non-monetary indicators of health and education? What is the effect of dowry on fertility? Evaluation of the social security system, or lack of it, on fertility. Examination of the effect of family planning campaigns on fertility? What are the causes and consequences of child marriages and their effect on fertility? What is the impact of population growth on the evolution of Indian rural institutions like the land tenure system?

SPECIFIC TOPICS WILL BE DETERMINED IN DISCUSSIONS BETWEEN INDIAN SCHOLARS AND IRIS.

Duration of the Program:

The program has a duration of eighteen (18) months. All policy analysis projects are expected to be completed by July 1, 1996.

Level of Support:

The size of policy analysis grants will vary between \$500-\$10,000: the grants to individuals being commonly between \$500-\$5,000, and the grants through institutions between \$500-\$10,000.

Policy Analysis Result Dissemination:

The policy analysis results will be disseminated to Indian policymakers, scholars, and the media in India through conferences, working papers, and a series of edited volumes. Researchers may be asked to participate in seminars and conferences in India during the course of the program.

How to Participate: Guidelines for Proposals

If you want to participate in the Policy Analysis Program, please send a proposal along with the attached Proposal Sheet filled in, the proposed budget, and the Curriculum Vita(e) of the author(s) to IRIS by July 1, 1995. The program is open to all scholars interested in working on India.

The Review Committee of both American and Indian representatives will select proposals for funding by August 5, 1995. The scholars selected will be notified in writing.

For those scholars selected, mid-term progress reports are expected to be submitted on January 1, 1996 and final papers by July 1, 1996. The final papers submitted on July 1, 1996 are expected to be polished, and of journal length and quality.

Please note that the call is for proposals for policy analysis papers. The program does not make grants to support conferences.

ABOUT IRIS AND NIPFP

The Center for Institutional Reform and the Informal Sector (IRIS), affiliated with the University of Maryland's Department of Economics, has two main purposes: enlarging knowledge about the role of institutions in economic development through research, and promoting institutional reforms in the Third World and in countries undergoing transition from communism by providing technical and organizational assistance. The Chairman and Principal Investigator of IRIS is Professor Mancur Olson. The main institutions of concern to IRIS are the rules that structure incentives to stimulate production and mutually advantageous trade, and those that provide legal framework for competitive markets. The premise of IRIS is that institutions in the less successful economies of the Second and Third World offer poor structures of incentives, inhibit economic growth and equitable development, and often force much economic activity into the informal economy.

The IRIS/India Program is funded by the United States Agency for International Development.

National Institute of Public Finance and Policy (NIPFP), is the leading Indian research institute in public finance and related fields of policy. It is an autonomous non-profit organization whose main functions are to carry out research, consult Indian federal and state governments, and organize training courses in public finance and policy to the officials at various level of government.

For further information, please contact:

**Dr. Satu Kähkönen, Project Director
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U.S.A**

**Phone: (301) 405-3051
Fax: (301) 405-3020
E-mail: satu@iris.econ.umd.edu**

IRIS/NIPFP Proposal Sheet

(Applicant fill in below)

Name of Applicant(s): _____

Organizational Affiliation: _____

Proposed Title: _____

Proposed Budget: _____

Applicant's Address: _____

Phone: _____ **Fax:** _____

- Attachments:**
1. Proposal (20 page maximum) including:
 - a. Summary (less than one page)
 - b. Issue to be analyzed; connection to the theme of the program
 - c. Description of methodology and data
 - d. Potential implications for India
 - e. Bibliography of latest related policy papers
 2. Proposed Budget (one page maximum)
 3. Curriculum Vitae

Direct Applications and Questions to:

Dr. Satu Kähkönen
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University of Maryland
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College Park, MD 20742, USA
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fax : (301) 405-3020

ATTACHMENT IV to the IRIS/India Quarterly Report for April-June 1995

Policy Analysis Program Advertisements

INSTITUTIONS, INCENTIVES AND ECONOMIC REFORMS

Policy Analysis Program: Call For Proposals

The Center for Institutional Reform and the Informal Sector (IRIS) at the University of Maryland, in collaboration with the National Institute of Public Finance and Policy (NIPFP), New Delhi, is seeking proposals for its policy analysis program in areas relevant to policy formulation and economic reforms in India.

The program supports policy analysis in the following five areas: (1) Governance and Economic Development, (2) Agricultural Parastatals, (3) Public Enterprise Management and Industrial Deregulation, (4) Fiscal Federalism and Tax Administration, (5) Women's Property Rights and Fertility, Poverty and Economic Development. Further details available upon request.

The program is open to all scholars interested in working on India and its economic reform effort. Each proposal selected for the program will be eligible for funding up to the amount of \$10,000. The last date for submission of policy analysis proposals is July 1, 1995. Those selected will be notified by August 5, 1995.

For detailed information, and application procedures, please contact:

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es aviation deal with UK

he new agreement, traveling service from O'Hare International Airport to London's Heathrow airport, giving a second choice of

alliance to compete with US carriers for government business on five routes, including between London and Washington-Baltimore.

The deal also expands so-called code-sharing agreements, in which two airlines book passengers on each other's flights. British Airways and USAir now have such an agreement, and Monday's announcement opens code-sharing opportunities for US and British carriers.

And the new pact opens airports outside London to more flights from the United States.

However, American Airlines

was not pleased with the deal and said that the United States should have held out for a complete open skies agreement.

American and other US carriers have complained that their access to the popular Heathrow Airport is limited, compared to British access in the United States. American, for example, wants to operate service from its Dallas-forth worth hub to Heathrow.

Transportation secretary Pena said the summer talks will consider greater access to both London airports, Heathrow and Gatwick, as well as questions about cargo, charters and pricing. -AP

Airlines will offer a daily flight from its hub to com- American Airlines and its ts a day. The consumer ill be "immediate, real le", said Gerald Green- ed's chairman and chief office.

airways won permission cond daily Heathrow- ia flight.

ish carrier, which owns USAir, can also use that

orts

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ore than Rs 15 crore ftware. This is contrast ar 1991-92, when only panies had exported Rs 15 crore".

hat this year the indus- ough in foreign ex- ings of about \$ 485 mil- ted higher rate of em- d emerged as one of the foreign earners in the omy".

y indicated that there n an increase in quality se in Indian software Complying to ISO 9000 ther quality specifica- emerging as a priority.

1 said twenty five soft- unies have already ac-) 9000 certification other 60 companies are ages of acquiring it.

nd of the year, the In- e sector is expected to 5 companies adhering) specifications which e highest number of at- ewhere in the ure", he averred.

Institutions, Incentives and Economic Reforms

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E-mail: satu@iris.econ.umd.edu



In a volatile market tracking and trying to analyze nights. Not knowing what to buy. And when to sell Management Services from Moneycare. HOW DC money in the Stock Markets. We then continuously of-the-art technology and disciplined analysis. Your p needs. To find out more, visit our office or give us a c points... MONEYMARTS.

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Separatists split into quarrelling factions

Corsean acts of revenge go on. The fierce dynamics of Corsica's separatist struggle last year were marked by bomb explosions and murders. Most of them were political and most not.

Separatists who want full independence from France have been around since 1768, when Corsica was sold to France. But the nationalist movement, which began a few decades ago, has been gaining momentum. There has been sooting of banks, police stations and businesses that are no longer qualified as news and France.

What distinguishes the recent movement, however, is that the once Corsican National Liberation Front has split into quarrelling factions. More than a dozen competing groups now seek control over

Corsican affairs. Three factions have armed guerrilla branches.

Mutual suspicion and conspiracies proliferate. In conversations with members of different groups it becomes clear that maneuvering against rivals takes at least as much energy as the fight against Paris.

There have been turf wars over who collects which "revolutionary taxes" — the name for the protection money that many businesses are forced to pay. In recent months, Nationalists have even killed one another.

As worrying to many people is evidence that the separatist struggle has become a cover for common crimes. "The worst part," an Ajaccio restaurant owner said, "is that the factions are attracting young Rambos who are interested in the power of guns and not in idealism. It's getting very dangerous."

What is also different is that more Corsicans are tired of violence. In January, after four gangland murders in one week had traumatized the northern town of Bastia, some 500 women published an anti-violence statement in the newspapers which they called a "Manifesto for Life."

Since then, more than 2,000 women have added their signatures, which is considered a high number in this secretive island society. "We get letters of support every day," said Bernadette Spagnole, one of the group's coordinators. "Women who had a son killed or a husband or a cousin. Women who think we've reached the limits and who don't want any more armed bands."

Miss Spagnole contrasted the situation in Corsica to Sicily's. "Italy is coming out of this violence and we are sliding into it," she said. "More and more young people are armed."

What Corsica has in common with

Sicily is the tradition of vendettas and the local rule of silence and fear that keeps witnesses and juries from speaking out in court.

In contrast to Sicily, though, Corsican separatists, rather than profiting from drugs, have called for the execution of drug dealers to keep Corsica "clean." Police believe that some killings and explosions at local bars are linked to the militants' anti-drug campaign.

The women's group has demanded a police crackdown on illegal weapons. They are also staging monthly demonstrations in front of government buildings in Ajaccio where they recite the death toll of the month. The women's group says it takes no sides in the separatist struggle but denounces what it sees as its deterioration into mercenary fights for power.

— New York Times Service

Times of India 6/6/95

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Institutions, Incentives and Economic Reforms

Policy Analysis Program: Call for Proposals

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The program is open to all scholars interested in working on India and its economic reform effort. Each proposal selected for the program will be eligible for funding up to the amount of \$10,000. The last date for submission of policy analysis proposals is July 1, 1995. Those selected will be notified by August 5, 1995.

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ATTACHMENT V to the IRIS/India Quarterly Report for April-June 1995

IRIS-NIPFP Press Release of May 1995



PRESS RELEASE

INSTITUTIONS, INCENTIVE AND ECONOMIC REFORMS

**Policy Analysis Program
May, 1995**

"Do political and economic institutional arrangements impede economic growth in India?" is the question posed by the new Policy Analysis Program of *The Center for Institutional Reform and the Informal Sector (IRIS)* and the *National Institute of Public Finance and Policy (NIPFP)* introduced today. Studies and conferences to be arranged under this program will explore how reforms at both the state and the central level can be used to promote equitable economic growth and reduce poverty in India. Past studies, supported by the earlier phase of this program, have examined topics such as the role of the Food Corporation of India in Indian foodgrain and rice marketing and the role of foreign direct investment in India's technology policy.

The program announced today supports policy analysis in the following five areas: (1) Governance and Economic Development, (2) Agricultural Parastatals, (3) Public Enterprise Management and Industrial Deregulation, (4) Fiscal Federalism and Tax Administration, and (5) Women's Property Rights and Fertility, Poverty and Economic Development. Proposals will be solicited and funded based on merit from those interested in doing policy analysis in these areas.

ABOUT IRIS AND NIPFP

The Center for Institutional Reform and the Informal Sector (IRIS), a non-profit organization affiliated with the University of Maryland's Department of Economics in College Park, Maryland, U.S.A., has two main purposes: enlarging knowledge about the role of institutions in economic development through research, and promoting institutional reforms in the Third World and in countries undergoing transition from communism by providing technical and organizational assistance. The Chairman and Principal Investigator of IRIS is

INSTITUTIONAL REFORM AND THE INFORMAL SECTOR
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IRIS CENTER OF UNIVERSITY RESEARCH CORPORATION, INTERNATIONAL

Professor Mancur Olson. The main institutions of concern to IRIS are the rules that structure incentives to stimulate production and mutually advantageous trade, and those that provide the legal framework for competitive markets. The premise of IRIS is that institutions in the less successful economies of the Second and Third World offer poor structures of incentives, inhibit economic growth and equitable development, and often force much economic activity into the informal economy.

The IRIS/India Program is funded by the United States Agency for International Development.

National Institute of Public Finance and Policy (NIPFP) is the leading Indian research institute in public finance and related fields of policy. It is an autonomous non-profit organization whose main functions are to carry out research, consult Indian federal and state governments, and organize training courses in public finance and policy to the officials at various level of government.

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ATTACHMENT

Background: Institutions in Economic Development

What are institutions? Institutions are understood as the rules and arrangements that govern the economy and economic policymaking. They include the fundamental political, social, and legal rules that establish the basis for production, exchange, and distribution. Examples are the rules governing elections, property rights, and the right of contract. Institutions are often referred to as social capital since they arise from social interaction: they emerge out of decisions of individual actors to obey the rules or to act collectively to change them. The rules can be either formally written down and enforced by government officials or unwritten and enforced by informal sanctions.

Why do institutions matter in economic development? A country cannot achieve economic progress and efficiency simply by having the government not interfere with the economy. A thriving market economy does not emerge automatically. It requires institutions that most people in the economically developed democracies take for granted, but many developing countries are lacking. For example, the incentives to save and to invest depend upon individual rights to marketable assets--on property rights. These rights assure individuals, and the firms they create, that they can best advance their interests by being as productive as possible and engaging in mutually beneficial trade. Further, if there is no right to create legally secure corporations with limited liability, the private economy cannot properly exploit those productive opportunities that are too large for most individuals to undertake. If there is no legal framework to encourage innovation through patents and copyrights or to facilitate risk-sharing through insurance and hedging in futures markets, there will be too little innovation and risk-taking in the economy. Thus, appropriate economic institutions are essential for economic development. They structure individual incentives in production and exchange and, thereby, either impede or enhance economic growth and equitable economic development.

A proper set of institutions can also have powerful equality-promoting effects. There are institutions which can enable individuals with little property and without political connections to make investments in themselves and in their enterprises so that they can accumulate wealth. Fair and transparent procedures for the enforcement of property rights, contracts and business regulation open the way for competition and for the participation of low- and middle-income people.

There is a great deal of consensus among economists and other analysts of economic development on the kinds of policies and institutional arrangements that lead to poverty reduction and economic growth. A stable macroeconomic environment, open trade and investment, free operation of product and factor markets together with a legal and regulatory environment that is supportive of exchange, efficient public investment in infrastructure and human capital are the kind of arrangements that not only promote economic growth, but also are the way to reduce poverty dramatically in the long run. The policies and institutions governing economic life in India, however, are increasingly recognized as key constraints to

broad-based economic growth. Burdensome procedures, complicated regulations and ineffective redress for contract breach distort the incentives of economic actors and hinder equitable development. This begs the question: Why are better policies not adopted? Why do labor market institutions that impede progress persist? What are the obstacles to creating an institutional environment which can harness the vast energies of the Indian people to the wheel of progress?

Understanding the obstacles to policy and institutional reform in India requires analysis of the problems of collective action. Government policies are the outcomes of political struggles in which organized interest groups play a great role. Similarly, institutional arrangements, both formal and informal, are strongly influenced by the pressures of interest groups, whose goals are often quite distinct from those of society at large. The policies and institutions, however, are also shaped by the intellectual environment within which the policy debates takes place. Thus, an understanding of the roles of interest groups and ideology in the formation and reform of policies is vital for bringing about the new policy and institutional framework that will enable India to conquer poverty and realize her economic potential. This program aims to enhance that understanding and explore how these institutional arrangements might be altered to promote equitable development.

ATTACHMENT VI to the IRIS/India Quarterly Report for April-June 1995

IRIS-NIPFP Conference Plans in India



IRIS/INDIA CONFERENCE PLANS

Worldnet Tele-Video Conference:

Date: September 27 1995

Venue: USIS Television Studios in (1) Washington DC, (2) New Delhi, and (3) Calcutta.

Duration: 2.5 hours

Tentative Title:

Is Democracy Slowing Down India's Economic Growth?

Topic: Democracy and Economic Development

The purpose of the Worldnet conference will be to discuss the question whether democracy furthers or hinders economic reform and development. In general, the conference will discuss the relationship between democracy and development, and the effect of the political regime (civilian/military, democratic/authoritarian) on the speed of reform and development.

India embarked on program economic liberalization in the summer 1991. Over the past three years, the Government of India has taken a number of initiatives aimed at basic economic restructuring and reform, with the objective of putting the Indian economy on a sustainable path of high growth. The reforms initiated so far have been dramatic in Indian standards. However, compared to China or Eastern European countries, like Poland, the Indian reforms have been modest and the speed of overall reform slow. The common view in India is that the speed of overall economic reform has been slow because the country is a democracy. Is this view correct? Why or why not? The conference will aim to answer these questions.

- Speakers:
- In Washington DC:
1. Professor Mancur Olson
University of Maryland
Center for Institutional Reform and the Informal Sector (IRIS)
 2. Professor Seymour Martin Lipset
Hoover Institution, Stanford University
George Mason University
- In New Delhi:
1. Dr. Montek Singh Ahluwalia
Finance Secretary, Ministry of Finance
 2. Mr. Gautam Adhikari
Executive Editor, The Times of India
- In Calcutta:
1. Mr. Prमित Pal Chaudhuri
Assistant Editor, The Telegraph
 2. open

Proposed Structure:

1. Pre-taped debate or lecture involving the two speakers in Washington. This part of the conference will run 30 minutes in length and be shown to the Indian audience prior to the Worldnet event. The purpose of this part of the conference will be to introduce the audience to the issues in question, stimulate ideas for debate and discussion, yet allow for a maximum amount of time for interaction between the audience in India and the participants in Washington, D.C.

The taped debate or lecture will try to show:

- a) What is the relationship, if any, between democracy, development and the speed of reform?
 - b) The Case of India: Has the speed of overall reform in India been modest because the country is a democracy? Why or why not?
2. Moderated Discussion in India: 30 minutes of questioning, discussion and debate will immediately follow the pre-taped debate or lecture. This will take place separately in each of the Indian venues.

Format: Two distinguished Indian speakers in each venue will open the discussion. Each

speaker will first give a ten minute presentation on the topic responding to the pre-taped debate/lecture. These addresses will be followed by a moderated discussion and question period between the speakers and the audience. The aim here is to generate discussion and to gather relevant questions to be posed to the speakers in Washington during the Worldnet Dialogue. The moderated discussion will provide a prelude to the actual Worldnet Conference, where questions from the speakers and audience will be relayed to the Worldnet speakers in Washington.

3. Worldnet Dialogue: 60 minutes of discussion and debate between the Indian speakers and two or three speakers in Washington. The dialogue will be a culmination of the ideas and discussion instigated in the above two sessions. The Worldnet will allow for Indians to directly interact and exchange ideas with their colleagues in the United States on this important topic.
4. Tea and Coffee served.

Approximate Running Time: 2 1/2 hours.

Distinguished Speakers Conference I:

Date: October/November 1995
(The exact date is open. We are currently trying to match the schedules of different speakers.)

Place: New Delhi

Venue: open

Duration: one day

Tentative Title:

Need for Goldilocks Government: Implications for Collective Choice Approach for India.

Overall Topic/Theme:

New Institutional Economics and Collective Action

Speakers: Top economists in the field of new institutional economics and collective action will be speakers at this conference.

The list of speakers and their affiliations is as follows:

1. Professor Robert Cooter
University of California, Law School
2. Professor Bradford DeLong
University of California at Berkeley
3. Professor Brian Fikkert
University of Maryland
4. Professor Anand Swamy
University of Maryland

The exact topics of talks are open.

Discussants: open

Chairmen: open

Distinguished Speaker Conference Series II:

Dates and Places:

January 9-10, 1996;	New Delhi
January 12-13, 1996;	Madras
January 15-16, 1996;	Calcutta

Duration: 1.5-2 days/city

Venues: open

Title: open

Overall Topic/Theme:

New Institutional Economics and Collective Action

Speakers: Top economists in the field of new institutional economics and collective action will be speakers at this series of conferences.

The list of speakers and their affiliations is as follows:

1. Professor Mancur Olson
University of Maryland and IRIS
2. Professor Oliver Williamson
University of California at Berkeley
3. Professor Pranab Bardhan
University of California at Berkeley
4. Professor T.N. Srinivasan
Yale University
5. Professor Don McCloskey
University of Iowa
6. Professor Joel Mokyr
Northwestern University
7. Professor Edward Montgomery
University of Maryland
8. Professor Axel Leijonhufvud
University of California, Los Angeles

9. Professor Gene Grossman--NOT CONFIRMED
Princeton University
10. Dr. Nicholas Stern--NOT CONFIRMED
EBRD
11. Mr. Eric Moberg--NOT CONFIRMED
Moberg Publications Inc., Sweden
12. Professor Edmund Phelps--NOT CONFIRMED
Columbia University
13. Professor Andrei Shleifer--NOT CONFIRMED
Harvard University
14. Professor R.C.O. Matthews
will submit a paper. no travel

The exact topics of talks are open.

Discussants: open

Chairmen: open

Policy Analysis Conferences I and II:

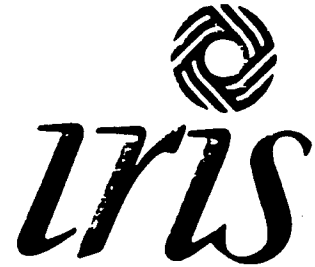
Since the purpose of the these conferences will be to review and discuss the results generated by the Policy Analysis Program, the details of these events are all open.

The first one of these conferences is tentatively scheduled for April 1996 and the second one for early September 1996.

ATTACHMENT VII to the Quarterly Report for April-June 1995

Plan for Replacement of CDE Functions

May 4, 1995



PLAN FOR REPLACEMENT OF CDE FUNCTIONS

The planned functions of CDE will be taken care of by IRIS, NIPFP, an Indian PR firm, and, if needed, an Indian administrator. The attached Table indicates the division of these tasks between these organizations.

IRIS will hire by the end of July 1995 a PR firm to do PR tasks. If appropriate, IRIS will also arrange for this PR firm to provide New Delhi-based administrative support for the program. If not appropriate, IRIS will hire by the end of July 1995 an Indian administrator--a firm or an individual--to provide administrative support in India. The administrative tasks to be undertaken will be, illustratively: conference logistics, that is, arranging conference venue and conference lunches, mailing out invitations, taking care of RSVPs; mailing out working papers in India.

The search for a PR firm, and an administrator as a back-up, is currently in full-speed. First, NIPFP is looking for names and addresses of Delhi based PR firms and administrators. Second, an Indian is looking for information on Delhi-based PR firms for IRIS. Third, the director of the Rajiv Gandhi Institute for Contemporary Studies is gathering information about Delhi-based PR firms and administrators for IRIS. Mancur's letter to the director is attached. Fourth, IRIS is looking for names and addresses of Delhi-based PR firms through the Indian Embassy and international PR firms.

IRIS will initially contact the recommended PR firms from College Park. IRIS/India Project Director and IRIS Field Director will arrange to meet with the most promising candidates in New Delhi in June. IRIS will choose the PR firm only after these interviews. The selection will be based on the following criteria: (i) quality and reputation of the firm, (ii) cost, and (iii) capability to undertake administrative tasks.

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The Planned Functions of CDE Were	These Functions will be Taken Care of by		
	IRIS	NIPFP	PR firm
CDE will coordinate the Policy Analysis Program in India.	X (with the assistance of NIPFP)		
CDE will solicit proposals: mail out program brochures throughout India, receive proposals from scholars, forward proposals to the members of the Review Committee.	X		
CDE will prepare advertisements jointly with IRIS.	X		
CDE will forward advertisement to newspapers and magazines in India.	X		X
CDE will assist IRIS in preparation of press releases.	X		X
CDE will circulate the prepared press releases in India.			X
CDE will participate in the selection of proposals.	X	X	
CDE will review with IRIS the mid-term and final reports of scholars.	X	X	
CDE will comment on the plans and offer suggestions for activities.		X	
CDE will transmit information relevant to the program to and from IRIS.		X	
CDE will co-organize conferences with IRIS to disseminate policy analysis results and to enhance the policy dialogue.		X (NIPFP will assist IRIS in identifying chairmen and discussants.)	X (PR firm/Indian administrator will take care of the conference logistics.)

Quarterly Field Report: Mongolia

I. ADMINISTRATIVE DATA

Reporting Period: April 1 - June 30, 1995

BOA Number: ANE-0015-B-00-1019-00

Delivery order Number: 10

AID Project Office: G/EG/SMIE (O. Koropecy, 522 SA-2)

AID Office funding delivery order: G/EG/SMIE

AID Office project: Institutional Reform and the Informal Sector (IRIS) Project

II. PERFORMANCE INFORMATION

1. Project purpose summary statement:

- A. The project endeavors to strengthen the capacity of key Mongolian decision makers from all spheres of the country's economic life to design and implement institutional reforms during the country's transition to a market economy. To accomplish this purpose a series of workshops and follow-up activities will address topical policy issues and present both general background materials and discussions of specific policy options for development and implementation.
- B. The USAID Program Strategy in Mongolia emphasizes encouragement and strengthening of the process of democratization and the promotion of economic growth. The project actively promotes these broad goals in the following ways. The workshops target a broad spectrum of Mongolians in order both to enable individuals from different sectors to better understand and articulate concerns and to enhance policy discussion and its results. The topical policy issues and corresponding points of institutional reform involve ingredients crucial to economic growth.
- C. The purpose of the project, namely "strengthening capacity of Mongolian decision-makers", was extended in the past quarter in a new direction by the implementation of the fifth workshop. Reaching beyond official decision-makers in government, political parties, and universities, the project targeted journalists in their roles as multi-directional information conduits and facilitators of public discourse. Held during May in Ulaanbaatar, the workshop introduced fundamental concepts of economics to a group of thirty journalists from newspapers, radio, and television. The workshop instructors particularly emphasized several topical examples to illustrate how economic knowledge could be practically applied by journalists. A Western journalist and a Mongolian accounting instructor

assisted the IRIS staff in presenting sessions. A trip report describing the workshop in more detail is attached as Appendix 1.

Preparation for the last workshop in the series began during the last quarter. The topic will be Institutions of Corporate Governance.

2. Progress report

A. Technical Implementation¹

Activities Planned for Reporting Quarter	Current Status	Explanations (Problems, steps to resolve, etc.)
Design and presentation of fifth workshop, College Park; logistical preparation, Ulaanbaatar.	1	Thirty Mongolian journalists with responsibilities for economic and business reporting attended a two-week workshop in Ulaanbaatar in May, 1995. Five instructors, including IRIS staff, led the workshop sessions. A full list of participants and session topics can be found in the trip report attached as Appendix 1.
Background research on existing institutions in Mongolia, institutions relevant to the fifth and sixth workshops, Ulaanbaatar.	2	Research includes interviews with officials from government, political parties, and regulatory agencies, editors, reporters, academics, members of parliament, and the foreign assistance community.
Research/Workshop development trip to Mongolia by IRIS-College Park staff responsible for sixth workshop.	3	
Translation and compilation of laws and documents relevant to the sixth workshop, Ulaanbaatar.	2	Copies of these documents will be available upon request in Ulaanbaatar and in College Park.

¹ Status of activities as defined in the delivery order.

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Attendance at "State Seminar of the People Engaged in Production and Trade" sponsored by the Government of Mongolia.	1	James Anderson represented IRIS at this conference held in April 1995 in Ulaanbaatar.
Roundtable discussion with key representatives of institutions relevant to corporate governance.	1	At the request of Member of Parliament Ochirhuu (also Advisory Committee member) IRIS co-sponsored a roundtable discussion on development of effective corporate governance during the fifth workshop with the National Association of Corporate Directors and the Enterprise Management and Restructuring Center. A more detailed description and a list of participants are contained in Appendix 1.
Solicit suggestions of Advisory Council members on participants for fifth workshop.	1	Advisory Council suggestions were solicited and forwarded to the USAID Representative in April 1995, along with evaluations developed by IRIS staff.
Development of follow-up technical assistance as requested by workshop participants and approved by the USAID Representative in Mongolia, Ulaanbaatar.	3	IRIS-College Park was unable to staff the activity on developing procedures for enforcement of the Law on Prohibiting Unfair Competition in the time frame requested by the National Development Board. Assistance to drafters of a new insurance law is now being provided by another donor; possibilities for other follow-up assistance by IRIS in the area of insurance will be assessed in the next quarter.

<p>Co-sponsorship with the Asia Foundation of a roundtable discussion of "Views on the Status of Political and Economic Reform and the Need for Continued Assistance".</p>	<p>1</p>	<p>Mr. Batbayar, Director the Institute of Oriental and International Studies, gave a general overview of politics, economics, and international relations. Mr. Buyantogtokh, Advisor to the Minister of Finance and Commissioner on the Mongolian Securities Commission, discussed the progress and set-backs of economic reforms. Ms. Sukhjargalmaa, Assistant to the President's Foreign Policy Advisor, discussed civil society in Mongolia.</p>
<p>Development of follow-up technical assistance on market-based incentives in air quality regulations.</p>	<p>2</p>	<p>James Anderson and Georges Korsun are working with John Horowitz, instructor in the fourth workshop on environmental economics, and Mongolian participants from the fourth workshop to develop a topic for a follow-up trip.</p>
<p>Interviews on various topic granted to reporters from "Government News", a newspaper of the Mongolian Government, and "The Business Times", an independent news weekly.</p>	<p>1</p>	<p>James Anderson, Peter Murrell, and Cynthia Clement granted interviews to workshop participants.</p>

Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Design and prepare for sixth workshop on corporate governance.	10/31/95	IRIS-Mongolia
Solicit Advisory Council members for suggestion about participants for sixth workshop.	9/30/95	Advisory Council; IRIS-Mongolia
Research/Workshop development trip to Mongolia by IRIS-College Park staff responsible for sixth workshop.	9/30/95	IRIS-College Park
Conduct follow-up technical assistance on training relevant to insurance law and regulatory framework.	9/30/95	IRIS-Mongolia (develop agenda for assistance); IRIS-College Park (identify and hire appropriate experts in the area of insurance regulation)
Conduct follow-technical assistance on market based incentives in air quality regulations.	10/31/95	IRIS-Mongolia (coordinate with Mongolian counterparts); IRIS-College Park (coordinate with consultant)
Forward participant requests for new follow-up technical assistance arising from the fifth workshop to the USAID Representative in Mongolia; if approved, proceed with implementation.	12/30/95	Workshop 5 Participants; IRIS-Mongolia

B. Project Administration

Activities Planned for Reporting Quarter	Current Status	Explanations
Travel to Beijing for the acquisition of supplies.	1	Trip completed in June.
Develop proposal for additional technical assistance after completion of current buy-in, at the request of the USAID Mission Representative.	2	Discussions, both electronic and in person, continue between the USAID Mission Representative and IRIS-Staff.
Initiate new PIOT to release incremental funding for the remainder of project and extend the completion date to May 1996.	1	Funds made available in May.

Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Travel to Beijing for the acquisition of supplies.	9/30/95	IRIS-Mongolia
Submit proposal for additional technical assistance after completion of the current buy-in, at the request of the USAID Mission Representative.	9/30/95	IRIS-College Park and Mongolia Staff.

3. Other problems/issues and intended steps toward resolution. None.

III. FINANCIAL DATA

Following page.

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WORKSHOP 5 - ECONOMICS FOR THE MEDIA

Day 1	Day 2	Day 3	Day 4	Day 5	Day 6
Introduction to Workshop (Clement and Eaton)	Banks, the Government Budget, and Other Macroeconomic Institutions (Clement)	Microeconomics: Competition, Barriers to Entry, and Monopoly (Murrell)	Using Economic Tools to Analyze Recent Economic History in Mongolia (Murrell)	Practical Exercise: Writing an Article on Economics (Clement, Eaton, and Murrell)	The Search for Information: How and Where to Look (Eaton)
Macroeconomics: Money, Inflation & Unemployment (Clement)			Economic Reporting ABCs (Eaton)	Mongolian Financial Statements (R. Batjargal)	
Day 7	Day 8	Day 9	Day 10	Day 11	
Using Economic Tools to Analyze Mongolia's Privatization Program (Murrell)	Interviewing Techniques (Murrell and Eaton)	Interpreting and Presenting Information (Anderson, Eaton and Clement)	Roundtable on Problems and Progress of Corporate Governance and the Securities Market in Mongolia	Discussion of Team Articles (Clement, Eaton and Murrell)	
Small Group Question-and-Answer (Clement and Eaton)	International Markets and Institutions (Clement and Murrell)	Interactions Between Politics and Economics (Murrell)		Conclusions (all three)	

12/2

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In May of 1995 a team made up of two IRIS staff members and a consultant travelled to Ulaanbaatar, Mongolia, to conduct the fifth workshop in the current series on the subject of "Economics for the Media". The IRIS team included: Dr. Peter Murrell, Professor of Economics at the University of Maryland, College Park, and Project Economist: Mr. William Eaton, Curator of the Humphrey Fellows Program at the School of Journalism, University of Maryland, College Park, and former correspondent for the Los Angeles Times; and Ms. Cynthia Clement, Project Workshop Coordinator. The Mongolian participants in the workshop included thirty individuals from a wide variety of newspapers and broadcast entities: a list of the participants with their affiliations is attached. The workshop was conducted in English with consecutive interpretation by one of the participants, Nomin of the Business Times. The Mongolian Press Institute, set up by DANIDA to provide training to journalists, provided assistance in identifying participants from newspapers outside Ulaanbaatar and in covering their transportation costs.

The team discussed several economic concepts which were deemed to be particularly useful for journalists, including macroeconomic measures of performance and microeconomic concepts of supply and demand. The use of these conceptual tools was illustrated by explaining Mongolia's economic history since its transition began and by developing applications relevant to current events in Mongolia. These examples included meat price controls, government budget cuts, a ban on the export of raw cashmere, use of inflation measures, and exchange rate fluctuations. In addition to his usual logistical duties, James Anderson, Project Field Coordinator, developed and presented applications of the ways that official Mongolian statistics on inflation can be interpreted. In order to promote development of business reporting a Mongolian accounting instructor, R. Batjargal, presented an overview of income statements and balance sheets, with special attention to differences between previous methods and the new practices which follow international standards. Mr. Eaton also discussed traditions of a democratic, free press and techniques used by Western journalists in reporting on economic and business events. A schedule of sessions is attached.

Special attention was also given to current issues relevant to the aftermath of privatization; the next set of issues for a transition country involve developing institutions of corporate governance. After a workshop session defining the issues for the journalists, a roundtable discussion with several influential policy-makers and general directors of privatized firms was held. The roundtable was chaired by Yondon, Deputy Minister of Trade and Industry and Director of the Mongolian National Association of Corporate Directors. Peter Murrell opened discussion with an overview of the concept of corporate governance. In reviewing the various institutions of corporate governance Murrell made clear the connection to the workshop topic, in that an energetic media, investigating and reporting on the good and bad performances of corporations to shareholders and the public more broadly, is a vital element of corporate governance. Several policy-makers reviewed developments in their respective areas of activity, making clear that, with the advent of secondary trading, the enterprise sector of Mongolia is entering a new era. The heads of four Mongolian companies then gave their perceptions on the policy mechanisms that would be needed in Mongolia. The session concluded with a brief question and answer period, so that journalists attending the workshop could apply the skills that they had learned in the previous days. A list of Mongolian policy-makers in the roundtable

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follows.

The workshop participants were asked to write articles on one of the applications, and the instructors provided feedback on their results. Sodontogos, Project Interpreter and Administrative Assistant, helped Ms. Nomin translate the articles in a very short period of time in order to facilitate this exercise. The participants were also asked to complete written evaluation questionnaires; copies of the questions and the responses collected are attached. Overall, the frank comments made by the participants were deemed to be positive. The next-to-last question, drawn from USAID Handbook 10, asked participants to evaluate aspects of the workshop on a scale of 1 to 5, with 1 indicating most satisfied. The overall average score was 1.76, and the average for each of the different aspects was as follows:

1.	Program content and delivery (technical level, length, amount of information)	1.85
2.	Relevance of training to job	1.85
3.	Applicability of training to Mongolia	1.67
4.	Balance of theory and practice	2.12
5.	Competence of instructors	1.35

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IRIS-Mongolia Workshop on Economics for the Media

Central Palace of Trade Unions

May 24 - June 2, 1995

List of Participants

Altangerel	"Government News"
Baasandorj	"Ardyn Erkh"
Batbold	Government's Press Agency
Batmunkh	"Arkhangain Unen" (Arkhangai Aimag)
Boldoo	"New Countryside"
Chuluunbaatar	President's Press Agency
Dashmunkh	"Ardyn Erkh"
Enkhtur	"Ardyn Erkh"
Erdenebaatar	"Blue Spot"
Erdenebilig	Mongolian State National University
Ganbat	Ih Hural's Press Agency
Ganbat	"Truth"
Gantulga	"Word"
Guchin-Yes	Mongolian Television
Jigjidsuren	"Labor"
Lkhagvabat	Mongolian Television
Lkhagvadorj	"Ulaanbaatar"
Lkhagvadorj	MONTSAME
Myagmar	"Altain Ugloo" (Govi-Altai Aimag)
Naidandorj	Mongolian Radio
Narantuya	"Business Times"
Navchaa	Mongolian Radio
Nergui	"Open Chronicles"
Nomin	"Business Times"
Nyamaa	Mongolian Radio
Oyunbileg	"Government News"
Purevsuren	"Hadag" (Dundgovi Aimag)
Sandagsuren	"Government News"
Sharav	"Mongol Messenger"
Tsogzayabaatar	"Golden Entrance"

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Roundtable Discussion

The Problems and Progress of Corporate Governance and the Securities Market in Mongolia

List of Special Roundtable Discussants:

Gerelchuluun	General Director of the Mongolian Enterprise Management and Restructuring Center
Bailykhoo	Secretary of the State Commission for Privatization and Executive Secretary of the Mongolian National Association of Corporate Directors
Zoljargal	Director of the Mongolian Stock Exchange
Yondon	Deputy Minister of Trade and Industry and Director of the Mongolian National Association of Corporate Directors
Yadamsuren	Head Commissioner of the Mongolian Securities Commission
Khunikhuu	General Director of Mongol Savkhii
Tsedev	General Director of Altan Taria
Khenmedekh	General Director of Bayangol Hotel
Bud	General Director of Moninjbar

APPENDIX 1 - IRIS-MONGOLIA QUARTERLY REPORT, APRIL-JUNE 1995

The evaluation questionnaire for the workshop "Economics for the Media" is replicated below with responses to each question grouped together, except for question #7 as its responses are summarized above.

Your opinions about the workshop would be very helpful to us as we plan future activities for the IRIS-Mongolia project. Please answer the following questions honestly; comments and criticism are welcome wherever you feel it is appropriate.

1. Which workshop sessions were most useful to you and why?

- I am not a journalist specialized in economics, so all topics were interesting for me.
- The journalism related topics were the most interesting. Most Mongolian journalist protect the government policies through their articles. So I hope that the journalists who participated in the workshop will think and write in a little bit different manner after the workshop.
- All topics on market economy theory (for example, prices). These lectures were very useful to us who were taught socialist economy and just were restrained to thinking, working and living in one stagnant way.
- All lectures on market economy theory at macro and micro levels. Sessions on journalism were also interesting.
- Privatization program and generally economics session were interesting. Also the lectures of Bill Eaton on journalism and his examples of American journalists' activities were attractive.
- I have learnt a lot about economics, interaction between politics and economics. It was incredibly interesting and is useful to learn about the modern western economists teachings.
- All lectures on journalism were very effective as well as the ones on economics.
- 1. Reading the financial documents of Mongolia;
2. Macroeconomics: money, inflation, unemployment;
3. Ways of information dissemination.
- Banks, Government budget and other macroeconomic institutions; the search for information.
- This is the first seminar on economics designed for media people. It was very useful.

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- It was interesting to do analysis on economics using financial statements. The session when we talked about competition, monopolies, financial statements, interaction between politics and economics and the search of information were of peculiar interest.
- Techniques to write on economic topics, reading Mongolian financial statements, interviewing techniques, roundtable with the company directors are very important for journalists.
- Lectures presented by Mr. Eaton. For us it is important to learn journalistic skills and of course, economic knowledge.
- Interviewing techniques were the most important and interesting for me. Also the lecture taught by Mr. Batjargal on financial statements were of particular interest. These lectures are mostly required for the journalists and closer to the Mongolian reality.
- Personally I think that all topics in the curriculum were very useful. Among the sessions I attended the most interesting one was the presentation of interviewing techniques. Generally, all sessions were very informative.
- Macroeconomic topics; financial statements. The macroeconomic topics have helped me a lot to understand the Mongolia's current economic situation in transition. For example, the economic explanation (using an equation) of the Government Resolution #20 of 1991 opened my eyes to the reality. The second topic had practical significance.
- 1. Interaction between politics and economics;
2. Ways of information dissemination;
3. The reason of naming the first topic is that it helped a lot to analyze the Mongolian case and understand its reality.
- The lectures on international economics and financial institutions were the most interesting ones. Also I would like to name the sessions on interaction between politics and economics, privatization and macroeconomic issues. The seminar went well thanks to the variety of information, valid explanations.
- Macro and microeconomics, writing on economic topics, interaction between politics and economics, privatization program analysis. In general all topics are very useful.
- Privatization program analysis and all lectures presented by Mr. Murrell were the most useful and interesting ones. I have learned about the success and mistakes of the Mongolian privatization process.

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- Money, inflation, banks, government budget, reading Mongolian financial statements.
- Money, inflation, unemployment; reading the Mongolian financial statements.
- Techniques on writing on economic topics, microeconomics, interaction between politics and economics.
- All sessions on economics and journalism were important and useful.

2. Which workshop sessions were least useful to you and why?

- No. I wish IRIS continues its series of workshops.
- There was not even a minute useless.
- No sessions are to be said least useless.
- Congratulations: there was no session of low importance.
- Difficult to say.
- Reading Mongolian financial statements.
- There were no sessions without use.
- Some economic concepts and terms were difficult to understand and sometimes the teachers failed to consider Mongolia's specific features.
- I had some difficulties with understanding the lectures on macroeconomic topics, maybe because the examples were not relevant to the Mongolian case.
- The least useful activity was the roundtable discussion on corporate governance. We had to use this opportunity of having so many journalists at one spot and develop real discussions with the people who were invited.
- No sessions can be called "low significance".
- Reading Mongolian financial statements: it was too long and boring, though I understand its significance.
- Roundtable on corporate governance.
- Roundtable on corporate governance; because the director of Stock exchange and Securities Commission Head left earlier.

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- Roundtable on corporate governance was least interesting and useful. I was expecting a warm discussion, however, very few people came.

3. Was the overall level of discussion satisfactory, too advanced, or too simplistic for you?

- Everything was clear to me. Teachers worked really hard.
- Some sessions on the theory of economics were little difficult to understand.
- We generally understood the lectures, but was difficult with terms.
- There were no complications.
- All sessions were understandable. Especially, I liked that teachers could give a lot in a short time.
- The level of lectures was fine with me, the person who did not know any ABC of economics.
- Sometimes the lectures were little boring. Generally the lectures were fine.
- Everything was understandable.
- Generally it was not so difficult to understand.
- Easy to understand. The teachers taught very well.
- The level of presenting the lectures was not very difficult.
- It was difficult sometimes. I did not hear any good examples when we talked about the Mongolian privatization program and the interaction between the politics and economics.
- The sessions targeted the intermediate participants and were very vivid. I was surprised and delighted with the sincerity of teachers, which made their lessons so interesting. The teachers did not try to simplify the materials which was very good.
- I liked the training methodology of our teachers, their examples and explanations.
- The sessions were conducted in a very good, explicit manner.
- The level was perfectly fit with the background of the participants. Special thanks should go to translators.

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- Everything was easy to understand. Especially the ones where we talked about Mongolia
- Though we had a translator, I had difficulties with understanding some topics.

4. Would you recommend any changes in the format of future workshops? For instance, number of sessions, involvement of participants, etc.

- I understand that there might not be such a possibility, but it would be very effective if IRIS organizes a step-by-step course involving the previous workshop participants thus systematically deepening their knowledge.
- Everything was O'K. Nothing more to say.
- It would be useful to introduce American life: companies, their structure and operation, ordinary peoples life etc. It'll be also nice to show videotapes about on those topics.
- It would be very important if the professional terms \both english and mongolian\ would be given to the journalists on a separate piece of paper. More examples from American experience are needed. Also it would be more effective if more time is allocated for questions and answers.
- Sessions should not be longer than this time. The number of participants is fine. The interpreter did a nice job. But in future a professional economist would be preferred as a translator.
- Is it possible to reduce the number of participants?
- I think it will be more effective if the number of participants and the session length be shortened. Wasn't it possible to run this workshop within 7-8 days.
- There is no need to modify the format of the future IRIS workshops.
- No changes required.
- No need for change.
- I think more discussions are needed.
- Would be nice to have handouts with the summery of lectures to be presented.
- The workshop will be more effective if the number of participants are little reduced.

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- The format of the workshop was fine. But it would be more productive if the length of the total course would be reduced a bit.
- No need to change anything. Everything was perfect.
- The format of the IRIS workshop is a classical way of conducting seminars. I would like to remind just one thing: please, take into your consideration some of the significant dates and accordingly plan your activities.
- The format is good. The best way of working with journalists is organizing roundtable discussions.
- The number of participants and the length of the sessions are fine, though considerable amount of time goes for translations. The group sessions were of high use. In future more group discussions are needed.
- The workshop was organized very well. Does IRIS plan any workshops in the USA? If IRIS organizes a workshop on that particular topic in certain period of time, I would wish to actively participate in it.
- The format is nice. More participants from countryside are to be invited. Personally I would like to have the length of the workshop be prolonged to 21-30 days in order to provide deeper and systematic knowledge.
- The workshop format is nice. Another training will be nice to the workshop participants in a year after this one.

5. How do you intend to use what you have learned during the workshop when you return to your regular work? Please give specific examples.

- First of all on the basis of the learnt economic knowledge I will write an article whether it was correct to limit the meat prices. Further, in writing my articles and essays I will broadly use this knowledge.
- I will consider the information and knowledge for my future writings.
- I've learned that in order to survive in the market economy we need to "intensively mobilize our brains". I will attempt to convey this idea to my readers.
- I will permanently use the knowledge in economics rendered by the IRIS workshop. I will write a small article in my newspaper called "The Miracle of Seventy".

APPENDIX 1 - IRIS-MONGOLIA QUARTERLY REPORT, APRIL-JUNE 1995

- First of all I'll write an interview or a comparative article. Also I have agreed with our editor-in-chief to read 2-hour lecture to my colleagues; I am happy that now I got food for thoughts.
- 1. Will deepen the knowledge obtained from the IRIS workshop.
2. Will use this knowledge when writing on economics, business and finance
- Since the newspaper where I work mostly writes about economics and business, it has become easier for me to write on those topics and edit the materials sent for our newspaper. To be honest, before, sometimes we would just publish the articles of professional articles as they were originally written and could not understand them very well.
- Now I have become capable of making programs on Mongolia's current economic situation.
- I will use this knowledge when teaching my students at the university.
- I will use this knowledge as broadly as I can.
- I will follow the interviewing techniques taught by Dr. Eaton. I will never forget the methodology taught by Jim and will try to apply them to my writings. I have found many interesting articles topics from the sessions conducted by Dr. Murrell and Mrs. Clement
- I will broadly use this knowledge for my programs on economics and will use the analysis methodology taught at the seminar.
- I will use this knowledge in writing on economics and analyzing the other journalists' works.
- I will write about the methods of writing on economics. I will find the use of all the knowledge and information rendered by the workshop.
- I will find the use of my knowledge in making programs on economics. Also I am composing my monthly and yearly plans, where I will reflect my economic knowledge.
- I will enrich my knowledge from what's happening in Mongolia.
- I'll use some journalistic techniques, will use the economic knowledge when writing on economics and finance.
- I will use all the knowledge from the workshop in my work, especially, journalistic skills.

6. Were there particular issues during the workshop on which you would like more information or assistance?

- I've got enough knowledge and information.
- Political significance of Foreign Aid.
- I would like to have more information on insurance and tax systems.
- I am interested to learn about American Welfare system, the system of distribution; budget structure (income and expenditure), American privatization, its history, American citizens' evaluation of the role and responsibilities of the Government of America.
- I would like to develop an active form of future cooperation: be always in touch and solicit articles to our newspaper.
- I would be interested to get more and more information about every session and topic. The session would be more interesting if we take examples of success and failures of many countries of the world.
- I will be interested to get some more information on journalism.
- I would wish to have more knowledge on the techniques of interviewing.
- I am interested to learn more about economics journalism.
- Analysis of the Mongolian current economic situation using economic tools.
- 1. Interaction between economics and politics;
2. Issues at macroeconomic level;
3. International organizations;
4. Banks, Government budget.
- Invite some Mongolian economists and professionals on certain topics, like you did with the financial statements.
- I would like to be deeply enlightened on Mongolia's current situation of the above mentioned two topics [privatization and interaction between politics and economics] and some others.
- I want some more explicit examples of reading the financial statements. More practice is needed.
- Banks, Government budget, interviewing techniques.

APPENDIX 1 - IRIS-MONGOLIA QUARTERLY REPORT, APRIL-JUNE 1995

- I need some more information and practical experience on financial and accounting topics.
- Analyzing Mongolia's current economic situation using economic tools.
- I would like to have deeper knowledge on all topics that we developed during the seminar in one year in a refresher training course.
- More information on journalism in America.

8. Please write any other comments below. Thank you for helping us.

- I would like to learn IRIS attitude towards the cashmere issue in Mongolia.
- I would repeat again that constant contacts are necessary and most welcome. Please, don't forget about your alumnus. Regular meetings and contacts with your workshop participants are the best follow-up activities for IRIS.
- I have learned a lot of useful information needed for my job. Thank you again.
- The lectures were successful because the teachers knew Mongolia very well.
- There was no comments on the topics that I mentioned in my pre-training questionnaire.
- In future, please try to involve journalists in your seminars.
- The seminar was very useful for the journalists and for Mongolia too. Thank you very much and I wish you success in your work!

Quarterly Field Report: NEPAL

I. ADMINISTRATIVE DATA

Reporting Period: April 1, 1995 - June 30, 1995

BOA Number: ANE-0015B-00 1019-00

Delivery Order Number: 367-0161

AID Project Office: G/EG/EIR (O. Koropecy, 522 SA-2)

AID Office project: Institutional Reform and the Informal Sector (IRIS) Project

II. PERFORMANCE INFORMATION

I. Project purpose summary statement:

- A. Project Purpose: To help the Government of Nepal formulate and implement policies that support a pro-market, private sector led economy by providing financial and technical assistance, identifying policy changes to be implemented, and advocating the need for crucial institutional reforms in the judicial and regulatory areas.
- B. Relationship to USAID Program Strategy: The USAID program strategy in Nepal is to help the economy enter a new era of economic prosperity by promoting market reform and addressing the health, education, and other needs of the rural poor. IRIS activities in Nepal contribute to Mission objectives by assisting with expertise on policy reform initiatives conducive to the growth of the private sector. IRIS's assistance on institutional and regulatory reform is especially helpful for small and micro enterprises which are crucial to the success of any poverty alleviation scheme.
- C. Progress towards Project Purpose: The IRIS-Nepal Project continues to support the Government with expertise on policy and institutional reform that contributes to economic liberalization. During the early part of the last quarter, the IRIS-Nepal project had initiated a number of policy related projects, including those on build-operate-transfer (BOT) legislation, problems with export procedures, difficulties associated with minimum investment requirements for foreigners, and obstacles in the implementation of the one-window system. All these studies were undertaken to help the Government in the Fiscal Year 1995/96 Budget. The IRIS-Nepal project also funded a day-long workshop that discussed possible policy directions for the FY 1995/96 budget. The Prime Minister as well as the Minister of Finance attended the discussions. The media provided extensive coverage on the workshop.

In addition, continuing IRIS's advocacy role on economic reform, the Monthly Newsletter included a public (business, politicians, consumers) poll on what policy initiatives should be included in the Budget. Businesses were far less supportive on the need for policy reform than consumers. The results of the poll

received front page coverage in the *Gorkhapatra*, Nepal's most widely circulated newspaper.

However, on June 9, 1995, Prime Minister Man Mohan Adhikari, after learning of a special session of Parliament in which a no-confidence motion was to be tabled against his Government, requested the King to dissolve the Lower House of Parliament and announce fresh elections. The King acquiesced, set November 26 (Thanksgiving Day) as the election date, and appointed Adhikari as the caretaker Prime Minister. The Opposition, unhappy with the verdict, filed a petition in the Supreme Court to nullify the King's action.

Dissolution of Parliament meant that the Annual Budget had to be promulgated as a Royal Ordinance without any new policy initiatives. But, procedural matters could still be included, and the Budget Ordinance mentioned the need to address difficulties on export procedures, one-window implementation, and minimum foreign investment requirements. All these are part of on-going IRIS projects requested by the Government.

The additional work bestowed on the IRIS-Nepal office by USAID/Kathmandu since February 7, 1995 to provide logistic support to the Policy Dialogue Committee (PDC) and Business Development Committee (BDC) continues. In this context, the IRIS-Nepal office initiated a number of business development activities as well. Prominent among these are business consultancy services in various parts of rural Nepal: local IRIS consultants helping small businesses with product development, product identification, and marketing. Some other business development activities undertaken during the last quarter include preparatory work on assistance to various organizations such as the Janakpur Women's Development Center, Women Entrepreneur Association of Nepal (WEAN), and the Small Business Promotion Program.

Negotiations are still underway between IRIS and USAID to conclude a new 20-month contract--to be known as Nepal V--which includes support for policy dialogue, business development, and PDC/BDC committee support activities. The new contract is expected to go into effect on August 1.

IRIS representative Praveen Dixit continues to spend some afternoons at the Ministry of Finance helping co-ordinate Economic Liberalization Program activities and assisting the Government with policy work as requested. During the quarter, he spent a better part of two weeks helping the Ministry prepare the annual Economic Survey and the Budget Ordinance.

Neal Cohen, USAID's Project Officer for IRIS, has left Nepal for another assignment in Kenya. Carol Carolus is to replace Neal starting the second week of July. Our best wishes to both.

2. Progress Report

A. Technical Implementation

Activities Planned for Reporting Quarter	Current Status	Explanations
Review problems on policies and procedure for exports of small business	2	First draft of study discussed. Mentioned in Ordinance Budget.
Review relevance of minimum investment requirements for foreigners	2	First draft of study discussed. Mentioned in Ordinance Budget.
BOT legislation preparation	2	Arrangements being made for IRIS consultant Scott Custer to visit Nepal. Local contractors being identified.
Consumer Protection Act advocacy	3	Planned workshop, in conjunction with Ministry of Supplies, to sort out technical details on the legislation postponed because of dissolution of Parliament.
Contract Law completion	2	Final draft of legislation from Nepal Law Society received in English and Nepali. Sent to IRIS/UoM for expert Paul Mahoney's comments.
Grameen Banks	2	Contracts signed with Center for Self-Help Development (CSD) and Nirdhan to provide 6-8 months of training for various staff and bank clientele.
Assistance to Nepal Stock Exchange	2	IRIS consultant Andrew Haber completed work plan and first draft of report to improve information flow at the Exchange.
Assistance to Securities Exchange Board (SEBNO)	2	TOR being readied for PR support (TV, print). Emphasis is on educating the public about the capital market.
Liaison with Government officials	2	IRIS representative helping communications between USAID and Government agencies as and when needed. Also assisted the Govt. in preparation of annual Economic Survey and Ordinance Budget.

Janakpur Women's Development Project TOR preparation	2	HURDEC proposal to JWDC complete. IRIS team visited Janakpur to give final touches to TOR and explain to JWDC management and Board IRIS's expected role.
Business Consultancy Service, Eastern Nepal	2	IRIS consultants Surendra Shahi visited various parts of Eastern Nepal to help small businesses and Grameen Bank clientele identify, develop, and market products.
Business Consultancy Service, Central and Western Nepal	4	IRIS consultant Reeta Simha visited Makwanpur and Palpa districts to identify, develop, and market regional products. Simha submitted a report on future course of action on business consultancy for the region.
Workshop on Budget	2	Funded a Nepal Intellectuals' Council workshop on the Annual Budget. The Prime Minister, Finance Minister, and others attended. Extensive press coverage.
Newsletter	4	Two newsletters (attached) completed. Newsletter that conducted a poll on policy direction for the budget received front page coverage in Nepal's largest daily newspaper.
Nepal V contract negotiations	2	A new contract, Nepal V, is being negotiated with USAID/Kathmandu which expands IRIS's role to include business activity for micro-enterprises and ELP steering committees support.

Current Status Key:

- (1) Action completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Completion of Contract Law	August 1995	Nepal Law Society
Assistance on information flow at Nepal Stock Exchange	on-going	Andrew Haber
Assistance on Central Depository Service at Nepal Stock Exchange	August 1995	Ravi Peiris
Review foreign investment provision in Industrial Enterprise Act	August 1995	Nepal Society for Applied Economics
Review problems on policies and procedures for exports of small business	August 1995	Development Projects Science Centre
Pursue Build-Operate-Transfer (BOT) legislation	not definite	National Planning Commission and IRIS
Review problems on policies and procedure for exports of small businesses with one window system	September 1995	Ministry of Industry
TOR preparation and contract finalization for assistance to Janakpur Women's Development Project (JWDC), Women Entrepreneur Association of Nepal (WEAN), Small Business Promotion Project (SBPP), and Association of Nepal Cottage and Small Industry (ANCSI)	August 1995	IRIS/Nepal
Project Newsletter	Monthly	IRIS/Nepal
Business Consultancy Service to Eastern Nepal	September 1995	Surendra Shahi
Identification of additional consultants for consultancy and business literacy programs	September 1995	IRIS/Nepal

B. Project Administration

Activities Planned for Reporting Quarter	Current Status	Explanation
ELP Secretariat Support	2	IRIS continuing with business development and Secretariat support on an interim basis
E-mail for staff	1	E-mail installed for professional staff
Hire drivers for IRIS's two new vehicles	1	Laxmi Narayan Dongol and Ram C. Shrestha hired

Activities Planned for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Negotiations on Nepal V	August 1995	USAID and IRIS
Install new phone line and system	August 1995	IRIS/Nepal
Purchase 2 PCs and 2 printers	September 1995	IRIS/Nepal
Purchase air conditioner, fridge, and battery back-up	September 1995	IRIS/Nepal

Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed
- (4) Action canceled

3. Outstanding problems and issues and intended steps toward resolution:

Currently no outstanding problems.

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परियोजना चिनारी

HIGHLIGHTS

A MONTHLY PUBLICATION OF THE ECONOMIC LIBERALIZATION PROJECT / IRIS, NEPAL

वर्ष ३

अंक २

२०५२ आषाढ

[June-July 1995]

आगामी बजेट सम्बन्धमा जनमत सर्वेक्षण

आगामी आर्थिक वर्ष २०५२/५३ को बजेट कस्तो हुनुपर्छ भन्ने जनमत सर्वेक्षणमा विकास तर्फको रकममध्ये सबैभन्दा बढी खर्च कुन कुन क्षेत्रमा राखिनु पर्छ भन्ने हाम्रो सोधाइमा प्राथमिकताको आधारमा (क) कृषि र सिंचाइ (ख) शिक्षा (ग) स्वास्थ्य (घ) सडक यातायात र (ङ) जलविद्युत क्षेत्रलाई तोकेको पाइएको छ। यस्तै उपभोक्ताको दृष्टिकोणबाट मूल्य कुन कुन वस्तुमा सस्तो होस् भन्ने चाहना राख्नुहुन्छ भन्ने अर्को प्रश्नमा प्राथमिकताको आधारमा (क) चामल (ख) दाल (ग) मट्टितेल (घ) दाउरा र (ङ) सुती कपडालाई छानेको पाइएको छ।

निष्कर्ष (Findings)

जनमत सर्वेक्षणको यथार्थ वस्तुस्थिति संलग्न टेबुल (Table) मा प्रतिशतका आधारमा प्रस्तुत छ

जनमत सर्वेक्षण परिणाम (प्रतिशतमा)

विकास तर्फको रकम	उपभोक्ताको दृष्टिकोणबाट
कृषि र सिंचाइ	२०
शिक्षा	२०
स्वास्थ्य	२०
सडक यातायात	२०
जलविद्युत	२०
चामल	२०
दाल	२०
मट्टितेल	२०
दाउरा	२०
सुती कपडा	२०

तापनि आगामी बजेट कस्तो हुनुपर्दछ भनी हामीले उद्योगी व्यवसायी, राजनीतिज्ञ र उपभोक्ता-हरूसँग लिएको जनमत

सर्वेक्षणको मुख्य निष्कर्ष (findings) यस प्रकार छ :

★ मत सर्वेक्षण गरिएका उद्योगी व्यवसायी मध्ये ९० प्रतिशत भन्दा बढी उद्योगी व्यवसायीहरू सम्पत्तिकर, चंगीकर र निकासी सेवा शूलक हटाउनु पर्छ भन्ने पक्षमा पाइएको छ तर करिब ६५ प्रतिशत उपभोक्ता र राजनीतिज्ञहरू पनि यो करहरू पूर्ण रूपमा हटाइनु पर्दछ भन्ने पक्षमा छन्।

★ मूल्य अभिवृद्धि कर (VAT) का सम्बन्धमा उद्योगी व्यवसायी र राजनीतिज्ञ एवं उपभोक्ता बीचको मत विभक्त छ।

आगामी बजेट सम्बन्धी अबधारणा

(दृष्टव्य : आगामी आर्थिक वर्ष २०५२/५३ को बजेट कस्तो हुनुपर्छ। यसका मूलभूत उद्देश्यहरू कस्ता हुने र कुन कुन क्षेत्रलाई बजेटले प्राथमिकता दिने भन्ने जानकारी लिने उद्देश्यले हामीले यस अंकमा पूर्व अर्थमन्त्री डा. प्रकाश चन्द्र लोहनी र पूर्व अर्थराज्यमन्त्री श्री महेश आचार्यसँग लिएको अन्तर्बार्ता प्रकाशित गरका छौं। प्रस्तुत छ-अर्थक्षेत्रमा चर्चित मानिनु हुने श्री लोहनी र श्री आचार्यसँगको अन्तर्बार्ता-सम्पादक)

ग्रामीण क्षेत्रमा साधन पुगेको ठीक छ

-डा. प्रकाशचन्द्र लोहनी

★ वैदेशिक निर्भरतालाई घटाई आन्तरिक राजस्व वृद्धिका लागि करको मौजुदा दर र आधारमा के कस्ता सुधारहरू गर्नु पर्ने ठान्नु हुन्छ ? कृपया किटानगरी बताइदिनुहोस्।

★ नेपालको राष्ट्रिय आयमा श्री ५ को

(बोकी ३ पेजमा)

कर तिर्न सक्ने व्यक्ति पनि करको घेरामा परेका छैनन्

- महेश आचार्य

★ वैदेशिक निर्भरतालाई घटाई आन्तरिक राजस्व वृद्धिका लागि करको मौजुदा दर र आधारमा के कस्ता सुधारहरू गर्नु पर्ने ठान्नु हुन्छ ? कृपया किटानगरी बताइदिनुहोस्।

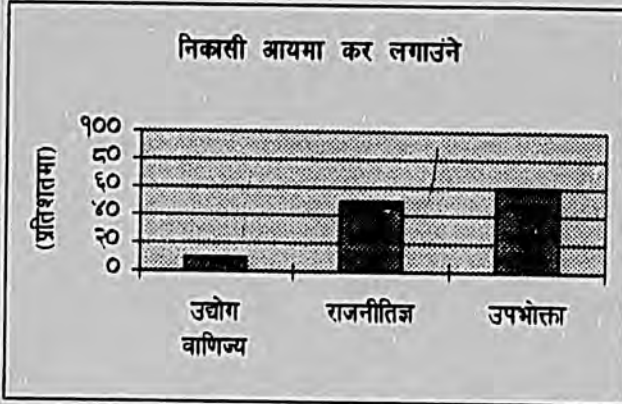
★ अहिले करको परिधिभित्र नआएका

(बोकी ४ पेजमा)

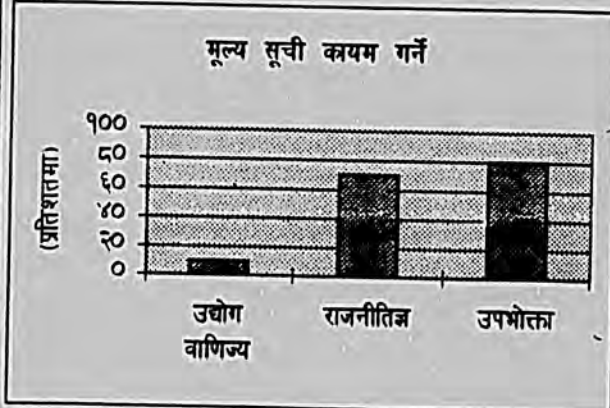


★ केवल २० प्रतिशत उद्योगी व्यापारीहरूले यो कर शुरु गरिनु पर्ने राय दिएका छन्, जबकी ५० प्रतिशत राजनीतिज्ञ र उपभोक्ता यस करको (VAT) पक्षमा पाइएको छ ।

★ निकासीमा आयकर लगाउने बूदा (Issue) मा पनि राय विभक्त पाइएको छ । सर्वेक्षण गरिएका मध्ये केवल १० प्रतिशत उद्योगी व्यापारीहरू मात्र निकासीमा आयकर लगाउनु पछि भन्ने पक्षमा छन् जबकी ५० प्रतिशत भन्दा धेरै उपभोक्ता र राजनीतिज्ञले निकासीमा आयकर लगाउन पर्ने भनी मत दिएका छन् ।



★ मूल्य सूची राख्ने, मूल्य नियन्त्रण गर्ने र उपभोक्ता संरक्षण ऐन लागू गर्ने विषयको पक्ष र विपक्षमा धेरै फरक मत भएको छ । उपरोक्त व्यवस्था लागू गर्नु पछि भन्नेपक्षमा ९० प्रतिशत उपभोक्ताले मत दिएको पाइएको छ भने ९० प्रतिशत उद्योगी व्यापारीहरूले यो व्यवस्थाको विपक्षमा मत दिएका छन् ।



★ पेट्रोलियम पदार्थ र रासायनिक मलको खरीद विक्रीमा श्री ५ को सरकारको नियन्त्रणका सम्बन्धमा उपभोक्ता र उद्योगी व्यापारी बीचको मतमा ठूलो भिन्नता पाइएको छ । मत सर्वेक्षण गरिएका मध्ये ९० प्रतिशत उपभोक्ता नियन्त्रणको पक्षमा छन् भने ९० प्रतिशत उद्योगी व्यापारी नियन्त्रणको विरोधमा छन् । जबकी यसै बूदामा (Issue) राजनीतिज्ञहरूको मत आधा/आधा विभाजित छ ।

★ स्वदेशी उद्योग र उत्पादनलाई संरक्षण दिनुपछि भन्ने पक्षमा धेरै उद्योगी व्यापारी छन् भने उपभोक्ता र राजनीतिज्ञको मत यस विषयमा विभाजित छ । ९० प्रतिशत उद्योगी व्यापारी

जनमत सर्वेक्षण: पृष्ठभूमि

आर्थिक वर्ष २०५२/५३ को पूर्वसन्ध्यामा संसद विघटन भएको छ । अतः आगामी वर्षको बजेट पनि अध्यादेशबाट आउने भएको छ । स्मरणीय छ, चालु आर्थिक वर्ष २०५१/५२ को पहिलो ६ महिनाको बजेट पनि संसद विघटनको कारण श्री ५ बाट तत्काल काम चलाउनु आर्थिक अध्यादेश मार्फत जारी गरिबक्सिएको थियो । पछि २०५१ साल कार्तिक २९ गते प्रथम मध्यावधि निर्वाचन सम्पन्न भई नेकपा (एमाले)को सरकार गठन भएपछि २०५१ साल पौष ११ गते अर्थमन्त्री श्री भरत मोहन अधिकारीले संसदको आठौं अधिवेशनमा चालु आर्थिक वर्षको बजेट पेश गर्नु भएको थियो ।

बजेट अध्यादेशबाट आउनु भएपनि यसवर्ष कस्ता बजेट आउला ? यो प्रश्न र यसमा सर्वसाधारण उपभोक्ता, राजनीतिज्ञ, उद्योगी/व्यापारीहरू एवं उद्योगी व्यापारीहरू बीच चलेको छ । दोस्रो मध्यावधि निर्वाचनको साथै केहि दिवसभित्र नै पेश हुने बजेटको बचाओ आफ्नो ठाउँमा प्रमद छ । तामात्र बजेट कस्ता हुनुपर्दछ भन्ने विषयलाई लिएर हामीले यस पटक जनमत सर्वेक्षण गरेका छौं । यस सर्वेक्षणको उद्देश्य निम्न रहेको छ ।

(क) आउने बजेटमा कस्ता कस्ता व्यवस्था हास भन्ने जनता चाहन्छन् ?

(ख) बजेट सन्ध्यामा विभिन्न किसिमको कस्ता धारणा छ ?

(ग) छोटो अवधिको अवधिमा कुनै किसिमको सामोला सामोला हुने किसिमको कस्ता कस्ता धारणा छ ?

(घ) बजेट सन्ध्यामा विभिन्न किसिमको कस्ता धारणा छ ?

(ङ) उपभोक्ता वर्ग २०

(च) राजनीतिज्ञ वर्ग २०

(छ) उद्योगी/व्यापारी वर्ग २०

(ज) निसर्गत उपभोक्ता वर्ग २०

(झ) उद्योगी वर्ग २०

(ञ) उद्योगी वर्ग २०

(ट) उद्योगी वर्ग २०

(ठ) उद्योगी वर्ग २०

(ड) उद्योगी वर्ग २०

(ण) उद्योगी वर्ग २०

(त) उद्योगी वर्ग २०

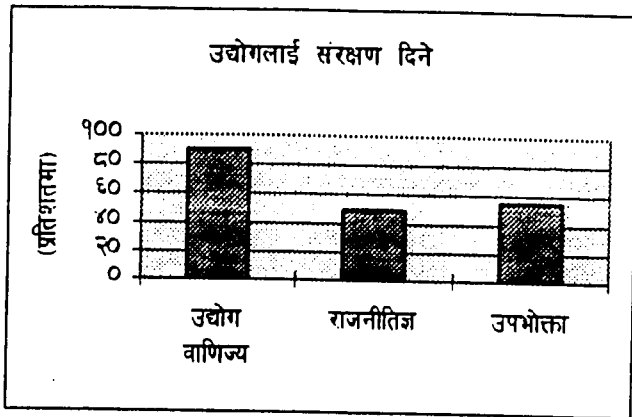
(थ) उद्योगी वर्ग २०

(द) उद्योगी वर्ग २०

(ध) उद्योगी वर्ग २०

(न) उद्योगी वर्ग २०

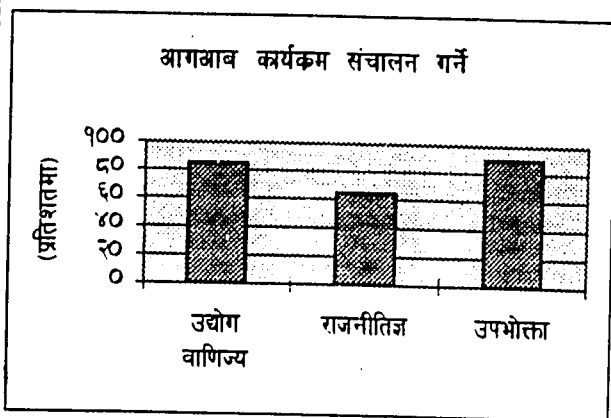
संरक्षणको पक्षमा पाइएको छ भने ५० प्रतिशत मात्र उपभोक्ता र राजनीतिज्ञहरू संरक्षणको पक्षमा छन् ।



★ जनमत सर्वेक्षण गरिएकाहरूमध्ये ५० प्रतिशत भन्दा बढी व्यक्तिहरूले आयातमा परिमाणान्तरक बन्देज लगाउनु पर्ने धारणा व्यक्त गरेका छन् । जसमध्ये ७० प्रतिशत उद्योगीहरू यसको पक्षमा पाइएका छन् ।

★ आवश्यक उपभोग्य वस्तुहरू नून र रासायनिक मल आदिमा सरकारबाट दिइ आएको अनुदान (Subsidy) कायमै राखिनु पर्दछ भन्ने आम सहमति तीनवटै पक्षका बीच पाइएको छ । यस प्रकारको अनुदान कार्यक्रमलाई ६० प्रतिशत भन्दा बढी व्यक्तिहरूले समर्थन गरेका छन् ।

★ विकासको केन्द्र विन्दु गाउँलाई बनाउनु पर्छ भन्नेमा तीनवटै पक्षको सहमति छ र आफ्नो गाउँ आफै बनाउ कार्यक्रम सन्चालन गर्नुपर्छ भन्ने पक्षमा केवल ६५ प्रतिशत राजनीतिज्ञको समर्थन छ भने ८५ प्रतिशत उद्योगी व्यापारी र ९० प्रतिशत उपभोक्ताहरू यस कार्यक्रमप्रति सहमत छन् ।



★ प्रार्थमिकता प्राप्त क्षेत्र अन्तर्गतको ऋणको व्याजमा सहूलियत दिइने हालको कार्यक्रम यथावत नै कायम गरिनु पर्दछ भन्ने मत अधिकांश व्यक्तिहरूको पाइएको छ । सर्वेक्षण गरिएका व्यक्तिहरू मध्येमा ७० प्रतिशत उद्योगी व्यापारीहरूले यस कार्यक्रमको समर्थन गरेका छन् भने ५० प्रतिशत मात्र राजनीतिज्ञको यस कार्यक्रममा समर्थन छ ।

★ वृद्धहरूको जीवन सुरक्षाका सम्बन्धमा व्यापक समर्थन भएको र ६० प्रतिशत भन्दा बढी व्यक्तिहरूले यस कार्यक्रमलाई निरन्तरता दिनु पर्ने राय पेश गरेका छन् ।

अन्तर्र्वार्ता

ग्रामीण क्षेत्रमा साधन पुगेको ठीक छ

सरकारको आन्तरिक राजस्वको अंश करीव दश प्रतिशत छ । विगत केही वर्षदेखि यो शेयर लगभग यथावतै छ । यो अंश त्यति बढ्न सकेको छैन । वैदेशिक निभरता घटाउने हो भने निश्चित रूपले कूल राष्ट्रिय आयमा राजस्वको प्रतिशत बढ्दै जानुपर्छ । राजस्वमा अंशको प्रतिशत १० को सट्टा कमसेकम हामीले १७-१८ प्रतिशतसम्म पुऱ्याउन सक्थौं भने त्यही अनुपातमा हाम्रो वैदेशिक सहायताको आवश्यकता पनि घटेर जान्छ । यसलाई कसरी बढाएर लैजाने भन्ने सावलमा मुख्यतः राजस्व संकलनका करका दरहरूलाई सकेसम्म फराकिलो पारेर लैजानु पर्छ । करका दरहरू पनि धेरै राख्नुको सट्टा धेरै दरहरू राखेर सरलीकरण गरेर लैजानुपर्छ । साथै प्रशासनिक क्षेत्रमा पनि सुधार गरेर लैजान सक्नुपर्छ । प्रशासनले पनि छिटो, छरितो र चनाखो भएर काम गर्दै जान सक्नुपर्छ । त्यसैले प्रशासनिक दक्षताकोकुरा आफ्नो ठाउँमा छ भने करका दरलाई फराकिलो पारेर लैजाने र करका दरहरूलाई सरलीकरण गरेर लैजाने काम राम्रो होला जस्तो लाग्छ । अहिलेसम्म हाम्रो राजस्वको धेरै अंश व्यापारवाट आइरहेको छ । करका दरहरूमा पनि सुधार गर्नु पर्ने आवश्यकता छ । धेरै करका दरहरू नराखेर बरू थोरै दर राखेर करको राजस्वमा कस्तो प्रभाव पर्छ भन्ने कुरा अनुमान गरेर करका दरहरूलाई सरलीकरण गरेर लैजानु पर्छ । साथै दरहरूलाई पनि धेरै बढी राखेर मात्र आय बढ्ने नहुनाले विस्तारै विस्तारै दरहरूलाई पनि घटाएर लैजानुपर्छ ।

★ देशको वर्तमान अर्थतन्त्रको खर्च गर्ने क्षमताको वृद्धि गरी विकास खर्च बढाउनका लागि नेपालमा आवश्यक पर्ने प्राथमिक क्षेत्रहरू औल्याई दिनु हुन्छ कि ?

★ श्री ५ को सरकारले विकास खर्चका लागि जे जति साधन वटुलेको छ त्यो खर्च गर्न सकिरहेको छैन । खर्च गरेको पनि राम्रोसग खर्च गर्न सकिरहेको छैन । गरेको खर्चको उत्पादकत्व जुन अनुपातमा हुनुपर्थ्यो त्यो अनुपातमा हुन सकेको छैन । धेरै खर्च गरेर त्यसको उत्पादकत्व पनि कम भयो भने त्यसको प्रतिफल कम हुन्छ । अर्थात् खर्चको मात्रा तथा उत्पादकत्व पनि एक अर्कासग सम्बन्धित छन् । नेपालमा विकासका लागि खर्च गरिएको रकम पनि उत्पादनशील ढंगले खर्च हुन सकिरहेको छैन । अझ गएको वर्षमा यो विकास खर्च त्यति भएको छैन । खर्च गर्ने क्षमता बढाउनका लागि आर्थिक सुधार गर्न बढो लगनशील भएर, लक्ष्य प्रतिको प्रतिबद्धता र इमान्दीका साथ अर्घ बढ्दा पनि वर्षौं वर्ष लाग्ने कुरा हो । त्यसैले तुरुन्तको तुरुन्तै कसैले विकास खर्चलाई वृद्धि गर्न सक्छ भन्ने कुरा छैन । त्यसको लागि नेपालमा प्रयास पनि भएका हुन् । तर त्यति हुँदा पनि खर्च गर्ने क्षमता हाम्रो प्रशासनको बढेर गएको छैन ।

प्रार्थमिकता क्षेत्र भन्नाले हामीले नेपालमा कसको लागि विकास गर्न लागेको भन्ने कुरा नै मुख्य हो । हामीले विकास गर्न लागेको पनि नेपाली जनतामा जो सबैभन्दा विपन्न छन्, जो सबैभन्दा पिछ्छिएका छन्, जो सबैभन्दा गरीब छन् तिनीहरूलाई सबैभन्दा पहिले हामीले उन्नतिका अवधारणा, साधन र संभावनाहरू पुऱ्याउन सक्नुपर्छ । ती मान्छेहरू जो पहाड, नराइंमा बसेका छन्, यातायातका साधनले जोडिएका छैनन्, अहिलेसम्म पिछ्छिएका छन् । विभिन्न किसिमका सामाजिक करीति र शोषण इत्यादिले र्दिएर वसेका मानिसहरूको आत्मविश्वास जगेना गर्नका लागि हामीहरू मिलेर सामूहिक रूपमा काम गर्न सक्छौं । यस मानेमा विकासको प्रार्थमिकताको क्षेत्र भनेको अहिले मानिसको लागि शिक्षा र स्वास्थ्य नै हो । व्यापक रूपमा शिक्षालाई बाँध्न गराउने, महिलाहरूलाई बढी शिक्षित गराउने, महिलाहरूलाई केन्द्रीत गरेर उच्च शिक्षामा बढी जोड दिने काम

गर्नुपर्दछ। साथै प्राथमिक स्वास्थ्यलाई ठाउँ ठाउँमा पुऱ्याउने, खानेपानी ठाउँ ठाउँमा पुऱ्याउने र सानोतिनो सिंचाइको लागि कूलो ठाउँ ठाउँमा पुऱ्याउने काम गर्नुपर्दछ। यी सम्पूर्ण काम श्री ५ को सरकारले गर्ने होइन। श्री ५ को सरकारले त साधन पुऱ्याइदिने तर काम गर्ने र साधनको रक्खवारी गर्ने जिम्मेवारी सम्बन्धित ठाउँका मानिसहरूबाटै पूरा गरउनुपर्छ। हामीले उनीहरूको संगठनात्मक शक्ति-क्षमता र अनुशासनलाई विकसित गर्न सक्यौं भने त्यो क्षेत्रमा लगेर खर्च गरेको पैसाको पनि सदुपयोग हुन्छ। त्यसैले प्राथमिक क्षेत्रको केन्द्रविन्दु मानव विकास (Human Development) हुनुपर्छ। यसो भयो भने मान्छेको सिर्जनात्मक शक्ति आर्थिक क्रियाकलापतिर पनि उन्मुख हुन थाल्छ र त्यसले उन्नति पनि गराउँछ।

१३७ विकासको धालनी तलबाट माथि हुनुपर्दछ भन्ने सन्दर्भमा आफ्नो गाउँ आफै बनाऔं कार्यक्रमप्रति यहाँको कस्तो अवधारणा छ? क्षेत्रीय असन्तुलन कम गर्ने दिशामा आगामी बजेटमा यस कार्यक्रममा बजेट विनियोजन गर्नेबारे यहाँको के राय छ?

१३८ गाउँलाई विकास गर्नुपर्छ भन्ने धारणा पहिलेदेखि नै आइरहेको हो। एकीकृत ग्रामीण विकास कार्यक्रम भनेर पहिले आएको थियो। त्यसपछि साना क्षेत्रका विकास कार्यक्रम भनेर आयो। जनसहभागिता कार्यक्रम भनेर फेरि आयो। ग्रामीण क्षेत्रको विकास भन्नाले ग्रामीण क्षेत्रका मानिसलाई संगठित गरेर ग्रामीण क्षेत्रमा विकासको वातावरण ल्याउनुपर्छ र त्यो क्रममा सम्बन्धित ठाउँमा श्रोत र साधन पनि पुऱ्याउनु पर्छ भन्ने धारणा हो। यो कार्यक्रम केही हदसम्म पहिले सफल पनि भएको थियो तर पछि त्यसलाई जुन रूपमा लैजानुपर्ने थियो त्यो रूपमा लान नसक्दा त्यो कार्यक्रम एउटा नियमित कार्यक्रमबाट "ब्यूरोक्रेटिक" कार्यक्रमको रूपमा परिणत भयो। त्यस्तै महिला विकास कार्यक्रम पनि आएको हो।

पहिले जिल्लाबाट गाउँमा रकम जान्थ्यो भने प्रत्यक्षतः गाउँमा रकम दिने भन्ने अवधारणा पनि जनआन्दोलन पछि आयो। त्यस क्रममा दुई-तीन वर्ष अघि बजेट आउंदा हरेक गाउँलाई दशहजार रुपैयाँ बजेट दिने भनियो। त्यसपछि हरेक गाउँलाई पचास हजार रकम दिने भनेर बजेट आयो। अहिले हरेक गाउँलाई रु. २,५०,००० हजार थप रकम दिने भनेर बजेट आएको छ। यसरी ग्रामीण क्षेत्रमा साधन प्रयत्न रूपले दिने प्रक्रिया आफ्नो ठाउँमा ठीकै छ। तर हामीले त्यो रकम सदुपयोग होस् र त्यसको माध्यमबाट जनताको अझ शक्तिलाई बढुल्ने एउटा वातावरण बनास भन्ने कुरालाई हेर्नुपर्छ। त्यो दुई-तीन लाखको रकमले २० लाखको काम गरौंस् अर्थात् गाउँमा उत्साहको वातावरण आउन सकोस् भन्नाको लागि प्राविधिक सहयोग पनि र अरु खालको व्यवस्थापकीय सहयोग पनि राज्यले उपलब्ध गराउंदै गयो भने यो प्रक्रियाबाट हामी केही अगाडि बढ्न सक्छौं। त्यस्तै, भविष्यमा गएर गाउँलाई उपलब्ध गराइएको रकमलाई जनसंख्याको आधारमा पनि घटवढ गर्ने कि, क्षेत्रको धारामा पनि दुर्गम क्षेत्रलाई अलि बढी रकम दिने कि अर्थात् जनसंख्या, दुर्गम क्षेत्र, आदि सबै कुरालाई विचार गरेर जाने र त्यसको साथ साथै जहाँ ग्रामीण जनताले अलिक बढी साहस देखाउँछन् र अझै लगानी पनि गर्छन भने त्यो गाउँलाई राज्यले अझ प्रोत्साहित गर्ने कि भन्ने बारे पनि सोच्नुपर्छ। राज्यले माथिबाट दिने मात्र होइन कि तलबाट आयो भने राज्यले माथिबाट अझ दिएर बढी उत्साही बनाउने कि भन्ने धेरै संभावनाहरूलाई हामीले भविष्यमा विचार गरेर अघि बढनुपर्छ।

१३९ व्यापार घाटा तथा बजेट घाटा कम गर्दै रोजगार तथा आय परिचालन गर्न आगामी बजेटमा के कस्ता मौद्रिक एवं वित्तीय उपायहरू हुन सक्छन्?

१४० नेपालको सन्दर्भमा सबैभन्दा ठूलो मात्रामा भारतसंग व्यापार घाटा बढेर गैरहेको छ। हाम्रो व्यापार सन्तुलन हाम्रो अनुकूल नरहे पनि बाहिरबाट प्राप्त हुने विदेशी मुद्रा, रेमिटेन्स र विदेशी सहयोगले गर्दा हामीसंग

विदेशी मुद्राका संचित छ। तर व्यापार घाटा भारतसंग जुन किसिमले बढेर गैरहेको छ त्यसको बारेमा हामीले सोच्नुपर्ने कुरा के छ भने भारतले सुविधा विन्दु भनेको छ, तैपनि व्यापार घाटा किन बढेर गैरहेको छ? वास्तवमा यी सुविधाहरू सुविधा हुन कि होइनन्? नेपालीहरूले उत्पादनै गर्न नसकेर व्यापार घाटा बढेको हो कि? उत्पादनै गर्न नचाहेर बढेको हो कि? यी प्रश्नहरूको बारेमा विचार गर्नु पर्ने बेला आइसकेको छ। किनभने मौका पायो भने उत्पादन हुंदो रहेछ भन्ने कुरा कार्पेट र गार्मेण्टले पनि देखाइसकेको छ। जर्मनीको बजारमा नेपाली कार्पेटले जाने मौका र खुलापन पायो र त्यहाँ जान सभव भयो। त्यसैले वास्तविक रूपमा भारत र नेपाली बीच जुन सन्धि भएको छ। के त्यसले भारतीय बजार नेपालको लागि खुल्ला गरेको छ? त्यो खुलापनमा के के व्यवधानहरू छन्? यदि यो खुलापन वास्तवमा छैन भने अहिले उदार (Liberalised) व्यापारिक नीति भारतले संसारभर लिएकोले नेपालले पनि पुरानो कुरालाई छोडेर यो नयाँ प्रणाली मै गए नेपाललाई के हानि हुन्छ त?

हाम्रो जस्तो देशमा आवश्यकताहरू बढी हुन्छन्। बढीभन्दा बढी गाउँमा लगानी गरौं र लगानी बढाऔं भन्ने हाम्रो धारणा हुन्छ। त्यसको लागि रकमको आवश्यकता पर्छ। त्यो रकम र साधन जुटाउनका लागि कि त हामीले आफ्नो आन्तरिक साधन बढाउनु पर्‍यो। कि बजेट घाटा बढाउनु पर्‍यो अथवा खर्चै कम गर्नुपर्‍यो। यी विकल्पहरू छनौट गर्दा यदि बजेट घाटालाई पनि नेपालमा एउटा सीमाभन्दा बढाएर लगियो भने त्यसको असर व्यापार घाटामा देखिन्छ, केही हदसम्म मूल्यमा पनि देखिन्छ। यसर्थ बजेट घाटा कम गर्नका लागि हामीले आन्तरिक श्रोत साधन नै बढाएर लैजानुपर्छ। जुन तहमा हामीले आन्तरिक श्रोत साधन बढाएका छौं त्यो तहलाई हेरेर हाम्रो खर्च गर्ने आंकाशलाई पनि त्यो तहसित जोड्न सक्नुपर्छ र बजेट घाटालाई एउटा निश्चित सीमाभन्दा माथि जान दिन हुन्न भन्ने दृढता श्री ५ को सरकारले राखेर जानुपर्छ।

आर्थिक उदारवादको उदारीकरणमा अहिलेको सरकारको के उदारीकरण हो त्यो मलाई थाहा छैन। आर्थिक उदारीकरणले गर्दा थोरैलाई मात्र फाइदा हुन्छ धेरैलाई हुँदैन भन्ने धारणा पनि मान्छेको छ। त्यो वास्तवमा गलत धारणा हो। आर्थिक उदारीकरण भन्दा यसले समाजको विपन्न वर्गप्रति, समाजका कमजोर वर्गप्रति श्री ५ को सरकारको आफ्नो दायित्व र जिम्मेवारीलाई कम गर्दैन। राज्यले हस्तक्षेप गर्ने कुरालाई उदारीकरणले कम गर्दैन। तर त्यो हस्तक्षेप गर्ने दिशा, त्यसको गुण र प्रकृतिमा चाहिँ परिवर्तन आउँछ। जस्तो, बजार नभइकन त कुनै पनि प्रणाली चल्दैन। रुसमा त्यत्रो कमाण्ड अर्थतन्त्र थियो तर त्यहाँ पनि बजार थियो, किनभने गर्ने ठाउँ पनि थियो। त्यस्तै पूँजीवादी राष्ट्रहरूमा पनि बजार हुन्छ तर त्यो बजारलाई हामी कुन रूपमा प्रयोग गर्छौं भन्नेकुरा हाम्रो निर्णय हो। बजारलाई साधनहरू बाँडफाँड गर्नका लागि मात्र प्रयोग गरेर प्रतिस्पर्धात्मक रूपमा बजार मूच्यदेखि लिएर के उत्पादन गर्ने कसरी उत्पादन गर्ने भन्ने संकेत दिने काममा पनि बजारलाई प्रयोग गर्नु पर्छ कि! अर्थात् यी कामहरूमा बजारलाई प्रयोग नै नगर्ने नीति हामी लिन्छौं कि! यसले त्यो बजारको आर्थिक प्रभावकारिता र उत्पादन वृद्धिमा के भूमिका रहन्छ भन्ने कुराको निर्णय गर्छ। त्यसै बजार आफैमा खराब पनि होइन, असल पनि होइन। त्यो त बजारलाई हामी कसरी प्रयोग गर्छौं त्यसमा निर्भर गर्छ। राज्यको हस्तक्षेपलाई पनि म खराब भन्ने पक्षमा पनि छैन र असल भन्ने पक्षमा पनि छैन।

१४१ आर्थिक उदारीकरणको दृष्टिले गरीबी निवारणमा कस्ता कार्यक्रमहरू बजेटमा समावेश हुनु उपयुक्त ठान्नुहुन्छ?

१४२ अहिलेको आर्थिक उदारीकरणको सन्दर्भमा विपन्न वर्गको हातमा बजारको अर्थतन्त्रले स्रोत, साधन पुऱ्याउन सकेको हुँदैन तर राज्यको

हस्तक्षेपलाई हामीले विपन्न वर्गका मान्छेको प्रतिस्पर्धात्मक क्षमता र आकांक्षामा वृद्धि गराउने हिसावले प्रयोग गर्न सक्नुपर्छ। जस्तो :- शिक्षाको क्षेत्रमा देखा परेका निजी बोर्डिङ स्कूलहरू तुलनात्मक रूपमा सरकारी स्कूलभन्दा राम्रा छन्। यसले गर्दा शिक्षाको क्षेत्रमा पनि एउटा ठूलो खाडल देखा पर्न थालिसक्यो। अब राज्यले आफ्ना साधनहरूलाई शिक्षामा व्यापक रूपले लगाउनु पर्‍यो। अर्को कुरा जहाँ ती निजी बोर्डिङ स्कूलहरू जान सक्दैनन्, जहाँ मान्छे लागत तिर्न सक्दैनन् त्यो ठाउँमा साधन लिएर सरकारले तिनीहरूको स्तर माथि उठाइदिनु पर्छ। जसले गर्दा बजार अर्थतन्त्रको कारणबाट हुन सक्ने खाडलहरू बढेर नजाओस्। उदारीकरणमा बढी जोड दिएपछि निजी क्षेत्रले समाजमा वाह्य लागत बढाउँछ र त्यसमा निजी क्षेत्रले वास्ता गर्दैन। एउटा टेम्पोवाला ले धुँवा फालेर हिड्छ। उसको निजी लाभ भनेको भाडा मात्र हो। तर उसले आफ्नो निजी लाभको लागि समाजमा प्रदूषणको सामाजिक लागत थोपरिरहेको हुन्छ। त्यो प्रदूषणको लागि उसले केही पनि वास्तु गर्दैन। त्यो प्रदूषण त समाजमा बस्ने व्यक्तिले व्योहर्नु पर्ने हुन्छ। यसको मतलब राज्यले नै टेम्पो चलाउने होइन। तर नियमहरू बनाउनु पर्‍यो र लागू गर्नुपर्‍यो, जसले गर्दा निजी क्षेत्रले समाजमा प्रदूषण कम गरिस् र प्रदूषण गर्‍यो भने पनि त्यसको लागत उसले व्योहर्नु परोस्। यस्तो किसिमका नियमहरू बनाउने र शर्तक भएर अनुगमन गर्ने काम त राज्यको पहिलेभन्दा फन बढेर जानुपर्छ।

गरिवी निवारणको सन्दर्भमा तल्लो वर्गको प्रतिस्पर्धात्मक क्षमता उठाउनका लागि र त्यसलाई संगठित तरीकाले माथि उठाउनका लागि राज्यको साधनहरू त्यतापट्टि परिचालन गर्नुपर्छ। राज्यको साधनहरू शिक्षामा जानु पर्‍यो, स्वास्थ्यमा जानु पर्‍यो, ग्रामीण उद्योगहरूमा जानु पर्‍यो। त्यो पनि सरकारले चलाउने होइन जनतालाई उत्साहित गरेर जानु पर्‍यो। तल्ला वर्गका मान्छेको सांघटनिक क्षमता, आर्थिक क्षमता बढाउनका लागि चाहिने विभिन्न साधनहरू पुऱ्याउनका लागि राज्यले प्रमुख भूमिका खेल्नुपर्छ। यसको अर्थ उदारीकरणको सन्दर्भमा गरिवी निवारण गर्ने र आधारभूत आवश्यकताहरू पूर्ति गर्ने क्रममा राज्यको फन बढी भूमिका हुन्छ। लाइसेन्स दिने, उद्योग खोल्ने र कर्पोरेशन खोल्ने काममा बढी व्यस्त हुनुको सट्टा तल्लो वर्गको मान्छेलाई शिक्षा दिने, स्वास्थ्य सुविधा पुऱ्याउने, उनीहरूलाई संगठन गर्ने, कला सिकाउने र उनीहरूको पहुँचभित्र साधन पुऱ्याउने काम राज्यले बढी गर्न पर्ने हुन्छ। जुन काम पहिले थिएन। पहिले सरकारले कर्पोरेशनहरू खोल्ने, श्री ५ को सरकार आफैले फ्याक्ट्री चलाउने, उत्पादन गर्ने काममा बढी जोड दिइन्थ्यो।

करतिर्न सक्ने व्यक्ति पनि करको घेरामा.....

मानिसहरूको धेरै ठूलो संख्या छ। कर तिर्ने सामर्थ्य भएका मानिसहरू पनि करको परिधिभित्र आइसकेका छैनन्। त्यसैले उनीहरूलाई करको परिधिभित्र ल्याउन करको उच्च दरहरू राख्नुको सट्टा बरू करको कम दरहरू राखेर घेर मानिसहरूलाई करको परिधिभित्र ल्याउने बाटोमा आगामी बजेट जानुपर्छ। त्यस बाहेक सरकारको राजस्व प्रशासनलाई अफ चुस्त र प्रशासनिक रूपले बढी सक्षम बनाउन तालीमको व्यवस्था गर्ने र अरु उपकरणको समेत व्यवस्था गरेर कर प्रशासनलाई सुदृढ गर्नुपर्छ। त्यसबाहेक नेकाको सरकारको पालामा हामीले मूल्य अभिवृद्धि करको बाटो रोजेका थियौं। जुन मूल्य अभिवृद्धि कर सम्पूर्ण आर्थिक गतिविधि, उद्योगपति व्यापारी तथा कर तिर्ने सामर्थ्य भएका व्यक्तिहरूको गतिविधि कर प्रशासनको परिधिभित्र आउन सक्थ्यो। त्यसैले मूल्य अभिवृद्धि कर जस्तो कर लगाएर करका दरहरूलाई कम राख्दै धेरैभन्दा धेरै मानिसहरूलाई करको परिधिभित्र ल्याउनु पर्छ। कुनै पनि सरकारले राजस्व वृद्धि गर्नका लागि लिनुपर्ने बाटो

यही हो। त्यसबाहेक आर्थिक गतिविधि अर्थात् उद्योग धन्दा, कलकारखाना आदिको जति विस्तार र विकास हुन्छ त्यति नै करको दायरा स्वतः बढ्दै जान्छ। त्यस्तै हामीले आन्तरिक राजस्वलाई परिचालन गर्न सक्थौं भने बैदेशिक सहायतामा निर्भरता क्रमशः घट्दै जाने प्रष्ट नै छ।

देशको वर्तमान अर्थतन्त्रको खर्च गर्ने क्षमताको वृद्धि गरी विकास खर्च बढाउनका लागि नेपालमा आवश्यक पर्ने प्राथमिक क्षेत्रहरू औऱ्याई दिनु हुन्छ कि ?

सरकारको खर्च गर्ने क्षमता वृद्धि गर्नका लागि प्रथमतः प्रशासन यन्त्रमा सुधार हुनु अपरिहार्य कुरा हो। दोस्रो, कुरा अहिले पनि नीति, नियम तथा कानूनहरूले तल्लो निकायका अधिकारीहरूलाई अधिकार प्रत्यायोजन गर्न सकेको अवस्था विद्यमान छ। नेपाली कांग्रेसको सरकारका पालामा आर्थिक नियमहरूमा परिवर्तन गर्‍यो, संशोधनहरू गर्‍यो र प्रोजेक्ट म्यानेजरहरूलाई बढ्ता अधिकार प्रत्यायोजित गर्‍यो। यो पनि खर्च वृद्धि गर्नका लागि एउटा तरिका हो। त्यसबाहेक तेस्रो कुरा के हो भने अनुगमनका लागि देशमा एउटा राम्रो प्रणाली हुनुपर्छ। प्रधानमन्त्रीको अध्यक्षतामा पनि राष्ट्रिय योजना आयोगमा चौमीसक बैठक गरेर विकास आयोजनाहरूमा देखापरेका समस्याहरूलाई पहिल्याएर निराकरण गर्ने बाटो हामीले अपनायौं। प्रशासनिक प्रकृयामा सुधार, अनुगमनको प्रभावकारी प्रणाली र विकास आयोजनाहरूको राम्रो छनौट गर्न सक्थौं भने सरकारको खर्च गर्न सक्ने क्षमतामा वृद्धि हुन्छ। अहिले हामीले विदेशी सहायतामा संचालन हुने आयोजनाहरूमा खर्च गर्न नसकेर समस्या भोगिरहेका छौं। त्यसको मूल कारण के हो भने विदेशी सहायतामा संचालित आयोजनाहरूको जुन स्थानीय खर्च छ त्यो बेहोर्नका निमित्त पनि बजेटको सीमितता भएको कारणले ठूल ठूला विदेशी सहायताका योजनाहरू समयमै सम्पन्न हुँदैनन्। त्यसैले हामीले आन्तरिक राजस्वमा पनि वृद्धि गर्दै गर्थौं र सम्पूर्ण विकास आयोजनाहरूलाई प्राथमिकताका साथ संचालन गर्न सक्थौं र प्राथमिकता तोकेर पूरक बजेटहरू बनाएर त्यसका निमित्त थपेष्ट स्थानीय खर्च सरकारले व्यहोर्ने बजेट हामीले निकासा गर्न सक्थौं भने पनि समयमै विकास खर्चहरू हुन्छन् र सरकारको खर्च गर्न सक्ने क्षमतामा वृद्धि हुन्छ।

विकासको धालनी तलबाट माथि हुनुपर्दछ भन्ने सन्दर्भमा आफ्नो गाउँ आफै बनाऔं कार्यक्रमप्रति यहाँको कस्तो अबधारणा छ ? क्षेत्रीय असन्तुलन कम गर्ने दिशामा आगामी बजेटमा यस कार्यक्रममा बजेट विनियोजन गर्नेबारे यहाँको के राय छ ?

वस्तुतः अहिलेको एमालेको सरकारले जतिसुकै गाउँको विकासका निमित्त ठूल-ठूला कार्य गरेका छौं भन्ने दावी गरेतापनि नेपाली कांग्रेसको सरकारले तयार पारेको ढाँचा-र संरचनामै यो कार्य एमालेले गरिरहेको छ। ग्रामीण विकासका लागि नेपाली कांग्रेसको सरकारले लगानीको ढाँचालाई परिवर्तन गर्‍यो। अहिले पनि त्यो परिस्थितिबाट देश मुक्त छैन। २०४८ साल देखिकै हेर्ने हो भने त्यतिबेलादेखि नै हामीले एकमुष्ट रकम गाउँ विकास समितिको कुनै न कुनै समस्या निदान होस् भनेर दश हजार रुपैयाँ सीधै गाउँ विकास समितिमा जाने प्रावधान हामीले नै प्रारम्भ गरेको हो। त्यस्तै, ग्रामीण पूर्वाधार कार्यक्रम भनेर हामीले ठूलो रकम ग्रामीण पूर्वाधार कार्यक्रममा राखेका थियौं। र, ग्रामीण जनताको सहभागीतामा विकास कार्यलाई अगि बढाउनु पर्छ भन्ने मान्यतामा हामीले ग्रामीण सिंचाईका कार्यक्रमहरूमा, बाटोघाटोका कार्यक्रमहरूमा, पिउने पानीका कार्यक्रमहरूमा उपभोक्ता समिति गठन गरेर आयोजनाको छनौट गर्ने र पछिसम्म पनि सहभागिता जुटाउने पद्धतिको विकास हामीले गरेका थियौं। एमाले

कर तिर्न.....

सरकारले अहिले त्यही परम्परालाई नै चालू राखेको छ। नेपाली कांग्रेसको सरकारले रु ५०,००० गाउँलाई दिएकोमा धेरै रकम दिए भन्ने कुरा एमालेले राजनैतिक प्रतिस्पर्धामा उछिन्नका लागि मात्र गरेको हो। वास्तवमा धेरै रकम दिएर पनि खर्च गर्ने पद्धतिमा चाहिँ गाउँ विकास समिति तथा निर्वाचित पदाधिकारीहरूको भूमिकालाई कमजोर पार्ने प्रयत्न पनि भैरहेको छ। त्यसैले अन्ततः यो परिपाटीले चुनिएका निकायहरूको शक्तिलाई कमजोर बनाउने काम गर्छ। तर मूल समस्या ग्रामीण क्षेत्रमा लगानी बढ्ता गर्ने कुरा हो। त्यसको निम्ति सामाजिक सेवाको क्षेत्रमा, ग्रामीण पूर्वाधारको विकासको कार्यक्रममा बढ्ता लगानी गर्दै जानुपर्छ र गाउँमा आय र रोजगारीका अवसरहरू बृद्धि गर्नुपर्छ। क्षेत्रीय असन्तुलन कम गर्नका निम्ति पनि सरकारले चेतनशील भएर पछाडि परेका क्षेत्रहरूमा लगानी गर्नुपर्ने कुरामा कुनै विवाद छैन। तर यो सरकारले दूभाग्यवश कतिपय आयोजनाहरूलाई कटौती गरेको देखिन्छ। कतिपय आयोजनाहरू जस्तो विद्युत उत्पादन गर्ने आयोजनाहरूमा सुदुर पश्चिमाञ्चल क्षेत्र अन्तर्गत पश्चिमी सेतीमा अप्टेलियनहरूसँग सम्झौता गरी निजी क्षेत्रलाई ल्याउनका लागि पनि नेकाको सरकारका पालामा कार्य प्रारम्भ गरिएको हो। यसबाहेक अरु पनि पछाडि परेका क्षेत्रहरूको विकासका निम्ति दुर्गम क्षेत्रहरूमा कांग्रेसको सरकारका पालामा बढीभन्दा बढी रकम लगानी भएका छन्। त्यसैले क्षेत्रीय असन्तुलन घटाउनका निम्ति सरकारले चेतनशील भएर यस्ता आयोजनाहरूमा लगानी प्रवर्द्धन गर्नुपर्छ र ग्रामीण क्षेत्रमा सामाजिक सेवा र ग्रामीण पूर्वाधारको विकासका लागि लगानी बढाउनु पर्छ भन्ने हाम्रो धारणा छ।

❖ व्यापार घाटा तथा बजेट घाटा कम गर्दै रोजगारी तथा आय परिचालन गर्न आगामी बजेटमा के कस्ता मौद्रिक एवं वित्तीय उपायहरू हुन सक्छन् ?

❖ व्यापार घाटा र बजेट घाटालाई कम गर्नका निम्ति हामीले वृहत् आर्थिक स्थायित्वमा ध्यान दिनुपर्छ। बजेट घाटा कम गर्नु भनेको विकास खर्चमा पनि प्राथमिकता तोकेर र निर्धारण गरेर मात्र विकास आयोजनाहरूलाई छनौट गर्ने कार्य अगि बढाउनु पर्छ। सरकारले धान्न नसक्ने गरी खर्च विस्तारित गर्दै गयो भने बजेट घाटा जहिले पनि बढिरहेको हुन्छ। त्यसैले विकास खर्चलाई पनि साधन र श्रोतले धान्न सक्ने हदसम्म मात्र बढाउनु पर्छ। धेरै ठूलो महत्वाकांक्षा, राजनीतिक प्रतिस्पर्धा गरेर एउटा पार्टीले अर्को पार्टीलाई उछिन्नका लागि विकास आयोजनाहरूलाई हचुवा किसिमले छनौट गर्ने र त्यसको प्रतिफल जनतामा नपुग्ने हो भने अन्ततः त्यसको भार जनतालाई पर्छ। किनभने लागत र समय बढी लाग्न गई बजेट घाटामा वृद्धि भएर मुद्रास्फीतिमा प्रभाव पर्छ। मुद्रास्फीतिमा प्रभाव पर्नुको अर्थ हाम्रो निर्यात गर्ने क्षमता कम हुन्छ। हाम्रो निर्यात गर्ने क्षमता कम हुने वित्तिकै व्यापार घाटा पनि बढ्दै जान्छ। त्यसैले साधारण खर्चलाई पनि नियन्त्रित गर्न र विकास खर्चका लागि पनि प्राथमिकता तोकेर मात्र योजना छनौट गर्ने र आन्तरिक राजस्वलाई बृद्धि गर्ने बाटो अपनाइयो भने बजेट घाटा कम हुँदै जान्छ। यसो गरियो भने आर्थिक स्थायित्व हुन्छ र आर्थिक स्थायित्व भयो भने हाम्रो निर्यात गर्ने क्षमतामा वृद्धि हुन्छ। यसबाहेक निर्यातमूलक उद्योगहरूको स्थापनामा

सरकारले बढी जोड दिनुपर्ने हुन्छ। हाम्रो छिमेकी मुलुकमा अहिले विकसित भएका नया नया आर्थिक गतिविधिका क्षेत्रसंगसंगै हाम्रो अर्थतन्त्रलाई पनि संयोजन गरेर अगाडि बढाउँदै जानु पर्छ र निर्यात प्रवर्द्धनका लागि सरकारले कोशिश गर्नुपर्छ।

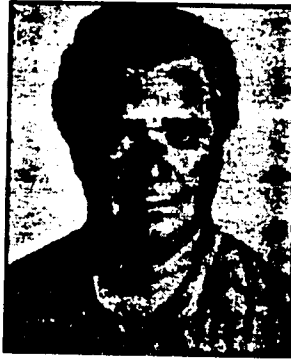
❖ आर्थिक उदारिकरणको दृष्टिले गरीबी निवारणमा कस्ता कार्यक्रमहरू बजेटमा समावेश हुनु उपयुक्त ठान्नुहुन्छ ?

❖ नेपाली कांग्रेसको सरकारका पालामा बजेटले लक्ष्य गरेका कुराहरूलाई प्राथमिकता दिएर अगाडि बढ्यौं भने गरीबी निवारणका प्रयासहरू सफल हुन सक्छन्। हाम्रो मुलुकमा गरिबी किन छ भन्ने कुराबाट हाम्रो प्रयास प्रारम्भ गर्नुपर्छ। वास्तवमा उत्पादनशील साधनहरूमा गरीब जनताको पहुँच नभएकोले नेपालमा गरिबी छ। हामी कहाँ पूँजीमा गरीब जनताको पहुँच छैन। शिक्षा र तालिमका अवसरहरूमा गरीब जनताको पहुँच छैन। स्वास्थ्य सेवामा ग्रामीण जनताको पहुँच छैन। रोजगारीका अवसरहरूमा गरीब जनताको पहुँच छैन। त्यसैले मानिसहरू गरीबीको दुष्क्रमा पिल्सिरहेका छन्। यो गरिबीको दुष्क्रलाई तोड्नका लागि दुई तरिकाबाट काम गर्नुपर्छ। सरकारले आफ्नो तर्फबाट सामाजिक सेवाको क्षेत्रमा बढीभन्दा बढी लगानी गर्नुपर्छ। अर्थात् शिक्षा र तालिम, स्वास्थ्य सेवा, पिउने पानी, स्थानीय विकास आदि क्षेत्रमा सरकारले लगानी गर्नु पर्छ। त्यसबाहेक सरकारले पूँजीको उपलब्धता बढाउनका लागि संस्थागत ऋणको व्यवस्था सम्पूर्ण देशभरि गर्नुपर्छ। त्यो गर्ने प्रक्रियामा हामीले कृषि विकास बैकको कार्यक्षेत्रलाई विस्तारित गर्दै गएका थियौं। हामीले अनुदान दिने परिपाटी पनि शुरु गरेका थियौं। संस्थागत ऋण पनि सरल र सहज ढंगले उपलब्ध होस् भनेर ५,००० देखि १५,००० सम्मको ऋणमा अनुदान दिएर हामीले ग्रामीण क्षेत्रका गरीब जनताको पहुँच, पूँजी र ऋणमा पुऱ्याउने प्रयत्न गर्नुपर्छ। त्यसबाहेक नेपाली कांग्रेसको सरकारका पालामा ग्रामीण विकास बैकहरू खोलिए। त्यसैले पूँजीमा पहुँच बढाउनका लागि सरकारले चेतनशील भएर प्रयत्न गर्नुपर्छ। त्यसबाहेक रोजगारीको अवसर बृद्धि भएर गरीब जनताले रोजगारी पाउने वित्तिकै गरिबी कम हुँदै जान्छ। अब यो रोजगारीको अवसर कसले बृद्धि गर्ने ? के सरकारले आफूले मात्र गरेर सम्भव छ ? सरकारले मात्र रोजगारीको अवसर बृद्धि गर्न सक्दैन। सरकारी सेवामा जागिर दिएर मात्र जनतालाई रोजगारीको अवसरहरू पुग्दैन। सरकारले आफूले मात्र उद्योगधन्दाहरू खोलेर पनि पुग्दैन। देशभित्रका निजी क्षेत्रका मानिसहरूको निम्ति पनि उद्योग धन्दा, व्यापार, पर्यटन आदि क्षेत्रमा पूँजी लगानीको लागि वातावरण बनाउनु पर्छ र विदेशीबाट लगानी कर्ता पनि देशभित्र उद्योग धन्दा, कलकारखाना आदि खुन्यो भने पनि रोजगारीका अवसरहरू बृद्धि हुन्छ। त्यसैले सरकारले साधनहरू संकलित गरेर सामाजिक सेवाको क्षेत्रमा र ग्रामीण पूर्वाधारको क्षेत्रमा संस्थागत ऋण उपलब्ध गराउने, तालिम उपलब्ध गराउने शिक्षाको अवसर उपलब्ध गराउने कुरामा आफ्नो तर्फबाट प्रयत्न गर्नुपर्छ। अर्कातिर देशभित्र र देश बाहिरको निजी क्षेत्रको लगानी मुलुकमा भित्र्याएर उद्योगधन्दा, कलकारखाना, व्यापार, पर्यटन व्यवसायलाई फुटाउने मौका हामीले दिनसक्नुपर्छ। त्यसो भएमा गरिबीको समस्या निदान हुन सक्छ।

FAREWELL THOUGHTS

- Neal P. Cohen

(Neal P. Cohen, Economist, USAID/Kathmandu was instrumental in initiating the Economic Liberalization Project. Here recently left to take up a new assignment with USAID Nairobi, Kenya. Here are some of his recollections.)



After over 2000 days, five and a half years, it is difficult to depart. Departure is all the harder because of the friends we have made here. The beauty and strength of Nepal is more in its people than in its physical setting.

Is there another third world country that made the transition to democracy so peacefully? Or, that made such incredible progress toward economic freedom in such a short period? As we worry about the current problems, we need to reflect on the distance Nepal has travelled. There is increasingly an informed debate in a very free, and increasingly responsible, press, there is better analysis being done, there is greater involvement in decisions. Nepal must assure that she uses her economic resources as well as possible to improve the prospects for economic development.

We emphasized the process of economic liberalization not because it was taught to us as a theoretical construct that works in the US and therefore must be applied universally, but because it makes sense, and is vitally necessary for Nepal's development.

The Panchayat's emphasis on crony capitalism where who you knew was more important than productive skills, abilities or ideas, worked against development. Its lack of development and lack of a sense that progress was possible was palpable.

What did the change to economic liberalization bring?

Simplified licensing and registration opened the floodgates of new businesses of all sizes, but especially small businesses, and businesses owned by women. Finally these businesses could become legitimate and thus qualify for loans and other forms of support. This was a benefit of economic liberalization. But the bureaucracy appears to be reversing some of the gains of simplification and thus we must seek further simplification.

Financial sector reform increased the number of commercial banks, and allowed for the rapid development of new financial institutions. This increase in competition increased the flow of money to private businesses. But more than that, the better banks have begun developing innovative programs to service clients previously discriminated against. The changes in policy permitted the establishment of Grameen Bank clones that provide credit for the poorest rural women. This was a benefit of economic liberalization.

Privatization took public sector companies that were moribund, drains on the Treasury and harmful to farmers, and sold them to private businesses. We can all take pride that the process was transparent without even a hint of corruption. Few countries have implemented privatization as well as Nepal. But more important the result was more investment, more production, more exports, more government tax revenue, and all this without a reduction in employment (in fact, some have begun to hire new people). This program's suc-

cess has been noted around the world. Is there anyone who could argue that Government should run a paper factory? a brick and tile company? The benefits to the poor of the new investment in these, and other companies is clearly visible. But the process was not completed.

Many forget how difficult and capricious it was to secure foreign exchange before it was liberalized. Now any business person, not just some one with connections, or some one with money to burn, can walk into a bank and secure the foreign exchange needed for trade purposes. How much better the system will be when the same applies to all transactions.

The capstone, and the most important element, is tax reform. The Nepali system of taxation discourages innovative business people; the unpredictability of taxes makes rational investment planning impossible and thus reduces investment. The corruption in taxes makes the system grossly unfair, benefitting those with power, and those seeking quick gains. Further, the meager resources available through the current system has made Nepal too dependent on foreign donors. Nepalis don't determine the nature of development now, but foreign donors decide what they the donors, will fund. The programs desired by the Nepali people, often more worthwhile, cannot be implemented because there is no money. It is time for Nepal to begin to stand on its own feet and become economically independent.

The success of liberalization would not have been possible without the incredible talents of the Nepali private sector. These innovative people, willing to risk their own money, possess the ideas and talent necessary to help the country become richer. But government policy has usually thwarted their abilities, and encouraged less production oriented activities. The future of the country depends on encouraging the productive investment of the Nepali business community.

Without nourishing smaller Nepali businesses, and the new women-owned businesses, the fruits of liberalization will not flower. USAID must make sure our assistance does not create donor-dependent enterprises, or those that cannot flourish in a competitive environment. A trait of Nepali business people will, and have, donated their time to help others. We shall help to capitalize on that. Most of the skills needed by the new business people are already possessed by other business people here. We shall help to tap those resources to create sustainable development.

That there is a link between economic and political freedom is not in doubt. Political democracy cannot flourish in an economically controlled society. Similarly, people in an economically liberal environment will become richer faster than those in a state dominated environment. It does not take long for people who are used to making their own economic decisions to demand the same right politically. How long it may take for one to lead to the other, or whether economic or political freedom ought to come first, is debatable. Nepal needs both, not just as words to be said, but concepts to be implemented.

ELP-BDC/PDC गतिविधि

यस अवधिमा यस परियोजना अन्तर्गत यस प्रकारका कार्यक्रम सन्चालन भएका छन् :

(क) नीतिगत विकास समिति (PDC)

यस समिति माफत भएका मुख्य गतिविधि-यस प्रकार छन्

(१) निर्धन र स्वावलम्बन विकास केन्द्रमा तालिम :

निर्धन र स्वावलम्बन विकास केन्द्र (CSD) अन्तर्गत त्यहाँका कर्मचारीहरू र ऋणीहरूका लागि तालिम कार्यक्रम गर्ने सन्दर्भमा आइरिस (Iris) र उक्त सस्थाहरू बीच एक सम्झौता सम्पन्न भएको छ । यस कार्यक्रम अन्तर्गत ग्रामीण आर्थिक कार्यक्रम सम्बन्धमा केन्द्रीत गरिने छ । यो कार्यक्रम अन्तर्गत निर्धन र सिएसडलाई क्रमशः छ महिना र आठ महिनाको लागि सहयोग उपलब्ध गरिने छ ।

(२) पूर्व बजेट सेमिनार :

आइरिस र इएलपिको सहयोगमा नेपाल वुद्धिजीवी परिषद्वाट गत २७ मे मा नेपाल वार एशोसिएसनमा आयोजित पूर्व बजेट गोष्ठी सम्पन्न भएको छ । यस गोष्ठीमा उद्योग र व्यापार, राजस्व परिचालन, खर्चमा प्राथमिकता, गरिबी निवारण र अन्य नीति र कार्यक्रमका सम्बन्धमा छलफल भएको थियो ।

(ख) व्यवसाय विकास समिति (BDC)

व्यवसाय विकास समिति माफत सम्पन्न मुख्य गतिविधि यस प्रकार छन् :

(१) वस्तु/शिप विकास र बजार व्यवस्थापन :

व्यवसाय विकास समिति (BCD) माफत संचालित कार्यक्रमहरू मध्ये व्यवसाय विकास परामर्श सेवा (Business Development Consultancy Service) एउटा प्रमुख कार्यक्रमको रूपमा रहेको छ । यस कार्यक्रम अन्तर्गत एकजना विशेषज्ञले हेटौँडा, मकवानपुर, तानसेन, पाल्पा जिल्ला उद्योग वाणिज्य संघको सम्पर्कमा रही त्यहाँको महिला उत्पादक समूहसंग भेटेर उनीहरूले उत्पादन गरेको घरेलु तथा हस्तकलाको वर्तमान अवस्थाको अध्ययन गरी उनीहरूले उत्पादन गरेको घरेलु तथा हस्तकलाको वर्तमान अवस्थाको केही उत्पादनहरू जस्तै : ढाका, स्वेटर, बांसको सामान र कंटाकेटीको लुगाहरूलाई व्यापारीक दृष्टिकोणले परिचालन गर्न शिप विकास (Product Development) र बजार (Marketing) को सहयोग आवश्यकता पर्ने कुरा पत्ता लागेको छ ।

सम्पादक मण्डल

नरेन्द्र बस्न्यात, अनिता तुलाधर, सम्झना थापा



प्रकाशक : आइरिस नेपाल (IRIS/NEPAL), टी.एन.टी. भवन,

तीनकुने काठमाडौं । फोन : ४७४९९०, ४७४९९९

टाइपसेटिङ : युनिक कम्प्युटर प्रा.लि., न्यू प्लाजा रामशाहपथ, काठमाडौं । फोन : ४२९४५४

मुद्रक : युनाइटेड ग्राफिक प्रिन्टर्स (प्रा.) लि., न्यू प्लाजा रामशाहपथ, काठमाडौं । फोन : ४२९४९०

हाम्रो भनाइ ।

परियोजना चिनारीको आषाढ महिनाको अंक पाठकहरूको हात छ । हरेक अंकमा विशेष विषय समावेश गर्ने उद्देश्यले हामीले यो प्रकाशन गर्दै आएका छौं । यसै क्रममा यो पटक हामीले आर्थिक वर्ष २०५२/५३ को बजेटका सम्बन्धमा अर्थ क्षेत्रका चर्चित व्यक्तित्वहरू-डा. प्रकाश चन्द्र लोहनी र श्री महेश आचार्यको अन्तरवार्ता प्रकाशित गरेका छौं । यसको साथै आगामी बजेट कस्तो हुनपर्छ भन्ने सम्बन्धमा विभिन्न व्यक्तिहरूको मत थाहा पाउने उद्देश्यले हामीले यसै अंकमा मतसर्वेक्षणको निष्कर्ष पनि प्रकाशित गरेका छौं ।

आर्थिक २०५२/५३ को बजेट अध्यादेशका रूपमा आउँदैछ तापनि यस बजेटले आगामी एक वर्षको विकास निर्माणमा ठूलो महत्व राख्ने हुँदा र बजेट जस्तो विषय आम जनताको जनजीविकासंग पनि सम्बन्ध हुने हुँदा यसको प्रमुख बुँदाहरू (Issues) के के हुन ? अबको बजेटमा कस्तो व्यवस्था हुनपर्छ आदि विषयमा हामीले यस अंकमा उपभोक्ता, उद्योगी, व्यापारी र राजनीतिज्ञहरूसंग विभिन्न प्रश्नहरू सोधेका थियौं । उहाँहरूबाट व्यक्त विचार एवं प्रतिक्रिया हामीले यस अंकमा प्रकाशित गरेका छौं । आशा छ यी विषयहरू सम्पूर्ण पाठकहरूको लागि पठनीय र उपयोगी हुनेछन् ।

२. जनकपुर नारी विकास केन्द्र

जनकपुर नारी विकास केन्द्र गाउँमा समिति रूपमा रहेको हस्तकला तथा मिथिला संस्कृतिमा आधारित कलाको विकास गरी आफ्नो सदस्यहरूको आर्थिक तथा सामाजिक उत्थानमा गत केही वर्षदेखि सक्रिय रहेको छ । यस केन्द्रलाई व्यवसायिक रूपमा अरु बढी सुदृढ गरी संचालन गर्न सहयोग पुऱ्याउने उद्देश्यले एक अध्ययन टोली हालै जनकपुर गएको थियो । सो टोलीले केन्द्रको संचालक समितिका सदस्यहरू, अन्य उत्पादक सदस्यहरू र व्यवस्थापनसंग समेत व्यापक रूपमा छलफल गरी भावी सहयोगको क्षेत्रहरू पहिचान गरी फर्केको छ ।



परियोजना चिनारी

HIGHLIGHTS

A MONTHLY PUBLICATION OF THE ECONOMIC LIBERALIZATION PROJECT / IRIS, NEPAL

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❖ अंक १

२०५२ जेठ

[May-June 1995]

श्री ५ को सरकारको नयाँ आर्थिक नीति

नेपाल कम्युनिष्ट पार्टी (एमाले)को सरकारले देशको समष्टिगत आर्थिक नीति प्रकाशमा ल्याएको छ । श्री ५ को सरकारद्वारा घोषित उक्त आर्थिक नीतिको प्रमुख विषय मौजूदा आर्थिक संरचनाको आधारशिलामा आधारभूत सुधार र परिवर्तन गर्दै सम्वन्धानद्वारा निर्देशित सिद्धान्तको खाकाभित्र आर्थिक कृषाकलापमा सरकारी र निजी क्षेत्रको भूमिकालाई सन्तुलित रूपमा अधि बढाउनु रहेको पाइएको छ ।

नेकपा (एमाले) पार्टीले सन्ता सम्हालेपछि गत पुस महिनामा आ.व. २०५१/०५२ को पुरक बजेट पेश गरेको थियो । उक्त बजेटमा वर्तमान सरकारले आर्थिक विकासको लागि आफ्नो प्रतिवद्धता सहित निम्न प्रावधानहरू गरेको थियो ।

- (क) आफ्नो गाउँ आफै बनाउ कार्यक्रम गर्ने ।
- (ख) सुपथ मूल्यका पसलहरूको व्यवस्था गर्ने ।
- (ग) भूमिसुधारको लागि आयोगको गठन गर्ने ।

(घ) समाजवाट अपहेलित महिलाहरूको विकास र पुनस्थापनाको कार्यक्रम गर्ने ।

(ङ) पचहत्तर वर्षभन्दा वढी उमेर भएका वृद्ध गरिवहरूलाई पेंसनको व्यवस्था गर्ने ।

(च) सानो बजारको लागि नमूना गाउँको विकास गर्ने ।

(छ) रोजगारी श्रृजनाको लागि पब्लिक कामको थालनी गर्ने ।

(ज) कृषि, विज्ञान र प्राविधिक विश्वविद्यालयको स्थापना गर्ने ।

(झ) ग्रामीण बैंकको विकास

गर्ने ।

(ञ) कृषि ऋणको व्यवस्था गर्ने ।

उपरोक्त विषय मध्ये कतिपय विषयको थालनी सरकारले गरेको छैन । तापनि प्रस्तुत आर्थिक नीतिको माध्यमबाट यो प्रतिवद्धता पूरा गर्ने लक्षण श्री ५ को सरकारले दिएको प्रष्ट हुन्छ भन्ने तर्क केही आर्थिक विश्लेषकहरूको छ भने केही आर्थिक विश्लेषकहरू यस आर्थिक नीतिमा मूलभूत परियोजना र विशेषता केही उल्लेख्य नभएको पनि टिप्पणी गर्दछन् तापनि यस नीतिमा व्यवस्था गर्न खोजिएको मुख्य ६ वटा विषयहरूको व्याख्या यसप्रकार गरिएको छ ।

१) वित्तीय नीति :

यसनीति अन्तर्गत बजेट घाटामा धेरै विस्तार हुन नदिन राजस्व परिचालनमा जोड दिने र विदेशी सहायताको उपयोग क्षमता बढाउने तर्फ प्रभावकारी पाइला चालिने

रहेको छ । हालको कर संरचनामा भन्सारको विद्यमान उच्चतम दरलाई घटाउने नीति लिएको छ र आन्तरिक उत्पादनलाई प्रोत्साहन दिन भन्सार दरलाई प्रयोग गरिने भएको छ ।

कर प्रणाली पुनरावलोकन कार्यदलको सुझावको आधारमा सम्पाति करका वारेमा निर्णय लिइने छ । आयकरको हकमा नेपालको कम्पनी (कॉर्पोरेट) करको दरलाई दक्षिण एशियाली मुलुकहरूको कम्पनी दरको स्तरमा कायम गरिने र व्यक्तिगत आयकरको उच्चतम दर हालको

नयाँ आर्थिक नीतिका प्रमुख बुँदाहरू

श्री ५ को सरकारले प्रकाशमा ल्याएको आर्थिक नीतिका प्रमुख उद्देश्य र लक्ष्य यस प्रकार छन् ।

- समाजमा विपन्न वर्गको आर्थिक अवस्थामा सुधार गर्ने ।
- देशमा राष्ट्रिय पूँजीको विकास गर्ने ।
- राष्ट्रिय उत्पादनको वृद्धि तीव्र पार्ने ।
- अर्थतन्त्रलाई स्वतन्त्र र आत्मनिर्भर बनाउँदै समतामूलक समाजको श्रृजना गर्ने ।
- बजेट घाटा धेरै हुननदिन राजस्व परिचालनमा जोड दिने ।
- नगरपालिकालाई वित्तीय साधनको वैकल्पिक व्यवस्था गरी चुंगीकर प्रथालाई खारेज गर्ने ।
- निजीकरण सन्तुलन र छनोटको आधारमा गर्ने ।
- औद्योगिक क्षेत्रमा उदारवादी नीति अवलम्बन गरी लगानी प्रवर्द्धन प्रक्रियालाई अझ खुकुलो पार्ने ।
- निकासीमा लागि हाल लागिआएको सेवा शुल्क क्रमशः हटाउने ।
- विश्व व्यापार संगठनको सदस्यता लिने सम्वन्धमा कार्यदल गठन गर्ने
- मूल्य वृद्धिदरलाई सीमाभित्र राखी आपूर्ति व्यवस्थालाई सुदृढ गर्ने ।

बाँकी ७ पेजमा

नेपाल उद्योग वाणिज्य महासंघको नवनिर्वाचित अध्यक्ष श्री पद्म ज्याति, सम्पूर्ण पदाधिकारी एवं कार्यकारिणी समितिका सदस्यहरूमा हार्दिक बधाई ।

उदार आर्थिक परियोजना / IRIS परिवार

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अन्तर्वार्ता

अर्थतन्त्र सकारात्मक दिशातिर अधि बढेको छ



(नेकपा (एमाले) को सरकारले सत्तामा पुगेपछि विगत केही समय अधि नयाँ आर्थिक नीति प्रकाशमा ल्याएको छ। यसै नयाँ नीतिको उद्देश्य, यसले अपनाउन खोजेका मूलभूत लक्ष्य एवं यस नीतिबाट हुने दूरगामी प्रभावका बारेमा जानकारी लिने उद्देश्यले हामीले यस अंकमा विभिन्न अर्थविद्हरूको अन्तर्वार्ता

प्रकाशित गरेका छौं। उहाँहरू हुनुहुन्छ- राष्ट्रिय योजना आयोगका सदस्य माननीय डा. डिल्लीराज खनाल, अर्थ मन्त्रालयका वरिष्ठ आर्थिक सल्लाहकार श्री केशवप्रसाद आचार्य र राष्ट्रिय योजना आयोगका पूर्व सदस्य एवं अर्थविद् श्री पृथ्वीराज लिगल। उहाँहरूसँग हामीले एकै किसिमका प्रश्नहरू राखेका थियौं। प्रस्तुत छ- उहाँहरूले दिनुभएको अन्तर्वार्ताको मुख्य मुख्य अंश- सम्पादक)

२०५१ सालमा नेपालको अर्थतन्त्रले हासिल गरेको उपलब्धीलाई यहाँले कसरी मूल्यांकन गर्नु भएको छ ?

- नेकपा (एमाले)को सरकार स्थापना हुनेताका अर्थात् ०५१/५२ को प्रथम चौमासिक अर्वाध वित्तेवेलासम्म अर्थतन्त्रमा जे जस्ता परिस्मूचकहरू, प्रवृत्तिहरू देखिएका थिए, तिनीहरूले अर्थतन्त्र डाँवाडोलको अवस्थातर्फ उन्मुख भैरहेको देखिएको थियो। खासगरीकन कापेट निर्यातमा करिब ३६ प्रतिशतले हास र गार्मेण्टको निर्यातमा पनि नकारात्मक प्रवृत्तिहरू देखिएका थिए। विदेशी भुक्तानी संचितमा चाहिँ हास आइरहेको थियो। नेकपा (एमाले)को सरकार बनेपछिको करिब ४.५ महिनामा उपलब्ध आर्थिक परिस्मूचकहरूलाई हेर्दा धेरै सकारात्मक स्थिति तर्फ अर्थतन्त्र गैरहेको छ। राष्ट्रिय उत्पादनको वृद्धिदर २.८ प्रतिशत मात्र हुन्छ भन्ने अनुमान गरेका थियौं भने पछिल्ला ४.५ महिनाका परिस्मूचकहरू वृद्धिदर २.८ को सट्टा करिब ४ प्रतिशतको हाराहारीमा पुग्छ भन्ने कुरा देखिएको छ। कापेटको निर्यातमा सुधार भएको छ। त्यस्तै, गार्मेण्टमा पनि सकारात्मक स्थिति देखिएको छ। छाला निर्यातमा पनि निकै बृद्धि भएको छ। त्यस्तै गरी निजी क्षेत्रको लगानी २२.२३ प्रतिशतले बढेको छ र अझ यो अवधिमा ८.९ वटा वित्तिय कम्पनीहरू २ वटा ग्रामिण बैक र एउटा वाणिज्य बैक खुलेका छन्। खास गरी राजस्व सकलन, राजस्व परिचालनको स्थिति ज्यादै सुदृढ छ। यसरी समग्रमा अर्थतन्त्र सकारात्मक दिशातिर अधि बढेको छ।

नेकपा (एमाले) सरकारले हालै जारी गरेको बर्तमान सरकारको आर्थिक नीतिलाई तत्कालिन सरकारको आर्थिक नीतिसँग कसरी दाँज्नु भएको छ ?

- वर्तमान सरकारले जनसमक्ष ल्याएको आर्थिक नीतिका सम्बन्धमा विभिन्न टिका टिप्पणी भएको छ। खासगरी नेपाली कांग्रेसको आफ्नो प्रतिक्रियामा हिजोका आर्थिक संचनाहरूलाई भत्काउने काम गर्नु भन्ने ढगवाट कुराहरू उल्लेख छन्। अहिले स्वतन्त्र तथा उदारीकरणको नीति भनेर जुन आइरहेको छ त्यो वास्तवमा नियो-क्लासिकल सिद्धान्तबाट निर्देशित छ। त्यसबारे गरिएको समय अध्ययनले पनि के देखाउछ भने जब बजारमा कुनै वस्तुको मूल्य निर्धारण हुन्छ, त्यो निर्धारण भएर निश्चित तहमा रहेको मूल्य कहिल्यै पनि तल भर्दैन। यसो हुनुमा त्यहाँ एकाधिकारको स्थिति भएको अर्थात् अहिलेको स्थितिमा भन्ने हो भने बहुराष्ट्रिय कम्पनीहरूले आफ्नो आर्थिक शक्तिले गर्दा बजारलाई ठूलो मात्रामा प्रभावित गरिरहेका हुन्छन्। जहाँ बजारका पूर्ण विकास भैसकेको छैन, त्यस्तो अवस्थामा पूरा उदारीकरण र निजीकरणको प्रक्रिया अगाडि वढाउनु र खोज्नु नेपालको आर्थिक परिवेश र स्थितिमा उपयुक्त छैन।

नेकपा (एमाले)को राजनीतिक उद्देश्य र लक्ष्य उर्पेक्षित, शोषित पीडित जनताको जीवनस्तर माथि उठाउनको निम्ति, उनीहरूलाई आर्थिक, सामाजिक राजनीतिक रूपले सबल बनाउनु पछि भन्ने हो। त्यसलाई पनि

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मध्यनजर राख्दै वर्तमान सरकारले आर्थिक नीति ल्याएको छ। नेपालको आफ्नो विशिष्ट स्थिति, नेकपा (एमाले)ले जनता समक्ष व्यक्त गरेको प्रतिबद्धता र विभिन्न देशहरूको अनुभवलाई पनि ध्यान दिएर खासगरी सर्गाठित क्षेत्रमा आर्थिक सुधारका कार्यक्रमलाई अधि बढाउदै लैजानु, निजी क्षेत्रलाई प्रोत्साहित गर्दै लिएर जानु विदेशी लगानीलाई पनि खासगरी प्रविधि भित्र्याउने हिसाबले, रोजगारीलाई विस्तार गर्ने हिसाबले, निर्यातलाई बढाउने गर्ने हिसाबले र समग्रमा अर्थतन्त्रलाई आत्मनिर्भरता र सबलतातिर अधि वढाउने हिसाबले यो नीति ल्याइएको हो। आर्थिक सुधार र निजी क्षेत्रको पनि विकास गर्ने जस्ता सन्तुलित रूपबाट हाम्रा नीतिहरूलाई निर्देशित गरिनु पछि र कार्यान्वयन गरिनुपछि भन्ने दृष्टिकोण, मान्यता र अवधारणाका आधारमा आर्थिक नीति आएको छ। यथार्थमा भन्ने हो भने हिजो जे जसरी बाहिरी मोडेल जस्ताको तस्तै नेपालमा लागू गर्न खोजिएको थियो त्यो ज्यादै विसंगतिपूर्ण थियो र समग्र राष्ट्रको हितमा, जनताको पक्षमा, जनताको जीवन यापनमा सुधार ल्याउने खालको थिएन। त्यसकारण हिजोका कमी कमजोरीहरूलाई सुधार गर्दै र सच्याउदै नेपालको मन्दभंग सामाज्यपूर्ण र उपयुक्त आर्थिक नीतिहरू वर्तमान सरकारले अगाडि सारेको छ।

वर्तमान सरकारले अपनाएको आर्थिक नीतिमा प्रमुख कमजोरीहरू, यस नीतिले जोड दिन खोजेका क्षेत्रहरू, यस नीति अन्तरगत व्यवस्था गर्न खोजिएका अवसरहरू र यसले सामना गर्नु पर्ने प्रमुख विषयहरू के के हुन भन्ने यहाँलाई लाग्दछ ?

- यो नीति हिजोका गल्ती र कमजोरीहरूलाई नै सच्याउनका लागि ल्याइएको हो। नेपालको आफ्नो विशिष्ट स्थितिका लागि यी नीतिहरू ज्यादै उपयुक्त छन्। यी नीतिहरू विरोधाभासपूर्ण नभैकन एकरूपका छन्। आर्थिक स्थायित्व, दीर्घकालीन विकास र खासगरी शोषित, पीडित जनताको जीवनस्तर माथि उकास्नका लागि नीतिहरूले मद्दत गर्छन भन्ने कुरा हामीलाई लागेको छ। एउटा प्रयोगको रूपमा नीतिहरू अगाडि ल्याइएको हुनाले त्यो संग सम्बन्धित विभिन्न पक्षहरूलाई अझ थप रूपमा विश्लेषण गर्नुपर्ने, अध्ययन गर्नुपर्ने र व्यापक नीतिहरू लिइएको हुनाले ती नीतिहरूलाई व्यवहारमा लागू गनाका लागि थप पहलकदमीहरू के के लिनुपर्छ, त्यतापट्टि बढी ध्यान दिनुपर्ने स्थिति छ। त्यसको निम्ति थप नीतिगत स्पष्टताहरू के ल्याउनु पछि भन्ने बारेमा पनि अध्ययन हुँदछ। यसैगरी आर्थिक नीतिमा सरकारले बाध्य क्षेत्रका लागि मात्र नभएर घरेलु क्षेत्रमा पनि एकद्वार प्रणाली लागू गर्छौं भनेर प्रतिबद्धता जाहेर गरिसकेको हुनाले त्यसको बारेमा पनि बाह्य तथा आन्तरिक रूपमा एकद्वार प्रणालीलाई कसरी प्रभावकारी बनाएर लैजाने भन्ने पक्षमा पनि हामी अध्ययन गरिरहेका छौं। समग्रमा हामीले जुन आर्थिक नीति ल्याएका छौं त्योसंग त्यही नीतिलाई अगाडि बढाउनका लागि, त्यसलाई सुदृढ ढंगले लागू गर्नको निम्ति कुनै विसंगतिपूर्ण नीतिगत विरोधाभासहरू छन् अथवा त्यसभित्र अरु हिसाबले विभिन्न कमी कमजोरीहरू छन् भने तिनलाई हटाउनका लागि पनि प्रयत्न गरिरहेका छौं।

ग्याटको अवधारणा एकातर्फ छ भने मूल्य नियन्त्रण र अनुदानको कुरा अर्को तर्फ छ, यस्तै निजीकरणको धारणा एकातर्फ छ भने सरकारबाट उद्योगहरूको स्थापना गर्ने चर्चा अर्को तर्फ छ, त्यस्तै स्वदेशी उद्योगहरूको संरक्षणको कुरा एकातर्फ छ भने विदेशी लगानीलाई बढाउने भन्ने पनि अर्कोतर्फ छ। यसरी एक अर्को पक्षका यी विषयहरूलाई वर्तमान आर्थिक नीतिले कसरी समेट्ने प्रयास गरेको छ प्रष्ट पारिदिनु हुन्छ कि ?

- ग्याटमा थुप्रै किसिमका व्यवस्थाहरू छन्। त्यसमा Time-bound का हिसाबले विकसित देशहरूका लागि राखिएका शर्तहरूका एउटा पक्ष छ। त्यसपछि तेस्रो विश्वका मुलुकहरूको लागि राखिएका शर्तहरूको अर्कोपक्ष छ। अल्प विकसित राष्ट्रहरूका लागि कृषिको क्षेत्रमा केही वर्षको लागि निश्चित छुटहरू दिइएको छ। त्यसैले, आर्थिक नीति तर्जुमा गर्दा

हामीले ती समग्र पक्षलाई पनि अध्ययन र विश्लेषण गरेर हेरेका छौं । अब रह्यो सबाल मूल्य नियन्त्रण र "सर्विसी" । ग्याटको सर्विसीको सबालमा हेर्ने हो भने किसानलाई मलमा दिने सर्विसीको अनुपात तेस्रो देशमा दिइने सर्विसीको अनुपातभन्दा अहिले पनि धेरै नै हुन्छ । ग्याटमा ६ वर्षदेखि १० वर्षका लागि यति प्रतिशतले सर्विसी घटाउने भनेर जुन व्यवस्था गरिएको छ, त्यो तेस्रो विश्वका मुलुकहरूमा भन्दा विकसित देशहरूमा सर्विसीको अनुपात उच्च दरमै हुन्छ । नेपालमा हेर्ने हो भने सर्विसीको अनुपात उठ्ठी छैन त्यो यथार्थ कुरा हो । मूल्य नियन्त्रणको सन्दर्भमा सामान्य स्थितिमा बजारमा निर्धारण हुने मूल्यमा सरकारले हस्तक्षेप गर्ने छैन भनी मूल्य नीतिको बारेमा स्पष्ट रूपले आर्थिक नीतिगत उल्लेख गरिएको छ । तर नेकपा (एमाले) हिजो चुनावको दौरानमा पनि जनताको माझमा उसले प्रतिबद्धता जाहेर गरेको छ । आर्थिक नीतिमा सरकारले हामी उद्योगी व्यवसायलाई प्रोत्साहन दिनेछौं भनेको छ । संरक्षण दिइने भन्ने कुरा त्यसमा गरिएको छैन । तर विगत २-३ वर्षयता उदारवादको नाममा जे जसरी नीतिहरू ल्याइए त्यसबाट हामीले के देख्यौं भने कुनै कुनै वस्तुहरूमा स्वदेशमा उत्पादन हुने वस्तुहरूमा लगाइएको बिक्री तथा आय करको जति अनुपात छ त्योभन्दा बाहिरबाट त्यही वस्तु भिकाउंदा लगाइएको करको दर चाहिँ घटी छ । त्यसले गर्दा स्वदेशी उद्योगहरूले नकारात्मक संरक्षण पाए । स्वदेशी उद्योगधन्दाहरूलाई हामी प्रोत्साहन दिन्छौं तर त्यही समय आन्तरिक बजारमा प्रतिस्पर्धा गरिरहेका भन्ने प्रतिबद्धता सरकारले गरेको छ ।

हिजो नेपाली कांग्रेसको सरकारले सरकारको काम भनेकै सरकारी स्वामित्वमा रहेका ५०/५५ वटा संस्थानहरूलाई निजी क्षेत्रमा पठाउनु हो भन्ने ढंगले काम गर्‍यो । संस्थानहरूलाई निजी क्षेत्रमा पठाइसकेपछि व्यवस्थापनमा कुशलता आउंछ, लागत घट्छ अनि लागत घटिसकेपछि त्यो हिजोकै मूल्य दर कायम रहेर पनि बढी नाफा आउंछ र जनतामा सकारात्मक प्रभावपछि भन्ने ढंगले व्याख्या गरियो तर यथार्थता त्यस्तो भएन । हरिसिद्धिमा निजीकरण गरेको भोलिपल्ट शत प्रतिशत भाउ बढाइयो भने अहिले गुणस्तर खत्तम छ ।

नेकपा (एमाले) सरकारले सत्ता सम्हाल्दा गरेको घोषणाहरू र वर्तमान आर्थिक नीतिमा यहाँले के अन्तर पाउनु भएको छ ?

- बजेट माफत नया कार्यक्रमहरू आएका छन् । बजेटसँगै विभिन्न किसिमका नीतिहरू आएका छन् । समष्टिगत रूपमा भनेको आर्थिक स्थायित्व, स्वदेशी-विदेशी लगानीलाई प्रोत्साहित गर्न नेकपा (एमाले)को आर्थिक नीति के हुन्छ भन्ने मात्र यो नीतिमा केन्द्रीत गरिएको छ । त्यसमा कृषि क्षेत्रको नीति कस्तो हुने, विद्युत् क्षेत्रको नीति कस्तो हुने अथवा अरु विभिन्न क्षेत्रको नीति कस्तो हुने भन्ने कुरा त्यो नीतिमा आएको छैन । समष्टिगत नीतिहरू हिजो प्रतिपक्षमा रहदा र चुनावी दौरानमा जनतामाझ जुन प्रतिबद्धता जाहेर गरेको थियो त्यही जाहेर गरेअनुरूपका आर्थिक नीतिहरूलाई एमालेले अघि बढाएको छ । त्यसमा कुनै किसिमको अन्तर छैन ।

नेकपा (एमाले)ले सत्ता सम्हालेपछि आर्थिक उदारिकरणमा संकुचन आएको छ भन्ने चर्चा एकथरि अर्थविद्हरूले गरेका छन् । वर्तमान सरकारले जारी गरेको आर्थिक नीतिको परिप्रेक्षमा उदार अर्थनीतिमा के साच्चैँ संकुचन आएको छ ?

- उदारीकरणलाई कसरी व्याख्या गर्ने, उदारीकरणलाई कसरी लागू गर्ने, उदारीकरणको उद्देश्य के हो ती सबैलाई सँगै राखेर हेर्नुपर्छ । जसरी बाहिर तयार गरिएको उदारीकरणको मोडेललाई कार्बन कपिको रूपमा नेपालमा भित्र्याउने, नेपालको विभिन्न परिवेशहरूलाई नहेर्ने, स्वदेशी निजी क्षेत्रका उद्यमीहरूको विकासमा प्रतिकूलताहरू थप्ने र अझ त्योभन्दा पनि महंगी, बेरोजगारी र उपेक्षित वर्गहरूमा भन्नु प्रतिकूलता थप्ने ढंगले कुनै पनि नीति ल्याइन्छ भने त्यो नेपाली जनताले सहने कुरा होइन । हामी आर्थिक उदारीकरण वा आर्थिक सुधारका कार्यक्रमहरू समग्र देशको उत्थानको निम्ति, हितको निम्ति, जनताको जीवनस्तरमा सुधार ल्याउनका लागि तय गरिनु पर्छ भनेर लागिरहेका छौं । त्यसैले साँचो अर्थमा भन्ने हो भने हिजोका जुन आर्थिक उदारीकरणका नीतिहरू थिए, नेपालको आफ्नो परिप्रेक्ष्यमा ती उपयुक्त थिएनन् त्यसलाई सुधार गर्ने, परिमार्जन गर्ने र नेकपा एमालेको राजनीतिक प्रतिबद्धता अनुरूप अर्थतन्त्रमा आएका विसंगतिहरूलाई सच्याउँदै, परिमार्जन गर्दै अगाडि जाने ढंगले उदारीकरण वा आर्थिक सुधारका कार्यक्रमलाई नेकपा (एमाले)ले लागू गर्ने प्रयत्न गरिरहेको छ । त्यसो भएको हुनाले यसलाई संकुचन भन्ने ढंगले अर्थ लगाइनु हुँदैन ।

आर्थिक सुधार कार्यक्रममा संकुचन आएको चर्चा निराधार छ

- केशवप्रसाद आचार्य, वरिष्ठ आर्थिक सल्लाहकार, अर्थ मन्त्रालय



नेकपा (एमाले) सरकारले हालै जारी गरेको वर्तमान सरकारको आर्थिक नीतिलाई तत्कालिन सरकारको आर्थिक नीतिसँग कसरी ढाँच्नु भएको छ ?

- पहिलेको नीतिभन्दा वर्तमान नीति बढी प्रगतिशील र जनमुखी छ । राज्यको लगानीमा स्थापित र संचालित सरकारी संस्थानको सुदृढीकरणमा अहिले स्पष्ट धारणा अगाडि आएको छ । निजीकरण गर्न हुँदैन भन्ने हैन । तर यही मात्र समस्याको समाधान हैन । त्यस्तै, राज्यको सम्पत्ति निजी क्षेत्रलाई हस्तान्तरण गरिनु निजीकरणको एक मात्र उपाय हैन । उत्पादकहरूको सहकारी संचालन, ठेक्का, व्यवस्थापन निजीकरण माफत पनि निजीकरण प्रकृया हुन सक्छ भन्ने स्पष्ट धारणा अगाडि आएको छ । सप्रान प्रकृतिका संस्थानहरूलाई एउटैमा गाभी शिरोभार खर्च घटाउनु, संस्थान सुदृढीकरणको अर्को विकल्प हुनसक्छ । त्यस्तै, राजस्व परिचालनमा प्रत्यक्ष करको सापेक्षिक अनुपात क्रमशः बढाउँदै लैजाने र राष्ट्रिय मूल्य नीतिमा मात्र नभई आपूर्ति पक्षलाई पनि जोड दिइनु वर्तमान आर्थिक नीतिका केही मूलभूत विशेषताहरू हुन् । नेपालको दिगो र द्रुततर विकास, कृषि क्षेत्रको उत्पादन सम्यन्धमा प्रजातान्त्रिक प्रकृयाको माध्यमद्वारा आमूल परिवर्तन नगरी सम्भव छैन भन्ने वर्तमान नीतिको मूल मान्यता रहेको छ ।

वर्तमान सरकारले अपनाएको आर्थिक नीतिमा प्रमुख कमजोरीहरू यस नीतिले जोड दिन खोजेका क्षेत्रहरू र यस नीति अन्तर्गत व्यवस्था गर्न खोजिएका

अवसरहरू र यसले सामना गर्नु पर्ने प्रमुख विषयहरू के के हुन भन्ने यहाँलाई लाग्दछ ?

- नीतिका प्रमुख कमजोरीहरू तर्फ यो बढी सैद्धान्तिक भयो, यसले कुनै स्पष्ट दिशा दिन सकेको छैन भनी विद्वान विश्लेषकहरूले टिप्पणी गर्नु भएको मैले पढेको छु । मैले हेर्दा चाहिँ नीतिमा उल्लेखित प्राथमिकता क्रमहरू अलि तलमाथि परेका हुन कि भन्ने मानेको छु । साथै, श्री ५ को सरकारका अन्य विभिन्न कार्यक्रमहरू र राज्यको शासन संचालन गर्ने पार्टीको चुनावी घोषणा पत्रसंग यस नीतिलाई अझै बढी आवद्ध गर्न सकिन्थ्यो होला भन्ने पनि ठान्दछु ।

जोड दिन खोजेको क्षेत्रहरूतर्फ नेपालमा विभिन्न स्वरूप र क्षेत्रमा विद्यमान भौतिक तथा मानवीय साधनको अधिकतम परिचालन गरी नेपालमा आर्थिक विकासलाई एक दीर्घकालीन अभियानको रूपमा अगाडि बढाउनु पर्दछ । क्षेत्रगत रूपमा हेर्दा तुलनात्मक लाभको हिसावले नेपालको दिगो विकास कृषि र कृषिजन्य उद्योगको साथै पर्यटक क्षेत्रबाट सभव छ । यी दुवै क्षेत्र पर्यावरण- मैत्री र राष्ट्रिय रूपमा व्यापक जन सहभागितामा आधारित रहनेछन् । वर्तमान नीतिले यी क्षेत्रहरूलाई यथोचित महत्त्व दिएको छ ।

सामना गर्नु पर्ने प्रमुख विषय, नेपाल विपन्न मुलुकमा राष्ट्रिय आर्थिक विकास अभियान संचालन गर्नु भनेको मुलुकको प्रमुख राजनैतिक मुद्दा पनि हो । त्यसैले आर्थिक विकास, त्यसमा पनि ग्रामीणमुखी आधारमा, सम्पादन गर्न राजनैतिक सहमतिनले सजीवनीको भूमिका खेल्न सक्छ । यमा भएमा कम लागत र समयमा बढी विकास हुन सक्छ । अन्यथा विकासको गति केही ढीलो

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हुन जाने स्पष्ट छ ।

ग्याटको अवधारणा एकातर्फ छ भने मूल्य नियन्त्रण र अनुदानको कुरा अर्को तर्फ छ, यस्तै निजीकरणको धारणा एकातर्फ छ भने सरकारबाट उद्योगहरूको स्थापना गर्ने चर्चा अर्को तर्फ छ, त्यस्तै स्वदेशी उद्योगहरूको संरक्षणको कुरा एकातर्फ छ भने विदेशी लगानीलाई बढाउने भन्ने पनि अर्कोतर्फ छ । यसरी एक अर्को पक्षका यी विषयहरूलाई वर्तमान आर्थिक नीतिले कसरी समेट्ने प्रयास गरेको छ प्रष्ट पारिदिनु हुन्छ कि ?

- हेनोस, ग्याटका कतिपय धाराहरूले नेपाल जस्ता अति कम विकसित मुलुकको कृषि उत्पादन र यसमा आधारित व्यवसायलाई मूल्य नियन्त्रण, अनुदान आदि मार्फत संरक्षणात्मक विकास गर्ने केही छुट दिएको छ । निजीकरणलाई राम्ररी संचालन गर्न सके मुलुकमा थप उद्यमी व्यवसायीहरूको विकास गर्न सकिन्छ । सरकारबाट संचालित उद्योग कुनै एक उद्यमीले सक्षमतापूर्वक संचालन गरेर देखाएमा दशौं विसौ उद्यमीहरूको हौसला बढ्छ र सरकारले निजीकरणबाट प्राप्त रकम अन्य व्यवसाय जहाँ निजी क्षेत्र तुरून्तै आउदैन, त्यहाँ लगानी गर्न सक्छ । यसले त मुलुकलाई राम्रै गर्छ नि । थप उद्योग स्थापनाको मतलब थप रोजगार, थप राजश्व, थप साधन परिचालन हैन र ?

त्यस्तै, विदेशी उद्यमी व्यवसायी आएर नेपाल भित्रका नेपाली उद्यमीलाई प्रविधि, व्यवस्थापन, बजारको खोजी सिकाएर हामी नेपालीलाई विश्व अर्थ व्यवस्थासंग प्रतिस्पर्धा गर्न सक्षम बनाए भने हामीलाई के घाटा भयो र ? शीप र श्रोतको अभावमा त्यसै खेर गैरहेको साधनलाई विदेशीले नेपालको सहभागितामा परिचालन गराई उत्पादन बढायो भने हामीलाई राम्रै हुन्छ नि । हो, एउटा कुरा के भने विदेशी लगानीलाई नेपालको हित अनुरूप बनाउन ऐन, नियम तथा कानूनहरूको स्पष्ट व्यवस्था भने हुनै पर्छ । विदेशीले खराब मात्रै गर्छ भनी ठान्नु हुन्न ।

नेकपा (एमाले) सरकारले सत्ता सम्हाल्दा गरेको घोषणाहरू र

वर्तमान आर्थिक नीतिमा यहाँले के अन्तर पाउनु भएको छ ?

- मैले वर्तमान आर्थिक नीतिलाई चुनावी घोषणा पत्रको एउटा अंग र अंशका रूपमा पाएको छु । घोषणापत्रमा राजनैतिक, सामाजिक, सांस्कृतिक, शैक्षिक थुप्रै थुप्रै कुराहरू लेखिएका छन् । वर्तमान आर्थिक नीतिमा ती सब कुरा छैनन् । तसर्थ, केही भाषिक फरक भएपनि वर्तमान आर्थिक नीति भनेको घोषणा पत्रमा उल्लेखित आर्थिक नीति तथा कार्यक्रमको सार नै हो ।

नेकपा (एमाले)ले सत्ता सम्हालेपछि आर्थिक उदारिकरणमा संकुचन आएको छ भन्ने चर्चा एकथरि अर्थविद्हरूले गरेका छन् । वर्तमान सरकारले जारी गरेको आर्थिक नीतिको परिप्रेक्षमा उदार अर्थनीतिमा के साच्चै संकुचन आएको छ त ?

- म यो भनाइ तथा सोचाइसंग सहमत छैन । एमाले पार्टी पहिलो पटक सत्तामा आएको छ । त्यसकारणले सत्तामा आएको केही महिनासम्म सरकार राष्ट्रिय आर्थिक व्यावस्थापनका प्रशासनिक तथा प्राविधिक पक्ष बुझ् बुझारथ गर्ने काममा जुट्यो । त्यसैले बजेट बक्तव्य र शाही सम्बोधन बाहेक अन्य नीति तथा कार्यक्रमहरू प्रकाशमा आएनन् ।

हेनोस, आर्थिक उदारीकरण भनेको के हो ? यसको जड भनेको मूल्यलाई बजारले नै निर्धारण गर्न दिने हो । यसमा पहिले भन्दा केही फरक आएको छैन, वरु अझ सुदृढ भएको छ । चामल, दाल जस्ता उपभोग्य वस्तुदेखि कार जस्ता टिकाउ बस्तु सम्मको मोल खुला बजारले नै निर्धारण गरिरहेको छ । त्यस्तै व्याज दर पूँजीको मूल्य हो, यसलाई पनि बजारले नै निर्धारण गरिरहेको छ । विनिमय दर विदेशी मुद्राको मूल्य हो, यसलाई पनि बजारले नै निर्धारण गरिरहेको छ । अनि कहाँबाट आयो संकुचन, तपाईं नै भन्नुोस् ।

अब आयो निजीकरणको कुरा ! यस तर्फ पनि निजीकरण ऐनमा व्यवस्थित उच्चस्तरीय निजीकरण समितिमा सरकारले केही प्रस्ताव प्रस्तुत गरिसकेको छ भन्ने सुनेको छु । त्यसैले आर्थिक सुधार कार्यक्रममा संकुचन आएको भन्ने चर्चा तथ्यको कसीमा राखी हेर्दा निराधार देखिन्छ ।

एमालेका नीति निर्माताहरूमा स्पष्ट दृष्टिकोणको अभाव छ

- पृथ्वीराज लिगल, अर्थविद्

नेकपा (एमाले) सरकारले हालै जारी गरेको वर्तमान सरकारको आर्थिक नीतिलाई तत्कालिन सरकारको आर्थिक नीतिसँग कसरी दाँज्नु भएको छ ?

- नेकपा (एमाले) को सरकार गठन भएको छैठौं महिनामा वर्तमान सरकारले लिखित रूपमा पहिलो पटक आर्थिक नीति प्रकाशमा ल्याएको छ । जसमा आर्थिक पक्षमा सरकारको धारणा के रहेछ भन्ने प्रष्ट्याउन खोजिएको छ । हुनत यो आर्थिक नीति भनिए पनि समग्र आर्थिक नीतिका रूपमा यसलाई लिन मिल्दैन । किनकि यसले कृषिमा के गर्ने, जलस्रोतमा के गर्ने, आगाआव जस्ता योजनाहरूको बारेमा के गर्ने आदि कुराहरूमा एक शब्द पनि बोलेको छैन । त्यसैले यसलाई आर्थिक नीतिको एउटा भाग मात्र भन्नुपर्दछ । यसमा वित्तीय क्षेत्रमा के गर्ने, मौद्रिक क्षेत्रमा के गर्ने, व्यापार र उद्योगमा के गर्ने र मूल्यमा के गर्ने भन्ने कुराहरू दिने प्रयत्न गरिएको छ । एमालेले आफ्नो घोषणा पत्रमा र बजेट प्रस्तुत गर्दा हाम्रो बजेट मार्क्सवादी अर्थनीति अनुसार तयार भएको कुरा अर्थमन्त्रीले भन्नुभए तापनि अन्ततः खुल्ला र उदार आर्थिक नीति नै यो मुलुकको विकासको निमित्त चाहिँदा रहेछ, भन्ने कुरा स्वीकार गर्नु भएको छ । यसबाट विगतको सरकारको आर्थिक नीतिको निरन्तरताका रूपमा यो नीति आएको देखिन्छ । यसले दातृसंस्थाहरूलाई सरकारबाट हामी कम्प्युनष्ट भए पनि विगत सरकार ले पालन गरेको नीतिहरूलाई पिछ्छा गछौं भन्ने सकेत मिलेको छ ।

विदेशी लगानीकर्तालाई हामी स्वागत गछौं र परिआएको खण्डमा २ करोड भन्दा कमका साना तथा घरेलु उद्योगहरूमा पनि विदेशी लगानीलाई छुट दिन्छौं भन्ने कुरा नीतिमा उल्लेख छ । तर कस्ता खालका साना उद्योगहरूमा विदेशी लगानी भित्र्याउने हो भन्ने विषय गौण भएको छ । जं भएपनि एउटा अन्यौल वातावरणलाई समाप्त गर्ने दिशामा यो आएको छ र आशा गरौं कि अब यसमा भएका अस्पष्टता विस्तारै हटाउदै र प्रष्टाउदै जाने छ । यसो नभएसम्म विदेशी लगानी भित्रिने छैन । विगत ६ महिनादेखि विदेशी लगानी आएको छैन, पाइप लाइनमा पनि छैन । स्वदेशी उद्योगपतिहरूमा पनि ब्रासोन्मुख प्रवृत्ति आइसकेको छ । यो क्रमलाई अझै बढ्न दिने हो भने अर्थतन्त्र चौपट हुन्छ ।

यो नीतिका चुनौतीहरू भनेको पनि नीतिप्रतिको प्रतिबद्धता हो र स्पष्ट व्याख्या हो । विदेशी लगानी भित्र्याउदा ध्यान दिन पर्ने कुरा के छ भने लगानी गर्दा हामी कहाँ के त्यस्तो तुलनात्मक फाइदा छ ? वगलादेश, श्रीलंका, भारत सबैले विदेशी लगानीका लागि प्रशस्त छुटहरू दिएका छन् । तिनीहरूको तुलनामा हामीले थप छुट दिएनौं भने हाम्रो भूवर्णितका कारण हुने समस्या, सानो बजार, पूर्वाधारको कमी जस्ता कुराहरूको पूर्ति के वाट गर्ने ? त्यसैले यहा लगानी गर्न आउनेहरूले थप छुट खोज्छन् अन्यथा आउदैनन् ।

ग्याटको अवधारणा एकातर्फ छ भने मूल्य नियन्त्रण र अनुदानको

15

प्रतिक्रिया

व्यवसायीहरूका दृष्टिमा नयाँ आर्थिक नीति

नेकपा (एमाले) सरकारले सत्ता सम्हाले पछि देशको अर्थतन्त्रमा परेको प्रभावका बारेमा र सरकारले नयाँ आर्थिक नीति प्रकाशमा ल्याएपछि यस नीतिको सम्बन्धमा हामीले विभिन्न व्यक्तिहरूसँग एउटै प्रश्न गरी उहाँहरूको प्रतिक्रिया मागेका थियौं । प्रस्तुत छ उहाँहरूको सक्षिप्त प्रतिक्रिया-सम्पादक)

प्रदीपकुमार श्रेष्ठ, उपाध्यक्ष, ने.उ.वा.महासंघ

वर्तमान सरकारले सत्ता सम्हालेको ज्यादै छोटो अवधिमात्र भएको परिप्रेक्ष्यमा देशको समय अर्थतन्त्रमा परेको प्रभावको विस्तृत मूल्यांकन गर्न कठिन हुन्छ । तर पनि नेकपा (एमाले)को सरकारले आफ्नो आर्थिक नीतिमा परिलक्षित केही बुँदाहरूमा विपन्न वर्गको आर्थिक अवस्था सुधार गर्ने, राष्ट्रिय उत्पादनको वृद्धि तीब्र गर्ने, देशको राष्ट्रिय पूँजीको विकास गर्ने र देशको अर्थतन्त्रलाई स्वतन्त्र र आत्मनिर्भर तुल्याउने जस्ता सकारात्मक नीतिहरू अबलम्बन गर्ने अठोट प्रशंसनीय मान्नु पर्छ ।

मुलुकको अर्थतन्त्रको विकासको कुरा गर्दा औद्योगिक विकास अभियानकै रूपमा अगाडि बढाउनु अनिवार्य आवश्यकता हुन आउँछ । यसमा निजी क्षेत्रको अग्रणी भूमिका रहने हुँदा निजी क्षेत्रलाई बढी आकर्षित र प्रोत्साहित गर्नु नितान्त आवश्यक हुन्छ । वर्तमान सरकारले निजी क्षेत्रको अत्यधिक मलग्नताको उद्देश्य लिएता पनि स्वस्थ औद्योगिक नीतिको अभाव, सरकारी नियन्त्रणको बाह्रन्यता र कर्मचारीतन्त्रको अनावश्यक भ्रमेला जस्ता विकृतिहरू अझ विद्यमान भएकाले आशातीत रूपमा औद्योगिक विकास हुन सकिरहेको छैन । तसर्थ निजी क्षेत्रलाई बढी आकर्षित र प्रोत्साहित गर्न आवश्यक पूर्वाधार तयार गरी अनावश्यक भ्रमेलाबाट मुक्ति र सन्तुलित आर्थिक खुलापनको वातावरण स्थापित गर्नु आवश्यक हुन्छ ।

आजसम्म राजस्वको अभिवृद्धिको भार केवल कर माथि नै थुपारिदै आएको देखिन्छ । घर, जग्गा तथा आय माथि कर लगाई सकेपछि फेरि सम्पत्ति कर लगाइनु न्यायोचित पनि हुँदैन । कर योग्य सम्पत्तिको मूल्यांकन गर्ने उचित मापदण्डको अभाव पनि खटकेको छ । नगरपालिकालाई वैकल्पिक श्रोतको व्यवस्था गरी चुंगीकरलाई पूर्णतया खारेज गर्नुपर्छ । उद्योगमा लाग्ने आन्तरिक तथा वैदेशिक लगानी तर्फ श्री ५ को सरकारले उदारवादी नीति अपनाउन पर्छ । साथै इजाजत-पत्र लिनु पर्ने व्यवस्थामा पनि लचिलोपन र खुकुलोपन आउन आवश्यक देखिन्छ ।

बनवारीलाल मिश्र, का.स.स., नेउवामहासंघ

एमालेले सत्ता सम्हालेपछि अर्थतन्त्रमा परेको प्रभावलाई छुट्याएर हेर्न अलिक असाजलो पर्छ जस्तो लाग्छ । किनकि यो अर्वाधि सानो छ, एमालेले सत्ता सम्हालेको छ महिना पनि पूरा भएको छैन । छोटो अवधिमा ठूलो परिवर्तन र औद्योगिक लगानीका कुराहरू तुरून्तै हुन र देख्न पनि सकिदैन । त्यसैले विशेष उल्लेख्य त्यस्तो असर देखाउन सकिने स्थिति छैन । सरकारले सुरु सुरुमा आर्थिक विषयमा भन्दा राजनीतिक विषयमा बढी ध्यान दिएको देखियो र त्यो अस्वभाविक पनि थिएन । अब सरकारले आर्थिक सवालहरूलाई विशेष महत्त्व दिन थालेको देखिएको छ । सरकार लगानी र उद्योग बढाउनका लागि प्रयत्नरत र सचेत छ भन्ने देखिएको छ ।

जहाँसम्म आर्थिक नीतिको कुरा छ यो नीति अहिले सरकारको खुला बजार नीति र उदार आर्थिक नीति प्रतिबद्धताका रूपमा आएको छ । यसमा सबै कुरा नयाँ छ भन्ने होइन । यस नीतिले देशभित्रका उद्योगपतिहरूलाई सरकारले पछि के नीति लिन्छ भन्ने शंका थियो भने पनि निवारण गरिदिएको छ र देश बाहिरका लगानीकर्ताहरूलाई त कम्प्युनिष्ट सरकार हो, यिनीहरू केन्द्रीकृत र सरकारद्वारा नियन्त्रित आर्थिक नीतितर्फ जान्छन् कि भन्ने जुन सोचाइ हुन सक्थ्यो त्यसलाई स्पष्ट पार्न यो नीति आएको छ । सरकारले आफ्नो प्रतिबद्धता व्यक्त गरेको छ । निजी क्षेत्रको भूमिकालाई स्वीकार गरिएको छ । बजार अर्थतन्त्रमा सहमति जनाइएको छ । हामी त प्रतिष्ठा होस् भन्ने चाहन्छौं । राज्यसत्ताको एकाधिकार नहोस् भन्ने हाम्रो दृष्टिकोण हो । विगतमा नआएको एउटा नया कुरा पनि यसमा समावेश छ । राष्ट्रिय लगानीलाई एकद्वार प्रणालीमा प्रोत्साहन दिने भनिएको छ । त्यो हाम्रा लागि निकै सकारात्मक कुरा हो । पहिला विदेशी लगानीलाई मात्र एकद्वार प्रणालीको कुरा गरिएको थियो । राष्ट्रिय लगानीका विषयमा यो व्यवस्था थिएन । अहिलेको आर्थिक नीतिको विदेशी लगानीमा पनि निकै उचित नीति आएको

गरेको छ । आवश्यकता हेरेर २ करोड भन्दा तल पनि विदेशी लगानी आउन सक्ने तर अरुमा चाहिँ पहिलेकै नीति अनुसार गरिने कुरा उल्लेख छ । विपन्न वर्गको उत्थान गर्ने, लाभ राष्ट्र भरिका जनतालाई पुऱ्याउने कुरामा त मतभेद हुने सक्दैन । त्यसैले यो आर्थिक नीतिलाई मैले सार्वजनिक रूपमा प्रतिबद्धता व्यक्त गरिएको दस्तावेजका रूपमा लिएको छु ।

ए.जी. शोर्पा, महा-सचिव, केन्द्रीय गलैचा उद्योग संघ

जहाँसम्म नेकपा (एमाले)ले सत्ता सम्हालेपछि देशको, अर्थतन्त्रमा परेको प्रभावको सम्बन्ध छ त्यसलाई ६/७ महिनाको कार्यान्वयनका आधारमा स्पष्टतः यो प्रभाव पऱ्यो भनी किटानी गर्न खोज्नु निकै अप्प्यारो विषय हो । कुनै पनि राष्ट्रको आर्थिक विकास नियमित कार्यान्वयन हुने तथा दीर्घकालीन रूपमा प्रभाव पर्ने प्रकृया हो । देशको आर्थिक परिसूचकमा आएको परिवर्तनमा पूर्व नीतिबाट पनि प्रभाव परेको हुन्छ । तर यसप्रकारको प्रभावको विश्लेषणात्मक समीक्षालाई वेवास्ता गरी सम्पूर्ण प्रभाव वर्तमान आर्थिक नीतिहरूबाट मात्रै परेको हो भन्ठानेर आर्थिक क्षेत्रका गतिविधिहरूलाई हेरिएको छ ।

चालू आवको पथम नौ महिनाको तथ्यांकहरूका आधारमा राष्ट्रको आर्थिक-परिसूचकहरू सकारात्मक रूपमा परिचालित भएको नेपाल राष्ट्र बैंकको हालै प्रकाशित विज्ञापितबाट देखिन्छ । सरकारी तथा मौद्रिक दुवै क्षेत्रतर्फको सुधारले वित्तीय अनुशासन कायम भै मूल्य स्थिति समेतमा अनुकूल प्रभाव परी मूल्य वृद्धिमा कम चाप परेको, राजस्व संकलनमा वृद्धि हुनुको साथै खर्चमा भएको नियन्त्रणले गर्दा बजेट घाटामा कमी आएको, वित्तीय सन्तुलनमा सुधार भएकोले मौद्रिक विस्तारको दरमा कमी भएको, विदेशी विनियम सँचितीमा वृद्धि हुने क्रम जारी रही कूल सँचिती उच्चतम स्तरमा पुगेको जस्ता सकारात्मक पक्षहरू नेपाल राष्ट्र बैंकको प्रकाशित विज्ञापितमा समावेश गरिएको पाइन्छ । केही निश्चित क्षेत्रमा निश्चय नै सुधारका लक्षणहरू देखा परेका छन् जसलाई चालू नीतिहरूले भन्दा पनि व्यापारिक उतार चढावको स्वभाविक प्रकृयाको प्रभाव भन्दा अनुपयुक्त हुँदैन । समयमा भन्ने हो भने देशको अर्थतन्त्रको परिचालनमा वर्तमान सरकारले अबलम्बन गरेका नीतिगत व्यवस्थाको प्रभाव भन्दा पूर्व सरकारले अबलम्बन गरेका नीतिगत व्यवस्थाको प्रभाव धेरै रहेको र वर्तमान नीतिगत व्यवस्थाले विविध आर्थिक कृयाकलापहरूको उपलब्धिमा मनोवैज्ञानिक प्रभाव मात्र पार्न सकेको मैले महसूस गरेको छु ।

हालै श्री ५ को सरकारले जनसमक्ष ल्याएको आर्थिक नीतिमा नीतिगत रूपमा विपन्न वर्गको आर्थिक अवस्थामा सुधार गर्ने, राष्ट्रिय पूँजीको विकास गर्ने, राष्ट्रिय उत्पादनलाई बढाउने, देशको अर्थतन्त्रलाई स्वतन्त्र र आत्मनिर्भर तुल्याउने जस्ता अवधारणा समावेश रहेकाले आगामी दिनहरूमा कार्यान्वयन हुने यी व्यवस्थाहरूबाट राष्ट्रको आर्थिक गतिविधिले सकारात्मक गति लिने आशा गर्न सकिन्छ । यसै क्रममा निकासी व्यापारतर्फ रहेका विसंगतिहरू हटाउन वाणिज्य नीतिको समीक्षा गरी आवश्यक सुधार गरिने, देशगत तथा वस्तुगत विविधीकरणका लागि छुट्टै प्रोत्साहनको व्यवस्था गरिने, निकासी व्यापारमा लागि आएको सेवा शुल्कलाई क्रमशः हटाउने लगायत छिमेकी मुलुकहरूमा अबलम्बन गरिएका आर्थिक नीतिहरूलाई मध्यनजर राखी सुधारका उपायहरू अबलम्बन गरिने जस्ता व्यवस्थाहरू विगतमा जस्तै गरी समावेश गरिएका छन् । उल्लेखित वजारमुखी आर्थिक व्यवस्थाहरूको कार्यान्वयन विगतमा जस्तै अन्य मुलुकहरूका वस्तुको वजार विस्तार गर्न परिचालन नगरी राष्ट्रिय आवश्यकता अनुरूप वास्तविक तथा प्रभावकारी कार्यक्रमको आधारमा संचालन गरिएमा राष्ट्रको आर्थिक परि सूचकहरूले सकारात्मक गति लिई आर्थिक गतिविधिमा गतिशीलता आउने विश्वास लिन सकिन्छ ।

स्नेह सायमी, उपाध्यक्ष, नेपाल घरेलु तथा साना उद्योग संघ

एमाले सरकारले सत्ता सम्हालेको ६ महिना पछि नै देशको

कमजोर भएको देशमा सर्जिलो छैन। फेरि यो ६ महिना भित्रै अर्थात्तन्त्रमा केही भई हाल्छ कि भन्नु पनि तर्कसंगत देखिदैन। नेपालीहरूको आय विगत दशकौं देखि वृद्धि नभइरहेको र गरिवीको रेखामुनी बाचेको नेपालीहरूको संख्या दिनानुदिन बढिरहेको स्थितिमा एमाले सरकारसंग के जादूको छडी छ र ६ महिना भित्रै प्रभाव पार्न सक्नु ?

एमाले सरकारले स्पष्ट आर्थिक दृष्टिकोणको निर्माण गरोस् : आर्थिक नीति तय गरोस्। नेताहरूले उद्योग वाणिज्य क्षेत्रको सम्बन्धमा दिएका अभिव्यक्तिहरू विवादास्पद र नकारात्मक हुने गरेका छन्। उहाँहरूले जहाँ जे बोल्दा त्यस सभामा उपस्थित अधिकांश श्रोताहरूखुशी हुन्छन् त्यही बोल्ने गरिरहनु भएको छ। प्रतिपक्षमा बस्दा ठीकै होला। सरकार बनाइसकेपछि आफ्नो उद्देश्य र कार्यक्रम स्पष्ट नहुनु र लिखित रूपमा प्रकाशित आर्थिक नीति र अर्थमन्त्रीज्यूकै भनाइ बाभनुको कारणले सरकार यो अवधिभित्र स्पष्ट आर्थिक दृष्टिकोणको अभावमा काम गरिरहेको देखिन्छ।

म सरकारसंग के कुरा गर्न चाहन्छु भने उहाँहरूको साँच्चै आर्थिक समुन्नति गर्ने प्रतिबद्धता छ कि छैन ? छ भने निजीक्षेत्रको efficiency लाई सदुपयोग गरेर breakthrough गर्ने प्रयास गर्नुहोस् हामी सहयोग गर्छौं। यदि प्रतिबद्धता नै छैन भने, यो यस्तै भइरहन्छ। विदेशी लगानी, jointventure भाषण गर्दैमा आउंदैनन्। त्यस्को लागि के कस्ता पाइलाहरू चाल्नुपर्ने हुन्छ, त्यो कुरा निजीक्षेत्रसंग सिक्नोस् र लाज नमानिकन सहयोग माग्नोस्, व्यापार उद्योग र अर्थनीति बनाउंदा निजी क्षेत्रलाई पनि आफ्नो समकक्षमा राख्नोस् र त्यही नीतिको बारेमा स्पष्ट गर्नुहोस्।

महेशकुमार अग्रवाल, उपाध्यक्ष, नेपाल चेम्बर अफ कमर्स

नेकपा (एमाले)को सरकार आएको करिब ६ महिना हुन लाग्यो। यस अवधिमा सम्पूर्ण आर्थिक क्षेत्र लगायत उद्योग व्यापारको क्षेत्रमा राम्रो प्रभाव परेको देखिन्छ। हालसम्म जारी गरिएका तथ्यांकहरूको आधारमा सकारात्मक प्रभाव परेका क्षेत्रहरू जस्तै- राजस्व परिचालनमा गहकिलो वृद्धि हुनु, केही वस्तुहरूको औद्योगिक उत्पादनमा वृद्धि हुनु, मूल्य वृद्धि एक अंकमा नियन्त्रण हुनु, चालु वर्षमा GDP मा ४% ले बढ्ने अनुमान हुनु, बजेट घाटा कम हुनु इत्यादि हुन्। यस समयमा वर्तमान सरकारले वैदेशिक लगानीको लागि विश्व समुदायको ध्यान आकर्षित गरेको छ भने विदेशी मुलुकहरूसंग द्विराष्ट्रिय सम्बन्ध बढाउन भर मग्दू प्रयत्न गरेको छ। तर केही सम्बन्धनशील तथा आवश्यक क्षेत्रहरू जस्तै निर्यात बढाउने उद्योगहरूको प्रतिस्पर्धात्मक क्षमता बढाउनु पर्ने, डाइ पोर्टको व्यवस्था हुनुपर्ने, निर्यात प्रवर्द्धन र पूर्वाधार मा अधिकतम लगानी, विदेशी पूँजी आकर्षित गर्ने उपायहरू इत्यादिमा विशेष ध्यान दिनु पर्ने देखिन्छ। हालै श्री ५ को सरकारले प्रकाशमा ल्याएको आर्थिक दस्तावेजका उद्देश्यहरू समय सापेक्ष नै छन् तर यस अन्तरगत आउने नीति तथा कार्यक्रमहरू अझ आउन बाँकी नै छ। नीति अनुसारका कार्यक्रम प्रकाशमा आएपछि र कार्यान्वयन पक्ष राम्रो भएमा यो नीति सफल हुने आशा गर्न सकिन्छ।

एमालेका.....

कुरा अर्को तर्फ छ, यस्तै निजीकरणको धारणा एकातर्फ छ भने सरकारबाट उद्योगहरूको स्थापना गर्ने चर्चा अर्को तर्फ छ, त्यस्तै स्वदेशी उद्योगहरूको संरक्षणको कुरा एकातर्फ छ भने विदेशी लगानीलाई बढाउने भन्ने पनि अर्कोतर्फ छ। यसरी एक अर्को पक्षमा यी बिषयहरूलाई वर्तमान आर्थिक नीतिले कसरी समेट्ने प्रयास गरेको छ प्रष्ट पारिदिनु हुन्छ कि ?

- यस सम्बन्धमा विरोधाभाषपूर्ण कुराहरू प्रशस्त छन्। यो स्थितिलाई तोड्नु पर्दछ। विरोधाभाष रहन दिएर लगानी प्रस्फुटन हुन

अभाव रहेको देखेको छु। यदि एमालेले साच्चै नै खुल्ला र उदार अर्थतन्त्र चाहन्छ भने मार्क्सवादी सिद्धान्तलाई बिसिदिनु पर्छ र अहिलेको सन्दर्भमा यो सान्दर्भिक छैन भन्ने कुरा स्वीकार गरिदिनु पर्दछ। खुला र उदार अर्थतन्त्रको सन्दर्भमा सरकारको भूमिका भिन्न हुन्छ। सकेसम्म प्रक्रियाहरूलाई सजिलो बनाइदिने, नीतिहरू पारदर्शी बनाइदिने, आधारभूत संस्थाहरूलाई सक्षम बनाएर नियम कानुन अनुसार चले नचलेको हेर्ने काम मात्र अहिलेको सन्दर्भमा सरकारको हो। यही भूमिकालाई सरकारले स्वीकार्नु पर्दछ। नयां नयां भूमिका खोजेर हिंड्छु भन्ने हो भने कतैबाट पनि न्यायसंगत हुँदैन।

ने.पा (एमाले)ले सत्ता सन्हालेपछि आर्थिक उदारिकरणमा संकुचन आएको छ भन्ने चर्चा एकयति अर्थविदहरूले गरेका छन्। वर्तमान सरकारले जारी गरेको आर्थिक नीतिको परिप्रेक्षमा उदार अर्थनीतिमा के साच्चै संकुचन आएको छ त ?

- यो सालको पहिलो ९ महिनाले जुन चित्रण देखाइरहेको छ त्यो हेर्दा वर्षको अन्त्यसम्ममा अर्थतन्त्र सकारात्मक स्थितिमा रहन्छ भनेर मान्न सक्ने आधारहरू बहुत कम छन्। वरु के देखिएको छ भने विगतमा सुधार भएका नीतिहरूका कारण त्यसले अर्थतन्त्रमा जुन गति लिएको थियो त्यसका कारण अर्थतन्त्रमा केही सकारात्मक संकेतहरू देखिएको हो। तर यी संकेतहरू कमजोर छन्, दृढ छैनन् र अब यो नकारात्मक दिशातिर पनि जानसक्ने सम्भावित खतरा अहिलेका आर्थिक परिसूचकहरूले देखाएका छन्। त्यसैले म के ठान्छु भने एमाले सरकारको विगत ५ महिनामा आर्थिक व्यवस्थापन र नीतिका विषयमा जुन खालको अन्वैलता छायो, जुनढंगबाट आर्थिक नीति संचालन भयो त्यसले अर्थतन्त्रलाई कमजोर बनाएको छ। हिजांसम्म कार्पेटको उत्पादन घटिरहेको थियो भने अहिले आएर गार्मेन्टको पनि घटिरहेको छ। कृषि उत्पादनमा पनि हास हुने देखिएको छ। यो सालको अन्त्यसम्म पनि विदेश निर्यातमा आएको हासको क्रम पनि जारी नै रहन्छ जस्तो छ। यसले व्यापार घाटा अझ बढाउने छ। पर्यटक संस्थामा कमी आइरहेको छ। सरकारी खर्चमा कमी आएका कारण निर्माण क्षेत्रलाई पनि असर पुऱ्याइरहेको छ। उत्पादन क्षेत्र हेर्ने हो भने केही वस्तुहरूको उत्पादन त वृद्धि भएको छ। तापनि समग्रमा अर्थतन्त्रमा समस्या छ त्यो समस्या हटाउन सही निर्णय लिन पर्‍यो। त्यो भैरहेको छैन। ५ महिना त कुनै निर्णय लिइएन लिइएन। तर अब त लिन बेला भयो। अहिलेको निर्णयले यो साललाई फाइदा पुऱ्याउन नसकेपनि अर्को साललाई सहयोग गर्छ। व्यापारमा यस्तो समस्या हुँदा पनि सरकार एक कदम अगाडि बढेको देखेका छैनौं। अहिले सरकारले निकालेको तथ्यांक अनुसार पनि कृषि उत्पादनमा १-२ प्रतिशत हास हुने देखिएको छ। त्यो हिसाबले हेर्ने हो भने यो वर्षको आर्थिक वृद्धिदर २ प्रतिशतको हाराहारीमा मात्रै रहला जस्तो मलाई लाग्छ। मूल्य नियन्त्रण भैरहेको छ र यो सकारात्मक कुरा हो। तर तराईमा मूल्य वृद्धि एकदमै चर्को छ। पहाडमा मूल्य बेपत्ताले बढिरहेको छ र काठमाडौंमा मूल्य वृद्धि कम छ। काठमाडौंमा मूल्य कम भएका कारण राष्ट्रिय इन्डेक्स तराई र पहाडको भन्दा निकै कम देखिएको छ। अब काठमाडौंको मूल्यमा किन कमी आयो र तराई तथा पहाडमा किन मूल्य वृद्धि चर्को भयो त्यसको कारण खोज्नु पर्छ। मूल्यमा एकरूपता नभएका कारण पनि त्यस सम्बन्धी समस्या समाधान भएको छैन। त्यसैले यसलाई पनि ठूलो सकारात्मक कुरा भनेर भन्न मिल्ला जस्तो मलाई लाग्दैन। कृषि, कार्पेट, गार्मेन्ट र अन्य उद्योगहरूको उत्पादनमा भएको हास र पर्यटन र लगानीका क्षेत्रमा भएको मन्द वृद्धिले गर्दा अर्थतन्त्रलाई केही संकुचनको अवस्थामा ल्याइदिएको जस्तो मलाई लाग्छ। यो स्थितिले बेरोजगार बढाएको छ। आमदानी कम भयो। यसले गर्दा गरिवीको तन्त्र पनि बढेको होला भन्ने गज्जत अनमान यसबाट गर्न सकिन्छ।

श्री ५ को सरकारको.....

३५ प्रतिशत भन्दा अधिक नगरिने भएको छ । यस्तै नगरपालिकाहरूद्वारा गरिने विकास निर्माण कार्यका लागि चाहिने वित्तीय साधनको वैकल्पिक श्रोतको व्यवस्था गरी चुंगीकर प्रथालाई खार्ज गरिने नीति छ ।

मूल्य वृद्धि कर प्रणाली लागू गर्ने प्रतिबद्धता यस नीतिमा स्पष्ट गरिएको छ तापनि यसको पूर्व तयारी आवश्यक भएको हुदा तत्कालका लागि भन्सार मूल्यांकनमा सुधार, आय कर क्षेत्रको विस्तार, कर चुहावटमा नियन्त्रण आदि जस्ता विषयमा ध्यान केन्द्रित गरिने भएको छ । यस्तै सरकारले अनुदानलाई सीमित रूपमा न्यून आय वर्गको राहत र निश्चित क्षेत्रको उत्थान तथा विकासको लागि गर्ने र लामो समयसम्म धान्न सकिने र लक्षित वर्गलाई समेट्न नसक्ने अनुदान व्यवस्थालाई क्रमिक रूपमा घटाउदै लगिने उद्देश्य वर्तमान आर्थिक नीतिमा उल्लेख छ ।

(२) निजीकरण :

भिन्न आर्थिक प्रणालीको सिद्धान्त अनुरूप सरकारको आर्थिक तथा सामाजिक क्षेत्रको विकास तथा न्यायोचित वितरण सुनिश्चित गर्नमा त्यतिकै गहन भूमिका र दायित्व हुने हुनाले निजीकरणको कार्य गर्दा सन्तुलित र छनौटको आधारमा गर्ने नीति लिइनेछ । सोही अनुसार सरकारी संस्थानको निजीकरण गर्दा सरकारी क्षेत्रमा हुन आवश्यक नदेखिएका संस्थाहरू निजी क्षेत्रमा हस्तान्तरण गरिनेछ ।

विगतको निजीकरण प्रकृत्यामा पुनरावलोकन शुरु गरिएको र वर्तमान सन्दर्भमा सरकारी क्षेत्रमा रहन आवश्यक नदेखिएका संस्थानहरू निजीकरण गर्ने वा बन्द गर्ने कार्यलाई सरकारले अधि बढाउने तर सामाजिक दायित्व निर्वाह गर्नुपर्ने, राष्ट्रिय महत्वका तथा सार्वजनिक रूपमा सलग्न संस्थानहरू सरकारी क्षेत्रमा राखिने भएको छ । निजीकरण गर्दा संस्थानलाई सहकारीकरण गर्ने, कर्मचारी मजदूरलाई सहभागी बनाउने र व्यापक रूपमा जनसहभागिता वृद्धि हुने गरी शेयर विक्री गर्ने र आवश्यक भएका यस सम्बन्धी ऐन कानूनमा संशोधन समेत गर्ने कुरा आर्थिक नीतिमा उल्लेख छ ।

(३) औद्योगिक तथा लगानी प्रवर्द्धन :

औद्योगिक क्षेत्रमा उदारवादी नीति अवलम्बन गरी केही उद्योग संचालनार्थ इजाजत पत्र चाहिने व्यवस्थालाई अझ खुकुलो पारिने छ । यस्तै उद्योग विकासको लागि आवश्यक पूर्वाधारको विकास, निजी क्षेत्रको लगानीलाई प्रोत्साहन जस्ता कार्यमा सरकारको ध्यान जान्ने छ । घरेलु तथा साना उद्योगको विकासलाई विशेष रूपमा प्रोत्साहन गरिने र कृषि तथा वनजन्य उद्योगको स्थापनामा उच्च प्राथमिकता दिइने एवं समग्रतामा निर्यात प्रवर्द्धन गर्ने नीति अवलम्बन गरिने उल्लेख छ ।

यसैगरी, विदेशी लगानीको सम्बन्धमा छनौटको आधारमा ठूला तथा मझौला उद्योगहरूमा शत प्रतिशतसम्म साना तथा घरेलु उद्योगको हकमा प्रविधि हस्तान्तरण हुने विदेशी लगानीलाई स्वागत गरिनेछ । यस्तै दुई करोड भन्दा कम पूँजी भएका तर छानिएका उद्योगहरूमा पनि विदेशी लगानी भित्र्याउने बारे अध्ययन गरिने छ । यसरी आमन्त्रण गरिने विदेशी लगानीमा उत्पादकत्व बढाउने, प्रविधि हस्तान्तरण गर्ने, निर्यातमूलक रोजगारी बढाउने खालका लगानीका क्षेत्रलाई विशेष ग्राह्यता दिइने छ । यस्तै विदेशी लगानीबाट आयात हुने लाभश तथा शेयरपूँजी निर्वाध रूपमा फिर्ता लैजान दिनुका साथै विदेशी लगानीमा खुलेका उद्योगहरूलाई राष्ट्रियकरण नगरिने कुरा पनि आर्थिक नीतिमा छ । औद्योगिक तथा लगानी प्रवर्द्धनका लागि यस सम्बन्धी ऐन कानूनमा समसामयिक संशोधन गरी एकद्वार नीतिलाई कार्यान्वयनमा ल्याइने छ ।

(४) वित्तीय क्षेत्रमा सुधार :

व्याजदरलाई नेपाल राष्ट्र बैंकले निर्धारण नगरी वाणिज्य

बैंकहरूले नै स्वच्छाले निर्धारण गर्न पाउने व्यवस्था कायम राखिएको छ । श्री ५ को सरकारले लक्षित क्षेत्र र कमजोर वर्गको हितको लागि खास क्षेत्र र वर्गका लागि भने सहूलियत दरमा कर्जा उपलब्ध गराउने, सो सहूलियत दर र प्रचलित दर बीचको व्याज रकम श्री ५ को सरकारले बैंकिङ क्षेत्रलाई श्री ५ को सरकारले अनुदानको रूपमा दिने व्यवस्था मिलाइएको छ । राष्ट्रद्वारा संचालित नेपालका ठूला वाणिज्य बैंकहरूलाई Restructure गरी बैंकको व्यवस्थापनमा निजी क्षेत्रको सहभागिता गराइने छ । निर्देशित कर्जा कार्यक्रमको हकमा कूल कर्जाको १२ प्रतिशत रकम प्राथमिकता प्राप्त क्षेत्रमा र सो समेत गरी ४० प्रतिशत रकम उत्पादनशील क्षेत्रमा लगानी गर्नु पर्ने प्रावधान कायमै राखिएको छ र कृषि र उद्योग जस्ता क्षेत्रहरू बैंक कर्जाबाट विमुख नहुन भन्नाका लागि तथा ग्रामीण क्षेत्रमा कर्जा प्रवाह गर्न सम्पूर्ण क्षेत्रमा ग्रामीण विकास बैंक जस्ता वैकल्पिक संस्थागत व्यवस्थालाई निरन्तरता दिइने भएको छ ।

नीतिमा धितोपत्र बजारको स्वस्थ र सन्तुलित विकासको लागि संस्थागत व्यवस्था गर्नुका साथै बजारको गतिविधिलाई निगरानी राख्ने निकायहरूलाई सुदृढ गर्ने र पूँजी बजारको विकासका लागि कम्पनी ऐनमा समेत तदनुकूल संशोधन गरिने जनाइएको छ ।

(५) वैदेशिक व्यापार :

वैदेशिक व्यापारको क्षेत्रमा सरकारको दृष्टिकोण उदारवादी रहने, निर्यातलाई प्रोत्साहन दिनका लागि हाल लागू आएको सेवा शुल्क क्रमशः हटाइने, नेपाली मुद्रा व्यापार खातामा पूर्ण परिवर्त्य भइसकेको सन्दर्भमा सेवा र ट्रान्सफरका क्षेत्रलाई अझ खुकुलो पारिनेछ । पूँजी खातामा पूर्ण परिवर्त्यताको सम्बन्धमा भने देशको वित्तीय अवस्था, खुला सीमाना र छिमेकी देशहरूसगको स्थिर विनिमय दर प्रणाली, मूल्य स्थिति, सरकारी वित्त तथा छिमेकी देशहरूमा रहेको पूँजी नियन्त्रणको अवस्थालाई ध्यानमा राखी सुधारको प्रक्रियालाई अगाडि बढाइने र विनिमय दरका सम्बन्धमा परिवर्त्य मुद्रासँग नेपाली मुद्राको स्वतन्त्र विनिमय दर कायमै राखिने कुरा उक्त नीतिमा जनाइएको छ ।

विश्व व्यापार संगठनको सदस्यता लिने सन्दर्भमा नेपालले भन्सार महशूल, अनुदान तथा द्विपक्षीय व्यापार लगायत कतिपय क्षेत्रहरूमा अरु सुधार गर्नु पर्ने देखिएकोले यस सन्दर्भमा विस्तृत अध्ययन पछि निर्णय लिइने र सो प्रयोजनका लागि एउटा कार्यदल गठन पनि भैसकेको आर्थिक नीतिमा जनाइएको छ ।

(६) मूल्य नीति :

सामान्यतः वस्तु र सेवाको मूल्य निर्धारण बजार संयन्त्रवाटै हुने प्रक्रियामा सरकारले हस्तक्षेप गर्ने छैन भन्ने उल्लेख गर्दै आर्थिक नीतिमा अत्यावश्यक वस्तुहरूको मूल्य स्थिरताका लागि भने सरकारले देशमा उत्पादन र आपूर्ति व्यवस्था सुदृढ गर्ने नीति लिने र मूल्य वृद्धिदरलाई नियन्त्रित सीमाभित्र राखिने, त्यसका लागि देशभित्र आपूर्ति कम नहुने स्थिति बनाई राख्न सरकारले अत्यावश्यक वस्तुहरूको संचय आवश्यक परिमाणमा राख्ने व्यवस्था गर्ने एवं मूल्य नियन्त्रणमा सहयोग पुग्ने ढंगले मौद्रिक तथा वित्तीय नीति अवलम्बन गरिने बताइएको छ ।

देशभित्र कृत्रिम रूपमा हुने मूल्य वृद्धिलाई नियन्त्रण गर्न विद्यमान मूल्य अनुगमन निकायलाई बढी प्रभावकारी तुल्याइने, न्यून आय भएका जनतालाई केही अत्यावश्यक वस्तुहरू सुपथ मूल्यमा उपलब्ध गराउन सुपथ मूल्यका पसलहरू खोल्ने, त्यस्ता पसलहरूको कार्य सम्पादन गर्न डिलरहरूको समुचित व्यवस्था गरिनुका अतिरिक्त उपभोक्ता सहकारी संस्थाहरू गठन गरिने कुरा जनाएको छ । प्रारम्भमा यस्ता पसलहरू काठमाडौं उपत्यकामा खोल्ने कुरा पनि स्पष्ट पारिएको छ ।

ELP-BDC/PDC गतिविधि

उदार आर्थिक परियोजना अन्तर्गत

व्यवसाय विकास समिति (BDC) र नीतिगत विकास समिति (PDC) मार्फत विगत अप्रैल र मे महिनामा विभिन्न कार्यक्रम संचालन भएका छन्। यसरी सन्चालित कार्यक्रमहरू यस प्रकार छन्।

(क) व्यवसाय विकास समिति (BDC)

व्यवसाय विकास समिति मार्फत सम्पन्न मुख्य गतिविधि यसप्रकार छन् :

(१) वस्तु / शीप विकास र बजार व्यवस्थापन

व्यवसाय विकास परामर्श सेवा (BDCs) अन्तर्गत सञ्चालित कार्यक्रम मध्ये वस्तु / शीप विकास र बजार व्यवस्थापन एक हो। यस अन्तर्गत भापा जिल्ला अन्तर्गतका वैगुनधारा गाउँ विकास समितिका केही महिलाहरूलाई उनीहरूको शीप र व्यवसाय-विकास गर्ने उद्देश्यले यो कार्यक्रम सञ्चालन भएको थियो। तल्लो तहसम्म (Micro) पुगेर त्यहाका महिलाहरूलाई आय एवं पूँजी परिचालन साथै उनीहरूको उत्पादन वृद्धिको सम्बन्धमा पनि यो मल्लाह केन्द्रित थियो। उत्पादन / शीप विकास विशेषज्ञ मार्फत उपलब्ध गराइएको यो सल्लाहको अर्को महत्वपूर्ण पक्ष त्यहाँका महिलाहरूको शीपलाई वृद्धि गरी उनीहरूको उत्पादनहरू काठमाडौंमा ल्याई यहाँका विक्रेताहरूसम्म पुऱ्याउनु रहेको थियो। यसै सेवा अन्तर्गत गाउँका केही महिलालाई काठमाडौंको भ्रमण कार्यक्रम पनि आयोजना गरिएको थियो।

२. सुदुर पूर्वको ग्रामीण विकास बैंकका सदस्यहरूको हस्तकला उत्पादन सम्बन्धी समीक्षा

पूर्वाञ्चल ग्रामीण विकास बैंकका महिला सदस्यहरूले उत्पादन गरेको हस्तकलाका वस्तुहरूको बजार व्यवस्थापन विषयमा अध्ययन गर्न एक विशेषज्ञ खटाइएको थियो। स्थानीय र बाह्य बजारमा यी वस्तुहरूको खपत र विक्री सम्बन्धमा विशेषज्ञको राय प्राप्त भएपछि त्यस क्षेत्रमा हस्तकला वस्तुहरूको विकासमा थप सहयोग उदार आर्थिक परियोजनाबाट गराइनेछ।

(ख) नीतिगत विकास समिति

नीतिगत विकास समिति मार्फत सम्पन्न मुख्य गतिविधि यस प्रकार छन् :

१. नेपाल स्टक एक्स्चेन्जमा सूचना प्रणालीको विकास

उदार आर्थिक परियोजनाले नेपाल स्टक एक्स्चेन्जमा सूचना प्रवाहमा सजिलो हाँस् भन्ने उद्देश्यले सूचना प्रणाली विकास कार्यक्रम सन्चालन गरेको छ। यो कार्यक्रम अगष्ट १९९५ सम्म सन्चालन हुने

सम्पादक मण्डल

नरेन्द्र बस्न्यात, अनिता तुलाधर, सम्भना थापा

हाम्रो भनाइ

परियोजना चिनारी केही महिनाको अन्तरालपछि पाठकहरूको हातमा छ। उदार आर्थिक परियोजनाको प्रकाशनको रूपमा प्रकाशित हुँदै आएको यो प्रकाशन कारणवस केही समय रोकिन गयो। यसबाट पाठकहरूमा पर्न गएको असुविधाप्रति हामी क्षमा प्रार्थी छौं। हाल उदार आर्थिक परियोजना नयाँ व्यवस्थापन अन्तर्गत "संस्थागत सुधार र अनौपचारिक क्षेत्र" (Institutional Reform and the Informal Sector (IRIS) को माध्यमबाट संचालित भैरहेको छ, तरपनि यो पत्रिका अब नियमित किसिमले प्रकाशित गर्ने योजना छ। यस प्रकाशनमा हामीले श्री ५ को सरकारले केही समय अघि लागू गरेको आर्थिक नीतिका सम्बन्धमा विशेष सामग्री प्रकाशित गरेका छौं। राष्ट्रिय उत्थानमा आर्थिक विकास एउटा अपरिहार्य विषय हो। अतः यस सम्बन्धमा हाल लागू गरिएको आर्थिक नीति के हो? यसको दूरगामी प्रभाव कस्तो हुने आदि विषयमा हामीले विभिन्न अर्थविद्हरूको विचार र लेख प्रकाशित गरेका छौं। आशा छ, सबैलाई यी सामग्रीहरू पठनीय र उपयोगी हुने छन्।

अनुमान छ।

२. नीतिगत अध्ययन:

आगामी बजेटलाई दृष्टिगत गरी उदार आर्थिक परियोजनाले निम्न विषयमा नीतिगत अध्ययन प्रारम्भ गरेको छ: ती अध्ययनहरू हुन (क) निकासी प्रकृयाका समस्याहरू (ख) २ करोडभन्दा कमपूँजीको विदेशी लगानीमा रोक सम्बन्धी समीक्षा।

३. बोट (BOT) सम्बन्धी पूर्वाधार विकास

BOT (Build Operate Transfer) अन्तर्गत पूर्वाधार-हरूको विकास सम्बन्धमा यसका कानूनी र आर्थिक पक्ष समेतलाई मध्यनजर राखी एक अध्ययन प्रारम्भ गरिने भएकोको छ।

४. उपभोक्ता संरक्षण कानून (मस्यौदा)

उदार आर्थिक परियोजनाको सहयोगमा इन्टिग्रेटेड डेभलपमेन्ट एण्ड म्यानेजमेन्ट एशोसिएट (IDMA) बाट उपभोक्ता संरक्षण कानूनी (मस्यौदा) तयार गरिएको छ। उक्त कानून (मस्यौदा) आगामी मस्यौदाको अधिवेशनमा पेश गर्ने उद्देश्यले आपूर्ति मन्त्रालयमा बुझाइएको छ।



प्रकाशक : आईरिस नेपाल (IRIS/NEPAL), टी.एन.टी. भवन,

तीनकुने काठमाडौं। फोन : ४७४९९०, ४७४९९१

टाइपसेटिङ : युनिक कम्प्युटर प्रा.लि., न्यू प्लाजा रामशाहपथ, काठमाडौं। फोन : ४२९४५४

मुद्रक : युनाइटेड ग्राफिक प्रिन्टर्स (प्रा.) लि., न्यू प्लाजा रामशाहपथ, काठमाडौं। फोन : ४२९४९०

IRIS-RUSSIA's

COMMERCIAL LAW REFORM INITIATIVE

QUARTERLY REPORT NO. 7

QUARTERLY REPORT FOR PERIOD APRIL 1, 1995 - JUNE 30, 1995

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DATE OF REPORT: JULY 1, 1995
PROJECT TITLE: RUSSIA COMMERCIAL LAW
PROJECT No. 110-0007
BOA No. ANE-0015-B-00-1019-00
DELIVERY ORDER No. 12

USAID PROJECT OFFICER, PRE/SMIE--ROBERT MITCHELL
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Quarterly Field Report: Russia Commercial Law Project

I. ADMINISTRATIVE DATA

Reporting Period: April 1, 1995 - June 30, 1995
BOA Number: ANE-0015-B-00-1019-00
Delivery Order Number: 12
AID Project Office: G/EG/SMIE (R. Mitchell, 300 SA-2)
AID Office funding delivery order:
Democracy and Governance
AID Office project: Institutional Reform and the Informal
Sector (IRIS) Project

II. PERFORMANCE INFORMATION

1. Project purpose summary statement:

A. Project Purpose

The objective of the IRIS-Russia Project's Commercial Law Reform Initiative is to assist and train Russian law makers, judges, and legal practitioners at the Federation level as they develop the components of a commercial law regime essential for Russia's transition to a market economy. Specifically, IRIS-Russia is concentrating its efforts in the following areas:

- 1) Collaboration with the drafters of the new *Russian Civil Code*.
- 2) Examination and implementation of measures necessary to develop a system of *secured commercial lending*.
- 3) Translation and dissemination of the United States *Uniform Commercial Code*.
- 4) Sponsorship of *forums* on the legal, institutional, and economic foundations of *commercial law*.
- 5) *Training of judges* in commercial law, market economics, civil procedure, and court administration.

B. Relationship to USAID Program Strategy

The IRIS approach in Russia is similar to its approach in other countries, namely, to strengthen

indigenous capacity to understand and carry out needed legal reforms. Therefore, the assistance provided will not only be directed toward crafting legislation, but will also emphasize the broader economic and market principles that form the foundation of an effective commercial law regime. Additionally, IRIS will encourage Russian policy makers and draftsmen to open the legislative process to include input and discussion from private sector groups most affected by the laws. Finally, IRIS recognizes the critical role Western advisors play in the reform process. They should not, however, attempt to dictate the reform agenda or take the place of Russian draftsmen. Therefore the foreign assistance component of Russian legal reform should be less and less visible as local experts and political leaders lead and complete the process. IRIS will provide policy makers with the tools necessary to accomplish this task.

C. Progress toward Project Purpose

i. *Civil Code.*

On 01 January 1995, Part I of Russia's new Civil Code went into effect. Identified by President Yeltsin as the "economic constitution of the Russian Federation," the Code establishes fundamental principles of civil and commercial law. Part I contains the general provisions of civil law, including sections on corporations, property rights, contracts, and secured transactions.

Although not a cure-all to Russia's economic problems, this commercially modern Civil Code is a major advance in Russian reform efforts. It replaces the Brezhnev era Code of 1964, designed for an administrative-command system, and also wipes away the ill-designed patchwork of laws and decrees that had been laid on top of the Soviet era legal system.

The new Code makes fundamental breaks with past Soviet and Russian legislation by effectively guaranteeing both freedom of contract and protection of private property. In addition, the Code promotes commercial lending to small and medium-sized enterprises by instituting a faster, more efficient, and cost-effective system of debt recovery -- a significant improvement over the current Russian Law on Pledge of 1992. The Code will also serve as a sword against the

proliferation of financial crimes that is undermining society's confidence in the market.

Drafting of the Code, coordinated by President Yeltsin's Research Center for Private Law, was accomplished with the assistance of foreign legal experts from the United States and Europe. The USAID-funded IRIS Center has provided continuous expert advice to the Research Center, prompting greater openness and participation throughout the drafting process. This was accomplished in several ways: 1) copies of the draft were circulated among Russian and Western legal communities; 2) visiting Western commercial law experts held sessions not only with the drafters but conducted talks and lectures on issues raised in the text with groups of officials, judges, lawyers, and business people; and 3) briefings by the RCPL and IRIS were organized for similar groups. Efforts to implement the new law have been promoted through activities such as the EBRD/IRIS/Supreme Arbitration Court Conference on Secured Commercial Lending. This event targeted practical aspects of using the new Code for an audience of judges, lawyers, businesses, and parliamentarians.

With the introduction of Part I, the Research Center and IRIS are now directing their attention to the second part of the Code, due to be presented to the State Duma in July 1995. The Duma is scheduled to begin reviewing Part II this summer and hopes to enact it before the parliamentary elections at the end of the year. Part II will contain more detailed provisions of commercial law, including the law of sales, banking transactions, leasing, torts, intellectual property, and inheritance.

During the reporting period, IRIS and the Research Center for Private Law conducted a series of workshops on selected chapters of Part II. The topics covered over a two-week period in May were:

- * Banking Transaction
- * Inheritance
- * Franchising
- * Commercial and Residential Leasing and Rent
- * Intellectual Property
- * Insurance

IRIS and the Research Center targeted these specific issues in Part II because American law

offers important lessons in these areas that differ from European law which the drafters have carefully studied. Additionally, the drafters had more unresolved questions with respect to these chapters than others in Part II.

IRIS assembled a team of western legal experts drawn from academia and private practice, including lawyers working in Russia, to conduct these sessions. The Russian side included not only those responsible for drafting the particular chapters, but also officials in charge of reviewing the document on behalf of the government and parliamentary staff members engaged in the legislative review process.

In addition to organizing these workshops, IRIS solicited commentaries on the entire text of Part II from over 15 western law firms, as well as accounting firms and other USAID-funded organizations engaged in legal reform. Foreign law firms and businesses operating in Russia, because of their dual knowledge of western and Russian commercial law and practice, are perhaps the best equipped to identify specific shortcomings in legislation. Their comments have been translated into Russian and distributed to the Research Center to assist them in revising the draft Code.

ii. *Secured Commercial Lending.*

In market economies, the institutional framework of clear laws, fast and inexpensive self-enforcement procedures--supported by the judicial system--and collateral or property registries creates an environment conducive to lending. To date, these elements are not yet fully operational in Russia.

The lack of modern commercial banking systems in Russia is one of the principal impediments to further economic development in the region. The unwillingness of commercial banks to extend credit to local firms is due less to their fears of inflation than to fears they will not be repaid. Therefore, the ability particularly of small and medium size enterprises (SMEs) to borrow in order to expand their businesses will not improve substantially even when inflation is eventually brought under control. The creation of legal and institutional mechanisms to ensure credit repayment

is thus one of the most important reform initiatives in the transitional process.

Among the legal and institutional prerequisites for a viable system of commercial lending are an effective law on secured transactions and easily accessible property registries. IRIS has worked with the drafters of the Civil Code to incorporate an improved collateral law into the new Code. However, the Russian government has paid little attention to registration issues, except in the area of real property.

In order to focus greater attention on the existing barriers to financial lending, IRIS co-sponsored an International Conference on Secured Commercial Lending in the CIS on November 4-5, held in Moscow at the Supreme Arbitration Court of the RF. Additional sponsors included the European Bank for Reconstruction and Development, the Inter-Parliamentary Assembly of the Commonwealth of Independent States, the Supreme Arbitration Court of the Russian Federation, the Scientific Consulting Center for Private Law of the CIS and USAID.

The Conference targeted both law makers who are drafting legislation on pledge, property registries, and financial institutions, and the bankers who must make the ultimate decisions of whether to lend. During the morning session of Day One, Conference speakers reviewed secured lending laws and practice in Russia, the CIS, and western market economies. In the afternoon, panelists discussed specific elements of secured transactions, such as property, enforcement, insolvency, and registration. On Day Two, the audience participated in analyzing a hypothetical secured transactions deal.

The Conference was a huge success, attracting almost 200 people from over 90 organizations, including banks, law firms, businesses, the government, legislature, and judiciary. Delegates from fourteen different countries attended, including the United States, Great Britain, Norway, Germany, Poland, Lithuania, and Russia. CIS countries represented, in addition to Russia, included Ukraine, Belarus, Georgia, Moldova, Azerbaijan, Kazakhstan, and Uzbekistan.

Among the speakers were the First Deputy Chairman of the Supreme Arbitration Court, the Deputy Chairman of the Federal Bankruptcy Agency, the President of Citibank-Moscow, the General Counsel of the EBRD, the Director of IRIS, the managing partners of leading western law firms in Russia, law professors from Columbia and Michigan Universities, and the Executive Director of the International Bank of Japan. Mikhail Mityukov, the First Deputy Chairman of the State Duma, delivered the Keynote Address on the parliament's role in Russian legal reform.

The proceedings will be published by the EBRD and IRIS in English and Russian this Summer.

iii. *Uniform Commercial Code.*

Enhanced access to information on commercial law in market economies is essential to increase the understanding of Russian law makers, private attorneys, judges, teachers, and students. Recognizing this fact, the Research Center of Private Law has initiated a project to translate and publish the civil and commercial codes of major European countries and the United States. IRIS and the Research Center are working together to translate, publish, and disseminate the United States Uniform Commercial Code (UCC). A Russian version of the UCC was published in the USSR in the 1960s, but the American Code has changed significantly since then, thus necessitating a revised edition.

IRIS and the Research Center selected editors and translators to update the Russian-language UCC. The editor, a prominent Russian judge, was one of the original translators of the 1960s edition. During the reporting period, the majority of the translation was completed. The text will be edited and published in September 1995. The final product will include introductions by Professors Robert Summers and James White, authors of the most widely used hornbook on American commercial law, and by the Russian editor.

Furthermore, IRIS and the Research plan to develop a commentary section tailored to the Russian legal tradition. This commentary, which will include official comments from the UCC, will help Russians interpret their new Civil Code, just as annotations to the UCC assist the American legal

community in understanding its commercial code.

iv. *Forums on Commercial Law and Economics*

Russians recognize the importance of the economic underpinnings and incentive structure that a commercial law regime should reflect. In order to enhance this understanding, the IRIS Center, in cooperation with assorted Russian institutions, has organized an on-going program of workshops, seminars, and lectures on the concepts central to the establishment of an effective commercial law system, including commercial law and practice, market economics, and the rule of law.

Specifically, IRIS has sponsored a lecture at the High Arbitration Court on American perspectives on the draft Russian Civil Code by Professors Summers and White. IRIS has also run seminars for both faculty and students at Moscow State University Law School on banking and securities law, on legal developments for Peace Corps volunteers, and on collateral law for Russian credit officers. Additionally, IRIS representatives have delivered speeches on topics such as law reform, contract performance, foreign investment, commercial dispute resolution, and collateral law at a variety of international conferences, in Russia, Poland, and the United States. IRIS has also sponsored a series of talks by Russian law makers involved in drafting the new Civil Code to western audiences.

Additionally, IRIS is working to establish a Business Law Roundtable at which the ultimate consumers of law -- entrepreneurs, bankers, and lawyers -- can meet with the drafters of commercial legislation to discuss the effects of prospective laws on economic activity prior to enactment. IRIS and the International Lawyers Group in Moscow ("ILG") have invited the drafters of the Code section on legal entities at the ILG's next monthly meeting in July to explain and discuss the Civil Code provisions on shareholders' liability (Articles 56 and 105), which have caused some concern among foreign investors.

v. *Judicial Training.*

Enhancing judicial capacity to resolve complex business disputes is one of the key elements of the legal reform process. Without a better informed

and more efficient judiciary, Russia's new laws, such as the Civil Code, will prove ineffective.

In the Fall of 1994, IRIS brought twenty-two civil law judges and court administrators from federal, regional, and city courts across Russia to the US to study commercial law, civil procedure, and court administration.

IRIS hopes to conduct follow-up activities to this judicial training program in Russia in the near future. In particular, IRIS hopes to set up a training course for judges from across Russia to raise their level of understanding of securities legislation, which is especially important now that the new Russian Federation Law on Securities Market is scheduled to come into effect this summer or early fall at the latest.

D. Lessons Learned

i. *Opening the Governing Process.*

Traditionally, the Russian governing process is not open to input from those most effected by the decisions. For instance, the parliament does not hold public comment sessions in which business leaders can express their concerns about pending legislation. To help reverse this practice, USAID projects should endeavor to expand public access to the decision making process. This can be accomplished in a number of ways: organizing conferences or roundtable discussions among key government officials and private sector groups, disseminating drafts of laws; and publishing articles in the press.

IRIS has played an important role in opening the legislative process with respect to the Civil Code, disseminating drafts to Russian and Western government officials and businesses and encouraging their comments. IRIS has also organized briefings on the Code by drafters and western experts for groups of lawyers, judges and parliamentarians, and entrepreneurs.

During the reporting period, the May 1995 workshops on select chapters of Part II of the Civil Code, which IRIS conducted together with the Research Center for Private Law, brought together a broad range of perspectives and interests. The Russian participants included not only those

responsible for drafting the particular chapters, but also officials in charge of reviewing the document on behalf of the Government and parliamentary staff members engaged in the legislative review process. For instance, officials from the "notary" department of the Ministry of Justice were invited at the inheritance workshop to get acquainted with the draft section on inheritance at a relatively early stage of the legislative process, and express their concerns on the basis of their profound knowledge of the current organization and functioning of the "notary" in Russia. Also, parliamentary staff members were invited to the banking workshop, to indicate what political resistance may be expected from the parliament with regard to the chapters on banking transactions. With the assistance of Professor James J. White, the drafters and parliamentary staff members used the opportunity to work out solutions that will be both politically acceptable and supportive of banking practice.

ii. *Russian Driven Process*

Reforms, to be successful, must enjoy indigenous support and be locally generated. So while western advisers can play an important role in the reform process, they should not play a primary role. Moreover, assistance should be targeted toward enhancing Russian capacity to initiate and complete the needed changes because in future they will have to do so independent of foreign assistance. Likewise, westerners will not always agree with the decisions or timetables chosen by the Russian government. Nevertheless, the objective should be to help create the best Russian law, taking account of the full local context -- political, cultural, economic -- and not simply attempt to impose the best western solutions. That approach has been tried during the transition, across Russia and Eastern Europe, with little success.

Bearing this in mind, IRIS has not engaged in drafting per se. Rather, IRIS has worked with the Russian drafters to enhance their understanding of the economic and commercial law principles underlying their Civil Code and to improve their capacity to write good laws.

The May 1995 workshops on selected chapters of Part II of the Code were therefore not limited to

an article by article commentary, but also served to provide the drafters with useful background information on U.S. experience in regulating and implementing the selected areas of law. The U.S. experience may help the drafters to anticipate future developments and identify the gaps in the current draft. This approach was particularly useful with regard to the Code chapters on insurance, franchising, inheritance and banking.

iii. *Coordination Among Donor Organizations And Contractors*

Many different donor organizations and contractors are working on overlapping issues. Coordination among them is critical, less they end up either duplicating each other's activities or, as is too often the case, working at cross purposes.

IRIS has coordinated its Civil Code efforts closely with other organizations working on related matters. During the reporting period for instance, IRIS has invited the Urban Institute, which is working on leasing and mortgage issues, and the Financial Services Volunteer Corps (FSVC), which is studying banking law, to attend its Civil Code workshops on leasing and banking, respectively. In addition, IRIS has provided documentation to Sibley International, which is involved in a USAID funded franchising project, and suggested to distribute to the drafters Sibley's comments on the chapter on franchising. IRIS has also worked with the Harvard Institute for International Development (HIID), which is assisting in the development of company and securities law, to ensure that these laws are compatible with the Civil Code and to strategize on ways to improve both the Code and this supplemental legislation. Finally, IRIS has cooperated with ARD/Checchi in advising the Inter-Parliamentary Assembly of the CIS on the Model Civil Code.

iv. *Implementation*

The major impediment to the development of a functioning legal system in Russia is the implementation and enforcement of laws. The best written legislation is useless if the courts are not properly trained to interpret and apply it. In turn, highly qualified judges are ineffectual if their decisions are not enforced. Much attention has been focused recently on drafting laws. Equal

if not greater effort must be devoted to the more time-consuming, difficult, and costly issue of institutional reform, particularly in the areas of judicial training, enforcement of judgements, and administrative reform.

While it has assisted the Russian government develop the new Civil Code, IRIS has simultaneously worked on implementation. organizing an international conference on the practical and legal aspects of the secured commercial lending issued raised in the Code. additionally, IRIS has trained chief judges from over a dozen federal and regional commercial courts to understand better the legal and economic principles at the heart of the new Code. Certainly, more work needs to be done on implementation. Further legislation will be required to effectuate the Civil Code fully. Significant training is necessary to build the judiciary's capacity to enforce contract and property rights.

2. **Progress report**

A. **Technical Implementation**¹

Activities Planned for Reporting Quarter	Current Status	Explanations (Problems, steps to resolve, etc.
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¹ Status of activities as defined in the delivery order.

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<p>1. <u>Civil Code</u></p> <p>a. IRIS Workshops on Civil Code, Part II, Moscow. Sections covered: Banking Transactions; Inheritance; Franchising; Commercial and Residential Leasing; Intellectual Property; and Insurance.</p> <p>b. Translation and Dissemination of Civil Code, Part II.</p> <p>c. Analysis and Commentary on draft Code.</p> <p>d. Articles on new Civil Code.</p> <p>e. Briefing on Part I of the Civil Code</p>	<p>1</p> <p>1</p> <p>1</p> <p>2</p> <p>2</p>	<p>Ran Drafting Workshops over a two-week period in May 1995. American experts, drawn from both law firms and law schools, focused on select articles from Part II.</p> <p>IRIS had draft of Part II translated and distributed widely to businesses and law firms in Russia and interested groups in US.</p> <p>IRIS solicited commentaries on the entire text of Part II of the Civil Code from over 15 western law firms in Russia. The comments were translated into Russian and distributed to the drafters of the Code.</p> <p>Blumenfeld, IRIS-Russia former Director, is drafting article for publication in Journal of High Arbitration Court and western journal. Wissels, IRIS-Russia Commercial Law Project current Director is drafting articles and working papers on selected issues of the Civil Code.</p> <p>IRIS has invited the drafters to the monthly breakfast meeting of the international lawyers group to discuss articles 56 and 105 of the Code on shareholders' liability.</p>
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<p><u>2. Secured Commercial Lending.</u></p> <p>a. Publication of proceedings of International Conference on Secured Commercial Lending in the CIS.</p> <p>b. Report on collateral law in Russia.</p> <p>c. Chapter on collateral law in Russia.</p>	<p>2</p> <p>1</p> <p>2</p>	<p>EBRD and IRIS are preparing the Conference proceedings for summer publication.</p> <p>IRIS-Russia prepared a report on collateral law in Russia for inclusion in survey of collateral law in Central Europe, compiled by IRIS-Poland Project.</p> <p>Wissels is co-author of the chapter on Russia in the book "Security and other Credit Enhancement Methods", which will be published by Kluwer Law International later this year.</p>
<p><u>3. Uniform Commercial Code.</u></p> <p>a. Translation, Editing, Introductions, Publication.</p> <hr/> <p><u>4. Forums on Commercial Law and Economics.</u></p> <p>a. Conference on legal aspects of investments in Russia, organized by the AIJA (International Association of Young Lawyers) in cooperation with the All Russian Association 21 Century Lawyers and the German Bar Association.</p>	<p>2</p> <p>1</p>	<p>IRIS, Research Center, and editing team completing all aspects of UCC production. Hope to publish in summer/fall.</p> <hr/> <p>Wissels delivered speech on "Introduction to the new Civil Code of the Russian Federation and the IRIS-Russia Commercial Law Project" to an audience from Russian and foreign attorneys.</p>

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<p>5. <u>Judicial Training</u></p> <p>a. Judicial Training in Commercial Law Follow-Up Activities.</p> <hr/>	<p>2</p>	<p>IRIS is examining possible follow-up activities for judicial training, in particular with regard to the new securities legislation.</p> <hr/>
<p>6. <u>Add'l Activities.</u></p> <p>a. International Lawyers Association.</p>	<p>2</p>	<p>Director is member in association of foreign lawyers. In charge of guest speakers committee. Serves on sub-committee on legal translations.</p>
<p>b. USAID Rule of Law Monthly Meeting.</p>	<p>2</p>	<p>IRIS hosts monthly meeting of USAID Rule of Law Contractors. Meets to discuss issues of common interest and concern. Participants include IRIS, ABA-CEELI, HIID, Urban Institute, ARD/Checchi.</p>
<p>c. US Government Rule of Law Briefing.</p>	<p>1</p>	<p>IRIS made a presentation on the new Civil Code and IRIS' role in assisting the drafters to over 15 representatives from USAID Mission, US Embassy, and various non-governmental organizations involved in legal reform.</p>
<p>d. Conferences</p>	<p>1</p>	<p>IRIS-Russia Director attended the EBRD Annual Meeting; a conference on Polish Collateral Law in Warsaw; a conference on leasing in Moscow.</p>
<p>e. CIS Model Civil Code</p>	<p>1</p>	<p>IRIS representatives attended the CIS Model Civil Code working group in Petersburg in April.</p>

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Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed
- (4) Action cancelled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
<p>1. <u>Civil Code</u></p> <p>a. Support to Research Center for Private Law during legislative drafting and legislative debate on issues of major concern to the parliamentarians</p> <p>b. Seminars and training on new Russian Securities legislation.</p> <p>c. Articles on new Civil Code.</p> <p>d. Translation and publication of commentaries on selected issues of the Civil Code by the drafters</p> <p>e. Distribution of the Civil Code to Russian and foreign jurists and businessman and women</p>	<p>Summer - Fall</p> <p>Summer - Fall</p> <p>Summer</p> <p>Summer - Fall</p> <p>Summer - Fall</p>	<p>IRIS-Russia/Research Center for Private Law</p> <p>IRIS-Russia/IRIS Center/Resource Secretariat</p> <p>IRIS-Russia/IRIS Center</p> <p>IRIS-Russia/IRIS Center/Research Center for Private Law</p> <p>IRIS-Russia</p>
<p>2. <u>Secured Commercial Lending.</u></p> <p>a. Publication of proceedings of Conference on Secured Commercial Lending.</p>	<p>Summer</p>	<p>IRIS/EBRD</p>
<p>3. <u>UCC</u></p> <p>a. Finish all aspects of project. Publish.</p>	<p>Summer - Fall</p>	<p>IRIS-Russia/Research Center for Private Law</p>

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<p>4. <u>Forums on Commercial Law and Economic.</u></p> <p>a. Business Law Roundtable sponsored by IRIS in conjunction with the International lawyers Group - Discussion with drafters of the Civil Code chapter on legal entities on shareholders' liability under Articles 56 and 105 of the Civil Code.</p>	<p>July</p>	<p>IRIS/ILG</p>
<p>5. <u>Judicial Training</u></p> <p>a. Possible follow-up to US training program. Possible training and teaching program for judiciary on the new Russian Federation Law on Securities Market</p>	<p>Summer - Fall</p>	<p>IRIS-Russia, IRIS-Center, AED, Resource Secretariat</p>
<p>6. <u>Additional Activities.</u></p> <p>a. International Lawyers Group.</p> <p>b. USAID Rule of Law Contractors Monthly Meeting.</p>	<p>on-going</p> <p>on-going</p>	<p>International Lawyers Association.</p> <p>USAID Rule of Law contractors.</p>

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B. Project Administration

Activities Planned for Reporting Quarter	Current Status	Explanations (Problems, steps to resolve, etc.)
Registration	3	Accreditation with Russian Chamber of Commerce is put on hold in view of the creation of the new Russian Bureau for International Humanitarian Aid and Technical Assistance of the Government of the Russian Federation ("Bihata"). Will seek accreditation with Bihata as soon as procedures are known.
Open Russian Bank Account.	3	Will open upon completion of registration process.
Move into new offices.	1	Office move fully completed.
Install Satellite Line.	4	Present phone system deemed sufficient for current needs.
Hire Administrator/Accountant.	3	Decision on administrator-accountant postponed.
Hire new program manager for Commercial Law II	1	Dutch lawyer, hired and trained as new program manager. Financial and administrative responsibilities transferred to new manager and to managers of other IRIS-Russia projects in Moscow.
Hire Russian Lawyer, short term.	3	No Russian lawyers hired at this time.

Current Status Key:

- (1) Action Completed
- (2) Action in process
- (3) Action delayed
- (4) Action cancelled

Planned Activities for Next Quarter	Estimated Completion Date	Entity Responsible for Action
Accreditation.	Delayed	IRIS-Russia/IRIS Center/Bihata
Open Bank Account.	Delayed	IRIS-Russia/IRIS Center
Hire American Lawyer/law student at Junior Associate level	Summer - Fall	IRIS-Russia

3. Outstanding problems and issues and intended steps toward resolution

N.A.

III. FINANCIAL DATA

See Appendix I.

IV. ATTACHMENTS

1. Civil Code

- a. Three-page Report on the Workshops and Commentary on Part II of the Russian Civil Code;
- b. Agenda of the May Workshops on Part II of the Civil Code);
- c. Summaries of the May Workshops on Banking Transactions, Inheritance, Franchising, Commercial and Residential Leasing and rent, Intellectual Property, and Insurance;
- d. Background Briefings prepared by IRIS - Russia on: (i) Agency, Commission Agency And Franchising In the Russian Federation; (ii) Inheritance Law in the Russian Federation; (iii) Leasing in the Russian Federation; (iv) Intellectual Property Law in the Russian Federation; and (v) Insurance law in the Russian Federation. (Not attached. Available upon request from IRIS-Russia or IRIS Center.);
- e. Commentaries from law firms and accounting firms operating in Russia on Part II of the Civil Code: (i) Comments on Chapter 30 on Purchase and Sale by Steptoe and Johnson; (ii) Comments on Chapters 30, 31, 32 on Sale and Purchase, Barter and Gift by Latham and Watkins; (iii) Comments on Chapters 41

- 48 on Banking Transactions and Agency by Skadden & Arps; (iv) Comments on Chapter 49 on Franchising by Deloitte and Touche; (v) Comments on Chapter 35 on Residential Lease by The Urban Institute; (Not attached. Available upon request from IRIS-Russia or IRIS Center.)

f. Memorandum on the Draft Law " On the State Registration of Rights to Immovable and Real Estate Transaction" by Corinna Wissels;

g. Memorandum on The new Civil Code and Legal entities - Directors', Shareholders' and Parent Liability" by Corinna Wissels;

h. An introduction to the Civil Code of the Russian Federation and the IRIS-Russia Commercial Law Project by Corinna Wissels, congress material of the AIJA Congress on Legal Aspects of Investment in Russia, June 22-25, 1995;

i. IRIS - USAID Briefing Paper: Russia Enacts New Civil Code With USAID Assistance, dated June 1, 1995;

2. Secured Commercial Lending

a. Draft Introduction to Proceedings from Conference on Secured Commercial Lending, publication forthcoming.

3. AIJA Conference on Legal Aspects of Investments in Russia

a. Conference Program

V. ANNEXES

N.A.

VI. APPENDICES

Appendix I: Financial Data

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Research Center for Private Law-IRIS

Workshops and Commentary on Part II of the Russian Civil Code

Report

May 1995

With the introduction of Part I of the new Russian Civil Code, the Russian government is now focusing on drafting the second part, which it will officially present to the State Duma within the next few weeks. The Duma is scheduled to begin reviewing Part II this summer and hopes to enact it before parliamentary elections at the end of the year.

Part I, the majority of which entered into force on January 1, 1995, contains the general provisions of civil legislation, with major sections on legal entities, ownership, and obligations or contracts. Part II will cover specialty areas of commercial and civil law, divided into four major sub-parts:

- (1) Individual Types of Obligations (Specialty Contracts)
- (2) Exclusive Rights (Intellectual Property)
- (3) Law of Inheritance (Succession or Wills and Estates)
- (4) Private International Law (Conflicts or Choice of Law)

The largest section, on Individual Types of Obligations, includes chapters on Sales and Purchase, Banking Transactions, Lease, Insurance, Personal Injury (or Torts), and Franchising, among many others.

President Yeltsin has authorized the Research Center for Private Law attached to the President of the Russian Federation to coordinate the drafting of the Civil Code. The Research Center has assembled a working group composed of some of Russia's best civil lawyers drawn from all branches of government. Organizations participating in the drafting project include the Supreme Arbitration Court, the Ministry of Justice, the State Duma and Federation Council, the International Commercial Arbitration Court of the Chamber of Commerce and Industry of the RF, Moscow State University's Law Faculty, the Institute of State and Law of the Russian Academy of Sciences, and the Institute of Legislative and Comparative Law under the Government of the RF.

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With support from the United States Agency for International Development (USAID), the Center for Institutional Reform and the Informal Sector (IRIS), an affiliate of the University of Maryland, has been assisting and advising this working group as it has developed Parts I and II of the new Russian Civil Code.

In May 1995, IRIS and the Research Center for Private Law conducted a series of workshops on select chapters of Part II. The topics covered over a two-week period were:

- Banking Transactions
- Inheritance
- Franchising
- Commercial and Residential Leasing and Rent
- Intellectual Property
- Insurance

IRIS and the Research Center targeted these specific issues in Part II because American law offers important lessons in these areas that differ from the European law which the drafters have carefully studied. Additionally, the drafters had more unresolved questions with respect to these chapters than others in Part II.

IRIS assembled a team of western legal experts drawn from academia and private practice, including lawyers working in Russia, to conduct these sessions. The Russian side included not only those responsible for drafting the particular chapters, but also officials in charge of reviewing the document on behalf of the Government and parliamentary staff members engaged in the legislative review process.

The results of the session on Banking illustrate the effectiveness of the Workshop. Under an earlier version of the draft, banks could not change the interest rate unilaterally. Professor White stressed that this would have proved highly detrimental to the development of an effective banking system, particularly in a high inflation economy where banks must react quickly to market changes. Moreover, such a law could potentially have led to bank failures. Following advice from IRIS expert James J. White of the University of Michigan, the drafters included important new provisions which will enable banks to offer floating, as well as, fixed interest-bearing accounts.

The representatives from the State Duma feared the Parliament would resist this reform out of concern for consumers. In response, White explained the pro-consumer aspects of this freedom of contract provision for both the drafters and parliamentarians to relate to their colleagues in the Duma. He noted that bank failures would force the government to engage in an expensive bailout or, if it lacks funds to do so, as is likely, would result in consumers losing their deposits. The parliamentarians accepted this point and agreed to press it in the State Duma, in hopes of resolving the political issue while maintaining the important new provision on interest rates in the

final version of the Code.

Some further examples of important changes that emerged from the workshops are summarized below:

Inheritance: The drafters agreed to permit execution of wills despite the testator's failure to adhere to all formalities, an important change as wills become a key vehicle for protecting property rights.

Franchising: The drafters agreed to consider allowing the franchisor the right to maintain control over prices, within limits set by anti-monopoly legislation, accepting the argument that price is a critical part of the franchise's identity.

Leasing: The drafters agreed to differentiate between minor and major defects as grounds for termination of a lease contract and to expand on tenant remedies in lieu of termination. Failure to adopt this change would have created distortions in the commercial and residential leasing market.

Intellectual Property: The drafters agreed that trademark protection should extend beyond the strict class of goods in which a trademark is registered to other similar classes. For example, a trademark registered for jeans would be enforced against its unauthorized use on shoes if such use would be confusing to the consumer. This change not only expands the intellectual property protection afforded under Russian law, but it also reduces firms' costs by relieving them of the need to register in multiple classes at significant extra cost.

Insurance: The drafters agreed to include a general definition that will permit new forms of insurance without requiring new legislation. This flexibility is very important given the speed with which the Russian insurance industry is growing.

The attached workshop summaries provide further details on each of the six sessions.

In addition to organizing these workshops, IRIS solicited commentaries on the entire text of Part II from over 15 western law firms, as well as accounting firms and other USAID-funded organizations engaged in legal reform. Foreign law firms and businesses operating in Russia, because of their dual knowledge of western and Russian commercial law and practice, are perhaps the best equipped to identify specific shortcomings in legislation. Their comments will be distributed to the Research Center to assist them in revising the draft Code.

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ЦЕНТР ПО ИНСТИТУЦИОНАЛЬНЫМ РЕФОРМАМ
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Research Center for Private Law-IRIS

Schedule for Workshops on Part II of the RF Civil Code May 11 - 19 1995

Location: IRIS-Russia, ul. Ogareva 5, Bld. 3, Fl. 3
Time: 10:00 - 16:00, daily
(Lunch: 13:00)

1. Banking Transactions

May 11

Professor James White, University of Michigan
Professor Edward Halbach, UC Berkeley
Lane Blumenfeld, IRIS
Corinna Wissels, IRIS
Ina Kurcz, IRIS
Jeannine Roberts, Financial Services Volunteer Corps

Dr. S.A. Khokhlov, Research Center for Private Law
Dr. N.G. Demidova, Ministry of Justice
Dr. S.V. Vinogradov, State Duma
Dr. A.V. Pelevich, State Duma

2. Inheritance/Law of Succession

May 12

Professor Edward Halbach, University of California at Berkeley
Lane Blumenfeld, IRIS
Corinna Wissels, IRIS
Ina Kurcz, IRIS

Dr. O.M. Kozyr, Research Center for Private Law
Dr. G.E. Avilov, Institute for Legislative and Comparative Law
Dr. R.A. Khalfina, Institute for State and Law
Dr. P.V. Krashenninkov, Ministry of Justice
Dr. V.M. Bunin, Ministry of Justice
Dr. I.B. Ponomirova, Ministry of Justice

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3. Franchising

May 15

Geoffrey Mitchell, Voris, Sater, Seymour & Peace, Wash., DC
Kenneth Samuelson, Wilkes, Artis, Hedrik & Lane, Wash., DC
Marina Rufman, Semmes, Bowen & Semmes, Baltimore, Maryland
Lane Blumenfeld, IRIS
David Fagelson, IRIS
Corinna Wissels, IRIS
Ina Kurcz, IRIS

Dr. M.I. Braginski, Institute for Legislative & Comp. Law
Dr. G.E. Avilov, Institute for Legislative and Comparative Law
Dr. A.N. Zhilsov, Research Center for Private Law

4. Commercial and Residential Leasing and Rent

May 16

Kenneth Samuelson, Wilkes, Artis, Hedrik & Lane, Wash., DC
Geoffrey Mitchell, Voris, Sater, Seymour & Peace, Wash., DC
Marina Rufman, Semmes, Bowen & Semmes, Baltimore, Maryland
Stephen Butler, Urban Institute
Melissa Platkin, Urban Institute
Lane Blumenfeld, IRIS
David Fagelson, IRIS
Corinna Wissels, IRIS
Ina Kurcz, IRIS

Dr. G.D. Golubov, Law Firm Legist
Dr. E.V. Kabatova, Institute for State and Law
Dr. P.V. Krashenninkov, Ministry of Justice

5. Intellectual Property

May 18

William Atkin, Baker & McKenzie, Moscow
Lane Blumenfeld, IRIS
David Fagelson, IRIS
Corinna Wissels, IRIS
Ina Kurcz, IRIS

Dr. V.A. Dozortsev, Research Center for Private Law
Dr. O.V. Gorodovikov, Legal Department, Government, RF
Dr. E.P. Gavariylov, Plekhanov Academy
Dr. E.A. Pavlova, Publishing House "Top Secret"

6. Insurance

May 19

Professor Kent Syverud, University of Michigan
Lane Blumenfeld, IRIS
David Fagelson, IRIS
Corinna Wissels, IRIS
Ina Kurcz, IRIS

Dr. A.L. Makovsky, Research Center for Private Law
Dr. S.A. Gerasimenko, Supreme Arbitration Court

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ЦЕНТР ПО ИНСТИТУЦИОНАЛЬНЫМ РЕФОРМАМ
И НЕФОРМАЛЬНОМУ СЕКТОРУ
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MEMORANDUM

Summary of Banking Transactions Workshop

Introduction

The workshop focused on the four chapters on banking transactions in Part II of the Civil Code ("the Code") (Chapters 41-44) on Loan and Credit, Bank Deposits, Bank Accounts and Settlement of Accounts (or Payments).

The workshop brought together a broad range of perspectives and interests, ranging from drafters of the Code to staff of parliament members who will be responsible for reviewing the draft during legislative hearings beginning this summer. As a result, the discussions focused, in part, on the political dilemma of how to get sound banking law enacted given the current parliament's disposition, which favors populist over market-oriented solutions.

The workshop was led by Professor James J. White, University of Michigan, and attended by Professor Edward Halbach, University of California at Berkeley; Lane Blumenfeld, Corinna Wissels and Ina Kurcz, IRIS; Jeannine Roberts, Financial Services Volunteer Corp.; Dr. S.A. Khokhlov, Research Center for Private Law; Dr. N.G. Demidova, Ministry of Justice; Drs. S.V. Vinogradov and A.V. Pelevich, State Duma.

The workshop took the form of an open discussion which centered around the following four issues which concerned the drafters.

- 1) The balance between the rights and obligations of the bank and the borrower regarding the borrower's ability to cancel a credit agreement.
- 2) The right of the bank to change the rate of interest which will be paid on an account.
- 3) The concept of joint responsibility of banks for the settlement/payment of accounts.
- 4) The obligation of banks to accept all accounts without inquiring into the source of the funds.

Memorandum by Ina Kurcz - May 12, 1995

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I. Ch. 41 Loan and Credit: Enforcement of the Credit Agreement

The main issue presented regarding this chapter is whether the borrower should be obligated to fully draw on the contracted loan amount. Under the current version of Article 796.2 (Ch.41, Art.13.2 English), the creditor is obligated to extend the full contractual loan amount, but the debtor has the right to refuse to receive credit in full or in part. Furthermore, there is a sub-issue of whether Article 796 is flexible enough to allow the parties to contract out of its provisions.

These issues stem from the conceptual question of whether the Code should be detailed and specific or whether many decisions should be left to the discretion of the contracting parties. Dr. Khokhlov presented the view that the Code is intended to provide loose guidance to be further developed in specific banking legislation, but should also include specific norms that operate in cases where the contract has failed to specify otherwise and that protect consumers.

Professor White questioned the need to codify regulations on drawing the full line of credit, and explained that in the U.S. this issue is addressed solely by contract. Normally, a borrower's right to refuse a line of credit is established by contract and is secured by the payment of a fee to the lender. He concluded that Article 796.2 is acceptable as written because it provides flexibility to allow the parties to require the borrower by contract to draw on the full line of credit.

II. Ch. 42 Bank Deposit: The Right to Change the Rate of Interest

Discussions under this chapter focused on the right of the bank to change the rate of interest on demand deposit accounts. Under Article 803 (Article 5.2 English) of the current draft, a bank may change the rate of interest with one month's notice unless provided otherwise by contract, thereby creating the possibility of both fixed and flexible interest-bearing accounts.

The inclusion of this provision is noteworthy because it demonstrates the influence that Western scholars have had on the drafting process. An earlier version of the draft discussed during IRIS-led workshops in November 1994 was silent on the issue. As a result of IRIS' advice that the earlier draft would be detrimental to the development of sound banking, the drafters agreed to the new section.

Unfortunately, Article 803 may not pass through the State Duma unchanged because of two potential political problems. First, there are parliament members who will argue that the provision inadequately protects the interests of consumers. Reversing the Code provision, such that the right to change the interest rate may be established by contract, may be an adequate solution to meet this level of opposition.

The second complaint is that there are no limits to the

amount of variation in the interest rate. Professor White presented the legal/political argument that distorting the market by overly constraining the right to change the rate of interest may result in a crisis similar to that which occurred with the Savings and Loan Associations in the U.S. He noted that the Russian government would then need to engage in a large scale bailout for which it is unlikely to have the funds. Thus, he argued, changing the text could harm, not help consumers -- an argument that may not prove effective during parliamentary debate. He also proposed the practical solution of indexing the rate of change to the inflation rate or to a more tangible figure, such as the discount rate of the Central Bank.

III. Ch. 43 - Bank Account: Public Contract and the Withdrawal of Funds

A. Although the concept of a bank account as a "public contract" has been the subject of lengthy discussions during workshops in Leiden with IRIS, the issue was touched upon briefly again. Public contract is a term of art set forth in Article 426 of Part I of the new Civil Code. In brief, the fundamental principles of the concept are that a commercial organization may not give preference to any one person over others with respect to the conclusion of the contract, the conditions of the contract must be the same for all persons, and a commercial organization may not refuse to conclude the contract if it has the capacity to provide the consumer with the services.

The drafters believe that the conflict with the principle of the freedom of contract must be resolved in this way in order to prevent the monopolization of access to banks. In some areas of Russia, outside of the major metropolitan areas, there may only be one bank available. If that bank is permitted to refuse to open an account for an individual or legal entity, that person or organization could not legally or practically engage in business. Although the limited number of banks should only be a transitional problem that will be resolved as the banking market develops, the drafters have not been swayed from codifying these obligations.

It should be noted, however, that a bank may specialize in corporate accounts if it is declared in the bank's charter. But if the bank's charter says that it will accept consumer deposits, the bank may not discriminate between consumers. The drafters have purposefully avoided the issue of permitting a bank to require a minimum initial deposit to open an account. The permissibility of the requirement to maintain a minimum balance has also been avoided because of the sentiment that the decision should be made by banks on an individual basis.

B. Article 820 (Ch.43, Art.11 English) establishes the order in which withdrawals are to be made from an account when there are insufficient assets to satisfy all the claims. Under the current draft, court judgments would have the highest priority followed by the payment of taxes. The burden of determining the priority of the payments would lie with the bank. The issues for

discussion were: 1) whether the Code should establish a system of priority and 2) if so, what that order should be.

Professor White explained the practical difficulties of this system and the importance of a system in which payment orders are processed swiftly with as little administration as possible -- banks should not be engaged in investigative work to determine the type of payee.

Consequently, the drafters have decided to eliminate this article, which is a major change in the approach to payment orders. The new proposal is that payment orders for which there are insufficient funds would not be paid, but rather returned immediately. The filing system would be maintained, however, for the processing of execution orders.

IV. Ch. 44 Settlement of Accounts

A. Approach

This chapter reflects the current norms on the settlement or payment of accounts. There are discussions as to whether the system should be updated to reflect the system in other countries, but there has not been a definitive conclusion. For example, the language "client's order" in Article 830 (Ch.44 Art.6 English) reflects the uniquely Russian system that in order to make payment by "check," the payor must order the bank to pay the creditor directly. Payment orders bear some similarity to Credit Electronic Funds Transfers in the U.S. and are likely to continue to exist in the future. Because delays in payment occur as a result of delays in the settlement system, responsibility for each stage of the process has been codified.

B. Joint and Several Liability of Banks

One of the main issues under Chapter 44 is Article 830 (Ch.44 Art.6 English), which establishes joint and several liability of banks for the delay in the performance of a client's order. Under subsection 2, in the event of delay of payment to a payee, the payor may sue all banks involved in the execution of the payment order, regardless of liability. Initially all the banks are deemed collectively responsible. The second sentence in this subsection permits deviation from this general rule by allowing the court to determine individual responsibility where appropriate. Dr. Khokhlov sought support for this system of joint responsibility in anticipation of objections from the banking lobby in the State Duma.

Professor White disagreed. The normative rule in Articles 3, 4 and 4A of the UCC is that liability is born individually by the entity responsible for the error. Furthermore, the level of liability is dependent upon the type of error made by the responsible bank. An exception to direct liability which might provide some support is Section 206 of Article 4A of UCC, which deems the bank the agent of the sender of the electronic funds transfer. Therefore, if there is an error in the communication system, the sender is liable for the delay. But, in general, the U.S. system is not consistent with a rule of collective

liability.

It should be noted that causes for delays in payment are quite different in the U.S. than in Russia, which accounts for the different approaches in liability. In Western practice, the beginning or ending bank is usually responsible, whereas in Russia it is the Central Bank through which all payments must be transferred which causes the delays.

Despite the difference in approach, Professor White did not have strong objections to Article 830 because he did not view it as a barrier to more delayed legislation on electronic transfers.

C. The Role of the Central Bank

Direct liability was considered in the drafting process, but this raises the additional problem of determining liability. Currently, a legitimate system of determining liability does not exist. All payments must be transferred through the Central Bank. But if, for example, a document is lost the payor must pay the Central Bank to conduct a search. Because there is no objective party with the incentive to determine liability, delays in payment which are due to the actions of the cash settlement centers of the Central Bank continue. Joint liability for funds in transit is viewed as a way to hold the Central Bank liable for its actions. It is a legal solution to the institutional problem of an antiquated banking system.

Professor White indicated that an additional incentive for the Central Bank to correct its system is that business may be conducted in creative ways so as to avoid dealing with the Central Bank, such as payments made via foreign electronic transfers. However, the Russians were quick to point out that the Central Bank is also responsible for issuing licenses for banking activity.

D. Information Security

A recent presidential decree has given the Federal Agency for Governmental Communications and Information ("FAPSI"), a former division of the KGB, the right to access all data transmitted in Russia. Furthermore, any encryption software or hardware device that has not been approved by FAPSI is considered illegal. Thus far the Presidential Decree does not apply to banking transactions, however, there is a danger that all commercial information passing through the Central Bank may be affected. During the course of the discussion, it was noted that a similar debate is ongoing in the U.S. because the U.S. government does not favor the existence of security systems which it cannot access.

V. Conclusion

Generally, the Russians agreed with Professor White's advice on the draft. Nevertheless, they acknowledged that in some cases they fear the parliament will reject the best legal, pro-market solutions out of concern for consumers. IRIS worked with the drafters to develop solutions that will be both politically acceptable and supportive of banking practice.

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MEMORANDUM¹

Summary of Inheritance Workshop

May 12, 1995

Introduction

The workshop focused on inheritance under Section VI of Part II of the Civil Code (the "Code"). Inheritance is a particularly important area for discussion because the lifting of most former Soviet restrictions on property ownership will increase the role of inheritance law in the Russian Federation. U.S. experience with regulating and implementing inheritance law may help identify the pitfalls in the draft section on inheritance.

The workshop brought together both drafters of Part II of the Civil Code and civil lawyers from the Ministry of Justice specializing in inheritance law. Professor Edward Halbach, University of California at Berkeley, led the discussions. The workshop was attended by Lane Blumenfeld, Ina Kurcz and Corinna Wissels, IRIS; Dr. O.M. Kozyr, Research Center for Private Law; Dr. G.E. Avilov, Institute for Legislative and Comparative Law; Dr. R.A. Khalfina, Institute for State and Law; Dr. P.V. Krashennikov, Ministry of Justice; Dr. V.M. Bunin, Ministry of Justice; and Dr. I.B. Ponomirova, Ministry of Justice.

The format of the workshop was divided into three sections. First, Professor Halbach provided a brief overview of U.S. inheritance law and its implementation, and provided a copy of the Californian Probate Code, which has recently been entirely redone. Second, Professor Halbach gave his general opinion on the draft section on inheritance, highlighting the issues which he recognized as possible problem areas in the current draft. Third, the workshop took the form of an open discussion centered around issues which concerned the drafters of the Code.

In referring to U.S. law and experience, Professor

¹ Memorandum by Corinna Wissels - May 15, 1995

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Halbach made two observations: (i) inheritance law is largely a cultural matter, making it impossible to merely transfer principles from one legal system into another; and (ii) in view of the cumbersome and expensive probate system of the U.S., the inheritance laws applicable in western European countries are probably a better example to the drafters of the Code. Nevertheless, in many aspects, Californian inheritance law is closer to the Russian law than the inheritance laws of most other American states.

This memorandum summarizes the key issues discussed in the area of inheritance law.

- I. Article 1202 (3) of the Code: alteration of the heirs' order of priority and their shares in the estate by notarially certified agreement between the interested heirs.

Article 1202 (3) of the Code provides that heirs in an intestate succession may agree to alter both their order of priority and their share in the inheritance. This provision constitutes a major change in the Russian legal system of inheritance, where the various classes of heirs have traditionally been considered mandatory.

Professor Halbach supported the provision by referring to US inheritance law, which clearly allows and even encourages the beneficiaries of an estate to dispose of it as they wish. Beneficiaries are entitled to alter the shares established by will or statute and include a beneficiary not envisaged by the testator or the law. The principle reservation is that courts insist that the agreement between the heirs altering their order of priority and share to the estate do not adversely effect the rights of those beneficiaries that are not part of the agreement. Whereas such agreement between the heirs is generally concluded after death, agreements before death may be enforced by the courts as long as they are fair and based on full disclosure of information.

- II. Grounds for contesting a will in court.

Discussions also concerned the grounds for contesting a will in court. Professor Halbach explained that, as similar to Russian law, a will may not be contested on the grounds that it is unfair. A will may only be invalidated if:

- it is defectively executed;
- the testator is formally adjudged to be mentally ill or feeble minded;
- it is made as result of fraud, threats or physical compulsion;
- it is based on substantial error.

III. Chapter 65 - testate succession: will formalities and role of the "notary".

Discussions under Chapter 65 focused on the elaborate set of will formalities in Russian inheritance law and the important role of the "notariat" in drawing up and safeguarding a will. During the Soviet era, the implementation of the many will formalities was limited to the extent that most people left only personal belongings without using a notary. As Russian citizens are starting to accumulate capital, the implementation of mandatory will formalities is likely to become important.

Professor Halbach summarized the U.S. rules applicable to the drafting and safeguarding of a will, which are extremely informal in comparison with Russian rules. Referring to the cumbersome and expensive probate process in the U.S., however, Professor Halbach stressed the importance of introducing a simple and inexpensive system in order to prevent a situation where people feel the need to bypass the mandatory rules. Professor Halbach suggested the drafters look at western European systems of notary authentication, which are generally cheaper and function better.

The discussions further focused on holographic wills, which the draft Code introduces and accepts, provided they are executed in the presence of two witnesses confirming the will has been drawn up by the testator in their presence. A holographic will cannot revoke or alter an earlier notarially certified will (or a will equated to a notarially certified one). Whereas Professor Halbach welcomed the introduction of holographic wills in Russian legislation, he wondered whether it is wise to give these wills second class status. In view of the fact that a holographic will is a formal document in its execution (two witness rule), Professor Halbach suggested that the drafters amend the draft by giving holographic wills the same status as notarially certified wills and allowing alteration or revocation of prior notarially certified wills by later holographic wills.

Finally, Professor Halbach expressed his concern with respect to Article 1198 of the Code regarding the courts' obligation to nullify a will, which has been executed in violation of the applicable formalities. The American tendency is to minimize the technical and formal requirements and give courts discretionary power to excuse minor violations. Professor Halbach suggested that the drafters reconsider: (i) what will formalities are needed; and (ii) whether the courts have discretion in disregarding will formalities. The drafters acknowledged the importance of Professor Halbach's remarks. Although they explained that civil procedure law regulates the courts' discretionary power to disregard violations of will formalities, they expressed their intention to reconsider the current elaborate list of formal requirements.

III. The role of intestate succession, as reflecting the average person's wishes.

With regard to Chapter 66 on intestate succession, Professor Halbach warned the drafters not to forget the role intestate law should play in modern inheritance law. In the U.S., intestate law is intended to reflect the average person's desires with regard to succession of property. In determining the various classes of heirs and their order of priority, the drafters should, therefore, keep in mind the average Russian's wishes in this regard. While acknowledging Professor Halbach's concern, the drafters explained the difficulties in determining the average Russian's desires.

IV. The role of taxation in United States inheritance law.

Professor Halbach briefly summarized and explained the U.S. inheritance tax system. In particular, Professor Halbach explained that inheritance tax is not the most efficient way of raising state revenue. The role of inheritance tax is to break up significant power of wealth. This role is reflected in the structure of the U.S. estate tax, which provides for a major exemption of \$600,000 for each deceased and thus taxes only the wealthiest persons. Professor Halbach warned that when introducing a new inheritance tax in the Russian Federation, it should be kept in mind that the aim is not to raise revenues and the tax should only apply to a small number of people (the wealthiest).

V. Miscellaneous.

Finally, the discussions focused on a number of technical issues, which may create problems when implementing the Code.

Article 1202 (2) of the Code regarding the rights of adoptees, for example, precludes a transfer of property by grandparents to their blood-related grandchildren, who have been adopted. Professor Halbach suggested that the drafters include a provision neutralizing the effect of adoption in cases where it disadvantages inheritance.

Professor Halbach also explained the rules of inheritance by right of representation, as developed in the U.S.

Finally, Professor Halbach expressed his concern with regard to Article 1212 of the Code regarding partition of succession property. In view of the fact that the current draft is not very detailed, implementation will raise many questions, in particular with regard to the valuation of the property. The discussion revealed a controversy between the drafters and the experts of the Ministry of Justice, the latter being strongly opposed to Article 1212. Although the

discussion did not solve the existing controversy, it convinced the drafters of the need for a more detailed regulation.

Conclusion

The workshop provided the drafters and the experts of the Ministry of Justice with useful background information on U.S. experiences in implementing inheritance law and helped them identify possible pitfalls in the current draft section on inheritance.

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MEMORANDUM

Summary of Franchising Workshop

May 15, 1995

Introduction

The workshop focused on commercial concessions or franchising under Chapter 49 of Part II of the Civil Code ("the Code"). This chapter is a particularly important area for discussion because it introduces a completely new set of rules. The concept of marketing goods or services under the same trademark or trade name through a network of similar, yet economically independent outlets, was previously unknown in the Russian Federation.

Geoffrey Mitchell, an attorney with Voris, Sater, Seymour & Peace in Washington, D.C., led the discussion. The workshop was attended by Marina Rufman of Semmes, Bowen & Semmes, Washington, D.C.; Kenneth Samuelson, Wilkes, Artis, Hedrik & Lane, Washington, D.C.; David Fagelson, IRIS Center; Lane Blumenfeld, Corinna Wissels, and Ina Kurcz, IRIS-Russia; Drs. M.I. Braginski and G.E. Avilov, Institute for Legislative and Comparative Law; and Dr. A.N. Zhilsov, Research Center for Private Law. The Russian drafters had met previously with this group of U.S. attorneys in Baltimore in 1994 to discuss earlier versions of the draft Code.

The format of the workshop was divided into four sections. First, Mr. Mitchell provided a brief overview of the role of franchising in the U.S. highlighting the benefits and characteristics of this contractual relationship. Second, he made observations on each of the articles in the chapter. Third, Mr. Mitchell discussed the disclosure requirements under the federal regulations promulgated by the U.S. Federal Trade Commission and the State of Maryland. Fourth, Mr. Mitchell discussed and distributed examples of standard franchise agreements.

Memorandum by Ina Kurcz - May 17, 1995

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This memorandum will summarize the discussions which arose in five key areas:

- 1) the impact of the registration requirement on foreign investment;
- 2) the extent of the registration requirement;
- 3) subfranchising;
- 4) the ability of the franchisor to control the price of goods or services; and
- 5) the franchisee's right to renewal.

I. Article 897: Impact of the Registration Requirement on Foreign Investment

Under Article 897.3 (Ch.49, Art.1.3, English), only commercial organizations and individuals registered as entrepreneurs may be party to a franchise contract. The article does not specify whether a legal person in another country would have to register as an entrepreneur in the Russian Federation.

The drafters do not feel that the question can be resolved in this article because the answer is tied to the general issue of what actions a foreign company should be permitted to take in Russia. In other words, the question is more appropriately addressed in the Foreign Investment Law.

The drafters also expressed the view that registration is not a critical issue because the parties can conclude the contract elsewhere, thereby subjecting the contract to foreign law. Of course, the Code provisions on International Private Law ("Conflicts") would still determine which sections of the Code applied to the agreements.

II. Article 898: Registration of the Contract

Article 898 (Ch.49, Art.2, English) presents the issue of the extent of the registration requirement. Paragraph 2 states that a contract of commercial concession must be registered, but the law does not specify whether the document must be submitted or whether the existence of a contract must be recorded.

The drafters explained that the issue is not relevant, because a law on registration procedures will be developed separately. The Westerners and Russian drafters agreed that having a separate law may be contrary to the idea of a comprehensive Civil Code and that the same registration procedure may not be appropriate for all contracts. Consequently, the drafters stated that they would consider changing the wording of the paragraph so as to specify the type of registration intended.

The issue of the requirements of registration was also discussed. The drafters stated that they recognized the danger of the disclosure of trade secrets if the contract must be submitted. However, Mr. Mitchell advocated the submission of the entire contract so that it would be publicly available. The U.S. system of disclosure requirements was further discussed in Part Three of the workshop.

III. Article 899: Commercial Subconcession

Under Article 899 (Ch.49, Art. 3, English), a franchisee may grant franchise rights to a third party ("subfranchisee") if provided by contract. Because subconcessions generally do not exist in U.S. practice and because it has many important ramifications, this article was the subject of lengthy discussions.

The first issue was the recourse available to a franchisor against a subfranchisee who violates the procedures of the franchise. The concern is that the franchisor could not sue on the contract because the parties would not be in privity. The drafters envision that under Russian law the franchisor could sue in tort for the violation of the name or commercial reputation of the franchise and in contract because the franchisee would be acting as an agent of the franchisor.

Paragraph 4 presented additional concerns because it places subsidiary liability on the franchisee for the losses incurred by the franchisor as a result of the subfranchisee's actions in the absence of contrary agreement. The provision places liability on the franchisee solely because the franchisee selected the subfranchisee.

In conclusion, the drafters decided to leave the provision as written because the article allows the conditions of the subfranchise and the extent of liability to be established by contract.

IV. Article 903: Limiting Terms of the Contract

Contractual provisions establishing the resale price (or minimum and maximum prices) of goods and services are deemed null and void under Article 903.2 (Ch.49, Art.7.2, English). This provision is directly opposite to U.S. law which permits price control by franchisor, subject to anti-monopoly laws. It is unclear why the drafters have deemed price control provisions null and void from the outset, rather than following the U.S. approach.

Mr. Mitchell advised the drafters to consider two points: 1) consistency of price is an essential element to the identity of a franchise; and 2) a franchisor can control the minimum retail price if a franchisee is required to purchase materials from the franchisor.

V. Article 905: Right of Renewal

Article 905 (Ch.49, Art.9) provides that a franchisee who has properly performed his duties under the contract has a priority right to renewal of the contract under the same conditions. The franchisor may refuse to renew the contract, provided it does not conclude a similar franchise contract in the same territory within three years following the termination.

Mr. Mitchell expressed concern that the franchisor's right to terminate the contract is too strong and prevents the franchisee from recovering his investment. Furthermore, the franchisor suffers losses as well because it is prevented from selling another franchise in the territory for three years after termination. He suggested that allowing for repurchase of the franchise or resale to a third party would be an effective way to preserve the value of the franchise and balance the rights of the parties.

The drafters were not fully persuaded by these arguments. A contract is for a term of years and both parties should be aware that their rights will terminate at the end of the term. The solution, in the drafters' view, is for the parties to negotiate a long-term contract.

Conclusion

The influence of the workshop will be most visible in the implementation of the franchising law. Because franchising is new to the Russian Federation, Mr. Mitchell's practical advice was welcomed, particularly regarding standard franchise agreements.

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MEMORANDUM

Summary of Leasing Workshop

May 16, 1995

Introduction

The workshop focused on Chapters 34 and 35 of Part II of the Civil Code ("the Code"), which address general commercial leasing and residential leasing respectively. The specific provisions regarding the lease of an enterprise contained in Section Four and financial leasing in Section Five of Chapter 34 were also addressed.

The workshop discussions were divided into three parts. Kenneth Samuelson, an attorney with Wilkes, Artis, Hedrik & Lane in Washington, D.C., led the discussions on commercial leasing. Stephen Butler an attorney with the Urban Institute, presented a commentary on residential leasing. Geoffrey Mitchell, an attorney with Voris, Sater, Seymour & Peace in Washington, D.C., headed the discussion on enterprise and financial leasing.

The workshop was attended by Marina Rufman, Semmes, Bowen & Semmes, Baltimore, Maryland; Melissa Platkin, Urban Institute; David Fagelson, IRIS Center; Lane Blumenfeld, Corinna Wissels and Ina Kurcz, IRIS-Russia; Dr. G.D. Golubov, Law Firm Legalist; Dr. E.V. Kabatova, Institute for State and Law; and Dr. P.V. Krashenninkov, Ministry of Justice.

This memorandum will summarize the key issues discussed in the areas of commercial leasing, residential leasing, lease of an enterprise and financial leasing.

I. Ch.34: Commercial Leasing

Because the Russian drafters had previously discussed general issues of commercial leasing with the same American attorneys in Baltimore in 1994, the focus of this session was specific comments on the current draft. Consequently, Mr. Samuelson presented his comments in an article by article approach, emphasizing Articles 588, 590, and 591 (Ch.34; Art.4, 6, and 7 English). Mr. Samuelson also distributed commercial leases.

Memorandum by Ina Kurcz - May 18, 1995

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A. Article 588 (Ch.34, Art. 4, English): Form of Lease Contract

Article 588.2 subjects a lease contract on immovable property to state registration. Because the law does not specify whether the document must be submitted or whether the existence of the contract must be recorded, the requirements of registration were discussed. The main concern is that confidential information may be disclosed.

The drafters explained that the purpose of registration is to provide potential buyers with notice of all encumbrances on the property. However, the specific requirements of registration have not been decided because a law on registration procedures is being developed separately.

B. Article 590 (Ch.34, Art.6, English): Providing Property to the Lessee

Article 590 obligates the lessor to provide the lessee with the property in the condition corresponding to the terms of the contract and to the intended use the property. The normative practice in the U.S. is that the lessor is required to provide the property in either condition. Mr. Samuelson was concerned that the article places too great a burden on the lessor, particularly because the parties may have contracted to negate the intended use of the property. His two additional concerns were that the lessor may not be fully aware of the lessee's business, and that the lessor's lender has an interest in the extent of the lessor's guarantees.

The Russian drafters did not share these concerns. Rather, they clarified that the lessor is responsible to provide the property in a condition suitable for only the most obvious purposes of the lease, unless specified otherwise in the contract.

C. Article 591 (Ch.34, Art.7, English): Lessor's Liability for Defects in the Leased Property

Article 591 imposes liability on the lessor for defects in the leased property that prevent the lessee from using it, even if the lessor was not aware of these defects at the time when the contract was concluded. The lessee may require that the lessor eliminate the defects without compensation, or proportionately reduce the lease price, or compensate for expenses caused by the elimination of the defects, or cancel the contract. Upon notification of the defect, the lessor may also replace the property granted to the lessee with similar property in the proper condition.

In addition, the draft provides that the lessor shall not be liable for defects that were stipulated when the contract was concluded, or that were previously known by the lessee, or should have been identified by the lessee during the inspection of the property.

The Westerners suggested a number of changes regarding the lessor's liability:

- 1) "Defects" is too broad. The article does not distinguish minor defects from defects which prevent normal usage;
- 2) The addition of a provision limiting the amount that a lessee may expend to make repairs;
- 3) Termination of the contract is not an appropriate remedy because by definition a minor defect is not an appropriate ground to terminate the contract;
- 4) The article should distinguish between emergencies for health and safety and non-emergency circumstances and establish a notice requirement accordingly; and
- 5) To separate self-help remedies and the right to termination. Termination should be reserved for court order.

The drafters expressed their willingness to consider these suggestions further and specifically stated that they will add language which limits the applicability of Article 591 to defects which impede use "for intended purposes."

II. Ch.35: Residential Leasing

In the second phase of the workshop, Mr. Butler briefly commented on six general areas and provided detailed written comments on the whole text.

1) The obligation to provide substitute housing in the case of eviction from private sector housing cannot be fairly placed upon landlords. He believes that this notion should be reserved for social or public housing.

2) The landlord is disproportionately disadvantaged by the prohibition to seek eviction for the failure to pay rent until 6 months have lapsed. Consequently, landlords may seek self-help remedies and may demand prohibitive sums of security deposits.

The drafters acknowledged the validity of the comment and will reconsider the provision. The six month requirement had been adopted from social housing regulations without additional consideration.

3) Standards of Habitability: The obligation to provide the lessee with "living accommodations fit for permanent living therein" is vague and will be the subject of extensive litigation. A more preferable approach would be to define the standard by reference to the a code of habitability or a building code.

Furthermore, the distinction between maintenance for which the landlord is responsible and for which the tenant is responsible is unclear. A possible approach would be to incorporate the terms capital repairs and ordinary repairs, which are commonly used in the West. The drafters stated they would seriously consider these suggestions. An additional consideration regarding repairs is the need to distinguish block

housing (usually apartments) from single-unit or detached housing.

4) The procedure for including minor children in the lease needs clarification. As written, inclusion in the lease would entail imposing liabilities on children. An easier approach would be to legislate that minor children automatically have the right to occupy the premises.

5) The right of a tenant to allow others to occupy the premises on a right of use basis should be established by contract not law. Currently, the lessor may deny occupancy to users only on the grounds that the number of occupants would exceed the minimum living space requirements.

The drafters stated that they will reconsider this provision.

6) The addition of an article to clarify what rights arise from a contract to sublease.

III. Ch.34, Section 4: Lease of an Enterprise

The Russian drafters were particularly interested in Mr. Mitchell's comments on Section 4 of Chapter 34 because lease of an enterprise is a new development in the Russian Federation. Mr. Mitchell provided background information regarding the types of enterprises which have been leased in the U.S.

The principal discussion on this section centered on Article 632, which grants the lessee the right to use, sell or exchange leased property unless this leads to the reduction of the value of the enterprise or violates the contract. The issue is whether a lessee could use the property in a different, but more profitable line of business.

The Western view is that the right to change the line of business is important because enterprise leases are typically long-term and often extend beyond the popularity of the product. The law should not prohibit the lessee's discretion to adjust to changes in the economy.

The drafters acknowledged that perhaps this is an area best left to contract.

IV. Ch.34, Section 5: Financial Leasing

With regard to this section, Mr. Mitchell provided guidance on the implementation of financial leases. He illustrated a financial leasing agreement and provided a checklist for drafting financial leases.

An example of a provision that may be changed as a result of the discussions is Paragraph 2 of Article 642 which imposes liability on the lessor for the seller's fulfillment of the contract when "the lessor is liable for the choice of the

seller." Mr. Mitchell did not believe that liability should be imposed upon a lessor whose role is limited to financing the lease, but has recommended a seller. Also, the meaning of "liable for the choice of the seller is unclear."

The drafters expressed a willingness to take these arguments into consideration.

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MEMORANDUM¹

Summary of Intellectual Property Workshop

May 18, 1995

Introduction

The workshop focused on the seven chapters on intellectual property in Part II of the Civil Code (the "Code") (Chapters 57-63: General Provisions, Copyright, Neighboring Rights, Patents, Secrets of Production and Unfair Competition, Achievements of Breeding, and Trademarks and Trade names).

The workshop was led by William F. Atkin, managing partner of Baker & McKenzie, Moscow, and attended by Professor Kent Syverud, University of Michigan; Lane Blumenfeld, David Fagelson, Ina Kurcz and Corinna Wissels of IRIS; Dr. V.A. Dozortsev, Research Center for Private Law; Dr. Gorodovikov, Legal Department of the Government of the Russian Federation; Dr. E.P. Gavarilov, Plekhanov Academy; and Dr. E.A. Pavlova, Publishing House "Top Secret".

The workshop discussions were divided into two parts. First, the discussion centered around the three following general issues which concerned the drafters:

- 1) The legislative system;
- 2) The issue of inalienable moral rights versus commercial rights; and
- 3) The enforcement of intellectual property rights.

Second, William Atkin made observations on several articles in the draft concerning trademarks and trade names, production secrets and trade secrets, as well as unfair competition.

This memorandum summarizes the key issues discussed in the area of intellectual property law.

¹Memorandum by Corinna Wissels - May 23, 1995

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I. GENERAL QUESTIONS

A. Legislative System

In drafting Section 5 of Part II of the Code, entitled "The Rights to Results of Creative Activity and Means of Individualization of Goods or of the Participants of Commerce (Intellectual Property)", the drafters have introduced a new approach to regulating intellectual property, by uniting in one comprehensive section of the Code all major forms of intellectual and industrial property, namely : (i) copyright; (ii) neighboring rights; (iii) inventions, utility models and industrial designs; (iv) secrets of production ("know-how") and unfair competition; (v) achievements of breeding; and (vi) means of individualization of goods (firm name, trade name, trademark, name of place of origin). In addition, Section 5 begins with a chapter containing general provisions, which are applicable to all possible forms of intellectual property. These general provisions are of particular importance to those forms of intellectual property which are not yet regulated in a separate Code chapter. They will, of course, also apply to all new forms of intellectual property, developed in future.

William Atkin noted that in most countries, as is currently true in Russia, intellectual property protection is regulated by a series of separate laws (on patents, copyrights, trademarks, etc.).

Discussions focused on the legislative approach with respect to Chapters 58-63 regulating the separate forms of intellectual property. The Code addresses only the main civil law aspects of each form of intellectual property, leaving regulatory issues (e.g., registration of trademarks and patents, authority of the State Patent Office, the Appeal Committee and the High Patent Chamber) to further regulation by separate laws. Mr. Atkin expressed his concern with regard to consistency in legislation. The draft obliges practitioners to refer to various laws (i.e., the general provisions in chapter 57 of the Code, the relevant Code chapter regulating the corresponding form of intellectual property, and also the corresponding separate law). This leads to simultaneous existence of several laws dating from different periods, and increases the risk of inconsistency in applicable legislation. He, therefore, suggested a different approach, which limits the Code to a single chapter providing general articles applicable to all forms of intellectual property, and requires extensive further regulation of each individual form of intellectual property in separate laws.

B. Moral Rights versus Commercial Rights

Article 1072 of the Code sets out the concept of inalienable and non-transferrable personal non-property rights of the author of a work, which applies not only to copyrights but also to other results of creative activity, such as inventions,

utility models, industrial designs, and achievements of breeding (moral rights). Moral rights may only belong to the individual who created the work (thus not the employer or a legal entity).

Discussions focused on the difference in approach between the U.S., which do not recognize the concept of inalienable moral rights, on the one hand, and the European countries and the Russian Federation, which traditionally provide for moral rights protection of the author of creative work, on the other hand. Whereas William Atkin acknowledged this difference in approach, he feared that the protection of moral rights will have a negative commercial impact, in particular with regard to research and development activities in the area of high technologies. Whereas the concept of moral rights is important in the traditional areas of literature and music, protecting writers and musicians against unfair exploitation by their publishers, this is not necessarily the case with high technology. William Atkin suggested the drafters distinguish moral rights in these traditional areas from high technology, and consider introducing in the latter area the author's right to renounce his moral right.

C. Enforcement of Intellectual Property Rights

Discussions also focused on the area of enforcement of intellectual property rights in the Russian Federation. The current intellectual property laws generally meet the standards for protection of intellectual property rights prescribed by international treaties in each of the respective areas, giving the Russian Federation modern intellectual property legislation. The problems with the current protection is not the lack of protection in the legislation, but rather enforcement, where there is still little precedent and considerable judicial inexperience.

The drafters explained that Russian civil procedure law envisages the necessary enforcement mechanisms, such as the possibility of preliminary injunctions. They acknowledged, however, that these mechanisms^{have} very seldom been exercised.

II. Detailed observations on the Draft Chapters

A. Trademarks - Chapter 63

1. Article 1157

Discussions under Article 1157 focused on the extent of the trademark protection, which is restricted to the classes of goods in which the trademark is registered. William Atkin suggested that the drafters introduce language to ensure protection in confusing situations, which are not directly related to the actual registration of the trademark in certain

classes of goods.

The drafters will receive a translation of the relevant provisions in the Benelux trademark law, which may serve as an example for such additional language.

2. Licensed Use of Trademark

Discussions focused on what constitutes licensed use of a trademark, as licenses must be registered with the appropriate authorities. The drafters confirmed that distribution agreements granting the distributor the right to distribute goods, which bear the principal's trademark, do not constitute licensed use and need not be registered.

3. Use of Trademark

Pursuant to Article 1162 of the Code the issuance of a license shall be considered its use. The drafters agreed with William Atkin's fear that this provision provides an easy way of avoiding the non-use and loss of trademark protection. They indicated that other countries have developed similar provisions.

In addition, discussions focused on what constitutes use of a trademark. The drafters explained that in order to constitute use, a trademark must:

- (i) be placed on the goods;
- (ii) with the aim of commercializing such goods.

4. Service Marks versus Trademarks

The drafters agreed with William Atkin's remark that the draft provisions on trademarks should generally apply to both trademarks and service marks and expressed their intention to clarify this issue in the draft.

B. Trade names - Chapter 63

Discussions focused on the relationship between trade names and trademarks. In the event of conflict between a trade name and a trademark, Article 1151 of the Code provides that the trademark prevails, which is reasonable in the case of conflict between an older trademark and a younger trade name. The drafters agreed with William Atkin's suggestion to include a provision protecting an older trade name against a younger trademark.

C. Secrets of Production and Trade Secrets - Chapter 61

Discussions under Chapter 61 focused on the definitions of secrets of production, a term used during the Soviet era, trade secrets, and know-how. The drafters explained that the term know-how covers both secrets of production and trade secrets. Referring to a recent Russian court case, which focused on the

question of whether production secrets also cover trade secrets, William Atkin suggested that the drafters define these terms more precisely in the draft. He promised to provide the drafters with the court materials referring to these definitions.

D. Unfair Competition - Chapter 61

Discussions focused on the scope extent of Article 1131 of the Code, which provides that "improper comparison in advertising" constitutes unfair competition. The drafters did not define improper advertising, leaving this issue to interpretation by the courts, though they confirmed that the Code does not prohibit all comparative advertising. In view of the court's inexperience in this regard, William Atkin suggested that it may be necessary to give them guidance as to what constitutes unfair competition in comparative advertising. The drafters agreed to include the word "misleading".

Conclusion

The workshop provided the drafters with useful background information on U.S. experiences in regulating the protection of high technology inventions and seeking a balance between an inventor's copyright and the commercial interests of the inventor's employer. In addition, the drafters expressed a willingness to take into consideration Mr. Atkin's observations and suggestions regarding several draft provisions on trademarks, trade names, trade secrets and unfair competition.

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MEMORANDUM¹

Summary of Insurance Workshop

May 19, 1995

Introduction

The workshop focused on insurance under Chapter 51 of Part II of the Civil Code (the "Code"). This chapter is a particularly important area for discussion because it introduces a completely new set of rules, replacing the remnants of the sparsely regulated state insurance system of the Soviet era. In recent years, private insurance activity started in the Russian Federation, with currently over 2000 small and medium sized insurance companies offering a variety of insurance products under a provisional Law on Insurance, dated November 27, 1992. U.S. experience with regulating and implementing insurance law may, therefore, help develop the required legal expertise, anticipate future developments in the Russian insurance market, and identify possible pitfalls in the draft chapter on insurance.

The workshop was led by professor Kent Syverud, University of Michigan, and attended by Lane Blumenfeld, David Fagelson, Ina Kurcz, and Corinna Wissels, IRIS; Dr. Makovsky, Research Center for Private Law; and Dr. S.A. Gerasimenko, Supreme Arbitration Court.

The workshop discussions were divided into two parts. First, Professor Syverud gave a brief overview of U.S. insurance law, and provided the first two volumes of the Californian Insurance Code as an illustration of U.S. regulation of complex insurance issues. Second, he made observations on several articles in the draft chapter.

This memorandum summarizes the discussions which arose in seven key areas:

- 1) format of the draft chapter on insurance;
- 2) definition of insurance;
- 3) compulsory insurance;
- 4) mandatory requirements of an insurance contract;
- 5) disclosure requirements and secrecy rule;

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- 6) determination of the insured amount; and
- 7) insurance premiums;

I. Format of the Draft Chapter on Insurance

In comparison to U.S. insurance laws, the draft chapter on insurance is short and simple, providing a general framework regulating the main legal issues. Professor Syverud observed that the choice for such simple format is proper in view of the limited experience in the area. As the Russian insurance market develops, the Code and separate legislation will develop accordingly. At this stage, however, it is impossible to anticipate on all possible future developments.

Discussions focused on the role of insurance legislation, and Professor Syverud summarized the main purposes of U.S. insurance legislation as follows:

- 1) to assure solvency of insurers;
- 2) to protect the insured and assure payment of claims; and
- 3) to promote public policies, and encourage insurance of certain risks, while discouraging others.

Discussions also focused on U.S. regulation of compulsory insurance, insurance of professional liability, business interruption insurance, and credit insurance.

Professor Syverud further noted that in comparison to U.S. law, the Code is more protective of insurance companies than of the insured, and does not provide a rule of interpretation which favors the insured. In the U.S., such rule of interpretation developed in an attempt to restrain the insurers' natural tendency to unfairly refuse payment of valid claims.

Finally, Professor Syverud explained that although the sale of insurance is not regulated in the U.S., the language of insurance policies is highly regulated. In Michigan, for example, all medical malpractice policies contain the same language, developed by drafting sessions of the Insurance Commissioner and representatives from insurance companies and insured. The use of uniform policies enables the insured have a proper understanding and make a funded comparison of prices and conditions offered by various insurance companies.

II. Definition of Insurance

In view of the fact that the draft may be interpreted as providing an exclusive list of insurable risks, Professor Syverud suggested to include a general definition on insurance, confirming that any risk is insurable unless explicitly prohibited by law. Such definition will enable the development of new types of insurance, without requiring prior additional legislation on the issue. Professor Syverud referred to # 2 & 22

of the Californian Insurance Code for the language of such definition. The drafters expressed a willingness to take into consideration Professor Syverud's remark.

III. Compulsory Insurance

Article 962 of the Code does not provide the necessary incentives to encourage compliance with compulsory insurance requirements. Professor Syverud explained the incentive mechanisms applicable in the U.S. and suggested the drafters envisage a system of penalties in the case of failure to insure certain risks. Although the drafters initially intended to regulate the issue in separate laws regarding each individual form of compulsory insurance, they expressed a willingness to consider extending article 962 to include certain incentives.

IV. Mandatory Requirements of Insurance Contract

Discussions focused on the mandatory requirements of an insurance contract, enumerated in Article 967 of the Code. Failure to agree upon and include in the contract one of the listed issues invalidates the contract as a whole. This provision does not regulate the content of an insurance policy, as is true in U.S. insurance laws. The drafters indicated that they will reconsider the current elaborate list of requirements, in order to limit the grounds for invalidating an insurance contract.

V. Disclosure Requirements and Secrecy Rule

Discussions focused on the insured's obligation under Article 969 of the Code to communicate to the insurer all circumstances of substantial significance for determining the probability of the occurrence of the insured event and the size of the possible damages. Professor Syverud suggested that the drafters include a clause providing that the insurer need not disclose material facts which are already known or should be known to the insurer. The drafters expressed their intention to consider this suggestion.

In addition, discussions focused on the consequences of changes in the insured property. Insurers are inclined to refuse claims in view of changes in the insured property, even if such changes are only minor. Professor Syverud, therefore, suggested to distinguish in the Code between changes that need to be disclosed to the insurer and (minor) changes that need not be.

With regard to the secrecy of information received by the insurer (Article 971 of the Code), Professor Syverud briefly summarized U.S. experience. He referred to the extensive section on secrecy in the Californian Insurance Code to illustrate the complexity of the issue. This is one of the areas where the drafters may expect future developments in the insurance market require further regulation.

VI. Determination of the Insured Amount

Pursuant to Article 972 regarding property insurance, the insured amount is considered to be the actual value of the property on the date of conclusion of the insurance contract. Professor Syverud warned the drafters against the difficulties that may arise when determining the value of the property and the corresponding insured amount. He referred to U.S. experience with devaluations of insured property and over insurance, which has been an incentive for arson in the State of Michigan. He suggested that the drafters include a clause providing that the insured amount will be: (i) the actual value of the property on the date of conclusion of the insurance contract; or (ii) the actual value at the time of the loss, whichever value is the lowest. The drafters acknowledged that the issue of determining the insured amount will be one of the most difficult problems to solve in insurance practice, taking into account the lack of experience in valuating property and constantly changing prices in Russia.

VII. Determination of Insurance Rates

As the Russian Federation does not regulate insurance premiums, Professor Syverud briefly summarized and explained the U.S. mechanism of regulating insurance rates, which must be set within the range determined by the Insurance Commissioner. He explained the role of the Insurance Commissioner and promised to provide additional material on the issue.

Conclusion

The workshop provided the drafters with useful background information on U.S. experience in regulating and implementing insurance law, which may help them anticipate future developments in the Russian insurance market and identify the gaps in the current draft chapter on insurance. In addition to the first two volumes of the Californian Insurance Code, Professor Syverud promised to send the other three volumes as well as additional written observations on several articles in the draft.

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MEMORANDUM¹

DRAFT LAW "ON THE STATE REGISTRATION OF RIGHTS TO IMMOVABLE AND REAL ESTATE TRANSACTIONS"

I. Current Situation

The lack of a centralized system of pledge and mortgage registration is perhaps the biggest impediment to secured lending in the Russian Federation. For the time being, registration procedures have been organized by local authorities. There are various authorities who hold jurisdiction over various types of collateral whose written approval and registration often must be obtained before a pledge or mortgage contract becomes effective.

The procedure for the Federal registration of interests in land and buildings under Federal legislation is governed generally by the Decree of the President of the Russian Federation from December 11, 1993 No. 2130 "On a Government Land Cadastre and Registration of Documents on Rights to Real Property". Decree 2130 provides that registration of all rights to land and buildings are under the competence of the Committee of the Russian Federation on Land Resources and Land Tenure Regulations (the "Land Committee"), and the Land Committee's territorial agencies in the localities (the "Local Land Committees"). In Practice, however, local authorities, including the City of Moscow, to a great extent have ignored Decree 2130 because it is not a Federal law and because it was issued soon after Parliament was disbanded in September 1993 and before the new Duma was elected.

The Moscow City Government, for example, passed Resolution No. 868 of December 16, 1993, "On the Procedure for Management of Immovable Properties (Buildings, Structures, Non-Residential Premises)", which provides that the registration of rights to buildings and structures in Moscow is within the competence of the Moscow Property Management Committee, rather than the Land Committee. Under Decree 868, the Moscow Property Committee maintains a register of Moscow buildings, municipal

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property, their owners and lessees. Moreover, with regard to the registration of pledges, the Moscow City Government adopted Resolution No. 788, "On the Introduction of the System of Registration of Pledge and the United Register of Contracts of Pledge", approving local rules for the registration of pledge contracts in the City of Moscow. These rules contain an additional requirement which is not present in the Pledge law or Civil Code. In Moscow, parties to a pledge contract must register the pledge with the Moscow Registration Chamber in addition to the authorities specified in the Pledge Law or the Civil Code. Failure to register a pledge contract with the Moscow Registration Chamber will result in the invalidation of the pledge.

II. Unified Registration System under the New Civil Code

The new Civil Code requires that substantial changes be made to the registration system. Article 339 of the Civil Code provides that a mortgage must be registered in accordance with the procedure established for the registration of rights to the respective property and transactions therewith. Article 131 delegates the task of registration of the right of ownership and other material rights to immovable goods, the limitation of these rights, their emergence, transfer and termination to the judiciary, which implies an entirely new system of registration. The following are subject to registration:

- * right of ownership;
- * right of economic management;
- * right of operational administration;
- * right of lifetime inheritable ownership;
- * right of permanent use;
- * mortgages;
- * easements; and
- * other rights specified by the Civil Code and other laws.

Article 164 of the Civil Code further provides that transactions with land and other immovable property are subject to state registration in accordance with Article 131 of the Code and a new law on registration of rights to immovable and real estate transactions. The law may also establish state registration of transactions with movable property of certain types (the "Registration Law").

III. The Draft Registration Law

The draft Registration Law of deputy G.I. Zadonsky, member of the Committee on Property, Privatization and Economic Activities, dated January 24, 1995, intends to introduce a centralized and unified system for the registration of rights to immovables and real estate transactions and create a single state registry in accordance with the Civil Code requirements.

The following briefly identifies a few inconsistencies in the draft Registration Law.

1. Single, Centralized Registration System

Pursuant to Article 3 of the draft Registration Law, state registration of rights to immovables and real estate transactions shall be performed in accordance with a **single system throughout the territory of the Russian Federation**. Article 11 further provides that the uniform, centralized state registry will be created in accordance with the State Program for the Creation of the System of Registration of Rights to Immovables and Real Estate Transactions approved by the Government of the Russian Federation. Article 11.3, finally, enumerates the basic principles of the state registration system, which include:

- * the introduction of a **Single State Registry** of Rights to Immovables and Real Estate Transaction (Article 11.3);
- * the creation of **uniform procedures for the registration** of rights to immovables and real estate transactions; and
- * the introduction of **uniform procedures for the identification and the description of immovable objects** with rights and transactions thereto being subject to registration.

Notwithstanding the above-described intention to create a single and uniform registration system applicable throughout the Russian Federation, Article 12 of the draft Registration Law authorizes the "subjects" of the Federation to adopt their **own programs** of creation of a registration system of immovables and real estate transactions, and to adopt normative acts regulating the procedures and schedule of their implementation. Although these local programs may not run counter to the Draft Registration Law, they may provide for additional measures pertaining to the development of the registration system. This discretionary power of local authorities runs counter to the principle of a single, centralized and uniform registration system.

In addition, Article 6 provides that the Government of the Russian Federation may also introduce **special registration procedures** for property held in Federal and municipal ownership, for certain immovables listed in the new Civil Code, such as forests, subsoil, aircrafts, vessels, space vessels, and also for rights of economic management and rights of operational management. Again, these special procedures run counter to the idea of uniform registration procedures and a single registry for immovables and real estate transactions.

2. Exceptions for Previously Existing Rights

Pursuant to Article 5 (3) of the Draft Registration Law, only rights to immovables created or formalized after the date of coming into effect of the Registration Law shall be subject to mandatory state registration. Rights to immovables which existed prior to the coming into effect of the Registration Law are not subject to mandatory state registration (Article 9.1). Only if such previously existing rights are transferred to another person after the coming into effect of the Registration Law, is registration under the new rules of the Registration Law mandatory.

This exception for existing rights runs counter to the idea of creating a comprehensive registry wherein security rights will be readily discoverable upon request. When receiving the date regarding a certain immovable, the inquirer is not sure of whether he received all relevant information regarding such immovable. Non-registered rights created prior to the coming into force of the Registration Law are not necessarily included in the State Registry. An obligation to register all existing rights to immovables within a certain period of time (without imposing a registration fee) could fill this gap.

Please note that the provision of Article 5 (4) is not clear.

3. Verification of Authenticity of Documents

Whereas Article 3 of the Draft Registration Law provides that registration should be based on reliable information, Article 11 (4) provides that the State Program for the Creation of the System of Registration shall be supported by the introduction of additional procedures for verification of authenticity of rights to immovables. Article 17 (1) further introduces the creation of a registry of documents covering real estate transactions and other documents evidencing grounds for the creation, transfer, restrictions and termination of rights to immovables, and obligating the persons registering their rights to immovables to provide copies of the documents evidencing their property rights.

In view of the fact that these documents may contain confidential information, Article 10 regarding the open access to registration data ensures that the provision of registration data upon inquiry may not infringe commercial secrets.

Whereas the statutory protection of commercial information is useful, the question rises whether it is necessary to require that (a copy of) the documents evidencing the rights to immovables be submitted to and kept by the State Registry. Is it not safer to create a sound system of verification of the authenticity of the rights to immovables, without requiring the actual submission of the relevant document? [Note: pursuant to a comparable procedure under the trademark law, trademark

licenses must be registered with the Patent Office by submitting a copy of the license agreement. In practice, such licenses are often laid down in one or two provisions of a contract dealing with other (confidential) issues as well (for example, distribution or franchise agreements). If the parties to such license agreement do not want to register the information not directly connected with the license, they must - for registration purposes - create a separate document relating only to the trademark license.]

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ЦЕНТР ПО ИНСТИТУЦИОНАЛЬНЫМ РЕФОРМАМ
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MEMORANDUM¹

THE NEW CIVIL CODE AND LEGAL ENTITIES

DIRECTORS', SHAREHOLDERS' AND PARENT LIABILITY

1. Background

Undoubtedly, the introduction of Part I of the new Civil Code is regarded as a major milestone along the route of reforming and adapting Russia's legal system to the needs of a market economy. All acknowledge the importance of the new Civil Code, which will constitute the fundamental text determining all civil relations in Russia (only the Constitution is hierarchically more important) and may not be contradicted or violated by later normative acts.

Until the adoption of Part II of the Civil Code which is expected before the end of this year, civil legislation is split up in three different Codes (1964 RSFSR Code, 1991 Fundamentals of Civil Legislation, and Part I of the 1995 Civil Code). In addition, other pieces of civil legislation remain in effect to the extent that they do not contradict the new Code, and a number of questions are left to be decided by special legislation. As a consequence, the simultaneous existence of new Russian Laws and Decrees on the one hand and old Russian and Soviet legislative acts on the other hand, will continue to cause some confusion. It should be kept in mind, however, that the lack of clarity and the preservation of old rules are an inevitable and temporary consequence of this transition period of legal reform. Many of the problems of confusion, particularly in the area of legal entities will be solved as new legislation is adopted this year.

Of particular importance to both Russian businesses and foreign investors, is Chapter 4 of Part I of the Civil Code regarding legal entities, which came into force on December 8, 1994. The Code contains a number of significant changes affecting existing legal entities and recognizing new forms of legal entities. For example, the full partnership is now elevated to the status of legal entity, and a new form of limited partnership is to replace the old mixed partnership. Other new forms of legal

¹Memorandum by Corinna Wissels - June 1, 1995

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entities are companies with limited liability, and companies with additional liability.

From a practical point of view, the limited liability company and the joint stock company will be the most important vehicles for foreign investments. Whereas the Code contains and anticipates a variety of changes affecting both limited liability companies and joint stock companies, a number of questions are left to be decided by separate legislation currently under consideration (the draft Law on Joint Stock Companies, for example, will soon be submitted to the Duma for first reading). Some Code provisions have raised important questions of interpretation, causing foreign investors and lawyers to express their fear that the Code may lead to investors' liability for debts of their Russian subsidiary companies, effectively piercing the corporate veil. The drafters of the Code and other Russian lawyers, however, tend to give a more restrictive interpretation of the Code provisions on parent liability.

This memorandum summarizes the new Code provisions on director's, shareholders' and parent liability, and the questions of interpretation identified by foreign investors and lawyers.

2. Director's liability

The scope of obligation and liability of directors in Russian companies has shifted somewhat with the introduction of Part I of the new Civil Code. Under the Council of Ministers' Decree No. 601 "On Joint Stock Companies" of December 25, 1990 ('Decree 601'), a director of a joint stock company was held to a **good faith standard**, requiring a duty of care and due diligence in conducting affairs concerning the company. These standard were held to apply to limited liability companies by analogy.

The provisions regarding director responsibility in the new Civil Code apply to all legal entities and indicate a more narrow standard than that applied by Decree 601. Article 53(3) of the Code applies a **standard of reasonableness and good faith** to the actions of any individual acting on behalf of a company. This would include directors and management of a company, as well as any authorized representative of a participant/shareholder. While such individual is liable for any losses caused to the company by his actions, according to the Civil Code this liability can be limited or eliminated by contract. Thus it should be possible to protect a company's directors by contract between the directors and the company.

Such a contract could not, however, shield a director from criminal liability for his own actions. Such liability does not result from an individual's status as director of a company, but from individual action. As is true in most jurisdiction, an individual serving as a director must be careful not to participate in any fraud on the government, particularly with respect to tax or currency control legislation, both of which provide for individual criminal liability.

3. Shareholders' liability

According to Article 56 of the new Civil Code, a legal entity is liable for its obligations to the extent of its property, but its participants/shareholders are not responsible for the liabilities of the legal entity. This effectively means that a participant in a limited liability company is liable only to the extent of his investments and a shareholder in a joint stock company only bears the risk of losses within the limits of the value of the shares belonging to him, as substantiated by Articles 87 (1) and 96(1) of the Code respectively.

Article 56 (3) of the Code, however, suggests that if the participants/shareholders of a legal entity cause the insolvency of that legal entity, such participants/shareholders be liable for the obligations of the legal entity which are not satisfied from the assets of that entity (subsidiary liability). The same applies to other persons who have a right to give instructions which are mandatory for the legal entity. This provision raises questions of interpretation. First, it remains unclear under what circumstances the insolvency is held to be caused by a participant/shareholder. Second, it is not clear what constitutes a right to give mandatory instructions. Third, there is a question as to what extent this provision creates liability beyond the investment of the participant in a limited liability company or beyond the value of the shareholder's shares in a joint stock company. The wording of this provision, however, suggests that such extended liability will only apply in the event the insolvency is deliberately caused by one or more of the entity's participants or shareholders, perhaps with the intent to defraud creditors.

Unfortunately, this is not clear from a plain reading of the text, and a clarification on the issue would be most welcome to appease the worries expressed by foreign investors and lawyers. Such clarification could be in the form of (i) an (official) commentary by the drafters, published in for example Rossiskaya Gazetta; (ii) provisions in the new Joint Stock Company Law and in the new Law on Limited Liability Companies; and/or (iii) an amendment of the Code.

4. Parent liability for Russian subsidiary

A much publicized issue is that of the parent liability for Russian subsidiaries, which has been interpreted by foreign lawyers as enabling the corporate veil to be easily pierced.

Article 10' (1) of the Code contains a definition of subsidiary companies which applies to limited liability companies as well as joint stock companies. A company is deemed to be the parent of a subsidiary company if pursuant to predominant participation in the charter capital, a concluded agreement or for any other reason it has the opportunity to determine the decisions made by such company. Following that definition, the Code provides that a parent company which has a right to give

binding instructions to a subsidiary is liable, on a joint and several basis, together with the subsidiary for transactions concluded by the latter **in fulfillment of their instruction**. In addition, the parent bears subsidiary liability for **all obligations** of the subsidiary if the latter has become insolvent through fault of the parent.

Again, this clause raises questions of interpretation. First, it is not clear how to distinguish between the capability of a parent company to **determine decisions** for its affiliated companies (leading to the existence of a "subsidiary" company) and its right to **give binding instructions** (giving rise to potential liability). Russian lawyers tend to give a more narrow reading of this clause than their foreign colleagues, as is confirmed in a recently published Commentary on the Civil Code prepared by the Institute for Legislative and Comparative Law attached to the Government of the Russian Federation and the Supreme Arbitration Court, the Court responsible for interpreting the Code. Russian lawyers are of the opinion that the Code distinguishes between "specific binding instructions" given by the parent to its subsidiary, and its taking part in the normal decision-making process of the subsidiary, such as electing its management. They argue that paragraph 1 of Article 105 describes the general relationship of the parent to the subsidiary company, whereby the former can determine decisions for the latter. Paragraph 2 of the same article, however, regards the parent's right to issue mandatory instructions to its subsidiary (e.g., on the basis of an agreement between the parent and its subsidiary). Only in the latter case of a parent issuing mandatory instructions, may such parent be held liable for the consequences thereof. The distinction, therefore, seems to indicate that a majority holding or even a mere position as sole shareholder would not be regarded by the Code as constituting a right to give binding instructions per se. Furthermore, it would appear that the fact that the manager of a Russian Company may need shareholder approval for certain important decisions would also not constitute a "binding instruction" giving rise to parent liability.

Again, clarification on the issue by the drafters of the Code would be most welcome to appease the above-mentioned fears on piercing the corporate veil. Such clarification may be in the form of: (i) an (official) commentary by the drafters; (ii) provisions in the new company laws; and/or (iii) amendment of the Code. Meanwhile, companies can limit or avoid liability under Article 105, by clearly indicating in their foundation documents that all decision-making power rests in the hands of the subsidiary's independent board of directors.

Conclusion

The language used in the new Code provisions on parent liability for a subsidiary company has caused foreign investors and lawyers to express their concern that the Code may lead to an effective piercing of the corporate veil in cases where there

is no just cause. Russian lawyers, however, tend to give a more narrow reading of the text, distinguishing between the parent's taking part in the subsidiary's general decision making processes and its issuing of specific instructions which are mandatory to the subsidiary. In their opinion, only in the latter case, a parent may be held liable on a joint and several basis with the subsidiary. During discussions with IRIS, the drafters of the Code have repeatedly confirmed that they intended Articles 56 and 105 of the Code to be interpreted narrowly. As it remains to be seen whether the courts will in fact give such narrow reading of the Code provisions on liability, the above-mentioned questions of interpretation are far from solved to date. Therefore, a discussion between foreign lawyers and the drafters may be useful to clarify the drafter's intention, and assess whether or not future amendments to the Code should be promoted.

IRIS involvement in clarifying the above-mentioned issues is three-fold. First, we have informed the drafters of the foreign lawyers concerns that the Code may lead to a piercing of the corporate veil without just cause, and suggested they publish an official commentary on the Code, particularly on this issue. Second, we have discussed the issue with the drafters of the new Joint Stock Company Law, as have the drafters of the Code, and suggested they clarify the Code by including in their draft law precise provisions on shareholders' and parent liability. Third, we are currently setting up a meeting with the drafters of the Code and foreign lawyers practicing in Moscow. We have invited the drafters of Chapter 4 on legal entities to a meeting of the International Lawyers Group (probably in July 1995), where they can clarify their intentions and interpretation of the Articles 56 and 105 of the Code and address the foreign lawyers' concerns.

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June 14, 1995

***AN INTRODUCTION TO THE CIVIL CODE OF THE RUSSIAN FEDERATION
AND THE IRIS- RUSSIA COMMERCIAL LAW PROJECT***

by

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Director, IRIS-Russia Commercial Law Project¹

Introduction

Undoubtedly, the introduction of Part I of the new Civil Code on January 1, 1995 is regarded as a major milestone along the route of reforming and adapting Russia's legal system to the needs of a market economy. All acknowledge the importance of the new Civil Code, which will constitute the fundamental text determining all civil relations in Russia (only the Constitution is hierarchically more important) and may not be contradicted or violated by later normative acts. Part I of the Civil Code contains three main sections:

- (1) general provisions of civil law, including chapters on legal entities, such as corporations;
- (2) property rights; and
- (3) contractual obligations, including pledge and secured transactions.

With the introduction of Part I, the Russian government is now focusing on drafting the second part of the Code, which it will officially present to the State Duma within the next few weeks. The Duma is scheduled to begin reviewing Part II this summer and hopes to enact it before parliamentary elections at the end of the year.

¹ The author is grateful to Lane Blumenfeld, Director of the IRIS - Russia project from December 1993 till May 1995, for his information and documentation on the subject. The information included in this paper is drawn from various IRIS-briefing papers.

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Part II will cover specialty areas of commercial and civil law, divided into four major sub-parts:

- (1) Individual Types of Obligations (Specialty Contracts);
- (2) Exclusive Rights (Intellectual Property);
- (3) Law of Inheritance (Succession or Wills and Estates);
- (4) Private International Law (Conflicts or Choice of Law).

The largest section, on Individual Types of Obligations, includes chapters on Sales and Purchase, Banking Transactions, Lease, Insurance, Personal Injury (or Torts), and Franchising, among many others.

Until the adoption of Part II of the Code, civil legislation is split up in three different Codes (the 1964 RSFSR Code, the 1991 Fundamentals of Civil Legislation, and Part I of the 1995 Civil Code). In addition, other pieces of civil legislation remain in effect to the extent that they do not contradict the new Code, and a number of questions are left to be decided by special legislation. As a consequence, the simultaneous existence of new Russian laws and decrees on the one hand and old Russian and Soviet legislation on the other hand, will continue to cause some confusion. It should be kept in mind, however, that lack of clarity and preservation of old rules are an inevitable and temporary consequence of this transition period of legal reform. Many of the problems of confusion will be solved as new legislation is adopted in the near future.

Legal Reform: a Prerequisite for Successful Market Reforms; Civil Code Drafting Commission of the Russian Federation

In Russia, as in other countries in transition, the development and enforcement of legal institutions and the success of economic reform are inseparably linked. Yet, both Russian policy makers and foreign advisers engaged in reforming Russia's economy focused almost entirely on the macro-economic aspects of the transition. Whereas the privatization of state property, the lifting of government price controls, the introduction of tight fiscal and financial policies, and the fight of inflation are major components of the introduction of a functioning market system, reformers initially overlooked the legal foundation of the reform process: the introduction of an enforceable framework of laws and institutions, defining both rights and duties of all players in the economy, guaranteeing freedom of contract and protecting private property.

Civil Code reform is critical in the overall reform process. In absence of a commercially modern Civil Code, Russia has passed numerous laws and decrees per topic, making it extremely difficult to identify which piece of legislation is controlling. Codification of these economic laws and decrees helps to clarify what the law is and how to apply it, thus enabling businesses to determine their legal rights and obligations. Recognizing that legal reform lagged well behind economic reforms, Russia embarked on the development of a new Civil Code. Although not a cure-all to Russia's legal and economic problems, it is a major advance in Russian reform efforts.

To prepare the Civil Code, President Yeltsin appointed a drafting commission composed of Russia's foremost civil and commercial law specialists. The work of this Civil Code Drafting Commission or Working Group, has been coordinated under the auspices of the Research Center for Private Law, an institute attached to the President's Administration. The team is composed of academicians and jurists representing all sectors of the government, including the President's Administration, the Government under the Prime Minister, the Ministry of Justice, the Parliament, and the judiciary, as well as the leading research institutions and universities. Among the members of the Commission are the Minister of Justice, the First Deputy Chairman of the State Duma (its second highest ranking official), the Chairman of the High Arbitration court (Russia's supreme commercial court), the Dean of the Moscow State University Law Faculty (the nation's top school for training future lawyers), and a member of President's Yeltsin's Council of Advisors.²

Legal History

The tradition of civil law in Russia predates the 1917 Revolution. In the late nineteenth century, a special Tsarist commission began to prepare a codification of civil legislation, and a draft Russian Civil Code was introduced to the State Duma for consideration in 1913. This compilation of law displayed a particularly strong influence from the German Code (the Burgerliches Gesets Buch or BGB) and, to a lesser degree, the Napoleonic Code of France. However, it never got beyond the stage of drafting before World War I broke out. Despite the advent of communism, the Soviet Union retained its civil law system, and, in 1922, adopted its first Civil Code. This redaction drew heavily from the 1913 draft, as well as from continental European models, including Germany and Switzerland. In the 1960s, this first edition of the Code was replaced by the 1964 Russian

² Members of the Drafting Commission include, among others:

1. S.S. Alekseev, Chairman of the Research Center for private Law under the President of the Russian federation (RF), Member of the Russian Academy of Sciences, and Member of the President's Council of Advisors;
2. Y.Kh. Kalmykov, Minister of Justice of the RF and Parliamentary deputy in the State Duma of the RF;
3. S.A. Khokhlov, Executive Director of the Research Center for Private Law and member of the Board of the Ministry of Justice;
4. A.S. Komarov, President of the Court of International Commercial Arbitration of the Chamber of Commerce and Industry of the RF;
5. A.L. Makovsky, Head of the Department of Private International Law at the Institute of Legislative and Comparative Law under the Government of the RF, Deputy Chairman of the Research Center for private Law, Chairman of the Scientific Consulting Center for Private Law of the CIS, and Chairman of the Russian Civil Code Drafting Commission.
6. M.A. Mitiukov, First deputy Chairman of the State Duma;
7. E.A. Sukhanov, Dean of the Moscow State University Law Faculty; and
8. V.F. Yakovlev, Chairman of the Supreme Arbitration Court of the RF.

Civil Code, drafted to regulate commercial relations for an administrative-command economy. As this Code obviously could sustain and develop the economic reforms begun in the late 1980s, a new body of civil law was to be formed, initially by the USSR Fundamentals of Civil Legislation of May 31, 1991, which were to become effective as from January 1, 1992. By that time, however, the USSR had ceased to exist and the 1964 Russian Civil Code continued to be in force. In view of the fact that the Fundamentals reflected more progressive views on civil law, the Russian Government nevertheless decreed that until the adoption of a new market oriented Civil Code the Fundamentals would apply to civil relations in Russia as a sort of gloss placed on top of the 1964 Code.

Sources of Law

Members of the current Code Drafting Commission relied on the 1913 draft Civil Code as a principal source for the modern Code. Additionally, they did not entirely discard the 1964 Code nor the 1991 Fundamentals of Civil Legislation. Although neither of these Soviet legal texts sufficiently address the complexities of a modern market economy, they nevertheless contain basic principles of civil legislation, some of which have been retained in the revised edition. Thus, the drafters aimed at creating a modern market oriented Code that nevertheless corresponds to Russia's legal system and tradition.

The Code Drafting Commission also undertook a careful study of foreign civil and common law jurisdictions and consulted extensively with foreign commercial and civil law experts. The drafters reviewed the new Civil Code of the Netherlands, recently adopted after a major 40-year revision of the country's former code, the relatively new civil codes of Quebec and Italy, as well as the more established codes from France and Germany. Additionally, the drafters looked at the codes of other countries in the region experiencing similar economic transitions, particularly those of Poland and Hungary, to understand better how countries at similar points of development are addressing legal reform. Moreover, in order to benefit from interaction with their colleagues abroad, members of the Commission traveled to the Netherlands, Italy, Germany, Quebec, and the United States to participate in drafting sessions, review proposed texts, and study the principles underlying civil and commercial law in market economies.

In addition to looking at the major European civil codes, the Commission has also engaged in an extensive examination of the Uniform Commercial Code of the United States. Despite the fact that America follows the common law, the UCC, particularly with its sophisticated Article 9 instrument for creating personal property security interests, is a potentially useful model for Russian law makers. As Russia's legal history is firmly grounded in the tradition of civil law, the Russian Code will more closely reflect European legislation. However, by studying Anglo-American law, in addition to continental systems, the drafters intended to acquire knowledge about the best of what both civil and common law jurisdictions have to offer.

Code Provisions and Supplemental Commercial Legislation

The new Code covers the full spectrum of civil and commercial law issues, ranging from contract and property rights, to corporations, banking transactions, and the securities market, to intellectual property, torts, and wills and estates. Rather than postpone enactment of the Code until it was completed in its entirety, the Russian government decided to prepare the legislation in two parts, to be submitted separately to the Parliament for consideration.

I. The three sections of Part I, which is in effect since January 1, 1995, encompass the fundamentals of civil and commercial law: It is divided into Section 1-3.

1. General Provisions.

This section outlines the basic principles of civil legislation. It includes definitions of natural and juridical persons (or corporations) and partnerships, as well as chapters on securities, negotiable instruments, and statutes of limitations.

Article 3 provides the fundamental rule that laws, presidential decrees and government decisions must conform to the Civil Code. Whereas the initial draft of this article placed decrees and decisions on an equal footing with the Code, the current version signifies a major improvement in the legislative system, putting an end to a situation in which both businesses and judges must attempt to determine which rule governs a given transaction from among openly contradictory laws and decrees.

Of particular importance to both Russian and foreign businesses, is Chapter 4 regarding legal entities, which came into force on December 8, 1994, the date of publication of Part I of the Code. The Code contains a number of significant changes affecting existing legal entities, and recognizing new forms of entities. From a practical point of view, the limited liability company and the joint stock company will be the most important vehicles for foreign investments. Whereas the Code contains and anticipates a variety of changes affecting both these types of companies, a number of questions are left to be decided by separate legislation currently under consideration (the draft Law on Joint Stock Companies, for example, will soon be submitted to the Duma for first reading). Some Code provisions have raised important questions of interpretation. The language used in Articles 56 and 105, for example, caused foreign investors and lawyers to express their concern that the Code may lead to investors' liability for debts of their Russian subsidiary companies and effectively piercing the corporate veil in cases where there is no just cause.

2. Right of Ownership and Other Rights to a Thing.

This section addresses the general law of both real property, including land, buildings, and fixtures, and personal (or movable) property. It covers topics such as creation and termination of ownership, ownership rights, ownership in common, servitude's, and land-use controls.

Most significantly, the Code reaffirms the inviolability of private property and gives an exhaustive list of circumstances under which a property owner can be deprived of property rights against his will: confiscation as punishment for a criminal offense; seizure to satisfy court judgment, and others.

Chapter 17 on Rights to Land, however, will not come into effect until the adoption by the Duma of a new Land Code. As the ownership of land is a highly controversial subject in Russian politics, it is currently unclear when the Land Code may be expected to come into effect.

3. General Part of the Law of Obligations.

The third group of articles includes the principles of the law of contracts, such as, definition of parties, rules on performance, and creation, transferability, and termination of obligations. Additionally, this section deals with secured transactions or collateral law, also referred to in Russian jurisprudence as pledge. These pledge provisions in the Code will supersede the 1992 Law on Pledge.

The new Code provisions on pledge introduce viable extra-judicial remedies. With respect to movable property, creditors can include a provision in the contract allowing foreclosure on movable property without going to court. The permissibility of self-enforcement mechanisms is a key advancement in Russia's pledge law, as it will open up the lending market for smaller and medium sized businesses who may have only movable collateral. Movable property is a less desirable form of collateral if a judicial remedy is needed to enforce the pledge because property could decrease in value, spoil, or disappear while waiting for a court order. Second, self-enforcement mechanisms encourage lending because they save time and money. A system where creditors can quickly and efficiently seize collateral upon default and sell it at auction without having to engage in time-consuming and costly court proceedings is conducive to lending.

In addition, the Code introduces an entirely new security interest in Russia in the form of 'withholding of property'. Where a creditor possesses a certain object as collateral, he is entitled to withhold it in the event the debtor does not perform any of his obligations related to the collateral, provided the debtor and the creditor have not agreed that the creditor does not have such withholding interest. The creditor may pursue a levy and execution against the withheld property in accordance with the procedure for levy and execution against pledged property detailed in the Code.

II. The second part of the Code, which will be presented to the Duma shortly, focuses on more detailed aspects of commercial and private law. It is divided into Sections 4-7:

4. Individual Types of Obligations.

This section, the largest in the Code, expands on section 3 by describing specific forms of contractual obligations. It includes chapters on the law of sale, lease, franchising, and letters of credit, as well as articles on banking transactions, insurance, and personal injury or tort law.

5. Rights to Results of Intellectual Activity.

In most civil law countries, as is currently true in Russia, intellectual property protection is regulated by a series of separate laws (on patents, copyrights, trademarks, etc.). In drafting this section, the drafters have introduced a new approach to regulating intellectual property, by uniting in one comprehensive section of the Code all major forms of intellectual and industrial property, namely: (i) copyright; (ii) neighboring rights; (iii) inventions, utility models and industrial designs; (iv) secrets of production (know-how) and unfair competition; (v) achievements of breeding; and (vi) means of individualization of goods (firm name, trade name, trademark, name of place of origin). In addition, this section contains an introductory chapter of general provisions applicable to all forms of intellectual property. These general provisions regulate those forms of intellectual property which are not yet regulated in a separate Code chapter, as well as all new forms of intellectual property, which may be developed in the future.

6. Law of Inheritance.

Section 6 contains the law of succession, also referred to as wills and estates.

7. Legal Capacity of Foreign Citizens and Juridical Persons; Application of Civil Laws of Foreign States, and International Treaties.

The last section concerns both foreign company law and international conflicts of law.

III. Although the Code legislates over a broad range of civil and commercial topics, it does not purport to address all areas of private law in equal detail. Rather, it calls for the development of approximately fifty supplemental laws to augment the Code, including the following major pieces of commercial legislation:

- 1) Acts of Civil Status;
- 2) Registration of Juridical Persons (or Corporations);
- 3) Insolvency (or Bankruptcy);
- 4) Joint-Stock Societies (or Corporations);
- 5) Limited Responsibility Societies (or Partnerships);
- 6) Production Cooperatives;
- 7) State and Municipal Unitary Enterprises;
- 8) Immunity of the State and Its Ownership;
- 9) Registration of the Rights to Immovable Property and Transactions with It;
- 10) Currency Regulation and Currency Control;
- 11) State Registration of Immovable Property and Transactions with it;
- 12) Partnerships of Owners of Housing;
- 13) Mortgage; and
- 14) Pawnshops.

Some of these projects, such as a revised Law on Joint Stock Companies and a Law on Mortgage, are currently being drafted by working groups within the government. Others are expected to be developed over the course of the next two years.

Of course, the decision not to regulate all facts of private law could prove to be a double-edged sword. On the positive side, the Code, because its coverage is not exhaustive, enables evolving business custom to govern the law of the deal. Moreover, because ordinary legislation is more readily amended than codes, this approach leaves open the possibility of easily amending the law as trade usage develops. Alternatively, this strategy opens the door for the unpredictable parliament to enact laws in the future that would undermine the market.

Background on the IRIS-Russia Commercial Law Project; Consultation on Drafting the New Civil Code

In response to commitments made by President Clinton at the Vancouver summit with President Yeltsin in April 1993, the United States Agency for International Development (USAID) established a project to support Russian commercial law reform. USAID asked the Center for Institutional Reform and the Informal Sector (IRIS), an affiliate of the University of Maryland at College Park, to undertake this effort. The objective of the IRIS-Russia Commercial Law Reform Project is to assist and train Russian law makers, judges, and legal practitioners at the Federation level as they develop the components of a commercial law regime essential to Russia's transition to a market economy.

The IRIS-Russia Commercial law Project is providing continuous expert advice to the above-mentioned Research Center for Private Law as it drafts the new market orientated Civil Code. The Research Center and IRIS have formed a working Group to oversee this collaborative effort. This initiative focuses primarily on those issues incorporated in the American Uniform Commercial Code (UCC), such as sales, negotiable instruments, letters of credit, and secured transactions. The working Group responds to questions raised by the Research Center, review articles, and facilitate the Center's access to western legal experts. Since its establishment in Russia, IRIS has convened a number of working sessions between western commercial law experts and the Russian drafters both to review the draft text of the Code and to examine underlying theory of commercial law.

In April 1994, for example, the Working Group convened a drafting session in the United States to enable the Russian drafters and American commercial law specialists to engage in an in depth analysis of Part I of the Civil Code. In November 1994, IRIS organized a working seminar on banking transactions for the code drafters to examine issues of credit and payment systems, check clearing, deposit requirements and related issues, that appear in the chapters on banking transactions of Part II of the Code. More recently, in May 1995, IRIS and the Research Center for Private Law conducted a series of workshops on select chapters of Part II of the code. The topics covered were: (i) banking transactions; (ii) inheritance; (iii) franchising; (iv) commercial and residential leasing and rent; (v) intellectual property; and (vi) insurance. IRIS and the Research Center targeted these specific issues in Part II because American law offers important lessons in these areas that differ from the laws of the European countries which the drafters have carefully

studied. Additionally, the drafters had more unresolved questions with respect to these chapters in Part II. In addition to organizing these working sessions, IRIS solicited commentaries on the draft text from specialists and from over 15 western law firms, accounting firms and other USAID - funded organizations engaged in legal reform, and distributed them to the Research Center..

IRIS has also promoted efforts to implement the new Code through activities such as the IRIS Conference on Secured Commercial Lending in the CIS, co-sponsored with the European Bank for Reconstruction and Development and the Russian Supreme Arbitration Court, among others. This event targeted practical issues of Code implementation for an audience of judges, lawyers, businesses, and parliamentarians. In addition, IRIS brought the chief judges of fourteen federal and regional commercial courts to the United States to study the principals of commercial law and market economics central to understanding the new Code. Finally, IRIS arranged a discussion between a member of the drafting group and the group of international lawyers in Moscow. This session served to inform the foreign lawyers about the new Code and provided them an opportunity to suggest changes that would improve the legal climate for businesses even further. IRIS is currently arranging another discussion between the drafters of the Code chapter on legal entities and the foreign legal community, in particular to discuss the above-mentioned issue of parent liability for Russian subsidiaries and the concern that the Code may lead to an effectively piercing of the corporate veil in cases where there is no just cause.

Conclusion

Commercial law reform is essential to the success of Russia's transition to a market economy. The introduction of a new Russian Civil Code designed to create and facilitate market relations among the commercial actors in the economy is an integral component of this transition. Without a system of commercial law, the economic reforms will not be effective.

Further legal reforms are required to implement the Civil Code fully, including the development of supplemental commercial laws. In addition, it is important to bear in mind that a written law is only as strong as the institutions responsible for implementing it. The institutions include both public and private organizations, such as administrative agencies and commercial courts, as well as private law firms, banks, and businesses. Thus, Russia must simultaneously embark on a broad program of training and education to inform both the governmental and judicial agencies that will enforce the new Code and the consumers who will operate under it. Without further improvements in the area of judicial enforcement, even the most well-drafted law will have little impact in improving the business climate.

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AND THE INFORMAL SECTOR
IRIS - RUSSIA

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ЦЕНТР ПО ИНСТИТУЦИОНАЛЬНЫМ РЕФОРМАМ
И НЕФОРМАЛЬНОМУ СЕКТОРУ
IRIS - РОССИЯ

Лейн Блауменфельд, Директор
103918 Россия, Москва
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01 June 1995

RUSSIA ENACTS NEW CIVIL CODE With USAID Assistance

On 01 January 1995, Part I of Russia's new Civil Code went into effect. Identified by President Yeltsin as the "economic constitution of the Russian Federation," the Code establishes fundamental principles of civil and commercial law. Part I contains three main sections:

- (1) General Provisions of Civil Law (including chapters on Legal Entities)
- (2) Property Rights
- (3) Contractual Obligations (including Pledge or Secured Transactions)

Although not a cure-all to Russia's legal and economic problems, this commercially modern Civil Code is a major advance in Russian reform efforts. It replaces the Brezhnev era Code of 1964, designed for an administrative-command system, and also wipes away the ill-designed patchwork of laws and decrees that had been laid on top of the Soviet era legal system.

The new Code makes fundamental breaks with past Soviet and Russian legislation by effectively guaranteeing both freedom of contract and protection of private property. In addition, the Code promotes commercial lending to small and medium-sized enterprises by instituting a faster, more efficient, and cost-effective system of debt recovery -- a significant improvement over the Russian Law on Pledge of 1992. The Code will also serve as a sword against the proliferation of financial crimes that is undermining society's confidence in the market.

With the introduction of Part I, the Russian government is now focusing on drafting the second part, which it will officially present to the State Duma in June. The Duma is scheduled to begin reviewing Part II this summer and hopes to enact it before parliamentary elections at the end of the year. Part II will cover specialty areas of commercial and civil law, divided into four major sub-parts:

- (1) Individual Types of Obligations (Specialty Contracts)
- (2) Exclusive Rights (Intellectual Property)
- (3) Law of Inheritance (Succession or Wills and Estates)
- (4) Private International Law (Conflicts or Choice of Law)

The largest section, on Individual Types of Obligations, includes

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chapters on Sales and Purchase, Banking Transactions, Lease, Insurance, Personal Injury (or Torts), and Franchising, among many others.

President Yeltsin authorized the Research Center for Private Law attached to the President of the Russian Federation to coordinate the drafting of the Civil Code. The Research Center has assembled a working group composed of some of Russia's best civil lawyers drawn from all branches of government. Organizations participating in the drafting project include the Supreme Arbitration Court, the Ministry of Justice, the State Duma and Federation Council, the International Commercial Arbitration Court of the Chamber of Commerce and Industry of the RF, Moscow State University's Law Faculty, the Institute of State and Law of the Russian Academy of Sciences, and the Institute of Legislative and Comparative Law under the Government of the RF.

Drafting of the Code took place with the assistance of foreign legal experts from the United States and Europe. With support from the United States Agency for International Development (USAID), the Center for Institutional Reform and the Informal Sector (IRIS), an affiliate of the University of Maryland, has provided continuous expert advice to the Research Center, prompting greater openness and participation throughout the drafting process. IRIS accomplished this in several ways: 1) circulating copies of the draft among Russian and Western legal communities; 2) arranging for visiting Western commercial law experts to hold sessions not only with the drafters but also conduct talks and lectures on issues raised in the text with groups of officials, judges, lawyers, and business people; and 3) organizing briefings by the Research Center and IRIS for similar groups.

IRIS has run numerous workshops with the drafters leading to significant improvements in the text, particularly in the chapters on Contracts and Secured Transactions in Part I and the chapters on Banking, Sales, and Leasing in Part II. Finally, IRIS has promoted efforts to implement the new law through activities such as the IRIS Conference on Secured Commercial Lending in the CIS, co-sponsored with the European Bank for Reconstruction and Development and the Russian Supreme Arbitration Court, among others. This event targeted practical issues of Code implementation for an audience of judges, lawyers, businesses, and parliamentarians. IRIS also brought the chief judges of fourteen federal and regional commercial courts to the United States to study the principles of commercial law and market economics central to understanding the new Code.

Further legal reforms are required to implement the Civil Code fully, including the development of supplemental commercial laws and improvements in the area of judicial enforcement. However, the enactment of Part I of the new Russian Civil Code and the future introduction of Part II are major advances in the development of Russia's market economy.

DRAFT

**INTERNATIONAL CONFERENCE ON SECURED COMMERCIAL LENDING
IN THE COMMONWEALTH OF INDEPENDENT STATES**

The International Conference on Secured Commercial Lending took place in Moscow at the Russian Supreme Arbitration Court in November 1994. During the Conference, leading experts in law and banking from the United States and Europe discussed the critical issue of secured commercial lending with jurists, parliamentarians, bankers, and entrepreneurs from Russia and the other countries in the Commonwealth of Independent States. The Conference was extremely timely, taking place shortly before the enactment of the new Russian Civil Code, which contains important provisions on secured transactions.

The Conference grew out of work the sponsoring organizations are undertaking to protect security interests and other property rights in both the Russian Federation and across the CIS. This protection is a vital precondition before lenders will extend financial credit to the newly emerging private sector. Currently, these property interests are not well protected in the former Soviet Union. For example, although Russia has fairly advanced law on secured transactions, it has few of the requisite institutions to implement a modern secured lending regime. Therefore, in addition to discussing the legal framework for secured lending, the Conference sought to outline the necessary institutions that the countries of the CIS must create in order to provide comfort to commercial lenders.

The Conference began with a delineation of the impediments to secured lending by leading jurists, judges, practicing lawyers, and bankers from Russia and the CIS. Afterwards, prominent Western experts described the elements required for the protection of secured interests in the US and Europe. Experts from the region and the West also examined related issues, such as insolvency, enforcement of judgments, and registration.

On the second day of the Conference, the participants applied this framework to a hypothetical business situation, which produced intense debate among the CIS participants about the appropriate framework for secured lending in their countries and provided an opportunity to apply the general discussion from day one to tangible business questions.

The proceedings from the Conference are reproduced in both English and Russian. This publication contains all remarks from the first day of the Conference, as well as substantial parts of the case study discussion on day two. The co-sponsors hope that their publication will both promote greater understanding of the issues involved and stimulate further debate about the means of building an effective secured commercial lending regime in the countries of the CIS.

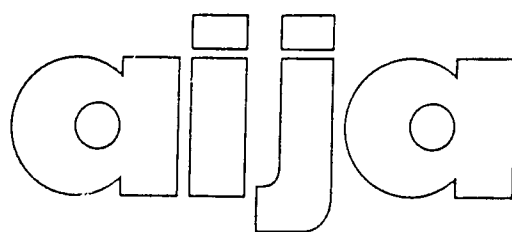
Andre Newburg

General Counsel
European Bank for
Reconstructions and Development

Charles Cadwell

Director
Center for Institutional Reform
and the Informal Sector,
University of Maryland

7/2/91



June 22-25, 1995
22 - 25 ИЮНЯ 1995

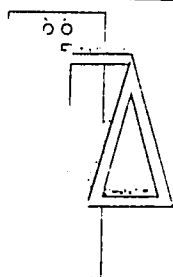
MOSCOW, RUSSIA
МОСКВА, РОССИЯ

Legal Aspects of Investment in Russia
ЮРИДИЧЕСКИЕ АСПЕКТЫ
ИНВЕСТИЦИЙ В РОССИИ

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2/10

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PROGRAM/ПРОГРАММА

Thursday June 22, 1995

22 июня, четверг

Registration at the Business Center of the Russian Chamber of Commerce and Industry	13.00-15.00	Регистрация в Бизнес-центре Российской торгово-промышленной палаты
Welcome and opening	15.00-15.15	Приветствие и открытие семинара
Ronald R. Allen, Jr., President of AIIA Роналд Р. Аллен мл., Президент АИИА		
Rule of law, political environment in Russia; the current investment climate	15.15-16.30	Господство права, политическая среда России; сегодняшний инвестиционный климат
Tanya Smith, Director, Center for the Study of Constitutionalism in Eastern Europe Peter Charow, Executive Director, American Chamber of Commerce in Russia Таия Смит, Директор Центра изучения конституционализма в Восточной Европе Питер Шароу, Исполнительный директор Американской Торгово-промышленной палаты в России		
Coffee break	16.30-17.00	Перерыв на кофе
Sovereign immunity issues and their impact on investments	17.00-18.00	Вопросы государственного иммунитета и их влияние на инвестиции
Tatiana Kovaleva, Director, Steptoe & Johnson International, Moscow Татьяна Ковалева, Директор, Степто и Джонсон Интернейшнл, Москва		
Keynote speech: "Development of the Securities Market in the Russian Federation: Problems and Prospects"	18.00	Ключевое выступление: "Развитие рынка ценных бумаг в Российской Федерации: проблемы и перспективы"
Oleg Yachnik, Chairman of the Board of Directors of the Moscow President, Olma Investr Олег Ячник, Председатель совета директоров Ассоциации участников Президент инвестиций		
Welcome Dinner (Golden Ostap Club, Shmitovsky Proezd 3)	20	семинара (7) овский

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Friday June 23, 1995**23 июня, пятница**

Introduction	9.00-9.15	Вступление
Winfried F. Schmitz, Droste Rechtsanwälte President of AIJA Standing Commission Corporate Acquisitions & Joint Ventures Винфрид Шмитц, Дросте Рехтсанвелте, Президент Постоянной комиссии AIJA по корпоративным приобретениям и совместным предприятиям		
The new Russian Civil Code	9.15-10.00	Новый Гражданский Кодекс России
Marina Kaldina, Steptoe & Johnson International, Moscow Марина Калдина, Степто и Джонсон Интернейшнл, Москва		
Corporate law in Russia	10.00-10.35	Коммерческое право в России
Chris Viner, Norton Rose, Moscow Крис Винер, Нортон Роуз, Москва		
Aspects of foreign economic activity of Russian enterprises	10.35-11.05	Аспекты внешнеэкономической деятельности российских предприятий
Svetlana Verteleva, Member of the Moscow Bar Association, Moscow Светлана Вертелева, член МГКА		
Coffee break	11.05-11.30	Перерыв на кофе
Investments in real estate in Moscow	11.30-12.05	Инвестиции в недвижимость в Москве
Valentina Glukhovskaya, Norton Rose, Moscow Валентина Глуховская, Нортон Роуз, Москва		
Hard currency implications of the foreign investments	12.05-12.45	Валютные вопросы иностранных инвестиций
Kseniya Karpinskaya, Chaadaev and Partners, Moscow Ксения Карпинская, Чаадаев и партнеры, Москва		
Lunch	13.00-14.30	Обед
Operation of a wholly owned subsidiary of a foreign high tech company in Russia	14.30-15.00	Деятельность дочернего предприятия иностранной компании (100% собственность) высокой технологии в России
Igor V. Maiorov, interMED, Moscow Игорь Майоров, Интермед, Москва		
Legal problems of foreign Investments in joint ventures in Russia	15.00-15.30	Юридические проблемы иностранных инвестиций в совместные предприятия в России
Dr. Benno Schwarz, Beiten, Burkhard, Mittl & Wegener, Moscow Д-р Бенно Шварц, Байтен, Буркхард, Миттл и Вегенер, Москва		
Financing joint ventures in Russia	15.30-16.00	Финансирование совместных предприятий в России
Dr. Caroline Kuhnert, International Moscow Bank, Moscow Д-р Каролине Кунерт, Международный Московский банк, Москва		
Coffee break	16.00-16.20	Перерыв на кофе
The role of central and regional governments in foreign investments	16.20-16.50	Роль центральных и региональных правительственных органов в иностранных инвестициях
Kirsten Floss, Deringer Tessin Herrmann & Sedemund, Moscow Кирстен Флосс, Дерингер Тессин Херрманн и Зедемунд, Москва		

Investment funds and aspects of the securities market in Russia	16.50-17.20	Инвестиционные фонды и аспекты рынка ценных бумаг в России
Tatiana Medvedeva, Consultant to the Russian Legal Project, Moscow Татьяна Медведева, консультант Российского юридического проекта, Москва		
The status and future development of securities markets in Russia	17.20-18.00	Состояние и дальнейшее развитие рынка ценных бумаг в России
Richard Bernard, Advisor to the Securities and Exchange Commission Ричард Бернард, Советник Комиссии по ценным бумагам и биржам (КЦББ) Российской Федерации, Москва		
Dinner and optional theater (Bolshoi Theater: "Oh! Mozart, Mozart!"; Dinner hosted after the opera by Walter White - 68 Leninsky Prospect, Flat 354, Tel. 930-2127)	19.00	Ужин и по желанию посещение театра (Большой театр, опера "О! Моцарт, Моцарт!"; ужин состоится по окончании спектакля у Уолтера Уайта по адресу Ленинский проспект, д. 68, кв. 354, тел. 930-2127)

Saturday, June 24, 1995

24 июня, суббота

Preparing the Russian company to go to market	9.30-10.30	Подготовка российского предприятия к переходу к рынку
William Richter, Director of Privatization CIS, USAID, Moscow Joyce Yune, Project Manager New Issues Facility, International Privatization Group-Price Waterhouse Capital Markets Group Уильям Рихтер, Директор по вопросам приватизации в СНГ, Агентство международного развития США; Джойс Юн, директор отдела новых вопросов, Международная группа приватизации - Группа рынков капитала Прайс Уотерхаус		
Experience with private investment by foreign government funds	10.30-11.20	Опыт частных инвестиций иностранных правительственных фондов
Kevin McDonald, President, Defense American Enterprise Fund Tom Dans, Senior Vice President, The U.S.-Russian Investment Fund Brenda Horrigan, Steptoe & Johnson, Moscow Кевин Макдональд, Президент, Американский фонд оборонных предприятий; Том Данс, Старший вице-президент, Инвестиционный фонд США-Россия Бренда Хорриган, Степто и Джонсон, Москва		
Coffee break	11.20-11.40	Перерыв на кофе
Experience with private investments	11.40-13.00	Опыт частных инвестиций
Walter H. White, Jr., Partner & Managing Director, Steptoe & Johnson International, Moscow Ramaz A. Beridze, Special Counsel, Metro Media International Telcell Inc. (MITI), Moscow Irina Paliashvili, Grishinko, Paliashvili & Partners, Washington, D.C. Lauralee Raddatz, Associate, Paine Webber, Moscow Уолтер Х. Уайт мл., Партнер и Генеральный директор, Степто и Джонсон, Москва; Рамаз А. Беридзе, Специальный юристконсульт, Метромедиа Интернейшнл Телселл Инк. (МИТИ), Москва; Ирина Палиашвили, Грищенко, Палиашвили и партнеры, Вашингтон, США; Лорали Раддац, Пэйн Уэббер, Москва		
Gala Dinner in the splendid Hotel Savoy (3 Rozhdestvenka Street)	20.00	Торжественный ужин в отеле "Савой" (ул. Рождественка, д. 3)

Sunday, June 25, 1995

25 июня, воскресенье

Sightseeing of the Kremlin	10.00-13.00	Экскурсия по Кремлю
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please contact:

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С вопросами обращаться:

The International Association of Young Lawyers is a non-political organization whose objective is to promote mutual cooperation and understanding among young lawyers from all over the world.

In addition to its annual Congress, AIJA organizes Courses and Seminars on various topics of current interest to professionals in the field, allowing active debate among participants and experts.

Given AIJAS's goals, its courses and seminars are not limited solely to academy study. They also include meals and social gatherings which give attendees from around the world the opportunity to exchange experiences, to become better acquainted and to engage in further discussions of the seminar and course topics.

Courses and Seminars are open to members and non-members alike.

Международная Ассоциация Молодых Юристов - это неполитическая организация, целью деятельности которой является содействие взаимопониманию и сотрудничеству молодых юристов всего мира.

В дополнение к ежегодному Конгрессу AIJA организует курсы и семинары по различным вопросам, представляющим интерес для профессионалов в этой области, где ведутся оживленные дискуссии между участниками и экспертами.

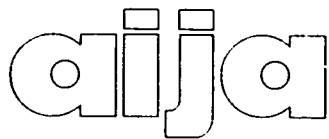
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Курсы и семинары открыты для членов Ассоциации и всех желающих.

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Address/Адрес _____

Telephone/Телефон _____ Fax/Факс _____

Accompanying Persons/Сопровождающие(ие) лицо(а) _____

To be returned to:
Вернуть по адресу:

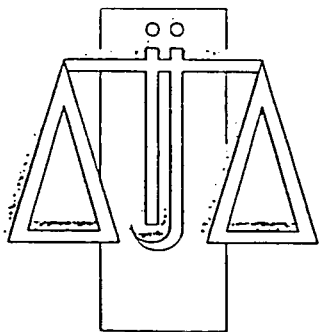
Winfried A. Schmitz
Droste Rechtsanwälte
Berliner Allee 48
40212 Dusseldorf
Germany
Fax: +49-211-32 44 39

Together with a cheque
or a bank transfer copy
Вместе с чеком или
копией платежного
поручения.

Registration fees/Регистрационные взносы	Western Europe	Eastern Europe	
<input type="radio"/> Basic Program/Основная программа	US \$ 290 (340)	100 (120)	_____
<input type="radio"/> Basic Program + Saturday Dinner/Основная программа + ужин в субботу	380 (440)	180 (210)	_____
<input type="radio"/> Basis Program + Dinner + Tours/Основная программа + ужин + экскурсии	400 (460)	200 (230)	_____
<input type="radio"/> Accompanying Persons/Сопровождающие(ие) лицо(а)	US \$	290 (340) × ... =	_____
<input type="radio"/> Tickets Bolshoi Theater/Билеты в Большой театр	US \$	45 × ... =	_____
TOTAL/ВСЕГО:			US \$

Payment/Форма оплаты

- I enclose a Cheque in US \$/прилагаю чек на сумму US \$ _____
- I attach proof of payment of Bank Transfer at no charge to the organizers/прилагаю копию платежного поручения из банка без какой-либо дополнительной платы со стороны организаторов.



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