

# EVALUATION OF TRADE FACILITATION AND INVESTMENT ACTIVITY



## FINAL REPORT

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The views and recommendations expressed in this report are solely those of the MSI Evaluation Team and are not necessarily those of USAID or the U.S. Government.



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**EVALUATION OF THE USAID/CAR  
TRADE FACILITATION AND INVESTMENT ACTIVITY**

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## ACRONYMS

ADB	Asian Development Bank
ASYCUDA	Automated System for Customs Data
CAR	Central Asian Republics
CIPE	Center or International Private Enterprise
CIS	Commonwealth of Independent States
EDP	Enterprise Development Project
FSU	Former Soviet Union
GATT	General Agreement on Tariffs and Trade
GDP	Gross Domestic Product
HS (HTS)	Harmonized System (Harmonized Tariff System)
IMF	International Monetary Fund
ISO	International Standards Organization
MAS-Q	Metrology, Accreditation, Standards and Quality
NGO	Non-governmental Organization
OSCE	Organization for Security and Cooperation in Europe
RIC	Reduction of Investment Constraints
RKC	Revised Kyoto Convention
RTC	Reduction of Trade Constraints
SPS	Sanitary and Phytosanitary Measures Agreement (WTO)
SME	Small/Medium Enterprises
TACIS	Technical Assistance to the Commonwealth of Independent States
TBT	Technical Barriers to Trade Agreement (WTO)
TF&I	Trade, Facilitation & Investment Activity
TIP	Trade and Investment Program
TIR	Transport International Routier
TRM	Trade Requirements Matrix
TSG	The Services Group
USAID	United States Agency for International Development
WCO	World Customs Organization
WTO	World Trade Organization

MAP 1. KAZAKHSTAN



Base: B02516A1 (C00217) 12-01

## MAP 2. KYRGYZSTAN



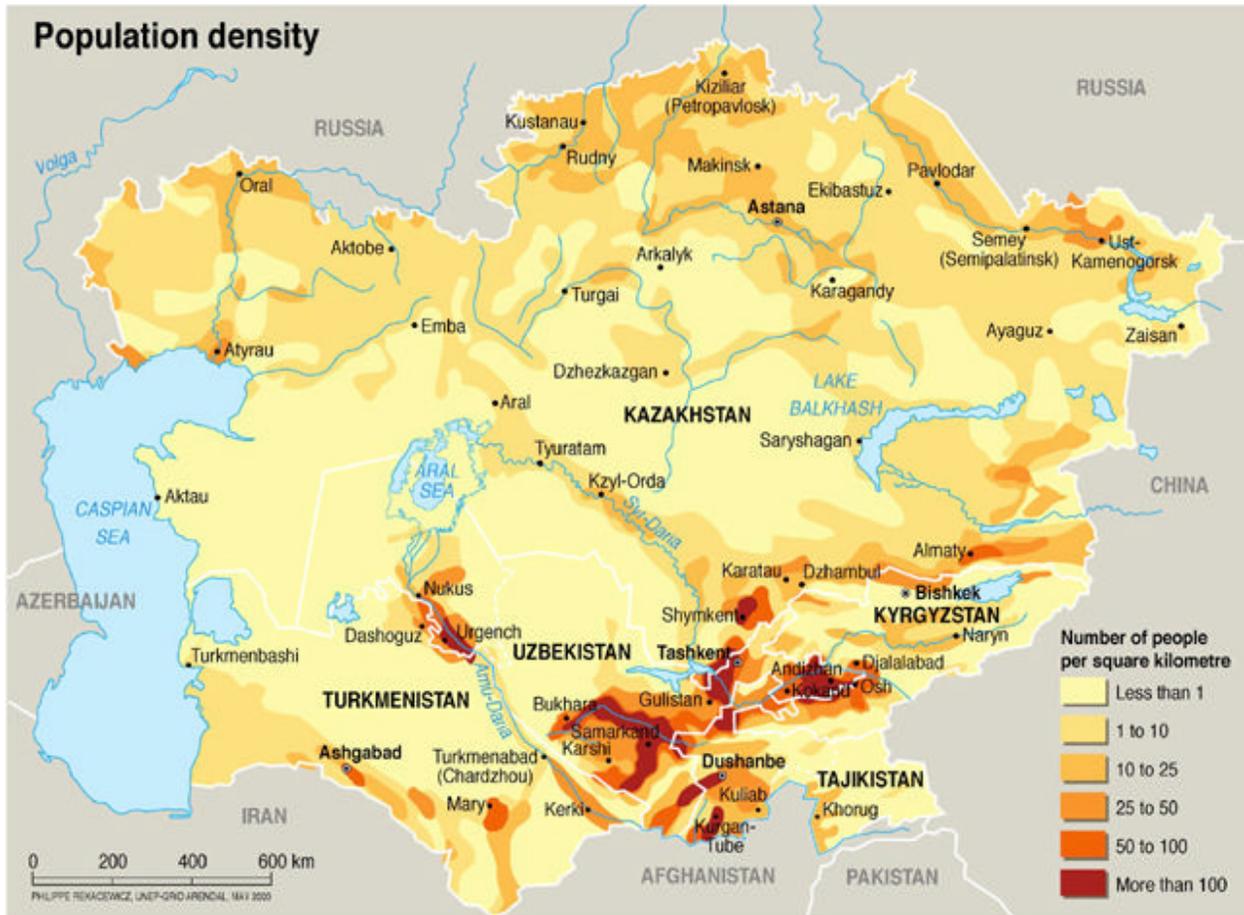
### MAP 3. TAJIKISTAN



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MAP 5. POPULATION DENSITY



## **EXECUTIVE SUMMARY**

The USAID Trade Facilitation and Investment (TFI) Activity (formerly Trade and Investment Program or TIP), is implemented by the U.S. contractor, The Pragma Corporation under contract #116-C-00-01-00015-00 in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The TFI Program builds upon the previous two year experience of the USAID Trade and Investment Program.

The purpose of the evaluation was to assess the effectiveness of the Trade Facilitation and Investment Program in creating a legal and regulatory environment conducive to the growth of small and medium sized enterprises (SMEs) in Kazakhstan and Kyrgyzstan. Based on evaluation results and recommendations on impact, effectiveness, priorities, and resources allocations, USAID/CAR will decide on modifications for the TFI program for the coming three year period to 2006 and beyond.

### **TFI PROGRAM DESCRIPTION**

With guidance and input from USAID/CAR, the basic approach utilized by the Pragma Corporation for the development and implementation of the Trade and Investment Program (TIP) and now the Trade Facilitation and Investment Activity (TFI), is to leverage existing country strengths in the four Central Asian Republics. According to the TFI scope of work, the purpose is "to improve the trade and investment environment for small and medium-sized enterprises. The [TFI is] implemented under USAID/CAR's Strategic Objective 1.3, which calls for an improved environment for the growth of small- and medium-sized enterprises...." In particular, it will support Intermediate Result 1.3.3, which calls for increased implementation of laws and regulations.

The TFI Program, under its original name of Trade and Investment Program, operated for two years primarily in Kazakhstan and Kyrgyzstan. The three components were Reduction in Investment Constraints (RIC), Customs Modernization Support (Customs), and World Trade Organization (WTO) Accession and Compliance Support. Offices were opened and fully operational in Almaty, Atyrau, Uralsk, Pavlodar and Ust-Kamonogorsk in Kazakhstan; and Bishkek and Osh in Kyrgyzstan by the Fall of 2001. In April, 2003, operations expanded to Uzbekistan and Tajikistan with an emphasis on the Ferghana Valley. Offices are now open in Tashkent, Ferghana, and Andijan in Uzbekistan, and in Dushanbe and Khojand in Tajikistan.

For Years One and Two, no substantive TIP Reduction in Investment Constraint activities were undertaken in Uzbekistan and Tajikistan. In December of 2001 WTO accession-related assistance was initiated in Tajikistan and in Uzbekistan in October of 2002.

Key conferences with major national and local leaders in the public and private sectors have been held to discuss and take action on reducing constraints to trade. Seminar series and workshops were delivered in reductions of investment constraints and customs procedures. Locally developed brochures on registration and customs procedures, required due to the ability of local (includes cities and villages) and oblast level governments to legislate regulations, have

been distributed in four Northern Kazakhstan oblasts and in Osh and Bishkek oblasts in Kyrgyzstan. Training was provided to Customs personnel and technical assistance was provided for the writing of the Customs Codes in Kazakhstan and Kyrgyzstan.

Removal of five barriers in each of five TIP local sites in Kazakhstan and Kyrgyzstan was the two year target for TIP. This total of 25 constraints was reached in the first year of the program. In year two, from October, 2002 to July, 2003, only local personnel were in the local TIP offices. Local Country personnel in two offices have been trained and given additional technical and managerial responsibilities. Local brochures on constraints were tailored to each area and distributed. Relationships were built with business associations. Industry specific associations were targeted at the national level in Almaty and included tourism and pharmaceuticals.

About a total of 96 constraints in Kazakhstan and Kyrgyzstan were removed by the end of Year Two. In Kazakhstan, the initial TIP strategy focused on the national level and then shifted to the oblast and local levels. TFI Program emphasis for the coming year is on the local level with attention to cross-border issues. The present strategy in Kyrgyzstan is to shift from WTO/Customs/Regulation to strengthening private sector associations and to address specific issues such as cross-border trade. An ancillary opportunity is to educate Ministries to local issues through trade policy, MAS-Q, and WTO compliance. The overall emphasis is now on the private sector and local issues and on MAS-Q standards and removal of mandatory standards systems in the four CAR countries.

The program approach for TFI, Year Three, is towards sustainability and local/national synergy. An effort is to be made to identify viable partners to carry the program forward. Targets of opportunity will also be identified. TFI Country Managers in each of the four countries are looking for realistic and politically viable opportunities to reduce trade and investment constraints.

## **EVALUATION QUESTIONS**

The evaluation statement of work contained a series of evaluation questions associated with the components of the Trade and Investment Program and the current Trade Facilitation and Investment Activity. Findings, conclusions, and recommendations in response to these evaluation questions are contained in Annex C.

## **CONCLUSIONS AND RECOMMENDATIONS**

The TFI Program has effectively trained and utilized Central Asia based personnel for technical positions, including leadership, throughout the TFI Program. The expatriate personnel, both long-term and short-term are used for key positions and are effective in providing the necessary technical direction and vision to support the TFI Program mission.

### **TFI Operations**

TFI is effectively implementing the three components and has established a network of national and local government officials, business associations, and individual entrepreneurs. Work on

reduction of constraints, customs, and WTO accession is a day-to-day affair and programmatic adjustments are constantly being made. TFI personnel are sensitive to changing political and economic opportunities and respond accordingly. Meetings, conferences, and workshops at the national and local levels are developed and implemented in the spirit of continuing to advance the program to achieve the stated objectives.

### **Programmatic Allocation of Personnel**

Given the TFI Program emphasis on local and regional concerns, the allocation of personnel is appropriate. Should new openings for work in Uzbekistan occur, an assessment of the personnel distribution would be required. Success in Kazakhstan in engaging existing business associations in the removal and reduction of investment and trade constraints would allow some flexibility in Years Four and Five in the allocation of personnel.

### **Response to Emerging Opportunities**

The TFI Program has demonstrated an ability to take new actions in accordance with USAID program directives and to undertake new efforts that support the achievement of the program objectives. While there is no certainty, the Uzbek and/or Kazak national governments may seriously commit to WTO accession. In this case, staffing and other resources will need to be adjusted. Other opportunities may arise that also require tactical revisions. While the TFI Program has proven able to make program adjustments in the past, additional attention should be paid to this possibility over the next three years.

### **TFI Program Strategy**

Each Central Asian Republic requires a distinct program strategy. Some of the lessons learned over the past two years in Kazakhstan and Kyrgyzstan can inform the emerging programs in Tajikistan and Uzbekistan. Modifications in strategy will be necessary as activities are implemented. The strategy in each country will have different sets of priorities, objectives, and related activities. Targets and indicators should be tied to these activities.

The Evaluation Team recommends that TFI, in association with the Mission, develop specific programmatic objectives in RIC, Transit and Customs, Cross-Border Trade, MAS-Q, and WTO Accession/Compliance for each country. Objectives can also be Oblast and border community specific as necessary. Written statements of program strategies are essential for conveying this information of program objectives to TFI Program staff and interested counterparts and stakeholders. At a minimum, the Evaluation Team recommends that an explicit TFI Country Program Strategy be composed for each of the four Central Asian Republics.

The key target for the first two years of TIP was reduction of investment constraints. This target is still valid. Rather than each constraint being viewed as equal to another, clarifications can be made as to the scope of the reduced or eliminated constraints, local or national impact, general business or sector specific, and number of businesses potentially affected. Other previous targets included Custom Codes written and passed and status of accession to WTO.

In the absence of resource considerations, there are other indicators that could be identified that reflect on the impact of the TFI Program. A baseline of these indicators could be created and surveys could be conducted to measure the change in indicators over time. Examples of such indicators, among many others, are: (i) time and cost of actual business registration; (ii) time and cost of licensing; (iii) number and frequency of inspections per month, year; (iv) increased border trade resulting from concrete elimination of tariff and non-tariff barriers; and (vi) number of times that SMEs have obtained procurement contracts from government. The Evaluation Team recognizes that the collection and maintenance of such data may be beyond the scope of the current TFI Program contract. Accordingly, in the development of country strategies and the associated activities, more realistic indicators such as outputs can be identified to measure Program effectiveness. In many cases, narratives and anecdotes from appropriate informants may have to suffice (e.g. "I have received fewer complaints about corruption.")

### **Reduction of Investment/Trade Constraints**

The Reduction of Investment Component of TFI has concentrated over the past two years in Kazakhstan and Kyrgyzstan. RIC programs in Uzbekistan and Tajikistan were launched in the Spring of 2003. Recommendations are offered on the future direction of the RIC program.

### **Enforcement of Legal and Regulatory Regime**

The TFI Program has been effective in improving the legal and regulatory environment for SMEs. The Evaluation Team recommends that enforcement be given a higher priority. This would require additional contact and liaison with the prosecutors' offices at the local, oblast, and national levels.

### **National and Central Asia Level Dialog**

While the TFI current effort is focused on oblast and local level constraints to cross-border trade, the policies of the national governments, primarily Uzbekistan and Kazakhstan are constraining factors. The periodic closing of border points by Uzbekistan seriously hamper legal trade and ease of transport of goods. The customs and visa practices of the Kazakhstan government, as contrasted with those of Kyrgyzstan, cost time and money to entrepreneurs and potential international investors. Accordingly, the MSI/MetaMetrics Team recommends that additional effort be placed on dialog and discussions at the national level. The office in Astana can be expanded to add senior Kazak staff to relate on an ongoing basis with TFI counterpart agencies.

In Kyrgyzstan, the TFI Program played a critical role in establishing the Investment Roundtable (IRT). Since the IRT's establishment, TFI Program personnel have been in close cooperation to impact on national and local constraints to trade and investment. The Evaluation Team recommends that the TFI Program build on this experience and conduct high profile conferences on the challenges of removing investment and trade constraints and the potential positive impact on national economies and SME development. Senior-level government officials and selected business representatives in Uzbekistan, Tajikistan and Kazakhstan can be enlisted to visit Bishkek and observe the progress the program has made on government standards and WTO accession through the IRT.

## **Business Associations**

The TFI Program, in cooperation with the Enterprise Development Program (EDP) that is also implemented by The Pragma Corporation, has played an important role in business association development. The continuing capacity building of business associations at the national and local levels are a shared portfolio of the EDP and TFI Activities. Business associations in Kazakhstan are relatively well developed. There are diverse associations with industry and general membership orientations. Associations of business women are in existence. The associations that were visited were basically self-sustaining and largely self-financing. In contrast, there were few business associations in Kyrgyzstan and, in comparison with those of Kazakhstan, they were not very active nor very influential. Business person respondents in Osh, Kyrgyzstan stated that they knew of no business associations and that such associations might be useful. Associations in Tajikistan do have influence in government, but institutionally they are very weak. In Uzbekistan, the TFI Program is identifying associations with which to work.

In Tajikistan, Uzbekistan, and Kyrgyzstan more emphasis on business association development and the emergence of additional associations will provide greater outreach for the other TFI components and subcomponents. In Kazakhstan, the existence of several functioning business associations allows for a strategy of educating selected associations to undertake RIC and related functions now being performed by TFI personnel.

Successful training of selected associations to conduct the functions of the TIP local offices may prove to not be sufficient to assure the results achieved by TFI. Additional intensive technical assistance following the training program may be required to empower SME business associations to conduct analysis, sponsor informed public debate, and lobby constructively for the removal of trade and investment constraints.

## **Individual and Organizational Advocates**

The TFI Program has been successful in finding advocates in government at the local, oblast, and national levels. Influential and engaged business persons have also been included in TFI programming. In contrast, there have been only a few instances of engagement of Majlis (national parliament) and Kenesh (local and oblast level legislative bodies) elected members. One example is the transport/minibus issue in Bishkek. Two powerful members of the City Kenesh and the Minister of Justice were made aware of the illegality of an act affecting minibuses and they amended the act. The Evaluation Team recommends that local TFI staff work with local entrepreneurs to identify Keneshi members who are sympathetic to SME development. A local TFI site could be identified as a model demonstration of Kenesh coordination and cooperation.

Entrepreneurs of large firms can be identified to support interests in common with SMEs to reduce trade and investment constraints. Seminars could be organized to promote cooperation of big firms with associations of SMEs. The effectiveness of policy representations would be leveraged by the participation of larger firms. Those potentially interested should see the benefits of subcontracting SMEs for the production of critical high value added inputs, a process which will set in motion a cycle of productivity growth for SMEs, job creation and higher incomes. In

countries like Thailand and Malaysia, foreign firms in the electronic and computer industries have spearheaded this process. To the extent that the foreign investment regimes improve, this phenomenon can be replicated in the Central Asian Republics.

### **Regional Consultative Councils**

The Ferghana Valley Council of local government officials and entrepreneurs shows promise for coordination between the citizens of three countries in reducing constraints to trade and investment. The Evaluation Committee recommends that TFI provide continuing support to the formation of regional consultative councils. This approach can be used to address special issues.

The regional consultative councils can be venues for discussion and resolution of problems that directly affect border trade, such as checkpoints and visas. They could, in effect, be vehicles for the resolution of small, simple border disputes.

### **TFI as a Catalyst for Change**

Many of the SMEs and business associations commented that they believed that the intervention by TFI on their behalf with local authorities and prosecutors was extremely valuable. Local government authorities generally take action when requested by an international organization, but are not so responsive to individual SMEs. The TFI Program has focused on particular issues and agencies to remove restraints and has been very successful. There are many examples of this success. In Osh, Kyrgyzstan, the TFI Program, through its training and information dissemination, reduced the number of business inspections. In Almaty, Kazakhstan, illegal inspections by government agencies were substantially reduced.

Since it is not the nature of a bureaucracy to change quickly, this type of quick action by these authorities is puzzling. A possible theory is that the TFI acts as a catalyst for change within these agencies, allowing officials within those agencies who have supported reform to act against the constraints of the status quo (and perhaps even their superiors), using TFI as "political cover" to justify their actions. If this is the case, then this is a valuable activity and role of the TFI, and a hopeful sign. It indicates that there is a real desire of local government authorities to assist emerging businesses. At the same time, by laying the "blame" on TFI, they protect their careers and internal relationships within their agencies.

### **Corruption**

A source of corruption may be the need for self-financing of government agencies. The Expert of the Secretariat located in Osh stated that as of January, 2004, all agencies will be under the general budget of the state. An entrepreneurial class, educated with respect to registration and inspection procedures, is not sufficient to deal with illegal payment seeking officials. A concerted effort of refusal to pay bribes is needed to eliminate such practices. Associations with an active and engaged membership can assist in instituting attitudes of nonpayment of bribes.

## **Customs Component**

The Evaluation Team recommends that, where possible, Customs, immigration/visas, certifying authorities, and other agencies controlling traffic and transit of goods be co-located in the same area. The Evaluation Team recommends that technical assistance be provided to the government of Kyrgyzstan to evaluate the Customs automation program offered by the Asian Development Bank, and that available from the United Nations and the WCO.

## **Harmonization of Standards and Documents**

If true Customs facilitation is to occur, the current situation of country specific standards, certificates, and documentation must be reengineered to allow for seamless processing by Customs officials in both the exporting and importing countries, i.e., to accept testing, quality, and origin certificates according to international standards. The TFI Program should continue to actively support the MAS-Q project, particularly with respect to harmonization and acceptance of standards required for imports and exports within the four country region.

In addition, the Customs clearance documents themselves should be harmonized so the information required is standard throughout the region. The single integrated Customs transit document that was just accepted by the Heads of Customs of Kazakhstan, Kyrgyzstan, Russia, and Tajikistan, is an example of the type of cooperation between governments that can have a positive, immediate benefit in facilitating trade. This type of effort should be continued to include, for example, a common declaration form for the region.

## **Customs Training**

Unlike Kazakhstan, Kyrgyzstan has not trained local Customs officers on the new Customs code because it has not been passed by Parliament. And, unlike Kazakhstan, there does not appear to be any core training unit in place within Customs. An appropriate activity for TFI in the next year would be assisting the Kyrgyzstan government in establishing permanent training mechanisms within Customs and other key organizations on the new Customs code. In addition, other areas of Customs related WTO requirements such as intellectual property rights protection and rules of origin will require the TFI Program's assistance to implement in both countries.

## **Revised Kyoto Convention Principles**

The TFI Program should continue to work with Customs in both Kazakhstan and Kyrgyzstan on programs consistent with the trade facilitation principles of the RKC. In implementing these programs, care should be taken to insure the new programs actually facilitate Customs clearance, not simply add additional processes.

## **Cross-Border Trade**

Customs and other involved authorities, as well as private sector parties at interest in Kazakhstan and Kyrgyzstan have worked together in cross-border councils at the oblast level to address border issues. This type of bilateral cooperation should be expanded to as many other crossing

points in the region as possible. The TFI should continue to make the Ferghana Valley Council a priority.

### **Customs Procedures and Information**

A common theme of those interviewed by the Evaluation Team in both countries is that Customs procedures are complex and non-transparent to SMEs involved in cross-border trade. There is little information available to SMEs regarding Customs requirements, which makes it difficult to comply with needed documentation and may contribute to corruption of officials in both countries to obtain Customs clearance.

The TFI Program is now developing a Trade Requirements Matrix, which would be available to all business via an Internet web site. This site would contain all necessary permit, documentation, and inspection information for Customs clearance for specific products. The TFI Program needs to work with the countries of the region to develop some type of mechanism to continue to update this matrix, whether within the various Customs authorities, or a third party private service.

### **Transit of Goods to Markets Outside the Region**

Perhaps the greatest problem for expansion of trade in the four country CAR region is the inability of most countries to reach international markets without their goods traveling through other countries. A procedure to allow transit of goods has recently been approved by the Heads of Customs of Russia, Kazakhstan, Kyrgyzstan, and Tajikistan, using a single harmonized document. This program has not yet been implemented. The TFI should assist Kazakhstan, Kyrgyzstan, and Tajikistan with the implementation of this program by publicizing information regarding the program, its costs and requirements, to as broad a spectrum of SMEs as possible.

### **WTO Accession and Compliance**

Kyrgyzstan joined the WTO in December of 1998 after only three years. An interagency commission was formed on WTO, with senior officials designated within each ministry to move the process forward. Any assistance that the TFI Program could provide to the other CAR countries, including to Kazakhstan if conditions warrant, in coordinating their WTO efforts within the various ministries and agencies of government would be extremely helpful. This could take the form of legal analysis and review of existing statutes or providing training to policy and operational officials in critical agencies.

The Evaluation Team recommends that the TFI Program continue to work with Tajikistan on WTO accession issues. TFI should also be prepared to assist Uzbekistan should additional assistance be requested. The Evaluation Team sees Uzbekistan willingness to accept technical assistance in support of WTO Accession as an excellent opportunity for the Mission and the TFI Program. The new TFI Program Trade/WTO advisor should allocate an appropriate level of effort to support this Uzbekistan objective. In both countries, TFI could begin the process of analyzing current laws which will need to be revised in order to draft WTO compliant Customs codes.

# I. INTRODUCTION

The USAID Trade Facilitation and Investment (TFI) Activity (formerly Trade and Investment Program or TIP), is implemented by the U.S. contractor, The Pragma Corporation, under contract #116-C-00-01-00015-00 in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The TFI Activity builds upon the previous two-year experience of the USAID Trade and Investment Program. USAID/CAR has conducted programs to support the development of market economies in Central Asia since the mid-1990s. Predecessor contractors for USAID/CAR programs in trade facilitation and investment included The Services Group (TSG) and Booz Allen Hamilton.

The current contract with The Pragma Corporation under the original title, Trade and Investment Program, was started in June of 2001. In May of 2003, the three one-year options were executed to keep the program operating through May 31, 2006. Also, the title of the project changed from Trade and Investment Program to Trade Facilitation and Investment Activity. The current ceiling price for the entire five year period of the contract is \$19.7 million.

## 1.1 EVALUATION PURPOSE

Under Strategic Objective 1.3, Improved Environment for the Growth of Small and Medium Enterprises, and Intermediate Result 1.3.3, Increased Implementation of Laws and Regulations, USAID has designed and is implementing the Trade Facilitation and Investment Activity. The program is aimed at creating a legal and regulatory environment conducive to trade and increased investment flow in the region which will bring about the growth and expansion of the SME sector. In line with the Mission's cross-cutting objective of combating corruption, this program also seeks to improve legislative processes and lawmaking that will help eliminate opportunities for rent-seeking and other corrupt practices.

The purpose of the evaluation was to assess the effectiveness of the Trade Facilitation and Investment Activity in creating a legal and regulatory environment conducive to the growth of small and medium sized enterprises (SMEs) in Kazakhstan and Kyrgyzstan. Based on evaluation results and recommendations on impact, effectiveness, priorities, and resources allocations, USAID/CAR will decide on modifications for the TFI program for the coming three year period to 2006 and beyond.

## 1.2 COUNTRIES OF OPERATION

The TFI Activity, under its original name of Trade and Investment Program, operated for two years in Kazakhstan and Kyrgyzstan. The three components were Reduction in Investment Constraints (RIC), Customs Modernization Support (Customs), and World Trade Organization (WTO) Accession and Compliance Support. Offices were opened and fully operational in Almaty, Atyrau, Uralsk, Pavlodar and Ust-Kamonogorsk in Kazakhstan and Bishkek and Osh in Kyrgyzstan by the Fall of 2001. In April, 2002, TIP expanded operations to include WTO work in Dushanbe, Tajikistan. In November of 2002, TIP further expanded its operations to include a WTO component in Uzbekistan. In the Spring of 2003, additional offices were opened in

Khujand, Tajikistan and Ferghana and Andijan, Uzbekistan with an emphasis on work to be performed in the Ferghana Valley. TFI currently has offices in 12 cities in the four countries. A brief overview of each country is offered below and additional information is offered in Annex I, CAR Country Information.

### **1.2.1 Kazakhstan**

With a population of 15 million people, it is largest in size of the four countries, and also the richest. Its resource base is heavily dependent on oil and natural gas. Kazakhstan has the potential for more development of agriculture, because of the availability of good land; chemicals and light industry. The availability of rich resources combines with virtually no demographic pressure that may impede economic reforms. The substantial revenues that flow from the oil industry provide for sustained increases of consumption and propel the growth of the services sector. Proximity and traditional economic ties with Russia deny any urgency to enter into the WTO and therefore to eliminate non-tariff trade barriers that could clearly benefit Kyrgyzstan and Tajikistan.

The country features a dynamic SME sector. Evidence of this is the EBRD small loan business program. Launched in 1996, as of April 2003 the program had disbursed close to 50,000 loans to SMEs, for an amount totaling \$288 million that helped to create an estimated 143,000 jobs. Of these loans, 75% were for disbursements below \$5,000, chiefly concentrated in SMEs operating in the services and trade sectors of the economy. Furthermore, there is evidence that, of the four countries, SMEs in Kazakhstan show the better and more efficient organization in chambers and associations, which opens the possibility to influence the process of policy making. Using this venue to accelerate the pace of removal of investment constraints and the introduction of trade facilitation measures must elicit the highest TFI Program priority.

### **1.2.2 Kyrgyzstan**

Small in size and with a third of the population of Kazakhstan, the country is still struggling to put its economy on a solid footing after the catastrophic collapse of economic activity that followed the demise of the Soviet Union. A large scale privatization program and accession to WTO on December 20, 1998 are moves that point to this country as the one among the four which has most decisively embraced economic liberalization. The country features a strong agricultural base that contributes one third of economic output and there is the potential to develop natural resources and tourism. Kyrgyzstan has light industry, like textiles, which at the moment faces stiff competition from Chinese products.

The Kyrgyzstan population is highly concentrated. The capital of Bishkek in the north has about 40% of the population as does the city of Osh in the south at the entrance of the Ferghana Valley.

SMEs dot the economic landscape of this country. But, in the main, they are constrained by their inability to meet compete successfully in foreign markets. This happens both for domestic and external reasons. Among the former, SMEs face regulatory impediments that

prevent them from introducing innovative technologies that will ultimately enable them to comply with international standards of production. They also do not have reliable information on foreign markets. Externally, they face tariff and non-tariff barriers from Kazakhstan and Uzbekistan. Prevalent among the latter is the imposition of restrictions to the transit of goods to the Russian market. With its economy still heavily dependent on Russian trade, the transit issue is probably the most pressing concern that TFI must address in this country.

### **1.2.3 Tajikistan**

By far Tajikistan is the poorest of the four countries. With a population of 6 million people, the country features an agricultural-based economy. Its mountainous geography and lack of adequate roads prevent a faster development of domestic markets. Most economic activity is concentrated in the Soghd oblast. With an estimated third of the population of the country in the densely populated Ferghana Valley, this oblast contributes two thirds of the GDP. Admirably, the country has managed to expand its export base with a steady increase of sales of cotton and aluminum to European countries. It is still dependent on the Russian market for the sale of perishable goods. Not unlike the problems that Kyrgyzstan faces, cross border trade and transit of goods through Uzbekistan and Kazakhstan are major obstacles.

Economic recovery from the civil war that ravaged the main urban centers and the countryside in the mid 1990s is well on its way due to the adoption of more friendly market policies. One unfortunate consequence has been the migration of many talented professionals, most of them ethnic Russians. This represents a net loss of valuable human capital which could have played a prominent role in the reform of public administration. In this regard, the country is in desperate need of talented civil servants who can steer the economy towards a faster pace of economic reform. With respect to business associations, while they seem to be very active and with better informal access to government than those of Kazakhstan, they need to upgrade their analytical capabilities in order to make more technically-grounded presentations to policy makers.

### **1.2.4 Uzbekistan**

With 24 million people, Uzbekistan is the most populated of the four countries. Its population enjoyed one of the highest living standards in Central Asia during Soviet times. The second largest exporter of cotton in the world, after Egypt, Uzbekistan features a strong agricultural sector, which contributes one third of GDP. It is also rich in gold, metals and, to a lesser extent, natural gas and oil, which are exported to neighboring countries. The country produces cars and airplanes, some of which are exported to developing countries. Light industry, on the other hand, is believed not to be competitive in world markets. Furthermore, the share of industry on GDP has been steadily declining.

Uzbekistan lags behind the other countries with respect to the depth of economic reform. In essence, it still features the basic characteristics of a centrally planned economy. There is no currency convertibility, state monopolies still weigh heavily in the economy, exports are handicapped by complicated procedures, and imports are restricted by tariff and non-tariff barriers. Not surprisingly, the flow of foreign direct investment is one of the lowest of the region

and the ratio of tradable goods to GDP (exports plus imports) has declined from 68.7% in 1996 to 38.5% in 1999 according to World Bank sources.

Interestingly, and in open contradiction to the logic of the current control-driven economic policy, the government has proved adept at introducing measures that are friendly to the development of SMEs. The government seems to be aware of the importance of SMEs for the economy: the sector provides jobs to approximately 40% of the economically active population and contributes one third of GDP. It has therefore put into effect a one-stop business registration procedure that reduces the processing time to 12 days. But this measure is not enough. SMEs are smothered by high taxes and overregulation. According to World Bank sources, as much as 66% of them are compelled to pay bribes.

### **1.3 EVALUATION APPROACH AND ACTIVITIES**

The MSI/MetaMetrics Evaluation Team consisted of three members: Leo T. Surla, Jr., Team Leader; Karen J. Hiatt, Trade Facilitation Specialist; and Jorge L. Daly, Trade and Investment Specialist. Evaluation activities started on July 2, 2003. The team members arrived in Almaty between July 5 and July 11 and departed together on August 2, 2003.

At the request of the USAID Mission in Almaty, the evaluation focused less in grading past performance of the TFI Program, than in providing strategic recommendations upon which modifications in both activity design and resource allocation can be introduced to maximize program impact. The approach of the evaluation was fundamentally forward looking.

The data and information collection methodology consisted of over 100 interviews with TFI staff, representatives of business associations, and government officials (See List of Interviews). The four countries were visited by the members of the evaluation team. Field visits were conducted in the period July 14 through 26, 2003 and included Almaty, Uralsk, Pavlodar and Astana in Kazakhstan; Bishkek and Osh in Kyrgyzstan; Dushanbe and Khujand in Tajikistan; and Tashkent and Fergana in Uzbekistan. The TFI office sites that were not visited included Atyrau and Ust-Kamenogorsk in Kazakhstan and Andijan in Uzbekistan.

The three team members reviewed interview notes to compose a first draft of the evaluation report. Daily meetings were conducted to compare findings, conclusions, and evaluation recommendations. The resulting draft final report was delivered to USAID/CAR on July 31, 2003. An evaluation briefing was conducted at the USAID/CAR offices on August 1, 2003. Comments and requests for clarification on the draft report were received on August 29, 2003. The revised Final Report was sent to USAID/CAR on September 15, 2003.

### **1.4 TFI PROGRAM DESCRIPTION**

With guidance and input from USAID/CAR, the basic approach utilized by the Pragma Corporation for the development and implementation of the Trade and Investment Program (TIP) and now the Trade Facilitation and Investment Activity (TFI), is to leverage country strengths in the four Central Asian Republics. The TFI Activity has two components: (1) Reduction of Investment Constraints and (2) Trade Facilitation Component. The Trade Facilitation

Component consists of three sub-components: (1) WTO, (2) Transit and Customs, and (3) Metrology, Accreditation, Standards and Certification or MAS-Q. An effort is made to rationalize the business environment towards a market economy and introduce a new mindset. This program description of the first two years of the TIP and the strategy for Year Three is based on interviews with the TFI Chief of Party and the TFI Kazakhstan and Kyrgyzstan Country Managers.

The Pragma Corporation has also been implementing the USAID Enterprise Development Program (EDP) in all five Central Asia Republics including Turkmenistan and the CAR Financial Services Initiative which operates in Kazakhstan alone. There is substantial cooperation between the TIP, now TFI, and the EDP. The EDP was instrumental in identifying trade constraints and supporting TIP efforts with business associations. Local TFI staff were to be trained and promoted to assume increased technical and management responsibilities. TFI programmatic success can be measured by laws, national and local project activities, barriers reversed, government agency compliance with rules, and feedback from businesses and associations.

#### **1.4.1 Reduction of Trade/Investment Constraints**

Key conferences with major national and local leaders in the public and private sectors have been held to discuss and take action on reducing constraints to trade. Seminar series and workshops were delivered in reductions of investment constraints and customs procedures. Locally developed brochures on registration and customs procedures, required due to the ability of local (includes cities and villages) and oblast level governments to legislate regulations, have been distributed in four Northern Kazakhstan oblasts and in Osh and Bishkek oblasts in Kyrgyzstan.

The methodology for identifying trade and investment constraints was the Investor Roadmap as developed by The Services Group (TSG), the predecessor organization funded by USAID/CAR for one year prior to the TIP effort. This methodology explores 13 core processes ranging from investor entry and expatriate work permits to paying taxes and importing/exporting goods. TIP identified specific constraints associated with the 13 core processes through local assessments and interviews with business persons.

Programs had been previously established by The Services Group in Chimkent, Ust-Kamenogorsk, Aktau, and Atyrau. Reports were written and offices were established at those locations. The major focus of the TSG program was on the writing of laws and results in reducing constraints were minimal.

#### **Year One of TIP**

Removal of five barriers in each of five TIP local sites in Kazakhstan and Kyrgyzstan was the two year target for TIP. This total of 25 constraints was reached in the first year of the program. The TSG offices in Chimkent and Aktau were dropped and Pavlodar and Uralsk were added. MBA Corp volunteers were placed to head the local offices and local personnel were hired for the other technical and support positions. In year two, from October, 2002 to July,

2003, only local personnel were in the local TIP offices. Local Country personnel in two offices have been trained and given additional technical and managerial responsibilities. Local brochures on constraints were tailored to each area and distributed.

In Kazakhstan, in the first year of TIP implementation, relationships were built with associations. Industry specific associations were targeted at the national level in Almaty and included tourism and pharmaceuticals. At the local program levels, land acquisition and development constraints were removed in March 2002 after a nine month effort. Businesses began to register themselves and moved from the informal sector to the formal sector.

In the past, the USAID strategy was institution building at the national level. WTO accession for Kyrgyzstan was a major focus and was realized in 1998. Customs reform was the next program emphasis and a draft customs code awaits Parliamentary action in September, 2003. These efforts were primarily legal and law writing in orientation. The focus on the Kyrgyzstan national level has been successful with ongoing support of the Deputy Prime Minister who is backed up by the President. There have been notable successes at the national level (Investors' Roundtable or IRT and the Secretariat with U.S. funding). The Secretariat was established to support the Special Representative of the President and the IRT. It is responsible for organizing annual IRT meetings, preparing the agenda and publishing the results. Based on decisions taken at each IRT, the Secretariat also prepares and helps implement the Investment Matrix of tasks to improve the investment environment. The Secretariat also organizes and participates in the quarterly meetings of the Consultative Council (key participants of the IRT) to track progress in implementing the decisions of the IRT and the Investment Matrix. The TFI Program provides technical assistance to both the Secretariat and the IRT. Even with these advances, political will for reform and reduction of trade and investment constraints continues to be an issue in Kyrgyzstan.

### **Year Two of TIP**

About a total of 96 constraints in Kazakhstan and Kyrgyzstan were removed by the end of Year Two. This included some unexpectedly large successes that grew from smaller efforts. The land acquisition reform effort in Almaty, for example, was picked up by the national government in Astana and legislation was passed to be applied nationally.

In Kazakhstan, internal capacity was built through training local based staff to deliver workshops and training sessions. The structured training outline is on Excel. Quarterly meetings were held with local staff and consisted of two-day, one-on-one training sessions. Local staff was provided training in legal and economic analysis. Workshops were initially conducted with expat staff delivering training in which local staff also participated. With this training, workshops were then delivered with local staff as trainers. The Public/Private Seminar Series was developed with nine topics to be delivered to approximately the same 12 participants as nine one-day workshops. Topics were: e-Government, Project Management, Monitoring and Evaluation, Legal Analysis, Economic Analysis, and Good Governance (company internal ethics, don't pay bribes). No workshops are being delivered in the Summer of 2003. The last three topics will be delivered in the Fall of 2003 and will include the subject, Negotiation. The Seminar Series is given in four Kazakhstan local city sites and do not include Almaty and

Astana. Workshops and seminars on Customs, WTO and MAS-Q were delivered in Kazakhstan, Kyrgyzstan, and Uzbekistan in 2003.

### **Year Three of TFI**

In Kazakhstan, the initial TIP strategy focused on the national level and then the program emphasis, according to TFI Program personnel, shifted to the oblast and local levels. The coming Year Three TFI Activity emphasis remains on the local level with new attention to cross-border issues. The major national level impact of TIP, according to TFI personnel, was the passing of the Franchise Law, Leasing Law, and Law on Investments. In the estimation of the TFI Country Manager for Kazakhstan, the markets for franchising and leasing are not developed. There is little technical know-how on the establishment of a headquarters franchise operation. Leasing is hampered by interest rates and lack of equipment to be leased by leasing operations. The investment law is a summary of related business laws with the inclusion of arbitration. Investment law has privileges or incentives in the tax and customs codes. Given these successes on law writing, the TFI approach has shifted to the implementation of sound laws at the local level.

The present USAID strategy in Kyrgyzstan is to shift from WTO/Customs/Regulation to strengthening private sector associations and to address specific issues such as cross-border trade. An ancillary opportunity is to educate Ministries to local issues through trade policy, MAS-Q, and WTO compliance. Again, according to TFI Program personnel, the overall emphasis is now on the private sector and local issues. The challenge is to shift from the legal and law writing emphasis to facilitate actual trade, essentially a move from a primarily national orientation to the local level and a bottom-up approach. National level issues are also seen as important and receive emphasis from the TFI Program as opportunities present themselves. The shift from international investment will also require attention to sectoral concerns such as manufacturing and agriculture. Opportunities such as the Osh Agro-Processing Initiative as supported by the Governor of Osh Oblast have emerged and TFI is working with this project.

The program approach for TFI, Year Three, is to promote sustainability and local/national Synergy. An effort is to be made to identify viable partners to carry the program forward. Targets of opportunity will also be identified and the program is more explicitly the reduction of investment constraints and the reduction of trade constraints (RIC/RTC). TFI Country Managers in each of the four countries are looking for realistic and politically viable opportunities to reduce trade and investment constraints.

**Kazakhstan:** The current RIC/RTC program approach is demand driven from the association level. In Almaty, these associations are national in scope. A lingering issue is that the National Government has poor communications with the private sector. Government support for contracting with small businesses has been mixed and a small business participant is on the National Tender Board. Pilot Association Projects are to be developed in Atyrau and Actube. With the same level of TFI staff resources, the target is to train 12 associations in twelve locations in Kazakhstan to utilize the proven local methodology of removing constraints and do the same work that was performed by the TIP local offices. The eventual target for Kazakhstan

may be to train as many as 25 associations within three years (to Year Five) to carry on proven trade and investment constraint alleviation methods.

In Year Three, trainers will operate out of three hub cities. Almaty will cover the South of Kazakhstan; Pavlodar: the East; and Uralsk: the West. Two people in each selected association will be trained for six to nine months. Monthly sessions will be conducted by the RIC/RTC local specialists. Current targeted cities are Atyrau, Atinale, and Actube in the West, Ust-Kamenogorsk in the East. Aktau is targeted for September or October, 2003. Other areas of potential development are trade and investment statistics, the use of e-Government to complete business forms and support electronic government procurement of goods and services, and work with the new Chair of the Small Business Committee of the Ministry of Trade and Industry.

**Kyrgyzstan:** The business associations in Kyrgyzstan are weak as compared to Kazakhstan. The viability of some associations is questionable and they may be vehicles for single persons or very small groups. For the bottom up approach to be successful, associations will need strengthening and businesses will need to be educated to see the value of organizing. Successes in association building are needed. The Communications Operators Association includes small and large operators. The Tourism Association deals with industry problems and successfully killed licensing and standards constraints for 27 activities. There currently is a Congress of Associations and an International Business Association (18 member associations). The TFI EDP Program is the association development component that provides technical assistance on association charter, administration, advocacy support, and client services.

**Tajikistan:** Khujand is the economic capital of Tajikistan and Dushambe is the political capital. TFI now has an expat lawyer with ABA/CEELI experience placed in Khujand. A project-paid person will be placed in a business association of 500 members. That association has promised to pay that person one additional year. An opportunity to support Tajikistan/Afghanistan trade is being explored. Tajik goods are presently of a higher quality than Afghan. A TFI short-term consultant was engaged in doing the diagnostic in the Summer of 2003.

**Uzbekistan:** The TFI Program has two local personnel placed in the Tashkent office. IMF has been applying pressure on the national government regarding the government-controlled and non-convertible exchange rate, a critical constraint to investment and trade. In Andijan, a TFI staff person has been placed in a government business association. Andijan is important in that the Daewoo/Opel plant is located there. This plant, a five year old venture, produces 20,000 units a year and has the capacity to produce 60,000 units.

## 1.4.2 Customs Component

In Years One and Two, technical assistance in Kazakhstan Customs consisted of institutional strengthening through training programs/workshops and technical support for the writing of the Customs Codes. For Year Three, the strategy is to move away from Customs institutional strengthening. Constraints, primarily at the national policy level, are to be addressed. The strategy consists of working on the best opportunities and addressing only critical issues. The general focus is on implementing risk-based management tools to create incentives for more transparent and expedited procedures. Institutional strengthening of customs

agencies, which would require a longer-term commitment of staff resources, is no longer a subcomponent. Flexibility and the leveraging of resources will be stressed.

### **Cross-Border Trade**

Cross-border trade between the four countries and Russia is the highest priority. If this can be made to work, then trade with the European Union and other countries would be more feasible. This TFI Program effort is oriented towards economic reintegration which was, ironically, the trade status of these countries during Soviet times. Soviets previously defined the markets for the Central Asian countries and goods traveled freely between the countries. With independence, many current barriers to cross-border trade have been erected, primarily by Kazakhstan and Uzbekistan.

The agriculturally rich and fertile Ferghana Valley is an explicit focus of USAID and even includes a USAID office in Osh. The Ferghana Valley which touches the three countries of Uzbekistan, Kyrgyzstan, and Tajikistan was also the location of political unrest in the 1990s. EDP is also active in this area and has access to Uzbek and Tajik associations. The Ferghana Valley effort with the May kick-off conference, working group meeting in late July, and the scheduled Ferghana Council meeting in August offers the opportunity for cross-border cooperation and action to reduce customs and other constraints to trade and investment.

The recent Issykul Conference of national government officials brought cross-border issues to the attention of national authorities. TACIS has also done cross-border work at Taraz/Talas. The Eurasia Foundation is exploring the possibilities for coordination to improve trade between Northern Kazakhstan and Russia. Grants are to be made to 3 cities. One city, Actube, has already been approved for one of the grants.

### **Transit of Goods**

Currently there is a TIR system for goods moving from Kyrgyzstan through Kazakhstan, but the process of obtaining a carnet is expensive and inconvenient. A carnet can be obtained only in Bishkek, which presents problems for businesses in other parts of the country, such as Osh, which is a mountain range and air flight away. In July, 2003, Tajikistan was approved for the TIR carnet system, but the system has not yet been implemented.

Risk based insurance is being explored as a possible approach to reduce the costs associated with the TIR carnet system. The most promising development to facilitate transit of goods is the integrated transit document and system of deposits which was recently approved by Customs officials in Kazakhstan, Kyrgyzstan, and Tajikistan. Although this system has yet to be implemented, it has great potential to reduce the costs and administrative burdens now involved in shipping goods through contiguous countries.

#### **1.4.3 WTO Component**

TFI Activity program emphasis in the coming option years will be on MAS-Q standards and removal of mandatory standards systems in the four CAR countries.

The Government of Kazakhstan recently has begun to work with USAID on some limited WTO accession issues after a period of two years in which no assistance was provided. To date some translations have been done for the Ministry of Industry and Trade. The GOK would like assistance such as travel to international WTO conferences which will not be supplied by TFI. The GOK is not requesting any substantive technical assistance and may have a strategy to ignore or obfuscate their non-compliant laws, trusting that they will not be found. The national Kazak officials responsible for WTO are now changing. A new Deputy Minister with responsibility for WTO accession will be appointed. Other planned WTO related activities are to work with the Confederation of Employers (an business association), workshops are to be delivered on intellectual property, and the benefits of WTO are to be communicated to the private sector.

#### 1.4.4 Programmatic Allocation of Personnel

The TFI Activity and the Enterprise Development Program share administrative personnel and administrative functions with each program site, for example, having a single TFI bank account. Certain technical personnel such as those dedicated to WTO accession and MAS-Q work across the four Central Asian Republics. The allocation of technical personnel is approximately as follows.

##### Allocation of TFI Technical Personnel, Local and National Programming

	<u>Local/Regional</u>	<u>National</u>	<u>Total</u>
Kazakhstan	15 (1 expat)	15 (6 expats) <sup>1</sup>	30
Kyrgyzstan	8 (1 expat)	12 (1 expat)	20
Uzbekistan	2	2	4
Tajikistan	3 (1 expat)	3	6
<b>Total</b>	<b>28 (3 expats)</b>	<b>32 (7 expats)</b>	<b>60</b>

<sup>1</sup> Expat personnel operating out of Almaty also provide technical services in the other CAR countries.

## II. EVALUATION QUESTIONS

The evaluation statement of work contained a series of evaluation questions associated with the components of the Trade and Investment Program and the current Trade Facilitation and Investment Activity to be addressed by the Evaluation Team. Key findings, conclusions, and recommendations in response to these evaluation questions are presented below. A more extensive treatment on the evaluation questions is presented in Annex C.

### 2.1 REDUCTION OF INVESTMENT CONSTRAINTS

As of late July, 2003, over 95 constraints have been addressed and eliminated or reduced at the local level by the RIC component in Kazakhstan and Kyrgyzstan. SMEs have been favorably affected. All of the respondents, both public and private sector representatives cited similar impressions of the impact of the program.

#### 2.1.1 Local Level Impact

Respondents stated that the impact of the TFI effort was due to the information provided through publications (brochures), seminars and workshops, and physical and electronically posted information on business registration, reporting, and customs requirements. According to these respondents, the effect was reduced time required to complete and file documents, a reduction of government agency inspections, and a reduction of illegal payments to government officials. Official data is not available on such measures. The Evaluation Team obtained similar impact information from approximately 15 respondents.

The mechanism for these impacts was the increased knowledge of entrepreneurs as to procedures' requirements and their legal rights. The SMEs that took advantage of this knowledge ranged from market women to entrepreneurs engaged in larger scale manufacturing and trade.

It is difficult to find evidence pointing to increased investment and job growth that can be attributed to the reduction and elimination of constraints. The reason is that there is always an investment lag. This lag must be factored in, especially if the success of the program is to be measured by quantifiable indicators, such as an expansion of sales, exports, employment and new investments. Constraint elimination is but one factor among others that can account for economic growth.

Success can be assessed with tools that can measure indicators more directly attributed to the activities of the program. These would be the creation of baseline indicators and the undertaking of surveys that can measure the evolution of the indicators over time. Examples of such indicators are the following: (i) time and cost of actual business registration; (ii) time and cost of licensing; (iii) number and frequency of inspections per month, year; (iv) actual number of technical regulations that have been eliminated; (v) increased border trade resulting from concrete elimination of tariff and non-tariff barriers; and (vi) number of times that SMEs have obtained procurement contracts from government.

### **2.1.2 Information Sharing**

At the RIC component sites with over a year of implementation, information sharing between the government and private sector increased substantially. Government officials in the Kazakhstan sites of Uralsk and Pavlodar stated that prior to the TFI Program contact with the private sector had been minimal and consisted mainly of complaints regarding government requirements of SMEs. Through mutual attendance at seminars, participation in discussion groups and roundtables, government officials are seeing the benefit of cooperation and communication with the private sector.

In Kyrgyzstan, the main vehicle for information sharing between the government and the private sector is the Secretariat of the Special Representative of the President of the Kyrgyz Republic on Foreign Investment. However effective this institutional vehicle is, there is a risk that SME concerns may end being relegated as a lesser priority as compared to foreign investment. Focused roundtables involving SME business associations and the directors of the Kyrgyz State Commission on Business Development should enhance information sharing.

### **2.1.3 Cross-Oblast and Cross-Border Trade**

The serious constraints to cross-oblast trade as well as to transit shipments are the many highway checkpoints. While serving some purposes such as proper vehicle ownership and registration, checkpoints offer officials the opportunity to solicit illegal payments, using reasons such as excess speeding. While improved knowledge of entrepreneurial rights could have an effect, no respondents offered evidence of this occurring.

Cross-border trade has been seriously hampered by the closing of crossing points by the Uzbekistan government. Legal interpretations by customs officials and locally determined regulations by oblast and local government officials have had a negative impact. Under new efforts of the TFI Program, particularly in the Ferghana Valley, steps have been taken to increase the dialog between the private and public sector at the oblast and local levels and to initiate dialog between the countries at these borders. Currently, it is clear that the TFI effort has increased these communications according to planned activities. It is too early to determine if actual constraints have been reduced. The Evaluation Team witnessed the delays to truck shipments and the illegal border crossing of small entrepreneurs in the conduct of the field work and the travel between countries.

While the TFI current effort is focused on oblast and local level constraints to cross-border trade, the policies of the national governments, primarily Uzbekistan and Kazakhstan are constraining factors. The periodic closing of the borders and border points by Uzbekistan seriously hamper legal trade and transport of goods. The customs and visa practices of the Kazakhstan government, as contrasted with those of Kyrgyzstan, cost time and money to entrepreneurs and potential international investors. Accordingly, the Evaluation Team recommends that additional effort be placed on dialog and discussions at the national level. The office in Astana can be expanded to add senior Kazak staff to relate on an ongoing basis with

TFI counterpart agencies (e.g. National Subcommittee on Small Business). Additional and targeted visits to key agencies by expat personnel can be valuable.

#### **2.1.4 Business Association Capacity-Building**

The TFI Program, in cooperation with the Enterprise Development Program (EDP) that is also implemented by The Pragma Corporation, has played an important role in business association development. The continuing capacity building of business associations at the national and local levels are a shared portfolio of the EDP and TFI Activities. TFI focuses on advocacy skills building while EDP concentrates on organizational development. The level of effectiveness of business association development varies, due to several factors. Associations and NGOs in Kazakhstan have had a history of successful development with some international donor assistance. The business associations that were visited in Pavlodar and Uralsk all had dues paying members. Association staff worked on a part-time basis and appeared to be meeting the expectations of the membership and operating fairly successfully.

The seminar and workshop programs of the past two years of the TIP in Kazakhstan served to educate association staff and increase the communications with the public sector. In all of the interviews with associations, the brochures developed by TIP were cited as valuable to members and prospective new business owners. Information dissemination and training programs are proven and effective means to strengthen associations. While the associations that were visited apparently were well organized and had functioning accounting and operations systems, new business associations may be in need of such technical assistance. The one business association in Astana appeared to be at an incipient stage of development.

TFI Program staff have noted that business associations, at the local and national level in Kyrgyzstan, Tajikistan and Uzbekistan are not well developed. They rely more on unstructured or informal contacts with policy makers, must improve their capacities to make professionalized representations, and show little signs of long term sustainability. The freer and more advanced associations are powered by the sheer energy of their individuals, usually one or at most two driven people, blessed with the traits of leadership, and committed to effecting long lasting changes in their societies. These people, unfortunately, are in short supply in these countries.

TFI Program personnel have shown an ability to identify, support, and train individuals for leadership roles in reducing investment and cross-border trade constraints. The Enterprise Development Program has taken the lead in business association development. More attention by TFI Program and EDP personnel to the potential of supporting TFI identified individuals in building business associations would be useful.

#### **2.1.5 Regional Progress**

The TFI methodology for RIC employed at the local level has been equally effective in Kazakhstan and Kyrgyzstan. The major factors contributing to the successes in removing constraints has been the quality, technical ability, and country experience of the expat and Central Asia personnel. Communications throughout the organization have been facilitated through expats with Russian language ability. Local personnel with community ties and the

appropriate language background have been supportive of effective communications with public and private sector players.

### **2.1.6 National Level Impact**

The program has performed exceptionally well at the national level in Kyrgyzstan. This is explained by the presence of three factors. The first is the commitment of TFI leadership and staff to communicate with counterparts and stakeholders. The second factor has been given by the presence of a “champion,” an official who is firmly committed to reform and strategically placed in the upper echelons of the government body with the power to politically push the reforms. The third factor has been the contribution of the Secretariat, a body formed and supported by the national government and funded by USAID/CAR which is an institutional vehicle with the analytical capacity to formulate the reform proposals and act, at the same time, as catalyst for economic change.

The RIC program in Kazakhstan has achieved impressive results in the oblasts. In the future, any possibility for making a difference at the national level must be necessarily grounded on a more visible, more effective, and permanent presence in Astana. If this decision is not taken, significant changes at the national level are unlikely to come about.

The successes have also been with the customs codes of Kazakhstan and Kyrgyzstan. In Kyrgyzstan, practices at the borders have been conforming in general with the principles of the new customs code. The addressing of issues such as visas and oversight of local level practices in Kazakhstan could be addressed to some extent at the national level. Again, Uzbek national officials do dictate the participation of local level officials and have power through policies regarding currency and points of economic and citizen access to Uzbekistan.

### **2.1.7 Local/National Linkages**

The often cited example of local level action informing the national level is the land registration procedures that were identified at Pavlodar, Kazakhstan. This exercise resulted in a constructive national level policy. Beyond this example, local level issues and the ability of local officials to affect national level decision making and policy was not much in evidence. If all politics are local, the potential exists for individual entrepreneurs and associations of businesses to affect the national policy through the locally elected members of the national parliament. In this arena of the potential for local government representation to affect investment and trade constraints, the electing of interested and informed members of the village, city and oblast Keneshi could add some effective voices.

### **2.1.8 Improving the Legal and Regulatory Environment**

The operational legal and regulatory environment for SMEs is at the local level. City, oblast, and even village officials dictate regulations and procedures. A nation-wide brochure on business registration and reporting or customs procedures would not be relevant because of the regional and cultural differences. Immediate impact requires work at the local level.

The national level is critical, however. Regional and local government administration, even to the village level, is dependent upon the appointment of Akims by the national government. Legislation can be passed at the national level that states the legality of business registration, regulation, and reporting procedures.

Beyond the legal and regulatory environment, the Evaluation Team, recognizing that jurisdictional authorization may be required, recommends that the enforcement of laws and regulations offers the possibility of immediate impact. Prosecutors, when engaged at the national and local levels, have had success in reducing targeted constraints. In assembling local and regional members for business roundtables and issue discussions, prosecutors should be targeted and included.

## 2.2 CUSTOMS COMPONENT

The Customs component under the Trade Facilitation and Investment (TFI) Activity, now addressed in the Program Option Years as the Transit and Customs sub-component, provides assistance to Kazakhstan and Kyrgyzstan to modernize Customs activities. The purpose is to facilitate trade and provide a more SME friendly environment to encourage development of SMEs involved in cross-border trade. The past training and technical assistance activities have been concentrated in cross-border trade, Customs Codes, and Customs procedures.

### 2.2.1 Cross-Border Trade

There are three specific areas where the Customs component of the TIP has had an impact in increasing cross-border trade, particularly between Kazakhstan and Kyrgyzstan. They are information dissemination, development of alternative methods of transit through intermediate countries, and local efforts at cross-border facilitation.

In the course of Evaluation Team interviews with SMEs, government agencies, and business associations, a common theme emerged. There is a lack of information regarding specific requirements for exporting and importing goods in both countries. These were generally termed "Customs requirements" and, in addition to such areas as valuation and tariff classification, also encompass a whole variety of other requirements imposed by a variety of government bodies to meet product standards of safety and quality. The changing rules, lack of transparency of official requirements, and lack of standardization between the trading countries, has created an intimidating atmosphere for companies considering exporting their products, or importing needed machinery and products to expand their business. In this environment, corruption of officials is sometimes the only way to obtain Customs clearance.

At both the national and local level in Kyrgyzstan, and at the oblast level in Kazakhstan, a significant TFI Program contribution has been education, information gathering, and dissemination of the requirements of doing cross-border trade to local business. TFI has conducted extensive seminars in both countries on Customs requirements, Customs procedures, and documentation. In Osh, TFI has published several informational brochures on local procedures and requirements that have been widely circulated through the local business community. These brochures were drafted by TFI employees with previous Customs experience,

and have been reviewed for accuracy and approved by the local Customs officials. In Ferghana City, Uzbekistan, TFI is developing export and import flow charts, written in Uzbek, which provide clear, understandable explanations of what is needed for cross-border trade.

TFI has also been involved in working with government agencies, business associations, and insurance companies to develop alternative procedures for transit of products through intermediary, contiguous countries, but the extent of their involvement is not clear. In the interview with the Deputy Head of the Legal Department of the Committee on Revenue of the Kyrgyzstan Ministry of Finance, TFI efforts in this area were acknowledged. The transit issue has also been directly addressed by the Council of Heads of Customs Agencies of the Eurasian Economic Community. In July 2003, an agreement was reached, by the Heads of Customs Agencies of Kyrgyzstan, Kazakhstan, and Russia to accept one integrated document and a common procedure for security deposits for in-transit shipments. This annex on transit, which, according to him has also been accepted by Tajikistan, will be implemented soon. It is unclear whether this new system of "deposits" will involve direct surety to the governments, or the private insurance carriers that TFI has been working with, and what role TFI may play in assisting with implementation.

The third, perhaps most significant role TFI has played with respect to facilitation of cross-border trade, is the development of cross-border councils of local business and government to resolve local issues and barriers to trade. A cross-border council sponsored by TACIS is in place at Taraz/Talas. With facilitation by TFI, the council has had some success in resolving local impediments to trade. However, the most significant achievement in this area was the meeting held in Osh in May, which brought Uzbek, Tajik, and Kyrgyz business associations and government officials together for the first time since the fall of the Soviet Union, to discuss common trade constraints between their countries. TFI was directly responsible for putting together this Ferghana Valley Council, succeeding where OSCE had failed in getting representatives from Uzbekistan to begin a dialog on inter-regional trade. TFI continues to work as the facilitator and staff of the Council and the Working Group.

## **2.2.2 Customs Modernization**

TFI has provided extensive assistance to the Customs modernization efforts in both Kazakhstan and Kyrgyzstan. This has consisted of legal, technical, and procedural support. The most important of their efforts in trade facilitation has been their work with both countries in implementing the Customs portions of the WTO such as harmonized tariff classification, and some trial programs structured within the framework of the Revised Kyoto Convention (RKC). Although TFI has clearly played a role in promoting harmonized classification, both countries were already following a harmonized tariff classification regime through the Eurasian Economic Community that is roughly compliant with the GATT/WTO code.

Where the assistance of TFI is most apparent is in the development and implementation of programs based on the principles of the Revised Kyoto Convention. For example, in both countries a program has been developed and implemented under the concept of risk-management, to permit expedited Customs processing for low risk importers. This has cut the necessary procedural steps for these importers from five to three. This program, although not

completely in step with the true spirit of risk-management, which advocates not only quicker release but also fewer documents, nevertheless is an important first step for both countries in accepting and rewarding legitimate international traders. TFI provided the legal and Customs expertise to assist both countries in this program.

### **2.2.3 Kazakhstan/Kyrgyzstan Cooperation**

From the Oblast and local border crossing perspective, there is dialog and cooperation as noted previously within the context of the cross-border Councils. With respect to the national committees, it is also clear that there has been closer cooperation within the Customs Heads of the countries in the region (as evidenced by the recent transit agreement).

### **2.2.4 Customs Advisors**

By all accounts and interviews with government officials, business associations, and TFI staffers, the assistance given by TFI in the drafting of the Customs Codes of both Kazakhstan and Kyrgyzstan, was critical to both countries. In most cases, TFI experts were able to assist both governments in understanding the international requirements for WTO compliance as it applied to their respective legal environments, to ensure the outcome of their revised Customs codes would be compliant as enacted.

The Kazakh government chose to write their revised code to permit the practice of using a third party private firm, ICS, to provide valuation guidelines for imports. In the opinion of TFI legal experts, which the Evaluation Team shares, the valuation section of the Kazakh code may, if narrowly construed, be technically compliant with the GATT/WTO Valuation code, but it is not compliant with the spirit of the international code. The central principal of the GATT/WTO Valuation methodology is that each business transaction should be valued on its own merits as a free market price determined by business, not by use of other comparative values from previous shipments or other transactions by other business partners. ICS apparently uses just such records of past transactions to determine if the values asserted in the transaction are acceptable. The Evaluation Team did not encounter any similar use of outside valuation services by Kyrgyzstan.

### **2.2.5 Customs Regulations Constraints**

Both the Customs officials and the entrepreneurs and business associations see the biggest constraint to SME-friendly customs regulations to be the standards, documents, and certificates of other government entities which Customs must enforce, and the lack of acceptance of these documents and standards by other countries. The priorities of the customs component of the TIP appears to be assisting with legal and technical expertise in writing laws and regulations, and helping to develop programs to speed Customs processing and procedural steps. These are both important, but success is limited to process improvement, which at best can only improve the process in small incremental steps, with diminishing returns.

If true Customs facilitation is to occur, the current situation of country specific standards, certificates, and documentation must be re-engineered to allow for seamless processing by

Customs officials in both the exporting and importing countries, i.e., to accept testing, quality, and origin certificates according to international standards. This is why the MASQ project and other initiatives to come into compliance with the WTO Technical Barriers to Trade accord are so important. As long as separate tests, certificates and other country specific requirements are needed by each Customs Service in order for shipments to proceed, the process will be lengthy and expensive, particularly for SMEs. This harmonization of standards is critical to not only facilitate Customs processing, but to build a predictable and consistent business environment to attract investment and trade.

### **2.2.6 Anti-Corruption Efforts**

Although TFI has apparently done some training in anti-corruption with Customs officials, including the drafting of a proposed table of offenses in Kazakhstan, the Evaluation Team found no evidence that these efforts had any real organizational impact, given the constraints of entrenched bureaucracy, lack of internal auditing, and the low salaries of the Customs inspectors. These are issues that cannot be readily solved by education and training, and are perhaps beyond the scope of TFI's core capabilities.

From interviews the greatest impact that TFI has had with respect to reducing the corruption of Customs officials has been their education of SMEs in the official requirements of Customs clearance. Several business and associations stated that this was the most important contribution to their ability to clear their goods - knowing what was required so they could comply without resorting to bribing officials. This education and information on Customs requirements should be continued. Those interviewed acknowledged that in this area, TFI plays a unique role, in that it is the only international donor agency that is attempting to fill this information void to assist businesses.

### **2.2.7 Customs Training**

The type of training and the individuals trained within the Customs departments of both Kazakhstan and Kyrgyzstan has varied by location. In Kyrgyzstan, TFI has trained officials in the national office of Customs on Valuation, other WTO Customs related areas, and the principles of the RKC. In the interview with the Director of Customs in Osh, however, he knew of no training by TFI for his staff in these or any other areas.

The Evaluation Team did not have access to personnel turnover to be able to assess if the training provided has in fact, increased long-term capacity. However, in Kazakhstan, a core unit of 8 Customs employees from the Oblast level has been identified by Kazakh Customs as their new training unit. They have requested training and assistance from TFI, and are developing a "train the trainer" approach to institutionalize and sustain the TFI training. If successful, this may serve as a model for other countries in the region.

### **2.2.8 Customs Component Modifications**

TFI has been very successful in the customs area by providing legal and technical assistance in drafting laws and regulations, and in working with the Customs authorities to

streamline their clearance procedures. These are both very important, and TFI should be congratulated on their continuing efforts in these areas. However, until the lack of international, or at least regional, harmonization of standards, tests, and documents is addressed, there can be little significant effect on reduction of the time and costs required to engage in international trade for SMEs in this region. This should be a prime objective for both the Reduction of Investment Constraints component and the Transit and Customs sub-component.

## **2.3 WTO ACCESSION/COMPLIANCE**

The WTO understands the special needs of developing countries, and its rules permit less developed and developing countries additional time to fully implement its provisions (schedules) after accession. This transition period for full implementation varies, depending on the schedule and the level of development of the country.

### **2.3.1 WTO Process and Effectiveness**

The TFI advisor who is on site in Dushanbe, Tajikistan estimates that Tajikistan will be able to accede to the WTO within three to four years. In May 2003, Tajikistan reformed its excise tax laws to conform with the WTO national treatment requirement, and continues to make progress over a wide spectrum of WTO related issues. There appears to be strong government support for accession, but the effort is hampered by a lack of qualified individuals within the government who are able to understand the WTO requirements and what specific statutes, regulations, or procedures need to be revised in order to comply. Although the timeframe seems to be a very ambitious, and perhaps unrealistic, Tajikistan is on target, with negotiations scheduled to begin at the end of this year or early next year. One factor which may cause this schedule to slip is that the staff of the WTO are occupied with preparations for the Cancun conference this fall.

The situation in Uzbekistan is not so clear. Although Uzbekistan has applied to the WTO, and TFI has provided on site assistance in the past, Uzbekistan has taken no official action to advance the process within the past year. Uzbekistan is still at the very preliminary phases of the WTO accession process, with no time table at this point for negotiations, much less entry. There does not seem to be any urgency on the part of the government to proceed on the formal path for membership.

There does appear to be some movement toward WTO compliance, however, in the area of reduction of trade restraints, which would help Uzbekistan comply with the WTO Technical Barriers to Trade (TBT) schedule. In June, 2003, the TFI employee who is heading up the regional MAS-Q (Metrology, Accreditation, Standards and Certification), was contacted by the official Uzbekistan agency for standards (Uzstandards) and was asked to provide assistance to Uzbekistan to review and revise the present national MAS-Q system in order to comply with the TBT. Although it is very early to tell, activities and contacts between Uzstandards and TFI within the past month show promise of true movement in this area, which would assist Uzbekistan in the accession process if and when the government resumes official dialog with the WTO. The Evaluation Team recommends that the TFI Program take advantage of this apparent willingness of a Uzbek government agency to reform its regulations with whatever assistance is

needed, not only to advance the WTO accession process, but to meaningfully reduce trade restraints and to harmonize product standards within the region. The Evaluation Team sees any willingness on the part of the Uzbekistan national government to accept technical assistance in support of WTO Accession as an excellent opportunity for the Mission and the TFI Program. The new TFI Program Trade/WTO advisor should allocate an appropriate level of effort to support this Uzbekistan objective

### **2.3.2 WTO Relationship to Other TFI Components**

The WTO sub-component is linked with both the Reduction of Investment Constraints component and the Transit and Customs and MAS-Q sub-components of the TFI Program. The core of WTO schedules are those which directly involve Customs in appraising merchandise, determining harmonized classification, and assessing duties. In addition, through the WTO links with the World Customs Organization (WCO), additional protocols involving Customs and border commerce (such as the Kyoto Convention) have been adopted by most major trading nations in order to facilitate international trade.

These principles and protocols, e.g. the Revised Kyoto Convention, are based on such concepts as risk management, selectivity, and streamlined processes that cannot be achieved in an environment in which significant restraints to trade exist. True Customs modernization is dependent upon reduced documentation and redundant Customs clearance requirements, particularly standards for product content, quality, and safety. Until the excessive burden of standards is reduced, and those standards harmonized between the trading countries, only marginal progress will be achieved in customs procedural simplification.

The WTO sub-component and the RIC component are also linked in that two of the core schedules which must be complied with in order to join the WTO, are the Technical Barriers to Trade (TBT) and the Sanitary-Phytosanitary Measures (SPS) agreements. Compliance with these agreements is completely consistent with the objectives of the RIC component. Current resource allocations appear appropriate. Should additional resources become available, the Evaluation Team recommends they be allocated to the priority issues of cross-border trade and harmonization of standards.

### **2.3.3 Kyrgyzstan Post-Accession WTO Environment**

In Kyrgyzstan, TFI has done an excellent job in working with the government to coordinate WTO accession efforts and post-accession implementation. Five years after joining the WTO, most legislation to comply with WTO requirements has been passed and implementation begun, with the biggest exception being the revised Customs Code. This Code is currently in Parliament, with a vote expected in September of this year. After passage, Kyrgyzstan will undoubtedly request TFI's assistance in training at the oblast and Customs clearance level. TFI staff are currently on site in the same building as Kyrgyz Customs, and will probably be required for some time.

After initial training and implementation, the challenge is sustaining the level of expertise. In Kyrgyzstan a key individual was identified in each ministry to be the WTO expert,

responsible for training top and mid-level government officials on implementation requirements. Customs training is also an issue. Unlike Kazakhstan, Kyrgyzstan has not trained local Customs officers on the new Customs Code because it has not been passed by Parliament. And, unlike Kazakhstan, there does not appear to be any core training unit in place within Customs. An appropriate activity for TFI in the next year would be assisting the Kyrgyzstan government in establishing permanent training mechanisms within Customs and other key organizations on all the new legislation passed to comply with the WTO.

Kyrgyzstan joined the WTO after only three years. This was due in large part to the fact that they already had a fairly liberal trade regime in place. Kyrgyzstan was already acting under some of the protocols of the Eurasian Economic Community, many of which closely mirror GATT/WTO agreements, such as the Harmonized Tariff nomenclature. But what is clear from interviews with all sectors, the government of Kyrgyzstan was committed to joining the WTO and worked from almost the very beginning to coordinate the effort throughout all ministries and agencies. An inter-agency commission was formed on WTO, with senior officials designated within each ministry to move the process forward. This commission was at the state level with access to the President and Parliament members. Kazakhstan has recently established a similar commission, but the Head of that commission has not yet been appointed. Any assistance that TFI could provide to the other CAR countries in coordinating their WTO efforts within the various ministries and agencies of government would be extremely helpful. This could take the form of legal analysis and review of existing statutes. Additionally, training could be provided to policy and operational officials in critical agencies.

### III. CONCLUSIONS AND RECOMMENDATIONS

The Pragma Corporation has effectively trained and utilized Central Asia based personnel for technical positions, including leadership, throughout the TFI Program. The expatriate personnel, both long-term and short-term are used for key positions and are effective in providing the necessary technical direction and vision to support the TFI Activity mission.

For the coming TFI Program Option Year 1 – June 1, 2003 through May 31, 2004 – the Evaluation Team recommends that the findings, issues and areas covered in Section 2 and discussed below be reviewed for program development and implementation. A major change from the past two years' of Program operations would be the development of country-specific program strategies. Since the situation and opportunities for effective program activities differs for each country, the Evaluation Team sees no other overarching issues or areas that should be emphasized. The TFI Program previous experience with Reduction of Investment Constraints; Transit, Customs and Cross-Border Trade; MAS-Q; and WTO Accession/Compliance as components and sub-components can support the development and implementation of a sufficiently diverse set of activities to take advantage of the country strengths and recognize the potential country weaknesses. In close cooperation with USAID/CAR, the TFI Program should develop four Country Program Strategies.

The identification of appropriate targets and measures will be an important aspect of the development of the Country Program Strategies. In the first two years of operations of the TFI Program, the tabulating and documenting of specific investment and trade constraints that were eliminated or reduced served the TIP well. USAID/CAR was provided with concrete data on the impact of the Reduction in Investment Constraints component. TIP staff kept their focus on the key problems facing small businesses in Kazakhstan and Kyrgyzstan. The Evaluation Team recommends that the TFI staff undergo a process to identify the priority activities of the Program components and sub-components and to link similar specific targets and measures for these activities for the coming third year. The Evaluation Team points to the importance of determining the extent of local and national level emphasis for each of the Country Program Strategies. While such an exercise could engage staff for a period of several weeks, the programmatic benefits should outweigh the inconvenience to the operation.

An example of targets and measures for the coming Year Three is the Kazakhstan Pilot Association Projects, to be developed in Atyrau and Actube. The TFI Kazakhstan Country Manager proposes to train 12 associations in twelve locations in Kazakhstan to be enabled to utilize the proven local methodology of removing constraints and do the same work that was previously performed by the TIP local offices. The eventual target for Kazakhstan may be to train as many as 25 associations within three years (to Year Five) to carry on proven trade and investment constraint alleviation methods. TFI staff could monitor and assess the trained associations as to their results and effectiveness in removing or reducing trade and investment constraints.

## **3.1 TFI Operations**

TFI is effectively implementing the three components and has established a network of national and local government officials, business associations, and individual entrepreneurs. Work on reduction of constraints, customs, and WTO accession is a day-to-day affair and programmatic adjustments are constantly being made. TFI personnel are sensitive to changing political and economic opportunities and respond accordingly. Meetings, conferences, and workshops at the national and local levels are developed and implemented in the spirit of continuing to advance the program to achieve the stated objectives.

### **3.1.1 Programmatic Allocation of Personnel**

The TFI personnel working in the Ferghana Valley total 11 technical personnel which includes two expatriates. This is 33% of the technical personnel working in the three countries that touch the Ferghana Valley. Approximately half of the technical personnel are engaged in local and regional TFI issues. Five technical personnel, three of which are expatriates, are engaged in the WTO and Customs components constituting 8% of the total technical personnel.

Given the TFI programmatic shift of emphasis to local and regional concerns, the allocation of personnel is appropriate. Should new openings for work in Uzbekistan beyond the Ferghana Valley occur, an assessment of the personnel distribution would be required. Success in Kazakhstan in engaging existing business associations in the removal and reduction of investment and trade constraints would allow some flexibility in Years Four and Five in the allocation of personnel.

### **3.1.2 TFI Program Strategy**

Each Central Asian Republic requires a distinct program strategy. Some of the lessons learned over the past two years in Kazakhstan and Kyrgyzstan can inform the emerging programs in Tajikistan and Uzbekistan. Modifications in strategy will be necessary as activities are implemented. The strategy in each country will have different sets of priorities, objectives, and related activities. Targets and indicators should be tied to these activities.

The evaluation team recommends that TFI, in association with the Mission, develop specific programmatic objectives for each country in the Reduction in Investment Constraints component and the sub-components of the Trade Facilitation component: Transit and Customs (which includes cross-border trade), MAS-Q, and WTO Accession/Compliance. Objectives can also be Oblast and border community specific as necessary. Written statements of program strategies are essential for conveying this information of program objectives to TFI Program staff and interested counterparts and stakeholders. At a minimum, the evaluation team recommends that an explicit and descriptive Country Program Strategy be written for each of the four Central Asian Republics. Each Country Program Strategy should be reviewed at the 11<sup>th</sup> month of each option year and revised for implementation in the coming option year in accordance with changing country conditions. As opportunities arise, the Country Program Strategies may also require revision.

## **Targets and Indicators**

The key target for the first two years of TIP was reduction of investment constraints. This target is still valid. Rather than each constraint being viewed as equal to another, clarifications can be made as to the scope of the reduced or eliminated constraints, local or national impact, general business or sector specific, and number of businesses potentially affected. Other previous implicit targets included Custom Codes written and passed and status of accession to WTO.

In the absence of resource considerations, there are other indicators that could be identified that reflect on the impact of the TFI Program. A baseline of these indicators could be created and surveys could be conducted to measure the change in indicators over time. Examples of such indicators, among many others, are: (i) time and cost of actual business registration; (ii) time and cost of licensing; (iii) number and frequency of inspections per month, year; (iv) increased border trade resulting from concrete elimination of tariff and non-tariff barriers; and (v) number of times that SMEs have obtained procurement contracts from government. The evaluation team recognizes that the collection and maintenance of such data may be beyond the scope of the current TFI Program contract. Accordingly, in the development of country strategies and the associated activities, more realistic indicators such as outputs can be identified to measure Program effectiveness. In many cases, narratives and anecdotes from appropriate informants may have to suffice (e.g. "I have received fewer complaints about corruption.")

Recognizing the vast difference in the four countries with respect to the outlook and history of national government commitment to WTO accession, appropriate targets for achieving WTO-related goals should be defined for each country. Accordingly, the tasks undertaken in each country, while perhaps benefiting from the Kyrgyz experience, will be distinctly different. The targets and measures of progress will also differ and will, for example, relate to the status and acceptance existing legislation. Technical assistance can vary from general guidance on WTO accession to support to revise and reform legislation and procedures.

## **Response to Emerging Opportunities**

The TFI Activity has demonstrated an ability to take new actions in accordance with USAID program directives and to undertake new efforts that support the achievement of the program objectives. While there is no certainty, the Uzbek and/or Kazak national governments may seriously commit to WTO accession. In this case, staffing and other resources will need to be adjusted. Other opportunities may arise that also require tactical revisions. While the TFI Program has proven able to make program adjustments in the past, additional attention should be paid to this possibility over the next three years and beyond.

## **Program Terminology and Coordination**

The TFI Chief of Party now talks of reduction of investment constraints and reduction of trade constraints as RIC/RTC or, more consistent with TFI Activity terminology, the Reduction in Investment Constraint Component and the Trade Facilitation Component. The prior Trade and Investment Project (TIP) had the three components: Reduction in Investment Constraints

(RIC), Customs, and WTO Accession and Compliance. The TFI Activity has two components: (1) Reduction of Investment Constraints and (2) Trade Facilitation Component. The Trade Facilitation Component consists of three sub-components: (1) WTO, (2) Transit and Customs, and (3) Metrology, Accreditation, Standards and Certification or MAS-Q.

Under the current Trade Facilitation and Investment Program components and sub-components, the lines of distinction can blur. For example, with the cross-border and transit emphasis that began in the Spring of 2003, the Evaluation Team recognizes that all components and sub-components are interrelated. The MAS-Q sub-component relates to Transit and Customs, WTO, and is also relevant for national and local level program efforts in Reduction in Investment Constraints. Accordingly, the Evaluation Team recommends the ongoing and explicit TFI staff coordination of these efforts at national and local levels to assure optimum program results.

### **3.1.3 TFI Program Issues, Option Years and Beyond**

The new elements from material in Sections 2 and 3 that USAID/CAR and Pragma add to the TFI Program in the upcoming Year Three may continue to be relevant for Option Years Two and Three (Years Four and Five). Major concerns and tasks are expected to remain into the foreseeable future and include WTO Accession in Kazakhstan, Tajikistan, and Uzbekistan; constraints to cross-border trade; corruption; and adoption of MAS-Q recommendations. The availability of TFI Program resources is a major consideration for determining the direction of the effort for Option Years Two and Three. Additionally, an assessment of changing trade facilitation and investment conditions in each of the four countries and the recent TFI Program experience in those countries should be the basis for developing ongoing and relevant Country Program Strategies.

The success of Year Three TFI Program efforts will affect the directions taken for Option Years Two and Three. For example, substantive and quantified success in Kazakhstan in the Year Three effort to engage existing business associations to provide training and technical assistance in the removal and reduction of investment and trade constraints would allow some flexibility in Years Four and Five. TFI Program personnel could be reallocated to other programmatic approaches to removal of constraints or to other cities in the four countries.

The TFI Program has succeeded in having an impact on over 95 constraints in trade and investment. Most of these constraints have been addressed in Kazakhstan in selected large cities. The Option Year One plan for RIC, based on this experience, is to train and empower individuals in Kazakh business associations to conduct the work previously performed by TFI Program staff. This approach is useful only in those Kazakh cities with established business associations. Again, given sufficient resources and a determination that such an effort is seen as a high priority, staff can be assigned to other communities throughout the four countries to support the development of business associations and reduce and/or remove investment constraints.

New opportunities for the Program will emerge and will affect program directions differentially in the four countries. To support USAID/CAR trade and investment program decisions beyond May, 2006, the Evaluation Team recommends that benchmark, process, and

impact information – beyond the measure of constraints that are removed or reduced – be collected for the key activities of the TFI Program components and sub-components. This information can include status of WTO accession and adoption of MAS-Q recommendations.

## **3.2 REDUCTION OF INVESTMENT/TRADE CONSTRAINTS**

The Reduction of Investment Constraints Component of the TFI Program has concentrated over the past two years on Kazakhstan and Kyrgyzstan. RIC efforts programs in Uzbekistan and Tajikistan were launched in the Spring of 2003. Recommendations are offered on the future direction of the programming in Reduction of Investment Constraints.

### **3.2.1 Enforcement of Legal and Regulatory Regime**

The TFI Program has been effective in improving the legal and regulatory environment for SMEs. The Evaluation Team recommends that enforcement be given a higher priority. This would require additional contact and liaison with the prosecutors' offices at the local, oblast, and national levels.

Beyond the legal and regulatory environment, the MSI/MetaMetrics Team recommends that the enforcement of laws and regulations offers the possibility of immediate impact. Prosecutors, when engaged at the national and local levels, have had success in reducing targeted constraints. In assembling local and regional members for business roundtables and issue discussions, prosecutors should be targeted and included.

### **3.2.2 National and Central Asia Level Dialog**

While the TFI current effort is focused on oblast and local level constraints to cross-border trade, the policies of the national governments, primarily Uzbekistan and Kazakhstan are constraining factors. The periodic closing of the borders and border points by Uzbekistan seriously hamper legal trade and ease of transport of goods. The customs and visa practices of the Kazakhstan government, as contrasted with those of Kyrgyzstan, cost time and money to entrepreneurs and potential international investors.

Accordingly, the Evaluation Team recommends that additional effort be placed on dialog and discussions at the national level. The office in Astana can be expanded to add senior Kazak staff to relate ongoingly with TFI counterpart agencies (e.g. Subcommittee on SMEs). Additional and targeted visits to key agencies by expat personnel can be valuable. Without a more visible, effective TFI presence in this capital city, it will be difficult to engineer positive reforms at the national level.

In Kyrgyzstan, the TFI Program played a critical role in establishing the Investment Roundtable (IRT). Since the IRT's establishment, TFI Program personnel have been in close cooperation to impact on national and local constraints to trade and investment. The Evaluation Team recommends that the TFI Program build on this experience and conduct high profile conferences on the challenges of removing investment and trade constraints and the potential positive impact on national economies and SME development. Senior-level government officials

and selected business representatives in Uzbekistan, Tajikistan and Kazakhstan can be enlisted to visit Bishkek and observe the progress the program has made on government standards and WTO accession through the IRT. International experts can present experiences and lessons from other countries. To ensure the attendance of government officials who need to be educated in this area and the participation of entrepreneurs and business associations, such conferences should be carried out in Almaty and in Tashkent. Similarly, high-level government officials and selected business representatives in Uzbekistan, Tajikistan and Kazakhstan can be enlisted to visit Bishkek and observe the progress the program has made on government standards and WTO accession.

### **3.2.3 Business Associations**

Business associations in Kazakhstan are relatively well developed. There are diverse associations with industry and general membership orientations. Associations of business women are in existence. The associations that were interviewed were basically self-sustaining and largely self-financing.

In contrast, there were few business associations in Kyrgyzstan and, in comparison with those of Kazakhstan, they were not very active nor influential. Business person respondents in Osh, Kyrgyzstan stated that they knew of no business associations and that such associations might be useful. Associations in Tajikistan do have influence in government, but institutionally they are very weak. In Uzbekistan, the TFI Program is identifying associations with which to work.

The development of business associations is a shared responsibility of the Pragma EDP and TFI Activities. In Tajikistan, Uzbekistan, and Kyrgyzstan more emphasis on business association development and the emergence of additional associations will provide greater outreach for the other TFI components and subcomponents. In Kazakhstan, the existence of several functioning business associations allows for a strategy of educating selected associations to undertake RIC and related functions now being performed by TFI personnel.

Successful training of selected associations to conduct the functions of the TIP local offices may prove to not be sufficient to assure the results achieved by TFI. Additional intensive technical assistance following the training program may be required to empower SME business associations to conduct analysis, sponsor informed public debate, and lobby constructively for the removal of trade and investment constraints.

### **3.2.4 Individual and Organizational Advocates**

The TFI Program has been successful in finding advocates in government at the local, oblast, and national levels. Influential and engaged business persons have also been included in TFI programming. In contrast, there have been only a few instances of engagement of Majlis (national parliament) and Kenesh (local and oblast level legislative bodies) elected members. One example is the transport/minibus issue in Bishkek. Two powerful members of the City Kenesh and the Minister of Justice were made aware of the illegality of an act affecting minibuses and they amended the act.

Since the Kenesh are responsible for formulating local laws governing businesses, the engagement of Kenesh members in roundtables and workshops may generate additional voices in support of entrepreneurs and the reduction of trade and investment constraints. The Evaluation Team recommends that local TFI staff work with local entrepreneurs to identify Keneshi members who are sympathetic to SME development. A local TFI site could be identified as a model demonstration of Kenesh coordination and cooperation.

Entrepreneurs of large firms can be identified to support interests in common with SMEs to reduce trade and investment constraints. Seminars could be organized to promote cooperation of big firms with associations of SMEs. The effectiveness of policy representations would be leveraged by the participation of larger firms. The larger firms that may be interested are those which see the potential opportunity of subcontracting SMEs for the production of critical high value added inputs, a process which will set in motion a cycle of productivity growth for SMEs, job creation, and higher incomes. In countries like Thailand and Malaysia, foreign firms in the electronic and computer industries have spearheaded this process. To the extent that the foreign investment regimes improve, this phenomenon can be replicated in the Central Asian Republics. Whether or not the cooperation is realized with larger foreign or local firms, it is imperative to encourage SMEs that can provide inputs to larger firms and adopt policies to remove obstacles to growth-enhancing linkages.

### **3.2.5 Regional Consultative Councils**

The Ferghana Valley Council of local government officials and entrepreneurs shows promise for coordination between the citizens of three countries in reducing constraints to trade and investment. The Evaluation Team recommends that the TFI Program provide continuing support to the formation of regional consultative councils. This approach can be used to address special issues. For example, a consultative council could be organized as a pilot test on mutually agreed, regional harmonization of standards, tests and documents for goods that are heavily traded in border areas. In addition, the regional consultative councils can be venues for discussion and solution of problems that directly affect border trade, such as checkpoints and visas. They could, in effect, be vehicles for the resolution of small, simple border disputes. In all, the pilot program could be used as a starting platform to replicate the initiative at the national levels of each country.

### **3.2.6 TFI as a Catalyst for Change**

Many of the SMEs and business associations commented that they believed that the intervention by TFI on their behalf with local authorities and prosecutors was extremely valuable. Local government authorities generally take action when requested by an international organization, but are not so responsive to individual SMEs. Indeed, it does appear that when the TFI activity has been focused on particular issues and agencies to remove some type of restraint, it has been very successful.

Since it is not the nature of a bureaucracy to change quickly, this type of quick action by these authorities is puzzling. A possible theory is that the TFI acts as a catalyst for change

within these agencies, allowing officials within those agencies who have supported reform to act against the constraints of the status quo (and perhaps even their superiors), using TFI as "political cover" to justify their actions. If this is the case, then this is a valuable activity and role of the TFI, and a hopeful sign. It indicates that there is a real desire of local government authorities to assist emerging businesses. At the same time, by laying the "blame" on TFI, they protect their careers and internal relationships within their agencies.

### **3.2.7 Corruption**

In Kyrgyzstan, hot lines are available at key border sites for the use of persons with issues regarding customs procedures and inappropriate requests from Customs officials for funds. These lines link to the Oblast level and the national level offices. According to Customs officials, these lines are seldom used. The Kyrgyz Ministry of Justice also has hot lines that are similarly not well utilized. The availability of these hot lines could be publicized in TFI brochures and in seminars and workshops. Shifting the mindset of entrepreneurs, which several respondents characterized as a general reluctance to contact government authorities, will require a focused program of public information, conferences, and other training events.

A source of corruption may be the need for self-financing of government agencies. The Expert of the Secretariat located in Osh stated that as of January, 2004, all agencies will be under the general budget of the state

An entrepreneurial class, educated with respect to registration and inspection procedures, is not sufficient to deal with illegal payment seeking officials. A concerted effort of refusal to pay bribes is needed to eliminate such practices. Associations with an active and engaged membership can assist in instituting attitudes of non-payment of bribes.

## **3.3 CUSTOMS COMPONENT**

Resource allocations to the Customs component appear appropriate; however, should resources become available, we recommend they be allocated to the priority issues of cross-border trade and harmonization of standards.

The Evaluation Team recommends that, where possible, Customs, immigration/visas, certifying authorities, and other agencies controlling traffic and transit of goods be co-located in the same area.

The Evaluation Team recommends that technical assistance for the TFI be provided to the government of Kyrgyzstan to evaluate the Customs automation program offered by the Asian Development Bank, and that available from the United Nations and the WCO.

### **3.3.1 Harmonization of Standards and Documents**

If true trade facilitation is to occur, the current situation of country specific standards, certificates, and documentation must be re-engineered to allow for seamless processing by Customs officials in both the exporting and importing countries, i.e., to accept testing, quality,

and origin certificates according to international standards. The TFI Program should continue to actively support the MAS-Q project, particularly with respect to harmonization and acceptance of standards required for imports and exports within the four country region.

In addition, the Customs clearance documents themselves should be harmonized so the information required is standard throughout the region. The single integrated Customs transit document that was just accepted by the Heads of Customs of Kazakhstan, Kyrgyzstan, Russia, and Tajikistan, is an example of the type of cooperation between governments that can have a positive, immediate benefit in facilitating trade. This type of effort should be continued to include, for example, a common declaration form for the region.

### **3.3.2 Customs Training**

Unlike Kazakhstan, Kyrgyzstan has not trained local Customs officers on the new Customs code because it has not been passed by Parliament. And, unlike Kazakhstan, there does not appear to be any core training unit in place within Customs. An appropriate activity for TIP in the next year would be assisting the Kyrgyzstan government in establishing permanent training mechanisms within Customs and other key organizations on the new Customs code. In addition, other areas of Customs related WTO requirements such as intellectual property rights protection and rules of origin will require the TFI Program's assistance to implement.

### **3.3.3 Revised Kyoto Convention (RKC) Principles**

The TFI activity should continue to work with Customs in both Kazakhstan and Kyrgyzstan on programs consistent with the trade facilitation principles of the RKC. In implementing these programs, care should be taken to insure the new programs actually facilitate Customs clearance, not simply add additional processes.

### **3.3.4 Cross-Border Trade**

Customs and other involved authorities, as well as private sector parties at interest in Kazakhstan and Kyrgyzstan have worked together in cross-border councils at the oblast level to address border issues. The cross-border council at the Taraz/Talas crossing has successfully resolved some impediments to cross-border trade without requiring national action. This type of bilateral cooperation should be expanded to as many other crossing points in the region as possible. The most important initiative to improve cross-border issues is in the Ferghana Valley, where the TFI Program coordinated a conference in May to bring together representatives of Uzbekistan, Kyrgyzstan, and Tajikistan to resolve border-crossing issues which have paralyzed trade in the area. The TFI should continue to make this Ferghana Valley Council a priority.

### **3.3.5 Customs Procedures**

A common theme of those interviewed by the Evaluation Team in both countries is that Customs procedures are complex and non-transparent to SMEs involved in cross-border trade. There is little information available to SMEs regarding Customs requirements, which makes it

difficult to comply with needed documentation and may contribute to corruption of officials in both countries to obtain Customs clearance.

The TFI Program is now developing a Trade Requirements Matrix, which would be available to all business via an Internet web site. This site would contain all necessary permit, documentation, and inspection information for Customs clearance for specific products. The TFI Program needs to work with the countries of the region to develop some type of mechanism to continue to update this matrix, whether within the various Customs authorities, or a third party private service.

Recognizing TFI's advocacy role, the evaluation team recommends that TFI aggressively work to assist national Customs officials in Kazakhstan, Kyrgyzstan, and Tajikistan to implement the new transit system which uses a single, integrated Customs transit document for all three countries. TFI should consider hosting a regional conference of Customs officials to assist in implementing the new transit system, and to form a working group to look at other opportunities for harmonization of Customs forms and procedures. One of the most important of these Customs forms is the basic import declaration. Using the European Union as a model, the objective would be to develop a standard regional Customs declaration that could be used by all countries in the region, perhaps modeled on the EU Special Administrative Document (SAD).

### **3.3.6 Transit of Goods**

Perhaps the greatest problem for expansion of trade in the four country CAR region is the inability of most countries to reach international markets without their goods traveling through other countries. In particular, in order for products from Kyrgyzstan to reach the promising Russian market for their agricultural products, the goods must pass through Kazakhstan.

Currently, the TFI Program is working with Customs Kyrgyzstan and private insurance companies to develop a program using Customs bonds to insure that goods shipped through Kazakhstan pass through the country intact. This program is in its early stages and it is not clear that it will be supported by Kazakhstan. A procedure to allow transit of goods has recently been approved by the Heads of Customs of Russia, Kazakhstan, Kyrgyzstan, and Tajikistan, using a single harmonized document. This program has not yet been implemented. The TFI should assist Kazakhstan, Kyrgyzstan, and Tajikistan with the implementation of this program by publicizing information regarding the program, its costs and requirements, to as broad a spectrum of SMEs as possible.

### **3.3.7 Procedures and Information**

Perhaps the most important of the Customs education and information efforts in the long term is the project now under development in TFI's Almaty office, to create a Trade Requirements Matrix and website. The initial project is focusing on import/export requirements of Kazakhstan, with links to other available and relevant websites. When completed, this one internet site will allow potential traders to determine the appropriate Harmonized code and tariff, determine what Customs forms are required, and will provide product specific information on what standards and certificates may be required. Upon completion, TFI plans to expand this

project to the other countries in the region. In the long term, the success of this project will depend on the quality of its content and accuracy. Unless TFI intends to continue to update the information indefinitely, some mechanism will need to be created to sustain the viability of the project. To this end, TFI can explore the option of outsourcing this service to a private firm.

### **3.4 WTO ACCESSION AND COMPLIANCE**

TFI should provide WTO accession assistance to Kazakhstan, if requested, particularly in assisting Kazakhstan to coordinate WTO accession efforts throughout the government ministries and agencies. Now that Uzbekistan has requested TFI's assistance with WTO accession, TFI should allocate resources to assist in this effort as soon as possible. The first meeting of the WTO working party for Uzbekistan met in July, 2002, but there has been no substantive contact since then in replying to the WTO's questions. TFI should continue its support of Tajikistan's WTO accession efforts at the current level which has resulted in steady progress in responding to WTO questions and requests for documentation.

TFI should assist Kazakhstan in coordinating their WTO efforts throughout the various ministries of government, and should actively assist Kazakhstan in their dealings with the WTO, including assistance in replying to WTO questions. The last contact from Kazakhstan to the WTO was in April, 2003 when Kazakhstan replied to some general WTO inquiries, but there has been little progress made in specific WTO accession areas such as Agriculture (last contact October, 2002) or TRIPS (last contact September 2000). The WTO working party for Kazakhstan last met in December 2002. A continuing concern is the Valuation section of Kazakhstan's new Customs Code, which may not be consistent with the WTO's requirements.

TFI should also continue to work with the Kazakhstan and the World Customs Organization (WCO) to implement as many features of the Revised Kyoto Convention as feasible. These practical Customs reforms are completely consistent with the WTO rules, and provide a procedural structure for implementing the WTO Customs rules such as the Valuation Code and TRIPS.

Kyrgyzstan joined the WTO after only three years. An inter-agency commission was formed on WTO, with senior officials designated within each ministry to move the process forward. This commission was at the state level with access to the President and Parliament members. Kazakhstan has recently established a similar commission, but the Head of that commission has not yet been appointed. Any assistance that the TIP could provide to the other CAR countries in coordinating their WTO efforts within the various ministries and agencies of government would be extremely helpful. This could take the form of legal analysis and review of existing statutes or providing training to policy and operational officials in critical agencies.

The Evaluation Team recommends that the TFI Program continue to work with Tajikistan on WTO accession issues. TFI should also be prepared to assist Uzbekistan should additional assistance be requested. In both countries, TFI could begin the process of analyzing current laws which will need to be revised in order to draft WTO compliant Customs codes. In Uzbekistan, TFI should actively support the MAS-Q program in light of the recent apparent willingness of

the Uzbek government to support regional standards in order to comply with WTO Technical Barriers to Trade (TBT) and Phyto-Sanitary Agreements.

Although it is still very early in the process for both countries, the Evaluation Team recommends that the TFI Program offer whatever assistance is required (or desired) to begin the task in both countries to review their current laws and to begin the process of drafting Customs Codes that are WTO compliant. This does not need to wait until negotiations have begun, since many of the necessary legal requirements to comply with the WTO schedules are clear. TFI Program legal staff, who previously worked with Kazakhstan and Kyrgyzstan on the revision of their respective Customs Codes, could be very helpful.

In Kyrgyzstan, an inter-governmental commission to implement the requirements of the WTO is in place, with key individuals identified in each ministry to be the WTO expert, responsible for training top and mid-level managers on WTO requirements. The TFI Program should continue to assist Kyrgyzstan by providing training to these individuals as required.

## ANNEX A

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## ANNEX B INTERVIEWS AND MEETINGS

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7-Jul	Leo		Terence R. Slywka	Almaty Regional Project Director	Removal of Investment Constraints Component, TIP, Pragma	Almaty	Kazakhstan
8-Jul	Leo		Assel Aitkhozhina	Project Management Specialist	Office of Enterprise and Finance, USAID Regional Mission for Central Asia	Almaty	Kazakhstan
8-Jul	Leo		Daniel Berg	Principal Banker	EBRD	Almaty	Kazakhstan
8-Jul	Leo		Marc Urban	Commercial Law Advisor	Office of Enterprise and Finance, USAID Regional Mission for Central Asia	Almaty	Kazakhstan
8-Jul	Leo		Mary Norris	Director	Office of Enterprise and Finance, USAID Regional Mission for Central Asia	Almaty	Kazakhstan
8-Jul	Leo		Rashida Shaikenova	Executive Director	Kazakhstan Tourist Association	Almaty	Kazakhstan
8-Jul	Leo		Serik Turzhanov	Owner	Kuik Advertising Agency	Almaty	Kazakhstan
8-Jul	Leo		Timur Nazkhanov	Executive Director	Forum of Entrepreneurs of Kazakhstan	Almaty	Kazakhstan
8-Jul	Leo		Vyacheslav Alexandrov	General Director	Kuik Advertising Agency	Almaty	Kazakhstan
8-Jul	Leo		Zaure Abdiraman	Consultant on Removal of Investment Constraints	TF&I Activity, Pragma	Almaty	Kazakhstan
9-Jul	Leo		Edward Nemeroff	Director	Metrology, Accreditation, Standards and Certification Assistance Program in Central Asia, TIP, Pragma	Almaty	Kazakhstan
9-Jul	Leo		Gennady Shestakov	Chairman	Kazakhstan Association of Customs Brokers	Almaty	Kazakhstan
9-Jul	Leo		Suhrob Tursunov	Project Management Specialist / Enterprise and Finance	Office of Enterprise and Finance, USAID Regional Mission for Central Asia	Almaty	Kazakhstan
9-Jul	Leo		Thomas O'Brien	Managing Partner	Coudert Brothers, Attorneys at Law	Almaty	Kazakhstan
10-Jul	Jorge		Svetlana Zhanaidarova	WTO Specialist	Pragma	Almaty	Kazakhstan
10-Jul	Jorge		Tatyana Zhukova		Pragma	Almaty	Kazakhstan
10-Jul	Jorge		Zhannat Rakhimzhanova	Senior Customs Advisor	Pragma	Almaty	Kazakhstan
10-Jul	Leo		Kelly Seibold	Country Representative - Kyrgyzstan	TIP, Pragma	Almaty	Kazakhstan
11-Jul	Leo		Aigul Solov'yva	Co-chairwoman	Union Of Business Women Of Kazakhstan	Almaty	Kazakhstan
11-Jul	Leo	Jorge	Eric Dukenbayev	President	Association of business-incubators and technopark of Kazakhstan	Almaty	Kazakhstan
11-Jul	Leo		Irene Burns	Regional Coordinator	TF&I Activity, Pragma	Almaty	Kazakhstan
11-Jul	Leo		Marc Shiman	Country Manager	TIP, Pragma	Almaty	Kazakhstan
14-Jul	Jorge	Karen	Rahat Toktonaliev	Country Representative For Tajikistan	TIP, Pragma	Almaty	Kazakhstan
14-Jul	Jorge	Karen	Raimbek Batalov	Chairman	Coordination Council, Forum of Entrepreneurs of the Republic of Kazakhstan	Almaty	Kazakhstan
14-Jul	Jorge	Karen	Zuriat Sybankulova	Chairwoman	Association on Support and Development of Pharmaceutical Activity of the Republic of Kazakhstan	Almaty	Kazakhstan
14-Jul	Leo		Sergey Pyzhenko	Consultant	Pragma	Pavlodar	Kazakhstan

date	team	team2	interviewee	title	organization	city	country
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15-Jul	Jorge	Karen	Nadjat Kadyrov	Deputy Managing Director	Confederation of Employers of the Republic of Kazakhstan	Almaty	Kazakhstan
15-Jul	Jorge	Karen	Zeinulla Kakimzhanov	Head	Innovation Fund of the Republic of Kazakhstan	Almaty	Kazakhstan
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15-Jul	Leo		Roza Igibayeva	Chairwoman	Association of Business-Women	Pavlodar	Kazakhstan
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16-Jul	Jorge	Karen	Roza Djaiobaeva	Head	Department on Tourism and SME Development, Prime Minister Office of the Kyrgyz Republic	Bishkek	Kyrgyzstan
17-Jul	Leo		Aitkul Tulebayeva	Head	Multilateral Cooperation Subdivision, International Relations Division, Agency of Customs Control of the Republic of Kazakhstan	Astana	Kazakhstan
17-Jul	Leo		Asyel Karatayeva	Chief Inspector	International Relations Division, Agency of Customs Control of the Republic of Kazakhstan	Astana	Kazakhstan
17-Jul	Leo		Berik Yermakhambetov	Head	Subdivision of Service Investigation, Division of Internal Security, Agency of Customs Control of the Republic of Kazakhstan	Astana	Kazakhstan
17-Jul	Leo		Besenbai Balmaganbetov	Economic Issues and Business Planning	Association of Entrepreneurs of City of Astana	Astana	Kazakhstan

date	team	team2	interviewee	title	organization	city	country
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17-Jul	Jorge	Karen	Anarhan Rahmanova	Head	External Economic Relation, Trade and WTO Division, Ministry of Foreign Trade and Industry of the Kyrgyz Republic	Bishkek	Kyrgyzstan
17-Jul	Jorge	Karen	Batyrbek Davlesov	Director	State Inspection for Standardization and Metrology of the Kyrgyz Republic (Kyrgyzstandard)	Bishkek	Kyrgyzstan
17-Jul	Jorge	Karen	Emil Umetaliyev	Club – Chairman	Congress of Business Associations (Kyrgyz Republic)	Bishkek	Kyrgyzstan
17-Jul	Jorge	Karen	Igor Trofimov	Executive Director	Congress of Business Associations (Kyrgyz Republic)	Bishkek	Kyrgyzstan
17-Jul	Jorge	Karen	Nuritdin Djamankulov	Expert	Secretariat of the Special Representative of the President of the Kyrgyz Republic on Foreign Investment	Bishkek	Kyrgyzstan
17-Jul	Jorge	Karen	Nurlan Alymbayev	Deputy Minister	Ministry of Justice of the Kyrgyz Republic	Bishkek	Kyrgyzstan
17-Jul	Jorge	Karen	Rafkat Nasanov	Head	Secretariat of the Special Representative of the President of the Kyrgyz Republic on Foreign Investment	Bishkek	Kyrgyzstan
18-Jul	Leo		Aitkul Tulebayeva	Head	Multilateral Cooperation Subdivision, International Relations Division, Agency of Customs Control of the Republic of Kazakhstan	Astana	Kazakhstan
18-Jul	Leo		Asyel Karatayeva	Chief Inspector	International Relations Division, Agency of Customs Control of the Republic of Kazakhstan	Astana	Kazakhstan
18-Jul	Leo		Bolat Smagulov	Chairman	Committee on Trade, Ministry of Industry and Trade	Astana	Kazakhstan
18-Jul	Leo		Galim Orazbakov	Vice-Minister	Ministry of Industry and Trade	Astana	Kazakhstan

date	team	team2	interviewee	title	organization	city	country
18-Jul	Leo		Kuralai Kurmangaliyeva	Head Specialist	Department on the Accession to the WTO and International Cooperation, Ministry of Industry and Trade	Astana	Kazakhstan
18-Jul	Leo		Oraz Zhandosov	Chairman	Agency for Regulation of Natural Monopolies and Protection of Competition	Astana	Kazakhstan
18-Jul	Leo		Rustam Bayaliyev	Director	Department on the Accession to the WTO and International Cooperation, Ministry of Industry and Trade	Astana	Kazakhstan
18-Jul	Leo		Saule Nurgaliyeva	Head	International Relations Division, Agency of Customs Control of the Republic of Kazakhstan	Astana	Kazakhstan
18-Jul	Jorge	Karen	Andrey German	Chairman	Kyrgyz Exporters Association	Bishkek	Kyrgyzstan
18-Jul	Jorge	Karen	Gulnara Sultanaliyeva	Customs Advisor	TF&I Activity, Pragma	Bishkek	Kyrgyzstan
18-Jul	Jorge	Karen	Igor Korotkevich	Head	Business Support Department, Mayor Office	Bishkek	Kyrgyzstan
18-Jul	Jorge	Karen	Kamila Kenebaeva	Chairwoman	State Commission on Business Development under the Government of the Kyrgyz Republic	Bishkek	Kyrgyzstan
18-Jul	Jorge	Karen	Oleg Jerebko	Executive Director	Communications Operator Association	Bishkek	Kyrgyzstan
19-Jul	Leo		Alexander Kim	Deputy Director	Department of Support and Development of Entrepreneurship for Western Kazakhstan Oblast, Western Kazakhstan Oblast	Uralsk	Kazakhstan
19-Jul	Leo		Askar Makhmudov	Trade Specialist	Pragma	Uralsk	Kazakhstan
19-Jul	Leo		Assiya Zhumina	Regional RIC Coordinator - West	Pragma	Uralsk	Kazakhstan
19-Jul	Leo		Gulbanu Aubakirova	Acting Director	Western Kazkhstan Affiliation of the Association of Business Women	Uralsk	Kazakhstan
19-Jul	Leo		Nadezhda	Office Manager	Pragma	Uralsk	Kazakhstan
19-Jul	Leo		Nurlan Mukhambetkaliyev	Chairman	Oblast Association of Small Business "Damu BK"	Uralsk	Kazakhstan
19-Jul	Leo		Sholpan Makhmudova	Director	Association "Center of Small Business"	Uralsk	Kazakhstan
19-Jul	Leo		Sophia Kenzhigareyeva	Acting Head	Department of Economy, Uralsk City Akimat	Uralsk	Kazakhstan
21-Jul	Leo	Jorge, Karen	Paul Pieper	Chief of Party	TIP, Pragma	Almaty	Kazakhstan
22-Jul	Leo	Karen	Anvar Gafurov	Senior Prosecutor	Department of Supervision of Execution of Laws and Legality of Legal Acts, General Prosecution Office of the Kyrgyz Republic	Bishkek	Kyrgyzstan
22-Jul	Leo	Karen	Edward Nemeroff	Director	Metrology, Accreditation, Standards and Certification Assistance Program in Central Asia, TIP, Pragma	Bishkek	Kyrgyzstan
22-Jul	Leo	Karen	Kelly Seibold	Country Representative - Kyrgyzstan	TIP, Pragma	Bishkek	Kazakhstan
22-Jul	Leo	Karen	Nurlan Tootayev	Deputy Head	Legal Department, Committee on Revenues, Ministry of Finance of the Kyrgyz Republic	Bishkek	Kyrgyzstan
22-Jul	Jorge		Davlatmurod Jumaev	Chairman	Association on Support and Business Development of the Republic of Tajikistan	Dushanbe	Tajikistan

date	team	team2	interviewee	title	organization	city	country
22-Jul	Jorge		Farukh Dodabayev	Executive Chairman	Association on Development of Small and Medium Business	Dushanbe	Tajikistan
22-Jul	Jorge		Jamshed Shripov	Head	WTO Department, Ministry of Economy and Trade of the Republic of Tajikistan	Dushanbe	Tajikistan
22-Jul	Jorge		Kanoat Khamidova	Deputy Head	Legal Department, President's Executive Office	Dushanbe	Tajikistan
22-Jul	Jorge		Makhmadali Shokirov	President	Association of International Road of Republic of Tajikistan	Dushanbe	Tajikistan
22-Jul	Jorge		Tojiniso Azizova	Vice Minister	Ministry of Justice of the Republic of Tajikistan	Dushanbe	Tajikistan
23-Jul	Jorge		Inom Takhirov	Director	National Patent-Information Center of the Republic of Tajikistan	Dushanbe	Tajikistan
23-Jul	Jorge		Abdurashid Rakhmonov	RIC Consultant	TF&I Activity, Pragma	Khojand	Tajikistan
23-Jul	Jorge		Anvar Yakubov	First deputy Chairman	Committee of Economy and Foreign Trade Cooperation, Hukumat (Oblast Administration) of Soghd Oblast, Tajikistan	Khojand	Tajikistan
23-Jul	Jorge		Shannon Doman	Soghd Oblast Project Manager	TIP, Pragma	Khojand	Tajikistan
23-Jul	Jorge		Ulmasjon Pulatov	Customs Consultant	TIP, Pragma	Khojand	Tajikistan
23-Jul	Leo	Karen	Mederbek Sabirov	Head	Osh Oblast Customs, Department of Customs Service, Committee on Revenues, Ministry of Finance of the Kyrgyz Republic	Osh	Kyrgyzstan
23-Jul	Leo	Karen	Melis Bekbolotov	Osh RIC Consultant	Pragma	Osh	Kyrgyzstan
23-Jul	Leo	Karen	Sabyrzhan Akimbayev	Cross-Border Trade Project Manager	Pragma	Osh	Kyrgyzstan
23-Jul	Leo	Karen	Stephanos Orestis	Director	Ferghana Valley Program, Pragma	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Abdimomun Zholdoshov	Expert	Secretariat of the Special Representative of the President of the Kyrgyz Republic on Foreign Investment	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Ashimova Dinara	Senior Prosecutor	Department of Supervision of Execution of Legislative Acts, Osh Oblast Prosecution Office	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Diltayan Amanbayeva	Head	Sector of Entrepreneurship, State Administration of Osh Oblast	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Eleanora Bukina	Director	"Osh Market" Company	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Ermamat Gaparov	Manager	"Beer Academy" Company	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Farkhad Saidaliyev	Deputy of Osh Oblast Prosecutor	Osh Oblast Prosecution Office	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Iskender Gaipkulov	Expert	Secretariat of the Special Representative of the President of the Kyrgyz Republic on Foreign Investment	Osh	Kyrgyzstan
24-Jul	Leo	Karen	Omurbek Almanbetov	Deputy Governor	State Administration of Osh Oblast	Osh	Kyrgyzstan
24-Jul	Jorge		Jahongir Haidarov	Country Representative	TF&I Activity, Pragma	Tashkent	Uzbekistan
25-Jul	Leo	Karen	Abdujappar Tagayev	Director	JSC "Nur", Jalal-Abad, Kyrgyzstan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Ahmadhon Eshonhujayev		Kasansay Chamber, Kasansay, Uzbekistan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Khanifa Rasulova	Ferghana Oblast Program Manager	TF&I Activity, Pragma	Ferghana	Uzbekistan

date	team	team2	interviewee	title	organization	city	country
25-Jul	Leo	Karen	Khanifa Rasulova	Ferghana Oblast Program Manager	TF&I Activity, Pragma	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Kojonazar uulu Zamir		Batken Oblast Department of EEL	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Manzura Salmanova		Association of Business Women, Ferghana, Uzbekistan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Melis Bekbolotov	Osh RIC Consultant	Pragma, Osh, Kyrgyzstan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Oybek Abdullayev		Department of Support of Small and Medium Business, Namangan, Uzbekistan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Ronald Ashkin	Chief of Party	EDP, Pragma, Almaty	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Sabyrzhan Akimbayev	Cross-Border Trade Project Manager	Pragma, Osh, Kyrgyzstan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Sadriddin Gazibekov		Association of Entrepreneurs, Sogdian Oblast	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Shannon Doman	Soghd Oblast Project Manager	TIP, Pragma, Khojand, Tajikistan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Stephanos Orestis	Director	Ferghana Valley Program, Pragma	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Takhir Akhmadaliyev		Chamber of Andijan Oblast, Andijan, Uzbekistan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Ulmasjon Pulatov	Customs Consultant	TIP, Pragma, Khojand, Tajikistan	Ferghana	Uzbekistan
25-Jul	Leo	Karen	Ulugbek Abdurazzakov		Pragma, Andijan, Uzbekistan	Ferghana	Uzbekistan

TOTAL INTERVIEWS

13

TOTAL PEOPLE

2

## ANNEX C

### EVALUATION QUESTIONS

The evaluation statement of work posed a series of evaluation questions associated with the components of the Trade and Investment Project and the current Trade Facilitation and Investment Activity to be addressed by the Evaluation Team. Key findings, conclusions, and recommendations in response to these evaluation questions are presented below.

#### Questions

**The evaluation should answer the following component-specific questions:**

#### **Reduction of Investment Constraints:**

**1. Over 25 constraints have been reduced or removed by the RIC component at the local level in Kazakhstan and Kyrgyzstan. What was the impact of this on SMEs? Do they see visible improvement in their work environment as a result of these changes?**

As of late July, 2003, over 95 constraints have been addressed and affected at the local level by the RIC component in Kazakhstan and Kyrgyzstan. SMEs have been favorably affected. All of the respondents, both public and private sector representatives cited similar impressions of the impact of the program.

Respondents stated that the impact of the TFI effort was due to the information provided through publications (brochures), seminars and workshops, and physical and electronically posted information on business registration, reporting, and customs requirements. The effect was reduced time required to complete and file documents, a reduction of government agency inspections, and a reduction of illegal payments to government officials.

The mechanism for these impacts was the increased knowledge of entrepreneurs as to procedures' requirements and their legal rights. The range of SMEs that took advantage of this knowledge ranged from market women to entrepreneurs engaged in larger scale manufacturing and trade.

**2. What evidence, if any, is there that the reduction and removal of investment constraints has led to increased investment and corresponding job growth?**

It is difficult to find evidence pointing to increased investment and job growth that can be attributed to the reduction and elimination of constraints. The reason is that there is always an investment lag. This lag must be factored in, especially if the success of the program is to be measured by quantifiable indicators, such as an expansion of sales, exports, employment and new investments. Constraint elimination is but one factor among others that can account for economic growth.

For this reason, it is advisable that success be assessed with tools than can measure indicators more directly attributed to the activities of the program. We refer to the creation of baseline indicators and the undertaking of surveys that can measure the evolution of the indicators over time. As examples of such indicators we can cite the following: (i) time and cost of actual business registration; (ii) time and cost of licensing; (iii) number and frequency of inspections per month, year; (iv) actual number of technical regulations that have been eliminated; (v) increased border trade resulting from concrete elimination of tariff and non-tariff barriers; and (vi) number of times that SMEs have obtained procurement contracts from government.

**3. How effective have the program's efforts been to stimulate information sharing between the government and the private sector? Are there constraints to this that the program does not address adequately? If so, what are they, and how might the program address them more effectively?**

At the RIC component sites with over a year of implementation, information sharing between the government and private sector increased substantially. Government officials in the Kazakhstan sites of Uralsk and Pavlodar stated that contact with the private sector was minimal and consisted mainly of complaints regarding government requirements of SMEs. Through mutual attendance at seminars, participation in discussion groups and roundtables, government officials are seeing the benefit of cooperation and communication with the private sector.

In Kyrgyzstan, the main vehicle for information sharing between the government and the private sector is the Secretariat. However effective this institutional vehicle is, there is a risk that SME concerns may end being relegated to lesser priorities. Focused roundtables involving SME business associations and the directors of the State Commission on Business Development should enhance information sharing.

**4. What has been the impact of the RIC component on cross-oblast and cross-border trade? What modifications to the program or reallocation of resources, if any, should be made to increase the program's impact?**

The serious constraints to cross-oblast trade as well as to transit shipments are the many highway checkpoints that, while serving some purposes such as proper vehicle ownership and registration, offer officials the opportunity to solicit illegal payments (excess speeding). While improved knowledge of entrepreneurial rights could have an effect, no respondents offered evidence of this occurring.

Cross-border trade has been seriously hampered by the closing of crossing points by the Uzbekistan government and by legal interpretations by customs officials and locally determined regulations by oblast and local government officials. Under new efforts of the TFI Activity, particularly in the Ferghana Valley, steps have been taken to increase the dialog between the private and public sector at the oblast and local levels and to initiate dialog between the countries at these borders. Currently, it is clear that the TFI effort has increased these communications according to planned activities. It is too early to determine if actual constraints have been reduced. The MSI/MetaMetrics Team witnessed the delays to truck shipments and the illegal

border crossing of small entrepreneurs in the conduct of the field work and the travel between countries.

While the TFI current effort is focused on oblast and local level constraints to cross-border trade, the policies of the national governments, primarily Uzbekistan and Kazakhstan are constraining factors. The periodic closing of the borders and border points by Uzbekistan seriously hamper legal trade and ease of transport of goods. The customs and visa practices of the Kazakhstan government, as contrasted with those of Kyrgyzstan, cost time and money to entrepreneurs and potential international investors. Accordingly, the MSI/MetaMetrics Team recommends that additional effort be placed on dialog and discussions at the national level. The office in Astana can be expanded to add senior Kazak staff to related ongoingly with TFI counterpart agencies (e.g. Subcommittee on SMEs). Additional and targeted visits to key agencies by expat personnel can be valuable.

**5. How effective have the RIC component's capacity-building efforts been with respect to local business associations? What, if any, program modifications or resource reallocations should be made to increase successful collaboration with NGOs and strengthen business associations' capacity for advocating SME needs in the government?**

Capacity building of business associations at the national and local levels are a shared portfolio of the EDP and TFI Activities. The effectiveness has been mixed, due to several factors. Associations and NGOs in Kazakhstan have had a history of successful development with some international donor assistance. The business associations that were visited in Pavlodar and Uralsk all had dues paying members. Association staff worked on a part-time basis and appeared to be meeting the expectations of the membership and operating successfully to varying degrees. The seminar and workshop programs of the past two years of the TIP served to educate association staff and increase the communications with the public sector. In all of the interviews with associations, the brochures were cited as valuable to members and prospective new business owners. This effort of information dissemination and training programs are effective means to strengthen associations. While the associations interviewed apparently were well organized and had functioning accounting and operations systems, new business associations may be in need of such technical assistance. The one business association in Astana appeared to be at an incipient stage of development.

TFI staff have noted that business associations, at the local and national level in Kyrgyzstan, Tajikistan and Uzbekistan are not well developed. They rely more on unstructured or informal contacts with policy makers, must improve their capacities to make professionalized representations, and show little signs of long term sustainability. The freer and more advanced associations are powered by the sheer energy of their individuals, usually one or at most two driven people, blessed with the traits of leadership, and committed to effecting long lasting changes in their societies. These people, unfortunately, are in short supply in these countries. TFI Program personnel have shown an ability to identify, support, and train individuals for leadership roles in reducing investment and cross-border trade constraints. The Enterprise Development Program has taken the lead in business association development. More attention by TFI Program and EDP personnel to the potential of supporting TFI identified individuals in building business associations would be useful.

## **6. Of the regions in which the RIC component has been implemented, which ones have made the most progress in removing constraints and why?**

In Kazakhstan, the RIC component was implemented in Atyrau, Pavlodar, Uralsk, and Ust-Kamenogorsk. The Evaluation Team visited the TFI Program offices in Pavlodar and Uralsk. The success in removal of constraints was excellent and was virtually the same at both sites. This was due to the standardized methodology which included coordination with the EDP Project, identification of constraints, training and working with business association officials, and liaison with Oblast and local government officials. It was contended by TFI Program personnel that the level of effectiveness in reduction of constraints was lower in Atyrau due to lack of interest in that community and the impact of petroleum development.

In Kyrgyzstan, the RIC component was implemented in Bishkek and Osh. Conditions are vastly different in each of these communities. Substantive successes have been achieved in reduction of constraints at both sites. The lack of effective business associations in Kyrgyzstan, as compared to Kazakhstan, is seen by TFI Program staff as affecting the level of potential reduction and removal of constraints.

The TFI methodology for RIC employed at the local level has been equally effective in Kazakhstan and Kyrgyzstan. The major factors contributing to the successes in removing constraints has been the quality, technical ability, and country experience of the expat and Central Asia personnel. Communications throughout the organization have been facilitated through expats with some facility with the Russian language. Local personnel with community ties and the appropriate language background have been supportive of effective communications with public and private sector players.

## **7. How effectively does the program deal with impediments to business at the national level?**

The program has performed exceptionally well at the national level in Kyrgyzstan. This is explained by the presence of three factors. The first is the commitment of TFI leadership and staff to communicate with counterparts and stakeholders. The second factor has been given by the presence of a “champion” who is firmly committed to reform and strategically placed in the upper echelons of the government body with the power to politically push the reforms. The third factor has been the contribution of the Secretariat, a body formed and supported by the national government and funded by USAID/CAR which is an institutional vehicle with the analytical capacity to formulate the reform proposals and act, at the same time, as catalyst for economic change.

The RIC program in Kazakhstan has achieved impressive results in the oblasts. In the future, any possibility for making a difference at the national level must be necessarily grounded on a more visible, more effective, and permanent presence in Astana. If this decision is not taken, significant changes at the national level are unlikely to come about.

The successes have also been with the customs codes of Kazakhstan and Kyrgyzstan. In Kyrgyzstan, practices at the borders have been conforming in general with the principles of the new customs code. The addressing of issues such as visas and oversight of local level practices in Kazakhstan could be addressed to some extent at the national level. Again, Uzbek national officials do dictate the participation of local level officials and have power through policies regarding currency and points of economic and citizen access to Uzbekistan.

**8. To what extent does information from the local-level inform national policy priorities? Are there measures which the program should take to establish stronger and/or more effective linkages and, if so, what are they?**

The often cited example of local level action informing the national level is the land registration procedures that were identified at Pavlodar. This exercise resulted in a constructive national level policy. Beyond this example, local level issues and the ability of local officials to affect national level decision making and policy was not in evidence. If all politics are local, the potential exists for individual entrepreneurs and associations of businesses to affect the national policy through the locally elected members of the national parliament. In this arena of the potential for local government representation to affect investment and trade constraints, the electing of interested and informed members of the village, city and oblast Keneshi could add some effective voices.

**9. Based on the contractor's experience and expertise in the field, and based on the information the contractor has reviewed in performing the evaluation, what modifications to the RIC component's objectives and targets should be made to increase its effectiveness in improving the legal and regulatory environment for SMEs in Kazakhstan and Kyrgyzstan?**

The operational legal and regulatory environment for SMEs is at the local level. City, oblast, and even village officials dictate regulations and procedures. A nation-wide brochure on business registration and reporting or customs procedures would not be relevant because of the regional and cultural differences. Immediate impact requires work at the local level.

The national level is critical, however. Regional and local government administration, even to the village level, is dependent upon the appointment of Akims by the national government. Legislation can be passed at the national level that states the legality of business registration, regulation, and reporting procedures.

Beyond the legal and regulatory environment, the MSI/MetaMetrics Team recommends that the enforcement of laws and regulations offers the possibility of immediate impact. Prosecutors, when engaged at the national and local levels, have had success in reducing targeted constraints. In assembling local and regional members for business roundtables and issue discussions, prosecutors should be targeted and included.

## **Customs:**

### **1. How has the work of the TIP Customs component influenced cross-border trade?**

The Customs component under the Trade Facilitation and Investment (TFI) Activity provides assistance to Kazakhstan and Kyrgyzstan to modernize Customs activities. The purpose is to facilitate trade and provide a more SME friendly environment to encourage development of SMEs involved in exports and cross-border trade. The past training and technical assistance activities have been concentrated in cross-border trade, customs codes, and customs procedures.

There are three specific areas where the Customs component of the TIP has had an impact in increasing cross-border trade, particularly between Kazakhstan and Kyrgyzstan. They are information dissemination, development of alternative methods of transit through intermediate countries, and local efforts at cross-border facilitation.

In the course of the interviews with SMEs, government agencies, and business associations, a common theme emerged, which was the lack of information regarding specific requirements for exporting and importing goods in both countries. These were generally termed "Customs requirements" but are in fact, not only Customs requirements for such areas as valuation and tariff classification, but they also encompass a whole variety of other requirements imposed by a variety of government bodies to meet product standards of safety and quality. The changing rules, lack of transparency of official requirements, and lack of standardization between the trading countries, has created an intimidating atmosphere for companies considering exporting their products, or importing needed machinery and products to expand their business. In this environment, corruption of officials is sometimes the only way to obtain Customs clearance.

At both the national and local level in Kyrgyzstan, and at the oblast level in Kazakhstan, one of TFI's most significant products has been education, information gathering, and dissemination of the requirements of doing cross-border trade to local business. TFI has conducted extensive seminars in both countries on Customs requirements, Customs procedures, and documentation. In Osh, TFI has published several informational brochures on local procedures and requirements that have been widely circulated through the local business community. These brochures were drafted by TFI employees with previous Customs experience, and have been reviewed for accuracy and approved by the local Customs officials. In Ferghana City, Uzbekistan, TFI is developing export and import flow charts, written in Uzbek, which provide clear, understandable explanations of what is needed for cross-border trade.

Perhaps the most important of these education and information efforts in the long term is the project now under development in TFI's Almaty office, to create a Trade Requirements Matrix and web site. The initial project is focusing on import/export requirements of Kazakhstan, with links to other available and relevant web sites. When completed, this one internet site will allow potential traders to determine the appropriate Harmonized code and tariff, determine what Customs forms are required, and will provide product specific information on what standards and certificates may be required. Upon completion, TFI plans to expand this

project to the other countries in the region. In the long term, the success of this project will depend on the quality of its content and accuracy. Unless TFI intends to continue to update the information indefinitely, some mechanism will need to be created within the government structures of all countries in the region to sustain the viability of the project.

TFI has also been involved in working with government agencies, business associations, and insurance companies to develop alternative procedures for transit of products through intermediary, contiguous countries, but the extent of their involvement is not clear. In our interview with Nurlan Tootayiev, Deputy Head of the Legal Department of the Committee on Revenue of the Kyrgyzstan Ministry of Finance, he acknowledged TFI's efforts in this area, but told us the transit issue has been directly addressed by the Council of Heads of Customs Agencies of the Eurasian Economic Community. In July 2003, an agreement was reached, by the Heads of Customs Agencies of Kyrgyzstan, Kazakhstan, and Russia to accept one integrated document and a common procedure for security deposits for in-transit shipments. This annex on transit, which, according to him has also been accepted by Tajikistan, will be implemented soon. It is unclear whether this new system of "deposits" will involve direct surety to the governments, or the private insurance carriers that TFI has been working with, and what role TFI may play in assisting with implementation.

The third, perhaps most significant role TFI has played with respect to facilitation of cross-border trade, is the development of cross-border councils of local business and government to resolve local issues and barriers to trade. A cross-border council sponsored by TACIS is in place at Taraz/Talas. With facilitation by TFI, the council has had some success in resolving local impediments to trade. However, the most significant achievement in this area was the meeting held in Osh in May, which brought Uzbek, Tajik, and Kyrgyz business associations and government officials together for the first time since the fall of the Soviet Union, to discuss common trade constraints between their countries. TFI was directly responsible for putting together this Ferghana Valley Council, succeeding where other OSCE had failed in getting representatives from Uzbekistan to begin a dialogue on inter-regional trade. TFI continues to work as the facilitator and staff of the Council and the Working Group that met in July of 2003 which is developing an agenda of priority items for the Council.

## **2. Has the assistance provided by the program in customs modernization (e.g. work in promoting harmonized classification) contributed to trade facilitation?**

TFI has provided extensive assistance to the Customs modernization efforts in both Kazakhstan and Kyrgyzstan. This has consisted of legal, technical, and procedural support. The most important of their efforts in trade facilitation has been their work with both countries in implementing the Customs portions of the WTO such as harmonized tariff classification, and some trial programs structured within the framework of the Revised Kyoto Convention (RKC). Although TFI has clearly played a role in promoting harmonized classification, both countries were already following a harmonized tariff classification regime through the Eurasian Economic Community that is roughly compliant with the GATT/WTO code.

Where the assistance of TFI is most apparent is in the development and implementation of programs based on the principles of the Revised Kyoto Convention. For example, in both

countries a program has been developed and implemented under the concept of risk-management, to permit expedited Customs processing for low risk importers. This has cut the necessary procedural steps for these importers from five to three. This program, although not completely in step with the true spirit of risk-management, which advocates not only quicker release but also fewer documents, nevertheless is an important first step for both countries in accepting and rewarding legitimate international traders. TFI provided the legal and Customs expertise to assist both countries in this program.

### **3. Is there evidence that the level of cooperation between Kazakhstani and Kyrgyzstani Customs Committees has increased as a result of TIP activities?**

From the Oblast and local border crossing perspective, there is dialog and cooperation as noted previously within the context of the cross-border Councils. With respect to the national committees, it is also clear that there has been closer cooperation within the Customs Heads of the countries in the region (as evidenced by the recent transit agreement), but the Evaluation Team saw no clear evidence of TFI's role in this dialog.

### **4. How critical has the help of TIP's Customs Advisors been in the Government's decision-making on Customs and trade issues (for example, during the new Customs Code drafting process in Kazakhstan)?**

By all accounts and interviews with government officials, business associations, and TFI staffers, the assistance given by TFI in the drafting of the Customs Codes of both Kazakhstan and Kyrgyzstan, was critical to both countries. In most cases, TFI experts were able to assist both governments in understanding the international requirements for WTO compliance as it applied to their respective legal environments, to ensure the outcome of their revised Customs codes would be compliant as enacted.

With respect to Kazakhstan, however, the Kazakh government chose to write their revised code to permit the practice of using a third party private firm, ICS, to provide valuation guidelines for imports. In the opinion of TFI legal experts, which the Evaluation Team shares, the valuation section of the Kazakh code may, if narrowly construed, be technically compliant with the GATT/WTO Valuation code, but it is not compliant with the spirit of the international code. The central principal of the GATT/WTO Valuation methodology is that each business transaction should be valued on its own merits as a free market price determined by business, not by use of other comparative values from previous shipments or other transactions by other business partners. ICS apparently uses just such records of past transactions to determine if the values asserted in the transaction are acceptable. The Evaluation Team did not encounter any similar use of outside valuation services by Kyrgyzstan.

### **5. What do Customs Committees and private entrepreneurs see as the biggest constraints to development of SME-friendly customs regulations? Do their priorities match the program's? If not, what are the differences and what changes if any, should be made to the program to address the differences?**

Both the Customs officials and the entrepreneurs and business associations see the biggest constraint to SME-friendly customs regulations to be the standards, documents, and certificates of other government entities which Customs must enforce, and the lack of acceptance of these documents and standards by other countries. The priorities of the customs component of the TIP appears to be assisting with legal and technical expertise in writing laws and regulations, and helping to develop programs to speed Customs processing and procedural steps. These are both important, but success is limited to process improvement, which at best can only improve the process in small incremental steps, with diminishing returns.

If true Customs facilitation is to occur, the current situation of country specific standards, certificates, and documentation must be re-engineered to allow for seamless processing by Customs officials in both the exporting and importing countries, i.e., to accept testing, quality, and origin certificates according to international standards. This is why the MASQ project and other initiatives to come into compliance with the WTO Technical Barriers to Trade accord are so important. As long as separate tests, certificates and other country specific requirements are needed by each Customs Service in order for shipments to proceed, the process will be lengthy and expensive, particularly for SMEs. This harmonization of standards is critical to not only facilitate Customs processing, but to build a predictable and consistent business environment to attract investment and trade.

In addition, the Customs clearance documents themselves should be harmonized so the information required is standard throughout the region. The single integrated Customs transit document that was just accepted by the Heads of Customs of Kazakhstan, Kyrgyzstan, Russia, and Tajikistan, is an example of the type of cooperation between governments that can have a positive, immediate benefit in facilitating trade. This type of effort should be continued to include, for example, a common declaration form for the region. In addition, if these standards and certifying authorities were located within the Customs clearance area or terminal, it would also speed up the time needed to clear shipments.

**6. Are the component's anti-corruption efforts producing their maximum potential impact and, if not, what program modifications and/or resource allocations should be made to improve their effectiveness?**

Although TFI has apparently done some training in anti-corruption with Customs officials, including the drafting of a proposed table of offenses in Kazakhstan, the Evaluation Team found no evidence that these efforts had any real organizational impact, given the constraints of entrenched bureaucracy, lack of internal auditing, and the low salaries of the Customs inspectors. These are issues that cannot be readily solved by education and training, and are perhaps beyond the scope of TFI's core capabilities.

From interviews the greatest impact that TFI has had with respect to reducing the corruption of Customs officials has been their education of SMEs in the official requirements of Customs clearance. Several business and associations stated that this was the most important contribution to their ability to clear their goods - knowing what was required so they could comply without resorting to bribing officials. This education and information on Customs requirements should be continued. Those interviewed acknowledged that in this area, TFI plays a

unique role, in that it is the only international donor agency that is attempting to fill this information void to assist businesses.

**7. How effective is the training provided by TIP to the Customs departments? Can it be characterized as increasing their long-term capacity (is the personnel turnover rate low enough)?**

The type of training and the individuals trained within the Customs departments of both Kazakhstan and Kyrgyzstan has varied by location. In Kyrgyzstan, TFI has trained officials in the national office of Customs on Valuation, other WTO Customs related areas, and the principles of the RKC. In the interview with the Director of Customs in Osh, however, he knew of no training by TFI for his staff in these or any other areas.

The Evaluation Team did not have access to personnel turnover to be able to assess if the training provided has in fact, increased long-term capacity. However, in Kazakhstan, a core unit of 8 Customs employees from the Oblast level has been identified by Kazakh Customs as their new training unit. They have requested training and assistance from TFI, and are developing a "train the trainer" approach to institutionalize and sustain the TFI training. If successful, this may serve as a model for other countries in the region.

**8. What should the program do differently to ensure maximum impact on SME growth and trade facilitation? What, if any, modifications should be made to the component's objectives or performance indicators?**

TFI has been very successful in the customs area by providing legal and technical assistance in drafting laws and regulations, and in working with the Customs authorities to streamline their clearance procedures. These are both very important, and TFI should be congratulated on their continuing efforts in these areas. However, until the lack of international, or at least regional, harmonization of standards, tests, and documents is addressed, there can be little significant effect on reduction of the time and costs required to engage in international trade for SMEs in this region. This should be a prime objective for both the RIC/RTC component and the Customs component.

### **WTO Accession**

**1. In both countries, are the current program targets appropriate for achieving WTO related goals? What, if anything, can be done differently to further improve the process and the program's effectiveness in reaching its objectives?**

The WTO understands the special needs of developing countries, and its rules permit less developed and developing countries additional time to fully implement its provisions (schedules) after accession. This transition period for full implementation varies, depending on the schedule and the level of development of the country.

TFI should maintain WTO accession assistance to Kazakhstan, particularly in assisting Kazakhstan to coordinate WTO accession efforts throughout the government ministries and agencies. Now that Uzbekistan has requested TFI's assistance with WTO accession, TFI should allocate resources to assist in this effort as soon as possible. The first meeting of the WTO working party for Uzbekistan met in July, 2002, but there has been no substantive contact since then in replying to the WTO's questions. TFI should continue its support of Tajikistan's WTO accession efforts at the current level which has resulted in steady progress in responding to WTO questions and requests for documentation.

The TFI advisor who is on site in Dushanbe, Tajikistan estimates that Tajikistan will be able to accede to the WTO with 3-4 years. In May 2003, Tajikistan reformed its excise tax laws to conform with the WTO national treatment requirement, and continues to make progress over a wide spectrum of WTO related issues. There appears to be strong government support for accession, but the effort is hampered by a lack of qualified individuals within the government who are able to understand the WTO requirements and what specific statutes, regulations, or procedures need to be revised in order to comply. Although the timeframe seems to be a very ambitious, and perhaps unrealistic, Tajikistan is on target, with negotiations scheduled to begin at the end of this year or early next year. One factor which may cause this schedule to slip is that the staff of the WTO are occupied with preparations for the Cancun conference this fall. In May 2003, Tajikistan reformed its excise tax laws to conform with the WTO national treatment requirement, and continues to make progress over a wide spectrum of WTO related issues.

The situation in Uzbekistan is not so clear. Although Uzbekistan has applied to the WTO, and TFI has provided on site assistance in the past, Uzbekistan has taken no official action to advance the process within the past year. From what we have been able to determine, Uzbekistan is still at the very preliminary phases of the WTO accession process, with no time table at this point for negotiations, much less entry. There does not seem to be any urgency on the part of the government to proceed on the formal path for membership.

There does appear to be some movement toward WTO compliance, however, in the area of reduction of trade restraints, which would help Uzbekistan comply with the WTO Technical Barriers to Trade (TBT) schedule. In June, 2003, the TFI employee who is heading up the regional MASQ program, was contacted by the official Uzbekistan agency for standards, Uzstandards, and was asked to provide assistance to Uzbekistan to review and revise national standards in order to comply with the TBT. Although it is very early to tell, activities and contacts between Uzstandards and TFI within the past month show promise of true movement in this area, which would assist Uzbekistan in the accession process if and when the government resumes official dialogue with the WTO. The Evaluation Team recommends that TFI take advantage of this apparent willingness of a Uzbek government agency to reform its regulations with whatever assistance is needed, not only to advance the WTO accession process, but to meaningfully reduce trade restraints and to harmonize product standards within the region.

Although it is still very early in the process for both countries, the Evaluation Team recommends that TFI offer whatever assistance is required (or desired) to begin the task in both countries to review their current laws and to begin the process of drafting Customs codes that are WTO compliant. This does not need to wait until negotiations have begun, since many of the

necessary legal requirements to comply with the WTO schedules are clear. TFI legal staff, who previously worked with Kazakhstan and Kyrgyzstan on the revision of their respective Customs codes, could be very helpful.

## **2. Does the WTO component fit in properly with TIP's other components and, if not, what program modification or resource allocations should be made?**

The WTO component is inexorably linked with both the Customs and RIC/RTC components of TIP. The core of WTO schedules are those which directly involve Customs in appraising merchandise, determining harmonized classification, and assessing duties. In addition, through the WTO links with the World Customs Organization (WCO), additional protocols involving Customs and border commerce (such as the Kyoto Convention) have been adopted by most major trading nations in order to facilitate international trade.

These principles and protocols, e.g. the Revised Kyoto Convention, are based on such concepts as risk management, selectivity, and streamlined processes that cannot be achieved in an environment in which significant restraints to trade exist. True Customs modernization is dependent upon reduced documentation and redundant Customs clearance requirements, particularly standards for product content, quality, and safety. Until the excessive burden of standards is reduced, and those standards harmonized between the trading countries, only marginal progress will be achieved in customs procedural simplification.

The WTO component and the RIC/RTC component are also linked in that two of the core schedules which must be complied with in order to join the WTO, are the Technical Barriers to Trade (TBT) and the Sanitary-Phytosanitary Measures (SPS) agreements. Compliance with these agreements is completely consistent with the objectives of the RIC component. Resource allocations appear appropriate; however, should resources become available, we recommend they be allocated to the priority issues of cross-border trade and harmonization of standards.

## **3. In Kyrgyzstan, how effectively has the program addressed the challenges of the post-accession WTO environment and what programmatic changes or resource allocations should be made in order to increase the program's effectiveness in helping Kyrgyzstan become self-sufficient in handling its WTO-related technical needs? What lessons learned from the accession process can be used in other CAR countries?**

In Kyrgyzstan, TFI has done an excellent job in working with the government to coordinate WTO accession efforts and post-accession implementation. Five years after joining the WTO, most legislation to comply with WTO requirements has been passed and implementation begun, with the biggest exception being the revised Customs code. This code is currently in Parliament, with a vote expected in September of this year. After passage, Kyrgyzstan will undoubtedly ask for Pragma's assistance in training at the oblast and Customs clearance level. TIP staff are currently on site in the same building as Kyrgyz Customs, and will probably be required for some time.

After initial training and implementation, the challenge is sustaining the level of expertise. One effort now underway, according to Anarhan Rahmanova, Head of the Trade and

WTO Division under the Ministry of Foreign Trade and Industry, is to identify a key individual in each ministry in the government of Kyrgyzstan to be the WTO expert, responsible for training top and mid level government officials on implementation requirements. Customs training is also an issue. Unlike Kazakhstan, Kyrgyzstan has not trained local Customs officers on the new Customs code because it has not been passed by Parliament. And, unlike Kazakhstan, there does not appear to be any core training unit in place within Customs. An appropriate activity for TIP in the next year would be assisting the Kyrgyzstan government in establishing permanent training mechanisms within Customs and other key organizations on all the new legislation passed to comply with the WTO.

Kyrgyzstan joined the WTO after only three years. This was due in large part to the fact that they already had a fairly liberal trade regime in place, and were already acting under some of the protocols of the Eurasian Economic Community, many of which closely mirror GATT/WTO agreements, such as the Harmonized Tariff nomenclature. But what is clear from our interviews with all sectors, the government of Kyrgyzstan was committed to joining the WTO and worked from almost the very beginning to coordinate the effort throughout all ministries and agencies. An inter-agency commission was formed on WTO, with senior officials designated within each ministry to move the process forward. This commission was at the state level with access to the President and Parliament members. Kazakhstan has recently established a similar commission, but the Head of that commission has not yet been appointed. Any assistance that the TIP could provide to the other CAR countries in coordinating their WTO efforts within the various ministries and agencies of government would be extremely helpful. This could take the form of legal analysis and review of existing statutes or providing training to policy and operational officials in critical agencies.

## **General**

### **1. Overall, are the program's resources allocated properly among the components and, if not, what reallocations should be made in order to improve the program's impact?**

The Pragma Corporation has effectively trained and utilized Central Asia based personnel for technical positions, including leadership, throughout the TFI Activity. The expatriate personnel, both long-term and short-term are used for key positions and are effective in providing the necessary technical direction and vision to support the TFI Activity mission.

TFI is effectively implementing the three components and has established a network of national and local government officials, business associations, and individual entrepreneurs. Work on reduction of constraints, customs, and WTO accession is a day-to-day affair and programmatic adjustments are constantly being made. TFI personnel are sensitive to changing political and economic opportunities and respond accordingly. Meetings, conferences, and workshops at the national and local levels are developed and implemented in the spirit of continuing to advance the program to achieve the stated objectives.

The TFI Activity and the Enterprise Development Program share administrative personnel and administrative functions with each program site, for example, having a single TFI

bank account. Certain technical personnel such as those dedicated to WTO accession and MAS-Q work across the Central Asian Republics. The allocation of technical personnel is approximately as follows.

#### **Allocation of TFI Technical Personnel, Local and National Programming**

	<u>Local/Regional</u>	<u>National</u>	<u>Total</u>
Kazakhstan	15 (1 expat)	15 (6 expats) <sup>1</sup>	30
Kyrgyzstan	8 (1 expat)	12 (1 expat)	20
Uzbekistan	2	2	4
Tajikistan	3 (1 expat)	3	6
<b>Total</b>	<b>28 (3 expats)</b>	<b>32 (7 expats)</b>	<b>60</b>

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<sup>1</sup> Expat personnel operating out of Almaty also provide technical services in the other CAR countries.

The TFI personnel working in the Ferghana Valley total 11 technical personnel which includes two expatriates. This is 33% of the technical personnel working in the three countries that touch the Ferghana Valley. Approximately half of the technical personnel are engaged in local and regional TFI issues. Five technical personnel, three of which are expatriates, are engaged in the WTO and Customs components constituting 8% of the total technical personnel.

Given the avowed program shift to local and regional concerns, the allocation of personnel is appropriate. Should new openings for work in Uzbekistan occur, an assessment of the personnel distribution would be required. Success in Kazakhstan in engaging existing business associations in the removal and reduction of investment and trade constraints would allow some flexibility in Years Four and Five in the allocation of personnel.

#### **2. What modifications should be made to the program components' objectives, targets and/or indicators to increase the program's effectiveness in improving the legal and regulatory environment for SMEs?**

Each Central Asian Republic requires a distinct program strategy. Some of the lessons learned over the past two years in Kazakhstan and Kyrgyzstan can inform the emerging programs in Tajikistan and Uzbekistan. Modifications will be necessary and the strategy in each country will have different sets of priorities, objectives, and related activities.

#### **Enforcement**

The TFI Activity has been effective in improving the legal and regulatory environment for SMEs. The Evaluation Team recommends that enforcement be given a higher priority. This would require additional contact and liaison with the prosecutors' offices at the local, oblast, and national levels.

## **Hot Lines**

Hot lines are available at key customs sites in Kyrgyzstan for the use of persons with issues regarding customs procedures. These lines link to the Oblast level and the national level offices. According to customs officials, these lines are seldom used. The Kyrgyz Ministry of Justice also has hot lines that are similarly not well utilized. The availability of these hot lines could be publicized in TFI brochures and in seminars and workshops. Shifting the mindset of entrepreneurs, which several respondents characterized as a general reluctance to contact government authorities, will require a focused program of public information, conferences, and other training events.

## **Business Associations**

Business associations in Kazakhstan are relatively well developed. There are diverse associations with industry and general membership orientations. Associations of business women are in existence. The associations that were interviewed were basically self-sustaining and largely self-financing.

In contrast, there were few business associations in Kyrgyzstan and, in comparison with those of Kazakhstan, they were not very active nor influential. Business person respondents in Osh, Kyrgyzstan stated that they knew of no business associations and that such associations might be useful. Associations in Tajikistan do have influence in government, but institutionally they are very weak. In Uzbekistan, the TFI Activity is identifying associations with which to work.

The development of business associations is a shared responsibility of the TFI EDP and TFI Activities. In Tajikistan, Uzbekistan, and Kyrgyzstan more emphasis on business association development and the emergence of additional associations will provide greater outreach for the other TFI components and subcomponents. In Kazakhstan, the existence of several functioning business associations allows for a strategy of educating selected associations to undertake RIC and related functions now being performed by TFI personnel.

## **Individual Advocates**

The TFI Activity has been successful in finding champions in government at the local, oblast, and national levels. Influential and engaged business persons have also been included in TFI programming. In contrast, there have been only a few instances of engagement of Majlis (national parliament) and Kenesh (local and oblast level legislative bodies) elected members. One example is the transport/minibus issue in Bishkek. Two powerful members of the City Kenesh and the Minister of Justice were made aware of the illegality of an act affecting minibuses and they amended the act. Since the Kenesh are responsible for formulating local laws governing businesses, the engagement of Kenesh members in roundtables and workshops may generate additional voices in support of entrepreneurs and the reduction of trade and investment constraints.

## **TFI as a Catalyst for Change**

Many of the SMEs and business associations commented that they believed that the intervention by TFI on their behalf with local authorities and prosecutors was extremely valuable, because the local government authorities generally take action when requested by an international organization, but are not so responsive to individual SMEs. Indeed, it does appear that when the TFI activity has been focused on particular issues and agencies to remove some type of restraint, it has been very successful. Since it is not the nature of a bureaucracy to change quickly, this type of quick action by these authorities is puzzling. A possible theory is that the TFI acts as a catalyst for change within these agencies, allowing officials within those agencies who have supported reform to act against the constraints of the status quo (and perhaps even their superiors), using TFI as "political cover" to justify their actions. If this is the case, then this is a valuable activity and role of the TFI, and a hopeful sign, because it indicates that there is a real desire of local government authorities to assist emerging businesses, while at the same time, by laying the "blame" on TFI, to protect their careers and internal relationships within their agencies.

## **Corruption**

A source of corruption may be the need for self-financing of government agencies. The Expert of the Secretariat located in Osh stated that as of January, 2004, all agencies will be under the general budget of the state

An entrepreneurial class, educated with respect to registration and inspection procedures, is not sufficient to deal with illegal payment seeking officials. A concerted effort of refusal to pay bribes is needed to eliminate such practices. Associations with an active and engaged membership can assist in instituting attitudes of non-payment of bribes.

## **Customs**

The Evaluation Team recommends that customs, immigration/visas and other agencies controlling traffic and transit of goods be co-located in the same area near border points.

## ANNEX D

### REDUCTION OF INVESTMENT/TRADE COMSTRAINTS

#### Section 1: Introduction

##### *1.1 TIP Program Background*

The TIP program operates in four Central Asian republics: Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The program has two components: removal of investment constraints (RIC) and trade facilitation activities. The latter includes accession to WTO, reform of customs procedures, and promotion of cross border trade.

The program was launched in July 2001. RIC activities began in Kazakhstan and Kyrgyzstan in October of the same year with the opening of offices in Bishkek and Osh (Kyrgyzstan), and in Almaty, Atyrau, Uralsk, Pavlodar and Ust-Kamonogorsk (Kazakhstan). Recently, in April 2003, the program was authorized to start RIC operations in Tashkent, Fergana and Andijan (Uzbekistan), and in Dushanbe and Khojand (Tajikistan). The RIC component, therefore, addresses administrative barriers both at the national and oblast level.

As regards trade facilitation, the program is authorized to support WTO accession in Kazakhstan, Uzbekistan and Tajikistan. Of these three, government will is the strongest in Tajikistan. Kyrgyzstan is a WTO member since 1996, and the issue is how to support government to ensure compliance with laws and regulations. Customs support, on the other hand, is carried out in Kazakhstan, Tajikistan and Kyrgyzstan.

##### *1.2 Country Context*

A brief overview of each country is offered below:

###### *(a) Kazakhstan*

With a population of 15 million people, it is largest in size of the four countries, and also the richest. Its resource base is heavily dependent on oil and natural gas, but it has potential to develop agriculture, because of the availability of good land; chemicals and light industry. Most unfortunately, the availability of rich resources combines with virtually no demographic pressure to ensure that economic reforms proceed at snail pace. The substantial revenues that flow from the oil industry provides for sustained increases of consumption and propels the growth of the services sector. Proximity and traditional economic ties with Russia denies any urgency to enter into the WTO and therefore to eliminate non-tariff trade barriers that could clearly benefit Kyrgyzstan and Tajikistan.

The country features a dynamic SME sector. Evidence of this is the small loan business program launched by the EBRD. Launched in 1996, as of April 2003 the program had disbursed close to 50 thousand loans to SMEs, for an amount totaling \$288 million that helped to create 143

thousand jobs. Of these loans, 75% amounted to disbursements below \$5,000, chiefly concentrated in SMEs operating in the services and trade sectors of the economy.<sup>1</sup> Furthermore, there is evidence that, of the four countries, SMEs show the better and most efficient organization in chambers and associations, which opens the possibility to influence the process of policy making. Using this venue to accelerate the pace of removal of investment constraints and the introduction of trade facilitation measures must elicit the highest priority of TIP in this country.

*(b) Kyrgyzstan*

Small in size and with a third of the population of Kazakhstan, the country is still struggling to put its economy in solid footing after the catastrophic collapse of economic activity that followed the demise of the Soviet Union. A large scale privatization program and accession to WTO in 1996 are measures that point to this country as the one among the four which has most decisively embraced economic liberalization. The country features a strong agricultural base that contributes one third of economic output and has the potential to develop natural resources and tourism. It has also developed light industry, like textiles, which at the moment face stiff competition from Chinese products.

SMEs dot the economic landscape of this country. But, in the main, they are constrained by their inability to meet compete successfully in foreign markets. This happens both for domestic and external reasons. Among the former, SMEs face regulatory impediments that prevent them from introducing innovative technologies that will ultimately enable them to comply with international standards of production. They also do not count on reliable information on foreign markets. Externally, they face tariff and non-tariff barriers from Kazakhstan and Uzbekistan. Prevalent among the latter is the imposition of restrictions to the transit of goods towards the Russian market. With its economy still heavily dependent on Russian trade, the transit issue is probably the most pressing concern that TIP must address in this country.

*c) Tajikistan*

By far it is the poorest of the four countries. With a population of 6 million people, the country features an agricultural-based economy, but its mountainous geography and lack of adequate roads prevents a faster development of domestic markets. Most economic activity is concentrated in the Soghd oblast. This oblast contributes to more than half of GDP. Admirably, the country has managed to diversify the geographical destiny of its export base with a steady increase of sales of cotton and aluminum to European countries since independence. But it is still dependent on the Russian market for the sale of perishable goods. Not unlike the problems that Kyrgyzstan faces, cross border trade and transit of goods through Uzbekistan and Kazakhstan are major obstacles.

Economic recovery from the civil war that ravaged the main urban centers and the countryside in the mid 1990s is well on its way due to the adoption of more friendly market policies. But one unfortunate consequence has been the migration of so many talented professionals, most of them ethnic Russians. This represents a net loss of valuable human capital which could have played a

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<sup>1</sup> Source: Kazakhstan Small Business Program, European Bank for Reconstruction and Development.

prominent role in the reform of public administration. In this regard, the country is in desperate need of talented civil servants who can steer the economy towards a faster pace of economic reform. And with respect to business associations, while they seem to be very active and with better, albeit informal access to government than those of Kazakhstan, they need to upgrade their analytical capabilities in order to make more technically-grounded presentations to policy makers.

#### d) *Uzbekistan*

With 24 million people, Uzbekistan is the most populated of the four countries. Its population enjoys one of the highest living standards in Central Asia. The second largest exporter of cotton in the world, after Egypt, Uzbekistan features a strong agricultural sector, which contributes one third of GDP. It is also rich in gold, metals and, to a lesser extent, natural gas and oil, which are exported to neighboring countries. The country produces cars and airplanes, some of which are exported to developing countries.

Light industry, on the other hand, is believed not to be competitive in world markets. Furthermore, the share of industry on GDP has been steadily declining.

Uzbekistan lags behind the other countries with respect to the depth of economic reform. In essence, it still features the basic characteristics of a centrally planned economy. There is no currency convertibility, state monopolies still weigh heavily in the economy, exports are handicapped by complicated procedures, and imports are restricted by tariff and non-tariff barriers. Not surprisingly, the flow of foreign direct investment is one of the lowest of the region, and the ratio of tradable goods to GDP (exports plus imports) has declined from 68.7% in 1996 to 38.5% in 1999.<sup>2</sup>

Interestingly, and in open contradiction to the logic of the current control-driven economic policy, the government has proved adept at introducing measures that are friendly to the development of SMEs. The government seems to be aware of the importance of SMEs for the economy: the sector provides jobs to approximately 40% of the economically active population and contributes one third of GDP. It has therefore put into effect a one-stop business registration procedure that reduces the processing time to 12 days. But this measure is not enough. SMEs are smothered by high taxes and overregulation. According to World Bank sources, as much as 66% of them are compelled to pay bribes.

### ***1.3 Evaluation Approach and Activities***

The evaluation team consisted of three members, Mr. Leo Surla, Team Leader, Mrs Karen Hiatt, Trade Facilitation Specialist, and Mr. Jorge L. Daly, RIC specialist. Evaluation activities started on July 2, 2003. The team was fielded in Almaty on July 7 and departed on August 2, 2003.

The purpose of the evaluation was to assess the effectiveness of the program “in creating a legal and regulatory environment more conducive to the growth of SMEs.” At the request of the USAID Mission in Almaty, the evaluation focused less in grading past performance of the project, than in providing strategic recommendations upon which modifications in both activity

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<sup>2</sup> See “National Human Development Report, Uzbekistan 2000.” Center for Economic Research, Tashkent 2001.

design and resource allocation can be introduced to maximize its impact on SME development. For this reason, the approach of this evaluation is fundamentally forward looking.

The methodological approach consisted of interviews with the program's staff, representatives of business associations, and government officials (See List of Interviews). The four countries were visited by the members of the evaluation team. Field visits were conducted in the period July 14 – 26 2003 and included Almaty, Uralsk, Pavlodar and Astana in Kazakhstan; Bishkek and Osh in Kyrgyzstan; Dushanbe and Khojand in Tajikistan; and Tashkent and Fergana in Uzbekistan.

## Section 2: Removal of Investment Constraints

Trade and investment are engines of economic growth. Under ideal circumstances, the process of expanding the production and consumption of goods and services should be even, that is, bereft of entrenched patterns of economic and social exclusion that have left behind large masses of people in so many countries across the world. Growing numbers of the disenfranchised, especially if expressed in absolute terms, makes for governments the task of embracing more decisively policies that accelerates insertion into world markets infinitely more difficult. At the same time, the chances that economic growth cannot be sustained are impossible to ignore: policies of exclusion carry both tangible and intangible economic and social costs that governments must contend with, all of which may end up clouding the investment climate.<sup>3</sup>

For these reasons, it is imperative that SMEs, which in less developed countries across the world represent as much as 90% of all registered firms, dynamically partake of the process of economic growth. In countries outside the FSU, this lofty objective, at best, has been an elusive target, both in decades where economic *dirigisme* prevailed, or more recently when governments adopted the policies of market liberalization. In general, while most of the SMEs in these countries do play an important role by providing goods and services to the poor, by generating and mobilizing domestic savings,<sup>4</sup> and by providing a breeding ground for entrepreneurship, they show little ability to obtain sustained increases in total factor productivity and, consequently, to dynamically compete in domestic and foreign markets. They do generally show the flexibility to adapt to changing circumstances, but this is more out of the necessity to survive with basically unchanged production techniques in markets that are increasingly more competitive.

By way of comparison, SMEs in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan face different conditions. Having evolved from the economic policies of the former Soviet Union, it is not unsafe to state that they inherited an economic landscape where economic inequality was not as pervasive as that found in Africa and Latin America. Therefore, in this regard, the economic playing field for them is more even. The importance of this characteristic should not be

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<sup>3</sup> Labor unrest is a tangible cost for firms and for the economy at large. So is the increased cost in security procedures that firms must carry in view of increasing delinquency and political violence. Intangible costs include the shelving of investment plans and the measures that government pass to confront social unrest, some of which may be perceived as not conducive to a better investment climate.

<sup>4</sup> Probably because they perceive that the fate of their businesses activities are so closely tied to the welfare of their own families, small entrepreneurs usually consider that borrowing may be too risky. If given the choice, they would prefer to finance operations from savings. This pattern of behavior, naturally, is influenced by cultural factors. For example, it is more accentuated in the Middle East than in Latin America.

understated at all. Not only does it point to the social legitimacy of equality (and therefore, probably less tolerance for policies that widen the socio-economic divide); it also suggests the existence of easier access to policy making and, consequently, of enhanced chances for the adoption of friendly policies that are conducive for the development of SMEs.

Conversely, these four FSU countries must contend with the heavy legacy of a centralized bureaucracy that was far more smothering than that found in other regions. The consequences of this condition go far beyond the blunting of the emergence and rapid development of an entrepreneurial class. What must also be factored in are intangible, yet very important costs expressed, for example, in pervasive distrust in government officials, in the resistance of policy makers to relinquish unnecessary control and supervision of business activity, in their lack of knowledge of the nuances of a market economy. The existence of all these factors suggests that the consolidation of market reforms will take longer than anticipated.

With the exception of Uzbekistan, the Central Asian countries have since independence taken very important steps to liberalize their economies. And the results are for all to see: the private sector contribution to GDP now reaches 60% in Kazakhstan and Kyrgyzstan and 75% in Tajikistan. It should be pointed out, however, that these measures – monetary and fiscal reform, convertibility of the domestic currency, a liberalized trade and foreign investment regimes, privatization of state owned enterprises, and so on -- valuable as they are, represent, at best, a necessary condition for a successful transition to a market economy. Put simply, “getting prices right” and opening the economy to foreign and domestic competition do open the possibility for economic growth. But these measures, by themselves, are not likely to unleash the entrepreneurial energies that will ultimately make it happen. For this to materialize, it is imperative that these countries *embrace decisively institutional reform*, that is, take measures aimed at improving the performance of all those economic, social and political institutions that underpin the functioning of a market economy. This includes, at the very least, ensuring the stability of the value of the currency; establishing a predictable tax regime and a reliable judiciary with clear and speedy resolution mechanisms of legal disputes; a demonstrated capacity to enforce private contracts; the enactment of regulation that is absolutely necessary and so on. In sum, all this means the enactment of clear and predictable “rules of the game” for investors and consumers alike and which cannot be changed at will by whimsical policy makers.

A successful institutional reform leads to the facilitation of doing business that is, to the reduction of the so-called transaction costs. The evaluation team formulates the proposition that the effectiveness of the program, in the end, will be determined by how important a role it has played in *reducing these transactions costs*. Unfortunately, the transactions costs are still very high in the four countries. A recent roundtable discussion on administrative barriers organized by the Center for International Private Enterprise identifies 24 barriers that hinder the development of businesses.<sup>5</sup> Our findings lead to the conclusion that in all four countries, but quite especially in Uzbekistan and Tajikistan, full compliance of existing government regulation entails incurring in so many and unnecessary administrative costs which precludes generating a reasonable rate of profit. Not surprisingly, so many businesses choose to resort to bribing civil servants.

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<sup>5</sup> See “Administrative Barriers to Entrepreneurship in Central Asia. Preliminary Draft of the Executive Summary.” Center for International Private Enterprise (CIPE). December 2002.

While in the four countries transactions costs are still high for big and small enterprises alike, the negative effects for the latter, because of their smaller initial resource base, are definitively more pervasive. Some examples follow:<sup>6</sup>

- Most SMEs have limited knowledge of domestic markets and virtually no knowledge of international markets. Typically, the costs of acquiring market information are very high which means that, all along the marketing chain, agents are unable to sell to the highest bidder. As the countries strive to insert themselves into global markets, the lack of broadly based access to market information will become a more serious problem.
- Economic infrastructure, especially roads, is poorly developed, which increase unit marketing costs. The consequence is a more restricted market entry for producers and marketing agents.
- Large enterprises have the resources to pay the “fees” required to expedite the processing of imported inputs from customs. SMEs may find these informal costs prohibitively high, with the consequence of being penalized by unnecessary delays in the release of their merchandise.
- In countries which impose unnecessary administrative barriers to trade, well endowed traders would engage in smuggling to capitalize on these artificially created profitable opportunities. These are normally denied to SMEs which cannot rapidly exploit them.
- Last but not least, the process of business registration and licensing, while burdensome for big and small enterprise alike, is more onerous for the latter, for the valuable time that must be employed in following these rules and the legal costs that usually must be carried.

The danger of procrastinating on an effective institutional reform that can provide speedy enforcement mechanisms on clear, simple, stable “rules of the game” for big and small enterprises alike, irrespective if they are they are domestic or foreign-owned, should be clear to all. When these conditions are not present, in other words, when transactions costs are abnormally high, businesses scramble to obtain privileges and special favors from policy makers in order to compensate the unnecessarily high costs of doing business. In this context, business activity, rather than developing dynamically for the benefit of all, concentrates in securing economic rents, that is, in obtaining revenues that are not engendered by productive activity. Enterprises which enjoy privileged access to policy makers thrive in this rent-seeking atmosphere. The SMEs, on the other hand, are at a disadvantage in this game. In a context when access to obtain favors from policy makers largely determines the fate of the firms, and when this access may carry a hefty price, they may be doomed to lethargic growth or, in extreme circumstances, to joining the ranks of the unregistered firms that clog the underground economies.<sup>7</sup>

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<sup>6</sup> For a more in-depth discussion, see “Making Markets Work for the Rural Poor. An Agenda to Advance Broadly Based, Sustainable Rural Economic Growth in Latin America and the Caribbean.” Some of the examples extracted from this document are adapted to the conditions of the Central Asian countries.

<sup>7</sup> This reality, admittedly, may be less prevalent at the moment in Central Asia than in Africa, Asia and Latin American. Yet, according to The World Bank, the share of the informal economy on GDP in Kazakhstan, Kyrgyzstan and Uzbekistan has been growing by leaps and bounds. In Kazakhstan this share is 43.2% and in Kyrgyzstan and Uzbekistan the share reaches 40% and 34% respectively. Therefore, it is not unreasonable to envisage in the near future the economic problems associated with the explosion of “informality” that plague African and Latin American countries. We can cite two: the first is more restrictive market entry, as SMEs shun

SMEs, of course, have the very attractive option of organizing themselves in business associations. Groups, more than individual effort, enhance the chances to engage as active participants in a market economy. But this requires sophisticated organizational development that goes beyond the provision of typical organizational inputs – office space, equipment, personnel training, budget, etc. Of more importance are other inputs that may be in short supply, such as the presence of a leadership capable of articulating the needs of the clientele, a client base that is actively engaged and demands the fulfillment of the stated mission from the leadership, a capacity to engage policy makers through highly professionalized representations and well-researched papers, and, above all, the capacity to sustain the organization financially over time.

### ***2.1 The Program***

RIC has concentrated in Kazakhstan and Kyrgyzstan. At the moment of this writing, programs in Uzbekistan and Tajikistan have been recently launched. It is therefore impossible to evaluate these activities, but an effort will be made to offer recommendations on the future direction of the program in these two countries.

Broadly speaking, the RIC component focuses in the following objectives:

- The elimination of all legal, regulatory and administrative barriers that smother investment and trade on part of any firm, but especially SMEs. Such barriers include the process of approving business registration, granting of licenses and permits, and those related to the mandatory certification, accreditation, examination and approval of goods and services.
- The enactment and drafting, at the national level, of transparent laws and regulations that encourage investment and growth of SMEs.
- In selected oblasts of each nation, the dissemination, adoption and implementation of such laws and regulations.
- Ensuring that technical regulations (standards) comply with internationally accepted standards and that their enforcement not be duplicated by different government agencies.
- An increased dialogue and information sharing between national and oblast governments with the private sector.

Meeting these objectives is a daunting, tough challenge. Take, for example, the issue of technical regulations (government standards). This issue lies at the core of the centrally planned economy, which measures its performance by its ability to *control* economic activity. All indicators point in each country to the existence of thousands of technical regulations which is anathema for the fast expansion of business, and whose enforcement is the domain of several government agencies operating with little coordination among them.<sup>8</sup> It is believed that thousands of civil servants are in one way or another involved with the administration of the technical regulations. Therefore,

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legal registration of assets and therefore find it more difficult to obtain financial services from regulated financial intermediaries. The second problem is the inability of the central authorities to widen the tax base.

<sup>8</sup> Only in Kyrgyzstan, one of the smallest economies of the group, there were no less than 40 thousand mandatory government standards corresponding to 70% of the universe of commodities of the country.

enacting institutional changes in this field based upon the principle of “one norm – one verification – one authorized evaluation agency” and of instilling the advantages of voluntary standards among policy makers is likely to proceed slowly. Resistance to change should be expected from civil servants afraid of losing some of their functions. Moreover, the process is costly, as it requires intensive technical assistance from highly skilled experts, and the acquisition of laboratory equipments.

Business registration procedures and approval of licenses and permits also constitute the nightmare of the most dedicated and devoted reformer. To start, in some countries it is not clear what constitutes a license as opposed to a permit. Sometimes, licenses and permits are introduced in open contradiction of current law. More important, anecdotal evidence suggests that it is not uncommon that these procedures in Kazakhstan and Kyrgyzstan are riddled by inefficiency and outright corruption. This is not just limited to the procedures that SMEs must comply according to law. Unfortunately, SMEs must also contend with numerous, illegal inspections of their premises arbitrarily initiated by civil servants empowered by an ill-defined concept of authority. In addition, in both Kazakhstan and Kyrgyzstan the tax code imposes heavy levies on SMEs and is complicated enough to make its understanding difficult. It is common for SMEs to have an employee devoted only to tax matters, who otherwise would not be needed.

As noted above, the RIC component has recently started in Tajikistan and Uzbekistan. We will highlight some trends that are now visible in these countries. With respect to Kazakhstan and Kyrgyzstan two very different approaches were followed. In the former it focused at the beginning to removing constraints at the national level, but quickly shifted gears to concentrate efforts at the oblast level where the most important results have been achieved. In Kyrgyzstan, on the other hand, the most impressive achievements are to be found at the national level. Below, we describe the effectiveness of these different approaches.

## ***2.2 Effectiveness and Constraints***

### *a) Kazakhstan*

At the national level the accomplishments of the program are very limited. The most important are the following:

- By Decree 1313, government authorities are committed to simplifying and expediting approval procedures for land acquisition and construction projects.
- In June 2003 a franchising law was passed, which opens the possibility of investments in this typical services activity.
- An amendment to the tax code that eliminates double application of the value added tax on leasing was passed

Better results at the national level will come about only with a stronger program presence in Astana, which will make possible sustained interface with key government officials.

At the oblast level, the strategy of TIP has been to enlist the support of business associations to engineer reforms. Below we highlight some successful initiatives executed in Almaty:

- The Association of Tourism, which is supported by the program, has successfully lobbied authorities to reform the regulatory framework. For example (i) the cost of licensing was lowered from \$415 to \$57, a change that should spur the entry of more small firms in the market; (ii) visa procedures for foreigners have been simplified. It now takes 1 to 2 days to obtain a visa, with fees that have been lowered from \$100 to \$20.<sup>9</sup> In addition, hotels have been authorized to process entry registration procedures. In all, it must be pointed out that the association is very dynamic and effective. It was instrumental for the passing of a new law in tourism and at present is engaged in representations to have the government increase budget allocations to finance infrastructure projects that should help facilitate more business activity in this economic sector.
- In January 2003 government authorities decreed a ten-month moratorium on inspections, many of which were illegal. The impact for SMEs should be positive, as this measure frees up valuable time and financial resources. Still, it is difficult to assess how effective, *in practice*, this important measure is, for the team collected anecdotal information which is clearly contradictory: some point to continuing large number of inspections, while others suggest that these are decreasing due to the fact that numerous inspectors have been fired.
- Effective institutional support provided to the Association of Pharmaceuticals has ensured that licensing can be issued in Almaty and not in Astana. This measure saves valuable resources to SMEs which no longer must make the trip to the capital to process their applications.

*b) Kyrgyzstan*

The achievements of TIP at the oblast level are significant and of important, positive impact for SMEs. To highlight some examples, in Bishkek the Ministry of Justice ordered in August 2002 the registration of legal entities in three days, as opposed to the ten days that normally took the registration offices to process the applications. SMEs can also save costs in time and money with the adoption by Bishkek's City Hall of a TIP proposal to greatly simplify the procedures for granting sanitary permits. In Osh the process of business registration has been made more transparent with informational brochures drafted and distributed to small entrepreneurs through the Ministry of Justice. In this same oblast, duplicate certifications of vegetables have been eliminated. Still, as important as they are, much has yet to be accomplished to remove constraints in this oblast. According to a recent study undertaken in oblasts of the Fergana Valley, of the 91 business establishments in Osh that were surveyed, 43% indicated that it was difficult to have their business registered, and 72% reported that it was very difficult to obtain licenses.<sup>10</sup> In addition, 46% of respondents complained that the number of business inspections was actually increasing.

On the other hand, the accomplishments at the national level are no less than spectacular. To wit:

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<sup>9</sup> As this Report makes clear in several sections, the challenge of institutional reform lies less in the drafting of a law than in the procedures that must be adopted to ensure actual implementation. To cite an example: two members of the evaluation team were charged \$465 to obtain a visa which was approved in seven days.

<sup>10</sup> See "Data Collection and Analysis, Business Environment Perceptions in the Ferghana Valley," prepared by Jonathan Gandomi, Summer 2003.

- A moratorium on the introduction of new administrative barriers was adopted and extended until April 2004.
- The executive director of Kyrgyzstandard has signed off on a draft law to reform the entire system of technical regulations. Due to effective, persuasive cajoling, this agency has reduced the number of standards to half of what existed in the past decade, that is, 20 thousand, and corresponding to 20% of the universe of commodities.
- The government approved 44 amendments to the law on licensing, removing illegal licenses and inconsistent requirements.
- The government in late 2002 approved resolutions removing more than 200 permits granted by five government agencies.
- The TIP staff developed a permit register and drafted amendments to normative acts, seeking the elimination of 324 illegal permits in 28 government agencies.
- TIP staff is assisting in the introduction of a regulatory impact analysis (RIA) methodology that will steer policy making towards minimal state regulation of investment and trade, and towards the elimination of duplicate regulation of business activities.

An overriding factor explains this success: the TIP staff enjoys exceptionally direct access to the office of the Deputy Prime Minister. Put simply, TIP has identified within the highest spheres of government a “champion” of reform. But this access, taken in isolation, does not make the difference. What really matters is how TIP has used this window of opportunity to its advantage and constructively cultivated relationships that seek to depersonalize, that is, to *institutionalize* the process of reform, a strategy that is already yielding handsome dividends.

We refer, first of all, to the support that TIP lends to the Secretariat. This is the working body of a consultative council set up two years ago with the objective of identifying and removing all investment constraints. The members of the consultative council include the president of the republic and the prime minister. This fact provides the Kyrgyz government with the necessary “ownership” of the reforms. The membership also includes three foreign investors, multilateral banks and USAID. This is of critical importance. Not unlike the situation of many less developed countries struggling for reform, change can be made possible with the active engagement of donors and foreign governments. This is of particular importance in the Kyrgyz setting, where the reform credentials of the Prime Minister and other high-ranking civil servants are suspect.

The secretariat has turned itself into an effective force for reform. It takes credit for a significant jump in the flow of foreign direct investment – 28% in 2002 and 12% in the first quarter of 2003 – and for the positive expectations engendered by an improved business climate.<sup>11</sup> It has also been instrumental in the liberalization of the visa regime, which now excludes nationals of 28 countries from requesting letters of invitation to enter the country and for the enactment of more than 50 laws on varied topics, such as trade, leasing, collateral, dispute resolutions, etc.

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<sup>11</sup> In a recent survey, 66% of all exporting companies revealed plans to expand exports. This they largely attribute to the fact that reforms have started to “kick in.”

As noted above, TIP also supports the overhaul of the system of technical regulations. In doing so, it is actively engaged with the Ministry of Justice and the State Body on Standardization and Metrology (Kyrgyzstandard). As impressive as the achievements to date are, the most difficult challenges lie ahead. While Kyrgyzstandard is enthusiastically on board, visualizing a horizon of no longer than five years for the establishment of a system whereby all standards will be voluntary, it behooves us to throw a word of caution: the draft law has yet to be signed by the president, and even if it is signed soon, which would contradict current expectations, final approval by the Parliament is likely to pass in the distant future. The task, if anything, is of monumental nature, and it will require the active engagement of the Secretariat to make this possible. First of all, it must be stressed that Kyrgyzstandard has a lower rank than the ministries with “vested interests” in technical regulations – Health, Agriculture, Trade, Construction, etc. In effect, there are many parties concerned and it will be practically impossible to enact this reform if the deliberating tasks are not properly coordinated. In the main, and according to Nurlan Alymbaev, the Deputy Minister of Justice, the ministers, high level appointees and managers of the concerned government agencies are aware of the need of reform and are consequently supportive of it. But middle level officials subscribe to a different agenda. They are likely to fight off reforms on technical regulations tenaciously, for their enactment may directly affect their interests.

Mr Bartybek Davlesov, the Director of Kyrgyzstandards, claims that he enjoys the support of the private sector to pass the new law on technical regulations. But the significance of this claim may be for all practical purposes moot. Not only in Kyrgyzstan is influence of the business associations relatively weak. It must be underlined that, due to the ability of a dynamic deputy prime minister to enlist the support of engaged donors, the reform has been largely government-driven. This fact poses a risk that is particularly acute in a setting with an undeveloped civil service and where reforms, to a large extent, depend on the sheer personal force and energy of their champions and advocates. For, if these people choose to leave or are sacked, the bureaucratic power of all those middle level civil servants with entrenched interests in the status quo is correspondingly enhanced.

It must be also pointed out that even if the opposition is tamed and the law consequently passed, its implementation will be a major undertaking. Two major constraints must be solved. The first is the organizational reform of Kyrgyzstandard. The task requires converting it into a more nimble, lean structure staffed preferably by young professionals alien to the practices of the old regime, and equipped with adequate laboratories to undertake efficient testing. The second is precisely the lack in the country of an adequate educational infrastructure to provide training on development of and expertise in internationally accepted technical regulations.

TIP also provides technical assistance to the State Commission on Business Development. This agency has five objectives. First, it drafts laws to create a more enabling environment for the development of the SMESs. Second, it proposes reforms of the system of permits, which also has a positive impact on SMEs. The support of TIP is concentrated in these two objectives. Third, it enlists international experts to provide training to SMEs. Fourth, it disseminates information on regulatory issues that affect SMEs in ten regional offices across the country. And fifth, it runs a program that financially supports SMEs.

This agency claims substantial progress in all these fronts, is appreciative of the technical support that TIP provides for the two first objectives, but is particularly enthusiastic about the scope and performance of the state fund for small and medium enterprises. The sources of the fund are revenues generated by the sale of state assets and credits and grants contributed by donors and multilateral banks. The clientele amounts to approximately 2,000 thousand SMEs that are offered loans that cannot exceed \$12,500 in Bishkek and \$2,500 in the oblasts, at below market interest rates and with repayment periods that vary between one and two years. At the moment of this writing, arrears amount to 8% of the portfolio. Ms. Anarhan Rahmonova, chairwoman of the agency, believes that the existence of the state fund is thoroughly justified by the reluctance of commercial banks to operate in the poorer oblasts. However, this view is misguided. The state fund, in fact, by way of granting loans at below market rates, may in fact be elbowing out privately-owned commercial operators with a potential interest in penetrating the SME market. In addition, one has to also question the validity of her claim when taking into account lending programs of multilateral banks, such as the EBRD in Kazakhstan, to actively become engaged in the sector. Lastly, the capacity of a state development agency to successfully manage a loan program must be cast into doubt. As experiences across the world demonstrate, it is very difficult for a state bank, let alone a state development agency, to successfully manage a loan program in the SME sector. Usually they fail and end up introducing more distortions in the financial market.

### *c) Tajikistan*

Notwithstanding its few months of operation, the program is already demonstrating palpable accomplishments in large part due to the effectiveness of the Dushanbe office. One of the most important is the business registration procedures. Given the fact that for the last years registration has been decreasing, with many SMEs preferring to obtain just a patent or go underground, this accomplishment is timely. It used to take one to two months to have the registration process completed, a procedure that was handled by several government agencies, costly, and riddled with the with the payment of bribes. But due to a new law that has recently been adopted, the time of registration has been reduced to ten days. The cost now is \$150 and the documentation that must be submitted is far simple. Furthermore, the process has been centralized under the Ministry of Justice, which handles the process in the capital and in its regional agencies.<sup>12</sup>

An important reform has been also been effected in licensing. When a draft law was presented to Parliament, the project sponsored a roundtable discussion that convened government officials and private sector representatives. It was revealed that the proposed draft contained several features that were identical to the Russian law, the ones which are inimical to speedy and cost-efficient licensing procedures. As a consequence of this, the approval of the law has been

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<sup>12</sup> Yet, it is too early to claim victory. Mrs. Tojiniso Azizova, Deputy Minister of Justice, expressed concern that the Ministries of Economy and Trade and Finance, as well as the National Bank, may succeed in reverting the processing of business registration to their respective agencies. In her opinion, this administration was the source of the inefficiency and the corruption that accompanied the process. She wants to enlist the project to help uphold the new law. In addition to this, the law has yet to be effectively implemented in the oblasts. In the Khojand oblast for example, as of this writing, it takes as much as 38 days to register, and with a cost that can reach as much as \$854 for SMEs.

delayed. In its stead, and with the sponsorship of the program, a working group which includes business associations and government officials has been set up to propose modifications to the law. Their activities will include an observational trip to Bishkek to draw lessons from the Kyrgyz experience.

As important as these accomplishments are, it is pertinent to point out that the challenges that the project faces in this country are no less than formidable. SMEs face regulatory barriers that ought to be removed decisively. First, the tax code is not favorable to them. It is complicated and difficult to understand. In addition, the tax rate is high. Second, SMEs are subjected to many inspections and from several government agencies. It is not uncommon that the frequency of these inspections exceed twice a week. This is a constraint that deprives owners and managers from valuable time and, commonly, from financial resources that are spent in bribes. Third, customs procedures are complicated and inefficient. Fourth, and not unlike the situation in Kazakhstan and to a lesser extent Kyrgyzstan, government standards are a nightmare. The problem in Tajikistan is not just limited to the fact that the standards do not match those that prevail in international markets, nor that the government lacks equipment to test the so many goods that are subject to certification. The problem, in fact is deeper. On one hand, the civil servants seem to be totally unaware of the government laws and regulations on standards. On the other hand, and of far more serious concern, they refuse to make public the price list of the certificates that are required. Under these circumstances, owners of SMEs that want to open establishments face undue uncertainty on the costs of regulation.

It is also important to point out the adverse impact that quasi monopolies in oil, gas and electricity have on business activity. This constraint was identified during our visit to Khojand. Licensing quasi monopolies bars new entrants into the market. Given the high capital expenditures that are required to operate in these sectors, this impediment probably does not apply to SMEs. Still, these firms are clearly handicapped by the artificially high prices they must pay for these inputs.

The visit to Tajikistan served also to verify the potential trade opportunities that exist with Afghanistan. To begin with, as much as 30% of the population of this country is of Tajik origin, mainly concentrated in the border areas. Conceivably, Tajik businesses could export light industrial goods and provide construction services to Afghanistan. However, the Tajik government charges Afghans \$500 for a visa. The elimination of this constraint will definitively help to forge closer trade ties between the two countries.

### *c) Uzbekistan*

Positive changes that could conceivably be indirectly tied to TIP activity have occurred recently. The most important, by far, was the Cabinet decision of last July 18 to remove administrative barriers on SMEs. These include, for example, the commitment to eliminate the allocation of fixed raw material quotas to state owned firms. What this means is that raw materials can be now sold freely in the market to any firm, and presumably at lower prices. Another example is the elimination of unnecessary reporting of statistical data. Last but not least, the government is renewing its commitment to privatize state-owned farms.

Yet, progress, in general, is overshadowed by the economic and administrative barriers that SMEs face. Among the former, restrictions on trade and lack of currency convertibility constitute the single most formidable obstacle to SMEs, let alone to foreign direct investment. A perceived increase in the smuggling of goods from neighboring countries suggests that the exchange rate may be overvalued, thus rendering Uzbek goods less competitive. In addition, Uzbek SMEs seem increasingly willing to open operations in oblasts of Kazakhstan and Kyrgyzstan that are close to the border in order to take advantage of the liberal banking networks that exist in these countries. It is thus imperative that the government enact currency convertibility.<sup>13</sup>

Another very important obstacle is the presence of state quasi monopolies on wholesale trade of a wide range of domestically produced consumer goods. What this in effect means is that SMEs have no freedom of choice, that is, they critically depend on these state monopolies for the purchasing of so many goods but at an artificially-created high price. The situation in the countryside is not better, as farmers are also gripped by state monopolies for the purchase of seeds, fertilizers and other inputs of doubtful quality which fetch higher than world market prices. Last but not least, tariff policy is indistinctively used as a tool to increase fiscal revenues and to protect the reserves of foreign exchange. Recently, for example, the government imposed a 70% tariff on so called “shuttle trade” in order to discourage imports of consumer goods from Singapore and China.

### **2.3 Country Strategies**

Program strategies, as formulated by each country director, are detailed below.

#### *a) Kazakhstan*

The strategy of TIP in this country Kazakhstan is twofold. First, it will focus on building stronger relationships between the business associations and government officials. To this end, TIP has launched an educational initiative that brings together private and public officials to learn techniques that will help to identify and remove constraints to investment and trade. Short, practical courses are designed and delivered by skilled TIP staff who have been adequately trained to carry out this task. These include e-governance, project management, monitoring and evaluation of policy reforms, legal and economic analyses, and governance of private firms. The courses draw from lessons of both international and local case studies and emphasize on how those lessons can be applied in the local setting. Positive results are expected from this initiative, as private and public officials learn to interact in a cooperative environment.

The second aspect to the strategy relates to selecting carefully what technical assistance interventions will be carried out in the oblasts. The present type of intervention is based upon a permanent presence of TIP in the oblasts. This requires costly investments in office space, equipment and salaries of expatriate and local staff. But given the undertakings aimed at upgrading the capabilities of business associations to identify constraints and apply techniques to remove them, this may be no longer necessary. A cost-saving, more efficient type of intervention

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<sup>13</sup> The question is if the government has the political will to do it. In the past, the government has given signals that never materialized. At present, an agreement with the International Monetary Fund is contingent on implementing convertibility.

may be feasible at this stage, with efforts limited to providing direct or indirect technical assistance to associations keenly interested in lobbying oblasts to adopt more conducive policies. Furthermore, such assistance can be provided by TIP local staff, who have already proved themselves as technically and politically adept at carrying out difficult and complicated initiatives.

*b) Kyrgyzstan*

The focus of the strategy in this country is to strengthen business associations to address specific issues such as cross-border trade. The problem, however, is that, with very few exceptions, they are still weak. Their financial, let alone institutional viability are questionable. The danger is that they may be used as vehicles to propel the personal agenda of single individuals or small groups with narrow agendas.

On the other hand, under no circumstances should the Program let up in their activities to foster deeper reform at the national level. A substantial investment has already been made with Kyrgyzstandard and this should not be wasted. The one and only option is to be perseverant. Furthermore, in this regard and as in the other components of the project, the country has clearly become the model for others to follow.

*c) Tajikistan*

If there is one country which can successfully replicate the Kyrgyz experience with the Secretariat is Tajikistan. First, there are key government officials who seem to be committed to reform. Second, the project is headed by an able individual who enjoys wide prestige within government circles and the private sector. Third, foreign investment activity has been picking up significantly, as evidenced by the establishment of joint ventures in textiles, water, telecommunications and shoes that have been set up between local entrepreneurs and Italian and Vietnamese firms. Fourth, the small size of the country presents real advantages, as the project could focus at the national level with more ease. Given all these factors, and provided there is more active involvement of foreign donors, the chances of replication of this model will be enhanced.

Still, even if a secretariat is established, the task ahead will be hard. For one, the technical capabilities of the government's civil servants are far more limited than those of Kyrgyzstan. The program has chosen to address the problem of government standards as a priority to ensure that they comply with WTO standards. This will take time to materialize. In this respect, advancing accession will not be given the priority that existed before the launching of the RIC program. In our opinion, this decision makes sense. The second area of intervention must be with the business associations. The team had the opportunity to meet with the chairmen of three associations.<sup>14</sup> As dynamic as they are, they need targeted technical assistance to enhance their institutional capabilities. In addition, the jury is still out as regards their prospects for achieving financial sustainability.

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<sup>14</sup> These were Mr. Davlatmurod Jumaev of the Association on Support and Development of Business; Mr. Farukh Dodabaev, of the Association on Development of Small and Medium Businesses; and Makhmadali Shorikov, of the Association of International Carriers.

#### *d) Uzbekistan*

Given the fact that the political will of the government is at best suspect, the project aims to target the removal of constraints that can have visible impact on SMEs and in a short time. Because of the key role the country plays in cross border trade, special attention will be given to develop the Ferghana Valley initiative. This has been given the highest priority, as the region is overpopulated and socially, economically and politically unstable. Complementing this effort, the Program will focus on reducing constraints to transit of Kyrgyz and Tajik goods. If progress in this area is made, the impact it will have for regional trade will be of considerable importance.

This approach, in our opinion, makes sense. The government, since 1996, has given signals that it is interested in acceding to WTO, but it has not followed through in its promises to introduce sweeping market reforms. For the time being, little effort, consequently, should be directed to this component.

## **Section 5. Conclusions and Recommendations**

### ***5.1 On the Accomplishments at the Local Level***

At the local level, the accomplishments of the RIC component are impressive in Kazakhstan. The strategy of phasing out the offices in the oblasts and redirecting the resources it towards strengthening the institutional capabilities of business associations is reasonable. Counting on the presence of able and experienced cadres of local professionals who feel at home with the nuances of policy representations and who can transfer their techniques to the business associations lessens the risks of this new approach. The risk is also mitigated by the very fact that the educational training courses that have been launched by the program already exposing the representatives of the business associations to these techniques. Still, in the end, the success of the strategy will ultimately rests on how rapidly the business associations take ownership of the process and adopt the necessary measures to ensure their long-run institutional sustainability.

In Kyrgyzstan, Tajikistan and Uzbekistan, the success of the program must be measured against its effectiveness in eliminating constraints to cross border trade. For this, a regional approach, such as the Ferghana Valley initiative must be pursued. It is imperative that the program spare no efforts in supporting this initiative.

In Tajikistan, the program in Khojand is off to a slow start and, consequently, has little results to show. At the moment, it is identifying the main constraints that smother SME activity. The program will place and finance the salaries of local RIC experts in the Association of Entrepreneurs of the Soghd oblast. This, in our opinion, is an excellent idea. If the program is consistently proactive, it should yield excellent results. One option that must be contemplated is to enlist the support of foreign investors who operate in the area. As it happened in Kyrgyzstan, this should help persuade the oblast government to accelerate the elimination of constraints.

### ***5.2 On the Impact on Investment and Jobs***

It is very difficult to point to evidence that unambiguously shows increased investment and corresponding job growth as a result of the reduction and removal of investment constraints. First of all, *increased flows of investment and job creation can take place even under the presence of administrative barriers*. The classical setting is that of entrepreneurs who engage in rent-seeking behavior and of governments who actively encourage it and reward access handsomely. Of the four countries, Uzbekistan, and Kazakhstan to a much lesser extent, shows the typical traits of this pattern, but Kyrgyzstan and Tajikistan still feature remnants of inefficient state intervention in the economy. Under this setting, the opportunities for making profitable operations are real enough to compensate the high transactions costs. The cost, naturally, is a distorted pattern of growth that usually leaves out the SMEs.

On the other hand, even when administrative barriers are successfully reduced or eliminated, there is no guarantee that increased flows of investment will follow. This happens due to a variety of reasons. First, and as has been repeatedly stated in this report, passing the law may not be as difficult as implementing it. Put simply, the “devil lies in the details.” It is not uncommon to find in the countries of Central Asia, let alone in any other developing country inclined to adopt more market-oriented economic policies, powerful reformers who occupy high positions in the echelons of the civil service. But their ability to enforce the new laws is seriously constrained by middle and lower level bureaucrats who sap the reforms on fear that their positions will be stripped of all legitimacy. And even when these civil servants are not powerful or savvy to sabotage the new laws, there is another obstacle which smothers the implementation of reforms: the inadequate skills of civil servants, which is usually accompanied by poor motivation and very low salaries of the majority of civil servants. These are characteristics common to the four countries and will prevail until a forceful institutional reform of the civil service is implemented.

Second, the private sector may not respond to the favorable business opportunities created by the elimination of investment constraints. Distrust on the long-run stability of the new reforms, in other words, the perception that the “rules of the game” are not predictable, is one reason that is common in many countries which have this problem. Macroeconomic instability, domestic market structures that are barely competitive, and adverse external circumstances are all factors that can also be cited to explain this problem. In this last regard for example, in Kazakhstan the elimination of constraints in tourism has not resulted in increased business activity, in part because the events in the Middle East have kept so many foreign tourists at home. But the poor response of local entrepreneurs may be ultimately related to lethargy, or to an overall inability to dynamically exploit profitable opportunities that market policies open. This situation should be expected in countries with no tradition of capitalist development or with legacies of having long implemented closed economic policies. Therefore, to place expectations on a rapid surge of domestic investment that follows the elimination of administrative barriers is a mistake.<sup>15</sup>

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<sup>15</sup> In Latin America, Bolivia is an interesting example that sheds light on this problem. For the last twenty years, this Andean country has adopted the “right policies:” macroeconomic reforms, open trade, a liberal investment regime for foreigners and domestic investors, elimination of red tape and administrative barriers, and so on. But the country grows at a snail pace, at a rate that falls short of creating new jobs for new entrants to the labor force and of making a dent in the alleviation of poverty.

Finally, it is also important to underline that when the reduction and elimination of constraints does have a positive impact on investment, the impact takes time to materialize. The reason is that there is always an investment lag. This must be factored in, especially if the success of the program is to be measured by quantifiable indicators, such as an expansion of sales, exports, employment and new investments. The caveat, as has been hinted above, is that constraint elimination is but one factor among others that can be accounted for economic growth. For this reason, it is advisable that success be assessed with tools than can measure indicators more directly attributed to the activities of the program. We refer to the creation of baseline indicators and the undertaking of surveys that can measure the evolution of the indicators over time. As examples of such indicators we can cite the following: (i) time and cost of actual business registration; (ii) time and cost of licensing; (iii) number and frequency of inspections per month, year; (iv) actual number of technical regulations that have been eliminated; (v) increased border trade resulting from concrete elimination of tariff and non-tariff barriers; (vi) number of times that SMEs have obtained procurement contracts from government; etc.

### ***5.3 Information Sharing***

In assessing the effectiveness of the program's efforts to stimulate information sharing between the government and the private sector, we must first of all address the issue of trust. In general, this ingredient, which plays such a critical role in the well functioning of a market economy, is found wanting in the four countries. The most serious case is in Uzbekistan, where private sector entrepreneurs even suggest that actual conditions now are worse than those prevailing in the Soviet times. The reasons are not hard to understand. For example, no trade restrictions existed within the Soviet Union. But what makes it even harder is that economic policies in the past, as glaringly inefficient as they were, were far more predictable and stable. Nowadays, Uzbek businessmen must contend with a government that gives conflictive signals on the economic direction that the country will take, which has espoused the rhetoric of market liberalization but in practice pays lip service to it. They see little hope for improvement until there is a regime change.

In the other three countries, the level of communication between the government and the private sector is gradually improving but it must be recognized that more palpable results will materialize only with the passing of time. Kyrgyzstan and Tajikistan present relatively weaker government structures that open the opportunities for the exploiting of both, advantages and disadvantages. Among the advantages one can cite that, given the looser grip civil servants have on private business activity, less entrenched opposition is expected from them. In addition, a handful of reformers in both countries are well positioned to sway policy makers in the direction of reform, sometimes without the need to engage in costly bureaucratic infighting. The fact that Kyrgyzstan has acceded to WTO and Tajikistan is firmly interested in joining it, attest to this point.

The situation, if anything, mirrors the degree of complexity of the underlying political economy of these countries. With economies of small size, with substantial parts of the population dedicated to agriculture, with a sizeable SME sector that has yet to be organized in strong associations, and with small populations long accustomed to diktat, these countries are relatively less complex and therefore prone to be more easily "managed" towards the direction of openness

and reform.<sup>16</sup> Among the disadvantages, one must note two that are most important. The first is that the weak government structures may well be an impediment for the successful implementation of the reforms. The second is that policy making may be subjected to influence from business associations which are equally weak and which are handicapped by a total inability to formulate well coherent proposals aimed at spurring overall economic development.

In all, the program should intensify the conduction and seminars that bring together public officials and private sector to discuss the removal of investment constraints. These events constitute useful venues for the sharing of problems and experiences. The program's role is one of facilitating and promoting dialogue and, if and when an opportunity arises, of bridging differences. At some moment though, the countries must find the institutional mechanisms to carry out these activities without the assistance of the program. In anticipation of that, the program should contemplate providing assistance to entities which can potentially play such a constructive role, like as a confederation of employers, a well prestigious NGO, or a think tank.

#### ***5.4 On Cross Border Trade***

As regards cross border trade, the program has recently started focusing on this critical area. In general terms, and with the sole exception of Uzbekistan, the countries have made great strides in making their trade regimes more open. But the main problem lies principally with the presence of so many non-tariff barriers that are artificially created at border points – customs procedures that are unnecessarily complicated; inconsistency on part of customs officials in the codification and valuation of goods; visa requirements (from Uzbekistan); unnecessary inspections of cargoes; solicitation of bribes; and so on. And, looming large and above these constraints, lies all those that make the transit of goods more difficult. The Uzbek and Kazakh highways are dotted with many check points that end up imposing delays and surcharges to Kyrgyz and Tajik produce that is sold in Russian markets. Another problem is the bad state of the roads.

Removing constraints to cross border trade and finding a solution to the problem of transit of goods must elicit the highest priority of the program. With respect to the latter, the program in Tajikistan and Uzbekistan, with the support of the Switzerland-based International Road Union, is strengthening associations of road carriers. It will also review customs procedures to eliminate escorts and inspections of cargoes originating in other countries.

#### ***5.5 On Business Associations***

Our impression is that the program has made important inroads with respect to building capacities of local SME business associations. This is most visible in Kazakhstan, where clear definition of their mission and identification of the issues they must address is the norm. A shining example is the Forum of Entrepreneurs, which already enjoys prestige within the larger business community and enjoys praise from experts of donor organizations. Still, the Kazakh business associations, in general, must improve efforts to expand their membership base.

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<sup>16</sup> On the other hand, and applying the same logic, Kazakhstan and Uzbekistan reveal more complicated political economies. One must presume that enacting reforms directly or indirectly touches a variety of vested interests from domestic and/or external groups with capacity to veto or delay reforms. Their procrastinating on the decision to join WTO must be seen with this logic in mind.

In assessing the potential impact that business associations can have for RIC, it is necessary to take several factors into consideration. The first is that, normally, their institutional strength correlates with the level of economic development of the country, which explains why the stronger associations are found in Kazakhstan. But this fact does not translate into better access and more influence into the process of government policy making. As has been noted in this evaluation, the associations in the poorest country, Tajikistan, are institutionally much weaker but exert more influence in their government than the Kazakh in theirs. What this engenders, unfortunately, are risks that cannot be ignored. One, as noted before, is the danger of making incoherent policy representations. Another, of far more serious consequences in our view, is the submission of policy formulations which may be quite coherent but which mirror the narrow agendas of their proponents. In these circumstances, the associations are vehicles for carving out economic rents for special groups or for propelling the interests of particular individuals.

The second factor is to analyze the context from where the associations evolve. As former Soviet republics, the Central Asian countries are endowed with a tradition of associative (collective) behavior which coalesced into a variety of organizational structures. But these structures, in the main, did not evolve from the free choices of individuals who recognized the commonality of goals. To the contrary, they were, in essence, state sponsored or state-run organizations. The country that has done the least to do away with state planning, Uzbekistan, still showcases them, even for activities in which private businesses allegedly prevail. In this country, and also in Tajikistan and Kyrgyzstan, the freer and more advanced associations are powered by the sheer energy of their individuals, usually one or at most two driven people, blessed with the traits of leadership, and committed to effecting long lasting changes in their societies. These people, unfortunately, are in short supply. For this reason, it is not realistic to expect that associations will rapidly develop.

In the main, the SME business associations of Tajikistan and Kyrgyzstan rely more on unstructured or informal contacts with policy makers to share information or to advance their agendas. They benefit from the fact that there is no perceived or real discrimination against them on part of policy makers. This benefit is of immense value, one that is not enjoyed by SMEs in so many other countries across the world. The program, therefore, should fully take advantage of this opportunity. One area for immediate technical assistance is to improve their capacities to make professionalized representations to policy makers. This capacity will be enhanced if they join efforts with associations of larger firms.

Surprisingly, the SME business associations in Tajikistan and Kyrgyzstan show little interest or disposition to leverage the resources of larger firms to make joint representations. One reason may be that there is potential competition among them and, therefore, fear of revealing business strategies. But there are important advantages from potential collaboration that may outweigh such obstacles. One is that both big and small firms basically face the same administrative barriers. Big firms, of course, have the financial wherewithal to more expeditiously remove *their own particular impediments on a transaction by transaction basis*, by making use of under-the-table payments. It can be argued that big firms can sit relatively comfortably on this situation, cognizant of the setting, and accustomed to footing these costs of doing business. Under this

argument then, the big firms are less motivated than SMEs to have the administrative barriers removed. In our opinion, this is largely true.

Yet, in an economic setting permeated by the presence of so many SMEs, it is hard to envision an entrenched reluctance on part of big firms to collaborate with them. In our opinion, it behooves associations of SMEs to be more proactive and actively seek the support of big firms. The *canard* is the promise of inter-firm *economic* cooperation that could become a real possibility in the near future, that is, the forging of networking, strategic partnerships or even joint ventures between big firms and SMEs which, in other countries, have proved so beneficial to all.<sup>17</sup> Put simply, this cooperation will set in motion a virtuous circle of productivity growth for SMEs, job creation and higher incomes. In countries like Thailand and Malaysia, foreign firms have spearheaded this process in the electronics and computer industries, by subcontracting production of inputs to local SMEs. To the extent that the foreign investment regimes improve, this phenomenon can be replicated in the Central Asian republics. But whether the cooperation is made with foreign or local firms, it is imperative to nudge those SMEs that have the better chance to provide inputs to larger firms and adopt policies aimed at removing obstacles to growth-enhancing linkages.

The business associations also suffer from a shortage of financial resources. Their membership fees are low. Their financial sustainability in the long-run, consequently, is suspect. But, in spite of these weaknesses, the program should keep supporting the institutional growth of the associations. In our opinion, they are a better vehicle for change than non-governmental organizations, which commonly develop an unhealthy financial dependence on donors, embrace a multiplicity of goals which may blur their mission, and consequently suffer from mismanagement. The question is how to select the business associations and what type of technical assistance should be given to them.

Ideally, the approach to business associations should be demand - driven. However, the program, especially in Kazakhstan and Kyrgyzstan, is not faithfully adhering to this precept and, in our opinion, rightly so. Given the vision and understanding of the setting displayed by the directors of the program in these countries, as well as Uzbekistan and Tajikistan, it is reasonable that they be proactive in the search for associations which have the potential to make a difference in the business and economic scene. This, in our opinion, is one, if not the most important tasks assigned to country directors. Once an association is selected, the country director has to be thoroughly engaged in the process of their institutional strengthening, monitoring their progress and making the necessary adjustments in the technical assistance cooperation to enhance the chances of institutional “graduation.” This usually entails not sparing resources in the training and upgrading of human capital of the associations.

### ***5.6 On Performance at the National Level***

For the reasons cited in this report, the program has performed exceptionally well at the national level in Kyrgyzstan. The formula of success is simple enough and requires basically three

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<sup>17</sup> In the world, the best example of successful collaborative economic arrangements between large and small firms is provided by the Italian region of Emilia -Romagna. However, interesting experiences can also be found in less developed countries, such as Colombia, Brazil, Thailand and India.

ingredients. The first is the presence of a qualified country director who is well cognizant of the economic, political and *cultural* setting. The second ingredient is determined, to a certain extent, by chance: the presence of a “champion” firmly committed to reform, strategically placed in the upper echelons of the government body, and savvy, let alone powerful enough to politically push the reforms. And the third ingredient is the presence of an institutional vehicle with the analytical capacity to formulate the reform proposals and act, at the same time, as catalyst for economic change. In the case of Kyrgyzstan, this role is played by the Secretariat.

The program in Kazakhstan can only point to the availability of a capable director who steered efforts towards achieving impressive results in the oblasts. But there is very little to show at the national level. In the future, any possibility for making a difference at the national level must be necessarily grounded on a more visible and more effective, *permanent* presence in Astana. If this decision is not activated, significant changes at the national level are unlikely to come about.

In Tajikistan the probability for making significant changes at the national level is high and real. The program should evaluate the feasibility of replicating the “Secretariat” model which has proven to be so valuable for Kyrgyzstan. Short of this, the program should evaluate supporting other institutional vehicles which can equally carry out the task, such as a leading business association or a think tank.

On the other hand, in Uzbekistan, expectations should be held in check, at least until the government demonstrates, in practice, a firmer commitment for reform. Currently, the government is contemplating enacting currency convertibility, a condition for signing an agreement with the International Monetary Fund. A decision could come as early as next November.<sup>18</sup> While this will clearly signal a disposition to change, it is advisable to remain skeptical on how far is the government willing to go, especially with respect to decisions that dismantle barriers to trade.

### ***Recommendations***

The recommendations that follow emanate from three basic foundations:

- The program has to be actively engaged with both government officials at the national and oblast level and with representatives of SMEs business associations. Effecting long lasting change that is conducive to a more enabling legal and regulatory environment requires that the program be a participant in the *process* of change. What is of critical importance is the selection of the associations which have the potential to make effective representations, and the identification of government officials who are committed to the removal of investment and trade barriers.
- The program has to be engaged both at the oblast and national level. The program must recognize that, if cross border trade is to improved, all changes emanating from the oblasts will be at best marginal. But if reforms are effected at the national level, the

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<sup>18</sup> The program’s country director, Mr. Jahongir Haidarov indeed predicts that the government will adopt full currency convertibility next November. This contention is based on the gradual recognition by the government that the country is not attracting foreign investment and that is becoming more isolated in comparison to its neighbors.

positive change will be incremental, and the impact on the welfare of SMEs in the bordering countries consequently greater.

- In allocating program resources, the guiding criteria should be what set of activities and in what particular countries is the program likely to have the *greatest impact for SMEs in the entire region*.

Our recommendations then, are the following:

1. Conduct a high profile conference on the challenges of removing investment and trade constraints and the positive impact it is likely to have on national economies and SME development. Enlist the participation of well known international experts who can present experiences and lessons from other countries. Ensure the attendance of government officials who need to be educated in this topic, as well as representatives of SMEs. Such a conference should be carried out in Almaty and in Tashkent.
2. Strengthen the program's activities in Astana, Kazakhstan. Without a more visible, effective presence in this capital city, it will be impossible to engineer positive reforms at the national level in this country.
3. For Uzbekistan, prepare a task force composed of experienced and skilled staff, which can be deployed as soon as the government signals political will for reform. This task force should be ready to support the efforts of the current program at the national level and, given its strategic importance, in the Ferghana Valley.
4. For each country, engage the authorities at selected oblasts for the conduction of pilot programs on one-stop business registration procedures.
5. Enlist high-level government officials and selected business representatives in Uzbekistan, Tajikistan and Kazakhstan to visit Bishkek and observe the progress the program has made as regards government standards and WTO accession. Kyrgyzstan, it should be underlined, has all the potential to become the model that other countries can follow. Under no circumstances should program in this country be diverted to others without the consolidation of reforms.
6. In each country, sponsor and organize seminars aimed at promoting cooperation of big firms with associations of SMEs. The logic behind this initiative is that the effectiveness of policy representations will be enhanced by leveraging the participation of larger firms.
7. Provide continuing support to the formation of regional consultative councils. Use this venue to conduct a pilot test on mutually agreed, regional harmonization of standards, tests and documents for goods that are heavily traded in border areas. In addition, the regional consultative councils can be venues for discussion of problems that directly affect border trade, such as checkpoints and visas. They could, in effect, be vehicles for the resolution of small, simple border disputes. In all, this pilot program could be used as a starting platform to replicate the initiative at the national levels of each country.

8. Give intensive technical assistance to SME business associations to conduct analysis, sponsor informed public debate, and lobby constructively for the removal of trade and investment constraints.
9. Analyze the feasibility of replicating the Kyrgyz secretariat model (or variations of it) in Kazakhstan, Uzbekistan and Tajikistan.

## **ANNEX E**

### **CUSTOMS COMPONENT**

The Customs component of the current USAID Trade Facilitation and Investment (TF&I) Activity builds on work previously performed over the past two years under the USAID Trade and Investment Project (TIP).

#### **COMPONENT DESCRIPTION**

The Customs component under the Trade Facilitation and Investment (TF&I) Activity provides assistance to Kazakhstan and Kyrgyzstan to modernize Customs activities. The purpose is to facilitate trade and provide a more SME friendly environment to encourage development of SMEs involved in exports and cross-border trade. The past training and technical assistance activities have been concentrated in five areas discussed below

#### **Drafting/Implementing Customs Codes**

The TF&I Activity, formerly TIP, has assisted Kazakhstan and Kyrgyzstan with drafting Customs codes consistent with key provisions required by the WTO such as Customs Valuation and the Harmonized System of Tariff Nomenclature (HS). The Customs Code went into effect in Kazakhstan in June 2003, and the Kyrgyz Customs Code is pending a vote in Parliament which is scheduled for September 2003.

Although there are some areas, particularly valuation, in which compliance with WTO requirements is questionable, both countries are well on their way with the legal changes required. Both countries have applied to the HS convention and are already using tariff nomenclature based on the Eurasian Economic Community that is consistent with WTO.

The biggest challenge now for each country will be in implementing these new codes to truly reflect the spirit of reform, that can hold up to scrutiny from WTO partners. For example, Kazakhstan's use of ICS to provide valuation may be narrowly viewed under the WTO valuation code as compliant. The use, however, of valuation methodologies not related to the transaction under review clearly violates the spirit and intent of the agreement. This may become an issue in further WTO negotiations for Kazakhstan

In addition to providing legal assistance with drafting the codes, the TF&I Activity has assisted both countries with training to help implement the new Customs provisions. In addition, other areas of Customs related WTO requirements such as intellectual property rights protection and rules of origin will require the TF&I Activity's assistance to implement.

#### **Revised Kyoto Convention Principles**

Principles of risk management consistent with the Revised Kyoto Convention (RKC) are used to speed up Customs clearance of goods traded between the two countries by low-risk

importers. Both countries have moved past the minimum requirements of WTO and have begun to develop programs consistent with the RKC. Based on analysis of cross-border trade between Kazakhstan and Kyrgyzstan, importers with good records of compliance are given expedited Customs clearance. This program is working to facilitate clearance processes and cut clearance times, but still falls short of true risk management. Complete documentation and proof of payment is still required for each shipment, no matter how repetitive or routine the transaction. There has been some discussion of implementing post clearance reviews by Customs auditors in accordance with RKC principles, but this is extremely premature. As long as all shipments are 100% verified at the time of Customs clearance, any post entry inspection of documents would be redundant, and would constitute a doubling of the Customs inspection process.

## **Cross-Border Trade**

In addition to the expedited procedures for low risk importers, Customs and other involved authorities, as well as private sector parties at interest in both countries have worked together in cross-border councils at the oblast level to address border issues. The cross-border council at the Taraz/Talas crossing has successfully resolved some impediments to cross-border trade without requiring national action. The most important initiative to improve cross-border issues is in the Ferghana Valley, where the TF&I Activity coordinated a conference in May to bring together representatives of Uzbekistan, Kyrgyzstan, and Tajikistan to resolve border-crossing issues which have paralyzed trade in the area

## **Customs Procedures**

A common theme of those interviewed by the Evaluation Team in both countries is that Customs procedures are complex and non-transparent to SMEs involved in cross-border trade. There is little information available to SMEs regarding Customs requirements, which makes it difficult to comply with needed documentation and may contribute to corruption of officials in both countries to obtain Customs clearance. Two initiatives to assist SMEs in navigating the mysterious clearance requirements have begun in both countries.

The first, the development of private sector service providers (themselves SMEs) such as Customs brokers to assist in border clearance, is in the early stages in both countries. There is some fear that unless these programs are implemented carefully, the brokers may themselves add to the climate of corruption, aggravating the burden to SMEs involved in trade rather than facilitating movement of goods and reducing costs to business.

The second initiative is the development by The TF&I Activity of a Trade Requirements Matrix, which would be available to all business via an Internet web site. This site would contain all necessary permit, documentation, and inspection information for Customs clearance for specific products to enable exporters and importers to clear goods through Customs without the need for Customs brokers. This transparency of requirements and procedures may also assist in combating corruption.

A third initiative in Kyrgyzstan, the automation of Customs procedures, is in its early stages. This would be funded by the Asian Development Bank.

## **Transit of Goods to Markets Outside the Region**

Perhaps the greatest problem for expansion of trade in the four country CAR region is the inability of most countries to reach international markets without their goods travelling through other countries. In particular, in order for products from Kyrgyzstan to reach the promising Russian market for their agricultural products, the goods must pass through Kazakhstan.

There have been some initiatives in this area, most notably the "Green Corridor" and the introduction of a TIR carnet program. These have not been successful due to concerns regarding security of the goods and expense. Currently, the TF&I Activity is working with Customs Kyrgyzstan and private insurance companies to develop a program using Customs bonds to insure that goods shipped through Kazakhstan pass through the country intact. This program is in its early stages and it is not clear that it will be supported by Kazakhstan. There are other transit issues between the countries in the region, but the Kyrgyzstan-Kazakhstan situation is the most critical in terms of actual impact to trade.

## **PROGRAM EFFECTIVENESS**

Overall, the TF&I Activity has been very effective in assisting both Kazakhstan and Kyrgyzstan in their Customs modernization efforts. To date, the greatest successes in the Customs area have been in the development of a new legal framework in both countries to support the legal requirements of the WTO and the facilitation principles of The Revised Kyoto Convention. In both these areas, and in both countries, the TF&I Activity has played a critical role in providing legal and technical assistance, and in coordination and communication within the public and private sector. Significant progress in the simplification of Customs procedures and information dissemination is underway, but much more needs to be done. Although there are some successful models of inter-border issue resolution developed by the TF&I Activity, significant barriers to cross-border trade remain. The area where there has been the least progress is the area of transit of goods through intermediary countries. Resolution of the inability for producers to get their goods to market beyond contiguous countries is critical for long term growth of international trade in the region.

## **ISSUES/CONSTRAINTS**

The most significant issue with respect to the Kazakhstan Customs Code is the use of values provided by ICS to value imported merchandise. There is a provision in the GATT/WTO Valuation Code that provides some flexibility to Customs authorities when a value can not be found within the business records of the buyer or producer. This is the last of six valuation methods and meant only as the method of last resort. This is presumably the legal authority used to permit valuation by use of values from previous transactions and other sources that is being used by ICS. The first method of valuation, Transaction Value, presumes the correct value is the price paid by the buyer of the goods for that transaction, with some adjustments as needed which are clearly spelled out in the code. This method is intended to cover the vast majority of imports, and accounts for an estimated 90-95% of imports in developed countries. This may not survive close scrutiny from WTO members as accession negotiations continue. It has yet to be

determined if there will be additional implementation issues of the code in both countries since they have been enacted only recently.

## **Training**

There is a need for training for both Customs and SMEs in the new legal regimes of both countries. The TF&I Activity has conducted training in the provisions of the Customs code to both the public and private sector, which has been very successful. The training has been in Customs valuation, the HS nomenclature, and other WTO areas. The concern is the ability of both countries to sustain the training without the TF&I Activity's direct assistance. Kazakhstan has recently formed a training unit of eight people and has requested the TF&I Activity's help in conducting "train the trainer" courses. Although, Kyrgyzstan does not have a dedicated training unit, their relative small size and the greater centralization of Customs activities at Bishkek will make it easier for them to sustain expertise as employee turnover occurs.

## **Risk Management**

A constraint for both countries in implementing true risk management for border clearance is the number of shipments and products subject to mandatory licenses, permits, laboratory testing, and documentation. Today, virtually every shipment is subject to some type of mandatory import requirement, which makes it impossible to implement true selectivity of Customs review. Success in this area is directly tied to the reduction of licenses, registrations and permits, and reform of mandatory technical standards. Should a post entry audit approach be implemented in either country, auditors, trained in the Customs code, would need to be hired by Customs in both countries.

## **Cross-Border Trade**

The cross-border councils which have been developed by Kazakhstan and Kyrgyzstan show promise of resolving issues at the oblast level which impede the cross-border flow of goods. There has been little involvement at the national level. To achieve greater harmonization of procedures and documentation required for cross-border movement, at some point the national level of Customs officials and those involved in standards and licensing must get involved. Although there are some issues which can be solved at the local level, the greatest number involve national policies like acceptance of other country's certificates and standards. These are significant restraints that will not be solved in the short term. Cross-border trade in the rest of the region also involves significant political constraints.

## **Procedural Simplification and Information**

The TF&I Activity's greatest challenge in this area is the development of a Trade Requirements Matrix for not only Kazakhstan and Kyrgyzstan, but for Uzbekistan and Tajikistan as well. As noted earlier, the procedures and requirements for each country and product category differ and there is little information available to determine what they are. Even after this matrix is developed, the TF&I Activity will have the challenge of developing a methodology in each

country to keep it current. If this is not done successfully, then all the work and resources expended by the TF&I in this area will have been in vain.

Another concern is the automation of Customs procedures in Kyrgyzstan by the Asian Development Bank. Currently, approximately 80 developing countries are using Customs automation through the auspices of the World Customs Organization. Kyrgyzstan should analyze both programs to make an informed decision as to the direction of their Customs automation, and will probably require technical assistance from TF&I.

### **Transit of Goods Through Contiguous Countries**

This is the most significant constraint to the growth of international trade with countries outside the region. The challenges are procedural, logistical, and political. Until the region is able to overcome its geographical constraints in getting its products to markets in non-contiguous countries, trade will be largely confined to within the region.

## **POLICY, PROGRAM DEVELOPMENT AND RELATED ISSUES**

The TF&I Activity has been very successful to date in assisting both Kazakhstan and Kyrgyzstan in drafting Customs Codes which, on the whole, appear to be WTO compliant. The next steps would be to enact supporting regulations and procedures to implement the codes in the spirit of Customs reform and modernization as outlined in the principles and best practices of the Revised Kyoto Convention. The TF&I Activity's support in this area through at least the term of the current three year program will be critical. Both legal support and Customs technical support will be required as well as assistance in implementing revised Administrative Procedures for rule making to ensure the input of all concerned entities, both government and private before the regulations take effect. In Kyrgyzstan, the TF&I Activity is working closely with the Ministry of Justice to reform the current process by which regulations are promulgated. The Evaluation Team is not aware of any parallel project in Kazakhstan to reform the administrative procedures. This may not be required if existing procedures provide a mechanism for public comment on proposed regulations.

Assistance may also be needed through the period of the project and even past 2006 in fully implementing the intellectual property rights protection measures as required by TRIPS. If this project or subsequent project were expanded to provide for a Customs component in Uzbekistan and/or Tajikistan, assistance from USAID would be required to draft and implement their Customs codes.

### **Risk Management**

Clearly, implementation of the best practices for Customs Services as outlined in the RKC is a logical next step. As previously noted, this will be extremely difficult to accomplish without major reform in licensing and standards and without harmonization of standards and acceptance of each other's standards and certificates by both Kazakhstan and Kyrgyzstan (and hopefully between all countries in the region). The TF&I Activity should continue to work on programs to advance these principles. Care must be taken to ensure that any new program

actually facilitates trade rather than simply adding additional burdens on traders. The long term need for assistance by USAID in this area is unclear. If this project is expanded to Uzbekistan and/or Tajikistan, they may also request assistance in this area.

### **Cross-Border Trade**

Both countries have made progress in resolving issues at the oblast level and the TF&I Activity should continue to support the expansion and operation of cross-border councils. In terms of importance to the region, the resolution of issues of cross-border trade in the Ferghana Valley is critical to regional economic growth and trade.

### **Procedural Simplification and Information**

Within the Customs component, the Trade Requirements Matrix (TRM) project holds great promise for facilitation of regional trade. Lack of information is one of the most stubborn of barriers to trade. The TF&I Activity should continue to work on this project with Kazakhstan and Kyrgyzstan, and should expand the project throughout the region. Research into similar matrices and web sites used by other countries and regional trade associations should be done to determine possible links, information and design features used internationally to disseminate Customs information while the project is still in its early stages.

As noted, the TF&I Activity will need to work with the countries involved to ensure that once created, the TRM remains current. The TF&I Activity should provide technical and content analysis of both Customs automation programs - that which is proposed by the Asian Development Bank and the ASYCUDA software from the WCO, and make recommendations to Kyrgyz Customs and the other regional countries to assist them in their future automation efforts.

### **Transit Through Contiguous Countries**

This is the area within the Customs component that will require long term, comprehensive assistance if trade is to be expanded in any meaningful way beyond the region. Procedural, logistical, security, and political issues are to be addressed.

There are also serious infrastructure issues such as roads, rail, and warehouse facilities to be addressed beyond 2006. The current state of transportation infrastructure within the region does not appear to adequately support any major increase in traffic. This is beyond the scope of the TF&I Activity, but will be a major factor if trade outside the region is to grow.

The Evaluation Team recommends that the TF&I Activity continue to support programs that will facilitate through transport of goods by working at both the local and national levels in government. Emphasis is to be placed on working with Kazakhstan and Uzbekistan.

## **ANNEX F**

### **WTO ACCESSION/COMPLIANCE**

With respect to the WTO component of the the TF&I Activity, Kyrgyzstan has completed the accession process, is currently a member of the WTO, and has substantially implemented most of the required provisions. Kazakhstan applied for accession in 1996, and is in the negotiations phase for admission. The new Kazakh Customs Code has been passed and is in effect which is a major step toward admission. Tajikistan and Uzbekistan are in the early fact finding stages of admission. The European Community has submitted questions to Tajikistan, and the United States is expected to submit detailed questions in the near future. Tajikistan, with guidance from the TF&I Activity, will be working on the answers to these questions through the summer and fall of 2003. If all goes well, negotiations could begin as early as December 2003/January 2004.

#### **PROGRAM DESCRIPTION**

The TF&I Activity has already begun work with Tajikistan to identify necessary legal changes to comply with the WTO. An initial analysis has identified 40-50 laws that will require some degree of modification. Rahat Toktonalien from the TF&I Activity has been guiding the Tajiks through this process. He is hopeful that they will be admitted to the WTO within 2-3 years, since there appears to be strong support from the President and there already exists a relatively liberal trade regime in Tajikistan.

With Uzbekistan, the situation is completely different. Uzbekistan has formally announced its intention to join the WTO, and applied for admission in 1997. In 1998, at the request of Uzbekistan, USAID provided assistance, but ended their efforts due to lack of government interest and support. In 2002, the Uzbekistan Minister of Foreign Economic Relations requested additional assistance from USAID. In response, a full time advisor was posted to Uzbekistan for a few months. Uzbekistan promised the WTO a legislative plan last year, but it has not yet been submitted nor is there any indication it will be submitted soon. The TF&I Activity has not been asked to provide any meaningful assistance since last fall.

#### **PROGRAM EFFECTIVENESS**

The WTO component of the The TF&I Activity has been successful in Kyrgyzstan and Kazakhstan, and the preliminary work done so far with Tajikistan is well on schedule. WTO accession within 2-3 years for Tajikistan is a very ambitious goal—for example Kazakhstan is now in the seventh year of the process. Tajikistan will continue to need support through the term of the project, particularly legal and technical assistance. The program has not been effective in Uzbekistan and there are mixed indications that there will be any change in the near future. A major step would be currency convertibility which has previously been promised and not fulfilled. True political support from the Government of Uzbekistan will be required for there to be substantial progress on WTO accession.

## **ISSUES/CONSTRAINTS**

With respect to successful entry by Tajikistan, the chief constraint appears to be a lack of qualified people within the government to move the process forward. Officials within the Ministry of Economy and Trade are aware of the issues, but those issues affect almost all the ministries of government. An inter-government working group has been established, and a preliminary list of laws that require revision has been identified, but a working plan on how to actually accomplish this has not yet been finalized. The working plan prepared by The TF&I Activity for the WTO component shows extensive work between now and May, 2004, particularly in developing WTO compliant legislation in a variety of areas. Tajikistan will require extensive assistance by The TF&I Activity during this period if they are to meet their objectives.

With respect to Uzbekistan, until such time as there is a true sense of government support for WTO accession, there is little to be gained by providing extensive resources to this component of the project. However, should the situation change, The TF&I Activity should be prepared to be flexible and assist with whatever is required.

## **POLICY, PROGRAM DEVELOPMENT AND RELATED ISSUES**

The Evaluation Team sees no additional steps that can be taken in the short term to move the WTO component forward in Tajikistan and Uzbekistan. Intensive assistance in legal and Customs related areas will probably be needed through the remaining three year term of the project and perhaps beyond. If the situation in Uzbekistan does not change in the next few years, the timetable for WTO membership will clearly be delayed past the term of the current project.

## ANNEX G

### STATEMENT OF WORK

#### A.1 TITLE

Evaluation of Trade Facilitation and Investment Activity.

#### A.2 STATEMENT OF WORK

##### Activity to be evaluated

Trade Facilitation and Investment Activity (formerly Trade and Investment Program), implemented by The Pragma Corporation under contract #116-C-00-01-00015-00 in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. The current contract was started on June 1, 2001. In May 2003 the 3 one-year options were executed to keep the program operating through May 31, 2006. Also, the title of the project has been changed from Trade and Investment Program to Trade Facilitation and Investment Activity. The current projected ceiling price for this contract is \$19.7 million.

##### Background

Under Strategic Objective 1.3, Improved Environment for the Growth of Small and Medium Enterprises, and Intermediate Result 1.3.3 Increased Implementation of Laws and Regulations, USAID has designed and is implementing the Trade Facilitation and Investment Activity. The program is aimed at creating a legal and regulatory environment conducive to trade and increased investment flow in the region, which will bring about the growth and expansion of the SME sector. In line with the Mission's cross-cutting objective of combating corruption, this program also seeks to improve legislative processes and lawmaking that will help eliminate opportunities for rent-seeking and other corrupt practices.

This Trade Facilitation and Investment Activity consists of three components: 1) Reduction of investment constraints (RIC); 2) Customs modernization support; and 3) WTO accession support. This evaluation will focus primarily on the first two components.

##### Reduction of Investment Constraints

The objective of the RIC component is to reduce the burden of government regulations, improve procedures for initiating, drafting, adopting, reviewing and enforcing laws and regulations, and promote citizen, association, and business participation in the regulatory process.

The RIC component is being implemented in the two Central Asian countries of Kazakhstan and Kyrgyzstan and consists of the merger of two preceding USAID projects. In Kazakhstan, the RIC activity is the successor of a similar Reduction of Investment Constraints in Kazakhstan (RICK) project, which operated from September 2000 through September 2001 in three select

oblasts. In Kyrgyzstan, the RIC activity follows on the Regulatory Reform Project, which operated from October 1999 through August 2002 and concentrated mostly on improving the regulatory environment at the national level. Among other efforts, the Regulatory Reform Project conducted a number of surveys that helped determine some of the key regulatory barriers that impede business development.

Currently, RIC experts work in both countries at both national and local levels. At the national level, they help identify legislative and policy constraints to SME growth, trade and investment, and assist the national government to draft and implement laws and regulations intended to remove the identified barriers and facilitate the growth of SMEs. At the local level, the activity works closely with local governments to identify oblast-level constraints to business growth, and helps them adopt and implement appropriate regulations.

As part of its effort to facilitate trade and stimulate demand for reform, the RIC component promotes increased dialogue and information sharing between local governments and businesses, and educates members of both the government and the private sector on constraints to SME growth, trade and investment. In this respect, one of the objectives of the RIC component is to develop sustainable working groups consisting of representatives of local government, business associations and entrepreneurs in each of the selected oblasts that meet at least monthly to discuss local investment constraints and key regulatory reform issues. To date, such groups have been formed in Ust-Kamenogorsk, Pavlodar, Uralsk, and Almaty. These groups differ in their structure: the one in Ust-Kamenogorsk is more of a permanent steering committee, and the others are issue-based, and more ad-hoc in their nature. However, all of these groups work for the reduction of investment constraints and at building consensus concerning regulatory reform issues.

Association development is seen as a tool to bring sustainability to the program's efforts. Oblast RIC advisors have identified key associations which have the capacity for SME advocacy activities and have been developing strategies and finding ways to collaborate. It is expected that one of the main results of this collaboration will be the enhanced ability of the associations to interact effectively with government bodies and to lobby the government for legislative and administrative reforms that are needed to foster SME growth.

RIC consultants work in close collaboration with another USAID activity, the Enterprise Development Project, and are part of the resident staff of the Enterprise Development Centers (EDCs) that have been established in five oblasts of Kazakhstan and two oblasts of Kyrgyzstan. The locations in Kazakhstan include: Almaty, Atyrau, Ust-Kamenogorsk, Atyrau and Uralsk. In Kyrgyzstan, RIC advisors work in Osh and Bishkek. To use the available resources most efficiently, the contractor combines expatriate and locally hired staff, including host-country personnel. RIC advisors have reviewed the existing laws and regulations and created a database of national- and oblast-level constraints and developed recommendations and a work plan with timeframes for eliminating these constraints.

To date, a number of constraints have been removed at the oblast level and over thirty targeted for reduction or removal by the end of 2002. In addition, a Franchising Law was passed in Kazakhstan that included changes proposed by the Working Group comprised of RIC advisors,

and government and business representatives. A RIC expert also serves on the Working Group on Licensing that has been established in Kyrgyzstan. More details on the component's progress to date may be found in TIP quarterly performance reports and work plan matrix, which will be provided upon request to the contractor selected to conduct this evaluation.

Partners and counterparts:

- Committee on Investment under the Ministry of Foreign Affairs of Kazakhstan
- Oblast Administrations
- Tax Committees
- Associations of Entrepreneurs
- Ministries of Economy and Trade of Kazakhstan and Kyrgyzstan
- Agency for Regulation of Natural Monopolies, Protection of Competition and Support for Small Business (Kazakhstan)
- Investment Roundtable Secretariat (Kyrgyzstan)

### Customs Component

The Customs component of the TIP program has been phased in from the previous USAID Trade Facilitation and Investment Activity that operated in Kazakhstan and Kyrgyzstan. This component continues to provide assistance to the two countries in the development and implementation of their customs modernization plans. The Customs component also assists both governments to join and implement the Revised Kyoto Convention (RKC) that sets international customs standards and procedures. To create a favorable environment for the growth of the SME sector, the Customs component seeks to further simplify customs regulations and bring about closer coordination and cooperation between tax and customs authorities within and between both countries.

At the national level, Customs advisors work with the governments of the two countries to bring their legislation into compliance with international standards. In Kazakhstan, this has included extensive consultations during the development of the new draft Customs Code, which the Government of Kazakhstan decided to rewrite in its entirety in early 2002. TIP's national customs advisor is also helping the Government of Kazakhstan to develop cost-based user fees for imports customs clearance services.

At the local level, the component works with Oblast customs departments to better implement national customs regulations, and train their personnel in international best practices and methodologies. Such training covers a wide range of customs-related areas, including declaration, valuation, processing, clearance, and audit procedures. In addition, anti-corruption training sessions and seminars are conducted regularly in each of the selected Customs departments. After the training, the performance of the trained customs officers is audited to determine whether customs rules are being properly applied, and to determine the effectiveness of training in order to provide remedial training.

Primary partners and counterparts:

- Customs Committees
- Oblast Customs Departments
- Ministries of Economy and Trade
- Parliamentary working groups
- Associations of entrepreneurs

The contractor may request detailed contact information for the program's partners from the implementer, the Pragma Corporation.

### WTO Accession

Like the Customs component, the WTO component was carried over from the previous Trade and Investment activity. The goal of this assistance has been the adoption of key legal and regulatory reforms necessary to support the development of a market-friendly environment for trade and investment, and the attainment of full membership in the WTO.

*Over the past two years, the Trade and Investment Program has worked closely with both governments in identifying and assisting in the preparation and adoption of legal, regulatory, administrative, and procedural changes necessary to ensure compliance with WTO principles and agreements. Such changes have included amendments to the Customs Code and intellectual property-related legislation; enactment of anti-dumping and procurement legislation; establishment of inquiry points; and changes in the fee structures for all trade-related transactions.*

*Because this process is in a large part dependent on the governments and their commitment to the process, progress has varied among the countries of the region. So far, Kyrgyzstan is the only Central Asian country and the first in the NIS to have joined the WTO (in 1998). Notwithstanding its accession to the WTO, Kyrgyzstan has made limited progress in implementing WTO agreements. WTO-related assistance in Kyrgyzstan focuses on post-accession matters and training, and will gradually phase out.*

*Kazakhstan continues to move toward WTO accession. However, in July 2001, the Kazakhstani government requested that USAID not provide any direct WTO accession technical assistance to the government. Since then, TIP's WTO-related work in Kazakhstan has been limited to providing assistance in the area of modernizing its standards, metrology and certification regime.*

The Trade and Investment Program has also helped the governments of Kazakhstan and Kyrgyzstan to liberalize their respective trade policies. In Kazakhstan, this has been evidenced by an increase in the number of products exempt from import duties and export tariffs, a reduction in the trade-weighted average import tariff rate and the elimination of double registration for exports. In Kyrgyzstan, the government eliminated export duties last year and abandoned export registration the previous year. Both countries have largely eliminated quantitative restrictions and most non-tariff barriers to trade.

In 2002, in response to specific requests received from the Government of Tajikistan and, most recently, the Government of Uzbekistan, for WTO-related technical assistance, the TIP contract was modified to allow WTO-related technical assistance to be provided to these two countries.

Primary partners and counterparts:

- Ministries of Economy and Trade (Kazakhstan and Kyrgyzstan)
- Ministry of Industry and Trade (Tajikistan)
- Ministry of Foreign Economic Relations (Uzbekistan)
- Investment Roundtable Secretariat (Kyrgyzstan)
- Business Associations

### **Evaluation Purpose**

The purpose of the evaluation is to assess the effectiveness of the Trade Facilitation and Investment Activity in creating a legal and regulatory environment conducive to the growth of SMEs in Kazakhstan and Kyrgyzstan. While the program has been successful in meeting its benchmarks and targets, we feel that a thorough evaluation is necessary to determine what impact the program has had on small businesses. Based on the results of this evaluation, the Mission will make a decision on how best to modify the program during the upcoming option period. The evaluation will:

- Assess the impact of the program at national and regional levels
- Assess the effectiveness of the program in improving the environment for SME growth and determine the appropriateness of specific program objectives, targets and indicators for achieving this goal
- Determine if current program priorities are appropriate for achieving the maximum impact and, if not, make specific recommendations regarding what can be done to enhance synergies across components and increase the program's impact
- Determine whether resources have been allocated properly across components to ensure maximum impact and, if not, make specific recommendations regarding reallocation of resources

### **Questions**

The evaluation should answer the following component-specific questions:

#### **Reduction of Investment Constraints:**

1. Over 25 constraints have been reduced or removed by the RIC component at the local level in Kazakhstan and Kyrgyzstan. What was the impact of this on SMEs? Do they see visible improvement in their work environment as a result of these changes?
2. What evidence, if any, is there that the reduction and removal of investment constraints has led to increased investment and corresponding job growth?

3. How effective have the program's efforts been to stimulate information sharing between the government and the private sector? Are there constraints to this that the program does not address adequately? If so, what are they, and how might the program address them more effectively?
4. What has been the impact of the RIC component on cross-oblast and cross-border trade? What modifications to the program or reallocation of resources, if any, should be made to increase the program's impact?
5. How effective have the RIC component's capacity-building efforts been with respect to local business associations? What, if any, program modifications or resource reallocations should be made to increase successful collaboration with NGOs and strengthen business associations' capacity for advocating SME needs in the government?
6. Of the regions in which the RIC component has been implemented, which ones have made the most progress in removing constraints and why?
7. How effectively does the program deal with impediments to business at the national level?
8. To what extent does information from the local-level inform national policy priorities? Are there measures which the program should take to establish stronger and/or more effective linkages and, if so, what are they?
9. Based on the contractor's experience and expertise in the field, and based on the information the contractor has reviewed in performing the evaluation, what modifications to the RIC component's objectives and targets should be made to increase its effectiveness in improving the legal and regulatory environment for SMEs in Kazakhstan and Kyrgyzstan?

#### Customs:

1. How has the work of the TIP Customs component influenced cross-border trade?
2. Has the assistance provided by the program in customs modernization (e.g., work in promoting harmonized classification) contributed to trade facilitation?
3. Is there evidence that the level of cooperation between Kazakhstani and Kyrgyzstani Customs Committees has increased as a result of TIP activities?
4. How critical has the help of TIP's Customs Advisors been in the Governments' decision-making on customs and trade issues (for example, during the new Customs Code drafting process in Kazakhstan)?
5. What do Customs Committees and private entrepreneurs see as the biggest constraints to development of SME-friendly customs regulations? Do their priorities match the program's? If not, what are the differences and what changes, if any, should be made to the program to address the differences?

6. Are the component's anti-corruption efforts producing their maximum potential impact and, if not, what program modifications and/or resource allocations should be made to improve their effectiveness?
7. How effective is the training provided by TIP to the Customs departments? Can it be characterized as increasing their long-term capacity (is the personnel turnover rate low enough)?
8. What should the program do differently to ensure maximum impact on SME growth and trade facilitation? What, if any, modifications should be made to the component's objectives or performance indicators?

### WTO Accession

The WTO component of the Trade Facilitation and Investment Activity has not been sufficiently executed under the current contract to warrant a full evaluation. However, the Mission feels that the evaluation can inform and help enhance the Mission's current and future programming with respect to WTO. In particular, the evaluation should provide recommendations regarding the recently implemented WTO components in Tajikistan and Uzbekistan. The evaluation will include answers to the following questions:

1. In both countries, are the current program targets appropriate for achieving WTO-related goals? What, if anything, can be done differently to further improve the process and the program's effectiveness in reaching its objectives?
2. Does the WTO component fit in properly with TIP's other components and, if not, what program modifications or resource reallocations should be made?
3. In Kyrgyzstan, how effectively has the program addressed the challenges of the post-accession WTO environment and what programmatic changes or resource allocations should be made in order to increase the program's effectiveness in helping Kyrgyzstan become self-sufficient in handling its WTO-related technical needs? What lessons learned from the accession process can be used in other CAR countries?

### General

1. Overall, are the program's resources allocated properly among the components and, if not, what reallocations should be made in order to improve the program's impact?
2. What modifications should be made to the program components' objectives, targets and/or indicators to increase the program's effectiveness in improving the legal and regulatory environment for SMEs?

The contractor is not limited to this set of questions. Additional questions may be suggested as appropriate.

## **Methods**

We suggest a combination of methods such as a mini-survey of private enterprises and government (e.g., customs) officials, and key informant and focus group interviews. However, the contractor is not limited to these techniques. Rather, a variety of methods and techniques may be suggested for the evaluation. Rapid appraisal methods are generally preferable, but the Mission welcomes other innovative approaches. Data should be disaggregated by component and by country to the maximum extent practicable.

The contractor will discuss information needs and data collection techniques with USAID prior to arrival in the field, and will submit a detailed evaluation plan, including a sampling plan, before fieldwork begins.

## **Time Frame**

The evaluation will start o/a June 30, 2003 and will last for approximately eight weeks. Prior to arriving in Kazakhstan, the contractor will become familiar with key program documents, such as the program's statement of work and benchmarks. The contractor is responsible for requesting all of the necessary program background information from the Mission immediately upon award of this task order.

### **Phase I: Preparation (Team Planning Meeting, desk reviews, development of methodology, approach and workplan)**

June 30                      Trade and Investment Evaluation Start

#### ***Segment One: Desk Review and Team Planning Meeting (TPM)***

June 30-July 8          Review of T&I Program Materials  
July 3                      Team Planning Meeting, MSI Offices  
July 3-5                    Travel to Almaty

#### ***Segment Two: Design of Overall Approach and Draft Evaluation Plan***

July 30-July 7          Overall Evaluation Approach  
July 7                      Draft Evaluation Plan

### **Phase II: Evaluative Information Gathering In-country (data collection, interviews, focus groups, draft report, briefings with USAID)**

#### ***Segment One: Briefings with USAID and TIP Project Staff, Revised Evaluation Plan***

July 7                      Initial USAID Meeting and Draft Evaluation Plan Presentation  
July 8                      Revised Evaluation Plan  
July 7-9                    Briefings/Interviews: TIP Project Staff  
July 12                     Arrival in Almaty of John Holl

July 15                    Holl Briefing/Interview: TIP Project Staff

***Segment Two: Fieldwork; data collection, interviews, and consultations***

July 9-17                Data Collection/Interviews, Almaty, Bishkek, Oblasts  
T&I Specialist and Team Leader  
July 15-26                Data Collection/Interviews, Almaty/Bishkek/Dushambe/Tashkent  
WTO/Customs Specialist

***Segment Three: Interim Evaluation Memorandum, preliminary analysis***

July 17                    Team Meeting, Review of Field Data  
July 17-18                Preparation of Memorandum  
July 18                    Interim Evaluation Memorandum  
July 18                    Team Leader/Team review of Memorandum with USAID/CAR

***Segment Four: Final Fieldwork and Data Collection***

July 18-25                T&I Final Interviews/Data Collection in Four Countries/Oblasts

**Phase III: Evaluation Reports**

***Segment One: Draft Evaluation Report and Final Briefing***

July 26-30                Evaluation Analysis  
July 30                    Draft Evaluation Report  
August 1                    Oral Evaluation Presentation to USAID/CAR  
August 2                    Evaluation Team departure from Almaty

***Segment Two: Final Evaluation Report***

August 11                Receipt of written comments from USAID/CAR  
August 11-15             Refining of Draft Evaluation Report  
August 15                Submittal of Final Evaluation Report

**A.4 REPORTS**

Within the first five days after award of the contract, the contractor shall discuss with USAID staff plans for conducting the evaluation, including data collection activities, logistics and staff support, and a tentative outline for the final report. The contractor will inform USAID when each stage of the evaluation is begun and completed, and promptly report on any problems that may delay completion of the final report.

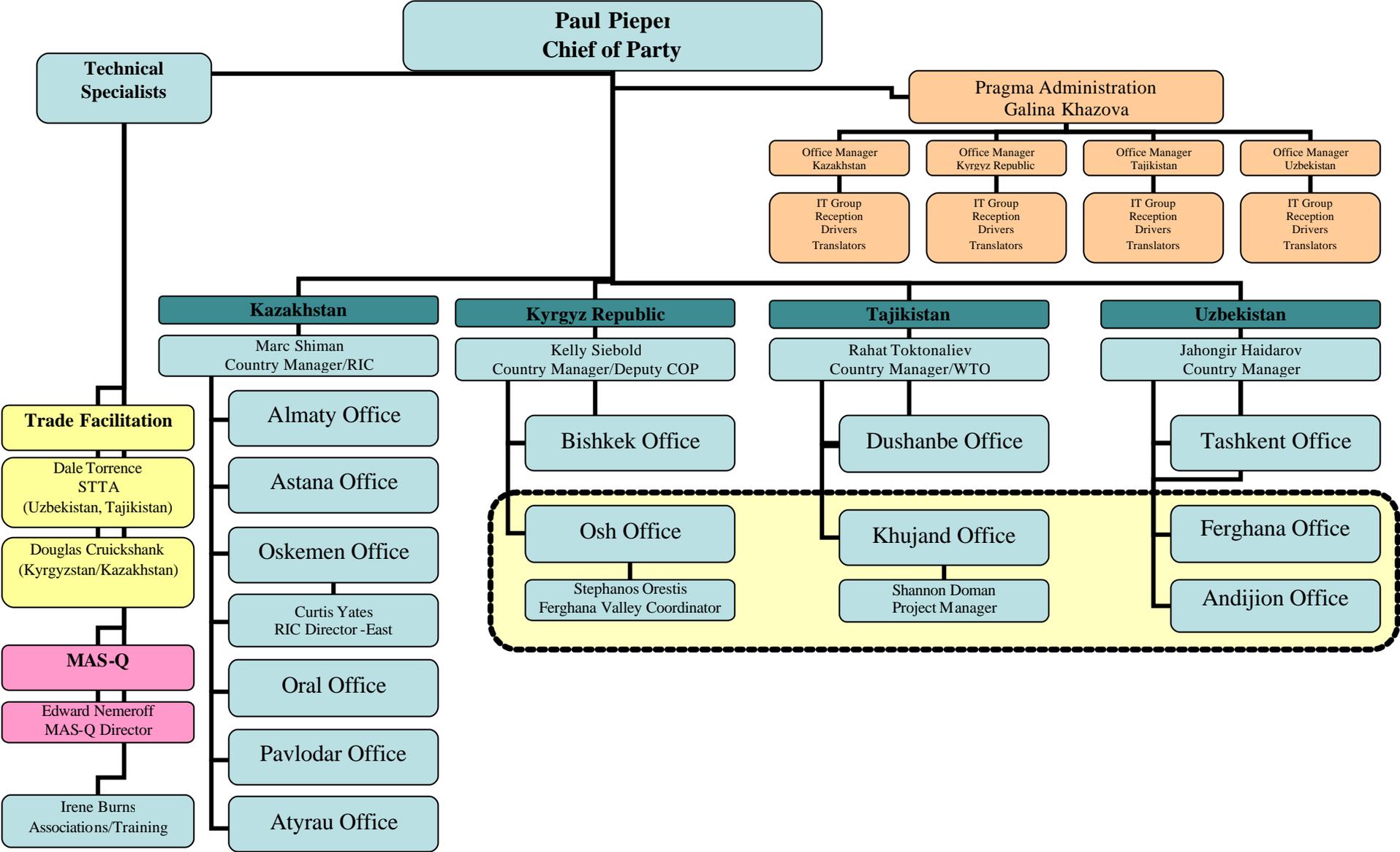
The final report in English will be submitted to USAID on or before August 15, 2003. A copy of the report will be sent to the Development Experience Clearinghouse in USAID/Washington.

The report should include the following:

1. Executive summary of principal conclusions and findings responsive to the “Evaluation Purpose” as stated in the statement of work;
2. A brief discussion of data collection methodology (a more detailed presentation of methodological issues should be included as an appendix);
3. A thorough discussion of study findings and conclusions, including supporting evidence such as tables or graphics;
4. Sufficiently detailed answers to the questions set forth in the statement of work; and
5. Any other recommendations which the contractor can provide for improving the program.

The document should be submitted electronically compatible with MS WORD, Excel in a MS Windows environment. The report should be no more than 25 pages long, double-spaced, 12-point type. Additional materials, which will include copies of field notes, interview protocols and questionnaires, should be attached as annexes.

**ANNEX H  
TF&I ORGANIZATION CHARTS**



**ANNEX I**  
**CENTRAL ASIA REPUBLICS**  
**BRIEF COUNTRY DESCRIPTIONS**

(Source: World Bank, 2001)

**Kazakhstan**

Population: 14.8 million  
Population Growth: -.9%  
Life expectancy: 65  
Population below subsistence (2000):32%  
GDP per capita: 1,506  
GDP (in USAS\$): 22,319,000,000  
GDP growth:13%  
Urban Population: 56% of population

Kazakhstan is one of the fastest growing post-communist countries and has accomplished reforms in privatization, price and exchange rate liberalization, finance and banking, public procurement, and tax administration. GDP growth was 13% in 2001 and is forecasted to average 6% until 2005. Foreign Direct investment in the oil and gas sectors has increased. Kazakhstan has maintained a current account deficit every year since 1995 (with the exception of 2000). Inflation has been lower than 10% per year since 1997, which is a major improvement over the 48% inflation recorded in 1991. The main sectors of Kazakhstan's non-diversified economy are services, industry and manufacturing. Industry and manufacturing sectors grew 15% in 2000 and 2001. The services sector grew 10% in 2001. Growth of domestic investment has been on the rise since 1998 and was at 28% in 2001. Domestic saving has decreased to 23% of GDP in 2001, which is reflected in the increase in private consumption to 18%. Due to macro policies (low government deficits, opened economy, and low inflation) and a favorable external environment, Kazakhstan GDP is expected to meet the forecasted 6% per year until 2005.

**Kyrgyz Republic**

Population: 5 million  
Population Growth: 1%  
Life expectancy: 68.5  
Population below poverty:48%  
GDP per capita: 308  
GDP (in USAS\$): 1,525,000,000  
GDP growth: 5.3%  
Urban Population: 35% of population

Following the fall of the Soviet Union, the Kyrgyz Republic suffered hyperinflation, unemployment, and reduction in real incomes as the money transfers from Moscow ended. In 1993, the Kyrgyz Republic sought a market economy and in 1996, the economy began to recover. GDP growth has averaged 5% since that time. The Kyrgyz Republic has attempted to diversify its economy, with agriculture (the largest sector) averaging 37% of GDP, industry averaging 28% of GDP, and services averaging 34% of GDP. Domestic investment has been sporadic, dipping sharply in 1998, increasing into 2000, but dropping again to 2% in 2001. Inflation has lowered to 7% in 2001 due to reduced fiscal deficits and tight monetary policy. The Kyrgyz Republic maintains a current account deficit due to sustained imports. Investment, both domestic and DFI are low. Government deficits continue year to year and poverty is widespread. Good governance issues were addressed in 2002 and are developing. Farmers can get credit via World Bank and Kyrgyz Agricultural Finance Corporation (KAFC). The telecommunications industry has expanded and the energy infrastructure strengthened.

## **Uzbekistan**

Population: 25 million  
Population Growth: 2%  
Life expectancy: 70  
Population below poverty: 29%  
GDP per capita: 299  
GDP (in USAS\$): 7,467,000,000  
GDP growth: 4,5%  
Urban Population: 37% of population

With an abundance of natural resources, Uzbekistan is considered a country with growth potential. The government has taken a gradualist approach to economic transition. While able to avoid the collapse of living standards after the dissolution of the Soviet Union, GDP growth since 1997 has been stable at 5% and is expected to remain at that level for some time. The agricultural sector represents 34% of GDP, the industry sector represents 22% of GDP, and services sector represents 42% of GDP. Inflation has been also been stable at less than 5% per year since 1998. Uzbekistan's main exports are cotton fiber, gold and manufacturing goods. Uzbekistan has been running a current account deficit from 1995 (with the exception of 2000). Direct Foreign Investment is low due to trade controls and overvalued commercial bank exchange rates. Priorities for ending the gradualist approach include removing exchange controls, liberalizing trade, and encouraging private sector development.

## **Tajikistan**

Population: 6.4 million  
Population Growth: 1.6 %  
Life expectancy: 68  
Population below poverty: 83%  
GDP per capita: 161

GDP (in USAS\$): 1,000, 000,000

GDP growth: 10.3%

Urban Population: 28% of population

Tajikistan experienced a civil war from independence in 1991 until mid 1997. Despite having many natural resources, Tajikistan remains poor. Tajikistan's main exports are aluminum and cotton fibers. For all years from 1995, Tajikistan has maintained a current account deficit. Inflation has been managed and is negligible at about 1% per year. Starting with the lowest GDP per capita of the four Central Asia Republics, GDP growth was very high at 10% in 2001 and is expected to continue to be positive. The agriculture sector is declining in importance and represents 24% of GDP, the industrial sector is also lessening in importance and represents 24% of GDP, and the services sector has increased to 52% of GDP. Tajikistan has been increasing productivity in agriculture and investing in human capital. Tajikistan's fiscal and monetary policy, along with a floating exchange rate, has created macroeconomic stability. Poverty remains very high at over 80% of the population.

## ANNEX J

### THE REVISED KYOTO CONVENTION 2000

#### Introduction

TATIS solutions provide all international trade participants with the tools to implement the recommendations of the Kyoto Convention 2000:

- The maximum use of automated systems
- The use of pre-arrival information to drive programmes of selectivity
- Risk management techniques (including risk assessment and selectivity of controls)
- Easy access to information on customs requirements, laws, rules and regulations

The Kyoto Convention came into force in 1974 with the aim of simplifying and harmonising customs procedures in order to facilitate and encourage international trade.

Since 1974, huge advances have been made in technology. International trade has expanded dramatically and the international business environment has become highly competitive. The world has become a more demanding place with the emphasis on speed, efficiency, reliability, and customer service and satisfaction. Currently, none of these is truly compatible with traditional customs methods and procedures, which are frequently time consuming, inefficient, unpredictable and in some cases archaic.

The original Kyoto Convention of 1974 has been revised to ensure that it meets the current demands of international trade and to form the basis of an international blue print for modern and efficient customs procedures in the 21st Century.

The Kyoto Convention states that **customs systems and processes must not be allowed to serve or be perceived as a barrier to international trade and growth.**

It is universally acknowledged that customs administrations play a vital role in the growth of international trade and the development of the global marketplace. The efficiency and effectiveness of customs procedures can significantly influence the economic competitiveness of nations.

The revised Kyoto Convention is the foundation of the development and modernisation of global customs procedures. The General Annex to the revised Convention recommends that a modern customs administration should implement:

- Standard, simplified procedures
- Continuous development and improvement of customs control techniques
- Maximum use of information technology
- A partnership approach between customs and trade

One of the most significant new governing principles of the Convention is the commitment by customs administrations to provide greater transparency and predictability for all those involved in aspects of international trade.

TATIS solutions comprise innovative technology common to all applications, which is continuously modernised as new technology emerges.

In addition, TATIS solutions enable the implementation of customs procedures and practices relating to transit, imports, exports, bonded warehousing and bonded manufacturing in a predictable, consistent and transparent manner with:

- Effective recording of all goods entering a customs process
- Customs valuation support tools
- Audit based control
- Effective management of guarantees within the applicable customs process, which ensures
- payment of duties and taxes, should the terms of such process be infringed
- Delivery of maximum practicable use of information technology with emphasis on the direct
- transfer of skills and tools to the user
- Constant database updates
- SmartDocument™ technology and bar coded labels to accompany and enable tracking of every shipment
- Risk profiling of shipments and trade participants ensuring that potentially risky shipments and
- trade participants can be identified by customs officials and administered appropriately
- TATIS technology provides all interested parties with all necessary information relating to
- customs laws, regulations, administrative guidelines, procedures and practices via a website making this essential information available as and when required.

## **Implementation of the Convention**

The Convention must be ratified in order to become effective. Forty WCO member countries must ratify the revised Convention before it can become effective and replace the original Convention of 1974. The member countries are known as Contracting Parties and sixty-one have committed to ratifying the revised Convention. There are three options for the ratification of the Convention:

1. Sign without reservation the ratification.
2. Sign subject to ratification (instrument of ratification to be deposited after signing)
3. Accede.

The Convention was open for signature between 1 June 1999 and 30 June 2000 during which time Contracting Parties could formally sign the Convention and notify the WCO of ratification.

After this time, Contracting Parties can accede to the Convention by notifying the WCO once the necessary national steps are completed.

Contracting Parties are obligated to bring the Standards, Transitional Standards and Recommended Practices that they have accepted into force nationally. Standards must be implemented within 36 months of ratification, while transitional standards have a 60-month implementation period. Contracting Parties' national legislation must include at least the basic rules from the General Annex, with detailed regulations for their implementation. Such regulations are not necessarily restricted to Customs legislation and may include official notifications, charters or ministerial decrees, or similar instruments. National legislation should include the conditions under which the Customs procedure will be accomplished. Customs administrations are obliged to ensure that their regulations are transparent, predictable, consistent and reliable.

Algeria	Hungary	Rwanda
Australia	India	Saudi Arabia
Austria	Ireland	Senegal
Belgium	Israel	Slovak Republic
Burundi (inactive)	Italy	Slovenia
Cameroon	Japan	South Africa
Canada	Kenya	Spain
China	Korea	Sri Lanka
Congo	Latvia	Sweden
Cote d'Ivoire	Lesotho	Switzerland
Croatia	Luxembourg	Turkey
Cuba	Malawi	Uganda
Cyprus	Malaysia	United Kingdom
Czech Republic	Morocco	United States
Denmark	Netherlands	Vietnam
EU	New Zealand	Zambia
Finland	Nigeria	Zimbabwe
France	Norway	
Gambia	Pakistan	
Germany	Poland	
Greece	Portugal	

## **Current Status**

As at 30th June 2002, the Convention has been ratified by ten countries:

1. Algeria
2. Australia
3. Canada
4. China
5. Czech Republic
6. Japan
7. Latvia
8. Lesotho
9. Morocco
10. New Zealand

Some countries have taken partial steps towards ratification of the Convention Contracting Parties but still need to ratify:

1. Democratic Republic of Congo
2. Slovakia
3. Sri Lanka
4. Switzerland
5. Zambia
6. Zimbabwe

## **The Structure of the Convention**

The Convention has a General Annex, Specific Annexes and Chapters, and Guidelines. *General Annex*

Deals with the core principles for all procedures and practices, to ensure that these are uniformly applied by Customs Administrations. The General Annex reflects the main Customs functions in its Definitions, Standards and Transitional Standards, which all have the same legal value. The General Annex is obligatory for accession to the Convention.

### *Specific Annexes and Chapters*

Cover individual Customs procedures and practices. Contracting parties may accept all or a number of Specific Annexes and Chapters upon accession to the Convention. Specific Annexes include Standards and Recommended Practices. (WCO recommends that Contracting Parties at least accept the Specific Annexes on Home Use, Export and those regarding formalities prior to lodgement of Goods Declaration, as well as those for Warehouses, Transit and Processing.)

## ***Guidelines***

Explanations of the provisions of the Convention – provide examples of Best Practices. Guidelines are provided for all chapters in the General Annex, except the Definitions chapter, and for all the Specific Annexes and their chapters. Not part of the legal text of the Convention.

## ***Standards and Transitional Standards***

Standards must be implemented within 36 months of ratification, while transitional standards have a 60month implementation period. No reservations are allowed on Standards in General Annex or Standards in Specific Annexes that Contracting Parties have accepted.

## **Main Provisions in the General Annex**

The General Annex is divided into 10 chapters.

### ***Chapter 1: General Provisions***

- Implementation of provisions in Annex is to be specified in national legislation and is to be as simple as possible.
- Customs administrations are to work with the trade community to increase cooperation.

### ***Chapter 2: Definitions***

- Definitions provided from "appeal" to "third party."

### ***Chapter 3: Clearance of Goods***

- Goods declarations to only contain information necessary for assessment of duties and taxes, statistical collection, and application of Customs law.
- Declarant will be held responsible to Customs for the accuracy of information in the Goods declaration and the payment of duties and taxes.
- Samples to be drawn as small as possible.
- Customs to not impose substantial penalties for inadvertent errors and errors without evidence of fraud or gross negligence.
- Customs administrations to coordinate operations at common border crossings (transitional standard).
- Customs administrations and other government agencies to coordinate inspections (transitional standard).

### ***Chapter 4: Duties and Taxes (Assessment, Collection and Payment; Deferred Payment; Repayment)***

- National legislation to specify methods of duty and tax payment.
- When national legislation specifies payment due date may be after release of the goods, that date
- shall be at least ten days after release. No interest charged between date of release and due
- date.
- Period for deferred payment of duties to be at least 14 days.

- Repayment to be granted for defective goods or goods not in accordance with specifications at time of importation/exportation and are returned to supplier, if goods have not been worked, repaired or used.
- Repayment decisions to be made without "undue delay."

**Chapter 5: Security**

- Customs administrations to determine how much security is needed.
- If security is required, amount of security to be "as low as possible," and, in respect of payment of duties and taxes, is not to exceed the amount potentially chargeable.

**Chapter 6: Customs Control and Risk Management**

- All goods entering or leaving Customs territory are under Customs control.
- In application of Customs control, Customs Administrations to use risk analysis to determine who
- and what should be examined and the extent of examination.
- Customs administrations to adopt a compliance measurement strategy to support risk management.
- Customs control systems to include audit-based controls.
- Customs administrations to seek to cooperate with the trade and to conclude Memorandum of Understandings to enhance Customs control.
- Customs administrations to use information technology and e-commerce to enhance Customs control (transitional standard).

**Chapter 7: Use of Information Technology**

- New/revised national legislation to provide for:
- e-commerce alternatives to paper-based documentation requirements; electronic as well as paper-based authentication methods; the right of Customs administrations to retain information and share it with other Customs administrations through e-commerce.
- Customs administrations to develop information technology in consultation with all relevant parties.
- Customs administrations to apply info technology to support operations, when cost-effective and efficient for Customs and the trade.

**Chapter 8: Relationship Between Customs and 3rd Parties**

- Persons/entities are to have option of doing business with Customs directly or through a third party.
- Third parties to have same rights as parties on whose behalf they act.
- National legislation to set out rules/conditions for third parties – should not be different than rules for persons/entities doing business directly with Customs.

**Chapter 9: Customs Information, Decisions and Rulings**

- Customs law information to be readily available.
- Customs administrations to provide "as quickly and as accurately as possible" specific information requested by an interested party.
- Adverse Customs decisions to provide reasons and to advise of right of appeal.
- Customs administrations to issue binding rulings upon request.

**Chapter 10: Appeals in Customs Matters**

- National legislation to provide for a right of appeal in Customs matters.
- Time limit to apply to requesting an appeal, and Customs administration to respond as soon as possible.
- • Customs appeals decisions to be in effect as soon as possible.

**Main Provisions in the Specific Annexes**

**Annex A: Arrival of goods in a Customs territory**

Chapter 1 Formalities prior to the lodgement of the Goods declaration Chapter 2 Temporary storage of goods

**Annex B: Importation**

Chapter 1 Clearance for home use

Chapter 2 Re-importation in the same state Chapter 3 Relief from import duties and taxes

**Annex C: Exportation** Chapter 1 Outright exportation

**Annex D: Customs warehouses and free zones** Chapter 1 Customs warehouses Chapter 2 Free zones

**Annex E: Transit**

Chapter 1 Customs transit

Chapter 2 Transshipment

Chapter 3 Carriage of goods coastwise

**Annex F: Processing**

Chapter 1 Inward processing Chapter 2 Outward processing Chapter 3 Drawback

Chapter 4 Processing of goods for home use

**Annex G: Temporary admission** Chapter 1 Temporary admission

**Annex H: Offences** Chapter 1 Customs offences

**Annex J: Special procedures** Chapter 1 Travellers

Chapter 2 Postal traffic

Chapter 3 Means of transport for commercial use Chapter 4 Stores

Chapter 5 Relief consignments

**Annex K: Origin**

Chapter 1 Rules of origin

Chapter 2 Documentary evidence of origin

Chapter 3 Control of documentary evidence of origin