

## TECHNICAL ASSISTANCE COMPLETION REPORT

Division: CWGF

TA 4126-AZE : Development of a Competition Policy Framework			Amount Approved: \$250,000		
			Revised Amount: n.a.		
Executing Agency: Ministry of Economic Development		Source of Funding: TASF	Amount Undisbursed: \$177,226.15	Amount Utilized: \$72,773.85	
TA Approval Date: 13 June 2003	TA Signing Date: 11 June 2004	Fielding of First Consultant: 4 July 2005	TA Completion Date Original: 30 September 2004 Actual: 30 September 2006 Account Closing Date Original: 30 September 2004    Actual: 31 July 2007		
<p><b>Description</b></p> <p>In early 2003, the Government of Azerbaijan requested technical assistance (TA) from ADB to strengthen the institutional capacity of the Department of Antimonopoly Policy (DAP) of the Ministry of Economic Development (MED). This followed the transfer to DAP of the enforcement responsibility of all competition policy laws in Azerbaijan. DAP was then at its initial stage of development with a staff of only 21 people. Its goal was to become a modern regulatory body following internationally accepted standards for competition and related policies. The main functions of DAP include implementing measures to promote competition, preventing unfair competition and abuse by firms with dominant market positions, and protecting consumers' rights.</p> <p><b>Expected Impact, Outcome and Outputs</b></p> <p>The TA aimed to strengthen the institutional capacity of DAP and create a legal and regulatory framework for supporting a healthy policy environment for competition in all sectors. The TA design was relevant. A well-designed policy framework and an effective competition authority are necessary for fostering an environment conducive to economic efficiency, consumer welfare, and investment and business activities in Azerbaijan. The expected outputs of the TA were: (i) design of a strategy to increase DAP's effectiveness and institutional capacity, and (ii) identification of legal amendments and institutional policy actions allowing DAP to become an effective regulatory authority.</p> <p>During TA formulation, MED intended to reorganize DAP, and the needed political will seemed to be in place to start modernizing and strengthening the Azeri competition policy framework. At that time, the Government had not received any other assistance in this area.</p> <p><b>Delivery of Inputs and Conduct of Activities</b></p> <p>An ADB fact finding mission visited Baku in February 2003 and reached general agreement with the Government on the objectives and scope of the TA. The TA proposal was further discussed with the Government on 20 May 2003 and their comments were incorporated. The TA, however, suffered from significant delays and problems following ADB approval. It turned out that the Government disagreed with the background section of the TA paper which it viewed as too negative about Azerbaijan that it took them one year to sign the TA letter agreement.</p> <p>Engagement of consultants was likewise a challenge. Those who submitted expressions of interest did not possess sufficient background or experience in competition law and policy. Additional candidates identified were either unavailable for the proposed time frame or had higher rates than could be financed under the TA budget. Thus, consultants were engaged only in June 2005 and were immediately fielded on an inception mission. Taking into account all these delays, ADB extended the TA completion date to 30 September 2006.</p> <p>Following the submission of the Inception Report in September 2005, circumstances led to a change in all key personalities involved in TA implementation and this further compounded the obstacles in its administration. The Minister of MED, which was the Executing Agency (EA), was replaced. The Director of DAP resigned. The EA requested to replace the Competition Policy Expert/Team Leader, while the other consultant (Legal and Economic Policy Expert) was appointed by the United States (US) Government as Commissioner of the US Federal Trade Commission (FTC) and therefore had to be replaced. Even the ADB Project Officer, the third to be assigned to this TA since its formulation, transferred to another department.</p> <p>The replacement consultants were engaged in July 2006 and they immediately went on a review mission. The consultants learned that there was already a new charter and structure for MED that was to be approved, after which the DAP was to be restructured into the State Antimonopoly Service. In the midst of all these, the TA activities were on hold. Noting that many events had taken place within DAP and the competition policy area in Azerbaijan from the time that the TA was conceived including (i) submission of a draft Competition Code to Parliament, and (ii) significant</p>					

institutional and structural changes in DAP, ADB proposed not to extend the TA any further. Over the course of TA implementation, other donors got involved in extending TA to DAP, including the World Bank, United States Agency for International Development and the US FTC. The TA was thus closed in September 2006 with only 29% (\$72,774) of the TA amount disbursed.

While circumstances that emerged were beyond their control, the performance of ADB and the EA was, in general, less than satisfactory with the delays in consultant engagement and actual TA implementation. The consultants' performance was likewise less than satisfactory. The first set of consultants had enormous challenges working with the EA and getting the TA implementation underway according to schedule.

#### **Evaluation of Outputs and Achievement of Outcome**

Following the inception mission, the consultants presented possible courses of action for the Government to strengthen its competition policy framework. During the review mission, the consultants were asked to review the Draft Competition Code of December 2004, which they did extensively, comparing it with the Competition Code of Russia, the European Community, the US and other Eastern European models. But by the time they were ready to make recommendations, they learned that a revised draft of the Competition Code was being discussed in the Parliament and DAP was unable to provide the new version to the team of consultants. With no significant progress for over two years after its original completion date, the TA was eventually closed without undertaking a vast majority of its activities. Its outputs were irrelevant to the Government's decision making.

#### **Overall Assessment and Rating**

The TA was unsuccessful. Due to substantial delays and implementation problems, the TA was unable to provide significant inputs to strengthening the competition policy framework in Azerbaijan.

#### **Major Lessons**

ADB should continually assess the Government's commitment and the prospects for successful TA implementation. It should not continue to keep a TA open especially if it is perceived that the Government is not responsive.

A key challenge to strengthening competition policy in transition economies is the development of an independent regulatory body.

#### **Recommendation and Follow-Up Action**

It is recommended that ADB carefully assess the Government's commitment to supporting a healthy policy environment for competition in all sectors in Azerbaijan before pursuing further work in this area. By extension, support for policy reforms should be assessed carefully.

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