

TECHNICAL ASSISTANCE COMPLETION REPORT

Division: OGC

TA No. and Name TA 2967-MON: Retraining Legal Professionals in a Market Economy			Amount Approved: \$1,000,000	
			Revised Amount: N.A.	
Executing Agency: Ministry of Justice and Home Affairs	Source of Funding: TASF		TA Amount Undisbursed \$54,716.47	TA Amount Utilized \$945,283.53
Date			Completion Date	
Approval 23 December 1997	Signing 5 June 1998	Fielding of Consultants 22 June 1998	Original 30 April 2001	Actual 31 August 2005
			Closing Date	
			Original 31 July 2001	Actual 28 December 2005
Description {Background and rationale}				
<p>When the TA was being processed, virtually all major commercial laws in Mongolia had been enacted or significantly amended in the previous two years. These laws included the Civil Code and the Banking, Central Bank, Bankruptcy and Partnership and Company Laws. These developments reflected Mongolia's rapid transition to a market economy following the end of the Soviet Union and the collapse of the Council of Mutual Economic Assistance (whose member states were Mongolia's main trading partners). Not only were market economy-based legal principles new to Mongolian lawyers, but basic Mongolian legal education also had serious weaknesses. Legal training tended to be theoretical without case study or practical application, and skills such as legal drafting, client interviewing, and advising and negotiating not emphasized. Aside from some short-term <i>ad hoc</i> training programs, there were no systematic long-term programs, and no single program or training center for all legal professionals.</p> <p>The rationale for the TA was based on a systematic and detailed legal needs assessment and training analysis pursuant to earlier TAs and RETAs. Based on the assessment, the Government prepared a proposal, requesting ADB's assistance in creating the retraining program and establishing a legal retraining center (LRC) for all legal professionals. The retraining would also help sustain the commercial legal and regulatory reforms under ADB's program loans to Mongolia for the trade and industry and financial sectors.</p>				
Objectives and Scope				
<p>The objective of the TA was to assist the Government in establishing the LRC and creating at the LRC a retraining program that would provide continuing legal education for mid-career Mongolian lawyers in the application of market economy-based legal principles in recently enacted commercial laws and regulations. Training in "lawyering skills" such as legal analysis, drafting and negotiating was also to be offered. The program would include specialized training for judges and prosecutors. In selecting LRC training program participants, attention was to be given to gender balance as well as representation from all <u>aimags</u> (provinces), regardless of remoteness from the capital Ulaanbaatar.</p> <p>The TA scope comprised the following: (i) a training-of-trainers component involving selection of the LRC trainers, intensive English language training in Ulaanbaatar for the trainers prior to their overseas study with the consulting firm, and several months of training in commercial legal principles and lawyering and teaching skills; (ii) support for the retraining program in Ulaanbaatar, primarily through a foreign resident adviser; (iii) development of the LRC curriculum and training materials; and (iv) delivery of the actual training programs in commercial laws and regulations.</p> <p>The TA's objective, scope, TORs and implementation schedule were appropriate and highly relevant, especially given the absence prior to the TA of any systematic continuing legal education in commercial laws and Mongolia's rapid transition to a market economy. The LRC was the first institution to provide continuing legal education in Mongolia, and the sustainability of the TA's approach to training (i.e., through a domestic institution with qualified national trainers) has been confirmed by the Government's establishment of the National Legal Center; this Center incorporates the LRC's training program, teaching methodology and trainers, is headed by the LRC Director, and has consolidated training in all areas of laws. Throughout TA implementation, "stakeholder participation" and "ownership" of the TA by the Ministry of Justice (as EA) and the Mongolian legal profession in general were very high with the active involvement of the LRC trainers and leading Mongolian legal professionals to ensure that training matched individual participants' and overall Mongolian legal community needs.</p>				

Evaluation of Inputs

The quality of the Mongolians selected to be the LRC trainers was excellent. The initial group of trainers proposed by the EA was not acceptable, so at the request of ADB, a more intensive search was undertaken, including examination and interviews by ADB and the consulting firm (the Law Faculty of the University of Melbourne [the University of Melbourne]). Eight trainers with different work backgrounds (i.e., Government legal service, judiciary, prosecutor's office, private practice and academia) were selected; five of the trainers were women.

Proposals from the short-listed consultants, in particular from law schools, were strong. The University of Melbourne was selected based on its tailor-made program. The program, which comprised an intensive two-month English language training program in Ulaanbaatar and about seven months of training in commercial law, lawyering skills and teaching skills in Melbourne, was very good. The program in Melbourne could, however, have been even stronger if it had focused more on Mongolian legal principles.

A major TA component involved the services of a foreign adviser resident in Ulaanbaatar to help with establishment of the LRC, preparation of the curriculum and training materials, and strengthening of the lawyering and teaching skills of the trainers during the actual training programs. The adviser selected by the University of Melbourne was competent, but the benefits of his contributions diminished mid-way through the program. He also had conflicts with the University of Melbourne professor who had supervised the training-of-trainers program training in Melbourne, and this affected the coordination between the LRC and the Law Faculty. His time in Ulaanbaatar was reduced for this and health reasons. Because the LRC was running more and more on its own, his replacement worked on a part-time basis. A PER regarding the consulting firm's performance has been prepared.

The Ministry of Justice was committed to the TA and its performance, strong. As EA, the Ministry generally satisfied its counterpart fund obligations. Early in the establishment of the LRC, there was a change in the LRC Director for political and personal reasons. At ADB's request, the LRC Director was eventually replaced by the person originally supported by ADB – a highly qualified and respected former Minister of Justice. Indicative of the support for the LRC, the LRC Board of Directors comprised the leading figures in the Mongolian legal subsectors of government service, the judiciary, prosecutor's office, private practice and academia.

Evaluation of Outputs

From its establishment, the LRC offered full-time, 2-month intensive training programs in Mongolian commercial laws and regulations, as well as in lawyering skills (primarily legal research, drafting, advocacy and negotiation). Over 500 legal professionals were trained through these programs (about ¼ more than envisaged under the TA). At the request of the Government, the LRC also offered various short-term training courses in specific commercial laws, legal research on the Internet, legal English and computer skills. Course participants included lawyers throughout the country, including from remote aimags, so that information would be disseminated widely.

The main factor for the success of the training was the quality of the trainers and the LRC director. The trainers were committed to teaching and scholarship. Of the 8 trainers, one has since received a doctoral degree in law while four others are in the process of earning their doctorates. A student feedback and training evaluation system was developed and applied. Training was uniformly praised for the substantive law and lawyering skills taught, participatory approach involving hypothetical cases and problem solving, training materials and publications, and computer training. At examinations during and at the end of courses, participants demonstrated greater substantive legal knowledge (e.g., establishing a company, banking regulations, tax rules, international trade principles, and white collar crimes), as well as more effective lawyering skills (e.g., ability to conduct research, negotiate, and draft legal documents). The LRC exposed many participants to the use of computers for the first time. The TA was linked with ADB's Project Dial I and II RETAs, which established and supported the largest complimentary on-line legal database in the world; use of this database was taught in the LRC training programs.

Prior to the TA, there was no institution offering continuing legal education in Mongolia. Training had generally been ad hoc, short-term and unsustainable. Due in large part to the successes of the NLC, training programs in legal areas other than commercial law were developed. These programs were prepared by the Government and other donors in coordination with the TA. Donor coordination and cooperation with USAID, GtZ, the World Bank, and the Soros Foundation during TA implementation were strong and beneficial.

Based on the importance attached to legal training, the Government consolidated all legal training programs and constructed and established a new National Legal Center (NLC) in Ulaanbaatar using World Bank loan funds. Continuation of the LRC's successes has been assured through the appointment of the LRC Director as the Director of the NLC and the designation of the LRC trainers as the core trainers and heads of the legal research teams at the NLC. All post-law school legal training, including training for admission to the Mongolian Bar and judicial training, is

being offered at the NLC.

Overall Assessment and Rating {i.e., highly successful, successful, partly successful, unsuccessful}

The TA was successful. It resulted in the establishment of the LRC in Ulaanbaatar and the training of over 500 Mongolian lawyers in commercial law and lawyering skills by a highly capable team of Mongolian trainers. Participants demonstrated their increased substantive legal knowledge and improved lawyering skills (e.g., in research, negotiating and writing) as a result of LRC training in examinations during and at the end of LRC courses. Because of its successes, the LRC and its training program were used as a model for other legal training programs in Mongolia. The TA helped the Ministry of Justice and the Government to appreciate the importance of continuing legal education, and the NLC was established in late 2004 to house all training programs. The successes of the TA will be sustained through the NLC by the LRC Director and trainers who are now with the NLC; the LRC trainers continue to provide training in commercial law, legal research on the Internet and lawyering skills, and now lead the research teams at the NLC which are to carry out legal research on behalf of the Government.

Completion dates for the TA and the consultant's contract were extended due to (i) early delays in selecting the LRC trainers and establishing the LRC, (ii) the longer than expected English language training and training-of-trainers programs, and (iii) the benefits of extending the training courses supported by the TA with unused TA funds. As a result of the extension of the TA completion date, the number of persons trained was 25% more than envisaged under the TA. In addition, the longer implementation period has allowed the TA to address long-term sustainability issues relating to the integration of the LRC in the NLC, which was constructed with World Bank loan funds and opened for courses in 2004.

Major Lessons Learned (if any)

The TA confirmed the importance of (i) Government support for continuing legal education, in particular, when the legal framework has changed as dramatically as it has in Mongolia and when many participants lack the resources to obtain training otherwise; and (ii) adoption of a sustainable approach through establishment of an in-country training institution with qualified and committed national trainers, rather than short-term overseas training. The greatest benefit of the TA was to expose the LRC participants to market-economy based legal principles using a teaching methodology that included student participation and modern computer technology. The TA also confirmed the importance of selecting the right individuals, particularly for key positions such as the LRC Director, LRC Board members and trainers.

Recommendations and Follow-Up Actions

A follow-on TA has been approved and will continue to strengthen the commercial law training at the NLC. Given the proposed Third Financial Sector Program loan, it is recommended that ECGF and OGC continue to work closely together to ensure the sustainability of legal reforms under this program through training offered at the NLC. The follow-on TA will also help the NLC to develop sources of revenue (e.g., fee-based courses), so that its financial sustainability can be strengthened.

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