

TECHNICAL ASSISTANCE COMPLETION REPORT¹

Division: Office of the General Counsel

TA No., Country and Name		Amount Approved: \$400,000	
TA No. 4824-PRC: Strengthening the Legal and Implementation Framework for Anti-Money Laundering		Revised Amount: NA	
Executing Agency: The General Office of the National People's Congress	Source of Funding: TASF	Amount Undisbursed: \$104,873.32	Amount Utilized: \$295,126.68
TA Approval Date: 7 August 2006	TA Signing Date: 6 September 2006	Fielding of First Consultants: 1 April 2008.	TA Completion Date Original: 31 December 2007 Actual: 30 June 2009 Account Closing Date Original: 31 December 2007 Actual: 26 October 2009
Description			
<p>The principal objective of the TA is to help the Government strengthen the legal and institutional framework for anti-money laundering ("AML").</p> <p>Expected Impact, Outcome and Outputs</p> <p>The impact of the TA is greater understanding of and compliance with international standards, particularly the Financial Action Task Force Recommendations on Money Laundering and Terrorism Financing ("FATF Recommendations"). The outcome of the TA is the development of a more efficient and effective AML regime that meets international standards. The outputs of the TA are: (i) a final draft AML law; (ii) a comprehensive list of recommendations for amendment of related legislation; (iii) an implementation manual, including a comprehensive action plan; (iv) training materials; and (v) relevant international symposia and domestic workshops.</p> <p>Delivery of Inputs and Conduct of Activities</p> <p>The TA was processed quickly during mid-2006 taking into account: (i) the Government's request; (ii) the timing of the legislative process in the PRC for the draft AML law; and (iii) the Government's preparation for a FATF mutual evaluation (for assessing the level of compliance with the FATF Recommendations in the PRC) and membership. Following approval of the TA on 7 August 2006, the first phase of the TA contributed to the enactment of the AML law through supporting stakeholder consultations via an international symposium and 3 domestic workshops. Staff provided substantial input on the design and coordination of the international symposium and workshops. The AML law was passed on 31 October 2006 and became effective on 1 January 2007.</p> <p>Following enactment of the AML law, the Government's focus was on the FATF mutual evaluation. An onsite review was carried out by the FATF in November 2006 and the mutual evaluation report was discussed and adopted at the FATF plenary in June 2007. At the same plenary, the PRC was also accepted as a FATF member and thereby, became part of the 34 FATF member countries (mostly G20 countries) that set international standards for AML and related matters. Pursuant to the PRC's completion of the FATF mutual evaluation and attainment of FATF membership, the second phase of the TA was designed to support developments in 3 main areas of the AML regime, namely: (i) strengthen the criminal law aspects of the AML legal framework; (ii) strengthen the AML regulations, including reporting of suspicious transactions, for the financial sector; and (iii) make recommendations for the application of AML requirements in selected sections of the non-financial sector. These areas also corresponded to inadequacies identified in the FATF mutual evaluation.</p> <p>Based on the priorities for the second phase of the TA, the General Office of the National People's Congress ("NPC") continued as the Executing Agency whilst the People's Bank of China ("PBC") became the Implementing Agency, initially for 2 of the 3 main areas under this phase of the TA and subsequently for the remaining main area of this phase of the TA. To enable this, changes in implementation arrangements were made on 10 January 2008 and 10 July 2008 respectively. Correspondingly, the TA completion date was extended to 31 December 2008 and 30 June</p>			

¹ In preparing any country program or strategy, financing any project, or by making any designation of or reference to a particular territory or geographic area in this document, the Asian Development Bank does not intend to make any judgments as to the legal or other status of any territory or area.

2009 respectively. The second phase of the TA was implemented: (i) with the input of 5 international and domestic consultants; and (ii) through 2 international symposia and a domestic workshop for stakeholder consultations. In consultation with the Government, staff provided substantial input on the: (i) reports and recommendations from the consultants; and (ii) design and coordination of the international symposia and the domestic workshop.

Overall, the Government placed high emphasis on the TA which is evidenced by the use of the TA outputs in their reform proposals and the active participation of high-level officials in the international symposia and workshops. The NPC and the PBC were also proactive and positive counterparts. The performance of the consultants and resource persons was generally satisfactory.

Evaluation of Outputs and Achievement of Outcome

Output (i) - Final draft AML law – Enactment of the draft AML law was the centerpiece of the reforms in the PRC (and without which the results of the FATF mutual evaluation would be less positive). Expert input under the TA contributed to discussions on the draft AML law during the international symposium and 3 domestic workshops. The AML law also provided the foundation for further implementation of AML requirements, such as in the financial sector and the non-financial sector.

Output (ii) – A Comprehensive List of Recommendations for Amendment of Related Legislation – Based on recommendations from the TA, the Government: (i) has submitted proposals for improving the formulation of the money laundering offence in the Penal Code; (ii) is preparing recommendations for strengthening the AML regulations for the financial sector, notably in improving the system of suspicious transaction reporting; and (iii) is examining recommendations for implementing AML requirements in the non-financial sector.

Output (iii) - An Implementation Manual, including a Comprehensive Action Plan – Based on the priorities identified for the second phase of the TA (i.e. with respect to the Penal Code and to the financial sector and non-financial sector), the consultant reports for each of the 3 main areas provided detailed recommendations and an action plan for implementation.

Output (iv) – Training Materials – Preparation of training materials was substituted with more technical work under Outputs (ii), (iii) and (v) as additional specialist input was required for developing recommendations for the amendment of the Penal Code and in relation to the financial and non-financial sectors. Such recommendations were part of the reports produced under Outputs (ii) and (iii) above.

Output (v) – International Symposia and Domestic Workshop – These international symposia and domestic workshop provided useful fora for: (i) discussing issues on the proposed amendments to the Penal Code and consultant reports; and (ii) facilitating input from different sections of the Government and the resource persons.

The TA has achieved its outcome in supporting the Government in its development of a AML regime that meets international standards notwithstanding that there are areas where further reform and implementation efforts are required. This is also reflected in the PRC's attainment of FATF membership.

Overall Assessment and Rating

Successful.

Major Lessons

First, implementing AML requirements is a challenging process as it encompasses a range of areas from criminal law and procedure and the regulation and supervision of the financial and non-financial sectors, to the use of financial information and investigation and prosecution of money laundering and related offences. Consequently, broad and extensive consultations are essential for ensuring a more holistic approach to reforms and their implementation. Second, as AML is a very specialized field, there are fewer consultants with suitable experience and expertise. Third, staff should keep abreast of AML-related developments in order to provide adequate input to the formulation and implementation of similar TAs.

Recommendations and Follow-Up Actions

Notwithstanding the PRC's accepted membership to the FATF, there are a number of areas of inadequacies in its AML regime that were identified in the FATF mutual evaluation. The TA has helped to address some of them, particularly with respect to the Penal Code and the financial and non-financial sectors. Nonetheless, further efforts are required for a more comprehensive implementation of the FATF Recommendations and there are current discussions with the Government on a possible new TA in support of these efforts.