

TECHNICAL ASSISTANCE COMPLETION REPORT

Division: ECGF

TA No. and Name 3987-TAJ: Strengthening Corporate and Financial Governance Reforms			Amount Approved: \$480,000.00	
			Revised Amount: \$480,000.00	
Executing Agency: Ministry of Finance		Source of Funding: Government of Spain Spanish Cooperation Fund	TA Amount Undisbursed \$75,878.16	TA Amount Utilized \$404,121.84
Date			Completion Date	
Approval 15 November 2002	Signing 16 January 2003	Fielding of Consultants 1 June 2003	Original 31 January 2004	Actual 31 December 2004
			Closing Date	
			Original 31 January 2004	Actual 30 April 2005
Description The technical assistance (TA) was intended to support governance reforms in Tajikistan's corporate and banking sectors.				
Objectives and Scope <p>The TA's objectives were to: (i) strengthen the legal and regulatory framework for corporate and financial governance (CFG) in banks, (ii) support corporate sector development, (iii) enhance institutional capacity to undertake enterprise restructuring initiatives, and to (iv) formulate reform directions to guide the Government in the areas (i) to (iii) above.</p> <p>Its scope concentrated on (i) enhancing CFG in the banking system while simultaneously strengthening supervisory capacity, (ii) developing a regulatory framework for the securities' market, (iii) training corporate management, and (iv) capacity building for initiatives on bankruptcy from the judicial and corporate perspectives.</p> <p>Given Tajikistan's political and macroeconomic environment in 2002 compared to those of its neighbors, the TA's objectives (as was observed during its implementation) were too ambitious and too wide. Banking and judicial reforms in Tajikistan were limited, as a consequence of which there was little absorptive capacity for reforms to be suggested under the TA.¹ The TA's executing agency (EA), the Ministry of Finance (MOF) lacked the capacity for securities' market oversight.² Surprisingly the TA did not focus on strengthening the MOF's limited oversight capabilities. Given Tajikistan's limited legal reforms, the country's commercial legislation was inconsistent with its Civil Code (as stated in paras. 4-6 of the TA paper). In such circumstances the TA could have better focused and sequenced on first bringing about better convergence between the country's laws and in training the judiciary in their impartial interpretation.</p> <p>While the TA paper stated (in para. 4) that public confidence in the banking system was low, it did not state explicitly whether this low public confidence was due only to poor corporate governance in banks (to remedy which, this TA was designed). Further, the TA paper (in para. 11) stated the World Bank's previous assistance in strengthening the banking sector and ADB's in legal reform and enterprise corporatization. The TA paper did not however explain why and how improving corporate governance alone of (i) banks with high concentration (see para. 3 of the TA paper), and (ii) companies, in a shallow stock market (see para. 8 of the TA paper) would help in strengthening and deepening financial penetration. There was an overlap in focus between this TA and that of the World Bank. Given the context of jurisprudence in Tajikistan in 2002, training of judges in insolvency proceedings appeared difficult and was not carried out. The TA's design was not relevant to the country's needs.</p>				
Evaluation of Inputs <p>The consultants' terms of reference (TOR) could have been better formulated and focused to the TA's objectives. It should have placed greater importance on actual knowledge transfer than report preparation. The Team Leader's TOR while too widely spread did not cover judges' training in bankruptcy. The Banking Sector Specialist's TOR did not include the emphasis on the causal relationship between good CFG and banks' improved financial benchmarks. The Corporate Sector and Legal and Regulatory Specialist's TOR did not include measures to enhance MOF's security market supervision capability after the TA's completion. Their TORs were only partly relevant to the TA's objectives. The consultants (i) trained 575 participants from 45 JSCs in corporate management, (ii) recommended measures for strengthening CFG guidelines in banks and trained bank officers on CFG in banks, (iii) reviewed and recommended draft amendments to the Law on Securities, and (iv) recommended amendments to the Law on Bankruptcy without conducting training to judges in this area.</p>				

¹ These issues were raised as comments on the TA paper's draft.

² Given the evidence of significant curb trading in shares (para. 8 of TA paper).

The consultants' overall performance (against their TORs) was satisfactory. This was attributable to the highly satisfactory performance of the second Team Leader. The performance of the other 2 international consultants was poor. The 4 domestic consultants' performance was satisfactory. ADB's TA supervision was adequate. Two review missions were fielded in December 2003 and February 2004 respectively.

MOF's provision of office space, counterpart staff and equipment was below expectations, and the government's ownership to the TA's objectives were lacking.³

Evaluation of Outputs

The consultants' interim report furnished to ADB on 27 February 2004 was poorly prepared and lacking in analytical depth. The first draft final report (DFR) initially submitted on 15 June 2004 showed no improvement despite substantive inputs from ADB's headquarters. The third DFR submitted on 8 September 2004 re-written by the new Team Leader was substantially better after considerable inputs from ADB's headquarters. Despite ADB's requests, no feedback on the DFR was received from MOF between September to December 2004. On 23 December 2004, ADB accepted the DFR as final. Full payments were made to the consultants in December 2004 and the TA was closed financially on 30 April 2005.

The consultants' training sessions for bank officers on CFG and for 575 officers of 45 JSCs on corporate management were well attended and participatory. While the consultants recommended amendments to the Law of Bankruptcy they did not train judges or other insolvency practitioners due to the possible Government's lack of political will in implementing the TA's recommendations on insolvency, considering its social consequences. The TA did not enhance the MOF's security markets' supervision capacity. While the TA generated recommendations, it did not seek to create an enabling environment for the implementation of these recommendations.

Overall Assessment and Rating

The TA is rated as partly successful.⁴ The effectiveness and efficiency of its implementation were less than desirable. Its benefits are less likely to be sustainable.

Major Lessons Learned

Sustainable reforms in CFG in companies and banks need clear and transparent corporate and banking laws and an independent judiciary and an autonomous central bank to enforce them. These are important benchmarks for measuring CFG reforms in transitional economies. Without these foundations, governments' absorptive capacities for CFG reforms are limited. The TA should therefore have focused primarily on reforming the country's legal, regulatory and judicial frameworks before venturing into corporate governance reforms.

Recommendations and Follow-Up Actions

Future interventions for governance reforms in transitional economies should be properly sequenced. Priority should be on strengthening laws and their enforcers, thereby creating standards for measurement of CFG in market participants. Only after the former are strengthened adequately, should attempts be made to improve the latter's CFG.

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³ Source: ADB Review Mission's BTOR dated 23 December 2003.

⁴ Using OED's criteria for overall project performance based on relevance, effectiveness, efficiency and sustainability, as stated in *Guidelines for Preparing Performance Evaluation Reports for Public Sector Operations*, February 2006.