

SECTION C - DESCRIPTION/SPECIFICATIONS/STATEMENT OF WORK

LIST OF ACRONYMS

WTO	World Trade Organization
RTLTC	Regional Trade Liberalization and Customs Project
SME	Small and Medium Enterprises
TRIPS	Trade-Related Aspects of Intellectual Property Rights
BEI	Business Environment Improvement
IPR	Intellectual property Rights
TIR	Transport International Routier
TBT	Technical Barriers to trade
PMP	Performance Monitoring Plan
CTO	Cognizant Technical Officer
CFR	Code of Federal Regulations
IEE	Initial Environmental

C.1 EXECUTIVE SUMMARY

The goal of the Regional Trade Liberalization and Customs (RTLTC) Project is to foster economic growth and improve the competitiveness of Kazakhstan, Kyrgyzstan and Tajikistan through improving conditions for international and cross-border trade and transit. The project seeks to help host Governments and the private sector to pursue and capitalize on the advantages of greater regional and global economic integration. The activities to be carried out include: targeted support for World Trade Organization (WTO) accession and post-accession compliance; reduction of trade barriers relating to transport, transit, border crossing, and customs clearance; and support to regional cooperation for data collection and sharing, including to increase the access of SMEs to market information within and beyond the region. The project should increase transparency, clarity, predictability and certainty in the trading environment, allowing importers, exporters and producers to trade more effectively and efficiently with a minimum of government intrusion.

C.2 INTRODUCTION

The RTLTC Project is consistent with the “Economic Prosperity and Security” section of the US Department of State/USAID *Strategic Plan for Fiscal Years 2004 to 2009*, as the Project contributes to strengthening world economic growth, development and stability, while expanding opportunities for U.S. businesses and ensuring economic security for the nation.¹ The Project will also promote transformational development, one of USAID’s core strategic goals, through effecting positive changes in governance, institutions and economic structure.²

The RTLTC Project will be implemented through FY 2007 under USAID/CAR’s Strategic Objective (SO) 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 improved implementation of laws and regulations. The RTLTC Project will be implemented in Kazakhstan, Kyrgyzstan and Tajikistan to increase host countries’ ability to participate more effectively in the regional and global economy through liberalization of their trade and customs regimes. During 2006, USAID/CAR developed a new set of country Strategy Statements for Kazakhstan, Kyrgyzstan and Tajikistan for 2007-2011 which have been delayed in their adoption pending the on-going US Foreign Assistance Review. Without pre-judging the outcome of that process, the objectives and results of the RTLTC Project are consistent with the USAID/CAR proposed new strategies and the trade-related activities described herein represent key actions needed to ensure that a strong private sector will contribute to sustainable employment and income growth in the region. As with any USAID implemented assistance activity, should the Assistance Review lead to a change in US priorities it would be necessary to modify the Project’s objectives within this scope, if that could be justified.

¹ www.usaid.gov/policy/budget/state_usaid_strat_plan.pdf

² www.usaid.gov/policy/policy_framework_jan06.html

The sections below present a description of: a) the current environment of trade in the target countries and USAID/CAR's prior activities and achievements in the existing environment; b) the proposed structure of the RTLC Project; and c) the RTLC Project's expected results and illustrative activities for each Project component.

C.3 BACKGROUND

A. General

While the countries of Central Asia have been able to expand trade considerably in recent years (see Table 1 below for selected data on Kazakhstan, Kyrgyzstan and Tajikistan), primary commodities still dominate exports and trade patterns suggest that it is unlikely that the CARs are realizing their full trade potential. A recent UNDP report³ presented analysis which indicated that reducing trade barriers and improving trade and transit links would result in both greater diversification of exports and a higher level of trade. These findings have been further reiterated and reinforced in a recent ADB report⁴ which notes that the benefits of trade are not being fully captured because the countries in Central Asia are not participating broadly in global production networks and have not taken advantage of high-potential trade complementarities with countries such as Turkey and China, as well as other countries of east and south Asia.

Table 1

Merchandise Imports and Exports for Kazakhstan, Kyrgyzstan and Tajikistan, 1999-2004

	1999	2000	2001	2002	2003	2004
<u>Kazakhstan</u>						
<i>Exports (\$ m.)</i>	5,871.6	8,812.2	8,639.1	9,709.0	12,906.7	20,096.2
<i>as % of GDP</i>	34.6%	48.2%	39.0%	39.5%	41.9%	49.3%
<i>Annual growth (%)</i>	8.7%	50.1%	-2.0%	12.4%	33.1%	55.5%
<i>Imports (\$ m.)</i>	3,655.1	5,040.0	6,446.0	6,564.0	8,408.9	12,781.2
<i>as % of GDP</i>	21.6%	27.5%	29.1%	26.8%	27.3%	31.4%
<i>Annual growth (%)</i>	-14.1%	37.9%	27.9%	2.1%	27.7%	52.0%
<u>Kyrgyz Republic</u>						
<i>Exports (\$ m.)</i>	453.8	504.5	476.2	485.5	581.7	716.6
<i>as % of GDP</i>	36.5%	36.9%	31.2%	30.2%	30.4%	33.2%
<i>Annual growth (%)</i>	-11.6%	11.2%	-5.6%	2.0%	19.8%	23.6%
<i>Imports (\$ m.)</i>	599.7	554.1	467.2	586.6	717.0	941.0
<i>as % of GDP</i>	48.3%	40.5%	30.6%	36.5%	37.5%	43.4%
<i>Annual growth (%)</i>	-26.7%	-7.6%	-15.7%	25.6%	22.2%	31.3%
<u>Tajikistan</u>						
<i>Exports (\$ m.)</i>	688.7	784.3	651.5	736.9	797.2	914.9
<i>as % of GDP</i>	63.4%	79.1%	61.6%	60.8%	51.3%	44.1%
<i>Annual growth (%)</i>	15.4%	13.9%	-16.9%	13.1%	8.2%	14.8%
<i>Imports (\$ m.)</i>	663.1	675.0	667.5	720.5	880.8	1,375.2
<i>as % of GDP</i>	61.1%	68.1%	65.0%	59.4%	56.6%	66.3%
<i>Annual growth (%)</i>	-6.7%	1.8%	1.9%	4.8%	22.2%	56.1%

Source: ADB (2006) pp. 97-98. From Government data and author estimates

³ UNDP (2005). "Bringing down barriers; Regional cooperation for human development and human security"

⁴ Asian Development Bank (2006). **Central Asia: Increasing gains from trade through regional cooperation in trade policy, transport, and customs transit.** (downloadable from: <http://www.adb.org/Documents/Reports/CA-Trade-Policy/default.asp>)

Table 2**Commodity Concentration of Merchandise Exports (Share of Total, %)**

	1999	2000	2001	2002	2003	2004
<u>Kazakhstan</u>						
<i>Minerals & products (inc. energy)</i>	46.5%	54.4%	58.2%	61.2%	64.3%	68.3%
<i>Base metals & products</i>	30.9%	25.6%	24.4%	23.1%	20.4%	19.4%
<i>Vegetable products</i>	6.4%	6.4%	4.5%	4.2%	5.1%	3.2%
Three category sum	83.8%	86.4%	87.1%	88.5%	89.8%	90.9%
<u>Kyrgyz Republic</u>						
<i>Minerals & products (inc. energy)</i>	12.6%	17.2%	12.3%	12.9%	12.8%	13.1%
<i>Precious/semi-precious metals, etc.</i>	40.5%	39.0%	47.6%	33.9%	45.1%	40.5%
<i>Vegetable products & prepared foods</i>	15.8%	10.3%	9.7%	10.3%	7.6%	9.6%
Three category sum	68.9%	66.5%	69.6%	57.1%	65.5%	63.2%
<u>Tajikistan</u>						
<i>Minerals & products (inc. energy)</i>	25.6%	12.0%	12.4%	9.8%	7.5%	7.0%
<i>Base metals & products</i>	45.4%	55.7%	61.4%	54.5%	54.7%	62.6%
<i>Textiles & products</i>	18.8%	16.6%	16.0%	22.0%	29.0%	21.8%
Three category sum	89.8%	84.3%	89.8%	86.3%	91.2%	91.4%

ADB (2006) pp. 101, 104, 106. From Government data and author estimates

Both of these studies point to the need for regional cooperation in trade, transport and transit to help lower barriers, reduce the associated costs and increase the gains from participation in international trade. At the same time, both studies emphasize the importance of prioritizing multilateral trade liberalization within the context of WTO in order to reap the biggest gains from rationalization of trade-related policies. While each of the three target countries of the RTLC Project does exhibit important differences in specific conditions, each of them is reasonably characterized by having exports dominated by over-reliance on a relatively limited set of primary products (see Table 2 above), whether it is oil and base metals in Kazakhstan, gold in Kyrgyzstan, or aluminum and cotton in Tajikistan. Excessive reliance on a small number of primary commodities increases these countries' vulnerability to price variations and limits opportunities for more broad-based participation in international trade. Another limiting aspect of these countries' current trade situation lies in the relatively high concentration of their trade with only a few countries, as noted above (with data in Table 3, below).

Table 3**Main Trading Partners for Kazakhstan, Kyrgyzstan and Tajikistan in 2004**

(Share of Exports & Imports)

	Kazakhstan		Kyrgyz Republic		Tajikistan	
Exports	Switzerland	18.7%	UAE	26.3%	Netherlands	41.4%
	Italy	15.5%	Russia	19.2%	Turkey	15.3%
	Russia	14.1%	Switzerland	14.2%	Lichtenstein	7.2%
	China	9.8%	Kazakhstan	12.1%	Latvia	7.1%
	France	7.3%	China	5.5%	Switzerland	6.9%
	Total	65.4%	Total	77.3%	Total	77.9%
	Imports	Russia	37.7%	Russia	31.2%	Russia
Germany		8.2%	Kazakhstan	21.6%	S. Korea	10.1%
China		5.9%	China	8.5%	U.S.	9.2%
Ukraine		5.7%	Germany	5.6%	China	7.4%
U.S.		4.4%	Uzbekistan	5.5%	Germany	7.1%
Total		61.9%	Total	72.4%	Total	59.2%

Source: ADB (2006) p. 15. From Government data and author estimates

An important trade issue for the CARs has been in their use of subsidies and import tariffs and the adoption of regional and bilateral tariff preferences in ways that can be harmful to competition and to the efficiency of their economies. As noted in the ADB report (2006, pp. 25-7), all Central Asian Republics have tariff structures with escalating rates on products that contain a higher degree of processing, a structure which is more pronounced and creates greater distortions in Kazakhstan and Uzbekistan, and is less pronounced in Kyrgyzstan and Tajikistan. The ADB report also comments that the frequency and unpredictability of tariff changes in Kazakhstan, Tajikistan, and Uzbekistan have created notable problems. The main issues arising from these regional preferences lie in: a) the potential diversion of trade toward higher-cost regional producers; and b) higher costs resulting from increased administrative complexity.

In the most recent data from the World Bank's **Doing Business** report for 2007 data from (www.doingbusiness.org) the "Trading Across Borders" indicator ranks Tajikistan at 163, Uzbekistan at 169, Kazakhstan at 172, and Kyrgyzstan at 173 out of a total of 175 countries. As indicated in Tables 4 and 5 below, these exceptionally poor results reflect the large number of documents and approvals and time needed to satisfy the required procedures to export and import goods.

Table 4

World Bank Doing Business 2007: Trading Across Borders

These indicators assess the procedural requirements for exporting and importing a standardized cargo of goods. Every official procedure is counted -- from the contractual agreement between the 2 parties to the delivery of goods -- along with the time necessary for completion. The main indicators are:

- Number of all documents required to export/import goods,
- Number of signatures required to export/import goods, and
- Time necessary to comply with all procedures required to export/import goods

	Documents for export (#)	Time for export (days)	Cost to export (\$/container)	Documents for import (#)	Time for import (days)	Cost to import (\$/container)
Regions						
East Asia & Pacific	6.9	23.9	884.8	9.3	25.9	1,037
Europe & Central Asia	7.4	29.2	1,450.20	10	37.1	1,589
CARs						
Kazakhstan	14	93	2,780	18	87	2,880
Kyrgyz Republic	18	127	3,032
Tajikistan	14	72	4,300	10	44	3,550
Uzbekistan	10	44	2,550	18	139	3,970
SEE & NIS						
Bulgaria	7	26	1,233	10	25	1,201
Romania	4	14	1,300	4	14	1,200
Russia	8	39	2,237	8	38	2,237

Source: www.doingbusiness.org/ExploreTopics/TradingAcrossBorders/Default.aspx?direction=asc&sort=1

Data shown refer to survey information about conditions that existed in January 2006.

In general, customs rules and procedures in the region tend to be non-transparent, complex and bureaucratic, giving customs officials too many discretionary powers. In its summary of barriers to trade in Central Asia, the ADB report (2006; pp. 35-36) identifies significant barriers related to complex tariff schedules and relatively high tariffs in Kazakhstan; the schedule escalation of tariffs in all the CARs; frequent and unpredictable changes in the tariff schedule in Kazakhstan and Tajikistan; high implicit tariffs in the form of taxes levied on imports but not on domestic goods or higher rates for imports than for domestic goods in Kazakhstan; explicit export taxes in Kazakhstan; and the prohibition and licensing of exports and imports of certain commodities in all the CARs. Improving regional cooperation in these areas could help the CARs reduce barriers at relatively low cost.

Table 5

**World Bank - Doing Business
Country Rankings**

Trading Across Borders

	2006	2005	Change
Kazakhstan	172	171	-1
Kyrgyzstan	173	171	-2
Tajikistan	163	160	-3
Uzbekistan	169	175	6

Source: <http://www.doingbusiness.org/EconomyRankings/>

The high transport costs and long and unpredictable transport times for international shipments identified as a problem in the “Trade Across Borders” indicators arise not only because of the landlocked, remote location of the region and its often difficult topography, but also due to excessive certification requirements and weak institutions charged with regulating standards (specifically in Tajikistan, and to some extent in Kazakhstan and Kyrgyzstan). In many cases, clearing a border requires inspection and clearance by multiple agencies (as many as nine), including immigration, customs, and vehicle inspectors and a significant issue is that they do not in general coordinate with one another to facilitate transit. Transport issues such as poorly developed routes, quotas limiting the number of vehicles per year that can enter or exit a territory and excessive and arbitrary fees also discourage cross-border trade and sometimes make costs prohibitive for both domestic and foreign businesses. The combination of these barriers with non-transparent, complex, and bureaucratic border transit procedures and differing and arbitrary standards on weight control, maximum height and width, and safety requirements not only inflate costs but also can be used to discriminate against vehicles originating in other countries and serve to encourage corruption and smuggling.

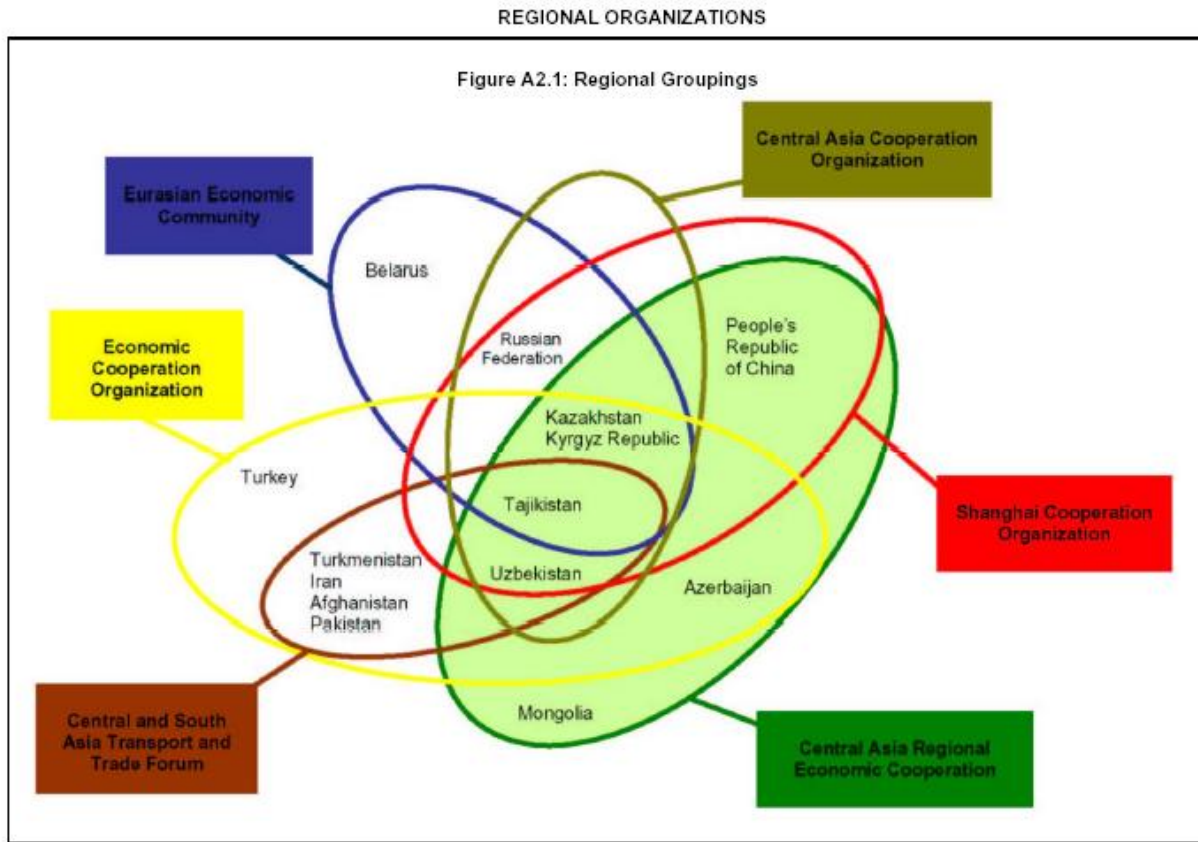
Trade within the region often involves cumbersome procedures for customs clearance, customs valuation methods that are not WTO-compliant and standards certification requirements that are not in conformity with international norms. These inefficient procedures, especially when combined with regional and international transport corridors that do not effectively link production centers to markets, produce the high border crossing costs and long transit times that can seriously undermine the competitive advantage of goods being traded. Institutional weaknesses contribute to bottlenecks at border crossings, while transport corridors and the positioning of border posts are often not planned with a view toward facilitating cross-border trade. The combination of these factors with often ill-equipped border posts contributes to badly managed border traffic flows and increased costs of trade.

One point of future concern is the fact that there are now in place a large number of regional and bilateral agreements (Fig. 1 below; cf. Fig. 4-1, p. 39 in ADB, 2006) which often introduce inconsistencies that can add to the administrative costs of trading, create confusion and increase the opportunities for abuse. As noted in ADB (2006; Ch. 4, pp. 37-48), while the CAR region definitely exhibits intricate “spaghetti bowl effects”, the overall impact of these has been limited, largely because some of them have not yet entered into force, while those that are in force have in large part not been implemented. However, it remains the case that if they were fully implemented these extant agreements could cause considerable trade diversion and have significant adverse effects on the CARs. The ADB report cites in particular that implementation of the Eurasian Economic Community customs union (revived at the most recent EAEC summit) is likely to slow down economic growth in Kazakhstan, Kyrgyz Republic, and Tajikistan significantly, unless it is accompanied by substantial reductions in common external tariffs of its member countries. While the potential for negative impacts exists for regional and bilateral agreements, the potential benefits of the WTO membership for the CARs are considerable. These increased significantly with the accession of China in 2001, and will increase further as more of their neighbors,

most notably Russia, accede. In fact, it is important that the CARs recognize that WTO membership does not preclude regional cooperation in trade policy, with options available that include concerted but nondiscriminatory trade liberalization, coordination of negotiating positions in the accession process, and joint efforts with other developing countries to push for the elimination of cotton subsidies in developed countries (pp. 47-48, *ibid*).

Figure 1

Regional Trading Agreements



Source; Asian Development Bank-Central Asian Regional Cooperation Strategy and Program Update

B. Prior USAID/CAR Activities in Regional Trade

The RTLC project will build on results achieved by the Trade Facilitation and Investment (TFI) project, implemented in Kazakhstan, Kyrgyzstan, Tajikistan and Uzbekistan. TFI was an extension of USAID/CAR’s SME Trade and Investment project and worked from 2003 to: cultivate “grass roots” participation of business, legal, and professional associations and other groups in efforts to reform legislation, administrative procedures, and practices that constrain the growth of SME trade and investment; encourage reform of legislation and practice to conform to internationally-recognized trade and investment requirements; assist appropriate government agencies to effectively, consistently, and transparently implement market-oriented changes reflected in new regulations and laws; educate government officials and entrepreneurs on existing laws and practices that limit SME trade and investment and regarding the need to properly implement and enforce these laws; provide assistance in dealing with WTO accession and post-accession compliance issues; and support SME trade facilitation activities. TFI worked in two broad areas as 1) reduction of investment constraints and 2) trade facilitation, emphasizing institutional strengthening to focus on reduction of specific obstacles which impede the development of SME trade and investment in the region.

Selected achievements of TFI in the area of trade facilitation included:

- Drafting of new Customs Codes for Kazakhstan, Kyrgyzstan and Tajikistan: The Kazakh Code became effective April 2004; additional amendments proposed by TFI were approved in June 2005, including certification of imported goods after customs clearance, streamlined warehousing procedures, and new measures for conducting post-entry control audits by customs; these changes also create a new classification of “low-risk” traders who are not subject to cargo inspections at the time of import or export. Since the amendments were introduced nearly 600 traders have received the classification. The Kyrgyz Code became effective January 1, 2005; one significant feature of the Code was the legal recognition of private sector trade service providers, including their rights and obligations under licensing arrangements, many of which were previously performed by Customs only. The Tajik Code also came into effect on January 1, 2005; although the Code contains non-WTO compliant provisions, TFI has since developed WTO-compliant Customs Valuation instructions and IPR enforcement procedures that are pending approval.
- Development of a Law on Technical Regulation in Kazakhstan and Kyrgyzstan: In Kyrgyzstan the WTO-compliant law became effective in November 2004; in December 2005 a resolution was adopted cutting the number of products subject to mandatory certification by 60% and improving import procedures for regulated goods by recognizing international certificates and quality marks. In Kazakhstan, TFI helped draft and comment on the law “On Technical Regulation” that became effective in May 2005; although the law is not fully WTO-compliant, amendments are now pending, many of which contain recommendations made by TFI moving it toward compliance.
- Development of an on-line International Trade Guide: Available at www.ca-trade.com, this site includes an integrated tariff compilation for Kazakhstan, Kyrgyzstan and Tajikistan.
- Assist in the creation of Customs Consultative Councils: Consultative Councils bring together the private sector and government officials to break down communication barriers, build trust, and build the capacity of private sector associations to identify and address trade constraints in a constructive and forward-looking manner. TFI worked with 27 CCCs in Kazakhstan; two in Kyrgyzstan; and three in Tajikistan.
- Development of a Transit Cost Analysis (Cost-to-Market) in Central Asia: This study charted the main transit corridors in Central Asia, showing the distance, time and costs associated with moving a truck along each route. It clearly demonstrated key issues in the over-regulation of transit routes in the region and has been used as a tool to work with transport associations and national regulators to reduce the number and nature of the constraints identified as well as a source of valuable data to exporters.
- Promotion of National Risk Management Programs in Customs in Kazakhstan and Kyrgyzstan in 2005: Results have been very good in Kazakhstan, where a special Risk Management unit was established in the Customs Committee and low-risk traders are able to receive simplified customs clearances in Kazakhstan. Customs in Kyrgyzstan have introduced a similar low-risk trader designation and procedure.
- Promotion and Expansion of the Transport International Routier (TIR) System in Central Asia: TFI completed a major study on the use of the TIR system in Central Asia in September 2004 which has been used by the International Road Union (IRU) and the United Nations Economic Commission for Europe (UNECE) for training customs officers and expansion of the availability and number of TIR carnets issued in the region.

C. Recent USAID Diagnostic Assessment of Customs Operations in CAR Countries

As part of an initiative set in train by U.S. Secretary of State Condoleezza Rice in late 2005, Booz Allen Hamilton, under the USAID Trade Facilitation and Capacity Building (FASTrade) Project, conducted a field survey in June 2006 to prepare: 1) a concise compilation of completed, ongoing, and planned donor-funded trade and customs related technical assistance initiatives conducted in Central Asia; and 2) an assessment of current customs and trade facilitation procedures against international standards. This Report was completed in August 2006⁵.

As background to some of the RTLC Project proposed components and results presented in Section C.5 of this SOW, short summaries of the survey team’s findings in their August 2006 report for each country are presented below, including their identification of areas where additional technical or other assistance may be beneficial and a review of key issues or

⁵ USAID (2006). “Central Asia Customs and Trade Assessment Activity: Kazakhstan, Kyrgyzstan and Tajikistan Assessment Report.” Prepared by: Booz Allen Hamilton under FASTrade Project; Contract No: PCE-I-00-98-00013-00, TO 17. August 14, 2006.

areas of concern that are common to all three countries. Additional details on these issues are included in the full Country Assessment Reports.

a) Kazakhstan

It appears that Kazakhstan's Customs Control Committee is developing into a generally efficient customs environment. It has relatively well-evolved processes and procedures with some automation functions in place and also appears to have additional internal funding to upgrade and maintain generally efficient Customs posts at the major processing sites. The perspective of the trade community was that, while there is still a critical need for transparent procedures and instructions, Customs is much better than it was ten years ago and it is not the major cause of delays at border stations. However, there was still strong evidence that facilitation payments are being received by Customs officers and that, in some cases, goods may be released without official Customs clearance.

Areas where additional improvement is needed include: streamlining procedures; reducing documentation requirements and automating declaration processing; and incorporating techniques such as electronic releases, risk management and post clearance controls. There is also need for assistance in the area of the human resource management to promote an environment of professionalism and integrity. Two additional areas where attention would be productive are: training and knowledge transfer regarding intellectual property rights legislation and enforcement; and joint Customs/trade seminars in valuation. It was the position of the Customs Control Committee that they would most benefit from a program of knowledge transfer. There are several ongoing or planned technical assistance efforts in Kazakhstan that will help to further the modernization effort. Eurocustoms is assisting with the modernization of procedures and the World Bank is coordinating a large automation project.

b) Kyrgyzstan

Kyrgyzstan Customs is in a relatively low state of development, with no overall electronic processing and only a few stand-alone modules used for storing and accessing limited information. Review and discussions with private sector parties revealed that Kyrgyzstan's Customs Code is compliant with international standards. However, the perspective of the trade community is that the adoption of the new Code has not led to an increase in efficiency in the customs clearance process. Instead, the new Code has caused confusion, and clear instructions on Customs procedures are lacking. There was still strong evidence that facilitation payments were being received by Customs officers and that there was contraband on the market, where imported goods may be released without official Customs clearance.

Customs is still paper-based and declarations are prepared on typewriters. The current manual compilation of statistics and forwarding of information to the main office is lagging behind and does not always produce accurate information. There is an ongoing effort to automate declaration processing and to develop a local electronic declaration capability. This effort is in progress and will be piloted in the fall of 2006. There is a significant ADB automation project set to get underway, but Customs is of the opinion that some electronic processing is needed sooner than this new project can deliver. The Customs Consultative Council, a legacy of the USAID TFI Project, appears to be an effective forum for joint government and private sector efforts to highlight and address customs modernization issues and one which has support from both sides. The Customs Brokers Association is also working to become a dynamic and effective business advocacy organization.

To support the new Customs Code effectively, there is a need to develop the accompanying implementing regulations and procedures and to prepare and disseminate clear instructions to the trade community. There is also need for additional upgrading of facilities and inspectional equipment and modernization of procedures, as well as in building a professional workforce, increasing salaries to a wage capable of attracting high caliber personnel who would not request or accept unofficial facilitation payments, in the training area, and in the area of electronic declaration processing, incorporating Customs techniques such as risk assessment and post clearance controls. Support to Customs in the drafting of any needed additional Customs Code legislation would also be useful. Eurocustoms is assisting on the procedural modernization effort and the Asian Development Bank is working on a large overall automation project.

c) Tajikistan

Tajikistan Customs is the least-developed customs department of the three countries assessed and is still in need of a great deal of long-term development and training assistance from donors. There is no automation and no apparent inspectional equipment available. The Tajikistan Customs Code is based on the Russian Customs Code and is generally compliant with international standards, but there are no implementing procedures and there are no clear customs clearance instructions available to the trade community. The salary of Customs officers does not cover even the most basic living requirements and it is understood that many need to supplement their pay by accepting outside payments to overlook violations or expedite clearance. Based on conversations with the private sector, most if not all of the employees are hired directly by Customs on short-term contracts.

Private sector interviewees stated that most consumer goods enter the country without the filing of proper documentation or official customs clearance, and it appears that based on an average rate of 28% additional duties and taxes over landed costs and the cumbersome documentary procedures, it has been argued that it might be cheaper and more efficient to clear goods by making such payments.

Customs indicated that they would welcome additional assistance from donors and would be willing to work on drafting instructions on Customs procedures. There is also some need to assist in drafting additional provisions to the Customs Code, such as those covering express consignment operations. An additional need identified is to work towards promoting proactive business advocacy groups, such as the newly-founded but non-operational brokers association, and promoting the work of Customs Consultative Councils to foster cooperation between the government and the businesses sector on customs and trade issues. Eurocustoms and the Asian Development Bank both have projects scheduled to begin in 2006, with the former to assist in the training and procedural areas, and the latter planning a large overall automation effort.

d) Areas of Common Concern

The Customs administrations of Kazakhstan, Kyrgyzstan and Tajikistan are in different stages of development and evolution, but the assessment indicated that there are key areas of common concern to all three countries. These issues are summarized below.

i) Incomplete Implementation of Customs Codes, Regulations and Instructions

The USAID TFI Project helped with drafting new Customs Codes, based on the Russian Customs Code, and the laws are generally compliant with the WTO Agreement on Customs Valuation and the Revised WCO Kyoto Convention on the Harmonization of Customs Procedures. These new Codes have not, however, been effectively implemented. A complaint heard in all three countries is that the Customs administrations have not developed or issued procedural instructions to accompany the Codes or provided training to the brokers, traders or businesses that must apply the provisions of the new Codes. Brokers and traders who do not understand the new rules are at the mercy and discretion of the Customs officers. For example, reference price lists continue to be used to a large degree and Customs will often not provide the importer or broker with their reasons for not accepting the declared transaction values.

Each of the countries would benefit from assistance that would: 1) identify opportunities to simplify and fine-tune the Customs Code; and 2) establish a joint Customs/trade working group to draft clear and concise implementing instructions and prepare brochures or other informational material to be distributed to the public and to the trade community in particular. A primary goal of issuing and disseminating this information would be to reduce the level of discretion that Customs officers have in applying the provisions of the Code and to reduce their ability to seek facilitation payments.

ii) Excessive and Unclear Documentation Requirements

Document requirements are a major concern of importers and exporters in all three countries. Document lists are vague and allow officers too much discretion, which is used as the basis for obtaining unofficial payments. There are typically no instructions provided and many documents serve little real purpose and could be eliminated to help streamline the clearance process. Other government departments have similarly limited expertise and also use their document requirements as a means to obtain unofficial payments. Importers and exporters spend time and money going to multiple offices and dealing with multiple personnel. The World Bank is beginning a project this year in Kyrgyzstan that will

build on the USAID TFI project's success in drafting new legislation on technical regulations. The World Bank project will work to implement that law. Similar assistance efforts were not identified in Kazakhstan or Tajikistan, but they are much-needed there too.

iii) Corruption as a Limiting Factor to Reforms and Effectiveness of Assistance

In virtually every meeting with the private sector in each of the three countries, the interviewees raised the issue of corruption in Customs and in other government agencies as a major concern, even when the issue was not mentioned by the assessment team. Statements were routinely voiced that suggested the prevalence of unofficial payments and their important role in conducting Customs transactions, and that officials paid to “purchase” their positions for personal enrichment. There is a widespread lack of trust in the integrity of Customs and other officials. While some initiatives, such as efforts to increase automation, can reduce corruption by limiting direct interaction between Customs and traders, any significant positive impact of such efforts will be minimized until the governments and Customs administrations exert the political will and leadership to begin to bring corruption under control. As long as employees earn salaries that are below the subsistence level, and as long as there are no negative consequences or fear of real punishment, Customs and other government employees will subvert the best of control systems and will continue to be able to freely exact facilitation payments. Modernization and reform efforts cannot be truly successful in this type of environment. Moving from an environment where corruption is the accepted norm to one in which integrity is expected is difficult, but it is possible and other developing countries are making that transition. Donors can play a role in this by coming together to insist on an integrity evaluation and action plan to address corruption within Customs in all three countries. Such an integrity assessment should address in depth the economic impact of Customs corruption on government revenues and would be most useful if it were made a conditionality of future technical assistance.

C.4 PROJECT DESCRIPTION

The primary objective of the RTALC project is to increase counterpart countries' ability to participate more effectively in the regional and global economy through liberalization of their trade and customs regimes. The RTALC project will be implemented in Kazakhstan, Kyrgyzstan, and Tajikistan. The government counterparts of the RTALC project will include the respective country's Presidential Administration, Ministry of Trade and its WTO department, Customs Service, Ministries for Transport, Health, and Agriculture and other standards-setting agencies that affect exporters and importers; private sector counterparts will include customs brokers, transport companies and clearing agents, other trade service providers, and import-export related trade associations. Under this project, the contractor will provide technical assistance, training and limited commodity support to host countries to: facilitate accession to the WTO or meet post-accession commitments; help simplify and streamline customs and border procedures for export, import and transit; and support regional cooperation for data collection and sharing, including to increase the access of SMEs to market information within and beyond the region.

To achieve the above-mentioned objectives, the contractor will implement activities under two components:

- 1) Trade Liberalization, through the development and implementation of WTO-compliant trade policies; and
- 2) Trade Facilitation and Integration, through improved and simplified customs procedures, streamlining and increasing predictability of the transit and transportation systems for imports and exports, extension of integrated data sharing and consolidation, and expanded access of the region to market information.

C.5 PROJECT COMPONENTS

The RTALC Project will have two closely related components: 1) Trade Liberalization, and 2) Trade Facilitation and Integration.

C.5.a. Trade Liberalization

The contractor will achieve the following results:

Result 1 Simplification of import tariffs, preferences, and government pre-export barriers.

Objective: Contribute to improvement of trade policies, laws, and regulations that will be conducive to deeper, more diverse trade links with world markets.

The contractor will provide technical assistance to identify trade-related policy changes by host governments that will improve the efficiency and cost-competitiveness of host-country enterprises. Apart from measures related directly to accession to the WTO (Result 2) or the streamlining of customs and transport systems (Result 3), the contractor will also provide technical assistance to reduce the many technical and tariff barriers to trade that pose obstacles to exporters and importers.

In Kazakhstan, Kyrgyzstan and Tajikistan, the contractor will assess the severity of such technical and tariff barriers, as they affect private exporters and importers, and will provide for each country a multi-year agenda for reform. In conjunction with USAID, the contractor will assess the direction and commitment of senior host-country policy makers toward mutually desired goals of trade liberalization and develop priorities and targets to be achieved in each host country. To this end and in consultation with USAID, appropriately directed Memoranda of Understanding could be used.

Illustrative Activities;

- Consult with the central governments of Kazakhstan, Kyrgyzstan and Tajikistan on development of effective policies designed to encourage liberalizing trade policy in a more coordinated manner.
- Provide technical assistance in the area of product standard and certification barriers, monitoring implementation of agreed reforms in related laws and regulations, and provide targeted support on key implementation issues.
- Assist the CARs to rationalize existing tariff structures and regional trade agreements, in order to reduce complexities of implementation by customs and to promote competition and more efficient patterns of production and trade.
- Help the public and private sectors of Kazakhstan, Kyrgyzstan and Tajikistan develop of local capacity to assess trade constraints and conduct economic impact analysis of trade policy options.
- In Tajikistan, assist with the elimination of requirements such as prior approval by the Tajik Commodity Exchange for import and export contracts.
- In the Fergana Valley, promote increased freedom of movement of traders and workers, including elimination of visa requirements and excessive passport stamping.

Result 2: Move CAR project countries toward WTO accession and/or compliance.

Objective: Support measures needed for achieving multilateral trade liberalization and for adherence to international best practices that are reflected in WTO Agreements.

Kazakhstan: Kazakhstan has been negotiating its accession to the WTO for ten years. Kazakhstan's Working Party was established in February 1996. Bilateral market access negotiations began in October 1997, and are continuing on the basis of revised offers in goods and services. A draft Report of the Working Party was prepared by the Secretariat in May 2005 and was reviewed at the eighth meeting of the Working Party; a further Working Party meeting took place in the first half of 2006. Since 2004, the accession negotiations have acquired increased momentum.

Illustrative activities will focus on providing technical assistance in the areas of:

- Sanitary and phyto sanitary (SPS) measures and similar compliance issues related to food safety and veterinarian laws and other work related to technical barriers to trade;
- Modernization of metrology, accreditation and standardization regimes; and
- Regulations and enforcement procedures to achieve TRIPS full compliance.

Kyrgyzstan: Since acceding to the WTO in December 1998, Kyrgyzstan has continued its economic transition, changing legal and institutional arrangements to facilitate trade and investment liberalization. WTO agreements are now part of domestic law, and in 2004 a new Customs Code replaced the 1997 Code. Technical assistance focused on increasing

government officials' understanding of WTO related issues, with a number of regional and national workshops conducted. Future topics for which the contractor will need to provide continuing TA and training include technical barriers to trade, trade facilitation, customs valuation, dispute settlement, intellectual property rights, tariff negotiations, competition, and procurement.

Illustrative Activities include:

- Recognizing that the weak capacity of many GOK ministries and agencies to fulfill WTO obligations hinders trade policy development, provide technical assistance and build local capacity to implement commitments in the areas identified above. Areas requiring particular attention include: implementation of SPS rules by the Ministry of Agriculture, Water Resources and Processing Industry, and the Ministry of Health; negotiations to join the WTO Government Procurement Agreement; and TBT, including modernization of metrology, accreditation and standardization regimes.
- Help to increase Kyrgyzstan's capacity to fully benefit from WTO membership, by improving the government's capacity to receive and analyze information from other countries and the private sector and increasing both the private sector's awareness of requirements and their rights under the WTO and their ability to communicate problems to the government for resolution in the proper forum.
- If the current Trade Policy Review continues, assist Kyrgyzstan in responding to the questionnaire on trade-related policies in goods and services and on the economy generally so that the Review of Kyrgyzstan can be completed. Provide Kyrgyzstan with necessary assistance to fulfill its commitments beyond the Trade Review Policy.

Tajikistan: The Working Party on the accession of Tajikistan was established by the General Council in July 2001. Tajikistan submitted a Memorandum on the Foreign Trade Regime in February 2003 with a first set of replies to questions from members in September 2003. A Factual Summary of Points Raised (summarizing the discussions of the Working Party) was circulated informally in April 2005. Bilateral market access negotiations are underway on the basis of revised offers in goods and services. The Working Party held its second meeting in April 2005 and continued the examination of Tajikistan's foreign trade regime.

Activities will focus on providing technical assistance, in close collaboration with other USAID projects, to assist Tajikistan to undertake the legal and regulatory reforms specifically pertaining to revising and amending various laws, such as: the Customs law, Law on Standardization, Accreditation, Metrology, and Law on Technical Regulations, etc. Assistance to Tajikistan will also be required to reduce TBT, improve IPR regulations, sanitary and phyto-sanitary measures (SPS), etc.

C.5.b Trade Facilitation and Integration

Under this component, the contractor will work to i) identify and remove constraints pertaining to customs, transit and transport barriers, and ii) seek to foster greater regional cooperation and implementation of trade legislation and agreements to promote trade within the region.

i) Customs and Transport

This activity will focus on providing technical assistance and training to reduce barriers relating to trade, transport, transit, custom clearance and border crossing.

Result 3 Improve customs procedures so as to reduce delays and costs to traders for complying with customs requirements.

Objective: Identify and reduce constraints related to customs inspections and clearance.

Illustrative activities:

- Harmonization of customs documentation and transport regulations; simplification and streamlining of customs and transit procedures; development of and assistance with introduction of risk management procedures and post-entry

audit; development of binding mechanisms for advance rulings; implementation of custom valuation and rules of origins mechanisms that are consistent with international standards and best practice.

- In each of the three project countries, assist USAID to assess the direction and commitment of host-country policy makers in the Customs service and in economic-policy bodies toward mutually desired goals of trade facilitation (improvements in the speed, predictability, and costs of international trade), to determine the sub-components of greatest priority in each host country.
- For Kazakhstan, Kyrgyzstan and Tajikistan, assist in the proper implementation and full enforcement of requirements of their respective Customs Codes. In order to make customs administration more transparent and less burdensome for the private sector, work on the simplification and streamlining of custom procedures.
- In Tajikistan, review the national customs code and implementing regulations/instructions and help draft amendments to bring the Code and the regulations into compliance with WTO requirements.
- Help to simplify existing and develop new customs regulations and internal customs instructions. In Kyrgyzstan, many ambiguities remain in the new Customs Code, leaving opportunities for discretionary interpretation. . As requested by the trading community, develop commentaries (annotations) to the Customs Code, similar to existing Tax Code commentaries, which will clarify to the trading community their rights and obligations under the Code, or seek other means for clarification of procedures and uniform implementation of the Code.
- Develop and strengthen cooperation and consultation between customs administrations and stakeholders, including through Customs Consultative Councils and other means, and will consider improved avenues for customs and trade-related dispute resolution.
- In order to promote regional cooperation, assist in instituting pilot testing for joint customs control between Kazakhstan and Kyrgyzstan, and possibly between Tajikistan and Afghanistan.
- Help to establish a single window for agencies involved in clearance at major border crossings and at inland terminals.

It is envisioned that the technical assistance to project counterparts will focus on the following illustrative areas:

- *Customs Procedures*: Apply best practices of the Kyoto Convention, including use of tools for electronic processing, risk management, custom valuation, audit-based controls, cost-based fees for customs clearance, etc.
- *Audits and Investigations*. Assist Customs Agencies to carry out audits and fraud investigations so they can properly implement the WTO requirements.
- *Training*. Train customs and trade officials in aspects of the WTO Agreements that are most important for facilitating trade and in basic skills of customs administration, including tariff classification, valuation, and rules of origin.

Result 4 Improve the efficiency of transportation of goods and traders, including transit across intervening jurisdictions

Objective: Improve the time, cost, and predictability of transporting shipments to and from the border checkpoint.

Illustrative Activities include:

- Promote adoption and implementation of the international best practices for transit and transportation systems in Central Asia. Specifically, provide assistance to improve access and implementation of the Transport International Routier (TIR) or similar systems to facilitate transit trade in the region. Although all three countries are members of the TIR system, still unofficial payments and inspections at the border posts are common, preventing these countries from reaping the full benefits of this mechanism. The TIR system calls for fewer transport documents; therefore, preparation time and document fees are lower; shipments are not inspected en-route; therefore, the shipment is not subjected to assessments during transit or other unforeseen penalties; delays at border posts are reduced as customs has assurances of compliance.
- Research ways to implement other transit guarantee mechanisms for smaller traders and for shipments to countries which are not TIR members. Specifically, help to design and introduce a transit scheme and guarantee or insurance mechanisms appropriate for Central Asia and its main trading partners to phase out burdensome and costly convey systems.

- Promote closer cooperation and coordination on trade and customs issues between the Customs Agencies, Ministries of Trade, and other government agencies involved in the regulation of trade.
- Promote regional cooperation towards harmonization of vehicle standards and weight limits and measurement systems and introduction of common standards for vehicle registration and documentation.
- Conduct assessments of key transportation facilities in the rail, air, and road transport systems and help to develop or implement proposals to reduce costs and transit times for CAR importers and exporters that are affected.
- Examine the problem of numerous and frequent roadside checks and inspections on each side of border crossings and when in transit and will develop and help to implement measures which will reduce the time and cost of truck shipments.

ii) Regional Information Sharing

The contractor will seek to improve access to information that will facilitate trade within the region and expand trade with under-developed markets such as Afghanistan, Pakistan, Turkey and China. Information about customs and administrative procedures are of particular importance in Central Asia and lack of knowledge can result in long delays in transit traffic, which impose excessive costs on businesses and reduce their revenues.

Result 5 Achieve improved private sector access to market information

Objective: Promote information and data sharing to improve knowledge and reduce costs relating to trade with new markets and to fluctuating conditions in export markets.

Illustrative activities:

- Assist in developing information sharing and data consolidation mechanisms for custom operations, and provide technical assistance for establishment of data transfer protocols, for revising processes according to international best practices, and for development of common performance standards.
- Provide limited support to the CAC-MASQ and selected other regional organizations to insure regional cooperation and harmonization of procedural and documentary requirements.
- Assist public and private sectors better understand the trade requirements in foreign markets and improve the ability to conform to them.
- In close collaboration with other USAID projects (e.g., the BEI Project) and other donor-supported activities, facilitate - through existing associations and other private sector stakeholders - the dissemination of trade/customs related legal and regulatory information, to inform a productive public-private dialogue on trade policy issues in Kazakhstan, Kyrgyzstan and Tajikistan and to make available up-to-date information on conditions of particular corridors together with specific procedural and documentary requirements at each border crossing.

C.6 EXPECTED RESULTS AND PERFORMANCE MANAGEMENT PLAN

Achievement of tangible results is the essence of the contract. USAID will judge the Contractor's success or lack thereof under the contract based on whether or not the tangible results - as set forth in this Statement of Work and further developed in the Contractor' approved Performance Management Plan (PMP) for the RTALC project (see Section F.4.2) - are achieved. If agreed results are not to be achieved, or if the Contractor becomes aware that any may not be achieved, the Contractor will immediately advise USAID/CAR in writing and in the next periodic report required will provide a complete explanation.

In Kazakhstan, Kyrgyzstan and Tajikistan, offerors will strive to achieve the following results:

- Result 1 Simplification of import tariffs, preferences, and government pre-export barriers in project countries**
- Result 2: Progress toward WTO accession in Kazakhstan and Tajikistan and improved WTO compliance in Kyrgyzstan**

- Result 3** **Improved customs procedures in project countries reduce delays and costs to traders for complying with customs requirements**
- Result 4** **Improved efficiency of transportation of goods and traders, including transit across intervening jurisdictions**
- Result 5** **Improved private sector access to market information**

In Kazakhstan, Kyrgyzstan and Tajikistan, offerors will propose targets, either in percentage or absolute terms, to the following six indicators, which will be fully described in the RTL C's approved PMP:

- Indicator 1. A specified percentage or absolute reduction in days required for imports (but not less than 15% equivalent), as measured by the World Bank's "Trading Across Borders" Doing Business rankings (2006 baseline) for each project country. [per Results, 2, 3 and 4]
- Indicator 2. A specified percentage or absolute reduction in days required for exports (but not less than 15% equivalent), as measured by the World Bank's "Trading Across Borders" Doing Business rankings (2006 baseline) for each project country. [per Results 1, 3 and 4]
- Indicator 3. A specified percentage or absolute reduction in the number of documents required for export (but not less than 20% equivalent), as measured by the World Bank's "Trading Across Borders" Doing Business rankings (2006 baseline), for each project country. per Results 1, 3 and 4]
- Indicator 4. A specified percentage or absolute reduction in the number of documents required for import (but not less than 20% equivalent), as measured by the World Bank's "Trading Across Borders" Doing Business rankings (2006 baseline), for each project country [per Results 1, 3 and 4]
- Indicator 5. A specified percentage or absolute reduction in "unofficial payments" (but not less than 15% equivalent), as reported in the World Bank "Transit Corridors Performance Measurement" surveys (2007Q1 baseline) [per Results 1, 3, 4, and 5] at:
- a. Kazakhstan (Kordai/Karasu border point plus STF customs facility in Almaty);
 - b. Kazakhstan (Dostyk border point with China);
 - c. Kyrgyzstan (Akjol/Ak-tilek border point);
 - d. Tajikistan (border control point with Kyrgyzstan)
- Indicator 6. A specified number of legal, regulatory, or institutional actions taken each year to improve implementation or compliance with international trade and investment agreements partly or fully due to USG-assisted organizations, for each project country. [per Results 1 and 2.]

The Contractor will attribute the Contractor's assistance to improvements in the indicators mentioned above by demonstrating in its reporting how activities conducted under this Contract contributed to these improvements.

C.7 GENERAL REQUIREMENTS

1 Subcontracting with, and Providing Grants to, Host-Country Organizations

Building of local technical capacity is a key cross-cutting priority for the Contract. In order to support its capacity-building efforts, the Contractor may subcontract with, or provide limited grants to, select business associations and other stakeholders representing the private sector.

2 Corruption Considerations

The RTL C contract is a key element of the Mission's anti-corruption efforts. By working toward its stated goal, the contract will help the Mission's anti-corruption efforts since increased transparency and certainty in the trading environment; will allow importers, exporters and producers to trade more effectively and efficiently with a minimum of government intrusion. Simplified and streamlined custom and transit regulations and more transparent custom policy-making processes will reduce both incentives for businesses to pay bribes, and opportunities for customs officials to seek them.

3 Gender Considerations

The RTALC contract is focused on policy-level and implementation-level issues which are estimated to have a gender-neutral effect. By improving the environment for trade, the Contract will create a more level playing field that rewards business people based on their merits, not on their connections. Therefore, results of the contract's activities will benefit women and youth who, traditionally, have fewer connections and patrons in the government. However, in order to be consistent with the current guidelines of the Mission's gender analysis, the contractor will be required to make a conscious effort to ensure that the Contract activities do not discriminate against, and disproportionately benefit, either gender. To provide USAID with information to help inform planning and design of future activities so that they will address these gender-related issues as effectively as possible, the contractor will collect, analyze and submit to USAID gender-disaggregated data for the training of government officials, custom and trade officials, custom consultative councils' members, related private sector trade companies, and prepare estimates of the impact of the contract's assistance on women and men.

4 Intra-Project Coordination and Cooperation with Other Projects

The Contractor will work to enhance intra-project coordination and, thereby, to obtain maximum benefit from the activity's limited resources by (i) seeking and taking advantage of opportunities to utilize and share project personnel among the target countries; (ii) identifying and pursuing opportunities, subject to CTO approval, to conduct joint activities (e.g., seminars and training events); and (iii) subject to CTO approval, through any other reasonable means that the contractor may devise. The contractor's proposals regarding intra-project coordination will be set forth in the initial draft Work Plan for the CTO's review and approval.

The Contractor will also seek close cooperation with projects, funded by USAID and/or other donors that pursue improvements in economic policy, trade liberalization and business environment. The RTALC contractor will work closely with the BEI Project on the reduction of trade related and behind the border constraints. The RTALC project will also partner closely as relevant with the Economic Policy Reform project in order to appropriately leverage the work of each in such areas as competition policy and tax reform. The RTALC project is also envisioned to closely work with the new Kazakhstan Small Business Development Project, the new Agribusiness Project and any other agriculture project that is currently dealing with export and import issues.

5. Environmental Impact

Contractors must comply with USAID environmental regulations (Code of Federal Regulations (CFR), Title 22, Part 216) in carrying out the Project. The approved Initial Environmental Examination (IEE), DCN: 2006-CAR-005, is included as Attachment 7. As indicated in the Findings of the approved IEE, all types of assistance that are entirely within the categories listed in paragraph (c)(2) of Section 216.2 of Title 22 CFR 216 (i.e., Education, technical assistance, or training programs except to the extent such programs include activities directly affecting the environment (such as construction of facilities, etc.); Analyses, studies, academic or research workshops and meetings; and Document and information transfers) having no effect on the natural or physical environment have been granted a Categorical Exclusion from any further action. The possible limited procurement of equipment (computers, printers, etc.) as an element in various Components for strengthening the capacity of key customs counterparts has been granted a Negative Determination without conditions (i.e., no special mitigation measures needed; normal good practices will be used). In particular, the proposed action required would be to ensure that the equipment be used in an environmentally sound and safe manner and properly disposed of at the end of its useful life in a manner consistent with best management practices according to European Union or equivalent standards. Pursuant to 22 CFR 216.3(a)(9), if new information becomes available which indicates that activities to be funded by the RTALC Project might be "major" and the Program's effect "significant", this determination will be reviewed and revised by the originator of the project and submitted to the E&E Bureau Environmental Officer for approval and, if appropriate, an environmental assessment will be prepared.