

IDLO EVALUATION BRIEF

EVALUATION OF THE COMMERCIAL LAW JUDICIAL CAPACITY BUILDING PROJECT (CLJCBP) IN MONGOLIA

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1. INTRODUCTION AND BACKGROUND

The Commercial Law Judicial Capacity Building Programme (CLJCBP), implemented by the International Development Law Organization (IDLO), was commissioned by the European Bank for Reconstruction and Development (EBRD) to help develop and put into action a curriculum for a commercial law judicial training program. The project was meant to enable the targeted Mongolian judges to deal more effectively with commercial law cases (project purpose), thus assisting Mongolia in building stronger and better functioning legal institutions for the commercial law sector, and to increase business confidence in the judiciary (overall objective). The two phases of the project period spanned two years, from 3 September 2012 to 30 September 2014, with a budget of €845,346.

The project was divided into five components:

- 1) Training of 25 judges to deliver a commercial law judicial curriculum together with international experts (training of trainers);
- 2) Training of 200 judges on nine commercial law sectors¹;
- 3) Exposing 10 out of the 25 trained judges to regional best practices through apprenticeships (training of trainers);
- 4) Equipping the Supreme Court with up-to-date commercial law materials; and
- 5) Extending the Supreme Court's online court case database.

¹ Shareholders' Rights, Creditors Rights, Insolvency, Insurance, Competition Law, Mining, Intellectual Property, Taxation and International Agreements).

² IDLO "Training Information Management System"

2. EVALUATION PURPOSE, PROCESS AND METHODOLOGY

The purpose of the evaluation was to provide an independent assessment of the CLJCBP (Phases I and II) and to identify relevant lessons learned for the design, implementation and scale-up of similar, future interventions. The evaluation focused on the project's efficiency, effectiveness and impact.

The evaluation followed a theory-driven, mixed-method approach. An examination of the project's logic model was the basis for drafting the evaluation questions and indicators. The project's theory of change also served as key reference for analyzing the results of the project; including its contributions to the achievement of the higher level objectives of an enhanced professional capacity among Mongolian judges in commercial law, and the strengthening of legal institutions responsible for the commercial law sector in Mongolia.

Data for the evaluation were collected through the analysis of project documents and data (including TIMS² data), interviews with IDLO staff in Rome and project staff in Ulaanbaatar/Ulan Bator (UL). A five-day visit to Mongolia provided the opportunity for interviews with project beneficiaries. A review of a sample of Mongolian court decisions were used to corroborate the information from project documents and from the interviews with beneficiaries.

3. FINDINGS AND MAIN CONCLUSIONS

Overall assessment of project

The achievements of the Commercial Law Judicial Capacity Building Programme (CLJCBP) have been

considerable. In spite of the overall success of the project, the upgrading of professional capacities of judges in commercial law in Mongolia is still far from complete.

Effectiveness of the project

Main findings

The approach of using 25 Mongolian judges as collaborators for the development of training materials allowed the project to produce well-received training handbooks in the 9 sectors of commercial law (Components 1 and 3). As foreseen in the design of the project, these handbooks and the 25 trained judges proved to be valuable assets in the delivery of trainings to the larger group of Mongolian judges (Component 2).

By-and-large, the 200 judges trained under this second component of the project were able to utilize the information conveyed in the workshops, to improve their handling of commercial cases and to improve the quality of their decisions in the nine commercial law sectors. The trained judges used terminology from the trainings in their judicial decisions, and adopted other practices taught in the workshops, such as the referencing of prior cases and the citing of relevant legislation. However, knowledge gains varied among the judges, largely due to differences in their levels of experience and knowledge of the subject matter going into the training.

The project team used a set of quality control measures to maximize project results. This included quality assurance throughout the development of the nine sector handbooks and the application of criteria for selecting the judges for the training of trainers (Components 1 and 3).

Main conclusions (effectiveness)

Use of Project Cycle Management (PCM) tools during project implementation: Although a Logic Framework Matrix (LFM) had been internally developed for the project and had been adopted by IDLO, the matrix was not used during the implementation of the intervention. This prevented the project staff from validating the project's objectively verifiable indicators (OVIs) and from updating the indicators as needed to track results achievement. The indicators used were largely numerical and the sources of

information (SOVs) did not use objective / independent data.

Mainstreaming of gender in project design and implementation: Gender was neither a factor in the selection of participants for the trainings or in the assessment of the project's effects on the commercial interests of third party stakeholders (i.e., court users), nor in any other aspects of the project's approach and implementation. In line with the gender assessment criteria of the Organization for Economic Cooperation and Development (OECD), the project therefore must be classified as gender neutral ("G-O")³.

Unclear added value of providing commercial law materials to Supreme Court: The design of the project had not clearly articulated how providing commercial law materials to the Mongolian Supreme Court was expected to help Mongolian judges in the Mongolian justice system at large to deal more effectively with their commercial law cases. While this component had been specifically requested by the Supreme Court, it was not sufficiently linked to the other 4 components of the intervention to warrants its inclusion in the project.

Efficiency of project implementation

Main findings

The project achieved a high level of efficiency and return on investment throughout its execution, owed in large part to EBRD's prior experience with the approach of this project and IDLO's expertise in capacity building. This allowed the project to apply lessons learnt in earlier, similar projects, such as a commercial law capacity building project in Kyrgyzstan. Moreover, IDLO's wide professional network in the justice field made it possible for the project to competitively recruit experienced international experts that were able to comprehensively cover the nine law sectors and ensure the training of the targeted number of judges.

In the absence of any personnel turnover over the life of the project, the local project implementation unit (PIU) in Ulaanbaatar was able to run efficiently and to implement the intervention without significant budget overruns. IDLO's administrative system, procedures and reporting allowed for the transparent accounting of project expenditures.

³ According to the Gender Equality Policy Marker of the OECD. There are 3 markers: G-O: When gender equality is not

targeted; G-1: When gender equality is a significant objective; and G-2: When gender equality is a principle objective.

Main conclusions (efficiency)

Requests for follow-up trainings: Providing Mongolian judges with an introduction to the fundamentals of commercial law in the nine sectors helped to improve their professional performance, but also raised the awareness of the trainees of the information they were still lacking. Trainees therefore accompanied their overwhelmingly positive feedback on the courses with calls for additional training.

Results-potential of training handbooks to be maximized: The handbooks for the nine commercial law sectors the project helped to develop played a key role in the training of judges, and the success of the project ensure a common minimum standard with regard to their professional skills and knowledge. Although the handbooks are held in high regard by the targeted judges, the books had not been widely disseminated by the end of the project. Only few of their potential users were effectively able to access and use them in their daily work.

Delays in providing and upgrading Supreme Court assets limited their added value: Both the provision of commercial law materials to the Supreme Court (Component 4) and the expansion of the Court's online court case database (Component 5) were delayed significantly and were only concluded after the formal end of the project. Despite these initiatives were small in terms of financial resources, this reduced the contribution of these components to the success of the overall project.

Prospects for project impact

Main findings

The knowledge gains and the improved ability of the trained judges to deal with commercial cases will likely provide an important contribution to strengthen the capacity of Mongolian courts in commercial law. This can also help to improve the business environment in the country. While the changes brought about by the project are modest when contrasted with the capacity building needs of the judicial system overall, it is nonetheless likely that the improved performance of judges in commercial law cases will be noticeable in the months to come. By contributing towards the overall objective, the project has helped steer the country further towards a culture of justice.

4. RECOMMENDATIONS

Bearing in mind budgetary and time constraints, the EBRD should consider continuing its support of commercial law capacity building. If this support is continued, it should largely use the proven overall approach of the present project, while considering certain adjustments to its design and implementation, as explained below.

Consider viability of partner suggestions for continued training support

If the decision is made to support a follow-on intervention to the current project, the EBRD should take into consideration the various suggestions from project stakeholders for adapting the approach of the intervention. This includes providing targeted, more in-depth support in selected sectors; reducing the number of training hours for each day, but extending the overall duration of the training; and moving the training to the end of the summer holiday. Officially considering input is likely to improve ownership and relations with the local partners, even if not all of the suggestions are ultimately taken onboard.

Intensify the use of the Project Cycle Management (PCM) methodology.

Project staff in UB and in Rome should increase their knowledge of the PCM approach and its use in project management. Similarly, staff should intensify their use of the Logical Framework Matrix (LFM) to facilitate the development of OVIs and monitoring tools for use in reporting, project supervision and for ensuring the alignment of project activities and outputs with the project purpose and its overall objectives. Additionally, the use of PCM and the logical framework matrix could help to increase the consistency of the terminology used by the project.

Develop additional monitoring and evaluation tools to measure training impact.

A possible follow-on project should develop and use additional M&E tools linked to more objective sources of verification (SOV) to measure knowledge gains among beneficiaries. Possibilities could include open-ended tests administered to samples of the trained judges that can help to identify challenges in relation to the trainings in time for subsequent corrective measures. The resulting gains in project performance will likely more than make up for these investments.

Create inexpensive electronic copies of training handbooks

Although the project has formally ended, the partners should produce electronic editions of the handbook. This could significantly increase access of judges and other potential users to these knowledge resources at a low cost. Copies should be disseminated widely, on the basis of a comprehensive distribution list compiled with the help of the National Legal Institute, the Association of Mongolian Advocates, the Ministry of Justice, the National Chamber of Commerce and Mongolian universities.

Conduct gender assessment prior to follow-up intervention

If the support to commercial law capacity building is continued, EBRD and IDLO should conduct an

assessment of the gender-related issues in Mongolia's judicial system ahead of that intervention and should reflect any relevant findings in the design of the next project. Gender should be integrated into the project in line with international best practices⁴.

Link the provision of materials to training components

For any follow-up interventions, the provision of law-related materials should be clearly linked to the training-related components of the project. Materials that are provided should be made available to trainees, both during and after the training, to facilitate the acquisition of knowledge by the trained judges.

⁴ Such as those described in the Paris Declaration on Aid Effectiveness, Accra Agenda for Action, the Global Partnership for Effective Development Co-operation, Busan Partnership for Effective Development Co-operation and the Network on Development Evaluation.