



The Republic of Tajikistan<sup>1</sup> became an independent State in 1991 after the break up of the Soviet Union. Tajikistan is bordered by China, Uzbekistan, Afghanistan and Kyrgyzstan.

After gaining independence, the level of economic development in the Republic deteriorated significantly due to prolonged civil war, natural disasters, and the disruption of the traditional trade and economic links with the Russian Federation and other former Soviet republics and free use of the former federal transport infrastructure accompanied the dissolution of the former USSR.

Between 1991 and 1997, GDP diminished by more than 60 percent and the standards of living deteriorated drastically. However, the war in Afghanistan brought increased economic development assistance to Tajikistan from the international community. Tajikistan is seeking the WTO membership, and has joined the NATO's Partnership for Peace.

### Economy

Tajikistan has the lowest per capita GDP amongst the 15 former Soviet Republics. Only five to six percent of the land area is arable. Cotton is the most important crop. Mineral resources varied but limited in amount, which include silver, gold, uranium, and tungsten. Industry consists only of a large aluminium plant, hydropower facilities, and small obsolete factories, mostly in light industry and food processing.

The Civil War (1992-97) severely damaged the already weak economic infrastructure and caused a sharp decline in Tajikistan's industrial and agricultural production. Economic recovery began in the second half of 1997 as macroeconomic stabilisation became more evident and GDP expanded by 24.5 percent in 1997-2002. However, the level of GDP in 2002 was still only equal to 56.9 percent of its level in 1991. Sixty (60) percent of Tajik people continue to live in poverty.

PROFILE	
Population:	6.3 million***
GDP (Current US\$):	1.6 billion***
Per Capita Income: (Current US\$)	210 (Atlas method)*** 980 (at PPP)**
Surface Area:	143.1 thousand sq. km
Life Expectancy:	68.6 years**
Literacy (%):	99.5 (of ages 15 and above)**
HDI Rank:	116***
<i>Sources:</i>	
- World Development Indicators Database, World Bank, 2004	
- Human Development Report Statistics, UNDP, 2004	
(**) For the year 2002	
(***) For the year 2003	

The inadequate economic growth in Tajikistan is connected, to a great extent, to the insufficient development of market institution in the economy. Restructuring aimed at adjusting to changing domestic and foreign demand patterns has been slow, hampering economic growth in Tajikistan. The main reasons for this are the lack of financial resources available to the incipient private sector, in part owing to the low credit ratings of the country, and the lack of post-privatisation restructuring support. Restructuring in agriculture has made slow progress, especially in the development of private farms but here too, insufficient financial resources as well as the lack of law and order hamper it.

### Competition Law and Policy

Inadequate economic growth in Tajikistan is also explained by the lack of a competitive environment in the economy. Economic activities are divided into spheres of influence exercised by corrupt officials and criminals; while the business culture is based more on personal connections than on competitive process.

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1 <http://cia.gov/cia/publications/factbook/geos/ti.html>

Competition law and policy, like in most other transition economies of the Commonwealth of Independent States (CIS), is a relatively recent occurrence. Tajikistan adopted its first competition law, '*Law on Curtailing of Monopolistic Activity and Development of Competition*' (hereinafter referred to as the Anti-Monopoly Law), on December 27, 1993. This law was essentially modelled after Russia's then competition law and was adopted through the CIS Inter-Parliamentary Committee process.<sup>2</sup> It was amended on November 29, 2000, after the creation of a new State body dedicated to implementing the state anti-monopoly policy and supporting competition – the State Agency on Anti-monopoly Policy and Support of Entrepreneurship of Tajikistan (the Anti-Monopoly Agency).

This Anti-Monopoly Law determines the legal and administrative basis for the prevention, reduction and restriction of monopolistic activity and unfair competition, and outlines the conditions for the creation and efficient functioning of commodity markets in Tajikistan.

The Anti-Monopoly Agency, under the Ministry of Economy and Foreign Economic Relations, which is now renamed as the Ministry of Economics and Trade, is responsible its implementation, which includes:

- providing support for entrepreneurship in order to develop competition within the commodities markets;
- applying measures against prevention and elimination of monopolistic activity, abuse of the dominant position in the market, regulation of prices on products of monopolistic enterprises, curtailing of unfair competition; and
- controlling over the observation of the anti-monopolistic legislation.

The Anti-Monopoly Law prohibits monopolists from reducing or closing production, and from stockpiling commodities with the intention of creating or supporting a deficit in the market. For effective implementation of the Law, the Government has adopted and enacted a number of regulatory laws thereby creating a supportive legislative environment for the implementation of the Anti-Monopoly Law.

One such is the *Decree No. 235* of the Council of Ministers, dated May 24, 1993, which created the State Register of Monopolistic Entities and Enterprises of the Republic. Eighty-nine (89) major enterprises of the country are currently on the list. The criteria for the determination of a monopolist are set at 40 percent of total sales of a sector. That is, if the share of the enterprise's production exceeds 40 percent of the overall market for similar products in the Republic.

Another relevant law is the Law on Natural Monopolies 1997 (amended in 2001), which prohibits competition in

the production and transmission of electricity; purchasing, transportation and supply of natural gas by pipelines; railroad and air transportation; services at airport terminals, services of public post and telecommunications; and military production.

Besides, on September 29, 1993, the Council of Ministers, in its *Decree No.498*, defined the Order of the State Regulation and Declaration of Prices for the Product (commodities and services) of the Monopolistic Entities and Enterprises. It also promulgated the *Decree No. 310*, on May 04, 1995, 'On Adoption of the Regulations for Formation and Application of Free Prices and Tariffs.' The anti-monopolistic and competition-oriented policy, along with traditional measures for prevention and curtailing of monopolistic activity, should in the near future encourage fair competition between enterprises within the economy, and the organisation of State regulation and control over the activity of monopolistic enterprises, including natural monopolies. Implementation of these tasks pre-supposes:

- formulating a programme of de-monopolisation of the economy and the development of competition;
- executing state anti-monopoly control with the purpose of preventing the abuse of their dominant position by economic entities within commodity markets, control over mergers and buy-outs;
- drafting a law on natural monopolies; and
- formulating a balanced export-import policy, including the policy of moderate protection in relation to domestic producers.

Also considered a priority is the creation of legislation for regulating the process of de-monopolisation and the promotion of fair competition in the financial sector.

Recently, the Government has enacted the revised Register of the subjects of the natural monopoly and monopolistic enterprises. Amongst them are the Ministry of Communications, Tajikistan Airlines, Oil-and-Grease Enterprise of Dushanbe, etc. For these enterprises, the Government has set the profit limit at an average level of 20-25 percent.

### **Anticompetitive Business Practices**

Tajikistan, as part of post-Soviet Central Asia, is experiencing many difficulties in the process of transition to a market economy. Deregulation and development of the private sector are occurring without a simultaneous effort to involve citizens in shaping economic change, and to educate them about their rights and responsibilities within a free market system. The development of markets in Tajikistan is taking place against a background of continuing economic and social instability, which resulted from high unemployment, diminishing real incomes, and rising prices.

2. See footnote 2 on page 97

As a result, people are exposed to the imperfections of the new market such as monopolies, cartels and restrictive practices; dishonest or misleading marketing; unsafe or defective products or services; poor access to markets; and inadequate information. This has a dramatic effect, particularly on the poor and vulnerable consumers living below the poverty line (in Tajikistan 80 percent of the population is deprived of access to basic needs). Despite the growing scale of the problem, the Government has been reluctant to regulate the market by developing adequate market policies and, so far, has put competitive interests second to those of business and investment.

Large state enterprises still dominate almost every sector of the economy, including the supply networks and transportation. Businesses and SMEs, in particular, are suffering and their number has declined from 3,390 in 1995 to 1,181 in 2001 while employment in those firms has fallen from 38,400 to 14,800 in the same period.

Absence of generally distributed new technologies, such as PCs and mobile phones, acts as a barrier to any potential new entrants to a market. This allows the existing monopolies that do have access to these technologies to strengthen their stranglehold on the economy. Research has shown that in all sectors of industry except food and light industry, one in three enterprises out of 60 can produce anything up to 100 percent of the output of that particular sector.

	1991	1995	2000	2001	2002
<b>Light Industry</b>	63	80	130	134	132
<b>Food</b>	94	101	180	196	187
<b>Trade</b>	–	9208	4516	3982	3863
<b>Domestic services</b>	5850	2809	875	865	878

Currently in Tajikistan, there is strong competition between the monopolies in food and light industry and trade and services. According to the table above, the strongest competition lies in the sectors of trade and domestic services. In these areas, retail volume has grown over the period, but this growth has been accompanied by a decrease in the number of enterprises, which suggests monopolistic activities.

Consequently, the weak enterprises are driven out of the market. In light and food industry sectors, there has been a steady increase in the number of enterprises. This is

explained by the absence of any serious barriers to the entry of new firms into these sectors, and the strong demand for these sectors.

To develop a competitive economy and to gain competitive advantage, it is necessary for Tajikistan to introduce such important conditions for free competition as entrance and exit conditions, which are not artificially inflated and identical conditions of activity for all economic subjects. At this point, the development of a competitive market in the Republic of Tajikistan depends on the competency of state bodies.

### **Sectoral Regulation**

The telecom sector in Tajikistan is currently governed by the Telecommunications Law of 2002 (hereinafter referred to as the “2002 Telecom Law”) and is regulated by the State Inspectorate of Communications, a body within the Ministry of Communications. While the framework established by the 2002 Telecom Law provides for a new independent regulator to take over sector responsibility, the government has yet to implement this critical framework component.

The market is currently dominated by Tajik Telecom (TT), the state-owned incumbent operator, providing local, long-distance and international telephone services throughout the country. TT currently holds a *de jure* monopoly on international traffic and a *de facto* monopoly on all basic services. In addition to TT, there are four licensed mobile operators: Tajiktel (mobile arm of TT), Somoncon (a US-Tajik joint venture), Indigo (a US-Aga Khan joint venture) and Babilon-M (a US-Tajik joint venture). There are also a number of private operators emerging, primarily in the Internet and service field.

While the Government has made some progress towards sector reform, much depends upon implementation of the individual rules and procedures for the sector. Although the government has repeated its intention to privatise TT, current market conditions in Tajikistan and weak regulatory framework do little to enhance already limited interest of foreign investors. Accordingly, the Government should immediately focus on practical implementation of all reforms necessary to attract and sustain private investment into TT and the sector. Key sector priorities are: the immediate creation of a independent regulatory authority, independent of both political and sector operator influence; full withdrawal of the government from the commercial aspects of the sector; full and rapid implementation of policies and mechanisms already developed; improved corporate governance of TT and, continuation with current tariff rebalancing programme.

2 Statistical year-book of Republic of Tajikistan, Dushanbe, 2003.-Ń.193, 309,319

## Consumer Protection

The basic law for consumer protection in Tajikistan is the 'Law on Consumer Rights Protection', enacted on May 15, 1997. It is intended not only to guarantee consumer's safety, free choice and information on the manufacturer of goods and ingredients, but also to guarantee civilised legal relations in the markets of goods and services. However, the present law is only used by the Tajik State Standardising Agency and Sanitary-Epidemiological Control bodies guaranteeing conformity to the national standards of quality and safety, and not by individuals or NGOs working in the field of consumer rights.

The state authority, which oversees state consumer protection today, is the State Agency – TajikStateStandard. This agency must ensure the safety of goods and services on the market, through the enforcement of national quality standards. However, the activity of the TajikStateStandard is similar to activity under the Soviet system, using safety standards, which have not changed since Soviet times.

Since October 2003, the American Bar Association (ABA) has supported a public association, the Consumers Union, to initially start a consumer advocacy campaign in Tajikistan. The purpose of the campaign was to develop and promote effective legislative mechanisms for consumer protection. The main results of the present campaign are that on June 24, 2004 the first draft of a new edition of the 'Law on Consumer Rights Protection' was considered, which includes basic changes and additions developed by the Consumers Union. This new edition was subsequently adopted on December 09, 2004.

## Concluding Observations and Future Scenario

Competition policy is a central element in the economic reform programmes of the CIS countries, including Tajikistan. The change of regime, in the early 1990s, had required the disengagement of the State from the production and distribution processes, as well as the establishment of the legal and institutional frameworks appropriate to the functioning of a market economy.

The Governments of most of the CIS countries have been trying to de-monopolise highly concentrated economies, to expand the role of the private sector in economic activity, and to ensure competition in the market. These efforts also contribute substantially to the positive changes in economic life in Tajikistan.

The relevant regulatory authorities have been pursuing state control over restrictive business practices and unfair competition practices. However, due to the lack of resources, and in some cases also the lack of power, the Anti-Monopoly Authorities are ineffective in preventing complicated anticompetitive practices.

Specifically, in the case of Tajikistan, the challenge remains to make competition legislation fully effective, particularly through building and strengthening institutions to plan, monitor and assess the implementation of this legislation. This could be the court systems; the state offices for competition; independent standards or testing agencies; a Better Business Bureau; and public consumer associations.

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