



# Trip Report: Innovating Institutions

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**Kyrgystan: 27 October-16 November 2001**  
**By Malcolm Childress**

## **Institutional Innovations for Member-Owned Agricultural Enterprises in Kyrgyzstan.**

### **Inception Notes**

Malcolm Childress  
Land Tenure Center  
University of Wisconsin – Madison



November 30, 2001

## 1. Summary

Project inception took place in the second half of October 2001. Co-principal investigator Malcolm Childress traveled to Kyrgyzstan during October 27-November 16, 2001. During this period several inception activities were carried out:

- Mobilization of team by CASE-Kyrgyzstan and RCLAR.
- Establishment of connections with institutions and rural development efforts.
- Drafting of Terms of reference for initial activity on canvas of investment sources were made.
- Drafting of Terms of reference for initial activity of legal analysis for institutional innovation were developed.
- Finalization of plans for the farm survey 2001 and modification of questionnaire.
- Pursuit of additional financing.

The following Inception Notes describe these activities.

*Vegetables being grown under plastic, Chui Oblast (Childress, 2000)*



## 2. Mobilization of Team

The University of Wisconsin – Madison Land Tenure Center received its BASIS contract in the second half of October 2001. CASE-Kyrgyzstan received a subcontract to sign

with University of Wisconsin – Madison during this period and sent back a signed copy. As of November 15, 2001 CASE had not received a finalized contract from the UW, or the first disbursement.

During October 27-November 15, co-principal investigators Roman Mogilevsky and Malcolm Childress met almost daily to mobilize the team and initiative activities. The following project personnel were contracted or a working collaboration established:

- Alymbek Erdolatov, Associate Researcher
- Meergul Bobukeeva, Legal Specialist
- Kanat Koderov, Junior Researcher
- Akyljan Kalpakova, Center for Land and Agrarian Reform Farm Survey Coordinator

### **3. Connection of the Project to Institutions and On-going Agricultural Development Efforts**

During October 27-November 15, 2001 the team met with representatives of a number of institutions, organizations, companies and rural development projects to introduce the research initiative, update the understanding of institutional innovations which are occurring, financing and investment sources and establish contacts which may facilitate the selection of enterprises for case studies. These meetings revealed the following findings which are important for the strategy and specific research questions the project will pursue:

- Private direct investment through equity partnerships is exceedingly rare and especially unlikely in production enterprises (farms).
- Foreign direct investment for agribusiness is very limited at the current time
- Most investment is made using retained earnings or other private financing.
- Formal sources of agricultural finance are limited, with the Kyrgyz Agricultural Finance Corporation (KAFC) playing the major role
- Micro-credit has blossomed in Kyrgyzstan through credit unions and programs such as FINCA.
- Banks are lending very little to the agricultural and agribusiness sector.
- Many processing enterprises are trying to stay informal and invisible to avoid taxes and harassment

In communicating about the project, the team confirmed that usage of the concept and term “equity-sharing” is still premature in Kyrgyzstan at the present time. It is better to talk about “member-owned agricultural enterprises” In this direction the team generally referred to the project as “Institutional Innovations for Member-Owned Agricultural Enterprises.” The following table lists some of the people with whom the team met personally to introduce the project and potential connections.

**Table. Project Contacts**

<b>Name</b>	<b>Position and Affiliation</b>	<b>Telephone (Bishkek unless noted)</b>	<b>E-mail</b>
Abdykadyrova, Buajar	Business Advisor, Pragma Corporation SME Development Project—Osh	3222-2-35-19	<a href="mailto:A_buajar@osh.kg">A_buajar@osh.kg</a>
Aniev, Mars	Regional Director, Kyrgyz Agricultural Finance Corporation--Osh	3222-5-61-27	
Akimbaev, Sabyrbek	Project Coordinator, Pragma Corporation SME Development Project—Osh	3222-2-35-19	<a href="mailto:Saba1967@osh.kg">Saba1967@osh.kg</a>
Ashimov, Tilek	General Director, Financial and Technical Support for Credit Unions Project	219566	<a href="mailto:Ashimov@fccu.com.kg">Ashimov@fccu.com.kg</a>
Asmonov, Adulda	Director, Center for Land and Agrarian Reform—Osh		
Atwood, Tracy	Country Representative USAID	551241	<a href="mailto:Tatwood@usaid.gov">Tatwood@usaid.gov</a>
Crocker, Mark	Team Leader, Chui Area Development Project	665746, (517)780175	<a href="mailto:Mcrocker@mail.kg">Mcrocker@mail.kg</a>
Doran, Eamon	Private Sector Advisor, USAID	551241	<a href="mailto:Edoran@usaid.gov">Edoran@usaid.gov</a>
Edgardo, Edward	GTZ Export/Investment Project	665813	<a href="mailto:Edgaro@elcat.kg">Edgaro@elcat.kg</a>
Frey, Dana	Chief of Party, USAID Fiscal Reform Project	610826	<a href="mailto:Dfrey@barents.asianinfo.kg">Dfrey@barents.asianinfo.kg</a>
Goodman, Peter	Chui Area Development Project	663969, 771540	<a href="mailto:Pjgoodman@compuserve.com">Pjgoodman@compuserve.com</a>
Holtland, G	Dutch Potato Improvement Project	+317-317- 472718	<a href="mailto:Geh@stoas.nl">Geh@stoas.nl</a>
Jeenbaeva, Baktygul	Director, Kyrgyz Agricultural Finance Corporation	257667, 0502 575048	<a href="mailto:gb-rads@osh.kg">gb-rads@osh.kg</a>
Kosharova, Galina	Director, Financial Fund Bay Tushum (microcredit)—Osh	3222-5-60-29	<a href="mailto:Bai_tushum@osh.mail.kg">Bai_tushum@osh.mail.kg</a>

Miekle, Jason	Country Director, FINCA (microcredit)	681203	<a href="mailto:Jmiekle@finca.org.kg">Jmiekle@finca.org.kg</a>
Nelson, Larry	Training Specialist, On-Farm Irrigation Project, Ministry of Ag. And Water Resources	240874	<a href="mailto:Nelson@elcat.kg">Nelson@elcat.kg</a>
Primkulov, Bolutbek	Specialist in Ag. Processing Oblast Administration—Osh	3222-56378, 30877	
Seitkasymov, Sanjar	Agribusiness Advisor, Pragam SME Development Project—Osh	3222-2-35-19	<a href="mailto:Sanjar@osh.kg">Sanjar@osh.kg</a>
Sheragalieva, Anida	Business Advisor, Pragma Corporation SME Development Project—Osh	3222-2-35-19	<a href="mailto:Anida@osh.kg">Anida@osh.kg</a>
Siedman, Chan	Team Leader, International Fertilizer Development Center—Osh	Via Pragma	
Standingford, John.	Team Leader Capacity-Building in the Ministry of Agriculture and Water Resources	221765	<a href="mailto:johnstandingford@hotmail.com">johnstandingford@hotmail.com</a>
Strickland, John	Director, MerciCorps—Osh		<a href="mailto:strickland@oshmail.kg">strickland@oshmail.kg</a>
Toichubaev, Kuban	Tivoli Corporation, Malted Barley Project	680391	<a href="mailto:Tivoli@elcat.kg">Tivoli@elcat.kg</a>
Udeland, Charles	Chief of Party, USAID Local Government Project	224848	<a href="mailto:Cundeland@ui.kg">Cundeland@ui.kg</a>
Undeland, Asyl	Operations Officer, World Bank	610650	<a href="mailto:Aundeland@worldbank.org">Aundeland@worldbank.org</a>

#### 4. Understanding Investment Sources for Member-Owned Agricultural Enterprises.

Alymbek Erdolatov has been given primary responsibility for the theme of canvassing investment sources in the Annual Workplan. He will be supported by Roman Mogilevsky in this work. The following Terms of Reference and calendar were developed and agreed to by Erdolatov and CASE:

*November 4, 2001*  
**TERMS OF REFERENCE:**

##### ***Researcher Services for Project “Institutional Innovations for Improving Member-Owned Agricultural Enterprises in Kyrgyzstan.”***

***First Task Area: Investigate investment sources for participation in equity-sharing projects.***

*Time line: November 2001-June 2002*

1. The **first task** is to perform a comprehensive background report on agricultural finance and investment from the demand side. This background study should provide:

- *an overview of the production, processing and service sectors in agriculture, utilizing both macro-level indicators and indicators based on region, crop or livestock specialization, and destination of production (simple consumption, processing for domestic consumption, export, etc)*
- *a categorization of demand for operating capital and long-term investment by subsector under existing situations and under reasonable growth assumptions.*
- *a categorization of the different actors in the sector from the standpoint of the fulfillment of demand of operating capital and long-term capital*

##### ***Calendar:***

*Draft January 15, 2002*

*Translation, Review, Comment and Revision: January 30, 2002*

*Final Report March 15, 2002*

2. The **second task** is to assess agricultural investment capital from the supply side. The researchers will perform a technical assessment of the economic opportunities and constraints for existing agricultural finance institutions and sources of investment capital including:

- *KAFC,*
- *credit unions,*
- *micro-finance programs,*
- *private banks (including foreign-owned banks),*
- *government lending,*
- *specialized donor programs (e.g. EBRD, KFW and bilateral agricultural investment projects),*
- *contract farming and the provision of inputs to farms by processors;*

- *private commercial investment from domestic sources, including retained earnings and owner's equity*
- *direct foreign investment/joint ventures, and public stock offerings.*

*The assessment should highlight the differences among farm suppliers, farm enterprises, traders and processors in their short and long-term capital requirements and economics for utilizing and paying for investments. It should also highlight differences among geographic regions and crop-livestock specializations in short and long-term needs. The assessment will pay particular attention to issues of collateral for long-term lending, loan guarantees, debt-for-equity exchanges and equity partnerships with investors.*

**Calendar** (note: This task is an intermediate part of the Synthesis Report described in Task 3)

*Progress Report: February 28, 2002*

*3. Based on the Tasks 1 and 2, in the **third task** is to identify key problem areas facing investors and financial providers. It will provide preliminary recommendations for their resolution with supporting analysis. It is expected the recommendations will have a policy component directed toward governmental approaches towards investment in the agricultural sector, a programming component directed toward international cooperation and NGOs, and an economic-operational component directed toward financial service providers, investors and agricultural businesses. The recommendations (together with legal recommendations being carried out separately) will constitute the package of potential "institutional innovations" which the project will study and attempt to test during its next stages. The deliverable for this task is a synthesis report on the entire task area (Tasks 1, 2 & 3).*

**Calendar**

*Draft Synthesis Report: March 31, 2002*

*Translation, Review, Comment and Revision: April 1-April 30,*

*Final Synthesis Report and Seminar for Presentation of Results May 31, 2002*

**Second Task Area: Design and Conduct Case Studies of Equity-Sharing Enterprises.**

*Time Line: March 2002-October, 2002.*

*Based on a pre-project planning list of potential collaborating enterprises and the results of the information and contacts developed in the First Task Area, the researchers will identify and select ten agricultural enterprises or organizations for intensive study and potential collaboration.. Enterprises will be selected on the basis of their viability and interest in collaboration with the research project as an active partner in facilitating future business development and investment. Enterprises must be located in at least three oblasts including one southern oblast. A variety of enterprise types, including smaller production farms (two), large production farms (two), agricultural service providers (including two machinery service providers), agro-food processors (two) and Water User Associations (two) will be selected.*

*Case studies, led by Erdolatov, will focus on the organizational structure of the enterprise, the legal and de facto basis of member participation including shareholding, methods of payments to workers, production volumes, quality, costs (including*

*production costs, transport, packaging, taxation, social fund and debt service) and distribution and methods of short and long-term finance and investment. Issues of corporate governance will be given in-depth attention, particularly in terms of accounting and financial reporting, voting procedures and decision-making, member liability and managerial accountability. Special attention will be directed to the management of assets and particularly their usefulness as loan collateral in the enterprises. The studies will also focus on the relationship between enterprises and government institutions (e.g. regarding taxation, licensing, registration of business and land) and the ways in which informal versus formal channels for doing business impact investment access. Attention will be paid to existing short-term and long term capital access and pathways to improving this access where desirable.*

*In depth interviews will be carried out with managers of the agricultural enterprises as well as their suppliers and customers. A structured but open-ended interview format will be used, and repeated formal and informal contacts with the enterprises are expected. In addition to the data gathering, the desired outcome is that 3-5 enterprises would become collaborators with the research team during Year 2 and Year 3 to facilitate the achievement of investment goals through equity-sharing or other mechanisms.*

***Calendar:***

*Identification and Selection of Enterprises: April 30, 2002 (Deliverable: Memo on Identification and Selection of Enterprises)*

*Initial Field Work with Enterprises: May-July 2002 (Deliverables: Monthly Update Progress Report on Case Studies: August 2002)*

*Continuation of Field Work and Draft Report: October 30, 2002,*

*Review, Comment and Revision of Draft Report, Nov 15, 2002*

*Final Report on Case Studies: December 1, 2002.*

## **5. Legal Analysis.**

One of the hypotheses of the research is that the legal framework for new, member-owned agricultural enterprises is developed in such a way as to inhibit investment and innovation. Informality is favored by many enterprises, but has costs of its own. The project will carry out a series of legal analyses to understand the legal framework and identify areas where it may be creating constraints. Meergul Bobukeeva will be responsible for this series of legal *reports*. Terms of reference for the legal analysis are the following:

### *Terms of Reference for Legal Researcher*

***1. First task area: Legal status and regulation of agricultural subjects.***

*Анализ законодательной базы на предмет существующих организационно-правовых форм юридических лиц, приемлемых для сельского хозяйства (преимущества и их недостатки).*



*1. The legal researcher will prepare an overview and analysis of the legal bases which regulates individual/family production units in agricultural and which establishes the rights and responsibilities for legal entities operating in agricultural. The overview will explain where these legal requirements are found in Kyrgyz law, and what functional differences exist among different types of agricultural production units and legal entities (for example, peasant farms, cooperatives, joint stock companies, limited liability companies, associations and government enterprises). Input supply, machinery services and processing entities should be included. All registration and licensing requirements should be explained, including their costs.*

*2. The overview will give attention to the legal requirements which regulate how capital assets are owned, managed and disposed of in different types of agricultural enterprises, including land assets. It will explain how a new investor can acquire equity (capital share) in an agricultural enterprise or peasant farm.*

*3. The overview will also give specific attention to the legal requirements of the decision-making and management bodies of each type of physical or legal entity and any legally required financial obligations and reporting.*

*4. The researcher will provide a commentary on the juridical issues which most frequently arise for agricultural enterprises and provide examples of how such issues are resolved by courts or others.*

**Calendar:** Draft report by February 15, 2002, Final report February 28, 2002

***2. Second task area: Legal requirements for taxation and social protection payments for agricultural subjects.***

*Налогообложение, др. финансовые издержки сельскохозяйственных организаций.*

*1. Describe the requirements for tax payment by agricultural households and legal entities based on the most recent changes to the Tax Code. The description should include separate descriptions for processing and service enterprises. Explain the legal powers for tax audit and inspection and describe the legal recourse open to a person or entity which believes it is being unfairly harassed or required to make unofficial payments to tax inspectors.*

*2. Describe other obligatory payments, such as the Social Fund, and their basis in law.*

*3. Describe the legal basis for obligatory payments for the purchase of State Property, and legal issues involved in collecting those payments, and in restructuring that debt.*

4. *Document the procedures followed when tax and/or Social Fund payments are in arrears and explain the options available for repayment, and provide at least three examples from real cases of how legal action resolved arrears or other disputes.*

5. *Provide a commentary on legal and procedural issues encountered in carrying out the Tax Code and other obligations with recommendations for their resolution.*

**Calendar:** *Draft Report: March 31, 2002. Final Report: April 15, 2002.*

### **3. Third Task Area: Legal Regulation of Credit Provision.**

#### *Кредитные правоотношения*

1. *Describe and analyze the legal basis for financial services entities operating in Kyrgyz Republic (for example, Banks, credit unions, NGOs, Financial Corporations) and the difference among these entities from the legal point of view. Among other things, this should include a description of the powers of government to lend or grant money or goods to agricultural enterprises or households and the legal requirements regulating the Kyrgyz Agricultural Finance Corporation. It should also include the foreign currency conversion requirements for foreign banks or financial entities. It should explain the legal status of so-called “micro-finance” providers.*

2. *Describe and explain the legal basis for a loan agreement and the rights and responsibilities of parties to a loan agreement. Explain the legal basis for using goods as collateral and the most recent legislation and legislative proposals on the use of agricultural land as collateral. Explain the legal basis for loan guarantees, and the conditions in which a loan guarantee is invoked.*

3. *Describe and explain the legal procedures involved in compulsory loan collection, including (foreclosure-that is, seizure of collateral).*

4. *Provide three examples of legal actions involving agricultural credit disputes or loan collection procedures which raise important legal or policy questions.*

5. *Critically evaluate the legal issues needed to strengthen the agricultural credit system and provide recommendations to resolve those issues.*

**Calendar:** *Draft Report May 15, 2002, Final Report May 30, 2002*

### **4. Fourth task area: Agreements and contracts in the agricultural sphere.**

#### *Договорные отношения и их оформление в с/х сфере (виды договоров, контрактов)*

1. *Explain the basis in law for agreements and contracts regarding purchase and sale of products, including agreements for future delivery, or future payment, or agreements to use land or other resources among a group. Explain the conditions under which an agreement or contract is invalid. Explain the legal weight of oral agreements as opposed to written agreement, and any difference among agreements and contracts.*
2. *Explain any additional legal regulation of agreements or contracts between Kyrgyz citizens or entities and foreign citizens or entities.*
3. *Explain how contractual disputes or complaints are resolved and provide three “mini-case studies” of the resolution of the most common type of contractual disputes in the agricultural area through court or non-court means.*
4. *Provide recommendations for improving contractual security and resolving disputes.*

**Calendar:** Draft report June 30, 2002, Final report, July 15, 2002.

**5. Fifth Task Area: Debt restructuring and Bankruptcy**  
*Процесс финансового оздоровления и реформирования неплатежеспособных с/х организаций (банкротство)*

1. *Provide an overview of the legal requirements for restructuring the debts of an agricultural household or enterprise and the procedures followed. This overview should pay special attention to the mechanisms of initiating bankruptcy and the order of priority of creditors.*
2. *Explain the options available for the payment of debt and use of assets of a bankrupt enterprise and the liability of co-owners and directors in the event of bankruptcy. Describe protections, if any, for workers*
3. *Provide three examples of bankruptcy proceedings of agricultural enterprises and describe the outcomes. Make recommendations for improving bankruptcy procedures.*

**Calendar:** Draft report, August 30, Final report September 15.

**6. Sixth Task Area: Attraction of Foreign Investment.**  
*Правовые аспекты (не) привлекательности инвестирования в сельское хозяйство (препятствия инвестирования в с/х организации)*

1. *Describe the legal rights and obligations of foreign citizens to do business in Kyrgyzstan*
2. *Describe any national or sub-national legislation or policies which offer incentives to foreign investors, including export zones.*
3. *Describe any pending legislation regarding foreign investment.*
4. *Drawing on secondary materials as well as legal documents, comment on the requirements for licenses, registrations and other inspections required of agricultural enterprises (especially processors).*

**Calendar:** *Draft Report, October 15, 2002--Final Report October 30, 2002*

## **6. Farm Survey**

The project team met several times to modify the farm survey questionnaire from 1999 and pre-tested the modified version with three farmers in Kant Rayon, Chui Oblast on November 9, 2001. The Republican Center for Land and Agrarian Reform (RCLAR) will execute the survey under contractual arrangements with CASE-Kyrgyzstan. Akyljan Kalpakova is the survey coordinator for RCLAR.

The plan is to circulate the draft questionnaire during November for comment, carry out another pre-test during early December and then prepare instruction manual, interviewer training (in three regional training sessions). Field work should commence around the end of December. The draft questionnaire in English and Russian is attached as an annex.

## **7. Additional Funding Possibilities.**

The project team is involved with discussion or proposals with several sources of funding to add related activities and resources to the research program.

With the the Institute for Development Studies at the University of Sussex, UK (Rachel Wheeler), LTC and CASE have applied for a grant of about \$70,000 over two years to the UK Department for International Development (DFID) ESCOR competitive grant program.

LTC and CASE are also in discussions about developing a proposal to the USAID Global Livestock CRSP for about \$50,000 for one year under a grant competition. This would focus on sheep producer associations, and would allow for those associations to be added as another type of case study in the research program.

The World Bank in Kyrgyzstan has also indicated interest in adding resources to the farm survey.

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[Return to Trip Reports Page](#)

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