



AMERICAN CHAMBER OF COMMERCE IN MONTENEGRO  
AMERIČKA PRIVREDNA KOMORA U CRNOJ GORI  
CREATING OPPORTUNITIES • STVARA MOGUĆNOSTI

Report of the American Chamber of Commerce in Montenegro

## ***Business Challenges in Montenegro***

*November 2010*  
*Podgorica, Montenegro*

## ***Introduction***

The American Chamber of Commerce in Montenegro (AmCham Montenegro) is an independent business association, registered in Montenegro as a non-government organization. Our mission is to promote mutual cooperation and friendship between Montenegro and the United States through trade, investment and economic development. AmCham Montenegro strives to advance American commercial interests, as well as the interests of local, international, and other visionary companies that stand for responsible corporate citizenship and that share our values. AmCham Montenegro receives no monetary support from any government. It is entirely funded by membership dues and fees from member activities. As of October 2010, the organization counted 57 members in good standing.

In March 2010, AmCham Montenegro issued a survey to its members in order to define obstacles, barriers, and difficulties with conducting business in Montenegro. The survey consisted of 12 questions, and specifically solicited responses in four areas where business barriers are known to exist. These areas are **Human Resources, Taxation, Construction/Real Estate, and Rule of Law.**

The AmCham Montenegro Business Challenges Survey also allowed AmCham Montenegro members to define barriers and obstacles in other areas of business and solicited recommendations for the improvement of the overall business climate in Montenegro. This report is based largely on the answers from the survey distributed on March 3, 2010.<sup>1</sup>

The purpose of this report is to define concrete business challenges in Montenegro and propose solutions. This will be executed with members of AmCham Montenegro, through the work of its Business Challenges Task Force, along with partnering organizations and diplomatic missions, including the U.S. Embassy in Podgorica. The goal of AmCham Montenegro is to strategically present the report to various Montenegrin government ministries and agencies, international organizations, diplomatic missions, non-government organizations, the media as well as the public. Ultimately, AmCham Montenegro will develop an action plan that will define its role in advocating for the removal of some of the business challenges herein.

The AmCham Montenegro Executive Office produced this report based on member responses to its Business Challenges Survey. Additionally, the *Business Challenges Report* (BCR) was developed after preliminary meetings with the Montenegrin Ministry of Finance, the Ministry of Economy, and the Delegation of the EU to Montenegro. The meetings helped to produce a concise, easy-to-follow document with examples of the defined business challenges.

Upon meetings with the Ministry of Finance, the Ministry of Economy, and the EU Delegation, the AmCham Montenegro Executive Office sought additional and more specific information from member companies and legal advisors with regards to the business challenges in Montenegro.

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<sup>1</sup> See survey questions in Appendix 1.

## **I. Human Resources**

AmCham Montenegro member companies and organizations employ over 6,700 people. The majority of these employees are Montenegrin citizens. However, hiring skilled workers from abroad is becoming increasingly necessary because of a lack of qualified labor in the local market. While a lack of skilled labor is a business challenge in and of itself, the main barrier defined by AmCham Montenegro in the area of Human Resources applies to Montenegrin labor laws and procedures.

### **A. Laws and Procedures**

AmCham Montenegro member companies identified a number of issues regarding hiring employees as well as with employer-labor relations. Challenges in these areas include:

- 1) Complex procedures for hiring. Both local and foreign individuals, but especially foreign.<sup>2</sup>
- 2) High taxes and contributions paid on employee wages.<sup>3</sup>
- 3) Extremely incoherent and non-fluid labor laws.
  - Laws are not coordinated with the current state of the labor market and its conditions.
- 4) Outsourcing labor is not prohibited nor is the practice of outsourcing recognized by current labor laws.<sup>4</sup>
- 5) Lack of laws that protect employers with respect to employer-labor relations.
  - Employees are sometimes protected despite not fulfilling contractual obligations.
  - Employers are, at times, not allowed to break labor agreements even if there is no longer a need for certain positions within a company.

### **B. Skilled/Qualified Labor Force**

AmCham Montenegro members identified the need for a larger pool of skilled labor as a significant business challenge. Specifically, the areas of economics, law, human resources, electronics, energy, engineering, as well as people with English interpretation skills are in high demand.

The Montenegrin labor market would benefit greatly from more certified professional courses to train staffs and keep them qualified to conduct work according to the latest business standards. These training programs, courses, and specialization seminars would help with increasing the skills of employed staffs.

### **C. Employment Agencies**

There are not enough high-quality employment agencies in Montenegro that could assist with identifying qualified candidates and refer them to companies seeking to fill vacant positions. Such agencies build and maintain comprehensive databases of qualified candidates seeking various types of employment. The presence of such high-

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<sup>2</sup> Please refer to Appendix 2 for the current legal and administrative requirements in order to employ a foreigner in Montenegro.

<sup>3</sup> See current employer and employee tax and contribution costs in Appendix 3.

<sup>4</sup> This demonstrates a disconnection between labor laws and current market conditions.

quality agencies in Montenegro would introduce qualified people to positions that match their skill set.

#### **D. AmCham's Role**

AmCham Montenegro will work with member companies to define the specific types of training programs that would be helpful for their employees and businesses. A series of training sessions and seminars for employees will be organized to bring staffs up-to-date on recent business trends.

AmCham Montenegro will launch an internship program to help university students in the final two years of their studies gain practical experience with participating member companies. This hands-on experience will help create a more qualified labor pool and will assist both job-seeking students and local companies with fulfilling needs. AmCham Montenegro will advocate for laws that would allow university course credits to be issued to students who take up internships. AmCham could also work with banks to seek more favorable credit opportunities instead of direct payment for interns.

AmCham Montenegro is prepared to work with government authorities to reduce lengthy bureaucratic procedures with respect to hiring local and foreign employees.

## ***II. Taxation***

AmCham Montenegro members identified several issues with respect to the taxation of goods, services, revenue and employment in Montenegro. In essence, there are issues understanding the complex tax codes and procedures within the tax system. Our survey responses also revealed that many member companies believe that there are not enough tax incentives to entice companies to reinvest their capital in Montenegro.

Government taxation policies should seek to strike a balance between the needs of government and the private sector. Ultimately, there should be greater dialogue between the private sector and government to help define this balance and impose a tax policy that is acceptable for both the government and the private sector. AmCham Montenegro will seek to be more engaged with Montenegrin government officials whenever changes to tax policies are being considered. Some of the more specific issues defined in our survey are listed below.

#### **A. Regulatory Framework**

More consistency in the application of rules and regulations, with regards to the tax code, would reduce a major business barrier. Variability in the tax code creates additional legal and financial insecurity for employers. For example, in one industry sector the yearly fee, as a percentage of total revenue in the sector, has an increasing trend which limits operators' investment and forces them to put a strong focus on cost control.

The same inconsistency in the central government's regulatory bodies can also be felt on the local level, where municipalities are known to charge fees that are not in accordance with Montenegrin Law. This can be witnessed with fees charged for the use of commercial facilities, municipal and local roads, as well as tourist fees. These fees often replace another fee that has been removed, and are assessed in an attempt to collect additional tax revenue. These fees can vary from municipality to municipality.

The rules in Montenegro on taxing goods and services are frequently observed to be applied selectively<sup>5</sup>. This presents an image of favorability and inconsistency, and thus puts tax-compliant companies at a disadvantage versus non-compliant market participants.

### **B. Taxes and Contributions on Employee Wages**

Taxes and contributions on employee wages that are paid to the government are in excess of 60% of net employee salaries. The high payroll tax and rate of contribution to the pension and health care systems makes it very challenging to hire additional employees. It also causes AmCham Montenegro member companies to constantly reassess their costs with respect to maintaining current employees as well as hiring new employees. Often these assessments result in not hiring new labor or having to consider going through the complex process of dismissing current employees.

### **C. AmCham's Role**

AmCham Montenegro is prepared to organize its members and meet with senior government officials and discuss, more specifically, our policy recommendations for the current tax regime. Most of the policy recommendations can be easily implemented but will require accountability and adequate attention to progress. AmCham Montenegro is willing to meet regularly with government officials to address specific issues and exchange factual information with the Ministry of Finance, Tax Authority, etc.

AmCham Business Today seminars will be organized with senior Tax Authority officials so member companies better understand the application of various taxes. Such seminars will also be conducted with officials at the municipal level.

Finally, AmCham will advocate for the introduction of more incentives, particularly in the field of green technology. Other suggested re-investment incentives will also be part of the AmCham agenda.

## ***III. Real Estate/Construction***

Real estate and construction are amongst the most important industry sectors in Montenegro because of their attractiveness to investors. Given the rapid increase in land value in recent years, special attention should be given by jurisdictional government ministries and municipalities to reduce complicated and drawn-out procedures when purchasing land and when building new structures. Much of the Foreign Direct Investment capital that Montenegro attracts is in the areas of real estate and construction, and will continue to be the case for some time. Implementing and adhering to well-devised zoning codes at the municipal level is critical to ensure future investments in these areas. Zoning ordinances in every municipality should place a special emphasis on promoting sustainable developments.

AmCham Montenegro has targeted four areas within the Real Estate/Construction industry for improvement. AmCham is willing to contribute to the enhancement of these areas by regularly exchanging specific information with government agencies and municipalities.

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<sup>5</sup> This can be cross-referenced as a Rule of Law matter.

### **A. Bureaucratic Procedures**

Lengthy and complex bureaucratic procedures and delays in rendering permit decisions are reported to be among the most significant problems in the area of real estate and construction. While bureaucratic processes are an issue with almost every aspect of government administration, it affects the real estate and construction sectors perhaps more than any other business sector. Slow government administration can cause construction projects to be delayed or abandoned altogether. Bureaucracy can also have a detrimental affect on property values and discourage current and future investors.

Members of AmCham Montenegro reported a need to improve coordination between individual government agencies, municipalities, and the central government authority in all phases of the permitting process. Members cited a particular lack of cooperation between municipalities and the Ministry of Spatial Planning and Environment. Member companies encountered complicated, unsynchronized, and missing administration in all phases of the process – from planning to the final phase.

One specific example of an extremely lengthy procedure is with the law on conducting an environmental impact analysis. While AmCham Montenegro supports the protection of the environment and believes that environmental studies should be mandatory when planning large-scale developments, there should be a more straightforward procedure. The current procedure is complex and lengthy, prolonging the investment cycle and making projects less feasible from a business standpoint.

Notable progress was made during the summer of 2010 with passage of the Law on Improvement of the Business Climate. The government should continue to shorten administrative terms and streamline processes when issuing environmental approvals.

### **B. Zoning Regulations/Procedures**

The absence of, incomplete, or slow adaptation of zoning laws and detailed urban plans on the municipal level cause confusion and make it difficult, or even impossible, to understand the parameters which investors/developers require to work on a given development project. Uncertainty about what can and cannot be built on a certain parcel of land can lead to widespread confusion and inconsistency in the development of certain areas of Montenegro, particularly along the coast. Additionally, greater transparency in this area is necessary to inhibit corruption.

Also cited as a problem by members of AmCham Montenegro is government officials' failure to comply with legally prescribed deadlines for approving zoning documents that are necessary prior to breaking ground on construction projects.

### **C. Municipal Government**

There are frequent problems with the slow speed at which municipalities provide the necessary services and infrastructure (i.e. roads, sewer and water connections) for new construction projects. Also cited as an issue amongst AmCham Montenegro members is the level of professionalism and ability of the administrative staff of the local municipalities to work with large, international investors.

AmCham Montenegro members have reported inconsistencies with municipal regulations with respect to the Law on Spatial Development. For example, The Law conditions investors to pay fees to the local municipality prior to knowing if building permits will be approved. This appears to run contradictory to the Law.

#### **D. Land Registry**

Members cited concerns about the lack of correct and/or updated information with the Land Registry, which provides access to important information about land ownership and history of ownership to owners and potential buyers. Having accurate and up-to-date information from the land registry is critical to proving rightful ownership of land to potential buyers. Without this information, there can be confusion and a loss in confidence about ownership of particular parcels and property.

Restitution claims have not all been resolved and continue to be an issue in some cases when selling and/or transferring land because there is no clear title.

#### **E. AmCham's Role**

By way of round table discussions and seminars, AmCham Montenegro members are prepared to meet with several government ministries, agencies, and municipalities to directly address administrative issues and bureaucracy. Sharing experiences not only with senior government officials, but also with mid-level officials and administrative staff, will help communicate the problems caused by delayed or lengthy procedures.

Periodic (quarterly) reporting of improvements and problems yet to be addressed by government institutions with respect to bureaucracy and procedural issues in the area of construction and real estate will be provided to senior officials. This will help ensure accountability and keep ministries informed of progress.

### ***IV. Rule of Law***

In the area of Rule of Law, AmCham Montenegro members responded to our survey by describing lengthy procedures and a court system inundated with cases. Cases are left pending for years, which leaves businesses without an efficient court system, where their cases can be heard and brought to resolution in a timely manner.

#### **A. Debt Collections**

Collection of debt to private sector firms is still controlled by the courts in Montenegro. Given the tremendous backlog of cases in the Commercial Court's jurisdiction, decisions in matters of debt collections are far too slow in realization. Even when decisions are brought in favor of companies seeking claims, there is no legal remedy for enforcing court decisions in the event that the debtor does not have the financial wherewithal to pay debt. Essentially, there is inadequate protection of companies when making a claim for debt payment in the courts.

#### **B. Application of Rule of Law**

AmCham Montenegro members claim that there is an unequal application of rules and regulations in the private sector. As what was reported in the *Taxation* portion of this report, state agencies, inspectors, prosecutors and the courts are perceived to treat some companies and/or market participants differently. In some instances, member firms feel they are treated harsher than other firms. Specific ways that this manifests itself includes:

- Significant presence of a non-compliant (black/grey) market in Montenegro. These entities fly “under the radar” and are, by virtue of not being registered, exempt from taxes, laws and regulations to which compliant participants in the

market must adhere. More must be done to enforce existing laws and regulations on non-compliant companies.

- The Ministry of Transportation and the Post Office have never executed an inspection of postal operators, which may not have proper licenses, prescribed by law.

### **C. Mediation/Arbitration**

Mediation and arbitration, as an alternative to court proceedings, is not used frequently enough to solve disputes in Montenegro. Mediation and arbitration could be used to circumvent the delayed court system and bring about timely and amicable decisions in disputed claims.

Contractual agreements entered into by various business parties are often not fully honored by one or both parties. When resolving these disputes, there are no other places to turn to other than the court system, which is overwhelmed and can take years to hear and get a final decision on a disputed case.

### **D. AmCham's Recommendation**

AmCham Montenegro recommends removing debt collections from the court system and creating a separate agency that would be responsible for collecting debts owed to firms. This would help to streamline official debt collection procedures and bring about more efficiency and providing quicker decisions with regards to debt claims.

Implementation of a credit rating or scoring system for individuals and bond ratings for companies would help vendors and clients alike in assessing a company's ability to honor financial obligations outlined in contracts.

## ***V. Other Areas***

While the survey that AmCham Montenegro members completed in March 2010 focused on the four areas defined above, there was an open-ended inquiry about what business challenges member companies face outside of human resources, taxation, real estate/construction and rule of law. Members were asked to define other challenges or obstacles which exist in Montenegro as they consider the development of their businesses.

### **A. Public Procurement<sup>6</sup>**

There is a lack of updated information available on public procurement opportunities as they concern works projects. Along with this, submitting a tender application is a long, costly procedure that prevents many companies from bidding when Requests for Proposals (RFPs) are released by public agencies.

In general, the public procurement process can be more transparent. The current public procurement process has created doubt amongst bidders about its validity. AmCham members have witnessed selective application of qualification criteria after the tender

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<sup>6</sup> More specific information on AmCham Montenegro's view on the Public Procurement law is available with the AmCham Montenegro Executive Office and will be formulated into a separate document in Q4 2010.



is closed or flagrant disregard of the award and executing purchases from another supplier without any cited reason.

AmCham Montenegro recommends providing better, more consolidated, information on available public tender opportunities and simplifying the procedure for bidding on tenders. One reliable and frequently updated source for all public tenders, both central government and municipal, would help better inform potential bidders about tender opportunities available for bidding. Simplifying and making the procedure less costly for public tenders would encourage more companies to offer bids on public tenders, thus inviting more competitive bids.

In order to reduce administration, companies that bid on projects could be allowed to pre-register their firms. This registration could be valid for one or more years and would allow firms to bid on multiple tenders without submitting redundant paperwork each time a company bids on a public tender.

The public procurement process, in its entirety, should be transparent. Members of AmCham Montenegro have experienced instances where RFPs have been written to give advantages to one bidder over another. One recommendation that would improve transparency is to make all purchasing contracts available online.

#### **B. Infrastructure**

Major improvements of infrastructure are necessary. Outdated or insufficient infrastructure makes it difficult for the private sector to do everything from move goods/products to transporting people (i.e. tourists). Also, AmCham Montenegro members have reported a lack of adequate electricity, sewage treatment systems and water supplies. This is particularly the case in the summer months, during the peak tourist season. Specifically, there are still no landfills in the Bay of Kotor area.

## ***VI. Challenges to Expanding Business***

AmCham Montenegro members were asked to define what inhibits them from expanding their businesses or reinvesting in their companies so that they can increase revenue, expand staffs, and take a bigger piece of market share. Below are several responses regarding the typical challenges AmCham Montenegro members face when it comes to expanding their business operations.

#### **A. Financial Sources**

Locating financial resources to help fund projects is the most common reason why AmCham Montenegro members have had difficulty in expanding their business operations. Local banks have significantly reduced lending and have raised interest rates for lending money. Members also cited difficulty in getting support from foreign banks and a lack of favorable credit arrangements and/or favorable interest rates on loans as a challenge to expanding business.

#### **B. Liquidity**

Liquidity of companies and of the marketplace is a growing problem, with many firms not paying their debts. This lack of liquidity is a major contributor to growing uncertainty and instability of the macroeconomic environment in Montenegro and is preventing firms from future planning and expansion.

### **C. Regulatory Framework**

AmCham Montenegro members defined an unpredictable regulatory environment as another reason why business expansion is made difficult. Implementing “westernized” business practices and procedures is far too slow and does not allow businesses the ease and efficiency of planning and executing expansion, whether it be hiring employees or making capital investments.

## ***VII. Limiting Business Potential***

AmCham Montenegro members were asked to identify how business potential is limited by the challenges they face in Montenegro. The common thread in the responses was that the challenges mentioned in this report all contribute to inhibiting the process for realizing certain projects. It also slows the decision-making process to make new investments and expand business. This all makes for a slower investment cycle and slower growth in the Montenegrin economy overall. The challenges in this report directly affect profit margins of companies and make it difficult to maximize a company’s potential with all the time and resources required.

Opportunity costs are also at play. When companies tie up their resources because they must deal with lengthy bureaucratic procedures and drawn out processes, they miss out on using those resources to discover other investment opportunities or projects that can be equally or even more worthwhile. In the end, the challenges defined in this document threaten to scatter investors elsewhere.

## ***VIII. Recommendations***

AmCham Montenegro members provided recommendations for removing business challenges in the marketplace. Some of the recommendations have been included prior to this section in the report, when appropriate. Our members suggested a few more specific changes to laws and/or procedures. These recommendations are listed below:

### **A. Partnering with AmCham**

The first recommendation is to open a continuous formal dialogue between AmCham Montenegro and various government ministries, including the Prime Minister’s Office. Periodic meetings with government authorities would focus on exchanging information, identifying initiatives and projects on which there can be collaboration, and monitoring progress of the recommended changes to laws and procedures defined in this document.

AmCham Montenegro is growing in size and influence and has become one of the foremost voices of the private sector in Montenegro, representing American companies as well as Montenegrin firms and other foreign companies. Working with various government officials and offering assistance to remove business barriers is essential in realizing AmCham Montenegro’s strategic goal of improving the business environment in Montenegro.

### **B. Employee Taxes & Contributions**

Lowering taxes and contributions paid on employee wages would give employers an incentive to higher more employees. Currently, high taxes and contributions cause many companies to reconsider hiring new workers. As an alternative, incentives could

be introduced to reward employers for training employees for certain types of jobs and for hiring new workers with specific skill-sets. Details on how such a program can work will be communicated through meetings with the jurisdictional government ministries and AmCham Montenegro.

### **C. Training**

An essential part in cultivating and maintaining an efficient workforce is to introduce training programs. Many older (particularly 35 and older) employees do not possess English language skills and basic business qualifications. Various programs should be introduced to help with the continuing education of adults so that skills in demand are not lost among older generations.

A specific suggestion is to open an academy of English language that would be free for unemployed people. Developing English skills would improve the marketability of those without work.

Another suggestion is to periodically use specialized training for administrative staff in central and local government offices with the purpose of improving the efficiency of public employees. Training would help manage a more professional staff and help them act in accordance with legislation. More round tables and seminars could be organized as is already being done with AmCham Montenegro's IPR Committee's training of commercial inspectors.

### **D. Use of Technology**

Increasing the use of technology amongst government administration to improve efficiency is a frequently repeated suggestion for removing a number of the business challenges. The ability to apply and register online for licenses, authorizations, permits, etc. is critical for companies to help save time and ensure quality control for government administration.

While there has been great progress on behalf of government agencies to include more information online, this trend must continue. The availability of accurate, up-to-date information for financial records of companies as well as accurate land registry information is a tremendous asset for businesses and also helps with transparency.

### **E. Inter-Agency Cooperation**

AmCham Montenegro believes that greater inter-agency and inter-ministerial cooperation would lead to better efficiency and speedier results when it concerns administrative procedures. Members cited that sister agencies do not seem to cooperate on a level that would allow for quicker processing of permits, licenses, etc. In addition, a disconnection is often witnessed between the municipal and central governments, such as the one previously noted with local agencies and the Ministry of Spatial Planning, in the real estate/construction approval process.

One step in the right direction would be to eliminate unnecessary steps and/or agencies from which approval<sup>7</sup> is required in order to receive a permit or license to implement a construction project. Fewer agencies involved in the approval process, means quicker and more efficient results.

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<sup>7</sup> Construction permit procedure is listed in Appendix 4

## **F. Renewable Energy and Energy Efficiency**

The Government of Montenegro's medium and long-term goals include producing more electric energy via renewable energy sources, such as wind, solar, and hydroelectric technology. The energy strategy includes covering all domestic needs and eventually exporting surplus electrical energy. With this in mind, incentives should be initiated so that companies are encouraged to place energy efficiency amongst their top priorities. Another reason to consider incentives for the private sector in this regard is that it would help reduce Montenegro's carbon footprint and potentially lead to another source of income in the future via the European Union Emissions Trading Scheme (EU ETS) and other protocols.

AmCham Montenegro would like to see the Government of Montenegro assist with implementing energy programs that would entice companies to be more energy conscious when planning new construction projects or when rehabilitating older buildings/structures. Most energy efficient or "green" technology programs come at a high up front cost for companies as well as for individuals. However, the long-term benefits are proven to be significant. More energy efficient incentives in Montenegro would help companies reduce energy consumption, thus allowing for more electricity to be exported. Expanding renewable energy sources and implementing energy efficiency programs would also further underline Montenegro's constitutional proclamation of being an Ecological State.

The American Chamber of Commerce in Montenegro will play a significant role in leading the way for businesses in Montenegro by introducing energy efficiency programs and seminars to educate its own members about the benefits of energy efficiency.

## ***IX. Recommendations for Increasing Investment***

The American Chamber of Commerce in Montenegro recommends that more action be taken on the part of the government to help improve the environment in Montenegro for business development. In general, creating favorable business conditions in Montenegro with reduced risk will involve quite a bit of work on strengthening Rule of Law as well as implementing other suggestions outlined in this report. AmCham Montenegro will work with international organizations and other NGOs to assist the government and businesses of Montenegro with implementing our suggested remedies.

A brief summary of how the Montenegrin government can attract more FDI, and help motivate further investments from current foreign investors are defined below:

- Improving tax policy by reducing tax liabilities and introducing tax incentives for existing investors so that they may reinvest profits in Montenegro.<sup>8</sup>
- Strict enforcement of the Law on the Protection of Investors; specifically referring to the preservation of property rights.
- Providing the private sector with accurate and tested statistical data.
- Harmonization of regulations and budgets between the central and the local governments.

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<sup>8</sup> See recommended tax incentives in Appendix 5.

- Greater promotion of Montenegro as an investment destination by presenting positive examples of foreign investment. This will help build confidence amongst potential investors and prove that their assets here would be secure.
- Simplification of administrative procedures and reducing the level of bureaucracy.
- Directing more attention to and solicit more investments from the United States
- Elimination of corruption.
- Providing more affordable, or even free, tender documents for foreign investors.
- Further improvement of the infrastructure network.
- Educating and training government employees to work more efficiently and be more oriented toward investors.

## ***Conclusion***

The American Chamber of Commerce in Montenegro<sup>9</sup> is committed to achieving its strategic goal of improving the business climate in Montenegro. Our plan is to achieve this goal by working with the Government of Montenegro, the U.S. Embassy in Podgorica, and other partner organizations and diplomatic missions in Montenegro. The business and investment challenges in this report serves as an outline to help identify what issues slow the pace of business development in Montenegro, for all seeking to do business here.

During the course of the next year, AmCham Montenegro will present its *Business Challenges Report* to senior government officials and seek to cooperate with appropriate ministries and agencies to prioritize and implement the solutions proposed in this report. Implementation of the proposed changes in the BCR will be done largely by organizing conferences, round tables, training sessions and seminars that will address specific business challenges. AmCham Montenegro will formally begin work on its business challenge initiative by presenting the BCR during a public forum in December 2010.

There is increasing support in Montenegro to see greater improvement of its business environment and to take its rightful place as a significant place for international investors. AmCham Montenegro shares this vision with the Government of Montenegro and will assist with realizing this plan by coordinating various stakeholders in the public, private, and NGO sectors to achieve improvements to laws, regulations, and procedures in the marketplace.

AmCham Montenegro members believe that the potential for a thriving business and investment environment in Montenegro cannot be understated and we are committed to helping the Government of Montenegro realize this enormous potential.

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<sup>9</sup> See list of current members in Appendix 6 (as of November 15, 2010).

**APPENDIX 1**

**2010 AmCham Business Challenges Questionnaire**

Company/Member Name\* :

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Name of Contact Person:

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Contact Phone and Email:

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- I. To which industry sector(s) does your company or organization belong?  
(Please mark all appropriate sectors)

Automotive	Consumer Goods	Energy/Utilities	Financial Services
Food & Drink	Tourism/Hospitality	Retail	Telecommunications
Information Technology	Logistics/Shipping	Real Estate	Construction
Tobacco	Banking	Insurance	Legal Services
Manufacturing	Other – Please specify		

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- II. List 3 challenges or barriers in the area of **Human Resources** (i.e. availability of skilled labor, employment of foreigners, etc.) that your business faces regularly when conducting your organization's business:
- III. List 3 challenges or barriers in the area of **Taxation** that your business faces regularly when conducting your organization's business:
- IV. List 3 challenges or barriers in the area of **Real Estate/Construction** (i.e. existence of zoning documents, procedure for obtaining construction permits, issues related to foreign ownership, cooperation with cadastre, etc.) that your business faces regularly when conducting your organization's business:
- V. List 3 challenges or barriers in the area of **Rule of Law** (legal remedies, duration of legal procedure, availability of arbitration, etc) that your business faces regularly when conducting your organization's business:

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\* AmCham contact information will be kept confidential from non-members

- VI. List 3 challenges or barriers in **any area** that your business faces regularly when conducting your organization's business (Please specify the area(s):
- VII. List 3 challenges that your business faces when it comes to expanding business operations:
- VIII. How do the challenges that your business faces contribute to limiting your business' potential?
- IX. What recommendations would you give to removing the challenges or barriers that you have mentioned?
- X. What role should AmCham play in removing the business barriers/challenges that you described above?
- XI. Which measures should the Montenegrin Government take in order to attract new FDI?
- XII. What measures should the Montenegrin Government take in order to motivate further investments of existing foreign investors in Montenegro?

AmCham will soon form a **Public Policy and Communications Task Force**. This task force will be responsible for formulating the responses to this questionnaire and deciding on the appropriate method to present the accumulated information to government officials, international organizations, other NGOs, and the public.

Would you be interested in participating on AmCham's Public Policy and Communications Task Force? (Circle one)      Yes      No



## APPENDIX 2

### Procedure for Hiring a Foreign Employee

A foreigner can be employed or work in Montenegro under the following conditions:

1. Has working permit issued by Employment Agency in Montenegro;
2. Has a temporary residence permit, on the basis of employment, issued by Ministry of Interior Affairs of Montenegro;
3. Has a Labor Contract executed with Employer; and
4. Employer has notified the Employment Agency of Montenegro, the Fund for Pension and Disability and the Fund for Health Insurance of Montenegro on the foreigner's work.

Regarding the process of obtaining a work permit from the Employment Agency in Montenegro, and in addition to the requests to the above-mentioned authorities, it is necessary to submit the following documents:

1. Certificate of registration of the Company, issued from the Central Registry of the Commercial Court in Podgorica (certified copy);
2. Notification of classification of the Company, issued by the Statistical Office of Montenegro (certified copy);
3. Certified copy of foreigner travel document - passport, containing personal information, with photographs of the person for whom is being issued the permit;
4. Certificate of recognized educational qualifications of the person for who is issued the permit (validation certificates), if it is for a highly-qualified individual; and
5. Proof of payment of the fee, in the amount of 10€, which is delivered after confirmation that the employee will be issued a work permit.

This procedure will be completed within approximately seven (7) days after the application is submitted with all necessary documentation.

After receiving a work permit, it is necessary, before the authorized authorities and the Ministry of Internal Affairs of Montenegro, to initiate the issuance of a permit for temporary residence for employment. This procedure requires, in addition to a formal request, submission of the following documents:

1. Certified copy of all pages of a travel document - passport;
2. Certified copy of work permit issued by the competent authorities - Employment Agency in Montenegro;
3. Proof of means of subsistence for the person for who is issued the permit (a certified copy of the Labor Contract and certificate issued from the Employer with the amount of earnings);
4. Proof of health insurance for the person for who is issued the licenses (certified copies of Montenegrin health cards);
5. Proof of secured accommodation of the person for who is issued the permit (a certified copy of the Certification of real estate and the Contract on Lease, certified by the competent authority – Basic Court);
6. Proof of payment of the fee upon request in the amount of 5€; and
7. Proof of payment of the fee for issuing the permit for temporary residence, which amount will be determined later by official admission documentation.

This procedure will be completed within approximately 60 days after the application is submitted, with all necessary documentation, and for this procedure the foreign individual should be personally present.

After the issuance of the permit for temporary residence, the employer is obliged to report the foreign employee to the Employment Agency in Montenegro not later than 15 days after the beginning of work and submit a signed Labor Contract and proof of application of the same before the competent Fund for Health and Pension Fund and disability insurance.

### APPENDIX 3

#### Payroll Tax Table: Based on €500/month Net Salary

Amount which is not subject to taxation	-	0.00
Personal Income Tax	9.00%	67.16
Contributions paid for pension insurance by the employee	15.00%	111.94
Contributions paid for pension insurance by the employer	5.50%	41.04
Health insurance paid by employee	8.50%	63.43
Health insurance paid by employer	3.80%	28.36
Unemployment insurance paid by employee	0.50%	3.73
Unemployment insurance paid by employer	0.50%	3.73
Local municipal tax	15.00%	10.07
Contributions for labor union	0.20%	1.49
Contributions for Chamber of Commerce	0.30%	2.24
Contributions for the Labor Fund paid by employer	0.20%	1.49
<b>TOTAL</b>		
Total amount of taxes and contributions paid by employee	33%	<b>246.27</b>
Total amount of taxes and contributions paid by employer	25%	<b>88.43</b>
<b>TOTAL</b> amount of taxes and contributions	<b>58%</b>	<b>334.70</b>
<b>EXAMPLE FOR NET SALARY AMOUNT OF EUR 500,00*</b>		
Net salary amount		<b>500.00</b>
Taxes and contributions		<b>334.70</b>
Total amount necessary for salary		<b>834.70</b>

\*Employee also has the right to receive a monthly disbursement of €27.50 from their employer for meals.

## APPENDIX 4

### Construction Permit Procedure

In order to undertake construction works, investors must obtain a construction permit, which is generally issued by the local authority-Municipality where construction is to take place (for some objects because of their importance or size, the construction permit is issued by the state authority-Ministry for Spatial Planning and Environment). Construction permits are issued based on the following documents which must be submitted to the competent authority, such as: (i) evidence of legal right to property or other rights to construct on land over which construction is to be undertaken, (ii) urban planning certificate for particular location evidencing type and dimension of construction to be built, main technical project and its revision (according to the urban development and technical requirements and by the law, including execution of an environmental impact study), (iii) evidence of regulation of relations with respect to payment of fees for utilities and communal services, as well as other documents (approvals of relevant utility companies- electricity, telecommunication, water permit etc).

Specifically related to fees for utilities equipping and communal services, local government shall prescribe the requirements, manner, deadlines and procedure for payment of compensation depending on the degree of equipping of the buildable land, participation of the investor in communal equipping and other. Investor may also perform communal services equipping of the buildable land, in accordance with the planning document and mutual relations between the investor and local governments shall be regulated by the agreement. Therefore, it is possible that local authorities will act differently, bylaws could provide dissimilar rules and that fees related to the construction would differentiate.

Please note the amount of the fee for utility equipment and communal services in the Municipality of Budva shall be determined depending on the location of the object (zone of the Municipality of Budva), the object's purpose, and the level of the equipment of the location. Namely, the territory of the Municipality of Budva is divided in six zones with the under zones (exclusive zone, first, second and third zone) and the object's purpose is classified in following categories: (i) living and living-business objects; (ii) business premises, hotels and touristic capacities. The amount of the fee for utility equipment and communal services in the Municipality of Budva depends on the location of the object, i.e. affiliation to related zone of the Municipality, its purpose, and overall area of the object.

Furthermore, the construction permit should be issued within 15 days from the date of application submission, accompanied with duly documentation.

Whole procedure required for the construction process defined by the Law is the result of the reform from 2008 when the primary goal to achieve was to simplify and accelerate required formalities in order to encourage and promote investments and facilitate construction. However, please note that this period of 15 days and other periods defined by the procedure may be prolonged in practice.

Within 7 days from the issuance of the construction permit, the investor shall put the board containing information about construction permit on the place where the object will be constructed. Investor shall start the construction of the object within 2 years and finish its construction within 3 years (with possibility to prolong its construction) from the issuance of the construction permit.

## APPENDIX 5

### Recommended Tax Incentives

- AmCham recommends reducing taxes and contributions that employers are obligated to pay on employee wages. - This was the most often occurring response amongst our members in the category of which tax incentives they wanted to see introduced.
- More credits should be offered for certain types of investments. A good current example of this is the tax break for investments in the northern region of Montenegro.
- Supporting green technology and green investments through a tax incentive program is necessary to make green projects viable.
- Specific tax breaks that may be considered by the Ministry of Finance are:
  - If employer were to hire people with disabilities
  - If an employer has a staff of over 20 people
  - If an employer hired interns (upon introduction of AmCham Internship Program)
- Utility taxes for companies should be reduced or incentives offered to help with reducing utility costs.
- Further work to simplify the tax code and tax procedures.

## APPENDIX 6

### AmCham Montenegro Companies and Organizations

<b>Pricewaterhouse Coopers</b>	<b>Rokšped</b>
<b>Montenomaks C&amp;L</b>	<b>KPMG</b>
<b>Auditors Chamber of Montenegro</b>	<b>Coca Cola Hellenic</b>
<b>Comp Comerc</b>	<b>Telenor</b>
<b>First Financial Bank</b>	<b>Microsoft Montenegro</b>
<b>Atlas Group</b>	<b>CEED</b>
<b>Ražnatovic</b>	<b>doMEn</b>
<b>Maximin</b>	<b>Philip Morris</b>
<b>Sava Montenegro</b>	<b>Gintasmont</b>
<b>Imperijal</b>	<b>Guardian Glass S.A.</b>
<b>Beppler Development Montenegro</b>	<b>Erc System</b>
<b>Trebjesa</b>	<b>Crnagoracoop</b>
<b>US-Montenegro Business Council</b>	<b>S-leasing</b>
<b>Karanovic &amp; Nikolic</b>	<b>Podgorička Banka</b>
<b>Water Group</b>	<b>Čikom</b>
<b>7 Avgust</b>	<b>McCann Erickson</b>
<b>Bećović Management Group</b>	<b>Erste Bank</b>
<b>Colliers International</b>	<b>Paneleven</b>
<b>A.S.F.International</b>	<b>Eurofast Global</b>
<b>Crnogorski Telekom</b>	<b>Wurth</b>
<b>DHL Express</b>	<b>Communis Media S</b>
<b>Harrisons Solicitors</b>	<b>Voli</b>
<b>Law Office Vujacic</b>	<b>Hypo Alpe Adria Bank</b>
<b>S&amp;T Crna Gora</b>	<b>Europact</b>
<b>Čelebić</b>	<b>Deloitte</b>
<b>SD Petošević Montenegro</b>	<b>Saatchi &amp; Saatchi/O.B.I.C.O.M</b>
<b>Hipotekarna Banka</b>	<b>JT International</b>
<b>Adriatic Marinas</b>	<b>Lexmark International</b>
<b>Jugopetrol</b>	