# LESSONS LEARNED FROM ADMINISTRATIVE SIMPLIFICATIONS IMPROVING BUSINESS ENVIRONMENT IN DEVELOPED COUNTRIES

## POSSIBLE IMPLICATIONS FOR SOUTH CAUCASUS COUNTRIES

*The opinions expressed in this publication are those of the individual authors and are not meant to represent the opinions or official positions of the funding organizations, the USAID, Eurasia Foundation and OSCE office in Yerevan.*

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# FOREWORD

The overarching goal of this White Paper is to contribute to the establishment of favorable business environment in the South Caucasus countries through approximation of their respective national legislation and administrative procedures that regulate the entry of new businesses with the best international standards.

In the South Caucasus, the need for independent policy research, analysis and recommendations remains a priority as these countries continue to reform their legislative bases in order to integrate with European and international standards. This reform process has received a new impetus with the inclusion of Armenia, Azerbaijan, and Georgia in the European Union's European Neighborhood Policy (ENP) in June 2004. ENP sets ambitious objectives for partnership between these countries and the EU, based on commitments to shared values, key foreign policy objectives and political, economic and institutional reforms. Partner countries are invited to enter into closer political, economic and cultural relations with the EU, and to enhance cross-border cooperation while offering the prospect of a stake in the European Union's internal market and of further economic integration.

The above reform process includes harmonization of the legislation and administrative procedures that regulate the process of starting-up a new business as recommended for the EU member countries in the European Commission's Recommendation on Improving and Simplifying the Business Environment for Business Start-Ups (April 22, 1997: 97/344/EC).

In an era of regional and global competition for FDI, the countries that remove administrative barriers and cut the "red tape" enhance their competitive advantage. Targeted countries have taken necessary steps to improve their investment climates at the macro level, for example, by liberalizing currency regimes and introducing investment incentives. However the investment response has been disappointing in terms of expected results, mainly demonstrating resource orientation pattern since the issue of excessive bureaucracy is often overlooked. Complex, non-transparent and time-consuming procedures not only deter new investment – both local and foreign – but also erode the competitiveness of local firms. Individually, administrative barriers seem like mere nuisances but jointly, they become overwhelming, adding considerable cost, time, uncertainty and risk to an investment project. All things being equal, investors locate countries or regions that are uncomplicated to realize their profit while complying with regulations.

In defining administrative barriers, a useful concept has been developed from the "re–engineering government" approach. Borrowing from a private sector ethos, it is useful for government to view the person it interacts with – in this case a foreign investor – as the "customer" or "user" of government services. In this way, individual public servants and agencies begin to reorient themselves, viewing procedures and systems not only as mechanisms to regulate but also to provide a service for a specific end user and make improvements to "keep the customer satisfied". Consequently, perspective administrative barriers are assessed from the investor's point of view rather than that of the government. In so doing, an administrative barrier can have one or more of the following characteristics:

- poor access to accurate, clear, and up-to-date process information;
- cumbersome or overly complicated procedures, including unnecessary double checks, excessive steps required for completing a regulatory interaction, and repetitive approval requirements;
- slow processing of applications and unresponsiveness among civil servants in facilitating approval or gaining access to information;
- excessive or unnecessary paperwork requirements; and
- poor allocation of costs for permits, licenses, forms, and other approvals.

With the purpose of contributing to the process, consortium consisting of three Caucasian NGO's (Center for Socio-Economic Research and Analysis – Armenia, FAR Centre-Azerbaijan and CASE Transcaucasus-Georgia) initiated and conducted this current project on "Improving Business Environment in South Caucasus Countries", funded by Eurasia Foundation's South Caucasus Cooperation Programme (EF SCCP) and OSCE offices in Yerevan, Baku and Tbilisi. Within the framework of this project and partner organizations activities directed towards contribution to the policy, debates on future reformation of administrative procedures regulating business activities in Armenia, Azerbaijan and Georgia, composition of the White Paper was initiated on "Lessons learned from administrative simplifications improving business environment in developed countries: Possible implications for South Caucasus Countries". This document provides a comprehensive research of the world's best practices and identifies sets of commonly used tools and practices.

Along with thorough assessment of South Caucasus country's business environment based on a set of indicators, comprehensive review of the following international best practices were undertaken:

⇨ IT driven mechanisms to reduce administrative burdens,

⇨ Physical one-stop shops for citizens and businesses,

⇨ Simplification of licensing procedures,

⇨ Assistance to SME's,

⇨ Mechanisms for measuring administrative burdens,

⇨ Time limits for decision making,

⇨ Other tools and practices,

⇨ Organizational approaches.

# PART A.

## 1. ARMENIA

### 1.1 BRIEF ASSESSMENT OF ARMENIA'S BUSINESS ENVIRONMENT

WB's Doing Business Ranking

The ***Ease of Doing Business Index*** ranks Armenia at 34th place among the 175 countries covered by the "Doing Business in 2007 – How to reform" report (some comparisons given in Table A.1.1).

***Table A.1.1 - Ease of Doing Business Ranking*** – Regional comparisons of Armenia with those countries of peer-group and global best performers.

| Economy | Ease of Doing Business Ranking |
|---|---|
| *Caucasus countries* | |
| **Armenia** | **34** |
| Azerbaijan | 99 |
| Georgia | 37 |
| *Other CIS countries* | |
| Russia | 96 |
| Moldova | 103 |
| Kazakhstan | 63 |
| Ukraine | 128 |
| *Countries of peer group* | |
| Lithuania | 16 |
| Estonia | 17 |
| Latvia | 24 |
| Slovakia | 36 |
| Poland | 75 |
| *Global best performers* | |
| Singapore | 1 |
| New Zealand | 2 |
| USA | 3 |

The **Doing Business** research implemented annually by the World Bank and International Finance Corporation is the most all-embracing, including in itself quantitative indicators on business regulations and their enforcement compared across 175 countries and over time.

The index is calculated as the ranking on the simple average of country percentile rankings on each of the 10 topics covered by the ***Doing Business in 2007***. The ranking on each topic is the simple average of the percentile rankings on its component indicators.

In Table A.1.2 below, Armenia's ranking is listed for each of the 10 indicators covered by ***Doing Business in 2007*** along with a description. A detailed regional comparison tables with countries in peer-group as well as with global best performers is provided in Annex A.I.

***Table A.1.2 - Description of Doing Business Indictors and Armenia's ranks***

| Indicator | Armenia's Rank |
|---|---|
| **Starting a business**<br>• Procedures, time, cost and minimum capital to open a new business | **46** |
| **Dealing with licenses**<br>• Procedures, time and cost of business inspections and licensing (construction industry) | **36** |
| **Employing workers**<br>• Difficulty of hiring index, rigidity of hours of index, difficulty of firing index, hiring and firing costs | **41** |
| **Registering property**<br>• Procedures, time and cost to register commercial real estate | **2** |
| **Getting credit**<br>• Strength of legal rights index, depth of credit information index | **65** |
| **Protecting investors**<br>• Indices on the extent of disclosure, extent of director liability and ease of shareholder suits | **83** |
| **Paying taxes**<br>• Number of taxes paid, hours per year spent preparing tax returns and total tax payable as share of gross profit | **148** |
| **Trading across borders**<br>• Number of documents and signatures and length of time to export and import | **119** |
| **Enforcing contracts**<br>• Procedures, time and cost to enforce a debt contract | **18** |
| **Closing a business**<br>• Time and cost to close down a business, and recovery rate | **40** |

## World Economic Forum's Business Competitiveness Index

The World Economic Forum has been measuring national competitiveness for more than 100 countries and subsequently calculating ***Growth Competitiveness Index***, as well as ***Business Competitiveness Index*** for over two decades. During this period the specific methodology used to measure competitiveness has necessarily evolved, as we take into account the latest thinking on what drives the underlying productivity, critical to a country's ability to ensure sufficient and rising prosperity for its citizens.

WEF's indexes are calculated based on a combination of hard statistical data and information drawn from the World Economic Forum's Executive Opinion Survey. The latter helps to capture concepts for which hard data are typically unavailable, but which are, nevertheless, central to an appropriate understanding of the factors fuelling economic growth.

The Business Competitiveness Index (BCI) focuses on the underlying microeconomic factors which determine economies' current sustainable levels of productivity and competitiveness, thus providing a complementary approach to the forward-looking macroeconomic approach of the GCI described in the section above. The BCI rests on the idea that microeconomic factors are critical for national competitiveness, since wealth is actually created at the level of firms operating in an economy.

The BCI specifically measures two areas that are critical to the microeconomic business environment in an economy: ***the sophistication of company operations and strategy***, as well as ***the quality of the overarching national business environment*** in which they are operating.

The comparative outlook for Armenia's GCI and BCI, as well as two important sub-indexes of the latter are presented in the Table A.1.3 below:

***Table A.1.3 - WEF's Business Competitiveness Index***

| Economy | Growth Competitiveness Index | Business Competitiveness Index | Company Operation and Strategy Ranking | Quality of the National Business Environment Ranking |
|---|---|---|---|---|
| *Caucasus countries* | | | | |
| **Armenia** | **79** | **88** | **87** | **90** |
| Azerbaijan | 69 | 77 | 74 | 80 |
| Georgia | 86 | 96 | 94 | 95 |
| *Other CIS countries* | | | | |
| Russia | 75 | 74 | 77 | 70 |
| Moldova | 82 | 93 | 90 | 94 |
| Kazakhstan | 61 | 62 | 72 | 60 |
| Ukraine | 84 | 75 | 71 | 76 |
| *Countries of peer group* | | | | |
| Lithuania | 43 | 41 | 41 | 41 |
| Latvia | 44 | 48 | 51 | 48 |
| Slovak Rep. | 41 | 39 | 47 | 38 |
| Poland | 51 | 42 | 43 | 46 |
| *Global best performers* | | | | |
| Finland | 1 | 2 | 9 | 1 |
| USA | 2 | 1 | 1 | 2 |
| Sweden | 3 | 12 | 7 | 14 |
| Denmark | 4 | 4 | 4 | 3 |
| Taiwan | 5 | 14 | 13 | 15 |

## TI Corruption Perseption Index

The TI Corruption Perceptions Index (CPI) ranks 159 countries in terms of the degree to which corruption is perceived to exist among public officials and politicians. It is a composite index, drawing on corruption related data in expert surveys carried out by a variety of reputable institutions. It reflects the views of business people and analysts from around the world, including experts who are most directly confronted with the realities of corruption in the countries evaluated.

Surveys are carried out among business people and country analysts, including surveys of residents of countries. It is important to note that residents' viewpoints correlate well with those of experts abroad. In the past, the experts surveyed in the CPI sources were often business people from industrialized countries; the viewpoint of less developed countries was underrepresented. This has changed over time, giving increasingly voice to respondents from emerging market economies. In summation, the CPI gathers perceptions that are broadly based, not biased by cultural preconditions, and not merely generated by American and European experts.

The CPI 2005 draws on 16 different polls and surveys from 10 independent institutions, such as Economist Intelligence Unit, Freedom House, Political and Economic Risk Consultancy, World Economic Forum and World Markets Research Centre. TI strives to ensure that the sources used are of the highest quality and that the survey is performed with complete integrity.

Comparative snapshot of Transparency International ***Corruption Perception Index 2005*** provided in Table A.1.4 below:

***Table A.1.4 - Transparency International Corruption Perception Index 2005***

| Economy | Rank | 2005 CPI Score[1] | Confidence Range[2] | Surveys Used[3] |
|---|---|---|---|---|
| *Caucasus countries* | | | | |
| **Armenia** | **88** | **2.9** | **2.5-3.2** | **4** |
| Azerbaijan | 137 | 2.2 | 1.9-2.5 | 6 |
| Georgia | 130 | 2.3 | 2.0-2.6 | 6 |
| *Other CIS countries* | | | | |
| Russia | 126 | 2.4 | 2.3-2.6 | 12 |
| Moldova | 88 | 2.9 | 2.3-3.7 | 5 |
| Kazakhstan | 107 | 2.6 | 2.2-3.2 | 6 |
| Ukraine | 107 | 2.6 | 2.4-2.8 | 8 |
| *Countries of peer group* | | | | |
| Lithuania | 44 | 4.8 | 4.5-5.1 | 8 |
| Latvia | 51 | 4.2 | 3.8-4.6 | 7 |
| Slovak Rep. | 47 | 4.3 | 3.8-4.8 | 10 |
| Poland | 70 | 3.4 | 3.0-3.9 | 11 |
| *Global best performers* | | | | |
| Iceland | 1 | 9.7 | 9.5-9.8 | 8 |
| Finland | 2 | 9.6 | 9.5-9.7 | 9 |
| New Zealand | 2 | 9.6 | 9.5-9.7 | 9 |
| Denmark | 4 | 9.5 | 9.3-9.6 | 10 |
| Singapore | 5 | 9.4 | 9.3-9.5 | 12 |

## EBRD-WB Business Environment and Enterprise Performance Survey 2005 (BEEPS)

The EBRD-WB Business Environment and Enterprise Performance Survey (BEEPS) is a joint initiative of the European Bank for Reconstruction and Development and the World Bank. The BEEPS has been carried out in three rounds in 1999, 2002, and 2005 and covers virtually all of the countries of Central and Eastern Europe and the former Soviet Union, as well as Turkey.

For the purpose of assessing Armenia's business environment executives of 200 companies, operating in different sectors and regions, with different size and ownership composition were surveyed in the year 2005.

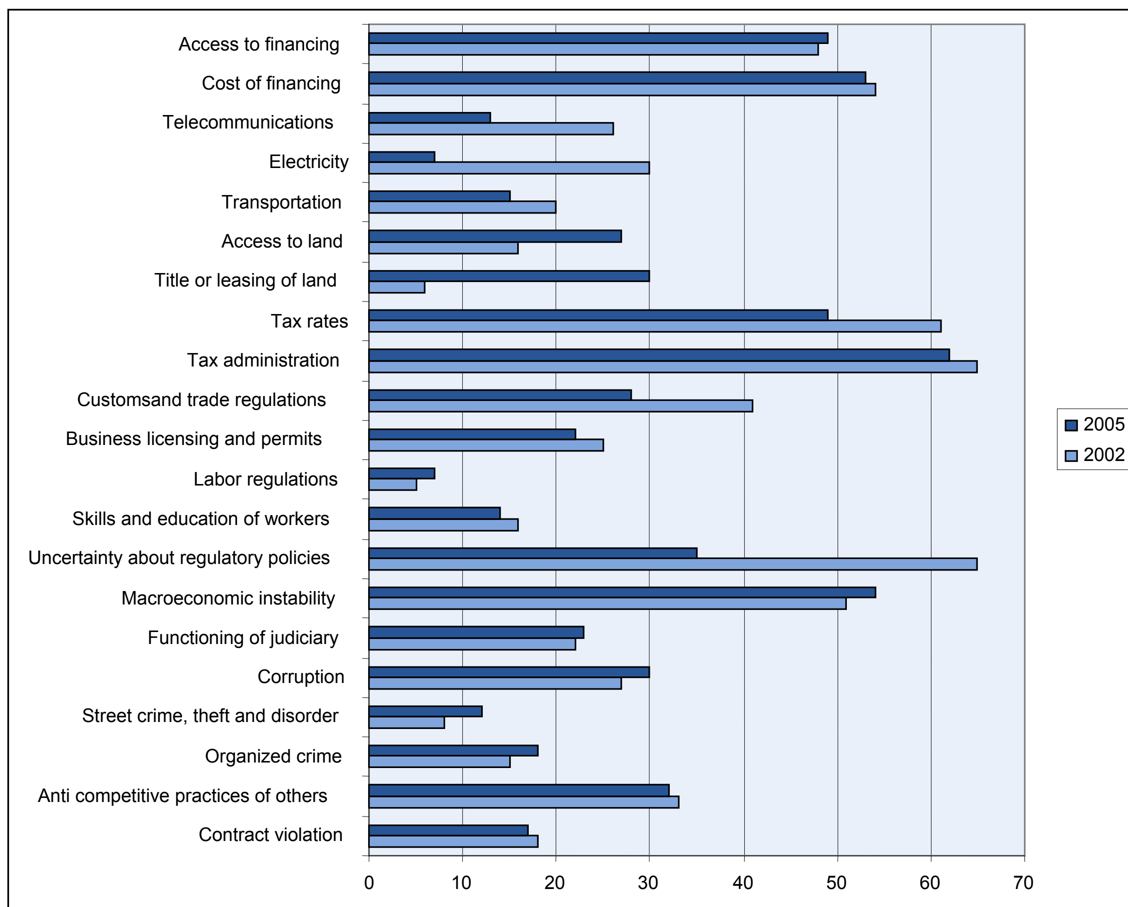
The overarching goal of the Survey was the study of the executive's perception on the issues, hindering development and further expansion of their operations. The summarized picture compared with the data for the year 2002 is presented in the graph A.1.5 below:

[1] **CPI Score** relates to perceptions of the degree of corruption as seen by business people and country analysts, and ranges between 10 (highly clean) and 0 (highly corrupt).

[2] **Confidence Range** provides a range of possible values of the CPI Score. This reflects the method a country's score varies, depending on measurement precision.

[3] **Surveys used** refer to the number of surveys that assessed a country's performance.

***Graph A.1.5 - Problems Doing Business - Over Time (Percent of firms indicating a problem)***




## Heritage Foundation-The Wall Street Journal Index of Economic Freedom 2006

Since 1995, the *Index of Economic Freedom* has offered the international community an annual in-depth examination of the factors that contribute most directly to economic freedom and prosperity. As the first comprehensive study of economic freedom ever published, the 1995 *Index* defined the method by which economic freedom is measured in such vastly different places as Hong Kong and North Korea. Since then, other studies have joined the effort, analyzing such issues as trade or government intervention in the economy.

There is overlapping coverage among these indices, except the *Index of Economic Freedom* includes the broadest array of institutional factors determining economic freedom, among them:

- Corruption in the judiciary, customs service, and government bureaucracy;
- The rule of law, efficiency within the judiciary, and the ability to enforce contracts;
- Regulatory burdens on business, including health, safety, and environmental regulation;
- Labor market regulations, such as established work weeks and mandatory separation pay; and
- Informal market activities, including corruption, smuggling, piracy of intellectual property rights, and the underground provision of labor and other services.

Economic freedom is defined as *the absence of government coercion or constraint on the production, distribution, or consumption of goods and services beyond the extent necessary for citizens to protect and maintain liberty itself*. To measure economic freedom and rate each country, the authors of the *Index* study 50 independent economic variables. These variables fall into 10 broad categories, or factors, of economic freedom:

- Trade policy,
- Fiscal burden of government,
- Government intervention in the economy,
- Monetary policy,
- Capital flows and foreign investment,
- Banking and finance,
- Wages and prices,
- Property rights,
- Regulation, and
- Informal market activity.

In the *Index of Economic Freedom*, all 10 factors are equally important to the level of economic freedom in any country. Thus, to determine a country's overall score, the factors are weighted equally. This is a common-sense approach.

Each country receives its overall economic freedom score based on the simple average of the 10 individual factor scores. Each factor is graded according to a unique scale. The scales run from 1 to 5: A score of 1 signifies an economic environment or set of policies that are most conducive to economic freedom, while a score of 5 signifies a set of policies that are least conducive to economic freedom. In addition, following each factor score is a description—"better," "worse," or "stable" — to indicate, respectively, whether that factor of economic freedom has improved, worsened, or stayed constant compared with the country's score from the previous year.

Finally, the 10 factors are added and averaged, and an overall score is assigned to the country.

The four broad categories of economic freedom in the *Index* are:

- **Free—**countries with an average overall score of .99 or less;
- **Mostly Free—**countries with an average overall score of 2.00 to 2.99;
- **Mostly Un-free—**countries with an average overall score of 3.00 to 3.99; and
- **Repressed—**countries with an average overall score of 4.00 or higher.

For the *2006 Index of Economic Freedom*, data for the period covering the second half of 2004 through the first half of 2005 were studied. To some degree, the information considered for each factor was current as of June 30, 2005.

***Table A.1.6 – Regional Outlook for the Index of Economic Freedom 2006***

| SCORE | ARMENIA | AZERBAIJAN | GEORGIA |
|---|---|---|---|
| **Index of Economic Freedom** | **27**<br>*Mostly Free* | **123**<br>*Mostly Un-free* | **68**<br>*Mostly Free* |
| Trade policy | 2-stable | 3-better | 3.5-stable |
| Fiscal burden of Government | 2.1-better | 3.6-worse | 2.3-better |
| Government intervention in the economy | 2-better | 3-stable | 1.5-stable |
| Monetary policy | 2-stable | 2-worse | 2-better |
| Capital flows and FDI | 1-better | 4-stable | 3-better |
| Banking and finance | 1-stable | 4-stable | 2-better |
| Wages and prices | 2-better | 3-stable | 3-stable |
| Property rights | 3-stable | 4-stable | 4-stable |
| Regulation | 4-stable | 4-stable | 4-stable |
| Informal market | 3.5-better | 4.5-stable | 4.5-stable |

## 1.2 Experience in removing administrative barriers to FDI and simplification of procedures for doing business in Armenia – Lessons learned from gained achievements and omitted opportunities

The first comprehensive and systematic assessment of Armenia's business environment, per request from the Government of the Republic of Armenia, was carried out in late 1999, by the joint WB/IFC Foreign Investment Advisory Service. The main objective of that study was to review and assess the existing business environment in Armenia. Based on the findings of the study, recommendations were made to improve the existing legal and administrative framework in a number of areas, combined with comprehensive suggestions to enhance institutional capacity. Findings and recommendations were discussed with the Government, the private sector and the donor community. The key areas of focus were: streamlining licensing procedures and reducing the scope of licensing requirements, consolidating and downsizing controlling/auditing agencies; and amending the legal and regulatory framework defining procedures for inspections of business activity.

Through consent, a high level Business Council chaired by the Prime Minister was established by the President in December 2000 to promote improvements in the business and investment climate with broad participation of local and foreign companies.

The table provided below presents the basic recommendations made by a research team, the importance, as well as the impact within 3 years.

***Table A.2.1 – Impact assessment of the basic recommendations of FIAS Study 2000***

| Recommendation | Importance | Impact | Notes |
|---|---|---|---|
| Develop a comprehensive public database on all pieces of legislation | Important | Partially implemented | |
| Design capacity building program for the court system | Important | Partially implemented | |
| Conduct anti-corruption campaign | Very Important | Fully implemented | While campaign is successfully conducted, progress in implementation of concrete actions significantly lags behind. |
| Develop a centralized company registration process | Very Important | Partially implemented | Despite significant progress in company registration process, centralised registration process is yet to be established |
| Eliminate tax audit pressure and design transparent inspection procedures | Very Important | Partially implemented | |
| Establish effective VAT and excise tax refund mechanism | Very Important | Partially implemented | While debt amount decreased significantly, this is primarily due to administrative efforts, not from the existence of an effective refund mechanism |
| Standardize and streamline construction permit process | Important | Partially implemented | Partial implementation of the recommendation does not ensure reduction of administrative burden |
| Re-design customs procedures to avoid discretion and corruption | Very Important | Fully implemented | While procedures were redesigned in accordance with best practices, administration left much to be desired |

In order to assess the status of implementation from the year 2000 recommendations and provide objective assessment of the improvements and changes in the business environment,

the GOA in 2004, requested an update of the FIAS study. In response to this request *Assessment of Administrative Procedures for Doing Business in Armenia* were undertaken.

*Assessment of Administrative Procedures for Doing Business in Armenia was* aimed at: evaluation of efforts to improve administrative procedures for doing business in Armenia, presentation and recommendation of methodologies for overall reform activities, identifying reform priorities, and development of an updated action plan for sustainable reforms.

The Assessment Report benefited from a number of different sources, including the 2000 FIAS Report and the track record of implementation of its recommendations, procedure templates completed by public institutions representing the official viewpoints of the institutions, results of four consecutive Administrative and Regulatory Costs surveys, focus groups with businesses, and legal research.

Overall, there have been notable improvements in a number of administrative procedures affecting businesses since the 2000 FIAS Study, including business registration and licensing. While strongly commending these achievements, it should be noted that the more difficult tasks such as ensuring efficient and fair tax and customs administration, transparent privatization and lease of public land and construction coordination remain to be tackled. Therefore, it is of critical importance that the Government recognizes and prioritizes some fundamental issues that have not been adequately addressed over the last several years. The most critical problems identified during the assessment research are described below. Those are followed by an overview of key issues with the start-up, locating and operating procedures.

Although investors do not consider entry procedures (visa and residence permit procedures) to be overly onerous, there is a notable dissatisfaction with the information provision, especially regarding residence permits. *Major improvements have been noted in the area of company registration*. The Law of the Republic of Armenia "On State Registration of Legal Persons" that came into effect as of 2002 clarified a number of issues related to state registration of legal entities and sole proprietors, simplified the registration procedure with the State Register, reduced the processing time and the number of required documents. *However, the key recommendations of the 2000 FIAS study*, namely – to develop a centralized registration process and to eliminate the requirement for company seal – *have seen partial improvement*.

In 2000 FIAS concluded that there were unclear licensing requirements and ofteneven the number and type of licenses required seemed unclear both for government and the businesses. Development of transparent licensing procedures including all information requirements and procedural steps was therefore recommended. The Law on Licensing that subsequently came into effect in July 2001 improved the situation considerably by clarifying the licensing requirements and procedures. In general, the current system for licensing is fairly reasonable, uniform and transparent.

Over the last four years, a variety of changes have occurred in the various locating processes that has helped accelerate land acquisition and planning approval procedures. Although significant progress has been made, further streamlining measures should be implemented to remove existing development barriers for investors. Attention should be given to further streamlining the existing land and construction processes, which remain cumbersome and onerous for investors and are not always transparent or accountable, in particular:

- Improving the approach to land policies, planning policies, and problem solving within the existing institutional/government structure.
- Making land reform a participatory process between the public and private sectors.
- Decentralizing the planning process and providing processing power to the local

municipalities. Furthermore redefining the Mayor and Chief Architect's Office role in the planning process.

Businesses still perceive tax administration as an obstacle to private sector development. Despite all of the positive changes both in the tax regime and administration since 2000, investors still cite tax administration to be the most problematic constraint seriously hindering the investment and private sector growth in Armenia. In particular, investors cite inspections, unequal treatment, discretionary use of the tax code and administration by the tax authorities.

The VAT refunds remain the most problematic tax administration issue facing investors. Both investors and the tax authorities agree that administration of VAT does not work. Investors claim that the VAT refund process is used by tax administration as an instrument to raise revenues by not issuing refunds; the tax authorities claim that normally in the course of the verification of VAT refund claims, the tax inspector typically finds "irregularities" in the enterprise accounting books and that off-setting VAT refunds against the penalties incurred from these irregularities is an efficient use of a tax inspector's time.

Key recommendations in the tax area were:

- Providing the right incentives in tax administration
- Information sharing between tax and customs authorities
- Reform of the VAT refund system and tax administration ceasing to use VAT refunds as tax offsets

There has been a number of achievements in reforming the Customs System in Armenia, including the adoption of the new Customs Code and amendments (2001, 2002, 2003), which is in full accordance with the WTO requirements. The greatest practical implication of this change on the private sector is the significantly reduced number of papers to be presented on declaration. However, the number and time cost of customs procedures and foreign trade regulations continue to impose serious barriers to doing business.

A number of problems in the customs arena remain to be addressed, mainly due to the weak enforcement, corruption, and bureaucratic hassles. Although the existing Customs Code is formally in full compliance with WTO rules, the application of the market value in valuation of imported goods it is still a common practice. Customs officials complain that importers systematically underestimate the transaction value of goods to avoid import tariffs, VAT, and excise taxes. As a result, the Customs Department uses market valuations and tax administrators in an attempt to seize suspected tax evaders through the VAT refund verification process. In parallel, knowing that they will be subject to the market valuation exercise, importers under-report their imports. Thus a vicious circle of over-valuation and under-reporting perpetuates.

Despite recent legislative changes, the customs law and tax codes remain a complex and fragmented set of laws and regulations that create incentives for evasion and inducement to tax and customs inspectors and taxpayers alike. With pervasive confusion the current legal requirements allows for confusion as well as suspecting and unwitting evasion. Along with the legal framework confusion, there is also a lack of coordination between customs and tax administration. This problem, though not new, leads to lengthy delays in VAT refunds (see tax section), inconveniences for businesses, and inaccuracies in application of tax and customs laws.

Within this perspective, priority areas for focus in the customs arena area:

- Application of transaction valuation of imports

- Development and implementation of risk assessment procedure
- Implementation of written notification procedure

Despite the legislative and regulatory changes and improvements, inspections are still used as a punitive instrument toward businesses as opposed to being aimed at detecting tax dodgers or significant frauds. Some internal regulations remain vague regarding the responsibilities of taxpayers. Inspections continue to be used as an instrument to slow down or complicate tax refunds, and even as a “threatening tool”, i.e., vehicle for corruption.

Key recommendations in inspections arena were:

- Clarification and simplification of inspection procedures
- Focused tax inspection to address specific issues such as VAT transaction only, rather than general ones
- Develop Inspection Code of Conduct

## 1.3 Synopsis of key pillars in Armenia’s Government mid-term administrative simplification strategy

Since the year 2000 numerous promising initiatives targeted to the overall improvement of the business environment were initiated by and jointly implemented with the Government of the RA and donor organizations. And despite the fact, that since initial complex assessment of administrative procedures for doing business in Armenia, undertaken by WB’s Foreign Investment Advisory Service in the year 2000, significant improvements in the field were recorded, Armenia still significantly lags behind not only from OECD average economy, but also from the numerous medium-income countries serving as peer-group for the measurement of Armenia’s performance.

Overall, there have been notable improvements in a number of administrative procedures affecting businesses, including business registration and licensing. While strongly commending these achievements, it should be noted that the more difficult tasks remain to be tackled. Therefore, it is of critical importance that the Government recognizes and prioritizes some fundamental issues that have not been adequately addressed over the last several years.

The basic idea of this paper is to compile from several trustworthy resources, with strong methodological background, the major obstacles for doing business in Armenia and aim to quantitevly and qualitatively classify them, as well as, in the conclusion, provide some examples of best practices to eliminate these obstacles. Bearing in mind that numerous issues previously identified by researchers and the subsequent actions suggested have been unsuccessful

First and foremost the efforts aimed at the improvement of business environment needs to be reinvigorated by the political leadership, given clear sense and target and a capable institutional home that can ensure the necessary substantive depth and follow up on the commitments expressed.

Also of primary importance in our view is that the clear-cut methodology for assessment and classification of administrative burdens, their impact on businesses and also their importance needs to be deployed.

This paper is the first modest step towards direction mentioned.

At the first level the 5 indicators (out of 10), as well as theirs sub-components, for Doing Business were considered with the purpose to qualitatively systemize the impact of each impediment:

***Table B.1 - Set of indicators from Doing Business directly reflecting key barriers in Armenia's business environment***

| Doing Business indicator | Rank | Sub-Component | Value | Importance |
|---|---|---|---|---|
| Paying taxes | 148 | | | A |
| | | Number of payments | 50 | |
| | | Time (hours) | 1,120 | |
| | | **Total tax payable**<br><br>**(% gross profit)** | 42,5 | |
| Trading across borders | 119 | | | B |
| | | **Documents for export (number)** | 7 | |
| | | **Signatures for export (number)** | 12 | |
| | | **Time for export (days)** | 34 | |
| | | **Documents for import (number)** | 6 | |
| | | **Signatures for import (number)** | 15 | |
| | | **Time for import (days)** | 37 | |
| Dealing with licenses | 36 | | | C |
| | | Number of Procedures | 18 | |
| | | Time (days) | 112 | |
| | | Cost (% GNI per capita) | 43.1 | |
| Starting a business | 46 | | | C |
| | | Number of Procedures | 9 | |
| | | Duration (days) | 24 | |
| | | Cost (% GNI per capita) | 5.1 | |
| | | Min capital<br><br>(% GNI per capita) | 3.3 | |
| Registering property | 2 | | | D |
| | | Number of Procedures | 3 | |
| | | Time (days) | 4 | |
| | | Cost (% of property value) | 0.4 | |

*Doing Business* methodology offers several advantages, such as factual information on regulations, inexpensiveness, and possibility to identify the source of obstacle. Despite this the ease of doing business index is limited in scope. It does not account for a country's proximity to large markets, quality of infrastructure services (other than services related to trading across borders), the security of property from theft and looting, macroeconomic conditions or the strength of underlying institutions. Thus while Jamaica ranks similarly (at 43) on the ease of doing business to France (at 44), this clearly does not mean that businesses are better off operating in Kingston as opposed to Paris.

Having a high ranking on the ease of doing business does not mean that a country has no regulation. Few would argue that it is every business for itself in New Zealand that workers are abused in Canada or that creditors seize debtors' assets without a fair process in the Netherlands. To protect the rights of creditors and investors, as well as establish or upgrade property and credit registries, more regulation is required to have a high ranking.

Higher rankings do not necessarily mean better regulation. While on average high rankings on the *Doing Business* indicators are associated with better economic and social outcomes, this association need not be linear. For example, expedient court procedures to resolve commercial disputes are welcomed by businesses. But to ensure fair process, some procedural requirements are necessary, and these may cause delays. Often, improvements on the *Doing Business* indicators proxy for broader reforms, which affect more than the procedures, time and cost to comply with business regulation and the ease of access to credit.

For the purpose of rectification other sources of information are of primary importance. The combination of information from Table B.1 and Graph A.1.4 and correlation with actions suggested by the FIAS's study on "Administrative barriers for doing business in Armenia", the

implementation of the following tasks emerged as the short list for Government's mid-term administrative simplification strategy.

BUSINESS START-UP

1. In place of the current system, involving 5-6 agencies responsible for different aspects of company registration, the government may want to establish a process where the investor receives all the key approvals within a single agency and within a specified period of time.

BUSINESS OPERATING

***Tax administration***

1. Consultations should be held with the business community on proposed changes in the legislation, allowing sufficient time for analysis and feedback.
2. Economic impact analysis should be performed prior to adoption or major modifications of tax laws and related government decisions.
3. The practice of producing and publishing official interpretations of the laws and regulations should be strengthened and placed on the web on a regular basis.
4. An effective information exchange system between the Tax and Customs authorities needs establishing.
5. With an effective information system in place, tax authorities should streamline the VAT refund system to expedite refunds.
6. The practice of conducting a general tax inspection when a VAT refund is requested should be eliminated. A better approach would be to follow international best practice where refunds are subject to ex post audits.

***Customs administration***

1. Implement the application of transaction valuation of imports to eliminate discretion on the part of the customs officials and standardize the imputed import values of a specific good.
2. Customs authorities should establish, utilize, and continually add to a data base documenting the transaction value of goods by country of origin to use as a tool of comparison. This process would establish whether invoices state legitimate transaction values and eventually can be applied as a standard transaction value.
3. A direct input system at customs points should be implemented and commercial importers and brokers should be allowed to input directly their customs declarations into the Customs computer system.
4. Streamline the procedure for obtaining certificates of origin, which is a necessary accompanying document in exporting. A single *nominal* fee should be charged for issuing certificates of origin for all goods, and the current requirement of examining and testing the good to confirm its origin should be eliminated.
5.

***Inspections***

1. Clarify and simplify inspection procedures. It is highly advised that the tax service initiates classifying its taxpayers primarily based on the results of previous inspections. Good taxpayers must "suffer" inspections only if there is a certain piece of information regarding potential fraud, as opposed to be visited once a year.
2. Each inspecting body should publish (perhaps on the internet) the frequency of the required inspection and documentation required for each inspection.

# 2. AZERBAIJAN

## INTRODUCTION

In the 15 years of its independence, Azerbaijan has made considerable progress on the path to economic reform. The move from the Soviet economic system to the market economy was accompanied, as was the case in many other CIS countries, by many difficulties. Although the move has not been completed yet, the Azerbaijani economy relies on private capital to a greater extent today comprising mainly capital of foreign origin.

The development of private entrepreneurship in Azerbaijan began in the late 1980s, subsequent to the Soviet leadership adopting four reformist laws. These were laws “On individual labor activities” (1986), “On cooperatives in the USSR” (1988), “On property in the Russian Federation” (1990) and “On the general basis of entrepreneurship by citizens of the USSR” (1991). These laws created initial conditions for private initiative and market relations.

Following Azerbaijan’s independence, the processes of adopting new laws and institutional decisions directed at speeding up the development of the private sector intensified in the country. Under a presidential decree issued on 23 June 1992, a State Committee for Anti-Monopoly Policy and Support for Entrepreneurship was established. Under a presidential decree on 12 October 1992, a National Fund to Support Entrepreneurship was also created at the state committee.

On 15 December 1992, the country’s parliament adopted a law “On entrepreneurial activities”. The law was of great importance, firstly, because it confirmed the new state’s intention to provide support for the development of private entrepreneurship, and secondly, for the first time the law had systematized and regulated many issues related to entrepreneurial activities.

On 26 January 1993, the country’s parliament approved “The main directions of state policy in the sphere of developing entrepreneurship in the Azerbaijan Republic” and “The state program in the sphere of developing entrepreneurship”.

On 20 June 1993, the country’s president issued a decree “On urgent measures to speed up the development of small businesses in the Azerbaijan Republic”.

The development of private entrepreneurship in the country was also promoted by the adoption in July 1994 of four vital laws “On enterprises”, “On joint-stock companies”, “On the mortgage” and “On bankruptcy”.

The development of the private sector was also promoted by decisions to privatize state enterprises and land. In 1992, special state agencies were set up in these spheres. Subsequently a number of relevant laws and legal acts were adopted.

The entire transformation promoted the development of the private sector in the economy.

Another important factor in the development of private entrepreneurship and foreign investment was the signing of contracts with transnational oil companies on development of the country’s oil and gas resources. It is difficult to over-estimate the multiplicative effect of foreign investments in the country’s oil sector. A powerful impetus was given to the development of other sectors of the economy and first of all, to the infrastructure.

The development of the private sector in the country was also promoted by legal acts and measures taken by the government to liberalize prices and foreign trade, develop the banking sector and private state property, create conditions for foreign investment and stabilize the macroeconomic situation in the country.

On 24 June 1997, the country’s president issued a decree approving “The program of state assistance to small and medium-sized businesses in 1997-2000”. Other important government decisions were the adoption of a state program on economic development and poverty reduction, as well as the program on the development of the country’s regions.

As a result of the decisions adopted, 76 per cent of the GDP is provided by the private sector[4]. Even considering the great share of the oil sector in this figure (especially, work within the

[4] http://www.azstat.org/publications/azfigures/2006/az/d02.shtml#d2

framework of the 26 oil contracts that were signed), the development of the private non-oil sector is an obvious fact.

The development of the private sector could be even more impressive if the business climate continued to improve in the country. Assessments of the business climate in the country by such international institutions as the World Bank, the IMF, the EBRD, TI, WEF, the Heritage Foundation, the Wall Street Journal and the ADB show that the further development of the private sector in the country requires certain decisions to eliminate a number of existing obstacles. Specifically, of importance is the simplification and reducion of procedures for the state registration of new businesses, licensing procedures and the system of registering property. The analysis of the aforesaid spheres in this research drew us to this conclusion.

For example, the annual report of the World Bank and the International Monetary Fund "Doing business in 2007"[5] gives an assessment of ten indicators of conditions for entrepreneurial activity in a number of countries of the world, including Azerbaijan.

The following table gives indicators for Azerbaijan.

| | Azerbaijan | Country with best indicators |
|---|---|---|
| **Starting a business** | 96 | Canada |
| **Dealing with license** | 162 | St.Vincent and the Grenadines |
| **Employing workers** | 66 | Marshall Islands |
| **Registering property** | 59 | New Zealand |
| **Getting credit** | 21 | United Kingdom |
| **Protecting investors** | 118 | New Zealand |
| **Paying taxes** | 136 | Maldives |
| **Trading across borders** | 158 | Hong Kong, China |
| **Enforcing contracts** | 34 | Denmark |
| **Closing a business** | 70 | Japan |
| **Ease of doing business** | 99 | Singapore |

There are three main centers studying the **competitiveness of countries** in the world: 1) The Institute for Strategy and Competitiveness at Harvard University (USA); 2) World Economic Forum (WEF) in Davos[6]; 3) The International Institute for Management Development. The first centre researches into the competitiveness of corporations while the second and third ones – of countries and regions.

The World Economic Forum in Davos (WEF) is using the so-called Competitiveness Index of Economic Growth in its research, which reflects the economy's ability to attain and maintain a stable economic growth in the medium and long-term. The index is based on three main components: the macroeconomic environment, the quality of public institutions and use of new technologies.

The latest report of the WEF is based on an analysis of the economies of 117 countries and about 11,000 leading enterprises. This report of the WEF gives an assessment of competitiveness in Azerbaijan for the first time. According to this report Azerbaijan`s rate on the Competitiveness Index for Growth is 69 and the Competitiveness Index for Business is 77.

[5] http://www.doingbusiness.org/

[6] http://www.weforum.org/en/initiatives/gcp/Global%20Competitiveness%20Report/index.htm

The ratings of countries are defined by calculating relevant indices.

**The competitiveness index for growth** shows the ability of a country's economy to attain a stable economic growth in the medium and long-term. Three groups of factors are taken into account while calculating the index: the quality of macroeconomic environment, the effectiveness of public institutions and the technological level.

**The competitiveness index for business,** developed by Prof Porter, is assessed on the basis of macroeconomic factors that define the current level of the productivity of the national economy. Several dozens of factors are used to calculate the index. Some of these factors are united in a group that assesses the quality of strategies and the effectiveness of the work of companies while the other is used for assessing the quality of the national business climate.

**The report of the EBRD and the WB "Results of business environment and enterprise performance survey, 2005 (BEEPS)"**[7] presents the results of joint research carried out by the World Bank and the European Bank for Reconstruction and Development. This research was carried out in 1999, 2002 and 2005, which makes it possible to compare the dynamics of changes in countries that were researched. The research was carried out by polling companies. The number of respondents in Azerbaijan was 200 people. Eight per cent of them represented major businesses, 18 per cent – medium-sized and 74 per cent – small businesses. Ninety per cent of respondents represented the private sector with 10 per cent in the public sector. 48.5 per cent represented the industrial sector (production, construction and mining) while 51.5 per cent represented the services sector (trade, transport, hotels, real estate and others).

The polls made it possible to learn the opinion of businessmen on the following issues:

- access to financing (credits and so on);
- the cost of financial resources;
- tax rates;
- tax administration;
- macroeconomic instability;
- the functioning of the court system;
- observance of fair competition requirements;
- customs regulation;
- the uncertainty and ambiguity of the regulatory policy;
- regulation of labor relations;
- street crime, theft and unrest;
- licensing system;
- land regulation;
- access to land property;
- transport and telecommunications infrastructure;
- electricity;
- the level of staff training and education;
- organized crime;
- corruption;
- anti-corruption practices;
- violation of contracts

The research contains results of polls on these factors, making it possible to assess the business climate in the country and the changes that occurred in the last three years. Unfortunately not all changes are positive.

According to the report of Transparency International "Corruption Perception Index, 2005" Azerbaijan holds 137 position on the Corruption Perception Index. The given value of CPI points to the current problems on the way of business growth in the country. The Corruption Perception Index is calculated on the basis of polls conducted among businessmen and

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[7]http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/EXTECAREGTOPANTCOR/0,,contentMDK:20720934~pagePK:34004173~piPK:34003707~theSitePK:704666,00.html

analysts. This could also be considered as an assessment of the business climate in the country. The Corruption Perception Index varies within the range of 0-10; 0 being the maximum level of corruption and 10 being the minimum.

The report of **The Heritage Foundation[8] and Wall Street Journal "Index of Economic Freedom, 2005" and the report of the Fraser Institute[9]** also point to the problems of business growth in Azerbaijan. Both reports dedicate to the common topic; however the methodology of the Index of Economic Freedom calculation is different.

Since 1995 the Heritage Foundation and Wall Street Journal have published Index of Economic Freedom annually. The latest report was published at the end of 2005. Azerbaijan holds 123rd position among 157 countries.

The last report of the Fraser Institute was published in September of 2006. For the first time Azerbaijan appears in the report with the number 83 position among 130 countries.

**The report of the Asian Development Bank**: "Private sector assessment for Azerbaijan, September 2005" contains assessments of transition problems and economic development, the state of the private sector, as well as recommendations in the following directions: cooperation between the public and private sectors in the sphere of developing infrastructure, privatization of infrastructure enterprises through an exchange, privatization of production enterprises of non-oil sector, development of an industrial policy in the non-oil sector, increasing the competitiveness of the banking sector by merging banks and etc.

All these recommendations are topical and require development by means of drawing up relevant legal acts and government decisions.

With the aim of improving the existing system of the state registration of new enterprises, it is proposed that a number of amendments should be made to the law in order to simplify and reduce relevant procedures. The proposals are based on introducing the ONE-STOP- SHOP idea in Azerbaijan. Specifically, the report offers explicit amendments to the laws "On the state registration of legal entities and the state register", "On statistics", "On social insurance", the Tax Code and a number of other legal acts.

The analysis of the licensing system in the country made it possible to reveal a number of opportunities to improve it. In the opinion of the authors of this report, it is necessary to adopt a new law on licensing. The report offers a number of important requirements to this law.

According to the results of the analysis of the existing system of registering property, it was discovered that a businessman is misusing an unjustifiably great amount of time on relevant procedures. A number of provisions in many legal documents regulating this sphere are complicated and sometimes unclear. It is necessary to adopt a new single law regulating issues of registering property.

The research carried out in the process of implementing the project made it possible to specify problems existing in the sphere of registering new businesses, licensing and registering property and to draw up specific proposals on eliminating them.

FAR Centre with the support of Eurasia Foundation played a key role in the implementation of this project.

Gratitude is also extended to the number of government experts whose numerous recommendations and remarks proved to be quite useful for Far Centre. However regretfully, the names of those specialists cannot be revealed at their request.

During the implementation of the project, recommendations from independent experts were used as well: Dr. Rahib Quliyev, Rashid Hajili and Samir Ismail. Recommendations from a number of businessmen were also useful, for example, the president of the Effekt group of companies, Babek Murad, and the president of the Atlas Company, Baba Mammadov. FAR Centre shows appreciation to all those who made a contribution to this research.

FAR Centre expresses special thanks to Dr. Antal Sabo for his valuable remarks and recommendations.

[8] http://www.heritage.org/research/features/index/countries.cfm
[9] http://www.freetheworld.com/release.html

## 2.1 Procedures of Starting a Business

Two types of entrepreneurial activities are possible in Azerbaijan:

- individual;
- establishing a legal entity.

This paragraph examines procedures of starting a business for entrepreneurial activities by establishing a legal entity. The procedure of the state registration of an entrepreneurial organization wishing to obtain the status of a legal entity is regulated by Law No 17-IQ of the Azerbaijan Republic dated 12 December 2003 “On the state registration of legal entities and the state register”.

A person setting up a business in Azerbaijan is required to follow procedures listed below:

1. pay a duty for state registration;
2. submit the application and other documents for registration of a legal entity certified by a notary;
3. prepare documents on the legal address;
4. submit documents for the registration of the enterprise as a legal entity;
5. order a stamp;
6. register with the tax authorities;
7. register with the State Social Security Fund;
8. have relevant documents certified by a notary for opening a bank account;
9. open a bank account;
10. obtain a license;
11. receive a permit from the sanitary-epidemiological authorities;
12. collect a permit from the fire safety authorities;
13. solve issues of standardization and metrology;
14. obtain a permit related to environmental protection.

A detailed description of these procedures is included in the report of FAR Centre (www.faraz.org).

## 2.2 Proposals to simplify the system of registering new businesses

The analysis of procedures for starting a business mentioned in the previous paragraph concludes that a businessman calls on a number of government agencies to register and to obtain certain permits. This is time consuming, and what’s more, not every government agency official is equally responsible and attentive to a beginner businessman and often extorts bribes from them. Consequently the task of reducing the number of procedures is even more important and opportunities exist for changes.

Implementation of all these proposals requires changes to legislation. Below are descriptions of relevant amendments to the laws.

1). It is compulsory for all legal entities to register with the tax authorities. This needs to be completed within 30 days of registration. A penalty may apply if not in compliance.

In order to register with the tax authorities, it is necessary to submit a collection of documents required by Article 34 of the Tax Code (copies of the registration certificate, statute certified by a notary, documents confirming the appointment of the manager of the legal entity, his identity and place of residence). Since these documents are already noted in the register, submission to the tax authorities once more is not necessary.

2). Similarly these documents are required for registration with the State Social Insurance Fund (copies of the registration certificate, statute certified by a notary, documents confirming the address of the legal entity) (Article 13 of the law on social insurance). Registration with the State Social Insurance Fund is also compulsory for every legal entity.

When a legal entity is registered, an identification code, a taxpayer’s identification number and a social insurance registration number can be provided. This procedure should be prepared by

one agency that can send information from the register to those agencies (tax, social insurance and statistics departments).

3). The procedure for opening bank accounts is also very complicated. Numerous documents require to be certified by a notary as well as special letters from the tax and social insurance departments. In order to obtain such letters, it is necessary to complete special application forms at both departments. Once the applications are submitted the letters are prepared within seven days.

The extract from the register of legal entities contains information that banks may require from the legal entity. If the above recommendations are taken into consideration, i.e. if the identification code, the taxpayer's identification number and the social insurance registration number are issued by the same agency (registration agency) and noted in the same document, it would be adequate to submit that document to open a bank account.

Once the account is opened, the bank may send the information to the tax and social insurance agencies that have registered the legal entity.

4). The bank itself can check and confirm the authenticity of the documents required from the legal entity for opening a bank account. This procedure relates to the notary certification from copies of documents.

The implementations of all these proposals require changes to legislation. The descriptions of relevant changes to the laws are given below.

**Amendments to the law "On the state registration of legal entities and the state register"**

It is suggested that Article 14 should be amended. The amendment is the following:

To add Points 14.1.6, 14.1.7 and 14.1.8 with the following contents. To consider Articles 14.1.6, 14.1.7 and 14.1.8 to be Articles 14.1.9, 14.1.10 and 14.1.11:

14.1.6. The taxpayer's identification code of an organization;

14.1.7. The address and statistical indicators characterizing the financial-economic activities of an organization;

14.1.8. The social insurance registration number of an organization.

**Amendments to the law "On statistics"**

To make the following amendment to Article 9 of the law on statistics:

1. To remove paragraphs 5 and 6 of Article 9.

**Amendments to the Tax Code**

It is compulsory for all legal entities to register with the tax authorities. This needs to be completed within 30 days of registration. A penalty may apply if not in compliance.

In order to register with the tax authorities, it is necessary to submit a collection of documents required by Article 34 of the Tax Code (copies of the registration certificate, statute certified by a notary, documents confirming the appointment of the manager of the legal entity, his identity and place of residence). Since these documents are already noted in the register, submission to the tax authorities once more is not necessary.

Thus, Article 34 of the Tax Code should be amended and the task of issuing the taxpayer's certificate and the identification number should be submitted to an agency that registers legal entities in mutual cooperation with the tax authorities. Once the procedure is completed, the agency that registers legal entities can forward all information to the tax authorities.

To make the following additions and amendments to Article 34 of the Tax Code:

1. To make the following changes to the first paragraph of Article 34.1:

"A taxpayer, who is **a private individual**, submits an application in order to register with the tax authorities."

2. To remove the second paragraph of Article 34.1.
3. To remove the phrase "(its manager)" from the second sentence of the third paragraph of Article 34.1.

4. To add the following second sentence to Article 34.6:

"A taxpayer's identification number is given to legal entities by a relevant body of the executive authorities that carries out the state registration of legal entities."

5. To make the following changes to the first sentence of Article 34.8.1:

"When private individuals, who are taxpayers, are entered into the state register, the information indicated in their application for registration with the tax authorities is used."

6. To add the following second sentence to Article 34.8.1:

"In order to keep a register of taxpayers, who are legal entities, information in the state register of legal entities is used."

**Amendments to the law "On social insurance" and to the rules of registering insurance parties**

Similarly these documents are required for registration with the State Social Insurance Fund (copies of the registration certificate, statute certified by a notary, documents confirming the address of the legal entity) (Article 13 of the law on social insurance). Registration with the State Social Insurance Fund is also compulsory for every legal entity.

When a legal entity is registered, an identification code, a taxpayer's identification number and a social insurance registration number is provided. This procedure should be prepared by one agency that can send information from the register to those agencies (tax, social insurance and statistics departments).

It is suggested that the law "On social insurance" and the rules of registering insurance parties should be amended.

To make the following changes to the law "On social insurance":

1. To remove the phrase "employers are registered by the state as economic subjects" from the first paragraph of Article 13.
2. Modify the second paragraph of Article 13 to read: "Banks that open accounts for participants in compulsory state social insurance should inform bodies that manage the sphere of compulsory state social insurance within three days."

Amendments are proposed to the rules (SSSF) of registering insurance parties. For example, it is suggested that Point 10 of these rules is removed.

**Amendments to legislation with the aim of simplifying the procedure of opening bank accounts**

Numerous documents require to be certified by a notary as well as special letters from.the tax and social insurance departments. In order to obtain such letters, it is necessary to complete special application forms at both departments. Once the applications are submitted the letters are prepared within seven days.

The extract from the register of legal entities contains information that banks may require from the legal entity. If the above recommendations are taken into consideration, i.e. if the identification code, the taxpayer's identification number and the social insurance registration number are issued by the same agency (registration agency) and noted in the same document, it would be adequate to submit that document to open a bank account.

Once the account is opened, the bank may send the information to the tax and social insurance agencies that have registered the legal entity.

To this end, it is necessary to make changes to the following legal acts:

***1) Article 35 of the Tax Code***

Place Article 35 of the Tax Code in the following way:

"Persons who open an account for a taxpayer should inform the tax authorities within three days."

***2) It is also necessary to make an amendment to the "Rules of opening and closing accounts in banks" (Approved by Protocol No 19 of the National Bank dated 3 November 2004).***

To make the following changes to Article 3 of the rules:

1) To remove the phrase "certified by a notary" from Point 3.1.4;

2) To remove Point 3.1.6;
3) To remove Point 3.1.7;
4) To remove Point 3.1.8;
5) To remove the note after Point 3.1.8.

***3) On the certification of a copy of the document by a notary:***

The bank verifies and confirms the authenticity of the documents required from the legal entity for opening a bank account.

## 2.3 LICENSING SYSTEM

In Azerbaijan, the legal basis of licensing is the Civil Code of the Azerbaijan Republic, decrees of the president of the Azerbaijan Republic and other legal acts.

Decree No 782 issued by the president of the Azerbaijan Republic dated 2 September 2002 "On improving the procedure of issuing special permission (license) for individual types of activity" became a new step in the legal regulation of the licensing of entrepreneurial activity. This decree approved "the rules of issuing special permission (license) for individual types of activity in the Azerbaijan Republic" and a list of types of activity that require special permission (license), as well as the bodies that issue licenses for these types of activities. This decree is a basic legal act in the sphere of licensing and was issued with the aim of conducting a single state policy in the sphere of licensing individual types of activity and ensuring the protection of the vital interests of the people, society and the state. It defines the essence of a license; requirements for holding it; types of activity that must be licensed; grounds and the procedure of canceling or suspending licenses.

It is important to keep in mind that the decree is not comprehensive. Foreign trade activities related to the use of natural resources have been left beyond the sphere regulated by the analyzed decree. Nor does this act apply to relations that emerge in connection with the use of results of intellectual activity. The list of goods liable to licensing during export and import operations is defined by Decree No 609 of the president of the Azerbaijan Republic "On deepening the liberalization of foreign trade in the Azerbaijan Republic" dated 24 June 1997. The specific features of licensing activity aimed at using natural resources are established by special legal acts (for example, oil and gas production is usually regulated by contracts ratified by the parliament, while the production of gold and other precious metals is regulated by a special presidential decree).

Under Decree No 782 of the president of the Azerbaijan Republic dated 2 September 2002, the Ministry of Economic Development (MED) is a particular authorized agency on issues of licensing. In this connection, the Ministry of Economic Development draws up the main directions of state regulation related to licensing and drafts legal acts on issues of licensing, ensures methodological management and information support for the work of licensing bodies, defines forms of documents in the sphere of licensing and rules of registering them, holds a single licensing registry in the country, organizes orders, supplies, records and accounts on the use of license forms. Instructions issued by the Ministry of Economic Development on issues of licensing, adopted within its authorities, are compulsory for the central and local executive authorities and local government bodies, legal entities and private individuals – subjects of entrepreneurial activity.

According to the law, any legal entity can be given the powers of a licensee. Unlike legal entities, the rights and duties of a licensee – a private individual – apply only to individual entrepreneurs. Thus, organizations that do not have the rights of a legal entity, as well as officials – public servants whose status is incompatible with entrepreneurial activity and private unlicensed individuals who work illegally in the sphere of entrepreneurship cannot request the status of a licensee.

The Civil Code of the Azerbaijan Republic (Article 6) states that civil rights can be restricted only on the basis of the law and to the extent that is necessary in order to protect state and public

security, public order, health and morality, the rights and freedoms of other people, their honor and good name.

According to the law, licenses cannot be alienated, i.e. the licensee cannot hand them over to other private individuals or legal entities.

A license is issued for every type of activity separately. If the activity of private individuals or legal entities is multi-profile with each type of activity requiring a license, then it is necessary to do so.

The activity of a foreign legal entity or private individual, which is to be licensed, is regulated by intergovernmental agreements. If there is no such agreement, foreign legal entities or private individuals obtain licenses according to the legislation of the Azerbaijan Republic.

Licensed activity is a type of activity that requires a license on the territory of the Azerbaijan Republic under Decree No 782 of the president of the Azerbaijan Republic dated 2 September 2002 and in compliance with other legal acts that were in force before the aforesaid legislative act took effect. We should point out that with the adoption of Decree No 782 of the president of the Azerbaijan Republic dated 2 September 2002, the number of types of activity that were liable to licensing reduced threefold and at present, there are only 36 types of licensed activities. (See the appendix).

At the same time, according to a number of legislative acts (for example, the law on fire safety, the Forest Code, technical safety, geodesy and cartogprahic work, hydrometereological activities, etc.) permits or certification requirements are needed for about 40 products and types of activities. In economic practices they are essentially a variety of licensing. Not every permit should be regarded as a license. As they are intercrossed. In the sphere of licensing there are two clear parallel directions: issue of licenses and periodic oversight over the observance of licensing requirements and conditions. In the sphere of permits, there is no sebsequent oversight by the agency that issued the permit.

Licensing agencies are central and local state executive authorities and public associations (the Chamber of Auditors of the Azerbaijan Republic which issues licenses for auditing work).

The work that is licensed by the central state authorities can be carried out on the entire territory of the Azerbaijan Republic.

The work that is licensed by a licensing agency of the Nakhichevan Autonomous Republic and local executive authorities can be carried out on the territory of the given entity. These licenses should be valid on the territory of other entities of the country on condition that the licensee notifies the licensing agencies of relevant entities of the Azerbaijan Republic. However, there is no such rule in the current law.

In order to become a licensee, i.e. a person who holds a license for a specific type of activity, the license-seeker submits the following documents to a relevant licensing agency:

- An application indicating the name, organizational-legal form, legal address, number of the account in a bank (for legal entities) or the surname, name and patronymic and passport details (for private individuals), as well as the type of activity and the term of the license;
- A copy of the certificate on the state registration of the legal entity;
- A certificate on registration at a tax body;
- A document confirming that the license has been paid ;
- A document confirming that the license-seeker has the right to the facility (property rights, rent, use, etc.) where he will be carrying out his work.

It is banned to demand that the applicant provide documents that are not stipulated by the licensing rules.

The application for a license and the documents attached are accepted on the basis of an inventory with a copy issued to the applicant specifying the date the documents were accepted by the licensing agency signed by a responsible person.

Depending on the specific features of activity, the provision on the licensing of a relevant type of activities can provide for the submission of other documents.

In reference to licensed types of activity that require special knowledge for implemention, licensing requirements and conditions can also include qualitification requirements to the

license-seeker. With regard to licensed types of activity that require special conditions for implemention, licensing requirements and conditions can also include requirements for compliance with the indicated special conditions of the facility. Facilities refer to buildings, installations, equipment and other technical means with the help of which the licensed type of activity is carried out.

One of the compulsory licensing requirements and conditions for licensees to carry out licensed type of activity is to observe other legislative acts of the Azerbaijan Republic, for example, ecological, sanitary-epidemiological, hygienic and fire safety norms and rules.

It must be noted that in other countries, the list of additional licensing requirements and conditions with regard to a licensed type of activity is determined by the provision on the licensing of a specific type of activity. As a rule, the provision on the licensing of specific types of activity is approved by the governments of relevant countries. However, there is a different simplified procedure in Azerbaijan. The Cabinet of Ministers of the Azerbaijan Republic, in compliance with Decree No 782 of the president of the Azerbaijan Republic dated 2 September 2002, identifies only additional requirements and conditions with regard to specific licensed types of activity. There are no special provisions on the licensing of other specific types of activities such as, the provision on licensing production, storage and sale of alcoholic products; sale of oil products; pharmaceutical activity, etc.

In practice, the general rule on licensing (approved by Decree No 782 of the president of the Azerbaijan Republic dated 2 September 2002) for specific licensed types of activities and additional requirements and conditions identified by the Cabinet of Ministers of the Azerbaijan Republic are used as a basis.

According to the law and the above Decree "On the improvement of the procedure of issuing special permits (licenses) for individual types of activity", once the license-seeker submits his application and all necessary documents, the term during which a licensing agency makes a decision to issue or deny a license cannot exceed 20 days (the main period is 15 days– an extra five days to eliminate shortcomings in submitted documents) An application for a license is not examined if the submitted documents violate the requirements.

If an application for a license is not examined, the license-seeker is notified in a written form in five days, indicating the reasons within the period envisaged for issuing a license. Once the applicant modifies the basis, the application may be re submitted. The notification on the decision to issue or deny a license is issued to the applicant in a written form within five days. The decision to deny a license should be well-substantiated and based on the law.

The license-seeker has the right to appeal against the decision of a licensing agency not to issue a license or against inaction by a licensing agency.

Once a legal entity is closed or a certificate on the state registration of a private individual as an entrepreneur is no longer valid, the issued license loses its legal force.

A licensee is required to re register for a license within 15 days for cases such as reorganization of a company, changes in the name of a legal entity, changes to a private individuals' passport details and loss of a license.

Re-registration is performed in a similar method to that of issuing a license. Prior to re-registration, the licensee works on the basis of the previous license. If the license is lost then a temporary permit issued by the agency that is authorized to carry out licensing prior to re-registration.

Licensing agencies use single forms on Azerbaijani territory (See Appendix No). License forms are documents that are strictly registered and have a registration number.

The license indicates:

- The name of the licensing agency that issued the license;
- The name of the legal entity or surname, name and patronymic of a private individual – a subject of entrepreneurial activity;
- The type of economic activity that is licensed;
- The term of the license;
- The date when a decision is made to issue a license and the number of that decision.

The license is signed by the head of the licensing agency or his deputy and is stamped by the same agency.
The license is valid for five years and this may be extended once expired. The term of the license is extended by re-registering the document that confirms the license.
The agencies authorized to issue licenses oversee the observance of conditions stipulated by the license. In this regard, licensing agencies are granted broad rights. The licensing agencies have the right to inspect the activities of the licensee; request and receive necessary explanations and notes; compile acts on the basis of inspections, indicating specific violations; make decisions that oblige the licensee to eliminate violations; set a deadline for eliminating such violations; and issue a warning to the licensee. The duties of the licensee correspond to these rights of licensing agencies (i.e. a licensing agency has the right to oversee the duties indicated in the license).
The observance of licensing conditions by a licensee is overseen by licensing agencies and a special authorized body (MED) on issues of licensing within their powers. According to Decree No 782 of the country's president dated 2 September 2002 "On the improvement of the procedure of issuing special permits (licenses) for individual types of activity", the licensee provides the licensing agencies once a year with information regarding his observance of licensing conditions (in the order established by the MED).
There are no legal acts that regulate the order of licensing control, terms of its implementation, methods of registering the results of inspections, etc. This circumstance reduces the effectiveness of the entire licensing system and does not ensure rights and legal interests, including those of subjects of entrepreneurial activity. Drafting and adopting a legal act to regulate the procedure of licensing control is extremely necessary in order to improve legal regulation in the sphere of licensing. This is usually achieved at the level of the Cabinet of Ministers of the Azerbaijan Republic.
The licensing agencies have the right to suspend a license in the following cases:

- At the request of the license holder;
- If they or other state authorities discover within their powers that the licensee is violating licensing requirements and conditions, that the activities of the licensee have been suspended by government agencies and that the licensee is insolvent (bankrupt) from a legal point of view;
- In other cases stipulated by the law.

While making a decision to suspend a license, the licensing agency notifies the licensee and the local tax services on its decision in a written form within three days. After eliminating the violations that caused the suspension of the license, the licensing agency makes a decision to resume it and informs the licensee and the local tax service in a written form.
Decree No 782 of the country's president dated 2 September 2002 "On the improvement of the procedure of issuing special permits (licenses) for individual types of activity" also provides grounds for when a license loses its legal force, i.e. is cancelled as follows:

- The licensee's request to cancel the license;
- Inaccurate information in documents submitted by an economic subject for a license;
- A relevant court decision;
- The liquidation of a legal entity or the death of a private individual;
- Other cases stipulated by the law.

The licensing agency informs the licensee and the tax services in a written form on its decision to cancel the license within three days.
The decisions and actions of licensing agencies to suspend or cancel a license can be appealed against in a court. Officials of licensing agencies, as well as economic subjects bear legal accountability for inaccurate information in documents they submit.
We should also touch on issues of accountability in the sphere of licensing economic activities. Related issues are solved in an extremely contradictory way since there are no general rules about responsibility in this sphere. The formation of legal regulation and an institute of

accountability requires a solution to a number of issues. The first issue is to clarify the correlation between licensing and the state registration of an entrepreneur. We can regard as well-substantiated the opinion that licensing should amount to state registration as far as the consequences of failure to observe it are concerned. This does not raise the issue of ending the activities of the economic subject as a whole, as this entrepreneur may be engaged in other types of activities that do not require a license. However, there is no doubt that activities which have not been licensed should be terminated and all profits transferred into the budget.

Decree No 782 of the country's president dated 2 September 2002 "On the improvement of the procedure of issuing special permits (licenses) for individual types of activity" envisages that licensing agencies maintain records of licenses for types of activities. Following sentence is incomprehensible However, it does provide for a procedure of keeping records of licenses and does not contain information kept in the registry of licenses.

According to Decree No 782 of the country's president dated 2 September 2002 "On the improvement of the procedure of issuing special permits (licenses) for individual types of activity", the sum paid towards a license is considered state duty. The sum has been determined by Resolution No 180 of the Cabinet of Ministers of the Azerbaijan Republic dated 18 November 2002. However state duty amount sharply differentiates. (For example, the payment for cartographic activity is 132 AZN, whereas 5,500 AZN is paid for customs and broker activity). Once a decision is made to issue a licence, the sum is paid.

It must be noted that the institute of licensing is not yet functionining effectively as there are no organizational-legal guarantees that their goal will be achieved. In practice, several bodies of the central executive authorities (the Ministry of Agriculture, the Ministry of Communications and Information Technology, the Ministry of Culture and Tourism, the Ministry of Education, the Ministry of Health, the Ministry of Youth and Sports, etc.) are still performing both state regulation and economic functions, which has a negative impact on the business climate and creates an unhealthy environment for competition. Examples: The Azerleasing company and a number of breeding and seed-growing enterprises are subordinate to the Ministry of Agriculture; a great number of communication enterprises are subordinate to the Ministry of Communications and Information Technology and moreover, the ministry is running the share of the state (the state parcel of shares) in joint ventures; a great number of state enterprises and institutions are subordinate to the Ministry of Culture and Tourism; and so on.

We should also point out that the role of government agencies in the implementation of economic functions has increased recently. To a great extent, this was promoted by Decrees No 392 and 393 of the president of the Azerbaijan Republic of 18 April 2006 and Decree No 394 of 19 April 2006. These decrees approve the statutes on the Ministry of Youth and Sports and the Emergencies Ministry.

Analyzing the current system of licensing economic activity in the country, it is necessary to touch on one more issue. According to the Civil Code of the Azerbaijan Republic (as is the case in other countries of the world), it is planned to divide objects of civil rights into: a) items (objects) withdrawn from circulation; b) items not been withdrawn from circulation; c) items restricted in circulation (Article 136). On this basis, the Milli Majlis (parliament) of the country adopted two laws:

1. On the list of items that cannot be in civil circulation (items withdrawn from civil circulation) of 23 December 2003, No 564-IIQ.
2. On the list of items that belong only to certain participants in civil circulation and that can be in circulation only with special permission (items restricted in civil circulation) of 23 December 2003, No 565-IIQ.

According to the law, items that are not alienated are completely withdrawn from circulation. In Azerbaijan, these are some types of weapons, precious metals in the form of raw materials, narcotic and psychotropic substances, state archive documents and others (a total of 15 categories). Items that have been withdrawn from circulation cannot be passed on to other people and cannot be a subject of civil-legal deals.

As for objects of civil rights restricted in circulation, they can belong to certain participants in circulation or their acquisition and alienation is allowed on the basis of special permission.

These restrictions are predetermined, as a rule, with the need to ensure public order and the security of citizens and the state. The list of these objects includes 14 categories.

At the same time, Point 3 of Decree No 310 of the president of the Azerbaijan Republic "On measures to improve the issue of special permits (licenses) for individual types of entrepreneurial activity in the Azerbaijan Republic" dated 28 March 2000 identifies the type of activity that state enterprises (or joint-stock companies whose controlling parcel belongs to the state) are engaged in, i.e. it identifies the types of activities that are considered to be a state monopoly. Under Decree No 782 of the president of the Azerbaijan Republic dated 2 September 2002, Points 1, 5 and 6 of the aforesaid decree lost their power, but Point 3 is still valid.

The aforesaid laws and decrees of the president of the Azerbaijan Republic that identify the types of activity that are considered to be a state monopoly and the types of activities that are liable to licensing should be mutually linked and complementary. But unfortunately, this was not considered in the legislative process, which causes confusion in the legal system.

The analysis of the current law makes it possible to draw the following conclusions. All levels of authorities are using licensing in order:

- To keep their power over the enterprises of which most have been privatized or gone beyond direct control;
- To ensure fiscal interests (replenishment of relevant budgets with the payment for registering and issuing licenses, as well as penalty sanctions);
- To quickly foil unscrupulous entrepreneurship.

It is clear that the last factor is the only essential and important one in terms of the real interests of the state and taxpayers-consumers.

In this regard, a well-thought out approach is required to the organization of licensing. This would combine a constructive link between the settlement of problems and protection of consumers' rights, ensure the observance of fair competition rules and prevent additional barriers to entrepreneurs in the form of licensing procedures, in order to form a civilized legislative base in this sphere in line with the norms endorsed by the Constitution and the Civil Code of the Azerbaijan Republic.

## 2.4 Proposals to Improve the Licensing System

In practice, the introduction of complicated procedures while issuing a license has brought about an unjustified growth in the management apparatus and the formation of a network of special units dealing only in this task.

Violations in the organization of licensing have created favorable grounds for corruption and abuses. The artificially complicated procedure of licensing, extended periods required for examining documents, the formal nature of the organization of work and other shortcomings cause fair dissatisfaction by entrepreneurs, create an arbitrary situation in the authorities and disrespect for the law.

At present, one of the most topical issues in this sphere is to draw up a draft law "On licensing". Our belief is that the following principles should underlie the draft law:

- To reduce the circle of licensed types of activity to the necessary minimum. The types of activities where a lack of control might damage national, state and public security, including environmental security, should be liable to licensing. One of the most difficult issues in this instance is the reason for identifying this or other type of activity as liable to licensing[10];

[10] In our view, the presence of public interest (demand) in the type of activity in question can serve as a criterion for recognizing this or other type of activity as licensed. This interest can be substantiated with the following considerations:

- An activity that is dangerous for an unlimited number of people who do not participate in its implementation (for example, dumping of waste materials, emission of contaminating substances and so on) which pose a threat to the environment;

- To eliminate the duplication of control and oversight schemes (for example, licensing and compulsory certification at the same time);
- A clear link between licensing work along with other types of control and oversight activity in various agencies;
- To ensure effective post-licensing oversight, and not merely a list of procedures for issuing licenses;
- To define the authorities and mechanisms of interaction in the process of licensing work within the central executive authorities and relevant local government bodies;
- To establish the license fee ( not related to fiscal licensing, for example, the gambling business) at the minimum level (the level of expenses) along with the term of a license – depending on the type of activity – for a sensibly long period (no less than five years);
- To determine exhaustive grounds for revoking a license in order to avoid violations by the authorities. The cause for revoking or suspending a license should not simply be a violation of licensing rules and procedures, but also failure to observe the requirements set to the licensee;
- The right to issue licenses for government agencies that have enterprises carrying out a relevant type of activity. should be granted to other government agencies;
- The regulation of the procedure  keeping the register of licenses, as well information contained in the register of licenses.

## 2.5 REGISTRATION OF PROPERTY

The registration of property in the Azerbaijan Republic is regulated by the following legislative acts:

- The Civil Code of the Azerbaijan Republic (1 September 2000);
- The law “On the state register of real estate” (29 June 2004, No 713-IIQ);
- The decree of the president of the Azerbaijan Republic “On the rules of keeping the state register of real estate” (14 October 2004, No 135);
- The decree of the president of the Azerbaijan Republic “On the approval of the statute on the state register service of real estate under the Cabinet of Ministers of the Azerbaijan Republic” (30 August 2005, No 286);
- The resolution of the Cabinet of Ministers of the Azerbaijan Republic “On the approval of the form and compilation of the extract from the state register of real estate” (6 October 2004, No 174);
- The law “On the privatization of state property” (16 May 2000, No 878-IQ);
- The decree of the president of the Azerbaijan Republic “On the approval of the second state program on the privatization of state property in the Azerbaijan Republic (10 August 2000, No 383);
- The decree of the president of the Azerbaijan Republic “On the approval of the statute on the rules of selling state land plots on which privatized state enterprises and facilities, as well as enterprises and facilities built by legal entities and private individuals are located” (19 December 1997, No 659);

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- An activity that involves an unlimited number of participants in its circle, including their property and investments in production (investment funds, banking activity and so on);
- An activity that has a direct impact on the health and security of the population;
- An activity that can affect the security of the state;
- An activity that uses unlimited resources;
- An activity that is excessively profitable and is liable to high taxation and oversight (for example, production, storage and wholesale of alcoholic products).

- The decree of the president of the Azerbaijan Republic (6 July 2006, No 426) "On the invalidation of Decree No 602 of the president of the Azerbaijan Republic dated 23 June 1997 on changes and additions to some decrees and instructions of the president of the Azerbaijan Republic and "On the official registration of the ownership rights of private legal entities and private individuals to property", other decrees and instructions and resolutions of the Cabinet of Ministers of the Azerbaijan Republic.

Accordingly, the registration of property in the Azerbaijan Republic is regulated by a great number of legislative acts, which creates great difficulties in applying the law. A citizen learns of a number of legislative acts and decides which rules apply, length of time required and which agencies need appealing in order to register his property.

The state registration of property rights is defined by Paragraph 2 of Section 5 of Chapter 3 of the Civil Code of the Azerbaijan Republic.

Under Article 139.1, the ownership right and other rights to real estate, the restriction of these rights, their appearance, transfer and termination should be registered by the state.

The ownership right, the right of use, mortgage, servitudes, as well as other rights to real estate should be registered in cases envisaged by this code and legislation.

The state registration of rights to real estate is carried out in the state register of real estate compiled and kept by a relevant body of the executive authorities on the basis of procedures established by the law. (Article 139.3)

Until proven that the content of the register is inaccurate, the presumption of authenticity and completeness of that content is in force. A memo in the register in favor of a person who obtains any rights registered in the name of the alienor on the basis of a contract is regarded as a genuine extract for cases when a protest is made and when the purchaser is aware that the memo is inaccurate. (Article 140)

Under Article 144.1, contracts on the handover of facilities of the state register of real estate should be certified by a notary. While certifying a contract, the notary ensures that the owner of the property is genuine and that the contract is legal. He bears responsibility for the inaccuracy of the contract he certifies.

Once a contract on real estate is certified by a notary, the notary provides two copies of the contract to the applicant or else within two days, forwards the certified application on the registration of his right in the state register of real estate to a relevant body of the executive authorities. A copy of the contract, documents that reflect other legal grounds for the state registration of rights, the plan and size of the land plot, the Title Deeds of buildings, facilities and other real estate (their component parts) located on the land plot, a drawing and a receipt on the payment of the state duty are attached to the application. A copy of that application is handed over to the person who applies for the certification of the contract by a notary. (Article 146.4)

Thus, according to the Civil Code:

1) The state registration of rights to real estate should be carried in the state register of real estate;
2) Contracts on the handover of facilities of the state register of real estate are certified by a notary;
3) Subsequently, the notary provides two copies of the contract to the applicant or forwards it to a relevant body of the executive authorities within two days;
4) The applicant is required to collect the following documents from various organizations:

4.1. Documents that reflect legal grounds for state registration;

4.2. The plan and size of the land plot;

4.3. The Title Deeds and drawing of buildings, facilities and other real estate (their component parts) located on the land plot;

4.4. A receipt on the payment of the state duty.

The grounds for the state registration of rights are indicated in the law of the Azerbaijan Republic "On the state register of real estate".

According to Article 8, the following are regarded as grounds for the state registration of the appearance of rights to real estate, its transfer to another person, restriction (loading) and termination:

8.0.1. Acts adopted by the executive authorities and municipalities in the order established by the law on the alienation, renting, use and mortgaging of real estate belonging to the state and municipalities;

8.0.2. Agreements on real estate certified by a notary, certificates on inheritance rights, housing certificates and other documents established by the law;

8.0.3. Court rulings that have taken legal effect;

8.0.4. Acts, certificates and registration papers issued by relevant bodies of the executive authorities before this law took effect, which confirm ownership rights to real estate, as well as to land plots, buildings, installations, residential and uninhabited buildings, private houses and cottages, the depths, water reservoirs, forests and perennial vegetables and enterprises of the labor complex.

Article 9 of the law explains the rules of the state registration of rights. Article 10 shows which documents should be submitted for the state registration of rights. Article 12 explains the means the state registration of rights is made official.

Of significance, a relevant body of the executive authorities prepares documents prior to the ownership right to real estate is made official by means of an extract from the state register. This is issued by the registration agency and it is necessary to apply to various agencies to obtain one document and spend an indefinitely long time to collect those documents.

Article 17 defines the state registration of ownership rights to incomplete real estate.

Article 34 of the law of the Azerbaijan Republic illustrates the term of notarial procedures:

> If the Civil Code of the Azerbaijan Republic does not provide for other procedures, notarial procedures are carried out once the payment of the state duty on all required documents are submitted.
>
> If it is necessary to demand additional information or documents from officials of departments, enterprises and organizations or to forward documents for examination, notarial procedures can be postponed for no more than one month.
>
> Should there be information from a court regarding an application from another interested person who disputes the right or fact that is to be certified, procedures should be suspended until the case is solved in court.
>
> At the request of another interested person who wishes to go to court to dispute the right or fact that is to be certified, notarial procedures should be postponed for 10 days. If there is no information from the court regarding an application from another interested person on the right or fact that is to be certified during this period, notarial procedures cannot be suspended.

Other grounds for postponing or suspending notarial procedures can be defined only by the legislation of the Azerbaijan Republic.

Article 46 defines agreements on the alienation or mortgaging of property.

Agreements on the alienation or mortgaging of property that is to be registered are certified following the submission of documents confirming the ownership right to alienated or mortgaged property and subsequent to the submission of information on means of transport and their examination by a relevant body of the executive authorities of the Azerbaijan Republic.

In order to conclude agreements certified and (or) registered by a notary, which allow a husband or wife to dispose real estate, a written agreement of the reverse, certified by a notary, is required.

When agreements on the alienation or mortgaging of a house, flat, cottage, garage, land plot and other real estate are certified, it is necessary to ensure that there is no ban on the alienation of property or whether the property is under seize.

Should there be a ban, the agreement on the alienation of property can be confirmed only if there is an agreement between the creditor or the person who obtains the right to transfer the debt to the person who obtains the property.

Agreements on the alienation or mortgaging of a house, flat, cottage, garage, land plot and other real estate are certified in the area where that property is located.

The law of the Azerbaijan Republic “On the privatization of state property” explains the mechanism of adopting a decision to privatize state property. Article 29 defines the official approval of agreements on the privatization of state property.

The decree of the president of the Azerbaijan Republic “On the rules of privatizing uninhabited premises which are at the disposal of the local executive authorities and are located in residential buildings constructed at the expense of the state” (23 December 2000, No 432) state that the privatization of uninhabited premises is carried out in the following way:

4.1. Uninhabited premises rented by privatized state enterprises (facilities) and used for production, trade, public, services and other purposes are privatized together with those enterprises (facilities) according to legislation.

4.2. Applications on the privatization of uninhabited premises rented by private legal entities or private individuals are submitted to the State Committee of the Azerbaijan Republic for the Management of State Property.

A copy of the rent agreement and the following documents are attached to the application:

a) For legal entities:
- A copy of the statute of the legal entity certified in the established order;
- A copy of the certificate on the state registration of a legal entity approved in the established order;
- The Title Deed of uninhabited premises;

b) For private individuals:
- Identification card;
- The Title Deed of uninhabited premises.

On the basis of an application submitted to the State Committee of the Azerbaijan Republic for the Management of State Property, a relevant decision on the privatization of the uninhabited premises is made within two weeks.

The decree of the president of the Azerbaijan Republic “On rules of making official the sale of privatized state property (enterprises and facilities)” (23 December 2000, No 432) stipulates that once a decision is made to sell state property and the protocol on the results of auctions and competitions is signed, according to the law, a sale and purchase agreement is signed between the buyer and the State Committee of the Azerbaijan Republic for the Management of State Property.

Subsequent to signing the agreement, the buyer is offered a certificate on the sale of state property by the State Committee of the Azerbaijan Republic for the Management of State Property with the aim of state registration of the relevant agreement in the state register of real estate and making the ownership right official.

Certificates on the sale of state property are made from a particular type of paper, strictly registered and its issue is noted in a unique book.

The buyer obtains the ownership right to shares he has acquired at check and money auctions, the day the protocol on the results of the auctions is approved. In this case, the State Committee for the Management of State Property provides a relevant notification that certifies his ownership rights.

## 2.6 Proposals to Improve the System of Registering Property

In conclusion, the registration of the ownership right to real estate is a lengthy task. One must appeal to various agencies in order to collect required documents, at the same time being conscious of various legal acts while the whole process is vague. Apart from the civil code, it would be expedient to regulate this issue only with one law, to reflect all issues related to the registration of property and to clarify where to obtain documents and the time required to

register a property. At the same time, other legislative acts on the registration of property should be considered invalid.

It would be crucial to explain specific stages for obtaining each document, the agencies to approach and the time required to obtain a document.

Five days are sufficient for all registration procedures instead of the current twenty for registration of ownership right. In addition, twenty days are required merely for registration purposes which do not include document collection time.. As a result the wording should be altered from “up to 20 days” to “up to five days”.

# 3. GEORGIA

## INTRODUCTION

Economies of South Caucasus countries differ significantly in the way in which they regulate the entry of new businesses. State regulations of business imposes costs on firms in one way or another, to operate a business by meeting of regulatory requirements, paying licensing fees, avoiding delays in obtaining regulatory approval, or spending time dealing with officials. A good investment climate in no way signifies elimination of business costs, but makes them meet social interests.

In the countries that started transformation to the market economy, including Georgia, business procedures was so burdensome, that entrepreneurs entailed corrupting officials to speed up the process. Others, in order to avoid oppressive regulations, conducted their businesses unofficially. Regulation that imposes costs beyond the expected social benefits is usually regarded as red tape. Operating a business has unnecessarily high costs as a result of inefficient administration and poor institutional development and as a result of lack of business practice and state regulations experience.

Administrative barriers can seem troublesome and overwhelming, adding considerable cost, time, uncertainty and risk to an investment project. Complex, non-transparent and time-consuming procedures not only deter new investment – both local and foreign – but also erode the competitiveness of local firms. Undoubtedly, investors locate countries or regions that make the realizing of profit simple while complying with regulations.

So, the main task in transition countries is to make this process uncomplicated and reasonable with the goal of improved regulation.

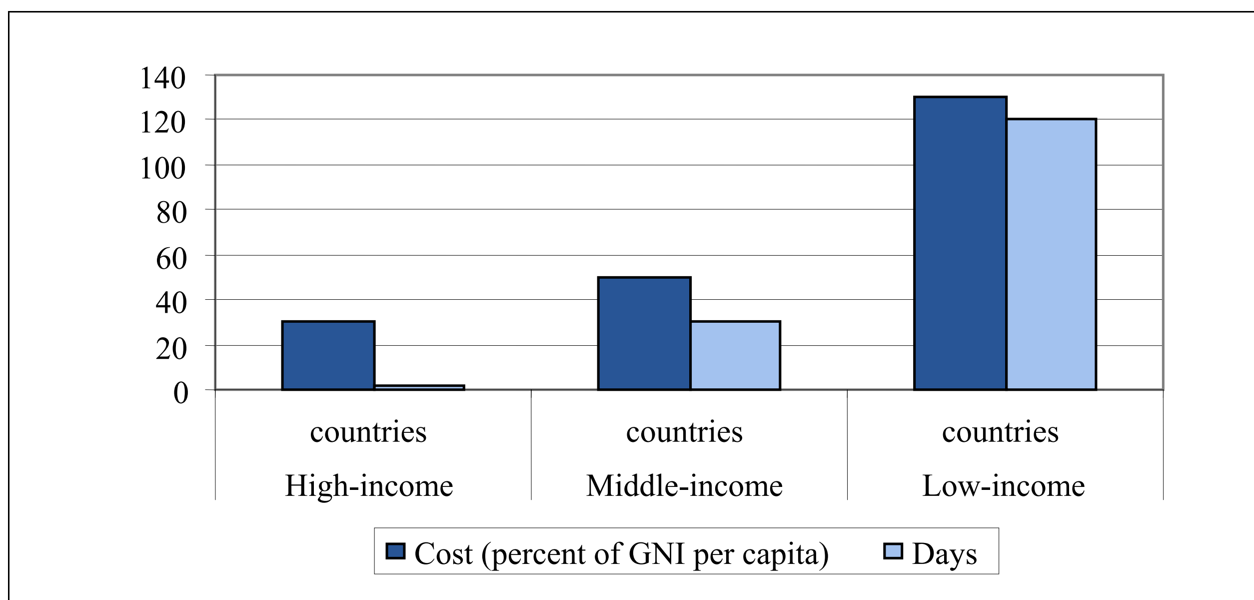
Reforming Business regulations strategy requires establishing a more favorable business environment to promote competition and reduce risk. The high cost of doing business has especially stunned the growth of firms in the informal sector. In particular, the challenges are that environment for entrepreneurs is uncertain, markets are smaller, skills are shallower, the supporting infrastructure is weaker and the legal and regulatory environment restricting.

In the Caucasus, countries are adapting elements of the reform agenda to their cultural, social, political, economical and institutional conditions. The task of reform is not purely technical. A broad consensus for reform and full ownership of this difficult agenda are essential for success.

Recent studies show that both investment and the efficiency of that investment are lower in countries where the regulatory burden is greater. As a rule, delays are greater and costs higher in low-income countries. In addition, starting a new business takes longer and is more costly in developing countries[11]

[11] Based on median cost as percent of gross national income (GNI) per capita and median days reported in the World Bank Doing Business Project. *Source:* www.doingbusiness. com.

## 3.1 STARTING A NEW BUSINESS




**Georgia** belongs to the countries with moderate economic growth. Until 2004 Georgia's economy grew at a very slow rate and in 2003 Georgia's economy attained a mere 73 percent of its 1990 economic growth. Until 2004 there was no effort to build an economy that could develop the powerful entrepreneurships and the active participation of civil society institutions. Instead, government inactivity and economic stagnation persisted for nearly seven years.

Institutional changes and regulatory improvements have been attempted in the past, but implementation and follow-up were inadequate because of a lack of strong political will and weak institutions. These problems have been often aggravated by the absence of clear communication with the business community, the public and officials regarding changes in rules and regulations that had been introduced by the authorities. Georgia lacked the small and medium-sized businesses and effective large scale entrepreneurship.

A growing divide emerged between illegal and regulated economic spaces. The division was created and nurtured by politicians and officials as well as entrepreneurs. As the divide widened over time, it began to absorb the system of governance. Like other transitional countries, Georgia needed institutional new reforms.

"Revolution of roses" on the 23rd of November 2003 initiated starting of new institutional changes and regulations in all spheres of social and economic life. The new government eliminated and simplified many business regulations to boost the countries competitiveness and facilitate international integration.

Since 2005 the main goals of the new government were to establish new fiscal disciplines, restore the legal basis of the economy, destroy shadow structures, and simplify regulations through the introduction of new business laws. The post revolutionary period is especially remarkable because of the government's effective fight against corruption. A consensus on the path to progress has developed among civil society, entrepreneurs and the authorities through the liberalization of the tax code and custom code and the removal of state control over various sectors of society. Benefits for the individual and for entrepreneurs should also promote the government and society as a whole. Following stagnation, Georgia is now oriented to enhancing market institutions, protecting property and upholding human rights.

The government started to radically improve Georgia's investment climate. Apart from the construction of the Caspian Sea oil and gas pipeline, direct foreign investment in Georgia has been very limited because of bureaucratic interference, political instability and the enormous shadow economy, which combined to create a very tense investment environment. The government is struggling against corruption, more secure property rights, a liberalized tax code and institutional reorganization to improve the investment climate.

As a first step in this program the Georgian government launched a radical government reorganization that reduced corruption and bureaucracy, increased the responsibility of government officials and increased their wages. With greater legal income, bureaucrats were less tempted by illegal offers. The government also pressed through constitutional changes, a new cabinet of ministries. Many Ministries have amalgamated and the staff of public administrations has reduced. At the same time the number of institutions regulating, controlling and inspecting the private sector has reduced.

Two years have passed since the "Rose revolution", but the first results of the subsequent institutional and economic reforms are obvious.[12] New conditions and incentives that have emerged only recently do indeed demonstrate its halting progress toward the new western oriented values.

Subsequent to some institutional changes, a new social balance emerged between government, civil society, and business institutions. The Georgian experience demonstrates that civil society, entrepreneurs and government are symbiotic. With the exception of a permanent dialogue, it is impossible to build a just, democratic state.

A country development is successful when its government depends on the will of civil society, including entrepreneurs' interests – this idea embodies the new approaches to the governance of post-communist countries such as Georgia. If a government aims to "govern" society and regulate entrepreneurship on its own (as Georgia's government did it in the past), the transition to democracy and market economy will be inefficient. Achieving a consensus between the political authorities and business institutions is a precondition for successful economic reforms and sometimes entrepreneurs are perfectly situated to act. In this sense, business institutions ought to regularly participate in formal political institutions in order for government officials to realize their goals and create the best investment environment. In Georgia this process is in its initial stage. Reviving the entrepreneurships, strengthening the rational state system, adopting the best practice in business regulations and reforming the economy are the path by which Georgia can promote economic progress.

Reforming Georgia in 2005-2006 made considerable strides in reversing policies that had previously stifled private initiative. These reforms mainly concerned business registration simplifications. The emphasis was on reducing the costs of excessive economic and administrative regulations. This was accompanied by efforts to lower the effective rates of protection, reduce the uncertainty and elimination of quantitative restrictions. According to "doing business 2007" report, Georgia has skipped from 112 to a rating of 37 and has outstripped some EU countries.[13] Georgia became one of advanced reforming countries.

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[12] The rapid and thoroughgoing reform process in Georgia in 2005-2006 makes it difficult to assess the situation precisely. Several reports have addressed this issue, but most rely on old data, as with the IFC-CIDA 2005 survey on business environment, or the World Bank's report *Doing Business in 2006,* based on 2004 data.

[13] www.doingbusiness.org/documents/DoingBusiness2007_Overview.pdf

## 1. Reforming start-up procedures for establishing an attractive business environment in Georgia in 2005-2006 years

**Georgia**

Total area: 69,700 sq. km
GDP: $6.4 billion
GDP growth rate: 109,3%
GDP per capita: $1415
Average annual rate of inflation 8.4%.
Major exports: Ferro alloys, scrap metals and aluminum.
Major imports: oil products, machinery and machines, medicine
Major trading partners: Turkey, Azerbaijan, Russia, Ukraine, Germany.
Georgia became independent on April 9, 1991.
Administratively, the country is divided into 9 regions, (mkhareebi) and 2 autonomous republics Abkhazia and Ajaria.
In terms of contribution to GDP, agriculture contributes 16%, industry 18% and services 58%.
The country's economy is based on agricultural products such as citrus fruits, tea, hazelnuts, and grapes; mining of manganese and copper; and a small industrial sector producing alcoholic and nonalcoholic beverages, metals, machinery, and chemicals. Agriculture continues to be the most important sector as it employs a significant part of the population.

The procedures of business registration in South Caucasus countries differ. Recently Georgia has simplified a firm's registration process and further progress in regulations is underway.
In practice, when the process of registration is delayed, it indicates that the numbers of procedures are too high and as a result, when the application is filed to the Court for approval, the essential time for registering procedures for the stage of starting business is too high. Ministry of Justice is the committed institution for conferring legal position to firms. Registering procedures were reformed in Georgia in the middle of 2005 with the removal of the Ministry of Justice and courts from registration procedures and the duration of confirming or rejecting an application reduced to 3 days. Currently, state registering institution, that is tax departments are responsible for registering. Business companies register directly by the agencies of local tax administrations. The Ministry of Justice is responsible for the registering of non-commercial organizations only.
At the same time, following business reforms, according to the nearest amendments into the law "concerning Entrepreneurs", new regulations were created and request on minimal charter capital has been reduced 10 fold. All these procedures simplified starting business initiations and cut down costs of registration.

Other regulation amendments in Georgia transpired with duration and cost of registering. At present Entrepreneurs follow 8 steps to launch a business and procedures to start a business became more uncomplicated.
All these changes were allowed once the regulations reforms commenced in the middle of 2005. The Georgian Law on Entrepreneurs introduces a simple and easily performed procedure for a company registration. Till 2005 all legal businesses were required to register at the local court that has jurisdiction over the legal address of the enterprise. As of June 2005, all business entities are no longer required to register with the courts. They need only to register with the relevant local taxation office and complete the registration procedure within 3 working days of receipt of the required documentation. The Taxation Department is required to issue a taxpayer registration certificate within 5 working days (previously it would take 10 days). In practise, the entire registration process for businesses reportedly takes about one week.

Amendments to the Law on Entrepreneurs and the Administrative Code eliminated the requirement for a business to register with the Department of Statistics. Under the new regulations, this requirement has been replaced by a notification process between the tax departments and the Department of Statistics.

These reforms reduced transaction costs and Georgia ranked the best performers of business regulations. Company registration became relatively simple and straight-forward and is not reported to be an impediment to investment and business. According to the current legislation, a representative of an international company is not considered to be a legal entity in Georgia. However, the registration procedure is the same as for other types of enterprises. Companies with foreign investments enjoy national treatment and the same rights as Georgian companies.

**The European Union's Recommendations on Company Registration Procedures.**

The European Union has recommended to its Member States that administrative procedures which are required for starting up a new business should be simplified and made more user-friendly, so that entrepreneurs can obtain quicker and more efficient service and are encouraged in their new business venture. The Commission has, therefore, made several proposals for simplifying the registration aspect of starting a new business, which is outlined in the Commission Recommendation on Improving and Simplifying the Business Environment for Business Start-ups. Recommendations[14] include:

- administrative departments within a fixed period of one or introducing a single business registration form;
- setting up single contact points where enterprises can deposit the single registration form mentioned above. The contact points would be responsible for forwarding the information contained in the application to all other in two working days;
- introducing a system whereby a business is identified by a single number which it can use with any public or government department;
- ensuring that the different government departments avoid introducing duplicated or superfluous forms and/or contact points;
- allowing businesses to reject a demand for non-confidential information, if this information is available from another government department;
- using information technology and databases as much as possible for the transmission and authentication of the information supplied and for the sharing of information between departments, subject to appropriate safeguards protecting private data;
- setting clear targets in terms of deadlines for the processing of enterprises' requests and the granting of licenses or authorizations;
- introducing, where appropriate, a system whereby an application is deemed to have been automatically granted if the administration has not responded within a fixed deadline.

The new laws and regulations which were adopted since 2005 have improved the registration process. However, it is clear that some of the procedural requirements should be further streamlined to reduce the overall costs of the registration process for the business community and the government.

- **Duration.** Potentially, the definitive objective to improve the business registration process should be streamlined and Georgia should seek to implement a registration process that can be completed in a shorter timeframe. In some of the more advanced countries this can be achieved in 1 day. In fact, an increasing number of countries are beginning to use new communications technology to register companies. In many countries, a company may now obtain general procedural information, download application forms, and perform a company name search through the Internet. [15]

[14] Commission Recommendation of 22 April 1997 on improving and simplifying the business environment for business start-ups (97/344/EC). Official Journal L 145, 05/06/1997 P. 0029 - 0051

[15] The Registrar of Companies in many countries offers these services and at the same time offers updated records that contain basic company information for all companies in the register on its website.

- **Transparency of the information.** The Law on Entrepreneurs provides that data on newly registered companies should be published in the official newspaper. The law stipulates that the enterprise register is public information. Any person is able to view the records and obtain extracts from the registration file. Certain basic information regarding registered businesses must be available to the public (including the business community). This information is vital for businesses and it must be obtainable in a minimal amount of time, information on a firm's address, the person or persons authorized to sign for the entity or the chartered capital of a registered business. In practice, information on a particular company is reportedly difficult, if not impossible to obtain. Currently, basic information on newly established companies is also not published in the official newspaper, although the Law on Entrepreneurs explicitly requires this. In Georgia, the public function of the registry has to be fulfilled effectively. There is no consistent application of the information publication requirement across the country. The company registration process in Georgia is not conducive to ready and reliable access to information on business entities, with registration dispersed across the country. None of the registries is automated, so none of the information is available over the internet or by dial-up query. The registries generally do not respond to inquiries over the telephone.

- Furthermore, in the absence of a computerized database of registered companies, retrieval of registration information is extremely difficult, time-consuming, and costly. There is no mechanism to exchange information between local courts, the statistical department, and the tax department.
- It is necessary to establish **Electronic Information Access**. If a business owner has already submitted information to a different branch of the administration or another agency, this information should be made accessible to other branches of government without requiring a duplicate submission.[16]
- Integration of the business registration and tax registration procedures and the use of a **single registration** form.[17] The State Register (tax department) is then required to inform the statistic department of the company registration and provide all necessary information. This process would also save time and money for the applicant and the public administration. Businesses need only provide the information necessary for registration to a central processing unit, thereby eliminating duplicate requests for information from companies. As a second best solution, the documentation requirements of both registration procedures should be streamlined and overlapping requirements abolished. In EU countries for example, a one-step registration procedure was recently adopted. While it approved a computerized system, the government managed to consolidate the various registration procedures into a single coordinated procedure that can also facilitate manual registration and registration by mail.
- **Stamp Approval.** In accordance with the amendments to the Law on Entrepreneurs, company stamps are no longer required, and state institutions have been explicitly prohibited from requiring a company to present a stamp for any purpose. Information regarding this change in the law apparently has not been widely disseminated since as of today, many companies and lawyers still comply with the old requirements for company stamps.

[16] The business registers in EU countries are encouraged to give information and utilize Internet technology to create a website through which entrepreneurs can access all of the necessary forms and make the required payments online for a business startup. Many countries have launched a service on the Internet to facilitate one-stop shopping for regulatory information and forms. Informational web sites and electronic portals have been established in UK, Germany, Greece, Spain, France, Ireland, Luxembourg, The Netherlands, Portugal, Finland, and Sweden and etc.

[17] In some EU countries questionnaire gathers, on a single page, all of the information required by any administrative body to incorporate and register a new company. Other EU Member States have implemented systems where they routinely review forms in order to simplify their language, detail, and the number of forms required as well

In many countries firms are mandated to receive approvals from a range of different agencies prior to operation: one to register the business, another to register for taxes, another to get environmental approvals, another for health and safety clearances, and so on. To reduce this burden some governments have established "one-stop shops" where firms locate all the information and complete all the regulatory procedures that they need to start operating a business in a given jurisdiction.[18]

One approach would be to give a single agency the power to grant all licenses, permits, approvals, and clearances necessary for a new firm to start operating. In practice this is difficult. Existing ministries and agencies often resist surrendering their powers to a new agency. Moreover, to the extent that approvals are a response to a valid policy concern, the one-stop shop would need to duplicate expertise and facilities elsewhere in the government. Naturally, if the approvals do not meet valid policy objectives, the procedures could only be eliminated.

Because of these considerations, most one stop shops have narrower mandates, with authority to grant some approvals and provide assistance on others. For approvals that remain the responsibility of other agencies, the one stop shops may house staff from the relevant agencies or simply forward the applications to them. Even when the staffs from other agencies housed at the one-stop shop are unable to approve the application themselves, they can often facilitate the approval process.

## Conclusion

For doing business simply, less costly and more reformed, improving government regulations promotes serious problems. Reforms on business start-up procedures are not simple mainly because they require the coordination among the various government agencies and civil society. These procedures are more or less identical around the world and differences are based only on legal framework and formalities. There is no "one-size-fits-all" approach for registration process, although countries prefer to look at the experience of their neighbors, while in other countries it is easier to induce reforms by bringing external advice to the country.

The Georgian government in 2005-2006 initiated elimination of exceeded requirements to the business entities in the direction of international experience. It is hoped that in the future these reforms convey benefits and create incentives for informal sector activities.

Simplified start-up procedures are part of a comprehensive reforms package to support business. In Georgia the approaches of reforms have been outlined: to take institutional initiatives to reduce paper burden and to create the background for business development by improving the legislation. Intuitional changes were focused on administrative procedures for starting up a new business to be simplified, and for entrepreneurs to obtain quicker and more efficient service. In relation to business registration forms; setting clear targets in terms of deadlines for the processing of enterprises' requests and the granting of licenses or authorizations; tax registration and social insurance registration procedures. These include the company registration certificate, tax registration, social security registration, statistical office registration etc. Prior to reforms the establishment of firms was cumbersome, which entailed many visits to an office, interdependent procedures requiring excessive documents, few computerized registries, and many more. Institutional reforms transferred delegation of authority over business registration from courts and notaries to tax departments and created a base for one-window principle implementation for registration with trade, tax, labor authorities. But it is obvious that ongoing reforms require establishing one-stop-shop (online or via fax/mail) a single registration form, which captures the entire data set needed by every government institution requiring company information, introducing a single business registration and a single identification number (as in Canada,[19]), establishing online searchable database containing all existing business names, designing of e-government network, introducing "silence-is-consent"

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[18] One of the best practices is described in the World development Report 2005. A Better Investment Climate for Everyone. World Bank. 2005.

[19] www.bussinessregistration-inscriptionentreprise.gc.ca.

rule, making registration electronic that are the most effective ways in saving time during then registration process and etc.. All these regulations require future promotion of changes in the legislation as well as an information technology solution..

## 3.2 INSTITUTIONAL REFORMS TO MOVE FORWARD THE DOING BUSINESS IN GEORGIA

Following the latest institutional changes, Georgia's main orientation is to improve the investment climate, and create an effective investment structure similar to those that exist in many countries today. A radical improvement of the legislation was the initial stage for improving business environment in Georgia. These changes were created since the introduction of the new tax code in January 2005. A simplified tax code eliminated 12 out of 21 taxes, the time to register property fell by 75 % and the cost by 70 %. [20] A law on Amnesty and legalization followed of non-declared tax liabilities and property beginning December 24. Under this law non-declared tax liabilities prior to January 1, 2004 are deemed to be fulfilled and no tax authorities are authorized to perform tax audit for the period covered by the Amnesty Law. Subsequently the Law on Licenses and Permits was introduced on June 24, 2005 with the effective date being August 3, 2005. A new licensing law reduced the number of licensed activities from 909 to 159. A one-stop shop was created for license applications, to enable businesses to submit all documents in the one place, with no verification by other agencies required. Beginning of 2007 a new custom code and labor code will go into force.

### 3.2.1. Fiscal policy reforms – simplification of tax regulations

The old tax code has been in use in Georgia since 1997 till 2005. During that time it was obvious that it had many deficiencies. It imposed excessive heavy tax burden on entrepreneurs and was difficult to administer with many loopholes and possibilities of dual interpretation. All these factors together with poor administration of tax collection agencies encouraged entrepreneurs to bribe tax officials and/or move to the shadow economy rather than to follow the tax code. High numbers of exemption, allowances and deductions in the old tax code created unfavorable environment for competition. Since 1997 there have been many changes in the tax code which exacerbated these problems. Those changes served mainly to create favorable playground for selected business groups making the code even more complex and more difficult for entrepreneurs to follow.

Since the Rose Revolution the public administration improved generally and corruption in the tax collecting agencies began to decrease. Currently entrepreneurs have a slight opportunity to avoid taxes with the previous tax code being an even heavier burden. This brought many businesses on the brink of bankruptcy. Some entrepreneurs became prosecuted for avoiding taxes. This move brought fear to the business community since the majority of entrepreneurs were bribing tax officials. Ambiguity on the government's attitude toward the business caused domestic investment to decrease sharply in 2004. It became obvious that to avoid adverse effects on the economy the fundamental change of the tax code was required.

The main goals of the new tax code were to encourage economic activity and to limit the shadow economy. To achieve these goals the code proposes to reduce the overall tax burden and to make tax collection mechanism simpler and more transparent.

Significant reduction of the number of taxes is the main characteristic of the new tax code that was enacted in 2005. More than 20 effective taxes were reduced to only 8; tax rates also decreased. In addition, the system of tax administration was simplified in order to save the taxpayer's time.

The following taxes were abolished: tax on property transfer, pollution tax, tax on income from transport and payment for limit load, fixed payment, small business payment, tax on recreational facilities, tax on hotel, tax on advertisement, payment on the use of local symbolic,

[20] Doing Business in 2006.WB&IFC, p. 1-2.

tax on inherited and presented property (partially now integrated in the new income tax, tax on land (currently integrated in the new property tax), tax on owners of auto transport (presently integrated in the new property tax). In addition the following taxes were already abolished: tax on the use of roads (1% on income), payment for economic activity, payment for selling gas and oils, payment for exploitation of underground crossings.

Tax rates reduced significantly.

In order to simplify the system of taxes, the Tax Code provides for a combined property tax in which the property and land tax of legal entities and physical persons are integrated. Property tax rates are left unchanged, equaling to 1% of the residual balance value, while in the case of physical persons the tax rates for immovable property were increased in order to cover the cost of tax collection and improve tax administration.

The cornerstone of the tax reform was the reduction of income tax rates from 20% to 12%, and the reduction of the social insurance tax from 31% to 20%, thus promoting economic activity not only of physical persons (employees as well as sole proprietors), but also of legal entities (employers). By taking these measures, the Government is declining to increase Budget revenues through preserving or increasing the current income tax and social tax rates, but is rather targeting revenue legalization and taxable base growth through supporting the expansion of the economic activity of legal entities and physical persons.

In the old tax code income tax was progressive (0/12/15/17/20 percent depending on the level of income). According to the new code income will be taxed by a standard rate of 12%. Introduction of flat income tax is the core of reforms aimed at reducing the large scale of shadow economy. Recently, many transition countries have adopted flat tax rates on income (for example 13% in Russia, 25% in Latvia, 26% in Estonia, 19% in Slovakia).

The social tax reduced from 33% to 20%. This together with lower income tax aids to combat informal employment. Because of the high taxes on wages, employers would hire people without officially registering them as employees and wages were paid under the table.

Since the income and social tax rates are low in Georgia compared to other countries in the region, it creates an attractive environment for investment. E.g.: the income tax rate in Azerbaijan is 12- 35%, in Armenia – 10-20%, in Russia – 13%. Through preserving the 20% tax rate, the Tax Code introduced substantial changes in the Profit Tax (corporate income tax) calculation scheme, intended to stimulate investment and reinvestment processes.

The new system of calculating the profit tax allows 100% deduction of investment which encourages entrepreneurs to renew their businesses. Charity donations are not taxed if they do not exceed 8% of profits. As charity donations have no clear identification, this clause creates permanent misunderstanding between the tax officials and businessmens' good intention. Dishonest taxpayers can abuse the system making it difficult to control. This exemption defiantly cannot be considered as a simplification of the tax code. It is understandable that the tax code strives to encourage charity, however the cost of this charity can be very high for the economy as it has potential to endanger fair competition.

The tax rate on profit is the only rate that remains unchanged at 20% in the new tax code.

The Georgian tax system appears more attractive since the Tax Code fully reflects the provisions of the relevant EU legislation with regards to VAT. By means of improving the tax administration process, the Government reduced the VAT rate from 20% to 18% - the lowest rate in the CIS countries;

The minimum yearly turnover that requires registration as a VAT payer was increased from GEL 75 000 to GEL 100 000. Investment outlays are deducted from VAT and returned to the entrepreneur within one month.

VAT does not apply to sale of journals and newspapers. Import of printable paper and advertisements in journals and newspapers are not to be taxed. In addition, international transportation and services of tourist firms are not to be taxed. It is anticipated that these tax exemptions will promote consumption of some special products.

The main findings of tax reforms were as follows;

- introduce an upper limit of taxable turnover required for mandatory registration of a VAT payer of 100,000 GEL;

- abolish the minimum level of taxable turnover required for voluntary registration.
- In order to encourage fair competition, the list of commodities and services exempt from VAT is reduced significantly. VAT credit paid (payable) to suppliers while purchasing goods and services will be carried out based on tax invoices, in compliance with the tax returns submitted for the relevant reporting period. VAT refunds are introduced. Further to the standard VAT rate, the Code envisages zero VAT rating for the export of commodities. Zero rating are also be extended to:
- transportation and other services immediately relating to the international transportation of cargo and passengers;
- tourist services provided by tour operators for foreign tourists on the territory of Georgia;
- the rehabilitation of fixed assets on the Georgian territory, conducted by foreign enterprises.

One of the early requirements of the new code was to boost excise rates on tobacco and alcohol, but it was later revealed that the rates were too high consequently negatively affecting domestic production, destroying the tobacco industry and stimulating an increase of import of smuggling goods. In the beginning of 2006 as a follow up to these events the excise tax on tobacco and alcohol was reduced. At the same time increased excise on oil products to compensate VAT decrease and overall tax on oil products remained as in the old code.
The new tax code proposes to reduce penalty rate from annual 54% to 24%. The authors of the tax code anticipated that this step would reduce the bargaining power of corrupt tax officials. A tax payer can delay tax payment for up to 9 months but ultimately the fines need to be compensated.
To protect honest taxpayers the new tax code proposed to create the institute of tax ombudsmen, but this progressive change has not yet been implemented.
Additionally some tax procedures were amended. The time for solving tax disputes reduced to two months and the new 3-stage procedure for tax disputes solution implemented. The procedure was implemented by the Ministry of Finance. Arbitrage was the new alternative mechanism for tax disputes solutions. A time limit of one month was set for this procedure. In courts the time for considering a case was limited to two months. Taxpayer was granted the right to take the disputable case to the court or to the arbitrage procedure at any time. Three months after adopting the new tax code, a new alteration on the Tax code was adopted and the institute of ombudsmen and arbitrage institute were abolished. It seems that Georgia tax legislation exceeded intention to protect entrepreneurship rights.

**Comparative table of tax rates**

| Countries | Georgia | Armenia | Azerbaijan | Russian | Turkey | Czech | Latvia | Tajikistan | Germany |
|---|---|---|---|---|---|---|---|---|---|
| **VAT** | 18% | 20% | 18% | 0%, 10%, 20% | 18% | 22% | 18% | 20% | 16% |
| **Personal Income tax** | 12% | 10%, 20% | 12%, 35% | 6%, 13%, 30%, 35% | 20%, 45% | 31% | 25% | 10-30% | 19,9 - 45,5% |
| **Property tax** | 1%-- 20% | 0,2-0,8% | 0,1% | | 0,1% | | 0,4-4% | 0,5% | 0,35% |
| **Profit tax** | 20% | 5-20% | 27% | 0 -24% | 30% | | 25% | 30% | 30-40% |

### 3.2.2. Amnesty and legalization of non-declared tax liabilities and property

This law was enacted in the middle of 2005 and was part of the anticorruption policy aimed at legalization of incomes of physical as well as juridical persons. It was a one-time act lasting from June to September 2005 and targeted on legalization of the hidden incomes, which would be voluntarily declared by the taxpayers. This law guaranteed taxpayers who declared their property discharged of subsequent responsibility, penalty and jurisdiction for the committed misappropriation and unpaid liabilities.
In previous years failure to collect state revenues was the source of high corruption and flourishing of the shadow economy. For the government it is quite costly to uncover the total amount of unpaid taxes. At the same time it was obvious that compulsory measures against taxpayers are not sufficient to disclose the undeclared revenues and hidden property.
In order to legalize property and revenues, taxpayers should admit all hidden liabilities. Once declared, these persons are free from prosecution, on the condition that in the future they will not avoid taxes. It was a common belief that Legalization of property favors effective introduction of new tax code and liberate entrepreneurs from the past liabilities.

**International experience of tax amnesty**

Tax amnesty is the approbated method which has been used in many countries of the world: Austria, Australia, Belgium, Finland, France, Ireland, Italy, Portugal, Sweden, Turkey, USA, Bolivia, Chile, Columbia, Ecuador, India, Pakistan, Panama, Peru, Mexico, Philippine, Russia, Kazakhstan, and others.
Amnesty operating rules (standards) and goals were different in these countries. In some countries amnesty process was successful, in others - failed, depending on the actual environment of implementation. In 1987 Argentina's amnesty gave opportunity to participants to displace their unpaid liabilities for investment, but as experts proved, the amnesty failed since no effort had been undertaken to reform the fiscal administration system.
In Ireland amnesty had a great success. From its initial stage of implementation it was a well known fact that the amnesty was an original and single action presenting them a chance to liberate from unpaid liabilities and avoid penalty escalations. A strong audit measure was expected to be carried out in the post-amnesty period.
In Columbia during the amnesty period, taxpayers were allowed to correct their liability without penalties and without fear of persecution. In the post-amnesty period penalties increased and tax rates decreased and as a result fiscal environment improved.
In each country the length of amnesty period varied. There are 3 types of amnesties: short-term, leaping and permanent ones. In some countries amnesty has been repeated several times within a few years as in Argentina. There have been 6 amnesties in India. The permanent Amnesty countries are Canada, The Netherlands, Germany, and USA from 1919 to 1952. Several Amnesties have been introduced in Belgium, Argentina, and the Philippines.

### Characteristics of Amnesty and legalization actions in Georgia.

Legalization of hidden incomes was a precondition to implement the requirements of the law. It was a first step to cancel money laundering activities and illegal revenues. Legalization ended the source for illegal earnings. Under this law legalization and amnesty of hidden revenues has the following characteristics:

- This law not only referred to hidden revenues but also for real estate utilized for non-economic purposes.
- Persons excluded from this Law were the following: a/. Those who collected property by committing a crime through illegal trade of drugs and weapons, through participation of terrorist and trafficking actions and other international dealings; b/. Officials of public services and directors, deputy directors and supervisory board members of corporations, whose share holdings are under state ownership.

- The same rule was valid for the amnesty of concealed cash, with some prerequisite: If a person deposits the concealed money in a Georgian bank during the announced amnesty period, this amount is considered as legalized. Transferring the cash to the bank deposits was possible only during 3 months.
- The act of legalization was confidential. When legalization went into force all the files against the person who committed the crime prior to 2004, was annulled and other citizens who were sentenced for similar crime were released.

The Law created an opportunity for taxpayers to use outstanding tax liabilities from 1998 to 2003 for investment through its declaration. In this way amnesty draws personal investments and makes indirect resources for the economy. Law aimed at reinvesting the economy through disclosing hidden revenues. Though, instead of fear of confiscation among taxpayers' interest in investment and repatriation of the Georgian residents' finance was encouraging.

In this way amnesty achieved the following: maintained the superiority of law; stimulated legalization of revenues; released unfair taxpayers from outstanding tax liabilities; stimulated to accumulate cash in the banking system; created stronger banking control at the commercial dealings; renovated the trust and business reputation among the state and entrepreneurs; improved tax revenues monitoring process and accountability system; increased investment; raised state revenues; eliminated injustice and other conditions that enforced persons to commit illegal business.

Other positive results of the amnesty were the low operational costs; liberating the old mentality and providing a secure and sustainable life for taxpayers for future activities; decreasing the money flow into the shadow economy and introducing the voluntary declaration practice of tax payers; perfecting the tax administrative system, increasing the responsibility of state officials and advancing education of taxpayers. Amnesty facilitated to enhance the trust of civil society to government and to promote business environment.

### 3.2.3. Custom reforms - toward the WTO requirements

Custom regulation reforms are the most successful reforms in Georgia that are straightforward for importers and foreigners. From 2007, a new custom code will take force which will reduce 16 types of custom duties down to 3. this new code will institute new custom duties, that ranged – 0, 5 and 12 percent in spite of today acted custom duties ranged from 1 to 25 percent. This is all due to Georgia joining the WTO agreements in 2001.

It is no secret that in the Caucasus trade and custom legislation acts were not harmonized and contradicted to WTO, WCO and European standards. Since the ability of firms to provide their services depended heavily on efficient custom procedures and payments arrangements, all these caused additional costs and unnecessary commercial uncertainty for international traders.[21]

Further, reformation of custom duties and regulations according to the WTO requirements was the international responsibility and obligation of the Georgian Government. This requirement includes partially the availability of full information on customs procedures, the establishment of one window registration for goods, and the involvement of the business community in reforms that will be resulted in a more efficient customs system introduction.

[21] In Georgia over 65 percent of the SME sector active in foreign trade viewed customs as a problem. More than 80 percent of the companies surveyed claimed that the complexity of custom procedures is a barrier to trade. High customs' payments, problems in the proper valuation of goods, and a lack of information were also obstacles.

Success of trade policy reforms involves a variety of institutions both public and private. On the government side, an effective and non-corrupt custom authority is critical to success of reforms. Other institutions to which particular attention needs to be paid include marketing and finance. Typically they are considered under the common heading: "Trade Promotion” and with “trade facilitation” are necessary for export expansion.

**Trade Facilitation**

Trade facilitation is an important part of trade policy. In recent years the term, trade facilitation, has become extremely popular and, therefore, applied to an ever-growing number of activities. Given the very general origins of the word, facilitation, (Latin/facile: French/facile: make easy, promote, help forward) it is not difficult to understand how the term, trade facilitation, has come to apply to a broad range of undertakings. “Trade facilitation” is understood as deepening of the trade agenda, down from legislation and regulation to the actual practice and administration of multilateral obligations at the operational level. The current trade facilitation challenge is to establish common procedures and customs operations based on international conventions

Trade facilitation, which generally pertains to the standardization and modernization of customs techniques and simplification of administrative procedures underlying international trade, has been identified as a very cost-effective way to reduce administrative measures associated with importing and exporting goods.

The benefits of trade facilitation are beyond dispute. Trade promotion and facilitation programs are hot subjects and are being initiated around the world. Trade promotion and facilitation are valid policy objectives, but to be effective they have to be executed properly, and closely co-ordinate with other policy priorities.

According to these international requirements, in 2006 the Georgian government undertook measures to introduce a new tax code and new amendments in custom code eliminating many burdensome bureaucratic regulations of custom duties.

Custom code is the next significant document following the tax code to radically change the business environment. It is a strategic document and directly effects foreign economic relations achievements. This code stimulates exporters’ interests. For example, wine is the main product of Georgian foreign trade and 80 percent of this production is exported. Many items for wine manufacturing (bottles, etiquette, stoppers, boxes etc) are imported. Previously custom regulations for these imported items were free from custom duties if the items were used for manufacturing of export productions during a 6 month period. If the product was not exported during this deadline then entrepreneurs were required to pay custom duties. These custom regulations enforced businessmen to import small items to make their business look less attractive, time consuming and costly. According to the new tax code this period for using imported items has been prolonged by 12 months and in some cases - by 2 years. The cost of imported items as well, as the cost of transportation has reduced significantly. In addition entrepreneurs gained the possibility to create resources store of imported goods.

In addition new custom regime stimulates importers’ activities, because of reducing custom tariffs and duties. Rates of customs duties are varied and depend on the types of goods and state of origin. Rates vary from 2% to 30%. Goods originated in the WTO member states are taxed by the lower rates. Tobacco products and raw materials are not subject to customs duties till January 1, 2007. Oil products, including oil products from CIS countries are taxed at a rate of 12%. It is planned to reduce customs duties for the following two years and to cancel them completely by 2008. Custom tariffs of 30 percent, reduced to 12 percent, tariffs of 12 percent reduced to 5 and many custom duties were eliminated.

In Armenia custom tariffs are the lowest in the Caucasus and amounts to 0-10 percent, in Russia 5-20 percent and in Azerbaijan 0-15 percent. Though in Georgia tariff rate is higher than in Armenia, it has a lower rate to that of Azerbaijan and Russia. In parallel Georgia is introducing a new code harmonious system including trade procedures.
Customs fee for customs procedures while crossing the state border of Georgia is 0,2% of the customs value of goods.

Another simplification concerns oil and petroleum goods importers. Association of oil producers and importers of Georgia unites "Canargo Oilstandard", Lucoil", "Eco" and other large companies. Their request to the government was permission to create "closed type" custom terminals. This terminal would give them the opportunity to purchase and import into the country large amount of petroleum without paying custom duties in advance. Closed (blocked) type of terminals is a favorable opportunity for oil importers to create oil stores. These stores aid in decreasing their spending especially in situations, when international prices on oil permanently increases.
Another characteristic of new custom code is the simplification and optimization of custom regulations and instead of 15 custom regimes it is envisaged to leave only 7 .
Reducing the custom tariffs and duties creates some difficulties to domestic producers.[22] It is relevant to well known protection policy, but apart from this fact in Georgia custom regulations are weak corresponding to wheat production. Turkey is the main importer of wheat along with Russia. As it is known, the Turkish government provides subsidies and stimulates wheat producers to export to foreign markets. It allows them to sell it in Georgia by dumping prices. In order to enhance this process it is envisaged to reduce custom tariffs to 12 percent which will surprise domestic wheat producers. Consequently the Georgian producers' competitiveness will reduce. It is worth mentioning that in Georgia import of wheat products are among the first five items imported.

Although importers and exporters have different agendas, they have common interests and challenges that include bureaucratic restrictions and uncoordinated policies of the South Caucasus. These challenges inhibit free movement of goods, capital and labor force that is the outcome in limited official foreign trade, considerable smuggling, and small regional markets.[23]
In recognition of the need to promote free movement of goods, capital and, labor force countries must aim to coordinate and harmonize tariffs, border controls, payment agreements, taxation, investments and business regulations that is possible by bilateral agreement between Georgia and Armenia, and Georgia with Azerbaijan. The major benefit is to remove restrictions that impede flows of capital and goods – that makes segmentation of geographically contiguous markets. There is considerable unrealized potential for regional cooperation in power, transportation, and distribution (particularly energy products), which through trade facilitation and trade promotion would reduce the costs of doing business.

[22] New tax code envisaged simplification of custom regulations, and at the same time elimination of brokerage system, that cause problems with declaration of importers. Moreover so-called phyto-sanitary service was also cancelled that was corrupted and hampered business relations. Cancellation of phyto-sanitary service suspended export of vegetable, wine and mineral waters products from Georgia to the Russian Federation. Politization of bussiness reforms hampers mutual understanding and development of trade relations between the neighbours in Caucasus.
[23] These challenges were aggravated by the political conflicts in the region.

### 3.2.4. To take course to a competition and elimination of trade barriers.

Economic regulation of competition implies forcing economy by government bodies in order to maintain ongoing processes at a certain level or to avoid them. The centralized economy generally resorts to command mechanisms, while the market economy, mostly employs market instruments.

There are ample barriers to free competition: natural monopolies, licensing and permission practice, property registration, labour regulations and access to financial sources. All these problems are acute for the country. Several years ago privatizations of state property commenced and only now regulations for establishing free trade and completion has been instigated.

### Regulation of natural monopolies

State regulation of competition includes competition laws along with other measures aimed at promoting competition in the national economy, such as sectoral regulations and privatization policies as well as supervision over the government policies through competition advocacy. These regulations are against non-competitive practice displayed in a wide range of business activities in which a firm or group of firms may engage in order to restrict inter-firm competition. This maintains or increases their relative market position and profits without necessarily providing goods and services at a lower cost or of higher quality. These practices include price fixing and other arrangements, abuses of a dominant position or monopolization, mergers that limit competition and vertical agreements that foreclose markets to new competitors. [24]

Competition is fundamental if firms incite the market for profits and not the state for favoritism. Regulatory and competition policies facilitate market entry and exit, increase factor mobility, offer a level playing field and reduce transaction costs.

Among the state regulations are regulations of natural monopolies aimed at preventing abuse of monopoly power by the businesses, improving their functioning and enhancing consumer protection. The purpose of regulation of natural monopoly is to establish and exercise such behavior that would best respond to market relations, with the form and mechanisms of regulation taking due account of consumer interests, as well as those of businessmen. The civilized world has long acknowledged the need of regulators in natural monopolies.

[24] http://www.sice.oas.org/Dictionary/CP_e.asp#CP

**International Experience and models**

Recently many countries started reforms for improving competition environment. There are two kinds of regulations: those of sectors of infrastructure that aims at controlling the behavior of firms provide and design prices on goods and services and the antimonopoly regulation that aims at defending competition. Scheme of regulations includes norms and rules necessary for implementation of these procedures.

Natural monopoly exists in the sectors such as telecommunication, energy, gas and water supply, communal services. They have a specific nature and can establish prices. They have intensive influence on infrastructure and in this way public social interests are great on the prices of services on such sectors. That's why they are objects of serious regulations. These sectors operated by the decrees, licensing and contracts. Competition agencies regulate free trade sectors and oriented to avoid amalgamation of companies that can impact and danger free price design process.

There are two International experience models of competition: American and European. American Model (USA, Canada, Japan, Argentina and other countries) oriented against the monopolization of market and generally aims to control over the processes of amalgamation of economic units and to restrict unfair competition.

European model (UK, France, Australia and some EU countries) mainly oriented to restriction of unfair activities of dominated and monopoly companies. Other countries' regulations combine these two model characteristics.

In France general directorate under the ministry of economy is the responsible institution for regulation environment to enhance competition. Another task of this institution is to defend consumers' rights, regulate advertisements etc.

In Great Britain responsible institution for implementation of competition laws is the local (municipality) government. The municipality offers trade and standards control administrations that are responsible for introduction and elaboration of consumer policy.

USA is considered to be a pioneer in introducing an independent institute of regulation for more than one hundred years. There are federal regulatory commissions by sectors of economy. In every State either a separate sectoral commission or a single commission on all natural monopolies operates. They have established a Regulatory Commissions Association. A similar regulatory system also operates in Canada.

Various types of commissions exist in most West European countries. It is remarkable, that in Great Britain, Norway, Italy and Spain these commissions enjoy discretionary powers and have a high degree of autonomy.

It is obvious that efficiency and effectiveness of competition regulations depend upon the agencies and commissions, which are responsible for this regulation. These agencies operate as "advocacy for competition" and their activities include regulation of magnitude (extension) of competition, market dimension, level of market concentrations, market entry and exit terms, efficiency and expenditures of potential suppliers. Activities of these agencies include expertise and comments-making on legislative norms and decisions of local and central administrations

In the developed countries (USA, France, UK, Germany etc) agencies are advisers and can only give recommendations to the government for decision making process. They have no instrument to enhance the government to change policy. At the same time regulations give them possibility penalties administrative organs that are violent to competitiveness regulation norms.

In the so called new reformed countries (Poland, Hungary, Mexico etc) agencies for competition have the function of execution of laws. This practice supports market reforms in all levels of the economy, though it is the bearer of risk for corruption.

The main functions of agencies for competitiveness are issues of licensing, introduction of tariffs and aims at balancing of entrepreneurs, investors and consumers interests, designing of effective prices. From the institutional side institutions for defending competition can be created:

1. within the concrete sectors such as telecommunication, energy, water, road etc (UK and Argentina); 2. Or within the large sectors, and such sectors as transport, energy (USA, Hungary, Mexico, Canada); 3. Or within the intersectors (USA, Canada, Austria, Paraguay).

In Georgia, the state regulations are subject to the independent institutions which are separate from the state ownership and unite the following products and services: Electricity, gas, water, telephone. These agencies are essential to regulate natural monopolies, where competition is limited.

The regulations initiated to keep public stability, in general are non-market measures that support natural monopolies and disrupt consumers' rights. State regulations are used only in the period when one producer still dominates and other producers have difficulties (technical, geographical, natural) to enter the market in the short and medium term. The good practice of tariff regulations is achieved only when producers and consumers interests are balanced.

Provision of secure and high quality energy and water to the population is of vital importance and requires special attention of the State. Hence, this matter can not be left wholly at the mercy of market relations. In these circumstances, competition is to be compensated by state

regulation. Consumers as well as producers and suppliers of electric power, natural gas and water need to be protected and even more so with regard to tariffs and quality of services. In both cases, regulation tends to take the form of market behavior, as a sort of competition.

Since 2005 new institutional reforms have undertaken in Georgia and a new law on "free trade and competition" was adopted. Some state organizations were corrupt and created barriers in conducting business and these were removed. Generally antimonopoly service was reorganized, price inspections (agencies) were eliminated, State Department of Standardization, Metrology and Certification were replaced, Phyto-sanitary (sanutation) service was subjected to the custom department, and phyto-sanitary and veterinary certificates were eradicated.
Existing investment climate were changed by replacing the antimonopoly and consumer rights agency with agencies of free trade and competition. Ultimately a new agency was created with the aim to defend entrepreneurship from the government bureaucratic regulations.
The goal of these reforms is to liberate barriers for free trade. In the past antimonopoly agencies gained control of enterprises from unfair competition and defending regulations on tariffs and controlling prices, (that in many cases had corruption nature). The creation of a new agency would aim to control governmental administrations decisions and defend companies from free trade execution. They aimed at control over the tax exemption and tax benefits that resulted in receiving privileges in business, creating of political decision prior to the introduction of monopoly and restricting free prices designing, gaining control over the state programs to defend free markets and the same time liquidating administrative barriers for businesses.

## Standard's liberalization.

One of the steps for elimination of trade barriers was **standard's liberalization** procedures. In practice, till 2006 the obsolete GOST standards (standards of the Soviet Union) were used as Georgian standards. There were, altogether, around 26,000 GOST standards, available only in Russian. During the last 15 years approximately 30 new Georgian standards have been adopted. The standardization was based on the principle of voluntary participation by interested parties. Georgia has undertaken to transform its currently mandatory standards into voluntary standards in terms of accession to WTO. In order to introduce the EU standardization regime, Georgia dropped its state-controlled system of rigid, mandatory standards and in this way founded institutional preconditions for the implementation of private-sector system of flexible, voluntary standards and establishment of legal framework for a modern system.

To liberalize the economy recently, the issue of **deregulation** in infrastructure and some monopoly sectors actively debated in Georgia. Deregulation is a means to privatize regulation power by lifting this function from state agencies to new entrants, and to transfer property rights for infrastructure services from the public to the private ownership and control.

Deregulation is a relatively new trend, which foresees rendering the system of management more liberal. It is envisaged that e.g., energy generation is not a natural monopoly and in this case, it would be much easier to create a competitive environment. Competition and structural reforms are acceptable if aimed at attaining smooth functioning of the sector and making it more cost-effective. Due to the following reasons, the current hardships in the Georgian economy may set back the process of accelerated full-rate liberalization of the energy generation sector[25]
The recent institutional amendments and examinations should be considered as economic policy of liberalization with the aim of giving up the bureaucratic burden and creating a competitive business environment in Georgia.

[25] Georgian Economic trends. 2005. # 2. p.86.

**Licensing, Permits and registering property**

Till 2005 the great number of required licenses and permits were troublesome in Georgia. The 30 state organizations issued 65 types of licenses and permits. These regulations created barriers to market entry .Business activities were subject to necessary licensing, not an essential requirement for starting a business. Licences and permits were issued by market agents and there was confusion and disorder. There was a duplication of Institutions allowed to issue the same kind of licenses and permits. Fees for licenses in fact could be considered as a kind of tax. So, simplification of burdensome license delivery procedures was an acute problem that had to be solved.

In the middle of 2005 licensing reforms were oriented to eliminate of exclusive licensing and to keep only licenses to defend consumers' rights and maintain safe lifestyle. For a business entity, access to licensing should be easy if they meet simplified requirements of license terms. In 2005 a new law on licensing was adopted and only 150 licenses and permits remaining instead of the previous 950 which was a step towards improving the business environment. Licensing procedures and duration of issues were reduced. The administrative body issuing the license is required to issue an administrative act on granting a license within 30 days once the application is filed and an administrative act on granting a permit within 20 days once an application is filed. In some areas of business activity, the mandatory timeframe for issuing licenses and permits is even faster.

Moreover, the new law on licenses includes a number of innovations in the field already well known in Europe. Primarily, it sets to establish the so called "one window" and "silence is a sign of consent" principles. If the licensing office does not respond within a set period of time, the license is issued automatically. Best practice shows that business registration takes an average of 28 days less when a time limit is combined with a silent consent rule. This contributes to formation of efficient licensing system and reduction of barriers to business.

Notwithstanding of simplification of licenses procedures and requirements, cost and time for receiving permits and licensing are still higher then in EU countries. Therefore, it is advisable that the list of goods that are subject to mandatory certification must be revised regularly Information on procedures, requirements, and fees for certification should be easily available, including posting them on the internet. Furthermore, Georgia should establish a policy of automatic recognition of certificates from EU or OECD countries. Georgia should collaborate with the EU and OECD to obtain recognition of Georgian certification.

Under the law of licenses of Georgia only the following entrepreneurial activities are subject to licensing: producing and packing baby foodstuff; nuclear activity and activities related to nuclear materials and installations; production, repair and sale of weapons; local broadcasting; producing, transferring, dispatching and distributing electricity; distribution and transportation of gas; oil and gas processing; educational activity; insurance and re-insurance; customs shipping and brokerage; banking; non-banking credit-deposit activity; security register activity; stock exchange; central depositor's activity; specialized depositor's activity; management of assets; medical activity; mining; using subterranean area; oil and gas production; wood production; keeping hunting farms; fishing; regular international air transportation; using numeric resources; using radio frequencies.

The more progressive license and permit legislation in Central and Eastern Europe limits the areas of economic activity requiring licenses to the following: ***a/.Licenses:*** prospecting for and exploitation of subterranean natural resources; manufacture and trade in explosive materials, armaments and ammunition, as well as goods and technology intended for use by the military and police; manufacture, processing, storage, transport, distribution of fuels and energy, and trade therein; bodyguard and property security services; air transport and performance of other aviation services; construction and exploitation of toll highways and express roads; administration of rail lines and performance of rail transport; distribution of radio and television programs. **B/.Permits:** manufacture of alcoholic beverages; tobacco production; detective services; production and distribution of automobile registration plates; airport administration; courier services and postal services of a public character; telecommunication services; production of pharmaceuticals and medical materials, operation of pharmacies and pharmaceutical and medical warehouses and customs houses; domestic and foreign trade in livestock, except for sales performed by domestic operators of hunting leaseholds; the offering of tourist services for domestic hunting by foreigners and for hunting abroad; customs agencies; wine production; international transport.

## Property regulations and Processes to acquisition the permit on construction and building permission.

The main problem in Georgia in comparison to the best European countries is the bureaucratic municipality management system that creates high costs of **construction** and hampers the simplification of conducting a business. Construction companies are the most disgruntled (displeased) sector in terms of procedures and relation with state (municipality) authorities. These procedures are complicated and entail dealing with various institutions which are responsible for construction implementation.

In Georgia before a construction permit can be issued, the local chief architect's office supervises a preliminary design approval and review the main conceptual parameters of the project. Real estate object requires a unique cadastre number and registered in the state land cadastre. Entry of a land plot into the land cadastre requires a boundary survey that is conducted by the council of experts. Private sector surveying firms can perform cadastral work. Public Registry of Land and immovable Property is responsible for registering property rights to both land and buildings or other structures located on the land. A condition for entry of developed land into the cadastre is the issuance of a "Technical Passport" a Title Deed for the building. It is necessary to register property rights to buildings and structures separately from registration of the land right, unless the land and buildings are subject to the same ownership and the owner elects to register them as a single property object. Initial registration of a developed land plot requires production of a survey and technical description of the building and entry of that survey into a building cadastre. Technical description of the building must be presented to the registry when registering rights to a developed land plot. Council of experts survey and approve completed buildings and constructions and issue permit for exploitation.

Without general architectural plans for the subsequent zoning, construction applications are considered on a case-by-case basis, creating opportunities for corruption. Businessmen need two types of permission: permission on construction and permission on implementation of construction (building permit). Applicants submit to the local authority an application for

acceptance or commissioning of a structure. Difficulties in obtaining construction permits and inadequate information about utilities are the critical problems facing this sector.

Other characteristics and advisable action for construction business development are:

- Information resources on land and property are not highly developed. There is no centralized **information resource.**
- There is no geographic **information system** or real estate information system that can be accessed by potential investors. Technical information on land sites—primarily cadastral maps and surveys—is available only from government agencies, and most of that information is not available to investors. Government agencies are not legally authorized to sell mapping and other technical products commercially.
- Real estate **information resources** are not highly developed. Information necessary to evaluate land and property—including geodetic data as well as fundamental land use and environmental data—are still largely in the hands of government bodies and is not easily accessed.
- Technical description system (technical passport) constitutes a classic administrative barrier in that it is a state monopoly, adds to costs and processing time, and produces a product of questionable value to either the state or the citizens. It may be useful to consider abolishing the requirement for a technical passport as a condition for registration of rights to land or buildings. A building permit or simple land survey showing the approximate location of buildings or structure is sufficient to register rights. Permit building technical passports should be prepared by private sector architects.
- **Simplify the process of building acceptance**. The process of final acceptance of buildings could be simplified by eliminating the elaborate final reporting requirements. This could eliminate much of the administrative work and record-keeping.
- It is necessary to eliminate rules to accept permission on construction. If building company has a license, there should be no need to accept permission on construction in addition these double regulations require simplification..
- Limit the use of the **council of experts**. The council of experts is not an appropriate forum to resolve what essentially the legal rights of land owners are, and is arguably incompatible with private property rights.
- Finally it is recommended to implement fast-tracking construction permit procedures and the regulation of industry standards governing utility companies**.**
- Goals of certification should be clearly determined by defying which state functions should address safety issues and company certification. Adoption of international standards remains a crucial issue in the sphere of certification and standardization.

### Labour markets institutionalization: new labor code

Georgia has commenced the long process of regulatory reforms –generally by simplifying taxes, eliminating license for investment and improving the tax and custom administration. Reforms in these regulations need to be complemented by reform in labor markets to allow firms more flexibility in restructuring their operations and responding to changing competition.

Recently labour relations were regulated by the Labour Code of Georgia dated June 23, 1974. The law is applicable for all types of enterprises performing their activity in Georgia and providing work for local employees. Reforms in this sphere and issuance of a new labour code are planned in the near future. The objective of the reform is to have labour code meeting requirements of the modern society and provide more detailed regulation of relations between an employer and an employee.

According to the law on employment (from 28 September 2001), in 2006, the principles were revised and abolished the requirement to obtain permission for hiring foreign citizens and their employees in Georgia, as the new law on licensing and permission (2005) doesn't offer this type of permission from the ministry of labor, health care and social protection as before. This

way foreigners' entry to Georgian labour market is liberated and creates equal possibilities in the labour market for the foreigners equally with Georgian employees.

### Microfinance and Legislation changes for banking sector's liberalization

Entrepreneurs need easy access to market, finance and technical know-how. An efficient financial system contributes much to economic development. Banking system development is one of indicators of the business activities. The growth in economic activity needs to be supported by investments and banking loans.

Bank reform is considered to be one of the most successful sectoral economic reforms in Georgia. This reform has considerably promoted the reinforcement of the banking system and also the commencement of the process of liquidation of the fragile banks. In recent years, as a result of the reforms the number of banks decreased from 228 at the end of 1994 to 21 at the end of 2005, mostly at the expense of insolvent banks and those that could not meet the NBG's special requirements. The process of bank enlargement has steadily continued since 2004. In 2006 requirement for chapter capital increased to 5 mln dollars which provokes another wave of banking enlargement and reducing their overall number. [26]

Another activity in banking reforms is applying for the banking legislation to be liberalized and simplified. We should mention the following amendments in the banking supervision and regulations:

- The law regarding "activities of commercial banks" proclaimed that neither a shareholder nor a group of shareholders were allowed to either own or govern the interest exceeding 25% of the whole amount of preferential shares of paid or declared authorized capital of commercial banks. Due to an amendment in 2006 the acting restriction in the law on commercial banks stating that any one shareholder can own no more than 25% of a bank has been abolished and shareholders are authorized to have as many shares in Georgian banks they wish.
- Furthermore, the law regarding "activities of commercial banks" provides for remunerating physical persons' more than hundred untaxed deposits when liquidating commercial banks. And the legislative initiative of the National Bank of Georgia provides for remunerating physical persons' deposits not exceeding just 1 500 GEL.
- The restrictions that have existed until today in terms of establishing a bank have been abolished in accordance with which the bank was obliged to have at least 4 founders. Cancellation of the above mentioned limitation will make it easier to supervise the commercial banks and added that this demand was not being followed anyway.
- The legislation changes that have been elaborated with the intention to liberalize the banking sector also spread over the stock exchanges. These amendments should be included in the law "about the promotion of elimination of legalizing the unlawful payments'. In accordance with the change, the stock exchanges will be charged with the identity obligation only in those cases when the agreement sum is not more than GEL 6 000.

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[26] At the beginning of 2006, there are 6 commercial banks which hold an 81 % share of the aggregate assets, 86 % of the liabilities and 85 % of deposits. These 6 banks have expanded their branch networks and diversified their services.

**Banking system liberalization – questions for consideration**

- Liberalization targets the time-wasting procedures regarding the purchase of ten percent or more of a commercial bank. In this case, according to the acting legislation of many countries, including Georgia, the potential shareholder is required to submit numerous papers to the Central bank, which in turn verifies all relevant information prior to accepting or refusing the purchase. It is advisable to give potential clients a choice. A client can either buy shares in a bank and inform the Central Bank of the purchase, with all due documents submitted to them at later stage, or it can secure the Central Bank's permission initially and then conclude the deal on the purchase of shares. In the first case, if the Central Bank doesn't approve the purchaser, it loses its right to vote on the board of directors, but the right of ownership remains. The second case includes the so called 'silence gives consent' concept, which means that if the Central Bank doesn't give respond within 20-24 days, the applicant automatically is granted permission.
- Each government outlines the names of international rating companies which are acceptable and the Central bank defines the rating level, which offers a open invitation to foreign banks. If foreign banks respond to all these set criteria, the financial institutions of developed countries are allowed to enter within the banking system by an automatic regime. Should the foreign bank be willing to either purchase significant shares at Georgian banks or to open their branch-offices in Georgia, they would simply submit a notification identifying what country's banking supervision system the applicant financial institute belongs to.
- The desire of each client is to simplify the complicated procedures for opening accounts at banks. Today these procedures are regulated by the Central bank instructions that require submitting a lot of paperwork and demand the identification of the client for any type of transaction, even for exchanging money. Is it advisable to leave the issue at the banks' discretion? They might demand as much paperwork as they find relevant, and the risk factor would rest on the commercial banks alone. It would be fully up to banks to decide whether to demand all due ID papers. All risk would fall with the banks. They would be allowed to adopt a control mechanism and refuse to open accounts to the person without giving much explanation to it.
- In regards to the Hague Convention one of requirement is to adopt one-hand action of the terms of the convention. This means that international documentation on monetary transactions coming into the country which joined this Convention would be considered as legal documentation. This regime might ease the difficult, time consuming, and sometimes expensive procedures of the legalization of documents received from and sent abroad. The Hague Convention enables its member-countries to deal with the circulation of official documents such as IDs, regulations, and letters of attorney in and outbound in the country through one application form. This greatly alleviates both the banking procedures and the private documents-related-red-tape.

The alignment of Georgian standards for the licensing and regulation of activities of commercial banks facilitates the improvement of the banking services in the country, the further strengthening, stability and effective functioning of this sector, and the protection of the interests of the depositors. This in turn provides for the growth of confidence in the banks. As a result, recently a certain amount of money has moved into the banking sector. Existing banking legislation is harmonized with that of the EU. It provides no restriction for the opening of foreign branches in Georgia. Georgia has abolished all restrictions on the repatriation of capital.

In Georgia there are also an increasing number of specialized financial institutions – credit unions, nongovernmental organizations and so on that rely on local savings, reliable banking services and lending at market rates to reach a large number of clients. These institutional needs and support allow them to attract private investors. The main problems arise from the collateral requirements of banking and non-banking financial institutions. Legal restrictions and deficiencies in collateral regulations limit borrowing options for enterprises particularly for new and small forms that cannot offer unencumbered landed property. Bank's unwillingness to lend against illiquid and intangible property stems from the high costs of creating a loan secured by collateral, the slow and costly judicial procedures to repose and sell collateral and the inadequate registries for filling claims against collateral – making it difficult for lenders to publicize their security interests.

Another problem extends to land property. Laws for land markets are not clear, land registers have not been updated and establishing clear unencumbered title to land is difficult. That discourages long term investments, reduces access to institutional finance and mutes incentives for the greater productivity and commercialization of agriculture.
The further reforms are to improve investment environment and altogether with banking supervision and regulation simplification, land and property reforms, development of stock and commodity exchange and exchange of land are contributed incentives for the business improvement.

## Conclusion

In recent years Georgia has increasingly come to recognize the critical role that the private sector can play in the country's economic and social development. The Government has taken steps to reorient economic policy, and foster private-sector growth and foreign investment. They have adopted reform programs. As a result favorable business environment was established and many obstacles of outdated and ill-considered regulations on the investment climate have been eliminated. However much remains to be done to overcome the significant challenges that remain in the environment for private investment.
After the 2003 Rose Revolution, Georgia's economic transition was reinvigorated. Georgian government has endeavoured to improve the business climate. It has worked to amend legislation and revise laws and regulations. Georgia's strategy became liberal for establishing a minimal state, which is oriented on liquidation of any regulatory activity of the state, that base on corruption and bureaucracy.[27] In this way liberalization and deregulation of state power developed and Institutional changes established to create a framework for prompt economic activity. All these activities help to establish clear rules of doing business, helps firms make profits, which reflects well on the government, which further improves the business climate.
Developing a well functioning, market-oriented regulatory system is not easy, particularly in countries where the role of the government in relation to business activity has gone through such major and rapid change. Regulations that are overly burdensome may impair economic growth and reduce business competitiveness by contributing to higher administrative and compliance costs, as well as to a diminution of the rule of law. Minimizing the regulatory burden on business to the level that is necessary for the protection of the public is a key element in government policy designed to encourage entrepreneurship and private sector investment. This is the strategy element to establishing a minimal state.
In Georgia the key issue for the reform is the state development. Establishing state legitimacy is the means for increasing its efficiency, as well as the rule of law and law enforcement, are the means for improving the business climate. That is the path to positive and sustainable state development process.
Private sector assessment and firm survey suggests that firms have been held back by a difficult business environment that has increased risks and transaction costs. The curve suggests that when economic and political conditions are secure, risks of policy reversal are low and the business environment is inviting, domestic entrepreneurs are forthcoming in their investments and foreign investors come in willingly. [28]
Since 2005, Georgia has made greater effort to overcome negative perceptions of country risk and to make the business environment hospitable. Many of the reform efforts focused on improving the business climate. The number of licenses required to start businesses was reduced drastically. The tax code was simplified, and the number of various taxes reduced from twenty-one to seven. Income, corporate and social tax rates were considerably lowered. A concerted drive to strengthen tax and customs administration has played a key role in Georgia's improved fiscal performance. The Government bolstered tax administration by reorganizing the

[27] The search for a development path: challenges for Georgia. By Ivan Samson. Georgian Economic Trends, GEPLAC, March 2006. p.72.
[28] Private sector Development in Low-income countries. The world Bank. Washington D.C. p. 52.

Tax Department, strengthening the Large Taxpayer Inspectorate, and establishing the Excise Tax Inspectorate and Financial Police. The new customs code ensures simplified procedures for clearing customs and provides greater protection against evasion. Customs administration has improved significantly as a result of efforts to curtail smuggling by modernizing border checkpoints and procedures, and reorganizing the central and regional structure of the customs department. Corruption in customs and tax inspections, as well as abuses by different controlling authorities (including police), has been substantially reduced. New amendments to the law on entrepreneurship reduce burdens on businesses. New laws on standardization and certification of goods and services and a new labour code were adopted.

However, in spite of the efforts and good intentions, the actual implementation of reforms has not been always consistent and despite all deregulation and reforms carried out within the business sector legislation, some things remained uncertain. All these legislations have ambiguous paragraphs, which leave room for interpretations. Businessmen can't pay taxes due to complicated administrative procedures, not to the high tax rates. As a result cancellation the arbitration remains as an acute problem for business and government should introduce the model of arbitration one way or another, since the arbitration will settle many problems between business and state. Removing standard and sanitary services in Georgia formed a vacuum of regulations in this sphere. So, less progress was made in adopting regulations and establishing institutions to safeguard sanitary, phyto-sanitary, and animal-health standards. Competitive trade regime with low uniform rates of taxation can minimize the waste of fiscal and tax incentives. Better laws and better functioning legal institutions can offer transparent and equitable methods of protection without restricting incentives. Firms are more likely to grow and remain competitive when trade expands, investments are made easy, and regulations are simple and transparent.

The government confronted the creation of incentives for firms to invest and compete in a large market and to provide the means to do so. This accomplishment implies reducing barriers to trade, encouraging domestic and foreign investment, and applying simple regulations openly, supported by efficient infrastructure. Georgia made progress in reducing trade barriers. The challenge now is to reduce systematically the burden and cost of business regulations and poorly performing infrastructure while maintaining steady progress on dismantling trade barriers.

Since international openness and trade liberalization are considered as preconditions for economic growth, it is important to understand why in Georgia is much lower than expected. Though in this way is much more to be done.

The experience of other countries clearly demonstrates that sustainable change cannot be achieved without government commitment and the political will to effect change. Successful and sustained change requires shared goals among all stakeholders within the government and the private sector. Procedural and institutional reforms require the support of public servants at all levels of government. On the basis of shared goals, the process of rationalizing, streamlining, and simplifying bureaucratic procedures can develop, and improve the values of government agencies and transform them into service-oriented organizations.

The government and the business community must clear all obstacles that arise together. There is much argument over improving the business climate in Georgia. However, it is undergoing an evolutionary processes and investors and businessmen need to identify long-term prospects. Reforms need to be more consecutive and consistent. They should be seen as a means of limiting the power of the state. Such a view is based on a democratic principle of "co-operation" between government and its citizens, rather than an "authoritarian" style of regulation, which transition economies have experienced in the past. From the point of view of a regulatory system for business activity, this principle of co-operation refers to an effective mechanism for consultation and involving entrepreneurs at every stage of the regulatory process.

As a whole the years of 2005-2006 were the period of radical institutional reforms for Georgia and will reap the benefit of these reforms in the sphere of the development of business environment only in middle term period should the reforms develop permanently.

# PART B.

## FOCUS ON THE KEY OVERARCHING TOOLS AND PRACTICES

### 1. TECHNIQUES FOR MEASURING ADMINISTRATIVE BURDENS

***Introduction***

Despite the numerous administrative simplification initiatives launched by the governments of developed countries over the past decades, governments paradoxically do not often have a detailed understanding of the extent of the burdens imposed on businesses and citizens.

Consequently policy is made in an information vacuum, and the size of the actual burdens (as well as progresses and setbacks in reducing them) may remain unappreciated.

The measurement of the size of existing burdens can be an important information-based approach to developing a policy on burden reduction and the basis for the evaluation of policy initiatives taken. The size of existing burdens can raise awareness amongst politicians, sustain a political constituency for changes, and help develop and maintain initiatives and policies on burden reduction.

***Practices and experiences***

Ideally, in order to measure regulatory burdens or to evaluate programmes for reducing regulatory burdens, a first step would be to develop a method of measuring existing burdens (baseline) as well as measuring the administrative burdens of new laws and regulations.

Some governments have established “macro” or top-down methodologies aiming at establishing government-wide estimates for administrative burdens. Other approaches – sometimes combined with the former – are based on bottom-up reviews of sectors or on individual estimates of regulations’ administrative burdens, sometimes as part of broader impact assessments.

***A bottom-up approach: The Dutch MISTRAL methodology***

The box below describes the Dutch *Meetinstrument Administratieve Lastendruk* methodology, MISTRAL. MISTRAL is among the earliest and most thoroughly applied systems to measure administrative burdens in OECD Countries. With the use of MISTRAL, it was estimated that from 1993 to 1998, the administrative burdens for enterprises in the Netherlands grew from approximately NLG 13 billion (EUR 5.9 billion) to NLG 16.5 billion (EUR 75 487 billion).

The Dutch government has set up successive policy goals for the reduction of these costs; minus 10% by 1998, and minus 25% by 2002, compared to the 1994 baseline. According to EIM, a Dutch consultancy that participated in the development of MISTRAL, administrative burdens were reduced by 6.25% from 1994-1998, another 0.5% in 1999, and in 2000 – the most recent figure available – burdens fell by 0.2%, representing a total reduction of nearly almost 7% from 1994-2000.

To prevent excessive information requirements, the Dutch “Schlechte Committee” developed a set of general norms for individual regulators as well as the government to observe information gathering from businesses and citizens:

- *Re-use of information.* Government agencies should restrict information obligations as much as possible by re-using already available information. Enterprises register the

information for their own management use and can be transmitted without further processing.

- *Information processing.* Government agencies should be encouraged to create common data definitions. Different authorities requiring divergent presentations of the same data often leads to different interpretations and a tendency to non-compliance.
- *Information creation.* Government agencies should only request information creation if it can be proved that re-use and processing of existing information cannot provide the relevant information. Government agencies should avoid changing information obligations during reporting periods, and give enterprises enough time to adapt their administration to new requirements. Information provision obligations of enterprises should be minimized by giving the authorities the right to collect information in existing databases.

**The MISTRAL methodology**

In the Netherlands, the MISTRAL methodology has been developed to measure the administrative burdens of enterprises. MISTRAL works in three stages: *a)* an in-depth analysis during which all "data transfers" between a business and the authority (*e.g.*, a document, a telephone call, an inspection, etc.) are isolated and defined; *b)* the time involved in each "data transfer" and the level of the person performing it (related to professional qualification and hourly wage-rate) are then determined; and *c)* the data are computed to produce cost estimates. The MISTRAL method is a bottom-up approach (although the methodology also allows for a less expensive and less time-consuming top-down approach).

When applied for the first time, MISTRAL is rather labor-intensive due to the need to establish a cost baseline on the basis of a detailed scrutiny of all administrative actions required by law. Administrative compliance costs are calculated on the basis of "average practices" observed by a third party (*i.e.* consultants), in consultation with affected businesses and the issuing ministry.

MISTRAL has been used to quantify administrative compliance costs of different laws and regulations, including evaluation of the information requirements of labor law, annual accounts, corporation tax, wage tax and social premiums, legislation concerning working conditions, and environmental legislation. Burdens are quantified in time as well as in monetary terms.

- *Information storage*. This may be expensive and risky since some governments demand storage for a long period and. electronically stored data may become un-retrievable ("digital durability") after a few years. Government agencies should make storage period as brief as possible.
- *Information transfer.* Transferring information would be less burdensome if done electronically. If applications are completed manually then the administrative burden may be substantial. Government agencies should use IT to make information "place-independent".
- *Information procedures*. Laws and regulations occasionally prescribe with great specificity which instruments should be used and how exactly the information should to be gathered. Such laws and regulations may not prescribe the most efficient way of information gathering. Authorities, therefore, should prescribe only the results to be achieved in terms of information collection and not the method in which the reporting should take place.

### *Information collection budgets*

In the **United States**, the Paperwork Reduction Act (PRA), provides a framework for the measurement and management of the burdens, which federal information collections impose on individuals, businesses, and the government. Under the PRA, all federal agencies must request the approval from the Office of Budget and Management (OMB) prior to collecting information from the public. Detailed guidelines and standardized application forms enable the formation of comparable and cumulative information on paperwork burdens over time and between agencies and various types of regulations. The agency applying for permission collects information which provides the estimate for the expected number of respondents and the time estimated to provide the requested information. To ensure that regulators consider the need, and all relevant quality aspects of the information requirements they impose, the PRA requires that the head of each agency sign a certification stating that the information collection was developed under the observation of a number of provisions. Burdens are quantified in hours, however no guidance has been issued on how they are measured. OMB can approve data collection for no more than three years, at which point the agency must resubmit the information request for re-approval.

The Information Collection Budget (ICB) is the vehicle through which OMB, in consultation with each agency, sets annual agency goals to reduce information collection burdens. The ICB is built around fiscal budgeting concepts. Each agency calculates its total information collection "budget" by totaling the time required to complete all its information requests. This budgeting exercise is then used to measure progress toward reduction goals. Since 1980, the reduction targets have varied. In 1996 the ICB set an annual government-wide goal for the reduction of the total information collection burden of 10% during each of the fiscal years 1996 and 1997 and 5% during each of the fiscal years 1998 through 2001. However, during these years the actual burdens in terms of total hours only fell in 1998 (by 0.37%) whereas it increased in other years with between 2.5 to 4%, a total increase of approximately 12% from 6.8 billion man-hours in 1996 to 7.4 billion man-hours in 2001.

In the US, as for many other countries, the ability of agencies to reduce administrative burdens is sometimes constrained due to limited discretion. For example, requirements in regulations may be changed only through existing administrative processes that may take years. Furthermore, reporting and record keeping requirements may be mandated by existing statute or may be necessary to implement recently enacted statutes. There are also factors that tend to increase paperwork burden that are outside the control of agencies. These include economic growth, natural disasters, and demographic trends. These factors can change the number of participants in a programme, which – while not creating new burdens – nonetheless increases the reporting burden of the entire programme.

### *Index based approach to assessing burdens*

- In **Belgium**, a law passed in 1998 requesting the Agency for Administrative Simplification (ASA) develop a system to measure and reduce the burdens of administrative regulations. The system called "*tableau de bord*" (score board) records all the variables used in each procedure or formality of any kind. It makes use of indicators for each procedural step and gives index values to these indicators. The index values for a formality are added together, and the total is multiplied by the frequency of the procedure and by the number of persons concerned. The result obtained gives the procedure's overall index value. Burden indexes for individual regulations can also be summarized to indicate the total size of administrative burdens. The advantage of the index based approach is the flexibility to changes in regulation, and the usage by the administrators themselves (under centralized monitoring). Most importantly, it constitutes an important element of regulatory impact analysis, since the burden assessments are made before the implementation of a regulation. However the system requires training prior to administrators' usage creating difficulty in uniform application.

### *User surveys*

Many developed countries (OECD) have employed survey-based methods, either to measure compliance costs directly or to measure satisfaction with the forms and/or processes used in administrative procedures.

- An example of the former is the survey conducted in **Australia** by the Small Business Deregulation Taskforce. The survey formed one of the basic data sources to guide the Taskforce's recommendations for an integrated burden reduction programme. The survey results allowed the calculation of estimates of the total time spent on average by small businesses on administration and compliance activities (estimated at 16 hours per week). In addition, the distribution of the burden between broad regulatory areas was also revealed. (For example, approximately a quarter of the estimated total is devoted to government paperwork and compliance; taxation matters account for 75% of government paperwork and compliance burdens).
- In **Belgium**, a survey of enterprises' views of administrative regulations and administrative burdens showed that for the year 2000, Belgian enterprises estimated that they faced government imposed administrative burdens at a size equal to 2.6% of GDP. The survey, commissioned by the Agency for Administrative Simplification in collaboration with the Federal Planning Bureau also showed that nearly 70% of the burdens were borne by small enterprises. The survey invited enterprises to give their views on what the priorities should be for the government's administrative simplification policies.

  In order of priorities the responses were: to improve the quality of regulations, to make public services more user-friendly, to develop IT mechanisms and to introduce one-stop shops.
- In **France**, the Administrative Simplification Commission (COSA) launched in 2001 a set of consumer satisfaction surveys. These were conducted among user groups and the services managing case files or dealing with the general public in order to isolate key problem areas. The surveys led to the redrafting of forms with the help of a communications agency and the Committee for the Improvement of Administrative Language (COSLA).
- Similarly, in **Korea** a survey is conducted annually on citizens' satisfaction with the administrative processes set up by Government agencies. This programme forms a prominent part of the performance evaluation of those agencies.

### *Regulatory Impact Analyses programmes*

Use of regulatory impact analyses (RIAs) is now widespread among OECD countries. RIAs, while more broadly based in their concerns on regulatory impacts, constitute one systematic means of ensuring that consideration is given to administrative burden issues during the regulatory development process. RIA constitutes an *ex ante* approach to burden measurement, in contrast to the *ex post* focus of most measures adopted in OECD countries and discussed in this report.

RIAs have the significant advantage of allowing a re-consideration of potentially substantial burdens *before* they are imposed, rather than after their damaging effects have become apparent. Another advantage of RIA as an approach to measuring administrative burdens is that it allows those burdens to be placed in a broader context, explicitly requiring those burdens to be weighed against the benefits deriving from the administrative procedure and a consideration to be made of the net impact of the procedure and its attendant regulation.

**Measuring administrative burdens in Norway**

In Norway, the Brønnøysund Registers (an administrative agency under the Ministry of Trade and Industry) provides the possibility for an outstanding overview of reporting obligations imposed on Norwegian businesses. It also facilitates the reduction of future reporting burdens by using and sharing identical reporting definitions across the whole of government.

**Reporting Obligations for Enterprises**

Created in 1997, the main task of the Register of Reporting Obligations for Enterprises is to maintain a constantly updated overview of businesses' reporting obligations to central government. Law obliges public authorities to co-ordinate their reporting requests to businesses. The Register also maintains an overview of permits required to operate within various businesses and industries, and provides information on how to obtain such permits. On a yearly basis, the register publishes estimates for the total reporting obligations imposed on business by central government. The Register is responsible for the methodology and for collecting burden estimates, whereas individual ministries and agencies are primarily responsible for measuring the actual burden of a reporting obligation. Burdens are measured in time spent on filling out forms and preparatory work for the reporting obligation.

**Applying national reporting definitions**

The use of national definitions for information items simplifies processes in which two or more agencies require the same type of information from an enterprise, and eliminates ambiguity or confusion on requirements to businesses. In order to create such synergies and to increase co-ordination capabilities, the Register of Reporting Obligations for Enterprises has established a repository of reporting definitions based upon a database containing all the information collected from enterprises nation-wide. The national system of informational definitions also relies on a high degree of compatibility with international standards.

Experiences from Norway points to two basic but important preconditions for reaping the full benefits of a register measuring and monitoring administrative burdens and applying national reporting definitions. Firstly, regulatory ministries and agencies must be aware of their obligations to report, and to systematically calculate business' reporting obligations when preparing new regulation. Secondly, credible sanction and enforcement mechanisms must be in place to ensure that the obligation is honored.

*Source: Regulatory Reform in Norway*, OECD, 2003.

RIA also typically employs stakeholder consultation processes. Consultations have the benefit of verifying government estimates of the size of the burdens involved, as well as providing a forum for alternative proposals to be discussed. This ensures that regulatory proposals are the bare minimum required to achieve regulatory objectives. RIAs are usually subject to centralized review and/or clearance, such as by the Privy Council Office in Canada, the Regulatory Impact Unit in the United Kingdom, the Office of Management and Budget (OMB) in the United States or the Federal Regulatory Improvement Commission (COFEMER) in Mexico. This constitutes a further means of ensuring quality control over the estimates made and the conclusions reached.

### *Conclusions*

Measuring administrative burdens is essential if governments wish to "benchmark" their performance in relation to this aspect of regulatory quality, either in a static sense and/or to verify the results of burden reduction initiatives over time. The various approaches used in OECD countries have generated some quite detailed estimates of the size of administrative burdens.

Experiences indicate that top-down approaches facilitate priority setting for broad burden reduction programmes, while bottom-up techniques are better adapted to the design and evaluation of specific initiatives to reduce burdens. Survey-based approaches appear to have the potential to function as a relatively low-cost, yet reliable means of identifying areas of the greatest perceived burden among affected groups.

The “index” based approach to measuring burdens, as used in Belgium, also appears to have the potential benefit of being a less resource intensive approach to conducting top-down analyses. For this reason it may be a valuable method to priority setting for burden reduction programmes conducted at the macro level.

For a government, the paradox of measurements is that they are useful (in particular to sustain policy support) but tend to be costly if accuracy is needed. Administrative simplification bodies often have to deal with the dilemma of spending resources on evaluating results (and with this perhaps generating political support) or investing resources in specific simplification measures.

Another drawback of targeting specific burden reductions is that they raise expectations, which may be difficult to control and hard to fulfill by reformers. Simplifying the administration is extremely complex and difficult to predict. On the other hand, a measurable goal raises accountability of reformers. Measuring burdens is an area in which clearly defined best practices are yet to emerge.

Substantial questions remain which must be answered successfully before such best practices can be identified. These include:

- How a baseline is best established?
- What is the best way to measure burdens – on a micro or macro level or combined?
- Should benefits be taken into account, and, if so, how? Is it feasible to use such techniques to derive a “budget” for burdens?
- What is the best way to ensure that the regulatory impact analyses commonly used in regulatory reform programmes, take into account simplification issues?
- Are impact statement requirements useful tools in this context? Are they preferable to explicit burden measurement tools, due to their ability to locate burden measurements within a broader policy context and express them in terms of a benefit-cost framework?

***Best Practice Learnt – Possibilities of benefiting from the use of STANDARD COST MODEL Method***

In autumn 2003 a number of European countries joined forces and formed a network. The network enables the countries to make consistent comparisons and acts as a support network. The countries currently consists of the *UK, Norway, Sweden, Denmark, Belgium, The Netherlands, Poland, France, Hungary, the Czech Republic, Italy and Estonia*. The network has chosen the Standard Cost Model (SCM) as its common approach and in the summer of 2005 the *OECD* also chose to apply the SCM method for its ‘Red Tape Scoreboard’.

The SCM provides transparent and action-oriented measurements, which are ideal when trying to simplify legislation and lower administrative burdens. Further the SCM allows for a systematic analysis of administrative burdens within each country.

The Standard Cost Model as common methodological tool makes it possible for participating states to work systematically towards reducing the administrative burdens for businesses by:

- creating awareness amongst policy makers
- setting out a focused reduction strategy with well defined targets
- getting commitment and approval from various authorities
- monitoring the development of administrative burdens
- creating uniformity, transparency, reliability and comparability
- simulating ex-ante the administrative effects of draft legislation, in order to design regulation where costs and benefits are more carefully balanced

### The SCM as a tool for simplification

Due to the action-orientated nature of its results, the natural extension for SCM measurements is simplification. The SCM provides a crucial baseline and source of ideas for simplification opportunities. The advantages of adopting the SCM in the simplification process are numerous:

- By using the method it is possible to point out some specific parts of the legislation that are particularly burdensome for businesses to comply with;
- A measurement reveals where administrative costs occur in business processes, and therefore expose simplification to its greatest effect;
- The collected data may be employed in analysing the amendments to an information obligation affecting the administrative costs; using a database it is possible to simulate changes in the regulation in order to examine the consequences for stakeholders;
- The SCM assists in the identification of which department / ministry is responsible for burdensome regulation
- Furthermore the qualitative results from the measurement are highly relevant. They can help identify which burdens provide the largest 'irritation' factor for businesses.

The SCM also enables comparisons between counties, including benchmark studies. Such benchmarks not only provide each country with fresh ideas for reducing its own burdens, but also provide a tool to highlight the impact of international legislation, especially EU regulation. With these insights, we can make joint efforts towards reducing the burdens.

### Ex-post, ex-ante or both?

The SCM approach allows for both a measurement concentrating on some specific fields of existing regulation (ex-post measurement) or as part of impact assessment procedures measuring the administrative consequences of new legislative proposals (ex-ante measurement). A full scale measurement of administrative burdens, (a measurement of all existing legislation), is also possible.

### How does the Standard Cost Model work?

The SCM method breaks down regulation into a range of manageable components that can be measured; information obligations[29], data-requirements[30] and activities[31].

The SCM estimates the costs of completing each activity on the basis of a couple of cost parameters:

- *Price*: Price consists of a tariff, wage costs plus overhead for administrative activities done internally or hourly cost for external service providers.
- *Time:* the amount of time required to complete the administrative activity.

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[29] *Information obligations:*
Information obligations (IO) are the obligations arising from regulation to provide information and data to the public sector or third parties. An IO does not necessarily mean that information has to be transferred to the public authority or private persons, but may include a duty to have information available for inspection or supply on request. A regulation may contain many information obligations.

[30] *Data requirements*:
Each information obligation consists of one or more data requirements. A data requirement is each element of information that must be provided in complying with an IO.

[31] *Administrative activities:*
To provide the information for each data requirement a number of specific administrative activities must be undertaken (e.g. filling in information, sending information, archiving information, etc). Activities may be done internally or be outsourced (i.e. done externally).

- *Quantity*: Quantity comprises of the size of the population of businesses affected and the *frequency* that the activity must be completed each year.

**Combining these elements give the basic SCM formula:**

**Activity Cost = Price x Quantity**
**= (tariff x time) x (population x frequency)**

Administrative burdens are measured through in-depth interviews with a small number of businesses within the target group of the law. They are invited to specify how much time and money they spend performing each administrative activity that is required when fulfilling a given information obligation. In order to take into account, the different impact a law may have on various types of businesses, a relevant segmentation of businesses is carried out. It may for example be relevant to distinguish between smaller and larger businesses.

Based on the data material collected during the interviews, a subsequent standardization of the time and money spent performing each administrative activity, is carried out. The standardization gives a representative figure of the costs incurred by a normally efficient business within each segment, when complying with the information obligations of the law. A normally effective business is a company within the target group, which handles its administrative tasks in an ordinary way. In other words the enterprise does not handle its tasks better or worse than could be expected.

## 2. Leveraging IT solutions in reducing administrative barriers

### *Introduction*

The use of information technology (IT) solutions has been a major driving force in administrative simplification programmes in most developed countries. The country studies confirm that the exploitation of IT in relation to transactions within and between government bodies and, between government bodies and business and citizens, is probably the most important enabler of administrative simplification. In this regard, IT is used in three basic areas:

- To facilitate the operation of complex systems within government agencies, such as those relating to welfare benefit, tax, and licensing programmes.
- To aid interconnection among government agencies.
- To improve the interface between government and a citizen or individual businesses.

Administrative simplification strategies based on IT tools are numerous. Much of the progress made via the introduction and refinement of these strategies is visible on government agency Web sites, which have shown striking developments in the past few years. Among the most important uses of IT that have been developed are electronic means of:

- Storing, compiling and providing information.
- Providing access to codified regulations.
- Communicating within and between government departments and between different jurisdictions (intranets).
- Online filing of applications, and other transactions.
- Compiling and reporting statistics.

- Assigning business identification numbers.
- Government collecting data from enterprises without active enterprise involvement.
- Streamlining government contracting.

This section represents the major aspects of studied government IT programmes focused on administrative simplification.

### *Practices and experiences*

*E-Government Plans*. Government-wide plans to promote "e-government" have become common. E-government plans are overarching strategies for the application of key ITs throughout the government sector in a strategic and coordinated fashion. The key elements of these plans are typically: *a)* to enhance customer focus by facilitating access to government administrations by the public via the Internet; *b)* to modernize the state sector's operation by using online operations to deliver efficiencies and better performance; and *c)* to increase the immediacy and the effectiveness of communication between administrations, for example through the development of a secure "Intranet".

These objectives incorporated within e-government plans are strongly aligned with, and support, administrative simplification. Indeed, much e-government activity is, in effect, pursuing an administrative simplification agenda. Increasingly, administrative simplification policies are becoming explicitly integrated and important components of governments' e-government plans. E-government systems deliver administrative simplification primarily through improved accessibility of information and services and the creation of more integrated government services. Two examples of e-government strategies:

- **Australia's** strategic priorities for e-government include several elements closely related to administrative simplification. Firstly agencies must take full advantage of the opportunities the Internet provides. Secondly the priority is to facilitate enablers such as *authentication, meta-data standards, electronic publishing and record keeping guidelines, accessibility, privacy* and *security*. And thirdly for facilitation of cross-agency services. The focus is on making services more integrated and more accessible, on improving service quality by being more responsive to customer's needs, and on providing more cost effective government services.
- In **France**, the administrative simplification commission ("COSA") has since 1998 been responsible for providing assistance in the development of online public services and on the content of the services offered. A new agency for information and communication technologies ("ATICA") has been entrusted with providing technical support for the introduction of new IT applications in the administrations. Furthermore, a club for Web masters of public Web sites has been established and an external Web site has been set up to allow for the exchange of information, sharing of experience and pooling of good practices.

*Centralized Government Portals.* Related to above, the establishment of centralized government information portals is a key element in many e-government plans. The portals are attempts to create an access point through which citizens or entrepreneurs can find all relevant government information and, ultimately, conduct a wide range of transactions with the government. In more sophisticated versions of these portals, regulatory transactions are simplified by innovations. For example, by the creation of forms that are filled out automatically with previous information the government has regarding an enterprise. In addition, a central electronic access point enables entrepreneurs to be notified pro-actively about services and obligations. A further advantage of the system is that certain types of information would be submitted once only. Some examples:

- The **United States'** FirstGov.gov is the official US gateway to all government information. It consolidates 20 000 topical and customer focused government Web sites into one. The site helps clients find and conduct business with the government online, by phone, mail, or in person. On the home page, users may choose among three major customer gateways – citizens, business and government employees.
- **Korea's** guiding map for civil applications has systematically classified over 4 000 civil applications in a government-wide portal site. According to a survey conducted by the city of Seoul covering 1 245 citizens, 84.3% replied that the online system for handling applications contributed to achieving transparency and 72.3% declared that it accommodated their interests. The portal is still under expansion, and the government expects that a total WON 1.2 trillion (USD 91.7 million) of cost per year will be abstained once the system is totally in place.
- In **France**, provision of online services was ensured by introducing a national gateway portal in October 2000 that allowed online access to administrative forms (1 000 forms available out of 1 600). It was expected that by 2005 most public services would be available online. In 2000, 2.5 million people were able to determine their income tax online. Five million health care files are now exchanged each week on the health and social services network, which links medical practitioners to social security agencies.

*Specialized Portals*. More specialized portals are also used in many countries. They differ from the general portals described above in that they aim at assisting a particular sub-set of governments' "client" groups. Such groups include small businesses generally and, in some cases, businesses operating in a particular sector or industry. These specialized portals are often closely linked to a centralized government portal, such as that described above, and frequently represent an outgrowth of those general portals. In this way, they often constitute attempts to extend the logic of centralized portals by applying it to a range of particular groupings. Examples of such specialized portals are:

- In **Denmark** the Government portal indberetning.dk provides an overview of all reporting obligations for businesses, at the same time serving as a platform for the actual reporting. The portal provides broad information management mechanisms, by which businesses can identify, individualize and carry through reporting obligations. A "what if…" service based on the business' specific profile provides information on reporting requirements in case of particular changes to the business.
- Another example is the **Australian** Business Entry Point (BEP), which provides information in a linked and user-friendly format on a wide range of topics, including taxation, employment, business planning and financing, workplace relations, retirement benefits, and importing and exporting.

*Internet-based Registers of Formalities.* IT has enabled governments to use the Internet as a platform for registers of formalities imposed on citizens and businesses. This tool enables users to obtain all necessary forms online. Examples are:

- **Mexico** has established a "Federal Register of Formalities and Services" on the Internet. It includes the principal procedural requirements imposed by all federal departments and agencies on private citizens and businesses. The register enables users to obtain all business forms online and carry out electronically some regulatory transactions with the Ministry of Economy. An advisory service is available to assist users. The system contains over 3 400 entries, as well as links to a number of registers of state formalities and to national and international information on regulatory improvement processes.
- In **Spain**, a review of all administrative formalities was initiated in 1992 and resulted in the publication of an inventory of formalities in 1995. It was subsequently updated and made available on the Internet in 1997. The current inventory categorizes the formalities, and provides information on the objectives of the formality, its legal basis,

the responsible administrative unit, time limits for responses and the effect of non-responses.

- In **Greece**, the ARIADNE programme was originally set up to facilitate information access for people living on the islands in the Aegean Sea. Previously, the process of obtaining and lodging government forms would take two or more days as this entailed travelling to the district. The plan was to use the Internet for access and filing of administrative forms required for the issue of all certificates or permits. The programme involved redesigning over 300 application forms to be placed on the Internet. At the end of 2000, the programme included all necessary government documents that citizens in Greece would require. The programme is now operating in municipalities on the Islands in the Aegean Sea, providing access to computer terminals for all those citizens not connected to the Internet. The obvious value of this facility for the islands stirred interest in providing similar access to those living on the mainland. The programme has now been extended to other areas of Greece.

**Electronic Tax Filing System in Canada**

To streamline federal and provincial tax requirements and to reduce the paper burden on corporations, Canada Customs and Revenue Agency (CCRA) is introducing Corporate EFILE. Corporate EFILE will allow taxpayers to file corporate income tax information quickly and securely. This includes information from schedules, balance sheets, income statements, statements of retained earnings, and notes. Taxpayers would send tax data from taxpayers' computers to CCRA's through the services of a value added network (VAN), or through a transmitter.
Computer software then converts tax information into EDI format. Taxpayers file returns through the services of a VAN. To ensure confidentiality and security, tax information is transmitted in encrypted code and the information forwarded. The government bodies involved only receive information to which they are entitled. Corporations transmitting their own or subsidiaries tax returns, and transmitters offering transmission services to their clients, are required to complete a one-time application with CCRA. The application form and guide are downloaded, or paper copies obtained from any tax services office.
The benefits include the following: manual data capture is reduced or eliminated; built-in electronic acknowledgements and uniform communication with all trading partners; savings in paper handling and storage; built-in security controls; improved accuracy and audit trails; and all transactions are recorded and traceable. Other benefits:

**Faster refunds** - Corporate EFILE streamlines the filing process, making it more efficient. This results in much quicker processing and faster refunds.

**Accuracy** - By eliminating manual keying of tax data and by implementing a series of front-end computer checks, Corporate EFILE allows the process tax data more accurately.

**Electronic** acknowledgements - Taxpayers know within a few hours whether their returns have been received, and whether there are any transmission errors. A second, more detailed tax return data acknowledgement indicating any invalid or missing data is forwarded by the following working day. Taxpayers are required to correct all the errors before retransmit ting the return.

**Secure** - With Corporate EFILE, tax data is encrypted to protect its confidentiality.

**Better time management** - CCRA inquires of any necessary questions soon after filing, and provides a sooner response to taxpayers' questions in a timely manner.

**Reduced paper** – A paper copy of a return or financial statements is not required to be filed with the tax administrations. Corporations will be able to file separate tax returns to federal and provincial tax administrations at the same time without generating paper. This will also save taxpayers time and money spent on photocopying, collating and mailing paper returns.

**Government savings** - Reduced handling and transcribing costs convert to cost savings in government operations.

*Source: Canada Customs and Revenue Agency*

*Internet-based Regulatory Transactions.* In some cases, electronic registers also make it possible for users to fulfil some or all administrative formalities. These initiatives are based on the idea of extending the logic of an electronic information provision into a “clearinghouse” or a one-stop shop for license issues or other administrative formalities. An advanced use of

Internet-based regulatory transactions is a computer based business approval that streamlines and provides a single contact point for all matters relating to business license applications, approvals, and issues relating to a targeted business activity or sector.

- **Australia** is currently implementing a national legislative scheme to allow for legal recognition of regulatory transactions (licence applications, renewals, etc.) conducted via the Internet. An additional related initiative is the development of a secure electronic signature technology. Australia has already implemented two trial versions of "Business Approvals Packages" (BAP). The Web-based trial versions so far implemented have been based around a single industry sector – Aquaculture. An evaluation study made into the Tasmanian BAP in 1999 indicated that the time saving in the provision of information by agencies to applicants amounted to 1-2 hours per enquiry.
- Examples from the **United States** include two systems based on "one-stop permitting" approaches operated by the Department of Commerce. The National Marine Fisheries Service Permit Shop enables organizations to engage and transact with online customers and partners for both business-to-consumer and business-to-business applications. The Simplified Network Application Process (SNAP) is an automated system for the submission of license applications to the Bureau of Export Administration via the Internet. It is a free service that allows exporters to submit export, re-export, high-performance computer notices, and commodity classifications to the Bureau via the Internet in a secure environment.
- An example on the use of handling civil applications through the Internet is the system developed in the city of Seoul, **Korea**. In this instance applications from citizens are posted on an Internet site where users track their submission and locate whether the application has been received properly, the name of the person handling and reviewing the case, if a permit is expected to be granted, and, if refused or returned, the reasons stipulated. The system also allows citizens to ask questions or make comments directly to the staff handling their case. One-stop shops have been set up for all civil application services provided by all Korean administrative bodies, central or regional.

*Internet-based registers of laws and regulations:* A closely related initiative to the online registers of formalities is the provision of online databases of laws and regulations. This move is being progressively embraced across the OECD area and has reached a high state of development in many countries.

- For example, in **Norway** and **Denmark**, the full text of all primary and secondary legislation is available on free and easy searchable Web sites. These databases generally also include a range of related material, such as bills currently debated in parliament and many of the decisions of the superior courts.
- In **Belgium,** the *Moniteur belge* (official gazette) has been posted on the Internet for some ten years. All legislation is accessible online free of charge with an archiving system dating back to 1945.
- These initiatives have substantially enhanced the transparency of the law, and consequently of the government. More specifically, they have placed businesses in a much better position to acquire information on their obligations under the law and, in particular, to ensure that their knowledge of these obligations is kept up to date. At the same time, the inclusion of bills and other materials on draft laws also provides for improved consultation opportunities. All of these efforts have potential impacts in terms of burden reduction, while also serving a number of other, important governance values, such as transparency and accountability.

*Automatic Transfers of Standardized Information from Enterprises to the Government.* Equally central to IT's contributions to burden reduction are the projects relating to the standardization of data submitted to the government and to the interchange of data between enterprises and administrations. These "electronic data interchange" (EDI) projects are directed at facilitating the direct electronic transfer of enterprise data to governmental authorities. Another aim is to reduce enterprise data to its basic elements, subsequently providing every governmental authority the data it needs without duplicating requests.

- For example, in the **Netherlands**, the Tax Administration, the Social Security Office, and the National Statistical Office have developed common standards for the collection of data from businesses. In co-operation with participating small and medium-sized enterprises, common standards are built into the businesses' accounting systems, whereby the data required by the three agencies can be derived directly from the administrations of the enterprises by "pushing a button". The authorities collect the data with the participation of the enterprises – government authorities are allowed to penetrate into the accounting systems of the enterprises to collect the data they require.
- **Denmark** also has developed "electronic data interchange" (EDI) schemes that automatically transfer information between enterprises and the government. The first stage of the programme allowed accounting information, including tax returns, annual accounts and some statistical reports to be processed via EDI. The second stage of the programme focused on employee information, including taxes, wages and pension entitlements.

*Unique Business Identification Numbers.* The development of a unique business identification number allows for the creation of a business registration system, so that businesses only need to have a single identifier for all dealings with government. Putting such a system online makes electronic registration and searching for business ID numbers possible. This may be known as a "single enterprise register".

- For example, **Australia** has developed the Australian Business Register (ABR), which is based on the use of a unique business identification number, the Australian Business Number (ABN). The ABN is designed to provide a business registration system, so that businesses only need to have a single identifier for all dealings with government.

  Businesses use their ABN to undertake a range of taxation-related transactions with the Australian Tax Office (ATO) and other businesses. Given that the ABR is online, electronic registration and searching of ABNs is available. In addition, the Commonwealth has developed the Australian Business Number-Digital Signature Certificate. ABR Online appears to have gained widespread acceptance by businesses, recording over half a million requests each month. The benefits delivered by the system are threefold. Firstly, the ABR has reduced the time and costs spent by businesses fulfilling tax registration obligations and other dealings with government agencies. Secondly, built-in edit checks within the application process combined with electronic registrations resulted in much lower error rates. Thirdly, the high level of online registration (60% of total ABN registrations) significantly reduced ATO resource requirements.
- The **Dutch** version of this technique is called the "Single Enterprise Register". It was developed by the four main business registrars in the Netherlands – the Ministry of Finance, the Chamber of Commerce, the National Institute for Social Security, and Statistics Netherlands. It functions as a unique source of the basic data related to enterprises, self-employed professionals and other organizations. Its operating principle is that data is delivered once to the government, which may be used for a wide range of different functions.

As a corollary to single enterprise registers, digital signature certificates have been introduced to simplify and reduce the identity requirements for businesses when dealing online. For example, in 2000 and 2001, Denmark, France, and the United States enacted systems for the legal recognition of electronic signatures and to secure transmission of information.

*Electronic Government Procurement*. Government procurement systems have benefited greatly from the advent of the Internet. Such systems allow government purchasing units to list their goods, services, leasing and public work requirements on the Internet. These listings enable suppliers and contractors to identify opportunities, submit bids by the same means and subsequently follow the entire process to its completion. Some examples are:

- **Mexico** created the Electronic System of Government Procurement (Compranet) in 1996.

  Compranet produces greater transparency in government acquisition of goods, services, leases, and public works. This is believed to be particularly valuable in increasing the opportunity for small and medium enterprises to bid for government procurement work.

- **Italy** has developed a new centralised purchasing service for goods and services purchased by state administrations. The Ministry of Economy and Finance performs this duty through a government corporation (Consip S.p.A.) which stipulates the covenants that suppliers must follow. Suppliers agree to accept supply orders from a single administrative structure through an online system (*www.acquisti.tesoro.it*) which at present averages 90 000 connections monthly.

- In **Belgium**, a fully computerised management system for government procurement contracts is available to all potential bidders (joint e-public procurement). This system was at the origin of the Belgian government’s computerisation of administrative files in which the data required could be accessed by means of a Universal Messaging Engine between administrations. This system has significantly reduced the administrative burdens in Belgium in relation to procurement procedure.

- **Canada** began using an electronic tendering service in 1992/93. Its current Government Electronic Tendering Service (GETS) has been in place since 1997. The number of participating agencies has increased due to the inclusion of the MASH Sector (Municipalities, Academic Institutions, Social Services and Hospitals) under Canada's Agreement on Internal Trade. In 2001, participating agencies advertised over 40 000 opportunities on GETS. The government has realised extensive operational savings through the outsourcing of the advertising and distribution functions. For Public Works and Government Services Canada (PWGSC), the central purchasing agency for the federal government, the savings amounted to approximately CAD1.5 million (more than USD 960 000) a year in photocopying and courier charges, CAD 2 million a year in newspaper advertising and CAD 1 million in the service start-up costs. The cost of the initial development and ongoing operation of GETS has been minimal since the Government of Canada contracted out the service. The operator of GETS recovers its costs by charging user-fees.

***Conclusions***

It is increasingly apparent that IT mechanisms are essential tools in most burden reduction and administrative simplification reforms in the countries studied. IT advances are allowing for a progressively more sophisticated electronic transfer of an expanding range of information between government entities, levels of government, government and citizens, and government and businesses. The programmes reviewed above involve a mix of information dissemination and transactional aspects. Online reporting and editing of core business information has been successful in reducing business and government costs. In short, IT offers governments a way to reduce administrative burdens by facilitating the availability of relevant information to

businesses and citizens and thereby improving the efficiency and effectiveness of the administrative process.

The use of IT made a relevant contribution to the advancement of the one-stop shop concept. The underlying rationale for the increasing availability of various services online through generalised or specialised portals is rooted in administrative simplification as well as in concepts of transparency and accountability as fundamental principles of good governance. These portals can provide substantial savings in information search costs for both citizens and businesses in relation to a wide range of interactions with government.

Similarly, the processing of electronic transactions – for example vehicle registration renewals, business license renewals, etc. – can also reduce regulatory related transaction costs for all parties involved. To a substantial extent, these portals can be regarded as burden reduction initiatives, based around the presentation of existing information and requirements in a more cost-effective manner through the application of technology. At the same time the development of systems allowing online transactions can often be a means by which the underlying processes themselves are reviewed and simplified.

There is a range of issues that has to be considered with regard to the use of IT as an administrative simplification tool. One fundamental point is the need to retain a benefit/cost perspective. This would mean that identified gains, including gains made by users of services, are weighed against the costs of developing and, more importantly, maintaining the mechanisms used to implement IT-based initiatives. In this regard the need for continuous assessment and updating of both the technical capabilities employed and the substantive content conveyed is too often overlooked. Related to this, the programmes must be client focused, meaning an incorporation of “feedback loops”, is required in order to ensure that the IT programme is assessed and modified to best meet the needs of the customers. There is a strong need for executive leadership, to secure a strategic focus and promote the adoption of consistent policy approaches across government, thus assuring the maximum inter-operability of the systems and facilities created. A highly contentious issue is that of determining the best way to promote this leadership. Finally, another important set of rapidly evolving issues revolves around questions of privacy, security, and archival concerns.

In addition to all this, the increasing use and importance of IT in government-business and government-citizen relations might create problems regarding the digital divide. Some businesses (*e.g.* SMEs) or groups of citizens might find it more difficult or impossible to get access to government services provided electronically. In this way, IT-based administration might increase already existing economic and social differences among businesses and citizens.

Furthermore, it is increasingly recognized that the use of IT often requires or promotes important changes in the administrative organization and the nature of the workplace.

Integrated online services, for example, require a reassessment of processes and administrative arrangements within all agencies involved and therefore embarking on IT-based initiatives is likely to have broader ramifications for the administration of government business. Such programmes often generate further reaching and more ambitious tasks than the initial statement of objectives may suggest. Furthermore, the implementation of IT initiatives necessarily involves close scrutiny of existing processes and procedures. The mapping of administrative requirements is obviously a fundamental pre-requisite to making them available via new channels. As part of this process, redundancies and overlaps would probably be identified and better policy options for achieving given objectives are likely to become apparent. This, in turn, may force administrative re-engineering to better meet citizens’ and businesses’ needs. IT practices to reduce administrative burdens can thus be considered not only as tools for achieving burden reduction within existing policy frameworks and administrative arrangements, but also as drivers of the simplification of the administrative regulations themselves.

Finally, making existing forms and procedures available on the Internet has in many countries created an interesting and often unanticipated side-effect. The immediate Internet access to and exposure of over-bureaucratic forms requesting information in an unclear or duplicative manner, has in many cases triggered strong direct reactions from users and media, urging the issuing authority to simplify the relevant forms. Aware of this effect, agencies pushing the administrative simplification agenda have sometimes used such “shaming” strategies *i.e.* exposing bad forms and procedures on the Internet, as a driver for further simplification among reluctant reformers.

Needless to say, increased use of IT does not guarantee in itself the positive changes in administrative organization and regulations mentioned above. The effects will also depend on the strength of the government’s e-government policies. There is still need for evidence to substantiate how IT and e-government programmes can lead to legal and regulatory reform, and to demonstrate that e-driven reforms are not be confined to and constrained by the existing legal environment.

## 3. Choosing the Approach to Business Registration Reform

When reforming the business registration process, governments will be confronted with at least six fundamental issues, or choices, that must be specified at the planning stage, prior to commencement. In many cases there is no "right answer"; rather, the choices must be based on the particular characteristics and conditions of each situation/country.

***Should the reform seek fundamental change or just administrative improvements in the current system?***

Some reform efforts seek to comprehensively change the underlying regulatory framework for the business start-up system; others take a more modest approach by essentially attempting to build on the existing system. Spain, for example, did not really change the fundamental workings of its registration system but rather aimed to streamline its administration by delegating the primary contact functions (such as receipt of applications) to the municipalities.

The decision-making authority remains with the central government agencies. As a result, while registration has become much simpler, the total processing time remains several weeks in length. Ontario, Mexico and Australia, on the other hand, made efforts to address some of the underlying bottlenecks.

***Should the reform effort seek broad or targeted results?***

While a broader deregulation effort may allow for a comprehensive change in business regulations that includes the registration system, it is often easier to gather support for a narrower, high visibility project that focuses on the business start-up process. The streamlining effort in Spain, which was not part of any larger deregulation program, illustrates this latter approach. In contrast, Mexico's effort to streamline business registration was part of a major national program designed to significantly deregulate the country's economy. Ontario and Australia also followed a *broad* reform approach.

***What should the role of technology be to facilitate the registration process?***

Some reform efforts incorporate sophisticated technology to interface with businesses and process their applications; others take a more lowtech approach in which the simplification results from administrative or procedural changes rather than the incorporation of technology is exercised. Ontario has chosen a high-tech approach whereby virtually all aspects of business registration can be completed on-line within 20-30 minutes. Spain's effort, originally using a low-tech approach, is increasingly incorporating technology to streamline the process further. Naturally, this approach requires significant networking and database capacity to share the information among the relevant government agencies. Mexico and Australia also made serious efforts to use technology as a means to streamline the registration process in their countries.

***What levels of government should and need to be involved in the reform effort?***

Simplification projects can be carried out at different levels of government, either separately or jointly. In either case, a fair amount of coordination between central and local/regional governments is important to maintain consistency in the registration process. Generally, the constitutional devolution of power to state and local communities grants the federal government the facility to order collaboration.. Consequently, in some countries, states and local communities are not indebted to participate in reform efforts promoted by the federal government.

Australia, Mexico and Spain all took a similar approach to the issue of inter-jurisdictional collaboration. In general, federal agencies were required to participate in the project, although not the individual states neither the communities. However, states and local communities were invited and offered federal assistance to facilitate the reforms.

In Australia, the federal government provided partial funding as an incentive for reform allowing the states to develop their own programs. Queensland took the lead and developed the Smart license, a system that later served as a best practice example for other states. Efforts for collaboration were also met with success in Mexico and Spain. In Spain, for example, the success of the reforms resulted in an everincreasing number of municipalities wishing to sign on with the program. However, the voluntary and somewhat gradual approach to reform has also produced some geographic differences in business registration procedures.

***Should the reform focus on intra-agency procedures or inter-agency relationships?***

A simplification process may emphasize the internal workings of government agencies or the interaction among them. Mexico focused its efforts on making the individual agencies more responsive and efficient, while Spain, Ontario and Australia emphasized the integration and harmonization of agency requirements. For example, in Ontario the streamlined business registration process encompasses several inter-jurisdictional divides, not only in terms of level of government, but also thematic areas such as health, taxes, labor and operational permits.

**Principles for Streamlining Business Registration**

The experiences in Australia, Peru, Spain, Mexico, Canada (Ontario) are instructive in identifying certain basic principles characterizing any reform effort of the business registration process. If applied, these principles enhance the likelihood of achieving a faster, less complicated and more responsive system of registering businesses, regardless of the choice made in relation to the six issues, or approaches, discussed earlier.

***Estonia***, comprising a six-step business registration process (similar to the Armenian case), significantly benefited from utilization of EC “Recommendations on Improving and Simplifying the Business Environment for Business Start-ups”:

- introducing a single business registration form;
- establishing single contact points where enterprises can deposit the single registration form mentioned above. The contact points would be responsible for forwarding the information contained in the application to all other departments within two working days;
- introducing a system whereby a business is identified by a single number used for any public or government department;
- ensuring the different government departments avoid introducing duplicated or superfluous forms and/or contact points;
- allowing businesses to reject a demand for non-confidential information, if this information is available from another government department;
- using information technology and databases as much as possible for the transmission and authentication of the information supplied and for the sharing of information between departments, subject to appropriate safeguards protecting private data;
- setting clear targets in terms of deadlines for the processing of enterprises' requests and the granting of licenses or authorizations;
- introducing, where appropriate, a system whereby an application is deemed to have been automatically granted if the administration has not responded within a fixed deadline.

***Undertake a comprehensive review of business start-up formalities***

Governments often lack comprehensive and detailed knowledge of their own business registration system—knowledge that is absolutely necessary for the design of an effective reform program.

As part of the simplification effort in Mexico, a special deregulation unit was set up under the Ministry of Industry and Commerce to review all existing business formalities, including start-up requirements. Although the review and revision of the regulatory process was time-consuming, the comprehensiveness of the approach led to much more fundamental reform than if the government had sought fast results.

***Use widely available technology to facilitate the interaction between businesses and the government***

The internet networking revolution is generating extraordinary opportunities for creating unified points of contact that are not limited by office hours, geographical location, or manpower. However, it is important that the technology used in the registration process correspond to the skills and abilities of agency staff and prospective clients. A highly sophisticated system such as Ontario's may not (yet) be feasible in countries where the use of technology has not come as far. For places with less technological sophistication and fewer financial resources, the state of Ceará in Brazil provides a good example of what can be achieved. In 1985, the state adopted a low-tech assembly-line system in which several of the agencies involved in the registration process stationed personnel at the offices of the Junta Commercial (municipality) who were authorized to process registration requests. As a result, the time to register at several agencies was cut from weeks to a few hours.

***Establish a single business identification number to expedite and track the processing of official requests***

While a unified government interface is important to businesses, a single identification number enhances the government's ability to provide fast and reliable service to businesses. Oregon and Ireland are examples of two governments that instigated the unification of various identification numbers. In Oregon, the single business identification number is used when reporting, paying, or making inquiries on employment-related obligations, such as withholding, unemployment, and transit taxes and workers' compensation assessments. Similarly, Ireland has brought tax registration details for income, social security, value-added taxes together under a single registration number.

***Set target deadlines for as many procedures as possible***

A useful principle is *affirma ficta,* whereby official requests accepted by the authorities are automatically approved if the responsible agency does not respond within the time period specified in the law. Mexico has successfully introduced such a system, which now allows businesses to start operations within 7 working days in the case of low-risk activities and 21 working days for businesses whose activities require health, safety or environmental controls. This compares to 46 days and 200 days, respectively, prior to the reform (SRI International, 1999). Peru provides another example of how to curtail the bureaucracy's ability to prolong the application process. Once an administrative process has been initiated, it may not be halted on grounds of insufficiency or inadequacy of the provided documentation except for reasons of inaccuracy.

Furthermore, if the applicant has not heard from the agency within 60 days, he or she has the right to assume that the application has been approved. Peru has also taken the additional step of instilling accountability among public agencies by forbidding them to demand machinetyped forms, more than one copy of any document, or uncommon forms of identification from clients.

***Maintain close coordination between national and local authorities.***

The case of Spain illustrates how close coordination between municipal, regional, and national governments has created a framework that can be easily expanded upon, in terms of both geographic coverage and functional scope. New municipalities wishing to register to the voluntary program need only sign standard, readymade agreements with the national and regional authorities that commit them to manage incoming paperwork in a standardized way. An on-line system will soon connect all layers of government over the internet, allowing officials from each level to track the status of applications and files.

***Provide adequate training and resources to licensing authorities***

One of the success factors in Australia was the federal funds award to help the states cover the costs of reform. Additionally, the federal government provided training to licensing authorities on the use of new technologies for business registration.

***Make all information regarding registration requirements and procedures widely available and accessible to the public.***

In Australia, entrepreneurs have easy access to regulatory information through the Internet and other media. The popular Business License Information Service (BLIS) provides a comprehensive database of registration and permit needs through the Internet, while other programs make the same information available via disk or telephone. In addition to these dissemination strategies, it is also important to provide assistance in completing the requirements. Technical assistance tends to have the greatest positive effect on small businesses and microenterprises, which generally do not have the resources to spend on legal assistance. The success of business registration efforts in Ceará, Brazil, is partly built on the technical assistance given to applicants, many of whom are illiterate or semiliterate.

***Maintain a feedback loop whereby clients can express their (dis)satisfaction with the process.***

The strength in Ontario’s reform process comes from consistent review and innovation. The state has successfully incorporated the principles of customer input, review, and program innovation as core features of its streamlining efforts. For example, many of the new regulations have *sunset* clauses built in to ensure that these regulations will be reviewed within a certain time limit. This process helps to ensure that the red tape burden will be minimized in the future, as well.

***Involve the private sector***

In addition to the issues outlined above, the role of the private sector is becoming an increasingly important issue to consider. Business registration has traditionally been controlled and managed by the state. However, as ideological changes and technical advances create new opportunities for public-private partnerships, the role of the private sector in the registration process is becoming an increasingly important aspect to consider. In the United States, for example, individuals can hire the services of private registered agents, and simply by calling or sending a fax, they can form a corporation in just 24 hours. Similar efficiency can be experienced in the United Kingdom, where private services provide *shell companies* that can be instantaneously activated. These shell companies are legally incorporated and registered companies that remain inactive until an owner has been identified and a business purpose established.

### Costa Rica - A Case Study in Business Registration Reform

It is useful to learn on approaches and principles in international best practices, but how can theory be applied in practice? And how costly would it be? These are the basic questions a project officer or government official would face if tasked with the design of a proposal to streamline a country's business registration process. Because of the complexity of business registration reform, there is no single way to structure a reform effort. This is particularly true when country differences are taken into account. So, rather than defining a universal approach, it may be more useful to present a concrete example (Costa Rica) and let it serve as a basis for others to use and adapt as necessary. Suffice it to say that it is just *one* example of what can be achieved in this area.

The government of Costa Rica and the Inter-American Development Bank recently agreed to co-finance a reform of the country's business registration process. The reform slashes the total calendar time to register a business by an estimated 75 percent and reduce the cost by an estimated 25 percent. In total, over a ten year period, approximately 93,000 entrepreneurs would benefit, with each saving the equivalent of approximately US$130 (in time and fees) as the result of faster and cheaper processing under the reformed system. The project not only benefits the entrepreneurs, but also the government, enabling them to monitor and analyze patterns of registration, including the partial evasion of certain requirements. While the total cost of the project amounts to US$960,000, including approximately US$180,000 for its administration (a coordinator and a part-time assistant), a tentative cost-benefit analysis indicates that the project will have a net present value of approximately US$4.4 million, mainly as a result of the large number of entrepreneurs potentially benefiting.

The project will be implemented in close collaboration with a technical secretariat established by the Costa Rican government as part of a nationwide effort to eliminate and modify excessive and inappropriate regulations. This arrangement provides a direct path and the means to formally propose legal and regulatory changes to the executive and legislative branches of government. Alternatively, in other countries, the project could be co-financed and carried out by one or several private entities, with the collaboration of the government in submitting legal and regulatory proposals. In either case, it is obviously crucial to have a clear and strong commitment by the government.

### The Maze of Business Registration in Costa Rica

In Costa Rica, it currently takes several months and several hundreds of dollars to register a business, depending on such factors as the company form (sole proprietorship, partnership or corporation), sector, or level of public health hazard associated with the business. To fully register a business, entrepreneurs in Costa Rica typically must approach at least six government authorities:

1. Commercial Registry
2. Tax Authority
3. National Insurance Institute
4. Social Security Institute
5. Ministry of Health
6. Municipality

The sequence of these visits is largely mandated: Primarily the Commercial Registry is approached with the municipality last. In addition the registration at the National Insurance Institute must occur ahead of registration with the Social Security Institute.

Depending on the nature of the business, there may be additional requirements associated with each of these steps (for example, a restaurant must obtain clearance from the fire department before registering with the Ministry of Health). However, prior to approaching any of the six government institutions, the entrepreneur must first have the company's articles of incorporation notarized by an attorney, deposit a nominal amount of capital with a bank, and pay the stamp duties associated with the registration at the various institutions. At some point after registering with the Commercial Registry, the entrepreneur must also request the announcement of the company's creation in a particular official government journal.

**The Nuts and Bolts of the Proposal**

The proposal to create a one-stop-shop for business registration in Costa Rica has three dimensions: technical, legal and organizational.

The *technical* dimension of the project aims to establish the infrastructure of the streamlined registration system. In this case, it turns out to be quite simple. Basically, it consists of the installation and programming of a database through which all registration information are channeled. The database is based in a nonproprietary application such as Microsoft Access, and runs on a server hosted by a private company. The information in the database is accessible to the six government entities involved in the business registration process. The interface of the database looks like a web page, and the data is available for downloading once users provide the appropriate password. The entities connecting to the database do not need to acquire any additional hardware or software since the database application runs on the server. The connection is made using a simple dial-up modem. In addition to the database, the technical component includes the design of a unified registration form that integrates all the information requested by government agencies involved in the registration process from the entrepreneurs.

The *legal* dimension of the project focuses primarily on the legal and regulatory reforms desired to make the technical component work. The most important reforms for the functioning of the one-stop-shop system are regulatory in nature and are meant to ensure that the government agencies can legally recognize the electronic information transmitted through the database system. The applicants are not required to appear in person at these agencies. In addition, the project seeks to update local laws to assure a generalized legal recognition of electronic information and to modify requirements relating to the notarization of a company's articles of incorporation and their publication in the official government journal.

The *organizational* dimension of the project addresses the issues of the means that the system is managed and the system the one-stop-shop service is provided to the public. This may be the most innovative aspect of the proposal, since it envisions the creation of a nonprofit association whose members would *jointly* manage the database and *individually* offer the service to the public. The founding members of the association would likely be the chambers of commerce and industry, with local offices in various cities and a direct mandate to serve entrepreneurs. However, membership is open to any organization that wishes to offer the registration service through its network.

To host and service the database, the association contracts a private firm and meets only occasionally to make the overall decisions regarding maintenance and upgrading of the system. As a result, the association does not require any facilities or staff of its own. The costs of maintenance and upgrading of the database is covered by a standard fee charged on each standard registration. A break-even analysis of the one-stop-shop system indicates that it is entirely sustainable with a standard charge of US$12 per registration in year one, decreasing to US$7 per registration by year 10.

Beyond the fee, the individual offices/affiliates of the association's members are free to add any charge to cover the costs of providing the service to the entrepreneurs. They are also able to

customize and differentiate services as far as the underlying technology permits. Moreover, if the individual government entities so wished, they could offer the one-stop-shop services to their clients directly. The proposed arrangement for managing the one-stop-shop system is shaped by several important considerations. Firstly, through the local offices of the association's members, the system is able to provide wide geographic coverage at very reasonable cost. Secondly, the use of a nonprofit administrator prevents potential misuse of a monopolistic situation (since there is only one one-stop-shop network). Thirdly, the freedom of individual offices/affiliates to design and charge for their services encourage competition and innovation in the provision of one-stop-shop services to the ultimate clients. Fourthly, the fee financing signifies that the system is self-sustainable and not dependent upon the vagaries of yearly government budget negotiations. Lastly, since the association's members offer the services through its local offices/affiliates, there is a natural and seamless channel to raise complaints and suggestions for improvement of the system.

The government retains a supervisory role in the administration of the system through the creation of an inter-ministerial commission. This body ensures that the association strictly follows its statutes and operating procedures; it will not make day-to-day decisions regarding the one-stop-shop system.

## 4. STREAMLINING LICENSING PROCEDURES

### *Introduction*

Licensing is the practice of requiring prior approval by a government authority for the establishment and conduct of a business or other activities. Approval is based on the provision of specific validated or certified information (usually in written form).

All governments use licenses – though in varying degrees and with different objectives – to protect the environment, to assure certain market allocations or to protect consumers.

It is a widespread form of government intervention in business activities, although different countries use it to differing degrees: some have reported that they administer a few hundred licenses, while others, several thousands.

Business licensing is widely believed to have the potential for serious economic harm, since it raises real and perceived barriers to new start-ups, and thus detracts from innovation. In particular, because of its anti-competitive possibilities which arise, incumbent firms have strong incentives to lobby regulators to use the licensing arrangements as a means to protect themselves from new entrants.

The issue of access to licensing requirements has become prominent since licensing occurs before engaging in a business or economic activity and because of the proliferation, duplication and contradiction of many business licenses. The search costs to businesses for identifying the range of licenses they are required to obtain in order to conduct their intended business, as well as the regulatory authorities responsible for administering those licenses can be considerable. The problem of ensuring compliance with all relevant licensing requirements is clearly of concern to both businesses and the government. For some countries corruption effects can also be involved, as licensing implies a degree of discretionary power from the side of the administrators and a situation that involves direct contact between low level civil servants and businesses eager to launch their activities.

Programmes to simplify permits and licenses have several outcomes. In some cases, licenses are abolished altogether, simplified or amalgamated with similar licenses. In other cases, the focus is on process re-engineering, with the result being a simplification or streamlining of internal procedures to obtain the authorization, leading to decreasing the time required for permit handling.

Deregulation and de-bureaucratization campaigns have traditionally been the driver behind many license simplification initiatives. Over recent years, however, the application of IT to *existing* license and permit requirements has also facilitated burden reductions and regulatory simplification of licensing procedures. Placing existing licenses on the Internet reduces administrative burdens by facilitating access and information. Making regulatory requirements easily accessible on the Internet also exposes overly numerous, time consuming and burdensome regulatory requirements, thereby often leading to pressure to simplify the regulatory requirements themselves.

### *Strategies to scrutinize existing permits and licenses*

Four important distinctions can be made between the strategies used by developed (OECD) countries to review existing licenses. First, strategies vary in terms of their linkage to general regulatory reform policies or to centrally defined criteria for when and how to use licenses. The adoption of an explicit policy on the use of licenses and permits seems to be an important driver of efforts to achieve substantial improvements. Such policies can include setting general criteria as to when the use of licenses is appropriate, guidance on establishing administrative requirements, license renewals and/or the setting of appropriate fees and charges. Clear policy

criteria for the use of licensing and permits can form the basis of self-assessment by regulatory agencies and help ensure that a consistent approach is taken. Explicit policies can provide a clear discipline on regulators, as well as a means of challenging licensing regimes that do not comply and are thus likely to be of low quality. The general policy of the **Dutch** government for the use of permits is that oversight based on general rules should be preferred over preventive restrictions, and that reporting on activities should be preferred over an obligation to ask for permission. A permit is considered to be an adequate policy instrument if: 1) it is necessary to regulate individual actions or acts by case-oriented rules and to monitor such actions; or 2), the interest, that has to be protected, is so important, that an exemption from an explicit ban can only be permitted on a case-by-case basis. Furthermore, strategies vary in terms of scope. Reviews of licenses may be general or exhaustive, *i.e.* encompassing all permits and licenses, or selective, *i.e.* concentrating the review on specific types of permits. In the latter category countries have focused on reviews of, for example, the most frequently requested permits, business start-ups or permits relevant to a specific sector.

- In **Korea**, for example, a review programme initiated in 2000 covers the most frequently requested documents such as business registrations, resident registrations, real estate titles, car registrations, and tax payment certificates. In addition, the programme also covers documents which are often required to be submitted even for cases where a simple check of identity cards or crosscheck between administrative bodies would be sufficient. Under the programme, ministries and agencies were asked to closely look at their civil applications to check whether document requirements could be eliminated, and if not, on what grounds. As a second step, Korea's Regulatory Reform Committee (RRC) re-examined the reasons reported by ministries and agencies to finally determine whether the requirements were necessary. As a final step, a government-wide system is to be established to let all the administrative bodies share information on civil applications with each other.

**A permanent review:**

*The US Paperwork Reduction Act*

The general logic of the license and permit simplification schemes conducted has also been applied more generally in at least one country – the United States. The US Paperwork Reduction Act provides a comprehensive, centrally enforced programme for analyzing and clearing individual government information collection requirements and also for deriving a national paperwork budget. Importantly, it is also a permanent programme, which has been embedded in the legislation-making process since the passage of the Act in 1980.

This distinguishes it in an important respect from the license simplification programmes that have often been "one off" or "episodic" in nature.

The PRA requires federal agencies to request approval from the Office of Management and Budget (OMB) before collecting information from the public. The PRA was intended to minimize the amount of paperwork the public is required to complete for federal agencies.

To that end, the PRA gives OMB the responsibility to evaluate the agency's information collection request by weighing the practical utility of the information to the agency against the burden it imposes on the public. Agencies must publish their proposed information collection request in the Federal Register for a 60-day public comment period, and then submit the request to OMB for review. In seeking OMB's approval, the agency needs to demonstrate that the collection of information is the most efficient way of obtaining information necessary for the proper performance of the agency's functions, that the collection is not duplicative of others that the agency already maintains, and that the agency will make practical use of the information collected. The agency also must certify that the proposed information collection "reduces to the extent practicable and appropriate the burden" on respondents, including, for example, small business, local government, and other small entities

- In January 2002, **Mexico** launched a Rapid Business Opening System (*Sistema de Apertura Rápida de Empresas*, or SARE). The SARE reduces the number of federal

formalities to open a low-risk business for individuals (tax registration) and for businesses (tax registration and enterprise registration). The total time it takes to comply with federal start-up formalities is now one business day for low-risk activities. The remaining formalities, which are all required by law, were simplified by allowing businesses to comply up to three months following commencement of operations. A catalogue of low risk activities was published as an annex to the decree, in order to give entrepreneurs the certainty of qualifying for SARE. As of November 2002, over 226 000 individuals and 1 400 legal entities received their tax and enterprise registrations under this scheme. The programme also includes a co-operation initiative to help local authorities to implement SARE. Mexico's explicit government policy to coordinate programmes for the removal and/or simplification of federal formalities is illustrated below (see Figure 1.3). As can be seen from the illustration, the Mexican review includes, among others, considerations on reducing administrative burdens by transforming *ex ante* authorizations into notifications to be inspected *ex post.*

- ← Based on a comprehensive collection in 2000 of all procedural compliances for start-up enterprises, the **Belgian** *Agence pour la Simplification Administrative* (ASA) initiated a project aiming at integrating in one single procedure all formalities, broken down by professions, necessary to commence a business activity. Such consolidation of procedures into one procedure requires seamless co-ordination between the public services involved, an effective electronic medium, and usually a complete overhaul of the regulations and sometimes the services themselves. Currently the single procedure process (DEUS – *déclaration électronique unique des starters*) applies only to a few sectors.

Reviews and strategies vary in terms of their focus or objective. Some reviews focus on the achievement of specific quantitative reduction targets, established at the outset – for example a 25% reduction in an overall number of licenses, or a certain reduction in the number of days necessary for starting a business. These numerical targets often coincide with the adoption of a highly decentralized approach, in which it is simply mandated that administrative bodies must reduce the number of licenses by the required amount.

Some reviews have focused on setting or reducing time limits for providing answers to requests for permits and licenses, whereas other reviews have focused primarily on avoiding duplication or by reducing the coverage of individual regulations.

The latter may include releasing certain activities entirely from approval by the authorities, or by changing *ex ante* approvals into *ex post* notifications of the authorities, once the regulated activities have commenced.

Finally, reviews of permits vary in terms of their organizational set-up. Often examinations are carried out by the regulatory reform authority working in association with the license-administering agency. In other cases, reviews are carried out by external committees or bodies, either on an *ad hoc* or permanent basis. Examples and experiences with various organizational set-ups are covered in the section on organizational approaches of this report.

### *"Tutors" for applicants*

A further tool for achieving burden reduction in relation to licenses and permits is the adoption of "tutors", or mechanisms to assist those affected to complete the required administrative procedures.

- ← **Korea**, for example, has established a programme by which experienced "tutors", who are highly familiar with administrative requirements in a particular area, are made available to help citizens complete applications.

- In the **United States**, a number of departmental level initiatives have been adopted, many of which focus on small businesses. For example, the Environment Protection Authority has a "Small Business Ombudsman" who produces a "resource guide" that details all of the agency's small-business-specific activities. In addition, a number of departments are developing expert systems and intelligent technology to provide business compliance assistance. For example, the Department of Labor has developed 18 "E-law Advisors," which are Web-based expert systems where the public may query through menus and routine questions to better understand and comply with its regulations.

### *Conclusions*

License simplification and reduction programmes differ from many of the other policies considered in this report by being amenable to easy quantification. Indeed, it may be that this is one reason for the popularity of these initiatives with many OECD governments. As noted above, many of these programmes have begun with the announcement of a specific quantitative target for reduction in the number of licenses.

Some countries have reported impressive statistics. Mexico, for example, reported that a total of 45% of the formalities administered by its eleven ministries had been eliminated and over 95% simplified in some way within 2½ years of the adoption of its review programmed in 1996. Many permits and authorizations were converted into notification or other requirements that are not essential to the commencement of a business. In other cases, documentary requirements were reduced or simplified or departments substantially reduced the average length of time required to process applications. The Netherlands reported that its administrative burden reduction programme had reduced overall burdens by 10% between 1993 and 1996 and that a new target of 25% had subsequently been set. In some areas, the replacement of licenses by general rules was part of a more fundamental change of the legislation. They delivered a large-scale reduction of administrative burdens and significant savings.

However, simple numerical indicators that report on license reduction initiatives, such as the number or percentage of licenses eliminated can be easily mislead. For example, in cases when reductions are calculated on a static basis, the impact of licenses that were newly created during the life of the programme may be ignored. It is a common observation that license reduction programmes function in many cases as "window dressing" exercises that achieve little meaningful reform. This can be because the licenses removed under the programme were due to be repealed in any event because of other reforms already in progress, or because they had already become redundant and fallen largely into disuse. In addition, the tendency to decentralize the enforcement of regulations to local governments can also reduce the inventory on the national level. Such factors often mean that impressive numeric reductions claimed as the result of these programmes have difficulty in withstanding closer scrutiny.

Thus, while license reduction exercises can perform a useful function in prompting a systematic revisiting of the necessity and appropriateness of licensing arrangements, they are likely to lead to substantial change only under certain circumstances. A possible reason for the unimpressive outcomes of this type of reform in practice could be that, while the programmes are generally coordinated by a specialist regulatory reform body, the decision on the retention or removal of individual licenses invariably remains with the responsible Minister and the administering agency. Ministries will usually find it extremely difficult to be objective in evaluating their own licenses, so that important change will only occur if it is consistent with the administering Ministry's own goals and agenda.

Careful programme design can, however, increase the likelihood of significant reform. The adoption of an explicit policy on the use of licences and permits seem to be an important driver of efforts to achieve substantial improvements. Another key element would be to establish oversight and accountability for overall achievements via senior administrative or political

bodies. For example, Korea's Regulatory Reform Committee performed such a role on a very large scale in the context of the *Comprehensive Regulatory Improvement Plan* in 1998 and 1999. Another approach to drive such reforms is to establish comparable information on the quality and performance of countries' permits and licensing procedures. The effectiveness of licence simplification is also likely to be enhanced by the adoption of open and transparent procedures that allow effective opportunities for public inputs and suggestions. Given the nature of the licence burden, affected parties can be expected to be an important resource in identifying priority areas for reform and, potentially, for proposing less burdensome means of meeting the objectives underlying the licence or permit requirement.

While some design elements of a relatively successful licence simplification/reduction exercise can thus be identified, there remains a threshold decision as to whether such generalized license reduction exercises should be undertaken at all. Theoretically, the establishment of rigorous regulatory quality processes, such as Regulatory Impact Analysis and more effective consultation procedures, in combination with robust review and/or "sun setting" processes should largely eliminate the need for such *ad hoc* license reduction exercises. It is also arguable that license reduction/simplification programmes have a prominence that is out of proportion to the rather limited empirical support available for the underlying presumption of the especially burdensome nature of licenses and permits. For example, a survey of barriers to business set-ups in the European Union showed that "discretionary activities" such as developing a business plan and obtaining finance (rather than obtaining relevant permits and licenses) had the greatest effect on the total elapsed time to set up a new enterprise. A danger of adopting such programmes may be that they divert scarce regulatory reform expertise away from larger reform tasks with potentially much greater benefits.

However, there are reasons for favoring license reduction programmes. They can be an important first step in a regulatory reform programme, achieving highly visible results within short timeframes. Thus, they can help in the process of mobilizing constituencies for reform. As well, they can assist in shifting perceptions more broadly away from assumptions that government permission is required to carry on a business and toward a presumption of freedom to operate. Finally, there are promising practices in the licensing and permitting areas that may not be most effectively disseminated through broader regulatory reform initiatives. Their implementation might be more efficient through a programme that is license-specific.

As with many regulatory reform initiatives, the choice of a particular license simplification programme or approach depends to a substantial extent on the individual circumstances facing the country. In some cases these programmes have proved more successful when designed as a response to economic crises. In other cases, these programmes may be particularly useful in the early stages of a regulatory reform programme. They can also potentially act as the starting point for wider reforms. This can particularly happen in a context where there are a very large number of licenses already in place and a clear case for revisiting the underlying approach to business licensing.

In a few countries, the general logic of licence simplification and reduction programmes has also been applied more generally to all paperwork requirements. These programmes, which in the case of the United States are permanent and legislatively driven, arguably provide an ongoing discipline on the creation of new administrative burdens that is embedded into the legislative process. The question necessarily arises, however, as to whether such issues are best considered on a "stand alone" basis, or integrated into broader regulatory impact analysis efforts. The experience of the US programme appears to be that positive results have been achieved, but that the degree of success is essentially one of slowing the rate of growth in burdens, rather than reducing them overall.

## 5. DO ONE-STOP-SHOPS WORK AND BY WHAT MEANS?

### *Introduction*

One-stop shops can in general terms be defined as offices where applicants and others interested in government services are able to obtain all the information necessary to their query in one location. They are often referred to as a "service counter", "single window" or "information kiosk".

One-stop shops are primarily designed to provide integrated and seamless services with as few and as easily accessible points of contacts with the clients as possible. The purpose of one-stop shops is to provide substantial savings in information search and transaction costs for users in relation to a wide range of interactions with the government. In addition to the direct savings in cost and time for applicants, the gains spread to the government and government staff. Additional benefits can also be recognized by increasing accountability, objectivity, and placing decision making as close to the citizens and enterprises as possible. The one-stop shop concept also offers remedies to "monopolies-of-information situations" where governmental agencies can withhold information from citizens and businesses, or deprive equal access to it.

As experience with one-stop shops has grown and improved technology,, the services provided have expanded. Users of one-stop shops can acquire lists of applicable laws and regulations, information on codes of practice and other guidance material, as well as information on licenses and permits required by various levels of government. Delivery mechanisms have expanded from traditional methods, such as face-to-face interviews, telephone and mail, to the use of IT-based tools, including, most importantly, Web portals, but also CD-ROM systems, information kiosks or automated teller machines. Increasingly, different mechanisms are being seen as elements of an overall service channel strategy, with all elements gaining from recent advances in IT use. This section of the report deals specifically with "physical" one-stop shops. Electronic one-stop shops, *e.g.* in the form of government-wide information search portals, were dealt with in the previous section of this report.

### *Practices and experiences*

One-stop shops are aimed at assisting citizens and businesses. Services provided to citizens and businesses can appear in a segregated format, but, in many cases, a particular one-stop shop, like offices for wage and tax reporting, can serve both types of clients at the same time. According to the scope of the services offered, one-stop shops are either specialized or general. More specialized one-stop shops differ from the general ones by serving a particular sub-set of governments' "client" group. At the same time, specialized one-stop shops are often closely linked, and may be the outgrowth of general ones. Finally, one-stop shops can be operated by the national, regional or local authorities on one hand, and, on the other, by some form of co-operation between public bodies and private entities, such as business or civil society associations.

### *One-stop shops for enterprises*

One-stop shops are widely used to simplify the governments' interaction with enterprises. Some of these institutions deal with all kinds of businesses, others concentrate on companies of a certain size, like SMEs, or those operating in specific sectors and industries. Further specialization includes two categories of one-stop shops: business licensing services and enterprise service counters. Business licensing services focus their activities on the provision of information and opportunities for transactions related to the acquisition of permits necessary for engaging in a specific business activity. Enterprise service counters usually offer a broader type of services to enterprises. They are offices where entrepreneurs can obtain a broad range of services from different public authorities.

Their major advantage is that they provide integrated services. In an ideal situation, enterprises would contact one place in order to access all services they might require.

- For example, Enterprise Ireland, set up in 1998 in **Ireland,** is a development agency that services specifically to indigenous industries. Assuming the resources of three previously separate entities (Forbairt, the Irish Trade Board and the in-company training division of FÁS), Enterprise Ireland represents a more tailored approach to assisting small businesses in manufacturing and internationally traded services. The organization acts as a one-stop shop, providing information and advice on all aspects of business activities and organization.
- The **Dutch** "Enterprise Service Counter" has created a common service counter merging the services of municipalities, Chambers of Commerce, tax administrations, and the Ministry of Economic Affairs. At the local or regional level, provinces and local partners may also be involved.
- An interesting initiative in **Mexico** has been the development of private-sector-run one-stop-shops, typically established by business and industrial associations such as those organized by the Mexico City Chamber of Commerce. Most business chambers have their own tailor-made one-stop shops providing services, and supporting the applications and other requirements most commonly encountered by their members. The formalities for which the greatest amount of information is available are those for setting up businesses, exporting and importing goods, and registering trademarks. As the mandatory requirement to belong to a chamber is phased out, the government has pushed the chamber to compete on services provided to businesses and thus in managing efficient one-stop shops.

One of the most common types of specialized one-stop shops for businesses – and especially small businesses – is the **business licensing service**. These services are among the earliest burden reduction initiatives implemented by governments, having been used in some cases since the mid-1980s. Business licensing services act as one-stop regulatory information shops, identifying relevant licenses and providing application forms, information and contact details. Generally each service provides clients with tailored business licensing information packages that contain most or all of the following:

- A summary of the national and local government licenses required for the particular business;
- The contact details of the agency which administers each license (if not handled by the one-stop-shop itself);
- License application forms, combined where possible; and
- Details of license fees, periods of coverage and renewals.

Business licensing information services reduce administrative burdens for businesses by reducing the information search costs incurred while trying to establish their regulatory compliance obligations. Since they act as one-stop regulatory information shops, it removes the need for businesses to have an understanding of the fabric of government in order to determine their compliance obligations.

As noted above, some jurisdictions have extensive experience with business license services. In these cases, the services offered have usually been progressively expanded over time, as expertise in system design and service delivery accumulates in addition to technological advances increasing the range of possibilities. Examples of expanded services include provision of information on the licensing requirements of sub-national (*i.e.* state and/or regional) levels of government and listing of government support programmes available to inquiring businesses. Another direction of development is presenting business license services the ability to approve requests for licenses, to authorize requests, and to register the business entity.

- For example, **France** has a network of Business Formalities Centres, which operate as "front offices" for the provision of government information and transactions in relation to formalities. These are located in the chambers of commerce and industry for businesses, the industrial and commercial sector, chambers of trade for tradesmen and, more recently, chambers of agriculture. They provide new businesses with a single access point where all information on statutory start-up formalities are available. The Business Formalities Centres are authorised to consolidate all relevant documentary requirements from other ministries and social services. They also process any changes in the course of businesses' operating lives. "Virtual" versions of the Business Formalities Centres have also been set up on the Internet.
- The concept of the Business License Information Service (BLIS) arose in **Australia** in the late 1980s. Pioneered by the state of Victoria, every State and Territory in Australia at present has implemented such services. BLIS units provide a single point of access for State, Commonwealth and local government licenses, including application forms. While the service is primarily aimed at providing information for prospective new businesses, it also provides information on license renewals, transfers and general regulatory issues concerning business expansion. According to the findings of a study, which assessed the effectiveness and efficiency of the Victorian BLIS in 1994, the benefit of the service to clients was estimated at AUD 21 million (USD 10.4 million), with a client benefit-cost ratio of 15:1.

  Information and advice services provided by such one-stop shops are especially valuable for business start-ups. One-stop permitting approach, establishes a single access point for the registration of new businesses and reduce the costs and time involved. This can encourage entrepreneurial activities and facilitate the dynamic and the growth of local and national economies. There are an increasing number of countries following such practices.
- In 1999, a network of Single Access Points was set up in **Spain** to handle the administration of business start-ups. They provide advice to prospective entrepreneurs, act as a single point of contact for submission of all documents needed to set up a new enterprise and transmit documents to all government bodies involved in business registration. New IT tools are used to facilitate the process of transmitting information between government bodies. The network has contributed to a major reduction in the typical time needed to comply with the mandatory requirements to set up a new business.

***Conclusions***

The one-stop shop concept has been implemented in a vast number of permutations and combinations. There is evidence that many of the variations of this basic scheme have been successful in reducing administrative burdens on businesses and the general public.

These gains are due to reduction in time and cost saving seeking information, especially on license and permit requirements.

The one-stop-shop concept has been enhanced and driven by technological change. The first adoption of license information systems followed quickly from the widespread adoption of faxes, personal computers and associated software that enabled the compilation of searchable databases. The availability of these services was expanded by new delivery mechanisms – such as sales of the entire database and software in CD form to business advisers, and subsequently, delivery via the Internet. Increasingly, however, these services have become specific modules, or applications, within the larger government information portals that are either in use or under development in most OECD countries. Notwithstanding the fast growth of Internet-based one-stop shops, physical one-stop shops remain a very important means to

reduce administrative burdens for citizens and businesses. This is because physical one-stop shops possess qualities, such as providing opportunities for personal advice and guidance, or a high level of accountability through the personal involvement of civil servants, that Web-based one-stop shops cannot offer.

There is arguably a combination of "top-down" and "bottom-up" dynamics in operation related to the development of one-stop shops. That is, generalized government one-stop shops can be considered "top-down" in approach, being designed with the objective of providing a broad range of government information to all potential clients. The business license services, on the other hand, takes a "bottom-up" approach, identifying a specific need and a particular constituency. The direction of development over time has been to move "upward", identifying additional information of value to the same constituency and seeking to include it in the basic database to add value to the service.

The combination of the "top-down" and "bottom-up" dynamics may be the best means of ensuring that the one-stop shop concept is developed to its full potential. The bottom-up approach ensures a focus on the needs of particular client groups, while the "top-down" approach allows a broad view of the communication issue to be grasped.

The evolution of one-stop shops according to the "top-down" and "bottom-up" approaches indicates that there is room for a range of different variations on the one-stop shop concept. A central issue in the further development of these tools will be to take a strategic approach focused on integrating the different tools into a coherent whole.

From the applicants' viewpoint, the major advantage of these services is that they organize government information on the basis of applicants' needs, without needing a global understanding of the government structure that lies behind the information, license, permit or approval required. This allows clients to deal with government on an "enterprise" basis, rather than as a collection of individual agencies. Further utilization of this characteristic is likely to occur in the future as additional content is identified for delivery through these services. This can include an increasing array of information that enables businesses to readily assess their overall regulatory compliance obligations. As many of these services now constitute well-recognized distribution channels, they are strategically well placed to engage in regulatory transactions (information, licenses, permits, approvals, fee-paying, etc.) with businesses.

In addition, the one-stop shop approach arguably has benefits in relation to the simplification of permits, licenses, and other authorizations that go beyond the savings in search costs that they appear to be generating. A key benefit for policy makers and others interested in reform is that, by bringing together the full range of licenses and permits required in relation to a given business, they tend to highlight areas of overlap and/or duplication and point out redundancies. Thus, they provide a potential resource in terms of programmers to simplify and rationalize license and permit arrangements. At the most basic level, one-stop shops may be the only readily available means of obtaining a full inventory of all licenses and permits currently in existence, an indispensable starting point for any license reduction programme.

However, the implementation of one-stop shops still entails substantial practical difficulties; the most significant difficulty arises from machinery-of-government issues, rather than technological ones. One possible concern is that one-stop shops can, in some cases, shift burdens rather than eliminate them. An example of this issue is that of business license information service systems. While these systems have been found to entail real reductions in information search costs for businesses, they have largely shifted administrative burdens from business to government.

More broadly, the continued expansion of one-stop shop type initiatives has raised a range of policy questions that remain to be addressed. Some of these are strategic, like the question of the scope of services offered by one single one-stop shop, the number of one-stop-shops needed, how they interact and compete with each other or how the one-stop-shop differs from the "service counter" idea. Others still are practical questions of how these one-stops can be

equipped to respond to the customers' needs and what approach governments should take to their funding. Some argue that the private sector should be given opportunities to run one-stop shops as "regulated information brokers" and either receive funding for this activity from the government or charge customers directly. For some countries, corruption effects can also be involved as licensing implies a degree of discretionary powers which may be exploited for personal gain.

Furthermore, there are questions on how to overcome problems relating to coordination between one-stop-shops and the back offices of the regulatory authorities. If one-stop-shops are to make the leap from information provision centres to transactional agencies (or portals), the co-ordination calls for a close, reliable and streamlined collaboration.

Finally, and perhaps most fundamentally, there is an increasing demand for empirical evidence to guide policy makers on the overall cost-efficiency of one-stop shops. Although most one-stop shops by definition reduce administrative burdens for the immediate target groups, little is known on the full economic impact for businesses, governments, taxpayers, of establishing and maintaining one-stop shops.

Taking into account long-term operational costs may change the priorities for how, where and when to introduce one-stop shops.

## 6. Time limits for decision-making

### *Introduction*

An important factor determining the extent of compliance burdens is the timeliness with which decisions are made and appeals are launched or considered after an application is submitted. That is, the extent of an administrative burden is determined only partially by the direct input involved in marshalling required information and engaging in completing forms and dealings with administrators. In addition, costs are also imposed on the business or the citizen by time delays and uncertainty, either in the provision of information, or in providing responses to requests. Setting time limits may not only lead to reduced administrative costs for businesses and citizens. In many cases, time limits also have important accountability implications by putting a stronger onus on the public authorities to provide citizens and businesses within a definite and binding time limit.

### *Practices and experiences*

#### *The legal basis for time limits on administrative decision-making*

In some cases, time limits are established in administrative procedure laws; in others they are located in specific pieces of legislation relating solely to decisions made under that legislation. Usually time limits established in administrative procedure laws are subsidiary to time limits established in specific legislation. That is, if a law or regulation does not explicitly set a time limit, the administrative procedure law's requirements apply. Some examples:

- **Korea's** Administrative Procedure Law also requires administrative bodies to publish time limits for administrative decision-making. Sanctions for not meeting these time limits vary. In some cases the administrative body may be able to grant itself an extension as long as it immediately informs the applicant concerning its intention to seek an extension, the cause, and the expected date of final decision. In other situations, if an administrative body does not meet the time limit, the applicant can bring a petition for the purpose of urging rapid treatment either directly to the administrative body or to a government body that supervises the concerned administrative body.
- The **Dutch** administrative law requires that administrative decisions are taken within a "reasonable" time. This general requirement has been supplemented by the General Statute on Administrative Law. This document specifies a general time limit of four weeks, with a possible extension of a further four weeks, during which public authorities provide an administrative decision on request, unless the special regulation concerned sets a different time limit.
- The **United States'** Administrative Procedure Act does not require agencies to act on rule-making proposals or case adjudications within a prescribed time after the end of public proceedings. However, Congress occasionally seeks to control and expedite agency action by imposing statutory deadlines within the context of individual Acts. Typically these statutory deadlines can be enforced only by court suits. However, in some cases Congress has included so-called "hammers" or other penalties that can be brought into effect if an agency fails to take timely action.
- A **French** initiative has enhanced citizens and businesses' effective ability to exercise their rights *vis-à-vis* public authorities by providing clearer rules on the validation of deadlines for submissions to public authorities. An Act of 12 April 2000 provides a postmark or other official (including online) procedure enabling the date of dispatch to be ascertained as proof of acceptance. The law replaces a series of practices or regulations that were frequently dissimilar and unfamiliar to the general public with a single rule.

In the absence of a statutory time limit, agencies sometimes find it helpful to set their own schedules for completion of the various steps in a rule making or adjudication. These schedules provide the agency with a practical yardstick for determining whether its proceeding is making satisfactory progress towards completion.

### *Tacit response: silence is consent and silence is denial rules*

The technique of allowing an agency's silence to be construed as tacit authorization or denial of applications is used in some countries as a corollary of the establishment of time limits for administrative decision-making. The silence is consent or denial rule provides a more effective assurance to the applicant that a decision to their request will obtain a timely resolution. It puts the onus to act on the bureaucrat: The bureaucrat needs to take action prior to the deadline, including, if necessary, asking for additional time to consider the application. If the bureaucrat does not make an active decision before the time limit, the resulting decision will automatically be his responsibility. In the case of a tacit denial, the applicant can immediately appeal the decision (instead of waiting for a negative response that may never come, if time limits were not established and enforced).

- **Spain's** Administrative Procedure Law places an obligation on administrative bodies to respond to applications within at most six months, unless the relevant law specifies an earlier deadline. If no timely response is given to a procedure initiated by an interested person, it would be considered a tacit authorization. If an administrative body has initiated a procedure and there is no response by the addressee, it can be taken as a tacit rejection. To be exempted from the authorization or denial rule, agencies need to forward a formal request.
- "Silence is consent" rules are widely used in **Mexico.** Recent modifications to the Mexican Federal Law of Administrative Procedures reinforce the legal basis of the "silence is consent" rules, expanding their coverage to areas of public administration in which there is no risk of "under-regulating". These changes in the law establish that, with certain exceptions, the absence of a resolution within the time limits laid down in the law implies the approval of a citizen's demand. The use of "silence is consent" rules has spread to many Mexican states and municipalities.

In cases where applications are poorly presented and lacking relevant information tension may arise between, on the one hand, the need to take the administrative decision on a sound and relevant basis of information, and, on the other, the obligation to honor the time limit. Countries have addressed this challenge by seeking to provide clear and unambiguous guidance on the information needs, and by assigning a time limit to the agency receiving the application.

A "silence is denial" rule may be used in certain situations where applicants need a rapid resolution – for example in programmes involving application for benefits or merger authorizations. If the administration does not act on an application within a certain timeframe, it is deemed to be denied and an "exhaustion of administrative remedies" and the applicant may go directly to court.

### *Conclusions*

In many OECD countries time limits for administrative decision-making are very important for businesses and constitute part of an accountable public service. A key determinant of time limits' performance and relevance may be found in aspects of the broader administrative culture within which they are adopted.

In countries where traditions and means of redress are less well developed, the setting of legislated time limits may be a particularly important means to reduce administrative costs and uncertainty. In a number of countries, time limits were largely adopted as a result of the need for an effective incentive for the public sector, to provide reasonably quick responses to requests from businesses and citizens.

The silence is consent approach has the effect of creating a presumption that an administrative application is resolved positively, with a negative outcome requiring a deliberate action by the administration. Moreover, it provides an instant form of redress for applicants, who are relieved from the necessity to appeal against an administrative failure to make a decision. Thus, the silence is consent approach underpins and reinforces the underlying purpose of creating time limits for administrative decision-making. In this sense, they constitute an obvious complement to a time limit policy.

Silence is denial is in many ways an inferior rule to silence is consent, as it does not directly address the underlying reason for implementing time limits – *i.e.* the need to limit administrative burdens by providing a final resolution of an application in a timely way.

However, as explained above, the silence is denial rule can indeed speed an applicant's progress through administrative or judicial appeal processes by bringing a "deemed" closure to the initial application process.

Legislated time limits are difficult to apply "across the board". This is due to differing degrees of complexity and consequences in making incorrect judgments, time limits to exercise various kinds of administrative judgments can be legitimately varied. Silence is consent rules are not widely, or universally, used in any country. This reflects the reality that the result of an unwarranted approval of an application can be extremely serious and costly in some cases. The operation of silence is consent has the potential to give rise to dangers in certain areas, whether of a safety-related or financial nature. The limited field of operation of silence is consent thus seems to reflect judgments by governments that the potential harms associated with such unwarranted approvals can, in many cases, outweigh the benefits of reduced administrative burdens and increased certainty.

In general, accountability mechanisms seem to be potentially important, particularly in contexts in which cultures of administrative responsiveness to citizens are not well established and have the potential to signal government expectations of performance in this regard. However, the issue of determining appropriate incentives and sanctions to ensure that the time lines are met remains a substantial challenge for the future. It is clear that the silence is consent rule has played a role in supporting the use of time limits. At the same time, there are substantial impediments to its more widespread use that will continue to limit the extent to which it is employed in the future. Other options for encouraging compliance with time limits, such as monitoring and reporting performance and applying sanctions for substantial under-performance may need to be considered if this tool is to be made fully effective. Nonetheless, these tools show a high level of consistency with the broader governance agenda and its focus on accountability, transparency and responsiveness to citizens.

## 7. OTHER TOOLS AND PRACTICES

### *Introduction*

The preceding sections of this report identified and discussed tools commonly used to reduce burdens and simplify administrative regulations. Still, many developed countries use a variety of other burden reduction tools and practices. These include negotiated rule making, an ombudsman, "plain language" programmes, "simulated user" programmes, public service charters, and tax simplification initiatives. Some of these initiatives constitute recent experiments, with little information yet being available as to their performance in practice or as to critical success factors. Other initiatives – such as the ombudsman – represent more widely used tools that have policy goals that go well beyond the ambit of administrative simplification, but have been used in part to pursue simplification goals, at least in some contexts. The tools discussed in this section give a broader view of administrative simplification approaches and indicate some additional areas for future research and consideration.

### *Practices and experiences*

#### *Negotiated rule-making*

In countries with a history of adversarial rule making, it is not unusual for the regulator and regulated parties to negotiate a settlement under the supervision of a court once the rule has been published. Reporting obligations and processes to settle disputes are sometimes claimed to be over-formalistic and adversarial, imposing administrative burdens on businesses as well as the public sector.

Negotiated rule-making in this context is a procedural innovation in which representatives of the regulatory agency and the various affected interests are brought together in a co-operative effort. This innovation facilitates to negotiate the text of a proposed regulation that must meet statutory obligations and at the same time be accepted by the regulator and the issuing agency. Negotiation of a rule prior to the agency's publication of a proposed rule can save the agency and other parties both time and resources. By avoiding litigation, programmes become effective sooner and regulated businesses modify plans earlier than if they faced years of litigation and uncertainty on the outcome.

Negotiated rule making may lead to more innovative approaches that may reduce compliance costs and increase compliance. It can also ensure that less time, money, and effort are spent on developing, enforcing and implementing rules. Negotiated rule making is considered to work best where *a)* there is a manageable number of interested groups and issues to be negotiated, *b)* where the issues are negotiable, and *c)* where all interested participants have an incentive to move forward (perhaps due to a deadline or to the inevitability that *some* regulation will be issued anyway).

- ← One example is the **United States**, where, since 1982, 17 federal agencies have initiated 67 negotiated rule makings producing 35 final rules. Experiences point to substantial cost-savings due to early implementation, whereas the most significant deterrent to using negotiated rule making is the up-front cost in terms of time and information gathering.

### *"Plain language" drafting*

Many countries have undertaken programmes to improve the clarity of their formalities and forms. Governments have ordered agencies to use plain language in all new rule-making documents. Instruction and training sessions have been held on how to make information requirements readable. The advice covers such things as format, headings, paragraphing, use of tables and illustrations, and use of active verbs. Some examples are:

- In **France**, a committee was established in 2001 to improve the administrative language (COSLA – *Comité d'orientation pour l'amélioration du langage administratif*). COSLA has embarked on redrafting forms most commonly used in order to make them easier for users to understand. To improve the quality of public servant's letters to citizens and businesses, COSLA is also preparing a glossary giving everyday language equivalents of technical and legal terms.
- The **United States** Government created a Web site called the "Plain Language Action Network" which was devoted to helping the implementation of this initiative. As part of this effort, the Vice President presented awards to federal employees for plain language accomplishments. Many other OECD countries have similar initiatives. Mexico's programme also includes the requirement that any government official who has direct contact with the population should fully identify himself or herself.

### *The simulated user programme*

An innovative programme used in **Mexico** is the "simulated user programme." The programme serves as a tool for assessing compliance with the deregulation and administrative simplification initiatives through random, surprise call visits by simulated users. Quality indicators and procedure ratings are then used to assess the performance of government offices and employees. Between 1995 and 2000, the simulated user programme lead to over 500 recommendations being made to simplify procedures and improve services for the public.

### *Public service charters*

Public Service Charters may support administrative simplification by making clear the reporting obligations and information requirements necessary to obtain public services.

- In 1998, the **Korean** Ministry of Government Administration and Home Affairs (MOGAHA) launched a public service charter programme by requesting all administrative bodies to formulate and announce their own "public service charters". Charters are supposed to include a description of services provided and their criteria, directions on how to obtain services, and possible remedies for mistreatment by government employees.

### *Business and citizen suggestion programmes*

*Ad hoc* and systematic input from businesses and citizens on how to simplify administrative procedures are a key source of input to administrative simplification initiatives in many countries. Input channels vary from general (electronic) contact points where suggestions can be tabled, to a more systematic and targeted gathering of information.

- The **Korean** government has developed systematic ways to collect citizen suggestions to improve the public administration. Special bi-annual meetings are organized where citizens, generally represented by major NGOs, present suggestions for administrative reform. All administrative bodies at the regional level are also instructed to collect suggestions from businesses and citizens on ways to improve the public administration. The Ministry of Government Administration and Home Affairs collects the suggestions and presents them with relevant administrative bodies to discuss if and how to implement them.
- Pioneered in **Denmark** in 1996, test panels are an innovative way to incorporate businesses' views on regulations prior to being finalized and implemented. In Denmark a Test Panel consists of 500 randomly selected representative businesses. Based on a summary of the proposed regulation and government estimates of the expected burdens, businesses in the panel are asked to fill out a standard questionnaire (which takes 10-15 minutes, communicated electronically over the Internet). Answers by businesses are summarized in a report prepared by a government agency and made

available to the proponent ministry. Testing a regulation in the Test Panels takes approximately 20 days.

### *Public sector simplification*

In 1999, the **British** Government developed a Public Sector Team (within its Cabinet Office Regulatory Impact Unit) with the sole purpose to reduce the regulatory burden on the public sector, *i.e.* in areas such as law enforcement offices, schools, hospitals, and local authorities. Its role is mainly to recommend best practices and to facilitate the co-operation with government departments. A “new” technique, equivalent in its objectives to Regulatory Impact Assessment, currently labeled the “regulatory effects framework”, aims to measure the costs of administrative burdens to public sector organizations in terms of the hours of staff time required to meet them.

The Public Sector Team seems at present to be a unique concept in terms of its focus on administrative simplification specifically within the public sector context. However, this would appear to be a fruitful area for further work, given the size of the public sector, the number of different levels of government that can be involved and the complexity of many of the interactions among public sector agencies.

### *Conclusions*

The series of initiatives discussed above are indicative of the wide-ranging nature of the attempts made by OECD Governments to address the issues of administrative simplification and burden reduction. At the same time, they also serve to highlight the links between simplification programmes and other policy objectives.

For example, plain language drafting programmes were originally developed with the primary objective of making the law more intelligible and accessible to those required to comply. While this is essentially a transparency based objective, it is equally apparent that the compliance effort involved in relation to a given law can be substantially reduced if there is a greater degree of clarity in the law itself as to the nature of its requirements.

Indeed, the drafting of regulations is often the crucial point in addressing potential administrative burdens, while the logic of plain language drafting suggests that close consultation with citizens is likely to constitute one of the most productive approaches.

The power of citizen’s suggestions seems to be a largely untapped resource. This appears to be an area for further experiment, focusing on the best way to bring the affected public into the process at the early stages of drafting proposed regulations. However in some cases it seems that a challenge remains to build a real win/win strategy convincing both users and administrations that procedures can in fact be simplified without detriment to either.

# PART C.

## ANNEX A.I - EASE OF DOING BUSINESS INDICATORS – REGIONAL COMPARISONS OF ARMENIA WITH THOSE COUNTRIES OF PEER-GROUP AND GLOBAL BEST PERFORMERS

***Table A.I.1 - Starting a Business***

| Region or economy | Rank | Procedures (number) | Duration (days) | Cost (% GNI per capita) | Min. capital (% GNI per capita) |
|---|---|---|---|---|---|
| *Caucasus Countries* | | | | | |
| **Armenia** | **46** | **9** | **24** | **5.1** | **3.3** |
| Azerbaijan | 96 | 15 | 53 | 9.5 | 0.0 |
| Georgia | 36 | 7 | 16 | 10.9 | 3.7 |
| *Other CIS Countries* | | | | | |
| Russia | 31 | 8 | 33 | 5.0 | 4.4 |
| Moldova | 69 | 10 | 30 | 17.1 | 22.0 |
| Kazakhstan | 33 | 7 | 24 | 8.6 | 26.6 |
| Ukraine | 110 | 15 | 34 | 10.6 | 183 |
| *Countries of peer-group* | | | | | |
| Latvia | 26 | 7 | 18 | 4.2 | 31.8 |
| Lithuania | 37 | 8 | 26 | 3.3 | 58.3 |
| Poland | 92 | 10 | 31 | 22.2 | 220.1 |
| Slovak Republic | 48 | 9 | 25 | 5.1 | 41.0 |
| *Regional average* | | | | | |
| Europe and Central Asia | - | 9.7 | 36.5 | 13.5 | 49.1 |
| OECD | - | 6.5 | 19.5 | 6.8 | 41.0 |
| *Global best* | | | | | |
| Canada | 1 | 2 | 3 | 0.9 | 0.0 |
| Australia | 2 | 2 | 2 | 1.9 | 0.0 |
| USA | 3 | 5 | 5 | 0.5 | 0.0 |

***Table A.I.2 - Dealing with Licenses***

| Region or economy | Rank | Procedures (number) | Time (days) | Cost (% of income per capita) |
|---|---|---|---|---|
| *Caucasus Countries* | | | | |
| **Armenia** | **36** | **18** | **112** | **43.1** |
| Azerbaijan | 162 | 28 | 212 | 977.4 |
| Georgia | 42 | 17 | 137 | 71.7 |
| *Other CIS Countries* | | | | |
| Russia | 143 | 22 | 528 | 353.7 |
| Moldova | 63 | 20 | 122 | 215.0 |
| Kazakhstan | 112 | 32 | 258 | 68.3 |
| Ukraine | 96 | 18 | 265 | 229.4 |
| *Countries of peer-group* | | | | |
| Latvia | 47 | 21 | 160 | 43.9 |
| Lithuania | 16 | 14 | 151 | 17.5 |
| Poland | 120 | 25 | 322 | 83.1 |
| Slovak Republic | 40 | 13 | 272 | 18.0 |
| *Regional average* | | | | |
| Europe and Central Asia | - | 21.4 | 251.8 | 668.9 |
| OECD | - | 14.1 | 146.9 | 75.1 |
| *Global best* | | | | |
| Palau | 1 | 6 | 67 | 18.8 |
| New Zealand | 2 | 7 | 65 | 29.3 |
| Micronesia | 3 | 6 | 53 | 41.4 |

***Table A.I.3 - Employing Workers***

| Region or economy | Rank | Difficulty of Hiring Index | Rigidity of Hours Index | Difficulty of Firing Index | Rigidity of Employment Index | Hiring cost (% of salary) | Firing Costs (Weeks of wages) |
|---|---|---|---|---|---|---|---|
| *Caucasus Countries* | | | | | | | |
| **Armenia** | **41** | **33** | **40** | **20** | **31** | **17.5** | **13.0** |
| Azerbaijan | 66 | 33 | 40 | 40 | 38 | 22.0 | 21.7 |
| Georgia | 6 | 0 | 20 | 0 | 7 | 20.0 | 4.3 |
| *Other CIS Countries* | | | | | | | |
| Russia | 57 | 0 | 60 | 30 | 30 | 35.8 | 16.6 |
| Moldova | 135 | 33 | 100 | 70 | 68 | 30.0 | 20.9 |
| Kazakhstan | 29 | 0 | 60 | 10 | 23 | 22.0 | 8.3 |
| Ukraine | 119 | 44 | 60 | 80 | 61 | 36.4 | 16.6 |
| *Countries of peer-group* | | | | | | | |
| Latvia | 108 | 67 | 40 | 70 | 59 | 22.4 | 17.0 |
| Lithuania | 93 | 33 | 60 | 40 | 44 | 28.0 | 33.8 |
| Poland | 64 | 11 | 60 | 40 | 37 | 25.8 | 24.9 |
| Slovak Rep. | 74 | 17 | 60 | 40 | 39 | 35.2 | 12.9 |
| *Regional average* | | | | | | | |
| Europe and Central Asia | - | 34.5 | 56.9 | 41.5 | 44.3 | 29.6 | 32.8 |
| OECD | - | 30.1 | 50.4 | 27.4 | 36.1 | 20.7 | 35.1 |
| *Global best* | | | | | | | |
| Palau | 1 | 0 | 0 | 0 | 0 | 6.0 | 0.0 |
| Tonga | 2 | 0 | 40 | 0 | 13 | 0.0 | 0.0 |
| Hong Kong | 3 | 0 | 0 | 0 | 0 | 5.0 | 12.9 |

***Table A.I.4 - Registering Property***

| Region or economy | Rank | Procedures (number) | Time (days) | Cost (% of property value) |
|---|---|---|---|---|
| *Caucasus Countries* | | | | |
| **Armenia** | **2** | **3** | **4** | **0.4** |
| Azerbaijan | 59 | 7 | 61 | 0.3 |
| Georgia | 16 | 6 | 9 | 0.5 |
| *Other CIS Countries* | | | | |
| Russia | 35 | 6 | 52 | 0.4 |
| Moldova | 40 | 6 | 48 | 1.5 |
| Kazakhstan | 68 | 8 | 52 | 1.6 |
| Ukraine | 127 | 10 | 93 | 3.8 |
| *Countries of peer-group* | | | | |
| Latvia | 89 | 9 | 54 | 2.0 |
| Lithuania | 2 | 3 | 3 | 0.8 |
| Poland | 75 | 6 | 197 | 1.6 |
| Slovak Republic | 6 | 3 | 17 | 0.1 |
| *Regional average* | | | | |
| Europe and Central Asia | - | 6.5 | 127.1 | 3.0 |
| OECD | - | 4.7 | 32.2 | 4.8 |
| *Global best* | | | | |
| New Zealand | 1 | 2 | 2 | 0.1 |
| Lithuania | 2 | 3 | 3 | 0.8 |
| Saudi Arabia | 3 | 4 | 4 | 0 |

***Table A.I.5 - Getting Credit***

| Region or economy | Rank | Legal Rights Index | Credit Information Index | Public Registry Coverage (% adults) | Private Bureau Coverage (% adults) |
|---|---|---|---|---|---|
| *Caucasus Countries* | | | | | |
| **Armenia** | **65** | **5** | **3** | **1.5** | **0** |
| Azerbaijan | 21 | 7 | 4 | 1.1 | 0 |
| Georgia | 48 | 6 | 3 | 0 | 0 |
| *Other CIS Countries* | | | | | |
| Russia | 148 | 3 | 0 | 0 | 0 |
| Moldova | 97 | 6 | 0 | 0 | 0 |
| Kazakhstan | 117 | 5 | 0 | 0 | 0 |
| Ukraine | 75 | 8 | 0 | 0 | 0 |
| *Countries of peer-group* | | | | | |
| Latvia | 26 | 8 | 3 | 1.1 | 0 |
| Lithuania | 36 | 4 | 6 | 2.5 | 12.1 |
| Poland | 88 | 3 | 4 | 0 | 38.1 |
| Slovak Republic | 28 | 9 | 2 | 0.5 | 18.1 |
| *Regional average* | | | | | |
| Europe and Central Asia | - | 5.6 | 2.5 | 1.4 | 6.6 |
| OECD | - | 6.3 | 5.0 | 7.5 | 59.0 |
| *Global best* | | | | | |
| United Kingdom | 1 | 10 | 6 | 0 | 76.2 |
| Hong Kong | 2 | 10 | 5 | 0 | 64.5 |
| Australia | 3 | 9 | 5 | 0 | 100.0 |

***Table A.I.6 - Protecting Investors***

| Region or economy | Rank | Disclosure Index | Director Liability Index | Shareholder Suites Index | Investor Protection Index |
|---|---|---|---|---|---|
| *Caucasus Countries* | | | | | |
| **Armenia** | **83** | **5** | **2** | **8** | **5.0** |
| Azerbaijan | 118 | 4 | 1 | 8 | 4.3 |
| Georgia | 135 | 4 | 4 | 4 | 4.0 |
| *Other CIS Countries* | | | | | |
| Russia | 73 | 7 | 3 | 5 | 5.0 |
| Moldova | 89 | 7 | 1 | 6 | 4.7 |
| Kazakhstan | 70 | 7 | 2 | 6 | 5.0 |
| Ukraine | 141 | 1 | 3 | 4 | 2.7 |
| *Countries of peer-group* | | | | | |
| Latvia | 40 | 5 | 4 | 8 | 5.7 |
| Lithuania | 61 | 5 | 4 | 7 | 5.3 |
| Poland | 22 | 7 | 4 | 8 | 6.3 |
| Slovak Republic | 118 | 2 | 4 | 6 | 4.0 |
| *Regional average* | | | | | |
| Europe and Central Asia | - | 4.5 | 4.2 | 5.6 | 4.8 |
| OECD | - | 6.1 | 5.1 | 6.6 | 5.9 |
| *Global best* | | | | | |
| New Zealand | 1 | 10 | 9 | 10 | 9.7 |
| Singapore | 2 | 10 | 9 | 9 | 9.3 |
| Canada | 3 | 8 | 9 | 9 | 8.7 |

***Table A.I.7 - Paying Taxes***

| Region or economy | Rank | Payments (number) | Time (hours) | Total tax payable (% gross profit) |
|---|---|---|---|---|
| *Caucasus Countries* | | | | |
| **Armenia** | **148** | 50 | 1,120 | 42.5 |
| Azerbaijan | 136 | 36 | 1000 | 44.9 |
| Georgia | 104 | 35 | 423 | 37.8 |
| *Other CIS Countries* | | | | |
| Russia | 52 | 27 | 256 | 40.8 |
| Moldova | 89 | 44 | 250 | 44.7 |
| Kazakhstan | 48 | 34 | 156 | 41.6 |
| Ukraine | 151 | 84 | 2,185 | 51.0 |
| *Countries of peer-group* | | | | |
| Latvia | 83 | 39 | 320 | 38.7 |
| Lithuania | 31 | 13 | 162 | 41.6 |
| Poland | 106 | 43 | 175 | 55.6 |
| Slovak Republic | 69 | 31 | 344 | 39.5 |
| *Regional average* | | | | |
| Europe and Central Asia | - | 46.9 | 431.5 | 50.2 |
| OECD | - | 16.9 | 197.2 | 45.4 |
| *Global best* | | | | |
| Maldives | 1 | 1 | 0 | 5.5 |
| Hong Kong | 2 | 1 | 80 | 14.3 |
| Iraq | 3 | 13 | 48 | 5.6 |

***Table A.I.8 - Trading Across Borders***

| Region or economy | Rank | Documents for export (number) | Signatures for export (number) | Time for export (days) | Documents for import (number) | Signatures for import (number) | Time for import (days) |
|---|---|---|---|---|---|---|---|
| *Caucasus Countries* | | | | | | | |
| **Armenia** | **119** | **7** | **12** | **34** | **6** | **15** | **37** |
| Azerbaijan | 158 | 7 | 69 | 69 | 18 | 55 | 79 |
| Georgia | 95 | 9 | 35 | 54 | 15 | 42 | 52 |
| *Other CIS Countries* | | | | | | | |
| Russia | 67 | 8 | 8 | 29 | 8 | 10 | 35 |
| Moldova | 80 | 7 | 12 | 33 | 7 | 13 | 35 |
| Kazakhstan | 142 | 14 | 15 | 93 | 18 | 17 | 87 |
| Ukraine | 78 | 6 | 9 | 34 | 10 | 10 | 46 |
| *Countries of peer-group* | | | | | | | |
| Latvia | 62 | 9 | 6 | 18 | 13 | 7 | 21 |
| Lithuania | 31 | 5 | 5 | 6 | 12 | 4 | 17 |
| Poland | 34 | 6 | 5 | 19 | 7 | 8 | 26 |
| Slovak Rep. | 60 | 9 | 8 | 20 | 8 | 10 | 21 |
| *Regional average* | | | | | | | |
| Europe and Central Asia | - | 7.7 | 10.9 | 31.6 | 11.7 | 15.0 | 43.0 |
| OECD | - | 5.3 | 3.2 | 12.6 | 6.9 | 3.3 | 14.0 |
| *Global best* | | | | | | | |
| Denmark | 1 | 3 | 2 | 5 | 3 | 1 | 5 |
| Sweden | 2 | 4 | 1 | 6 | 3 | 1 | 6 |
| Germany | 3 | 4 | 1 | 6 | 4 | 1 | 6 |

***Table A.I.9 - Enforcing Contracts***

| Region or economy | Rank | Procedures (number) | Time (days) | Cost (% of debt) |
|---|---|---|---|---|
| *Caucasus Countries* | | | | |
| **Armenia** | **19** | 24 | 185 | 14.0 |
| Azerbaijan | 34 | 27 | 267 | 19.8 |
| Georgia | 32 | 24 | 285 | 20.5 |
| *Other CIS Countries* | | | | |
| Russia | 62 | 29 | 330 | 20.3 |
| Moldova | 66 | 37 | 340 | 16.2 |
| Kazakhstan | 68 | 47 | 380 | 8.5 |
| Ukraine | 39 | 28 | 269 | 11.0 |
| *Countries of peer-group* | | | | |
| Latvia | 15 | 20 | 186 | 10.4 |
| Lithuania | 7 | 17 | 154 | 9.1 |
| Poland | 104 | 41 | 980 | 8.7 |
| Slovak Republic | 81 | 27 | 565 | 15.0 |
| *Regional average* | | | | |
| Europe and Central Asia | - | 29.6 | 393.0 | 17.4 |
| OECD | - | 19.5 | 225.7 | 10.6 |
| *Global best* | | | | |
| Norway | 1 | 14 | 87 | 4.2 |
| Denmark | 2 | 15 | 83 | 5.3 |
| Japan | 3 | 16 | 60 | 8.6 |

***Table A.I.10 - Closing a Business***

| Region or economy | Rank | Time (years) | Cost (% of estate) | Recovery Rate (cents on the dollar) |
|---|---|---|---|---|
| *Caucasus Countries* | | | | |
| Armenia | 40 | 1.9 | 4 | 42.0 |
| Azerbaijan | 70 | 2.7 | 8 | 32.5 |
| Georgia | 86 | 3.3 | 3.5 | 27.5 |
| *Other CIS Countries* | | | | |
| Russia | 71 | 3.8 | 9 | 27.6 |
| Moldova | 72 | 2.8 | 9 | 27.4 |
| Kazakhstan | 92 | 3.3 | 18 | 20.0 |
| Ukraine | 123 | 2.9 | 42 | 8.5 |
| *Countries of peer-group* | | | | |
| Latvia | 11 | 1.1 | 4 | 83.2 |
| Lithuania | 29 | 1.2 | 7 | 53.6 |
| Poland | 23 | 1.4 | 22 | 64.0 |
| Slovak Republic | 44 | 4.8 | 18 | 38.6 |
| *Regional average* | | | | |
| Europe and Central Asia | - | 3.5 | 14.0 | 29.8 |
| OECD | - | 1.5 | 7.4 | 73.8 |
| *Global best* | | | | |
| Japan | 1 | 0.6 | 4 | 92.7 |
| Singapore | 2 | 0.8 | 1 | 91.4 |
| Norway | 3 | 0.9 | 1 | 91.1 |

## BIBLIOGRAPHY

European Commission (2002), *Benchmarking the Administration of Business Start-Ups*, European Commission, Brussels.

Van der Burg, BI and A.F.M. Nijsen (1998), “How can administrative burdens on enterprises be assessed?”, in Kellermann, A., E. Azzi, S. Jacobs, and Rex

OECD (1997a), *Regulatory Impact Analysis. Best Practices in OECD Countries*, OECD, Paris.

OECD (1997b), *The OECD Report on Regulatory Reform*, Volume I-II, OECD, Paris.

OECD SYNTHESIS REPORT: ADMINISTRATIVE SIMPLIFICATION IN OECD COUNTRIES

OECD FROM RED TAPE TO SMART TAPE – ISBN 92-64-10067-9 – © OECD 2003

OECD (2000a), *OECD Small and Medium Enterprise Outlook*, Chapter 3, OECD, Paris.

OECD (2001a), *Businesses' views on Red Tape – Administrative and Regulatory Burdens on Small and Medium-Sized Enterprises*, OECD, Paris.

OECD (2002), *Regulatory Policies in OECD Countries from Interventionism to Regulatory Governance*, OECD, Paris.

World Bank, “Investment Climate”, www.worldbank.org/investmentclimate

OECD Investment Compact: www.investmentcompact.org

Stability Pact for South Eastern Europe: www.stabilitypact.org/wt2/default.asp

EBRD, *Transition Report and Business Environment and Enterprise Performance Survey* (BEEPS), http://www.ebrd.com/pubs/econo/series/tr.htm

World Bank, “Doing Business 2007: How to reform”, www.doingbusiness.org