BETTER REGULATION FOR GROWTH

GOVERNANCE FRAMEWORKS AND TOOLS FOR EFFECTIVE REGULATORY REFORM

TOOLS AND APPROACHES TO REVIEW EXISTING REGULATIONS

INVESTMENT CLIMATE ADVISORY SERVICES
WORLD BANK GROUP

IFC International Finance Corporation World Bank Group
MIGA World Bank Group Multilateral Investment Guarantee Agency
THE WORLD BANK

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The Investment Climate Advisory Services of the World Bank Group helps governments implement reforms to improve their business environment, and encourage and retain investment, thus fostering competitive markets, growth and job creation. Funding is provided by the World Bank Group (IFC, MIGA, and the World Bank) and over 15 donor partners working through the multi-donor IC platform.

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Better Regulation for Growth Program
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The objective of the BRG Program is to review and synthesize experiences with regulatory governance initiatives in developing countries, and to develop and disseminate practical tools and guidance that will help developing countries design and implement effective regulatory reform programs. Reports and other documentation developed under the BRG Program are available at: www.ifc.org/brg

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ACRONYMS

BRG	Better Regulation for Growth
COFEMER	Federal Regulatory Improvement Commission (Mexico)
DB	Doing Business
DFID	Department for International Development (UK)
EU	European Union
IC	Investment Climate Advisory Services
M&E	Monitoring and Evaluation
OECD	Organization for Economic Cooperation and Development
RIA	Regulatory Impact Analysis
SCM	Standard Cost Model
SME	Small and Medium Enterprises
USAID	U.S. Agency for International Development
WBGES	World Bank Entrepreneurship Survey

EXECUTIVE SUMMARY

This paper looks at the existing tools and approaches most commonly used in developed and developing countries to review the stock of regulations. The tools reviewed can generate benefits in the short term, but they are most effective as part of a longer-term sustained initiative. This paper has a particular focus on the challenges that arise from their use in emerging and developing countries.

The objectives of this paper include:

- explaining the rationale for the use of these tools and approaches;
- discussing each one of them in a succinct way;
- considering the extent to which these tools can support more systemic regulatory reforms in the medium and long terms; and
- considering the particular challenges and opportunities regarding their use in developing and emerging economies.

The tools and approaches analyzed in this paper include: process reengineering, Doing Business, Standard Cost Model (SCM), guillotine, bulldozer, scrap and build, staged repeal, review and sunset clauses, statute law revision, codification, recasting and consolidation. This paper does not aim to explain the technicalities in the use of each one of these tools and approaches to review the stock of regulation. Rather, it provides a summary of the main characteristics of each one of them supported by commentary on international experiences and lessons.

Available evidence that documents the way tools and approaches to review the stock of regulations are designed and implemented is currently patchy and incomplete. Most studies have focused on Doing Business, SCM, process reengineering and the guillotine tool. These tools have been the focus of intensive debate and research. By contrast, less information is available about staged repeal, review and sunset clauses, scrap and build, codification, recasting, consolidation and the "bulldozer" tool.

Another important gap in the existing literature on this topic is the rather limited assessment of the effectiveness of these tools to improve the

regulatory stock and in particular the sequencing and combination in which they could be used. In many cases, the impact of these tools and their economic benefits have not been properly documented. Successful stories of the use of particular tools have contributed to a better understanding of how these tools can be used, what their preconditions for implementation are, and what lessons can be drawn from their application. The authors are able to draw upon the experience of IC, which has helped design and implement some of these tools in developing countries. In particular, IC has been working on applying the following tools: Doing Business, process reengineering, SCM, the guillotine, and review clauses. The legal tools described in this paper, such as codification, recasting and consolidation, have not been the subject of advisory services per se, but they are included in this paper as they contribute to the legal changes required to make solutions feasible.

Tools and approaches that help review the regulatory stock are a key way to improve the quality of the regulation. By providing a legal solution, an administrative reform and/or diagnosis, the tools and approaches outlined here offer attractive options for improving the quality of the stock of existing regulations. If successful, they ultimately generate lower burdens to business and provide more certainty to businesses and citizens.

Improving regulatory quality is an ongoing task that is becoming important in the policy agendas of many countries. Indeed, different tools and approaches to review the stock of regulation are widely used for this purpose. After initial attempts to focus only on simplifying administrative procedures, many countries have broadened their approach to deal with the quality of existing regulations in a more systemic and permanent manner.

Tools and approaches can generate benefits quickly through relatively minor changes in existing rules. Where properly implemented, these tools can lead to positive results. They can contribute by raising awareness of the magnitude of regulatory problems, providing diagnosis and possible solutions. Such tools, however, might add minor value if there is no sustainability over time. Used alone, no single tool is likely to be either sustainable or effective. Therefore, they have to be seen as a sound platform for further, more wide-ranging and systemic regulatory reforms.

Sequencing in the use of tools is fundamental for their successful application. These tools are more effective if their application is conceived in a framework with a medium- and long-term perspective, and integrated with broader regulatory reform efforts. This seems to be part of the main challenge for emerging and developing countries, which do not have all resources and capacities to integrate broad programs of regulatory reform. Indeed, changing the administrative culture of producing and implementing regulations is particularly difficult in developing countries, often due to limited capacities, vested interests, low degrees of transparency, and the complex existing regulatory systems.

The paper concludes by highlighting some issues that are essential to adapt these tools for use in emerging and developing countries' contexts.

INTRODUCTION

This paper defines and discusses some of the existing tools and approaches to review the stock of regulations that generate benefits in the short term. It is an attempt to compile information on those tools available and used in many countries, presenting their main features and contextualizing their use. It also provides practical insights into the use of these tools in a range of countries.

Section 1 is a brief description of the rationale and context for applying tools and approaches to review the stock of regulation. It includes a reference to benefits and preconditions to make use of these tools. It also presents a categorization of the most commonly used tools and a comparative table on the way these tools can be applied.

Section 2 presents a description of each of the different tools and approaches available, and discusses the way they are used and their main components. It includes references to international experiences in which these tools have been integrated into the regulatory reform process.

Section 3 presents preliminary commentary about some of the potential advantages, disadvantages, and impacts of using these tools and approaches in developing countries. Some particular cases are presented to illustrate these trends. The section also includes a short description of the sequence observed in the use of some of these tools. Moreover, this section illustrates how these tools can (or cannot) generate gains in the short term and also provide a basis for further and broader regulatory reform programs.

APPROACHES AND TOOLS TO REVIEW THE STOCK OF EXISTING REGULATIONS: PRELIMINARY CONSIDERATIONS

Reviewing and cleaning the regulatory stock is one of the most challenging tasks that governments face to improve the quality of regulation. In some cases, parts of the existing regulatory stock are outdated, duplicative, unnecessary and burdensome.

In many countries, reviewing the regulatory stock is part of the mandate of Parliaments, based on a purely legalistic approach. The Executive branch, however, can contribute to this task by using different tools during the law drafting process and by streamlining procedures and forms.

In recent years, reviewing the stock of regulations has been high on the political and policy agenda. There is a broad consensus that rules are necessary to establish clear and transparent frameworks for competition and economic activity. But unnecessary and duplicative regulations can damage the market economy by imposing unnecessary costs on the private sector and citizens. Having a complex and outdated regulatory stock has a negative impact on economic growth, investment flows, job creation and competition in the medium and long terms.[1] Poor quality regulations also generate a range of broader social, environmental and equity costs, such as ineffective enforcement and providing incentives for corruption.

A considerable number of countries have used different tools and approaches to review the existing regulatory stock. Many developed countries have launched programs to cut red tape, as a way to reduce administrative procedures and costs to citizens and businesses. Over time, some of these administrative simplification programs have been expanded to look at the stock of regulations in a more comprehensive and systematic way. In developed countries, these programs are normally integrated in broader strategies to improve the

1 Several authors have attempted to establish a direct link between regulatory stock and economic growth. Looking at administrative burdens whose origins can be found in the existing regulatory stock, calculations by Kox (2005) suggest that the 25 percent reduction in the Netherlands will reduce administrative burdens from 3.7 percent to 2.8 percent of GDP. This is still significantly above the UK (1.5 percent), Denmark (1.9 percent) as well as several other European countries.

quality of regulations and enhance the efficiency and effectiveness of regulatory systems.

Emerging and developing countries are following the trend to review the stock of regulations in an attempt to also improve governance, attract investment, and facilitate entrepreneurship. But the tools and approaches employed to date have produced mixed results.

As part of the regulatory simplification work undertaken by IC, some client countries have used some of the tools comprised in this policy paper. So far there has been little evidence or conclusions drawn on the most appropriate conditions to use them. Only some general lessons have been documented about how these tools can produce benefits. The purpose of this paper is to shed some light on the use of these tools and the way they are sequenced in the reform process. In addition, the paper identifies some elements that can help make their gains sustainable in the medium and long term, based mostly on experiences in developing countries.

Understanding the benefits and challenges to reviewing the stock of regulations

Simplifying the regulatory system can be a challenging task. Before engaging in any strategy, governments have to understand the benefits of reviewing and simplifying the existing regulatory system. Positive elements of such strategies include:

- the facilitation of efficient administrative process to undertake economic and social activities;
- cooperative relationships between public administration and citizens; and
- lower regulatory costs for businesses.

A core task of governments is to ensure that regulations are up to date and to adapt the legal framework to current situations. Ultimately, innovation can be encouraged by having fewer administrative barriers, while efficiency gains from reductions in red tape can lead to greater private sector participation. A more effective use of tools also serves better public governance purposes.

But reaching these objectives requires thorough analysis, consultation, planning, preparation and a well-managed implementation strategy. But first of all, a clear understanding of the different tools available and choosing the right ones that make sense for a particular country and expectations of reform.

Overview of the tools and approaches used in regulatory reform programs

Reviewing, simplifying and strengthening the regulatory stock can take many different forms. The nature and purpose of the particular tool must be carefully matched to the regulatory objectives to be achieved, and to the characteristics of the legal obligation per se that is going to be simplified or streamlined. The table and subsequent discussion below provide an initial guide to the selection and prioritization of tools to be applied in different contexts.

Table 1 below distinguishes between “fast track” and non-fast track tools. Fast track tools are useful because visible “quick wins” help create additional momentum and stir political support for reform. In several countries, these elements have been essential to show to the public that simplification efforts are worth undertaking and can contribute to a better regulatory environment.

In emerging and developing countries, these quick wins seem important to prepare the ground for broader programs in the medium and long term, but evidence about this process remains

Table 1: Categorization of the most common tools and approaches to review existing regulations

Tools	Fast track tool?	Used with other tools
Process reengineering	No	
Doing Business	Yes	Process reengineering
Standard Cost Model	Yes	Guillotine, RIA[2]
Guillotine	Yes	Standard Cost Model, RIA
Bulldozer	Yes	
Scrap and build	No	
Staged repeal	No	Review clauses
Review and sunset clauses	No	
Statute law revisions	No	
Codification	No	
Recasting	No	
Consolidation	No	

scarce. In many cases, starting small and making rapid improvements can attract attention and support from politicians and stakeholders. It can also provide an initial basis for more comprehensive reforms. This was the case, for example, in Kenya (see Boxes 3 and 4). Quick wins are also sought in countries where big reforms are not possible because the system is highly captured or resistant to change.

However, the risk of focusing too much on quick wins is that reforms might not be sustainable over time. Getting to the basics is important when dealing with a problem whose roots lie in years of uncontrolled regulatory activity that most of the time has also lacked quality controls. For example, in Moldova, the initial team in charge of using the regulatory guillotine estimated that 67 inspectorates were responsible of creating between 300 and 500 regulations for business. The actual number revealed that there were more than 1,100, many of them illegal and never published.[3] Reforms that are only thought to deal with single processes and rules will never catch up with incentives that governments keep to create regulations. They overlook a fundamental aspect of the problem: its systemic character.

Tools work best when they generate benefits through relatively minor changes in existing rules and procedures. Tools, as defined in this paper, contribute to enabling the business environment in three different ways:

- improving the quality of the stock of regulations in the short term;
- streamlining procedural solutions for business entry and operation; and
- reducing costs for businesses to comply with regulations.

The tools can also set the stage for more comprehensive and systemic reforms.

How to get started? preconditions to make use of tools and approaches to review regulatory stock

Tackling the regulatory stock requires a strategic approach. The following preconditions are needed to start cleaning and reviewing the stock of regulations, based on international experiences:[4]

2 Regulatory Impact Analysis (RIA) is a tool for the flow of new regulation, designed to show options for regulatory decisions. A study on RIA, called "Making It Work: 'RIA Light' for Transition and Developing Countries" has been prepared in the context of the BRG Program.

3 Jacobs and Astrakhan (2006), p. 3

4 International experiences have been documented by several institutions, mainly OECD for developed countries and The World Bank Group, IC in particular, for emerging and developing countries. The preconditions are mainly drawn from IC work, basis of many publications referenced in the bibliography used for this paper.

- *High-level political support*. Without support from a network of partners at high political and technical levels, reforms might not attain expected goals. Reviewing the regulatory stock requires political back-up as this process may affect vested interests, introduce changes in the administrative culture, and increase transparency. The higher the support is (level of Minister or Director General), the more effective it can be, as solutions will require overcoming resistance. Most of the tools and approaches are used in a top-down way, which requires certainty about objectives, clear focus, firm decisions and effective follow-up. In developing countries this is especially important because initial reforms have to be introduced with strong political support. Conducting a SCM measurement, for instance, requires high political guidance that encourages policymakers to participate in the exercise and help collect data.

- *Think big, act small first*. This refers also to an effective organization of the reform process, in which policymakers embarking in the use of these tools need to have a plan for the reform process with a clear and effective organization of its different phases. The plan should consider not only resources and skills required as well as an effective and efficient use of capacities available, but also an understanding of the problem behind the proposed solution. Consideration of the opportunity costs and cost-benefits of reforms are needed to rank priorities, which will allow identifying the kinds of tools that should be used, which also has to be balanced against some form of sequencing. The plan should be big in scope, but small steps that show quick wins are often fundamental to moving forward. This is particularly relevant in developing countries that in many cases are confronted with several reform paths at the same time. For instance, selecting the use of the guillotine in some countries, such as Moldova or Croatia, has been deliberately chosen among other tools for regulatory reform, knowing that the quick wins brought by the use of the guillotine could create more appetite for reformers in the medium term.

- *Establishing an inventory of the regulatory stock as a starting point*. In many cases, the use of these tools depends greatly on the availability of a well-structured overview or database of the regulatory stock. This is particular relevant in the case of emerging and developing countries where legal frameworks have not been systematically reviewed and the existing stock is complex and sometimes unknown. When conducting licensing reform, IC puts particular attention to prepare an initial inventory of existing licenses that serve as a basis to map the situation and identify initial problems in the country.

- *Preparing changes in the administrative culture*. Eliminating, reviewing and/or updating the existing regulatory stock means changing the administrative culture. Consensus is important to ensure a common understanding of the roots of the problem and to obtain agreement on the way simplification efforts will be undertaken. Consensus, however, does not mean agreement for every single measure to be taken and projects tend to have an inherent and unavoidable, but manageable, amount of conflict between stakeholders and interests. The use of tools has to allow a gradual institutionalization of the change in the administrative culture. In developing countries this is certainly one of the most difficult obstacles to overcome, as preparing regulations has never been challenged before and powerful institutions might oppose any change to the status quo.

- *Strong involvement of stakeholders*. The role of stakeholders in the introduction of any tool is relevant for success. Stakeholders should take the lead and develop a sense of ownership about the reform process. They need to feel that the reform program proposed will benefit them in a direct way. But in many

cases, tools are introduced by a small group of reformers that only later, at some point, engages the interest and support of stakeholders, which is required to provide feedback on the achieved results, and to maintain momentum for further and more systemic reforms. In emerging and developing countries, this might be problematic because businesses are particularly affected by bad regulatory decisions and in many cases they have a limited participation in the regulatory process. An additional effort has to be made to communicate the reform objectives and to establish channels to interact with those affected by regulations.

- *Transparent mechanisms*. Simplification efforts cannot be perceived seriously if they are not accompanied by transparent mechanisms that help make information available for all parties interested, reduce discretion in policy decisions and introduce clarity into the regulatory system. In emerging and developing countries, many of these mechanisms do not exist, they have to be established as long as tools are used and the reform is taking shape. Where they exist, they need to be strengthened by putting particular attention to stress their relevance. For instance, process re-engineering brings increased transparency to the regulatory process by making available information that is essential for businesses to take decisions. Information has to be updated later on to make it relevant over time.

- *Ensuring sound multilevel governance*. Uncoordinated government efforts at different levels of government might multiply the perverse effects and costs of an unnecessarily complex regulatory system. In making use of tools, such as SCM or Doing Business reform assistance, sub-national components are essential to better understand what is happening with specific regulatory instruments, as regulations are implemented or prepared by lower levels of government.

- *Developing and improving measurement and evaluation mechanisms*. Strategies in place need to be evaluated to ensure that their objectives are met. In emerging and developing countries, this is challenging as reforms have been traditionally implemented without precise monitoring and evaluation (M&E) criteria. Today, there is an international trend that calls for indicators and mechanisms that can help track reforms, learn from experience and monitor how resources are best placed. Many of the tools to review the stock of existing regulations also help see improvements over time (DB indicators on a yearly basis) or links to broader aspects of private sector development (SCM can show numbers on the amount businesses could save if they were to comply with different obligations).

These preconditions play different roles in different contexts and are serious constraints in launching new reforms. They need to be tackled, however, in almost all cases. Policymakers should be aware of them and think of ways to deal with them prior to embarking on reform programs. In developing country cases, some prioritization is advisable since these countries do not have capacities in place to work on them at the same time.

OVERVIEW OF SELECTED TOOLS FOR REVIEWING THE REGULATORY STOCK

This section presents an overview of the most commonly used tools and approaches to review the regulatory stock, in particular process re-engineering, Doing Business indicators and reforms, SCM, the guillotine, bulldozer, scrap and build, staged repeal, review and sunset clauses, statute law revision, codification, recasting and consolidation.

Each section covers, to the extent possible, the following issues:

a. a description of the tool;

b. governance and capacity requirements;

c. the tool's advantages and limitations; and

d. how the tool relates to the other tools.

Reference will also be made to current use and international experience as available. In the case of tools that have been widely used in transition and developing countries, there is an effort to draw on some lessons learned and to focus on particular challenges and adaptability issues in low capacity contexts. In the absence of comprehensive analysis on the use of these tools in the existing literature, the following section intends to close some gaps in the evidence gathered about how these tools have been used in developing countries. This part is not an exhaustive description of how the tool has been applied in emerging and developing countries, but it tries to shed some light on the challenges these countries have faced when they decide to use a particular tool.

Before going to the description of each approach, Table 2 presents, in a comparative manner, key features of some of the most widely used tools to review the stock of regulations in emerging and developing countries.

Process re-engineering

Process re-engineering approaches are based on the review and reform of the information transactions that governments require of businesses. Reform has the objective of improving the

Table 2: Some key features of selected[5] tools and approaches

	Doing Business Indicators	Standard Cost Model	Guillotine	Process reengineering
Key objective of tool	To identify and benchmark the time and cost of completing standard regulatory processes and the strength of related underlying regulations.	To estimate administrative burdens imposed on businesses and economy by regulations and other obligations.	To reduce unnecessary licenses and other selected regulations quickly.	To document and streamline business-government interactions and internal government procedures affecting businesses.
Approach: how does it work?	Benchmarking according to standard criteria based on hypothetical business and activity scenario	Systematic review of burdens imposed by particular legislation and regulations.	Reversal of burden of proof – regulators justify need for regulations; licenses / regulations reviewed according to standard criteria; followed by reform proposals.	Detailed review of transactions and processes within and among institutions
Examples of benefits generated by reform tool	Methodology permits direct comparisons; Generates reform interest and momentum.	Measures baseline and potential outcomes of reforms, provides impetus for needed reforms.	Cross-governmental initiative; common understanding of criteria to determine burdens; opportunity for major reforms.	Streamlined processes leading to faster time.
Where has it been applied?	181 economies worldwide: both developing and developed countries.	OECD countries, and increasingly in developing countries.	Some developed and developing countries.	Worldwide at all levels of government.
Key advantages	Accepted benchmarking tool; independent information-gathering; Reforms are reflected in better rankings and progress compared with peers and other countires; increases appetite for reform.	Proven track record in OECD countries; can provide very detailed and useful information for measuring baselines and outcomes of reform.	Through reversal of burden of proof, the tool challenges the status quo; understandable and attractive for reform champions.	Can be a quick win; often easy to implement ("stroke-of-the-pen" reforms).
Key disadvantages	Limited scope due to standardized case studies and specific cities measured.	Information difficult to gather in developing countries; Relies on varying degrees of assumptions; does not include broader regulatory compliance costs	Requires thorough coordination across government; does not by itself ensure that implementation takes place.	Does not address underlying regulatory policies and constraints.

efficiency, effectiveness and transparency of these transactions. The creation of one-stop shops is the most visible outcome of process re-engineering, automated, web-enabled windows capable of delivering products and services online via transactions involving authenticated users and documents.

Process re-engineering is accomplished through redesign of procedures, elimination of steps and application of information technology. These

5 A comprehensive view of more tools and approaches explained in following sections of this paper can be found in Annex 2.

approaches can both streamline government institutional operations as well as reduce burdens on businesses.

Process re-engineering is based on a clear understanding of the steps and time required to complete an information transaction or process. Successful process re-engineering is increasingly making use of new technology, mainly via electronic or web-based delivery platforms rather than the creation of physical facilities, such as a physical one-stop shop. It also requires strong co-ordination mechanisms within and among institutions to make sure that requirements are effectively streamlined.

Licenses and permit reforms are the most popular targets of process reengineering as they impose heavy burdens on investment, business start-up, existing businesses and public administration workload. Box 1 provides examples of process re-engineering project in two countries.

In both developed and developing countries, process re-engineering requires strong leadership of the respective institution (or institutions, if several are involved) and strong coordination among ministries and government agencies. If ICT is included in the strategy, it is likely that e-government services facilitate a "whole-of-government" single access point. This integral approach is more difficult to achieve in developing countries, as technical capacities are limited and sometimes the automatization of the public administration does not reach all institutions.

Process re-engineering also raises challenges in a multi-level regulatory context, that is, where the origins of procedures can be found in different levels of government (national, regional and municipal or central and local). This has proven to be especially challenging, e.g, in streamlining construction procedures, where institutions from different levels of government are involved. Even coordination among more closely related institutions to improve their processes – such as immigration and labor in Thailand, or customs and border crossing in the European Union accession countries – has been difficult, but still

Box 1: Process re-engineering in selected countries

In Croatia, process re-engineering has been used to reduce burdens through e-government solutions. The government launched HITRO in 2005, a government service that is part of e-Croatia 2007 program, meant to increase the quality of government services for businesses and citizens. Its main strategy was to create a one-stop shop for services such as company registration. The tool used was process reengineering by selecting individual business procedures that were re-engineered with IT solutions. The IT solutions did not question the need for the procedures, but replaced existing multiple transactions with single windows, and replaced paperwork with electronic submissions, virtual signatures, and virtual notaries. The intention was to start with company registration processes and then address an expanding set of services over the following years.

In Mexico, process re-engineering was used to improve business formalities. In June 1998, the UDE (the former Deregulation Unit at the Ministry of Trade and Industry which later on became the Federal Regulatory Improvement Commission, COFEMER) launched an ambitious communications project: an electronic one-stop shop based on the inventory of formalities supported by Internet search facilities. A user-friendly, online search tool was posted, permitting any person to retrieve a list of formalities needed to start up or operate a business. Once the inventory became the official federal registry, the list of formalities provided nearly 100 percent accuracy and legal security. The registry became in 2000 the Federal Registry of Procedures and Services, a unique tool to provide business and citizens with a full list of compulsory procedures.

E-registries in countries such as Mexico or Croatia have made a valuable contribution to increase transparency in the regulatory process, as businesses and citizens have information available on the existing regulations and the procedures they have to comply with.

achievable. Coordination between levels of government is essential to make successful use of process re-engineering.

One disadvantage of process reengineering is that this tool is unable by itself to reduce the total regulatory costs and risks facing businesses from the thousands of regulations and procedures that countries have normally accumulated. A related disadvantage is that the process re-engineering may divert attention and reform energy to relatively small improvements, when there are in fact fundamental policy problems that need to be changed (e.g., land allocation policies affecting property registration and construction).

In developing countries, process re-engineering has been widely used to start and support programs of regulatory reform (see Box 2). Process re-engineering has been a useful tool to initiate streamlining of procedures; introduce some degree of transparency in the information about obligations that businesses and citizens have to comply with; and to launch modernization processes inside the administration. It has proved to be a useful tool when significant political and economic resources are available that bring positive results in a relatively short period of time.

But there are also challenges related to the use of process re-engineering in developing countries:

- This tool is unlikely to work where coordination inside the administration is not encouraged. Process re-engineering helps streamlining procedures that normally fall into the responsibility of different institutions. Coordination is fundamental to keep cooperation among these bodies, so procedures are not affected by new decisions. In many developing countries this issue can be exacerbated by rivalry between institutions that try to protect vested interests.

- If resources are not maintained over time, there is a risk that process re-engineering falls into obsolescence. It has been observed in many developing countries that visible outcomes of process re-engineering, such as one-stop shops or e-registries, do not function beyond the time when funding and technical skills are available.

- The success of process re-engineering in developing countries is clearly associated to broader reform programs of regulatory reform. One-stop shops that are not linked to improved procedures can become quickly irrelevant and not longer useful for users.

- In order to make it sustainable, process re-engineering has to be scaled up gradually. Being a tool that requires skills and resources, an increasing approach is more likely to be successful in the medium and longer term.

Process re-engineering is a tool that supports other approaches to review the stock of regulations. It is linked to DB reforms as it can help making changes in time and costs that are tracked by the different DB indicators. It is a tool that helps showing the improvements made after the use of tool that considerably review the existing regulatory system, such as the guillotine or scrap and build. It can also support other approaches, such as codification or recasting, by making available the legal changes made to existing laws and regulations.

Doing business indicators and reforms

Doing Business (DB) is a tool for comparing selected indicators of the business regulatory environments in 181 economies created by The World Bank. Created in 2003, DB measures selected aspects of the investment climate, namely the laws and regulations and, to an extent, practices, governing how firms do business.

DB indicators provide clear, transparent and standardized information about the state of business regulation in many countries of the world. With this information made public, policymakers are

Box 2: Process re-engineering in developing countries: the example of business registration

Business registration is linked to a higher entrepreneurial activity, which is particularly relevant in emerging and developing countries, where SMEs play an important role in the economy and informality tends to be high. Empirical evidence suggests that a greater ease in starting a business is key in fostering formal sector entrepreneurship.

In emerging and developing countries, business registration has benefited from process re-engineering. The degree of progress in the modernization of business registries varies greatly, but most countries have moved into an automatized registration process, putting into place on-line registries for new firms.

The World Bank Entrepreneurship Survey (WBGES) measures entrepreneurial activity, and gathers data from 71 countries on the functioning and structure of business registries. Some of the results of a recent study are the following: In Latvia, for instance, reforming and automating the business registry reduced processing time of typical transactions from weeks to (with a rush-charge) four hours. Some countries like Slovenia, Guatemala, Azerbaijan, Jordan, Oman, and Sri Lanka, which have high entry density rates, understood as the rate of new formalized firms created, have increased business registration in more than 30 percent after the full implementation of electronic registries.

However, these results cannot only be attributed to the improvements in the countries' business registries. The modernization of business registries is in most cases the culmination of a successful implementation of other regulatory reforms that when taken together, produced a significant and positive impact in the ease of doing business in these countries.

In this process, gradually scaling up multiple elements is essential to achieving that goal. For example, registries in developing countries might start by offering entrepreneurs the ability to retrieve information on a web site (such as laws and regulations), download registration forms (but not necessarily to submit them online), and check available firm names. Governments may need to provide a centralized interface for a regional system, such as by merging local court's business registries into a central registry database. More advanced countries that already have a centralized registry, but still paper-based, need to digitize historical documents [word missing here? and automate new data entries by using networked computers and online forms. Registries that are already automated need to implement secure, legal authentication methods, such as digital signatures, to remove the last vestiges of in-person or in-paper requirements. Registries that aim to benefit from further time and cost-savings would interlink the electronic business with other e-government services, such as e-Tax, e-Customs or e-Procurement applications, for additional cost- and time-efficiencies for governments.

Source: Klapper et al. (2009)

encouraged to compete to improve the business environment and attract investment. In many cases, the rankings, even when their details are disputed, can be effective in inspiring and helping prioritize needed reforms. DB provides an input for discussions on reforms in different countries and regions, and has been used as the rallying point for cross-governmental reform initiatives.

DB is cheap and easy to use – uniquely amongst this collection of tools and approaches, it costs the government nothing to use the results of the survey.

Doing Business provides a quantitative measure of regulations across 10 areas: starting a business, dealing with construction permits, employing workers, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business in big cities and/or capitals. They apply to domestic small and medium-size

enterprises. The standardized assumptions used for analysis allow global coverage and enhance comparability.

DB has the specific aim of measuring the regulation and red tape relevant to the life cycle of a domestic SME. Based on that, the following limitations in the scope of DB can be identified:

- Doing Business focuses only on a sample of certain types of business activities and only on regulations applying in selected cities.
- Doing Business does not measure all aspects of the business environment that matter to firms or investors—or all factors that affect competitiveness. It does not, for example, measure security, macroeconomic stability, corruption, the labor skills of the population, the underlying strength of institutions or the quality of infrastructure. Nor does it focus on regulations specific to foreign investment.
- Doing Business does not cover all regulations, or all regulatory goals, in any economy. As economies and technology advance, more areas of economic activity are being regulated.

The Doing Business Indicators studies are managed and carried out by the global Doing Business team and rely on local stakeholders (both public and private) only in collecting data. Analysis and review are undertaken centrally. Unlike other measurement approaches, DB requires little capacity and input from governments. However, when reforms are underway (which can be supported by the IC Doing Business Reform Advisory team), significantly more government involvement is required. Many developing countries have set up task forces to support targeted reforms in different line ministries responsible for DB indicators. These efforts are often led by the president or prime minister's office, granting the leverage needed to push through cross-cutting reforms. Inter-ministerial competition frequently plays a part, as no ministry wants to be the ministry that accomplishes the least. In still other countries, DB reforms have become part of other regulatory reform efforts, as is the case in Kenya.

The Doing Business Reform Advisory team accesses DB information (including data used to determine the indicators) and uses it to craft a reform program. A starting point is a review of the bottlenecks and regulatory weaknesses apparent in the data, and the reform program goes further into a more in-depth diagnosis and provides reform recommendations for a customized reform program.

In relation to other tools described in this paper, DB can be supported by other tools and approaches. For instance, process reengineering can deliver quick changes in the time and costs captured by the DB indicators. But at the same time, legal and regulatory changes are also a major part of the reforms. Since the methodology records regulatory improvements on a year-on-year basis,

Box 3: Impact of Doing Business at sub-national level

The objective of sub-national Doing Business reports is to create objective benchmarks of business regulations at the sub-national level, point out bottlenecks, and provide concrete recommendations for reform. Sub-national Doing Business aims at generating ownership of the reform agenda and competition to reform among sub-national governments by combining the media appeal of the Doing Business indicators with activities to engage public officials in the process of creating the indicators.

The choice of the specific Doing Business indicators to measure depends on the areas that include municipal and state competencies. Typically, these include: opening a business, registering property, registering collateral for credit, dealing with licenses and enforcing contracts. Sometimes there are also sub-national differences in paying taxes (e.g. Brazil) or in trading across borders (Colombia). Expected impacts of the sub-national Doing Business reports include opening up of new businesses, higher rates of investment, and a reduction in informality. Repeated benchmarking becomes an M&E tool that measures results.

other tools can contribute to improve the rankings by including more systemic changes.

Standard cost model

The SCM is a method for measuring the administrative burdens imposed on businesses through legislation, regulations and other requirements. The SCM has been developed to provide a simplified, consistent method for estimating the administrative costs imposed on business by central government. It takes a pragmatic approach to measurement and provides estimates that are consistent across policy areas. Since the 1990s, SCM has been developed and modified for use in OECD countries. But for SCM to be a successful tool for measurement and reform in developing and transition countries, it must be adapted to an even greater extent.

The starting point of SCM analysis is the identification of "information obligations" that businesses are required to provide to the government and other bodies. The SCM can measure information obligations arising from different sources such as all existing laws and regulations; a specific field of laws and regulations (like fiscal rules, the transport sector, starting a business, employment procedures); or requirements imposed by a selected government body.

To determine the costs to businesses, administrative compliance costs relating to each "information obligation" are calculated, including number of businesses subject to the requirement, frequency of filings, and costs of engaging employees and external service providers on these activities. SCM is not entirely a quantitative measurement, as it relies on certain assumptions such as "normally efficient compliance" by a "typical" business (this is the starting point for further segmentation based on on differing requirements and treatment). Nevertheless, the SCM calculation is robust enough to determine which information obligations are imposing the greatest burdens on businesses, and as a result which reforms should be priorities. The SCM can be applied to the "stock" of all or selected regulations (those already in force), or the "flow" (proposed) regulation/legislation. SCM can thus be a tool in the preparation of regulatory impact assessments. SCM is also used as a catalyst for targeting reform efforts, as a baseline measure before reforms are underway, or as a tool to set quantitative reform targets and track reform progress. In the Netherlands, for example, the SCM has been used to assess the total administrative compliance costs imposed by regulatory requirements on businesses, identify areas for reform, and track government's goals of reducing burdens.

Table 3 presents an overview of administrative burden reduction efforts in Europe and other countries where the SCM has been applied. It demonstrates the widespread dissemination of SCM methodology – most of the countries in the table have applied the SCM (or modification), and also shows which ones have identified a reduction target using the SCM results as a baseline, with the intention of applying SCM methodology later to measure results.

In developing countries, the SCM exercise has proven to be a useful and integral tool in regulatory reform efforts (see Box 4).

But there are also some challenges emerging in applying SCM in developing countries:

- Some obligations and requirements may not arise from legislation or regulations, but instead informal practice and corruption.
- To a large extent, a succesful SCM review depends on government capacity, and this has proven to be a challenge in developing countries in terms of creating the core team at the center, sustaining a network of sources to provide information from other bodies, as well as actually gathering reliable data.
- Major costs are often related to submitting licenses and paying fees (direct financial

Table 3: Use of SCM to measure administrative burdens

Country	Baseline measurement	Reduction target
Australia	Partial	Y
Austria	Full	Y
Belgium	Partial	N
Bhutan	Partial	Y
Czech Republic	Full	Y
Denmark	Full	Y
Estonia	Limited	Y
France	Partial	Y
Germany	Full	Y
Hungary	Limited	N
Italy	Limited	Y
Kenya	Full	Y
Luxembourg	No	N
Madagascar	Partial	Y
Netherlands	Full	Y
Norway	Full	N
Poland	Partial	P
Rwanda	Partial	Y
Slovenia	Partial	Partial
South Africa	Partial	Y
Spain	No	Y
Sweden	Full	Y
Switzerland	No	N
United Kingdom	Full	Y
Zambia	Partial	Y

Shaded countries: adoption of the full administrative burden reduction policy template Baseline measurement:
- Full: Full baseline measurement across all sectors
- Limited: Full baseline measurement in selected sectors
- Partial: Partial baseline measurement in selected sectors

Sources: Progress reports of the SCM network (SCM network 2007, 2008), European Commission (2008) Second strategic review of Better Regulation in the EU, COM(2008) 32 final, 31.1.2008 (2008), internet presentations of individual countries. Adapted from Wegrich (2009): additional developing countries from other IC sources.

Box 4: IC work on SCM

IC is reviewing the application of the SCM in different client countries in the developing world, including:

- In Madagascar, the SCM was applied to measure the burden of all licenses currently imposed, and assess the potential cost savings for businesses if certain recommendations are adopted. The goal was to serve as a catalyst for licensing reforms.
- In Rwanda, the SCM is being applied as a tool to determine "quick wins" for licensing reforms.
- In Kenya, the SCM was applied after a comprehensive inventory of licenses was already made and a licensing reform (guillotine) was initiated. The Kenyan approach measures the pre-reform baseline situation; the situation if all licensing reform decisions had been implemented successfully; and an intermediate stage of the existing situation, assuming a time lag or no follow-through between a reform decision and its actual implementation/impact. One result of the SCM exercise in Kenya will be a re-prioritization of needed licensing reforms.

costs). Cost drivers are less linked to application forms or data requirements.

- There are high hassle costs – including bribes, waiting time (opportunity costs), unclear requirements – which are difficult to calculate by any methodology.

- Usually, there is no existing baseline, so measurements need to be made de novo. This requires a decision at the outset on what will be measured – the entire regulatory (licensing) regime or selected areas.

- There is often poor data available on costs, number of applications, etc. This can be due to nonresponsiveness by regulators, lack of information, poor recordkeeping, or inaccurate information.

- It is difficult to determine useful wage costs that reflect the real burden of opportunity costs. Salaries can be so low that calculating the average salary for a clerk, for example, affects calculations relating to staff time and their proportion of total costs, as well as comparability with OECD countries. It may

therefore be necessary to adopt different measurement parameters, such as number of weeks taken.

Some suggestions for the further application of the SCM in developing and transition countries include:

- Where possible, use SCM to measure both existing administrative burdens (such as information obligations and licensing requirements) as well as changes in those costs after a reform has been implemented. This approach ensures that the proposed reductions in burdens are estimated and assessed beforehand, and that a consistent monitoring system is maintained to track changes.

- A lighter (less quantitative data-reliant) version of the traditional SCM methodology can be applied at virtually no significant cost to accuracy. For example, the main costs associated with obtaining a license in Kenya are not related to filling out the application form and dealing with especially onerous data requirements. Rather, the major costs are related to submitting the license and paying the fees. These cost drivers are not linked directly to the data requirements, but to the license as such. Therefore, the extra detail that a full-fledged SCM analysis gives – while interesting and useful for detailed work – may only add marginal value overall; the main potential for cutting costs for businesses lies in simplifying the process of submitting and obtaining the licenses, and reducing the fees.

- Increased use of assumptions to guide the analysis and calculations:

    - Application of the "20/80 rule." This is a selected evaluation of 20 percent of the most important/burdensome licenses that have been determined to typically represent around 80 percent of administrative compliance costs. A number of European countries that have conducted SCM measurements have found that approximately 20 percent of the regulations that were measured accounted for 80 percent of the overall burdens imposed on businesses. Arriving at the total administrative costs of all licenses is therefore merely a matter of scaling up from 80 percent to 100 percent.

    - More estimates on questions such as the number of filings required of businesses (or yearly applicants or number of certain events)

    - Extrapolation of results to other agencies and cities.

The SCM has demonstrated its usefulness in developed countries as a monitoring and assessment tool to support regulatory reforms. With minor modifications to tackle certain limitations in developing countries—like poor data and low capacity—the SCM can be usefully applied in developing countries undertaking a review of their stock of regulations. SCM can therefore be an integral part of reform tools like the Guillotine (to determine the administrative compliance costs before and after reforms, and also to help determine priority areas). It can also support process re-engineering initiatives. SCM can be a measurement tool for regulatory impact analysis.

The guillotine

The "guillotine" tool is a process of counting and then reviewing a large number of regulations against some criteria. It then eliminates those that are nolonger needed, using extensive stakeholder input. The guillotine approach espouses the principle of the "reversal of burden of proof,"[6] i.e., the

6 In legal terms, the burden of proof in civil cases is normally on the claimant. Only in specific circumstances, where it is considered justified, does the law provide for a reversal of the burden of proof. This means that in the relevant circumstances, the burden of proof for a specific element of a case is attributed to the defendant.

regulators need to justify why a license or regulation is needed, otherwise it will be removed.

The guillotine is commonly used in those situations where governments are moving from a more interventionist way of producing and implementing regulation to a marked-led growth strategy. The guillotine supposes broad-scale and systemic reforms that extend across the public sector. It is expressly designed to:[7]

- Reverse incentives in the reform process, and so overcome some of the barriers that have slowed or blocked broad-based regulatory reforms in the past. These barriers include high political and administrative costs, intense and passive insider resistance to change, and lack of planning on sustaining change. It is designed to reduce the costs of reform within a political and legislative system that is already overburdened with difficult reforms.

- Support a sustainable process for future quality control and legal security, mainly by establishing a quality checklist and review process, and creating a comprehensive and central regulatory registry with positive security.

- Create the institutional infrastructure for continuous and effective regulatory reform implementation, including:

  - establishment of mechanisms for interministerial coordination and cooperation;

  - strengthening the engines of reform; and

  - building core capacities for regulatory analysis.

The "guillotine" is used to rapidly review a large number of regulations, and eliminate those that are no longer needed. This approach does not require lengthy and costly legal action on each regulation. It is a systematic and transparent approach to reviewing, eliminating, and streamlining business regulations. It provides both a quick fix to the most critical problems of unnecessary and inefficient regulation, and creates an opportunity to build a permanent system for quality control of new business regulations to avoid re-occurrence of the same problems (so-called creeping re-regulation).

In general, a simple checklist applied through three stages of review constitutes the basis for the guillotine process (see Annex 3). The conditions to successful implementation of the guillotine tool are:

- high level political support – the guillotine strategy takes a long time to launch, and is highly vulnerable to capture, or resistance, by interests who do not want reform;

- a public-relations campaign that shows the public the importance of the reforms, and commits to specific results; and

- top-down administrative support – the framework and the institutions for the guillotine must be formally and credibly established. The key institution of the guillotine is the central expert unit that manages implementation and carries out a substantive, independent review of each regulation included in the guillotine

The scope of the guillotine varies from country to country. International experience in emerging and developing countries shows that this tool has been used for different purposes: for regulations not consistent with a market democracy (Hungary), for business formalities (Mexico), for regulations targeting businesses (Croatia, see Box 6), for licensing reforms (Kenya, see Box 5), etc. Being used in a relatively short period of time (for instance, the exercise lasted six weeks in Kenya, three months in Ukraine and six months in Moldova), the guillotine helps governments not only to get rid of regulations

7 Jacobs, Scott and Astrakhan, Irina (2006), *Effective and Sustainable Regulatory Reform: The Regulatory Guillotine in Three Transition and Development Countries*, Washington.

Box 5: Guillotine approach in Kenya

Kenya's businesses faced well over 1,300 business licenses and associated fees imposed by more than 60 government agencies and 175 local governments. The licensing reform in Kenya was based on ambitious and broad reforms that produced large short-term pay-offs, but also created systemic improvements to how the government regulates into the future. The principles of the reform were adapted from the guillotine approach.

The Kenyan Ministry of Finance issued on February 2005 a circular to 178 ministries and public bodies throughout the public sector. The circular, titled "Streamlining the regulatory environment for business activity," launched the licensing reform and established the Working Committee on Regulatory Reforms for Business Activity in Kenya to carry it out. The mandate of the Committee work was to carry out a comprehensive review of all business licenses and fees in Kenya, and to develop recommendations to assure that the results of the licensing reform would not be undermined by a wave of new licenses.

Over two years, the Committee carried out most of the research needed to identify and analyze 1,325 licenses. The Committee conducted the reforms in three phases. In phase I, which required 4 months, the Committee reviewed and made recommendations on 86 high priority licenses. In phase II, which required 9 months, the Committee reviewed the remaining licenses, about 1,300. In phase III, which required 12 months, the Committee carried out several related activities, namely:

- completing the business licensing review carryover from phase I and II by preparing the legal materials for formal adoption, and liaison with the budget team in the Ministry of Finance to ensure that revenue impacts were fully taken into account in the budgeting process;
- preparing and implementing a medium-term regulatory reform strategy to:
  - create an Electronic Consolidated Regulatory Registry for all business licenses;
  - establish a permanent Business Regulatory Reform Unit to vet future business licenses as well as implement a Regulatory Impact Assessment policy for existing and future business licenses;
  - draft a Business Regulation Bill to give the electronic registry "positive legal security," meaning that registration of a license would be necessary before it could be enforced against businesses.

On 5 March 2007, the Committee tabled its final report to the Minister for Finance, the Minister for Trade & Industry, and the Attorney General. The results consisted of the elimination of 315 and the simplification of 379 licenses.

imposing trivial costs on businesses, but also to focus on regulatory instruments with substantial costs and rent-seeking implications.

In developing countries, characterized in most cases by weak capacities and strong resistance to changes in the administrative culture, the application of the guillotine has been challenging. The justification of why a regulation is needed has proven to be difficult in these contexts as the legal and implementation mechanisms are not always in place. In addition, much of the justification for reform de facto falls on the institution responsible for the use of the guillotine, e.g. the licensing or reform committee.

This issue questions the feasibility of using this tool in developing countries. In an analysis of some case studies using the guillotine, the authors found that there is potential in using this tool for the following reasons:[8]

- It can be adapted to work in countries with low administrative skills and high levels of capture and resistance in the public sector. Kenya, Moldova, and Ukraine each successfully adapted the regulatory guillotine to its own legal, political, and administrative structures. This flexibility suggests that the guillotine has

8 Jacobs, Scott and Astrakhan, Irina (2006), *Op cit*, p. 5

Box 6: Guillotine approach in Croatia

In Croatia, the National Competitiveness Council, with support from USAID, was established in 2005 with the idea of implementing a "guillotine" process, called HITROREZ, mainly for business regulations. The "guillotine" had the following phases:

- First, the government instructed all ministries and agencies to establish inventory lists of their regulations by a certain date. Each government authority drew up a complete list of all citizen and business regulations together with all forms and fee schedules submitted to the Special Unit of HITROREZ in an electronic and hard copy including a fulfilled standardized questionnaire provided by HITROREZ.
- Second, the lists were prepared in consultation with the private sector and oversight from a central body. Government authorities assessed each business regulation and its associated forms and fees through some criteria and a standardized questionnaire. Each business regulation was accompanied by a possible recommendation (keep, change or cancel). Those identified as unnecessary, outdated and illegal were excluded from the list. If a regulation was not included in the centralized list, it was cancelled without any further legal action.
- Third, the list became a comprehensive registry of all regulations in force, and it was recognized as the legal database of regulations for purposes of compliance.

The special Unit for HITROREZ reviewed each business regulation taking into account feedback from government authorities and the business community, as well as comments from consultations with other relevant stakeholders. The Unit developed final recommendations and presented it to the government of Croatia. As a result of using this approach, 27 percent of business regulations were eliminated and 30 percent were simplified.

potential for broader application in developing countries.

- It produces rapid results in reducing the number of regulations and, apparently, regulatory costs on businesses.
- It improves understanding and management of the regulatory problem by mapping out the full scale of regulatory interventions.
- It increases reform capacities by reducing the political and administrative costs of reform and eroding the capacities of insiders to block change.
- It creates the processes and organizational conditions for continued reform to the regulatory role of the public sector.
- It stimulates the development of active private partners for reform that will be useful in sustaining momentum.

An additional important benefit of this tool seems to be its ability to set the ground for broader regulatory reforms. The application of the guillotine prepares the government for a more sustained strategy, in which a more institutionalized approach has to be implemented to ensure that the quality controls established at the beginning of the process are maintained and expanded, as well as incorporating the use of other tools, such as consultation mechanisms and RIA.

In terms of how this tool relates to other approaches to review the stock of regulation, the guillotine closely relates to the SCM as a complement tool for measuring the actual administrative compliance costs. It also can benefit from process re-engineering, when the final list of regulations reviewed defines the content of a comprehensive electronic registry of all regulations in force, being as the legal database of regulations.

But since the guillotine is not a complete review of regulations, it has to be understood as an initial scan of a systemic problem. Then other tools have to complement what the guillotine achieves, such as the use of RIA for new regulations, improved

consultation mechanisms to ensure stakeholders' participation in the regulatory process, integrated coordination between regulators and the reform unit in charge of regulatory reform, etc. Once the guillotine has been used, other legal approaches to review the remaining regulation can be integrated, such as the inclusion of review clauses or staged repeal.

Bulldozer

The Bulldozer approach involves establishing a grassroots and public awareness methodology in which local business communities are mobilized to identify unnecessary regulations and to advocate for its reform or removal. It is termed the "Bulldozer" because it empowers local communities to confront and remove obstacles previously considered impregnable to public concern.

The idea is to establish a lobby group whose force can create political will by putting public pressure on the politicians to do their part to enact the suggested reforms. Regional or local committees are also set up to identify reforms needed at very lower levels of government (municipal, cantonal, regional, etc). This maximizes coordination between levels of government and ensures that reforms represent the needs of the society as a whole. The Bulldozer approach is designed with two main goals:

1) to create a fast track record of reform by "bulldozing" through a complex system rife with red-tape and business disincentives

2) to create a sustainable process in which the private sector can engage in a strong dialogue and partnership with the government

Box 7 describes a Successful Bulldozer initiative in Bosnia Herzegovina.

Box 7: Bulldozer initiative in Bosnia Herzegovina (BiH)

In November 2002, the so-called Bulldozer Committee was formed by international financial organizations and the donor community, in consultation with local stakeholders and other international agencies. The goal was to build a working partnership between BiH politicians and businesspeople and identify specific clauses in legislation that prevented companies from expanding their businesses and creating more jobs. The Committee set itself the task of having "50 reforms enacted within 150 days."

The Committee sought to trigger a bottom-up process of identifying, solving and legislating reforms that would have immediate impacts on business growth. The Committee was composed of over twenty BiH business organizations, and it organized consultative meetings in different cities, as well as two previous plenary meetings in Sarajevo. These meetings examined and assessed recommendations put forward by the business community on ways that the BiH bureaucracy could be streamlined in order to make it easier to do business in BiH. Hundreds of suggestions were considered.

In February 2003, the Bulldozer Committee completed the selection of the first 50 specific recommendations to be implemented in the following two or three months. In its second phase, the Bulldozer Initiative established working units within state administrations. These units complemented the work of a central reform body with a network of reforms at different levels of government. The BiH Council of Ministers established in 2003 an interministerial working group at the State level called the "Emergency Reform Unito," which is the governmental counterpart of the Bulldozer Committee.

In general, the Bulldozer reforms had a positive impact on the economy. The reforms themselves improved business conditions. But the largest impact on the investment climate was the fact that those reforms were passed as a package, pushed by the private sector itself, and that they received a positive response from the government. This created a constructive dialogue between the private and the public sectors. The initiative also succeeded in shifting the mindset of many entrepreneurs.

The Bulldozer does not aim at making framework or systemic regulatory changes. Identification of reforms is from the bottom-up, since it is designed to identify specific and unnecessary business roadblocks that are exclusively focused on the entrepreneur's experience. As a complementary effort to the large-scale reform efforts already underway, the intent is to amend a few articles in a law, rather than to overhaul the law completely.

This methodology is also designed to minimize political opposition by leaving the overall equilibrium of the existing system in place. The methodology allows for a very limited room for maneuver among those who could potentially oppose the reform. If entrepreneurs explain pragmatically why an article is problematic and suggest a fix that does not jeopardize the rest of the edifice, then there are few reasons for the governments not to enact it. The reform momentum created by the bulldozer makes it possible to include several wide-reaching reforms as well. And by publicizing the successes broadly, the initiative creates a dynamic that facilitates the implementation of large-scale structural reforms.

In developing countries, however, the Bulldozer approach presents the following challenges:

- The Bulldozer is often limited by businesses having difficulty in understanding why particular procedures are in place. This is due to a limited understanding of why and how complex regulatory systems are used. In some cases, processes are needed to ensure that a regulation is administered properly and in a transparent manner. Yet to businesses these processes simply appear to be unnecessary.

- Therefore, the successful use of the Bulldozer requires an ongoing dialogue between business and regulations, identifying and considering each step and process involved in a particular regulation and discussing whether it is required. A good communication strategy about reform goals and main steps is fundamental to raise awareness and convince stakeholders.

- Managing expectations is important to get support for the initiative. Most of the criticisms come from the fact that this is a bottom up approach that can hardly push for reforms. Creating ownership among stakeholders is key to keep momentum and increase the political will for reform.

- The Bulldozer does not deal with systemic and structural reforms. In most cases, suggestions refer to very practical "micro-reforms." This should be properly managed, in order to avoid getting distracted from other necessary reforms that could be linked to the Bulldozer.

The Bulldozer is, like many of the initiatives described in other parts of this report, a gateway to subsequent and deeper reforms.

Scrap and build

Scrap and build is a severe approach that challenges the entire regulatory regime. It consists of a complete review of the regulatory system, rethinking its principles, and the interactions between regulators. With the scrap and build approach the basic principles of an entire regulatory regime are comprehensively rethought and a new coherent and integrated regulatory policy package is built.

Scrap and build has not been used very often since it requires immense political will and high technical capacity. It is also costly, time-consuming and appropriate in extraordinary circumstances – for example, after a disaster where regulatory records are destroyed. Where used, it can deliver benefits rather quickly. But scrap and build has been relatively little used in developed countries to date. Box 8 describes a scrap and build experience from the Netherlands.

In developing countries, scrap and build might be a tempting solution given the seriousness of the reform and the weaknesses of some systems in place. However, eliminating all existing regulations to come up with a new system might be not

Box 8: Scrap and build in the Netherlands

In 1995, the Dutch government established the Functioning of Markets, Deregulation and Legislative Quality Program (MDW in Dutch), placing clear economic emphasis in deregulation activities. The objectives of this program were:

1) Getting back to what is strictly necessary. The regulations and administrative burden imposed on companies would be brought back to the absolute minimum required.
2) Reinforcement of market forces. Measures designed to restrict competition would only be maintained where it was cogently demonstrated that these measures were in the public interest.
3) Improvement of the quality of legislation and regulations. This concerns questions such as:
   - are the regulations easy to enforce?
   - are there other ways of achieving policy objectives?
   - is the nature of the regulations in accordance with the objective to be achieved?

The MDW was characterized by a multidisciplinary approach. Consistent efforts were made to optimize economic and legal values simultaneously. The encouragement of legal quality and quality in terms of the rule of law had to promote economic dynamics, and the promotion of market forces had to benefit the quality of policy and legislation in terms of the rule of law and in legal terms. The improvement of quality of legislation and the dynamization of the economy were explicitly linked to each other.

The program resulted in achieving change to a large extent. The majority of the 70 projects were actually implemented in practice. The effects were represented by the Cabinet as: 470 million euro burden reduction (through the replacement of permits by general regulations in environmental and building regulations and, for instance, the harmonization of the wage concept); the opening up of markets (those in relation to the liberal professions); and the promotion of the quality and transparency of legislation, for instance through the harmonization of food legislation and the development of policy tools designed to promote efficiency (such as normalization and certification).

the most optimal solution. Before any decision is made, a careful assessment is needed of when this tool can be used. Since the approach is resource heavy and demands capacity, developing countries might not be in a position to have the means needed to use this tool.

Staged repeal

Staged repeal or "automatic revocation" consists of a systematic and comprehensive review of existing regulations, in which regulations are grouped according to their age, and progressively repealed after review. It is a progressive and staggered schedule of repeal based on the date of adoption. Regulations that are deemed meritorious are re-made. This process gradually brings the entire stock of regulations into conformance with the quality standards being applied and facilitates identification of all regulations that have a legal basis.

One of the main advantages of this approach is that once it is completed it allows, often for the first time, the identification of all existing regulations. It also provides an opportunity to eliminate unnecessary regulations and modernize those regulations that are necessary to address identified problems. Once regulations have been repealed they also have to be revoked, to avoid leaving regulations in force that have no effect.

Staged repeal has been a tool mainly used in Anglo-Saxon countries. Australia uses it as a constant mechanism to review existing regulations. In 1984 Victoria became the first state in Australia to introduce reforms that required new regulations to be sunset after 10 years for new regulations, a

staged repeal process, and public consultation and regulatory impact statements. Several Australian states have more recently passed subordinate regulation acts to deal with review and revocation of existing regulations, with staged repeal being one of the most commonly used tools to keep the existing stock in track. Other countries, such as New Zealand and UK, have explored the possibility of including staged repeal as a constant mechanism to review existing regulations. In Canada, some provinces used it as an initial mechanism to launch regulatory reform initiatives (see Box 9).

Staged repeal can provide an opportunity for regulators to review existing regulations and receive input from industry and businesses. A short time frame for the repeal of regulations ensures that regulations are more likely to be contemporary and relevant. Integrating an automatic repeal process also means that the review of regulations requires less administrative and political impetus than changing regulations through the normal legislative process.

However, some of the challenges in maintaining a staged repeal program relate to the following elements: they are based on the experiences of Australian and other Anglo-Saxon countries that have made use of this tool. Even if this tool has not been fully used in developing countries, the challenges could be more acute in these countries given the particular conditions of weak legal capacities:

- One constraint of this tool refers to deadlines. A broad-based staged repeal is extremely

Box 9: Staged repeal in Canada

In British Columbia, Canada, the approach to reviewing the stock of regulations affecting businesses was to have a staged review with priorities set with very stringent deadlines as follows:

1. Economic development ministries and regulations that had significant impact on provincial competitiveness were priorities for review.
2. Ministers prepared plans within a 60-day period for cutting the regulatory burden by 1/3 within 3 years.
3. A private sector Red Tape Reduction Task Force was appointed and chaired by the minister of state for deregulation to advise him on priorities for review and repeal.
4. The minister of state for deregulation advised on priorities, based on the recommendations received from the Red Tape Reduction Task Force, Ministers and Caucus. The ministry should track implementation.

The Red Tape Reduction Task Force, based on a review of the submissions, identified priority areas for review including corporate policy, environment, heritage conservation, housing, labour, land use, liquor distribution and licensing, local government, and taxation policy. Priority sectors were identified, including energy, finance, insurance and real estate, mining, forestry, and transportation.

As a result of this process, the 1/3 reduction target was exceeded. By 2006, British Columbia had achieved 41.15 percent reduction on regulatory requirements. The task force, which was initially charged with reviewing the impact of government regulations and processes on businesses, expanded the scope of its efforts by being in charge of regulations impacting society in general. The task force embraced a much broader regulatory reform agenda and is in charge of a deep program to cut red tape. In 2002, the Cabinet approved a regulatory reform policy that applied to all proposed legislation and regulations and set out the 10 criteria that must be used to develop and assess proposed regulations. A Regulatory Reform Office was established to lead the government's regulatory reform initiative and execute the strategy.

The government has set a multi-year target of zero net increase in regulatory requirements through 2009. The government continues to measure regulatory burdens, review existing regulations, control new regulations, and measure and report performance progress.

labor-intensive and could detract from other priorities. Deadlines should be clearly established if they are to be met. A coordinating unit has to be responsible to follow up with the agencies whose regulations are due for repeal. The coordinating unit must ask agencies to inform the unit of its plans for those regulations and ensure that new instructions are drafted in case they are re-made.

- Another constraint in developing countries is the requirement for a dedicated group of legal experts to review the legislation.

- A further issue is whether there is already a definitive database of laws that has been maintained for many years. If this does not exist, it would be necessary to create such a database.

Staged repeal is a mechanism whose methodology of a broad-based review is similar to the guillotine approach. Staged repeal can also be used in combination with sunsetting clauses and applied to statute law revision to establish deadlines and clear guidance on what is going to happen with the regulations.

Review and sunset clauses

Review clauses are requirements in regulations for review to be conducted within a certain period. The basic principle of this tool is the following: a rule will continue to be applied unless action is taken to eliminate it. The action means to integrate a clause in the regulation that will lead to its review and possible legal cancellation.

Different types of review clauses are used for the stock of regulations. Automatic review clauses can establish an examination of the efficiency and effectiveness of regulation over time. Other less restrictive clauses may provide a greater degree of flexibility and extend the validity period for a concrete regulation unless concrete action is taken to eliminate or change it.

Such ex post review requirements are rapidly becoming more common in OECD countries and can act as a powerful adjunct to ex ante RIA by checking the performance of regulations against initial assumptions.

By contrast, sunsetting is a process in which new regulations are given automatic expiration dates, unless remade through normal rulemaking processes. This ensures continuing review and updating of the stock of regulations. Sunset clauses ensure that review of regulations takes place after a determined period of time. For example, in Australia since 2006 most subordinate regulations (where the Parliament has delegated regulation-making powers to a minister, person or organizations) automatically sunset after 10 years.

In the United Kingdom, sunsetting is a way of ensuring that legislation is reviewed, kept up to date, and not left on the statute book after it has served its purpose. It is applied to the whole legislation or just to particular clauses and powers. Regulators are encouraged to use sunset clauses for new policies where appropriate, as part of RIA preparation. The Better Regulation Executive has established a list of cases in which sunset clauses are particularly appropriate:[9]

- proposals designed to solve a time-limited problem or where specific requirements might become out of date;

- measures based on a particular set of market conditions or giving powers of economic regulation that can be removed as markets develop;

- rules made under the precautionary principle, where there is considerable scientific uncertainty and more information might lead to a different solution;

- where there is considerable uncertainty over what the costs and benefits of action will be;

9 http://www.berr.gov.uk/whatwedo/bre/policy/scrutinising-new-regulations/preparing-impact-assessments/toolkit/page44269.html

Box 10: Review clauses in Switzerland

Switzerland has made substantial efforts to review its existing legislation. There are several procedures by which regulations are examined and evaluated:

- *Evaluation clauses.* Evaluation clauses demand a review of the measures contained within a piece of regulation by a certain date. There are about 55 evaluation clauses relating to pieces of federal level regulation, all of which are published on the Internet site of the Federal Office of Justice. A parliamentary investigation showed that these evaluation clauses are well observed by the federal offices (agencies).
- *Sunset legislation.* Sunset legislation exists in two varieties:
  - Legislation limited in time. Parts of the law are limited in time. Such a limitation can be introduced, for instance, if a problem is thought to be only temporary; other appropriate measures can be found in due time; impacts or outcomes are uncertain; the law has to be examined after a certain time based on systematic efficiency controls; and the cost of the regulation can be better financed in terms of its validity. Federal law that is put into vigor by urgent procedures is always limited in time.
  - Legislation limited in time and with an evaluation clause. A small number of laws and ordinances are limited in time and contain an evaluation clause as well. This allows experimentation with an innovative regulation and – depending on the results of the evaluation – either abolish it or transform it into a statute not limited in time.

The use of review clauses has been essential in monitoring and evaluating the enforcement of regulations.

- the policy area is characterized by fast-moving events or technologies;
- measures extend the powers of the state or reduce civil liberties;
- regulations respond to a particular crisis or to political and public pressure; and
- measures are taken in the face of considerable opposition, where sunsetting could make the measure more acceptable.

Box 10 describes the use both of evaluation clauses and sunset clauses in Switzerland.

Different types of review and sunsetting clauses have been used historically. During the 1980s, in countries like the United States, sunsetting and review clauses were considered approaches that could bring controls to regulatory inflation and eliminate unnecessary regulations. Their results have been rather modest, but they still remain useful tools to introduce the idea of "time-limits" for certain regulations that lead to legislative review. Box 11 describes a comprehensive approach to sunsetting, which has recently been introduced in Korea.

Some challenges presented to developing and developed countries in implementing these clauses, include:

- Establishing clauses is normally done as part of generalized reviews of the stock of regulations. This process frequently consumes considerable resources while delivering relatively few results, due in part to their tendency to be weakened by exemptions and by lack of priority-setting. In order to make it effective, rigorous and externally verified review criteria should be included, as part of a clear design of such reviews.
- Sunsetting should be carefully used. The danger of using automatic sunsetting, for instance, is that various protections contained in the law may later be discovered to have been lost. In Saskatchewan, Canada, for instance, the Saskatchewan Executive Council recommended that there should be no blanket sunset clause. Rather, it recommends that all new regulations include their own specific sunset date. New regulations that do not have a sunset date should be required to

Box 11: A new approach to sunset clauses in Korea

As part of the work of the Korean Presidential Council on National Competitiveness (PCNC), since January 2009 "sunset rules" apply to all kinds of government regulations, whose effectiveness will be automatically lost or whose feasibility should be examined again after their validity expires. The Korean government decided to apply sunset clauses to all kinds of regulations on registration procedures and administrative processes with a view to systematically revising regulations to suit the changing environment. The government wants to enhance the effectiveness of the sunset rules by either having regulations invalidated or reviewing their feasibility once again when their validity expires. The government plans to closely cooperate with the National Assembly so that the sunset rules are properly legislated.

The government will overhaul or revise about 1,000 economic regulations in 2009 and about 500 social ones in 2010. In cooperation with economic organizations such as the Federation of Korean Industries, the government will make a careful study of regulations on about 2,500 pending applications for registrations by June, and apply the sunset rules to these regulations based on the outcome of its study.

In addition, the government will give priority to applying the sunset provisions to a total of 201 suggestions for deregulation that private enterprises presented to the government in 2008. Private enterprises want regulations to be lifted on the construction of factories in urban areas, parking lots attached to logistics and distribution centers, outdoor ad boards, TV ads for drinking mineral water, and investment by holding companies.

be reviewed within 10 years and at that time if still needed, be given a review date or a rolling review.

- Sunsetting is not always appropriate, in particular where there is the possibility of generating considerable uncertainty for businesses. Using a sunset clause for laws that are justified in the long-term is likely to be needlessly time consuming.

Review and sunsetting clauses, however, can bring flexibility to the law and regulations, which should not be seen as immutable instruments. They also can create innovation and change in the way regulators propose regulations. The important element here is to properly communicate the meaning and consequences of the clause, so regulators and potentially affected stakeholders are well informed. Integrating sunset clauses into legislation can serve to reduce opposition to certain laws and regulations, by having temporary measures instead of perpetuating regulations throughout time.

Review and sunsetting clauses can be used in conjunction with other tools to review the stock of regulation, such as staged repeal or statute law. In emerging and developing countries, these tools have not been broadly used as part of complete reviews of legislation, but could be explored in conjunction with other approaches, such as the guillotine.

Statute law revision

In countries with an Anglo-Saxon legal tradition, statute law revision is a tool to remove obsolete laws. Statute law revision is the process whereby acts are reviewed to identify those that are obsolete or not longer of practical utility and to subsequently repeal them. Statute law revision can be therefore complemented by stage repeal. This is the case in Australia, where the Subordinate Legislation Act from 1989 relates to the making and staged repeal of subordinate legislation. Regulations due for repeal under the program of staged repeal may be re-made with major or minor amendments, allowed to lapse, or have their repeal postponed.

Statute law revision and repeal work is done by government agencies, such as Ministries of Justice, Attorney's General, legal counselors, etc.

who have enacted secondary legislation. The Parliament has a key role when it comes to primary legislation, since this institution has to repeal acts that are not longer relevant. Box 12 describes some countries practicing statue law revision.

Statutory law revision is also relevant for some developing countries. In some African countries, formerly British colonies influenced by English common law, statute law revision is also used to review regulations. Botswana has seen a tremendous increase in regulations since independence. The attorney general is the custodian of the statute book. Laws in Botswana are updated through the Law Revision Order and published as Statutory Instruments. The Legal Division of the attorney general also uses consolidation as a technique to keep regulations up to date, in accordance with the Revision of the Laws Act. At the end of 2006, the country had 690 regulations, orders and other statutory instruments made by ministers under the authority of an Act of Parliament.

Codification

Codification is simplification for clarity. It is the process of collecting, arranging systematically and restating the law of a jurisdiction in certain areas, usually by subject, forming a consistent legal code. The term codification denotes the creation of codes, which are compilations of written statutes, rules, and regulations.

Legal codification is necessary to rationalize and clarify complex legal regimes that have accumulated over the years. Codification can improve both juridical and substantive regulatory quality, and by doing so can greatly improve accessibility and clarity.

Codification can be limited to simple legal reorganization, which is difficult enough, but can also provide a means of substantive review and revision of entire legal regimes.

Box 12: Statute law revision: international practices

In the UK, the Law Commission is the body responsible to "keep under review all the law of England and Wales with a view to its systemic development and reform." The purpose of statue law repeals work of this institution is to modernize and simplify the statute book, reduce its size and save the time of lawyers that use it, helping to avoid unnecessary costs. The Commission has published 176 final reports on law reform, 43 reports on consolidation, and 17 final reports on repeal of obsolete statutes. Since 1965, 18 bills have been enacted repealing more than 2,500 Acts in their entirety.

In Ireland, statute law revision is responsibility of the Statute Law Revision Unit in the Office of the Attorney General. Since 2002, a project has reviewed all legislation remaining on the statute book enacted prior to Irish independence in 1922. The goal is to remove from the Irish statute book all pre-1922 legislation. This review of regulation is part of the government's activities to reduce red tape and improve regulatory quality. To date the project has identified about 63,000 statutes which come within its remit for examination. The first phase involved a review of Public General Acts enacted prior to Irish independence on 6th December 1922. This process led to the publication and enactment of the Statute Law Revision Act 2007. The Act provides a list of 1,364 statutes which were to remain in force after the enactment of the Bill. Apart from these 1,364 statutes, all other pre-independence Public General Acts are now repealed. The effect of this was that more than 3,200 statutes were repealed by the Act, making it the largest statute law revision measure ever to apply to Ireland. The Attorney General is now embarked on a second phase of review which seeks to examine certain Local and Personal Acts and Private Acts in the first instance. It is intended to publish a Statute Law Revision Bill in 2009 which will repeal any Local and Personal Acts up to and including 1,850 and Private Acts up to and including 1,750 that are now obsolete.

In Malta, the Statute Law Revision Act of 1980 provides that the minister may appoint a Law Commission for the purpose of preparing a revised edition of the statute laws of Malta and publishing a Maltese text of all statute laws.

Box 13: Codification: international experiences

In the United States, positive law codification is the process of preparing and enacting, on title at a time, a revision and restatement of the general and permanent laws of the country. Because many of the general and permanent laws that are required to be incorporated into the U.S. Code are inconsistent, redundant, and obsolete, the Office of the Law Revision Counsel of the House of Representatives has been engaged in a continuing comprehensive project authorized by law to revise and codify, for enactment into positive law, each title of the Code. When this project is completed, all the titles of the Code will be legal evidence of the general and permanent laws and recourse to the numerous volumes of the U.S. Statutes at Large for this purpose will no longer be necessary. Positive law codification bills prepared by the office do not change the meaning or legal effect of a statute being revised and restated. Rather, the purpose is to remove ambiguities, contradictions, and other imperfections from the law.

In many French-speaking African countries, such as Benin, Burkina Faso, and Senegal, codification has been used as a tool to collect and arrange systematically laws into codes. This follows the French codification tradition since these are legal systems based on civil law and mainly copied from the French legal system. In Burkina Faso, for instance, the Ministry of Justice established a Codification Commission to ensure the harmonization of legal acts and their publication in the form of codes. This Commission allowed the publication of the civil code, the fiscal code and the penal code, among others. This codification process was supported by Belgian cooperation, but in 2009 the Commission was no longer in place. In Benin, the Ministry of Justice, Legislation and Human Rights has a General Direction for Codification, which is in charge of collecting all general texts that regulate civil, commercial, social and administrative activities, in the form of codes. In Senegal, a Commission for Codification was established in 1961,just after the independence, which worked on a comprehensive listing of customary laws applied in the country to publish the first Family Code in 1973. Since then other codes have been established, harmonizing laws stemming from Islamic, civil and customary law.

Codification can differ from country to country, depending on the specific legal circumstances (see box 13 for some examples). It is however accepted that there are two types of codification:

- First, when codification has the unique objective to formalize and systemize valid laws, reflecting codification work of the past, it is just the compilation, arrangement and re-systemization of current legal documents under a certain criteria for better use.

- Second, codification is a tool to achieve the objectives of social reforms. In this case, codification is attached to revising overlapping, out-of-date and inappropriate regulations, and supplementing new regulations. The final and utmost output of codification is codes issued by authorized state agencies.

The advantage of codification is that users need to consult only one single authentic text. It is a time-consuming process that requires great expertise.

Recasting

Laws need to be amended constantly, in order to catch up with changing needs and circumstances, as well as to attain new policy objectives. Normally, such amendments take the form of new laws. But in certain cases, instead of simply modifying the parts of the law that need to be changed, it is preferable to present the required amendments into a consolidated text together with all past amendments.

Recasting implies modifying existing legislation whilst simultaneously codifying it in one consolidated text incorporating all previous amendments. This approach eliminates the need for a subsequent special codification procedure to integrate the substantial amendment into the basic legal act.

Box 14: Recasting in the European Commission

Recasting technique is widely used by the European Commission when pure consolidation is not possible; this is reflected in particular in the rolling simplification program where nearly half of the planned simplification initiatives will be done by recasting.

There are two types of recasting:

- vertical: one original act and its amendments are incorporated in a single new act; and
- horizontal: two or more original acts covering related subjects - and the amendments to them - are incorporated in a single new act.

Rules on the use of the recasting technique are laid down in an inter-institutional agreement (signed on 28 November 2001) which provides for special procedures to enable the legislative authority to concentrate its attention on those parts of the legislative proposal which are new.

The first drafts of recasts are prepared by the directorates-general, which will consult both the team in the legal service dealing with the particular subject matter of the proposal and the codification group.

In the recasting process, the new act passes through the full legislative process and repeals all the acts being recast. But unlike codification, recasting involves new substantive changes, as amendments are made to the original act during preparation of the recast text.

The potential use of this technique is constrained by several factors. Recasting can be considered only for those legislative initiatives that aim to amend existing legislation, which is certainly a more limited percentage of the total of legislative activity, and it is a technique that would be disproportionate in cases where legal texts are amended very often or where individual amendments are relatively limited, in which cases it would not be efficient to reproduce the whole text in a recast form. (see Box 14 for an example from the European Commission).

Consolidation

Consolidation of a legislative act, like codification, brings together a basic legislative act and all its amending acts in a single text. Although the resulting consolidated texts are not subject to formal decision-making and therefore do not have legal status, they greatly facilitate access to legislation and reduce the volume of texts.

Legislative consolidation means combining in a single text the provisions of a basic instrument and all subsequent amendments. There is no amendment of the content or form of the existing material. Consolidation corresponds to a purely declaratory, unofficial simplification of the legislation. Incorporating the amendments into the basic instrument does not entail adopting a new instrument. This is a purely clarification-oriented exercise (see Box 15 for some cases where consolidation has been practiced).

Consolidation serves the interests of citizens, administrative authorities and the business world by providing a more accessible and more transparent legislative framework and has the advantage of making the law more reader-friendly. But consolidation, unlike codification, does not generate a new mandatory legal instrument.

Box 15: Consolidation experiences

In the European Union, the exercise of consolidating the accumulated body of community legislation and releasing it on the EUR-Lex site began in 1996, under the responsibility of the Office for Official Publications (OPOCE). It is planned that new legislative instruments will be consolidated as soon as an amendment is published in the Official Journal. The European secondary legislation, the legislative instruments adopted by the European institutions, has been also consolidated in all EU languages (19) except in Bulgarian, Romanian and Maltese. Consolidation in Bulgarian and Romanian is expected to be completed by mid 2008 and in Maltese by early 2009. All consolidated texts are accessible on EUR-Lex either through the specific act or in the Directory of Community Legislation in force.

In Brazil, the state of São Paulo issued more than 33 000 normative acts between 1835 and 2006 (laws and law-decrees). Most of them were no longer valid or adequate to the Federal Constitution from 1988. Some others were not clear and confused the citizens and businesses. In 2005, the Commission of Constitution and Justice of the regional Congress decided to give priority to the legal consolidation process. At the beginning, the Commission decided to "clean" the legislation, reducing the number or existing laws in the state. Between 2005 and 2006, 16 law proposals led to the revocation of 13 000 laws and law-decrees created between 1891 and 1972. The consolidation process also has led to the up-date of the State Constitution. Through the Constitutional Amendment No. 21 from February 2006, the Constitution of the State of São Paulo has been adapted to reflect the 54 amendments of the Federal Constitution since its promulgation in 1988.

REVIEWING THE STOCK OF REGULATIONS: CHALLENGES AHEAD FOR EMERGING AND DEVELOPING COUNTRIES

This section highlights some lessons that arise from the use of tools and approaches to review the regulatory stock. This is not a comprehensive summary of the pros and cons of using specific tools, but it tries to shed light on some of the challenges that emerging and developing countries face when embarking in reforms to streamline and simplify existing regulations.

Benefits of using tools and approaches to review the stock of regulations

There are many benefits to using tools and approaches targeted to review the stock of regulations. Most of the benefits have been documented by international experiences. Among the most evident are the following:

- Fast-track tools can help diagnose the problem. Instead of embarking on broad programs in the early stages, the use of a focused perspective helps practitioners to work on some details and make better assessments of the current situation and practices.

In Bulgaria, the Doing Business reports generated plausible arguments for reforming the country's business registration system. At the beginning of the reform, awareness of approaches to business registration other than the court-based regime run by district court judges was extremely low. The World Bank experts' observations and conclusions put business registration reform on the agendas of other major donor organizations providing aid to the Bulgarian government. The agenda included improving the business environment, economic development and the rule of law. Both the World Bank and IMF put business registration reform as a key conditionality for their respective loan facilities. USAID began a special program to help the Bulgarian government implement major commercial law reforms.

- Introducing tools for regulatory simplification develops awareness of the importance of regulatory quality. In those contexts where the notion of regulatory quality is non-existent, focusing on improving existing regulations is a way to raise awareness of the importance of

having a clearer, updated and simplified regulatory framework.

In five East African countries (Tanzania, Kenya, Uganda, Rwanda and Zambia), the entry point of regulatory reform has been licensing systems. In some cases, governments used the guillotine tool as starting point. In addition, the effort to measure costs and benefits has been at best limited to application of the SCM, where calculations have been possible to date only through use of heroic assumptions.

- Building constituencies for reform, even for fast-track and concrete projects, is important to increase appetite for further more systemic regulatory reforms. Focused projects can be better embedded in the administration, facilitating the ownership feeling that has to be created for success.

In the Republika Srpska a guillotine review for business formalities was introduced by the government. Given limited resources and technical capabilities for implementing it, a small secretariat was established in the Ministry of Economic Relations and Coordination to support the Regulatory Reform Council and to lead the review process. This secretariat reports to the Prime Minister and it works closely with the Legislative Secretariat and other parts of government to facilitate the guillotine review.

The staff of the secretariat constitutes a small group of public servants, supplemented by four-person team of consultants – lawyers and economists and international experts.12 In addition to the coordinating function of the secretariat, the role of the secretariat staff and the consulting team is to review and challenge the submissions of the various ministries of the government, take on board the findings and recommendations of the stakeholder consultations, and to make recommendations to the Council for eliminating and streamlining formalities and inspection measures.

- Using fast track tools facilitates an instrumental approach to expand the reform from one focused on instruments to a broader approach on improving capacities for regulatory institutions to continue to regulate better in the future. This benefit has been observed in many developed countries, but more evidence is needed in emerging and developing country contexts.

In the early 2000s, Turkey's concerns about a continuing under-performance in economic growth and strong political commitment motivated some regulatory reforms. A IC report focusing on administrative barriers to investments helped designing a reform program for eliminating unnecessary administrative barriers, which was adopted by a Council of Ministers' Decree in 2001.

The Turkish government commenced a comprehensive reform program for modernizing and systemizing the legal, regulatory, and administrative framework. Regulatory reform was increasingly seen as an essential element in the range of policy responses needed to restore economic stability and growth. Moreover, Turkey gave increased priority to reforming the government and the public administration.

Nevertheless, international experience shows as well that there are problems to channel them into sustained and more institutionalized reform programs.

Sequencing reform: which tool to use and when?

One of the areas that has proven difficult to document is the sequencing process in the use of different tools and how they can better be combined. It is acknowledged that there is a link between preconditions, contexts and degree of malleability and ownership by the different institutions and actors involved when they apply tools and approaches to review the stock of regulations. However, no single pattern can be established to prescribe the use of tools in a given sequence, even if it is generally accepted that governments should start by focusing on the stock to move later on to improve the flow of regulations.

It is the assumption of many working in this area that typical sequencing involves, first, quick wins through fast track tools, followed by longer term institutional reform. This is broadly true,

in particular for developing countries where capacities have to be created, political momentum is essential to start any reform process and systemic approaches are more difficult to be implemented. However, it has to be stressed that sustainability is linked to broader reforms that go deeper in cleaning the stock of regulations. Preventing regulations from creeping back is a serious challenge. Very few international examples can count with healthy regulatory environments in which different tools are used.

Diagnostic tools such as Doing Business indicators are certainly an initial point to launch reform processes by identifying some areas of improvement. Depending on the indicator chosen, a wide range of tools can be used, mainly under the category of process reengineering. The SCM has proven useful in identifying and quantifying compliance costs that afterwards can be reduced by applying other tools, such as RIA or guillotine.

Process reengineering tackles important components of the transactions of regulations and procedures. It introduces important steps to improve transparency in the regulatory framework and make the system more efficient. It is a tool broadly used to start simplification processes because their effects are evident and quick for stakeholders. It helps gaining momentum at initial stages of the reform process, but other tools are needed to ensure sustainability of gains over time.

Other tools that fall under a legalistic approach are widely used by law drafters in many countries. In most cases, a combination of the different tools seems to be more successful, as is the case in Australia, where staged repeal is combined with sunsetting clauses and other techniques to review the existing regulations. The extent to which they are effective in keeping regulations up-to-date and review the regulatory stock on a systematic way has not been clearly documented. In some countries, codification, consolidation or recasting are good ways to deal with the regulatory stock, but a permanent effort has to be maintained over time, accompanied by tools that prevent new regulation from overlapping with what has been already simplified. The "guillotine" approach is a useful tool to make quick wins, but sustainability of the reform depends on a broader reform approach that keeps the quality of regulation at the center of the efforts.

It is still too early to establish a checklist concerning sequencing in the use of these tools for several reasons. First, the use of some of the tools to review the stock of regulations is linked to the legal system per se. For instance, codification seems to be a more widespread tool used in countries influenced by civil law, and statute law revision pertains to English common law. This is relevant not only for the choice of which tool to use, but to understand what mechanisms are available in case solutions require legal amendments and how to make them sustainable in the medium term.

Second, the sustainability of quick wins is related to different institutional aspects and capacities developed. A measurement based on the use of SCM, for instance, can deliver impressive numbers to diagnose some of the problems, but many developing countries can hardly adopt constant measurements as part of the way to tackle administrative burdens. How to make the measurement relevant in terms of changing some of the constraints? Solutions will be linked to creating capacities and overcoming legal hurdles.

In a recent study conducted by IC on "Stakeholders Management in Business Registration Reforms" there is an attempt to draw particular attention to the sequence of reform. The 10 country case studies are divided in five different phases:

1. Idea formulation and reform organization
2. Solution design
3. Broadening and marketing of reform ideas
4. Political acceptance and adoption
5. Implementation

An important lesson is that the five phases of reform substantially overlapped, which shows that various phases were initiated simultaneously, meaning that tools for business registration were also integrated without a clear pattern.

Third, sequencing is linked as well to the goals of broader programs of regulatory reform. In some cases, the use of some tools helps create capacities that can be expanded over time. But in others, capacities are required to implement some of the tools.

Need to integrate tools into broader strategies for regulatory reform

Tools and approaches to review the stock of regulation also have some limitations. Narrow and one-off reforms to reduce regulatory and administrative costs do not generally produce visible results to the broader business environment. Therefore, they may not, by themselves, provide meaningful changes to the costs and risks facing businesses.

Reforms aimed exclusively at single processes and rules will not reform and improve the productive capacities and incentives of governments in a systemic way. In the medium and longer term, reforms have to tackle the regulatory system as a whole in order to generate significant and sustainable improvements to the quality of regulations and systems, which in turn can significantly reduce business costs and risks.

Broad solutions, even radical ones, to improving the regulatory environment can work better than small reforms. Unsystematic and ad hoc reforms, such as attacking a few selected reforms, and reforms that are bottom-up and driven by insider interests, are likely to fail in producing sustainable benefits unless they lead to, or are combined with, broader reforms.

Adapting the use of tools to the needs of emerging and developing countries

Tools for simplification have to be adapted to the needs of emerging and developing countries. There are clear challenges arising from this adaptation process.

Some of the elements to be considered to adapt the use of tools and approaches to emerging and developing countries are the following:

- **Tools require top-down decision making**. The centre of government is essential to conduct this work. This is valid for both developed and developing countries, but in the latter, the centre of government plays a decisive role in introducing the use of any tool and facilitating coordination. In Moldova or Kenya, for instance, the use of the guillotine required strong political backup at very high levels and a top-down approach in reviewing regulations. Independence and empowerment of the body responsible for the use of tools is fundamental to sustaining reform and ensuring coordination. In developing countries, this body must gain credibility vis-a-vis other institutions that might fear competition. This issue is not risk free and a number of challenges arise from it:

  - First, the driving institution in charge of implementing the tool needs to guarantee the quality of the work. This is the only way it can be credible in terms of the decisions that need to be taken to achieve results. In developing countries, this means support in terms of resources, both human and technical. In Burkina Faso, the SCM measurement has tried to engage policymakers responsible for licenses, who need specific training to learn the use of the tool.

  - Second, tools are used by champions, which might capture the process if there are no clear rules and limits imposed on their actions. The relationship between the champion and institution in charge of the tool (task force, review unit, committee, etc.) might not be free of potential conflict, which in developing countries can be more difficult to deal with compared to developed countries where consensus and coordination might be better understood.

- **Getting the scope right**. Businesses are usually affected by a large number of regulations with many of these regulations having a significant impact on their day-to-day activities, costs and competitiveness. In developing countries, this is relevant for the number of SMEs and their impact on the economy. Reform of the regulatory functions of government can only be effective if the scope of the problem is well understood and the reform design reflects the way business environment are affected. This implies a much broader scope in terms of institutions and instruments than are normally used. Compared to developed countries, emerging and developing countries need to get the scope right without losing the perspective of limited resources, capacities and skills.

- **Facilitating the regulatory reform process**. Tools and approaches have to be used in a way that they do not delay the regulatory process nor encourage keeping "grey areas" of regulation outside the scope of the reform process. In developing countries, this has to be scaled up gradually, taken into consideration capacities, institutions in place and resources available. The move from using a tool to review existing regulations towards a comprehensive regulatory reform process is delicate and experience shows that developing countries have not been always successful in this process.

- **Measuring the problem**. The way the problem is addressed is linked to its accurate identification and measurement, which in turn is necessary to stimulate political and public support for the reform. In developing countries, fast-track tools can help in setting up the basis for such identification and measurement. For instance, identifying the number and impacts on business of regulations affecting certain economic activity can provide an evidence base which can focus further reforms where potential gains will be greatest. This is even more relevant for developing countries that expect to have great results with more limited investments.

- **Getting incentives right**. Ensuring that reluctant regulatory agencies participate in a cooperative and constructive manner with the reform process is important to reduce the traditional information asymmetry between regulators and reformers. In developing countries, this issue is also linked to strong resistance coming from vested interests that refuse any change in the administrative culture, not only from regulatory agencies but also from ministries that traditionally have played a central role in the production of regulations. Tools have been implemented satisfactorily in cases where they activate reluctant reformers and they apply government endorsed principles for good regulation to regulatory agencies.

- **Sustaining constituency**. One of the most difficult challenges is to keep political momentum and support for reform. This involves both support inside the administration, and also support from stakeholders, e.g. the business community. Presenting clear results is one way to show that the effort made has given fruits and it is worth continuing it. In developing countries, fast-track tools can help in creating those conditions. But this approach is not easy. The choice on what to reform, the pace and scope, the sequence of doing it are part of a series of difficult decisions.

- **Communicating results with credibility and authority**. Communication strategy within the government, private sector and business community, as well as with the broader public is critical for success. A powerful tool to maintain political support for reform is to communicate in a timely manner what has been achieved, managing expectations and balancing trade-offs in an appropriate way. Communication of results is vital to keep stakeholders' support and to raise

awareness of the benefits of reform. In developing countries, this has to be carefully managed to raise awareness and keep expectations under limits that reflect feasible solutions.

- **Resources needed**. Tools and approaches should be adapted to the resources (financial, human capacities, etc.) that the institution in charge of conducting the work has at hand. Unlike developed countries, where resources might be available to tackle several problems at once, developing countries have to choose selected approaches reflecting the real capacities available to undertake the reform. This is particularly important where investments in capacities are essential to maximizing the use of tools to review existing regulations.

- **Operational preparation** is another essential activity for which enough time should be invested up-front. This includes the development of a precise and clear action plan, timeline, and instructions; an appropriate and professional communications plan; internal processes and procedures; adequate project sub-team skill-mix; and a staff responsibility and performance measurement system. In developing countries, this is fundamental to developing sequencing of reform and ways to mix tools to get better results.

- **Managing expectations from donors**. Donors continue to find narrow and one-off reforms to be very appealing because they seem to promise rapid results and provide quick fixes to highly visible regulatory problems. This raises questions on how far reforms can go and how to keep support of the reform process in the long term. In many cases, developing countries have started reform programs that later on are abandoned without further development, due to the lack of resources and commitment from donors.

- **Early and visible results create appetite for more reform**. Results generate political attention and capital required to extend and expand the mandate of regulatory bodies in charge of reform. This is particularly relevant in developing countries where many reforms have been introduced and in many cases results have been limited.

- **M&E of fast track and longer-term tools**. Short-term and process-specific indicators of the business environment are high in the political agenda and fit well with fast-track tools because of the quick fixes they might create. An effective regulatory reform strategy, however, cannot be based solely on improving relative performance in indicators of a few regulatory interventions.

Adapting the tools also requires consideration of the whole concept of regulatory reform. The tools and approaches reviewed in this paper can certainly launch reform efforts and be used to prove that quick wins are essential to stimulating the debate and creating appetite for reform. In a context where the use of certain tools, such as Doing Business indicators or the use of SCM, can trigger broader reform efforts, it is important to have a broad picture of the problem and use the appropriate tools to solve them.

CONCLUSIONS

Keeping regulations up to date is essential for a better business environment. Countries, no matter which level of development they are in, are confronted with regulatory inflation which can translate into a disorderly regulatory framework. This trend is particularly difficult for emerging and developing countries that in most cases see their regulatory environments worsen without having capacities and skills to deal with them. In addition, many developing countries have complex legal systems combining different legal origins that multiply the sources of regulatory action.

The concept of regulatory reform includes the idea of streamlining and therefore improving the existing regulatory framework. The starting point of any effort to look at the stock of regulations is to use some tools and approaches to review, streamline and simplify regulations. This paper has presented the most commonly used tools, in particular those that are relevant for and have been used in emerging and developing countries.

The use of these approaches and tools has proven to be effective in implementing regulatory reforms. But much still remains to be done to find a right balance in their use; make them sustainable over time; and institutionalize them as part of a broad strategy of reform. In the cases analyzed in this paper, some of the tools have triggered initial reforms, but it is still too early to determine the real impact they have had in changing the way regulations are kept up to date. Measurements like Doing Business or SCM, which allow for international comparisons, still need some time to prove long-lasting impacts on regulatory environments in developing countries.

Most of these tools can be useful drivers of reform, but one of the challenges is to ensure that new regulations do not become stock without quality. The link between quality in the stock and flow still needs to be further developed in emerging and developing countries, to make reform efforts more efficient.

Tools to review existing regulation have helped make the regulatory system of many emerging and developing countries more transparent and open. Properly managed, they have also contributed to improved governance arrangements in developing countries. As shown in this paper, they have also facilitated stakeholder's participation in the regulatory process. A remaining challenge is to make them sustainable over time and to fully integrate their use in a systematic way to ensure proper management of the regulatory stock.

ANNEX 1. DEFINING BASIC TERMS IN REGULATORY REFORM

Regulation: The diverse set of instruments by which governments set requirements on businesses and citizens. Regulations include laws; formal and informal orders and subordinate rules issued by all levels of government; and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers.

Deregulation: Elimination of regulatory requirements for which social welfare costs are judged to be higher than social welfare benefits.

Regulatory relief: Cutting regulatory costs to businesses with the intent of stimulating business growth. "Regulatory relief" initiatives do not assess the benefits of regulation, it merely focuses on cost reductions.

Regulatory quality: A regulatory framework in which government agencies seek to develop and implement regulations and regulatory regimes that are *efficient* in both a static and dynamic sense in terms of using economic, social, and environmental resources to their greatest value; *effective* in terms of achieving a clear public policy purpose; *transparent*; and *accountable* for results.[10] To these quality standards, this report adds ***flexibility***, since regulatory rigidities in the face of changing context and needs are common and among the main contributors to regulatory failures.

Regulatory reform: This refers to a wide range of measures of deregulation, regulatory relief, regulatory quality initiatives, re-regulation, and institution-building. The term is a generic reference to any change in regulatory policies, functions, procedures, instruments, or capacities.

Regulatory management: Refers to the construction and exercise of a management capacity in the machinery of government to control the quality of regulatory activities. A key feature of good regulatory management is the capacity to design and manage *policy mixes*. Good regulatory management is not about choosing one particular instrument (i.e. self-regulation), but often about managing complex mixes, where one instrument works alongside others.

Regulatory policy: This term has two distinct meanings. 1) It refers to the substantive policy content of regulation. Some reforms seek to distinguish between regulatory policy and regulatory design. For example, the

10 Adapted from OECD (2004), *Taking Stock of Regulatory Reform: A Multidisciplinary Synthesis*, Paris.

Doing Business indicators and the Standard Cost Model are based on the assumption that regulatory costs can be reduced while leaving regulatory policy unchanged; 2) "Regulatory policy" is also used by the OECD as a *meta*-narrative for the multifaceted program of a government to improve its use of regulation. The national regulatory policy agenda aims to improve four major elements: regulatory policies, regulatory tools, regulatory development (policy) processes, and regulatory institutions.

Regulatory governance: Describes the systematic implementation of government-wide policies on how governments use their regulatory powers to produce quality regulation within the procedural values of the governing system (such as democratic processes). Good regulatory governance is grounded in the view that ensuring the quality of regulation is a permanent and essential role of government, not a one-off set of improvements, and that institutional capacities should be designed around a clear view of the appropriate use of regulation in society.

ANNEX 2. TOOLS TO REVIEW EXISTING REGULATIONS

Tool	Key components	Main advantages	Main disadvantages	Examples
Process reengineering	To document and streamline business-government interactions and internal government procedures affecting businesses; detailed review of transactions and processes within and among institutions; streamlined processes leading to faster time	Can be a quick win; often easy to implement ("stroke-of-the-pen" reforms)	Does not address underlying regulatory policies and constraints	Worldwide at all levels of government
Doing Business Indicators	To identify and benchmark the time and cost of completing standard regulatory processes and the strength of related underlying regulations; benchmarking according to standard criteria based on hypothetical business and activity scenario; methodology permits direct comparisons; it generates reform interest and momentum	Accepted benchmarking tool; independent information-gathering; reforms are reflected in better rankings and progress compared with peers and other countries; increases appetite for reform.	Limited scope due to standardized case studies and specific cities measured	181 economies worldwide: both developing and developed countries

Tool	Key components	Main advantages	Main disadvantages	Examples
The Guillotine	To reduce unnecessary licenses and other selected regulations quickly; reversal of burden of proof – regulators justify need for regulations; licenses / regulations reviewed according to standard criteria; followed by reform proposals; cross-governmental initiative; common understanding of criteria to determine burdens; opportunity for major reforms	Through reversal of burden of proof, the tool challenges the status quo; understandable and attractive for reform champions	Requires thorough coordination across government; does not by itself ensure that implementation takes place	Some developed and developing countries (Croatia, Moldova, Kenya, Mexico, Sweden, Korea)
Standard Cost Model	Systematic review and estimation of burdens imposed by particular legislation and regulations on businesses and economy	Measures baseline and potential outcomes of reforms, provides impetus for needed reforms; Proven track record in OECD countries; can provide very detailed and useful information for measuring baselines and outcomes of reform	Information difficult to gather in developing countries; it relies on varying degrees of assumptions; does not include broader regulatory compliance costs	OECD countries, and increasingly in developing countries (Kenya, Vietnam, Burkina Faso, Bosnia-Herzegovina, Madagascar)
Bulldozer	Bottom-up approach; strong involvement from stakeholders	Fast-track tool, minimize political opposition	No systemic approach, dialogue with regulators needed	Bosnia & Herzegovina
Scrap and build	Severe approach to change an entire regulatory regime	New regulatory regime rethought and rebuilt	Political support, high technical skills, careful assessment needed	Japan, Netherlands
Staged repeal	Systematic review to group regulations by age to later repeal them after review	Once completed, it identifies the stock of regulations; eliminates unnecessary regulations after review	Clear deadlines; expert group of reviewers	Australia, Canada
Review and sunset clauses	Take action to review and cancel regulations; sun-setting gives regulations an automatic expiration date	Solve particular problems; diminish opposition; good in areas with quick technological changes; brings flexibility	Small results if not done as part of broader reviews; careful selection	Australia, Switzerland, UK

ANNEX 3: CHECKLIST TO APPLY THE GUILLOTINE TOOL[11]

- The government establishes the scope of the guillotine. The scope can vary from narrow to broad. Some countries, such as Mexico, restricted the guillotine to business formalities and procedures, which were the main source of corruption in the public administration. Other countries, such as Korea, seeking broad-based economic restructuring, included all regulations affecting the business sector within the scope of the guillotine.
- The government adopts a legal framework for the guillotine that creates the processes, institutions, and schedule for the guillotine. This can be done either by law or by government decree.
- In the decree, the government instructs all public bodies to establish, by a specified date – usually a few weeks – a comprehensive list of their regulations included in the scope of the guillotine.
- In preparing its list, each public body assesses each regulation in writing, using a simple, standardized checklist. The three key tests are:
  - Is it necessary?
  - Is it legal?
  - Is it business friendly?
  - Any regulation that passes the three tests is put into the "Retain" category.
  - Any regulation that fails the first two tests is put into the "Eliminate" category.
  - Any regulation that passes the first two and fails the third is put into the "Revise" category.
- These self-assessments are given to an independent and central review body that carries out precisely the same assessment, but develops its own three categories. The central, independent review produces most of the benefits of the guillotine, typically putting 20 to 50 percent of the regulations into the "Eliminate" category.

11 Checklist developed by Scott Jacobs. Jacobs, Scott (2005), *The Regulatory Guillotine Strategy. Preparing the Business Environment in Croatia for Competitiveness in Europe*, USAID, p. 13

- Finally, key stakeholders are consulted, and the central review body develops a final list of regulations to be eliminated, retained, and revised.
- By the deadline, the final list is given to the government, which adopts the list in one decision. With this decision, any regulation on the "Eliminate" list is automatically cancelled without further legal action (the guillotine drops).
- The list becomes, by definition, a comprehensive registry of all regulations in force under the scope of the guillotine, and should be recognized in law as the legal database of regulations for purposes of compliance. The registry should have legal security – no regulation not in the registry can be enforced against a business.
- In future, all new regulations and changes are entered into the registry within one day of adoption and/or publication. In effect, entry into the registry becomes a mandatory publication requirement.

ANNEX 4: BETTER REGULATION FOR GROWTH PROGRAM

The Better Regulation for Growth (BRG) Program was launched in 2007 by the Dutch Ministry of Foreign Affairs, the UK Department for International Development (DFID) and IC, the investment climate advisory service of the World Bank Group.

The objective of the BRG is to improve the regulatory and investment climate in developing countries, thereby stimulating private sector investment, economic growth and poverty reduction. The BRG program aims to achieve this by developing and disseminating for the first time widely practical and operational guidance that will help developing countries design and implement effective regulatory reform programs.

The BRG Program has resulted in preparation of eight policy papers on regulatory governance issues, covering a broad spectrum: from regulatory governance, links to competition policy, regulatory institutions, and tools to indicators for regulatory quality. It has also involved preparation of five country case studies on regulatory capacities in selected African countries.

The web portal www.ifc.org/brg is part of the BRG Program and contains key documents, including references extracted from a comprehensive compendium of resources on regulatory management and reform and a newly developed Regulatory Impact Analysis (RIA) database.

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