



## **BUSINESS CLIMATE DEVELOPMENT STRATEGY**

### Phase 1 Policy Assessment

### **EGYPT**

#### DIMENSION I-5

#### Policies for Better Business Regulation

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## LIST OF ACRONYMS

<b>BCDS</b>	Business Climate Development Strategy
<b>OECD</b>	Organisation for Economic Co-operation and Development
<b>ERRADA</b>	Egyptian Regulatory Reform and Development Activity
<b>GNI</b>	Gross national income
<b>MENA</b>	Middle East and North Africa
<b>ICA</b>	Investment Climate Assessment
<b>GMU</b>	Governmental Ministerial Units
<b>GRU</b>	Governmental Review Units
<b>RIA</b>	Regulatory Impact Analysis
<b>IDA</b>	Industrial Development Authority
<b>ICT</b>	Information and Computer Technology
<b>IT</b>	Information Technology
<b>GAFI</b>	General Authority for Investment
<b>SFD</b>	Social Fund for Development
<b>FDI</b>	Foreign direct investment
<b>EU</b>	European Union
<b>SME</b>	Small and medium-sized enterprise
<b>ENCC</b>	Egyptian National Competitiveness Council
<b>BAC</b>	Business Advisory Council
<b>USAID</b>	United States Agency for International Development
<b>CIDA</b>	Canadian International Development Agency
<b>IDRC</b>	International Development Research Centre
<b>IFC</b>	International Finance Corporation
<b>UK</b>	United Kingdom
<b>SIGMA</b>	Support for Improvement in Governance and Management
<b>CMA</b>	Capital Market Authority
<b>NUC</b>	New Urban Cities Authority
<b>OSS</b>	One-stop-shop
<b>PPP</b>	Purchasing power parity
<b>EGP</b>	Egyptian pounds
<b>SMBSP</b>	Small and Medium Business Support Project

**MCIT** Ministry of Communication and Information Technology  
**MOF** Ministry of Finance  
**MOTI** Ministry of Trade and Industry

## EXECUTIVE SUMMARY

There is a strong, positive correlation between high-quality business regulation and strong foreign and domestic investment, trade, and enterprise growth and creation. Lower legislative, regulatory and procedural burdens for businesses promote sustainable economic development by enhancing competition and boosting efficiency, bringing down prices, and stimulating innovation. In contrast, complex procedures and heavy regulatory compliance requirements hinder private sector development: they slow enterprise growth by diverting resources away from the creation of value-added activities to non-productive ones.

This dimension of the BCDS assesses Egypt's reform efforts with regard to

- a) designing policies for "Better Legislation and Administrative Simplification" (Section 5.1) to help business operations, focusing on policies aimed at reducing regulatory burdens; and
- b) improving the three main components of the business establishment process, from incorporation and registration to notification and compliance through "Cheaper and Faster Start-Up" (Section 5.2).

It is part of the OECD's wider Business Climate Development Strategy (BCDS) assessment conducted over the period April-October 2009 and during which the Government of Egypt and private-sector associations submitted their own assessments of policies for better business regulation. In addition, the OECD team conducted on-site visits and gathered information from other non-government sources.

The assessment in this section of the BCDS for Egypt builds on and updates results from a regional assessment of enterprise policy published in 2008 as the *Report on the Implementation of the Euro-Mediterranean Charter for Enterprise*. It was conducted in partnership with the European Commission, European Training Foundation and the European Investment Bank as part of the Euro-Mediterranean Charter for Enterprise. This bilateral BCDS assessment goes deeper than the 2008 assessment which was regional in scope. It would therefore be meaningless to compare outcomes.

### **Achievements in Better Business Regulation**

*A programme has been created to streamline and reduce excessive legislation and regulation*

Egypt has set about improving the business climate through managing its heavily regulated economy, burdened by a bloated and often inefficient public administration, particularly at local level. Since 2007 the government has given priority to reform and has laid the foundations for regulatory reform through its Egyptian Regulatory Reform and Development Activity (ERRADA). ERRADA aims to create a system of regulatory management to promote a competitive Egyptian economy. It has established a three-step review process to systematically review, simplify and eliminate legislation related to business regulations and has successfully conducted an initial review, compiling a list of 30 000 regulations which affect business across 12 ministries (data correct as of end-March 2010; the review and collection process is ongoing).

The entire plan will require a considerable amount of time and resources to complete, and careful consideration on how to implement its broad multi-year reform programme.

### *Business start-up procedures have been simplified*

Egypt has made a number of reforms to simplify business start-up procedures. According to *Doing Business*, the survey published by the International Finance Corporation and the World Bank, Egypt improved its performance from the world's worst business environment reformer in 2005 to the best in 2007. In the World Bank's 2008 and 2009 reports, Egypt was also ranked among one of the world's top ten performers for starting businesses after implementing reforms which have considerably reduced the time, number of steps, and costs related to the overall process of company registration. The reforms included a successful pilot project in Alexandria to streamline company registration and industrial licensing procedures through an integrated one-stop shop system.

### *Minimal capital requirements have been scrapped*

A notable reform has been the scrapping of minimum capital requirements for company registration. To put this move in perspective: average paid-in minimum capital is 331.4% of GNI per capita in MENA countries and 19.7% in OECD economies.

## **Challenges in Better Business Regulation**

Despite these reform efforts, a significant number of reforms remain to be completed to make it easier to do business in Egypt.

### *Slow approval procedures still dog the business climate*

Delays continue to be caused by slow approval procedures continue to deter the market entry of Egyptian firms by adding uncertainty and costs to business start-ups and new investments. The World Bank's 2008-9 *Investment Climate Assessment (ICA)* of Egypt indicates that senior management spend up to 16% of their time dealing with regulations. The private sector also reports that businesses face difficulties in registering due to uninformed civil servants who manage the registration process. In general, entrepreneurs are interested in the performance of the overall process – from the preparation of documentation to the start of business activity.

### *Several regulatory obstacles to starting a business remain*

Other factors create further obstacles to starting a business, *e.g.* poor land provision; lengthy procedures for obtaining licenses and work, land, and building permits; access to infrastructure, the legal environment; and corruption. These important issues should be tackled by policy makers to facilitate operations, as described under several other dimensions of the BCDS.

## **Recommendations for Better Business Regulation**

The following recommendations are preliminary recommendations on ways in which future reforms to business regulation policy would improve the business climate. They are derived from the BCDS assessment process.

### *Keep reform on track – set targets for simplification and elimination of regulations*

Despite achievements to date, the strategy that will impact most beneficially on the business community is the Egyptian Regulatory Reform and Development Activity, or ERRADA (dealt with extensively in Chapter II.3, "Business Law and Commercial Conflict Resolution"). If fully implemented, it will do more than any other measure to simplify administrative procedures and ensure the success of the regulatory reform policy.

To stay on track and maintain the momentum of the reform process, Egypt should use timelines and specific, measurable targets. They should be reasonable so as to assure quality regulatory management, which will require Egypt to assess its technical capacities.

*Political will and support for reforms are needed to co-ordinate reforms with public administration and the business community*

While the reform programme may produce significant economic returns, it also carries potential risks. Results become tangible over the medium term, as administrative changes require quite significant implementation times, while changes in the public administration structure often only materialise if the entire process is completed. At this stage, administrative structures in Egypt are unable to keep up with the rapid pace of reforms.

In order to achieve successful implementation of the programme, a high level of political support is necessary. It is also critical to inform and engage with the business community.

*Designing a sustainable institutional framework – institutionalising the general review unit*

As the programme for regulatory reform continues in keeping with strategy, the role of the General Review Unit (GRU) and its implementing units, the Governmental Ministerial Units (GMUs), will evolve. This evolution is natural and unfolds as the reform process becomes more advanced and begins to impact on the legal and regulatory environment. However, the future role of the GRU should be carefully assessed so as to ensure the long-term sustainability of the ERRADA initiative and the high quality of regulation. The current plan to permanently integrate GMUs into RIA units is pragmatic: it makes use of existing resources and ensures that staff are adequately familiar with the administrative and legislative history of the ministry. However, GMU staff should undergo additional training to ensure that officials are adequately prepared to conduct impact analyses

OECD experience demonstrates that in certain types of institutional settings, a centrally placed oversight body is an important factor in ensuring the success of an ambitious regulatory reform programme. A centrally placed oversight body would be particularly beneficial in Egypt where great store is set by administrative hierarchy.

*Going forward – implementation of regulatory impact analysis (RIA)*

Systematic and consistent cost-benefit analysis should be applied to the drafting of legal instruments to optimise their efficiency and effectiveness and ensure they meet their intended objectives at minimum cost and with the fewest unintended negative consequences. This type of analysis – regulatory impact analysis (RIA) – greatly improves business-related policy instruments and spares unnecessary legislation and regulations.

A targeted RIA is a useful way to manage scarce financial and technical resources. One possibility would be a simplified, lightweight RIA which could be used for the quicker cost-benefit analysis of pieces of legislation.

*Improve performance – establishing businesses (industrial licenses and registration) and closing businesses*

While administrative barriers have been considerably reduced by speeding up company registration, obtaining licenses for industrial activities remains a barrier. By law, all industrial manufacturing projects or related services require the additional approval of the Industrial Development Authority (IDA) for land assignment, project establishment, industrial registration, and operating licences. Obtaining the necessary

approvals poses an additional bureaucratic hurdle and is a lengthy and costly process for businesses. The pilot project launched in Alexandria should be extended to all GAFI one-stop shops.

The time and costs for closing a business should be reduced by implementing reforms in the bankruptcy process, such as reducing appeals that suspend the bankruptcy process; introducing time limits for procedures; and establishing specialised procedures to deal with bankruptcy. (Chapter II-3, “Business Law” deals extensively with bankruptcy.)

*It is vital that the Egyptian government and business associations work together*

Consulting with stakeholders and organising formal, mixed public-private review bodies would help to identify and address barriers and inefficiencies in the business establishment process and any remaining regulatory bottlenecks.

*Use IT Platforms to improve efficiency – electronic company registration*

An electronic system for company registration would considerably decrease time, costs, and the number of procedures involved required by company registration. Governments that adopt information and communication technology (ICT) approaches to the provision of services reduce their own costs and enable enterprises to reduce the costs of meeting legal requirements. Moving towards a model of e-government will increase the efficiency of the public sector. A detailed proposal weighing the costs and benefits of introducing online registration should be commissioned.

There may be a few factors that constrain the success of such an initiative. They include broadband penetration, poorly served rural areas, and parallel processes for company registration (GAFI versus the Social Fund for Development [SFD]). All would have to be resolved. The take-up of ICT solutions could bring swift progress in speeding up the company registration procedure if the government is determined to cut through the web of regulations and procedures, and if it is willing to adopt flexible and innovative solutions, in addition to being ready to invest in the information technology infrastructure for company e-registration. The regulation enabling e-signature should also introduce the launch of e-company registration. However, building the e-signature capability will require significant investment and should therefore be carefully considered (see Chapter III-1, “Infrastructure”).

**Figure 1. The sub-dimensions in the BCDS Assessment Framework for Policies for Better Business Regulation**

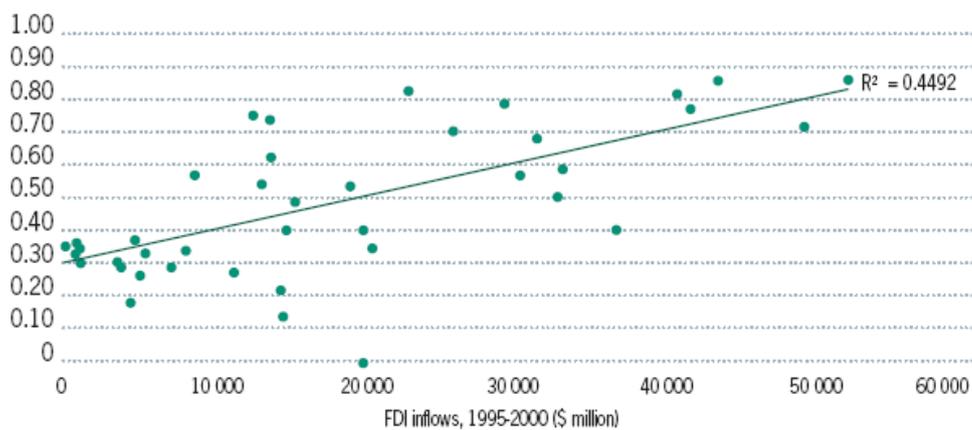
**Subdimension 1:**

**Subdimension 2:**

## INTRODUCTION

There is broad consensus amongst economists, policy makers, and the business community that there is a positive correlation between high-quality business regulation and foreign and domestic investment, trade, enterprise growth and creation, and competition.<sup>1</sup> OECD research suggests that quality governance – the result of regulatory reform and administrative simplification – creates an enabling business environment which can contribute positively to inward flows of FDI and ultimately economic growth (see Figure 3 below).

**Figure 3: Relationship between inward FDI and quality of governance**



Source: OECD (2002).

Source: OECD, 2002a, p.181.

Lower legislative, regulatory and procedural burdens for businesses promote sustainable economic development by enhancing competition and boosting efficiency, bringing down prices and stimulating innovation.<sup>2</sup> Complex procedures and heavy regulatory compliance requirements, on the other hand, hinder private sector development: they curb enterprise growth by diverting resources from the creation of value-added activities to non-productive ones. Better business regulation which favours good but less burdensome regulation is also a lever for promoting formality (BCDS Chapter I-6, “SME Policy and Promotion” discusses informality at length.)

Over the last few years policy makers, economists, and management experts have turned their attention to ways of rationalising and improving the efficiency and quality of the regulatory framework.<sup>3</sup> This trend is not limited to OECD and EU countries. Governments in emerging economies have also understood the importance of regulatory reform, thanks to a new stream of analytical research and benchmarking exercises, which include the *Doing Business* monitoring surveys conducted by the International Finance Corporation and the World Bank.<sup>4</sup>

The OECD *Guiding Principles for Regulatory Quality and Performance* serve as a benchmark for international good practice in this area of reform. These underlying principles can guide policy makers embarking on administrative streamlining and regulatory reform.

### **Box 1. The OECD Guiding Principles for Regulatory Quality and Performance (2005a)**

- 1) Adopt at the highest political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation;
- 2) Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment;
- 3) Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory;
- 4) Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy;
- 5) Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interest;
- 6) Eliminate unnecessary regulatory barriers to trade and investment through continued liberalisation and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness;
- 7) Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.

Source: OECD, 2005a

The 2005 *OECD Principles* highlight the importance of high-level political commitment and a holistic approach to regulatory reform that takes in all levels of government to ensure that regulations and policies are consistent with each other and that reform initiatives are compatible with the national agenda (OECD, 2006b).

All reform requires action that is taken on several fronts (legislative, institutional and organisational) over a period of years and affects a considerable number of economic sectors. In addition to policy coordination and high-level political commitment, public-private consultation and transparency are critical success factors: they ensure buy-in from the private sector and act as safeguards against any unintended consequences of policies (Rodrigo and Amo, 2005).

## THE ASSESSMENT FRAMEWORK FOR POLICIES FOR BETTER BUSINESS REGULATION

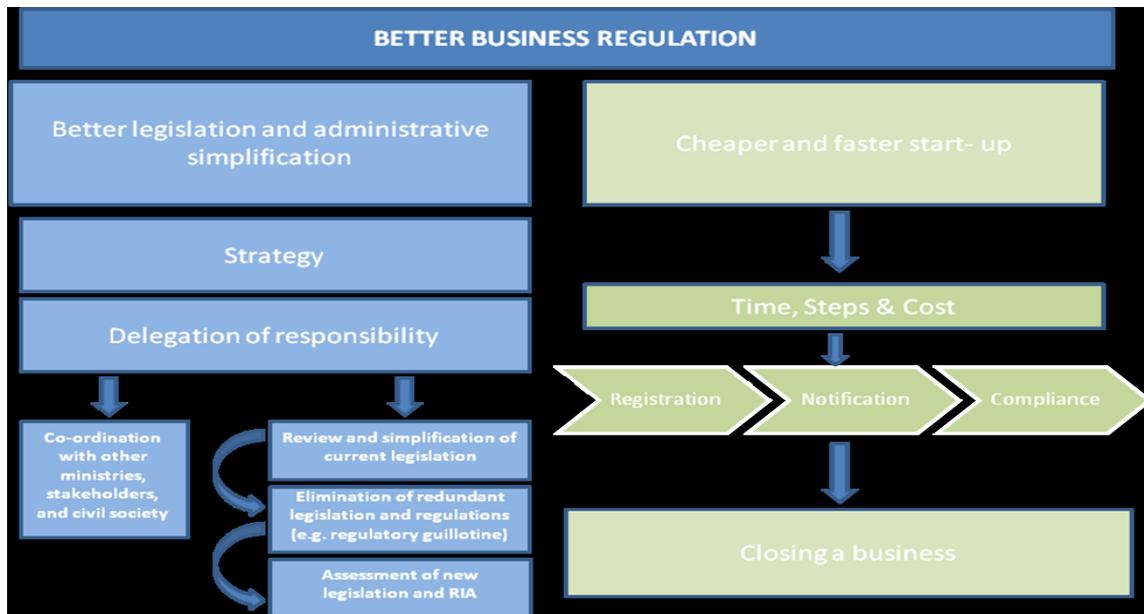
While there is no single model for improving legislation and administrative procedures for enterprises, there are a number of agreed-upon mechanisms which have been tested and proven in OECD and emerging market economies. This chapter discusses those mechanisms as part of the report issued under the authority of the Steering Groups of the MENA-OECD Initiative. It considers two main components, or sub-dimensions, of policies for better business regulation:

- Sub-dimension 5.1.: Better Legislation and Administrative Simplification through Regulatory Reform
- Sub-dimension 5.2.: Cheaper and Faster Start-Up.

Section 5.1 examines policy development in the implementation of administrative simplification, the elimination of unnecessary or outdated legislation and the implementation of Regulatory Impact Analysis (RIA) – a system of cost-benefit analysis for new and existing legislation and regulations. This approach remains focused on the reform process, examining the tools and policies put into place by government to improve the business climate. It does not assess the impact of such policies on improving the environment for business. For perspectives on the impact of policy, diagnostics of the actual business conditions on the ground should be conducted (*e.g.* through company surveys and impact assessments). The World Bank *Investment Climate Assessments* (ICAs) and the World Bank *Doing Business* reports are forms of diagnostics which can identify problematic areas and identify priorities for reforms. The approach taken in this paper, while limited to the policy component, is still given significant weight, especially in the case of emerging markets where experience in building capacity for regulatory reform is necessary to ensure high quality regulation.

Legislative and administrative simplification can only be achieved as an outcome of regulatory reform. Section 5.2 examines the compliance costs associated with regulatory requirements and overviews administrative procedures in each sequence of a company's life cycle from establishment to closure. It deals specifically with measuring performance in procedures for company registration, de-registration and closure. It should be mentioned that other policy areas that affect business operations from tax regimes, SME policy and business law to anti-corruption, infrastructure, and human capital are covered in detail in other chapters of the BCDS policy assessment.

**Figure 4. Assessment Framework for Policies for Better Business Regulation**



**Sub-Dimension 5.1.: Better Legislation and Administrative Simplification through Regulatory Reform**

Government action in the area of regulatory reform requires a clear definition of the role of the institutions leading the process and the strategic approach adopted by the country. Regulatory reform is a complex process and each economy must design a system of administrative simplification which best suits its level of development and institutional environment and capacity. A number of common approaches can be identified and assessed: regulatory reform should be designed according to a multi-year strategy and have identified institutions to oversee and carry out reforms and ensure their long-term sustainability. Three main phases of regulatory reform have been identified for the BCDS. They draw on trends in regulatory reform that include reviews of existing laws and regulations, the elimination of superfluous regulations, and RIAs of new and existing legislation.

The regulatory environment for business in Egypt is made up of a complex web of ministries and institutions which issue laws, subordinate regulations, and other instruments that govern business operations. It stems from a number of legal traditions inherited from the Ottoman and Napoleonic systems and is further complicated by the current configuration of the Egyptian government – the result of considerable restructuring of ministries and their functions (Katz, 1986). The complex institutional framework and even more complex regulatory system create major challenges for the process of regulatory reform.

Egypt has set about improving its business climate by managing its heavily regulated economy, burdened by a bloated civil service, particularly at a local level. Since 2007, the Egyptian government has given priority to regulatory reform and has laid the foundations for a well-structured reform programme through its Egyptian Regulatory Reform and Development Activity (ERRADA) – aimed at creating a system of regulatory management to promote a competitive Egyptian economy (Kamel, 2009). Assessment of the ERRADA programme takes into consideration only the reform process to October 2009. The reform

process has continued since then, however, so the Egyptian government may already be addressing some of the recommendations put forward in this chapter.

### ***5.1.1. Strategy for the Simplification of Legislation and Administrative Procedures***

An effective way to work towards a high-quality business regulation environment is to structure government intervention as a medium-term strategy, reinforced by a solid institutional framework and supplemented by regulatory assessment tools. Such a strategy ensures a long-term view of the regulatory reform process and accountable implementation of reforms. This requires setting a regulatory reform agenda which operates on several fronts (legislative, institutional and organisational) over a period of years and affects a considerable number of economic sectors.

A comprehensive, proactive strategy to simplify legislation and administrative procedures should be assessed against the following requirements:

- It should be approved by the government after wide consultation with stakeholders.
- It should be implemented over a period of years in keeping with time-bound, tangible targets and action plans.
- There should be evidence that it has been implemented to time-bound targets and that it has met those targets.

The ERRADA programme originated in a roundtable discussion between key stakeholders convened by the Egyptian National Competitiveness Council (ENCC) in March 2007 to assess the regulatory burden affecting Egyptian businesses. The meeting produced the framework, the principles and the impetus for a programme of rapid regulatory reform programme that was formulated in the fourth *Egyptian Competitiveness Report* of May 2007 and ERRADA was born. In February 2008 an inter-ministerial decree placed ERRADA under the political authority of the Sub-Cabinet Committee of the Productive Sector (chaired by the Minister of Trade and Industry). It established the General Review Unit (GRU) Board of Trustees which oversees ERRADA (see Figure 5).<sup>5</sup>

The ERRADA initiative has drawn up a multi-year implementation strategy that builds on four phases of action:

1. Inventory – compiling an electronic database of all laws and regulations affecting business;
2. Review – conducting a series of reviews to either simplify or eliminate ineffective regulation;
3. Depository – compiling an electronic register of remaining business-friendly laws and regulations;
4. RIA – enforcing cost-benefit analysis of a new fundamental or organic law that will alter the role of the state in the regulation of the business environment.

A roadmap for each phase sets out clear task assignments and timelines. As part of an ongoing dynamic process since 2008, the government has inventoried and initially reviewed some 25 000 regulations that affect the business environment. The next – final review – stage is to simplify or cut away tens of thousands of regulations across 11 participating ministries (12 units) using the Guillotine Review.<sup>6</sup>

**Table 1. Participating ministries with specialised government ministerial units (GMUs)**

Trade and Industry	Housing	Petroleum	Investment
Agriculture	Finance	Administrative Development	Health and Population
Local Development	Transport	Electricity	Tourism

*BCDS Score for Simplification of Legislation and Administrative Procedures: 3*

The Level 3 score is awarded for the following reasons. Egypt’s ERRADA strategy is well-structured, benefiting from international expertise in regulatory reform and generous technical assistance from donor institutions (USAID, CIDA/IDRC, and the IFC). Egypt has built its ERRADA strategy on good practices from other emerging markets undergoing fast-paced regulatory reform. One example is Croatia (see Box 2), whose “HitroRez” project was designed using a similar methodology (OECD and EC, 2007).

The strategy is based on a multi-year programme with four phases of action approved by the government after consultation with the private sector through the Business Advisory Council<sup>7</sup> (see figure 5). While the strategy is in an initial stage of implementation, key targets set for the inventory phase have been met. The multiple phases of the ERRADA strategy are scheduled for completion within an 18- to 24- month timeline which has been since been extended to accommodate the lengthy inventory and review process.<sup>8</sup>

*Recommendations*

In order to attain a Level 4 score Egypt should consider a number of factors.

The ERRADA strategy is an ambitious reform programme which will require significant resources. At this early stage it is critical to carefully consider how this wide-reaching multi-year reform programme should be implemented. Although it may yield significant economic returns, it also carries potential risks. Results become tangible over the medium term, as administrative changes require quite significant implementation times and changes in the public administration structure often materialise only once the entire process has been completed. In short, the reform process can take years, if not decades, to follow through. The strategy must therefore secure adequate funding, institutional support, and political backing in order to see through completion in the long term – especially considering that implementation of the ERRADA strategy will take longer than the 18-24 month timeline established at the outset.

Egypt should consider that in most OECD countries, the process of reform requires a sustained effort over a long period of time. Mexico, for example, began reform in 1989, ratified and expanded its regulatory reform programme through the 1990s, and is continuing reform today (OECD; 1999, 2005b, 2008c).<sup>9</sup> In Italy, reform commenced in the 1990s and is still going on. Results from the OECD review of Italy indicate that the legacy of decades of regulatory complexity, corruption, and inefficiency means that regulatory reform will be a long, hard process (OECD, 2009a). It took the United Kingdom (UK), where reforms started in the early 1980s, three decades of sustained effort to be considered a model for high quality regulation (OECD, 2002b).

For Egypt to implement its reform programme successfully, high level political support is necessary through each cycle, as there will inevitably be resistance to change from sections of the civil service which stand to lose influence and power over administrative procedures (OECD, 2009b). The Egyptian government should examine how other governments have coped with resistance to regulatory reform. Examining the cases of Mexico and Italy would provide valuable insight.

Administrative structures in Egypt are unable to keep up with the rapid pace of reform at the current stage. Egypt is in a transition phase, where elements of the old and new systems coexist, giving rise to contradictions between a market-oriented policy regime, a rigid administrative environment, and a complex, inflexible legal framework.<sup>10</sup> Despite considerable investment in regulatory policies, the full benefits are yet to be felt by citizens and businesses on the ground. Without a multi-year strategy backed by implementation, there is a risk that benefits could be lost.

### **5.1.2 Institutional Framework**

A solid institutional framework will reinforce the strategy for regulatory reform as it will provide the political mandate for implementation and ensure coordination between institutions. It should be supported by and supplemented with regulatory assessment tools. There should be an oversight body to bring together different ministries and agencies undergoing administrative simplification and regulatory reform. A private sector committee should be established and consulted on a regular basis. This committee should play a coordinating role so as to ensure that the private sector is regularly informed of the latest changes and reform efforts.

There is no single model for overseeing regulatory reform and administrative simplification. Oversight and co-ordination bodies may be centralised, as in Mexico, Korea, and the UK, or decentralised, *e.g.* Denmark, Norway, and Switzerland (OECD, 2008b). Irrespective of the organisation, oversight bodies are key actors in the process of regulatory reform and should be governed by a solid institutional framework with policy coordination mechanisms in place to streamline the reform process, oversee regulatory quality, and ensure transparency.<sup>11</sup> OECD experience shows that oversight bodies usually play a multi-faceted role and share the following characteristics:

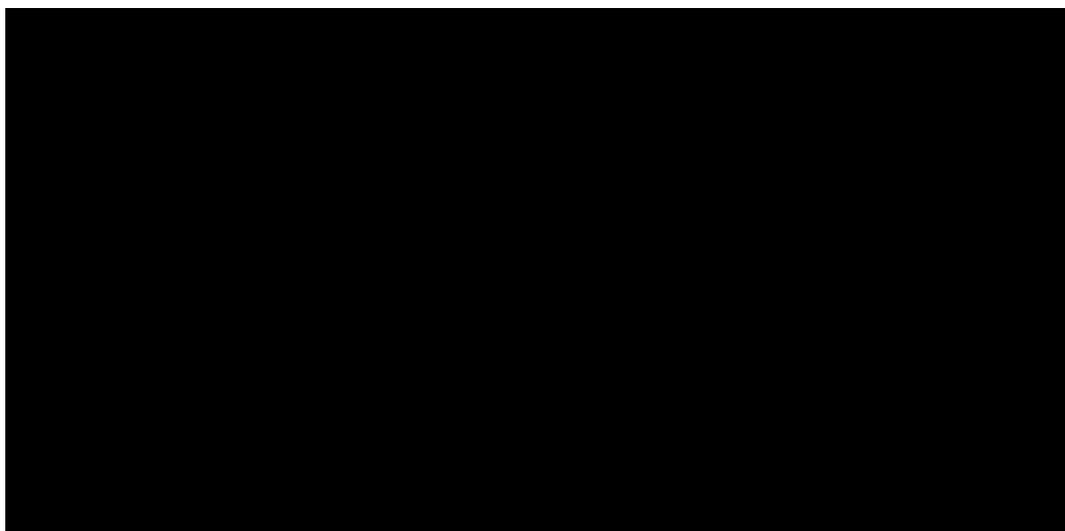
- central government capacity to ensure institutional co-ordination,
- independence and sufficient authority,
- high level political support,
- cross-government approach,
- a multidisciplinary vision of regulation,
- their work is integrated into a broad concept of reform.<sup>12</sup>

An institutional framework can be considered effective if:

- a fully operational policy co-ordination mechanism – *e.g.* task force, committee, oversight body – is in place;
- the oversight body is independent and involves the relevant ministries, implementing agencies, and local government;
- there is a system of consultation with stakeholders, in particular from the private sector;
- overlapping policies have been identified and active measures have been taken to avoid major policy inconsistencies across administrative bodies;
- oversight bodies ensure higher quality regulation.

The General Review Unit (GRU) is the independent central oversight body that heads the implementation of the ERRADA initiative. Its staff comprises 25 lawyers, economists and management experts. It oversees Government Ministerial Units (GMUs) set up in each participating ministry to conduct the inventory and initial review process. The GRU is responsible for orchestrating ERRADA's final review phase of simplifying and eliminating regulations. The GRU also works with stakeholders through the Business Advisory Committee (BAC).<sup>13</sup> It reports to the Committee of the Productive Sector, which in turn reports to the Prime Minister.

**Figure 5: The institutional structure governing ERRADA**



Source: Government of Egypt, ERRADA programme.<sup>14</sup>

*BCDS Score for Institutional Framework: 3.5*

The role of the General Review Unit (GRU) is highly demanding and wide-ranging. Its duties include independent oversight of the regulatory reform process; bottom-up and top-down co-ordination; the orchestration of a complex, comprehensive 3-step regulatory review; the provision of technical assistance and IT expertise; and reporting and communication. To date the GRU has orchestrated ERRADA effectively through its key work in setting up 12 GMU units within implementing ministries. It has also operated as co-ordinating body by setting up bi-weekly and weekly meetings with the GMUs to monitor progress and help resolve issues as they arrive. The GRU has managed to broadly keep the inventory phase on schedule with the prescribed timelines.

As the programme for regulatory reform continues in keeping with strategy, the role of the GRU and its implementing units, the GMUs, will evolve. This evolution is natural and unfolds as the reform process becomes more advanced and begins to impact on the legal and regulatory environment. However, the future role of the GRU should be carefully assessed so as to ensure the long-term sustainability of the ERRADA initiative and the high quality of regulation.

Interviews with GMUs in a number of ministries and the February 2009 GRU evaluation report show that stronger leadership from the GRU is necessary to legitimise and institutionalise the regulatory reform process within participating ministries.<sup>15</sup> This will be particularly true if the GRU faces resistance from ministries unwilling to comply fully with ERRADA – and resistance is only expected to become more pronounced as ERRADA enters its second phase (regulatory simplification and elimination) during 2010.

*Recommendation*

To improve its score Egypt should consider that OECD experience demonstrates how, in certain types of institutional settings, a central placed oversight body can be important to the success of an ambitious regulatory reform programme:

“Placing central regulatory management in the centre of government [directly] linked to the offices of the president, prime minister, or budget enhances the authority and oversight needed to steer the process and obtain results.”<sup>16</sup>

As in Mexico, Egypt’s regulatory reform efforts are naturally led by the Ministry of Trade and Industry, as the initiative stems from the activities of the Committee of the Productive Sector chaired by Minister Rashid. While the committee is centrally located within government, the minister plays an important role in promoting the ERRADA initiative among other ministries. ERRADA’s success has rested primarily on the minister’s ability to mobilise support, while the support of the prime minister and strong business interests lend authority.

The Mexican experience, however, suggests that such an arrangement may not be a solid enough institutional framework to sustain reforms over the long term. Regulatory reform mechanisms should be closer to the centre of government and more highly placed in order to ensure consistency in reform efforts and to improve high quality regulation. As in Mexico, a centrally placed oversight body would be particularly beneficial in Egypt where administrative hierarchy is highly valued (OECD, 1999).<sup>17</sup> There are different models for a centrally institutionalised GRU: the Mexican oversight body has been moved straight into the executive branch of government.

Another important function of the GRU is consultation with stakeholders. It does not, however, appear to have fulfilled its consultative duties with the private sector.<sup>18</sup> As previously mentioned, the UK is one of the most experienced OECD economies in ensuring high quality regulation and one of the few countries which fulfil all the criteria in the 2005 *OECD Principles*.<sup>19</sup> One of the most effective elements of the UK model is the capacity of the regulatory system to ensure transparency and accountability. An OECD review of the UK regulatory system stated that:

“[P]ublic consultation is widely used and based on a long tradition of pragmatic and flexible approaches to effective consultation. A Code of Practice in effect from 2001 sets 12 weeks as the standard minimum period for consultation, and a 12 weeks period between when a measure is announced and implemented. The Government is active in making regulatory requirements easily accessible; a series of new steps have been taken to broaden and ease access via the Internet.”<sup>20</sup>

The initial results to emerge from ERRADA should be shared with the business community via the BAC. Informing and engaging the business community early on in the process will increase the credibility of work carried as part of ERRADA.

### **5.1.3. Clear Task Assignment**

Ideally, a single institution should lead the implementation of policy with effective mechanisms for oversight and coordination. Regardless of the institutional set-up, implementing bodies in each relevant ministry and/or agency should be clearly assigned tasks in the process of regularly reviewing and simplification red tape.

Clear task assignment is assessed on whether:

- institutions specifically responsible for review and simplification of legislation are in place
- such institutions are fully operational, well-staffed, and work with a budget that enables them to meet their terms of reference
- they have a track record of efficiently reviewing and simplifying legislation and administrative procedures.

As a part of the ERRADA initiative, each participating ministry has its own separate GMU in charge of implementing the inventory and self-review phases (described below in Section 5.1.4). Each participating ministry issues a decree to set regulatory reform in motion. The decrees outline the purpose, scope of work, and functions of the GMUs. They generally consist of four to five economists, lawyers, and IT specialists from each ministry who have been trained by the GRU in inventory and review techniques. GMUs usually work alongside the GRU to develop the methodology for the inventory and review process.

#### *BCDS Score for Clear Task Assignment: 3.5*

There are a number of reasons for the BCDS score of 3.5. The Egyptian GMU model is designed to incorporate a significant level of involvement on the part of the ministries concerned and requires the GRU to perform its role firmly. GMUs are currently limited to conducting the inventory and self-review phase – an arrangement that is ideal for a ministry which knows best its stock of existing regulations. The GRU oversees the GMUs while also acting as an independent body with a broader perspective that steers the direction of reforms. This duality of roles places the GMU and GRU in a dynamic system of “checks and balances” which can ensure quality regulation.<sup>21</sup>

As separate units within their ministries, GMUs enjoy formal status which allows them to contact subordinate authorities without facing resistance (Kamel, 2009). The legitimacy of the GMUs is further reinforced by directors who are appointed to provide political support to the ERRADA process. According to the recent evaluation of ERRADA, the level of political support from a director within a ministry is a key determinant in successfully overcoming pitfalls and challenges.<sup>22</sup>

#### *Recommendation*

To improve its score Egypt should address a number of considerations. Through its system of checks and balances, the Egyptian model of the GRU overseeing the GMUs is well designed to ensure higher quality regulation. However, it can also be a source of weakness. When the inventory phase comes to completion and recommendations emerge from a thorough review process, there will be a time lag before the reforms are actually put into effect due to delays in the legislative process. Time lags work against the reform process in that success can be measured only when reforms have actually made a positive impact on the operational environment for business.

In some OECD economies the review process is lengthy in order to take stock of business regulations. The bottleneck, however, occurs during the recommendation process because it can be very difficult and time-consuming to agree and reach consensus on changes to laws and subordinate regulations.<sup>23</sup> It is therefore essential to meeting reform targets that there should be cooperation and coordination between the GMUs and the GRU. Furthermore, the GMUs should enjoy full backing from high-level ministry officials to ensure that time and resources are not wasted on establishing the GMUs’ legitimacy.

GMUs should be adequately trained to ensure that they are producing effective results in their ministries. External expertise should be made available to provide GMUs with technical support and training throughout the regulatory reform process.<sup>24</sup> Finally, if the Egyptian government proceeds as planned, the GMUs will eventually evolve into RIA units and explicit guidelines will have to be drawn up on how to conduct RIAs (see Section 5.1.5 for a more in-depth analysis of RIAs and the role of GMUs).

#### ***5.1.4. Review, Simplification and Elimination of Current Legislation***

It is essential that reviewing, simplifying, and eliminating legislation should be carefully planned to keep work on schedule and see it through to completion. To ensure proper planning and continued political commitment, legislation may be reviewed, simplified and eliminated as part of a pilot project then as a

fully fledged programme. A thorough review of both primary and secondary legislation ensures that current legislation and regulations are up-to-date and consistent; simplifying legislation facilitates business operations; and elimination, often referred to as the Guillotine Review, does away with outdated, unnecessary, business-unfriendly laws and regulations. Consultation with the business community is key to maintaining transparency throughout the process.

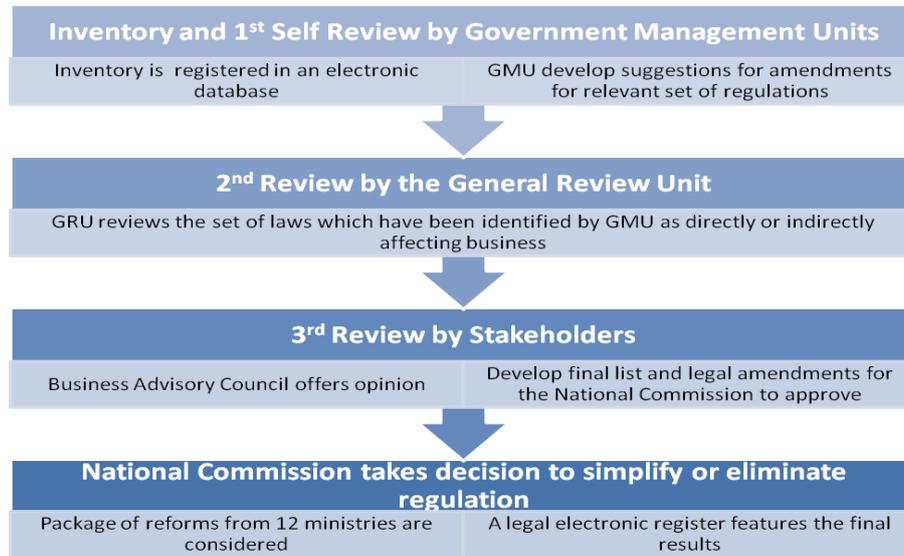
A well advanced, well structured programme of reviewing, simplifying, and eliminating legislation, rules and regulations assesses whether:

- there is a concrete plan to review, simplify and eliminate any legislation governing enterprise policy;
- the plan has been approved and the implementing institutions in have been identified
- the plan has been implemented and begins with a review of key primary legislation governing enterprise policy;
- the legislative review is extended to secondary legislation;
- the review results in the simplification or elimination of either primary or secondary legislation.

ERRADA has completed its first stage, *i.e.* an of all existing regulations – decrees (presidential, prime ministerial, prime ministerial cabinet, and ministerial decrees), directives, circulars, and guidelines. Any piece of law in the inventory is considered for review if it directly or indirectly affects the business climate. There are three reviews: a self-review by regulatory bodies, followed by two independent reviews (see Figure 6 below).

The inventory phase was conducted from July 2007 through December 2008. The result was a complete inventory and computerization of legislation and the identification of 25 000 pieces of business-related legislation across 12 GMUs (as new regulations are passed the inventory process continues in a dynamic, ongoing process). Upon completion, the inventory phase was evaluated by the GRU, which produced a detailed report in February 2009.

**Figure 6. The review, simplification and elimination process**



The GMUs operate to a timeline defined by the GRU in each phase of the regulatory reform process. The inventory and self-review are conducted in a flexible manner to best suit ministries' institutional structure and the complexity of their regulatory legacy. The Ministry of Finance's inventory, for example, took approximately seven months and its review is scheduled to last twelve.<sup>25</sup> The ministry has divided legislation into themes. Working groups, which include ministry-level experts, have been set up to examine each thematic set and come up with recommendations on how to simplify or eliminate them.

The GRU conducts a second review then a third one, in which the BAC takes part. The third review is intended to provide quality assurance and to ensure that the business community is monitoring ERRADA's progress.

The review process results in a final list of recommendations as to which legislation should be simplified or eliminated. The list is submitted to a national commission put in place by the GRU which takes the final decision on whether to adopt recommendations to consolidate, modify, repeal, add or replace existing legislation. Ministerial decrees can be directly modified by the relevant ministries; modifications to presidential decrees must be approved by the President; and finally, changes to legislation must be approved by Parliament. The final set of reformed regulations will be registered in a Depository, a secure legal register.

*BCDS Score for Review and Simplification: 3; for the Elimination of Superfluous Legislation: 2.5*

A number of reasons explain the above scores. ERRADA has drawn up a concrete three-step plan to review, simplify and scrap legislation that relates to enterprise policy. It has successfully conducted an initial review, compiling a list of 25 000 regulations which affect business across 12 GMUs. However, the entire plan has not yet been fully implemented. Its completion will require considerable time and resources. Its remaining review phases are those which will have the greatest impact on the business community and are, accordingly, the most important to a successful policy of administrative simplification and regulatory reform. The simplification and elimination phase will also be a test of political will as it will address the delicate question as to whether the administrative system is ready to move from recommendation to implementation.

In order to improve its score, Egypt should consider a number of factors. This chapter has underlined the importance of keeping reform on track. The lesson learnt from regulatory reform in other countries is that momentum should not be lost. Time lags are detrimental to success and ERRADA's design and lead management should be evaluated so as to assure timely implementation of reforms.

Firstly, the simplification and elimination process should take place according to a prescribed timeline. Consider that in Mexico, the average time lag between review and legal implementation was approximately eight to ten months.<sup>26</sup> Depending on the type of legislation, reforms may have to pass through parliament. Therefore, the timing and orchestration of the review, simplification, and elimination process is critical to the success of ERRADA.

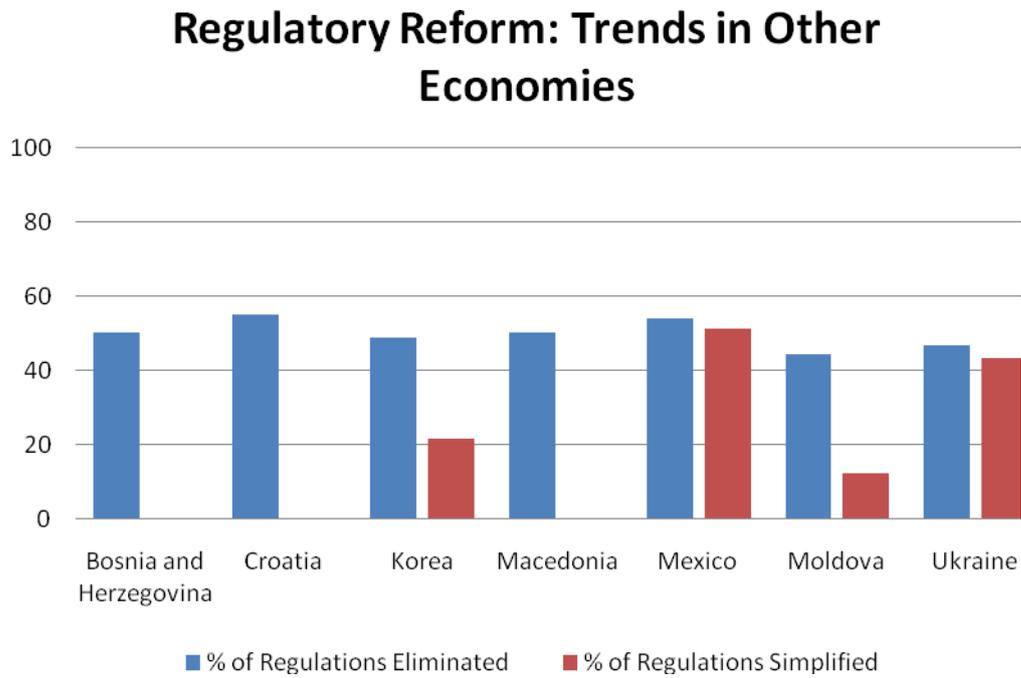
Unavoidable or unforeseen delays risk further slowing down the process. In emerging markets, the lack of resources is a particular problem, especially when they are provided by donor institutions. The availability of such resources is dependent on aid management cycles, meaning that if funding runs out reform programmes may not be able to produce results – the case of Moldova. As for Croatia, reform momentum was lost there due to parliamentary elections.<sup>27</sup>

### *Recommendation*

In order to stay on track, Egypt should set targets to ensure that the reform process does not lose momentum. In Croatia the HitroRez programme set quantitative targets for reducing business-unfriendly regulations, which ultimately diverted attention away from the methodological soundness of the approach (see box on Regulatory Reform in Southeast Europe). The reason was that much of the focus was on elimination rather than review and recommendation.

Reasonable timelines and targets should be set so as to ensure the quality of regulatory reform. Quality management will, however, require Egypt to assess its technical capacities and consider the pace of current reform processes. It should benchmark its reforms against those of other countries. According to data from seven economies, almost 50% of existing regulations are scrapped and 32% are simplified (an estimate based on data from four economies).<sup>28</sup> These examples are simply indications. The final outcome for Egypt will be determined on its country-specific characteristics, which account for the size of its legacy of laws and regulations.

Figure 5. Regulatory reform trends in other economies



29

Source: OECD, Investment Reform Index, 2010

## Box 2. Regulatory reform in Southeast Europe: lessons learnt from Croatia

In 2006 Croatia launched HitroRez, a project designed to significantly cut red tape in business regulation. The project, conducted over a period of ten months and resulting in a rapid process of regulatory reform using the so-called “Guillotine Review”, was considered a success in Croatia and in the Southeast Europe region. The initiative benefited from political commitment with support directly from the Prime Minister and proactive engagement from the private sector.

In order to achieve fast results, targets were set at the beginning of regulatory reform to reduce the number of unnecessary regulations by up to 40%. By the end of the review process, HitroRez recommended the elimination of 425 regulations and the simplification of 374, which made up approximately 55% of all business regulations in Croatia.

Within six months 160 recommendations were implemented and through 2007 more than 80% of the recommendations were put into effect. The other 20% could not be implemented due to “lack of administrative capacity and training of administrative officers and the risk that legal gaps [would] arise or because the respective regulatory area [was] already being harmonized with the EU *acquis*.”

While HitroRez is considered a success, it should be noted that its actual effects on the business environment have not been fully monitored or evaluated. The truest indicator of success will be to measure how much time and cost has been saved for public administration and business in the reduction of red tape.

The Government of Croatia has since shifted its focus towards establishing a specialised RIA unit. The unit which originally orchestrated HitroRez has been transformed into a Central RIA Co-ordination Unit, located in the office of the Prime Minister. The Government of Croatia has officially adopted RIA and requires that all legislation, before being submitted to Parliament, must go through four types of RIA: financial impact, market competition and state aid, environment protection and social impact. A manual has been developed to this end, along with study tours and training sessions to adequately prepare regulators in completing RIA. Still, developing an effective RIA takes time and the Croatian model should be considered when designing RIA architecture in Egypt in order to strengthen methods, procedures and practice in support of timely, effective use.

Sources: Vedran Antoljak, Domagoj Juricic & Marko Slunjski (2007); OECD and EC (2009).

### 5.1.5. Cost-Benefit Analysis of New Enterprise Legislation and Regulation

Systematic, consistent cost-benefit analysis should be applied to the drafting of legal instruments in order to optimise their efficiency and effectiveness and ensure they meet their intended objectives at minimum cost and with the fewest unintended negative consequences. This type of analysis greatly improves business-related policy instruments and avoids unnecessary legislation and regulations.

Cost-benefit analysis of legislation and regulations, usually referred to as regulatory impact analysis (RIA), is a complex tool and requires relatively sophisticated regulatory management, in addition to considerable time and resources.<sup>30</sup> While there is no single approach to RIA, 15 OECD governments use it for primary legislation and 12 for subordinate legislation.<sup>31</sup> Several OECD publications provide guidance for different approaches including *Regulatory Impact Analysis: Best Practices in OECD Countries* (1997a), *Building an Institutional Framework for Regulatory Impact Analysis: Guidance for Policy Makers* (2008d), and *Introductory Handbook for Undertaking Regulatory Impact Analysis* (2008e).

It may be important to consider pragmatic approaches to RIA that take into account resource and technical constraints. Simplified RIA, for example, is useful for a light cost-benefit analysis of a piece of legislation. Light analysis relies more significantly on consultation, inventories of existing research, and existing tools to conduct a disciplined review of potential consequences (see Figure 6). Comprehensive analysis involves the use of cost-benefit tools which vary in complexity depending on the type of model used (e.g. standard cost model) and can be applied both *ex post* (for existing legislation) and *ex ante* (for draft legislation). Either approach will lend greater value-added to the law-making process by providing a means to consider its potential impacts on business and even SME operations, as see Box 3 below shows.<sup>32</sup>

### Box 3. Lessons learnt from OECD economies' experiences: "thinking small first"

The burden of complex procedures is disproportionately higher on small companies than on large ones, as administrative and managerial resources are scarcer and costs cannot be spread over a large turnover. OECD research demonstrates that small companies incur regulatory costs which are five times higher than that of large companies.<sup>33</sup> Reform which reduces business burdens and increases transparency of regulatory regimes supports entrepreneurship, market entry and is integral to the development of SMEs.

Creating regulatory frameworks which are developed to take into account the needs of SMEs is often a difficult task. Good practice collected from a number of OECD economies demonstrates there are special initiatives to reduce burdens and support regulatory compliance for SMEs specifically. Strategies to reduce administrative burdens could include the following ten actions:

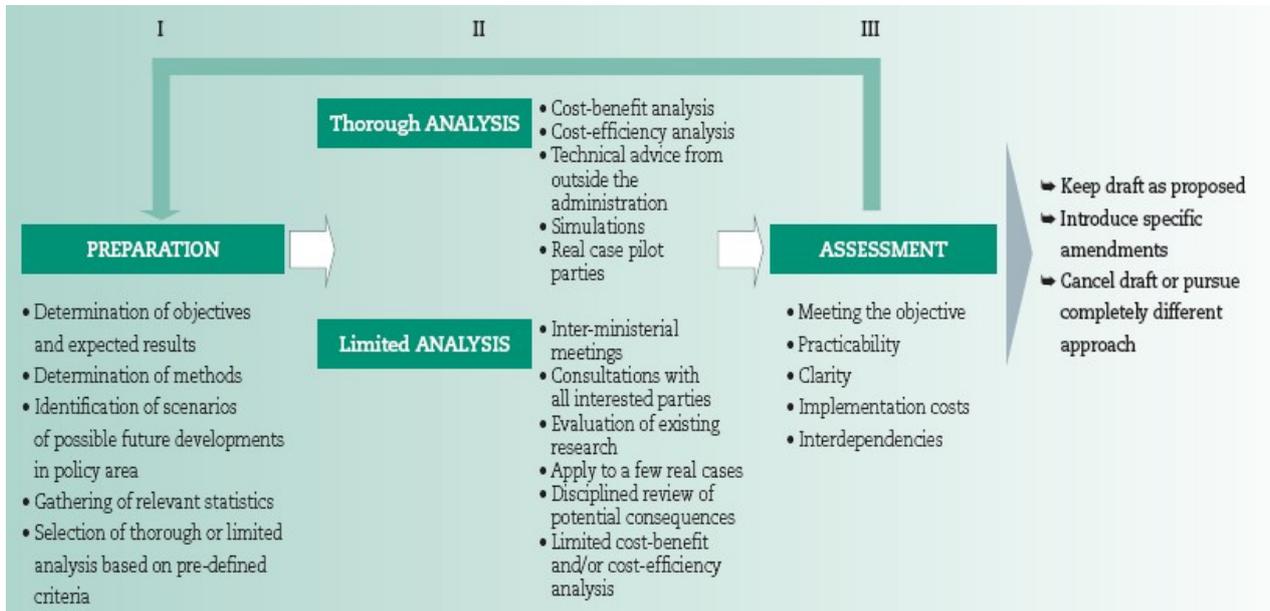
1. Institutionalise SME concerns by establishing permanent or *ad hoc* government units mandated to represent SME views in the regulatory process
2. Require regulatory agencies to prepare Small Business Impact Statements
3. Consult small business on regulation proposals
4. Scale and calibrate administrative regulations
5. Consider setting specific time limits for administrative decision-making
6. Ensure plain language drafting and specific compliance guidance for SMEs
7. Establish a central registry of administrative procedures and licences and initiate comprehensive reviews (using RIA) to determine how to reduce burdens
8. Build a system for measuring administrative burdens
9. Establish one-stop shops for regulatory information and transactions
10. Ensure that IT is widely available for SMEs to take advantage of e-government tools.

Sources: OECD (2005d); OECD (2003).

A key element related to the institutional framework of RIA is quality control by an independent review. OECD experience states that:

“[Q]uality control through independent review ... helps assess the substantive quality of new regulations and ensures that ministries achieve the goals embodied in the assessment criteria. Oversight bodies responsible for RIA must be able to question its quality and regulatory proposals. They need the technical capacity to verify the impact analysis and the political power to ensure that their view prevails in most cases.”<sup>34</sup>

**Figure 6. Good practice: the three-step RIA process**



Sources: OECD, 2006a, p. 159 and OECD/SIGMA, 2001.

The BCDS assessment examines cost-benefit analysis in an emerging market context. The assessment criteria is, therefore, based only *ex ante* cost-benefit analysis and does not assign a score based on the type of cost-benefit analysis used (limited or thorough).

For the purposes of this assessment only business regulations are considered, although RIA can be used for any type of regulation or legislation. Business legislation and regulations can give rise to a number of intended or unintended consequences relating to the economy. They include, but are not limited to, financial impact, market competition and state finance, environmental impact, and social impact (e.g. impact on youth or women). Targeting RIA is a useful way to manage scarce financial and analytical resources.<sup>35</sup>

The effectiveness of cost-benefit analysis assesses whether:

- a law enabling cost-benefit analysis of draft legislation and regulation is in place;
- early-stage cost-benefit pilot analyses are conducted;
- there is evidence – at a more advanced stage – of regular cost-benefit analyses of draft legislation and regulations pertaining to business operations;
- cost-benefit analysis involves consultation with key stakeholders;
- an independent review of cost-benefit analysis is conducted.

Currently, there is no systematic cost-benefit analysis of new and existing regulations being undertaken by the Egyptian government. However, there are some *ad hoc* procedures for analysing new legislation and regulations. It has been reported that studies are being conducted ahead of intended reforms, but only in some cases and not in a systematic fashion. It is left up to the ministry to conduct informal consultations either with partners in the government or with stakeholders. The results of consultation processes are often

collected and analysed, but not published. Generally speaking, there is no standard procedure for any type of legislative analysis which occurs either *ex poste* or *ex ante*, and at this stage there is no entity responsible for the quality of regulation.<sup>36</sup>

Interviews and the 2008 Ministry of Finance report confirm that there are plans and significant support from government officials to introduce an RIA system. Within the ERRADA programme a pilot project, called the “Regulatory Economic Impact Assessment Development Strategy” (a simplified version of a cost-benefit analysis for enterprise legislation), is to be launched. The cost-benefit analysis targets only new fundamental or organic laws that alter the role of the state in the regulation of the business environment. The ERRADA programme also seeks to institutionalize the process by transforming the GMU units in each participating ministry into RIA units.

#### *BCDS Score for Cost-Benefit Analysis of New Enterprise Legislation and Regulation: 2*

A BCDS Level 2 score is awarded for the following reasons. The ERRADA strategy sets forth plans to implement RIA for business regulations. While the proposal has not been translated into a law, the plans, which include identification of the RIA units, are advanced and integrated into the ERRADA process.

To improve its score, Egypt should consider a number of factors. RIA plans should be formalised either through an established law (as in the Czech Republic, Korea, Mexico), presidential decrees or orders (as in United States), prime ministerial decrees or guidelines (as in Australia, Austria, France, Italy, and the Netherlands), or cabinet or government directives or resolutions, as in Canada, Denmark, Finland, Germany, Ireland, Japan, New Zealand, Norway, Poland, Portugal, Sweden and UK.<sup>37</sup>

Current plans to permanently integrate GMUs into RIA units are pragmatic as they make use of existing resources and ensure that staff is sufficiently familiar with the administrative and legislative history of the ministry. However, GMU staff should undergo additional training to ensure that officials are adequately prepared to conduct complex impact analyses.<sup>38</sup>

#### *Recommendations*

In order to facilitate the implementation of RIA, a standard methodology should be devised and agreed upon as part of the ERRADA initiative. A common methodology should be used across all participating ministries and communicated in easy-to-use guidelines for RIA specialists. The RIA methodology should first be tried out with case studies to ensure its effectiveness and to train regulators. The OECD *Guidance for Policy Makers* (2008d) should be consulted for guidance in designing a system of impact analysis best suited to the institutional and policy environment in Egypt. The OECD works extensively in this area through its SIGMA programme<sup>39</sup> and the MENA-OECD Good Governance for Development Initiative.<sup>40</sup>

#### **Box 4: Lessons learnt from RIA in Southeast Europe**

##### **Serbia**

“Perform RIA at the very start of the legislative process and involve both the executive and legislative branches of government to guarantee its effectiveness.”

##### **Moldova**

“RIA should not be used to justify a law; it should be a tool to design effective government regulation.”

##### **Croatia**

“Croatia uses a two-step approach: the first step consists of drafting a two-page document summarising the objective rationale, benefits and costs of the proposed legislation (*i.e.* economic impact). If the proposed legislation meets certain criteria, a full RIA report is development.”

Source: OECD, 2008f

The oversight role of the GRU would be bolstered if RIA were made into a systematic part of the policy-making process. The role of the GRU in RIA would be two-fold. Firstly, it would provide adequate

technical assistance to train regulators in RIA. Secondly, it would act as an oversight institution which would conduct a final quality check on a piece of legislation before it goes before law-makers (a similar approach is used in Australia and Mexico).<sup>41</sup> This duality of roles should be carefully considered so as to forestall any conflicts of interest or regulatory overlap between the GRU and GMUs.<sup>42</sup> Interestingly, the oversight body in Mexico played a role similar to that of the GRU:

“[The oversight body was] encouraged to approach the regulators to help them understand and implement the new tool. As analytical requirements become more complex these capacities are expected to need enhancement. There is also concern that technical assistance and final review are provided by the same desk officers. Conflicts of interest or even capture may occur as [oversight] administrators are involved consistently with the same agency.”

The role of GRU is thus essential. The OECD's work over the years has demonstrated that a number of factors influence the effectiveness of such a body. These include the level of formal authority, the level of resources and expertise, and finally the level of “informal” authority as determined by its central position within the government. The recommendations set out in Section 5.1.2 regarding the position of the oversight body are critical to ensuring high quality regulation and legislation and the success of a complex regulatory reform process.<sup>43</sup> To ensure high-quality regulation, the UK requires “responsible ministers to sign a statement to accompany each RIA document, stating that they have reviewed it and are satisfied that the benefits of the proposed regulation justify the costs.”<sup>44</sup>

Finally, RIA should be introduced early while there is sustained political support at the highest level. RIA should be used to support the rest of the economic reform programme, including local government and its bloated bureaucracy. The ERRADA programme should continue with plans to extend RIA to new ministries such as Civil Aviation, Culture, Environment, Manpower, and Immigration and to governorates like Al Fayum, Red Sea and Ismailia.

## **Sub-Dimension 5.2.: Cheaper, Faster Start-Up**

The simplification of company registration and closure procedures is an aspect of legislative and regulatory reform. The formal process of establishing a business entails three main phases:

- delivery of a company registration title, or incorporation act, which leads to the establishment of a new legal entity, by an assigned public authority;
- notification of the establishment of a new company to various branches of the central and local government (*e.g.* tax administration, employment and labour agencies, customs administration, the office of statistics) and the delivery of company identification numbers;
- compliance with national and local laws and regulations; these vary according to the nature of the business activity and compliance is certified by the delivery by the relevant public body of licences and permits.

Several players have a role in the business establishment process: some of them are public bodies, others private professionals such as notaries, lawyers, accountants, etc. Governments tend to focus on the performance of the civil service and often see the delivery of the company registration title as the end of their responsibility. In addition, the government concentrates on improving performance in business start-up formalities only for the most common forms of enterprise. Entrepreneurs, on the other hand, are interested in the performance of the overall process from the preparation of the documentation to the start of business activity. It is therefore vital that governments and business associations work together to identify and address barriers and inefficiencies in the business establishment process.

The time, number of procedures, and cost required for businesses to comply with regulatory requirements are an important aspect of the business regulation process. This sub-dimension deals specifically with measuring performance in procedures of company registration, de-registration and business closure. This area has been extensively reviewed, following the work conducted by the World Bank with its annual *Doing Business* report. The BCDS sub-dimension combines a range of indicators constructed specifically for this exercise and a number of indicators adopted from *Doing Business*. The purpose is to cover in detail the three main components of the business establishment process, from incorporation-registration to notification and compliance.

Egypt has made a number of reforms in the area of simplifying business start-up procedures. From the worst reformer in 2005, it rose through the ranks to become world's top business environment reformer in 2007 and among the top ten reformers in 2008-9 for starting a business (World Bank, 2008). These reforms and the effects they have had on company registration are examined in greater detail in the following sections.

### **5.2.1. Company Registration – Time, Steps, and Cost**

Lengthy company registration and licensing procedures are *de facto* entry barriers that discourage entrepreneurial activity and divert human and financial resources away from business. Policies that reduce business burdens and support entrepreneurship and market entry are therefore integral to the development of enterprises.<sup>45</sup>

The performance of the business establishment process is measured in terms of reducing time, procedures, and costs in order to lower entry barriers and allow entrepreneurs to concentrate on growing their businesses instead of dealing with red tape.

An effective company registration process can be benchmarked as follows: 1) registration takes one day to complete; 2) registration requires only one administrative procedure; and 3) registration costs less than EUR 10 and/or between 0% and 1% of gross national income (GNI) per capita.<sup>46</sup>

This set of indicators can be interpreted in two possible ways:

1. to assess company registration purely as an administrative process, measuring time, the procedures, and costs accordingly;
2. to examine the time, procedures and costs in the *overall* process of company registration.

It is in the second way that the World Bank’s *Doing Business* report benchmarks company registration. The World Bank data set specifically considers limited liability companies, while ranking performance in terms of the time, number of procedures, and costs it takes to obtain a license for standard business activities as well as the fees paid to government agencies and private professional service providers (notaries, chamber of commerce fees if required, etc.).<sup>47</sup>

Using these indicators to assess business establishment performance from two different perspectives can yield very different results. Differentiating between the scores identifies whether countries have made significant reforms to their company registration process (often by setting up a one-stop-shop) but have neglected to obtaining compulsory licenses, which requires a different set of administrative processes and is often considered an obstacle by enterprises. This section assesses performance using both the World Bank *Doing Business* overall approach to company registration and the BCDS assessment criteria for company registration only.

#### *BCDS Score for Company Registration – Time, Steps, and Cost*

The table below shows Egypt’s scores against the indicator for company registration whether considered purely in terms of administrative formalities or from the all-encompassing World Bank *Doing Business* perspective.

**Table 2. Two different approaches to assessing business start-up**

	<b>Company Registration Only<sup>48</sup></b>	<b>BCDS Score</b>	<b>Overall Company Registration Process (World Bank, 2010 <i>Doing Business</i>)</b>	<b>BCDS Score</b>
<b>Time</b>	Between 1-5 days	<b>4</b>	7 days	<b>3</b>
<b>Procedures</b>	2-4 procedures	<b>4</b>	6 procedures	<b>3</b>
<b>Costs</b>	EUR 50-150	<b>3</b>	16.1 % GNI/capita	<b>1</b>

Source: World Bank (2009). *Doing Business 2010*. The World Bank and the International Finance Corporation. Available: <http://doingbusiness.org/rankings>

The scores in the table above consider a number of factors.

Egypt has taken a two-track approach to improving the operational environment for enterprises. In the first track GAFI caters to large and medium-sized investors by offering one-stop shops that handle all establishment and operation formalities (see Box 5). The second track is designed for small and micro-enterprises (MSEs): the Social Fund for Development (SFD) has established one-stop shops in most governorates for MSE registration.<sup>49</sup> A network of chambers of commerce and industry offer registration services to enterprises for little additional cost and have substantially reduced the time burden on enterprises by acting as intermediaries in registration procedures (see Chapter I-1, “Investment Policy and Promotion” and Chapter I-6 “SME Policy and Promotion”).

## **Box 5. The procedures required to establish an enterprise in Egypt**

### **A. Pre-Establishment**

Investors choose the sector and or activity in which they desire to invest. Their choice determines the procedures they must follow procedures and the approvals they must obtain. GAFI oversees 69 activities, while investors deal with any of 71 entities under the responsibility of 22 ministries. Depending on their sector of activity they may deal with as few as 8 entities or as many as 25.

### **B. Establishment**

Investors' first step in the company incorporation procedure is to fill in a special form in which they apply to found a company. The rest of the procedure is as follows:

- Select the type of the company (a joint stock company, a limited partnership)
- Obtain a certificate from the Commercial Register proving that the name of the company is unique and shall not cause confusion.
- Issue the power of attorney to take the necessary procedures to incorporate the company.
- Prepare a map showing the site of their project if it is located in one of the governorates of North or South Sinai.
- Obtain a certificate from the Egyptian Financial Supervisory Authority (EFSA) if the capital of the company contains a corporeal share.
- Issue a bank certificate proving that 10% of the issued capital has been deposited (joint stock companies) or that the amount of capital has been paid in full (limited liability companies).

Required procedures to register the branch of a foreign company:

- An application to the head of the office in charge of the commercial registration of investment projects.
- A photocopy of the head office's corporate structure.
- A copy of the head office's decision to appoint a manager of its branch in Egypt.
- A copy of the parent company's declaration that it has had no previous branch in Egypt.
- A bank certificate proving the transfer of an amount of hard currency equal to EGP 5 000 under the branch name.
- A copy of the document proving right of ownership, or of the lease for the site of activity, or a document testifying that the contract has been approved.
- Approvals of the company's activity from the ministry concerned and the ministry of procurement.
- An Arabic version of the above documents should be endorsed by Egyptian Embassy.

### **C. Preparing for Operation**

- Purchase the land.
- Obtain the building license from the municipalities.
- Purchase or import the equipment.
- Obtain the license to operate (from any of Egypt's 453 municipalities): from 1 to 6 months.
- Obtain the approval from the technical bodies supervising the investor's activity. (Procedures vary according to the activity.)

### **D. Operation:**

- Operation kick-off wait: 4 weeks.
- Consult the legal advisor: if "yes", then go ahead, if "no", then approach the Expansions Committee for further procedures which will deliver the final approval or disapproval.
- Report to be approved by the Chairman of GAFI.
- Notify the Tax Authority.

*Source:* OECD Investment Policy Reviews Egypt (2007) and Ministry of Investment/GAFI.

While Egypt has reduced the number of days required to register companies, obtaining the necessary licensing approvals from various agencies still takes considerable time.

### Box 6: Obtaining licenses in Egypt

While a lot has been done to reduce administrative barriers, obtaining licenses to conduct industrial activities remains a barrier. By law, all industrial manufacturing projects or related services require additional approval from the Industrial Development Authority (IDA) for land assignment, project establishment, industrial registration and operating licences.<sup>50</sup> Obtaining necessary approvals poses an additional bureaucratic hurdle and is a lengthy, costly process for business.

According to the IFC, the procedure for obtaining a license in Egypt is as follows:

“Egypt practices a “three-tier” licensing process, which involves first obtaining a provisional license and then, once the factory is ready to start test production, a “final license,” both granted by IDA. In order for production to start, an operating license, [must be] granted by the Governorate or the NUC [New Urban Cities Authority] in which the factory is located ... A company, having obtained an operating license, must then be inscribed in the Industrial Register. This last step is not a mere formality, and can take a year or more.”<sup>51</sup> Registering is important for any export activity.

The government of Egypt launched a pilot project in cooperation with the IFC to streamline industrial licensing procedures at Alexandria’s one-stop shop. The pilot succeeded in merging land allocation and project approval processes into one application, and setting a maximum time limit for the assignment of approvals and the issuing of licences. The pilot established an IDA office within Alexandria’s one-stop shop, which meant that the processing of paperwork could happen on-site, gaining the time lost in waiting for approvals from Cairo. Furthermore, IDA established a risk-based assessment system for industrial licensing – using positive and negative lists to grant simplified procedures for activities that are considered low risk. These reforms have led to sizable reductions in the number of procedures by 33%, in the number of days by 40% and the costs by 27% (Hamdy and Sader, 2008).

Following the example of Alexandria, IDA and GAFI are cooperating to streamline procedures throughout the remainder of the GAFI one-stop shops.

According to *Doing Business 2010*, the cost of registering a limited liability company amounts to 16.1% of GNI per capita, compared to an average 34.1% across the MENA region. It should also be noted that the GNI per capita yardstick used by *Doing Business 2010* is much lower than GNI per capita at purchasing power parity (PPP), which increases the cost of registering a limited liability company measured as a percent of GNI per capita.

It appears to the private sector that there are many hidden costs in the company registration process. They include legal fees and money spent on obtaining the necessary documentation for company registration. These “hidden costs” have been calculated at approximately EGP 7 000.

#### *Recommendations*

To improve its BCDS Score, Egypt should consider that its parallel company registration systems are confusing and only add more bureaucracy. The registration process should be managed by a single authority. It could separate SME and large company registration, but should harmonise procedures so as to enforce the same rules fairly, increase transparency, and avoid further cumbersome bureaucracy.

**Table 3. How Egypt compares to other economies for company registration time and procedures**

Economy	Ease of Doing Business Rank	Starting a Business				
		Rank	Procedures (number)	Time (days)	Cost (% of income per capita)	Min. capital (% of income per capita)
Albania	82	46	5	5	17	0
Croatia	103	101	7	22	8.4	13.4
Egypt	106	24	6	7	16.1	0
France	31	22	5	7	0.9	0
Japan	15	91	8	23	7.5	0
Lebanon	108	108	5	9	78.2	51
Morocco	128	76	6	12	16.1	11.8
New Zealand	2	1	1	1	0.4	0
Tunisia	69	47	10	11	5.7	0
United States	4	8	6	6	0.7	0

Source: World Bank, Doing Business 2010.

Another consideration is the rigidity of government offices more concerned with procedural duties than delivering good policy results. The build-up of too many procedures produces complexity and reduces overall performance.<sup>52</sup> This can, paradoxically, lead to an increase in arbitrary decision making, simply because it is impossible to know or comply with all requirements, which leaves it up to individual government officials to decide which rules to enforce and how.<sup>53</sup>

### 5.2.2. Company Identification Number

The use of identification numbers should be mandatory for relations between businesses and administrative bodies. They serve multiple purposes: a) inter-departmental communication; b) dissemination of information contained in the register; and, c) statistics (see Box 7).<sup>54</sup>

#### Box 7. Good practice: collecting SME statistics through company registers

The process of company registration is a useful way to collect SME statistics. Administrative registers kept by public institutions (and some private organisations like chambers of commerce) allow the cost-effective collection of statistics without placing any response burden on companies. Company registration includes basic information on companies such as location, legal form, economic activity, and date of creation. Other information such as company turnover, size, and number of employees can also be updated through registers. Tax registers are also a useful source of economic indicators.

An advanced company registration system should be assessed according to the following benchmarks:

1. whether there is a single identification number for all dealings with government offices;
2. whether the identification number is used in a single registration process;
3. the identification number is received on the same day as the company registers.

Establishing a firm entails obtaining an official identification number and registering for taxes and social insurance (see Box 9). Currently, there are three identification numbers: tax, Chamber of Commerce, and company registration. The government is planning to merge all registration procedures – commercial and industrial, tax, and social insurance. It is to establish a system that gives a single national identification

number to firms for use in all their dealings with different government authorities, agencies, and departments.

According to GAFI, it takes no more three days to obtain a firm's identification number. Some businesses, though, complain that it can take longer. The private sector reports that GAFI takes about ten days to issue the various company identification numbers.

*BCDS Scores for Identification Numbers: Number – 3, Time – 4*

Investors are issued with three identification numbers for dealing with different authorities. The numbers are issued within three days of registration (according to public officials).

#### **Box 8. Procedures for obtaining company registration numbers**

The investor submits the required documents to the business establishment department to ensure the contract satisfies the conditions and has it revised by a lawyer. The documents are then submitted to the agency responsible for following up business establishment, which estimates the costs and finalizes the procedures with other agencies. Procedures are finalised and ID numbers assigned in two working days.

#### *Recommendations*

In order to improve its scores, Egypt should consider merging company registration procedures and issuing a single identification number for all standard dealings with public agencies. The identification number should be delivered on the same day as company registration through the one-stop shop.

#### **5.2.3. Silence is Consent**

A significant factor in determining compliance burdens is the timeliness with which decisions are made and appeals can be launched or considered after a company registration application is submitted. A real cost is placed on businesses by delays and uncertainty in obtaining approvals, licenses, and permits. However, public offices require reasonable processing times to ensure compliance with the country's legislative and regulatory framework. The authorities can address compliance in two ways:

- they can register a company when all procedures have been completed;
- they can grant a business automatic approval to begin operations (by registering it) if they have not formulated any objections within a reasonable, pre-defined time limit.

Most OECD countries apply the latter option – the so-called “silence is consent” principle. It enables the proper enforcement of legislative and regulatory requirements, while ensuring that companies comply with legislative requirements without creating unnecessary delays in the registration process.

A country either does or does not apply this principle, which is why it can only obtain a BCDS score of Level 5 (it does apply “silence is consent”) or Level 1 (it does not).

*BCDS Score for Silence is Consent: 5*

Egypt applies the silence is consent principle to companies which have registered under Company Law 159 of 1981. The law applies to limited liability and joint stock companies, granting them automatic registration when they submit their applications to the Companies Department at the Ministry of Foreign Trade. Legal status is granted within 15 days of the company's inclusion in the Commercial Register, except in cases of non-compliance. For companies which register through the Social Fund for

Development, a temporary licence is issued and legal status is automatically granted within 30 days, except in cases of non-compliance.

#### **5.2.4. Minimum Capital Requirements**

Minimum capital requirements for starting a business can be defined as follows:

- permanent financing needed for the normal operation of a business – *i.e.* long-term working capital.
- appraised investment in fixed assets and normal working capital (Friedman, 2007).

Many countries justify minimum capital requirements on the grounds that they protect creditors and shield companies against insolvency. Yet they can act as a major deterrent to entrepreneurs wishing to start a business. Research from the World Bank's *Doing Business* report suggests minimum capital requirements do not prevent firms from going insolvent because capital structure depends on a firm's operations and creditors are protected by the mark-up in asset values.<sup>55</sup> (For more on insolvency and bankruptcy refer Chapter II-3, "Business Law".)

A number of OECD economies have either abolished minimum capital requirements (Australia, Canada, Ireland, Japan, the United Kingdom, and the United States) or maintain token minimum requirements (France). It is up to companies to determine the capital that they need to start and sustain their business. Abolishing minimum start-up requirements greatly reduces bureaucratic hurdles by removing the need to produce bank certificates.

Best practice in minimum capital requirements can be summed up as follows: no requirement.

In June 2009 the Egyptian Parliament approved a law abolishing minimum capital requirements, which is reflected in the ease of doing business rankings in *Doing Business 2010*. The move can be considered a significant achievement, particularly when set against minimum start-up capital in the MENA region, which averages out at 331.4% of GNI per capita, and in OECD countries, where the average is 19.7%.<sup>56</sup>

*BCDS Score for Minimum Capital Requirements: 5*

Egypt get a top BCDS Score of Level 5 because it has abolished minimum capital requirements.

#### **5.2.5. Company Closure – Time and Costs**

When inefficient firms exit a market and efficient ones enter, overall productivity benefits. Good exit policies and procedures allow less productive firms to leave a market easily. This assessment only considers how long it takes and how much it costs to close down a business – both factors that indicate weaknesses in the existing bankruptcy and insolvency system by homing in on procedural and administrative bottlenecks. The World Bank also measures company closure in terms of the recovery rate which is the amount of money claimants recoup from an insolvent firm. The recovery rate is important because when the higher it is, the more banks may be expected to lend, which may favour entrepreneurship. An efficient system considered in terms of time, cost and recovery rate is important as it may play a role in encouraging entrepreneurs who have had to close down their businesses once to start a second time (Stel, Storey, Thurik; 2007). While insolvency and bankruptcy rules do not fall within the scope of this chapter, they are inextricably linked to the company closure indicator and should be taken in consideration along with the analysis of bankruptcy and insolvency in Chapter II-3, "Business Law".

The efficiency of the company closure process is assessed in the BCDS against the following benchmarks:

1. the time required to close a business should be 2.1 years or less;
2. the cost of closing down a business should amount to less than 7.9 % of the estate.<sup>57</sup>

*BCDS Score for Company Closure: Time 2, Cost 2*

**Table 4. How Egypt compares to other economies for closing down companies**

Economy	Ease of Doing Business Rank	Closing a Business			
		Rank	Recovery rate (cents on the dollar)	Time (years)	Cost (% of estate)
Albania	82	183	0	no practice	no practice
Croatia	103	82	30.5	3.1	15
Egypt	106	132	16.8	4.2	22
France	31	42	44.7	1.9	9
Japan	15	1	92.5	0.6	4
Lebanon	108	124	19	4	22
Morocco	128	67	35.1	1.8	18
New Zealand	2	17	76.2	1.3	4
Tunisia	69	34	52.3	1.3	7
United States	4	15	76.7	1.5	7

Source: World Bank, Doing Business 2010.

*Doing Business 2010* calculates that it takes 4.2 years to close down a business in Egypt, whereas the average time in the MENA region is estimated at 3.5 years and 1.7 years in OECD countries. According to *Doing Business 2010* the cost of closing a business is 22% of its estate, compared to 14.1% in the MENA region and 8.4% in OECD countries.

Closing a business seems to be a more cumbersome, lengthy process than company registration. The private sector reports that it takes at least four to six months, but the length of time depends on the legal form of the company and a number of other factors such as its size, assets, age etc. The private sector also reports that the cost of closing down a business depends on a number of factors. There may be hidden costs if businesses have to pay for additional services such as auditing or liquidation. Again, costs reportedly vary according to a company's legal form and factors like its size and turnover.

#### *Recommendations*

To improve its score Egypt should reduce the cost of closing down a business by between 1% and 5% of its estate, in line with the BCDS benchmarks which are based on best-performing economies (see Table 4 above). If Egypt is to score Level 5 it should cost a company less than 7.9% of its entire estate to close down, according to the same BCDS benchmarks. It would be useful to examine how time and costs have been reduced in other economies. The World Bank reports that reforms in most economies share common features, such as reducing appeals that suspend the bankruptcy process, introducing time limits on procedures, and establishing special courts to deal with bankruptcies. Good practices from Finland, Japan, and Ireland should be explored,<sup>58</sup> and Chapter II-3, "Business Law", should be read for its extensive discussion of the legal environment of company closure.

#### **5.2.6. One-Stop Shop**

An internationally tried and tested answer to improving the overall efficiency of the company registration process is to establish a national network of one-stop shops (OSS). The OSS is a single location where an entrepreneur can complete all his or her business establishment formalities, shifting the burden of certification and notification to the public administration. However, an OSS system requires significant

review and modification of the business registration process and a high level of coordination between the public administration bodies involved.

An effective one-stop shop system can be assessed against the following criteria:

- 1) whether it operates nationwide and how much of the country it covers;
- 2) whether it has a proven track record in performing its work in a coordinated manner, so enabling business establishment in a single procedure; and
- 3) whether it provides additional services to facilitate business operations.

Since 2005, GAFI has established one-stop shops to facilitate company incorporation, even allowing third parties to establish companies on behalf of investors within 72 hours. GAFI currently has four OSS operating in Cairo, Ismailia, Alexandria, and Assiut.

The city of Dakahlia had is a model OSS functioning as part of the Small and Medium Business Support Project (SMBSP) funded by the Canadian International Development Agency (CIDA). In addition to the headquarters, located in the Mansura business district, the Dakahlia OSS has expanded geographically with the establishment of 10 satellites offices in various districts of the governorate. The Dakahlia OSS has representatives from Ministry of Trade and Industry (MOTI), Ministry of Finance (MOF), and Ministries of Social Solidarity, Environment, Health, Agriculture, and Local Administration. It covers both industrial and commercial licenses for new and existing businesses on a fee-for-service basis. An advisory committee of various stakeholders meets on a regular basis to address problems.

It should be noted that the Social Fund for Development also facilitates company registration for small and micro-enterprises.

BCDS Chapter I-1, “Investment Policy and Promotion”, analyses in detail arrangements that make it easier for foreign investors to register companies.

*BCDS Score for One-Stop Shop: 4*

Although GAFI and the SFD operated one-stop shops, companies still have to fulfil a number of preliminary requirements before they can begin the registration process. Bearing this in mind, the registration process may take longer than originally estimated. Furthermore, although one-stop shops may relieve foreign investors or other select groups of investors of the burden of dealing with public agencies and red tape, most firms must go through irksome procedures (not, however, small and micro-enterprises, whose needs are met by the SFD).

#### *Recommendations*

To achieve a Level 5 score, Egypt should consider expanding the coverage of its OSS system to rural regions which tend to be inadequately served. In general, there is a need for more one-stop shops. Information should be made available on company registration made easier in order to encourage informal businesses to register in the formal economy.

#### **Box 9. One-stop shops in Italy: from simplification to facilitation**

The *sportello unico* programme started in 1999. In early 2000, it received a formidable boost. The programme concentrates on helping businesses to obtain information and delivering all necessary authorisations for localisation, expansion, upgrades, restructuring. Municipalities are in charge of implementing the programme. The smallest local authorities can pool together. Three elements are particularly interesting.

First, the programme goes beyond the mere establishment of businesses to promote the systematic use of a set of tools for simplifying red tape. Municipalities are encouraged to use notification, self-certification and the “silence is consent” principle. Second, the backbone of the programme is reliance on information technology. Last, to hasten the adoption and full operation of the programme, the government has created

financial incentives (positive and negative) to accelerate the spread and the scope of one-stop shops. Municipalities have been eager to implement the programme. Five months after one-stop shops were introduced, a survey by the Ministry of Interior showed that 25% of Italian municipalities had an operational OSS, serving nearly the 50% of whole population, while another 25% of municipalities were still in the process of setting them up. In total, a third of the Italian cities were covered, and only 10% of the cities had not started the programme. By the end of 2000, 40% of municipalities had operational one-stop shops, serving 60% of the population. Total investment was in the region of EUR 64 million. Positive spin-offs have emerged. In Bologna, for example, the municipality established an inventory of formalities to proceed with the reorganisation and simplification of procedures. Businesses have indicated their satisfaction. The European Commission considers the Italian OSS programme as a best practise. The success of the programme has prompted the government to plan a “one-stop shop for house building” focusing on citizens and businesses and a “one-stop shop for car drivers”. Municipalities will be also encouraged to merge these new programmes with the existing “one-stop shop for business”.

Source: OECD (2001), *Regulatory Reform in Italy: Government Capacity to Assure High Quality Regulation*, Paris, pp. 38-39.

### **5.2.7. Online Registration**

An electronic system for company registration would considerably cut the time, costs, and procedure for company registration. Governments that adopt ICT approaches to the provision of services reduce their own costs and enable enterprises to reduce the costs of meeting legal requirements. Moving towards a model of e-government will increase the efficiency of the public sector, while a more efficient system facilitates and encourages firms to register in the formal economy by making the process easy and less burdensome. By reducing the need for personal contact with officials, e-registration lessens exposure to their discretionary powers and the risk of bribery – issues explored in greater details in BCDS Chapter II-1, “Anti-Corruption”.

Progress in information and communications technology (ICT) has provided advanced solutions to operational issues and has significantly reduced costs associated with the establishment of an electronic business register and an OSS network. In some OECD economies (*e.g.* Canada,<sup>59</sup> the USA,<sup>60</sup> Australia, and Norway<sup>61</sup>) technology today makes it possible to complete the entire company registration procedure online. An essential component of such systems is their sophistication, which includes the use of such authentication tools as digital signatures (OECD, 2006b).

An effective online registration system for company registration is assessed against the following benchmarks:

- whether a competent authority has been designated to oversee online company registration;
- whether there is evidence that the online registration system has been implemented;
- whether it is fully integrated with other e-government services;
- whether online registration is available throughout the country;
- whether it applies to all phases of company registration.

There is no evidence that an online registration system exists. A government initiative is, however, under way led by the Ministry of Communication and Information Technology (MCIT) to further develop the Egyptian Government Services Portal (Bawaba). Bawaba aims to include all government services by the year 2012. The services provided through the portal include applications for replacement identity cards, water bill enquiries, large tax payer taxation and sales tax services, e-ticketing, vehicle licenses, phone

bills, and a legal advice gateway. The government has already approved regulations that allow the use of e-signatures.

*BCDS Score for Online Registration: 1.5*

Egypt is awarded a BCDS score of 1.5 because the government has not taken any steps towards the introduction of on-line registration. Nevertheless, the MCIT's initiative through the Bawaba platform and the approval of e-signatures have paved the way for a system of online registration.

*Recommendations*

To improve its score Egypt should commission a detailed study into the introduction of online registration that weighs the costs and benefits. There may be factors that constrain the success of such an initiative, *e.g.* limited broadband penetration (see Chapter III-1, "Infrastructure"), poorly served rural areas, and parallel processes of company registration (GAFI and SFD). Such issues would have to be resolved. Progress in speeding up company registration could be achieved if the government shows determination in cutting through the web of regulations and procedures, if it is willing to adopt flexible, innovative solutions, and if it is ready to invest in the IT infrastructure required for company e-registration.

## CONCLUSION

To achieve the high quality regulation that facilitates business operations Egypt should take action on several fronts. It must follow through the ERRADA reform agenda by changing written regulations and cutting administrative procedures and costs so that businesses feel the impact of regulatory reform while informal companies are encouraged to register. To date, Egypt's approach with the ERRADA reform programme has been a pragmatic one of taking incremental steps to achieve its targets. The next stage should now be to build the credibility of its reform process among Egyptian stakeholders.

A number of players have a role in business establishment procedures: some are public administration bodies, others are private professional operators such as notaries, lawyers, and accountants. Governments tend to focus on the performance of public bodies and often see the delivery of company registration titles as the end of their task. In addition, they concentrate on improving performance only for the most common legal forms of businesses. Entrepreneurs are interested in the performance of the overall process – from the preparation of documentation to starting business operations. It is therefore vital that governments and business associations work together to identify and address barriers and inefficiencies in business establishment procedures.

While company registration can be a rapid process, a number of factors such as the lack of land provision, access to infrastructure, and difficulties in obtaining licenses, work permits and land permits, which can impede business start-up. These issues should be tackled by policy makers to facilitate operations. Delays produced by slow approvals and service connections can deter entry by adding uncertainty and costs to business start-ups and new investments. Time-consuming requirements waste precious time for entrepreneurs. The World Bank's ICA Survey indicates that senior managers spend up to 16% of their time dealing with regulations (IBRD and World Bank, 2009). Furthermore, the private sector reports that businesses are facing difficulties in registering because officials managing the registration process are not properly informed. There should be more training for public officials who interface with businesses to smooth registrations. One-stop shops are not a substitute for institutional reform, which includes reform of the IDA. The lack of such reform contributes to administrative burdens that constrain business development. Closing a business also remains a major impediment. Egypt should focus on simplifying procedures of closing companies.

Priorities should shift from company registration, which has largely been solved, to improving compliance. According to the extensive enterprise surveys conducted by the World Bank and IFC, a central problem in Egypt is the lack of clarity and predictability of laws and regulations, as well as the unclear rules and discretion affecting enterprise operations. Companies often make informal payments or gifts to compliance inspectors to ensure they are found compliant.

Finally, and while it is an issue that is not covered in the scope of this chapter, Egypt should reorganise the state's administrative structure so that businesses feel the impact of reforms. The programme for regulatory reform does not touch upon the issue of the appropriateness or adequacy of administrative procedures and policies. Rather, it looks primarily at legislative consistency. Administrative structures in the current state are unable to keep up with the rapid pace of reforms. In this transition phase, elements of the old and new

system coexist, which results in contradictions between a market-oriented policy regime, a rigid administrative environment, and a complex, inflexible legal framework.<sup>62</sup> Furthermore, neither citizens nor business have felt the full benefits of the regulatory reform initiative. There should be concrete plans to modernise and to make the public administration apparatus more efficient.

### *Recommendations*

The following recommendations are preliminary recommendations on ways in which future reforms to business regulation policy may improve the business climate. They are derived from the assessment process. Although the OECD bodies which specialise in regulatory reform have not endorsed the recommendations, they should eventually consider and review them.

#### *Keep reform on track – set targets for simplification and elimination of regulations*

Despite achievements to date, the strategy that will impact most beneficially on the business community is ERRADA. If fully implemented, it will do more than any other measure to simplify administrative procedures and ensure the success of the regulatory reform policy. To stay on track and maintain the momentum of the reform process, Egypt should set targets and timelines and use reforms in other countries as benchmarks. Timelines and targets should be reasonable so as to assure quality regulatory management.

#### *Political will and support for reforms – coordinate reforms with public administration and the business community*

While the reform programme may produce significant economic returns, it also carries potential risks. Results become tangible over the medium term, as administrative changes require quite significant implementation times, while changes in the public administration structure often only materialise if the entire process is completed. At this stage, administrative structures in Egypt are unable to keep up with the rapid pace of reforms.

In order to achieve successful implementation of the programme, a high level of political support is necessary. It is also critical to inform and engage with the business community.

#### *Designing a sustainable institutional framework – institutionalizing the general review unit*

As the programme for regulatory reform continues in keeping with strategy, the role of the General Review Unit (GRU) and its implementing units, the Governmental Ministerial Units (GMUs), will evolve. This evolution is natural and unfolds as the reform process becomes more advanced and begins to impact on the legal and regulatory environment. However, the future role of the GRU should be carefully assessed so as to ensure the long-term sustainability of the ERRADA initiative and the high quality of regulation.

OECD experience demonstrates that in certain types of institutional settings, a centrally placed oversight body is an important factor in ensuring the success of an ambitious regulatory reform programme. A centrally placed oversight body would be particularly beneficial in Egypt where great store is set by administrative hierarchy.

#### *Going forward – implementation of regulatory impact analysis (RIA)*

Systematic and consistent cost-benefit analysis should be applied to the drafting of legal instruments to optimise their efficiency and effectiveness and ensure they meet their intended objectives at minimum cost and with the fewest unintended negative consequences. This type of analysis – regulatory impact analysis (RIA) – greatly improves business-related policy instruments and spares unnecessary legislation and regulations.

### *Institutional framework*

The current plan to permanently integrate GMUs into RIA units is pragmatic: it makes use of existing resources and ensures that staff are adequately familiar with the administrative and legislative history of the ministry. However, GMU staff should undergo additional training to ensure that officials are adequately prepared to conduct impact analyses

### *Targeted and simplified RIA*

Targeted RIA is a useful way to manage scarce financial and technical resources. One possibility would be simplified, lightweight RIA which could be used for the quicker cost-benefit analysis of pieces of legislation.

### *Improve performance – establishing businesses (industrial licenses and registration) and closing businesses*

While administrative barriers have been considerably reduced by speeding up company registration, obtaining licenses for industrial activities remains a barrier. By law, all industrial manufacturing projects or related services require the additional approval of the Industrial Development Authority (IDA) for land assignment, project establishment, industrial registration, and operating licences. Obtaining the necessary approvals poses an additional bureaucratic hurdle and is a lengthy and costly process for businesses. The pilot project launched in Alexandria should be extended to all GAFI one-stop shops.

The time and costs for closing a business should be reduced by implementing reforms in the bankruptcy process, such as reducing appeals that suspend the bankruptcy process; introducing time limits for procedures; and establishing specialised procedures to deal with bankruptcy.

### *Use IT Platforms to improve efficiency – electronic company registration*

An electronic system for company registration would considerably decrease time, costs, and the number of procedures involved required by company registration. Governments that adopt information and communication technology (ICT) approaches to the provision of services reduce their own costs and enable enterprises to reduce the costs of meeting legal requirements. Moving towards a model of e-government will increase the efficiency of the public sector. A detailed proposal weighing the costs and benefits of introducing online registration should be commissioned.

There may be a few factors that constrain the success of such an initiative including broadband penetration, poorly served rural areas, and parallel processes for company registration (the General Authority for Investment at the Ministry of Investment versus the Social Fund for Development) which would have to be resolved. The take-up of ICT solutions could bring swift progress in speeding up the company registration procedure if the government is determined to cut through the web of regulations and procedures, and if it is willing to adopt flexible and innovative solutions, in addition to being ready to invest in the information technology infrastructure for company e-registration. The regulation enabling e-signature should also introduce the launch of e-company registration. However, building the e-signature capability will require significant investment and should therefore be carefully considered.

## Notes

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<sup>1</sup> Busse and Groizard (2008), Djankov, McLiesh and Ramalho (2006); Batra and Stone (2008); OECD (2002).

<sup>2</sup> Ibid.

<sup>3</sup> Refer to “References” for a comprehensive list of OECD publications on regulatory reform and administrative simplification.

<sup>4</sup> This analytical framework was developed by the OECD Private Sector Development Division and has been tested in assessment exercises in other economies in South East Europe and the Middle East and North Africa. Results of those exercises can be found in the following OECD publications:

- OECD (2006a), Progress in Policy Reforms to Improve the Investment Climate in South East Europe, Investment Reform Index 2006;
- OECD and EC (2007), Report on the Implementation of the European Charter for Small Enterprises in the Western Balkans, SME Policy Index 2008;
- OECD and EC (2009), Progress in the Implementation of the European Charter for Small Enterprises in the Western Balkans, SME Policy Index 2009;
- OECD and EC (2008), Report on the Implementation of the Euro-Mediterranean Charter for Enterprise: 2008 Enterprise Policy Assessment, OECD, Paris.

A related publication is: OECD (2009) Overcoming Barriers to Administrative Simplification Strategies: Guidance for Policy Makers.

<sup>5</sup> The project was initially co-financed by USAID, offering technical assistance through international expertise, study tours, training, IT staff, and infrastructure such as IT hardware and software. Since July 2008, the project has been funded by the Egyptian government which has allocated approximately EUR 2.1 million to underwrite the work of ERRADA, including costs to fund staff, offices and material.

<sup>6</sup> The guillotine methodology consists of eliminating of a large number of regulations which are no longer needed. This elimination is determined following an intensive review of a large number of regulations. The Guillotine Review is a trade mark developed by Jacobs and Associates.

<sup>7</sup> The Business Advisory Council is directly linked to the Egyptian National Competitiveness Council. Members includes: the Egyptian/German Chamber of Commerce; the Federation of Egyptian Chambers of Commerce; the Egyptian Business Association; the Federation of Egyptian Industries; Egyptian Junior Business Association; and the Egyptian/American Chamber of Commerce.

<sup>8</sup> “Review of the Existing Legislation”, a capacity building seminar on 9-11 March 2009, [www.oecd.org/dataoecd/55/9/39854535.doc](http://www.oecd.org/dataoecd/55/9/39854535.doc)

<sup>9</sup> OECD, 1999a, p. 15

<sup>10</sup> A similar institutional setting was found in the case of Mexico (OECD, 1999a, p. 6).

<sup>11</sup> OECD, 2008b. Also refer to OECD (2002a), Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance, OECD Reviews of Regulatory Reform, Paris.

<sup>12</sup> OECD, 2008b, p. 6.

<sup>13</sup> See Note 8.

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<sup>14</sup> “Regulatory Reform: Building Egypt’s Competitive Advantage”, OECD/GfD Seminar held in Amman, Jordan, on April 30 2008, [www.oecd.org/dataoecd/58/40/41095877.ppt](http://www.oecd.org/dataoecd/58/40/41095877.ppt)

<sup>15</sup> Kamel, Maggie (2009), ERRADA Inventory Phase: Evaluation Report, February 2009, and interviews.

<sup>16</sup> OECD, 2008b, p. 7.

<sup>17</sup> OECD, 1999a, p. 53.

<sup>18</sup> Interviews with private sector organisations indicated that there was little awareness of the ERRADA initiative within the business community. The GRU reports that engagement with the private sector does take place, but results are not communicated widely in order to avoid resistance to reform efforts.

<sup>19</sup> OECD, 2002b, p. 7.

<sup>20</sup> Ibid.

<sup>21</sup> OECD, 2004, p. 21.

<sup>22</sup> Ibid.

<sup>23</sup> OECD, 1999a, p. 47.

<sup>24</sup> OECD, 2009c, p. 24.

<sup>25</sup> Ministries began the inventory process in July-August 2008 and completed it by January-February 2009 (Kamel, 2009).

<sup>26</sup> OECD, 1999a, p. 48.

<sup>27</sup> OECD, 2009d, p. 28. Parliaments play an important role in the success of regulatory reform programmes. The OECD Investment Compact for South East Europe has examined the role of parliaments in the SEE region. For further reading refer to OECD (2008) “Improving Regulatory Quality in South East Europe: Findings from Two Working Group Meetings on Reform in South East Europe”.

<sup>28</sup> All data is as of 2007.

Data for Macedonia is based on a target (as of 2007) and not actual implementation.

Data for Bosnia and Herzegovina, Croatia and Macedonia are cited from the IFC.

Data for Korea, Mexico, Moldova and Ukraine are cited from USAID/Jacobs and Associates.

<sup>29</sup> All data is as of 2007.

Data for Macedonia is based on a target (as of 2007) and not actual implementation.

Data for Bosnia and Herzegovina, Croatia and Macedonia are cited from the IFC.

Data for Korea, Mexico, Moldova and Ukraine are cited from USAID/Jacobs and Associates.

<sup>30</sup> Note that cost-benefit analysis and RIA are used interchangeably in this paper.

<sup>31</sup> OECD (2005c). Also see OECD (2004), Regulatory Impact Analysis Inventory, Note by the Secretariat, Paris.

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<sup>32</sup> OECD/SIGMA, 2001.

For more on RIA in developing countries and emerging markets see also:

- OECD (2005c), Regulatory Impact Analysis in OECD Countries: Challenges for developing countries, Paris.
- APEC/OECD (2005), Integrated Checklist on Regulatory Reform, OECD Publishing

<sup>33</sup> OECD, 2001, p. 23

<sup>34</sup> OECD, 2008e, p.65

<sup>35</sup> OECD, 2005c, p. 18.

<sup>36</sup> Egyptian Ministry of Finance (2008), Research Study on Incorporation of RIA within the Egyptian Business Regulatory Environment, January.

<sup>37</sup> OECD, 2009c, p. 27.

<sup>38</sup> OECD, 1999a, p. 41.

<sup>39</sup> SIGMA stands for Support for Improvement in Governance and Management, **Error! Hyperlink reference not valid.** (accessed 2 September 2009)

<sup>40</sup> [www.oecd.org/pages/0,3417,en\\_34645207\\_34645555\\_1\\_1\\_1\\_1\\_1,00.html](http://www.oecd.org/pages/0,3417,en_34645207_34645555_1_1_1_1_1,00.html) (accessed 2 September 2009)

<sup>41</sup> OECD, 2009c, p. 27.

<sup>42</sup> OECD best practices state “allocate RIA responsibilities carefully” (OECD, 1997a).

<sup>43</sup> OECD, 2009c, p. 28.

<sup>44</sup> Ibid, p. 26.

<sup>45</sup> Extensive enterprise surveys conducted in 2001 by the OECD indicate that administrative compliance costs represent around 4% of business sector GDP and around 4% of the annual turnover of companies in OECD economies (OECD, 2001, p. 28).

<sup>46</sup> The World Bank also assesses cost according to GNI per capita.

<sup>47</sup> The World Bank’s Doing Business 2010 website contains a country report on Egypt: [www.doingbusiness.org/Documents/CountryProfiles/EGY.pdf](http://www.doingbusiness.org/Documents/CountryProfiles/EGY.pdf)

<sup>48</sup> For limited liability and joint stock companies.

<sup>49</sup> The Law for the Development of Small and Micro Enterprises No. 141/2004 allows SFD to legally register companies which are classified as micro and small and which have an invested capital of up to EGP 1 million and employ no more than 50 people.

<sup>50</sup> Presidential Decree No. 350/2005.

<sup>51</sup> IFC and IDA (2008), Egypt: Strategy Assessment and Recommendations for the Industrial Development Authority.

<sup>52</sup> OECD, 1999b, Chapter 2.

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<sup>53</sup> OECD, 1999a, p. 6.

<sup>54</sup> OECD (2008h), “The French Business Register: from a Quality Approach to a Statistical Register”, presentation delivered as part of seminar on the Improvement of Business Registers in November 2008

<sup>55</sup> Starting a business case study on Saudi Arabia in World Bank Doing Business 2008, [www.doingbusiness.org/documents/CaseStudies/SaudiArabia\\_CS2008.pdf](http://www.doingbusiness.org/documents/CaseStudies/SaudiArabia_CS2008.pdf) (accessed 5 April 2010)

<sup>56</sup> Business Today (2009), “The Age of Obvious Investments”, June [www.businesstodayegypt.com/article.aspx?ArticleID=8508](http://www.businesstodayegypt.com/article.aspx?ArticleID=8508) (accessed 5 April 2010)

<sup>57</sup> The percentage of estate is calculated by the World Bank, which records the cost of the proceedings as a percentage of the business estate’s value. The cost is calculated on the basis of survey responses by insolvency practitioners and includes court fees as well as fees of insolvency practitioners, independent assessors, lawyers and accountants. [www.doingbusiness.org/MethodologySurveys/ClosingBusiness.aspx](http://www.doingbusiness.org/MethodologySurveys/ClosingBusiness.aspx) (accessed 2 September 2009)

<sup>58</sup> International Bank for Reconstruction and Development (IBRD) and World Bank (2005), *Doing Business in 2005: Removing Obstacles to Growth*, published by the World Bank, International Finance Corporation (IFC), Oxford University Press

<sup>59</sup> Business registration through the Canada Revenue Agency, [www.cra-arc.gc.ca/tx/bsnss/tpcs/bn-ne/bro-ide/menu-eng.html](http://www.cra-arc.gc.ca/tx/bsnss/tpcs/bn-ne/bro-ide/menu-eng.html)

<sup>60</sup> The small businesses department of the United States Inland Revenue Service (IRS) [www.irs.gov/businesses/small/article/0,,id=111949,00.html](http://www.irs.gov/businesses/small/article/0,,id=111949,00.html)

<sup>61</sup> OECD, 2005d.

<sup>62</sup> OECD (1999a), p. 6.

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# **ANNEX**

## **DIMENSION 1-5: Policies for Better Business Regulation**

## A1. OECD Guidelines

### *A1.1. The OECD Reference Checklist for Regulatory Decision-Making*

**1. Is the problem correctly defined?**

The problem to be solved should be precisely stated, giving evidence of its nature and magnitude, and explaining why it has arisen (identifying the incentives of affected entities).

**2. Is government action justified?**

Government intervention should be based on explicit evidence that government action is justified, given the nature of the problem, the likely benefits and costs of action (based on a realistic assessment of government effectiveness), and alternative mechanisms for addressing the problem.

**3. Is regulation the best form of government action?**

Regulators should carry out, early in the regulatory process, an informed comparison of a variety of regulatory and non-regulatory policy instruments, considering relevant issues such as costs, benefits, distributional effects and administrative requirements.

**4. Is there a legal basis for regulation?**

Regulatory processes should be structured so that all regulatory decisions rigorously respect the “rule of law”; that is, responsibility should be explicit for ensuring that all regulations are authorised by higher-level regulations and consistent with treaty obligations, and comply with relevant legal principles such as certainty, proportionality and applicable procedural requirements.

**5. What is the appropriate level (or levels) of government for this action?**

Regulators should choose the most appropriate level of government to take action, or if multiple levels are involved, should design effective systems of co-ordination between levels of government.

**6. Do the benefits of regulation justify the costs?**

Regulators should estimate the total expected costs and benefits of each regulatory proposal and of feasible alternatives, and should make the estimates available in accessible format to decision-makers. The costs of government action should be justified by its benefits before action is taken.

**7. Is the distribution of effects across society transparent?**

To the extent that distributive and equity values are affected by government intervention, regulators should make transparent the distribution of regulatory costs and benefits across social groups.

**8. Is the regulation clear, consistent, comprehensible and accessible to users?**

Regulators should assess whether rules will be understood by likely users, and to that end should take steps to ensure that the text and structure of rules are as clear as possible.

**9. Have all interested parties had the opportunity to present their views?**

Regulations should be developed in an open and transparent fashion, with appropriate procedures for effective and timely input from interested parties such as affected businesses and trade unions, other interest groups, or other levels of government.

**10. How will compliance be achieved?**

Regulators should assess the incentives and institutions through which the regulation will take effect, and should design responsive implementation strategies that make the best use of them.

Source: OECD (1995).

### ***A1.2. OECD Principles of Good Regulation***

1. Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.
2. Review regulations systematically to ensure that they continue to meet their intended objectives efficiently and effectively.
3. Ensure that regulations and regulatory processes are transparent, non-discriminatory and efficiently applied.
4. Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy.
5. Reform economic regulations in all sectors to stimulate competition, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests.
6. Eliminate unnecessary regulatory barriers to trade and investment by enhancing implementation of international agreements and strengthening international principles.
7. Identify important links with other policy objectives and develop policies to achieve those objectives in ways that support reform.

Source: OECD (1997), Report on Regulatory Reform.

### ***A1.3. Good Practices in the Design and Implementation of RIA Systems:***

The following key elements of effective RIA are based on good practices identified in OECD countries:

1. Maximise political commitment to RIA.
2. Allocate responsibilities for RIA programme elements carefully.
3. Train the regulators.
4. Use a consistent but flexible analytical method.
5. Develop and implement data collection strategies.
6. Target RIA efforts.
7. Integrate RIA with the policy-making process, beginning as early as possible.
8. Communicate the results.
9. Involve the public extensively.
10. Apply RIA to existing as well as new regulation.

Source: OECD (1997), Regulatory Impact Analysis: Best Practice in OECD Countries.

## A2. Overview of Scores

<b>I-5 POLICIES FOR BETTER BUSINESS REGULATION</b>		<b>SCORE</b>
<b>5.1</b>	<b>Better Legislation and Administrative Simplification through Regulatory Reform</b>	
5.1.1	Strategy for the Simplification of Legislation and Administrative Procedures	<b>3</b>
5.1.2	Institutional Framework	<b>3.5</b>
5.1.3	Clear Task Assignment	<b>3.5</b>
5.1.4	Review, Simplification and Elimination of Current Legislation	<b>2.5</b>
5.1.5	Cost-Benefit Analysis of New Enterprise Legislation and Regulation	<b>2</b>
<b>5.2</b>	<b>Cheaper, Faster Start-Up</b>	
5.2.1	Company Registration – Time, Steps and Cost	<b>-</b>
5.2.2	Company Identification Number	<b>number 3, time 4</b>
5.2.3	Silence is Consent	<b>5</b>
5.2.4	Minimum Capital Requirements	<b>5</b>
5.2.5	Company Closure – Time and costs	<b>cost 2, time 2</b>
5.2.6	One-Stop Shop	<b>4</b>
5.2.7	Online Registration	<b>1.5</b>

## A2. Assessment Grid: Policies for Better Business Regulation

5.1 – BETTER LEGISLATION AND ADMINISTRATIVE SIMPLIFICATION					
5.1.1. Strategy for the Simplification of Legislation and Administrative Procedures	Level 1	Level 2	Level 3	Level 4	Level 5
		No formalized strategy for the simplification of legislation and administrative procedures, including sector strategies, exists.	Strategy for the simplification of legislation and administrative procedures is under elaboration..	Multi-year strategy for the simplification of legislation and administrative procedures for current period is approved by the government, following a process of consultation with stakeholders, and in particular with the private sector and civil society. The strategy is at an initial stage of implementation.	Solid evidence of implementation of the strategy for the simplification of legislation and administrative procedures with indication of key targets achieved and assignments completed.

**5.1 – BETTER LEGISLATION AND ADMINISTRATIVE SIMPLIFICATION**

	Level 1	Level 2	Level 3	Level 4	Level 5
<b>5.1.2 Institutional framework for regulatory reform and administrative simplification</b>	No institutions are responsible for regulatory reform or simplifying administrative procedures. Policy measures are taken <i>ad hoc</i> ..	Several institutions are simultaneously responsible for regulatory reform and administrative simplification	Several institutions are responsible for regulatory reform and administrative simplification. Identification of policies and active measures to limit overlapping and avoid major policy inconsistencies..	A policy co-ordination mechanism is in place and is fully operational. A system of consultation with stakeholders and in particular with the private sector and civil society, and involving the implementing agency (or agencies) is in place.	Level 4 plus effective mechanism of policy co-ordination involving key ministries, agencies and local administrations when relevant.

**5.1 – BETTER LEGISLATION AND ADMINISTRATIVE SIMPLIFICATION**

	Level 1	Level 2	Level 3	Level 4	Level 5
<b>5.1.3 Clear task assignment</b>	No clear structure is in place for review and simplification of legislation in place. Legislation is passed without clear indication of when and how it will be implemented.	Government is in the process of establishing institutions specifically responsible for review and simplification of legislation and administrative procedures.	Key institutions in charge of review and simplification of legislation and administrative procedures are in place but are not yet fully operational.	The institutions are fully operational and have been assigned staff and budgets in line with their mandate.	The institutions are fully operational, are well-staffed, and work with a budget sufficient to fulfil their mandate. They have a track record of efficient implementation of review and simplification of legislation and administrative procedures.

5.1 – BETTER LEGISLATION AND ADMINISTRATIVE SIMPLIFICATION					
5.1.4 Review, simplification, and elimination of current legislation	Level 1	Level 2	Level 3	Level 4	Level 5
	There are no plans to review or simplify current primary or secondary legislation related to enterprise policy or to eliminate redundant legislation and regulations.	There has been <i>ad hoc</i> action to simplify or eliminate current enterprise legislation and the government has plans for a systematic review of current legislation related to enterprise policy.	A concrete plan to review and simplify or eliminate legislation related to enterprise policy has been approved and the institutions concerned have been identified.	The plan to review and simplify or eliminate legislation related to enterprise policy has been implemented. Review of key, mainly primary legislation related to enterprise policy has begun.	Legislative review and simplification or eliminate well-advanced and extended to secondary legislation.

5.1 – BETTER LEGISLATION AND ADMINISTRATIVE SIMPLIFICATION					
5.1.5 Cost-benefit analysis of new enterprise legislation and regulation	Level 1	Level 2	Level 3	Level 4	Level 5
	There is no systematic cost-benefit analysis of draft legislation and regulation relating to enterprises.	Cost-benefit analysis of new enterprise legislation and regulation is being put into place. Proposal for a law on cost-benefit analysis of draft enterprise legislation and regulation. A simplified, pilot cost-benefit analysis programme is being used in certain areas of regulation.	Approval of law on cost-benefit analysis of new legislation and regulation.	Implementation of cost-benefit analysis of draft enterprise legislation and regulation in some policy areas.	Cost-benefit analysis of draft enterprise legislation and regulation is systematically implemented.

5.2 – CHEAPER, FASTER START UP					
5.2.1 Company registration – Time, Procedures and Costs	Level 1	Level 2	Level 3	Level 4	Level 5
		Registration takes more than 30 days and 10 administrative procedures, and costs more than EUR 250	Registration takes more than 15 but less than 30 days, requires 8-9 administrative procedures, and costs less than EUR 250 but more than 150.	Registration takes more than 5 days but less than 15, requires 5-7 procedures, and costs less than EUR 150 but more than 50	Registration takes less than 5 but more than 1 day, requires 2-4 administrative procedures, and costs less than EUR 50 but more than 10.

5.2 – CHEAPER AND FASTER START UP					
5.2.2 Identification Numbers – Time and Number	Level 1	Level 2	Level 3	Level 4	Level 5
		5 identification numbers in dealings with public bodies (statistical office, customs, labour office, tax office, etc.). Numbers take over 30 days to obtain.	4 identification numbers in dealing with different public bodies. They take more than 15 but less than 30 days.	3 identification numbers in dealing with public bodies. Some registrations merged into one. Numbers take more than 5 but less than 15 days to obtain.	2 identification numbers in dealing with public bodies. Most registrations merged into one. All numbers take less than 5 days but more than 1 day to obtain.

5.2 – CHEAPER AND FASTER START UP		
5.2.3. “Silence is consent” applied to company registration procedures	Level 1	Level 5
	<i>‘Silence is consent’ is not applied.</i>	<i>‘Silence is consent’ is systematically applied.</i>

5.2 – CHEAPER AND FASTER START UP					
5.2.4 Minimum capital requirements for limited liability companies (% of GNI per capita)	Level 1	Level 2	Level 3	Level 4	Level 5
	More than 40% of GNI per capita.	Between 20% and 40% of GNI per capita.	Between 10% and 20% of GNI per capita.	Less than 10% of GNI per capita.	No minimum capital requirement.

<b>5.2 – CHEAPER AND FASTER START UP</b>					
<b>5.2.5 Company closure – time and cost</b>	Level 1	Level 2	Level 3	Level 4	Level 5
	The time required to close a business is more than 5 years. The cost is 23% of estate or more.	The time required to close a business is between 4.1 and 5 years. The cost is between 18 and 22.9 % of estate.	The time required to close a business is between 3.1 and 4 years. The cost is between 13 and 17.9 % of estate.	The time required to close a business is between 2.1 and 3 years. The cost is between 8 and 12.9 % of estate.	The time required to close a business is 2.1 years or less. The cost is less than 7.9 % of estate.

<b>5.2 – CHEAPER AND FASTER START UP</b>					
<b>5.2.6 One-stop shops</b>	Level 1	Level 2	Level 3	Level 4	Level 5
	There are no plans to establish one stop shops.	There is draft legislation and plans to establish one-stop shops.	The necessary legislation to establish one stop shops has been passed.	One-stop shops are operational, but with limited geographic scope in the country.	One stop shops operational with proven track record and extensive geographic scope.

5.2 – CHEAPER AND FASTER START UP					
5.2.7 On-line registration	Level 1	Level 2	Level 3	Level 4	Level 5
		The government has not taken any steps towards introducing on-line registration.	Evaluation of existing administrative procedures and detailed proposals for the introduction of on-line registration. Budget provisions and pilot projects.	Law on on-line registration, action plan and budget provisions approved. Designation of competent authority.	Level 3 plus solid evidence of the implementation of on-line registration; system available only in some regions.