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Background Document on On-line Registers for Laws, Regulations and Business Formalities

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ON-LINE REGISTERS: A TOOL FOR ADMINISTRATIVE SIMPLIFICATION

1.   Cutting red tape has been identified by many OECD countries as a key issue on the political agenda. Administrative simplification brings improvement in productivity and facilitates activity to entrepreneurship and innovation. OECD experience demonstrates that small businesses are disproportionately affected by red tape, which lessens the dynamism of economies. There have been increasing efforts to understand the sources and consequences of administrative burdens, as well as to find tools that can contribute to their reduction and/or elimination.

2. The 2005 *OECD Guiding Principles for Regulatory Quality and Performance* recommend that governments "create and update on a continuing basis public registers of regulations and business formalities, or use other means of ensuring that domestic and foreign businesses can easily identify all requirements applicable to them." The transmission of information is tremendously important for a strong relationship between government and citizens: on-line registers can contribute to enhance and reinforce it, opening communication channels and making the regulatory system more reliable.

3.   In OECD countries there is an increased use of public registers. The public access to registers improves transparency, coordination between authorities and makes it easier to comply with regulation giving a higher degree of certainty to the regulatory system. The compliance with formalities and administrative procedures should be as easy as possible. The existence of registers compiling laws and regulations, as well as those including formalities and services for businesses and citizens are a practical tool to achieve policy goals.

1. REGISTERS OF LAWS AND REGULATIONS

A clear picture of laws and regulations

4.   Most OECD countries have established central registers for laws and regulations (see Box 1), where full information on primary and subordinated legislation is available for the public. This corresponds to a special dimension of transparency: effectiveness of communication and the accessibility of the rules for regulated entities. Regulatory transparency requires that governments effectively communicate the existence and content of all regulations to the public.

5.   According to preliminary results from an OECD Secretariat Survey on regulatory quality indicators, public access via the Internet to the text of all or most subordinate regulation to make regulations known and accessible was set up in 26 countries by 2005, and almost all cases with unrestricted access and free of charge. A wide variety of public data, including official publications, legal texts, administrative information, administrative forms and public procurement tenders is now available on the Internet.

Box 1. Registers of laws and regulations: some country practices

In **Denmark**, the government has established the Legal Information Database, a computerised, easily searchable register covering all legislation and lower level rules. The use of the system has been free of charge since January 1998 and it is accessible via the Internet.

In **Finland**, the Norms Project of 1986-1992 reduced the total number of norms from 7,500 to 5,500, and was concluded with the establishment of a special registry for subordinate regulations.

In **Hungary**, the government publishes annually a compendium with all the laws and decrees enacted "Collection of Acts and Decrees" and every five years a "Collection of Legal Rules in Force" (Hatályos Jogszabályok). The government also prepares a trilingual official gazette in Hungarian, English, and German.

In **Korea**, all laws and regulations are available on the Internet via the homepage of the Ministry of Legislation. In addition, a comprehensive registry of regulations in force has been compiled by the Regulatory Reform Committee and can be searched by the general public. The registry has positive security, meaning that only those regulations listed in it are enforceable.

In the **United States**, once a regulation is adopted, it is easily accessible to affected entities. To become effective, final regulations must be published in the Federal Register, which is also available online. Most final regulations are indexed and published in the consolidated Code of Federal Regulations, which is also available online.

In **Australia**, most State governments have searchable databases containing the full text of most or all laws and regulations available through the Web sites of their respective Parliaments. Federally, a proposal to establish a Legislative Instruments Register has been under development for some time, but awaits the passage of enabling legislation.

In **Italy**, in 1999, a programme was launched called "Regulations on the net" (Norme in rete). The Internet site will offer free and easier access and search mechanisms for European, national and regional laws (www.normeinrete.it). The Parliament already publishes all bills under discussion on the Internet, while the Prime Minister's Office Internet site (www.palazzochigi.it) has a list, regularly updated, of regulatory measures approved within the Government.

In **Ireland**, all laws enacted since independence are available on the Internet. A project to repeal and re-enact all preindependence legislation (legislation enacted prior to 1922) is underway. The Irish parliament's website also provides free information on bills and parliamentary debates.

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6.   The establishment of central registers for laws and regulations requires an effective exercise of reviewing the stock and flow of legal instruments. Most OECD countries have been confronted in the past with complex legal frameworks. To reduce this complexity and to make the registration easier and more coherent, some countries have undertaken full reviews of the legal system and implemented radical strategies, such as comprehensive codification processes, the use of the "guillotine" process, etc. (See Box 2).

Box 2. Sweden's guillotine process

In the 1980s, **Sweden** enacted its well-known "guillotine" rule nullifying hundreds of regulations that were not centrally registered. In 1984, the government found that it was unable to compile a list of regulations in force. The accumulation of laws and rules from a large and poorly-monitored network of regulators meant that the government could not itself determine what it required of private citizens. To establish a clear and accountable legal structure, it was decided to compile a comprehensive list of all agency rules in effect. The approach proposed by the Government and adopted by the Riksdag was simple. The Government instructed all government agencies to establish registers of their ordinances by July 1, 1986. As these agencies prepared their lists (over the course of a year), they culled out unnecessary rules. Ministry officials also commented on rules that they thought were unnecessary or outdated, in effect reversing the burden of proof for maintaining old regulations. When the "guillotine rule" went into effect, "hundreds of regulations not registered... were automatically cancelled," without further legal action. All new regulations

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and changes to existing ones were henceforth to be entered in the registry within one day of adoption.

7. The better and more systematic flow of information conveyed by the registry, the less the possibility of existing overlapping and inconsistent regulation. This helps to improve coordination of public entities. If the informational system is centralised and the rule of "positive security" is implemented, i.e. when only rules included in the central registry can be enforced, there is a higher level of certainty. The registry can also bring a side effect holding down the uncontrolled growth of new regulations.

8. In order to make a successful exchange of information between authorities and citizens, there should be a throughout review of the previous situation, a setting up of policy objectives, and a search for the correct tools of information which could help to achieve these objectives, making effectively available this information to all interested parties. The publication of the future regulation plans facilitates the later enforcement.

9. The communication process should be reinforced by greater efforts in using plain language that citizens can understand easily, as well as systematically using a foreign language, which could reduce burdens to the integration of a country in the global economy and help foreign parties to comply with rules, giving them more certainty.

2. REGISTERS FOR CITIZENS AND BUSINESSES

Making use of ICT technologies: registers for citizens and businesses

10. Progress in information technologies has provided major opportunities to improve the dissemination of information in regulatory issues, in particular improved data storage and rapid development of transfers of information protocols. Many OECD countries have responded vigorously to this opportunity and have achieved much in making a large quantity of regulatory material widely available.

11. An ICT approach offers many opportunities for improving transparency and reducing administrative burdens facilitating economic and social activities by improving efficiency in areas as electronic data filing, one-stop shops, government procurement and public consultation.

12. Access to online public documents is available at anytime, and instantaneously, reducing time consumption of administrative procedures for both users and government. This, as well as the generalised availability of e-mail addresses and the online publication of administration directories, facilitates interaction between administrations and the private sector. Friendly user format, clear codification and searching machines could facilitate the use of these devices. Through electronic mails and newsletters, it is possible to keep update on regulatory changes to interested parties, and it could help to find at the same time possible sources and channels to carry out public consultation, enhanced by letterboxes which citizens can use to communicate with the governments.

Box 3. Use of ICT in registers for businesses and citizens
The **European Commission** has created new information points, notably on its Internet Web site. A one-stop Internet shop for business opened on the European Commission Internet Web site under the name "Dialogue with Business". It provides business with general information on Single Market rules and some key issues, such as

technical standards and public procurement. The site is linked to "Euro Info Centres" which are set up all over the European Union and specialise in technical standards. They can provide business with information on the application of standards, conformity procedures, CE-marking or quality initiatives in Europe. The European Commission has also opened a Web site in co-operation with the European standardisation bodies which gives information on European New Approach Directives and harmonised standards.

The **United States** makes active use of ICT to communicate information to the public. It provides linkages and research capacities, and user-friendly electronic one-stop shops. The daily and the annual consolidated national gazettes, the Federal Register and the Code of Federal Regulations, are available, free of charge, on the Internet. Extensive US use of the Internet across a wide range of government agencies and departments is a powerful tool in enhancing the transparency of regulatory processes and regulations.

In **Mexico**, complex and unclear regulation, and difficulties at the judicial level with interpretation and enforcement, have meant that regulation has been the source of considerable uncertainty and confusion to citizens However, recent efforts have concluded in the project NORMATECA (www.normateca.gob.mx), which is an open tool to disseminate all federal legislation with the main objective of increase transparency, fight corruption and improve public services efficiency.

In the **United Kingdom** all draft and final statutory instruments and Parliamentary Bills are published on the HMSO Web site. The small Business Service operates Direct Access Government for Business, a web gateway that brings together all the information about regulation relevant to small businesses. In addition, it co-ordinates Infoshop: this project is an IT-based one-stop shop, which allows local government front-line staff to answer complex queries from the public or businesses. The project involves local authority departments working together with central government to ensure that the provision of high-quality information is given to businesses and the public across a range of services, (e.g., Food Hygiene, Health and Safety and Planning), in a cost effective manner.

In **Canada**, the Government Online initiative is a top priority, and has a stated goal of providing Canadians with electronic access to all federal programmes and services. The government central Internet portal at www.canada.gc.ca serves as the main information and service gateway for all federal department and agencies. It operates in both official languages and includes hyperlinks to the home pages of all departmental/agency Web sites as well as links to official Web sites of Canada's thirteen provinces and territories. The Canada site also features three main sub-gateways for Canadians, Canadian Business and non-Canadians: the last two areas take the user to a wealth of information on doing business in Canada, including links to the extensive network of Canada Business Service Centres.

In **Greece**, considerable efforts are being made to better inform the public about tax laws, procedures, and forms. Information is provided within the local administration via electronic means over the Internet, such as the Adriane programme. Information kiosks have been provided in 39 prefectures. A recent law on electronic signatures will build on these mechanisms to permit online filing of forms and authorisations.

13. Authorities, when developing theses activities of communication, must carefully look for the most generalised access available, adapting to the special needs of different groups of users, and preparing government's staff and regulation users by giving them appropriate training. The consequent gains in regulatory transparency are clearly considerable and will grow further along with access to the Internet, and familiarity with its use as a research tool.

14. Nevertheless, the potential gains in transparency from these technological advances are far from fully achieved. More efforts should be done to publish legislation that was enacted before the adoption of online publication plans, and in keep texts updated and consolidated with new changes. Some relevant information is currently spread over different databases, particularly due to inadequate co-ordination between levels of government. In some cases, "information overload" may limit transparency gains if key data is not made readily accessible by being supported by adequate search capacities.

15. Another problem using ICT is the "digital divide". A substantial proportion of people do not have access to Internet and related technologies, and the development of e-government initiatives can lead to increasing inequities in terms of access and participation. Some countries have tried to address this problem by providing free or subsidised Internet access in public places, especially in regional and rural

contexts. However, this issue will remain an important consideration in relation to the future development of e-government.

Simplification of administrative procedures: the use of one-stop shops

16. One of the most common informational approaches to reduce administrative burdens is the use of "one-stop shops". The purpose of one-stop shops is to provide substantial savings in information search and transaction costs for users in relation to a wide range of interactions with governments. One-stop shops for obtaining licence and permit information are widespread in OECD countries (see Box 4). The information usually includes the permits required by a given business, application forms and requirements and contact details. As experience has accumulated, and technology has improved, the services provided have tended to expand: this can include information on related issues, such as codes of practice, lists of applicable laws and regulations, as well as information on licences and permits required by other levels of government.

Box 4. Administrative registration on line

In **Spain**, information technology initiatives have provided better and faster access to public services and products. The government has been working on a series of initiatives to improve regulatory information. Most are based on a growing use of information technology. An important scheme has been the setting up of a consolidated registry of administrative procedures on the Internet. An ambitious project to create one-stop shops (Ventanilla Unica) has been launched, and will soon be supported by citizens' assistance centres (Centros de Atención al Ciudadano). These initiatives are closely connected with the administrative simplification policy. The Ministry of Public Administration is developing information technology systems to support the expanding Web of one-stop shops. The PISTA project will permit the interconnection of registers and files of all the administrations. "Positive security" means that regulations must be included in the registry to have legal effect, which ensures against any non-compliance by ministries.

In **Hungary**, the government has developed an online system through which businesses can complete mandatory registration forms and send them through the Chambers' offices to the Court of Registration. The Ministry of Justice's Company Registration and Company Information Services co-ordinate the computerized system, which has greatly improved the reliability of Hungary's company registry.

In **Denmark**, information technology is being used as part of an effort to reduce administrative burdens. The Danish government requires that all forms used by businesses in communicating with public authorities be made available on the Internet. Legislation and regulations are published in the official publication, Lovtidende ("legal gazette"), which is also available on the Danish parliament's website. Since 1999, Denmark has also published business impact assessments on the Internet.

In the **United States,** the electronic one-stop site, www.business.gov, provides practical assistance to businesses through FAQs (frequently asked questions), an advanced search function to find federal information, the option to browse through government documents, and the inclusion of business-related items from federal agencies. Dissemination of information in this way typically knows no borders, and access to online information is unrestricted and free of charge.

In **Mexico**, the Federal Regulatory Improvement Commission (COFEMER) has developed online systems for most of its programmes, including the Federal Registry of Formalities and Services as well as links to one-stop shops. This Registry included more than 2,400 business formalities applied by federal authorities, and became the data set of existing formalities to be reviewed. Also a free telephone service was established to provide access to the information in these inventories. Similar approaches are now being pursued in states and municipalities. Based on the six digit ISIC definition of activities, a user-friendly online search tool (available on www.cde.gob.mx) permits any person to retrieve a list of formalities needed to start up or operate a business. The submission of RIAs was also put through an online system, resulting that in 2004, 95% of RIAs prepared by federal agencies for COFEMER were submitted online.

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17. One of the procedures where electronic registration has brought great increases in efficiency has been the Electronic Data Interchange (EDI) applied to customs procedures (see Box 5). Not only it simplified

and helped to homogenise procedures, but also it reduced administrative costs that in the case of trade have a big marginal increase due to physical and regulatory distances.

Box 5. Electronic simplification in customs procedures

Japan's use of the customs electronic data interchange (EDI) system, illustrates how ICT solutions must be based on general changes in procedures. With the EDI system, exporters, importers and their customs brokers can submit their declarations electronically from their offices. The EDI system improves the accuracy of declarations and speeds up customs procedures as a whole. However, customs procedures are not the only regulations at the border. There are others such as quarantine, sanitary, phyto-sanitary, food security, and import/export licences. Under the Japanese Customs law, merchandise not cleared through the border controls of agencies other than Customs cannot obtain import permission from Customs. Trade-related procedures required by other agencies' regulations were, until very recently, neither computerised nor linked electronically to the Customs EDI system. The lack of electronic linkage among computer systems reduced the value of the Customs EDI system from the point of view of paperless and smooth information flow and avoidance of input duplication and error. That resulted in delays to import clearance, raised storage costs, and reduced the competitiveness of foreign products.

In **Denmark**, nine pilot tests of an EDI system were initiated in 1999 and, by 2000, EDI based reporting of accounting information including annual accounts, tax returns and some statistical reports was possible. Electronic processing of payments will also form part of the system. A second project involving EDI of information related to employees (taxes, wages, pension entitlements, etc.) has also been undertaken. Denmark also adopted a programme to rationalise customs operation throughout the country, which incorporates a new EDI system in an attempt to establish an immediate clearance procedure, as one of the two procedures available for importers. Just-in-time custom clearance should be possible if relevant electronic information is received two hours before the imports arrive. It will be supplemented with an optimal risk assessment procedure, aimed at minimising fraud and mistakes.

In the **United States**, Federal agencies have used IT to collect information more efficiently and rapidly by "taking the paper out of paperwork". An initiative by the Internal Revenue Service (IRS) to offer Telefile to most individuals allows over 4 million taxpayers who used to file a paper form to file tax returns using a touch-tone phone. In the Telecommunications industry, an online Equipment Authorisation Database allows applicants to electronically file applications for equipment authorisation and to check their status; and a "Frequently Asked Questions" site clearly outlines procedures for importation of electronic equipment and radio transmitters, linking users to relevant provisions in the Code of Federal Regulations.

Mexico is among the leading countries in the implementation of an integrated electronic-based customs system. Mexico has established an Integral Automated Customs System (SAAI) which allows for the electronic exchange of information between the General Customs Administration, Customs offices, Customs brokers, warehouses and authorised banking institutions to collect duties. Under SAAI, entry documents can be validated or refused prior to the actual clearance of goods, thereby providing for more transparency and predictability for traders. These changes have resulted in efficiency gains for all concerned parties in terms of the improvement in the transparency of procedures.The programme has seen the maximum clearance time for goods fall from anything up from 24 hours to a few minutes. Moreover, the number of Customs officials in entry ports has been able to be reduced by more than 20% between 1994 and 1997 as a result of the efficiency gains obtained, while the number of import and export operations increased by more than 25% and 62% respectively during the same period. The more transparent system has also resulted in improved efficiency in duty collection and the reduction of discretionary power by Customs officials, with improved integrity levels.

In **Spain**, customs authorities oversee 125 customs entry ports. They have applied a computerised system based on the United Nations Electronic Data Interchange Protocol and harmonised data-set (UN/EDIFACT) since 1994 for export transactions and 1996 for import transactions. The EDI system enables users to submit their import and/or export declarations to customs authorities and to receive customs permissions through electronic exchange. Spanish authorities estimate that EDI declaration forms are used on about 70% of import declarations and 95% of export declarations. With the proper use of EDI-based declaration forms, goods can be customs cleared within a few seconds. Before the implementation of the computerised EDI-based system for imports, Spanish authorities estimated that the average customs clearance time was four hours per transaction.

In **Korea**, the introduction of an Electronic Data Interchange (EDI) system constitutes a major technological initiative being pursued to reduce administrative costs. This is currently being implemented in relation to import/export clearances.

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18. Public procurement is another area that has benefited from the integration of ICT mechanisms and one-stop shops. The procedures should be opened to all participants who want or can deliver goods or services financed by the public sector. It is easy to see that the ICT can facilitate more participation with fewer costs for all parties (see Box 6).

Box 6. Public procurement through electronic procedures

In March 1996, **Mexico** began an innovative process of government procurement through the Internet, known as COMPRANET, to improve the transparency of overall procedures. Through the use of the Internet, significant efficiency gains can be realised for both government purchasers and suppliers in terms of time and cost saved by retrieving and delivering relevant technical tendering documentation, government laws and regulations electronically. In addition, small firm in remote locations and foreign enterprises can have the same access to procurement information as large domestic enterprises. Government agencies gain from a more competitive tendering process that is likely to yield lower prices and/or better service. Mexican authorities intend to further develop COMPRANET to make it possible for participating agencies to carry out all necessary follow-up and control of the procurement process through electronic means. With the development of electronic signatures, cryptography and international standards in the electronic data transmission, possibilities will emerge for the submission of bids through COMPRANET.

In **Korea**, the Internet is also used in the field of government procurement as information on government contracts is published not only in the official gazette and daily newspapers, but also increasingly on the Internet.[4] A summary in English is attached to the public notice on invitation to bid for the delivery of products and services (including construction) that are covered by the WTO Agreement on Government Procurement (GPA).

In **Italy**, access to information has been facilitated by the development of electronic procurement at the EU level and the Italian initiative on e-procurement. An Internet site (www.acquisti.tesoro.it) provides a virtual catalogue of all tenders by the public administration. This significantly improves transparency as it gives all firms, including foreign firms, timely and full information on opportunities regarding the supply of goods and services to the Italian public administration.

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3. CONCLUSIONS

19. The set-up of on-line registers responds to an innovative thinking where technology is leading to new and more effective approaches to administrative regulation. In OECD countries, there is a wide variety of this regulatory tool serving to different purposes. Registers facilitate governments' management of information in three different ways: they contribute to information dissemination, as they make regulatory information requirements easily and cost-effectively available for relevant target groups; they facilitate transactional aspects, enabling and facilitating regulatory information transactions between authorities and businesses and citizens; and they serve to stock and share information, what facilitates the understanding of regulations and better coordination among government agencies.

20. Registries for laws and regulations have enhanced the transparency of the law, as they have placed the citizens and businesses in a better position to acquire information on their obligations. They have also contributed for improved consultation opportunities. One-stop shops have reduced costs of transactions and simplified the formalities and paperwork that citizens and businesses have to comply with. All of these efforts have potential impacts in terms of burden reduction, serving also to other governance values, such as transparency and accountability.