



REFORM METHODOLOGY

MARCH 2012



* The guidelines on the BEEP reform methodology contained herein are in draft form and will be developed further to conform to our training program over the next 6 months. Experience gained by administering training on these topics will allow us to better illustrate the methodology through this guide.

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INTRODUCTION TO THE REFORM METHODOLOGY

PURPOSE AND BENEFITS OF BUSINESS ENVIRONMENT REFORM

All over the world, different political structures and cultures govern everyday interactions and relationships differently. Governments intervene in private activity to varying degrees across a wide spectrum.

Among these degrees of intervention, however, there remains a positive correlation between freer societies and increased wealth creation. A government's most basic functions are the protection of property rights and its citizens. As governments interfere in activities outside these primary functions, no matter how well-intentioned, they ultimately hinder wealth creation because of inherent government inefficiencies and the disincentives of higher taxes.

"Everything that is really great and inspiring is created by the individual who can labor in freedom."
Albert Einstein, *Morals and Emotions* (1938)

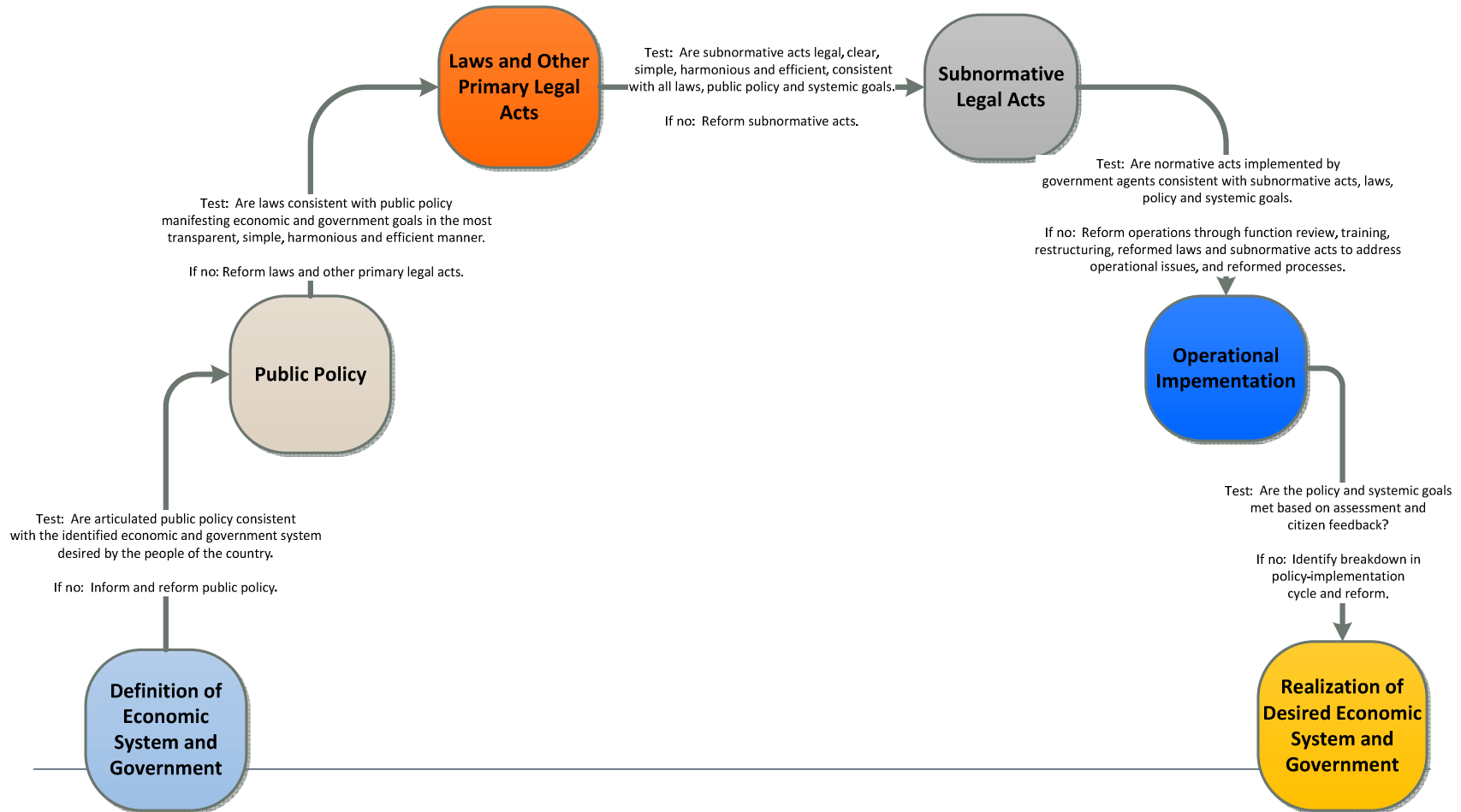
Today, the positive effects of free enterprise are illustrated by many international studies such as the *World Bank Doing Business* study and the *Heritage Foundation Index of Economic Freedom*. The more economically free a society is, the more prosperous its people. The purpose of business environment reform is to enable entrepreneurs to engage in free economic activity with the end goal of promoting wealth creation.

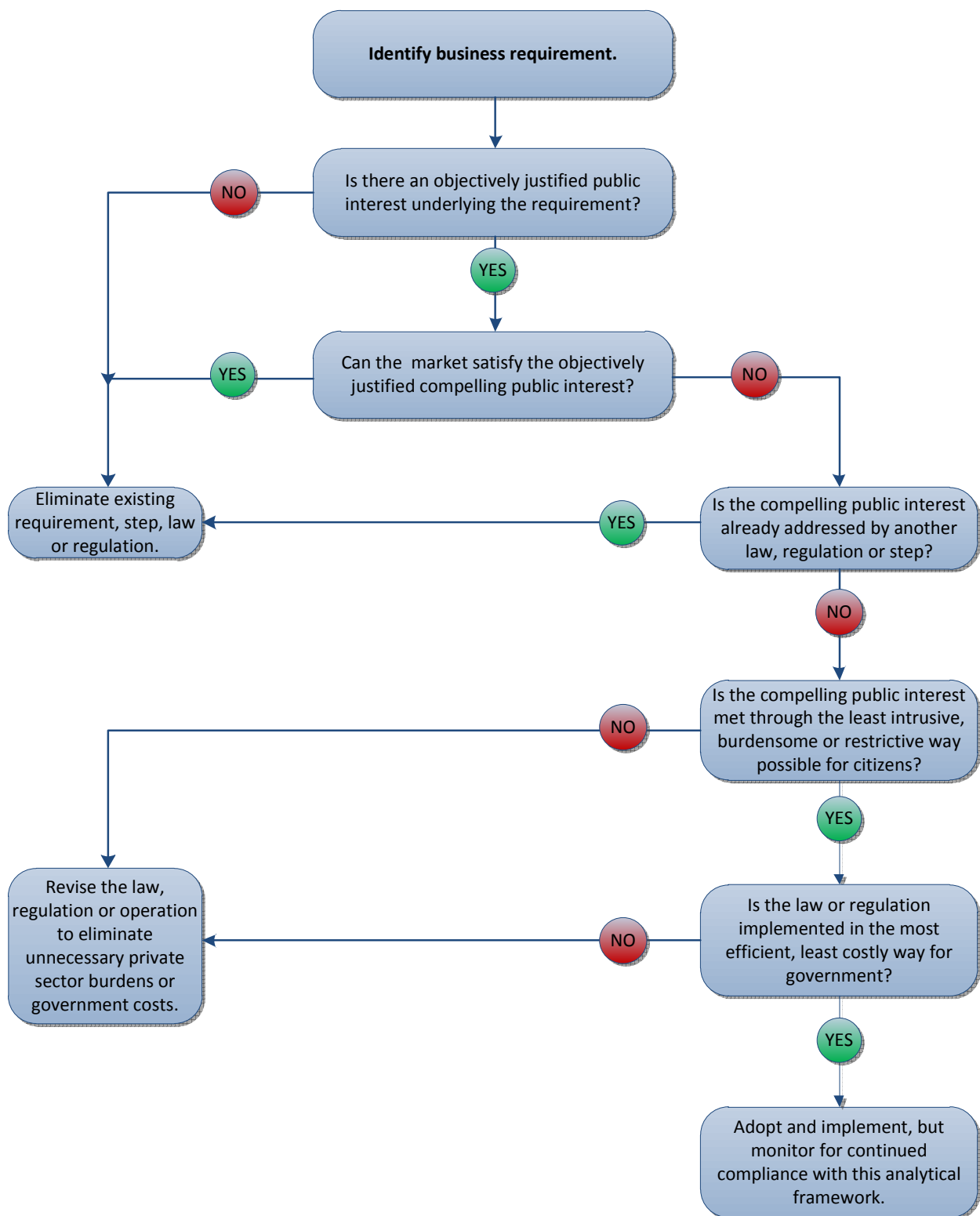
Economies are sometimes presented with unique opportunities for transformational and institutional change. Whether demand-driven by domestic private or public entities or supply-driven through international support, economies must leverage these opportunities to institutionalize business environment reforms. Reform efforts are focused not only on changing the legal environment, but should also concentrate on the implementation of existing laws and norms that promote free economic activity.

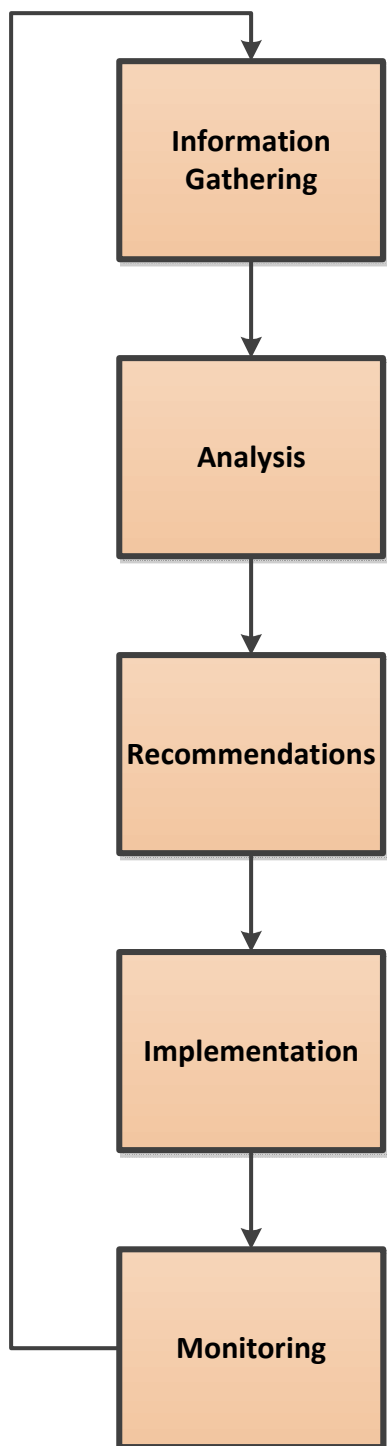
REFORM STRATEGY

This guide presents a business environment reform methodology, describing the five main phases of the reform process – from constraint identification all the way to monitoring proper implementation of reforms. The methodology can be used by both the private and public sector. Ultimately, domestic institutions should drive reforms and continuously engage in business environment monitoring and improvement.

BEEP Policy – Implementation Cycle







The typical reform process is composed of the following phases:

- **Information Gathering**
- **Analysis**
- **Recommendations**
- **Implementation**
- **Monitoring**

INFORMATION GATHERING (CONSTRAINT IDENTIFICATION)

Information gathering is conducted to assess the existing business legal and regulatory environment and identify unjustified constraints on economic freedom. Starting from the assumption that people are free to engage in any activity not interfering with the natural rights of others, constraints thereof are justified in very limited circumstances “where it serves overriding requirements relating to the public interest, is suitable for securing the attainment of the objective which it pursues and does not go beyond what is necessary in order to attain it.”¹

There are several potential sources of information gathering:

- *Individual businesses:* A direct contact is established with individual businesses;
- *Business community representatives:* A direct contact is established with business community representatives (business associations or chambers of commerce for example). Having in mind inputs from their members, business associations have an intimate understanding of business problems and often recommendations on ways in which to solve them;
- *Legal and regulatory framework:* Information is collected directly from the analysis of laws, by-laws, regulations, decisions, decrees, and other legal and regulatory acts;

¹ *Cipolla et. al*, joined cases C-94/04 and C-202/04, ¶61, European Court of Justice (December 5, 2006).

- *Policy documents and strategies:* Information is collected directly from the analysis of national and local development strategies and policy statements as well as from sector-specific strategy development documents and progress reports; and
- *Third-party analysis:* Information is collected directly from third-party analyses. This information may be derived from sources such as national and international research reports, opinions of independent experts, media articles.

Following the identification of sources, several tools can be utilized to gather the information, which include: *focus groups, interviews, surveys and roundtables*. The broad array of utilizable tools allows for the input of all key stakeholders including both the businesses and the government.

FOCUS GROUPS

A focus group is a:

“data collection procedure in the form of a carefully planned group discussion..., in order to obtain diverse ideas and perceptions on a topic of interest in a relaxed, permissive environment that fosters the expression of different points of view, with no pressure for consensus.²”

Focus groups are very effective mechanisms for providing qualitative information and generally consist of six (6) to twelve (12) participants, a facilitator, and an observer. They are very useful when it is necessary to discuss sensitive issues because the groups will generally be very limited in size and scope. However, it is important to understand the benefits and limitations of a focus group.

Some benefits of focus groups:

- Low pressure environment where participants feel freer to discuss pressing issues;
- Participants can “feed” off of each other, each providing unique understandings and experiences to bring out deeper discussion; and
- Provides a cost effective mechanism for information gathering.

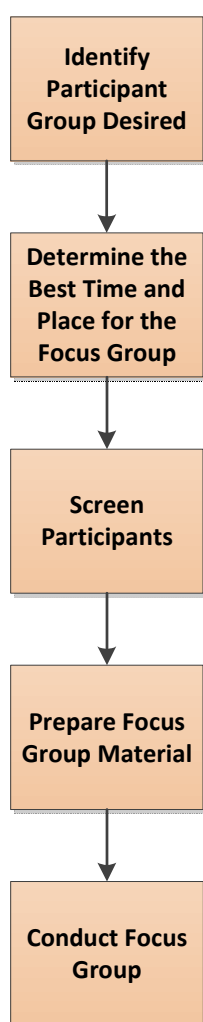
Some limitations of focus groups:

- Due to the number of others in the room, participants may feel less willing to discuss sensitive information;
- Depending on his or her level of involvement, facilitator bias can weaken the breadth of discussion and counteract the feeling of openness; and

² Focus Groups: Background and “How To” guidelines, 1995.

- Dominant personalities, without the proper facilitator intervention, can often command the discussion and influence participant responses.

Steps for Focus Group Planning, Organization, and Implementation



Keeping these benefits and limitations in mind, an organizer can begin planning a focus group.

Step I: Identify the Participant Group Desired

The organizer of a focus group must keep in mind that potential participants may have conflicting interests and may therefore hinder free and open discussion. For example, focus groups may be used to solicit information on common business barriers. In this situation, a focus group containing both businesses and government counterparts may produce fear of government criticism and oppression. This will result in participants being inactive and insincere. Thus, the organizer should be careful not to invite conflicting parties to the same focus group.

The determination of who you should invite is largely dependent on why you are conducting the study and is informed by your objectives. Some things to consider when identifying your participant group are:

- Who will be impacted by the decisions you may take?
- Who will be the decision-makers in the area in which you are working?
- What are the purposes for your study?
- What decisions will you need to make?

In business environment reform, participants are often businesses themselves, business associations, non-governmental organizations, independent experts, and government counterparts. Businesses and government counterparts are most affected by the decisions made during the reform process, while business associations are often a useful hub of information. The government is also the decision-maker for most reform so including them is important.

The ideal number of focus group participants is between 6 and 12 persons. A group smaller than six may enable the dominance of a small number of participants, while in a larger group some participants may not get chance to speak. Similarly, the focus group participant

backgrounds and experiences should be as homogenous as possible. Conflicting interests within the group can cause participants to shy away from useful and candid discussion

Step 2: Determine the Best Time and Place for the Focus Group

I. Time

Like much of the focus group logistics, when you hold the event will depend your group of participants. The group meeting should be held at a time when people can be relaxed and free from time conflicts. If group members are working professionals, such as business persons, government counterparts, and business associations, it is best to hold the focus group in the evening. If you are inviting students, plan the event around classes.

Also, research social events transpiring that may be of interest to participants. For example, check class schedules for days and times that are most appropriate when recruiting students. This is especially important when you are planning multiple focus groups and will rely heavily on a schedule.

It is necessary to choose carefully the duration of the focus group in order to allow for sufficient discussion between all participants of focus groups. As a general rule, focus groups should not last more than 2 hours.

II. Place

The place that you hold the focus group is important because participants need to feel comfortable so that free, open discussion can occur. There are several things to keep in mind as you select the place for the event:

- The venue should be easy to find and familiar to participants.
- The environment should be quiet and closed and make participants feel comfortable.
- Refreshments should be provided for all participants.
- Room sizes should be appropriate for the number of participants.

Conditions under which focus groups will be conducted are important, too. Premises should be spacious, clean, and comfortable. Providing light meals and drinks will ease discussions. The organizer must make sure that each participant has been provided with his or her name tag so that participants are able to identify one another.

Step 3: Screen Participants

Step 3 can be completed in parallel with Step 2, and requires the organizer to screen potential participants. Once the more general participant group is identified, the screener can further narrow the field of participants. For example, if you are exploring business environment issues in the energy sector, you may have identified the participant group as producers of energy.

However, you may now want to further narrow the group to private energy producers of hydroelectric power to more efficiently derive useful information.

Screening Requirements

- Must own his/her own businesses
- Business must be visited by inspector at least once per year
- Must speak Albanian
- Must not be a government official
- Must have gross income between €50,000 - €200,000 per year

First, identify specific, minimum requirements for participants. These requirements will act as a cheap and efficient threshold for identifying the right people for focused discussion. The screening usually takes the form of a questionnaire and is administered to all potential participants. Using the responses, the organizer can narrow the field and begin inviting members.

Invitations should clearly describe all relevant information about the focus group. This commonly includes the time, venue, topic, and remuneration. It's also important to focus on marketing to the invitees; emphasize both the personal incentives and the social benefit. Potential participants should understand that their input is very important and feel that they are an integral part of the process.

Step 4: Prepare Focus Group Material

Develop moderator questions

A successful focus group hinges largely on maintaining a well-focused discussion. Developing moderator questions ahead of time is crucial to maintaining this focus. While keeping in the mind the goals of your focus group, it's also important to understand that you cannot prepare for all circumstances. It is sometimes necessary for the moderator to diverge from the questions developed to maintain the path to your goal. This is where experienced moderators shine.

Questions in the focus groups should be formulated clearly and be short in order to be easily understood. Questions should be neutral as well, so as not to affect answers of the respondent. The moderator must encourage everyone to participate in discussion. The responses of participants must be kept confidential by the moderator. The moderator must observe how people answer or react individually; observe their non-verbal behavior such as gestures, signals, etc. Body language can be a good indicator of a participant attempting to say something.

Begin by developing questions that gets the group acquainted with another. Questions that solicit introductory discussion are best. For example, "Please tell us your name, and something about interesting about yourself." These introductory questions will "break the ice" and get participants used to the dynamic of the group's discussion.

Next, think of questions that will transition from the introductory phase to discussion on some of the more key points. Questions here will remain more general than the main discussion, but will act as a good segue between phases. It is sometimes useful for the moderator to use

leading questions, e.g. stimulate participant discussion by asking how he or she you would change a situation if they were a person in charge.

Third, develop questions on key points. These questions will be the most important for soliciting useful information. Allow sufficient time for participants to explore and share their experience when answering these questions. However, business environment constraints are in many cases articulated differently by various stakeholders and so pre-determined questions can be critical for focusing discussion.

Finally, closing questions are useful to indicate the end of the focus group and identify key discussion points. Ask participants to identify important issues and to think back on the entire discussion. Oftentimes participants hear new information and consider things from a different perspective. Reflecting on the group's discussion can help narrow issues for improved future analysis.

Step 5: Conduct the Focus Group

Before beginning the session, ensure you are able to greet and receive participants and the room is sufficiently prepared. Developing a checklist beforehand can help you be ready on the day of the focus group. See the checklist below for an example of preparatory activities.

Sample Checklist	
<input type="checkbox"/>	Refreshment table is prepared for guest arrival
<input type="checkbox"/>	Name cards are prepared
<input type="checkbox"/>	Room has a sufficient number of chairs
<input type="checkbox"/>	Recording device is ready
<input type="checkbox"/>	Writing utensils are available
<input type="checkbox"/>	Handout materials are prepared and distributed
<input type="checkbox"/>	Sign-out sheets are ready
<input type="checkbox"/>	Entry and exit are clearly marked
<input type="checkbox"/>	Room is quiet
<input type="checkbox"/>	Room is sufficiently air conditioned

Participants must feel welcome and at ease. When beginning the session the moderator and any assistants should warmly welcome the group and direct them to refreshments. Fostering trust and developing an open environment is crucial to a successful focus group.

Once participants are seated and the session is ready to begin, start with the introductory questions developed in Step 4. This is also a good time for the moderator to begin observing group behavior and start strategizing for the rest of the session.

Once participants begin discussion, identify responses that might be vague or too general and delve deeper into relevant areas. While it's important to allow members to engage in open conversation, the moderator must intervene where participants get off topic or spend too much time on a particular issue or where one person dominates discussion. Similarly, include unengaged participants where you see the opportunity. If it's necessary, moderators may need to excuse persons from the group to establish and maintain the proper environment.

If technical possibilities allow and the consent of participants is given, video and/or audio recording during the meeting may be employed. If a participant requests anonymity or secrecy

during discussion, the recording should be turned off. As a last resort, it may be necessary to engage a secretary to keep notes of the meeting manually. At a minimum, the moderator should record the date the focus group was conducted, the participant group structure, and subject-matter discussed. At the end of the meeting, the moderator must compile a discussion summary. Immediately after the session ends, and while impressions, ideas, and opinions are still fresh in memory, it is worth spending some time to outline key moments during focus group discussions and report key results back to participants.

INTERVIEWS

While focused information gathering often yields the best results, it also generally requires a threshold level of understanding about your topic and issues. However, when beginning your pursuit to gather information, interviews are often one of the best techniques.

In general, there are two types of interviews: *structured* and *unstructured* interviews.

UNSTRUCTURED INTERVIEW

The unstructured model is a more flexible approach. The interviewer does not need to follow exact interviewing procedures and all respondents are encouraged to speak frankly, openly, and give as many details as possible. In many cases, researchers use this type of interview if they do not have enough functional knowledge of the issues to formulate specific questions and hypothetical answers. It allows respondents to give more individual details but the analysis becomes more difficult because of the unstructured information. Therefore, the unstructured interview method is recommended for use only at the very early stages of information gathering.

STRUCTURED INTERVIEW

In the structured model, the interview is standardized and all respondents are asked the same questions with the same wording and sequence. As Gray (2004) has put it, “It would be ideal if questions could be read out in the same tone of voice so that the respondents would not be influenced by the tone of interviewer.” When planning and conducting interviews, the interviewer may need to respect the confidentiality of the interviewee, in which case this must be accomplished strictly. The interviewer must be correctly informed about the purpose of the interview, e.g. to gather information on the business environment, as part of a project supported by USAID. The respondents must be informed of the timing well ahead of the interview.

During the interviewing process, it is important to receive full and clear answers by respondents. Interviews should not be too long and generally should not last more than 30 minutes. Organize the interview in the most convenient manner to the respondents, making it as pleasant and professional as possible.

The interviewer must define precisely the information that he or she wants to receive from the respondent. Prior research and preparation is necessary because it signals professionalism and helps to better construct interview questions.

It is necessary to select for interview those respondents who actually represent stakeholders who can provide informative value for studying the desired subject-matter. For example, when studying the process for constructing a building, it is recommended that the interviewer engage a respondent/business who has just finished a building construction project rather than one who built several years ago. This is important because the business legal environment may have changed within recent times.

Begin the interview with a reminder of its purpose so that responses may be directed to suit the interview objectives. The interviewer must make sure to track interview duration and give the respondent time to think about the answer. While writing responses and taking notes, the interviewer must not forget to look into the face of the respondent as it reinforces the notion that he or she is listening carefully.

Questions should be framed in a manner so that they result in complete answers and are addressed to the problem. Further, the respondent should understand the relevance of the question. The interviewer must avoid using compound questions because they may confuse the respondent and complicate answers. Compound questions combine two or more issues or attitudinal objects in a single question. Examples of these types of questions are as follows:

- How much time and cost do you spend annually as a business on meeting local government requirements?
- Should local government spend less money on physical infrastructure and more on supporting business training programs?
- Do you think municipalities should have more contact with business community and non-governmental agencies?

The combination increases the likelihood of confusing the respondents and makes it unclear which factor is being measured. Consequently some respondents would answer "yes" to both and some "no" to both, but some would answer differently if the questions were asked separately.

As you near the end of the interview, notify the respondent that the questions will soon be complete. At the close of the interview, give the respondent an opportunity to add any last remarks. Afterwards, the interviewer should summarize and underline key aspects of the interview, make note of any inconsistent responses, and verify accuracy.

When finalizing the interviews it is always a good idea to compile a list of respondents as they may be utilized in future information gathering processes, such as focus groups or surveys.

SURVEYS

A survey is a data collection tool used to gather information from a sample population. A survey is generally utilized to gather information on a wide geographic area. In business environment reform, this is especially useful when collecting data at the regional and national level, especially when verifying implementation of reform.

When designing a survey, a primary concern is the formulation of the *sample* to be surveyed. A sample refers to a subset of a statistical population. In the case of surveying business owners,

Pros and Cons of Surveys	
Pros	Cons
<ul style="list-style-type: none">• Sample large populations without the administrative expenses of focus groups or interviews• Gather information from a larger geographical area• Easy to analyze• Reduced bias• Less intrusive	<ul style="list-style-type: none">• Generally low response rates• Lose the ability to further question respondents• Unsure of who the respondent is• Not suited for uneducated audiences• Lose the advantage of visual cues

the entire statistical population would be all businesses under the subject of the legal regime. But of course it is impossible to get information from every single one of those businesses and so it is very important to determine a representative sample of the entire population. For example, if the topics

of discussion in the survey are general business development problems, then survey participants should be comprise all business groups, categorized based on size, activity, and sector. However, if the survey topic is the complexity of obtaining construction licenses by construction companies, then survey respondents should adequately represent the different types of construction companies and reflect the total population of the sector. The sample size in this case may, and likely should be, many times less than the total population. There is no uniform recipe for determining the correct sample size and depends on a set of many factors, some of which include the subject researched and acceptable margin for error. In light of the technical complexities of determining the correct sample size, it is recommended that statistical/econometrical and sociological experts be utilized.

In compiling survey questions, the drafter should consider several of the following important concepts. First, *be specific* - sociologists recommend that the questions be specific and avoid over-generalization, i.e. asking about “problems in business development” or “problems in mutual relations between businesses and the state”. These are too general and may result in respondents providing unclear, vague and less useful information. Thus, questions must be very specific and leave no room for ambiguity. Second, *avoid leading questions* - the drafter of survey questions should also be sure to avoid asking leading questions so that the respondent is not

simply led to an answer that the surveyor desires. Next, *balance answer alternatives* - the quantity of positive and negative alternatives in potential answers should be balanced. Fourth, *avoid open-ended questions* - it is recommended wherever possible to avoid open-ended questions in the questionnaire. Open-ended questions without a provided set of potential answers usually complicate questionnaire processing and are very often ineffectual. It is strongly recommended that the question drafter organize survey questions that follow a logical order. The survey organizer must keep the questionnaire volume to a minimum because long questionnaires may lead to the loss of concentration of both respondent and interviewer³. Finally, the survey organizer must specify in the questionnaire the company organizing the survey, their contact information and the name of the surveyor.

Survey questions may serve different purposes. They may be *analytical*, *filter*, or *control* questions.

ANALYTICAL QUESTIONS

First, questions can be analytical and specific to the studied subject-matter. For example, if the studied subject is sanitary inspections, an example of a survey question may be “How often is your enterprise exposed to sanitary inspection checks?”

FILTER QUESTIONS

Second, survey questions can be filter questions. Filter questions “filter out” participants who are irrelevant to the subject-matter studied. For example, a potential participant having little to no experience with customs procedures cannot make useful comment on the complexities of those procedures. An example of a filter question in this regard may be the following: “Are you a participant in foreign trade activities?” Filter questions also help avoid excessive and unnecessary surveying. For example, if the respondent declares that he or she is not a participant in foreign trade activities then it is no longer useful to require that respondent to continue with the survey.

CONTROL QUESTIONS

And third, survey questions can be control questions, aimed at confirming a previously received response. Control questions increase the reliability of responses and ensure that the participants clearly understand the questions. Control questions may be completely different questions or part of another question.

Before the questionnaire is finalized, it is recommended that a “pilot survey” be organized. Pilot surveys normally occur before the real survey begins. This pilot phase will help the survey organizer better structure the final survey questionnaire by developing the most efficient means by which it can be administered. It will aid, for example, in determining whether there are unnecessary questions, whether something should be added, or whether there are questions

³ An example of survey is attached to the material at Attachment 3

which are difficult to answer. The goal is to format the questionnaire in the most convenient way possible. It is further recommended that a general survey first be conducted so that the survey organizer can compile pertinent information and tailor future surveys to more specific information gathering needs. Focused surveys can then be developed and conducted with a much smaller quantity of highly relevant respondents.

ROUNDTABLES

Roundtables are very similar to focus groups and the organizer should follow the same guidelines as discussed in the section on focus groups. A significant difference is that the moderator in a roundtable is *not* an independent third party. The moderator at a roundtable has intimate knowledge of the points discussed and generally has goal of data confirmation.

Roundtable discussions are organized with participants who are specifically identified relevant stakeholders on narrowed issues. Usually, a roundtable will be organized after a focus group is conducted and key issues are identified. Therefore, it is important to know as much as possible about potential participants before the roundtable is conducted. Roundtables are especially adequate tools for validation and confirmation of problem statements and impact estimates.

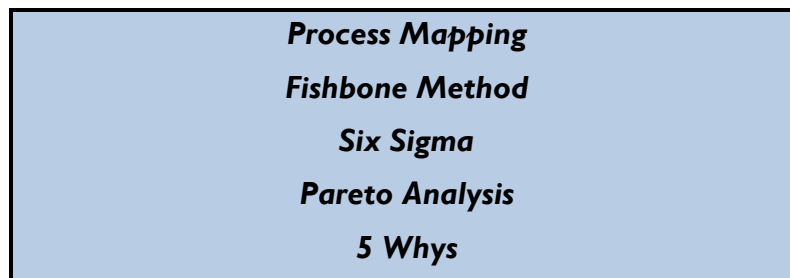
In order to achieve maximum roundtable efficiency, materials must be distributed to each participant before discussions take place. Ideally, materials will be distributed to the participants when sending invitations. If this is not possible, materials should be distributed to participants at least three days in advance. Before the roundtable discussions begin, it is advisable to make a short summary presentation on the material and then allow for some short discussion.

When the roundtable begins, the first step is to make an introduction. Explain that the goal of the roundtable is to have a detailed discussion of the issues on the agenda. Remind participants that time is limited and ask that they keep their questions and comments brief. If convenient, inform the group that you will be available after the roundtable discussion if there are additional questions. An “icebreaker” or introductory activity can help roundtable participants connect with the content of the discussion on a personal level. Icebreakers can also help people feel more comfortable about contributing and asking questions in a large group. Since your roundtable time is very limited, make sure your icebreaker does not go over 10 minutes. At the conclusion of roundtable, the facilitator should sum up key discussion points thank participants for their contributions.

ANALYSIS

Following information gathering, we enter into the analysis phase in order to identify root causes of issues and transform the information into specific, actionable items. Quality and reliability of data determines the quality and reliability of information we process. These analytical methods are based on root cause analysis and the elimination of root causes to

improve processes. There are many methods that are used to analyze and improve the quality of processes, including:



The methods also help identify time and financial costs imposed by the identified problems.

It's worth stressing that the abovementioned methods are recommended to be used only after process mapping is conducted. This is because process mapping is an essential starting point for the analysis and provides complementary inputs for conducting other methods at later stages.

PROCESS MAPPING

A process map is a structural analysis of a process flow. This technique is one of the most important tools a reform team has at their disposal. Process mapping can be used to, among other things, identify administrative inefficiencies in conducting activity and gauge those activities as they are versus as they should be by law.

Process mapping in reform is primarily used make comparisons across three separate processes:

- **As Is** – the process as it is conducted in reality;
- **By Law** – the process as it should be conducted according to the law; and
- **As Desired** – the process as desired with proper implementation of reform.

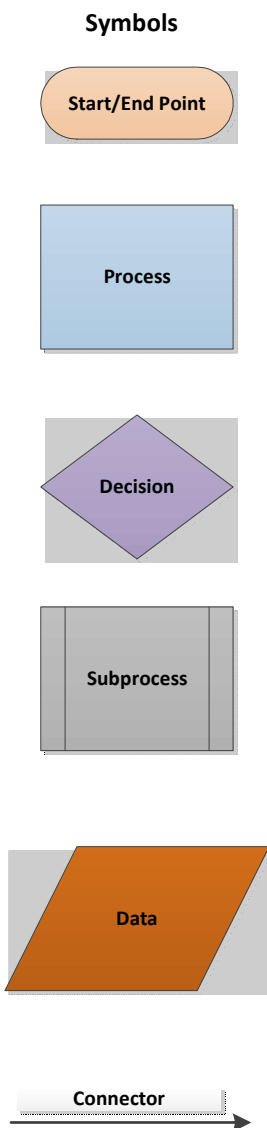
It is vital that the analyst starts by first depicting the process the way it really works (As Is) and later, he or she can chart the process as it is legally supposed to work (By Law) and as it is desired following proper implementation of reform (As Desired).

Process mapping involves a step by step consecutive display of the process in the form of blocks or steps. Each block or step can be assigned a number, chapter, or point, and be organized according to the flow of steps within the process. This sort of presentation allows for a detailed study of the entire process. Secondly, a process map can provide a platform to analyze conformity of each step or block with the governing legislation. After the process flow chart By Law is complete, the analysis continues with the study of the process using information gathering methods previously discussed, public records, articles, and other information sources. This portion of the analysis will end with a process flow chart As Is.

The process map illustrates a certain process and is described with various indicators. These indicators include variables such as:

- time required to accomplish a certain step or procedure, both As Is and By Law;
- financial costs to accomplish that step; and
- necessary documents required.

Figure 2: Process Map



In order to precisely construct a process map, it is necessary to study the process with people who possess respective expertise and are willing to devote sufficient time to analysis. The process map can be presented both in graphical form and in textual form. It is recommended to describe the process flow first in graphical form, followed by textual format. The latter will complement the former and will answer questions in more detail. In some cases it may be appropriate to describe the process in parallel. The graphical form gives a general picture of the whole process as well as interaction between steps. This form is presented through application of geometrical symbols, such as rectangles, arrows and lines. Each symbol has its own meaning (see symbols in Figure 2).

Figure 3 presents seven steps for the development of a process map. The first step, defining the process and the purpose for charting it, can help define what level of charting will be utilized. Thus, it helps decide in what level of detail the process map will be drawn and whether it will be constructed at a macro or micro level. The seven steps identify the major activities of the process. Experience in process mapping teaches us that in many cases it's easier to start with the last step and work backwards to the first.

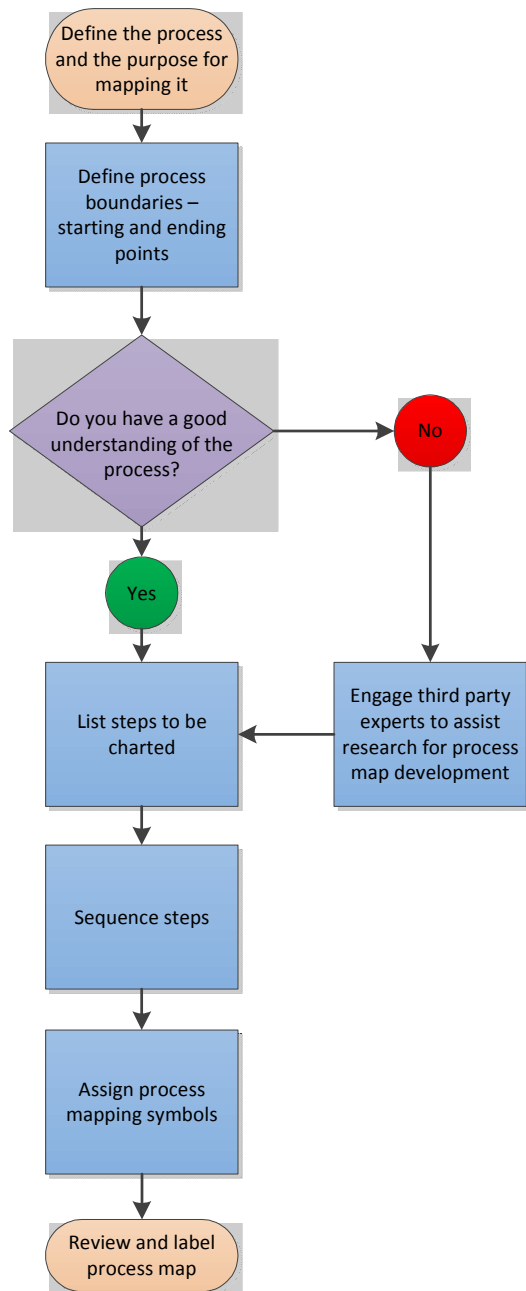
It's important to remember that the graphical form of process mapping does not provide complete information on concrete steps within the process. However, the graphical form allows the analyst to view a visual presentation of the entire process and, through visual detection, identify lengthy process steps. Importantly, the graphical form visually illustrates all procedural steps that must be accomplished in order to

reach the end result and in what sequence these procedures are carried out.

The textual form of the process provides the opportunity to prepare more complete information. This additional information may include details such as the list of documents that are required for each procedural step, the legislative and the statutory acts regulating each stage, documents produced after each procedure, necessary resources, and time descriptors.

For descriptive reasons it is suggested to name and number each process step. In addition, each step must be associated with organizations and departments that are involved. Accompanying information must also present the official name of the organization/department involved and its address, phone number, business days and hours, the head or the expert to whom the applicant originally addresses the application, and so on. The information presented in the textual form must also provide insight on where and how formally approved forms of applications and documents can be provided and the amount of documentation required for each process step. Also determine whether there are different requirements for legal and physical persons for accomplishing the same step. In addition, information must be provided on how many signatures and stamps must be received and from whom, whether the document must be checked and controlled by employees, and so on.

Figure 3: Steps for Developing a Process Map



The time necessary to complete each step should also be assigned to the process map. It's very important to clearly distinguish between the waiting time and the operation time when assigning the time value to each process step.⁴ This will allow the analyst to easily identify unnecessary process steps. If it is possible to separately present the time spent by the businessperson and the time spent by state employee(s), it's good practice to do so.

A unit of measure is 1 (one) hour. While it's important to identify each process step, don't get wrapped up in mapping minutia. To aid in maintaining useful process steps, the minimum time measurement is 0.5 hours (30 minutes). In cases where various actions/procedures are conducted in

parallel, the time necessary for completing these procedures is calculated based on the longest procedure. This implies that time spent for each procedure is not calculated as a cumulative amount of time. In addition, the time difference between steps, i.e. the time from the termination of one step prior to the beginning of another one, should be marked. It is also

⁴ Waiting time here means the time waiting in turn or time spent in queuing.

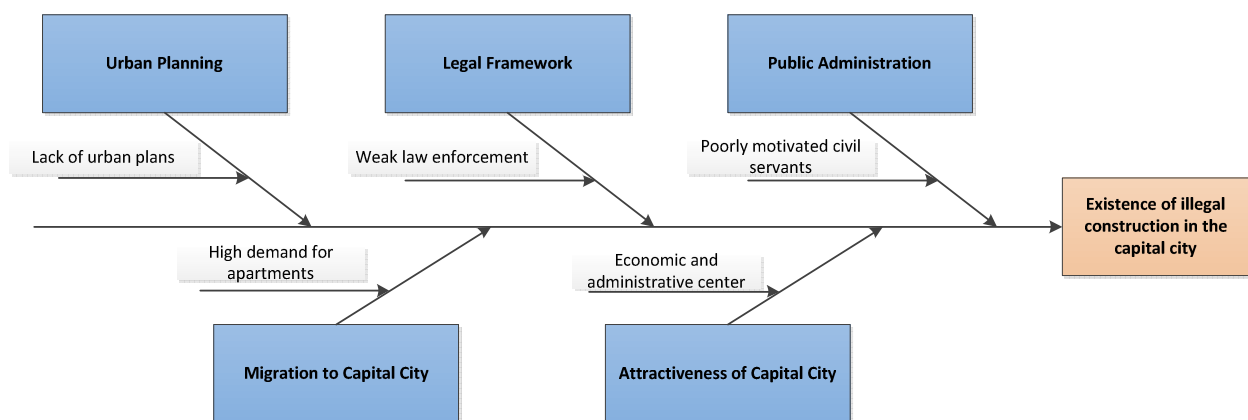
desirable to note the maximum and minimum time for accomplishing a certain procedure and or process.

In addition to labeling the necessary time, direct costs should be assigned to each process step. Examples of direct costs may include the official cost of a service, copying costs, materials, and transportation costs linked directly with the process under examination. After assigning direct costs for each process step, the total cost incurred for completing the entire process should be calculated. Because minimum and maximum costs are assigned to each process step, the total minimum and maximum cost should be calculated for the whole process.

FISHBONE ANALYSIS

Fishbone analysis⁵, also known as Ishikawa diagrams or cause-and-effect diagrams, is a method that breaks down in successive layers of detail root causes that potentially contribute to a particular effect (or a problem). In other words, it is used to identify potential factors causing an overall effect. An Ishikawa diagram has a fishbone shape, showing all factors affecting the overall problem (Figure 4). Smaller arrows connect the sub-causes to major causes. Cause and effect diagrams can reveal key relationships among variables. Possible causes provide additional insight into process behavior.

Figure 1: Fishbone Analysis



The following key steps are recommended for the identification of root causes with a Cause and Effect Diagram:

- **Identify the problem:** Identify who is involved, what the problem is, and when and where it occurs. Write the problem in a box on the right-hand side of a large sheet of paper. Draw a line across the paper horizontally from the box. This arrangement, looking like the head and spine of a fish, gives you space to develop ideas.

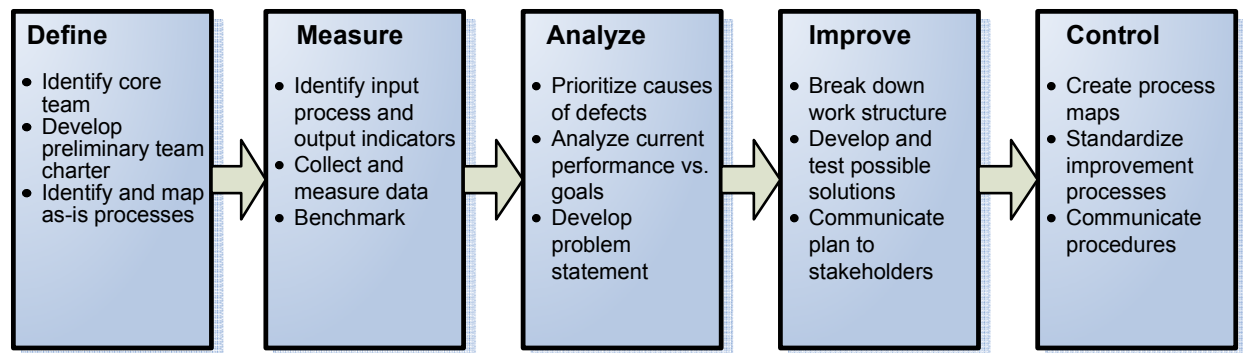
⁵ Ishikawa diagrams were proposed by Kaoru Ishikawa in the 1960s. He pioneered quality management processes in the Kawasaki shipyards and was a Japanese university professor and influential quality management innovator.

- **Work out the major factors involved:** Identify the factors that may contribute to the problem. Draw lines off the spine for each factor and label them. Try to draw out as many factors as possible. If you are trying to solve the problem as part of a group, this may be a good time for some brainstorming.
- **Identify possible causes:** For each of the factors you considered in stage 2, brainstorm possible causes of the problem that may be related to the factor. Show these as smaller lines coming off the “bones” of the fish. Where a cause is large or complex, it may be best to break it down into sub-causes. Show these as lines coming off each cause line.
- **Analyze your diagram:** By this stage you should have a diagram showing all possible causes of your problem. Depending on the complexity and importance of the issue, you can now investigate the most likely causes further. This may involve setting up additional information gathering such as investigations, carrying out surveys, etc. These will be designed to test whether your assessments are correct.

To summarize, Cause & Effect analysis (or Fishbone Analysis) provides a structured way to help you think through all possible causes of a problem. This aids in systematically and thoroughly analyzing an issue and arriving at the root cause or causes.

SIX SIGMA

The main objective of the Six Sigma methodology is to implement a strategy based on measurements to improve processes and reduce variation. There are two sub-methodologies of the Six Sigma: Define, Measure, Analyze, Improve, Control (DMAIC) and Define, Measure, Analyze, Design, Verify (DMADV). DMAIC is an improvement system for the existing processes that falls below the specification and require some incremental improvement. DMADV is an improvement system that is used for the purpose of development of new processes and products at the quality levels of Six Sigma⁶. This system can be employed when a process requires more accurate and incremental improvement.



⁶ Bill Smith first formulated the particulars of this method at Motorola in 1986.

Six Sigma⁷ uses a set of quality management methods, including statistical methods. A six sigma process is one in which 99.99966% of the products manufactured are statistically expected to be free of defects (3.4 defects per million). Six Sigma aims at defining a problem precisely, measuring to bound and clarify it, analyzing the process associated with the problem to identify the problem's root cause, improving the process by considering alternative solutions and selecting and implementing the best one, and controlling the process through ongoing measurement to ensure that the problem does not recur. Two examples of Six Sigma are presented below:

SIX SIGMA EXAMPLE 1: RETAIL DISPLAY

Define: Marketing has designed a “Fancy” display unit that they will outperform the “standard” display unit and they want to put in every store. The “Fancy” display is 10 times the cost of the “Standard” display. In addition, all stores already have “standard” units. Should the new displays be purchased?

Measures: Record sales data for each store when the “Fancy” display unit is utilized.

Analyze: The stores identified at least three other factors besides display type that could impact sales. Range for each factor was identified. Design of experiments was conducted.

Improve: The “Fancy” display had no significant impact on sales. The “Fancy” displays were not ordered for any more stores, amounting to a considerable cost saving.

Control: Future changes will be tested and evaluated using statistical techniques.

SIX SIGMA EXAMPLE 2: PEOPLE SELECTION

Define: Why is there such a difference in the sales performance of people?

Measure: Top people have 10 times higher volume than bottom 25%. Failure to meet sales quotas is a defect.

Analyze: Construct education, training, time in job, product line, sales area, profiles. Improve: Able to identify by profile 72% of the top sales people. Use this tool to new employee selection.

Control: Use profiles for new hires and continue to monitor performance levels.

PARETO ANALYSIS

Pareto analysis is a technique that allows the reformer to identify a limited number of tasks that produce a considerable effect. The Pareto Principle (80/20) states that a significant majority of

⁷ Putting Six Sigma in Perspective, QUALITY SOFTWARE & ANALYSIS, By Dr. Michael Hammer and Jeff Goding.

problems (80%) are produced by a few key causes (20%). If these few key causes are corrected or mitigated, reforms will have a much greater probability of success.

The analysis is conducted as follows: First, gather data on the frequency of causes, rank the causes from the most to the least important, and calculate the cumulative percentage until it accounts for 100% of all problems. Next, graph the *causes* and *percentages* on a graph with the grouped causes on the horizontal axis, ordered from the most to least frequent. On the vertical axis record percentages from 0% to 100%. Third, record the data points on the graph to represent the cumulative percentage of problems moving down the graph on the X axis. Construct a bar graph by connecting the data points for each cause based on the percentage problems derived from each cause. Finally, draw a line from 80% on the Y axis to the line graph to immediately below to the X axis. This line separates the most important causes from the trivial ones based on the Pareto Principle.

The table below (table I), shows an example of a completed template used to analyze setup times. The times are ranked within the chart according to Column B: Frequency or Time (min).

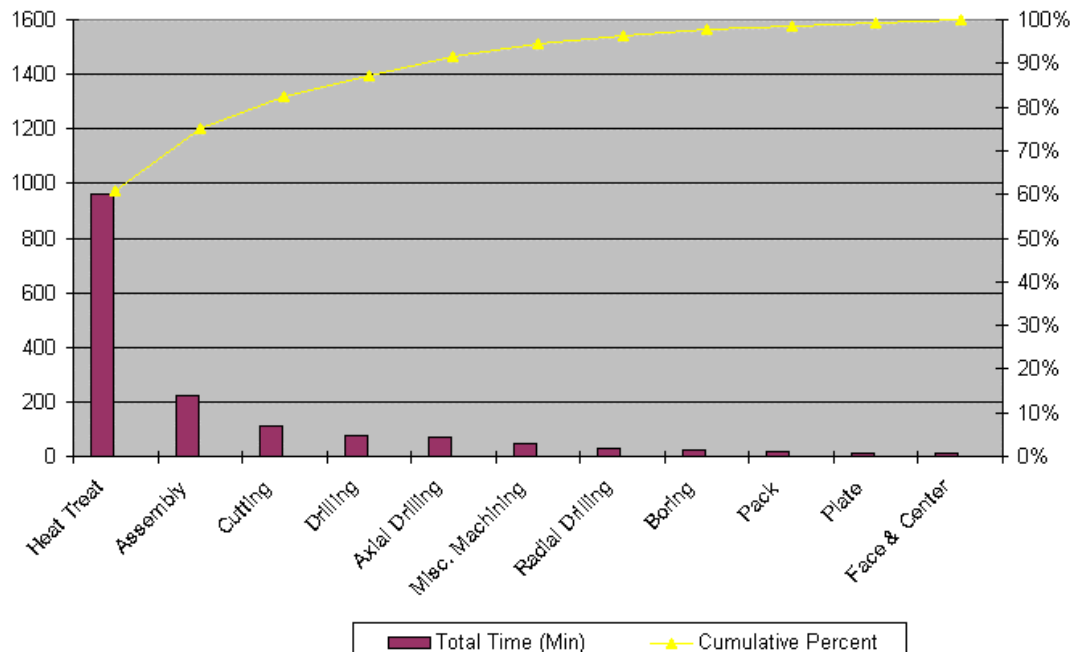
Table I: Pareto Analysis: The Case of Machine Defects

A	B	C	D
Description of Activity	Frequency (volume) of Occurrences or Time of Activity	Cumulative Activity Frequency/time	Cumulative Percent of Activities
Heat Treat	960	960	61
Assembly	225	1185	75
Cutting	114	1299	82
Drilling	75	1374	87
Axial Drilling	70	1444	92
Misc. Machining	45	1489	94
Radial Drilling	30	1519	96
Boring	21	1540	98
Pack	15	1555	99
Plate	12	1567	99
Face & Center	10	1577	100
Total	1577		

Figure 5 shows the diagram created with the data from Table I. We locate the point where the Cumulative Percentage line reaches 80%. This reveals which causes are responsible for 80% of

the overall problems. The analysis here reveals that these are the three main causes - Heat Treat, Assembly, and Cutting. This allows a narrowed focus for study and investigation of activities having the greatest impact on the overall activity.

Sample Pareto Diagram



5 WHYS

The 5 Whys is an analytical method that is both cheap and produces good results. It requires the analyst to focus on a problem statement and ask “Why?” 5 times. When collecting information, respondents normally identify problems that are specific to their situation and generally do not provide a root cause of the problem. Utilizing the 5 Whys method structures thought and requires the analyst to delve deeply into problem statements. In many cases, root causes can be identified with little statistical and analytical knowledge by employing this method.

Below is an example of a problem statement being narrowed to identify a root cause.

Problem Statement: Illegal constructions are taking place in the capital city.

1. Why? – Companies cannot receive construction permits (first why)
2. Why? – No regulatory urban plan in place (second why)
3. Why? – No urban development plan in place (third why)
4. Why? – No municipal development plan in place (fourth why)
5. Why? – Spatial plan and urban plans are not updated as per legal requirements by municipality (fifth and final why)

We find here that illegal constructions are taking place largely because spatial and urban plans are not regularly updated, resulting in little predictability.

Solution: The municipality needs to update its spatial and urban plans, do so on time, and create expectations of future compliance.

The 5 Whys method of root cause identification is fast and does not require significant investment in technical resources. This method can also be used to supplement other forms of root cause identification and set a good mental framework for thinking beyond just the problem statements.

RECOMMENDATIONS

After the information gathering and analysis steps are complete, we drill down to identify more details of issue/s. We conduct internal categorization of problem statements and group specific problem statements into categories to identify common issues and cross cutting root causes to empower analysis and holistic solutions. After categorization of problem statements, we continue with cost quantification. This will result in the identification of time and financial costs imposed by the problem. After categorization of problem statements and cost quantification, we continue with validation of foundation data, externally. Thus, we organize roundtables with impacted businesses to confirm problem statements and impact estimates. We then continue internally with identification of sources of problems. This means narrowing the information to where the source of problem lies, be it a legal, regulatory, operational, or informational factor. After we provide the abovementioned information, we develop specific solutions to the problem statement based on the root cause analysis.

The next step is the quantification of solution costs and benefits and is initially completed internally. This implies calculation of government and private sector benefits and costs. Now we are at the phase of formulation of recommendations. We conduct this step internally by consolidating the problem statement, costs, analysis, solution, and costs/benefits of the solution into recommendations. However, we present externally findings and solutions to businesses and government counterparts to validate and edit the analysis.

Proposing a vague recommendation is not sufficient and it may prove to be misleading. Therefore, a good recommendation is the one that suggests a concrete and simple action to improve, modify, or remove a certain procedure or process. For example, “We recommend that municipalities simplify the business work permitting process” is a very vague recommendation. However, if the recommendation states “We recommend that Parliament amend the Law on Internal Trade so that the municipal work permit requirement for businesses is removed,” is much more specific and clearly illustrates the recommended solution. Thus, recommendations should be clear and concrete and should not leave room for any ambiguity, vagueness or uncertainty.

Recommendations must be addressed to competent institutions that have the necessary legal, economic and operational mandates to implement the proposed recommendations. Thus the recommendation should be addressed clearly to central government institutions, municipal authorities, or other public or private sector stakeholder groups.

Before introducing recommendations, it is important to assess the implementer's capacity to implement. It is thus necessary to assess the possibility of neutralizing any anticipated resistance and take any necessary preventative measures to achieve this result. When assessing the capacity to implement, one should ask at least the following foundational questions:

- Do institutions have sufficient alternative resources when implementing the recommendation?
- What is the potential level of resistance and unwillingness of affected groups to make changes due to both their corporate and individual interests?

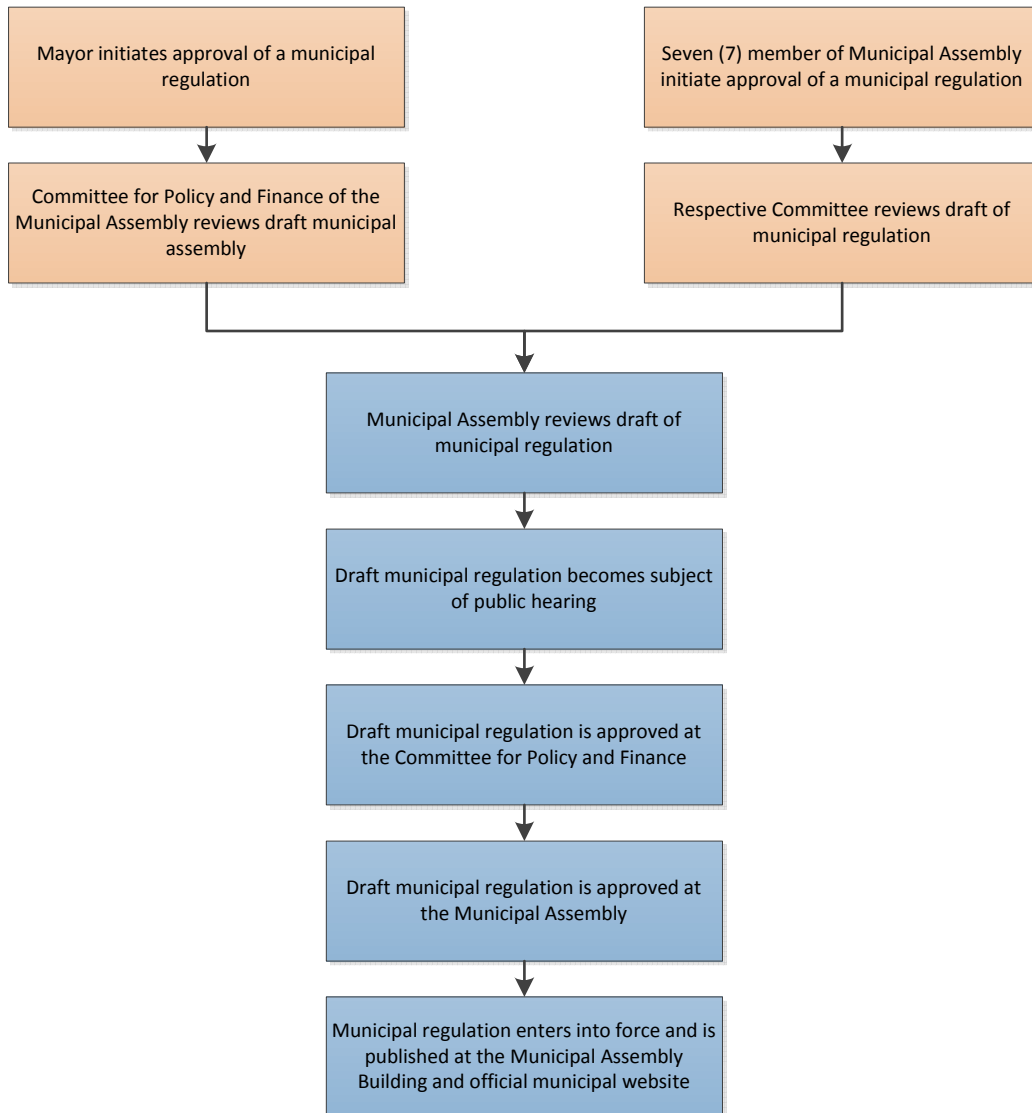
When introducing recommendations, best practices suggest that they should provide very precise information on what added value they bring to those who will be affected by its implementation. For example, a recommendation to the Kosova Electricity Company jsc that it should provide new businesses connection to the electricity grid within three working days should clearly illustrate what value it will add to their operations and not merely focus on the benefit to the business. Similarly, a recommendation to remove municipal business work permits should insert example here 600,000€ of businesses annually, which they can invest in a more productive use.

IMPLEMENTATION AND MONITORING

This is the moment where reforms push to publish the analysis and advocate for adoption and implementation of recommendations. The implementer must be very familiar with the functions of the host country legal system so that he or she may be able to secure the implementation of recommendations.

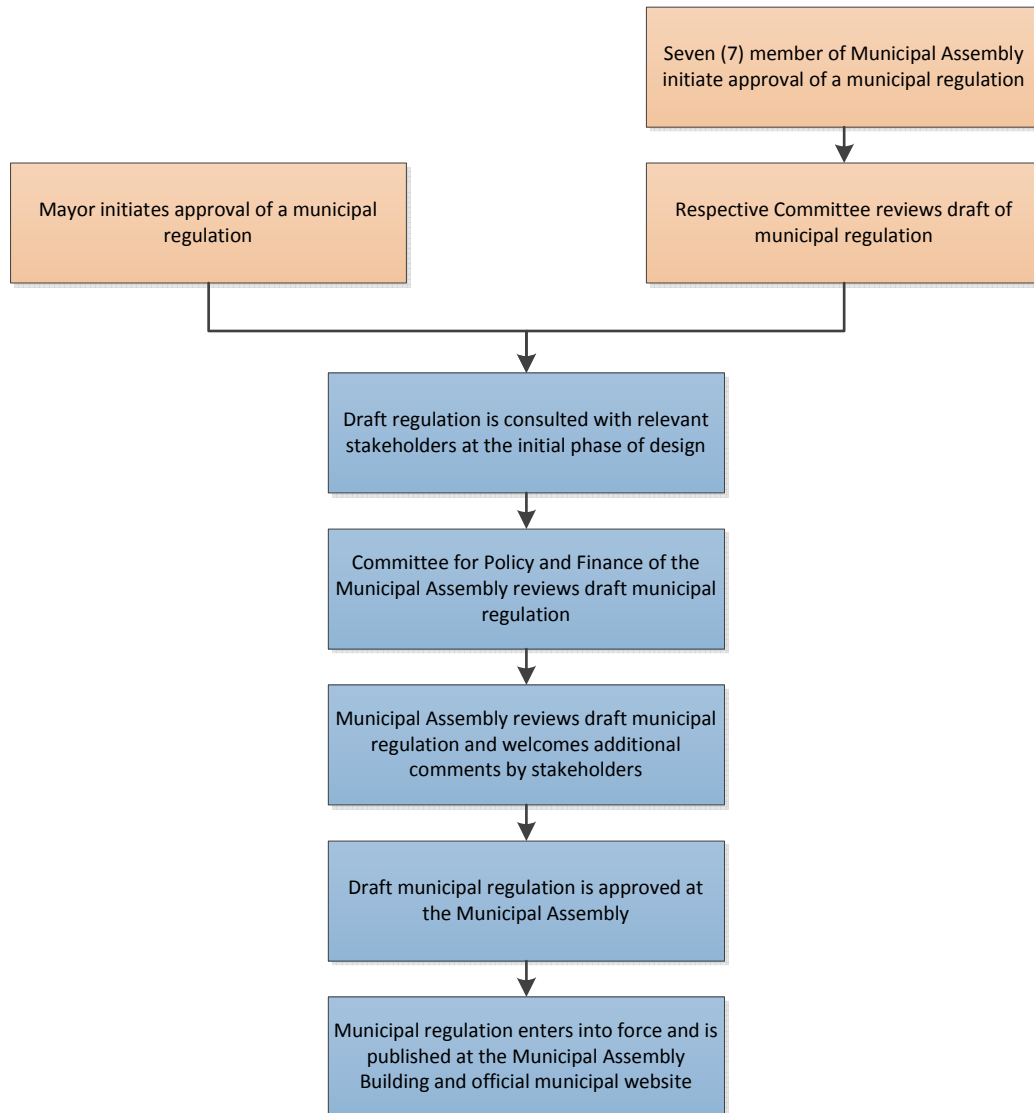
In Kosova, new laws or modifications to existing ones are formally initiated by Government, respective ministries, or Parliament. The national legislation is finally approved by Parliament. Secondary legislation in Kosova is initiated by Government or respective ministries or agencies and enters into force when signed by the Prime minister or the respective ministers. At the municipal level, regulations are approved by municipal assembly. It must be stressed that both the primary and secondary legislation preparation and approval process goes through various stages of deliberation. The legislative process also contains a financial implications analysis. The process of approving a municipal regulation in Prishtina (which can be initiated by the Mayor or by the Municipal Assembly), the capital city of Kosova, is presented in Figure 5 below.

Figure 5: Prishtina Municipal Regulation Approval Process



As we can see from the figure, the regulation is not subject to consultations with relevant stakeholders at the beginning of the process. Stakeholders are able to contribute in the initial phase when the draft regulation is written, but only later when it becomes public after review by the municipal assembly. Figure 5 represents the process As Is and charts the process as it actually functions. Figure 6, however, presents the desired process called As Desired. The new process (to be recommended) allows for consultations with stakeholders of the regulation in the initial phase.

Figure 6: The Process As Desired for Approving Municipal Regulations



It's important to remember that the reform process does not end with the approval of recommendations. Monitoring and feedback are essential follow-up items to ensure proper implementation of recommended reform. These processes may result in a cycle whereby one may need to gather information, conduct an analysis and make recommendations to ensure proper implementation. The removal of business environment constraints is a continuous process.

SUPPLY DRIVEN REFORM STRATEGY

MAKING SUPPLY-DRIVEN INTO DEMAND-DRIVEN

Once responsible governments are engaged in real business environment reform, the supply-driven Doing Business strategy may support their long term commitment to transform this supply-driven reform strategy into a demand-driven reform strategy. In this case, a clear understanding of the supplied framework is necessary because of the monitoring process.

In reality, the supply-driven strategy tackles also the issue of what is the optimum size of government. The government has at its core the functions of protecting person and property, establishing the rule of law, the sanctity of contract, and perhaps the creation of a limited set of public goods. However, governmental growth beyond these functions necessarily impedes personal liberties and business functionality and is likely to be detrimental to economic growth. These results are in line with other empirically based studies which show that the size of government should not exceed 20 to 30 percent of Gross Domestic Product (GDP) if economic growth is to be maximized. This is due to the inefficiency of allocation of scarce resources in the public sector and the crowding-out effect that government investment has on private investment.

This may also be related to the pricing of government services. Pricing of government services raises necessity of having clear distinction between fees, charges, and taxes. The term “fee” has been interpreted to mean “cost recovery”. Therefore, the level of a fee should be set on a basis that gives a reasonable expectation that cost recovery will not be exceeded. If a fee is set at a level beyond what would reasonably be expected to recover costs, in practice it then have become a tax. If the legislation only provides for a fee, making it a tax would invalidate it. Charges, unlike fees, are meant for services that are discretionary from the point of view of the consumer.

In addition to the supplied framework, additional demand driven activities can be organized in order to identify other barriers to business development. These additional activities may include information gathering methods such as focus groups, surveys, roundtables, etc. The World Bank Doing Business report is an example of a supply-driven reform document. It provides a framework for change based on pre-selected indicators/processes that were explained in the beginning of this document. In essence, the Doing Business example is a clear case of Business Process Reengineering that focuses primarily on four areas:

- **Functional**, representing what activities are being performed and what data flows connect them;

- **Behavioral**, representing when activities are performed, with sequencing, feedback loops, iteration, decision making, triggering conditions, etc.;
- **Organizational**, representing where and by whom activities are performed; and
- **Informational**, representing information produced or manipulated by a process⁸.

In fact, key concepts of Business Process Reengineering are concepts to consider when trying to:

- Minimize and streamline As Is business operations, processes and/or procedures;
- Challenge businesses processes that always accommodate ‘the way it has always been done’; and
- Reduce cost of doing business by eliminating obsolete and inefficient processes, obsolete regulations and controls, lengthy review and approval cycles, and ensure business processes are integrated across all impacted functional areas.

“Processes are the key organizational theme for companies in 21st century. Excellence in processes is what’s going to distinguish successful organizations from the also-rans. And capability at helping companies achieve Process Excellence is what’s going to distinguish leading consulting companies from those sweeping up after the elephants”⁹. Andersen Consulting’s approach to process change is based on the concept of Process Excellence — a state in which a company enjoys superior business performance from superior processes within an enabling environment.

Process Excellence is about far more than increasing efficiency. It is about delivering exceptional value, setting a new standard for best practices and even redefining the competitive landscape in an industry. The five Process Excellence Principles are the following:

- Business performance depends on understanding customers’ needs;
- Target high value processes that aim at differentiating a company in the marketplace;
- Innovate, not just simply improve existing methods;
- Require enabling environment that encompasses whole variety of issues, starting from culture to organizational structure, but of particular importance focusing on ownership and measurement of the process; and

⁸ Curtis et al. (1992)¹

⁹ Dr. Michael Hammer at the Andersen Consulting Global Consulting Seminar, 1997.

- Create an enabling environment that encompasses various sorts of issues, including from culture to organizational structure, entails the psychology of change management¹⁰, which means changing the way how people think and changing the way how governments think.

People will alter their mind-sets only if they see the point of the change and agree with it - at least enough to give it a try. If people believe in the overall purpose, they will be happy to change their individual behavior to serve that purpose. However, people like new behavior to be reinforced and performance to be rewarded accordingly. In addition, the change programs must provide the skills required for change. People will not behave differently without teaching them how to adapt general instructions to their individual situation.

DOING BUSINESS EXAMPLE

The World Bank Doing Business Report 2011 takes into consideration ten business aspects or indicators. For five of them, the report provides underlying variables, such as time, cost, and number of procedures. Process maps for each indicator should be validated through discussions with both the business sector and government authorities. Validation helps correcting mistakes, if any, verifying information, and finalizing a complete process picture.

VALIDATION

As the Doing Business (DB) example is a supply-driven reform tool, the DB report has already provided analysis and process maps¹¹. In this case, issues are already identified; time, cost and procedures are provided. The issue then becomes the *validation* of information provided by the report. In fact, here we can conduct two types of process analysis based on which we can conduct the validation the provided information: *logical analysis* and *legal analysis*.

Logical analysis identifies the organization and the order of procedures at official bodies that are required for the completion of a process. In addition, it tells us about the convenience and speed of conducting procedures, the transparency and granting information about the process, and the professionalism and quality of services provided to businesses. Some of these issues are not regulated by legislation, thus, as a rule, they present a very good basis for carrying out a logical analysis of barriers in the studied process. The legal analysis consists of comparisons made of the processes as per current legislation, thus a comparison of the process based on legislation reflecting real process.

At this stage, we can organize roundtables with impacted businesses and respective government and municipal institutions to confirm problem statements and impact estimates. We continue then with identification of source of the problem, internally. This means confirming whether the stated problem is related to the right law or regulation and confirming cost findings. Or, indeed,

¹⁰ See Emily Lawson and Colin Price, *the McKinsey Quarterly*, 2003 Number 2 Organization.

¹¹ See the 'As Is' and 'As Desired' WB process map on construction permits, in attachment 2.

it may be an operational or informational factor. It may happen that some findings of the WB findings are not realistic, in which cases we verify the issue and support the national government or the municipality to draft a memo to the WB stating the issue and explaining to the WB the problem in order to be able to register it accordingly in the next report.

After we provide the abovementioned information, we develop specific solutions to the problem statement based on source of problem. Develop a quantification of solution costs and benefits, internally. This implies calculation of government and private sector benefits and costs. This means calculation of material benefit from introduction of recommendations in the form of reduction of expenses for businesses and government, reduction of time needed to conduct a certain procedure, and the forecast on prospective increases in the businesses' profits. Develop recommendations by incorporating problem statement costs and benefits.

DISCUSSION OF RECOMMENDATIONS IN THE STEERING COMMITTEE (SC)

The analysis, validation, and formulation of recommendations may involve the formation of steering committees and working groups with government and businesses. Once the working groups are established and state institutions (and other relevant stakeholders – business associations and individual businesses, NGOs, and so on) are involved in the process, the procedure to prepare introduction of recommendations becomes simpler. This process takes a lot of energy and goes through series of sessions and long discussions on issues and problems identified, process steps, and the ways to resolve them. Recommendations are usually a compromise of interests between state and business.

The key tasks are to present the recommendation as a consensus and that key parties, especially the state and businesses, feel ownership of the process. At the stage of preparing the draft recommendation, an analysis must be conducted as to whether the recommendation is in line with legislation in force, and should be accompanied by an economic analysis of recommendation impacts.

After the working group proposes it, the draft recommendation goes for review at the Steering Committee. The SC analyses various aspects of the recommendation and recommends modifications of the draft if necessary. After the SC agrees with the draft recommendation, it may proceed to the institution that is obliged by law to address the recommendation. It must be stressed that both primary and secondary legislation preparation and approval process go through various stages of preparations and discussion, including inter-ministerial analysis of proposed legislation. The legislation should also contain its financial implications analysis.

Figure 7: Recommendation Approval Process



RECOMMENDATION PROPOSAL SCORECARD (RPS)

So far, most of the illustrated tools have focused on effective identification of issues and proper analysis of root causes. But it's also very important to monitor and understand effective reform proposal methods. Government representatives responsible for accepting or rejecting project reform recommendations are receptive to different proposal types.

The Recommendation Proposal Scorecard logs information that pertains to government representative-specific information that helps the implementer identify effective methods for proposal. For example, a business reform project may be working with several municipalities that require business reform. The group may be working directly with the municipality itself or may sub-contract local municipal coordinators. When the project group representative(s) interact with the respective government official(s) to obtain information and propose necessary reforms, each may be met with different reactions to similar proposal methods. Some officials may prefer formal presentations while others may like to sit face-to-face in an informal manner. Understanding what works best with each government representative will aid in effective reform recommendation.

Below, Figure XX illustrates a sample scorecard. The scorecard will require simple information so that card can be filled out quickly after proposals. The simplification is also helpful for the person compiling it into useful information. Using the municipal coordinator example, the scorecard will record (1) the municipality, (2) the municipal coordinator who presents, (3) the government official responsible for acceptance or rejection, (4) the details of the proposed reform, (5) the proposal method employed, and (6) whether the reform was accepted or not.

Figure XX: Recommendation Proposal Scorecard

Municipality	Municipal Coordinator	Government Official	Reform Proposal/Law	Method Used	Acceptance Yes/No

The scorecard will be filled out each time reform is proposed to each government official. The point is compile best practices of reform proposals for *each government official*. This helps aid in more effective recommendation acceptance. If possible, the person presenting the reform proposal should take additional notes where necessary to provide more detailed information.

LEGAL DRAFTING

Consistency and clarity in writing are crucial to success in legal reform projects. Each project group utilizes personnel from many different functional areas of expertise. And because of the nature of reform projects, each one may be required to conduct some form of legal analysis and write legal reports, regardless of whether they've had any formal legal training. This workshop takes a holistic approach to creating high levels of legal reform project consistency and professionalism.

The workshop's primary focus is on basic legal writing. The legal memo and legal brief will be introduced, discussing the key components of each. Reform project writing differs from strict legal practice in the sense that legal reports produced by the project are generally not intended for the courts. Rather they will inform key inter-project and/or governmental counterparts of the legal status of a specific issue and provide recommendations concerning that issue. Therefore, a synthesized approach will be utilized, discussing the benefits of each legal form.

Many times, analyzing legal issues will require the writer to explore several different legal acts including laws, regulations, decrees, orders, etc. Therefore, some canons of statutory construction will be introduced to foster proper interpretation. These are general and it will be important to consider domestic statutory interpretation rules where they are available.

THE LEGAL MEMORANDUM

PURPOSE

What is a legal memorandum? Also sometimes called an office memorandum, the legal memo is an analysis of a legal issue which incorporates specific facts. Normally, you or your boss will not know the specific legal rule or how the rule applies to the presented facts. Your office memo will help clarify these issues by clearly identifying and describing the legal rule(s) and applying the rule to facts at bar.

INTERNAL

The memorandum is an internal document only. It will not be presented to the courts or other external parties, but rather it will be used to inform internal counterparts of a predicted outcome. The memo will be used for informational purposes; normally to help understand the probability of success on the issues.

UNBIASED AND OBJECTIVE

Because the memo is internal, its purpose is to be as unbiased and objective as possible. Use this opportunity to identify weaknesses and communicate their possible effects on the outcome. This is not the time to tell the boss what he or she wants. Again, this will be used for informational purposes and may determine your advice to the client on future action steps.

PREDICTIVE

The office memo is *predictive*. This should be distinguished from *persuasive* writing. An appellate brief, for example, is written so that it may persuade the judges to rule for your client on the specific legal issues. Predictive writing, however, will provide the most probable conclusion to the analyzed legal issues. You should predict the legal outcome, even if it is contrary to your client's position. Taking an unbiased and objective approach will help ensure that your writing is predictive. It's important to understand the predictable outcome so you can formulate future action steps.

ORGANIZATION OF THE MEMORANDUM

The organization of the memorandum is very important. Normally, readers of the memorandum are very busy and will be able devote only a short amount of time to reading the document. Therefore, predictable organization allows the reader to focus on the most important information.

It should be well noted up front that although a functional organization is provided, each section of the memorandum is closely linked. You should expect to continually revise each section throughout the drafting process. Simply because one section is placed systematically before another does not mean that the former section must be finished before proceeding to others.

The memorandum should be organized as follows:

- Heading
- Issue Statement(s)
- Brief Answer
- Statement of Facts
- Analysis
- Conclusion

HEADING

The first part of the memorandum is the heading. The heading should identify the (1) *reader*, (2) *writer*, (3) *date* and (4) *subject*. This information goes at the top, left-hand corner of the document on the first page. Therefore, the information should be displayed as follows:

To:

From:

Date:

Re:

The subject line above should read “Re:” rather than “Subject”. The abbreviation “Re” is shorthand for “regarding” and is generally accepted and acknowledged as such.

First, you should identify the reader by inserting a first and last name followed by his or her official title. Second, identify the writer so that the reader knows who they should see with any follow-up items. Next, insert the date of the most current draft. Most memorandums go through several drafts so it will be important to identify when any changes are made. Lastly, give a very brief description of what the memorandum is about. Normally two to four words will suffice.

ISSUE STATEMENT

The first substantive portion of the memorandum is the issue statement. The issue statement identifies the specific issues that your memorandum is analyzing. This gives the reader a clear understanding of the memorandum’s scope. There may be more than one issue. Identify key issues here and analyze sub-issues in the in the Analysis portion of the memorandum.

The issue statement should be in a semi-question format. It should normally start with “Whether....” and end with a period, not a question mark. For example:

“Whether the proposed draft Law No. 98/L-1800 improves the business environment pertaining to the construction permitting process when licensing authority is delegated to a private third-party.”

Avoid using “whether or not” in your issue statement. You should be able to answer the issue statement with a yes or no.

A good issue statement incorporates both law and key facts. Putting law before the facts is good practice so that the reader has context before proceeding to key facts. Identification of law and key facts will become clearer later in the process as you conduct legal research, but it’s useful to start by constructing an issue statement in a rough draft format. This helps the brainstorming process and aids in more carefully refining the issues.

When incorporating the key facts, be careful to avoid using names. Instead use categories. For example, if your client is Mary and she suing in contract for consequential damages resulting from an alleged breach of contract, an issue statement should avoid saying “Whether Mary can

recover consequential damages when...” and instead say employ categories like “Whether a non-breaching party can recover consequential damages when...”

Clear and concise issue statements will identify the rule of law, identify key facts, provide the law before key facts, use categories and avoid personal language, and use one or two semi-question sentences to communicate the basic legal problem and facts. No citations are used in the issue statement.

BRIEF ANSWER

Your brief answer should provide a short legal conclusion to each of the questions raised in the issue statement. Each answer should be accompanied by a brief explanation of the reasoning that supports the conclusion. Again, personal language should be avoided here; categories should be used. Like the issue statement, the brief answer should not contain any citations. The following is an example of a brief answer that would answer the issue statement provided above:

“The proposed draft Law No. 98/L-1800A does not improve Kosovo’s business environment pertaining to construction permits when licensing authority is delegated to a private third-party. The Law’s proposed licensing process adds an additional procedure to obtaining a construction permit. Further, it erodes the protection of personal rights by effectively removing proper adjudicative review of negative determinations.”

Each brief answer should link directly with the questions presented. This means that the same order should be used to address each of the issue statements. They should integrate the rule of law with the key facts.

The brief answer should be one of the last sections completed because legal analysis of the issues will first need to be finished. Once you have completed the legal analysis, you can summarize the findings into two or three concise sentences in the brief answer section.

STATEMENT OF FACTS

Following your brief answer, the legal memorandum should describe, in detail, determinative facts that help the reader understand the analysis discussion. The statement of facts should describe all facts that are determinative and not simply facts that are useful to your position. Facts should be non-argumentative, objective, and accurate. Again, the idea is to sufficiently inform the reader of determinative facts so they can understand the analysis discussion. No cites to the record will be provided at this point. Note disputed facts or facts that are inconsistent.

Normally, facts are presented in chronological order. However, it's also acceptable to organize facts topically. The first paragraph should provide background information. This includes information on parties, clients, status of the lawsuit, and procedural status. Avoid paraphrasing by quoting important facts or statements. Even though you don't cite to the record here, it's alright to quote.

End the statement of facts section with a paragraph that transitions to your analysis. Remind the reader of the legal issue. After completing the analysis section of the memorandum, go back to your statement of facts and ensure that every fact you use in your analysis discussion is incorporated into the statement of facts.

ANALYSIS

The analysis section is the largest and most important part of your legal memorandum. The reader should be able to read this section only and understand the entire factual situation and all legal conclusions. Here you will present the law, tie the law in with your facts, and present a clear and logical conclusion. Citations are necessary for the analysis. If there is not a generally accepted citation method, create citations in a way that makes it clear for the reader to determine where to locate the source. Also, be consistent with the citations.

Organization should follow your issues. Use the legal rule(s) to plan a roadmap for your issues and their discussion. A roadmap paragraph at the beginning of the analysis section helps you organize issues around the rule and gives the reader a clear picture of what to expect. After the roadmap paragraph, the heart of the analysis begins.

C-R-A-C

At this point, your issues have been thoroughly researched and corresponding legal rules have been compiled. Issues have been organized and the roadmap paragraph is complete. You are now ready to start writing your analysis.

The analysis of each issue and sub-issue should follow the C-R-A-C method of legal writing. C-R-A-C is an acronym that stands for Conclusion, Rule, Application, Conclusion. Each of these are explored below:

CONCLUSION

The conclusion here should provide a brief summary of the issue and your conclusion or answer to it. Tell the reader what the issue is about before you write about it. This reminds the reader of the issue researched and triggers preliminary questions in their mind. Knowing where the analysis is going makes it easier to critically read. A good conclusion will incorporate the rule of law and key facts.

RULE

After the conclusion, state the general rule. This will often require a synthesis of rules, especially where there are several sub-issues. Stating the rule up front helps the reader understand the law before its application. It's often very beneficial to provide a 1-3 sentence explanation of the rule and illustrate any factors that will be considered in the analysis.

APPLICATION

Once the rule is given and explained, the rule should be applied by explaining how the rule and precedent fit with the facts. Again, any facts discussed within the analysis needs to be included in the statement of facts section. Applying the rule to the facts will usually require the writer to *analogize* and *distinguish* case precedent. Analogizing refers to the process of showing how your facts fit with similar facts in cases that apply your rule. On the other hand, distinguishing refers to the process of illustrating how your facts are different from facts in cases that apply your rule.

There are four steps for analogizing:

- **First**, establish that your issue is the same as that in the precedent case;
- **Second**, show the determinative facts of the precedent case are similar to the facts of your case;
- **Third**, apply the reasoning of the precedent case to your case; and
- **Fourth**, conclude the analogy by stating the outcome, or expected holding for your case

The steps for distinguishing are exactly the same except that you show how the facts of the precedent case are *different* from the facts of your case.

CONCLUSION

End here with a brief summary of your issue as you stated it in the beginning and reiterate your answer. The conclusion here wraps up the detailed legal analysis that's just been provided.

It's important to understand the C-R-A-C method is used on a large scale and is employed immediately after your roadmap paragraph is complete. You start with the global issue and move into sub-issues as you analyze factors to be considered within the global issue. Said another way, the analysis of the global issue will require sub-issues to be explored with the C-R-A-C methodology. Therefore, there will be C-R-A-Cs within C-R-A-Cs.

CONCLUSION

The conclusion here will be the conclusion to the global issue, using the C-R-A-C methodology. This will summarize the analysis point by point and answer the overall issue. The final

conclusion is more detailed than the brief statement section. Generally, 1-3 paragraphs will be sufficient to properly conclude the memorandum.

THE LEGAL BRIEF

PURPOSE

Legal briefs are generally produced by legal counsel on appeal, arguing specific points of error. An appeal is the process of asking a superior court to review the actions (judgments, orders, etc.) of a lower court. An appeal is generally taken following a final judgment of a case. Final judgments are a court's final determination of the parties' rights on the presented legal issues. Therefore, legal briefs are also many times referred to as appellate briefs.

EXTERNAL

Legal briefs are external documents submitted to the courts. The appeals process may allow for oral arguments in addition to submission of documents, but in most cases the appellate brief is the most persuasive tool legal counsel employs on appeal.

PARTIAL

Contrary to the legal memo, briefs are partial to a particular client. After an analysis of the legal issues is complete, legal counsel will try to persuade the superior court to overturn or affirm a lower court's final determination. Again, presentation and incorporation of facts are crucial. While factual determinations are generally not at issue on appeal, presenting the facts most favorable to your client is recommended.

PERSUASIVE

Because legal counsel's advocacy is partial to a particular client, legal briefs employ a persuasive style of writing. This does not mean that in writing a brief the author should be untruthful about the law, but rather that they should distinguish the factual circumstances of the case at bar from unfavorable precedent and statutory interpretation.

ORGANIZATION OF THE LEGAL BRIEF

Organization of the legal brief is very similar to the legal memo and provides a very predictable format. This is because, like a boss or other internal counterpart, courts are very busy and cannot spend much time sifting through briefs with unfamiliar formats. When writing to the courts, it's also important to know that jurisdiction's rules of appellate procedure to ensure you have met all the requirements for brief writing.

While most reform projects will not be writing appellate briefs to the courts, they will be writing persuasively to external counterparts. Key legal issues will be identified, an analysis will be performed, and clear recommendations will be made. These legal briefs will undergo strong scrutiny from external counterparts and so a predictable and clear format for writing is necessary.

The legal brief should be organized as follows:

- Cover/Title Page
- Table of Contents
- Table of Authorities
- Statement of Facts
- Argument
- Conclusion

Make note that legal reform documents generally will not contain the cover/title page or table of authorities. However, they are mentioned here to give a complete description of the legal brief.

COVER/TITLE PAGE

The purpose of the title page is to quickly give the court identifying information about the case including the parties, case number, nature of the proceeding, name of the court, and title of the document. In case the document will not be submitted to the court, the title page can be used to identify important information such as the topic, key recipients, the author(s), and the date.

TABLE OF CONTENTS

The Table of Contents (TOC) describes each section of the brief and provides the page number where the section can be found within the document. The TOC, at a minimum, should identify the Table of Authorities, Statement of Facts, Argument, and Conclusion. If appendices are included, references should be provided. This should be completed when you are finished writing the entire document. Updating the TOC during the document's construction unnecessarily occupies precious time.

TABLE OF AUTHORITIES

Similar to the TOC, the Table of Authorities is a list of all legal authorities cited to within the brief and provides a page number where each of the citations can be found. Each authority should be fully cited. No short cites are permitted in this section.

Citations should be listed in a pre-determined order. The first level of organization is as follows: cases, constitutional provisions, statutes, ordinances, regulations, and secondary sources (law reviews, books, journals, etc.). Next, each section has a specific organization. Cases are arranged alphabetically; constitutional provisions are separated by federal and state (if applicable) then arranged numerically; statutes, ordinances and regulations are separated by federal and state (national and municipal) then numerically; and secondary sources are arranged alphabetically.

The Table of Authorities should also be constructed after the entire document is complete. Again, updating this section during the drafting process unnecessarily wastes time and effort.

STATEMENT OF FACTS

The Statement of Facts section in the legal brief is very similar to that within the legal memo. An important difference to remember is that a legal brief employs persuasive writing and so the Statement of Facts within a brief, while they should reflect facts in the record, should be organized in a tone most favorable to your client. Also, if the brief is presented to the court, the Statement of Facts should include the procedural posture of the case. Finally, a standard of review should be provided to the court for each assignment of error. For example, a court may review a case *de novo*, meaning that no deference will be given to the lower court's determination.

ARGUMENT

The Argument of a legal brief very closely resembles that of a legal memo. It will have a global issue, followed by an analysis of each sub-issue. The global issue will be denoted by the heading "Proposition of Law". Each sub-heading should be a full sentence and should follow the Proposition of Law. The Argument section in a legal brief follows the C-R-A-C format described in the legal memo. Consult this section for further instruction.

As is the nature of a legal brief, the presented arguments should be persuasive, asking the court to either affirm or overturn a lower court's determination. Again, the author's advocacy should not be untruthful, but rather should distinguish unfavorable precedent and analogize favorable precedent. In some cases, the advocate's argument will attempt to persuade the superior court or other external counterpart to change the law or adopt specific recommendations.

CONCLUSION

The conclusion of a legal brief should be very short and summarize your arguments in a few sentences. The end of the conclusion should request the court to grant the specific relief sought. Where the brief is not meant for the courts, it should emphasize the adoption of the recommendations outlined in the document. The conclusion should be followed with a signature of legal counsel and, if required by procedural rules, a proof of service.

SYNTHESIZED REFORM DOCUMENT

INTRODUCTION

Legal reform documents generally do not take the specific form of either the legal memo or the legal brief. Rather, they combine useful portions of each. For example, the document presentation follows the format of the legal memo. However, recommendations are given and analysis is provided almost always to *external* counterparts. These are meant to be *persuasive* and to contribute to achieving particular project results. Our reform documents are generally not bound to a specific legal issue, leaving the author with the discretion to consider many aspects of business environment improvement.

ORGANIZATION

The synthesized document follows the format of the legal memo. Therefore, the organization is as follows:

- Heading
- Issue Statement
- Brief Answer
- Statement of Facts
- Analysis
- Conclusion

The organization instruction provided in the Legal Memo section is still largely applicable. However, the persuasive and external attributes of the Legal Brief are incorporated here.

HEADING

The heading of the document will be the same and follow the “To, From, Date, Subject” format. But since document is meant for external counterparts, it is certainly possible that there may be more than one recipient. Therefore, it is appropriate to provide an additional heading titled “Copies To”. Normally, there is one primary recipient with several secondary recipients. The primary recipient should be addressed in the “To” portion of the heading while any secondary recipients are addressed in the “Copies To” portion.

ISSUE STATEMENT

The issue statement should still be narrowly defined to ensure the document addresses the root cause(s) of the problem statement. The global issue should be stated here so that the

reader immediately knows specifically what the document addresses. An external counterpart may ask the project to review a law or administrative instruction and/or to provide recommendations. In this case it's normally very clear what the document should address. However, sub-issues will need to be identified and structured keeping in mind the goal of meeting project results.

Here it is also acceptable to be specific in the issue statement. For example, you may address the specific law or administrative instruction rather than writing categorically. Being specific helps the reader quickly understand what issue is being addressed.

BRIEF ANSWER

The Brief Answer portion of the synthesized document will follow exactly that described in the Legal Memo section. Key facts and law should be incorporated and should follow the presentation of the issue(s). And since these documents are addressed primarily to external counterparts, your Brief Answer section will be especially important. National and municipal level recipients are sure to be very busy and will not be able to devote significant amounts of time to review of the submitted document. Therefore, a clear explanation of results and recommendations are key here. It's possible that the Brief Answer will be the only part of the document reviewed by external counterparts.

STATEMENT OF FACTS

Different from the Legal Memo, the synthesized reform document may very likely not have the facts of a particular case. Rather, the Statement of Facts should be used to describe procedurally what has happened. For example, the Ministry of Trade and Industry (MTI) may ask the project to review a particular administrative instruction and provide feedback on whether the Ministry should proceed with its adoption. In this case, describe when the Ministry asked for input, what is the specific topic addressed, whether a Working Group has been formed, and any other facts pertinent to describing the situation. Also, be sure to incorporate any facts used in the Analysis into the Statement of Facts. No citations are necessary here.

ANALYSIS

The Analysis will follow the C-R-A-C method, outlining first the global issue and then addressing any sub-issues. Each issue and sub-issue will be analyzed using the C-R-A-C method. Please consult the Legal Memo section for explanation of this method.

Business environment issues are not limited, however, to a particular client or task. Rather the project addresses several issues, guided by free market principles and key project results. Therefore, it's very possible to address issues not specifically requested by external counterparts or issues not considered in the particular law or administrative instruction analyzed. Using the reform methodology, it's very possible to address many business

environment issues. This methodology also provides the necessary rules by which to derive your conclusion.

CONCLUSION

The conclusion should provide a 1-3 paragraph summary of your arguments, giving your conclusion and recommendations. These should follow the order of presented issues. The Conclusion of the synthesized document is the same as that provided in the Legal Memo section provided above.

STATUTORY INTERPRETATION¹²

As part of the legal writing process, the author is required to analyze legal issues and develop strategic recommendations consistent with the reform goal. But first, he or she must have a basic understanding of the law. The law is derived from many sources depending on several factors, including whether you are operating in a common or civil law country or whether you're dealing with domestic or international law. Normative legal acts, such as statutes and regulations, may be a source while common law traditions may be another. These sources are not mutually exclusive and are many times closely interconnected.

Legal reform projects generally focus on reforming the law through statutory and regulatory change. Therefore, facilitating top reform requires a basic understanding of how to effectively interpret these acts to correctly analyze their legal requirements and successfully recommend reforms to achieve project goals. Basic interpretation rules, or “canons of construction”, are discussed below. It's important to remember that these are simply general rules of interpretation and can give way when clear contextual evidence provides an alternative reading.

Plain Meaning Rule. When interpreting statutes or regulations, courts generally adhere to the plain meaning rule; that is that if the text is clear and unambiguous, then judicial inquiry stops there. Laws are meant to be read holistically and potentially ambiguous terms can be given meaning by assuming the law is meant to achieve the goal for which it was enacted. Normative legal acts will generally provide two important sections of contextual and definitional support: (1) a “Purpose” section where the enacting body will discuss the purpose of the act's enactment; and (2) a “Definitions” section that defines certain terms of art. Legislative history may also be consulted to help define the law's purpose.

Terms of Art and Ordinary Meaning. If statutory wording is ambiguous and at issue, terms of art are generally assigned their definition assigned by the enacting body. This is usually within a

¹² Canons of Construction cited within are primarily derived from the United States Congressional Research Service Report for Congress, “Statutory Interpretation: General Principles and Recent Trends”, by Yule Kim (August 31, 2008) Order Code 97-589

“Definitions” section of the act. Terms of art can also be defined within other acts that provide similar context. If so, that definition governs.

If, however, the term of art is otherwise not defined, it’s ordinary and plain meaning governs. Dictionaries are consulted for this type of definition. However, there may be many definitions for one word and so context always plays a part in defining statutory terminology.

And/Or. In English, “and” is commonly conjunctive and, when included in a list, suggests that all elements are required. On the other hand, “or” is commonly disjunctive and, when included in a list, suggests that any one of the elements satisfies the legal requirement. Again, however, if the act’s intent is frustrated by this canon of construction, then it is permissible to deviate from the canon.

Shall/May. The ordinary meaning of the word “shall” is that whatever follows is mandatory. If the act says that “the agency shall report twice a year”, then it is mandatory for that agency to report twice a year. However, the word “may” generally means that whatever follows is permissible. If the act states that “the agency may inspect the premises of the business”, then it is not required for the agency to inspect the premises, but it is within their discretion to do so.

Same Phrasing. When the same phrasing is used in the same or similar statutory language, it is generally presumed that the same meaning is given to the phrase each time it is used. The strength of this presumption depends on how closely related the laws containing the phrases are. The presumption will be at its weakest when the phrase is used in ostensibly dissimilar acts and will be at its strongest when the phrase is used within the same sentence of the same act. There is much in between space and, again, context will help provide the meaning of the phrase.

Different Phrasing in the Same Act. Similar logic is applied to legal acts that employ phrasing in one section of the act and omit or use other phrasing in another section. In this case, it is presumed that the lawmaker intentionally included or excluded such phraseology.

Silence in a Legal Act. Silence is not necessarily indicative of any specific intent of the lawmaker. However, a general negative inference is drawn where the lawmaker enumerates specific exceptions to a general rule. In this case, inclusion of one is the exclusion of all others.

De Minimis Principle. In determining whether there is a violation of a legal act, courts assume that *de minimis* (small or minimal) deviations from the prescribed standard will not serve as a basis for punishment. The standard and the intended harm to be protected against must be taken into consideration to determine whether an activity is *de minimis*.

ECONOMIC IMPACT GUIDE

This chapter will present the methodology to measure the economic impact of recommended reforms. The economic impact refers to the total financial benefit to counterparts arising from elimination or improvement of a law, regulation or government operation affecting the private sector. In a healthy business enabling environment, laws and regulations are developed and implemented (1) to address a compelling, objectively ascertainable health or safety issue; and (2) in a way that is designed to impose the least restrictive means possible to achieve the compelling objective. Each initial government intervention in the market and every requirement and procedure in an administrative process should be validated under these criteria. Rules, requirements and procedures that fail this test should be eliminated or improved. The Economic Impact methodology will measure the:

1. Benefit to business (BB) from reducing the time and financial costs of compliance with administrative requirements, and
2. Benefit to government (BG) from reducing the costs and increasing the efficiency of administration

NET BENEFIT TO BUSINESS (BB)

Legal and regulatory reform benefits business by reducing both the total financial costs and temporal costs of legal burdens arising from a government-imposed requirement. Whenever government places an obligation on an individual or business, it also places on that business a burden of administrative compliance. The goal of regulatory streamlining is to reduce, to the greatest extent possible, the cost of such administrative burdens.

The cost of an administrative burden can be quantified by multiplying (1) the time and money spent by a business to comply with the relevant law and/or regulation, by the product of (2) the number of businesses subject to it multiplied by the number of times the obligation must be performed annually. This can be expressed by the formula

$$AB = C * Q$$

Key:

*AB (Administrative Burden Cost) = Costs (financial costs + compliance costs) * Quantity (number of businesses * frequency of obligation annually).*

Costs (C) = Financial Costs (FC) + Compliance Costs (CC)

Financial Costs (FC) refer to the amount of money that must be paid to a competent authority for administrative services or charges including, but not limited to, license and permit fees.

Compliance Costs (CC) refer to the costs that businesses incur in order to comply with legislative and regulatory requirements, other than financial payments made to the Government. *Formula:* The Compliance Costs consist of Substantive Compliance Costs (SC) + Information Burden Costs (IBC).

Substantive Compliance Costs (SC) are the costs that businesses incur in ensuring that the physical infrastructures of a business or the quality of its product (such as packaging) comply with applicable legislation or regulations. Examples of such costs include the costs of installing filters to meet environmental requirements, building modern production lines or upgrading physical facilities to comply with health and safety regulations.

Information Burden Costs (IBC) are the costs that businesses incur in complying with government information requirements, such as preparing documents for business and tax registration, statistical reports, tax returns, customs declarations, license and permit applications and government audits.

$$IBC = \text{Internal Tariff (IT)} + \text{External Tariff (ET)}$$

An Internal Tariff (IT) is calculated as follows: (1) The hourly rate of all businesspersons or employees tasked with some role in complying with the obligation multiplied by number of hours required from each + (2) material and overhead costs (documents, reports, government forms).

External Tariff (ET) = Fees for contracting out work to accountants, lawyers, service bureaus, administration offices, etc., for the services necessary for compliance with the regulation.

Quantity (Q) is equal to the number of times a Government-imposed obligation is performed annually, multiplied by the number of businesses that must comply.

The economic benefit to business from a legal or regulatory reform is calculated by determining the total administrative burden (AB) of a government obligation before and after the reform has been implemented by the government. The difference in those two figures represents the annual economic benefit to business occasioned by the reform.

NET BENEFIT TO GOVERNMENT (BG)

Regulatory streamlining not only benefits business, but it benefits governments as well. This is because it increases the efficiency of government operations and redirects limited government resources to activities that have a compelling public interest. These economic benefits are expressed in the formula:

$$BG \text{ (Benefit to Government)} = SG \text{ (Savings to Government)} + RG \text{ (Revenue Gains)}$$

Savings to Government (SG) refers to the government savings from gains in efficiency that permit fewer people to do more work. SG is equal to (1) the hourly rate of the government employees involved, multiplied by (2) the number of hours saved by the regulatory streamlining process.

Revenue Gains (RG) are the gains in government revenue that result from increased compliance owing to improved administrative processes. Examples include increased tax and customs revenues owing to improved revenue administration and increased revenues from business registration fees owing to the reduced number of administrative barriers that result in increased business registrations.

Measurement of this variable must be tailored to the particular administrative function involved, but will generally involve comparing the trends before and after the reforms have been introduced.

The general formula for quantifying the total annual benefit to the economy of a particular reform is:

