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USAID STRATEGIC ECONOMIC RESEARCH AND ANALYSIS – ZIMBABWE (SERA) PROGRAM

REFORMING EVERYTHING, EVERYWHERE, ALL AT ONCE: BUSINESS LICENSING REFORM IN ZIMBABWE

MAIN REPORT

CONTRACT NO. AID-613-C-11-00001

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Table of Acronyms

BFP	UNCTAD Business Facilitation Program
DB	Doing Business
EMA	Environmental Management Agency
EO	Executive Order
GOZ	Government of Zimbabwe
MOIC	Ministry of Industry and Commerce
MUR	Mauritius Rupees
OBRS	Online Business Registry System
OPC	Office of the President and Cabinet
NSSA	National Social Security Authority
SERA	Strategic Economic Research and Analysis project
UNCTAD	United Nations Conference on Trade and Development
USAID	United States Agency for International Development
WB	World Bank
ZIA	Zimbabwe Investment Authority

Executive Summary

In Zimbabwe today, inefficient regulation is an obstacle to economic growth and national prosperity. Government, including regulators, and the business community, with support from donor organizations, are mounting an aggressive reform program in selected areas that is making remarkable progress. Using a "Rapid Results" methodology coordinated with support from the World Bank (WB), teams of reformers have been deployed to document current regulatory requirements, streamline them, including with legal changes where required, then publish procedures, and forms on the internet, and introduce web-based systems for processing applications. This very deep reform process, which requires significant management resources, is now being used to transform[1] six of the 10 indicators of regulatory efficiency and quality used in the annual WB *Doing Business* survey.

An issue for Zimbabwe is that while it is engaging intensively in deep reforms in some areas, vast swaths of the economy are still subject to the same sorts of inefficiencies that reformers are encountering in the targeted sectors. Despite the very fast pace reformers are maintaining in the target sectors, it could take years to apply this approach to all regulations and regimes. The purpose of this report is to suggest an approach to delivering broader, shallower reforms across the entire regulatory environment that both provide immediate relief to stakeholders, including existing businesses suffering under the current regime, and the larger economy. These broader, shallower reforms will also prepare the foundation for the more intensive, deep reforms across the regulatory environment like those now underway for the current target regimes.

Zimbabwe is making remarkable progress in the selected target areas in a relatively short time, following detailed action plans, with defined leaders, timelines, milestones, and regular reporting of progress. In the case of "Starting a Business," for example, progress reported during the second "100 Days Progress Report" included:

- Implementation of a full-featured online business registry system (OBRS) is well underway, with modules for name search and approval, and company registration already active.
- Key agencies with which new businesses are required to register have been linked in a fiber optic network, and their websites updated with all registration requirements. Linking the agencies allows consolidation of registration requirements, reducing burdens on businesses, and ensuring that all new businesses are registered with all required agencies. This will both reduce costs for business and increase revenues for the agencies.
- Burdensome requirements that create cost and expense have been eliminated, like the requirement that a new business publish a public notice before issuance of municipal license to operate.

[1] The six indicators that are the current focus of reform efforts are "Starting a Business" and "Dealing with Construction Permits," "Registering Property," "Trading across Borders," and "Getting Credit" and "Resolving Insolvency." The USAID/Zimbabwe SERA project, collaboration with the Ministry of Industry and Commerce and the Zimbabwe Investment Authority, provided the research and analysis upon which reforms in the areas of "Starting a Business" and "Dealing with Construction Permits" are being carried out.

- Requirements and application forms are now available online. For example, the City of Harare, which did not even have a website and charged for the paper form for license applications, now makes the form available online for free.
- Formal performance monitoring tools are now in place that will permit regulators and stakeholders to understand how the registration system is working and identify the need for future improvements.
- A new, modern Companies Act that will dramatically simplify registration and operation of new businesses in the internet age has been drafted and is undergoing public scrutiny and Parliamentary review prior to enactment.
- All reform teams have adopted and are implementing communications plans to inform the public and stakeholders of all developments – what has changed and what new changes will take place in the future.

Such aggressive reforms are helping to mobilize Zimbabwe's own domestic resources so they can be put work to grow the economy. The efficiency savings for business are the functional equivalent of new investment. International experience, as discussed below, demonstrates that whenever government makes it easier, faster, and cheaper for businesses to engage in regulated transactions, they engage in more of them. The result is that as the volumes and values of regulated, taxable transactions increase, more revenues flow to government coffers.

Accomplishing the reforms at the deep level Zimbabwe is pursuing requires a large commitment of human resources, including senior Government managers, line officials, and members of the business and donor communities. Figure 1, right, portrays the complex governance structure of the "Starting a Business" reform team.

Figure 1. "Starting A Business" Reform Team

Governance Structure

Political Leader	Sponsor	Results Leader	Strategic Leader	Team Leader
Dr M J Sibanda, Chief Secretary	**Mrs. V. Mabiza** Permanent Secretary, Ministry of Justice, Legal and Parliamentary Affairs	**Dr R Ndhlukula,** Deputy Chief Secretary	**Mr. R. Mbaiwa** CEO ZIA	**Mr. W. Mushayi** Deputy Registrar of Companies
Team Secretary	S. Maheya			
Training	Ushe			
Communications	Lina			
TEAM Members	W. Mushayi, V.K. Makaya, S. Cheza, B. Matongera, M. Chakanyuka, B, Mangosho, J. Mukaratirwa, R. Mutombodzi, T. Hove, V. Zifudzi, A. Chakravarti, R. Tapera, P. Machabango, N. Mapute, T. Mudzviti, M. Muzite, T. Ntuli, E. Makumbe, B. MangoshoA. Maheya, S. Kanyoza, T. Musara, K. Tinago, Y. Chatsama, M. Msika, P. Chikuvanyanga, S. Takoleza, H. Chikumbu, S. Maheya, F. Manzini, C. Nashe, T. Mudonhi, L. Chimoga, D. Tshuma, A. Chigona, Kundayi			

Eventually, these deep reforms will pay many types of dividends, some outlined below. But no economy is able to devote this level of resources to all regulation at the same time.

At the request of Ministry of Industry and Commerce (MOIC), SERA has sampled the regulatory environment is several important sectors of the economy. Two reports were produced, the first, "Inventory of Business Regulations, Laws, and Procedures in Zimbabwe," collected and briefly characterized laws and regulations affecting the agriculture, tourism, mining, and manufacturing sectors. The second paper, "Case Studies on Regulation in Key Sectors," honed in on the regulatory obligations faced by participants in the maize and livestock industries in the agricultural sector, and on pharmaceutical manufacturing. Serious problems were identified in each of the sectors and subsectors, ranging from excessive

requirements, excessive fees, overlapping requirements of different regulators, to ineffective enforcement. In each case, the complex body of regulatory requirements, when taken as a whole, reduces investment and output, encourages non-compliance – avoidance and evasion, and raises prices and lowers incomes and revenues. A few findings from the agriculture sector illustrate the point:

- The cumulative effect of regulatory costs and policy interventions have forced prices of maize grain in Zimbabwe consistently higher than both the international and regional parity prices. Consumers pay more at the end, and the value chains that depend on maize as a raw material are adversely affected, including plant closures and job losses.
- Regulatory levies on veterinary medicines are so high that farmers import their own drugs informally. A result is that large quantities of drugs, which may be of inferior quality, come into Zimbabwe illegally.
- Regulatory costs can total as much as 25 per cent of livestock value. This discourages farmers from selling their cattle through the formal market. One study found that 92 percent of cattle are sold through the informal market to avoid these high charges.

Similar examples of the counterproductive effect of the current regulatory system can be found in each of the sectors examined in the Inventory and Case Studies papers. This paper proposes a very broad, national program, beginning with the agricultural sector, and rapidly expanded to eventually encompass all regulation in Zimbabwe. The recommendations build upon the current reform program, and prepare Zimbabwe's regulatory agencies now beyond its purview for the sort of deep reforms that the Government is undertaking with respect to the currently targeted regimes. The recommendations draw heavily upon the UNCTAD's Business Facilitation Program (BFP), which consists of a combination of internet tools and a disciplined approach to reform that has much in common with Zimbabwe's current methodology. It has the advantage of additional structured insights into how to get to the ultimate goal – a streamlined, automated, national system of regulation that is highly efficient for both regulators and those they regulate. The proposed broad national reform program would be launched by an Executive Order (EO), and consist of three primary components or phases:

- **Document and Publish All Approval Requirements Online:** Each agency would be required to fully document all of its requirements – procedures, documents to be submitted, fees, etc., as well as other information like time required. The "starting a local company" process that was documented and published by KenInvest, the Kenyan national investment promotion agency is used as an example. KenInvest uses the UNCTAD BFP eRegulations platform and provides an example of the very significant results to be expected from this very limited phase. The EO should authorize and encourage agencies to eliminate unnecessary documents and requirements, providing examples from the DB reforms. Annex 1 provides a draft survey instrument for agencies to use in this review and documentation process. In many cases, however, the kinds of deep reforms being undertaken in the DB reforms can only be accomplished with changes to law and regulations that require approve from senior policy makers. Thus, the primary purpose of this stage is to document and publish current requirements. This phase will make the kind of deep reforms Zimbabwe is now undertaking with the DB indicators much faster, while simultaneously providing complete transparency and reduced compliance costs for stakeholders.

- **Enact a Framework Law on Regulation:** In Zimbabwe today, both substantive requirements and procedural handling of applications are based on the special legislation that gives agencies their jurisdiction. We recommend that Zimbabwe consider enacting a broad-based, comprehensive framework law that governs all instances in which a citizen or business must ask Government for permission before engaging in actions or activities. This will provide procedural consistency across agencies, and allows the Government to set minimum standards that are universally applicable. Substantive matters would continue to be required by the agency's special legislation. Such a framework law can serve as a kind of building code for regulation, reducing compliance costs and burdens across the board, without requiring the kind of deep inquiry into every regulatory regime that Zimbabwe is now undertaking with the DB reforms. Annex 2 provides and extended discussion of the types of issues that should be addressed.

- **Streamline and Automate all Regulatory Processes:** As we will see from KenInvest example, once an agency has fully documented and published all of its procedural requirements can be consolidated and streamlined, and then automated. This is the phase that generally requires the most attention from senior policy makers. Conflicts between agencies must be reconciled, or laws and regulations changed to make the reforms possible. By requiring the agencies themselves to do the initial work of documenting and publishing, and conforming their requirements to the national standards embodied in the framework law, the amount of attention required by senior policy makers will be dramatically reduced, enabling Zimbabwe to move forward faster with its regulatory reform program.

During the consultations around the initial draft of this report and the stakeholder validation workshop, additional clarity emerged about how best to implement the recommendations:

- The document and publish phase will result, after some degree of winnowing, in an approved list of permissible regulations.
- The initial list will be approved by a regulatory reform task force set up under the auspices of the Office of the President and Cabinet.
- The framework legislation will formalize this list into a national registry of regulations. A regulation that is not listed in this registry will not be enforceable.
- Stakeholders see the most appropriate vehicle for the framework law on regulations is to incorporate the necessary provisions into the National Competitiveness Council (NCC) Act, now being prepared for action by Parliament.
- After enactment of the NCC Act, the Council will become the authority authorized to approve entry of a regulation on the national registry of approved regulations.

This approach deftly accommodates the major recommendations of Annex 2. It provides both a strong framework to which all regulations must conform, as provided by the model from Georgia, as well as a strong regulator to enforce regulatory standards, as provided by the Mauritius model.

The DB reform process that Zimbabwe is now using to such good effect provides the basic model for the proposed national program, although the order is a bit different. The DB reform process moves through the following steps:

1. Situation Analysis – SERA's reports on "Dealing with Construction Permits" and "Starting a Business" are examples of the type of research required to provide an

overview of the issues and obstacles presented by regulation in a particular regime or sector.

2. Assessment of processes, time taken and cost – In this step, the current requirements are fully documented.

3. Determination of which requirements are necessary – Once current requirements are fully documented, policy makers identify those that are truly necessary to achieve their objectives. This might include building regulations that ensure international structural standards are maintained, or company regulations that ensure companies meet international corporate governance standards, etc.

4. Reform of laws, regulations, and processes. In this phase, laws and regulations are amended to eliminate unnecessary requirements, and regulatory processes are streamlined to achieve maximum efficiency at minimum cost.

In our recommended national program, each agency will individually carry out Step 2, documenting and publishing current requirements. During this process, they will be encouraged to streamline procedures within their competence, and to identify unnecessary legal requirements, but the major reforms will come only in Phase 3, streamlining and automating. Sector by sector, a governance structure will be established like that now used for the DB reforms. This phase will include the situation analysis, and will use the published requirements previously generated by individual agencies to separate necessary and unnecessary requirements, and identify necessary reforms to laws, regulations and processes so that streamlining and automation can move forward. The agencies themselves will have laid the foundations for the situation analysis and reforms by providing senior policy makers with the very detailed procedural documentation illustrated by the KenInvest example below. This will make it much easier for senior officials to understand the sector situation, and issue appropriate directions to rationalize regulation among different agencies with differing missions.

I. Introduction

A. Background

Zimbabwe now has everything it needs to become a rich, self-sufficient nation with a prosperous population. This paper provides recommendations for achieving this status that have produced immediate, dramatic increases in economic activity in other nations. What is different is that the measures proposed have been designed to be rapidly rolled-out economy-wide, rather than a few sectors or regulatory regimes in sequence. The goal is to produce rapid economic growth that benefits the entire population.

This paper is part of an ongoing collaboration between the Zimbabwe Investment Authority (ZIA), the Ministry of Industry and Commerce, and the USAID/Zimbabwe Strategic Economic Research and Analysis (SERA) project. The first phase of the collaboration provided a detailed analysis of Zimbabwe's regulatory regime governing formation of new businesses. That analysis, which produced a detailed action plan that is now being implemented as part of the DB reforms, provides important context for this phase of SERA's support for GOZ regulatory reforms. In particular, the first phase provided a deep example of specific regulatory issues that were sampled more broadly, but less deeply, for this second phase. The issues identified reflect widespread patterns of ineffective regulating that constrain economic growth, starve the government of revenues, and inhibit national development.

The recommendations in this paper draw on Zimbabwe's DB reform efforts, the Inventory and Case Studies papers, and international experience. They are designed to introduce immediate efficiencies that simultaneously reduce compliance costs for business, and improve regulatory function and revenue streams in the near term. Longer-term, they lay the foundation for an accelerating process of deep, DB-type reforms that produce even greater savings for business and revenues for government.

B. The Current Regulatory Context:

In addition to the prior work on "Starting a Business," the recommendations herein are based on the evidence contained in two papers prepared as part of this exercise. The first, an "Inventory of Business Regulations, Laws, and Procedures in Zimbabwe," compiled a list of the legal instruments affecting priority sectors identified in collaboration with the MOIC – agriculture, tourism, mining and manufacturing. A key finding was that:

> Probably because of its dominance in the economy, Agriculture is the sector with the highest number of regulatory laws and provisions. The sector is affected by a plethora of Acts and Regulations, which directly and indirectly impact on the day-to-day operations of the farmer. As in other sectors, it is however, the way in which the laws are administered that adversely impacts agricultural operations. (Emphasis added.)

Based on this finding, and for additional reasons discussed hereafter, this paper recommends that agriculture be the focus of initial, pilot reform efforts that will build the capacity to roll out reforms nationwide. The underlined sentence in the quote above from the inventory paper deserves special attention. This profoundly important finding, reported by Zimbabwean stakeholders, has been observed around the world, in developed and developing countries alike. Generally speaking, it is very often the case that those subject to regulatory requirements are more concerned about how policies are implemented than the policies

themselves. Efficiency trumps policy. This insight is part of the ideological underpinning of everything that follows, and is at the core of the business facilitation technology developed by the United Nations Conference on Trade and Development (UNCTAD), including the eRegulations tool discussed hereafter.

The inventory document collected as many of the laws, regulation, and rules applied by all of the relevant regulators to the target sectors -- -- agriculture, tourism, mining and manufacturing – as time allowed. Those collected were processed, one at a time, through a very interesting evaluation matrix, reproduced in Table 1, at right.

Table 1. Regulatory Effectiveness Evaluation Matrix

Laws/Regulations (LR)	Charges/Administration (C&Ad)
Necessary – The regulation is necessary and legitimate	Reasonable – The charges and compliance burden are reasonable.
Multiplicity – There are too many regulations, imposing a cost and administrative burden	Excessive/ Prohibitive – the charges are prohibitive and draconian leading to closure of businesses
Overlapping – Regulations are overlapping with other regulations from another Act, procedure or regulator	Centralisation – The administration of the regulation is centralised and increasing the access cost to business operators in outlying areas.
No rationale – There is no rationale for the regulation or procedure	Charges not used to address problem - The regulation is serving more a revenue purpose than a legitimate purpose
Limited duration – The licences or permits are of limited duration and so the process is repetitive	Too many processes – There are too many processes to go through in complying, imposing a cost and administrative burden

Several general observations:

- The matrix evaluation approach appears to be a very useful tool to rapidly evaluate regulatory requirements. We have adopted, adapted, and incorporated it into the documentation of processes phase of this paper, Annex 1.
- The Inventory tables already provide snapshots of each of many pages of regulatory requirements of business. They should be explored to provide a more quantitative analysis. For example, many of the requirements are deemed both "necessary"—defined as "necessary and legitimate" – and "reasonable" in terms of cost. "Excessive/prohibitive fees seem to be a frequently recurring issue. It would be useful to know what percentage of the whole these characteristics represent.
- The problems identified in Table 1 recur not only among regulatory authorities in Zimbabwe, but across the world, in developed and developing countries alike. The recommendations herein are intended to redress them all, and to improve performance in administration of those regimes now deemed both "necessary" and "reasonable."

The second paper, "Case Studies on Regulation in Key Sectors," honed in on the regulatory obligations faced by participants in the maize and livestock industries in the agricultural sector, and on pharmaceutical manufacturing. The following macro-level, adverse impacts were identified and attributed to inefficient regulation:

- High official fees and compliance costs are a substantial contributor to declining capacity utilization and increasing private sector losses. Regulatory costs, which are usually fixed and do not shrink as business sales decline, undermine the competitiveness of Zimbabwean firms and make them increasingly vulnerable to lower-cost foreign competitors. The paper cites a 2015 Zimbabwe Confederation of Industries Survey that

found average firm capacity utilization declined in 2015 to 32.5 percent, from 37.5 per cent in 2014 and 39.6 per cent in 2013.

- As firms produce less, the volume and value of regulated and taxable transactions also decline; starving agencies at all levels of government of the revenues they need to pay salaries and carry out their missions. In many cases, agencies respond by increasing the number of approvals and fees required for the dwindling business activity that remains, which makes firms even less competitive and more unprofitable, leading to even less domestic production.
- The high cost of regulation inhibits capital formation and accumulation, leading to a low national savings rate. This in turn produces a lack of domestic investment to grow the economy, which in combination with the other factors noted above, creates rising unemployment, and renders the population increasingly vulnerable.
- The mandatory obligations paid in the form of licenses, permits, property taxes, and levies, whether direct or indirect, transfer resources from the private sector to government agencies which mainly use these resources for salaries and collecting fees. Sustainable economic growth requires that regulatory costs are reasonable in relation to the regulated activity, and that regulators have the resources necessary to carry out their missions to facilitate productive, inclusive, sustainable economic growth.

Both papers focused on official requirements. Costs are examined in terms of official fees and charges. What we have not included are the many and varied actual costs that businesses incur in complying with government approval requirements. Compliance costs include such matters as personnel costs and expenses incurred to obtain certified copies of documents from one agency to give to another, transportation costs to visit a remote office, time spent pleading with officials to act, etc. What regulators often fail to understand is that the amount a business spends to obtain a license or permit is often several times greater than the official fees themselves. Zimbabwe's DB reform initiatives are eliminating precisely such unnecessary, but all too often unreported costs. As reforms are completed, the savings should be documented.

One particularly well documented example of how regulatory efficiency can reduce business costs, with no sacrifice in regulatory quality or oversight, comes from Malaysia, another former British colony. A member of the Malaysian public-private sector task force responsible for improving "Dealing with Construction Permits," uses project management software developed by a task force colleague to run his building design and management firm. The software allows him to allocate the dollar value of all time spent by employees to each project. Table 2 summarizes the average savings to his clients that resulted when Malaysia implemented efficiency reforms that included a one-stop service for construction permitting and simplified requirements for simple projects that present minimal risk to public health and safety. He saved more than 90 percent of his personnel costs after the reforms. Most of the savings were because, after consolidation of related approval processes, his employees did not have to chase paper or nag civil servants to take action.

Table 2. Malaysian Builder's Personnel Savings

Personnel	Before OSS	After OSS	Value Saved	% Saved
Project Manager	$1,709	$0	$1,709	100.00%
Engineer	$3,056	$170	$2,886	94.44%
Technical Assistant	$1,537	$430	$1,106	72.00%
Draftsmen	$1,366	$0	$1,366	100.00%
Admin Clerk	$98	$0	$98	100.00%
Totals	$7,765	$600	$7,165	**92.27%**

Such savings, and they should be expected throughout the regulatory environment, are the functional equivalent of new investment. Construction sector savings and the dramatic reductions in regulatory processing times make the investor's project more profitable, and increase the capacity of the architect to handle increasing demand for his services more quickly. International experience is replete with examples of similar impacts in many different regulatory regimes. Zimbabwe is in the process of adding to this growing body of evidence.

This is how an economy mobilizes domestic resources to fund growth, and begins to overcome the adverse macro-economic patterns identified in the Case Studies paper and discussed above. The Malaysian example and Zimbabwe's own experience in mapping out the unduly complicated requirements to start a new business illustrate the truth of the Inventory paper finding – how approval requirements are implemented are often more important than the requirements themselves.

In addition to identifying macro-level adverse impacts of the current regulatory apparatus, the Case-Study paper identified a number of problems that are specific to individual sector stakeholder classes. Specific recommendations included the following:

- **Revise the regulatory business model,** to rationalize fees and insulate regulators from economic dependence on those they regulate.
- **Reduce the fees charged by particularly high-cost regulators,** including the Environmental Management Agency (EMA), National Social Security Authority (NSSA), and local authorities' approval fees and property taxes. A closely related issue is that *ad valorum* fees should be replaced by flat fees that cover the reasonable costs of regulation. International experience has shown that when regulators charge based on the value of a project those they regulate misrepresent value, which creates a whole slew of problems, including the adverse consequences of phony financial records.
- **Minimize costs at the level of the primary producer** to minimize the multiplier effect of costs along a value chain. When high regulatory costs are added on to the price of key inputs for an entire sector, like fertilizer for example, the anti-competitive impact is compounded for all of the downstream products that depend upon the input.
- **Rationalize regulatory oversight** by eliminating jurisdictional overlap where multiple agencies regulate the same or very similar aspects of business activity. In some cases, regulators may prove to be redundant and should be eliminated or narrowly circumscribed.
- **Regulatory costs should be subject to a conscious process of continuous review and streamlining,** to ensure that regulatory regimes remain relevant and are constantly upgraded. Zimbabwe is already implementing such performance monitoring tools for DB reform regimes.

C. Objectives of this paper in Context:

Within that regulatory context, the objectives for this paper are to:

- Based on the inventory of licences that exist, identify opportunities for harmonising licences and elimination of licences/permits;
- Recommend an action plan for dealing with the legal setting for each licence and how to overcome this;

- Recommend an optimal structure for harmonising the licensing regulatory processes e.g. Omnibus Investment Legislation such as the case in Mauritius;
- Propose a structure for handling the transitional arrangements for harmonising the licences;
- Develop an Implementation Matrix with timeframes depending on complexity of reforms; and,
- Secure buy in of key stakeholders needed to make the reforms a success.

D. Overview of the Three Phases of the Recommended Approach:

The approach recommended herein addresses each of these objectives, as well as the problems identified in the Inventory and Case Study papers. Theoretically, Zimbabwe could choose to use a scalpel, performing careful surgery on each approval requirement, one at a time. While Zimbabwe is in fact making rapid progress with its DB reforms, that exercise illustrates the limits of the approach. It will take years to completely encompass all regulation in Zimbabwe, and it places a heavy burden on participants. Indeed, the challenges cited by "Starting a Business" reformers in their second 100-day report underscore the problems:

- Keeping the wind in the sails to keep the momentum and the morale high
- Stakeholder fatigue
- Resource mobilization

Accordingly, the approach chosen focuses first on the mechanics of regulation rather than the substantive content of the matter regulated. A framework law sets universal standards for how regulation is administered. The agencies themselves, subject to input from their private sector stakeholders and approval from central authority, do the bulk of the initial work in documenting and publishing all regulatory requirements. Once the systems of enforcement are standardized, and the regulatory environment weeded and pruned, the importance of policy will take priority.

The discussion that follows briefly outlines the three key components of the proposal, describes the regulatory issues that must be addressed, and predicts the immediate, near-term impacts that Zimbabwe can expect from a broad-based regulatory overhaul. A more in-depth discussion of each of the three phases follows. The paper concludes with a discussion of how launch this great national adventure, using the contents of a proposed Executive Order to describe roll-out, identify key milestones and deadlines. A detailed action plan can be prepared once the concept is approved.

The recommended approach to rapid regulatory reform is intended to provide an over-arching framework law to which all regulators and regulations must then conform, now and in the future. The values and standards contained in the framework law will serve as a filter to review and begin to reform existing approval requirements. The reform methodology, which grows out of the approach successfully being used in the DB reforms, would be applied first to a key sector, encompassing all regulatory agencies affecting the sector. This initial phase will test and perfect the methodology, and develop the capacity necessary to roll the approach out across the entire Zimbabwean economy.

A key pillar of the approach is the belief that Zimbabwe's civil service will participate competently and willingly in the process. Prior interactions with Zimbabwe public officials suggest that most are well qualified, committed to their agency's mission, and distressed that

the current economic system has undermined their ability to facilitate stakeholders. Circumstances have transformed many civil servants, by necessity, into fee collectors. As discussed below, among the benefits to be expected from the sweeping reforms recommended are revenues sufficient to agency needs.

The three components of the approach are briefly described below. The first two should take place simultaneously.

Phase 1 – Document and Publish All Approval Requirements Online

During Phase 1, all regulatory requirements will be reviewed. Some will be weeded out, and others pruned. Every regulatory agency will be required to document and publicly disseminate all requirements for each license or permit that it enforces. As discussed below, UNCTAD has a growing number of implementations of an apparently robust, integrated set of regulatory reform tools that include a very reasonably-priced IT platform to facilitate mapping and publication of any regulatory approval process. An Executive order starting the process will give agencies active within a particular sector a reasonable period – perhaps three months -- to document all requirements, including documents, procedures, and fees, and to detail the amount of revenue raised by each approval obligation. Agencies that fail to meet the deadline should be forbidden from enforcing the requirement until they comply. This process will result in winnowing out many high-cost, low-value requirements within the sector.

Phase 2 - Enact a Framework Law on Regulation

Zimbabwe should enact a framework law that provides a coherent and consistent framework applicable to every instance when governmental requires citizens and businesses to get permission before engaging in an activity (license) or taking an action (permit). Annex 2 provides a detailed discussion of the "Law on Licenses and Permits" from the Republic of Georgia, including problems with implementation and how such a law can be adapted for Zimbabwe. A contrasting approach, the Mauritius "Investment Promotion Act," is also discussed, with recommendations for incorporating some of its more attractive features, including designating a central Government body to ensure efficient functioning of Zimbabwe's overall regulatory apparatus. A framework law on regulation will constrain regulators by general rules on matters such as the Zimbabwean values that may be enforced by regulation, how and within what time limits decisions must be taken, and how fees are to be set. Each agency must also demonstrate that it has the capacity to enforce any license or permit, and that its requirements do not unduly burden citizens and businesses out of all proportion to the claimed objectives. The law would regulate procedure, not substance.

With respect to fees, one measure that should be adopted early, perhaps by executive order, is to allow agencies to charge extra fees for expedited services. Standard fees are to fund the agency. The fees for expedited services should be primarily devoted to improving the incomes of the civil servants at the agency, as discussed in Annex 2. Expedited service fees have a number of important effects. First, they divert informal fees paid to some officials to the benefit of all agency employees. Second, they provide a very useful incentive for the agency to develop streamlined process that can be applied to all of the agency's caseload. Third, they can help to minimize the impact of transition to a new, transparent regulatory apparatus, and encourage civil servants to participate with enthusiasm.

Another key element is to create a national registry of regulations, and require that agencies may enforce only those regulations that have been fully documented and published, and approved by central authority, and are listed in the registry. This measure helps to control the proliferation of new regulations and requirements.

Phase 3 – Streamline and Automate all Regulatory Processes

Consolidation and rationalization of sector requirements will be undertaken by an interagency task force under the direction of senior authority. Once all regulators within a particular sector have completed documenting every requirement for each approval obligation – procedures, documents, fees, etc. – overlap and duplication will become lucidly clear. This will make it relatively easy to streamline and rationalize sector regulation as a whole, and lay the groundwork for implementation of web-based approval processing systems to be developed.

The two initial phases will be launched by an Executive Order that provides a timeline, frames what is required and expected of participating agencies, and contains transitional provisions to ensure that change is more an evolution and transformation than a revolution. This will produce more winners and fewer bodies than the sudden imposition of sweeping new requirements, which was an unfortunate and unnecessary problem when Georgia introduced its framework law, as discussed in Annex 2. The process, however, will identify much that should be swept away, because it does not comport with the national regulatory values to be adopted. The agencies themselves can streamline minor matters within their jurisdiction during the documentation and publication phase. Major reforms that require changes to laws and regulations to streamline or eliminate unnecessary, burdensome, or overlapping requirements, will be undertaken in the third phase, streamlining and automation, under the direction of senior policy makers.

E. Begin Roll-Out with Agricultural Sector

The agricultural sector is probably the best choice to start for several reasons:

- As noted in the Inventory paper, it is a predominating sector in Zimbabwe's economy.
- Of the sectors reviewed, it is subject to the most regulatory oversight.
- Liberating the sector from over-regulation is likely to do more and sooner to improve livelihoods than any other sector.
- The sector is particularly important given the increasing vulnerability of Zimbabwe to food insecurity resulting from climate change.

Accordingly, agricultural will be assumed to be the initial sector chosen for the purposes of the discussion that follows. The goal, however, should be to use the initial sector to test the approach and develop implementation capacity that can be rapidly rolled out across the economy. Civil servants, who have participated in the DB reforms, could provide great value in working with individual agencies as they begin the documentation phase. Similarly, some regulators like EMA operate across the entire economy. Thus, the knowledge their reformers develop from sector-specific work in agriculture will make them effective trainers and team leaders in efforts to reform other sectors of the economy.

F. Benefits to be Expected:

Successful implementation of the recommended reforms will transform Zimbabwe in numerous ways, making the nation and its people richer. Specific results, which are already or will soon be observed in connection with the DB reforms, will include the following:

- **More profitable, growing firms:** Approval requirements will be easier, faster, and cheaper: Reduced compliance costs, coupled with less risk from uncertainty and delay, will make businesses more stable and more profitable. Their efficiency savings are the functional equivalent of new investment, which will be put back into the economy to fund growth. These savings should be documented and celebrated, because the scale of the dollars saved for a very small investment will be staggering.[2]
- **Agencies more focused and effective:** Regulatory agencies will be more narrowly focused on agreed national values, and more effective in enforcing them: Both initial phases will contribute to identifying an agreed set of national values worthy of protection. The framework law will define the field of regulation. Only agreed national values as stated therein may be regulated and only if the agency has the capacity to do so without undue burdens on those subject to the regulation.
- **Improved compliance:** The whole-nation approach to regulatory reform will improve compliance in two ways. First, simpler, cheaper, more accessible approval requirements will significantly reduce the incentives for non-compliance. Secondly, these same improvements with new, more powerful tools to detect avoidance and evasion.
- **Reduced corruption:** A clear regulatory framework and transparent, well-documented procedures will reduce the number of personal interactions between regulators and regulated, reducing the opportunities for rent-seeking. Eventual reliance on electronic records will eliminate problems encountered with paper-based records, which can include missing files or documents, and unauthorized changes to paper records. Civil servants will be happier and better paid, as discussed below.
- **Increased Government revenues:** The benefits mentioned above will combine to create greater revenues for the state. The efficiency savings for business will be invested into the business or into personal consumption. The increase in new businesses and in more formal business operations, as well as the efficiency savings, will contribute to a growing economy with more taxable transactions, thus producing more revenue for the state. Reductions in corruption and non-compliance will also divert more revenue to the state.
- **Policy Paramount:** For many, if not most, issues of regulation in Zimbabwe today, what policies are enforced are of less importance than how they are enforced. This is certainly true of the economy as a whole. Burdensome enforcement systems undermine the role of policy, and hamstrings policy choices. The regulatory reforms that Zimbabwe has begun will turn regulatory administration into an efficient tool to deliver policy choices effectively.

[2] Georgian reforms supported by USAID's Georgia Business Climate Reform project from 2005 to 2009 generated a total of almost $744 million in documented annual efficiency savings for business in a country of about four million people.

The section that follows describes the documentation phase and its expected results in detail. The UNCTAD BFP tools and approach is described first, because it provides a useful frame for the discussion that follows. The BFP approach to reforms is consistent with Zimbabwe's DB reforms methodology, and its standardized eRegulations platform for publishing all documentary requirements may be attractive for Zimbabwe. Although the agencies involved in the DB reforms are also documenting all requirements, the websites differ among themselves, and each has to be independently created. Documentation of the "starting a local company" procedure from Kenya is used as an example of the kind of results that can be generated by using a standardized, robust platform to publish all regulatory requirements. A particular value is the clear presentation of all the many opportunities for deep reforms – streamlining and automation.

II. Phase 1 – Documenting and Publishing Existing Approval Requirements:

A. The Transaction-Based Approach to Reforms:

Two contemporaneous events in the early 2000s have changed the nature of governance reform. First, the World Bank's *Doing Business* (DB) program began its annual reporting series with its first survey for 2004. This event coincided with the sweeping approach to regulatory reforms being introduced in Georgia. Although the annual DB reforms focused on measuring the efficiency of specific regulatory regimes, Georgia's framework approach to making all regulation uniformly efficient earned it recognition, to its surprise, as the World's Number 2 Reformer on DB 2006, the first report that ranked economies. Incorporating DB methodologies for specific regimes into continuing economy-wide reform made Georgia the World's Number 1 reformer for DB 2007.

Former World Bank Economist Simeon Djankov, who led design and implementation of the DB survey methodology, observed at a celebration of this achievement in Georgia that Georgia's reforms were the broadest, deepest, and most far-reaching that he was aware of. These reforms, he said, were accompanied by almost immediate results, when traditional reforms took eight to 12 years to produce demonstrable economic improvements. During the four years of Georgia's collaboration with USAID's Georgia Business Climate Reform Project, 2005-2009. GDP averaged six percent growth, and investment and state revenues and many other indicators soared.

Both approaches to reform, which are complementary, focus on efficiency of the transaction between business and government, rather than on the technical content of the regulated matter.[3] Subsequent development experience provides increasing numbers of examples of surges in economic activity from reforms that increase transactional efficiency. When the real issues are addressed to make regulatory processes simpler, faster, and cheaper, the volumes and values of formal, regulated transactions invariably increase. Technical capacity for process reforms of the transaction between business and government is easier to develop, and the reforms themselves are easier and cheaper to deploy.

A more recent reform development takes transaction-based reforms to a new level. UNCTAD has produced a package of three related products that systematize transaction-based reforms. The products are generic in the sense that they are standardized tools that are generally applicable to the administration of any and all approval processes. The products comprise the UNCTAD Business Facilitation Program, discussed next.

B. UNCTAD's Business Facilitation Program:

The UNCTAD Business Facilitation Program (BFP) approach to regulatory reform has four core elements. Three are formal elements, and the first two are incorporated into the recommendations herein. The fourth element, which, for purposes of this discussion is

[3] The DB methodology for individual indicators has begun to introduce quality measures, in addition to the previous efficiency measures. These quality measures do address substantive issues specific to the transaction being evaluated.

denominated "*eSustainability*,"[4] is an unstated, very attractive attitude that permeates the first three and appears to guide UNCTAD's technical assistance in implementation. The three formal elements are discussed briefly in the order presented on the BFP website,[5] followed by a brief discussion of the eSustainability approach. A more extended discussion of the eRegulations product and the eSimplifications principles follows.

The four elements of the BFP program are:

- ***eRegulations*** is a web-based platform for complete mapping and documentation of any regulatory process. This platform is recommended for the second, documentation phase of Zimbabwe's regulatory reform process, for the reasons set out below.
- ***eSimplifications*** is a set of 10 key regulatory reform principles. As shown in the table and discussion below, they follow a very logical and structured pathway to deliver efficient regulatory systems. We infer that this element is presented second, after eRegulations, because documentation using the ***eRegulations*** product satisfies the first principle – "publicity of procedures" – and lays the foundation for far easier implementation of the nine remaining principles during a process of consolidation of requirements within and across agencies, and automation of the streamlined processes.
- ***eRegistrations*** is a web-based platform to computerize administrative procedures to create transaction-based single electronic windows for regulatory regimes. The BFP website describes the product as

> an eGovernment system, designed to computerize simple or complex administrative procedures. It can be easily adapted and configured to any administrative process and may apply to procedures such as company registration, construction permits, export licenses or the transfer of a property title.
>
> eRegistrations is suited both to operations involving only one administration (such as registering at the business registry) and to simultaneous operations at multiple administrations (such as registering a company at the tax office, with the municipal council, with social security, at the labour department and at the business registry). It acts as a single electronic window.
>
> It can be installed at the municipal, national or supra-national levels.

Emphasis added.[6] Although automation is beyond the scope of this report, the eRegistrations product deserves a very close look as a low-cost, powerful, generic solution to automating and integrating Zimbabwean regulatory processes. Among several unique design principles is

[4] The characterization of the fourth element, *eSustainability,* is drawn from extended discussions with Frank Grozel, UNCTAD's BFP team leader, and review of the BFP website and materials about implementations in developing countries.

[5] The BFP website address is http://businessfacilitation.org.

[6] The example UNCTAD provides of a typical use – automating new business registrations – closely tracks the steps now required in Zimbabwe. Streamlining and automating this process to create an "Online Business Registry System (OBRS)" was, as noted above, the first phase of the ZIA/SERA regulatory reform collaboration. The Zimbabwe OBRS is intended to handle not only initial registrations, but also the ongoing dealings among relevant authorities, including annual reporting, change of circumstances (new address, shareholders, directors), etc. UNCTAD, in conversations discussing the product, reports that the eRegistrations product can accommodate such ongoing processes as well as initial registrations.

the fact that it can work with the existing technology platforms and levels of automation of all participating agencies.[7]

eSustainability is the name we have given for the philosophy that seems to inhere in the BFP approach to regulatory reform. Two key principles that arise from the transaction-based approach to regulatory reform that followed the success of *Doing Business* and the Georgian reforms undergird UNCTAD's approach.

- **"It's all the same reform."** One of the key insights emerging from the transaction-based approach to regulatory reform is that when we focus on the efficiency of the interactions between regulators and regulated it is all the same reform. As UNCTAD itself notes, every administrative procedure "consist[s], ultimately, in an exchange of information between a user and one or various administrations. A complex procedure is no more than a combination of simple processes.[8]
- **Efficiency trumps policy.** The BFP approach to regulatory reform is entirely neutral about what policies ought to be enforced. Rather, its focus is on helping nations efficiently implement whatever policies they choose. This approach is consistent with the finding from the Inventory study, discussed above, that it is "the way in which the laws are administered that adversely impacts … operations," rather than the laws themselves.

A consequence of these two insights is to empower in-country reformers. The most pressing urgent need is not for expat experts in all manner of arcane, developed-country practice and procedure. Rather, if it is all the same reform and efficiency trumps policy, then it is possible to build domestic capacity in what we might call "regulatory mechanics" – the discipline of organizing information flows coherently. The rollout plan is based on precisely this insight. We use the initial sector chosen for reform to build the capacity of reformers in various other sectors. The members of the DB reform teams can be a valuable resource in beginning this process. Because the capacity we are building is based on documenting and organizing information flows, reformers from agriculture, environment, and mining and manufacturing can learn the basic principles and processes together, no matter what technical sector is chosen as the starting point.

This focus on building capacity to design information flows rather than the particular technical requirements of a specific sector is reflected in both the design of the BFP eRegulations and eRegistrations platforms and the terms on which they are made available. Both are designed to accommodate any type of information flows for all kinds of approval processes. Each is also transferred for a reasonable cost that includes the software, source code, and the right to use it over and over again. The price – about $200,000 and $400,000 respectively for eRegulations and eRegistrations, depending upon the regime chosen to start – includes complete implementation of a process, during which in-country reformers are trained to reuse the platforms for other processes.

The BFP reports that 59 implementations of its products are underway or have been completed in Africa. The BFP Coordinator, Frank Grozel, will be presenting the BFB

[7] More information on eRegistrations product, including the design philosophy, functional description, and implementation approach and timeline can be found on the BFP website at http://businessfacilitation.org/eregistrations/.

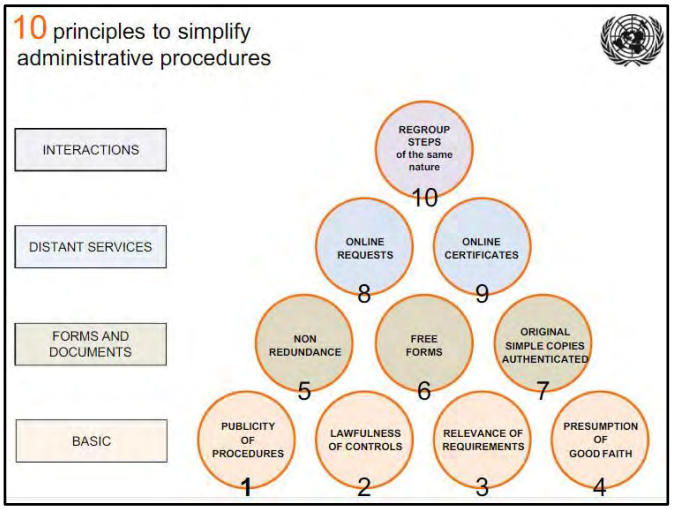
[8] The quoted passage is from the BFP description of the "Configurability and Adaptability" of eRegistrations, available online at the "Philosophy" tab of http://businessfacilitation.org/eregistrations/.

products and approach to regulatory reform to the Southern Africa Development Community leaders at their request.[9] The results of all completed implementations can be viewed from an interactive map on the BFP website. Clicking on the map icons will call up the eRegulations or eRegistrations portal in the relevant country. As an example, KenInvest,[10] the Kenyan national investment promotion agency, has used eRegulations to provide investors with complete documentation of various relevant approval requirements, including starting or registering a business, work permits, investment certificates, etc. Finally, the UNCTAD BFP package is so tight and disciplined that it makes a very useful frame to discuss Zimbabwe's regulatory reforms. More particularly, the 10 principles of eSimplifications and screen shots of the e-Registrations portals from KenInvest will be used to discuss the recommendations for how Zimbabwe should move forward to make regulatory approvals cheaper, faster, and easier for business, while simultaneously improving compliance, and the power to detect non-compliance.

C. Recommended Approach to Documentation Phase:

The documentation process will be described in terms of the results desired. We will use the UNCTAD BFP 10 eSimplifications principles, shown in the graphic at right, to guide the discussion. Following the description of results, a more detailed discussion will present how the third phase of the reform plan will build on the documentation work to truly revolutionize regulation in Zimbabwe.[11] The individual principles will likely seem obvious to DB reforms team members, who are already applying them. Nevertheless, the sequenced structure UNCTAD has developed provides a very useful conceptual framework.

Figure 2. eSimplications – the 10 Principles



Screenshots from the KenInvest implementation of eRegulations for starting a new business will be used to demonstrate the desired result of the documentation process. While Zimbabwe is, of course, free to choose another platform for the documentation process, or to develop its own, the screenshots will illustrate the desired outcome of the process – totally transparent publication of all requirements for every type of approval in one place on the internet. This result, by itself, will represent a huge step forward in making compliance easier, faster, and cheaper for businesses, especially since necessary forms will be available on the portal. Even more important, as we will see, the documentation process itself lays bare, in starkly apparent form, the next steps – consolidation of redundant requirements and automation. With

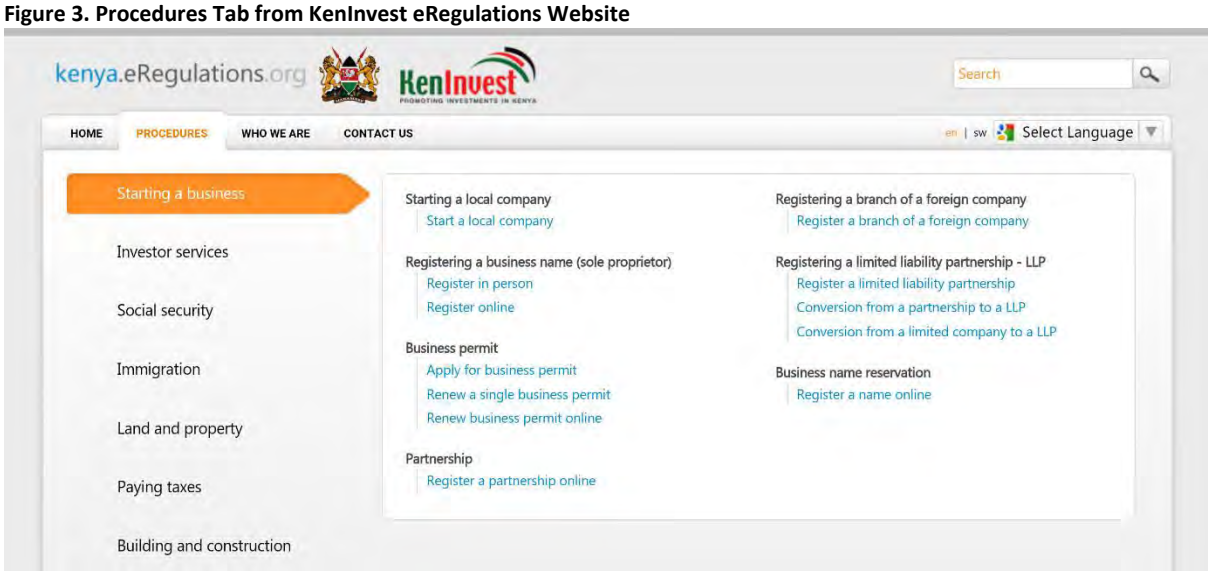
[9] Mr. Grozel has expressed his willingness to present his willingness to Zimbabwean reformers. He can be reached at Frank.Grozel@unctad.org.

[10] The KenInvest portal address is https://kenya.eregulations.org.

[11] As we will see, the first two phases, the contemporaneous drafting of a framework "Law on Licenses and Permits" and documentation of current procedures, will implement the four principles in the "Basic" level of the eSimplifications framework. The foundation they provide, as will appear soon appear; will dramatically simplify application of the remaining principles in the process of streamlining and automating regulation in Zimbabwe.

everything laid out in a common coherent framework, it is very easy to see how all related procedures can be consolidated and automated, helping Zimbabwe to leap forward in creation of an effective, efficient regulatory framework that encourages compliance, supports the nation's values, and generates recurring revenues to support governance.

Figure 3. Procedures Tab from KenInvest eRegulations Website



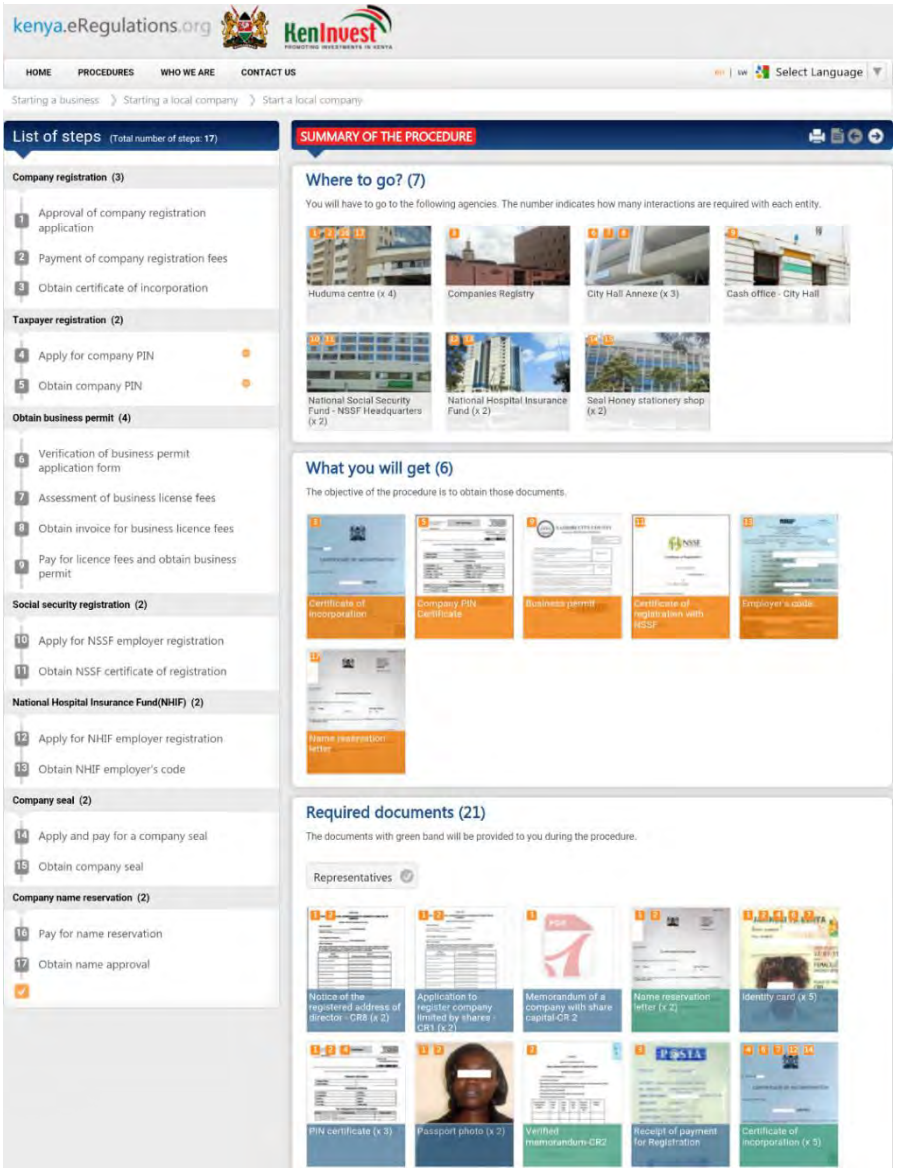
The primary goal of the documentation process is to achieve, for every regulatory approval requirement in Zimbabwe, the first eSimplifications principle -- "Publicity of Procedures." Figure 3, above, shows the "Procedures" tab of the KenInvest eRegulations portal. For our purposes, imagine that the list of topics at the right includes categories such as "Agriculture," "Manufacturing," "Mining," and "Tourism," in addition to those actually shown.

Clicking on one of these topic categories takes the user to a summary discussion of the field, and the options available. For example, clicking on the "Starting A Business" link, highlighted in orange on 3, takes us to a brief explanation of the various menu items under this topic. The text box at right reproduces the KenInvest discussion of "Starting a Business" and the specific menu item "Starting a local company." On the website, all of the different types of legal entities available in Kenya are summarized, and in the case of limited partnerships, a link provided to the relevant law. This is a nice touch that Zimbabwe should emulate.

> **Starting a business**
>
> The Registrar of Companies is responsible for business registration in Kenya. He/she issues certificates of compliance for foreign companies, certificates of incorporation for local companies and certificates of registration for sole proprietorships. Firms must then register their businesses with the Kenya Revenue Authority (KRA), obtain a business permit from the City council depending on the type of business activity and register with the National Social Security Fund (NSSF) and National Hospital Insurance Fund (NHIF). Click on the links below to see all the steps to start a business lawfully in Kenya including where to go, forms to download, what to bring, costs, time frame and legal justification.
>
> **Starting a local company**
>
> A local company is a company incorporated in Kenya. It may take the form of:
>
> 1. A company limited by shares
> 2. A company limited by guarantee
> 3. Unlimited company
>
> The registration process for the various forms of local company is the same though the requirements and costs vary.
>
> Start a local company

The real power of excellent process documentation (and of eRegulations) is shown in Figure 4, a screen shot of the requirements to "start a local company." All requirements are clearly and completely summarized on this page. Such a summary for all of Zimbabwe's regulatory requirements has two powerful benefits. First, it dramatically simplifies regulatory compliance for businesses and citizens. Second, when reformers look at the crisp presentation of all the requirements imposed by regulators, a series of questions naturally arise that help lay bare the consolidation and automation issues that must be addressed in the next phase of reforms.

Figure 4. "Starting a local company" Tab



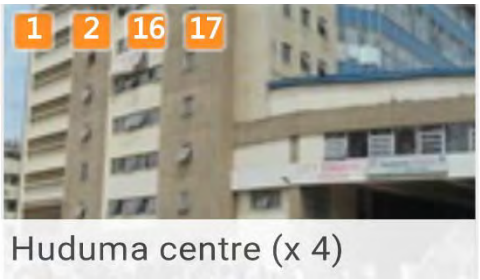
We examine in turn each of the different blocks of information provided on the KenInvest "Start a local company" page.

- A **List of Steps** in the left column shows each of the 17 procedures required, in order. Clicking on one of these links jumps to a very detailed breakdown of the specific requirements for a particular step, as we will see below.

  Seeing all 17 steps laid out in order raises immediate alarms for several reasons. First, international experience suggests sequential registrations encourage non-compliance. In Zimbabwe, for example, which had a similar process flow until the present "Starting a Business" reforms began, business professionals reported that only about 50 percent of new businesses actually proceeded to register with the Zimbabwe Revenue Authority. Non-compliance with shop license requirements of the City of Harare exceeded 90 percent. SERA's research showed that much of the information independently required by the various agencies in the sequential, multiple registrations process was almost the same. Consolidation of registration requirements that Zimbabwe is now implementing in the case of new business formation will not only reduce the cost of compliance for businesses, it will actually prevent non-compliance by introducing a one-registration system for all agencies. Similar benefits can be expected from consolidating regulatory requirements in other sectors, like agriculture, manufacturing, mining, and tourism.

- **Where to go,** the top block in the right column, provides a photo of each government agency that must be visited during the process, and how many times the applicant must visit. For example, as shown in the blow-up at right, applicants must visit the same place, the Huduma Centre, four times to start a local company, for steps 1, 2, 16, and 17. Clicking on one of the photos merely pops up a larger photo. It would be nice if this were supplemented with address and contact information, although these details are provided in the pages for each of the 17 steps, as discussed below.

  Figure 5. Four Physical Visits to One Agency

  Reformers will, of course, wonder why applicants should have to physically go to the same place four times. Time and travel expenses are one of the drivers of high compliance costs, over and above official fees and charges. Consolidation and automation can eliminate the need for physical visits.

- **What you will get,** the second block in the right-hand column lists the six different pieces of paper that government agencies generate during the process. Clicking on one of the small photos pops up a facsimile of the document. The question arises, why should six different government agencies generate six different pieces of essential paper? Indeed, why any piece of paper?

- **Required documents,** the third block, shows each of the 21 individual documents that the applicant is required to submit, as well as how many times and for which steps submission is required. For example, a copy of the Certificate of Incorporation, shown at right, is required five times, in steps 5, 7, 12, and 14. Why should any business or citizen ever have to provide one government agency with information another agency already has? Zimbabwe's "Starting a Business" reforms prove this is an unnecessary requirement. Similar consolidation can work in other areas.

  Figure 6. Five Copies Required

The summary screen to "Start a local company," Figure 4, above, also has three additional sections not shown in the screen shot:

- **How much,** reproduced at right, shows the total official fees and costs to start a new local company in Zimbabwe, 28,300 KES (about $280). Individual fees are also broken out. It would be nice if the step number for which each fee is charged were also included. The individual step pages, however, do contain cost information for each step.

Figure 7. Official Fees to Start New Company

How much?

Cost of the procedure **KES 28,300**

Cost detail

KES 10,000
For registration fee for a company with share capital

KES 200
For business permit application fees

KES 15,000
For business permit - Fee for a small workshop of up to 5 employees

KES 3,000
For the company seal - estimate

KES 100
For each name reservation request

The question arises, can a micro business afford to formalize at this cost? According to *Doing Business*, it represents about 35.3 percent of GNI per capita in Kenya, which is a lot of money for a small trader. By contrast, *Doing Business* reports that the cost to register a new business in New Zealand, a wealth country, is only about $115.[12] Generally, it is much better to make formalization cheap, fast, and easy for the smallest, most vulnerable entrepreneurs as a part of an indigenization policy that promotes broad-based, inclusive growth. Such an approach provides more stable growth prospects for small entrepreneurs, and the growing volumes and values of taxable transactions by an ever-increasing formal sector more than makes up for any revenue losses.

Figure 8. Time to Complete New Business Registration Process

How long ?

The estimated total time is calculated by adding the time spent: 1) waiting in queue, 2) at the counter and 3) between steps.

	Min.	Max.
Total time (sum):	**8 d**	**17 d**
of which:		
Waiting time in queue (sum):	1h. 45mn	5h. 55mn
Attention at counter:	6h. 20mn	2h. 45mn
Waiting time until next step (sum):	9 d	17 d

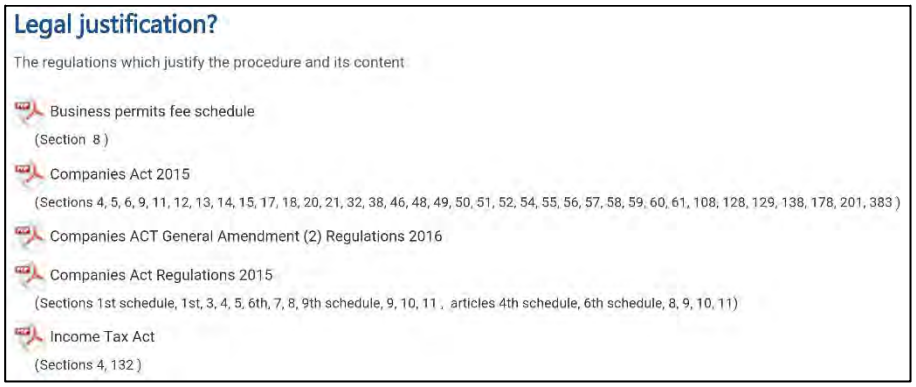
- A **How long** section, shown in Figure 8, above, summarizes estimated time spent waiting in line, dealing with officials at the counter, and waiting time between steps. Time is shown in a range from minimum to maximum.[13] Ideally, Zimbabwe's business registration reforms will produce a total time for the complete process that is less than applicants in Kenya now spend waiting in line – 1 hour, 45 minutes. Note that this computation of total time does not include the probably even greater amount of time that applicants spend preparing for, and going to and from the various government agencies. Travel time and expense is one of the biggest reasons that small farmers, tourism operators, and other micro entrepreneurs do not comply with regulatory approval

[12] *Doing Business* data is available online at http://www.doingbusiness.org/data/exploreeconomies/kenya.
[13] This table appears to contain a couple of mistake. The minimum time for attention at counter, 6 hours 20 minutes, is greater than the maximum time, 2 hours 45 minutes. And, the minimum waiting time until next step – 9 days – is greater than the total minimum time of only 8 days.

requirements. They simply cannot afford to be away from their income producing activities.

- Finally, the **Legal justification** block**,** a portion of which is shown at right, provides direct links to all of the laws on which the 17 individual steps are based. This simple list of all the laws and regulations that apply would be more useful if it specified what section of which act provides the legal justification for each of the 17 individual steps in the process. Fortunately, this more specific information is in fact provided in most of the pages devoted to the individual steps.

Figure 9. Sources of Legal Authority of Regulatory Requirements

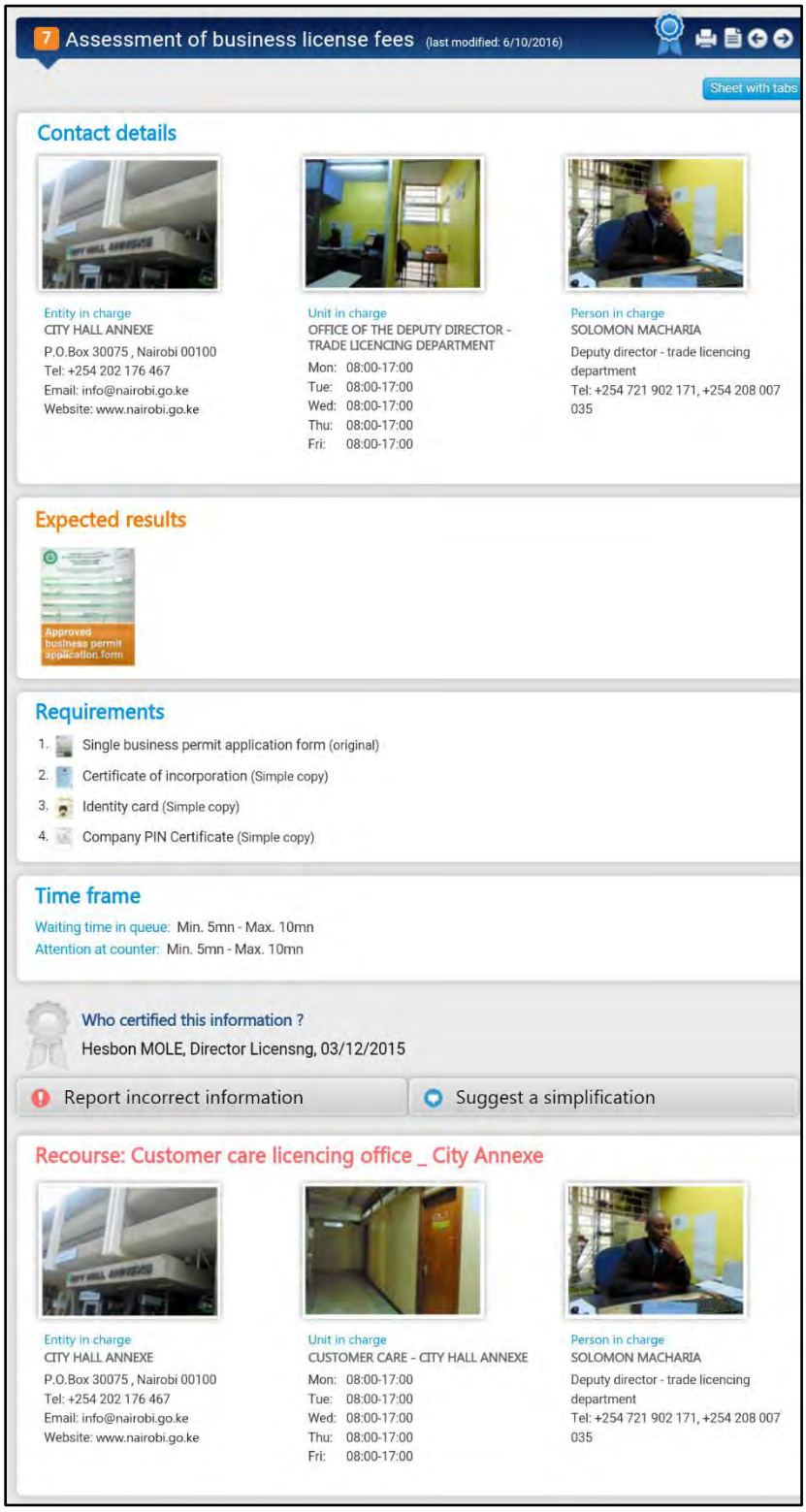


Requiring regulators to publish the legal justification in this fashion is the starting point to addressing BFP Principle 2 – "Lawfulness of Controls." Requirements that don't have such legal justification will begin to fall by the wayside, resulting in an initial round of process streamlining before that undertaking formally begins.

The information compiled on the "Starting a local company" website, discussed above, is a compilation of the data produced for each one of the 17 individual steps in the process. Publication of this data is essential, both for easing compliance burdens on business, and for laying the groundwork for the consolidation and automation phase.

The BFA eRegulations product provides a very nicely organized standard format. Figure 10, right, shows the detailed view for Step 7, "Assessment of business license fees." More specific detail about each particular step is provided in this step view:

Figure 10. Detail Page for Step 7



- The "**Contact details"** block provides 1) details of the physical location of the agency responsible, in this case City Hall Annex; 2) operating hours of the business unit; and 3) contact information for the government official responsible for this step in the process. Pop-up photos identify the scene and responsible official.
- **Expected results** identify agency actions that will be received at the end of each step. For Step 7 of "Starting a local company" in Kenya, this is an "Approved business permit application form." A sample of the form can be seen by clicking on the icon. More useful for applicants would be to use this link to provide the actual form itself.
- The **Requirements** block lists the five documents required for this one step. Note that four of the five are documents produced by other government agencies. Such document exchange requirements can be easily automated, reducing compliance costs for applicants, administrative costs for agencies, as well as the risk that applicants will submit forged or altered documentation. Reformers will ask why some of these documents are

necessary, since the same information is repeatedly verified by other agencies, over and over again.

- Where official fees are charged, a **Costs** block itemizes them, following the **Requirements** block. See, Step 3, for example. In this case, no fees are formally required for Step 7, so the **Costs** block does not appear. A better approach would be to include the block for all steps, whether or not formal fees are charged, inserting "none" as appropriate. This would engender greater appreciation among applicants for the service, and help to ensure that informal fees are not applied.

- **Time frame** shows that applicants can expect to spend 5-10 minutes each waiting in line and being served at the counter. This, of course, omits the time and expense of getting to the agency's place of business, obtaining duplicate official copies of documents produced and already submitted to other agencies, and the time spent filling out the business permit application form, which asks for the same information already submitted to other agencies, over and over again.

The three concluding sections of the presentation of the information about each individual step are revolutionary in their impact on regulatory efficiency:

- **Who certified this information** provides the name of the agency official responsible for representing that the requirements and information about this step are accurate, and the date upon which the certification is made. Individual accountability is a powerful tool for ensuring accuracy and efficiency.

  Ensuring participation of the private sector in reviewing the requirements, and very often suggesting revisions before publication, would be very useful. In Zimbabwe's case, we recommend a formal partnership with the private sector. The nine business associations that are members of the Business Council of Zimbabwe together represent almost all sectors of the economy subject to regulation. A formal partnership between business and government, reflected in a memorandum of understanding, would very likely result in greater speed, more accuracy, and implementation of many process improvements earlier in the documentation process.

- The penultimate block provides two very important options for business users to provide feedback. First, a button is provided to **Report incorrect information.** Second, another button allows users to **Suggest a simplification.** For either of these options to have any impact, it will be important that results be monitored and acted upon. Agency leaders and those they report to should require regular reporting on the input received from both feedback mechanisms, and the actions taken with respect to each.

- The final information block on the eRegulations individual step page provides detailed contact information for **Recourse: Customer care.** In the case of Step 7, Kenya appears to have missed an opportunity. The customer care contacts appear to be an exact replica of the information provided in the first block, **Contact details.** This suggests that municipal authorities do not in fact have specific resources devoted to working with applicants who are experiencing problems. By contrast, Kenya's company registrar does have a dedicated Customer Care Department and Customer Care Officer, whose contact details are provided in this space on the detailed view of Step 1, Approval of company registration application.

The foregoing discussion has illustrated the types of results that the documentation phase is intended to produce in Zimbabwe. Every step of every license or permit is fully mapped, with all costs and documentary requirements specified. Applicants know where to go, who to see, and where to complain, or recommend improvements. Mapping every process in this way lays bare the opportunities for consolidation of agency information requirements and elimination of redundancies in terms of different agencies requiring the same things over and over again. Thus, unlike guillotine-type approaches, the path ahead to consolidation and automation is clear, and most of the preparatory work has already been done.

Another very important advantage of this approach is that not only do the results include clear instructions for applicants and the foundations for consolidation and automation, but the documentation process itself will produce results similar to the guillotine. Unnecessary burdens are eliminated, but without the brutal approach and alienation of Zimbabwe's civil servants. The documentation process encourages elimination of unnecessary licenses and permits and of superfluous steps in those that remain for several reasons:

- Agencies will know that all of their documented processes must be reviewed and approved by central authority before going into effect. Each must be justified and justifiable.
- To the extent that the central government provides a formal opportunity for representatives of private sector stakeholders to review and comment on the documented requirements, their quality, accuracy, and efficiency will be improved. Just knowing that stakeholders will have such a role will have a useful impact on those producing the documentation.
- The Executive Order that begins the process as well as the framework "Law on Licenses and Permits" that is produced will provide a filter to guide civil servants in the documentation process:

    - Approval requirements must be limited to those that serve the nation's values.
    - Agencies must demonstrate that they have the actual capacity to regulate the matter at issue.
    - Time limits on the handling of applications will encourage agencies to streamline and focus review on relevant matters.
    - The Order and framework law should both require that agencies determine only matters relevant to their authority, and not force applicants to demonstrate compliance with requirements within the jurisdiction of other agencies.

- The Executive Order will include a deadline for agencies to produce the documented approval requirements as well as the condition that only approved documented requirements may be enforced after the deadline is passed.[14] This will encourage agencies to prioritize the truly consequential.
- The recommended documentation process will also contribute materially to elimination of the counter-productive pattern in many agencies of regulating for revenue. Several factors contribute:
    - Regulation for revenue will not be one of the national values incorporated into the framework law or Executive Order.

[14] The Order should allow an agency to petition the central body responsible for more time. This will allow both an escape clause to ensure that vital requirements don't fall by the wayside and a mechanism to hold accountable those responsible for unnecessary delays.

- The Order will require that a preliminary step for every agency is to itemize for each of its requirements fees charged and generated historically. This will identify many requirements that burden business but generate revenue insufficient to make their costs worthwhile.
- Among the results of the documentation process will be increased volumes and values of regulated transactions. This will happen because compliance burdens decrease and compliance controls are increased. In addition to the increased fees generated from this process, more taxable transactions will take place in the formal economy, producing even more revenues.

- A final advantage of this approach is that it will engage the civil service productively, as partners in reform, and not as the enemy to be defeated. In most cases, civil servants simply do not understand the heavy impact of their cumulative requirements on the private sector. The documentation process, particularly if private sector stakeholders participate, will provide civil servants with a clearer understanding of regulatory impacts, and greater commitment to introducing more efficient approaches to regulation.

  The recommended approach will also empower the civil service. Although their results will be used and approved by central authority, in the first instance they will be responsible for prioritizing, weeding out, simplifying, etc. Moreover, the documented processes that will result will make agencies themselves more effective and respected by their stakeholders. Star reformers and regulatory units will emerge from this process. These individuals can be moved around government to inspire change and build their capacity to lead change. In general, morale will improve as civil servants begin to appreciate how much better they are used to efficiently enforce the nation's values.

The discussion of Phase 2 – Enacting an overall statutory framework for regulation – appears in Annex 2. It provides a detailed look at key statutory provisions and how they could help make regulation in Zimbabwe more consistent and predictable.

III. Phase 3 – Consolidation and Automation:

A. The Biggest and Best Rewards

Phase 3 – Consolidation and Automation – is by far the most fun. Phase 1 – documenting and publishing all approval requirement fees, steps, documents, time, etc. – can be a slog. Those most involved in the details can experience mounting distress, sometimes outrage, at the increasingly well-clarified picture that emerges of the staggering costs and efficiencies of the documented process. Phase 1 will produce real, immediate, quantifiable efficiency savings. Satisfaction with savings, however, can be outweighed in the balance by the evidence of how much more savings can still be generated. Phase 2 – drafting the framework statute – can be professionally rewarding at the time of enactment, but produces no immediate, concrete, and quantifiable results. If successfully applied in practice, the framework law will be a supporting factor in the successes of the other two phases.

Kenya's procedures for starting a local company, very close in nature to those recently prevailing in Zimbabwe, illustrate the latter point. Kenya's Phase 1 results in documenting almost every aspect of each requirement – all 17 steps – are beautifully presented on its eRegulations website. It is a virtual one-stop information center. If measured, efficiency savings sufficient in amount to increase transaction volumes and values can be documented.

By any measure, Kenya has succeeded admirably in implementing the first BFP eSimplifications principle – "Publicity of Procedures."

At the same time, however that very clear depiction lays bare staggering inefficiencies that burden businesses and empower non-compliance, which undermines agency and government revenue streams. Two, already discussed, stand out. First, Kenya's beautifully documented process requires applicants to provide a government document – the Certificate of Incorporation – to five other government agencies or departments. Second, the sequential registration procedures almost guarantee that large numbers of business will never make it to the end of all they agencies they should register with.

Phase 3 is rewarding on many levels, including:

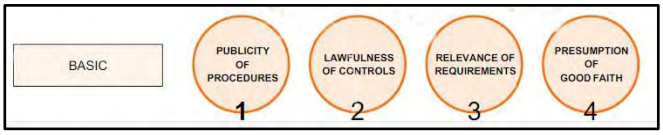
- Reformers, and their bosses, perform the functional equivalent of giving away real money, and the people love them for it. The actual cost of obtaining and delivering each Certificate of incorporation almost certainly costs at least $25, when fees, transportation costs, personnel time, etc., are included. Zimbabwe's "Starting a Business" reforms will totally eliminate this redundancy. Agencies themselves will confirm registration directly from the Registrar of Companies. That approach would save every Zimbabwean applicant $125. Zimbabwe is also eliminating sequential registrations, assuring 100 percent compliance with all registration requirements. Agencies downstream in the sequential process will see surges in their revenues. Businesses will not particularly care, because in most cases efficiency savings will outweigh the costs of being compliant taxpayers and regulated entities.
- The work of streamlining processes is much more fun than documenting existing requirements. It is more creative and challenging, and rewards innovation.
- Visible results effectively documented and actually experienced contribute to a national mood that is optimistic about the future. This is a very nice space to inhabit. Confidence promotes investment and growth, and reforms generate new money to invest.

B. The Phase 3 Process

The task in Phase 3 is to use the data generated in the documentation and publication process to introduce ruthless transactional efficiency into administration of every regulatory approval requirement enforced in Zimbabwe. The structure provided by BFP's presentation of its 10 eSimplifications reform principles provides a useful framework to describe Phase 3 activities.

As appears from Figure 2, above, the 10 principles are distributed across four categories, in a pyramid formation. The four "basic" principles, Figure 11, right, are outputs of Phases 1 and 2, and for Phase 3:

Figure 11. Four "Basic" eSimplifications Principles



- **"Publicity of procedures,"** Principle 1, is fully accomplished in the Phase 1 documentation and publication process.
- The filter provided by the framework law, Phase 2, promotes a winnowing process in Phase 1 that identifies and eliminates requirements that violate Principles 2,

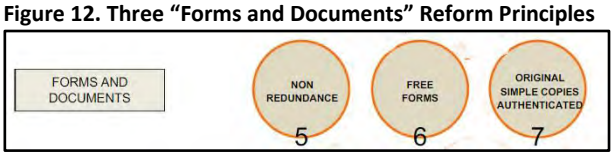
"Lawfulness of controls," and 3, **"Relevance of requirements"** to enforcement of agreed national values that are within the agency's jurisdiction and capacity.

- As Kenya's example illustrates, superbly documenting a process, does not make the process itself more efficient. Principle 4, the **"Presumption of good faith"** is satisfied when routine matters are attended to routinely, and risky issues are more cautiously examined. Provisions of the framework law, as discussed above and in Annex 2, can begin to enforce this principle, until changes in regulatory infrastructure produce a corresponding change in the enforcement mindset. For example, the "Presumption of good faith" is enhanced by limiting monitoring activity, confining review to the unique issues presented by the permission requested; preventing re-determination of matters committed to the jurisdiction of other agencies, and enforced deadlines that require officials to focus on what really matters.

In combination, the documentation/publication phase and the framework law, discussed in detail in Annex 2, apply the "Basic" principles, and lay the foundation for Phase 3. All regulatory procedures are very well documented; all are legally justified and relevant to the permission requested; and agency officials apply appropriate scrutiny in making their decisions.

The work of Phase 3 really begins with the three principles related to "Forms and Documents," Figure 12, at right:

Figure 12. Three "Forms and Documents" Reform Principles



- With all of the forms accessible online, applying Principle 5, "**Non redundancy,**" becomes relatively simple. It becomes easy to identify duplicate requests for the same bit of information within a single agency process or among different agencies, or multiple requests for the same document. Automation allows multiple agencies to consolidate all of their information requests, most of which are the same, into a single web application that distributes to each the information it needs. This obviously reduces compliance costs and time for applicants. It also enables us to consolidate sequential processes into a single step, which improves compliance controls because agencies share the same, accurate data. BFP's eRegistrations platform simplifies this process, allowing reforms to receive and redirect information to any combination of applicant and agencies.
- **"Free forms,"** Principle 6, eliminates the practice of charging for blank paper forms. The City of Harare has saved shop license applicants not only the $20 fee, but also the time and expense of making a personal visit to buy it. Making all required forms universally available online eliminates any administrative expenses for the agency to justify the charge for a regulatory purpose. Ideally, we want to eliminate paper altogether. The official, legally valid source of data should be the agency's electronic records, not a piece of paper.
- Ideally, a certificate evidencing official status is produced from the legally valid source of that information -- agency records. In an automated system, the certificate is a simple mail merge from the relevant databases. When generating a certificate, it is possible to include authenticating elements – a bar code for example – that can be scanned by the recipient to conclusively establish its validity. These are the types of measures that can be used to implement Principle 6, **"Original simple copies authenticated."**

The two principles in the next tier, "**Distant Services,"** marks the transition from transactions based on visiting places and exchanging paper to web-based transacting that can happen from anywhere. Principle 8, **"Online Requests"** enables applicants to identify themselves, and provide all necessary information using web-based systems. Principle 9, **"Online Certificates"** ensures that approvals can be delivered to applicants online as well.

In fact, we should move beyond using certificates to evidence status. That is a paper idea. We want electronic means to establish official status. Using paper as a model hamstrings the reform. An example from Georgia, which used land registration as an occasion to collect past-due taxes. Buyers were required to prove they were current on state taxes before registrations of land in their name could go forward. The head of the land registry was thwarted in slashing the time required to register land because the State Revenue Service was slow in producing taxpayer compliance certificates for those who wanted to register land transfers. Buyers had to submit a paper application for the certificate, nag until it was produced, then pick it up from the tax office and deliver it to the land registry office. The IT systems of the two agencies were connected so the registry system asked the tax system whether the buyer owed any taxes, a simple yes/no query. The process was automated so that the query was made as soon as the new property transfer record was opened and the buyer's ID number was entered into the registry database. Confirmation of status – the buyer is current on all taxes – was determined electronically and is securely stored in a database record. Generating a certificate would just gum up the process. Paper or electronic certificates in *.pdf form must be filed, stored, retrieved, copied, etc., all processes that require human interventions. This drives up costs and prolongs the process.

Principle 10, "**Regroup steps of the same nature,"** is in a category of one, "**Interactions,"** at the top of the eSimplifications pyramid. These needs must be about consolidation of information requirements across the whole of government. For example, no citizen or business should ever be required to make more than one official notification of a new address or other change in status. The new address should be received once and replicated or referenced by all other relevant agencies.

The application of these principles will produce very elegant regulatory systems that deliver fast, reasonably costed approvals. Private sector efficiency savings will be so great in scale that, invested back into the economy as investment, consumption, or savings, they will represent wealth sufficient to ignite and sustain broad-based economic growth and job creation.

Suggestions to prepare for Phase 3 are discussed in connection with the proposed Executive Order to launch the reform program. It is, however, too early for a more detailed action plan. Phase 1 and 2 are essential pre-requisites for Phase 3. They deserve every resource that can be committed to them so that they can be completed within two years. In addition, they are going to identify the recurring problems and redundancies that Phase 3 reforms should target. Finally, if we pay attention, aggressive implementation of Phases 1 and 2 are on a scale to sufficient to produce new insights and understandings about how best to leverage regulatory reform to produce rapid, broad-based economic growth.

IV. Launching a Great National Adventure

An Order must issue to launch this great national adventure. An Executive Order (EO) from central authority must frame the enterprise in clear terms, defining its scope, scale, and duration. Standards and criteria must be established, and the work of the civil service organized to succeed. In many respects, the EO is the textual narrative for the national action plan. Accordingly, discussing the elements of the EO provides a good frame for action plan elements, objectives and requirements. Zimbabwe already has experience setting up the DB reform teams. Based on results, that works well. The discussion that follows assumes that the same or similar process will be followed. The particular items mentioned are in the nature of a checklist, provided for completeness, and should be folded in to the current methodology.

A. Elements of the Executive Order:

1. Defining the Nature of the Reform Program:

The opening sentences of the EO should define, in broad terms, the scope of the work, its duration, and the results to be expected overall, and from each of the three phases. Briefly, this program is intended to transform regulation in Zimbabwe over the course of the next two years, by means of the following activities.

- In **Phase 1,** every agency of government at all levels, will review their existing approval requirements in terms legal relevance, their capacity to enforce it, and whether it puts an undue burden on stakeholders. Agencies will be empowered to make simple process changes, and should report up issues that require resolution at higher levels of authority. All requirements must be completely documented and the results published electronically, creating a virtual one-stop information center for regulatory compliance in Zimbabwe. When and if enacted, the framework law will provide additional guidance.
- **Phase 2** will produce enactment of framework legislation, ideally within the first six months of program launch, so it can inform the Phase 1 documentation/publication process. The framework law will clearly identify the set of national values to which regulation is confined, require capacity to enforce, protect stakeholders from undue burdens, and provide standards for administration of all approval requirements.
- **Phase 3,** streamlining and automation, will probably commence in the last six months of the two-year reform program. It will consolidate redundant requirements across government, and automate approval processes. The GOZ already has successful experience in launching these types of deep reforms.

The expected result is to ignite and sustain a period of economic growth funded by efficiency savings generated for business, and empowered by a regulatory system that effectively enforces the nation's values. Wages will rise, wealth will increase. Civil servants will be efficient professionals who are paid what they deserve by agencies with stable revenue streams.

2. Organizing Implementation of Phase 1 – Documentation/Publication:

Phase 1 will require that agencies begin to conform their requirements to a law, Phase 2, which has not been drafted yet. Thus, the EO must provide suitable guidance and direction. Sufficient detail with respect to Phase 2 will help the agencies move forward toward eventual compliance. The EO must address the following issues to organize the Phase 1 documentation/publication process for success:

- **Designate Initial Sector:** For the reasons detailed above, we recommend that agriculture, defined broadly to include all of the authorities and value chains chronicled in the Inventory and Case Studies papers, be designated as the initial sector to launch Phase 1.
- **Appoint Leader:** A senior executive authority active should be appointed to lead Phase 1, and given the powers necessary to ensure the active participation of all relevant agencies, including those that may be outside of his chain of command. Mauritius, as discussed in Annex 2, provides a good model in this respect.
- **Describe the Expected Result:** The EO should describe the system of regulation that it wants to result from the Phase 1 process, in terms sufficiently specific to provide clear guidance to agency officials in carrying out the weeding and pruning process. By the end of Phase 1:
    - Complete requirements of the approval process for every license and permit are published online, and are enforced exactly as described therein.
    - The basic fees charged for approvals fund administration of the regulatory process, which routinely delivers results within timeframes established as provided by the framework law. Extra charges for expedited services provide additional funding for agencies and their employees, and for their reporting structures, as discussed in Annex 2.
    - All agencies will have identified requirements they are required to enforce, but may not be desirable for a variety of reasons, including that the agency lacks the capacity to effectively enforce, or the compliance costs are too burdensome for businesses and citizens.

- **Provide clear instructions for the regulatory review process:** If the BFP eRegulations platform is selected to host published approval requirements, UNCTAD advisors will provide technical assistance and capacity building in a process that has been vetted with increasing experience with international implementations. However, agencies should not be allowed to do nothing until the rollout reaches them. Rather, every agency should begin its own internal review process that should include the following elements:
    - **Complete inventory** of all compliance requirements on business or citizens, including all procedures, documents and fees charged, etc., as illustrated in the KenInvest example. This will help to ensure that all approval requirements are identified. Agencies should also be required to document the total annual fees raised individually by each of its specific approvals, and the total of all fees raised. This will help identify regulations for revenue that are not worth enforcing.
    - A general **metric through which to filter and evaluate** each requirement should be established. The set of filters should test whether the requirement is authorized by law, whether the agency has the capacity to enforce it, and whether compliance costs for stakeholders are reasonable. The filters should also provide quantitative information about recurring issues that can be specifically addressed during the Phase 3 process.

      The rapid evaluation metric developed in the Inventory paper, Table 1, above, has more granular detail that can be used not only for filtering each specific approval requirement, but will provide quantitative information for policy makers and reformers. For example, recurring problems with excessive fees and offices too remote from applicants were noted. This information will be especially useful in the Phase 3 consolidation and automation process. We suggest that this metric be

adapted and adopted for the Phase 1 filtering process. Annex 1 provides an initial attempt at creating a filtering template to be applied across government.

- Agency heads should be ordered to apply the filter and report the results. Higher authority should review those results and authorize elimination of requirements that do not serve national values or cannot be effectively and efficiently administered.
- Agency heads should be directed and authorized to change service delivery policies and procedures to make permission approvals more efficient. For example, they should be free to simplify applications, eliminate unnecessary documentary requirements, and reorganize process flows, etc., before publishing requirements for each step.
- A formal role should be established for businesses and citizens to participate in the process. At a minimum, representatives of business sector organizations should be invited to review and respond to the reports filed in the filtering process. In addition, they should be invited to review and comment on the final published requirements for each process before approval by central authority. Private sector input is crucial in identifying all requirements, ensuring accuracy, and identifying problematic issues that can be addressed in Phase 3.

- **Organize the Phase 1 Roll-Out:** The key challenge to the reform plan is to develop the capacity to expand from the initial implementation across the entire country. Current DB reform team members can help expedite this process. If Zimbabwe decides to use the eRegulations platform, UNCTAD advisors will support the first implementation of one complete process, like the Kenyan "Starting a local company" example. They will leave behind one completely and comprehensively documented approval regime, with all of the steps, costs, documentary requirements, etc., published to a Zimbabwe eRegulations page. They will also leave behind the software platform and Zimbabwean citizens able to adapt the software to other processes and to lead the documentation process.

  The Phase 1 rollout should be designed to rapidly multiply this initial capacity and deploy it across the country in successive waves. The goal should be that within two years, Phase 1 would have washed across the entire country, from border to border, from local to national government.

  For the initial UNCTAD implementation, which takes two-three months, national-level capacity should be established. This should be a team from a central agency, perhaps OPC that will be able to lead subsequent implementations. The initial implementation should also develop capacity internal to the organization selected so they persons can lead the documentation and publication process for other approval regimes of the same agency. Finally, representatives of other agencies active in the same sector should be invited to participate in the initial sector implementation, so that they can carry the technology and eRegulations platform back to their own agencies. Particular attention should be devoted to building the capacity of agencies like EMA or the Zimbabwe Revenue Authority that have approval requirements across multiple sectors of the economy.

- **Set timelines and milestones:** The EO should define milestones and deadlines for the Phase 1 work in weeding, pruning, documenting and publishing approval

requirements. This is the same type of action planning carried out for the DB reforms. An illustrative process might be as follows:

- EO published, designating initial implementation, and directing all agencies to begin Phase 1 work.
- Certifying officer appointed for every approval requirement, as in the KenInvest example, first two weeks after EO published;
- Department heads present Phase 1 filtering process work plans to agency heads by week four;
- Agency heads present status reports to central authority by end of month 2, and monthly thereafter. The report should be based on the filtering metric, and include a list of any approval requirements the agency believes should be eliminated because they don't enforce national values, or the agency lacks capacity to enforce them efficiently and effectively.
- UNCTAD begins initial implementation, by the beginning of month 3. This might be sooner or later, depending on agreement with UNCTAD.
- Initial implementation of eRegulations – online publication of all requirements for one approval regime – completed by month 6.
- Central authority, with input from private sector representatives, approves the publication of requirements for the first UNCTAD implementation by month 7.
- Second implementation wave begins at three-five new agencies by month 7, completed by month 9. We can expect the second wave to go faster than the first implementation because employees of the new agencies added will have participated in the first wave and understand the process. In addition, these agencies will have gone through the filtering process and have already compiled much of the information required. As each process is completely documented and requirements published, they will be submitted for review by stakeholders and approval by central authority, and added to the registry of permitted procedures.
- Third implementation wave begins at nine to 15 new agencies by month 10 and is concluded by month 12. New implementations will also be proliferating within agencies that have already done their first implementation, and no longer need external support to proceed. Implementation will continue to expand at the rate of three to five new fully documented and published approval process for each past implementation, as capacity spreads.
- Central authority designates task force to study the now large body of fully documented requirements, and recommend targets for initial focus of the Phase 3 process by month 12. Targets might include particular sectors where reform could have the greatest immediate impact, or recurring issues across sectors, like duplicative documentation requirements, or the costs of travel to remote offices.
- Central authority designates task force to identify the best platform for the Phase 3 consolidation and automation process by month 12. While officials have indicated that they wish to standardize on SAP for all IT needs, the availability and advantages of the BFP eRegistrations should be considered. The platform is designed to handle any type of process, and can be fully implemented within two-six months, depending upon complexity and the number of procedures. It is fully compatible with SAP, and any other software or lack thereof.
- Based on the recommendations for IT platform and initial targets, the first Phase 3 implementation should begin by month 18. A Phase 3 rollout-plan should be developed along the lines of the Phase 1 plan.

3. Directing Implementation of Phase 2:

The EO must address the following issues to launch the Phase 2 process:

- **Appoint Leader:** A senior executive authority should be designated to lead the process of producing the framework law on regulation, and given the powers to achieve it.
- **Form Drafting Task Force:** The DB reform process for this task seems to be working well and can be adapted.
- **Describe the Expected Result:** The EO should describe the law it wants in terms sufficiently specific that they can also be used as preliminary filters in the Phase 2 weeding and pruning process. A detailed discussion of the types of provisions that should be included is provided in Annex 2. Key issues are:
  - ***Define "regulation" broadly,*** so that the law applies to every occasion on which government requires a citizen or business to obtain approval before engaging in any action or activity.
  - ***Define the national values that regulators may enforce,*** and limit regulation to those values. The law should clearly state the national values in the service of which regulation is permitted. The right of citizens and businesses to pursue any actions and activities unimpeded, if they are outside the ambit of a defined value, should be specifically stated. The list of preliminary values defined by the EO will be used by civil servants in Phase 1 to test the legitimacy of each current requirement.
  - ***Provide "positive security" for an approvals registry, and the published requirements for each approval.*** The Phase 1 winnowing and documentation process will produce a more limited set of approval requirements that are administered more efficiently and inexpensively. The framework law should require that each regulation that survives must be specifically listed in a national registry, upon approval by higher authority for compliance with the framework law's requirements. In addition, each agency must document and publish the requirements for each approval process it administers. Only approval requirements that meet both conditions – listed in the registry and all requirements published – are enforceable. The discussion of the KenInvest eRegulations implementation, above, illustrates the type of information that must be provided for each procedure. These requirements deliver "positive security" to regulated businesses and citizens in two respects: First, positive security provides applicants with certainty that only the regimes in the registry can be enforced, and, as to each, only in the manner described in the published documentation of each requirement. The regulator cannot change the rules. Second, positive security provides strong incentives for regulators to register their approval requirements and fully document the procedures. Failure to comply makes their requirements unenforceable.
  - ***Develop license and permit categories*** that reflect the different regulatory goals and the nature of the actions and activities that are subject to regulation. Georgia's law provides a place to start, with different sets of rules for general, specific, operating, and user licenses, as discussed in Annex 2.
  - ***Establish procedural flows for similar processes.*** A process outline should be provided for each broad type of transaction – handling and consideration of a request for permission, compliance monitoring, disciplinary procedures such as revocation of permission, and appeals. Georgia's law, for example, includes rules

for how agencies interact in the consideration of an application that requires their mutual input; compliance monitoring is limited to one inspection/and or report per year; and the rules on disciplinary action require that licensees receive an opportunity to cure deficiencies.

- ***Set firm deadlines*** that can be varied for particular types of approvals, upon application to and consent of higher authority, that are more complex, present special risks or otherwise warrant an exceptional level of scrutiny. Deadlines should be set for the total process, from submission of the application to delivery of the permission. They should also be set for the internal procedures. For example, Georgia allows three days for officials to screen the application for formal sufficiency, and notify the applicant of any deficiencies. This setting of deadlines for the internal processes helps to ensure that the external deadline can be met.
- ***Establish principles and a process for setting fees*** so that they reflect the cost of administering the processes they encumber. Agencies should also be authorized to charge extra fees for expedited services. Allocation of these extra charges between agencies and employees, and among the different levels of government, deserves thought. Generally, the extra revenues should be shared with the reporting structures the agencies are part of, with the bulk of the money going to those most responsible for generating the revenues.
- ***Provide for a smooth transition to the new regime:*** Phase 1, which will be proceeding in parallel to drafting of the new law, will be of great value in preparing agencies for the transition to the new regulatory environment. In addition to matters mentioned in the discussion of Phase 1, the framework should take special notice of certain issues:
  - The start-up of the new registry for approved permissions will have to be structured to accept listings as they are approved by the designated authority. A different approval process may be required for new regimes implemented after this reform program.
  - Without special accommodations during the transition period, incomes of employees and agency revenues might suffer. Accordingly, all or most of the extra fees generated by the expedited service charges should be allocated to those most at risk of economic harm until revenues stabilize.
  - A reasonable period and process for transition to the new deadlines must be allowed to avoid chaos and trauma. Expedited fees for extra services are a powerful incentive to streamline processes. The transitional period might leverage those incentives by requiring agencies to offer five-day service within one month of the law taking effect, one-day service within two months, and full compliance for all but exceptional cases within three months. This allows agencies to develop processes to meet the expedited time frames that can then be applied to all cases.

- **Set milestones** and **deadlines for Phase 2: T**he EO should define milestones and deadlines for the Phase 2 work of producing the framework law, as it has for the DB reforms. An illustrative process might be as follows:
  - Task force established, first two weeks after order;
  - Primary drafters identified and work begins by week three;
  - Draft outline of the proposed legislation submitted to task force by week five;
  - First draft of the proposed legislation submitted to task force by week eight;

- Task force submits draft for review by central authority and stakeholders for review and comment by week 12;
- Comments received by week 15;
- Revised draft submitted by Task Force to central authority by week 18, and normal legislative process begins.

4. Resources Required

As a percentage of the potential impact, the resources required for implementation are minute. The biggest cash outlays will be about $200,000 and $400,000 respectively for the BFP eRegulations and eRegistrations products, if these are selected. The biggest investment will be the time of participating civil servants. During the initial phases especially, they will be required to do the reform work in addition to their other duties. Relatively soon, however, as first the weeding and pruning process takes place, and then requirements are published, they will find their enforcement duties becoming less time-consuming.

Those selected at the national level and at each agency to learn the Phase 1 technologies – both the IT platform and the documentation and publication process – need to be assigned to this work on a full time basis to lead the implementations as they occur.

Opportunities abound for donors to support this effort. Procuring the IT platforms, fielding consultants to help with Phase 2 drafting, organizing training sessions for those participating with the Phase 1 work, working with the private sector to organize their input, etc., are some examples. In addition, follow-up research should be conducted after the reforms to document actual impacts, including transaction volumes and values, savings to the private sector, compliance rates, revenues, etc.

International experience suggests that the initial outlays for reforms of this sort are rapidly paid back and continue to earn quantifiable benefits for the agencies that implement them and for those they regulate. Indeed, we can confidently expect that if the program is fully carried out, the returns will be sufficient in magnitude to ignite and maintain an economic resurgence in Zimbabwe. The investment is prudent.

Annex 1. Illustrative Survey Instrument for Review of Regulations

#	Question	Answer	Comment/Explanation of the Question
A.	***Overview***	***Answers to these questions will be collated during the situation analysis of each sector to provide senior policy makers with a better picture of the overall regulatory environment.***	
1	What is the approval requirement -- license, permit, etc. -- covered by this survey instrument?		This question defines the regulatory requirement being discussed.
2	Define the class(es) of applicants subject to the requirement.		This information will be used by senior officials for the situation analysis at the sectoral level. It will help to quantify the total regulatory burden of particular stakeholders -- maize farmers or livestock producers, for example – from all regulatory agencies active in the sector.
3	How long is the approval good for before the applicant must renew?		Note that neither the need for revenues nor to ensure compliance with the approval conditions will justify annual approval requirements. Where appropriate, an annual fee may be collected, but a new application process should not be required just to collect a fee. Periodic inspections and reports can ensure ongoing compliance.
4	If annual, could approval for a longer or indefinite period of time be given without sacrificing the public interest being protected? If not, why not?		
5	How many citizens/companies do you estimate should be subject to the regulation?		These two questions will provide insights about the rate of compliance with the requirement, especially in the case of annual renewals.
6	How many applications have you received during the past 12 months?		
7	What are the total fees that each applicant is required to pay to the agency for this requirement?		This is the total of fees paid to the agency enforcing the requirement for each individual application.

#	Question	Answer	Comment/Explanation of the Question
8	How much in total fees did enforcement of this requirement generate over the past 12 months?		This should be total fees per application times the total number of applications in the past 12 months -- Question 6 X Question 7.
9	What is the annual cost to the agency of administering this requirement?		Comparing the answers to Questions 8 and 9 will provide an indication of whether the agency is successfully supporting enforcement with fees, or whether it loses or makes money.
10	What is your estimate of the total compliance costs for an applicant?		Compliance costs are often not considered by regulators. This question asks for an estimate only. The business community will be engaged in the situation analysis of the sector to provide research that quantifies compliance costs. This will help senior policy makers weigh the burdens and benefits of the requirement.
B.	***Is the requirement legitimate?***	***This series of questions has two purposes. First, it provides a preliminary filter into whether the requirement has legal legitimacy, i.e., whether it furthers a national purpose recognized by law. The second purpose is to collect all of the laws, regulations, decrees, etc., which govern the procedures for enforcing the requirement.***	
11	What national value does the requirement protect?		The answer should clearly state what public purpose is being served by the requirement.
12	What specific statutory provision authorizes the agency to regulate in this instance?		This question tests legitimacy by pinpointing the specific provision of a law that justifies or obligates the agency to enforce the requirement.
13	What regulations or other legislative acts prescribe how this requirement is to be enforced?		All regulations, decrees, and other official written requirements that govern the enforcement of the requirement are to be listed.
14	Is the requirement being administered in accordance with the relevant laws and regulations? If not, please specify any deviations from legal requirements.		Based on review of the answers to the foregoing questions, the agency head should certify that the requirement is presently enforced in accordance with all legal requirements. Any deviations should be specifically identified.
C.	***Is the requirement necessary?***	***Research conducted by the USAID SERA project for the Ministry of Industry and Commerce identified a number of instances of regulatory overlap -- cases where different agencies regulated the same or similar matters. This question will contribute to identifying such instances for the situation analysis.***	

#	Question	Answer	Comment/Explanation of the Question
15	Is the same or similar matter being regulated by any other agency? If so, please specify what agencies and cite their requirements.		The answers to this question will help senior policy makers to identify instances of overlapping jurisdiction and consolidate and coordinate agency responsibilities.
D.	***Details of the Current Application Process***	***Answers to these questions will be the basis for the complete process documentation that will be published and made available on the internet.***	
16	List each procedural step that an applicant is required to take in order to obtain the requisite approval.		The answer to this question will result in a list of procedural steps that applicants must take in order to receive the necessary approval. The World Bank's *Doing Business* indicators provide a good model of the specificity required.
17	Provide a citation to the law, regulation, decree, etc., that authorizes or requires each procedure.		Correct answers will point to the specific articles and paragraphs of the legal justification. This will serve to verify the legitimacy of the procedure, and will be published to assist applicants.
18	Estimate the minimum and maximum time required for: 1. Waiting in line (minutes) 2. Service at the counter (minutes) 3. Time waiting for action (days) 4. Total time from submission to receipt of approval (days)		This information will help to identify bottlenecks and agency capacity issues, and, when published will let applicants know what to expect.
19	For each procedure, state the amount and legal justification for any fees that must be paid.		The *Doing Business* indicators provide a good model for how to report fees. Legal authority should be to the specific article or paragraph.
20	How many offices throughout Zimbabwe are available to assist stakeholders in completing the procedure?		Questions 20 1nd 21 will be used in the sectoral situation analysis to provide policy makers with an understanding of the travel requirements put on applicants. When published, it will help applicants through the approval process.

#	Question	Answer	Comment/Explanation of the Question
21	For each such office, provide the address of the department responsible for administering the procedure, and the name and contact information of the responsible official.		
E.	***Current Documentary Requirements***	***Superfluous documentary requirements are a frequent and unnecessary burden on applicants. They must go to the time and expense of acquiring documents that are not directly relevant to the matters within the agency's remit.***	
22	For each procedure, provide a list of all documents that must be submitted. For each document cited above, provide the following information:		Each document required must be listed for each of the procedural steps.
23	Explain why the document is necessary to resolve matters at issue in the agency's review of the application.		Answering this question will help to identify documents that are not essential to resolving matters committed to the agency.
24	What is the source of the document?		These two questions will help identify opportunities for linking agencies and consolidating information requirements during the Phase 3 sectoral streamlining and automation work.
25	If the source is another GOZ agency, please explain why the agency does not obtain it directly, independently of the applicant?		
26	For each document, please specify the fees, procedural steps, and total time required for the applicant to obtain it.		Acquiring this information will require agencies to educate themselves about the burdens documentary requirements place on applicants.
F.	***Agency Head's Conclusions***	***The previous questions in the survey instrument will have provided clear information about the agency's enforcement of the requirement. This serious question requires the agency head, as the senior manager responsible for enforcement, to express his opinion on a number of issues.***	

#	Question	Answer	Comment/Explanation of the Question
27	Are the Agency's fees for enforcing the requirement reasonably calculated to the cost of the services provided? Please explain whether and why fees are more or less than required to support the service.		Generally, fees should support the service provided, and not be used for general revenue purposes. This question will help identify deviations from this principle, and offer the agency an opportunity to explain resource issues, capacity problems, etc.
28	Are the compliance burdens on business reasonable in light of the benefits to Zimbabwe of continuing to enforce the regulation?		Ultimately, senior policy makers will have to answer this question in light of the overall regulatory burden in the sector. The input of agency heads on particular requirements will assist this process.
29	Do applicants have reasonable access to agency offices in the application process?		This will afford agency heads an opportunity to note where resource challenges inhibit their ability to provide timely and convenient services for applicants.
30	Are there procedures, documents, or fees that could be reduced or eliminated to make the application process cheaper, faster, and simpler, for both applicants and the Agency? If so, please specify, identifying which measures the agency can take on its own, and which will require action by senior policy makers, legislative changes, etc.		During the course of this analysis of particular requirements, agencies will identify many opportunities to simply and streamline. Some measures are within their authority to implement. Others will require action by higher authority. Agency heads that excel in recognizing and implementing opportunities for making their regulatory requirements more efficient should be recognized and rewarded.

Annex 2. Advantages of a Framework Law on Regulation

The purpose of a comprehensive framework "Law on Licenses and Permits" is to constrain regulators. It will force them to work within a consistent, predictable national framework that ensures that approval requirements reflect Zimbabwean values, and are handled in a fair and timely manner. An example, the "Law of Georgia on Licenses and Permits," has been provided contemporaneously with this report. The discussion that follows provides examples of essential provisions from the Georgian law, coupled with suggestions of how they might be adapted in Zimbabwe. Avoidable problems that Georgia encountered during the initial implementation period are described. This Annex concludes with a discussion of an entirely different, top-down approach to regulatory consistency across government employed by the Mauritius "Investment Promotion Act" from Mauritius."

A. Essential Provisions of a Framework "Law on Licenses and Permits"

The framework law should control every instance in which government requires prior permission before a business or citizen can engage in an activity – a licence – or carry out some action – a permit. The framework governs all such approval requirements except those that are specifically excepted. Examples of approval regimes that should be excepted include some banking, and insurance requirements, and other areas of high risk and complexity. For the most part, the framework law governs process, and the broad areas in which regulation can operate. Matters of content are left to the specific regulatory acts of each agency. Essential elements that Zimbabwe should incorporate in such a framework law on licensing include the following:

1. Clearly Define Regulatory Authority:

To be successful, framework legislation must clearly define the boundaries within which regulators may act. The law must simultaneously:

- **Control All Instances where Prior Government Approval is Required:** It is crucial that the law broadly define the sphere it controls, which is every instance in which a government agency requires that citizens or businesses obtain prior approval before engaging in some type of activity or taking some action. Georgia's law defines "license" as "the right to exercise a certain *activity* ..." A "permit," by contrast, is defined as "the right to exercise an *action* ...[15]

  Note that agencies may still require annual or recurring fees to be paid, but these are taxes, not license fees. For example, it is entirely reasonable that the City of Harare require an annual fee from every business operating within its jurisdiction. But taxes are collected from operating businesses. Businesses should not be burdened with annual license renewal requirements. They should simply have to pay the annual fee. They will, of course, be subject to periodic compliance review.

- **Limit Regulation to Support of National Values:** Having subsumed the entire universe of regulatory oversight in the definitions of "license" and "permit," the framework law should then limit the authority of regulatory agencies to require prior approvals to defined, national values. In combination, these two types of controls on regulators will prevent the proliferation of regulation for revenue and focus agencies on facilitating Zimbabwe's national vision of the kind of nation it wants to become.

Article 2 of Georgia's law, "Principles of Issuance of License and Permits," provides:

[15] Both definitions are found in Article 3 of the Georgian law.

1. State regulation of an activity or action by means of the license or permit shall be carried out only if this activity or action is directly related to an increased danger for human life or health or to the areas of state or public interests. State regulation is carried out only if by issuing a license or permit [it] it is really possible to reduce this danger or meet the state or public interest. (Emphasis added.[16])
2. In consideration of paragraph 1 of this Article, the following is the purpose and main principles of regulation of an activity or action by license or permit:
    a. to ensure and protect human life and health safety;
    b. to ensure and protect safety of human living and cultural environment;
    c. to protect state and public interests.
3. An activity or action not directly related to public risk shall be excluded from regulation or shall be regulated only partially.
4. License or permit issued by a foreign country may be recognized by international treaty or law and be given the same legal status as the license or permit issued on the basis of Georgian legislation.

The underlined portion of Georgia's law raises, though ambiguously, an issue that became increasingly important as reforms progressed. That issue is the technical capacity of regulators to implement. This issue will be separately discussed after considering what national values regulation should vindicate.

Members of the governing coalition that took power in Georgia after the November 2003 "Rose Revolution" shared a basic distrust in the ability of government ever to do anything well.[17]. Accordingly, the list of national values approved for regulation is truncated. Experience in Zimbabwe suggests additional values government policy seeks to advance. Though somewhat controversial in development circles, these additional values, as well as those in Georgia's law, only produce value if they are effectively and efficiently enforced.

- An ***interventionist*** approach to governance that Zimbabwe has inherited from its colonial past, shared with successful growing economies like Singapore and Malaysia, produces robust government participation in the economy. Among the lessons of the last decade of reforms in developing economies is that the efficiency with which a government delivers its policies is far more important than the policies themselves in terms of delivering robust economic growth. Accordingly, the recommendations herein increase the efficiency and effectiveness of current policies; the underlying approach to governance is not questioned.[18] However, a more interventionist approach makes efficient implementation even more important, to avoid burdens on the private sector that hinder growth.

[16] The underlined portion of the quotation from Georgia's statute is relevant to the next issue discussed – whether the regulatory agency has the technical capacity to implement an approval obligation imposed upon the private sector.

[17] Despite their distrust of government, Georgian reformers succeeded in implementing a whole-of-government approach to delivery of public services that is simply stunning in its effectiveness.

[18] Greater government participation in the economy may be necessary where income inequality is high, in order to prevent excessive economic rents. The risk is that economic elites may be able to "buy" government and use its powers to reorganize rents so even more flow their way.

- Measures for the ***protection of domestic producers*** are generally frowned upon by developed nations. In theory, such measures are supposed to harm local consumers by forcing them to pay higher prices than they otherwise would. But consumers are also producers. Some measures that reduce prices to consumers reduce the incomes of those same consumers as producers. Statistical investigation should determine in the particular case at what levels of support any multiplier effects cease to be of value and commence harming Zimbabweans. The Case-Studies paper identified examples of lag between imposition of protectionist measures and market developments that seem to have left Zimbabweans worse off. It ought to be possible to design self-correcting measures that change based on the changing market environment. That enterprise, however, is beyond the scope of this paper, which focuses on improvements to common regulatory processes.
- ***Indigenization*** is an explicit goal of Zimbabwean policy. Among the most important things a nation can do to promote the welfare of its own citizens is to make regulatory processes so cheap, easy, and efficient that the least among its businesses can move forward with minimal hindrance. The Mauritius approach to attracting investment, discussed below, favors those with money over those scrabbling for a living. Georgia's approach was, and Zimbabwe's goal should be, to regulate for the little guy.

2. Require Capacity to Regulate and Comply as a Precondition to Regulation:

As noted above, Article 2, Par. 1 of Georgia's law requires, "State regulation is carried out only if by issuing a license or permit it is really possible to reduce this danger or meet the state or public interest." In practice, Georgia sometimes eliminated agencies with essential functions but little or no technical capacity. Georgia reformers frequently stated variations of the maxim that, "you can't make things worse by eliminating an agency that has no capacity to do its job, and only issues worthless pieces of paper in exchange for money."[19]

Accordingly, the entire national road police department was eliminated, as were the agencies responsible for issuing driver's licenses and inspecting motor vehicles, inspecting restaurants, and examining plant and animal shipments at the borders. In the event, nothing much changed during the time such agencies were eliminated and new, fully competent agencies were created from scratch to take their place.

Where no technical capacity exists to properly regulate a matter that does affect some national value, two scenarios are possible. First, such activities can be prohibited. While this approach might be suitable for especially high-risk activities – nuclear power generation or manufacture of dangerous chemicals, etc., the second option is generally preferable: Simply allow the activity to go forward unregulated. Some countries regulate beauty parlors and barber shops, for example. Others don't, and small businesses flourish, with no apparent harm to public health or safety.

[19] Perhaps the most flagrant example of such a useless agency was in Afghanistan. Export procedures there required certification that shipments of fresh fruits and vegetables, in great demand in the Gulf countries, contained no more than infinitesimal residues of pesticides, insecticides, fertilizers, etc. Upon payment of the proper fee, the agency responsible certified the products passed, to a long number of decimal points, despite the fact that it had no laboratory. Such measures throttled what could have been a very productive agricultural export sector, to the detriment of millions of poor Afghan citizens. In most cases, nations should not attempt to certify quality for the citizens of other countries; regulators there will do that for themselves.

Another issue to be considered is the capacity of those who are regulated to comply. The values filters discussed above can be used to justify all sorts of regulatory requirements as in the public interest, yet in some cases, citizens and businesses will simply lack the monetary means to comply, or to comply and still make a living. One example is Zimbabwe's traffic regulations. The condition of a motor vehicle certainly has an impact on public health and safety. Yet, is it really necessary to require that not only is the vehicle in good working condition, but that it have a working spare wheel, wheel spanner and jack, emergency glowing jacket, fire extinguisher, danger triangles, etc. Rich countries do not have such detailed requirements, so why does Zimbabwe. The suspicion arises that it may have more to do with raising revenue then protecting public health and safety, since traffic police are so scrupulous about enforcing with fines any transgression. The cost of compliance is high; the cost of non-compliance can be higher. The impacts of citizens, especially the poor, are probably a bigger threat to public health and safety than the absence of some of these mandatory items. People can lose their jobs because they cannot afford the regulatory costs of owning a vehicle to take them to work. In some cases, in can be a choice between food on the table or a child's education, and full compliance with extreme regulation.

Obviously, the values articulated in a framework law can be stretched by regulators to the point of breaking those subject to the regulations, and undermining the very values sought to be protected. Regulators will almost always be zealous in expanding their jurisdiction, without real regard for whether they have the technical capacity to enforce regulation, or those subject to it have the means to comply. Thus, external oversight is always required. The national registry of regulations system, and the requirement for high-level review and approval, discussed herein, will help filter out some such abusive regulations. Yet, regulation that appears reasonable can be enforced unreasonably. Georgia's law lacks any mechanism for continuing review and oversight of the reasonableness of enforcement measures that comply with the general regulatory framework. The Mauritius Investment Promotion Act, discussed below, invests the Board of Investment with power to intercede to improve the business environment, but does not provide protections for ordinary citizens. Zimbabwe's framework law should empower agencies of central government to ensure that regulators have the technical capacity to administer their regulations, and that as enforced, any burdens on business and citizens are reasonable in relation to the values served.

3. Prohibit Proliferation of New Approval Requirements:

Article 4 of Georgia's law, entitled "Inadmissibility of introduction of additional license and permit," contains two very useful principles that Zimbabwe should adapt. First, it prohibits enforcement of any license and permit that is not specifically referenced by the law. Zimbabwe should establish a national registry of license and permits. Only license and permits specifically listed in the registry should be enforceable. The initial list will grow out of the parallel phase of documenting and publishing current requirements. Zimbabwe's law should also establish a uniform, transparent process for agencies wishing to introduce a new license or permit in the future to obtain the permission of central authority. The criteria for approval should be clearly defined, and require the agency to demonstrate that the new approval requirement will serve an articulated national value, that the agency has the technical capacity to implement the regulation, and that it will do so meeting the general efficiency requirements of the framework law, discussed below. Those proposing a new regulation should also be required to demonstrate that the costs of compliance are a reasonable burden on businesses and citizens. Private sector stakeholders should have a formal role in reviewing and commenting on any such proposed new regulation.

The second key principle of Georgia's law forbids agencies from creating new approval obligations, whatever they are called. This makes clear that it is the requirement of prior permission for an activity (license) or action (permit) that is regulated, not just specific permissions that happen to be named "license" or "permit."

4. Regulate how approvals are granted:

In addition to constraining *what* may be regulated, a framework "Law on Licenses and Permits" should also control *how* regulations are carried out. Georgia's law sets out a general regulatory framework that all regulatory approvals must comply with. Key features include the following:

- **Several types of licenses are defined,** with specific rules for each. They include:
  - "Operating licenses," (Article 3(a.b), are not transferable. They cover a variety of regulated activities, including producing food products for babies and children, banking, broadcasting, and dealing with radioactive materials. Notice of applications for operating licenses must usually be published, and 20 days allowed for receipt of comments from the public.
  - "User licenses," Article 3(a.a), allow the holder to exploit state resources such as minerals, forests, and fisheries (Article 7). They are to be "issued by auction," and the holder is allowed to subdivide and transfer its rights to third parties. Article 3(a.a).
  - A "general license" allows the holder to carry out a variety of related activities under one general license, without having to get a special license for each. Article 3(b). For example, the City of Harare might issue a general license to restaurants instead of requiring them to obtain multiple licenses for minor variations in the preparation and service of food.
  - "Special licenses" allow their holders to engage in a narrow business activity. Article 3(c). They are required only to demonstrate their qualifications for the specific activity, not the larger set of related activities that would be encompassed by a general license.
  - A "permit" confers the right to take some action within a definite or indefinite period. Article 3(e). Examples include import and export of goods subject to veterinary or phytosanitary control, or the right to possess firearms, or to construct buildings. Article 24. Construction permits are subject to special regulations (Article 26).

Associated with each type of approval are a strict set of appropriate procedural requirements that are designed to make the relevant bureaucracies efficient and predictable, and to simplify and streamline the process. These measures include:

- **Strict time limits** are imposed for each step in the process. A typical timeframe, from the "simplified administrative procedures" for permits, Chapter VII, includes the following deadlines:
  - Within three days from receipt of the application, the issuer must verify that the documents are in compliance with requirements and forward copies to any other administrative authorities that participate in the determination. Article 25(9).
  - Other participating authorities have 15 days to adopt their decision, and must provide their written determination to the issuing authority within 17 days of receipt of the documents. If the other participating authority requires additional time, it must request it within five days of its receipt of copies of the application. Article 25(11).

- The permit issuer must issue the permit within 20 days after the original submission of the application. Article 26(10). If additional time is required to process the application, the issuer may ask the cabinet for an additional three months, and in some case up to six months. Article 26(7).

- **Sanctions imposed on issuers for failure to comply** are of two kinds:
  - In most cases, a license or permit is "deemed issued" if the agency responsible fails to act within the time prescribed.[20] Article 10(17) and 26(10). The applicant has the right to demand immediate issuance of the license or permit after the deadline passes, and officials are obliged to deliver it promptly. In practice, this application of the "silence is consent" principle did not work well, as discussed below. The Mauritius framework law provides more powerful tools, wielded by its Board of Investment, to deliver the necessary paperwork to investors with means who register with the Board.
  - Georgia's law also provides that individual officials who miss a deadline to issue a license or permit may be individually sanctioned. Article 37(2) provides a demotion of six months for officials who do not issue a license or permit within the prescribed time limits. Repeated infractions over a three-year period are grounds for dismissal. Article 37(3). Failure to issue a license or permit immediately, as required by the "silence is consent" principle, gives rise to a warning, with repeated offences over a three-year period warranting a dismissal. Article 37(4). The law also forbids reinstating persons who have been dismissed to the same or similar positions. Article 37(5).

  While some sanction is appropriate for willful misconduct, a reasonable timeframe and other transitional provisions will be more effective than fear.

- **Permit conditions are clearly defined and limited by law.** To prevent agencies from requiring submissions of documents or additional procedures on an *ad hoc* basis, Georgia's law defines license and permit conditions as "a comprehensive list of requirements and information stipulated by the Law" in the case of a license, Article 3(t), or by decision of a local government authority based on the law in case of a permit. Article 3(u). Additional license conditions can only be added by law, for licenses, Article 9(5). For permits, new conditions can only be added by law or written decision of local government based on the law. Article 25(5).

- **Fees limited to the cost of processing applications.** Article 3(q) and 3(t). At this stage in Zimbabwe's development, this principle needs to be carefully implemented. Documenting and publishing all regulatory requirements, as recommended in this paper, will produce significant compliance cost savings for businesses, which will lead to large increases in the volume and value of regulated transactions. This will result in a surge of revenues for the state and its subordinate agencies. Streamlining and automating regulatory systems will produce even greater savings and revenue. International experience provides numerous examples that demonstrate efficient regulatory systems with fees based on the costs of administration generate more than those that use fees to generate revenues. At the same time, however, "cost" should, at

[20] The "deemed issued" principle does not apply to operating licenses. Holders must actually receive the license certificate before beginning activities when the issuer fails to meet the deadline. Article 16(2).

least initially be defined sufficiently broadly to allow the agency to carry out its mission, without unduly burdening citizens and businesses.

Georgia also adopted a pricing principle in practice that is not explicitly authorized by the law. Agencies began charging fees based on a tiered, processing time system. One-day service, for example, might cost $300, four-day service $150, and standard service delivered the day before the statutory deadline runs $50. This approach formalizes informal fees, and re-directs them to the agency as a whole. Thresholds should be established that divert set percentages of the expedited service fees to the employee pay pool. This obviously incentivizes better performance. Another advantage is that more efficient service delivery systems are piloted in order to generate the extra fees. These more efficient processing systems then spread to the entire caseload. Georgia's National Agency for Public Registry now processes all routine applications to transfer land or register a new business with two hours of receipt of the application. It retains the tiered fee system, simply holding on to approvals for one, four, or 21 days, and charging accordingly. It remits revenues to the state while retaining sufficient to be a well-paid, technologically advanced, innovative agency.

- **Issues for decision are circumscribed** in several ways. First, an issuing agency is prohibited from requiring an applicant to prove factual issues that were already established under a related license or permit; its review is limited to just those new issues that were not previously determined. Articles 9(6) and 25(6). Similarly, the agency cannot require applicants to prove facts to be or already determined by other agencies. Articles 9(7)-(8) and 25(7)-(8). In addition, a business that obtains a general license is not required to obtain an individual license for each of its branches to carry out the same activity. Articles 9(16) and 25(16).

- **Monitoring by agencies is controlled.** Compliance by license holders can be monitored only by random inspections and periodic reporting, Article 21(2), which cannot be more than once a year, unless specifically authorized by the agency's enabling act. Article 21(10). Random inspections must be based on a written administrative act, which must be shown to the licensee. Article 21(8). After the inspection, a report must be prepared and preserved. Article 21(9).

- **Agencies must maintain official, publicly accessible registries of licenses and permits.** Articles 3 (m)-(n) and 36.

- **Sanctions for violations of license and permit conditions are spelled out.** Georgia also provides clear rules on how agencies are to respond when license or permit conditions are violated, including penalties, the hearing process, licensee's right to cure, etc. Articles 22-23 and 34-35.
- While **regulation of professional occupations** is not covered by the law, it requires, Article 42, that the government adopt legislation that provides:
    - Full self-regulation of non-essential public risks;
    - Partial self-regulation of essential public risks; and,
    - Full state regulation of high public risks.

B. Learning from Georgia's Experience:

Georgia's first two-three years under the new regime were sometimes chaotic, and for the government officials responsible for issuing licenses and permits, were often traumatic. Once the transition period passed, however, a framework law that set out the general rules for when government could require prior approvals and how the regulatory system would work proved immensely valuable in many respects. Among the advantages:

- Petty corruption was eliminated virtually overnight.
- Businesses responded to the increased certainty, predictability, and easier, faster procedures by investing more in Georgia's economy, which averaged double-digit GDP growth from 2005 through 2009.
- Participation in the formal economy increased dramatically, and state revenues soared.
- The law was used successfully to thwart attempts by some ministries to introduce new approval requirements to raise revenues.
- One of the most important results was that the framework law served as a sort of building code for regulation. The standardization of regulatory processes made them much easier to streamline and automate.

While the eventual results were extraordinary, the traumatic transition period left permanent scars on the social and political fabric that could probably have been avoided. Two types of issues to smooth implementation were observed, those related to the mechanics of implementation and those related to the political and social aspects of the imposition of the new regime. Each is discussed in turn, with and recommendations provided for how Zimbabwe can obtain the many fruits of a clear, consistent regulatory framework, while avoiding a traumatic transition.

1. Mechanical Problems in Implementation of Georgia's Legal Framework:

The two primary problems noted with the mechanics of implementation were a) regulatory overload -- the wrenching transformation overwhelmed agencies' capacity to change; and b) the "deemed issued" response to failure to act within the statutory time frames was problematic.

Many agencies responsible for implementing the dramatic changes in regulatory procedures were overwhelmed. Byzantine procedural requirements were ideal environments for soliciting facilitation fees that enabled applicants to obtain governmental approvals whether or not they were qualified. Most agencies simply lacked the administrative resources to convert overnight to the new regime, and process approvals within the tight time frames set out. The situation was complicated by the fact that Georgia required almost 900 different approvals, so bureaucrats were already spread thin. Agency officials were also required to devote considerable time and resources to defending their almost 900 approval requirements against the revolutionary reformers' winnowing efforts, which eventually trimmed the number down to about 150 in a draconian, regulatory guillotine-type process.

Creative bureaucrats adopted a number of coping strategies to relieve themselves of the burden of processing applications as required and in the time allowed under the new law. These measures including not logging in applications when they were received so the applicant couldn't prove when the clock started running, and rejecting submissions for the most superficial of inconsistencies in documentation. This required applicants to resubmit, and sometimes resulted in prolonging the process even more.

Such creative subversion by beleaguered bureaucrats undermined the effectiveness of the "deemed issued" sanction for failure to timely process an application. When the clock does not officially start, the allowable period never runs. In many cases, businesses simply could not get the necessary certificates, even when they could prove the clock had run. The absence of the piece of paper often hampered them from going forward, despite their legal entitlement. Banks and investors, for example, wanted to see the piece of paper authorizing an activity or action before issuing a loan or investing in the project. The more orderly transition process recommended herein will avoid these problems.

2. Social and Political Issues in Implementation:

Implementation of the new regime was one of the first major reforms of the coalition that took power in the November 2003 "Rose Revolution." More stick than carrot, it was deliberately aimed at targeting and taming a bureaucracy to which the new officials were overtly and actively hostile, and, indeed, perceived as enemies to be conquered. Most of the new officials leading the reforms were very young, many in their 20s, western-educated, and libertarian in outlook. The certainty of their convictions and their impatience with any delays in achieving results assured rapid progress, but left more than a few bodies behind.

Some agency officials suffered sharp drops in their personal incomes because they were no longer able to charge informal fees for facilitating the approval processes they were implementing. Official salaries in many cases were $100 or less a month, which was simply not enough to sustain a decent life. In such circumstances, waging a war on corruption and labeling ordinary people trying to survive as criminals is counterproductive.

More of an effort could and should have been undertaken to enlist government workers as agents of change in the great national transformation that was underway, and ensure that they shared in the benefits, instead of treating them as obstacles to be overcome. As discussed, reasonable deadlines to comply with the regulatory reforms, and pay incentives that let civil servants share in the benefits, would facilitate a smoother transition, avoiding the mechanical and the social and political issues that Georgia experienced.

C. The Mauritius Model – Imposing Control from the Top Down

Georgia's "Law on Licenses and Permits" was ultimately successful in requiring all government agencies to implement policies and procedures that conformed to a uniform national standard. Mauritius adopted a very different approach. Its "Investment Promotion Act"[21] invests the Board of Investment with sweeping powers to tame the bureaucracy. In many respects, the Board resembles a traditional national investment promotion agency, but it has extra powers to achieve results on behalf of persons with specified levels of money. The Board's objectives, defined in Article 5, are typical – to stimulate the economy, promote investment and business activity, develop policies and strategies to accomplish these aims, and advise the Government on all related issues. The power boost comes from the law's allocation to the Board of the functions and powers necessary to actually ensure that those objectives are achieved.

Article 6 describes the Board's functions. In includes both a list, and authorization to pursue "such functions as, in its opinion, are necessary to further most effectively its objects…"

[21] Act 42 of 2000, Dec. 30, 2000. A copy of the Act has been submitted with this report. It is available online at http://www.investmauritius.com/media/267191/Investment-Promotion-Act_-2015.pdf.

(Emphasis added.) The Board's powers, Article 7, are similarly expansive. In addition to a specific list of powers, the Board is authorized to "do such acts and things as are incidental or conducive to the attainment of its objects." In combination, the objectives, powers, and functions of the Board make it the Government's designated lead agency in ensuring development of a business environment that enables economic growth and national prosperity.

Mauritius gave the Board "super powers" to intervene on behalf of investors in Section 18B, entitled "Facilitation by Board of Investors." Pursuant to this provision:

> (1) Any registered investor or self-employed person may request the Board of Investment to provide assistance, support, coordination and co-operation with public sector agencies to facilitate and implement his project or business.

Once, the Board's assistance is requested, it has extraordinary powers to compel agencies to process applications for approvals efficiently, and within the applicable guidelines. To this end, the Board may issue orders directly to the agencies involved and summon them to meetings to facilitate and coordinate project implementation. The law explicitly states in Article 18B(2)(a) that the Board "<u>may</u> give such directions as may be required to expedite the processing of applications, to relevant public sector agencies in accordance with relevant guidelines." This power is supplemented by the power of the Board to "convene committees and meetings with public sector agencies to facilitate and coordinate the implementation of projects by registered investors or self-employed persons."

The use of the word "may" indicates that these powers to compel agencies to comply with their own guidelines is discretionary. When a registered investor asks for help, however, the Board has no discretion when it comes to compelling agencies to meet their own time lines. Article 18B(3) requires, that the Board "<u>shall</u> ensure that any application made for a permit or authorisation is processed within the time limit set by the public sector agency."

The paragraphs above describe amendments to the Investment Promotion Act that were introduced in 2006. They give one agency, the Board, a remarkable degree of authority over all other agencies that exercise approval authority over business actions and activities. This authority, however, seems largely limited to doing whatever is necessary to ensure that the agencies comply with their own guidelines. The 2006 amendments did require that all guidelines must be "available for consultation at the office of the public sector agency and the Board" and "posted on the website of the Board." Publication of all approval requirements on a publicly accessible web portal is a profoundly important step in reducing compliance costs on businesses, and increasing transparency, as discussed, above.

What the 2006 amendments did not address, however, was the substantive content of agencies' own guidelines. An amendment introduced in 2015 inserts the Board directly into the center of every other agency's policy-making process of developing the substantive content of guidelines for processing approval requirements. Article 18B(1A) now requires:

> Every public sector agency <u>shall</u> request the Board of Investment to provide assistance, support, coordination and co-operation on the review of systems and procedures and guidelines in order to facilitate the doing of business.

Emphasis added. Thus, the Mauritius Board of Investment is now fully empowered both to intervene on behalf of business in specific cases to ensure public agencies comply with their

own guidelines, and to ensure that across government, a consistent, efficient approach to regulation is adopted.

The Mauritius model creates a powerful centralized agency able to extract from other regulatory agencies the results, in a timely fashion, that new projects require. This effectively

solves Georgia's problems with the "deemed consent" principle. These powers, however, are reserved for the wealthy. Table 3 sets out the wealth requirements for registration with the Board of Investment. Reserving such powers for those with means far above the Zimbabwean average is inconsistent in some respects with the values served by indigenization. Efficient results should not be reserved just for wealthy Zimbabweans and foreign investors. Regulation that works for the poorest among us works for all.

Table 3. Mauritius Investor Monetary Requirements

Type	Initial Amount (USD)	Annual Turnover, Income
Investor		
Company	$100,000	4 million[22]
Individual	$100,000	--
Other	20 million	
Self-Employed Person		
Professional Person		
Services Sector	$35,000	600,000
Information/Communication, Business Process Outsourcing	$35,000	30,000
Any Other Sector	$35,000	$3,000/45,000
Retired Non-Citizen	$120,000	$40,000

The additional powers to intervene in agency policy development that the Board gained in 2015 suggest that Mauritius came to believe that a framework approach across the regulatory sphere would be useful. These powers to promote systemic efficiency across the economy can be put to good use in ensuring that regulatory systems work for all applicants, rich and poor. Zimbabwe should consider empowering an appropriate agency with similar powers. The emphasis should be on improving regulatory systems, rather than providing remedial assistance to wealthy investors when the systems fail. The agency tasked with such powers should be authorized to intervene to improve regulatory systems both for business, and to protect ordinary citizens from depredations like traffic regulation, as discussed above.

[22] Non-dollar amounts are in Mauritius Rupees (MUR). The official exchange rate on December 31, 2006, the year the provisions were enacted, was $1 USD = 33.0490 MUR, according to the online currency converter at https://www.oanda.com/currency/converter/.