



The Regulatory Guillotine™ BRIEFING NOTE

Frequently Asked Questions (FAQ Sheet)

Why the guillotine? Broader and faster business environment reforms are needed

Many countries that have made progress in some areas in improving the regulatory environment for business recognize that, despite their efforts, the economy continues to suffer from high-cost and high-risk regulatory environments that deter investors. Entrepreneurs and international indicators agree that there is still much progress to be made in making many national economies an attractive place to do business. Meanwhile, competition for markets and for FDI is intensifying throughout the world.

While focused reforms are needed in some areas, a broad-based and systematic effort across the whole of the public sector is needed to reduce the growing number of procedures and regulatory burdens and to create visible change for enterprises. If they are to achieve significant and sustained changes in investor behavior, governments should aim to make visible and significant reductions to the many regulatory and administrative costs that are harming the ability of businesses to invest, to compete, and to create new, higher paying jobs.

A Tested and Refined Solution: The Regulatory Guillotine™¹

Many governments should be able to make rapid and visible progress by using the so-called Regulatory Guillotine™ approach, one of the most widely known innovations of Jacobs and Associates. The guillotine is intended for situations where governments are moving rapidly to become more competitive in changing markets.

Who has used the Guillotine approach?

The guillotine was pioneered by Sweden in the 1980s, and was used in various forms by Hungary, South Korea, and Mexico in the 1990s in their successful and historic regulatory reforms aimed at sustainable economy-wide transformation. Their experiences have been reviewed and positively assessed by the OECD. The Jacobs and Associates team, which led

¹ Regulatory Guillotine is a trademark of Jacobs and Associates Inc.

Jacobs and Associates Inc

1300 Pennsylvania Avenue NW, Suite 700 Washington, DC 20004 United States
Phone: 1 202 204 3060 Fax: 1 202 789 7349 Website: www.regulatoryreform.com

the OECD program on regulatory reform during the 1990s, used these experiences to develop a systematic, practical guillotine process that can be widely applied in different countries.

Since 2004, we have assisted several more countries in transition in completing regulatory guillotines, and several more are in 2007 in the midst of the process. The most recent countries with concrete results are Ukraine, Moldova, Kenya, Bosnia, and Croatia. Macedonia launched a guillotine reform in 2006, Egypt launched a massive guillotine project in June 2007, and Vietnam is in August 2007 considering launching the reform.

What are the results of the Guillotine?

The guillotine eliminates and simplifies many regulations in a short period at low cost, while strengthening the government's ability to focus on regulations needed to protect health, safety, and the environment. If the guillotine is successful, the costs and risks of doing business in the national economy will be visibly reduced, improving competitiveness, investment, and job creation. South Korea, the 11th largest economy in the world, reviewed over 11,000 regulations in 11 months and eliminated almost 50% of them, which was projected to produce over 1 million new jobs and \$36 billion in new FDI as a result of the lower barriers to entry and lower compliance costs on businesses. The table below shows the immediate results achieved in various countries.

Results of the Guillotine in Six Countries

	Type of review	Target of Reform	Number of regulations before cleanup	% of regulations eliminated in the reform	% of regulations simplified in the reform
Korea (11 months)	Legality, Need	Regulations	11,125	48.8%	21.7%
Mexico (9 months)	Legality, Need	Formalities	2,038	54%	27%
Moldova (6 months)	Legality	Regulations	1,130	44.5%	12.5%
	Legality	Fee-based Permits	400	68%	20.3%
Ukraine (12 weeks)	Legality	Regulations	14,000	36 %	7,2%
Bosnia /RS (4 months)	Legality, Need	Formalities	331	21.1 %	22.7 %
	Legality	Inspections	2,473	58%	-
Croatia (9 months)	Legality, Need	Business Regulations	2,683	27%	30%

Source: Jacobs and Associates, 2007

How does the Regulatory Guillotine work?

The regulatory guillotine is a flexible method designed through a clear and transparent sequence to produce good results even where resistance against reform is high. Essentially, it is an orderly and transparent process of COUNTING and then RAPIDLY REVIEWING a large number of regulations against clear criteria, and eliminating those that are no longer needed. Extensive stakeholder participation helps to ensure that the reviews are realistic and factual. Its core principle is that:

Any regulation that is not successfully justified as legal and needed for future policy needs for market-led development will be eliminated, and any regulation that is needed but not business-friendly will be simplified to the extent possible.

The guillotine is a top-down and rapid reform strategy that must have strong political leadership at the center of government. The reform itself is operated by a small, capable reform unit at the center of government set up especially for the guillotine. The *HitroRez Unit* in Croatia and the *Working Committee on Regulatory Reforms for Business Activity in Kenya* are examples of such units.

The basics of the reform process work like this:

1. The government establishes the scope of the guillotine, that is, defines precisely the kinds of regulatory instruments to be included and the regulatory bodies.
2. The government adopts a legal instrument – usually a law or decree -- that sets out the entire guillotine process, schedule, and institutions. The reform should be completed in less than 18 months.
3. The government creates a central guillotine unit at the center of government that manages the whole reform and carries out the independent reviews.
4. In the guillotine process, each regulation must be justified as meeting basic criteria. The burden of proof is *on the regulator* to defend why the regulation should be kept. Three typical criteria are: *Is the regulation legal? Is the regulation necessary for future policy needs? Is the regulation business-friendly?*
5. The regulation passes through three levels of review – by ministries themselves, by business stakeholders, and by the central unit, which develops the final recommendations. In each review, unnecessary, outdated, complex, and illegal rules are identified.
6. Final recommendations are sent as a single package by the central unit to the Government or to Parliament for adoption.
7. Surviving regulations are placed into a comprehensive electronic regulatory registry that improves legal security and transparency as it is maintained in the future.

In all cases, the guillotine process produces a package of recommended reforms. Adoption of that package is done by the proper legal authority (Government or Parliament).

Where should the central guillotine unit be located and how is it staffed?

The central unit in the center of government will carry out the reform. The central unit is:

- Created by government or PM decree and is responsible to the Government for reform
- Autonomous and separate from the ministries being reviewed – located at a central and cross-cutting level (never within a single ministry)
- Charged with overseeing the reform and ensuring that it is completed on schedule

- Responsible for helping the ministries carry out the inventories and reviews
- Headed by a Director or Commission
- Staffed with lawyers, economists and business experts

The unit could be staffed by a person named by the Government or Prime Minister. The unit would have sufficient staff to carry out the reviews, some of them lawyers and some business experts and economists, who will be expert and trained.

In each ministry, small ministerial units should be set up. These units are:

- The responsible coordinator for each Ministry
- Small teams established in each Ministry dedicated to carrying out the inventory and review process

What ministries and kinds of regulations are included in the Guillotine review?

At the beginning of the reform, the government will establish the scope of the guillotine across ministries. Most countries have carried out government wide reforms across all ministries, which produces the largest impact in the shortest time at the lowest cost. Korea chose to review all regulations affecting businesses across the entire government. Kenya reviewed regulations affecting 178 regulatory authorities across the entire public sector. However, Egypt, due to the enormous volume of regulation on the books, has chosen to begin the guillotine with 8-10 key regulatory ministries out of 32.

The scope across legal instruments is also flexible – it can include only certain kinds of regulations such as formalities or licenses, or can include only specific categories of legal instruments, such as Government decrees. Some countries include parliamentary laws in the scope of the review, while others include only Government and ministerial decrees and decisions.

How much time is needed to complete the guillotine?

A guillotine review of 1,500 - 5,000 regulations should take 4-6 months to prepare, and, once launched, around 10-12 months to complete, depending on the number and complexity of the instruments under review. The guillotine is designed to work fast and should be completed within 18 months.

How much will the guillotine cost?

Most of the cost of the guillotine is the cost of labor to count and review the regulations. Because no one in many countries knows how many regulations actually exist (since many have never been counted or even published), it is difficult now to estimate total cost. Costs are estimated after more thorough staff work to assess the potential scope and scale of the exercise. Costs have ranged from around \$1.5 million in small countries to \$7 million in large countries. In most countries, costs have been shared between the government and donors.

The major cost elements are:

- Staffing the central unit (fulltime people for 12 months)
- Buying the software and hardware to carry out the project on an electronic basis

- Office space for the central unit
- Cost of the public communication campaign to make businesses aware of this effort
- Technical assistance based on experiences in other countries

How will the public participate?

The reform is based on transparency and consultation. Key stakeholders will have an opportunity to review every business procedure included in the reform. A Business Advisory Council would be set up to ensure that consultation can be carried out quickly and efficiently.

Will the guillotine reduce safety, health or environmental protections?

The reform is explicitly designed to ensure that necessary protections are maintained. Simplification of the regulatory procedures will, in fact, increase the effectiveness of the important procedures and regulations that remain.

What are the steps needed to launch the guillotine?

The guillotine as designed by Jacobs and Associates is a highly organized process that rests on a series of strategic and operational decisions that are categorized into eight concrete strategies.

1. **Political strategy** to create and sustain a supportive political coalition
2. **Administrative strategy** to establish the review and the central review group, and carry out the day to day review process
3. **Legal strategy** to create the legal conditions for success, write a formal legal mandate,

What are donors saying about the Regulatory Guillotine™?

"The guillotine is "...a fast-track approach that can deliver short-term results This combination of simplicity and speed, and the results already achieved, provide a relatively promising foundation for the reform, and for using its achievements as a stepping stone for further regulatory reforms." -- Business Licensing Reform: A Toolkit for Development Practitioners, World Bank, 2006

"Evidence compiled to date suggests that guillotining can be an effective means of reducing needless bureaucracy and achieving a more carefully considered regulatory system." Best Practice Guide for a Positive Business and Investment Climate. Organization for Security and Co-operation in Europe (OSCE), 2006

"Application of the Guillotine Law is one of the most significant events in the reform process since Moldova's departure from the USSR." USAID Frontlines, February 2006

The "guillotine of regulations" will cut through unnecessary measures that prevent investments in BIH." USAID BIH Director Howard Sumka

"Reduction by regulatory guillotine of business licenses in Kenya ... is a key result that will contribute to reducing the cost of regulation of the private sector in Kenya , and toward improving transparency and fighting corruption." Demba Ba, Head, Africa Region's Private Sector Development Group in the World Bank (June 2006)

and develop the legal means of implementation

4. **IT strategy** to ensure that the management software and website work well and the e-registry is well-designed and credible
5. **Analytical strategy** to measure the cost-savings of reform
6. **Communications and consultation strategy** to inform the public and to enlist the participation of key stakeholders
7. **Monitoring and implementation strategy** to be sure the guillotine actually has effect on the ground due to changed behaviour by inspectors
8. **Preparation of sustainable regulatory reform strategy and drafting legislation** for submission to parliament to institutionalize “better regulation” tools in the public sector.

Where can I find Reference Materials on the Regulatory Guillotine™?

- **Effective and Sustainable Regulatory Reform: The Regulatory Guillotine in Three Transition and Three Developing Countries**, Scott Jacobs (Jan 2006), Jacobs and Associates Working Papers at <http://regulatoryreform.com/documents/Evaluation-of-regulatory-guillotine-Jacobs-Jan-2006.doc>.
- **Briefing Note: Frequently Asked Questions on the Regulatory Guillotine™** on the Jacobs and Associates website on the Jacobs and Associates website at <http://regulatoryreform.com/Guillotine.htm>
- **The Regulatory Guillotine™: A Tool for Rapid Regulatory Simplification**, presentation given by Scott Jacobs in Jakarta, April 2007, at <http://info.worldbank.org/etools/library/latestversion.asp?239803>
- **The Regulatory Guillotine™ Strategy. Preparing the Business Environment in Croatia for Competitiveness in Europe** at http://pdf.usaid.gov/pdf_docs/PNADG614.pdf.
- **Dealing with the Stock of Regulation: A Case of Korean Regulatory Reform** by Professor Jong Seok Kim, at <http://info.worldbank.org/etools/library/latestversion.asp?239804>

How can I find out more?

For more information on how the Regulatory Guillotine™ can be used to speed up regulatory reforms and the transition to markets in your country, please contact Scott Jacobs at scottjacobs@regulatoryreform.com.

Last Updated August 2007

Jacobs and Associates Inc

1300 Pennsylvania Avenue NW, Suite 700 Washington, DC 20004 United States
Phone: 1 202 204 3060 Fax: 1 202 789 7349 Website: www.regulatoryreform.com