

DRAFT Mission Report from Regulatory Delivery, UK Government

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Background

1. This report summarises the observations and recommendations from the recent scoping mission by the UK Government's Regulatory Delivery, to examine the regulatory environment in the Punjab Province, Pakistan.
2. Regulatory Delivery (RD) is part of the Department for Business, Energy and Industrial Strategy and leads the UK Government's agenda on regulatory delivery, bringing together policy expertise and practical experience to ensure that regulation is effectively delivered in ways that reduce burdens on business, save public money and properly protect citizens and communities.
3. The purpose of this mission was to examine the issues affecting the regulatory environment in Punjab, review reform efforts to date and provide advice and recommendations to improve the regulatory environment, with a particular focus on the newly formed Investment Climate Reform Unit (ICRU). The work forms part of the World Bank's wider efforts to support improvements to the investment climate, through the Jobs and Competiveness Programme.
4. We would like to thank the Department for Planning and Development and the World Bank that so ably facilitated our visit, with particular thanks to Ali Jalal, Secretary xx and Amjad Bashir. We would also like to thank all the individuals who gave their time and shared their views and experiences in such an open and constructive manner and to the Department for International Development that made this visit possible.

Approach

5. This mission was carried out over five days, and was based on key lines of enquiry using RD's diagnostic tool, the Regulatory Delivery Model. The model has been developed by Regulatory Delivery based on our experiences of implementing regulatory reform in the UK, as well as providing assistance to international partners. The model has been extensively tested as an analysis framework in a variety of contexts and operating environments and has provided a robust framework for analysis.
6. The model allows an examination of the critical factors that determine the effective and efficient operation of the regulatory environment. The model comprises of two halves – the first addressing the necessary pre-requisites that must be established to provide the right conditions for regulatory agencies to operate effectively. The second half of the model focuses on the operational practices of the regulator, the day to day planning, policies and processes that ensure that regulatory agencies are making the right decisions to deliver their activities in the most effective and effective way. This includes a strong focus on outcomes and the purpose behind the regulatory requirement, as well as the use of data to make risk based decisions about where to focus their resources and what type of regulatory 'tool' to use to achieve the desired outcome. An overview of the model can be found at Annex A.

Context

7. Punjab is home to more than 100 million people and generates 60% of Pakistan's GDP; as such it has a huge impact on Pakistan's growth and prosperity. While Punjab has outperformed Pakistan's growth in recent years (growing at 6% relative to the national 4%), growth in the province has since slowed to 3.5%. In 2014, the Punjab Government released a Growth Strategy targeting 8% growth and private sector investment worth \$17.5 billion by 2018.
8. Over the last decade Pakistan's ranking in the World Bank's Ease of Doing Business has fallen dramatically from 75 in 2008 to a ranking of 148 in 2016. The latest Ease of Doing Business Indicators in 2017 show an increase in the ranking to 144, which provides a hopeful sign that Pakistan has reached a turning point and reflects that progress is being made.
9. In recent years the Government of Punjab has focussed more attention on improving the regulatory environment, and in 2016 established an Investment Climate Reform Unit within the Department of Planning and Development to lead and coordinate reforms of the investment climate.
10. This mission should sought to identify in greater detail the role that the ICRU could play in leading the reform agenda, by sharing experience from the UK and international best practice, and providing recommendations on what reforms could be taken forward.

Observations and Recommendations

11. The remainder of this report focuses on our observations of strengths of the current system, opportunities and drivers for change as well as recommendations for future action.

Rule – making

12. There was recognition amongst most officials we met that legislation is often outdated, cluttered and cumbersome. The Government of Punjab should consider embarking on a process to review and simplify the existing stock and where appropriate repeal or update outdated and ineffective legislation and regulations. This process should involve business and citizens, like the UK's Red Tape Challenge¹, which provided a means for businesses and citizens to tell Government how it could cut red tape within their sector, and resulted in over 3,000 regulations being scrapped or amended – saving business well over £850 million every single year.
13. As well as rationalising the existing stock of legislation we recommend that efforts are made to control the flow of new legislation. To address the flow of new legislation the UK Government adopted a One–In, Two–Out Rule², which

¹<http://webarchive.nationalarchives.gov.uk/20150522175321/http://www.redtapechallenge.cabinetoffice.gov.uk/home/index/>

² <https://www.gov.uk/government/publications/2010-to-2015-government-policy-business-regulation/2010-to-2015-government-policy-business-regulation#appendix-4-operating-a-one-in-two-out-rule-for-business-regulation>

required government departments to offset any increases in the direct cost of regulation on business by finding deregulatory measures of at least twice the value. A potential role for the ICRU could be to provide oversight and co-ordination of this process. In order to do this the ICRU will need sufficient analytical capacity to consider new regulatory and legislative proposals, to inform discussion and decision – making.

Governance

14. The regulatory landscape in the Punjab is complex, both vertically, between federal, provincial and state levels, and horizontally across different departments and agencies. The current regulatory landscape is largely unmapped, we observed a lack of clarity in some sectors³, and some disconnect between departments and agencies. We recommend that an early task for the ICRU would be to create a map of the regulatory landscape in Punjab, which would map roles, responsibilities and connections between regulatory agencies, establishing a shared understanding and acting as a baseline for any reform work. The outputs of a refreshed map of the regulatory landscape should assist in understanding any areas of duplication and any gaps in regulatory responsibility and accountability to provide a starting point for clarifying regulatory responsibilities. RD has carried out similar mapping exercises in the UK context, and used this evidence base to develop our approach to regulatory reform. It is our experience that such an evidence base is essential to securing commitment to collaboration and co-ordination across departments and ensuring that action in one sector does not introduce significant unintended consequences in another part of the regulatory system.
15. The ICRU has high levels of political support, and benefits from the backing of the Chief Minister, his continued commitment to and support for the unit will be essential to its success. Whilst the ICRU has been given a clear mandate, our discussions over the week emphasised the need to more clearly articulate this across Government, the business community and citizens. The ICRU should consider harnessing the Chief Minister's support to reinforce the mandate of the unit.
16. As well as increasing awareness levels, the ICRU will need to build credibility both across Government and with business stakeholders. This will be achieved by demonstrating tangible results, such as the reduction of regulatory burdens on business and increasing the efficiency of departments and agencies.
17. Reform efforts will need to be underpinned by a clearly articulated strategic narrative, or vision, describing the role of regulation in Punjab as an important tool for delivering stability, certainty and fair competition, which in turns drives business confidence, investment and growth. This narrative should be specific to the context in Punjab. The UK has drafted its own the narrative on regulation and growth which may be useful.⁴
18. The positioning of the ICRU within the Department of Planning and Development provides the necessary political leadership to leverage influence across departments and agencies to take forward this cross – government reform

³ Discussions with Punjab Food Authority and the Commissioner Lahore Division indicated there was some lack of clarity on areas of responsibility.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/262631/12-688-regulation-and-growth.pdf

agenda. Once more established the ICRU may benefit from greater autonomy, for example transitioning into an Authority, but it will first need to build its credibility and the confidence of its stakeholders. Examples of different institutional structures are detailed in Annex B.

Accountability

19. We observed a number of instances of departments and agencies making efforts to engage with business and members of the public, such as the Punjab Food Authority's soon to be launched mobile application, for members of the public to make complaints about food businesses. The Citizen Feedback Monitoring Programme which collects feedback on public services has been a considerable success, reaching out to 40 million citizens, with responses rates of around 15%. A similar monitoring programme could be launched to seek business feedback on departments and agencies.
20. Whilst business engagement does exist, business representatives expressed a degree of cynicism and felt that the engagement was often not meaningful and brought about little, if any, discernible change. It is vitally important for the Government of Punjab to demonstrate a willingness to engage, as well the ability to deliver change. Business needs to be given a voice and a role in the reform process, and see tangible results following engagement. A critical role for the ICRU will be to facilitate this engagement, visibly championing the needs of business across Government and ensuring appropriate follow – up and feedback to business on concerns that are raised.
21. There is significant value in sustained and regular engagement with business through a recognised and high –profile forum. In the UK Regulatory Delivery hosts a Business Reference Panel, which represents over 1.2 million businesses, including micro and start-up businesses (largely represented through sector trade associations) as well as large multi-national corporations. The group meets four times a year and shapes the agenda around the issues of greatest concern to members. Whilst the group is facilitated by RD, the Panel is used as a forum for other Government Departments and Agencies to test emerging policy proposals with the private sector. This is used at all stages of policy making – gathering evidence of problems, development of proposals and planning implementation. Value is generated through the continuation of the dialogue that strengthens business confidence in its voice and ensuring that the results of consultation are fed back so that business can see demonstrable action taken. RD could support the ICRU to set up effective business engagement mechanisms in Punjab.
22. Business representatives expressed the view that generally the capacity of business to engage and effectively challenge was limited. As such, alongside formal mechanisms for business engagement, the capacity of business needs to be increased in order to drive change.

Culture

23. Alongside effective governance and good accountability, culture is the third factor in determining the shape and performance of a regulatory system. Culture comprises the values of a regulatory body, in terms of how the organisation and its officers see their role and relationships, and what they value; the leadership of

the organisation towards clear and appropriate outcomes; and the approach of the individual officers, as demonstrated by the value that the organisation places on competency and professional discretion.

24. During our discussions there was a widespread recognition of the importance of culture, but as yet there has been little active consideration of how culture can be a means to improve the delivery of regulation. As discussed with several officials, the UK has introduced a Regulators' Code⁵ that is a legal requirement for all regulators. The Code sets out a framework for how regulators are expected to deliver their inspection and enforcement responsibilities and all regulators are required to publish details of how they meet the requirements of the Code. RD drafted the Code and is responsible for ensuring compliance with it.
25. Whilst the Regulators' Code was drafted for the UK context, it contains many elements that are not context specific and represent the fundamentals of good regulatory delivery, including the need to share information with other regulatory agencies, to base activities on risk and to support business to help them comply.
26. A regulatory code of conduct, designed collaboratively and properly implemented can be an important part of changing behaviour and changing culture. We recommend that consideration is given to developing a regulatory code of conduct in Punjab. RD was responsible for drafting and enforcing the Regulators' Code in the UK and could provide support in designing and embedding codes of conduct with Departments, regulators and businesses in Punjab.
27. Alongside a code of conduct, the ICRU may want to consider how they can embed a shared set of values or ethos amongst regulators, such as supporting Punjab's growth, helping businesses to succeed and protecting the public. In the UK, Regulatory Delivery is responsible for introducing a 'Growth Duty'⁶ for regulators that makes it clear that all regulators have a responsibility to think about their role in supporting or enabling business growth. This has challenged regulators' perceptions of their core purpose and has made clear the importance placed on creating a regulatory environment in the UK that enables greater productivity and competitiveness.

Risk – based prioritisation

28. Most of the departments and agencies recognised the importance of adopting a risk – based approach to regulation within their sectors. We identified some good examples of agencies⁷ producing and analysing data but there was little evidence that the agencies used this analysis to inform their activities.
29. At present, information about businesses is not shared with other regulatory agencies. Both the Lahore Development Authority and the Punjab Food Authority held data that would enable better risk assessment by a number of other regulators, yet there are no incentives to share this data. The ability of data sharing to reduce burdens for business, as well as the potential benefits for government efficiency are, as yet, largely unexplored. We recommend that

⁵ <https://www.gov.uk/government/publications/regulators-code>

⁶ <https://www.gov.uk/government/publications/growth-duty-statutory-guidance>

⁷ Discussions with Lahore Development Authority and Punjab Food Authority.

consideration is given to creating a secure IT platform to allow agencies to share information. This should go hand in hand with promoting a culture of sharing data and creating the legal mandate to do so.

Intervention Choices

30. During the mission we observed a number of examples of complex bureaucracy, such as authorisations which take a long time to obtain and involve multiple processes. This places unnecessary burdens on business, which has implications for business productivity and acts as a deterrent to the formation of new businesses. The Government of Punjab is starting to address this through the imminent introduction of the Business Registration Portal, which will provide a single window for businesses to register, helping to reduce the cost and time to register a new business. There could be benefits to extending the Single Window to other business processes such as licences and permits and making online payments.
31. In our discussions, we observed a reliance on licencing and inspections as preferred intervention choices. It is important that the approach to intervention is deliberate and considered, and reflects the needs of the economy, rather than an extension of usual practice or a response to a skills gap (for example, inspection and supervision post entry requires a higher level of technical skill and competence from inspectors than rigorous pre-entry requirements that place effort on the business to demonstrate competence before starting business operations).

Figure 1: Intervention Choices: Enforcement Design

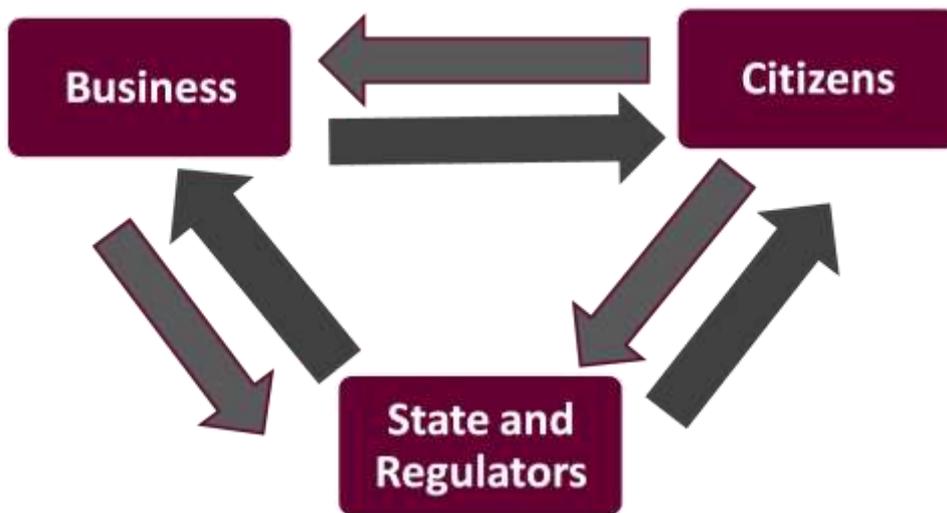
	Before	During	After
	Licensing Regimes Ex-Anti Admission Pre-Emptive	Market surveillance Ad-Inter Monitoring Proactive	Incident response Ex post Investigation Reactive
High Risk	Proof of competency	Frequent and specific inspection	Investigation, sanction and removal
Medium Risk	Licence	Routine and generic inspection	Assessment, redress and compensation
Lower Risk	Registration	Data reporting and third party/self audit	Intelligence and market monitoring
Advantages	If licenses are provided on a once-for-all basis then costs are lower. Can benefit from routinized IT. Can be simple to understand. Can support business growth through Life Cycle interventions	Low entry requirements. Potential to be risk orientated. Can be integrated with training and support	Targeted and cheap i.e. doesn't cost complainant business anything. Also cheaper to deliver
Disadvantages	Anti competitive and can limit entry. Tends towards bureaucracy. Can raise the potential for rent seeking	High effort and capacity. Limited evidence of impact	Cannot redress some negative occurrences e.g. Health and Safety. Outcomes jeopardised. Doesn't build confidence or (business) capacity

32. We recommend there should be a strategic discussion about the approach to regulatory interventions in Punjab and whether the current approach is fit for purpose and reflects the economic and political priorities. This discussion should address how and where departments and authorities should deploy their resource

capacity and consider whether resources can best be deployed to control regulatory risk and provide support to new and growing businesses.

33. Co – production theory could be useful in developing a broader set of intervention choices for regulators. The co – production triangle is shown below and focuses on the three parties in any regulatory area – the state (and regulators), business and citizens – and analysing the relative responsibility and motivations of each party in the regulatory relationship. While regulators tend to focus their efforts on those they regulate (through information, data requirements, licensing, inspection and investigation) in a co-production model, attention should also be focussed on the third party (citizens) and the impact they can have through input into intelligence assessments, demand for regulated information and informed choices and in the extent to which regulation can increase their capacity through provision of information, training, support and feedback. Understanding these relationships and who wields the greatest influence can enable the regulators to be more efficient and effective.

Figure 2: Intervention Choice - Co – Production Model



Outcome Measurement

34. Many of the officials felt that outcome measurement was challenging, and that there was currently little, if any, measurement of outcomes. Adopting a clear focus on the purpose, or intended outcome of regulation, such as long term economic, social or environmental change, is critical. This involves describing the causal chain or logic pathway between day to day activities and high level outcomes, and helps to demonstrate the value of regulatory activities by helping identify and develop good indicators and displaying the information gathered in a way that helps understanding. This is sometimes called the 'golden thread' concept. As well as embedding a shared set of value and purpose about what a regulation is designed to achieve, it is also necessary to measure progress towards those outcomes and be able to assess whether the activities of regulators contribute towards success.

35. Regulatory Delivery's Outcomes and Impact toolkit can be used to help identify the long term impact and purpose of regulatory activities. Its use of causal chains and logic pathways helps to tell the narrative from inputs, such as finance resources, to outcomes, such as improving the health of a population, as well as helping to identify appropriate performance measures. RD could provide support with using the Outcome and Impact Toolkit in Punjab.

Next Steps

36. The analysis and recommendations presented in this report are designed to assist the Government of Punjab in efforts to improve the regulatory environment, and support the newly created ICRU .

37. We would be pleased to discuss the findings of this report to answer any questions and to discuss approaches to further collaboration to support the Government of Punjab.