Public-Private Dialogue

Tunisia Investment Climate Reform
A. Review of Investment Code
B. Reform of Business Regulations

by

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1- Background and Context

Investment Code:

While being successful in generating FDIs and maintaining fiscal stability for a number of years, there was a clear need to revisit Tunisia's economic model and restructure the economy towards higher value-added and knowledge-intensive activities in order to reduce unemployment which remains persistently high. A complex and interrelated web of policy interventions over the years resulted in substantial inefficiencies and distortions, resulting in limited growth and insufficient (and low quality) job creation. The current investment code is not best practice investment legislation since it focuses only on incentives while it should also cover legal guarantees, market access regulations and the institutional framework governing investment. Market access regulations remain tight in multiple sectors with significant discretionary power and unclear regulations (examples: CSI mandate, licensing authorizations, etc.) The investment framework is marred with procedural complexity and lack of certainty over how procedures/incentives are applied.

GoT started reviewing the investment code in 2010 with the Ministry of Planning taking the lead on drafting a new investment code, however, this work was put to a halt because of the revolution. Building on the work already conducted in this area, and in light of the new investment policy and priorities of the current government, GoT wanted to review the code as well as improve the regulatory and institutional framework for investment. The office of the presidency of the government formed a working group including Ministry of Investment, MoF, Ministry of Planning and other players to start working on this reform. GoT has requested IFC's support in the process of reviewing the law and simplifying procedures for investment.

Reform of Business Regulations:

Even though Tunisia generally ranks better than its neighboring countries in terms of ease of doing business, the private sector continues to be burdened by the regulatory environment. This represents a big challenge to the private sector where 75 percent of companies in Tunisia are SMEs. Tunisia's informal economy is estimated to be 30% of GDP where 27% of this informality is due to excessive regulatory burden in the market. Tunisia ranked 59 out of 180 economies in transparency international's corruption perception index in 2010. In 2006, the Institut d'Economie Quantitative (IEQ) published a report on Tunisia's competitiveness on the basis of a survey of manufacturing enterprises. Most firms considered excessive regulations to be a major constraint for doing business in Tunisia, and they believed that this raises labor costs. In addition, Tunisia’s current database of procedures, SICAD, is incomplete, outdated and underutilized.

IFC started engaging in Tunisia with the Ministry of Finance (MoF), since March 2011 as a pilot experience, to establish a process for review and streamlining of 446 tax and customs formalities (a modified version of a regulatory guillotine). As a follow up to the support provided to MoF, the Direction General of Administrative Reform (DGRA) (under the Office of the President of Government) wanted to broaden this reform process to a number of Economic Ministries (Commerce, Industry, Social Affairs, Transport, Agriculture, justice, domaine de l’Etat and Finance).

2- Partnership, Structure and Processes

PPD is at a very early stage of utilization in Tunisia: There was no PPD platform when this program started, and no successful precedents. A lot was needed to build trust among stakeholders, and educate them about the benefits of such dialogue.

For the investment code, private sector engagement was a key element in the project governance by the formation of “Supervision Committee” of the project formed by representatives of the private sector and the unions. The Supervision Committee met regularly at different stages of the project development to follow up on the project progress and provide feedback throughout its different phases (diagnostic, benchmarking, recommendations, drafting, etc.). Soon after, GoT and IFC realized that the dialogue needs to widen, and a larger series of stakeholders were needed to be involved. A private sector consulting firm assisting in the program management of the office was thus engaged to help facilitate the dialogue, but the initiative was very much driven by the Government “Comite Executif” (COMEX) of the project which included representatives from MoF, MoI and MoJ. Throughout the project, more than 30 workshops and conferences were organized and more than 1,000 private sector / union representative participated in such events, some of which were in the different regions of Tunisia.

For RBF, the Ministry of Finance played the champion role, and created an online platform for the private sector to opt on the simplifications /eliminations suggested by GoT. A private sector committee was formed to supervise the consultations process which includes representatives of a number of business associations. 50% of the targeted procedures were reviewed and commented on by the private sector. This was quite low compared to the expectations GOT and IFC had, and that's why it was decided to step up the activities of the PPD dialogue through more targeted engagement process that utilize proven PPD for all inclusive engagement between the stakeholders from the private sector and with the remaining 7 ministries. This is conducted via forming (1) A team in charge of pursuing the consultations to be more proactive via traditional dialogue tools such as focus groups consultations and establishing an online platform; (2) We are also hiring a business association to engage the private sector; (3) Also, we are ramping up a communication campaign to sensitize the business community and encourage them to participate.

On a different note, there will be a separate project to build a more permanent PPD platform in Tunisia. That project is funded by the MENA Transition Fund, and two development partners who will assist in its implementation: OECD and IFC (timeline: the coming 2.5 years).

3 -Goals of the RBF Program:

The first goal of the program is to create an effective and transparent investment framework in Tunisia by (a) developing a best practice legal framework that encourages investment and creates a level playing field for investors, and by (b) streamlining the institutional framework to improve reach to investors and enhance their experience while in Tunisia.

The second goal of the program is to reduce the regulatory burden on businesses by following a systemic, participative and visible approach to eliminate or simplify procedures that are obsolete, duplicative, vague or inconsistent with a modern approach to regulation. This will help develop a regulatory culture of transparency and service among the public administration, which incorporates the needs and feedback of the private sector through a regular consultation process.

4 – Successes and Results so far

For the investment code, a lot of the recommendations provided by the private sector during the consultations were taken into consideration, and incorporated in the final draft investment code. The revised draft code has been approved by the Council of Ministers, and is currently being presented to the Assemblee Nationale Constituante "ANC" for discussion and approval.

1. For RBF, we are still at early stages for 7 out of the 8 ministries. However, the Ministry of Finance, the pilot ministry for simplification process, is starting to see results already. Out of the 446 procedures which have been inventoried, 346 procedures were recommended for simplification, and another 30 for elimination, mainly in the customs and tax administration. So far, MOF simplified more than 90 procedures, covering such areas as cargo transport, customs, exports and VAT amongst others.
2. As part of the approved 2014 Budget Law, a further 4 procedures related to the VAT administration are scheduled to be eliminated.
3. A ministerial decree has also been issued, which stipulates that the complete inventory of formalities would be posted online, including all the documents, procedures and time limit required to obtain the concerned authorizations or clearances.[1] The decree also spells out appeal possibilities for citizens, an important step to ensure more transparency in the administrative process thereby reducing discretionary practices.

5- Expected Results

Successful Governance Platform Establishment: The immediate result of the PPD is to make sure that the private sector representatives and other key stakeholders can convey their concerns and recommendations the different phases of the reform program in an effective way which can influence policy decisions and impact the final outcome of the reform.

It is expected that the above interventions will result in an increase in investments generated and direct compliance cost savings by the private sector due to reductions in cost and time.

[1] All formalities, its objectives, who it applies on, the documentations required, the legal basis, and the timeline have been posted on the following websites: www.finances.gov.tn, www.douane.gov.tn, www.impots.finances.gov.tn

Biography of Author:

Mohamed El-Shiaty, Operations Officer, joined IFC in July 2012. He is currently leading the investment climate program in Tunisia, working mainly with the Ministries of Investment, Finance and Justice on a wide product range including investment policy, tax, regulatory reform and debt resolution. Prior to joining IFC, Mohamed had over 10 years of management consulting and banking experience. He worked as a Senior Associate at Booz & Company where he led multiple strategy development and implementation programs for clients in the Middle East. He also worked at Citigroup Corporate Finance Division covering North Africa where he was responsible for structuring and executing project finance, syndications and local DCM transactions. Mohamed holds an MBA from London Business School.