

# Lebanon

## Streamlining Administrative Barriers to Investment

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FIAS

Leaders in Investment Climate Solutions

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## Acronyms

BDL	Banque du Liban
CAS	Country Assistance Strategy
CAS	Central Administration of Statistics
CoC	Code of Obligations and Contracts
CPI	Consumer Price Index
DGU	Direction Générale de l'Urbanisme
DAG	Direction des Affaires Géographiques
EC	European Commission
EDL	Electricité du Liban
ESCWA	Economic and Social Commission for Western Asia
EU	European Union
FAO	Food and Agriculture Organization
FDI	Foreign Direct Investment
FY	Fiscal Year
GDP	Gross Domestic Product
GOL	Government of Lebanon
IBRD	International Bank for Reconstruction and Development
ICT	Information and Communication Technology
IDAL	Investment Development Authority of Lebanon
IFC	International Finance Corporation
ILO	International Labour Organization
IMF	International Monetary Fund
LTO	Large Taxpayers Office
MENA	Middle East and North Africa
MIGA	Multilateral Investment Guarantee Agency
MoA	Ministry of Agriculture (of Lebanon)
MoET	Ministry of Economy and Trade (of Lebanon)
MoI	Ministry of Industry (of Lebanon)
MoF	Ministry of Finance (of Lebanon)
MoT	Ministry of Tourism (of Lebanon)
NGO	Non Governmental Organizations
NSSF	National Social Security Fund
OECD	Organization for Economic Cooperation and Development
OMSAR	Office of the Minister of State for Administrative Reform
PEP-MENA	IFC's Private Enterprise Partnership for Middle East and North Africa
PPP	Public-Private Partnership
SME	Small and Medium Enterprises
SOE	State Owned Enterprises
UNDP	United Nations Development Programme
USAID	United States Agency for International Development
VAT	Value Added Tax

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## Foreword

On behalf of the Government of Lebanon, the Ministry of Economy and Trade (MoET) requested that the Foreign Investment Advisory Service (FIAS) of the World Bank Group review the administrative barriers to investment in Lebanon and provide recommendations on how to streamline current procedures. This study is part of a broader program of assistance launched by the World Bank and the International Finance Corporation (IFC) in order to improve the investment climate and business environment in Lebanon.

The project mission visited Lebanon at the end of April 2006 and met with numerous Government officials, members of the private sector and consultants to identify and assess the various administrative procedures.

FIAS wishes to thank the MoET for this opportunity to advise the Government of Lebanon and the ministry on this issue and for its assistance throughout the project. We would also like to thank IFC's Private Enterprise Partnership-Middle East and North Africa (PEP-MENA) and the U.S. Trade Development Agency (USTDA) for their generous financial contributions, supplementing the FIAS contribution. Finally, FIAS would also like to express its gratitude to everyone being interviewed during the field work for their willingness to share their knowledge and experiences, and for their valuable insights on the business environment in Lebanon.

## Executive Summary

- i. A government that wants to attract more private investment -domestic and foreign- must improve the country's business environment. This requires a multi-pronged effort which ought to include (among many other actions) a program to eliminate and streamline bureaucratic procedures for investment.
- ii. This report gives to the authorities of Lebanon the tools they will need to implement such a program to reform administrative procedures.
- iii. This activity complements the recent *Investment Climate Assessment (ICA)* conducted by the World Bank in the sense that the ICA identifies and ranks the most important constraints to enterprise growth in Lebanon. Some of these constraints have strong "procedural" aspects (e.g., tax administration) but many others are of a different and broader nature (e.g., infrastructure, access to finance, etc.). This report is narrower in scope: it only focuses on administrative *procedures* that investors have to go through. But it analyzes them in detail and formulates practical recommendations for their reform.
- iv. It also complements the parallel program of technical assistance implemented by IFC's PEP-MENA for the Ministry of Economy and Trade, which focuses on business registration procedures (only one category of procedures that concern investors). Indeed, our project was developed in close coordination with PEP-MENA and intentionally leaves company registration outside the report.
- v. The procedures covered in this analysis are organized in three categories (each addressed in one chapter of the report):
  - Licensing (for industrial or tourism investments)
  - Operating procedures (labor, tax, customs, etc.)
  - Locating procedures (to buy and develop land for commercial or industrial use)
- vi. In carrying out this analysis, we looked at both the "cross-cutting" issues that affect the implementation of all or most procedures (such as excessive degree of discretion or lack of coordination among government agencies) and the issues that are specific to each procedure. We also tried to introduce a sectoral perspective by attempting to identify specific procedural requirements or issues affecting investments in the *tourism, IT, and agribusiness* sectors.
- vii. **Licensing Procedures:** our analysis shows that the business licensing regime at the municipality level is inefficient, overregulated, and time-consuming for both the public and private sector. It also clearly contributes to informality. We recommend a complete overhaul of the licensing system by adopting a clear objective for the business license process, using mandatory annual licenses only in last resort, developing less burdensome ways to monitor businesses. We also recommend to reform the reporting and inspection systems, to liberalize the 3 sectors by diminishing legal requirements for each sector and

each activity, to abolish duplication of requirements and improve the coordination with other involved authorities.

viii. **Operating Procedures:** in spite of significant progress the procedures and administration of *taxation* remain overly complex and clearly contribute to the high level of informality. In the area of *international trade*, and in spite of significant headways in Customs management, operations remain hampered by corruption and a high level of smuggling, on top of transport and logistics problems. The *Labor Code* is not adapted to the globalization of markets and investments. Obtaining *work permits* for foreign labor is too lengthy, complex and costly. The low performance of *Social Security* also calls for an urgent reform. The process of *closing a business* is also too long and costly. We finally consider that the objectives and procedures of *Inspections* should be further reformed following the World Bank recommendations in its study on *Good Practices for Regulatory Inspections*. Specific recommendations for each area are listed in the table below.

ix. **Locating Procedures:** in the site development area, the combination of unpredictability, overlapping and contradictory regulations, frequent duplication of administrative steps and requirements, and very frequent inspections result in a lack of transparency and waste of time and resources for both the private and public sector. It also leads to distortion of relative prices in the real estate market. While crediting the GoL for the very important reforms that have already been taken regarding land and property, we also believe that more reforms are needed and that Lebanon needs to develop a more sustainable and systematic approach to land and site development procedures in order to reduce transactions costs and promote investment. There is an urgent need to promote public sector accountability in the delivery of services. The Municipalities, DGU, Land Registry, Cadastral office and Valuation committees all need to make progress in that area. In the related chapter we provide examples of tools to establish greater accountability such as: (a) the streamlining of procedures, establishment of time lines, and clear accountabilities of each state or municipal employee to their managers and (b) the provision of client feedback for the service provided by the public agency. We further recommend to move away from control and towards facilitation and proactive management of land by putting in place an efficient system of **Asset Management**. A single agency should act as “clearing house” and it should be the Land Registry. Allowing one entity to be responsible for the main provision of legal, topographical, and valuation information on land and property could reduce transactions costs and discretion significantly. We also provide more technical and specific recommendations such as the following:

- Have affidavits issued by commercial banks and not the Registry.
- Consolidate the property valuation committees – at the Municipality and the MoF – to place them in the MoF.
- Update the 1954 Zoning Law.
- Merge the various inspections carried-out by the municipality and the DGU into a single one, more simple and transparent. Outsource inspections to the Order of Engineers.
- Streamline the municipal and the DGU processes and make the public better informed of them (including fees, time, etc).

x. **Conclusion and next steps:** the present report covers many procedures involving many ministries and government agencies. This has one clear implication: the MoET, as the institutional anchor/champion for this exercise, will not on its own initiative be able to reform all these procedures, most of which are not under its authority. In the concluding chapter we provide advice on how to successfully implement and monitor a comprehensive program to streamline administrative procedures. This usually requires the establishment of an inter-ministerial task force or steering committee, bringing together all the key agencies whose support or action will be critical for the success of such a program. We also outline the sequence of steps to be taken following the receipt of this report: the MoET team should carefully review the report, arrange for its dissemination to and discussion with the various national and local level agencies concerned, and initiate the preparation of a governmental workshop on administrative barriers reform where priorities will be identified, responsibilities assigned, and an Action plan developed. The workshop should be coordinated with IFC (PEP-MENA and FIAS) and the World Bank and perhaps involve other donors that could be interested in contributing resources or expertise to support the various activities to be launched to implement and monitor the reform.

## Summary of Main Issues and Recommendations

Issue	Proposed Solution	Responsible Agency	Recommended Priority 1 = short term 2 = medium term 3 = long term
<b>Licensing Procedures (Chapter 2)</b>			
<i>General Business Licensing</i>			
	Revise the business licensing regime		
<ul style="list-style-type: none"> <li>The business licensing regime at the municipality level is inefficient, overregulated, bureaucratic and time-consuming</li> </ul>	<ul style="list-style-type: none"> <li>Formulate a clear definition of the purpose of a business license</li> </ul>	Municipalities	1
<ul style="list-style-type: none"> <li>Inappropriate focus of the licensing regime</li> </ul>	<ul style="list-style-type: none"> <li>Use mandatory annual licenses only as ultima ratio</li> </ul>	Municipalities	1
<ul style="list-style-type: none"> <li>The “catch-all” approach is inefficient</li> </ul>	<ul style="list-style-type: none"> <li>Develop other, less burdensome, ways to monitor businesses that pose a limited risk on health, safety and the environment</li> </ul>	Municipalities	1
<ul style="list-style-type: none"> <li>Parking space allowance is rigid, expensive, wrongly targeted and contributes to informality</li> </ul>	<ul style="list-style-type: none"> <li>Revise the reporting system</li> </ul>	Municipalities	2
<ul style="list-style-type: none"> <li>Over-regulation</li> </ul>	<ul style="list-style-type: none"> <li>Revise inspection system</li> </ul>	Municipalities	2
<ul style="list-style-type: none"> <li>Duplication</li> </ul>	<ul style="list-style-type: none"> <li>Connect parking space obligation to building and apply it flexibly</li> </ul>	Municipalities	2
<i>Bureaucratic internal organization</i>			
<ul style="list-style-type: none"> <li>The licensing regime contributes to informality</li> </ul>	<ul style="list-style-type: none"> <li>Identify duplication in the system and abolish it</li> </ul>	Municipalities, MoI and Line-Ministries	1
	<ul style="list-style-type: none"> <li>Revise the internal process</li> </ul>	Municipalities	1
<i>Sector Licensing</i>			
	<ul style="list-style-type: none"> <li>Reconsider the two-phase approach</li> </ul>	MoT	2

	<ul style="list-style-type: none"> <li>• Liberalize the sectors by diminishing legal requirements for each sector and each activity</li> </ul>	MoT and MoI	2
<ul style="list-style-type: none"> <li>• The system is based on a two-phase approach</li> </ul>	<ul style="list-style-type: none"> <li>• Abolish duplication of requirements</li> </ul>	Municipalities and MoT	1
<ul style="list-style-type: none"> <li>• Overregulated tourism sector with obsolete laws</li> </ul>	<ul style="list-style-type: none"> <li>• Coordinate with other involved authorities</li> </ul>	MoT	1
<ul style="list-style-type: none"> <li>• Very long list of documents required</li> </ul>	Use inspections to ensure compliance with standards rather than licenses	MoI, MoT and MoA	2
<ul style="list-style-type: none"> <li>• Duplicating requirements</li> </ul>		Municipalities, MoI and MoT	1
<ul style="list-style-type: none"> <li>• Focus on ex-ante licensing where ex-post inspections are more efficient</li> </ul>		MoA, MoI and MoT	
<b>Operating Procedures (Chapter 3)</b>			
<i>Taxation</i>	Prepare a Tax Code	MoF	1
<ul style="list-style-type: none"> <li>• Understanding and management of tax issues long and costly</li> </ul>	<ul style="list-style-type: none"> <li>• Elaborate a clear assessment mechanism to collect taxes and tariffs</li> </ul>	MoF	2
<ul style="list-style-type: none"> <li>• High level of companies operating in the non formal sector</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminate most small taxes</li> </ul>	MoF	2
<ul style="list-style-type: none"> <li>• No fiscal decentralization</li> </ul>	<ul style="list-style-type: none"> <li>• Abolish the requirement to stamp the accounting books</li> </ul>	MoF	1
<ul style="list-style-type: none"> <li>• No strict method of evaluation of renting value of properties</li> </ul>	<ul style="list-style-type: none"> <li>• Extend the time limit and reduce the penalty for non-compliance</li> </ul>	MoF	1
<ul style="list-style-type: none"> <li>• Objectives of the VAT not yet reached</li> </ul>	<ul style="list-style-type: none"> <li>• Reconsider taxable benefits</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>• Do not submit the seasonal employment in tourism organizations to salary taxes</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>• Enable electronic filing of VAT return</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>• Shorten the time period for rebate payment</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>• Increase training of tax administration and tax payers</li> </ul>	MoF	2

	<ul style="list-style-type: none"> <li>Establish guidelines for determining the amount of VAT</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>Set up the Complaints Committee</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>Draft and adopt a Code of Tax Procedures</li> </ul>	MoF	2
	<ul style="list-style-type: none"> <li>Extend to all inspections the principles and organization of risk management implemented by the VAT Department</li> </ul>	MoF	1
	<ul style="list-style-type: none"> <li>Continue the streamlining and automation of work procedures</li> </ul>	MoF	2
	<ul style="list-style-type: none"> <li>Extend transparent, merit-based, and proper procedures for public sector recruitment</li> </ul>	All Administrations	2
	<ul style="list-style-type: none"> <li>Use the reform of inspection at Ministry of Finance and Ministry of Economy And Trade as pilot projects for other administrations</li> </ul>	All Administrations	2
	<ul style="list-style-type: none"> <li>Form an independent tax appeal tribunal</li> </ul>	MoF	2
<i>International Trade</i>			
<ul style="list-style-type: none"> <li>Transport and logistic problems</li> </ul>	<ul style="list-style-type: none"> <li>Increase the Customs working hours</li> </ul>	MoF	1
<ul style="list-style-type: none"> <li>Corruption</li> </ul>	<ul style="list-style-type: none"> <li>Ensure daily presence of the Ministry of Health at the Airport</li> </ul>	MoH	1
<ul style="list-style-type: none"> <li>Smuggling</li> </ul>	<ul style="list-style-type: none"> <li>Set up a “one-stop-shop” at the Port and Airport of Beirut</li> </ul>	MoH	2
	<ul style="list-style-type: none"> <li>Secure accreditation of Lebanese laboratories for exports to the EU and the USA</li> </ul>	MoH	2
	<ul style="list-style-type: none"> <li>Implement at IRI a risk management system</li> </ul>	IRI	1
	<ul style="list-style-type: none"> <li>Create two shifts and extend working days for tests of conformity by accredited laboratories</li> </ul>	Laboratories	1
	<ul style="list-style-type: none"> <li>Reduce the amount of the objection guarantee</li> </ul>	Customs	1
	<ul style="list-style-type: none"> <li>Eliminate all requirements of signature by a Minister to issue certificates of conformity</li> </ul>	MoI, MoH	1
	<ul style="list-style-type: none"> <li>Introduce electronic information management at the Port of Beirut and reduce port handling costs</li> </ul>	Customs	2

	<ul style="list-style-type: none"> <li>Do away with the transport declaration or ensure this authorization be delivered at least at Beirut Port and Airport</li> </ul>	Customs	1
<i>Labor</i>	Review the labour code		
<ul style="list-style-type: none"> <li>Labor code not adapted to the globalization of markets and investments</li> </ul>	<ul style="list-style-type: none"> <li>Ease restrictions on the employment of foreigners</li> </ul>	MoL	1
<ul style="list-style-type: none"> <li>Lack of flexibility in hiring and firing of workers</li> </ul>	<ul style="list-style-type: none"> <li>Reform the principles and procedures of inspections</li> </ul>	MoL	2
<ul style="list-style-type: none"> <li>Part-time and seasonal work not contemplated in the legislation</li> </ul>	<ul style="list-style-type: none"> <li>Introduce long term perspective for inspections</li> </ul>	MoL	1
<ul style="list-style-type: none"> <li>Restrictions to hire foreigners</li> </ul>			
<ul style="list-style-type: none"> <li>Labor code too complex for small businesses</li> </ul>			
<i>Work Permits</i>			
<ul style="list-style-type: none"> <li>Labor law imposes many restrictions</li> </ul>	<ul style="list-style-type: none"> <li>Eliminate the dual process</li> </ul>	MoL	1
<ul style="list-style-type: none"> <li>The obtaining of a work permit is bureaucratic and time consuming</li> </ul>	<ul style="list-style-type: none"> <li>Combine the work permit and residence permit</li> </ul>	MoL, Min of Interior	1
<ul style="list-style-type: none"> <li>Difficult to get work permit for foreign labor</li> </ul>	<ul style="list-style-type: none"> <li>Eliminate circular 79/1</li> </ul>	MoL	1
<ul style="list-style-type: none"> <li>Unnecessary dual process for work permits</li> </ul>	<ul style="list-style-type: none"> <li>Give all investors over a certain size the right to employ a percentage of foreign workers</li> </ul>	MoL	1
<ul style="list-style-type: none"> <li>Hiring employees is very costly</li> </ul>	<ul style="list-style-type: none"> <li>Issue work permits for a minimum of three years</li> </ul>	MoL	1
	<ul style="list-style-type: none"> <li>Simplify and reduce fees for work and residence permit</li> </ul>	MoL, Min of Interior	1
<i>Social Security</i>	Reform the NSSF		
<ul style="list-style-type: none"> <li>The percentage of the workforce covered by NSSF contributions is very low</li> </ul>	<ul style="list-style-type: none"> <li>Make social security registration automatic with commercial registration</li> </ul>	NSSF	1

• Poor management of NSSF	• Restructure medical, health and pension benefits provided by NSSF	NSSF	2
• Lack of harmonisation between labour and Social Security laws	• Continue modernization of management	NSSF	2
	• Reduce redundant personnel	NSSF	2
	• Select personnel on the basis of competence	NSSF	1
	• Reduce number of administrative procedures	NSSF	1
	• Use the reform of inspection at Ministry of Economy and Trade as a pilot project for reform of management of inspections	NSSF	2
	Eliminate the quitus required by the NSSF	NSSF	1
<i>Closing a Business</i>	Improve clearance procedures by NSSF and the tax administration	NSSF, MoF	1
• The process of closing a business is long and costly			
• Enforcement is inefficient			
<i>Business Inspections</i>	Continue reforms of inspection according to the World Bank study <i>Good Practices for Regulatory Inspections</i>	All Administrations	2
• Inspections are poorly organized, time consuming and costly			
• Penalties are disproportionate			
<b>Locating/Site-Development Procedures (Chapter 4)</b>			
<i>Locating and Building Permit Procedures</i>			
• High level of discretion in public service delivery. Unpredictable number of inspections and revisions of building permit files, occupational permit files and utility hook up files. Lack of transparency in the required	• Promote and establish an environment of public sector accountability through a rewards and punishment mechanism: <ul style="list-style-type: none"> <li>○ Proper definition of tasks per public servant's position</li> <li>○ Quality control of each public servant's output and behavior (by</li> </ul>	Municipalities' Engineering Departments (Beirut and Tripoli) and DGU	2 2 2

<p>processes and number of required signatures. Enforcement of rules is ad hoc with considerable evidence of discretion and bribing.</p>	<p>supervisors and using client's inputs)</p> <ul style="list-style-type: none"> <li>○ Establishing measurable results per public servant's position</li> <li>○ Use as inputs the experience of successful retired high level public servants in the engineering department of the Municipality of Beirut</li> </ul>		<p>2</p> <p>2</p>
<ul style="list-style-type: none"> <li>• Lack of a comprehensive Land and Real Estate Policy</li> </ul>	<ul style="list-style-type: none"> <li>• Provide an efficient system of Asset Management through the consolidation and clearing of all information on property and land. <ul style="list-style-type: none"> <li>○ The Land Registry should become a central information clearing and management agency.</li> <li>○ Links with the Cadastre Office need to be direct with the Land Registry (for the Short Term and for the Long Term the 2 entities ought to merge to reduce transactions costs.</li> </ul> </li> <li>• Consolidate all property valuation methods and committees. <ul style="list-style-type: none"> <li>○ Both MoF and Municipality need to be linked with the information of the information on the properties found in the Land Registry. Enhance the Registry with the collection of additional information regarding valuation.</li> </ul> </li> <li>• Develop a more sustainable and systematic approach to land and site development procedures</li> </ul>	<p>MoF</p> <p>Municipalities of Beirut and Tripoli DGU</p>	<p>2</p> <p>2</p> <p>2</p> <p>3</p> <p>2</p>
<ul style="list-style-type: none"> <li>• Regulations are unpredictable, overlapping and contradicting</li> </ul>	<ul style="list-style-type: none"> <li>• Update the 1954 Zoning Law.</li> <li>• Consolidate inspections undertaken during the</li> </ul>		<p>1</p> <p>2</p>

	<p>Building and Occupational Permit processes by the municipality or the DGU.</p> <ul style="list-style-type: none"> <li>• Streamline the municipal processes and the DGU processes.</li> <li>• Eliminate the repetitive inspections by the Tourism Committee and the Industry Ministry Committee.</li> </ul>		<p>2</p> <p>1</p>
<ul style="list-style-type: none"> <li>• High level of rule-intensity</li> </ul>	<ul style="list-style-type: none"> <li>• With the appropriate creation of public sector accountability rule intensity will be reduced as incentives among public servants will be aligned for a better delivery of their service. This will also be achieved once government will apply a more comprehensive policy of Land and Property management streamlining processes. However One specific example that will start the motion is:</li> <li>• Eliminate the provision of the affidavits from the Registry and rather have them being issued by commercial banks</li> </ul>	<p>MoF can become the leader of such a change</p>	<p>2</p>

# 1 Introduction

## Context

At the request of the Government of Lebanon, through the Ministry of Economy and Trade (MoET), the World Bank and the International Finance Corporation (IFC) have launched a new program of assistance in order to improve the investment climate and business environment in the country.

IFC's regional technical assistance program, Private Enterprise Partnership-Middle East and North Africa (PEP-MENA), organized a *Doing Business* conference in November 2005 which resulted in a Technical Assistance Agreement (TA) signed in January 2006 between the Ministry of Economy and Trade and the IFC. This assistance aims at simplifying Lebanon's business start-up procedures, including business registration, and is intended to build up political support for additional reform efforts by other Government authorities

With a view to complementing this effort, the MoET invited the Foreign Investment Advisory Service (FIAS) to review the other (post-registration) administrative barriers to investment and advise the authorities on how to reduce or eliminate these barriers. FIAS agreed to provide the requested assistance and is executing it in close coordination with IFC's PEP-MENA and the MENA region of the World Bank.

## Project Objectives

The purpose of this administrative barriers project is to assist the Government of Lebanon in its efforts to improve the business environment in the country, facilitate private (domestic and foreign) investments and increase transparency and effectiveness in Government operations.

This analysis is designed to identify the post-registration barriers to investment in Lebanon, to raise awareness of how these procedures affect investors and create inefficiencies, and to offer recommendations on how to streamline and simplify these procedures.

Through participation in the review, Government agencies that deal with investors would get a better understanding of the needs and requirements of the private sector and be encouraged to improve their practices to become more efficient, facilitative and service-oriented. The ultimate goal is to encourage investment by making the everyday life easier for investors while simultaneously making the Government more efficient and effective in the pursuit of its broader objectives and protection of the public interest.

## Methodology

The administrative procedures reviewed in this report comprise a number of processes that investors have to go through either at start-up or at operating phase. To simplify the analysis these procedures are grouped in three main categories as follows:

- *Start-up Phase*: owing to the parallel and above-mentioned PEP-MENA program to simplify company incorporation and registration, we are focusing our analysis on licensing procedures, for both domestic and foreign investors;
- *Operating Procedures*: we are focusing on the main procedures that companies have to complete during their operation namely tax procedures an reporting, import/export procedures, and inspections;
- *Locating Procedures*: this part of the analysis covers key aspects of site development including land allocation and registration, site development, building permits, utility connections, inspections, and occupancy permits.

The procedures examined in this study are the main ones that an investor needs to go through in order to start a new business venture or implement an investment project, and several of the routine interactions between a business and Government agencies during standard business operations.

In general, the procedures analyzed apply to most businesses regardless of sector. However, the MoET has asked FIAS to pay a special attention to sector-specific procedures that may exist in the agro- business, tourism, and Information and Communication Technology (ICT) sectors.

## Gains from Removing Investment Constraints

International experience shows that the successful implementation of administrative simplification and procedural reform can have a dramatic impact on a country's business environment. Indeed, many countries have taken active steps to reform the way their Government regulate the private sector in recognition of the important role that private investments can play in expanding the tax base, providing jobs, introducing new technology and management skills, improving the general national competitiveness, and ultimately contribute to the reduction of poverty.

The most obvious beneficiary of streamlining administrative processes is the private sector, which will become more competitive and operate more easily and predictably under established rules. Since the cost of complying with regulation would decrease, so would the costs of doing business. However, the Government benefits from improved procedures and systems as well. While Governments may not be able to easily remedy disadvantages as persistent high inflation, high political risk, and a small market size that may dampen investor interest, the quality of government procedures and civil service performance are directly and uniquely within their control. As administrative procedures are simplified and improved, they require less resources and time to administer and are therefore less expensive for the agencies involved. As an agency reduces the hours and paperwork involved in completing a regulatory interaction, it can increase its flexibility in how resources are being used and devote resources toward more productive activities. Moreover, reduced procedures imply less opportunity for rent-seeking activities and corruption, leading to reduced discretion and uncertainty in the economy and consequently higher output. Entrepreneurs refrain from registering their business when complexity and administrative procedures are embedded in the business regulatory regime. The significant consequences of an important informal sector can, on the other hand, be avoided by streamlining administrative barriers and encourage entrepreneurs to formalize.

## Lebanon's Economic Performance

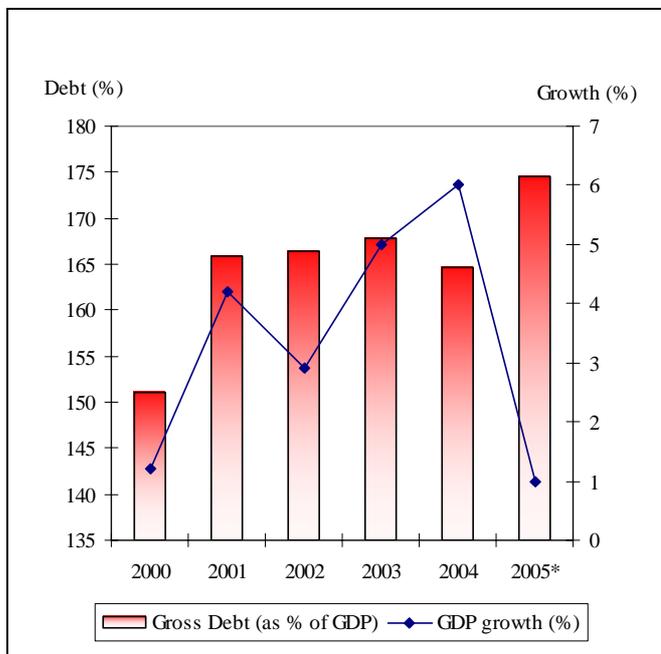
**A long tradition of open economy.** Lebanon has had a fairly long tradition of free trade, entrepreneurship, banking, industry and agriculture. It has embraced liberal market principles in its economy and has few formal restrictions on domestic or foreign investment, capital mobility or foreign exchange convertibility. Lebanon has, even through its long civil war, maintained a generally liberal approach towards private investment and rather limited state ownership of infrastructures and utilities, and has consequently enjoyed extensive trade and financial relationships with developed economies.

**Civil war and high political uncertainty.** Before the 15-year long civil war, Lebanon was a model for social and economic development in the Middle East, with impressive growth, high investment and inspiring achievements in social dimensions. In addition to its huge human cost, the civil war had devastating consequences for the country's economic infrastructure; it cut national output by more than half and damaged most of the economic, social and political institutions. Beginning in 1991, Lebanon launched a strong initial recovery with a rapidly increasing GDP during the reconstruction phase. After a recession in 2000, the economy has since then showed a fairly stable upturn, except for the period right after Prime Minister Hariri's assassination in February 2005. Obviously, the economic impact of the current conflict - that erupted in July 2006 as we were finalizing our report - is yet to be known and assessed. **The economic analysis and data**

included in this report is entirely based on the “pre-conflict” situation and will have to be updated.<sup>1</sup>

**Slow growth and high debt.** Economic growth has in general been slow and far from sufficient to reduce other imbalances and vulnerabilities. Since Lebanon rebuilt most of its war-torn economic and financial infrastructure by borrowing heavily (mostly from domestic banks), it has an accumulated monumental public debt which was over 170% of GDP in 2005, making it one of the world’s most indebted countries. Even though substantial receipts from donor nations stabilized the government finances somewhat in 2003, they did little to reduce the debt, which is one of the main vulnerabilities of the country.

### Exhibit 1 GDP and Public Debt, 2000-2005



Source: IMF Country Report No. 06/204, June 2006

\* Preliminary Estimates

<sup>1</sup> While the description and analysis of the **procedures** (and recommendations for their reform) will remain valid at the end of the conflict.

**High unemployment and poverty, poor infrastructure.** The unstable political environment and the budgetary problems have made it difficult for the country to address other problems, such as poverty, unemployment, “brain drain”, and infrastructure. It is generally accepted that poverty and income inequalities have increased significantly since 1975. The growth in job creation has been slow and in spite of an official rate of 8%, unemployment has been estimated to be, in reality, anywhere from 16 to 25%. Participation of women in economic activity is also very low. Deficient public infrastructure and services (power, telecommunications, water and wastewater) have degraded Lebanon’s environment and natural resources and together with the other factors contributed to the country’s reduced competitiveness.

**Relatively low private investments.** While there have been relatively large inflows of capital in recent years into banks and real estate, this has not been matched by investment in productive sectors. The investment rate has tapered off since the initial recovery period and is still low compared to other economies in the region. According to the World Bank’s “Growth Policy Note” on Lebanon “*Investment declined since 1993 and its low level casts doubt on the ability of the Lebanese economy to accelerate growth in the current conditions*”.

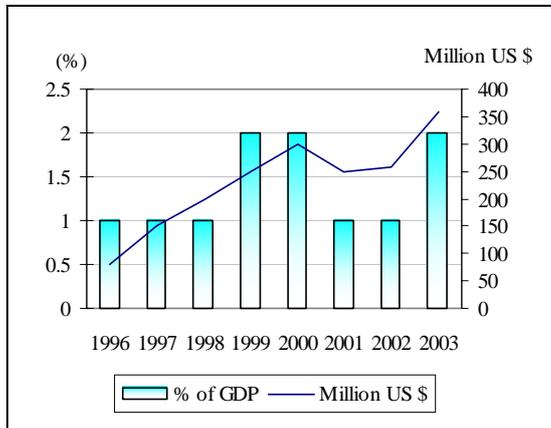
**Investment Performance: room for improvement.** UNCTAD Inward FDI Performance Index<sup>2</sup> - the ratio between a country’s global share in FDI and GDP, provides an indicator of Lebanon’s relative attractiveness to foreign investors. Lebanon ranked 90<sup>th</sup> (score 0.903) between 2002-2004 and 96<sup>th</sup> (score 0.534) between 2000-2002 among 140 economies. Its potential<sup>3</sup> for receiving FDI ranked 64<sup>th</sup> (score 0.187) between 2002-2004 and 60<sup>th</sup> (0.205) between 2001-2003. These results indicate that Lebanon has improved its FDI performance, even though it still receives less FDI than its relative economic size suggest it should receive. Its potential, on the other hand, has deteriorated between 2000 and 2003. Given the scores of its neighbor Jordan (performance 2.031 between 2002-2004 and potential 0.193 between 2001-2003), it is clear that Lebanon should be able to attract more FDI.

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<sup>2</sup> The Inward FDI Performance Index ranks countries by the FDI they receive relative to their economic size. It is the ratio of a country’s share in global FDI inflows to its share in global GDP. A value greater than one indicates that the country receives more FDI than its relative economic size, a value below one that it receives less (a negative value means that foreign investors disinvest in that period). The index thus captures the influence on FDI of factors other than market size, assuming that, other things being equal, size is the “base line” for attracting investment. These other factors can be diverse, ranging from the business climate, economic and political stability, the presence of natural resources, infrastructure, skills and technologies, to opportunities for participating in privatization or the effectiveness of FDI promotion.

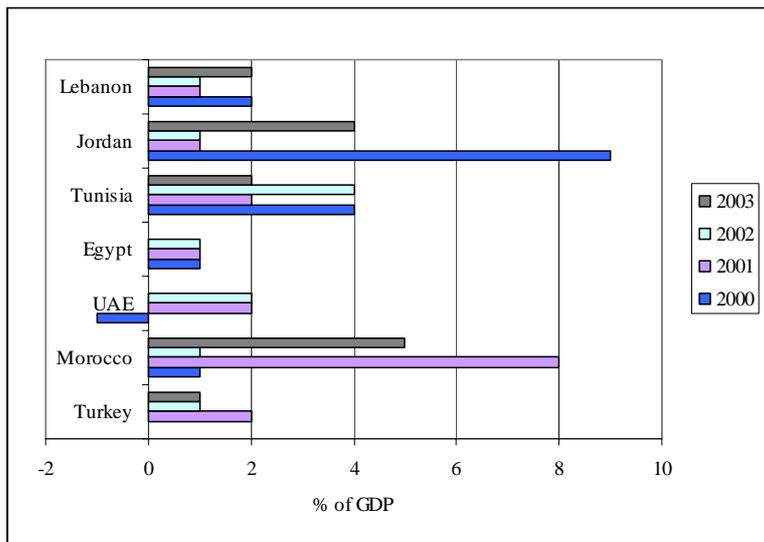
<sup>3</sup> The UNCTAD Inward FDI Potential Index ranks countries according to their potential to attract FDI. The index is an unweighted average of the normalized values for 12 variables including: GDP per capita, GDP growth, share of exports in GDP, telephone lines, commercial energy use per capita, share of R&D spending in GDP, share of tertiary students in population, country risk, world market share of exports in natural resources, world market share of imports of parts and components for automobiles and electronic products, world market share of exports of services, and the world market share of FDI inward stock.

### Exhibit 2 FDI Inflow in Lebanon, 1996-2003



Source: UNCTAD World Investment Report 2005, [www.unctad.org/wir](http://www.unctad.org/wir)

### Exhibit 3 FDI Inflow in Selected Countries, 2000-2003



Source: UNCTAD World Investment Report 2005, [www.unctad.org/wir](http://www.unctad.org/wir)

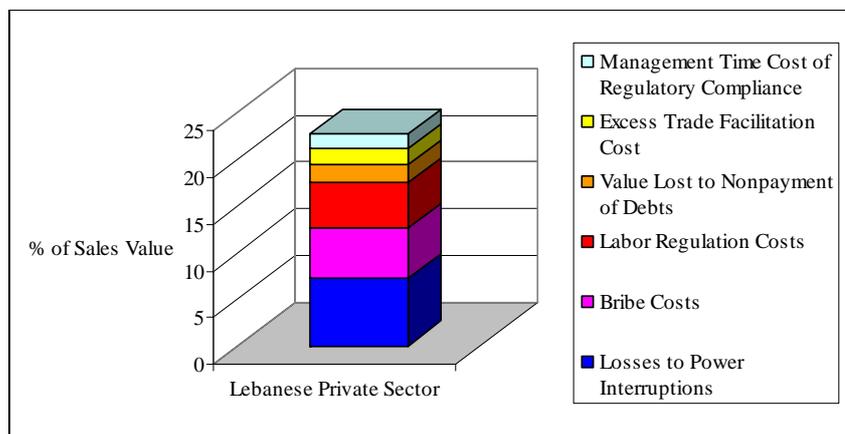
## Business Environment

**Need for more private sector growth.** Economic growth, led by private sector, is the primary vehicle by which employment and income expands. However, growth in productivity and in the overall economy is highly dependent on the investment climate conditions. Such conditions are both related to the economy’s openness to international trade and investment integration as well as to rules and institutions.

**Sound investment climate is critical.** International experience tells us that a sound investment climate is critical to economic growth. For Lebanon to grow and generate employment for its people, it must increasingly compete in an open regional and global economy. To do so, it must create a fair and efficient set of investment climate conditions as the base for its enterprises, and establish an accountable and transparent governance structure with strong institutions in both the private and public sectors. In spite of its many successes, Lebanon continues to have unrealized potential in areas ranging from tourism to information technology, and an unnecessarily precipitous decline in agricultural and agro-processing exports.

**Doing business in Lebanon is both costly and demanding.** According to the ongoing Investment Climate Assessment (ICA) by the World Bank, up to 25% of companies’ sales value can be accounted for by costs imposed by the investment climate. *Doing Business*<sup>4</sup> research reveals that entrepreneurs can expect to go through 6 procedures over 46 days on average in order to start a business. Moreover, the steps, time, and costs of complying with licensing and permit requirements for ongoing operations involve 16 steps and take 275 days. It cost 214.6% of income per capita to complete the process. Even though these figures should be interpreted with caution, they still reveal the challenges faced by entrepreneurs in Lebanon.

**Exhibit 4 Losses due to Investment Climate Weaknesses**

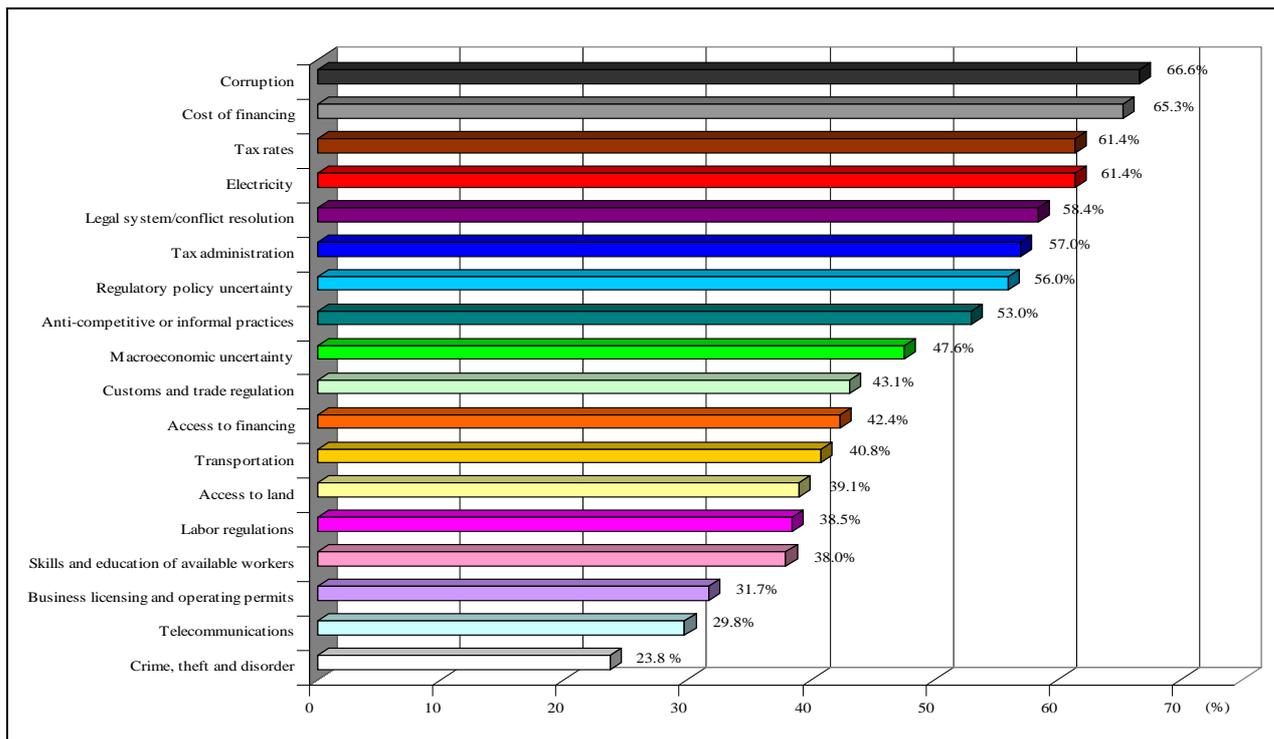


Source: World Bank Investment Climate Assessment, 2006

<sup>4</sup> World Bank *Doing Business*, 2006, [www.doingbusiness.org](http://www.doingbusiness.org)

**Main constraints to enterprise growth in Lebanon.** The ICA has surveyed over 450 private enterprises in Lebanon on the main constraints affecting them. The results are summarized in the table below.

**Exhibit 5 Top Constraints to Lebanese Firms**



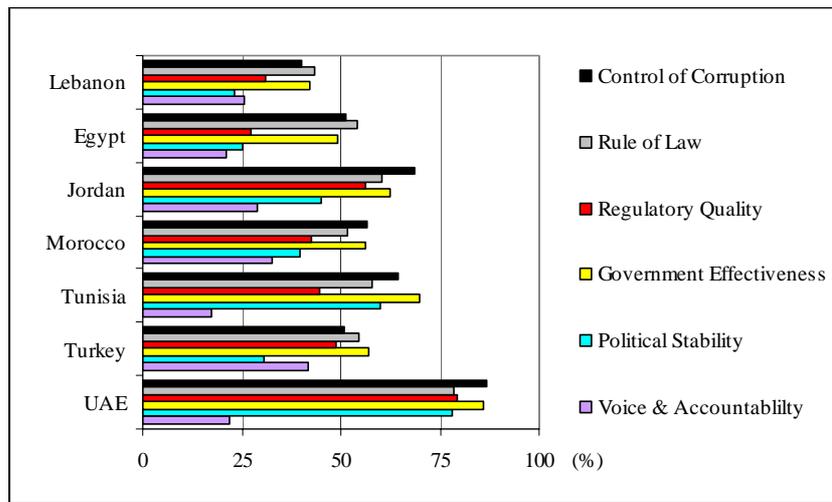
Source: World Bank Investment Climate Assessment, 2006

**These results are very telling.** According to the ICA survey, Lebanese enterprises are constrained in their development by the cost of financing, tax procedures, the poor supply of electricity, and the uncertainties in the regulatory policy and macroeconomic environment. Additionally, more than half of the enterprises surveyed regard anti-competitive or informal practices as important impediments. Several of the constraints mentioned by the firms surveyed as being very problematic include procedures which this report is going to cover. This is the case, for instance, of tax administration (6<sup>th</sup> highest ranking constraint); of customs and trade regulations (10<sup>th</sup>); access to land (13<sup>th</sup>), labor regulations (14<sup>th</sup>) and business licensing and operating permits (16<sup>th</sup>). This means that, with our report, the authorities will have material to tackle some of the key constraints identified by the ICA. More importantly, reducing administrative barriers and discretion in the processes, and introducing more clarity, certainty and transparency will contribute to alleviating both corruption (which is the top constraint according to over 66% of the firms surveyed) and regulatory uncertainty (ranking 7<sup>th</sup>).

## Governance Requires Urgent Attention

**Poor governance.** The World Bank Governance Indicators suggest that, at least in 2004, Lebanon lagged behind other countries in the region on several dimensions of Governance. Further, compared to 1996, it had not progressed over time.

**Exhibit 6 Percentile Rank on Governance Indicators, 2004**



Source: World Bank Governance Indicators, 2005

**Corruption perceived as a high barrier.** According to enterprises surveyed in the ICA study, the main constraint to investment is corruption. It is estimated that foreign owned, manufacturing and firms located outside Beirut are more likely to consider this a major problem. Sixty percent of Lebanese firms surveyed report that they must give gifts or informal payments to public officials to get things done, and these gifts impose an annual tax equivalent to 5% of sales.

A general picture that emerges of the analysis is that of an atmosphere in which businesses complain about corruption, but still use a combination of bribes and “*wasta*” to remove bottlenecks standing in their way

## Exhibit 7 Corruption – a long way to go

According to Transparency International (TI), Lebanon's Corruption Perception Index (CPI) improved in 2005. Lebanon received a score of 3.1 out of ten compared to 2.7 in 2004. Lebanon ranked a low 83rd place among 159 countries surveyed. This result constitutes a slight improvement compared to last year's CPI. Yet, corruption remains a central obstacle to the improvement of the business climate and Lebanon still lags behind other Arab and Middle Eastern countries: UAE (rank 30, score 6.2), Jordan (rank 37, score 5.7), Tunisia (rank 43, score 4.9), Turkey (rank 65, score 3.5), Egypt (rank 70, score 3.4) and Morocco (rank 78, score 3.2).

Lebanon is not a signatory to the OECD Convention on Combating Bribery. Unlike 140 countries around the world, Lebanon has still not signed the UN Convention Against Corruption (UNCAC). Only five other remaining Arab countries have not ratified the convention. Lebanon is currently undertaking the necessary procedure to adhere.

Lebanon has laws and regulations to combat corruption, but these are not always enforced. According to Lebanese law, it is a criminal act to give or accept a bribe. The penalty is imprisonment for up to three years, with hard labor in some cases, plus a fine equal to at least three times the value of the bribe. Bribing a government official is also a criminal act. The Central Inspection Directorate is responsible for combating corruption in the public sector, while the public prosecutor is responsible for combating corruption in the private sector.

Corruption seems to be more pervasive in government contracts (primarily in procurement and public works), taxation, and real estate registration, than in private sector deals. It is widely believed that investors routinely pay bribes to win government contracts, which are often awarded to companies close to powerful politicians.

### **Corruption affects many sectors of government including tax administration**

An anecdote from an article on taxation in Lebanon ("*The Payoff in Beirut*", *Arabias Trends*, May 2005) well summarizes what the mission has heard repeatedly from the private sector:

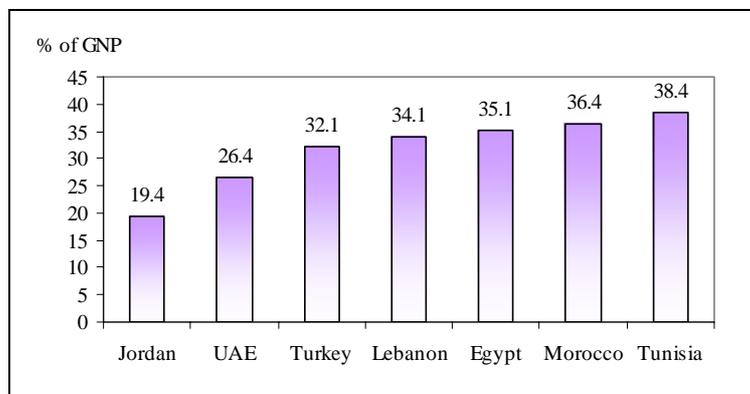
*"...Tax inspectors arrive at a Beirut company with substantial offices only to be told that it employs just four staff...A cursory glance around the office would tell the inspectors that the number of staff is larger...But after an hour of drinking coffee with the finance manager, the inspectors issue the baraat zeme ("clear conscience") certificate and leave – with brown envelopes of cash tucked safely in their pockets..."*

## The Private Sector in Lebanon

**A country of MSEs, highly concentrated and affected by complex administrative procedures.** The Lebanese private sector is largely comprised of Micro and Small Enterprises (MSEs). Nine out of 10 enterprises can be considered MSEs, and nearly 50% of companies registered in Lebanon are located in the Beirut and Mount Lebanon regions. A business environment which is generally difficult, with complicated legal requirements and administrative procedures and large discretionary power in the management of these procedures, is particularly unfriendly for the micro and small enterprises. The MSE owners and managers will have to spend an excessive amount of time and resources to deal with these administrative barriers. Such a situation can both discourage potential entrepreneurs to start new businesses and negatively affect the performance of the existing ones.

**Large informal sector.** According to the Commercial Registry, 210,000 enterprises were registered in September 2005. The enterprises operating in the informal sector without getting registered constitute 34.1 % of GNP<sup>5</sup>. Some of the neighboring countries have similar problems, while others, as Jordan and United Arab Emirates, seem to better encourage their enterprises to operate formally. One of the main reasons for why enterprises refrain from registering their business is to avoid the complexity and administrative procedures embedded in the business regulatory regime.

### Exhibit 8 Size of the Informal Economy in Selected Countries



Source: World Bank Doing Business 2006, <http://www.doingbusiness.org/>

<sup>5</sup> Doing Business, 2006

## Three Sectors with High Potential

In conducting our analysis we tried to look at specific procedural requirements or issues for investment in 3 sectors that were considered “high-potential” sectors by the authorities and the investor community, namely ICT, tourism and agribusiness. Here is how the outlook and business environment in these 3 sectors could be summarized in June 2006 *before* the eruption of the conflict.

**Information and Communication Technology (ICT).** Most investors nowadays take a modern ICT infrastructure for granted. In Lebanon the poor ICT infrastructure has long acted as a brake on development and investments in the country. Even though administrative procedures clearly impede the performance of the sector, other constraints seem to be more important. One of the main reasons for the slow growth of the sector is, apart from political instability, the lack of competition. The fact that both the fixed-line and the GSM markets are controlled by the State has resulted in poor quality, dated infrastructure and very high prices on telecommunication services. Other factors, such as an endemic software piracy and the limited diffusion of new technologies as ADSL have also had negative impacts on the competitiveness of the sector. Even though the Government seems to have realized parts of the mentioned problems, and taken some primary initiatives (as increasing intellectual property protection and lobbying to attract international IT firms to make direct investments and establish offices in Lebanon) to address them, a sound national ICT strategy is still missing.

**Tourism.** Despite the fact that Lebanon’s tourism sector has recovered significantly during the post-war period and been one of the key export sectors, its ultimate potential is still unrealized. Even though the current administrative procedures hamper the development of the sector, other constraints seem to be important as well. One of the reasons for its unrealized potential is the sector’s sensitivity to political instabilities and insecurities, which discourage tourists from choosing Lebanon as a country to spend vacations in. Another constraint is the relatively poor infrastructure. Urban transport lack a basic institutional framework and sufficient investments, which hamper the efficiency of the existing infrastructure. Moreover, the historic and cultural sites are suffering from physical and environmental degradation and need more resources for maintenance and conservation. Such investments can lead to developments in the tourism sector and simultaneously provide economic and employment benefits to the local population in regions currently suffering from high unemployment. Unreliable and poor electricity supply implies an important constraint for the Lebanese enterprises, which on average experience 220 interruptions of power supply in a year. 100% of medium and large enterprises and 92% of small firms own generators to compensate for the power interruptions. Since electricity is a central factor even for the tourism sector, its unreliability clearly impedes the development of the sector.

**Agro-business.** Throughout most of the Middle East, limited freshwater supplies act as the predominant constraint inhibiting agricultural and rural development. In the relatively water-rich Lebanon, however, insufficient planning, small farm size and the lack of credit facilities have, together with complicated administrative procedures, undermined a sector that is an important part of the Lebanese economy. The sector is recovering from years of neglect during the civil war, during which some of the country's most fertile land suffered from a lack of proper maintenance. A major impediment to agricultural and rural development is the lack of access roads to hilly regions in Lebanon. The roads that do exist have low quality, leading to difficulties for the farmers to transport necessary products and making transporters charge high prices during harvest time. Thus, products reaching the market have high prices. General poor information about the agricultural sector, lack of a comprehensive Government strategy, and a low return on investment have all contributed to keep many investors away. The sector, which has potential to generate both economic benefits and employment, is currently using old techniques and practices, which further impede its development and competitiveness. An ambitious Government plan and more resources are needed in order to improve the capacity in the agricultural sector.

## 2 Licensing Procedures

This chapter addresses the approvals needed by a business before starting operation but after company registration. Business registration procedures including incorporation procedures and all necessary input approvals and registrations such as registration with the social security or tax authorities are not subject to this study and covered by a separate IFC (PEP-MENA) project currently underway with the MoET.

### General Business Licensing

#### Findings

After registration with the Commercial Register, each business, depending on its nature may need to undertake specific licensing and/or administrative procedures with the competent Municipality and/or Ministry and/or other Administration or authority.

#### *General Lebanese Administrative Organization*

The Lebanese administrative organization is governed by Decree-Law 116 dated June 12, 1959 (Hereinafter Decree-Law 116/59). The Lebanese territory is divided into administrative regions referred to as “Mohafazats”. Each Mohafazat is in turn divided into several “Kazas”, and each Kaza is divided into cities (or villages). The government is represented in each Mohafazat by the “Mohafez” who is appointed by the Council of Ministers and located in one of the Kazas of the Mohafaza referred to as the Central Kaza. The Mohafez chairs the central administration of the Mohafaza and acts as the representative of and the coordinator among all ministries except the ministries of Justice and Defense. Each Kaza is in turn administratively chaired by a “Kaemakam” acting under the Mohafez and reporting directly to the Mohafez (except the Central Kaza where the Mohafez himself acts in lieu and place of the Kaemakam).

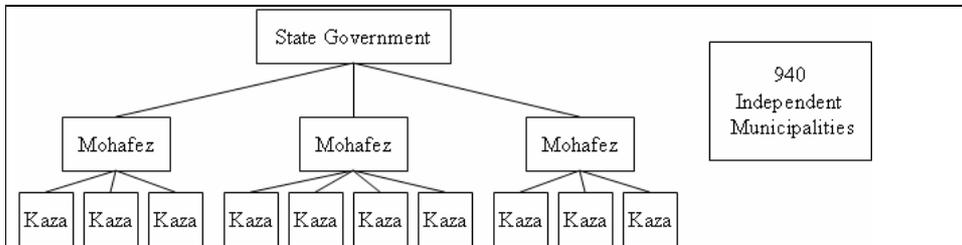
In addition and in parallel, to the government power and representation in the Lebanese regions, each city is governed by the city’s municipal council (also called the Municipality) directly elected by the residents/originals of the city. Municipalities are governed by Decree-Law 118 dated 30/06/1977<sup>6</sup> (hereinafter the “Municipality Act”). Municipalities are granted financial autonomy.<sup>7</sup> It is estimated that only 40 out of 940 municipalities have an adequate tax base to provide local services to the population. Municipality fees, determined by Law 60/88 dated August 12, 1988 are the Municipality’s main source of income. These fees include notably municipality tax for rental or occupation of buildings, municipality tax for licensing of meeting premises, clubs, betting businesses (hotels, bars, restaurants, casino and others...) and classified institutions, as well as annual municipality taxes for the operation of such businesses.

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<sup>6</sup> As amended by Law number 665 of 29/12/1997, the law dated 25/04/1999 and Law number 316 of 20/04/2001.

<sup>7</sup> Article 1 of the Municipality Act.

## Exhibit 9 State and Municipalities



### **Local Licenses and Authorizations**

Article 1 of Decree-Law 21L/1932 (dated 22/07/1932) (hereinafter DL 21L/1932) provides that plants, industrial and manufacturing businesses, depots (storage), business operation centers and all commercial and industrial businesses resulting in risks or concerns to the security, pollution, neighborhood comfort, public health or agriculture, are subject to administrative control.

Article 3 of the Law classifies such dangerous, disturbing and hazardous businesses into three classes:

**Class One:** Businesses that should not be located in the vicinity of residences.

**Class Two:** Businesses that do not require to be placed in a remote area, but that require specific measures in order to avoid risks.

**Class Three:** Businesses that entail important concerns to the neighborhood and public health, but are subject to general regulations protecting neighborhood and public health.

Businesses falling under classes one and two may not start to operate without a license granted by the “director of health and public rescuing” which no longer exists and the prerogatives of whom have been transferred to the competent Mohafez or Kaemakam.<sup>8</sup> The Mohafez is also competent to license the establishment of firework manufacturing, storage and sales stores (article 16 DL 116/59).

Businesses falling under class three, with exception of licenses for creation and operation of hospitals and dispensaries, the entrepreneur must, prior to the establishment of the business, notify the Municipality (or the Kaemakam where there is no municipality) of its intent to open the business.<sup>9</sup> Article 1 of Decree 1119/36, provides that the Municipality shall prior to delivering a receipt seek the opinion of the health department.<sup>10</sup>

<sup>8</sup> Article 18 of Decree-Law 116/59.

<sup>9</sup> Article 4 of DL 21L/1932.

<sup>10</sup> Moreover, article 35 of Decree-Law 116/59 has transferred this municipality’s prerogative to the Kaemakam whilst article 51 of the Municipality Act requires the approval of the Municipality for the establishment of any classified business.

According to article 51 of the Municipality Act, the Municipality's approval is also required for the requests to start the operation of classified businesses, restaurants, swimming resorts, cafes, nightclubs and hotels. If the Municipality fails to answer such request within one month from the submission of the said request, the Municipality is deemed to have granted its approval thereon. If the Municipality refuses to grant its approval despite the approval of the relevant administrative authority, the issue is submitted to the council of ministers.

The head of the executive power at the Municipality is also in charge of:<sup>11</sup>

- Granting construction permits, residence permits and attestations of construction completion.
- Monitoring the commerce of food products and their pricing provided this is not in contravention with the decisions and measures taken by the Ministry of Economy and Commerce.

### ***Licensing Procedures***

Based on the above, an important distinction must be made depending on whether the business premises are to be built or whether such premises already exist and the business is to operate in the existing building. For the first case, a construction permit must be obtained. This process involves notably the Municipality and is further detailed in chapter 3.

For the second case whereby the business is to operate in an existing building, a distinction should be made between classified and non-classified businesses, industrial and non-industrial businesses, and establishment vs. operation licenses.

#### ***Non-Classified Businesses***

Non-classified businesses include convenience shops, retail shops for sale of furniture or clothing. Non-Classified businesses do not in principle require a general business license unless the Mohafez decides otherwise. For example, Beirut Mohafez Decision 27 dated December 12, 1980 subjects the following businesses to specific safety and technical conditions as well as the prior approval of the classified business administration: coops, supermarkets, clothing retail shops, furniture shops, bookshops, any collective commercial store exceeding 250 square meters.

Therefore, to the exception of classified businesses, restaurants, swimming resorts, cafes, nightclubs and hotels, and unless otherwise expressly provided by special laws or regulations, businesses may start their operation without the need for the municipality's prior approval or license.

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<sup>11</sup> Art 74 of the Municipality Act.

### *Classified Businesses*

**Classes:** Following the enactment of the above mentioned Decree-Law 21L/32, several consecutive decrees were issued concerning the classification of businesses. Today, business classification is mainly divided into two categories: Industrial and non-industrial businesses. Decree number 4917 dated 24/March/1994 as amended, provides for the classification of non-industrial businesses, and Decree 5243/2001 dated 5/04/01 provides the classification of industrial businesses according to the international classification ISIC 3. Businesses that are not classified in any of the two aforementioned decrees are in principle considered as non-classified businesses.

**Licensing:** For the licensing of classified businesses, a distinction should be made between industrial and non-industrial businesses:

Licensing of classified industrial businesses (section on manufacturing license) shall be detailed below and involves a duplicated procedure initiated both with the competent municipality and the Ministry of Industry.

Licensing of classified non-industrial businesses: Decree number 4917 dated 24/March/1994 as amended, provides for the classification of non-industrial businesses into Class I, II, and III. Licenses for the establishment of classified businesses of Class I and II are granted by the Mohafez. Licenses for classified businesses of Class III are granted by the Kaemakam. In practice, although article 35 of DL 116/59 provides that the Kaemakam grants licenses for classified businesses of class three, class three is perceived as requiring a “receipt of notification” and not a license. In addition to the license of the Mohafez/Kaemakam and given that article 51 of the Municipality Act has not been expressly amended, the Municipality’s approval is also required for all classified businesses. The Municipality’s approval should be distinguished from the license and may be viewed as one of the requirements of the license requirements. It should be noted that if the Municipality fails to give its answer within one month, the Municipality is deemed to have granted its approval. Also, if the Municipality refuses to grant its approval despite the approval of the relevant administrative authority, the issue is submitted to the Council of Ministers. In this respect, the following documents are required to be submitted to the following administration:

Class One and Two (non-industrial business): the request is submitted at the Mohafazat office, and the following must be provided:

- signed application request;
- title abstract dating not more than three months earlier;
- rental contract, if applicable;
- zoning and delineation attestation;

- project description with technical and health opinions and the required plans and maps;
- a list of the machines with a description of the engine power, the brand, the serial numbers and the intended use of the machines;
- ID for Lebanese nationals in addition to a copy of the work permit if the applicant is non-Lebanese;
- Payment of fees.

### Exhibit 10 Payment of Fees Class I and II

	Class I	Class II
Municipality licensing tax	20,000-200,000	10,000-100,000
Investigation tax	500,000	400,000
Constitution stamp duty	750,000	750,000
Exploitation stamp duty	25,000	25,000

An investigation is undertaken in order to grant or refuse the license. According to DL 21L/32, the licensing process should be completed within 3 months for Class 1 and 2,5 months for class 2.

The licensing decision determines the delay within which the business should start its operation, noting that the said delay may not be less than two years. Moreover and absent *force majeure*, interruption of operation for two consecutive years also leads to lapse of the license.

Class Three (non-industrial): The procedure is submitted to the Kaemakam (or the Mohafez in the central kaza). Some municipalities deem that their approval is not required for the establishment of non-industrial class III businesses by virtue of Decree 116/59 and that simple notification suffice.<sup>12</sup> The following must be submitted:

- signed application request;
- title abstract dating not more than three months earlier;
- rental contract, if applicable;
- zoning and delineation attestation;
- project description with technical and health opinions and the required plans and maps;
- a list of the machines with a description of the engine power, the brand, the serial numbers and the intended use of the machines;

<sup>12</sup> The booklet on municipality procedures prepared by the Municipality of Zouk Mikhael page 71).

- ID for Lebanese nationals in addition to a copy of the work permit if the applicant is non-Lebanese;
- Payment of fees.

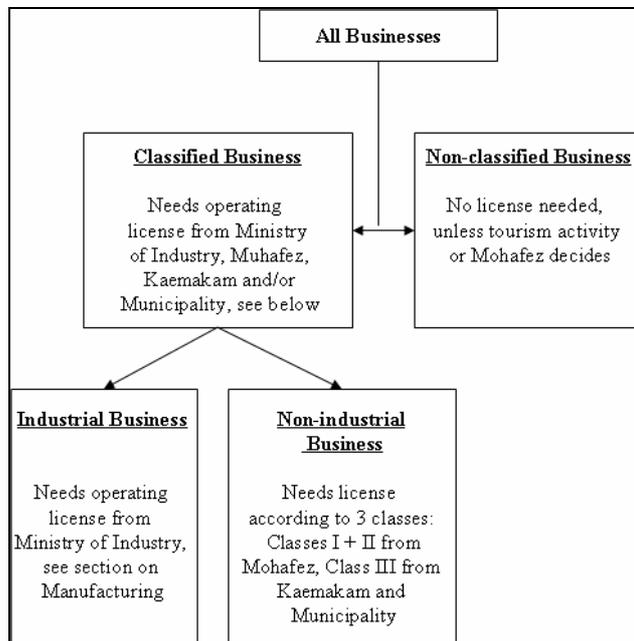
### Exhibit 11 Payment of Fees Class III

	<b>Class III</b>
Municipality licensing tax	4,000-40,000
Investigation tax	300,000
Constitution stamp duty	750,000
Exploitation stamp duty	25,000

Tourism Related Institutions including hotels, restaurants and other tourism businesses: Constitution and operation of these institutions are licensed by the Ministry of Tourism as detailed below. These institutions remain also subject to the approval of the Municipality by virtue of article 51 of the Municipality Act as detailed above.

Other businesses require sector specific licenses where such license is required by applicable laws and regulations.

### Exhibit 12 Business License



## Analysis

The business licensing regime at the municipality level is inefficient, overregulated, bureaucratic and time-consuming for both the public and private sector. It is also clear that the inefficient licensing system is a strong contributing factor to informality. Considering the number of businesses that operate without a valid license, it appears that the licensing regime does not fulfill its function.

Any licensing obligation poses a considerable burden on the private sector in terms of time, human resources and often money. Mandatory licensing adds significantly to the cost of doing business. The applicant must collect and prepare documents, gather information, and fill out applications, which must often be submitted in person. Sometimes personal appearance is requested and travel time and expenses occur. In addition, application and license fees must be paid. Sometimes, costly professional assistance from lawyers or consultants is needed. Furthermore, licenses must be monitored and renewed in time to avoid negative consequences. During the validity period of the license, random and routine inspections will be more or less frequently carried out. During these inspections, the license holder must assist inspectors, provide explanations and produce certain documents. In some countries, inspections are also an opportunity to request irregular payments.

Licensing obligations are not only burdensome to the private sector but the government will have to make a considerable effort to set up and maintain the legal, institutional and administrative framework for the licensing system. Legislation and regulations, decision criteria, documentation requirements and application forms must be developed. The licensing authority must be established and maintained. Officials must decide on applications, issue and renew licenses, inspect and monitor businesses, and impose and enforce fines for non-compliance. Much human resources and public funds are necessary to run a licensing regime. In most cases, licensing fees are not covering the cost of the system.

Considering all direct and indirect costs related to mandatory licensing for the private and public sector, it is important that the government thinks carefully about the benefits of a license. A mandatory license should only be established if it is justified and if there are no other – easier – ways to achieve the same goal.

It is best international practice to rely on efficient inspection mechanisms (not licenses) to ensure compliance with and monitor the following objectives:

- Health standards;
- Safety standards;
- Environmental standards.

These three objectives are pursued to protect the consumers and the employees of the business alike.

To ensure health, safety and environmental standards, licensing authorities usually ask one or both of the following questions:

- Is the premise suitable for the planned activity?
- Is the personnel/institution suitable to provide the planned activity?

Another objective sometimes pursued by mandatory licensing is to ensure a certain quality of service. For example, it is common practice that certain professions need to be licensed before commencing business. These are often professions of highly qualified people such as tax advisors, attorneys, notary publics, doctors and architects. But also professions such as nurses or midwives etc. active in sensitive areas like the health sector need to be licensed in many countries. Consumers usually do not have the ability to assess the quality of such service providers. Hence, the license shall ensure a minimum standard of skills. Such professional licenses are in many countries issued by the respective professional associations functioning as self-regulatory bodies. Other countries have the respective line-ministries issuing the professional licenses.

A number of additional objectives pursued by mandatory licensing can be found all over the world. Typical goals of mandatory licensing are data collection, revenue generation as well as monitoring and controlling business activities.

The easier way to generate revenues is via the tax system. Data collection can often be achieved by coordinating existing data collecting on businesses from, for instance, the Central Bank, the Company Registry, the Bureau of Statistics etc. If this approach does not provide appropriate results, countries can impose a reporting requirement on newly established businesses.

**In Lebanon, the licensing regime is seen by businesses as one of the main impediment to start up a business.** Often, it is not only the unnecessary time-consuming and bureaucratic procedures that are of concern. In fact, in many cases businesspeople do not complain much about the procedures. It is the possibility to lose the license or not obtain a renewal based on unforeseeable and unfounded reasons that makes the licensing regime very unpleasant for the private sector. Experience from the past has too often proved that the licensing regime can be misused as an instrument of power against unwanted businesses or businessmen for political reasons.

The main characteristics of the existing business license regime are:

**Over-regulation of licensing requirements.** To obtain a license, every business has to submit a significant amount of documents and information. The relevance of much of the information is not clear. Some of the requested documents are only relevant for construction purposes but should not be requested to assess compliance with the master plan. For example, a floor plan or the dossier from an architect is not relevant for the decision of the municipality on compliance with the master plan or the allowed use of the building.

**Duplication.** Many business activities involve duplicated procedures whereby the same documents and requests must be submitted to different authorities. For example for classified industrial businesses, the same application and documents must be submitted to the Municipality for its approval (noting that silence of the Municipality for a period of one month is deemed to constitute approval) and to the Ministry of Industry for licensing (noting that licensing by the Ministry of Industry in its turn involves procedures with documents and certificates from the Municipality). Also, for non-industrial classified businesses, the license of the Mohafez is required in addition to the Municipality's approval.

**Bureaucratic internal organization.** The relevant departments in the municipality manage the process in an inefficient manner. Papers have to be checked and signed by a number of persons – up to 9 officials in Beirut, for example. The applicant has to go to different departments to pay stamp duties or obtain input clearances. Again, there is no exchange of information within the municipalities. Finally, even the documents “shuttling” from one department to another need to be checked in and out of the archive every time documents are exchanged.

**The licensing regime contributes to informality.** Many investors mentioned that they operate without a municipal license because they did not pay compensation for the parking space obligation. These costs, which can amount to several thousand dollars, are instead used for investments. As a result, the businesses are “illegal”. However, the municipalities do not enforce the licensing obligation although they could close down businesses without valid license. For certain sectors, like restaurants or hotels, the business associations negotiate amnesties or annual suspensions of the obligation, which is often granted by the authorities. But, again, operating without license means the uncertainty for the private sector and causes hesitation to make further investments into an unlicensed business.

## Recommendations

We recommend to reform and revise the entire business licensing regime. The requirements, criteria, objective and list of activities that need to be licensed should be reviewed. The following guidelines should be applied:

- ***Clear definition of the purpose of a business license.*** The authorities should clearly define the purpose of the mandatory license. What objective shall the license achieve? Is there another procedure that already serves this objective or could better achieve the objective? Does an ex-ante license have better results than less interfering ex-post inspections? The requirements and decision criteria should be established according to the justified purpose. There should be a clear distinction between construction related and urban planning related requirements. Business licenses should only have urban planning related requirements. These are requirements that ensure that the activity is allowed according to the city master plan.

- ***Use mandatory annual licenses only as ultima ratio.*** Mandatory licensing should only be used where important public interest is at stake, namely the protection of health, safety and the environment. In all other areas, the mandatory license should be either abolished or, if necessary, replaced by reporting obligations, and/or routine and random inspections. The regulatory function should be assigned to a line-ministry or specialized authority and the involvement of multiple institutions should be avoided.
- ***Develop other, less burdensome, ways to monitor businesses that pose a limited risk on health, safety and the environment.*** Again, where possible, the licensing requirement should be replaced either by an effective system of inspections or by a reporting requirement. Additional alternatives recommended by KIPPRA are described in Box III.8.
- ***Adopt a good reporting system.*** Many countries use an obligation to report activities to the government. The business is required to report coordinates and activities to the competent authority. This obligation is monitored and enforced through inspections and cross checks with other authorities. Changes of coordinates and activities must also be reported. The government can use the reports to collect data and exchange the data with relevant authorities as well as to collect revenues and taxes.

### **Exhibit 13 Reporting and Licensing in Germany**

Every new business has to report to the local authorities before starting operation. This is a one-time obligation. Rationale of this reporting requirement is to collect data on business activities and to inform other authorities about the new business. The local authorities inform in an internal procedure the financial authorities, the Bureau of Statistics, the Company Registration and the Chamber of Commerce about the new business. Reporting fees depend on the municipality. In the City of Hamburg, for example, the reporting fee is Euro 18 (US\$ 22).

A second category concerns businesses that need a general business license from the local authority. These include retail shops for certain products like food or pharmaceuticals, restaurants, transport (taxis, car rentals), driving schools and security companies. A single license usually covers all health and safety related issues.

A third category of businesses are professionals which do not need any general license but a special license from their professional bodies such as attorneys, doctors, tax advisors, architects etc. The professional bodies monitor and regulate their members without involvement of other authorities.

Source: FIAS research

One way to reform the licensing regime is the so-called “Guillotine approach” as applied, for instance, in Bosnia Herzegovina or Kenya. This radical approach puts the entire licensing regime under scrutiny with every licensing authority responsible to defend the issued type of license (see description in the Box below).

#### **Exhibit 14 Description of the Guillotine Approach Applied in Kenya since 2005**

In 2005, the Minister of Finance of Kenya decided by decree to review all licenses. A Working Group was established in charge of the review process. Then the decision was announced on the licensing *guillotine* and 178 ministries and public authorities were required to cooperate by submitting to the Working Committee lists of the business licenses and permits under their respective control. Each authority was required to review each license against the three criteria:

1. Is the license needed?
2. Is it legal?
3. Is it efficient and market friendly?

Each authority was required to provide the Working Committee with its recommendations and clear explanations. The Working Group took the review reports into account and decided on the license to a) abolish, b) keep, or c) streamline it.

The process is still ongoing and after a first round of review in which out of 86 reviewed licenses, 20 were eliminated, 34 further reviewed and 32 retained, the second round targets all remaining licenses.

Source: FIAS and Jacobs Associates, 2006

- ***Connect parking space obligation to building and apply it flexibly.*** In most countries building owners have the obligation to create parking spaces dependent on the location, size and use of the building. The department for construction within the municipalities is usually in charge to assess the number of parking spaces and determine compensation in case the owner cannot provide the necessary number of parking spaces. It should be noted that the owner of the building is in charge of creating or paying compensation during the construction phase. Businesses are only responsible when the use of the building changes with the new business. For example, a restaurant moves into a space that has been formerly used as a doctor’s office. This avoids that every new business has to pay compensation although the former business of the same kind paid already for the lack of parking spaces.

The parking space obligation/compensation should be managed in a more flexible manner. It should distinguish whether the business has, by nature, a large number or fewer customers. An office should be differently treated from a retail shop, a restaurant or hotel, or industry. But again, this should be a responsibility of the owner of the building and not the business.

### Exhibit 15 Parking Space Obligation in Germany

A state law stipulates the obligation and criteria for parking spaces to be created when constructing or changing the use of a building. The number of parking spaces depends on the activity. Every municipality sets compensation tariffs incase the owner cannot meet the obligation. The compensation depends on the location of the building.

Lower Saxony	
Use	Criteria for 1 parking space (used flexible)
Office (class 1; class2)	30-40m2; 20-30m2
Retail (class 1; class 2)	50m2; 30-40m2
Restaurants	8-12 seats
Hotels	2-6 beds
Industry	50-70m2 or 3 employees

Example for Compensation (City of Werl, Germany)	
Location	Tariff for each parking space not created (EUR)
City center	6100
Outside city center	3700
Suburbia	2500

Source: FIAS research

- Review the licensing requirements.** The list of documents to assess the activity is long and includes many professionally prepared, and therefore expensive, plans and documents. These are documents usually needed for development and construction and not business licensing purposes. All documents that are building related should not be required for an operating license. Instead, they should be part of the construction permit and permit to use. They should also be issued to the owner of a building allowing certain use of the premise. Any business conducted within the permit to use should be allowed without submission of plans. In fact, best practice is to conduct ex-post inspections of the buildings to ensure that they are used according to the permit and urban plan.
- Identify duplication in the system and abolish it.** Currently, many activities are licensed by more than one authority. It is best practice that line-ministries are in charge of issuing operating licenses within their responsibility. Municipalities would not issue additional operating licenses. Instead, municipalities would ensure compliance with the urban plan. Again, this should be done by ex-post inspections rather than ex-ante licenses.

- **Revise the internal process.** The internal process needs to be streamlined. Instead of nine signatures for a minor approval like the business license, one official should be in charge to grant the license or refuse it. The internal process should be organized so that information can be exchanged directly between departments and not via the archive.

## **Sectoral Licensing: manufacturing/food-processing, tourism, ICT**

### **Findings**

#### ***Manufacturing***

Manufacturing companies (industries) must obtain a license from the Ministry of Industry according to Law 642 dated June 2, 1997 (the MoI Law) establishing the Ministry of Industry and Decree No. 8018 on Industrial Establishments dated 12/06/2002. Indeed, article 4(2) of the MoI Law expressly provides that despite any other text, the license of an industrial business is granted by the Minister of Industry based upon the recommendation of the MoI's General Director which is based upon the opinion of the MoI's Licensing Committee. Furthermore, article 4(3) provides that the licensing procedure of industrial businesses is governed by the provisions of the MoI's Law and its implementation decrees to the exclusion of any other provisions. Article 4(5) provides that the Licensing Committee must give its opinion within two months as of submission of the licensing request concerning new industries that are intended to be established within the classified industrial areas. Upon expiry of the two months period, the receipt evidencing submission of the license request is deemed to constitute the license subject to compliance with general safety and environment conditions.

Decree 5243 dated 5/04/01 divides industries into 5 classes according to ISIC 3 standards depending notably on their impact on health, safety and environment. A distinction should be made between the case where the premises of the business are already built or not. In the case where the premises are already built, a distinction should be made between the case where the entrepreneur wishes to establish a new business in the said existing premises and the case where the entrepreneur wishes to operate an existing business in the said existing building. The case where the premises are to be built will be covered later in Chapter III. Therefore, the following covers the establishment and operating license in an existing building.<sup>13</sup>

The Minister of Industry decides on applications based on the recommendations of regional Inter-Ministerial Committees located in each of the six regions.

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<sup>13</sup> For procedure to obtain an establishment permit see chapter on site development.

Members of the regional Inter-Ministerial Licensing Committees are representatives from:

- Ministry of Industry (chairing the committee);
- Ministry of Health;
- Ministry of Public Works;
- Ministry of Environment;
- Directorate of Urbanism;
- The Committee can invite officials from other authorities with relevant competences to give advice.

According to Decree 8018, the applicant first submits to the MoI a request to obtain an establishment license. Then, once the establishment permit is granted, the applicant must establish the business according to the specifications of the license and within the delay granted for such purpose. Thereafter, the applicant submits a request to obtain an operation license. The MoI will then grant the operation license after having inspected the business and confirmed that it complies with the establishment license terms and conditions.

According to the applications currently provided by the MoI, the same application is used for establishment and operation of the business with a distinction between classes I, II and III on one hand and classes IV and V on the other hand.

(i) For all classes, the applicant has to submit to the competent regional Licensing Committee the application with the following documents:

- If the applicant is an individual: Identification Card (passport) and if the applicant is a foreigner his/her work permit; or if the applicant is a company, an original certified copy of the company's circular and incorporation certificate in addition to three copies thereof;
- Zoning and exploitation attestation dating back to three months maximum in addition to the property's partitioning map if applicable;
- Title abstract dating back to not more than three months;
- the rental contract certified and signed by the Municipality, or the title deed or the exploitation contract, as applicable;
- Quittus concerning the property from the Municipality and if the entrepreneur is the property owner, a quittus from the Ministry of Finance is also required;

- Receipt evidencing payment of the applicable fee;
- Occupancy permit where applicable.

(ii) In addition, specific documents, maps and pictures describing the project are required to be submitted. The level of details of such documents varies depending on the class to which the industry belongs. For classes 1, 2 and 3 the entrepreneur also submits studies on the raw materials, manufacturing techniques, traffic volume and sewage. For classes 1 and 2 only, the entrepreneur must sign an undertaking that the entrepreneur will build appropriate green spaces, roads and take all preventive measures for public health issues, hazards to the neighborhood, water pollution, and to install the appropriate fire extinguishing systems.

It should be noted that the documents mentioned under (ii) above are currently requested by the MoI for Classes I, II and III, although decree 8018 provides for the submission of such documents only in the event of an application for Class I and II industry license.

The project file needs to be copied 4 times one for each of the agencies that will carry out the reviews, controls and approvals.

Prior to the submission of the license request, one copy of the said request with the above documents must be submitted to the Municipality for all requests of (i) establishment or license amendment of Class I, II, and III industries, and (ii) operation of Class IV and V industries. Indeed, the Municipality receipt evidencing such submission is one of the required documents to be annexed to the licensing application. The Municipality's approval is deemed to be granted upon lapse of one month if the Municipality does not notify the Licensing administration of its objection to such license.

The Committee conducts a physical inspection of the plant and issue its recommendations to the Ministry of Industry.

Application fees for the establishment and/or operating license depend on the category of the licensed business. The following licensing fees are charged {Note: In addition, according to law 60/88 dated 12/08/88 as amended a municipality tax is due for the licensing and operation of classified businesses }:

Concerning licensing fees, Decree 8018 distinguishes between the license to establish an industry and the license to operate the industry. However, officials from the MoI confirmed that in practice the fee for establishing a new industry covers also the fees for the applicant's operation of the industry.

## Exhibit 16 Industry License Application Fees

Category	Application Fee for establishment (LP)	Application Fee for operation (LP)	Constitution Stamp Duty	Operation Stamp Duty Total
I	800,000	400 000	750,000	25,000
II	600,000	300 000	750,000	25,000
III	400,000	200 000	750,000	25,000
IV	200,000	100 000	750,000	25,000
V	100,000	50 000	750,000	25,000

Source: IDAL, Lebanon

According to article 12 of Decree 8018/02, the committee should render its opinion concerning the license to operate the industry or the renewal of an existing license within a maximum period of two weeks; and concerning the establishment of a new industry or the amendment of an existing license within one month and a half. Then (according to article 13 of the said decree) the Minister should deliver the final decision within one month concerning the license for exploitation or license renewals, and two months for the license to establish a new industry or amend an existing license. In the event of the Minister's silence beyond the said period, the applicant may submit a written request requesting the Minister's decision concerning the application. If the Minister does not render a decision within one month of the said request, this failure to issue the decision is deemed to constitute approval of the requested license. However, if the Minister approves the license or refuses to grant such license despite the committee's positive recommendation, the Minister's decision must be motivated.

In reality, the licensing procedure may take several months due to the slow, bureaucratic and duplicated procedures. This is further exacerbated by the fact that members of the inter-ministerial committee may not necessarily have the decision making power and should first refer to their superior prior during the process.

Concerning expiration of licenses, a distinction should be made between the period during which the license must be executed and the term of the operation license. According to article 27 of Decree 8018, if the license is not executed within the specified period, a renewal request must be submitted. According to Article 33 of the same decree, the right to a Class I or II license lapses if the operation does not start within the specified such period which may not be less than three years; and the right to a Class III, IV or V license lapses if the operation does not start within two years. The law does not expressly provide for operation licenses with term nor does it expressly stipulate that licenses are granted for an unlimited time. However, decree 8018 refers to licenses as "final or definitive licenses". It was orally confirmed to us at the MoI that licenses are granted for an unlimited term.

## Tourism

Before the outbreak of the war in 1975, tourism was a flourishing industry in Lebanon, accounting for 20 percent of GDP. The war heavily damaged the tourism industry, especially quality hotels in Beirut's hotel district. Today, tourism represents only 7 percent of GDP but is picking up, under Lebanon's reconstruction program with the number of hotel room increasing every year.

### Exhibit 17 Total Number of Visitors to Lebanon

	2002	2003	2004	2005	2006*
Number of visitors	956,464	1,015,793	1,278,469	1,139,524	246,459
% change	9.5	6.2	25.9	-10.9	

\* As of March

### Exhibit 18 Number of Hotel Rooms in Lebanon

1992	1995	1998	1999	2000	2001	2002	2003	2004
6,630	10,217	10,843	11,232	12,485	12,968	14,039	14,731	16,171

Source: Ministry of Tourism

The growth of the sector is reflected by increasing employment figures (projected for 2010) as shown in the table below<sup>14</sup>.

### Exhibit 19 Employment in the Tourism Sector by Sub-sectors

Sector	2000	2005	2010	Average annual growth
Hotels	10,000	13,600	18,400	840
Other lodging	2,700	4,600	6,300	290
Restaurants	24,500	30,800	38,800	1,430
Travel agencies	2,300	2,700	3,100	80
<b>Total</b>	<b>41,500</b>	<b>53,700</b>	<b>68,600</b>	<b>2,700</b>

Source: SRI International/USAID

<sup>14</sup> Again, all projections and data were based on the situation prevailing before the July 2006 conflict and will have to be reviewed.

Licenses in the tourism sector are governed by the Decree No. 15598 dated September 21, 1970<sup>15</sup> and Decree No. 4216 of 20/12/1972. The Decree 9427 dated 7/02/1967 (hereinafter Decree 9427/67) defines the activities that belong to the tourism sector and are regulated by the Ministry of Tourism. Decree No. 15598/70 as amended classifies business institutions into five classes all requiring a license from the MoT:

Class One: Businesses established for the purpose of providing residence:

- Hotels
- Tourist Residences
- Other residence businesses:
  - Condominiums
  - Chalets
  - Auberges
  - Motels
  - Resorts
  - Historic Hotel institutions
  - Youth residences
  - Organized camping.

Class Two: Businesses established for the purpose of providing food and beverage.

Class Three: Institutions that operate tourism facilities.

Class Four: Associations that organize tourism festivals

Class Five: Travel, tourism and tourism transportation institutions

License procedures for hotels, restaurants and travel agents are described in greater detail.

### *Hotel License*

In addition to the municipality's approval, the The operating license for hotels is issued by the MoT in 2 steps. According to article 2 of Decree No. 15598/70 as amended, the licensing procedure involves two steps. The first step is to obtain a "first stage licence" which includes the provision of a limited number of documents:

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<sup>15</sup> As amended by decree 4221 of 18/10/2000.

- Application form;
- Description of project with a feasibility study and preliminary architectural plans of project, or in the case of an existing building full documentation evidencing compliance with construction laws and regulations.

Then, once the first stage license is obtained, the applicant must submit detailed documents and maps in order to obtain the operation license. In practice, according to the application form currently adopted by the MoT, most of the documents are required to be submitted at the first stage as follows:

- Eight page Application form including description of project, financial study, description of the personnel qualifications...(MoT form to be filled in)
- If the building is existing:
  - Site map of the property showing location and neighboring institutions signed by an engineer
  - One of the following documents: (i) Certified original copy of the occupation permit or its equivalent (construction permit, restoration permit or certificate, or attestation that the building was constructed prior to 1964) and the related plans certified by the DGU or the Municipality as applicable; or (ii) attestation of construction compliance with the related plans signed by the head of the Municipality dating back to no longer than three months when the use of the building is amended into a tourist use.
  - 1/100 scale map according to the specifications of the MoT signed and certified by an engineer/architect showing all surface measurements, names of the restaurant, spaces.
  - Evidence of the parking plots of the institution certified by the Municipality on a date not exceeding three months (as per the applicable construction law).
  - Original Comprehensive Title Abstract of the building if the property is not allotted dating back to not more than three months, or Original Comprehensive Title Abstract for each of the property lots if the property is allotted, dating back to not more than three months.
  - Certified copy of the allotment map of the property showing the parts occupied by the tourism business.

- A topography map indicating all future public work projects;
- Copy of the rental contract or title deed duly certified by the Municipality.
- Photos showing the inside and outside of the business.
- Advance approval from the Municipality for the operation of the following businesses: dancing clubs, nightclubs, clubs, bars, cafés by virtue of a decision of the Municipal Council.
- Attestation from the applicant confirming that he/she received a copy of the rules and specifications of the tourism business (these are delivered by the MoT at the application department).
- If the building is to be built or modified:
  - Map abstract of the property showing neighbouring, institutions signed by an engineer
  - Zoning map abstract of the property with a zoning and classification certificate dating to no longer than three months.
  - Copy of the building permit's plans or its equivalent (construction permit, restoration permit or certificate, or attestation that the building was constructed prior to 1964) duly certified
  - Original Comprehensive Title Abstract of the property
  - Floor plan of the business (scale 1/100) for each part occupied by the business according to the specifications of the MoT, signed and certified by an engineer.
  - Attestation from the applicant confirming that he/she received a copy of the rules and specifications of the classification of the tourism business (these are delivered by the MoT at the application department)
  - Façade plans of the business
  - Plans of the reception lobby for hotels
  - Photos of the business

The second step is to obtain an operating licence (“Permis d’Exploitation”). According to the MoT’s application forms, the applicant must submit the following documents with some variations depending on whether the business has been already built or not.

If the building is to be constructed, the technical approval must be obtained in addition to the building permit procedure and detailed architectural and construction plans must be submitted:

- Application form;
- First Stage Approval;
- Civil status attestation (criminal record) of the Applicant and the business manager;
- ID of the leaseholder and facility manager;
- Officially recognised academic degree of the manager;
- Commercial Register documents of the Company;
- Photos of all parts of the business including the sign in Arabic;
- Blueprint, signed by an architect, indicating where the services will be conducted;
- Standard form attestation of manager's previous employer (the manager must have at least three years of experience) certified by the mokhtar.

According to article 3 of Decree 15598, the ministry may for the purpose of facilitating tourism investments and, after having been satisfied that the business is in good standing to start its operation, grant a temporary operation license for a two month period pending completion of all stages of final licensing. This temporary license doesn't grant the applicant any acquired (vested) right to obtain the final license or any right to damages in the event of refusal to grant the final license.

The Ministry checks compliance with the pre-project licence and sends the file to the municipality for its agreement.

Every type of tourism operation has to respect detailed norms. The norms are inherited from an old French legislation and often very detailed.

According to article 5 of Decree 155598, the license may be granted as a comprehensive license for all parts of the tourism business or it may be granted for specific parts thereof according to the applicant's request. Concerning hotels, and given the specifications required for each class (such as the number of restaurants and other facilities, the hotel license includes the license of such restaurants and other facilities. According to article 7 of the same decree, the operator of a hotel may grant the operation of or transfer, some sections of the hotel (nightclubs, restaurants) to another person in which case the new operator of such sections must obtain a separate license and the classification of the hotel is reconsidered. Hotels may contract on its rooms and suites on the basis of time sharing or leasing (translated in Arabic as time rental or sale) subject to compliance with the applicable regulations governing such tourism operation.

A special desk at the Ministry of Tourism receives applications and hands out the licences.

The license remains valid as long as the business is compliant with applicable laws and regulations.

The actual time required for the first phase is practically unpredictable, notably since the Municipality can take any time it wants to deliver the certificate of conformity.

The Ministry of Tourism has a list of criteria<sup>16</sup> to classify hotels: 1 star = Simple/Basic - 5 stars = Luxury. Each hotel will be classified and must display its classification visibly. It is obligatory for a hotel to be categorized by the Ministry of Tourism. In principle, the classification of the hotel is part of the license.

### *Restaurant License*

In addition to the municipality's approval, a restaurant license must be obtained from the Ministry of Tourism. Restaurants are classified into four categories.

A restaurant license is issued in two phases. According to article 2 of Decree No. 15598/70 as amended, the licensing procedure involves two steps. The first step is to obtain a "first stage licence" which includes the provision of a limited number of documents (Application form; Description of project with a feasibility study and preliminary architectural plans of project, or in the case of an existing building full documentation evidencing compliance with construction laws and regulations). Then, once the first stage license is obtained, the applicant must submit detailed documents and maps in order to obtain the operation license. In practice, according to the application form currently adopted by the MoT, most of the documents are required to be submitted at the first stage and the same procedure and documents are required as for hotels.

The license remains valid as long as the business is compliant with applicable laws and regulations.

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<sup>16</sup> Hotel rating standards are available at FIAS upon request.

The time required for the first phase is practically unpredictable, notably since the Municipality can take any time it wants to deliver the certificate of conformity.

Note: Concerning fees, a full mapping of fees including the cost of obtaining each document in addition to the license tax and the municipality and stamp duties must be compiled.

### *Travel Agency*

An agency selling tickets or travel package needs to obtain a travel agent license from the Ministry of Tourism. General requirements for a travel agency are:

- Travel and Tour Agencies must have office space of at least 40 m2 on the ground level and 75 m2 on higher floors;
- Transport and Tour: Office space of at least 60 m2 on the ground with parking space for at least three cars;
- Transport agency: Vehicles should not be more than three years old and must meet industry standards.

The license is issued in two phases.

For **Phase 1** approval, the applicant must submit the following documents:

- Application form signed by the applicant;
- Project description
- Plan of the workplace
- The applicant's professional tourism degree with a minimum experience of two years or a document outlining the owner or manager's qualifications and experience in the tourism field provided he/she has at least 5 years of experience in a class I transport or travel agency;
- A deed of office ownership or rental contract;
- A document showing the name of the business subject to the MoT's approval of such name;
- Photographs of the office and site;
- Map of the real estate identifying the location of nearby organizations and signed by an engineer.

- One of the following documents: (i) Certified original copy of the occupation permit or its equivalent (construction permit, restoration permit or certificate, or attestation that the building was constructed prior to 1964) and the related plans certified by the DGU or the Municipality as applicable; or (ii) attestation of construction compliance with the related plans signed by the Municipality's head or engineer, dating back to no longer than three months.
- Model of the organization on the scale of 1/100 with the necessary dimensions to show the space and the names of the different departments signed and sealed by an engineer. Attached must be a representation of the parking lots reserved to the organization.
- Comprehensive statement of the real estate if the building is not apportioned.
- Comprehensive real estate statement of every part occupied by the organization and the common parts (1) if the real estate is apportioned.
- A duly certified copy of the building division map pointing to the parts occupied by the tourism organization.
- Should the real estate statement mention a plan, a space map of the real estate should be submitted and must point to the mentioned plan.
- A certified copy of the lease registered at the municipality or a certified copy of the title deed.
- Declaration by the concerned party confirming that it received the list of the foundations, the specifications and the technical plans necessary to grant a rating to the tourism organization

A stamp duty of LBL 1,000 must be paid with submission of the application.

Note: Concerning fees, a full mapping of fees including the cost of obtaining each document in addition to the license tax and the municipality and stamp duties must be compiled.

Decree 4216/72 doesn't provide for a time frame for the granting of Phase I license. It was reported that the actual time frame to obtain Phase I approval has been recently shortened.

For the **Phase 2** approval, the applicant must submit:

- Phase 1 approval and an application for Phase 2 license;

- Leaseholder and agency manager's identity card evidencing that they are Lebanese and above 21 years age;
- A copy of the applicant's criminal record evidencing the applicant's good standing;
- Proof that the company is registered with the Chamber of Commerce according to its rank, nature, and capital evidencing that the company's object is strictly limited to tourism agency activities as per article 2 of Decree 4216/72;
- Certification that the interested parties have a legal presence in Lebanon;
- LL5 million bank guarantee (double this amount if the applicant is not Lebanese);
- Work permits for all the agency's foreign staff and (if so) foreign owner;
- Legal attestation from a specialized authority that there is a reciprocal treatment between the foreign applicant's country and Lebanon;
- A notarized written commitment stating that the applicant will employ at least seven people within three months as of the license date;
- Photos of all sections, in and out, of the agency including the sign posted;
- Transport agencies must also show a legal certificate that proves ownership of at least two Pullman coaches that can transport a minimum of 25 tourists, or five small vehicles in which insurance has been taken out for each passenger.

Additional decision criteria:

- The agency's commercial location is highly taken into account; the workplace should be decent from the outside and the inside.
- Should the agency be located in upper floors, the building's spot, external appearance, commercial location, number of electric elevators, and other elements allowing an easy access to the premises are taken into consideration.
- The agency's plans, inside and outside decoration, especially new furniture and sufficient equipment are taken into consideration since they improve work and give a good idea about such organizations; the workplace should also offer the necessary hygiene benefits.

According to article 5(2), phase 2 license should be issued within two months as of the date of application for such phase. The license is granted by decision of the Minister of Tourism upon the recommendation of the ministry's director general after having taken the opinion of the tourism consultancy committee. If the applicant is non-Lebanese, the license is granted by decree resolved in the council of ministers upon the Tourism Minister's recommendation. If the two months lapse without an answer from the Ministry, the license is deemed to be denied.

The license remains valid as long as the business is compliant with applicable laws and regulations.

Note: Concerning fees, a full mapping of fees including the cost of obtaining each document in addition to the license tax and the municipality and stamp duties must be compiled.

### *Car Rental Agency*

Unlike other tourism sector licenses that are granted in a two-staged procedure, car rental agency licenses are granted in one phase. An applicant for opening a car rental must submit to the Ministry of Tourism in phase 1 according to Decree No. 4216 of 1972 amended by Decree No. 9026 of 1996 the following documents:

- Application form to the Ministry of Tourism signed by the applicant.
- Project's idea.
- Financial and economic studies.
- The following Technical documents concerning the office and the garage should they be located in different premises:
  - Map of the real estate identifying the location of nearby organizations and signed by an engineer.
  - True copy of the housing license, or an equivalent\* along with its related maps issued by the competent authorities (Department of Urban Planning or municipality).
  - Model of the organization on the scale of 1/100 with the necessary dimensions to show the space and the names of the different departments signed and sealed by an engineer.
  - Comprehensive real estate certificate of the property if the building is not apportioned.

- Comprehensive real estate statement of every part occupied by the organization and the common parts (1) if the real estate is apportioned.
- A duly certified copy of the building division map pointing to the parts occupied by the tourism organization.
- Should the real estate statement mention a plan, a space map of the real estate should be submitted and must point to the mentioned plan.
- A certified copy of the lease registered at the municipality or a certified copy of the title deed.
- Declaration by the concerned party confirming that it received the list of the foundations, the specifications and the technical plans necessary to grant a rating to the tourism organization.
- Parking for 30 cars at a distance not exceeding 70 m from the office.
- Space map issued by the competent reference and showing the distance between the office and the parking.
- Model of the workplace showing the plans ahead on condition that its surface is at least of 60m<sup>2</sup>, is located in the ground floors, and is 70 m maximum away from a parking lot, as evidenced by a lease or a title deed.
- Professional certificate in the field of tourism granted by a certified institute or an experience certificate of no less than five years for the agency's owner or managing director.
- Document revealing the name of the organization provided that it is approved by the Ministry of Tourism.
- Civil status extract proving that the applicant is Lebanese and above the age of 21.
- Criminal record for both the agency owner and director as well as for all parties in charge, provided that the party concerned is not convicted with a crime, or a felony and that s/he is of good conduct.
- Work permit for every foreigner involved in the agency as a partner, an owner or an employee.

- Document certifying that the organization is registered at the commercial register and showing its type, capital and subject provided it is only limited to renting tourist cars; in addition to the company's statute.
- Document proving that the concerned organizations are legal in Lebanon and are thus subject to enforced laws.
- Lease if the investor is a lessee or a title deed if s/he is an owner.
- Financial or bank guarantee amounting to //LBP 32 000 000// for the agency issued by a certified bank; this guarantee is doubled for foreign agencies.
- Later on, and based on the tourist facilities department statement, a statement proving its ownership of at least 30 tourist new small cars free from any seizure and on condition that every car and driver are insured against all risks.
- The agency's owner written undertaking before the notary public, to guaranteeing the following on a yearly basis and whenever s/he is asked to:
  - 30 tourist cars at least registered in the name of the agency and insured against all risks.
  - Recruiting five employees at least among persons with expertise in the tourist transport and issuing a statement guaranteeing the names and missions that are entrusted to them along with a criminal record for each.
  - A lease of a parking issued on a yearly basis certified by the municipality subject to annulling the license *de jure*.
- Photos showing the interior decoration and a picture of the signboard on the building.

The applicant has to pay a stamp duty of LB 1,000 and LB 25,000 with the application.

Note: Concerning fees, a full mapping of fees including the cost of obtaining each document in addition to the license tax and the municipality and stamp duties must be compiled.

Compulsory General Requirements for Car Rental Agencies:

- The agency's spot and commercial location are highly taken into account, the workplace should be decent from the outside and the inside.

- The agency's plans, inside and outside decoration, especially new furniture and sufficient equipment, are taken into consideration since they improve work and give a good idea about such organizations; the workplace should also offer the necessary hygiene benefits.

### ***ICT-Sector***

The Telecommunications Law of 2004 governs the ICT sector. However, it should be noted that the law is not fully implemented yet. The establishment of an independent regulator for telecommunications services as determined in the Law has not been completed yet. It is still the Ministry of Telecommunications conducting all responsibilities assigned to the regulator authority in the Law.

The following telecommunications services need an operating license from the regulatory authority (currently Ministry of Telecommunications):<sup>17</sup>

- Private line services;
- Offices of telecommunications and public payphone services
- Service of leased lines;
- Service of telex and telegraph;
- Internet services;
- Data services;
- Any other Telecommunications Services established by the authority for similar licensing.

The following services need to be licensed by Decree of the Council of Ministers and only after conducting an international auction:

- Basic telephony services;
- Cellular telecommunications services;
- International telecommunications services;
- UMTS services.

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<sup>17</sup> Art. 19 of the Telecommunications Law of 2004.

The Law empowers the Regulatory authority to establish licensing requirements and decision criteria. With the absence of a regulatory authority, however, the Ministry of Telecommunications applies its own licensing requirements and decision criteria. A license can only be transferred upon prior approval by the regulatory authority.<sup>18</sup>

### *ISP*

An Internet Service Provider needs to be licensed by the Ministry of Telecommunications. The following documents must be submitted:

- Company commercial registration;
- A power of attorney provided to the person authorized to sign on behalf of the company;
- Address in Beirut and abroad for the link;
- A signed agreement agreeing to pay the bills and not to use the Internet license for other purposes;
- Bank guarantee equal to two months connection fee.

In principle, if the applicant fulfills the requirements set forth by the Ministry, there is no express delay for the authorization to operate an ISP will be granted. However, it was confirmed to us that no new authorizations have been requested recently and most of the existing ISP have been established before the enactment of the new law. Therefore, there are no precedent on which we can base ourselves for determining the time frame of granting such authorizations. The reason of such lack of applications for new ISP may be the high fees that the ISP will have to pay during operation such as lease-line, connections and other fees.

### *Call centers*

The new Telecommunication Law does not expressly address the issue of call Centers. However, the authorization of operating call centers should in principle be vested with the Minister (the Ministry's General Director for the Exploitation and Maintenance is the competent branch of the ministry). The lack of interest in call centers is the deterrent expensive cost for the operation of such centers, especially in terms of call diverting cost.

### ***Food-processing Sector***

The Law to Permit and Operate a Food-processing factory or Farm (Animal Products) of 1932 governs food processing of animal products. Exporters of food-processed products from animals must register with the Animal Resources Directorate of the Ministry of Agriculture.

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<sup>18</sup> Art. 24 of the Telecommunications Law of 2004.

The applicant must submit a file describing the food-processing procedure. A physical inspection of the used equipment and the process will take place regarding their hygienic state. The procedure takes about one month and no fee must be paid. An operational license is not necessary.

The food processing sector involves a wide variety of industries, most of which fall under the licensing requirements of classified industries detailed above given that Decree 5243/01 on the classification of the industrial sector, enumerates 28 food processing industries (as belonging to the ISIC Category 15) and classifies each one into industrial classes from I to V. These industries include notably, industries and products of meat, fish, poultry and birds, milk products, beverages and others.

In addition, the health and/or Agriculture ministries may issue specific norms and regulations for each of the said industries. For example, decree-law 38 dated 16/06/43 governing the pork meat industry, decree 706 dated 5/06/37 governing the industry of green cheese, and decision 61/1 dated 26/03/98 setting forth the requirements of yogurt and labneh manufacturing.

## **Analysis**

There are certain characteristics of all sector licenses, which need a closer look:

**The system is based on a two-phase approach.** All operating licenses are issued in two phases: a pre-project approval and a final approval. These two approvals are necessary in addition to the permits, certificates and approval needed if construction work is involved. The added value of a pre-project approval is not clear. In fact, the pre-approval duplicates most requirements for the construction permit.

**Over-regulated tourism sector with obsolete laws.** The law has a number of minimum requirements that can hardly be justified and diminish the commercial freedom of entrepreneurs in the sector. For example, every car rental agency must have at least 30 cars and five employees. There is no obvious reason for such requirements. A travel agency, for instance, must have a certain minimum size on each floor and vehicles should not be older than three years. Again, there are no obvious reasons for these restrictions. Businesses should be safe, healthy and environmentally sound. Anything else should be in the responsibility of the entrepreneur and not part of the mandatory licensing requirements.

The legislation stems from the early 1970's and conditions, acknowledged forms of accommodations have never been updated. As a result, new developments in the tourism industry are not addressed in the legislation. For example, time-sharing, or long-term hotel accommodations are not possible under Lebanese law. However, these are business models that are very successful in the world and the law needs to be amended to address them.

**Very long list of documents required.** The list of required documents reflects rather a construction permit than an operating permit. Floor plans developed by an engineer or architect, site maps, buildings blue print authenticated, topography maps – all for restaurant license – are usually not needed to decide whether a restaurant meets safety, health and environment standards. These documents should be relevant to obtain a construction permit not an operating license, particularly when the use of the site has not changed because a restaurant has been licensed at the same exact location before.

**Duplicating requirements.** As mentioned above, many of the documents to be submitted are already subject to the municipal business license. For example, all construction related documents are reviewed twice, by the municipality and the line-ministry in charge. The duplication could be avoided with better coordination between the relevant authorities.

**Focus on ex-ante licensing where ex-post inspections are more efficient.** The authorities and line-ministries seem to ensure that all standards are met by the entrepreneur by assessing the project before operation. However, this provides not only a snap-shot, it is also a rather inefficient way because it means to examine every single business with the same detail and intensity. Inspections conducted on a random basis and according to a risk-based inspection schedule are more efficient. Businesses that have no track record are inspected more often than businesses that are known by the authorities for their compliance with standards and requirements.

## **Recommendations**

**Reconsider the two-phase approach.** Instead of providing operating licenses in two phases, the applicants should need only one operating license. This saves time and resources to both, the authorities and the applicant. Indeed, most countries issue only one operating license.

**Liberalize the sectors by diminishing legal requirements for each sector and each activity.**

- **The current restrictions for businesses should be abolished and the entrepreneurs should have more freedom in determining the characteristics of their businesses.** If the owner of a car rental agency believes it is a better business project to rent out a small number of luxury cars or well-maintained cars, then this should not be prohibited (the law requires each agency to have at least 30 cars available). If a travel agent finds a particular promising location for the business, but this site has less than 70m<sup>2</sup>, the law should not prohibit this undertaking, as long as the activity is allowed by the city planning and the location is safe.
- **Reconsider bank guarantees.** Another requirement to be reconsidered is the bank guarantee for certain businesses (e.g. LP5 million for agencies, LP 32 million for car rentals). The purpose of the costly guarantee remains unclear.

- **Classification system should be managed and maintained by the sector association (Tourism Association).** The Ministry of Tourism has a very elaborated list of conditions<sup>19</sup> for the classification of restaurants and hotels. However, it would be more efficient to leave the development and application of criteria with the sector organization as done by many countries (cf. Exhibit 20). The association knows best about the market, the various determinants and new developments in the sector.
- **Allow new forms of tourism services and update the laws accordingly.** The legislation from the 70s needs to be updated and allow tourism undertakings in a more flexible way. Particularly the world of tourism service has changed over the last 40 years and the legislation should acknowledge the changes.

## Exhibit 20 Hotel Classifications in Denmark

Denmark had no hotel classification system until 1997. The hotel industry had traditionally opposed the introduction of a government compulsory system as excessive government intervention. The new system was introduced by HORESTA, the Danish Hotel Association for its members, and graded establishments from zero to five stars according to objective criteria. The system responded to long held demands by consumers and travel agents. The star rating system also proved to be a useful tool for hotel managers to identify areas for improvements.

Source: International Hotel & Restaurant Association and World Tourism Organization. 2004. "The Joint WTO & IH&RA Study on Hotel Classification." Available on line at <http://www.ih-ra.com/publications/>

- **Abolish duplication of requirements.** Requirements and standards should only be examined once. The line-ministries and municipalities should coordinate their efforts to ensure that documents are handed in only to one authority and that criteria are applied only once. For example, the municipalities assess the floor plans and the architect's dossier to each project and the Ministry requests the same documents to do the same assessment. It should be sufficient if one authority assesses the construction. This would be rather the Ministry of Tourism considering that the municipality did the assessment already for the construction permit of the building. In either case, both authorities should coordinate their efforts.
- **Coordinate with other involved authorities.** The municipalities, and line-ministries like the Ministry of Tourism, the Ministry of Industry and the Ministry of Health should meet and compare the purpose, requirements and processes of their licensing procedures. An information exchange should be organized to make the life of entrepreneurs and officials easier.

<sup>19</sup> General conditions for the rating of restaurants and snack bars are available at FIAS upon request.

- ***Use inspections to ensure compliance with standards rather than licenses.*** Wherever possible, the authorities should shift to a post-inspection regime. Entrepreneurs are informed about their responsibilities and it is their duty to act in compliance with the laws and regulations. Inspectors will examine compliance risk-based.

## 3 Operating Procedures

Start up operations, particularly company registration and land related issues, dealt with in the previous chapters, are seen by Lebanese business persons as major administrative barriers in Lebanon. However, most of them also mention room for significant improvements in the areas of tax, international trade, labor regulations, work permits, and social security. The present chapter also stresses the need to improve procedures for closing a business. It deals finally with business inspections, a cross-cutting issue of particular concern in Lebanon deserving a radical reform.

### Taxation

#### Findings

With the adoption of the Law on the Value Added Tax (VAT) in 2001<sup>20</sup> and its implementation in 2002, the government increased the tax base and therefore increased revenues. Another key objective of VAT introduction was to enable Lebanon to reduce its customs duties and join the World Trade Organization. The Ministry of Finance, with the support of a UNDP project, has made great headways during the last two years in the modernisation of the tax administration.

#### *Legal Basis*

Lebanon has no Tax code. The fiscal system is implemented through a great number of Laws, decree laws and implementation decrees. Tax rates may be amended in the annual budget appropriation act.

#### *Personal Income Tax*

The law differentiates between daily employment and earnings from practicing a profession or trade. Salaries are taxed on a sliding scale. Exemptions for pension contributions and for allowances (for transport, clothing, etc.) make calculating the effective income tax rates difficult but according to the Ministry of Finance, the tax rate is as low as two percent and as high as 20 percent. Gross income is the sum total of salaries, allowances, annuities, bonuses, pensions, and other benefits. Income tax is applied to net income. Income tax is levied on:

- Personal earnings

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<sup>20</sup> Law no 63, December 24 2001 of the Official Gazette. It was amended by the LAW no. 479 dated 30/01/2003 (issue no.8 of the Official Gazette dated 31/01/2003), and the LAW no. 583 dated 23/04/2004 (issue no. 23 of the Official Gazette dated 23/04/2004).

- Partnership company profits
- Profits of joint stock, limited liability, limited liability by shares(capital companies) trust
- Unearned income
- Earnings of non-residents

The law outlines which professions are taxed on the basis of:

- Real income tax
- Flat tax rate
- Estimated income tax.

A separate department was created with the Revenue Directorate of the Ministry of Finance to manage the Deduction At Source of the income tax on Salaries (DASS)<sup>21</sup>. The creation of the department and its organization by functions is credited by the government for reducing the rate of non-compliance from 57% in 2001 to 27% in 2005.

The personal income tax ranges from a minimum of 2% to a maximum of 20%. The Ministry of Finance prepared a new draft “General Income Tax” legislation. If approved, it will be enforced in 2008.

### ***Corporate Income Tax***

A company’s profit is assessed in real, presumptive, or estimated income. Most companies issue real profit statements. For some enterprises, usually small businesses, earnings are based on calculating a coefficient of the estimated gross turnover. This estimate, set by an official committee, is the average profit rate expected for various professions.

Merchant banks dealing with long- and medium-term projects benefit from a seven-year tax exemption starting from the beginning of the specific undertaking. Tax is imposed on the profits generated in the eighth year.

### **Exhibit 21 Tax Rate on Profits**

<b>Net income (LP)</b>	<b>Rate</b>
Up to 9 million	4%
9 million – 24 million	7%
24 million- 54 million	11%

<sup>21</sup> Decree number 10063 of May 8, 2003

54 million- 104 million	16%
Greater than 104 million	21%

Source: Ministry of Finance

Employers must cover their employees' medical, family allowance, and end-of-service indemnities.

- 7 % of salary added to the two percent the employee pays to the government health fund
- 6 % for family allowance contributions
- 8.5 % for end-of-service benefits.

A Large Taxpayers Office (LTO) was created in May 2005, managing more than 600 taxpayers. Established in the new VAT building, it is strong of 18 senior auditors and 50 auditors.

Joint Stock and Limited Liability Companies pay 15% tax on corporate profit and 7.5% tax on profits received from the development or sale of real estate.

A withholding tax at a rate of 10% is levied on all income derived from movable capital assets generated in Lebanon. This tax essentially concerns:

- Distributed dividends, interest and income on shares
- Directors' fees as well as amount payable to them from profits
- Distribution of reserve or profits in form of additional shares or under any form.

Holding companies are exempt from paying income tax on profits applicable to joint stock companies and from retaining income tax on profit distribution, but must pay

- 10% on the interest on loans issued to companies operating in Lebanon, if the loan maturity is less than three years
- 10% tax on capital gains received from the sale of holding company shares or its participation in Lebanese companies it has owned for less than two years
- 10% on amounts collected from renting patents and on the reserved rights it possesses on a Lebanese company
- Graduated fixed income tax that does not exceed approximately 5000 USD per annum

Offshore companies are exempt from:

- the 15% Tax on profits applicable to Joint stock companies
- tax on profit distribution
- stamp duties on overseas business contracts signed in Lebanon
- 30% of foreign employees' basic salary is exempt.

They are subject to:

- LP 1 million fixed annual tax
- 10% tax on profit received from the sale of the fixed assets in Lebanon
- 2 to 20% tax on the salaries of company employees working in Lebanon.

### ***Value Added Tax***

The implementation of the Value Added Tax (VAT) in February 2002 is the most important tax reform undertaken since the end of the war. The Ministry of Finance took the opportunity of the introduction of VAT to give companies a single identification number for tax and customs purposes.

In 2002, VAT receipts totaled LP US\$ 659 million, rising to US \$903 million in 2003 and \$1.17 billion in 2004. VAT revenues have become the major source of income for the government, making-up around a quarter of total revenues (tax and non-tax), and one-third of tax revenues. The 2004 increase in tax revenues of 14.8% can largely be attributed to the improvement in VAT revenue of 29.6% to \$1.17 billion<sup>22</sup>.

The VAT directorate is divided into four departments employing 197 public servants. As of September 30 of 2005, the number of VAT taxpayers stood at 18,021. There are two VAT rates: a standard rate, currently 10%, and a zero rate. A taxable person is every natural or juridical person who has a turnover for four successive quarters exceeding LP 150 million (US\$ 100 000).

VAT, like most taxes, is paid on a quarterly basis while income tax is paid on an annual basis. The declaration is sent and returned by mail. VAT is paid directly to a Bank. At the same time, declaration fees have been abolished (from US\$ 7 to US\$ 13.5). This new and computerized system introduced for VAT, is considered as a model by the Ministry of Finance and has already been implemented for the Large Taxpayers Office (LTO).

The excess of VAT receivable over VAT payable can be recovered by taxpayers registered in the VAT as follows:

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<sup>22</sup> Banque Audi's end-of-year report.

- for exporters, by the end of each
- for others by the end of the fiscal year.

The VAT Administration has a delay of 3 months to study the request from the day of the request submission, plus an additional one month to pay back<sup>23</sup>.

Exporters do not charge nor pay VAT to the Treasury. Instead they have the right to be reimbursed every three months VAT paid on their purchases. The MoF also set up a VAT refund scheme for tourists. The private company Global Refund reimburses VAT at the airport, in cash under 1000 US\$ and with a check or transfer above this amount. Global Refund is reimbursed every three months.

### ***Stamp Duties***

Stamp duties are a major source of revenue for the GoL: around 160 million US\$ in 2005. The rates are 0.30% for all contracts and agreements unless otherwise specified. Unless stated otherwise, fiscal stamps duties are imposed on all legal documents signed in Lebanon or originating from Lebanon, or originating from abroad or from consulates or embassies in Lebanon and “used” in Lebanon<sup>24</sup>. Fiscal stamp duties are also levied on the renewal or extension of such contracts and upon the issuance of certified copies of such contracts<sup>25</sup>. Failure to affix the stamp within 5 days of conclusion of contract carries a penalty equivalent to 10 times the stamp in addition to the payment of the original stamp duty.

### **Exhibit 22 Fiscal Stamp Fees on Business Documents**

<b>Stamp duty must be paid on the following documents in LP:</b>	
▪ Joint stock company constitution permit	1,000,000
▪ Constitution permit for factory or any industrial or commercial business	750,000
▪ Statements relating to foreign exchange, buying or selling	1,000
▪ Bank guarantees or letter of guarantee	10,000
▪ Personal or real guarantees, with the exception of land guarantees	10,000
▪ Bills of lading or Customs receipts	5,000
▪ Official copies of the manifest	5,000
▪ Certificate of the origin of the goods	20,000
▪ Copies of agreement to cash money	
- Specific	5,000
- General	10,000
▪ Registration of property title deeds	10,000
▪ Receipt for money cashed	100
▪ Bank statements	100
▪ Receipts of goods	100
▪ Receipts of cash, bills or share deposits	100
▪ Invoices	100

<sup>23</sup> VAT Law, Section 8, Article 30

<sup>24</sup> See article 4 of the Fiscal Stamp Duty Law.

<sup>25</sup> See article 1 of the Fiscal Stamp Duty Law.

▪ Quittances or releases	10,000
▪ General power of attorney	10,000
▪ Specific power of attorney	5,000
▪ Certificates of true copies of signature	100

Source: InfoPro Research

## ***Other Taxes***

### *Transfer Rights Tax*

Movable and immovable assets and rights are liable for transfer tax including transfer to third party by right of succession, will, grant, or settlement or by other right that does not provide an equivalent compensation of the real value<sup>26</sup>. The tax varies from 3 % to 45 % depending on the degree of relationship and the taxable parts of the asset. An additional flat fee of 0.5 % is due on the gross transferred assets starting from LP 40 millions.

### *Built Property Tax*

Built property tax is charged on the total net profits or the effective income of the owner of a building<sup>27</sup>. The law provides for permanent, temporary and partial exemptions. A proportional tax is enforced at a fixed rate of 4 per cent on net income from the building, in addition to a bracket-based tax that varies from 2 per cent to 13 per cent starting from LP 20 millions. One quarter of collected taxes on built property benefits the municipalities' budget.

### *Municipality Fees*

Every municipality is authorized<sup>28</sup> to levy and collect a great number of municipal fees on:

- occupancy
- meeting places and gambling clubs
- advertisement
- occupancy of municipal public properties
- stations of distribution of liquid fuel
- classified establishments
- auctions

<sup>26</sup> Decree Law No. 146 dated 12 June 1959

<sup>27</sup> Law dated on 17 September 1962

<sup>28</sup> Law No. 60/88 dated 12 August 1988

- license for mobile work persons
- slaughter
- admission to archeological and tourist municipal places
- registration of rental leases
- construction license (per meter)
- sidewalks and sewages
- official documents issued by the Municipality
- compensation as result of a value added
- fire risk and explosive material.

The rates for local – municipal – taxes are set at two levels. On a business property the levy is presently set at 7 percent, while the rate for residences, rented as well as owner-occupied, is set at 5 percent.

Some taxes and fees collected by public entities and the central government also benefit municipalities.

#### *Indirect Taxes, Fees, and Duties*

In addition the following taxes and fees are collected:

- several taxes or fees relating to real estate
- excise taxes on some products (flammable products, alcoholic and non-alcoholic drinks, tobacco, cement, cars)
- excise taxes on some services (entertainment, gambling, playing cards, tax on sales in tourism establishments)
- administrative fees (Notary fees, Consular fees, General security fees, road fees, judicial fees, market fees, lighthouses fees, registration fees in school and institutes, Lebanese University fees, examination fees, airport fees, and seaport fees)
- permit fees (work permit fees, permit and subscription fees relating to medias, and other permit fees)

- many other duties and fees: stamp duties, fixed fee on professions, transit and exit fees on travelers, passport fees, fees on foreigners residency cards, weapons fees, hunting fees, forest fees, sugar and wheat fees, salt fees, fees on import/export licenses, fees on ID cards, highway fees, fees on exported Lebanese fruits, banks fees, deposit insurance fees, certificates and reports fees, fees for cadastral survey operations, building licenses, phone and utility subscription fees, naturalization fees, duties of monopolistic companies, car fees, mechanic inspection fees, and driving licenses fees.

### ***Tax Treaties***

Lebanon has concluded several promotion investment agreements as well as treaties for the avoidance of double taxation with Arab and non-Arab countries<sup>29</sup>. We just mention this for information as there is no bearing on administrative procedures.

### ***Tax Procedures***

A Code of Tax Procedures is scheduled to be ready for adoption at the beginning of 2007. This project is of particular importance as it should unify taxpayers' rights and responsibilities for all types of taxes.

The Ministry of Finance is also working on another important reform: the creation of a small taxpayers' office, simplifying further the procedures. This would benefit 80 to 90% taxpayers representing only 5% of revenue.

But the most important reform is still to come and will be the reorganization of the inspection processes with the creation of a compliance department and the introduction of risk management. The Ministry of Finance intends to conduct this reform, which should also make the audits issue-oriented, therefore more efficient and faster.

### ***Analysis***

According to *Doing Business in 2005*, the effective tax that a medium size company in Lebanon must pay or withhold within a year is below the region's average and well below the OECD average. However, the administrative barriers, measured in number of payments, are above the regional average and twice the number of OECD average.

### **Exhibit 23 Paying Taxes, 2005**

<b>Indicator</b>	<b>Lebanon</b>	<b>Region</b>	<b>OECD</b>
Payments (number)	33	27.3	16.3

<sup>29</sup> More information on such agreements can be found on the [Ministry of Finance's website \(www.finance.com.lb\)](http://www.finance.com.lb)

Time (hours)	208	241.9	197.2
Total tax payable (% gross profit)	30.4	35.1	45.4

Source: World Bank *Doing Business* 2005.

The great majority of the Lebanese business persons we interviewed made reference to, and expressed support for, the plans of the late Prime Minister Rafik Hariri, to increase VAT, and do away with all other taxes. Many regret that the promise has not been kept yet.

### ***Tax Code***

The absence of a Tax Code makes understanding and management of tax issues long and costly. There is a need for a consolidation of tax provisions in a comprehensive Tax Code.

### ***Tax Avoidance and Fraud***

The high level of companies that keep operating in the non formal sector makes very often competition unfair and remains a strong incentive for fiscal non compliance. The many tax amnesties have also become an incentive for non compliance.

Assessing with any degree of certainty the extent of tax avoidance and non-compliance is a challenging task in any country. According to the *Arabies Trends* report on taxation in Lebanon (March 2005), "...it has been estimated that only 2,400 out of 16,000 companies pay taxes...". The article quotes a manager of a south Lebanon-based real estate and tourism company: "...The huge finance, import/export, real estate and tourism companies all cheat. The government's control and inspection department is not large enough to keep up...My company owns several companies and we don't pay property taxes on the buildings that we let. We also cheat in paying taxes on profits. The tax is 15 percent, so we just depress the paper profits".

### ***Municipal Taxes***

The number of municipalities grew from 707 in 2002 to more than 960 in 2006. They are financially autonomous<sup>30</sup>, but the municipal fiscal system is too complex to manage and also of little efficiency. In theory municipalities can collect more than 35 different taxes and fees. In fact, around half of the local councils have revenues and expenditures very limited: between US\$10,000-US\$100,000 per year. With only a 6% share of total public spending made by local governments, Lebanon remains one of the least fiscally decentralized countries in the region. Although joint municipal councils or unions exist, in practice, due to the religious divisions, little collaboration takes place to maximize service.

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<sup>30</sup> Law 118 of 1997

Business persons also complain that, in spite of the creation of evaluation committees, there is no strict method of evaluation of renting value of properties.

### ***Stamp Duty***

The major impact of this duty is on invoices. Each invoice must have a stamp duty (LP 100). The cost is negligible but time involved is high (from buying to ensuring the right stamps are on the right place). This tax does not bear any relationship with the service offered by the Administration, nor the capacity to pay. Its administrative cost is also high. And it is another opportunity for tax inspectors to exert arbitrary power.

For contracts of large amounts, the stamp is paid at the Ministry of Finance. Completing formalities within the required 5 days is sometimes difficult, and the subsequent penalty very high (10 times the stamp value).

### ***Tax on Salaries***

According to the Hotel Owners Association, the fiscal administration estimates the employees' telephone calls and considers them as real benefits complementary to the salary. This estimate can be arbitrary. Meals taken at the hotel are also considered as benefit.

### ***VAT***

The computerization and mail exchange of declarations introduced by the VAT Department and extended to LTO makes payment easier, particularly if one considers that many companies waited for the last day. It is also a move ahead in fighting corruption as it diminishes contacts with public servants.

Many business persons complain that the promise has not been kept to do away with many other taxes when VAT was introduced. Also, for all its success, VAT has done little yet to contribute to the "culture of taxation" in Lebanon. Fraud, under-reporting and tax evasion are still pervasive and will likely remain so since many Lebanese have no sense that their taxes are used for public benefit (making possible to receive effective health insurance, retirement benefits, quality public education and health care, etc) and continue to feel that the system is unfair (i.e., that it penalizes the poor more than the wealthy).

Also, VAT procedures can also be improved and simplified. For instance VAT returns have to be submitted by hand or by mail<sup>31</sup>. No other means of filing are acceptable. E-mail would be less costly and more efficient. Computer validation and acknowledgement could be incorporated

The delay in paying the VAT rebate also creates cash flow problems for all businesses, including exporters. The financial burden is particularly high for new businesses purchasing capital equipment.

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<sup>31</sup> Decree 7296 dated January 26, 2002

The taxpayer has the right to appeal before a Complaints Committee about what he considers unfair decisions taken by the VAT administration<sup>32</sup>. But since the Complaints Committee has not been appointed, there are currently no procedures for complaints except through the court system which does not offer fast and quality judgment since judges are not familiar with this relatively new tax.

Goods or services with mixed use (personal and business) result in partial recovery of VAT based on the deemed personal usage element. The percentage, left to the determination of inspectors, can lead to arbitrary decisions.

### **Recommendations**

In spite of recent or ongoing significant improvements carried out with the support of the UNDP project, there is room for improvements:

- Prepare a Tax Code (compiling all the key laws and regulations on personal and corporate income tax.
- Municipal taxes: elaborate a clear assessment mechanism to collect taxes and land tariffs.
- Eliminate most small taxes, including stamp duties. In the case of stamp duties, given the importance of stamp duties in government revenues, this can only be contemplated in the context of a tax reform.
- At minimum, abolish the requirement to stamp the accounting books.
- Until all stamp duties are abolished, extend the time limit and reduce the penalty for non-compliance.
- Telephone calls and meals of hotel employees should not be considered as taxable benefits.
- Do not submit the seasonal employment of university students working in hotels, restaurants and other tourism organizations to salary taxes.
- Enable electronic filing of VAT return.
- Shorten the time period for rebate payment.
- Increase training of tax administration and tax payers.
- Establish guidelines for determining the amount of VAT that can be recovered from mixed use items.
- Set up the Complaints Committee.

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<sup>32</sup> VAT Law Article 50

- Draft and adopt a Code of Tax Procedures.
- Extend to all inspections the principles and organization of risk management implemented by the VAT Department.
- Continue the streamlining and automation of work procedures to reduce the citizen interface with public sector employees and reduce the risk of corruption.
- Extend transparent, merit-based, and proper procedures for public sector recruitment, reducing recruitment on political or other considerations.
- Use the reform of inspection at Ministry of Finance and Ministry of Economy And Trade as pilot projects for other administrations.
- Form an independent tax appeal tribunal to hear disputes over tax assessments, composed of qualified professionals and tax officials.

## **International Trade**

The Government and the business community of Lebanon are very conscious of the need to regain Lebanon's past situation as an international trade hub. Trade liberalization is a significant contribution to fulfill this potential. Still, According to Doing Business (research project of the World Bank), the administrative barriers to international trade are far more important than the average of OECD. Lebanon comes only 94th out of 155 nations surveyed in its measure of "trading across borders."

### **Findings**

#### ***Trade Liberalization***

Trade liberalization and facilitation is a key factor in the efforts of the GoL to regain Lebanon's comparative advantages as an export platform. More than 80% of products pay tariff duties of 5% only. Lebanon signed trade agreements with the EU, with EFTA33, the Gulf Cooperation Countries (GCC) and the Greater Arab Free Trade Area (GAFTA). Lebanon is also negotiating accession to the WTO. As shown by the following tables, the decline of average customs tariff rate was paralleled by the decline of Customs revenue.

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<sup>33</sup> Switzerland, Lichtenstein, Norway, Iceland

### Exhibit 24 Decline of Monthly Average Customs Tariff Rate

Year	1998	1999	2000	2001	2002	2003	2004	2005	2006
January	18%	22%	24%	17%	19%	14%	15%	12%	11%
February	16%	22%	21%	16%	13%	17%	13%	10%	8%
March	18%	22%	19%	13%	19%	16%	14%	10%	8%
April	18%	21%	20%	16%	16%	17%	12%	10%	
May	20%	24%	23%	15%	16%	18%	11%	10%	
June	21%	23%	20%	15%	18%	17%	13%	10%	
July	20%	23%	19%	15%	19%	17%	11%	8%	
August	20%	25%	21%	16%	19%	16%	11%	9%	
September	20%	21%	20%	18%	16%	16%	12%	8%	
October	22%	24%	23%	18%	16%	15%	9%	8%	
November	21%	25%	19%	13%	17%	14%	12%	10%	
December	22%	20%	13%	20%	19%	15%	12%	9%	
<b>Average tariff</b>	<b>20%</b>	<b>23%</b>	<b>20%</b>	<b>16%</b>	<b>17%</b>	<b>16%</b>	<b>12%</b>	<b>9,5%</b>	

Source: Customs

### Exhibit 25 Decline of Customs Revenue

	1999	2000	2001	2002	2003	2004	2005	2006*
Exports	677	714	889	1 045	1 524	1 747	1 880	517
Imports	6 206	6 228	7 291	6 445	7 168	9 397	9 340	2 349
Trade deficit	5 529	5 514	6 402	5 400	5 644	7 650	7 460	1 832
Customs receipts	1 404	1 249	1 154	1 128	1 131	1 121	0,884	0,205

Source: Customs

\* as of March 2006

A new and modern WTO compatible Customs Law<sup>34</sup> was implemented in 2001. It simplifies and expedites customs procedures, adopts international standards for the valuation of goods, applies modern and fair dispute settlement procedures, allows for electronic declaration of goods, and fosters the development of industrial and free zones. This new law has reduced delays and administrative burdens in clearing imported products through customs at the airport and ports. Customs has been very active in introducing online operations for its automated clearance system whereby traders and custom brokers will be able to enter and track customs declarations. When fully implemented, users will be able to register, as well as assess and pay declarations directly from their bank accounts.

With the support of a UNDP project<sup>35</sup>, the Ministry of Finance significantly modernized Customs administration, through the installation of an Automated Customs Clearance Operation (NAJM), supported by the adoption of the Automated System for Customs Data (ASYCUDA). Customs now operates on the principles of risk management and self assessment. The Ministry of Finance prepares the introduction at Customs of ASYCUDA-WORLD, the latest Customs automation system developed by UNCTAD. Customs is being turned into one of the most modern administrations of Lebanon.

The reform also included the training of over 500 Customs brokers and traders to NOOR, the online operations system. Today, 99% of declarations are entered remotely and 90% of international trade of Lebanon goes through the 3 automated customs offices of the Port of Beirut, the Airport of Beirut and the Port of Tripoli. Customs also trained over 200 officials to automated operations.

### *Customs Declaration*

The major elements of the customs declaration form, based on the Single Administrative Document (SAD) are:

- the value based on WTO definition (value of transaction evidenced by the original purchase invoice); any wrong declaration of value is subject to the sanctions included in the Customs Act.
- the country of origin
- the customs nomenclature according to the customs tariff table of the Harmonized System.

### **Exhibit 26 Documents Required for Imports**

- |  |
|--|
| <ul style="list-style-type: none"><li>• Bill of lading</li><li>• Packing list</li><li>• Original invoice</li></ul> |
|--|

<sup>34</sup> Decree No. 4461 dated December 15.

<sup>35</sup> "Capacity Development for Fiscal Reform and Management", UNDP project LEB/03/003

- Delivery order (to prove ownership of goods)
- Quitus from the National Social Security Fund renewed every six months (required only for legal persons and commercial establishments)
- Contract of sale between importer and seller at the country of exportation (may be requested for value verification only in case customs officers doubt the invoice value)
- Certificate of origin, issued by Chambers of Commerce in the country of exportation
- Other documents may also be required, depending on the type of imported good (see section technical barriers).

### **Exhibit 27 Documents Required for Exports**

- Declaration form based on the Single Administrative Document (SAD)
- Packing list
- Invoice
- Certificate of origin issued by Chamber of Commerce except for exports to Europe. The certificate of origin must be certified by the Ministry of Agriculture for all food products of plant origin and by the Ministry of Industry for all industrial products. Certificate of origin for exporting industrial products to Europe are issued by the Ministry of Industry according to EUR 1 and FORM A and are certified by Customs.
- Quitus from the Social Security Office renewed every six months (required only for legal persons and commercial establishments)
- Other documents may also be required depending on the type of exported good (see section technical barriers).

### ***Customs Procedures***

Clearance time has already been reduced from 7-10 days a year or two ago to 2 or 3 days now, thanks to a combination of measures as follows:

- implementation of risk management and the introduction of the Green Lane for already around 80% of customs declarations
- adoption of the Single Administrative Document (SAD) for all imports replacing 26 documents
- reduction to four steps the clearance process against the previous 15 steps with signature.

## Exhibit 28 NAJM and NOOR

NAJM is a customized and Arabic version of the Automated System of Customs Data Entry (ASYCUDA). It accelerates and upgrades import clearance. Apart from setting up computer centers and training courses, implementing the program required the adoption of two international standards: the Harmonized System Code and the Single Administrative Document.

NOOR, standing for NAJM Online Operation, streamlines procedures. This system allows the clearing agent or importer to enter data via the Internet, giving the trader/agent instant feedback. The trader settles Customs duties directly, through his bank, using the assigned account identification number. Under this system, shipments arriving at 7 pm and declared to pass through the Green lane can be withdrawn by 8 am the next morning.

The clearance procedures vary between the customs offices that implement the Automated System (NAJM), dealing with 90 % of trade, and the other customs offices.

*Case No. 1: Customs Offices not implementing the Automated System:*

- Preparation, signature and attachment of the required enclosures
- Presenting the declaration for admission
- Registration of the declaration
- Payment of manifest
- Payment of permits (if necessary)
- Referral of the declaration to the Inspector
- Verification of declaration (Inspection)
- Calculation of the declaration (determination of duties and any other due sums)
- Signature of the Head Inspection officer (with the possibility of performing a counter-inspection)
- Auditing of declaration by the audit officer
- Registration of duties in the daily register
- Issue of receipt
- Payment of duties
- Clearance of goods.

*Case No. 2: Customs offices implementing the Automated System*

There are four phases for the red lane and only three for the green lane.

**1. Preparatory phase**

For Users of the NOOR System (online declaration):

- Preparation of the draft declaration directly on his PC.
- Sending it electronically to NAJM Automated System where it is audited, saved and returned with saving or reference number.
- Printing it, signing it and attaching the required documents.

For Non-Users of NOOR System:

- Filling declaration on the official printed form ( A1, B1).
- Logging declaration in customs admission center, then printed and returned to the declaring party.
- Checking of declaration, correcting if necessary and re-printing.
- Signing of declaration and returning with the required enclosures.

**2. Admission**

- The declaration and its enclosures are filed with the admission officer that:
  - retrieves the saved declaration on the screen according to the reference number,
  - compares the printed declaration to the saved declaration,
  - checks it and verifies the validity of its enclosures,
  - performs any other audits (restrictions, prohibitions, Israel boycott, etc).

If the declaration is accepted:

- the admission officer orders its registration and evaluation and the system will:
  - register the declaration and gives it a number that will appear on the screen,

- select the lane: green or red (presently only 20% red)<sup>36</sup>,
- select the inspector or the head of inspection (if the line is red),
- print the evaluation that includes the number of registration, the number of evaluation, the selected line, the name of the inspector and the head of inspection (in case of a red line),
- deliver to the declaring party the evaluation of the declaration.

### **3. Inspection**

Inspection applies only to red lane declarations. The process is as follows:

- the declaration and its enclosures are sent to the selected inspector through administrative line.
- the declaring party submits the evaluated declaration to the inspector.
- inspection is performed in the presence of the declaring party. The inspector notes the result of such inspection on a form attached and made part of the declaration
- if the inspector discovers any discrepancies, he logs them into the system in order to modify the declaration
  - the Head of Inspection reviews the declaration and either approves it and signs it or rejects it. He can, at his sole discretion, perform a counter-inspection.

### **4. Payment**

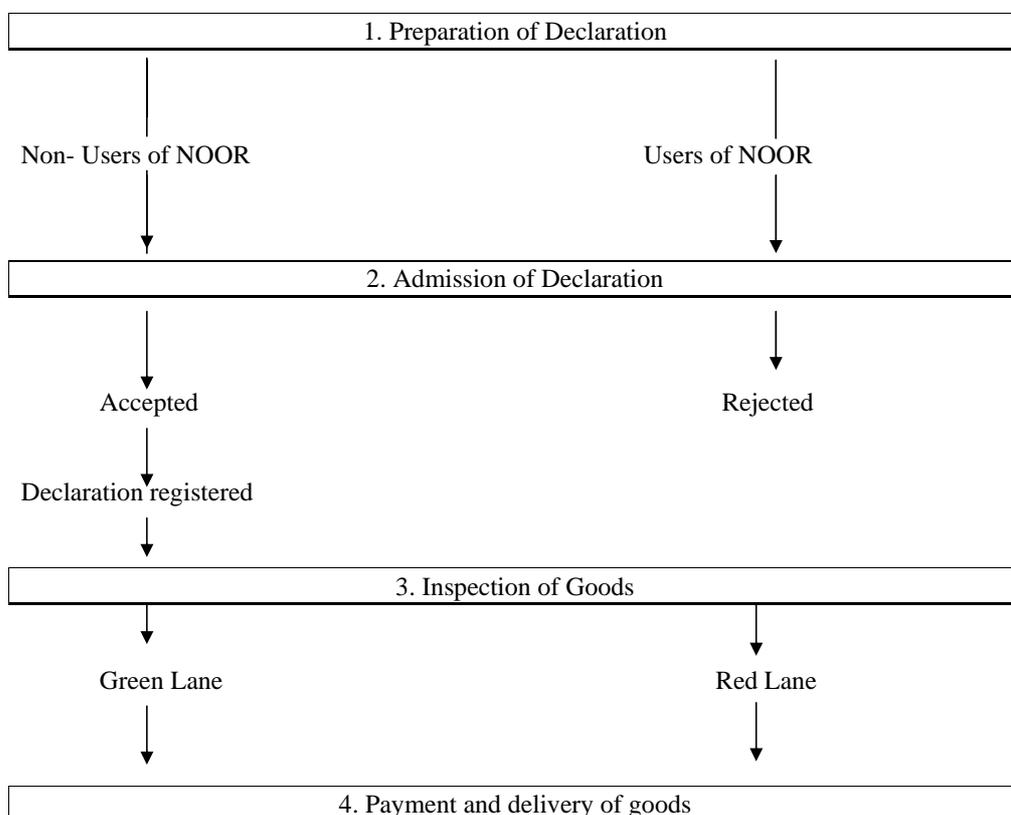
Here are the main steps in the payment procedure:

- the declaring party pays the required duties at the treasury according to the evaluation
- the treasurer receives the required duties and any other due sums (fines etc), prints the receipt and the clearance permit, signs them and delivers them to the declaring party.

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<sup>36</sup> NAJM Automated Information System selects automatically, through the computer, the declarations intended for inspection according to various criteria and proportions set by the Customs Administration. Thus the declarations are directed to red (subject to inspection) or green lane.

## Exhibit 29 Customs Procedures



## Import Requirements

The requirements are product-specific and are always changing, hence the difficulty in listing them. Still, it is possible to list the types of controls imposed by each ministry. If a visa is required, the importer must get a stamp or certificate from the authorizing ministry before the goods can be brought in.

## Exhibit 30 Ministries Concerned with Import Licenses

Ministry	Admin. Code	Control type
Ministry of Interior	0600	Pre-license
Office of the Control of Printed Material	0601	Visa/certification
Control of Narcotics	0602	Agreement
Ministry of Finance, Customs	0700	Transport permit
Regie des Tabacs, Indirect taxes	0701	Alcohol certificate

	0702	Passage permit
	0703	Transport permit
Ministry of Defense – Army general Directorate	0801	Pre-license permit
Ministry of Health	1000	License Visa Pre-permit
Department of Quarantine	1003	Purification license
Narcotics Unit	1004	Special license
Department of the Import/Export of Drugs	1005	Permit
Ministry of Labor – Syndicate of Pharmacists	1101	Invoice certification
Ministry of Agriculture	1400	License Visa Sanitary certificate Agricultural agenda Packing requirements
Animal Health protection	1405	Prohibited goods Sanitary certificate Certificate of origin
Agricultural Health Protection	1406	Visa Analysis & products certificate Lab inspection certificate
Animal Breeding Unit	1407	Agricultural sanitary certificate
Silk Office	1408	Visa Pre-permit
Ministry of Economy and Trade	1500	License Visa
Natural price control unit	1503	Visa
Technical price control unit	1504	Visa
Consumer protection	1505	Visa
Fraud prevention unit	1506	Visa
Ministry of Post and Telecommunication	1600	Permit Pre-visa Pre-permit
Office of the Minister	1601	
Ministry of Tourism – General Directorate for Antiquities	1901	License
Ministry of Industry	2000	License Pre-license Visa Passage permit
General Directorate of Petroleum	2002	license
Ministry of Environment	2900	Visa

Source: Trade Information Center

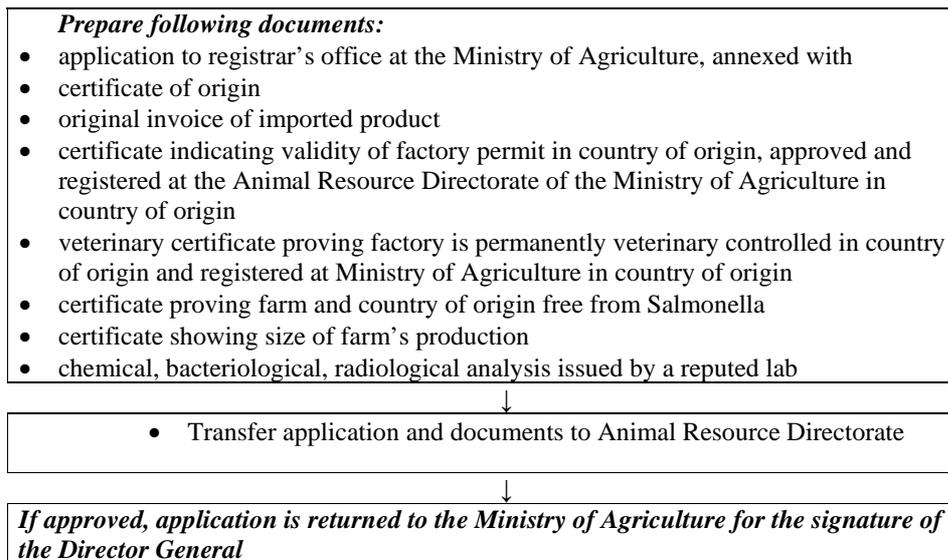
### *License to Import*

An import license is needed to bring in goods such as agricultural products, manufactured chemicals, and pharmaceutical items. Once issued, the license cannot be transferred to a third party. Sometimes the Ministry issues a license for a specific product to a limited number of applicants.

To import certain types of goods (e.g. home pesticides and agricultural fertilizers), importers need to be registered at the Chamber of Commerce. For certain other products, the importer must have certain special qualifications (e.g. pharmacist to import medical drugs; pharmacist or veterinarian to import veterinary drugs, agricultural engineer to import agricultural treatment products; owner of an industry to import powdered milk in bulk quantity).

The procedure is complex as reflected in the following example about the “milk import” license.

#### **Exhibit 31 Steps for Obtaining a License to Import Milk**



Source: Investment Development Authority of Lebanon

Also foreigners willing to open a business in Lebanon have to obtain a work permit from the Ministry of Labor, provided the business does not involve trade<sup>37</sup>.

### *Prohibited Imports*

Prohibited imports include the following:

<sup>37</sup> Decision No. 205/1 dated 9 December 2000

- Cedar seeds
- Chemical improvers used in bread making
- Table salt not containing iodine
- Waste/slag/ash/scrap of many chemical, mineral and metal products
- Clinker and black cement
- Vehicles older than 8 and motor vehicles older than 5 years
- Used medical and radiography apparatus
- Gas fueled pocket lighters
- Wireless phone sets of 900 Megahertz

Lebanon adheres to the Arab League boycott of Israel. Enforcement is selective as many goods on the boycott list are available in the Lebanese market.

- **Import price declaration**

The MOE requires import merchants to provide a detailed list of all imported products and materials. This is done at the ministry and must be completed between the 1<sup>st</sup> and the 5<sup>th</sup> every month and every time there is a change in the price list.

#### *Exclusive Commercial Representation*

The status of the 2,000 registered exclusive commercial agencies is challenged by a draft law of February 2002, which proposes to abolish the strong mandatory legal protections currently provided for such exclusive agencies. Existing exclusive representation contracts will continue to be upheld according to their contractual terms. The government argues that the move will bring two main benefits – it will help increase competition (and therefore reduce prices) and it will also prepare Lebanon for membership in the World Trade Organization (WTO).

#### *Import Quotas*

The Ministry of Agriculture publishes a list of goods that can be imported and the dates during which they are exempt from Customs duties. The Ministry of Agriculture also issues seasonal and annual bans. The harvests determine when the bans are issued.

#### *Labeling*

The law requires that all pharmaceutical and agricultural products have labels indicating where the goods were manufactured or grown, the expiration date of each product, and where the goods were shipped from. Export requirements

## Exhibit 32 Documents Required for an Export License

Application for license at the Ministry of Economy and Trade

**Written request** signed by the applicant plus:

- product identification
- applicant's name and address
- purpose of export
- characteristics of product
- amount and weight
- value in Lebanese pound
- product's country of origin

If the exporter is not available to personally negotiate the contract and he assigns an agent to represent him, a public notary must notarize the request form.

**Fees:**

- LP 1,000 stamp upon submission of request
- LP 25,000 + 1/1,000 of value of goods (payable at the Ministry of Finance after submission of request at the Ministry of Trade. The payment invoice is submitted to the Ministry of Trade.)
- LP 75,000 + 1/1,000 of value of goods if the Ministry of Industry issues the license.
- LP 7LP 12,000 stamp upon issuance of license (payable at the Finance Department at the Ministry of Trade)

**Time for completion of procedure:** 1-2 days

Source: Trade Information Center

### **Certificates of Conformity**

A Decree Law established the Lebanese Standards Institution (LIBNOR), placed under the Ministry of Industry, as the sole authority in Lebanon to issue, publish, and amend Lebanese voluntary standards<sup>38</sup>. Standards are discussed and prepared by specialized committees and approved by the Board of Directors of LIBNOR<sup>39</sup>. Work towards developing a standard may be initiated by one of the members of the Board of Directors of LIBNOR, a private entity, a concerned professional entity, or a state body (including a ministry).

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<sup>38</sup> Decree Law on Lebanese Standards issued on 23 July 1962

<sup>39</sup> Article 5 of the Decree Law

Once the Board agrees on draft standards, LIBNOR announces to the media a trial period of at least three months. Board members may also publish it or make it known to the relevant bodies they represent. Once adopted, all standards and decrees (issuing technical regulations) are published in Lebanon's "Official Gazette."

The Decree Law provides also LIBNOR the right to propose to the Council of Ministers the conversion of voluntary standards to mandatory standards for reasons connected with public safety, health, or national interest. The law gives the authority of enforcing compliance to relevant state bodies, but neither the law nor other legal acts specify the relevant state bodies<sup>40</sup>. The Ministry of Public Health, the Ministry of Agriculture, Customs, the Ministry of Economy and Trade, and the Ministry of Environment are all engaged in ensuring compliance with Lebanese standards.

Although not stated in the Decree Law on Lebanese Standards, standards and technical regulations, in practice, apply equally to domestic and imported products. Imported products, for which there are technical regulations, must comply with requirements outlined in technical regulations in order to clear customs. Samples of imported products are taken by customs and/or other authorities and forwarded for testing.

The Industrial Research Institute, non profit organization whose Chairman of the Board is the Minister of Industry, has the authority to provide certificates of quality or conformity with standards and purchase requirements<sup>41</sup>.

A number of state bodies<sup>42</sup> issue technical regulations connected with products and services in the form of Ministerial Decisions and Council of Ministers Decrees or Decisions. Most are involved in issuing import and export licenses, or/and measures having similar effects.

The legislation grants authority to the following three laboratories to test products:

- The Laboratories of Industrial Research Institute
- The Central Laboratory at the Ministry of Public Health
- The Laboratory of the Agricultural Research Institute (Phanar) at the Ministry of Agriculture

In addition, a Decree<sup>43</sup> "licensed" four specific laboratories to conduct testing and research on food and other commercial products:

- The Laboratory of Industrial Research Institute,

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<sup>40</sup> Article 22 of the Decree Law

<sup>41</sup> Constitution dated 1953 and Decree Law No. 10059 dated 17 August 1955

<sup>42</sup> The Ministry of Telecommunications, the Ministry of Energy and Water, the Ministry of Industry, the Ministry of Public Health, the Ministry of Environment, the Ministry of Agriculture, the Ministry of Economy and Trade, and the Ministry of Public Works and Transport.

<sup>43</sup> No. 4962 dated 13 March 1982

- The American University of Beirut Laboratory of Chemistry and Pharmacology,
- The French Medical Institute Laboratory of Chemistry and Pharmacology at Saint Joseph University,
- The Nuclear Medicine Laboratory at Notre Dame du Liban Hospital.

The same Decree validates test results from accredited laboratories in other countries. When Lebanon does not have appropriate technology, tests may be conducted outside Lebanon at an accredited laboratory. Products that bear a conformity certificate from an internationally accredited body may clear customs without inspection or testing at the port of entry. Usually food products are tested in case customs officers suspect non-compliance with food safety requirements.

### Exhibit 33 Fees for Services Charged by Laboratories

Laboratory Name	Tests undertaken	Fees Charged
Laboratory of Public Health	Water, drugs, pharmaceuticals and food products	No fees (special budget of the Ministry of Public Health but only performs tests referred to it by this Ministry)
Industrial Research Institute	All sorts of testing	Between LP 7000 and LP 1.5 Million <sup>44</sup> , (depending on test)
Agricultural Research Institute of Lebanon	Food products of animal and plant origin, pesticides, and fertilizers	<ul style="list-style-type: none"> <li>• Simple Chemical Tests<sup>45</sup>: between LP 15000 and LBP 30000</li> <li>• Microbiological Tests<sup>46</sup>: around LP 45000 and more advanced</li> <li>• HPLC tests<sup>47</sup>: LP 90000</li> </ul> (This laboratory falls under the supervision of the Ministry of Agriculture but has a separate budget from the Ministry. Fees charged constitute only the cost of material used to perform the necessary tests)

Source: Memorandum on Lebanon's Trade Regime, WTO, June 2001

<sup>44</sup> Fees are subsidized by the GOL

<sup>45</sup> Chemical tests are performed to determine the composition of certain products.

<sup>46</sup> Microbiological tests are performed for the detection of fungi and bacteria

<sup>47</sup> HPLC (high pressure liquid chromatography) are performed to detect minute contaminants such as pesticides

IDAL's *Export Plus Programme* offers pre-shipment visual and physical control of food products. The inspection covers the minimum requirements for standards, grading, caliber, homogeneity, weight, packing, marking and category of the agricultural product in accordance with the regulations of Lebanese Ministry of Agriculture<sup>48</sup> and/or the regulations of the importing countries.

The inspection is conducted based on the *Acceptable Quality Level (AQL)* or equivalent method of sampling procedures approved by IDAL. If the shipment is intended for the European countries, samples are collected according to *Codex Alimentarius* and tested for pesticide residues. The corresponding tests are done by laboratories adopted by IDAL. Only products which results are below the maximum residue limit (MRL) set by Codex Alimentarius and the Lebanese Standards Institution (LIBNOR) are allowed to be shipped through Export Plus.

IDAL has awarded the quality control inspection tasks of Export Plus to Bureau Veritas - Liban (covering Bekaa, South, and Nabatiyeh) and to TUV Hellas S.A. (covering North, Mount Lebanon and Beirut).

#### **Exhibit 34. IDAL's Export Plus Programme Procedures**

- 1- Request of the exporter to the quality-control company
- 2- Coordination between exporter and quality-control company on time and date of control procedures
- 3- Packaging and controlling the products, and comparing the specimen to the Lebanese standards
- 4- Draft of an inspection report on the exported products
- 5- Quality-control company locks the container
- 6- Driver heads to the Lebanese borders and Customs control and presents the inspection report to the quality control company
- 7- Quality control company makes sure the lock wasn't broken
- 8- After the truck's arrival to the importing country, the exporter presents the transport documents to the quality-control company to prove that the products arrived to the importing country
- 9- Quality-control company presents a final inspection report to IDAL

Source: Investment Development Authority of Lebanon

However, for many products, the national laboratories are not accredited for exports to the EU or the USA, and the use of foreign laboratories is costly.

#### ***Certificates of Origin***

Goods of Lebanese origin must comply with the following criteria in order to be eligible for Lebanese certification of origin:

- incorporated added-value must be equal or greater than 40%

<sup>48</sup> number 385/1, 24/10/1997 modified by 1/2, 3/1/2000

- comply with specified processes of production

However, these criteria may vary based on bilateral/multilateral agreements between Lebanon and the importing countries. Additional rules may be required by the importing country such as the change in the customs tariff classification of the *Harmonized System of Tariff Nomenclature* (HS).

*Goods of foreign origin* are entitled to obtain industrial certificates of origin based on specific documents required by the concerned authorities.

The Ministry of Industry and its regional representative offices do not issue industrial certificates of origin. They only endorse all three types of certificates issued by the Chambers in addition to two other types of certificates required for circulation of Lebanese manufactured merchandise in the United States and the European Union (FORM-A or EUR-1).

Endorsing authorities are regional representative offices of the Ministry of Industry:

- Beirut and Mount Lebanon
- South Lebanon
- North Lebanon
- Beqaa
- Nabatieh

### **Exhibit 35 Certificates of Origin: Procedures and Costs**

The exporter must provide the **Chamber of Commerce** with the following documents:

*For Lebanese manufactured goods:*

- original invoices of the goods
- industrial certificate of the manufacturing firm issued by the Ministry of Industry

*For foreign manufactured goods:*

- original invoices of the goods certified from the Chamber of Commerce or authorities in country in which goods were purchased
- original certificate of origin from the foreign country in which the goods were manufactured and/or the original certificate of origin from the foreign country from which the goods were last imported
- proof of ownership of the goods
- bill of lading (in cases when certain prerequisite documents are not available)

In some cases, the Chambers may request to examine the goods to verify presented invoices. As a final step before shipment of goods to their destination, the exporter must endorse the

industrial certificate of origin issued by the Chambers from the Ministry of Industry. Some importing countries may further require from the exporter other endorsements such as those of the Ministry of Foreign Affairs and/or the consular representation of the importing country in Lebanon.

**Fees<sup>49</sup>:**

- 1/1000 of value (minimum 35,000 LP and maximum of 300,000 LP)
- 15,000 LP for endorsement of FORM-A or EUR-1 certificates.

To facilitate endorsement of FORM-A or EUR-1 certificates, the exporter must provide the **Ministry of Industry** with:

- original invoices of the goods
- industrial certificate of the manufacturing firm issued by the Ministry of Industry
- National Social Security Fund liability quittance.

**Fees:**

- 2,000 LP for FORM-A and EUR-1 pro forma, available in libraries
- 1,000 LP on average for endorsement by the Ministry of Industry
- 20,000 LBP per certificate as Customs fee.

Source: FIAS research

For manufacturers seeking more transparency and error-free compliance with rules of origin, a self assessment questionnaire was developed to calculate (in-house) the local added-value incorporated into Lebanese products. The questionnaire is available at the Ministry of Industry, the Chambers of Commerce, and the Association of Lebanese Industrialists' regional offices and representations, or on their websites.

### ***Customs duties and service fees***

According to the Constitution, every tax has to be enacted by the Parliament. In practice, the Lebanese Parliament delegates every three years to the GoL its legislative competence regarding Customs. In turn, the Government delegates such authority to the Higher Customs Council (independent body reporting to the Minister of Finance), which acts as a policy and legislative body with regard to customs matters. The General Customs Directorate under the Higher Customs Council is the Customs administration.

Imported goods pay:

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<sup>49</sup> Decree Law 13152 of August 28th, 1998

- Single Customs Duties. More than 83 percent of customs tariff lines have duties equal to or below 5 percent<sup>50</sup>. Around 3800 goods are exempted. The highest tariff, of 70% applies only on few agricultural products. Furniture is also taxed at a fairly high rate (30%). The duties represent around 20% of Customs revenue.
- Excise taxes (Consumption duty, mostly applicable to tobacco products, fuels, cars, cement, lime, plaster and alcohols). They represent around 30% of Customs revenue.
- Value Added Tax (VAT), implemented since 2002, at 10% of value. The VAT represents around 50% of Customs revenue.
- Stamp Duty; each declaration is subject to a lump sum of LP 50 000 which represents the value of the stamps that must be posted on the customs declaration and its enclosures.

Import of machinery, equipment, spare parts, and building material used for setting up a new industry are subject to a Customs duties rate ranging between zero and 5%, depending on the level and characteristics of the investment project. Import of machinery, equipment, spare parts, and building material used for setting up a tourism project in Lebanon is subject to the minimum Customs duties rate<sup>51</sup>. The exported goods are not subject to any of the duties mentioned here above.

Main service fees are:

- Storage Fee, applicable to any merchandises stored within the vicinity of the Customs area or in the yards or warehouses managed by Customs for a period of more than five days
- Overtimes after the regular working hours or outside the work premises
- Menial Services Fees.

Other trade related fees include fees charged by authorities administering the entry/exit port such as

- port fees,
- storage fees,
- loading/unloading fees,
- port entry fee,

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<sup>50</sup> The Customs website ([www.customs.com.lb](http://www.customs.com.lb)) provides duties by tariff number

<sup>51</sup> For specific rates, see [www.customs.gov.lb](http://www.customs.gov.lb)

- parking fees.

These are set by the port authority and may vary from one port to another.

### ***Customs Special Regimes***

#### *Free Zones*

According to the Customs Act, free trade zones and free industrial zones may be created by allocating parts of the ports and internal premises for such purpose. These zones are considered to be outside the customs area. Free zones can admit all types of goods, whether of local or foreign origin, and they are not subject to any duties or taxes when they are admitted in the free zone for export or re-export except for such taxes and duties which are levied by the entity that operates the free zone. No time limit is imposed as to the storage period in free zones.<sup>52</sup>

Lebanon has two free zones (Port of Beirut and Port of Tripoli) providing a range of benefits, particularly a 10-year corporate tax holiday, duty free and VAT free entry of goods. But since the war, those free zones have lost most of their past activity, industrial as well as commercial. Lebanon used to be an export platform for Egypt, Jordan, Iraq, Syria and even Cyprus.

The new Customs Law encourages the development of free zones<sup>53</sup>. The Lebanese government is seeking to revive the existing free zones and establish new ones (near international airport in particular). The reconstruction of a 120,000 square meter free zone at the Port of Beirut is complete and a 6,000-square meter bonded warehouse facility is now available.

#### *Duty- Free Shops*

All provisions applying to free zones apply to duty free shops. The operations permitted are restricted to the sorting of goods and the operations necessary for their preservation. The only Duty Free Shop is located at Beirut International Airport.

#### *Ordinary Transit*

Transport of goods is subject to the detailed declaration procedures provided that such declaration is covered by a surety bond. When the goods reach the office of destination, the surety bond or any other substitute document is delivered to the customs office that issues the appropriate release after checking the veracity of the lead sealing and parcels

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<sup>52</sup> The terms and conditions of operation of the free zones, the authorized transactions, the applicable legislation, the procedures of entry and exit of the goods and all other provisions in connection therewith are provided for in details in articles 242 to 261 of the Customs Act

<sup>53</sup> Chapter III, Articles 242-261

### *International Transit*

Goods consigned under the status of international transit are exempt from the procedures related to the detailed declaration and inspection and they are subject instead to brief declaration and inspection.

### *Customs Warehouses*

This deferring status permits temporary duty-free entry of goods for storage and manufacturing purposes. The premises allocated for storage or manufacturing purposes have to be located either within or outside the Custom's vicinity, in public (third party) or private (own) warehouses.

### *Temporary Entry*

Goods imported into Lebanon for processing or additional processing purposes may benefit from deferral of payment of customs duties and other taxes and charges, provided the proprietors pledge to re-export or store such goods in public warehouses or free zones. The temporary entry period of goods is set at six renewable months provided however that such period shall not be for more than two years. The beneficiary of temporary entry status shall pay a fixed allowance set by the Higher Council of Customs, upon the consultation of the Director General when the discontinuous supervision is insufficient to control the situation.

The Director General can also authorize for a period of three months, the import under temporary entry status of a list of products provided intended for a temporary use by their owners. The same products can be temporarily imported by using ATA books rather than the regular entry declarations. The period of import is then set at six months<sup>54</sup>.

## ***Transport Issues***

### *Sea Transport*

The port infrastructure is concentrated on the Port of Beirut, and secondarily on the ports of Tripoli, Chekka, Jounieh, Saïda, and Tyre. In addition, there are various specialized installations to offload petroleum.

Around 55 percent of all imported goods and more than 60 percent of all exported goods transit through Beirut Port. In an effort to re-launch activity at the Tripoli port, local authorities instituted preferential docking, storage and unloading rates. It costs 30 percent less to dock and unload goods at the Tripoli Port, and 50 percent less for ships carrying raw materials to transit through this sea.

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<sup>54</sup> Carnet ATA simplifies temporary importation of goods, professional equipment, and commercial samples, needed for international fairs. The Beirut Chamber issues and guarantees Carnet ATA in Lebanon, and guarantees the Carnets issued by other contracting parties when used in Lebanon.

Three free zone buildings of the Port of Beirut provide a total of 12,000 square meters, divided up into 200 square meter warehouses on the first and second floors, with ceiling heights of 6.5 meters and 4.5 meters respectively.

The port authorities say that costs are in line with world prices, but there are also some local concessions to encourage investment. Businesses that sign contracts for two years are offered a 50 percent discount on some charges. Costs for electricity (LP 150/kw) and water are the same as local rates with 10 percent added for management fees.

Access is provided to rented premises 24 hours a day even though the port itself is operational only from 7:00 am to 6:00 pm. The authorities are also open to negotiating specific deals depending on the size of the contract and allow the construction of private warehouses. Goods collected from private warehouses are charged a transit fee of US\$ 2/ton. Occupiers pay US \$100 as a contribution to the overall insurance of the area. This does not cover contents.

The Port of Beirut has become flexible, many of its charges depending on the amount of business a customer is likely to bring. There is also government pressure to further reduce costs in order to boost activity.

Docking fees are based on ship's length rather than on the universally adopted tonnage and are divided into four categories. Goods stored in port warehouses are given a 15-day grace period before storage fees are charged.

### *Beirut Airport*

Only 18 percent of all imports and 20 percent of all exports are handled at Beirut Airport. An estimated 35 airlines, including Middle East Airlines (MEA), offer airfreight carriage. Most cargo carriers work through intermediaries, with a few having their own sales department.

Apart from the national carrier, Middle East Airlines (MEA), more than 40 major foreign airlines operate regular services to and from BIA, a figure that grew sharply after airlines began to take advantage of an open skies policy.

A comprehensive plan was produced in the early 1990s for the redevelopment of BIA. A new runway jutting out into the sea was opened in 2002 as well as the west wing expansion at the terminal. The four-story terminal building has a total space of 150,000 square meters. After achieving a capacity of six million passengers a year, the plan envisages expanding the facilities to cater for 16 million a year by 2035.

## Analysis

According to the *Doing Business* research project of the World Bank, the administrative barriers to international trade are comparable to the regional average, but far more important than the average of OECD. *Doing Business in 2005* rank Lebanon 94<sup>th</sup> in the world (out of 155 nations) in its measure of “trading across borders.” Together with trucking, container, port and shipping rates, the average export suffers at a significant global disadvantage, overpriced by about 7% in comparison with regional Mediterranean competitors.<sup>55</sup>

### Exhibit 36 Trading Across Borders, 2005

Indicator	Lebanon	Region	OECD
Documents for export (number)	6	7.3	5.3
Signatures for export (number)	15	14.5	3.2
Time for export (days)	22	33.6	12.6
Documents for import (number)	12	10.6	6.9
Signatures for import (number)	35	21.3	3.3
Time for import (days)	34	41.9	14.0

Source: World Bank *Doing Business*, 2005.

**Most business persons we interviewed consider that Customs is no longer the major administrative obstacle to business in Lebanon.** More importantly, most are quite confident that the ongoing reforms will further improve Customs service. This is encouraging news and the government must be credited for these efforts. Yet, we have been informed of a few remaining obstacles and have identified possible areas of improvement. The most important barriers to further trade facilitation seem to be transport/logistics issues and corruption. Smuggling, in many cases related to corruption, according to industries, remains also a significant issue in Lebanon, as it hurts badly the local producers.

### *Customs Procedures*

Lebanon is relatively advanced in the region in terms of electronic processing of the customs operations. It is also more advanced than the average of the region in risk management, with around 20% of containers opened and inspected (against more than 60 % in the Middle East). Still, there is room for progress considering the OECD average of 5 %<sup>56</sup>.

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<sup>55</sup> Lebanon Investment Climate Assessment: Unlocking The Potential Of The Private Sector, World Bank, Washington, June 10, 2006

<sup>56</sup> See *Doing Business in 2006*, WB, Washington

If the declaration is accepted through the Green Lane, Customs clearance is fast (four to five hours). However, the company executives complain that for each declaration the company has to pay an informal payment (“pourboire”) of US\$ 100 to 150.

If the declaration goes through the Red Lane, around 20% of the case, then the time required, according to traders, is much longer: from 24 to 72 hours. The “pourboire” in that case depends on the quantity and can go easily to US\$200- 250.

Customs official working hours are limited to 6 hours daily. According to Ministry of Finance data, the average clearance time has been reduced from 6 days in 1997 to 2 days in 2006. It is a remarkable step in the right direction, and again we want to credit the government for this achievement, but it is also our duty as advisers to stress that there is still ample room for progress. This is particularly true at Beirut International Airport where customs clearance is five times the cost of international best practices<sup>57</sup>.

### ***Temporary Entry and Warehouses***

According to importers, the procedures related to temporary entry and access to the industrial warehouses are too long in Lebanon and therefore non competitive<sup>58</sup>.

### ***Temporary Export***

The fact that the Director General of Customs is the only one with authority to grant this regime (exempting goods re-entering Lebanon’s Customs territory from duties) results in longer delays.

### ***Transit Fees***

Exporters complain that the trucks transiting through Syria or Jordan, representing of 80% of Lebanese fresh food exports, pay very high transit fees (between 800 and 900 US\$).

### ***Certificates of Conformity***

Lebanese business persons are very critical of the procedures.

According to the Lebanese Forwarders Syndicate, the current procedure takes at best a week. The situation can be much worse if a container contains different categories of goods, involving different authorities<sup>59</sup>. Reasons seem to be many:

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<sup>57</sup> Lebanon Investment Climate Assessment: Unlocking The Potential Of The Private Sector, World Bank, Washington, June 10, 2006

<sup>58</sup> This view is supported by the Beirut Traders Association who included it in the document titled “Suggestions by the Economic Bodies to the Co-consultancy Committees”.

<sup>59</sup> See Presentation at the 3<sup>rd</sup> Annual Convention, Lebanese Forwarders Syndicate, November 16, 2005, Beirut

- The Law imposes a systematic test, not random test
- tests can not be carried out on Saturdays and Sundays
- Customs has extended working hours, but not the laboratories (need of two shifts of personnel).
- Handling of certificate can be delayed also because some equipments (for instance X-ray) require the signature of the Minister himself.
- In some cases lack of equipment and trained personnel

Exports to Europe are also hampered by the lack of accredited laboratories.

### ***Training***

Customs has a Training Center open to Customs officials but also to private sector operators. Every week Customs offers free training session to traders and brokers. Customs executives wish the private sector would take more advantage of these training sessions.

### ***Penalties***

Several businesses met by the mission complained that the Ministry of Finance puts pressure on the customs administration for higher penalties. According to their experience, Customs officials tend to reject a greater number of declarations. A business person gives us the following example: when the wording “CTV” was accepted before on the manifest as “colour television”, it is considered now as a false declaration and subject to a penalty.

Penalties start at US\$65 but can go as far as 25% of the value of the goods. In the event of a dispute with the Customs authority upon objection on a penalty, the objecting entity must place a LP 10,000,000 objection guarantee. Many business persons question this rule and also question the fact that inspectors receive a percentage of the penalties.

### ***Bribery***

Many business persons argue that in spite of technical progress, Customs has not solved the long-established corrupt practices. Some traders, in order to minimize “informal costs” apparently prefer to pay monthly salaries to customs inspectors (who in effect become their employees).

### ***Port of Beirut***

The Syndicate of Forwarders and most business persons we interviewed mentioned as a major obstacle the obsolete procedures of the Port of Beirut, due in large part to the absence of electronic flow of information<sup>60</sup>. Lebanese traders complain that international transit is hampered by the lack of facilities (work round the clock) or capacity (for unloading, storage, etc.). Also the Port of Beirut charges higher port dues compared with other regional seaports. While the other regional ports set their handling charges for a 40 foot container (fully loaded) between US\$ 100 and 200, the charge for handling the same container at Port of Beirut is significantly higher. The mission was told, but was not able to independently verify, that these port dues can amount to US\$650-900 and that this would be mainly due to port operator's obligation to pay the Government 60% of its revenue<sup>61</sup>.

### ***Beirut Airport***

Traders complain about the lack of storage capacity of the Beirut Airport and the loss and damage due to inadequate storage (open areas). This is particularly acute for drugs needing cooled storage. Medicinal drugs' trade is also impaired by the fact that the Ministry of Health only performs inspections two days a week (on Mondays and Wednesdays).

### ***Transport to and from the Port***

According to Lebanese traders we interviewed, internal transport makes many exports uncompetitive. Container transport is too expensive: US\$500 to US\$600 for a 22 feet container from a company close to Beirut to the port. From Saida to the Port of Beirut (44 km), it costs US\$ 650 for a 22 feet container. This is disproportionate with costs of international transport. The same container pays for example US\$300 between Beirut and Marseille.

A 1999 study estimated that "informal costs" at the port of Beirut represented more than US\$ 300 per container<sup>62</sup>. According to most operators, the level of bribery has not declined since 1999.

### ***Transport Declaration***

Foreign vehicles transporting merchandise outside Customs need a special transport declaration from the Ministry of Transportation (except for Syrian registered vehicles transporting goods to Syria). The cost is minimum (LP 10,000) but the loss of time to go to the Ministry is very important (from 24 to 48 hours).

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<sup>60</sup> See also Presentation at the 3<sup>rd</sup> Annual Convention of the Lebanese Forwarders Syndicate, November 16, 2005, Beirut

<sup>61</sup> Lebanon Investment Climate Assessment: Unlocking The Potential Of The Private Sector, World Bank, Washington, June 10, 2006

<sup>62</sup> Paul Kimberley and Associates, Recommendations Report Summary, Trade Efficiency Project M71/WB, 1999

## ***Foreign Exchange***

The Lebanese currency is fully convertible and can be exchanged freely with any other currency, with the exception of the Israeli Shekel. The U.S. dollar is in effect the second currency of the country and payments in that currency are widely accepted. Lebanon has no restrictions on capital inflows and outflows. Foreign currencies circulate in the market. Checks are officially cleared at the Banque Du Liban not only in Lebanese pounds, but also in US dollar, EURO, and British Pounds). There are no restrictions on the remittance of profits abroad. There are no reporting requirements.

The LBP exchange rate is generally determined by supply and demand. Banque Du Liban intervenes when necessary in order to maintain orderly conditions in the foreign exchange market. There are no taxes or subsidies on purchases or sales of foreign exchange.

## **Recommendations**

On the basis of the analysis above, some actions could be considered in order to further improve the conditions of international trade:

- Increase the Customs working hours
- Ensure daily presence of the Ministry of Health at the Airport, or
- Set up a “one-stop-shop” at the Port and Airport of Beirut with representatives of all relevant ministries and administrations who are in charge of formalities for exports as well as imports
- Secure accreditation of Lebanese laboratories for exports to the EU and the USA
- Implement at IRI a risk management system
- Create two shifts and extend working days to Saturday and Sunday for tests of conformity by accredited laboratories
- Reduce the amount of the objection guarantee
- Eliminate all requirements of signature by a Minister to issue certificates of conformity
- Introduce electronic information management at the Port of Beirut and reduce port handling costs
- Do away with the transport declaration, or if it serves a legitimate purpose, ensure this authorization be delivered at least at Beirut Port and Airport.

## Labor

### Findings

#### *Labor Market*

The active labor force working is about 1.3 million, or around 36 percent of the resident population<sup>63</sup>. The service sector employs 45% of the working population, followed by the trade sector (23 %), industry, then construction, and finally agriculture.

#### **Exhibit 37 Distribution of Unemployed Residents by Mohafaza**

<b>Mohafaza</b>	<b>Frequency</b>	<b>Percent %</b>
Beirut	16 372	17,0
Mount Lebanon	46 370	48,1
Northern Lebanon	10 723	11,1
Bekaa	7 099	7,4
Southern Lebanon	9 713	10,1
Nabatieh	6 075	6,3
<b>Total</b>	<b>96 353</b>	<b>100,0</b>

Source: World Bank Country Assistance Strategy for Lebanon.

#### *Labor Laws*

The Labour Code was enacted in 1946<sup>64</sup>, and completed by industry-specific decrees (see box). In 1963, the Social Security law came into effect<sup>65</sup>. The legal framework also provided for a Labor Arbitration Council, competent to resolve disputes between employers and employees. The Labor Arbitration Council is a special court composed of a judge as president and a representative of each of the employers and the employees as well as a government representative.

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<sup>63</sup> 3,627,774 according to World Bank July 2001 estimates

<sup>64</sup> Labour Code of 23/9/1946

<sup>65</sup> See NSSF section

### Exhibit 38 Labor Decrees on Specific Industries

1940	Carpentry workshops in Beirut
1956	Printing plants
1963	Bakeries
1966	Labor and safety in mills
1983	Textile use in carpet manufacturing
1997	License for rock quarrying
1998	Manufacturing and selling dairy products

Source: Ministry of Industry

When an office employee is first hired, the first three months of the employment are deemed to constitute a trial period during which the employer may terminate the contract without a prior notice or severance payment.<sup>66</sup> The Labor Code does not include a non-compete provision, however employment contracts may provide for such non-compete clauses. According to consistent court precedents and authors and based notably on article 11 of the Labor Code (which prohibits all lifetime undertakings pursuant to which a person undertakes to refrain from doing a specific act or action), the non-compete clause must be limited both in time and space subject to annulment of such clause.

The work contract should be in Arabic. However, if the employer is a foreign national and does not speak Arabic, then the basic contract is still drafted in Arabic and may be additionally translated into another language. Companies with more than 15 employees must draft working regulations incorporating the labor law guidelines and send them for certification by the Ministry of Labour<sup>67</sup>

Lebanon is one of the least rigid countries in the world on working hours<sup>68</sup> An employer may demand a maximum of 48 regular hours per week from his employees. Working hours can be increased up to 12 hours a day upon decision of the Minister of Economy provided notice is given to Social Affairs Service within 24 hours (with 50% additional payment per each additional hour).

There are two compulsory public holidays on which all employers must give their employees holiday with pay: Labour Day (May 1) and Independence Day (November 22), plus 12 other government-recognized holidays during which all public offices and most businesses are closed. Full time employees are entitled to 15 days paid vacation provided they have been employed for more than one year by the same employer.

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<sup>66</sup> currently LL300,000 (\$200) per month

<sup>67</sup> Article 66 of the Labor Code

<sup>68</sup> See *Doing Business in , WB, Washington, 2006*

After more than three months of work, the employee is entitled to a paid sick leave according to the duration of the employment: from 3 months to two years: half month fully paid and another half month remunerated at 50% of the salary. One month one month from 2 years to 4 years. One month and a half and one month and a half 4-6 . 2/ 2 from 6-12 yrs. 2,5/2,5 if more than 12 years. If an employee's sick leave exceeds the entitled annual amount, the employer has the right to reduce the annual holiday to eight days. Birth entitles women to a 7 weeks maternity leave including pregnancy period according to a medical report defining the most probable date of birth.

Health and safety laws are largely in line with those of developed countries, although enforcement is patchy. Article 61 of the labor law stipulates that businesses should ensure the safety of their employees. The details are spelled out in a decree passed in 1951. In brief, the law calls for employers to provide a safe, clean and sanitary work environment<sup>69</sup>.

For employment contracts a limited term, termination is governed by the contractual terms. For employment contracts with an unlimited term, each of the employer and the employee may terminate the said contract in accordance with applicable provisions of the Labor Code including the sending of a prior termination notice within a period of time that depends on the number of employment years. Either party failing to give notice is liable to the other for the payment of compensation equal to the amount of salaries due for the notice period:

- one month prior notice for less than 3 years of employment;
- two months prior notice in case of an employment for more than 3 years and less than 6 years;
- three months prior notice in case of an employment for more than 6 years and less than 12 years;
- four months prior notice in case of an employment for more than 12 years.

Moreover, if the termination is abusive the injured party is entitled to seek compensation from the injuring party ranging from the amount of salaries of 2 to 12 months if the injured party is the employee, and from 1 to 4 months if the injured party is the employer.

An employer can end the contract with his employees if he has a significant reason, such as a force majeure, economic or technical circumstances including the reduction in the size/volume of the institution or the replacement of the production system by another system or the final cessation of activities. However, the Ministry of Labor must be informed of the move at least one month prior to the employees being released.

### ***Unions***

A license from the Ministry of Labor is required to establish a union. It is forbidden for unions to interfere in politics or participate in political activities.

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<sup>69</sup> Decree no. 6341 of 24/10/1951

Lebanon mainly has a Federation of Labor Unions (CGTL), recognized by the government, whose membership is limited exclusively to Lebanese workers. It includes both professional and manual laborers and is the umbrella organization of 28 local and professional unions. The CGTL's activities are mainly limited to demanding cost-of-living increases and other social benefits. Worker-employer relations have also been problematic, and strikes take place frequently to protest layoffs.

There are collective bargaining agreements in several sectors (such as the banking sector). There is no obligation to have such agreements, but once a collective bargaining agreement is made, it can be extended to all the employees of the business pursuant to a request submitted by the union or a professional association of employers or upon the initiative of the Minister of Labour. Such extension shall be carried out pursuant to decision of Minister of Labour upon a favourable motivated opinion of the Higher Committee For Collective Bargaining Agreements provided for in the Labour Code.

### ***Cost of Labor***

The minimum wage, applied in the public and private sector, is equivalent to around US\$200 per month for 48 working hours per week, i.e. above the average of the region. Professional and executive wages are also above the average, as indicated by the box below.

### **Exhibit 39 Range of average monthly salaries**

<b><i>Accounting – international firms</i></b>	
Senior partner	\$6,500+
Partner	\$5,500+
Manager	\$3,000+
Senior accountant	\$1,500+
Junior accountant	\$900+
<b><i>Banking</i></b>	
Teller	\$600
Branch manager	\$2,000-\$3,000
Technical (computer)	\$700
General management	\$7,000
Marketing	\$650
Administrative assistant	\$500
<b><i>Construction</i></b>	
Civil engineer	
0-5 years experience	\$600-\$800
5-10 years experience	\$1,000-\$1,800
10-15 years experience	\$2,000-\$2,800
15 plus years experience	\$2,600-\$10,000
senior engineers may also receive an equity share	

<b>Marketing</b>	
Trainee	\$450-\$550
With MBA	\$600-\$750
Marketing specialist	\$550-\$650
With MBA	\$750-\$850
Marketing coordinator	\$800-\$900
Promotion manager	\$800-\$1,000
Product manager	\$1,000-\$1,400
Brand manager	\$1,500-\$2,000
Marketing manager	\$2,000-\$5,000
Vice president	\$5,000 and up
<b>Software industry</b>	
Programmer (2-5 years experience)	\$800-\$1,500
Analyst (0-2 years experience)	\$1,000-\$1,400
Project leader (engineer)	\$1,500-\$2,500
Project manager (engineer)	\$2,500-\$3,500

Source: InfoPro Research

## Analysis

The World Bank *Doing Business* survey indicates that Lebanon has more rigid rules for hiring and for firing than the region's average or OECD averages. However, Lebanon does not suffer from rigidity in the working hours.

#### Exhibit 40 Hiring and Firing Workers<sup>70</sup>

Indicator	Lebanon	Region	OECD
Difficulty of Hiring Index	33	30.8	30.1
Rigidity of Hours Index	0	55.0	49.6
Difficulty of Firing Index	40	35.0	27.4
Rigidity of Employment Index	24	40.2	35.8
Hiring cost (% of salary)	21.5	15.9	20.7
Firing costs (weeks of wages)	17.3	62.4	35.1

Source: World Bank *Doing Business*, 2005.

Of equal importance, Lebanon's workforce is far from the cheapest in the region, but is among the best educated and trained in the region. Lebanese professionals and executives are actively looked after by the Gulf companies. Lebanon's literacy rate is among the highest in the Arab world standing at around 90%. Lebanon's universities attract students from across the Middle East region. Universities, vocational and technical colleges and high schools are actively involved in offering training partnerships to support the educational needs of businesses.

However, many businesses interviewed consider that the Lebanese labour code, copied on the French code, needs refreshing and adaptation to globalization of markets and investments. They mention in particular the brackets of minimum wage and the lack of flexibility in hiring and firing. They also complain about the fact that courts would be biased towards the employees.

Businesses would also like to hire students to work part time (in tourism in particular for instance) or on a seasonal basis (in tourism and agro-industries). But they stress that it is not contemplated in the legislation and turns therefore costly, because of full payment of employee tax contribution and of social security.

Labour inspections suffer from some of the limitations mentioned in the section business inspections, but are not mentioned as a major administrative obstacle.

Businesses also complain of restrictions to hiring foreigners. Some positions are restricted to Lebanese nationals, e.g. the management and banking work in general, accountant, secretary and computer related positions<sup>71</sup>.

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<sup>70</sup> Index 100 is worst situation, 0 is best.

<sup>71</sup> Ministerial Decision no.621/1 of the Minister of Labour dated 15/12/1995

Finally, small companies perceive the labour laws as too complex. Large companies can use lawyers. It is too expensive for small companies. Taking into account the problems encountered by the SMEs, the International Labour Organization (ILO) plans reviewing the labour legislation before the end of the year.

## Recommendations

- Review the labour code in order to make it simpler and more flexible
- Ease restrictions on the employment of foreigners
- Reform the principles and procedures of inspections, using the reform of inspection at Ministry of Economy and Trade as a pilot project
- Long term perspective for inspections: adopt most recommendations listed under the section business inspections.

## Work Permits

### Findings

According to the Labour Code, the investor does not have to hire necessarily nationals. However, it is a principle of Lebanese Labor law that jobs should go, whenever possible, to a Lebanese national. To hire a foreigner, the employer must convince the ministry that there is no one locally available who is equally qualified to perform the work.

Labour permits are required in order to enable foreigners to work in Lebanon. A prior authorization is to be delivered by the Ministry of Labour<sup>72</sup>.

The procurement of a work permit is carried out in two stages, the first of which involves the procurement of a Prior Work Authorization. Work permits are usually authorized for a period of one year.

Before filing the prior authorization application, the Lebanese employer must submit a letter to the minister of labor requesting the minister's approval to hire a foreigner for the contemplated position, describing the nature of the work and evidencing that there is no one locally available who is equally qualified to perform the work. The minister may either refuse or approve such request in which case, the file is transferred to the national placement agency. The employer is required to advertise for the position in 3 newspapers. At the end of 15 days as of such advertisement, if no Lebanese applies for the job, the foreigner may be granted the prior authorization upon completion of the file and the requested documents. If a Lebanese does apply for the job, the hiring entity should present valid reasons for not hiring such Lebanese<sup>73</sup>.

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<sup>72</sup> Article 6 of the law dated 10/07/1962

<sup>73</sup> Circular 79/1 of Ministry of Labour

A work visa and a temporary residence is issued upon the prior authorization's approval. Then, the foreigner may enter the Lebanese territory. Once the foreign employee enters the Lebanese territory, an application for the work permit must be filed with the Ministry of Labour within 10 days from entering the Lebanese territory and one month before the lapse of the temporary residence. Once the work permit is issued, the permanent residence must be obtained from the General Security. The documents to be provided are listed in the following exhibits. The process takes between one to three months. It should be noted that article 13 of decree 1751 dated 18/9/64 as amended, provides that the requests for prior authorization, work permit or renewal of a work permit must be done within one month as of submission of the request and the related documents.

#### **Exhibit 41. Documents Needed for the Prior Authorization and for Foreign Worker**

<p>application form for a laborer's work permit</p> <ul style="list-style-type: none"> <li>▪ work contract (original) <ul style="list-style-type: none"> <li>▪ Two copies of the passport details</li> <li>▪ Two photos of the employee</li> </ul> </li> <li>▪ copy of the employer's identity card or extract from the civil register (Ikhraj qaid) and of the signatory of the employment contract if it is not signed by the employer; and a copy of the attorney's bar ID, if the process is undertaken by an attorney.</li> <li>▪ for a commercial company, a copy of the registration in the Commercial Registry</li> <li>▪ for agricultural laborer, a copy of the land ownership proving it is more than 1,000m2</li> <li>▪ for a construction laborer, a copy of the building permit</li> <li>▪ list of all the Lebanese employees registered with the National Social Security Fund</li> <li>▪ blood test for: HIV, hepatitis B antigen, syphilis, and malaria.</li> <li>▪ for Sudanese and Egyptian nationals, a bilharzias test must be taken <ul style="list-style-type: none"> <li>▪ insurance policy covering work-related accidents and repatriation costs in case of death.</li> <li>▪ certificate of deposit at <i>Banque De L'Habitat</i> of 1,500,000 Lebanese Pounds</li> <li>▪ payment of work permit fees</li> </ul> </li> </ul> <p>When renewing the work permit, the laborer has to present the original work permit</p>
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Source: Ministry of Labour

#### **Exhibit 42 Documents Required for Work Permit for Foreign Employee**

<ul style="list-style-type: none"> <li>• application on the form designated by the Ministry of Labor</li> <li>• employment contract signed by a public notary.</li> <li>• copy of the employee's identity card or passport</li> <li>• copy of the company's certificate of registration with the Commercial Register</li> <li>• certified copy of a travel document or a valid residence permit, showing the employee's preliminary visa affixed upon his/her entry into Lebanon</li> <li>• three photographs of the employee</li> </ul>
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- statement showing the number of Lebanese and foreign employees in the company
- insurance policy covering the hospitalization, workmen's compensation, death and repatriation of the body
- blood test including HIV, tuberculosis, and syphilis.

Source: Ministry of Labour

The process involves the submittal of an application to determine the nature of the work and the advertising for the position in 3 newspapers. At the end of 15 days, if no Lebanese applies for the job, the foreigner is granted the permit. If a Lebanese does apply for the job, the hiring entity should present valid reasons for not hiring such Lebanese<sup>74</sup>.

Foreign employees are classified into four classes depending on the nature of their job as follows and depending on the capital of the company and the number of employees employed by the foreign employee's employer<sup>75</sup>:

- Class I: includes partners and owners of important commercial, industrial, banking or tourism companies, in addition to representatives of foreign companies regardless of their size.
- Class II: includes partners and owners of medium size commercial, industrial, banking or tourism companies, in addition to liberal professionals
- Class III includes partners and owners of small size commercial, industrial, banking or tourism companies, in addition to liberal professionals
- Class IV includes workers and house employees

The fees involved can be summarized as follows:

- deposit for the guarantee from *Banque de l'Habitat*: LP 1,500,000
- (approximately US \$ 1,000)
- prior authorization: LL 500,000 (approximately US \$334)
- miscellaneous fees: LLP 200,000 (approximately US \$134)
- employment visa: LL 50,000 (approximately US \$35)
- work permit: LP 1,500,000 (approximately US\$ 1,000)<sup>76</sup>
- residence fees (for Class I: 1,800,000 LL; Class II: 1,200,000LL; Class III: 400 000 LL; Class IV: 300,000 LL)
- employment contract notary fees

<sup>74</sup> Circular 79/1 of Ministry of Labour

<sup>75</sup> Decision 42/2 dated 2/2/70 based on decree 1751 dated 8/9/64 and article 26 of law 1/70

<sup>76</sup> article 25(2) of Law 1/70 dated 19/1/1970 provides for the work permit fees of each class of employees: Class I: 1,800,000LL; Class II: 960,000; Class III: 480,000LL; Class IV: 240,000LL

A business owner who wants to get a work permit must provide details about the company's business activity and a copy of a bank statement showing an operating capital of at least LP 100 million.

The managers, branch managers, or chief accountants of an overseas company registered in Lebanon need the local company's commercial registration, which is issued by the Ministry of Trade and Economy. They also need a certified copy of the company by laws from company headquarters, as well as a letter of appointment certified by the embassy in the country of origin and then by the Lebanese Ministry of Interior.

Once a foreign employee has a work permit, he may apply for residency as indicated in the box below. More documents are required for the application and it takes a minimum of 10 days to complete this phase. Like the work permit, residency is granted on an annual basis.

#### **Exhibit 43 Documents Needed for Residency Application**

- Id of employer
- certified copy of the employment contract
- original travel document (passport) and three copies
- copy of the company's certificate of registration with the Commercial Register
- original of the work permit
- copy of the Prior Authorization
- 2 photographs
- Payment of annual residency fee

Source: Ministry of Labor

Projects approved under Law 360 (see Chapter on Start up Administrative Procedures) benefit from a fee reduction on work permits and residence permits.

#### ***Analysis***

The labor law – as in many other countries – appears to impose many restrictions. It stipulates in particular that jobs should go, whenever possible, to a Lebanese national. Certain professions and positions are forbidden to foreigners. This list includes, but is not limited to, areas such as banking, laboratories, pharmacies, and jewelry. Likewise, there are several sectors in which the employer must be a Lebanese national. They include, but are not limited to, banking, architecture, engineering, shoemaking, furniture manufacturing, printing and accounting sectors. Notwithstanding, many banks employ foreign staff as very senior levels. In practice the Ministry of Labor is relatively lax and the rule is loosely interpreted.

The Ministry of Economy and Trade produced a booklet on procedures required for the issuance of work permits. However, the Ministry of Labour has come up with new requirements since. The procurement of a work permit has become very bureaucratic and time consuming.

In fact it is so difficult to get a work permit for foreign labor that some companies give up any plans of recruiting foreign labor, even when such recruitment is key for the growth of their business. Foreign business persons may prefer to remain “non formal”, that is to travel regularly into Lebanon instead of asking for a work permit.

The dual process for work permits is unnecessarily burdensome and is practically not being carried out for managers and owners. The residence permit is one more step that should be combined with the application for the work permit.

The total of fees to be paid can make hiring of foreign workers or employees very costly.

### ***Recommendations***

- Eliminate the dual process, removing the prior approval to get a work permit
- Combine the work permit and residence permit into a single permit
- Eliminate circular 79/1 to render foreign recruitment more flexible
- Give all investors over a certain size the right to employ a percentage of foreign workers, subject to minimal immigration regulations.
- Issue work permits for a minimum of three years
- Simplify and reduce fees for work and residence permit

## Social Security

### Findings

#### *Benefits*

The National Social Security Fund (NSSF) was established by a 1963 decree<sup>77</sup>. It provides employees with national insurance coverage for sickness and maternity care. It also covers family allowance, end-of-service pensions, and work-related accidents and diseases. Any employee or worker from any sector is eligible to enroll in the program. Some professions do not fall within the NSSF regulations such as liberal professions (like attorneys, doctors, artists, or engineers)

To work in Lebanon, foreign employers need valid work and residence permits. Foreigners working in Lebanon are also entitled to join the NSSF, provided their home country offers the equivalent or better program to Lebanese residents who are working there.

The employee can ask for end-of-service benefits from the NSSF at any time even though the official retirement age is 64. In specific circumstances determined in article 50 of the NSSF law, the employee is entitled to the payment of the full end-of-service benefits (For example, if the employee has been employed for at least 20 years, or in the event of a 50% incapacitation, or in the event of a woman employee if she quits her employment within 12 months from her marriage, and at the age of 60 for a man and 55 for a woman). However, if the employee has been employed for a duration of less than 20 years at the date of the request of payment of the end-of-service benefits, the employee will receive only part of his end-of-service benefits as per article 52 of the NSSF law. At the age of 60, an employee can ask for early retirement and end-of-service compensation provided he/she has completed 20 years of service.

Employees are also entitled to family allowances. The benefits are attached to the husbands' rather than to the wives' salaries, noting that recently the wife has become entitled to request family benefits for her children.

A married employee registered with the NSSF receives a 20 percent spouse allowance and an additional 11 percent for every child (maximum five). The allowance is calculated as a percentage of the minimum wage, which is currently at LP 300,000 (\$200).

Once an employee is registered, the NSSF covers the employee and his dependents in the following areas: maternity, sickness, and work-related accidents. The employee is liable for 10 percent of all hospitalization costs and 20 percent of medication and examination expenses.

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<sup>77</sup> Code of Social Security carried out by decree no.13955 of 26/9/1963.

## **Contributions**

Companies have to pay contributions for sickness, work accidents and maternity, family allowances and pensions to the National Social Security Fund. There is no unemployment insurance.

All Lebanese employees and workers, regardless of the nature of their employment, are subject to the social security provisions, provided their activities are conducted on Lebanese soil. Foreigners working in Lebanon are entitled to social security benefits, provided their countries of origin offer equal treatment to Lebanese workers<sup>78</sup>. Non-resident foreigners and Lebanese are exempted from social security contributions if they are working in Lebanon pursuant to an employment contract concluded abroad with foreign companies, and if their employer produces evidence that they are entitled to social security benefits in their country of residence at least equivalent to those offered in Lebanon.

The law requires all companies to contribute to the NSSF fund. Small companies with fewer than 10 employees have to submit their report every three months. Larger enterprises must submit their reports monthly.

Social Security Contributions are calculated as a percentage of monthly salaries, including the salary's elements and accessories notably fixed overtime hours paid on a regular basis and payments usually paid by third parties (for salaries that are based on tips) and in-kind benefits.

All companies are required to register in the NSSF their employees within 15 days as of their employment.

The employer's contribution is 21.5% (sickness and maternity 7%, family allowances 6%, pension allowance 8.5%). The employee's contribution, limited to sickness and maternity, is 2%.

### **Exhibit 44 Contributions to NSSF**

	<b>Employer</b>	<b>Employee</b>	<b>Total</b>
Health insurance	7% (max. LP105,000/month)	2% (max LP30,000 / month)	9%
Family allowance	6% (max. LP90,000 / month)		6%
Pension benefits	8.5% (no maximum)		8.5%
<b>Total</b>	<b>21.5%</b>	<b>2%</b>	<b>23.5%</b>

Source: National Social Security Law

Fines for infringement of the rules of registration with the NSSF range from LP 100,000 to LP 1.5 million for each offense, depending on the circumstances of the case. For other kinds of infringements, other fines apply.

<sup>78</sup> France, Italy, UK, Syria, and Belgium

## Analysis

The percentage of the workforce covered by NSSF contributions is very low, as the following table shows. There are an estimated 160,000 functional companies and 1.3 million workers.

### Exhibit 45 Number and Type of NSSF Beneficiaries, end-March 2006

Type of Beneficiary	Number
Regular beneficiaries	318 743
GoL beneficiaries and beneficiaries whose contributions are partially paid for by the GoL	15 009
Private school teachers	35 777
Drivers of public utility vehicles	42 150
University students	44,080 (year 2005 )
Accepted doctors	4 977
Voluntary beneficiaries	31 618
<b>Total</b>	<b>492 354</b>

Source: Muhanna & Co

Some companies complain that their competitors are not paying at all. The ICA Survey reports a 35% rate of evasion among formal sector firms<sup>79</sup>. At least it seems common practice for many companies to declare only part of their personnel. Fines for infringement of NSSF rules range are fairly high. However, with a team of only 75 inspectors to cover the entire country, and poorly planned inspections, the chances of getting caught are slim. Here again, the system of inspection needs to be upgraded taking in account international best practice (see section on Business Inspections).

Still, the main reason behind non compliance is more profound: the lack of efficiency of the NSSF. On one hand, the contributions, considering the level of wages relative to the region, are fairly high (see Box below). And on the other hand, the service is very poor.

Business persons complain about the poor management of NSSF making procedures very long for the company and above all for the insured employees. A company employing 200 persons decided for instance to hire two persons full time just to take care of employees claims. The cost of hiring two full time specialized employees is worth the many hours the employee would waste in the offices of NSSF. Payments, particularly for end of service, are often very late. The process of registering at the National Social Security Fund is also reported by *Doing Business* to account for 35 days of delay, out of a total business registration delay of 42 days, against 3 days in Egypt or even one day in Morocco.

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<sup>79</sup> Lebanon Investment Climate Assessment: Unlocking The Potential Of The Private Sector, World Bank, Washington, June 10, 2006

Companies consider the benefits received do not match the high rates (21.5% employer, 2% employee). Some business persons require the freedom to choose the employee insurance. In that case, it is obvious they would choose private insurance for their employees. Some do already, avoiding NSSF or paying twice.

#### **Exhibit 46 Comparison of social security charges - 2002**

<b>Country</b>	<b>Min wage (USD)</b>	<b>Contributions to NSSF (%)</b>
Egypt	40	25
Jordan	112.50	11
<i>Lebanon</i>	<i>200</i>	<i>21.5</i>
Syria	120	14

Source: InfoPro Research

The NSSF is not yet computerized. The institution manages manually between 10.000 and 15.000 files for sicknesses. Plans are ready, however, to start computerization. In the meantime, there seems to be no room for paperwork: files piles up on desks or on the floor. The National Social Security Fund is also suffering, like many public institutions, an alarming and unsustainable level of corruption.

Companies complain also that the poor management of NSSF makes it difficult or very long, sometimes months, to get the Social Security discharge (“*quitus*”) required for many administrative procedures or activities like:

- customs clearance
- tax payment
- working permit
- bankruptcy
- change of legal entity
- amendment of certain provisions in company bylaws
- change of partner in an SARL
- transfer of shares.

It is reported that new companies were created just to “bypass” this NSSF obstacle. This situation calls for the elimination of the *quitus*, as the Ministry of Finance did with tax and customs obligations.

Because of a lack of harmonisation between labour and Social Security laws, it is very difficult to employ seasonal or part time labour. As far as the NSSF is concerned, any employee is a full time, although he works seasonal or part time.

Payments seem to be also an administrative barrier as the NSSF does not accept bank transfers. They have to be done through check or deposits.

According to the ICA Survey, in terms of its administration, while 39% of SMEs find social security burdensome, 50% of large enterprises find it difficult<sup>80</sup>.

A radical reform of the NSSF has been on the national agenda for years. The Cabinet already decided to replace the 26 seat Board of Directors of the NSSF by only 10. He also named two independent auditors to review the accounts since 2000. The GoL five year economic reform program which envisages cutting the public debt to Gross Domestic Product from 183 percent to 135 percent, calls for privatizing of state-owned assets and cutting waste. This last objective concerns in particular the Electricité du Liban and the National Social Security Fund (NSSF). The deficit is estimated at close to US\$ 100 million per year. The total debt of the NSSF is estimated at US\$ 4 billion. The NSSF argues that out of this total amount, a fifth corresponds to the payment arrears of the GoL.

## Recommendations

Many businesses have lost hope in the feasibility to reform the NSSF. They openly advocate for the freedom to choose the insurance for their employees. The NSSF has become such a social and financial nightmare that the only alternative to their suggestion is to start urgently a comprehensive restructuring of the institution. This restructuring could include the following actions:

- Make social security registration automatic with commercial registration.
- Restructure medical, health and pension benefits provided by NSSF, making each branch autonomous and financially sustainable
- Continue modernization of management, particularly computerization
- Reduce redundant personnel
- Select personnel on the basis of competence, instead of community or political belonging
- Eliminate wide-spread corruption
- Reduce number of administrative procedures or activities that require social security discharge.
- Use the reform of inspection at Ministry of Economy and Trade as a pilot project for reform of management of inspections.

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<sup>80</sup> idem

## **Closing a Business**

### **Findings**

#### ***Termination***

Upon termination, creditors should be paid back and employees should receive an indemnity from the National Social Security Fund (sums paid to the National Social Security Fund by the employer during the employment period).

In order to close a business, the owner must go through many procedures, among which:

- secure NSSF clearance
- secure income tax clearance
- secure VAT clearance
- publication in a newspaper

#### ***Bankruptcy***

Any creditor, including the Ministry of Finance for unpaid taxes, may instigate a suit for bankruptcy. A bankruptcy court will try a case only after it has determined that the debt is certain and due.

The extent of the investor's liability in the event of insolvency or bankruptcy depends on the form of the company. If it is a partnership, he will be responsible on his personal assets. If it is a joint stock company, he would not be responsible beyond his contribution to the capital.

After a period of 10 years, a person declared bankrupt is considered to have been rehabilitated and, among other things, is again eligible to become a company director. However, the rehabilitation does not affect the rights of the receivers nor does it affect the rights of creditors to try to collect monies still owed them by individuals.

### **Analysis**

According to the *Doing Business* survey, and many business persons we interviewed confirmed it, closing a business is particularly difficult in Lebanon, even compared to the regional average situation. In Lebanon, the process is very long (4.0 years) and costly (22% of the estate value) while the recovery rate, expressed in terms of how many cents on the dollar claimants recover from the insolvent firm, is very low (18.62 cents).

## Exhibit 47 Closing a Business, 2005

Indicator	Lebanon	Region	OECD
Time (years)	4.0	3.8	1.5
Cost (% of estate)	22	13.4	7.4
Recovery rate (cents on the dollar)	18.6	28.8	73.8

Source: World Bank *Doing Business*, 2005.

Businesses claim that the clearances required in order to close a business (NSSF, income tax and VAT) can take months. According to the ICA Survey “Procedures are too complex and enforcement is inefficient. There are long delays in the enforcement mechanism, which seldom allow creditors to regain more than small portion of their debt, if at all. Thus, although the law is, in principle, pro-creditor, in practice the weakness of the enforcement mechanism has the opposite effect and the bankruptcy system works very much in favor of bad debtors.”<sup>81</sup>

According to business persons we interviewed, the time required is years, sometimes close to 10 years. In many cases, the owner of the company prefers to sell everything and disappear. This is one of the reasons why there are many thousands of “dormant” companies in Lebanon.

### Recommendations

To our knowledge, the reason for such long delays, amounting sometimes to the impossibility to close a business, is the bureaucratic and business unfriendly procedures of NSSF and tax administration. This calls for the following action:

- Improve clearance procedures by NSSF and the tax administration.

### Business Inspections

Inspections represent the administrative procedures that Lebanese businesses consider the most constraining and burdensome. The present section deals with issues encountered in the interaction of Lebanese businesses with inspectors of the Tax administration, Customs administration, of the MoET (consumer protection), of IDAL, of the Ministry of Industry and of other ministries or public administrations.

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<sup>81</sup> idem

## Findings

### *Customs and Tax administrations*

In spite of the significant progress achieved in the simplification and automation of tax and customs procedures (as mentioned in earlier sections), Lebanese businesses remain very critical about the practices of the customs and tax inspectors. However, Customs has already tried to limit the interactions between customs agents and users with the decrease of inspections following the introduction of risk management and the implementation of computerized systems (NAJM and NOOR)<sup>82</sup>. The tax administration has similarly reduced interaction with the public, particularly for the newly introduced VAT tax<sup>83</sup>.

More importantly, the Ministry of Finance is working on a very significant reform. According to this plan, inspectors will no longer control the audit programme, to be designed by the newly planned and computerized Compliance Department. This will help to better target the inspections and also to reduce corruption by limiting and rotating direct contacts with companies. The reform will also make the audits issue oriented, therefore more efficient and faster.

### *Ministry of Economy and Trade*

A Consumer Protection Law was enacted in 2003<sup>84</sup>. The Ministry of Economy and Trade (Ministry of Economy and Trade) is solely responsible for its application, except for meat products, where the Ministry of Agriculture is also involved. The Ministry of Economy and Trade has 70 inspectors based in six governorates.

According to industry managers, the implementation of the law has become a major source of insecurity. The major issue is that the Law does not distinguish between a non intentional production defect, such as an accident in the production process, and a case of fraud. And the new law adds criminal sanctions to the fines. It means that a manufacturer could be jailed for a non intentional product defect,. However, this aspect of the Law has been put on hold so far. Industries consider that the Law also grants too much authority to the Lebanese Consumer Association, a non government organization.

Inspections are biased since the inspectors, paid on average US\$1,000, receive a 22.5% commission of the amount of the penalty. The Court that orders the decision also retains 50% of the penalty for the pension plan of the judges. Also, the common practice of inspectors, when they discover a dangerous product already on the market, is to blame the industry, without looking into the responsibilities of the distributors that sometimes do not handle properly food products.

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<sup>82</sup> See section International Trade

<sup>83</sup> See chapter Tax

<sup>84</sup> No 13068 dated 5/8/03

The Ministry, conscious of the damage, has already taken a positive step: complaints to the Consumer Protection Directorate of the Ministry of Economy and Trade can now be filed directly through a hotline or by e-mail. The Directorate registered 703 complaints during 2005 (in 19% of cases about counterfeit products and in 16% of cases for food products). A new food safety law is under the making.

The Ministry of Economy and Trade also plans to address the issue of bribery, at the root of the problem. It has elaborated a reform of inspection characterized by:

- Rotation of inspectors, so that interaction would not be with the same companies
- Recruitment of new inspectors, taking advantage of the fact that they have on average 30 years in on the job
- Elimination of commissions against an increase in salary.

The Ministry of Economy and Trade has started to implement the first point. A comprehensive reform, however, will require the approval of the Council of Ministers.

### ***IDAL***

IDAL carries out inspections in order to check the investors taking advantage of the incentives of Law 360 comply with the requisites of the Law 360 (sector orientation, geographic classification, employment and other criteria spelt out in Law 360). The inspection is also meant to make sure the execution of the project starts within the limits of three years allowed by the Law. A decision of IDAL's Board of Directors, endorsed by the Prime Minister, can grant an additional three years<sup>85</sup>.

Inspections by IDAL are usually carried out every year in each company. The number of companies approved by IDAL since 2003, first year of implementation of Law 360, is limited to 20, all located in Zone C.

IDAL charges from US\$ 500 to US\$1.000 for each inspection, which it calls "monitoring".

### ***Ministry of Industry***

The Ministry of Industry carries out very few inspections prior to the delivery of the operating permit, as required for categories 1, 2 and 3 of industry. According to the Department of industrial permits, this limitation is due to budgetary constraints; lack of personnel (only 4 professionals or 25% of planned personnel) and insufficient transport allowances. The Ministry is also supposed to monitor over the life of the company the compliance with the permit. In fact, monitoring is erratic. It only takes place after a complaint.

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<sup>85</sup> Art 19 of Law 360

The Ministry is in charge of checking the industrial enterprises work according to the conditions defined in the license and are not endangering or damaging public health, environment or neighborhood<sup>86</sup>. The municipalities and the Ministries of Environment and Public Health, within the limits of their statutory prerogatives, are also in charge of this control<sup>87</sup>.

The procedures described below for the Ministry of Industry, regulated by a Decree<sup>88</sup>, follow the same pattern for other ministries.

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<sup>86</sup> Art 3 of Decree 97658 of March 11, 2003

<sup>87</sup> Art 4 of Decree 97658, March 11, 2003

<sup>88</sup> Decree 97658 of March 11, 2003

## Exhibit 48 Procedures for Inspections and Penalties

- Inspections are supposed to follow a schedules elaborated by the Director General of the Ministry of Industry or to follow a complaint filed on dangers for the environment or public health
- Anyone who stops the inspectors from entering the enterprise or obstructs their work is fined to 500 thousand LP to 3 million LP
- When the inspector finds a violation, he gives a written warning to abolish the violation within a determined time limit.
- The inspector drafts a report concerning the violation if it was not eliminated during the time limit of the warning
- Inspector has it signed by the manager
- If the manager refuses, it will be mentioned in the report submitted to the competent district judge
- A copy is to be sent to the competent Department in the Ministry of Industry
- The report remains true unless the opposite is proven.
- If the situation is not corrected, the enterprise can be temporarily closed by a decision of the Minister of Industry, after taking the opinion of the Licensing Committee and remains closed pending the fulfillment of all licensing conditions.
- It will be allowed to resume activities by a decision taken by the Minister of Industry, after taking the opinion of the Licensing Committee.
- The violators, judged before the penal magistrate, can be fined to pay 500 thousand LP to 3 million LP; the sentence defines a time limit to correct the violation
- If the violation is repeated within three years, the fine will be no less than one million LP.
- The owner of the industrial enterprise is civilly responsible for the execution of the sentences imposed on the directors, agents, or representatives of the enterprise.
- If violation continues, the industrial enterprise is closed and the license cancelled by virtue of a decree taken by the Council of Ministers upon the suggestion of the Minister of Industry.

### ***Other Ministries***

In order to improve the efficiency and transparency of inspections, the Ministry of Tourism has recruited and trained 12 new inspectors.

The Ministry of Environment and the Ministry of Health can also carry out inspections, but the inspectors of both Ministries, according to Decree 8018 of Law 642, instead of reporting to their hierarchy, report to the Minister of Industry. In fact, cooperation is scarce, as this line of reporting is considered by both Ministries as lacking a constitutional base.

## Analysis

Lebanese business persons are unanimous on one issue at least: inspections are often poorly organized, very often time consuming, and always very costly. The high cost has two origins: penalties, not always justified, are sometimes disproportionate, and very often a pretext for bribes. The inspections contribute to discourage the private initiative, push businesses into the non formal sector, or more often convince the firm to pay high bribes.

According to the ICA Survey "...the typical Lebanese firms experiences nine inspections per year. However, large enterprises experience 14 inspections per year. Most frequent among these is tax inspections (4.4 per year), followed by labor inspection (1.5 per year) and police inspections (1 per year). Inspections are often associated with corruption and the expectation of informal payments."<sup>89</sup>

According to the same survey, social security inspections are regarded as both burdensome and abusive. 39% of all firms have experienced one recently, but they are more likely in the Hotel, IT sector and construction sectors, where around half of firms have been recently inspected.

In spite of differences between public administrations, and some initial positive reforms, the inspections are characterized by the following:

- inspectors have too much room for selecting their "targets"
- inspections are not yet all based on risk management and therefore target all businesses
- the procedures of inspections are not clearly and legally established and transparent
- inspectors have unclear and sometimes overlapping mandates
- inspections concentrate on formalities and bypass often the spirit of the law
- penalties are not adequately defined and therefore discretionary to a large extent
- businesses are not clearly informed about regulations and procedures
- recruitment of inspectors does not allow enough training and pay

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<sup>89</sup> Lebanon Investment Climate Assessment: Unlocking The Potential Of The Private Sector, World Bank, Washington, June 10, 2006

- inspectors' rights are not balanced by effective oversight, checks, due process and system of appeals.
- there seems to be no cost/advantage calculation of inspections
- some inspections are too expensive for SMEs, like, for instance, a yearly fee of US\$500 to US\$1.000 charged by IDAL.

### **Exhibit 49 Successful Inspection Reforms**

#### **From Jordan...**

In 2002, the Jordanian government implemented a reform of General Sales Tax (GST) inspections involving:

- a risk-based audit plan, classifying all taxpayers into 10 risk categories (from very low to very high risk) using three combined risk criteria: (i) turnover; (ii) complexity of business activity; (iii) compliance history.
- these categories are used to adapt the type of audit to be carried out to the risk of a given taxpayer. There are 4 types of audit: advisory visit, issue-oriented audit, single-period audit, and comprehensive audit.
- a section of the GST Department Audit Division is now devoted to methodological audit issues, with an explicit learning process based on the implementation on the first risk-based audit plan.

This resulted in dramatically reducing the number of inspections AND the number of “non-filers” – while improving overall GST revenues.

#### **...to Latvia**

In 1998, enterprise surveys showed government inspections caused “substantial problems” for businesses, including disruption of their business activities, risk of possibly severe sanctions, and corruption. The reform program included:

- a new government “instruction” for the inspectorates to specify the rights and responsibilities of government inspectors vis-à-vis the inspected companies;
- increased information available to businesses about the inspection process in general and about each specific inspection in particular;
- annual (regional) meetings between inspectorates and client groups for selected inspectorates;
- a requirement for written inspection reports after all inspections;
- compulsory annual performance reports that are publicly available;
- training for inspectors in how to improve strategic focus and develop a “client orientation” in their work;
- development of performance indicators in several key inspectorates.

Most of the above reforms were implemented in 2000 and 2001. At the end of 2001, a business survey of administrative and regulatory costs found that most businesses no longer considered government inspections to be a serious obstacle.

Source: FIAS

## Recommendations

The department of VAT of the Ministry of Finance and the Ministry of Economy and Trade have initiated or elaborated reforms of inspections. Those reforms are first important steps, and should be continued. They can also be pilot experiences to duplicate in other areas or public institutions.

Beyond those initial steps, the public institutions should adopt principles and procedures for inspections taking full advantage of the international experience. The World Bank published in December 2005 a study of *Good Practices for Regulatory Inspections*, based on the most comprehensive review ever undertaken in this field, taking full advantage of the experience of the World Bank Group, particularly of FIAS missions<sup>90</sup>. The following paragraphs summarize the best practice in key areas of inspection management.

### **Mandate of the institution:**

- Precisely define in law the mandate of the inspections.
- The authority of the inspector should be defined by the jurisdiction of a specific regulatory body, and should be confined to regulations that are published in the national gazette or other means of information.
- The mandate should exclude the collection of fees for the inspectorate but focus on maximizing compliance and impact through the introduction and measurement of performance standards.

### **Human resources management of the inspectorate:**

- Once it is determined how many inspectors are enough for public policy purposes, progressively increase the pay of trained inspectors to level of similar skilled jobs in private sector.
- Increase use of private-public schemes using private auditors (i.e., inspectors) to assess conformity and compliance.
- Recruit and pay inspectors with financial incentives comparable to private sector pay levels for similar skills.

### **Accountability for performance of the inspectors:**

- Incorporation of standards of performance into the regulators' legal duties and adequate financial rewards when performance is achieved.
- Performance monitoring through three mechanisms:

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<sup>90</sup> Jacobs and Associates Inc, *Good Practices for Regulatory Inspections: Guidelines for Reformers*, December 2005, Washington;  
<http://rru.worldbank.org/Documents/PapersLinks/6943.pdf>

- tracking against clear targets and goals;
- assessment of results in annual budget process;
- publication of annual reports.

**Inspectorate staff training program:**

- A technical exam should be used in the recruitment process.
- Inspectors should receive initial training in procedures, and annual training in key technical and problem areas.
- Much of this training is contracted out to reduce costs and increase quality.
- A large percentage of inspectors should have the appropriate professional certifications in their areas of work.

**Targeted inspection visits:**

- The inspectorate maintains databases of sufficient detail to track risks by sector and business, and targets inspections to those activities and firms where risks are highest (risk management).
- Confidential business information must remain protected.

**Inspectorate information system:**

- Development of an online, integrated management database based on systematic, timely national information collection mechanisms to ensure completeness and reliability.
- The database should permit allocation of resources on risk based criteria, tracking of outcomes, risks, and events in the business sector.
- It should provide public information on risk by sector and enterprise and protect confidential business information.

**Procedures for the visits, including control of on-site discretion:**

- Each inspectorate should publish detailed, transparent and consistent procedures covering every step of the inspection process, through final resolution of problems.
- The procedures should be backed up by legal requirements that such procedures be complied with by all inspectors.

- Inspectors should not have the unilateral authority to set penalties or close work sites.

**Proportionality and variety of sanctions:**

- Large and graduated set of options for sanctioning businesses
- Rewards for fast correction of problems gradually moving to coercive solutions proportionate to the offence.

**Transparency and consultation with affected businesses:**

- Inspectorates should spend considerable resources in acting as an information service for businesses –providing texts of regulation and interpretations, assisting in finding solutions, and distributing educational materials.
- A website should offer materials to explain regulatory and compliance programs, such as press releases, frequently asked questions, publications, industry alerts, technical reports and stakeholder announcements.

**Complaint mechanisms**

- Inspectorates should offer easily accessible means of filing complaints about businesses or about inspectorate activities.
- Complaints should be anonymous when necessary. complaints are followed by independent unit of the agency.

**Protecting due process in inspections**

- Recruit and pay inspectors with financial incentives that are comparable to private sector pay levels for similar skills.
- Set a “cooling off” period after resignation from the inspectorate, to discourage private sector from promising jobs to inspectors in exchange for favours.
- Rotate inspectors to avoid formation of unhealthy relationships with the regulated public.

**Inspectorate mechanisms and procedures to combat corruption:**

- Separate site choice, inspection, penalty, and oversight functions in the inspectorate.
- Inform firms that inspectors cannot decide closure or penalties.

- Avoid collusion and capture of inspectors by firms by regionally shifting rotating inspectors.
- Develop an ethics program in the inspectorate with ethics training, an ethics manual, a complaints hotline, and authority to refer complaints to authorities outside of the inspectorate.
- Check incomes through annual declarations.
- Set a “cooling off” period after resignation from the inspectorate, to discourage deals with the private sector.
- Funding of inspectorate and inspectors revenues should not depend on fees/penalties.

**Coordination among inspectorates:**

- The inspectorate has formal agreements to coordinate with other inspectorates with overlapping jurisdiction.
- The inspectorates agree not to ask for the same piece of information more than once from any business, and they coordinate data sharing.

From our analysis, it seems that most of these recommendations would be useful and applicable in Lebanon.

However, it must be stressed here that business inspections can only become efficient and effective in Lebanon as part of a major, far-reaching reform of the public sector which entails a redefinition of the State’s missions, the restructuring of many public institutions, recruitment and training and re-training of civil servants, etc.

## 4 Locating and Site Development Procedures

In this chapter we examine how the administrative framework for land and property transactions functions in Lebanon and how it affects the activities of private investors in their attempt to implement a project.

### Locating and Building Permit Procedures

The section covers the identification of an appropriate plot of land to locate the business, followed by the registration of that property after its purchase, and the formal requirements (e.g. Building Permits or other authorizations) to develop the industrial or tourism facilities.

### Findings

In the case of property and land, the legal principles stem from both the Ottoman tradition and the French civil code. In many instances the “merger” of these two legal traditions has produced a result that is not fully clear, allowing for some uncertainty in the management of land procedures. This issue becomes particularly evident in rural areas and other remote locations.

The Government of Lebanon has already undertaken serious efforts to identify key problems in the business environment in order to formulate solutions and a reform agenda. Examples include the improvement of the judicial system and of the company registration process. Constraints related to land, however, have not received the same attention from the authorities until now.

The research we conducted for this project strongly suggests that regulations related to locating, purchasing, building and operating a business are **overlapping, dispersed, and at times conflicting with each other**. Bureaucratic processes leave room for discretion, which translate into unpredictability for the average entrepreneur in terms of the requirements needed for each administrative process, a large amount of single and repetitive clearances (represented by official signatures), and a large number of official agencies one must visit. Overall, this unpredictability makes it difficult to plan ahead and estimate the timing of particular decision points. This also creates the necessity to make direct and/or indirect unofficial acceleration payments to public servants. In addition, we found that the actual application of existing rules and regulations differs greatly from theory. There is a lot of “creativity” and flexibility when rules are applied on each specific building project. Most laws that govern land and property are old and have been amended many times through Decrees by the Council of Ministers.

A distinct feature of the Lebanese land market is that land is recognized as a very scarce resource and as a valuable asset by virtually all citizens across income classes. Nevertheless, land-related policies, as reflected in the locating procedures, appear to be dominated by a paradigm of control (especially through decrees) and less as a productive and strategic asset managed in support of economic growth and development. Moreover, there are no specific laws governing real estate promotion and development. The law does not make a difference between a real estate long term owner, and a promoter wishing to own a land for the purpose of its development and subsequent sale.

In general, the environment of locating procedures in Lebanon is characterized by two features: (1) a large number of rules and (2) the ad hoc enforcement of these rules. This means that two investors with similar projects where the same number and types of rules are in theory applicable, may experience the regulatory environment in opposite ways. One may use the ad hoc nature to his advantage and someone else may complain that this ad hoc nature discouraged them.

Due to the recent 15-year civil war (1975-1990), Lebanon is coping with a sensitive balance regarding housing needs. The state historically felt the responsibility to protect tenants often at the cost of property owners. This social policy reduced the value of property and of the investments made by the owners. The basic law governing rental contracts is the Code of Obligations and Contracts (CoC). In theory, the legal basis of rental contracts (and other contracts in general) is the parties' contractual freedom; however due to exceptional situations since world war II (when Lebanon was still under the French mandate), exceptional laws (exceptional laws are laws enacted for a limited term) have been successively enacted to protect tenants. In 1992 the exceptional Law number 160/92 dated 23/07/92 governing rental contracts was enacted. This law distinguishes between rental contracts entered into prior to, and after, its enactment. Rental contracts entered into prior to 23/07/92 are subject to the terms and provisions of Law 160/92 which provides for tenant protection and rental control provisions. However, rent control was lifted for all contracts entered into after 23/07/92. Such contracts are subject to the general liberal provisions of the Code of Obligations and Contracts (CoC) (articles 533 to 601). Article 543 of CoC consecrates the general principle of contractual freedom in rental contracts subject to mandatory provisions specifically provided for by law notably regarding the duration of the rent. In this respect, if the duration of the rent is less than three years, the tenant has the right to extend such term up to three years. A new rental policy (and law) is being considered by the Lebanese Parliament with the Government's interest to liberalize the rental market.

### ***Distinction Between Local and Foreign Ownership***

There is a different treatment of Lebanese and foreigners when it comes to land or property ownership. Decree No.11614 of January 4, 1969<sup>91</sup> lays down the principles under which non-Lebanese can own real estate. According to the Foreign Real Property Ownership Law, a non Lebanese person and his/her spouse and minor children are considered as one individual<sup>92</sup>.

Non Lebanese nationals and entities may not acquire more than 3,000 square meters of property unless they obtain a decree resolved by the Council of Ministers, noting that real property rights acquired by inheritance are exempt from the said “prior authorization” requirement.

The non-Lebanese purchaser must undertake the purpose for which the decree was granted within five years as of the real property ownership transfer and registration. If the contemplated real property is a land, the purchaser must undertake the construction project within five years as of the land’s registration with a possibility to renew the said period for an additional five years by the Council of Ministers’ decision.

Total foreign ownership cannot exceed 3 percent of the total area of the Lebanese territory provided that concerning each kazza (geographical department), it does not exceed 3% of the total area, and concerning the mohafazza of Beirut, 10% of Beirut’s total area.

In addition, the law stipulates that individuals without “recognized” nationality are not allowed to own land or property. However, as mentioned above, land ownership limitations are not applicable to land transfer post mortem (by inheritance).

Non-Lebanese willing to engage in new property transactions are required by the Land Registry them to present a certificate on the amount of land they already own (through purchase or inheritance). Such certificate is issued through an *affidavit*<sup>93</sup>, signed by the prospective purchaser enumerating the real property plots owned by them, their children and spouse. In addition, the prospective purchaser must attach a certificate on *Hectare Check* issued by the Ministry of Finance for each member of the family.

<i>Estimated Time:</i>	1 month; the time to obtain the certificate on hectare checks ranges from 2 to 5 days.
<i>Cost:</i>	550,000 LL per affidavit per family member cost are outlined in Law #143 of 2003 + the cost of notarized affidavits (market based)

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<sup>91</sup> As amended by the Law executed by Decree 5131 dated March 19, 1973 and Law No. 296 dated April 3, 2001, hereinafter the “Foreign Real Property Ownership Law” or “FOL.”

<sup>92</sup> The family includes only spouse children below 18 years of age.

<sup>93</sup> An illustration of a certification of land amount is available at FIAS upon request.

In addition to the 3% restriction, the building permit is only issued for a 5-year time period non renewable. If the construction is not completed within this time period, a special Presidential Decree must be issued to provide the foreign entrepreneur with an extension. Lebanese are allowed one extension without a Decree.

The processes of registering and Building Permits are the same for both locals and foreigners<sup>94</sup>. Building permits are granted for six years with a possible one time extension of two years. For construction projects on exceeding 20 000 sqm, it is possible to divide the permit into several staged permits that extend over up to 12 years.

### ***Processes of Identifying – Registering – Building Permit***

#### *Identifying and Registering*

These processes involve locating the appropriate parcel of land, building or apartment to establish any type of investment or commercial activity:

1. The entrepreneur first identifies the land or building in a general geographical area. He or she then needs to find out whom the land or building belongs to and if it is for sale or not (usually by asking around). This service can also be conducted by a real estate agent although this is a non-regulated practice and again the entrepreneur would need to rely on a process of word of mouth on how to find an appropriate agent. An added challenge is the fact that the Land Registry does not provide an address system.

*Estimation of Time and Cost is market dependent.*

2. Once the property and the owner are identified, the entrepreneur has to go to the Cadastre Office (administratively dependent on the Ministry of Finance and formally considered the technical arm of the Land Registry) to obtain a map abstract<sup>95</sup>. This abstract provides the parcel number (as the registry is parcel indexed), the delineation of the plot, the geographical district, topology of the area, and the area of the plot. The cadastre office collects this information from its own cadastre maps- the topographic map is provided by the mapping ordinance agency called *Direction des Affaires Géographiques* (DAG), an agency under the jurisdiction of the Lebanese army.

*Estimated Time:* 48 hours

*Cost:* about 10,000 LL in stamp duties.

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<sup>94</sup> Before 2002 locals would be asked to pay twice the amount of registration fees that Lebanese nationals had to pay. This difference has changed and both groups are to pay the same registration fees.

<sup>95</sup> Manual and computerized map abstracts are available at FIAS upon request.

2. With the information from step 1, the entrepreneur requests a title abstract from the Land Registry (administratively dependent on the Ministry of Finance but independent from the Cadastre Office). This abstract provides the legal and financial status of the plot (for instance indicating the owner of the property and possible liens or security interest on the property)<sup>96</sup>.

*Estimated Time:* 48 hours

*Cost:* about 10,000 LL in stamp duties

At this stage, the entrepreneur can start the registration procedure of his/her purchase.

3. From the Office of Alignments and Urbanism of the corresponding municipality, the entrepreneur needs to obtain all the latest information regarding the zoning<sup>97</sup> and usage of the plot: urban planning, alignments, and very importantly the building coefficient. This exercise determines the appropriate usage of the lot - industrial or commercial - as well as all public waifs it may have – for example if it sits on archeological land or not. At this stage, three documents are submitted to the Office of Alignments and Urbanism: a receipt of alignment obtained from the municipality against payment of 2 000 LL, the map abstract and the title abstract referred to under steps 2 and 3 above. The Office of Alignments and Urbanism delivers a planning and zoning certificate and returns the map abstract after adding thereon the applicable alignments' drawings.

*Estimated Time:* 5 to 20 days

*Cost:* about 8,000 LL in stamp duties

The current Zoning Law was established in 1954. However, there is no one comprehensive Lebanese Zoning Law or plan. Zoning regulations and plans were enacted in successive decrees. All urban alignments that alter the zoning plan need to be presented to the Municipality. In the case of Beirut and Tripoli the request is presented to the Administrator's office, the Mohafez, who after approving the request presents it under the form of a decree to the Council of Ministers. If the changes are minor, they are executed through an administrative amendment of the regulations by the Municipality or the Directorate General of Urbanism (DGU). A series of laws have been adopted (for example in 1974, 1980, 1983, 1994) to legalize or formalize violations of zoning and building codes.

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<sup>96</sup> Lawyers recommend that this abstract be reviewed by a lawyer in order to explain to the entrepreneur the legal implication of the information contained.

<sup>97</sup> There are 9 zones in Lebanon, including Solidere. For urbanization purposes however the effective zones are only 8 zones as Solidere is considered a separate project and entity.

### *Process of Registering a Property Transfer*

The Land Registry is using a title system of registration and until today about 50 percent of all Lebanon's properties are registered<sup>98</sup>. This figure reflects improvements of the land registry in the past 7 years. Registered titles<sup>99</sup> are guaranteed by the Constitution since 1926<sup>100</sup>.

1. The buyer and seller present themselves to the Registry Area Officer to attest to their consent for the transaction. There is a high degree of freedom regarding the form of this attestation. The two parties have the freedom to present their agreement simply verbally, in a formal letter, or even in a contract by a lawyer or a notary public<sup>101</sup>. The Area Officer creates a contract with all relevant information and logs it to establish priority of the transaction in the registry system.

*Estimated time:* 24 hours: official and actual time

*Cost:* No cost involved unless a lawyer or notary public is involved

2. The registrar has 24 hours to draft and transmit the contract to the Department Head of the Land Registry for the contract's approval, legalization and final registration. This transaction is also logged. The Department Head is expected to sign the contract after which point it becomes the registered title.

*Estimated time:* This process does not have an official time or a predictable time. It depends on the amount of time the Department Head will need. Practically this is completed in few days.

*Cost:* No official cost involved

3. After the signature of the Department Head the registry system is informed of the act and the entrepreneur receives his/her registered title after paying the tax duties.

*Estimated time:* 5 days – this is the official time as well as the actual time it takes. During this time the registry is expected to inform its internal system of the transaction.

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<sup>98</sup> Information provided by the Land Registry.

<sup>99</sup> Illustrations of registered property titles are available at FIAS upon request.

<sup>100</sup> The title guarantee is a direct emulation of the Swiss law.

<sup>101</sup> If the contract is undertaken by a notary public, the parties do not need to present themselves personally to the Registry Area Officer.

*Cost:* 6.05% of the value of the contract (a valuation executed by a committee of the MoF – note that this is a different and separate valuation procedure from the one done for property taxation by the MoF as well as the one done by the Municipal valuation committee<sup>102</sup>)

4. In order to complete the property transfer, the seller must provide the original property title deed in addition to a certificate from the municipality that the plot is free from any construction (the cost of such certificate is 1000 LL). If the plot contains a construction, the seller is required to provide from the Ministry of Finance, a leasing valuation and a financial status evidencing that no inhabitation taxes are due on the transferred property.

#### *Process Leading to the Building Permit*

1. The entrepreneur will need to identify an experienced and reliable engineer (Lead Engineer of the Project<sup>103</sup>) who will lead the design of the project. The selected engineer prepares all the necessary plans (for example: basements, floors, facades, foundations), costs, and soil analysis for earthquakes if the building is above 3 floors. This analysis is called the “Etude d’Avant Projet”. The study of the soil quality and strength is only required if the building is over 3 stories; it can take roughly 20 days and cost about US\$5,000 to US\$10,000

2. The Avant Projet is submitted by the engineer to the Order of Engineers for its inspection. The Order of Engineers has 9 departments and each one separately reviews and approves or declines the proposed project.

*Estimated Time:* 2 weeks

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<sup>102</sup> Valuation by the MoF is organized by two different and separate committees for different purposes. (i) In relation to the valuation for a property transfer contract an MoF committee examines the Contract Value based on its unique formula – on the basis of which the buyer pays the 6.05 percent at the Land Registry at the time of registration; (ii) in relation to property taxation paid to the MoF, the amount depends on the potential rental value of the building and it is estimated by a separate MoF committee with a separate formula.

<sup>103</sup> Construction is governed by the New Constitution Law #646 of 11/12/2004 with its Ministerial Decrees outlining the building regulations and process. All constructions licensed prior to this law are governed by the Old Construction Law enacted by Decree- law 148 dated 16/09/1983)  
For fewer than 200 m<sup>2</sup> – only one engineer is needed to do the design and project overview.  
From 200-2000 m<sup>2</sup> – the collaboration of 2 engineers is required (one architect and one structural engineer)  
For anything above 2000m<sup>2</sup> – 4 engineers are required (an architect, civil engineer, electrician, and one mechanic). The chief of engineers for a project must be Lebanese.  
All types of engineering contracts must be registered at the Order of Engineers.

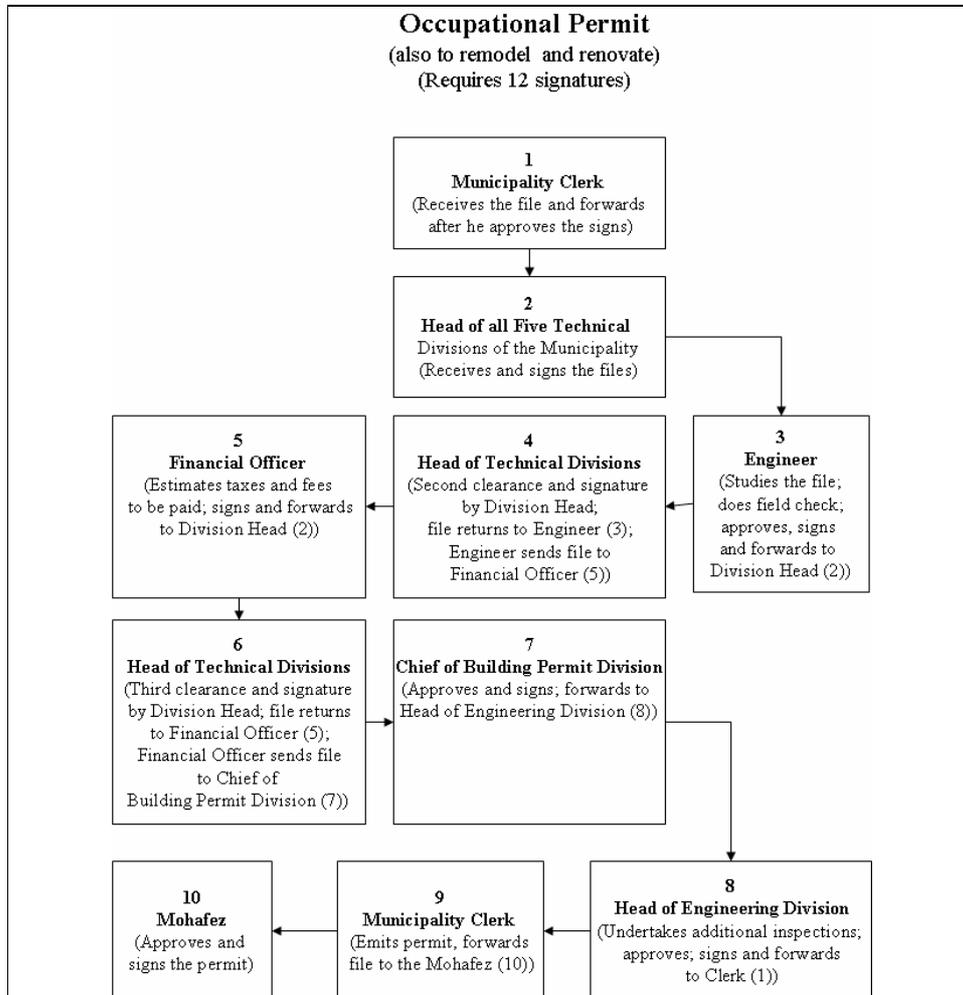
*Cost:* US\$ 0.40 per square meter. This fee is paid by the engineer and almost always included into the overall project price ultimately paid by the entrepreneur.

3. The project file is submitted to the DGU for analysis and approval; in the case of Beirut and Tripoli the Municipalities have a special engineering department that undertakes this analysis. Either entity gives the technical permission of having a Building Permit.

This process can be quite long as there is no fixed deadline. There are several signatures related to each permit. At present the signatures required are 12 however each step of the process is not final and may need to be repeated. The file can be returned to earlier steps and often signed multiple times by the same officer, increasing the delay and number of required signatures. There is a large amount of discretion in the sense that the outcome can vary depending on which civil servant is involved in the process, leading to a lack of predictability in terms of time and requirements. There does not seem to be a precise understanding of the documents that are required for the file to be complete. There is no information desk or office to guide and advise clients. It was reported in several interviews that each case of property purchase and building is different. Processes are neither systematic nor predictable.

*Expected Time:* If all the required documents are in the file and in order, the process can take at a minimum one month – the number of signatures required is a bigger concern. Sometimes the same officers are required to sign the document as it goes back and forth between offices. In the municipality of Beirut there is a requirement of 12 signatures.

## Exhibit 50 Occupational Permit



4. While the file is being studied by the DGU (or the municipality's engineering department in the case of Beirut and Tripoli), the entrepreneur has to secure the separate approvals required depending on the nature of the building and its location. For example, the approval of the *Civil Defense*, a state entity that depends from the Ministry of Defense, is required in specific locations where the. Civil Defense examines the proposed project from the point of view of security and safety measures. For instance if the proposed building is dedicated to public use –such as a school, hospital- the building should have a shelter. If the building is intended to host a classified industrial business, the approval of the Ministry of Industry is required. For tourism projects, the approval of the Ministry of Tourism is required.

In the case of Civil Defense

*Expected Time:* 1 week

*Cost:* Approximately US\$100

5. Approval of the project from the General Safety Department in the Municipality is also mandatory. This department is responsible for issuing safety authorizations for the construction of restaurants, cinemas, etc. This is not a very well defined process.

*Expected time:* 2 weeks at a minimum. The number of required signatures from different officers is 6 but due to discretion in practice it can be higher. The file can return to the same officer multiple times increasing the number of signatures of that same officer to anything from 5 to 15.

6. At this stage the Municipality is responsible for the valuation of each project-related property. The valuation is conducted by a 3-person committee led by the Mayor, one representative of the Ministry of the Interior (as the Municipalities administratively depend from the Ministry of the Interior), and the Head of the Engineering Department or the DGU. This committee meets every 2 weeks to conduct appraisals. The valuation process is rather complicated and hard to predict. A general guideline exists but there are several variations and different rules applied to different properties. Table 1 provides a snapshot of a very general guideline on valuation regarding zoning.

### Exhibit 51 Some General Guidelines of Property Valuation

Zone number	plot area (x) * a coefficient
1	(x) * 6
2	(x) * 5
3	(x) * 4
4	(x) * 3.5
5	(x) * 2.5
6	(x) * 2.5
7	(x) * 3
8 (this is a more complicated zone as it is mostly residential)	(x) *[0.9 – 1.75]

NOTE: Some additional indicators that affect the property's valuation are urban infrastructure and planning specific to the location of the plot in question. For example if the plot is bound by 2 roads there is an estimate value increase of 20%.

The project file is then returned to the engineering department (in Beirut or Tripoli) and to the local DGU in the other regions. The respective officers estimate the fees to be paid by the entrepreneur. The fees are based on the estimated value of the property (from step C. III. 6) and the additional fees that other agencies apply. In a simplified presentation the formula used is: Estimated Price of the Lot/Property (per square meter) \* Sum of the Total Built Area \*1.35 (where 1.35 is the sum of taxes imposed by other agencies).

*Estimated Time:* 1 week – time is very much dependent on the ability to pay the fees

*Cost:* 6.05% of the valuation of the property [using the above mentioned formula] plus 250,000LL per floor in stamp duties

8. The project file is returned to the Municipality specifically to the Office of the Administrator the Mohafez. The Mohafez sends the file to the Controller General of the Municipality for his/her signature.

9. The Mohafez, after a final review and control, gives out the Construction Permit that has a duration of 6 years and can be renewed for 2 more years only. Many abuses are reported to the “final review” stage where municipality officials may deem that some irregularities apply in the plans and send the file back to the DGU or engineering department for amendment.

#### *Process Leading to a Full Occupation Permit – and Utility hook up*

1. After the completion of the basement level and the ground floor, an inspection is conducted by the Engineering Department of the Municipalities of Beirut and Tripoli, or the DGU in all other Municipalities. The inspection is usually requested by the entrepreneur verbally. After the on-site inspection has taken place satisfactorily, an instruction to continue with the building process is issued by the Mohafez.

*Expected Time:* 1 month

*Cost:* No cost involved

2. The Occupational Permit (called Permit d’Habitation) is only granted after an inspection is done on site. This is a process of unpredictable duration, as it is more common than not for irregularities to exist and be identified<sup>104</sup>. This situation is quite common due to the fact that the zoning code is antiquated and that there is a proliferation of building code exemptions and zoning exceptions. These usually lead to a sequence of corrective laws and Decrees to legalize variant constructions<sup>105</sup>. In addition there is an unpredictability in terms of the number of signatures required and number of requirements to be fulfilled leading to a serious level of discretion depending on who is the Head of the office or the Director of the department. Presently, four official signatures are required for the Occupational Permit: the engineer of the Technical office of the Municipality or the DGU; the Head of the Office; the Director of the department; and the Mohafez.

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<sup>104</sup> Pursuant to paragraph two of article 6 of the New Construction Law, the occupational permit should be granted (or refused) within one month and if this period lapses without any response from the administration, the entrepreneur is deemed to be granted the occupational permit provided the building complies with all regulations and requirements and provided the necessary occupational fees are paid. In

*Estimated Time:* Between 1 to 2 months if the construction is fully compliant with the construction permit. Otherwise, completion will depend on the time required to make the necessary changes or obtain a legalization of the building whenever the building is compliant with the laws, but does not conform to the construction permit. In practice the time can vary from 3 months to even 4 years. This variance is very much related to the non predictability of the process and requirements that result to discretionary behavior among officials and bribing. Bribing is reported to be a common practice and a parameter of the estimated time of the process.

*Cost:* No official cost involved

3. When the occupation permit is ready for issuance the entrepreneur must first pay the necessary taxes and fees (depending on the location and plot valuation), in order to obtain the permit. The entrepreneur has to register his new construction to the Land Registry office and therefore obtain a new title registration with an updated map.

*Estimated Time:* 2 months

*Cost:* About 1.5 percent of the estimated cost of the construction (tax fees)

The market relevance of obtaining an Occupational Permit is that in theory a building can not be sold (officially transferred) until the Occupational Permit is issued. This is indeed observed in large commercial constructions of apartment buildings. In practice, however, apartments are sold in private agreements before the final occupational permit is issued, especially in the case of medium and smaller projects. Once the final occupational permit is granted and the project is partitioned, the apartments are then officially transferred to and registered in the name of, the buyer with the real estate registry.

#### Description of utilities hook up

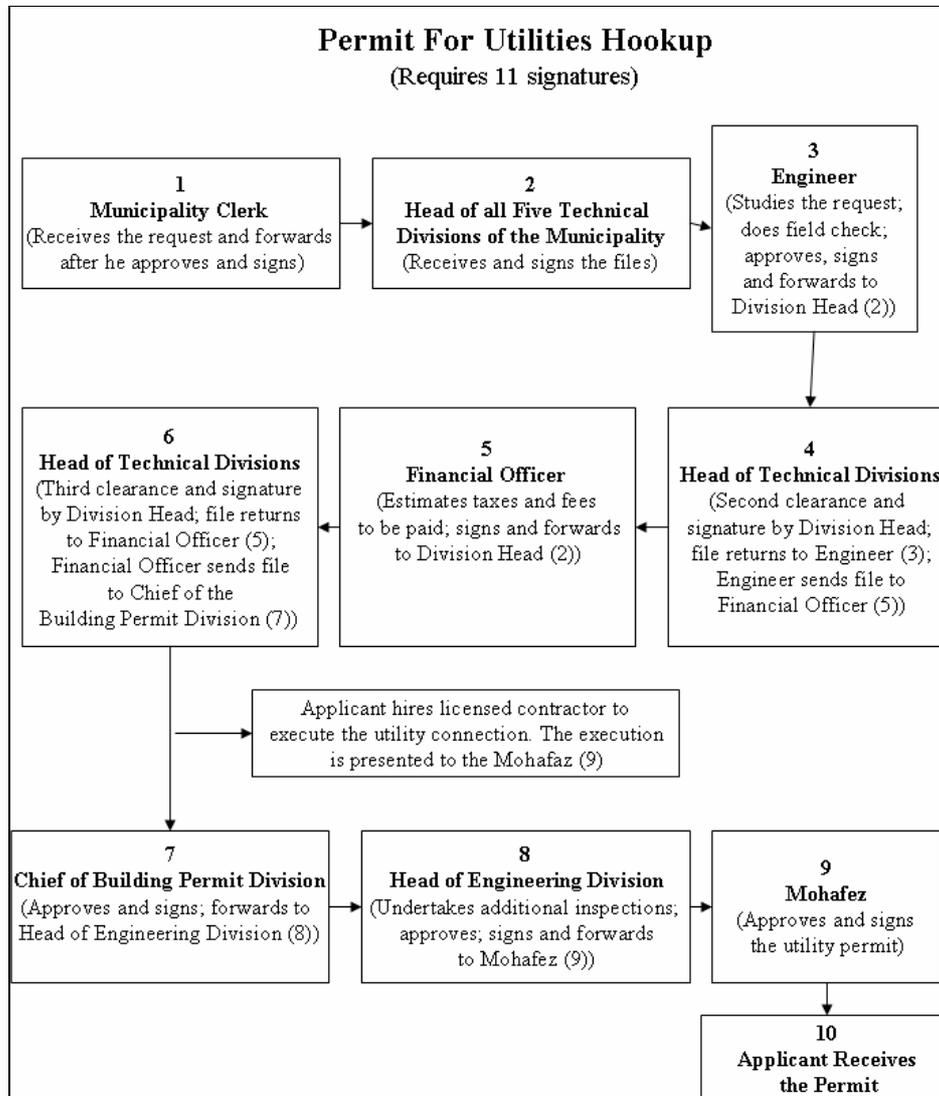
The overall utilities hook up process seems straightforward on the surface but it is, again, subject to much discretion in terms of the final delivery.

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practice, if the construction is fully compliant with the construction permit, the Occupational Permit may be delivered in approximately two months. However, if irregularities exist this process will take longer.

<sup>105</sup> This is a serious issue in Lebanon quite different from what developing countries face that is regularization or legalization of shanty town.

## Exhibit 52 Permit for Utilities Hookup



There is a temporary permit issued for water and electricity for the purposes of new construction. The request for these temporary permits is presented through an application directly to the Ministry of Water and Electricity together with a certified copy of the Building Permit. There is an on-site inspection by an officer and then the temporary hook up permit is issued.

Once construction is finalized and the occupation permit is emitted the temporary utility permits can be transformed to permanent permits. The transition process is also quite simple and straight forward.

The entrepreneur requests for the transformation of the utility permits through an application to the respective ministries. The application is accompanied by certified copies of the temporary permits as well as a certified copy of the Occupation Permit that has been issued by the Municipality. As the latter is almost always a long and undetermined process, utility permits usually remain in an interim status.

This fact changes when the building needs to be sold in sections and/or divided to multiple owners (a housing development or office building project that calls for the selling of separate units) in which cases individual meters need to be installed.

The hook up of sewage is delivered by the Municipalities. The process is also straight forward yet it is not standardized as additional inspections and signatures can be required depending on the head of the engineering department or the Mohafez. This story gets repeated with the issuance of almost each permit.

#### *Description of Procedures Related to Tourism and Industrial plots*

In the case that an entrepreneur is engaging in a tourist project he or she follows the processes of identifying the plot as described in section C.I. 1 through 4, and registering the property as also described above. There are however additional processes such as:

1. If the proposed project is to establish a hotel the entrepreneur must become familiar with safety, quality, and service specifications defined by the Ministry of Tourism. Thus the entrepreneur needs to be informed from the Ministry of Tourism's - Technical Department of all appropriate regulations.
2. By law there is an exceptional provision for the construction of hotels: the building coefficient for constructing a hotel can be as much as twice the building coefficient allowed for the specific zone. Although this incentive is outlined by law it must be ratified on a case-by-case basis by The High Council of the DGU<sup>106</sup>. Once the exception is approved by the High Council, the General Director of the DGU presents the proposed project file to the Council of Ministers for the issuance of a Presidential Decree that formally approves the building coefficient for the specific lot. This step is usually executed in parallel with the first.

*Estimated time:* Undeterminable – as it is a process depending on the Council of Ministers

*Cost:* No cost involved

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<sup>106</sup> The General Director of the DGU is also the head of the High Council.

3. The *Avant Projet* of the project developed by the Chief Engineer is presented to the Technical Office for advice and feedback. This study does not include the execution plan. The purpose of presenting this preliminary project is to enable the entrepreneur to receive a non-official technical opinion on the project as well as information on the minimum specifications necessary depending on the category of the establishment (number of “stars”).

4. Once the Chief Engineer is satisfied that the *Avant Projet* meets all the specifications, it can be officially submitted to the Technical Office for approval. This approval must be included in the request for the Building Permit to the Municipality. At this stage there is a first on-site inspection of the plot by the Technical Department. The file is then sent to a Tourism Committee composed of 8 representatives (such as. the General Manager of Tourism Office; the Director of the Tourism Equipment; an architect of the Tourism Equipment office; representatives of all tourist syndicates – hotels, restaurants, beach resorts, travel agents, pastry houses, rent car agents). The General Manager and Director of the Tourism Equipment Office sign and stamp the project file and maps.

*Expected Time:* 1.5 months

*Cost:* No cost involved

5. An official letter is issued by the Ministry of Tourism that accompanies the approved project file to the DGU. The file should already include the Council of Ministers’ approval of the building coefficient exception described in step number 2 of this section. If the approval is not yet issued, the entrepreneur can enclose a receipt of having submitted the exception to the DGU for approval.

6. The Building Permit, as well as the Occupation Permit processes are the same as described in topic III steps 5 through 12.

7. Once the Occupation Permit has been approved by the Engineering Department of the Municipalities of Beirut and Tripoli (or the municipalities after the DGU decentralized departments’ approval. elsewhere) the project file gets transferred to the Ministry of Tourism, Tourism Department, in order for the building to be classified (if for e.g. this is a hotel – the type and stars). At the same time the Tourism Department sends the file to the appropriate ministries/government agencies - Ministry of Health, Environment, Safety Department etc - for their inspection, approvals and final signatures. In parallel the Tourism Department also sends the file to the Mohafez /or Municipality for final approval and signature.

*Estimated Time:* Undeterminable – as there is not official timeline outlined in any law, there are 3 processes all executed at the same time and all dependent on different ministries’ bureaucracies, the practice suggests large variance on the expected completion time.

*Cost:* No cost involved

8. After the signature of the Mohafez, the file is presented to the Municipality Council for approval.

9. The project file is then sent back to the Ministry of Tourism, the Tourism Committee that meets once a month to give its final approval.

*Expected Time:* 1.5 months

*Cost:* US\$15 in stamp duties.

10. Once the building is completed and the Occupation Permit issued the entrepreneur is expected to present to the Land Registry as well as the Cadastre Office the: (i) maps of the construction together with a surveying and elevation map (the last 2 maps can be done by an officer in the Cadastre Office), (ii) Building Permit and (iii) Occupation Permit<sup>107</sup>.

*Estimated Time:* 1 month is the estimated time if the presented maps are fulfilling the legal specifications. This however seems to be a theoretical timeline. Engineers and higher ranking officers in the Land Registry report that in their several decade-long experience, they have yet to see one map that fully complies with the legal specifications.

*Cost:* US\$ 100 to 150

The process burden and unpredictability of requirement and timeframes are such that, for most projects other than very large ones, the construction and final operation start well before the procedural formalities are finalized. To this end, the entrepreneurs simply formalize their establishment with the request of the licenses. Our estimate is that about half of the medium- and small-size tourist establishments fall into this category.

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<sup>107</sup> This particular step is also required by the DGU in the Building Permit process. This is a redundant activity required by two different institutions at different times. A more efficient way to better manage this process – reducing an important burden and transactions costs would be for the DGU – Cadastral Office and Land Registry to share information through either very close cooperation or even through a common back office. This suggestion is further developed later in the chapter.

### *Processes Related to Agro-Industry*

Agro-industry follows a slightly different process of acquiring land wherever land is not individually-owned but directly descending from the transition of Ottoman to Civil Code. During the Ottoman tradition rural areas were all under the administration of the Wali (outside Mount Lebanon) and the Emir (at Mount Lebanon). Now all administration is transferred to the administration of the Lebanese Government through the Ministry of Finance. With proofs of 10 years of continuous use and occupation the Governor of the Region, the Mokhtar, can attribute the land to the individual farmer. This rural land is not subject to the Cadastral Law of 1926.

The registration, as well as the Building Permit, procedures are similar to the general description aforementioned. The differences are mainly focused in the building coefficient. Only 15 percent of the total area of the rural plot can be built with only one floor. The expected time and costs of registration are the same as those already mentioned. The procedures for the Building Permits and Occupation Permits take as long as those regarding any other building project.

It is important to mention that there is no requirement to have a permit for rebuilding a plant, but only to start the building “from scratch” or for expansions.

It is also important to note that several large agro-industry companies prefer to rent land parcels for an extended period of time (e.g. 40 years) rather than purchase the plots. The law does not provide for lease registration thus the Land Registry does not have such ability. These long-term rental contracts, therefore, are not subject to any formal financial trading.

The utilities are processed in the same manner as for individual properties. Incentives however exist as unit prices for utilities directed for industrial use are discounted.

### *Process Related to Industrial and/or Commercial Projects*

The Ministry of Industry (MoI) has been granting permits for industrial projects since 1997. They have issued a total of 1,600 permits. Until then, it was the Mohafez' responsibility.

1. The identification of the plot and registration of the plot follows the processes described earlier. The MoI will not start the process unless they first receive the title and map abstract of the plot / property in question which is also required for the registration of the transaction. This constitutes a duplication of procedure that could easily be avoided if the MoI would be able to get this information itself directly from the cadastre office or land registry. The entrepreneur also has to obtain the exploitation factor (building coefficient) from the DGU (as explained earlier)
2. The entrepreneur will create a project file that will include all documents referred to under section on licensing of industrial businesses (the first stage license application).

The project file needs to be copied 4 times one for each of the agencies that will carry out the reviews, controls and approvals. One copy is sent to the Municipality, 3 copies are presented to the MoI.

3. The inter-ministerial committee in the MoI studies the project file and includes representatives from the Ministry of Health, Environment, DGU to provide their assessments.

*Estimated Time:* 5 days, if no objections are found in the file but time can stretch to 5 months or more. It was reported that there is not an official or predictable estimation of the control and approval process completion time. In the case of the Municipality sending no reply within 1 month, the MoI considers this a positive reply. It was also reported that at all stages bribing and corruption are predominant<sup>108</sup>.

*Cost:* See chapter on licensing procedures.

It is surprising how much overlapping exists. The MoI committee is a redundant function that in effect increases discretion and repeats functions that the DGU has already implemented.

4. Once the responses from each representative are in place, a memorandum is issued agreeing with the project. This memorandum is sent to the Director General of the MoI for his/her signature and then to the Minister of Industry who also signs it. This is a first stage license (permit for industrial contraction). Later this permit is added in the application for a Building Permit by the Municipality. Once the Entrepreneur pays the required taxes to the MoF, he/she receives a receipt that needs to be presented to the MoI to finally receive a permit for industrial construction.

*Estimated time:* Approximately 3 months (a practical estimation as there is no official time limit)

*Cost:* See chapter on licensing procedures.

The Building Permit as well as the Occupational Permit follow the same procedure described earlier. Once the Occupational Permit is granted, MOI's second license is granted.

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<sup>108</sup> This is defined by law. Silence of the municipality throughout one month constitutes approval

## Analysis

Although on the surface the present system give the impression of working relatively well, the unpredictability, overlapping and contradicting regulations, the frequent repetition of various steps<sup>109</sup>, the constant inspections and revisions lead to non-transparency, corruption, and waste of resources for both the private and public sector. Most importantly, this unpredictability leads to a serious distortion of relative prices in the real estate market. It may lead to an undesirable outcome such as that in the Philippines where one finds extraordinarily expensive high-rises adjoined to shacks, an outcome very common in countries with a dynamic market and a weak regulatory environment.

This unpredictability and the discretionary power of civil servants allow for a built-in bias in favor of a particular type of investor in Lebanon. The majority of investors turn out to be either Lebanese or foreigners from the Gulf region as they are the ones who understand how best to operate in such an unpredictable and complex environment. Based on the interviews and research undertaken during this study such a selection bias is not implemented by design or intentional. However, Lebanon does not provide the comfort of a more predictable environment that Western investors would find more appealing. Given the complexity of the process, a common but sound advice for local and international investors interested in investing in Lebanon is to hire the services of a very competent local lawyer and local engineer (*maître de construction*).

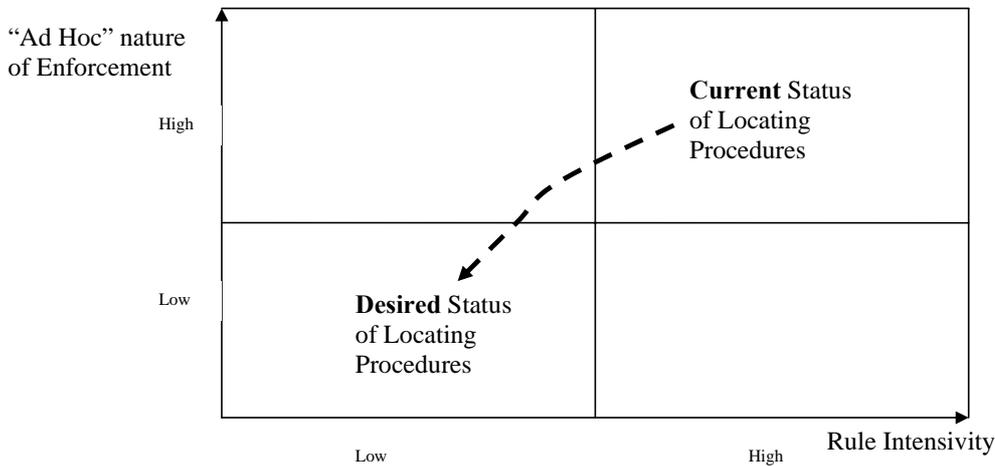
The very high level of rule-intensity, i.e., large number and types of rules, coupled with the high level of discretion in the enforcement of the rules, have contributed to an unpredictable investment environment.

However, the fact that the Land Registry and Cadastral office fall under the MoF is a positive element that suggests that land is, at least partially, perceived as an asset.

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<sup>109</sup> Due to the arbitrary, contingent enforcement of the associated rules (sometimes they are enforced and sometimes not), it is almost impossible to have specific statistics on how often steps are “invoked”. The impression is that this is a common practice.

### Exhibit 53 Current and Desired Locating Procedures



Low/Low: New Zealand, Canada, Australia.

We recommend that the GoL build on the successful reforms achieved so far and undertake a series of targeted and focused institutional reforms aimed at eliminating the specific bottlenecks that exist in the area of locating procedures. These reforms will allow for the market to become more transparent by being sustainable effective, and efficient. Best practice suggests that vibrant property markets develop best when established on the following principles:

- land and property to be perceived as an asset
- predictable processes and requisites: simple and transparent processes of land and property acquisition and transfer;
- minimum number of organizations and agencies involved regarding land ownership, topography, and valuation (one or maximum two). The Land Registry ought to be the key agency of information gathering and information distribution;
- easy access to accurate data at the Registry;
- low cost of processing a transaction (time and money involved). The cost should never exceed the value of the property in question;

## Recommendations

While acknowledging the very important reforms that have already been taken by the GoL regarding land and property, we also recommend that the authorities take additional actions to promote an environment of public sector accountability, especially in the delivery of public services – through a rewards and punishment mechanism- that will allow for the streamlining of the processes of locating and building. The Municipalities, DGU, Land Registry, Cadastral office and Valuation committees need to become accountable not only to their budgetary and administrative dependents but mainly to their clients – i.e. investors. There are a variety of ways to establish public sector accountability. Some common examples include: (a) the streamlining of procedures, establishment of time lines, and clear accountabilities of each state or municipal employee to their managers and (b) the provision of client (user of the public services) feedback for the service provided by the public agency. The former is developed by raising the efficiency of internal operations and reducing duplication. The latter requires the agency to make publicly available to its clients (i.e. users of its services) completion times and costs (usually through posters and brochures of procedures, associated fees and timeframes) as well as to establish users’ contact points with the agency.

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We also recommend to shift the land paradigm away from control and towards facilitation and proactive management by putting in place an efficient system of Land Management. Such a system would aim at increasing predictability and eliminating the distortions that today’s disjointed sets of regulations and rules create. An asset management system is based on the ability to manage information on the land as an input to the investment/businesses decision-making process (versus hoarding and locking up of the information). For example, the land registry can serve as a “clearing-house” for all land-related information. Having a developed address system, as well as a systematic common land and property valuation mechanism, will also help in the clearance of this information. An asset management system of this sort will need to arise from a comprehensive reform that will reduce the need of Decrees, reduce transactions costs, increase predictability, and be able to provide important information for urban planning, zoning and valuation to the respective public agencies (the Municipality and MoF) without the need for large and cyclical paper-trails.

We further recommend to allow for the consolidation and clearing of the information. In a best practice environment this should be done by a single agency – namely the Registry. Countries with the highest property market liquidity and efficiency such as New Zealand, Australia, UK, Canada, do follow this approach and consolidate information through their respective property registries. Allowing for one entity to be responsible for the main provision of legal, topographical, and valuation information on land and property could reduce transactions costs and discretion significantly.

At present the existence of multiple valuation committees, the requirement to cross information with multiple agencies such as the cadastre office, the land registry, the municipality, the DGU, etc, create further uncertainties, overlapping, activities and duplication that leads to a waste of resources leakages and corruption.

Lebanon needs to develop a more sustainable and systematic approach to land and site development procedures in order to reduce transactions costs and promote investment. We also suggest the following more specific measures:

- Eliminate the issuance of the affidavits by the Registry and rather have them being issued by commercial banks. This will allow for the streamlining of core processes as well as the reduction of unnecessary activities that agencies are called to take.
- Consolidate the property valuation committees – at the Municipality and the MoF – to place them in the MoF with representation of the interested parties in the committee.
- Update the 1954 Zoning Law. This simple but very important action will homogenize the zoning and building code and can allow for a better long term planning by the investors-entrepreneurs.
- Consolidate inspections carried-out during the Building and Occupational Permit processes by the municipality or the DGU to a simple and transparent one. Increase transparency of the inspection processes is by outsourcing them to the Order of Engineers.
- Streamline the municipal processes and the DGU processes and make them better known by citizens and users (information on the respective requirements, fees and timeframe for the delivery of the various services).
- Eliminate the repetitive inspections by the Tourism Committee and the Industry Ministry Committee. They increase discretion and transactions costs. Our recommendation is to retain the second one only (Ministry of Industry).

## 5 Conclusion

The Government of Lebanon recognizes the importance of private investment to generate economic growth and employment and to achieving poverty alleviation. It further realizes that far-reaching improvements of the business environment are required, especially in the current context, to first of all retain current investors and then to attract additional ones when the geo-political conditions will be more favorable. This review of administrative barriers to investment requested by the MoET gives the authorities the tools they will need to improve the procedural environment for investment, which is an important dimension for investors but obviously not the only one.

The discussion of the preceding chapters indicates that Lebanon faces a considerable task in accomplishing the goals outlined above. The challenge for the Government is to develop a comprehensive **Plan of Action** and to **generate the political will** needed to implement the many legislative and administrative reforms that are required to create a more attractive environment for domestic and foreign investment. The summary of issues and recommendations provided at the beginning of this report that can be used as the basis for developing an action plan.

The experience of other countries where we have worked clearly demonstrates that sustainable change cannot be achieved without sustained government commitment and the political will to effect change. Policymakers at the highest levels need to provide a clear vision and consistent direction for reform. Successful and sustained change requires leadership, strong champions, and shared goals among all stakeholders within the government and the private sector. **Procedural and institutional reforms will require the support of public servants at all levels of government.** On the basis of shared goals, the process of rationalizing, streamlining, and simplifying bureaucratic procedures can develop, gain momentum, and improve the values of government agencies, and transform them into service-oriented organizations. A comprehensive approach to change is necessary, and commitment and time are essential ingredients.

### Next Steps: A Framework for Change and Implementation

The authorities could find the following approach useful for developing and implementing a sustainable framework for:

- ❑ Monitoring the business environment on an ongoing basis.
- ❑ Systematically soliciting the views, inputs and support of the private sector.
- ❑ Developing an action plan and establishing priorities for reform.
- ❑ Assigning responsibility for specific actions and accountability for measurable change.
- ❑ Securing the resources required for implementation.
- ❑ Implementing changes – legal, regulatory and operational – to streamline administrative procedures and eliminate administrative barriers to investment.
- ❑ Coordinating the activities of the relevant institution.

A framework for sustainable change should in FIAS' experience include the following elements:

- Champions and leaders from the public and private sectors who have the commitment, credibility, and authority to develop a vision and to generate support for action.
- Clear goals and objectives embodied in an action plan.
- An institutional home and an organizational structure for the secretariat of the change agenda to facilitate implementation and to monitor progress.
- Tools for analyzing the investment environment, soliciting investor perceptions, and proposing reforms to address the issues identified.
- A process for consultation among stakeholders in the public and private sectors. This process should be linked to other consultation processes.
- Resources for capacity building and implementation, and a system for monitoring and rewarding the performance of organizations and employees in the relevant government institutions. This should be designed and implemented within the context of the ongoing public sector reform.

While leadership and a commitment to improve the investment environment must come from the highest levels of government, the active participation of the private sector should lend credibility and help to broaden the base of support for the change agenda.

In addition, Ministries and government agencies must be held accountable for participating in and supporting the agenda, and their commitment is essential. Ongoing consultation among stakeholders in the public and private sectors and regular progress reports will be necessary.

### **Supporting Structure for Implementation**

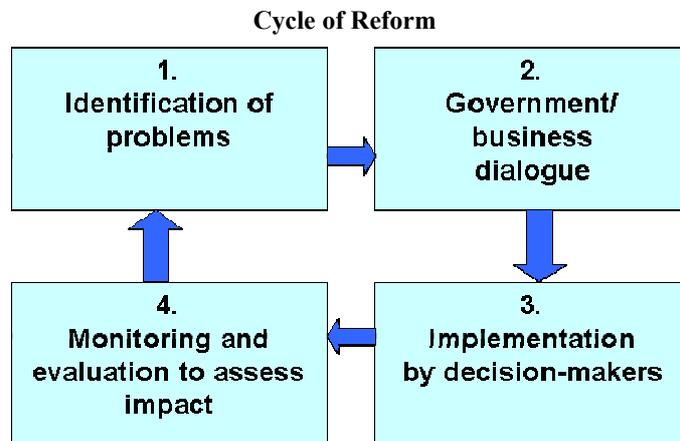
In developing the change agenda and implementing the required reforms, it is proposed that the following supporting structure be adopted:

- A **Steering Committee**. The procedures covered in this report are the responsibility of various ministries and government agencies and even municipal authorities. This suggests that one ministry can not achieve far-reaching changes without the active collaboration of all these other actors. In many countries where reforms were successful, our client has found useful to set-up a Steering Committee or coordinating body with broad inter-ministerial representation.. The committee generally assumes the leadership for the **implementation and follow-up** work on the administrative barriers reform program. The action plan should be endorsed by the committee and submitted for approval to the Cabinet or Prime Minister.
- An **implementation team or secretariat**. If such a team has not already been established, FIAS strongly recommends the establishment and allocation of

resources for such a team. This is critical to ensure that resources are available for the important tasks of **monitoring** the investment environment on an ongoing basis, and holding the relevant agencies accountable for implementing the action plan items for which they are responsible.

- A **consultative committee** of stakeholders should be drawn from the public and private sectors as well as from the international donor community. The consultative committee should provide a mechanism for regular consultation with a broad group of stakeholders on various reform initiatives.

The figure below provides a conceptual outline of the reform process. It must be noted that this is a dynamic and iterative process which will require review, revision, and amendment, in response to emerging factors and the progress of the reform initiative.



Clear goals and objectives must be established for the Commission, the implementation team, and the consultative committee.

The Action Plan should be utilized to:

- Document the changes agreed upon.
- Establish priorities and timelines.
- Provide a basis for accountability by identifying the parties responsible for each element of the plan and documenting the agreed timelines for action.
- Keep an ongoing record of progress.

Therefore, it must be emphasized that the **Action Plan is not a static document** but one that evolves over time. **This report only provides a starting point for the Action Plan** (with the summary of issues and recommendations provided in the introductory chapter)

but the most important part of the work has to start now and rests on the shoulders of the Lebanese government and private sector.

### **Monitoring the Investment Environment**

The recent ICA conducted by the World Bank and the present review of **administrative barriers to investment considered together provide a very solid basis for a systematic and periodic review of the investment environment** in Lebanon. The procedural documentation outlined here should be used to develop an updated roadmap of the business start-up and operation process in Lebanon, in a form that can be published and disseminated to existing and potential investors. The roadmap could outline all the steps required for obtaining access to land, business registration, taxation reporting, importing/exporting, licensing, and inspections. It must be updated regularly to reflect procedural changes throughout the reform process. This report provides the basis for the roadmap reflecting the procedures that are currently in effect.

A periodic survey of **investor perceptions** could be conducted (possibly by IDAL or another agency) in order to guide the reform agenda and to develop a strategy to promote foreign investment. Investors' perceptions of where to locate an investment are generally based on a combination of: objective information that they have compiled to support their business decisions, their personal experience, reports from the media or third parties (e.g., consultants, business associates, competitors), and interactions with the international business community. Negative perceptions — even if they are partly inaccurate — can remove a country from the first long list of possible locations for investment.

Annual updates of the **regulatory and administrative costs survey** could constitute another tool for analyzing the investment environment and for identifying issues that need to be addressed. The objectives of these surveys are to:

- Provide feedback from enterprises on constraints in the private sector
- Measure the quality of governance and delivery of public services, and the key procedures and formalities with which businesses must comply
- Evaluate the types and magnitude of costs imposed on private enterprises by administrative and regulatory procedures, and pinpoint excess or unnecessary costs that could benefit from reform or streamlining
- Establish the basis for several internationally comparable indicators that can track changes in the business environment over time, to assess the effect of market-oriented reforms
- Stimulate systematic public-private dialogue on business perceptions and the agenda for reform

In addition to the cost surveys, **self-assessment templates** should be developed to document administrative procedures, information requirements, officials fees, and responsible officials within the relevant state and municipal agencies. This documentation should also include information on mandated and average completion times for each step of the procedure. This information should be collected at specified

intervals and compared with the outputs of the cost survey and of other public feedback mechanisms. The objective is to assess the impact of reforms and to provide information for supporting additional reforms. It will also provide a basis for holding designated offices accountable for specific activities.

**Customer service surveys** should also be used to help improve the quality of the services provided by public agencies. The surveys should be conducted by an independent, private sector entity to solicit customer feedback on a confidential basis. Aggregate results should be published and disseminated. Where appropriate, service recognition awards and/or other appropriate rewards should be granted to deserving employees.

These are some of the tools that can be used, and have been used by other governments around the world, to successfully implement a comprehensive reform program and monitor its progress over time.

The first steps following the submission of this report should be the review of the report by the MoET, its dissemination to and discussion with the various national and local level agencies concerned, and the preparation of a governmental workshop on administrative barriers reform where priorities will be identified, responsibilities assigned, and an Action plan developed. The workshop should be coordinated with IFC, PEP-MENA and FIAS and perhaps involve other donors that could be interested in contributing resources or expertise to support reform implementation and monitoring.

## Project Team

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