



Kenya's Radical Licensing Reforms, 2005-2007

Design, Results, and Lessons Learned

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The need for systemic regulatory reform

- Governments have lost control of their regulatory functions
- Regulatory systems are complex, fragmented, decentralized, captured and resistant to change
- Who regulates? How much? Why?
 - Kenya: Estimated 300 licenses in 2005...found 1,300+ in 2006.
 - Moldova: Est. 400-500 business regulations... then found 1,300
 - Croatia: Identified 300 procedures – then found almost 1,500 from 68 regulators
 - Egypt: Estimates 30,000 to hundreds of thousands of decrees
- Reforms aimed at single rules will never catch up with the capacities of governments to create regulations .
- Regulatory reform is clearly a systemic issue.



No ideal regulatory model, but....

Success as an open, innovative, competitive economy requires a

low-cost, low-risk regulatory system

that also

reduces health, safety, and environmental risks and protects other public interests

Cost and risks ↓ Compliance with rules↑



OECD Agenda for low-cost, low-risk regulation: Tools of Regulatory Reform

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I. Build a regulatory management system

- Strategic medium-term regulatory reform policy (5 years)
- Engines of reform at the center of government

II. Build the institutions to carry out good regulation

- Inspections reforms
- Due process
- Online regulatory registries

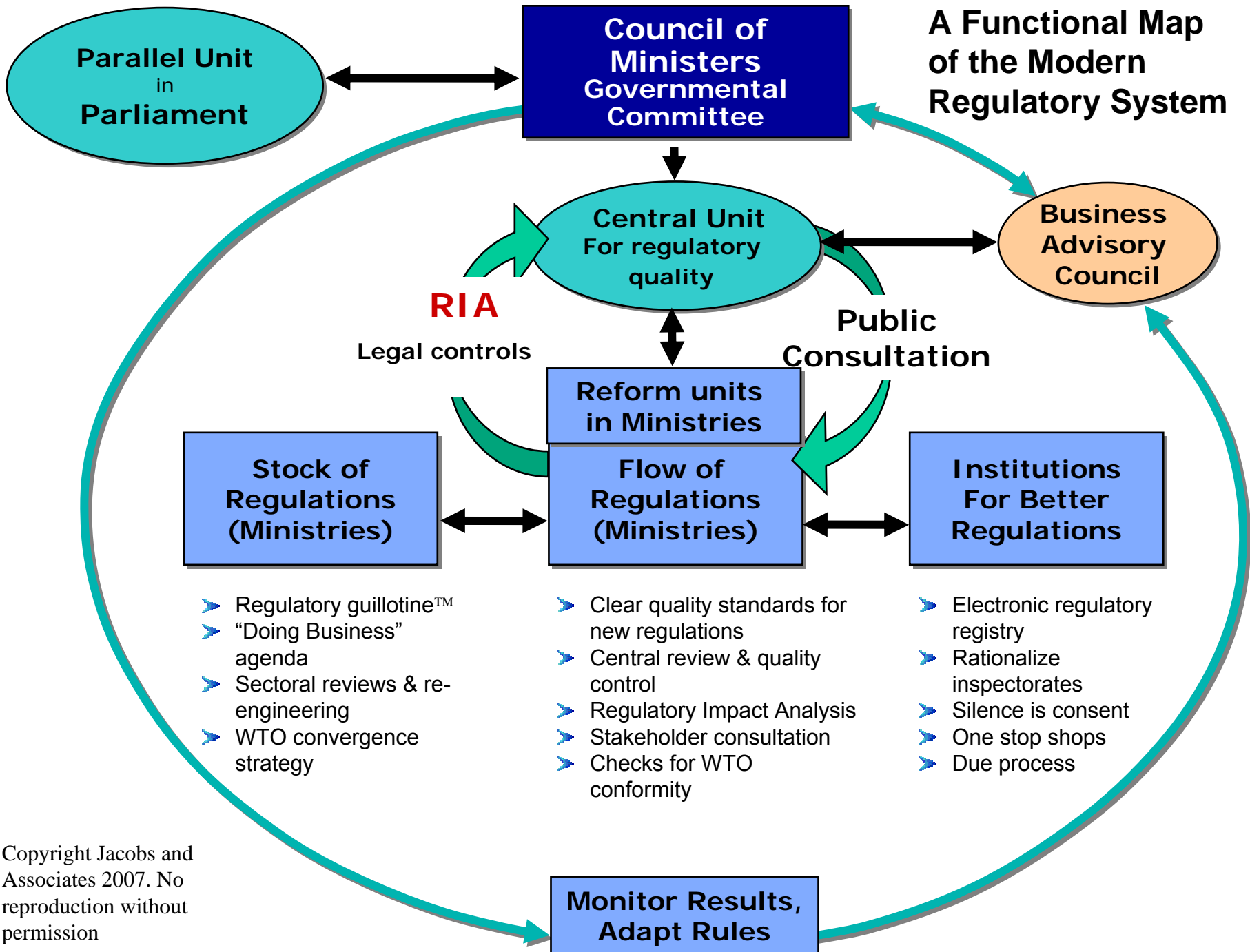
III. Improve the quality of new regulations (flow)

- Regulatory Impact Analysis (RIA)
- Stakeholder consultation
- Central quality checks

IV. Upgrade quality of existing regulations (stock)

- Targeted deregulation, simplification, codification (Doing Business)
- Broad-based reforms (**Regulatory Guillotine™**)





Context of reform in Kenya

- 165+ government agencies authorized to issue licenses
- Licenses widely used to raise revenue
- Original estimates were 300+ business licenses
- Licensing recognized as major regulatory constraint on the formal economy, business formalization, and investment



Principles and design of the licensing reform

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- Complete inventory required
- Rapid review against clear criteria by neutral body
- Reversal of the burden of proof
- Complete transparency and extensive stakeholder participation
- Any license not successfully justified eliminated by default
- Review linked to systemic reforms



Process of the reform: difficulties and evolution

- Formalization through Gazette notices issued by the Ministry of Finance
 - Working Committee on Regulatory Reforms for Business Activity in Kenya
 - Key regulatory and reviewing ministries
 - Explicitly nominated members
 - Relatively significant remuneration of members
- Initial mandate expanded twice
- Comprehensive review with specific focus on business priorities
- Increasing attention to local government regulatory issues



Results /1

- A first-ever inventory and review of all of business licenses in Kenya (a total of 1,325)
- 315 licenses eliminated
- 379 licenses simplified
- 294 retained
- Approximately 300 licenses deferred, and 25 re-classified
- 23 licenses out of a priority list of 26 business priorities eliminated or simplified
- Kenya a “global top reformer” in Doing Business 2008



Planned or in advanced stages of implementation:

- A permanent Business Regulatory Reform Unit in the Ministry of Finance
- Electronic Regulatory Register in the Ministry of Finance functioning as a depository for all legal business licenses
- Formalized mechanisms for the review of new business regulation
- A Regulatory Reform Strategy setting out key priorities and targets for regulatory reform over the next 3-5 years



Lessons learned

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- Getting the scope right
- Measuring the problem
- Getting incentives right
- There is no autopilot for reform
- Centre-of-government leadership is essential
- Early and visible results create appetite for more reform



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Conclusion

– what role for radical reform

- An effective regulatory reform strategy cannot be based solely on improving relative performance in indicators of a few regulatory interventions
- Broad solutions, even “radical” solutions to improving the regulatory environment can work better than small reforms
- Develop a strategy with “quick fixes” contained within and contribute to a longer-term strategy of reform



Thank you

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