“Better regulation” is the broad strategy that developed economies use to manage their regulatory environment to consolidate, codify and simplify existing legislation and regulation, and make it accessible to the public. This article describes the role and the accomplishments of the Egyptian Regulatory Reform and Development Activity in addressing the regulatory challenges of the business climate in Egypt.
Introduction

Laws and regulations are necessary to ensure a fair and competitive marketplace as well as for the effective protection of public health, the environment and the welfare of citizens.

Regulation can appear to be a solution with relatively low costs for the government itself. It can seem to be the most familiar and lowest risk option available to policy-makers to address a problem. But the reality is that a regulation is never cost-free, either for the government or for those whose behaviour is being regulated. It can be ineffective in achieving its planned outcomes if its effects on the system as a whole have not been properly considered. If the details of its proposed implementation have not been thought through, including the costs on the economy and the potential impact of enforcement on different groups in society, the burden of regulation can be much higher than necessary.

Recent years have seen important developments aimed at improving the quality of regulation. Governments across the world have developed a variety of approaches to help simplify regulatory systems, bring greater discipline and more rigorous analysis to the design of regulation, and to reduce the burden on those affected by regulation.

“Better regulation” is the broad strategy that developed economies use to manage their regulatory environment to consolidate, codify and simplify existing legislation and regulation, and make it accessible to the public. It further entails improving the quality of new legislation and regulation by evaluating its likely economic, social and environmental impacts. “Better regulation” also involves the engagement of stakeholders in preparation of regulations that impact their lives through consultation. There is also evidence that “better regulation” can boost productivity and employment significantly, thus contributing to growth and job creation.
Recent revolutions in the Middle East and North Africa have also highlighted the importance of the need to modernise public service delivery and enhance the efficiency and effectiveness of regulations.

Most countries in the Arab world have experienced more public engagement over the past two years. This was mainly initiated by political unrest and changes in some regimes, amid calls for reform to overcome entrenched challenges such as unemployment, poverty, corruption and the uneven distribution of income. The public demanded more participation in the political process, accountability and transparency and better services. Meeting public demands will involve, among other things, substantial regulatory reforms. For example, freeing businesses and civil society groups in the Arab world from unnecessarily burdensome regulation, and simplifying the complex regulatory system, can free up the capacity they have to innovate, diversify and hence promote growth and create jobs.

In Egypt we regulate at all levels – at local, national and regional levels. But poorly conceived and ill-considered regulations often prove to go beyond what is strictly necessary and can at times be a hindrance. Some regulations are overly prescriptive, unjustifiably expensive or counterproductive. Layers of overlapping regulation develop over time, affecting businesses, the voluntary sector, public authorities and the general public.

Attempts to reform the regulatory framework in Egypt

In Egypt, there is no comprehensive single approach for regulatory reform. Over the past 10 years, the government has made some efforts to enhance the regulatory framework, mainly for businesses. These efforts were motivated by the desire to promote investment and create job opportunities through a series of reforms undertaken by the Ministry of Finance and the Ministry of Investment. Reforms have included tax reform, banking reform and business start-up. The Ministry of State for Administrative Development (MSAD) also made remarkable progress in administrative simplification in public service delivery – through “one-stop” shops, where new businesses could obtain start-up licenses without having to go around the offices of different government authorities – and e-government services where citizens could obtain certain services online, such as applications for different types of documents (ID, power of attorney, permits and so on).

Notwithstanding the achievements of these programmes, most of their development has been characterised by a lack of coordination among different government bodies and the absence of a clear and consistent methodology in review of regulations based on structured consultation with all stakeholders. Although consultation took place on some significant issues, most of the time it was informal and on a limited scale.

One of the initiatives in this respect was the National Committee for Review of Economic Legislation, which was established by Prime Minister Decree 1816/2004 to update economic legislation to enhance Egypt's competitiveness and promote foreign and local investment. According to the instituting decree, the Committee was mandated to review laws such as: the law regulating the accounting and auditing professions; anti-trust law; tax law; customs law; amendments to trade law; central bank, banking and financial system law; economic courts law and consumer protection law. However, the committee was unable to achieve its objectives owing to the absence of a clear framework for its work. Eventually, it stopped functioning although no decree was issued by the Prime Minister to end its work.

Another initiative was launched by the Ministry of Justice, based on Minister of Justice Decree No. 4186/1994, amended by Decree No. 1071/2005. The initiative entailed setting up a consultative committee comprising members from the Information and Decision Support Center (affiliated with the Cabinet) and the Ministry of Justice to propose a general framework for a regulatory support programme, as well as objectives, criteria and methods to be adopted by the government to support regulatory reform. The committee issued a detailed report, in 2007, about its work and recommendations which involved laying down controls to implement the general framework of regulatory reform.

Furthermore, the Ministry of Justice and MSAD set up a committee aimed at improving government work to promote transparency by organising the stages of legislation preparation in an easier way to contribute to regulatory quality. This committee issues an annual report about its work on
ERRADA was established to help create an economic system based on competitiveness that attracts investment and generates more job opportunities. This is accomplished through a regulatory management system that reviews and rationalises business related regulations, based on a dialogue between public and private institutions and civil society that promotes transparency and justice. ERRADA seeks to achieve this goal through addressing regulatory challenges of the business climate, notably: multiplicity and overlap of regulations; lack of publication of regulations due to high cost and ambiguity of the entity that bears the cost (issuing or beneficiary); overlap of regulating authorities, and absence of a specific mechanism to assess the socio-economic impact of new regulations.

A total of 11 ministries and three governorates participated in ERRADA, which comprised a team of 44 staff. The institutional setup was established in accordance with international best practice: through units in participating ministries and governorates and a central unit which acted as an oversight body to ensure regulatory quality and provide technical advice to units. Work methodologies (for inventory, review and impact assessment) were developed in-house, to accommodate the local context, after consulting other countries’ experience in this area. For example, Regulatory Impact Assessment guidelines were developed using the guidelines of other countries, such as the UK, Poland and Czech Republic, as a reference but tailored to the local context in terms of available information, institutional and legal frameworks. Staff capacity was built through continuous training.

To be able to achieve its mission, ERRADA sought to generate political support through regular meetings between the ERRADA board of trustees and the executive team, and the representative of the participating ministries (usually the minister themselves) whenever possible, to obtain support for the review and ERRADA’s work in general.

Contribution

Over the four years of its operations, ERRADA managed to achieve many successes which can be summarised as follows:

1. Inventory of more than 30 business related regulations (35 per cent of which is not published) including laws, presidential decrees, prime ministerial decrees, ministerial decrees, subordinate authorities’ decisions and so on.) More than 500,000 regulations were examined (90 per cent of which were administrative decisions related to public administration and did not regulate businesses) from different sources as no existing source was complete or comprehensive. Inventoried regulations were then classified into 200 economic and service topics regulating the work of ministries and governorates participating in ERRADA and the details and scanned copies were entered into the e-Registry (see below).

2. e-Registry was made available to the public. The e-Registry is an electronic database designed by ERRADA. It has been estimated (using very conservative estimates) that allowing for the accessibility of regulations realises annual savings in excess of LE 24 million to the society (individuals...
This review resulted in the streamlining of more than 2,000 regulations based on ERRADA recommendations through 31 ministerial decrees issued between August 2008 and February 2012.

3. Streamline of inventoried regulations.
Inconsistencies and overlap in regulations were eliminated through systematic review, in consultation with the private sector and civil society. This review resulted in the streamlining of more than 2,000 regulations based on ERRADA recommendations through 31 ministerial decrees issued between August 2008 and February 2012. Furthermore, around 1,000 implicitly repealed regulations (which might still be in use despite their repeal) have been identified. Some of these were explicitly repealed but there was general resistance from legal advisers to explicitly repeal regulations that are implicitly repealed. They argued that you cannot repeal something which was already repealed. Being used to this practice, they could not see the problems it created. They were also concerned that someone might claim that the regulation was valid between the time it was implicitly repealed and the time it was explicitly repealed.

4. Elimination of unnecessary administrative burden for citizens in general and investors in particular without impacting state treasury.
After measuring the burden they impose on investors, ERRADA simplified some procedures using the standard cost model, which is used by OECD countries. This resulted in annual savings for business in the tourism and agriculture sectors of around LE 9 million in the following areas: diving and marine activities, hotel management companies and building on agricultural land. ERRADA also issued recommendations concerning a number of industry and trade sectors that could result in potential annual savings (if implemented) amounting to LE 68 million. Areas of savings concerned construction permits for industrial enterprises, industrial registry and operating licences, customs release for hazardous chemicals, licensing for steam boilers and thermal machines and trademarks.

5. Contribution to increasing state revenues through revision of outdated fees in business related regulations.
Some of these regulations go back to the mid-twentieth century and needed to be updated to reflect today’s real costs. For example, as a result of this update, state revenues increased by around LE 86 million annually in some activities such as tourist restaurants, entertainment, hotel and tourist establishments (tourism) and seeds and register of types for propagation of fruit (agriculture). In addition, ERRADA proposed several recommendations to amend fees in other topics in transport, industry, agricultural and tourism, such as licences for tourist cruises, transport services offered by local administration units and fisheries. These recommendations, if implemented, would result in an annual increase in state revenues of nearly LE 445 million.

RIA is an evidence-based decision making tool that explores different options to government policies and programmes. It helps policymakers reach decisions based on sound analysis of costs and benefits of different options to promote good governance. ERRADA conducted RIA regarding the allocation of arable land (based on an assignment by the Minister of Agriculture); shipping agencies (based on an assignment by the Minister of Transport); and increasing heights of buildings (based on assignment by the Head of the Authority for Technical Inspection on Construction Works, affiliated with the Ministry of Housing).

7. Recommendation of general principles to regulate important aspects of economic legislation.
Examples of these principles include setting pricing criteria rather than fixing prices; promoting the establishment of a mechanism of appeal to relieve courts by reducing legal disputes.

Based on the invitation of the United Nations Economic Commission for Europe (UNECE), ERRADA participated in a project to develop a global electronic
database that includes legislation related to market surveillance. More than 30 countries participated in this project which aims to promote transparency and provision of a better business climate in participating countries.

Moreover, ERRADA initiated legislative drafting standards in line with international best practice, to use it as a guide when preparing draft decrees during review. The legislative drafting standards address the way for preparing regulations in terms of format and structure. It also established the following seven criteria for ensuring the quality of the regulation, namely:

- **Clarity**: text should be clear without any ambiguity; it should not include any phrases that could lead to confusion of issues or concepts.
- **Accuracy**: text should be accurate, specific and focused – not so general or broad as to raise questions, and there should always be clear identification of the person targeted by the text.
- **Conciseness**: the phrase should be simple, that is, not too long; only basic verbs should be used.
- **Coherence**: phrases should be coherent with other articles in the same regulation, that is, complementing each other and should not involve any contradiction.
- **Consistency**: drafting of the regulation should be consistent with other existing legislation.
- **Completeness**: drafting should cover all aspects it is supposed to cover.
- **Comprehensibility**: drafting should be easily understood by the average person and should not convey more than one meaning.

ERRADA managed to achieve these accomplishments despite the challenges it faced, which included some initial scepticism as to the added value of ERRADA; limited participation of government entities (only 11 ministries and three governorates) which constrained its ability to enhance the business climate in an integrated way; scepticism of business (and society in general) in government reform effort in light of previous negative experiences.

**The legacy of ERRADA**

With the disruption in government after the political developments in Egypt, it was decided to close down ERRADA in July 2012. Notwithstanding the achievements of ERRADA, it should be noted that its real contribution does not actually lie in its direct output as presented above, but in the systems and methodologies it has laid down and the awareness it raised in Egyptian public administration about the importance of systematic regulatory reform effort and the institutional experience acquired in this respect. One could even claim that to some extent ERRADA in fact paved the way for building a sustainable regulatory management system to meet public demands and aspirations in the new era.

---

Notes

1 [http://eregistry.errada.gov.eg](http://eregistry.errada.gov.eg)

Author

Sherif Fawzi Abdel Gawad  
Executive Director of Arab African Advisers  
Former Executive Director of Egyptian Regulatory Reform and Development Activity (ERRADA)  
Tel: +201 22 2106490  
Email: sfawzi@aaadvisers.org  
Arab African Advisers  
18A Obour buildings  
Salah Salem street, Heliopolis  
Cairo, Egypt