



Annual Report 2016

Investors Council Secretariat of Georgia

The report summarizes the work performed by the Investors Council Secretariat during August 2015- December 2016

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Contents

1. Introduction	3
2. IC objectives	3
3. IC functions	4
4. First IC meeting	5
4.1 Preparatory Phase and organisation	5
4.2 IC recommendations	7
4.3 Follow-up and progress after the meeting	8
5. Second IC meeting	9
5.1 Preparatory Phase and organisation	9
5.2 IC recommendations	11
5.3 Follow-up and progress after the meeting	12
6. Third IC meeting	13
6.1 Preparatory Phase and organisation	12
6.2 IC recommendations	15
6.3 Follow-up and progress after the meeting	16
7. Communications and Publicity	17
i. Website	17
ii. Media appearance	18

1. Introduction

The main objective of the report is to present an overview of the work performed by the Investors Council Secretariat during August 2015- December 2016 in view of the accomplishment of the duties as specified in:

- The memorandum of Understanding signed between the Government of Georgia and EBRD on 12 April 2015;
- Terms of the Reference related to the Head of the Secretariat of Investors Council position

During the period in question, the ICS main objective was to consolidate constructive dialogue between the private sector and the government.

In addition, the core objective has been to provide feasible recommendations to the Government of Georgia on the topics suggested by the business sector, and approved by the IC in 2015-2016.

During the reported period, there were three IC meetings conducted, preceded by multiple working group meetings to address the following issues:

- 1) Tax Administration
- 2) One Stop Front Office for the Businesses
- 3) Public Disclosure of Draft Legislation
- 4) Changes to Court Injunction Practices
- 5) Insolvency Law
- 6) Company Law
- 7) Pension Reform
- 8) Judicial Reform

Investors Council Secretariat continues to adhere to its main principle of transparency, inclusiveness, protection of interest of the business community and continuous support to the important initiatives undertaken by the government to enhance a healthy business and investment climate.

2. The Secretariat's Objectives

2.1 The purpose of the Secretariat

Daily activity of the Investors Council (IC) is coordinated by the Secretariat of the Investors Council.

The secretariat of the Investors Council:

- Based on the member's proposals, but also on the Government's priorities, develops the agenda of the meetings of the Investors Council (and submits for the approval to the Prime Minister);

- Coordinates everyday activity of the Investors Council: prepares the meetings, drafts proposals for discussion, conducts consultation with businesses, organizes technical training sessions;
- Provides to the Investors Council members' summary views and suggestions on the subjects from the Investors Council agenda.
- Steers the implementation process of the Investors Council decisions, monitors and evaluates the results and assesses their impact and effectiveness on the business environment;
- Reports to the members of the Investors Council and to the Prime Minister on progress;
- Maintains close communication with the members of the Investors Council, state institutions and business community;
- Ensures the sustainability and continuity of the Investors Council;
- In collaboration with the press service of the Government, informs the public about the activities of the Investors Council.

2.2 Mandate

The Investors Council is established under the Prime Minister to act as a platform for dialogue between the representatives of the business community and the Government in order to further develop a favourable, non-discriminatory, transparent and constructive business environment.

The working languages of the Investors Council are Georgian and English.

3. Key Functions

The Investors Council is established as an inclusive platform for high-level dialogue between the government, IFIs and business community, with the purpose of:

- Promoting constructive dialogue and the consensus-building on the necessary steps between the government and the private sector in order to address the most pressing issues for the development of the private sector, to improve the business and investment climate in the country.
- Identifying the main impediments to the business environment in different sectors of the economy and proposing intervention measures with efficiency and maximum impact for the business environment and investment climate.
- Discussing proposals for the relevant changes to the legislative or regulatory framework to address the above.
- Facilitating the exchange of experience and the best practices in the regulatory reform promotion process from other countries to contribute to the objectives of the Investors Council.

The Investors Council itself has no decision-making powers, yet on the basis of the debates and proposals of the Investors Council members, the Prime Minister will make informed decisions.

The Investors Council is not meant to replace activity of any institution or any Ministry or the Economic Council, but rather to provide a platform for dialogue, coordination and prioritisation of policies pursued by the State in the business environment, and to analyse the effectiveness of their activity.

4. First IC meeting

4.1 Preparatory Phase and Organisation

The meeting took place in the State Chancellery on 29th October at 15:00pm. Main discussion topics of the meeting were:

- 1) Pension Reform in Georgia, Progress and Action plan
- 2) Creation of Mechanism for Public Disclosure of Draft Legislation
- 3) Defining the Scope of the Labour Inspectorate
- 4) Legislative changes to address the Court injunction practices
- 5) Approval of the next IC Meeting date and Preliminary Agenda
- 6) Approval of the IC Regulations
- 7) Changes in the IC Membership:

In preparation for the meeting Investors Council Secretariat performed the following tasks:

- Recommendations on draft changes to Injunction legislation:

In cooperation with the American Chamber of Commerce (AmCham) participated in the meetings with the Ministry of Economy and Sustainable Development, and contributed to the drafting of relevant changes to the Code of Civil Procedures prepared by AmCham legal experts.

- Creation of Mechanism for Public Disclosure of draft legislation:

Worked with IC members and the World Bank representatives to come up with the recommendations for establishment of a transparent and efficient Public Disclosure Mechanism for draft legislation.

- Problems with Tax Administration:
- Created a working group to work on the identification of key problems faced by the businesses in dealing with the Revenue Services.

- Established working relationship with the Georgian Revenue Service and discussed with the Head of the Revenue Service possible technical assistance project on diagnostics of tax audit, as well as possibility to organize a larger scale Technical Cooperation (TC) project to build on the diagnostic exercise.
- Worked closely with the PWC Tbilisi Office Tax Team to identify the capacity to work on such a project within the frame of the British Government's Good Governance Fund. Discussed this opportunity with the British Embassy and assisted the stakeholders in mobilizing funds via dialogue with the relevant UK teams.
- British Good Governance Fund (GGF) was identified as the main potential donor for IC related TC projects during 2016.
- Governing for Growth (G4G) was identified as another potential project with which the ICS could cooperate on the above issues.
 - Organized a working group on immediate actions to improve investment attractiveness of Georgia.
 - Presented VAT on Capital Goods deferral initiative to be addressed by the Investors Council.

Other operational issues:

- Organized a discussion event for the initiative of Bank of Georgia (BOG) and TBC Bank on Changes to the Law on Insolvency and obtained an expert opinion from the USAID G4G project on the proposed draft changes.
- Organized a working group, and participated in the discussions initiated by the Ministry of Economy and Sustainable Development concerning changes to the legislation to improve Doing Business Scoring of the country for the protection of the rights of minority shareholders.

The Prime minister of Georgia, Irakli Gharibashvili, chaired the First Investors Council meeting.

The meeting was attended by all the participating members of the Investors Council (total of fifteen members) and six invited guests. Among the invited guests were EU Ambassador and the Deputy Chief of Mission from US Embassy.



Picture 1. The Government of Georgia and the EBRD agree to set up Investors Council.

4.2 IC recommendations

Investors Council prepared the following recommendations for the first IC meeting:

- 1) **Pension Reform** – Need for Acceleration of the Process, Progress to date and Implementation Action Plan discussion.

The World Bank provided an update on the Progress and further steps required for accelerating the process.

Asian Development Bank (ADB) made a presentation on the Pension Reform work progress.

- 2) **Need for creation of mechanism to allow for public disclosure of draft legislation** before it has been submitted to the parliament and creation of non-bureaucratic, effective tool for assessing the impact on business environment of any regulatory initiative.

Due to significant legislative changes required by the EU Association Agreement to which Georgia has committed, a coordinating body responsible for changes in the legislation, that has any economic impact, needs to be created. This coordinating body would be responsible for planning legislative drafting and carrying public consultations before such drafts are submitted to the Parliament.

IC Secretariat recommended to post the drafts on one centralised website for public review 6 weeks prior submission to the parliament, so that parties concerned would be given time to analyse, comment and react upon proposed changes.

- 3) **Creation of Labour Inspectorate** to be handled in a careful and responsible

manner, including the need to establish a coordinating unit/ working group to lead this process.

Law on the Supervision of Entrepreneurial Activities was amended to give the Labour Agency of the Ministry of Labour, Health and Social Affairs the right to inspect businesses without the need for court decision. The amendment was planned to come into effect on 1 January 2016. Back then the Government needed to create regulations, which will define the scope of the Agency, its responsibilities, powers, oversight, etc.

If not handled-carefully and addressed immediately this new “Labour Inspectorate” could create significant new risks to business climate and investments in Georgia, and could lead to increase in unemployment levels via increasing the costs of employment. In order to handle this matter with caution, we propose creation of a working group effective immediately, responsible for ensuring that these huge risks are adequately addressed.

4) **Court injunctions causing serious damages** to the financial performance of businesses.

Legislative changes require to ensure that injunctions are not abused, and that defendants are given chance to defend themselves and their economic interests while the court process is not being slowed down. Association of Georgian Law-Firms prepared draft changes to the legislation based on the US model, which address the issue in question.

5) **Approval of the IC Meeting Preliminary Agenda**

Proposed Issues:

- a) Tax Administration: Analysis of the Problems and proposed changes to improve the situation.
- b) Increasing Attractiveness of Investing in Georgia

4.3 Follow-up and progress after the meeting

Pension Reform:

The reform implementation date has been postponed to 2018, however the preparatory work on the reform is underway, and the Ministry of Economy and Sustainable Development leads the process. A number of donors including the World Bank and the Asian Development Bank have been assisting the government in design phase of the reform. The IC has been supportive of this important reform, and will continue to assist the government in all ways feasible to ensure that the implementation phase of the reform progresses successfully. Government’s pension reform progress report will be discussed at the IC meeting in spring 2017.

Creation of mechanism to allow for public disclosure of draft legislation

The Prime Minister and the Minister of Economy and Sustainable Development agreed that changes in law that can have a major economic impact will be posted on the Legislative Herald (“sakanonmdeblo matse”) two weeks prior to being presented to the Parliament. Ministry of Sustainable Development has been engaging with the Council on continuous basis on all major legislative initiatives affecting the businesses on a continuous basis.

The government is in the process of creating a formal mechanism for public disclosure and consultation in place, namely the Regulatory Impact Assessment tool at the State Chancellery, which will allow for public input for all legislative initiatives.

Defining the Scope of the Labour Inspectorate

The Prime Minister underlined the importance of the Labor Inspectorate as a step towards harmonization with the EU and the best international practices to which Georgia needs to abide.

The IC welcomed the Government’s commitment to the establishment of an efficiently operating agency. This includes a small apparatus of highly competent and skilled professionals to make sure the process is implemented with transparent procedures and satisfactory notice period to be provided to the private sector for compliance.

Legislative changes to address the Court injunction practices

Based on the draft prepared by Ministry of Economy and Sustainable Development and cooperation with the AmCham and IC Secretariat in mid May 2016 the Civil Procedural Code of Georgia was amended to reflect a number of the proposed changes, including the most critical change assuring proportionality and fairness of the court-ordered injunctive measures.

5. Second IC meeting

5.1 Preparatory Phase and Organisation

The second Investors Council meeting took place in the State Chancellery on 17th February 2016 at 12:00pm. Main discussion topics of the meeting were:

- 1) Tax Administration
- 2) Increasing Attractiveness of Investing in Georgia
- 3) VAT on Capital Goods Imports

- 4) Insolvency Reform
- 5) Approval of the next IC Meeting date and Preliminary Agenda

In preparation for the meeting Investors Council Secretariat performed the following tasks:

- **Problems associated with tax administration and their suggested solutions**

The IC established a working group to identify key problems with the tax audit process. The group had a number of meetings with the Revenue Service where key problems faced by businesses were identified and discussed.

- **Increasing Attractiveness of investing in Georgia:**

Georgian Chamber of Commerce and Industry (GCCCI) and Business Association of Georgia (BAG) have done extensive research on the concept of the “Business House”, which would see the creation of a one-stop customer oriented front desk, able to advise local and international businesses and start-ups on how to register, obtain license, receive any additional technical support and/or advice. The IC expressed readiness to commit resources to work further on this initiative.

- **VAT on Capital Goods Imports:**

The IC Members initiated the discussion on proposed changes to VAT taxation rule/procedure on imported capital goods.

- **Insolvency Reform**

The IC invited Milo Stevanovich, Chief of Party of Governing for Growth in Georgia (USAID project) to present to the IC the inadequacy of the current insolvency system in Georgia, which is reflected in an undesirable ranking in Doing Business rating by the WB

The Prime Minister of Georgia, Giorgi Kvirikashvili, chaired the second Investors Council meeting.

The meeting was attended by all the participating members of the Investors Council (total of fifteen members) and thirteen invited guests.

5.2 IC recommendations



Picture 2. The Second Meeting of Investors Council.

Investors Council prepared the following recommendations for the Second IC meeting:

➤ **Tax administration:**

Freezing all bank accounts of the companies paralyses them. It was suggested that the tax lien should be proportionate to the liability in order to allow companies to continue functioning. In addition, freezing of bank accounts should be enforced only as a last resort in cases where the Revenue Services (RS) believes the assets may disappear.

➤ **Increasing Attractiveness of Investing in Georgia**

In order to increase Georgia's visibility and to improve communication with the public locally and internationally it has been proposed to:

- Select the most attractive sectors of the economy and show case those abroad to all potential investors;
- Launch strong advertising campaigns for international community;
- Target Georgians living abroad cultivating emotional attachments, offering incentives to invest in Georgia;
- “Come Home” initiative presented by Eric Livny, who shared Israeli experience in attracting the diaspora back to Israel;

➤ **Insolvency Reform:**

To solve the problem associated with insolvency system in Georgia, IC came up with the following steps:

- a) A new law;
- b) A specialized legislation governing insolvency office holders;
- c) An appointment of the most appropriate regulatory body;

5.3 Follow-up and progress after the meeting

Increasing Attractiveness of investing in Georgia:

- The Prime Minister instructed the Ministry of Diaspora to work with Eric Livny to produce a concept paper for further implementation of the “Georgians Come Home” concept.
- The Prime Minister welcomed the fact that the IC was well advanced on the “Business House” concept. He urged and encouraged the IC to engage with the Ministry of Economy and Sustainable Development and the Ministry of Justice in order to define the best model to be ready to be implemented as soon as practicable.

VAT on Imported Capital Goods

- The Prime Minister’s position was to further continue discussion of the legislative initiative with the Revenue Service in order to ensure that this initiative is formulated in such a way to encourage investment, but also to provide a level playing field for all market participants.

Insolvency Reform

- The Prime Minister requested to establish an insolvency reform working-group that would communicate with the Ministry of Economy and Sustainable Development and the Ministry of Justice to come up with the a business friendly draft law to be proposed to the Government and the Parliament.

6. Third IC meeting

6.1 Preparatory Phase and Organisation



Picture 3. Prime Minister, Giorgi Kvirikashvili addressing IC

The Investors Council meeting took place in the State Chancellery on 20th May 2016 at 15:00pm. Main discussion topics of the meeting were:

- 1) Estonian Tax Model
- 2) One stop front office for foreign and local investors
- 3) Legislative changes to address the Court injunction practices
- 4) Reform of Judiciary
- 5) Proposed Changes to the Law of Entrepreneurs
- 6) Approval of the next IC Meeting date and Preliminary Agenda

In preparation for the meeting Investors Council Secretariat performed the following tasks:

- **Problems associated with tax administration and their suggested solutions**

The Investors Council Working Group on Tax consulted with the Revenue Service to develop a plan of action for public private engagement on tax reform.

- **One stop front office for foreign and local investors**

IC working group has been established with an aim to support the Ministry of Economy and Sustainable Development in developing a concept paper for a “one stop front office”

for business related state owned services. The group held two working meetings and defined further steps and actions in close cooperation with respective representatives of the Ministry.

- **Legislative changes to address the Court injunction practices**

The finalized draft changes were presented to the parliament for consideration.

- **Reform of Judiciary:**

- IC working group was established to work on the steps required for further reform of the Judiciary System and elaborated list of five priority measures
- ICS drafted the TOR for the technical assistance project for determining the optimal volume of workload of judges and court staff. The ICS will seek donor financing to fund the technical assistance work, the project will help understand current constraints of the courts if any, and further assist them in offloading.

- **Proposed Changes to the Law of Entrepreneurs**

- Ministry of Justice of Georgia has been working on the comprehensive new Law of Entrepreneurs (LoE) adoption of which is not envisaged during this calendar year.
- As per the request from Business community the IC established the working group, which developed the draft immediate changes to the LoE to improve current legislation. It was offered that the concepts of IC's proposed changes be reflected in the new Law of Entrepreneurs once it is drafted and approved.

- **Insolvency Reform**

Ministry of Justice (MoJ) of Georgia worked on the insolvency reform with the assistance from GIZ.

- **Approval of the next IC Meeting:**

Pension Reform was named as one of the main economic reforms on the Country's agenda.



Picture 4. Third Investors Council Meeting and Invited Guests.

The Prime minister of Georgia, Giorgi Kvirikashvili, chaired the second Investors Council meeting.

The meeting was attended by all the participating members of the Investors Council (total of fifteen members) and fourteen invited guests, including the Minister of Justice-Tea Tsulukiani.

6.2 IC recommendations

Investors Council prepared the following recommendations for the third IC meeting

- **Tax administration:**
 - American Chamber of Commerce, working with USAID, to conduct dialogue with businesses on the operation of the existing Government tax audit. This will connect with work on the implementation of the Estonian Model and broader reform of the tax system.
 - At the request of the RS, the IC working group cooperated with the Georgia Revenue Service to prepare the Terms of Reference (TOR) for the technical assistance project: Regulatory Impact Assessment (RIA) of implementation of EU VAT directive.
 - The IC secretariat approached the British GGF fund to obtain financing for the project. The preliminary timeline for the Technical Assistance Project Commencement was June 2016.

- **Proposed Changes to the Law of Entrepreneurs**

The IC working group proposed changes over the following issues:

- Strengthen rights of the minority shareholders to call special meetings of shareholders;
 - Refine provisions of the Law of Entrepreneurs (LoE) regarding definition of the distributable profit;
 - Provide clarification on conflict of interest rules, and pre-emptive rights of LLC-shareholders;
 - Propose exemption for corporations (LLCs, JSCs) from impractical mandatory requirements of unanimous voting of the present LoE.
- **Insolvency Reform:**
 - Insolvency Reform, based on its complexity and multi- disciplinary nature ideally should be co- led by the Ministry of Justice and the Ministry of Economy and Sustainable Development (MoESD)
 - Early consultations and information sharing at least on the concept paper level would be largely welcome by businesses who are going to be impacted by the new law

6.3 Follow-up and progress after the meeting

Tax administration

Two projects supported by the Investors Council secretariat were carried out in 2016:

A) Estonian Tax model implementation technical assistance project

IC working group designed a technical assistance project with the Assistance from Price Waterhouse Coopers Georgia, to help the Revenue Service in the implementation of the said model. The Technical assistance project was implemented by PWC, and funded by the British GGF. The project started in August 2016 and was completed in December 2016.

B) USAID funded and American Chamber of Commerce (AmCham) implemented Project to identify businesses' perceptions on Tax audit practices in Georgia.

AmCham conducted a dialogue with businesses on the operation of the existing Government tax audit. This was connected to the work on the implementation of the Estonian Model and broader reform of the tax system.

Reform of Judiciary

As every member of the Investors Council agrees that the issue of the offloading of courts is critical, it was agreed that there would be efforts to encourage arbitration, mediation and other alternative dispute resolution mechanisms.

A working group was established together with the Ministry of Justice within the framework of the IC in order to work on proposed initiatives as well as on capacity building problems.

Proposed Changes to the Law of Entrepreneurs

Continued IC cooperation with MOJ and MoESD on the LoE via the working group

Insolvency Reform

A new working group was established with the support of the German Development Agency - GIZ with participation of the representatives of the IC Secretariat, Ministry of Justice and the Ministry of Economy and Sustainable Development as well as USAID-G4G Project, in order to progress on the Insolvency reform

7. Communications and Publicity



Picture 5. Bruno Balvanera, The Head of EBRD Georgia giving an interview to the press.

i. Website

The IC Website has been managed by the Secretariat since its launch in December 2015. The website provides essential information about the Investment Council such as IC meetings (agenda, minutes of meeting, PPT presentations, technical notes etc.), press releases after every IC Meeting, IC & Secretariat’s activities such as important meetings with stakeholders and focus group meetings, publications in the media, etc. The link to the website is: www.ics.ge

ii. Media Appearance:

Media and the general population interested in the business environment in Georgia positively accepted the creating of the Investors Council. There are dozens of articles and videos uploaded online describing major events concerning the IC. Few of the media reports include: Maestro TV, Rustavi 2, interpressnews.ge, ebrd.com, agenda.ge, cbw.ge, etc. Links to the articles can be found on the official web page of the Investors Council Secretariat.

First meeting of Investors Council held in Tbilisi

Agenda.ge, 29 Oct 2015 - 18:35, Tbilisi, Georgia

The Government of Georgia leadership are striving to attract more foreign investments to help Georgia on its path of reforms and assimilation into Euro-Atlantic structures.

Today at the first Investors Council meeting in capital Tbilisi, potential foreign investors learned about the benefits they could receive if they put their money into Georgia.

The Investors Council meeting was attended by state officials, members of the local business sector and representatives of the European Bank for Reconstruction and Development (EBRD).

The Council was created in May 2015 through a Government initiative. EBRD supported the action and helped bring together all of the major players in the global investment market to discuss Georgia's investment prospects and ways to make Georgia more attractive for foreign investors.

We created the Council and that is a step forward. The Council will help the Government, investors, businessmen and the non-governmental sector to exchange views to make Georgia's current business environment more attractive.



Local and foreign officials attended the first meeting of the Investors' Council. Photo by Prime Minister's webpage.

"I hope that the Council's activities will bring the relationship between the Government and business sector to a new, advanced level," said Georgia's Prime Minister Irakli Garibashvili today at the meeting.

EBRD Director for Caucasus, Moldova and Belarus Bruno Balvanera spoke about the necessity of ensuring Georgian legislation fully complied with European standards, which was an essential element of the Association Agreement (AA) Georgia signed with

<http://agenda.ge/news/43390/eng>

Page 1 of 3

Picture 6. An article about Investors Council's first meeting on Agenda.ge