

Investor Council Georgia Work Plan 2021-2022

I. COVID-19 pandemic response

From the very early stage of Covid-19 pandemic in Georgia, Investors Council initiated number of steps to assist the Government in dealing with the crisis. In a very short time the Survey of Georgian economy and businesses was approved and conducted by the ICS and PwC Georgia. Next the Investors Council elaborated a set of recommendations to the GoG for the post-crisis economic measures to deal with the economic challenges posed by the COVID-19 pandemics. In September 2020 the second survey by ICS and PwC on assessment of the impact of Covid-19 on the Georgian economy and business was conducted.

Early in 2021, with initiative of ICS, EBRD started a technical assistance project funded by GGF, “Assessment of the Impact of Covid-19 on the Georgian Economy and preparation of a Medium-term Strategy for recovery and Tax revenue shortfalls”. The assessment will enable the Government to understand the extent of the impact of the pandemic on priority economic sectors and help identify medium and long-term policy measures and initiatives to help mitigate the negative impact of Covid-19 on the economy, boost private sector resilience and investor confidence, and support Georgia’s economic recovery.

Also in 2021, ICS with donor support intends to initiate the third survey of Georgian economy to obtain up-to-date information on the overall health of the different industries and identify challenges. Furthermore, the IC member business associations and IFIs intend to work closely with the Government to voice the problems of the private sector and provide recommendations.

Counterparty: GoG, MoESD, MoF

II. Securitization legislation

Securitization converts an asset, a risk, a future cash flow, into marketable securities to raise funds, creating liquidity, or transferring risk by selling the securities to external investors. It can be used in various sectors and for a range of assets and be conducive for the issuance of many types of tailored-made financial instruments.

Securitization gives the firms otherwise unable to raise capital due to their specific circumstances opportunity to raise capital using securitization. The owners of the asset (originators) may create liquidity by selling the future cash flow to a securitization SPV. As for the investors, securitization can be beneficial since they gain the opportunity to access assets that could not otherwise be accessible to them.

General market liquidity might also improve as illiquid assets obtain liquidity. The need for securitization is now more apparent as Investment Funds Law has been enacted in Summer 2020 by the Parliament of Georgia.

For the above reasons, ICS cooperates closely with MoESD, MoF, and NBG to create an enabling legal framework – Law on Securitization – for this industry to develop.

The initial draft has been prepared with the support of the USAID economic development program. In cooperation with MoESD ICS got involved in setting up a smaller editing group accountable to a larger drafting group consisting of all stakeholders including market participants. With this in mind, ICS contacted all its members who nominated their representatives to participate in the drafting and review process.

In full coordination with MoESD and other stakeholders, ICS is engaged in planning the working process of the editing and working groups which is expected to intensify starting from spring 2021.

Counterparty: MoESD, NBG, MoF

III. Factoring Legislation

Factoring is an important tool to support companies in managing the required level of liquidity and offering them the advantage of obtaining price discounts from suppliers. Factoring is conducive to improving profitability, liquidity, and cash-flow of business, management of time, credit, and default risks. There is strong evidence that the legal environment of factoring is of utmost importance for the saving of transaction cost and improvement of costs and safety determination process of factoring transactions.

To support the development of factoring products in Georgia, ICS closely works with EBRD, MoESD, MoF, and NBG at drafting factoring legislation within a factoring working group.

ICS is in the process of preparing the draft law and other pertaining legislation for the governmental approval and parliamentary process. The legislative package is expected to be ready for the start of legislative procedures in spring 2021.

Counterparty: MoESD, MoF, NBG

IV. Leasing market development

The leasing sector of financial intermediation is relatively underdeveloped in Georgia. It is especially useful for MSMEs and startups and has a potential to significantly contribute to economic growth in Georgia. There are certain legal aspects regarding this field that require improvement.

In 2020 the ICS started cooperation with the Leasing Companies Association of Georgia to identify ways to facilitate development of leasing market in the country. To this end GGF funded technical assistance project, Development of Alternative Financing for MSMEs, was initiated by the ICS. The project started in December 2020 and is expected to finish in March 2021. The project will conduct analysis of current and potential leasing market in Georgia with a special focus on regulatory assessment, and prepare a leasing development strategy, regulatory framework, and roadmap. A working group will be created in the IC that will continue working with the Government in order to achieve adoption of the strategy and implementations of the recommendations of the project.

Counterparty: MoESD, MoF, NBG

V. Business Disputes & Judiciary

A well-functioning judicial system free of any undue influence has a significant bearing on the country's economic competitiveness and its attractiveness for investments. IC believes that Georgia's less than enviable position in this regard, showed, among others, by the Global Competitiveness Index should be addressed to give the country a chance to succeed in the global competition for FDI especially in light of changing FDI geography due to COVID 19 pandemic.

IC intends to draw the attention of the state actors and other stakeholders to the need for reforms in the judiciary with the emphasis on the resolution of business disputes, which is, an important precondition for various other FDI-related efforts of the government to succeed.

Yet another direction of reforms should be resolving the problem of the case overload of the courts. A part of the solution might be the creation of a special procedure for resolving petty disputes and continuous support for ADR mechanisms (mediation & arbitration).

Counterparty: HCOJ

VI. Insolvency Reform

IC has been actively involved in drafting the new Insolvency act of Georgia (Law on Rehabilitation and Collective Satisfaction of Creditors) to replace the often-criticized Law on Insolvency Proceedings of 2007.

Georgian Parliament has adopted the new Law on September 18, 2020. The law provides that its provisions will become fully effective from April 1, 2021. Before that, MoJ is obliged by the law to adopt the secondary legislation necessary for the new legal framework to start working. Namely, further normative acts must be adopted to regulate the profession of insolvency practitioners: authorization and creation of the unified registry of insolvency practitioners as well as the electronic system for a random assignment of insolvency cases to insolvency practitioners.

ICS intends to continue cooperation with MoJ and other actors to support the completion of this important legal reform.

Counterparty: MoJ

VII. Ownership of Agricultural Land

On June 25, 2019, the Parliament adopted in final hearing two relevant laws:

- (i) Organic Law on Agricultural Land; and
- (ii) Law on Determination of designated purpose of land and sustainable management of the agricultural land,

Drafts of the Organic Law on Agricultural Land and Law on Determination of designated purpose of land and sustainable management of the agricultural land have been reviewed and commented on by the IC Land Law Reform Working Group. IC representatives, together with the representatives of the Agricultural Committee of the Parliament and the AmCham, also took part in PPD platforms for discussing the new legislation. The laws cover principal issues related to the ownership of agricultural land by foreigners. The new legal regime creates a possibility for foreign or foreign-controlled enterprises to own the agricultural land based on an investment plan subject to governmental approval. The laws refer to the Decision of the Government as the secondary normative act to determine further technical procedures regarding decision-making on agricultural land ownership by foreigners.

For the new legal regime to become operative the Government of Georgia must approve several regulations, most importantly the regulation on submission and approval of investment plans.

The draft government decree must be submitted by the Ministry for Agriculture and Environment in agreement with MoESD and approved by the Government.

ICS will continue working closely with all stakeholders in developing practicable submission and approval procedures. ICS expects the relevant government authorities (Ministry of Agriculture, Land Management Agency) to come up with a revised version of the regulations on submission and approval of investment plans in early 2021.

Counterparty: MAE, MoESD

VIII. Company Law Reform

The Draft Law on Entrepreneurs envisages fundamental changes to the existing company legislation to increase the predictability of the legal framework for practitioners and judges alike.

Furthermore, the draft transposes EU company law directives covered by the EU-Georgia Association Agreement into Georgian Law.

ICS will continue working with the state actors and other stakeholders including the Parliament to speed up the adoption of the draft together with other relevant legislation changes. ICS will also participate in finalizing the extended explanatory notes (guide) to the draft law on Entrepreneurs, which is intended to serve as the first guide for practitioners and judges.

The discussions on the draft are expected to start in the Parliament in Spring 2021.

Counterparty: MoJ, MoESD

IX. RIA Legislation, Development of Regulatory Impact Assessment (RIA) platform

From January 2020, according to the latest changes to the Organic Law “On Normative Acts”, preparation of regulatory impact assessment (RIA) documents is obligatory for the legislative acts provided by the relevant Governmental resolution. Furthermore, upon a decision of the Government, RIA is obligatory for the legislative drafts prepared by the Government. RIA methodology has been approved by the Governmental resolution No. 35 of January 17, 2020.

In cooperation with IC members, other business organizations and USAID Economic Governance Program, ICS considers supporting the creation of a peer review platform for qualitative and quantitative evaluation of the RIA documents developed by the Government and concerning the investment and business environment in Georgia.

Furthermore, the current language in the Law on Normative Acts might be reconsidered, to make RIA documents necessary for the legislative acts provided by law, including for those initiated by MPs.

Counterparty: MoESD, MoJ

X. Public Procurement Reform

The importance of development/improvement of the public procurement system of Georgia is recognized as one of the crucial processes in respect to overall economic development, especially in the context of the EU-Georgia Association Agreement, which includes in Title IV a dedicated Chapter 8 on public procurement, comprising Articles 141-149 and an associated Annex XVI.

Adoption of the new Law on Public Procurement of Georgia, as well as related bylaws (being part of DCFTA Implementation Action Plan), following broad discussion with business sector representatives might contribute to the development of public procurement system in Georgia.

Counterparty: State Procurement Agency (LEPL), GoG, MoESD

XI. Assistance to Georgian National Tourism Administration

Tourism and hospitality sector represents one of the biggest sectors of Georgian economy and before the start of COVID-19 pandemic it was rapidly growing every year. However, after the start of pandemic in 2020, it has been the hardest hit sector in Georgian economy.

Since 2018 IC Tourism Board cooperated with the agency and in periodic meetings provided ideas and suggestions for annual budget and overall strategy. However, the COVID-19 crisis presented extraordinary challenges to the sector and they require equally radical response. The Members of IC agree on significance of assistance to the sector. For that matter the IC Tourism Board should be revitalized and strengthened and work actively to provide advice to GNTA and the Government.

Counterparty: Georgian National Tourism Administration, MoESD

XII. Energy Sector Reform

Energy security of the country is one of the key issues where the Investors Council is keen to engage more actively. Electricity market development is particularly crucial in this regard. Electricity generation via renewable sources (hydro, wind, solar) has a potential to be one of the most attractive sectors for the investors. However, number of circumstances resulted in decrease of FDI in energy sector in recent years.

The IC intends to address the problematic issues of the sector through a working group comprised of industry experts, representatives of companies and investors involved in the sector, IC members, IFIs and development partners. The issues of overall sector strategy and legislative framework, investor aftercare, power purchase agreements (PPAs), public-private partnership, and development of grid have been identified as most pressing so far. In order to achieve tangible results, the working group should work closely with key government agencies, most importantly the Ministry of Economy and Sustainable Development, Georgian Energy Development Fund and the Ministry of Finance.

Counterparty: MoESD, GEDF, MoF

XIII. New Investment Policy and cooperation with Enterprise Georgia's Invest in Georgia branch

In 2020, IC actively cooperated with OECD in preparation of the Investment Policy Review of Georgia. According to the recommendations, Georgia needs to develop a comprehensive investment policy statement, through advocacy and coordinated approach among different stakeholders further strengthen the FDI attraction function, improve high level aftercare system – related to regulatory and policy challenges that investors face and correspondingly improve one-stop-shop services. With the new FDI strategy (of Enterprise Georgia) aiming to attract export and technology oriented sectors, it is important to place these sectors on higher agenda for investment promotion.

One of the main recommendations was to empower the “Invest in Georgia” brand – driven by Enterprise Georgia. To this point, IC could provide additional guidance function to help steer Enterprise Georgia's activities. ICS will further collaborate with Enterprise Georgia to provide recommendations and guidance for the development and implementation of the FDI Strategy.

Counterparty: MoESD, Enterprise Georgia

XIV. Construction Sector

Construction is one the largest sectors of Georgia's economy. The sector has been exhibiting steady growth over past several years. The COVID-19 pandemic was a major setback for the sector. The pandemic-related restrictions and lockdowns disrupted construction works but the major factor was decrease of demand and overall uncertainty. The Government enacted mortgage loan subsidy program to stimulate demand and it already provided some positive results. In order to further support the sectors additional measures are required.

Over the past several years construction regulations have been tightening in line with general trend of harmonization with EU regulations. While this is undoubtedly a positive development, it is important to maintain efficiency of the procedures of issuing of construction permits and to ensure adequate quality control during construction. Complaints have been voiced by the representatives of the sectors regarding prolonged and nontransparent process of the permit issuance. Improvements in this direction will have a significant positive effect on development of the sector and on investor sentiment. The safety issues, both workplace safety and the safety of completed buildings and structures, are also very important.

ICS intends to consolidate the efforts of its members, representatives of the sector, to identify specific shortcomings of regulations and inefficiencies of procedures, and provide policy recommendations to the relevant authorities.

Counterparty: MoESD, Ministry of Infrastructure, local governments

XV. Pension Reform

The current pension scheme in place consists of the universal pension payouts system (Pillar I) and a contributory pension savings scheme (Pillar II). According to the reform plans of the Government of Georgia Pillar I and Pillar II pension schemes should be complemented by the establishment of a fully private pension scheme (Pillar III), to create further mechanisms for the provision of a decent standard of living to its elderly citizens.

The reform resonates with the commitment of the country under the EU-Georgia Association Agreement to harmonize the domestic legislation to the EU Directive (EU) 2016/2341 on the activities and supervision of institutions for occupational retirement provision (IORPs).

ICS intends to cooperate closely with MoESD that oversees the coordination of the reform efforts of all stakeholders in supporting the reform, including by offering IC platform for the public-private dialogue.

Counterparty: MoESD, MoF, NBG

XVI. Support Digitalization Process in Public Sector

It is important to encourage relevant government agencies to increase the scope and quality of the digital services they are offering, especially in the financial sector, transportation and logistics. The first relevant project will assist the Maritime Agency of Georgia to prepare a feasibility study for the development of a port community system in the Georgian ports to contribute to the full integration and digitalization of the maritime transport chain.

Further development of e-governance services to maintain high positions in international rankings should also be among the priorities. According to the 2020 assessment, e-government score of Georgia is 0.72, which puts the country in 65th place among 193 countries. Two years ago, Georgia was ranked 60th with a score of 0.69. Even though, Georgia has improved its score by 0.03 points in 2020, it dropped in the ranking by 5 positions. This can be attributed to a higher rate of development shown by other countries in comparison to Georgia.

ICS will closely work with different government agencies and IC members to promote development of e-services as a part of the county's investment attraction strategy.

Counterparty: MoESD, MoJ, MoF