Section 2.3: Assessment tools
Assessing Government

Purpose

This Tool will guide EOs through the process of situating where their issues lie with governments. Which Ministries and agencies have influence over the EO's proposal and which ones can be positively influenced by the EO.

How to use this tool

This Assessment Tool is designed for use by EOs. It is best used as a guide for employers and enterprise development specialists who will facilitate the assessment process with the EO and among other actors.

Step 1:	Different levels of government to influence
Step 2:	Identify which arms of government to influence
Step 3:	Identify allies in government
Step 4:	Assessing consultative channels

Introduction

The core business of representative employers' and businesses' organizations is to advocate, on behalf of the business community, for policy and regulatory change that will ensure an economic environment conducive to enterprise creation and development. Effectively influencing government at all levels is therefore critical to the EO's mission.

Step 1: Different levels of government to influence

Government can operate at a number of different levels - national, provincial or local. Central or national governments set the national framework (e.g. the Constitution) and direction (e.g. National Development Plan) for the country, but other levels of government undertake activities that also affect enterprise development. These may be provincial, state, regional, local, town or village governments, authorities or councils.

See Assessment Tool 4 "Assessing the policy, legal and regulatory framework" for a breakdown of the different levels of government.

Local public officials are often the ones who implement decisions taken at regional or national levels. As such, they can make or break the success of an EO's efforts in practice. Thus, strengthening dialogue between central and local officials often is very important.

*Is government centrally controlled with power of legalisation and regulatory oversight at the **national level**?, **provincial?, local?***

The level of government will greatly influence the EO's approach to advocacy. Strong local government would suggest a focus on developing the advocacy ability of regional branches of the EO.

EXAMPLE:

The EO has identified taxation as a key constraint on enterprise creation from its national survey. Where should it focus its efforts?

The EO's analysis may have flagged the issue as widespread, but perhaps uncovered regional differences. It also identified specific taxes that are not centrally collected as being very time consuming and frequent. Some regions may have reported corrupt officials.

In this case the EO will need a national advocacy strategy on the issue – with regional differences as highlighted above.

The position may look something like this:

✓ Call for single tax payments

✓ Tax system harmonized to fewer periods in the calendar

✓ Codes of conduct for collectors, with more effective measures to eradicate corruption (e.g. more direct e-payments)

✓ Increased benchmarking across the entire tax authority (to raise standards to a certain minimum level)

The EO's approach will probably focus on the worst affected regions of the country as the 'examples' to illustrate the problem. The regional branches and sectoral associations will need to be equally mobilised for although much of taxation is collected centrally, provincial and regional levels have their own tax collection authorities. The overall approach should be to emphasize the potential of corrective action.

The "influence mapping tool" below can assist EOs in identifying the level of government it should focus its efforts on.

STEP 1: ASSESSMENT SUMMARY

	CENTRAL	PROVINCIAL	LOCAL
Who provides most practical administrative functions for business (e.g. licensing)?			
At what level are the elected representatives that you could lobby?			
Provision of information on enterprise development policies is done at what level?			
Who has the direct regulatory role?			
What is the extent of decentralization of decision-making?			
To what extent do local layers of government have responsibility for implementing decisions taken at national level?			
How effectively do layers of government work together?			

Step 2: Identify which arms of Government to influence

In analysing the approach to resolving a constraint on enterprises, EOs need to take into account that the source of the constraint - law, regulation or administrative function –may fall within the remit of several government agencies, at perhaps different levels of governance.

2.1   Which Ministries to influence

The EO in the first instance needs to identify which Ministry is responsible for the area it wants to change or reform. This is usually straightforward. The Education and Training Ministry is responsible for skills' policies and initiatives; the labour Ministry labour legislation and so on.

All government Ministries are relevant to the EO, as from time to time issues may emerge that are within the purview of Ministries that are not usually the first point of reference in government for an EO.

An EO's proposal may well fall within the remit or affect several Ministries, so all, to different degrees of intensity, need to be targeted for engagement. Plans for an increase in a 'visitors' tax' may have emerged from the Finance Ministry and may be driven by that Ministry, but the Ministry charged with tourism may be the EO's best ally in seeking to temper the proposal.

The EO needs to take a holistic view of government and develop a wide network of contacts with officials across ministries. Policies increasingly cut across different areas and officials from one department may take a different view to officials from another. The EO can influence both.

The EO needs to maintain and foster close and deep relations with officials at all levels in the key Government Ministries that the EO interfaces with ,such as Financ, Planning, Trade, Education, and Environment.

2.2   Government agencies and authorities to influence

Government agencies and authorities (e.g. tax collection agency or a food safety authority) mostly do not create policy, they implement it. They can be equally important actors and should not be ignored in the EO's anylsis.

These bodies do have control over **how** they implement policy - the means and the degree of interpretation. This can be crucial and can be much more impactful on business that the actual regulation. Regulatory bodies can add to the administrative burden placed on businesses by 'improving' the administrative rules within the overall defined policy framework.

They can also influence Ministries on the application of a policy and can be advocates for change – although usually never towards a diminishment of their own role. So they are important actors in the advocacy chain which the EO must influence, notwithstanding the fact that they can be difficult entities to influence. The EO is probably more likely to effect change with a given agency if it focuses on reducing the administrative burden rather than arguing for a change in policy that leads to them playing a less important role.

The Government rating index is a useful tool for the EO in mapping Ministries to target.[1]

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[1]   Adapted from: Business New Zealand-KMPG *Cost of compliance annual survey*

STEP 2: MINISTRY/AGENCY ASSESSMENT

	NAMES OF ISSUE:						
President's Office	Have you had contact with this agency/dept over the past 12 months?	Level	If yes, how helpful did you find the agency/ dept?	Jurisdiction and audience	Strengths	Weaknesses	Rank
Ministry of Trade and Industry	Yes/No	National Provincial Local	helpful amber unhelpful	Advises president on appointing ministers, structure of national government, new policy initiatives	Personal access to President. High concentration of enthusiasm for private sector development and technocratic ability among foreign educated staffers.	Regarded as out of touch with the public. Often has difficulty in practice in getting their initiatives accepted by other departments.	green amber red
Finance Ministry				Regulates industry and represents government in international trade talks	Strong negotiators. Minister is one of the most powerful figures in government.	Many civil servants have bureaucratic mindset and take a confrontational approach to private sector.	
Planning Ministry							
Labour							
Environment Ministry							
Transport Ministry							
Department of Labour							
Education Ministry							
Health Ministry							
Ministry for women's affairs or gender policy							
Enterprise Development Department							
Accident Compensation							
Corporation							
Environmental Risk Management Authority							

Companies Office	
Food Safety Authority	
Taxation authorities	
Intellectual Property Office	
Local Authorities	
Agriculture & Forestry Ministry	
Customs Services	
Immigration Services	
Occupational Safety & Health Services	
Transport Agencies	

Step 3: Indentify allies in Government

Public sectors are rarely homogenous in their willingness or capacity to engage in dialogue. There will often be wide differences between different levels of authority, agencies, departments, and regions.

Tensions (turf fights) between various government departments are likely to occur as well. The EO can use these dynamics to its advantage, but needs to bear in mind that relationships with all ministries need to be maintained over time. The following two examples demonstrate the multiplicity of interests across government.[2]

EXAMPLE:

The ministry of finance may want to increase taxes on foreign trade to generate revenue. It may be supported by government departments that confront lobbying for protection by declining industries but that are resisted by the ministry of economic planning which may seek to use liberalization and tariff exemptions as an instrument of investment and export promotion. The ministry of labour may favour trade barriers to safeguard employment in uncompetitive industries, while the ministry of foreign affairs may favour more open policies as part of a foreign policy strategy.

The EO's approach should therefore be conceived in the context of the political game within the government. If the game is played well the EO could have a decisive role to play in the fight between different government bodies.[2]

[2]   Example from Business advocacy and trade policy making, International Trade Centre, 2002.

EXAMPLE:

A significant constraint on economic growth identified by the EO is a lack of understanding of new food and qualitative standards. These were introduced in new legislation the previous year in an effort to tackle a series of high profile cases of contaminated food.

One year on and no discernable difference can be seen, the legislation has had the unintended effect of freezing out small suppliers; information on the new legislation is difficult to understand and find. Authorities that were supposed to help the business community with the new legislation have taken an unhelpful approach. *The legislation is failing.*

Having identified change as necessary, the EO now will need to target several agencies such as the Department of Health where the initial legislation emanated from and the Food Safety Authority which is the implementing agency.

These will be the primary points of engagement but considering the approach they have taken so far it will not be enough. The Enterprise Development Department which has responsibility for SME development in the country – *a priority under the national development plan* – will need to be targeted as a voice for change within government.

The EO's strategy then is to identify a champion for change in a rival ministry on an issue that is a national policy priority.

The fact that a government has multiple interests and different Ministries, with different and occasionally competing views, also creates difficulties for the EO in its relationships.

The most common cause of governance failure is the lack of coordination across multiple legal and bureaucratic jurisdictions, which leads to excessive and overlapping demands on businesses. Outdated regulations and inefficient regulatory techniques continue because there is no accountability for their performance, and no review and updating process in place.

2.2   Maintain and build relationships across departments

The most important officials are the key decision-makers within the main Ministries the EO interfaces with. These individuals need to be cultivated and contacts continually maintained. But the EO also needs to identify the lower level officials who actually draft the policy recommendations.

Both these types of officials need to see in the EO an important resource for their work and its potential impact on the productive side of the economy.

2.3   Handling Ministerial Relations

Depending on the political situation Ministers can be all powerful and fully drive policy in their Ministry, while in others it can be the officials in the Ministries that drive the agenda – while in most democracies it is politicians who (largely) set the policy agenda.

It will depend on the EO's analysis of the role of the Ministry and its officials and the role and power of the Miinster in terms of its engagement processes.

There can be a mistaken view that once an issue is in the public domain the Minister is the point to influence. However, it is in many cases probably too late. The policy is already drafted! The Miister would have to *'back down'*. The time for the meeting with the Minister would have been when the 'idea' was first floated and the ancillary lobbying of officials would have needed to take place at that stage.

So meeting the Minister is very important for an EO, but the key question is timing.

The other chief consideration is the means by which the EO meets the Minister. Is it formally through

an EO delegation, or is it informally, perhaps through the EO President who is a personal friend of the Minister.

Both can work but both need to be part of the EO's strategy. If the President has a personal relationship with the Minister, the EO should use it – but it needs to be controlled and fit within the EO's overall strategic objectives. The EO also needs to consider which issue it wants the EO's President to spend his or her political capital on.

No matter which approach is taken – and no matter when in the policy cycle – the EO needs to be well prepared. Arguments need to be well thought through and should aim to offer the Minister 'solutions'. If possible, it will help to get civil servants 'on-side' before meeting the Minister.

STEP 3: ASSESSMENT SUMMARY

Which ministry or institution is or would be responsible for initiating and then taking a lead role on the issue?	Name of Ministry/ Agency
What other Ministries/Agencies would be impacted?	Name of Ministry/ Agency
If it there are multiple departments/agencies is there a cross-departmental steering group?	Yes/No
Are there established mechanisms to facilitate communication between the different institutions involved?	Yes/No
What existing relationships does the EO have with the lead department?	Seniority of contacts: Are there examples of recent good collaboration with the EO?
Can sympathetic officials in other (not the lead, but affected) departments/agencies be mobilized to advance the EO perspectives?	Yes/No
Does the EO have a long established relationship with the Office of the Minister, irrespective of the incumbent?	Yes/No
Are there regular interfaces between EO Senior Management and the Minister at policy level?	List occasions in last 12 months and issues raised
Are there regular opportunities for the Minister to hear directly from EO members at EO - Ministerial forums?	List occasions in last 12 months and issues raised
Does the EO have a current office bearer who has a personal relationship with the current Minister?	Yes/No
Has this relationship been utilized in the advocacy efforts so far?	List issues and occasions for engagement
Is this envisaged?	On which issue
In what format would such a contact happen – formal EO - Ministry; informal?	Specify the reasons for this approach

Step 4: Assessing consultative channels

To effect policy change EOs need to have an avenue to government to present its issues. Structured and routine consultations will provide such an avenue.

The administrative cultures in the public sector will play a large factor in the EO's engagement. In most developing countries, there are weak traditions of openness and stakeholder participation in public policy. On the contrary, there are typically longstanding traditions of information monopolization and secrecy, together with hostile and suspicious relations between the public and the business sectors.

A culture of secrecy can prevent public institutions from interacting freely with EOs. Regulatory and policy-making can involve no public discussions, and a block on information for the media. This approach strengthens those opposed to reform because they can more easily control the process, information flow, and management.

EOs often have to overcome the immediate interests in favour of the status quo, but also to create innovative and unfamiliar approaches to public policy development that are, in themselves, seen as threatening to those in favour of the status quo .

Where they do not exist, establishing formal, institutionalized mechanisms that provide business with an opportunity to participate in policy-making in a more comprehensive and ongoing way, should be the EO's main objective.

But this is not without challenges. Lack of trust between the public and private sectors can be considerable. Within the public sector, many politicians and bureaucrats can be far more comfortable with a centralized form of government than with a participatory political system that would empower the private sector.[3]

For consultation to become routine national governments need to commit themselves to deepening their relationship with the EO over the medium to long-term. This involves moving beyond ad hoc consultations, to developing a full and meaningful partnership with the EO.

A common frustration expressed by EOs is a feeling that participation is often little more than a formality that does little to address their key concerns.

Success in the effective development of the consultative process seems to be the result of a combination of factors including the level of mutual trust between the two parties, the willingness of government to openly allow the EO to review and suggest improvements to its policies, and the feeling by the EO that its advice has been recognized in the policy formulation of government.

4.1   Selling EO value to government

The main goal of advocacy is for EOs to become part of the policy-making process so that they can regularly shape policies, laws, and regulations of interest to them - if this is not already the case. This involves establishing good working relationships with target policy-makers (the targets may change from issue to issue) and their staff. EO staff should establish good relationships with public officials and should provide them with essential information that influences their perception of issues.[4]

EOs can play a vitally important role in helping governments improve the investment climate and in the better design of policy reforms. As the key actors in the economy, enterprises, through their EO, can feed the vital 'raw data' to assist policy formulation.

Where this relationship between representative business and government exists it sends the positive signal to investors that the government listens to the constraints of the private sector, and is consequently

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[3]   Centre for International Private Enterprise: *How to advocate Effectively: A guidebook for business associations,* 2006.

[4]   Ibid.

more likely to devise sensible and workable policy choices. When governments and businesses are mutually distrustful and uncommunicative, investors lack confidence and make decisions based on that lack of confidence.

The best way an EO can develop robust consultative mechanisms with government is by convincing government it has something to offer. EOs need to bring something to the table – *research, analysis, survey data, tested views, ideas, proposals* – that government can see as helpful to it in its policy-making role.

WORLD BANK PUBLIC-PRIVATE DIALOGUES (PPD) [5]

The World bank has established PPD as a vehicle to engage the private sector in dialogue with the government. These are potential avenues for EOs. See the example of the role played by the Cambodian Employers (CAMFEBA) in a PPD:
http://www.publicprivatedialogue.com/workshop%202009/GMAC%20and%20Cambodia%20PPD.ppt

There are (as of June 2011) 33 World Bank supported PPDs, mostly in Asia and Africa, seven Presidential Investor Advisory Councils (PIACs) in Africa, and a newly established Convergence SPI Programs which operate in two countries. The economic impact of PPD activity has been impressive: at least $500 million in private sector savings, with PPDs also having achieved numerous other "soft" outputs in terms of building trust and goodwill among participants, often in very challenging environments. However, much of this impact has been concentrated in a small number of PPDs, with Vietnam and Cambodia alone responsible for at least 250 of the total number of 400 reforms (Albania, Uganda, Bangladesh, Lao, and Liberia are also good PPD performers). The Bank recognizes that the key engagement of "local private sector representative organizations", which can be very weak, is hugely important.

PPD can also be supported by the establishment of Gender Working Groups for the purposes of applying a gender lens to all policy level work of the PPD and ensuring that women's voices are represented in the PPD process. There are several country illustrations where these PPD efforts have resulted in policy reforms to improve the investment climate for women in business and to provide their better access to information, financing, trade opportunities and services. Some of these examples are highlighted in "Gender and PPD", a presentation made by the World Bank Group, 1-3 June 2010 (see: http://www.publicprivatedialogue.org/workshop%202010/).

The following set of questions can guide EOs in identifying key areas and departments within the public sector that can be favourable to their agenda.[6]

STEP 4: CONSULTATION ASSESSMENT

1. **What are the attitudes of politicians towards the private sector?** *Identify which politicians and what political parties they represent. Provide favourable and unfavourable examples where possible*	▪ Always favourable ▪ Favourable ▪ Unfavourable ▪ Hostile
2. **What are the attitudes of civil servants towards the private sector?** *Specify which ministries and departments and at what level of seniority*	▪ Always favourable ▪ Favourable ▪ Unfavourable ▪ Hostile

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[5]   Public-Private Dialogues: *A Summary of the Fourth PPD Workshop,* Vienna, Austria, 2009.

[6]   Questions adapted from: *The PPD Handbook: a toolkit for business environment reformers* by Benjamin Herzberg and Andrew Wright (DFID, World Bank, IFC, OECD Development Centre).

3. **Is there acknowledgement by the public sector of the importance of the business community's role in the policy debate?** *Specify which ministries and departments and at what level of seniority*	▪ Across ministries ▪ Certain ministries ▪ Labour Ministry only ▪ No Ministries
4. **Are there mandatory requirements for government bodies to engage with the private sector?**	▪ Yes, across issues ▪ On an ad hoc basis only ▪ No
5. **Is so, which ones, at what level, and at which stage in the process of enacting a piece of legislation or regulation?**	
6. **Have the public authorities issued safeguards to prevent cronyism, trained public sector officials in handling relationship with the private sector, or communicated internally about public-private relationships?**	▪ Yes, and this has been effective ▪ Yes, but it has had no impact ▪ No
7. **Are there any government departments regarded as favourable to private sector concerns?**	List the specific issues – provide any recent examples
8. **Can these be targeted as champions for EO consultation in government?**	Yes/No
9. **Are there any individuals who can act as public sector champions for dialogue and who are not perceived as politically divisive figures?**	List names and seniority
10. **What were previous EO consultative experiences with government like?**	Did government officials listen to the EO's concerns but not respond?
11. **Does the EO have formal processes for gathering input from its members in the regions?**	Can this be done with members across regions in the country?
12. **Can the EO sustain engagement with Government?**	Does it have the appropriate resources to sustain the effort?
13. **Can the EO work with other representative business organizations to present combined (and strengthened) positions?**	List all potential organizations