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NATIONAL BUSINESS AGENDA
FOR THE IMPROVEMENT OF THE BUSINESS CLIMATE
IN AZERBAIJAN IN 2009

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INTRODUCTION

The improvement of the business climate in the country is an everyday concern of many world governments. We can cite masses of examples from the experience of the US, British, German, Japanese, French, Turkish and other governments, which testify to their constant desire to improve the attractiveness of investments for local and foreign capital. There is a constant need for such a policy regardless of the level of development in this or that country. It is especially important to make systematic efforts to improve the business climate in transitional governments, including in Azerbaijan.

Private entrepreneurship has been developing in the country after it regained its independence in 1991. This was furthered by the policy of switching from the Soviet economic system to a market economy and programs related to this policy and the government's measures to adopt new laws, create market institutions, macroeconomic stability, secure large-scale foreign investments in energy and other spheres of the economy, privatize small and medium-sized enterprises, hand over land for private ownership and other measures.

Today there are more than 60 thousand private companies in the country – small, medium-sized and large. Small enterprises account for 20% per cent. Moreover, entrepreneurial activity without setting up a legal entity is quite developed. There are more than 260 thousand such businessmen in the country today.

The share of the private sector in GDP is 84 per cent today (including the activity of foreign oil companies).

There are more than 10 large companies in the country which have their own well-known brands.

All this testifies to success in the development of private entrepreneurship in the country. At the same time, the latest surveys, carried out by world institutions such as the World Bank, the International Finance Corporation, the European Bank for Reconstruction and Development, the Asian Development Bank, the International Economic Forum, the Fraser Institute of Economics, the Heritage Foundation and other internationally-recognized institutions and consultancy organizations, as well as national organizations such the Entrepreneurship Development Foundation, there are considerable reserves for the further development of the business climate in Azerbaijan.

The government used one of these reserves this year, introducing a "one-window" principle for the registration of legal entities. The effectiveness of this decision is obvious. In the first six months, the number of registered enterprises increased by 30 per cent.

The electronic system of tax payment has also been actively developing over the past year. According to the results of a sociological poll conducted among 1,000 small businesses in May-July, 34.4 per cent of are already using the electronic system of tax payment. Another 22.7 per cent intend to start using the electronic payment system in the near future.

Over the past year, a number of important amendments to the labor law have been adopted as well, the system of registering rights to own real estate has been developing and the situation surrounding the public credit registry.

All these measures allowed Azerbaijan to become a leader by the number of reforms carried out in the country in the "Doing Business in 2009" report by the World Bank and the International Finance Corporation.

This document which we offer politicians, public associations and media is entitled The National Business Agenda for the improvement of the business climate and focuses on the extremely brief explanation of the main directions in the further improvement of business conditions in the country for the year ahead. The document was drawn up by the Entrepreneurship Development Foundation (EDF). The proposals were prepared within the framework of the Project "Improvement of the Business Climate in Azerbaijan", financed by the Center for International Private Enterprise (CIPE, Washington).

While preparing the proposals included in this document, EDF carried out a number of surveys, including a poll among 1,000 representatives of small businesses and deep interviews with businessmen, and analyzed a number of laws and legal acts that regulate business activity in Azerbaijan. Moreover, EDF analyzed recommendations from world institutions and the experience of a number of transitional economies.

This document aims to help, first of all, presidential candidates to form their election obligations and platforms. For this reason, it is extremely brief and shows the main directions of improving the business climate in the country, mainly in the sphere of small businesses. These reforms are quite feasible within a year provided there is relevant political will for that, according to the authors of this document. Some of them are even feasible in the short-term – one or two months.

1. INSTITUTIONAL REFORM

It seems expedient to create a special government agency to support small businesses. Such government agencies, which often have dissimilar names, exist in many countries (for example, in the USA, Canada, Russia, China and the Czech Republic). Their main mission is to ensure state support for the most vulnerable sector of private enterprise – small businesses. These institutions aim to create a favorable climate for the development of small businesses in their countries. They initiate improvements in the law, give advice to operating and new businesses, help them get loans, protect small businesses from unsubstantiated inspections and interference by government agencies, analyze the development of small businesses, problems in this sphere and so on.

Another way of ensuring state support for small businesses is to found a state or National Ombudsman's institute for small businesses. Such institutions (which have different names) have been set up, for example, in the USA, Poland and other countries. The post of National Ombudsman for small businesses exists in the USA along with the Small Business Administration. The mission of the National Ombudsman is to protect the interests of small businesses from extreme and heavy federal regulation, control and all sorts of fines. Every year the National Ombudsman submits a special report to the US Congress.

There is an Ombudsman's Institute in the European Union with which businessmen and their associations can file complaints about the bad management of European Agencies.

The authors of the NBA suggest setting up since January 1 2009:

- 1) National Small Business Agency;
- 2) the post of National Ombudsman for small businesses.

2. THE INTRODUCTION OF EUROPEAN DEFINITIONS OF SMALL BUSINESSES

The labeling of a business as a small business is regulated in the Azerbaijan Republic by Cabinet of Ministers Resolution No 57 of 20 April 2004. According to this resolution, this or that subject of business activity is attributed to the category of small businesses on the basis of two criteria: the number of employees and annual turnover. The resolution provides the maximum limits of these criteria for small businesses in the following spheres: 1) industry and construction; 2) science, technology and consulting; 3) agriculture; 4) wholesale trade; 5) retail sale, transport, services and other types of economic activity. The maximum limits established by the resolution, as a survey carried out by EDF showed, do not comply with current realities and medium limits adopted in Europe. As a result, it is impossible to compare the level of development and the role of small businesses in Azerbaijan with European countries. Moreover, the role of small businesses in the creation of the national product, in providing new jobs and other indicators is clearly understated.

In 2003, the European Commission adopted the following definition of micro, small and medium-sized enterprises which together form the SME sector in the economies of Western European countries.

| | Number of staff | Annual turnover | or | The balance cost of assets |
|--------------|-----------------|------------------|----|----------------------------|
| Medium-sized | < 250 | 50 million euros | | 43 million euros |
| Small | < 50 | 10 million euros | | 10 million euros |
| Micro | < 10 | 2 million euros | | 2 million euros |

In order for an enterprise to be regarded as a micro, small or medium-sized business according to the EU classification, it should correspond to the number criteria and one of the two financial criteria. Along with this, a business should be economically independent, which means the following: a business or a group of businesses that do not belong to the SME sector should own no more than 25 per cent of the property of a business from the SME sector. The upper limit of the annual turnover and the balance

cost of assets indicated in the definition should be reviewed regularly, at once in four years, in order to take account of the changes happening in the economies of EU member countries (changes in the level of prices, growth in productivity).

The adoption of the European definitions will make it possible to make better use of Europe's experience in assisting the development of small businesses (because a single conceptual instrument will be used). Moreover, the use of common concepts will create an opportunity for correct comparisons and analyses not just in issues of developing small businesses, but also its role in the country's economy. Considering also the implement of different EU programs to support small and medium-sized businesses, Azerbaijan can get gradually drawn into these programs, which is quite possible due to the country's participation in the European Neighborhood Policy.

The authors of the NBA suggest switching in 2009 from the definition of small businesses adopted in the Cabinet of Ministers Resolution of 20 April 2004 to the definitions of the European Union.

3. REGULATORY REFORM

The legal system of business regulation tends to expand and become more complicated in many countries. Besides that, it is often accompanied by the appearance of norms that duplicate and contradict each other. This or that legal document is often created for a specific situation, or in connection with some specific developments without a proper analysis of its compatibility with the already existing legal acts. For this reason, countries carry out regulatory reforms. There are two known principles of such a reform: 1) the principle "from bottom to top"; 2) the principle of "guillotine". In the first case, "problem norms" are revealed and eliminated. The remaining part remains untouched. Such a reform has a slow and clutter nature because it is mainly initiated by signals from the "bottom" – from businessmen or officials who encounter this or that problem. While using the principle of "guillotine", a sphere of regulation is chosen to be reviewed by a certain "date for guillotining". The traditional presumption of the legitimacy of existing legal acts is abolished, while the whole legal basis in the researched sphere is "clipped" by the appointed date, losing its legal force, and only the legal acts remain whose necessity, legality and compliance with market economy principles was proved during the reform.

Random surveys showed that in Azerbaijan it is necessary to carry out a regulatory reform. But before that, it is necessary to make an inventory of all valid legal documents in every sphere. The stock-taking should be carried out by special commissions set up from officials working in this sphere and representatives of business associations. Every legal provision should be approved by the commission in a written form by a certain date, otherwise, it will be automatically cancelled. According to OSCE

experts recommendations during the analysis, every legal provision should pass through three qualifying tests which consist of several questions, including the following:

- *Legality* – Does this government agency have the legal right to adopt the legal provision under review according to the law? Does this legal provision comply with legislative and legal acts of higher level which have dominant force in the event of a contradiction?
- *Necessity* – Is this legal provision adopted in the interests of society as a whole or first of all, in the interests of a specific government agency or a privileged group of private people? Is the problem for solving which this or that legal norm was adopted still topical? If yes, how effectively is it being solved with the help of this provision in its current form? Are the expenses that appeared as a result of the adoption of this provision justified by the advantages it creates?
- *Compliance with market economy principles* – Is the provision clear to avoid different interpretations? Does it not increase unfounded expenses related to business activity?

The provisions that do not correspond to these criteria are either abolished or corrected in order to secure such correspondence. The provisions that correspond to the aforesaid criteria are included in the registry of regulatory documents open to local and foreign businessmen and other citizens. The registry is placed on the websites of all ministries. When the deadline for the regulatory reform expires, the documents that are not included in the registry automatically lose their force.

The authors of the NBA suggest carrying out in 2009 a regulatory reform in compliance with the scheme described above and based on the principle of “guillotine”.

4. THE IMPROVEMENT OF THE TAX REGIME

Surveys have shown that a lot of small businesses and people doing business without forming a legal entity conceal the real volume of goods trying to remain within the limit that allows them to pay taxes by the simplified system. The same reason (for other reasons as well: high costs for small businesses, the high cost of banking services, the underdeveloped practice of paying for goods and services with plastic cards) delays the large-scale introduction of cashless payments by means of credit card terminals. According to various estimations, at least half of the turnover is concealed. As a result, taxes are not collected in full and part of this money goes into the pockets of officials who make a deal with businessmen who want to remain within the simplified tax system. For this reason, it seems expedient to double the limit of the turnover for the simplified taxation system.

The Tax Code is quite a voluminous and complicated document. The fact that it is oriented not to types and spheres of revenues and business activity, but to types of taxes makes the work of small businesses with this document difficult. It is important to draw up and release special manuals with a large print run for entrepreneurs who work in this or that specific sphere of business (retail sale and wholesale, restaurants, barber's shops, laundries, dry-cleaning and all sorts of workshops).

In order to develop small and medium-sized businesses, it is very important to use tax holidays in the first year of their activity. In order for such a privilege not to become a reason for businessmen to close their enterprises themselves after the first year of their activity, relevant legal acts related to the close of enterprises can contain requirements to pay the annual amount of the unpaid tax. Only if this business continues to operate for another two, the debt for the first year can be written off.

As is known, many Russian-made food products are available in Azerbaijan. Taxes in Russia are softer than in Azerbaijan. Specifically, VAT in Russia is 10 per cent. Such a situation reduces the competitiveness of food products manufactured by Azerbaijani businessmen. For this reason, it is worth thinking about reducing VAT on such products made in Azerbaijan. This would also have a good effect on the material situation of the needy strata of the population in Azerbaijan.

Social taxes are another sphere that requires immediate reform. High social taxes are one of the main reasons for double-entry bookkeeping at many enterprises. Businessmen prefer paying low salaries to their staff officially, supplementing them with unofficial markups that exceed the official salary by three to five times. There are various options for reform in this sphere. The most expedient one is to reduce rates of payment to the State Social Security Fund from the current 22 to at least 15 per cent. At the same time, in order to compensate this, it would make sense to increase the rate of the pension fees from the current three per cent to a higher level.

In order to encourage capital investments in the expansion of small and medium-sized businesses, it would be expedient to deduct them in full or partially from the profit tax on legal entities.

The annual norm of depreciation charges on computers is 25 per cent according to the Tax Code. Since these assets are renewed at a high pace in world experience, it would be expedient to reduce the term of the depreciation of computers and other electronic hardware to three years.

The Tax Code lacks special norms for the annual depreciation of software products. Article 114.3.6 of the Code sets the norm of annual depreciation charges on non-material assets with an indefinite term of use at 10 per cent. Software products that fall under this article, as world experience shows, require considerably swift depreciation. This will also have a positive effect reducing the use of pirate software products.

According to the country's Tax Code, it is illegal to attribute a number of important social expenses related to the personnel and expenses related to the development of the company and maintenance of its international image to the cost price of products (services) and deduct them from the taxable income. These expenses are:

- 1) expenses on meal for the personnel;
- 2) representative expenses;
- 3) expenses on the treatment of and medical services for the personnel;

- 4) above-standard (established by the Cabinet of Ministers) expenses during business trips;
- 5) expenses on sports and health events;
- 6) expenses on charity activities.

According to the Tax Code, only some of the aforesaid things can be deducted from revenues in a restricted amount. At the same time, part of the deducted expenses is considered to be an extra earning for the staff and is liable to social taxes. Thus, companies find it difficult to maintain their image. Of course, the deduction of such revenues in full may have negative consequences (falling state budget revenues). In this regard, relevant amendments (they are desirable) should be drawn up on the basis of a careful analysis. Amendments to the Tax Code allowed the country's companies to bring their activity closer to international standards and support their competitive image.

The NBA authors suggest (due to the adoption of European definitions of small and medium-sized businesses):

- 1) to double the turnover limit of the simplified taxation system;
- 2) to develop and publish tax booklets with a large print run, oriented to individual spheres of small businesses;
- 3) to introduce tax holidays for small and medium-sized businesses (including VAT payers) in the first year of their activity. In order for such a privilege not to become a reason for businessmen to close their enterprises themselves after the first year of their activity, relevant legal acts related to the registration of enterprises can contain requirements to pay the annual amount of the unpaid tax;
- 4) to reduce the VAT rate on the most important food products to 10 per cent;
- 5) to allow part of capital expenses to be deducted by no more than 20 per cent of the taxable sum of the profit from the taxable profit of small and medium-sized enterprises for the expansion of activities;
- 6) to introduce an amendment to the Tax Code, accelerating the depreciation of capital investments in electronic equipment for up to three years;
- 7) to include in the Tax Code an amendment establishing a 50-per-cent norm for the depreciation of capital investments in software products;
- 8) to include in the Tax Code an amendment accelerating the depreciation of small buildings and installations built by small and medium-sized businesses for their own use;
- 9) to include in the Tax Code an amendment that allows representative expenses that account for 5 per cent of the profit to be deducted from the taxable profit;
- 10) to include in the Tax Code an amendment that makes it possible to reimburse VAT for the purchase of equipment and other capital expenses to pay the first tax (by the simplified scheme or from the profit) on business activity;

- 11) to prepare amendments to the Tax Code which would allow part of the expenses on meal for the personnel, their treatment, physical training and sports, as well as charity activities to be deducted from the taxable revenues. This will make it possible to increase the level of corporate social responsibility of Azerbaijani companies;
- 12) to increase the number of operational electronic tax payment terminal to the level that will ensure 100-per-cent payment of taxes by means of this system from 1 January 2010

5. REFORM OF THE LICENSING SYSTEM

The licensing of business activity in the country is currently regulated by Decree No 510 issued by the country's president on 29 December 2006 and by a number of legal acts.

Currently, one of the most topical issues in this sphere is the adoption of the law "On licensing". It is important to include the following principles in the new law:

- The reduction of the number of licensed types of activity to the minimum necessary level. Licensing should apply only to types of activity a lack of control over which may harm national, state and public security, including ecological security;
- The elimination of duplicating schemes of control and supervision (for example, simultaneous licensing and mandatory certification);
- The prevention of the monopolistic advantage of a licensed subject of entrepreneurial activity in a relevant sphere;
- The determination of the powers and mechanism of interaction in the process of the licensing activity of central bodies of the executive authorities and relevant bodies of local government;
- The establishment of a license fee (if it is not purely fiscal licensing, for example, of a gambling business) at the minimum level (at the level of expenses), and the term of the validity of the license – depending on types of activity – at different but reasonably long levels (no less than five years);
- The determination of exhaustive grounds for revoking a license in order to avoid abuses by the authorities. At the same time, an important reason for revoking or suspending a license should be not so much the violation of rules and procedures of licensing as failure to observe the requirements set for the license holder;
- State-owned and private enterprises should have an equal burden of issues of licensing.

One of the most complicated issues is the issue of grounds for identifying this or that activity as liable to licensing. As criteria for recognizing this or that type of activity as

liable to licensing, it is expedient to use the following which has been taken as a basis in many countries:

- An activity is dangerous for an unlimited circle of people who are not involved in it (for example, the burial of waste products, discharge of contaminating substances and others) and poses a threat to the environment;
- An activity that involves an unlimited number of participants, including their property and investments in production (investment funds, banking activity and so on);
- An activity (except for trade) that has a direct effect on the health and security of the population;
- An activity that may have an effect on the security of the state;
- An activity that uses unlimited resources;
- An activity that is extremely profitable and is liable to high taxation and control (for example, the production, storage and wholesale trade in alcoholic products).

The authors of the NBA suggest:

- 1) adopting a law on the licensing of entrepreneurial activity on the basis of the aforesaid principles;
- 2) repealing the requirement to apply for licenses for the following types of entrepreneurial activity that do not contain elements which pose a threat to national and ecological security and the health of the population:
 1. the sale of tobacco and alcoholic products (licensing does not restrict consumption of tobacco and alcoholic products);
 2. the collection, processing and sale of industrial waste that contains non-ferrous and precious metals and stones;
 3. tourist activity;
 4. commodity stock exchanges;
 5. the production of financial accountability forms;
 6. the production of stamps;
 7. hotel business (licensing is hardly expedient for small guesthouses);
 8. the production, processing and sale of precious metals and stones;
- 3) to reduce the size of duties to the level that reimburses the real expenses of the bureaucratic apparatus on the issuance of licenses;
- 4) Paragraph 2.1.6 of the rules of issuing licenses endorsed by Decree No 782 issued by the country's president on 2 September 2002 does not disclose the essence of additional conditions for the issuance of licenses determined by the Cabinet of Ministers. It would be expedient to include relevant conditions in the text of the aforesaid rules;

- 5) in order to prevent the monopolistic advantage of a licensed subject of entrepreneurial activity in a relevant business sphere, it is necessary to ensure control over all types of licensed entrepreneurial activity and eliminate the monopolistic advantage of this or that subject which has such a privilege. For each type of licensing activity, it is necessary to establish the minimum acceptable number of subjects that get a license.

6. IMPROVEMENT OF PROPERTY REGISTRATION SYSTEM.

Research suggests that registration of ownership right to real estate requires much time. It is usually required to register many documents and appeal to various state agencies. At the same time, number of required documents, in particular, documents required during registration of ownership rights of physical and legal persons to construction of objects at their own expense are obviously excessive. Other required documents require mandatory existence of the first ones issued by the state agencies as well. It should also be noted that available package of normative documents do not clearly explain where to go on the first place and what is the sequence of document compilation. The obligations of the state agencies satisfying citizen appeals in the given period are not clearly defined. In order to understand it all the applicants have to study many normative documents.

The authors of the NBA suggest:

- 1) adoption of single law which will regulate all issues related to ownership right registration. This law should contain sequence of all procedures, names of state agencies responsible for issuing specific documents, and temporary limitations by the state agencies for issuing documents. Registration period should be reduced from 20 days to (in agreement with effective documents) 5 days. Adoption of the single law will allow to liquidate all existing normative and will put in order as well as intensify the process of registration of ownership rights;
- 2) introduction of "single window" principle for all the state agencies involved in the process of registration of the right to ownership (in case if the number of currently required documents will not be reduced till minimum);
- 3) reduction of documents till minimum (in particular, for registration of ownership of right for the objects constructed at their expense, it is recommended to reduce the number of required documents from 13 to 5 leaving the following documents only: a) application, b) technical feasibility of construction c) state act on commencement of construction; d) post address; e) receipt about payment of state duties).

7. THE CREATION OF AN EFFECTIVE INFORMATION SYSTEM

It is important for an investor to know about all decisions of the government, changes to legislation and other important information for his business.

Full and timely information is the key to the investor's success. The investor's awareness depends first of all on the importance that government agencies attach to this work. The lack of a system of equal access to information for investors allows individual officials to use information for personal purposes and leads to violations by businessmen who are then punished by official and unofficial fees.

Unfortunately, the informativeness of many websites of government agencies is at a very low level. Perhaps, only the websites of the Tax Ministry and the Customs Committee meet most of the requirements. It is to be regretted that the website of the Ministry of Economic Development and the webpage of its Entrepreneurship Department are extremely scanty and have become even less informative and useful for entrepreneurs than several years ago.

It is important to ensure absolute registration of all guidelines and instructions which ensure execution of laws, orders of the President and decrees of the Cabinet of Ministers at the Ministry of Justice. Upon registration of these documents it is important to place them on the website of the Ministry of Justice.

Information provision of the small entrepreneurship is also limited with extremely high cost of internet service. Besides, not all the potential consumers of internet resources possess the relevant habits.

The authors of the NBA suggest improving the state system of notifying entrepreneurs on the basis of the following measures:

- 1) to issue a presidential decree to introduce a single special Internet website on decisions of government agencies (presidential decrees and orders, laws and resolutions of the Azerbaijani parliament and resolutions and decisions of the Cabinet of Ministers) with improved search opportunities;
- 2) to ensure that the Internet websites of all government agencies fully reflect all internal departmental decisions related to entrepreneurial activity;
- 3) to ensure that the Internet website of the Ministry of Economic Development (National Agency for Small Businesses, if it is set up) fully reflects the decisions of all government agencies related to entrepreneurial activity;
- 4) to introduce the practice of announcing all the decisions and legal acts within a week on state television and state radio once a week, on Saturdays, at a special time
- 5) to ensure that a hotline functions at all government agencies and state-

owned companies such as Azerenergy, Azergas, Azerdemiryolu, AZAL, Kaspar and Azersu. Such lines are currently operating only at the Tax Ministry and the State Committee for the Management of State Property;

- 6) propose to all governmental agencies register all their guidelines and instructions ensuring execution of laws, Presidential orders and decrees of the Cabinet of Ministers relating to entrepreneurship activities at the Ministry of Justice. It is recommended to execute this work in the shortest possible period. Upon registration of these documents it is important to place them on the website of the Ministry of Justice;
- 7) establish special commission in the nearest perspective to analyze the causes of high cost of internet services in Azerbaijan. If prices are indeed justified, the government may for the purpose of providing help to small size entrepreneurship to access internet resources, create free internet portals within the regional branches of the Ministry of Economic Development (National Agencies on Small Business). Internet training may also be organized here. Expenses of such occasions are completely affordable by the government of Azerbaijan.

8. REFORM OF THE SYSTEM OF VARIOUS APPROVALS AND CONSTRUCTION PERMITS

The norms and rules of town-planning approved by the State Committee for Construction and Architecture use the term “object” which is not qualified on the basis of the volume and purpose of a facility or building under construction. In this regard, it would be expedient to improve the law in order to establish differences between personal houses, small objects (for example, small offices, shops, booths and so on) and large construction objects (apartment blocks, production enterprises and so on), and to adopt separate norms and rules for these objects that have different volumes and purposes of construction. This will make it possible to reduce the number of government agencies issuing or approving the issuance of construction permits and expedite relevant procedures. The number of such procedures of approval and permission in Azerbaijan is 31! This is more than in the overwhelming majority of countries studied within the framework of “Doing Business”.

The authors of the NBA suggest:

1. carrying out necessary work to differentiate the term “object” depending on its size and purpose and to correct the system of approval and permission for construction depending on the type and purpose of a construction object;
2. introducing a “one-window” principle.

9. THE DEVELOPMENT OF THE INFRASTRUCTURE OF SMALL BUSINESSES

Research shows that among important problems that prevent the development of small businesses are often the high cost of the rent and public utilities. The establishment of business incubators (especially in regions of the country) would make it possible to reduce the influence of these factors significantly, since the state would be able to establish more acceptable prices for renting premises or exempt a beginner businessman from these expenses. Moreover, business incubators will make it possible to reduce the expenses of beginner businessmen in such spheres as telephone communications, Internet, the maintenance of secretaries and other service personnel. Numerous idle state enterprises could be used as buildings for such business incubators.

Small businesses are often provided with innovative technologies and even participate in their promotion and introduction. Innovative technologies are a subject of concern in many leading countries of the world. In Europe, the first innovative centers were set up in the 1980s. Often, such centers are central elements of technoparks that represent a conglomerate of small enterprises located on the same territory and engaged in production, scientific-research structures (centers, companies and so on) of an institution of education, exhibitions, as well as service structures: a residential settlement, warehouses, guards and so on. It would be expedient to develop and introduce a pilot project of a technopark in Azerbaijan.

Qualified consultations are of special importance to beginners and inexperienced businessmen. The list of questions, which an entrepreneur may need, may include a wide range of problems facing a beginner businessman – from the development of a business plan to the correct organization of records.

The authors of the NBA suggest:

- 1) building (refurbishing or reconstructing idle state buildings) in the first stage business incubators in three-five regional centers, for example: Ganja, Sumqayit and Quba;
- 2) preparing a pilot project on the establishment of a technopark in one of Baku universities. In this regard, it would be expedient to announce a competition for the best proposal among universities. The government could provide the winner of such a competition with a privileged loan (or grant) from the National Fund to Support Entrepreneurship or from other sources;
- 3) providing consultancy services to beginners and inexperienced entrepreneurs. These services may be organized in local branches of the Ministry of Economic Development or the National Agency for Small Businesses (if it is set up). In order to provide consultancy services, there is a suggestion to employ several consultancy companies. Relevant expenses could be earmarked in the state budget for 2009 or allocated by the

National Foundation to Support Entrepreneurship. The state can easily “shoulder” these expenses.

10. TIGHTENING OF PUNISHMENT MEASURES FOR NON-ACCOUNTING COMMERCIAL ACTIVITY

As research shows, non-accounting commercial activity carries many violations of law made by subjects of entrepreneurial activity and representatives of bureaucratic apparatus in the Republic of Azerbaijan. Having emerged in one point of commercial activity it disseminates to many other subjects of entrepreneurial activity making them quite vulnerable for the representatives of the government agencies who trim bribes. In one time the authorities took series of normative acts prohibiting non-accounting commercial activity. However, these decisions practically remain non-executable.

As survey with entrepreneurs suggest, non-accounting commercial trade activity begins not only on the border but also happens during production of goods in the country's territory. Even some of the very famous Azerbaijani companies producing different goods frequently use non-accounting goods giving into retail network as well.

It is important to once again review normative acts and tighten their demand as well as tighten measures of punishment for non-accounting activity. It is important to periodically conduct mass inspection campaigns until this evil will not stop to be one of the important factors of high level corruption in the country. Also, sharp reduction of non-accounting sale would allow to increase quality of statistical data about the economy's situation in the country, significantly increase budget revenues with all its consequences, reduce risk of low quality as well as dangerous for health goods.

Authors of NBA propose:

- 1) starting bring into effect simple shopping (procurement) act in case if the goods owner giving it to retail or wholesale network does not have invoice;
- 2) to take action against sellers and owners of goods for selling goods that are not accompanied by relevant documents (invoice or procurement act) by imposing a fine on them (for the first time, a sum accounting for five per cent of the value of those goods, for the second time – 10 per cent and so on);
- 3) create mixed commissions from representatives of the state agencies and public and conduct several mass campaigns to inspect existence of documents for sold goods.

11. REGULATING OF INSPECTIONS

Inspections must be carried out. The matter is how frequent they are and who should carry out inspections (surveillance). The country's president has issued a number of decrees to prevent groundless inspections (Decrees No 463 of 17 June 1996, No 69 of 7 January 1999 and No 790 of 28 September 2002). The presidential decree of 28 September 2002 is especially strong for its contents, coverage and strength of instructions and recommendations. This decree made it possible to sharply reduce the number of inspections at business entities and groundless interference in their activities. However, the last two years have seen a considerable growth in the number of inspections and supervisory actions by various ministries, local authorities and law-enforcement agencies. This is also proved by the results of a poll conducted by EDF among 1,000 businessmen in May-July this year. Almost 40 per cent of participants in the poll said that at least once a month they are visited by a representative of a government agency. According to the results of the poll, business entities are more often visited by representatives of the Tax Ministry, the Emergencies Ministry (fire safety inspectors), the State Social Security Fund, the Ministry of Economic Development, the Sanitary-Epidemiological Service, the Interior Ministry, the Standardization Agency, the Ministry of Ecology and the local executive authorities.

The fact that representatives of the tax authorities visit business entities most of all is quite understandable and probably justified. The Emergencies Ministry takes second place (fire safety inspectors), which is probably explained by the fact that this government agency was set up recently (though the fire department has existed for a long time). What is alarming is that fire safety inspectors often put forward demands that small businesses are not in a position to meet. It is interesting how the fire situation in the country has changed? Fires are quite rare. For this reason, a relevant question arises: are the total expenses of businessmen on the installation of fire system compatible with the cost of reducing the risk of losses from fires? If not, this means groundless expenses not just from the scanty funds of businessmen, but also reduction of national wealth. We should also point out that it is absolutely unacceptable that representatives of the authorities often recommend to businessmen to use services of the concrete firm (to install alarm systems and other fire equipment).

It is difficult to justify frequent visits to businessmen by representatives of the Interior Ministry. We hope that the leadership of the ministry should analyze the situation again and take measures to secure the unconditional implementation of relevant provisions of presidential decree No 790 dated 28 September 2002.

It must be noted that quite often, inspections are legal because that is the way our legislative acts are. Many of them allow government agencies to carry out almost unlimited inspections (surveillance) at small businesses. Most of the laws do not specify the criteria on the basis of which a government agency must make a decision to check this or that business entity.

The existing laws that regulate fire, sanitary-epidemiological and ecological safety should be brought in line with international standards first of all in terms of relevant basic definitions.

We should point out once again that inspections have their worst impact on small businesses which have few staff members distracted from their work by inspectors.

For the sake of justice, it must be noted that very often, businesses are not well-aware of the rules and provisions of legal acts they have to adhere to in their activities.

Polls also show that Inspection Registration Books to are not always used and inspectors are not always accompanied by an employee of the Ministry of Economic Development.

The authors of the NBA suggest:

- 1) handing out Inspection Registration Books to company representatives while registering companies at the Tax Ministry and to individual entrepreneurs who receive a taxpayer's identification number;
- 2) the Ministry of Economic Development should carry out random inspections by 1 June 2009 to find out how Inspection Registration Books are being used and carry out an analysis of inspections;
- 3) unstructing all government agencies to notify the business department (agency if it is set up) by email before an inspection (surveillance) in this or that economic entity. This information should then be analyzed in order to develop relevant recommendations to improve regulatory documents;
- 4) eliminating the unequal approach of state and private companies to inspections. Experience shows that such an unequal approach exists and does not meet principles of ensuring fair competition;
- 5) analyzing the activity of the Department of Commerce and the Anti-monopoly Department of Ministry of Economic Development about the groundless inspections of which small businesses often complain. The nature of the activities of first department, which is way too far from market economy principles, is alarming. The Anti-monopoly Department often deviates from its main tasks.

12. TO ENSURE THE SUPREMACY OF THE LAW AND FAIRNESS OF THE COURTS

Unfortunately, there are quite many complaints about the unfairness of the courts. Businessmen often say that cases in court are won not by those who obey the law, but by those who are stronger, though presidential decree No 790 dated 28 September 2002 contains quite serious instructions and recommendations to relevant government agencies.

The authors of the NBA suggest:

- 1) introducing trial by jury to consider cases in the sphere of business activity;
- 2) setting up a mixed commission which would include representatives of the Supreme Court, the Ministry of Economic Development and public associations of entrepreneurs and instructing it to monitor court hearings considering complaints from entrepreneurs.

13. IMPROVEMENT OF FOREIGN TRADE PROCEDURES

In the World Bank report “Doing Business, 2009”, Azerbaijan has its worst indicators in the sphere of foreign trade. The number of documents required by customs, the time spent by businessmen and the cost of customs clearance for one container are quite high in comparison with the overwhelming majority of countries. On this indicator, Azerbaijan takes 174th place among the 180 countries of the world that were studied.

The authors of the NBA suggest:

- 1) expediting the adoption of a new Customs Code which would simplify relevant procedures, increase the transparency of procedures and the speed of cargo traffic;
- 2) expediting the introduction of an electronic system of declarations on which the Customs Committee has been working for several years;
- 3) introducing a “single-window” principle at the customs.

14. SOCIAL CORPORATE RESPONSIBILITY: FROM COERCION TO ENCOURAGEMENT

Local (and sometimes central) authorities often force businessmen to carry out some work of public importance (to refurbish a school, to build a road, to help refugees and so on). The social corporate responsibility of a business is its important feature. However, it should be displayed on a voluntary basis.

The authors of the NBA suggest:

- 1) that the country's government publicly appeal to businessmen and propose that they report by a special phone number any coercion to do public work and carry any other burden;
- 2) that the country's government ban ministries and departments from forcing entrepreneurs to carry out any tasks of public importance;
- 3) supplementing relevant regulations on the local executive authorities with points that ban forcing entrepreneurs to do work of public importance and carry any other burdens;
- 4) that the Ministry of Economic Development draw up proposals on creating a system of encouragements for businessmen who voluntarily carry out any work of public and social importance.