



Entrepreneurship Development Foundation (SBIYF)
Public Union to Support Economic Initiatives (SEI)

LICENSING: GLOBAL PRACTICES AND AZERBAIJAN REALITIES

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Baku 2013

Acknowledgments

This research has been conducted by Public Union to Support Economic Initiatives (SEI) as part of the Project titled “Assistance to Small Enterprises” (2012-2017) with funding from the United States Agency for International Development (USAID). USAID has no responsibility for the content of this policy paper.

The “Assistance to Small Enterprises” Project has been delivered by the Alliance of the NGOs below:

- Entrepreneurship Development Foundation
- Public Union to Support Economic Initiatives,
- Economic Research Center,
- SME Development Support Center
- World of Carpets (Xalça Dünyası Assosiasiyası)
- Bridge to the Future Public Union

LIST OF ACRONYMS USED IN THIS REPORT

SOCAR	–	State Oil Company of Azerbaijan Republic
AZN	–	Azerbaijan National Currency (Manat)
DB	–	World Bank
WTO	–	World Trade Organization
MES	–	Ministry for Emergency Situations
IFC	–	International Finance Corporation
MED	–	Ministry of Economic Development
MA	–	Ministry of Agriculture
SCS	–	State Committee for Securities of Azerbaijan Republic
MCIT	–	Ministry of Communications and Information Technologies of Azerbaijan Republic
MES	–	Ministry of Emergency Situations
MA	–	Ministry of Agriculture
MH	–	Ministry of Health
MT	–	Ministry of Transportation
TM	–	Ministry of Taxes
MENR	–	Ministry of Environment and Natural Resources
MF	–	Ministry of Finance
NTRC	–	National TV and Radio Council of the Republic of Azerbaijan
SMARA	–	State Marine Administration

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Definitions of License and Permit

Pursuant to Azerbaijani law, a license is an official document permitting legal entities, irrespective of form of property and organization-legal form, and also physical persons involved in business activity without formation of legal entity. According to the World Bank's definition, licenses are required for continued activity of a certain type, or activities requiring a particular expertise; permits are linked to one-off activities or activities undertaken in a specific location approving compliance with the principles of public security and environment. Namely, licenses are granted to start a core business, while permits are granted for specific activities within this business. For example, a license must be obtained to open a private clinics giving permission to engage in medical activities, while a permit gives the owner of this facility permission to build a building or install radiation-producing equipment. It is important to differentiate the registration, licensing, issuance of permits and inspections that fulfill the role of different stages and applicable methods for business activities regulated by the government. As is seen in the table below, they are differentiated from each other according to their purpose, distinction, scope of application, duration and stages of business.

TABLE 1. Licensing and other inspection procedures

Ideal practice	Business registration	License	Permit	Inspection
<i>Purpose</i>	Starting a business as a physical person	Ensuring that the applicants are professionally trained for accomplishment of activities towards protecting their public welfare or distributing scarce resources	The compliance of entities and operations with health, safety and environmental standards	Verifying long-term implementation of the compliance with health, safety and environmental standards
<i>Distinctions</i>	General procedures for all business entities	Granting authority for commencement of core and sustainable business activities	Granting authority for completion of one stage of a large-scale business activities	Inspection of standards of compliance by regular revisionists
<i>Scope of application</i>	National or subnational (simply must be concentrated within one entity)	National (state in federal systems)	Local or municipal (in some special cases, at national level)	At local, municipal and national levels
<i>Duration</i>	One time only	Durable renewal is required	One time at each stage	In accordance with specific time distribution and sometimes priority
<i>Firm birth stages</i>	Ex-ante (expected)	Ex-ante: issued before business start-up (it's a stage after registration)	Ex-ante and ex-post: for activities before and after business start-up	Ex-post: regular inspections after starting a business

The benefits of licensing include building of consumer trust in products or services, promoting the role of business entities as a safeguard for the quality of products and services that they sell, setting the primary mechanism for quality control procedures. Licensing complications may

result in additional costs, loss of time, poor market access by new participants, drop in business productivity, instrument of bureaucratic pressure, worsening of competitive environment.

Licensing Principles

Effective licensing has certain principles resulting from models of proven global best-practices. Above all, licenses must have legitimate regulation purposes and not be used for bureaucratic hurdles. Licensing activities have two main reasons or rationalizations: (a) protection of public interests; (b) effective utilization of scarce public resources. Out here, the first area of focus of protecting public interests is to protect public security and environment. Some types of economic activity should regulate consumer health and safety as well as the environment. Such areas of activities must meet required standards. Inspection of standard compliance may vary depending on countries or sectors. It becomes possible through ex post monitoring activities and penalties, or ex ante verifications and licensing. Another direction of protecting public interests through licensing is the protection of national security. In some countries, licenses are introduced to restrict the manufacture of, and carry out control over, hazardous substances and products (*weapons, nuclear materials, etc*). At the same time, activities that are vital in terms of national security (*for example, energy infrastructure*) may be controlled through providing licenses to new players entering this sector. The licensing activity is also effective for sectors engaged in development of scarce natural resources. Not only encompass these sectors scarce and exhaustible natural resources (*mineral, oil and gas extraction*), but also self-renewable resources achieved through environmental friendliness (*for example, forest sector*). Even this argumentation can be applied in infrastructure services sector (*for example, telecommunication sector with limited broadband transmissions*).

Two more motives of licensing activity, which are invoked in practice, but are not correct, mean the restriction of competition and flow of additional budget revenues. Some countries can introduce licenses to protect sunrise industries against unfair competition, preserve the position of existing monopolies or oligopolies. Regarding a license to gain additional budget revenues, various government bodies issue licenses of the same content, or central or local agencies issue parallel licenses thus leading to irrationality. Therefore, materialization of the two motives must occur through launching precisely designed competition and tax policies rather than implementing licensing policy. Such unfair purposes without licensing reduce transparency and promote rent seeking behavior. Besides, business community remains uncertain about the licensing purposes and conditions. Governments should issue licenses to business entities when make sure than the latter are prepared, and possess material and technical base, to implement the activities they want to get involved in. This time, only minimum qualities should be required. In the areas of activity that need several licenses in parallel, the issuance order and procedures should be distinctly expressed and effectively coordinated among government bodies. Governments should minimize the list of licenses and permits to entities before business start-up. Regulatory measures must be taken after a business starts and runs so that the time of business start-up can be shortened and administrative burdens be reduced. For example, before 1997, most businesses in Mexico required a Sanitary License prior to beginning operations and underwent ex-ante inspections after reforms.

Global Practices on Licensing Reform

China. With the market openness and liberalization in service, China's regulatory reform has been carried out all the time and the regulatory framework has been transformed to meet the needs of practice. The reform of administrative licenses stands for a significant step for China to deregulate and liberalize its national economy and trade including service. In the year 2001, in order to adapt to the situation of its accession to the WTO, China launched a program to completely clear up and revise all the current laws, regulations and administrative instruments

that are related to trade issues, both at the central and at local level. According to the statistics made by the central government, there are about 4,000 administrative licenses at central level in China, many of which are established for service industries. The existence of too many administrative licenses has been, in some sense, an obstacle for the sustainable and healthy economic growth due to its unreasonably trade restrictiveness and has been complained as a heavy burden by enterprises and traders for a long time. With a view to diminishing such negative effect, the State Council launched a reform on the current administrative license systems. According to the decision of the State Council, It is required to check and review all the established administrative licenses and, after consultation and discussion with the competent authorities, to determine whether each license should be retained or abolished according to the principles of rationale, legitimacy, efficiency and responsibility. After nearly two years work, the State Council finally decided to abolish some 1,200 administrative licenses and temporarily retained the others. For example in the field of construction service, 155 licenses have been abolished, 54 licenses abolished for financial service.

United States. Following continuous reforms, the United States Department of Agriculture (USDA) issues permits for the import, transit and release of regulated animals, animal products and biotechnologies. The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues permit to importers, sellers and bottlers of alcohol beverages. The Federal Aviation Administration (FAA), the national aviation authority of the United States of America, has authority to regulate and oversee all aspects of U.S. civil aviation, including commercial space transportation. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is responsible for the investigation and prevention of federal offenses involving the unlawful use, manufacture and possession of firearms and explosives. The ATF also regulates via licensing the sale, possession, and transportation of firearms, ammunition, and explosives in interstate commerce. The United States Fish and Wildlife Service (FWS), a federal government agency within the United States Department of the Interior, issues permits for obtaining, importing and exporting fish, wildlife, and natural habitats. The Federal Maritime Commission (FMC), the independent federal agency, is responsible for regulating ocean borne international transportation of the U.S. The Bureau of Ocean Energy Management (BOEM) and the Bureau of Safety and Environmental Enforcement (BSEE) issue permits for mining and drilling operations. United States Nuclear Regulatory Commission regulates commercial nuclear power plants and other uses of nuclear materials, such as in nuclear medicine, through licensing, inspection and enforcement of its requirements. The Federal Communications Commission (FCC) issues permits for radio/television media. The United States Department of Transportation (USDOT or DOT) issues permits for transportation and logistics activities.

Kenya. In 2005, the government of Kenya, with the support of FIAS/World Bank, launched an innovative reform to reduce its growing number of business licenses and fees, and the corruption connected to those instruments. A central reform committee was created under authority of the Ministry of Finance, and a government-wide program began. The first task was to assemble Kenya's first complete inventory of licenses and fees. Ultimately, 1,325 licenses were identified by the committee, far more than originally expected. Over two years, the committee worked with more than 240 regulators across the public sector to help them comply with the circular issued by the Government, and brought additional expertise into the reform process by involving sector and other experts to carry out more detailed reviews of licenses in certain sectors. Many licenses were found to be **unnneeded, illegal, or unnecessarily costly**. As of October 2007, 315 licenses have been eliminated and 379 simplified. A total of 294 licenses were retained. Out the remaining licenses, and approximately 300 licenses have been deferred due to new Bills under preparation or new Laws already passed. Results from the licensing reform were a key contributor to Kenya's status as a top reformer in the World Bank's 2008 Doing Business Report.

The Committee conducted the reforms in three phases. In phase I, which required 4 months, the Committee reviewed and made recommendations on 86 high priority licenses. In phase II, which required 9 months, the Committee reviewed the remaining licenses, about 1,300. In phase III, which required 12 months, the Committee carried out several related activities, namely: completing the business licensing review carry over from phase I and II by preparing the legal materials for formal adoption, and liaison with the budget team in the Ministry of Finance to ensure that revenue impacts were fully taken into account in the budgeting process; preparing and implementing a medium term regulatory reform strategy to: create an Electronic Consolidated Regulatory Registry for all business licenses; establish a permanent Business Regulatory Reform Unit to vet future business licenses as well as implementing a Regulatory Impact Assessment policy for existing and future business licenses; and draft a Business Regulation Bill to give the electronic registry “positive legal security,” meaning that registration of a license would be necessary before it could be enforced against businesses. The single The Electronic Regulatory Registry is designed to serve as the national repository for license requirements in Kenya (single point of information). Importantly, the work of the Committee was based on an extensive consultative process with stakeholders from the public and private sectors, including public hearings that attracted much attention from the media. Special efforts were devoted to address the licenses which the private sector found particularly burdensome. At the request of the Committee, the private sector established a list of the 26 most burdensome business licenses in Kenya. The specific concerns of the private sector were addressed through intensive dialogue and several iterations specifically aimed at the “top 26 list”. In the initial stages, there was much resistance to the reform from public bodies and regulators who feared the reforms would reduce rent-seeking opportunities and reduce licensing revenues. These artificial barriers were shortly removed thanks to sustainable political will and technical support provided by international donors.

The Current State of Licensing in Azerbaijan, Major Challenges

Comprehensive basis of licensing and public authority/body in charge of issuing special permits. Under the presidential decree № 782 to improve regulations of granting special permissions (licenses) for some types of activities dated 2 September 2002, the license is issued to each type of activity separately. In case of multiple-profiled activities of the applicant he may have several licenses. Only after obtaining a license the applicant may implement the activities reflected in the license, within determined manner and term. Much noteworthy is that the holder of the license may use the license granted to him only by himself and cannot give it to another person. The issued license is not valid for juridical persons set up by the license holder. The Ministry of Economic Development of the Azerbaijan Republic is a special plenipotentiary organ in the field of licensing. The Ministry:

- *prepares main directions of state control of licensing;*
- *prepares draft normative-legal acts on licensing issues;*
- *supervises observance of licensing legislation by state organs and economic subjects and provides explanations on the realization of licensing regulations;*
- *implements methodic supervision and information provision of state organs issuing licenses;*
- *determines the form and completion regulations of the documents in the sphere of licensing, maintains the unified register of licenses in the country, orders the preparation of license forms, fulfills their division, takes stock and prepares return of the forms' use.*

Under this law, directions of the Ministry of Economic Development of the Azerbaijan Republic on licensing issues are compulsory for central executive power bodies, local executive power bodies and local government bodies, juridical and natural persons.

In order to obtain a license the applicant is to submit to state organ issuing licenses the following:

- *application for obtaining the license;*
- *copy of the certificate of the juridical person state registration;*
- *copy of the relevant document on the registration of the applicant by rating authorities;*
- *copy of the document confirming the right of user (right of property, rent, use and other basics) on each unit mentioned in the application;*
- *copy of the document confirming the amount of state duty to be paid for license obtaining.*

The license is signed and sealed by the head of the state organ issuing licenses. In case the licensed type of activity is fulfilled in objects situated in different territories the applicant is given the copy of license reflecting the address of each object as well as the license itself. The following are reflected in the license:

- *the name of state organ issuing the license;*
- *for natural persons – name, surname, patronymic name, information on identity card;*
- *the type of activity to be licensed;*
- *period of the license validity;*
- *the license registration number and date of issue.*

Although it is prohibited to demand the documents not envisaged in the law from the applicant, the procedures to issue licenses and permits are longer compared to other countries in the region. Also, in case the applicant re-appeals to the state organ issuing the license for works and services not envisaged in the amendment to this Decree during the license validity, he pays 50 percent of state duty for issue of license. In case of need state body issuing licenses may apply to relevant organs in order to receive reviews depending on the characteristics of type of activity for the fulfillment of concrete type of activity. The appeal of the state body issuing licenses to relevant organs is examined and given review within five days. The documents submitted for license obtaining are accepted by the state body issuing licenses, registered in a special book, examined, and in case there are no defects and reasons for rejection the decision on license issue is taken within 15 days from the date of registration. In case defects are found in the documents submitted, the applicant is informed in written way within five days. After they are eliminated and the documents are resubmitted they are examined and the relevant decision is taken within five days. Comparison of procedures, time (day) and cost for construction permits in Azerbaijan, Armenia and Georgia demonstrates the fact that Azerbaijan faces more unfavorable conditions compared to other countries in the EECA region.

TABLE 2. Dealing with construction permits (Doing Business 2013)

<i>Indicator</i>	<i>Azerbaijan</i>	<i>Armenia</i>	<i>Georgia</i>	<i>Eastern Europe & Central Asia (EECA)</i>	<i>OECD</i>
Procedures (number)	28	17	9	19	14
Time (days)	212	77	74	226	143
Cost (% of income per capita)	292.4	50.1	17.7	486.7	78.7

The law does not precisely list the cases when the applicant is rejected to issue a license. General conditions say “in case the applicant is rejected to issue a license he is informed of it in written form within five days, including the reasons for rejection. The issue of license may be rejected only in cases determined by the law and this rejection may be appealed against in accordance with the legislation. In case the issue of license is not rejected the applicant submits the document verifying the amount of state duty to be paid for issue of license.” Here, the expression “only in cases determined by the law” must be legally elucidated to make sure what it is meant. In case of the juridical person liquidation and natural person decease the license issued to this person loses its legal effect. In case of juridical person re-establishment, change of its name, change of information on the identity card for natural person (series, number, the date of issue and whom by, address), or in case of license lost the applicant re-submits the application for the revalidation of license within 15 days. At the time of the revalidation of license the applicant fulfills his activities on the basis of his previous license, in case the license is lost – on the basis of the time resolution given by the relevant state organs. The time resolution, signed and sealed by the head of the relevant state organ is given after all documents for the revalidation of license are submitted.

The license term may be extended for further period and the list of termless licenses may be expanded. The license is issued for the period of five years (*for the period of three years for manufacture of ethyl (potable) alcohol and strong drinks, for the period of one year for imports of ethyl (potable) alcohol and strong drinks*). Extension of the time of license is implemented in the way of revalidation of the document confirming the license availability. Actually, taking into consideration that some licenses are issued for the development of small and medium-sized enterprises (SMEs), companies or physical persons of this category may obtain privileges and benefits in respect of the term for the license, payment of state duty and granting of licenses.

The scope of powers of state organ issuing licenses for checks-up must be defined more precisely. Under the present Regulation, state organs issuing licenses supervise the observance of license requirements and terms by juridical and natural persons. The control over observance of license requirements and terms by licensed juridical and natural persons is fulfilled once a year (once a month for the juridical and natural persons engaged in manufacture and imports of ethyl (potable) alcohol and strong drinks) by informing the organ issuing the license in a manner defined by the Ministry of Economic Development. In order to carry out the control, state organs issuing licenses are entitled to the following rights:

- *to supervise the conformity of the activities of juridical and natural persons issued license to the license requirements and terms;*
- *to demand the necessary explanations and documents from juridical and natural persons during checks-up;*
- *to draw up a report (protocol) on the basis of check-up results, reflecting concrete violations;*
- *to take decisions for the liquidation of the defects detected;*
- *to inform juridical and natural persons.*

State organ issuing licenses terminates the license in the following cases: in case the license holder submits corresponding application; in case the license holder doesn't fulfill normative acts, or if the relevant state organ ceases the activities of the applicant in accordance with the legislation of the Azerbaijan Republic; in case the fact of the license holder bankruptcy is conformed by the legislation of the Azerbaijan Republic. In case state organ issuing licenses takes decision to terminate the license it informs the license holder and state local taxing authorities of it within three days, in written form. In case the facts causing the license

determination are liquidated, the license may be revalidated on the basis of the appeal of license holder. In case state organ issuing licenses takes decision on it, the license is considered revalidated, the license holder and state local taxing authorities are informed of it within three days.

State organ issuing licenses revokes the license in the following cases: in case the license holder submits corresponding application; in case the false information is detected in documents submitted for license issue; in case of corresponding court decision; in case of the juridical person liquidation and natural person decease. In case state organ issuing licenses takes decision to revoke the license it informs the license holder and state local taxing authorities of it within three days, in written form. State organ issuing licenses keeps the record of the licenses issued, registered, terminated, revalidated and revoked. State organ issuing licenses informs state local taxing authorities within 10 days from the date of the license registration. In case the officials of state organs issuing licenses violate the licensing regulations or do not observe them they are responsible in accordance with the actual legislation. The applicants are responsible for the correctness of documents submitted, and the information reflected in them, in accordance with the actual legislation. The decisions taken by state organs issuing licenses and the actions of their officials may be brought an action against.

The law does not show the amount of the payment of state duty for licenses issued by central executive power bodies. One of the criteria here can be compensation of inventories and time spending at the time of issue of license by the state organ issuing licenses. The table below reflects names of some government bodies, as well as samples of licenses issued by them and payments of state duty.

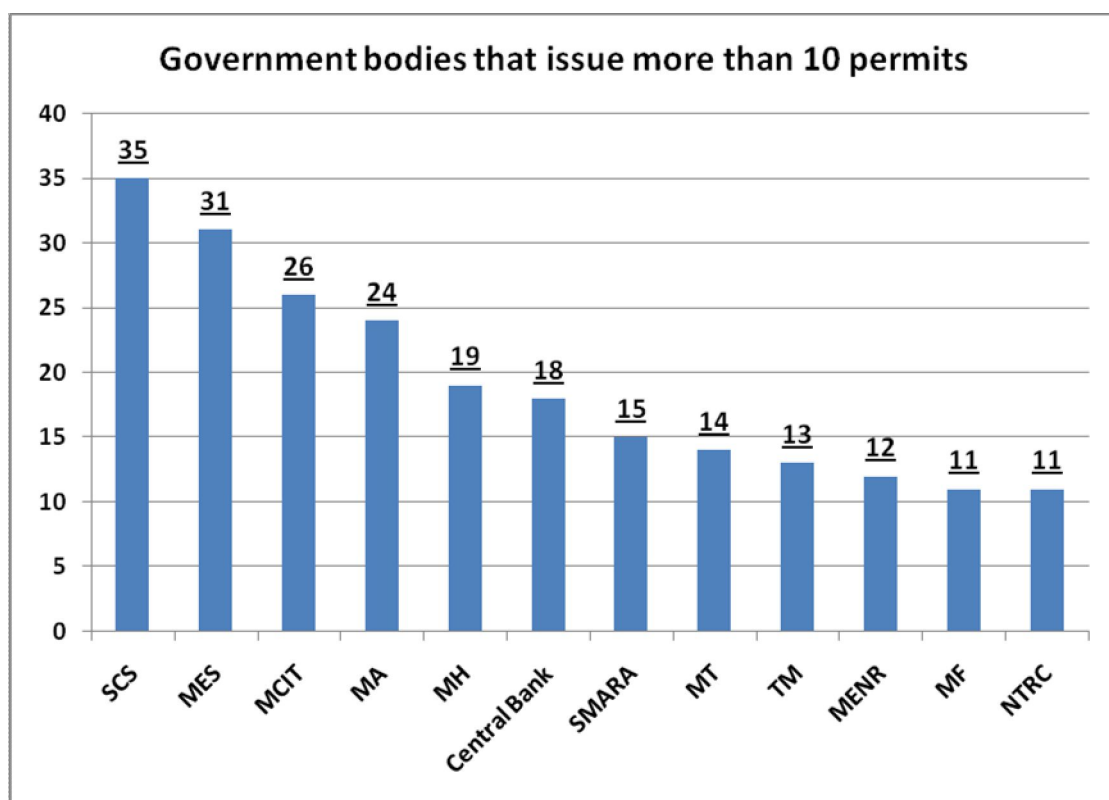
TABLE 3. Some of the licenses issued by central executive power bodies

№	Name of licenses or permits	Time (years)	Payments	Government authority/body in charge of issuing special permits
1.	A permit (license) for tourism activities	5 years	5,500 manats	Ministry of Culture and Tourism
2.	A special permit (license) for mediation in the recruitment of citizens for employment	5 years	2,200 manats	Ministry of Labor and Social Protection of Population
3.	A special permit (license) for pharmacological activities	5 years	5,500 manats	Ministry of Health
4.	A special permit (license) for educational operations	3-5 years	2,500-5,500 manats	Ministry of Education
5.	A special permit (license) for carriage of goods and passengers	5 years	150 manats	Ministry of Transport
6.	A special permit (license) to manufacture and import tobacco products	5 years	5,500/11,000 manats	Ministry of Agriculture
7.	A special permit (license) for broker activity	5 years	5,500 manats	State Committee for Securities
8.	A special permit (license) for activities of stock exchange	5 years	11,000 manats	State Committee for Securities
9.	A special permit (license) for customs broker activity	5 years	11,000 manats	State Customs Committee
10.	A special permit (license) to broadcast a television or radio station	6 years	11,000 manats	National Television and Radio Council

The number of licenses and permits should be optimized. Concerning the types and number of issued to business entities consisting of legal and natural persons in Azerbaijan, the total number of permissions is **305** as per Azerbaijani law, including 46 resolutions, 1 expert assignment, 90 special permits (licenses), 27 special resolutions, 1 approval mark, 2 technical decal, 3 technical decisions, 1 inspection certificate, 2 orders, 39 certifications, 13 certificates, 19 reviews/opinions, 3 formalizations, 2 consents, 4 approvals, 2 registration documents, 3 technical certificates (of production article), 47 other types of formalities. At present there are 59 licensed activities. The number of licensed activities mentioned in the presidential decree dated 27 January 1997 was about 40. However, under the above decree dated 2 September 2002, the number of licensed kinds of activity was reduced to 30 groups from 240, with further amendments rising to 85, thus actually, 240 kinds of activity were licensed, i.e., the list of executive organs was extended.

It is worth noting that the number of licensing activities in European Union member countries, ranges between 30 and 90, while 300 in Japan. Nevertheless, it does not hamper business development in those countries thanks to improved institutional environment. Thus, key is to optimize the number of licenses, on one hand, and to reinforce supervision how the licenses are issued by central and local executive power bodies.

The State Committee for Securities, the Ministry for Emergency Situations, the Ministry of Communications and Information Technologies and the Ministry of Agriculture are listed amongst the top ten bodies in Azerbaijan as per number of issued licenses.



Source: <http://www.icaзeler.gov.az/>

The possibility of transferring the right to issue licensing to municipalities from local executive bodies must be investigated. Presently, besides to central executive power bodies, local executive power bodies are also entitled to issue permits and licenses. Their number is 12. It is necessary to investigate which of the licenses below issued by local executive authorities can be transferred to local governments:

- Permit to determine seasonal trade and service objects

- *Registration certificate for location of trade, public catering and service objects*
- *License for sellers of tobacco products*
- *Permit for sellers of ethyl alcohol and strong drinks*
- *Single license for installation of street billboards*
- *Opinion letter on municipal lands*
- *Land allotment*
- *Architectural and planning instructions for object reconstruction*
- *Architectural and planning instructions for transfer of residential space to nonresidential space or nonresidential space to residential space*
- *Reconstruction and planning of residential area/space*
- *Permit for building and installation works*
- *Instructions for construction and repair of the engineering communication lines.*

The fact that a state-run firm issues licenses to other market actors/entities may cause a conflict of interests. In Azerbaijan, there are some points that may cause a conflict of interests in the licensing activity. For example, the State Oil Company (SOCAR) is also an authority that issues licenses and permits to other market entities. SOCAR's activities related to permissions are as following: exert assignment to obtain expert review for environmental impact and its effects; carrying out oil and gas operations and related activities, expert opinion for services accomplishment; approval marks relating to import list; special permit (license) for nature use for purposes of oil and gas; special permit (license) for oil- and gas –related unsafe business activities, hazardous materials and waste dangerous goods, permit to conclude accords, permit to determine limits and quotas, special permit (license) for nature use; technical conditions for gas supply to demanding objects; checking and testing of industrial facilities.

The complexity of additional licensing requirements significantly elevates corruption risk. The Cabinet's of Ministers Decree No. 174 *On additional conditions for issuance of special permit (license) for certain types of activities, dated November 7, 2002 lists additional conditions for 49 activities.* Here, the licensing requirements for fields that are more strategic are tougher and more complicated. Consider conditions required to obtain a license for communication services, radio trunk and wireless, organization of up-country telecommunication channels, IP-telephony, data transmission, express postal service, third generation (3G) mobile network. To obtain a license from the Ministry of Communications and Information Technologies for this field of activity, 12 diverse documents or information are required, including a warrant from the Ministry of National Security and an opinion from the State Commission for Radio Frequencies. However, maintaining the excessive permits system and complex licensing procedures in some cases complicate the process of license issue in this field thus making it sensitive to subjective interests. In Azerbaijan, the process of licensing one of the mobile operators to install 3G mobile network had seen unfair competition. In a roundabout way, issuance of special permit (license) in most cases can be a factor of unfair competition in relation with business entities and applicants against the background of weak institutional environment. Sometimes government bodies consider issuance of new licenses as an additional source of financing and corruption mechanism. Therefore, it seems that failure to relax the excessive permits system and complex licensing procedures stems from bureaucratic interests.

Directions of Reforms in the Field of Licensing in Azerbaijan

One of the directions towards licensing reforms in Azerbaijan could be the adoption of a normative-legal act shadowing criteria and procedures for the licensing and permit system. In addition, *what is important feature of the process is to re-establish fees to obtain a license based on national average per capita revenue norms and extend the license term with some exceptions,*

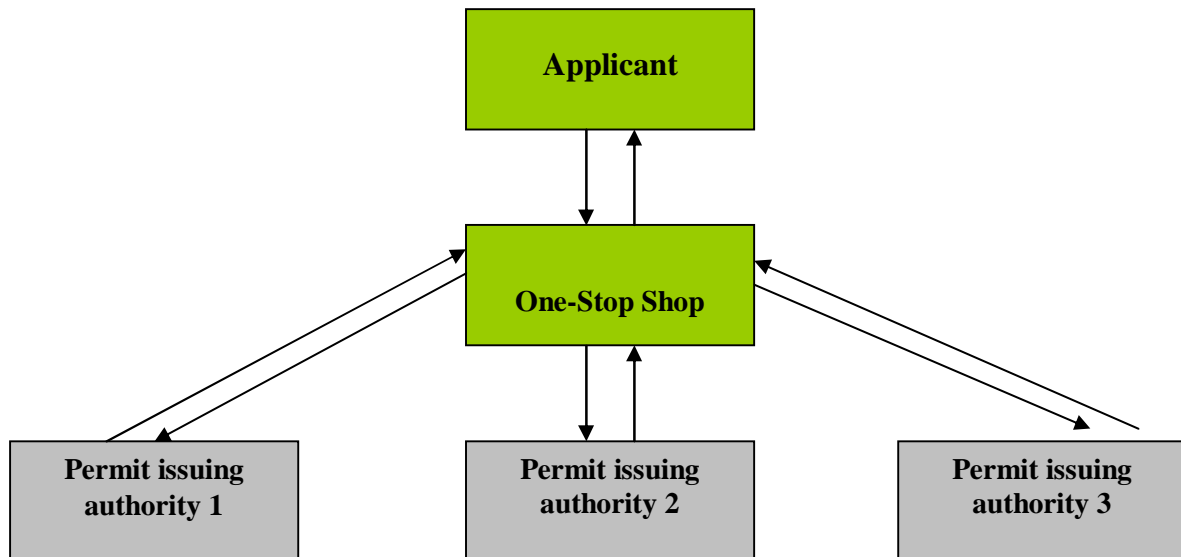
to set up minimum requirements before the applicant to provide services or be engaged in manufacturing (ex-ante), to secure automatic granting of license or permit for appeals by startup companies or startups that do not need special ecological standards if an administrative body fails to respond within the set timeframe ('Silence is Consent Principle'). As to the effectiveness of licensing/permitting reform, it should be noted that reforming the permit system would increase sales, innovations, and productivity by 5%, 5% and 22-30%, respectively. The International Finance Corporation (IFC), an international financial institution, estimates that the cuts in permits would “lead to the total annual savings of more than AZN 10 million to the private sector.”

The most significant direction in the field of licensing is to determine what activities, as well as according to which criteria and justification, require licensing, which must be guided by legal documents. When determining types of activities demanding special permissions (licenses) in Azerbaijan, the conditions to be guided are as following: *the kind of activity is dangerous to persons in unrestricted number not impacted by this activity; persons in unrestricted number, including their properties are impacted by this kind of activity; the activity generates excessive income and requires additional supervision; the state security and scarce natural resources are impacted by this kind of activity; this activity has a negative impact on the ecological environment.*

Much noteworthy is that previous legal normative acts in Azerbaijan previously contained these provisions, but later they were removed. Another direction with regard to licensing reform is the launch of *administrative simplification*. The administrative simplification is designed to cut permit related costs and time. In some cases, administrative simplification with regard to license process is carried out through making amendments to legal acts or improvements on the real execution without any amendments. Most countries where successful licensing system has been launched introduce framework law or other high-level legal instruments regulating main provisions in this field. Once this law establishes the objectives of permit related activities, principles of introduction, time and financing limits, other technical issues can be disclosed in lower level normative acts. The law may extend to the validation of licenses throughout the entire country, introduction of these licenses as a regulating tool other than fiscal, requirements necessary for each license, their term and rejection to issue license, etc issues. The framework law or other normative regulating licensing should also encompass the list of activities requiring permit (license) (*positive list*) and that of economic activities not requiring permit (license) (*negative list*).

Like regulatory reform in the field of licensing, institutional reform is also identified as important. One of the successful institutional features is the introduction of a one-stop shop. With the introduction of this pattern, the applicant appeals to authority (or puts procedures through a single online portal) instead of appealing to various state authorities. Later on, the body submits the documents presented by the applicant to the relevant issuing authorities for reviews. After processing outputs within a certain period of time, they send the feedback (license issue or rejection) to the authority implementing one-stop shop process and the latter informs the applicant about the feedback.

ONE-STOP SHOP FOR ALL PERMITS



The one-stop shop pattern for all permits is not only a progressive system, but also calls for a flexible coordination among government authorities, which is not targeted in some cases. To solve this problem, some countries introduce one-stop shop for each permit instead of the one for all permits. With this system, each permit issuing authority sets up a single application system and coordinates the work of relevant departments engaged in licensing. Besides, some countries want to achieve transparency and eliminate bureaucratic obstacles by allowing requests through a single online portal and introduction of an e-catalogue system. But one thing is clear that rendering online licensing services, processing online registration applications and introducing e-catalogues are subject to improved Internet network, penetration and connections.

Conclusions

The major reform in the field of licensing in Azerbaijan can be considered the Decree On additional conditions for issuance of special permit (license) for certain types of activities adopted in 2002. Under this document the term of license issue was extended and the number of activities was reduced to some extent. Moreover, the government increased the number of licensed activities between 2002 and 2012 thus becoming bureaucratic obstacles to domestic small and medium-size businesses and needlessly hindering the development of the private sector. The long-term license issue procedures, rejection to issue a license without specifying the reason, the risk of corruption and resource-related loss are amongst complaints voiced by businesses. In Azerbaijan, the reforms aimed at regulating the aspects of the private sector, including SMEs, namely licensing, compared to the business registration and checkups, have been carried out more slowly over the past 10 years. In fact, the licensing reform would promote enterprises to achieve increases in sales, innovations and even in productivity. By estimates, the permits reform would “lead to the total annual savings of millions of AZN to the private sector. In addition to regulatory and institutional reforms in the field of licensing, administrative simplification at a further stage could be an important step towards reducing the cost and relaxing time-consuming to obtain a license.

Recommendations

1. The Ministry of Economic Development (MED), the authorized central executive authority in the field of licensing, can prepare rules for introduction of 'one-stop shop' (regulatory) regime' for permits as a new institutional mechanism within the licensing and permit system.
2. A new system can be worked out to introduce online applications for permits and licenses to be obtained by both juridical and natural persons and to distribute licensing e-catalogues.
3. The government should issue licenses to business entities after making sure than the latter are prepared, and possess material and technical base, to implement the activities they want to get involved in. This time, only minimum qualities should be required.
4. In the areas of activity that need several licenses in parallel, the issuance order and procedures should be distinctly expressed and effectively coordinated among government bodies.
5. The government should relax/minimize the list of licenses and permits to entities before business start-up. Regulatory measures must be taken after a business starts and runs.
6. The government should precisely define what activities, as well as according to which criteria and justification, require licensing, which must be guided by legal documents.
7. Taking into consideration that some licenses are issued for the development of small and medium-sized enterprises (SMEs), companies or physical persons of this category may obtain privileges and benefits in respect of the term of license, payment of state duty and rules for granting of licenses
8. Licensing system can be simplified for newly-established, innovative medium enterprises, as well as for SMEs operating in regions, where the average social and economic indicators are lower.
9. <http://www.icazeler.gov.az> portal should be designed in a more interactive format or by posting additional conditions required for each license and permit.
10. All license-related legal and normative acts should be re-developed so that small and medium-size businesses can understand all provisions set forth therein without any additional legal terms. A variant meeting global practices could be a uniform law reflecting a pool of key normative documents in the field of licensing.
11. MED should employ more qualified licensing staff, arrange international training and knowledge exchange programs to develop the relevant skills.
12. In order to address issues in an operative manner during the process of obtaining licenses by SMEs and conduct operative monitoring of implementation of licensing activity, better mobile monitoring groups can be formed and they can make regular trips, in particular to regions across the country.

APPENDIX I. How should the New Licensing Law be made?

There is a need to adopt a comprehensive legal and normative act, similar to the status of law and establishing license-related frameworks in Azerbaijan. According to the World Bank guidelines, issues to be addressed by a smarter law (or other regulatory act) are as following:

1) General provisions

- 1.1. is the object of a statute clearly expressed ?*
- 1.2. does the law include the subjects (businesses, physical persons or NGOs)?*
- 1.3. does the law include key definitions (license, licensing, authorized bodies, violation of the provisions of the law, etc.)?*
- 1.4. does the law include the purposes of licensing or legitimate regulatory criteria?*
- 1.5. does the law ban the use of licensing for any specific purposes (for example, formation of additional budget revenues)?*
- 1.6. does the law clearly express licensing principles (simplicity of procedures, impartiality, transparency, etc.)?*
- 1.7. what are rights and duties exercised by permit issuing authorities?*
- 1.8. what are rights and duties of persons applying to obtain a license?*

2) Introduction of new types of licenses

- 2.1. under what conditions can the government introduce a new type of license?*
- 2.2. under what conditions can the government not introduce a new type of license (activities effectively regulated by market competition mechanisms, activities certified by trade and broker entities, activities the regulatory purposes of which can be achieved through administrative methods, such as checkups or consents)?*
- 2.3. does the law ensure mechanisms necessary for revision and valuation of existing or new licenses?*

3) Activities to be licensed and license issuing/licensing authorities

- 3.1. does the law include the full list of activities to be licensed?*
- 3.2. does the law include justification for each license type to be required and introduced?*
- 3.3. does the law particularize authorized bodies for license type to required and introduced?*
- 3.4. is the law categorized as per level of the impact of licensed activity on health, safety and environment?*
- 3.5. if so, does the law envisage introduction of distinctive procedures for activities having high and low impact on health, safety and environment?*
- 3.6. licenses should be issued on the basis of simplified procedures, which depend on the impact of licensed activity on health, safety and environment.*
- 3.7. does the law define the term and conditions of validity of the license?*
- 3.8. does the law include procedures to extend the term/time of licensing?*

4) Procedures for granting a license

- 4.1. does the law include the detail list of documents required for each license (documents required for licenses of various categories can be different)?*
- 4.2. does the law include a provision of warranty that the issuing authority will not demand from the applicant documents other than the documents reflected in the law?*
- 4.3. does the law include reasons for rejection to issue a new license or extend the term of the existing license to the applicant by the issuing authority?*

5) Term of processing licensing applications

- 5.1. does the law include limits for feedback to applications by the issuing authority?*
- 5.2. does the law include 'Silence is Consent Principle' during responding to licensing applications?*

6) Value (cost) of the license

- 6.1. does the law include the exact duty for each license?*
- 6.2. are license costs stable, or varied depending on the term of the license?*

6.3. unless the law specify the amount of license costs, then does it include expressions explaining the license costs at least (for example, “the cost of the license shall not exceed the total costs incurred during the processing of the application or issue of the license by the issuing authority”)?

6.4. if the costs of the license are regulated by low status legal and normative acts (presidential and cabinet decrees), then does the law include a limit regarding the changes in the amount of costs during a year?

6.5. does the law define whether the duty for obtaining a license is paid to the state budget or the budgets of government bodies?

7) Procedures for appeal

7.1. does the law specify procedures for the appeal the applicants may file against the decisions of license-permit issuing authorities?

7.2. does the law include procedures to hear arguments by both sides?

7.3. what organ should review the license-related appeals?

7.4. is there time limit for consideration of appeals?

7.5. in what cases, does the appeal instance reject to examine the complaint or fulfill the demand?

7.6. what legal steps or corrections can the appeal process present to the complainant winning the case?

8) Legal liabilities

8.1. does the law define legal liabilities for license owners (in case of violating licensing rules) and license issuing authorities (in case of violating the licensing law)?