FINAL

Report and
Work Programme
on “Starting a Business” in ASEAN

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Acronyms and abbreviations

AEC	ASEAN Economic Community
AEM	ASEAN Economic Ministers Meeting
AMS	ASEAN Member State
ASEAN	Association of Southeast Asian Nations
ASEAN-6	Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand
BKPM	Indonesia's Investment Coordinating Board
BRI	Bank Rakyat Indonesia
CLMV	Cambodia, Lao PDR, Myanmar and Viet Nam
CLRC	Corporate Law Reform Committee
CLRP	Corporate Law Reform Programme
CReP	Company Registration Portal
CRIS	Centre of Registers and Information System
DB	Doing Business Report
ERIA	Economic Research Institute for ASEAN and East Asia
EU	European Union
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit
ID	Identification
IFC	International Finance Corporation
IMB	Building Permit
IMF	International Monetary Fund
IT	Information Technology
IUMK	License for Micro and Small Enterprises
MSME	Micro Small and Medium Enterprise
OECD	Organisation for Economic Co-operation and Development
OSS	One-Stop Shop
Prep-SEOM	Preparatory Meeting of ASEAN Senior Economic Officials Meeting
PTSP	Pelayanan Terpadu Satu Pintu (One-Stop Shop)
RIA	Regulatory Impact Analysis
SEOM	Senior Economic Officials Meetings
SITU	Business Location License
SIUP	Trading Business License
SME	Small and Medium sized Enterprise
SSM	Suruhanjaya Syarikat Malaysia
TDP	Company Registration Certificate
WB	World Bank

Executive Summary

The importance of smooth and predictable business registration processes should not be understated. If entrepreneurs looking to set up a new business are faced with obstacles preventing them from doing so quickly, cheaply or efficiently, then they might be discouraged from pursuing their business idea altogether. This can have a damaging effect on the larger economy, with less business activity resulting in lower Gross Domestic Product (GDP) per capita, fewer services offered to consumers and fewer employment opportunities offered to the country's labour force. Alternatively, entrepreneurs might choose to pursue their enterprise idea but might refrain from business formalisation, instead entering into the informal economy, thereby posing greater risks for employees (who do not receive certain protections from the state as a result) as well as for the employers (who would not gain access to governmental support as a result), potentially leading to more corruption in the wider economy. A third scenario would be one in which entrepreneurs go ahead with their business start-up, however due to the significant financial burdens in the start-up stage, are left with less capital for early-stage investment and innovation.

Differences exist between ASEAN Member States (AMSs) in terms of their business registration processes, specifically regarding their length, costliness, complexity and transparency. These differences have been documented in the World Bank Doing Business 2016 report (DB 2016), which surveys 189 countries, and whose 'starting a business' indicator is based on a detailed database of start-up procedures, as well as time and costs involved and paid-in minimum capital. Each country is then ranked for 'starting a business' processes (separate to their overall 'ease of doing business' ranking). The rankings for both metrics reveal large divergences between the AMSs. On the one hand, Singapore is ranked first globally for overall ease of doing business, and tenth for starting a business, with Brunei Darussalam and Malaysia also ranked in the top half of all countries surveyed for both metrics. On the other hand, Cambodia, Lao PDR and Myanmar are in the bottom half of all countries surveyed for both metrics. Moreover, collective divergences exist between ASEAN-6 countries versus CLMV countries. The DB 2016 explains these differences in terms of differences in set-up time (on average 15.7 days versus 48.3 days, respectively) and costs (8.5% versus 46% of GDP, respectively). The ASEAN SME Policy Index 2014, focusing specifically on Micro, Small and Medium-sized Enterprises (MSMEs), gives a difference in average score of 4.1 versus 2.9 respectively, attributing this difference to cheaper, faster and simpler overall start-up procedures in ASEAN-6, which are able to provide online registration, one-stop shop services and financial support.

Achieving smooth business registration processes might require business regulatory reforms, in some AMSs. However, such reforms have been found to be correlated with increases in GDP growth, with Haidar (2012) observing a 0.15 percentage point increase in GDP growth (based on the experiences of 172 countries) following the implementation of reforms. The success of reforms can be traced through the DB 2016 'distance to frontier' scores, which provide an indication of how close to the 'frontier' (i.e. the best performance across all economies and across time) each country is. These scores reaffirm the disparities between ASEAN-6 (with Singapore taking the lead globally, with a score of 96.49) and CLMV countries, which have however seen faster convergence towards the 'frontier' than ASEAN-6. Most notably, Myanmar saw a 46.05 point increase between 2015 (23.97) and 2016 (70.02), as a result of streamlining start-up procedures and eliminating minimum capital requirements.

The necessity of reforms, with regards to starting a business, arise from the various obstacles that entrepreneurs might face when engaging in start-up processes, and the detrimental impact these obstacles can have on business registrations. Examples include restrictive regulations, complex processes and third-party involvement, all of which can add significant time and cost pressures. Overly regulated procedures can deter business activity and/or open up more opportunities for bribes. Complex procedures add greater financial and time burdens on entrepreneurs, discouraging business formation or formalisation. Third-party fees, often resulting from complex processes, add further financial burdens on entrepreneurs.

This report considers these three obstacles, from the perspective of the AMSs, by looking at case studies of certain countries in the ASEAN region confronting the challenges that these obstacles created, through governmental reform packages. The report firstly considers the experiences of Viet Nam, which since 1986 has steadily streamlined its regulations in business registration, including with regards to minimal capital requirements, and has seen marked improvements in its business climate accordingly. The report then moves on to a review of the Malaysian government's experiences in streamlining complex processes, including complex name checks, during the late 1990s. The electronic registration system e-Lodgement was introduced, which merged existing business data into a new database. Finally, the report reviews the experiences of Indonesia in addressing the issue of costly third-party fees, specifically notary fees, during its wave of business registration reforms during the early 2000s.

This report concludes with a series of policy lessons to be drawn from the experiences of Viet Nam, Malaysia and Indonesia, with regards to reducing the burdens created by restrictive regulations, complex processes and costly third-party fees, during business start-up processes.

With regards to reducing restrictive regulations:

- *Effective co-ordination between government agencies.* A fully accountable agency could be set up to lead co-ordination between government agencies which aim to reduce regulatory burdens on entrepreneurs.
- *Establishing a dialogue programme with DB 2016 contributors.* This could contribute towards determining adequate policy reforms for streamlining business start-up procedures.
- *Introducing a unique ID number system.* As part of wider administrative reforms, this could have multiple benefits alongside streamlining business start-up procedures, including improved inter-agency communication and data-sharing.

Regarding the simplification of complex processes:

- *Investment in information technology.* Featuring the recognition of an electronic signature, advanced information technology could lead to greater efficiencies through simplifying registration procedures.
- *Establishing 'one-stop shops'.* These might also be explored as an option for streamlining processes.
- *Securing high-level support from government.* This might be required if reforms are to be implemented successfully, particularly during tumultuous or high-growth periods for the country.

Finally, with regards to reviewing third-party involvement in start-ups:

- *Developing legally valid business registries.* More likely to be kept up-to-date by the companies themselves, these can result in greater accuracy, as well as reducing time and costs resulting from notary service fees.
- *Combining procedures that incur separate costs.* Streamlining costs could lower financial burdens on entrepreneurs, although governments would need to keep in mind the necessity of retaining certain costs in order to avoid posing environmental or health and safety risks.
- *Harmonising business registration requirements across the ASEAN region.* This might involve setting targets in order to ensure that streamlined process and cost targets are met.

1. Introduction

Under the Lao Chairmanship in 2016, ASEAN Economic Ministers endorsed the initiative "Starting a Business" as part of the broader mandate of enhancing the policy and regulatory environment through streamlining processes involved in obtaining permits and business registrations, under D.1. "Strengthening the Role of Micro, Small, and Medium Enterprises" of the ASEAN Economic Community (AEC) Blueprint 2025.

A Concept Note and Update paper were submitted to the SEOM 1-47, and the Prep-SEOM to the 22nd AEM Retreat, respectively. Consultations were also held with the Department of SME Promotion of Lao PDR on the outline of this preliminary draft, noting the differences of performances of government agencies in this area, on a national versus provincial level, and how to better structure the dialogue between the government agencies and private sector consultants interviewed by DB 2016.

To form a solid understanding of business start-up processes in the different AMSs, the OECD conducted a mapping exercise of processes within the AMSs, starting with a detailed review of the Doing Business 2016 Index data, assessing performance, long-term trends and assumptions. The 2015 GIZ report *Benchmarking and Mapping: Business Registration Processes in selected ASEAN Member States*, as well as a range of related studies such as the *Invest ASEAN SME policy index* of ERIA and OECD, and the *Global Competitiveness Report* of the World Economic Forum, are providing an additional basis.

Detailed process maps for each AMS, indicating process steps, costs, time required and institutions involved, are provided in the Annex of this report. Based on this exercise, the study will identify common challenges among ASEAN countries that could be addressed through a regional process such as the action plan envisaged. The report also contains chapters on common challenges, a review of best practices and policy lessons, with a focus on assisting local MSMEs in registering their businesses formally within their own country.

The report starts with an overview of procedures for starting a business in the different ASEAN countries in chapter 2, including a comparison of ASEAN-6 and CLMV countries, highlighting differences between these two groups. The report then delves into a brief discussion on the relationship between business regulatory reform and economic growth in chapter 3, providing detail on reform processes for business start-up procedures for these countries, and describing recent successes in reform outcomes in the region. Chapter 4 provides an overview of the various types of obstacles that entrepreneurs can face when starting a business. Specific case studies of previous reforms in various AMSs, as well as policy lessons to be drawn from their experiences, are then provided in chapter 5. A summary of these outcomes and lessons is provided in the concluding chapter in this report.

2. Overview: Starting a Business in ASEAN

The length, transparency, and costliness of business start-up procedures vary among the ten AMSs. While obtaining a business registration could be a relatively straightforward exercise, the time, cost and number of procedures may take an inordinate amount of time and cost in certain cases. Barriers to enterprise creation can hamper the transitioning of micro-enterprises into the formal sector.

The World Bank's DB is a widely-used indicator to measure business regulations including those for Starting a Business. It is based on contributions of lawyers, accountants, judges, engineers, architects, business people and public officials in each participating economy. The World Bank maintains the methodology to collect, process and analyse data from hundreds of pro-bono contributors.

The DB 2016 Starting a Business Indicator hence involved the collection and study of laws, regulations and publicly available information on business entry for each country, in order to compile a detailed list of procedures, time, costs and minimum capital requirements, which is then verified by local incorporation lawyers, notaries and government officials. **Table 1** shows the numbers of contributors for the 'Starting a Business' topic in each AMS.

Table 1: Number of contributors for 'Starting a Business' in AMSs

Economy	Contributors
Brunei Darussalam	20
Cambodia	25
Indonesia	22
Lao PDR	15
Malaysia	16
Myanmar	18
Philippines	12
Singapore	6
Thailand	19
Viet Nam	7

Source: Doing Business Contributors www.doingbusiness.org/contributors/doing-business (World Bank)

Information on the sequencing of procedures was also collected, and the research made the assumption that any required information is readily available, and that the entrepreneur did not have to exercise "undue influence" when following the procedures in accordance with the documented time and costs. Further assumptions are made about the business, in order to make the data comparable across countries, such as: 100% domestic ownership with five owners (none of whom is a legal entity), has start-up capital of ten times income per capita, has a turnover of at least 100 times income per capita, has at least 10 and up to 50 employees one month after the commencement of operations, all of them domestic nationals.

Table 2 below shows the ranking of all AMSs in the 2014/2015 World Bank-IFC DB 2016, for overall 'Ease of Doing Business' as well as the sub-topic 'Starting a Business'.

Table 2: Results for ASEAN - Doing Business Index

Economy	Ease of Doing Business Ranking	Starting a Business
Brunei Darussalam	84	74
Cambodia	127	180
Indonesia	109	173
Lao PDR	134	153
Malaysia	18	14
Myanmar	167	160
Philippines	103	165
Singapore	1	10
Thailand	49	96
Viet Nam	90	119

Source: World Bank (2015), Doing Business 2016: Measuring Regulatory Quality and Efficiency, World Bank, Washington, D.C.

In general, wide divergences exist, with only Brunei Darussalam, Malaysia and Singapore ranked in the top half of all countries surveyed (in total 189 countries) for these two metrics. Whereas Singapore received the highest overall 'Ease of Doing Business' score globally, Cambodia, Lao PDR and Myanmar were all in the bottom half of all countries surveyed for both this and the 'Starting a Business' metric.

For the indicator 'Starting a Business', the DB Index 2016 (DB 2016) recorded all start-up procedures that are either legally required or commonly done in practice, as well as time and costs associated with these procedures, and minimum capital requirements. Countries are then ranked on the ease of starting a business on the basis of their 'distance to frontier' scores for starting a business, whereby the 'frontier' is derived from the highest score achieved by any country, for four indicators: Time, Cost, Procedures and Paid-in Minimum Capital.

The 'Time' indicator measures the time required to complete each procedure, in calendar days. This does not include time spent gathering information, assumes no prior contact with officials takes, and each procedure starts on a separate day (i.e. two procedures cannot start on the same day, excluding procedures that can be fully completed online). The indicator considers a registration process completed either once the final incorporation document is received or once the company can start operating. The 'Cost' indicator measures the costs required to complete each procedure, as a percentage of income per capita; it only includes official costs (i.e. no bribes) and excludes professional fees unless services are required by law or are commonly used in practice. 'Procedures' assesses the procedures to legally start and operate a company, and includes preregistration (e.g. name verification or notarisation), registration (which needs to be in the economy's largest city) and post registration (e.g. social security registration or company seal). 'Paid-in Minimum Capital', as a percentage of income per capita, calculates total funds deposited in a bank or with a notary before registration, or up to three months after incorporation.

'Starting a Business' is partly determined by number of days (see **Table 3** below) with scores among AMSs ranging from 2.5 days (in Singapore, which is ranked tenth globally) to 87 days (in Cambodia which,

ranked in 180th place, fell into the bottom ten countries globally for this metric). Cambodia also differs from the majority of its ASEAN neighbours with respect to its minimum capital requirements which, at 24.1% of GDP, create further obstacles to starting a business relative to other AMSs (seven of which have a 0% minimal capital requirement).

Table 3: Starting a Business (AMSs)

AMS	Rank	Procedures (number)	Time (days)	Cost (% of GDP per capita)	Minimum capital (% of GDP)
Brunei Darussalam	74	7	14	1.2	0
Cambodia	180	7	87	78.7	24.1
Indonesia	173	13	47.8	19.9	31
Lao PDR	153	6	73	4.9	0
Malaysia	14	3	4	6.7	0
Myanmar	160	11	13	97.1	0
Philippines	165	16	29	16.1	3.3
Singapore	10	3	2.5	0.6	0
Thailand	96	6	27.5	6.4	0
Viet Nam	119	10	20	4.9	0

Source: World Bank (2015), Doing Business 2016: Measuring Regulatory Quality and Efficiency, World Bank, Washington, D.C.

Large collective discrepancies exist between ASEAN-6 (Brunei Darussalam, Indonesia, Malaysia, Philippines, Singapore and Thailand) and CLMV countries (Cambodia, Lao PDR, Myanmar and Viet Nam). Table 3 shows that these discrepancies can largely be explained by differences in set-up time and costs. Whereas ASEAN-6 countries only require on average 15.7 days for setting up a new business, CLMV countries require 48.3 days. From a cost perspective, entrepreneurs in CLVM countries are required to spend on average 46% of GDP on set-up costs; whereas only 8.5% of GDP is required for set-up costs in ASEAN-6 countries (see **Table 4**).

Table 4: Comparison of CLMV to ASEAN-6 countries (average)

Country groups	Rank	Procedures (number)	Time (days)	Cost (% of GDP per capita)	Minimum capital (% of GDP)
ASEAN-6	89	8.0	15.7	8.5	5.7
CLMV	153	8.5	48.3	46	6.0

Source: World Bank (2015), Doing Business 2016: Measuring Regulatory Quality and Efficiency, World Bank, Washington, D.C.

Though offering some insight into the ease of MSMEs in registering their businesses, the Ease of Doing Business rankings do not offer a comprehensive view, since the registration process is, in general, easier

for domestic MSMEs than for businesses at large. The ASEAN SME Policy Index 2014 focuses specifically on MSMEs, with **Table 5** providing index scores for cheaper and faster start-up procedures and better legislation and regulation, for each AMS.

Table 5: Overall Scores for Cheaper and Faster Start-up and Better Legislation and Regulation

Economy	Score
Brunei Darussalam	3.1
Cambodia	2.1
Indonesia	4.4
Lao PDR	2.7
Malaysia	4.8
Myanmar	2.9
Philippines	3.0
Singapore	5.0
Thailand	4.2
Vietnam	4.1

Source: ERIA in co-operation with the OECD (2014), ASEAN SME policy index 2014: towards competitive and innovative, ERIA, Jakarta

As with DB 2016 for business generally, the SME Policy Index report notes that ease of starting a business scores for MSMEs are higher in ASEAN-6 countries than in CLMV countries (see **Table 6** below). The Index attributes this discrepancy to differences in procedures for business registration, and the overall process for MSME entry into operation, which it argues are cheaper, faster and simpler in ASEAN-6 countries. The report notes that most ASEAN-6 countries can provide online registration, one-stop-shop services and varieties of financial support for start-ups, with both new and existing regulations and legislation routinely reviewed, using Regulatory Impact Analysis (RIA).

Table 6: Average scores for ASEAN-6 versus CLMV countries

Country groups	Score
ASEAN-6	4.1
CLMV	2.9

Source: ERIA in co-operation with the OECD (2014), ASEAN SME policy index 2014: towards competitive and innovative, ERIA, Jakarta

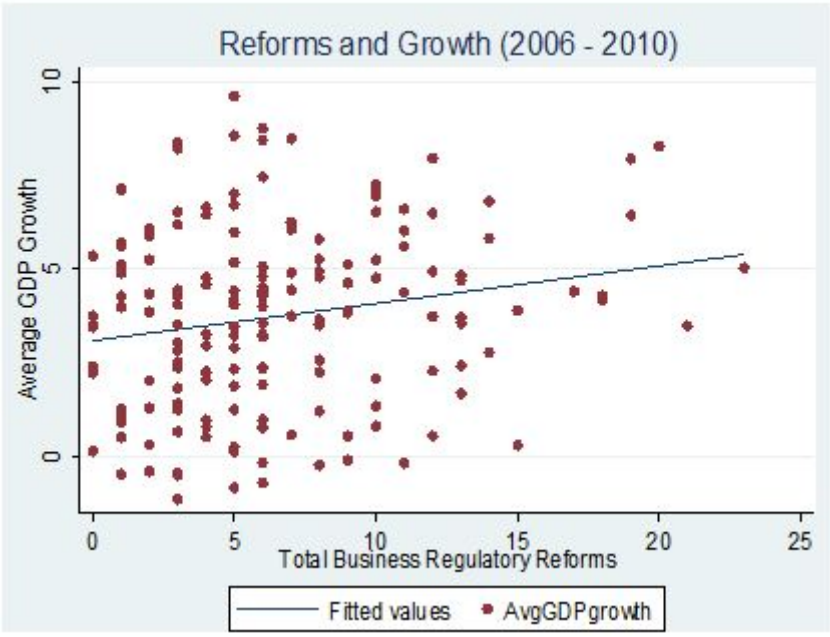
Since the SME Policy Index 2014 is the first in the series, there are no histrical data of past scores, to see how MSME business registration processes have improved over time for the different AMSs. However, there are historical data available for DB scores relating to starting a business (in general, hence non-specific to MSMEs) and the business climate in general. Any insights drawn from the DB reports on

reforming the business climate generally, and business registration processes specifically, could be relevant to addressing reform challenges specific to MSMEs in Southeast Asia.

3. Reforming Business Start-up Processes

Haidar (2012) investigates the link between business regulatory reforms and economic growth in 172 countries. The results (shown in Figure 3 below) show that, on average, each business regulatory reform is associated with a 0.15 percentage point increase in GDP growth. This supports the claim that business regulatory reforms are positively correlated with economic growth.

Figure 1: Business Regulatory Reform and Average GDP Growth in 172 countries (2006-2010)

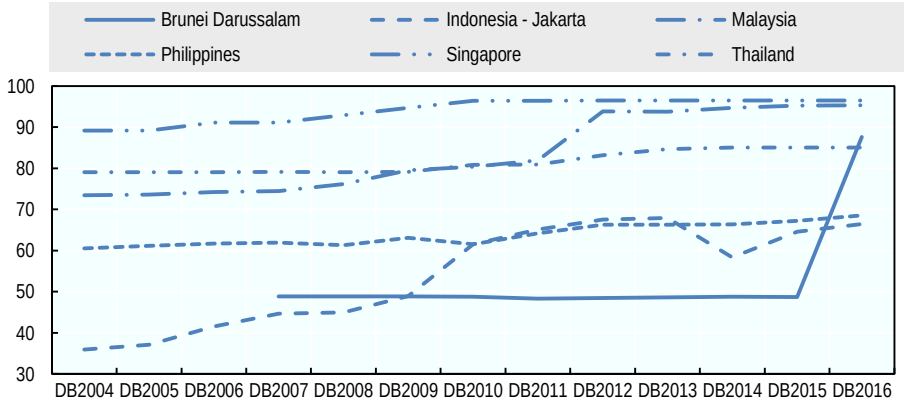


Source: Haidar (2012)

The World Bank defines 'distance to frontier' as the distance of an economy to the 'frontier', which represents the best performance observed on each Doing Business topic across all economies and years included since 2004. An economy's score will range from zero to 100, with zero representing the lowest performance and 100 the highest (the 'frontier').

Figure 2 below shows the progression of 'distance to frontier' scores, specifically with regards to starting a business, for the ASEAN-6 countries between 2004 and 2016. With a score of 96.49 in DB 2016, Singapore was only 3.51 percentage points away from the 'frontier' (constructed from the best performances across all economies and across time). During the period shown, Singapore maintained its position of highest performing AMS, with Malaysia overtaking Thailand to move into second place in 2012, nearly fully catching up with Singapore by 2016. However, the real success story of the Index is Brunei Darussalam which showed a remarkable surge in 2016, reaching a sudden high of 87.63 following a steady score of under 50 from 2007 until 2015.

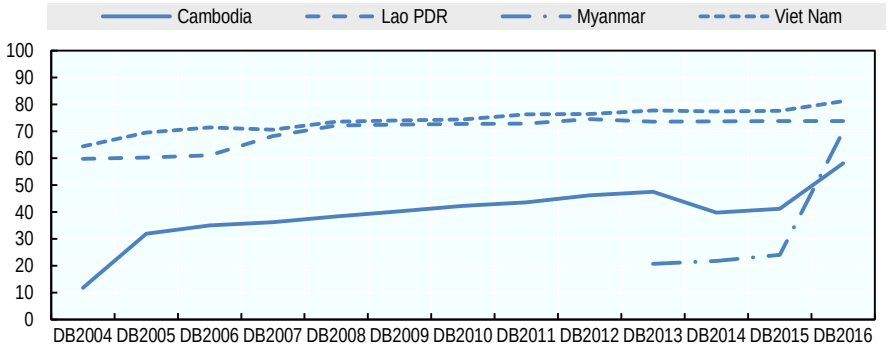
Figure 2: Distance to Frontier: Starting a Business – scores for ASEAN-6



Source: Doing Business: Historical Data Sets and Trends Data (World Bank)

Figure 3 below shows the progression of 'distance to frontier' scores, specifically with regards to starting a business, for the CLMV countries between 2004 and 2016. Score increases for these countries have so far been steeper than for ASEAN-6, with Myanmar following a similar trajectory to Brunei Darussalam in 2016. Though Cambodia has been making steady progress during the period, it still trails behind its CLMV counterparts, with a score below 60 (the lowest across all AMSs).

Figure 3: Distance to Frontier: Starting a Business – scores for CLMV countries



Source: Doing Business: Historical Data Sets and Trends Data (World Bank)

While Singapore and Malaysia have made considerable progress over a number of years, among the recent successes is Brunei Darussalam, which achieved some success in reforming its business start-up procedures, by improving online procedures and simplifying registration and post-registration requirements between 2015 and 2016. In simplifying its registration procedures, the use of information technology helped Brunei Darussalam to make a leap towards the 'frontier'.

Among CLVM countries, Myanmar most successfully reformed its business start-up procedures, by eliminating minimum capital requirements for local companies and streamlining procedures. Myanmar has managed to drastically close the distance from the ‘frontier’ by 46.05 points, from 23.97 in 2015 to 70.02 in 2016.

4. Obstacles to Starting a Business

Restrictive regulations, complex processes and third-party involvement are all major obstacles to smoothly starting a business. Strictly regulated business start-up procedures that are often outdated for the current business environment can impede smooth business start-ups. Complex processes can also hamper the completion of business start-up procedures, due to increased time and cost requirements. Third-party involvement, through for instance notaries or lawyers, can result in third-party fees adding further cost pressures on entrepreneurs.

Some regulations, such as required minimum capital, entrepreneur certification, deposit evidence, tax invoice or company seal, can be costly and ineffective in achieving smooth business start-up procedures. Moreover, certain regulations can lead to overly regulated business start-up procedures if these are not implemented properly. Often, regulations are appropriate at the time of their introduction; over time, however, changes in the macroeconomic and business environments may result in the regulations becoming out of date or no longer meeting their original objectives. Such outdated regulations might go as far as to prevent policy makers from achieving smooth business start-up procedures, whilst incurring heavier financial burdens for entrepreneurs. Excessive regulatory procedures can also result in greater possibility for corruption.

As well as regulatory barriers to business start-up procedures, complex processes for business registration and licensing can also create administrative barriers, through increased time and costs required to finalise such procedures. These administrative processes can include non-standardised documents for business registration, cost-intensive and time-consuming company name checks, obtaining official stamps, trade promoting licenses, business registration and tax registration. Streamlining such complex processes might help to improve the business and investment climates and might incentivise more business formalisation. However, the process of streamlining these processes will need political commitment at the highest levels.

Third-party involvement often arises as a result of highly complex processes that cannot be completed without external help from third-party services, such as a notary, lawyer or accountant. The fees that such services incur can add further financial burdens, thereby significantly adding to the time and cost pressures on business start-up procedures resulting from complex processes. This might in turn lead to higher levels of business informality, due for instance to the high costs of business incorporation resulting from third-party fees that these necessitate. The *DB 2016* report identifies a strong correlation between level of informality and cost of third-party services resulting from complicated rules and regulations. Informality means restricted access to credit, commercial dispute settlement mechanisms and business development services, amongst other things. These inhibit the company's growth, investment and creation of employment, with fewer employees covered by social protections, and with lost tax revenue to the government. The report also argues that there is a link between start-up processes necessitating third-party involvement and levels of regulatory transparency, as well as the performance of the civil justice system.

5. Reforms and Good Practices

(i) Reducing Restrictive Regulations

A legacy of restrictive regulations has discouraged many entrepreneurs from formally starting their own businesses. Many of these regulations are not only burdensome but also outdated, failing to fulfil their initial purposes and/or take into account costly trade-offs. They can usually be eliminated and, in some cases, be replaced by alternative regulations that more effectively serve the specific purpose they were originally designed to meet.

Minimum capital requirements

Minimal capital requirements are usually required by shareholders, often in the form of a bank deposit under the company name, before registering the business entity. Their purpose was originally to protect stakeholders, such as investors and creditors, from the potential instability of less capitalised economic activities, and to nurture confidence in financial markets. From this perspective, they are often successful in encouraging stakeholders to consider more cautious actions.

However, the requirements often have adverse effects. For instance, if they are too high then certain capital entrepreneurial activity may fail to formalise. Moreover, the required capital is often a fixed amount which ignores specific details such as the size, activities, risks and other characteristics of the new enterprise. As such, it may be too high, impeding the development of the start-up, thereby distorting healthy competition; or it may be too low, thereby failing to shield enterprises from insolvency and hence protect investors and creditors. Furthermore, the paid-in capital may be deposited during the short start-up period but then subsequently withdrawn in order to fund non-business related activities, hence failing to meet its initial purpose. Alternative methods to protect stakeholders might therefore be sought, for instance mandatory information disclosure.

Case study: Viet Nam

Experiences in Viet Nam, during the country's transition from a planned to a market economy, present a case study for the removal of minimum capital requirement. This was done through enhancing inter-ministerial communication and co-operation in simplifying and standardising business start-up procedures and steps. Faced with a need to improve the business climate in the economic transition, business start-up procedure reforms were gradually implemented in co-operation with international society from 1989 onwards, with a subsequent increase in business start-ups which resulted in more business competitiveness.

Prior to 1986, Viet Nam had run a closed economy with policies and measures that restricted private ownership. The country's comprehensive economic reforms, known as *Doi Moi*, were centred on the objective of moving from a planned economic system to a market economy with a socialist orientation, and involved major legal and institutional reforms. As part of a suite of reforms, wider business environment reforms including business start-up procedure reforms and the resulting business registries and registration processes now perform a crucial role in a market economy, providing legally valid, reliable and up-to-date information on businesses in an efficient manner.

The shift in policy intentions was implemented by the enactment of a wide range of laws, translating policy intention into action. These included the Company Law and the Law on Private Enterprises (1991), Law on Domestic Investment Promotion (1994), Amended Company Law (1994), and Amended Law on Private Enterprise (1994), and other legal steps, for instance MSME definition making and MSME development strategy formulation. A major milestone of the reform process was the 1999 Enterprise Law which consolidated and streamlined various business regulations. Specifically regarding business registration, the law saw the removal of minimum legal capital requirements, with some exceptions. The 1999 Enterprise Law led to an exponential increase in

business creation, further promoted by subsequent reforms which significantly changed the regulatory framework for business start-up procedures.

However, the 1999 Enterprise Law did not go as far as to remove all burdensome administrative procedures in the country's business start-up process. Further reform measures have therefore been introduced since 2005, in co-operation with international organisations, consisting of three steps:

1) Establishing a consolidated National Business Registry System;

2) Developing nationwide web-enabled access to information on registered enterprises;

3) Establishing an electronic system for the annual filing of financial statements of shareholding companies, and for financial statement information dissemination, based on the National Business Registry System.

By 2011 Viet Nam had consolidated its business, tax, statistics and seal registration processes into a single application form, and had introduced a national unique identification (ID) number which is also used as an enterprise's tax code. As a result of enhanced inter-ministerial communication and co-operation in implementing the System, single-point registration services are now performed across the country by 65 Business Registration Offices, spread over 63 Provinces.

The reforms resulted in a significant increase in the number of business start-up filings, thereby enhancing businesses competitiveness. The business registration reforms have also contributed to greater transparency in the business environment, reducing transaction costs and riskiness in business activities. Over the period 2005-2010, the number of enterprises created annually has increased steadily each year from about 40,000 in 2005 to almost 90,000 in 2010. Ho Chi Minh City alone has experienced a tremendous increase of filings for new business registration, from 5,407 in 2000 to 25,010 in 2010. Furthermore, Viet Nam made gains in the World Economic Forum's global competitiveness ranking, moving from 81st place (out of 117 countries) in 2005 to 59th (out of 139 countries) in 2010/11. Moreover, as a result of Viet Nam's improved business climate, the country's ranking in DB Ease of Doing Business improved from 97th place in 2006 to 78th place in 2011 (ranked out of 183 economies).

Policy Lessons

AMSs might therefore wish to continue to take practical actions, consistent with national circumstances, to reduce restrictive regulations. This would lower the burden imposed on entrepreneurs and the business climate as a whole. Reforms would need to be aligned in order to ensure that they collectively address the underlining economic problems they individually seek to target. To this end, government authorities should ensure effective co-ordination between government agencies, clarifying the roles of central and local regulations both horizontally and vertically. A fully accountable agency responsible for the reform measures might be created to lead such co-ordination.

In addition, the AMSs might choose to launch a dialogue programme with Southeast Asian countries, both towards the ASEAN vision of appropriate regulatory requirements for starting a business and in the pursuit of higher rankings in future DB indices. Such dialogue could help to determine adequate policy reforms for improving performance in desired MSME sectors, by identifying the needs, interests and priorities of stakeholders, from MSMEs all the way up to central government. Experts such as lawyers, notaries, judges, architects, trade logistics specialists, accountants and engineers could then periodically gather to discuss and compile reports on how to streamline business start-up procedures.

Furthermore, governments might seek to introduce a unique ID number system, which would typically involve an alphanumeric code to identify a legal entity such as enterprise or sole

proprietorship. The implementation of such a system could be part of larger-scale administrative reforms which could include streamlining business start-up procedures, integrating government-to-business service delivery and establishing technical infrastructure to support inter-agency communication and data sharing.

(ii) Reviewing Complex Processes

Complex processes for starting a business increase the required time and costs for completing business start-up procedures, thereby potentially impeding entrepreneurs from proactive business formalisation. Streamlining such complex processes might help to improve the business and investment climates and would incentivise more business formalisation. For instance, electronic systems tend to help facilitate process simplification efforts.

Company name checks

In many countries, the administrative obstacles and high costs imposed by inefficient company name checks deter entrepreneurs with good business ideas from embarking on the process of formal business incorporation. Company name checks are conducted to see whether a name has already been taken, because in many countries the company name cannot be identical to that of another registered company. By registering a unique company name, the company receives intellectual property (IP) rights protection from the authority, preventing another entrepreneur from copying its branding.

Company name checks can however be excessively cumbersome and time-consuming, and may deter entrepreneurs from pursuing their business idea, or higher levels of informality. Certain economies, in particular low- and middle-income countries, may start their digitisation processes by making a company name check function available online, thereby shortening the length of time taken to complete the check.

Case study: Malaysia

Malaysia provides a useful example of streamlining business start-up procedures, in the context of a broader goal of fostering economic growth and private sector development through supporting entrepreneurship. The Malaysian government was looking to lock in gains from the rapid economic growth observed in the 1990s when the Malaysian economy had dramatically grown in size, volume, economic structure and sector diversity. Global trends of advancing information technology and global trade liberalisation, particularly the establishment of the ASEAN Free Trade Area in 1992, had facilitated Malaysian economic growth, with an average 7.2% GDP growth rate during the 1990s (IMF 2016), despite a decline in GDP in 1998 due to the Asian financial crisis. Seeking to ensure further gains, in 1999 the Prime Minister Mahathir Mohamad initiated discussions around business start-up process reforms, seeking increased formalisation of the economy which he saw as a leading indicator of economic growth and private sector development. Notably, the Companies Commission of Malaysia, or Suruhanjaya Syarikat Malaysia (SSM), an autonomous agency responsible for the reforms, introduced e-Lodgement, an electronic registration system.

The purpose of the business start-up process reforms was in part to boost the competitiveness of enterprises through facilitating business formalisation processes. As the Malaysian economy grew, companies were privatised and more multinational and foreign companies saw an incentive to enter the market. The cabinet aimed to develop the private sector and sustain economic growth by reducing the time and costs of business formalisation, because it would help businesses operate more professionally and compete with rivals both domestically and internationally. The reforms were implemented mainly on three frameworks: institutional, legal, and IT frameworks.

The SSM, newly established in the early stages of the reform process, played a pivotal role in identifying the three strategic objectives, pushing for legal framework reform by creating a new legal

reform committee and by introducing work process and IT system changes into the new business start-up procedures. The first step for business start-up process reform was the merger of two institutions responsible for business start-up procedures, establishing a new autonomous institution in their place following cabinet approval in 1999. The legal framework for SSM was then established in 2001, and in 2003 the SSM developed the *Strategic Roadmap 2004-2008* which provided the strategic foundation for the reform. Following the strategic orientation, legal reforms were advanced through the Corporate Law Reform Programme (CLRP), and the SSM established the Corporate Law Reform Committee (CLRC) to implement the Programme. In parallel to this, the new IT system dramatically improved the efficiency of the new electronic business registration system, e-Lodgement, by merging the existing business data into a new database. For example, the e-Lodgement services enabled entrepreneurs to obtain the pre-approval of their intended company name within only minutes. An entrepreneur had to wait approximately 5 days to receive from SSM the pre-approval which functions as the reservation of the name before the establishment of the services. As a result of these reforms, the number of new registrations increased year-on-year between 2001 and 2007.

The reforms improved ease of business start-up procedures as well as business activities at large, by increasing efficiencies in the registration process. The number of registered enterprises increased from 171,469 in 2001 to 270,747 in 2007. In addition, the necessary time to start a business in Malaysia was reduced from 30 days to one between 2003 and 2008. The improved business activities were also observed in enhanced corporate governance and the introduction of a more efficient and customer-responsive public service delivery system. Although the reforms were not drastic and were implemented quickly, they led to more efficient and transparent business start-up processes.

Policy Lessons

Improved technology in individual AMS can lead to greater efficiencies, with the use of information technology able to facilitate the simplification of registration procedures and the consolidation of steps in the registration process. However, improved technology should accord with each AMS's domestic regulations. Furthermore, recognition of an electronic signature is required to make e-registries equal to other solutions. An electronic registry is a prerequisite for an efficient information service.

The impact of one-stop-shops, however, depends on the approach. While institutional cooperation and/or a one-stop-shop might reduce the burden on the business, the impact on efficiency, costs, and quality of registration procedures will differ depending on whether the approach to the one-stop-shop is a postal, physical, network service or single-point registration.

Results are most likely to be achieved if reforms are supported or even led by the highest levels of government. This is especially true if the reforms are occurring in the context of a tumultuous or high-growth period for the country.

(iii) Reviewing Third-party Involvement in Business Incorporation

Although complex processes are often a major cause of cost-intensive business start-up procedures, most of these added costs arise from third party fees such as those of notaries and lawyers, required by entrepreneurs to support processes. The *Doing Business Report 2016* shows that greater third party involvement is associated with higher levels of business informality, less regulatory transparency and a less efficient civil justice system.

Notaries

Notaries verify the authenticity of signatures and documents in legal transactions; their role is particularly important in business contexts lacking standard registration documents and/or clear guidance on how to complete the documents. Entrepreneurs often hire notaries simply because

business registration formalities are complex, laws are opaque or the justice system is inefficient, hence complying with all the requirements is almost impossible without external help. This, or a legal requirement for a notary for business registration, makes the process of registering a business highly expensive for some entrepreneurs.

Notarisation is associated with less regulatory transparency and a less efficient civil justice system; furthermore, since it represents an additional start-up formality often required by regulators, its frequent use is also associated with a higher level of business informality. One way to improve the regulatory environment might be by making the use of third-party services a non-compulsory option.

Case study: Indonesia

Notaries, who are usually appointed as authorised officials by the government, remain necessary in drawing up registration documents for new businesses, thereby creating legal certainty. However, the burden of notary involvement in incorporation procedures can at times be overbearing for entrepreneurs. Lessons can be drawn from the experiences of Indonesia, which serve as a good example of easing this burden. Faced with an urgent need to reduce unemployment, the country sought to remove constraints on business start-ups by implementing reforms of start-up procedures, including introducing a new investment law, establishing a 'one-stop shop' and reducing notary fees.

During the early 2000s, high unemployment in Indonesia had been expected to grow even higher due to a growing proportion of the country's young population newly entering the labour market. In order to address the employment deficit that this growth in the labour market had anticipated, Indonesia sought to build upon the significant role that the growth of MSMEs had previously played in the economy over the previous few years, in terms of proportion of both aggregate output and labour force. In doing so, it aimed to create an environment in which small enterprises could bloom.

Identifying the complexity of business start-up processes, the Indonesian government implemented reforms aimed at streamlining procedures in order to improve the country's business climate, in which many enterprises still preferred to remain unregistered. Reforms included introducing a new investment law, establishing a 'one-stop shop' and reducing notary fees, as starting a business had previously required costly notary involvement.

Immediately after the introduction of a new milestone investment law in 2007 (Law No. 25/2007), Indonesia's Investment Coordinating Board (BKPM) introduced measures to simplify investment procedures. The one-stop shops – Pelayanan Terpadu Satu Pintu (PTSP) – which had first been introduced into Indonesia in 1999 and then expanded in 2006, reduced the time needed for arranging basic permits such as the building permit (IMB), the business location license (SITU), the trading business license (SIUP), and the company registration certificate (TDP). Furthermore, in 2007 Indonesia launched an online system that enabled notaries to complete company name searches and reservations more quickly. The government subsequently introduced standard business incorporation forms the following year. In addition, in 2009 notary fees were reduced, including those for notarising company deeds, by amending the official fee schedule.

The reforms led to time and cost savings for entrepreneurs through, for instance, significantly reducing the time and costs of obtaining business licenses. The time and costs required for obtaining basic permits were reduced by 47 per cent and 44 per cent over a single year, respectively (ERIA, 2015). Furthermore, Indonesia successfully mitigated the burden of notary involvement in business start-up procedures. The country has since continued to advance reforms, launching a License for Micro and Small Enterprises (IUMK), for start-up registration and banking identification within the Bank Rakyat Indonesia (BRI), at the end of 2015.

Policy Lessons

Legally valid business registries are most likely to be kept up-to-date by companies, thereby providing third parties (who may need to access the information) the best protection from inaccuracies. Simplification of pre-registration procedures, such as reviewing notarisation requirements and the public release of business registration information, are likely to have a substantial impact on the time and costs of starting of a business. However, the implementation of this recommendation has to be in accordance with domestic laws and regulations of each AMS in order to create legal certainty.

When business registration processes include multiple costs, finding ways to remove these costs in an efficient manner, whilst taking into account the country's stage of development, is key to smoother business registration procedures. If there are two separate processes that incur two separate costs, the possibility of combining the procedures should be explored, or indeed one of the procedures could be removed in order to reduce overall costs. However, the country’s stage of development should be borne in mind as, depending on this, reducing costly procedures might result in business activities that pose significant risks to the environment or to human health and safety.

Furthermore, the AMSs might wish to harmonise requirements in starting a business across the region, since disparities in national laws and requirements slow down progress in establishing a common market. Setting targets might be of benefit in speeding up the process of harmonisation. Such targets might relate to the time required to set up a business (keeping this under a certain number of working days) and costs involved (keeping these below a certain amount), as well as working towards completing all procedures through a single administrative body, and completing all registration formalities online.

6. Conclusion

In order to harmonise ease of doing business, the following three areas could form the components of the ASEAN Work Programme for Starting a Business:

(i) Reducing restrictive regulations

Restrictive regulations lead to an increased risk that entrepreneurs choose not to formally register their businesses, especially when the time and cost burden which the regulations create are found to be greater than the benefits resulting from business formalisation or even initial business creation. For instance, minimal capital requirements might deter entrepreneurial activity if these are too high.

Drawing on the experiences of a number of SEA countries which have steadily streamlined its regulations in business registration and has seen marked improvements in its business climate accordingly, this report considers a number of policy lessons:

1. Reducing the regulatory burden on entrepreneurs looking to start a new business could benefit the business climate as a whole, but would require effective co-ordination between government agencies to ensure alignment of reforms and clarity of roles. One suggestion might be to create a fully accountable agency to lead such co-ordination.

2. The AMSs might benefit from a dialogue programme with DB contributors in order to determine adequate policy reforms for streamlining business start-up procedures for MSMEs; such an activity would have the added benefit of pushing the AMSs up future DB rankings.

3. The AMSs might wish to consider introducing a unique ID number system which would be part of wider administrative reforms, streamlining business start-up procedures whilst supporting the delivery of government-to-business services and facilitating improved inter-agency communication and data sharing.

(ii) Reviewing complex processes

Complex processes result in greater time and financial burdens on entrepreneurs, which might deter them from choosing to formalise their businesses, or indeed undergo initial start-up. Inefficient company name checks constitute a typical example of such administrative obstacles that can be cumbersome and time-consuming, thereby acting as a possible deterrent to business registration and/or leading to increased informality.

For example, during the late 1990s, in the context of sweeping reforms of business start-up processes, the Malaysian government introduced e-Lodgement, an electronic registration system, which merged existing business data into a new database, contributing towards subsequent year-on-year increases in business registrations. Drawing on this and other AMS experiences, several policy lessons can be drawn:

1. Investment in information technology, in accordance with each AMS's domestic regulations, can lead to greater efficiencies through simplifying registration procedures, and would involve the recognition of an electronic signature.

2. 'One-stop shops' might also be considered as an approach to reducing complex processes, however their efficacy will depend on whether their services are postal, physical, network service or single-point registration.

3. Support from the highest levels of government is necessary if reforms are to be implemented successfully; this is especially the case during high-growth periods for the country.

(iii) Reviewing third-party involvement in business incorporation

Complex processes can lead to an additional burden on entrepreneurs, namely the requirement of third-parties to assist with navigating the complex business registration procedures. In addition to imposing more layers of complexity, this additional burden comes with added costs through third-party fees. Notaries constitute a typical example of such third-party involvement, and are typically associated with opaque laws or an inefficient justice system, as well as complex business start-up processes. The fees that their services incur often lead to higher levels of business informality in the economy. The Indonesian government sought to address this issue during its wave of business registration reforms during the early 2000s, which also included introducing a 'one-stop shop' and an investment law.

In light of these experiences, several policy lessons can be drawn for reviewing third-party involvement in business registration processes:

1. Legally valid business registries could have the benefit of greater accuracy since they are more likely to be kept up-to-date by companies. The simplification of pre-registration procedures would have a positive impact on reducing time and costs burdens, through lower notary requirements resulting from simplified procedures.

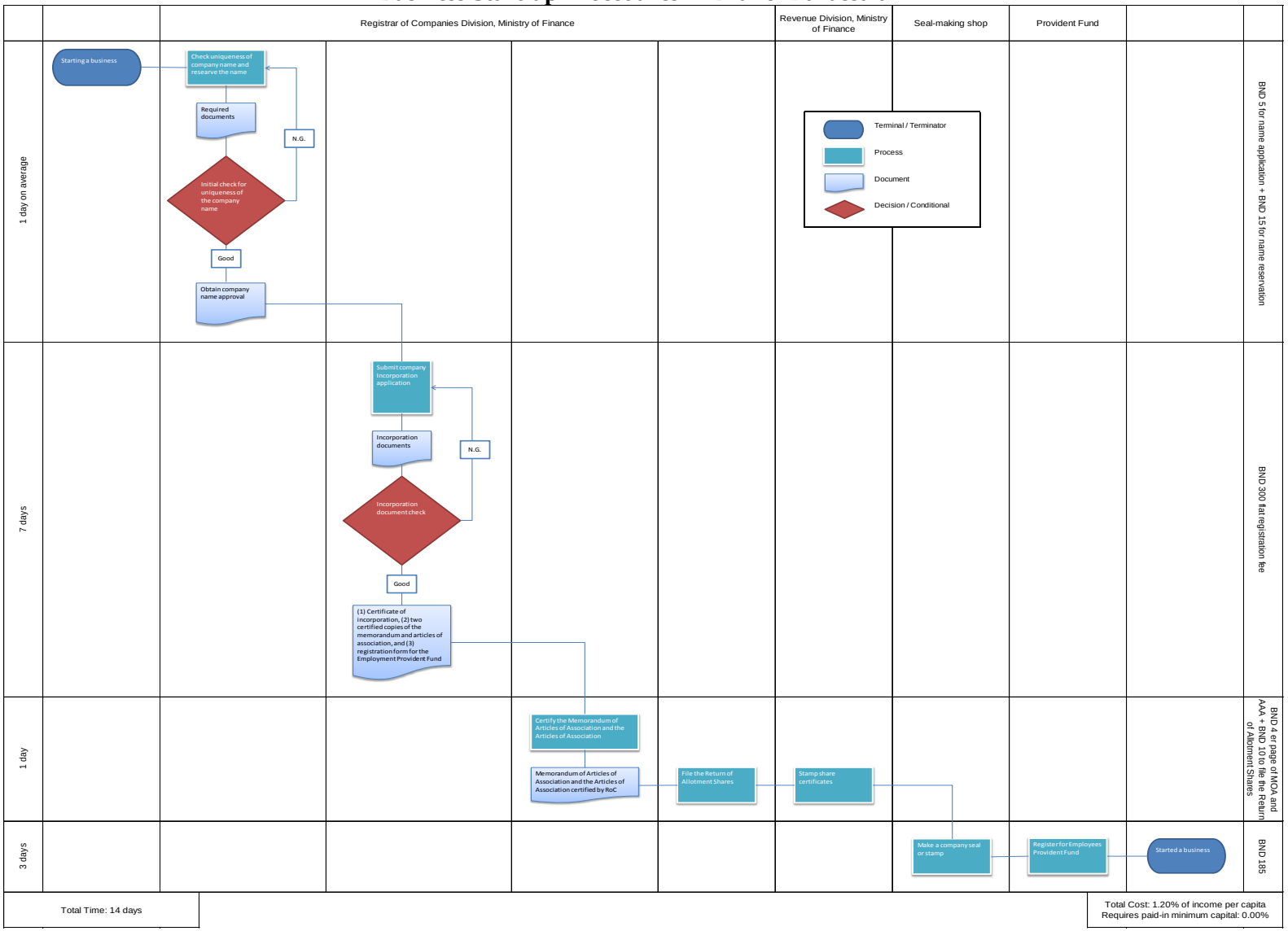
2. Cutting costs through combining procedures that incur separate costs would result in lower financial burdens on entrepreneurs. However, it would be important to bear in mind the country's stage of development, as certain costs might be necessary to prevent business activities that pose significant risks to the environment or human health and safety.

3. Harmonising business registration requirements across the region, towards the creation of a single market, might help to reduce third-party service fees. This could be implemented through the setting of targets for maximum time requirements in setting up a business, or costs involved, or through stipulating the completion of all registration formalities online.

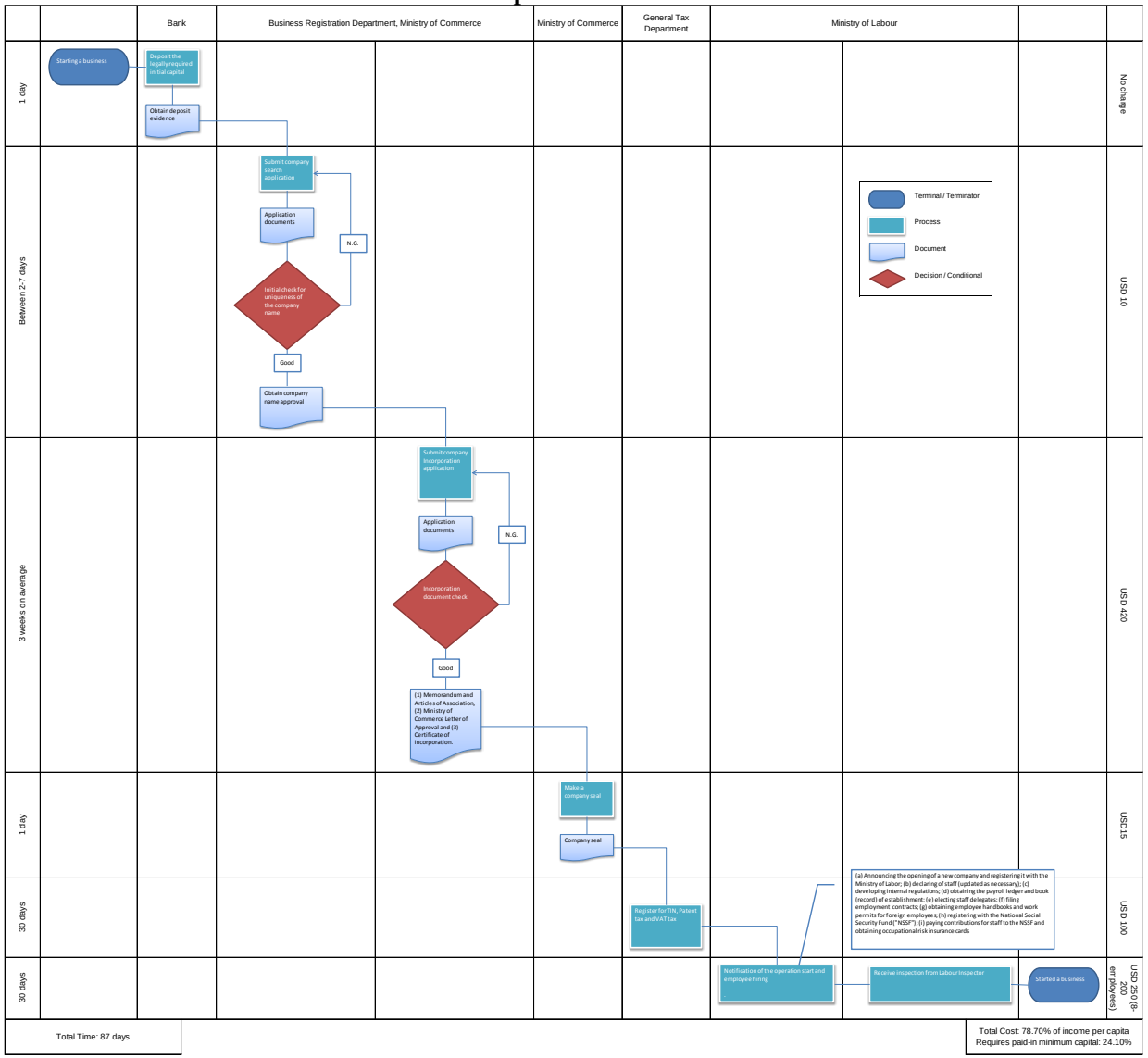
In this context, a Validation Workshop was conducted on 13 June 2016 in Hanoi, Viet Nam, with the participation of ASEAN Coordinating Committee on MSMEs (ACCMSME) as well as representatives from business registration agencies. The Workshop finalised the Work Programme on Starting a Business in ASEAN which is attached as ANNEX I.

Annex II: Process Maps of ASEAN Member States

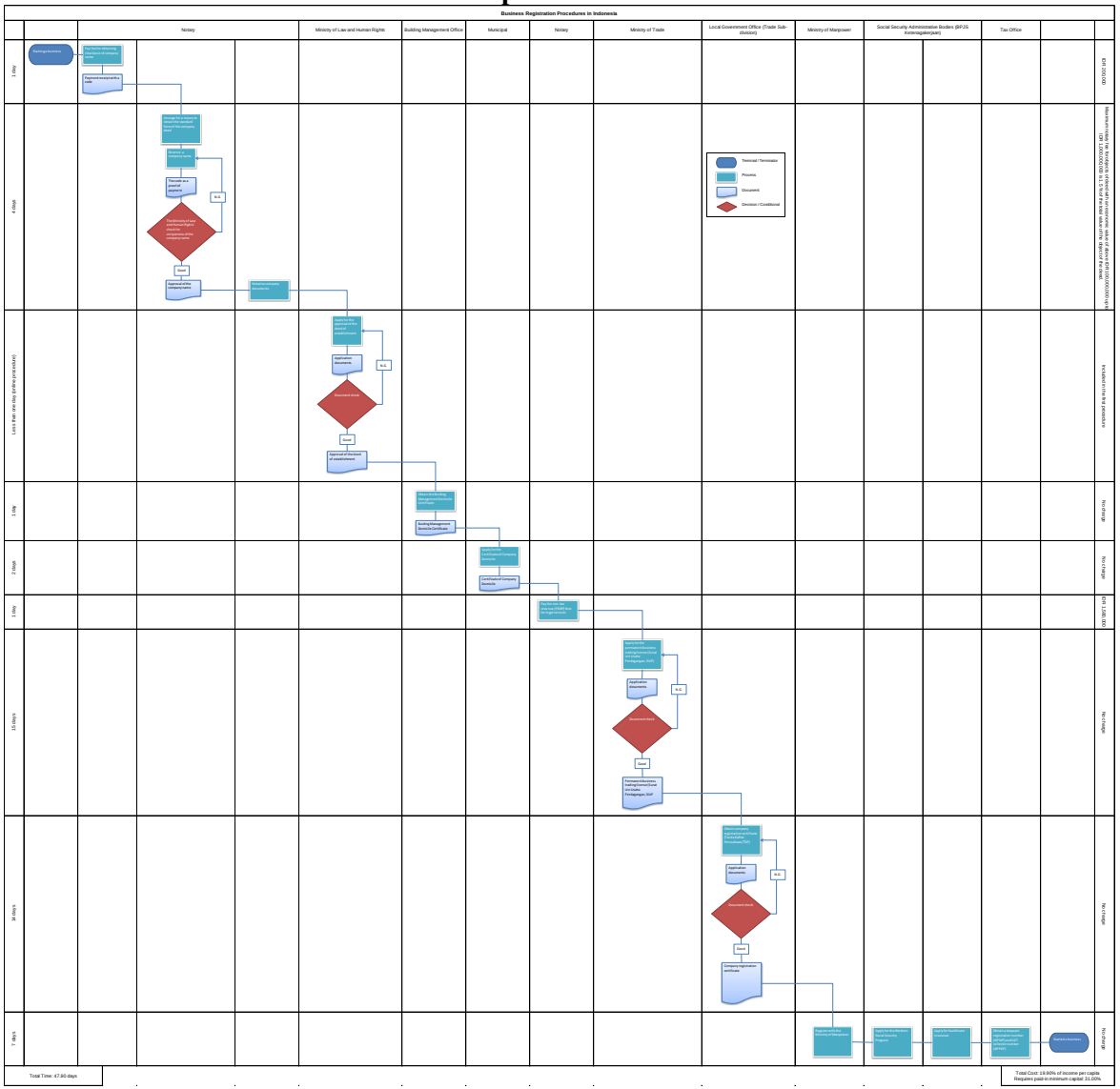
Business Start-up Procedures in Brunei Darussalam



Business Start-up Procedures in Cambodia

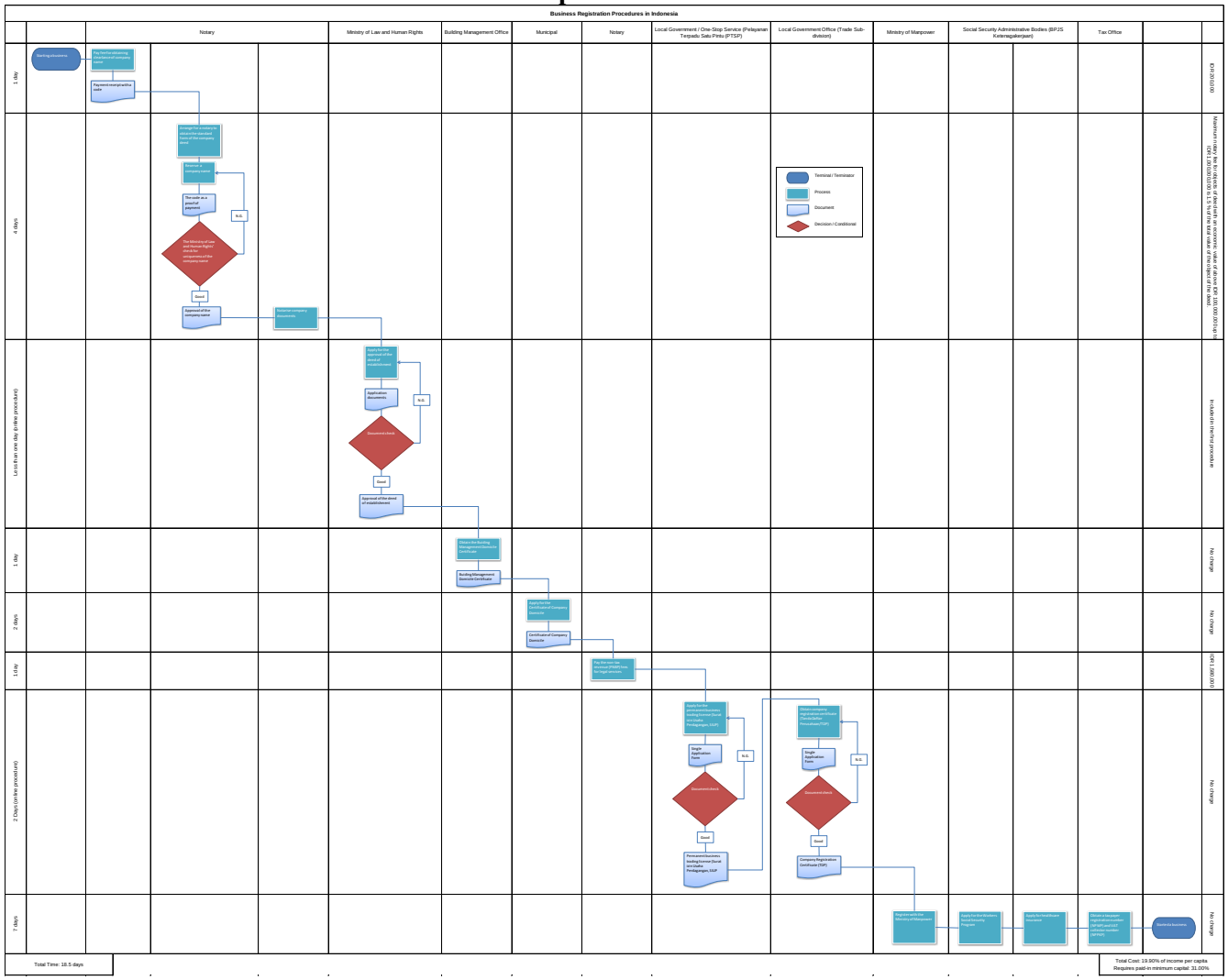


Business Start-up Procedures in Indonesia



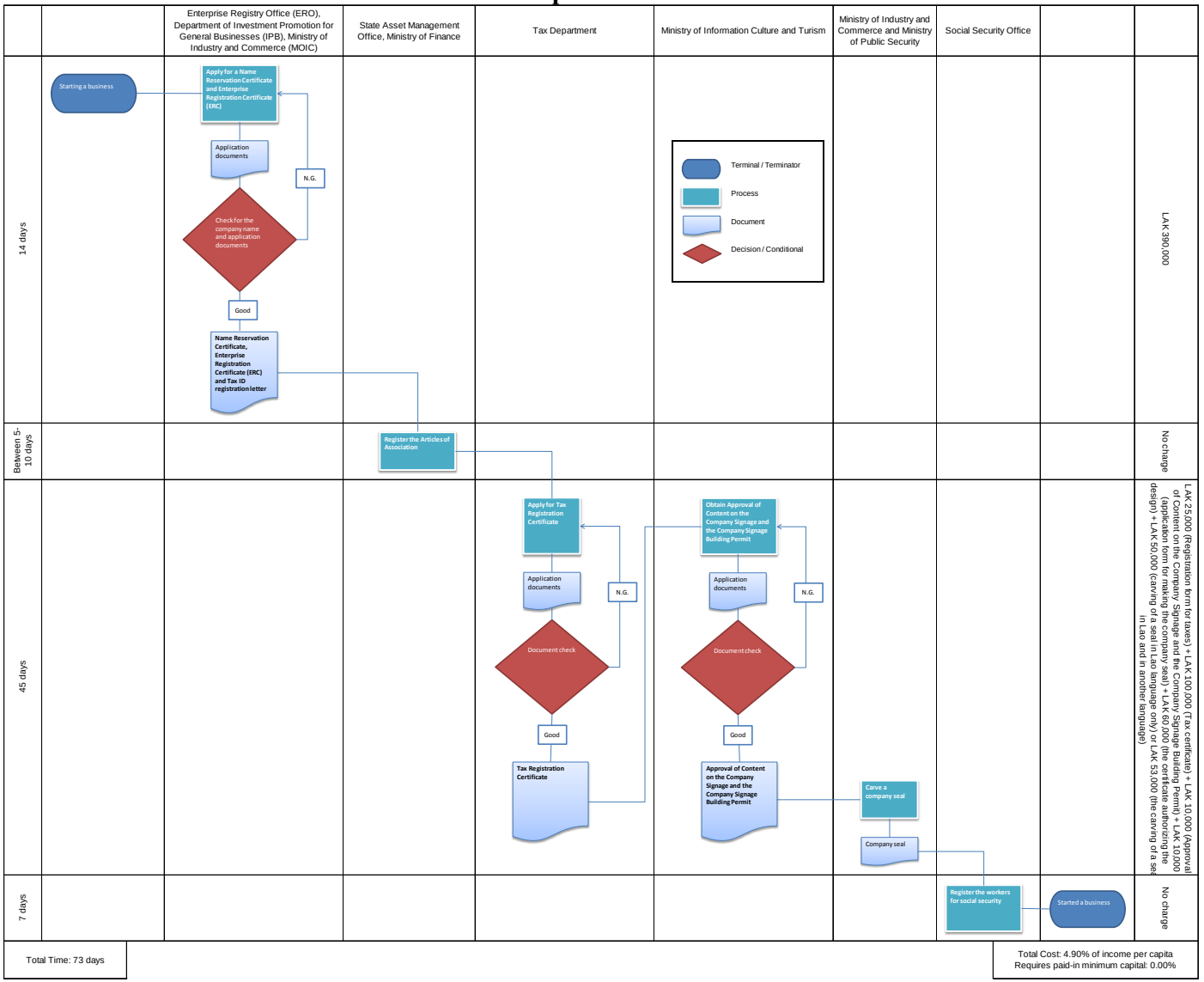
Source: Mapping by OECD

Business Start-up Procedures in Indonesia

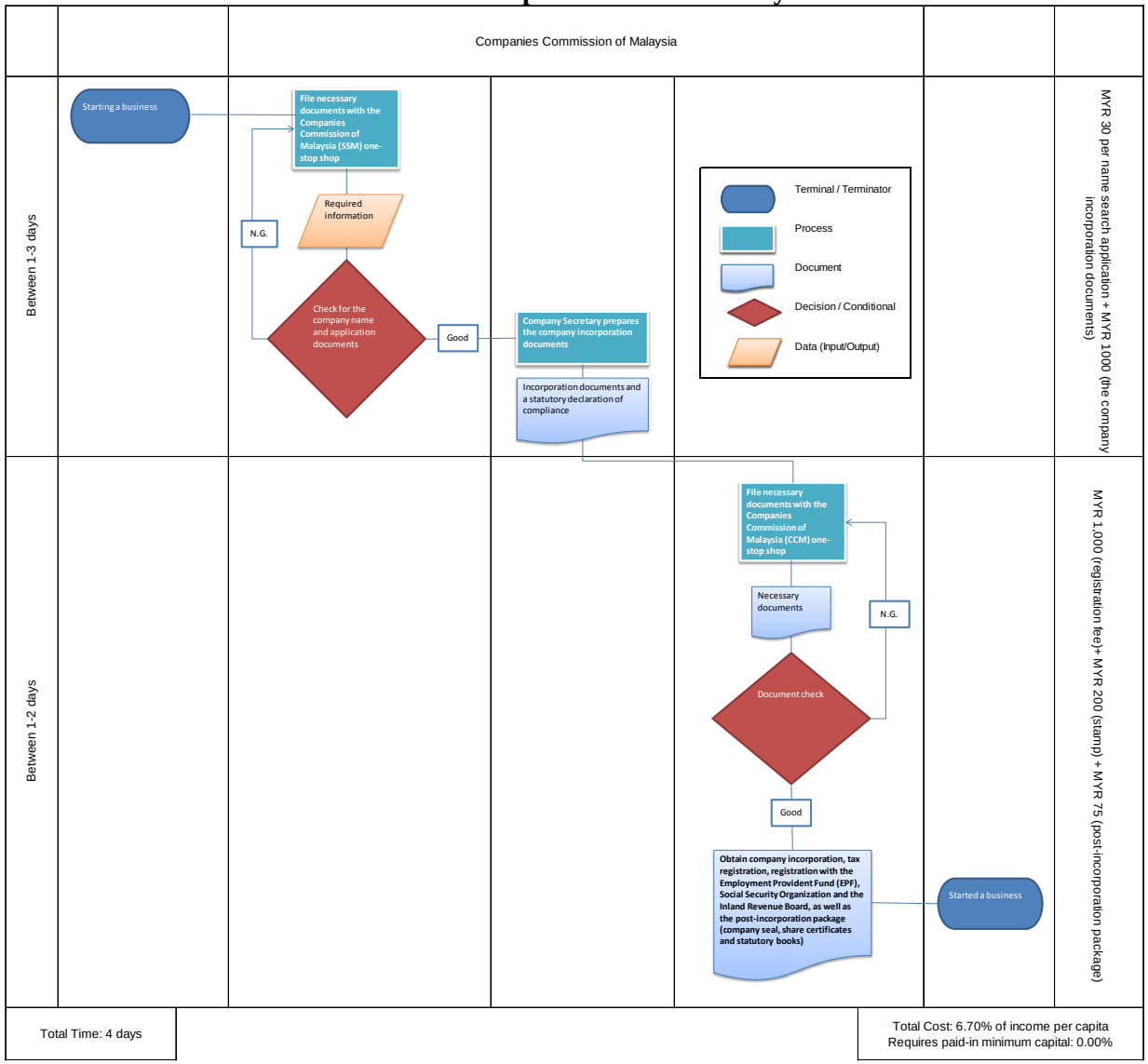


Source: Mapping by Indonesia

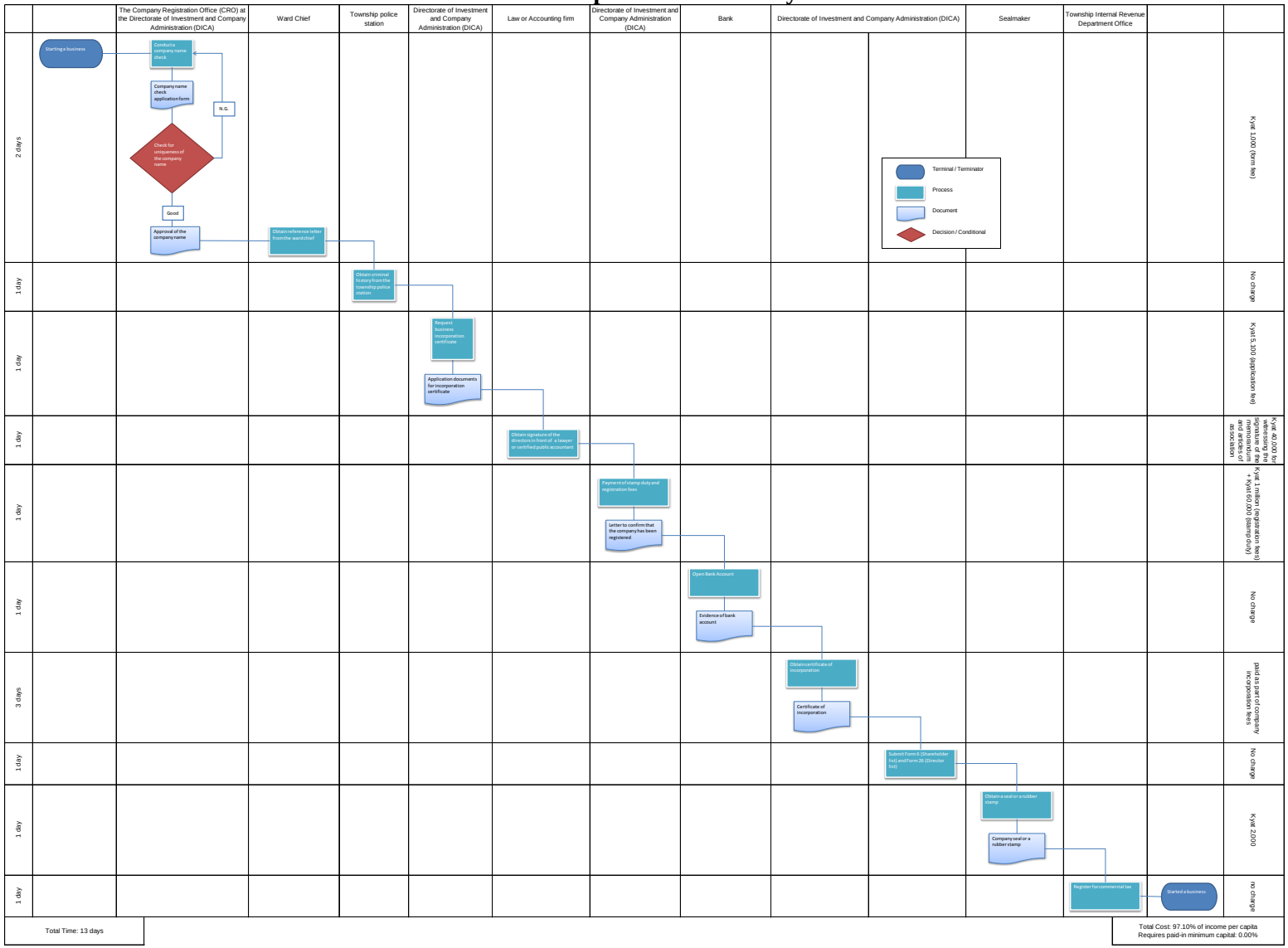
Business Start-up Procedures in Lao PDR



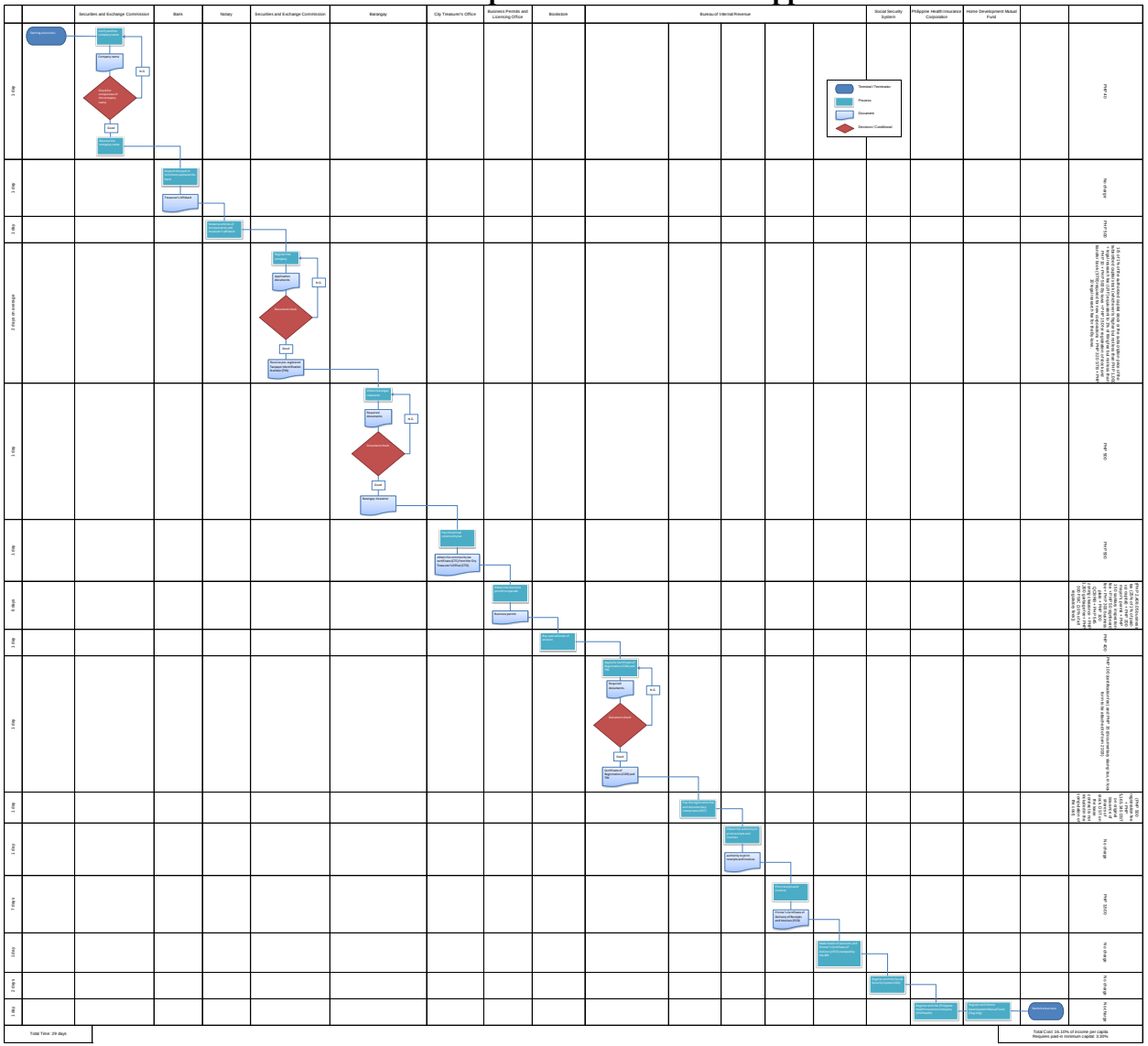
Business Start-up Procedures in Malaysia



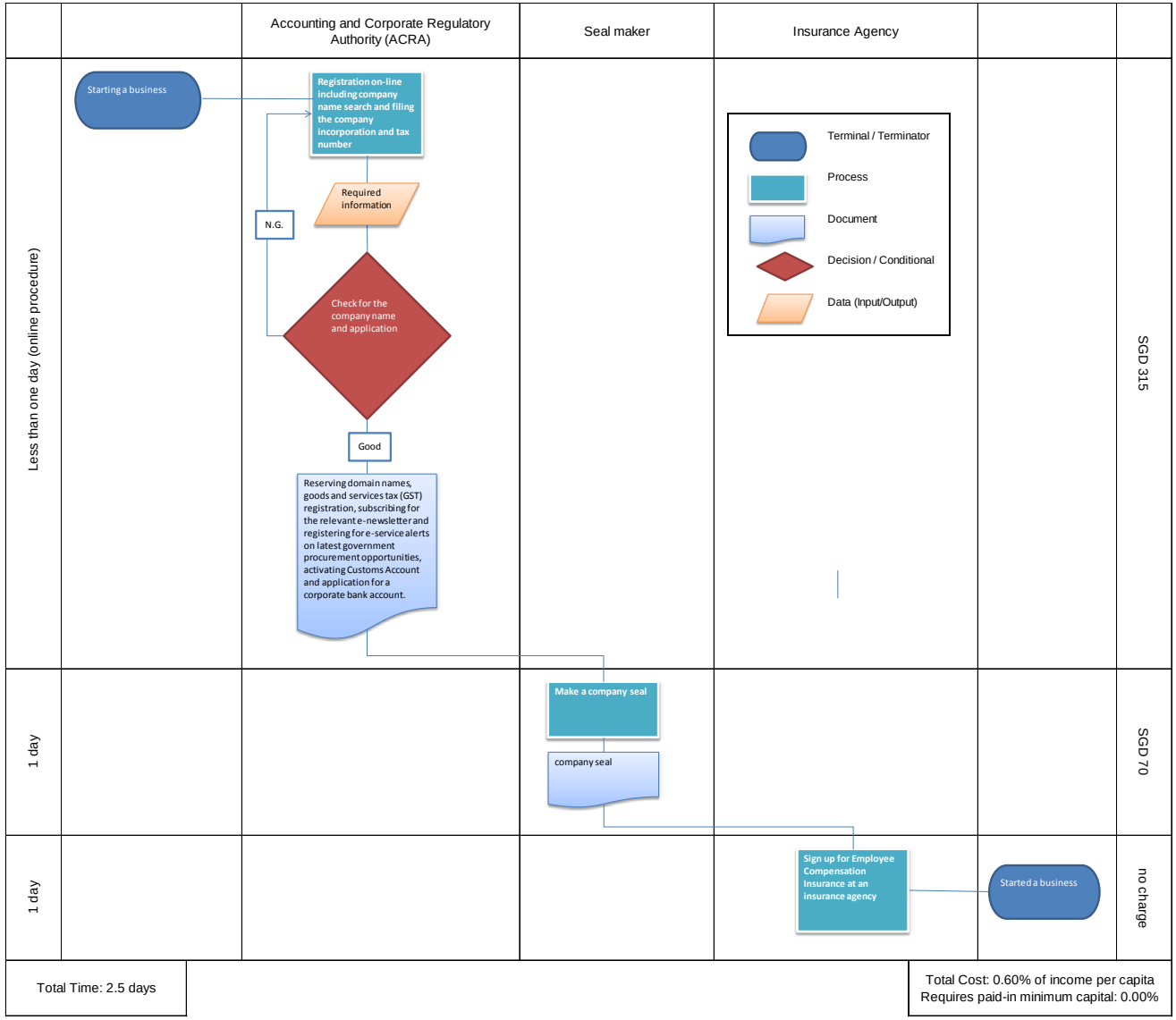
Business Start-up Procedures in Myanmar



Business Start-up Procedures in the Philippines

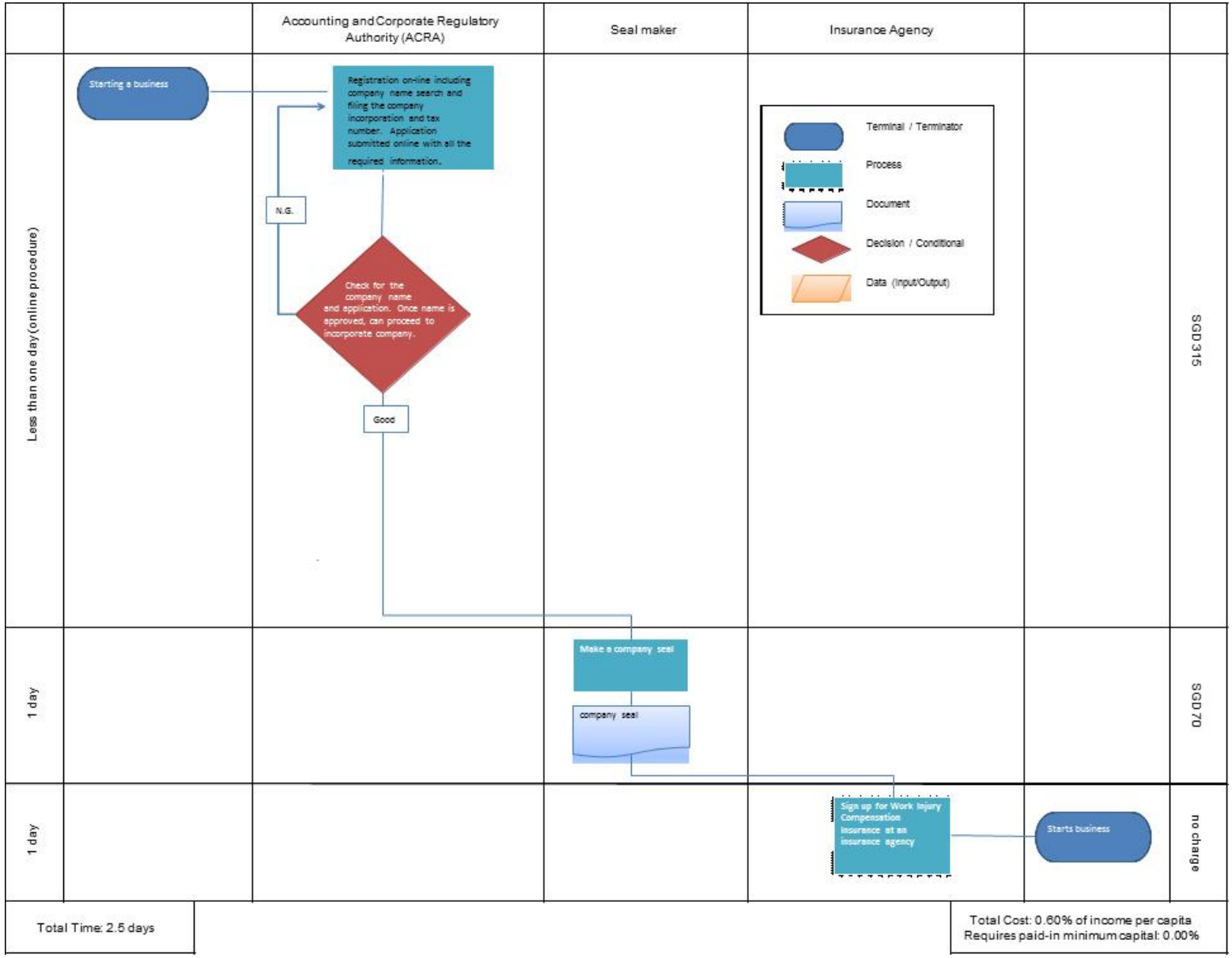


Business Start-up Procedures in Singapore



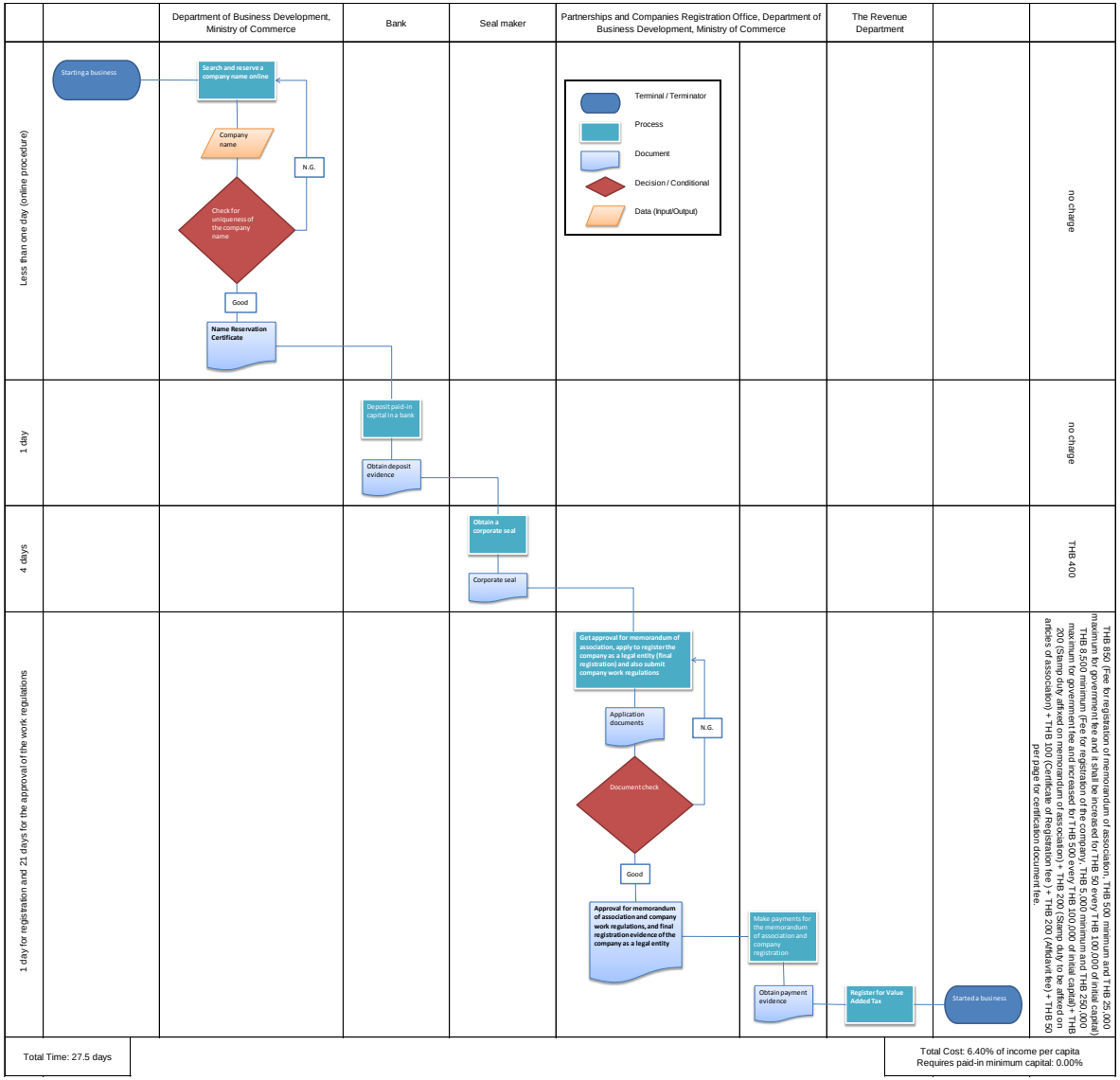
Source: Mapping by OECD

Business Start-up Procedures in Singapore

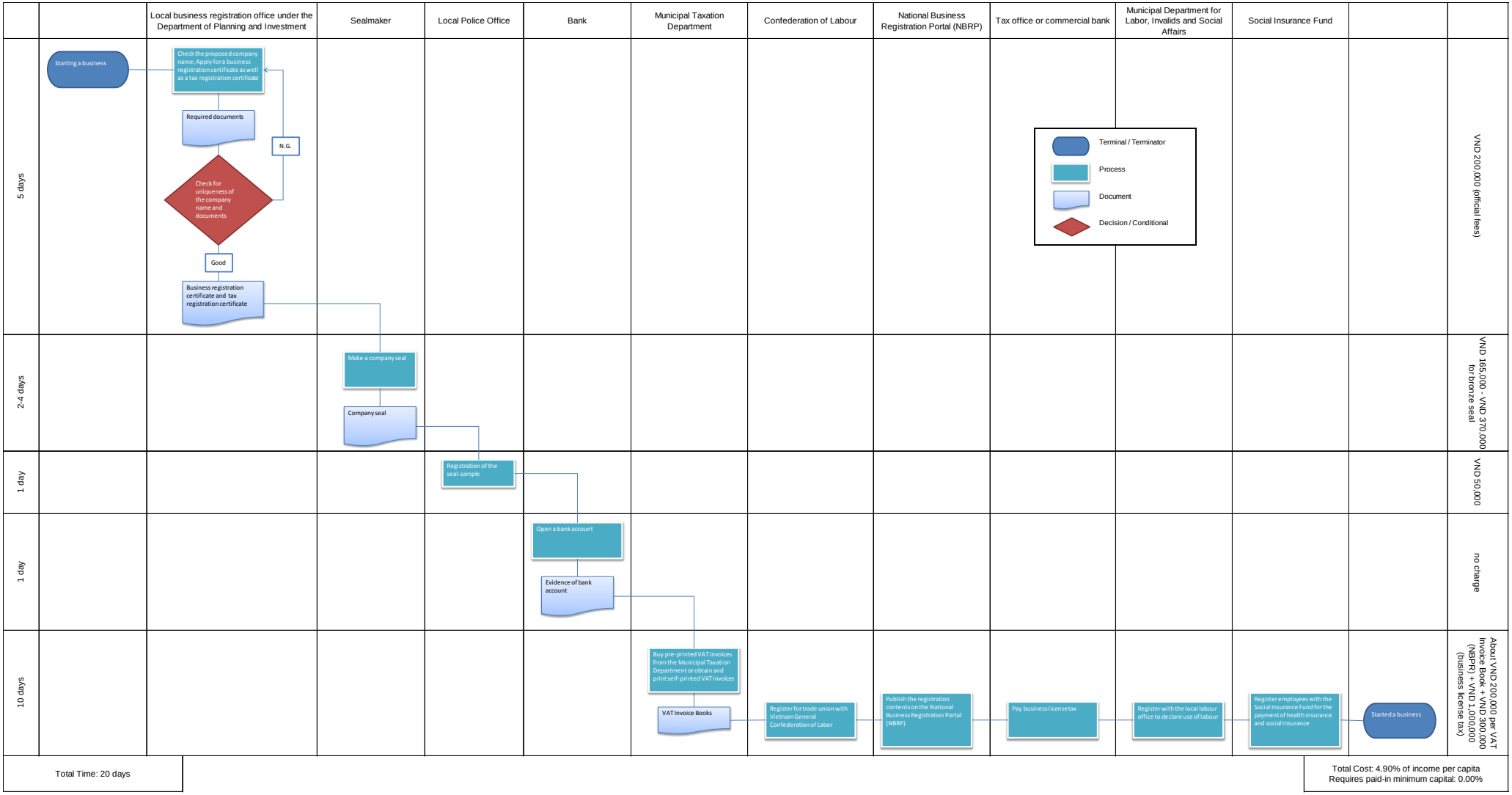


Source: Mapping by Singapore

Business Start-up Procedures in Thailand

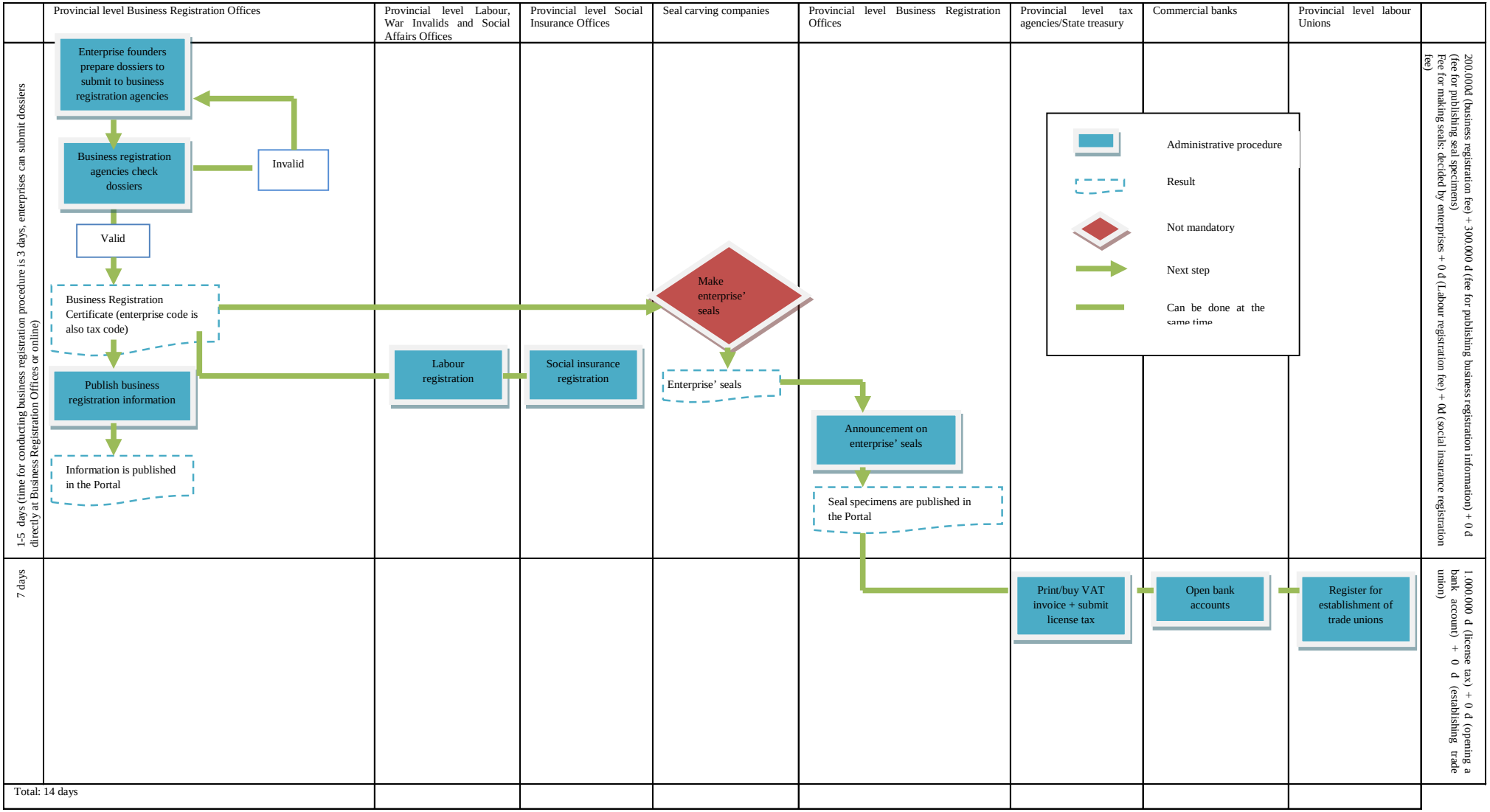


Business Start-up Procedures in Viet Nam



Source: Mapping by OECD

Business Start-up Procedures in Viet Nam



Source: Mapping by Viet Nam

Annex III: Additional Case Studies

Case study: Estonia

Estonia serves as a good example of making the use of a notary non-compulsory. As a result of the reform, its pre-registration procedures (previously taking up to 7 days) were streamlined and, later in 2006, saw the scrapping of pre-registration requirements for the Company Registration Portal (CReP) services including the notarisation of the incorporation documents and signatures.

These reforms were implemented in the context of the country's transformation from a planned to a market economy and the accession of the country to the European Union. Estonia's transition from the Soviet-planned economic system, following re-independence on 20 August 1991, involved two major changes: the move towards a market economy and large administrative reforms in order to gain EU accession. During the 50-year period of Soviet rule (from 1940 to 1991), Estonia had become subject to the Soviet Union's centrally planned economic system. Liberal market reforms began to provide incentives and necessary stimulus for economic growth, from 1995 at an accelerating pace for three consecutive years, reaching 12% growth in 1997. The country entered the EU accession process in the late 1990s, thus providing an influential driving force behind administrative reforms in Estonia. In this context, the country promoted business start-up procedure reforms, in two stages: creating a business registry from scratch, and then modernising it.

The country implemented reforms of the business registration system firstly so that it better suited the new economic framework; it then focused on unifying and streamlining business registration procedures and standards across EU member states. The reforms were predominantly legal and institutional. The main legislative reform was the enactment of the Commercial Code in 1995, which set up the registration courts. However, several amendments were also passed between 1997 and 2007 that altered or removed registration requirements and procedures. In 2006, notarisation requirements were removed for CReP services. From the institutional point of view, in 1994 the Centre of Registers and Information System (CRIS) operated as a registration and computer centre under the auspices of the Statistics Committee. In January 2007, in cooperation with the Ministry of Justice's Division of Liberal Professions and Legal Registries, CRIS unveiled the CReP registration service as an optional registration procedure.

The reforms eventually resulted in the establishment and operation of an effective physical and online one-stop shop (OSS) for business registration. The Central Commercial Register, an online service offered by the Ministry of Justice Centre of Registers and Information Systems, was established as a result of the reform. It is based on the central database of registration departments of the courts, which includes digital data from the commercial register, the register of non-profit associations and foundations and the commercial pledge register. In January 2007, CReP was introduced, allowing registration to be completed without notarisation or verification of capital contribution; it cut registration time to one day. This example illustrates the impact of membership (or the prospect of membership) of an international trade bloc or organisation such as the EU, as a trigger for business registration reform.

Case study: Saudi Arabia

The Saudi Arabian case serves as a success story for the removal of minimum capital requirements. Unemployment in Saudi Arabia had been expected to increase due to the large GDP share of the oil sector (higher than 50%) despite only 2% of the labour force being employed by the hydrocarbon sector. The large proportion (49%) of the population younger than 20 years old, many of whom would enter into the labour force within a few years, added to concerns around unemployment. It was in this context that Saudi Arabia sought to remodel its economy in order to create more jobs. In July 2007 it streamlined its business

start-up procedures and abandoned its requirement for new businesses to deposit a minimum amount of capital, in order to diversify the economy away from overreliance on hydrocarbon exports towards innovation-based economic activities. The reform was, however, implemented amid concerns that minimal capital requirements were required to protect investors, creditors and companies.

Nonetheless, strong political commitment to acquire a higher ranking in the Doing Business Index helped to back the reform. Disappointed at the fact that Saudi Arabia was not ranked as having the best business environment in the Middle East, King Abdullah clearly set out the '10x10' Initiative whereby Saudi Arabia would aim to have the best investment climate in the region by 2007 and would be among the top ten countries globally by 2010. As a result of this clear objective setting, the reform was planned and implemented relatively straightforwardly.

The reform involved implementing newly developed registration processes, eliminating minimum capital requirements and amending laws, as the country's main problem was with a long and costly process to starting a business which required high minimum capital. Further down the line, the country further facilitated business start-up procedures by establishing collaboration and teamwork between agencies related to these procedures, in order to generate momentum for driving necessary legal changes. In 2007, the Royal Decree on the 17th of July was released, which officially states the elimination of minimum capital requirements.

As a result of the improvement of business start-up procedures, Saudi Arabia's 'Starting a Business' ranking moved from 159 in 2007 to 36 in 2008. Its ranking for required procedures moved from 13 in 2006 to 7 in 2007. The necessary time to start a business was drastically improved from 39 days in 2006 to 15 days in 2007.

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