



Pakistan Institute of Development Economics

# PIDE COMMENTARY

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PM's COMMITTEE ON  
EASE OF DOING BUSINESS



On March 23, 2024, the Prime Minister of Pakistan established a Committee on Ease of Doing Business (CoEDB). Led by the Federal Minister of Investment, Privatization, and Communication, the committee is tasked with developing strategies to increase both domestic and foreign investment by improving the ease of doing business. The committee was given 15 days to outline these strategies.

After two consultative meetings, the committee finalized its vision and terms of reference. The vision statement declares that Pakistan is embarking on an exciting reform journey, transitioning from a consumption-led growth and import substitution model to an export-led growth model. The finalized terms of reference (TORs) are as follows;

1. establishing an investment single window, leveraging ICT for integration of all investment-related requirements,
2. developing a single investor interface on the model of Pakistan Single Window (PSW),
3. cleansing redundant and cumbersome regulatory requirements for investment to undo unnecessary licenses, permits, NOCs, and permissions within one year,
4. improving Pakistan’s doing business environment to appear in the top 10 economies in the World Bank’s B-Ready Report within three years,
5. harmonizing provincial regulations, and processes for a uniform national-level investment facilitation framework.

To achieve these TORs, the proposed framework includes the adoption of an Asaan Karobar Bill, developing an e-registry, creating the National Regulatory Delivery Office (NRDO), and establishing the Pakistan Business Portal.

## ON THE EASE OF DOING BUSINESS COMMITTEE

PIDE notes that:

- Initiatives like forming such a large committee have been experimented with numerous times without any tangible improvements in the outcomes. PIDE opines that such exercises are a waste of time and resources.
- The 24 members of the committee comprise primarily bureaucrats, politicians, and donors. Although Pakistan is creating a business portal to facilitate business activities, no businessmen/local investors/entrepreneurs are involved in the committee. Additionally, no research institutes, think tanks or local academia are included to provide an independent perspective.

Organization	Count
<b>Minister</b>	4
<b>Secretary</b>	8
<b>Chairman/CEO</b>	3
<b>FBR member</b>	3
<b>Member NA, PM Office</b>	3
<b>Donor</b>	3
<b>TOTAL</b>	<b>24</b>

- The composition of the committee itself raises concerns about its effectiveness. While including top bureaucrats and ministers may provide strong optics, in practice, convening meetings with such members is often challenging in Pakistan. Traditionally, these high-profile members may attend initial meetings, but over time, it has been observed that their participation wanes, rendering the forum nearly ineffective. Since proposed members already serve on various boards and committees, raising concerns about time allocation and potential conflicts of interest.
- The committee lacks subject experts and full of politicians and bureaucrats who are going to seek the political way out which will mostly be in line with vested interests.
- The committee has also consulted six experts, including two foreign consultants, to finalize the strategy. These key experts have strong connections with donors, which means they do not have the skin in the game and lack direct stakes in the outcome.
- The proposed committee lacks any input from the local academia, civil society, competition and legal experts, and the business community.
- The Competition Commission of Pakistan (CCP), dedicated to promoting competition and fair play for businesses, has not been included in the committee. PIDE notes that since CCP is a key stakeholder in this regard, it should be a part of the committee.
- Experiences from the success stories indicate that having a transparent process is critical to implementing such reforms effectively. However, transparency concerns have not been addressed in the committee's functioning or the proposed strategy.
  - Will there be minutes of every meeting of this CoEDB meeting made public after every meeting?
  - Will the material being given to the committee for action be prepared through adequate research and by who?
  - Will that material be shared with the public?
  - Will the researchers of the background material of the committee subject themselves to local peer review?
  - Or will it be a black box and consultant-driven?

PIDE notes that such reform (all reforms) requires substantial domestic dialogue and ownership by the domestic research community. Most of our reforms fail because of the lack of transparency, and inadequate consultation with the local community, especially academia, and are mostly driven in the dark by a foreign consultant whom nobody knows at home.

## ON THE PROPOSED STRATEGY OR FRAMEWORK

The proposed framework consists of four steps, with detailed comments on some of the steps provided in the following sections. Overall, PIDE notes that:

- Vision still seems to be public sector-led. It still seeks to determine where investment will go and what it will do. They are seeking to direct investment from import substitution to export-led growth. Two points need to be considered:

- For this change in direction, the substantial protections through tariff and non-tariff measures need to be discontinued. Moreover, the continued incentives that the government offers to local production without international competition and exports have to be discontinued.
- The most important policy, that global experiences have shown, for making this change is opening up the economy to international competition. This again is not something the committee will do and nowhere else in the government has this been done. We note that tariffs remain very high and that most of our corporations as PIDE has noted are stunted Seth-owned companies very well protected from market competition.

Perhaps the CoEDB should merely be restricted to deregulation which is a big task in itself.

- The focus on leveraging ICT for requirement integration demands serious consideration in implementation, given the dismal state of IT readiness even at the federal level, as highlighted in the BOI's IT readiness report.
- Streamlining internal processes and improving coordination is of greater importance to the economy than launching the Pakistan Business Portal. Clear delineation of rules, responsibilities, and accountability mechanisms for each department is necessary to establish clarity on which department handles specific regulatory permissions. It is essential to ensure that concerned departments provide meaningful responses promptly.
- Jacobs' achievements are laudable, but he does not have in-depth knowledge of Pakistan's specific regulatory context. However, Pakistan could leverage the existing blueprints of the Guillotine approach, which local experts can adapt to meet the economy's current needs. Hiring a foreign consultant would incur significant costs, increasing regulatory and staffing expenses, and ultimately adding to public expenditure and sovereign debt rather than reducing it.
- Does it encompass tax administration reforms and cross-border trade, considering that the previous Pakistan Regulatory Modernization Initiative (PRMI) strategy excluded them, citing that the Federal Board of Revenue (FBR) and Pakistan Customs are addressing these issues simultaneously?
- There appears to be confusion within the Board of Investment (BOI) regarding the approach it intends to adopt, whether a bottom-up or top-down approach. While the proposed strategy involves a top-down guillotine strategy, other policies such as Zero Time to Start (ZTTP) and Sector Mapping and Regulatory Transformation (SMART) follow a bottom-up approach. However, considering Pakistan's regulatory inflation economy, experiences suggest that only a top-down approach will be effective.
- While the document discusses e-inspection, it also includes joint inspections and merging of inspectors, leading to confusion about whether it would be at the federal, provincial, or both levels. This ambiguity may result in conflicts in agenda setting and goal alignment.
- There is ambiguity regarding who will be responsible for conducting the research that will inform the secretariat or the council. PIDE believes that evidence-based research is the most important component of this initiative.

## ON THE ASAAN KAROBAR BILL

### Exemptions

- This section contains numerous broad points that pose a risk of nullifying the entire bill. Exemptions should be minimal clearly defined and justified. Particularly, sub-sections d, e, f, and g of section 5 warrant specific clarity. For instance, 'foreign relations and foreign policy' encompasses a wide range of issues, leaving this section vulnerable to exploitation by opportunistic actors.

### Governing Council

- As it stands, there are no accountability mechanisms for the governing council, such as regular internal audits, to ensure transparency, despite its central role and responsibility in overseeing the process.
- The constitution of the council is skewed towards excessive representation from government and bureaucratic circles, with over 14 members, while the private sector is underrepresented, with only 3 members.
- Only two members from academia are insufficient for the council. It is pivotal to include 'think tanks' in this category and involve individuals that can offer different perspectives on the issue(s) in question: e.g. economics, political economy, legal experts (particularly on labor, competition law, human rights, etc.), and so on.
- There is a notable absence of representation from civil society and consumers, which is crucial for highlighting concerns and objections from non-business entities during the process.
- Terms like "persons of renowned integrity" are overly subjective, risking appointments based on patronage or nepotism rather than solely on merit.
- Even more concerning is that decisions, as per the bill itself, will ultimately be based on a majority vote, suggesting that the setup is designed to favor bureaucratic interests, thus undermining the primary objective of the bill.
- The inclusion of "co-opted" members in consultative meetings without their involvement in voting processes can lead to diffusion of responsibility and outsourcing of important deliberations. This risk is further exacerbated by sub-section (10) of section (8), which states that the validity of proceedings, acts, or decisions shall not be affected by any vacancy or defect in the appointment of any member or by the participation of any unauthorized person in the proceedings. Vacancies, defects, and unauthorized involvement must all be taken seriously and render proceedings invalid.
- The bill lacks clarity on the specific steps for engaging stakeholders in the lead-up to this deregulation initiative, which risks potential capture by entrenched interests and will not achieve maximum inclusivity.
- There are currently no restrictions on the number of sub-offices that may be initiated under the council, which can lead to steadily increasing costs of operation with little to no transparency.
- While the bill mentions submitting "progress and recommendations" to the Prime Minister, it lacks sufficient detail on how a particular recommendation has been arrived at.

- Recommendations should not be arbitrary but justified based on evidence and consultations.
- It is crucial to clearly outline key performance indicators for all personnel involved with the council to ensure transparency and accountability for members.
- Bill does not address whether meeting minutes will be publicly available. To ensure transparency, it should be publicly available.
- One of the tasks of the council is to establish the Pakistan Business Portal and National Regulatory Delivery Office, which will inevitably incur significant financial costs for the government of Pakistan. Are these costs accounted for anywhere, and what will be the source of its funding?

## Executive Committee

- In its current modality, the executive committee has too much authority vested in it via the granting of responsibility over all administrative/financial affairs of the Council.
- It is also unclear on what basis nominations for the two members from the governing council will take place.
- From a procedural standpoint, sub-sections (2) and (3) present potential issues. In the case of the former, the term "urgent nature" lacks specific timeframes for decision-making, leaving it ambiguous. For the latter, granting the executive council any "function... as it may deem appropriate" raises concerns as it could potentially be misused by lobbyists.

## Regulatory Reform Secretariat

- The Regulatory Reform Secretariat is an additional agency that will entail further costs and those must be accounted for.
- The allowance to initiate 'as many working groups as it deems appropriate' is another cause for concern as this may be misused for clientelist relations having to do with personal/political interests.
- Are there any operational guidelines or logistical support to streamline their activities?

## Employees and Related Matters

- The Regulatory Reform Secretariat is an additional agency that will entail further costs and those must be accounted for.
- It is currently unclear how appointments to the secretariat will be made, in terms of procedural considerations as well as in terms of qualifications and work experience that form the basis of such decisions.
- Nomination processes for BOI-related appointments are arbitrary. Furthermore, transfers from the BOI will naturally result in a capacity gap that must be accounted for – which the bill does not detail.
- Also, the nature of 'allowances' for these officers is not substantiated/justified in adequate detail: which risks opening up space for corruption and embezzlement.
- The council should not be allowed to decide upon these 'incentives' in an arbitrary fashion, and it is important to define the parameters within which they will be established.
- Are there any operational guidelines or logistical support to streamline their activities?

## Review by Working Groups

- The composition of the working group must include representation from civil society that can act as mediators between corporate and labor interests, and the category of 'private sector' must be defined further to specify sectors, domains, or scale of operations that representatives will originate from (for instance, SME, LSM, e-commerce, etc.).
- Additionally, within the three categories that are proposed for regulations, the one titled 'to be reviewed' must be expounded upon in more detail. Specifically, clear timelines for review ought to be established to introduce clear accountability to the process. If not specified, these will risk elongating and, in the worst case, being stalled. Global best practices on this generally allow 45 days.

## Procedural Considerations

- Sections (19) and (20) contradict one another, in that sub-section (4) of section (19) states that the secretary of the council will submit summaries of RLCO reviews to political representatives for review and tabling in Parliament, but the sub-section (1) of section (20) states that the secretariat will approach concerned OGAs to 'alter, amend, or repeal' RLCOs. This process is not streamlined to an adequate level and ought to be reviewed.
- President being able to repeal all laws recommended for a guillotine (or, restore others) in a unilateral and largely arbitrary fashion has to be reconsidered and implement mechanisms to justify any repeals that are being considered.
- Similarly, sub-section (1) of section (25) stating the federal government will 'place annual grants at the disposal of the governing council including expenses of its secretariat' needs to be detailed at a higher level and specific mechanisms of scrutiny established to ensure fair play at each stage.
- In terms of grievance redressal mechanisms, all authority is currently vested in the secretariat in that it will have the 'final' decision on disputes. The lack of checks and balances that ensure fair, transparent behavior will likely cause disruptions from a justice perspective.
- Sections (33) and (34) are both potentially problematic as the former – on indemnity – could lead to misuse and/or abuse, whereas the latter – on 'removal of difficulties' – places too much power in the hands of the secretary, as the idea of 'any difficulty' is too vague/abstract and must be clearly defined to avoid malpractice.
- In section (28) it is claimed that aid and assistance be ensured by all OGAs – the parameters of which are not defined clearly. This will naturally run the risk of being abused. On the other hand, section (27) on delegation does not specify limits/parameters to the process – which can potentially lead to scatter/fragmentation and potentially total outsourcing of the responsibilities of the council and/or executive committee.

## THE NATIONAL REGULATORY DELIVERY OFFICE (NRDO)

Although the draft of the CoEDB presentation does mention the creation of the National Regulatory Delivery Office (NRDO), it does not provide detailed information.

However, the blueprints for the NRDO can be found in the Pakistan Regulatory Modernization Initiative document.<sup>1</sup> This proposed autonomous body aims to provide oversight and quality assurance mechanisms for regulations. It seeks to improve quality through accountability, advocacy, capacity building, and the promotion of a practical yet business-friendly regulatory enforcement culture.

Based on that prescription, PIDE notes that

- What are the roles and responsibilities of the NRDO, specifically? Who populates it? What are the KPIs of staff? And what are the measures proposed to counter corruption and conflicts of interest of bureaucratic personnel?
- The document states that the decisions will rest on the Steering Committee for NRDO's organizational and locational setting, however, there is no clarity about who will head that committee. If the said committee is to be constituted primarily by bureaucracy or its recommendations are to be vetted through bureaucracy, then it is likely that the status quo will be maintained.
- It is claimed that provinces will adopt the overarching legal framework of the NRDO to implement their oversight. However, following this claim, the document informs us that, for example, 'the extent of autonomy and regulatory oversight' and cross-government, cross/sectional mandate of NRDO has yet to be decided (p.28).
- Already a plethora of studies on regulatory issues and burdens have been conducted, especially by PIDE. There is no need to commence new studies until an area or areas are identified on which credible work does not exist. Otherwise, it will just be a waste of resources.
- Offering 'business friendly' regulations in Pakistan (p.29) should focus on removing administrative and legal lacunas rather than on issues like higher financial returns ('*guaranteed returns*', for example) to foreign investors, which later become a burden upon the people.
- There is an excessive focus on capacity building for public officials of regulatory bodies, rather than on actionable measures that can be taken to reduce the regulatory burden through implementation improvements

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<sup>1</sup>BOI (2021). Pakistan Regulatory Modernization Initiative: Strategy and Implementation.



## PIDE'S PROPOSALS FOR REGULATORY MODERNIZATION & OVERSIGHT

In summary, PIDE supports and advocates modernizing the regulatory framework. Based on the above observations, PIDE's envisioned strategy for regulatory modernization includes the following key considerations:

- Implement a minimalist approach that entails establishing a small, specialized committee consisting of 7 members, headed by an expert in regulation and competition. The committee would be supported by a local think tank and the Competition Commission of Pakistan, providing access to thorough and impartial research.

Central Committee on Regulatory Modernization		
<b>Chairperson</b>	Academic professional	Experience with regulation, from academia
<b>Member</b>	CCP	
<b>Member</b>	Legal expert	Constitutional lawyer
<b>Member</b>	Business representative	10 years' experience with notable achievement.
<b>Member</b>	Civil society representative	No relation with bureaucracy
<b>Co-opted Member</b>	Academia	10 years experience
<b>Co-opted Member</b>	Sector specialist	10 years' experience with notable achievement.

- The proposed committee must be completely independent, free from bureaucratic influence and vested interests, and endowed with both functional and financial autonomy.
- The proposed committee would be a standing body, meeting regularly to ensure continuous oversight and improvement of regulatory reforms. Importantly, committee members would have their primary responsibility dedicated to this work, ensuring that they can focus fully on the task at hand.
- The committee should act as a supra-regulatory and have the power to make decisions conferred through necessary legislation.
- Ensure transparency as well as accountability of the committee. Moreover, the PIDE emphasizes the importance of transparency and accountability. The minutes of committee meetings and the recommendations should be disclosed within a specified time frame to maintain public trust. In case of non-delivery, the committee should be held responsible.
- The processes should also include public and peer review as essential components during all stages with mandatory participation from local academia and think tanks. Comments received from the public and peer review should be made publicly available as well as the responses from the regulators
- The regulatory modernization task of the committee should be time-bound, with dedicated timelines at each step. The whole exercise should be completed within two years.
- Along with accountability, provide generous financial support to the committee to execute any research activities as it may deem necessary with exemption from PPRA rules. Besides, the remuneration to the members of the committee should also be generous.
- The decision should be based on major voting.

## Location

1. PM office

## Staffing

1. No new hiring is required, and the researchers hired on the SMART project should be at the disposal of the committee.
2. The existing staff of the secretariat can provide administrative support.

## Functions

1. Oversight & Monitoring.
2. Ensuring transparency
  - a. Publishing the minutes of the meeting publicly.
  - b. Publishing the decision and any reports or drafts about the review of regulations.
3. Grievance mechanism
  - a. Public feedback.
4. Maintaining the e-register of the regulation.
5. Commissioning research studies.
  - a. Evidence-based decision making.
6. Review RLCOs (max. 4 months for a sector)
  - a. Self-assessment by relevant regulating body
  - b. Independent review
  - c. Public and peer review
  - d. Take Decision
7. Oversee the flow of regulations, ensuring they are based on thorough Regulatory Impact Assessments (RIA) along with retrospective reviews.

## Regulatory Overseeing: Case Study Office of Information and Regulatory Agency (OIRA)- USA

- OIRA is a department of the Office of Management and Budget (OMB), at the Executive office of the president. Created in 1980 through the Paperwork Reduction Act.
- Central authority for review of executive branch regulations.

### Functions

- Reviewing drafts of proposed and final regulations.
- Retrospective review of regulations.
- Oversees the implementation of government-wide policies in the areas of information policy, privacy, and statistical policy.

### Responsibilities

Under the Regulatory Planning and Review executive order 12,866 of 1993 OIRA is.

- To enhance planning and coordination concerning both new and existing regulations.
- To reaffirm the primacy of Federal agencies in the regulatory decision-making process.
- To restore the integrity and legitimacy of regulatory review and oversight.
- To make the process more accessible and open to the public.
- For all significant regulatory actions, OIRA reviews the actions before they take effect and has up to 90 days (which can be extended) to review a rule.

### Staffing

- The agency is led by the OIRA Administrator, nominated by the president and confirmed by the senate
- Approximately 45 full-time dedicated team, working with agency officials.
  - Graduate-level degrees with a background in law, economics, policy analysis, statistics, and information technology.

### Participation in the rule-making process

- Comments are welcomed from outside parties on rules that are under review.
- Meetings with the administrator are facilitated for outsiders.
- Any communication with any party is mandatory to be made public, with complete details.
- Any material received by outside parties is also mandatory to be made public.

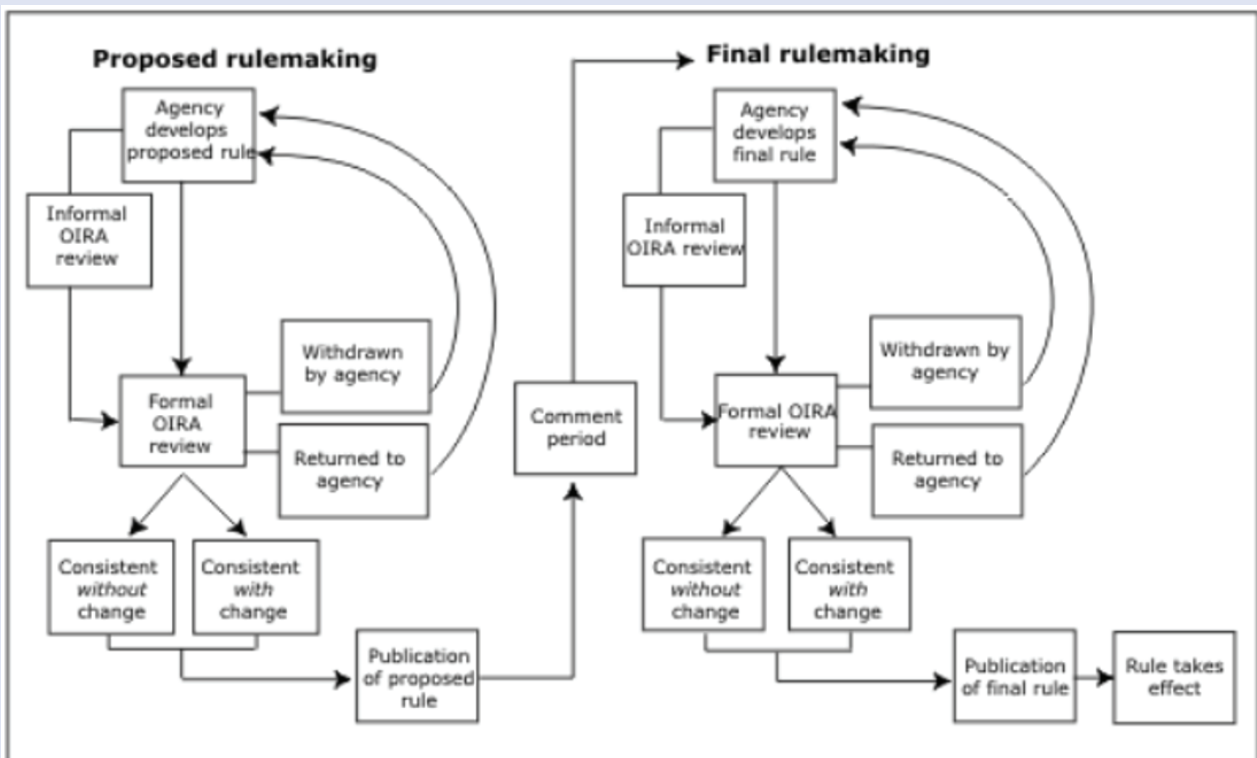
## Review process

- Devising RIA of economically significant regulation by the rule-making agency.
- RIA reviewed by agency economists, engineers, and scientists.
- Review of the regulatory review draft by OIRA.
- After reviewing, OIRA either returns the draft rule to the agency "for reconsideration" or OIRA concludes that the rule is consistent with the executive order.
- A draft rule is a proposed rule judged by OIRA to be consistent with the executive order, the agency may then publish a notice of proposed rulemaking in the Federal Register, obtain comments, review comments, and make changes against necessary comments.
- After the review is completed by the OIRA then the agency may publish it with immediate effect or as specified by the agency.

## Other

- Engagement with agencies and other stakeholders.
- Peer review of the agency draft by independent and qualified reviewers.

Figure 1 OIRA review process



Source: GAO-03-929, p. 30.

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