



LATVIA

**SELF-ASSESSMENT REPORT ON
ADMINISTRATIVE BARRIERS TO DOING BUSINESS**

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**Foreign Investment Advisory Service
a joint service of the
International Finance Corporation
and
The World Bank**

In collaboration with the Government of Latvia, the Foreign Investment Advisory Service of the World Bank Group undertook a pilot effort with the Latvian Development Agency to develop “self-assessment tools” for identification of administrative barriers to investment in the country. Latvia was chosen by FIAS for this pilot work on the basis of the strong efforts and achievements of the Government in removal of administrative barriers to investment following the 1999 FIAS Study of Administrative Barriers to Investment in Latvia.

The pilot exercise began in November 2001 in Riga and Liepaja, and included the participation of representatives of the governments of Bulgaria, Bosnia and Herzegovina, and Macedonia.

The Self-Assessment Report is an update of the findings of the 1999 Study of Administrative Barriers to Investment. The 2002 Self-Assessment Report compares and contrasts the views of the business community with the views of government institutions in order to present a balanced view of the administrative procedures – including their time, costs, complexity, efficiency – that businesses undergo in Latvia. The Self-Assessment Report is based on data from a survey of the business community, data submitted by relevant government agencies in standardized format (templates), focus group meetings, and independent research.

The main text of the report was prepared by the LDA and reviewed by FIAS. The executive summary was prepared by FIAS with input from the LDA. FIAS and the LDA would like to commend the exemplary cooperation by the government and municipal institutions that participated in this project (a complete list of institutions is found in Annex A), as well as the cooperation of the members of the business community who participated in the business survey and focus group discussions.

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ACRONYMS AND ABBREVIATIONS

BCP	Border Control Points
CIT	Corporate Income Tax
CM	Cabinet of Ministers
ER	Enterprise Register
FIAS	Foreign Investment Advisory Service
FICIL	Foreign Investors' Council in Latvia
GCR	General Construction Regulations
JSC	Joint Stock Companies
LBD	Land Book Department
LDA	Latvian Development Agency
LLC	Limited Liability Companies
MEPRD	Ministry of Environmental Protection and Regional Development
MoE	Ministry of Economy
MoF	Ministry of Finance
MoJ	Ministry of Justice
NRT	Natural Resources Tax
OCMA	Office of Citizenship and Migration Affairs
PAT	Planning and Architectural Task
PIT	Personal Income Tax
RET	Real Estate Tax
SBI	Sanitary Border Inspectorate
SCI	State Construction Inspectorate
SES	State Employment Service
SEI	State Environmental Inspectorate
SFRS	State Fire and Rescue Service
SLI	State Labor Inspectorate
SLS	State Land Service
SMSIC	State Mandatory Social Insurance Contributions
SRS	State Revenue Service
SSI	State Sanitary Inspectorate
UNESCO	United Nations Educational, Scientific and Cultural Organization
VAT	Value Added Tax

EXECUTIVE SUMMARY

i. This Self-Assessment Report on Administrative Procedures for Doing Business in Latvia was carried out at the request of the Government of Latvia by a team from the Latvian Development Agency (LDA) with the assistance of the Foreign Investment Advisory Service (FIAS) of the World Bank Group and with the input of many Latvian government and municipal institutions. This report is an up-date of the 1999 FIAS report on Administrative Barriers to Investment in Latvia, and the “self-assessment” exercise was intended to help build capacity within the Government of Latvia to assess the progress and impact of its reform program on a regular basis. Such assessments are considered necessary to identify which reforms are working well and delivering the intended results, which ones are not performing as expected, and to identify new reform priorities needing attention from Government.

ii. FIAS’ role in the self-assessment is two-fold:

- First, to provide guidance to the self-assessment effort and help build capacity within the Government of Latvia for such efforts in the future.
- Second, to review the results of the self-assessment exercise, to provide information on cross-country comparisons, and to assist in developing recommendations based on international best practice.

iii. Regarding the self-assessment effort, FIAS judges both the capacity-building exercise and the resulting self-assessment report to be highly successful. The LDA team not only contributed substantially to the design of the “self-assessment” methodology, as a cooperative pilot-project with FIAS, but also carried out a very thorough and balanced assessment of the key administrative procedures affecting business in Latvia. They received good cooperation from almost all relevant government agencies in Latvia, and laid the groundwork for the development of many new “performance indicators” for such agencies, focusing on their impact on the business environment.

iv. The self-assessment was a useful exercise in several respects. First, the self-assessment provided an opportunity for agencies to collect and report information regarding their own performance over the past one to two years. Second, the business survey gave the business community an opportunity to identify the most important obstacles to investment and to rate the services of key government agencies. Third, the comparison between the two sources of information gave a more complete and accurate picture of the business environment than has been available to date.

v. The rest of this Executive Summary will focus on the results of the self-assessment exercise and the key recommendations for the Government of Latvia. Based on an analysis of the data from the self-assessment, FIAS concludes that the Government of Latvia has made substantial progress in removing administrative barriers to investment and improving the investment environment, although there is still significant room for improvement.

vi. The 1999 FIAS report included many detailed recommendations, focusing on improved implementation of a sound but complicated reform agenda. One of Latvia's most noteworthy achievements since the 1999 Report was the establishment of a structured dialogue mechanism between representatives of the public and private sectors to identify problems, discuss solutions, prepare an Action Plan to improve the business environment and subsequently review progress made in implementing reform. In fact, FIAS has introduced other transition countries to this model and the European Commission Enterprise Directorate General has also cited this process in Latvia as a "CC-BEST" practice that could usefully be shared with other EU candidate countries.¹

vii. Structured dialogue for reducing administrative barriers and improving the business environment began with a Steering Committee composed of senior government technocrats, a small number of (mostly foreign) business associations as dialogue partners and an ad hoc secretariat at the Latvian Development Agency. The dialogue mechanism is now being expanded to other Latvian business associations, and the Action Plan has been subsequently revised and updated on a regular basis. To date, 68 out of 77 suggested measures that were included in the Action Plan have been successfully implemented.

viii. Key developments since 1999 have taken place in the following areas:

- Many procedures have been simplified and there has been a reduction in the number of steps and the time taken, for example, in enterprise and tax registration, immigration, and customs.
- Government institutions are increasing their level of cooperation to improve efficiency, in areas like border crossing and customs, immigration, and inspections.
- There is improved information available to the public on various procedures, such as enterprise registration, inspections, customs and valuation of real estate.
- Administrative or petty corruption seems to have receded (although there are indications that other, more sophisticated, forms of corruption are still problematic).
- There is improved dialogue between the government and the business community in many areas of concern to the business community.

ix. While Latvia has been a strong performer in terms of attracting FDI and encouraging domestic investment since the mid-1990s, the strength of the reform program over the past few years can be credited with maintaining and perhaps enhancing the country's performance. Inflows of foreign direct investment into Latvia grew from just over \$350 million in 1998 to over \$400 million in 2000, or about 5% of GDP or \$170 per capita. Gross fixed capital formation for Latvia has held steady at about 25% of GDP over the past three years. In 2000 the Latvian gross domestic product increased by 6.8%

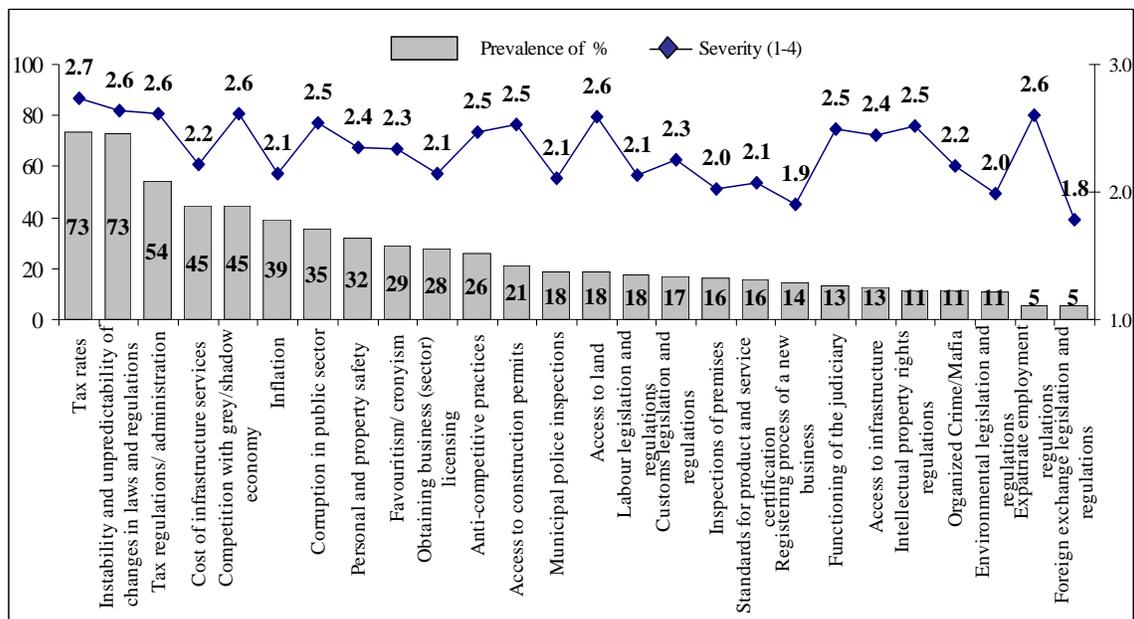
¹ Candidate Country – Business Environment Simplification Taskforce.

and in 2001 by 7.7%. These figures compare favorably with other transition and emerging market economies, and have been sustained for several years. According to the Ministry of Economy, consumer price inflation in Latvia in recent years is close to the level of inflation in developed economies and is among the lowest in Central and Eastern Europe.

x. In this light, it is clear that overall policy reforms have been proceeding well. However, while policy and legal reforms, as part of the EU accession process, are viewed as generally sound, there are indications that practical implementation of new policies has not always yielded a positive impact on the business community, who often still struggle with cumbersome and opaque bureaucratic procedures that add unnecessarily to costs and risks. The Government of Latvia wants to keep its reform program carefully targeted to the current needs of the business community and to encourage new investment. On the basis of this latest self-assessment effort, priorities over the next two – three years should focus on areas of biggest concern to investors.

xi. FIAS and the LDA carried out a business survey, which included a list of obstacles rated by the business community. These included both “administrative barriers” and other issues of concern in the business environment. Chart 1 below shows a ranking of obstacles by “prevalence” (how many businesses cited it as an obstacle) and by “severity” (how severe an obstacle it is for businesses that cited it as an obstacle).

Chart 1: Regulating Spheres – Business Obstacles



Base for “Prevalence”: all companies interviewed, N = 541; answers “Not an obstacle” and “Hard to say” not shown. Base for “Severity”: Those who admitted it was an obstacle, excluding ‘Hard to say/DK’. Mean on scale from 1 (Minor) to 4 (Very Severe).

xii. On the basis of the self-assessment (including the business survey) and comparison with other emerging-market economies, FIAS' assessment of the current priorities needing attention in Latvia include the following:

- Numerous complaints and difficulties in the areas of tax and customs administration
- Lingering problems at the municipal level, including:
 - abuse of municipal trade permits,
 - municipal police inspections, and
 - construction approvals
- Administrative corruption in a few key problem areas including:
 - Construction/real estate,
 - customs and
 - municipal police
- The persisting perception of an un-level playing field between those enterprises that operate lawfully and those functioning wholly or partially in the shadow economy, or with benefit of “good connections” with government officials.
- The time-consuming registration of the transfer of real estate rights.
- Recent changes in notarization requirements that seem to increase the time and costs spent in fulfilling various administrative procedures.

xiii. The sections below present some problem areas identified in the Self-Assessment Report.

Need for Further Reform of Tax and Customs

xiv. The business survey conducted for the self-assessment exercise showed clearly that high tax rates and burdensome tax administration are at the top of the list of concerns for businesses in Latvia. On the one hand, the Government should take these findings in context: complaints about taxes are high on the list of complaints of businesses in most countries in the world. On the other hand, there are some clear areas of concern within the tax and customs administration in Latvia that can and should be addressed in order to yield significant improvements in the business environment.

xv. Besides tax rates (a policy issue beyond the scope of work of this assessment of administrative barriers), another issue of concern to businesses is tax penalties, both in terms of the proportion of respondents selecting this as a problem and in terms of their severity. Many businesses and professional accountants agree that severe penalties are applied to firms who have made minor technical errors, while other firms escape the attention of the tax authorities altogether. This is a problem that has been raised

repeatedly over the last several years (including the 1999 FIAS report), but little progress has been made. *The efforts of the tax authorities should be more on ensuring more uniform compliance, and less on punishing tax payers who make relatively minor errors.*

xvi. Another problem identified by enterprises responding to the Survey is the frequency of changes in rules and rates. *One solution to consider may be more regular announcements of future reforms, scheduled updating of rules governing taxation, and widespread dissemination of those changes.* A similar recommendation was contained in the 1999 Administrative Barriers report, and there has been some improvement, but clearly the business community is still not satisfied.

xvii. The Customs administration has proven to be a constructive dialogue partner for roundtable discussions to identify and resolve systemic problems, and has made considerable progress with reforms. Nevertheless, the self-assessment exercise found significant areas for further improvement, which should be considered high priority given the importance of trade and transit to the Latvian economy. The structured dialogue with the business community should be maintained and further developed, resisting attempts to resolve issues on a case-by-case basis. *One of the priorities for the Customs administration for the coming years should be shifting its emphasis to voluntary compliance using methods such as self-assessment, risk management and periodic verification or periodic audits.*

Administrative Barriers at the Municipal Level of Government

xviii. While the central government has been working systematically over several years to remove administrative barriers, efforts at the municipal level have been less uniform. The business survey carried out as part of the self-assessment clearly shows several lingering problems at the municipal level of government, including:

- Inappropriate and in some cases illegal requirements for businesses to obtain a municipal trade permit;
- Evidence of abusive and corrupt behavior on the part of some municipal police;
- Evidence of corruption and mismanagement in the construction approval process at the municipal level.

Municipal trade permits

xix. There are problems relating to the municipal trade permits, where unclear legislation and its haphazard application is often allowing the municipalities to overstep their mandates and sometimes even require that any enterprise operating in a given municipal territory receive such a permit. Not only is this often a burdensome requirement, with redundant requests for approvals and documentation, but very often the issuance of municipal trade permits is not even legal. *The primary recommendation is the abolishment of all municipal trade permits that are not in accordance with national legislation.*

Municipal police

xx. The business survey yielded evidence of two clear categories of problems associated with the municipal police: First, they are ranked among the highest of categories of public servants in the incidence of bribery, and second, they are ranked among the lowest of agencies within the public sector in terms of “quality of service”. The municipal police have an unclear and often overreaching mandate and poor coordination with other institutions. The municipal police are reported to often engage in inspections-type activities, but without the mandate to do so. This can be not only damaging to business activities, it may also lead to opportunities for corruption. *The activities of the municipal police need to be better controlled, and it is likely that some coordinated, centralized approach is necessary. Municipal police inspections should be limited to a few, well-defined areas relevant to maintenance of municipal law and order. They should not be allowed for regulatory purposes.*

Construction

xxi. Another significant problem at the municipal level continues to be the construction permit process, including, according to businesses, long waits, unclear rules and relatively high incidence of corruption. The construction system is generally characterized by a lack of clear guidelines from national legislation and a lack of adherence to these norms in the municipalities. This issue was also addressed in the 1999 FIAS report, and was included in the 1999 Action Plan. However, there is still much need for further improvement.

xxii. Generally, there has been little concerted effort to streamline the procedures that require the input of many different state and municipal institutions, as well as a lack of information on the actual fees levied by the different institutions. *One solution that is long overdue is the preparation of detailed territorial plans for the cities. The establishment of a board of appeals to hear disputes arising from the construction approval process may also be a useful tool to pull together a very fragmented system.*

xxiii. There are problems in coordinating and approving the technical design by the relevant institutions, since the documents need to be signed and sealed by all the institutions consecutively. *A solution to consider would be to implement simultaneous processing of applications by reviewing agencies, subject to firm deadlines for processing, perhaps even introducing and applying the principle of “silence is consent” in areas other than basic building safety.*

xxiv. *There is also a need for legislative reform, including a review of the General Construction Regulations with the aim of shortening the period of time needed for receiving acceptance of the completion of building and clearly specifying all the steps of the construction approval process.*

xxv. Riga is the most important location for construction activity in Latvia, so it is especially important that Riga attempt to resolve those problems that may be more acute there than elsewhere. *The new Riga City Construction Board should make the resolution*

of these problems a focus of its activities, including reviewing whether the requirements issued by certain institutions are necessary. There should also be improved coordination between the institutions involved.

xxvi. The problem of administrative barriers at the municipal level are often hard to resolve, and efforts at the national level to improve the situation may run into constitutional constraints. The national government has good reason to be concerned about administrative barriers and corruption at the municipal level, which can have a significant negative influence on both investment in general and foreign investment in particular, as well as productivity and overall economic growth.

xxvii. In many cases, competition between local jurisdictions to attract investment will often provide a powerful incentive for local-level reforms. However, in the case of Latvia, where the size of Riga relative to other municipalities (including the size of the market, the labor pool, and the strong base of infrastructure) is very high, such competition may have limited influence. In this case, *FIAS would like to encourage more constructive dialogue between the administrations of Riga city and the national government (and including representatives of the business community) in order to coordinate reform efforts and ensure an effective reform strategy.*

Continuing efforts to deter corruption

xxviii. There is considerable evidence that Latvia's efforts to combat corruption have been having a beneficial effect². However, there is anecdotal evidence that the problem of corruption may have become more sophisticated, and the Government of Latvia believes the overall level is still too high: While Latvia currently ranks at 52 on the Transparency International Corruption Perception Index (along with Czech Republic and Slovakia), Estonia is only ranked at 29 and Lithuania at 36.

xxix. Anecdotal evidence and focus groups convened by LDA and FIAS suggest that while petty administrative corruption has diminished, "grand" corruption and more sophisticated forms of corruption continue to fester. These included complex financial transactions for tax avoidance or for reward of agreed bureaucratic decisions, cronyism, forcing an enterprise to accept an unwanted partner or employee or make an unforeseen investment, the existence of "roofs", even relying on an intermediary like a lawyer, contractor or freight forwarder to pay bribes. *Therefore, future efforts to combat corruption will require more sophisticated knowledge and understanding not only of finances, but also of how public and private sector actors interact and affect decision-making. In addition, it seems clear that customs procedures and the various construction approval procedures should be high priority for reducing administrative corruption.*

xxx. Meanwhile, the results of the Regulatory and Administrative Costs Survey suggest that corruption in the context of administrative procedures (petty corruption) is at

² For example, in the Transparency International Corruption Perceptions Index, Latvia has moved from 59th place in 2001 to 52nd place in 2002.

a relatively low level. About 35% of survey respondents cited corruption as an “obstacle” to doing business in Latvia, with a rating of 2.5 on a scale of 1 – 4 (where 4 is extremely severe). A question regarding bribes and payment of gifts was asked for each of the key administrative procedures that entrepreneurs undertook and the results include a ranking that indicate that the most corruption-prone procedures include:

- Construction approvals
- Customs
- Municipal police inspections
- Change of classification of property usage

xxx. A complete set of data is presented in Chapter I, Introduction.

xxxii. Due to various reasons, the business survey may underreport the overall incidence of corruption, and FIAS considers the survey results to be a minimum estimate of the incidence of bribery. Nevertheless, given the size and structure of the survey, *FIAS is confident that the relative ranking of agencies regarding corruption is reasonably accurate, and should give the highest levels of government an indication of which agencies are most in need of attention.*

Notarization

xxxiii. Businesses have stated that notarization requirements are not especially expensive, but they are time-consuming and burdensome. The benefits of notarization for a given document should be weighed against the costs in terms of time and money spent by the business community in receiving such notarization. *The primary recommendation is consideration of whether all the cases where notarizations are currently required could not be fulfilled by other means, such as warranties or representations by the enterprise or by means of electronic signatures.*

Other themes and issues arising from the self-assessment

Interaction between government institutions and enterprises

xxxiv. The results of the templates filled out by government agencies indicate that there is still a low level of communication by institutions with enterprises, both in terms of communicating information on requirements to enterprises as well as in terms of seeking feedback or input from them.

xxxv. An important tool to level the playing field between enterprises is provision of equal access to information on procedures, to remove the excuse of many bureaucrats that most businesses “don’t understand the proper procedures”. Examples of good provision of information to the business community include:

- Enterprise registration (which has a web-site and a number of brochures)
- Customs

- Department of Citizenship and Migration Affairs

xxxvi. There are few examples of a government institutions seeking active feedback from enterprises. *FIAS recommends that the Government of Latvia encourage and in some cases even require that government agencies regularly solicit feedback from their constituents, and make use of the information to guide further reforms to improve efficiency and transparency.*

Compliance rather than enforcement

xxxvii. Government institutions cannot spend their time enforcing rules by controlling all aspects of an enterprise's application and operations, but enterprises report they are very often confronted with an a priori assumption that they are not in compliance with rules governing tax, health and safety, etc, and that the burden of proof is on business to satisfy officials that they are in compliance. *An increasing amount of these government/business interactions will need to be based on warranties and representations by the enterprise, but also taking into account the principles of risk assessment, self-certification and the "silence is consent" principle.*

Validity of electronic documentation and signatures

xxxviii. Communication and sharing of information among government institutions is increasingly dependent on the electronic exchange of information to avoid unnecessary delays. In the context of this Report, this would improve procedures such as registration of enterprises; submission of customs declarations; tax reporting, filing and payment; receipt of various licenses and permits; and receipt of construction permits. Nevertheless, in order to achieve a viable electronic environment, a prerequisite is getting standard procedures in place and ensuring that they work smoothly. In that sense, this Self-Assessment Report can also make a significant contribution to efforts to modernize government administration.

Next Steps

xxxix. FIAS recommends that the Government of Latvia continue the successful process of structured dialog with the business community and updating of its Action Plan for reform. We recommend that the observations and recommendations reflected in this Self-Assessment Report serve as a basis for dialogue to prioritize the problems and to set the agenda for another cycle of reform to improve the business environment in Latvia.

xl. In particular, we see a need for greater attention to reforms at the municipal level of government, which would imply a need for greater involvement of municipal-level officials in the dialog mechanism that has worked so well at the national level of government.

xli. FIAS also recommends that the Government of Latvia should repeat the self-assessment exercise (including the business survey and the templates) after another two years in order to assess the impact of its reform efforts. This will allow it to identify which reforms have been successful and which may need a new strategy, as well as to identify new reform priorities to improve the business environment and keep it competitive with alternative investment locations. FIAS believes that the information provided can be used to develop several new “performance indicators”, focusing on efficiency and regulatory impact. This in turn should assist Latvian agencies in their own internal reform efforts and will provide a sound baseline for performance indicators that can be measured reliably over time.

xlii. In this regard, the Government of Latvia should encourage all government agencies that regularly interact with the business community to compile data on:

The volume of applications received (inspections undertaken, etc.)

- Acceptance/rejection rate of applications
- Actual average processing time
- Appeals
- Outcome of appeals

xliii. It should be understood that these performance indicators should not be viewed as goals in and of themselves, but rather measures of the “costs” of regulations to be balanced against the “benefits” of regulation. The goal of such reforms should be seen as improving the cost-efficiency of necessary regulation, as well as transparency.

xliv. Attached below is a summary table of the observations and recommendations described in this Self-Assessment Report. This is meant to be an informative review. Details of the observations and recommendations are located in the relevant chapters.

Summary of Observations and Recommendations from the Self-Assessment Report

The following tables summarize the observations and recommendations from this Report. Text in **bold** font indicates recommendations that are high priority for improving the business environment, while text in *italics* indicates activities that can be accomplished relatively quickly and easily. Text that is in ***bold and italics*** is important and should be relatively easy to implement.

Observations and Recommendations for Chapter II Overall Observations

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
Compliance rather than enforcement	<ul style="list-style-type: none"> Latvia is reaching a point in its development where the trust of the government toward enterprises needs to be increased. Many of the administrative barriers identified in this Self-Assessment Report result from a lack of trust, whether explicit or implicit, that government institutions have for businesses. 	<ul style="list-style-type: none"> Consider government-wide implementation of various instruments for enforcing rules by ensuring compliance. These include self-certification (including personal liability or accountability) and introduction of the “silence is consent” principle.
Electronic documentation and signatures	<ul style="list-style-type: none"> There is an increasing need to improve the level of communication among government institutions and the reliability and legal validity of electronic documentation. 	<ul style="list-style-type: none"> Use this Report and other sources as bases for planning for those services that should be made available electronically.
Notarization	<ul style="list-style-type: none"> The benefits of notarization should be weighed against the time and money spent in receiving such notarizations. The existing notaries argue against the current proposals to legalize electronic signatures, reduce the number of notarizations required for administrative procedures, and expand the number of notaries to enhance competition in this industry. 	<ul style="list-style-type: none"> The new requirements for notarization should be reviewed. The notary establishment should be encouraged to increase its membership, which may both relieve delays and put competitive pressure on notary fees.
Sharing of Information Among Public Institutions	<ul style="list-style-type: none"> Enterprises are still being made visit institutions and provide information that is already in the government system and should be available to other government institutions. 	<ul style="list-style-type: none"> Introduce a functioning on-line connection among all public institutions (incl. municipalities). Implement training in how to use the system. Introduce all primary and secondary legislation that would ensure that all information supplied and disseminated between public institutions would be legally valid.

Interaction with Enterprises	<ul style="list-style-type: none"> There is still a low level of transparent interaction between government institutions and private enterprises. 	<ul style="list-style-type: none"> Standardize and improve the tools for engaging the private sector in dialogue: <ul style="list-style-type: none"> in carrying out regulatory impact assessments in arranging public hearings, in organizing focus groups to discuss the existing status and to try out new ideas and solutions.
Corruption	<ul style="list-style-type: none"> There are indications that the level of administrative corruption has decreased, but there are still areas where corruption is common. 	<ul style="list-style-type: none"> Continue efforts in combating administrative corruption, including monitoring through surveys to identify which procedures are most vulnerable to corruption and to measure changes over time, and development of methods to combat more sophisticated forms of corruption as well.

Observations and Recommendations for Chapter III Start Up

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
Enterprise and VAT Registration	<ul style="list-style-type: none"> Electronic documentation should assist in simplifying administrative procedures 	<ul style="list-style-type: none"> With the adoption of the Law on Electronic Documents, support efforts to further modernize enterprise registration.
	<ul style="list-style-type: none"> New Commercial Law increases the number of documents requiring notarization. 	<ul style="list-style-type: none"> Reduce the number of documents requiring notarization and find alternate means to verify authenticity such as self-certification.
	<ul style="list-style-type: none"> With the coming into force of the Commercial Law, there are new procedures for enterprise registration. 	<ul style="list-style-type: none"> The Enterprise Register should monitor how the implementation of the Commercial Law has affected the time and costs relating to enterprise registration.
	<ul style="list-style-type: none"> As of the date of completing the template, the Enterprise Register did not compile specific information on the number of applications submitted, the number of subsequent positive or negative decisions or average processing time. 	<ul style="list-style-type: none"> The Enterprise Register should <i>develop and introduce a database of approvals and rejections</i> based on applications in order to identify trends in the registration process.
	<ul style="list-style-type: none"> Along with the coming into force of the new Commercial Law, the “silence is consent” rule as applied to Enterprise Registration is abolished. However, the “silence is consent” principle is a useful instrument to ensure that some type of binding decision is made that clarifies an enterprise’s status. 	<ul style="list-style-type: none"> <i>Consider the possibilities for reinstating the “silence is consent” rule for enterprise registration.</i>

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
	<ul style="list-style-type: none"> Despite the procedural streamlining in combining enterprise and tax registration, enterprises still must visit the State Revenue Service to provide certain additional information. 	<ul style="list-style-type: none"> <i>Collect and forward all information at enterprise registration to the tax authorities so that it is not necessary for the enterprise to visit the tax authorities separately.</i>
	<ul style="list-style-type: none"> The Enterprise Register has developed significant institutional knowledge of interacting with enterprises, particularly in light of the introduction of the Commercial Law. 	<ul style="list-style-type: none"> Disseminate the experiences of the Enterprise Register to other government institutions about interacting with and informing the public.
	<ul style="list-style-type: none"> There may be compelling reasons for the municipality to receive information on the types of businesses working in its territory. Nevertheless, the current process of registering for and receiving the municipal trade permit, in any municipality that imposes such a requirement, is illegal and burdensome if the permit does not relate to sales on public property. 	<ul style="list-style-type: none"> Electronically inform the municipalities or make information accessible regarding the enterprises and their branches registered in the administrative territory, with the goal of rendering municipal trade permits for extra-legal purposes unnecessary.
	<ul style="list-style-type: none"> VAT registration is quite straightforward, but it is necessary to make documentation more accessible. 	<ul style="list-style-type: none"> <i>Place forms for VAT payer registration on the home page of the State Revenue Service, www.vid.gov.lv.</i>
Licenses and Municipal Trade Permits	<ul style="list-style-type: none"> There are reports that certain institutions are overstepping their authority requiring various “statements” for undertaking business activities in place of officially sanctioned licenses. Some municipalities are issuing municipal trade permits for business activities on private premises. Under national legislation, they do not have this right. Serious consideration should also be made as to whether the municipality could not get the statements and certifications from other public institutions, if it finds them necessary to have. 	<ul style="list-style-type: none"> Abolish the practice of issuing de facto licenses, including certain municipal trade permits, that are not in conformity with the national laws and regulations. If municipal authorities require information on enterprises operating in their territory, the municipalities themselves should be responsible for gathering information that is available from other public institutions, rather than making the enterprise collect it.

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
Expatriate Employment and Residency	<ul style="list-style-type: none"> Besides the State Employment Service and the Office of Citizenship and Migration Affairs, the Immigration Authority of the State Border Guard is involved in control over immigration affairs (functioning in many respects like a police structure). The communication between these three agencies has not been fully institutionalized, as a result of which there have been cases that have come to the attention of the LDA of overlapping and uncoordinated controls over enterprises. 	<ul style="list-style-type: none"> The State Employment Service, the Office of Citizenship and Migration Affairs and the Immigration Authority of the State Border Guard should better coordinate their activities in controlling enterprises. (See details below).
	<ul style="list-style-type: none"> Two of the recommendations that the SES has for improving its own activities relate to access to electronic databases. 	<ul style="list-style-type: none"> Ensure that the SES (and other institutions as well) are able to receive and rely on electronic information from other government institutions (including the SRS) as well as other sources, such as from the SRS and the Lursoft data base on registered enterprises.
	<ul style="list-style-type: none"> As a recommendation for improving its institutional work, the OCMA in its template mentions the establishment of a center for serving foreigners in Riga. 	<ul style="list-style-type: none"> Provide resources for the Office of Citizenship and Migration Affairs to set up a client service center for foreigners, as they have proposed in the template and in discussions with the Foreign Investors' Council in Latvia.
	<ul style="list-style-type: none"> The 1999 FIAS Report on Administrative Barriers to Investment in Latvia noted that there were long lines and unfriendly service at the OCMA offices. 	<ul style="list-style-type: none"> Provide mandate and resources for the OCMA to develop feedback mechanism to get from visitors and clients (foreigners and their designated representatives) information (such as on waiting times or evaluation of services) that can help improve procedures.
	<ul style="list-style-type: none"> As the OCMA itself acknowledges in the template, there will be a lot of work involved regarding the implementation of the new Immigration Law once it is adopted by the Saeima, including drafting of CM regulations regarding issuance of permits, the state fee for issuance of the permits, as well as internal instructions for employees regarding the new rules. 	<ul style="list-style-type: none"> The OCMA is advised to consult with the relevant representatives of the business community (namely, those most affected by the new rules, including but not limited to enterprises with foreign capital and high-tech companies that invite expatriate experts) in identifying their specific problems and needs.

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
	<ul style="list-style-type: none"> There are reports of cases where SES officials are not receiving timely information of new requirements based on changes in legislation or procedures. 	<ul style="list-style-type: none"> The State Employment Service should ensure that any changes in legislation and procedures are communicated to their employees and made available to the relevant constituency.
	<ul style="list-style-type: none"> Although the SES does not appear to have developed a feedback system with enterprises, the SES has undertaken efforts to inform enterprises of procedural requirements. 	<ul style="list-style-type: none"> The SES should consider ways to introduce feedback mechanisms to systematically gather the comments and complaints of businesses in order to identify ongoing problem areas.

Observations and Recommendations for Chapter IV Locating

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
Real Estate	<ul style="list-style-type: none"> The law On Real Estate Tax does not stipulate a maximum processing time for applications for reassessment of a land parcel. 	<ul style="list-style-type: none"> <i>Provide a specific processing time for each procedure in the sectoral legislation.</i> Make a concerted effort to inform and train the state and municipal institutions and their employees of the existence of generally applicable norms to improve consistency.
	<ul style="list-style-type: none"> The fee for reassessment of land and making a complete technical inventory of buildings is established in the Price List for the Services of the SLS approved by the Director General of the SLS. The price list is confusing and difficult to read for anybody not an expert in this field. 	<ul style="list-style-type: none"> <i>Revise the Price List to provide more accessible information as to the fees payable for reassessment of land and inventory of buildings.</i>
	<ul style="list-style-type: none"> The SLS does not compile information on the number of appeals filed with the head of the SLS or with courts. 	<ul style="list-style-type: none"> Keep track of appeals or complaints, if any, and identify what issues or actions typically provoke them.
	<ul style="list-style-type: none"> It is necessary to improve the dissemination of information by the SLS. 	<ul style="list-style-type: none"> <i>Post more precise information on the processing times, costs and requirements on the SLS web site.</i> Consider the practice of the Enterprise Register, which uses an e-mail bulletin to deliver news and information to its subscribers.
	<ul style="list-style-type: none"> There is a wide-ranging difference in level of understanding of the statutory processing time for the procedure of change of real estate use. It is crucial for businesses and applicants in general as well as the employees of the institution to be aware of the statutory maximum processing time for any procedure. 	<ul style="list-style-type: none"> Consider decreasing the statutory processing time for applications for change of real estate use from 30 days to 14 days or less. <i>Inform the SLS employees of the existence of these generally applicable norms and train them in the administrative procedure principles and applicable legislation.</i>

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
	<ul style="list-style-type: none"> The laws and regulations applicable to the procedure of the change of real estate use are not clear to the municipalities and leads to inconsistent outcomes. There is a need for clarification of regulations and explanation of their application. 	<ul style="list-style-type: none"> <i>Prepare and disseminate a manual or guidelines for the procedure of determining the real estate use.</i>
	<ul style="list-style-type: none"> If the real estate use changes, the land cadastral value is recalculated. Presently, for determining the real estate tax the revised value is applied only in the next tax year. 	<ul style="list-style-type: none"> Consider allowing the changed real estate use to enter into effect immediately and not in the next taxation year, as is the case currently.
	<ul style="list-style-type: none"> There is a lack of precise information on processing times, costs and requirements at the SLS. These would not only be helpful to enterprises, but also to the SLS in improving its own work. 	<ul style="list-style-type: none"> Improve the SLS system of recording the number of applications and the type of decisions taken for inventory of buildings.
	<ul style="list-style-type: none"> The respondents reported that the procedure for registration of title transfer is the most time-consuming one of all the surveyed administrative procedures. Registering title transfer is reported to require almost two and a half months (74 calendar days) on average, of which over 40 days are associated with processing at the Land Book. 	<ul style="list-style-type: none"> The Land Book should ensure observance of the statutory limit of 30 days for processing of applications for registration of title transfer. Consider establishing a shorter processing time (i.e. 14 days) in general. The Land Book is recommended to introduce statistical measurements on average processing time which could be used to monitor the actual processing times and ensure that the statutory limit of 30 days is observed.
	<ul style="list-style-type: none"> The price list for “DUTIES AND FEES FOR REGISTRATION OF REAL ESTATE TITLE TRANSFER IN THE LAND BOOK” is based on the minimum wage. 	<ul style="list-style-type: none"> <i>Abandon the link to “minimum wage”, which is not relevant to a government service regarding real estate.</i>
	<ul style="list-style-type: none"> In 2001, there have been 90 appeals associated with the Land Book submitted to the Civil Cases Department of the Supreme Court, of which 42 have been repealed fully, while 34 have been left in force and none have been partially repealed. 	<ul style="list-style-type: none"> Carry out an analysis and compilation of court judgments among Land Book judges.
Construction	<ul style="list-style-type: none"> Gathering the required technical regulations is the most time-consuming administrative procedure in the construction approval process and involves the largest number of institutions that a company has to interact with. 	<ul style="list-style-type: none"> Introduce a standard and preferably consolidated application form for requesting technical regulations for one project from different agencies.

Topic	Observation	Recommendation
	<ul style="list-style-type: none"> • There is still no single source of information regarding the actual fees levied by different state and municipal institutions in the process of issuance of technical regulations. In addition, there is evidence that suggests that these provisions of the GCR are not always observed. 	<ul style="list-style-type: none"> • Carry out a survey of the institutions issuing technical regulations in order to gather information on the amount of fees levied for issuance of TR and for coordination of designs.
	<ul style="list-style-type: none"> • Riga City does not record the number of Planning and Architectural Tasks issued without review in this commission, which is how the majority of PATs are issued. Therefore it is practically impossible to compare the number of PATs issued in Riga and in other municipalities. 	<ul style="list-style-type: none"> • Riga City is recommended to introduce the practice of tracking the number of PATs it issues for all types of projects, since this can serve as a good indicator of the actual workload and can reveal tendencies in the application process that are otherwise left unnoticed.
	<ul style="list-style-type: none"> • The GCR stipulate that the technical design must be coordinated and approved in 3 copies by those institutions that issued technical regulations and other documentation needed for commencement of the design. In effect, no parallel processing is possible, since all the three copies of the design have to be signed and sealed by all the involved institutions consecutively. 	<ul style="list-style-type: none"> • <i>Implement simultaneous processing of applications by reviewing agencies, subject to firm deadlines for processing, perhaps even introducing and applying the principle of “silence is consent” in areas not strictly concerned with building safety.</i>
	<ul style="list-style-type: none"> • It is obvious that the developer wants to commence use of the building as soon as possible after completion of construction. The Construction Law is clear in this regard – the building cannot be occupied before the formal acceptance. A relatively high number of respondents (18%) reported giving gifts or bribes to complete this procedure. 	<ul style="list-style-type: none"> • Establish a reasonable time frame and a clear procedure for formal acceptance of the buildings. • Review the regulations with the aim of shortening the period of time needed for receiving acceptance of the completion of building.
	<ul style="list-style-type: none"> • During the stage of gathering the technical regulations, the Riga City Environmental Department requests several other technical tasks, based on which it prepares its own assessment of a specific project. That takes an additional 2 weeks and in essence is not necessary, because this department cites the already submitted technical regulations issued by other state institutions. 	<ul style="list-style-type: none"> • Streamline the process by eliminating unnecessary and duplicative steps. • <i>Abolish the time-consuming and redundant requirement of the Riga City Environmental Department for several other technical tasks relating to technical regulations.</i>

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
	<ul style="list-style-type: none"> A step in the process that is distinct in Riga as compared to other municipalities is the requirement to approve the designs in the Engineering Commission of Riga. This requirement applies to all the designs. 	<ul style="list-style-type: none"> Review whether there is value added in requiring all the designs to be reviewed by the Riga City Engineering Commission in terms of safety of the construction and ensuring that designs are in compliance with the building norms.
	<ul style="list-style-type: none"> Investors operating in Riga note the lack of coordination between the Architectural Board of the Riga City Council and the State Inspection for Protection of Cultural Monuments, which significantly complicates and lengthens the approval process of designs. 	<ul style="list-style-type: none"> Improve the coordination between the Architectural Board of the Riga City Council and the State Inspection for Protection of Cultural Monuments.
	<ul style="list-style-type: none"> There is a lack of clarity as to the role of preservation in the city development plan. 	<ul style="list-style-type: none"> Open a vigorous review of the role of preservation in the city development plan among all stakeholders.
	<ul style="list-style-type: none"> There is a lack of detailed and transparent regulations on land use and building design. The present General Construction Regulations are only a procedural outline for issuance of a permit, and they do not address technical issues. 	<ul style="list-style-type: none"> Develop more detailed technical rules to remove unnecessary official discretion over building design issues.
	<ul style="list-style-type: none"> Many of Latvia's cities still do not have detailed plans. 	<ul style="list-style-type: none"> Detailed plans for the cities should be completed as soon as possible, which should define allowable building parameters over entire districts and avoid <i>ad hoc</i> determination of design rules.
	<ul style="list-style-type: none"> Municipalities continue to levy fees for a variety of services relating to infrastructure, some of which seem to overlap. 	<ul style="list-style-type: none"> Co-ordinate the single payment for the development of the city infrastructure with other payments the business makes while implementing the construction project.
	<ul style="list-style-type: none"> All the steps of the construction approval process are not clearly separated and provided for in the General Construction Regulations, creating a certain degree of confusion for businesses and the construction boards alike. 	<ul style="list-style-type: none"> <i>Describe the procedures in more detail and establish clear deadlines in the GCR, revise the GCR accordingly.</i> Establish a board of appeals in municipalities to hear disputes arising from the construction approval process.

Topic	Observation	Recommendation
	<ul style="list-style-type: none"> Article 6.6. of CM regulations On the Formal Acceptance of Buildings Upon Completion of Construction stipulates that the inventory of the building (technical passport), which is among the required documents, is valid for 6 months as of the date of issuance. Once the building has been accepted the owner is supposed to register it in the Land Book. The CM regulations on the State Fee for Notarial Deeds and Registration of Real Estate Rights in the Land Book provide that the inventory of the building is valid for an indefinite period of time, if the assessment of the value has not changed. 	<ul style="list-style-type: none"> <i>Resolve the discrepancy between the legal acts on the term of validity for the inventory of the building.</i>

Observations and recommendations for Chapter V Operating

Topic	Observation	Recommendation
Tax Administration	<ul style="list-style-type: none"> The non-payment of taxes on the part of even some businesses seriously affects the competitiveness of tax-paying businesses and creates a non-level playing field. There is a common belief among enterprises that the SRS goes after those enterprises that pay taxes, since they are “in the system”, but those not in the system are in fact at an advantage. 	<ul style="list-style-type: none"> The SRS should concentrate more on identifying enterprises that are largely escaping the tax net and less on imposing penalties on taxpayers who have made relatively minor errors in their tax reporting.
	<ul style="list-style-type: none"> The system of penalties is seen to be disproportionate. High penalties are often imposed (100% to 200%) on relatively minor errors and there is strict interpretation of violations, with little room for flexibility in reducing the penalties based on the circumstances of the case. 	<ul style="list-style-type: none"> The SRS should continue discussions with the business community regarding whether the system of penalties is proportionate to the violations incurred and whether it is possible to take into account any mitigating circumstances.
	<ul style="list-style-type: none"> Work still needs to be undertaken in improving the usefulness and timeliness of the information supplied to the private sector. 	<ul style="list-style-type: none"> <i>Make information less technical and more user-friendly for the average tax-paying small entrepreneur.</i>
	<ul style="list-style-type: none"> Significant problems remain regarding the quality of tax adjudication and the training of judges, and there is reportedly a serious lack of competence in tax cases in the first instance (regional) courts. 	<ul style="list-style-type: none"> Serious consideration needs to be given to improving the quality of tax adjudication. Options to discuss include specialized training of judges in tax and business-related matters, making the first instance of tax disputes be the district courts, introducing specialized judges in the area of tax issues.

Topic	Observation	Recommendation
	<ul style="list-style-type: none"> Businesses often find that there does not exist a standardized and consistent approach to resolution of tax disputes. 	<ul style="list-style-type: none"> Introduce an advance ruling and/or opinion letter system.
	<ul style="list-style-type: none"> Accounting for Natural Resources Tax purposes can be more expensive than the actual amount of paid-in tax. The tax is also complex in terms of administration. 	<ul style="list-style-type: none"> Undertake a concerted effort among the Ministry of Finance and the Ministry of Environmental Protection and Regional Development, with the input of the business community, to resolve the administrative difficulties relating to the Natural Resources Tax, including detailed analysis of the application of the Natural Resources Tax and its effect on business operations.
	<ul style="list-style-type: none"> Latvian law currently does not allow writing off any overdue debts, therefore companies cannot reclaim the tax amount which they have paid on these monies. 	<ul style="list-style-type: none"> With the input of the business community, the Ministry of Finance should review opportunities available and risks involved in writing off debts, as per international accounting standards.
	<ul style="list-style-type: none"> The state duty for securing ownership rights in the Land Book at 2% of the value of the transaction or cadastral value is high. This causes underreporting of the value of the deal, thus complicating the acquisition of information regarding the actual value of the real estate. This duty may also hinder the development of the real estate market. 	<ul style="list-style-type: none"> The Ministry of Finance and the Ministry of Justice should continue and complete their work in achieving a reasoned approach regarding the reduction of the amount of the state duty for registration of title transfer.
	<ul style="list-style-type: none"> Lengthy and burdensome tax audits. 	<ul style="list-style-type: none"> The SRS should ensure that its auditors follow the norm limiting the length of the tax audit to a maximum of 90 days when such a provision is adopted in the Law on Taxes and Duties.
	<ul style="list-style-type: none"> Businesses complain about frequent changes in tax rules and rates. 	<ul style="list-style-type: none"> Solutions to consider include: announcing planned reform initiatives in advance; revising methodological guidelines on a regular basis (for example, once a quarter) and disseminating them widely and authorizing a competent institution to review the legality of the proposed revisions.

Topic	Observation	Recommendation
Customs Procedures	<ul style="list-style-type: none"> In order to process the flow of goods in the most expeditious manner with the smallest burden on business, it is necessary for a conceptual reorientation in approach as well as an improvement in specific services offered to businesses engaged in the movement of goods. 	<ul style="list-style-type: none"> The Customs administration should shift its emphasis towards voluntary compliance. The Customs administration should continue implementation of the simplified customs procedures. The implementation of the ASYCUDA system should be completed as soon as possible and the problems identified should be addressed in a timely manner. Adequate attention and resources should be devoted to the full implementation of computerized system for processing of customs declarations.
	<ul style="list-style-type: none"> Although much activity has been undertaken in ensuring that there is standardized information available to both Customs officials as well as businesses, this process needs to continue and be developed. 	<ul style="list-style-type: none"> The Customs administration should continue to work on increasing transparency of customs procedures, including information on regulations, administrative guidelines, applicable procedures and rulings to ensure that traders have all the pertinent information for business decisions through the availability of standard mechanisms for accurate, consistent and user-friendly information. <i>The Customs administration and the Sanitary Border Inspectorate should consider introducing an e-mail bulletin for subscribers to inform about the changes in the procedures, requirements and other issues of interest to traders.</i>
	<ul style="list-style-type: none"> The Customs Administration does not have information available for the types of refusals or rejections relating to customs applications. 	<ul style="list-style-type: none"> Categorize the refusals in order to be able to track the recurring patterns and take appropriate action. Prepare a clear scheme of the decision-making process in case an appeal or complaint is submitted and inform the public at large about this process.
	<ul style="list-style-type: none"> It is necessary for businesses to feel that they have an opportunity to challenge customs decisions which they feel are erroneous or inequitable. 	<ul style="list-style-type: none"> Introduce clear, independent and timely appeals opportunities in Customs.

<u>Topic</u>	<u>Observation</u>	<u>Recommendation</u>
	<ul style="list-style-type: none"> The Baltic Transit Agreement aimed at easing and simplifying the pan-Baltic transit procedure is not functioning in practice. 	<ul style="list-style-type: none"> The National Customs Board should critically evaluate and solicit feedback from the industry on what hinders the actual implementation of the Baltic Transit Agreement and prepare suggestions for changes either in the Agreement itself or in the operational and implementing procedures and regulations or in both.
<p>Inspections and Audits</p>	<ul style="list-style-type: none"> A significant portion of the work of the inspectorates involves ensuring that enterprises comply with rules and regulations relating to health and safety (as well as other public policy concerns). Therefore, the inspectorates play a crucial role as educators, and any efforts to reach out to the business community are important means of implementing their mandate. 	<ul style="list-style-type: none"> The inspectorates should introduce the following instruments to improve their performance and client orientation: <ul style="list-style-type: none"> Feedback mechanisms to identify problematic areas in the legislation that it implements and the procedures that it follows. Feedback mechanisms to identify either recurring problems/patterns or to receive information on a particular example. Mechanisms for submitting complaints and proposals.
	<ul style="list-style-type: none"> Several inspectorates do not keep detailed track of internal appeals, and some that do have a surprisingly low number of such appeals. 	<ul style="list-style-type: none"> Each inspectorate should assess whether the appeals routes are clear and realistically available, as well as whether the appeals instances within the institution do not influence each other.
	<ul style="list-style-type: none"> The SRS undertakes a variety of control functions, including tax audits, review of the credibility of submitted declarations and reports, review of refund for overpaid VAT, thematic reviews, taxpayer investigation, counter reviews (comparing the books of enterprises transacting business with each other). The template completed and submitted by the SRS for this Report covered only tax audit. 	<ul style="list-style-type: none"> The SRS should complete a template for each control mechanism and use those as instruments in their efforts to describe and record the control mechanisms and improve the business environment.
	<ul style="list-style-type: none"> The municipal police are seen to have unclear mandates and powers and are often viewed as causing an undue burden on businesses. 	<ul style="list-style-type: none"> Systematically review and define the activities of the municipal police to ensure against duplicate inspections and to ensure such inspections are focused on municipal law and order.

CHAPTER I

METHODOLOGY AND OBJECTIVES OF THE SELF-ASSESSMENT EXERCISE IN LATVIA

1. This Chapter I on “Methodology and Objectives of the Self-Assessment Exercise in Latvia” describes the purpose of the Self-Assessment of Administrative Procedures in Latvia, details the self-assessment methodology and describes the role of the Regulatory and Administrative Costs Survey, the procedure templates, and other inputs in evaluating the business environment in Latvia.

A. The Purpose of the Self-Assessment Report of Administrative Procedures in Latvia

2. The first FIAS Report on Administrative Barriers to Investment in Latvia was completed and submitted to the Government of Latvia in 1999. The Government of Latvia, taking into account the serious effect administrative barriers had on the quality of the investment climate and business environment, initiated a comprehensive and systematic reform agenda to implement many of the recommendations from the FIAS Report.

3. The 2002 Self-Assessment of Administrative Procedures in Latvia is prepared with the goal of taking stock of the status of previous reform efforts and identifying remaining administrative barriers. Self-assessment is a new approach to reform and increases the capacity of a government to apply standard tools and make its own evaluation. Self-assessment is based on generic tools prepared by FIAS (such as the Regulatory and Administrative Costs Survey and the procedure templates, described in more detail in Section B “Self-Assessment Methodology and Its Application in Latvia” below) that are applied to the specific circumstances and procedures in a given country. The data gained from these tools creates a more complete picture of the business environment, since it presents and contrasts both public and private perceptions.

4. This Self-Assessment exercise was carried out in Latvia under the guidance of FIAS in order to build capacity to carry out future self-assessments without need for external assistance. The LDA contributed substantially to the design of the self-assessment methodology, as a cooperative pilot-project with FIAS, and also carried out a thorough assessment of the key administrative procedures affecting business in Latvia. Almost all relevant government agencies in Latvia were cooperative, and assisted in laying the groundwork for the development of many new “performance indicators” for these agencies, focusing on their impact on the business environment.

5. The self-assessment has proven to be a useful exercise in several respects. First, the self-assessment provided an opportunity for agencies to collect and report information

regarding their own performance over the past one to two years. Second, the business survey gave the business community an opportunity to identify the most important obstacles to investment and to rate the services of key government agencies. Third, the comparison between the two sources of information gave a more complete and accurate picture of the business environment than has been available to date.

6. This Self-Assessment of Administrative Procedures in Latvia of 2002 can serve several purposes simultaneously. The Report and the activities undertaken in preparing it provide:

- *A roadmap of administrative procedures.* The Report provides descriptions for current procedures for the formal establishment, location and operation of a business. This information is based on several sources:
 - The Report describes some of the procedures in detail in order to serve as a stand-alone source of information for the investor. This is done in cases where the procedure is particularly complicated and there is inadequate information on that procedure available from other sources.
 - In other cases, the Report relies on the information that is supplied by or available from the government institutions themselves. This up-to-date information is either located on the Internet or is described in the templates submitted by the government institutions and incorporated in the Report. This approach is used in cases where the relevant government institutions themselves have, in the opinion of the authors, prepared the best, most user-friendly information. This is consistent with the goals of the Self-Assessment Report in placing responsibility for the information and results as much as possible in the hands of the government institutions.
- *A policy and regulatory review.* The data from the self-assessment templates and the Regulatory and Administrative Costs Survey is used to measure the quality of governance and public services delivery with regard to key public institutions and formal procedures with which businesses must comply, to evaluate the types and magnitude of costs imposed on private enterprises by several key administrative/regulatory procedures, to pinpoint areas of excess or unnecessary cost that might benefit from reform or streamlining and to identify other problem areas (e.g., areas that cause complaints among businesses; areas that seem significantly costly or time-consuming, etc.).
- *An agenda for dialog between the public and private sectors on administrative reforms* with a public-private sector consultative mechanism to bring together the two principal stakeholders. The recommendations of the Report form a reform agenda, offering specific solutions but at the same time identifying broader problems that may require additional consultation and consideration. An integral part of the efforts to reform the business environment in Latvia has been the participation of the public and private sectors in structured dialogue and this

should continue to be the mechanism to spread the sense of ownership and participation in this ongoing process.

- *An Action Plan for Removal of Administrative Barriers to Investment:* The discussions based on the findings of the Report should establish which reforms are highest-priority from the private sector's point of view; which are feasible from the Government's point of view, and concrete proposals for implementation, including responsibilities, deadlines, and indicators that can be monitored. These should then be incorporated into a comprehensive, cross-sectoral and intergovernmental legal instrument. The Government adopted its first Action Plan to improve the business environment in Latvia in May 1999, and this legal instrument has been subsequently revised on a regular basis. The results of the Self-Assessment Report should be a source for new tasks to be included in the Action Plan.
- *A monitoring and evaluation System:* Both the templates and the survey form a baseline against which agreed reforms and the changes in the business environment can be evaluated. The template and survey exercises should be repeated at intervals (e.g., once per two years) to assess progress, to identify which reforms are on track and which are not, and to adjust the reform strategy accordingly. The templates should be used both by those parties guiding the reform process, as well as by the institutions themselves to check their progress. In addition, the templates cover some of the same points necessary for performance measurements³ and as such can be used as tools to implement these goals of public administration reform. In addition, FIAS provides several internationally comparable indicators which can allow the Latvian government see how administrative procedures in Latvia compare with those in selected other countries.
- *Capacity building.* The activities undertaken in the templates exercise have created a basis for a new, cooperative approach to public administration reform. By filling out one or more templates for those procedures under its supervision, each public institution has become part of a significant, broad-ranging and innovative effort.

B. Self-Assessment Methodology and Its Application in Latvia

7. The self-assessment methodology applied in Latvia is based on several sources of input: the *Regulatory and Administrative Costs Survey*, which captures the experiences of businesses in undergoing administrative procedures in Latvia and the *procedure templates*, which present data and information from the government and municipal

³ In fact, many of the goals articulated here are also covered in the Public Administration Reform Strategy for 2001 to 2006, accepted by the Cabinet of Ministers on 10 July 2001 and sets the policy framework for subsequent white papers relating to public administration reform. In particular, see, e.g., Section 5.3.4. of the White Paper on E-Government in Latvia, adopted in substantial part by the Cabinet of Ministers on 7 May 2002.

institutions overseeing those procedures. The chapter on Overall Observations (Chapter II) and the technical chapters on Start-Up (Chapter III), Locating (Chapter IV) and Operating (Chapter V) compare the results of these two sources. These analyses are enriched by *legal research* (to provide the background for the existing procedures as well as recommendations for reform) and views expressed in *focus groups of businesses* (to contribute to an in-depth understanding of the problems).

1. Regulatory and Administrative Costs Survey

- a. Realization of the Survey in Latvia

8. Countries like Latvia are increasingly concerned about issues such as how open their business environment is to private investment and business development and what should be the priorities for reform. Identification of serious (high cost) constraints is the first step in this process and a well-designed survey of members of the business community allows us to begin to assess these costs and constraints for existing businesses.

9. The Regulatory and Administrative Costs Survey was commissioned by FIAS with the administrative assistance of the Latvian Development Agency. The company that was selected to undertake the Survey was Baltic Data House. A detailed description of the methodology used in realizing the Survey is found in Annex F.

10. The Regulatory and Administrative Costs Survey⁴ is the first such comprehensive and statistically valid survey of a representative sample of enterprises in Latvia⁵.

- b. Application of the Survey

11. This report excerpts relevant sections of the Survey Analysis and uses them throughout the report. The full text of the Survey Analysis, including the methodology used, prepared by Baltic Data House, is found in Annex F and is available from the Latvian Development Agency (contact: +371 7039414 or kplauka@lda.gov.lv). In addition, the data tables can be provided upon request. The size of the Survey sample was 541 enterprises. Taking into consideration the sampling procedures and the data

⁴ The authors of the Report would like to point out that the terminology used in the Survey does not always precisely reflect the legal terms or the exact name of the institution. For example, in the question on border crossing, the Survey uses the term “Sanitary and veterinarian inspection control”, but it would be more correct to write “veterinary, phyto-sanitary, nonharmfulness of foodstuffs and safety of goods inspection”. Similarly, the Survey mentions the “Fire and Rescue Service” but its real name is the “State Fire and Rescue Service”. The relevant institutions have pointed out these discrepancies.

⁵ The Latvian Development Agency has undertaken prior surveys of the business environment in 1999 and 2001, and these have helped indicate trends and general problem areas in the business environment. But in those cases a voluntary sample of members of various business organizations was used, and therefore the results were less scientific and reliable than those received that were based on the rigorous methodology applied in the Regulatory and Administrative Costs Survey.

weighing procedures, the sample of the research is generally representative of the universe of private enterprises operating in Latvia, and the results obtained can be generalized to the Latvian business community at large⁶. Annex G is a letter dated 2 January 2002 from the Central Statistics Board of Latvia, which confirmed that the “distribution of enterprises in the model corresponds to the actual state of affairs at the end of 2001”. The Central Statistics Board acknowledges that the sampling quotas “could be sufficient and representative.”

2. Procedure Templates

a. Generally

12. The procedure templates are instruments whose goal is to present information regarding a procedure overseen or supervised by a government institution. The information is in a format that is standardized, to the extent possible, among the various government institutions within one country and also among those institutions fulfilling similar functions in various countries.

13. The procedure templates have been developed by FIAS based on pilot tests undertaken in Latvia in November 2001. These templates have been fine-tuned and are now being used in other transition countries. As the repository of information from the templates grows, there may eventually be an opportunity to review an international database of templates that will allow various interested countries to compare and contrast their requirements governing a given procedure.

14. At the same time, the procedure templates serve an important purpose in the country itself. The procedure templates are designed to provide two types of information regarding the procedure overseen by a given institution:

- a. The *investors* need to know:
 - Where do I go?
 - What do I do?
 - What must I bring?
 - How long will it take?
 - How much will it cost?

- b. The *Government* needs to know:
 - Volume of transactions;
 - Average processing speed;
 - Number of rejections;
 - Number of appeals; and

⁶ Since a quota sampling method was used, there were some discrepancies between the sample structure and the universe of all Latvia’s private enterprises. To correct this, the Survey experts applied a data weighing procedure that is described in detail in the Survey Report.

- Outcome of appeals.

15. Section A of the template provides basic information about each of the institutions involved in the analysis, and how it can be contacted (address, phone number, office hours, etc.).

16. Section B contains information about the procedures, including:

- The legal basis for the procedures;
- Other institutions involved in the procedure (e.g., institutions that must make a prior approval or a subsequent approval before the procedure can be considered complete);
- Official duties and fees required to complete the procedure;
- Documentation and information requirements that the investor must provide;
- Processing time (statutory maximum, if any; average processing time, etc.);
- Number of applications received;
- Number accepted and successfully processed;
- Number rejected or sent back to the applicant;
- Number of appeals;
- Outcome of appeals; and
- Flow-chart of procedure.

17. Section C provides an opportunity for the institution to make a self-assessment of the procedures, including:

- The purpose of the procedure;
- Clarity of the procedures;
- Efficiency of the procedures;
- Communication between the institution and enterprises;
- Priority areas for improvement (that can be undertaken within the institution); and
- Priority areas for improvement (required outside the institution, e.g., changes in legislation, or in other institutions involved in the procedures being analyzed).

b. Activities Undertaken in Latvia

18. The procedures covered by the templates were based on the issues in the Regulatory and Administrative Costs Survey and the activities relating to business environment reform in Latvia over the last four years.

19. The Latvian Development Agency disseminated procedure-specific templates to the government and municipal institutions responsible for them. Table I.1, below,⁷ lists the templates disseminated and the institutions or municipalities that returned completed templates.

20. The templates exercise may herald an unprecedented degree of voluntary participation by government institutions in collectively forming a picture of the business environment in Latvia. In fact, very often the quality of the information supplied was so high that the authors invite interested readers to refer to the completed templates included in the relevant Annexes for information on the procedure.

Table I.1

Procedure template	Filled out by
<u>START-UP (Chapter III)</u>	
Enterprise registration	Enterprise Register
VAT registration	State Revenue Service
Municipal trade permits	Riga, Cesis, Daugavpils, Jelgava, Liepaja, Rezekne, Valmiera, Ventspils
Tobacco license	SRS (Excise Goods Board)
Alcohol license	SRS (Excise Goods Board)
Commercial cargo license	Auto transport Directorate
Construction license	Construction Licensing Commission for Legal Persons of the Ministry of Environmental Protection and Regional Development
Approval of work permit	State Employment Service
Issuance of residency permit	Department of Citizenship and Migration Affairs
<u>LOCATING (Chapter IV)</u>	
Registration of real estate transfer	Landbook Division, Ministry of Justice
Inventory of buildings	State Land Service
Reassessment of land parcel by request	State Land Service
Change of real estate use	Cesis, Daugavpils, Jelgava, Liepaja, Rezekne, Valmiera, Ventspils
Construction approval	Riga, Daugavpils, Jelgava, Liepaja, Rezekne, Valmiera, Ventspils
Utility connection: gas	Latvijas Gaze (Latvian Gas)
Utility connection: electricity	Latvenergo
Utility connection: heat	Rigas siltums (Riga Heat)
Utility connection: water	Rigas udens (Riga Water)
<u>OPERATING (Chapter V)</u>	
Tax Reporting: Corporate income tax, Value added tax, Personal income tax, State mandatory social insurance contributions, Real estate tax	State Revenue Service
Value added tax refund	State Revenue Service
Customs procedures (import, export and transit)	State Revenue Service (National Customs Board)
Sanitary Border Inspectorate control procedure for importing and exporting goods and carrying goods in transit	Sanitary Border Inspectorate

⁷ A complete table in Annex A lists the procedure descriptions, the institutions or municipalities that filled them out, as well as the date the template was completed.

On-site inspection	State Labor Inspectorate, State Sanitary Inspectorate, State Fire and Rescue Service, State Construction Inspectorate, State Environmental Inspectorate, Control Section of State Language Center, State Revenue Service and others
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c. Using the Templates

21. The templates are primary sources of information for describing a given procedure and are used as a basis for analysis as well. In most cases, the template is reproduced in the Annexes as filled in by the institution⁸.

22. The templates are immediately useful in that they supply contact information for the institution, the applicable legislation the institution is implementing and observing, and the steps to be undertaken to fulfill the procedure. The last section of the template, the “opinion of the head of the institution” is the view of the institution itself on the procedure it is mandated to oversee, and as such forms an important part of the analysis.

23. In other cases, the information from the templates has been put together in a chart to present both the information on the procedure, as well as for comparison. This has been done for construction procedures in the municipalities and reporting requirements for different taxes. Elsewhere, for purposes of analysis, tables comparing separate sections of the templates have been prepared.

24. From the perspective of preparation of the Self-Assessment Report, the templates have already played an important role in creating a common experience among those government and municipal institutions that are responsible for procedures that affect enterprises. This is not only in terms of activities related to gathering information and answering the questions, but also in the fact that the information provided can be compared, where applicable, among the institutions in Latvia.

25. In addition, the templates can even serve as a useful means to fulfill some of the goals and priorities of the Latvian government based on fundamental reform documents like the Public Administration Reform Strategy for 2001 to 2006 (accepted by the Cabinet of Ministers 10 July 2001) and subsequent related policy papers⁹.

⁸ Where some of the information supplied is either incomplete or inaccurate, based on independent or alternative but reliable sources of information, the LDA has included a note supplementing or explaining the text in the template. If questions have been left blank the templates still show the blanks. However, in cases where there were three or more free-form answers to a given question and none of them have been filled out, the authors have reduced these selections in the interest of conserving space.

⁹ For example, section 5.3.4. of the White Paper on E-Government (adopted in substantial part by the Cabinet of Ministers on 7 May 2002) provides for Institutional Performance and Process Measurements and indicates that (relevant text in italics):

5.3.4.1. A prerequisite for the objective assessment of the quality of services and organizational effectiveness is the preparation and implementation of the relevant performance measurements and process measurements and a comparative system.

3. Other Sources of Input for the Self-Assessment Report

26. In addition to the Regulatory and Administrative Costs Survey and the procedure templates there are several other sources of input that have been crucial for the procedure descriptions, analyses and recommendations of the Self-Assessment Report. These inputs include legislative analysis and meetings and discussions with representatives of the business community and the government.

27. Legislative analysis is necessary to provide the legal framework and legal nuances to many of the procedures described herein, as well as to identify what legislative change may be necessary to improve a given procedure.

28. Meetings with government and business representatives have provided a qualitative context and richer, more detailed (albeit anecdotal) evidence that allowed FIAS and the LDA to design the entire Self-Assessment exercise, as well as to interpret the results of the Survey and the templates.

29. Both legislative analysis and cooperation with stakeholders have been integral elements of the ongoing reform efforts in Latvia (see the description below on the actions undertaken and methods used in reducing administrative barriers and improving the business environment in Latvia).

30. Finally, in September 2002 the draft Report was disseminated for commentary to all state and municipal institutions that had filled out templates, as well as to institutions overseeing the government administrative structure and public reform projects and those that deal with municipalities. Several institutions have sent responses. Clarifications and those proposals that were interesting and useful, according to the authors of the Report, have been incorporated in the text of the Report, with reference to the relevant source of information. The letters from the institutions are available at the LDA.

5.3.4.2. Performance measurements describe the end result of organizational activities. In the case of public administration, these are public services. Performance measurements could be, for example, *number of clients served, length of time serving the client, number of complaints, evaluation of the client's satisfaction with the service, etc.*

5.3.4.3. The process measurements characterize the organization's internal processes. These could be, for example, the costs for serving one client, the costs for a procurement transaction, the average time taken for procurement, et al.

5.3.4.4. Thus, one of the most important tasks of the e-government program is the *preparation and introduction of a standard system for public administration institutional performance indicators* (each institution, of course, will have its own indicators, but some of them will also be standard) which will form the basis for the internal review, as well as analysis of the institution's activities.

CHAPTER II

BACKGROUND AND OVERALL OBSERVATIONS

1. The goal of this chapter on “Background and Overall Observations” is to provide the context for reform activities that arose out of the 1999 FIAS Report on Administrative Barriers to Investment and to present an overview of what has been achieved and what general problems have been identified through the self-assessment exercise.

A. Actions Undertaken Since the 1999 FIAS Report on Administrative Barriers to Investment in Latvia

2. This section presents an overview of the activities undertaken since the 1999 FIAS Report on Administrative Barriers to Investment in Latvia and describes how the Latvian government, with the input and advice of FIAS and other sources of international expertise, has created and maintained a systematic means of engaging the public and private sectors in dialogue for the purpose of improving the regulatory environment in Latvia.

1. Historical Development

3. Foreign investors had been complaining about recurring problems on doing business in Latvia, such as lack of clarity in immigration procedures for expatriate employees, unnecessary delays in transferring title to land, harassing and unsubstantiated visits by government inspectors, large amounts of permits required for construction to begin. In order to resolve these problems, in 1998 the Ministry of Finance and the Latvian Development Agency (LDA) commissioned a Report on Administrative Barriers to Investment in Latvia, prepared by the Foreign Investment Advisory Service (FIAS) of the World Bank Group. The Report contained critical assessments of many problems relating to employment and immigration issues, taxation and customs, real property acquisition and construction, inspections and other issues of concern to the foreign investor.

4. In order to openly discuss the issues identified in the FIAS Report, the LDA invited the business community and government ministers to a presentation of the draft Report by the FIAS representatives in January 1999.

5. This evaluation was unprecedented in Latvia, but the Latvians understood that identification of problems was only the first step. Now these problems needed to be resolved. As a result, the Prime Minister established a Working Group to address the issues raised in the FIAS Report. This Working Group was unique – it was structured to work on the basis of consensus. The Working Group was composed of members of the

American, British, German and Swedish Chambers of Commerce in Latvia and the Latvian Chamber of Commerce and Industry, as well as civil servants of all levels. After all, the reasoning went, for changes to be supported and made effective, the responsible civil servant would need to be informed and involved from the very beginning. It was also acknowledged that the foreign investor community could present invaluable advice on international best practices, and it was important that they become involved in an advisory capacity.

6. The Working Group, applying the recommendations of both the FIAS Report and the Working Group's subgroups on specific issues, came up with an Action Plan containing more than 30 proposed actions and designating the government institution responsible for implementing the respective action. The proposed actions included items such as improving the quality of information on the functions of the government institutions, combining enterprise registration and tax registration into a single process, easing immigration requirements for expatriate workers, amending various customs procedures and establishment of a special working group to deal solely with the complex construction issues.

7. On May 11, 1999, the Cabinet of Ministers accepted the Action Plan in its entirety. The Latvian Development Agency has been designated to monitor implementation of the Action Plan and to institutionalize the dialogue between the business community and the government, including active involvement in the Foreign Investors' Council in Latvia meetings described below. These activities have received support from the European Commission Phare Programme, FIAS of the World Bank/IFC, the Swedish International Development Agency and other international donors.

2. Cooperation with the Private Sector

8. Simultaneously and complementarily with these efforts to eliminate administrative barriers to investment in Latvia, another important initiative has been taking place. The Foreign Investors' Council in Latvia (FICIL), composed of the chief executives of foreign companies doing business in Latvia, holds a semiannual meeting with the highest government officials. Participants in the High Council meetings include the Prime Minister, the Minister of Economy, the Minister of Foreign Affairs, the Minister of Finance and other government officials who meet with the CEOs and other top executives of major international investors representing a cross-section of sectors and countries. Five High Council meetings have been held since June 1999. Issues discussed have included tax policy, tax administration and tax appeals, higher and continuing education and development of a qualified work force, customs and border crossing, EU accession, the accessibility of long-term financing in local currency, the fight against corruption, valuation of land and buildings for determining the real estate tax, the new Commercial Law. Between the semiannual sessions of the High Council, ad hoc groups of business and government representatives discuss and evaluate issues of concern for the foreign investors. Their conclusions are then presented at the High Council meeting.

9. The recommendations of FICIL since the second High Council meeting have been pooled with the Action Plan based on the FIAS report, creating a comprehensive Action Plan to Improve the Business Environment in Latvia, which was adopted by the Cabinet of Ministers on February 29, 2000 and has been subsequently revised. The most recent revised Action Plan was adopted by the Cabinet in September 2002, after consultations among the parties, and there is regular reporting on the progress of implementation.

10. Currently, initiatives are underway at the LDA to coordinate and consolidate the viewpoints and opportunities for dialogue with other organizations representing businesses, including the National Economy Board and its 17 sectoral associations and business clusters in areas like information technology, high technology, and engineering.

3. Achievements

11. The following table summarizes some of the recommendations expressed in the 1999 FIAS Report on Administrative Barriers to Investment in Latvia and a brief assessment of their present status.

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
•	<p>Enterprise registration</p> <ul style="list-style-type: none"> ○ Lack of coordination between the Enterprise Register and the State Revenue Service for very similar and seemingly duplicative registration procedures. ○ The Enterprise Registry should continue to reduce the time associated with “normal” registration applications. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia noted that the Enterprise Register reports that enterprises are registered in 14 days (that is, after submission of all necessary documentation, the application is reviewed and a decision is rendered). 	<ul style="list-style-type: none"> ○ Supported by the Action Plan, the process of enterprise registration and tax registration have been combined into one, although certain problems still remain, such as the need to visit the SRS to report bank account information, etc. ○ The Enterprise Register appears ready to reduce the time taken for registration of enterprises (which is the same as the time provided in 1999 – 14 days) but is presently required to focus on implementation of the new Commercial Law.
•	<p>Expatriate employment and residency</p> <p>The 1999 FIAS Report identified significant problems with the procedures relating to expatriate employment and residency and stated that Latvian immigration policies ranked unfavorably compared with other countries.</p> <ul style="list-style-type: none"> ○ The work permit, authorization of letter of invitation and residence permit should be combined into a single work permit that would be approved by both the State Employment Service and the Department of Immigration. 	<p>One of the first completed tasks of the first Action Plan was cooperation between the Office of Citizenship and Migration Affairs and the State Employment Service to draft a brochure describing the procedure of expatriate employment and residency.</p> <p>The following legislative and administrative reforms have been introduced:</p> <ul style="list-style-type: none"> • The procedures for obtaining a working permit have been simplified by adopting new regulations “The Procedure for the

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
	<ul style="list-style-type: none"> ○ Work permits should be issued for a minimum two-year period (or less if the term of the contract is less than two years). ○ An investor (i.e., the principle owner/director of a company) should not be subject to a work permit. If the Government feels that a work permit adds value, then the process of authorizing the work permit and authorization of the letter of invitation should be combined into a single process. ○ The most significant complaint raised by investors is the legal right of the Government, and the demonstrated willingness to exercise the right, to detain and declare <i>persona non grata</i> investors who operate in violation of the Immigration laws and regulations. Immigration Police in Latvia should resort to warnings and fines rather than detention and expulsion. ○ Investors in Latvia also claim that the issuance of residence permits often exceeds the 30 days stipulated by law and may extend for several months. Investors referred frequently to long queues, unfriendly staff, and poor treatment by the Department of Immigration. ○ There is poor coordination between Immigration and the State Employment Service and inconsistencies in procedures. ○ Latvia's requirement that an investor interact with the State Employment Service to authorize the letter of invitation seems to be unnecessary. The interaction with the Employment Service adds significant time to the process (in total about 1 month) without adding any apparent value. ○ Investors should be given limited rights to conduct business once an application for residency has been submitted. 	<p>Employment of Foreigners and Stateless Persons in Latvia” on March 28, 2000.</p> <ul style="list-style-type: none"> ● Although the investor still has to receive an authorization from the SES for the letter of invitation, the work and residence permit are issued simultaneously by a single institution – Office of Citizenship and Migration Affairs. ● If the work permit is for members of the enterprise’s supervisory council or board of directors, managing directors and managers and directors of the enterprise, there is no fee for issuance of the work permit, nor do they have to register a vacancy and wait 30 days. ● The Saeima adopted the Immigration Law, which will enter into force on May 1, 2003. The new Immigration Law provides for certain improvements regarding residency permits, including allowing persons to receive extended residence permits in a number of cases. <p>In addition, since 1999 the number of unfounded extraditions of foreign investors has fallen significantly.</p>
<ul style="list-style-type: none"> ● 	<p>Real estate transfer</p> <ul style="list-style-type: none"> ○ There is no compelling reason to maintain the municipalities' right of first refusal on real estate transactions. ○ The requirement for certain foreign investors to obtain the permission of the Head of the Municipal Council in order to buy land is largely unnecessary and ineffective in protecting the concerns of the Latvian Government and citizens. ○ 	<p>Real estate transfer continues to be a problem.</p> <p>One of the first drafts of the Action Plan proposed elimination of the municipal right of first refusal, but this was rejected on political grounds.</p> <p>Investors have also repeatedly complained about the high fee for the transfer of title to real estate – 2% of the cadastral value. This issue has been included in the Action Plan and discussed with the relevant institutions (Ministry of Justice Land Book Department and Ministry of Finance), but so far little progress has been achieved.</p>

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
•	<p>Real estate assessment</p> <ul style="list-style-type: none"> ○ Real estate assessment is slow and with the existing state monopoly for assessment there exist opportunities for collusion or systematic error. 	<p>Initiatives have been undertaken to introduce a nationwide system of cadastral valuation in order to determine the real estate tax. One activity, also within the context of the Action Plan, was the preparation of information to explain the cadastral valuation of real estate.</p>
•	<p>Construction</p> <ul style="list-style-type: none"> ○ It is difficult to obtain site-specific changes to the City Master plan, since this "amendment" process is time-consuming and difficult. ○ It takes an average of one to one and a half years for a commercial project to get a building permit (this compares unfavorably with other transition and developing economies at a similar level of development). ○ The government should: <ul style="list-style-type: none"> ○ publish a chart of the approval process, as well as all relevant regulations. ○ create a consolidated fee structure to help finance the need for increased resources. ○ prepare and publish regulations with guidelines for municipal officials on the maximum approval times associated with each stage of the construction approval process. 	<p>Much activity has been undertaken by the stakeholders to reform the construction process through instruments like the Action Plan, including:</p> <ul style="list-style-type: none"> ○ Introduction of a uniform set of fees and duties related to construction. ○ Adoption of amendments to the "General Construction Regulations" in order to simplify and streamline the construction preparation process as well as the procedure of state expertise. ○ Establishment of a regular link between the Municipal Affairs Board (MAB) and the Construction Department of the Ministry of Environmental Protection and Regional Development. ○ A register of municipal duties has been opened in the MAB, where information concerning all the municipal duties and their rates imposed by local governments is available. <p>But despite these reform efforts, not all the problems could be solved via changes in the rules governing the procedure of approval of construction designs and issuance of construction permits. Some of the major problems lie outside the procedures, such as the lack of territorial and detailed plans for municipalities and lack of detailed, transparent regulations on land use and building design.</p>
•	<p>Municipal infrastructure payments</p> <ul style="list-style-type: none"> ○ Many municipalities demand that developers make arbitrarily determined "infrastructure donations" to the city before they can receive a construction permit. ○ Create an Ombudsman to hear complaints against inspectors and other officials and to ensure against unreasonable demands on developers at the municipal level for infrastructure "donations" unrelated to the project being considered 	<p>The issue of municipal infrastructure payments continues to arise. Through the Action Plan, there have been attempts to define these payments, but there continue to exist non-transparent and legally questionable applications.</p>

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
	<ul style="list-style-type: none"> • <u>Tax administration</u> The 1999 FIAS Report noted a number of problems relating to investors' perception of the State Revenue Service, including that it: <ul style="list-style-type: none"> ○ is inconsistent in its application of regulations ○ has far-reaching powers of enforcement that can be very threatening for businesses ○ was aggressive in levying fines for minor and honest mistakes. Some other problems and suggestions relating to the SRS were: <ul style="list-style-type: none"> ○ Investors were concerned that the 10-day period during which investors must register to pay taxes, and/or register any changes was overly stringent. ○ There is difficulty in obtaining binding opinions from the SRS. Investors and auditing firms complain that the opinions themselves are often delayed and/or ambiguous. Further, SRS inspectors are often uneven in their recognition of SRS opinions. ○ Guidelines for State Revenue Service inspectors should be publicized as they are developed. ○ Investors questioned the objectivity and independence of the SRS's internal appeals process. ○ The problems are compounded by the SRS's ability to debilitate a company's operations and its willingness to exercise such authority. 	<p>Once the process of structured dialogue was begun with the State Revenue Service, this has proven to be one of the more sustained cases of reform initiatives based on understanding between representatives of the public and private sectors.</p> <ul style="list-style-type: none"> ○ Regarding appeals, an Appeal of Decisions Section was set up within the SRS on 17 January 2000. Although this was supported in the Action Plan and this move toward standardizing review of decisions has been welcomed by the some members of the business community, this solution is still a far way from FIAS' original recommendation of "forming an independent tax appeal tribunal to hear disputes over tax assessments. Such a tribunal could be composed of qualified professionals (accountants, lawyers, professors, judges, etc.) in addition to SRS tax officials..." ○ Ongoing progress has been achieved in revision of the State Revenue Service (SRS) methodological guidelines on application of legislation, taking into account the discrepancies and problems concerning the application of legislation that have been indicated by tax-payers. Information is available on the Internet and there is a Tax Administration Manual. There is also a hot line to accept complaints. ○ Draft SRS normative acts are posted on the SRS Internet home page at least two weeks before adoption for comments. ○ Amendments authorizing the SRS to reduce penalties have been adopted, although many investors feel that the SRS still does not have enough flexibility for case-by-case analysis. <p>There have also been some delays and disappointments.</p> <ul style="list-style-type: none"> ○ The SRS still has the ability to seize bank accounts of a natural or legal person without a court order on the basis of Article 10.2.4. of the Law on SRS. ○ The issue of advance rulings and binding opinions has continued to be discussed in conversations between the SRS and business representatives since the 1999 FIAS Report, and aside from an increase in the general understanding of the concept, little has been done to implement such instruments that increase reliability and improve the consistency of implementation.

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
•	<p>Customs</p> <p>The 1999 FIAS Report was prepared during a period when Latvian Customs was undergoing significant change in its duties and structure, and the following problems were identified:</p> <ul style="list-style-type: none"> ○ After the coming into force of the Customs Law in 1997, most of the "secondary" legislation had not been drafted, leaving wide room for individual interpretation ○ There were complaints about lack of knowledge of modern customs rules and techniques by customs officials, no central coordination, inconsistent application of rules ○ There was a recognized need for clear and standard guidelines for customs officials ○ There was no system in place that makes it possible to monitor goods in transit. ○ The financial guarantee system was not in place because of lack of infrastructure. 	<p>The LDA, the Foreign Investors' Council in Latvia and the Customs Brokers' Association have worked with the Customs Administration since 1999 in refining many aspects of the Customs Law and its implementation. At the beginning of this cooperation, much work was undertaken in introducing the regulations for the various Customs procedures and there were discussions among the stakeholders to clarify and improve the proposed draft implementing regulations, which have also been amended since then a number of times as a result of the identification of practical implementation problems or due to changes in the Customs Law.</p> <ul style="list-style-type: none"> ○ Another focus was on the provision of standardized information, much of which is now contained in the Manual of Customs Procedures, for distribution to customs authorities and businesses. ○ A precise delineation of the duties and authority relating to decisions taken by customs officials has been implemented after adoption of a resolution of the SRS on July 7, 2000. ○ Special emphasis has been placed on creating legal conditions for the implementation of simplified customs procedures. As a result, amendments to the Customs Law and Cabinet regulations have been adopted. ○ Legislative amendments have been introduced in 2001 to detail the application of the general guarantee and control procedure performed by the customs authorities. ○ A feedback questionnaire on the effectiveness of border crossing and clearance procedures at border checkpoints was designed and implemented by the SRS Customs Board, Border Guards, Sanitary Border Inspection, and the LDA, with the advice of FIAS, in 2001 (over 500 truckers filled out the questionnaire). The results of this assessment are now being used in elaborating a change agenda for these institutions. ○ Presently the LDA is working with the Customs Board and the private sector on the introduction of pilot projects for simplified customs clearance procedures. ○ The introduction of the ASYCUDA++ system (whose goal was to enable electronic submission of customs declarations and ensure the interoperability of Latvia's customs with those of other countries) has proven to be

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
		<p>a disappointment in many of the countries where it has been introduced. However, an electronic system of data transmission and storage is a prerequisite for further modernization and simplification of customs control instruments. Therefore, urgent and decisive action is necessary either to radically improve the existing software or switch to another electronic platform, such as TARIC.</p>
<ul style="list-style-type: none"> • 	<p>Border crossing Border crossing was seen at the time of the 1999 FIAS Report to be a major impediment to investment, with long line-ups at the border</p> <ul style="list-style-type: none"> ○ According to investors, many border guards conduct redundant inspections of vehicles, slowing the process of border crossing. ○ The authority of the Border Guards is unclear and should be better defined. ○ There are significant waits on the inter-Baltic borders, as well as between Latvia and Russia. ○ Other problems included the shortage of transportation permits, particularly into Russia. 	<p>The Action Plan provided for the delineation of responsibilities between the activities of the Border Guard and Customs on the border.</p> <p>The Ministry of Foreign Affairs has recognized the problem with Latvian-Russian trade and continues to bring up the issue of the Latvian - Russian border at intergovernmental discussions. Usually, however, these problems arise out of the prevailing political atmosphere.</p>
<ul style="list-style-type: none"> • 	<p><u>Inspections</u> The 1999 FIAS Report identified a great deal of problems relating to the procedural activities and administrative authority of inspectors, including:</p> <ul style="list-style-type: none"> ○ Uncoordinated visits from a great variety of inspectors ○ Very little consistency from inspector to inspector ○ Inspectors were reported often not to leave any written documentation of their on-site visits, ○ Inspectors had a wide latitude of what can be assessed as an infraction and what the fines should be. <p>The 1999 FIAS Report also noted that some of the inspections have various levels (municipal and state, such as the language inspectorate) that do not coordinate their activities with one another.</p>	<p>Significant and sustained activity has been undertaken to improve inspections activities in Latvia.</p> <p>One of the tasks in the original Action Plan was standardization of rights and responsibilities for all inspectorates, which resulted in adoption by the Cabinet of Ministers on 18 January 2000 of an Instruction of guidelines for all inspectorates.</p> <p>The Inspectorate Coordination Council, composed of the various inspectorates operating in Latvia, was set up on 26 April 2000 and has implemented a comprehensive program to improve the work of the inspectorates, including client orientation training sessions, introduction of performance indicators, strategic planning and quality management systems. The World Bank and FIAS have been involved in follow-up activity.</p> <p>Other institutions may also benefit from these reform activities. For example, the municipal police sometimes overstep their mandate and perform regulatory checks, thereby overlapping in functions with the respective inspections.</p>

	<u>Problem identified in 1999 FIAS Report</u>	<u>Reform activities to 2002</u>
•	<p>Appeals</p> <ul style="list-style-type: none"> ○ There are few avenues for recourse for investors if they find themselves in dispute with the Government. ○ Most ministries have their own appeals mechanism, but most investors interviewed by FIAS find these procedures inadequate. ○ In obtaining construction permits, the appeals process is perceived to be very weak. ○ There are few mechanisms for recourse relating to the various inspections. The typical mechanism, appealing to the head of the inspectorate, is unappealing to investors because of potential problems in the future with the inspector in question. The alternative mechanism, the courts, is lengthy and expensive. 	<p>Although the formal route of appeals has become more clear, the appeals option continues to be little used, and the courts continue to be a lengthy alternative.</p> <p>Appeals in the area of construction remain a problem as well, since there are many institutions and the investor is wary of jeopardizing the relationship with any of them by disputing a decision through a formal appeals mechanism.</p> <p>However, with the coming into force of the Administrative Process Law on July 1, 2003, it is expected that the legislative framework for appeals will be clarified and simplified.</p>
•	<p>Language Law</p> <ul style="list-style-type: none"> ○ Latvia's language requirements considerably increase the relative cost of doing business. 	<p>A new Language Law was adopted on September 1, 2000, which met OSCE and the Council of Europe standards.</p>

12. Since the Action Plan is deemed to be a “living document” by the Government of Latvia and has been updated several times since May 1999 to take into account new concerns or to remove actions already implemented, there are also a variety of other activities that have arisen and been addressed through or supported by the Action Plan that were not addressed in the 1999 FIAS Report. Therefore, to date, 68 out of 77 suggested measures that were included in the Action Plan have been successfully implemented. Annex B presents the “List of Achievements Based on the Action Plan to Improve the Business Environment in Latvia”. On a practical level, some of the recent achievements in reducing administrative barriers and improving the business environment include:

- Establishment of an appeals body in the State Revenue Service.
- Draft tax legislation is posted on the Internet for comment.
- Tax and enterprise registration have been combined.
- Only incoming traffic is controlled at many inter-Baltic border check points.
- The respective responsibilities of the border guard and customs have been better defined and delineated.
- There are simplified procedures relating to issuing work and residence permits.
- An Inspectorate Coordination Council has been established to coordinate the work of the various inspectorates, to serve as a forum for exchange of

information and experience and for design and implementation of common training programs.

- The rights and responsibilities of inspectors and inspectees have been standardized.
- There is improved clarity of information on cadastral valuation for determining the real estate tax.
- Customs procedures have been simplified and manuals have been prepared and made available to businesses.

4. Recognition

13. The activities undertaken in Latvia in reducing administrative barriers and reforming the business environment have received recognition from a variety of international sources. These include the 2000 and 2001 European Commission Progress Reports on Latvia's Accession to the EU, which have commended these "serious efforts to improve the business climate in Latvia". In addition, in 2001 these ongoing activities were granted "CC BEST" status by the European Commission Enterprise Directorate General, meaning that the efforts undertaken by Latvia in this field are an example to other European Union accession countries for increasing their competitiveness. The Foreign Investment Advisory Service of the World Bank has also to a significant extent based its development of self-assessment instruments on experiences and pilot projects in Latvia.

14. The components of these activities in reforming the business environment in Latvia include a comprehensive and systematic approach to identifying problems, bringing together the stakeholders to discuss possible solutions, implementing reform and monitoring its effectiveness and impact on the business community.

5. Survey Instruments

15. There have also been efforts to assess the impact of reform, such as the 1999 and 2001 Surveys on the Business Environment in Latvia and the 2001 Border Control Point Survey. Although the surveys on the business environment were based on an opportunity sample and therefore could not be considered representative of the business community more generally, they nevertheless helped identify certain trends. The Border Control Point Survey, on the other hand, was a much more rigorous and scientifically sound survey in a specific field, and the results of this survey continue to guide reform efforts in the relevant institutions. The usefulness of these survey instruments has also convinced the Latvian government of the importance of a statistically sound instrument like the Regulatory and Administrative Costs Survey.

B. General Observations and Recommendations

16. This section on “General Observations and Recommendations” is divided into two subsections. The first subsection on “Overall Observations” is a compilation of the general observations in the Self-Assessment Report based on the various sources of input. These observations cover aspects like corruption, the ranking of administrative barriers, the status of SMEs, etc. The goal is to present an overall picture of the status of administrative barriers to investment in Latvia and to pinpoint any particularly problematic areas or highlight areas that are working well.

17. The second subsection on “Systemic Recommendations” takes a horizontal, across-the-board approach to reform. It recognizes that not all reforms can be effectively undertaken by individual institutions, but rather a comprehensive effort is required, often with the support and guidance of institutions at the center of government. This section recommends systemic solutions and notes how these solutions can improve the specific procedures covered in this Self-Assessment Report.

18. The results that are specific to Chapter III (Start-Up), Chapter IV (Locating) and Chapter V (Operating) are presented and discussed in those chapters.

1. Overall Observations

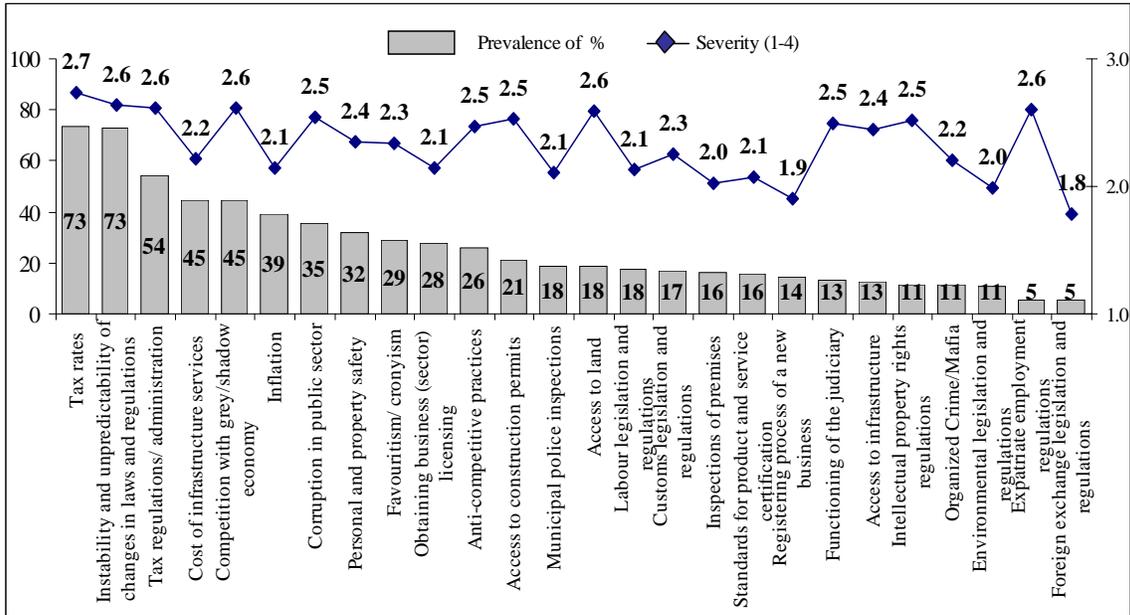
19. This section presents an overall and broad review of the business environment in Latvia, and the observations contained here are based on the Regulatory and Administrative Costs Survey Analysis, as well as on observations noted from the templates and legal research. More detailed analyses of specific fields, geared for practitioners from both the public and private sectors, are located in the subsequent technical chapters.

a. General obstacles for businesses

20. The research determined what general obstacles, including administrative requirements, obstruct the activities of private companies in Latvia, both in terms of the prevalence of an obstacle (what proportion of businesses describe it as an obstacle) and its degree of severity (on a scale of 1 – minor to 4 – very severe). For purposes of a comparative analysis of prevalence, all the obstacles are divided here into 3 general groups, according to how many enterprises consider the particular issue to pose an obstacle to businesses:

- “Prevalent” that are named as problems by more than 1/2 of enterprises;
- “Frequent” that hinder more than 1/4 but less than 1/2 of enterprises;
- “Infrequent” that are named as problems by less than 1/4 of the respondents.

Chart II.1: Regulating Spheres – Business Obstacles



Base for “Prevalence”: all companies interviewed, N = 541; answers “Not an obstacle” and “Hard to say” not shown. Base for “Severity”: Those who admitted it was an obstacle, excluding ‘Hard to say/DK’. Mean on scale from 1 (Minor) to 4 (Very Severe).

21. According to the opinion of enterprises, some of the more prevalent administrative obstacles for private businesses are “tax rates” and the “instability and unpredictability of changes in laws and regulations”. The degree of severity of these obstacles are also among the highest; they are 2.7 and 2.6 points respectively on a scale where 1 means “minor” and 4 means “very severe”. These obstacles are very obstructive for both local and foreign companies. Another prevalent administrative obstacle is “Tax regulation and administration”, the severity of which was 2.6 points, another high indicator.

22. Enterprises in Latvia considered a number of different regulatory areas to be frequent obstacles, chosen by more than ¼ of respondents (but less than ½). It is interesting to note that “inflation” proved to be a problematic issue for more local enterprises (41%) than foreign enterprises (22%). Yet “favoritism and cronyism” proved to be problematic for more foreign enterprises (47%) compared to local proprietors (27%).

23. 15 areas are considered to be infrequent obstacles for businesses. The highest rating (2.6 points, meaning that these are seen to be relatively more severe obstacles) among these areas are associated with “access to land”, then comes “functioning of judiciary” and “intellectual property rights regulation” (2.5 points for each area).

Meanwhile enterprises are not disturbed to a great extent by “registration process of a new business” (1.9 points) and “inspections of premises” (2.0).

24. The Survey determined which obstacles are deemed to be problems by a certain share of enterprises (the “prevalence” of the problem), but also looked deeper to determine the extent to which it was a problem (the “severity”). The following table lists those areas that were seen to be particularly severe problems (receiving an average rating of an obstacle - 2.5 or higher) by those for whom they are problems generally:

Table II.1

Ranking by number of respondents that stated that it was a problem	Issue	Level of severity on a scale of 1 (minor) to 4 (very severe)
1.	Tax rates	2.7
2.	Instability and unpredictability of changes in laws and regulations	2.6
3.	Tax regulations/ administration	2.6
5.	Competition with gray/shadow economy	2.6
7.	Corruption in public sector	2.5
11.	Anti-competitive practices	2.5
12.	Access to construction permits	2.5
14.	Access to land	2.6
20.	Functioning of the judiciary	2.5
22.	Intellectual property rights regulations	2.5
25.	Expatriate employment regulations	2.6

25. Many of these problems are broad issues that are not directly related to a single administrative procedure but are important for the overall business environment. Nevertheless, from the viewpoint of specific administrative procedures, the problems that are most striking are “access to construction permits”, “access to land” and “expatriate employment regulations”. These issues being specific and discrete administrative procedures should be much easier to tackle and achieve improvements than the other broader issues. These are all issues that are discussed in detail in the text of the Self-Assessment Report below.

26. It is also interesting in this context to list the areas where foreign investors differ from local investors in their assessment of an obstacle. The areas where foreign enterprises were notably more bothered than local enterprises include the following:

- Favoritism and cronyism proved to be more problematic for foreign enterprises (47%) compared to local enterprises (27%).
- Foreign companies (30%) consider customs regulations to be more disturbing than local companies (16%) do.
- The functioning of the judiciary in Latvia is more disturbing for foreign enterprises (37%) in comparison to local enterprises (22%).

- Foreign enterprises consider expatriate employment regulations to be more essential than local enterprises do. 27% of executives of foreign enterprises considered it to be an obstacle to business activity for the growth of their business while only 3% of executives of local enterprises would have the same opinion.

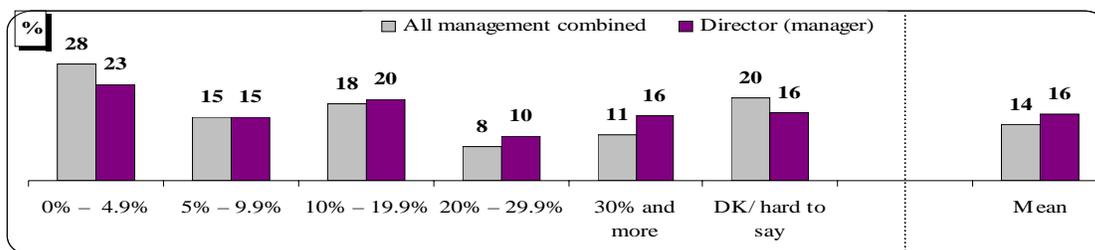
27. Particularly regarding the first three (favoritism/cronyism, customs regulations and judiciary) it is possible that these are areas where those who know the informal “rules of the game” and can use their connections may find these to be smaller obstacles than those who do not have these connections or who expect to operate on a level playing field.

b. Time

28. One of the primary purposes of the Regulatory and Administrative Costs Survey is to determine the amount of time enterprises spend satisfying government requirements, since time spent fulfilling these requirements is time that the enterprise cannot spend on its business operations and development and is essentially an additional cost.

29. An important indicator is the working time that managers have to spend in dealing with government regulatory and administrative requirements. The managers of enterprises in Latvia assess that they spend 14% of their working time in dealing with issues connected with government regulatory and administrative requirements. These issues take a bit longer time for the directors of enterprises – 16%.

Chart II.2: Time Spent on Fulfilling the Regulatory Requirements of the Government



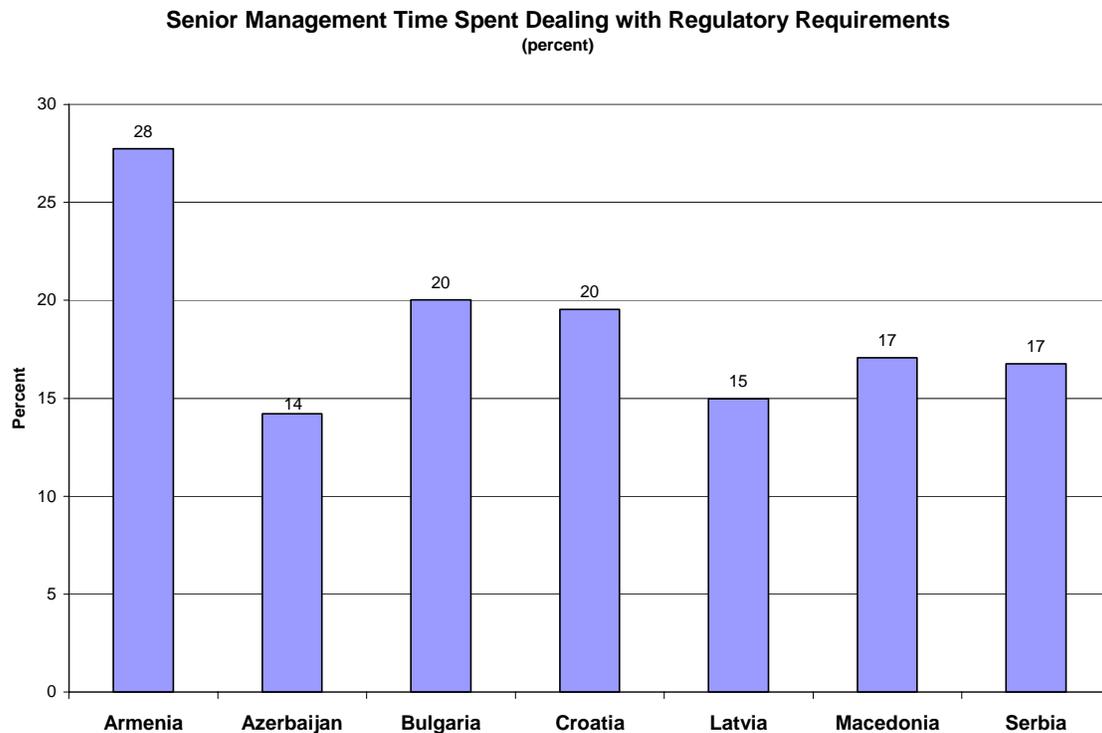
Base: all companies interviewed, N = 541.
 Mean from those respondents, who have given certain answer;
 All management combined, N = 366; Director, N = 422.

30. In comparison with other enterprises, the ones primarily engaged in trade have to spend more time in dealing with these issues (17% of managers’ time and 20% of directors’ time). Managers engaged in the enterprises dealing with export have to spend more time on these issues (16%) than those managers that are engaged in enterprises that do not deal with export (13%). One can observe a tendency that the managers of large companies have to spend more time in dealing with these issues than the managers

working in companies with a smaller number of employees. There are no essential differences between companies with local and foreign capital.

31. The following chart demonstrates how Latvia compares with other countries in which the Regulatory and Administrative Costs Survey has been undertaken recently.

Chart II.3: Percent of Senior Management Time Spent Dealing with Regulatory Requirements



32. This chart indicates that Latvia compares well with other countries in the FIAS database. It is also likely that the more developed countries do not necessarily have better indicators and sometimes may even be worse, particularly when there are burdensome regulatory requirements, as exist in many EU countries.

c. Evaluation of Services and General Satisfaction

33. According the results of the Regulatory and Administrative Costs Survey, there is a relatively high level of satisfaction among respondents regarding the services provided by Latvian government and municipal institutions. Specifically, the services and institutions receiving the overall highest evaluations are:

- enterprise and tax registration,

- obtaining of licenses
- inspections by the Fire and Rescue Service, Environmental, Labor, Construction, Sanitary and Language inspectorates.

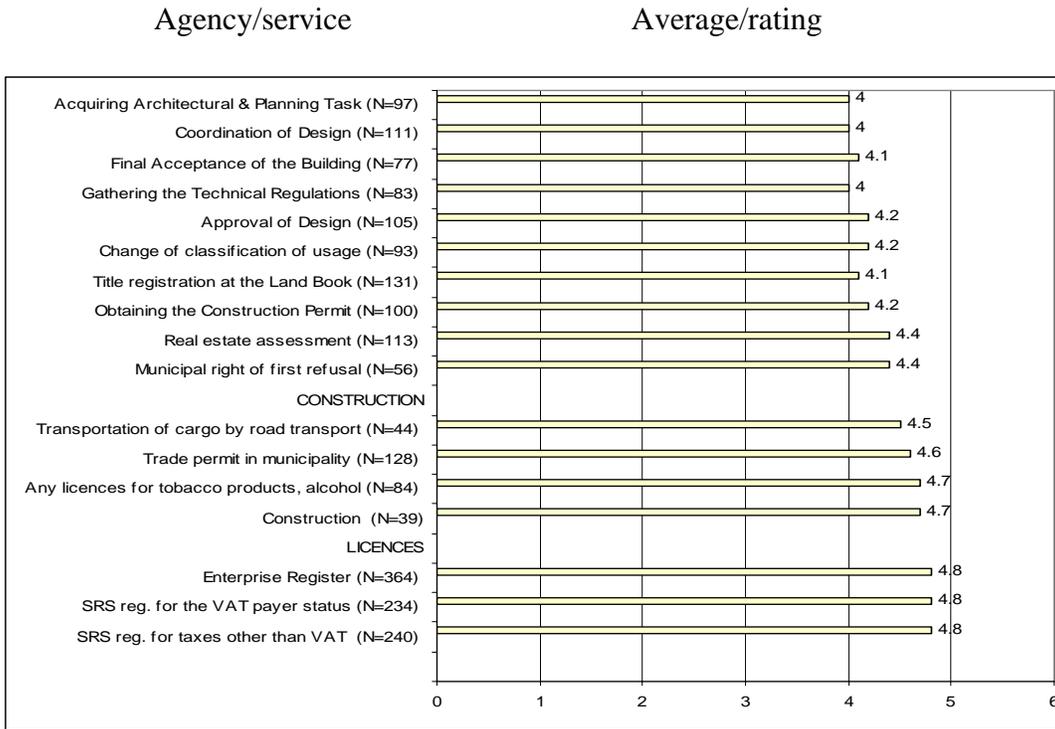
34. The lowest evaluations are for:

- certification organization's services,
- customs,
- Municipal Police inspections and
- certain services received during the administrative procedures before occupying the main premises (including Gathering the Technical Regulations, Acquiring Architectural and Planning Task, Coordination of Design).

35. When looking at the share of answers, there are institutions and services that have been evaluated mainly as "good" or "very good" by most part of those who have received these services. About one half to two thirds or more respondents have evaluated services received during registration of business, obtaining licenses, services of all inspections as well as State Revenue Service as *good* or *very good* (51%-74%). Two of the services related to real estate/construction received before occupying the main premises are evaluated the best -63% of those, who have dealt with municipal right of first refusal, have evaluated it as *good or very good*, while real estate assessment – by 56%.

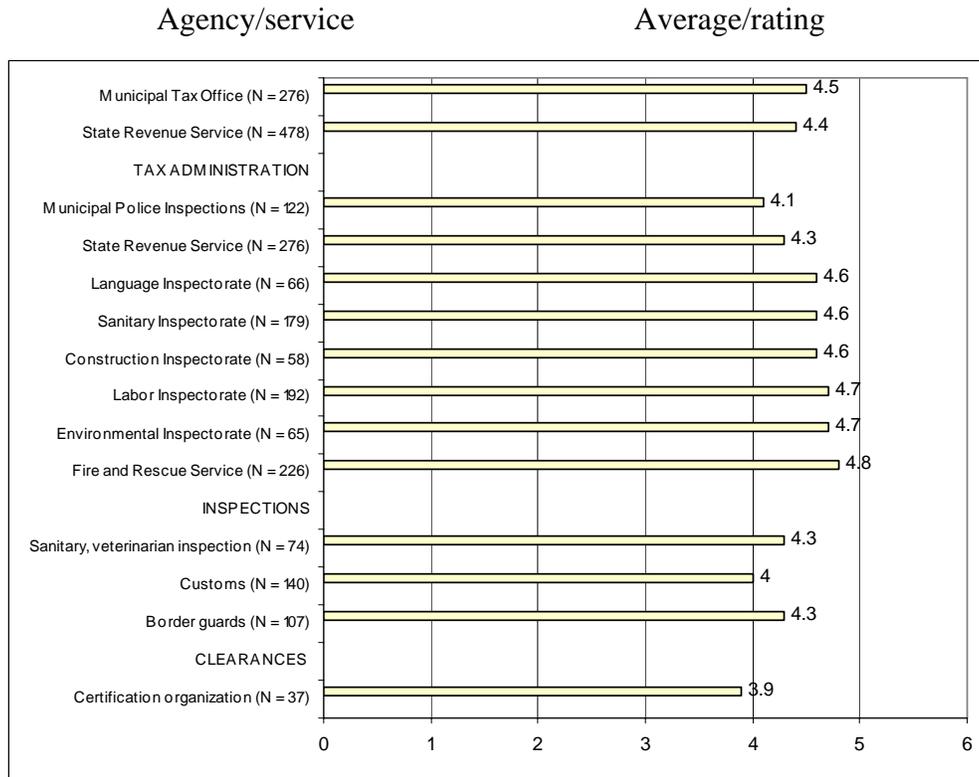
36. The highest number of negative evaluations is for services of certification organizations – 18% of those, who have received these services, rate them as "bad" or "very bad," It should be noted that about a half of all respondents could not evaluate the services of Municipal Tax Office and about two thirds of those, who have dealt with any customs clearances could not evaluate Sanitary and veterinarian inspection (performed by the Sanitary Border Inspectorate).

Chart II.4: Ratings of Services



Scale: 1=very bad; 6=very good.

Chart II.4: Ratings of Services (continuation)

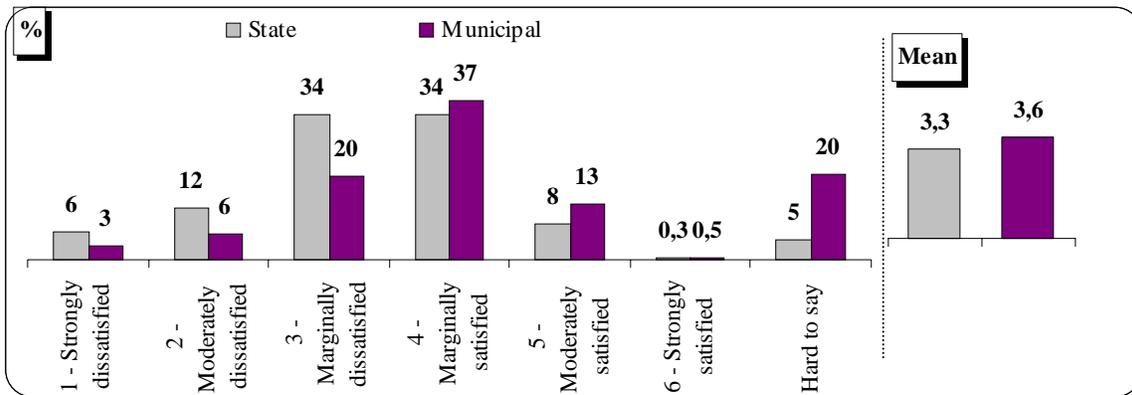


Scale: 1=very bad; 6=very good

37. All respondent enterprises were also asked to express their level of satisfaction with the quality of regulations, administrative requirements and work of administrative apparatus affecting businesses in Latvia on the state and municipal level.

38. On the whole 42% of enterprises are more or less satisfied with the performance quality of the existing administrative apparatus on the state level. 51% of enterprises are satisfied with its performance quality on municipal level. Still 52% of enterprises are dissatisfied with the performance quality of state administrative apparatus while 29% are dissatisfied with the performance quality of municipal administrative apparatus.

Chart II.5: Satisfaction with Quality of Regulations, Administrative Requirements and Work of Administrative System in State and Municipal Level



Base 1 (problem %): all companies interviewed, N = 541.

Mean on scale from 1 “Strongly dissatisfied” to 6 “Strongly satisfied”, base: all, excluding ‘Hard to say/DK’.

39. It is interesting to note that enterprises outside Riga are more satisfied with the working of municipal administrative apparatus. This may indirectly indicate that the Riga City municipal structures work in a less satisfactory manner than those elsewhere, or that the needs and expectations of firms located in Riga are relatively higher than those located elsewhere.

d. Corruption

40. The results of the Regulatory and Administrative Costs Survey suggest that corruption in the context of administrative procedures may be a smaller problem to enterprises than has been heretofore generally believed in Latvia. Participants in informal focus group discussions agreed with the data results and they suggested that this is due to the fact that there are now fewer opportunities for cash to be circulated (electronic means are increasingly used) and that it is not difficult to catch someone who asks for a bribe. This suggests that efforts to reduce administrative (or “petty”) corruption have been relatively successful and should be continued.

41. But the participants in the informal focus group discussions were quick to reveal other angles to corruption in Latvia. These were mainly seen to be at a higher level, including sophisticated financial transactions for tax avoidance, cronyism, forcing an enterprise to accept an unforeseen partner, “roofs” etc. Therefore, future efforts to combat corruption will require more sophisticated knowledge and understanding not only of finances, but also of how public and private sector actors interact and affect decision making, particularly when so much depends on personal ties, the accessibility of decision makers and the need to remain on good terms with those decision makers.

42. The question on bribes and payment of gifts was asked concerning each of administrative procedures that entrepreneurs conducted. Taking into account the fact that there were few who responded that they had given bribes (and there is probably a general tendency to under-report such practices), the index of bribing is most effective on a comparative basis. Therefore, we can point out that most often the giving of gifts or bribes was admitted regarding formal acceptance of the building upon completion of construction (18%), customs control (in case of goods export 15%, in case of import – 12%), coordination of design (12%), approval of design (10%), change of classification of real estate usage (9%), sanitary and veterinary inspection of goods for import of goods (9%), municipal police (9%). Cases of corrupt practices and amount of bribery according to the information provided by respondents are shown in the table below (only procedures when paying of any payment was indicated by at least 40 respondents are included in the table).

Table II.2: Admission of Bribes and Gifts

	Admission of bribery		Amount of bribe, gift	
	%	N	Ls	N
Enterprise Register (N = 404)	3	<i>15</i>	15.75*	<i>4</i>
<i>LICENSING:</i>				
Production, sale of tobacco products and/ or alcohol (N = 68)	3	<i>3</i>	50.00*	<i>1</i>
Transportation of cargo by road transport (N = 43)	0*	<i>0</i>	-	-
Construction (N = 43)	3*	<i>1</i>	300.00*	<i>1</i>
Trade permit in municipality (N = 78)	7	<i>7</i>	50.66*	<i>5</i>
<i>REAL ESTATE AND CONSTRUCTION:</i>				
Change of classification of usage (N = 66)	9	<i>4</i>	50.00*	<i>1</i>
Real estate assessment (N = 107)	8	<i>8</i>	64.78*	<i>5</i>
Title registration at the Land Book (N = 134)	6	<i>8</i>	1253.20*	<i>3</i>
Gathering the Technical Regulations (N = 64)	3	<i>1</i>	-	-
Acquiring Architectural and Planning Task (N = 87)	8	<i>5</i>	34.88*	<i>2</i>
Coordination of Design (N = 86)	12	<i>7</i>	23.71*	<i>2</i>
Approval of Design (N = 67)	10	<i>4</i>	-	-
Obtaining the Construction Permit (N = 63)	6	<i>2</i>	50.00*	<i>1</i>
Formal Acceptance of the Building (N = 36)	18*	<i>4</i>	50.00*	<i>1</i>
<i>EXPORT OF GOODS:</i>				
Sanitary and veterinarian inspection control (N = 55)	1	<i>1</i>	-	-
Customs control (N = 98)	15	<i>11</i>	20.10*	<i>4</i>
Border guards control (N = 99)	0.5	<i>1</i>	-	-
<i>IMPORT OF GOODS:</i>				
Sanitary and veterinarian inspection control (N = 82)	9	<i>7</i>	14.44*	<i>4</i>
Customs control (N = 154)	12	<i>17</i>	30.06*	<i>11</i>
Border guards control (N = 158)	5	<i>5</i>	-	-
<i>INSPECTIONS:</i>				
SRS (N = 93)	2	<i>4</i>	78.26*	<i>2</i>
Municipal Police (N = 51)	9	<i>5</i>	17.68*	<i>5</i>

TAX ADMINISTRATION:				
Accounting work necessary to complete the required tax forms (N = 514)	0.4	3	47.00*	2
Tax inspectors/ inspections (N = 231)	2	6	78.30*	4
Tax Appeals Within the Agency (N = 52)	7	1	30.00*	1

Base: companies that paid any payment for respective administrative procedure, see 'N = ' in table
 * The number of respondents is not large enough to interpret the obtained results (N<45).

e. Conflicts and Appeals

43. The questionnaire also asked questions about conflicts between business and government institutions. The results show that the conflicts are rather rare – the majority of companies have had no serious conflicts or problems with government institutions during last 24 months regarding certain procedures. 16% of all companies have reportedly had any problems with inspections and the most problematic inspection seems to be State Revenue Service. 11% of all companies have had significant problems during tax administration procedures.

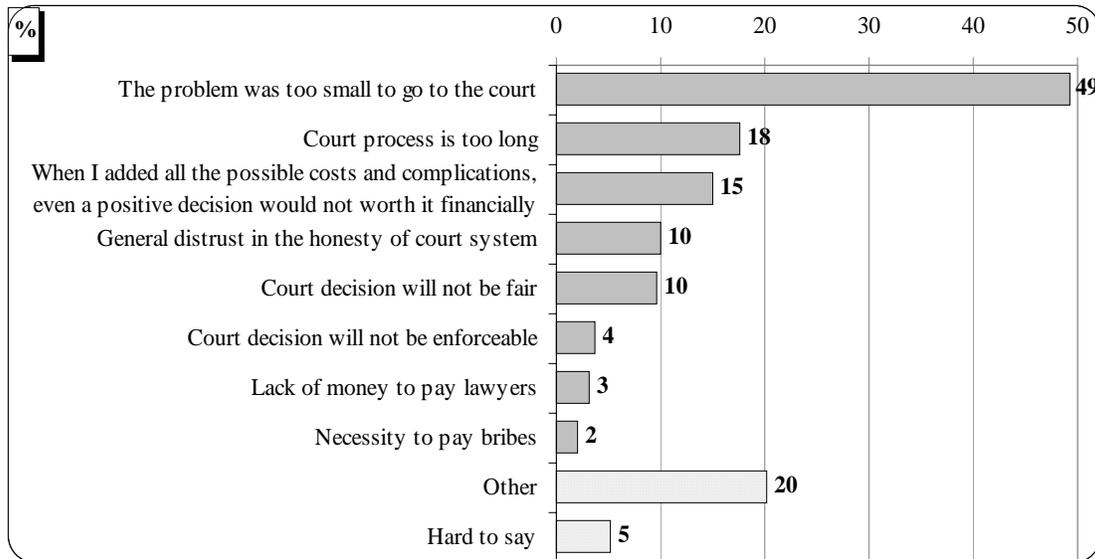
Table II.3: Conflicts Between Business and Government Institutions

	Have had problems		Tried to resolve problems	
	%	N	%	N
Registration (N = 456)	6.5	35	89.3*	28
Obtaining of all necessary licenses (N = 324)	3.1	19	100*	19
Real estate and construction (N = 503)	4.2	34	83.2*	31
Customs clearances (N = 181)	11.7	26	100*	26
Inspections (N = 541)	16.6	98	82.3	82
Tax administration (N = 541)	10.7	66	84.0	56

Base: companies, who have dealt with respective procedures, see 'N = ' in table
 * The number of respondents is not large enough to interpret the obtained results (N<45)

44. Another question that was addressed in the Survey was the attitude towards appealing to the court. 6% of enterprises in total that have had problems in the sphere of their business activities have appealed to the court. The rest of enterprises – 94% named reasons why they have not appealed to the court to resolve the problem. The results generally indicate that the reason the enterprises do not turn to courts has little to do with alleged corruption in courts (only 10% of those responding stated that this is due to a “general distrust in the honesty of the court system” and 2% stated that there is a “necessity to pay bribes”). The other reasons mentioned are due for the most part to economic considerations (such as “the problem was too small to go to court” or “the court process is too long”) or also to lack of trust that this is an effective solution (such as “court decision will not be enforceable”).

Chart II.6: Reasons for Not Appealing to the Court



Base: those who have had problem, but did not appeal to the court, N = 156.

45. These responses were largely supported in focus group discussions. Although business representatives stated that some of the decisions were often not of sufficient importance to undergo the appeals process, some business representatives pointed out that certain decisions, like those regarding issuance of a license, may have significant repercussions for the business. Businesses also pointed out that it is procedurally complicated to appeal decisions, but there was some hope that the new Administrative Procedures Law, which comes into effect on 1 July 2003, will significantly streamline appeals procedures and make them more predictable and trustworthy. Another interesting reason mentioned as to why there are not as many appeals is fear that this may antagonize the institution (this was mentioned regarding licensing, tax administration, construction), with possible negative repercussions for the enterprise.

46. It is worth noting that the 2002 Self-Assessment Report on Administrative Procedures for Doing Business in Latvia presents detailed information on conflicts and appeals in Latvia. While problems still exist in terms of resolution of disputes, compared to the observations expressed in the 1999 FIAS Report on Administrative Barriers to Investment in Latvia, the problem is due no longer so much to a lack of channels for appeal, but rather in various other reasons, many of which are based on a consideration of whether it is worth the effort.

2. Systemic Recommendations

47. On analyzing the results of the Survey and the templates, in discussions with business and government representatives and in undertaking legal research, a number of problems arise that would best be resolved not on a piece-meal basis, but rather on a government-wide policy basis with a targeted approach to resolving them. These are broad problems that characterize a number of procedures, such as the continuing emphasis on enforcement rather than compliance, the large number of notarizations required, the need to personally visit public institutions to gather information, etc.

48. At the very beginning of this section it is worth noting one important change since the 1999 FIAS Report on Administrative Barriers to Investment in Latvia. The 1999 Report noted that there do not exist adequate consultative mechanisms between businesses and government institutions. Since 1999, Latvia has created and developed a functioning system of structured dialogue between the business community and the public sector, coordinated by the Latvian Development Agency. If at the beginning the focus of this dialogue was mostly on foreign investors, now representatives from all spheres of business activity are increasingly taking part in discussions. This model for dialogue should now be expanded and developed further.

49. The subsections below will focus on these various approaches, which are presented as possible solutions to the recurring problems that arose in analyzing the sources of input for this Self-Assessment Report. The goal of presenting these broad solutions is to present a basis for dialogue so that the business community could also come up with more specific ideas in which areas these new innovations could be introduced.

a. Compliance Rather than Enforcement

50. Latvia is reaching a point in its development where the trust of the government toward enterprises needs to be increased. Many of the administrative barriers identified in this Self-Assessment Report result from a lack of trust, whether explicit or implicit, that government institutions have for businesses.

51. Government institutions cannot spend their time enforcing rules by controlling all aspects of an enterprise's application and operations. An increasing amount of these government/business interactions will need to be based on warranties and representations by the enterprise, rather than documentary proof, but also taking into account the principles of risk assessment to determine which are the risk factors that may identify those cases that require a higher degree of control. Risk assessment and other statistical tools can serve to improve the quality and fairness of the enforcement and reduce the costs in doing so. But certainly, as long as there exist such phenomena as tax evasion and fictitious firms, there will be a need for some degree of control.

52. There are various instruments for enforcing rules by ensuring compliance. These include self-certification (including personal liability or accountability) and introduction of the “silence is consent” principle. At the same time, the results of the Regulatory and Administrative Costs Survey, the procedure templates and other inputs of information have allowed LDA and FIAS to come up with some suggestions on which areas could benefit from the application of these and other instruments. These instruments and their suggested application will be presented below. Due to the fact that these are broad principles that are hallmarks of good governance, it is recommended that they be addressed centrally and filtered to the various public institutions and to the procedures that they supervise.

(1) Self-Certification

53. Modern public administrations are increasingly using “self-certification” by applicants. “Self-certification” is a method whereby the applicant attests or claims that it is in conformity with certain requirements or norms. Under the assumption that this is true (and due to the fact that such assertions or certifications can usually carry a high degree of liability for false statements), the applicant can undertake the procedure requested, with the understanding that the government can (and probably will) review the validity of the applicant’s statements. The point is that the government expresses a certain level of trust for the enterprise, and performs *ex post* checks to verify the information.

54. Of course, a prerequisite for a well functioning system of self-certification is a capable prosecution and enforcement mechanism that can enforce the rules. This requires a well-functioning and reliable police force, an independent prosecutor, and service-oriented inspectorates. As all these features develop in Latvia, reliance on self-certification can and should increase.

Self-Certification in Italy

The instrument of self-certification is being introduced in an increasing number of procedures in Italy.

In the case of a building permit in Italy¹⁰, the administration needs to ensure that the self-certification provided by the builder is true. If the information provided is false, the administration can demolish the building. In less than two years, this change of the onus of trust generated a dramatic change, reducing delays to hours for procedures that used to take months. From 1996 to 2000, the number of certified signatures required by all administrations dropped from 38.2 to 5.9 million per year. To support implementation of the new self-certification procedure, the Ministry of Public Administration set up a central monitoring unit with a network of local observatories to monitor, provide local governments with guidance, and periodically report advances.

Furthermore¹¹, the self-certification mechanism can open the possibility of using private certifications in technical assessment cases, that is, the citizen can substitute the administrative certification with a statement of a private professional. To provide coherent law in this area, a consolidated text on administrative documentation has been approved in Italy. This text includes all rules on administrative documents (certificates, electronic documents, digital signatures, electronic identity cards, electronic exchange of data), and prepares for new measures to simplify submissions of requests and certifications to the public administration, for example, electronic submissions.

55. Related to the concept of self-certification is the issue of accountability and responsibility by the applicant. Just as self-certification is a representation made by an applicant, statements of accountability are made by an immediately identifiable person responsible for compliance with the requirements. Such a system already exists in some areas in Latvia, for example, there is a statement on the VAT payer form that “I accept responsibility for the accuracy of the information contained herein” from the person submitting the application. A similar statement is also used in the area of construction, but it is not applied widely. Clearly, the legal responsibility should be clarified in these cases.

56. This principle of liability or accountability could be introduced in the following areas:

- Submission of project design documentation to receive construction permit.
- Submission of enterprise registration documents.
- Submission of customs-related documents.
- Submissions of applications for licenses.
- Submission of tax declarations.

¹⁰ This example is excerpted from a *Background Report on Government Capacity to Assure High Quality Regulation: Italy*, prepared by Cesar Cordova-Novion with the participation of Nicoletta Rangone and Scott Jacobs. The report was peer reviewed in July 2000 by the OECD’s Working Party on Regulatory Management and Reform of the Public Management Committee.

¹¹ *Ibid.*

(2) Silence is Consent

57. The principle of “silence is consent” is an innovative instrument that shifts the burden to the public institution that has received the application. If the institution does not reject a request within a certain number of days, the applicant can consider it authorized and can undertake relevant activities. This is a solution to a problem that exists in a variety of countries, namely, that the institution does not review the application in a timely manner and the applicant is left ignorant of the status of the request, which can have significant consequences in terms of contractual obligations to third parties, financial planning, etc. In Latvia the Law on the Procedure for Reviewing Submissions, Complaints and Proposals to Government and Municipal Institutions provides for a timely and motivated response from the institution to which an inquiry is submitted (see, e.g., Arts. 1., 3., 7., 8.2.), but the sanctions do not include the principle of “silence is consent”, and instead there is cause for an appeal.

58. There are few cases in Latvia where the “silence is consent” principle has been applied. These include the municipal right of first refusal during transfer of property. There also used to be such a principle in enterprise registration, but its genuine application is doubtful and in any event it no longer exists under the new Commercial Law.

59. The introduction of “silence is consent” on a broader basis has encountered resistance due to concerns regarding what positive activities need to be undertaken after the deadline has passed. For example, what if a license is not issued on time? The purpose of the license is to protect the health and safety of inhabitants. In this case, is it good policy to have the “silence is consent” principle? Also, what if the documents submitted and not acted upon were untruthful or false? These are all issues that need to be addressed before there are any centralized efforts to bring the principle of “silence is consent” to a variety of procedures.

60. In the context of this Self-Assessment Report, the “silence is consent” principle could be introduced in the following areas:

- Enterprise registration;
- Some licensing (e.g., those without an immediate impact on health, safety, or the environment);
- Real estate transfer; and
- Coordination of technical design for construction approvals.

b. Electronic Documentation and Signatures

61. In addition to an increasing focus on compliance, rather than enforcement regimes, there is a need to increase the level of communication among government institutions and the reliability and legal validity of electronic documentation.

62. Currently Latvia is approaching what the European Union has called the “second” level of electronization (the first is the availability of information on the internet): it is now possible to download many forms and documents off the internet, which can then be printed out and submitted in paper format.

63. Next steps should include the introduction of “reverse contacts”, such as submission of completed forms electronically. One of the prerequisites for this is the legal status of electronic signatures.

64. The Saeima has now adopted the Law on Electronic Documentation. This law defines the legal validity of electronic documentation and electronic signatures. Government institutions will be required to accept documents electronically from physical persons and legal entities only as of 1 January 2004. The adoption of this law should establish a legal basis for significantly improving the following procedures¹² that are the subject of this Report:

- Registration of enterprises;
- Submission of customs declarations;
- Tax reporting, filing and payment;
- Receipt of various licenses and permits; and
- Receipt of construction permits.

65. Some pilot projects are also under implementation. These include one in the Enterprise Register and an electronic tax declaration pilot project. For all the reasons listed in this Report, these are welcome initiatives and should ease the burden of compliance with the requirements relating to enterprise registration and tax declarations, and should also provide valuable lessons to other government institutions.

66. The LDA should also closely follow developments relating to the establishment of certain features of e-government in relation to administrative procedures. One upcoming initiative based on Section 7.3. of the White Paper on E-Government in Latvia that relates very closely to the aims of this Report is the requirement to prepare a precise plan for those services that should be made electronic. This Report should assist in presenting some ideas, but subsequent discussions with business and government representatives should clarify this further.

67. Clearly, in addition to the legal aspects, it is also necessary to work on improving the inertia and skepticism of both public sector representatives and private sector users and individuals. There is also a good deal of work that needs to be done regarding the training of judges on the legal validity of electronic signatures.

¹² These procedures are taken in part from the White Paper on E-Government in Latvia.

c. Notarizations

68. A notarization is a legal instrument to certify documents and signatures so that they are deemed to be authentic and can be accepted by their recipient (such as a government institution). Notarizations may also represent an additional step (or several steps) in the process of completing the transaction. Particularly in light of the new provisions of the Commercial Law, there are a number of new instances where notarizations are required in relation to enterprise registration. As discussed in the text below, requirements for notarization may serve a public function. Nevertheless, there are instances where the benefits of notarization should be weighed against the time and money spent in receiving such notarizations.

69. The first recommendation is consideration of whether all the cases where notarizations are currently required could not be fulfilled by other means, such as warranties or representations by the enterprise. As a system of electronic signatures and documentation is introduced, it may be possible in some cases to circumvent the notarization requirements. The existing notaries argue against the current proposals to legalize electronic signatures, reduce the number of notarizations required for administrative procedures, and expand the number of notaries to enhance competition in this industry. The Government should indeed take care to insure against computer fraud and “hackers” in their new regime of electronic signatures, but must primarily work in the interests of improving the efficiency of government-business interaction by reducing the number of steps, institutions and payments required.

70. Another complaint expressed by enterprises was the fact that Latvian law mandates that certain documents be notarized, but the notary establishment maintains a limited membership and there has been no binding limit on the fees notaries can charge. As a result, notary fees are often quite high. One solution may be for the notary establishment to increase its membership, which may also reduce the time spent on the notarization process if there are more notaries available to offer services, and fewer backlogs.

d. Sharing of Information Among Public Institutions

71. Enterprises are still being made visit institutions and collect information that is in the government system and should be available to other government institutions.

72. Art. 2 of the CM Reg. No. 104 (adopted 14.03.2000) on Ensuring the Creation of an Integrated Information System of National Importance (Megasystem) provides: “It is prohibited to request and collect from inhabitants and legal entities ... data that are available from any of the information systems that are part of the megasystem.” This provision currently is more of a goal than a description of the existing system. Nevertheless, the provision exists and is legally binding.

73. One of the prerequisites for an integrated exchange of information is a functioning on-line connection¹³ among all public institutions (including municipalities), training in how to use the system, and the introduction of all primary and secondary legislation that would ensure that all information supplied and disseminated in this way would be legally valid. The problem, as expressed in this Report, is evident in the following areas:

- For municipal trade permits, which often require certificates from state institutions.
- For construction, twice, once at the beginning and once at the end.
- For certificate of good standing from State Revenue Service.
- For expatriate employment and residency.

74. The White Paper on E-Government in Latvia (adopted in substantial part by the Cabinet of Ministers on 7 May 2002) reports that there is ongoing integration among the primary registers: the Register of Inhabitants, the Enterprise Register, the Cadastre, the Register of Transport Vehicles and the Tax Register. The result of this integration is exchange of information among these registers.

75. According to observations and reports, presently the electronic sharing of information among public institutions is working successfully between the Enterprise Register and the State Revenue Service regarding registration of enterprises, between the Enterprise Register and the Department of Citizenship and Migration Affairs regarding passport information and between the Enterprise Register and the Register of Transport Vehicles for the purpose of registering commercial pledges on vehicles. These types of exchanges of information are based on agreements signed between the cooperating institutions. The Enterprise Register has proven to be the most active in developing this type of provision of information.

e. Interaction with Enterprises

76. In general, the results of the templates indicate that there is still a low level of interaction between government institutions and private enterprises. The templates provided questions regarding two different types of interactions, the first: communicating procedural requirements, which is a one-way method of communication, from institution to enterprise, and another question on feedback mechanisms, which is by definition a means of opening channels of communication so that the institution can understand the views of enterprises on the procedures. The most common feedback mechanisms selected were *complaints and proposals submitted by visitors*. Few respondents selected the other alternatives: *feedback forms, surveys, meetings and seminars with business associations and non-governmental organizations, analysis of information disseminated in the mass media*.

¹³ Provided, of course, there exist adequate safeguards for confidentiality and related rights.

77. Few respondents reported keeping track of the numbers of each of these types of feedback mechanisms undertaken in 2001, although this question was asked in the template. The only institutions that kept some sort of record were the following:

- Enterprise Register;
- Economic Division of the Ventspils City Council (in the template on municipal trade permits);
- Planning and Economics Division of the Daugavpils City Council (in the template on municipal trade permits);
- Economic and Development Planning Board of the Rezekne City Council (in the template on municipal trade permits);
- Excise Goods Board of the SRS, the Department for Citizenship and Migration Affairs;
- Daugavpils Construction Board (in the template on construction approval);
- Rezekne Construction Board;
- Riga Heat (Rigas siltums);
- Sanitary Border Inspectorate;
- State Sanitary Inspectorate; and
- State Environmental Inspectorate.

78. In fact, the only institutions that reported keeping track of the number of *proposals and complaints* were:

- Economic and Development Planning Board of the Rezekne City Council;
- Excise Goods Board of the SRS;
- Department for Citizenship and Migration Affairs;
- Riga Heat (Rigas siltums); and
- State Sanitary Inspectorate.

79. Some institutions have asked the authors of this Report to now include them in this list. For example, the State Revenue Service in a letter dated 25 September 2002 to the LDA explains that all suggestions and complaints are recorded in the entire SRS, not only in the SRS Board of Excise Goods. The State Fire and Rescue Service reports in a follow up letter that it records and analyzes complaints and suggestions and that there is a feedback form on the Internet home page (www.vugd.gov.lv).

80. One respondent stated that it is not possible to record all their interactions since they also accept oral proposals and complaints, but there is no reason why they couldn't introduce a system whereby even the proposals and complaints received by telephone are documented.

81. One interesting method, used by both the Enterprise Register and the State Revenue Service, is e-mail subscription services to inform clients on a list of requirements, revisions and changes in the regulations and operating procedures. This

seems to be an effective and useful means of conveying information that could be used by other institutions as well.

82. The Sanitary Border Inspectorate has one of the most systematic methods of receiving complaints. There is a separate form included in the Annex with the template. This form provides the following information for registering an incoming complaint:

- Date;
- Complaint number;
- Name of official registering the complaint;
- Signature of official;
- Name of complaint/essence of complaint;
- Name of person submitting complaint;
- The connection between the person submitting the complaint and the complaint itself (the name of the legal entity);
- Information on contacting the person submitting the complaint (telephone, fax, address);
- Decision of the Head of the Sanitary Border Inspectorate regarding to whom the complaint should be referred, including date and signature [this ensures that the Head of the institution is aware of the complaint]; and
- A statement that the complaint must be immediately sent to the assistant to the Head of the Sanitary Border Inspectorate who registers the complaint.

83. Another important type of interaction is the process of dialogue between the government and the business community in a topic that is of concern to both. In fact, the participation of stakeholders (such as representatives of the public institutions overseeing a given procedure and representatives of the business community) in the decision-making process is an important means to improve the quality of legislation and the sense of ownership of the reforms. The efforts undertaken to date by the institutions that have filled out templates are described above, as is their level of understanding regarding the need for interaction with the business community.

84. As these feedback mechanisms become established there are a variety of other opportunities to engage the private sector in dialogue, such as in filling out regulatory impact assessments now required by the government when considering draft normative acts, in arranging public hearings, and in organizing focus groups to discuss the existing status and to try out new ideas and solutions. Such meetings have played an important role in the centralized efforts to improve the business environment up to now, but these also need to be undertaken by each institution itself as it identifies issues that would benefit from the input of the business community and as it arranges such meetings in the context of improving both its institutional activities as well as the procedures that businesses must undergo.

f. The Use of “Motivated Refusal”

85. The concept of “motivated refusal” is generally practiced in Latvia, as demonstrated by the responses in the templates, where almost all institutions wrote that their method of communicating a rejection for an application is in a *written form, specifying the reasons*. This is due to the legal requirement in the Law on the Procedure for Reviewing Applications, Complaints and Proposals in State and Municipal Institutions that the response from the state or municipal institutions must specify its reasons – they must be “motivated” (see Art. 9). Similar provisions are also provided for in the Law on Administrative Process, which will come into force on 1 July 2003.

86. In fact, out of all the institutions that submitted templates that had this question on *manner of communicating refusal* (some did not, such as the institutions overseeing tax reporting and on-site inspections and audits), the only ones that did not simply check *written refusal, specifying reasons* or otherwise had some discrepancies and inconsistencies regarding this issue were the municipalities¹⁴. For example in its template on municipal trade permits, Ventspils wrote that “If the enterprise has all the necessary documents, a permit is always issued. If all the documents are not submitted, the enterprise is asked to submit the missing ones.” The Liepaja municipal trade permit did not answer this one. The Cesis municipal trade permit simply selected *oral refusal*. Rezekne selected all of the options: (i) *written refusal, specifying reasons*, (ii) *written refusal, not specifying reasons* and (iii) *oral refusal*.

g. Minimum Processing Time and Expedited Service

87. The responses from many of the templates suggest that there are few cases of official expedited service available to speed up the procedure for an extra fee, but that in almost all cases there are “minimum processing” times that are lower than “average processing” times.

88. When expedited service is available, every application that gets expedited means that there is another application that gets done more slowly. Therefore, the introduction of expedited service may not be a useful solution from the perspective of the institution or from the perspective of clients using the other procedures that the agency offers.

89. Nevertheless, the fact that a minimum processing time exists is also not an adequate solution because this is often unofficial and there may be unofficial ways of encouraging an official to speed up the process.

¹⁴ The State Land Service did not select any of the options presented for communicating a rejection, neither in the template on Inventory of Buildings nor in the template for Land reassessment.

h. Number of Employees

90. A surprisingly large number of institutions wrote in their templates that the number of employees from carrying out certain functions was sufficient. This is in fact contrary to the expectations of the authors of the Report, who have often heard complaints about lack of staffing.

91. Nevertheless, a few institutions did report that the number of employees is insufficient. For example, regarding the construction approval procedure, the relevant institutions in Riga and Daugavpils noted that there is an insufficient number of staff, but the Daugavpils respondents also added that this view is not shared by their superiors.

92. Regarding inspections and audits, the problem of understaffing was reported by the State Revenue Service (in relation to its auditing function), the State Labor Inspectorate and the State Sanitary Inspectorate. Interestingly, the State Fire and Rescue Service, which received the highest ratings in the Regulatory and Administrative Costs Survey among the inspectorates, reports that it does not need more employees.

93. In addition, the National Customs Board states that the number of employees is presently insufficient, but notes that as the simplified procedures are introduced and the primary focus is shifted from incremental control of each submitted document to more comprehensive and risk based control, this will reduce some of the workload of customs officers. This approach, in fact, may be of interest to other government institutions in Latvia. The National Customs Board is essentially simplifying certain procedures whose result will be a reduction in the amount of time and effort spent by enterprises in undergoing a certain procedure, while simultaneously reducing the burden of enforcement on the customs officers.

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CHAPTER III

START-UP PROCEDURES

1. This chapter describes the procedures that the investor must undertake to startup an enterprise, including enterprise registration and registration as a VAT payer (if applicable), receiving certain approvals, such as various licenses (for the manufacture, import, wholesale and retail of alcohol and tobacco products, license for transport of commercial cargo by carrier and construction licensing) and municipal trade permits in eight municipalities, as well as expatriate employment and residency.
2. The descriptions and analyses contained in this chapter are based on information from the Regulatory and Administrative Costs Survey, the templates filled out by the relevant government and municipal institutions and other sources of information from the business community and the Latvian Development Agency¹. The Survey results are designed to be applicable to the general population of enterprises operating in Latvia, however the authors of this report have used their expertise and discretion in applying the data and drawing conclusions from the results².

A. Enterprise and VAT Payer Registration

3. This section covers enterprise registration and VAT payer registration. There is no separate tax registration (except for VAT) and this takes place along with enterprise registration. There is also no separate statistical registration.
4. According to the results of the Administrative and Regulatory Costs Survey, since 1997, 87% of enterprises have dealt with at least one of the registration procedures. 67% have registered their business during that period of time; 41% have registered changes in their by-laws, and 14% have dealt with other registration procedures.
5. Those enterprises that have dealt with any of the registration procedures have mostly registered their enterprises or registered changes in their by-laws (95%). The following section on Enterprise Registration will cover these procedures in detail.
6. Since 1997, 63% of enterprises have registered themselves with the State Revenue Service for VAT payer status and 62% state that they have registered with the SRS for taxes other than VAT. A section below will cover VAT payer registration, but this

¹ The Report refers to sources of information where such information, in the opinion of the authors, is helpful in describing a given procedure or providing additional material. Nevertheless, FIAS is not responsible for the accuracy of the information from other sources (such as institution web pages).

² The Report on the Results of the Regulatory and Administrative Costs Survey contains a more detailed explanation of the analytical methodology used in determining the results.

Report will not cover registration for taxes other than VAT since registration for other taxes takes place automatically upon Enterprise Registration, as of 12 January 2001.

7. The results of the Survey indicate that new business and changes in by-laws have mostly been registered by enterprises dealing with the service sphere (96%) in comparison with manufacturing enterprises (76%).

1. Enterprise Registration

8. The following table shows the types of enterprises that were registered under the old system, according to the Enterprise Register.³

**Table III.1: Up to the coming into force of the Commercial Law
(up to and including 31 December 2001)**

Type	Number in 2001	Total registered
Limited Liability Company	6294	88430
Joint stock company	48	1723
Partnership	57	388
Representative office of foreign enterprise	15	194
Individual enterprise, fishing or farming enterprise	771	63659
Cooperative	147	3393

9. This table shows the types of enterprises that have been registered since the coming into force of the Commercial Law, as of 1 January 2002, according to the Enterprise Register.

**Table III.2: Since coming into force of the Commercial Law
(1 January 2002) and until 29 April 2002**

Type	Number
Limited liability company	631
Joint stock company	4
Partnership with limited liability	3
General partnership	12
Branches and representative offices of foreign enterprises	8
Individual entrepreneur	220

³ The numbers here do not match precisely the division of the sample in the Survey because the Survey deliberately oversampled some categories of enterprises.

10. In order to acquire the status of a legal entity (except for partnerships and individual entrepreneurs) and to start business activities in Latvia, all enterprises must be registered in the Enterprise Register of the Republic of Latvia, which also administers the Commercial Register.

11. The new Commercial Law (in force as of 1 January 2002) stipulates rules regarding power of attorney, agency, brokerage, types of enterprises, liquidation and reorganization and others. It unifies various separate laws that have previously regulated entrepreneurial activities. At the same time, the new Commercial Law introduces other significant changes in the legislation, such as setting more strict and detailed regulations of company reorganization and protection of minority shareholders' rights.

12. The Enterprise Register is the government institution responsible for enterprise registration. The Enterprise Register is often considered to be an exemplary public institution in Latvia and has a good reputation among enterprise registers in the transition countries. The results of the Regulatory and Administrative Costs Survey support this assertion, since enterprises in Latvia consider the procedure of registering a business to be only an "infrequent" obstacle, placing it in 19th place (out of 26) by number of respondents that reported it to be an administrative obstacle: only 14% of respondents stated that the process of registering a new business was an obstacle. As to severity, of those 14% who stated that it was an obstacle, the average level of obstacle (where 1 means "minor" and 4 means "very severe") was 1.9 points, indicating a relatively minor obstacle.

13. For these reasons (as well as the fact that the Enterprise Register received a high level of satisfaction regarding its services), the descriptions, analyses and recommendations relating to the Enterprise Register should be considered in light of its generally effective operations, so that these are essentially recommendations on how to improve an already well-functioning institution. At the same time, reforms implemented and sustained by an institution like the Enterprise Register may hold important lessons for other institutions in Latvia.

a. Procedure Description

14. As of 1 January 2002, all enterprises⁴ are established in accordance with the Commercial Law and are registered in the Commercial Register, which is administered by the Enterprise Register.

⁴ Except individual entrepreneurs, fishing or farming enterprises, cooperatives, limited liability non-profit organizations, joint stock non-profit organizations, as well as state and municipal enterprises undergoing privatization, restructuring them into capital companies and simultaneously selling their shares, if the rules for privatization for state or municipal enterprise has been adopted by 1 January 2002. These enterprise forms are established in accordance with the relevant legislation governing that form and are registered in the Enterprise Register.

15. Those enterprises, branches and representative offices registered in the Enterprise Register before 1 January 2002 and subsequently falling under the provisions of the Commercial Law should be re-registered in the Commercial Register by 31 December 2004, or a decision on liquidation should be adopted at their shareholder's meeting. If re-registration is not undertaken by 31 December 2004, the enterprises, branches and representative offices will be removed from the Commercial Register and will not be allowed to engage in commercial activity.

16. For enterprises that were registered before 1 January 2002, the previous system for registering changes in their charter is in force until 31 December 2004 (unless they re-register in the Commercial Register before that deadline), and for this reason this information was requested in the template.

17. The enterprise types asr as follows:

- Individual entrepreneur (“individualais komersants”)
- Partnership (“personalsabiedriba”)
 - With unlimited liability (general partnership -- “pilnsabiedriba”)
 - With limited liability (“komanditsabiedriba”)
- Capital company (“kapitalsabiedriba”)
 - Limited liability company (“sabiedriba ar ierobezotu atbildibu” or “SIA”)
 - Joint stock company (“akciju sabiedriba” or “A/S”)

18. The Enterprise Register has prepared useful and detailed descriptions of the types of enterprises that can be established and the steps that are required to register an enterprise in accordance with the Commercial Law. These are available in Latvian on the web site of the Enterprise Register, www.ur.gov.lv, which has recently been updated. The web site also contains sample foundation documents for registering a new entity in accordance with the Commercial Law. The Enterprise Register has supplied a comprehensive template for this Report (see Annex C).

19. The Latvian Development Agency web site (www.lda.gov.lv) also has relevant information in English.

Box 1: The European Union's Recommendations on Company Registration Procedures

Throughout the European Union, the procedural requirements for forming a business entity are undergoing changes. The trend in corporate law of individual EU Member States is towards removing administrative burdens through greater operational efficiency.

The European Union has recommended to its Member States several proposals for simplifying the registration aspect of starting a new business, which is outlined in the Commission Recommendation on Improving and Simplifying the Business Environment for Business Start-ups. Recommendations include:

- (1) introduce a single business registration form;
- (2) set up a single contact point where businesses can register;
- (3) institute a single business identification number system;
- (4) take measures to eliminate duplicate or superfluous forms and/or contact points;
- (5) allow businesses to reject requests for duplicate information filed with other government agencies;
- (6) set deadlines for processing requests and granting licenses or authorizations;
- (7) introduce a system whereby an application is deemed to be approved if the administration does not meet its deadline;
- (8) utilize information technology and databases to share information among government agencies.

These recommendations give a clear indication of the tendency towards simplification of the registration process for enterprises in Europe. Many Member states have taken numerous measures to improve the interface between administration and the business community. In Sweden, for example, a regulatory impact unit, known as "Simplex," conducts impact analysis on proposed legislation and works for reduced, fairer, and more easily understood regulations

b. Template: Enterprise Registration

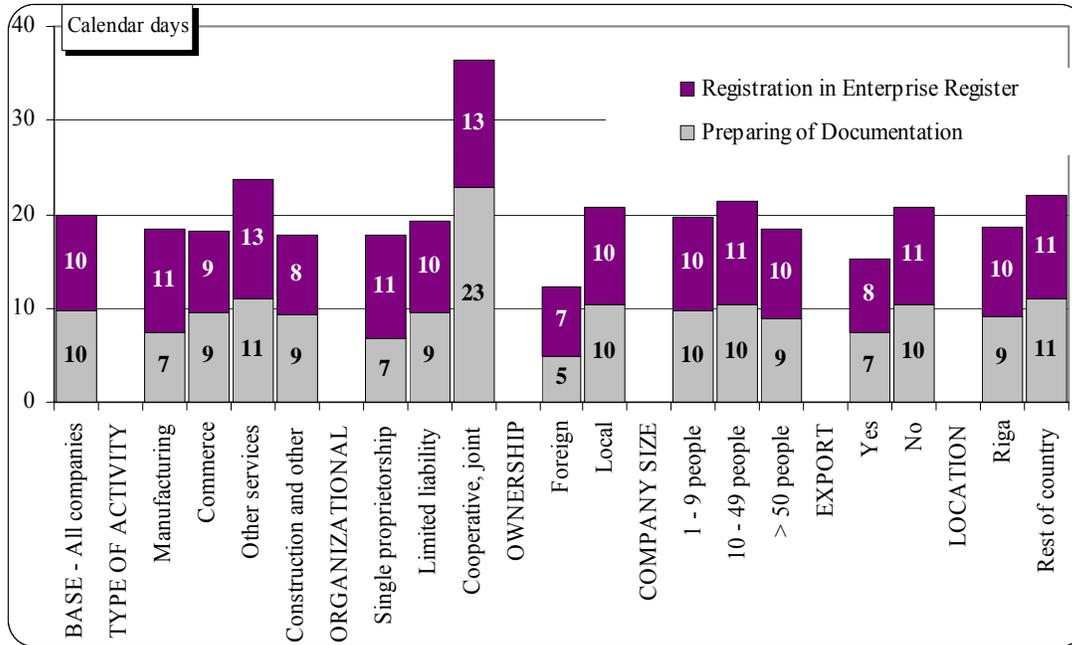
20. The procedure template for enterprise registration completed by the Enterprise Register is located in Annex C.

c. Analysis

21. The Regulatory and Administrative Costs Survey was undertaken at the end of 2001, when the Commercial Law had not yet taken effect and therefore the results of the Survey were not influenced by the change. Therefore, most of this analysis is based on the previous system that was in force before 1 January 2002. Nevertheless, it would be useful to monitor whether the time, costs and perception have changed after the introduction of the Commercial Law, and perhaps the Enterprise Register should consider a smaller follow-up survey to review whether there are any changes since this data was gathered.

(1) Time

Chart III.1: Average Time for Registration in Enterprise Register



Base: all companies, whose last registration where in Enterprise Register and who have given certain answer, N = 427.

22. The following table is excerpted from the Administrative and Regulatory Costs Survey and shows the average time for registration in the Enterprise Register, according to the respondents. This table does not show the time for registration in the State Revenue Service for taxes other than VAT because the SRS no longer registers taxpayers for taxes other than VAT. The table also does not show any other registration institutions because the number of respondents to that question was not large enough to interpret the obtained results.

23. According to the results of the Administrative and Regulatory Costs Survey shown in the following table, the registration process of a new business in the Enterprise Register (ER) takes 21 calendar days on average and 12 of these days are spent preparing the necessary documentation. If we subtract the calendar days for preparation of documents from the total calendar days, we conclude that, for purposes of analysis, the number of calendar days the Enterprise Register spends processing the application is approximately 9 days.

Table III.3: Average Time for Registration in Enterprise Register

	Calendar days	
	Total	Preparation of documents
Register new business	21.3	11.8
<i>N</i> =	<i>126</i>	<i>111</i>
Make changes in by-laws or charter	18.1	7.7
<i>N</i> =	<i>170</i>	<i>152</i>
AVERAGE TIME FOR REGISTRATION IN ENTERPRISE REGISTER ⁵	19.9	9.8
<i>N</i> =	<i>427</i>	<i>427</i>

Base: those, who did particular registration procedure and have given certain answer, see. 'N = ' in table

24. The Enterprise Register states that the average time for registering a new enterprise in the Enterprise Register in accordance with the pre-Commercial Law system, once all documents are submitted, is 13 days (the minimum is 5 days and the maximum provided by law is 15 days). Now, with the introduction of the new Commercial Law, the Enterprise Register states in its template that the time for registering a new enterprise is 14 days. The summary table looks like this:

Table III.4. Average Time to Register a New Enterprise in the Enterprise Register

Information from Enterprise Register	Information from Survey
<ul style="list-style-type: none"> • 13 days (according to pre-Commercial Law system, once all documents are submitted) • 14 days (with introduction of new Commercial Law, once all documents are submitted) 	<ul style="list-style-type: none"> • 9 days (21 calendar days total to register, of which 12 days are for preparation of documents)

25. The comparison shows a small discrepancy. The responding enterprises aver that on average they spend less time registering the enterprise than the Enterprise Register believes they do, according to both the old system and the new one. This may also reflect the fact that some respondents selected the expedited processing option. In any event, the results are close enough, taking into account any errors in deriving the processing time, that we can conclude that the Enterprise Register has a good understanding of the average time required for processing documents.

⁵ The total time spent for registration process given by the proprietors is mentioned here. The sum does not match the sum of days mentioned above as the length of every registration procedure has been calculated from those respondents who have dealt with particular procedure while the average registration time has been calculated from all the respondents who have gone through any type of registration procedure in ER.

26. According to the results of the Survey, 18 days are required for making changes in the by-laws (including 8 days for preparing the documentation). This suggests that it takes 10 days for the Enterprise Register to process the documents once they are submitted.

27. The Enterprise Register states that the average time for registering changes in by-laws or charter in the Enterprise Register in accordance with the pre-Commercial Law system, once all documents are submitted, is 14 days (the minimum is 7 days and the maximum provided by law is 15 days). The template did not request information on registering changes in by-laws or charter, since this information was reported to be negligible due to the fact that the new registration procedure had only been in effect since 1 January 2002 and few enterprises had already begun to revise their by-laws and charters. The summary table looks like this:

Table III.5: Average Time to Register Changes in By-laws or Charter

Information from Enterprise Register	Information from Survey
<ul style="list-style-type: none"> • 14 days (according to pre-Commercial Law system, once all documents are submitted) 	<ul style="list-style-type: none"> • 10 days (18 calendar days total to register, of which 8 days are for preparation of documents)

28. The comparison shows another small discrepancy, like the one relating to registering a new enterprise. The enterprises aver that on average they spend less time registering changes in the by-laws or charter than the Enterprise Register believes they do. This may also reflect the fact that some respondents selected the expedited processing option. In any event, this discrepancy also falls within the margin of error due to the derivation of the processing time in the Survey.

29. According to the results of the Survey, on the whole enterprises with foreign capital report that they go through the process of enterprise registration even faster than those without foreign capital. Joint stock companies spend considerably more time on registration in the ER than other types of enterprises do. The registration process of joint stock companies takes more than a month – 36 days. This is to be expected, since joint stock companies have a more complicated structure than other firms.

(2) Costs

30. According to the results of the Survey, almost all of these enterprises (94%) that paid for registration mentioned that they have paid the official charges and payments. More than one half of the enterprises had to pay for services of a lawyer, adviser or a specialized enterprise (63%), while 3% of responding enterprises stated that they had paid gifts and bribes. Single proprietorship enterprises have more rarely hired lawyers and advisers (32%) comparing to manufacturing (52%) and service sphere (apart from

trade) enterprises (55%). No major differences were observed between local and foreign enterprises in the payment sums and hiring of specialists.

31. 60% of enterprises hired specialists or specialized enterprises for the registration procedures in ER. The main reason for this choice mentioned was the lack of the necessary skills (74%) and the second most important reason being the lack of time (31%). Other reasons were mentioned more seldom and those were the lack of necessary contacts (5%) and other reasons (5%).

32. The table below excerpts from the Survey results the average payments made to the Enterprise Register for registering a new business and for making changes in the by-laws or charter. "Other registration procedure" is not included due to the small number of respondents.

Table III.6: Average Payments in Enterprise Register (LVL)

	Official fees, payments	Hiring outside lawyer, consultant or specialized enterprise services	Gifts or bribes	AVERAGE PAYMENTS FOR THE PROCEDURE TOGETHER ⁶
Register new business	176.63	61.54	n/a	200.16
<i>N =</i>	76	61	1	89
Make changes in by-laws or Charter	66.12	71.10	n/a	113.29
<i>N =</i>	100	68	2	110
AVERAGE PAYMENTS FOR THE LAST REGISTRATION IN ENTERPRISE REGISTER ⁷	121.18	62.83	n/a	152.00
<i>N =</i>	212	149	4	242

Base: those, who paid the respective payment, and have given certain answer, see. 'N = ' in table.

33. The Enterprise Register provides the following information on costs of registering a new business, according to the old system:

⁶ The total sum mentioned by business owners for the particular procedure in ER is given here. This sum does not match the sum of separate payments for registration in the correspondent institution as the amount of every type of payment has been calculated from those enterprises that have made that payment while the total sum of registration for every procedure have been calculated from all enterprises that have made registration payments for particular registration procedure.

⁷ Here the total sum mentioned by entrepreneurs for most recent registration in ER is drawn. The sum does not match the sum of expenses given above as expenses of every registration process have been calculated from those that have paid for the concrete procedure while the total expenses of the registration procedures have been calculated from those enterprises that have paid for any of registration procedures in ER.

Table III.7. Cost of Registering a New Enterprise (up to 31 December 2001)

Duty or fee	Amount
State duty for registering a limited liability company	Ls 100
Fee for publication	Ls 24

34. Therefore, the costs for registering, for example, a limited liability company or a joint stock company in the Enterprise Register were Ls 124.

35. According to the results of the Survey, the average amount of the official payment for registration of a new business is Ls 177. The average expense for the services of a lawyer or adviser is Ls 62 in registering a new business. The overall expenses for registration of a new business are estimated by the respondents to be an average of Ls 200.

36. The difference between the official costs presented by the Enterprise Register and the somewhat higher costs noted by the enterprises in the Survey may be explained by the fact that the enterprises may have included certain other official payments that are not levied by the Enterprise Register. These may be notary fees, bank fees or, in some cases, Land Book fees. Another possible explanation is the fact that expedited enterprise registration is available – twice the fee for registration in 4 days and three times the fee in 2 days.

37. According to the new system, the following duties and fees apply:

Table III.8: Cost of Registering a New Enterprise (as of 1 January 2002)

Duty or fee	Amount
State fee for registering an individual enterprise	Ls 20
State fee for registering a partnership or limited liability company	Ls 100
State fee for registering a joint stock company	Ls 250
State fee for registering a branch of an enterprise	Ls 20
Fee for publication of registration of an individual enterprise	Ls 16
Fee for publication of registration of a commercial company	Ls 24
Fee for publication of registration of a registered foreign branch and representation office	Ls 16

38. Therefore, the costs for registering the most popular form of enterprise, a limited liability company, is officially Ls 124, which is the same amount as under the former system.

39. The Enterprise Register provides the following information on costs of registering changes to by-laws, according to the old system:

Table III.9: Costs of Registering Changes to By-laws or Charter

Duty or fee	Amount
State duty for registering changes to by-laws or charter	Ls 10
Fee for publication	Ls 8

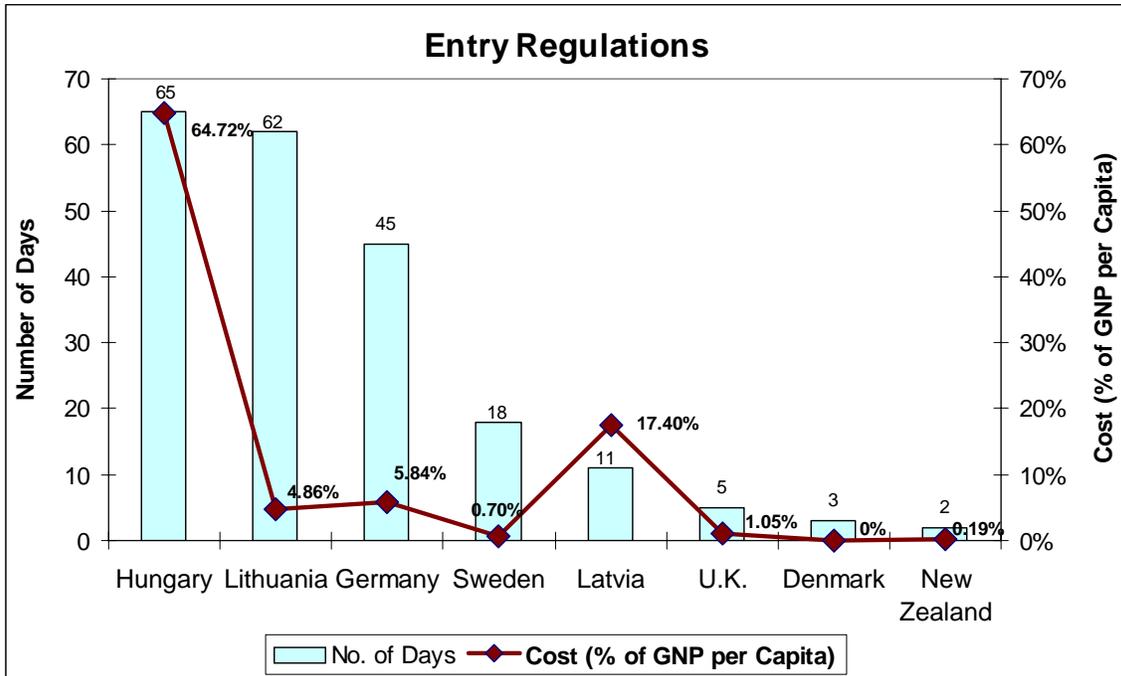
40. According to the results of the Survey, the average amount of the official payment for registration of changes in by-laws is 66 lats. The average expense for services of a lawyer or adviser is 71 lats. The overall expenses for registration of changes in by-laws are estimated by the respondents to be an average of 113 lats.

41. In this case there is a notable distinction between the official fees provided by the Enterprise Register and the responses to the Survey. A possible reason for the larger discrepancy between the template and Survey results for the costs for registering changes to by-laws or charter and the costs for registering a new enterprise may have to do with the different types of activities that a lawyer or adviser charges for. Setting up a new enterprise is a fairly straightforward, standard activity for the lawyer. The lawyer very often has ready forms and there is little need for additional legal research. Changes in the by-laws or charter may, however, require specialized legal knowledge and non-standard activities, since each case may be different.

42. According to the new system, the duties and fees remain the same.

43. The following chart compares Latvia with several other countries regarding the time and cost requirements for basic registration and associated procedures for a limited liability company with start-up capital of ten times the per-capita GNP, and making use of legally available “fast-track” processing.

Chart III.2: Entry Regulations in Selected Countries



44. The chart shows that Latvia compares favorably with some of the best developed countries in terms of the time required for processing company registration.

(3) Approvals, Rejections, Conflicts and Appeals

45. As of the date of completing the template, the Enterprise Register did not compile specific information on the number of applications submitted, and the number of subsequent positive or negative decisions. Nevertheless, the Enterprise Register wrote in an explanation on 29 April 2002 that it does maintain information on the types of decisions issued by its officials, including number of newly registered enterprises, number of reorganizations, number of liquidations, number of revisions to charters, number of refusals to register submitted documents (approximately 2400 refusals in 2001). Over time, the Enterprise Register may nevertheless find it useful to create a database of approvals and rejections based on applications, which may help to identify trends. As the Enterprise Register explains in its letter of 4 October 2002 to the LDA, “The Enterprise Register is currently piloting a system for recording positive and negative decisions issued by the staff. The negative decisions are being categorized according to separate topics. The new system will be fully functioning in January 2003.”

46. Among all the enterprises that had to deal with registration procedures since 1997, 4% (or 17 enterprises) faced problems with ER during last two years, and mostly these enterprises (91%) had conflicts just once.

47. Regarding conflicts related to registering a new enterprise, the Enterprise Register reports in the template that in 2001 there were 11 decisions that were appealed to the head of the institution, of which 9 decisions were left in force, 1 was repealed and 1 was partially repealed. In addition, in 2001, 2 decisions were appealed outside the Enterprise Register itself, but no final decision has been reached at court.

48. Regarding conflicts related to registering changes in the by-laws or charter, the Enterprise Register reports that there were 59 decisions appealed to the head of the institution. Of these, 41 were left in force, 16 were overruled and 2 were partially overruled. 9 decisions were appealed outside the institution, but these have not been considered by the final instance at the time the Enterprise Register submitted the template on 29 April 2002.

49. According to the Enterprise Register, only one decision has been appealed to the head of the Enterprise Register under the new system, but as of the date of submission of the template this had not yet been reviewed.

(4) Information and Feedback Mechanisms

50. The Enterprise Register states that it informs its employees of changes in legislation by distributing the amendments to legislation, by having special training courses, by expecting that employees themselves become acquainted with the changes and by preparing methodological materials.

51. The Enterprise Register informs enterprises about its requirements by distributing brochures, organizing seminars and training courses, posting information on the web page, responding to individual requests (by telephone, mail, personally, etc.), by having media campaigns and by distributing the information to its e-mail subscribers. These are all useful methods of communicating with clients, and setting up a system for e-mail subscriptions may be an activity that is cheap and useful and could be undertaken by other government and municipal institutions.

52. The Enterprise Register also stated that it utilizes almost all the instruments mentioned in the template to get feedback from enterprises, including feedback forms, surveys, meetings and seminars with business associations and non-governmental organizations, analysis of information in the mass media, organizing discussions or roundtables in cooperation with the media and even enlisting lawyers that do not work in the Enterprise Register to assist in the campaign to explain the Commercial law, including preparation of related articles.

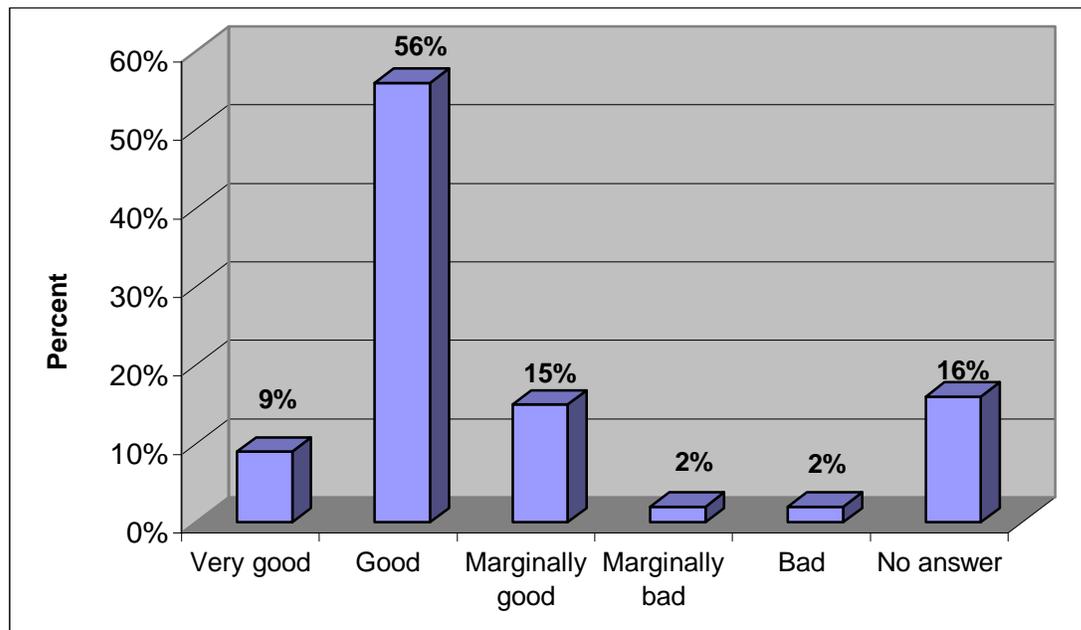
53. Certainly, the Enterprise Register was in an unusual situation in 2001, since the burden of explaining the new Commercial Law fell on them. Nevertheless, the instruments used in interacting with enterprises are noteworthy and it would be of great use to other institutions in Latvia to have an understanding of the effectiveness of the various approaches used and the experience of the Enterprise Register.

54. The Enterprise Register has also undertaken other projects to improve service orientation, such as preparation of the many brochures that are mentioned in the template and the abolishment of queuing with the “take-a-number” system often used in banks.

(5) Evaluation of Services

55. Services given by ER were evaluated as shown in the chart below. Average index is 4.8 points (on a scale where 1 is “very bad” and 6 is “very good”). There are no major differences between different types of enterprises with one exception being the managers/directors of joint stock companies who evaluated services of the ER as lower than others – 4.2 points.

Chart III.3



56. The Enterprise Register itself considers the legislation governing the procedure for enterprise registration to be “somewhat clear”, but that, from the perspective of enterprises, it is a little less clear, considering it to be “not simple, but understandable”.

(6) Other Observations and Analyses

57. The template submitted by the Enterprise Register regarding registration of enterprises is one of the most comprehensive and accurate templates received during the course of this study. The quality of response demonstrates that the Enterprise Register has an excellent grasp of its activities and also has ready access to such information.

58. One of the most significant recent events for the Latvian business environment is the coming into force of the Commercial Law, after a long and at times uncertain path. The Commercial Law now consolidates in a single law all provisions relating to the types of enterprises that can be registered in Latvia. It also reduces the number of types of enterprises to five. Nevertheless, the fact that there will be two regimes governing enterprise registration and changes in by-laws and charter until the transition period ends will be a significant challenge for the Enterprise Register. It appears that the Enterprise Register is aware of the difficulties.

59. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia noted that the Enterprise Register reports that enterprises are registered in 14 days (that is, after submission of all necessary documentation, the application is reviewed and a decision is rendered). This is the same figure that the Enterprise Register has submitted in 2002. The 1999 FIAS Report also noted that a period of 14 days does not compare well with many countries where registration is accomplished within 1 day. The 1999 FIAS Report recommended that the Enterprise Register reduce the processing time to 3 days by the end of 1999 and to 1 day in 2001. In a letter dated 4 October 2002, the Enterprise Register states:

“... Part 3 of Article 10 of the Commercial Law provides that an official of the Commercial Register makes a decision on registering, not registering or postponing registering within a period of three days. However, Part 4 of Article 2 of the Law on the Coming Into Force of the Commercial Law provides that until 31 December 2004, Part 3 of Article 10 of the Commercial Law is not in effect and the decision is made within 30 days of receiving the application. This period of 30 days has been stipulated because, with the coming into force of the Commercial Law, during the transition period the number of applications may increase significantly, as a result of which the Enterprise Register may lack the capacity to process the applications in the specified period. Therefore, so that there is no need to violate the law in these cases, the Law on the Coming Into Force of the Commercial Law has provided the 30 day term. But up to now there have been no such cases where the Enterprise Register would process an application for 30 days. Aware of the fact that 30 days is too long a period, the Enterprise Register has issued an instruction that its officials review applications in 14 days. At the same time the Enterprise Register believes that, once the transition period is over, the application for registration of an enterprise should be processed and a decision issued within 3 working days.”

60. One of the more time-consuming problems that delays enterprise registration and that is not under the direct responsibility of the Enterprise Register is the number of documents that require notarization by a notary public. With the coming into force of the Commercial Law, there has been an increase in the documentary requirements, which now include:

- Notarization of the signature of the person submitting the application for registration, in accordance with Article 10.2. of the Commercial Law, as well as notarization of that person's authority to do so. This requirement for notarization does not apply, however, to those enterprises that have registered under the former system and are now re-registering.
- If the application for enterprise registration is to be signed not by a founder but by another person, the power of attorney must also be notarized.
- The founders' signatures on the foundation agreement and the charter must also be certified by notary (or at court), in accordance with Arts. 143 and 144, respectively.
- Notarization of sample signatures for the proctor (Art. 38.1.), representatives of a partnership (Art. 78.5.), liquidators (Art. 107.3.), members of board of directors for capital society (Art. 149.6.),
- Foreign-issued public documents must be legalized, and the translation to Latvian must be notarized (Art. 9.1.).
- Copies of documents submitted to the Enterprise Register must also be notarized.

61. As the list above indicates, the founders of the enterprise need to visit a notary. The reason, as argued by the Chair of the Council of Notaries⁸, is that such a system will increase the level of control over enterprises to be established as well as their reliability in relationship with other enterprises. Nevertheless, alternative systems of control, such as covenants and warranties expressed between private parties to a contract, may be sufficient, and these options should be considered instead of adding an additional layer of bureaucratic procedure.

62. The fees for notarization are determined by each notary public. With an increase in the number of notarized documents, there will be an increase in the fees paid to notaries by enterprises.

63. Foreign investors are particularly burdened by this requirement for notarization, since, if a foreign founder is not in Latvia at the time of registering the enterprise, he or she must ensure that all documents prepared abroad are legalized (their authenticity is certified); the degree of legalization and the requirement for an apostille⁹ depend on the jurisdiction, and this becomes a very burdensome process if the founders, for example, are legal entities from several countries. The documents then need to be translated and

⁸ Dianas bizness, 13 May 2002.

⁹ An "apostille" is a "standard certification provided under the Hague Convention of 1961 for purpose of authenticating documents for use in foreign countries", Black's Law Dictionary, Sixth Edition, 1990.

the translation needs to be notarized. This involves a significant amount of extra time and money. The Commercial Law provides that a duly authorized representative may submit the documents to the Enterprise Register, but the lengthy and expensive process of legalization of documents must still be undertaken.

64. The Enterprise Register, in response to the question of what other changes outside the direct control of the institution itself should be undertaken to improve the procedure, notes that the Commercial Law should be amended to reduce the number of notarizations, such as on the charter and on the foundation agreement. It appears that if even the Enterprise Register finds the numbers of notarizations to be excessive, serious consideration should be made to reducing them.

65. If there are other mechanisms to ensure that the data on enterprises is reliable, these should be used instead of adding additional bureaucratic procedures like notarizations. Options to consider include reliance on the covenants and warranties sections of private contracts between enterprises to ensure that each enterprise is legally liable for its legal status and other representations, otherwise the contract is null and void.

66. From the perspective of coordination and cooperation among the state institutions, one of the most important achievements in the simplification of procedures has been the consolidation of enterprise registration and tax registration, which has been in effect since 12 January 2002. As the Enterprise Register states in its template, in registering enterprises and their representative offices and branches it simultaneously registers them as taxpayers for no extra fee. This also means that there is a single tax and enterprise registration number.

67. Nevertheless, despite this procedural streamlining, after enterprise and tax registration takes place at the Enterprise Register, the enterprise must visit the State Revenue Service to inform them about the bank account, the date chosen to submit the monthly mandatory social insurance contribution report, etc. Therefore, there remains this extra and unnecessary step, which could be eliminated by supplying the information at registration and having it forwarded to the SRS. There is a clear rational justification for the existing procedure – it is not possible, for example, to open a bank account before registering with the Enterprise Register. However, in discussions between business associations and government institutions, it would be useful to discuss possible solutions, including, for example, the possibility to open a temporary bank account until enterprise registration takes place.

68. As the Enterprise Register itself notes, up to the coming into force of the Law on Electronic Signatures, it will not be possible to submit electronically the application for registration of an enterprise. In its list of priorities in the template, the Enterprise Register has supported the introduction of this instrument to ease the procedure for enterprise registration.

69. Along with the coming into force of the new Commercial Law, the “silence is consent” rule as applied to Enterprise Registration is abolished. Formerly, Article 30 of

the Law on Entrepreneurial Activity provided: “The Register of Enterprises of the Republic of Latvia is required to review the founding documents of the enterprise within 15 days of their date of submission. If the enterprise does not receive a refusal within 30 days, the enterprise is deemed to be registered.” This provision is no longer in force. However, the “silence is consent” principle is a useful instrument to ensure that some type of binding decision is made that clarifies an enterprise’s status. Although in its letter of 4 October 2002 to the LDA the Enterprise Register expresses disagreement with the “silence is consent” principle¹⁰, the authors of this Report believe that the reintroduction of this principle should be considered in the enterprise registration procedure and its introduction should be considered in other procedures as well.

70. As the Enterprise Register itself acknowledges in their template, more information on setting up a company should be available in English (and Russian) on their web site (www.ur.gov.lv).

71. The Enterprise Register has provided comprehensive and useful information on the fees and duties that are directly connected with registering an enterprise at the Enterprise Register. They do not, however, have information on fees and duties relating to, for example, receiving permits or licenses from other institutions. This is information that will be an output of the report and LDA invites the Enterprise Register and business associations to make this information available to their clients and members.

72. As described in more detail below, many municipalities still illegally issue municipal trade permits. One of the potentially justifiable reasons for such a phenomenon is the need for the municipality to know what enterprises are operating in its administrative territory. Among various possible solutions, which are described in more detail in the section on municipal trade permits, the Enterprise Register and representatives of municipalities could consider the possibility to electronically inform the municipalities or make such information available to the municipalities about the registered enterprises and their branches operating in the administrative territory, thus reducing one possible administrative procedure for enterprises. Of course, such a solution depends on the readiness and opportunities for municipalities to receive such information electronically. The Enterprise Register in its letter of 4 October 2002 to the LDA states that “Written information (on paper) on registered enterprises and their branches is already provided to the municipalities.”

¹⁰ As counterarguments to the “silence is consent” principle the Enterprise Register mentions: (1) the “silence is consent” principle was introduced as a mechanism to require the Enterprise Register to process applications in the term provided for by law, noting that there are other mechanisms to achieve the same effect, i.e., for not responding in writing to the applicant in the term provided by law, the Administrative Violations Code anticipates an administrative penalty from Ls 25-50; (2) up to now there have been no such cases at the Enterprise Register where the “silence is consent” rule should be applied. In addition, as noted above, the Enterprise Register on its own initiative has reduced the processing time for an application for enterprise registration from 30 days to 14 days; (3) application of the “silence is consent” rule would create significant legal chaos, because an enterprise, that is registered through this principle, could not register as a value-added taxpayer at the State Revenue Service, could not receive a bank loan, etc.

c. Recommendations

73. Many of LDA's and FIAS' recommendations regarding improving enterprise registration relate to activities that can and should be undertaken by other public institutions. There are nevertheless a few areas that the Enterprise Register should be aware of in its own future development plans.

74. Based on the observations and analyses above, LDA and FIAS recommend the following:

- Now that the Saeima has adopted the law on Electronic Documents, efforts to further modernize enterprise registration and the Enterprise Register's plans to undertake an electronic document pilot project for the Commercial Pledge Register should be supported.
- The Saeima should amend the Commercial Law to reduce the number of documents that require notarization, such as on the charter and on the foundation agreement.
- The Enterprise Register should consider monitoring how the implementation of the Commercial Law has affected the time and costs relating to enterprise registration. This may be done by means of a smaller survey that follows up on the questions addressed in the Regulatory and Administrative Costs Survey relating to enterprise registration.
- The Enterprise Register should create a database of approvals and rejections based on applications in order to identify trends in the registration process. As the the Enterprise Register reports, it is currently implementing a system for recording the positive and negative decisions made by Enterprise Register officials.
- In discussions with business representatives, consider the possibilities for reinstating the "silence is consent" rule for enterprise registration.
- Forward all information at enterprise registration to the tax authorities so that it is not necessary for the enterprise to visit the tax authorities separately for providing information on the bank account, the date chosen to submit the mandatory social insurance contribution report, etc.
- The Public Administration School or the Secretariat of the Special Tasks Minister for Public Administration Reform should create a system whereby the Enterprise Register could share its experiences with other government institutions about interacting with and informing the public, including its experiences in informing the business community about the Commercial Law as well as introducing a system of informational e-mail subscriptions.
- Electronically inform the municipalities or make information accessible regarding the enterprises and their branches registered in the administrative

territory, with the goal of rendering municipal trade permits for illegal purposes unnecessary.

2. Registration as Value-Added Taxpayer

75. As noted above, tax registration takes place simultaneously with enterprise registration. Nevertheless, if an enterprise's taxable sales within a period of 12 months exceed Ls 10,000, it is required to register as a VAT payer with the State Revenue Service. The enterprise can register even if it does not exceed the statutory minimum.

a. Procedure Description

76. According to the results of the Regulatory and Administrative Costs Survey, 63% of those enterprises that have dealt with any of the registration procedures registered themselves in the SRS for VAT payer status. Chapter 10 of the Survey analysis points out that 80% of enterprises have to fill in a VAT declaration.

77. The State Revenue Service, in the template submitted, states that in 2001 there were 6665 positive decisions registering VAT payers. There is no information provided on refusals.

78. The procedure for registering as a value-added taxpayer (or registering changes in the information submitted at registration) is relatively straightforward and the details are covered in the attached template provided by the State Revenue Service (See Annex C).

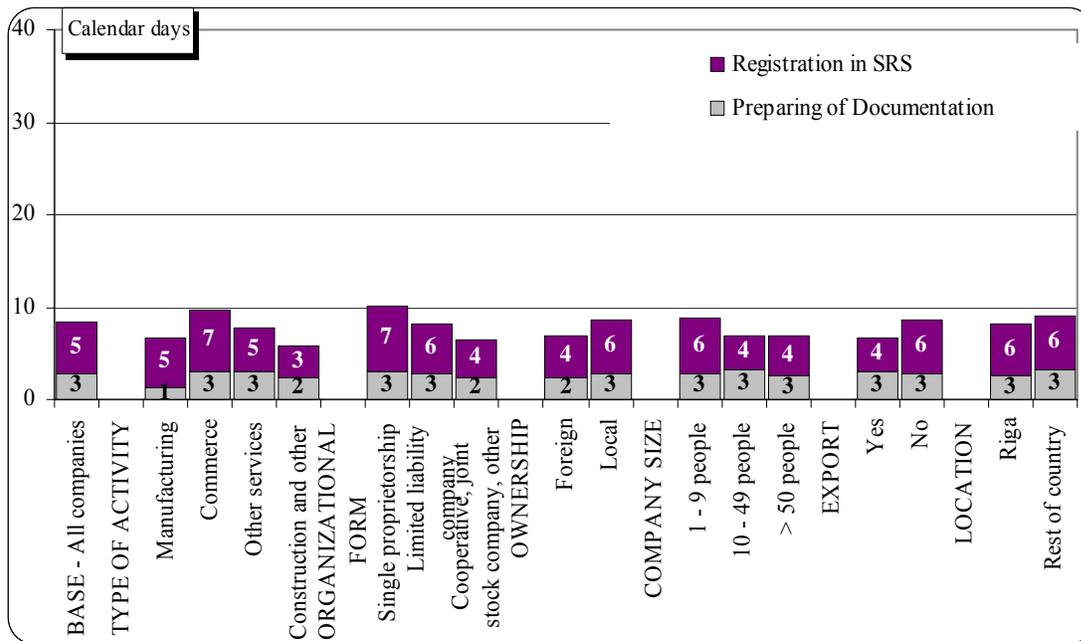
b. Analysis

(1) Time

79. Businesses report on average 8 calendar days are needed to register for VAT payer status, of which 3 are spent preparing documentation. Therefore, we derive the figure of about 5 calendar days for processing the documentation.

80. The State Revenue Service states in its template that the average time for processing the application, after all documents have been submitted, is 5 days (10 days maximum and 1 day minimum, but there is no expedited service available).

Chart III.4: Average Time for Registration in SRS for the VAT Payer Status



Base: all companies, whose last registration procedure where in State Revenue Service for the VAT payer status and who have given certain answer, N = 260.

81. The information from the Survey and the response from the SRS on time spent processing applications for VAT payers is commensurate. The only priority that the SRS mentions in its template for improving its efficiency in supervising this procedure is to reduce the time taken for registration. LDA and FIAS support such a priority, but the SRS needs to analyze its own documentary needs and flow to determine how best to accomplish this goal.

(2) Costs

82. According to the data supplied by the SRS and the relevant legislation, registration for VAT payer status is without charge. Although 9% (or 25 enterprises) of respondents to the Administrative and Regulatory Costs Survey indicate that they believed that they paid for the procedure for VAT payer registration, it is more plausible that these respondents are confusing this with other registration payment activities. It is also possible, as was suggested in focus groups with businesses, that some respondents have included in these figures their technical and administrative expenses, such as purchasing forms etc.

(3) Approvals, Rejections, Conflicts and Appeals

83. During the last two years there have been few problems or conflicts connected with the registration process. 3 enterprises responding (0.4%) had problems or conflicts while registering in State Revenue Service for the VAT payer status.

84. The SRS left blank the questions relating to appeals, indicating that there are no such cases, although they do define the appeals route (to the Director General of the SRS, then to court).

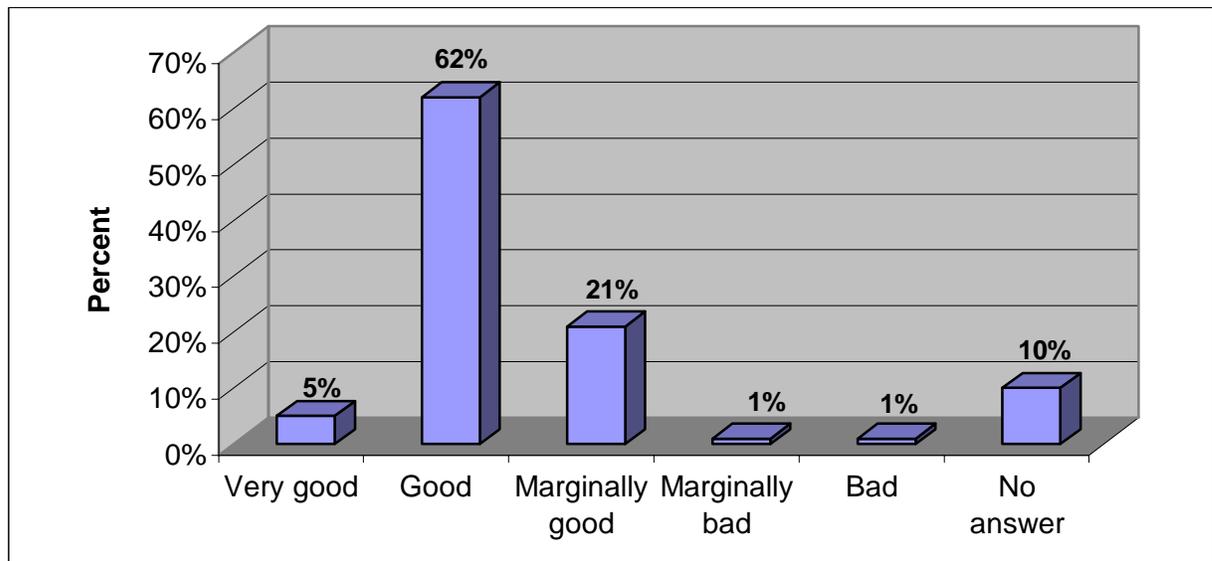
(4) Information and Feedback Instruments

85. Although the SRS does not mention any specific feedback instruments for interacting with enterprises, the SRS does state that it posts relevant information on the home page on the internet (www.vid.gov.lv) and does respond to individual inquiries.

(5) Evaluation of Services:

86. The services obtained when registering for VAT payer status were evaluated as shown in the graph below. The average index is 4.8 points (where 1 is “very bad” and 6 is “very good”), indicating a high level of satisfaction with the services provided by the State Revenue Service for VAT registration.

Chart III.5



87. The SRS is satisfied with the procedure offered, giving it a designation of “good” (which is only one degree below the top rating offered in the templates).

(6) Other Observations and Analyses

88. One of the lines in the application for VAT registration is the statement signed by the applicant: “I accept responsibility for the accuracy of the information contained herein” and an enterprise official with signatory rights must provide his or her personal code, name and signature. This is more than simply a signature, it is a statement regarding accountability. It also allows the SRS to identify the person who is responsible for providing accurate information (and who, by extension, is responsible for inaccurate information) and makes them personally liable. This is a very important control mechanism that is a crucial element in introducing a compliance, rather than enforcement, regime.

c. Recommendations

- The VAT registration procedure is quite straightforward. One recommendation is that the forms for VAT payer registration be placed on the home page of the State Revenue Service, www.vid.gov.lv.
- The State Revenue Service should also be aware of the step, described in the section on enterprise registration, that after enterprise and tax registration takes place at the Enterprise Register, the enterprise must visit the State Revenue Service to inform them about the bank account, the date chosen to submit the monthly mandatory social insurance contribution report, etc. Therefore, there remains an extra and apparently unnecessary step which should be acknowledged and eliminated.

B. Licenses and Municipal Trade Permits

89. This section covers licenses and municipal trade permits. Although licenses and municipal trade permits are actually covered by two different legal regimes, they are analyzed here together since, very often from the perspective of the enterprise, both constitute approvals necessary to start up operations in a given field or location.

90. The subsection immediately following will cover the applicable results of the Administrative and Regulatory Costs Survey as it applies to the licensing and permits regimes, from the perspective of the responding enterprises.

91. Then, there will be a more detailed review of the licensing regime in general and the major licenses covered by the Survey and the templates.

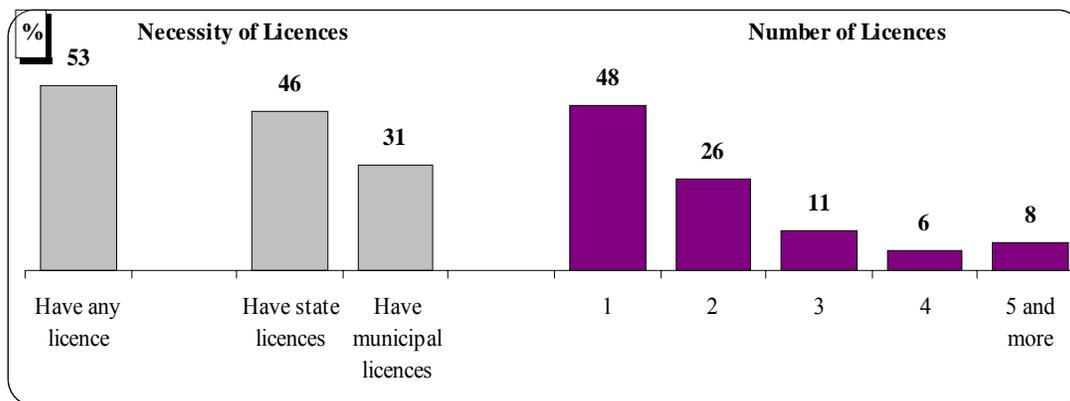
92. Finally, this section on Licenses and Municipal Trade Permits will close with a detailed review of municipal trade permits, including the legal regime, examples and templates from the municipalities, and analyses and recommendations relating to municipal trade permits.

1. General Results of Survey on Licensing and Permits

93. More than one half of the responding enterprises in Latvia (53%) require some license for their activities. More enterprises have state licenses (46%) than have municipal licenses or permits (31%).

94. Almost one half of the enterprises of Latvia (48%) that reported needing any license, have only 1 license. The average amount of licenses for an enterprise that needs licenses is 2.3 licenses. An enterprise that needs state licenses has 1.9 state licenses on average (mode¹¹ - 1 license) and an enterprise that needs municipal permits has 1.6 municipal permits on average (mode – 1).

Chart III.6: Necessity of Licences and Permits and their Number



Base 1 (Necessity of Licences): all companies interviewed, N = 541;

Base 2 (Number of Licences): all companies, that have any license, N = 324.

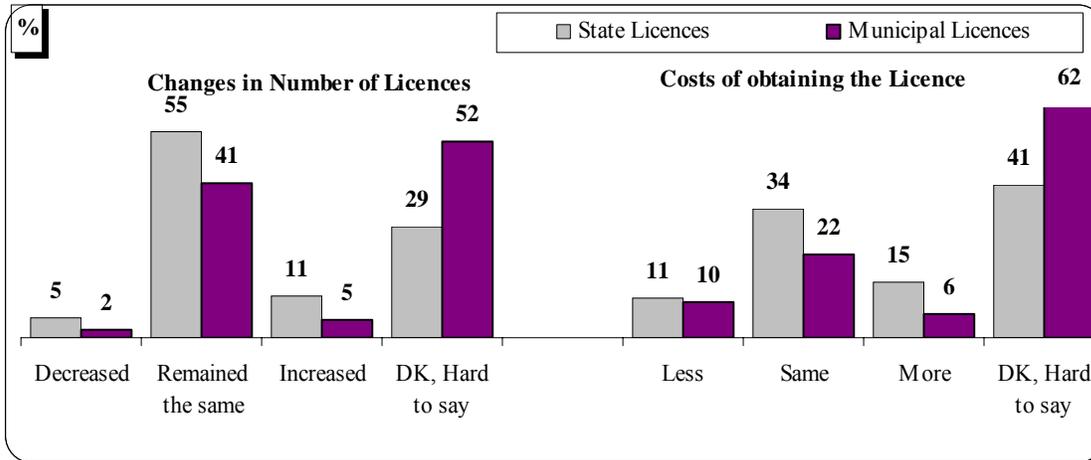
95. A significant number of respondents could not state whether there had been changes in the number of licenses and the cost for acquisition of licenses compared to the requirements three years ago.

96. From the answers of those respondents who answered these questions, more noticeable changes occurred regarding the expenses connected with obtaining licenses rather than the number of necessary licenses. More than one half (55%) of all the responding enterprises have the same number of state licenses they had before and close to one half (41%) of all enterprises have the same number of municipal licenses.

¹¹ The most frequently mentioned answer.

97. The cost for acquisition of licenses have decreased or remained the same for the most part of enterprises.

Chart III.7: Changes in Number and Costs of Licenses or Permits During Period of 3 Years



Base: all companies, that have any license, N = 324.

98. The most widespread type of license or permit is the trade permit in the municipality. 41% of enterprises that need licenses have such a permit. The next most common set of licenses is for licensing of the production, import, wholesale and retail sale of tobacco products and/or alcohol (these are actually a total of 8 different licenses). 28% of license owners have this type of license. Construction licenses are also relatively common. 16% of license owners have these licenses. 9% of enterprises have the license for transportation of cargo by road transport. Other types of licenses are less common (table III.10)

Table III.10: Types of Licenses or Permits Necessary for Latvia's Enterprises

	%	Number
Trade permit in municipality	41	143
Production, import, wholesale and retail sale of tobacco products and/or alcohol	28	90
Construction	16	44
For transportation of cargo by road transport	9	47
For transportation of passengers	2	10
For production, wholesale of medicines and running of pharmacies	2	8
Lotteries and gambling	1	3
Production, import, wholesale and retail sale of fuel	1	8
Other licenses (security service, fishery, customs warehouse etc.)	32	116

Base: all companies, that have any license, N = 324.

99. On average it takes 25 calendar days to obtain the licenses that are necessary for an enterprise and one half of those days, namely 13, are spent preparing documentation. The time for obtaining each type of license is shown in detail in table III.11.

Table III.11: Average Time for Obtaining Licenses or Permits

	Calendar days	
	Total	Preparation of documents
Trade permit in municipality = N	17.8 118	11.9 116
Production, import, wholesale and retail sale of tobacco products and/ or alcohol = N	11.4 69	5.5 64
Construction = N	25.3* 39	11.0* 39
For transportation of cargo by road transport = N	14.5* 30	7.2* 33
Other licenses (security service, fishery, customs warehouse etc.) = N	24.6 118	9.8 112
Average time for one enterprise to obtain all licenses necessary for its activities 12 N=	24.9 247	13.2 248

Base: those, who obtained respective license and have given particular answer, see. 'N = ' in Table.

100. According to the data given by business owners, acquisition of licenses that are necessary for one enterprise cost Ls 125 on average (table III.12).

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

¹² The total time spent for acquisition of all necessary licenses for one enterprise given by the proprietors is mentioned here. The sum does not match the sum of days mentioned above as the period of time for acquisition of every license has been calculated only from those respondents that have received that license while the average time is calculated from all that have obtained any type of license.

Table III.12: Average Costs of License or Permit Acquisition (LVL)

	Official fees, payments	Hiring outside lawyer, consultant or specialized enterprise services	Gifts or bribes	TOTAL PAYMENTS FOR THE LICENSE ¹³
Trade permit in municipality	23.14	15.97*	50.66*	25.42
N =	47	3	5	47
Production, import, wholesale and retail sale of tobacco	43.07*	33.07*	50.00*	42.73*
products and/ or alcohol N =	41	3	1	41
Construction	90.64*	87.09*	300.00*	103.83*
N =	30	3	1	30
For transportation of cargo by	179.27*	50.00*	-	183.60*
road transport N =	20	1	-	21
Other licenses (security service, fishery, customs warehouse etc.)	173.59	187.33*	-	152.78
N =	78	5	-	76
Average payments for one enterprise to obtain all necessary licenses for its	112.57	271.71*	126.63*	125.03
activities ¹⁴ N=	17	16	6	171

Base: those, who paid the respective payment and have given certain answer, see. 'N = ' in table.

101. During focus group discussions, some business representatives expressed their belief that the cost of licenses sometimes exceeds their administrative expenses. The

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

¹³ Here the total sum mentioned by entrepreneurs for acquisition of particular the license is drawn. The sum does not match the sum of separate payments for acquisition of the license as the fees for issuing every license have been calculated only from those respondents who had made a concrete payment while the total fees for license acquisition are calculated from all the respondents that have paid for this license.

¹⁴ Here the total sum mentioned by entrepreneurs for acquisition of all the necessary licenses is drawn. The sum does not match the sum of expenses given above as the fees for issuing every license have been calculated only from those respondents who had made payments for the concrete payment while the total fees are calculated from all the respondents that have paid for any type of a license.

information described above can help the licensing authorities determine whether the figures mentioned by businesses (especially the official fees and costs) are commensurate with the actual administrative expenses, and if they exceed the expenses, determine why do they exceed them.

102. It is not possible to analyze the period of acquisition and the number of expenses for all the licenses and permits above due to the small number of respondents. Four types of licenses have enough respondents and those are trade permits in municipality, licenses for production, import, wholesale and retail sale of tobacco products and/ or alcohol, construction licenses, and licenses for transportation of cargo by road transport. The acquisition of these licenses and permits is analyzed in detail below.

2. Licensing

103. Certain business activities require that a special permit be obtained from the public authorities. The licensing regime in Latvia is governed by CM Regulation No. 348, Regulation on Licensing for Various Types of Business Activity. This is an umbrella regulation that designates which public institutions can issue which types of licenses for business activities. Any license not covered by this regulation is null and void. The regulation also covers the procedure for issuing licenses (unless a law or this regulation provides otherwise), including guidelines for setting up licensing commissions, terms, decision-making, etc. Licenses are issued for a time period of not shorter than one year and not longer than five years. License fees vary widely and are established by Regulation no. 48 of the Cabinet of Ministers, On the State Fee for Issuance of a Special Permit (License) for Various Types of Business Activities, which names all the fees in a single document.

104. CM Regulation No. 348, Regulation on Licensing for Various Types of Business Activity is based on the Law on Business Activity. This Law will no longer be in force as of 2005 once the transition period for the Commercial Law is over. Therefore, at some point the regulation will have to be reissued, as well as the regulation On the State Fee for Issuance of a Special Permit (License) for Various Types of Business Activities. Experience suggests that having a single act issued by a central authority (such as the Cabinet of Ministers) that contains all the licenses and another act that contains all the fees is a good solution that is not practiced in many other transition countries. Latvia should maintain this approach, but also reevaluate which licenses are necessary when the time comes to reissue the relevant regulations.

105. The licenses selected were based on the results of the Survey of Regulatory and Administrative Costs in Latvia, namely those which were the most common ones. Therefore, the focus in this section is on licenses for alcohol, tobacco, commercial transport and construction.

106. The following templates are located in Annex C:

- License for Manufacture and Sale, Import and Wholesale of Tobacco Products;
- License for Alcohol Manufacture, Import, Wholesale and Retail Sale;
- License for Transport of Commercial Cargo by Carrier (in Latvia and for International Transport); and
- Construction Licensing.

a. Analysis: Licenses for Production, Import, Wholesale and Retail Sale of Tobacco Products and/ or Alcohol

107. The Regulatory and Administrative Costs Survey did not distinguish between the alcohol and tobacco licenses, although the Board of Excise Goods of the State Revenue Service submitted one template that covered the tobacco related licenses and another template for the alcohol related licenses. The types and number of licenses issued are presented in the table below.

Table III.13

		Number in 2001	Average processing time	Fee
Tobacco	Manufacture and sale of tobacco products	1	5 days	Ls 200
	Import of tobacco for release for free circulation	8	5 days	Ls 100
	Wholesale of tobacco products	39	5 days	Ls 50 (for each sales location)
Alcohol	Manufacture and sale of raw spirits	0	5 days	Ls 200
	Manufacture and sale of alcoholic beverages	5	5 days	Ls 200
	Import for release for free circulation of alcoholic beverages and spirits	11	5 days	Ls 30
	Wholesale of alcoholic beverages and spirits	25	5 days	Ls 100 (for each sales location)
	Retail sale of alcoholic beverages	857	5 days	Ls 20 (for each sales location)

108. The licenses for alcohol are issued for an unspecified period of time, but the licenses for tobacco are issued for 5 years.

(1) Time

109. According to the results of the Survey, the license can be obtained in 11 calendar days and 6 of these days are spent preparing documentation. This data indicates that the processing time once all documentation has been submitted is approximately 5 days.

110. This figure is the same as the data supplied by the Excise Goods Board of the SRS for both licenses, which states that the average time for processing an application is 5 days for both the tobacco and alcohol licenses (minimum 1 day, maximum 10 days).

(2) Costs

111. 74% of the license owners reported they have had expenses connected with the acquisition of the tobacco and alcohol licenses. Of those who reported any payments, 97% reported they have paid the official state fees and the average amount of the payment makes Ls 43¹⁵, although the number of firms responding is not sufficient to apply to the population of enterprises in Latvia. In the process of obtaining a license, 6% of enterprises have paid for the services of lawyers, consultants or specialized enterprises, and the average sum given for these services is Ls 33¹⁶. Gifts and bribes were reported to have been given by 3% (or 3 enterprises). The total fees for acquisition of these licenses are Ls 43¹⁷.

112. The official costs related to issuance of the alcohol and tobacco licenses are listed in table II.14 above.

(3) Approvals, Rejections, Conflicts and Appeals

113. In 2001 all 48 applications for a tobacco license submitted to the SRS Excise Goods Board were approved.

114. In 2001 there were 902 applications for an alcohol license. 898 positive decisions and 4 rejections were issued. The SRS Excise Goods Board keeps track of the reasons for the rejections.

115. During the last 24 months there have been 7% of enterprises (4 enterprises) that have had any problems or conflicts with institutions issuing these licenses, according to the Survey.

116. The SRS Excise Goods Board reports that regarding the tobacco licenses, no appeals of a decision of the SRS licensing commission have been filed to the head of the institution. In the case of the alcohol licenses, however, the legal acts do not provide that appeals from the SRS commission are heard by the head of the institution. Instead, these

¹⁵ The number of respondents is not large enough to interpret the results obtained (N<45).

¹⁶ The number of respondents is not large enough to interpret the results obtained (N<45).

¹⁷ The number of respondents is not large enough to interpret the results obtained (N<45).

are referred to court, and there was one such case in 2001, and the original decision was kept in force on final review.

(4) Information and Feedback Instruments

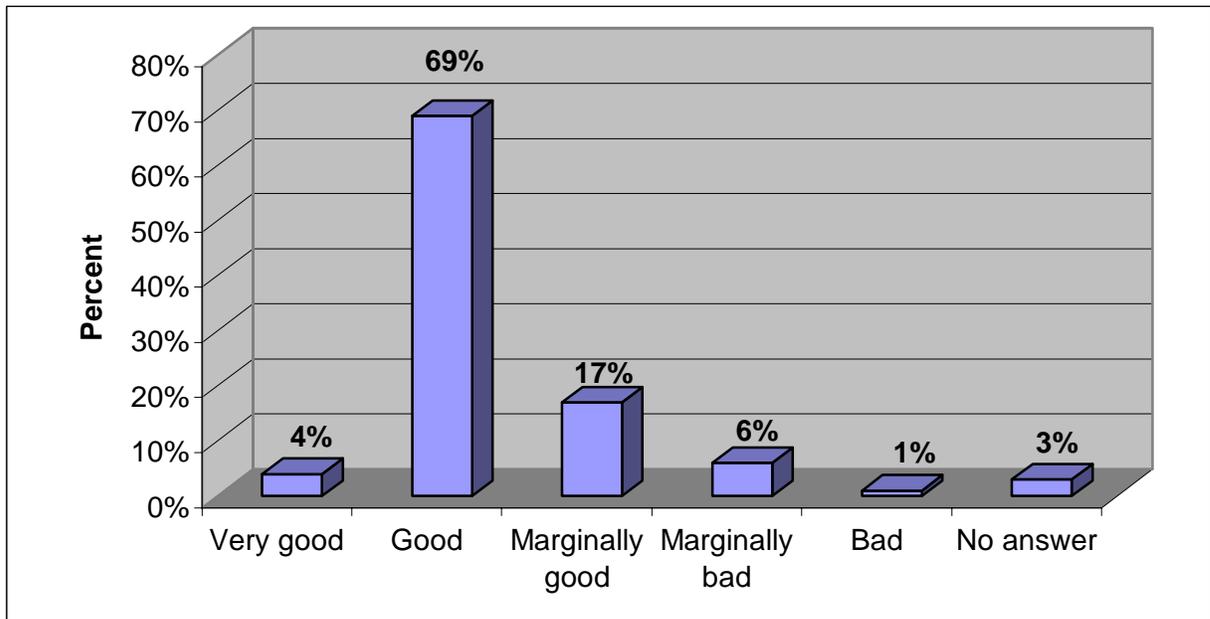
117. For both tobacco and alcohol licenses, the Excise Goods Board posts information on the internet and also answers to individual inquiries.

118. For the tobacco licenses there is no feedback mechanism employed, although the Excise Goods Board states that it has received 7 complaints or proposals in 2001, demonstrating that there is some systematization of feedback.

(5) Evaluation of Services

119. Services received by the enterprises obtaining licenses are rated highly– 4.7 points (in the scale where 1 means “very bad” and 6 “very good”). Services are evaluated as shown in the chart below.

Chart III.8



120. For both tobacco and alcohol licenses, the SRS Excise Goods Board chose “good” when asked how well the procedure is working in practice.

121. Regarding the top three priorities for improving the procedures under its direct control, the SRS Excise Goods Board of the State Revenue Service, in both templates, suggests creating a (a) modern client service hall, (b) providing more information on its web page and (c) improving software relating to issuance of licenses.

b. Analysis: License for Transport of Commercial Cargo by Carrier (in Latvia and for International Transport)

122. The License for Transport of Commercial Cargo by Carrier (in Latvia and for International Transport) is issued by the Non-Profit Organization State Limited Liability Company “Autotransport Directorate”.

(1) Time

123. According to the results of the Regulatory and Administrative Costs Survey, an average respondent requires 15 calendar days to receive the license and almost one half of them, namely 7 days, are spent preparing documentation. These numbers are purely indicative, since they fall below the requirement of 45 respondents to be able to generalize to the population of enterprises operating in Latvia. These data suggest that 8 calendar days are spent processing the application

124. The Autotransport Directorate states in the template that the average time for reviewing the application for the license is 7 days, and that the minimum time is 1 day and maximum by law is 30 days. Official expedited service is not available.

(2) Costs

125. 90% of license owners reported they have paid to obtain the license. All of the paying enterprises have paid official fees and the average amount had been Ls 179*. One third (34% or 6 enterprises) have hired a lawyer, consultant or a specialized enterprise yet only 1 enterprise indicated the sum of the money paid for these services, namely Ls 50*.

126. It should certainly be noted that there were only 20 respondents for the question of official fees and payments whose average was Ls 179 and there were 21 respondents for whom the average total payments for the license amounted to Ls 184.

(3) Approvals, Rejections, Conflicts and Appeals

127. The Autotransport Directorate issues two types of licenses. In 2001, 475 licenses for domestic commercial carriage of cargo were issued, whose limits ranged from 1 year to 5 years. Also in 2001, 405 licenses for international commercial carriage of cargo were issued, whose limits ranged from 1 year to 5 years.

128. Altogether the Autotransport Directorate received 900 applications in 2001, and 890 were approved.

129. During the last 24 months only 1 enterprise indicated in the survey that it has had problems or conflicts with the institutions issuing licenses.

130. The Autotransport Directorate does not indicate any cases of appeals in 2001.

(4) Information and Feedback Instruments

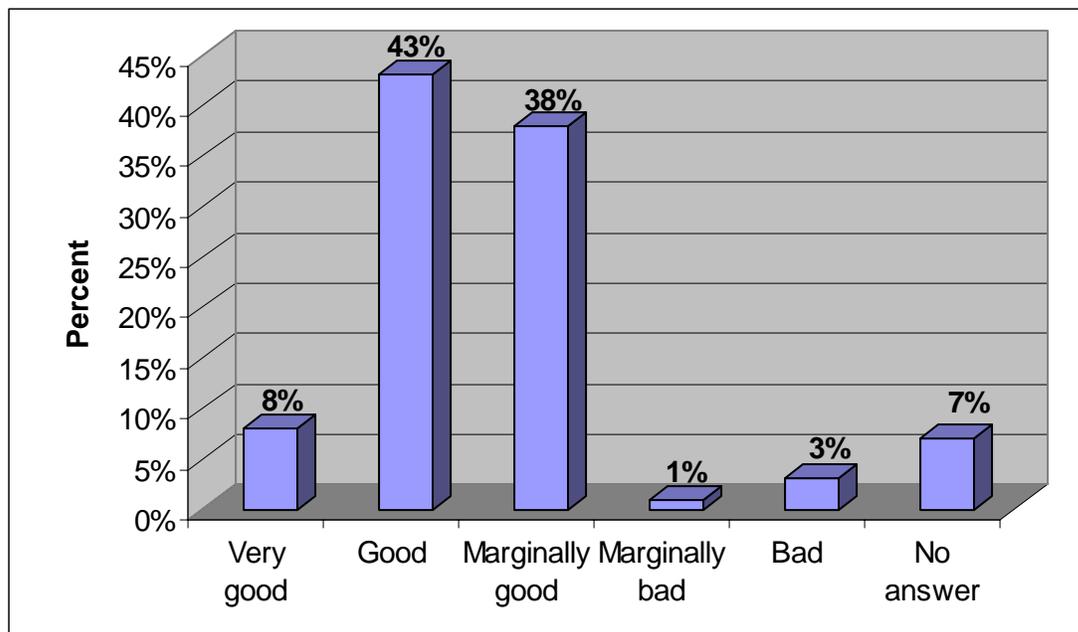
131. The Autotransport Directorate informs enterprises of procedural requirements by disseminating brochures, posting information on the web page, and responding to individual inquiries.

132. The only interactive feedback mechanism undertaken by the Autotransport Directorate is meetings and seminars with business associations and non-governmental organizations, but the template contains information that this is done on a “regular” basis.

(5) Evaluation of Services

133. Services received by the enterprises during obtaining the license are evaluated as shown in the chart below. Average index is – 4.5 points (in the scale where 1 means “very bad” and 6 “very good”).

Chart III.9



134. The Autotransport Directorate itself considers that the legislation governing the procedure is clear both for them and for the enterprises, and chose “good” in answer to the question on how well the procedure works in practice.

(6) Other Observations and Analyses

135. The template completed for the Autotransport Directorate notes as its top three priorities for improving the work of issuing licenses the following: (a) introduce the capability to receive applications through the internet, (b) reduce the number of statements or certificates issued by other government institutions that must be submitted personally, instead directly using the data base of the government institutions and (c) introduce issuance of license in the branch offices.

136. Relatedly, the Autotransport Directorate states that one of the changes that are not directly in its competence is ensuring that statements and certificates issued by institutions like the SRS could be requested by the Directorate directly from the institution, without the need to have these submitted by the applicant personally.

137. These priorities seem to be ones that would genuinely improve the functioning of the Autotransport Directorate and also could be priorities for many other government and municipal institutions.

c. Analysis: Construction Licensing

138. For commercial projects, all the design and construction related activities must be performed by a certified specialist or a licensed company¹⁸. The procedure of issuance of a construction license is described in detail in the template and in this section.

139. Licenses for construction are issued by the Ministry of Environmental Protection and Regional Development Licensing Commission for Legal Entities Undertaking Business Activities in Construction.

(1) Time

140. 39 respondents to the Regulatory and Administrative Costs Survey suggest that an enterprise needs an average 25¹⁹ calendar days to obtain a construction license and 11²⁰ of

¹⁸ There are a few exceptions where these requirements do not apply: in case a construction permit is not required for a specific type of construction or in case of construction of a summer cottage or farm house if the construction design has been approved and the building permit issued.

¹⁹ The number of respondents is not large enough to interpret the results obtained (N<45).

²⁰ The number of respondents is not large enough to interpret the results obtained (N<45).

these are spent preparing documentation. This may be interpreted to mean 14 days are spent processing the documents once submitted, although with the caveat that 39 respondents is too small to generalize to the population of Latvian enterprises.

141. The template provides that the average time for processing the application is 20 days, but the minimum possible is 5 days and the maximum by law is 30 days. There is no official expedited service available.

142. The average processing time as stated by the Ministry is greater than the one derived from the business Survey.

(2) Costs

143. 98% of construction license holders reported they had to pay for acquisition of this license while it was hard to say for 2% (1 enterprise) whether they paid for acquisition of such license. 96% of those enterprises that had paid indicated that they have paid the official fees for the average sum of Ls 91²¹. Only 3% of business owners hired specialists – lawyers or consultants to obtain the construction license. It cost Ls 87²² on average. One enterprise reported giving a bribe. Acquisition of a construction permit costs Ls 104 on average.

144. The official fee provided in the template is Ls 100 for issuing the license and Ls 10 for extending it.

145. Regarding costs, the data from the Survey and the data from the Ministry of Environmental Protection and Regional Development are very similar, indicating that the fees requested by the Ministry for the license are clear to the enterprises and there is no basis to assume that there are hidden costs.

(3) Approvals, Rejections, Conflicts and Appeals

146. In 2001, 571 new licenses were issued, whose minimum validity was 1 year and maximum was 5 years. At the same time, a later section in the template provides that there were 1700 applications for the license in 2001 (this includes renewals and new licenses, as explained by a representative from the Ministry for Environmental Protection and Regional Development), with 1500 positive decisions and 25 rejections.

147. During the last 24 months, 2 enterprises reported having had problems or conflicts with the institutions issuing licenses.

²¹ The number of respondents is not large enough to interpret the results obtained (N<45).

²² The number of respondents is not large enough to interpret the results obtained (N<45).

148. The template suggests that there is no specified route of appeals for decisions relating to construction licensing, although the first instance is the Minister of Environmental Protection and Regional Development.

(4) Information and Feedback Instruments

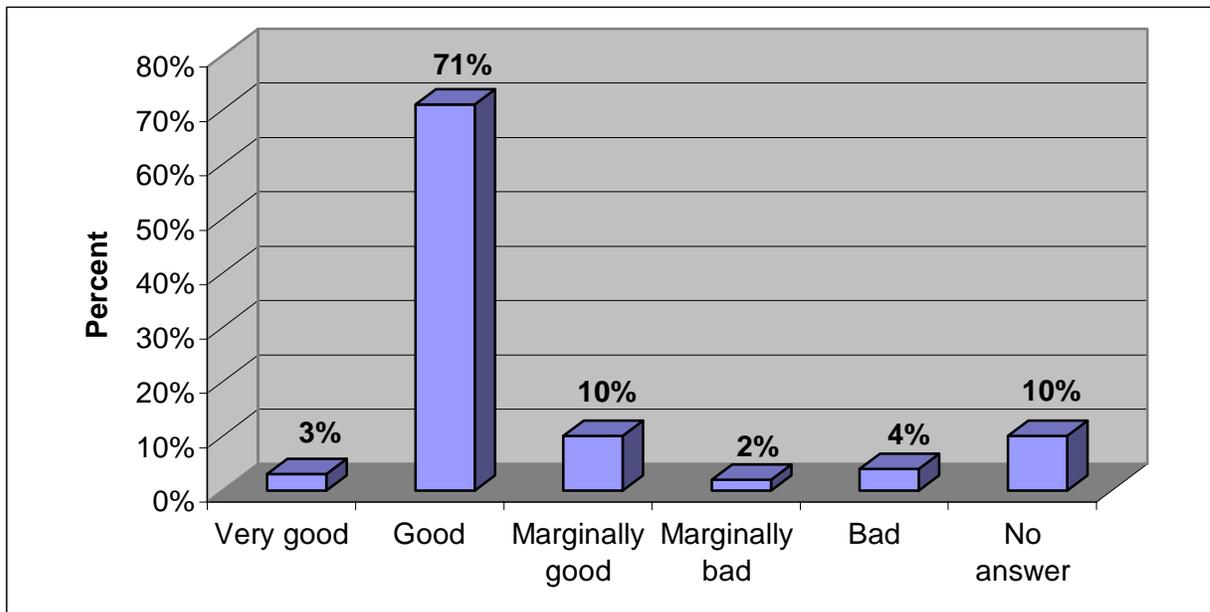
149. The template states that information on procedural requirements is posted on the web page and there are responses to individual inquiries.

150. The feedback mechanisms used by the institution include complaints and proposals, meetings with business associations and non-governmental organizations and analysis of information in the media. There is no record provided of the number of these mechanisms used in 2001.

(5) Evaluation of Services

151. Services received by the enterprises obtaining licenses are rated highly – 4.7 points (in the scale where 1 means “very bad” and 6 “very good”). Services are evaluated as shown in the chart below.

Chart III.10



152. The institution states in the template that the legislation governing the procedure of issuing a construction permit is somewhat clear both for the institution and for

enterprises, and selected “good” in answer to the question of how well the procedure works in practice.

(6) Other Observations and Analyses

153. The SRS Excise Goods Board and the Autotransport Directorate seem to keep track of the number of rejections for each type of rejection possible, but the Construction Licensing Commission of the Ministry of Environmental Protection and Regional Development does not specify the number of rejections for each category.

c. General observations on licensing

154. As described above, there is a very low percentage of enterprises that have appealed decisions relating to licenses, or that have even come into conflict with institutions that issue licenses. In business focus groups this phenomenon was explained as follows: the issuance of a license is very often an issue of survival for an enterprise operating in a specific sector. Therefore businesses tend to be very careful and try not to generate the ill will of the licensing institution by disputing its decisions. After all, explained the enterprises, they will have to go back to that same institution later.

155. During the focus groups a concern was expressed that some institutions do not issue licenses or permits, but rather statements, on the basis of which business activity can be undertaken in a given sector. The results of the Survey suggest that a large share – 32% -- of enterprises selected the option “other” licenses, as an example mentioning security work, fishing, creation of a customs warehouse. Although the licenses mentioned may be anticipated in the relevant legislation, it would be important henceforth to investigate whether certain institutions are not overstepping their authority issuing various “statements” for undertaking business activities. One especially critical example is municipal trade permits.

3. Issuance of Municipal Trade Permit

a. Procedure Description

156. Many municipalities in Latvia issue municipal trade permits to legal entities or physical persons that intend to engage in the trade of goods. Some municipalities seem to require a trade permit only for selling goods on public property or at public events, while there is evidence that suggests that others require one in order to commence any operations in a given municipality.

157. The municipalities themselves often ignore the existing system governing their authority to issue permits. Each municipality follows its own rules regarding what

institutions need to be visited, what documents need to be submitted, what payments need to be made. Therefore, it is not possible here to describe a single procedure. The templates submitted by the municipalities and found in Annex C contain information on the procedures followed in each of 8 municipalities. The authors of the Report are very pleased that all municipalities that were asked to submit a template on municipal trade permits did so.

158. The Municipal Police, the State Revenue Service and sometimes the State Police control whether or not an enterprise engaging in trade has received a trade permit. The penalty is determined by the municipality, levying either an administrative penalty or applying the provisions of the Administrative Violations Code for trading without licenses or permits as provided for by law.

b. Templates: Issuance of Municipal Trade Permits

159. The templates for issuance of municipal trade permits for the cities of Riga, Cesis, Daugavpils, Jelgava, Liepaja, Rezekne, Valmiera and Ventspils are found in Annex C. The hard copy version of this report also includes any cover letters and forms supplied by the institution (in Latvian).

c. Analysis

160. Since the Survey was not municipality-specific, where applicable, this analysis will compare the results from the Survey nationwide with the results from each responding municipality.

(1) Legal Basis

161. As noted above, municipalities can legally issue municipal trade permits and impose municipal fees for trade on public spaces and at public events. The major concern in this section is regarding the chaotic nature of the system generally as well as those municipalities that issue municipal trade permits even when trade is done on private premises.

162. The templates submitted by the municipalities state they observe the following laws adopted by the Saeima or regulations from the Cabinet of Ministers (this does not include the internal instructions or regulations, which any municipality can issue):

Table III.14

	Riga	Cesis	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Commercial Law							√	
Law on Municipalities		√	√	√		√	√	√
Law on Duties and Fees		√				√		
Law on Lotteries and Gambling						√		
Law on Circulation of Alcohol						√	√	
Regulation on Rules for Trading in Markets, Fairs, Outdoor Sales Places and Public Events	√			√	√	√	√	
Regulation on Circulation of Petroleum-Based Products and Fuel						√		
Procedure for Organizing Wholesale and Retail Trade						√		
Regulation on Circulation of Tobacco Products						√		

163. The above-mentioned legal acts do not in fact authorize municipalities to issue municipal trade permits for enterprises undertaking trading activities in cases that do not include sales on public property or at public events.

164. Art. 15.11. of the Law on Municipalities provides that municipalities can issue permits and licenses for business activities, if such is provided for by law.

165. CM Regulation No. 348 On Licensing for Various Forms of Business Activity does not provide for such municipal trade permits.

166. Art. 11 of CM Regulation No. 322 On the Procedure for Imposing Municipal Fees provides that a fee can be charged to natural or legal persons trading in public spaces.

167. The Regulation on Rules for Trading in Markets, Fairs, Outdoor Sales Places and Public Events (CM Reg. No. 388) only allows municipalities to organize, issue permits and receive duties regarding sales in the public areas or events mentioned in the title of the regulation. There is no provision for municipalities to issue permits relating to sales on private property.

168. But the procedure for issuing a municipal trade permit in other circumstances, such as selling goods on private property, is not stipulated or regulated at the national level. For example, if a municipality requires a trade permit for a store that is not trading in a public area, then the municipality is violating CM Regulation No. 348 On Licensing for Various Forms of Business Activity, since the municipal trade permit is essentially a license and no such license is provided for in that regulation. If the municipality imposes

a fee, it is violating Art. 12 of the Law on Taxes and Duties and CM Regulation No. 322 On the Procedure for Imposing Municipal Fees.

169. At the same time, the Survey results indicate that 41% of enterprises that need any type of license or approval have a municipal trade permit. In addition, of those 41% that have a municipal trade permit, 42% have 1-9 employees, 40% have 10-49 employees, and 27% have more than 50 employees. It is unlikely that all these enterprises, including so many large ones, sell goods at markets or on streets. This suggests a fundamental problem with the system of municipal trade permits if the legal subjects are presumably so few yet so many enterprises are nevertheless subject to these rules.

170. Business associations like the Latvian Traders' Association have long advocated that municipal trade permits are illegal. Some enterprises also believe that although the municipalities may not be able to impose a penalty for not having a permit, the municipal police (see the discussion in Chapter IV) can use this as an opportunity for controlling the business.

(2) Time

171. According to the results of the Regulatory and Administrative Costs Survey, acquisition of permits usually takes 18 calendar days, and the most part of them are spent preparing the necessary documentation – 12 calendar days.

Table III.15: Average Time (Number of Days) to Obtain a Municipal Trade Permit

Information from Survey, average nationwide	Riga	Cesis	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
6 days (18 calendar days total, of which 12 days are for preparation of documents)	2-3 days	1 day	3 days	15 days	1 day	5 days	15 days	1 day

172. The data from Ventspils that they can process all the required documentation (see the table on documentary requirements below) in 1 day seems unlikely due to the large number of documents. However, the Ventspils template points out that “if the enterprise has all the required documentation, the permit is always issued. If all the documents are not submitted, the enterprise is requested to submit the missing ones.”

(3) Costs

173. According to the results of the Survey, 50% of enterprises that received municipal trade permits reported they had to pay for it. There are no major differences between enterprises situated in Riga and in the territory of other municipalities.

174. 95% of those that paid for the trade permit indicated that they have paid the official fee, 9% of respondents have hired a lawyer, consultant or have paid for services of a specialized enterprise while 10% of respondents reported they have given gifts and bribes.

175. The costs vary from municipality to municipality, often based on the details of the trade permit being sought (e.g. for street trade, for selling tobacco, Christmas trees, beverages, etc.). The Survey results provide that the average official fee is Ls 23 and that in total the acquisition of a permit costs Ls 25. Hiring of specialists costs Ls 16* while the average amount of a gift is Ls 51*.

(4) Volume

176. The following table shows the number of applications received, positive decisions and rejections by each of the municipalities responding.

Table III.16: Applications Received, Positive Decisions and Rejections Regarding Municipal Trade Permits in 2001

	<u>Applications received</u>	<u>Positive decisions</u>	<u>Rejections</u>	<u>Population of city²³</u>	<u>Population/applications²⁴</u>
Riga	1191	1191	-	764 329	642
Cesis	161	159	2	18 732	116
Daugavpils	1282	1281	1	115 265	90
Jelgava	118	118	-	63 652	539
Liepaja	1112	1112	-	89 448	80
Rezekne	122	121	1	39 233	322
Valmiera	337	334	3	27 752	82
Ventspils	187	187	-	43 928	235

177. It should first of all be noted that the varying results confirm the suspicion that there is no unified methodology in the municipalities for issuing municipal trade permits. In addition these data may assist in analyzing whether the permits are being issued for

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

²³ This data from the 2000 Census in Latvia indicates the size of the city. Although the number does not designate economic activity, it does give a basis for comparison.

²⁴ This column indicates the number of people per each application that is processed in the municipality, creating a comparative indicator.

public spaces and events or are being used for any enterprises engaging in trade, even on private premises.

178. Although the data above is not conclusive, it allows us to consider whether those municipalities with a low number of inhabitants per application (such as Cesis, Daugavpils, Valmiera and Liepaja) are organizing a relatively greater number of public events and have a proportionately greater number of street fairs, or they are issuing municipal trade permits even in cases where trade takes place on private premises.

(5) Documentary Requirements

179. Another important and related aspect of analysis is the actual burden imposed on enterprises in receiving the permit, such as the time it takes to receive the permit and the number of documents and approvals that need to be submitted.

180. Here, the most interesting indicator reflects the amount of documents that need to be submitted. The table on the following page indicates what documents need to be submitted:

Table III.17: Documents and Approvals Submitted for Municipal Trade Permit

Document	Riga	Cesis	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Application	√ (free form)	√ (free form)	√ (free form)	√ (form)	√ (form)	√ (both form and free form are marked)	√ (free form)	√ (form)
Certificate of enterprise registration	√		√	√	√		√ (can be an extract or a copy)	√
Enterprise charter or by-laws			√	√			√ (can be an extract or a copy)	√
Statement of good standing from SRS	√		√	√ ²⁵			√	√
Technical passport for cash register			√					√
Copy of passport of head of				√				

²⁵ The Selvage City Council in the Application form also requests a “certificate of review of compliance with necessary circumstances for trade and for offering services for money”.

Document	Riga	Cesis	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
enterprise								
Approval from Public Health Agency	√ (for food-stuffs)	√ (for food-stuffs)	√	√ (for food-stuffs)	√ (for food-stuffs)		√	√
Proof of land ownership or use certifying that the product is home-grown (to be submitted only by physical persons)					√			
Proof of lease or ownership of premises			√				√ (proof of use)	√
Situation plan								√
For fairs and public events, agreement from the event organizer		√			√			
Licenses		√ (need to supply alcohol retail license)			√ (For fairs and public events, copy of registered license to sell alcohol)		√ (can be a copy)	√ (all applicable licenses)
Contract for garbage removal								√
Agreement with Municipal Cultural Center for electricity connection		√						
Statement of compliance from Fire and Rescue Service			√				√	√

Document	Riga	Cesis	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Statement from Regional Environmental Board							√ (if necessary)	√ (if there is a possibility of pollution)
Statement from the Foodstuffs and Veterinary Service							√ (if necessary)	
Statement of readiness for occupancy of the building from State Labor Inspectorate							√	
Power of attorney from enterprise owner								√
Approval of municipal architecture or construction authorities			√	√ (in certain cases)			√	√
Approval of municipal administrative inspection for construction								√
Approval of municipal head artist								√

181. In addition to the above, Valmiera also requires “a statement on fulfilment of obligations for maintaining land and buildings in Valmiera City”.

182. The results confirm great discrepancies in the documentary requirements for applying for municipal trade permits. Some responses by municipalities indicate that the documentary requirements point only to municipal trade permits in public spaces and at public events. This would appear to be the case for Cesis and Liepaja, but it should be noted that the number of applications in both Cesis and Liepaja suggest that municipal trade permits might be also issued for private premises (see the discussion above). At the same time, the documentary requirements from other municipalities indicate that their municipal trade permits relate also to trade in private locations. This appears to be the

case in Daugavpils, Ventspils and Jelgava. For Riga and Rezekne it is more difficult to determine.

183. In focus groups, business representatives discussed the fact that it is very difficult to collect all the necessary documents and that this is a very time-consuming process.

184. Ventspils City has the largest number of documentary requirements of the responding municipalities. At the same time, it has also provided very detailed descriptions designating all the steps that an enterprise needs to follow to receive the trade permit. It is certainly a positive sign that the public institution overseeing a procedure has a good understanding of the steps involved (and even, in its priorities for improvement, mentions the need to speed up the time taken getting the documents from government institutions) but this consideration is secondary to whether these documentary requirements are necessary and whether they do not act as a deterrent to business activity. Serious consideration should also be made as to whether the municipality could not get the statements and certifications itself, if it finds them necessary to have. Nevertheless, it is still not clear why the municipality should also need this information, if the government institution already has the enterprise under its control. The broader picture must be considered: are these documentary requirements necessary and are they based on a legally valid purpose?

185. Another interesting indication is those municipalities that responded that they require “Proof of lease or ownership of premises”: Daugavpils, Valmiera²⁶ and Ventspils. This is a clear evidence that they are imposing this requirement on private premises.

186. It should also be noted that the results from Rezekne are inconclusive, since there were no specific documentary requirements mentioned in the template supplied by Rezekne. This fact may point to the lack of a standard approach to documentary requirements.

187. One solution to the problem of documentation is evident in the form for the trade permit issued by the Cesis City Council. There, one of the “special requirements” is that the “seller guarantees garbage removal at the point of sales, taking along a trash container”. This is one method to place the burden of compliance on the applicant without having to add an extra step in the administrative procedure.

(6) Conflicts and Appeals

188. During the last 24 months the absolute majority of enterprises (99%) have not had any problems or conflicts with municipal institutions in connection with trade permits.

189. None of the responding municipalities indicated that any decision had been appealed in 2001. Perhaps a reason for this is indicated by the template from Ventspils, where the respondent states that generally, “if the enterprise has all the necessary

²⁶ Valmiera requires “proof of use”.

documents, a permit is always issued. If not all documents are submitted, the enterprise is asked to submit the missing documents.”

(7) Information and Feedback Instruments

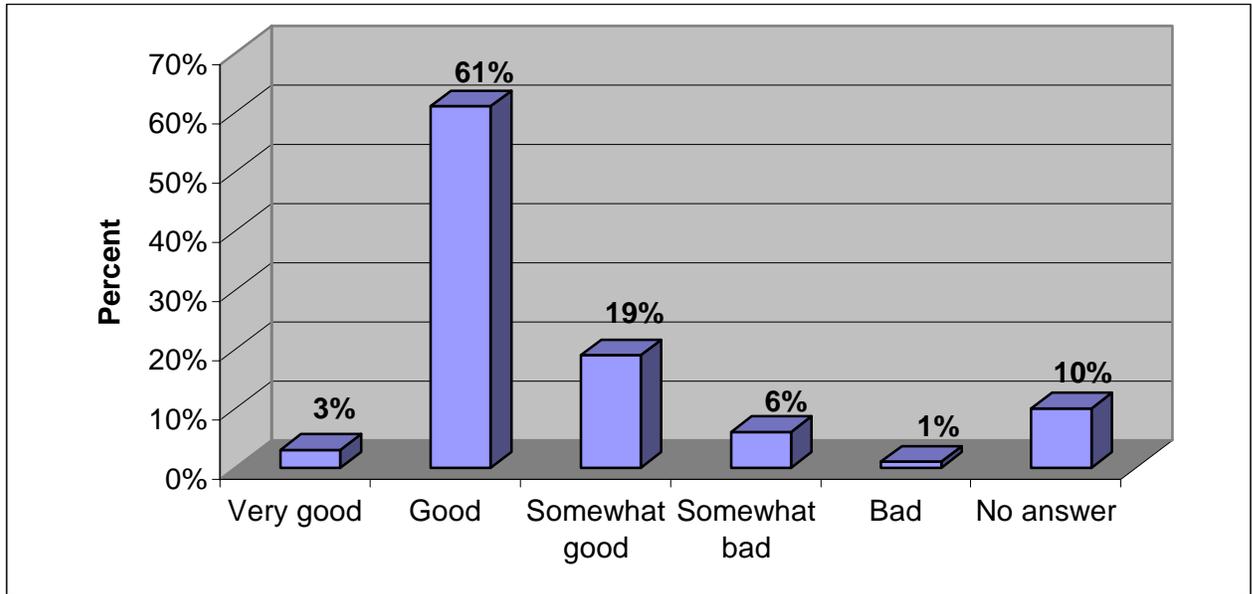
190. In general, there was a very low level of response by the municipalities to conveying information on procedural requirements to enterprises. Almost all of them *respond to individual inquiries*, and for several this was the only means of conveying information to businesses. Responding to individual inquiries is a necessary means of communicating information to enterprises, but it is also time-consuming for the municipal employees and also liable to discretion by the official answering the telephone, for example. A much more efficient manner is to provide standardized information on some of the most frequently asked questions by organizing seminars or placing the information in brochures or on the internet. Some municipalities stated that they *organize seminars and training* (Liepaja, Rezekne, Ventspils, and Valmiera wrote in that they *meet with business and their associations*) and certain municipalities *post information on their web page* (Liepaja, Jelgava). Ventspils also noted that information is available at the City Information Center.

191. Ventspils and Rezekne were the only municipalities that responded that they use feedback mechanisms to get input from the business community. Both stated that they received *complaints and proposals* (Rezekne even documented the number in 2001: 40), undertook *surveys* (each undertook 1 survey in 2001) and *meetings and seminars with business associations and non-governmental organizations* (both cities had 3 such meetings in 2001).

(8) Evaluation of Services

192. Services given to the enterprises in connection with obtaining of trade permits were rated as shown in the chart below. The average rating of services is high - 4.6 points out of 6 possible points (in the scale where 1 means “very bad” and 6 “very good”). There are no essential differences between services received in Riga and in other parts of Latvia.

Chart III.11



(9) Other Observations and Analyses

193. The municipal trade permit system is chaotic and haphazard. The standards promulgated by the Cabinet of Ministers regarding the legislative basis and the fees imposed are often ignored by the municipalities. This is perhaps most evident in the documentary requirements for submitting an application.

194. A number of arguments have been presented in the past justifying the necessity for municipal trade permits. Some may even be convincing, such as for the purpose of determining the location and number of stores and types of goods traded in order to:

- Plan the infrastructure development of a given territory;
- Improve the implementation of other functions of the municipality, such as sanitation, social order, etc.);
- Inform inhabitants of available services; and
- Supply information to the State Revenue Service and other state institutions.

195. It is very likely that the municipalities are undertaking a form of control that is not otherwise provided for, namely to have an inventory of stores and to improve municipal planning, but also to remind enterprises of their obligations. For example, the application form from Liepaja reminds the applicant that it is necessary to receive an approval from the Public Health Agency.

196. Another reason may simply be, as the respondent from Cesis pointed out, to supplement the municipal budget. Ventspils states that the purpose is to organize trade and social services in the city, to increase the level of information that the municipality

has regarding the number of enterprises involved in trade and social services and their locations in the city. While one municipality (Jelgava) states explicitly that the purpose is to issue residence permits for public spaces, another (Daugavpils) states that the purpose is protection of consumer rights, which does not by definition limit itself only to trade in public spaces.

197. There may be compelling reasons for the municipality to receive information on the types of businesses working in its territory. Nevertheless, the current process of registering for and receiving the municipal trade permit, in any municipality that imposes such a requirement, is illegal and burdensome if the permit does not relate to sales on public property. The existing system does not foster business activity in a given municipality, and in municipalities where the requirements are stringent, there is an even greater burden on business development. The existing legal vacuum means that enterprises are often subject to the discretion of the municipality they are located in.

198. If 41% of enterprises receive these trade permits, there is obviously a need to legalize or at least clarify this phenomenon. The problem is a recurring one in Latvia. There have been previous attempts to prohibit the issuance of municipal trade permits for trade on private premises. On 31 July 1998 the Ministry of Environmental Protection and Regional Development, which then had jurisdiction over municipal matters, issued an order annulling the Riga City Regulation On the Procedure for Issuing Registration Cards and Approval Permits for Establishments Providing Trade, Eating and Service Activities in Riga, dated 25 February 1997. Businesses report that these permits are still issued in certain areas of Riga.

199. Although it would be legally proper to annul any municipal trade permit that was not in accordance with the laws and regulations, such activity may not solve the problem in the long term, particularly if municipalities genuinely require information about enterprises operating in their administrative territory. In that case, the municipality should itself request or receive the information from the Enterprise Register or the Lursoft data base on a regular basis (thereby placing the administrative burden on the municipality, rather than imposing another bureaucratic procedure on the enterprise, as is currently the case).

200. Business representatives stated in focus groups that the process of registration in order to receive the municipal trade permit is also the moment when the municipal authorities request a donation from the enterprise for the municipal infrastructure. Although the donation to infrastructure issue has an unclear legal status, such a request certainly causes the entrepreneur to question the interest of the municipality in receiving investment. The phenomenon of donations to municipal infrastructure was already identified in the 1999 FIAS Report on Administrative Barriers to Investment in Latvia and it evidently still exists.

d. Recommendations

201. The primary recommendation is the abolishment of all municipal trade permits that are not in conformity with the national laws and regulations. If municipal authorities require information on enterprises operating in their territory, the municipalities themselves should be responsible for gathering information that is available from other public institutions, rather than making the enterprise collect it.

C. Expatriate Employment and Residency

202. This section covers the general aspects of expatriate employment and residency in Latvia and focuses in detail on the procedures covering approval of the work invitation and issuance of the residency permit. The sections following are the templates prepared by the State Employment Service for the approval of the work invitation and by the Office of Citizenship and Migration Affairs for the issuance of the residence permit. These sections are followed by an analysis of the expatriate employment and residency system.

203. Other issues like the new Labor Law and details of mandatory social insurance contributions are described on the home page of the Latvian Development Agency (www.lda.gov.lv).

204. The State Employment Service's web page (www.nvd.gov.lv) has information in English on services provided by the SES for employers and enterprises, including the Procedures for the Employment of Aliens and Stateless Persons in Latvia .

205. The web page of the Office of Citizenship and Migration Affairs (www.pmlp.gov.lv) has extensive information in English on the issuance of permanent and temporary residence permits.

206. The Regulatory and Administrative Costs Survey does not focus on expatriate employment and residency. There is, however, a section on labor regulations that presents the views of businesses regarding labor regulations, hiring and firing employees, participation in labor unions and employee training programs. The Survey results relating to expatriate employment and residency are presented below in the Analysis sections of this chapter and a full version of the Survey report is attached to this study.

207. A foreigner with a valid visa can stay in Latvia no longer than 90 days in a calendar half-year. The validity term of the visa cannot exceed one year.

208. A person can stay in Latvia for more than 90 days in a calendar half-year if he or she has received a residence permit.

209. The following categories of foreign applicants can receive residence permits relating to their business activity in Latvia: (a) heads of enterprises, heads of units, members of the board, (b) persons entering into a labor contract with an enterprise registered in Latvia, (c) experts and consultants.

210. The State Employment Service approves the employer's invitation to the foreign applicant to work. On the basis of this decision, the Office of Citizenship and Migration Affairs issues the residence permit and the work permit.

211. Currently a new Immigration Law is being drafted to replace the 1992 Law and it will govern immigration procedures, including expatriate employment and residency. This draft law has been prepared in the context of aligning Latvian legislation with that of the EU. The draft law provides for a number of new rules and clarifies some of the existing provisions. Some of the main features of the new law are the following:

1. differentiated issuance of termed residence permits for foreigners for undertaking business activities in Latvia;
2. greater opportunities for foreigners to receive permanent residence permits;
3. more detailed description of reasons for rejecting applications for residence permits
4. when canceling a residence permit, consideration is made as to whether it was a termed residence permit or a permanent residence permit;
5. possible reasons for detaining foreigners are better defined.

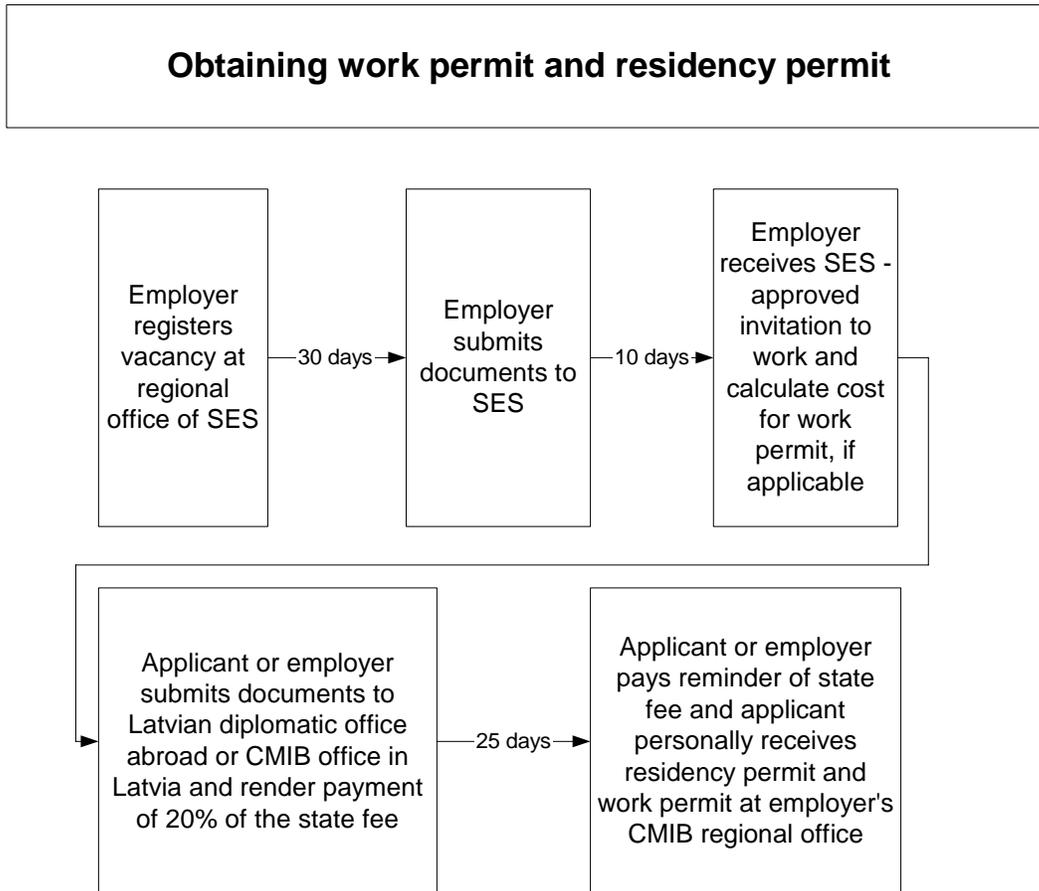
212. Since the procedures for receiving a work permit and residence permit are, from the point of view of the expatriate employee and his or her employer, essentially part of the same procedure of expatriate employment and residency, they will largely be analysed here in conjunction with each other.

213. This is a flow chart of the existing procedures relating to expatriate employment and residency for foreign applicants who are (a) heads of enterprises, management, members of the board²⁷, (b) persons entering into a labor contract with an enterprise registered in Latvia, (c) experts and consultants. The text following the chart explains the procedure for persons entering into a labor contract with an enterprise registered in Latvia in more detail²⁸. Additional information is available in the templates in Annex C.

²⁷ If managers and members of the board are to have signatory rights on the behalf of the enterprise, they must receive a work permit.

²⁸ Managers and members of the board that require a work permit have reduced requirements: they do not have to register the vacancy and do not have to wait 30 days.

Chart III.12



1. If the employment is based on a labor contract, the employer registers the vacancy at the regional office of the State Employment Service.
2. If there are no offers to fill the vacancy within one month, the employer (or the employer's duly authorized representative) submits to the State Employment Service the following:
 - a free form request;
 - the Invitation to Work form;
 - a notarized copy of a legalized document certifying the applicant's profession, specialization or qualifications;
 - a copy of the labor contract or an approved contract for an independent contractor (in this case the contract is first submitted to the director of the SES for approval);

- a copy of a document attesting to the employer's legal status (such as a registration certificate, charter or by-laws);
 - a statement from the State Revenue Service that the employer is not delinquent for any tax payments that are administered by the SRS (this requirement does not by law apply if the applicants are members of the enterprise's supervisory council or board, managing directors and managers and directors of the enterprise, but there are reports that the SES continues to request this statement even in these cases); and
 - a notarized copy of the applicant's license if the work is in a licensed profession.
3. The SES reviews the application for a period of 10 days. No expedited service is available, but the application is generally processed in less than 10 days.
 4. In case of a positive decision, the employer (or the employer's duly authorized representative) receives the Invitation to Work approved by the SES and the calculated cost (according to a formula based on the minimum monthly salary, regional unemployment rate, national unemployment rate and work term) for issuance of a work permit. Members of the enterprise's supervisory council or board, managing directors and managers and directors of the enterprise do not have to pay for issuance of a work permit.
 5. In case of refusal, the decision of the regional office is first appealed to the SES director, then to the Labor Department of the Ministry of Welfare, then to court.
 6. The employer makes payment.
 7. The applicant that is a citizen of certain countries²⁹ (or the applicant's employer's duly authorized representative) then submits to a Latvian diplomatic or consular representation abroad or to the Office of Citizenship and Migration Affairs in Latvia the following:
 - the Application for Receiving a Residence Permit;
 - the Invitation to Work approved by the SES;
 - an Invitation to Receive a Residence Permit (by the employer);
 - a copy of the travel documents showing citizenship;
 - 2 photos (35x45 mm);
 - health insurance policy; and
 - a statement from a doctor that the applicant does not have tuberculosis.

²⁹ Andorra, Argentina, Australia, Austria, Belgium, Bolivia, Brunei, Brazil, Bulgaria, Canada, Chile, Costa Rica, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea, Liechtenstein, Lithuania, Luxembourg, Malaysia, Malta, Mexico, Monaco, the Netherlands, New Zealand, Nicaragua, Norway, Panama, Paraguay, Poland, Portugal, Romania, San Marino, Singapore, Slovakia, Slovenia, South Africa, Spain, Sweden, Switzerland, Uruguay, Venezuela and the United Kingdom. Information can be found at www.pmlp.gov.lv.

If the applicant is a citizen of another country, he or she must also submit the following:

- statement about the applicant's health, indicating that he or she does not have illnesses specified by the Ministry of Welfare (tuberculosis, cholera, plague);
 - statement issued by the relevant authorities describing the applicant's criminal record or lack thereof;
 - document attesting to the legal means of income;
 - document attesting to the applicant's residence in Latvia.
8. The OCMA reviews the application for an average of 25 days (maximum 30 days, minimum 15 days and expedited service is available whereby the OCMA reviews the application in 5 or 10 days for an extra fee).
 9. After a positive decision, the applicant personally receives the residence permit and work permit at the employer's OCMA regional office. At this point the applicant must hand in a copy of his or her health insurance policy, showing the original.
 10. In case of a decision not to issue a residence permit, in accordance with CM regulations "Regulations on Administrative Act Procedures" (13.06.95), the decision can be appealed to the head of the OCMA, then to the district court, then regional court and finally to the Supreme Court.

1. Templates

214. The templates for Approval of Work Invitation and Issuance of Residency Permit are located in Annex C.

2. Analysis

215. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia identified a number of severe difficulties with the regime governing entry of foreigners into Latvia, noting that Latvian immigration procedures ranked unfavorably with other countries.

216. One significant problem in 1999 was the apparently arbitrary and damaging activities of the immigration authorities in detaining and expelling foreigners for minor technical violations. Evidence suggests that since 1999 the number of unfounded extraditions of foreign investors has fallen significantly.

217. Other problems included similar procedural requirements for investors (i.e., the principle owner or director of a company) as for contract employees, as well as the requirement to renew the work permit on a yearly basis. Although investors still require a work permit, the procedural requirements for this category have been reduced, and work permits are no longer limited to a one-year term.

218. Another problem identified in 1999 was poor coordination between Immigration and the State Employment Service and inconsistencies in procedures. FIAS also questioned the need to receive a letter of authorization from the SES. Although the investor still has to receive an authorization from the SES for the letter of invitation, the coordination between these two institutions has improved, and now the work and residence permit are issued simultaneously by a single institution – Office of Citizenship and Migration Affairs.

a. Applicable Results of Survey

219. Expatriate employment regulations were seen by a vast number of respondents to be one of the least frequent obstacles, out of 26 items receiving 25th place in terms of frequency. However, for those for whom it was a problem, it was a significant problem, receiving 2.6 points (out of 4), one of the highest evaluations of an obstacle. Clearly, most domestic firms in Latvia are not interested in hiring expatriate labor, and obviously therefore do not find it a problem. The evidence suggests, however, for those firms that do want to hire expatriate labor (mostly foreign firms, but possibly some domestic firms that want specific international expertise), the relevant regulations are a significant problem.

220. According to the Survey analysis, restrictions on hiring expatriate workers most affect enterprises with foreign capital.

Box 2: Residence and Work Permit Procedures in the United Kingdom

In accordance with EU law, citizens of European Economic Area (EEA) countries (the EU plus Iceland, Liechtenstein and Norway) do not need a work permit to be employed in the United Kingdom. Citizens of all other countries need a work permit, issued by the Department for Education and Employment (DEE), if they wish to seek employment in England, Scotland or Wales.

To be employed in an ordinary business, the British employer must submit an application on the foreigner's behalf. The application must be for a specific individual who is being hired to perform a specific job on a full-time basis. A simplified procedure exists for applicants who qualify under the so-called Tier 1 category of jobs, including intra-company transfers, board-level posts, inward investment positions, shortage occupations, and key workers. All other applicants are considered to hold Tier 2 positions, and documentation for these is considerably more than it is for Tier 1 category jobs.

The DEE uses four general criteria in deciding whether to grant permits:

- Is there a genuine vacancy for an employee in Great Britain?
- What skills, qualifications, and experience are needed to do the job? Work permits are normally issued for jobs that require high-level skills. For example, a senior executive or manager who needs at least five years of relevant senior management experience would qualify, as would key workers who have special skills, knowledge, or experience that are not readily available within the EEA workforce. Work permits for manual, craft, clerical, or secretarial jobs are not issued.
- Is the person suitably qualified and experienced?
- Are suitably qualified and experienced resident workers available in the EEA? Applicants for Tier 1 category jobs only need to describe why the person should be employed. Others have to supply supporting documents, such as advertisements or an explanation of recruitment methods.

The procedure usually takes not more than four weeks. Work permits are issued for a maximum of four years and can be extended. Extensions to permits are allowed and Tier 1 employers are not required to perform a recruitment search. Tier 2 employers must demonstrate the results of a recruitment search or the reasons why this is not appropriate. DEE's website contains detailed information about the procedure, as well as application forms (www.dfee.gov.uk/ols).

b. Overall Observations and Analyses

(1) Issuance of Work Permit

221. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia repeatedly stressed the observation that there exists a practice in Latvia to arrest and expel foreign investors that have violated relatively minor technical immigration rules.

Since 1999 the number of unfounded extraditions of foreign investors has fallen significantly. Nevertheless, it should be noted that besides the State Employment Service and the Office of Citizenship and Migration Affairs, the Immigration Authority of the State Border Guard is involved in control over immigration affairs (functioning in many respects like a police structure). The communication between these three agencies has not been institutionalized, as a result of which there have been cases that have come to the attention of the LDA of overlapping and uncoordinated controls over enterprises.

222. The State Employment Service in its template reports that in 2001 the SES issued 1892 approvals of work invitations. In a letter dated 24 September 2002 to the LDA, the SES reports that in 2001 there have been no cases of a rejection of a request for an approval of a work invitation. In 2002 there has been 1 such case.

223. The 1999 FIAS Report also provided that the process of approving a work permit slows down the immigration process by approximately one month (this includes preparation of documents, submission and processing). The authors of the 1999 Report recommended that the necessity of this step be considered. The SES in its template provides that the minimum, average and maximum time for reviewing an invitation to work (after all necessary documents have been submitted) is 10 days. The Survey did not include information on how long it takes for enterprises to fulfill these requirements, but it may be useful for the SES to investigate this issue in more detail: how long on average enterprises spend preparing all the necessary documentation and evaluate whether the total amount is close to the 30 days mentioned in the 1999 Report, which constitutes a significant period of time. However, eased requirements for certain categories of applicants not to have to submit a vacancy may have in fact reduced the time spent.

224. The SES states that there were no decisions appealed in 2001.

225. The costs for issuance of a work permit are based on a formula that includes the minimum monthly salary, regional unemployment rate, national unemployment rate and work term. If the work permit is for members of the enterprise's supervisory council or board of directors, managing directors and managers and directors of the enterprise, there is no fee for issuance of the work permit, nor do they have to register a vacancy and wait 30 days. This is a recent innovation that was undertaken as a result of the efforts to reduce administrative barriers to investment, in this case to eliminate a barrier that existed for those types of investors (managers and directors) that Latvia would want to attract.

226. There are reports that the State Employment Service occasionally requests a statement from the State Revenue Service that the employer is not delinquent for any tax payments that are administered by the SRS, even in cases where this requirement does not by law apply in accordance with Article 10 of CM Regulation No. 116 On the Procedure for Employing Foreigners and Stateless Persons (28.03.2000), such as if the applicants are members of the enterprise's supervisory council or board, managing directors and persons involved in the operational management of the enterprise. The SES in its template writes that among the necessary documents is a statement from the SRS that the employer does not have tax obligations in those spheres administered by the SRS.

The necessity of this requirement should be evaluated or such information should be provided electronically or otherwise, without burdening the enterprise with gathering information that is available in the government database.

227. In accordance with Articles 8.1. and 8.2. of CM Regulation No. 116 On the Procedure for Employing Foreigners and Stateless Persons, after the SES has taken a decision on approving the Invitation for Work, the approved Invitation for Work and a copy of the calculated fee for issuing the work permit are to be sent in writing to the employer. However, in practice there are reports that the SES does not send these documents, but expects the employer to personally visit the SES to receive the documents and acknowledge in writing that they have been received. The SES in its letter of 24 September 2002 to the LDA explains that “Depending on the request of the employer, the SES sends or issues in person the approval for the work invitation and a copy of the calculated fee.” This may increase the number of visits to the SES, thereby undermining the intended purpose of reducing steps. Nevertheless it is interesting to note that the SRS explains that in this manner they are really reducing administrative barriers, because “In order to save time, many employers themselves take the opportunity to receive the documents in person.”

228. The two examples above illustrate cases where there may be a need to inform SES officials of new requirements based on changes in legislation or procedures. In its template, the SES states that it informs its employees of such changes by *distributing amendments to legal acts, providing specialized training* and expecting that *employees familiarize themselves with the changes*. This may be a case where the changes mentioned in the two preceding paragraphs need to be reinforced through some of the mechanisms listed by the SES.

229. There are now two rooms at the SES Riga Central office, one for submission of documents, another for issuance. This has reportedly improved the flow of documents and clarified the division of responsibilities.

230. The SES reports that from the perspective of the institution, the legislation governing the procedure is *clear* (which is the highest option available in the template). However, the SES does not offer an opinion as to whether the procedure is clear from the perspective of enterprises. This may be due to the fact that there does not appear to be a systematic means of gathering feedback from enterprises. The SES in its letter of 24 September 2002 states that in 2002 it has received 1 written complaint from an employer. The SES further explains that the Riga city center regional office (which approved 80% of all work invitations in the country) has not received a single complaint or suggestion in 2001 or 2002. From the information contained in the template and the letter it appears that the SES has not undertaken systematic efforts to solicit feedback from enterprises through feedback forms, surveys or meetings or seminars, although the template did provide that there has been some review of information in the mass media.

231. At the same time, although the SES does not appear to have developed a feedback system with enterprises, the SES has undertaken efforts to inform enterprises of

procedural requirements, including *dissemination of brochures, organizing seminars and training courses, placing information on the internet* (see www.nvd.gov.lv) and *responding to individual inquiries*. In addition, the SES in its letter of 24 September 2002 to the LDA states that, “in response to suggestions by enterprises, in 2002, 2 SES employees have participated in a seminar and have responded to questions by enterprises on employing foreigners. In 2002 the SES has supported the participation of its employees in working groups (Ministry of Welfare, Ministry of Interior) which are reviewing issues relating to employment of foreigners.”

232. It is interesting to note that two of the recommendations that the SES has for improving its own activities relate to access to electronic databases, including a new database for all approvals for work invitations issued by SES branches and for access to the Lursoft database at all SES branches. The Lursoft database provides information on enterprises registered at the Enterprise Register and other information such as the enterprise’s official signatories. This is a welcome suggestion from the SES, particularly if it can be ensured that the information received directly from the Lursoft database would be the legal equivalent of an official hard-copy certificate of good standing issued by the Enterprise Register.

233. One of the documents requested by the SES, in case the employee is employed on the basis of a labor contract, is information from the State Revenue Service that the enterprise issuing the invitation is in good standing regarding tax payments. Consideration should be made as to whether this information can be received directly from the State Revenue Service so that the enterprise is not required to undergo an unnecessary step regarding information that may be available in the government database. In its letter of 24 September 2002, the SES states that it is “ready to resolve the issue of receipt of the SRS statement”, suggesting that this issue should be discussed with SRS officials and should be incorporated into the relevant normative acts.

(2) Issuance of Residence Permit

234. The costs for issuance of a residence permit are provided for in the CM Regulation No. 455 On the State Duty for Issuance of a Visa and Residence Permit and Related Services, including any expedited fees. This information is also set forth in the template provided by the Office of Citizenship and Migration Affairs and the total fee depends on the particular service requested.

235. Of the three types of residence permits issued for expatriate employees, the OCMA received the following number of applications in 2001: head of enterprise, management, members of board: 570; in conjunction with a labor contract: 585; experts or consultants: 51. There were only 5 rejections in 2001, 2 of which were based on false information submitted and 3 due to illegal residency in Latvia. The rejections were issued with explanations.

236. According to the information provided by the OCMA, in 2001, 5 decisions were appealed to the head of the OCMA, of which 3 rejections were left in force and 2 were overruled. The information from the template suggests that no appeals were taken to a higher level.

237. Although the OCMA states that the legislation governing the procedure of issuance of a residence permit is “clear” (the highest rating offered), the OCMA believes that from the perspective of enterprises, the legislation is “somewhat clear”.

238. The OCMA has received 23 complaints and proposals from clients in 2001, but does not otherwise use feedback mechanisms.

239. The OCMA does inform enterprises of procedural requirements by *disseminating brochures, placing information on its home page, and responding to individual inquiries*. Although the OCMA does not specifically organize seminars for enterprises, it does participate in seminars organized by other institutions and there provides information on residence permits.

240. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia noted that there were long lines and unfriendly service at the OCMA offices. Even now there are reports that receipt of the approved work invitation and residence permit at the OCMA takes a long time, including standing in line. However, in its letter of 26 September 2002 to the LDA, the OCMA disputes this allegation, stating that “in the main office foreigners, or more likely their representatives, arrive at a previously arranged time.” Although the Regulatory and Administrative Costs Survey does not specifically determine the processing time for residence permits, it would be advisable for the OCMA to work out a mechanism for determining several indicators to obtain information that can help improve the procedure. Such indicators could include actual waiting time (if it applies) as well as the level of client satisfaction with services rendered.

241. As a recommendation for improving its institutional work, the OCMA in its template mentions as one of its priorities the establishment of a center for serving foreigners in Riga, where it will be possible to solve all issues relating to immigration for those foreigners whose employer’s legal address is in Riga or in the Riga region. In its letter of 26 September 2002 the OCMA explains that it plans to open the Service Center for Foreigners in March of 2003, “where it will be possible to resolve all issues relating to foreigner entry and residence, regardless of the enterprise’s legal address (the Center will serve those enterprises registered in Riga, Riga region and Jurmala as well as those natural persons whose residence is in the relevant administrative territory).” This is an important and useful step in improving the client orientation and effectiveness of the OCMA.

242. Regarding improvements that it could undertake of its own accord, the OCMA states in the template that one of its priorities would be the establishment of a client service center for foreigners in Riga and where all issues related to immigration issues can be resolved for those foreigners whose employer’s legal address is in Riga or the

Riga Region. This is an important and welcome step in introducing a more service-oriented approach for dealing with foreign clients in the OCMA.

243. Other priorities of the OCMA are: distribution of quality information on receiving a residence permit and increasing the qualifications of its employees.

244. Clearly, and as the OCMA itself acknowledges in the template, there will be a lot of work involved regarding the implementation of the new Immigration Law once it is adopted by the Saeima, including drafting of CM regulations regarding issuance of permits, the state fee for issuance of the permits, as well as internal instructions for employees regarding the new rules. If the CM designates the OCMA to draft the new implementing regulations, the OCMA is advised to consult with the relevant representatives of the business community (namely, those most affected by the new rules, including but not limited to enterprises with foreign capital and high-tech companies that invite expatriate experts) in identifying their specific problems and needs. The OCMA should continue to work with the Latvian Development Agency in improving procedures relating to expatriate residency, since these continue to be significant problems for those companies employing foreigners.

245. An important recent procedural improvement has been the fact that at the end of the procedure, the OCMA issues both the work permit and residence permit. A recommendation to streamline the procedure would be for the State Employment Service to send the approved invitation to work directly to the OCMA, rather than being given to the applicant who must then submit this document along with the others to the OCMA.

c. Recommendations

246. FIAS has the following recommendations to improve the expatriate employment and residency procedure:

- Since the Saeima has adopted the Immigration Law, it is important that the relevant implementing regulations take into account the best EU and international practices.
- The State Employment Service, the Office of Citizenship and Migration Affairs and the Immigration Authority of the State Border Guard should better coordinate their activities in controlling enterprises.
- For the SES to be able to receive and rely on electronic information from other government institutions (including the SRS) as well as other sources, such as from the SRS and the Lursoft data base on registered enterprises. This information should serve as the equivalent of an officially certified extract from the relevant institutions.
- For the Office of Citizenship and Migration Affairs to set up a client service center for foreigners, as they have proposed in the template and in discussions with the Foreign Investors' Council in Latvia.

- For the OCMA to work out and use a feedback mechanism to get from visitors and clients (foreigners and their designated representatives) information (such as on waiting times or evaluation of services) that can help improve procedures.
- The OCMA is advised to consult with the relevant representatives of the business community (namely, those most affected by the new rules, including but not limited to enterprises with foreign capital and high-tech companies that invite expatriate experts) in identifying their specific problems and needs.
- For the State Employment Service to work harder in ensuring that any changes in legislation and procedures are communicated to their employees and made available to the relevant constituency.
- For both institutions to consider ways to introduce feedback mechanisms to systematically gather the comments and complaints of businesses.

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CHAPTER IV

LOCATING

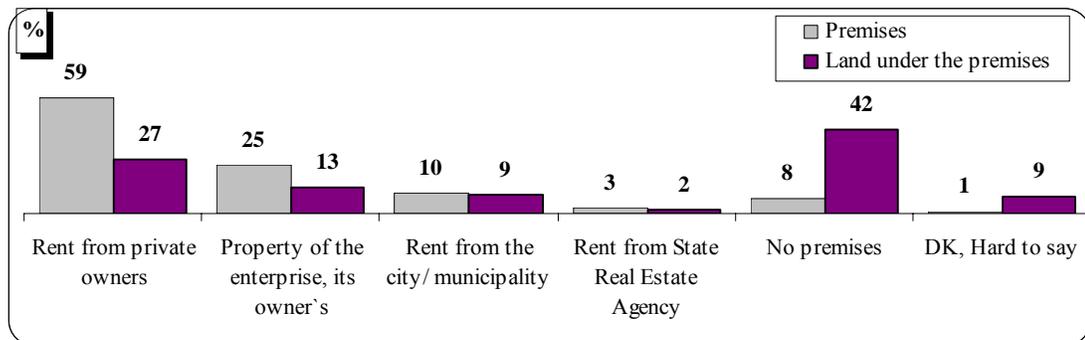
1. This Chapter will focus on the procedures associated with locating an enterprise in Latvia, including transfer of title to real estate, making an inventory of buildings, individual assessment of a land parcel, change of real estate use, as well as construction approval and connection to utilities such as electricity, heating, water and gas.

A. Real Estate

2. The results of the Regulatory and Administrative Costs Survey on Property Rights on the Premises and on the Land under the Premises indicate that the majority of responding enterprises (72%) rent the premises they use for their business activities. 59% of these enterprises rent premises from a private owner, 10% rent the premises from the municipality while 3% rent premises from State Real Estate Agency. One fourth of respondents (25%) own premises or those premises belong to the owner of the enterprise. 8% of the firms stated that they do not have premises.

3. 13% of respondents to the survey stated that the firm or owner of the firm owns the land under the premises and 42% of firms reported that they do not own or rent the land under the premises. In case the land is rented the most widespread is rent from a private owner (27%), while renting the land from the municipality or State Real Estate Agency is not that common.

Chart IV.1: Types of Property Rights on the Premises and on the Land



Base: all companies interviewed, N = 541.

4. More details from the Survey results relating to the real estate transfer process are presented below in the Analysis sections of this chapter and a full version of the Survey report is attached to this study.

1. Transactions with Real Estate

5. There have been profound and fundamental changes, both legal and economic, in property relations and their structure in Latvia since 1991. Under Soviet authority, no private ownership of land was allowed. By 2002 there is a solid secondary market of real estate in Latvia, rapidly developing mortgage financing and a relatively well-functioning system of commercial pledges on movable property.

6. Real estate ownership reform was started in 1991 with the adoption of key laws for land reform in rural and urban areas, for denationalization of buildings, for privatization of land. To provide a legal basis for real estate transactions and govern title matters, in 1992 the relevant section of the 1937 Civil Law on Real Estate Property was restored and in 1993 the Law on Land Books was restored.

7. Only real estate registered in the Land Book can be transferred to a new owner. Most real estate parcels have been registered in the Land Book, however there are still properties that have not yet been registered. In case an investor is interested in acquiring a property that has not been registered, it will first have to be entered into the Land Book by the present owner. The subsequent description is focused on the vast majority of real estate transactions in Latvia, namely with those properties that have been duly registered in the Land Book.

8. There are no restrictions for foreign natural and legal persons for transferring title and otherwise engaging in transactions with buildings, apartments or commercial space. These transactions are governed by the 1937 Civil Law.

9. Transactions with land are governed by the Law On Land Privatization in Rural Regions (9 July 1992) and the Law On Land Reform in Towns and Cities of the Republic of Latvia (20 November 1991). It is expected that a new Law on Transactions with Land will be drafted to provide for legal regulation of the land deeds after the completion of the land reform.

10. Currently land may be purchased freely by citizens of Latvia and companies registered in the Enterprise Register of Latvia, provided that more than half of the fixed capital is owned by:

- Latvian citizens and/or Latvian governmental bodies; and/or
- Natural or legal persons from other countries with which Latvia has signed and ratified an international agreement on the promotion and protection of investments by 31 December 1996 or for agreements concluded after the said date if the agreement provides for reciprocal rights to land acquisition.

<p>Countries with which the Republic of Latvia has signed and ratified agreements on the promotion and protection of investments by 31 December 1996:</p> <p>Austria, Canada, Czech Republic, Denmark, Estonia, Finland, France, Germany, Great Britain, Israel, Korea, Lithuania, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, Taiwan, United States of America, Uzbekistan, Vietnam.</p>	<p>Countries with which the Republic of Latvia has signed and ratified agreements on the promotion and protection of investments after 31 December 1996:</p> <p>Belarus, Belgium, Egypt, Greece, Hungary, Iceland, Italy, Moldova, Luxembourg, Singapore, Slovakia, Turkey, Ukraine.</p>
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11. Other physical and legal persons that are not mentioned in any of the categories above, can obtain land if they receive permission from the local authority in whose territory the land is situated, except for territories in:

- Border areas;
- Dune areas of the Baltic Sea and Riga Gulf and protected areas of other public waters, except cases when they are planned for construction in accordance with the Municipal Master Plan; and
- Agricultural and forest land designated as such in the Municipal Master Plan.

12. The procedure for receiving the permission from the local authority is composed of the following steps:

- The persons mentioned above must submit to the local authority:
 - an application to buy land (including a description of the intended use of the land)
 - a copy of the sales agreement.
- The Head of the Municipal Council has 20 days to review the request. The Head of the Municipal Council can issue an approval if the following conditions have been observed:
 - the intended land use is not in contradiction with the Municipal Master Plan;
 - the limitations applicable to foreign physical and legal persons have been observed.

13. On 1 January 2001 the distribution of land ownership and land use rights by status of owner in the Republic of Latvia as a percent of the total area of the Republic of Latvia was the following:

Table IV.1

Land ownership and land use rights by status of owner	% out of 100 %
Land properties owned or used by natural persons	58,6
Land properties owned or used by the state	29,6
Land properties owned or used by municipalities	6,4
Free state land	2,8
Land properties owned by legal persons	2,6

Source: State Land Service Annual Report 2000

14. The majority of real estate properties are in the possession of individuals and legal persons, which means that an investor looking for a location is most likely to interact with the private sector and, unless there are specific reasons and requirements, does not have to request an allocation of land from the state or municipality.

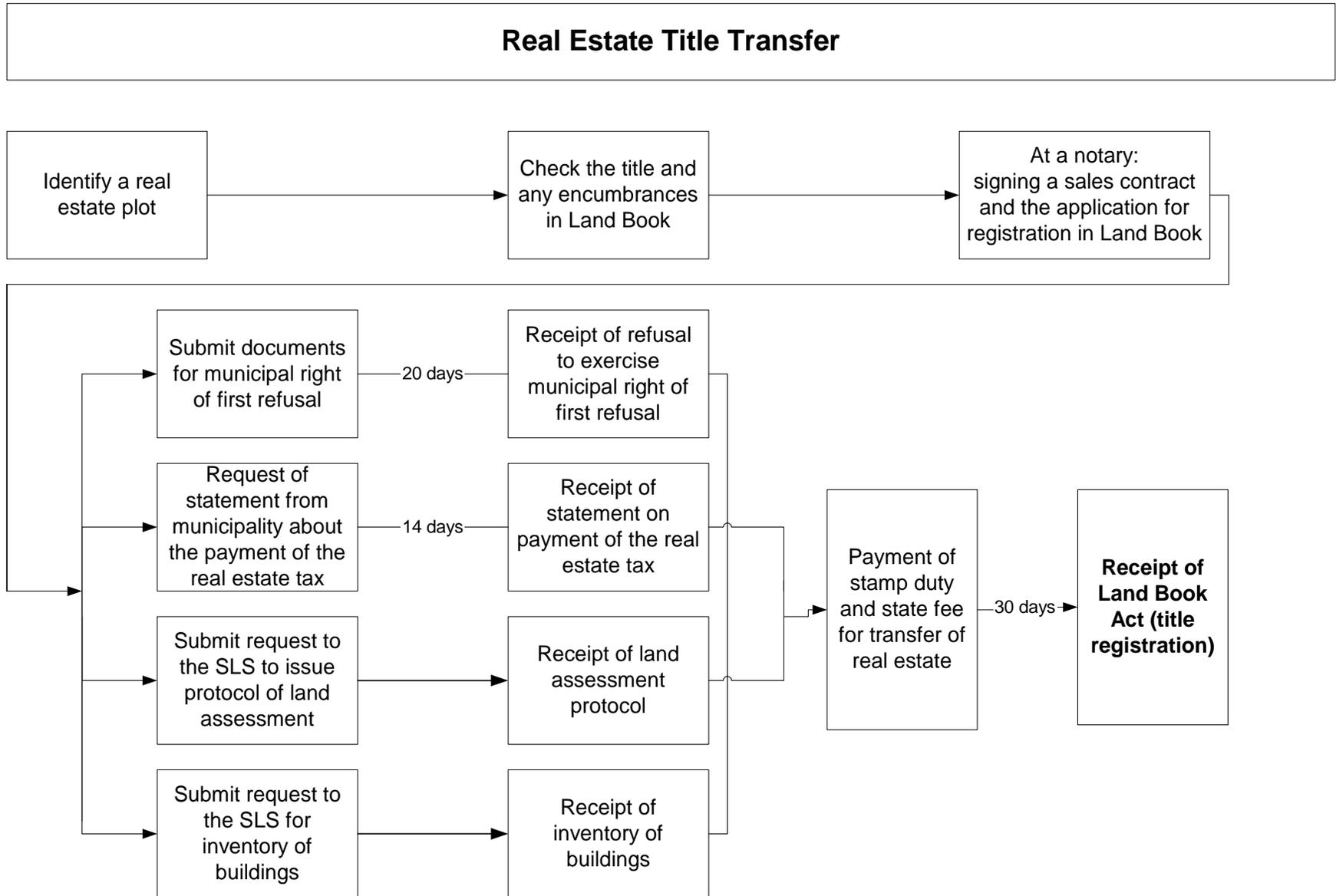
2. Transfer of Real Estate

15. The steps involved in a typical case of real estate acquisition are presented in the chart on the next page.

16. Identification of real estate is usually performed by a real estate broker, unless the investor already knows the exact parcel of real estate to be acquired. There is a well-developed market of real estate brokers who serve various market niches and various demands. The time needed for identification of real estate varies depending on the requirements set forth. Identification of real estate will usually include also a verification of the current status of the real estate title and any related encumbrances (pledge, joint property, prohibition to sell, etc.). During the process of identification it is also necessary to clarify the actual and permitted real estate use in accordance with the approved territorial planning documents. Information about the real estate title and related rights can be received from the relevant Land Book division or from the centralized computerized Land Book, which is available on-line to subscribers.

17. Once the real estate has been identified and an agreement has been reached between the parties as to the sales conditions, the next step is to sign a sales contract and an application for the registration of the title transfer in the Land Book. The signatures of the parties on these documents have to be notarized. Quite often the notary also prepares the sales contract.

Chart IV.2



18. Further to the signing of the sales contract and before the submission of the documents to the Land Book, the following tasks have to be performed:

- The seller or its authorized representative must obtain a statement from the municipality on the payment of real estate tax. This, of course, can be performed also before the signing of the sales contract.
- The seller or its authorized representative must submit a copy of the signed contract to the relevant municipality for it to exercise its right of first refusal. This is applicable to all transfers of real estate, but is not applicable to transfer of individual apartments and transfer of the ideal part of the real estate. In theory, every town and district must have a regional plan that indicates areas where the local government may have an interest in exercising its option and where it does not, although many municipalities have not yet prepared such regional plans. Upon submission of a copy of the signed contract, the municipality issues a dated receipt. For any particular transfer, it has 20 days to make its decision, after which it loses its right to exercise its option. If it does exercise its option, it must pay the contract price in full within 10 days.¹ Further, it is not allowed to sell the land again within five years, except by public auction.
- The seller or its authorized representative (which quite often is the buyer or its lawyer) has to receive a statement of the cadastral value of the land and/or the building(s) from the State Land Service (SLS). In accordance with the relevant regulations, the cadastral values are valid for an indefinite period of time, if the value² has not changed. This fact has to be certified by a SLS statement, which can be in a paper form or in an electronic form. Annex D contains templates prepared by the SLS regarding the procedure of making an inventory of buildings and the procedure for individual assessment of a land parcel at the request of the applicant. These templates provide further details as to the requirements, cost, time and other issues associated with these procedures.

19. Once the documents described in the preceding paragraphs have been obtained, the buyer must pay the stamp duty and the state fee in the amount of 2 % of the greater of the following: (a) contract value, (b) the SLS assessment of the cadastral value for the land and/or buildings or (b) the assessment performed for the purpose of pledging the real estate in a credit institution.

20. The next step is the submission of all the required documents to the Land Book for registration of the real estate transfer. Additional information on the real estate title registration procedure, applicable requirements, information on the cost and time is provided in the relevant template prepared by the Land Book Department, which can be

¹ See Cabinet Ministers' Regulation No. 110 (17 June 1994) *On the order in which municipalities and district governments use the pre-emptive right for purchase of real estate.*

² The term "value" here refers to officially calculated value, described in detail below.

found in Annex D. It should be noted that the website of the Land Book department www.zemesgramata.lv provides useful information on the procedure for registration of title and any related rights. The same website also provides access to the online Land Book for subscribers.

3. Real Estate Tax and Cadastral Valuation

21. Once the real estate title has been registered the new owner is required to supply the municipality with its contact information within one month of the real estate transfer. The obligation to pay the real estate tax enters into force as of the next calendar month after the transfer of the real estate. According to the Law On Real Estate Tax, taxable objects are “physical objects located in territory of the Republic of Latvia and that cannot be moved without damaging them – land and buildings”. The real estate tax can be paid by individuals, legal entities and non-residents that own or hold buildings, constructions and land in Latvia.

22. In order to determine the real estate tax to be applied to a given real estate object, the State Land Service determines the real estate cadastral value in accordance with the procedure adopted by the Cabinet of Ministers. The cadastral value is determined by formula in a mass or general manner, and it is based on a consistent, neutral and predictable valuation system applied to real estate throughout the country. A general valuation is cheaper to administer than individually valuing each parcel of property. The information is centralized in the computerized database of the National Real Estate Cadastre. Latvia as well as other Northern European countries like Denmark and Sweden use a cadastral valuation system.

23. Until 31 December 2003, the real estate tax rate is 1.5% of the cadastral value of land and the book or inventory value of buildings but from 2004 it will be 1% of the land and cadastral value. In accordance with the Law On Real Estate Tax, the cadastral value, in accordance with standardized methodology based on the data in the National Real Estate Cadastre, is the value of the buildings and land. Consequently, the tax base is the cadastral value of the real estate. Currently, cadastral valuation is applied only to land. The real estate tax for buildings till 31 December 2003 is calculated based on the book value or, if the taxpayer does not record the book value, then the tax base is the inventory value that has been updated after 1 January 1997. As of 1 January 2004, the real estate tax for buildings will be based on the cadastral value. The cadastral valuation of buildings is undertaken in accordance with CM Regulations No. 184 Regulations on Assessing Building Cadastral Values. Once the cadastral valuation of both land and buildings is introduced, there will be a comprehensive cadastral value of real estate in Latvia, from which the applicable real estate tax will be calculated.

24. The cadastral value of land is determined based on 1) the physical parameters of the land: the area; 2) the land use or uses determined by the municipality; 3) zoning for the land based on real estate use groups, adjustment ratios for the cadastral value and a qualitative valuation of the land (for agriculture and forest lands), as determined by the

Cabinet of Ministers. In calculating the cadastral value, consideration is made of easements that limit the land use.

25. The cadastral value of buildings will include the following criteria about the building: the main use of the building; type of building; number of floors above ground; volume; materials used; physical depreciation.

26. The zoning of land values is important because the determined land value will affect the cadastral valuation and, in turn, the real estate tax. Municipal territory is divided into different zones of land values, where the land value of each square meter is comparable among parcels with the same land use. The zoning of land values is proposed by the State Land Service in cooperation with the relevant municipality. The municipal territory is divided into different zones of land values, where the land value among real estate parcels with the same land use (or uses) is comparable or constant taking into account the area of the parcels. The term for public hearings of the proposed zoning of land values must be at least three weeks, made known by dissemination through the local mass media. During this period anyone can present their comments and objections to the proposed zoning for the land value.

27. The real estate use designated for a parcel of real estate is a factor used in determining the cadastral value of that specific parcel. Real estate use is determined and amended by the relevant municipal institution in the administrative territory in which the parcel is located, or by the relevant national government institution if the land is owned by the state. The owner may dispute the real estate use designated for the parcel by filing a complaint with the municipality. Designation of a specific real estate use (agricultural, commercial, etc.) has a high weight in the final cadastral value of a specific land parcel. Determination of the real estate use is one of the few items in the calculation of the cadastral value of a particular land parcel which an owner can influence and which involves interaction between a person and an institution. Table below contains a comparison of information provided by 5 municipal administrations of some of the largest towns in Latvia in the procedure templates for change of real estate use on the basis of application of the owner.

28. The division of responsibilities for the implementation of the Law on Real Estate Tax in practice is the following:

- **State Land Service:**
 - maintains and updates the National Real Estate Cadastre, including the cadastral survey, cadastral registration and cadastral valuation of real estate;
 - develops and maintains the basis for cadastral valuation of real estate (base value of land and buildings, zoning of land values, adjustment ratios) based on the information from the real estate market as well as to calculate the cadastral value;

- updates data in the Cadastral Register as well as prepares a list of objects subject to the real estate tax for each specific municipality (553) throughout the country; and
- prepares an aggregate of cadastral values of real estate in the country for forecasting the real estate tax revenues for the municipalities to be submitted to the Ministry of Finance.
- Municipalities (there are 553 municipalities in Latvia):
 - determine and amend real estate use (or uses), except for real estate under the protection of the national government and state real estate that is being used by state security, police, fire safety and penal institutions;
 - review the land value zoning projects prepared by the State Land Service (the land value zoning map, base value tables for the zoned land, a description of the zoning and an estimate of the changes in tendencies in the size the real estate tax), organize their public discussion and make a decision on approving; and
 - administer the collection of the real estate tax in their territories.

29. Annex D presents the relevant procedure templates filled out by the respective institutions and provide a more detailed description of the following procedures – making an inventory of buildings, individual assessment of land parcel, transfer of title of real estate and change of real estate use.

a. Change of Real Estate Use on the Basis of Owner’s Application

30. The following table reflects the selected answers provided by the municipal administrations in the templates about Change of Real Estate Use on the Basis of Owner’s Application. 7 out of 8 municipalities returned filled templates, while Riga municipality provided no information regarding the implementation of this procedure in its territory³. The complete table is located in Annex D.

³ Liepaja municipality completed the template, but it is not possible to use the information received since it refers to another procedure.

Table IV.2
Change of Real Estate Use on the Basis of Owner's Application

	Cesis	Daugavpils	Jelgava	Rezekne	Valmiera	Ventspils
1. Institution	Land Commission of Cesis City Council	Construction Board	Construction Board	Rezekne City Council; 2 officials authorized to determine the real estate use	Construction Board of Valmiera Region Council (Valmiera City council has delegated this function on the basis of agreement with	Architectural and City Construction Division of Ventspils City Council
9. Legal basis for this procedure:						
Law On Territorial Development Planning						√
Law On Real Estate Tax				√		√
Law On Municipalities		√				
Construction Law	√					
Law On Land Use and Land Management	√					
Law On Land Reform in Cities and Towns	√	√				
Law On Land Commissions	√					
CM regulations On Territorial Planning					√	√
CM regulations On Cadastral Valuation of Urban Land					√	√
CM regulations on Procedure of determining and systematization of real estate use		√	√	√	√	√
CM regulations On Procedure for Updating Cadastral Valuation of Real Estate					√	√
Order of the Minister of Justice approving methodological guidelines On Procedure for				√	√	

	Cesis	Daugavpils	Jelgava	Rezekne	Valmiera	Ventspils
Determining the Real Estate Use for Land Plots						
Applicable municipal regulations or decree		√	√	√		√
10. Purpose of this procedure	Coordinated and balanced use of land in the territory of the city in accordance with the Master plan of the city	Precise information on the use of land plots, objective calculation of cadastral value and real estate tax.				Assessment of Cadastral value of City property: Calculation of market and tax value of real estate, etc.
11. Other institutions involved in this procedure and brief description of their role (e.g., institutions that must give prior authorization and/or subsequent authorization):	1) State Land Service 2) Owners of the utility networks 3) Land Book Division	State Land Service (SLS); the owner of the real estate, user or authorized person must visit the SLS			Valmiera City Council, in case of new construction and start of new operation; an application needs to be submitted to the City Council	1) Ventspils City Council – applicant submits request 2) State Land Service – applicant submits announcement prepared by City Council for change of real estate use purpose
14. All related duties and fees for this procedure levied by this institution or any other institution, including all the activities	—	For physical persons for one use – 2 Ls For legal entities for one use – 5 Ls ⁴	No fees	No fees	No fees	1) Announcement of Ventspils City Council: Ls 2 2) certificate of State Land Service: Ls 8
15. Documentary requirements	1) free application form 2) proof of ownership (documents) 3) plan of the land plot 4) consent of neighbors	1) free application form 2) SLS issued land plot border plan with cadastre number and area 3) if the determination of use is complex, then the owner of the land plot declares the current use of	1) standard application form, available at the institution	1) standard application form in accordance with the order of the Minister of Justice, available at the institution	1) free application form 2)	1) Standard application form, 2) land plot border plan 3) documents certifying ownership 4) land lease and/or premises lease agreement 5) inventory case and/or accepted construction project

⁴ In accordance with the binding regulations of the city council no. 1 of 8 March 2001.

	Cesis	Daugavpils	Jelgava	Rezekne	Valmiera	Ventspils
		buildings and bears responsibility for this				6) and others
17. Processing time in days (after all required documents have been submitted):	By law: 30 Average: 25 Minimum: 10	By law: NA Average: 5 Minimum: 1	By law: 14 Average: 14 Minimum: 2 Expedited processing: 1	By law: 35 days (1 month to review the application and take the decision and 5 days to inform the applicant in writing) Average: 10 Minimum: 2	By law: 30 Average: 5 Minimum: 1	By law: 15 Average: 7 Minimum: 5
21. Instance to which the initial decision is appealed (e.g. head of this institution, court):	—	—	Chairman of the city council → court	Chairman of the city council → court	City council → court	First Deputy of Head of City Council → Head of City Council → Court
28. Methods used by this institution to receive feedback from enterprises? <input type="checkbox"/> Suggestions and complaints submitted by enterprises <input type="checkbox"/> Feedback forms <input type="checkbox"/> Surveys <input type="checkbox"/> Meetings and workshops with business associations and non-governmental organizations <input type="checkbox"/> Analyses of information from mass media <input type="checkbox"/> NA	Have not been done.	<input checked="" type="checkbox"/> NA (no complaints)	<input checked="" type="checkbox"/> Suggestions and complaints submitted by enterprises		<input checked="" type="checkbox"/> NA	Such a practice is not used

4. Analysis

31. The results of the Survey, where enterprises were asked to rank different administrative and regulatory areas (altogether 26) as to the degree of obstruction for their operations, show that 18% of respondents stated that *access to land* was an obstacle. This rates access to land in the category of “infrequent” obstacle, placing it in 14th place (out of 26) in the assessment of administrative obstacles. At the same time it received the worst rating in this category in terms of average level of obstacle - 2.6 points (where 1 means “minor” and 4 means “very severe”). Since 2.6 points is one of the worst evaluations of an obstacle, this indicates that for those who have indicated that access to land is an obstacle, it is of quite a serious degree.

32. The survey also covered in more detail such administrative procedures relating to real estate like municipal right of first refusal, real estate assessment, registration of title transfer in the Land Book, rezoning of land and change of real estate use. On the basis of the survey results, the procedures that affect a relatively large number of businesses were selected for a more thorough analysis and procedure templates were prepared and distributed. These procedures selected for further analysis are the following: assessment of real estate, registration of title transfer in the Land Book and change of real estate use.

33. The analysis will attempt to relate the data received from the institutions responsible for a specific procedure with the relevant data from the survey. The main emphasis is placed on comparing the data about the processing time and costs of the procedure. Where appropriate, the analyses will also draw upon the experience of other countries with similar procedures and will try to identify the bottlenecks of these selected administrative procedures.

a. Assessment of Real Estate and Complete Technical Inventory of the Building

34. As discussed previously there is currently no joint real estate cadastral valuation, instead there is a cadastral valuation of land and a separate assessment (inventory) of buildings. For the purpose of the Survey the decision was made to ask about the experience of companies with real estate assessment in general, particularly because the same agency – the State Land Service – carries out both the cadastral valuation of land and buildings and the inventory of buildings.

35. The results of the Survey indicate that 13% of respondents (124 enterprises) which have premises in their possession (owned or rented) needed to carry out real estate assessment before occupying those premises.

36. In 2001, the SLS made and renewed a complete technical inventory of 1,094,308 buildings (this one-time activity was undertaken to prepare the introduction of the real

estate tax based on the cadastral valuation). The SLS processed 29264 applications in 2001 for reassessment of valuation of a land parcel by request of the owner.

37. The respondents to the survey reported that the real estate assessment procedure takes more than a month on average - 38 calendar days. The period of preparation of necessary documentation is also quite long - it requires 26 calendar days.

38. The SLS states that the average processing time for reassessment of a land parcel is 7-14 days, with the minimum time being 7 days. The SLS also offers expedited processing in one day for three times the fee. The maximum processing time for making a complete technical inventory of buildings is 22 days, average 13 and minimum 1 day. The SLS also offers an expedited service for making a complete technical inventory of buildings.

39. The comparison of data about the official procedures from the SLS and the data from the Survey is the following:

Table IV.3

Information from the SLS on Real Estate Assessment Procedure and Complete Technical Inventory of Buildings	Data from the Survey on Real Estate Assessment Procedure
<i>Calendar days</i>	<i>Calendar days</i>
Average for reassessment of land: 7-14	Average for real estate assessment: 12 (38 total days to carry out real estate assessment, of which 26 calendar days are for preparation of documents)
Average for initial inventory of building: 13	
Average for repeated inventory of building: 13	
Average for initial inventory of group of premises: 15	

40. This comparison indicates that the SLS and the business community are in general agreement about the time required to process applications. Reports and anecdotal evidence suggest, however, that the procedure takes a longer time even than reported. It is possible that this is especially true for larger projects.

41. It is noteworthy that the governing law On Real Estate Tax does not stipulate a maximum processing time for applications for reassessment of a land parcel. Theoretically, in a case when the sector law does not contain provisions on the maximum processing time, the Law On Procedure for Review of Applications, Complaints and Suggestions by State and Municipal Institutions⁵ applies, which stipulates the maximum processing time of 15 days (in case no additional check or information is required to respond) or 30 days (in case additional information needs to be gathered). However, neither in the case of the SLS, nor in any of the other numerous templates filled by various agencies, has this law been cited when there is no processing time provided for in the sectoral law. LDA and FIAS believe that it is beneficial for businesses and applicants

⁵ Effective as of 5 November 1994.

in general as well as the employees of the institution to be aware of the statutory maximum processing time. One way of addressing this problem is to provide a specific processing time for each single procedure in the sectoral legislation, another is to make a concerted effort to inform and train the state and municipal institutions and their employees of the existence of generally applicable norms.

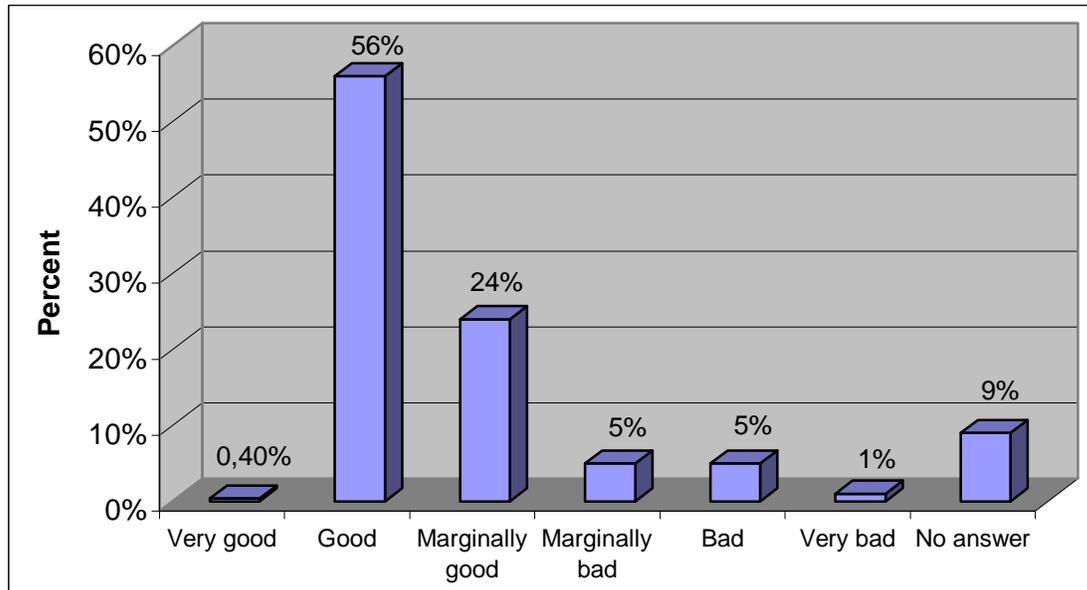
42. The fee for reassessment of land and making a complete technical inventory of buildings is established in the Price list for the Services of the SLS approved by the Director General of the SLS (See Annex D). The specific fee for an applicant is calculated on the basis of various items included in the price list and depends on the number of rooms or area of the building or the area of the land parcel. The price list is confusing and difficult to read for anybody not an expert in this field. Also the existence of expedited service was not clear from this price list. It would be a welcome step and would increase the level of transparency if the price list is revised to provide more accessible information or a separate information list is prepared to reflect the applicable fees in a more comprehensible manner.

43. The number of respondents to the Survey on the questions regarding costs associated with the real estate assessment was not large enough to interpret the results, therefore no comparison with the information from the institution is provided.

44. The respondents to the Survey were asked whether they have had conflicts or problems with institutions responsible for real estate assessment during the last 24 months and only 1% of respondents reported this. As can be seen from the templates, the SLS does not compile information on the number of appeals filed with the head of the SLS or with courts. Even if the number of appeals is small and their substance seems meaningless, it is still worthwhile to keep track of appeals or complaints, if any, and to identify what issues or actions typically provoke them. This will help the institution identify problems in their early stages and adjust its operations accordingly or, on the other hand, verify that there is no reason to change anything.

45. Respondents evaluated the services received during the process of real estate assessment as presented in the chart below. With an average indicator of 4.4 points (on a scale where 1 is “very bad” and 6 “very good”) the services of the SLS in general can be evaluated as good.

Chart IV.3



46. The SLS believes that the procedure for making a complete technical inventory of buildings in practice is working well and that the legislation governing this procedure from the viewpoint of the institution is *somewhat clear*. At the same time the SLS feels that the legislation governing this procedure is *not simple, but understandable* from the viewpoint of businesses. As for the procedure of reassessment of land parcels, the SLS believes that in practice it is working only in a satisfactory manner, while the legislation is *somewhat clear* for the institution and *not simple, but understandable* from the viewpoint of businesses. This evaluation from the SLS in general seems to correspond with the views of the businesses responding to the survey.

47. The SLS needs to elaborate and improve its policies and techniques for informing the public at large, including businesses, of the services provided, the decision-making process, applicable fees and processing times. More precise information on the processing times, costs and requirements could be posted on the SLS website. Along with traditional means of distribution of information, like brochures and information leaflets, the SLS should also consider the practice of the Enterprise Register, which uses an e-mail bulletin to deliver news and information to its subscribers.

b. Registration of Title Transfer in the Land Book

48. The results of the Survey indicate that 17% (or 144) of respondents reported that they have dealt with this procedure before occupying their premises at any time in the past. The Land Book department states that in 2001 the Land Book divisions in the Latvia have received 226358 applications for registering title transfer. Both these figures indicate the significance of this procedure for the business community and the population at large.

49. The respondents reported that the procedure for registration of title transfer is the most time-consuming one of all the surveyed administrative procedures. Registering title transfer is reported to require almost two and a half months (74 calendar days) on average. A little more than one month, namely 33 calendar days, is required for preparation of documentation.

50. The information supplied by the Land Book department in the template states that the maximum processing time is 30 days (by law) and minimum is 1 day. In a letter dated 16 September 2002 to the LDA, the Land Book department explained that, according to their calculations, the average processing time between submission of an application until a decision is issued is 6 days (for the period from 1 January 2001 to 12 September 2002). This leads to the conclusion that there are major discrepancies between the results of the Regulatory and Administrative Costs Survey and the data calculated by the Land Book. In addition, the template filled out by the Land Book department states that expedited service is also available and an applicant would need to pay 10 times the usual stamp duty (chancellery fee) to process the application in 3 days (90 Ls).

51. The comparison of data about the official procedures from the Land Book department (LBD) and the data from the Survey is the following:

Table IV.4

Information from the LBD on Registration of Title Transfer Procedure	Data from the Survey on Registration of Title Transfer Procedure
<i>Calendar days</i>	<i>Calendar days</i>
Maximum by law: 30	Average: 41
Average: 6	(74 total days to carry out registration of title transfer, of which 33 calendar days are for preparation of documents)
Minimum: 1	

52. The Regulatory and Administrative Costs Survey asks respondents the total time required for registration of title transfer and the time required for the company to prepare the documents. If it is assumed that Total Time minus Preparation Time equals the Processing Time by the Land Book, then it appears that businesses may be experiencing a longer processing time than theoretically allowed by law, and certainly much more than the average calculated by the Land Book. Since no regional variations were identified from the survey results, we have to assume that this problem is not localized in one particular region.

53. Certainly, the complexity of the existing ownership rights of the land to be acquired affects the time and costs of the project. Focus group discussions suggest that over the last several years, the transfer of land between one private sector owner to another is relatively straightforward. However, there are reported to be problems, delays and lack of transparent decision-making where land is owned by the municipality.

54. The first step is of course to ensure the observance of the legally mandated 30-day term, however it may be beneficial to establish a shorter processing time (i.e. 14 days) in general. In the current system the applicant has at least two alternatives – to opt for normal processing, which appears can last longer than the 30 days provided in the law; to opt for the expedited service and pay 10 times the normal stamp duty (90 Ls).

55. The Land Book has indicated in the template that the number of employees fulfilling this procedure is sufficient, which raises yet another question of the reason for the lengthy processing. The level of discretion is quite high for the Land Book judge, therefore one option to limit such discretion could be to change the Land Book Law to provide for fewer days (i.e. 14 days) for the processing of applications.

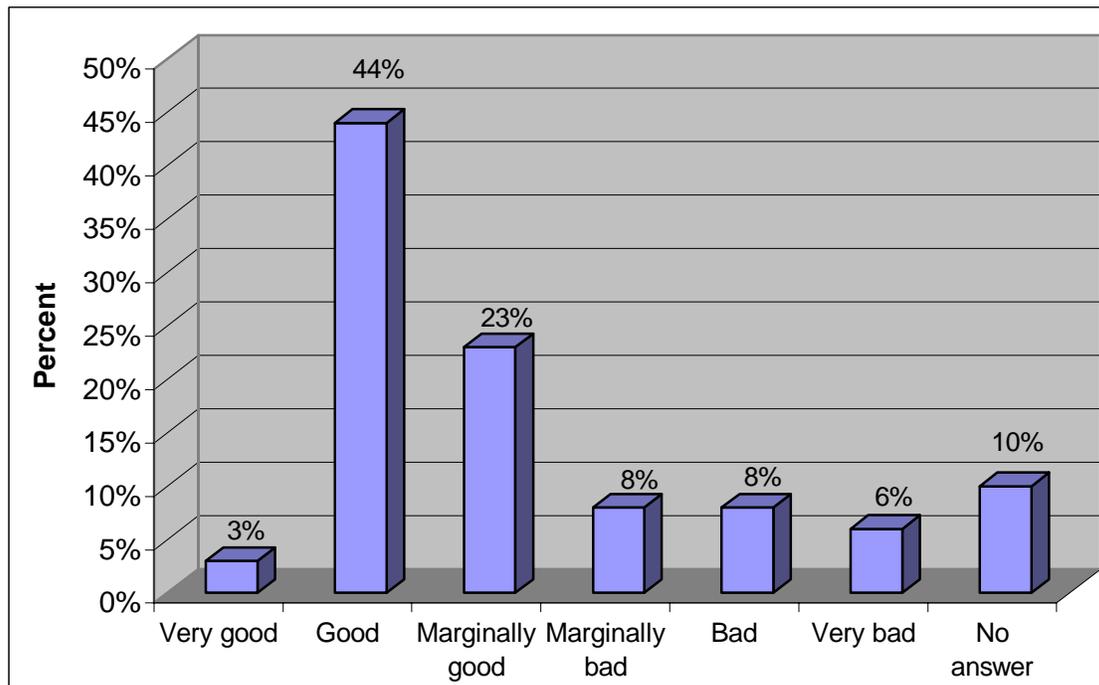
56. The total cost of this procedure for the Survey respondents was Ls 524 on average (this includes official fees and payments, costs of hiring outside assistance – lawyer, specialized company, gifts or bribes, if any). A more detailed breakdown of the costs is not available, because the number of respondents was not sufficiently large to interpret the results. Detailed information on official fees related to title registration is provided in the template (see Annex D).

57. The respondents to the Survey were asked whether they have had conflicts or problems with institutions responsible for the title registration at the Land Book. Only 1% of respondents that have premises reported that they have had conflicts or problems with the Land Book during the last 24 months. The Land Book department states that in 2001 there have been 90 appeals submitted to the Civil Cases Department of the Supreme Court, of which 42 have been repealed fully, while 34 have been left in force and none have been partially repealed. These figures indicate that it is possible to obtain independent legal judgment of the matter. Given the general concerns regarding the judiciary, this is an encouraging indicator for businesses considering an appeal.

58. The services received by respondents during the procedure of title registration were evaluated as shown in the chart. The average evaluation of services is rather good—4.1 point (in the scale where 1 is “very bad” and 6 is “very good”).

59. The Land Book states that the legislation governing the procedure of registering title transfer from the viewpoint of the institution is *clear*. At the same time it believes that the same from the viewpoint of businesses is only *somewhat clear*.

Chart IV.4



60. The Land Book has indicated that its priorities for improvement are development of new services to be offered through the on-line unified Land Book information system, improvement of the computer equipment and fixed assets and analysis and compilation of court judgments to strengthen the unified application and interpretation of legislation in the Land Book Divisions. In its letter of 16 September 2002 to the LDA, the Land Book Department explains that “regarding the compilation of court judgments, I can inform you that all the decisions made by the Supreme Court this year reviewing the decisions of Land Book judges have been scanned and Land Book staff have access to them through the intranet. In addition, we organize seminars at the Judicial Training Center and in the immediate future there will be on-line discussions on compiling legal cases.” This is a commendable project and it should be continued and further developed.

c. Change of Real Estate Use

61. As discussed above, municipalities carry out the procedure for change of real estate use and no aggregate data is available about the implementation of this procedure in Latvia on the whole. The Survey gives an indication of how the procedure is carried out in the country in general but it does not allow pinpointing any single municipality. The same is true for the results of templates – it was not possible to cover all the municipalities and a decision was made to request 8 municipal administrations of the largest towns in Latvia to complete templates for this procedure (6 of which returned completed templates). Therefore the aim of this analysis is to identify common issues

related to this procedure that are applicable to the majority of municipalities and also to the SLS as the state institution that uses the results of this procedure, i.e. taking into account the real estate use, calculates the cadastral value of the land parcel.

62. The results of the Survey indicate that one fifth (20%) of all respondents (108 enterprises) that have premises had to make a change of real estate use before occupying the premises. As can be seen from the summary table of templates above, many of the municipalities do not have clear statistics as to how many applications they have received for this procedure (with the exceptions of Daugavpils, which states that it has reviewed 72 applications in 2001, and Ventspils, which received 140 applications in 2001, issued 130 positive decisions and 10 refusals). The fact that a relatively large number of respondents (20%) reported having gone through this procedure calls for more attention to this seemingly simple procedure, which at the end of the day can also significantly influence the payable real estate tax.

63. The respondents to the survey reported that it takes 28 calendar days on average to go through this procedure. The preparation of documentation requires 18 calendar days on average.

64. Most municipalities have stated that they process the applications for change of real estate use on average in 5 –14 days, with the minimum processing time for most municipalities of 1-2 days (details for each separate municipality can be found in the summary table below).

65. A comparison of data of the official procedures from 6 municipalities and the data from the Survey is the following:

Table IV.5

Information from the Municipalities on Procedure for Change of Real Estate Use						Data from the Survey on Procedure for Change of Real Estate Use
Cesis	Daugavpils	Jelgava	Rezekne	Valmiera	Ventspils	Latvia
<i>Calendar days</i>						Calendar days
Maximum by law: 30	Maximum by law: NA	Maximum by law: 14	Maximum by law: 35	Maximum by law: 30	Maximum by law: 15	Average: 10 (28 total days to carry out change of real estate use, of which 18 calendar days are for preparation of documents)
Average: 25	Average: 5	Average: 14	Average: 10	Average: 5	Average: 7	
Minimum: 10	Minimum: 1	Minimum: 2	Minimum: 2	Minimum: 1	Minimum: 5	

66. The information supplied by the municipalities shows that there is a wide-ranging difference in level of understanding of the statutory processing time for the procedure of change of real estate use. As can be seen from the summary table of templates above, one

municipality states that there is no statutory maximum processing time, another indicates that the law provides for 14 days processing time, another says 15 days and two other municipalities state that the maximum processing time provided in the law is 30 or 35 days (where 1 month is for review of the application and 5 days to inform the applicant in writing). In reality the CM Regulations on Procedure for Determining and Systemizing Real Estate Use⁶ (Article 30) provide for a 30-day review time of the application and 5 days for informing the applicant in writing. Based on the information received from the municipalities and the data of the survey, it seems possible to consider decreasing the statutory processing time for applications for change of real estate use from 30 days to 14 days or less.

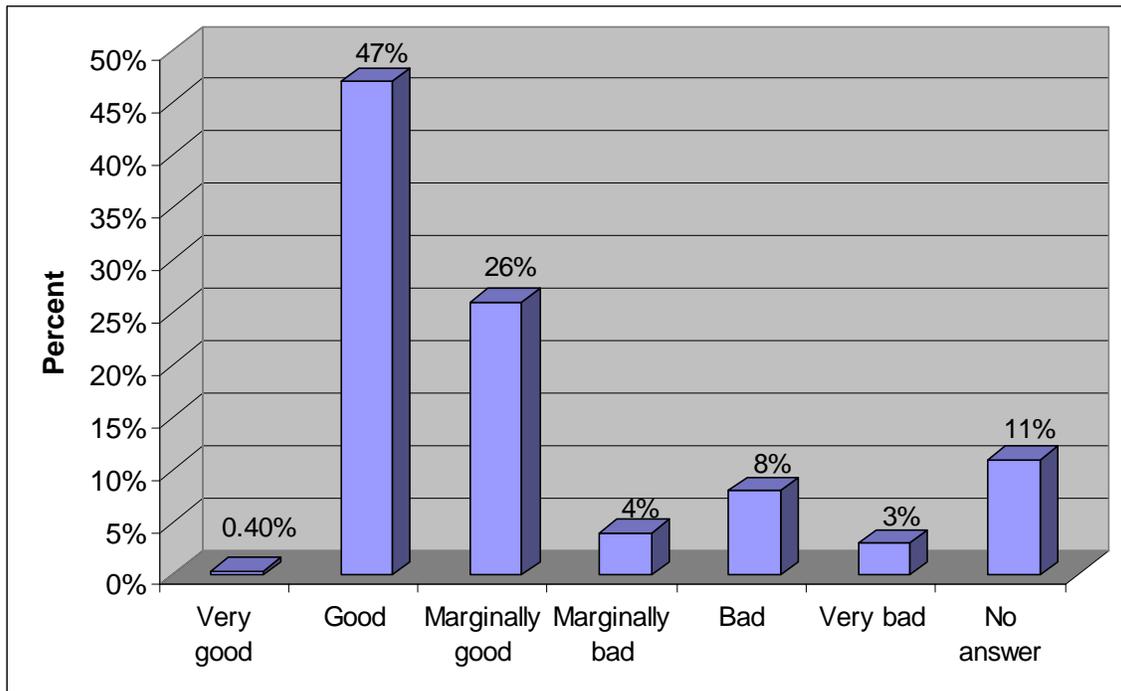
67. The number of respondents to the Survey on the questions regarding costs associated with the change of real estate use was not large enough to interpret the results. At the same time 4 out of 6 municipalities that supplied templates for their procedures indicated that they do not charge any fee for determining and changing the real estate use. It is hard to say whether this is representative of the situation in the majority of municipalities.

246. The respondents to the Survey were asked whether they have had conflicts or problems with institutions responsible for the procedure of change of real estate use. Only 1% of respondents (4 enterprises) have had conflicts or problems with institutions responsible for this procedure during the last 24 months. 5 responding municipalities indicated that there have been no rejections, because it is possible to determine a real estate use in all cases, and there have been either no appeals or they do not have such information. Ventspils had 10 rejections in 2001, and in 5 cases the legal reason was “does not comply with territorial plan” and the remaining 5 were for other reasons.

68. The services received by respondents to the survey during the procedure of change of real estate use were evaluated as shown in the chart. The overall evaluation of services is rather good with 4.2 out of 6 possible points (in the scale where 1 is “very bad” and 6 “very good”).

⁶ Regulations no.344, effective as of 4 August 2001.

Chart IV.5



69. Three of the municipalities have indicated that the applicant has to submit a standard application form approved by the CM Regulations on the Procedure for Determining and Systematizing Real Estate Use, while three other municipalities state that a free form application is required. Similarly there is confusion as to what other documents need to be submitted. 3 out of 6 municipalities state that no other documents are required apart from the application, while three municipalities indicate that also the SLS-issued land border plan with a cadastre number and area needs to be submitted. The regulations provide for a standard application form, but do not list specific documentary requirements applicable for different grounds of change of real estate use. Article 12 of the regulations only lists the types of documents that can be used to prove the legally commenced use of real estate. Similarly, the summary table of templates above shows that also the applicable laws and regulations are not clear to the municipalities and that in general they perceive the legislation governing this procedure to be unclear.

70. Analyzing the information supplied by the 6 municipalities we cannot be sure that this indeed applies to all the municipalities in Latvia, however we can note that if the administrations of the largest towns are not clear about the applicable laws and regulations and what documents are required to justify a specific use of real estate, there is a need for clarification of regulations and explanation of their application. This would be the responsibility of the SLS. The answer of the SLS to the template on the reassessment of the land parcel indicates that they understand these problems. The SLS has stated that a change needed for improvement of this procedure is closer cooperation with the municipalities in determining the real estate uses. One way of addressing this

problem could be preparation and dissemination of a manual or guidelines for the procedure of determining the real estate use. Consistent application of the legislation, which leads to similar use being determined for similar objects, needs to be the focus of the SLS, since ignoring this important component might lead to distorted and unequal taxation of real estate throughout the country.

71. In its 7 October 2002 comments, the SLS explains that “CM Regulations no. 344 “The procedure for determining and systematizing real estate use” clearly defines which documents are used for determining real estate use. In accordance with Art. 40 of the regulations, the SLS has prepared methodological guidelines for determining real estate use for land, which have been adopted by Order of the Minister of Justice no. 1-1/549. In the same manner, SLS specialists have participated and provided explanations at seminars organized by the Latvian Union of Municipalities regarding the regulations and the methodological guidelines.” The SLS further explains: “the SLS is not authorized to control, but rather to provide methodological assistance to municipal and state institutions in determining real estate use.” However, the authors of this Report note that the discrepancies that are evident in this Report among the larger municipalities regarding determination of real estate use demonstrate that it is necessary to improve the work of the SLS in providing methodological guidelines.

72. Another suggestion voiced by one of the municipalities is to allow the changed real estate use to enter into effect immediately and not in the next taxation year, as it is currently. But this would require recalculating the payable real estate tax and adjusting it in the course of the current taxation year. As the SLS explains in its comments of 7 October 2002, “If the real estate use changes, the land cadastral value is recalculated. But in accordance with CM Regulations no. 343 “On the Procedure for Revising the Real Estate Cadastral Value”, for determining the real estate tax the revised value is applied only in the next tax year.”

5. Recommendations

a. Assessment of Real Estate and Inventory of Buildings

- The State Land Service is responsible for assessment of real estate. It seems that most of the related problems are due to the fact that there is a lack of precise information on processing times, costs and requirements. These would not only be helpful to enterprises, but also to the SLS in improving its own work. The SLS is encouraged to improve its system of recording the number of applications and the type of decisions taken for inventory of buildings. Access to such information would enable the SLS to analyze the trends and identify ahead of time any patterns or problems that require adjustment of the procedure or dissemination of relevant information.
- Regarding processing time, anecdotal evidence suggests that longer projects have to endure longer delays and the SLS is suggested to look into this issue.

- LDA and FIAS believe that it is crucial for businesses and applicants in general as well as the employees of the institution to be aware of the statutory maximum processing time for any procedure. In the absence of provisions on the maximum processing time for reassessment of a land parcel in the governing law On Real Estate Tax, consider revising the law to provide for a specific processing time (i.e. 14.days). The SLS in its comments of 7 October 2002 disputes the proposal to revise this law, especially if the processing time is determined by another law. An alternative is to apply the provisions on the maximum processing time established in the Law On Procedure for Review of Applications, Complaints and Suggestions by State and Municipal Institutions⁷, which stipulates the maximum processing time of 15 days (in case no additional check or information is required to respond) or 30 days (in case additional information needs to be gathered). For this to be effected, there is a need to inform the SLS employees of the existence of these generally applicable norms and to train them in the administrative procedure principles and applicable legislation.
- Revise the price list for the Services of the SLS approved by the Director General of the SLS to provide more accessible information as to the fees payable for reassessment of land and inventory of buildings. This measure is desirable in order to limit the possible confusion and discretion of the officials. An additional necessary step is to prepare a separate list that reflects the applicable fees in a more accessible manner to the client of the institution.
- The SLS does not keep information on the number of appeals filed with the courts and has not submitted any information regarding appeals to the head of the SLS. Even if the number of appeals is small and their substance seems meaningless, it is still worthwhile to keep track of appeals or complaints, if any, and to identify what issues or actions typically provoke them. This will help the institution to identify the problems in their early stages and adjust its operations accordingly or, on the other hand, verify that there is no reason to change anything.
- The SLS is recommended to elaborate and improve its policies and techniques for informing the public at large, including businesses, of the services provided, the decision-making process, applicable fees and processing times. More precise information on the processing times, costs and requirements could be posted on the SLS website. Along with traditional means of distribution of information, like brochures and information leaflets, the SLS should also consider the practice of the Enterprise Register, which uses e-mail bulletin to deliver news and information to its subscribers.

⁷ Effective as of 5 November 1994.

b. Registration of Title Transfer in the Land Book

- The Land Book should ensure observance of the statutory limit of 30 days for processing of applications for registration of title transfer. Consider establishing a shorter processing time (i.e. 14 days) in general.
- The Land Book is also recommended to introduce statistics on average processing time which could be used to monitor the actual processing times and ensure that the statutory limit of 30 days is observed.
- FIAS recommends abandoning the link to “minimum wage”, which is not relevant to a government service regarding real estate. Prices should be established based on the resources required for the Land Book to perform each of the relevant services provided, as a “user-fee”, expressed simply in Lats, and up-dated periodically on the basis of the relevant costs.
- An important aspect of improving the consistency of application and interpretation of legislation by the Land Book judges is to carry out an analysis and compilation of court judgments. These recommendations were stated by the Land Book department itself and are worthy of full support.

c. Change of Real Estate Use

- The SLS and the municipalities are encouraged to pay more attention to this seemingly simple procedure, which at the end of the day can significantly influence the payable real estate tax and applies to a relatively large number of businesses.
- Consider decreasing the statutory processing time for applications for change of real estate use from 30 days to 14 days or less. As the SLS explains in its comments of 7 October 2002, “Art. 19 of the CM Regulations no. 344 “On the Procedure for Revising the Real Estate Cadastral Value” provides that the municipality must review the notification no later than one month after receiving it. Therefore it is not necessary to amend the CM regulations, because they do not strictly provide that the processing time must be 30 days. The time for processing is up to each municipality.” Nevertheless, the authors of the Report believe that the problem still exists and it is currently not being addressed sufficiently at the municipal level.
- In order to ensure a consistent interpretation and application of the legislation and that similar use is determined for similar objects in different municipalities, the SLS should focus on implementation of this new legislation. The SLS could consider preparing and disseminating a manual or guidelines for the procedure of determining the real estate use and carrying out a series of seminars and training to the municipal employees to familiarize them with the purpose and technique of determining the real estate use. The

goal is that the relevant legislation is applied consistently and there is equal treatment of similar applications throughout the country.

- Consider allowing the changed real estate use to enter into effect immediately and not in the next taxation year, as is the case currently. This would require recalculating the payable real estate tax and adjusting it in the course of the current taxation year.

B. Construction

73. The results of the Regulatory and Administrative Costs Survey on Preparatory Works before Occupation of Main Premises indicate that more than one half (56%) of respondents that have premises had to make structural changes or improvements in the main premises before occupying them. One fifth (20%) of respondents reported that they changed the real estate use, 15% purchased premises, while 5% constructed them. 3% had to go through the process of rezoning the land while one third (34%) reported they did not change anything before occupying the main premises. The results of the survey indicate that the number and types of activities that companies perform before occupying their main premises depend on the number of employees working in the enterprise. Respondents with a larger number of employees more often went through these procedures than respondents with a smaller number of employees.

Table IV.6: Preparatory Works before Occupation of Main Premises

	%	Number
Structural changes or improvements	55.6	295
Classification of usage change	20.4	109
Purchase	14.6	125
Construction	4.6	33
Rezoning of the land	3.3	35
Change nothing	33.7	139
Hard to say	0.1	2

Base: companies, that have premises, N = 503.

74. 57% of those respondents that had to do preparatory works before occupying premises incurred expenses connected with administrative procedures. The average sum paid for all the necessary administrative procedures was Ls 606. Apart from expenses related to settling administrative procedures, the majority (92%) of respondents also had expenses related to improvement, construction and purchase of premises and the average sum of money spent by one enterprise on these activities was Ls 16 623. The respondents have reported that on the whole the costs have averaged Ls 36 122 for one enterprise to have all the necessary work done before occupying the premises.

Table IV.7: Preparatory Work and All Procedure Average Costs (LVL)

	Administrative cost (permits, paperwork, etc)	Cost of purchase, construction, structural changes etc.	TOTAL COSTS ⁸
AVERAGE COSTS BEFORE <i>OCCUPYING PREMISES</i> N =	605.79	16 623.48	36 122.26
	85	184	181

Base: those, who had respective costs before occupying premises and have given particular answer, see 'N = ' in table.

75. More details from the Survey results relating to the construction approval process are presented below in the Analysis sections and a full version of the Survey report is attached to this study.

76. Construction approval is carried out by each municipality separately. The process, although based on the Construction Law and the General Construction Regulations, varies from municipality to municipality. This section contains a general description of the steps involved in construction approval and information on specific procedures in 7 municipal administrations of some of the largest towns in Latvia. The templates completed by these 7 municipalities are summarized in the table below. Finally, an analysis of the construction approval process based on the information from the templates, survey analysis and other relevant information is presented and recommendations for improvement are provided at the end of this section.

1. Construction Approval

77. The basic regulations for the construction process are provided in the Construction Law⁹, Civil Law, General Construction Regulations (GCR)¹⁰, other related regulations and building standards issued by the Cabinet of Ministers, as well as international agreements, which are binding for Latvia.

78. The municipalities, in accordance with the master plan of each municipality, establish land use and construction requirements¹¹. The control of the construction is also the responsibility of the respective municipal administrations. More specifically, the Construction Law establishes the following competences of the municipalities:

- To prepare and approve the administrative territorial plan, the detailed plans and related development regulations, which are binding on all

⁸ The sum does not match the sum of separate payments for the preceding two items. The total expenses have been calculated as an average of the total cost figure named by 181 companies. The large discrepancy here is due to the fact that the sum of Ls 36 122.26 is a distorted average due to some apparently expensive real estate undertakings by some respondents. It should be noted that the *median* response to this question is Ls 2000 and the *mode* is Ls 1000.

⁹ Effective as of 30 August 1995.

¹⁰ Cabinet of Ministers Regulations no. 112, effective as of 1 July 1997.

¹¹ The Law on Municipalities, effective as of 9 June 1994.

participants in the construction process and apply to all construction in the administrative territory of the municipality, as well as to control and ensure the implementation of the above mentioned;

- To review construction designs and take decisions concerning these designs;
- To issue and register building permits (as well as building permits issued by other institutions); and
- To control the observance of the Construction Law and related normative acts by those engaged in construction activity.

79. For oversight and control of construction in the territory of the municipality, the municipal administration must establish a construction board. Such construction boards exist in all of the municipalities surveyed for the purposes of this study. Riga City has recently established a construction board within the City Development Department.

80. State control in the sphere of construction is exercised by the State Building Inspectorate, which is under the supervision of the Ministry of Environmental Protection and Regional Development. The State Building Inspectorate is entitled to examine the observance of the law and other normative acts in the sphere of construction. In addition to the State Building Inspectorate, there are municipal building inspectors, which are also certified by the Ministry of Environmental Protection and Regional Development. A more detailed description of the on-site inspection procedure of the State Building Inspectorate can be found in Chapter 4 (“Operating”) and in the template in Annex E.

81. National building standards are approved by the National Standardization and Metrology Center of Latvia. The requirements of Latvian national standards should be in compliance with those of European Standardization Committee and the European Electrical Engineering Standards Committee.

82. Construction design and planning, engineering works, construction works and construction oversight can only be performed by a licensed legal entity or certified architect or construction engineer (a physical person). There are a few exceptions where these requirements do not apply: in case a construction permit is not required for a specific type of construction or in case of construction of a summer cottage or farm house if the construction design has been approved and the building permit issued). However, for commercial projects, all the design and construction related activities must be performed by a certified specialist or a licensed company. The procedure of issuance of a construction license is described in more detail in Chapter 2 (“Start-Up”) and in the construction license template in Annex C.

2. Construction Approval Process

83. A land plot can be developed if the plans do not contradict the municipal master plan, the detailed plan or the binding development regulations issued by the municipality.

If the development is not performed by the landowner, the developer must receive a written consent from the landowner.

84. The following stages and steps are normally required in order to receive a construction permit and complete the construction process:

a) Pre-design stage:

- Initial application for construction¹²;
- Statement of the construction board¹³;
- Gathering the documents needed for commencement of construction design¹⁴;
- Public hearing, if required¹⁵; and
- Issuance of the Planning and Architectural Task.

b) Design Stage:

- Preparation and approval of sketch design¹⁶;
- Preparation of technical design¹⁷;
- Approval of technical design¹⁸; and
- Adoption of design¹⁹.

c) Construction Stage:

- Receipt of construction permit²⁰; and
- Construction process.

d) Formal acceptance of the building upon completion of the construction²¹.

85. The scheme, on the following page, illustrates the sequence of steps in the construction approval process until formal acceptance of the building. The scheme contains the statutory processing times, in case such have been established in the sectoral legislation²². If no statutory time is established for a specific administrative procedure a

¹² Articles 31 – 34 of the GCR.

¹³ Articles 35 – 40 of the GCR.

¹⁴ Articles 41 – 46 of the GCR.

¹⁵ Cabinet of Ministers Regulations no. 309.

¹⁶ Articles 82 – 88 of the GCR.

¹⁷ Articles 89 – 94 of the GCR.

¹⁸ Articles 95 – 98 of the GCR.

¹⁹ Articles 102 – 105 of the GCR.

²⁰ Articles 112 – 120 of the GCR.

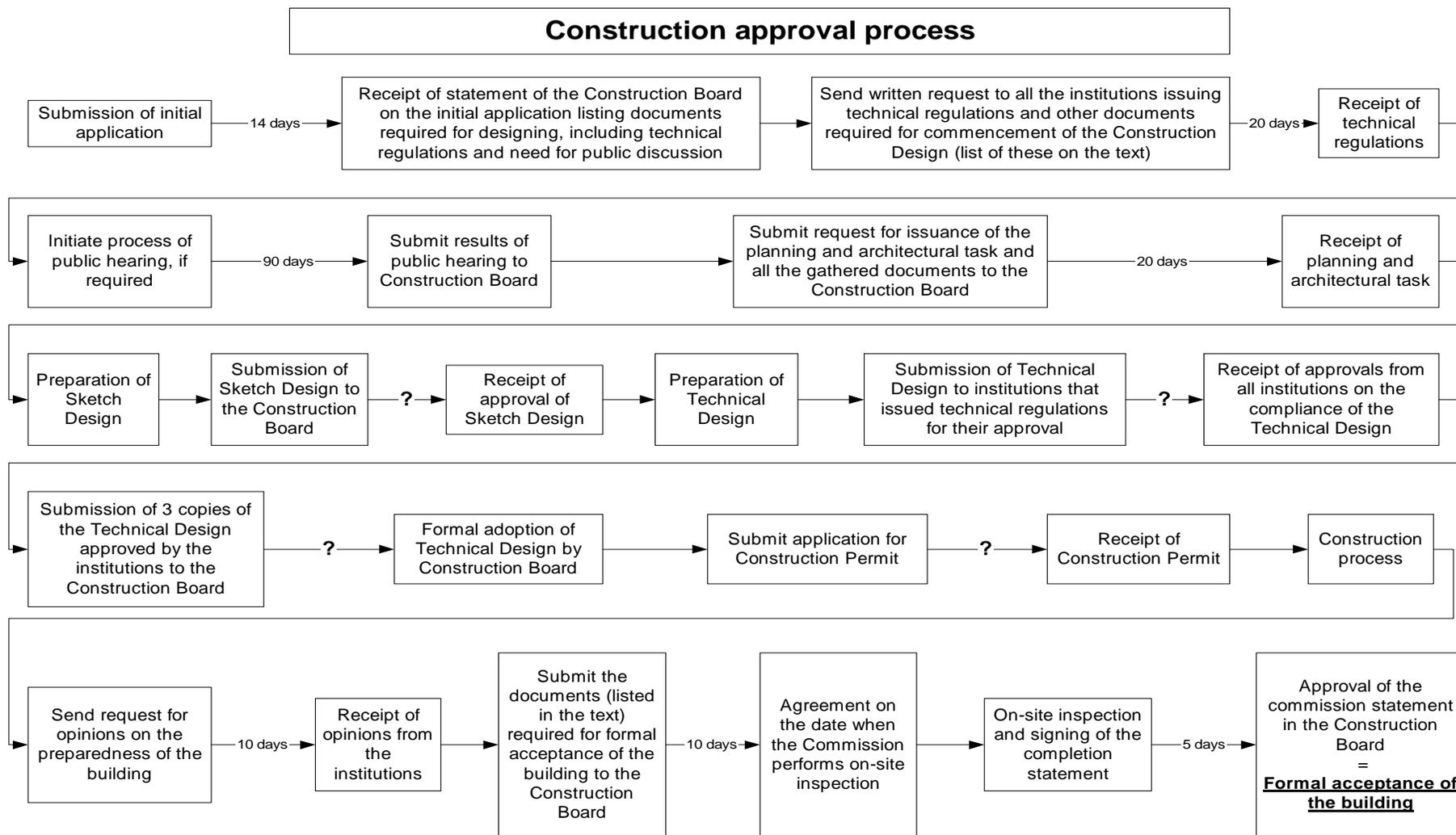
²¹ Article 164 of the GCR, Cabinet of Ministers Regulations no. 258 on Formal Acceptance of Buildings Upon Completion of Construction, 1997 (LBN 301-97).

²² Theoretically, in case the sector law does not contain provisions on the maximum processing time, the Law On the Procedure for Review of Applications, Complaints and Suggestions by State and Municipal Institutions applies, which stipulates a maximum processing time of 15 days (in cases where no additional

question mark appears in the scheme. Each of the steps is described in more detail below and where appropriate any variations from the general procedure in different municipalities are also indicated.

check or information is required to respond) or 30 days (in case additional information needs to be gathered). However, none of the surveyed municipalities has indicated that they apply the provisions of this law.

Chart IV.6



(If no statutory time is established for a specific administrative procedure, a question mark appears in the scheme.)

3. Pre-Design Stage

86. *The initial application for construction* can be submitted to the construction board by the owner, lessee or user of the real estate or its authorized person. The application is a standard form approved by the Cabinet of Ministers (appendix 1 of the GCR). The GCR do not provide for any documents that need to be submitted together with the initial application. In practice, however, the applicant has to provide the following documents:

- Proof of ownership or lease of the real estate (copy of the Land Book act);
- Site plan (land border plan and plan of any existing buildings);
- Brief description of the intended project; and
- Preferably sketches of the intended development.

87. *Statement of the Construction Board.* The construction board has 14 days to review the application and to issue a written statement regarding the compliance of the proposed development to the master plan, detailed plan and the binding development regulations of the municipality. This statement also contains a list of documents that the applicant has to gather to commence the design, including a list of required technical regulations. At this point, the construction board must also determine whether a public hearing is required. A public hearing of a development proposal is required in the following cases:

- Construction of a structure of public importance;
- Construction is financed by the government or municipality and the costs exceed 50 000 lats;
- Construction will seriously affect the environment, the living conditions of the inhabitants or the value of the real estate; and
- Construction is intended on territory for public use.

88. The municipality can deny or propose to change the intended development if it contradicts the law, the master plan or detailed plan of the territory or on the basis of the results of the public hearing. Such a decision must be motivated and must state the specific reasons and the legal norms the decision is based on. The decision of the municipality can be appealed to court.

89. *Gathering the documents needed for commencement of construction design.* The developer or its contractor, depending on the agreement between the parties, must gather all the documents listed in the statement issued by the construction board in order to proceed with the design. The required documents vary depending on the type of the project and its location, but typically include the following:

- Layout of the site, scale M 1:2000 - M 1: 10000;
- Topographical plan of the land plot, scale M 1:500 - 1: 1000;
- Inventory documentation of the building, if the construction design will be prepared for an existing building;
- Technical regulations of various institutions, covering the following:

- water and sewage (municipal water utility company)
 - road infrastructure and traffic safety requirements (state agency and municipal structure)
 - electricity (state electrical utility company)
 - gas (private gas utility company)
 - heating (municipal heating utility company – for central heating)
 - telecommunications (monopoly telecommunications company)
 - environmental protection norms (Regional Environmental Board)
 - hygienic norms (Public Health Agency)
 - fire safety norms (Firefighting and Rescue Service)
 - monument protection requirements (State Inspection for Protection of Cultural Monuments)
 - permit to cut trees (municipal structure responsible for greenery)
 - other requirements and permits in case of specialized construction.
- Different municipalities might have additional requirements – for example in Riga an opinion of the Economic Development Division of the City Development Department is also required.

90. The GCR provide that these documents must be issued by the public institutions within 20 days after a written request from the applicant has been received. The regulations stipulate that the institutions issuing the technical regulations must provide specific requirements applicable to the concrete project. The utilities must also determine the expenses for connecting to their facilities or expenses related to the necessary improvement of these facilities. The GCR state that the costs determined for the developer cannot be higher than the actual expenditure for fulfilling the issued technical regulations. A section on utility hook-ups below also provides a description of the procedures for connecting to selected utility networks.

91. Fees for the issuance of technical regulations are provided in the appendix of the GCR and range from Ls 1 to Ls 17 for issuance of technical regulations. However there have been reports of instances when the institutions issuing technical regulations do not observe the amount of fees determined in the appendix no. 9 of the GCR.

92. *Public hearing, if required.* If the statement issued by the Construction Board indicates that a public hearing of the development proposal is necessary, the developer must carry it out in accordance with the procedure provided for in the Cabinet of Ministers Regulations On Public Hearing of Development Proposals²³. A public hearing will normally last for 3 months. The results of the public hearing are of an advisory nature (not legally binding) for the municipality when taking the decision.

93. *Issuance of the Planning and Architectural Task.* Once all the documents required in the construction board's initial statement are collected and submitted to the construction board, it issues the planning and architectural task. This document gives the right to proceed with the preparation of the construction design on the basis of the

²³ Cabinet of Ministers Regulations no. 309, effective as of 6 September 1997.

requirements listed in it and provided in the technical regulations issued by the various institutions.

94. The issuance of the Planning and Architectural Task is not clearly described in the GCR and various norms regarding it are somewhat contradictory as to the exact time and sequence of issuance of this task. One provision (article 39 of the GCR) stipulates that the Planning and Architectural Task should be issued directly after the review of the initial application, in case the decision is positive. In this case the statement of the municipality and Planning and Architectural Task should both be issued at the same time within 14 days of the submission of the initial application. Other articles (41 and 42) provide that the Planning and Architectural Task is issued within 20 days of the receipt of a written request. The articles do not clarify whether this written request is the same initial application or a different request. Yet another norm (article 46 of the GCR) provides that the developer can request the construction board to gather and consolidate the technical regulations from the appropriate institutions and issue those together with the Planning and Architectural Task within 30 days. The construction board is entitled to levy a fee for service in such a case. LDA does not possess information that such a practice is followed in any of the largest municipalities. In addition, the standard form of the Planning and Architectural Task as provided in the appendix to the GCR clearly indicates that it cannot be issued before the developer has gathered all the technical regulations and other required documentation, because these need to be cited and are used to determine the conditions and requirements applicable to the construction design that are indicated in the Planning and Architectural Task.

95. In Riga City there is one more step before the Planning and Architectural Task is issued: the review of all the documentation (technical regulations and other required documents) in the Interdepartmental Commission of Riga City, which approves the issuance of the Planning and Architectural Task. This review takes an additional 7-14 days.

4. Design Stage

96. Design is prepared in one or two stages – sketch design and technical design. For a technically simple construction, one stage is sufficient: the technical design. The decision as to the number of stages for a specific project can be made by the developer or by the construction board at the time of issuance of the Planning and Architectural Task.

97. *Preparation and approval of sketch design.* If the decision has been made to prepare the design in two stages, the sketch design must be prepared first in accordance with the Planning and Architectural Task and the relevant technical regulations. The sketch design includes the following:

- Location of building (situation);
- Landscape solutions for the land plot;
- Floor plans of the building;

- Characteristic sections of the building;
- Facades; and
- Description.

98. The General Construction Regulations do not stipulate the maximum period of time for review of the sketch design. The templates filled out by the municipal construction boards summarized in the table below indicate that the approval of a sketch design can take from 7 days in smaller municipalities to 40-60 days in Riga (the Riga template states that it takes 2-3 days in each institution and there are approximately 20 institutions listed in the template).

99. The approved sketch design is the basis for preparation of the technical design, but it cannot be used to receive a building permit and start the construction.

100. *Preparation of technical design.* The technical design is prepared either on the basis of the approved sketch design, if such was required, or on the basis of the Planning and Architectural Task. The technical design is developed by a licensed design company and typically consists of the following parts and contains the following information:

- General section:
 - Documentation and materials necessary to commence construction design;
 - Materials of the geological survey of the land plot; and
 - Explanation including economical motivation or summary of company's business, and technical data on the building.
- Architectural section:
 - Territorial section;
 - Architectural section; and
 - Layout of equipment (for public use buildings).
- Section on engineering solutions:
 - Building structures;
 - Water supply and sewerage;
 - Heating, ventilation and air conditioning;
 - Power supply;
 - Heating supply;
 - Gas supply;
 - Telecommunications, alarm systems, equipment management systems;
 - Environmental protection measures; and
 - Other engineering solutions.
- Technological section (for industrial buildings):
 - Technological schemes of production process;
 - Layout of equipment, schemes and descriptions; and
 - Technical instructions or descriptions of the production process.
- Economic part (for buildings funded by the municipality and the state).

101. The time needed for preparation of the technical design will, of course, depend on the complexity and scale of the intended construction. It is estimated that the design

company needs approximately 2 to 5 months for preparation of a technical design for a new building.

102. *Approval of technical design.* Once the technical design is completed it must be approved in 3 copies by those institutions that issued technical regulations and other documentation needed for commencement of the design. The GCR stipulate that such approvals are only needed if the requirements of the technical regulations have not been observed. In practice, however, especially in Riga, it is a common practice to require that the developer seek approval of the technical project from all the institutions.

103. In case the intended building is located in the historical part of the town, or if the construction will take place in buildings of cultural and historical heritage (renovation, refurbishment), the technical design must be approved by the State Inspection for the Protection of Cultural Monuments.

104. As for the sketch design described above, the GCR do not stipulate the maximum period of time for review and approval of the technical design. However, the templates filled out by the municipal construction boards (summarized in the table below) indicate that timing for the approval of the technical design has the same data as submitted for the sketch design: it can take from 7 days in smaller municipalities to 40-60 days in Riga (the Riga template states that it takes 2-3 days in each institution and there are approximately 20 institutions listed in the template).

105. Fees for such review and approvals are provided in Appendix 9 of the GCR and range from Ls 1 to Ls 10. However there are reports of instances when the institutions issuing technical regulations that have to approve the technical design do not observe the amount of fees established in Appendix 9 of the GCR.

106. The templates completed by the 7 municipalities indicate that there exist variations in interpreting the GCR regarding the approval and adoption of technical designs. In Riga the procedure for approval of the technical design and the procedure for adoption of the design is deemed to be one procedure, where the approval of the design ends with its adoption. At the same time, the Liepaja municipal construction board has stated that they do not carry out the procedure of approval of technical design, while all the other municipalities have stated that they perform this activity (see the summary table of templates).

107. *Adoption of design.* After the technical project has been approved by all the relevant institutions, 3 copies of it must be submitted to the construction board, which must decide to adopt the design or to reject it, providing a motivated response.

108. There is no term specified in the GCR for making a decision on adoption of the design. The municipalities (except Riga) state that on average it takes 5-10 days. In Riga, as discussed above, the approval and adoption of the technical design is one procedure and it takes 40-60 days, according to the information supplied by the City Development Department of Riga.

109. If the construction is not commenced, the adopted design is valid for a period of 2 years.

5. Construction Stage

110. *Receipt of construction permit.* Before construction can start, the developer must receive a construction permit. The following documents must be submitted to the Construction Board:

- Application for construction permit;
- Adopted construction design;
- Commitment letter of a certified site supervisor and certified building supervisor;
- A copy of the contract on design supervision and a journal of design supervision, in case design supervision will be carried out; and
- Journal of construction works.

111. The GCR do not provide for a specific term in which the Construction Board has to review the application and issue the construction permit. The municipalities state that on average it takes 3-10 days.

112. The fee for issuance of the construction permit is set by each municipality separately, in accordance with the Law on Duties and Fees and the Cabinet of Ministers Regulations on the Procedure for Setting Municipal Fees. Details of the fees in each of the 7 municipalities are provided in the summary table of templates.

6. Formal Acceptance of the Building Upon Completion of Construction

113. The building must undergo a formal acceptance on completion of construction. The Construction Law states that a building can only be used and occupied after the acceptance of completion of construction.

114. To initiate the process of formal acceptance of the building, the developer sends a request to the institutions listed below, which within 10 days must verify and provide their opinion regarding the technical completeness of the building and its compliance with the approved construction design and Latvian building regulations. These institutions are the following:

- State Fire and Rescue Service of the Ministry of Interior;
- Public Health Agency;
- Regional Environment Board, if applicable;
- State Inspection for Monument Protection, if applicable;
- State Labor Inspection; and

- Other institutions whose approval of the design was required by the construction board.

115. Once the opinions of these institutions have been gathered, the developer must submit to the construction board the following documents:

- Act of inspection of the construction work or a written statement of the developer about the preparedness of the building for formal acceptance, the term of guarantee of construction works, and the total costs of the construction;
- Opinions of the institutions mentioned above;
- Complete set of the adopted construction design;
- Construction permit;
- Schemes of the constructed engineering networks envisaged in the design and opinions of the relevant utility companies on the completeness and compliance of those;
- Inventory file (technical passport) of the building issued by the State Land Service (valid for six months from the date of issue);
- The register/journal of construction work envisaged by the building design and the registers/journals of specialized construction works (for example, welding, anti-corrosion protection);
- For technological devices, special systems and equipment envisaged in the design – protocols of testing and acceptance; and
- The journal of design supervision, if during construction work design supervision has been performed.

116. After submission of these documents, a special commission is established to carry out the on-site inspection of the building and verify its compliance with the design and preparedness for occupation. In accordance with Cabinet of Ministers Regulations on Formal Acceptance of Buildings Upon Completion of Construction, such a commission is set up by the council of the municipality on the basis of the proposal of the construction board within 5 days of the submission of all the documents. The members of the commission are the following:

- Construction inspector of the construction board - the chairperson of the commission;
- Chief architect of the construction board or an authorized official, in case the chief architect has expressed a wish to participate in the work of the commission;
- Developer and contractor ;
- Construction supervisor; and
- Author of the design, if design supervision was envisaged.

117. The regulations also provide that the commission can be established as a permanent body, however taking into account its composition, it is doubtful that a permanent commission can be established, because three members (developer/contractor,

construction supervisor and design author) will vary for each project. It is also doubtful that for each single project the municipal council will actually take a decision on the establishment of a formal acceptance commission.

118. The chairperson of the commission has 10 days to set the date for the formal acceptance of the building. The date must be agreed upon with the developer and the contractor. Final on-site inspection is carried out and the members of the commission sign the building completion statement. Then the construction board has 5 days to approve the statement of the commission and with this approval the process of formal acceptance of the building is completed. The next step then is to register the title to the new building in the Land Book.

7. Templates: Construction Approval

119. For the purposes of this study, 8 municipal administrations of some of the largest towns in Latvia were requested to fill out the templates regarding the construction approval procedures in their territories. The table below reflects the answers provided by 7 out of 8 municipalities. Cesis municipality provided no information regarding the implementation of this procedure.

247. The summary table reflects some of the more relevant information on construction approval procedures supplied by the municipalities. The complete table is located in Annex D.

Table IV.8: Summary Table of Templates on Construction Approval

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
General information							
1. Institution	Architectural Division and Construction Inspection of the Riga City Development Department	Construction Board of Valmiera Region Council (Valmiera City council has delegated this function on the basis of agreement)	Architectural and City Construction Division of Ventspils City Council				
9. Legal basis for this procedure:						“On the basis of legislation of the Republic of Latvia”	
Construction Law		√	√	√	√		√
Law On Planning of Territorial Development					√		
CM General Construction regulations	√	√	√	√	√		√
CM Regulations No. 324							√
CM Regulations No. 309							√
CM regulations On Territorial Planning		√			√		
Transitional building standard: Territorial planning. Development of towns and villages. LBN 100	√						√
CM regulations on Procedure of determining and systematization of real estate use		√					
Applicable municipal	1) Riga	1) Daugavpils	1) Jelgava	1) Liepaja	1) Rezekne	1) Valmiera	1) Ventspils City

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
regulations	development plan. Riga building regulations. (12.12.1995., decree no.2819) 2) Regulations on approval and adoption of construction designs in Riga (10.11.1998., decree no.6706) 3) Regulations on construction in the heritage area – Old town (23.12.1993., decree no.96)	building regulations (29.05.1997., binding regulations no.170)	master plan 2) Jelgava building regulations (binding regulations no.39) 3) By-laws of the Construction Board	building regulations	master plan (09.11.2000.) 2) Rezekne building regulations (09.11.2000.) 3) Regulations on the procedure for change of planning, renovation and refurbishment of apartments (24.05.2001.)	master plan 2) Valmiera building regulations	binding building regulations (10.09.1992) 2) Regulations on Environment protection licensing in the City Ventspils (25.01.2000) 3) Binding regulations No.7 “On rights to undertake activities in Ventspils” 4) Order of City Council No.615
10. Purpose of this procedure	—	Ensuring implementation of requirements of the Construction Law and General Construction Regulations.	Regulation of construction, implementation of requirements applicable to design of buildings, preparation of construction design and construction process.	—	The purpose of construction approval process is to ensure development of stable environment and to carry out control in the territory of the municipality in accordance with its development plan, master plan, municipal construction regulations,	Adjustment of construction process to that is in accordance with the legislation.	To obtain a construction project in accordance with legislation of both the Rep. of Latvia and Ventspils City Council, including City Development plan; To ensure compliance of Construction projects with laws in force of the Rep. of Latvia

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
					Construction Law, General Construction Regulations, Regulations on Territorial Planning, building standards and other requirements established in the legislation.		and regulations of the City Council.
11. Other institutions involved in this procedure and brief description of their role (e.g., institutions that must give prior authorization and/or subsequent authorization, issue technical regulations (TR), approve the design):		(the applicant can visit these institutions or authorize the design organization)	(the applicant can visit these institutions or authorize the design organization)	In accordance with the requirements indicated in the statement (utilities, different institutions such as Regional Environment Board, etc.)	(the applicant can visit these institutions or authorize the design organization)	In accordance with the legislation; this is performed by the developer.	The number of institutions depends on construction (residential, business, public, mixed) and location. Concrete requirements on involved State and Municipality institutions are designated in the Planning and architectural task issued by City Council
State Fire and Rescue	√	√	√		√		√

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Service, issues TR	(Local office)	(Local office)	(Local office)		(Local office)		
Regional Environment Board, issues TR ²⁴	√ (Local office)	√ (Local office)	√ (Local office)		√ (Local office)		
Public Health Agency, issues TR	√ (Local office)	√ (Local office)	√ (Local office)		√ (Local office)		√ (Local office)
Municipal Environmental Structure	√ (Riga City Environment Department)						√ (Ventspils City Environmental Supervision Division)
Municipal Development Committee	√						
Municipal Economic Development Structure	√ (Economic Development Division of the Riga City Development Department)						
Water Supply and Sewerage Company ²⁵	√ (Municipal company Riga water)	√ (Municipal company Daugavpils water)	√ (Municipal LLC Jelgava water)		√ (Municipal company Watercanal)		
Heating utility ²⁶	√ (JSC Riga Heat)	√ (Municipal company Daugavpils Heating network)	√ (Municipal JSC Jelgava Heating network)		√ (Municipal company Heat)		
Latvenergo (power	√	√	√		√		

²⁴ For objects that according to CM regulations Procedure according to which Regional Environment Board issues technical regulations for the provided action for which it is not necessary to make an environmental impact assessment.

²⁵ Issues TR if the object will be hooked-up to the supply network; approves - if it will be necessary to cross the network in the process of construction.

²⁶ Issues TR if the object will be hooked-up to the supply network; approves - if it will be necessary to cross the network in the process of construction.

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
supply) ²⁷		(Local office)	(Local office)		(Local office)		
Gas supply company ²⁸	√ (Private company Latvian Gas; subsidiary Riga Gas)	√ (Private company Latvian Gas)	√ (Gas Supply Technical Department)		√ (Private company Latvijas propane gaze, Rezekne office)		
Lattelekom (monopoly fixed line provider) ²⁹	√	√ (Local office)	√ (Local office)		√ (Local office)		
JSC Latvian Road Directorate	√				√ (Rezekne office ³⁰)		
Municipal structure for roads and streets, issues TR	√ (Riga City Transport Department)		√ (“City Management” Agency)		√ (Rezekne city Technical Board)		
Rainwater sewerage					√ (Rezekne city Technical Board)		
Inspection for Protection of Cultural Monuments	√	√	√		√ (Rezekne city inspector)		
Municipal Enterprise for Apartments and Utilities		√					
Municipal Trolleybus and Tram structure	√ (Municipal company Trolleybus and Tram Board)	√					
JSC Latvian Railway		√					
JSC Bus park		√					

²⁷ Issues TR if the object will be hooked-up to the supply network; approves - if it will be necessary to cross the network in the process of construction.

²⁸ Issues TR if the object will be hooked-up to the supply network; approves - if it will be necessary to cross the network in the process of construction.

²⁹ Issues TR if the object will be hooked-up to the supply network; approves - if it will be necessary to cross the network in the process of construction.

³⁰ Approves the design.

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Municipal Parking Company	√ (LLC Riga parking lots)						
Land Commission		√					
State Real Estate Agency		√					
Hydro technical engineer			√				
Geodesy center	√ (Municipal company Riga Geodesy Center)						
Municipal Lighting	√ (Municipal company Riga Light)						
JSC VITA (state information network agency)	√						
JSC Riga Radio Transmission	√						
13. Possible activities with the enterprises within this procedure that in any way change the legal status or relationship: <input type="checkbox"/> Initial application of a new construction conception <input checked="" type="checkbox"/> Coordination with the interdepartmental commission <input checked="" type="checkbox"/> Issuance of an architectural planning task <input type="checkbox"/> Receipt of TR from the	<input checked="" type="checkbox"/> Initial application of a new construction conception <input checked="" type="checkbox"/> Coordination with the interdepartmental commission <input checked="" type="checkbox"/> Issuance of an architectural planning task <input type="checkbox"/> Receipt of TR from the	<input checked="" type="checkbox"/> Initial application of a new construction conception <input checked="" type="checkbox"/> Approval of the City Construction Commission <input checked="" type="checkbox"/> Decision of the Construction Board or Council <input checked="" type="checkbox"/> Issuance of an architectural	<input type="checkbox"/> Initial application of a new construction conception <input type="checkbox"/> Coordination with the interdepartmental commission <input checked="" type="checkbox"/> Issuance of an architectural planning task <input checked="" type="checkbox"/> Receipt of TR from the	<input checked="" type="checkbox"/> Initial application of a new construction conception <input type="checkbox"/> Coordination with the interdepartmental commission <input checked="" type="checkbox"/> Issuance of an architectural planning task <input checked="" type="checkbox"/> Receipt of TR from the	<input checked="" type="checkbox"/> Initial application of a new construction conception <input type="checkbox"/> Coordination with the interdepartmental commission <input checked="" type="checkbox"/> Issuance of an architectural planning task <input type="checkbox"/> Receipt of TR from the	<input type="checkbox"/> Initial application of a new construction conception <input checked="" type="checkbox"/> Coordination with the interdepartmental commission <input checked="" type="checkbox"/> Issuance of an architectural planning task <input checked="" type="checkbox"/> Receipt of TR from the	<input checked="" type="checkbox"/> Initial application of a new construction conception <input checked="" type="checkbox"/> Issuance of an architectural planning task <input checked="" type="checkbox"/> Receipt of TR from the institutions listed in point No.8 <input checked="" type="checkbox"/> Approval of the sketch design

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
<input checked="" type="checkbox"/> Issuance of an architectural planning task <input checked="" type="checkbox"/> Receipt of TR from the institutions listed above <input checked="" type="checkbox"/> Approval of the sketch design <input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	institutions listed above <input checked="" type="checkbox"/> Approval of the sketch design <input checked="" type="checkbox"/> Approval of the technical design <input type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	planning task <input checked="" type="checkbox"/> Receipt of TR from the institutions listed above <input checked="" type="checkbox"/> Approval of the sketch design <i>(if there are two stages to the project)</i> <input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	institutions listed above <input checked="" type="checkbox"/> Approval of the sketch design <input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	institutions listed above <input checked="" type="checkbox"/> Approval of the sketch design <input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	institutions listed above ³¹ <input checked="" type="checkbox"/> Approval of the sketch design <input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	institutions listed above <input checked="" type="checkbox"/> Approval of the sketch design <input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building	<input checked="" type="checkbox"/> Approval of the technical design <input checked="" type="checkbox"/> Adoption of the design <input checked="" type="checkbox"/> Issuance of the construction permit <input checked="" type="checkbox"/> Formal acceptance of the building <input checked="" type="checkbox"/> <i>Public review of construction</i> <input checked="" type="checkbox"/> <i>Application for Environment protection license and receipt of license in City Council (review of question in commission, public discussion, decision of Council)</i> <input checked="" type="checkbox"/> <i>Expertise of construction project</i>

³¹ In accordance with appendix no.2 of the General construction regulations Rezekne Construction board issues planning and architectural task where the institutions that issue technical regulations and specifications for the particular object are listed as well as institutions that need to approve the technical design.

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
14. All related duties and fees for this procedure levied by this institution or any other institution, including all the activities	<p>1) Fees for services in the Architectural Division are set in the decree no186-r (03.03.1996.) of the Riga city executive director On Temporary Fees for Services of the Architectural Division</p> <p>2) Municipal fee for construction permit: not levied (binding regulations of the municipal council were adopted on 14.04.2002. and at the moment of filling the templates were not yet in force)</p> <p>3) ³²</p>	<p>1) Approval of the City Construction Commission: Ls 1-2</p> <p>2) Decision of the Construction Board or Council and issuance of planning and architectural task: Ls 3.6-59.4</p> <p>3) Construction permit, including final acceptance: Ls 2.4 – 39.6 (binding regulations of municipal council no.1, 08.03.2001.)</p>	<p>1) Approval of design: Ls 10-20</p> <p>2) Engineering network marking: Ls 114</p> <p>3) Marking of foundation of the building: Ls 36</p> <p>4) Marking of construction axle: Ls 91</p> <p>5) Issuance of planning and architectural task: Ls 20 for legal entity; Ls 5 for individual</p> <p>6) Issuance of technical/engineering planning task: Ls 5 for legal entity; Ls 3 for individual</p> <p>7) Certificate of building acceptance : Ls 5-250 (binding regulations of municipal council no.17 and no.18)</p>	<p>1) Municipal fee for Construction permit: amount depends on the category (binding regulations of the municipal council no.4, 8.03.2001.)</p>	<p>1) Municipal fee for Construction permit: 2.9 Ls – 98 Ls³³ (binding regulations of the municipal council no.23 On Municipal Fee for Construction Permit).</p> <p>2) State institutions can levy fees in accordance with the appendix no.9 of the GCR.</p>	<p>1) No fee for approval in the municipal institutions.</p> <p>2) Very different fees in state institutions.</p>	<p>Ventspils has submitted a detailed list of various fees for physical persons, legal entities and extension of the construction permit, all of which are provided for by Ventspils City Order No.183. The detailed list is available in the Latvian version of this Report.</p>

³² The information provided by Riga City does not indicate that every project must pay a fee for development of city infrastructure. The fee for development of infrastructure was established with the Regulations for Calculation of a Single Payment for Development of City Infrastructure, adopted by the Riga City Council in 1995. The regulations provide that the fee is determined on the basis of a formula and the calculation includes the projected load on the water supply, sewage, environment, health protection, transport and educational infrastructure.

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Selected specific activities							
Issuance of Planning and Architectural Task							
15. Documentary requirements	1) free application form	1) standard application form, available at the institution	1) free application form 2) proof of ownership 3) land plot border plan 4) plan of existing buildings	1) free application form 2) standard application form, available at the institution	1) standard application form in accordance with the appendix no. 1 of the GCR	1) free application form 2) proof of ownership 3) land plot border plan 4) description of project	1) free application form 2) standard application form 3) proof of ownership 4) land plot border plan 5) joint owner agreement, if property is divided 6) registration form of legal entity 7) in case of lease, contract with owner is necessary 8) other documents, if construction is complicated

³³ Municipal fee for construction permit includes expenses of municipal institutions arising in connection with the approval of design and activities connected with the preparation and issuance of documents necessary to issue the construction permit.

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
17. Processing time (after all required documents have been submitted):	By law: 15 Average: 15 Minimum: 7	By law: 20 Average: 14 Minimum: 3 Expedited processing: 2, no additional fee	By law: -- Average: 14 Minimum: 7	By law: 14 (law provides for consent by silence) Average: 14 Minimum: 1 (in simple cases – during the visit)	By law: 14 Average: 7 Minimum: - Expedited processing: available, no additional fee	By law: 15 Average: 4-7 Minimum: 1	Max by law: Processing of construction application - 14 working days, preparing of Planning and Architectural task - 20 working days Average: 20 Min by law: 3 working days
Approval of sketch design							
24. Documentary requirements	1) standard application form, available at the institution	1) free application form	1) free application form 2) proof of ownership (Land Book Act) 3) land plot border plan 4) inventory plan of existing buildings 5) Explanation 6) Planning and Architectural Task 7) TRs 8) Sketch design	1) free application form 2) sketch design	1) sketch design	1) free application form 2) sketch design	1) standard application form 2) 2 copies of sketch design

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Processing time (after all required documents have been submitted):	By law: NA Average: 2-3 days in each structure Minimum: 1	By law: ? Average: 5 Minimum: 1	By law: -- Average: 7 Minimum: 3	By law: 14 Average: 5-7 Minimum: 1 (in simple cases – during the visit)	By law: -- Average: 7 Minimum: -	By law: 15 Average: 4-7 Minimum: 3	Max time by law: The law does not provide for this Average: 7 Minimum: 1
Approval of technical design	Approval and adoption of technical design = one procedure in Riga			Construction board does not perform this procedure.			
Documentary requirements	1) standard application form, available at the institution	1) free application form	1) free application form 2) technical design in accordance with the GCR	—	1) technical design	1) free application form 2) technical design	1) standard application form, 2) 3 copies of construction project with original signatures of head of project and client, approvals and stamps on drawing paper of general plan of project
Processing time (after all required documents have been submitted):	By law: NA Average: 2-3 days in each structure Minimum: 1	By law: 20 Average: 5 Minimum: 1	By law: NA Average: 7 Minimum: 3	—	By law: -- Average: 7 Minimum: - Expedited processing available, no additional fee	By law: 15 Average: 7 Minimum: 3	Max time by law: The law does not provide Average: 7 Minimum: 1

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
Adoption of construction design							
Documentary requirements	Approval and adoption of technical design = one procedure in Riga (see the previous)	1) free application form	3) free application form 4) construction design, in accordance with the GCR	1) standard application form, available at the institution 2) Construction design	1) technical design	1) free application form 2) construction design	1) standard application form 2) 3 copies of construction project with originally signatures of head of project and client, approvals and stamps on drawing paper of general plan of project. The copy for the City Council Archive should be bound and put in hard cover
Processing time (after all required documents have been submitted):	—	By law: NA Average: 5 Minimum: 1	By law: -- Average: 7 Minimum: 3	By law: 14 Average: 5 Minimum: 1 (in simple cases – during the visit)	By law: -- Average: 7 Minimum: - Expedited processing: available upon agreement, no additional fee	By law: 15 Average: 10 Minimum: 3	Max time by law: The law does not provide Average: 7 Minimum: 1
Issuance of construction permit							
51. Documentary requirements	1) standard application form, available at the institution	1) standard application form, available at the institution	1) standard application form, in accordance with the GCR	1) standard application form, available at the institution	1) free application form 2) adopted design	1) standard application form, available at the institution	1) standard application form in accordance with the

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
		3) other documents in accordance with the GCR		2) other documents in accordance with the GCR		2) other documents in accordance with the GCR	Appendix 1 of CM regulation No.112 available at Construction administrative inspection
53. Processing time (after all required documents have been submitted):	By law: 15 Average: 7 Minimum: 1	By law: 20 Average: 10 Minimum: 5	By law: -- Average: 3 Minimum: -	By law: 14 Average: 5 Minimum: 1	By law: NA Average: 7 Minimum: - Expedited processing: available upon agreement, no additional fee	By law: 15 Average: 10 Minimum: 5	By law: 14 Average: 3 Minimum: 1
Formal acceptance of the building							
60. Documentary requirements	1) standard application form, available at the institution	1) standard application form, available at the institution 2) other documents in accordance with the GCR	1) standard application form, available at the institution	1) free application form in accordance with the CM regulations on acceptance of buildings 2) other documents in accordance with the CM regulations on acceptance of buildings	1) free application form in accordance with the CM regulations on acceptance of buildings 2) other documents in accordance with the CM regulations on acceptance of buildings	Application form	1) free application form attaching documents mentioned in LBN 301-97 p.6.1.

	Riga	Daugavpils	Jelgava	Liepaja	Rezekne	Valmiera	Ventspils
62. Processing time (after all required documents have been submitted):	By law: NA Average: 5 Minimum: 3	By law: 10 Average: 10 Minimum: 4	By law: 10 Average: 10 Minimum: -	By law: 10 Average: 5 Minimum: 1	By law: 14 Average: 7 Minimum: -	By law: 15 Average: 10 Minimum: 5	By law: 5 Average: 5 Minimum: 1

8. Hook-Up to Utilities

120. As discussed above, utility providers are involved in various stages of the construction approval process. In all cases, a developer needs to apply to each of the utilities (see the list in the description on “*Gathering the documents needed for commencement of construction design*” above) for technical regulations at the pre-design stage, incorporate the specifications into the design and obtain their approval of the design. The same process applies also if the intended construction will not require certain utilities. Approval of the design will still be required to ensure that the construction activity does not disrupt the existing networks.

121. The developer will typically have to engage in two types of interactions with the utility provider. First, the developer will have to receive the technical regulations for hook-up to the specific utility and agree upon the price, if the connection requires new pipes/lines, etc. Second, an agreement for provision of services will have to be concluded to enable the supply.

122. As indicated previously, water/sewerage and heat utilities are usually municipal companies serving limited territory. The power and gas supply companies operate on a nationwide basis and are currently monopoly providers. For the purpose of this study a sample of utility providers – Latvenergo (power supply), Latvian Gas, Riga Heat and Riga Water, were asked to complete the utility hook-up template.

a. Templates

123. The following templates describing the procedures for utility hook-ups are found in Annex D:

- Latvenergo (power supply);
- Latvian Gas;
- Riga Heat; and
- Riga Water.

C. Analysis

124. In the FIAS Report on Administrative Barriers to Investment in Latvia of April 1999, it was concluded that “the various steps that must be taken before obtaining the construction permit are relatively time-consuming and cumbersome, but have been improving” and that “in Riga it takes an average of one to one and a half years for a commercial project to get a construction permit”. The report also contained a number of recommendations for improvement of the construction approval process.

125. To further elaborate the problems identified and recommendations provided in the April 1999 report, the Prime Minister established a separate working group in June 1999

charged with the task of preparing proposals for the simplification of the construction process. The working group consisted of the representatives of the Ministry of Regional Development and Environmental Protection, Municipal Issues Board, municipalities and representatives of the business community (architects, construction companies and developers) and professional bodies (architects union, construction engineers association). The issues that the working group was reviewing included issuance of technical regulations, overlapping mandates and functions of the controlling institutions, lack of clarity regarding the different fees and duties levied in the process of coordination of the construction design.

126. As a result of the work, the following reforms have been enacted:

- A uniform set of fees and duties related to construction has been introduced in the GCR (appendix 9);
- A regular link between the Municipal Affairs Board and the Construction Department of the Ministry of Environmental Protection and Regional Development has been established, which enables better exchange of information regarding construction-related issues and dissemination of this information in municipalities; and
- A register of municipal duties has been opened in the Municipal Affairs Board, where information concerning all the municipal duties and their rates imposed by local governments is available.

127. However, the well-intended changes have not always been successful and have not been implemented countrywide. One reason for this could be the fact that not all the problems could be solved via changes in the rules governing the procedure of approval of construction designs and issuance of construction permits. Some of the major problems lie outside the procedures, but nevertheless have a direct effect on real estate development and the entire system of construction approval. Among these problems are the lack of territorial and detailed plans for municipalities and lack of detailed, transparent regulations on land use and building design. These problems are discussed in more detail below.

128. Where possible, the analysis will also attempt to relate the data received from the municipalities regarding the construction approval process with the relevant data from the survey. The main emphasis is placed on comparing the data about the processing time and costs of the procedure. Where appropriate, the analyses will also draw upon the experience of other countries with similar procedures and will try to identify the bottlenecks of these selected administrative procedures.

1. Analysis of Data from Templates and Survey

129. The results of the Regulatory and Administrative Costs Survey, where enterprises were asked to rank different administrative and regulatory areas (altogether 26) as to the

degree of obstruction for their operations, indicate that the areas related to real estate and construction received a wide-ranging evaluation.

130. As discussed in the first part of this chapter, *access to land* was seen to be a very severe obstacle for those respondents for whom it was an obstacle (18% of respondents). The problems related to purchase of land and applicable recommendations are discussed in detail in the section on Real Estate.

131. *Access to construction permits* falls in 12th place out of 26 in terms of the proportion of firms citing it as an obstacle, (21% of enterprises). The severity of the obstacle was evaluated at 2.5 points (where 1 means “minor” and 4 means “very severe”). Only three other specific administrative procedures represent a larger obstacle (tax regulations/administration – 3^d place, 2.6 points; access to land – 14th place, 2.6 points; and expatriate employment regulations – 25th place, 2.6 points). This result indicates that access to construction permits for those who regard this is an obstacle is quite a severe obstacle. The purpose of this section and particularly the analysis below is to identify more precisely the specific issues that cause the access to construction permits in general to be an obstacle to businesses. The recommendations provided at the end of this section might be helpful in addressing this hindrance to development of private companies in Latvia.

132. Regarding infrastructure, enterprises were asked to rank two separate areas – *cost of infrastructure services* and *access to infrastructure*. *Access to infrastructure* is an obstacle for 13% of respondents, which places it in 21st place (out of 26). The severity of the obstacle is evaluated at 2.4 points (where 1 means “minor” and 4 means “very severe”). So again the problem is acute for those who regard access to infrastructure to be a problem at all. However this is the least obstructive area of all the four real estate and construction related areas. By contrast, the *cost of infrastructure* comes in 4th place in terms of the number of firms finding it to be an obstacle, with 45% of enterprises regarding this to be an obstacle for their business. At the same time the severity of this obstacle is the lowest among the four real estate and construction related areas – 2.2 points (where 1 means “minor” and 4 means “very severe”). The results suggest that although the cost of infrastructure is found to be problematic by many businesses (since it adds to their costs), they also accept certain expenditures like those relating to infrastructure as unavoidable.

133. The following table shows the number of applications received in 7 municipalities for separate procedures that are part of the overall construction approval process. In order to create a comparative indicator the number of applications for this activity that are processed in the municipality per inhabitant has been indicated.

Table IV.9

	Population of city ³⁴	Issuance of Planning and Architectural Task ³⁵	Population /applications ³⁶	Issuance of construction permit	Population/applications	Formal acceptance of the building	Population/ Applications
Riga	764 329	193 ³⁷	-	2601	294	1401	546
Daugavpils	115 265	238	484	353	327	231	499
Jelgava	63 652	24	2652	No data	-	No data	-
Liepaja	89 448	No data	-	300	298	200	447
Rezekne	39 233	191	205	91	431	61	643
Valmiera	27 752	No data	-	194	143	236	118
Ventspils	43 928	3361 ³⁸	13	259	167	528	83

a. Gathering the Technical Regulations

134. This section contains only the analysis of the Survey data. No templates were completed regarding the issuance of technical regulations. Covering all the institutions issuing technical regulations and analyzing their specific procedures separately would be worth a separate study. As can be seen from the description of the procedure and the summary of templates above, there are up to 30 different institutions, depending on the nature of the project and its location, which issue technical regulations for design.

135. The results of the Survey indicate that 15% of respondents (103 enterprises), which have premises in their possession (owned or rented) needed to gather Technical Regulations for construction before occupying those premises. One third (33%) of these enterprises hired outside specialists for accomplishing this procedure.

136. The respondents to the Survey reported that gathering technical regulations takes almost one and a half months on average - 44 calendar days. The largest portion of time – more than one month (35 calendar days³⁹) – is spent on preparing the necessary documentation.

³⁴ Data from the results of the 2000 Population and Housing Census in Latvia, Collection of statistical data, Central Statistical Bureau of Latvia, Riga, 2002

³⁵ All the figures from municipalities indicate the number of applications submitted for specific activity.

³⁶ This column indicates the number of applications for this activity that are processed in the municipality per inhabitant, creating a comparative indicator.

³⁷ The figure provided by Riga City indicates the number of applications reviewed in the City Interdepartmental Commission, where only the applications regarding the largest projects have to be reviewed. Riga City does not record the number of Planning and Architectural Tasks issued without review in this commission, which is how the majority of PATs are issued.

³⁸ Although the number of Architectural and Planning Tasks issued by Ventspils seems to be disproportionately high, a representative confirmed on 07.11.02 that this is indeed the correct number.

³⁹ The number of respondents is 44 enterprises, while the minimum number regarded as sufficient to interpret the obtained results is 45.

137. The comparison of the official processing time mandated by the GCR and the data from the Survey is the following:

Table IV.10

Processing time in accordance with General Construction Regulations	Data from the Survey on Gathering of Technical Regulations
<i>Calendar days</i>	<i>Calendar days</i>
Maximum: 20	Average: 9 (44 total days to gather the required technical regulations, of which 35 calendar days are for preparation of documents)

138. The Survey asked respondents the total time required for gathering the technical regulations and the time required for the company to prepare the documents. If it is assumed that Total Time minus Preparation Time equals the Processing Time by the institutions issuing technical regulations, then it appears that on average businesses receive the technical regulations within the limits of the maximum processing time. It should be noted that the data from the Survey provides an average for all the institutions issuing technical regulations and cannot be applied to any particular institution.

139. At the same time the Survey indicates that the number of days needed to gather the required technical regulations and the level of effort (expressed in person days) needed for preparation of documents for this procedure is the highest, if compared with the number of total days and the level of effort reported for other administrative procedures in the process of construction approval. This part of the construction approval process is the most time-consuming and by definition involves the largest number of institutions that a company has to interact with by sending and following up the written applications with all the institutions issuing technical regulations. This part of the construction approval process could benefit from introduction of a standard and preferably consolidated application form for requesting technical regulations for one project from different agencies. This could speed up the process.

140. The number of respondents to the Survey on the questions regarding costs associated with gathering the technical regulations was not large enough to interpret the results. Appendix No. 9 of the GCR establishes the amount of fees that different state institutions can levy for issuance of technical regulations and coordination of the design.

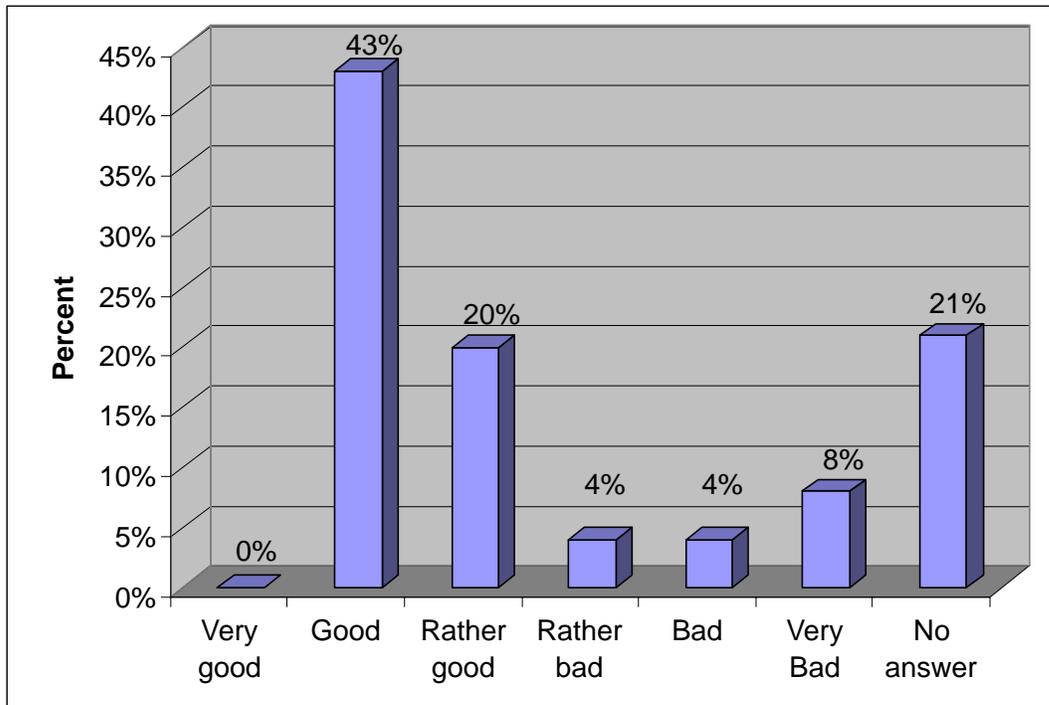
141. However, there is still no single source of information regarding the actual fees levied by different state and municipal institutions in the process of issuance of technical regulations. In addition, there is anecdotal evidence that suggests that these provisions of the GCR are not always observed. The institutions responsible for developing and implementing the state policy and control over the observance of the legislation in the field of construction (namely, the Construction Department of the Ministry of Environmental Protection and Regional Development and the State Construction Inspection) could carry out a survey of the institutions issuing technical regulations in

order to gather information on the amount of fees levied for issuance of TR and for coordination of designs. The possible standardized tools that can be used in such a survey are the same templates that were used for the purposes of this study. The results of such exercise will serve, first, as a source of information on the actual fees that are levied and, second, for evaluation of the situation and assessment of the level of implementation of Appendix No. 9 of the GCR. On the basis of such a thorough analysis, further suggestions for necessary changes can be developed.

142. Only 1% of respondents admitted that during the last 24 months they have had conflicts or problems with the institutions that issue technical regulations for construction.

143. The respondents to the Survey evaluated the services received during the process of gathering the technical regulations as shown in the chart below. With the average evaluation of 4.0 points (in the scale where 1 is “very bad” and 6 is “very good”), this part of the construction approval process received the lowest average evaluation along with the evaluation of services during coordination and approval of the design. In fact, in both cases – when gathering the technical regulations and when coordinating and receiving approvals of the design, the applicant has to interact with the same set of institutions.

Chart IV.7



b. Acquiring Planning and Architectural Task

144. The municipal construction board issues the Planning and Architectural Task. The results of the Survey indicate that 20% of respondents (120 enterprises), which have premises in their possession (owned or rented) had to acquire Planning and Architectural Task (PAT). 40% of these enterprises hired outside lawyers/specialists for accomplishing this procedure.

145. 5 out of 7 municipalities that completed the templates have statistics regarding the number of applications filed and decisions made for issuance of PAT. This information can be found in the summary table of templates above (item 18). The number of applications in 2001 for the PAT in Daugavpils was 238 which is close to the number of applications in Rezekne – 191. The results from Ventspils seem to be disproportionately high: 3361 applications; nevertheless, this number was later confirmed by a representative of the Ventspils administration. Riga City reported issuing 192 PATs on the basis of review by the Interdepartmental Commission of Riga City, which is only necessary for larger projects. Riga City does not record the number of Planning and Architectural Tasks issued without review in this commission, which is how the majority of PATs are issued. Therefore it is practically impossible to compare the number of PATs issued in Riga and in other municipalities. Riga City is recommended to introduce the practice of tracking the number of PATs it issues for all types of projects, since this can serve as a good indicator of the actual workload and can reveal tendencies in the application process that are otherwise left unnoticed.

146. The respondents to the Survey reported that it takes more than 5 weeks (37 calendar days) on average to go through this procedure. The time spent on preparations of necessary documents is also quite long – three and a half weeks (26 calendar days).

147. The municipalities have stated that on average the processing of application for PAT is completed within 4-15 days, with the minimum processing time of 1-7 days (details for each separate municipality can be found in the summary table above – item 17).

148. A comparison of data of the official procedures from 7 municipalities and the data from the Survey is the following:

Table IV.11

Information from the Municipalities on Procedure for Issuance of the PAT							Data from the Survey on Procedure for Acquiring the PAT
<u>Riga</u>	<u>Daugavpils</u>	<u>Jelgava</u>	<u>Liepaja</u>	<u>Rezekne</u>	<u>Valmiera</u>	<u>Ventspils</u>	<u>Latvia</u>
<i>Calendar days</i>							<i>Calendar days</i>
Maximum by law: 15	Maximum by law: 20	Maximum by law: NA	Maximum by law: 14	Maximum by law: 14	Maximum by law: 15	Maximum by law: 14, processing of construction application; 20, preparing PAT	Average: 11 (37 total days to acquire the PAT, of which 26 calendar days are for preparation of documents)
<u>Average</u> : 15	Average: 14	Average: 14	Average: 14	Average: 7	Average: 4-7	Average: 20	
<u>Minimum</u> : 7	Minimum: 3	Minimum: 7	Minimum: 1	Minimum: -	Minimum: 1	Minimum: 3	
	Expedited: 2						

149. The Survey asked respondents the total time required for acquiring the PAT and the time required for the company to prepare the documents. If it is assumed that Total Time minus Preparation Time equals the Processing Time by the institution issuing PAT, then it appears that on average businesses acquiring the PAT within the limits of the maximum processing time. It should be noted that the data from the Survey provides an average for the country on the whole and cannot be referred to any particular municipality.

150. The information supplied by the municipalities shows that the general understanding is that the maximum processing time allowed by the relevant legislation is 14-15 days. One municipality has indicated that the mandated maximum processing time is 20 days and another one states that in addition to the maximum by law of 14 days, 20 days are necessary for preparing the PAT.

151. This supports the evaluation provided in the descriptive section, that in general, the issuance of the PAT is not clearly provided for in the GCR and various norms regarding it are somewhat contradictory as to the exact time and sequence of issuance of this task. One provision (article 39 of the GCR) stipulates that the Planning and Architectural Task should be issued directly after the review of the initial application, in case the decision is positive. In this case the statement of the municipality and PAT should both be issued at the same time within 14 days of the submission of the initial application. Other articles (41 and 42) provide that the PAT is issued within 20 days of the receipt of a written request. The articles do not clarify whether this written request is the same initial application or a different request. Yet another norm (article 46 of the GCR) provides that the developer can request for a relevant fee the construction board to gather and consolidate the technical regulations from the appropriate institutions and

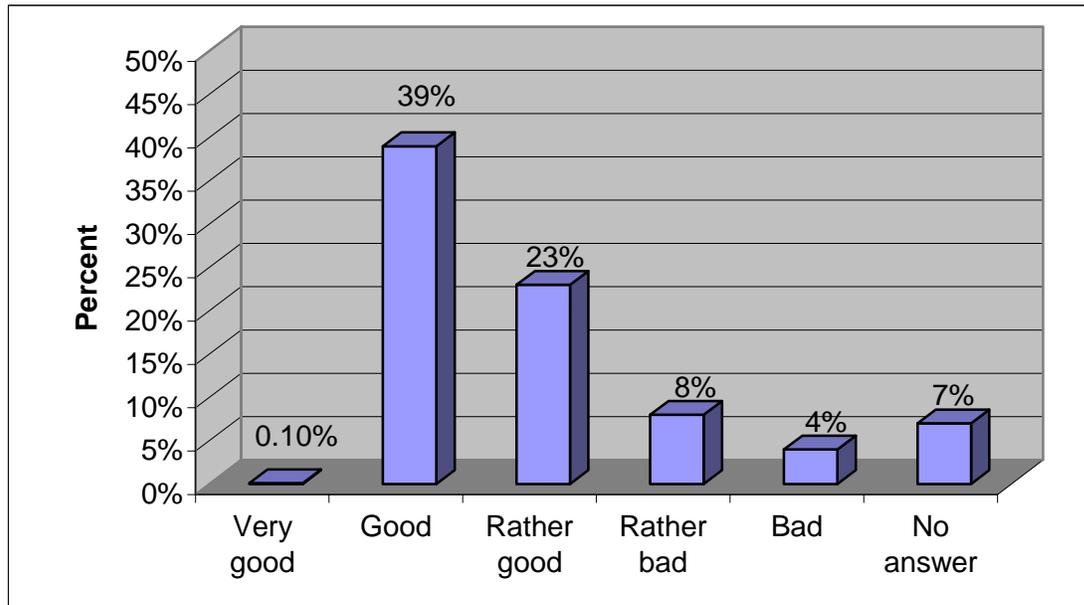
issue those together with the Planning and Architectural Task within 30 days. The construction board is entitled to levy a fee for service in such a case. LDA does not possess information that such practice has been used in any of the largest municipalities. In addition, the standard form of the PAT as provided in the appendix to the GCR clearly indicates that it cannot be issued before the developer has gathered all the technical regulations and other required documentation, because these need to be cited and are used to determine the conditions and requirements applicable to the construction design that are indicated in the PAT.

152. The number of respondents to the Survey on the questions regarding costs associated with acquiring the PAT was not large enough to interpret the results. Also the templates completed by the municipalities do not provide relevant cost information, because the municipal fee for construction is levied for the whole process and not for single steps. For the amount of fees, please refer to the summary table of templates, item 14.

153. 8% of the respondents admitted that they have given gifts or bribes during this procedure. At the same time only 1% of respondents stated that during the last 24 months they have had conflicts or problems with the institutions issuing the PAT.

154. The services received by respondents to the Survey during the procedure of acquiring the PAT were evaluated as shown in the chart below. The overall evaluation of the received services is rather good – with 4.0 points on average (in the scale where 1 is “very bad” and 6 is “very good”). However, this part of the construction approval process received the lowest average evaluation along with the evaluation of services during gathering of technical regulations and coordination and approval of the design.

Chart IV.8



c. Coordination and Approval of Design

155. As can be seen from the description of the procedure and the summary of templates above, there are up to 30 different institutions, depending on the nature of the project and its location, that issue technical regulations for design and which must approve the completed design. The results of the Survey indicate that 21% of respondents (134 enterprises) which have premises in their possession (owned or rented) have been through the procedure of coordination and approval of the design before occupying their main premises. 25% of these enterprises hired outside lawyers/specialists for accomplishing this procedure.

156. 4 out of 7 municipalities that completed the templates have statistics regarding the number of applications filed and decisions made regarding approval of design. This information can be found in the summary table of templates above (item 36). The data from templates indicates that the number of decisions on applications for the approval of technical design in 2001 in Riga is by far larger than in any other municipality – 4963 compared to 178 in Daugavpils, 122 in Rezekne, 321 in Valmiera and 557 in Ventspils. This reflects well the relative weight of construction activity in Riga as compared to the rest of the country.

157. The respondents to the Survey reported that it takes one month (31 calendar days) on average to go through this procedure. The time spent on preparations of necessary documents is also quite long – 20 calendar days.

158. The municipalities (except Riga) have stated that on average the coordination and approval of technical design is completed within 5-7 days, with the minimum processing time of 1-3 days (details for each separate municipality can be found in the summary table above – item 35). In Riga the coordination and approval of the technical design takes 40-60 days (the Riga template states that it takes 2-3 days in each institution and there are approximately 20 institutions listed in the template).

159. A comparison of data of the official procedures from 7 municipalities and the data from the Survey is the following:

Table IV.12

Information from the Municipalities on the Procedure for Coordination and Approval of Technical Design							Data from the Survey on Procedure for Coordination and Approval of Technical Design
<u>Riga</u>	<u>Daugavpils</u>	<u>Jelgava</u>	<u>Liepaja</u>	<u>Rezekne</u>	<u>Valmiera</u>	<u>Ventspils</u>	<u>Latvia</u>
<i>Calendar days</i>							<i>Calendar days</i>
Maximum by law: NA	Maximum by law: 20	Maximum by law: NA	-	Maximum by law: NA	Maximum by law: 15	Maximum by law: The law does not provide	Average: 11 (31 total days to approve the design, of which 20 calendar days are for preparation of documents)
Average: 2-3 days in each institution	Average: 5	Average: 7	-	Average: 7	Average: 7	Average: 7	
Minimum: 1	Minimum: 1	Minimum: 3	-	Minimum: -	Minimum: 3	Minimum: 1	

160. The Survey asked respondents the total time required for coordination and approval of design and the time required for the company to prepare the documents. If it is assumed that Total Time minus Preparation Time equals the Processing Time, then it appears that on average in Latvia businesses receive approval of the design within 11 days. However, it should be noted that the data from the Survey provides an average for the country on the whole and cannot be applied to any particular municipality.

161. The number of respondents to the Survey on the questions regarding costs associated with approval of technical design was not large enough to interpret the results. Appendix No. 9 of the GCR establishes the amount of fees that different state institutions

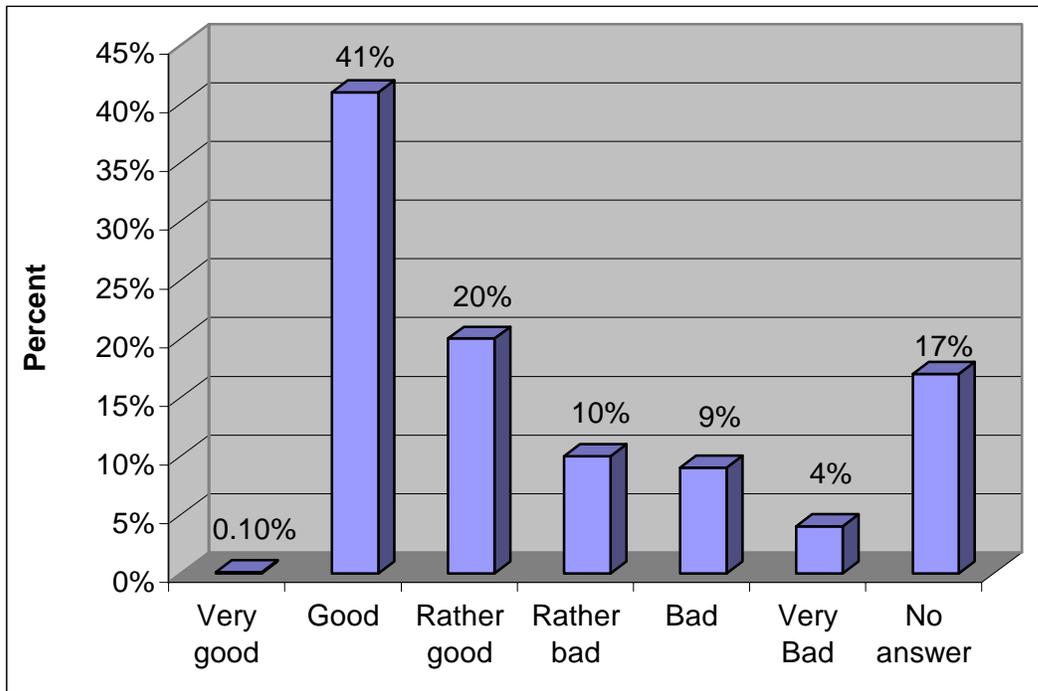
can levy for coordinating and approving the technical design in case the technical regulations issued at the earlier stage have not been observed in full.

162. The discussion above on the lack of single source of information regarding the actual fees levied by different state and municipal institutions in the process of issuance of technical regulations and the level of implementation of Appendix No. 9 of the GCR, apply also to the coordination and approval of the design, because the same set of institutions is involved in these procedures.

163. 12% of the respondents admitted that they have given gifts or bribes during the process of approval of technical design. At the same time only 1% of respondents stated that during the last 24 months they have had conflicts or problems with the institutions approving the technical design.

164. The services received by respondents to the Survey during the procedure of coordinating and approving the design were evaluated as shown in the chart below. The overall evaluation of received services is rather good – 4.0 out of 6 possible points (on a scale where 1 is “very bad” and 6 is “very good”). The services received in Riga have been evaluated lower (with 3.7 points) than services received in other parts of Latvia (4.5 points).

Chart IV.9



165. The GCR stipulate that the technical design must be coordinated and approved in 3 copies by those institutions that issued technical regulations and other documentation needed for commencement of the design. These approvals are expressed as signatures and seals on the main page of drawings of the technical design⁴⁰. This effectively means that no parallel processing is possible, since all the three copies of the design have to be signed and sealed by all the involved institutions consecutively. Obviously, this tends to be more problematic for larger projects and for projects in Riga, where the number of involved institutions is the highest. A solution to consider would be to implement simultaneous processing of applications by reviewing agencies, subject to firm deadlines for processing, perhaps even introducing and applying the principle of “silence is consent”.

166. The templates completed by 7 municipalities indicate that there exist variations in interpreting the GCR regarding the approval and adoption of technical designs. In Riga the procedure for approval of the technical design and the procedure for adoption of the design is deemed to be a single procedure where the approval of the design ends with its adoption. At the same time, the Liepaja City construction board has stated that they do not carry out the procedure of approval of technical design, while all the other municipalities have stated that they perform this activity (see the summary table of templates).

d. Adoption of Design

167. The municipal construction board is entitled to adopt the construction design. The results of the Survey indicate that 20% of respondents (127 enterprises) which have premises in their possession (owned or rented) have gone through the procedure of adoption of the design before occupying their main premises. 21% of these enterprises hired outside lawyers/specialists for accomplishing this procedure.

168. 4 out 7 municipalities that completed the templates have statistics regarding the number of applications filed and decisions made regarding the adoption of design. This information can be found in the summary table of templates above (item 45).

169. The respondents to the Survey reported that on average it takes 29 calendar days to secure adoption of the construction design. The time spent on preparations of necessary documents is 18 calendar days.

170. As discussed above in Riga the procedures for approval and adoption of the construction design is deemed to be one procedure, therefore no data on processing time is available separately for the procedure of adoption of the design. Other municipalities have stated that on average the adoption of design is performed within 5-10 days, with the minimum processing time of 1-3 days (details for each separate municipality can be found in the summary table above – item 44).

⁴⁰ Articles 95 and 102 of the General Construction Regulations.

171. A comparison of data of the official procedures from 7 municipalities and the data from the Survey is the following:

Table IV.13

Information from the Municipalities on Procedure for Adoption of Design							Data from the Survey on Procedure for Adoption of Design
<u>Riga</u>	<u>Daugavpils</u>	<u>Jelgava</u>	<u>Liepaja</u>	<u>Rezekne</u>	<u>Valmiera</u>	<u>Ventspils</u>	<u>Latvia</u>
<i>Calendar days</i>							<i>Calendar days</i>
-	Maximum by law: NA	Maximum by law: NA	Maximum by law: 14	Maximum by law: NA	Maximum by law: 15	Maximum by law: The law does not provide	Average: 11 (29 total days to adopt the design, of which 18 calendar days are for preparation of documents)
-	Average: 5	Average: 7	Average: 5	Average: 7	Average: 10	Average: 7	
-	Minimum: 1	Minimum: 3	Minimum: 1	Minimum: -	Minimum: 3	Minimum: 1	

172. The Survey asked respondents the total time required for securing adoption of the design and the time required for the company to prepare the documents. If it is assumed that Total Time minus Preparation Time equals the Processing Time for adoption of the design, then it appears that on average businesses spent more time than the average processing time indicated by these municipalities. This figure should be treated as indicative and it should be noted that the data from the Survey provides an average for the country on the whole and cannot be applied to any particular municipality.

173. 4 out of 5 municipalities have indicated that there is no maximum processing time. As noted above, the GCR do not specify the maximum processing time for the decision on adoption of the design.

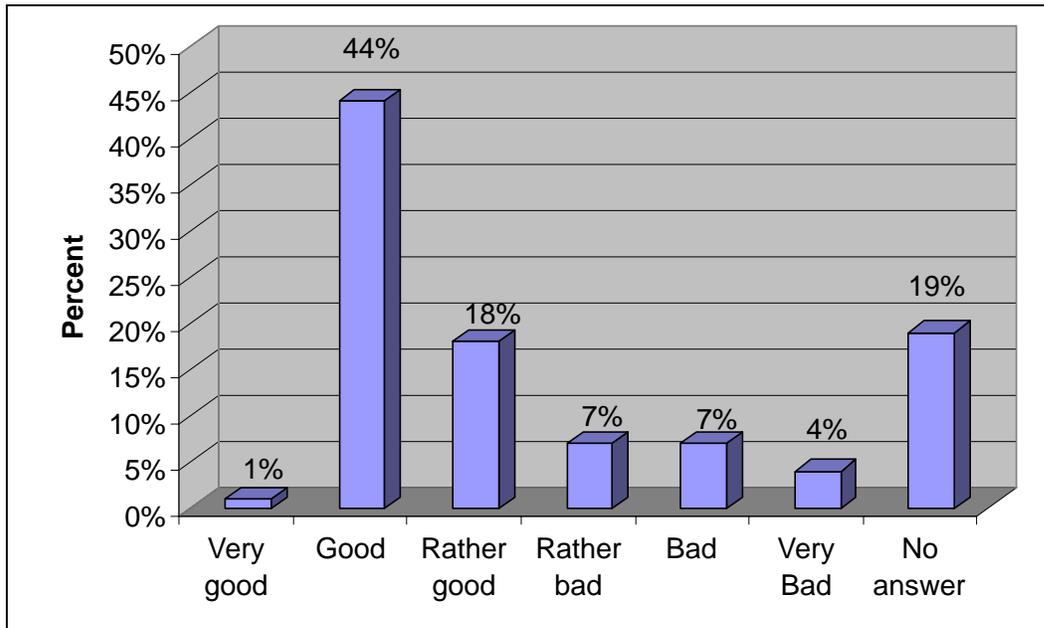
174. The number of respondents to the Survey on the questions regarding costs associated with adoption of the design was not large enough to interpret the results. Also the templates completed by the municipalities do not provide relevant cost information, because the municipal fee for construction is levied for the whole process and not for single steps. For the amount of fees, please refer to the summary table of templates, item 14.

175. 10% of the respondents (4 enterprises)⁴¹ admitted that they have given gifts or bribes during the process of adoption of construction design. At the same time only 1% of respondents admitted that during the last 24 months they have had conflicts or problems with the institutions approving the technical design.

⁴¹ The number of respondents is not large enough to interpret the results obtained (N < 45).

176. The services received by respondents to the Survey during the procedure of adoption of construction design were evaluated as shown in the chart below. The overall evaluation of received services is rather good – 4.2 points (in the scale where 1 is “very bad” and 6 is “very good”).

Chart IV.10



e. Obtaining the Construction Permit

177. The construction permit is issued by the municipal construction board. The results of the Survey indicate that 18% of respondents (119 enterprises) which have premises in their possession (owned or rented) have gone through this procedure before occupying their main premises. 21% of these enterprises hired outside lawyers/specialists for accomplishing this procedure.

178. 6 out of 7 municipalities that completed the templates have statistics regarding the number of issued construction permits. This information can be found in the summary table of templates above (item 54). The data from the templates indicates that the number of issued construction permits in 2001 in Riga is by far larger than in any other municipality – 2601 compared to 408 in Daugavpils, 296 in Liepaja, 91 in Rezekne, 194 in Valmiera and 259 in Ventspils. This reflects well the relative weight of construction activity in Riga as compared to the rest of the country.

179. The respondents to the Survey reported that it takes 23 calendar days on average to obtain a construction permit. The majority of time is spent preparing the necessary documents - 17 calendar days.

180. The municipalities have stated that on average the construction permit is issued within 3-10 days, with the minimum processing time of 1-5 days (details for each separate municipality can be found in the summary table above – item 53).

181. A comparison of data of the official procedures from 7 municipalities and the data from the Survey is the following:

Table IV.14

Information from the Municipalities on Procedure for Issuance of Construction Permit							Data from the Survey on Procedure for Obtaining the Construction Permit
<u>Riga</u>	<u>Daugavpils</u>	<u>Jelgava</u>	<u>Liepaja</u>	<u>Rezekne</u>	<u>Valmiera</u>	<u>Ventspils</u>	<u>Latvia</u>
<i>Calendar days</i>							<i>Calendar days</i>
Maximum by law: 15	Maximum by law: 20	Maximum by law: NA	Maximum by law: 14	Maximum by law: NA	Maximum by law: 15	Maximum by law: 14	Average: 6 (23 total days to obtain construction permit, of which 17 calendar days are for preparation of documents)
Average: 7	Average: 10	Average: 3	Average: 5	Average: 7	Average: 10	Average: 3	
Minimum: 1	Minimum: 5	Minimum: -	Minimum: 1	Minimum: -	Minimum: 5	Minimum: 1	

182. The Survey asked respondents the total time required to obtain the construction permit and the time required for the company to prepare the documents. If it is assumed that Total Time minus Preparation Time equals the Processing Time, then it appears that on average in Latvia businesses obtain the construction permit within the average time indicated by the municipalities. However, it should be noted that the data from the Survey provides an average for the country on the whole and cannot be applied to any particular municipality.

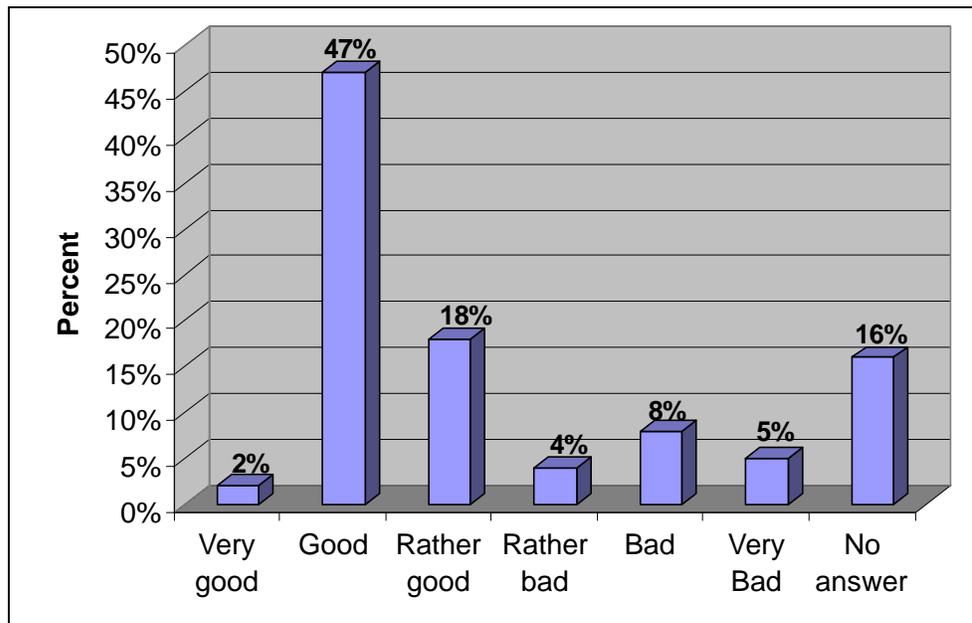
183. 2 municipalities have indicated that there is no maximum processing time. As noted above, the GCR do not specify the maximum processing time for the issuance of construction permit.

184. The number of respondents to the Survey on the questions regarding costs associated with acquiring the construction permit was not large enough to interpret the results. Each municipality sets fees for issuance of the construction permit separately, in accordance with the Law on Duties and Fees and the Cabinet of Ministers Regulations on the Procedure for Setting Municipal Fees. Details of the fees in each of the 7 municipalities are provided in the summary table of templates (item 14).

185. 6% of the respondents (2 enterprises)⁴² admitted that they have given gifts or bribes during the process of obtaining the construction permit. At the same time only 1% of respondents stated that during the last 24 months they have had conflicts or problems with the institutions issuing construction permits.

186. The services received by respondents to the Survey during the process of obtaining the Construction Permit were evaluated as shown in the chart below. The average evaluation of received services is rather good – 4.2 points (in the scale where 1 is “very bad” and 6 is “very good”).

Chart IV.11



f. Formal Acceptance of the Building Upon Completion of the Construction

187. The municipal construction board and the municipal construction inspector are the key administrative institutions responsible for the final acceptance of the building upon completion. The results of the Survey indicate that 14% of respondents (91 enterprises) have undergone this procedure after completion of construction. 18% of these enterprises hired outside lawyers/specialists for accomplishing this procedure.

188. 6 out of 7 municipalities that completed the templates have statistics regarding the number of formally accepted buildings. This information can be found in the summary table of templates above (item 63). The data from the templates indicates that the number

⁴² The number of respondents is not large enough to interpret the results obtained (N < 45).

of accepted buildings in 2001 in Riga is 1401, 211 in Daugavpils, 170 in Liepaja, 61 in Rezekne, 236 in Valmiera and 525 in Ventspils.

189. The responses to the Survey indicate that on average this procedure takes almost 6 weeks (41 calendar days). The period of preparation of documentation is rather lengthy - it takes 22 calendar days⁴³.

190. A comparison of data of the official procedures from 7 municipalities and the data from the Survey is the following:

Table IV.15

Information from the Municipalities on Procedure for Formal Acceptance of the Building Upon Completion of Construction							Data from the Survey on Procedure for Formal Acceptance of the Building Upon Completion of Construction
<u>Riga</u>	<u>Daugavpils</u>	<u>Jelgava</u>	<u>Liepaja</u>	<u>Rezekne</u>	<u>Valmiera</u>	<u>Ventspils</u>	<u>Latvia</u>
<i>Calendar days</i>							<i>Calendar days</i>
Maximum by law: NA	Maximum by law: 10	Maximum by law: 10	Maximum by law: 10	Maximum by law: 14	Maximum by law: 15	Maximum by law: 5	Average: 19 (41 total day to obtain the formal acceptance of the building, of which 22 calendar days ⁴⁴ are for preparation of documents)
Average: 5	Average: 10	Average: 10	Average: 5	Average: 7	Average: 10	Average: 5	
Minimum: 3	Minimum: 4	Minimum: -	Minimum: 1	Minimum: -	Minimum: 5	Minimum: 1	

191. The municipalities have stated that on average the final acceptance of building is accomplished within 5-10 days, with the minimum processing time of 1-5 days (details for each separate municipality can be found in the summary table above – item 62). As discussed above, before the municipal construction board takes a decision on formal acceptance of building, the developer has to gather opinions on the preparedness of the building from a number of institutions, such as utilities, Fire and Rescue Service, Public Health Agency, etc. These institutions must provide their opinions in writing within 10 days of receipt of request. This should be taken into account when analyzing the total

⁴³ The number of respondents is 39 enterprises, while the minimum number regarded as sufficient to interpret the obtained results is 45.

⁴⁴ The number of respondents is 39 enterprises, while the minimum number regarded as sufficient to interpret the obtained results is 45.

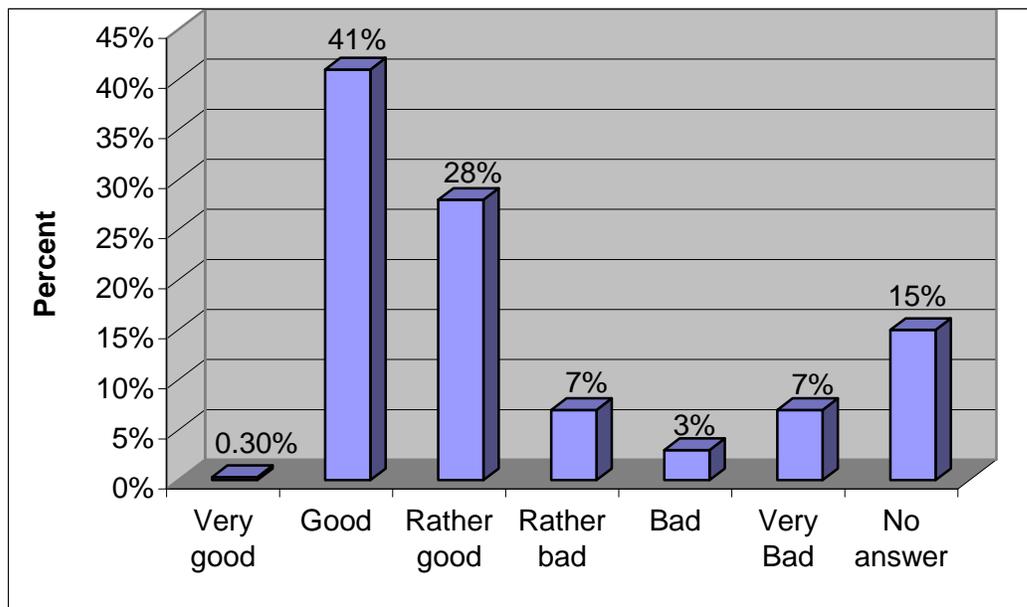
time of 41 days reported by the respondents and therefore the length of this procedure cannot be attributed to the municipalities alone.

192. The number of respondents to the Survey on the questions regarding costs associated with acquiring the construction permit was not large enough to interpret the results. The municipality can include the cost of formal acceptance of the building in the fee for construction permit or can alternatively establish a separate fee.

193. 18% of the respondents admitted that they have given gifts or bribes during the process of formal acceptance of the building. This is the highest number of respondents from all the construction related activities. At the same time only 1% of respondents stated that during the last 24 months they have had conflicts or problems with the institutions issuing construction permits.

194. The services received by respondents to the Survey during the process of Final Acceptance of the Building were evaluated as shown in the chart below. The overall evaluation of received services is rather good – 4.1 out of 6 possible points (in the scale where 1 is “very bad” and 6 is “very good”).

Chart IV.12



May not add up to a 100%

195. As indicated in the descriptive section, the CM regulations On the Formal Acceptance of Buildings Upon Completion of Construction provide that the commission for acceptance of the building can be established as a permanent body, however taking into account its composition, it is doubtful that a permanent commission can be established, because the members of the commission will necessarily vary from project to project. It is also doubtful that for each single project the municipal council actually takes a decision on establishment of formal acceptance commission.

196. If the reality is different from what the regulations provide, it might be worthwhile to review the regulations with the aim of shortening the period of time needed for receiving acceptance of the completion of building. It is obvious that the developer wants to commence use of the building as soon as possible after completion of construction. The Construction Law is clear in this regard – the building cannot be occupied before the formal acceptance. While such provisions are necessary to provide for safety and security of the public, every effort should be made to establish a reasonable time frame and a clear procedure for formal acceptance of the buildings. An indication that this might not be the case is the relatively high number of respondents (18%) that reported giving gifts or bribes to complete this procedure.

197. While reviewing the CM regulations On the Formal Acceptance of Buildings Upon Completion of Construction, FIAS noted a small discrepancy. Article 6.6. of these regulations stipulates that the inventory of the building (technical passport), which is among the required documents is valid for 6 months as of the date of issuance. Once the building has been accepted the owner is supposed to register it in the Land Book. The CM regulations on the State Fee for Notarial Deeds and Registration of Real Estate Rights in the Land Book⁴⁵ provide that the inventory of the building is valid for an indefinite period of time, if the assessment of the value has not changed. There have not been reports that this discrepancy has impeded registration in the Land Book, but the regulations should be revised to reflect the actual situation.

g. Overall Observations and Analysis

198. This part of the analysis will largely draw from the work on the improvement of the business environment carried out by the Latvian Development Agency after the 1999 FIAS Report on Administrative Barriers to Investment in cooperation with the Foreign Investors' Council in Latvia, a number of foreign chambers of commerce and other business associations and relates mostly to the construction approval process in Riga City. The overall observations and analyses will also include the horizontal problems identified on the basis of information provided in templates.

199. Certainly, the time and costs for undertaking a construction depend on the size and complexity of the construction project itself, and the results presented above on time and costs should be viewed in this context. Focus group discussions suggest that over the last several years, despite ongoing problems, the time devoted to undertaking administrative procedures relating to construction has improved, perhaps by 10-15%.

200. As can be seen from the templates, the description of procedures and their analysis, the practice varies between the municipalities and this could partly be explained by the lack of clear provisions in the governing regulations. All the steps of the construction approval process are not clearly separated and provided for in the General Construction Regulations, creating a certain degree of confusion for businesses and the

⁴⁵ CM regulations no.28, effective as of 27 January 2001.

construction boards alike. Some of the unclear issues could be resolved and more consistency achieved if the procedure is described in more detail in the GCR.

201. Some real estate developers and investors have reported that the quality of services rendered by the Architectural Board of the Riga City Council is often not satisfactory. Over the last few years the number of proposals for city development and the number of projects that need to be coordinated have significantly increased and the problem of lack of adequate staffing at the Architectural Board has not been addressed. The result is that the deadlines for examination of documents and decision-making have not been met. Riga City on 31 July 2002 created a full-fledged Construction Board (after significant delays), on the basis of the Architectural Board. The Construction Board is composed of representatives from the Architecture Division, the Engineering Division, the Environmental Art Division, the Riga Inspectorate for Protection of Cultural Monuments and the Riga City Construction Inspectorate. It is too early to evaluate its effectiveness.

202. It is frequently noted by the businesses engaged in construction activity that during the stage of gathering the technical regulations, the Riga City Environmental Department requests several other technical tasks, based on which it prepares its own assessment of a specific project. That takes an additional 2 weeks and in essence is not necessary, because this department cites the already submitted technical regulations issued by other state institutions. This is a clear example of the possibility to streamline the process by eliminating unnecessary and duplicative steps.

203. Another step in the process that is distinct in Riga as compared to other municipalities is the requirement to approve the designs in the Engineering Commission of Riga. This requirement applies to all the designs, even if during the design stage the technical regulations have been observed and approvals by the relevant bodies that issue the technical regulations have been obtained. With the further increase of the workload and the number of designs that need to be coordinated, it might simply become impossible to maintain the current system, whereby each single project has to be reviewed by the Engineering Commission, which meets once a week. It is clear that only those designs that have already beforehand been approved by the representatives of the institutions receive a positive opinion of the Engineering Commission. If no preliminary approvals are obtained the Engineering Commission will not approve the design⁴⁶. Therefore, the private sector representatives see the role of this commission as merely formal and constituting yet another step. It should be considered whether there is a value added in requiring all the designs to be reviewed by the Engineering Commission in terms of safety of the construction and ensuring that designs are in compliance with the building norms.

204. Investors operating in Riga also note the lack of coordination between the Architectural Board of the Riga City Council and the State Inspection for Protection of

⁴⁶ It should be noted that Riga City Department of Urban Development (in a letter dated 8 Oct. 2002) reports that the Engineering Commission only reviews construction that affects underground infrastructure and the building of new objects. Clearly, however, many investment projects fall into these categories.

Cultural Monuments, which significantly complicates and lengthens the approval process of designs. Most countries exercise more care and control over redevelopment of historic buildings and districts. Riga's designation as a UNESCO World Heritage site places even greater pressures on the officials to act with care for the historic center. This may slow down approval processes, but delays are not unavoidable and many steps can be taken to facilitate the approval process even in historic cities. In a letter dated 8 October 2002, the Riga City Department of Urban Development reports that a document on cooperation between the two institutions is being prepared.

205. There is a need to critically review policies on development of historic structures and districts. Historic cities typically present difficult issues of urban development. However, without compromising the paramount objective of preservation of heritage, it is possible to come to terms with the demands of modern development. LDA and FIAS would recommend an open and vigorous review of the role of preservation in the city development plan, with attention to issues such as:

- To what extent can technical historic preservation requirements be adequately provided for in regulations?
- Are current preservation standards realistic in a market economy? Do they encourage or prevent private sector investment in rehabilitation of historic structures and districts?
- Are all historic objects equally valuable? Are there gradations of importance that should be applied in the interests of economic development, to reduce processing time and the expense of restoration?

206. An issue that lies outside the immediate procedural aspects of the construction approval, but has significant implications, is the lack of detailed and transparent regulations on land use and building design. The present General Construction Regulations are only one part of a comprehensive approach to the issue of regulation. The General Construction Regulations are essentially a procedural outline for issuance of a permit, and they do not address technical issues. While clear procedural rules are necessary, one of the main problems with the current process appears to be the lack of technical rules and a corresponding excess of official discretion over building design issues. One example of the problem - the existing land use scheme incorporated in the Development Plan of Riga for 1995-2005 (zoning of Riga) is incomplete, as it does not include the changes in the city zoning made over the last 6 years on a case-by-case basis. As no regular adjustments are made to this zoning, such a situation leads to misinformation of potential investors as to what is allowed to be constructed on a certain land plot.

207. The next step in the process of improvement is to complete comprehensive regulations dealing with land use and building design, emphasizing objective criteria. Detailed plans for the cities should be completed as soon as possible, which should define allowable building parameters over entire districts and avoid *ad hoc* determination of design rules. Detailed plans should include not only gross building parameters (lot coverage, height, setback, etc.), but also greater detail on aesthetic and historic design

issues. This step would accelerate preparation and consideration of applications and reduce discretion by officials. In focus groups organized by FIAS and the LDA, business representatives also stressed the importance of drafting detailed plans as prerequisites for the further development of the field of construction.

208. The template on construction approval contains a question regarding all the applicable fees. The information provided by Riga City does not indicate that every project must pay a fee for development of city infrastructure. The fee for development of infrastructure was established with the Regulations for Calculation of a Single Payment for Development of City Infrastructure, adopted by the Riga City Council in 1995. The regulations provide that the fee is determined on the basis of a formula and the calculation includes the projected load on the water supply, sewage, environment, health protection, transport and educational infrastructure. The problem identified by the private sector representatives is that currently businesses effectively make a number of payments for the development of city infrastructure. First of all there is the development fee. Secondly, during the approval of the technical documents the municipal bodies and enterprises may require the businesses to implement additional measures for improving infrastructure, for instance, to construct the water supply system, parts of which will also be used to serve other customers, construct the roads providing access to the site, install additional city lighting etc. However, irrespective of actual improvements of the infrastructure that have been made, it is necessary to make a single payment for the development of the city infrastructure in full with no regard to other infrastructure development obligations. In certain instances this creates a distortion of the market, because the obligations can be different for different developers. It is necessary to coordinate the single payment for the development of the city infrastructure with other payments the business makes while implementing the construction project, such as payments for connecting to infrastructure (water supply, heating system, electricity supply, gas supply) and other municipal payments, such as the greenery restoration payment. In addition it would be beneficial to reduce the single payment for the development of city infrastructure if during the implementation of the project the company is in fact investing into the city infrastructure.

The Municipal Affairs Board in a letter of 11 September 2002 to the LDA writes that “Clearly the legal acts currently do not anticipate the collection of such a payment, as a result of which the activities of the municipalities are illegal. Nevertheless we believe that there should be an open discussion regarding this problem and it may be necessary in this case to amend the relevant legal acts so that there would be unified nationwide “rules of the game” describing the rights of municipalities to determine payments for the use of municipal infrastructure.” The 1999 FIAS Report also identified payments to municipal infrastructure as a problem.

209. There have been a number of controversies regarding the public participation in the evaluation of the development proposals. Clearly this does not affect the majority of companies, but rather affects a few large projects. Public participation can serve as an important and useful element of the building process, if used correctly. It should always be kept in mind that the issuance of a development permit is a legal process, not a political process, and the rights of land owners should first be determined on the basis of

existing law and regulations, not public preference. The most important time for public participation in the planning process is when the fundamental planning decisions for the locality are under consideration, in the form of master plans and regulations. After fundamental development policies have been adopted the role of the public appropriately should be limited to those instances in which the public authorities are required to exercise discretion, in which case the public has the right to present a point of view and evidence of why official discretion should be exercised in one way rather than another. Some business representatives in focus groups stated that currently public participation in the planning process is not fully functioning, because the interested parties rarely show up for discussions. The business representatives were more concerned about the fact that these public hearings are used as rationalizations for political decisions, because these decisions are ultimately adopted at the level of the city council.

210. It is important at this stage of development of the system to clearly define the role of the public, before inappropriate precedents and practices are established. This is fundamental to recognizing the legal right of the landowner to a development permit if he meets the requirements of laws and regulations.

211. The templates completed by the municipalities and also the results of the Survey indicate that there are practically no appeals in the process of construction approval. The current approach is that the decisions of the construction board may be appealed to the “local government” and then to the court. On its face, this may not be the most efficient approach to appeals of technical issues. Generally, local government officials lack the time and expertise to resolve technical issues. Moreover, it may be inappropriate to resolve many issues at a political level, which is almost inevitable when referring such matters to the local government. Appeal to court is possible under the current system, but as a general rule courts are competent to deal only with violations of procedural requirements or other obvious instances of unfairness, and are not the best forum for resolving disputes over technical requirements. Moreover, the court procedures are generally slower and more costly than administrative appeals procedures.

212. Appeals are an important aspect of the process. In the first instance, quick and fair appeals serve as a restraint on unreasonable exercise of discretion by government officials, and therefore serve to discourage unreasonable demands. Second, appeals are a useful management tool in that they serve to identify the areas in which disputes are more likely to occur, leading ideally to a better institutional approach to the underlying issues.

213. One option that could be considered is to establish a board of appeals to hear disputes arising from the construction approval process, including in particular issues relating to interpretation of substantive building requirements and design. The appeals board should be expert and consist of municipal and government officials as well as expert practitioners from the private sector architectural, engineering and building associations and unions, appointed by the head of the local municipality. Meetings of the board should be held on a frequent, regular basis, should be formal (“on the record”) and there should be a short time for issuance of final decisions.

214. Finally it should be noted that in a meeting with a representative of the Construction Department of the Ministry for Environmental Protection and Regional Development on 7 October 2002, the view of the Construction Department is such that technical design does not have to be approved in the process of construction and that approval officially only takes place at the end. The representative of the Construction Department believes that the relevant procedures are described in the General Construction Regulations but that this practice of seeking approvals exists simply because that is how it has been done in the past. This unclear issue should be raised in discussions with the participation of all interested parties.

2. Recommendations

215. LDA and FIAS have the following recommendations relating to the analysis above:

- Since there is no single source of information regarding the actual fees levied by different state and municipal institutions in the process of issuance of technical regulations, the institutions responsible for developing and implementing state policy and control over the observance of the legislation in the field of construction (namely, the Construction Department of the Ministry of Environmental Protection and Regional Development and the State Construction Inspection) could carry out a survey of the institutions issuing technical regulations in order to gather information on the amount of fees levied for issuance of TR and for coordination of designs.
- There are problems in coordinating and approving the technical design by the relevant institutions, since the documents need to be signed and sealed by all the institutions consecutively. A solution to consider would be to implement simultaneous processing of applications by reviewing agencies, subject to firm deadlines for processing, perhaps even introducing and applying the principle of “silence is consent” in areas not strictly concerned with building safety.
- All the steps of the construction approval process are not clearly separated and provided for in the General Construction Regulations, creating a certain degree of confusion for businesses and the construction boards alike. Some of the unclear issues could be resolved and more consistency achieved if the procedure is described in more detail and clear deadlines established in the GCR and the GCR should be revised accordingly.
- Abolish the time-consuming and redundant requirement of the Riga City Environmental Department for several other technical tasks relating to technical regulations.
- Review whether there is a value added in requiring all the designs to be reviewed by the Riga City Engineering Commission in terms of safety of the construction and ensuring that designs are in compliance with the building norms.

- Riga City is recommended to introduce the practice of tracking the number of PATs it issues for all types of projects, since this can serve as a good indicator of the actual workload and can reveal tendencies in the application process that are otherwise left unnoticed.
- Improve the coordination between the Architectural Board of the Riga City Council and the State Inspection for Protection of Cultural Monuments.
- There is a lack of clarity as to the role of preservation in the city development plan. These issues should be openly discussed by all stakeholders and some type of agreement or understanding reached.
- There is a lack of detailed and transparent regulations on land use and building design. The present General Construction Regulations are only one part of a comprehensive approach to the issue of regulation. The General Construction Regulations are essentially a procedural outline for issuance of a permit, and they do not address technical issues. While clear procedural rules are necessary, one of the main problems with the current process appears to be the lack of technical rules on building design in a specific territory and a corresponding excess of official discretion over building design issues.
- Detailed plans for the cities should be completed as soon as possible, which should define allowable building parameters over entire districts and avoid *ad hoc* determination of design rules.
- It is necessary to co-ordinate the single payment for the development of the city infrastructure with other payments the business makes while implementing the construction project, such as payments for connecting to infrastructure (water supply, heating system, electricity supply, gas supply) and other municipal payments, such as the greenery restoration payment.
- Reduce the single payment for the development of city infrastructure if during the implementation of the project the company is in fact investing into the city infrastructure.
- Establish a board of appeals in municipalities to hear disputes arising from the construction approval process.
- It is necessary to review the regulations with the aim of shortening the period of time needed for receiving acceptance of the completion of building.
- Resolve the discrepancy between the Art. 6 of CM Reg. On the Formal Acceptance of Buildings Upon Completion of Construction and the CM Reg. on the State Fee for Notarial Deeds and Registration of Real Estate Rights in the Land Book on the term of validity for the inventory of the building.

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CHAPTER V

OPERATING

1. This chapter on “Operating” describes the activities that an investor must undertake to carry out the day-to-day functioning of a business in Latvia.
2. For the general area of tax administration, there is a subsection on tax reporting requirements followed by the procedure for receiving value-added tax refunds. (Tax audits and inspections are described and analyzed in the section below on inspectorates.)
3. For the transfer of goods into and out of Latvia, such activities include customs procedures relating to import, export and transit, and control by the Sanitary Border Inspectorate. These are covered in the respective sections below.
4. Finally, enterprises may be visited by various inspectorates. The sections below describe some of the most common inspectorates and the bases for their inspections activities. This section also reviews tax audits.
5. The descriptions and analyses contained in this chapter are based on information from the Regulatory and Administrative Costs Survey, the templates filled out by the relevant government and municipal institutions and other sources of information from the business community and the Latvian Development Agency. The Survey results are designed to be applicable to the general population of enterprises operating in Latvia, however the authors of this report have used their expertise and discretion in applying the data and drawing conclusions from the results¹.

A. Tax Administration

6. The Law on Taxes and Duties defines general taxation principles in Latvia.
7. The taxes imposed in Latvia are the following:
 - Corporate income tax (including withholding taxes), administered by the State Revenue Service;
 - Value-added tax, administered by the SRS;
 - Mandatory social insurance contributions, administered by the SRS;
 - Individual Income Tax, administered by the SRS and some municipalities, in accordance with the Law on Individual Income Tax;

¹ The Report on the Results of the Regulatory and Administrative Costs Survey contains a more detailed explanation of the analytical methodology used in determining the results.

- Real estate tax, administered by the SRS and the municipalities, in accordance with the *Law on the Real Estate Tax*;
- Natural resources tax, administered by the SRS, the Ministry for Environmental Protection and Regional Development and municipalities, in accordance with the *Law on the Natural Resources Tax*;
- Excise tax, administered by the SRS;
- Customs taxes (duties), administered by the SRS (the National Customs Board); and
- Lottery and gambling tax, administered by the SRS.

8. Detailed information on the taxation system is now available from a variety of sources, including²:

- The internet home page of the State Revenue Service, www.vid.gov.lv;
- The internet home page of the Ministry of Finance, www.fm.gov.lv, with extensive information in Latvian on types of taxes;
- The internet home page of the Latvian Development Agency, www.lda.gov.lv;
- The Latvian Business Guide, prepared by the Euro Info Centre and available from the LDA web page or telephone (tel: 7039430); and
- The international and domestic accounting and auditing firms and law firms operating in Latvia.

1. Results of Survey on Tax Administration³

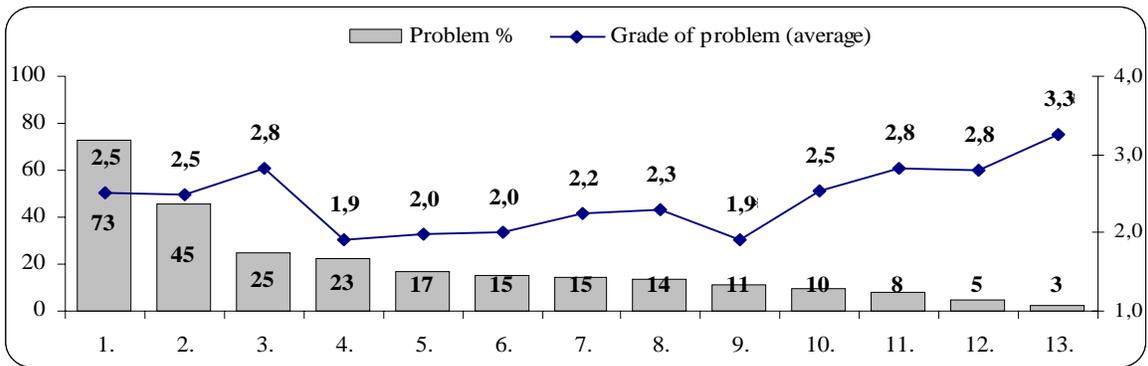
9. There are different degrees of tax administration procedures that cause problems for enterprises. Those problems can be divided into 5 large groups according to how many enterprises consider that aspect of tax administration to be a problem:

- Prevalent problems that hinder more than 1/2 of business owners;
- Frequent problems that hinder more than 20% but less than 50% of business owners;
- Infrequent problems that are recognized as an impediment by less than 20% of respondents.

² FIAS is not responsible for the accuracy of the information here mentioned.

³ This section is excerpted from the Report of the Results of the Regulatory and Administrative Costs Survey. For a more complete analysis, see the entire Report in Annex F.

Chart V.1: Problems with Tax Administration



Base 1 (problem %): all companies interviewed, N = 541.

Answers “Does not cause problems” and “Hard to say” are not shown.

Base 2 (grade of problem/ average): Those who admitted, it was excluding ‘Hard to say/DK’.

Mean on scale from 1 ‘Minor problem’ to 4 ‘Very severe problem’.

* The number of respondents is not large enough to interpret the obtained results (N<45).

Table V.1

1. PREVALENT PROBLEM	1.	Tax rates
	2.	Frequency of changes in rules and rates
3. FREQUENT PROBLEMS	3.	Penalties
	4.	Frequency of reporting
	5.	Tax accounting
4. INFREQUENT PROBLEMS	6.	Frequency of tax payments
	7.	Tax payment methods
	8.	Inspections, audits
	9.	Completing of tax forms/filings
	10.	Rescheduling of arrears
	11.	Appeals mechanisms
	12.	Tax incentives for investment
	13.	Other actions regarding tax administration

10. The most prevalent problem is tax rates. Tax rates create problems for 73% of enterprises in Latvia. The extent of this problem is comparatively high – 2.5 points on average on a scale from 1 “minor” to 4 “very severe”. This problem is equally common for both domestic and foreign business owners. Tax rates cause problems more commonly for enterprises in Riga (80%) than elsewhere (61%).

11. There is a noteworthy gap between the number of respondents selecting tax rates as a problem and the numbers selecting other problems. The most significant problem among the frequent problems (which hinder more than 20% but less than 50% of business owners) is the frequency of changes in rules and rates. It creates problems for 45% of

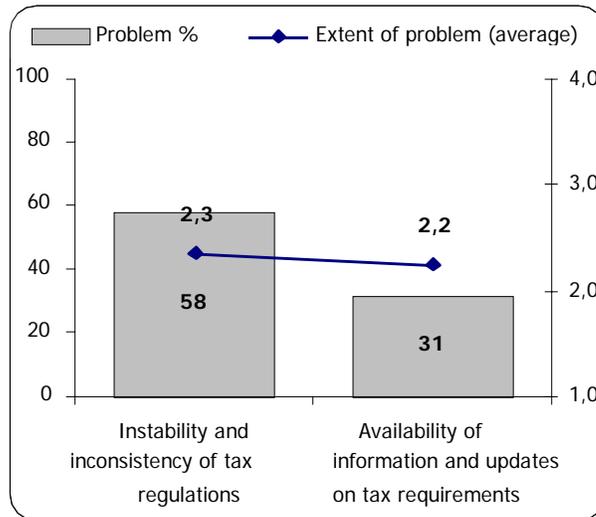
enterprises in Latvia. The degree of this problem is 2.5 points (on a scale from 1 “minor” to 4 “very severe”). Other frequent problems are penalties and the frequency of reporting. Frequency of reporting creates more problems for enterprises in Riga (28%) in comparison with enterprises situated in the other areas of Latvia (15%). The more severe of these two problems is penalties.

12. There are nine issues that are identified to be infrequent problems (recognized as an impediment by less than 20% of respondents) of tax administration. Tax accounting creates more frequent problems for small businesses (31%) in comparison to micro businesses (13%). Inspections and audits also create more problems for small businesses (28%) than micro businesses (10%). Frequency of tax payments is cited as a problem for a greater proportion of foreign businesses (32%) than for domestic businesses (13%). Rescheduling of arrears in turn is more frequently a problem for domestic businesses (10%) than foreign businesses (1%). Appeals mechanisms, tax incentives for investment and other actions regarding tax administration create problems for less than 8% of enterprises. Still those enterprises that consider these spheres to be problematic consider the extent of the problem to be high – 2.8 points on average, which are among the most severe obstacles cited by survey respondents.

13. The business activities of business owners are also disturbed by the instability and inconsistency of tax regulations as well as by the lack of availability of information and updates on tax requirements. A separate question on these issues found that instability and inconsistency of tax regulations create problems for more than one half of enterprises in Latvia (58%)⁴, while one third (31%) considers availability of information and updates on tax requirements to be problematic. In accordance with the opinion of those business owners that consider this sphere to be problematic, one can say that the extent of problems is moderate. The average evaluation of the extent of both problems is similar: 2.2 –2.3 points on a scale from 1 “minor problem” to 4 “very severe problem”.

⁴ In addition to this figure, 45% selected “frequency of changes in rules and rates” as a problem in a previous question. The high percent in both questions indicates that inconsistency is considered to be a problem by a large number of enterprises.

Chart V.2: Consistency of Tax Regulations and Availability of Information



Base 1 (problem %): all companies interviewed, N = 541.

Base 2 (grade of problem/ average): Those who admitted, it was excluding 'Hard to say/DK'. Mean on scale from 1 'Minor problem' to 4 'Very severe problem'.

14. It should be noted that the results from another section of the Survey on Labor Regulations suggest that in terms of labour relations, most problems for enterprises are created by mandatory social insurance contributions paid on workers' behalf to the government. This requirement creates problems for 47% of enterprises in Latvia. Other labor-related regulations create problems to a lesser extent.

2. Tax Reporting

15. The basic principles of tax collection, tax reporting, applicable penalties and appeals are prescribed in the umbrella *Law On Taxes and Duties* (adopted on 02.02.1995, in force as of 01.04.1995.) and in the *Law on the State Revenue Service*.

16. Further, each of the nine tax laws provides for specific requirements and a precise reporting system to be observed. These are further detailed in the relevant Cabinet of Ministers regulations on the application of each of the nine taxes. In addition, the *Law On Annual Reports of Enterprises* establishes specific reporting requirements.

17. Taxes that are not duly paid are subject to a late-payment fee that is 0.05 % per each day behind schedule, which amounts to an effective annual tax rate of 18.25% per annum. In addition, the unpaid amount is increased by the refinancing rate determined by the Bank of Latvia (currently 3.5% annually). Late payment and refinancing amounts shall be frozen when the total of both above-mentioned amounts reaches the principle of the arrears (i.e., it is capped at 100% of the principle).

18. The amount of tax penalties depends on the type of tax non-compliance. For example, a decrease of the taxable base is subject to a penalty of an amount equal to that of the unpaid taxes (i.e. 100%), but a failure to file the tax declaration is subject to a penalty double the amount of the unpaid taxes (i.e. 200%). The Director General of the Tax Administration may decrease the penalty down to 30%, but only once in three years for each enterprise.

19. Currently the assessed tax payments are enforced within 30 days of the decision, regardless of whether an appeal has been filed. Amendments to the *Law on Taxes and Duties* under consideration by Parliament provide that in case an appeal has been filed, the assessed tax would be levied only after final review of the appeal by the Director General (there is a two-tier appeals system within the Tax Administration).

20. In the case of tax reporting and payment requirements in Latvia, all procedures are overseen by the State Revenue Service (for some taxes this is done in cooperation with other institutions) and the institutional framework is the same. Therefore, LDA felt that the most effective method of presenting tax reporting was to place the requirements for each of the 5 major taxes in a single table, based on the 5 templates submitted by the State Revenue Service. The table is followed by an analysis, based largely on the results of the Regulatory and Administrative Costs Survey in light of the information in the templates.

a. Procedure Description of Tax Reporting

21. Annex E contains a table listing the following major taxes:

- Corporate Income Tax (CIT);
- Value Added Tax (VAT);
- Individual Income Tax (IIT);
- State Mandatory Social Insurance Contributions (SMSIC); and
- Real Estate Tax (RET).

22. The table lists the features of the above-mentioned taxes in terms of: (a) the legislation governing the tax, (b) other institutions involved (and under what circumstances), (c) the names and types of forms to be submitted, (d) the frequency of reporting and (e) the frequency of payment.

b. Analysis of Tax Reporting

23. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia noted a number of problems relating to investors' perception of the State Revenue Service, including inconsistency in its application of regulations, far-reaching powers of enforcement that can be very threatening for businesses, as well as aggressiveness in levying fines for minor and honest mistakes. But once the process of structured dialogue

was begun with the State Revenue Service, this has proven to be one of the more sustained cases of reform initiatives based on understanding between representatives of the public and private sectors. There have been some successes and some shortcomings in these efforts.

24. Amendments authorizing the SRS to reduce penalties have been adopted, although many investors feel that the SRS still does not have enough flexibility for case-by-case analysis. Investors were also concerned that the 10-day period during which investors must register to pay taxes, and/or register any changes was overly stringent. This has been resolved by combining enterprise and tax registration.

25. The 1999 FIAS Report noted that there is difficulty in obtaining binding opinions from the SRS. Investors and auditing firms complained that the opinions themselves are often delayed and/or ambiguous. Further, SRS inspectors are often uneven in their recognition of SRS opinions. The issue of advance rulings and binding opinions has continued to be discussed in conversations between the SRS and business representatives since the 1999 FIAS Report, and aside from an increase in the general understanding of the concept, little has been done to implement such instruments that increase reliability and improve the consistency of implementation.

26. The 1999 FIAS Report noted that the guidelines for State Revenue Service inspectors should be publicized as they are developed. There have been wide-ranging activities in increasing the availability of information. Ongoing progress has been achieved in revision of the State Revenue Service (SRS) methodological guidelines on application of legislation, taking into account the discrepancies and problems concerning the application of legislation that have been indicated by tax-payers. Information is now available on the Internet and there is a Tax Administration Manual. There is also a hot line to accept complaints. Draft SRS normative acts are posted on the SRS Internet home page at least two weeks before adoption for comments.

27. The 1999 FIAS Report noted that investors questioned the objectivity and independence of the SRS's internal appeals process. Regarding appeals, an Appeal of Decisions Section was set up within the SRS on 17 January 2000. Although this was supported in the Action Plan and this move toward standardizing review of decisions has been welcomed by some members of the business community, this solution is still far from FIAS' original recommendation of "forming an independent tax appeal tribunal to hear disputes over tax assessments. Such a tribunal could be composed of qualified professionals (accountants, lawyers, professors, judges, etc.) in addition to SRS tax officials..."

28. In 1999 investors were concerned about the SRS's ability to debilitate a company's operations and its willingness to exercise such authority. The SRS still has the ability to seize the bank accounts of a natural or legal person without a court order on the basis of Article 10.2.4. of the Law on SRS.

(1) Volume

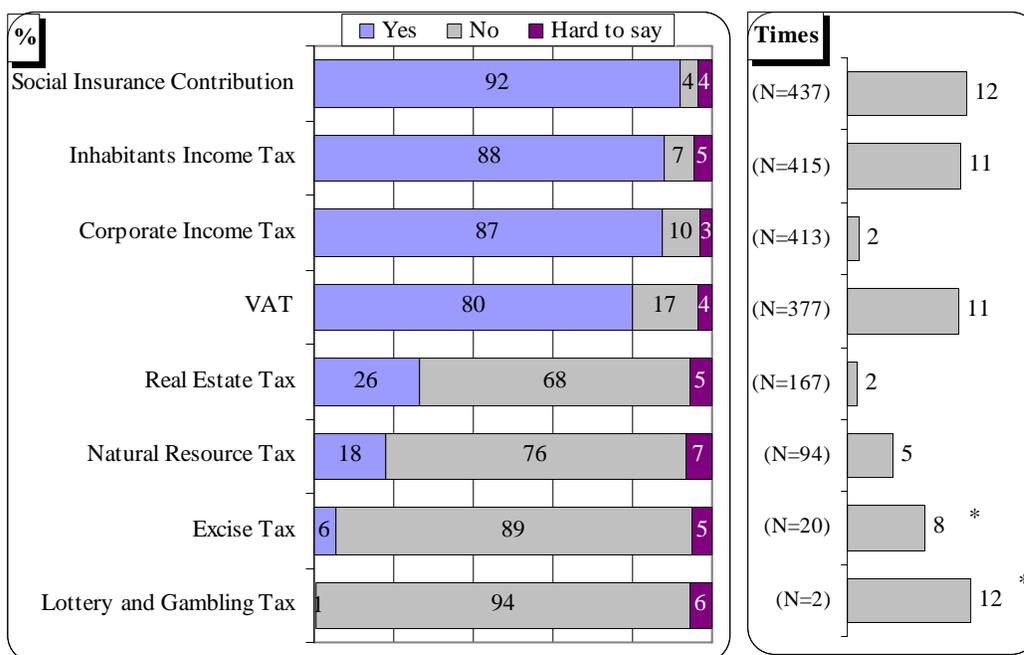
29. According to the results of the Regulatory and Administrative Costs Survey, the great majority of enterprises in Latvia reported filing Social Insurance Contribution (92%), Individual Income Tax (88%) and Corporate Income Tax (87%) declarations. Most enterprises also stated that they have to fill a VAT declaration (80%).

30. It is mandatory for all enterprises to submit declarations for the Corporate Income Tax and on behalf of their employees for the Social Insurance Contribution and Individual Income Tax. The information in the preceding paragraph may be useful to the SRS in determining the rate of compliance and whether or not it matches their estimates.

31. According to the results of the Survey, respondents reported that they have to fill Social Insurance Contribution, Individual Income Tax and VAT declarations 11 –12 times a year on average, stating that they file 2 times a year for Corporate Income Tax. These figures correspond with the official legislative requirements as well, since the corporate income tax declaration occurs twice a year: in advance and actual.

32. According to the results of the Survey, a considerably smaller part of enterprises have to submit the other tax declarations – Real Estate Tax declaration has to be submitted by 26% of enterprises in Latvia, and they submit the declaration 2 times a year on average. Natural Resource Tax is declared by 18% of enterprises 5 times a year on average, while the Excise Tax has been declared by 6% of enterprises. Lottery and Gambling Tax declaration is submitted by 1% of enterprises.

Chart V.3: Submitting of Tax Declarations



Base: all companies interviewed, N = 541.

- The number of respondents is not large enough to interpret the obtained results (N<45).

33. Business representatives in focus groups suggested that it would be possible to significantly reduce the burden both for businesses as well as for the SRS if reporting were to take place once a quarter. There was also an idea that there should be an opportunity to recalculate the corporate income tax once a quarter.

(2) Time

34. It takes more time to prepare the Value Added Tax declarations than other types of declarations. The enterprises reported spending on average 19 days per declaration. Filling of the Social Insurance Contribution, Individual Income Tax and Corporate Income Tax declarations require approximately the same length of time. Each of these procedures requires 9 – 10 days. It takes 6 days on average to fill Natural Resource Tax declaration while Real Estate Tax declaration takes the least time– 3 days (Table IV.3).

35. The minor part of enterprises in Latvia use special tax computer software programs to fill tax reports. These software programs are more frequently used for filling Social Insurance Contribution, Individual Income Tax and Corporate Income Tax, VAT and Natural Resource Tax declarations. Such software programs are used by 36 – 42% of those who declare the mentioned taxes. These software programs have been used even more seldom for declaration of other taxes (Table IV.3).

Table V.2: Software Usage for Filling of Declaration

	Software usage %
Social Insurance Contribution	38.1
N =	496
Inhabitants Income Tax	37.2
N =	476
Corporate Income Tax	37.8
N =	476
VAT	41.8
N =	431
Real Estate Tax	29.4
N =	209
Natural Resource Tax	35.8
N =	132
Excise Tax	16.9*
N =	34
Lottery and Gambling Tax	5.0*
N =	3

Base: companies, who fill respective declarations and have given particular answer, see 'N = ' in table.

** The number of respondents is not large enough to interpret the obtained results (N<45).*

36. One can observe a tendency that software programs are more frequently used by enterprises with foreign capital. Small, medium and large businesses use software programs more frequently in comparison with micro businesses, and limited liability companies and joint-stock companies in comparison with single proprietorship businesses, as well as enterprises in Riga, compared to enterprises in other parts of Latvia, use special tax computer software programs more frequently.

37. Enterprises in Latvia use full-time employed accountants or lawyers (about 36% of enterprises) or part-time employed accountants or lawyers (about 35% of enterprises) to prepare declarations. It is less common to hire accountants or lawyers or specialized enterprises on “as needed” basis (15%). Only a small part of business owners admitted that they informally contracted tax inspectors. This is done by 2% of respondents.

38. During one year all the accounting work that is necessary for filling the obligatory tax declarations per enterprise takes slightly more than 2 months when calculating in calendar days (69 days). This index is connected with the size of the enterprise. Micro and single proprietorship businesses need considerably less time to go through this procedure. The filling of various tax declarations in one enterprise is performed 33 times a year on average.

39. Other activities in connection with tax procedures occur considerably more seldom and they take less time. Tax inspectors/inspections per enterprise in Latvia occur 1.1 times a year on average and they take 2 calendar days. It should also be noted that

there are indications from the Survey that those firms that did get visited in the last 12 months had an average of 2.2 visits⁵.

Table V.3: Average Time Spent for Tax Related Activities in 12 Months Period

	Calendar days	Frequency of respective procedure (times in 12 months)
Accounting work necessary to complete the required tax forms	68.9	32.8
=	<i>N</i> = 313	437
Tax inspectors/ inspections	2.1	1.1
=	<i>N</i> = 464	466
Tax Appeals Within the Agency	1.0	0.1
=	<i>N</i> = 519	517
Tax Appeals to the Court	0.5	0.003
=	<i>N</i> = 528	525

Base: all companies, who have given certain answer, see 'N = ' in table.

(3) Costs

40. According to the results of the Survey, 13% of Latvia's enterprises have hired lawyers, consultants or specialized enterprises for accounting work necessary to complete the required tax forms and it has cost Ls 1659 on average (only 35 respondents have mentioned a precise sum).

41. Costs for hiring lawyers, consultants or specialized enterprises in connection with tax inspectors/ inspections have been incurred by 2%. The same percent of enterprises (2%) reported giving gifts or bribes, although the number of respondents in this case does not allow us to generalize the results to the population of enterprises operating in Latvia.

42. Regarding tax appeals within the agency, 7% of those who appealed had costs for services of a lawyer, consultant or specialized enterprise. Bribes were also reported to have been given by 7% of responding enterprises, yet a concrete sum of money was mentioned only by 1 enterprise.

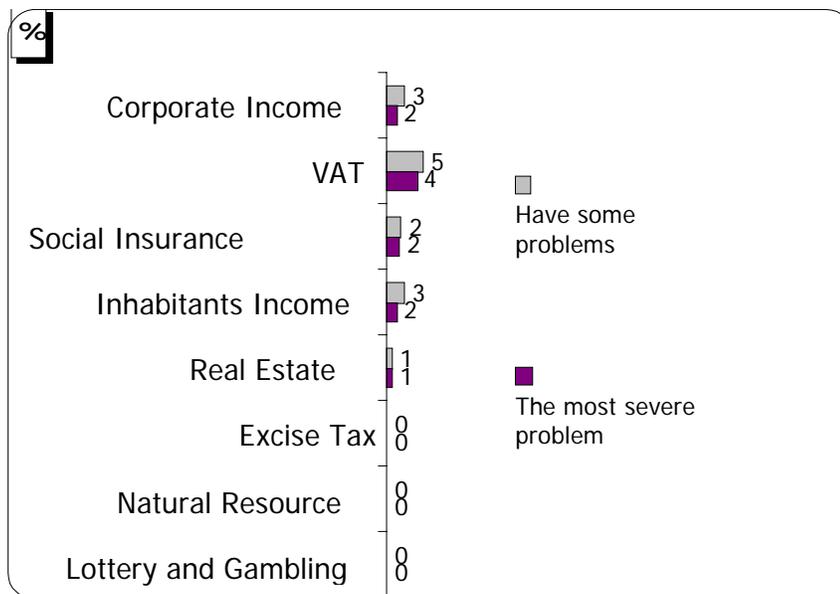
43. 10% of enterprises (or 7 enterprises) that have had tax appeals to the court have had costs for the services of a lawyer, consultant or specialized enterprise regarding the procedure mentioned. No respondent reported giving bribes.

⁵ See, specifically, the Report section on Inspections and Audits: Tax Audits.

(4) Conflicts and Appeals

44. Not many enterprises during the last 24 months reported having had serious problems or conflicts with the tax administration or with its representatives. The largest category of enterprises – 5% – have had conflicts regarding VAT. More seldom there have been conflicts in connection with other taxes – 3% had problems with Corporate Income Tax, another 3% had problems in connection with Individual Income Tax, and 2% had problems with Social Insurance Contribution. The largest group of enterprises, according to their own evaluation, considered VAT to be their most serious problem (4% of all enterprises in Latvia).

Chart V.4: Problems with Tax Administration



Base: all companies interviewed, N = 541.

(5) Information and Feedback Instruments

45. As noted above, the 1999 FIAS Report on Administrative Barriers to Investment suggested that an independent tax appeals structure should be established. As of the beginning of 2001, there is a SRS Appeal of Decisions section that is a part of the SRS. Although the goal of establishing an institution that is independent of the SRS decision making process has not been fully realized, it seems that there are improved institutional opportunities to appeal SRS decisions. The goal should nevertheless remain the same as expressed in the 1999 FIAS Report: the establishment of an independent tax appeal structure.

46. Some business representatives in focus groups suggested that businesses do not tend to appeal SRS decisions to court, because this may damage relations with the SRS.

Such an opinion, even if it is shared only by some businesspersons, suggests that there is a certain dependence on interpersonal relationships within the SRS system and that sometimes the process of tax administration depends on individual officials. Opportunities therefore exist to establish relations with concrete officials, which businesspersons will then try not to damage.

(6) Information and Feedback Mechanisms

47. From the point of view of the business community, almost one third (31%) of enterprises operating in Latvia consider the availability of information and updates on tax requirements to be problematic. According to the opinion of those enterprises that consider this sphere to be problematic, the extent of problems is seen to be moderate. The average evaluation of the extent of the problem is 2.2 points on a scale from 1 “minor problem” to 4 “very severe problem”.

48. This response suggests that the current approach of the SRS to disseminating information about the relevant procedures is insufficient in the minds of a significant proportion of the business community. In the case of the templates for the corporate income tax, Individual Income Tax, real estate tax and mandatory social insurance contributions, the responses submitted by the SRS were identical in this section for these templates. For all these tax reporting procedures, the government respondents stated that the SRS uses the following methods to inform enterprises of procedural requirements: *posting information on the web page* and *responding to individual inquiries*, including the same write-in: *methodical guidelines for tax calculation*. In addition, taxpayers registered with the SRS Large Taxpayers division can also receive the information and updates via e-mail if they sign up.

49. LDA-led interviews with businesspersons have indicated that despite the advances in information technology and increased availability of current tax information from a variety of sources, errors in tax declarations most often arise from unpredictable changes in tax legislation. According to private sector comments, the time periods between the adoption of amendments or new regulations and changes going into effect are too short, and changes occur too frequently in the same legal act. Also, there is not enough coordinated planning between changes in the law and the applicable Cabinet of Ministers regulations. Significant amendments are not sufficiently publicized through government channels, and these might pass unnoticed in the mass of other, less significant changes. Currently, the information is highly specialized, technical, and available through publications targeted to limited audiences. A potential solution to this problem would be more “popular” information campaigns, targeted not only at special audiences, for instance, accountants, auditors, consultants, inspectors, but also industry representatives, higher management, business associations. Another solution would be joint private-public sector seminars, which would be held on a regular basis and would involve briefings on the latest tax law amendments.

50. For the VAT reporting template, the SRS respondent selected: *disseminating brochures, posting information on the web page and responding to individual inquiries.*

51. Regarding the use of feedback mechanisms for gaining the input of the business community, the SRS respondents to the templates for corporate income tax, Individual Income Tax, real estate tax and mandatory social insurance contributions selected *complaints and proposals from visitors, meetings and seminars with business associations and non-governmental organizations and analysis of information in the mass media.*

52. The VAT template did not mention any feedback mechanisms.

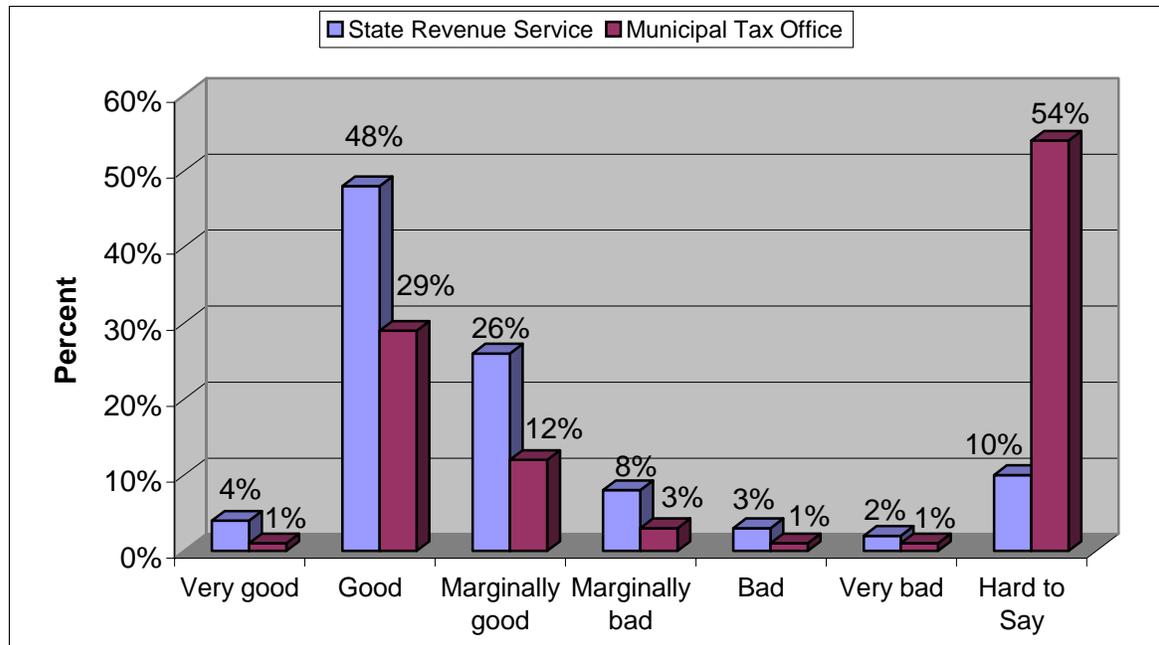
53. During informal consultations led by the LDA, business representatives have expressed their interest in participating in the dialogue with the MoF and SRS, yet they have sometimes been frustrated when, in their opinion, the dialogue becomes a one-way interaction. The MoF and SRS are perceived to be responsive, yet not always sufficiently pro-active in seeking out the comments and advice of the private sector. Businesspersons and consultants, including the large international auditing and consulting companies, who deal with taxation issues on a daily basis, can often draw on their practical, international and comparative experience to offer suggestions on improving tax legislation and streamlining tax administration procedures. Likewise, the MoF and SRS tend to be formalistic in their approach to private sector recommendations. On a recent occasion, FICIL suggested that the SRS hold joint sessions with the leaders of particularly tax-sensitive industries. In an informal follow-up poll of involved companies, FICIL discovered that the SRS had formally held these sessions, but only paid lip service insofar as inviting middle management, not CEOs, not disseminating the results, limiting the interaction to mutual correspondence. While there is a further need for capacity building in the private sector, the government institutions also need to see the benefits of private sector contribution and encourage participation.

(7) Evaluation of Services

54. As noted in the preceding section, on the scale of frequency of problems relating to tax administration, the respondents to the Regulatory and Administrative Costs Survey placed *frequency of reporting* in 4th place out of 13 (23% identified it to be a problem) and *frequency of tax payments* in 6th place (15% identified it to be a problem). *Completing of tax forms* received 9th place out of 13 (11% identified it to be a problem). Although *frequency of reporting* and *frequency of tax payments* were relatively high in regards to the share of respondents that identified them as a problem, all three of these activities relating to filing were deemed to be the lowest in terms of severity of problem, receiving 1.9, 2.0 and 1.9, respectively, on a scale where “1” is a “minor problem” and 4 is a “very severe problem”. This suggests that although a large number of enterprises may dislike the filing requirements, they are not seen to be particularly burdensome, especially in relation to other aspects of tax administration.

55. The following chart represents the evaluation of services by respondents to the Survey regarding the tax administration services offered by the State Revenue Service and the municipal tax offices. According to the *Law on Taxes and Duties*, the municipalities are also involved in administering the Individual Income Tax, the Real Estate Tax and the Natural Resources Tax, but the highest level of interaction with the municipality occurs in the context of the Real Estate Tax.

Chart V.5



Base: all companies interviewed, N = 541.

Average – mean on scale from 1 ‘Very bad’ to 5 ‘Very good’, base: all companies, who have given certain answer.

56. Business owners have similarly evaluated services received in State Revenue Service and Municipal Tax Office. It proved to be easier to evaluate the State Revenue Service while more than one half of business owners – 54% could not evaluate Municipal Tax Office⁶. For the detailed distribution of responses, please see the chart above.

57. The average evaluation of both institutions does not differ substantially. The average index is rather high – 4.4 points for State Revenue Service and 4.5 points for Municipal Tax Office in the scale where 1 stands for “very bad” and 6 stands for “very good”. The evaluation of different types of enterprises has no essential differences.

⁶ These results may indicate that the respondents do not have tax liabilities for those taxes administered by the municipality, or are not able to identify which taxes are administered by the municipality.

58. The SRS answered, in response to the question “How well do you think this procedure is working in practice”, that reporting for corporate income tax, Individual Income Tax, real estate tax and mandatory social insurance contributions, as well for VAT, is working *well*.

(8) Other Observations and Analyses

59. All the relevant tax laws and regulations have been revised and amended a number of times since their adoption in 1995-1996. The general trend has been to simplify the tax reporting forms and to ease and clarify the interaction with the Tax Administration. Apart from the simplification and explanation of forms, the amendments have also provided for such things as: allowing companies to report the mistakes identified in the tax reports and declarations already submitted, before any tax audit has started and thereby avoiding the application of penalties for tax non-compliance (in force as of 1 January 2001); providing for electronic submission of tax forms and declarations (while the *Law on Electronic Documents* is pending adoption, companies still have to supply paper copies within 14 days of submitting the electronic forms) (in force as of 1 January 2001); establishing a clear and structurally separate appeals system (in force as of 2002).

60. Nevertheless, problems remain. As noted above, 45% of respondents cited “Frequency of changes in rules and rates” as a problem relating to tax administration, and this issue received an average of 2.5 points from the respondents on a scale of 1 (minor problem) to 4 (very severe problem). These figures are some of the highest both in terms of their preponderance as a problem and in terms of level of severity. A separate question on these issues found that instability and inconsistency of tax regulations create problems for more than one half of enterprises in Latvia (58%). One possible explanation may be due to the large number of different Cabinet regulations governing, for example, the Individual Income Tax and the State Mandatory Social Insurance Contributions. Any change in any of these (even minor) regulations may cause significant changes in the tax system, from the perspective of enterprises. A solution may be a reduction in the number of legal acts governing the application of these taxes.

61. The procedure of tax reporting seems to be relatively straightforward, based on the information provided by the tax administration. The Survey respondents seem to agree, since although a large share of respondents found tax-reporting issues to be problematic, even those that did find reporting to be problematic did not tend to find it to be a major problem, but rather a hindrance. One suggestion brought up in focus groups was that there should be a reduction in the frequency of reporting requirements, since this would ease the burden for both the enterprises (especially SMEs) as well as the tax administration. This is an issue that could be discussed in future public-private sector meetings.

62. The issues presented below have been identified through day-to-day interactions by the LDA with business representatives (largely from the Foreign Investors’ Council in

Latvia, the National Economy Board and the business clusters) and government officials in field interviews, round table discussions, conferences and high-level meetings. These issues represent, in a rough order of generality, some of the most pressing current concerns expressed by various businesses operating in Latvia in the area of tax policy and administration. All of these issues, at some level, have been raised with and communicated to the Ministry of Finance (MoF) and the State Revenue Service (SRS). While some, as indicated, have received due attention (and are in the process of resolution), others await further conceptual and practical solutions. It should be noted that the issues and comments below are for the most part based on discussions with business representatives. Both local and foreign business representatives have agreed that the following points are top concerns affecting their daily conduct of business.

Extent of Shadow Economy and Tax Avoidance

63. Both foreign investors and leaders of the local business community have recently voiced concerns that the government cites more positive shadow economy and tax avoidance figures than their daily experience would support. During a high level meeting between foreign investors and the Latvian government in March 2002, a Swedish accountant cited a calculation of 30-40 percent as the share of the shadow economy in Latvia. The Minister of Finance cited an alternative set of data indicating that the share of the shadow economy was 22 percent in 2000, a decrease from around 40 percent in 1999. Notwithstanding the methodological difficulties of assessing “shadow economy”, such a discrepancy indicates at least a difference of opinions on the actual state of the government’s effectiveness in tax collection and eradication of tax avoidance. Business representatives have indicated that the non-payment of taxes on the part of even some businesses seriously affects the competitiveness of tax-paying businesses and creates a non-level playing field. There is a common belief among enterprises that the SRS goes after those enterprises that pay taxes, since they are “in the system”, but those not in the system are in fact at an advantage. One enterprise even stated that for many enterprises is not possible to be competitive if they pay all their taxes. Clearly, over time it will be beneficial for tax avoiders to comply with the tax rules so that they can receive loans, take out mortgages, etc. from private sector participants like banks. Some businesspersons have stated that it is necessary to increase the strength of investigation and penalties against tax evaders (i.e., those largely escaping the tax net altogether).

64. According to private sector real estate and construction experts, the construction industry is particularly affected by the prevalence of “envelope salaries”. In this case, salaries are paid in cash, not reporting to the government the size of payments and not paying mandatory social insurance contributions. The Real Estate Sub-Committee of the Foreign Investors Council in Latvia (FICIL) has been invited to contribute to and participate in the MoF real estate tax policy-working group to develop integrated solutions for the problems indicated.

Competence of Judges in Tax Disputes

65. Foreign investors and international accounting firms, drawing from their practical experience *and concrete* cases, admit that they have encountered a serious lack of competence in tax cases in the first instance (regional) courts. On an anecdotal level, when appealing a tax decision in court, companies sometimes view the first instance as a “necessary evil”, which must be passed in order to “qualify” for the appeal in the second instance. Allegedly, only there they obtain a logical and well-reasoned decision. This example illustrates the deficiency of business-related specialized knowledge among the regional court judges. Above and beyond the need to offer more business and corporate law education to all judges, three other solutions have been proposed. First, to unburden the first instance courts and yield higher-quality decisions, the first instance of tax disputes have been proposed to be district courts (as it has also been proposed for bankruptcy and anti-trust (competition) cases). Second, businesspersons have suggested the introduction of specialized judges. Admittedly, while this proposal might yield results in Riga, it is hardly applicable to smaller regional courts due to the small number of judges. Third, an advanced ruling and/or opinion letter system has been explored and suggested to the government authorities. In such a system, the tax administration, provided that all relevant facts are disclosed and an applicable fee paid, would issue a ruling or opinion, which would be binding to the administration and taxpayer in the given transaction. The introduction of such a system may also ensure more consistency in decisions issued by the SRS. The recommendation regarding advance rulings was expressed already in the 1999 FIAS Report on Administrative Barriers to Investment in Latvia. The Latvian authorities have gradually been introduced to this system, but awareness raising efforts still need to be undertaken to gain a consensus on the relative advantages of such a system. Overall, the lack of judicial expertise in the nuanced interpretation of tax law is considered to be a serious administrative difficulty.

Disproportionate Penalties

66. One of the main problems identified by the Survey is the penalties imposed – 25% of respondents reported that it was a problem, and on a scale of 1 (minor problem) to 4 (very severe problem), it was given one of the highest levels of severity: 2.8 points. This problem has become an important issue of discussion between the business community representatives and the State Revenue Service. These discussions have focused on both the high penalties imposed (100% to 200%) and the strict interpretation of violations, with little room for flexibility in reducing the penalties based on the circumstances of the case.

67. Within the last year, local and foreign investors in their dialogue with the government have re-emphasized the disproportional penalty fees for tax errors and negligence. More specifically, the size of penalties, in particular in the 100-200 percent range, is considered excessive and even draconian. Businesses complain that, under the guise of combating the shadow economy, the SRS on a few occasions might “harass” a business for formalistic reasons, not taking into account any mitigating circumstances. Also, foreign investors point to significantly lower penalty fees in EU countries, and to

the opportunity to take into account mitigating circumstances. Little progress has been achieved on this issue, as the MoF has repeatedly stressed the necessity to maintain the right to severely penalize businesses as an instrument of coercing them into compliance. Yet the private sector views such penalties as ineffectively targeted against “legitimate” businesses when the bulk of the non-compliance problem is in the “shadow economy”.

Complicated Principles of Natural Resource Tax Accounting Relating to Import of Goods/Materials

68. Companies that are involved in customs procedures have recently expressed renewed concern about the complicated and expensive Natural Resources Tax (NRT) accounting requirements. When undergoing customs clearance procedures, along with other payments it may be necessary to pay the NRT. The NRT must be paid for those goods that are packaged or from which harm to the environment may result. The tax calculation is made in accordance with one of the many methods provided for in the law. In the words of some, the accounting for NRT tax purposes can be more expensive than the actual amount of paid-in tax. The tax is also complex in terms of administration, given the shared responsibility of the MoF and the Ministry of Environmental Protection and Regional Development (MEPRD) and the lengthy and highly technical regulations determining the application of the NRT law. Some business representatives have stated that the NRT is not high in terms of monetary amount, but that it is very complicated to calculate. Businesses have called for simplified and streamlined regulations and simplification of procedures, perhaps even transferring the administration of the NRT to the SRS. This is a sufficiently complicated question that further research on NRT policy and administration in EU countries may be necessary to find an optimal solution for Latvia.

Differentiation of Debts for Corporate Income Tax Purposes

69. Recently, in response to private sector recommendations, the MoF has agreed to start exploring ways to differentiate debts on the basis of their maturity and size for the purposes of calculating a corporate income tax base. Investors have considered this a concern, since Latvian law currently does not allow writing off any overdue debts, therefore companies cannot reclaim the tax amount, which they have paid on these monies. MoF has marshaled an argument that many small firms might abuse the write-off system, accumulating many small fictitious debts and reclaiming tax on the basis of non-existent income. FICIL has been invited to submit to the MoF recommendations based on arguments and examples on the criteria of debt differentiation.

High State Duty for Registration of Title Transfer

70. In the area of real estate market development, according to representatives of the private sector, the state duty for securing ownership rights in the Land Book at 2% of the value of the transaction or cadastral value is too high. This amount causes underreporting of the value of the deal, thus complicating the acquisition of information by the State Land Service regarding the actual value of the real estate. This duty arrests the

development of the real estate market. The amount of duty is not based on administrative expenses for state functions, and it significantly exceeds the financing necessary for performing such functions. Agreement has been reached that the MoF in cooperation with the Ministry of Justice (MoJ) will elaborate suggestions on how to reduce the amount of state duty (both on a conceptual and practical level) and submit these suggestions to the Cabinet of Ministers.

Refund of Input Value Added Tax

71. The MoF, in response to suggestions from real estate developers, has adopted changes in the Cabinet of Ministers Regulations No. 374, which now allow the claiming for a input VAT refund on a monthly basis as opposed to a yearly basis. However, the SRS continues to monitor all VAT refund transactions with close scrutiny in order to avoid the mushrooming of fraudulent refund claims or so-called carousel schemes. A template prepared on Refund of VAT is in Annex E.

Changes in Tax Rules and Rates

72. Along with tax rates, which is one of the major sources of business dissatisfaction in many countries, another problem for businesses is the frequency of changes in tax rules and rates. One of the reasons for this problem in Latvia may be that tax rules can be applied at three different levels. The first level is the laws adopted by the Parliament. The second level is the regulations adopted by the Cabinet of Ministers. The third level is the methodological guidelines issued by the State Revenue Service. Methodological guidelines have served as useful instruments to inform enterprises about tax requirements and tax collection. Nevertheless, a more systematic approach to prepare and publish methodological guidelines should be worked out, especially taking into account the fact that a stable tax environment is an important factor for enterprises in their financial planning and business development. Possible solutions include the following: revising the methodological guidelines on a regular basis (for example, once a quarter) and disseminating them widely; and/or for a competent institution (such as the Ministry of Justice or the State Chancellery) to review the legality of the proposed revisions.

c. Recommendations for Tax Reporting and Tax Administration

73. The following recommendations are based on the observations and analyses in the preceding sections:

- In order to create a level playing field for all enterprises, the SRS should concentrate more on identifying enterprises that are largely escaping the tax net and less on imposing penalties on taxpayers who have made relatively minor errors in their tax reporting. The problem of tax evasion is particularly acute and systemic in fields like construction.

- The SRS should continue discussions with the business community regarding whether the system of penalties is proportionate to the violations incurred and whether it is possible to take into account any mitigating circumstances. These issues should also be reviewed at the policy-making levels.
- In general, the MoF and SRS need to work on improving their consultation mechanism, allowing various stakeholders to express their views and developing a means to catalogue and analyze their suggestions.
- Work still needs to be undertaken in improving the timeliness of the information supplied to the private sector. Efforts should also be made to make this information less technical and more user-friendly, so that not only accountants and other tax experts can understand it, but also the average tax-paying small entrepreneur.
- Serious consideration needs to be given to improving the quality of tax adjudication. Options to discuss include specialized training of judges in tax and business-related matters, make the first instance of tax disputes be the district courts, introduction of specialized judges in the area of tax issues.
- A related recommendation that may help ease the burden on courts and also assist in formulating a standardized and consistent approach to resolution of tax disputes is the introduction of an advance ruling and/or opinion letter system.
- A concerted effort among the Ministry of Finance and the Ministry of Environmental Protection and Regional Development, with the input of the business community, should be undertaken to resolve the administrative difficulties relating to the Natural Resources Tax. A comparative study of the application of the Natural Resources Tax and its effect on business operations may be an important first step.
- With the input of the business community, the Ministry of Finance should review opportunities available and risks involved in writing off debts.
- The Ministry of Finance and the Ministry of Justice are urged to continue and complete their work in achieving a reasoned approach regarding the reduction of the amount of the state duty for registration of title transfer.
- The SRS should ensure that its auditors follow the norm limiting the length of the tax audit to a maximum of 90 days when such a provision is adopted in the Law on Taxes and Duties.
- To minimize the negative effect of frequent changes in tax rules and rates, possible solutions include: revising methodological guidelines on a regular basis (for example, once a quarter) and disseminating them widely; for a competent institution to review the legality of the proposed revisions.

B. Customs Procedures

74. This section will provide an overview of the main steps involved in the process of the transfer of goods across the Latvian border and will include information received from templates and the results of the Regulatory and Administrative Costs Survey.

75. The transfer of goods over the Latvian border normally involves contact with officials of three different state institutions – Border Guard, the Sanitary Border Inspectorate and Customs. For the purposes of this study, the Sanitary Border Inspectorate and the National Customs Board were requested to complete templates covering the following customs procedures - import, export and transit of goods.

76. Since from the perspective of businesses the transfer of goods across the border and the subsequent settling of customs formalities is a single process, LDA and FIAS review and analyze jointly the procedures applied by the Customs authority and those applied by the Sanitary Border Inspectorate.

1. Procedure Description

77. Customs matters in Latvia are governed by the Customs Law (in force as of 1 July 1997, with subsequent amendments) and a number of Cabinet of Ministers regulations on the procedure for applications of different customs procedures issued pursuant to the Customs Law. These corresponding implementing regulations were for the most part in place by the end of 1999, but have been amended since then a number of times as a result of the identification of practical implementation problems or due to changes in the Customs Law. In general, the Customs legislation is almost entirely based on the EU Customs Code and its Implementing Regulations and the process of harmonizing customs operations with those of EU member country customs is ongoing.

78. In accordance with the Customs Law, the State Revenue Service (SRS) is the institution charged with the management and oversight of customs matters. Within the SRS there is the National Customs Board (subordinate to the Director General of the SRS), which is responsible for the overall performance and methodological oversight of customs functions. In addition there are 11 customs territorial offices and 160 customs points throughout the country. The customs clearance operations for import, export and transit customs procedures are ensured by approximately 1000 customs officers.

79. In this context, the SRS is entitled to issue methodological guidelines and decrees for implementation of the Customs Law and the applicable secondary legislation. Such normative acts of the SRS must be published in the official gazette “Latvijas Vestnesis”.

80. At the time of entry into force of the new Customs Law, the implementation of the UNCTAD ASYCUDA++ electronic declaration processing system was initiated. These major reforms laid a solid foundation for the development of customs procedures

and many new customs facilities (such as customs brokers, a guarantee system) and not least the development of the customs administration itself.

81. In accordance with the Customs Law there are 15 customs procedures:

- Release of goods for free circulation (import);
- Temporary import;
- Import for processing of goods;
- Import of goods for processing under customs control;
- Re-import of goods;
- Import of goods into customs warehouse;
- Import of goods into tax-free shop;
- Export procedure of goods;
- Temporary export of goods;
- Export of goods for processing;
- Re-export of goods;
- Transit;
- Destruction of goods;
- Waiver in favour of the state; and
- Supplies for commercial transportation means.

82. In addition there are separate rules that apply to physical persons that import goods for non-commercial purposes.

83. Completed templates regarding import, export and transit customs procedures are found in Annex E. Detailed information on the above-mentioned 15 procedures, applicable requirements and payments, is now available both in Latvian and English on the website of the SRS (www.vid.gov.lv section “SRS Informs”) and on the website of the Latvian Development Agency (www.lda.gov.lv). It should be noted that the SRS website also contains the Customs Manual, which provides practical, step-by-step information on the application of all of the above mentioned customs procedures and the application of the TIR and ATA Conventions. Parts of the manual relating to import, export and transit procedures are also available in English.

84. Significant changes have been undertaken in reforming importing and exporting procedures in the last 2 years, due largely to the activities of the Foreign Investors’ Council in Latvia ad hoc Customs group, the Latvian Customs Brokers’ Association and the Latvian Transit Business Association. The following are some reforms that have been implemented due to legislative change or streamlining of procedures:

- Recently, almost all implementing regulations relating to customs procedures have been adopted, in compliance with EU norms. This was an important legislative improvement following the entry into force of the new Customs Law in July of 1997. Lack of these implementing regulations (and resulting application of the previous secondary legislation during the transitional period) caused a great deal of confusion and inappropriate application.

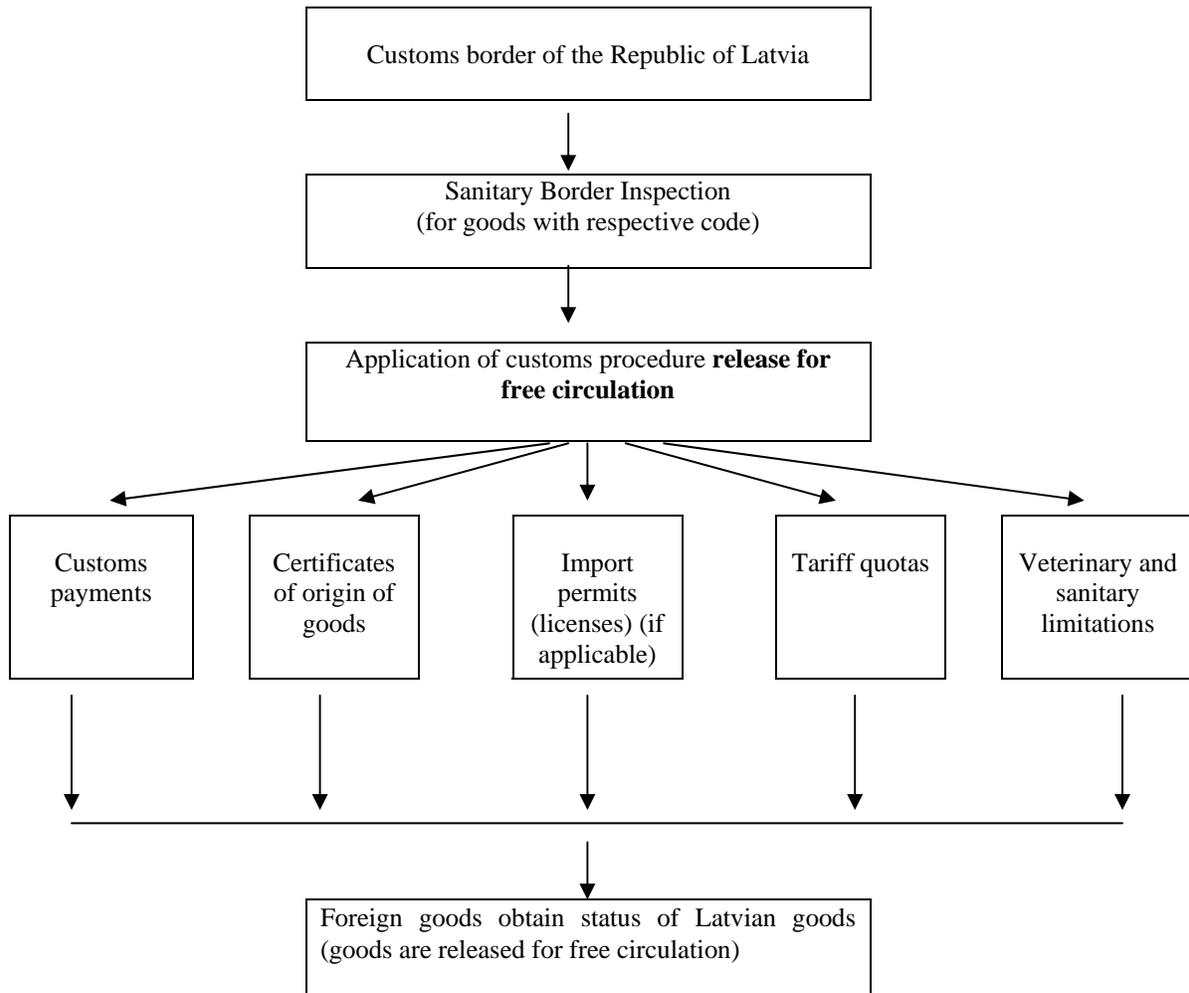
- The UNCTAD ASYCUDA++ electronic declaration and processing system has been introduced in customs control points. With the input of the business associations mentioned above, certain discrepancies and shortcomings in the new system have been identified (such as its inability to process incomplete declarations) and, in consultations with the Customs authority, steps are being taken to resolve these problems.
- Improvements have been introduced in border crossing procedures to alleviate the lengthy time (often 3-4 hours) that carriers often had to spend on the Latvian borders, largely by defining the duties and responsibilities of the government institutions on the border (Customs, the Border Guard, Sanitary Border Inspectorate).
- Customs clearance procedures have been simplified and manuals have been prepared and made available to businesses.

85. The Sanitary Border Inspectorate (SBI) carries out veterinary, phytosanitary control and control of the safety of goods on the state border. This institution was established in 1997, combining the functions of the State Veterinary Service, State Plant Inspection and the National Environment Centre. Further integration has taken place in 2001 with the establishment of a unified Food and Veterinary Service under the Ministry of Agriculture. The SBI is now a structural unit of the Food and Veterinary Service, which works in accordance with the Law on Supervision of Circulation of Foodstuffs, the Law on Veterinary Medicine and other related normative acts.

86. Details about the control procedure of the SBI in case of import, export and transit of goods are well presented in the relevant template completed by the SBI. The template can be found in Annex E.

87. The process of release of goods for free circulation on the border can generally be shown as follows:

Chart V.6



2. Analysis

88. The analysis section is based on the information provided by the National Customs Board and the Sanitary Border Inspectorate in the templates, the results of the Regulatory and Administrative Costs Survey and the observations gathered by the Latvian Development Agency in its work on improvement of the business environment.

89. As for the use and applicability of the results of the Regulatory and Administrative Costs Survey in assessment of the situation with the clearance of goods, it should be taken into account that the respondents reported their general experience and understanding of the time and costs connected with clearing an average shipment in the period of 12 months in any of the control points in Latvia. These results should therefore be interpreted as indicative of the general experience, pattern and perception of the formalities connected with clearance of goods.

90. The fact that the three institutions working on the border have a clear understanding of the utility of targeted surveys was evident in the fact that in 2001 the National Customs Board, Sanitary Border Inspectorate and State Border Guard in cooperation with the Latvian Development Agency carried out a survey of the efficiency of border crossing procedures in 6 major land border control points (BCP), interviewing 500 truckers. The findings of the survey were used to benchmark the 6 major land BCPs and were included in the work programs of these institutions for the year 2002. This survey clearly provided the management of the institutions with the information that could be applied directly to improve the work organization, markings, infrastructure, etc. of specific BCPs.

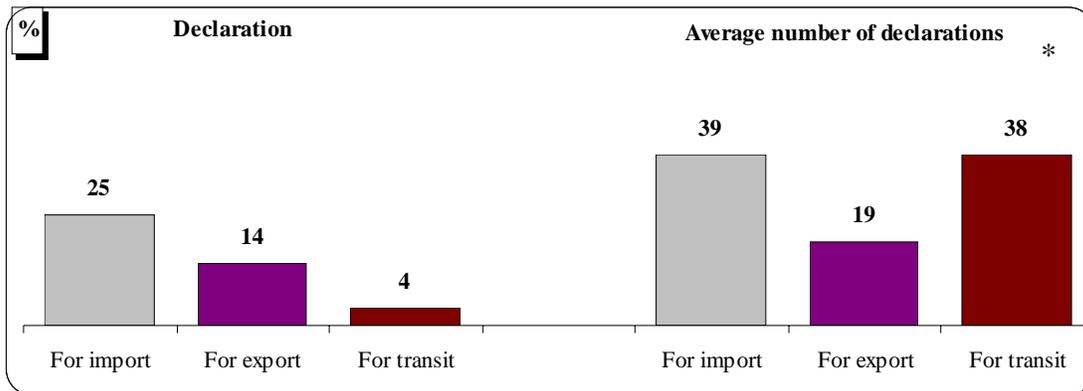
91. The Regulatory and Administrative Costs Survey provides a different type of information – not from the truck drivers actually crossing the border, but the opinions of the heads of the companies that are more generally clients of the Customs and Sanitary Border Inspectorate. These institutions should be aware of the views of the heads of companies in order to be able to develop a viable cooperation and a relationship that will enable the customs officers to perform their duties in combating fraud and smuggling, on the one hand, and promoting trade, on the other hand, more efficiently.

92. 25% (158 enterprises) of respondents to the Regulatory and Administrative Costs Survey have gone through the procedure of clearance of goods for import during the last year and 14% (99 enterprises) of respondents have settled *export* customs procedure during the last year.

93. A very small number of respondent enterprises went through the procedure of clearance for *transit* of goods through the territory of Latvia (4% or 25 enterprises). Due to the insufficient number of responses, the survey results as regards the transit procedure will not be analyzed further here, but a full set of data can be found in the complete text of Survey Analysis in the Annex F.

94. During last 12 months one half (55%) of the enterprises that deal with export and have submitted the declaration have submitted a goods declaration 10 times or more, a smaller part (42%) of enterprises have submitted declaration for import 1-10 times. The average number of submitted declarations during the last 12 months for one enterprise that has dealt with import clearance has been 39. In the case of exporting goods one has handed in 19 declarations on average. The chart below shows the percent of respondents that have carried out import, export and transit clearances (e.g. have submitted such customs declarations) and the number of declarations submitted during the last 12 months, which indicates the regularity of shipments for these companies.

Chart V.7: Clearance of Goods and Number of Declarations



Base 1 (Declaration): all companies interviewed, N = 541;

Base 2 (Average number of declarations): companies, who submitted custom declarations for import (N = 158), export (N = 99) or transit (N = 25).

a. Release of Goods for Free Circulation (Import)

95. During the last 12 months 25% of respondents to the Survey (158 enterprises) have dealt with the import of goods.

96. The SBI states that in 2001 they received 164803 applications for the import of goods. The SBI has provided a detailed list, specifying reasons for refusal, of the shipments that have been stopped (119 in 2001) and those shipments that have been sent back to the country of shipment (181 in 2001). This is a good tool that can be used to track the patterns and assess how best to deal with them, i.e. inform the public of the common mistakes that can cause delays in delivery of shipments.

97. Customs has received 410546 import declarations and 1617 of these have been rejected because of incomplete documentation. Customs does not have more specific information as to what deficiencies in the submitted documents have caused refusal. It might be worthwhile to categorize the refusals in order to be able to track the recurring patterns and take appropriate action. The practice of the SBI is a good example that could be applied also by the Customs.

(1) Time

98. The total time of waiting before all the necessary control procedures for one import shipment started is 7.2 hours on average while the total person time required for going through these control procedures is 8.1 hours on average.

99. The representatives of the companies respondents to the Survey had to wait 1.5 hours till the border guards' control commenced, and the respondents reported that going

through the administrative procedures connected with border guard control takes 1.4 hours of total person time.

100. The representatives of enterprises had to wait 5.6 hours on average before sanitary and veterinarian inspection control started. The total person time spent on going through these procedures is a bit longer (6.1). The SBI informed in the template that the average processing time of an import shipment is 3 hours (control of documents and identity of goods), with a minimum time of 1 hour. In case laboratory control is required it can take up to maximum of 5 days.

101. The time of waiting for customs control was reported to be 6.3 hours and going through these procedures takes 7.3 hours of total person time. The template completed by the National Customs Board states that the maximum, average and minimum processing time for declaration for import of goods is 1 day.

Table V.4: Average Time Spent for One Import Shipment (Hours)

	Hours	
	Waiting time before procedure starts	Waiting time for processing
Sanitary Border Inspectorate control	5.6	6.1
N =	49	50
Customs control	6.3	7.3
N =	98	98
Border guards control	1.5	1.4
N =	79	80
Average Time Spent by Company	7.2	8.1
For One Import Shipment ⁷	86	83

Base: those, who went through respective procedure and have given particular answer, see 'N = ' in table.

102. The clearance time for import of goods as reported by the respondents to the survey indicate a systemic problem and clearly show that the total amount of indirect costs incurred by enterprises (in terms of waiting time and personnel time) is relatively large for each shipment. Also the 1 day processing time reported by Customs is not satisfactory neither in terms of as an answer to the template nor in general for importers. There is an increasing demand from trade and industry for a more rapid service that has to be satisfied by the responsible institutions (Customs, SBI, Border Guard), if Latvia is to realize its geographical advantage and economic potential. To illustrate the growing speed of transactions – in the port of Rotterdam, a container is currently dealt with every six seconds and at Brussels airport, the customs clear 150 000 express parcels each night.

⁷ The total time of going through all the necessary procedures mentioned by business owners is given here. Mentioned number of hours does not correspond with the sum of hours mentioned above because the length of each procedure has been calculated only from those who have gone through that procedure while the average time has been calculated from all that have gone through any of the procedures.

103. It should be noted that already in 1999 in the 3^d Baltic Sea Customs Conference in Gdansk it was agreed that the aim is to speed-up and simplify cross-border trade through ensuring that the control lasts less than 2 hours in normal cases (Latvia was party to this conference). The results of the Survey demonstrate that Latvia is far from fulfilling this target in terms of import. In light of the need for speedy trade operations and increasing volumes of international trade, which Latvia wants to be part of, the overall waiting time must be reduced by introducing techniques that allow for quicker processing of incoming cargo on the borders. Modern techniques have to be applied to simplify procedures and focus controls to where they are needed and will be most effective.

(2) Costs

104. The total costs of all necessary control procedures for one import shipment are Ls 204 on average (official payments are Ls 171 on average, fines – Ls 10, gifts or bribes - Ls 5).

105. Although the number of firms responding to most of the detailed questions was too small to generalize with confidence (see “N” in the relevant rows of the table below), it appears about 60% of importers reported paying official fees connected with customs control procedures – Ls 222 on average (mode 10). 12% of enterprises reported having given gifts or bribes. Average amount of gift or bribe was Ls 31 (mode – Ls 50). The total costs for customs procedures make Ls 283 (mode – Ls 10).

106. 30. The official costs for import shipments include, if applicable to a given situation, VAT, import duty, excise tax, natural resource tax, the state fee for customs services and the costs for declarant or customs broker, if such is used. The amount of these charges will depend on the customs value of goods and on the services selected, if any. Due to these possible variations in costs, it is not possible to request the equivalent estimate from the government institutions. Nevertheless, this information may be of interest to the government institutions as an estimate from enterprises.

Table V.5: Average Payments for One Import Shipment (LVL)

	Official fees, payments	Pay fines, sanctions	Give gifts or bribes	TOTAL PAYMENTS FOR NECESSARY PROCEDURES FOR ONE IMPORT SHIPMENT ⁸
Sanitary Border Inspectorate control N =	14.97* 22	4.00* 1	14.44* 4	19.41* 17
Customs control N =	221.85* 44	329.87* 6	30.06* 11	282.99* 43
Border guards control N =	- -	- -	9.26* 2	- -
AVERAGE SUM A COMPANY SHOULD PAY FOR NECESSARY PROCEDURES FOR ONE IMPORT SHIPMENT ⁹ N=	171.02 80	9.87 122	4.60 113	203.97 69

Base: those, who paid the respective payment and have given particular answer, see 'N = ' in table.

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

b. Export of Goods

107. During the last 12 months 14% of respondents to the Survey (99 enterprises) have dealt with the export of goods.

108. The SBI informs that in 2001 they received 80214 applications for export of goods and all of them have been approved. Customs has received 167608 export declarations in 2001 and 662 of these have been rejected, because of incomplete documentation.

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

⁸ The total sum for going through formalities mentioned by business owners is given here. This sum does not correspond with the sum of types of separate payments for going through the mentioned procedure as the amount of each type of payment has been calculated only from those who had done that payment while the total costs of going through each procedure have been calculated from all who had paid for going through that procedure.

⁹ The total sum for going through formalities mentioned by business owners is given here. This sum does not correspond with the sum of types of separate payments for going through the mentioned procedure as the amount of each type of payment has been calculated only from those who had done that payment while the total costs of going through each procedure have been calculated from all who had paid for going through that procedure.

(1) Time

109. The time of waiting on the border before all necessary control procedures for export of goods were started was 2.3 hours on average, while the necessary person time for going through the control procedures was 2.9 hours on average.

110. The waiting time before border guards control is started is 0.4 hours* on average (mode¹⁰ 0) and going through the procedure takes 0.5 hours* of person time in total (mode 0).

111. The employees of enterprises had to wait 0.4 hours* on average before the sanitary and veterinarian inspection control started. The person time required for going through the mentioned control procedure is of the same length – 0.4 hours*. The template completed by the Sanitary Border Inspectorate states that the average time needed to complete the SBI control in case of export shipment is 3 hours and the minimum time is 1 hour. The maximum time has not been specified in the legislation.

112. The time of waiting before customs control started is 1.9 hours (mode 0), while the total person time required for going through this procedure is 2.5 hours (mode 0). The template completed by the National Customs Board states that the maximum, average and minimum time for clearing goods for export is 1 day.

113. The 1 day clearance time for export of goods as reported by the National Customs Board would be an extremely long period of time, in light of the need for speedy trade operations and increasing volumes of international trade which Latvia wants to be part of. In the 3^d Baltic Sea Customs Conference already in 1999 it was agreed that the aim is to speed-up and simplify cross-border trade through ensuring that the control lasts less than 2 hours in normal cases.

114. The results of the Survey suggest that the businesses spend significantly less than 1 day for clearing goods for export, while the National Customs Board has indicated that the minimum processing time is 1 day. Perhaps, the National Customs Board could update its information on the actual time spent in clearing an average shipment for export by customs institutions.

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

¹⁰ The most frequently mentioned answer.

Table V.6: Average Time Spent for One Export Shipment (Hours)

	Hours	
	Waiting time	Total staff time
Sanitary Border Inspectorate control N =	0.4* 23	0.4* 23
Customs control N =	1.9 55	2.5 60
Border guards control N =	0.4* 35	0.5* 36
AVERAGE TIME SPENT BY COMPANY FOR ONE EXPORT SHIPMENT ¹¹ N =	2.3 47	2.9 48

Base: those, who went through respective procedure and have given particular answer, see 'N = ' in table.

(2) Costs

115. According to information provided by representatives of enterprises the total costs of all necessary control procedures for one export shipment (i.e. Customs control and control by SBI) are Ls 44 on average (official costs are Ls 29 on average, fines – Ls 0.6, money spent on gifts or bribes Ls 4).

116. The number of respondents to the questions regarding the payments during export procedure to each institution separately was not large enough to be valid and is therefore not included here, but can be found in the complete Survey Analysis in Annex F.

Table V.8: Average Payments for One Export Shipment (LVL)

	Official fees, payments	Pay fines, sanctions	Give gifts or bribes	TOTAL PAYMENTS FOR NECESSARY PROCEDURES FOR ONE EXPORT SHIPMENT ¹²
AVERAGE SUM A COMPANY SHOULD PAY FOR NECESSARY PROCEDURES FOR ONE EXPORT SHIPMENT ¹³ N=	28.52	0.65	4.18	44.28
	55	71	64	50

Base: those, who paid the respective payment and have given particular answer, see 'N = ' in table.

¹¹ The total time of going through all the necessary procedures mentioned by business owners is given here. Mentioned number of hours does not correspond with the sum of hours mentioned above because the length of each procedure has been calculated only from those who have gone through that procedure while the average time has been calculated from all that have gone through any of the procedures.

* The number of respondents is not large enough to interpret the obtained results ($N < 45$).

¹² The total sum for going through formalities mentioned by business owners is given here.

¹³ The total sum for going through formalities mentioned by business owners is given here.

c. Conflicts and Appeals

117. During last 24 months only 1% of respondents that deal with procedures of export, import and transit of goods have had conflicts or problems with Border Guards.

118. 4% (7 enterprises) of respondents that deal with import, export and transit of goods stated that during last 24 months they have had problems with Sanitary Border Inspection. The template completed by the SBI states that in 2001 there have been 8 cases when the decisions have been appealed to the head of the institution. 4 of the appealed decisions have been left in force and 4 have been repealed fully. None of these decisions have been appealed further.

119. It is notable that the SBI has prepared and approved (on 18 April 2002) a scheme of appealing the decisions of the SBI, which provides a clear sequence of the decision making process. The scheme is appended to the completed template, which can be found in Annex E. In addition to clearly describing the sequence of appealing decisions – administrative acts - of the inspection, the SBI has also standardized submission of complaints by preparing a standard form for submitting and registering complaints. The form for registration of complaints is also appended to the completed template. LDA and FIAS would like to commend the SBI for the approach used in standardizing the process of submitting appeals and complaints, which provides the affected persons with a clear and more transparent process of review of their appeals and complaints. The practice of the SBI is a good management tool that could be applied also by the other institutions working alongside the SBI on the border.

120. Significantly more respondents that deal with import, export and transit of goods stated that during last 24 months they have had problems when dealing with Customs institutions – 10% (22 enterprises).

121. In practice there are two types of issues related to the customs procedures that can be appealed – (1) the administrative act imposing administrative penalties in accordance with the Administrative Violations Code and (2) the decision of a customs officer regarding application of certain customs procedure, determination of the value of goods, etc. The information provided by the National Customs Board in the template indicates that they do not compile statistics regarding the number of appeals on the decisions of customs officers on application of certain customs procedures, i.e. the latter of the two previously mentioned types. The National Customs Board also does not compile statistics regarding the number of appeals on administrative acts imposing administrative penalties arising in case of carrying out import and export customs procedures. As regards the transit procedure there have been 18 appeals of the administrative acts to the head of the institution from 23 November 2001 till the end of 2001. The National Customs Board states that prior to 23 November 2001 the decisions regarding administrative penalties could only be appealed to the court directly and they do not have statistics for such appeals. The Customs Board in general does not have information regarding appeals of its decisions to the court.

122. Given the relatively large number of businesses that according to the results of the Survey experience problems with the Customs institutions as compared to all the other administrative procedures covered in the Survey, it seems appropriate to suggest that the National Customs Board should design and implement similar tools to those used by the SBI for recording and tracking different types of complaints and appeals submitted by the affected persons. The National Customs Board should also prepare a clear scheme of decision making process in case an appeal or complaint is submitted and should inform the public at large about this process. One possible source for inspiration could be the practice of the SBI. LDA and FIAS believe that applying these techniques, the Customs could improve its relations with its clients.

d. Evaluation of Services

123. Business owners were asked to evaluate the services received during the clearance of goods and the evaluation is 4.2 points (marginally good) on average in the 6-point scale (from 1 “very bad” to 6 “very good”). When comparing the evaluation of the received services in three institutions separately – the services of Customs have been evaluated lower (4.0) than the services provided by the other two institutions – Border guards (4.3) and Sanitary Border Inspectorate (4.3).

124. The services of the various border services were evaluated as presented in the graphs below.

Chart V.8
Evaluation of State Border Guards

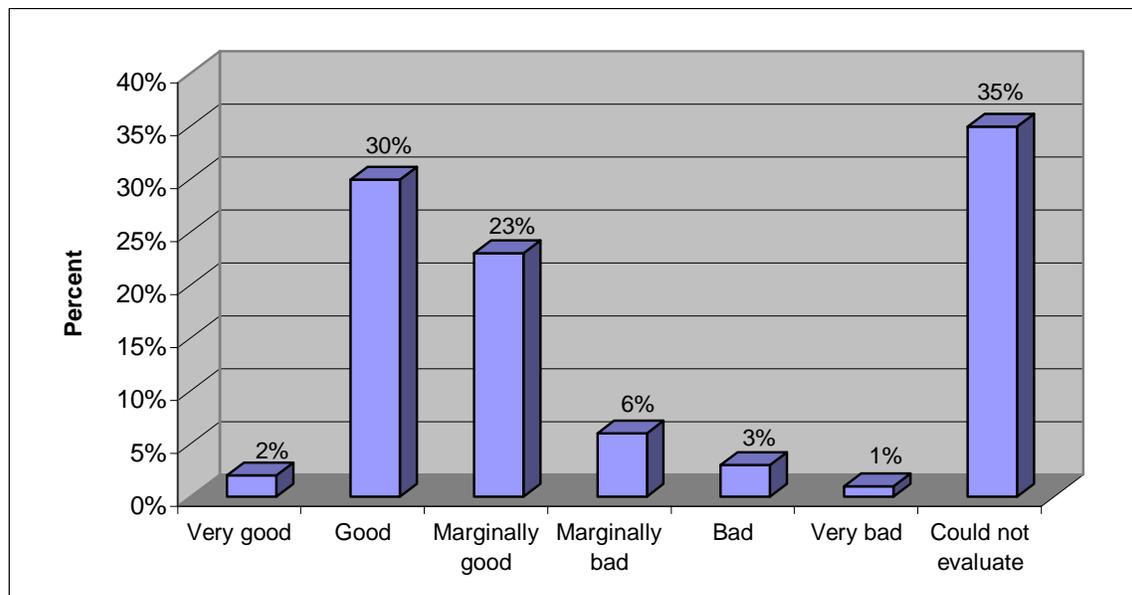


Chart V.9
Evaluation of Sanitary Border Inspectorate

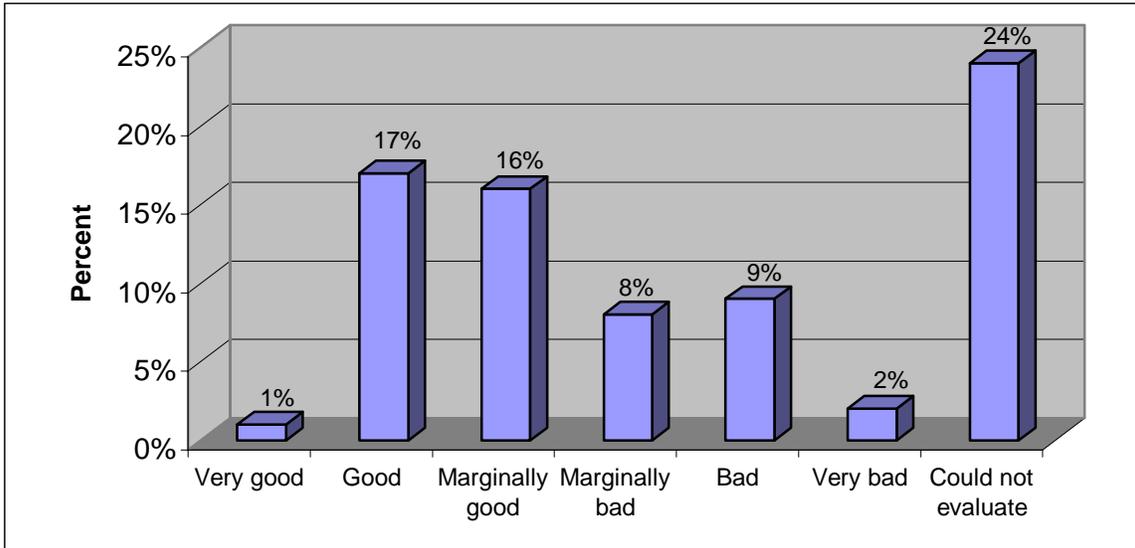
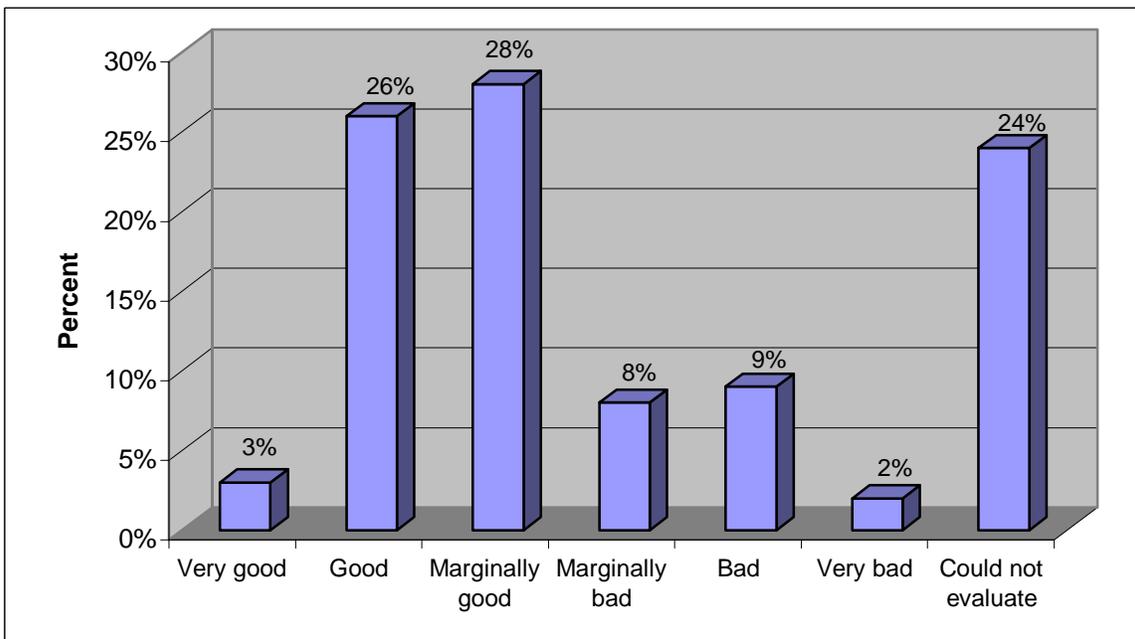


Chart V.10
Evaluation of Customs



e. Overall Observations and Analyses

125. Customs administration, Sanitary Border Inspectorate and State Border Guard have been modernizing their procedures and processes in order to create a positive environment for business. LDA and FIAS hope that there is increased understanding that certainty and speed in clearing goods through borders will lower costs to business. A progressive administration, which continually searches for new ways to enhance business' competitiveness, will have a beneficial impact on a country's growth, development and prosperity. Business decisions to invest in new enterprises are influenced by numerous factors such as domestic labor and capital costs, and an important consideration is the costs (including costs associated with delays) in which goods are cleared through customs.

126. The pressures on business to compete for a share of the global market have placed greater demands on Customs. The move by business to multi-sourcing and the adoption of just-in-time inventory require fast and certain clearance at the border. The challenge facing Customs administrations is to construct an environment that fosters investment and trade, while at the same time deals effectively with the growing contraband problem.

127. The guiding principles of a modern customs administration should be the following:

- **Facilitation:** While ensuring proper enforcement of Customs laws and regulations, Customs administration should strive to improve facilitation of Customs clearance procedures.
- **Accountability:** Customs administration should be accountable for their actions through a transparent and easily accessible process of administration and/or judicial review.
- **Consistency:** Customs laws, regulations, administrative guidelines and procedures should be applied in a uniform manner within the country.
- **Transparency:** Customs laws, regulations, administrative guidelines and procedures should be publicly available in a prompt and easily accessible manner.
- **Simplification** Customs laws, regulations, administrative guidelines and procedures should be simplified to the extent possible so that Customs clearance can proceed without undue burden.

128. Modernizing customs processes, however, is not easily or quickly accomplished. Over the last quarter century, rapid advancements in transportation, communications and technology have changed the trade environment in profound ways and many governments expect their Customs administrations to respond by undertaking more complex roles and accommodating increasing volumes of workload. In most cases, the need for improved performance is made more difficult by frozen or decreased resources. The National Customs Board has noted in the completed template that they suffer from a lack of funding and lack of personnel. These are common pressures felt by the majority of customs administrations worldwide. It is this necessity to accommodate more

functions with the same resources that has rendered many of Customs' traditional methods and systems obsolete, requiring Customs to adapt quickly in order to avoid detrimentally affecting their national economies.

129. Following the 1999 FIAS Study on Administrative Barriers to Investment in Latvia, a number of activities were undertaken in the context of the Action Plan for Improvement of the Business Environment to streamline the process of border-crossing and the clearance of goods. The changes effected as a result of this work have received a positive evaluation from the business community, but their implementation should continue and the quality of implementation should be monitored. Some of the results of the reform activities carried out after the 1999 FIAS Study include:

- To improve the coordination between border guards and customs officials at both the institutional and practical level in the border crossing points (BCP) an agreement between the State Revenue Service (SRS) National Customs Board and the Border Guard on the applicable technical-operational schemes to be used in each of the BCPs was signed at the end of 1999. It is believed that this action has partly resolved the overlapping control activities identified earlier.
- A resolution of the SRS was adopted on July 7, 2000 providing for a precise delineation of the duties and authority relating to decisions taken by customs officials. This decision informs both the customs officials and the businesses as to what decisions, which rank of customs officials are authorized to take.
- Special emphasis was placed on creating legal conditions for implementation of simplified customs procedures. As a result amendments to the Customs Law were adopted on March 29, 2001 and Cabinet of Ministers regulations on the procedure for clearance and simplified clearance of goods were subsequently adopted. Companies are currently holding discussions with the customs authorities to initiate pilot projects for the introduction of simplified customs clearance procedures.
- An issue hindering some aspects of implementation of the simplified clearance – the application of the exchange rate calculation methodology for customs payments - was resolved through amendments to the Customs Law, which were adopted in May 2002.
- A Consultations Department of the Legal Division of the National Customs Board was established to provide information and consultations to the clients of the customs authorities concerning any customs issues. This service is operational as of 1 September 2001.
- The Manual of Customs Procedures was prepared (discussed above).
- Following the suggestion of a number of business associations that it is necessary to separate liability for technical errors from liability for deliberate infringements, amendments to the Administrative Violations Code were adopted by the Parliament on June 14, 2001 and came into force on July 16, 2001.

- Cabinet of Ministers regulations that define the procedure for granting a deferment of customs payments and the procedure for aggregating these tax amounts for a calendar week or calendar month are being prepared.

130. Additional significant and systemic issues that are raised by the business community and that require attention from the Government are the following:

- Currently there are problems related to implementation of the electronic system for processing of customs declarations ASYCUDA ++ and its full implementation in the customs offices throughout the country has been delayed (i.e. ASYCUDA is not functioning in Riga Customs, there are different versions of the software in operation in different customs offices, which creates considerable inconveniences for business using electronic submission of declarations, the time period for issuance of authorization to use the software to submit the declarations electronically can be unnecessary long, etc.). As regards the Customs IT system in general, the Government of Latvia should be aware that the requirement for joining the EU is that a flawlessly functioning EC-compatible IT system is in place at least one year before EU accession and this system should guarantee interconnectivity with the EC Customs computerized system.
- The application of the Natural Resource Tax in clearance of goods has caused and continues to cause distractions in the trade. The businesses involved in import/export operations claim that the costs related to fulfillment of the requirements of the Law on Natural Resource Tax and the costs related to the calculation of the tax often exceed the tax payable. Further problems are expected to arise with the entry into force of the latest amendments on 1 July 2002. There is a lack of expertise in the private sector in Latvia to be able to come up with suggestions for workable changes in the law that would at the same time fulfill the requirements of the EU legislation. The problem is further exacerbated by the fact that the revenue from Natural Resource Tax is attributed to the so-called “special budget” which is managed by the Ministry of Environmental Protection and Regional Development and has its own institutional interests. The current practice has unfortunately diminished the attractiveness of Latvia as a site of logistics operations serving more than one country. It would be necessary to carry out an independent review of the Natural Resource Tax that is levied in the process of clearance of goods and design proposals for reform.
- The Baltic Transit Agreement aimed at easing and simplifying the pan Baltic transit procedure is not functioning in practice. The problem can best be understood if looking from the future perspective when upon joining the European Union the Common Transit Agreement will be applicable also in Latvia. Under this Agreement carriers from EU and the Visegrad countries will be able to transit goods through Latvia applying the customs guarantee regime envisaged in the Agreement. The Latvian carriers will be in a disadvantaged situation and will lose competitiveness, because lacking a

relevant track record with use of Baltic Transit Agreement they will not be eligible for reductions in the guarantee amount and will have to use the 100% guarantee, which will make their services more expensive. This is just one example, which indicates the necessity for the Government to exercise foresight and take appropriate steps already now. The National Customs Board should critically evaluate and solicit feedback from the industry on what hinders the actual implementation of the Baltic Transit Agreement and prepare suggestions for changes either in the Agreement itself or in the operational and implementing procedures and regulations or in both.

131. In general, the emphasis should be shifted to voluntary compliance. The premise of voluntary compliance is that most citizens are honest and willing to comply with laws and regulations if they perceive they are being treated fairly and can rely on the integrity of Customs administrations. Voluntary compliance is fostered through a combination of incentives to reward good compliance balanced with effective and responsible enforcement practices to serve as deterrents to non-compliance. Once a voluntary compliance environment has been fostered, there are a number of concepts that Customs administrations may wish to consider such as:

- *Self-Assessment:*
In a self-assessment system, clients are provided with assistance, education and services, to ensure they have the tools to help them determine, report on and remit the correct amount of duties and taxes.
- *Risk Management:*
Managing risk in a Customs administration involves concentrating resources on areas of greatest risk. A natural consequence is simplification and consistency, producing faster service for low-risk goods and decreased export/import costs for business. Targeting high-risk trade and travel means improved service for traders with a history of good compliance.
- *Periodic Verification or Periodic Audit:*
Periodic verification involves checking compliance by reviewing the totality of activity over time rather than isolated transactions. It typically involves selecting samples for audit based on an analysis of the data base by client, by industry sector and by type of good.

132. The Customs administration should continue to work on increasing transparency of customs procedures, including information on regulations, administrative Guidelines, applicable procedures and rulings to ensure that traders have all the pertinent information for business decisions through the availability of standard mechanisms for accurate, consistent and user-friendly information. For example, the SRS National Tax Board has made effective use of methodological guidelines for each type of tax detailing the application of the tax laws and regulations partly replacing the system of individual decrees explaining separately certain aspects of the tax laws and regulations. Currently the National Tax Board still mostly uses individual decrees to detail separate aspects of customs procedures. The Customs administration should shift its emphasis to voluntary

compliance. In this context there are a number of concepts that Customs administrations may wish to consider such as:

3. Recommendations

133. The Customs administration should shift its emphasis to voluntary compliance. In this context there are a number of concepts that Customs administrations may wish to consider such as:

- Self-Assessment;
 - Risk Management; and
 - Periodic Verification or Periodic Audit.
- The Customs administration should continue implementation of the simplified customs procedures, first through pilot projects and then on a broader basis. It should constantly monitor and address the legal, technical and organizational issues and problems that arise in the process of implementation and application of simplified procedures.
 - The implementation of the ASYCUDA system should be completed as soon as possible and the problems identified should be addressed in a timely manner. Adequate attention and resources should be devoted to the full implementation of computerized system for processing of customs declarations.
 - The Customs administration should continue to work on increasing transparency of customs procedures, including information on regulations, administrative guidelines, applicable procedures and rulings to ensure that traders have all the pertinent information for business decisions through the availability of standard mechanisms for accurate, consistent and user-friendly information.
 - The Customs administration and the Sanitary Border Inspectorate should consider introducing an e-mail bulletin for subscribers to inform about the changes in the procedures, requirements and other issues of interest to the traders. This tool will allow the institutions to demonstrate proactive and business-friendly attitude.
 - It might be worthwhile to categorize the refusals in order to be able to track the recurring patterns and take appropriate action. The practice of the SBI is a good example that could be applied also by the Customs.
 - Introduce clear appeals provisions in the Customs to provide a means for business to challenge customs decisions, which they feel, are erroneous or inequitable by having standard mechanisms for transparent, independent and timely appeals.
 - The National Customs Board should design and implement similar tools to those used by the SBI for recording and tracking different types of complaints and appeals submitted by the affected persons. The National Customs Board should also prepare a clear scheme of decision making process in case an appeal or complaint is submitted and should inform the public at large about this process.

- It would be necessary to carry out an independent review of the Natural Resource Tax that is levied in the process of clearance of goods and design proposals for reform. The international donor community could be approached regarding this task.
- The National Customs Board should critically evaluate and solicit feedback from the industry on what hinders the actual implementation of the Baltic Transit Agreement and prepare suggestions for changes either in the Agreement itself or in the operational and implementing procedures and regulations or in both.

C. Inspections and Audits

134. Inspectorates play a crucial role in ensuring that enterprises comply with the regulatory environment set up by the government. For that reason, inspectorates are authorized to employ a variety of instruments to ensure compliance. Because of the important position of the inspectorates in the interface between the business community and the government, much focus has been placed over the last several years on making their activities as service-oriented as possible in Latvia. An intangible result is recognition by many inspectorates of their importance in enforcing government rules while also acknowledging that there are various methods of achieving this goal.

135. Each inspectorate is mandated to oversee a very different regulatory regime and often there is little substantive overlap. At the same time, the procedures employed by the inspectorates from the viewpoint of enterprises can be very similar. The 1999 FIAS Study on Administrative Barriers to Investment in Latvia described serious problems regarding the work of the inspectorates in Latvia, including non-coordinated actions by inspectorates; lack of appeals mechanisms; often seemingly unfounded on-site inspections; opportunities to make arbitrary decisions; and unclear mandates for inspectors and low levels of accountability that can lead to corruptive situations. One of the tasks in the original Action Plan was standardization of rights and responsibilities for all inspectorates, which resulted in adoption by the Cabinet of Ministers on 18 January 2000 of an Instruction of guidelines for all inspectorates. In addition, an Inspectorate Coordination Council was established on 26 April 2000 to coordinate the reform activities of the inspectorates. The Inspectorate Coordination Council is chaired on a rotating basis by the head of an inspectorate elected by the inspectorates, and it benefits from the input and guidance of the Secretariat of the Special Tasks Minister for Public Administration Reform. The tasks of the Inspectorate Coordination Council include maintenance of an informational link among the inspectorates to review implementation of reforms and to discuss the results of the pilot projects. The Council also serves as a forum for information sharing and operational collaboration among inspectorates. Some of the training undertaken with the cooperation and support of the Inspectorate Coordination Council include introducing standard working principles in the inspectorates, risk assessment, strategic planning, client orientation, conflict resolution, performance measurements, internal audit.

136. The various inspectorates and audit institutions covered in this section are the following, and their self-stated purpose is also noted.

Table V.9

Inspectorate or audit institution	Purpose of inspection/audit procedure
State Revenue Service	To check the correctness and compliance with normative acts of the calculation, payment and deposit in the budget of a particular taxpayer's taxes.
State Labor Inspectorate	To ensure the observance of legislation relating to labor rights, workplace safety and monitoring of dangerous equipment, and as a result to reduce the number of those harmed in accidents as well as occupation illnesses.
State Sanitary Inspectorate	To accomplish the implementation of normative acts defining public health and consumer safety on a nationwide basis in the areas of the inspectorate's authority, and to reduce possible risks to the health of the public and consumers.
State Fire and Rescue Service	To monitor that institutions, enterprises, organizations and inhabitants fulfill the requirements of normative acts regarding the reduction of fire hazards. To control that planning and construction organizations, enterprises and inhabitants comply with the requirements of design and construction standards, norms and regulations for any type of construction, reconstruction, and capital renovation, as well as technical modernization activities.
State Environmental Inspectorate	Control and monitoring of the implementation of normative acts in the area of environmental protection and use of natural resources.
State Construction Inspectorate	To carry out state control over construction and state construction expertise, to control the fulfillment of the requirements in laws and other normative acts relating to the quality of construction, the safety of hydrotechnical constructions in hydroelectric power stations.
State Language Inspectorate	To ensure the implementation of the State Language Law and other legal acts governing the use of the state language.

137. The authors of the report are very pleased with the rate and quality of response of the inspectorates. This responsiveness may demonstrate one of the benefits of ongoing reform achieved by cooperating within the Inspectorate Coordination Council.

138. Other inspectorates that completed templates include the State Standards Supervisory Inspectorate, Railroad Technical Inspectorate, Lottery and Gambling Supervision Inspectorate and the State Metrological Inspectorate. These are available in Annex E in the Latvian version of this report only.

139. It should be noted that the State Revenue Service in a letter dated 25 September 2002 stated that “The control measures realized by the SRS are not comparable to other institutions in the context of this Report, because only the information provided by the SRS on tax audits is analyzed. The SRS undertakes not only tax audits, but also other control activities: review of the credibility of submitted declarations and reports, review of refund for overpaid VAT, thematic reviews, taxpayer investigation, counter reviews. Each of these control mechanisms has a different goal and requires a different amount of time spent with the taxpayer.” The authors of the Report believe that the information supplied regarding tax audits is useful anyway, but that it would even more useful in future to gather all information that is connected with SRS control activities that are not reflected in the present template.

140. Another important institution that has inspections-type functions is the municipal police. The municipal police force has a broad mandate, including ensuring that the decisions of the municipal government are enforced and cooperating with the state police. The mandate of the municipal police is described in more detail in the relevant section below. However, there is no template prepared for this because the functions are diverse and decentralized in many municipalities. Nevertheless, the Regulatory and Administrative Costs Survey did cover the municipal police, and therefore the views of enterprises regarding the municipal police are reflected in a later section in this report. LDA hopes that this information will initiate serious discussions on how to improve the work of the municipal police in all municipalities in Latvia where they operate.

141. The subsequent sections are arranged as follows. First, relevant excerpts from the Regulatory and Administrative Costs Survey covering the inspections regime generally. State Revenue Service audits and the municipal police inspections activities are included in these comparative assessments.

142. Then, sections on the following institutions: State Labor Inspectorate, State Sanitary Inspectorate, State Fire and Rescue Service, State Construction Inspectorate, State Environmental Inspectorate, State Language Inspectorate, State Revenue Service and Municipal Police, comparing the results of the Survey on the specific inspectorate and the relevant information as submitted by the inspectorate in the template (where such has been submitted). Many of these analyses feature a table on the types of audits undertaken by the inspectorate and their length, as well as types of decisions and sanctions that can be taken or imposed by the inspectorate. These results are not compared among the various inspectorates because each inspectorate has a very different mandate and may have a more complicated or less complicated means of enforcing it. Instead, where applicable, these issues are compared with the results of the Survey. This section also covers SRS audits as well as excerpts from the Survey on the municipal police.

143. The templates submitted by the State Labor Inspectorate, State Sanitary Inspectorate, State Fire and Rescue Service, State Construction Inspectorate, State Environmental Inspectorate, State Revenue Service are in Annex E, as well as the templates submitted by the State Standards Supervisory Inspectorate, Railroad Technical Inspectorate, Lottery and Gambling Supervision Inspectorate and the State Metrological Inspectorate (only in the Latvian version). These contain important information on the regulations that the inspectorates are enforcing and types of sanctions that can be imposed.

144. Finally, the section closes with some general observations and recommendations relating to the inspections system generally.

1. Excerpts from the Regulatory and Administrative Costs Survey on Inspections¹⁴

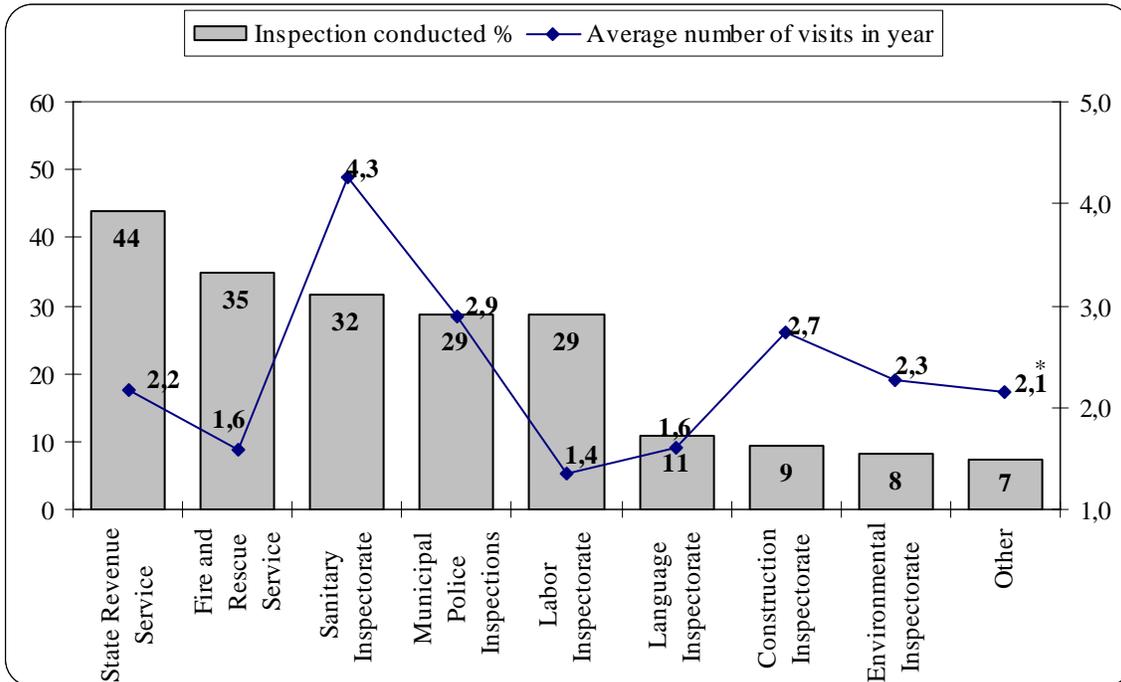
- a. General Description of Inspections

145. According to the results of the Regulatory and Administrative Costs Survey, during the last 12 months, the largest share of enterprises have come in contact with audit inspections by the State Revenue Service (44%). Other inspections are ranked as presented below.

146. The following chart shows the share of companies inspected or audited by a given inspectorate, as well as the average reported number of visits during the last 12 months.

¹⁴ This section is excerpted from the Report of the Results of the Regulatory and Administrative Costs Survey. For a more complete analysis, see the entire Report in Annex F.

Chart V.11: Percent of Companies Inspected and the Average Number of Inspections During Last 12 Months



Base 1 (Inspection conducted %): all companies interviewed, N = 541.

Answers "Inspection not conducted" and "Hard to say" are not shown.

Base 2 (Average number of visits in year): companies that have been visited by respective inspection and have given particular answer on number of visits. Labour Inspectorate N = 205, Sanitary Inspectorate N = 184, Fire and Rescue Service N = 240, Construction Inspectorate N = 58, Environmental Inspectorate N = 71, Language Inspectorate N = 71, State Revenue Service N = 283, Municipal Police Inspections N = 128, Other N = 41.

* The number of respondents is not large enough to interpret the obtained results (N<45).

147. Inspections by different inspectorates depend on the size of an enterprise, its business activities, and geographical placement. Medium and large businesses, where the number of employees is over 50, have more frequently been inspected by the Labor Inspectorate and the Fire and Rescue Service, than small enterprises. Manufacturing enterprises, in turn, have more frequently been inspected by the Environmental Inspection than other enterprises. Enterprises in Riga have more frequently come into contact with Municipal Police inspections, while enterprises outside Riga have more frequently been audited by State Revenue Service.

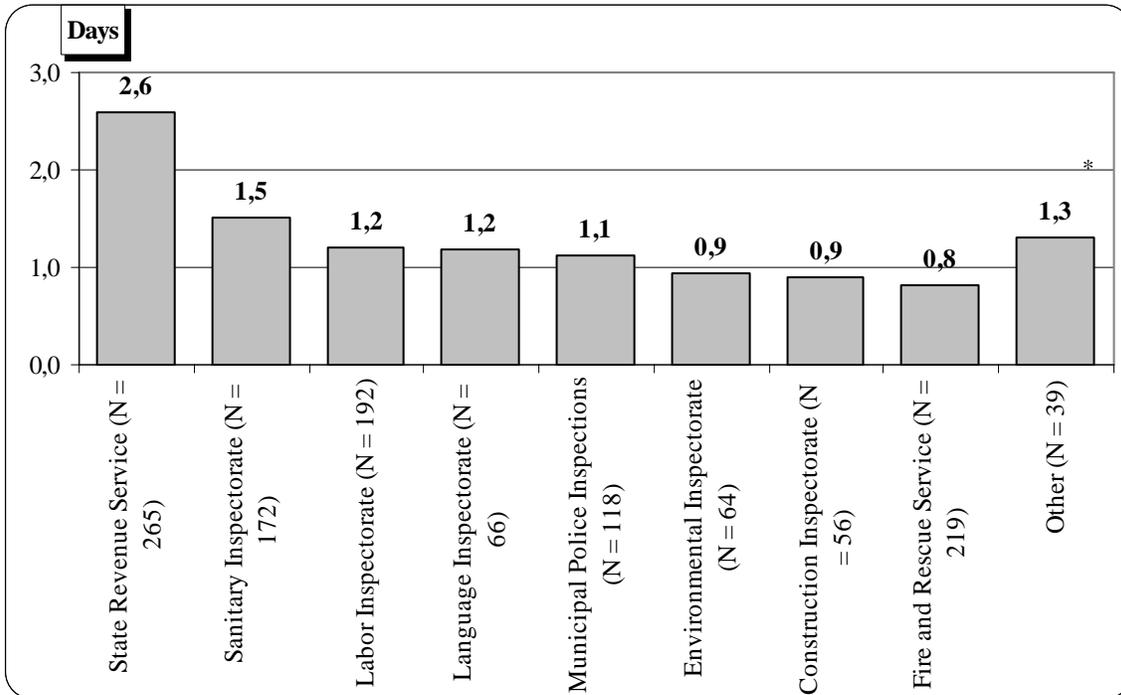
148. Approximately one half of enterprises visited by any of the inspections have had such inspections only once during last 12 months.

149. The number of inspectors that have visited the enterprise has been 1 inspector in more than one half of cases when the inspection was carried out by the Labor Inspectorate, the Sanitary Inspectorate, the Fire and Rescue Service, the Construction

Inspectorate, the Environmental Inspectorate and the Language Inspectorate. If an audit inspection was done by the State Revenue Service or an inspection by the Municipal Police, there were 2 inspectors visiting in most cases.

150. The following chart reflects the average number of days that is spent by each inspectorate in on-site inspections activity.

Chart V.12: Average Duration of Inspections



Base: companies that have been visited by respective inspection and have giving particular answer on number of visits, see 'N = ' in chart.

* The number of respondents is not large enough to interpret the obtained results (N<45).

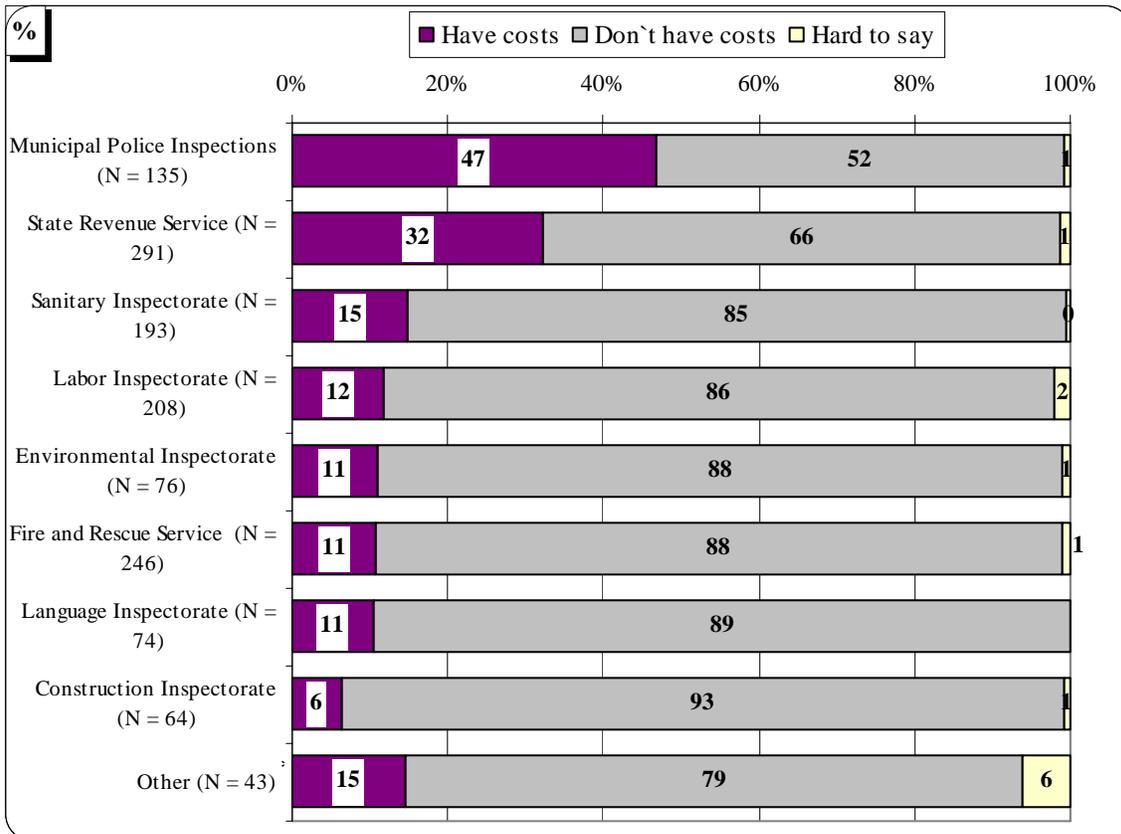
151. Audit inspections by the State Revenue Service take the most time (2.6 days); the second most time-consuming inspection is that of the Sanitary Inspectorate (1.5 days). Other inspectorates carry out an inspection of an enterprise in 1 day on average. Except for the State Revenue Service, the on-site inspections of other inspectorates lasted less than two hours.

b. Costs of Inspections

152. Regarding costs that occurred after inspections, one can denote that they have mostly occurred in connection with inspections carried out by the Municipal Police and the State Revenue Service. Those enterprises that experienced the concrete inspections

had in 47% cases costs in connection with Municipal Police and in 32% cases costs in connection with State Revenue Service inspections. Enterprises in Riga had more costs in connection with the Municipal Police.

Chart V.13: Costs Caused By Inspections



Base: companies that have been visited by respective inspection, see 'N = ' in chart.

* The number of respondents is not large enough to interpret the obtained results (N<45).

153. Regarding specific costs connected with on-site inspections and audits, very few respondents replied so that average costs could not be determined in most cases and these are not reviewed. However, exceptions were the State Revenue Service audits and the Municipal Police inspections, and these figures are presented in the relevant sections below. The number of respondents that reported having given bribes was insignificant in all cases.

154. One half of enterprises reported that in the last 12 months, as compared with the preceding 12 months, the number of inspections they have had has not changed. In rare cases the number of inspections has increased or decreased but some part of respondents could not evaluate this parameter.

155. During the last 24 months, enterprises in Latvia report that they have seldom faced the situation where due to claims of inspections, their books and documents had been seized, bank account suspended, license has been suspended/revoked or business operations have been suspended. The State Revenue Service is the institution according to whose claims 5% of enterprises have had one of the mentioned sanctions.

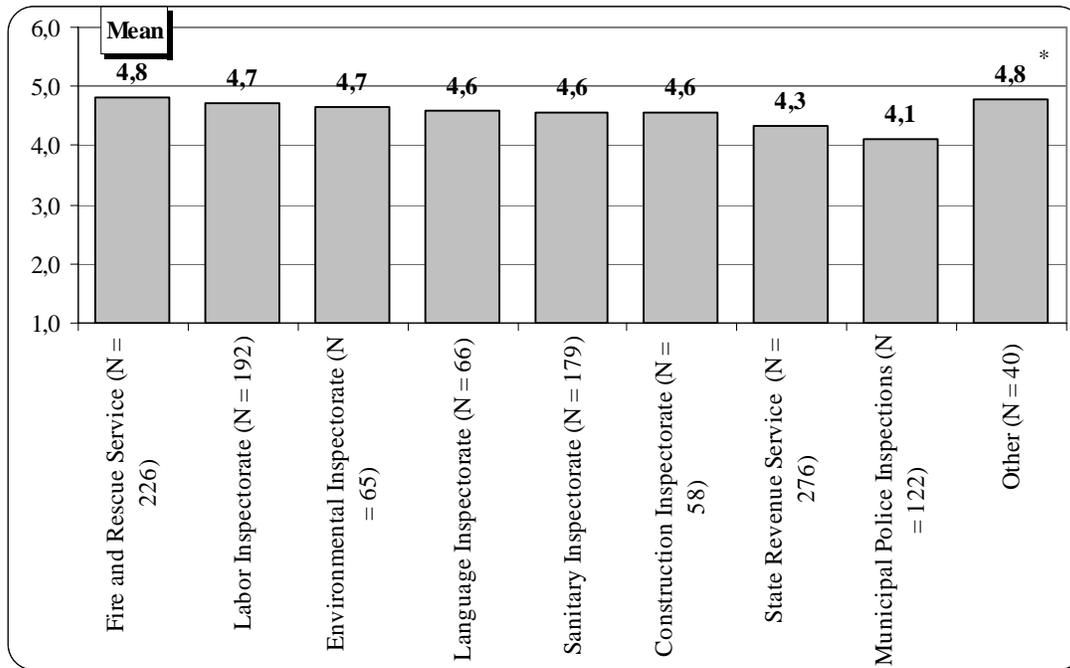
156. The State Revenue Service is the institution with which enterprises have had the most frequent and serious conflicts or problems during last 24 months. 11% have had problems with State Revenue Service and 3% have had problems with Municipal Police, and respondents reported having had almost no problems with other inspectorates during the last two years. 10% of enterprises evaluated problems with State Revenue Service inspections as the most serious and in most cases these problems occurred most recently in 2001.

c. Evaluation of Inspections Quality

157. As the following chart shows, the overall evaluation of performance quality of different inspectorates is positive.

158. The performance quality of the Fire and Rescue Service received the highest evaluation (4.8) on a scale from 1 (very bad) to 6 (very good). The performance quality of other inspectorates is comparatively similar. The lowest ranked is the Municipal Police with 4.1 points. Representatives of different categories of enterprises were very unanimous about evaluating the performance quality of different inspectorates.

Chart V.14: Average Evaluation of Inspection Performance Quality



Base: companies that have been visited by respective inspection and have given particular answer on scale from 1 'Very bad' to 6 'Very good', see 'N = ' in chart.

** The number of respondents is not large enough to interpret the obtained results (N<45).*

2. Inspections and Audits: Analyses

a. State Labor Inspectorate On-Site Inspection Activity

159. The template State Labor Inspectorate On-Site Inspection Activity is found in Annex E.

(1) Volume and Time

160. The following information is supplied by the State Labor Inspectorate (SLI) regarding the types of on-site inspections it undertakes, their minimum duration and maximum duration, as well as the number in 2001.

Table V.10

	Types of on-site inspections	Minimum duration (hours)	Maximum duration (hours)	Number in 2001
a.	Planned/regular inspections	8	16	9165
b.	Random inspections	2	6	1671
c.	Inspections on the basis of information received from other government institutions	3	5	405
d.	Inspections on the basis of complaints received from physical and legal persons	2	5	2234
e.	Follow-up inspections to a previous inspection to ensure compliance	3	5	711

161. According to the results of the Regulatory and Administrative Costs Survey, the Labor Inspectorate has visited 29% of responding enterprises. In most cases (77%) inspection has visited these enterprises once. The number of visits per enterprise is 1.4 times on average during last 12 months.

162. For enterprises in Latvia, labor inspections have lasted for 1.2 days on average. Inspection took less than two hours for 42% of enterprises, for 31% of enterprises it lasted from 2 hours to one full working day (8 hours) and for 21% of enterprises – more than one working day.

163. These results from the Survey are generally consistent with the data supplied by the State Labor Inspectorate.

(2) Decisions, Sanctions, Conflicts and Appeals

164. The State Labor Inspectorate reports the following information regarding results of on-site inspections and their number in 2001.

Table V.11

	Possible results of on-site inspections	Number in 2001
a.	Warning	227
b.	Order to eliminate the non-compliance	5555
c.	Fine	664
d.	Seized goods	---
e.	Seized books and documents	---
f.	Arrest of bank account	---
g.	Suspension/ revocation of license	---
h.	Operation of business suspended	1
i.	Operation of structural unit, manufacturing site suspended	24
j.	Operation of equipment suspended	602

165. The State Labor Inspectorate does not compile information on appeals, however it notes that such information will be gathered as of 2002.

(3) Information and Feedback Instruments

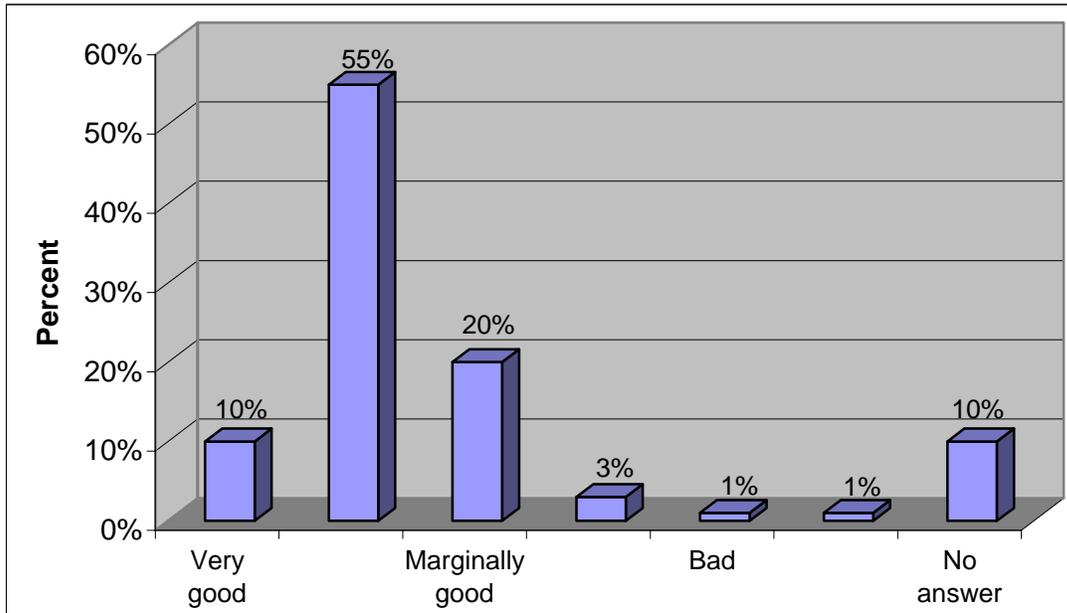
166. The State Labor Inspectorate, in its template, reported that enterprises are informed about procedural requirements by means of *disseminating brochures, organizing seminars and training courses, posting information on the internet home page, responding to individual inquiries*. The web page of the SLI is www.vdi.lv and it contains information on the State Labor Inspectorate’s structure, strategies, legal bases, statistics, and other relevant information regarding workplace-related issues (in Latvian).

167. The SLI did not select any of the choices for “feedback mechanisms” with the business community. This suggests that there are currently no efforts underway to gain the input of enterprises on the activities of the SLI.

(4) Evaluation of Services

168. According to the Regulatory and Administrative Costs Survey, the performance quality of the State Labor Inspectorate was evaluated as presented in the chart below. The total evaluation of performance quality is good. Average index is 4.7 points (on a scale where 1 is “very bad” and 6 is “very good”).

Chart V.15
Evaluation of Services of State Labor Inspectorate



169. The State Labor Inspectorate is very candid about how it views the legislation governing the procedure. From the perspective of the inspectorate, the legislation is *not clear, but understandable*, while they believe that for enterprises it is *somewhat unclear*. It is therefore commendable that the SLI uses the various means of communicating procedural requirements to enterprises, but the introduction of feedback mechanisms may help to identify where the problematic areas are specifically.

170. At the same time, the State Labor Inspectorate chose *good* in answer to the question of how well the procedure is working in practice.

171. For its top three priorities, the State Labor Inspectorate wrote (a) introduction of a quality management system, (b) maintenance of the informational system and (c) improvement of the public relations program. These *initiatives* are all proven methods of improving internal organization and service orientation.

172. Regarding the issues requiring improvement that are outside its direct authority, the State Labor Inspectorate notes that there are *discrepancies* and problems with the areas of workers' safety and occupational illnesses, that the government has not established a service responsible for workers' safety and occupational illnesses, that there are not enough employees in the SLI to fulfill all its functions and the rate of developing informational systems and technical bases is not adequately keeping up with the needs of the SLI.

b. State Sanitary Inspectorate On-Site Inspection Activity

173. The template State Sanitary Inspectorate On-Site Inspection Activity is found in Annex E.

(1) Volume and Time

174. The following information is supplied by the State Sanitary Inspectorate (SSI) regarding the types of on-site inspections it undertakes, their minimum duration and maximum duration, as well as the number, in 2001.

Table V.12

	Types of on-site inspections	Minimum duration (hours)	Maximum duration (hours)	Number in 2001
a.	Planned/regular inspections	2	2-3 days	15 097
b.	Random inspections	-	-	-
c.	Inspections on the basis of information received from other government institutions	2	8	551
d.	Inspections on the basis of complaints received from physical and legal persons	2	8	571
e.	Follow-up inspections to a previous inspection to ensure compliance	1	4	12 292
f.	Inspection based on epidemiological report	4	8	127

175. According to the results of the Regulatory and Administrative Costs Survey, the Sanitary Inspectorate has checked about 32% of enterprises during last 12 months. In 45% of cases the inspection has visited enterprises once. There have been 4.3 checks by the Sanitary Inspectorate on average in each enterprise that had been visited. The SSI has mostly visited those enterprises that are engaged in the sphere of manufacturing or trade, as well as medium and large businesses (number of employees is over 50 people) and enterprises dealing with export.

176. The average of 4.3 visits by the SSI (to those enterprises that had stated that they had been visited by the SSI) is by far the highest number of visits among the inspectorates.

177. According to the results of the Survey, the inspection by the SSI lasts for 1.5 days on average. This is the second highest rating after the State Revenue Service, whose visits last on average for 2.6 days. Visits by the State Sanitary Inspectorate lasted for less than 2 hours in 42% of enterprises, in 33% of enterprises it lasted from 2 to 8 hours and for

18% of enterprises it lasted for more than one day. When talking about time the longest inspections are made in enterprises where the number of employees exceeds 50.

178. These numbers from the Survey regarding length of on-site inspections are consistent with the data supplied by the SSI.

(2) Decisions, Sanctions, Conflicts and Appeals

Table V.13

	Possible results of on-site inspections	Number in 2001
a.	Warning	1 806
b.	Order to eliminate the non-compliance	15 830
c.	Fine	1 704
d.	Seized goods	-
e.	Seized books and documents	-
f.	Arrest of bank account	-
g.	Suspension/ revocation of license	-
h.	Operation of business suspended	270
i.	Dissemination of goods suspended	920
j.	Goods removed from circulation	80

179. The State Sanitary Inspectorate also reports that there were 18 appealed decisions in 2001, of which the head of the institution left 14 in force, overruled 1 and partially overruled 3.

180. The SSI also has information on final appeals. In 2001, 6 decisions were appealed to the highest instance (the court, according to the information provided by the SSI), although of these 6, only 1 had been appealed to the director of the SSI before going to court. 4 decisions were left in force, 1 was overruled and 1 was partially overruled in court.

(3) Information and Feedback Instruments

181. The State Sanitary Inspectorate communicated information to enterprises by *posting information on the home page¹⁵ and responding to individual inquiries*, as well as *making use of the mass media to disseminate information*.

182. Regarding feedback mechanisms, the SSI reports in the template that in 2001 there were 2 complaints and *proposals from visitors*, 1 *survey*, 13 *meetings and seminars*

¹⁵ The State Sanitary Inspectorate reports that their Internet home page will be operational as of the end of 2002.

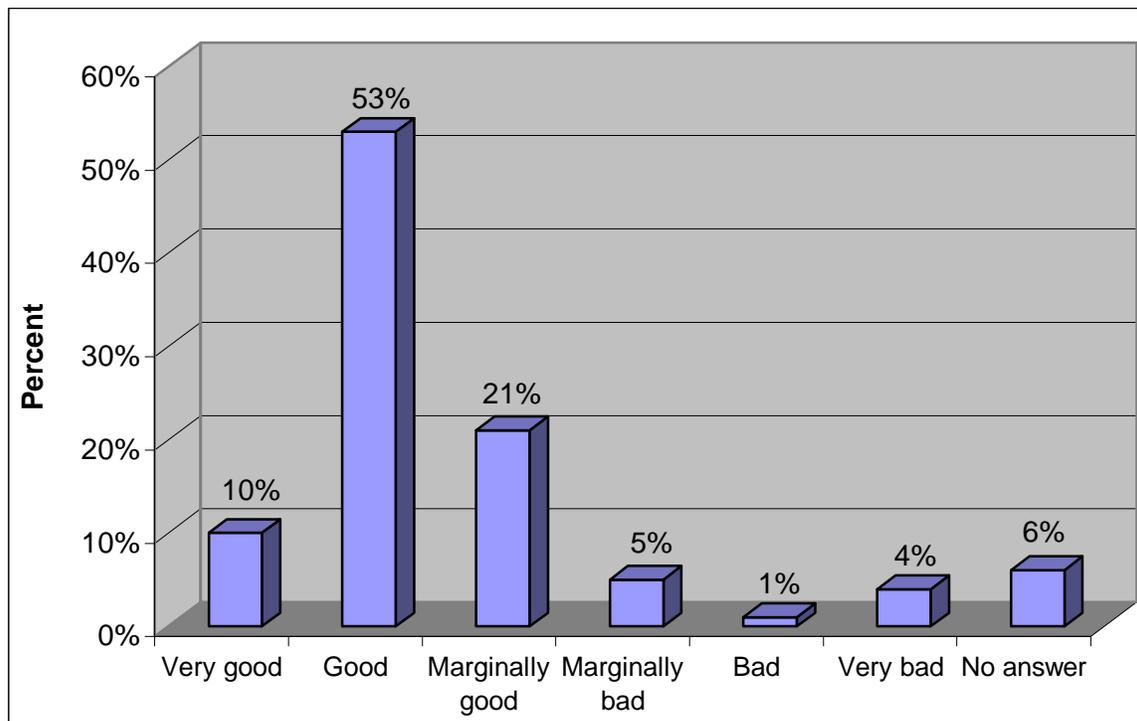
with business associations and non-governmental organizations and 2 analyses of information disseminated by the mass media.

183. It is encouraging to see that the SSI has an idea of the number of each type of feedback mechanism it introduces. Nevertheless, only 2 complaints *and proposals* in 2001 is a very low number that suggests that the SSI should establish a mechanism whereby enterprises could easily submit any proposals or complaints they may have, such as via e-mail, by post, etc.

(4) Evaluation of Services

184. According to the results of the Regulatory and Administrative Costs Survey, the performance quality of the State Sanitary Inspectorate was evaluated as presented in the chart below. The total evaluation of performance quality can be viewed as good. Average index is 4.6 points (in the scale where 1 is “very bad” and 6 is “very good”).

Chart V.16
Evaluation of Services of the State Sanitary Inspectorate



185. The State Sanitary Inspectorate itself believes that the legislation governing the procedure is *clear* from the perspective of both the institution and enterprises. The SSI also selected *good* to describe how the procedure is working in practice.

186. The SSI considers that the number of employees is insufficient, recommending that 33 new positions are required for 2003.

187. An interesting proposal by the State Sanitary Inspectorate is that the way to improve the procedure that is outside the direct control of the institution is that “it is necessary for there to be changes in the attitude of enterprises regarding observance of normative acts and a sense of responsibility regarding a safe living environment and provision of safe goods and services for the consumers’ health.” It would seem that these types of activities are precisely why institutions like the State Sanitary Inspectorate exist, so the SSI should focus on developing its tools for communicating with enterprises and receiving their feedback on problems with compliance. This goal, in other words, should not fall into the category of “outside the direct control of the institution”, as they could conduct an informational campaign to mitigate the problem they are citing.

c. State Fire and Rescue Service On-Site Inspection Activity

188. The template State Fire and Rescue Service On-Site Inspection Activity is found in Annex E.

(1) Volume and Time

189. The following information is supplied by the State Fire and Rescue Service (SFRS) regarding the types of on-site inspections it undertook, their minimum duration and maximum duration, as well as the number, in 2001.

Table V.14

	Types of on-site inspections	Minimum duration	Maximum duration	Number in 2001
a.	Planned/regular inspections	1 hr	2 days	13 294
b.	Random inspections	1 hr	1 day	4 151
c.	Inspections on the basis of information received from other government institutions	1 hr	1 day	3 019
d.	Inspections on the basis of complaints received from physical and legal persons	1 hr	1 day	347
e.	Follow-up inspections to a previous inspection to ensure compliance	1 hr	1 day	8 583

190. According to the results of the Regulatory and Administrative Costs Survey, the Fire and Rescue Service has controlled about 35% of enterprises . This is the second highest rate after the State Revenue Service. For the most part (75% cases) each

enterprise has been checked once during the last 12 months. The average number of visits in the last 12 months in one enterprise has been 1.6 times on average.

191. The inspections of the SFRS lasted 0.8 days on average, according to the results of the Survey. The inspection in 50% of enterprises has lasted less than two hours; in 27% it has been from 2 to 8 hours and in 14% of enterprises the inspection has lasted more than one working day. The inspections took more time in medium and large businesses where the number of employees is over 50 people.

192. The data from the Survey is consistent with the data supplied by the State Fire and Rescue Service.

(2) Decisions, Sanctions, Conflicts and Appeals

193. The State Fire and Rescue Service reports the following information regarding results of on-site inspections and their number in 2001.

Table V.15

	Possible results of on-site inspections	Number in 2001
a.	Warning	329 (for suspension of operations)
b.	Order to eliminate the non-compliance	13 294
c.	Fine	1 752 acts issued
d.	Seized goods	Not authorized to do so
e.	Seized books and documents	Not authorized to do so
f.	Arrest of bank account	Not authorized to do so
g.	Suspension/ revocation of license	Not authorized to do so
h.	Operation of business suspended	37
i.	Prohibition to use electric equipment or ovens	1 173

194. The SFRS reports that in 2001, 4 decisions were appealed to the head of the institution and all 4 were left in force.

195. The SFRS also reports that in 2001, 4 decisions were appealed to a higher instance (the court), of which 2 were left in force and 2 were overruled.

(3) Information and Feedback Instruments

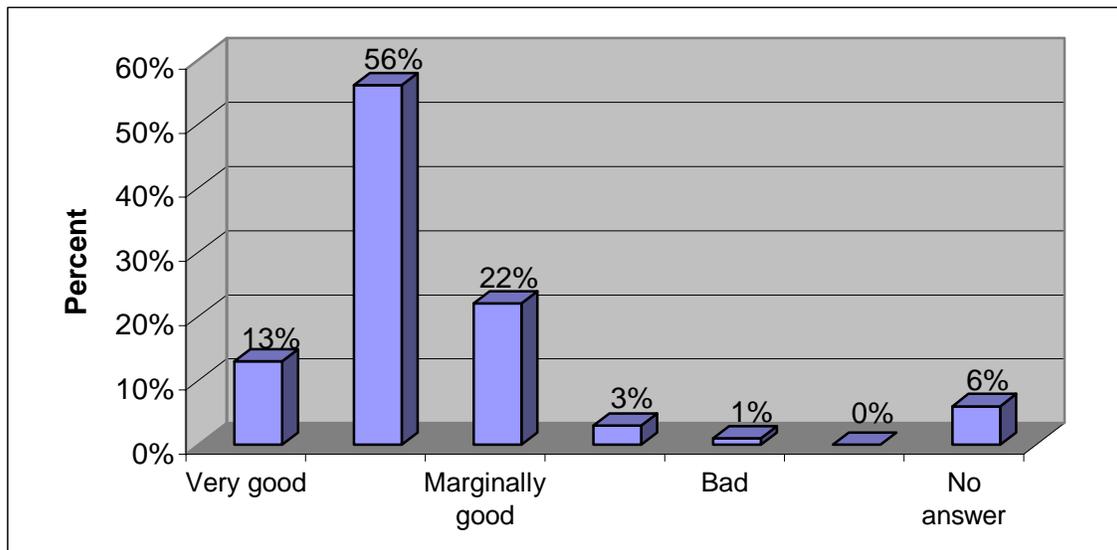
196. In the template, the State Fire and Rescue Service states that it communicates information to enterprises by organizing *seminars and training courses, posting information on the internet home page (www.vugd.gov.lv)* and *responding to individual inquiries*.

197. In addition, the SFRS reports that regarding feedback mechanisms, it receives *complaints and proposals from visitors, organizes meetings and seminars with business associations and non-governmental organizations and analyzes information disseminated in the mass media*. However, the SFRS does not keep track of the number of any of these. An effective means of identifying whether there are any trends or patterns in terms of complaints is to enumerate them, and this is not a very difficult or costly method of gaining good information, provided the channels of communication are established and open.

(4) Evaluation of Services

198. According to the results of the Regulatory and Administrative Costs Survey, the performance quality of the State Fire and Rescue Service was evaluated as presented in the chart below. The total evaluation of performance quality can be viewed as good. The average index is 4.8 points (on a scale where 1 is “very bad” and 6 is “very good”). This is the highest evaluation given to any inspectorate.

Chart V.17
Evaluation of Services of State Fire and Rescue Service



199. The SFRS indicates that the legislation governing the procedure is *clear* from the perspective of the institution and somewhat *clear* from the perspective of enterprises, but the procedure is only working in a *satisfactory* manner in practice.

d. State Construction Inspectorate On-Site Inspection Activity

200. The template State Construction Inspectorate On-Site Inspection *Activity* is found in Annex E.

(1) Volume and Time

201. The following information is supplied by the State Construction Inspectorate (SCI) regarding the types of on-site inspections it undertakes, their minimum duration and maximum duration, as well as the number, in 2001.

Table V.16

	Types of on-site inspections	Minimum duration (hours)	Maximum duration (hours)	Number in 2001
a.	Planned/regular inspections	---	---	1100
b.	Random inspections	---	---	672
c.	Inspections on the basis of information received from other government institutions	---	---	512
d.	Inspections on the basis of complaints received from physical and legal persons	---	---	352
e.	Follow-up inspections to a previous inspection to ensure compliance	---	---	12

202. According to the results of the Regulatory and Administrative Costs Survey, the Construction Inspectorate has checked about 9% of enterprises in Latvia. For more than one half enterprises (58%) this inspection has been performed once during last 12 months. In this period of time there have been 2.7 inspections in one enterprise on average.

203. The checks by the Construction Inspectorate have lasted 0.9 days on average. The inspection in 46% enterprises has lasted less than 2 hours, in 24% of enterprises it has been from 2 to 8 hours and in 25% of enterprises it has lasted longer than one day.

(2) Decisions, Sanctions, Conflicts and Appeals

204. The State Construction Inspectorate reports the following information regarding results of on-site inspections and their number in 2001.

Table V.17

	Possible results of on-site inspections	Number in 2001
a.	Warning	86
b.	Order to eliminate the non-compliance	68
c.	Fine	Ls 2410
d.	Seized goods	---
e.	Seized books and documents	---
f.	Arrest of bank account	---
g.	Suspension/ revocation of license	8 proposals
h.	Operation of business suspended	---

205. The State Construction Inspectorate reports that it does not keep track of decisions that have been appealed to the head of the institution, but it does state that one decision made by the SCI has been left in force after review by the final instance.

(3) Information and Feedback Instruments

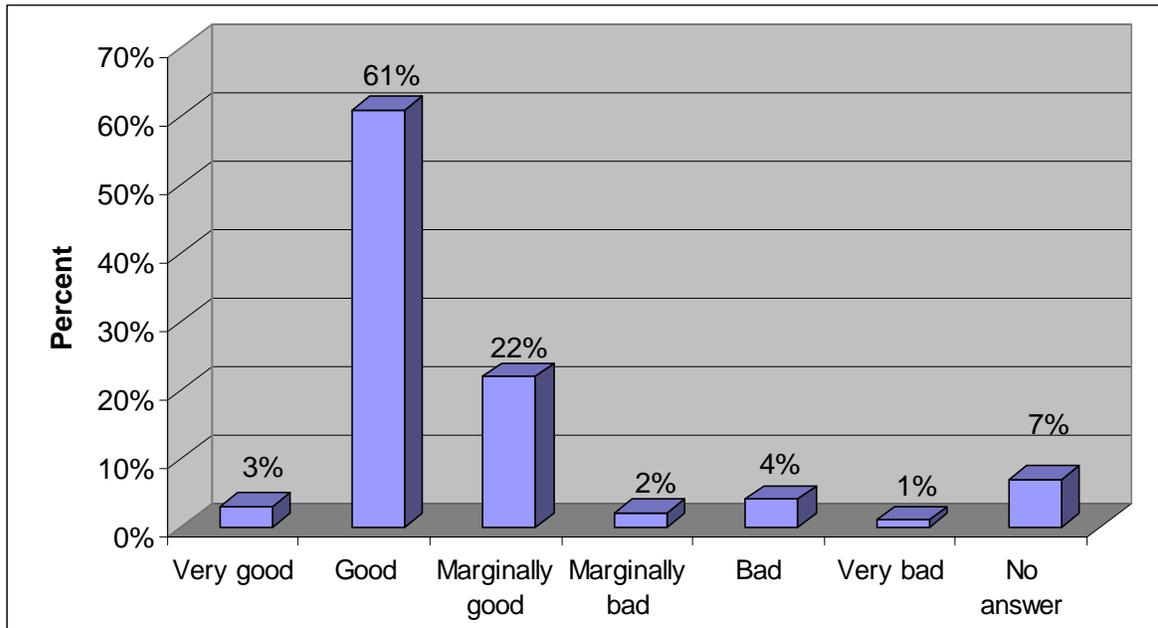
206. In the template, the State Construction Inspectorate states that it communicates information to enterprises by organizing *seminars and training courses, posting information on the Internet home page* (www.varam.gov.lv/VBI) and *responding to individual inquiries*.

207. In addition, the SCI reports that regarding feedback mechanisms, it *organizes meetings and seminars with business associations and non-governmental organizations* (there were 6 in 2001) and *analyzes information disseminated in the mass media* (10 cases in 2001).

(4) Evaluation of Services

208. The performance quality of the Construction Inspectorate was evaluated as presented in the chart below. The total evaluation of performance quality can be viewed as good. The average index is 4.6 points (on a scale where 1 is “very bad” and 6 is “very good”).

Chart V.18
Evaluation of Services of the Construction Inspectorate



209. The State Construction Inspectorate indicates that the legislation governing the procedure is *somewhat* clear from the perspective of the institution and *not clear, but understandable* from the perspective of enterprises, but the procedure is only working in a *good* manner in practice.

210. The State Construction Inspectorate also notes that as far as its own internal priorities for reform are concerned, these are already being undertaken presently, and therefore it is not possible to single out any particular priority.

211. But the State Construction Inspectorate has some interesting proposals for changes that should be made but that are outside its own mandate. The first is that a unified structure for controlling construction should be established, placing the municipal construction inspectors within the structure of the State Construction Inspectorate, in order to reduce the influence of municipal leaders over the decision making process of the inspector. A second proposal is to inspect buildings and other constructions after they have been approved for occupancy, which is currently not within the mandate of the State Construction Inspectorate.

e. State Environmental Inspectorate On-Site Inspection Activity

212. The template State Environmental Inspectorate On-Site Inspection Activity is found in Annex E.

(1) Volume and Time

213. The following information is supplied by the State Environmental Inspectorate regarding the types of on-site inspections it undertook, their minimum duration and maximum duration, as well as the number, in 2001.

Table V.18

	Types of on-site inspections	Minimum duration	Maximum duration	Number in 2001
a.	Planned/regular inspections	3 hrs	2 days	566
b.	Random inspections	2 hrs	1 day	120
c.	Inspections on the basis of information received from other government institutions	2 hrs	2 days	18
d.	Inspections on the basis of complaints received from physical and legal persons	2 hrs	2 days	135
e.	Follow-up inspections to a previous inspection to ensure compliance	2 hrs	1 day	46

214. According to the results of the Regulatory and Administrative Costs Survey, the State Environmental Inspectorate has checked 8% of enterprises. Most part of them (64%) have been visited by the inspectorate once. Each enterprise has been inspected 2.3 times on average during the last 12 months.

215. Checks by the State Environmental Inspectorate have lasted 0.9 days on average. The inspection has been less than 2 hours for 42% enterprises, it has been from 2 to 8 hours for 37% and more than one day for 13% of enterprises.

(2) Decisions, Sanctions, Conflicts and Appeals

216. The State Environmental Inspectorate reports the following information regarding results of on-site inspections and their number in 2001.

Table V.19

	Possible results of on-site inspections	Number in 2001
a.	Warning	3
b.	Order to eliminate the non-compliance	42
c.	Fine	Total of Ls 3 255
d.	Seized goods	---
e.	Seized books and documents	3
f.	Arrest of bank account	---
g.	Suspension/revocation of license	16
h.	Operation of business suspended	---
i.	Seizure of illegal commercial fishing equipment	41
j.	Seizure of angling equipment	30

217. The State Environmental Inspectorate provides information that in 2001, 4 decisions were appealed to the head of the institution, of which 1 was left in force and 3 were overruled. There is no information provided on appeals to higher instances.

(3) Information and Feedback Instruments

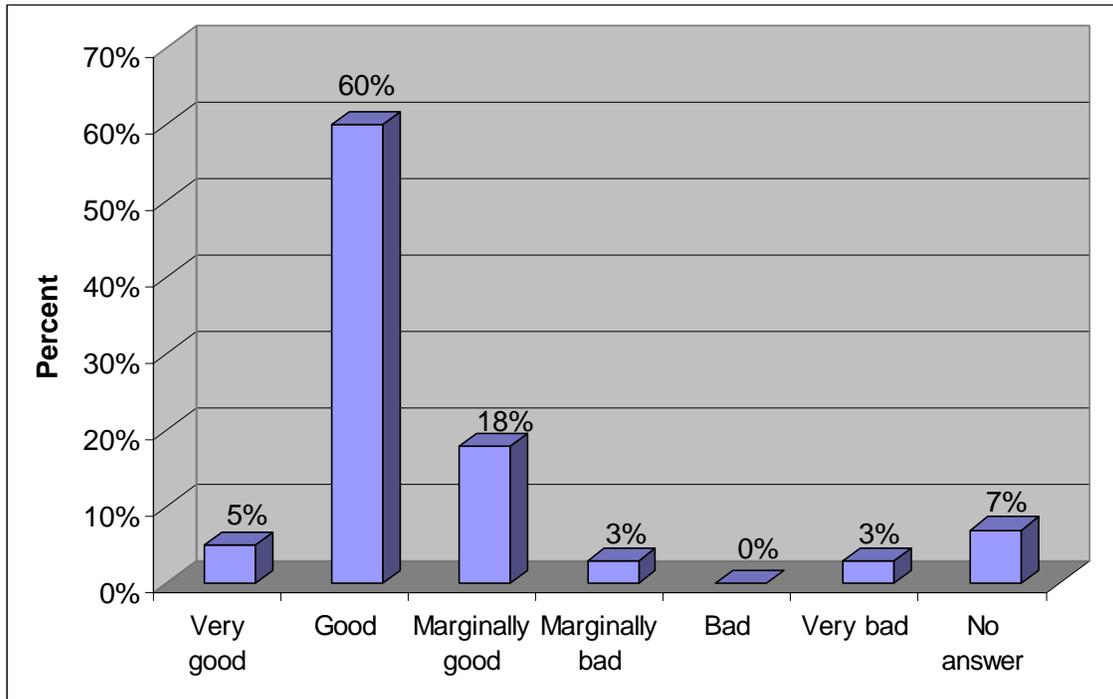
218. The State Environmental Inspectorate states that it makes use of the following instruments to communicate procedural requirements to enterprises: *disseminating brochures, organizing seminars and training courses, posting information on the internet home page (www.vvi.gov.lv), responding to individual inquiries.*

219. Regarding feedback mechanisms with enterprises, the SEI reports that it arranged *4 meetings and seminars with business associations and non-governmental organizations* in 2001 and that it *analyzed information distributed in the mass media 23 times.*

(4) Evaluation of Services

220. The performance quality of the State Environmental Inspectorate was evaluated as presented in the chart below. The total evaluation of performance quality can be viewed as good. The average index is 4.7 points (on a scale where 1 is “very bad” and 6 is “very good”).

Chart V.19
Evaluation of Services of State Environmental Inspectorate



221. The State Environmental Inspectorate itself believes that the *legislation* governing the procedure is somewhat *clear* from the perspective of the institution, but from the perspective of enterprises it is *not clear but understandable*.

222. The SEI also believes that the procedure is working in a *good manner* in practice.

f. State Language Inspectorate On-Site Inspection Activity

223. With the coming into force of the State Language Law on 1 September 2000, “compliance with this law in the Republic of Latvia is supervised by the State Language Center” (Article 26). The Control Section of the State Language Center fulfills the function of a State Language Inspectorate.

224. The template filled out by the Control Section of the State Language Center is located in Annex E.

(1) Volume and Time

225. The Control Section of the State Language Center submitted the following information regarding types of inspections, minimum and maximum length of inspections, as well as their number in 2001.

Table V.20

	Types of on-site inspections	Minimum duration	Maximum duration	Number in 2001
a.	Planned/regular inspections	2 hrs	2-3 days	2276
b.	Random inspections			
c.	Inspections on the basis of information received from other government institutions	2 hrs	8 hrs	140
d.	Inspections on the basis of complaints received from physical and legal persons	2 hrs	8 hrs	726
e.	Follow-up inspections to a previous inspection to ensure compliance	1 hr	4 hrs	507

226. In accordance with the results of the Regulatory and Administrative Costs Survey, the Control Section of the State Language Center has checked about 11% of enterprises in Latvia. More than one half (59%) of these enterprises have been visited once while inspections per enterprise have been 1.6 times on average.

227. The checks of the Control Section of the State Language Center have lasted for 1.2 days on average. The inspection has taken less than 2 hours for 56% enterprises, it has been from 2 to 8 hours for 27% and more than one day for 11% of enterprises.

(2) Decisions, Sanctions, Conflicts and Appeals

228. The Control Section of the State Language Center has provided the following information regarding on-site inspections undertaken in 2001, noting that the authority of the State Language Center to review administrative matters and impose administrative penalties was granted on 16 July 2001, when amendments to the Latvian Administrative Violations Code came into force. The amendments provide that the director of the State Language Center, his deputy, the head of the Control Section of the State Language Center and its inspectors have the right to review and impose administrative penalties on behalf of the State Language Center.

Table V.21

	Possible results of on-site inspections	Number in 2001
a.	Warning	1
b.	Order to eliminate the non-compliance	1500
c.	Fine	22
d.	Seized goods	
e.	Seized books and documents	
f.	Arrest of bank account	
g.	Suspension/revocation of license	
h.	Operation of business suspended	

229. The Control Section of the State Language Center states that there have been no decisions appealed to the head of the institution.

(3) Information and Feedback Mechanisms

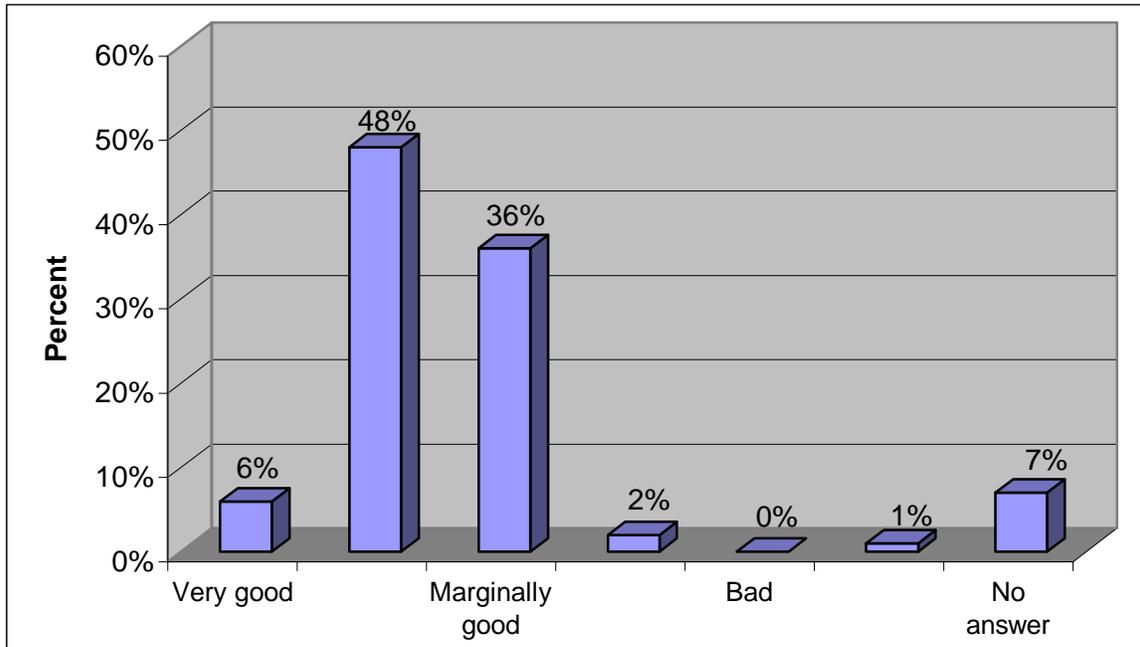
230. The Control Section of the State Language Center states that regarding providing information to enterprises on the procedure requirements, *additional information is not disseminated because the relevant laws and regulations are sufficient*. They also *respond to individual inquiries*.

231. Regarding the use of feedback mechanisms, the Control Section of the State Language Center states that it administered one survey in 2001.

(4) Evaluation of Services

232. The performance quality of the Control Section of the State Language Center was evaluated as presented in the graph below. The total evaluation of performance quality can be viewed as good. Average index is 4.6 points (in the scale where 1 is “very bad” and 6 is “very good”).

Chart V.20
Evaluation of Services of the State Language Inspectorate



233. The Control Section of the State Language Center states that the legislative basis and the procedure itself, from the perspective of the institution, is *somewhat clear* and from the perspective of businesses is *not simple, but understandable*.

234. The Control Section of the State Language Center believes that the procedure works in a *satisfactory* manner.

g. State Revenue Service Audits

235. The template State Revenue Service Audits is found in Annex E.

236. In a letter dated 25 September 2002 the State Revenue Service (SRS) explains that it undertakes the following control mechanisms: review of the credibility of submitted declarations and reports, review of refund for overpaid VAT, thematic reviews, taxpayer investigation, counter reviews. The SRS notes that in this Report these control mechanisms are not presented separately, but that in all cases where the SRS tax inspectors make on-site visits it is seen to be a tax audit. As the SRS explains, “a tax audit is a review by the tax administration regarding the correctness and compliance with legal acts in a given tax year of the calculation, payment and transfer to the budget of one or more taxes, tax declarations or duties and other state mandatory payments.” The authors of the Report accept this observation and invite the SRS to complete templates for each control mechanism and to use those as an instrument in their efforts to describe the control mechanisms and to improve the business environment.

(1) Volume and Time

237. According to the results of the Regulatory and Administrative Costs Survey, during the last 12 months the State Revenue Service has audited about 44% of enterprises. Enterprises have mostly been visited (61% cases) once in this period of time. During 12 months there have been 2.2 audits in one enterprise on average, for enterprises that have been visited by the SRS at all.

238. There is an interesting discrepancy between the results of the Survey and the information provided by the SRS. In its letter dated 25 September 2002, the SRS writes that in 2001 the SRS undertook audits in less than 2% of taxpayers registered in the taxpayer register, and had thematic reviews in 12%.

239. The following information is supplied by the State Revenue Service regarding the types of on-site tax audits it undertook, their minimum duration and maximum duration, as well as the number, in 2001.

Table V.22

	Types of on-site audits	Minimum duration (days)	Maximum duration (days)	Number in 2001
a.	Planned/regular audits	5	146	2 411
b.	Random (“unplanned”) audits	---	---	---
c.	Audits on the basis of information received from other government institutions	10	88	62
d.	Audits on the basis of complaints received from physical and legal persons	---	---	---
e.	Follow-up audits to a previous audit to ensure compliance	---	---	None undertaken
f.	Unplanned audits	5	21	305

240. The figures submitted by the State Revenue Service regarding number of on-site audits seem low, particularly taking into account the results of the Survey, the number of auditors in the SRS (348 auditors, according to the template) and the number of inspections undertaken on a yearly basis by the inspectorates described in this section. But the SRS in its letter of 25 September 2002 explains that tax audits, which are reflected in the table, are only one of the SRS’s control mechanisms. In addition, tax audits are the most expensive and time consuming of the control mechanisms undertaken by the SRS.

241. Clearly, the time listed here is significantly longer than that presented by the other institutions undertaking inspection and audit activities. This is nevertheless consistent

with the results of the Regulatory and Administrative Costs Survey. Business representatives in focus groups also mentioned that the SRS audits are very long.

242. According to the results of the Regulatory and Administrative Costs Survey, State Revenue Service audits have lasted for 2.6 days on average. This is the longest period of any of the institutions performing inspections or audit activities¹⁶. For 35% of enterprises the SRS audit has lasted for up to 2 hours, for 25% it has been from 2 to 8 hours and for 33% the audit has lasted longer than one working day. The most time-consuming audits were those that had been done in enterprises that deal in the sphere of manufacturing and in enterprises that have larger number of employees.

243. In informal consultations led by the LDA, business representatives have expressed their concern that the Law on Taxes and Duties did not limit the duration of the tax audit, thereby effectively granting the tax administration the right to extend the audit indefinitely and paralyze the conduct of business. The proposed amendments to the law, currently submitted to the Saeima (parliament), contain the norm limiting the length of the tax audit to the maximum of 90 days.

244. As business representatives in focus groups explained, SRS controls take place most often in case of VAT refund, in accordance with Article 12 of the Law on the Value Added Tax. However, the SRS in its letter of 25 September 2002 explains that in 2001 as a result of review of refund for overpaid VAT it has undertaken 216 tax audits, which constitute 8% of all SRS audits.

(2) Costs

245. According to the results of the Regulatory and Administrative Costs Survey, among those that had to pay in connection with audits of the State Revenue Service (about 32%), there have been 94% of cases where businesses reported giving fines, 3% cases where the goods were seized and 2% cases where one had to give gifts or bribes. According to the information provided by business owners, the average amount of a fine was Ls 822. There was an insufficient number of respondents to determine the value of seized goods or bribes paid. In accordance with the results of the Survey, the costs in connection with audits of State Revenue Service have been Ls 816 for one enterprise on average.

(3) Decisions, Sanctions, Conflicts and Appeals

246. The State Revenue Service reports the following information regarding results of on-site audits and their number in 2001.

¹⁶ But it is also significantly less than the time reported by the SRS in the template.

Table V.23

	Possible results of on-site audits	Number in 2001
a.	Warning	None
b.	Order to eliminate the non-compliance	2 409
c.	The calculation of additional tax	2 409
d.	Fine in 100% amount	1 544
e.	Fine in 200% amount	None applied
f.	Seized goods	None
g.	Seized books and documents	---
h.	Arrest of bank account	---
i.	Suspension/ revocation of license	---
j.	Operation of business suspended	---

247. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia noted that a significant problem is the authority of the SRS to suspend business operations. The data above do not suggest that this a possible result of an on-site audit by the SRS.

248. As noted above, the State Revenue Service is the institution with which enterprises have had the most frequent and serious conflicts or problems during last 24 months. According to the results of the Survey, 11% have had problems with the State Revenue Service (for reference, 3% have had problems with Municipal Police and almost none had problems with the other inspectorates during the last two years). 10% of enterprises evaluated problems with State Revenue Service as the most serious and in most cases these problems occurred most recently in 2001, indicating that these are relatively recent problems.

249. According to the information supplied by the SRS in the template, there were 804 cases of decisions being appealed to the head of the institution in 2001. Of these, 448 were *left in force* and 356 were *partially repealed*.

250. The SRS does not provide any information on the number of decisions that were appealed to a higher instance. Nevertheless, the Latvian Development Agency is aware that such information exists within the SRS and this may simply be a case where there is no easy access to or exchange of institutional information.

(4) Information and Feedback Instruments

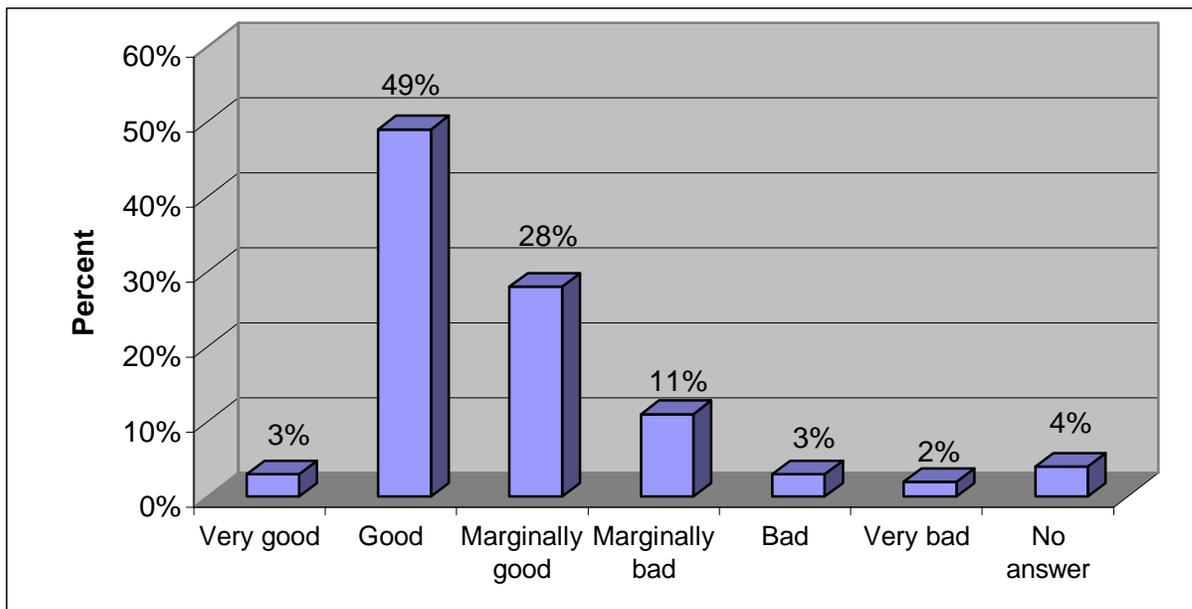
251. The SRS template provides that in communicating procedural requirements to enterprises, it *disseminates brochures* and *responds to individual inquiries*.

252. The template on SRS audit procedures does not identify any feedback mechanisms for interacting with the business community, although other sections of the SRS in other templates have listed some of the instruments.

(5) Evaluation of Services

253. The performance quality of the SRS audits was evaluated as very good by 3%, as good by 49%, as marginally good by 28%, as marginally bad by 11%, as bad by 3% and as very bad by 2%. 4% did not give an answer. The average index is 4.3 points (in the scale where 1 is “very bad” and 6 is “very good”). The total evaluation of performance quality can be viewed as marginally good, although it is the second lowest among the institutions performing inspection and audit activities (after municipal police inspections).

Chart V.21
Evaluation of Services of SRS Audits



254. According to the template provided by the State Revenue Service, the legislation governing the audit procedures is *not clear, but understandable* from the perspective of the institution and *somewhat unclear* from the perspective of enterprises.

255. The SRS also states that the procedure of audits is working in a *satisfactory* manner in practice.

256. The template lists as its top three priorities for improving the procedure that can be undertaken by the SRS itself the following: “increased use of the information in the data base”, “requesting and receiving information on taxpayers from other government institutions” and “informing taxpayers more often”.

257. A recommendation that is outside the direct scope of the activities of the SRS is the training of judges in the calculation and payment of state taxes and duties.

258. The SRS template also provides that there is an insufficient number of staff responsible for the procedure, and suggests that it is necessary to create new positions, have comprehensive training for specialists (auditors), support those aspiring to professional growth and increase salaries.

h. Municipal Police

259. As noted above, there is no template for the municipal police due to the fact that their functions are diverse and decentralized in many municipalities.

260. The functions of the municipal police are based on the *Law on Police*, the *Code on Administrative Procedures* and other state-level legislation, and the decisions of individual municipalities (as long as they do not contradict state-level laws). In accordance with Art. 1 of the *Law on Police*, the police is an armed and militarized state and municipal institution, whose purpose is to protect a person's life, health, rights and freedoms and the interests of the public and the state from criminal and other illegal threats. Art. 15 of the *Law on Police* provides that the Municipal Police is a unit of the respective municipality, but in terms of work organization it cooperates with the State Police. Art. 19 of the *Law on Police* provides that a municipality can establish a municipal police force, and their functions include implementation of decisions taken by the municipality for whose violation there is an administrative penalty imposed, as well as a monetary fine for the violation, as well as the collection of the fine.

261. A review of some municipal legislation regarding the functions of the municipal police reveals that this may include imposing sanctions for administrative violations as determined by the municipality and state institutions, and overseeing the following activities of concern to business: construction, trade, observance sanitary norms. The municipal police is also authorized to cooperate with the State Police. Not all municipalities have a municipal police force.

262. In focus groups, business representatives repeatedly expressed a notably negative opinion regarding the work of the municipal police. It was mentioned that the municipal police have a very broad mandate, that that mandate is unclear and that there is a lack of coordination in the institutional framework of the municipal police, as well as in terms of cooperating with state and other municipal institutions. Business representatives expressed concern that as a result they get visited and controlled often, with the municipal police searching for infractions, and if they cannot impose a penalty, they threaten to warn the relevant institutions that can. In conversations business representatives also stated that the municipal police often controls whether the municipal trade permit (which is already on questionable legal ground) has not expired.

263. The Municipal Police has visited about 29% of enterprises. 36% of these enterprises have been visited once but most part of enterprises has been checked more than once during last 12 months. The Municipal Police has inspected each enterprise 2.9 times on average in one year. Inspections of the Municipal Police have lasted 1.1 days on average. They have been shorter than 2 hours for 47% of enterprises, from 2 hours to one full working day for 20% of enterprises, and more than one day for 25% of enterprises.

264. The study points at regional differences in performance of Municipal Police. In Riga the Municipal Police has inspected more enterprises (35%) than in the rest of Latvia (19%). In interpreting this fact, it should be taken into account that not everywhere in Latvia are there Municipal Police departments. In Riga more frequently than anywhere else inspections have been done within one year. On average, each of the visited enterprises has been inspected 3.2 times, while anywhere else the figure is 2.3 times. Thus the total number of inspectors who have visited one enterprise within a year in Riga is greater than in other regions. Also the total length of conducted inspections within a year is greater in Riga. Concerning the evaluation of Municipal Police performance, there are no significant differences between Riga and other regions of Latvia.

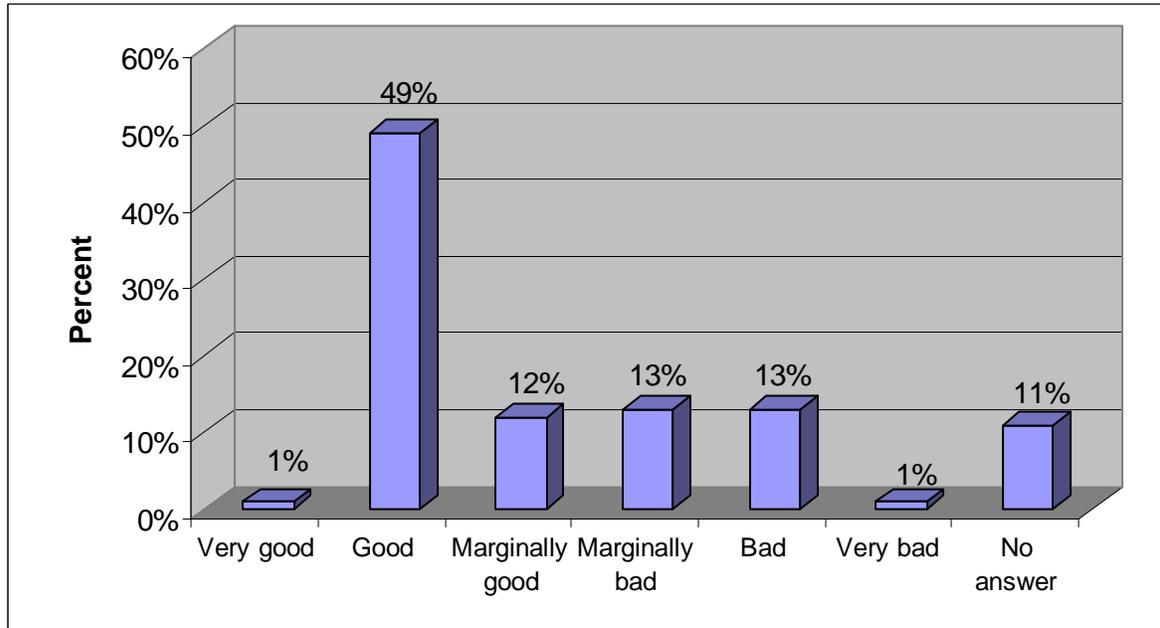
(2) Costs

265. According to the results of the Regulatory and Administrative Costs Survey, among those who had to pay in connection with inspections of Municipal Police (47% of those inspected or 51 enterprises) there have been 92% cases where one had to pay fines and 9% cases where one reportedly had to give gifts or bribes. According to what business owners have said, the average amount of a fine was Ls 14, but there were an insufficient number of respondents to determine the average size of a gift. The costs for one enterprise in connection with inspections of Municipal Police were Ls 14 on average.

(3) Evaluation of Services

266. The performance quality of Municipal Police was evaluated as presented in the chart below. The total evaluation of performance quality can be viewed as marginally good. The average index is 4.1 points (on a scale where 1 is “very bad” and 6 is “very good”). This is nevertheless the lowest evaluation of all institutions performing inspection and control functions.

Chart V.22
Evaluation of Services of Municipal Police



i. Analysis

267. The 1999 FIAS Report described significant problems relating to the work of the inspectorates – inconsistent and impolite service, many intrusive visits. But complaints about the work of inspections have lessened over the last several years, and this is supported by the results of the Survey. This may be due in part to the significant activities undertaken by the Inspectorate Coordination Council in coordinating training programs as well as on-site inspections.

268. Two features distinguish the inspections system from other types of interaction between the government and the business community. Because an inspector will often visit the enterprise on-site, it is important for the enterprise to know what are that inspector’s rights and duties in performing this activity. It is also important for the enterprise to be aware of what legislation the inspectorate is controlling. Therefore, one of the major benefits of the templates exercise is the listing, by the responding inspectorates, of the substantive and procedural legislation that govern the activities of the inspectorate. This information on governing legislation is in Annex E.

269. It is also a welcome fact that so many of the inspectorates have internet home pages with information on the inspectorate, for example:

- State Revenue Service (www.vid.gov.lv, with information also in English);
- State Labor Inspectorate (www.vdi.lv);

- State Fire and Rescue Service (www.vugd.gov.lv, with information also in English);
- State Construction Inspectorate (www.varam.gov.lv/VBI, with information also in English); and
- State Environmental Inspectorate (www.vvi.gov.lv, with some information also in English).

270. The State Sanitary Inspectorate does not yet have a web page, though it states in the template that it will by the end of 2002.

271. Many inspectorates mentioned the need to amend or revise the legislation, but did not explain what specifically needs to be done.

272. The 1999 FIAS Report on Administrative Barriers to Investment in Latvia identified a widespread problem – that inspectors do not tend to prepare and give to the inspected enterprise an act regarding the visit, regardless of whether or not violations were found. In drafting this self-assessment Report, it seems that the situation has improved and inspectors regularly prepare descriptive acts. Some inspectorates even submitted these forms. Nevertheless it is important that all institutions that undertake inspection or control functions, including the municipal police, prepare such acts after each visit or inspection.

273. Both the results of the Administrative and Regulatory Costs Survey as well as discussions with business representatives suggest that there exist significant problems with the functions of the municipal police. The Survey results place the municipal police in a very low position as regards evaluation of services – the municipal police received the lowest rating of all institutions that undertake inspection and control functions. In addition, in conversations the business representatives described the unclear mandate of the municipal police and their often destructive impact when inspecting an enterprise.

274. It seems that a next step to be undertaken by the inspectorates are information campaigns for enterprises to observe the legislation that the inspectorates are enforcing. Training courses could be an effective preventive mechanism to reduce violations that arise due to lack of knowledge. As a results, the number of minor infractions may fall and the inspectorates could focus on more significant violations and inspections activity.

j. Recommendations

- A significant portion of the work of the inspectorates involves ensuring that enterprises comply with rules and regulations relating to health and safety (as well as other public policy concerns). Therefore, the inspectorates play a crucial role as educators, and any efforts to reach out to the business community are welcome and an effective means of implementing their mandate. Any inspectorate should ask itself the following questions in order to achieve the goal of ensuring compliance:

- What feedback mechanisms does the inspectorate use to identify problematic areas in the legislation that it implements and the procedures that it follows?
 - Is there a mechanism to keep track of and analyze these feedback mechanisms in order to identify either recurring problems/patterns, as well as to receive detailed information on a particularly egregious example?
 - Is there a mechanism available for submitting complaints and proposals (the easiest and cheapest form of feedback mechanism)?
- Several inspectorates do not keep detailed track of internal appeals, and some that do have a surprisingly low number of such appeals. Appeals are an important means not only for the client to express dissatisfaction with or dispute a given decision, but also for the institution to determine what systemic problems exist with the legislation they are implementing or the procedures they are following. Each inspectorate should assess whether the appeals routes are clear and realistically available, as well as whether the appeals instances within the institution do not influence each other.
 - The SRS undertakes a variety of control functions, including tax audits, review of the credibility of submitted declarations and reports, review of refund for overpaid VAT, thematic reviews, taxpayer investigation, counter reviews (comparing the books of enterprises transacting business with each other). The template completed and submitted by the SRS for this Report covered only tax audit. The authors of the Report invite the SRS to complete a template for each control mechanism and use those as instruments in their efforts to describe and record the control mechanisms and improve the business environment.
 - It is necessary to systematically review and define the activities of the municipal police, possibly in the context of general efforts to improve the business environment at the level of the municipalities.