

# Legal and Judicial Reforms Project- Overall Progress (2000-2007 February)

In line with the '*Mahinda Chintana*' - Vision for a New Sri Lanka, A Ten year horizon, Development Framework 2006-2016, the government aims at achieving an 8 percent annual growth in GDP with investment being raised well in excess of 30 percent of GDP in addition to improving efficiency and productivity of the economy and business. Regulatory risks, complex administrative and legal procedures, governance deficiencies and the effects of terrorism and crime, have resulted in high transaction costs thus effecting the global competitiveness of our economy. An informal economy is operating outside the legal system resulting in dead capital. This has cause social and economic exclusions and increased inequality, thereby restraining the economic growth and limiting results of anti-poverty efforts. Although the government has already introduced several reform initiatives in the areas of banking and finance, capital markets, governance, taxation, procurement, trade, investment, dispute resolution, legislative changes and reform in the judiciary with a view to reducing transaction costs, the coverage of reforms needs to be expanded and the momentum needs to be sustained. This is important since the legislature and the judiciary, which are autonomous in the constitutional structure, plays a complimentary role in ensuring an environment, which is conducive for the business climate and growth and investment.

Legal and Judicial Reforms Project (LJRP) of the Government of Sri Lanka, facilitated by the World Bank, launched in 2000, was concluded in February 2007, with virtual total disbursements.

Substantial reforms implemented through the LJRP are the following:

- Facilitating the amendment of legislation and introduction of new legislation in emerging areas of Commercial Law. Related landmark achievement is the passage of the new Companies Act No.7 of 2007. The Anti Money Laundering

Act No.5 Of 2006 is another important legislation that was passed. In addition, the Fines and Penalties structures in over 75 statutes were revised and updated with the passage of a consolidated statute, Increase of Fines Act No. 12 of 2005. Further, High Court of the Provinces (Special Provisions) (Amendment) Act No. 54 of 2006 to expand the appellate jurisdiction to regional level through High Courts of the provinces. This will expedite the dispensation of over 15,000 appeals backlog in the country, towards reducing laws delays.

- Human resource development and knowledge enhancement was given priority through foreign training of members of the judiciary, the Attorney General's and Legal Draftsman's Departments and the staff of law schools. 175 members of the judiciary, 120 members of the AG's Department, 21 members of the LD's Department benefited from foreign training. 12 members of the judiciary, 8 members of the AG's Department, 18 members of the academic staff of law schools and 4 members from the Bar Association of Sri Lanka were sponsored for foreign scholarships to follow LLM and PhD programmes to gain specialized knowledge. Local Training included 40 Scholarships to follow the Maters Program conducted by Sri Lanka Law College in affiliation with University of Wales, U.K. (15 Judges participated in a training program in Hong Kong and 15 part funded scholarships were sponsored to follow the local LLM program in 2006)
- Law books were provided to libraries of the judiciary, the AG's and LD's Departments and the law schools. New course manuals were developed for Law schools and the Sri Lanka Judicial Training Institute through local and foreign consultancies.
- Emphasis was placed on the key need of improving infrastructure. In this effort, 2 new Court Complexes were built in the north and east and 25 existing court houses spread island wide were refurbished / renovated to be able to give a better service to the public and to make the judiciary more efficient. The Judicial

Services Commission Building was renovated and refurbished to contain up-to-date facilities. The Office of the Registrar of Companies Building was also renovated. Refurbishments/ Renovations are being done to setup High Court of the Provinces in Matara, Kalutara and Ratnapura.

- Alternate Dispute Resolution was promoted with the setting up of a Commercial Mediation Center and by training 35 mediators for the first time abroad.. This was to facilitate reducing laws delays and cost of litigation.
- 8 selected courthouses in Colombo and Kandy were automated, aimed at avoiding laws delays and reducing possible human intervention to make the judicial system more efficient, through the use of facilities such as integrated audio and video recording of court proceedings and a centralized record tracking system. Test running and training is being conducted.
- LawNet Phase II, Sri Lanka's up-to-date and modern legal database was launched, through which all laws, by-laws, important reported judgments, day's list of Superior Courts and information on reforms and judicial history are available to the public through the world wide web.
- A Local Area Network was introduced to the Attorney General's Department thus improving efficiency and the quality of work

While noting the several achievements, the Government is of the view that such widespread reforms take time to produce visible results and therefore need to be sustained. In order to maintain a competitive edge with other emerging economies in the region, there has to be an ongoing assessment of the deficiencies in the regulatory and legal structures, which can be addressed only through sustained reforms. A sustained transformation is also vital to reduce transaction costs and deepen the investment climate in favour of Small and Medium Enterprise sector development, to which the Government has accorded priority, whilst promoting corporate and foreign direct investments

In this backdrop, as emphasized in the 2007 Budget Speech, the Government is desirous of proceeding with Legal and Judicial Reforms. Priority areas that would facilitate achieving the targeted economic growth have been identified with the assistance of the Legal Cluster of the National Council for Economic Development, which is the apex forum facilitating policy formulation through a private/ public dialogue. The following have been identified as primary reform initiatives in the next phase of Legal and Judicial reforms;

- Develop human resource and institutional capacity through appropriate local and foreign training for the members of the judiciary, AG's Department and the LD's Department following a selection process by an appropriate panel *inter alia* taking into consideration - seniority, relevance of the course content, training already undergone.
- Improve judicial infrastructure through the construction of 4 new Court Complexes at regional level in Galle, Matara, Kalutara and Kurunegala and construct a Center for Human Resource Development in Colombo to facilitate local training on a structured basis.
- Rollout information technology advancements already introduced to selected court houses on a pilot basis, by introducing similar facilities to the court complexes proposed to be built. In addition, introduce a case management system to the already automated courthouses.
- Automate the Companies Registry and introduce measures to reduce the start-up time/ registering a business. Complement the process by taking measures to expedite registrations with the Department of Labour, EPF/ETF in order to bring down the time associated with starting-up time/ doing business. Develop a process through which the Companies Registry can be used as the gateway to ensure registration for taxation.

- Create an efficient and effective exist mechanism to facilitate investors to close businesses, through the passage of an appropriate legislation covering insolvency and winding up aspects, in order to promote investor confidence and reduce transaction costs.
- Identify factors leading to the existence of dead / extralegal capital and remove any associated obstacles created through the formal legal system thereby creating capital towards finance development and reducing costs associated with land related disputes.
- Develop a judicial strategy recognizing short, medium and long-term priorities of the Sri Lankan Judiciary, with the support and in consultation with stakeholders *inter alia* of the Legal Cluster.
- To carry out an assessment of the impact of legal and judicial reforms, developing appropriate data mainly with the assistance of the existing government network available for data collection and tabulation involving the Department of Census and Statistics.

Demonstrating Government's firm commitment to facilitate and sustain the reform process, the Treasury has already allocated funds through the 2007 Budget for the setting up of the Judicial Infrastructure Maintenance Trust Fund, which is being executed.