Achievement of Market-Friendly Initiatives and Results Program
(AMIR Program)

Funded By U.S. Agency for International Development

Regulatory Framework Strengthening

Final Report

Deliverable for ICTI Component, Task No. ....
Contract No. 278-C-00-02-00201-00

July 2002

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Executive Summary

The REACH Initiative, prepared for H.M. King Abdullah II, started in 1999. It presented a national strategy for Jordan to develop a sustainable export-oriented Information Technology Services sector. The strategy was designed to bolster the country's ICT sector and maximize its ability to compete in local, regional and global markets. It took into consideration Jordan's strengths and weaknesses compared to other regional players. It also outlined a clear action plan, specifying actions to be implemented by the various stakeholders in order to ensure a favorable and competitive place for Jordan in the knowledge-based economy of the future. This comprehensive strategy and framework adopted actions in the following areas or strategic thrusts:

- **R**egulatory Framework
- **E**nabling Environment (Infrastructure)
- **A**dvancement Programs
- **C**apital & Finance
- **H**uman Resources Development

REACH also set a number of projected targets to be attained within the period years from 1999 - 2004:

- 30,000 ICT related jobs by 2004 (20,000 direct and 10,000 indirect).
- US$550 million in annual exports by 2004.
- US$150 million in cumulative Foreign Direct Investments by 2004.

In the year 2000, REACH went through its first review resulting in the REACH 2.0 document. This second review, REACH 3.0, will focus on taking stock of what has been achieved in the defined strategic thrusts as well as outlining the areas that still need further attention. As an integral part of the REACH 3.0 review process, this report discusses the Regulatory Framework Strengthening component.

The Regulatory Framework Strengthening Planning Committee provided the main starting point for this review. Extensive discussions within the Committee produced a list of macro topics for further elaboration with the various stakeholders. The identified macro topics as well as other

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recommendations based on international best practices were presented during the workshop. Comments and suggestions from the ensuing public discussion were taken into consideration.

The massive need to issue new laws and/or reformulate major amendments on existing ones was evident from the early stages of the REACH process. With the exception of the new Information Law proposed in this review, the scope of the current review of Regulatory Framework Strengthening requirements and recommendations has now shifted more towards four main areas:

- The enforcement of existing laws
- Issuing supportive regulations to existing laws
- Raising training and awareness levels
- Procedural and implementation aspects

This change in emphasis is a major positive statement in favour of the Reach Initiative as far as the Regulatory Framework Strengthening component is concerned.

Finally, as is the case with most recommendations of this nature, the issues of ownership, responsibility, follow-up and prioritized implementation within reasonable time frames constitute the important deciding factors in terms of success or failure. Approaching issues objectively and in good faith as well as the willingness to support the calls for change and reform equally applies to all sectors.

Part 1:   Background

Three years ago, during his speech at the World Economic Forum in Davos, Switzerland, His Majesty King Abdullah II introduced his vision of Jordan as a knowledge-based society. Since that extraordinary speech, much has happened in the political, economical and technical fields at the global, regional and national levels. It is remarkable that His Majesty's vision is still so much alive today given the tremendous economic and political changes that the world has witnessed since then. His vision has been widely accepted and translated into a number of initiatives. Already the first results are evident and support for the vision has grown stronger.

Visions, however, do not become an immediate reality just because they originate from the leadership. Policies and strategies are needed to guide their planning and implementation activities. The policies and strategies related to ICT formulated in The REACH Initiative should be seen in this context.

After the initial euphoria and enthusiasm including three years of hard work, it is necessary to review the current state of implementation of the vision and evaluate:

- (a)   where Jordan stands
- (b)   where it wants to go and
- (c)   how it will get there

REACH 3.0 attempts to provide collective answers to all these questions from an ICT point of view.

For a country like Jordan, the available resources to build an information and knowledge-based society are somewhat limited. The use of resources should be optimized and mistakes should be avoided as much as possible. One way to avoid mistakes is to learn from experiences elsewhere. For this reason a summary of practices of the United Kingdom, Singapore, India, Egypt and Dubai have were presented. These countries, each in their own right, have

made substantial advances on the road to the information and knowledge-based society.

This report deals with the Regulatory Framework Strengthening component of The REACH Initiative.

Part 2:   Methodology

The approach for reviewing the Regulatory Framework strengthening component centered around five main points:

2.1 Planning Meetings

The Regulatory Framework Strengthening Planning Committee provided the main starting point for this review. The Committee consisted of representatives of all major sectors. Two formal planning meetings were held in addition to a number of informal exchanges of opinions and ideas. Special emphasis was placed on the types of regulatory obstacles faced by the stakeholders in the day to day running of their business functions. Extensive discussions within the committee produced a list of macro topics for further elaboration with the various stakeholders.

Also discussed were some relevant international practices in this field.

2.2 Identification Of Macro Topics

The following nine macro topics were identified and extensively discussed by the Planning Committee:

1. Customs Rates & Evaluation
2. Customs Procedures
3. Censorship
4. Income Tax Policies
5. E-commerce Legislation
6. Outsourcing
7. Cyber Crimes
8. Internet Cafes
9. Official Complaints Body

In addition to the above, a number of topics stemming from international best practices were also discussed, namely:

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- The relevancy of proposing a new Information Law
- The individuality and importance of the Citizen Sector

2.3 Identification And Interview Of Main Stakeholders

The list of main stakeholders was compiled with the assistance of int@j. The list was comprehensive and covered all major sectors of interest, it included:

- The Royal Hashemite Court / Economic Department
- Public Sector / Ministry Of ICT
- Private Sector / ICT Sector
- Private Sector / Legal Advisory Services Sector

Some of the stakeholders were not available in the country during the short period of allocated for interviews. Wherever possible, collective interviews and discussions were conducted. In some cases private interviews were preferred. Interviewed stakeholders were presented with the list of macro topics as identified in the planning meetings. The provision of comments, suggestions and recommendations was highly encouraged. Interviewed stakeholders were also briefed on the general form and content of the intended presentation.

International best practices for the development of ICT regulatory frameworks broadly categorize stakeholders into main three groups:

- Public Sector
- Private Sector
- Citizen or People Sector

While all three sectors are inter-dependent, each sector has its own specific regulatory framework requirements. Current international best practices place a heavy emphasis on the Citizen Sector since it is by far the largest of the three in number. Within the scope of developing ICT regulatory frameworks, the strengthening of intra-sector balance between rights and obligations is also given special consideration.

Relevant comments and suggestions from all stakeholders were taken into consideration.

2.4 Review Of Background Readings

The following documents/reports, as well as additional reading material of interest, were reviewed as background reading for the preparation of this report:

- The REACH Initiative, March 2000
- REACH 2.0 Final Report, January 2001
- Global E-Readiness Report – McConnell International, May 2001
- Jordan's Vision 2020 Report

For further background reading, the practical experiences of the following countries each with its own interesting characteristics for best practices were highlighted for discussion and further elaboration:

The United Kingdom as a representative of developed western countries that are relatively advanced in the use of information, knowledge and their associated regulatory frameworks. The UK has a strong and transparent organization for the development, as well as the implementation of policies and strategies. The UK also has a good partnership between the private and public sectors and it is widely known for its innovative ideas. Main characteristics are:

- Started with Information and Data Protection Acts
- Rebuilt government services from the citizens point of view
- Advanced legal framework with strong legal accountability in place
- Mixing of commercial services with government services allowed

Egypt as an economically dominant country in the region with a long history in information policies, strategies and regulatory frameworks that are somewhat comparable with those of Jordan. Main characteristics are:

- Early leaders in regional ICT industries
- Considerable bureaucratic hurdles to regulatory framework strengthening
- Adopted Special Zoning approach
- Concentrated on achieving quick successes

United Arab Emirates / Dubai as a small country in the region that has moved rapidly, through relatively recent decisive actions, in the direction of an advanced information and knowledge based society. Main characteristics are:

- Quick top level decision making to keep up with fast moving ICT industry
- Implemented a combination of incentives for successes and penalties for failures
- Adopted an implement first and worry about legislation later approach
- Abundance of funds makes correcting mistakes affordable

India as the largest, or one of the largest developing countries in the world, that has, through the consistent use of focused strong policies, managed to become a major player in the global ICT market. Main characteristics are:

- Realized early that government is an essential partner for progress
- Difficult relationship between sectors, Private Sector chose the path of least resistance
- Largest pool of English speaking IT professionals in the world
- Bureaucratic hurdles to legal framework development
- Moderate S/W exports compared to human resources potential

Singapore as a small country that has rapidly and successfully transformed itself from a developing to a developed country. It is recognized as belonging to the group of the most advanced countries in the world with respect to the application of information, knowledge and associated regulatory frameworks. It has an ambitious set of policies and strategies and it willingly accepts the risks related to the application of untested technologies, in particular in the public sector.

- Started with Information Law and Privacy Act
- Government – industry relationships actively encouraged
- Implemented early regulations to instill trust in the on-line world
- Adopted the Policy Maker, Regulator, Developer, Promoter approach

In addition to the above, the author's first hand experience in and his active contribution to a World Bank funded project to re-formulate Jordan's information policies and strategies also provided a sound basis for some of the concepts and recommendations listed in this report. The project was completed in 2001 and resulted in a formal report with far reaching and

innovative recommendations. It was entitled " Jordan's Information Age Policies And Strategies"

2.4 The Workshop

The main objectives of the workshop as approved by the Planning Committee were set as follows:

- Present a brief overview of international practices
- Review current status of legal framework
- Present list of macro topics
- Open discussion
- Incorporate comments and suggestions into final report
- Compile and prioritize recommendations

Comments and suggestions from the post-presentation public discussion are listed in Appendix I.

2.5 Achievements To Date

Considerable progress has been made to date in terms of ICT industry related legislation. A number of new laws were drafted, debated and enacted. Existing laws with clearly identified obstacles to ICT development also went through some major amendments.

The list of achievements in Regulatory Framework Strengthening to date can be summarized as follows:

- Amended current Labour Law, in terms of ESOP, Patents and IPR
- A new IPR Law, including patents and copyright protection
- A new Telecoms Law
- A new Companies Law, allowing private shareholding companies
- A new Electronic Transactions Law

On the procedural side, the ICT industry's access to Jordan Investment Board (JIB) procedures and incentives were considerably enhanced.

Last but not least, the new Ministry Of Information And Communications Technologies was established with a wide-ranging and ever growing mandate to replace of the old Ministry Of Post And Communications.

Part 3:   Workshop Proceedings

The workshop was held at the Zara Expo Center in Amman on July 16th 2002. Invitations were issued by int@j. The number of attendees was close to one hundred. Sector representation was satisfactory. The main objectives for holding the workshop were:

- Present a brief overview of international practices
- Review the current status of legal framework achievements
- Present list of macro topics for open discussion
- Incorporate comments and suggestions into final report
- Prioritize recommendations

3.1 Discussion Macro Topics

The following macro topics that were identified during the planning meetings were reviewed and presented for open discussion:

3.1.1 Customs Duties

While customs duties on most IT products have been either drastically reduced or totally removed, spare parts, options, separately shipped items, re-sellable S/W are still subject to up to 30% customs duties. The solution would be to revise applicable customs tariffs on all IT products under the Harmonized Customs Tariff Schedule.

Both of the above actions require lobbying with the Ministry Of Finance / Customs Department.

Some ambiguities within the existing supportive regulations need to be clarified in this respect.

3.1.2 Customs Procedures

Well-defined customs procedures are in place. The main issue here is the subjective approach taken by some customs official during the evaluation process. This approach is still commonly applied in practice and results in

applying varying customs duties for the same type of product when imported at different intervals.

When confronted with such issues, a customs official's typical response centers on the claim of not being aware of the relevant laws(s) or supportive regulations. Ambiguous supportive regulations indirectly encourage such subjective evaluation practices.

In addition issuing clear supportive regulations, there is a need for raising awareness and further training of customs officials regarding relevant laws.

3.1.3   Censorship

A new law to regulate censorship was formulated and submitted to the government.

While this new law totally exempts software imports from any type of censorship, it makes a clear distinction between software for personal use and software for public circulation. The law also requires that the importers of software for private use sign a declaration stating as such.

Concerning software for public circulation, the law requires importers signing a different declaration stating that they do not contain illegal materials. The law also sets severe penalties for violators.

Personal attitudes of public sector employees still pose a problem because the law allows the concerned department (Press And Publications) to exercise its right of censorship as it sees fit.

3.1.4   Income Tax Policies

The Ministry Of Industry & Trade and the Jordan Investment Board recently classified software development as an industrial activity entitling developers to benefit from lower Income Tax brackets (15%)

The main issue here that the Income Tax Department insists on a mechanism for verifying and approving the registered status industrial status of developers.

The solution would be to re-classify the whole ICT sector, not only the software development portion, as a separate entity enjoying lower tax brackets as opposed to being a subset of industrial classification. This involves joint efforts with the Ministry Of Industry And Trade, the Ministry Of Finance, Chambers of Commerce and int@j.

The need to issue new regulations allowing tax breaks for mergers and consolidations within the ICT sector should be examined.

3.1.5 E-commerce Legislation

A new Electronic Transactions Law was returned to the government for further under review. A comprehensive set of supportive regulations is still missing and needs to be worked out with joints efforts from the Ministry Of Information And Communications Technologies, the Ministry Of Industry And Trade as well as the Central Bank Of Jordan.

Public Key Infrastructure (PKI) is still not available. A suitable Certification Authority with clearly set policies and regulations has still not been established. There is a need for a competent clearing / regulating body for e-commerce transactions.

Government procurement regulations need to be revised and updated to allow for the implementation of a complete e-procurement cycle. Improving procurement regulations was considered as a major area that needs of joint efforts between the public and private sectors. The nomination of suitable private sector representatives to participate in this process is highly encouraged.

The is also some concern that current e-government efforts have set a priority to the G2C component and not enough resources are available to implement the G2G and G2B components. The logical sequence of events would be to implement G2G first and then proceed with the G2B and G2C components.

A national consensus on the use of smart card IDs is needed.

3.1.6 Outsourcing

Concepts Of BOO, BOT are approved by the government but applied selectively to certain economic sectors such as mining and power generation.

Outsourcing of non-core Government activities, especially those involving IT related services should be actively promoted. Duplicated or wasted IT efforts within government ministries and departments were easily spotted and identified during a project to prepare IT Business Plans for a number of such ministries or departments. Human Resources Management Applications is one such example where almost each and every ministry has its own internally developed, maintained and supported application of poor technical and functional qualities and undocumented procedures.

There are various legal issues preventing outsourcing that need to be addressed. One issue relates to the legal distinction of definitions between "Government Services" that can be outsourced more easily and "Public Utilities" that are restricted.

The concept of revenue sharing between the public and private sectors for outsourced services is still facing major obstacles within government circles.

3.1.7 Cyber Crimes

There is current legislation dealing with cyber crimes. In its current form, the law lacks definitions of certain types of cyber crimes such as " Hacking" and " Distributed Denial Of Service Attacks- DDOS". Non-criminal hacking should also be listed as a punishable crime.

Any legislation dealing with cyber crimes has to be by nature super-dynamic due to almost weekly appearance of new types of crimes. A simple mechanism to constantly and rapidly update such a law to cover new types of crimes has to be made available.

The issue of jurisdiction in cyber crimes is highly complex due to the numerous physical sites and locations that are associated with electronic transactions. The general consensus is to approach the issue using UNCTRAL recommendations as a basis and the current legislation allows for that. These recommendations relate jurisdiction to the physical location of the where the crime actually took place (e.g. the location of the server as opposed to the location of the alleged perpetrator). Issues related to the

tracking, arrest and handing over of criminals is even more complex and would require international treaties.

3.1.8 Internet Cafes

There was a consensus within the Planning Committee that the current regulations issued by the Ministry Of Interior governing the operations of Internet Cafes in terms of their locations, public access and terms of usage are negative for the image that Jordan is trying to promote. These regulations have resulted in the closure of many Internet Cafes causing considerable business losses to their owners as well as to ISPs.

There is a need for serious lobbying with the Ministry Of Interior (MOI) as the Public Security Department (PSD) to review the current regulations and amend related clauses that infringe on the freedom of access to information and individual privacy.

There is a clear need to cater for different age groups in terms of Internet access. Strictly controlled specially designated Internet Cafes for children should be established.

Excessive and unnecessary regulation of Internet Cafes should be avoided. The Internet, by definition, should not be controlled.

3.1.9 Official Complaints Body

Due to a certain lack of awareness of some government employees regarding new laws there is a clear need to establish an active Complaints Office that deals with ICT issues. Such an office would be located within the Ministry Of Information And Communications Technologies (MoICT) and would look into disputes arising from possible misinterpretations of laws and regulations as well as general public complaints. Such an office would also provide guidance to government employees where necessary.

Although the mandate of a typical Complaints Office will have to cross ministry boundaries, such an office is not expected to have the authority of enforcing its decisions. The role of facilitator would be more suitable.

There was a consensus within the Planning Committee that this role needs substantial political power and leverage in order to have its voice heard. One

solution would be to entrust this role to the REACH Advisory Council noting that the council members are nominated by the Prime Minister and they report at a Cabinet level.

3.2 Proposal For A New Information Law

A basic Information Law is largely considered a pre-requisite for any ICT related regulatory framework development. Such a law should clearly stipulate the rights and obligations of all stakeholders in information related issues. Most of the developed countries of the western world actually adopted Information Laws well before the so-called IT revolution.

Although some of the concepts of a basic Information Law loosely exist within certain recently adopted legislation (e.g. the Electronic Transactions Law), the need for a comprehensive and independent legislation to balance the rights of the various stakeholders to collect information on the many facets of individual and collective activities in Jordan, and the rules governing the purpose and use of such information is clear.

The issue of information classification is crucial to the implementation of any such law. The widely accepted broad classifications of information, with possible sub-classifications, are:

- Public Information
- Private Information
- National Interest Information

A clear mechanism for re-classifying or de-classifying information should also be defined. Internationally, such de-classifying mechanisms are usually time related or time-dependent.

There is also a need to establish the post of Chief Information Privacy Officer at MoICT with a clear mandate to oversee the classification and protection of information.

Poor information security indirectly promotes criminal activity. The proposed Information Law should therefore cover, among others, the following fundamental rights and obligations:

- The right to have access to information

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- The right of equitable access to information
- The obligation to provide information
- A clear mechanism for changing the classification of information
- The liability for providing wrong information
- The right to dispute incorrect information
- Protection of individual privacy and non disclosure of private information

The proposed law should also safeguard the following basic rights:

Right of Privacy: The fundamental privacy premise relates to the rights of individuals to know: (a) what type of information is collected about them, (b) when that information is collected, (c) how that information is legitimately used.

Right of Integrity: Information collecting organizations should be responsible for the integrity of the data collected about individuals. Individuals will have to be granted access to all information collected about them. Upon notification, collecting organizations will have to correct any false, inaccurate, outdated or incomplete information.

Right of Confidentiality: Organizations that collect information about individuals should be responsible for the confidentiality of that information. Generic information extracted or construed from information about individuals and/ or groups of individuals, should not reveal confidential information about any such individuals and/or groups.

As is the case with most newly proposed laws, a considerable public awareness campaign will be needed to clarify the various aspects of the proposed Information Law.

Needless to say, legal accountability and transparency of processes and operations are automatic by-products of any well-designed Information Law.

Part 4: Conclusions

The main conclusions that can be drawn from this review are summarized as follows:

1. The road to building an information and knowledge-based society is long and contains many obstacles including those from a Regulatory Framework point of view. There is not a single country that can claim to have fully completed this task.

2. The Jordanian leadership has clearly grasped the potential benefits of having a strong and regionally competitive ICT industry. The sector has enjoyed and continues to enjoy the patronage and support of the leadership at the highest level. This is reflected in the substantial achievements to date in Regulatory Framework Strengthening.

3. In addition to support from the leadership, Jordan's ICT sector has a number of competent champions both in the public and private sectors to lobby and promote its cause especially in terms of Regulatory Framework Strengthening. The personal dedication and efforts of such champions have been instrumental in maintaining the momentum of progress within the sector.

4. The REACH Initiative firmly put Jordan on the right ICT footing at the time when global ICT industries were booming. Jordan's nascent ICT sector competently played a difficult balancing act between keeping up with the fast pace of global change while at the same time undergoing major internal reforms.

5. While considerable progress has been made to date in Regulatory Framework Strengthening, more work lies ahead. Regulatory change is by definition a slow moving process. While major changes cannot be achieved overnight even in fast moving sectors like ICT, implementing outdated policies is of the main disadvantages of taking too much time discussing the issues at hand.

6. The current emphasis of requirements and recommendations has now shifted from the need for further legislation towards:

- The enforcement of existing legislation
- Issuing supportive regulations to existing laws
- Training and awareness issues
- Procedural and implementation aspects

This is a major positive statement in favour of The Reach Initiative as far as achievements in the Regulatory Framework Strengthening component is concerned.

Part 5:   Recommendations

While the underlying needs for further strengthening of the existing regulatory framework are clear, the recommendations from this review can be divided into two main categories:

- General Recommendations

- Regulatory Framework Related Recommendations

5.1 General Recommendations

The general recommendations are listed here for their possible incorporation in the remaining relevant reports of the REACH 3.0 document:

5.1.1 Institutionalize The Process

The ICT sector in Jordan is fortunate enough to have a number of champions at the government level to promote its cause and protect its interests. The natural course of events implies that these champions will not remain in public office forever. It is therefore important to attempt to institutionalize rather than personalize the process of ICT development in all tracks in order to safeguard achievements and build on them.

5.1.2 Coordination Efforts

More coordination is needed between the various stakeholders. Jordan cannot afford to allocate and spend donor or government funds on duplicate efforts. Comprehensive master plans are considered impractical taking too long to prepare and they risk becoming obsolete at the time of their completion. Instead, reliance should be on global policy frameworks and the detailed implementation plans that are made within such frameworks.

5.1.3 Sector Approach With Comprehensive Solution

The approach to identifying and analyzing problems and obstacles should be taken from a sector specific context. The proposed solutions to the identified problems or imbalances should be comprehensive.

5.1.3   Focus Of Policies

Information and/or information technology policies are global by nature and those of Jordan should not be any different. The main focus should be on (a) improvement of government services, (b) enhancement of the competitiveness of the private sector and (c) improving the quality of life of ordinary citizens;

5.1.4   Sustaining Privacy

The use of technology should sustain privacy and not erode it. Sustaining privacy in addition to the intra-sector balancing of rights and obligations should be the underlying factor in any Regulatory Framework Strengthening.

5.1.5   Capitalize On The Current State Of Global ICT Slump

Serious efforts should be made to capitalize on the current global slump in ICT industries in order to speed up internal progress in all tracks of the REACH process.

5.1.7   Exploit International Best Practices

Learn from experiences elsewhere especially from countries that, each in their own right, have made substantial advances in Regulatory Framework Strengthening on the road to building an information and knowledge-based society. The emphasis should be on localizing relevant international best practices rather than directly copying experiences of others.

5.1.7   Raising Awareness

This is a major issue cross-cutting all sectors whether public, private or citizen. Each sector should be fully aware of their rights and obligations as specified in existing laws.

5.1.8 MoICT Complaints Office

Located within MoICT, this office would look into disputes arising from possible misinterpretations of laws and regulations as well as general public complaints. Such an office would also provide guidance to government employees in terms of understanding relevant laws and regulations where necessary.

5.2 Regulatory Framework Related Recommendations

5.2.1 Information Law

1. Information Law forms the cornerstone for building information and knowledge based society. The process of preparing a draft law with a full set of supportive regulations should be started as quickly as possible. The preparation of such a law requires the participation and joints efforts of all concerned sectors. International best practices provide an excellent starting point.

5.2.2 Chief Information Privacy Officer

1. Regulations to establish the post of Chief Information Privacy Officer at MoICT with a clear mandate to oversee the classification and protection of information are required.

5.2.3 Customs Law

1. Regulations revising customs tariffs on all ICT related products, including spare parts, add-ons etc…listed under the Harmonized Customs Tariff Schedule are required. The process of identifying products could be based on WTO classifications.

2. Certain ambiguities in current supportive regulations related to the mandate of customs officers should be removed.

5.2.4 Income Tax Law

1. Regulations designating an independent classification for the ICT sector benefiting from lower tax brackets are required. The regulations

should cover the designation of an "Approved Status Certifying Authority" acceptable to the Income Tax Department.

2. Regulations providing tax incentives for mergers and consolidations within the ICT sector are required.

5.2.5 Electronic Transactions Law

A comprehensive set of supportive regulations for this Law are required, including:

1. Regulations for Electronic Funds Transfers.

2. Regulations For Electronic Signatures.

3. Regulations For Digital Certificates.

4. Regulations on the implementation and admissibility of PKI and the licensing and operation of Certification Authorities are required including the recognition of foreign Certification Authorities.

5. Regulations for implementing a National Digital Identity Card.

6. Regulations related to government procurement procedures need to be revised to allow for e-procurement.

5.2.6 Outsourcing

1. There are legal (both constitutional and legislative) issues preventing the government from outsourcing services that need to be addressed.

5.2.7 Cyber Crimes Law

1. This Law needs to be updated to cover the most recently list of known cyber crimes.

2. Regulations making this Law super-dynamic by allowing a mechanism for rapid updates are required.

3. Issues related to jurisdiction, arrest and handing over of alleged criminals need further looking into.

5.2.8 Internet Cafes Regulations

1. Regulations governing the licensing and operation of Internet Cafes need to be revised. Issues related to public freedom of access to information and privacy are of concern.

2. Regulations requiring the separate licensing of age dependent (e.g. for minors) Internet Cafes are needed.

5.3   Priorities And Time Frames

The following order of priorities is suggested for the Regulatory Framework Dependent recommendations:

Priority 1	Information Law	2-3 Months
	Cyber Crimes Regulations	2-4 Weeks
	Regulations For Electronic Transactions Law	6-8 Weeks
	Chief Information Privacy Officer	2-4 Weeks
	Internet Cafes Regulations	2-4 Weeks
Priority 2	Outsourcing Regulations	2-4 Weeks
	Customs Law	2-4 Weeks
Priority 3	Income Tax Law	2-4 Weeks

Based on the above, and assuming the allocation of resources for a number of task forces working in parallel, it should be possible to complete the required modifications and changes by the end of 2002.

The remaining General Recommendations are mostly procedural in nature and can be debated and implemented in tandem with the above.

Appendix I Comments From The Workshop

The public discussion that followed the presentation produced a number of interesting comments and suggestions. A sample of those comments and suggestions are summarized below. The order of listing is not significant. Comments or recommendations from the consultant and/or the panel and/or the Planning Committee are printed in *italics*:

Comment #1:   The background and qualifications of judges when dealing with ICT related lawsuits was questioned. A suggestion was made to introduce special courts for ICT related lawsuits.

It is the opinion of this consultant that, in principle, the formation of special courts should be avoided wherever possible. This is a global problem existing not only in developing countries but also in the western world as well. Judges are not expected to be well versed in all the technical aspects of ICT related cases. Many solutions are available including; the training of judges to understand the basic concepts of "e-laws" and their applications; the introduction of regulations allowing the designation of court approved expert witnesses for such cases.

Comment #2:   Foreign companies bidding for government tenders are sometimes given preferential treatment regarding terms and conditions especially those related to Income Tax, Sales Tax as wells as Payment and Acceptance terms. This results in unfair competition with local companies. The government should give preference to local suppliers.

According to WTO rules, all bidders regardless of their origin should be treated equally without preferential treatment. There can be no preferential treatment for either local or foreign bidders. The government is currently studying the mandatory implementation of offsets for foreign suppliers whereby a foreign company would be

required to sub-contract a certain percentage of the awarded services (e.g. 10%) to a local company.

Comment #3:   There is a need for further coordination between stakeholders on the one side and government ministries and departments on the other side. Duplications of efforts due to too many projects and overlapping initiatives results in wasting financial resources.

The Ministry Of Information And Communications Technologies (MoICT) should be designated as the main coordinator or clearing house for all ICT related projects and initiatives. The posting of initiatives and project requirements, should be made mandatory on the Government Portal. MoICT should have the capability and authority of filtering out duplicated efforts.

Comment #4:   There is a need for identifying a coordinator, project manager and implementation supervisor for the various public sector ICT related projects and initiatives currently underway in the country in order to enhance their chances of success.

The Ministry Of Information And Communications Technologies is the ideal candidate for performing such tasks.

Comment #5:   There is some concern that the proposed establishment of the post of Chief Information Privacy Officer at MoICT would quickly transform the post into a major power center with absolute control over all types of information in the country.

Regulations can control and dictate the mandate of such a post in order to prevent any possible abuse of power or authority. In any case, the disadvantages of not having the post are far greater than the advantages.

Comment #6:   There is some concern that the eventual total reliance on electronic transactions without proper implementation of

alternative on-line processing sites and operational security implementations would leave sensitive information unprotected and open to either attacks or technical malfunctions….etc.

E-government project has taken these issues into consideration.

Comment #7:   What is the status of all those IT Business Plans that were prepared for the various government ministries and departments last year and did any of the listed projects actually materialize?

The requirements listed in the IT Business Plans will be covered through the E-government project.