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# INSPECTIONS AND ENFORCEMENT REFORMS

## AN OVERVIEW OF INTERNATIONAL PRACTICE

**NETWORK OF REFORMERS – EAST AFRICAN COMMUNITY  
3<sup>RD</sup> REGIONAL PEER-TO-PEER LEARNING EVENT**

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# Inspections Reform – what, why and how?

- What are inspections (and enforcement actions):
  - Instruments to support compliance with underlying regulations
  - Often over-relied upon – there is only so much they can achieve!
  - You can't just “cancel” them – but you can change a lot!
- Why reform inspections:
  - Burden on businesses: too many, lack of transparency, abuses...
  - Excessive costs for the state and/or lack of effectiveness
- How to do these reforms:
  - Tools
  - Experience
  - Outcomes

# Inspections – of what, and to which aim?

- In country, and at the border – focus here on “in country”
- Of businesses, of premises, of goods/products etc.
- Many different aims, which can sometimes be conflicting:
  - Increase compliance with regulations
  - Improve public safety and health, environmental protection
  - Raise revenue (and not only for tax inspections...)
  - Not always realistic expectations – not always commensurate to the situation “on the ground” – inspections can turn out to be counter-productive

# Burden, ineffectiveness, costs...many reasons to try and reform

- Inspections can create a major burden for businesses:
  - Too frequent: time spent by managers and staff
  - Arbitrary: excessive or inappropriate requirements
  - Abusive: sanctions without real reason, or rent-seeking
  - Confusing: conflicting requirements, creating additional expenses
- They can also be ineffective, and costly for the state:
  - Lack of focus => the real risks are not addressed
  - Bad relations with businesses => compliance is not promoted
  - High number of agencies, visits etc. => important costs

# Issues before reform – some examples

- Excessive number of agencies: over 80 in Ukraine, over 70 in Lithuania, but also ca. 70 in the Netherlands and the UK
- Extremely high number of inspections: in Tajikistan (2003) 98% of businesses were inspected, on average 16 times
- Abuses of power / discretion / arbitrary: jail for minor offences (Kenya), checking “layout of shelves” (Mongolia), finding violations by any means to reach “targets” (Ukraine, Tajikistan...)
- Not promoting compliance: information about requirements held more or less secret, sanctions for having an electrical socket 1 cm too high or too low...(Kyrgyzstan, Tajikistan, Ukraine...)
- Overlaps, duplication and confusion: many municipal departments visiting at different times, each of them with the power to close down the business (Bogota – Colombia), four departments in charge of food safety (Mongolia)

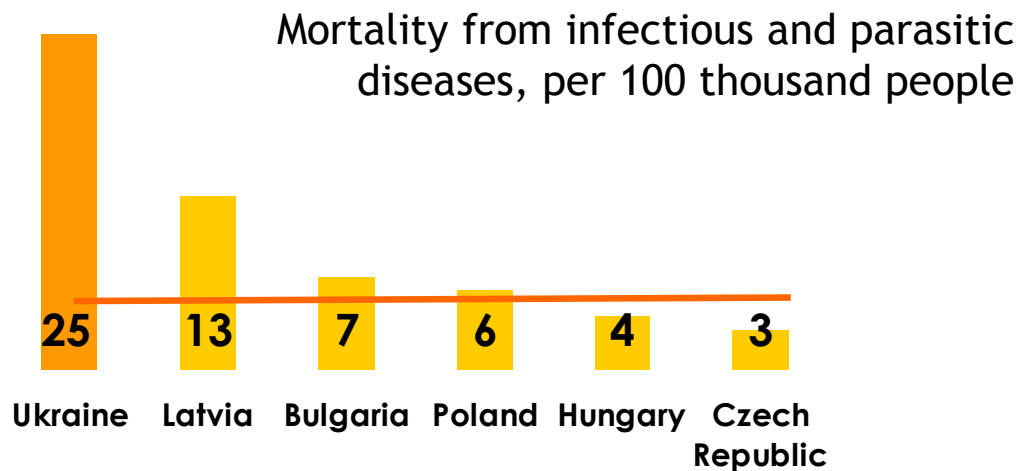
# Tools for reform - overview

- Risk-based planning / Risk-focus
  - Concentrate resources and attention on critical objects
- Check-lists / transparent and clear requirements
  - Inspectors control a clear list of issues, that is known by businesses
- Safeguards against abusive discretion / power
  - Sanctions not issued by inspectors, clear procedures, proportionality
- Consolidation / streamlining of inspection functions
  - Unify supervision of core issues, reduce excessive interference
- Compliance strategy
  - Promote good behaviour instead of just punishing bad one...

# What is risk – and risk management?

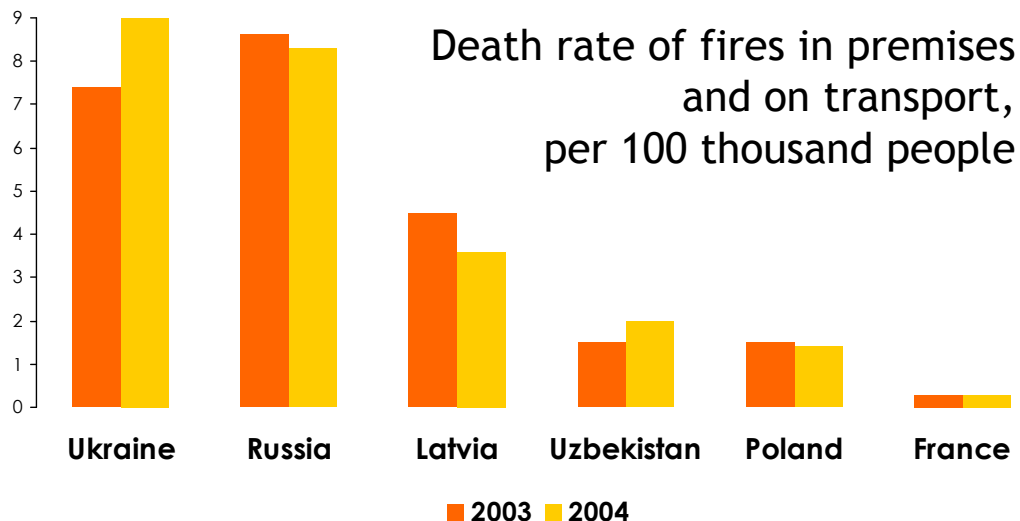
- Risk (R) is the Probability (P) of an adverse event multiplied by the Magnitude (M) of that event ( **$R=P*M$** )
- Risk analysis is the process by which such assessments and calculations are made
- What is an “adverse event”? Depends on the regulator’s perspective...
- In practice regulators cannot control or prevent all risks – so the objective is not to eliminate risks altogether (this is not feasible and the cost of even trying is prohibitive)
- Risk focused”: aims at optimizing the cost/effectiveness ratio, and at “maximal effectiveness in real conditions”
- Accept that “failures” will occur – but build mechanisms to mitigate effects, respond effectively, compensate etc.

# Risk focus illustrated: more inspections do not equal more safety...



Sanitary authorities inspected 51% of enterprises in 2006. Still five times more people die of infectious and parasitic diseases in Ukraine than in new EU member states\*.

*\*Source: report of the World Health Organization, 2005*



Fire authority inspected 57% of enterprises in 2006. Still the death rate of fire in Ukraine is five times higher than in Poland\*.

*\*Source: information of the International Association of Fire and Rescue Services, 2006.*



# Compliance orientation – the foundation of good regulation



# Some examples of inspections reforms

- Countries as diverse as Mexico, Latvia, Ukraine, Tajikistan, Mongolia, Armenia adopted strict rules for the inspections process
- Following the 2005 Hampton Review, the UK promoted a strong focus on compliance promotion and admin. burden reduction
- Since 2006 the Netherlands have undertaken gradual consolidation and increased coordination of inspection functions
- All these countries have increasingly promoted risk-focus, transparency, compliance orientation etc.
- Reform trend gradually spreading as more and more countries realize the potential of such reforms for business and the public

## Overview of some of the results...

- Increasingly focused inspections: Environment Agency in England controls only 3% of businesses each year, with focused checks on 0.03% - and pollution has decreased
- Consolidation of functions: Latvia, Slovenia reduced to ca. 15 national inspectorates – Croatia, Bosnia, Mongolia created a Unified Inspectorate – the Netherlands have merged all product safety agencies into one
- Significant savings for businesses – e.g. US\$ 8.5 Mln/Y saved by SMEs in Tajikistan – in Ukraine, savings above 200 Mln/Y – expected decrease in time spent on inspections in the Netherlands around 50% for low-risk / compliant businesses

## In summary

- Inspections can become simultaneously more **effective** and more **efficient** – allowing more business growth, better use of budget resources, and improved social outcomes
- This requires increasing **transparency**, as well as focusing on key **risks** – and also emphasizing **compliance promotion**
- Inspections do not function in isolation: a successful system of course requires **sound regulations** but also an effective **liability regime**, active efforts to **inform businesses** etc.

Thanks for your attention

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