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**Better Regulation in Germany**

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It is a great honour to address you today. I am especially pleased to be here, as Germany has been the focus of particular OECD attention in recent weeks. The OECD Secretary General, Mr. Gurría, presented the Economic Survey of Germany on 26th March in Berlin. He is now back in Berlin to meet the Federal President as well as the Federal Chancellor, among others, and to launch another OECD report, on Better Regulation in Germany. This is a timely opportunity to share the findings of our work with you, to explore the connection between the two reports, and to address together the question- where to next in strengthening German capacities to meet post crisis challenges?

I would like to focus on three issues: first, the relationship between Germany's future economic performance and regulatory governance; second, the scope and content of an effective regulatory policy; and third, the importance of political and institutional leverage if regulatory policy is to have the necessary impact on developments.

### **The role of regulatory governance in relaunching the German economy**

In one important respect, the OECD's Economic Survey strikes an optimistic note. The German economy is in recovery. After suffering the steepest downturn in post-war history, German growth turned positive again in Spring 2009. However, the pre crisis level of production is projected to be reached only by 2013. The survey highlights a number of issues for attention on the road to recovery. One is that the crisis has revealed structural deficiencies, not least in the banking sector, but also the need to broaden the growth pattern beyond exports, in order to increase the potential of the economy. Addressing banking sector challenges, the report notes, must include a review of banking regulation and supervision. And stimulating new sources of growth will require more liberal product market regulation. The policy and regulatory framework needs to become more conducive to innovation and structural change. If there is to be progress therefore, it will require a reinforcement of capacities for effective regulatory governance.

This finding should come as no surprise. Alongside taxation and expenditure, regulation is the main way in which governments intervene in the economy. And just as it is critical to manage the fiscal levers of taxation and expenditure effectively, it is equally important to regulate effectively. Put bluntly, poor regulation was a major factor in the failure of the world economy. Now is the time, post crisis, to get it right. One key lesson is that the damage done by getting the regulatory framework wrong may not be obvious initially. But -like a leaking pipe- it will progressively undermine the economy and society, by imposing unnecessary costs, harming productivity and undermining competitiveness, through the failure to adapt regulations and regulatory frameworks.

### **The scope of an effective regulatory policy**

This brings me to the specific findings of the second OECD report, on Better Regulation. There is much to say that is very positive. The federal administrative burden reduction programme is well on track to deliver a 25% reduction of administrative costs for business by the end of 2011. A full baseline measurement carried out on information obligations embedded in federal legislation in September 2006 showed that administrative costs to business were roughly EUR 47.6 billion annually. This is a major and essential initiative. I would also like to underline that the number of federal regulations has been on a consistently downward path since 2005. Few other European countries could claim as much. But the scope of regulatory policy remains narrow. Germany needs to think "bigger and broader". The administrative burden reduction programme appears to have absorbed a large part of the political momentum and legal quality remains a dominant preoccupation. I would like to single out two other key elements of an effective regulatory policy.

First, now is the time, if there ever was one, to strengthen impact assessment as an essential, evidence based process for the development of well functioning public policies, to strengthen policy coherence across different policy areas, and to help resist pressures for inappropriate new regulation. For impact assessment to have a stronger influence on decision-making, our report identifies four issues to be tackled: the institutional framework (currently fragmented); methodological support (not enough quantification); transparency (external stakeholders beyond the inner circle are not involved) and scope (there is only partial coverage of secondary regulations). Our report notes that the development of a sustainability dimension provides an opportunity to reassess approaches.

Second, effective consultation and communication are essential to rally stakeholders to a common purpose. The crisis has confronted ordinary citizens everywhere with enormous challenges and shaken their faith in government. The relationship between citizens and their governments needs to be redefined and trust restored. Our report acknowledges important developments, in particular the development of e-consultation, which for the first time is allowing citizens to interact directly with government on some draft bills. This is encouraging, and needs further attention. Clear communication is also crucial. If the government does not communicate what it is doing and why this is important for the economy and social welfare, it cannot expect support. Our report suggests that the federal government considers a White Paper on regulatory policy, to promote an ambitious and exciting vision for future developments.

### **The importance of political and institutional leverage and capacities for change**

Perhaps the easy part is to draw up a list of what needs to be fixed. But the “what” of necessary change and reform has to be translated into action on the ground. The “how” – in other words the political economy of reform-needs the same attention. If proposals cannot be turned into reality, then quite simply, necessary change does not happen. Does Germany have the necessary institutional capacities for this? Our report notes that Germany has strong institutional traditions, important assets which have successfully secured stability and a deeply rooted respect for the law. But the report also draws attention to centrifugal tendencies, a weak centre and a somewhat inward looking administration, which make it difficult to rally ministers and other actors around a common reform agenda. This tends to slow up actions for change, and the relative lack of an economic perspective among officials is another issue. Regulatory policy extends way beyond the concept of legal quality, important though that is.

There have, however, been significant developments. Reforms of the federal governance system aim to provide a more effective and speedier framework for change. Significant progress has been made with the development of a better regulation unit within the federal Chancellery, and with the establishment of the National Regulatory Control Council (Normenkontrollrat). The federal administration’s support for an enhanced role for the NRCC is very welcome. But the federal Chancellery should not be forgotten. It, too, needs a stronger and more visible face. It is a core player, anchor and orchestrator for regulatory policy across government. Our report recommends that the future, location and mandate of its better regulation unit needs to be confirmed. The Interior ministry is another key player supporting regulatory policy, checking compliance with the longstanding Joint Rules of Procedure which frame the development of law drafting, and responsible for the roll out of e-government. This gives it an important oversight of regulatory development. I am especially grateful to the Interior ministry for stepping forward to coordinate with the OECD in the development of our report.

In short, Germany needs to build on these initiatives in order to establish a strong institutional core, at official level and politically, in support of an effective regulatory policy. This is not just an issue of resources. It is also an issue of cultural change. Deep seated customs for the

development of regulations need to evolve within the public administration. Be reassured, however, that this issue is not unique to Germany!

## **Conclusion**

I want to conclude by underlining that I am not here to tell you what should be done, but rather, to stimulate further debate, and to support you whichever way we can in the further development of promising new approaches. We can share with you our insights from the work we do with other countries facing similar challenges, as well as our analytical work on issues such as effective impact assessment of regulatory actions. Indeed the German report on Better Regulation is part of a much larger project covering fourteen other European countries, including Austria, whose own report on Better Regulation will be available shortly. Austria shares a lot with Germany. Like Germany, it has a highly professional public administration. It also, however, lacks a fully fledged regulatory policy, and a strong institutional driver for regulatory policy within its administration. Another shared challenge is the need to address the interface with the Lander, which have a crucial role in the implementation of regulations in both countries.

We need to engage in a shared reflection on what was wrong with the regulatory environment pre crisis, and what needs fixing post crisis to secure more resilient economies and societies. This reflection should engage all of us, not only the OECD and administrations, but academic thinkers and others, and extend beyond national boundaries. Nobody has the monopoly on these issues. And if there is one issue on which we failed collectively in the past, it was the failure to spot that the world had changed: it is no longer appropriate to think in terms of decoupled policies in a globalised new world order. We need, very simply, to work together.