



Asia-Pacific
Economic Cooperation

2007/SOM3/EC/003
Agenda Item: 1

APEC-OECD Integrated Checklist on Regulatory Reform: Self-Assessment by Australia (Abstract)

Purpose: Information
Submitted by: Australia



**Economic Committee Meeting
Cairns, Australia
28-29 June 2007**

**APEC-OECD INTEGRATED CHECKLIST ON REGULATORY REFORM:
SELF-ASSESSMENT BY THE COMMONWEALTH OF AUSTRALIA**

**Economic Committee II Roundtable Discussion
June 28 2007, Cairns, Australia**

DISCUSSION PAPER

Executive Summary

At the Asia-Pacific Economic Cooperation (APEC) Economics Committee I meeting in January 2007, the Commonwealth of Australia ('Australia') undertook to self-assess its regulatory reform environment, by applying the *APEC-OECD Integrated Checklist on Regulatory Reform* ('the Checklist').

Applying the Checklist to Australia's regulatory reform settings provided the opportunity to undertake a robust and comprehensive review of Australia's initiatives in this area and consider where possible further improvements could be implemented in order to maximise the efficiency and effectiveness of Australia's regulation.

This exercise was particularly relevant and timely in the context of recent initiatives by the Australian Government to strengthen its regulation-making and review framework in order to guard against the introduction of unnecessary regulation and improve the quality of existing and new regulation.

The application of the checklist to Australia revealed the broad range and depth of Australia's regulatory reform agenda and the significant extent to which Australia's systems, processes and institutional arrangements ensure that regulation created and reviewed by the Australian Government appropriately addresses issues of regulatory quality, competition and market openness.

The checklist also provided a valuable insight and reminder of the importance of ensuring that issues of regulatory quality, competition and market openness are fully integrated into policy development, advice and implementation.

Whilst the Checklist includes four sections, including a horizontal questionnaire on regulatory reform across levels of government, and discussion of regulatory, competition and market openness policies, Australia's presentation at this roundtable focuses on issues associated with improving regulatory quality and in the context of recent enhancements to Australia's regulation-making and review systems, processes and institutions.

Why regulatory reform

Regulation is an integral part of a well-functioning economy, and can be used to achieve important social, economic and environmental goals, such as mitigating accident and security risks, limiting pollution, preventing fraud or anti-competitive conduct and setting standards for corporate governance.

High quality regulation can enhance a country's ability to compete and prosper economically, as well as assist in raising living standards and increasing a country's growth potential.

However, too much and/or poor quality regulation (that is regulation which is inappropriate or costly), can handicap a country's performance, stifle innovation, crowd out productive activity and reduce the competitiveness of domestic businesses in both competing against imports and in seeking to export their goods and/or services. More generally, poor regulation can increase costs, restrict business opportunities and hamper business investment, employment and overall economic activity.

Excessive and poor quality regulation can be a result of a number of factors, not all of which are within the control of government. Regulation can often grow and develop in response to various social, environmental and economic pressures, including the changing needs and expectations of society and risk aversion.

The challenge for governments and policy officials is to deliver *effective* and *efficient* regulation; regulation that is *effective* in addressing an identified problem and *efficient* in terms of maximising the benefits to the community, taking account of the costs, in order to produce regulation that is:

- Simple, targeted and not imposing an unnecessary burden;
- Not overly prescriptive and performance focussed;
- Accessible, transparent and accountable;
- Consistent with other laws;
- Communicated effectively;
- Compliance burden proportionate to the problem; and
- Enforceable.

The Australian experience

Over the past few decades, Australian governments have implemented major regulatory and other economic reforms to make businesses more competitive and the economy more efficient and productive.

These reforms have contributed to the economic success that Australia has experienced in recent years, resulting in a declining unemployment rate and increases in productivity and output.¹

However, notwithstanding these initiatives, the volume of regulation in Australia has expanded in recent years, as much new regulation has been introduced. This has been a common experience in many other countries as rising income levels have brought increased expectations or demands on government or as economic reforms have required increases in (or new forms of) regulation.

In that context, businesses in Australia have become increasingly vocal in relation to the growth in regulation and the cumulative burden that it imposes, arguing that much

¹ The Productivity Commission, the Australian Government's principal review and advisory body on microeconomic policy and regulation, has estimated that reforms associated with the National Competition Policy implemented in the 1990's has permanently increased Australia's Gross Domestic product by 2.5% per annum

regulation has become increasingly intrusive and prescriptive, imposing excessive and unnecessary costs.

Regulation-making and review systems, processes and institutions

In part as a response to these concerns, the Government has recently strengthened its regulation-making and review systems, processes and institutions to ensure that the compliance and competition impacts of regulatory measures are considered by government at an early stage in their development, and to ensure that the cumulative effects of regulations are monitored effectively over time.

These enhancements highlighted the Governments commitment to ensuring that all new (and amended) regulation is subject to rigorous analysis to ensure that no regulation is introduced unless the need for government action and the superiority of the preferred option has been transparently demonstrated.

Having such systems and processes in place ensures that appropriate regulatory impact analysis is undertaken and assists in removing unnecessary impediments to efficiency and innovation. It also imposes discipline on the Government introducing regulations to identify and minimise any unnecessary compliance costs associated with their administration and enforcement, as well as any adverse side-effects.

In that context, the Government endorsed principles of good regulatory process to inform its regulation-making systems, including requirements to:

- establish a case for action;
- examine alternatives to regulation;
- adopt the option that generates the greatest net benefit to the community;
- provide effective guidance to relevant regulators and affected stakeholders;
- review regulation regularly to ensure that it remains relevant and effective; and
- consult effectively with stakeholders at all stages of the regulatory cycle.

These principles have been embedded in the Government’s enhanced regulatory framework (as recommended by the Checklist), as outlined below:

Overview of the Government’s regulation-making requirements

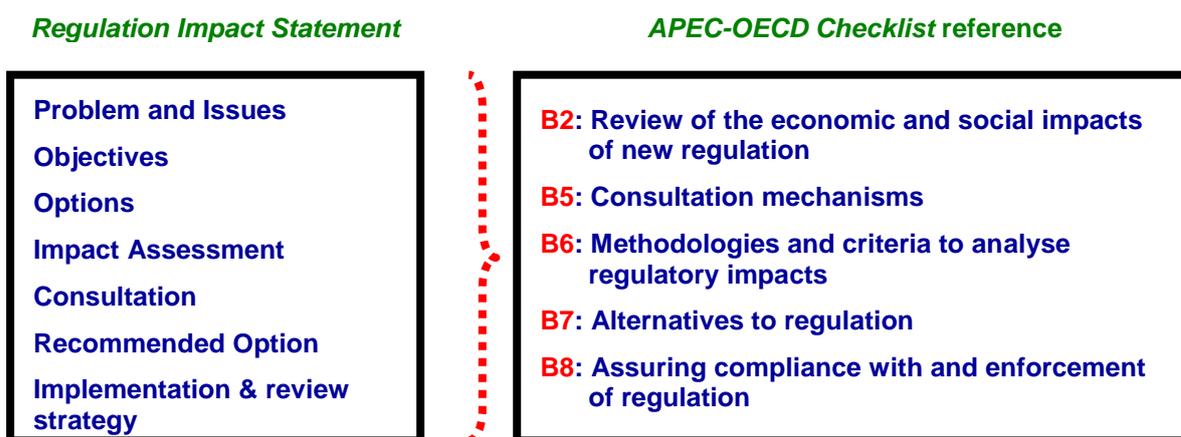


Further, the Government’s regulation-making requirements mandate that if a regulatory proposal is expected to have significant impacts on business and

individuals (whether in the form of compliance costs or other impacts), or restrict competition, it must be subjected to more detailed analysis and ultimately documented in a Regulation Impact Statement (RIS).

The Government RIS requirements provide for a fulsome assessment of the implications of the regulatory proposal, and appropriately address the relevant regulatory policies elements of the Checklist, demonstrate that the Government's regulation-making framework the elements of the Checklist are incorporated within Australia's regulatory impact assessment framework.

The Government's Regulation Impact Statement requirements



Institutions

Further, to ensure that the requirements of the enhanced regulatory framework are effectively implemented and adhered to, the Government has the strengthened institutions with oversight responsibility for regulation making and review, with the Office of Best Practice Regulation (OBPR):

- expanded to ensure that there is an objective, comprehensive analysis of the business compliance costs and competition impacts of all regulatory proposals; and
- provided with additional funding to assist and advise agencies on the regulatory analysis requirements.

The OBPR will also continue to publish an annual report on departments' and agencies' compliance with the Government's regulatory analysis framework.

To reinforce comprehensive regulatory impact analysis, the Department of the Prime Minister and Cabinet's gate-keeping role has been strengthened to ensure that all proposals brought before Cabinet are accompanied by appropriate regulatory impact analysis.

Regulation-review

Whilst robust regulation-making systems and processes serve to improve the quality of new (and amended regulation) into the future, it is also important that an

economy's existing stock of regulation be subject to scrutiny and review in order to ensure that it remains efficient and effective over time.

Regulatory reviews also provide an opportunity to consult with relevant stakeholders and to test whether the objectives of the regulation are being effectively and efficiently achieved.

In that context, the Government has commissioned the Productivity Commission to undertake an annual review process to identify regulation that is unnecessarily burdensome, complex or redundant, or duplicates regulation in other jurisdictions.

- The rolling programme of reviews will examine all sectors of the economy over a 5-year cycle, commencing with the primary sector in 2007, which will be completed by the end of October 2007 and will form the basis of a rolling red tape reduction agenda, which will be considered by the Government each year.

Further, to ensure the continuing effectiveness of regulation created from 2007, the government has committed to review new regulation five years after implementation. Accordingly, from 2011, the Annual Regulatory Plans (ARPs)² of all departments and agencies will list regulation introduced from 2007 and, following an assessment against a checklist developed by the OBPR, will indicate if a full review of this regulation is to be undertaken.

² Annual Regulatory Plans prepared by departments and agencies provide stakeholders with an early indication of potential regulatory changes. These plans contain information about proposed regulatory activities, including a description of the issue, information about consultation opportunities and an expected timetable. These plans are publicly available