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BIAC Statement

Regulatory Policy Practice and An Enabling Public Governance Framework for Business

Helsinki, 27 and 28 October 2015

The Business and Industry Advisory Committee to the OECD (BIAC) represents national business, industry and employer associations from OECD member and observer countries, as well as international sector-specific associate experts. It is the voice of business in OECD policy making processes. The OECD is the world's foremost purveyor of fact-based policy recommendations and cross cutting statistics.

Key Messages

In 2014, G20 leaders meeting in Brisbane recognized that, with sufficient emphasis on implementing structural reforms, G20 GDP could be significantly raised by 2018. This high-level political commitment is encouraging. The OECD *Going for Growth 2015* estimates that further productivity-enhancing structural reforms could raise the long-term level of GDP per capita by up to 10% on average across OECD countries. Nonetheless, the **pace of structural reforms for growth across both product and labor markets in OECD countries has slowed and has been largely piecemeal over the past years**.

A BIAC *Economic Policy Survey*[1] released in May 2014 provided the OECD with the perspectives of national business organizations as to which reforms are needed, in which fields and how they can be achieved. In fact, the vast majority of respondents called for product market reforms, including a meaningful reduction of regulatory burden. Yet, according to the BIAC Survey, only 4 percent of the OECD's 2013 *Going for Growth* country-specific recommendations were fully implemented a year later, and 35 percent not implemented at all.

As emphasized by BIAC previously, **one important step for a better business environment would be to improve the effectiveness of the regulatory processes**. In the B20 context, business made concrete recommendations[2] to facilitate reforms and their implementation. The need for consistent and effective regulatory regimes has never been more obvious.

Through its Governance Committee, BIAC provided expertise and support to the **important OECD mission on good regulatory practice and a sound framework for public governance**. BIAC contributed business perspectives to the first OECD *Regulatory Policy Outlook*. On the occasion of the OECD meeting at Ministerial Level focusing on *Policy Performance for Inclusive Growth: Towards a new Vision for the Public Sector*, we call again for the full implementation of the 2012 OECD *Recommendation on Regulatory Policy and Governance*.

- We emphasize the fundamental importance of an **enabling regulatory framework** and a good understanding of the prerequisites for growth that is inclusive;
- We strongly support OECD activities aiming to **restore trust in business but also in public institutions**;
- **Businesses need stable, transparent, predictable and efficient legal frameworks and their consistent implementation**, recognizing that sustained stakeholder engagement and consultation are key to improve regulatory processes.

[1] Available on the BIAC website

[2] Available on the B20 Australia website

Good Public Governance and Growth that is Inclusive

In our discussions with the OECD over the past years, BIAC has been calling for an **enabling regulatory framework for growth that is inclusive**. As economies continue to bear the social consequences of the 2008-09 global economic crisis, the concept of inclusive growth, and particularly income inequality, has been embraced by the OECD. The Organization has been increasingly vocal on the issue through landmark reports such as *Growing Unequal?* in 2008, *Divided We Stand* in 2011, and *All on Board: Making Inclusive Growth Happen* in 2014. The ongoing New Approaches to Economic Challenges (NAEC) is another initiative where inclusiveness and income inequalities have become prominent themes, and the governance policy community is now looking at *Policy Performance for Inclusive Growth*.

It is important to consider the possible impacts of policies and regulations on growth, inequality, and other factors, but this implies a move towards increasingly complex policy responses. It also raises some questions: **What is fair distribution? Which specific well-being objectives should policymakers emphasize over others? How do different policy responses interact, and how much state intervention is appropriate?**

As pointed out in a BIAC position paper on *Growth that is Inclusive*[3] of 2014, **different interpretations of inclusive growth exist**. For instance, the World Bank's notion of inclusiveness refers more narrowly to equality of opportunity in access to markets, resources, and unbiased regulatory conditions for businesses and individuals. Meanwhile, the definition of inclusive growth in the *Europe 2020 Strategy* focuses more specifically on skills and jobs.

Furthermore, in some countries, **public perceptions of inequality are already disconnected from the facts**[4]: on the one hand, many people in Europe perceive income distribution in their countries as being far more unequal than is actually the case. On the other hand, in the United States the middle class is truly smaller and the lower income group considerably more extensive than it is perceived. Such perceptions matter: they influence the politics and policies that impact upon our economies and societies.

Also, **research findings on the subject of inclusive growth are often inconsistent**. The OECD report *Divided We Stand* (2011) itself notes that "the empirical evidence as to the key drivers of inequality remains largely inconclusive and is made more so by a lack of precise definitions and concepts used in different studies". Conclusions depend on the definitions used, reference populations, and time periods. Therefore, generalizations and a "one-size-fits-all" policy response should be avoided.

The impacts of certain policy responses to inequalities may also vary. An IMF Staff Discussion Note thus concludes that "in extreme cases" there is some evidence that redistribution "may have direct negative effects on growth" [5]. A closer look at the data shows that around a third of OECD countries may fall into the "extreme case" category: they redistribute to such an extent that they seem to cause a dampening effect on their growth.

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[3] *Growth that is Inclusive: Private Sector Considerations and Role for the OECD*, available on the BIAC website

[4] See Niehues, J. (2014) "Subjective Perceptions of Inequality and Redistributive Preferences: An International Comparison", Cologne Institute for Economic Research (IW). According to this study, Europeans – notably in Germany and France – were found to significantly underestimate the proportion of middle-income earners and overestimate the proportion of the poor.

[5] Ostry, J. Berg, A., and Tsangarides, C. (2014) "Redistribution, Inequality, and Growth", IMF Staff Discussion Note, p4.

Conversely, ta**rgeted structural reforms are found to deliver stronger income gains for low-income households**: this is the case for reforms that reduce regulatory barriers to domestic competition, trade and FDI; reforms that increase job-search support and activation program; and reforms that tighten unemployment benefits for all categories of jobseekers. They help to narrow inequality in disposable incomes.

In sum, a nuanced country-by-country analysis is critically important in the inclusive growth debate. **If the concept of inclusive growth should lead to sound policy advice, there is an urgent need for greater clarity, sound evidence, and a better understanding of policy options**. The OECD can help deliver that clarity and advice. In BIAC's view:

- Policymakers should explicitly recognize that **improvement in productivity, entrepreneurship and a skilled labor force, are fundamental for inclusive growth**.
- **The effective implementation of structural reforms is equally vital**, and should promote opportunities in our economies.

Given the critical role of productivity for the success of our economies, **it is important to ensure that the underlying sources of economic growth are well understood in the public debate**. Finding the right synergies and using the right mix of policies is key and the OECD is in a unique position to provide evidence and policy advice in this debate.

Promoting Trust and Integrity

According to a BIAC survey[6] on the business climate conducted in 2015, **regulatory burden and policy uncertainty are seen as major constraints to investment and trade**. Businesses in many countries call for their governments to reduce or simplify regulation but also to enhance trust and confidence in markets and policymaking if they want to unlock investment and trade in their countries. Without trust, governments will face difficulties to implement and secure acceptance of policies needed to address today's challenges. This could lead to short-termism and expedient rather than to strategic decision-making by policy makers. It is therefore important to build trust through better governance and more efficient institutions and to increase international co-operation and dialogue.

BIAC points to the OECD Trust Strategy as important guidance to governments. This Strategy identifies **five elements that are essential for business confidence in public institutions: reliability, responsiveness, openness and inclusiveness, integrity, and fairness.** It recognizes that improving the effectiveness of regulatory processes and the consistent implementation of good regulatory practices is key to secure stakeholders' buy-in and that cutting red tape will have a positive impact on integrity and ethics within the public sector.

[6] BIAC Business Climate Survey 2015, available on the BIAC website

BIAC supports this idea and believes that building and restoring trust depends on 3 factors:

- **Efficient governance mechanisms**, supported by
- The **effective, consistent and fair implementation of rules**, leading to
- **Stable, consistent, transparent, predictable and efficient legal frameworks**.

In the same belief that **measures aiming to strengthen good regulatory practices** are necessary for a more enabling environment, for a healthier regulatory framework, and for more integrity in the public sector, BIAC engaged early on in the ground-breaking work on *Measuring Regulatory Efficiency*. We trust that the indicators developed therein could incidentally also be a useful tool to achieve more integrity and ethics in public decision-making mechanisms.

BIAC's Call for an Enabling and Predictable Policy Environment Grounded on Consistent Stakeholder Engagement

There is a basic need for businesses everywhere to operate in a stable and predictable policy environment. The business community sees sustainable regulatory policy as promoted by the 2012 OECD *Recommendation on Regulatory Policy and Governance* as a fundamental basis for trust and an indispensable condition for businesses to operate and has been consistently calling for the consistent implementation of the *Recommendation*. The 2014 BIAC Economic Policy survey also revealed sustained support for sound and sustainable regulatory practice as laid down in the *Recommendation* among businesses: 50% of the participants to the BIAC survey indicated that they had been using the *Recommendation* to promote regulatory reform in their respective country. But they also expressed concern as to the lack of implementation.

Already during the drafting process in 2011, BIAC stated that it would be **important to have independent, third party reviews of progress on regulatory reform and quality in OECD countries**. We see the OECD project on *Measuring Regulatory Performance* as an effort to encourage the implementation of good regulatory policy as promoted by the Recommendation. BIAC views the OECD country survey of Regulatory Indicators as an opportunity to investigate the concerns expressed among the business community, and to monitor the progress made.

It is significant that, according to the 2014 BIAC survey, **business in over one third of OECD countries indicates that partial RIAs are rarely or never carried out, and in two-thirds that complete RIAs are rarely or never carried out**. In many countries, the willingness of regulators to engage with the private sector has considerably suffered from the crisis. Discussions on specific company failures have not always been balanced with the broader picture, and in some instances the very positive role the private sector can play in the analysis of existing regulations, in the assessment of relevant measures and as a key provider of expert advice, has been disregarded.

Stakeholder engagement is a pillar of sound, evidence-based regulatory frameworks and the OECD Trust Project recognizes that Trust in Public Institutions and Trust in Business should not be considered in isolation: both governments and business should work together to re-establish trust. An essential mean for stakeholder engagement, effective regulatory consultation processes and well-conducted impact

assessments contribute to improve the design of sustainable regulations. A strong involvement of relevant stakeholders should also be part of an independent ex-post evaluation of the governance cycles. These are drivers for stakeholder buy-in and commitment in the implementation of regulations and contribute to the efficient monitoring of regulatory practices.

There is significant room for improvement in governments' efforts to carry out RIAs. Furthermore, in order to increase the quality of consultations, many governments need to:

- Better explain how the information provided during consultations will be used,
- Make documents for consultation more easily accessible,
- Allow greater time for business to contribute, and
- Provide continuous engagement opportunities by involving stakeholders not only in the decision making processes, but also in ex-post evaluations.

In BIAC's views, the elimination of unnecessary legislative, regulatory, and administrative barriers represents the right and most cost-efficient economic stimulus available to governments today.

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