Working Party on Regulatory Management and Reform

Draft Summary Record of the Working Party on Regulatory Management and Reform held on 21-22 October 2008
Fifty-eight delegates from 29 member countries, the European Commission, Brazil, Slovenia, TUAC and BIAC participated.

1. Election of Chair and Bureau for 2009

The Working Party elected Jeroen Nijland (NL) as its Chair for 2009, and warmly thanked George Redling for his service since 2003. The Bureau will be composed of George Redling (Canada), Caroline Roy (France), Alex Hunt (US), Hong-Keun Gil (Korea). Because Daniel Trnka is stepping down from the Bureau, there is at least one vacancy, to be filled by nominations to the Secretariat before 5 November and approved on a written consultation.

2. Policy roundtable

The theme of the policy round table was on developing a medium-term strategy for regulatory management and reform. Countries were asked to discuss how they address the main challenges that governments and regulatory oversight bodies face in keeping momentum for reform in the face of short-term political pressures reflecting electoral and economic cycles. A draft report prepared by Prof. J. Wiener helped support the discussion on the role of regulatory oversight bodies, a topic which will be pursued in depth in 2009.

There was strong support for the study of regulatory oversight bodies, with advice to the secretariat concerning how the scope can be defined, and with offers to help in the preparation of case studies.

Specific comments and lessons of experience from 14 countries concerning the main theme of the roundtable included: the need to carry out public perception surveys; the role of business in setting policy agendas, and the need for clearly defined strategic objectives for better regulation; the value of measuring future regulatory burdens; the importance of fairness in the regulatory process and of the quality of RIA to build public confidence; the independence of oversight bodies; the positive benefit of short-term political pressures, and the potential to plan measured steps to maintain pressure; the need to work on communication; the management of administrative simplification programmes for results; the potential value of comparing regulatory oversight bodies with other regulatory bodies, e.g., in budgetary management; the close proximity of a regulatory oversight body to the centre of government as a strength; and the relation between the institutional framework and the oversight function.

3. Accession Process and Global Relations

Delegates were briefed on the accession process, and on current activities for global relations with South Africa, Indonesia, Brazil, India, China, APEC, and MENA.

The Secretariat paper “Lessons from 30 Years of Reform in the Provision of Infrastructure Services”, a contribution to the regulatory reform review of China, was discussed and approved. Adapted to stand alone, the paper will contribute to ongoing work on regulatory reform and public service delivery.
4. Multi-level Regulatory Governance

Multi-level regulatory governance has become a central aspect of whole-of-government regulatory reform programmes. Regulatory coherence depends in part on the capacity of regional and local authorities to use regulatory quality tools and to implement regulations efficiently and effectively. The paper by the Secretariat is a contribution to the Directorate’s horizontal theme on decentralisation and multi-level governance, and follows on two national regulatory reform reviews with a specific multi-level theme, Sweden (2006) and Italy (2007). A study on Italy which is nearing completion focuses on the economic impact of liberalisation policies in selected sectors in a multi-level context. Federal-state relations have been selected as a special chapter by Australia for its review (2009).

The UK, Switzerland, Italy and Mexico made presentations concerning institutional practices and innovations for better multi-level co-ordination in their jurisdictions. Several delegates intervened with information and comments on national contexts and practices. Written comments are invited before 5 November. A revised draft of the paper will then be re-circulated; their approval would allow diffusion of this work as an occasional paper. Some good practices and general objectives for policy could well be mainstreamed in ongoing work.

5. Risk and regulation

Delegates welcomed, approved and derestricted the Secretariat’s paper on regulatory systems and tools to manage risk, a synthesis of work carried out since 2006. This paper will provide the introduction to a publication containing several papers already presented to the Working Party as part of the 2007-08 programme of work.

A substantive, rich discussion was supported by a paper by Dr. Elizabeth Fisher (UK), who gave a clear expose of the topic of risk regulatory concepts and the law. The topic was of great interest given the dimension of systemic risk in the current financial crisis. The UK presented an overview of its integrated framework for implementing risk regulatory policy. Delegates raised questions about when to act, or not to act; about how to avoid over-reacting in response to problems; and about the degree to which risk awareness and policy are based on reason or emotion, and can affect human behaviour. They encouraged the secretariat to collect practical guidance concerning how governments can apply risk principles within the regulatory management programmes of their own jurisdiction.

The theme of risk and regulation will be developed further in the policy discussion at the meeting of the Group on Regulatory Policy, 1-2 December 2008, and in work on regulatory impact analysis and policy coherence in the 2009-10 programme of work.

6. Regulation Inside Government and Reducing Administrative Burdens

The final report on regulation inside government was endorsed and supported pending additional written comments to be sent before 5 November, distributed as an occasional paper. Delegates highlighted how important RIG can be to improving efficiency in the public sector. Furthermore, efforts to reduce administrative burdens on the private sector will only alleviate demands on the time and efforts of public servants. They also discussed the challenge of changing the administrative culture, and the parallels between cutting red tape in the public and private sectors. Further work on this topic will be carried out in 2009-10 as part of the activity on regulatory efficiency and reducing administrative burdens.

The Secretariat paper on overcoming barriers to administrative simplification strategies was welcomed. Delegates approved the paper and the guidance it provides for policymakers, suggesting that it could benefit from more examples. Annexes will be prepared drawing on the recently published OECD review of administrative simplification and e-government in Portugal, and the OECD review of the “Cutting Red
Tape” programme Netherlands. The paper had been prepared in the framework of the Good Governance for Development in Arab Countries Initiative, supporting both Working Group II on e-Government and Administrative Simplification, and Working Group IV on Public Private Partnerships, Public Service Delivery and Regulatory Reform. It will be published as the Division’s second handbook, following the publication of “Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for Policy Makers.”

7. Draft Recommendation on Competition Assessment of Regulations

Delegates were briefed by Sean Ennis (Competition Division) on a draft recommendation which was developed out of the 2005 OECD Guiding Principles. Following written comments, a further iteration will be presented for discussion at the meeting of the Group on Regulatory Policy, 1-2 December 2008, and at the February 2009 meeting of the Competition Committee, before being presented to Council. The recommendation concerns the Working Party because it relies on the use of impact assessment, which must cope with multiple policy objectives in an efficient process.

8. Indicators of Regulatory Management Systems Quality

The secretariat presented a set of analytical findings to analyse correlations between OECD indicators and other sets of available indicators, and to assess the economic benefits of regulatory management system quality. Delegates expressed very strong support for this work and anticipate that it can be published as an occasional paper in the very near future. They commented on the shortcomings of other indicator sets, and particularly the World Bank’s Doing Business report. This approach supports capacity-building and resources for regulatory management in member countries.

Delegates were briefed on the collection of data in 2008. Now that virtually all countries have reported, analysis can begin. They agreed with the secretariat’s plans for quality check, including a peer review process. They also discussed proposals for indicator-based modules which could be inserted in a national survey. A member country could host an expert meeting in 2009, in time to review the analysis of 2008 data before the next meeting of the Working Party.

9. Regulatory Management in Selected EU Member Countries

As part of the review of regulatory management in 15 EU member states carried out in co-operation with the European Commission, the secretariat provided a preliminary summary of lessons learned and key issues. This assessment will be revised and enlarged as final reports are completed and fact-checked. The paper follows an outline which should support a final synthesis of ten years of regulatory reform covering most or all OECD countries, to be completed by the OECD in 2010. Delegates welcomed the paper, and several who have participated as peer reviewers expressed their appreciation for the value for their countries from this exercise.