LABOUR/MANAGEMENT PROGRAMME

PUBLIC/PRIVATE ALTERNATIVES TO TRADITIONAL REGULATION:
BUSINESS EXPERIENCES IN OECD COUNTRIES

Report on a meeting of management experts
held under the OECD Labour/Management Programme

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Paris

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FOREWORD

Under the OECD Labour/Management Programme for 1996, a meeting of management experts on "Public/Private Alternatives to Traditional Regulation: Business Experiences in OECD Countries" was held in Paris on 4 November 1996. The meeting was prepared in collaboration with the Business and Industry Advisory Committee to the OECD (BIAC).

Below is an overall report of the discussions of the meeting of experts, prepared by Mr. Michael Baron, who was designated as General Rapporteur for this activity.

THE OPINIONS EXPRESSED AND ARGUMENTS EMPLOYED IN THIS REPORT ARE THE RESPONSIBILITY OF THE AUTHOR AND DO NOT NECESSARILY REPRESENT THOSE OF THE OECD
FINAL REPORT ON THE MEETING

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PART I

General Overview

The OECD Labour/Management Programme for 1996 provided for a meeting of management experts on “Public/Private Alternatives to Traditional Regulation: Business experiences in OECD Countries” which was held on 4 November 1996 at the OECD Headquarters in Paris.

Participants of the meeting were management experts from several OECD countries proposed by the Business and Industry Advisory Committee to the OECD (BIAC), together with OECD Secretariat representatives. The meeting was chaired by Mr. Steve Marshall, Chief Executive of the New Zealand Employers Federation.

The discussion focused on both the experiences of government and businesses with alternatives to traditional command-and-control regulation that are based on public/private co-operation. The objectives of the meeting were:

- to discuss the potential benefits of wider use of public/private co-operation, and potential risks in the trend toward such co-operation, and to reach a position as to whether governments should invest in using and developing such approaches;

- to identify and discuss government and business experiences with co-operative approaches;

- to identify the factors for success and credibility of these instruments;

- to identify policy areas in which such co-operative approaches could be used as an alternative to traditional regulation;

- to identify concerns that have been expressed about the use of these instruments, such as lack of legitimacy (e.g. by-passing the traditional parliamentary norm-setting structures), competition and trade concerns, and transparency.

- to identify (institutional) arrangements to address these concerns
A discussion paper drawn up by the Rapporteur (see part II of this report) served as general guidance for the meeting. In addition, four background documents which are pertinent to the topic discussions were made available:

- RESPONSIBLE CARE INITIATIVE: CANADIAN CHEMICAL PRODUCERS’ ASSOCIATION
  A Case Study from Canada

- THE COVENANT AS AN INSTRUMENT OF ENVIRONMENTAL POLICY
  A Case Study from the Netherlands

- THE ADVERTISING STANDARDS AUTHORITY AND THE SYSTEM OF SELF-REGULATION IN THE U.K.
  A Case Study from the United Kingdom

- FLEXIBILITY THROUGH PUBLIC-PRIVATE PARTNERSHIPS:
  PREVENTION AND HARMONISATION IN SEAFOOD SAFETY REGULATION
  A Case study from the United States

This final report containing a summary of the experts’ discussions has been prepared by the Rapporteur under his sole responsibility. It does not commit either the participating experts or the OECD Secretariat.
PART II
Discussion Paper

1. Introduction

Governments today face a complex and evolving set of problems arising in part from globalisation and rapid social change. In this more demanding and dynamic environment, many traditional instruments, such as command-and-control regulation, can diminish in effectiveness and efficiency, and can be in conflict with other government priorities, such as the need for competitive and innovative economies.

"Regulatory inflation" is becoming a serious problem. Although deregulation and simplification are on the political agenda in many States, the scope of regulations in most OECD countries has continued to grow considerably as has regulatory complexity. In many areas of public policy, e.g. the environment, health and safety, consumer policy, labour policy, and education, businesses must comply with new and more extensive measures taken by governments. These are very often complex sets of regulations that are difficult and costly to comply with, and difficult and costly to keep up-to-date and to enforce. The ability and willingness of the private sector and citizens to comply with the increasing number of complex regulations is very likely to decrease in future.

At the same time, governments in OECD countries are confronted with increasing budget pressures. The costs for developing, updating, and enforcing traditional regulation have traditionally been borne by the public sector. With increased budget pressures, governments are on the one hand looking at reducing the budgets for regulatory programmes and enforcement and on the other hand the expectations of the public for government to do more are rising.

This is why governments are looking for ways to keep addressing economic and social problems through new approaches and alternative solutions. Market-economy incentives and private initiatives are being introduced in areas in which these have not existed so far (e.g. the health sector, environmental protection, occupational health and safety, public sector monopolies).

On their side, businesses often have incentives beyond that of legal compliance for pursuing better performance vis-à-vis the objectives sought by regulation. They also tend to be uniquely placed to comprehend how such objectives can be most efficiently met in the context of their particular enterprises. This means that they have strong incentives to avoid regulation that is rigid and costly to comply with and may have adverse impacts on their competitiveness and ability to innovate and need to act accordingly. In other words, certain public policy and business interests are merging.

Governments and businesses are seeing a need for co-operation and partnership, rather than confrontation and adversarial relations. Increasingly, governments and businesses, often represented by business federations, are engaged in dialogue to find more effective and efficient solutions to social problems.

Public/private alternatives are often supplementing existing regulation. They can be defined as circumstances in which the State no longer exclusively assumes the responsibility for regulation, but rather
transfers part of it to businesses. Basically this is nothing new. In many sectors (notably in various professional services) there has been a long tradition of self-regulation. The legal and medical professions have experience of self-regulation in many OECD countries, also Chambers of Commerce and business and industry associations have a long history in self-regulation.

Key alternatives based on public/private co-operation include:

**Voluntary Agreements**: used in many countries and in many policy areas such as energy conservation, product safety and environmental protection. Voluntary agreements exist in many different forms, ranging from "pure" voluntary initiatives taken up by industry, such as the Responsible Care initiative of the Canadian Chemical Producers Association followed by Chemical Producers Associations in many other countries, to a contractual arrangement between the government and (a group of) private firms stating rights and obligations, such as most of the environmental covenants in the Netherlands.

**Self-Regulation**: often appearing in the form of a code of conduct in which an organised sector or profession regulates the behaviour of its members and where sanctions can be imposed by associations or oversight bodies. Examples can be found in areas such as advertising, financial markets, pharmaceutical industries and the legal profession. If the government gives statutory backing to privately defined rules and enforces penalties, one could speak of **Co-regulation**, a phrase used in Australia.

**Private Standard-setting and Self-Certification**: originally a purely private exercise but governments have become very interested in these instruments, making it part of broader government strategies to move away from prescriptive and detailed regulation that is costly to enforce and in need of constant updating, to performance-based regulation, which focuses on the objectives to be achieved and is more neutral as to the means by which they are achieved.

At this stage, practical experience and existing scientific analysis do not permit an attempt to evaluate the "benefits and costs" of the three public/private alternatives identified based on quantitative criteria. Thorough assessments of the benefits and costs of public/private alternatives in OECD countries are very limited, but there seem to be common experiences with these alternatives that make some first qualitative indications of the benefits and costs on a generic level possible.

2. **Benefits**

The benefits or advantages relative to command-and-control regulation include:

**Joint ownership** of the problem, the instrument and outcomes. Moving away from an adversarial relationship between governments and business allows the available expertise to be used in a positive way, whereas often in a traditional regulatory approach the available expertise is used to debate over a long period of time and in different fora whether regulatory proposals imply the imposition or reasonable or unreasonable compliance burdens.

Shared responsibility may **enhance the acceptance** of the requirements and objectives by business. Seeing solutions found in partnership, firms may themselves be interested in finding cost-effective measures.
With command-and-control regulation, there is no real incentive for business to go beyond what is required. Businesses become focused on strictly meeting the specific requirements, often without knowing, or losing sight of the overall objective of the policy. Joint ownership of the problem, the instrument and the outcomes can create incentives for businesses to think about continuous improvement.

Increased peer pressure within industry and extra oversight by business federations mean that compliance rates could very well increase and may reduce the cost of enforcement to governments.

The possibility of not stipulating specific requirements that may be alien to normal business operations may be an additional incentive for business to find solutions compatible with their business operations.

The flexibility of the process for creating these alternatives may make it possible to adjust faster to changing situations, especially in areas where rapid technological change is occurring. Flexibility also means that the alternative does not have to stop at regional or national jurisdictions, which can save a considerable amount of time relative to government regulation.

3. Concerns

Concerns that have been raised about the use of public/private alternatives relate to government working directly with industry on public policy issues or government involvement and endorsement of industry initiatives. Issues that are raised here are:

Democratic legitimacy of the instruments. Governments' responsibility vis-à-vis parliament and the public can be unclear. What mandate does the government have to make agreements with industry or endorse initiatives which may affect the interests of other parties? For traditional regulation most OECD countries have established processes for transparency and consultation with interest groups and the wider public. The alternatives described here may have less developed processes for consultation with third parties.

There have been concerns that alternatives may be adopted in some cases largely as a mechanism to transfer the costs of development and enforcement of standards to the private sector. However, it is clear that the trend in a number of OECD countries is, in any case, to develop cost-recovery mechanisms in relation to traditional regulation, particularly in respect of enforcement costs.

The monitoring and enforcement aspects of alternative approaches may be questioned as being insufficiently objective or rigorous where these are left to the private sector and where public oversight is seen to be absent or insufficient.

Alternative approaches can affect competition negatively within sectors. Unjustifiable restrictions of competition should be looked at, particularly in the case of existing firms using these instruments to create barriers for potential entrants. Uniform solutions for individual branches can lead to private monopolies. And since very often large companies are active in the creation of voluntary approaches, they may very well take better account of their interests than that of small and medium-sized enterprises. At the same time there may be a free rider problem: how to get free riders to comply with the voluntary agreement?
Competition concerns also relate to **barriers to international trade**. Often foreign firms do not take part of the creation of the agreements and are confronted with them when trying to export or invest in other countries. Standards may have been set in a way that is advantageous to the firms that took part in the standard setting relative to outsiders, creating a competitive advantage that may be unjustified.

Hence, the risk of market segmentation must be taken into account. While comprehensive and effective measures against national trade barriers exist within the WTO framework, there are no such provisions regarding restraining competition by private companies. The extent of the problem, and if existent what to do about it, is under discussion also within the OECD, as part of the work on trade and competition. The competent WTO bodies are at present also discussing it in connection with voluntary eco-labels.

Several reasons can be found why in individual cases voluntary agreements were adopted in stead of or as a supplement to regulation in these areas.

In some cases it was unclear what a feasible legal requirement would be or how it should be structured, because of technological uncertainties (for example, this is how most countries view legislative attempts to limit fuel consumption of motor vehicles, although California has a requirement in place that, by 2003, 10% of all cars should emit no pollution from their tail-pipe).

Sometimes competitive disadvantages for domestic firms may have been created if the government had imposed strict legal obligations (e.g. in the case of measures to reduce CO2 emissions).

In other cases, very detailed regulation would have been needed to deal with the problem and in view of the excessive bureaucratic burdens for governments and administrative burdens for business the alternative was considered to be more cost-effective (e.g. waste recycling).

Finally, there are cases where experimenting with alternatives is considered possible as part of a package of policies designed to address a problem. The need for direct results from a single instrument is less urgent than the performance of the whole package of instruments (e.g. voluntary eco-labelling as part of the instrument mix to make industry produce more environmentally friendly).

However, alternatives as discussed here are unlikely to perform satisfactorily if adopted solely for negative reasons, such as difficulties with regard to the enforcement of legal provisions. There must also be other more positive indications for using public/private alternatives instead of traditional command-and-control regulation.
4. Quality Criteria

In trying to suggest criteria for good quality public/private alternatives, environmental protection is taken as an example.

Public/private alternatives have the great advantage of quick adjustment to technological progress, achieved with a minimum of bureaucracy. Objectives, procedures and deadlines can, if necessary, be phrased much more flexibly than legal regulations make possible. They can be created faster and changed faster if new circumstances make that necessary.

However, these benefits are at the same time the reason for criticism. How can we monitor progress and enforce compliance with the agreement if obligations, requirements and targets are drawn up in imprecise and/or non-binding terms? Have relevant third parties been able to influence the agreements? There are often even claims by the public that voluntary measures are used in order to slow down or prevent stricter legal measures. These criticisms need to be taken into account when thinking about quality criteria for these alternatives.

Criteria for when agreements are to be considered a real and credible alternative to otherwise necessary government intervention through regulation include:

**Clear, convincing objectives** have to be set, with goals that can be monitored. Convincing in the sense that, in the case of achieving environmental goals, the objectives show a real effort that goes beyond "business as usual". The overall policy goals must also be clear and publicly known, so that public pressure to perform is felt by enterprises.

The agreement has to be **publicised widely** and all parties concerned have to be kept informed through **regular progress reports**. If the agreement confers rights on third parties (e.g. rights to receive information, to make complaints or to get a refund), third parties need to know about the system to make it work and make it credible. Often, involvement of the public and particular interest groups prior to finalisation would be seen as adding to credibility vis-à-vis suggestions of "undue business influence".

Provisions about **monitoring**, also with regard to intermediate stages, have to be part of the agreement.

**Clear sanctions** must be part of the agreement: sanctions do not necessarily include government action or a system of fines. Sanctions can be tailored in a way that gives a real incentive to comply (e.g. adverse publicity in the advertising sector can be very effective).

There has to be an **assessment of effects on competition** in each individual case. Voluntary agreements can only be concluded within the framework of existing competition rules. The main decisions of companies must be taken in competition and access to markets must be kept open. At the same time there is a trade off with the problem of free riders, especially when the potential benefits for free riding are high. For example in Germany, costs for recycling low-polluting batteries is estimated to amount to 30 to 60 % of the market price of these batteries.

It may be difficult to bring competition requirements in line with environmental objectives. In Germany, the Federal Ministry of Economics has created a list of criteria to assess, from a competition perspective, co-operative systems such as waste recycling systems. In the Netherlands, a number of criteria regarding competition are incorporated in the Environmental Management Act. This Act allows
the environment minister to declare fees for waste recycling generally binding. So far, only in the case of recycling of cars, a general waste fee has been declared binding by the Minister.

It must be stated that there are of course many businesses and business executives that are by themselves aware that better performance in relation to underlying regulatory objectives is necessary and that they need to act quickly and responsibly. The trust of the government, the public and consumers is very important to stay in business. This can be enhanced by governments. They have a role informing the public about risks, and encourage them to act responsibly also as consumers.

It is evidently not possible for these public/private alternatives to completely replace the comprehensive legal arrangements made to cover all areas of public policy. In a democratic state governed by the rule of law, it is neither possible nor desirable to transfer the control over compliance with state objectives to a large extent to the business community that have to meet these objectives. Public/private alternatives are only acceptable if they are complementary to legislation. The instances in which they are complementary include:

When legislation sets objectives that are more based on performance. How to reach that objective is left more open, only that measures or instruments have to be adequate to reach the objective. Here alternatives can be complementary.

As experiments or forerunners for future legislation, to see what works best and most cost-effective, particularly voluntary agreements can be a useful instrument.

When there is a clear commonality of interest among industry and a strong and motivated business association.

5. Conclusion

Public/private alternatives are no panacea with which traditional regulation can be replaced on a large scale, but they should be considered as one of a range of tools available to governments to influence private behaviour in the direction of achieving social goals. The advantages of these instruments can be significant, especially when the possible risks or concerns can be addressed. Room for future work seem to lie in developing clear ideas on what elements constitute a high quality instrument that can be incorporated in public policy and in which areas these alternatives could be especially useful.
PART III

Summary of the Experts’ Discussions

At their session on 4 November 1996, the experts had a lively in-depth discussion on a multitude of aspects. For this reason, this summary does not claim to be exhaustive and is bound to leave aside many aspects that have been mentioned. The discussion has not resulted in any definitive answers, but has confirmed the need for further work and information. From the Rapporteur’s point of view, the following items on which a large measure of agreement could be obtained should be underlined:

1. The experiences gained till now especially with the case studies discussed have been referred to as extremely positive. In many areas, public/private co-operation may be a basis for alternatives replacing or complementing traditional command-and-control regulations. The wide scope of possible applications has been demonstrated by the quickly growing dissemination of such alternatives in OECD countries (over 80 voluntary agreements only in the field of environmental protection in Germany; more than 100 covenants in the Netherlands). The scope and limits pertaining to the application of public/private co-operation as alternatives to traditional regulations are not yet entirely clear. For example, regulations concerning the liberal professions, the labour market, financial markets, information disclosure and mainly the many cases of technical and other standards have been mentioned as fields for further application. Uniform solutions are not feasible in this context; it will rather be necessary to take account of the individual countries’ development and culture. One important factor in this connection is the climate of trust necessary for close co-operation between government and business. Since trust cannot be imposed emphasis needs to be placed on the building of trust. Industry must, therefore, be not just reactive but, even more, proactive.

2. Societies become increasingly complex and will keep demanding that new areas are regulated, leading to regulatory inflation. Hence the need to regulate more efficiently, considering a wide range of instruments. The deliberate choice not to regulate is an alternative which must be seriously taken into consideration, especially in the interest of SMEs which predominantly suffer from regulatory inflation. Businesses regard good governance as an asset of international competition. The use of public/private co-operative instruments is an important way towards reducing or avoiding additional burdens imposed by regulation. In a true voluntary approach, like Responsibility Care in Canada, the results, very often, may be much better than what would have been accomplished under strict regulations. However, it has also been pointed out that the opposite effect might thereby be produced as well. An additional new form of regulation may derive from the fact that law courts increasingly regard private standards as binding also on third parties. This effect must be kept under closer observation in future.

3. Important is a shared, not a mixed-up responsibility of government and business. The different fields of responsibility must be neatly kept apart. There are numerous reasons for both governments and business to find alternatives to command-and-control regulation and to co-operate: compliance costs, enforcement costs, inability to respond to rapid, economic and social change. However, governments’ and business’ interests are not identical: e.g. typical public sector values like transparency and accountability are not necessarily the primary values of business. Government expects a reduction in the costs of traditional regulation from
public/private co-operation. Businesses are usually not interested in such co-operation, and
government must bring strong pressure to bear on them. In the Netherlands, where covenants
are accepted by industry now, a “learning curve from opposition to co-operation” has been
necessary. Difficulties often arise from a lack of an appropriate amount of time in identifying
the real problems based on sound scientifically-anchored risk assessment. In order to make
public/private co-operation successful, it is important for enterprises to realise where
alternative solutions are in their enlightened self-interest. There is a need for both parties to
understand better the quality aspects that either side is looking for in a programme.
Government has often different ideas and criteria to measure success and quality than the
private sector has.

4. The discussion has confirmed the special advantage of alternatives stemming from great
flexibility and a smoother and less bureaucratic transposition of measures. The success of the
case studies discussed is based on the special sense of commitment businesses have devel-
oped from their enlightened self-interest. Public/private co-operation may induce the private
sector to show greater performance than is the case where they are subjected to one-sided
commitments. An important problem is that of the costs of transaction emerging in the wake
of changes in regulation. Such hidden burdens must be adequately taken account of. Avoiding
costs of transaction may also stimulate the willingness of businesses to increase their efforts.
Enterprises need a certain degree of predictability in their regulatory environment; it is
therefore necessary to strive for minimising policy swings.

5. The following elements have been mentioned, inter alia, as conditions for successful alter-
natives based on public/private co-operation:

- **culture:** It is necessary to build trust between government and business (and the public).
  This presupposes an appropriate process of learning and education. The expectations of
  success are the most realistic if the willingness to learn is aroused at the top level of
  enterprises.

- **credibility:** Convincing solutions require intensive monitoring also of interim steps as well
  as extensive information of the general public. The existing reward system is an
  impediment in many cases; there are no special incentives to voluntary performance,
  neither on the side of government nor on that of businesses. Therefore, when designing a
  public/private approach special attention should be given to positive incentives (rewards)
  to comply and go beyond minimum compliance.

- **consultation:** The necessary climate of trust and confidence which must include the public
  cannot be accomplished behind closed doors. Consultations with stakeholders in good
  time and on a comprehensive scale are a matter of course. Difficult, on the other hand, is
  the question how far third parties should be included as well. For instance, problems
  would have to be expected where environmental groups and consumer associations are
  invited to take part extensively.

- **incentives and sanctions:** The need for clear sanctions was confirmed. Wherever possible,
  positive incentives should be applied. It should also be studied whether fiscal policies can
  be helpful as an additional stimulus. In individual cases, financial support has been suc-
  cessfully granted to companies committing themselves to public/private co-operation
  (certain covenants in the Netherlands, for instance).
6. In many cases, public/private co-operation cannot completely replace traditional regulations. There is no generally valid answer to the question of what would be the right policy mix; the answer crucially depends on the nature of the problem and the country’s culture. From a macro-economic point of view, alternatives based on public/private co-operation are superior only where they allow market forces to play a stronger role than in a regulated environment, e.g. through greater flexibility in reaching solutions. Other alternatives based on market economy instruments such as fiscal policies and negotiable instruments must be taken into account of as well, and an optimum mix of these tools must be sought. In this context, reference was made to benchmarking, although appropriate criteria must still be developed therefore.

7. It has been regarded as an important objective of public/private co-operation that differential approaches to individual business problems be rendered possible thereby. On the other hand, there is an inherent risk that the more voluntary agreements and private self regulation offer tailor-made solutions for business, the more advantageous they might be, especially for big enterprises. Big companies often will have more influence than SMEs in elaborating and negotiating public/private alternatives, and they are in a position to develop and implement alternatives of their own. SMEs, on the other hand, will often need some underpinning by the regulatory principles. In the case of technical standards, flexible solutions based on public/private alternatives may be allowed to and reserved for big businesses. For the SMEs, by contrast, governmental regulations should represent a kind of safe harbour offering them legal safety if they comply with these standards.

8. The problem of free riders is the main one in the field of competition. By their very nature, alternatives based on public/private co-operation can never fully preclude such cases. For this reason, the risk of free riders must be accepted to a certain extent in the case of voluntary agreements and self-regulation. This risk is deemed to be acceptable especially where the enlightened self-interest of industry it the driving force. However, it was pointed out as well that in many cases self-regulation may restrict competition e.g. by creating or favouring cartels. The most serious problems arise wherever private regulations concern not only the practising of a profession, but include access barriers to the profession as well; the case of the liberal professions was mentioned as a relevant example. The competent authorities must carefully watch to ensure that competition is not undermined by this kind of restrictions.

9. The international aspects of private/public alternatives are rising in importance. Responsibility Care was mentioned as one example where voluntary approaches are implemented in a number of countries, in addition to co-ordination and mutual assistance provided by international associations. An important role can be played by multinational corporations themselves. Major improvements have been achieved throughout the industry across borders; this was cited as a largely unexploited source which deserves closer attention. In the case of advertising standards, international co-operation has proved to be effective, and further approaches are being discussed. In many other cases, international aspects pose serious problems which have been referred to as extremely complex. Probably, the free-rider problem is the most difficult one to solve in cross-border cases. Due to a lack of practical experience, the international implications of public/private co-operation are not well known. The feasibility of international solutions depends largely on the objectives which are pursued. If the objective is international harmonisation of divergent regulations in different countries, public/private co-operation would hardly be the right option. It would have to be studied whether mutual recognition of voluntary self-agreements and self-regulation could be an appropriate approach to reducing international distortions and frictions. In return, these
alternatives must in no case result in any **fencing in of markets.** Especially in the international framework could benchmark be of valuable assistance.

10. **A variety of approaches may be recommendable for possible applications of alternatives based on public/private co-operation:**

A: Alternative solutions based mainly on the **initiative and the enlightened self-interest of business.**

Example: Responsible Care Initiative (Canada); Advertising Standards Authority (UK).

These cases pose the least severe problems in practice and stand the biggest chances of success. Solutions of this kind are conceivable in almost all economic areas. In this context, the point is not to participate in or replace public regulations, but businesses themselves are interested in “doing the right things” (rules of good behaviour, codes of conduct). This includes self-regulation in the case of many liberal professions as well as ombudsmen with banks etc. or self-regulation in the press and the film sectors. In a number of countries, similar solutions are currently being discussed also for new problems such as control of the new media. A positive evaluation result invariably presupposes guaranteed free access to third parties and non-distortion of competition. These alternatives, in order to be successful, often necessitate an education process with businesses; this can best be realised by peer information and peer pressure. The most difficult question will often be who is to take on the lead in such initiatives and to coordinate the transposition of measures. In certain cases, a pool of champions may be recommendable therefore.

B: Public/private co-operation designed to **implement government objectives:**

Example: HACCP Seafood Safety Regulation (USA); Covenants (NL).

According to the information available till now, this kind of private regulation has been applied in practice mainly for regulating environmental protection and product safety. Most companies do not participate in these alternatives voluntarily, but only in response to pressure by government. It must set neatly defined objectives while granting the business community flexibility in implementing measures. In this sense, especially HACCP can be referred to as “process regulation” leaving more responsibility for safety to the industry but making a hazard analysis and control system mandatory. The necessary education process of business must be taken on by government as well in these cases. It may be the result of such alternatives that regulation increases rather than decreases. This would only be justifiable where the alternatives are distinctly better, i.e. more efficient and less expensive, than traditional regulation. Precisely in such cases is a critical review necessary.

C: Special problems arise where private standards are imposed on third parties. This is not only the case where private regulation is declared obligatory by law, but may also be the indirect outcome of law courts recognising private standards as binding for third parties. This problem was not discussed in depth at the session on 4 November 1996; further discussion of this problem was deemed necessary. In this context, one expert stressed that government should not leave important issues such as standards for safety of hazardous products to private regulation by industry. Another important problem mentioned during the meeting was the question of membership. If membership in the standard-setting bodies is bound to nationality or other discriminatory conditions, this may give rise to serious concerns. It was felt that this matter should be dealt with in the context of the ongoing work on trade and competition in the OECD.
Finally, an overall assessment of the 4 November meeting may be summarised as follows: Governments face a regulatory problem with serious economic and social consequences. Governments as well as business share the common interest that the reform process aimed at improving the quality of regulation be enhanced and strengthened. Public/private alternatives to traditional regulation such as voluntary agreements and industry self-regulation are of growing importance. There was a general feeling that while those alternative models will often not be perfect and carry some risks those risks are not as great as the risks associated with a continued exclusive reliance on traditional methods. Regulatory reform in OECD countries, therefore, can and should be supported by business efforts to making the best possible use of public/private alternatives to traditional regulation.
## ANNEX -- LIST OF PARTICIPANTS

### MANAGEMENT EXPERTS

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