Agenda

Regulatory Reform and the Management of Risk
Peer Review of Regulatory Reform in China
Making Reform Happen: Italy and Mexico
Enhanced Engagement, Programmatic Aspects

1-2 December 2008
OECD Conference Center

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AGENDA OF THE MEETING OF THE GROUP ON REGULATORY POLICY (GRP)

1-2 December 2008
OECD Headquarters, Paris, France

MONDAY, 1 DECEMBER 2008
COUNTRY REVIEW SESSION, REGULATORY REFORM IN CHINA
Chair: M. Jeroen Nijland, The Netherlands

9:30-9:45 Welcoming remarks by Deputy-Secretary General, Mr. Aart de Geus
Welcoming remarks by the Chair

The Group on Regulatory Policy will conduct a regulatory review of China in the framework of the OECD Horizontal Country Review Programme. The review has been carried out as an interactive and multidisciplinary process, with the National Development and Reform Commission (NDRC) taking the leading role from the Chinese side. The Chinese delegation is led by Mr XU Shanchang, Deputy Director General of the Economic System Reform Department of the NDRC. The discussion will be divided into two session, the first covering the economic context for regulatory reform and the second covering the reform of infrastructure services.

9:45-11:15 Session One – Economic Context

The first session of the review will be devoted to the economic context of implementing a broad-based regulatory reform agenda in China. It will review the strengths and successes of previous reform efforts and map out the regulatory challenges confronting the Chinese authorities.

China has made enormous progress in developing the modern legal and regulatory foundation for the market economy. The past seven years since China’s accession to the World Trade Organisation have been especially productive for economic reforms. The private sector is now dominant and the main driver of growth and new laws have gone a long way toward establishing private property rights, competition, and mechanisms for entry and exit comparable to those of more advanced economies. The financial system has been recapitalised and the financial regulatory system modernised and greatly strengthened. At the same time, important challenges remain, including further clarification of the scope of state ownership, reform of relations among central and local governments, firmer establishment of the rule of law, and strengthening of regulatory institutions and processes.

The discussion during this session will need to focus on a number of key challenges for China’s economic reforms, highlighting their implications for the regulatory process in three broad areas.
• Reforms to refine the scope of state involvement in the economy and the respective role of the state and private domestic and foreign businesses in the economy;
• Reforms to further strengthen regulatory institutions and tools;
• And policies to extend the scope of reforms to lower government levels and other segments where reform is less advanced.

The discussions can also focus on four general issues:
• How do regulatory practices in China contribute to good economic performance and achievement of policy objectives? Where has progress been made?
• What are the major regulatory challenges in China, and is the current programme of regulatory reform likely to be effective in meeting them?
• Are economic relations between the central, regional, and local governments creating a more cohesive regulatory environment across the China?
• Do the recommended policy options propose an effective and targeted programme to improve regulatory practices?

Lead Reviewers

• Mr. Gary Banks, Chairman, Australian Government Productivity Commission.
• Dr. John D. Graham, Dean, School of Public and Environmental Affairs, Indiana University, United States
• Mr Charles Pigott, former Senior Economist, China Desk, Economics Department, OECD

An opportunity will be provided for all participants to raise other comments.

11:15-11:45  Coffee break

11:45-13:00  Session Two – Reforming Infrastructure Services

The aim of this session is to promote discussion of the implications of implementing in China the regulatory approaches adopted by both OECD and other countries for the provision of infrastructure services. The success of policy measures intended to expand access to infrastructure services depends on how well it is adapted to the particular implementation environment. A central consideration is the degree to which the experience of OECD countries will be of relevance to the Chinese government as it develops its own regulatory framework for public services. There are a number of areas where the implementing environment is considerably different between OECD countries and China. These differences will need to be carefully considered in the application of OECD policies and practices for infrastructure services policy in China.

To this end delegates are asked to consider the following questions:
• What are the implications for the models of regulation adopted in OECD countries?

• Does China’s stage of development necessarily preclude certain regulatory frameworks? Is the approach adopted by OECD countries dependant on a certain level of development for success? How should approaches be adapted?

• In China what are the options for promoting consumer representation to advocate the provision of consumer benefits in service delivery?

• To what extent does China’s political administration preclude the establishment of independent regulation?

• Is political independence central to regulation of infrastructure services, or can the aims be achieved by establishing a separation of powers among the administration?

**Lead Reviewers**

• **Mr. Pierre Van de Vyver**, Director General, IGD-The French Institute for PPPs.

• **Dr. Russell Pittman**, Director of Economic Research and Director of International Technical Assistance, Economic Analysis Group, Antitrust Division, United States Department of Justice.

• **Prof. Philip Andrews-Speed**, Director of the Centre for Energy, Petroleum and Mineral Law and Policy, University of Dundee, Scotland, U.K.

An opportunity will be provided for all participants to raise other comments.

**Document:**

SG/GRP(2008)1/PART1 Regulatory Reform in China PART 1

SG/GRP(2008)1/PART2 Regulatory Reform in China PART 2

SG/GRP(2008)1/PART3 Regulatory Reform in China PART 3


13:00-14:30 Lunch
Regulators face the dilemma of regulating under conditions of uncertainty while aiming at attaining specific policy objectives. Coping with risk requires sound analytical methods for assessing whether it is practical or cost effective for regulators to remove all risks and determining where to apply efforts to get the best return, as well as consequent communication strategies. Doing this effectively requires particular tools and processes to identify and best manage risks, while reducing the economic and social costs of such tools and processes, including through potential implications from the perspective of competition and market openness.

Risk-based compliance and enforcement strategies have the potential to reduce compliance costs for business and improve welfare outcomes, but they also impose particular challenges for regulators. Some of these challenges are sector based and others are common across policy areas. Seeking optimal risk mitigation policies can be further complicated where social and economic trade-offs are not confined to a country, but involve several national jurisdictions and may call for supranational arbitrage, as in the case of trade disputes. Clear and transparent criteria for assessing and managing risk, as well as particular attention in communicating related policy choices, are all the more important in such cases.

This session will discuss risk management in regulatory practice and the implications for the design and the behaviour of regulatory agencies. It will consider the implications from a competition perspective as well as the challenges of developing domestic regulation which can affect trade. Particular issues include: the nature of risks that are required to be managed; tools and strategies for the calculation of risks in relevant regulated sectors; the challenges for risk communication; distinguishing regulatory failure from tolerable risk outcomes; the management of organisational risks of risk-based regulation; and, reducing regulatory costs through improved risk metrics. This meeting provides the opportunity to consider risk issues in the light of recent events.

**Panelists**

**Professor Julia Black**, Director of Research, Department of Law; Research Associate, ESRC Centre for Analysis of Risk and Regulation (CARR), London School of Economics and Political Science.

**Dr. Tim Heymann**, Member of the Risk and Regulation Advisory Council, United Kingdom.

**Professor Spencer Henson**, Department of Food Agriculture and Resource Economics, University of Guelph, Canada.
Panelists may wish to consider the following challenges:

- How can risk-based approaches contribute to successful regulatory management, compliance and enforcement strategies?
- How to manage risk while fostering competition and remaining neutral in terms of market openness?
- What are the policy tools and support needed to promote risk-based approaches? To which extent have these tools been adopted in various sectors?
- How to seek common ground among differing approaches for managing risk?
- How to develop effective risk communication strategies?

16:00-16:15  Coffee break

16:15-18:00  Second session: Reflections on risk-based approaches to financial sector regulation

Risk-based regulation is a key function of financial sector regulation. In this sector as in others, risk management and mitigation policies have contributed to improving policy outcomes. Recent events in the financial sector have brought a renewed interest in adapting risk management strategies as a tool for public governance in the design of the regulatory framework for that sector.

OECD members as well as non members are in the process of responding to the consequences of the recent events. A broader debate on the role of evidence and risk-based management and regulatory strategies can contribute to the development of responses, with attention paid to the consequences of imposing further regulatory burdens on the financial sector. The discussion may consider the extent to which risk strategies provide clear criteria for assessing risk, as well as transparency and promote access to information to enable a better understanding of risk by regulators and consumers. This also links to the issue of communication strategies to foster market stability.

The session will illustrate the contribution of risk-based approaches to the achievement of regulatory objectives in the financial sector through selected examples. This may include reference to specific objectives such as promoting market confidence, improving public awareness and ensuring consumer protection, issues of moral hazard and the alignment of incentives. The session will consider examples of tools for risk management, including risk-based assessment frameworks, and the balance between central control and supervisory discretion. This may also involve issues of capacity building, which are often faced in smaller or middle income countries.

The Secretariat has prepared a note to support this discussion.

Mr. Rolf Alter, Chief of Staff of the Secretary-General, will introduce the session on risk, regulation and financial services.

Panelists

Mr. Gerard Rameix, Secretary General, Autorité des Marchés Financiers, France.
M. Lyndon Nelson, Head of Risk, Financial Services Authority, United Kingdom
Mr. Balogh Laszlo, Former managing director, Hungarian Financial Supervisory Authority, Former Ambassador of Hungary to the OECD.
Panelists may wish to consider the following issues:

- What is the contribution of risk-based approaches to the achievement of regulatory objectives in the financial sector?
- What are the relevant tools and strategies for risk-based approaches? What are the key elements in terms of risk assessment, management and communication?
- How to address the implications in terms of capacity building as well as facilitating access to information for supervisory authorities.

Following the panellists’ presentations, the floor will be open for general discussions.

Supporting documents for the thematic discussions:


Additional documents


18:00 Cocktail
TUESDAY, 2 DECEMBER 2008
Chair: Frederic Jenny, France
REGULATORY REFORM AND THE MANAGEMENT OF RISKS

09:30-11:15 Third session: Improving governance arrangements for the management of risk

OECD members face common issues in improving the assessment and management of risk in regulatory policy and communicating effectively with stakeholders. This issue has received increased priority on the policy agenda, given the multiple nature of risks, from flooding, or other natural events, to food safety or financial risks. Potential benefits include more systemic evidence-based policy making, less reactive regulation and more effective communication with stakeholders. The OECD can help bring together the evidence from common experiences to develop better approaches. Particular benefits may accrue from the development of common approaches among trading partners in a way that preserves efficient markets, with competition and market openness.

The 2005 OECD Guiding Principles for Regulatory Quality and Performance represent a useful starting point for the discussion. The session will discuss the incorporation of risk in regulatory policy settings. This may include discussing the value of guidelines for the consideration of risk in regulatory processes and the use of scientific advice in decision making. The goal will be to consider the benefits of potential guidelines on risk and public policy. The discussion will draw on examples of co-operation from across jurisdictions as well as the observations made in the first session on contemporary issues.

Panelists

Dr Liz Fisher, Fellow in Law, Corpus Christi College, Oxford, United Kingdom.

Mr Bernado Delogu, Head of Unit, Risk Assessment, Health and Consumer Directorate General, European Commission.

Mr. Gary Banks, Chairman, Australian Government Productivity Commission.

Dr. John D. Graham, Dean, School of Public and Environmental Affairs, Indiana University, United States.

Panelists may wish to consider the following issues:

- What are the benefits of a whole of government approach to risk management?
- What are the relevant common elements to consider in terms of risk assessment, management and communication? What is their relevance for developing specific sectoral approaches?
- What is the potential for incorporating useful guidance in current instruments for guiding regulatory practice, drawing on risk-based approaches?
- How can the distortions of reactive regulation be minimized?

Following the panellists’ presentations, the floor will be open for general discussions.
Supporting and background documents for the thematic discussions:

11:15-11:30 Coffee Break

MAKING REFORM HAPPEN

11:30-12:30 Promoting Liberalisation and Regulatory Reform Policies: Italy

This session will involve presentations by Italian officials on recent regulatory reform and liberalisation policies. Liberalisation policies and regulatory reform have been core aspects of Italian structural policies over the past decade. The current government has put these issues on the forefront of its economic strategy, to underpin the modernisation of the Italian economy and offer possibilities to sustain long term economic growth in relation to the EU Lisbon agenda. These presentations will serve to update the ongoing OECD review.

After presentations by Italian officials, an opportunity will be provided for all participants to raise questions and comments.

Speakers

Mr. Alberto Normand, Ministry for Economic Development, Italy

Mr. Carlo Viviani, Director, Presidency of the Council of Ministers, Department for EU Affairs. Italy.

12:30-14:00 Lunch
Chair: Alberto Heimler, Italy

14:00-15:30 Strengthening the competitiveness of the Mexican economy

This session will discuss the political challenges of Making Reform Happen in Mexico, through the lessons learned from the current Mexico-OECD collaborative initiative to strengthen the competitiveness of the Mexican economy. This initiative is aimed at boosting long term economic growth in Mexico, through increased competition and regulatory improvements, eliminating unnecessary and outdated regulations and strengthening market forces.

The Mexico-OECD collaborative initiative is a key example of OECD work on Making Reform Happen, supporting the reform process in member countries through direct involvement as well as reliance on best practice. It includes specific features on administrative simplification as well as competition policy.

The session will offer an opportunity to discuss the challenges of reform implementation, following an introduction by the Under Secretary for Normativity and Competitiveness in the Ministry of Economy. This will facilitate a policy dialogue on how countries can develop policy responses in adverse conditions and under pressure through long term solutions.

The discussions will be introduced by short presentations on recent progress by the OECD Secretariat in Mexico.

Panellists

Mr. J. Gerardo Traslosheros H., Head, Unit for the Revision and Strengthening of the Regulatory Framework for Competitiveness, Under Secretariat for Competitiveness, Ministry of the Economy of Mexico

Ms. Anabela Pedroso, President, Agency for the Public Services Reform, Portugal.

M. Lennart Palm, Board of Swedish Industry and Commerce for Better Regulation, Sweden, Former Vice President, Business and Industry Advisory Committee.

The discussion will involve the following issues:

- How to overcome challenges to policy reform, including resistance from special groups, administrative capacity, timing and communication;
- How to pursue reform processes through policy dialogue and evidence-based approaches;
- What is the contribution of the OECD Competition Toolkit to making reform happen in Mexico?
- What is the role of information and communication strategies?

Document:
SG/GRP(2008)7 Progress Report: Project to Strengthen the Competitiveness of Mexico
15:30-16:00 Competition assessment of regulations

This session will discuss the draft of a recommendation on competition assessment. The recommendation suggests that it is worthwhile to identify when government regulations may unduly limit competition and, in these cases where there undue limitations are present, to prefer alternatives that would achieve the regulatory objectives while not unduly limiting competition. This recommendation grows out of the recent OECD work on the Competition Assessment Toolkit that has already been discussed twice in the Group on Regulatory Policy. The recommendation is being developed for submission to the OECD Council for its consideration and endorsement. Prior to any such submission, horizontal consultations are being carried out with the bodies of the OECD that might have the most interest in this recommendation.

Document:

For reference

16:00-16:30 Enhanced engagement and work with non-members

Delegates will have an opportunity to discuss regulatory reform within the framework of the APEC-OECD Co-operative Initiative, including a synthesis of 5 self-assessments using the Integrated Checklist for Regulatory Reform, the results of the recent APEC Ministerial Meeting on Structural Reform and Regulatory Reform, and plans for future work in co-operation with the APEC Economic Committee.

Document:
SG/GRP(2008)8 APEC-OECD Co-operative Initiative on Regulatory Reform

Background Document:
C/MIN(2008)2/FINAL OECD Ministerial Declaration on Policy Coherence for Development

16:30-17:00 Programmatic aspects and In-depth Evaluation

The session will discuss the proposed Programme of Work for 2009-10. The session will include a discussion on options for further thematic discussions and reviews. This will also include an update on the In-depth Evaluation of the Group on Regulatory Policy conducted by the Council Secretariat and its implications for the work of the Group.

Document:
SG/GRP(2008)9 Proposed Programme of Work for 2009-10

17:00 Concluding remarks by the Chair and the Secretariat
NOTES ON THE MEETING OF THE GROUP ON REGULATORY POLICY (GRP)

1-2 December 2008
OECD Headquarters, Paris

Regulatory Reform and the Management of Risk
Peer Review of Regulatory Reform in China
Making Reform Happen: Italy and Mexico
Enhanced Engagement and Programmatic Aspects

1. ORGANISATION OF THE MEETING

The 1-2 December 2008 GRP meeting will be divided into three parts:

- **China Peer review**

  Member countries will review the draft synthesis report for the regulatory reform review of China, initiated in 2006. A thematic focus should facilitate a high-level dialogue between China, and other member countries on a core set of policy challenges reflecting the multi-disciplinary constituency of the GRP. The country review process is based on the preparation of detailed background reports for peer review by several of the OECD’s major committees (see table below). The report on China includes a special chapter on public services. The peer reviews intend to promote information exchanges on best practices in regulatory reform, to improve transparency with respect to progress on regulatory reform, and to assess the options for reform in each country, considering the direction and balance of the Secretariat’s policy recommendations. Following any final consultations with the reviewed countries, the report will be finalised and released on the responsibility of the Secretary-General.

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<tr>
<th>Background reports</th>
<th>Reviewing committees</th>
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<td>Government Capacity to Assure High Quality Regulation</td>
<td>Regulatory Management and Reform Working Party of the Public Management Committee</td>
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<td>The Role of Competition Policy in Regulatory Reform</td>
<td>Competition Committee</td>
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<td>Enhancing Market Openness through Regulatory Reform</td>
<td>Working Party of the Trade Committee</td>
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<td>Public Services</td>
<td>Group on Regulatory Policy</td>
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- **Thematic discussions on regulatory reform and the management of risk**

  These discussions will address the issue of regulatory reform and the management of risk. The amelioration of risk is an objective of regulatory design and compliance strategies. Yet the processes for risk assessment, risk management and risk communication are not necessarily well integrated in regulatory and public policies at large. As a result, regulation is shaped by reactivity to risk and by the public profile of issues, compromising other objectives including competition and market openness. The session will involve a discussion of the contribution of a regulatory quality approach to improving risk management as well as the integration of risk management into regulatory processes. A multidisciplinary angle for the treatment of risk can improve the effectiveness of regulatory design and enforcement strategies. This can serve quality regulation while ensuring market openness and strengthened competition.
Improvements to risk governance arrangements have the potential to deliver significant public benefits through better targeted regulatory strategies and reduced compliance costs. Specific illustrations will be drawn from sectoral examples, including financial sector regulation. While there are no simple models for the design of risk governance arrangements, lessons from OECD members indicate practices they can adapt to promote better conditions for trade and investment and the overall performance of markets. The discussion will explore options for incorporating risk in regulatory policy in an effort to improve governance arrangements among OECD countries.

The annotated agenda is also intended to provide guidance for speakers and discussants for the sessions.

- **Making Reform Happen**
  - *Promoting Liberalisation and Regulatory Reform Policies: Italy*
    
    This session will discuss progress with liberalisation policies and progress in implementing reform in Italy in the context of the current OECD review. The Italy review involves special chapters on professional services, as well as commercial distribution, multi level regulatory governance and local public services.
    
    - *Strengthening the Competitiveness of the Mexican Economy*

    The projects to support the reform process include the project to strengthen competitiveness in Mexico, which involves specific contributions on improving the stock of existing regulations as well as applying the Competition Assessment Toolkit to Mexico and exploring options for strengthening competition. This project will also contribute to wider OECD work on the political economy of reform.
    
    - *Competition Assessment of Regulation*

    The Working Party No. 2 on Competition and Regulation of the Competition Committee has been working on a recommendation related to competition assessment of regulations, following its February, June and October 2008 meetings. This draft has been presented to the Working Party on Regulatory Management and Reform in October 2008. Comments will be sought from Delegates to the GRP before submission to the Competition Committee in February 2009. When approved by the Competition Committee, the Recommendation will be sent to Council for approval.

- **Enhanced Engagement and Programmatic Aspects**

    Delegates will have an opportunity to discuss a set of specific projects in member as well as non member countries as well as options for the Work Programme in 2009 and 2010.

    Delegates will have an opportunity to discuss regulatory reform within the framework of the APEC-OECD Co-operative Initiative, including a synthesis of 5 self-assessments using the Integrated Checklist for Regulatory Reform, the results of the recent APEC Ministerial Meeting on Structural Reform and Regulatory Reform, and plans for future work in co-operation with the APEC Economic Committee.

    Programmatic aspects will be addressed in the context of the 2009-10 Programme of Work, building on the programme of work of the participating committees as well as major initiatives within the Organisation. Delegates will also be briefed on the implications and outcomes of the In-Depth Evaluation of the Group on Regulatory Policy conducted for Council.
2. PARTICIPATION IN THE MEETING

In keeping with the multidisciplinary nature of the group, member countries as well as BIAC and TUAC are invited to send representatives with responsibilities and interest in regulatory reform, including from the perspectives of regulatory, competition, trade and sectoral policies.

3. DOCUMENTATION FOR THE MEETING

The draft reports on China and Italy will be circulated prior to the meeting. These reports are intended to be accessible to non-specialists:

- The report on China consists of three parts. Part I of the report sets regulatory reform in the country into context by providing analytical insights on the current structure of the national regulatory system, highlighting important legal, cultural, economic and institutional factors. Past regulatory reform efforts and objectives, including structural adjustment policies, are reviewed, and potential gains from reform in terms of sectoral and macroeconomic performance are assessed. Part II presents the three thematic sections of the Review – the development of regulatory governance, competition law and policy, and enhancing market openness through regulatory reform. Part III analyses the experience of OECD countries in reforming infrastructure service and provides policy options for the reform of China’s power and water sectors.

- The thematic discussions will be supported by analytical documents prepared by the Secretariat, setting the policy perspectives and taking into account the key aspects of risk management.

- Other documents will support the discussions on the process to support reform, enhanced engagement and programmatic aspects.

Written comments by the reviewed countries will be circulated as room documents.