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**MULTI-LEVEL REGULATORY GOVERNANCE**

**Note by the Secretariat**

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## MULTI-LEVEL REGULATORY GOVERNANCE

1. As a follow-up to the discussion at the expert meeting on regulatory cooperation between levels of government (30 June-1 Jul 2003), this note offers some further considerations on the question of multilevel regulatory governance. It is based primarily on the national reports that were produced in the context of the OECD Regulatory Reform Programme, launched in 1998, and should be considered together with other studies conducted by the OECD on multilevel dimensions such as fiscal federalism.

2. Ensuring regulatory quality, i.e. reforming regulations so that they contribute fully to achieving public policy objectives without placing needless restraints on competition, innovation and growth, has become a political priority. The economic and institutional landscape is becoming ever more complex, and economic players and citizens alike are increasingly insistent in their demands. Globalisation and economic interdependence, together with greater market openness, have increased the need for regulation. This has given rise to new, more sophisticated and more participatory mechanisms of regulatory governance.

3. In this context, the multilevel dimension deserves special attention. The country examinations have highlighted the contribution of regulatory reform efforts. Yet there has been little analysis of the degree to which this aspect is taken into account in reforms of the regulatory framework. The success of such an undertaking will depend in part on the capacity of political leaders to promote high-quality regulation at each level of government, and to enhance overall efficiency by instituting appropriate coordination mechanisms.

4. If this issue is to be properly addressed, the regional perspective must also be taken into account. Over the last 20 years, aspirations for greater democracy and more efficiency have sparked a dynamic regionalism in OECD countries. The institutional model and the degree of decentralisation will of course depend on the political, historical and economic factors of each country. Yet in most countries, whether unitary or federal, there has been increasing emphasis on sub-national levels of government as the appropriate level for the deployment of public policies, and in Europe this trend has been accompanied by the simultaneous shift of certain responsibilities to the supra-national level. To these new regional dynamics we must add a profound change in the role of certain States, particularly in Eastern Europe, where the inherited bureaucratic organisation is giving way to more market-oriented systems in which partnerships between the public and private sectors are playing an increasing role.

5. Thus, a clearer allocation of responsibilities and better coordination among different levels of government are becoming strategic issues for the attractiveness of regions, in unitary and federal countries alike. With the multiplication of decision-making centres and competition over the sharing of powers, coordination among the different levels of authority is becoming a key question.

6. This trend is producing some tensions with the centre, and with other entities at the same level. These tensions explain in part why this trend is not linear and why, at the same time, there is a move to re-concentrate some powers for reasons of efficiency. The trend towards developing rules at the sub- and

supranational levels, then, will broaden considerably the scope of regulatory policies adopted in recent years.<sup>1</sup>

7. The rapid evolution of regulation at the national level thus calls for active management of regulatory policy, and in particular of its multilevel aspect. This could help in seeking concrete answers to the challenges of assuring the regulatory quality, recognising that the complementarity of regulations can have a positive effect on the coherence of government action. Awareness of this point is relatively recent. Yet it is essential, for the undeniable success of globalisation in terms of wealth creation, the quality of services, and the efficiency of markets will be optimised only if there are proper regulatory tools in place. However, while the impact of interregional competition in boosting economic development is now clearly recognised, this cannot be said for another question now emerging, which has to do with competition among legal systems.

8. The meeting on regulatory cooperation between levels of government served to clarify the principal terms of this debate. The new context created by the growing devolution of powers to the sub- and supranational levels posits the need for regulatory networking. As a means of guaranteeing vertical coherence, such networks must fully incorporate the supranational level, but they must also create horizontal linkages between entities at the same level. The emergence of the concept of "regulatory regime", analyzing the interaction between these different levels, reflects this evolution. In the face of these challenges, two kinds of regulatory strategies have been adopted to optimise the cost-benefit relationship: competition and convergence (harmonisation, mutual recognition etc.).

9. On the basis of difficulties or opportunities that countries have encountered, this note suggests some elements for analysis of case studies, solutions, tools and experiences. It illustrates the ways in which the principles of good regulatory governance, namely accountability, transparency, efficiency, adaptability, and coherence, have been applied to the specific circumstances of multilevel states. Tackling this dimension in fact requires sophisticated approaches, to regulation, in particular to foster the emergence of appropriate regulatory modes.

10. The attached tables offer a summary overview of the various OECD studies on the subject as a way of putting this analysis in context. They highlight the many forms that regulatory tools can take as a means of providing very concrete responses to the problems posed. The glossary serves to define the English and French terminology for some of these concepts.

11. A toolkit for the multilevel exercise of government responsibilities should be able to, (1) empower all players in the regulatory process and optimise the allocation of resources and the transparency of procedures (2), improve the quality of regulation and its economic and social impact, and (3) promote regional networking.

## **1. Empowering the players in the regulatory process**

12. The emergence of regulatory pluralism, in the absence of proper rules, can constitute a factor for legal uncertainty and complexity, and can increase costs for economic agents. To the extent possible in the face of the many constraints, it is important to define the responsibilities and the roles of each player in the regulatory process (1.1), and to draw the appropriate conclusions (1.2).

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<sup>1</sup> Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance. OECD, 2002. This document has been used as a point of reference.

### ***1.1. Defining the responsibilities and roles of each player in the regulatory process***

*A clear definition of responsibilities and the conditions under which they are exercised*

13. Globalisation is raising new questions about the attractiveness of regions and about the impact of regulatory quality on competition. In a number of sectors (telecommunications and transportation, for example) deregulation has produced flexibility. In order to optimise its effects, it is worthwhile examining the multilevel dimension, with a focus on interaction between decision-making centres.

14. There is a dual movement underway, involving a growing devolution of powers to entities that have real regulatory autonomy (local governments that are elected, and regulatory agencies or bodies that have statutory independence), together with ongoing globalisation that requires greater coordination.

15. Interdependence and complexity are the two pitfalls that must be avoided in a context where the quality of regulatory responses is clearly a comparative advantage. The application of these policies must be economically profitable, and international comparisons show that regulatory reform is indeed a source of profits. In Australia, there is a clear link between sharp productivity gains and the reform efforts that have been undertaken.

16. By bringing decision-making closer to beneficiaries while promoting horizontal coherence, multilevel governance offers some solutions for managing the decision-making process and for optimising the decisive asset represented by regulatory quality. Yet while coordination is indispensable it is not without its cost. If the questions of who regulates what, and why, can be answered as clearly as possible, this will keep the need for coordination to a necessary minimum. This is the price that must be paid for improving the quality of public services without adding to bureaucratic and tax burdens.

17. In the end, general objective of achieving regulation that is clear, coherent and stable or at least credible over time requires some specific adaptations in the case of multilevel government systems. Managing the regulatory decision-making process presupposes answers to these two questions: who are the decision makers, and what are they responsible for?

18. Before making changes to the decision-making process and to regulatory management, these mechanisms must be clearly identified, and the regulatory powers of the sub- and supranational levels established. The objective is to enhance the returns from regulatory policy while minimising its costs.

#### *Identifying responsibilities*

19. Institutional organisation is often laid down in the Constitution. As a reflection of a country's political, historic and geographic heritage, this balance is not easy to modify. With the move to decentralisation, it is true that there have been substantial modifications in many countries over the last two decades. Yet the potential political cost and the cumbersomeness of constitutional amendment have encouraged the search for other ways of identifying and deploying the appropriate administrative levels. The way is open for innovative thinking to promote new regulatory strategies and to influence behaviour through agreements or transactions to guarantee regulatory quality in regional and institutional settings that are not always coherent.

20. The increasing complexity of the regulatory process has to do with the multiplication of players, but also with the growing diversity of their roles. Thus, direct supervision is disappearing in favour of increasing disjunction between the responsibility for making a decision and that for executing it. In this context, it is particularly important that each level be aware of the perimeters that define its area of intervention and its responsibility. The manner of devolution and the way the exercise of powers is organised will depend on each government, but it is important to ensure that the arrangement is clear and

credible over the long term. This is a difficult exercise, because when the more complex a process is, the harder it is to identify the political advantages of regulatory reform and the risks of failure.

21. Assuring the quality of regulatory processes can avoid certain perverse effects, such as those inherent in the dichotomy between the taking of a decision and exercise of the related responsibility. In Greece, the central government used to set license fees while the communes kept the revenues and so were tempted to require frequent license renewals (Decentralisation in States of the European Union, notes and documentary studies, November 2002). In Germany, in the case of projects with federal co-financing, local governments bear only a portion of the costs through their own budget, and if the expected advantage exceeds the outlay they will gladly opt for a project while ignoring the real cost-benefit relationship (Regulatory Reform in Germany: for economic and social renewal, OECD December 2003). The same observations are perfectly applicable to the relationships among local governments.

22. The notion of quality needs to be built into the regulatory process itself. To this end, it is important to ensure information feedback to the entity issuing the regulation. Spain, for example, has developed ways of measuring the cost of a law, while Finland analyzes the consequences of a local government's budgetary decisions.

23. On the other hand, there has been very little analysis of the feedback from local regulation into national regulation, reflecting perhaps the need for tools that are appropriate for analyzing a dynamic regulatory situation rather than a static one.

#### *Accountability at the central or federal levels*

24. The transfer of powers to local entities should not be seen as simply a convenient way of shifting responsibilities. If it were, local entities' resistance to change would make it impossible to optimise the devolution process. For the sake of efficiency, the transfer of powers to different levels of government must be based on their comparative advantage in providing each type of public service. The tools exist but they need to be refined. For example, RIA offers a flexible methodological framework for measuring the costs and advantages of a regulation by analyzing the potential impacts of the decision. Unfortunately, apart from Australia's states and Germany's *Laender*, and some of Mexico's states, RIA is not widely used at the local level. Introducing RIA early in the decision-making process would be extremely useful.

25. In fact, even on the occasions when the question of transferring powers is analyzed a priori, this is done on a static basis. In France, for example, when responsibility for the maintenance of school buildings was transferred to local governments, three elements were underestimated:

- The legal element: national regulation and jurisprudence have increased concerns for security.
- Economic: money was needed to rehabilitate the buildings that were transferred and to meet training needs.
- Political: voters exerted pressure on local officials to spend money on schools.

As a direct result of these three elements, costs rose sharply.

26. The Unfunded Mandates Act offers a similar example for making federal levels accountable.

27. In the United States, federal regulators are supposed to evaluate and budget for the economic costs and expected benefits of a regulation imposed on a local government. If the annual costs exceed \$10 million, the federal government must come up with the money (Unfunded Mandates Reform Act of 1995,

which makes RIA mandatory for the entire government). RIA resources are therefore targeted primarily at regulations that have the greatest impact, in other words those likely to impose the greatest cost increases on any sector or region, or to have a negative impact on competition, employment, investment, productivity, and innovation.

28. The entire problem lies, of course, in assessing the economic cost, measured by the costs to the private sector of compliance with the regulation. Despite this difficulty, the very fact of posing the question and undertaking an ex-ante evaluation will help in adapting the regulation to the problems identified.

29. Proper management of regulatory policy, so as to maximise the positive effects by adapting the supply of public services to local preferences, can provide some concrete answers.

### *The role of local governments*

#### Institutional aspects

30. It is not up to the central government alone to manage the transfer of regulatory powers. In Spain, the Constitution calls for a continuous process of decentralising powers in light of local capacities to exercise them. Thus a Community may choose to take on full legislative or executive powers or to have the central government or parliament delegate to it certain explicit powers.

31. In Germany, the *Laender* parliaments have instituted their own RIA tools to ensure the quality of their regulations. These require a systematic quantification of the costs in the local budget. These tools cannot yet be considered mature, however.

32. Adoption of a strategic framework of this kind allows for a more dynamic definition of powers, since constitutions provide that local governments are responsible if the law, or the Constitution, does not expressly assign a given power to the State. This principle of subsidiarity reflects a real concern for clarity, but it does not always succeed in avoiding overlapping and hence the need for coordination mechanisms.

33. The solution is surely to find mechanisms that will foster interaction between the central and decentralised levels, whether in a unitary or federal State, and to have mechanisms for evaluation along the entire decision-making chain.

#### Budgetary aspects

34. Budgetary trade-offs are a strategic question. Without real financial means, the regulatory powers transferred to local governments will be illusory. In fact, a State can thereby retain effective control over local governments, even if it no longer has legal authority over them.

35. This risk needs to be taken into account in the budgetary aspect of regulatory policies. For example, in some countries, where the State determines the essential elements of local taxation, requiring local governments to set tax rates within pre-established limits, the result is to relieve local governments of accountability, leading to rising fiscal pressure. It would be well, then, to combine the demands of regulatory quality with proper attention to the efficiency of public expenditure (cf. November 2002 notes and documents quoted above/fiscal relations across government levels- OECD).

36. Several countries have moved in this direction:

- In Great Britain, a portion of local government spending was simply recentralised.
- In Ireland, the local habitation tax was replaced by a lump-sum allocation in 1978.

- In Spain, local government budget shortfalls are a chronic problem despite numerous reforms.
- France has faced a similar problem with reform of the business tax (*taxe professionnelle*). Supplementary State grants are supposed to offset the exemptions accorded to businesses on their investments for 18 months. This shift is part of a continuing downward trend in the share of taxation in local government revenues, and it undermines local governments' accountability for promoting economic activity within their territory (two-thirds of the funds, or €150 million, comes from local taxes, and one-third consists of various State transfers).

37. In order to overcome this apparent conflict between empowering local governments and maintaining regional equality, there are several mechanisms that can be used:

- The Netherlands has sought a middle path between decentralisation and re-centralisation by moving from complete autonomy for third-tier governments to co-management with a higher-level authority. This approach applies, for instance, to road traffic and land use planning.
- Denmark has allowed greater flexibility in public spending in return for observance of national guidelines.
- In Spain, legislation requires the communes to provide certain minimum services. Yet if some communes encounter financial difficulties, the Autonomous Communities can relieve them of these obligations and can redirect provincial assistance in order to guarantee that these minimum services are provided throughout their territory.
- In Australia, attempts at "re-centring" have been initiated in order to create a national market that has more coherence than a simple summation of regional markets.

38. Any mechanism for optimising regulatory quality in the multilevel context must pay particular attention to financial rules.

## **1.2. Taking advantage of solid partnerships at the local level (the consequences of this empowerment)**

### *Consultation mechanisms*

39. Because local governments are closer to the people they administer, local decision makers can be allies in adapting regulation to changing needs and circumstances. A jumble of often contradictory regulations can impose major costs on the public.

40. A great variety of solutions have been adopted for involving local governments in defining regulations and their execution modalities. What might be called "cooperative" solutions associate local governments throughout the process, or at one stage of the process (formulation of objectives, for example), and make them responsible for all or a portion of the outcomes. Initially, this approach involves negotiation and may appear inefficient, but over time it will foster better adaptation:

- In Australia, the push for harmonisation and coordination has come primarily from local governments (i.e. the states and territories), through the Council of Australian Governments. As well, the councils of ministers and representatives of the federal and local governments provide for coordination, cooperation and development through a secretariat that is responsible for preparing proposals for uniform or harmonised laws (Office of Regulation Review, ORR). This body reviews intergovernmental regulation (states/territories). In the intergovernmental decision-

making process, it intervenes both upstream (validating the draft RIA prior to public consultation) and downstream (validating the procedure). Thus, local and federal RIAs coexist, and they are harmonised by a specific body and by ad hoc regulatory forums.

- In other countries, the initiative lies mainly with the central government, but local governments are consulted when the regulation is being defined (Ireland: Public Management Act and Freedom of Information Act, 1997) or when the conditions of implementation are being decided (Denmark). In Greece, this approach applies only to laws relating to local government and environmental protection.
- In the United States, regulatory officials favour administrative guidance tools for ensuring the conditions for competition. The federal government sets minimum standards, and while local governments must respect them they can also adapt them (by setting stricter or supplementary standards).

### ***Public consultations***

41. The legitimacy of a regulation has to do not only with the authority of the body adopting it but also, and increasingly, with the degree of public input. Thus, decentralisation undoubtedly contributes to the democratic process if it serves to reinforce transparency and the consultation of stakeholders. Introducing a true right of public intervention in the regulatory process can maximise the positive effects by ensuring that public services are adapted to local preferences.

42. This intervention may have varying degrees of formality. In Macedonia, citizen information centres were created at the time of decentralisation in 2001. The centres were supposed to monitor implementation of the reform, and provided a bridge to the citizenry, and among local governments themselves. They served to enhance the transparency of the process and to involve the public. This process produced proposals and recommendations and contributed greatly to modifying bureaucratic culture. The policy is based on the principle that rules must above all serve the citizens. After an experimental phase, the centres were given official recognition in the "open government" law of 2002.

43. Similarly, citizens of the European Union have the right of intervention, and they can sue their government for failure to apply a Community directive.

44. Civil society, businesses, and individual citizens have great goading power for adapting regulations to their needs. In short, as implied in the fifth criterion in the OECD checklist for regulatory decision-making, determining the most appropriate level of government is a necessary but not a sufficient precondition.

### ***1.3. Ensuring the capacity for accountability***

45. This question has to do with recognising and coping with regulatory dynamics. The potentially perverse effects of granting regulatory freedom to local governments must be recognised so that effective mechanisms can be put in place for avoiding them.

46. If regulation in a given area is not properly planned, the result may be a plethora of rules that can undermine legal security and generate significant costs in terms of the public service payroll. For example, Spain saw an increase of 31.1% in public service staffing at the local level between 1985 and 1997, because of the inherent overlapping of services at the different levels. This cost is probably underestimated, since the consequences of this overlapping have never been subjected to a proper impact study. In order to resolve these difficulties, the freedom to experiment would seem to offer a favourable framework,



recognising that local governments are real sources of regulatory innovation. The process then becomes widely disseminated only after the device has matured.

47. With the creation of special zones for structural reforms, Japan has launched a real innovation. Specific legislation defines the programme of structural reforms intended to ease the regulatory burden on a given sector. Municipalities then choose the measures that they want to try out, and they can make their own proposals, as can the prefectures or businesses. For example, in the field of education, a municipality might hire staff that do not have teaching qualifications. Such derogations can then be validated by parliament at the proposal of the Prime Minister, and incorporated into the law governing special legislative zones. They can then be applied by any local government -- and what is most original, by any business -- that so desires. Although initially applied to deregulation policy, the idea is gradually to modernise public policies as a whole.

The process has two very original features:

- *The operative force of the plan* proposed by a local government. If it is consistent with the objectives of the law governing the programme, it must be approved.
- *The local government's obligation to justify its refusal* to consider a private-sector proposal for simplification.

48. The objectives set by a local government must be measurable and they must be subject to an evaluation. The government has the necessary means to implement this policy. There is an ad hoc body, headed by the Prime Minister, that is responsible for promotion, coordination, evaluation and monitoring of experiments under the programme, and for imposing it on ministries that may be reluctant as a result of pressure from interest groups.

49. This experiment seems very interesting from more than one viewpoint. In effect, it combines a strong political will, as expressed through the mechanisms that are to impose it on all ministerial departments, with the obligation to take stakeholders' proposals into account. The three criteria for an effective regulatory system are present here: it has support at the highest political level, it contains explicit and measurable regulatory quality standards, and it provides for a continuing regulatory management capacity (Regulatory policies in OECD countries, 2002).

50. In this way, Japan has created some real laboratories for public innovation. This type of programme is designed to test for potential negative fallout from deregulation, and to experiment with new forms of consensus-based decision-making.

51. The conventional model of regulatory management needs to be revisited. This linear approach is characterised by a pre-established legal framework, standardised implementation procedures, hierarchical implementation controls, and enforcement procedures and jurisdictional control as needed (Les Metcalf, Regulatory Cooperation in an Interdependent World). Its rigidity makes it ill-suited to a regulatory policy based on networking, where cooperation is a fundamental condition of quality.

## **2. Improving regulatory quality and its economic and social impact**

52. The multiplication of regulatory decision-making centres casts the issue of regulatory quality in new terms. With sub-national and supranational levels now playing an increasing role in producing standards, controlling regulatory inflation means imposing rules on the various sources and forms of regulation.

53. Even in centralised countries, the State is no longer by any means the only source of regulation. In its place, decision-making centres endowed with regulatory powers have multiplied (the State, agencies, independent authorities, supranational bodies etc.). In federal countries, economic agents' insistence on simplicity and clarity sometimes collides with the decision-making autonomy of the component members of the federation. At this point, regardless of their institutional form, states must cope with growing interdependence and with decision-making processes that are complicated both by the number of players and by the many policy areas that must be taken into account (environment, health etc.).

54. This new reality has a direct impact on the entire regulatory preparation process, and new, more innovative, more cooperative and more persuasive regulatory strategies are needed. Coercion alone is no longer sufficient.

55. In order to contain the potential for negative fallout from the sharing of regulatory responsibilities among different levels (contradictory rules, excessive regulation or regulatory gaps), regulatory quality must be optimised at each of these levels, and possible interactions taken into account. There are two levels in particular that can play a major role in driving and coordinating the process: the State and the supranational level.

### ***2.1. The new role of the State in regulatory governance***

56. The success of governmental regulation can be compromised by the failure to interact with sub-national regulations.

57. Regulatory quality at one level may be offset or cancelled by poor regulatory policies at another level. This problem can be illustrated by two examples:

- The impact of the Irish government's policy for reducing red tape was severely compromised by the lack of consistency between the central government's demands and those of local governments. Because the process was not transparent to economic agents, the attempt to improve regulatory quality through simplification plans was counterproductive.
- The deregulation of highway transport in Mexico, undertaken by the federal government in 1989/1990, was undermined when local governments introduced licensing and road safety rules that effectively stripped the national regulation of its substance (Regulatory reform in Mexico).

58. The State must retain regulatory oversight as an essential function. Yet in the regulatory process, the relationship between States and local governments are all too often dominated by control procedures that are focused on legality and not on quality, in the sense of the regulatory impact on third parties. In its relationship with businesses, on the other hand, the State can often succeed through strategies of persuasion and cooperation instead of relying solely on regulation.

59. This approach can also be used in relations with local governments. In fact, what is important is not to accumulate regulations, which impose costs on businesses, but rather to establish clearer regulatory policy objectives and then choose the best instruments for achieving them.

*The efficiency of State-initiated policies relies increasingly on the quality of coordination with sub-national levels*

60. States play a major role in ensuring regulatory quality, even at the sub-national level: an example is Italy, where innovation programmes are spearheaded by the minister responsible for reform. Intervention

by a major federated State, such as the regulatory reform initiated by the government of Mexico, can have an identical effect of pulling states along.

61. The difficulties here are essentially of two kinds:

- National regulations may not take sufficient account of the conditions under which local governments must apply them. Overly detailed regulations can lead to the multiplication of formal requirements that have nothing to do with quality. Good results can be obtained by promoting strategies of cooperation and consultation between central and local governments, as Denmark and Greece have done.
- The juxtaposition of rules issued by the central government and by local governments creates inconsistencies.
- The time-consuming process of challenging an official decision by a local government creates uncertainty.

62. The State has a number of instruments at its disposal for promoting quality at all levels:

- Providing tools: good practice manuals, as in Germany, setting quality standards and leaving it to local governments to choose the means.
- Technical evaluation: the cost must of course be proportional to the anticipated results (cf. the United Kingdom's programmes for optimising the quality of local management).
- Training to enhance the level of technical skills at the local level. France offers some interesting examples of cooperation between training institutes for central government and regional officials, through networking of the country's public administration schools, and standardising competitions for senior positions at the two levels of government.
- Promoting simplified regulatory regimes, where application does not impose a significant enforcement burden on sub-national levels (this difficulty was found in Germany in particular).

Box 1 : Two examples of coordination through the tool itself, pulling all regulations together in a single document.

Regulatory transparency can be enhanced by combining mapping and a set of prescriptions for a given area.

*Vertical coordination between the State and local governments: France's Natural Risk Prevention Plans (PPR).*

Coordination of shared powers: the communes are responsible for delivery of building permits, while the State does the mapping of areas exposed to natural hazards. The prefect, as the State's local representative, is responsible for preparing the PPR.

The PPR is a tool:

- for steering construction into less exposed areas,
- for providing incentives: compensation payments are reduced if a commune has not adopted a PPR after claiming for two natural disasters;
- for prohibiting construction or prescribing safeguard measures in at-risk zones (the State can take over from the local government if works are not completed within 5 years).
- for sanctions
- for experimentation : experimental co-financing programme for feasibility studies.

The PPR allows for:

- territory-wide coordination, covering several communes (the “risk basin” notion),
- cooperation towards a common definition of guidelines with local governments,
- consultation with the public (public survey) and the competent bodies.

*Coordination between the sub- and supra national levels: the anti-noise campaign in France.*

The directive on ambient noise evaluation and management (18/07/2004) calls for preparation of “noise maps”. In France, zone-specific insulation standards are prescribed when issuing building permits for new sites located near transportation facilities, and tax incentives are offered for upgrading existing buildings. Non-compliance can expose the contractor and the operator to penalties.

## **2.2. The role of the supranational level**

63. The European Union offers a good example of the role that supranational bodies can play in optimising regulatory quality.

64. In its member countries, more than 50% of regulatory activity is governed by the transcription of European directives into domestic law. In countries such as Poland, the Czech Republic or Hungary, the transposition of European directives has played a major role in changing what were highly centralised systems.

65. Yet local governments still have little involvement in the process. Even where local officials are represented in national parliaments, this is not sufficient. Better interaction between these levels would facilitate the understanding of laws and regulations, and improve the quality of their implementation. In Spain and in Germany, local governments participate in the process of transposing directives. In Germany, this participation is in fact enshrined in the common procedural rules. Moreover, the European Union is gradually equipping itself with tools for optimising regulatory quality, such as the regulatory impact analysis (RIA). Since January 2003, a centralised system has been in place for evaluating the impact of regulation. This system replaces the decentralised plans that were used in the various directorates.

66. This question arises with particular force in areas that are sensitive with respect to competition, such as public procurement, where local governments are major players. In France, local governments have not been involved in the transposition of competitiveness directives or the amendment of the government procurement code. Difficulties of application finally resulted in an overhaul of the laws. This remark applies equally to the search for regulatory mechanisms for combating corruption.

67. In terms of regulatory quality, with the growing importance of the sub-national level, the role of each level -- supranational, national, and sub-national -- needs to be redefined. Useful approaches might include clarification and empowerment of each of these levels in the regulatory process.

## **3. Regulatory approaches that involve management through networking**

68. A regulatory policy that takes into account the multilevel dimension requires new management strategies and new forms of organisation. It can no longer be designed vertically in centralised states, or through a simple juxtaposition of autonomy, but requires due attention to horizontal interdependence.

### **3.1. Progress in "vertical governance"**

#### *Easing the transfer of powers*

69. It would seem indispensable to establish a strategic framework prior to the transfer of powers, and to define the necessary support measures. In France, decentralisation increased the number of laws by 40% in 10 years. In Spain as well, the swift transfer of regulatory powers led to a plethora of new regulations. On the other hand, in the case of community-sourced standards, the quality and applicability of the rules were enhanced by establishing legal councils in some of the autonomous communities, with powers equivalent to those of the State Council, consisting in this case of verifying the capacities of local governments to integrate these elements into their legislative and regulatory framework.

70. The negative impact of the lack of regulatory quality at the local level goes well beyond the geographic bounds of the entity concerned. In unitary states, regulatory powers often remain with the central government. The central government in these cases will have to share its regulatory expertise with local governments in order to implement policies for regulatory quality more rapidly.

#### *Promoting regulatory approaches that do not lead to cumulative regulatory pileup*

##### The subsidiarity principle

71. Multilevel governance implies a reform of the regulatory process, in the absence of which there is a risk of a damaging accumulation of overlapping rules. Here, the principle of subsidiarity, as applied within the European Union, offers a promising framework for analysis. It provides a coherent approach for dealing with a particularly thorny problem in the multi-level context, the exercise of shared powers. The subsidiarity principle is exercised within strict bounds. It is confined to the field of shared powers between the EU and member States, and applies only national regulations are inadequate or if EU intervention would yield value-added through greater efficiency. In each case, all actions that can be taken to avoid centralisation at the European level, through cooperation or coordination, are first examined. If its invocation seems inevitable, it must then be accompanied by specifications as to the impact of the proposed measures.

##### Examples of cooperation

72. In Mexico, the law deregulating trade offers a further illustration of a process for ensuring coherence among the different regulatory levels:

- A strong political will, shared by all stakeholders (the federal government, the states and municipalities), with commitment at the highest political levels.
- Clearly operational objectives: signature of agreements allowing for deregulation of the business environment within the context defined by the law.
- Appropriate instruments:
- a dedicated body, the COFEMER commission. Wielding real powers, its duty is to promote coordination between the central government and local governments, and to encourage the signature of specific agreements among the three coordination levels included in the law. It can also provide technical assistance (with methodology, good practice annuals, training, working groups).

- Recognition of the "principle of mutability" through mechanisms that allow constant adaptation (annual meetings to share experience and to learn through mutual cooperation and adaptation on this basis of the plan adopted in 2002 for improving regulatory methods).

73. Despite the great variety of mechanisms for promoting regulatory quality and best practices at all levels of government, horizontal governance still receives inadequate attention. Yet it is even more necessary now, when the complexity of the issues in question is leading to a sharp increase in regulation.

### ***3.1. The potentials and limitations of the competitive approach***

74. A pragmatic policy is needed, one that takes into account the positive and negative effects of policy choices, and that identifies the most appropriate regulatory approach for each sector. This should produce maximum advantages while minimising potential negative fallout.

75. Interregional competition can be highly profitable. It encourages an optimal cost/benefit ratio and fosters innovation in the provision of public services. Yet it must not result in unproductive regulatory dumping where local governments may indulge in unfair competition in their zeal to attract capital.

76. Hungary has been disadvantaged by the absence of established mechanisms for resolving disputes arising from the fact that municipalities are not dependent on the central government. The State can rely only on voluntary coordination, and the courts have the power to intervene only when regulations are unconstitutional. The time-consuming and cumbersome nature of judicial proceedings has led municipalities into a "race to the bottom" in terms of regulatory constraints, taxation and environmental protection, in order to attract investments. The situation is similar in Mexico, where municipalities have signed concession contracts with glaring defects in order to attract investments.

### ***3.3. Institutional forms of cooperation: contracts and agreements***

77. In many countries, associations and local authorities have played a major role in promoting regulatory coordination, for example among municipalities and between the different levels of government (Finland, Czech Republic, Greece, Hungary, Mexico, Turkey, France, Italy). In most cases this power is purely advisory. Some countries have created special committees to improve coordination, or have instituted a specific mechanism whereby local governments can submit their comments on measures proposed by the central government (Ireland, Spain). In Canada, the central government and provincial ministers meet to discuss sectoral programmes.

78. Although this approach is cumbersome and runs the risk of giving too much weight to interest groups, cooperation of this kind offers better guarantees that regulations will be appropriate and enforceable. Without denying the advantages and flexibility of this type of dialogue, there is a clear need for simple mechanisms that will result in efficiency gains.

#### *Cooperation agreements*

79. When it comes to coordinating municipal services in Spain, provincial parliaments approve a provincial plan for cooperation on civil works and services that lie within municipal responsibility. The communes and the provinces participate in their preparation and their financing.

80. In France, planning contracts negotiated between the central government and the regions reflect the same approach. They make it possible to establish agreement between the State and the regions, and more broadly with local governments at various levels, on the financial contributions to be made to specific projects. The involvement of local governments other than at the regional level still needs to be strengthened, but this type of mechanism is useful in terms of optimising public expenditure.

Box 2 : Examples of coordination management tools

*Coordination through institutional reorganisation.*

- In Italy: complete redefinition of central ministries' powers to ensure coordination, regulation and monitoring of decentralisation policies.

- In Canada: creation of federal agencies for regional development, capitalising on each region's comparative advantages for economic development. Agency initiatives must be consistent with horizontal federal policies.

*Coordination through agreements.*

- In Mexico: SARE programme of administrative unification for simplifying rules for business start-ups. The federal programme can be activated through federal agreements with the states, but also with the municipalities and cities.

- In Canada: a common work plan defined by the Council of Atlantic First Ministers on transport regulation.

Territorial Reviews: Canada and Italy (OECD 2003).

*Cross-border relations*

81. In Germany, two distinct situations arise. The *Laender* are able to negotiate contracts with other state governments, and even transferring powers to institutions beyond their borders. For the communes, in contrast, relations with their foreign counterparts are limited to local community affairs. This has led to some difficulties in areas of government responsibility. The Karlsruhe accord organising agreements between local governments and German, French and Luxembourg public agencies has resolved these difficulties.

82. In Finland, cross-border cooperation has been organised with the local authorities of the Barent and Baltic Sea region of Russia.

83. Local government independence can constitute a problem in promoting coherent regulatory policies, especially in federal states or in areas of cooperation between states. The preference will then be for formulas, such as mutual recognition, that are less demanding in terms of application rules.

*The principle of mutual recognition*

84. Adopting the principle of mutual recognition is no doubt a minimalist and pragmatic approach. It does not imply convergence towards a common standard, but merely the elimination of the cost of regulatory discrepancies, by guaranteeing that these will not become barriers: there is no need to harmonise technical requirements. This principle can lead to economic efficiency gains.

85. By way of example, in Australia procedural guidelines and standards constitute the principal source of regulation. Australia and New Zealand have adopted the mutual recognition system for interstate commerce and for the registration of real properties. While it is not always easy to determine precisely the role that this instrument has played in the notable increase in trade between the two countries, the beneficial effects in terms of economies of scale and lower costs to consumers are undeniable. Moreover, having a common position allows Australia and New Zealand to exert real influence when it comes to the adoption of international standards.

This experiment is interesting for more than one viewpoint:

- Establishment of a clear objective: gradual elimination of all exceptions, while recognising the sovereignty of states and the autonomy of entities.

- Pragmatic: objective rules are identified for justifying regulatory differences. Moreover, while some areas are excluded from the regulatory field, in other areas, where mutual recognition would be beneficial, interim resolutions allow for adjustment prior to application of the principle.
- Determination of objective criteria by an ad hoc working group:
  - the requirements are those necessary for achieving the objective;
  - they are proportional to the desired goal;
  - there is no less restrictive means for achieving the objective.

The process:

- the principle is respected from the outset of any procedure;
- information and training for economic agents and more particularly for professional associations, by means of notice-and-comment. Their support is essential, because the weak spot remains the inadequacy of means for guaranteeing application of the standard;
- constant efforts at simplifying the process, primarily through the use of new technologies;
- assessing the cost/benefit ratio for measures taken, and potentially recentralising a process, for example establishing a national property registration filing system.

86. This principle can also be seen at work within the European Union. It ensures the free circulation of products within Community territory, by respecting equivalences in health and safety matters without the need to harmonise all technical requirements. Thus there is no need for a common act that would constrain national regulatory systems.

### ***3.4. Issues relating to dispute management***

87. One of the weaknesses of this type of regulation has to do with dispute settlement mechanisms. The courts do not feel themselves either empowered or equipped to intervene in terms of regulation.

88. Judicial oversight as it exists in many countries, where it is focused on enforcing standards without taking into account the economic dimension, is hardly an appropriate solution, regardless of the point at which it intervenes in the process.

89. In France, there is a procedure for controlling the legality of local government acts that brings the judicial authority into play *a priori*, since the prefect, the representative of the central government at the local level, can challenge in court any administrative or financial act that is contrary to law. Yet there is no provision for selectivity in deciding which acts to challenge, and this undermines the effectiveness of control, given the discrepancy between the number of acts that must be controlled and the number of persons assigned to that task. The quality of the regulation is not the focus of the instrument.

90. In Spain, control is exerted both *a priori* and *a posteriori*, but this raises the problem of the length of time during which juridical insecurity persists.

91. In this regard, multilevel governance is no exception to the rule, and the courts are not regulatory bodies. The question then arises as to whether decentralised, horizontal networks are needed to prepare



horizontal public policies, addressing the question of indicators and evaluations, to identify the cost-benefit ratio of each approach. Such networks could perhaps be regulated by independent authorities.

### **Conclusion and proposal for the final report**

92. Regulatory systems demand constant adaptation. The question of multilevel regulation, which is of growing importance, probably constitutes one of the principal lines of development of regulatory quality policies for the future. In a context of competition among legal systems, optimising regulatory quality requires that the multilevel dimension be taken fully into account, given its significant impact in terms of economic and social consequences.

93. This paper has served to illustrate the problems involved. The subject is however a very broad one, and it may be considered useful to focus on two points that could be the subject of particular examination in the final report:

- The relationship between the private and public sectors, in particular through public procurement and the concessioning of public services. In this field, regulatory quality is essential. On one hand, there are significant risks that regulation will be harmful, or that it will be hijacked by interest groups, or that it will foster corruption; on the other hand, too much formality will undermine the quality of the purchase in economic terms.
- Failure to enforce the law: mechanisms for prevention, control and sanctions must be appropriate to the multiplicity of stakeholders and must allow for their necessary interaction.

## GLOSSARY

This glossary is intended to define the terminology of multilevel governance in English and French. The words and phrases included in it were selected because they are "*faux amis*" ("false friends", words that appear to mean the same thing in both languages but that in fact do not), or because they have no exact equivalent in the other language, or because they are used in the text in a very specific way that requires explanation. The intent is to facilitate understanding of the studies on this topic, and the work of translators.

This initial list does not pretend to be exhaustive, and it will be supplemented as work on multilevel governance proceeds. It builds upon and carries forward work already undertaken by the GOV division.

**Regulatory Impact Analysis (RIA).** This is the process of identifying and quantifying all the significant impacts that may flow from adoption of a regulation. Costs are measured on the basis of a cost-benefit or a cost-efficiency analysis, or the impact on businesses.

**Regulatory competition:** the healthy influence that the interplay between different approaches to regulation can have within a defined territory. Observation of practices and differences of outcomes. To be contrasted with harmonisation.

**Decentralisation:** transfer of an administrative power from the central government to a local government (elected officials).

**Deconcentration:** delegation of an administrative power from the central to a local office or agency of a national authority. The central government retains full responsibility and intervention capacity.

**Deregulation:** complete or partial suppression of regulations governing a given sector, in the hope of improving economic performance.

**Regulatory evaluation:** measuring respect for laws and regulations in order to obtain information on their impact.

**Public governance:** optimising the management of institutional capacities and public decision-making. Establishment and strengthening of administrative structures that are effective, efficient, transparent and accountable to the citizens.

**Multi-level governance:** regulatory strategies and activities including development, execution, reform of regulation between government levels, supranational and sub-national (regions, provinces).

**Harmonisation:** convergence of legislation towards rules that, if not identical, are at least neutral (eliminating discrimination or direct market intervention).

European law illustrates this concept. A directive responds to the objective of "regulatory harmonisation and similarities in regulations". European states are bound by the declared goal but are free to choose the means for reaching it.

A rule is a measure of general scope, mandatory and directly applicable. It carries forward the unification of European law.

**Unfunded mandate:** when a higher (national) level imposes a standard for compliance on a lower level which can only be met through expenditure that is not allocated in a budget or grant.

**Best practices:** a set of standards for achieving regulatory quality.

**Mutual recognition:** recognition of equivalent measures intended to facilitate the movement of goods and persons within a given territory. It presupposes a close degree of equivalence and reciprocal confidence in the responsible institutions.

**Regulation** (*same word in French*): decisions and instruments implemented within the framework of public actions, directly or indirectly, to improve social welfare. Regulation includes laws and regulations but also administrative formalities, code of conduct, etc.

**Regulations** ("*Réglementation*" in French): Rights given to the State, local government or public authorities to adopt general rules (laws, decrees and orders) which are borne by businesses and citizens (universal and compulsory). This competence is generally based on the constitution and/or the law.

**Regulatory power:** power given to public authorities to adopt and enforce regulations.

**Regulatory reform:** changes aimed at improving the quality of regulations (improving the legal quality of regulations and of administrative formalities, or their cost-benefit ratio).

**Simplification:** covers administrative formalities and bureaucratic practices.

**Subsidiarity:** In areas which do not fall within its exclusive competence, the European Community shall take action, in accordance with the principle of subsidiarity, only if the objectives of the proposed actions cannot be achieved by the Member States or if its intervention is justified by economies of scale or by the expected impact of the policy (article 5 of the Treaty Establishing the European Community).

Country	Territorial organisation	Legal origin	Distribution of regulatory powers	Allocation of powers	Control systems
Korea	Mayors and council members have been elected since 1995.	Devolution of powers organised by the Basic Act on Administrative Regulation.	Regulatory powers and policies are concentrated at the national level. Informal consultation with the local authorities responsible for implementing regulations.	There is little duplication /overlapping of responsibilities.  Fees, charges and general transfers from the central government, and local taxes (on income and property). Inter-communal and inter-county financial equalisation.	Controls over government legality: -supervisory office (powers strictly defined by law) ; -Independent specialised appeal authorities (with recognised powers of annulment) ; -courts for questions of law. Ombudsman.
Denmark	Since the amalgamation of local authorities in 1970 and 1980: -273 communes -14 counties -2 "city counties" (Copenhagen and Frederiksberg )	LG autonomy is recognised by law.			
France	- 22 regions -100 <i>départements</i> -36779 communes (grouped into 120 <i>communautés d'agglomération</i> , 2033 <i>communautés de communes</i> ; 14 urban communities) + Dom-Tom (Overseas Departments and Territories)	The Constitution and laws (in particular the law of 7 Apr 2004 on local responsibilities).  Constitutional guarantee on the proportion of own funds and transfers.	Regulatory powers of the LGs (sharp inflation: the number of texts has risen by 40% in 10 years).	Overlapping in the fields of health and education. Clarification and rationalisation : - department = medical and social services ; -regions = determine and pay public assistance. Powers can be delegated to the departments and communes by means of conventions. Any transfer of powers includes a clause authorising the re-evaluation of resources (2003 reform).  The State sets local tax rates (except the business tax). LGs are demanding the right to levy specific taxes at each LG level.	Legal force of local acts is dependent on submission to the prefect (the State's local representative). local budgets can be challenged before the administrative tribunal and the regional court of accounts.

Country	Territorial organisation	Legal origin	Distribution of regulatory powers	Allocation of powers	Control systems
Finland	19 regions 1 autonomous province (Åland) 450 communes (270 cooperation bodies + 1 urban community, Helsinki).		State interference in the activities of the communes is strictly defined by law.		The provincial office of the State may: -issue injunctions to the LGs, upon receipt of a complaint, verify that an LG's acts are legal.  The Minister of the Interior examines the budgetary consequences of LG proposals.
Greece	1st level: 133 communes 900 <i>dèmes</i> (5900 LGs in 1997) 2 <sup>nd</sup> level: 7 <i>nomos</i> + 3 interdepartmental units. They became LGs in 1994 but there are questions about maintaining them.	Constitution	<i>Dèmes</i> and communes have regulatory powers.	Lack of clarity in the distribution of powers: of 40 regulatory areas, 28 are under the joint responsibility of the national, regional and local levels.  Budgetary: central government transfers, service fees.	The Constitution defines the central government's powers to control the legality of acts and to exert disciplinary control over individuals. The state representative at the regional level may annul acts of the regional executive and refer them to the commission responsible for overseeing the legality of decisions by collective bodies.  Lack of clearly defined dispute settlement mechanisms, reliance on agreements.
Hungary	Autonomous regions and municipalities.		The municipality regulates and runs some commercial services: water supply, urban heating, cemeteries, transportation.	Overlapping of responsibilities and lack of clarity in the functions and services for which the LGs are responsible.	

Country	Territorial organisation	Legal origin	Distribution of regulatory powers	Allocation of powers	Control systems
Ireland	Highly centralised country: 114 LGs, 8 regional authorities (councils: 79 city, 5 urban, 6 borough and 29 county).	Constitution (June 1999 amendment). Local government Act 2001 – came into force on 1 January 2002.  As of June 2004, county leaders and the mayors of the major cities will be elected directly.	The LGs have legally recognised powers to issue regulations, but they have legal force only after they are approved by the responsible Minister. The central government adopts regulatory measures that are binding on the LGs in most areas.	Overlapping of powers. New responsibilities: housing, environment, but responsibility for land-use planning is shared with specialised agencies. LG responsibilities for health transferred to the regional health offices.  Problem of competition with the private sector: the same LG can engage in productive activities, provision of services, and regulation.	The central government has important powers of control over the LGs.  Public procurement: central administrative approval is required before issuing calls for tender and awarding contracts.
Netherlands	12 provinces 496 communes (gradual elimination of communes with fewer than 8000 inhabitants: 1200 communes in 1851, 500 in 2000).		LGs have recognised regulatory powers in fields specified by law. Exercised collectively by the municipal council (law of 7 Mar 2002)		
Czech Republic	Regions Autonomous municipalities (no central government oversight).	Rapid transfer of powers. Disappearance of districts 31/12/2002	Legal distinction between exclusive powers and those delegated by the state. Financial transfers are inadequate.		Subordination to the Minister responsible for the exercise of delegated powers.
United Kingdom	Three levels: - districts and district councils (England 36 and 238, Wales, Scotland 32, Northern Ireland 26) ; - counties (England 34, Wales 8, Scotland 32); - sub-municipal level.	No constitutionally enshrined recognition of LGs.  Forms of central government control over the LGs determined by law.  A programme is underway to modernise structures and reform regulation.	The central authorities can confirm or reject laws adopted by the LGs.  Ceiling on tax rates. More than 80% of LG revenues are controlled by the central government.	Move to decentralisation following partial re-centralisation (reduced spending powers for the districts).	Prior ministerial authority required for sale of lands and buildings and for borrowings.  Building permit questions can be appealed to the Minister.

Country	Territorial organisation	Legal origin	Distribution of regulatory powers	Allocation of powers	Control systems
<p>Highly regionalised countries</p> <p>Spain</p>	<p>8100 communes 3679 sub-commune units 700 cooperation bodies 2 metropolitan areas (Valencia, Barcelona) 17 autonomous communities</p>	<p>Constitution spells out the exclusive powers of the State. Residual powers are assigned to the regions in their statutes of autonomy, or otherwise are exercised by the central government.</p>	<p>Legislative powers of the autonomous communities (delegated by the executive or parliament).</p> <p>Local governments have regulatory power (in their own right, or by delegation from the central government: scope, contents, duration, control stipulated in the act of delegation)</p>	<p>The Federation of provinces and communes is demanding more responsibilities in areas pertaining to the autonomous communities (urban planning, education, social services, training and employment).</p> <p>LGs: compulsory and optional taxes + remittance of taxes from the State.</p> <p>Subsidies have been reduced and local taxes are assuming a greater share in revenues.</p>	<p>Challenges to central government interests: -residual oversight (prior approval of acts by the State is gradually being replaced by <i>a posteriori</i> controls-demands for withdrawal/appeals to the administrative tribunal by the State or the autonomous community; - the State delegate's suspensive veto is maintained if the act poses a severe threat to the interests of Spain, -very limited powers of substitution.</p> <p>Challenges to local autonomy: appeals to the Constitutional Tribunal by the LGs.</p>
<p>Italy</p>	<p>20 regions (5 with special status) 103 provinces 8074 communes</p>	<p>Constitution. The subsidiarity principle has constitutional force.</p>	<p>In legislative matters, all powers not expressly reserved to the central government fall to the region : -powers concurrent with the State, obligation to respect fundamental principles if the law so requires ; -exclusive powers of the region.</p> <p>Provinces and communes : regulatory powers.</p>	<p>No formal State oversight over the LGs: informal control through financial instruments. The regions do not have power of this kind over the LGs.</p>	<p>Upon referral by the State, the Constitutional Court controls the constitutionality of local laws.</p>

Country	Territorial organisation	Legal origin	Distribution of regulatory powers	Allocation of powers	Control systems
Federal States					
Germany	16 <i>Laender</i> incl. 3 city states 14 865 communes 435 districts incl. 112 cities (embracing several communes).	The national Constitution defines Federal Government powers expressly; all others are reserved to the <i>Laender</i> , each of which has its own Constitution.	The <i>Laender</i> have their own powers of legislation, administration and jurisprudence. The communes have regulatory responsibility over all matters within their free administrative realms (within the limits established by federal law) and in other areas assigned to them by <i>Land</i> law (they apply 75% of Federal and <i>Land</i> regulations, and manage 2/3 of public capital spending).  Commune and district budgets, direct revenues and transfers from the State and <i>Land</i> (equalisation formula).	Mandatory inter-communal cooperation bodies (with their own and delegated powers).	Delegation of powers. The State oversees the legality of local government acts
Australia	6 states + 2 autonomous territories.				
Canada	10 provinces + 3 territories (provinces et territoires)				
United States	50 states  LGs are creatures of the states		The states enact laws and regulations in areas not expressly reserved to the federal government. The states have their own legislative powers and regulatory agencies. LGs have regulatory powers.		Citizens can challenge regulations in court, as to both procedure and substance.  Most regulations end up being appealed to the courts. The courts play an important role in defining the powers of each institution.
Mexico	Federal state. 31 states + the Federal District (Mexico City)	The Constitution.	Extended regulatory powers of the states (laws and <i>reglamentos</i> in force locally) and of the municipalities)		



Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
Denmark	<p>Inter-communal cooperation to achieve economies of scale, but few amalgamations</p>	<p>No central government oversight over counties and communes. The supervision bureau's powers are strictly defined by law.</p>	<p>The central government's control has been strengthened in several fields (the environment, for example).</p>	<p>Legislation establishes general, minimum objectives for local public services. Local governments (LGs) tend to develop highly detailed regulations within their areas of competence. Publicity for proposals relating to spatial regulations.</p>	<p>Contract-based, results-oriented management. Introduction of standards and initiatives for reducing transaction costs in public procurement (ICT, consulting services...). increasing resort to sub-contracting Consultative referendums on questions of local interest.</p>
France	<p>State/regions : - planning contracts that allow for co-financing.  Between communes : - Inter-commune associations for shared management of public services (water management etc.). - multiple platforms such as <i>pays, communautés d'agglomération</i>, association of French mayors.</p>	<p>Coordination mechanisms in place, but no mechanisms for guiding and controlling the delegation of power.</p>		<p>No "best practice" mechanisms for instilling regulatory quality at the local level.  An advisory committee has been created to evaluate the regulatory burden.</p>	<p>Experimentation tends to be the normal approach to the devolution of powers. Referendums may be held at local or citizen initiative to prepare the agenda for deliberative bodies.</p>
Finland		<p>Central government has few powers, relationships between local governments are regulated by the Association of local and regional authorities.  Mechanisms exist to ensure coherence and effectiveness for the different regulatory levels.</p>		<p>Efforts have been made to provide services at optimal cost to taxpayers.</p>	<p>Citizens have the general right of initiative. Local referendums can be held on any matter (5% of voters) .</p>

Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
Greece		State/communes : provisions for consultation and coordination through the prefect and the mayors, but mechanisms are weak.	Consultation of the <i>dèmes</i> and communes : -through their central union for draft laws affecting them; -directly, on regulations relating to environmental protection.		Citizen participation through specific bodies (district, electoral ward).  Local referendums possible but rare.
Hungary	Department and citizens: 1/3 of members of the economic and social commission are elected by professional, scientific and cultural organisations.	Coordination by the central government, through the territorial bureau, is weak. It verifies the legality of local government regulations (submission mandatory before promulgation, 1990 law/ grant of suspensive power now under review).		State provides LGs with the tools to improve regulatory quality.  Assistance and forums organised by the prime minister on regulatory policies (Association of mayors, officials and notaries).	
Ireland	Strategic planning committees responsible for developing local policies.		LGs are consulted when regulations are being prepared (1997 Public Management Act and Freedom of Information Act)  There is a policy to reduce formalities, but there is a lack of coherence between central government and LG demands.	Rules for the adoption of new regulations at the local level (local government bill).	
Netherlands	Inter-communal and inter-provincial cooperation in legally incorporated multiple-purpose bodies		LGs are consulted on the adoption of laws and regulations.		Consultative referendums can be organised by the communes or at popular initiative.
Czech Republic		Central government has taken the initiative to institute cooperation mechanisms between the LGs and the levels of government.		Definition of quality standards for the provision of public services.	

Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
United Kingdom		<p>Coordination usually takes place on a bilateral basis, but there are specific meetings of ministers of Great Britain, Scotland and Wales.</p>	<p>Publication of model laws.</p>		<p>Programme for optimising quality of local management:</p> <ul style="list-style-type: none"> <li>-direct management replaced by competition (housing, garbage, transport and education);</li> <li>-compulsory bidding has been replaced by best-offer shopping;</li> <li>-annual audit of local performance by the evaluations commission (education, environment, housing, social services, government assistance, recreation).</li> <li>Constant evaluation and improvement of performance and of democratic processes, in return for looser controls over LGs.</li> <li>Fears that the cost of control will exceed the benefit (procedural audit - white paper 2002).</li> </ul>

Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
<p>Highly regionalised countries</p> <p>Spain</p>	<p>Central govt./LGs cooperation via :</p> <ul style="list-style-type: none"> <li>- conventions,</li> <li>- coordination bodies with advisory powers (e.g. regional commission for local administration created by the State with the autonomous communities for investments and provision of services)</li> </ul>	<p>State/regions : 27 sectoral conferences chaired by the responsible national minister (since 1980).</p> <p>State/autonomous communities: Bilateral commissions (since 1999). Success in the environmental area.</p> <p>State/LGs have cooperation agreements to strengthen the institutional framework for preparing a programme to address a specific problem.</p> <p>Provinces/communes: -provincial parliaments approve a cooperation plan for works and services provided by the communes, -financing plans (with subsidies from the state and autonomous communities).</p>	<p>Central government sets minimum standards (LGs can adopt higher or supplementary standards).</p> <p>At State initiative, the LGs are consulted on draft laws and transposition of directives. Public information, public hearings, responses to complaints and suggestions.</p>		<p>Experimentation with the "tacit approval" rule: a cost-benefit analysis in Catalonia, followed by publication.</p> <p>Innovation in the provision of medical services (consortiums in Catalonia, semi-private agencies in Andalusia, public foundations in Galicia).</p> <p>Popular consultation possible for municipal affairs except for local finances (prior authorisation from government and support from an absolute majority of the municipal Council).</p>

Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
Italy	<p>The statutes of the Chamber of Regions make no reference to the principle of cooperation among LGs.</p>	<p>State/LGs :</p> <ul style="list-style-type: none"> <li>-service conferences and programme agreements (legal status uncertain) ;</li> <li>-standing conferences for coordination and consultation on standards.</li> </ul> <p>Between LGs:</p> <ul style="list-style-type: none"> <li>-union of communes (free constitution and definition of field of activity)</li> <li>-conventions, creation of consortiums.</li> </ul> <p>Many bodies for sectoral cooperation.</p> <p>A State financial transfer to the LGs (October 2001) sharply reduced the State's capacity to intervene in the LGs. Clear improvement in the financial situation of the LGs.</p>		<p>Regulatory powers lie with the regions, except for areas under exclusive State responsibility or where the regions fail to act.</p>	<p>Innovation programmes guided by the central government: LG power to propose, promotion of best practices, evaluation, training.</p> <p>Citizens or their associations can present proposals in areas of LG responsibility/consultative referendums.</p> <p>Ombudsman for all categories of regional bodies.</p> <p>Procedural accord: any person can intervene or make proposals regarding a procedure until a final, consensus-based decision on the final measure is reached.</p>

Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
Federal countries					
Germany	<p>Joint decision of the federal government and the <i>Laender</i> on assistance provided to major capital projects by <i>Laender</i> or communes.</p>		<p>Common rules of procedure require ministries to involve <i>Laender</i> representatives in preparing national laws and transposing EU texts.</p> <p>Consensus is the preferred route in legislative matters, since the Bundesrat (representing the <i>Laender</i>) can reject a bill from the Bundestag. The <i>Laender</i> are consulted in advance on ¾ of texts.</p> <p>Great diversity of management and regulatory practices. The federal government organises working groups and proposes good-practice guidelines to assist the LGs.</p>		
Australia	<p>Federal government representative and state/territorial Council of Ministers :</p> <p>-a joint secretariat fosters coordination and cooperation for arriving at uniform or harmonised legislative proposals.</p> <p>Coordination at the sub-national level.</p>	<p>Mutual recognition of standards for interstate commerce (Australia, New Zealand). Excluded areas: Customs control, intellectual property, specific international agreements and obligations. Permanent or special exceptions (prior interim resolutions).</p> <p>A working group responsible for applying mutual recognition to requirements posed by the use of goods and services.</p>	<p>Main sources of regulation: procedural manuals/good practices and standards.</p> <p>There are mechanisms for mutual recognition early in the process.</p> <p>Inadequate means to guarantee application of standards, despite harmonisation in the jurisdictional domain.</p>	<p>Standards : - exchange of information via ICT, - procedural notices -national Registry, after cost-benefit analysis.</p>	

Country	Cooperation	Coordination	Harmonisation	Regulatory Tools	Innovations
Canada		<p>Meeting of provincial first ministers at the invitation of the federal Prime Minister. Investment issues are coordinated by the Council of Ministers</p> <p>Special bodies have been created to promote coordination among the different levels of government.</p>	<p>National standards and mutual recognition. Applicable to all goods and services except those expressly excluded. .</p>	<p>Manual of procedures and best practices.</p>	<p>A committee to explore new public policy options. Electronic one-stop shopping for establishing a business.</p>
United States					<p>The states try out new regulatory practices before they are published (General rules for implementing tradable permits-agreement concluded in 1998).</p>
Mexico					<p>Cooperation agreements</p>