

**OECD LABOUR/MANAGEMENT PROGRAMME**

**BENCHMARKING FOR REGULATORY REFORM: IDENTIFICATION OF APPROPRIATE  
STANDARDS FOR ECONOMIC GROWTH AND EMPLOYMENT**

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

**ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT**

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(Paris, 7 July 1997)

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## **FOREWORD**

Under the OECD Labour/Management Programme for 1997, a meeting of management experts on "Benchmarking for Regulatory Reform: Identification of Appropriate Standards for Economic Growth and Employment" was held in Paris on 7 July 1997. The meeting was prepared in collaboration with the Business and Industry Advisory Committee to the OECD (BIAC).

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

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## **FINAL REPORT ON THE MEETING**

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### **PART I -- GENERAL OVERVIEW**

At their meeting in May 1997, Ministers of OECD countries welcomed the OECD Report on Regulatory Reform, and endorsed its policy recommendations. Ministers asked the OECD to conduct reviews of country progress on regulatory reform, beginning in 1998. The content and framework of such country reviews are currently being discussed within the OECD.

The principal objectives of the meeting were to obtain the views of business on:

- the objectives of the reviews of country efforts on regulatory reform (the Country Reviews);
- the structure of the Country Reviews, and, in particular, the roles of regulatory indicators and benchmarks within these reviews; and
- the choice of specific indicators and benchmarks within the Country Reviews.

A discussion paper, prepared by Mr. Scott Jacobs, Principal Administrator in the Public Management Service of the OECD (see Part II of this report) served as general guidance for the meeting [SG/RE/LMP(97)4].

## **PART II -- DISCUSSION PAPER**

### **1. Introduction**

Country Reviews should contain, where possible, concrete benchmarks describing good regulatory practices, that will serve as starting points for the assessment of regulatory reform in each country.

The core principle for policy-relevant benchmarking is that inputs (regulations, processes and policies) should be associated with outcomes (policy effectiveness and economic performance). Another key consideration is significance.

OECD recommendations will necessarily be directed at four basic regulatory inputs: regulatory and reform policies; regulations; regulatory processes; and related policies (such as competition policy).

Regulatory outcomes can also be benchmarked (such as measures of economic efficiency and policy effectiveness); but there are few suitable measures of performance across countries.

### **2. Possible Regulatory Benchmarks**

It is difficult to develop “good practice” benchmarks that are both policy-relevant and significant. In the first place, our understanding of the regulatory input-outcome relationship is generally not very good, and is highly inconsistent across different areas. The second problem is that measuring relevant regulatory inputs is not easy. Another problem is that selective benchmarks may overlook the larger regulatory and policy environment. Hence it is likely that benchmarks will be an important but not the central element of reviews.

One way forward may be to formulate general principles of input-outcome relationships based on best available evidence and to develop benchmarks applying those principles. In this case, the seven general principles, included in the Report to Ministers, would be elaborated into concrete benchmarks of specific regulatory inputs.

Three conditions are necessary and sufficient to develop concrete benchmarks of good regulatory practice:

- (i) there is enough agreement on regulatory input-outcome relationships;
- (ii) relevant regulatory inputs can be feasibly measured; and
- (iii) context and linkages either are not significant or can be easily assessed.

Elimination of economic regulations is probably the easiest recommendation to benchmark under condition (i). Benchmarks can be developed, in particular, in the telecommunications, professional services and electricity sectors.

Under condition (ii), benchmarking of regulatory processes is well-advanced due to the Regulatory Quality review that PUMA is currently developing.

### **3. Regulatory Benchmarks as part of a broader Review Framework**

Benchmarks cannot function as a “report card”. They should be supplemented with a great deal of expert judgement and contextual information, to establish the proper direction for reform, in each country. The benchmarks can, however, function as the basis of consistent assessment and reporting in Member countries. Issues on which the OECD is unable to develop benchmarks can be considered on the basis of common questions and expert judgement.

Information collected through the Country Reviews can also be used to develop comparative regulatory indicators for the final synthesis report.

### **PART III -- SUMMARY OF THE EXPERTS' DISCUSSIONS**

At their session on 7 July 1997, the experts discussed a wide range of topics. Hence, this summary does not claim to be exhaustive. It seeks, however, to highlight these points on which there was a reasonable level of agreement.

Participants recognised that the process of regulatory reform is a sub-set of the much wider process of governmental reform. However, it touches all parts of government and many interest groups. Hence any programme of reform must be carefully planned and managed, in conceptual and practical terms.

#### **1. Scope of Country Reviews**

Country Reviews should:

- *recognise the specific economic (competitiveness, growth and employment) and non-economic (social, health and environmental) objectives of society in individual countries.*

Each Country Review should include a simple statement of the “political” objectives of the country.

This is important because country objectives vary, reflecting differences in cultural backgrounds and in the pace and level of economic development.

- *cover all regulations and regulatory systems in each country, including “alternatives” to regulation.*

Country Reviews should include regulations developed and implemented by government agencies and NGOs (non-governmental organisations), in addition to those developed and implemented by legislatures and executives at national, regional and local levels. They should also include alternatives, such as voluntary agreements between the public sector and the private sector.

This is important because it is the cumulative effect that impacts on society overall, and the business community in particular.

- *identify the burden of existing regulations at sectoral and national levels.*

This should include compliance and other direct and indirect costs. It should also include all costs incurred by the public sector and the private sector. Participants stressed the importance of including economic costs as a result of market imperfections. They also highlighted the increasing burden arising from social and environmental regulations.

This is important because it is the total impact of regulations, in individual sectors and throughout the economy overall, that influences society in general, and the business community in particular.



- *concentrate on a few priority areas for change.*

The four global priorities identified at the workshop (from the seven listed in the OECD Report on *Regulatory Reform*) are:

1. Adopt, at the political level, broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.
2. Ensure that regulations and regulatory processes are transparent, non-discriminatory and efficiently applied.
3. Review regulations systematically, to ensure that they continue to meet their intended objectives efficiently and effectively.
4. Reform economic regulations in all sectors to stimulate competition, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests.

These should be compared with best practice systems, using the Checklists and the Guidelines produced by the OECD. Participants emphasised, in particular, the importance of monitoring the effective use of tools such as cost benefit analysis and risk impact assessment, and techniques such as “sunset clauses” and post project reviews.

Priorities 1 and 2 were chosen because they emphasise the process by which regulations are developed and implemented, rather than specific regulations that may “threaten” special interest groups. Participants recognised that it is easier to ensure that future regulations are developed and implemented effectively, than to change existing regulations.

A key to realising Priorities 3 and 4 is to agree with interested parties a set of criteria for choosing priorities for reform. These could, for example, be based on the extent to which reforms are likely to contribute to achieving the political objectives of the country. Participants noted that achieving Priority 4 might bring the greatest short term benefits, but might provoke the most hostile reaction from special interest groups.

Participants considered that, even within these broad areas, it was important to focus on a few key priorities because greatest benefits can be obtained from relatively few changes.

- *provide member States, where culturally appropriate, with concrete recommendations for change, including targets for improvement, with associated time-scales.*

These should be realistic and take account of the gap between the practices in an individual country and “best practices”. They should also take account of differences in cultures, legal systems and business practices.

Targets should be reviewed regularly to reflect performance and changes in best practices.

Targets are important because they determine the scale of regulatory reform.

- *highlight the “successes” of regulatory reform.*

This should include examples of the beneficial effects of regulatory reform on performance. Participants commented that it is likely that these examples will be sector-specific rather than economy-wide.

This is important because it will help to mobilise political support.

- *draw lessons from failures in reforming the regulatory process.*

Many initiatives fail because they are too ambitious. Some fail because there has been no prior agreement on the need for reform. Others fail because they do not take sufficient account of the interests of all the stakeholders. Well planned, widely agreed, phased programmes of regulatory reform have, in general, been the most successful.

The participants in the workshop considered that it was important to learn lessons from failures as well as successes. This will enable countries to avoid the same mistakes.

- *monitor performance, over time.*

This should include reports on inputs (regulatory regimes and processes) and on outputs (economic performance). It should be based on progress on the agreed (common) indicators, agreed best practice benchmarks and, where appropriate, agreed recommendations for action.

This is important because regulatory reform is a long-term process.

## **2. Critical Success Factors for Country Reviews**

Participants considered that the necessary conditions for successful Country Reviews were:

- *political leadership and support from national governments.*

This is the key to successful regulatory reform. Participants considered that governments should make a member of the cabinet responsible for leading the process and should ensure that all members of the government are committed to implementing the reform programme.

- *satisfactory involvement with the private sector at national level.*

LSEs and SMEs (large- medium- and small-sized companies) should be involved in the process directly and through industrial and employers’ organisations. Other stakeholders should also be involved in the process. Information about attitudes should be obtained directly from these stakeholders (including individual employees and individual members of society) as well as from their representatives (such as trade unions and other special interest groups).

Participants stressed the importance they attached to involving SMEs effectively in the process. They pointed out that, if SMEs are able to cope with a regulation, LSEs will also be able to cope with it; but the reverse is not true.

- *the establishment of clear links between “inputs” (such as changes in regulations and the regulatory process) and “outputs” (such as improved performance).*

This is another critical success factor. Evidence should be produced to demonstrate direct links between regulatory reform and performance, using case study evidence, where possible. Participants cautioned against trying to “prove the unprovable” by claiming specific results from specific reforms. Participants commented that, for the most part, the best that can be done is to indicate what certain kinds of reform taken together, produce what general results, given certain assumptions about the environment.

- *the identification of suitable indicators.*

A common set of indicators should form the basis of comparison between countries and over time. They should be developed for each of the individual areas of study. They may cover qualitative and quantitative factors, but they should be expressed, wherever possible, in quantitative terms.

Participants considered that the OECD should define the initial indicators on the basis of the best information at the time; but they recognised that further indicators would emerge over time, during the Country Reviews.

- *the effective collection of information.*

Information should be collected, as appropriate, from the public sector and the private sector, and from large and small companies and individuals. Survey questionnaires should be used, where necessary.

Participants recognised that data collection in the area of regulatory reform is difficult, but they stressed that work on the Country Reviews should not be delayed until “perfect” information is available. The first reviews should be based on the best information currently available. However, a consistent set of definitions should be developed for each of the indicators, so that comparability can be improved between countries and over time.

- *the establishment of generally acceptable global benchmarks;*

Benchmarks can help the process of regulatory reform:

- by convincing the public and the governments of individual countries, of the need for regulatory reform and the direction of that reform;
- by encouraging action;
- by focusing on targets for improvement; and
- by monitoring progress over time.

Benchmarks should include input benchmarks (normally, regulatory regimes and processes) and output benchmarks (normally, economic and non-economic measures). They should be quantitative, as far as possible, but they can be qualitative, where necessary.

They should be developed, initially, using the information available to the OECD. Participants considered that it was likely that the best benchmarks would come from Australia, Canada, the Netherlands, the United Kingdom and the USA. They can be improved subsequently from information obtained during the Country Reviews.

Participants drew attention to the comparative data included in the annual competitiveness reports of the World Economic Forum and IMD, and in the report on “The Economic Freedom of the World”.

Benchmarks are policy-neutral and constitute a starting point for consultation; they are not the sole justification for action. Benchmarks should be used in a flexible fashion, because countries have different social and economic objectives and different cultures, legal systems and business practices.

Examples of possible benchmarks for priorities 1-4 are attached.

- *effective co-operation within the OECD.*

Regulatory reform has horizontal and vertical dimensions. Country reviews must therefore use the expertise available to the OECD, on both dimensions.

- *careful phasing of the reviews, with adequate resources.*

Pilots should be undertaken to test the methodology. Participants suggested that one ‘leading’ country and one ‘lagging’ country should be chosen for piloting. Alternatives are to concentrate on specific sectors (such as chemicals) and on specific themes (such as “starting a business”)

Time should then be taken to absorb the lessons of the pilots, before moving forward, at a measured pace.

Participants considered that the reviews should be undertaken on a regular cycle, every 3 or 4 years.

The speed and the depth of the reviews will depend on an adequate level of resources to the task. Participants suggested that the OECD should work closely with other organisations with similar interests.

Country Reviews should be published within a reasonable time from completion.

## ANNEX I -- EXAMPLES OF BENCHMARKS

- |      |  |          |
|------|--|----------|
| 1.   | <i>Adopt, at the political level, broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.</i> |          |
| 1.1  | The existence of effective and credible mechanisms for managing and co-ordinating the reform process.  | (Scale)  |
|      | The existence of unique, clearly defined responsibilities for each regulatory authority.   | (Scale)  |
| 1.2  | The extent to which the regulatory process incorporates the 1995 OECD “Recommendation on Improving the Quality of Government Regulation”.      | (Scale)  |
| 1.3  | The existence of public statements of reform goals and strategies.   | (Scale)  |
| 1.4  | The extent to which reform programmes have been adopted at all levels of government.   | (Scale)  |
| 2.   | <i>Ensure that regulations and regulatory processes are transparent, non-discriminatory and efficiently applied.</i>                           |          |
| 2.1  | The extent to which consultation is transparent and effective  | (Scale)  |
| 2.2  | The extent to which regulations are codified and accessible.   | (Scale)  |
| 2.3  | The extent to which implementation and enforcement is transparent and non-discriminatory.  | (Scale)  |
| 3.   | <i>Review regulations systematically, to ensure that they continue to meet their intended objectives efficiently and effectively.</i>          |          |
| 3.1  | Total cost of regulations:   | (\$US m) |
|      | compliance costs   |          |
|      | other costs: economic regulations  |          |
|      | social regulations   |          |
|      | environmental regulations  |          |
|      | “Value” of regulations reviewed  | (%)      |
|      | Cost-savings achieved  | (%)      |
| 3.2  | Total number of regulations  | (No.)    |
| 3.3. | Number of regulations reviewed.  | (%)      |
| 3.4  | Extent to which regulatory impact analysis is used in the reform process.  | (Scale)  |
| 3.5  | Number of regulations subject to automatic review.   | (%)      |

4. *Reform economic regulations in all sectors to stimulate competition, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests.*

4.1	Number of economic regulations that inhibit competition	(No.)
	“Cost” of regulations	(\$US m))
	Number of regulations reviewed	(%)
	Number of regulations eliminated	(%)
	“Value” of reforms	(%)
4.2	Number of sectors in which there is little effective competition (Share of GDP)	(%)
	Number of sectors in which the intensity of competition has been improved (Share of GDP)	(%)
	Number of sectors in which publicly-owned companies are present (Share of GDP)	(%)

## ANNEX II -- LIST OF PARTICIPANTS

### MANAGEMENT EXPERTS

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