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Regulatory Policy at the Crossroads – Towards a new Policy Agenda

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Guiding the Road to Recovery and Growth

The peer review of regulatory practices in the European Union: Key findings and next steps

The European Commission has, over the last decade, deeply reformed its approach to regulatory policy. It is now at the forefront in terms of better or smart regulation, as recognised by many experts and international organisations - not least of which the OECD. But there is no room for complacency. To the contrary: with the adoption on 8 October 2010 of the Communication on "Smart Regulation in the European Union" the Commission stepped up a gear. Better regulation must become smart regulation and be further embedded in the Commission's working culture.

However, the full benefits of smart regulation will not come to EU economies and citizens if public authorities throughout Europe do not fully contribute. Smart regulation indeed is and will remain a shared responsibility of EU institutions and of the Member States.

This is why the European Commission asked the OECD to assess the strengths and weaknesses in the regulatory practices of the 27 EU Member States. The objective was not to "blame and shame" the Member States but to do this in partnership and help them in designing their national reform strategies under the Lisbon strategy, also known as the EU agenda for growth and jobs. The ambitious objectives of this strategy have been revamped and integrated in the "Europe 2020" initiative which calls for smart, sustainable and inclusive growth.

The peer review was conducted through two successive programmes:

- the EU/ OECD / SIGMA initiative covering the 12 States, mainly from central and eastern Europe, which joined the EU in 2004 and 2007; and
- the programme of the Regulatory Policy Committee comprising the 15 older EU Member States

This work is almost completed as a result of the good cooperation of a large number of experts, officials, politicians, academics and interested stakeholders from all over Europe. The task of the Secretariat of the OECD "Regulatory Policy Committee" and the peers was indeed not easy, but they collectively delivered excellent work over the last years. We now have a very good picture of the progress achieved in all EU Member States and the areas that still need to be further improved.

What are the main findings from this exercise?

Generally speaking, there is <u>no "one size fits all" solution</u> in terms of regulatory management and Smart Regulation strategy. There are however <u>basic principles to respect</u> – such as those laid down in the OECD principles of 2005 - in order to deliver tangible results.

The reports also show that <u>Better Regulation</u> and regulatory management have <u>now become a reality in all EU countries</u>. This is a major step forward. Indeed few believed some years ago that a consensus on the topic was possible, owing to the different legal orders, as well as cultural and administrative traditions in our member States.

Critical weaknesses have nevertheless been identified and still need to be addressed in a number of EU countries – even in those which lead the way in developing policies, structures and tools to enhance governance, transparency and rule making efficiency.

Among these, important problems are:

- the revision of existing rules and the preparation of new ones, which are often managed through separate processes;
- regulatory reform initiatives, that are insufficiently linked to high level economic, social and environmental goals;
- problems of coordination within central governments, often resulting from the transfer of competences to sub-national(regional) levels and/or specialised agencies;
- the widespread failure to make an impact assessment of new regulations.

Other problems relate to:

- inadequate evaluation of the performance of Better Regulation programmes;
- uneven political support which has a negative effect on the resource allocations, required to bring about the necessary cultural change;
- deficiencies in the consultation of stakeholders and underdeveloped strategies to communicate on Better Regulation programmes and results.

What next?

The OECD reports contain useful recommendations for each EU member State. For most countries, it will be quite challenging to implement these recommendations, but everyone should rise to the challenge for the good of our common competitiveness.

As for the European Commission, it will continue to examine these recommendations and, where appropriate, discuss with Member States how best to implement them. Achieving a certain degree of convergence in the area of Better / Smart Regulation is indeed an integral part of the objectives pursued by the Europe 2020 competitiveness agenda.

The Regulatory Policy Committee of the OECD will no doubt contribute to the realisation of further progress with regard to Smart Regulation at international level.

In that context its new priorities are most welcome. It will be particularly important to intensify analysis and exchange good practices regarding:

1) international regulatory cooperation;
2) regulatory coherence within decentralised systems;
3) data on the link between regulatory management and economic performance.

First of all, the European Commission has been active for many years on <u>international regulatory co-operation issues</u> and has launched important initiatives with EU's main trading partners. There is much to be learnt from horizontal and sector-specific regulatory dialogues with among others the US, Canada and Japan , on key policy areas such as financial control, energy efficiency, climate change, or product safety and health standards. It would be good for the international community if the OECD could agree on practical guidelines concerning these and other issues.

The second big challenge is to (re)establish regulatory coherence across multi-level governance structures. Decentralisation to sub-national authorities and agencies delivers clear advantages in terms of democratic legitimacy or technical expertise. Agreeing on common efficiency principles and guidelines would however minimise the risk of incoherence and inconsistency. Such guidelines would help to prevent the surge of new technical barriers which generate increased costs for businesses and citizens.

And thirdly, there is a need to pursue research on the difficult and multi-faceted relationship between regulatory management and economic performance. The OECD and the Commission, with their pilot projects on qualitative and quantitative regulatory indicators, have created a strong basis on which to build. Operational methodologies need to be agreed and databases built to be able to make timely strategic changes in our regulatory policy.

Conclusion:

Streamlining regulatory frameworks is a continuous process without an end date. It requires political commitment, comprehensiveness, dedication and coherence over time. In the EU, we are now at a stage where significant progress has been achieved but nevertheless with a lot of work still ahead of us. This leaves no room in the coming years for any scaling down of attention or commitment to pursuing regulatory reforms. The European Commission continues to be actively committed to further contribute to the important work of OECD on this topic.

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