

Regulatory Policy at the Crossroads Towards a New Policy Agenda

OECD Conference Centre
Paris, 28-29 October 2010

Programme



| BertelsmannStiftung





Dear Participant,

Welcome to the first OECD Conference on Regulatory Policy. This Conference offers an invaluable opportunity to redefine the agenda in the regulatory field at a time when the role of regulations is under increased attention in the aftermath of the crisis.

Regulatory and structural reforms are urgent not only to restore sustained and sustainable growth, but also to better adapt policies and institutions to the challenges of the 21st century.

Through its analysis, peer reviews and its role as a “standard setter” on regulatory policy, the OECD can make a major contribution in this field. This conference will address many important issues, including how to set criteria and targets for better regulations, how to improve evidence-based decision making, and how to build support for an agenda which cuts across ministerial responsibilities, levels of government and national borders.

This Conference in Paris crowns a two-year project of co-operation with the European Commission to carry out regulatory management reviews of 15 EU member states. It is organised with the support of the Agency for Administrative Simplification, Belgium (ASA) and the Belgian Presidency of the Council of the European Union, the Bertelsmann Stiftung, the European Commission and the Board of Swedish Industry and Commerce for Better Regulation (NNR).

The discussions at this first OECD Conference on Regulatory Policy will provide a forum for global dialogue on regulatory issues. They will also help build the necessary understanding of the importance of what is at stake in getting the regulatory framework right.

I look forward to a very fruitful discussion.

Yours sincerely,



Angel Gurría
Secretary-General, OECD

Context and goals of the meeting

A broader framework for regulatory policy

This conference is held at a time when regulation is more than ever in the spotlight, in the news and on the minds of high-level policy makers. The importance of regulatory policy is increasing with higher expectations of results. Recent critical events compel governments to develop their strategic foresight capacity, to better anticipate, and to respond to complex dynamic challenges. Economic, social and environmental challenges have to be addressed jointly with core questions as to what to regulate, when and for whom. As OECD economies exit from the crisis and because fiscal levers are more constrained, regulation receives increased attention. OECD countries face low growth, pressures to increase productivity, fiscal constraint, increasing frustrations over regulatory barriers, and more complex policy agendas to promote innovation and green growth. Yet, crises also offer opportunities that need to be seized. Assumptions are shaken about self regulating markets. Politicians and the public are raising questions about what to regulate and how to close regulatory gaps, with a risk of overly restrictive and reactive regulations. Therefore, better regulation becomes more important to help governments pursue policy coherence, manage risk, and improve competitiveness.

A timely agenda for regulatory policy

The conference offers a timely opportunity to redefine the agenda for regulatory policy with a forward-looking perspective. Regulatory policy has evolved to form a set of principles and a discipline of regulatory management that produce better regulation and reduce regulatory burdens to foster economic recovery and productivity. Regulatory management is now a permanent feature of government, one that is central to their overall performance and ability to meet the expectations of citizens, business and civil society. It fosters a transparent process that analyses impact and risk for informed decision making.

Yet, as countries emerge from one of the deepest financial and economic crises, governments cannot afford to resume business as usual. Regulatory management to fully achieve its intended results must be supported by strengthened regulatory governance based on competence, vigilance and dedication to the public interest. This combination would promote a robust regulatory environment for growth and help win back consumer confidence and trust in government.

As a result, regulatory policy stands at a crossroads. New issues are emerging which require new institutional, political and analytical insights, and proper accountability mechanisms. Regulatory policy must be backed by effective regulatory governance, institutions and agencies, with the mandate, leadership and strength to apply oversight and necessary enforcement to maintain integrity and promote public trust. The institutional dimension, which is underpinning many of the sessions in the programme, represents a core aspect of any discussion of governance. A shift in focus, integrating regulatory management with regulatory governance follows from the simple recognition that optimal social outcomes depend on the collaborative actions of private institutions as well as government agencies. The conference will offer a number of opportunities to discuss this new balance, between the management as well as the governance aspects, their policy implications, and the role for the OECD in the future.

OECD's contributions to regulatory policy

Since the 1997 Ministerial Report on Regulatory Reform, the OECD has played a pioneering role in bringing the issue to the fore, calling attention of policy makers in member and non member countries. The horizontal approach is reflected in the mandate of the OECD Regulatory Policy Committee created in 2009. Since 2005, the OECD has also conducted pioneering work to strengthen competitiveness in Mexico, reviews of regulatory reform in Australia, Italy, Russia, Sweden and Switzerland, as well as the monitoring reviews of Korea, Japan, and further engagement with APEC economies. The OECD has also extended and consolidated its indicators of regulatory management systems. In addition, the Organisation is currently finalising a full set of reviews of regulatory management in selected Member States of the European Union at the invitation of the European Commission.

At a broader level, the OECD itself is also changing, with expanded membership and a broader international perspective. To date, the organisation has conducted reviews of Brazil and China. Steps have been taken towards enhanced engagement on regulatory reform, deepening policy dialogue with India, Indonesia and South Africa. Working groups focused on several aspects of regulatory policy are currently active under the MENA initiative. In the recent past, similar groups have functioned in South East Europe. The OECD has also engaged with APEC at a broad level. The range of countries covered and the innovative aspects of the work need to be brought to the attention of a larger public.

As a general point of reference, this conference is an opportunity to discuss the policy implications from the synthesis report ***Regulatory Policy and the Road to Sustainable Growth*** which draws on findings from the recent project on trends in regulatory management in selected EU Member States, as well as on all the recent OECD reviews and work carried out on Regulatory reform. This conference should serve the OECD's strategic vision to "rally" a broader number of countries and policy constituencies to the goals of quality regulation. Finally, this conference is a forum for discussion to reshape the OECD principles for regulatory policy, building on the 1995 reference checklist and the *2005 Guiding Principles for Regulatory Quality and Performance*.

Conference Website

Participants are invited to check the conference website, where all conference material will be made available.

www.oecd.org/regreform/policyconference

Partnerships

The event has been organised by the OECD in joint partnership and with the support of:

- The Agency for Administrative Simplification (ASA) and the Belgian Presidency of the Council of the European Union
- The Bertelsmann Stiftung
- The European Commission
- The Board of Swedish Industry and Commerce for Better Regulation (NNR)



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Thursday 28 October 2010	
8:00	<i>Registration and welcome coffee</i>
9:15-11:00	<p>Plenary Session Regulatory Policy, Better Rules for a New Game</p> <p>The first plenary session aims at presenting a dynamic discussion of the challenges involved in setting Better Rules in the aftermath of the crisis, and how regulatory policy can move towards a new policy agenda.</p> <p>This session will be moderated by Mr. Gary Banks, Chairman, Productivity Commission, Australia</p> <p>High-level Roundtable</p> <ul style="list-style-type: none"> » Mr. Angel Gurría, Secretary-General, OECD » Mr. Vincent Van Quickenborne, Minister of Economy and Reform, Belgium » Mr. Kenneth Bengtsson, Chairman of the Confederation of Swedish Enterprise » Dr. Marianne Klingbeil, Director for Better Regulation; Acting Chair of the Impact Assessment Board, Secretariat-General of the European Commission » Dr. Gunter Thielen, Chairman of the Board, Bertelsmann Stiftung » Mr. Adam Jasser, Undersecretary of State, Secretary of the Economic Council, Prime Minister's plenipotentiary for the Reduction of Bureaucracy, Poland
11:00-11:30	<i>Coffee break</i>
11:30-13:00	<p>Plenary Session Regulatory Policy, Guiding the Road to Recovery and Growth</p> <p>This session will set out the strategic results from the OECD synthesis report and open a first general discussion, opening the debate on the challenges highlighted by the report.</p> <p>Chair » Mr. Rolf Alter, Director, Public Governance and Territorial Development, OECD</p> <p>Introduction » Ms. Caroline Varley, Project Manager, Public Governance and Territorial Development, OECD</p> <p>Panelists » Mr. Martin Tlapa, Deputy Minister, Ministry of Industry and Trade, Czech Republic</p> <p>» Ms. Viola Groebner, Director, Industry Policy and Economic Reforms, Directorate General Enterprise and Industry, European Commission</p> <p>» Mr. Michael Fitzpatrick, Associate Administrator, Office of Information and Regulatory Affairs, United States</p> <p>» Mr. Tadahiro Asami, Secretary General, Business and Industry Advisory Committee (BIAC)</p>
13:00-14:30	<i>Lunch</i>

14:30-16:00	Regulatory Management Achievements and Emerging Challenges			
Breakout sessions	Session A1 <i>Ex post</i> evaluation: closing the policy cycle	Session A2 Building a competitive and business-friendly environment	Session A3 Better regulation for green growth	Session A4 Simplification strategies through e-government
16:00-16:30	<i>Coffee break</i>			
16:30-18:00	Regulatory Governance The New Frontier			
Breakout sessions	Session B1 Governance in regulatory oversight	Session B2 Social impacts of regulations	Session B3 Regulators and the regulatees: being friendly without being cozy?	Session B4 Open government towards user-centered regulation
18:00	<i>Cocktail</i>			

1:00 - 18:00	Session P <i>Expanding the Scope of Regulatory Policy and Practice</i>
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Friday 29 October 2010	
9:00-10:30	Towards Policy Coherence for Sustainability
Breakout sessions	Session C1 International regulatory co-operation Session C2 Mapping sustainability in policy making Session C3 Addressing risk in regulatory policy making
10:30-11:00	<i>Coffee break</i>
11:00-13:00	Final Plenary Session Regulation: the Challenge to Govern Better Learning from Failures to Prepare for the Future The roundtable will offer an opportunity to discuss strategies ahead and the role of the OECD in furthering quality regulation in the medium term, integrating regulatory management with regulatory governance to form a new framework for regulatory policy.

Ex post evaluation: closing the policy cycle

The assessment of *ex ante* regulatory impacts improves policy design but it only constitutes one part of regulatory management. Institutionalising accountability and results in regulation may need to be adjusted to practical outcomes after policy implementation. Closing the loop is essential if regulatory policy is to be performance-driven and politically accountable. This requires ensuring that *ex ante* impact assessment foresees the need of future *ex post* consideration of regulatory impacts. A fully integrated approach to regulatory policy therefore needs to include considerations for *ex post* evaluation at an early stage, with a full approach of regulations “from cradle to grave”. This is essential as sun-setting clauses can only be effective if accompanied by a requirement for *ex post* evaluation. These should be associated with a cycle of periodic reviews of the stock of existing regulations to ensure that the instruments are still achieving their intended objectives and to identify needed adjustments.

While significant efforts have been made to foster the adoption of RIA and other tools, the investment in *ex post* evaluation has been more modest. The issue was only sporadically addressed as part of OECD work, with the latest attempt through an expert meeting held in 2002. This session will offer an opportunity to take stock of recent efforts and approaches to consolidate *ex post* evaluation. Some countries have played a precursory role in fostering *ex post* evaluation, often with the active involvement of supreme audit institutions. Participants will also have the opportunity to discuss strategies to ensure that regulatory policy can be subject to performance requirements similar to those applying to other policies.

- How can governments implement evidence-based, outcome-oriented approaches in regulatory policy? What role should performance indicators play in this context?
- What are the institutional conditions for proper *ex post* evaluation and performance assessment of regulatory initiatives? How can it link to clauses for sun-setting?
- How can the need for *ex post* evaluation be integrated in the policy process from the start?

Chair: **Mr. Jean Maïa**, Chef du service de la législation et de la qualité du droit, Secrétariat général du Gouvernement, France

Speakers:

- » **Ms. Susan Page**, Deputy Secretary, Ministry of Finance and Deregulation, Australia
- » **Mr. Chris Shapcott**, Director, Regulatory Reform, National Audit Office, United Kingdom
- » **Ms. Sara Hector**, Acting Head of the Evaluation Unit, Secretariat General, European Commission

Building a competitive and business-friendly environment

Simplification programmes to reduce the time and resources that businesses have to spend complying with regulation are widely recognised as a strategy for creating a business friendly economic environment and for achieving faster rates of productivity growth. Over the last decade, many OECD countries, particularly in Europe, have focused on reducing the time businesses spend satisfying information obligations, or administrative costs as defined in the Standard Cost Model. Perceptions of improvement through regulatory reform programmes need to be proportionate to the investment in simplification efforts. The perception exists among businesses that the efforts to reduce administrative burdens have not had as much impact as had been hoped. The imperative is to ensure that these programmes, and the underlying reduction of administrative costs, are actually helping to increase productivity.

Administrative simplification policies require a broad focus, beyond information obligations, to ensure that regulatory costs and irritants of concern to business are fully addressed. This may call for a fresh look at future strategies for simplifying regulation. Delivering real change for business requires a focus on aspects of regulation and compliance which are most burdensome. This session will offer an opportunity to discuss these aspects and as well as possible options for widening the focus of efforts to reduce regulatory costs to business burdens.

- What are business' views of results achieved by government in the area of regulatory simplification, and what are the priorities in terms of further efforts to cut red tape?
- How can simplification make a real difference for competitiveness and productivity growth?
- How can a broad approach be adopted to address the most burdensome compliance costs?

Chair: **Mr. Jens Hedström**, President, Board of Swedish Industry and Commerce for Better Regulation (NNR)

Speakers:

- » **Mr. Stephan Naundorf**, Advisor to the Minister of State, German Federal Chancellery, Germany
- » **Mr. Felipe Duarte**, Vice-Minister for Competitiveness, Mexico
- » **Ms. Geneviève Pons-Deladrière**, Head of Unit, Secretariat-General of the European Commission
- » **Mr. Alexander Ehmann**, Head of Regulation and Enterprise Policy, Institute of Directors (IoD), United Kingdom

Better regulation for green growth

Regulation, in addition to taxation and expenditure, is one of the key levers that governments can use to promote Green Growth. Quality regulation can be an enabling factor to foster and implement a green growth agenda, facilitating the adoption of more efficient innovative technologies. Poorly designed or applied regulations may prove detrimental and impose significant costs. Therefore, regulatory design matters to facilitate the adaptive process throughout the economy, and stimulate growth in cleaner sectors. At the same time, regulatory instruments intended to stimulate the take up of green technologies may inadvertently constrain market dynamics and lead to inefficient and ineffective solutions. Furthermore, without proper oversight and a sound regulatory policy, there is a risk of regulatory incoherence and overlap between new green-growth related regulatory proposals and the stock of existing regulations.

The framework of regulatory policy plays an important role in ensuring that the use of regulation to stimulate Green Growth is efficient and coherent with government-wide objectives. This session will emphasize this role and provide an opportunity to discuss some of the key implications of Green Growth strategies for regulatory policy. The session will address the issue of policy coherence of regulatory initiatives related to Green Growth, as well as the need to reform of the stock of existing regulations through periodic reviews.

- How can governments ensure that their policy initiatives and regulatory frameworks are well co-ordinated in the context of implementing green growth strategies? How can policy makers maximise policy coherence for this new agenda?
- What is the role of regulatory quality instruments in the implementation of green growth strategies? How can they help to achieve intended objectives at a lower cost?
- Can existing regulatory frameworks and institutions ensure the smooth implementation of a green growth agenda? If not, what needs to be changed?

Chair: **Mrs. Catharina Håkansson Boman**, State Secretary,
Ministry of Enterprise, Energy and Communications, Sweden

Speakers: » **Prof. Jason Johnston**, Professor of Law, University of
Virginia School of Law, United States

» **Dr. Chanho Park**, Director-General, Global Legislation
Research Centre, Korea Legislation Research Institute

» **Dr. Klaus Jacob**, Research Director, Environmental
Policy Research Centre, Freie Universität Berlin

» **Prof. Hitoshi Ushijima**, Faculty of Law, Chuo University,
Japan

Simplification strategies through e-government

Regulatory policy involves significant administrative simplification programmes in many countries. Significant synergies exist between these programmes and governments' overall e-government strategies. Countries that are successful make extensive use of e-government tools in implementing their administrative simplification strategies. Simplification in the sense of the front office (setting up of one stop shops and business portals), and making life easier for citizens and businesses, requires investment towards the establishment of an integrated and coherent e-government back office. E-government requires functional analysis as well as thorough standards to ensure the privacy and safety of data processing. Data transmission and the interchange of data between systems may involve significant challenges.

The institutional organisation may vest responsibilities for simplification and for e-government in different government agencies or ministries. There is therefore a need for co-ordination and for policy coherence, to ensure that overall policy goals can be met at the least cost. This appears both at the level of policy development and implementation. The session will discuss various approaches for coherence and co-ordination, and confront them with civil society perspectives and some representation from users' groups. Regulatory processes need to facilitate the implementation of comprehensive e-government programmes.

- How can administrative simplification and e-government efforts together maximise potential gains, taking full advantage of their synergies? What is the role for participation and active involvement of citizens and businesses?
- How can efficient simplification strategies take full advantage of e-government?
- What are the challenges to overcome silo-based approaches across different administrations and departments? Is there scope to define good practice for co-ordination and implementation?

Chair: **Mr. Erwin de Pue**, Commissioner General, Agency for Administrative Simplification, Belgium

Speakers:

- » **Prof. Maria Manuel Leitão Marques**, Secretary of State, Presidency of the Council of Ministers, Portugal
- » **Mr. Alaa Kotb**, Vice President of the State Council, Egypt
- » **Mrs. Eva Meiling**, Deputy Director General, Danish Commerce and Companies Agency, Ministry of Economic and Business Affairs, Denmark
- » **Mr. Pierre Schilling**, Deputy Director, Centre des technologies de l'information de l'Etat, Luxembourg

Governance in regulatory oversight

Delivering results and implementing reforms require significant government capacity. The implementation of regulatory reform is critically dependent on the existence of appropriate government commitment and institutions. These institutions need to be transparent and accountable, with mandates and sufficient power to ensure that reform translates into action on the ground. They will need to ensure that regulation is part of the policy environment, not simply the tail end of the process. To meet policy objectives, regulation needs to be integrated into the policy cycle, so it can deliver those objectives.

Significant institutional change has recently occurred in a number of countries. In particular, an important element of the debate involves setting up independent advocacy bodies to ensure that reforms are broad based and supported by citizens and businesses. The scope for reviewing regulations is also significant, and must be balanced with political discretion that may apply at various levels in different countries.

- What political actions can governments take to create a credible and sustainable commitment to regulatory reform in the long term, ensuring stability beyond a given political cycle? What are the critical political challenges to improve and strengthen institutional design?
- Is it possible to enshrine regulatory quality oversight within existing national institutional frameworks? What are the main lessons from implementation?
- What is the scope for independent and autonomous bodies to be in charge of regulatory quality oversight?
- If robust regulatory governance is to reinforce the integrity of regulators and regulatory enforcement, what role and mandate should regulators be given to act as an early warning system to identify emerging issues or crises in the future?
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Chair: **Mr. George Redling**, Former Assistant Secretary, Treasury Board of Canada

Speakers:

- » **Ms. Catherine Atkins**, Manager, Treasury, New Zealand
- » **Dr. Johannes Ludewig**, Chair, National Regulatory Control Council (Nationaler Normenkontrollrat), Germany
- » **Mr. Stig Von Bahr**, Chairman, Regelrådet, Swedish Better Regulation Council, Sweden
- » **Mr. Stephane Jacobzone**, Senior Economist, Public Governance and Territorial Development, OECD

Social impacts of regulations

The assessment of economic impacts often entails detailed analysis of economic costs and related administrative and compliance costs for businesses. The general principles of cost benefit analysis rely on distributional approaches that consider the overall implications of a regulation. The distribution of the impacts is important, as some groups in society may be disproportionately affected by certain regulations. An equitable approach to better regulation-making must therefore address these distributional implications. This will help governments build trust with citizens, and strengthen legitimacy for regulatory policy, while increasing transparency and facilitating compliance. This could also strengthen the constituency for reform among minority populations, as well as throughout civil society, fostering better governance.

Such distributional analysis presents significant methodological and conceptual challenges. Often, the distributional aspects are more difficult to monetise than the overall costs for the business sector. Costs are often immediate and tangible, while benefits may be diffuse and long term, and evolve over time. Distributional consequences may be split across different groups in society, and entail regional dimensions. The issues cover broader dimensions of social inclusion, job related aspects, privacy issues, as well as broader participatory and governance features. Integrating these aspects in a commonly accepted equity metric presents some significant hurdles. The distributional breakdown may fragment overall discussion of efficiency gains from the proposed regulations, confounding the overall welfare analysis and resulting in difficult political tradeoffs. In sum, considerable analytic issues stand between principle and practice. Ways to measure equity are varied, and questions of implementation and cross-national incorporation remain. Finally, different countries may have a different understanding of the distributional implications, with various levels of preference for equity.

- How can national authorities integrate social impacts in new governance frameworks?
- How can they address the political implications of integrating social impacts in overall cost-benefit analysis?
- What analytic challenges do countries face to assess social impacts and integrate them in regulatory management? What are the implications for the information infrastructure?

Chair: **Ms. Elisabeth Hvas**, Deputy permanent Secretary, Ministry of Finance, Denmark

Speakers:

- » **Mr. Matthew Adler**, Leon Meltzer Professor of Law, UPenn Law School, United States
- » **Mr. Zouhair Skander**, Directeur Général, Centre d'Études Juridiques et Judiciaires (CEJJ), Tunisia
- » **Mr. Etienne Marie**, General Inspector, General Inspectorate for Social Affairs, Ministry of Health and Sports, France
- » **Mr. Ron Blackwell**, Chief Economist, American Federation of Labor & Congress of Industrial Organizations, (AFL-CIO), United States

Regulators and the regulatees: being friendly without being cozy?

Policy makers aim to implement client friendly approaches that reduce administrative burdens, avoid a culture of regulate-first, and promote user-centered approaches. On the other hand, countries face the challenge of redefining the public-private interface in the aftermath of the financial crisis and other catastrophic events. These events have underlined the crucial role of the relationships between regulators and the regulatees, and the importance of ethics. This has shed light on the need to strengthen institutional mechanisms to preserve the public interest, promote integrity, and minimise the risk of capture. Beyond regulatory management, there is a need to enshrine culture change in a new governance approach, one that is client-friendly, through effective enforcement, while strengthening ethics and promoting the core values of the public interest. In a number of countries, issues of revolving doors and disclosure are emerging in the regulatory arena as important elements to be resolved. This implies significant trade-offs and institutional investments, to ensure that the regulatory governance dimension is properly addressed.

This session will offer an opportunity for sharing perspectives on various options to foster culture change among regulators while redesigning the public-private interface. It will discuss options for ensuring that regulation contributes to public governance and for establishing institutional frameworks and policies that promote integrity. This session will also benefit from some recent work by the OECD in the field of integrity in the public governance arena.

- How can governments strengthen the public-private interface in regulatory matters, limiting the risk of regulatory capture and addressing broader challenges of regulatory governance?
- How can client-friendly regulatory processes and compliance mechanisms improve efficiency while preserving the integrity and efficiency of the regulatory framework?
- How can commitments to changing the regulatory culture translate into actual results, fostering client-centered approaches?

Chair: **Mr. Michael Fruhmann**, Head of Unit, Federal Chancellery, Austria

Speakers:

- » **Mr. Francisco Gaetani**, Deputy Executive Secretary, Ministry of Planning, Budget and Management, Brazil
- » **Mr. Clive Grace**, Chair, Local Better Regulation Office, United Kingdom
- » **Mr. Collin Dimakatso Mashile**, Head of Unit, Policy Development and Research: Markets and Competition Division, Independent Communications Authority of South Africa (ICASA)
- » **Mr. Thomas Held**, Director, Avenir Suisse, Switzerland

Open government towards user-centered regulation

Information and communication technologies create new opportunities and challenges for open government and good public governance. E-rule making, through Internet-based approaches and web 2.0 technologies, has significant implications for the efficient and transparent delivery of information as well as for the involvement of stakeholders. Information transparency and interchange have increasing relevance as countries strive to meet increased public demands for transparency and trust, calling for more effective ways to ensure responsiveness and engage citizens in the process of regulation making. At the same time, governments have to balance such concerns with public access and transparency with the need for information security in the context of global international threats.

The new tools of e-rulemaking have the potential to foster more inclusive and participatory processes, enabling government to obtain real time feedback on crucial dimensions of regulatory policy while encouraging citizens to be more active. They also require capacity, to ensure the interface with regulatory management systems. There is also a need to foster new attitudes to encourage civil society, citizens and businesses to engage in new forms of public dialogue. This presents challenges in terms of developing the appropriate infrastructure, and enabling capacity within governments. The session will discuss the promises and implications of e-rulemaking and its potential to increase the involvement of stakeholders in regulatory design.

- What are the opportunities and the challenges of increased openness in e-rulemaking processes? How can government benefit from web 2.0?
- What are the cultural challenges to engage stakeholders through the Internet? What is the scope for substitutability with existing approaches?
- How can governments balance information security and public access to information in crafting e-government policies?
- How can complex issues – scientific, financial, environmental – be made more accessible for public input?

Chair: **M. Edward Donelan**, Senior Adviser - Regulatory Governance, SIGMA (Support for Improvement in Governance and Management), OECD

Speakers:

- » **Mr. Alexander Hunt**, Branch Chief, Office of Information and Regulatory Affairs, United States
- » **Ms. Katju Holkeri**, Head of Governance Policy Unit, Public Management Department, Ministry of Finance, Finland; Chair of the OECD Public Governance Committee
- » **Mr. Luzius Mader**, Deputy Director, Federal Office for Justice, Switzerland

Expanding the frontier of regulatory policy and practice

This session is devoted to innovative and recent projects, expanding the frontier of regulatory policy and practice, either from a geographical or methodological perspective. The session will give an opportunity to broaden the sharing of experiences at the conference.

Participants are invited to interact freely with presenters. The list of projects and authors is presented below.

Simplegis – Fewer Laws, more Access, Improved Enforcement

Ms. Diana Ettner, Advisor of the Secretary of State of the Presidency of the council of Ministers, Portugal.

The Simplegis programme aims to simplify legislation, with fewer laws, to make laws more accessible for citizens and businesses and to improve law enforcement. The presentation will present current achievements, repealing 300 Decree Laws, and aiming for Zero delay as regards the transposition of EU directives by the end of the 1st semester 2011. Summaries of decree-laws and implementing decrees are published in both Portuguese and English, and manuals of instructions are being prepared to facilitate enforcement.

The Impetus for Investment Climate Reforms in Turkey

Mr. Bahar Konak, Treasury Expert Coordination Council for the Improvement of the Investment Environment. Turkey.

The project will present steps to improve the investment climate in Turkey, with their regulatory and institutional implications. It will highlight achievements in terms of regulatory improvement, and discuss the policy implementation challenges.

Viet Nam Administrative Procedure Simplification Project (Project 30)

Dr. Hai Phan Ngo, Executive Deputy Director; **Mr. Viet Anh Nguyen**, Member, Prime Minister's Special Task Force for Administrative Procedure Reform, Vietnam.

Vietnam has completed the first national database of administrative procedures and legal documents, supporting recommendations for simplifying 5000 administrative procedures, and achieving savings of 1.55% of GDP for businesses and citizens. The presentation will highlight the institutional set up, the methodology and tools, including regulatory guillotine, impact assessment and modified SCM.

Expanding the frontier of regulatory policy and practice

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ProActive Law as a Source of Competitive Advantage

Dr. Kaisa Sorsa, Principal Lecturer, Turku University of Applied Sciences, Finland.

This project discusses the relevance of proactive law as a tool developed by responsible business as to prevent social, environmental and economical risks from materialising in global value chains. The project discusses its relevance from a self regulation and co-regulation perspective.

Regulatory Incentives for Using Smart Meters A Penalty/Reward Model for Shifting the Time Electricity Consumption

Dr. Jacopo Torriti, London School of Economics, United Kingdom

The project is about the regulatory implications of the introduction of smart meters to monitor energy consumption. The intent is to help consumers react to price signals, as a way to incentivise time-shifting programmes.

Stage 2 of the Federal Programme for the Reduction of Bureaucracy and for Better Regulation

Mr. Sebastian Walz, Mr. Stephane Naundorf, Federal Chancellery, Better Regulation Unit, Germany

This project is in the context of the new perspectives for the programme, following cabinet decision of 27 January, moving beyond the SCM, to analyse compliance costs and expanding the mandate of the NRCC. The presentation will share methodological experiences in measuring compliance costs.

International regulatory co-operation

International regulatory co-operation in a networked world of global markets is the next frontier. While regulation is above all a state prerogative, in an increasingly interdependent world, many regulatory issues are addressed in international fora, which produce some form of soft or hard law or “supra regulations”. These then need to be translated and implemented in various national contexts. At the same time, countries are implementing and developing quality regulation initiatives in a national context. In the European Union, explicit mechanisms for co-ordination and transposition exist between EU and national laws and regulation. There is therefore a specific need to focus on regulatory quality both within and across borders, as countries have to co-operate and agree on common frameworks, as well as work across levels of government.

This session will discuss this emerging issue on the regulatory policy agenda. Options and formats for co-operation are relatively open. The session will more specifically discuss countries' needs and strategies for regulatory co-operation, as well as the approaches which would be likely to yield the maximum benefits. Participants will discuss potential areas for cross-border regulatory co-operation as well as the standards for openness, consultation and communication across jurisdictions. The goal will be to open the debate and highlight the value of potential OECD work in the area.

- What are the benefits of stronger international regulatory co-operation? What are the potential drawbacks, in terms of losing the possibility to have competing and possibly better policy options? What are the implications across levels of government?
- What are the appropriate fora and institutional mechanisms for international regulatory co-operation? How to co-ordinate with sector specific efforts?
- What cultural and political challenges need to be overcome to develop international regulatory co-operation?

Chair: **Mr. Felipe Duarte**, Vice-Minister for Competitiveness, Mexico

Speakers: » **Mr. Michael Fitzpatrick**, Associate Administrator, Office of Information and Regulatory Affairs, United States

» **Mr. Simon Holland**, Policy officer, Directorate General Enterprise & Industry, International Affairs Unit, European Commission

» **Mr. Benoit Turcotte**, Director, Regulatory Affairs Division, Treasury Board of Canada

Moderator: » **Mr. Josef Konvitz**, Head of the Regulatory Policy Division, Public Governance and Territorial Development, OECD

Mapping sustainability in policy making

“Sustainability” reflects “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Brundtland report, 1987). This notion has three main dimensions, economic, social and environmental, all crucial to achieve sustainable development. Regulation has of course an important role to play. The question is how to incorporate the concern for sustainability into the design and assessment of rules. At the same time, countries are developing and strengthening general impact assessment systems, to cope with the integration of economic, social and environmental impacts.

Developing tools that incorporate sustainability dimensions into regulatory management and policy making poses many challenges. The goal is for sustainability aspects to become an instrumental part of policy making and implementation. Sustainability impact assessments have been considered in some cases, while other options imply a broader focus for existing tools for ex ante impact assessment, such as regulatory impact analysis. Integrating sustainability as a key feature of policy making requires changing mindsets and learning new ways of thinking.

- What are the analytical and political challenges of incorporating broader concerns for sustainability into policy making?
- How can concerns for sustainability be integrated into regulatory design and decision making processes? What are the implications for RIA?
- Can sound methodologies be implemented while at the same time ensure that the process is politically relevant and visible?

Chair: **Ms. Barbara Kunz**, Project Manager, Modern Regulation, Bertelsmann Stiftung

Speakers:

- » **Ms. Michelle Moore**, Federal Environmental Executive, White House Council on Environmental Quality, United States
- » **Mr. Marc Hostert**, Head of the Private Office of Mr. Henri Grethen, Member of the European Court of Auditors
- » **Mr. Andrea Renda**, Senior Research Fellow, Centre for European Policy Studies, Belgium

Addressing risk in regulatory policy making

The notion of risk is intrinsically linked to regulation, yet is often only partially acknowledged in regulatory processes and regulatory design. Modern economic activities involve the promise of innovation radically expanding the availability of supply and limiting price increases, and, given the complexity of production processes, relegating a high degree of regulatory compliance to firms. The issue of complexity, technological progress and regulation extends to many areas of modern life, including nano technologies, genetically modified organisms or nuclear fusion. In all these areas and others, regulation has to strike a balance between managing “tail risk”, very low probability yet high consequences events, and supporting innovation. The policy challenge is to adapt regulation over time to manage complex systems with constantly evolving risk, which may need the setting up of resilient institutions to design and enforce regulations, with constant and specific attention to the risk and prudential aspects.

In the future, governments will have to balance efficient market regulation and the protection of citizens, while remaining ultimately in charge, as a form of “insurer” of last resort, in case of catastrophic risks. At the same time, excessive attention to petty risks also has the potential to unnecessarily increase administrative burdens and generate significant reporting requirements. Therefore, enforcement activities will need to be designed with risk-based approaches.

Finally, policy makers are also subject to political pressures, particularly in the aftermath of a catastrophic event, which requires specific attention to communication. For regulation to be efficient and effective, policymakers have to explicitly recognise and manage the gap between the level of risk acceptable to policy makers and the level that is achievable through regulation. This also requires transparency to promote an understanding of stakeholders supported by tools and processes for risk assessment, risk management and risk communication. This will also require capacity to manage the political context and communication with the public to avoid the pitfalls of reactive regulation, which can lead to duplicative, burdensome and at times, conflicting regulations.

- What are the political and governance challenges of addressing risk as a policy issue in its own right in regulatory design and policy making?
- How can proper risk management and communication avoid short term policy making and reactive regulation?
- How to take advantage of risk-based approaches to improve compliance mechanisms?
- What are the emerging issues with a risk dimension which regulators will have to confront?

Chair: **Mr. Nikolaï Malyshev**, Deputy Head, Regulatory Policy, Public Governance and Territorial Development, OECD

Speakers:

- » **Mr. Simon Webb**, Executive Director, The Nichols Group, Former Director General, Cabinet Office, United Kingdom
- » **Prof. Jonathan Wiener**, Professor of Law, Duke University Law School, United States
- » **Mr. Panagiotis Karkatsoulis**, Professor, Hellenic School of Public Administration, Greece
- » **Mr. Jan van Tol**, Manager Risk and Responsibility Programme, Central Government Reform Programme, Netherlands

Regulation: the challenge to govern better, Learning from failures to prepare for the future

The roundtable will offer an opportunity to discuss strategies ahead and the role of the OECD in furthering quality regulation in the medium term, integrating regulatory management and regulatory governance perspectives. It will benefit from all the breakout sessions as well as the general vision outlined in the first plenary session. While the tools policies and institutions of regulatory management are still fundamental to regulatory quality initiatives in government, the field of regulatory policy is dynamic, and a management focus may not be sufficient to address the underlying governance challenges. Integrating regulatory governance follows from the simple recognition that optimal social outcomes depend on the collaborative actions of private institutions, as well as government agencies, both within governments, across levels of government and across countries.

In this debate, the OECD has a role to play to help strengthen the strategic foresight capacity of national governments and help to prepare for the next stage. As a result, the discussion will address the renewal of the OECD 1995 and 2005 principles, to take account of the new economic and social context, post crisis. This emphasis on governance will also have to be complemented by an emphasis on communications and strategies to reach out to a wider public, to build confidence and mobilise support.

- What are the key political challenges to integrate regulatory management and regulatory governance? What are the implications for sectoral policy making and for regulatory policy as a whole?
- How can governments co-operate on the regulatory policy agenda, both across jurisdictions and across levels of government within countries?
- How can the OECD assist efforts to foster the regulatory policy agenda from a global perspective? What should be the thrust and focus of future OECD principles?
- How can a focus on regulatory governance achieve policy coherence and help governments better address the challenges of green growth, innovation and global threats? What are the implications in terms of institutional design and co-ordination?
- What efforts should government undertake to strengthen communications and consensus to mobilise businesses and citizens around the regulatory policy agenda?

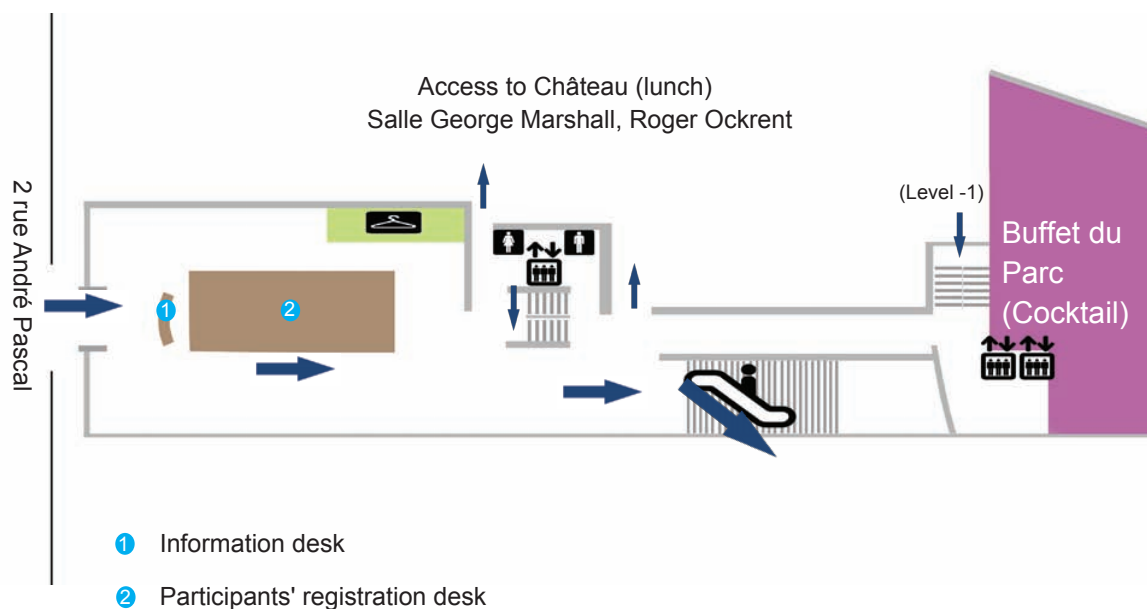
Chair: **Mr. Rolf Alter**, Director, Public Governance and Territorial Development, OECD

Speakers:

- » **Mr. Gary Banks**, Chairman, Productivity Commission, Australia
- » **Mr. Luigi Carbone**, Deputy General-Secretary of the Presidency of the Council of Ministers, Executive Chair of the Better Regulation Unit, and Counsellor of State, Italy
- » **Mr. Luiz Alberto dos Santos**, Deputy Minister for Analysis and Follow-Up of Governmental Policies, Presidency of Republic - Civil House, Brazil
- » **Dr. Marianne Klingbeil**, Director for Better Regulation; Acting Chair of the Impact Assessment Board, Secretariat-General of the European Commission
- » **Mr. Jeroen Nijland**, Director, Regulatory Reform Group, Ministry of Finance/Economic Affairs, Netherlands; Chair, OECD Regulatory Policy Committee

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