

Update of the OECD principles on regulatory policy: The business perspective

April 2011

Introduction

1. BIAC appreciates the OECD work on principles for regulatory policy as well as the extensive OECD country reviews which have been developed since 1995 and which have strengthened the regulatory policy agenda significantly.
2. Since the latest OECD instrument – the 2005 Guiding Principles for Regulatory Quality and Performance – was developed, the global economic environment has changed. The financial and economic crisis has led to the need for policy frameworks that can handle possible future crises more effectively. As policy objectives have become more complex, achieving appropriate regulatory systems now requires the involvement of more stakeholders.
3. Most importantly, the global economic recovery remains fragile and business confidence is only slowly recovering. Regulatory policy has a significant impact on the environment in which business operates. A regulatory environment that rewards work and sustainable private investment allows companies to produce goods and services, generate jobs, develop innovations and technologies, and generate tax revenue to support public services.
4. BIAC therefore welcomes the OECD work towards a Recommendation on Regulatory Policy and Governance which can update the existing OECD principles and the common understanding among member countries on regulatory policy. BIAC appreciates the opportunity to consult with the OECD Regulatory Policy Committee on 13-14 April 2011 on this important issue. This paper provides written comments on important elements that BIAC believes should be incorporated in the Recommendation.

Central elements in the forthcoming Recommendation

5. *Simplification of existing regulation:*
Regulatory simplification is an important element of quality-oriented regulatory policy. It can be achieved by ensuring close coordination between government and business. An update of the existing regulatory principles should encourage policy makers to focus on simplification, targeting exactly the areas that are perceived as burdensome by business and where changes would lead to enhanced business productivity and thereby economic growth. It should furthermore be noted that reform efforts must address the real barriers to growth confronting companies and thereby move from simplification to real substantive legislative and regulatory changes.
6. *Assessment of costs to business:*
When designing legislation or regulations, policy makers should take into account the cost to business that such legislation or regulation will generate. In this context, it must be recognised that the current use of only administrative costs as an indicator for the

burden to business is too narrow. It is also necessary to include estimations of all other compliance costs such as investment costs related to regulation.

7. *Consistency:*

Consistency of regulation is important for establishing appropriate expectations of stakeholders, reducing uncertainty and compliance costs which all improve the investment and business environment.

8. *Transparency:*

For business as well as for other stakeholders the concepts of transparency, accountability and certainty are essential elements for effective regulatory frameworks. These factors also contribute to increased stakeholder trust within national governments.

9. *Assessment and implementation:*

The undertaking and publication of national impact assessments of all proposals that are to be negotiated on the international level must be a mandatory step when designing regulation. Regulatory efforts will only be effective if the design of policies is followed up by full implementation at the national and sub-national level as well as among all affected companies in order to obtain a level playing field. Mechanisms should be established in order to evaluate the success of implementation as well as all dimensions of enforcement.

10. *Consultation with business:*

When governments develop regulatory frameworks, close, timely and continuous consultation with business is highly important, which the Guiding Principles should secure. Business engagement will contribute to better government insight into the regulatory impact on the business environment.

11. *Alternatives to regulation:*

The Guiding Principles should also include consultation with the private sector in order to identify regulatory areas where it will be beneficial to apply industrial self-regulation. Sectoral codes and standards - developed by business with the support of governments – constitute an important component of government regulation. If regulation is needed, governments should choose the alternatives that involve the lowest burdens for the concerned businesses.

12. *Evaluation/independent scrutiny:*

Deciding which measures are the most appropriate is fraught with difficulties of various kinds. Therefore governments need to evaluate as early as possible the likely cost and effectiveness of the regulatory framework to allow for better regulatory design. An ongoing evaluation strategy is also essential in order to monitor regulatory performance and to make adjustments as necessary. These evaluations should either be conducted by independent parties or, at a minimum, government evaluations should be subject to independent review.

13. *Global outreach:*

As markets are becoming increasingly integrated policy makers must recognise that regulatory policy is a global issue. Global coordination of regulatory policy reform must therefore be included as a central element in the Recommendation, in order to secure a level playing field in different jurisdictions.

14. BIAAC looks forward to working further with the OECD on this important policy area and to supporting the OECD by contributing with valuable business input.