



26 March 2014

(14-1900)

Page: 1/3

Committee on Technical Barriers to Trade

Original: English

THIRD THEMATIC SESSION ON GOOD REGULATORY PRACTICE

18-19 MARCH 2014

Chairman's Report¹

Addendum

This Report was delivered by the Chairman of the WTO TBT Committee at the meeting of 19-20 March 2014.

1. At the Sixth Triennial Review, the Committee agreed to hold thematic sessions on Good Regulatory Practice (GRP) in response to specific decisions and recommendations contained in our triennial review reports.² The first thematic session on GRP was held on 5 March 2013³, and the second on 17 June 2013.⁴ The third thematic session held this week comprised presentations organized under two topics: (i) link between GRP and trade competitiveness; and, (ii) information on Regulatory Impact Assessment (RIA). The final programme is annexed to this statement. The full presentations are available as Room Documents on WTO Documents Online (under "Documents for meetings").

2. The representative of **Canada** presented its 2012 Cabinet Directive on Regulatory Management (CDRM), focusing specifically on the "one-for-one" rule. The CDRM aims to reduce administrative burdens imposed on business by government regulation, such as paperwork. The "one-for-one" rule requires that for any new regulation introduced by a department or agency, regulation of equal administrative burden has to be removed by that department or agency. The rule came into effect in April 2012, and each department or agency is required to report annually on its implementation to the Treasury Board Secretariat, which on this basis published its first Annual Scorecard Report in January 2014. As a result of the rule, in fiscal year 2013 Canadian businesses saved 98,000 hours of time in red tape, and over CAD \$20 million in costs.

3. The representative of **Chinese Taipei** described how it applied GRP mechanisms for public consultation and transparency in its regulatory process. For example, an administrative procedure law mandated early, extensive, and systematic consultations with stakeholders. Online consultation mechanisms were introduced to reduce burdens on business and encourage direct citizen participation. The representative presented a case study of a public consultation carried out by the National Communications Commission (NCC) on a regulation that harmonized mobile phone chargers. Numerous best practices were highlighted, including the early publication of a notice of regulatory activity, explicit justification of the need for government intervention on the basis of both environmental and consumer benefits, the introduction of a transition period, and regular reviews of the regulation to ensure its fitness for purpose in light of technological evolution.

¹ Mr. Jingo Kikukawa (Japan). This Report is provided on the Chairman's own responsibility.

² The latest decisions and recommendations on Good Regulatory Practice are contained in Section I of G/TBT/1/Rev.11.

³ The Moderator's report is contained in G/TBT/GEN/143.

⁴ The Chairman's report is contained in G/TBT/GEN/143/Add.1.

4. We next heard from the representative of the **European Union** who provided information on the EU's Regulatory Fitness and Performance (REFIT) Programme, part of the EU's "Smart Regulation Agenda". The REFIT Programme was launched in 2012 to assess the existing regulatory stock for the purpose of ensuring its fitness for purpose. It is based on the premise that regulation requires regular maintenance to ensure that it continues to achieve its legitimate objectives in the least costly and burdensome way. The REFIT implementation process involves five steps: (i) internal screening of the regulatory stock; (ii) consultation with stakeholders; (iii) taking action, through withdrawal, repeal, simplification or improvement; (iv) where necessary more in-depth assessment via comprehensive evaluations and "fitness checks"; and (v) tracking progress of implementation of REFIT outcomes. It was noted that the assessment stage is not only applied to each regulation in isolation, but is pursued through holistic "fitness checks" of entire policy sectors that take account of a regulation's implementation, ex-post evaluation, complaints, infringements, and coherence with other related measures impacting the sectors under consideration. Consolidation and repeal of some regulations has already occurred, and there are plans for the comprehensive evaluation of key EU legislation such as for chemicals not covered by REACH, type approval for motor vehicles, the Renewable Energy Directive and the Machinery Directive, the details and timing of which would be elaborated in forthcoming roadmaps.

5. The representative of **Mexico** then shared information on how GRP principles – such as representativeness, consensus, transparency, rationality, internal coordination, harmonization, and review – are embodied in its domestic legislation, as outlined in G/TBT/W/378. In addition, Mexico explained its regulatory improvement process, overseen by the Mexican Federal Commission on Regulatory Improvement (COFEMER). This process comprises three aspects: deregulation, simplification, and the identification of regulatory gaps. Mexico also elaborated on a series of interlinked tools used in its regulatory streamlining efforts, including: a "quick-scan" methodology; regulatory impact calculator; and the use of various forms of RIA tailored to the nature of the regulation in question. Taken together, these innovations contributed to Mexico achieving a high score in the OECD's 2009 "Indicators of Regulatory Quality Systems" publication.

6. The representative of the **World Bank** explained that Regulatory Impact Assessment (RIA) was both a process for preparing regulatory proposals, and a document summarizing policy options. He said that while the OECD definition of RIA enjoyed broad acceptance, the scope and details of RIA differed across countries. In particular, the types of regulations subject to RIA, the kinds of impacts assessed, the methodology of assessment, how RIA is linked to public consultation and transparency, and the institutional and legal anchoring varied from country to country. Regarding geographic scope of RIA, all OECD countries have a legal requirement to carry out RIA, but a range of non-OECD countries also regularly conduct RIA. He noted an increasing trend for assessing impacts for international trade agreements through RIA, even though RIA is not designed to analyze compliance with trade agreements. For example, in the context of RIA, some governments obliged regulators to consult with the body responsible for trade policies when developing new regulations, and to consider impacts on trade, market openness, and international obligations.

7. Let me also take this opportunity to report to you on the informal meeting held yesterday morning (19 March 2014) specifically on our work on the non-exhaustive list of voluntary mechanisms and related principles of Good Regulatory Practice (GRP). As you know, this work focused in the document **JOB/TBT/44/Rev.3**. I first presented to Members the general and specific comments that were made by several delegations on the paper at the 11 March informal meeting of the Committee. We then went through the text section-by-section to gather additional substantive comments and suggestions. I shared the result of this exercise with you by making available an annotated version of JOB/TBT/44/Rev.3 comprising Members' comments made on both 11 March and 19 March at the end of the day. On the way forward, Members agreed on the need to set a clear process in place to finalize the document. I have therefore set a final deadline for comments on JOB/TBT/44/Rev.3 of **30 April 2014**. Thereafter, a final version of the non-exhaustive list of voluntary mechanisms and related principles of GRP will be circulated. I would like to remind Members that we have already discussed this list in the Committee on seven different occasions – four informal meetings and three thematic sessions – in which successive versions of this list have been considered. It is my hope and intention that the Committee will be in a position to adopt the final version of the GRP list at its June 2014 meeting.

ANNEX

PRESENTATIONS

The following presentations were made during the Thematic Session:

- a. Link between GRP and trade competitiveness
 - i. **Canada:** Legislating Canada's one-for-one rule - Controlling the growth of federal regulatory red tape (Mr Guillaume Parent)
 - ii. **Chinese Taipei:** Transparency and public consultation mechanisms in the regulatory processes: Experience in the Separate Customs Territory of Taiwan, Penghu, Kinmen, and Matsu (Ms Shin-yi PENG)
 - iii. **European Union:** How to ensure that regulations remain "fit for purpose" – The EU Regulatory Fitness and Performance Programme (REFIT)" (Mr Fabrizio Sacchetti)
 - iv. **Mexico:** Mexico's experience on the use of guidelines for evaluating the impact of regulation (Ms Elisa Olmeda D'Alejandro)
 - b. Information on Regulatory Impact Assessment (RIA)
 - i. **World Bank:** What is RIA and how is it relevant to GRP? (Mr Peter Ladegaard)
 - c. Open Discussion
-