



SMART REGULATION FOR CANADA

The Role of Standards and Beyond

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Outline

- Brief overview,
- Highlight key Smart Regulation recommendations, and
- Identify next steps and implications for Standards sector.

Challenges for Canada's Regulatory System

1. Regulation does not respond in a timely fashion to the fast pace of change, i.e. science and technology advances, new business practices, changing consumer needs.
2. Regulatory actions of federal departments and of federal, provincial and territorial governments are not aligned to advance government policies and national priorities in a coherent and integrated manner.
3. There are numerous small differences between Canadian regulatory regimes and those of trading partners.
4. Citizens' expectations are higher.

Addressing the Challenges: Smart Regulation

Smart Regulation is. . .

- Protecting and enabling:
 - Generating social and environmental benefits while enhancing the conditions for an innovative economy.
 - Maximizing effectiveness and minimizing costs and the level of complexity.
- More responsive regulation:
 - Self-renewing system which anticipates developments.
 - Acting quickly and deliberately to address risks.
 - Increasing flexibility in implementation approach as long as targets are met.
- Governing cooperatively:
 - Sharing regulatory responsibility among governments, citizens and industry to increase effectiveness.
 - Being attentive and balancing different needs in a complex global system.
- Smart Regulation is better regulation, not De-regulation.

External Advisory Committee on Smart Regulation

- Committee created in May 2003 with 12-15 month mandate.
- Members come from private sector, Aboriginal community, academia, consumer groups, ENGOs and international organizations.
- Committee given three-part mandate:
 - 1. Develop a regulatory strategy designed for the 21st century,
 - 2. Identify priority sectors and areas requiring regulatory reform, and
 - 3. Review and provide an external perspective on current regulatory issues identified by departments and stakeholders.
- The Committee completed its report, *Smart Regulation: A Regulatory Strategy for Canada*, in September 2004.

Advisory Committee's Recommendations: At a Glance

A new regulatory strategy:

- Federal Regulatory Coordination,
- FPT Regulatory Cooperation,
- International Regulatory Cooperation,
- Risk Management,
- Instruments for Government Action,
- The Regulatory Process, and
- Capacity.

Regulatory Strategy for the 21st Century

Federal-Provincial-Territorial Cooperation:

- Work with provinces and territories to create a more seamless regulatory environment in Canada.
- Formalize cooperation through discussion among First Ministers - set up new arrangement to address barriers, set national regulatory priorities, develop framework to guide decision-making.
- Involve provinces and territories in international regulatory issues that affect their jurisdiction.
- As priority, accelerate cooperation on environmental assessments.

International Regulatory Cooperation:

- Strategic Policy Framework for IRC as part of foreign Policy.
- Principal focus should be North America.
- International approaches should underpin federal regulation.
- Canada-specific requirements are justified when:
 - absence of international or North American approach,
 - national priorities or unique Canadian circumstances, and
 - insufficient trust in the regulatory practices of trading partners.

Regulatory Strategy for the 21st Century

Federal Coordination

- Establish mechanisms to foster interdepartmental cooperation.
- Develop and implement overarching federal regulatory policy frameworks.
- Single windows to facilitate stakeholder access.
- Appoint federal coordinators for important investment projects.

Risk Management

- Develop government-wide approach to risk management that includes:
 - risk prioritization,
 - risk assessment, and
 - risk communication and consultation.

Reforming the Regulatory Process

- Policy and legal frameworks for regulatory action.
- Tiering requirements.
- Enforcement and compliance.
- Transparency and consultation.
- Timeliness, efficiency, service.
- Accountability, performance and oversight.

Capacity

- Develop a comprehensive learning strategy.
- Develop regulatory policy research and development programs.
- Establish mechanisms to support interdepartmental discussion, decision-making.

Regulatory Strategy for the 21st Century: Instruments for Government Action

- The Advisory Committee also examined how to employ the best mix of instruments to best achieve policy objectives.

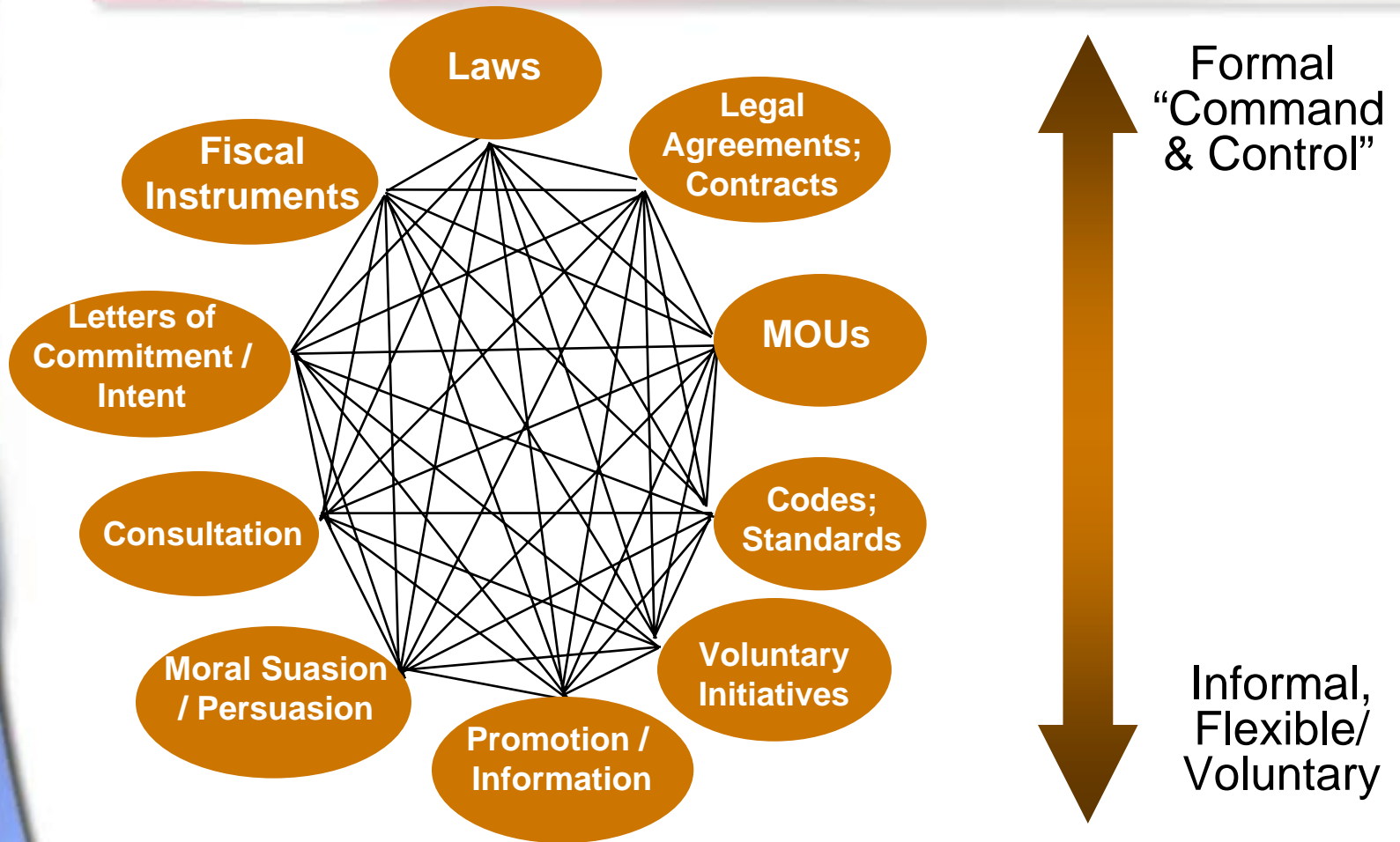
Key Challenges

- There is no framework to guide regulators and officials for the analysis and use of instruments - e.g., economic instruments, performance-based regulations, voluntary standards, etc.
- Existence of legislative constraints on creating and implementing mixes of instruments.
- Unclear or non-existent policy directions create a barrier to the proper consideration and use of instruments.
- Belief that traditional prescriptive regulation are most effective and reliable.

Key Recommendations

- Develop a framework for the design and use of government instruments.
- Eliminate legislative constraints on the use of instruments and performance-based regulations.
- Examine expanding the appropriate use of economic instruments.

Example of Instrument Mix



Smart Regulation and the National Standards System

- A strong standards sector is a key component of Canada's regulatory system and will play an important role in the implementation of the Smart Regulations agenda.
- Getting our "national house in order" not only applies to governments – its also includes Canada's National Standards System.
 - Continue to streamline and seek to eliminate overlap among standards and standards organizations while maintaining high level of protection for health, safety and the environment.
- Role of voluntary standards needs to be better understood by public as a component of Canada's regulatory "tool kit".
 - While private sector advocates the flexibility of standards, there is a lack of awareness/trust in the NSS by the NGO community and citizens.
 - Concern that standards will replace – rather than complement – enforceable regulations.

Next Steps: Implementing Smart Regulation

- Since the completion of the EACSR report, the Government of Canada is moving forward on implementation:
 - Commitment to Smart Regulation in Speech from the Throne (Oct. 2004)
 - Appearance of EACSR Chair at Parliamentary Standing Committee (October 28, 2004)
 - Ongoing dialog on Smart Regulation priorities with Provincial-Territorial governments, NGOs, private sector
- Currently developing Smart Regulation “action plan”: a public commitment to improve regulatory governance (e.g. new Regulatory Policy) and improve regulation in specific sectors (e.g. drug approval system, environmental assessment process, etc.).
 - Accountability will be gauged on progress on specific initiatives (e.g., creation of new Regulatory Policy)
- Implementation will emphasize improving coordination among federal departments and with other key stakeholders
 - E.g., creation of regulatory SWAT teams (regulators, NGOs, private sector) to examine regulatory challenges in specific sectors (e.g. pulp and paper industry)

Conclusion

- Implementation of the Smart Regulation agenda will not only improve Canada's international economic competitiveness – but will also enhance and safeguard the quality of life for all Canadians.
- The success of this initiative will rest on cooperation among different orders of government, private sector, public interest groups and Canada's network of standards organizations.
- For more information on Smart Regulation, go to:
- www.smartregulation.gc.ca or
www.reglementationintelligente.gc.ca