

Regulatory Reform, Transparency, And DOHA

Stuart Carre

Canadian Delegation to the OECD

17-12-2002

1

Regulatory Reform, Transparency, And DOHA

- I. The OECD Institutional Experience
- II. The OECD Institutional Experience: The Review of Canada
- III. Some Examples from the Canadian National Experience

I. The OECD Institutional Experience

17-12-2002

3

OECD Regulatory Reform Project/Market Openness

- 16 Countries Reviewed Since 1998
- Six key elements in the context of market openness
 - Transparency
 - Non-discrimination
 - Avoidance of unnecessary trade restrictiveness
 - Internationally harmonized measures
 - Equivalence
 - Competition Principles

The OECD Project Transparency

- Systematic availability of information
- Procedures for making/implementing rules
- Public consultation
- Appeals procedures

DOHA and Transparency

- GATS Doha 15
- Trade Facilitation Doha 27
- Government Procurement Doha 26
- Trade and Investment Doha 20-22
- Trade and Competition Doha 23-25

OECD Project/Transparency Systematic Availability of Information

Transparency means **KNOWING THE RULES AND WHERE TO FIND THEM. HOW?**

- 1) Regular publication of information
- 2) Enquiry Points
- 3) Use of the Internet

OECD Project/Transparency

1) Regular Publication of Information

- Existing rules are increasingly available on-line
- Informal information on existing laws and regulations also being made available
- Publication of prospective regulations less common but growing (for example US Federal Register, UK and Netherlands notice and comment procedures)
- Stakeholders thus have range of resources at their disposal about regulations in the making

OECD Project/Transparency

2) Enquiry Points

- Central enquiry points helps ensure transparency for new and established players
- Need for highly skilled response teams, fast turnaround times, and optimal use of existing technology
- In person assistance where required

OECD Project/Transparency

3) Use of the Internet

- Increasing reliance on the Internet
- Centralized online compendiums of all laws and related regulations (e.g. Canada, Mexico)
- One stop electronic portal to access key information
- Comprehensive e-gateways---a breakthrough in harnessing Internet to provide greater transparency (UK site www.ukonline.gov.uk; the Canada site www.canada.gc.ca; and the “Greek citizen site www.polites.gr).

OECD Project/Transparency Procedures for making/implementing rules

- 1) Clear rule-making procedures:
- 2) Clearly written rules, easily implemented;

OECD Project/Transparency

1) Clear Rule-making Procedures

- these are key guarantors of transparent, open rule-making systems; codification of rule-making procedures through overarching statute growing (e.g. US Administrative Procedures Act, Mexico's Federal Administrative Procedure Law, and Spain's Administrative Procedure Law)

OECD Project/Transparency

2) Clearly written rules, easily implemented

- Periodic reviews of existing laws and regulations, and rigorous vetting of draft regulations against established criteria for clarity and simplicity
- Challenges remain: Lack of transparency and either inconsistent or rigid implementation of regulations

OECD Project/Transparency Public Consultation

- Systematic and rigorous reliance on public consultation
- Includes prior notice and comment procedures

OECD Project/Transparency Public Consultation

- Formal written guidance to regulators describing how public consultations are to be conducted; making this guidance publicly available ensures consistency of message and standard of consultations (e.g. UK Code of Good Practice on Written Consultation)
- Use of the Internet to solicit and gather public comments growing

OECD Project/Transparency Public Consultation

- Informal consultation can provide needed experience as countries transit to more rigorous public notice and comment procedures
- BUT, while informality can provide flexibility and responsiveness, it is too often mirrored by procedures lacking in transparency with inevitable risks of regulatory capture

OECD Project/Transparency Appeals Procedures

- Formal avenues for appeal of regulatory decisions well established across OECD; with little or no formal discrimination
- However, need for clearly defined time limits...slow-moving, burdensome appeals systems can undermine business confidence, limiting abilities of domestic and foreign firms to react in business time

OECD Project/Transparency Appeals Procedures

- As with public consultations, informal avenues of appeal may complement the formal systems in place, care must be taken in using them
- Lack of transparency around accepted practice, cultural attitudes, and procedural disparities across regulatory authorities can all bias systems in favour of domestic firms, limiting effective market access

OECD Project Transparency in Key Areas

- Gray Regulation
- Self-regulation
- Standards Development
- Government Procurement

II. The OECD Institutional Experience: The Review of Canada

The OECD Project Review of Canada “Maintaining Leadership Through Innovation”

- “Canada is one of the most open and transparent markets in the world”

Review of Canada “Maintaining Leadership Through Innovation”

- Leading Role in WTO to raise attention to future challenges to technical regulation
- Transparency in the elaboration of standards (Standards Council of Canada)
- Canadian Standards Strategy launched in 2000 will help transparency by clarifying priorities and objectives

Review of Canada “Maintaining Leadership Through Innovation”

- Transparency vital for government procurement
- “Contracts Canada” and MERX” provide fully transparent information about purchasing opportunities;
www.contractsCanada.gc.ca
- “Canada is an OECD leader in making procurement information easily available”

III. Some Examples from the Canadian National Experience

Transparency and the GATS

The Canadian Experience

“Consulting with Canadians”

- Domestic consultations on GATS key to enhancing good governance, transparency, and broadly based trade policy development
- MECHANISMS
- Cross Canada Consultation Tours
- Standing Committee on Foreign Affairs and International Trade (SCFAIT)

Transparency and the GATS

The Canadian Experience

“Consulting with Canadians”

- Municipalities
- Sectoral Advisory Groups on International Trade (SAGITS)
- On-line Consultations

Transparency and the GATS

The Canadian Experience

“Consulting with Canadians”

- Multi-Stakeholder Consultations
- Notices in the Canada Gazette
- Working with Provinces and Territories
- A Commitment to Transparency

Transparency and the GATS Proposal on Regulatory Transparency and Predictability

- Canada's Proposal (S/CSS/W/47): March 2001
- In the course of the GATS negotiations, Canada will wish to explore current best practices with Members with respect to regulatory transparency and determine whether existing GATS provisions in this area can be enhanced

Transparency in Financial Services Regulation The Canadian Experience

- Bill C-8 (An Act to Establish The Financial Consumer Agency of Canada, and to Amend Certain Acts in Relation to Financial Institutions)
- Illustrates the consultative regulatory process that is intended to ensure that all citizens affected by a proposal for regulation be informed and have a voice throughout the entire regulatory process

Transparency in Financial Services Regulation The Canadian Experience

- Bill C-8 was the largest legislative package ever to be passed by the Canadian parliament
- It was the culmination (Royal Assent June 2001) of an extensive consultation process that began with the creation of a special task force in 1996

Transparency in Financial Services Regulation The Canadian Experience

- The new statute:
 - Changed long-standing ownership rules
 - Allowed for federally regulated holding companies
 - Opened up access to the payments system
 - Created the Financial Consumer Agency of Canada

Transparency in Financial Services Regulation The Canadian Experience

- The new statute:
 - Streamlined regulatory approval procedures
 - Eased entry restrictions into the sector
 - Required Public Accountability Statements from financial institutions with equity greater than \$ one billion. These statements must describe the financial institution's contribution to the Canadian economy and society

Transparency in Financial Services Regulation The Canadian Experience

- Prior to pre-publication in the Canada Gazette Part I, working drafts were shared with stakeholders and where feasible, their comments were reflected in revisions
- Stakeholders included Canadian financial institutions, industry associations (foreign and domestic), stock exchanges, community groups, NGOs, consumer agencies, and payments agencies

Transparency in Financial Services Regulation The Canadian Experience

- Due to the extensive consultations prior to pre-publication, few comments were received on any of the regulations following publication in the Canada Gazette
- In these cases, revisions were made to the regulations, or clarification was provided to stakeholders by the lead Department, the Department of Finance

Transparency in Financial Services Regulation The Canadian Experience

- For further information:
 - Canadian Parliament; www.parl.gc.ca
 - Canada Gazette; www.canada.gc.ca/gazette
 - Department of Finance; www.fin.gc.ca
 - Department of Justice;
www.canada.justice.gc.ca
 - Privy Council Office;
www.pco.bcp.gc.ca/raoics-srdc/

Regulatory Reform, Transparency, and Political Leadership

- Real Reform demands real political leadership
- Canadian political leadership re-confirmed in the September 30, 2002 Speech from the Throne

Regulatory Reform, Transparency, and Political Leadership

- Speech from the Throne: "The government will move forward with a smart regulation strategy to accelerate reforms in key areas to promote health and sustainability, to contribute to innovation and economic growth, and to reduce the administrative burden on business."

Regulatory Reform, Transparency, And DOHA

- GATS Doha 15
- Trade Facilitation Doha 27
- Government Procurement Doha 26
- Trade and Investment Doha 20-22
- Trade and Competition Doha 23-25



Thank You!

17-12-2002

39

Regulatory Reform, Transparency, And DOHA

Stuart Carre

Canadian Delegation to the OECD

17-12-2002

40