

How to Improve Regulatory Quality – Experience of China

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This presentation will focus on five parts: first, establishing an efficient legislative system for making good regulation; second, making regulations timely to meet the needs of real life; third, reducing administrative license; fourth, opening market gradually; and fifth, choosing the proper administrative system to support the unification of the regulation.

1. Establishing an efficient legislative system for making good regulation

In order to make a good regulation, we need have an efficient legislative system. An efficient legislative system must respond to the market quickly and make the rules timely. In China, central legislative system is usually composed of three parts: laws, regulations and rules. Laws are made by the National People's Congress or Standing Committee of NPC; Regulations are made by the State Council; and rules are made by administrative departments. The three levels have different functions: laws usually provide basic principles of the society. Regulations and rules usually provide details for implementation of laws. As you have known, China is in the transitional economic periods, changes occurs everyday, while the law can not be revised day by day. In this situation, the regulations and rules may be revised under the authorization of law. The merit of this system is that regulations can reflect the needs of the market timely and be performed quickly.

An efficient legislative system also requires unified principles such as democracy, transparency and fairness for making regulations. In China, according to Legislation Law of PRC, a legal draft is usually consulted with enterprises, administrative departments, and relevant experts before it takes effect. Important ones (for example: the draft relating to the public interest or people's daily life) must be noticed into the public. Some drafts are submitted to the hearing (for example: the government tried to raise the price of transportation). All of these principles make the laws, regulations and rules promulgated in a scientific and reasonable way, and ensure that people are able to give their opinions in the lawmaking process through various channels.

2. Making regulations timely to meet the needs of real life

Reviewing existing laws, regulations and rules, revising the old ones which are inconsistent with the market economy and making the new one to meet the needs of real life are of the same importance in improving regulatory quality. In recent years, with the WTO accession, China has made a great effort in this aspect. First, in the year 2001, China launched a program to completely clear up all the current laws, regulations and rules in relation to the foreign trade and investment, at the central level, as well as at the local level. This project took two years to be finished. In this year, a new round of reviewing of regulations related to commercial industry is in process. Second, China does her best to revise the existing regulations which are out of date. For example, in 2000 and 2001, China revised Sino-Foreign Equity Joint Venture Law, Sino-Foreign Contractual Joint Venture Law and Foreign Owned Enterprises Law, cutting out the articles such as local content, foreign exchange balance and export performance, which are not permitted by TRIMS. Third, China concentrates on the making of the new regulations to promote the performance of market policy, especially in service industry. For many years, China has given priority to the development of the manufacturing industry, the regulations on service industry was in the absence, while the service industry developed very quickly in China. In order to provide unified rules for this area, China has promulgated a series of provisions on railway and road transportation, civil aviation, construction, banking, insurance, security and so on. All of these efforts make the regulations become more efficient, more useful and more prompt.

3. Reducing administrative approval

Administrative approval was a major regulatory measure in the developing country. Two years ago, there were about 4 000 administrative approvals at central level in China. The existence of too many administrative approvals has been an obstacle for the economic development since these approvals formed unreasonable trade restrictions and heavy burdens to the enterprises and traders. With a view to diminish such negative effect, the State Council launched a reform on the administrative approval, requiring to check and review all the established administrative approvals and, after consultation and discussion with the competent authorities, to determine whether each approval should be retained or abolished according to the principles of rationale, legitimacy, efficiency and responsibility. After nearly two-year hard work, 1200 administrative licenses were finally abolished. In this year, the Law on administrative Licensing was promulgated by the Standing Committee of NPC. It states that only the NPC, the State Council and local People's Congress have the right to determine whether one activity needs an administrative license. Departments under the State Council will no longer have the right to do so. The purpose of such provisions is to further reduce the amount of administrative licensing, hazardous expansion of which has seriously hampered China's efforts to build a market economy. It also clearly defined relationship between the government and the market, for the purpose of helping the government abandon traditional management methods that interfere directly in social and economic activities. The law states that government shall aim at the national administration from macro aspect and offer more social services. As a result, social intermediary organizations and industry associations will play a larger role in the country's economic activities. The law provides for simplified procedures of administrative licensing in order to bring more convenience to citizens, corporations and other institutions. The enforcement of this law is a symbol that China has made a substantial progress on deregulation.

4. Opening market gradually

Market access is a key point in the deregulation. Before the year 1978, more business in China were owned and operated by state owned enterprises. In 1979, the Sino-foreign Joint Venture Law was first promulgated and accordingly some manufacturing and service sectors began to open to foreigner. From then on, China's deregulation in market access has made a great progress. Both in 1995 and 2002, China promulgated the provisions on Guiding Foreign Investment Direction, and opened more and more industries to foreign investors. In 2001, China became the member of the WTO and made commitments to further open her market. During the past two years, more than 200 new foreign firms have been approved to operate in China. All these firms involves many service sectors, including legal services, accounting, banking, insurance, securities, distribution, advertising, medical service, education, telecommunication, transportation and travel service.

5. Choosing the proper administrative system to support the unification of regulations.

Choosing the proper administrative system to make the unified regulation consistent with the market is another issue for improving regulatory quality. For the past two decades, the national trade and the foreign trade in China were managed by two different departments. The Ministry of Foreign Trade Economic Cooperation (MOFTEC) was in charge of making foreign trade policies, while the National Economic Committee was responsible for making national trade policy. But unfortunately the market is not separate, so making trade policies separately was not consistent with the reality and even causes contradictions and confusions, and makes the market out of order. Under this circumstances, restructuring institution and choosing a proper administrative system to make integrated trade policy is a wise decision. In March this year, the central government of China decided to combine the two departments in order to make unified trade polices, and to reduce the administrative cost. This is why the MOFTEC has been transformed into the Ministry of Commerce (MOFCOM).

In conclusion, according to Chinese experience, a good legislative system and administrative system, making polices in light of economy development, reviewing the existing regulations timely, opening market continuously and reduce administrative approvals are all important factors in China's deregulation. Of course, China still met a lot of difficulties. We have to make great efforts in enforcement of the laws, regulations, and rules since the different administrative department and local governments give different explanations of regulations from their own interests. We also have to establish the laws to protect the free trade and fair competition, since monopoly in some areas still exist. Thus, China has a long way to go in the construction of the market economy.

Thank you for your patience.