



# **Examination of Principles of Good Regulatory Practice**

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# Overview

- What is Good Regulatory Practice?
- Principles for GRP
  - International Work
  - U.S. Guidelines
- GRP in Trade Agreements
  - NAFTA, TPP, T-TIP
- Case Study: North America

# What are Good Regulatory Practices?

GRP refers to internationally recognized processes and procedures that can be used to improve the quality and cost-effectiveness of domestic regulations

# Good Regulatory Practice

GRPs include administrative procedures that govern intragovernmental coordination of rulemaking activity, impact assessment, regulatory transparency, participation, and accountability.

# Why is GRP important?

- GRPs contribute to more informed policy decisions and promotes economic efficiency.
- Transparency and accountability address concerns about undue influence and allows all interested parties to be heard.
- Facilitate trade and investment by reducing regulatory burdens.
- Improve the quality and cost-effectiveness of regulations.
- Reduce non-tariff barriers to help increase economic growth and trade.

# International Good Regulatory Practices (GRP)

Three common principles are:

- Centralized Management and Leadership
- Regulatory Impact Analysis (RIA)
- Transparency and Accountability

# Centralized Management and Leadership

- Emphasizes the importance of and adherence to regulatory principles and procedures.
- It helps to ensure that regulations are consistent with the law and with the President's principles and priorities.
- It promotes coordination among different parts of the Executive Branch.
- It helps to improve and strengthen the analysis underlying rules.

# Regulatory Impact Analysis (RIA)

## Basic Goals

- Contributes to more informed policy decisions and promotes economic efficiency.
- Maximize net benefits to society—or at least ensure that benefits justify costs.
- Promote economic efficiency by regulating only where markets fail, and when regulating, by using cost-effective and market-based approaches.
- Increase the transparency of the regulatory system.



# Transparency and Accountability

Transparency and accountability help addresses concerns about undue influence and allows all interested parties to be heard. The U.S. has three core principles:

- Transparency
  - OIRA Dashboard ([www.reginfo.gov](http://www.reginfo.gov)) and the international flag
  - Unified Agenda and Regulatory Plan
  - Federal Register
- Participation
  - Public comments
  - Regulations.gov ([www.regulations.gov](http://www.regulations.gov))
- Collaboration
  - Open Government and Open Government Partnership
  - Meetings with outside parties

# U.S. Endorsement of GRP

- 2005 APEC-OECD Checklist on Regulatory Reform
- 2011 APEC Leaders Statement: The Honolulu Declaration – Toward a Seamless Regional Economy
- 2012 Recommendation of the Council on the OECD on Regulatory Policy and Governance

# APEC-OECD Checklist on Regulatory Reform

- There is no single model of regulatory reform, but this does not mean that standards, goals and well-structured institutions do not matter.
- The checklist is a voluntary tool that member economies may use to evaluate their respective regulatory reform efforts.

# APEC-OECD Checklist on Regulatory Reform

- Four parts to the checklist
- (A) Horizontal questionnaire
- Three specific policy areas:
  - (B) Regulatory policies
  - (C) Competition policies
  - (D) Market openness policies

# 2011 APEC Leaders Statement: The Honolulu Declaration

- Recognizes that regulatory reform can “boost productivity and job creation” while protecting the environment, public health, safety, and security.
- As trade and investment flows increase, greater alignment is required to avoid barriers to growth and employment.

# 2011 APEC Leaders Statement: The Honolulu Declaration

- Pursue common objectives to prevent technical barriers to trade related to ***emerging green technologies***, including smart grid interoperability standards, green buildings, and solar technologies;
- Strengthen ***food safety systems and facilitate trade***, including by supporting the Global Food Safety Fund – an innovative capacity-building partnership with the World Bank; and
- Ensure implementation of our APEC ***anti-corruption and open government*** commitments by 2014 through deeper cooperation in APEC.

# 2011 APEC Leaders Statement: Annex

## Strengthening Implementation of Good Regulatory Practices

- Develop, use, or strengthen processes, mechanisms, or bodies to ***enable a whole of government approach*** in the development of regulations, including coordination across regulatory, standards, and trade agencies.
- Develop, use, or strengthen ***mechanisms for assessing the impact of regulations***, which involves effective and consistent use of the tools and best practices for developing new regulations and reviewing existing regulations.
- Implement the principles related to public consultation of the ***2005 APEC-OECD Integrated Checklist*** on Regulatory Reform section on regulatory policy and the 2004 Leaders' Statement to Implement the APEC Transparency Standards.

## 2012 Recommendation of the Council of the OECD on Regulatory Policy and Governance

“The financial crisis, and the pace of social change and environmental challenges highlight the ***importance of sound regulatory frameworks as a basic condition*** for well-functioning markets and societies, protecting the environment and the promotion of economic growth.”



# 2012 Recommendation of the Council of the OECD on Regulatory Policy and Governance

- Sets out the measures that governments should take to support the implementation and advancement of systemic regulatory reform to deliver regulations that meet public policy objectives and will have a positive impact on the economy and society.
- These measures are integrated in a comprehensive policy cycle in which regulations are designed, assessed and evaluated *ex ante* and *ex post*, revised and enforced at all levels of government, supported by appropriate institutions.

# 2012 Recommendation of the Council of the OECD on Regulatory Policy and Governance

- Sets out 12 recommendations that are elaborated in an Annex.
- Examples:
  - Whole of government approach (#1)
  - Open government, including transparency and public participation (#2)
  - Integrate regulatory impact analysis as early as possible (#4)

# Good Regulatory Practice in the United States

- Administrative Procedure Act
- Executive Orders 12866, 13563, 13609, 13610
- OMB Circular A-4
- OMB Circular A-119
- OIRA Memorandum on “Disclosure and Simplification as Regulatory Tools”

# GRP and Trade

2011 APEC Leaders' Declaration:

“In addition, as trade and investment flows become more globalized, greater alignment in regulatory approaches, including to international standards, is ***necessary to prevent needless barriers to trade*** from stifling economic growth and employment.”

# GRP and Trade

## 2012 OECD Recommendation

“Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, ***if regulation is used, the economic, social and environmental benefits justify the costs***, distributional effects are considered and the net benefits are maximized.”

# GRP and U.S. Trade Agreements

- GRPs are an important element of U.S. FTAs, where we seek commitments to GRPs, and establish dedicated fora to further cooperation.
- Generally covered within individual chapters
  - “Publication, Notification and Administration of Laws” (NAFTA) or “Transparency” (others)
  - Technical Barriers to Trade
  - Government Procurement
  - Elements of regulatory cooperation

# GRP and Trade: The TPP and T-TIP

- Trans-Pacific Partnership (TPP): Regulatory Coherence is one of four “horizontal” issues, along with competitiveness and business facilitation, small and medium-sized enterprises, and development
- Transatlantic Trade and Investment Partnership: Includes a chapter on Regulatory Coherence and Transparency

# The TPP: Regulatory Coherence

- Specific commitments across the agreement to promote regulatory coherence to make trade between TPP countries more business-friendly and efficient and create the conditions necessary to substantially boost trade in the TPP region, while taking into account the legitimate policy objectives of each country.
- Regulatory and other non-tariff barriers increasingly are the major hurdles that companies face. Work to improve regulatory practices, eliminate unnecessary barriers, reduce regional divergence in standards, promote transparency, conduct regulatory processes in a more trade-facilitative manner, eliminate redundancies in testing and certification, and promote cooperation on specific regulatory issues.
- Joint work and additional commitments on food safety, animal, and plant health issues of common concern to enhance consultation and cooperation on these matters.



# Lessons Learned

- It is easier to prevent unnecessary regulatory differences than to remove existing ones.
- Adopting GRPs take time, focus on long-term.
- GRP should endure Administration changes and be used to help inform policy officials.
- If two countries both apply similar GRPs it provides a platform to cooperate to help avoid trade irritants.