



U.S. Engagement in Regulatory Cooperation

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Overview

- Reasons for Regulatory Cooperation between governments
- U.S. Basis for Regulatory Cooperation
- Survey of Cooperation Fora
 - North America
 - EU
- Highlighted Forum: APEC

Why Cooperate?

- Non-tariff barriers reduce economic growth and trade.
- International regulatory cooperation is one of the best ways to identify and address existing barriers and to prevent future barriers.
- Exchanging best practices improves regulatory outcomes at home and promotes cooperation abroad.

The Basis for Regulatory Cooperation

- Executive Order 13563
- Executive Order 13609

Executive Order 13563, January 2011

- Improving Regulation and Regulatory Review
- “Our regulatory system **must protect public health, welfare, safety, and our environment** *while promoting economic growth, innovation, competitiveness, and job creation.*”
- Supplemental to and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in earlier executive order

Executive Order 13609, May 2012

- Recognizes that the regulatory approaches taken by other governments may differ from those taken by U.S. regulatory agencies to address similar issues.
- In meeting shared challenges, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation.

Executive Order 13609, cont.

- Draws on the Regulatory Working Group
- Administrator of the OIRA serves as chair, USTR participates
- Forum to discuss, coordinate, and develop a common understanding with regard to international regulatory cooperation
- Examine strategies for effective regulatory cooperation, as well as best practices

U.S.-EU Regulatory Cooperation

- U.S.-EU High Level Regulatory Cooperation Forum
 - Established in 2005
 - Co-Chaired by OIRA Administrator and the Director General of DG Enterprise
- Transatlantic Economic Council (TEC)
 - Established in 2007
 - Provides Cabinet-level political guidance and support for Transatlantic economic integration
 - Interest in opportunities for regulatory cooperation, reducing nontariff trade barriers, and promoting SME exports

High Level WG on Jobs and Growth

- November 2011
- U.S. and EU leaders directed the Transatlantic Economic Council to establish a High Level Working Group on Jobs and Growth, which would identify policies and measures to increase U.S.-EU trade and investment to support mutually beneficial job creation, economic growth, and international competitiveness.

February 2013 Final Report

Recommends that the two sides explore new means of addressing **“behind-the-border” obstacles to trade, including provisions that serve to reduce unnecessary costs and administrative delays stemming from regulation,** while achieving the levels of health, safety, and environmental protection that each side deems appropriate

Regional Integration through Regulatory Cooperation: North America

- North America a good candidate for Regulatory Cooperation
- North American Free Trade Agreement (1994)
- Integrated supply chains in many industries: autos, industrial equipment, electronics, petroleum, agriculture
- Geographically contiguous, which affects the environment, movement of people, health, and security

Regional Integration through Regulatory Cooperation: North America

- Three mechanisms for cooperation
 - NAFTA Committees
 - Two bilateral regulatory cooperation frameworks
 - Trilateral processes under the North American Leaders Summit

NAFTA Committees

- Committee on Standards-Related Measures (CSRM), responsible for overseeing the implementation of Chapter 9 (Technical Barriers to Trade)
- Four subcommittees:
 - Land Transportation Standards
 - Telecommunications Standards
 - Automotive Standards
 - Subcommittee on Labeling of Textile and Apparel

NAFTA Committees: 20 Years

- Increase in bilateral mechanisms
- Consultative committees on agriculture
- Ad hoc working groups (e.g., Tequila, Sweeteners, Steel)
- Direct engagement (e.g., Organic equivalency)

Trilateral Processes Under the NALS

- Generally held every year, most recently in April 2012 (Washington) and February 2014 (Guadalajara)
- Summits have included cooperation on a wide range of issues, including borders, energy, environment, and public health
 - North American Pandemic Influenza Plan

Trilateral Processes Under the NALS

- 2012: Leaders agreed to complement the two bilateral efforts with a trilateral agenda that included four sectors:
 - Certain vehicle emission standards
 - Railroad safety
 - Globally Harmonized System of Classification and Labeling of Workplace Chemicals
 - Aligning principles of our regulatory approaches to nanomaterials
- 2014: Leaders agreed to include observers from Canada or Mexico in the regulatory cooperation framework the United States has with the other country

Bilateral Regulatory Cooperation Councils

- Mexico, May 2010: President Obama and then-Mexican President Calderón agreed to create a High-Level Regulatory Cooperation Council (HLRCC)
- Canada, February 2011: President Obama and Canadian Prime Minister Harper announced the Regulatory Cooperation Council (RCC).
- Both programs are designed to “increase regulatory transparency; provide early warning of regulations with potential bilateral effects; strengthen the analytic basis of regulations; and help make regulations more compatible.”

Bilateral Regulatory Cooperation Councils

- Both Canada and Mexico are committed to GRP
- Both have administrative bodies with executive authority (similar to the U.S. executive branch) over the development and implementation of regulations
- Consistent approaches to regulatory transparency, public participation, analysis, evidence-based decision-making, use of standards, and conformity assessment
- OMB's Office of Information and Regulatory Affairs (OIRA) serves as the U.S. chair for both initiatives. Canada's Privy Council Office (PCO) and Mexico's Commission for Regulatory Improvement (COFEMER) have the lead for their countries.

Canada: Regulatory Cooperation Council

- 2011: Joint Action Plan
- 29 initiatives in four broad sectors
 - Agriculture and Food
 - Health and Consumer Products
 - Transport
 - The Environment

Canada: Regulatory Cooperation Council

- Key Achievements
 - Common Electronic Submission Gateway for pharmaceutical and biological products
 - Regulatory Oversight Regime on the Great Lakes & St. Lawrence Seaway
 - Zoning for Foreign Animal Diseases
 - Crop Protection Products
- August 2014: Joint Forward Plan: Long term goal to include regulatory cooperation within regular planning and operations of regulatory authorities

Canada: Regulatory Cooperation Council

- “We need to think more broadly and creatively about how to build cooperative frameworks to achieve our economic and regulatory policy goals in a more dynamic manner”
- May 2015: U.S. and Canada release framework for how cooperative activities will be managed between agencies, including:
 - High-level governance
 - Opportunities for stakeholder input/engagements
 - Annual review of Work Plans

Canada: Regulatory Cooperation Council

- Transportation
 - Coordinate and collaborate on Vehicle to Vehicle (V2V) and Vehicle to Infrastructure (V2I) communications technology and applications development and implementation for light- and heavy-duty vehicles to ensure they work seamlessly across the border no matter the supplier.
 - This work will include, where appropriate, joint planning and priority-setting for research supporting potential rulemaking actions, collaborative research projects, as well as information exchanges to support analyses as we develop new V2V and V2I architecture and standards.
- Fisheries and Oceans
 - Greater cooperation in the environmental management of the marine aquaculture sector, including by comparing regulatory environmental management objectives and outcomes of net pen aquaculture, cooperating on farmed to wild fish interactions, and cooperating on regulatory oversight and management of off-shore aquaculture.

Mexico: Regulatory Cooperation Council

- Launched May 2010
- Workplan finalized in February 2012:
 - Food
 - Transportation
 - Nanotechnology
 - E-Health
 - Offshore Oil and Gas Development Standards
 - Accreditation of Conformity Assessment Bodies

Focus: Asia-Pacific Economic Cooperation (APEC)

- 21 economies
- Three goals
 - To develop and strengthen the multilateral trading system;
 - To increase the interdependence and prosperity of member economies; and
 - To promote sustainable economic growth.

Advancing Regulatory Cooperation

- Guiding principles for APEC activities on regulatory matters
- Advance the multilateral trading system
- Focus on achieving practical outcomes that matter
- Advance implementation of the APEC-OECD Checklist
- Promote alignment to international standards and conformance infrastructure
- Engage key stakeholders, ensure outcomes are transparent

Subcommittee on Standards and Conformance (SCSC)

- Reduce negative effect on trade due to differing standards, technical regulations and conformity assessment procedures
- Promote greater alignment of national standards with international standards and greater consistency of approaches to conformity assessment
- Promote good regulatory practices and transparency of standards, technical regulations and conformity assessment procedures
- Encourage cooperation on the development of technical infrastructure
- Promote greater regulatory dialogue
- Encourage business involvement in standards and conformance activities

SCSC Projects

- Concept notes keyed to APEC priorities developed and circulated my member economies
- Evaluated by Committee on Trade and Investment
- Detailed project proposals developed and implemented

APEC Toy Safety

- **Goal:** To increase transparency, encourage better alignment and reduce unnecessary impediments to trade related to toy safety standards and practices while promoting a high level of product safety
- **Relevance:** High profile toy safety incidents in 2007/2008, 11 of 21 economies had notified WTO of regulatory changes related to toy safety, 19 of 21 economies exported toys
- **Method:** Trade, regulatory and national standards body officials from 20 economies and ICTI, CEN TC 52, ASTM F 15, COPOLCO, ILAC experts, industry and other experts came together in Singapore and Hong Kong, China.

APEC Toy Safety: Key Outcomes

- **Greater transparency in Regulatory Systems**
 - Diversity of requirements documented in the APEC Toy Safety Survey completed by all 21 APEC economies
- **Concrete moves towards better alignment**
 - A pledge by ASTM International and ISO to support greater technical cooperation and an agreement to hold future joint meetings
 - Establishment of ISO Advisory Panel to determine toy standard alignment priorities
 - WG on emerging hazards: Cadmium in children's jewelry
- **Sustained international regulatory cooperation**
 - APEC Product Safety Contact List with the OECD Consumer Product Safety Working Group
 - Participation by eight (8) APEC Toy Safety Regulators in ICPHSO in Orlando, Florida in 2010
 - Meeting of APEC regulators in ICPHSO in Korea in 2011

Lessons Learned

- **High-level commitment** to, and support of, the RCC provides needed strategic direction to advance regulatory cooperation.
- **Relationships matter** for successful international regulatory cooperation, and open communication between colleagues helps establish a trust and rapport that is essential for implementing specific initiatives.
- Regulatory cooperation does not encompass all regulatory activities within agencies. **Focus on areas where benefits can be realized** by regulated parties, consumers, and/or regulators without sacrificing outcomes such as protecting public health, safety and the environment. The identification of these priorities needs to be the product of careful consideration.

Lessons Learned (cont.)

- Reliance and **agreement on good regulatory practices is an essential foundation** for successful regulatory cooperation.
- Regulatory divergences are not necessarily due to different regulatory objectives, and **additional planning, coordination, and communication at all stages of rulemaking, including development and implementation, can help avoid unnecessary differences.**
- **Stakeholders have a critical role** to play in identifying unnecessary differences that create costs and challenges, as well as in suggesting opportunities for new initiatives. Meaningful and consistent opportunities for stakeholder engagement are important to success.