

REPORT ON THE EUROMED WORKSHOP ON BETTER REGULATION AND IMPACT ASSESSMENT

Held at OECD Headquarters, Paris 4-5 December 2012

Introductory Note

This workshop was co-organised with the Directorate for Enterprise and Industry, European Commission, in the context of the implementation of the first dimension of the Euro-Mediterranean Charter for Enterprises which sets the framework for competitive enterprises in the Euro-Med region.

Progress in implementing the Charter guidelines was evaluated in 2008 and recommendations for further progress formulated. As part of that framework, the Ministers of Industry in the Euro-Med region, the EU and the OECD agreed in 2011 two training workshops.

This is the second of those Workshops. It addressed an area highlighted in the Charter for action, namely, the need to introduce practices to assess the impact of new legislation on business, paying particular attention to SMEs. The Institutions and Member States of the EU and most OECD countries have developed policies over the last decade to assess the impact of new legislation on business.

The Workshop introduced participants to the general principles of regulatory management and provided an opportunity for the participants to undertake an impact assessment of a hypothetical policy on reducing damage to the environment by excessive use of plastic bags.

The workshop brought together senior policy advisors from European and Euro-Med countries. Participating countries included: Algeria, Egypt, Israel, Jordan, Lebanon, Libya, Morocco, Palestinian Authority and Tunisia.

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Summary and Learning Points

Objective of the Workshop

The Euro-Mediterranean Charter for Enterprises sets out the framework for competitive enterprises in the

Euro-Med region. Industry Ministers agreed in 2011 to hold two workshops. This was the second of those workshops and focussed on the use of Regulatory Impact Assessment to develop a business enabling regulatory environment.

What the Euro-Mediterranean Charter for Enterprise is about?

1. Simple procedures for business
2. Education and training for entrepreneurship
3. Improved skills
4. Easier access to finance and investment friendly Taxation
5. Better market access
6. Innovative companies
7. Strong business associations
8. Quality business support schemes and services
9. Strengthening Euro-Mediterranean networks and partnerships
10. Clear and targeted information
11. Sustainable enterprise development

In the context of simple procedures for business, the Charter makes a commitment to introduce practices to assess the impact of new legislation on business. The guiding principle should be to keep burdensome requirements to a minimum in meeting public policy objectives. Legislators should take into account the limited resources of SMEs: think small first.

Workshop participants included senior policy advisers and public managers dealing with administrative simplification. Delegations also included representatives of business and employer associations.

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The following Nations were represented at the workshop:

- Algeria
- Egypt
- Israel
- Jordan
- Lebanon
- Libya
- Morocco
- Palestinian Authority
- Tunisia

Opening

The workshop was opened by **Ms Karen Hill**, Head of the SIGMA programme, **Mr Jean-Louis Lavroff**, Deputy Head of Unit, DG DEVCO F4, European Commission, and **Ms. Marie Corman**, DG Enterprise A, 2, European Commission.

Keynote presentation

The keynote presentation was delivered by **Mr. Edward Donelan**, Senior Adviser Regulatory Management. He stated that the Institutions and Member States of the EU and most OECD countries have developed policies over the last decade to assess the impact of new legislation. He suggested that these policies need to be seen in the wider context of Better Regulation policies, that is to say policies aimed at improving the quality of the 'flow' of new regulations by better policy making and law drafting and by reviewing and keeping up to date and relevant the 'stock' of existing regulations. The presentation provided participants with a framework for understanding Better Regulation policies, as developed by the European Commission and the Member States of the European Union. Better Regulation needs also to be understood in the context of the development of the concept of regulatory management, a term which includes regulatory reform and 'Better Regulation policies'.¹

He emphasised that the Better Regulation Policies in the European Union need to be understood in the wider context of work in OECD countries on Regulatory Reforms and improving regulatory management. The paper explains the common factors between the OECD [Recommendation of the Council on Regulatory Policy and Governance](#) and the Better Regulation policies of the EU and its Member States. It also examines the tools and institutions used in the implementation of a Better

¹ Some of the terminology used in this paper may be somewhat specialised for the reader so with this in mind, terms such as regulatory management, regulatory policy and Better Regulation are defined in an appendix to the paper.

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Regulation policy. The most important of these tools is Regulatory Impact Assessment, the main focus of the Workshop.

The details of how Regulatory Impact Assessment operates in France were explained by **Mr. Olivier Cortès**, Deputy Head of the Department of legislation and regulatory quality in the General Secretariat of the Government. **Mr Marc Pirrung**, Policy Analyst, Economic Analysis and Impact Assessment, Directorate General of Enterprise explained the process in the European Commission.

The two systems shared many aspects in common. In both cases, impact assessments are undertaken in a Ministry or a Directorate in the case of the European Commission. The impact assessment is then reviewed by a central body. In both cases, the objective of impact assessment is to provide an evidential basis for a policy choice.

While some of the details vary, impact assessments provide a formula for analysing a policy issue by asking certain key questions: what is the policy problem to be solved? What are the alternative choices to the solution of the policy problem? What are the costs and benefits of the different option? Finally, which option was chosen and why?

Impact assessments improve the transparency of policy making and, when properly undertaken, involve those most likely to be affected by the proposed regulations. This, generally, improves the legitimacy of the regulations and increases the chances that they will be respected and complied with.

Participants to the Workshop divided into groups and undertook a simulated impact assessment of a fictional policy to reduce the waste and expense involved in the excessive use of plastic bags. The three groups were not fazed by the lack of data or the political feasibility of implementing such a policy. The results were interesting and provided a variety of approaches to solve the problem. These included a minimalist approach of taking no regulatory action but adding the issue to the curricula of schools. A second approach was to urge a voluntary reduction of the use of bags by a media campaign fronted by a popular figure. More extreme solutions included imposing a levy on plastic bags or the imposition of fines or other penalties on those found not disposing of bags in an environmentally friendly way. The results showed that there was no right or wrong way to achieve a policy result and demonstrated the value of a systematic approach to policy making by following a series of rational steps.

Some interesting issues

Some interesting issues arose from the discussions. In Algeria, for example, there are 6,500 plastic bag manufacturers so curtailing the use of plastic bags needed to be balanced with employment

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issues. The use of landfills was considered as an option but that would involve further risks to the environment as it could take up to 40,000,000 years for the bags to decompose. The Egyptian group came down in favour of a tax but emphasised the need to involve Government stakeholders such as the Environment and Finance Ministries. The Israeli group considered the fact that the costs to the environment were not borne under the present arrangements by the users so a tax on plastic bags or a shift to paper bags was the preferred option. The Jordanians favoured a carrot (education) and stick (stiff penalties) approach. The Lebanese considered the 'do nothing' option but eventually came down in favour of government raising revenue through a tax and using the revenue to clear up the environment. All countries accepted that there was a problem and many, particularly Morocco and Tunisia, favoured public consultation as an educational exercise to persuade consumers to avoid waste.

The final part of the Workshop was a round table discussion on regulatory management in the participant countries. A pattern emerged that most countries develop the policy process by means of working groups in the Ministry concerned. This is followed by a submission to Cabinet usually with some sort of filtering occurring prior to cabinet meetings. Bills are then submitted to parliament, debated, promulgated and published in the Official Journal of the country concerned.

As regards the development of policies and the flow of new legislation, most countries have some sort of consultation process within and between Ministries and some also consult with the public. In the Palestinian Authority, there is a Practitioners Guide for Engaging Stakeholders in Democratic Deliberation.² The case with most of the countries present consultation does not take place in a systematic way and tends to be ad hoc. Similarly, there is no impact assessment conducted in any of the countries. However, the Israeli delegate suggested that a form of impact analysis takes place through the internal and external debates concerning proposed laws. The assessment tends to be more qualitative than quantitative.

As regards the drafting of legislation, all of the countries followed the civil law model where there is no formal distinction between the policy formulation and the law drafting process as there is in common law countries. However, different countries have different approaches to assuring the quality of legislation. In Jordan there is a Legislative Opinion Bureau which has the responsibility of reviewing all legislation before it goes to the Cabinet. Egypt has a Council of State that performs functions similar to the Councils of State in Belgium, France and Italy.

As regards the management of the stock of legislation, there have been efforts in recent years in Tunisia to simplify business legislation. In Egypt there was a body called the Egyptian Regulatory

² Prepared by the OECD on the basis of a survey in the Palestinian Authority.

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Reform Activity. Its function was to compile a data base of business related legislation and to review it with a view to its modernisation and simplification. Unfortunately, it was abolished before its work could bear fruit.