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Panel: 11

Domestic Regulation for Services: Making Progress Through Regional Trade Agreements

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Conference

Submitted by: Anthony Kleitz. Trade Directorate,
OECD



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LAEBA

Domestic Regulation for Services: Making Progress through Regional Trade Agreements

**Anthony Kleitz
Trade Directorate, OECD**

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Introductory comments - 1

RTAs, like the WTO, have made limited progress in overcoming regulatory barriers to trade in services.

Areas of regulatory co-operation that appear promising for RTAs but have proved disappointing in practice:

- Services-related standards;
- Licenses and professional or educational qualifications.

Is the picture completely bleak?

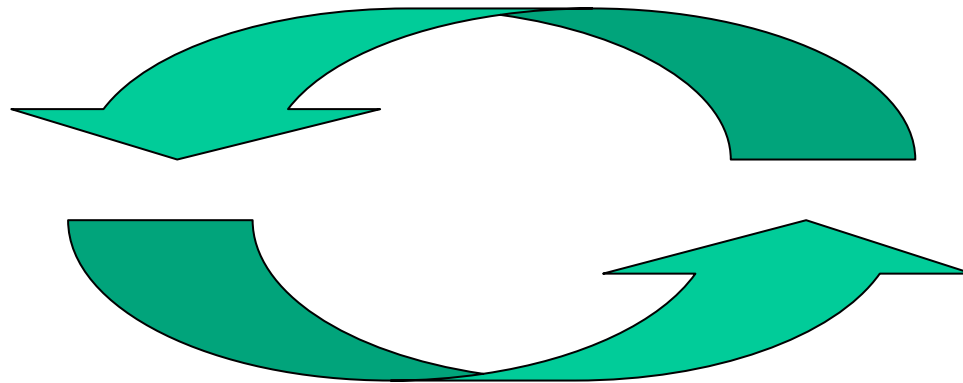
Introductory comments - 2

This presentation will examine 2 issues:

- I. Good regulatory practices for underpinning market openness, with national experiences;
- II. Regional progress with efficient services-related regulation.

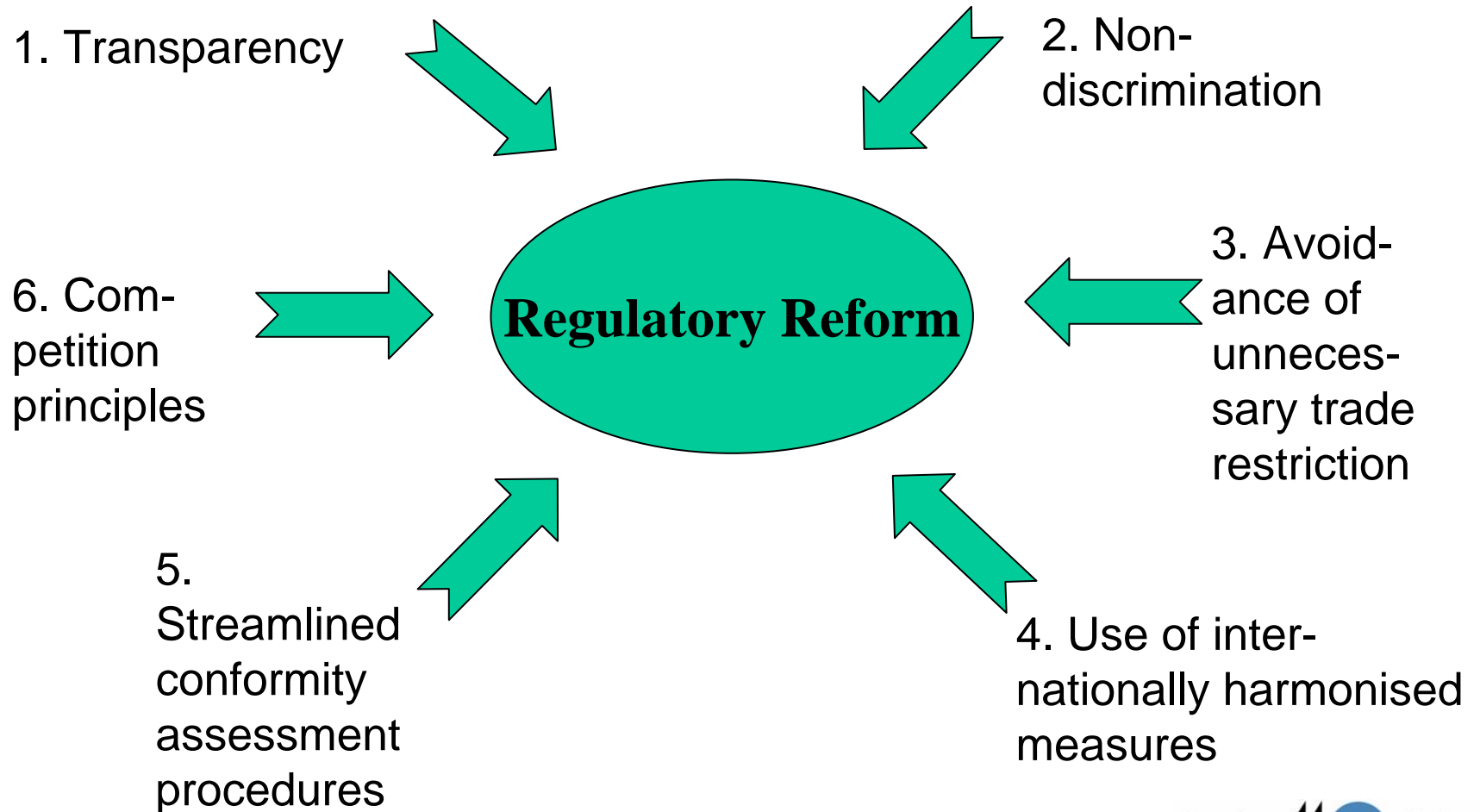
Part I. Good regulatory practice and market openness

- Regulatory reform is about improving economic performance by making regulatory regimes efficient.
- Good regulatory practices enhance market openness.



- Market openness reinforces domestic economic performance.

Six principles of efficient regulation to underpin market openness



Principle 1: Transparency

- Public availability of information:
 - Consolidated information about existing and upcoming rules;
 - Use of internet;
 - Enquiry points;
- Predictability and accountability:
 - Clearly-defined rule-making procedures.
 - Consistent implementation;
- Public consultations:
 - Well-timed opportunities;
 - Codified procedures and accountability;
- Open appeals procedures.

Principle 2: Non-discrimination

- Effective balancing of interests across industry, consumers, regulators and other stakeholders;
- Avoidance of de facto discrimination;
- Avoidance of nationality-based restrictions on FDI;
- Open regionalism.

Principle 3: Avoidance of unnecessary trade restrictiveness

- Awareness of trade and investment implications of regulations:
 - Use of Regulatory Impact Assessments (RIAs);
 - Use of performance rather than design criteria;
- Simplified administrative requirements and procedures;
- Consideration of regulatory alternatives.

Principle 4: Use of internationally harmonised measures

- Reference to international standards as a basis for national standards and regulations;
- Acceptance of foreign measures as functionally equivalent to domestic measures;
- ...And systematic monitoring of efforts to use international standards.

Principle 5: Streamlining conformity assessment procedures

- **Use alternative approaches to avoid duplication:**
 - *Mutual recognition;*
 - *Unilateral recognition;*
 - *Reliance on supplier's declaration of conformity/ industry certification;*
- **Establish market confidence through accreditation.**

Principle 6: Application of competition principles

Avoid the emergence of anti-competitive practices by ensuring:

- Ease of access to domestic economic activities;
- Open, accessible complaint procedures for challenging regulatory/private actions that may impair market access.

Part II. Regional progress with efficient services-related regulation

Overview:

Much commonality with GATS:

- Non-discrimination is limited by liberalisation commitments;
- Domestic regulation should avoid unnecessary trade restrictiveness;
- Some progress on government procurement, competition policy.

Examples of regional progress in other areas will now be examined.

Links between regulatory reform at multilateral, regional and domestic levels: Example of Mexico

Year	Multi/ bilateral agreements	Year	National reform
1986	GATT accession	1989	Economic Deregulation Unit
1992, 1999	Chile	1992, 1997 1999	Federal Law of Metrology and Standardisation; Creation of Mexican Accreditation Entity
1994	OECD membership	1993, 2003	Foreign Trade Law
1994	NAFTA	1993, 1998	Federal Economic Competition Law
1994-2003	FTAs with Latin American neighbours	1994	Federal Administrative Procedures Law (FAPL); creation of Federal Regulatory Improvement Commission
		1995	Agreement for Deregulation of Entrepreneurial Activity
		1995-2004	Foreign Investment Law (progressive liberalisation)
		1999	Intellectual Property Law
2000	EU	2000	FAPL; Laws on Public Procurement & on Public Works
		2002	Federal Transparency Act; creation of Federal Institute of Access to Public Information; creation of System for rapid opening/establishment of enterprises (SARE)
2004	Japan	2003	Foreign Trade Law

Some specific areas of regional progress:

1. Transparency

- Transparent information about regulations: APEC's IAPs;
- Transparent processes: (e-Government);
- Opportunities to comment: EU's on-line consultations.

Some specific areas of regional progress:
2. Simplification and liberalisation of regulatory procedures

Services facilitating trade in goods:

- ASEAN Framework Agreement on Facilitation of Goods in Transit (1998);
- ASEAN MOU on Air Freight Services (2002).

Some specific areas of regional progress:
2. Simplification and liberalisation of regulatory procedures

Labour mobility:

- Focus here is on procedural aspects (linked to but distinct from market access: the right to practice);
- Measures to facilitate movement of business personnel:
 - Information exchange;
 - Dialogue with business;
 - Streamline requirements and processing for temporary entry.

Some specific areas of regional progress

3. Harmonisation and mutual recognition

A) Harmonisation: ASEAN on transport

B) MRAs

- Some RTAs encourage MRAs (similar to GATS): Japan-Singapore, EU-Mexico;
- Some actively facilitate dialogue for MRAs: NZ-Singapore;
- Some have led to specific MRAs developed by professional bodies: NAFTA, APEC, ANZCERTA;
- EU system is based on directives.

Some specific areas of regional progress:
**4. Developing co-ordinated regulatory policies,
position or guidelines on GRP**

a) Development of regional systems:

APEC: Implementation of Trade Facilitation Principles.

ASEAN:

- Education in air services;
- Sectoral approach to MRAs for professional services;

ECTEL: first regional telecommunications authority in the world.

**b) Exchange of information and support the WTO process by
developing ideas, research and draft papers:**

APEC has worked on:

- -- *Customs best practice* and trade facilitation;
- -- *Good regulatory practices for services*;
- -- Identifying *regulatory obstacles to investment* in service sectors.

Some specific areas of regional progress:
5. Technical assistance/ capacity building

Technical assistance at the regional level may be better adapted and more coherent than at the multilateral level;

- Participation in regional activities provides assistance for inexperienced countries;
- Example of e-Government.

Thank you.

Anthony Kleitz
Trade Directorate, OECD
anthony.kleitz@oecd.org