



**ACTAL SEMINAR – The Hague, 24 June 2010**

**Towards an Effective Approach in Tackling  
Regulatory Pressure After 2010**

**Speech by Aart De Geus,  
Deputy Secretary-General  
OECD**

Regulatory reform has been on governments' agenda for well over ten years and is even more important now to help OECD economies exit from the crisis. This is a dynamic agenda: tools and objectives which guided policy-makers when improving the regulatory environment are still useful and strong, but we need to improve them as an urgent priority. I will make some general points which apply broadly across the OECD, share with you some specific findings concerning the Netherlands, supported by recommendations.

First let me put my remarks into context: there is a reason why regulation and regulatory policy appear on the front page of the news almost every day. Our countries face an unprecedented combination of constraints. Low growth and pressure to increase productivity; fiscal pressures; frustration over regulatory barriers and costs; more complex policy agendas to promote innovation and green growth; and limited public support for major reforms. Assumptions shaken, politicians and the public are raising questions about what to regulate and how to close regulatory gaps. Yet so often we repeat that a good crisis is an opportunity. Expectations have been raised that renewed regulatory systems will be more effective in the future, helping governments pursue policy coherence, manage risk, and enhance both integrity and accountability.

To help take regulatory policy closer to the heart of policy-making, at the end of 2009, OECD members created the Regulatory Policy Committee. The Committee has a forward-looking agenda to promote a horizontal approach within the OECD, linking the tools and institutions that implement regulatory quality principles to the policy agendas of sectors. I give you three of the priority streams of work which the Committee will pursue: user-centred regulation and the use of web-based tools, a risk-based approach to compliance costs, and international regulatory co-operation are

This may sound technical but it is not. Actual practice must catch up with principles: effective implementation calls for political support at a high level. At the annual OECD Ministerial meeting at the end of May and at the global forum which precedes it, many speakers highlighted regulation and regulatory policy in their remarks as they discussed the lessons of the crisis of 2008, the road to recovery, and many social and environmental policy issues. A focus on regulatory management is not enough, which is why we are speaking instead of regulatory governance, of how the public and the private sectors must work together.

Sustained political support remains critical, especially when it comes to sustaining resources for regulatory policy. Most countries seem to share the same perspective on this: attention to future competitiveness and living standards, and the recognition that an effective regulatory

policy can help. No one is complacent: momentum needs to be actively sustained across electoral cycles.

The relationship between public interest and economic competitiveness is sometimes described as an inevitable trade-off between social benefit and private cost. From a regulatory perspective, the issue is how to balance society's desire for social protection with the economic burden on business. Increasingly risk adverse societies put pressure on governments to regulate. Of course not all businesses want to beat regulatory standards back: regulations can have anti-competition effects which keep out new entrants and block the diffusion of innovations. So it is not all one-sided. The OECD has been documenting and advocating a more dynamic approach to regulatory policy when the costs of meeting regulatory goals can be reduced significantly by choosing approaches that rely more on market mechanisms. Such mechanisms place more decisions in the hands of the private sector, provide greater flexibility to regulated industries, and encourage innovation. They alter incentives and decentralise decision-making, allowing economic actors to find the most cost-effective solution to a particular regulatory goal. At the same time, market-based regulation has implications for enforceability, which is critical to overall effectiveness. Governments will require better methods of assessing the limitations and opportunities of market-based and traditional command-and-control regulation. For the RPC, the OECD's newest Committee, this is the challenge; to find the solutions that can work, examples of best practices.

Regulation, together with the budget, is a key policy lever of governments: it is very important “to get it right”. This means regulations that make markets work efficiently, regulations that address broader social welfare objectives, and regulations that promote rule of law and integrity. The cost of poor regulation is simply too high, as we now see when counting the cost of the financial crisis. Responsible regulation is a balanced approach, looking not only at the cost of regulatory compliance, but also at the benefits. This is however hard to reduce to an indicator or a calculus. Communicating regulatory policy and its impacts to different stakeholders remains a challenge which governments are struggling to master.

One figure has attracted a lot of attention in recent years – the number of regulations, and with it, the cost of administrative burdens. Our countries are concerned that the number of regulations is increasing, with a strong perception of increasingly regulated societies. In the post crisis context it is very important for governments to be careful not to increase regulatory costs any further. Some countries such as the United Kingdom have explored the notion of regulatory budgeting, which has some theoretical appeal, but poses significant practical challenges. Australia had established a principle of a "one in one out" for regulations, as a way to contain the increase. Governments have often been called to take increased responsibility during the crisis, with possible implications in terms of new regulations. Therefore, due attention needs to be paid so that the costs of regulations continue to remain under control.

Efforts to clean up the regulatory stock and reduce administrative burdens need to be linked to impact assessment as a tool for better policy and rule making process. The OECD reviews of 15 members of the European Union show that this link has been difficult to forge: most put more emphasis on burden reduction, few on impact assessment. Both are needed to “close the loop”, keeping the stock of regulations reasonable and up to date. Now is the time to strengthen impact assessment as an essential, evidence based process for the development of well functioning public policies. This will also help to strengthen policy coherence across different policy areas, and to resist pressures for inappropriate new regulation.

Now let me try to address these general points from a Dutch perspective. As a famous American politician, Congressman Tip O’Neill, Speaker of the House of Representatives, once said, “all politics is local politics”.

The Netherlands was among the first countries to set an ambitious, quantitative target of 25% reduction of administrative costs for businesses. And it was the first country to actually realise a reduction target of this scale already in 2007. Several factors contributed to this success:

(i) the measurement used a simple, easily understandable method enabling identification of the most burdensome regulations and making monitoring of progress possible;

(ii) setting a quantitative, measureable and time-bound target and dividing it among ministries which helped to keep up a pace and hold every participating government authority responsible for the results;

(iii) strong political support declared by two consecutive governments;

(iv) sufficient institutional set up that was even strengthened by creation of the Regulatory Reform Group and broadening of the mandate of ACTAL which provides an important, independent scrutiny of the programme; a

(v) the system of reporting to the Cabinet and Parliament and linking to the budget cycle.

The OECD evaluated the Dutch programme of administrative simplification in 2007, with recommendations which shaped the next government's agenda. This pattern provided the foundation of the OECD review of e-government and administrative simplification in Portugal entitled "Making Life Easier for Business and Citizens". Now we are turning our attention to administrative simplification in Tunisia, probably in Viet-Nam as well.

While the Dutch reduction is definitely a remarkable achievement it would definitely be premature to say that the mission has been accomplished. Business expect more progress and our 2010 report, *Better Regulation in the Netherlands*, highlights some area where the government might wish to focus its attention.

While our report confirms the Netherlands is among the leading countries in respect to programs to reduce administrative burdens, the OECD has identified the challenge for the Netherlands to implement an effective policy for the ex ante impact assessment of new regulations. There is widespread agreement among officials that the current process for impact assessment remain unsatisfactory in practice. Typically impact assessment comes too late in the decision-making process to have a meaningful effect on regulatory decisions. Furthermore, there is scope for improving consultation processes and transparency, and for better taking into account both benefits as well as costs. There is also a need for a clear methodological approach balancing qualitative and quantitative analysis, appreciating the importance of evidence-based, cost-benefit analysis and other approaches.

Our recent work also stresses the importance of “Multilevel governance”. Initiatives to reach down to the local levels of government are developing fast. There is growing acknowledgment of the importance of local or sub national levels of government for effective regulatory management, as they are often the primary interface for SMEs and citizens in regulatory issues. The Netherlands has strong initiatives in this area and can, again, be considered a front runner. In terms of multi level governance, it is also important to address the EU wide level, as EU-origin regulations play a large and probably growing role in regulatory policy in European countries. In this area too, the Netherlands impresses with its commitment to advancing the EU Better Regulation agenda, alongside its own.

Another issue identified in our report is the fragmentation of the institutional support structure for Better Regulation. The Advisory Board on Administrative Burdens (ACTAL) is an important institutional asset helping to hold different parts of the agenda together. Since 2000, it has played an important role in helping to motivate and structure regulatory reform in the Netherlands. Together with the Ministerial Steering Group on Better Regulation, these bodies cover the business and citizen burden reduction programs, and advise the Cabinet on the burdens of new regulations and the promotion of Better Regulation at EU level. Still, there could be further benefits in having a more joined up approach, coordinating also the other parts of the government with responsibility for regulatory policy.

For example, our recommendations suggest that the Ministerial Steering Group on Better Regulation and its supporting group of officials should be given a well-defined agenda that includes the development of the impact assessment process. A more authoritative form of the Proposed Legislation Desk should be established with the functions of issuing and updating the relevant guidelines, providing advice and support for ministries. Consideration should also be given to providing the Steering Group with a formal gatekeeper role for significant new regulatory proposals before they are submitted to the Cabinet.

This might be inconvenient for ministries and other legislative authorities, but the tiger needs teeth to really improve regulatory quality and cut the red tape. Effective public consultation and communication are essential to rally stakeholders to a common purpose. The crisis has confronted ordinary citizens everywhere with enormous challenges and shaken their faith in government. The challenges posed by complex modern societies for the effective management of public consultation, and the linked issue of how to make best use of new technologies, are real. There is no simple one size fits all approach, only a range of best practices, which are often not sufficiently shared so that learning by doing can take place. For example, the role of ACTAL as an advisory body is very important to help communicate and set the terms of the public debate on these issues.

To sum up, the Netherlands has been a leader and often a source of inspiration for many countries. Other OECD Member countries have often benefited a lot from the Dutch experience to inform the international debate. Still, even leaders have scope to make further progress. I very much hope that some of the ideas shared with you today will help the Netherlands to keep up in the race, and remain a model that many countries wish to emulate.