EACRC 2019-2021: Meeting Summaries

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Meeting Summary for May 10, 2019

Meeting objectives

- To discuss how the Committee will implement its mandate to improve regulatory competitiveness in Canada and support the modernization of Canada's regulatory system
- To consider the second round of Regulatory Reviews

Participants

Laura Jones (Chair), Catherine Beaudry, Stewart Elgie, Ginny Flood, Anne Fowlie, Don Mercer, Keith Mussar

Regrets: Nancy Olewiler

Treasury Board of Canada Secretariat: Erin O'Gorman, Tina Green, Jeannine Ritchot, Kyle Burns, Lindsay Wild, Claire Penny, Ian Allan, Allison Krogh

Introductory remarks

The Chair welcomed Committee members to their first meeting and highlighted the important role of this new body.

Visioning session

Members participated in a visioning session to identify themes that will guide the work of the Committee, including:

- further improving the culture between government and stakeholders
- building trust by having all relevant perspectives in the room, focusing on evidence, and drawing from the best regulatory practices both domestically and internationally
- simplifying processes while pursuing regulatory excellence
- recognizing the interconnections between regulatory issues and promoting collaborative solutions
- examining the issue of the cumulative impact of regulations across jurisdictions

Proposed sectors and themes for the second round of Regulatory Reviews

The Treasury Board of Canada Secretariat presented an overview of the targeted Regulatory Reviews, including:

- objectives, outcomes and lessons learned from the first round of reviews
- criteria used for identifying potential sectors and themes
- summaries of the potential sectors and themes for the next round of reviews based on stakeholder feedback, recommendations from the Economic Strategy Tables, and departmental input

Working lunch

John Knubley, Deputy Minister of Innovation, Science and Economic Development Canada (ISED), and **Lorraine Mitchelmore**, former CEO of Enlighten Innovations, and Chair of the Resource of the Future Economic Strategy Table, situated the Committee's work within broader Government of Canada initiatives to advance economic growth and innovation. The Committee was encouraged to focus on:

- regulations as an enabler of innovation and economic growth
- improving efficiency and effectiveness with better risk management
- aligning with global best practices
- embedding a collaborative approach between industry, academics and regulators
- making regulatory excellence a competitive advantage for Canada

Overview and lessons learned from the first round of sectoral reviews

The **Deputy Ministers** of **Health Canada** and **Transport Canada**, as well as the **President** of the **Canadian Food Inspection Agency**, shared their perspectives on the first round of Regulatory Reviews with the Committee. Key points raised included:

- Regulatory Reviews require clear scoping, considerable effort and coordination to ensure positive outcomes
- focused efforts can identify greater use of risk-based approaches, identify tools to drive innovation, and design agile regulatory frameworks that can keep pace with changing technology and the economy

Second round of Regulatory Reviews

Members identified three areas that they would recommend for the next round of Regulatory Reviews:

- digitalization and technology-neutral regulations
- clean technology
- international standards

Members noted that as the sectors and themes are broad, they will each need to be scoped appropriately in order to address stakeholder issues and identify tangible solutions.

Follow-Up Meeting Summary for May 22, 2019

Meeting objectives

- Committee agrees to a proposed list of recommendations on sectors or themes for the second round of Regulatory Reviews
- Committee provides feedback on a draft of the letter to the President of the Treasury Board
- Committee provides feedback on the agenda for the next in-person meeting

Participants

Laura Jones (Chair), Catherine Beaudry, Stewart Elgie, Ginny Flood, Anne Fowlie, Don Mercer, Keith Mussar

Regrets: Nancy Olewiler

Treasury Board of Canada Secretariat: Jeannine Ritchot, Kyle Burns, Lindsay Wild, Claire Penny, Ian Allan, Allison Krogh, Hélène Lowell, Christopher Lee

Introduction and roundtable

Members were pleased with the diversity of perspectives expressed at their first meeting on May 10, 2019, and confirmed their commitment to considering the interests and expectations of all members in their deliberations.

Draft letter to the President

Members came to consensus on recommending three sectors and themes for the next round of Regulatory Reviews, which are digitalization and technology-neutral regulations, clean technology, and international standards. In coming to consensus on the sectors and themes, members noted:

- digitalization could provide opportunities to modernize and simplify regulatory interactions to the benefit of all Canadians
- clean technology should include clean innovation, competitiveness and demand for new regulatory technologies
- an international standards review is an opportunity for Canada to advance its strategic leadership in the development of such standards
- the following themes would be included in the letter: culture change, regulatory excellence, transparency and trust, inclusiveness, a systems approach, and overlapping regulations

Next steps

- The Chair will update the letter and seek members' final review and approval.
- The next scheduled meeting will be June 25 and 26, 2019, and will focus on competitiveness.

Meeting Summary for June 25 and 26, 2019

Meeting objectives

- to identify key recommendations for advancing competitiveness in Canada's regulatory framework

- to provide advice on methods to examine how competitiveness analysis could be defined, integrated, and measured in the regulatory development process
- to provide targeted advice to Health Canada on competitiveness issues identified in the Agri-food and Aquaculture Regulatory Review, including any observations on effective consultation and engagement mechanisms

Participants

- Laura Jones (Chair)
- Catherine Beaudry (June 25 only)
- Stewart Elgie
- Ginny Flood
- Anne Fowlie
- Don Mercer
- Keith Mussar
- Nancy Olewiler

Treasury Board of Canada Secretariat

- Tina Green
- Kyle Burns
- Lindsay Wild
- Brennen Young
- Rob Turk
- Claire Penny
- Hélène Lowell
- Allison Krogh

Chair's opening remarks

The Chair welcomed Committee members and reviewed the agenda for the meeting.

Briefing on competitiveness in the regulatory framework

Tina Green, Assistant Secretary, Regulatory Affairs Sector, Treasury Board of Canada Secretariat, described the government's efforts to integrate economic considerations and competitiveness into its regulatory framework while ensuring that regulations continue to protect the health, safety, security, and social and economic well-being of Canadians. Members were briefed on the government's efforts to improve competitiveness and measure the impact of regulations on competitiveness, including cumulative burden. Members discussed possible competitiveness gaps, which prevent the government from better assessing, considering, and achieving regulatory competitiveness.

Perspectives on regulatory competitiveness

Members heard a variety of perspectives on regulatory competitiveness.

- **Mike Beale**, retired Assistant Deputy Minister, Environmental Protection Branch, Environment and Climate Change Canada, conveyed his broad experience with the Canadian regulatory system and in working constructively with stakeholders while advancing public policy objectives.

- **Christine Little**, Assistant Deputy Minister, Ministry of Jobs, Trade and Technology, Government of British Columbia, discussed the B.C. government's efforts to reduce red tape, which have led to a 50% reduction in the number of B.C. regulatory requirements since 1998.
- **Dr. Patrick McLaughlin**, Director of Policy Analytics and a Senior Research Fellow at the Mercatus Center, George Mason University, shared his views on regulatory measurement in the context of improving competitiveness.
- **Kathleen Sullivan**, Chief Executive Officer, Food and Beverage Canada, shared a private sector perspective on how industry and government can work together to advance both food safety protections and competitiveness.

Following the panel discussion, members discussed key take-aways, including:

- identifying opportunities to engage relevant parties early and often to facilitate dialogue throughout the development of regulations
- investigating and considering experimentation with new available technologies to improve consultation
- investigating the use of innovative approaches that allow for more intensive, interactive, multi-party consultation for complex issues
- examining best practices from other countries, as well as from provinces such as British Columbia, to develop broad-based metrics for a regulatory measurement program
- exploring the use of machine-based text analysis and its potential for regulatory measurement
- undertaking a mapping exercise to measure cumulative burden in one or more illustrative sectors in order to understand the aggregate net impact of federal, provincial, and international regulations and regulatory practices (for example, policy and guidance requirements) on that sector, including understanding the differences in burden on large, medium, and small businesses, as well as on consumers, where possible
- developing a methodology for the ex-post analysis of regulations that are expected to impose $10 million or more in annual costs on business in order to assess both their effectiveness and their impact on competitiveness

Case study: Regulatory competitiveness and the *Pest Control Products Act*

Tyler Bjornson, President of the Canada Grains Council (CGC), and **Jason Flint**, Director General, Policy, Communications and Regulatory Affairs Directorate, Pest Management Regulatory Agency (PMRA), Health Canada, provided members with a stakeholder's and a regulator's perspective on regulatory competitiveness, respectively. Members discussed the key challenges for PMRA posed by its pesticides' re-evaluation process.

How competitiveness analysis can be defined, integrated, and measured

Cary Coglianese, Edward B. Shils Professor of Law, and professor of political science at the University of Pennsylvania, and **Craig Alexander**, Partner and Chief Economist at Deloitte Canada, discussed challenges of measuring regulatory competitiveness. Key points raised included:

- Limited data is available to measure competitiveness and cumulative burden
- Limited data leads to perceptions that Canada is not doing well on regulatory competitiveness
- Both benefits and costs should be taken into account when assessing regulations
- Need to work with organizations such as Statistics Canada and the Organisation for Economic Co-operation and Development to determine what data sets could be generated to enhance the understanding of regulatory competitiveness in Canada
- Managing risk can be done in different ways. For example, sandboxes can be used to generate data on the effectiveness of new technologies within a safe environment. Both

businesses and governments could benefit from this data

Next steps

In preparation for a follow-up meeting on July 22, 2019, members reflected on their interactions with guest speakers and discussed possible advice and observations. The following broad themes emerged:

- the importance of measuring cumulative burden when assessing regulatory competitiveness
- best practices for consultation, engagement and communication
- competitiveness issues in pesticides regulations that may be relevant in other regulated areas

Follow-up Meeting summary for July 22, 2019

Meeting objectives

- to build consensus on the proposed recommendations for the President of the Treasury Board
- to outline potential opportunities to engage in consultations
- to identify proposed agenda items and potential guest speakers for future meetings

Participants

- Laura Jones (Chair)
- Catherine Beaudry
- Stewart Elgie
- Ginny Flood
- Anne Fowlie
- Don Mercer
- Keith Mussar
- Nancy Olewiler

Treasury Board of Canada Secretariat

- Kyle Burns
- Brennen Young
- Katherine Saunders
- Ioana Cialacu
- Claire Penny
- Hélène Lowell
- Allison Krogh
- Christopher Lee

Welcome and roundtable

The Chair welcomed the members and provided an overview of the agenda.

Member discussion

Members continued their discussion of the broad themes that emerged from their June meeting. These themes are the basis for the Committee's early observations and considerations for advancing Canada's regulatory competitiveness, which will be captured in its future recommendations.

Consultations

The Treasury Board of Canada Secretariat provided an update on future consultation plans related to the *Canada Gazette*, Part I, notice published on June 29, 2019, and invited members to participate.

Next steps

Member input will be sought for potential topics for future meetings.

Summary for Fall 2020 Meetings

The External Advisory Committee on Regulatory Competitiveness (EACRC) is an advisory committee that provides independent advice to the President of the Treasury Board on opportunities to improve Canada's regulatory competitiveness. EACRC meetings facilitate conversations between stakeholders to examine regulatory issues that impact Canadian business and that are bottlenecks to innovation and growth.

From September to December 2020, the EACRC held a series of meetings where members heard from a range of stakeholders and government partners in alignment with the EACRC's terms of reference. Themes that arose during this period are listed below.

COVID-19

The pandemic response in Canada has shown that the government can act quickly to mitigate risk for Canadians. The EACRC considered the impacts of COVID-19 on the Government's regulatory approach and re-confirmed that its previous recommendations (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness/external-advisory-committee-regulatory-competitiveness-recommendation-letter-july-2019.html) to the President of Treasury Board of Canada Secretariat continue to be relevant.

Innovation

The EACRC is well positioned to identify new and emerging sectors that could benefit from innovative regulatory mechanisms. The EACRC met with officials from the Centre for Regulatory Innovation (CRI) and shared insights on how to embed and nurture a culture of regulatory innovation within government. The EACRC will continue to recommend sectors where innovative regulatory approaches would have value. See the EACRC's letter to the President (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness-advice-treasury-board/external-advisory-january-2021.html) in January 2021.

Regulatory competitiveness

The EACRC provided insight on initial TBS efforts to better define and measure regulatory competitiveness. Members of the EACRC supplied advice to inform the Treasury Board of Canada Secretariat's ongoing efforts to modernize the *Red Tape Reduction Act* (RTRA). For instance, in their January 2021 letter to the President (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness-advice-treasury-board/external-advisory-january-2021.html), the EACRC recommended that the RTRA be extended beyond business to include regulatory burdens affecting citizens.

Summary for Winter 2021 Meetings

The External Advisory Committee on Regulatory Competitiveness (EACRC) is an advisory committee that provides independent advice to the President of the Treasury Board on opportunities to improve Canada's regulatory competitiveness. EACRC meetings facilitate conversations between stakeholders to examine regulatory issues that impact Canadian business and that are bottlenecks to innovation and growth.

From January to March 2021, the EACRC held a series of meetings where members heard from a range of stakeholders and government partners in alignment with the EACRC's terms of reference. Themes that arose during this period are listed below.

Consultations and engagement

The EACRC examined the role of consultation in the regulatory life cycle and heard from stakeholders about the challenges and considerations faced by regulators, businesses, and citizens. The EACRC considered the positive impacts of innovative consultation tools that are currently in use and being developed to facilitate better and more transparent engagement with government on proposed regulations. The committee's March 2021 letter (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness-advice-treasury-board/external-advisory-march-2021.html) identified areas where further guidance could lead to more effective consultations.

Digitalization

The adoption of digital tools for service delivery was accelerated during the COVID-19 pandemic. The EACRC heard from stakeholders about the critical role that digital tools can play in enhancing government service delivery, promoting innovation and efficiency, and managing and assessing risk. The EACRC considered how digital tools such as artificial intelligence and digital credentials help reduce regulatory burdens for business and citizens and increase trust in public institutions. See the EACRC's March 2021 letter (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness-advice-treasury-board/external-advisory-march-2021.html) to learn more about the committee's recommendations on this topic.

Regulatory response efforts to the COVID-19 pandemic

In its January 2021 letter (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness-advice-treasury-board/external-advisory-january-2021.html), the EACRC recommended that government capture the best of the regulatory changes from the COVID-19

pandemic and focus on institutionalized changes that will contribute to Canada's regulatory excellence in the future. To address this recommendation, the EACRC invited representatives from the federal government and the Government of Nova Scotia to share their reflections on regulatory response efforts to the COVID-19 pandemic and identify what responses should be part of a permanent regulatory toolbox. The EACRC re-confirmed in its March 2021 letter (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness-advice-treasury-board/external-advisory-march-2021.html) that the government should continue to identify lessons learned for the regulatory system.

Regulatory Reviews round three

As part of the EACRC's mandate to help identify opportunities to streamline regulations and regulatory changes that promote economic growth and innovation, it recommended (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/external-advisory-committee-regulatory-competitiveness/eac-regulatory-competitiveness-letter.html) topics for the second round of targeted Regulatory Reviews. Regulatory Reviews (https://www.canada.ca/en/government/system/laws/developing-improving-federal-regulations/modernizing-regulations/targeted-regulatory-reviews.html) enable stakeholders to provide direct feedback on often longstanding regulatory issues and irritants. For a third round of Regulatory Reviews, the EACRC recommended the government focus on:

a. capturing and institutionalizing pandemic-related improvements to regulatory agility

b. addressing challenges in the system highlighted by COVID-19 that remain problematic post-pandemic

c. continuing to advance digital innovation initiatives

Innovation

If Canada is to be at the forefront of innovation, government should be prepared to make significant investments in pushing the technology frontier and supporting innovators. With this in mind, the EACRC heard from academics and innovators on how regulations can support innovation, as well as some of the regulatory barriers faced by innovators as they look to take products to market.

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