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Committee on Sanitary and Phytosanitary Measures

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## UPDATE ON OECD ACTIVITIES OF INTEREST TO THE SPS COMMITTEE

### COMMUNICATION FROM THE OECD

The following communication, received on 19 October 2016, is being circulated at the request of the OECD.

## OECD WORK ON TRADE-RELATED INTERNATIONAL REGULATORY CO-OPERATION

### 1 RECENT WORK ON INTERNATIONAL REGULATORY CO-OPERATION BY THE OECD TRADE COMMITTEE AND THE OECD COMMITTEE OF AGRICULTURE

#### 1.1 A Theoretical Framework

1.1. The OECD Working Party of the Trade Committee (WPTC) has approved, at its meeting in early October 2016, a Theoretical Framework for Trade-Related International Regulatory Co-operation, prepared in co-operation with the Joint Working Party on Agriculture and Trade (JWPAT). The final version (TAD/TC/WP(2016)12/FINAL, [http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP\(2016\)12/FINAL&docLanguage=En](http://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=TAD/TC/WP(2016)12/FINAL&docLanguage=En)) is available at the OECD document warehouse OLIS and will be formally published as an OECD Trade Policy Paper shortly.

1.2. The report acknowledges that regulatory differences across trading partners can both create trade costs and hence reduce or hinder trade, and reflect differences in national regulatory requirements and preferences. Based on this dualism, the study conceptually analyses origins and options for reducing three different types of trade costs. These include specification costs (arising from adapting products and production processes to different requirements on export markets), conformity assessment costs (arising from needing to demonstrate that exported products comply with the destination country's requirements), and information costs (arising from the need for firms to identify, gather and process information on the regulatory requirements for offering their products on the destination market).

1.3. While in some cases, regulatory co-operation can result in better regulations that are both more effective and efficient in achieving the intended regulatory outcomes and lower trade costs, domestic objectives may in other cases need to be balanced against the benefit from enhanced international trade. Focusing on the analysis of such trade-offs, the Framework distinguishes between a range of forms of IRC. These include the exchange of regulatory information; negotiations aiming to achieve regulatory convergence; recognition of equivalence in rules; the harmonisation or recognition of conformity assessment methods; enhanced flexibility and recognition of conformity assessment procedures; and the enhanced transparency in regulations.

1.4. Trade-related IRC is particularly important for new regulatory issues, for example related to emerging technologies. In contrast, the administrative and transitional costs can represent a significant obstacle for governments to changing long-established regulations, as they may offset potential gains from reduced trade costs.

1.5. The report shows that, depending on the relative importance of trade costs and the domestic effects of regulatory changes, it may be in a country's best interest to diverge from its preferred

regulation as the reduced trade costs due to less regulatory heterogeneity across trading partners may outweigh negative domestic effects due to less-than-perfect achievement of the regulatory objective. Full knowledge about the regulations or regulatory preferences of the partner countries and the incorporation of this knowledge in the regulatory process generally promotes regulatory convergence, resulting in increased welfare. Greater gains are possible through negotiation processes to achieve further convergence. In some cases, the outcomes of such negotiations may be even more beneficial if several regulatory issues are discussed in conjunction, allowing for trade-offs across countries.

1.6. Other factors being equal, smaller countries are more likely than larger ones to accept greater changes to their regulations. Reasons for this include the larger role trade costs often play for smaller countries when compared to domestic regulatory effects, a possibly lower negotiation power of smaller countries and their easier compensation by bundling with other regulatory issues.

1.7. The recognition of equivalence in rules may be an option if different requirements are considered to achieve the same regulatory objectives. It allows maintaining existing regulations while avoiding resulting specification costs. Equivalency agreements are most likely in well-defined areas, such as organic food, and between countries with similar regulatory approaches.

1.8. In the context of conformity assessment procedures, assessment methods should be based on evidence. Technical co-operation can help to identify most appropriate methods, and to harmonize methods where possible. Where diverging methods prove equally appropriate, mutual recognition of methods can reduce conformity assessment costs. When choosing conformity assessment systems, related trade costs need to be balanced with differences in confidence levels and perceived risks from non-compliant products entering the market. Products with a high damage potential generally make a more rigid conformity assessment system, although at higher costs for suppliers, preferable. Co-operation can help to build confidence in foreign conformity assessment infrastructures, potentially allowing for mutual recognition of conformity assessment procedures. For products with a low damage potential, cost-saving Suppliers' Declarations of Compliance (SdoCs) may be sufficient. Well-functioning market surveillance can further reduce risks of non-compliant products; co-operation can both reduce costs and increase the efficiency of such market surveillance.

1.9. Reducing regulatory heterogeneity or the recognition of equivalence in rules generally help reduce regulation-related information requirements for suppliers and traders. In addition, dedicated communication and dissemination strategies can help to further reduce costs for accessing and processing the information required. Given the specific requirements of foreign firms, such strategies particularly related to appropriate channels for making information available, and to the language of presenting the information.

1.10. Finally, effects of IRC outcomes on third-country trade need to be properly accounted for. Lower trade costs generally divert imports away from third countries, potentially offsetting parts of the benefits arising from successful IRC. In addition, regulatory changes may increase or decrease trade costs between participating and third countries and affect the welfare of both country groups. In particular, if IRC outcomes are non-discriminatory, e.g. in the case of improved transparency, trade costs with third countries may decline, with positive welfare effects on all sides.

## **1.2 Trade costs in regulatory cooperation: Findings from case studies**

1.11. Complementing the Theoretical Framework, work is under way investigating actual experiences with several IRC initiatives. The analysis employs a questionnaire addressed to governments participating in these initiatives, which range from the negotiation of organic equivalence arrangements to harmonisation of energy efficiency standards for household appliances and vehicles and related parts and equipment. Implementation is a precondition for the IRC mechanisms to actually facilitate trade. Preliminary findings suggest that initiatives involving fewer countries and generating binding outcomes have a better chance to achieve this. Questionnaire responses confirm awareness of the different types of trade costs described in the Theoretical Framework, which governments tend to consider when engaging in IRC initiatives. Systematic quantification of trade costs or the ex-post evaluation following up on the trade effects of IRC outcomes appear not to be common practice, however. Also, while cost and burden

reductions for producers, exporters and other stakeholders are widely reported, some countries also note increased costs and burdens for some stakeholders.

1.12. A final report on the case studies is expected for the first half of 2017.

## **2 RECENT WORK ON INTERNATIONAL REGULATORY CO-OPERATION UNDER THE OECD REGULATORY POLICY COMMITTEE**

2.1. Work on international regulatory co-operation by the OECD Regulatory Policy Committee aims to provide practical guidance on how to implement principle 12 of the 2012 OECD Recommendation of the Council on Regulatory Policy and Governance (<http://www.oecd.org/gov/regulatory-policy/2012-recommendation.htm>).

2.2. OECD (2013), *International Regulatory Co-operation, Addressing Global Challenges* ([http://www.oecd-ilibrary.org/governance/international-regulatoryco-operation\\_9789264200463-en](http://www.oecd-ilibrary.org/governance/international-regulatoryco-operation_9789264200463-en)) identified a typology of 11 approaches to IRC. Recent work has deepened the understanding of how these approaches support IRC, focusing on:

- The Contribution of Mutual Recognition to International Regulatory Co-operation, *OECD Regulatory Policy Working Papers*, No. 2 (2016) ([http://www.oecd.org/gov/regulatory-policy/WP2\\_Contribution-of-mutual-recognition-to-IRC.pdf](http://www.oecd.org/gov/regulatory-policy/WP2_Contribution-of-mutual-recognition-to-IRC.pdf));
- International Trade and Good Regulatory Practices: Assessing The Trade Impacts of Regulation, *OECD Regulatory Policy Working Papers*, No. 4 (2016) ([http://www.oecd-ilibrary.org/governance/international-trade-and-good-regulatory-practices\\_5jlv59hdgtf5-en;jsessionid=1km1c1y879l97.x-oecd-live-03](http://www.oecd-ilibrary.org/governance/international-trade-and-good-regulatory-practices_5jlv59hdgtf5-en;jsessionid=1km1c1y879l97.x-oecd-live-03)); and
- The Role of International Organisations in Fostering Better Rules of Globalisation (report to be launched on 2 November 2016 at the OECD Headquarters) (<http://www.oecd.org/gov/regulatory-policy/international-organisations-and-role-in-irc.htm>).

## **3 OECD JOINT MEETING OF THE REGULATORY POLICY COMMITTEE AND THE TRADE COMMITTEE ON TRADE AND INTERNATIONAL REGULATORY CO-OPERATION**

3.1. Having convened a first joint meeting of the two committees in November 2015, the Trade Committee (TC) and the Regulatory Policy Committee (RPC) will meet jointly again on 4 November 2016. The focus of the discussions will be two-fold: How can the evidence base on existing or potential trade costs associated with regulatory divergence be strengthened? And how should different IRC approaches be selected and tailored to effectively reduce heterogeneity-related trade costs and to improve countries' welfare in a specific country and sector context?

## **4 INTERNATIONAL REGULATORY CO-OPERATION AND TRADE: UNDERSTANDING THE TRADE COSTS OF REGULATORY DIVERGENCE AND THE REMEDIES**

4.1. The joint meeting of the RPC and the TC will be the opportunity to discuss a new report synthesising work on IRC undertaken by the two committees. In particular, it brings together available evidence on heterogeneity-related trade costs and on existing tools to assess them. Secondly, it discusses the merits and challenges of different IRC approaches to address trade costs and improve countries welfare. The draft report is not yet publically available. It will be revised based on the discussions at the joint meeting as well as on comments received from delegations. The report is expected for publication in early 2017.

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