

Institutionalizing Drivers of Reform: Benefits and problems of Legislative Mandate for Regulatory Reform Institutions

Presentation by Tanzanian Delegation to the Kenya-Tanzania Workshop on “Recent Experiences with Regulatory Reform in Tanzania and Kenya, Wednesday 29th August, 2007, Nairobi, Kenya.

1. Reform Drivers

Interpretation of Drivers: the instruments, tools and processes that a nation can use to push through and sustain reforms quickly and methodologies of application: two types horizontal measures & vertical measures

- Horizontal measures: address the regulatory institutions
- Vertical measures: address the policy reform issues and process itself

Reform drivers (2): methodologies or broad policy reform instruments

1. Top-down instruments: the guillotine etc
2. Bottom-up instruments: sector reviews and reform measures:
 - Simplification
 - Harmonization
 - Consolidation
3. Enforcement: inspections and voluntary compliance (code of conduct / ethics)
4. Regulatory governance tools: RIA, RBP

2. Horizontal Measures: 4 principles with underlying criteria

1. Principle 1: Appropriateness of the policy measure to the problem: matching regulatory interface with the policy goal based on following criteria:
 - i. Criteria 1: Clearly defined regulatory mandate for each regulatory institution without overlaps: proper evaluation of policy problem and development of alternative policy options with costs & benefits and identification of enforcement measures

Horizontal Measures (2): First principle

2. Criteria 2: holistic approach across Government - take into consideration perspective of Government as a single entity to take into account all existing regulations – Tanzanian case of TBS and TFDA
3. Criteria 3: Use of comprehensive risk assessment (setting priorities for inspection based on importance of economic activity, past performance and potential future risk – Tanzanian case of proposed BARA inspections
4. Criteria 4: definite (clarity, consistency and transparency with public oversight on) funding sources for implementation – Pervasive objective of Revenue generation in regulatory sectoral licensing

Second principle: promote inter-agency coordination

- Criteria: joint reporting and consultation among regulatory bodies with complementary or overlapping mandates (does EWURA and SUMATRA and FCC work closely together?)
- Reduce number of duplicated data requests – administrative burden (use the one stop shop concept)
- Establish coordination mechanisms between national regulators and local authorities

Third principle: prioritise provision of information to Stakeholders

- Emphasis on ICT to promote administrative efficiency and access to information (web based information dissemination systems): intent of BARA in Tanzania
- Use of one stop shops for all registries to the extent possible

3. Vertical Measures (Sectoral Initiatives)

Principle 1: Application of “better regulation tools” in policy design – based on analysis of policy problem; development and consideration of alternative policy options; weighing costs and benefits of each option; effective stakeholder engagement through the policy development cycle.

Criteria 1: Introduction of Regulatory Impact Assessment as the tool for ensuring: proportionality, accountability, consistency and transparency of new regulations

Use of Better Regulation Instruments (2)

Criteria 2: need for a champion at the centre of Govt to coordinate and lead reforms;

Criteria 3: Effective stakeholder management throughout the regulatory process

Principle 2: Accountability of regulators

Criteria 1: Accountability and independence of sectoral regulators (arms length relationships) – the executive agency model

Criteria 2: Regular reporting mechanisms – use of the annual reporting covering: achievement of policy objectives; reduction in regulatory burden on business; and compliance with regulatory process requirements such as RIA

Criteria 3: Parliamentary oversight

Criteria 4: Effective enforcement processes – inspection, sanctions; self-regulation (code of conduct and ethics)

Criteria 5: Effective appeal processes

Principle 3: Systematic and continuous review of regulations

- Good governance in ongoing reforms: use of RIA – before and after
- Introduction of sunset clauses into regulation
- Consolidation, harmonization, rationalization and simplification.

THANK YOU