



Regulatory Reform in Canada's Agri-Food Sector



A Canadian Agri-Food Policy Institute
DISCUSSION PAPER



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CAPI

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Some terms are used in this report with the following working **definitions**:

Policy Instrument: Policy instruments are means by which policy objectives of government are implemented. Policy instruments can include regulations, as well as other means that can be used, such as providing information, and use of market-based solutions.

Regulation: Regulations are a form of law, delegated by supporting legislation. There are a number of regulatory instruments by which government can impose standards on businesses and individuals.

Regulatory Framework: A regulatory framework is more focused than a "regulatory policy framework." A regulatory framework involves the process of regulation on a specific topic, such as on seeds. It entails all of the relevant legislative documents (acts, regulations, annexes), and the required regulatory processes associated with a regulation. It describes the federal agency responsible for administering such a framework; it is also known as a regulatory management system.

Regulatory Policy: Regulatory policy is the explicit overarching government policy, which is used to pursue regulatory quality. This includes goals such as transparency, legitimacy, accountability, trust in government, efficiency, capacity, and policy coherence. Regulatory policy shapes the regulatory policy framework, regulatory frameworks, and regulatory processes.

Regulatory Policy Framework: A regulatory policy framework is much broader than a "regulatory framework," and is based on overarching regulatory policy, and associated regulatory principles and goals. An effective regulatory policy framework has elements that include regulatory policies, regulatory institutions, and regulatory tools. Such a framework has an outcome such that instruments chosen to achieve some policy objectives, or desired outcomes, need not be a regulation.

Executive Summary

For several years, many interested parties have advocated the need for regulatory reform in Canada's agri-food sector. Such reform can help improve the mix of regulations that impact on agriculture, and enhance the industry's competitiveness. In support of these objectives, the Canadian Agri-Food Policy Institute (CAPI) initiated a review of the regulatory framework in Canada and among its competitors. The purpose of this project was to help the government implement regulatory flexibility and reforms, and provide input that could result in a more flexible regulatory system. Today, CAPI released a discussion paper that synthesizes the findings of the review, and reflects consultations CAPI has held on regulatory reform with Treasury Board officials and representatives of regulatory agencies in the agri-food sector. The discussion paper – entitled *Regulating Canada's Agri-Food Sector* – was made public at the annual general meeting of the Canadian Horticultural Council.

The Organisation for Economic Cooperation and Development (OECD) has developed, with input from countries such as Canada, an "ideal" regulatory framework (with policies, institutions and tools and processes). According to the OECD, regulatory policies should incorporate a "whole of government" view. They should link policies, actions, and regulations, and should be driven at the highest political level. High-level direction will best ensure that coordination occurs between regulators in a sector, that cross-sector regulations are coordinated, consistent and congruent, and that regulatory quality is encouraged. Typically, the implementation and enforcement of regulations occur through independent regulatory agencies. A good regulatory toolbox has both regulatory instruments and alternative instruments (such as market-based options) and provides a check that the best form of regulation is used. It also facilitates compliance, enforcement, transparency, communication, administrative simplification, and accountability.

Some countries, including Canada, are modifying the way they regulate to be closer to the OECD ideals. In 2007, the federal government published a new directive, called the "Cabinet Directive on Streamlining Regulation." The directive instructs federal departments to evaluate current regulations to ensure that policy objectives are being met. The directive describes the attributes of an ideal "regulatory policy framework." In concert with the new directive, the federal government has developed a regulatory policy framework to help federal departments begin implementing high-level regulatory principles. With Treasury Board guidance, an effective and operational regulatory policy framework is now conceivable for the agri-food sector. A framework is needed that could bring about a more flexible regulatory system for the sector, one that supports innovation and competitiveness.

In Canada, the agri-food sector is influenced by regulations from many different federal departments and agencies, each with its own mandate. The departments affecting the sector include Agriculture and Agri-Food Canada, Fisheries and Ocean Canada, Environment Canada, Foreign Affairs and International Trade Canada, Health Canada, Industry Canada, and Transport Canada. Federal agencies that affect the sector include the Canadian Dairy Commission, the Canadian Food Inspection Agency, the Canadian Wheat Board, the Canadian Grain Commission, the National Farm Products Council (and national supply management agencies), the Pest Management Review Agency, the Prairie Farm Rehabilitation Agency, and the Public Health Agency of Canada.

The discussion paper found that a number of studies and reviews have been made on the impact of regulations in Canada's agri-food sector. For example, the OECD carried out a high-level review that found that Canada is a "vigorous innovator in the areas of good regulatory governance." But it recommended that Canada: strengthen the contribution of competition policy

to regulatory reform and market openness, including an enhanced advocacy role for the Competition Bureau; encourage a more systematic and strategic review of the federal, provincial and territorial regulatory environment and work to harmonise inter-provincial regulatory frameworks; continue to foster regulatory reform to encourage greater productivity and innovation; take a more pro-active approach to trade policy in international negotiations, while maintaining a careful balance between bilateral and multilateral liberalisation efforts.

In its discussion paper, CAPI suggests that the measures that could improve the regulation of the agri-food sector could include:

- Developing over-arching objectives for regulation;
- Encouraging greater collaboration between departments and agencies;
- Seeking industry input on the choice and design of regulatory instruments;
- Giving greater consideration to non-prescriptive types of regulations;
- Allocating sufficient resources for an effective infrastructure to support the regulatory process;
- Harmonizing regulations with major trading partners and between provinces;
- Designing legislation that provides for more regulatory flexibility;
- Conducting a comprehensive examination that evaluates regulations using agreed upon principles;
- Doing ex-post evaluation of regulations; and
- Making a commitment to implement required changes.

A range of instruments are available to governments to encourage outcomes that benefit society at large, from command and control approaches to those that are informal, flexible and voluntary. In the agri-food sector, the desired outcomes include a safe food supply, protecting the health and well-being of all Canadians, providing credible information to consumers upon which they can make informed choices, and creating the operating environment for a competitive and innovative economy. Regulations are just one type of policy instrument used by governments to achieve policy objectives and to help society achieve desired outcomes. In general, behaviour can be influenced in three ways:

- Pricing mechanisms, such as the use of incentives (e.g., subsidies), and disincentives (e.g., specific taxes);
- Preaching to create change, which entails providing information and using moral suasion and persuasion (e.g., anti-littering campaigns);
- Policing, or using regulations (codes, minimal standards).

As these varied approaches make clear, a range of instruments are available to governments to induce private sector outcomes that benefit society at large, from command and control approaches to those that are informal, flexible and voluntary. In the agri-food sector, the desired outcomes include a safe food supply, protecting the health and well-being of all Canadians, providing credible information to consumers upon which they can make informed choices, and creating the operating environment for a competitive and innovative economy.

Regulations can be thought of as having a life cycle. The cycle begins with a perceived problem or policy issue. If the government considers regulations to be the preferred solution to achieve an outcome, versus the use of another type of instrument, then the guidance of an effective regulatory policy framework (with policies, institutions and regulatory tools and processes) can provide for the best possible regulatory solution. The regulation is then implemented, administered, and enforced. It is assessed occasionally to ensure that it is still relevant and the right solution. Supporting the regulatory cycle are principles, which define how the government will manage the regulations. Ideally, these processes will be part of an effective and flexible

regulatory policy framework. This discussion paper suggests that the creation of such a framework should be an objective of Canada's agri-food sector.

This discussion paper is an initial step in CAPI's effort to help move the regulatory agenda forward for the agri-food sector. Moving forward, one option under considering is the creation of "blue ribbon panels," composed of decision-makers in industry and in regulatory agencies, to study regulatory issues in specific sectors. The findings of these panels could then be communicated to a broader audience, with a view to facilitating regulatory reform and ultimately enacting a regulatory framework for the agri-food sector. Not only will a coherent and consistent regulatory framework benefit the competitiveness of the agri-food sector, but it will help the industry contribute to one of the chief aims of the federal government's Cabinet Directive on Streamlining Regulation, which is to ensure that regulatory activities result in the greatest overall benefit to current and future generations of Canadians.

1. Introduction

In the agri-food sector, numerous parties have advocated regulatory reform for years. Many feel that progress is much too slow for the dynamic changes that continue to occur in the sector. At CAPI's public forums, many regulatory issues have been highlighted, such as the need for: regulatory reform, regulatory flexibility, quicker decision making, harmonization with major trading partners, application of the same standards on imported products as those that apply to domestic products, and modernization of the regulatory system. Such reform can help improve the mix of regulations that impact agriculture, and enhance the industry's competitiveness. Regulations and the current regulatory framework have also shown themselves to be a barrier to innovation.

In response to these concerns, CAPI initiated a project to move the regulatory agenda forward for the agri-food sector. The purpose of this project is to:

- Assist in implementing regulatory flexibility and reform;
- Provide input that results in a more flexible regulatory system, which:
 - Protects consumers;
 - Enhances competitiveness;
 - Fosters innovation;
 - Contributes to the sustainability of the Canadian agri-food system.

Since a number of studies and reports have already identified the major regulatory issues, this project focused on solutions that can be implemented. The project focus is not on amending specific regulations or on deregulation, but on the regulatory process, regulatory decision-making, and the overall regulatory policy framework. The focus is on identifying ways in which the regulatory system can become more flexible, while enhancing the competitiveness of the agri-food system.

This project had three distinct phases¹. The first phase is designed to identify where the Canadian agri-food sector is in the overall process of regulatory reform, to identify the direction of change, and to provide context for the second phase of this project. The second phase of this work program is the formation of "blue ribbon panels", composed of decision-makers in industry as well as in regulatory agencies, designed to focus on regulatory issues in a specific sector or on a broad regulatory issue. These blue ribbon panels will be facilitated by an experienced arbitrator to: (a) suggest how the regulatory framework and processes could be modernized²; (b) indicate the regulatory gaps and constraints; (c) highlight issues requiring resolution; (d) propose solutions; (e) develop consensus on action steps and an implementation process to achieve the identified regulatory (and regulatory framework) change; and (f) commit to action. The horticultural industry could be the first of a select few of these panels.

The third phase of this project is to communicate our findings and results to a broad national audience. A symposium is being contemplated to disseminate findings and to facilitate debate and dialogue on regulatory reform, and to encourage and facilitate recommended changes.

As part of the project's phase one work program, CAPI commissioned a paper³ to highlight the regulatory framework in place for Canada's agri-food sector and compare it to the regulatory

¹ This project also benefits from the input of a 15 person Steering Committee representing industry, government departments, and regulatory agencies.

² As is noted later in this document, modernization initiatives are underway that are based on Treasury Board guidelines. These panels will be designed to complement current government initiatives.

³ This commissioned paper was prepared by Dr. Shelley Thompson of SJT Solutions, with input from Dr. John Groenewegen of the JRG Consulting Group, CAPI's project manager for this regulatory project.

frameworks of competitors such as the E.U., U.S., Australia, New Zealand, China, and Brazil⁴. The commissioned report was designed to provide background material and a context for subsequent phases of the CAPI project.

This discussion paper synthesizes the findings of the commissioned report, and includes insights gained from discussions with Treasury Board officials responsible for regulatory affairs and with some representatives of regulatory agencies in the agri-food sector. This discussion paper is intended to serve as background documentation to members of the “blue ribbon panels” that will be part of the subsequent phase of this project.

In the next section of this paper, some concepts and ideas that involve regulations are discussed. The elements of a regulatory policy framework are also provided. This conceptual section provides the context for the following section (3.0), which looks at Canada's approach to regulation. At the end of this section a comparison is made to some other countries, and approaches to regulation used in a few countries are provided in Annex I. The subsequent section (4.0) provides an assessment of the impact of the regulatory system on the Canadian agri-food sector. The paper concludes with suggested areas for improvement.

This discussion paper is designed to provide some context on regulation, invoke debate and dialogue, and encourage action on Canada's approach to regulation in the agri-food sector, including the design of an effective regulatory policy framework for Canada's agri-food sector. This paper is a first step in CAPI's project to help move the regulatory agenda forward for the agri-food sector. CAPI welcomes comments and ideas that are prompted by this discussion paper.

⁴ The paper's scope was shaped by the following elements: (a) This study will utilize existing studies and information sources on regulatory frameworks, regulations and processes; (b) The study will document and describe Canada's regulatory framework for the agri-food sector (ability to implement and capacity to support and enforce regulations, cost recovery, relationships to commercial standards, etc.) and external (non-agriculture) regulations affecting the sector; (c) It will provide a qualitative assessment of how the current regulatory framework, regulations and processes affect Canada's competitive advantage for each supply chain component (input providers, growers, distribution, and retail), and; (d) It will provide a qualitative comparison of Canada's regulatory framework and linkages to non-food regulations with the systems that Canada's competitors have in place.

2. Some Regulatory Concepts

To provide a context on regulations and supporting mechanisms, this section highlights concepts such as the range of regulatory instruments that can be used to affect behaviour, principles supporting approaches to regulations, and a regulatory policy framework. Some of the concepts highlighted are based on a review of the available and relevant literature.

2.1 Regulation in the Economy

Regulations are ubiquitous in modern societies and economies, as noted by the following:

*Sometimes less regulation is needed, sometimes more is needed, but we always need better quality regulation.*⁵

*"Regulation is meant to serve the public interest."*⁶

*"Deregulate where markets work better than governments; regulate well, where markets cannot work without governments; establish systems to ensure laws are coherent and well managed; and ensure regulations are made in ways to ensure democratic principles."*⁷

"Why are there regulations?" Regulations, and other instruments, are commonly thought to exist to help society achieve certain outcomes. These outcomes can include a safe food supply, protecting the health and well-being of all Canadians, providing credible information to consumers upon which they can make informed choices, and creating the operating environment for a competitive and innovative economy. Individual and collective behaviour, and economic activity, can be affected through a variety of approaches. Regulations being only one of the types of policy instruments that government can use to achieve a certain outcome. [In this report we will use the term "policy instruments" to include the realm of approaches that can be used to influence behaviour, with regulations being one of these instruments⁸.]

While there are many regulations (and other instruments for government action) affecting economic activity, there are four general reasons for intervention in the economy through regulation and other policy instruments in an economy. These reasons are:⁹

- **Economic** – to affect behaviour and affect market decisions through instruments such as minimal standards, disincentives, and incentives;
- **Social** – to protect the public interest in areas such as health and safety, including a safe food supply through instruments such as codes of practice and minimal standards;
- **Information** – to have information provided to consumers to help in their decision making, such as labelling a health claim, through a variety of regulatory instruments; and
- **Administrative** – to collect information for administrative purposes.

⁵ Government of Ireland, "Regulating Better," 2004.

⁶ External Advisory Committee on Smart Regulation, "Smart Regulation: A Regulatory Strategy for Canada," September 2004.

⁷ OECD, "OECD Reviews of Regulatory Reform: Background Document on Regulatory Reform in OECD Countries," 2005.

⁸ The Treasury Board refers to this as "instruments for government action", as noted in their document "Assessing, Selecting, and Implementing Instruments for Government Action"

⁹ The OECD provided a subset of these in "OECD Reviews of Regulatory Reform: Background Document on Regulatory Reform in OECD Countries," 2005.

This listing underscores the earlier observation that policy instruments and regulations are ubiquitous throughout the economy. However, in its simplest terms, government intervenes in the economy to:

- provide public goods (those goods and services that would not otherwise be provided by the market) and;
- ensure that private sector outcomes match societal objectives (through standards, incentives, etc).

This rationale for government intervention should be considered when creating regulations and other interventions, so that private sector activity is not unduly restricted and doesn't unnecessarily bear the costs of intervention. Without such considerations, the cost of regulation increases and innovation and competitiveness decrease.

The cost of regulation on the economy can be significant. In the E.U. it is estimated that the cost of red tape is 4% to 6% of GDP and that 15% of this is unnecessary. Thus 0.75% of GDP is the cost of unnecessary regulation.¹⁰

Total transaction costs due to regulations are the sum of government administration costs and private sector compliance costs. Government and private sector costs are substitutes and certain approaches to regulation can reduce government administration costs by increasing private sector compliance costs. In the U.S., the ratio of private sector compliance costs to government costs is 20:1 for social regulations. Twenty years ago the ratio was 9:1. For economic regulations, the ratio was 71:1 compared with 240:1 in 1977. These ratios indicate that government administration costs are a small part of overall costs.¹¹ These statistics underscore the burden of regulations on the private sector and the ongoing desire of industry to reduce costs associated with regulation.

Several factors may drive excessive and inadequate regulations, such as society's aversion to risk, the impact of special interest groups, and media influence. It is not always the government's fault that imperfect regulations are created. The stock of regulations is the end result of a series of actions in the political economy of a country.¹²

¹⁰ Government of Ireland, "Regulating Better," 2004.

¹¹ Productivity Commission, Government of Australia, "Design Principles for Small Business Programs and Regulations," August 1998.

¹² Government of Australia, Report of the Taskforce on Reducing Regulatory Burdens on Business, "Rethinking Regulation," January 2006.

2.2 Policy Instruments and Regulations Designed to Affect Behaviour

Policy instruments are designed to influence behaviour and obtain certain outcomes. In a broad sense there are three ways that behaviour can be influenced. One of these ways is through 'pricing' mechanisms, such as the use of incentives (e.g., subsidies), and disincentives (e.g., specific taxes). Another is through providing information and the use of moral suasion and persuasion (e.g., anti-littering campaigns). Some refer to this as 'preaching' in order to affect behaviour and create change. The third is through use of codes, minimal standards, laws and regulations, which some economists have referred to as 'policing.' In this broad context, governments have a variety of policy instruments they can use to affect behaviour or change. Regulations are one of many policy instruments that can be used. Some of these are command and control approaches, as with many regulations, while others are informal, flexible and voluntary. The full range of instruments is shown below in Figure 1.¹³

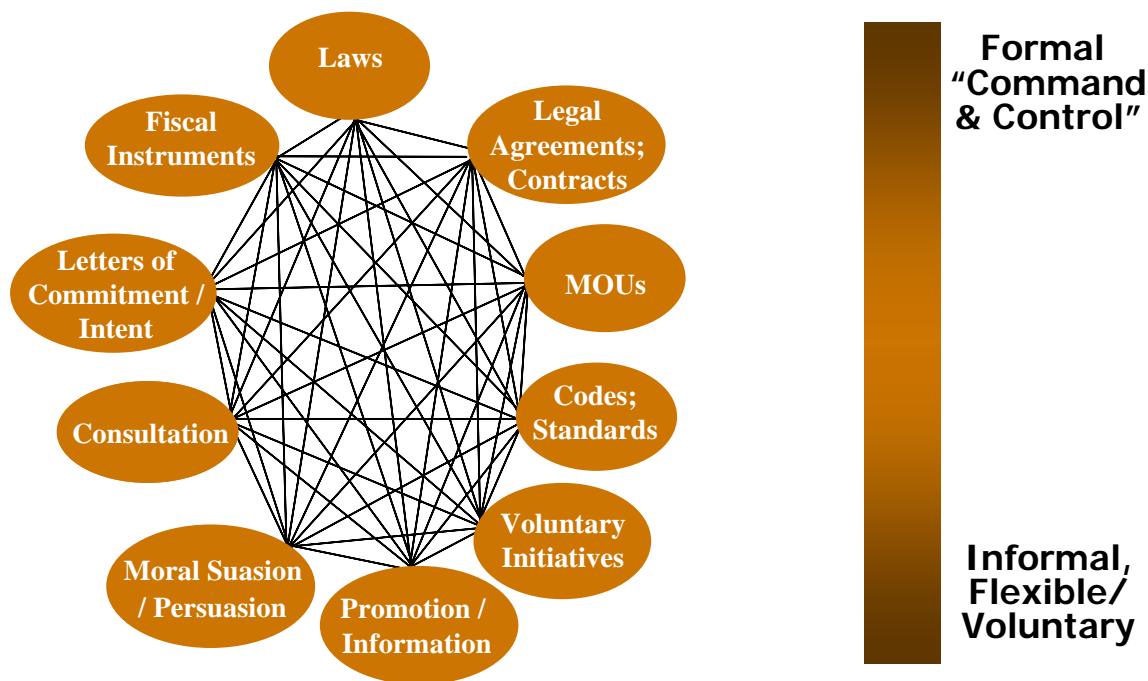


Figure 1: Instruments Available to Governments to Implement Policies

The choice of policy instrument can have differing impacts on industry and the economy. This is noted below for the following policy (and some regulatory) instruments:¹⁴

Prescriptive rules, which are usually regulations and look at inputs and processes. Some attributes of prescriptive rules include:

- Technical change can make them redundant;
- They are very costly to create;
- They do not provide incentives for firms to decrease costs;
- They provide regulated parties with certainty.

¹³ Sourced from Giraldez J, Treasury Board of Canada, "Framework for Assessing, Selecting and Implementing Instruments for Government Action (Instrument Choice)," Presentation, May 2007.

¹⁴ Based on: Productivity Commission, Government of Australia, "Design Principles for Small Business Programs and Regulations," August 1998 and Government of Ireland, "Regulating Better," 2004.

Performance-based rules, which specify the desired end result, not the how (to achieve it). This allows firms some choice, which can result in lower cost and greater technology use and innovation. Based on an equivalent principle, firms can propose more efficient ways to achieve compliance. Performance-based rules are:

- Costly to create; and
- Provide incentives to firms to decrease costs but no incentive to exceed the standard.

Principle-based rules, which specify the spirit or intention of the regulation. Attributes of these types of regulatory instruments include:

- Low cost to establish and administer;
- Flexible;
- Provide incentives to firms to decrease cost; and
- Can lead to uncertain outcomes.

Self-regulation is a “regulatory regime or arrangement developed, administered and enforced by business. It can apply to a range of market conduct, consumer protection, public health and safety standards and rules that are not part of explicit government regulation, particularly where there are no strong public interest concerns of the risks or consequences of an adverse event are not great.”

Benefits to self-regulation include flexibility, responsiveness, no cost to government, and a quick and inexpensive dispute resolution. Disadvantages to self-regulation include:

- It may provide some extra advantage to some;
- It can be costly to develop and implement; and
- It can be difficult to enforce.

Self-regulation works best when there is adequate coverage of an industry, there is viable industry association with committed members, and evidence exists to suggest that the association can enforce standards.¹⁵ Some of the attributes of self-regulation are:

- Could have enforceable or non-enforceable codes, such as industry or professional codes underpinned by government or threat of government;
- Shifts cost to firms;
- More effective for a small number of firms; reputation is important; industry body possesses expertise that government doesn't; easy to see non-compliance and because costs to all members provide an incentive to monitor others; and
- Is economically efficient if total costs are less than government-imposed regulation costs. (This depends on government administration costs, firm compliance costs, relative effectiveness of non-compliance penalties, and impact on competition.)

Co-regulation is a sharing of the regulatory role by government authority and by industry/groups. The regulator sets objectives, with implementation by enforceable codes of practice. Industry groups can provide for the monitoring and enforcement of the codes of practice, with third parties used to ensure compliance, as with some food safety programs.

Market-based instruments are instruments that alter prices, create incentives or disincentives and thus change behaviour. Examples include subsidies, taxes, tradable permits, etc. A market-based instrument increases flexibility and can reduce costs.

¹⁵ Government of Australia, Report of the Taskforce on Reducing Regulatory Burdens on Business, “Rethinking Regulation,” January 2006.

2.3 Choice of Instrument and Innovation

Instruments can be used to improve certain outcomes, and the choice of instrument may be industry and/or issue specific. For example, small firms don't like principle regulations because they prevent these firms from being able to develop their own compliance methods. A better approach for small firms may be mandatory principle regulations, while voluntary prescriptive regulations are retained for large firms. Greater freedom for the larger firms allows them to innovate to meet their objectives.

Governments regulate food to ensure food safety and protect consumers from incomplete information. As shown in Figure 2, a range of regulatory tools¹⁶ can be used to achieve an outcome. A prescriptive regulatory set specifies all standards and allows limited flexibility. At this end of the regulatory continuum enforcement is simple but standards may be difficult to develop and even harder to change. A mostly prescriptive set of regulations with some risk/outcome-based elements specifies the majority of standards but does allow some regulations to be outcome-based.

In a mostly risk/outcome-based set of regulations, prescriptive regulations usually apply to only some at-risk foods. In risk/outcome-based regulations there are limited standards. New foods require evidence of safety and benefit. At this end of the spectrum, as shown in Figure 2, public health concerns may arise due to the potential for irresponsible behaviour. As the freedom to act increases, so does innovation. For example, when regulations are prescriptive, innovation is very difficult although it can occur in niche areas such as the use of flavours or other additives.

In a mostly prescriptive set of regulations, innovation is controlled by rules and oversight. Innovations must be submitted for approvals. A mostly risk/outcome based regulatory set encourages innovation within policy and compliance parameters. In a risk/outcome based regulatory set firms are free to innovate. However, consumers must be provided with clear information and strong surveillance and sanctions are required.

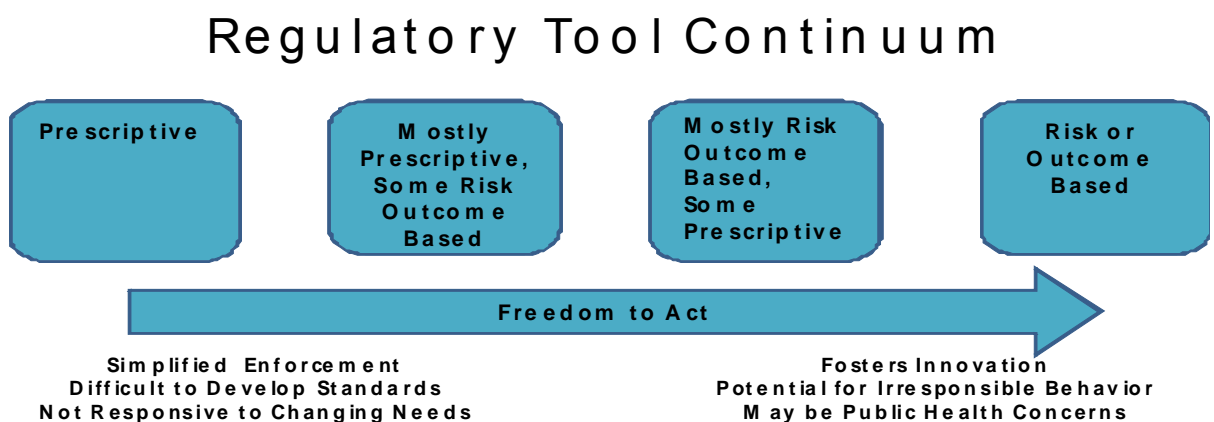


Figure 2: Regulation and Innovation

¹⁶ Stockwell D and L Henderson, "Innovation and Regulation – Can They Co-Exist Happily?," NZIFST Conference 2005.

Some argue that in an optimal approach to regulations, all standards or regulations are outcome focused, not prescriptive, and all stakeholders should contribute to the development of standards and specifications (though not perfectly, as external agencies like WTO are involved). In agriculture, the benefits of an optimal regulatory model include the following:¹⁷

- Improved management of the regulatory regime – government focuses on management versus delivery;
- Management of spectrum of public health risks;
- Accountability of food processes for food safety;
- Enhanced innovation and efficiency; and
- Direct relationship between consumers and producers.

In the quest to achieve a desired outcome, policy-makers need to consider which instrument to use. The Government of Canada has provided an analytical framework for selecting instruments to achieve a desired outcome.¹⁸ The framework includes extensive consultations with industry, which begins by defining the problem and focusing on the selection of the appropriate policy instrument, which could be a regulation (whether prescriptive or outcome based). The analytical framework has the following steps:

1. Identify and define the problem – the issues, risks and causal factors.
2. Set objectives – the desired outcome.
3. Identify potential points of intervention (to achieve the desired outcome).
4. Identify institutions that can have an effect on risks or objectives.
5. Account for consideration in assessing and selecting the type of instrument.
6. Set performance indicators.
7. Implement the selected instrument(s).

2.4 A Life-Cycle View of Regulation

Regulations and other policy instruments can be thought of as having a life cycle. The cycle begins with a perceived problem or a need to affect behaviour or action in the economy. If a regulation is determined to be the preferred solution, then the use of a regulatory policy framework (policies, institutions and instruments)¹⁹ can provide for the best regulatory solution. The choice of instrument is a key consideration. The preferred instrument does not always need to be a specific standard or code, as in a regulation; as noted above an instrument can also be used to influence behaviour through incentives and disincentives, and can use information and the power of persuasion to influence an outcome. If a regulatory type of instrument is chosen, then the regulatory framework guides the choice of regulatory instrument.

Once a decision has been made that regulation is the preferred approach, the chosen regulatory instrument is then implemented, administered, and enforced (Figure 3). The regulation is assessed occasionally to ensure that it is still relevant and the right solution. Supporting the regulatory cycle are principles that define how a government manages regulation.

¹⁷ Flynn C, "The Optimal Regulatory Model," Presented to the 10th World Congress on Food Safety, 1999.

¹⁸ Treasury Board of Canada, "Assessing, Selecting, and Implementing Instruments for Government Action," 2007.

¹⁹ Outlined in the following section.

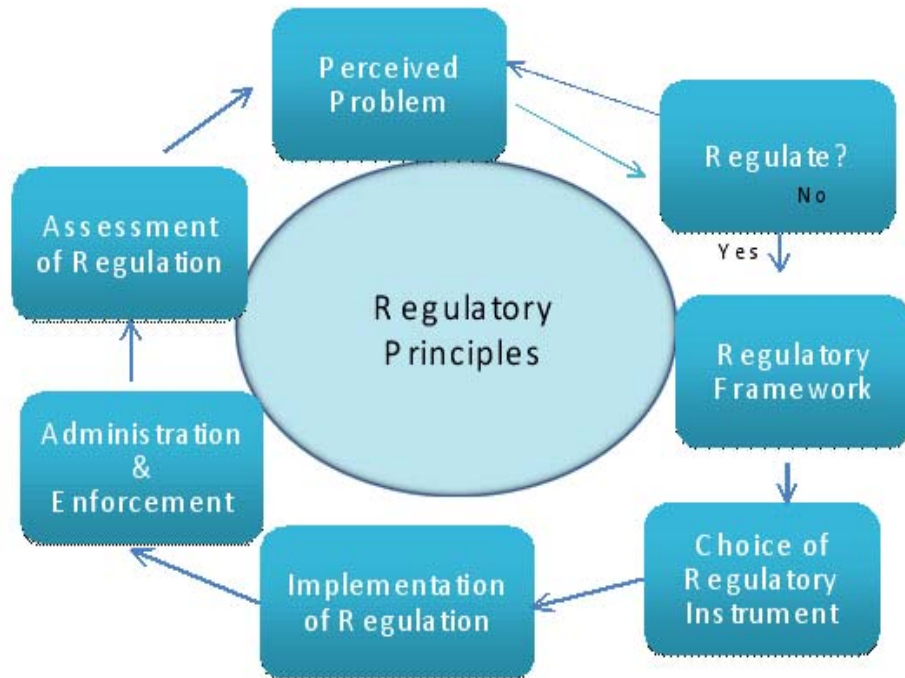


Figure 3: Regulatory Lifecycle

According to the OECD, good regulation should:²⁰

- “serve clearly identified policy goals, and be effective in achieving those goals;
- have a sound legal and empirical basis;
- produce benefits that justify costs, considering the distribution of effects across society and taking economic, environmental and social effects into account;
- minimize costs and market distortions;
- promote innovation through market incentives and goal-based approaches;
- be clear, simple, and practical for users;
- be consistent with other regulations and policies;
- be compatible as far as possible with competition, trade and investment-facilitating principles at domestic and international levels.”

The Government of Canada has provided a directive on streamlining regulations,²¹ and from a regulatory life-cycle perspective has directed federal departments to undertake the following:

- Consult with interested and affected parties on all stages of the regulatory process;
- Identify and assess public policy issues to indicate when government intervention is required;
- Set public policy objectives;
- Select, design, and assess regulatory responses, which includes selecting the right mix of policy instruments, coordination with other federal departments and with provincial governments, and analyzing the benefits and costs of regulations;

²⁰ OECD, “OECD Guiding Principles for Regulatory Quality and Performance,” 2005.

²¹ Government of Canada, “Cabinet Directive on Streamlining Regulation,” 2007.

- Plan for implementation, compliance and enforcement; and
- Measure, evaluate and review regulation to ensure that policy objectives are met.

This Cabinet directive is complemented by specific guidelines available through Treasury Board that provide regulators with more specific operating guidelines.

2.5 A Regulatory Policy Framework to Support Regulatory Reform

Regulatory reform has undergone an evolution. Historically, deregulation was viewed as necessary to increase innovation and entrepreneurship during economic downturns. This was not completely successful and thus governments moved into an era of regulatory and management reform. Now governments have adopted regulatory policy agendas.

Regulatory reforms that increase efficiency and competition are very important to the policy agenda. A stronger conceptual framework for regulatory quality has been developed. Regulatory quality refers to characteristics of such a framework. From a regulatory quality perspective, regulations and regulatory regimes are efficient in terms of cost, effective in terms of having a clear regulatory and policy purpose, and transparent and accountable.

The OECD²² suggests that an **effective regulatory framework has three pillars: policies; institutions; and tools**. More information on OECD's regulatory framework is contained in the following box.

OECD's Regulatory (Policy) Framework

Regulatory policies. These may be broadly defined as explicit, dynamic, continuous and consistent "whole of government" policies to pursue high-quality regulations. It is an integral part of the process that links a policy goal, a policy action and regulation to support the policy action. Regulatory policy refers to the way policy makers draft, update, apply and enforce regulations and foster public understanding of these processes. Political leadership at the highest level is the key to success of regulatory policies, overcoming opposition and fostering transparency to make clear the government's objectives.

Regulatory institutions. A set of institutions to ensure regulations, well placed in the country's legal and institutional architecture, are key for success. The OECD experience shows that, at the very least, the following institutions are necessary:

- **Central oversight body.** Co-ordination on regulatory policy issues within the government is essential and some form of central mechanism is better suited to accomplish this goal. This ensures a "whole of government" approach, providing technical support for those applying regulatory tools and acting as an advocate of quality regulation and good regulatory governance.
- **Independent regulators.** They are an essential part of a country's regulatory structure. Broadly speaking, their role tends to be concerned with enforcing rules and dispensing penalties for noncompliance, or authorizing the issue of licences and permits. They contribute to improving regulatory quality, transparency, stability and expertise, and shielding market interventions from interference by captured politicians and bureaucrats.

Regulatory tools. Six main types of regulatory tools are available to facilitate regulatory reform and to improve regulatory quality:

²² OECD, "OECD Reviews of Regulatory Reform: Background Document on Regulatory Reform in OECD Countries," 2005.

- **Administrative simplification.** It refers to simplifying and reducing government formalities and paperwork.
- **Regulatory Impact Analysis (RIA).** A tool to ensure the most efficient and effective regulatory options are chosen.
- **Transparency and communication.** Those subject to regulation must be aware of the regulation and understand what is required of them.
- **Choice of regulatory instruments and alternatives to regulation.** Governments are exploring the use of alternatives to direct regulation to achieve goals, consider non-regulatory options or market-based approaches.
- **Compliance and enforcement.** They are essential if the regulation is to achieve its objectives. There is little use having a regulation with a low compliance rate.
- **Tools to support administrative justice and accountability.** Regulators themselves must be accountable. To achieve this, those subject to regulations should have access to clear, open and effective appeals procedures.²³

It is important to keep in mind that OECD's framework is "what should be or what is ideal." Few countries actually portray their regulatory framework in this manner.

The key elements of regulatory reform include capacity building, communication and consultation and constituency development. To build capacity for regulatory reform and maintenance the following are needed:

- 1) Well functioning institutions – could be a central oversight body, which is best practice. The central oversight body ensures a "whole of government" approach, and provides technical advice and advocacy. Independent regulators are also required.
- 2) Legal conformity and quality control – such as a Regulatory Impact Analysis (RIA) or Administrative Procedure Act (APA). The use of APA limits excessive administrative discretion and creates "rights" that the public has with respect to regulation. APAs can cover making regulation, implementation and enforcement, revision and amendment, appeals and due process.

Communication and consultation are elements of regulatory transparency. Constituency development creates acceptance by citizens and politicians.²⁴

There are three explicit parties in a regulatory policy framework: government, regulated businesses, and third-party auditors. Consumers, an implicit player, provide the motivation for regulations, since the outcome of a regulatory model is required to meet their needs, as well as the needs of business.

Government functions are as follows:

- **Ministerial and parliamentary:** for setting strategic direction; bringing forward recommendations for law in the form of Acts or regulations;
- **Policy development and advice:** providing advice with respect to government intervention to ensure risks are managed;
- **Regulators:** for administering regulations; approving risk-based management systems for individual businesses; approving/accrediting third party auditors; setting and implementing standards; negotiating acceptance of standards by trading partners; providing technical input into regulations and laws; ensuring standards are met via monitoring and audits; being accountable for food safety assurance; investigating illegal activities; and enforcement.

²³ *ibid*, with slight modifications.

²⁴ *ibid*

The role of third-party auditors is to assess requirements set by standards or risk-based management programs; take action when legal/regulatory requirements are not met; assess the continued validity of a risk-based management program; and report to a regulator as required.

Regulated industries and businesses develop and implement (after government approval) risk-based management programs, and use third-party auditors to maintain and/or demonstrate compliance. Roles formerly done by government (inspection, process and quality control) are now done by industry in a number of instances.

2.6 Regulatory Principles

Regulatory principles are statements on how government should manage regulations, and are part of the policy component of a regulatory policy framework. As noted by the OECD, seven principles for regulatory quality and performance are:²⁵

- Adopt at the political level broad programs of regulatory reform that establish clear objectives and frameworks for implementation;
- Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment;
- Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory;
- Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy;
- Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to service broad public interests;
- Eliminate unnecessary regulatory barriers to trade and investment through continued liberalization, and enhance the consideration of better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness;
- Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.

In Canada, regulatory activities are intended to provide the “greatest overall benefit to current and future generations of Canadians.” The federal government has recently committed to the following regulatory principles:²⁶

- **“protect and advance the public interest** in health, safety and security, the quality of the environment, and the social and economic well-being of Canadians, as expressed by Parliament in legislation;
- **promote a fair and competitive market economy** that encourages entrepreneurship, investment, and innovation;
- **make decisions based on evidence** and the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm;
- **create accessible, understandable, and responsive regulation** through inclusiveness, transparency, accountability, and public scrutiny;

²⁵ OECD, “OECD Guiding Principles for Regulatory Quality and Performance,” 2005.

²⁶ Government of Canada, “Cabinet Directive on Streamlining Regulation,” 2007.

- **advance the efficiency and effectiveness of regulation** by ascertaining that the benefits of regulation justify the costs, by focusing human and financial resources where they can do the most good, and by demonstrating tangible results for Canadians; and
- **require timeliness, policy coherence, and minimal duplication** throughout the regulatory process by consulting, coordinating, and cooperating across the federal government, with other governments in Canada and abroad, and with businesses and Canadians.”

Canada has developed a regulatory framework. This framework is reflected in the above mentioned “**Cabinet Directive in Streamlining Regulation**”. In this document we are referring to such an approach as a “regulatory policy framework” to reflect the scope of such a framework and due to the fact that some departments refer to a regulatory framework that has a more limited focus. A regulatory policy framework should have the following attributes:

- regulatory policies, which include regulatory principles;
- regulatory institutions, which includes regulators as well as a central oversight body; and
- regulatory tools and approaches which consider the need for consultation, the decision as to whether regulation is the most appropriate government action, type of regulation used, and the need for assessment of the regulation after a period of time to ensure that it is the most effective action as conditions change.

This framework is summarized in Figure 4, and will be referenced in following sections of this discussion paper. Next we turn to the current status of regulatory reform in Canada, and the agri-food sector.

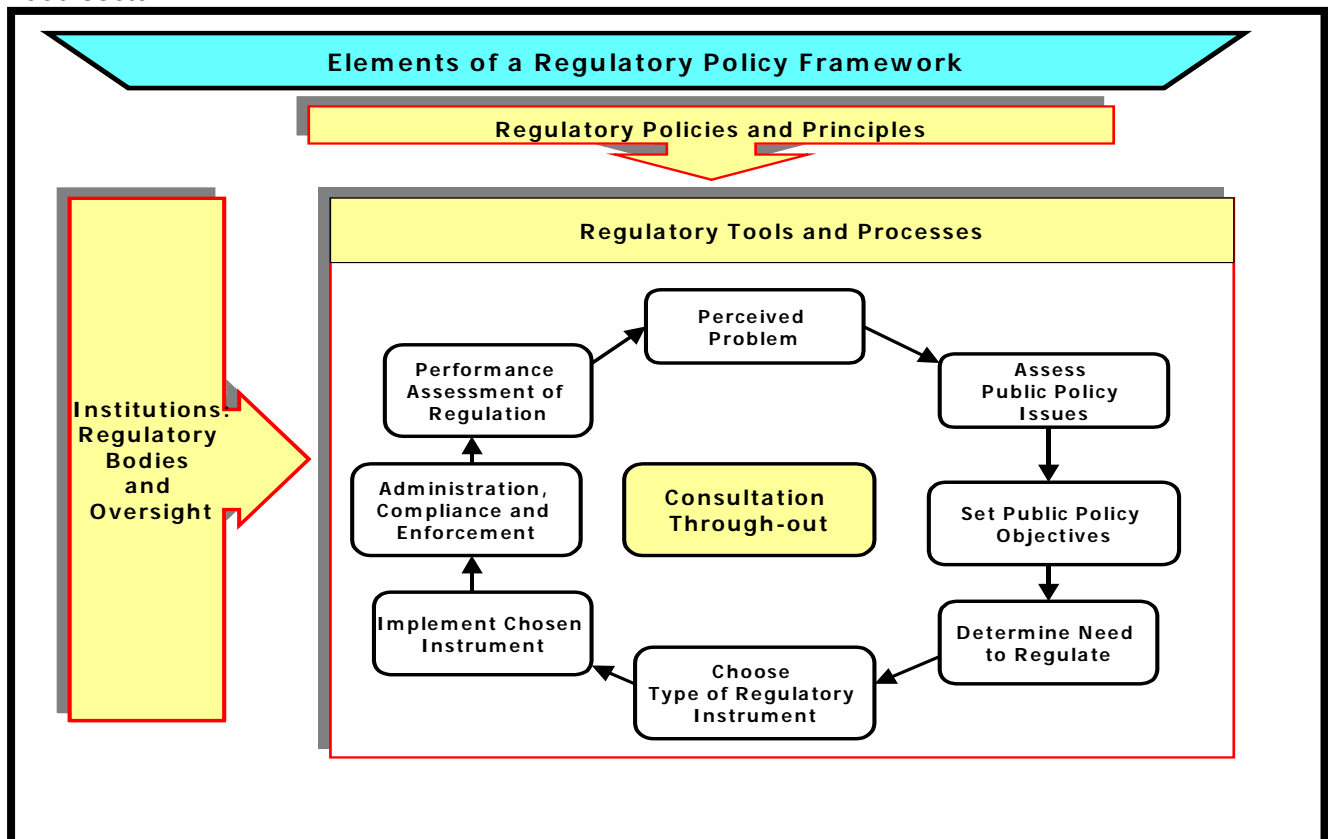


Figure 4: Overview of a Regulatory Policy Framework

3. Canada's Approach to Regulation

This section provides a brief overview on Canada's approach to regulations, in general, and in the agri-food sector in particular. A brief comparison to some other agricultural economies is provided at the end of this section. (See Annex I to IV for an overview in these countries).

3.1 Recent Suggestions for Regulatory Change in Canada

In 2002, the Organisation for Economic Co-operation and Development (OECD) reviewed overall regulation in Canada and other OECD countries. This review, which was carried out at a high level, found that Canada is a "vigorous innovator in the areas of good regulatory governance". The OECD did recommend that Canada undertake the following:²⁷

- "Strengthen the contribution of competition policy to regulatory reform and market openness, including an enhanced advocacy role for the Competition Bureau;
- Encourage a more systematic and strategic review of the federal, provincial and territorial regulatory environment and work to harmonise inter-provincial regulatory frameworks;
- Continue to foster regulatory reform to encourage greater productivity and innovation;
- Take a more pro-active approach to trade policy in international negotiations, while maintaining a careful balance between bilateral and multilateral liberalisation efforts."

Canada has a solid regulatory foundation. However, an External Advisory Committee on Smart Regulation found that the regulatory system needs to be more effective, responsive, cost-efficient, transparent and accountable. Several factors are driving the need for Canada to change its approach to regulation. New technology and fast information flows are increasing the speed of society. Firms respond to these changes and so must government regulation. Policy issues have become more complex. Boundaries are blurred and new directions such as sustainable development must be taken into account. The final factor is that the public expects more. In 2004, the External Advisory Committee on Smart Regulations found that Canada needs to:²⁸

- Get its national house in order. Federal, provincial and territorial governments need to cooperate and coordinate regulation;
- Approach international regulation strategically and, for example, eliminate minor differences in U.S. and Canadian regulations;
- Value the perspectives of others;
- Increase cost effectiveness and the timeliness of the regulatory process;
- Increase the focus on results and move away from prescriptive regulations;
- Emphasize performance and accountability; and
- Change the culture regarding regulations.

According to the Advisory Committee:²⁹

- **"Smart Regulation is both protecting and enabling.** It involves using the regulatory system to generate social and environmental benefits while enhancing the conditions for a competitive and innovative economy that will attract investment and skilled workers and sustain a high quality of life for Canadians. It is about making regulation as effective as possible — and making sure it is never more complicated or costly than it has to be.

²⁷ OECD, "OECD Praises Canada's Regulatory Reforms and Encourages Sustained Momentum," October 29, 2002.

²⁸ External Advisory Committee on Smart Regulation, "Smart Regulation: A Regulatory Strategy for Canada," September 2004.

²⁹ Ibid.

- **Smart Regulation is more responsive regulation.** An effective regulatory system must be self-renewing and keep up with developments in science, technology and global markets.
- **Smart Regulation is acting quickly and deliberately** to contain or prevent risks and enable innovation and opportunity so that Canadians receive the benefits of new knowledge. This also means giving regulated parties more flexibility in terms of how results are achieved, as long as high standards are upheld and the appropriate accountability measures are in place.
- **Smart Regulation is governing cooperatively for the public interest.** In a modern regulatory system, regulation is a shared responsibility in which governments, citizens and industry all have an active role to play in making the system more effective. Smart Regulation is taking into account the views of citizens and, at the same time, being attentive to, and balancing, the needs of firms and the challenges they face in an international economy. Smart regulation means recognizing that the regulatory system is part of a complex global system which requires governments and government departments and agencies to work more cooperatively toward common goals.”

The External Advisory Committee developed a vision and principles for a Canadian strategy for Smart Regulation. It is contained in the following box. The principles can be viewed as the core operating values of a regulatory system, and regulatory agencies.

The External Advisory Committee suggested that **smart regulation will produce the following benefits**.³⁰

- “support and enable Canadian social, environmental and economic priorities;
- achieve high standards of protection for citizens;
- support the transition to sustainable development;
- enhance business confidence and public trust in Canada’s regulatory system;
- position Canada internationally as a place to do business;
- help Canadians take advantage of new knowledge; and
- make better use of government resources.”

As is noted below, current government action is based on the input of this external advisory committee. Canada responded by developing the **Cabinet Directive on Streamlining Regulation**³¹ and associated Treasury Board Guidelines.

³⁰ Ibid.

³¹ Government of Canada, “Cabinet Directive on Streamlining Regulation,” 2007

Canadian Vision and Principles for Smart Regulation

Vision

Governments, citizens and businesses will work together to build a national regulatory system that maximizes the benefits of regulations for all Canadians, enables them to take advantage of new knowledge and supports Canada's participation in an international economy. This vision has three components:

TRUST – The regulatory system must instil trust, confidence and credibility at home and abroad in Canadian products and services, markets and government institutions.

INNOVATION – The regulatory system must enhance market performance and support innovation, competitiveness, entrepreneurship and investment in the Canadian economy.

PROTECTION – The regulatory system must demonstrate to citizens that the public interest, which includes such issues as human health and safety and environmental protection, will be safeguarded within dynamic global markets.

Principles

This vision can be achieved by having our regulatory system, from the design stage to compliance and enforcement, adhere to the following principles:

1. EFFECTIVENESS – Regulation must achieve its intended policy objectives and must advance national priorities. It should be based primarily on standards and performance targets, rather than on how those targets are achieved, in order to provide flexibility while serving the public interest. Regulation should be supported by evidence and should reflect the latest knowledge. Regulatory measures must be regularly and systematically reviewed and, where necessary, eliminated or modified; new measures must be created to take into account changing consumer preferences and expectations, scientific and technological advances and changing business environments.

2. COST-EFFICIENCY – Regulatory analytical requirements, measures, and enforcement should be commensurate with the risks and problems involved. The appropriate instrument mix should be designed and implemented in the least costly manner possible to achieve the desired policy objectives. Single windows between departments and between jurisdictions should be offered. Regulators must understand the cumulative impact of regulation and seek to avoid overlap, duplication, inconsistency and unintended consequences.

3. TIMELINESS – Regulatory decisions and government services must be provided in a manner that reflects the pace at which new knowledge develops, consumer needs evolve and business now operates. Timeframes and standards for decision-making should be developed and enforced.

4. TRANSPARENCY – The accessibility and transparency of the regulatory system must be maximized to promote learning and information sharing and to build public trust at home and abroad in the quality of Canadian regulation and the integrity of the process. Policy objectives should be clearly defined. Regulators must explain their priorities and decisions, show why and how these decisions are in the public interest, and be subject to public scrutiny. Information on regulatory programs and compliance requirements should be available in print and electronically. The regulatory system should be more predictable to provide certainty to those being regulated. Citizens and businesses should participate through active consultation and engagement.

5. ACCOUNTABILITY AND PERFORMANCE – Regulators must account for their performance. They need to announce their intended results and demonstrate their progress in achieving them. Performance should be monitored, measured and publicly reported. Results should be used to modify regulatory programs and should be systematically reported to the public. Regulatory systems must be fair and consistent. Complaints and appeals procedures should also be established, well publicized, accessible, fair and effective.³²

³² External Advisory Committee on Smart Regulation, "Smart Regulation: A Regulatory Strategy for Canada," September 2004.

The OECD surveyed its 31 members in 2005 regarding regulatory quality. (Principles associated with regulatory quality are provided in Annex IX). Some of the findings noted with regard to Canada include:

- In terms of regulatory policy, Canada is recognized as an early developer of a regulatory reform strategy (initiated in 1986).
- Until 2006, Canada's regulatory oversight body was located in the Privy Council. It is now part of the Treasury Board.
- Canada is recognized as having a very strong mechanism for federal/provincial and supranational coordination.
- Canada is developing a trilateral framework for regulatory cooperation under the Security and Prosperity Partnership in North America.
- While Canada does have a Parliamentary Committee (Joint Senate-House of Commons) dedicated to regulatory reform, it does not report on progress.
- The OECD study examined regulatory processes such as consultation and communication, with the report noting that Canada developed a guide for consultations.
- Regulatory tools are the "range of available techniques that need to be deployed in a consistent and mutually supportive manner to reflect an integrated systemic quality assurance system" and cover the life span of a regulation.
- With respect to evaluation and updating of regulations, Canada did an across-the-board regulatory review from 1992 to 1997 and identified 835 regulatory items for revision, revocation or further review. In 1994 Canada reviewed regulations in six sectors including biotechnology, aquaculture, and health food and therapeutic products. Canada also has a paper burden reduction initiative and started another regulatory review in 2005.
- The Office of the Auditor General in Canada examines the implementation of regulations.
- Canada does not attempt to measure the impact of regulatory policy on output or outcomes.³³

3.2 Current Regulatory Initiatives – Federal

The above mentioned Smart Regulations were developed in 2004 for consideration by government. The federal government has acted on the external input and in 2007 issued the **Cabinet Directive on Streamlining Regulation**³⁴. This directive highlighted many of the elements of a regulatory policy framework for Canada. This directive outlined to Canadians the commitment to "protecting and advancing the public interest by working with Canadians and other governments to ensure its regulatory activities result in the greatest overall benefit to current and future generations of Canadians." In this directive, the federal government committed to the following regulatory principles:^{35 36}

- **“protect and advance the public interest** in health, safety and security, the quality of the environment, and the social and economic well-being of Canadians, as expressed by Parliament in legislation;
- **promote a fair and competitive market economy** that encourages entrepreneurship, investment, and innovation;
- **make decisions based on evidence** and the best available knowledge and science in Canada and worldwide, while recognizing that the application of precaution may be necessary when there is an absence of full scientific certainty and a risk of serious or irreversible harm;

³³ Ibid

³⁴ Government of Canada, "Cabinet Directive on Streamlining Regulation," 2007.

³⁵ Ibid

³⁶ These are the policies and principles referred to in Figure 4, highlighted in the prior section.

- **create accessible, understandable, and responsive** regulations through inclusiveness, transparency, accountability, and public scrutiny;
- **advance the efficiency and effectiveness** of regulation by ascertaining that the benefits of regulation justify the costs, by focusing human and financial resources where they can do the most good, and by demonstrating tangible results for Canadians; and
- **require timeliness, policy coherence, and minimal duplication** throughout the regulatory process by consulting, coordinating, and cooperating across the federal government, with other governments in Canada and abroad, and with businesses and Canadians.”

Potential regulations will undergo an early assessment to determine if the approval process can be streamlined and improved. This involves an examination of the potential economic, social and environmental impacts of the regulation; the cost or savings to government and firms as well as the potential impact on the economy and Canadian competitiveness; and interest and support of those affected and other Canadians. The associated **regulatory analysis process**³⁷ involves the following:³⁸

- Consultation with those affected;
- Identifying and assessing public policy issues;
- Setting public policy objectives;
- Selecting the appropriate mix of government instruments; assessing the legal implications; ensuring compliance with international obligations; coordinating across the federal government; collaborating with provincial/territorial governments; coordinating internationally; analyzing the benefits and costs; and recommending an option;
- Planning for implementation, compliance and enforcement;
- Measurement and reporting on performance, evaluating regulatory programs, and reviewing regulatory frameworks.

Canada is moving forward in implementing this more comprehensive approach to regulation. The process has started with Treasury Board issuing guidelines to departments to comply with the requirements laid out in the Cabinet Directive. In 2007, the following have been provided by the Treasury Board to guide the regulatory processes in regulatory agencies and departments:

- Guidelines for Effective Regulatory Consultations;
- Assessing, Selecting, and Implementing Instruments for Government Action;
- Guidelines on International Regulatory Obligations and Cooperation; and
- Canadian Cost-Benefit Analysis Guide: Regulatory Proposals.

Compliance with these Treasury Board guidelines is progressing in regulatory agencies at different rates. Progress is affected by a variety of factors including the capacity and associated infrastructure for regulatory change within an agency, the development of new processes within an agency, and whether supporting legislation needs to be amended to allow for regulatory change to occur. The regulatory reforms suggested by the Cabinet Directive will occur; the issue on moving forward is one of timing, which can vary by readiness and capacity in each regulatory agency.

³⁷ These are a component of the regulatory tools and processes outlined in Figure 4 above.

³⁸ Government of Canada, “Cabinet Directive on Streamlining Regulation,” 2007

3.3 Current Regulatory Initiatives – Provincial

Many Canadian provinces currently have regulatory initiatives underway, as the following table shows.

Table 1: Current Regulatory Initiatives in Canada

Government	Initiative
Newfoundland & Labrador	Red Tape Reduction Initiative – reduce regulatory burden by 25% and once target is met, goal is 0% net increase
Prince Edward Island	
New Brunswick	Red Tape Reduction Initiative
Nova Scotia	Better Regulation Initiative – decrease paperwork burden by 20% by 2010 and improve the quality of regulations
Quebec	Initiative to reduce administrative burden on business by 20% by 2010 Regulations focused on end results versus the means (less prescriptive)
Ontario	Regulatory Modernization Act in 2006 Bill 57 (introduced April 2008) creates political oversight over legislation and regulation to reduce red tape and regulatory burden
Manitoba	Initiative to enable single-window service delivery to business
Saskatchewan	
Alberta	
British Columbia	Regulatory reform initiative to reduce regulatory requirements by 33% from 2001 to 2004 (new goal is 0% net increase in regulations) and improve the quality of regulation

Various web sites

British Columbia is advancing regulatory reform through a Regulatory Reform Initiative. Its approach has been emulated by provinces such as Newfoundland and Labrador and Nova Scotia. The province has been very successful in reducing regulatory requirements, which have fallen by 43% since 2001.



Figure 5: BC's Regulatory Goals

The design principles for proposed regulations in B.C. are shown in the following box. Additional information can be found on the BC government's web-site (www.regulatoryreform.gov.bc.ca)

B.C.'s Regulatory Design Principles

Reverse Onus – need for regulation must be justified
Cost-Benefit Analysis – benefits must exceed costs
Competitive Analysis – impact on BC competitiveness
Streamlined Design – no duplication, can they be harmonized or incorporated into existing regulations
Replacement Principle – eliminate one regulatory requirement for each new regulatory requirement introduced
Results Based Design – results based using science, consideration of market incentives
Transparent Development – input from affected parties
Time and Cost of Compliance –
Plain Language – easy to understand
Simple Communications – creating awareness of the regulation
Sunset Review/Expiry Principle – to ensure continued relevancy

BC Regulatory Reform Initiative

A recent initiative in Ontario examined a number of issues critical for the future of the province's agri-food sector. One of the issues examined was regulation. Using the smart regulation initiative as a base, the committee identified systematic regulatory issues impeding the agri-food sector, which were:

- Inefficiency;
- conflicts between governments;
- outdated regulations;
- harmonization (lack of); and
- consumer demand.

The committee made the following recommendations.³⁹

- "OMAFRA should analyze how the regulatory approval and development process in Ontario impacts the agri-food sector;
- The Government of Ontario needs to ensure greater efficiency of decision-making in relation to regulatory action;
- The government should be consistent when applying and enforcing regulations;
- Government should undertake a cost-benefit analysis of all regulatory proposals before bringing them forward to decision makers;
- To ensure that regulations are practical and capable of being implemented in a timely and efficient manner, government should seek stakeholder input during the development of regulations;
- The government should ensure better coordination, integration, harmonization, and resource sharing to overcome the problem of regulatory overlap between federal and provincial governments;
- The Government of Ontario should ensure that taxpayer resources are efficiently and appropriately used in providing regulatory enforcement;
- The Government of Ontario should establish a "one-window" access point so that the agri-food sector can navigate the regulatory approval process."

³⁹ The Minister's Strategic Advisory Committee Report, "Opportunities for Ontario's Agri-Food Sector," March 2007.

3.4 Regulations Affecting Canada's Agri-Food Sector

As shown below in Table 2, regulations can be specific to agriculture or they can have applicability across the economy in general. Regulations can arise from federal, provincial and international authority. International regulations are typically enforced by federal authorities. Agriculture and Agri-Food Canada (AAFC) is not the only federal department regulating agriculture and agricultural products. There are many agri-food specific regulations administered by agencies outside of AAFC, some of which report through the Minister of Agriculture and Agri-Food (second row in Table 2), and some through other Ministers and their departments (third row), such as Health Canada, which is responsible for the Food and Drug Act and the Pest Control Act. As well, regulations of other countries also impact Canada's agri-food sector through international commerce.

Table 2: Regulations and Other Policy Instruments Affecting the Agri-Food Sector

	Federal Regulations Under Various Acts	Provincial Regulations Under Various Acts	Regulation Based on International Commitments	Other Countries' Regulations
Agri-Food Specific Regulations – AAFC (under authority of Minister of Agriculture and Agri-Food)	Agricultural Marketing Programs Act Animal Pedigree Act Canada Agricultural Products Act Department of Agriculture and Food Act Farm Income Protection Act	Agricultural Environmental		US Farm Bill
Agri-Food Specific Regulations – Agencies (under authority of Minister of Agriculture and Agri-Food – CDC, CFIA, CGC, CWB, NFPC)	Agricultural and Agri-Food Administrative Monetary Penalties Act Canadian Dairy Commission Act Canada Grain Act Canadian Wheat Board Act Health of Animals Act Farm Products Agencies Act Feeds Act Meat inspection Act Plant Breeders' Rights Act			
Agri-Food Specific Regulations (under authority of other Ministries)	Food and Drug Act Pest Control Act	Environmental	Bio-Safety Protocol	
General Regulations (under authority of other Ministries)	Canada Transport Act Consumer Packaging and Labeling Act Fisheries Act Immigration Act	Environmental Labour Tax	Bilateral Trade Agreements NAFTA WTO	US Homeland Security Act

	Species at Risk Act Tax Act			
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The agri-food sector is large in scope and consequently influenced by regulations from many different federal departments/agencies. There are a large number of regulators affecting the agri-food sectors, each with differing objectives. Without an overarching regulatory objective this situation can result in regulatory inconsistency. At the federal level these include:

- AAFC
- Fisheries and Oceans Canada
- Environment Canada
- Foreign Affairs and International Trade Canada
- Health Canada
- Industry Canada
- Transport Canada
- Canadian Dairy Commission
- Canadian Food Inspection Agency
- Canadian Wheat Board
- Canadian Grain Commission
- National Farm Products Council (and national supply management agencies)
- Pest Management Review Agency
- Prairie Farm Rehabilitation Agency
- Public Health Agency of Canada

Each of the departments/agencies has a different mandate. For example:

- AAFC “provides information, research and technology, and policies and programs to achieve security of the food system, health of the environment and innovation for *growth*,”
- Health Canada's “goal is for Canada to be among the countries with the healthiest people in the world”; and
- “PMRA's primary objective is to “prevent unacceptable risks to people and the environment from the use of pest control products.”

Annex VIII lists most of the departments/agencies that have legislation affecting the sector (or with major sections applicable only to the sector). Annex IX contains a listing of federal regulations impacting agriculture based on an Internet search.⁴⁰ This listing suggests that there are over 280 regulations that impact on some aspect of the agri-food sector. Some of these are based on authority delegated by the Minister. While some others can be modified based on Ministerial decision, others must require input of the Cabinet, while others must be brought before the Parliament based on the need to amend legislation. Amending legislation or creating new legislation is a lengthy process – which can be measured in years (not months). The need to amend legislation to enact regulatory change, results in minimal regulatory flexibility and a lengthy period of time before a regulatory change is available to the industry.

3.5 Current Impact of Regulations on the Agri-Food Sector

Regulations are rather universal, and therefore many regulations can impact on the performance of the agri-food sector. As part of a regulatory policy framework, the government must assess whether regulations are the right type of action to address a given circumstance, and if so what type of regulatory instrument is best suited for that situation.

⁴⁰ While every effort has been made to ensure the completeness of the list, there may have been oversights.

A number of studies and reviews have been made on the impact of regulations in the agri-food sector, some conducted by the Auditor General. (See also Annex VII). Reviews by the Auditor General indicate that aspects of Canadian regulations such as enforcement and compliance require improvement. A review of studies identified long-standing issues with regulations impacting on the agri-food sector. It also points out that there could be capacity and resource allocation problems at the federal and other levels. Other issues regarding regulation in Canada include:

- Lack of harmonization with the U.S. on certain matters;
- Lack of equivalency with major trading partners;
- The impact of regulations on introducing new products and on innovation within Canada;
- Compliance costs and user fees (regulatory burden) to processors and producers;
- Time period required to achieve harmonization;
- Long lead time to implement any regulatory change;
- Interface between regulatory change for health and food safety and regulatory reform in the agri-food sector.

In the case of functional foods and nutraceuticals, it is arguable that current regulations have a negative impact on competitiveness and protect the public from both safe and unsafe products. Although regulations have evolved over time in terms of their flexibility, globalization requires international flexibility, while the emergence of new types of products, shorter life cycles and other policy goals (health) require product and volume flexibility in terms of regulations.⁴¹

Some stakeholders in the agri-food system argue that the competitiveness and sustainability of Canada's agri-food sector is being harmed by some of the regulations currently in place or not in place. The negative impact on competitiveness in turn reduces innovation in the sector. Putting an effective and operational regulatory policy framework in place will lead to an improved regulatory environment, one with better regulations that are based on regulatory policies such as the promotion of "a fair and competitive market economy that encourages entrepreneurship, investment and innovation."⁴² Simply stated, this is the business case for a regulatory policy framework for the agri-food sector.

3.6 An Operational Regulatory Policy Framework in the Agri-Food Sector?

In considering how to best regulate the industry, it is important to assess whether the changes recommended in the Cabinet Directive on Streamlining Regulation, and the operational details provided in Treasury Board guidelines, are fully operational in regulatory bodies that impact the agri-food sector. Our review indicates that the agencies are well aware of the direction indicated in the Cabinet Directive and that they are in various stages of complying with the operational aspects highlighted in Treasury Board guidelines. For example, in the case of fertilizer, an industry forum was used to develop recommendations for regulatory change. As the regulator, the CFIA was an integral part of this consultative process. The CFIA is also using a consultative process with industry in the seed sector, with a focus on effective program delivery.

A key issue is whether/when the resources will be allocated to bring about desired regulatory changes. With Treasury Board providing assistance and guidance to departments and agencies in implementing the Cabinet Directive, over time one can conclude that an effective and operational regulatory policy framework will be in place for the agri-food sector.

⁴¹ Sparling D, "Regulation and Competitiveness," Presentation to CAPI, February 13, 2006.

⁴² Government of Canada, "Cabinet Directive on Streamlining Regulation," 2007.

Prior to the release of the Cabinet Directive, AAFC developed an inventory of agri-environmental regulations and developed a framework for the economic assessment of the impact of new regulations based on the principles of Smart Regulations. The methodology is shown in Table 3. A three-step decision making model was suggested:

- The need for policy action is determined;
- General design principles are reviewed; and
- The policy evaluation criteria are reviewed to determine Smart instruments.⁴³

Table 3: Measuring Regulatory Impacts

Area	Methodology to Measure Impact
Impact of regulations on primary producers	Environmental costs/total production costs Environmental costs/total sales
Impact of regulations on society	Aggregated producer environmental costs Environmental protection capital expenditures/total capital expenditure
Assessment of the "smartness" of the regulations	Effectiveness – regulation and other initiatives should achieve intended objective Economic efficiency – benefits exceed costs Cost effectiveness – best outcome is achieved for a given cost or given outcome is achieved at the lowest cost Flexibility – of policy instruments – allows innovation in producing outcome Enforcement mechanisms Transparency – clear objectives, quantifiable targets and ex-post evaluation Fairness and equity – will influence compliance Coherence and compatibility – duplication, offsets, synergy

AAFC, "Inventory and methodology for Assessing the Impacts of Environmental Regulations in the Agricultural Sector," March 2006

It is safe to conclude that Treasury Board, working from the Cabinet Directive, has developed a regulatory policy framework consistent with the framework illustrated in Figure 4 (see 2.6). Since this Directive was signalled to government departments and to regulators in 2007, and in view of the changes that are anticipated, it will take time before such a framework is fully operational in regulatory agencies that have an impact on the agri-food sector. With directed efforts and commitment, over time an operational regulatory policy framework for the agri-food sector should evolve. Some departments have initiated regulatory initiatives relevant to the agri-food sector, such as Health Canada's Blueprint for Renewal.⁴⁴

3.7 Comparison of Canada to Other Jurisdictions in Agri-Food

Comparisons regarding the extent of regulatory reform in Canada compared to other countries are shown below (Table 4). At a general level, Australia has made more advances in regulatory reform than Canada, starting in the 1990s through their National Competition Policy. Like Canada, countries such as New Zealand and Ireland have developed a regulatory framework. The issue before these countries is to keep moving forward by implementing the regulatory framework at an operational level.

Table 4: Comparison of Regulatory Policies and Initiatives

New Zealand: Has a strong commitment to	Australia: Has a strong commitment to regulatory
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⁴³ AAFC, "Inventory and methodology for Assessing the Impacts of Environmental Regulations in the Agricultural Sector," March 2006.

⁴⁴ See for example Health Canada's "Blueprint for Renewal: Transforming Canada's Approach to Regulating Health Products and Food" (2006) and "Blueprint for Renewal II: Modernizing Canada's Regulatory System for Health Products and Food" (2007)

regulatory reform and is developing a regulatory framework. NZ is working towards renewing/improving regulatory quality and has a specific initiative for agriculture.	reform. It has implemented reform at high levels and has had many initiatives to reform agricultural regulations. Australia appears to have made the most progress, starting with its National Competition Policy in the 1990s.
Ireland: Has a high-level commitment to regulatory quality. It is not clear how far Ireland has proceeded on implementing the desired change.	U.S.: Issue-specific regulatory approaches utilize collaboration between government departments. This approach is not always successful.
Brazil: Attempting to improve the quality of regulations in agriculture. Does not appear to have a strong and broad commitment to reform.	China: Legal framework and regulations are evolving. Improvements will likely occur over time.
Canada: Canada has high-level principles and has provided operational guidelines to regulating agencies. The overall package can be viewed as a regulatory policy framework. While Australia is likely ahead of Canada on the regulatory change pathway, there is no clear evidence that New Zealand, EU countries or the U.S are ahead of Canada on implementing changes. Over time, an operational regulatory policy framework will guide regulations and the choice of policy instrument. There are also some regulatory reform initiatives at the provincial level.	

Canada's agri-food sector is regulated by a number of federal departments and agencies. Currently, the sector appears to have no overarching regulatory objective, and the differences in the objectives of the regulators can produce regulations which impair the sector's competitiveness, innovation and sustainability. This "silo" approach to regulation is not limited to Canada.

In the context of the agri-food sector, Canada may want to reconsider having a regulatory oversight body that:

- conducts analysis;
- receives progress reports from its dedicated Parliamentary Committee for regulatory reform;
- conducts sector specific ex-post evaluations; and
- measures the impacts of regulatory policies on outputs or outcomes.

The regulatory instruments in place in the Canadian, Australian and New Zealand agri-food sector are worth comparison. In Canada, prescriptive regulations include food labelling requirements, grade standards and marketing regulations in grain, and successor rights in unionized businesses. Some might classify HACCP-based food safety regulations as prescriptive. As mentioned, Canada has many types of non-prescriptive instruments: performance-based, self-regulation, co-regulation, and market-based.

Prior to the development of a mandatory national standard, Canada's organic sector self-regulated. Many of the on-farm food safety programs in Canada are examples of self-regulation. The market for carbon credits is one example of a market-based instrument that touches agriculture. Another example of a market-based instrument is monetary incentives to purchase certain types of automobiles. Canada's approach to the reduction of greenhouse gases is outcome-based. The federal government has set targets and it is up to the companies to determine how to achieve them.

Australia and New Zealand have a mixed set of regulations, which are mostly risk/outcome based with some prescriptive standards. Safety is the prime consideration of these regulations; but they also support innovation. The two countries' codes have been harmonized. Self-regulation has been successful in some places. According to Stockwell and Henderson, the globalization of

brands, manufacturing and consumer taste will eventually result in regulatory convergence.⁴⁵ Canadian regulations pertaining to agriculture tend to be mostly prescriptive although there are some outcome-based regulations. Interestingly, Canadian regulations regarding nuclear safety are more outcome-based.

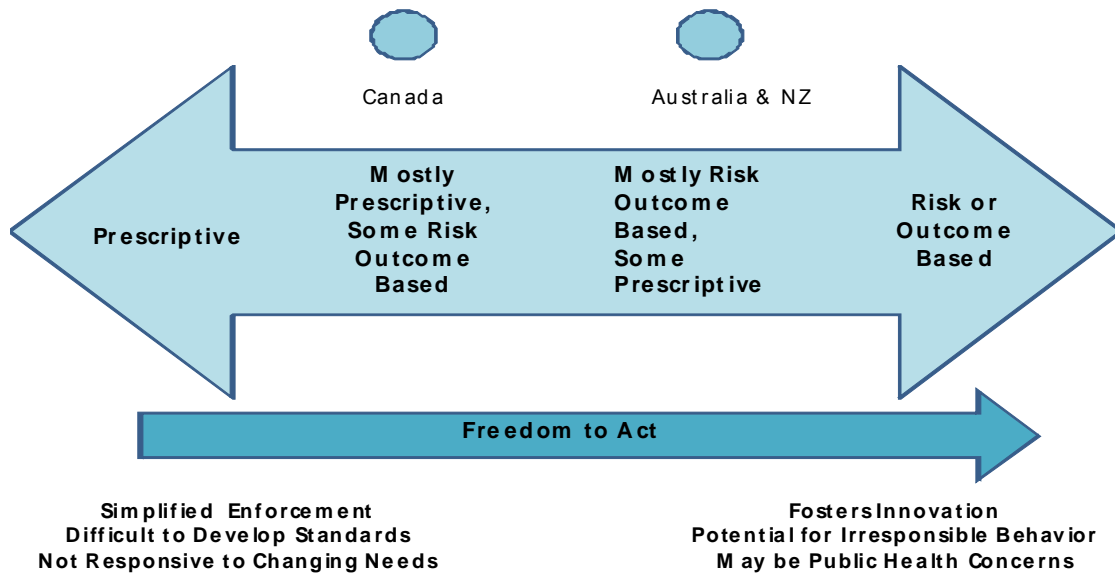


Figure 6: Comparison of Regulatory Instruments

Canada has made an effort to improve the quality of its regulations through the Smart Regulations effort and more recently the Cabinet Directive on Streamlining Regulation. By implementing this latter initiative (as outlined in Treasury Board guidelines) Canada can develop an effective and operational regulatory policy framework in the agri-food sector. However, much effort is still required to move the agri-food sector into this position on the regulatory continuum.

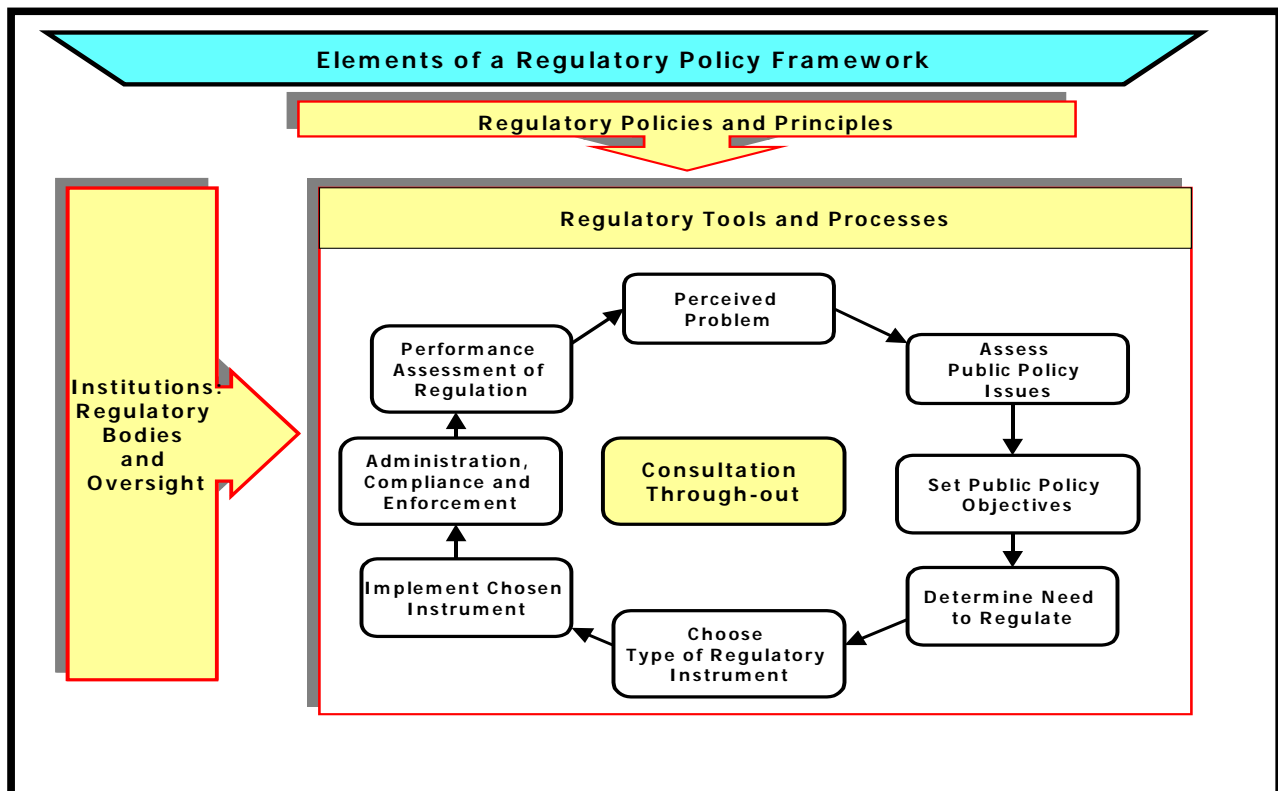
⁴⁵ Stockwell D and L Henderson, "Innovation and Regulation – Can They Co-Exist Happily?," NZIFST Conference 2005.

4. Moving Forward on How Canada Regulates in the Agri-Food Sector

Regulatory reform is required in the agri-food sector. Based on our findings, some ideas Canada may want to consider to enhance regulation in the agri-food sector include:

- Development of over-arching objectives for regulation;
- Greater collaboration between departments and agencies;
- Seeking industry input on choice and design of regulatory instruments;
- Greater consideration of non-prescriptive types of regulations;
- Sufficient resources for an effective infrastructure to support the regulatory process;
- Harmonization with major trading partners and between provinces;
- Design of legislation that provides for more regulatory flexibility;
- A comprehensive examination that evaluates using agreed upon principles;
- Ex-post evaluation of regulations; and
- Commitment to implement required changes.

Our review suggests that the elements are in place for the agri-food sector to move forward on regulatory reform. The federal government has established high-level regulatory principles and has started a process to assist departments in implementing these principles. With Treasury Board guidance, an effective and operational regulatory policy framework can arise for the agri-food sector. Broad elements of a regulatory policy framework are provided in the following figure (as illustrated in Figure 4 in section 2.0).



The framework proposed by the OECD (see Section 2.0) provides a worthy basis for the development of a regulatory policy framework for Canada's agri-food sector. The OECD framework centres around three pillars. Much work has already been done on the first pillar, which includes the regulatory policies, through the Cabinet Directive on Streamlining Regulation. These policies could be enhanced by principles, or core operating values, to guide decision-making on regulations and regulatory issues specific to the agri-food sector.

The second pillar calls for the development of an oversight body for regulation in the agri-food sector, which could be a positive development for innovation and sector competitiveness. The oversight body can ensure that cross-sector regulations are coordinated, consistent and congruent. Such an institution can also ensure that the regulations of different regulating agencies do not work at cross purposes, and that their combined impact does not detract from the objectives of the broader set of regulatory policies and principles impacting the agri-food sector.

The third pillar of the OECD framework consists of regulatory tools and processes, and in the Canadian context would include those processes currently required by the Treasury Board. It could go further, seeking out sector-specific input on key elements such as what type of policy instruments to use on specific policy and regulatory issues, and if regulations are required, what type of regulatory instruments, all guided by the regulatory policies and principles. A good regulatory toolbox also facilitates compliance, enforcement, transparency, communication, administrative simplification, and accountability.

By moving forward in this direction, regulatory quality can only be enhanced, such that the regulatory activities impacting the agri-food sector fulfill the government's intention to provide the greatest overall benefit to current and future generations of Canadians.

This paper is a first step in CAPI's project to help move the regulatory agenda forward for the agri-food sector. The next step is to collaborate with industry and regulators in a focused manner to help realize a regulatory policy framework. Ultimately, bringing this framework to fruition in a timely manner can only benefit the competitiveness of the agri-food sector.

Annex I – New Zealand's Approach to Regulation

In the 1980s, the New Zealand government made a significant change in its approach to regulation. This resulted in the “separation of the provider, purchaser, and policy, regulatory and service delivery functions within government” and in more cost recovery and user-pay services. Risk management also became more important. Risk management is defined as “an iterative process consisting of well-defined steps which, taken in sequence, support better decision-making by contributing a greater insight into risks and their impacts.

The regulatory approach arose from Food Safety and Quality Assurance (FSQA) programs such as HACCP (Hazard Analysis of Critical Control Points) in the private sector, the split between policy making and policy delivery in the public sector and the emergence of a user pay system in the public sector. Due to the command and control approach by government, society believed it had no role in food safety as it was all done for them. As well, firms had no incentive to understand risks, and because regulations were treated as the recipe, no innovation occurred.⁴⁶

In New Zealand, government can be viewed as the risk manager for the nation. With respect to agriculture, the N.Z. government manages risk by 1) providing a regulatory framework for risk management in food safety, pest and disease control, and animal welfare and 2) being accountable for products meeting domestic or foreign requirements. Government is “the arbitrator of acceptable or tolerable risk.” There will always be value judgments involved and often political judgments.⁴⁷

New Zealand is currently developing a regulatory framework. There are two types of regulatory interventions:⁴⁸

- Technical – such as animal welfare, food safety biosafety, and
- Sectoral – “relating to the broader economic and governance aspects of regulation impacting on sustainable growth and industry innovation.”

The following critical issues will be addressed in the development of New Zealand's regulatory framework:⁴⁹

- “Identification of where and how regulation is an appropriate form of intervention and where other types of non-regulatory intervention would be a better approach;
- Ability to explain costs and benefits of regulation, including guidance in cost recovery;
- Rationale for achieving the lowest possible compliance costs;
- Facilitation of innovation – or at the least not impeding innovation and enabling other ways of achieving the same result;
- Consistency with whole of government approaches to regulation, including risk management;
- Compliance with international obligations;
- Intervention drivers that take into account the public good or industry good/facilitation results;
- Maintaining New Zealand's comparative advantage internationally.”

New Zealand is actively attempting to improve regulatory quality. New Zealand established the New Zealand Food Safety Authority (NZFSA) in 2002 to ensure that the country's food

⁴⁶ Flynn C, “The Optimal Regulatory Model,” Presented to the 10th World Congress on Food Safety, 1999.

⁴⁷ Ibid.

⁴⁸ New Zealand, MAF, “Regulatory Philosophy and Frameworks” (<http://www.maf.govt.nz/mafnet/publications/statement-of-intent/2006-2007/11regulatory-framework.htm>) accessed May 2008.

⁴⁹ Ibid.

regulations are effective. A review of domestic food regulation was launched in 2003 in order to address the following issues:⁵⁰

- “confusion about when any government involvement is undertaken
- difficulty in applying current controls in terms of the size of business, the risks involved, and the range of food and related products involved
- complexity of controls
- lack of practicality of some controls
- inconsistency in the impact on businesses
- lack of clarity (and consistency) about how much facilitation and guidance NZFSA as regulator will provide and how much ‘persons’ must do for themselves
- ill-defined roles of key players (‘persons,’ auditors, verifiers and the regulator)
- lack of common understanding of good hygiene practices and other key concepts
- duplication, overlaps and gaps in laws and consequential costs for ‘persons’
- absence of risk assessments in the food sector.”

The review is now complete and changes to the regulatory system will occur through new legislation. Some parts of the changes are being implemented under the current legislation. The three-tier regulatory model used in parts of the food sector will continue, which consists of the regulator, the verifier (or auditor), and the food business (or individual).

Food control plans are fundamental to the regulatory system. Under the current law most food operators are required to register with their local council and are inspected by an Environmental Health officer to determine compliance with Food Hygiene regulations. Under the new law, if an operator has a food control plan then it is exempt from the Food Hygiene regulations. An Environmental Health officer will verify that the plan has been implemented.⁵¹ Information about the new regulatory tools is shown in the following box.

New Regulatory Tools in New Zealand

“Food Control Plans (FCPs) will be the tool used to manage most food operations. Food Control Plans can be off-the-peg or custom-made. Off-the-peg FCPs will be designed by NZFSA and made available free of charge for less complex food operations such as cafes and corner dairies (i.e., most businesses that are currently covered by the Food Hygiene Regulations). More complex operations such as manufacturers will be required to develop their own FCP. FCPs will be evaluated to ensure they effectively manage food safety and suitability (NZFSA-approved off-the-peg FCPs will not require evaluation), are registered, and are verified on an ongoing basis to ensure the operators are following their plan and are successfully managing risks. National Programmes (similar to Regulated Control Schemes) may be developed where it is more practical for the risk to be managed nationally rather than by an individual business. National Programmes are initiated and developed by regulation and so would be developed by NZFSA, in conjunction with industry associations where appropriate. Food Handler Guidance is a non-regulatory tool with an educational focus which will be used for operations with a small and less severe potential for impact, such as the majority of bed and breakfast businesses and fund raising activities.”⁵²

The above review indicates that New Zealand is developing a regulatory policy framework and working towards renewing its regulatory approach.

⁵⁰ NZFSA, “The Domestic Food Review,” 2004.

⁵¹ NZFSA, “Food Control Plans,” June 2008.

⁵² NZFSA, “Questions and Answers.”

Annex II – Australia's Approach to Regulation

The most significant factor encouraging regulatory reform in Australia is the National Competition Policy (NCP). It was implemented in 1995 to improve economic performance and benefits via greater competition. *"In essence, most NCP reforms are measures designed to reap the benefits that competition, properly harnessed, can bring. The objective is not to pursue competition as an end in itself, but, where appropriate, to inject competition into previously sheltered areas of the economy to boost economic performance and provide benefits to Australian consumers and households."*⁵³ Legislation and regulation restricting competition was only to be retained if the benefits to the public outweighed the costs and if the objectives could only be met through restrictions on competition.

Under the NCP, the following occurred:⁵⁴

- "extended the anti-competitive conduct provisions of the *Trade Protection Act* to unincorporated and government businesses;
- instituted structural reforms and required competitive neutrality for public monopolies and government businesses;
- created independent authorities for the oversight of monopoly service providers;
- established a national regime to provide third-party access to essential infrastructure services with monopoly characteristics;
- introduced a legislative review program to review and access anti-competitive regulations;
- implemented reform programs that had been agreed to for gas, water, road transport and electricity sectors."

A recent Australian taskforce put forward six principles of a good regulatory process. These are:⁵⁵

- (There) must be a clear case for action;
- An assessment must occur of the range of feasible policy options including self-regulation and co-regulations;
- The option with largest net benefit for society should be chosen;
- Regulators need guidance such that policy intent is clearly understood and compliance ensured;
- Mechanism (required) to ensure regulatory remains relevant and effective;
- Effective consultations occur with those regulated.

Australia's approach to formulating and designing regulations is shown below in Figure II.1. This process clearly indicates that a regulation is only appropriate if it generates an economic benefit and if it is the only way to achieve a given objective.

⁵³ Irving M, J Arney, and B Lindner, "National Competition Policy Review of the Wheat Marketing Act 1989," 2000.

⁵⁴ JRG Consulting Group and SJT Solutions, "Deregulation of Wheat and Barley Marketing in Australia and Potential Application to Western Canada," Prepared for AAFRD, March 2005.

⁵⁵ Government of Australia, Report of the Taskforce on Reducing Regulatory Burdens on Business, "Rethinking Regulation," January 2006.

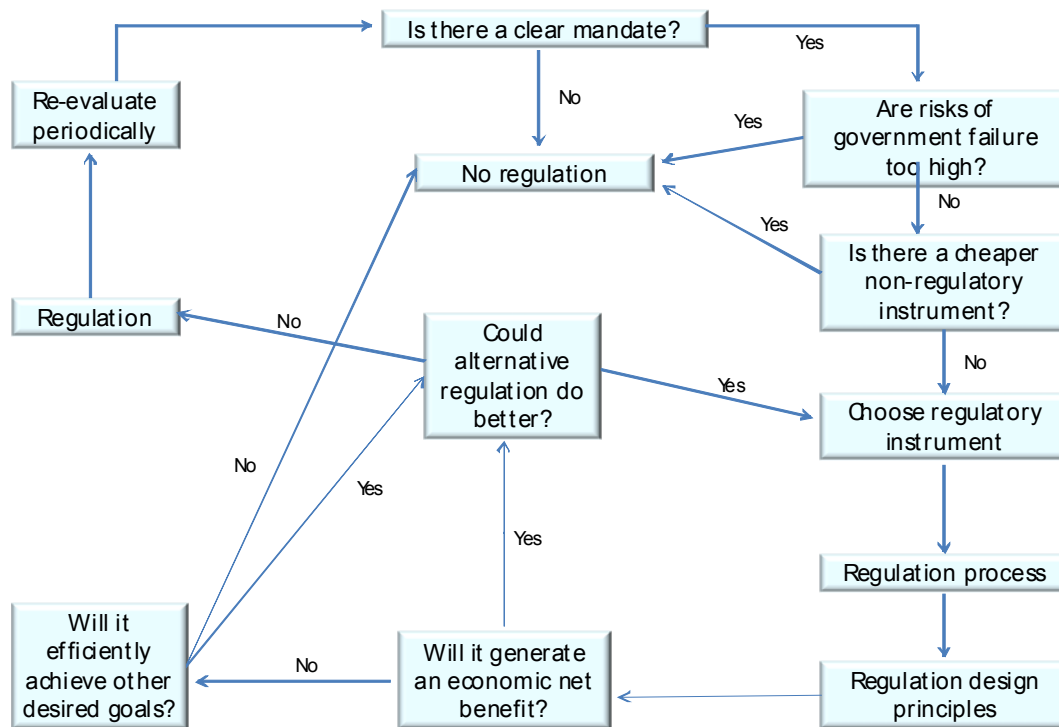


Figure II.1: Australia's Approach to Formulating and Designing Regulation

Productivity Commission, Government of Australia, "Design Principles for Small Business Programs and Regulations," August 1998.

In the above process, the government must work its way through the following questions:⁵⁶

- Rationale for Action** – When should the government intervene? The government should intervene in the case of monopoly, externalities or public goods, information problems, and for non-economic reasons such as equity and fairness.
- Risks of Government Failure** – Government intervention may fail if technology changes or there are perverse incentives (including the reaction of those regulated and ineffectual enforcement).
- Choice of instrument** – There are a number of regulatory approaches, ranging from prescriptive, performance-based, principle-based, self-regulation, and market-based approaches.
- Regulatory process** – The regulatory process must have the following features: transparency, consultative, inclusive of a grievance process, sun-setting and changing incentives, and encompass regulatory impact statements.
- Design principles** – These principles are shown in the following table II.1. As well, the regulation must pass a cost-benefit test and a superior test (which implies that one can't change any part of regulation to produce a better outcome).

⁵⁶ Productivity Commission, Government of Australia, "Design Principles for Small Business Programs and Regulations," August 1998.

Table II.1: Australian Regulatory Design Principles

Targeting: effectively target the problem; apply to the right groups; and has correct scope	Risk Management: balance risk aversion and risk taking, result in offsetting behaviour by firms or regulators (including corruption), potential of liability
Timely: solves the problem soon enough	International Obligations: compliant with these
Duration: correct regulatory period	Enforcement: most cost effective is likely a mix of combative and persuasive tools
Additionality: "extent to which a regulation makes a difference to a problem compared to the counterfactual of no regulation"	Flexibility: effectiveness as changes in technology, market structure, etc occur; for different types of firms; allows for innovation to achieve regulatory goals
Administration & Delivery: minimize transaction costs	Cost Recovery: who pays for government administrative and firm compliance costs
Consistency: between competing & overlapping regulations requires clarification of roles and scope of regulation from different agencies to ID inconsistencies and "evidence based assessment of appropriate requirements"	Distributional Impacts: any transfer of resources occurring unintentionally from one group to another
Accountability: clearly written, transparent and contestable processes for its application	Business Impact Test: effect on competition, innovation, cost, price, input availability, operations, business practices, etc

Productivity Commission, Government of Australia, "Design Principles for Small Business Programs and Regulations," August 1998.

According to the 2006 Task Force, the following areas require reform to improve regulations:

- processes for making regulations;
- administration;
- duplication and inconsistency in regulations; and
- process to ensure relevancy over time.⁵⁷

Australia has reviewed and modified its regulatory system for food during the past decade. The need for safe and healthy food and the minimization of the burden associated with the regulations drive the reforms. The Blair Review of 1998 (Food A Growth Industry – The Report of the Food Regulatory Review) made recommendations regarding the following areas:⁵⁸

- "An integrated and coordinated food regulatory system;
- Improved compliance and enforcement;
- Better legislation and national decision making;
- Integrated monitoring and surveillance;
- More effective communications; and
- A review of the *ANZFA Act* against national competition principles."

In 2000, New Zealand and the Council of Australian Governments (COAG) established the Australian and New Zealand Food Regulation Ministerial Council, with overall responsibility for

⁵⁷ Government of Australia, Report of the Taskforce on Reducing Regulatory Burdens on Business, "Rethinking Regulation," January 2006.

⁵⁸ Australian Government, Department of Health and Aging, "The Bethwaite Review," 2006/2007

food regulatory policy. The agreement also 1) “reinforces the role of Food Standards Australia New Zealand as the statutory authority responsible for the setting of food standards” and 2) “confirms the role of the States and Territories in implementation and enforcement of those standards.”⁵⁹

In 2006 Australia intensively examined the burdens regulations place on businesses. The Banks report (*Rethinking Regulation – Report of the Task Force on Reducing Regulatory Burdens on Business*) found that in terms of food regulation:⁶⁰

- There are inconsistencies across jurisdictions in terms of laws and the implementation and enforcement of standards;
- It takes too long to change food standards;
- There are large costs associated with complying with food safety plan regulations and with country of origin labelling;
- There are high costs associated with the inspection system for imported food because inspections for lower risk foods are not performance based;
- There are inconsistencies in the regulation of dietary supplements between Australia and New Zealand which disadvantage Australian producers.

The report made a number of recommendations regarding these issues.

The Coorish report (*Food Policy Reference Group Report, Creating Our Future: Agriculture and Food Policy for the Next Generation*), which examined Australian agriculture and food policy, made the following recommendation regarding food regulation:⁶¹

- “food regulation governance arrangements must be revised urgently, to meet national policy objectives more effectively;
- impediments to the efficient operation of FSANZ need to be investigated and removed in a way consistent with public health and safety;
- food standards regulation should be implemented uniformly and enforced consistently across all levels of government;
- impediments in the regulatory policy framework resulting from overlaps between the *Trade Practices Act 1974*, food acts and Codex obligations need to be identified and remedied.”

The Bethwaite Review (2007) was initiated to determine the extent of progress made in implementing the Blair and Banks recommendations. The objective of the review is to “identify how the food regulatory framework can be streamlined and made nationally consistent to improve the competitiveness of the Australian food industry.” Although the review has not been completed, some of the comments that stakeholders have made regarding the consistency of legislation and implementation and the quality of governance have been made public.⁶²

Since the NCP, Australia actively reviews and renews its regulation and has a strong commitment to improve regulatory quality. It appears that a regulatory framework (whether explicit or implicit) is guiding the process.

⁵⁹ Australian Government, Department of Health and Aging, “The Bethwaite Review,” 2006/2007

⁶⁰ Government of Australia, “Rethinking Regulation – Report of the Taskforce on Reducing Regulatory Burdens,” January 2006.

⁶¹ Australian Government, “Response to the Agriculture and Food Policy Reference Group Report, Creating Our Future: Agriculture and Food Policy for the Next Generation,” October 2006.

⁶² Australian Government, Department of Health and Aging, “The Bethwaite Review,” 2006/2007.

Table II.2: Preliminary Results from the Bethwaite Review

<i>Where Improvements Have Been Made</i>	<i>Where Improvements Are Necessary</i>
Consistency of Legislation	
<p>“Progress has been made to drive a more consistent legislative approach to food regulation.</p> <p>Food Regulation Agreement signed by Council of Australian Governments November 2000 beds down a national approach to food regulation.</p> <p>The Model Food Act provides a framework to enable all governments to align legislation.</p> <p>All State and Territory Governments have passed enabling food legislation to adopt the Model Food Act.”</p>	<p>“The Model Food Act may give too much flexibility and leave the door open for inconsistent adoption in States and Territories.</p> <p>Extent to which State and Territory Legislation adopts the Model Food Act needs to be reviewed.</p> <p>An analysis of the implications for primary production interpretation of ‘food law’ needs to occur.</p> <p>Analysis of the consistency between Agriculture and Fisheries and Food legislation needs to occur as inconsistencies may be causing increased compliance costs for industry.</p> <p>Impediments in the regulatory policy framework resulting from overlaps between the <i>Trade Practices Act 1974</i>, food acts and Codex obligations need to be identified and remedied.”</p>
Consistency of Implementation	
<p>“Cooperation between the Australian, New Zealand and State and Territory Governments is strong and there is general agreement that governments at all levels are working together to achieve a well-integrated, streamlined and cost-effective co-regulatory system.</p> <p>Development of plain English interpretation and compliance guidelines is contributing to increased consistency in approach to implementation.</p> <p>Harmonisation with implementation approaches in New Zealand has improved.”</p>	<p>“State and Territory adoption and expansion of standards needs to be more consistent.</p> <p>Inconsistent enforcement of standards is a significant issue both at the State to State and Local Government to Local Government levels.</p> <p>Increased monitoring and evaluation standards implementation to identify and remove barriers to achieving nationally consistent approaches.”</p>
Improved Governance	
<p>“In general it is acknowledged that improvements to governance arrangements are assisting governments working together on food regulation. Improved partnerships are increasing coordination between governments and therefore producing more consistency in approach and implementation of food regulation.</p> <p>Upgraded appeal and complaint mechanisms in all States and Territories ensure that the system is more responsive.</p> <p>Establishment of Food Standards Australia New Zealand.</p> <p>While there have been significant improvements in the standards setting process there are issues in relation to timeliness and transparency.”</p>	<p>“Transparency and access to governance.</p> <p>More strategic and timely approach to identification of policy issues.</p> <p>Voting arrangements in the Ministerial Council has been raised.</p> <p>Volume of work limits ability for stakeholder involvement in all issues.</p> <p>Consultation and stakeholder access during policy development process.</p> <p>Consultation and responsiveness of the standard setting process.”</p>

Australian Government, Department of Health and Aging, “The Bethwaite Review,” 2006/2007

Annex III– Ireland's Approach to Regulation

The E.U. is both an important competitor and customer for Canadian agri-food products. Regulatory reform is occurring in some of the E.U.'s member states. Ireland is an example of how members are improving regulatory quality. In Ireland, regulation does have a role to play in a number of areas including:⁶³

- Protecting rights and liberties;
- Equitable, safe and peaceful society;
- Protect health and safety;
- Protect consumers, employers, those vulnerable;
- Efficient markets;
- Protecting environment and sustainable development; and
- Collecting revenue and spending it with respect to policy objectives.

The **six principles of good regulation**, as described by the Government of Ireland, are as follows:⁶⁴

- Necessity: is the regulation necessary? Is there too much red tape? Is it still valid?
- Effectiveness: is it targeted? Is compliance enforced?
- Proportionality: Does the benefit exceed the cost? Is there a better way?
- Transparency: Was there consultation? Is the regulation clear? Is it well communicated?
- Accountability: Is there a good appeals process? Are there clear responsibilities?
- Consistency: Will it create inconsistencies with existing regulation? Is it best practice?

More information on Ireland's approach to better regulation is shown below in Table III.1.

Ireland believes that its approach to better regulation will result in transparent preparation of regulation; greater public participation; clearly written and focused regulation; better targeted regulations; regulations that minimize compliance burden better enforcement; regulations that avoid unintended consequences; and regular review of regulation.⁶⁵

⁶³ Government of Ireland, "Regulating Better," 2004.

⁶⁴ Ibid.

⁶⁵ Ibid.

Table III.1: Ireland's Regulatory Principles and Actions

Necessity	Effectiveness	Proportionality	Transparency	Accountability	Consistency
High standards of evidence required	Target new regulations better	Regulate lightly and use more alternatives	Increase consultation before regulating	Strengthen accountability process	Increase consistency across regulatory bodies
Reduce red tape through customer service and IT initiatives and revision to laws	Ensure are enforceable and compliant	Ensure penalties and compliance costs are fair	Make public service obligations explicit	Improve process for appeal	Ensure regulations in linked areas are consistent
Keep regulatory institutions and framework under review	Review validity of existing regulations	use regulatory impact analysis appropriately	Make regulations clear, accessible and straightforward		

Government of Ireland, "Regulating Better," 2004

Ireland's focus is on enhancing regulatory quality.

Annex IV – United States' Approach to Regulation

The United States Department of Agriculture (USDA) regulates a wide range of activities including food safety, food nutrition, grain inspection, animal welfare, insurance for crops and livestock, and food distribution programs. The EPA has responsibility for environmental aspects of agriculture such as pasture and rangeland and animal feeding operations. The FDA regulates matters impacting the agri-food sector such as food safety and food labels.

Table IV.1: U.S. Regulatory Framework for Agricultural Biotechnology

Agency	Activities	Pre-Market Oversight	Post-Market Oversight
APHIS	<p>Regulates GM plants through the Plant Protection Act (PPA) (prior to this 2000 act Federal Plant Pest Act and Plant Quarantine Act).</p> <p>APHIS regulates the release of GM crops into the environment and is the sole regulator of environmental impacts unless the crop is modified to have pesticidal property.</p>	Pertains to actions prior to the authorization of the GM's crops release into the environment for field testing.	<p>Actions to ensure the conditions for the environmental release are observed such as field inspections.</p> <p>GM crops that are deregulated and under commercial production are not subject to post-market oversight by APHIS unless they have been found to be a noxious weed or a plant pest.</p>
EPA	<p>Responsible for chemical pesticides and thus has regulatory responsibility for plants containing pesticides.</p> <p>Pesticides are regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act (FFDCA).</p> <p>Can impose conditions on the registration of pesticides.</p>		<p>Only enforces the FIFRA requirements which are enforced by state agencies funded by the EPA.</p> <p>The right by EPA to monitor compliance on farms must be provided under state law.</p>
FDA	Regulates GM crops and food through the FFDCA.	<p>Requires that most substances added to food obtain pre-market approval unless the substance is GRAS.</p> <p>Voluntary policy (1992) where FDA and the GM product developer consult about the substantially</p>	<p>Can require products to be taken off the market.</p> <p>No post-market or compliance program for GM foods or crops.</p>

		equivalent determination. Does not make a determination of the product's safety, attach conditions to the product's use as food, or require the development of a means to test for the product.	
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M Taylor and J Tick, "Post-Market Oversight of Biotech Foods: Is the System Prepared?" for the Pew Initiative on Food and Biotechnology prepared by the Resources for the Future, April 2003.

Sometimes regulation is a collaborative effort between these agencies. This is the case for agricultural biotechnology. The regulatory framework for agricultural biotechnology in the U.S. has three players: APHIS (which is part of USDA), EPA, and FDA. The responsibilities of these agencies regarding agricultural biotechnology are shown in the following table.

This framework does not always produce a good regulatory outcome. For example, the Starlink corn situation (see following box) was partially attributed to problems in the post-market oversight of the GM variety. According to Taylor and Tick:

- APHIS had no regulatory power over deregulated GM crops in production (as Starlink was);
- there were problems with EPA's enforcement of Plant Incorporated Pesticide (PIP) use restrictions;
- EPA had control over the product developer but not over the agreements between the growers and the product developer;
- FDA did not have a compliance program for biotech foods;
- the private sector actually detected the presence of Starlink in food products.⁶⁶

StarLink Corn

StarLink corn, genetically modified to fight pests, was approved in 1998 in the U.S. for use as animal feed under the condition that it must be kept out of the corn supply chain for human consumption (split registration). Adventis, its developer, was to have growers sign contracts stipulating StarLink would not be sold for export or human channels and have growers maintain buffers around the crop and practice identity preservation. For a variety of reasons, StarLink entered the human corn supply chain. After its discovery in human corn products, a massive domestic product recall ensued to remove any traces of StarLink corn from human food processing, farms, and grain handling facilities. StarLink was also found in shipments of corn to Japan. U.S. exports of corn to Japan and South Korea fell dramatically as a result of the discovery of the adventitious material. Adventis paid substantial amounts of money to settle the ensuing lawsuits.⁶⁷

Problems with the implementation and enforcement of regulations have caused difficulties for the U.S. The U.S. could improve the quality of regulation and the design of its regulatory framework.

⁶⁶ M Taylor and J Tick, "Post-Market Oversight of Biotech Foods: Is the System Prepared?," report for the Pew Initiative on Food and Biotechnology prepared by the Resources for the Future, April 2003.

⁶⁷ Harl N, R Ginder, C Hurburgh and S Moline, "The StarLink Situation," Iowa Grain Quality Initiative, Iowa State Extension.

Annex V – Brazil's Approach to Regulation

The evolution of agricultural policy in Brazil is shown below (chart taken directly from Chaddad and Jank). Many of the policy changes have been driven by general macroeconomic conditions. Over time, the shift from an interventionist approach has greatly improved the competitiveness of Brazilian agriculture in export markets. Two of the issues currently facing Brazil include an outbreak of foot and mouth disease (FMD) and problems with the regulatory framework for biotechnology.

	1965-1985	1985-1995	1995-2005	Proposed Agenda
Macroeconomic conditions and policy	<ul style="list-style-type: none"> - High inflation - Controlled exchange rate - High growth rate - Increased government expenditures in farm policy 	<ul style="list-style-type: none"> - Uncontrolled inflation and low growth (stagflation) - Heterodox plans - Debt crisis - Land as real asset - Decreased government expenditures in farm policy 	<ul style="list-style-type: none"> - Control of inflation - Volatile exchange rate - High real interest rates - Modest growth rate - Privatization 	<ul style="list-style-type: none"> - Low inflation - Structural reforms and fiscal balance - Less volatile exchange rate - Lower interest rates - Sustained growth - Investments in infrastructure
Agricultural policy goals	<ul style="list-style-type: none"> - Food security 	<ul style="list-style-type: none"> - Deregulation - Liberalization 	<ul style="list-style-type: none"> - Land reform programs - Family farming and social inclusion 	<ul style="list-style-type: none"> - Competitiveness - Sustainability (economic, social, and environmental)
Price support and government storage	<ul style="list-style-type: none"> - Massive intervention: public agencies, government purchases and storage, price controls - Commodity price support 	<ul style="list-style-type: none"> - Decreased intervention - Agricultural commodity market deregulation 	<ul style="list-style-type: none"> - Modest and selective intervention 	<ul style="list-style-type: none"> - Modest and selective intervention
Rural credit	<ul style="list-style-type: none"> - Government supply of credit financed by Treasury (SNCR) - Negative real interest rates 	<ul style="list-style-type: none"> - Decreased government supply of credit - Interest rates less subsidized 	<ul style="list-style-type: none"> - Credit lines targeted to family farms (PRONAF) - Specific programs for investment credit (BNDES) - Agricultural credit crisis and debt rescheduling 	<ul style="list-style-type: none"> - Crop insurance - Private instruments for agricultural finance - Targeted credit lines to family farms - Credit cooperative development
Agricultural trade policy	<ul style="list-style-type: none"> - Closed economy - High tariffs - Import Substitution model - Export taxes on primary commodities 	<ul style="list-style-type: none"> - Unilateral openness to trade - International integration (Mercosur) - Elimination of export taxes 	<ul style="list-style-type: none"> - Aggressive policy against agricultural trade barriers - WTO dispute panels - Leadership in G-20 - Negotiation of regional agreements (FTAA, EU-Mercosur) 	<ul style="list-style-type: none"> - Aggressive trade policies: negotiations, litigations - Increased emphasis on NTBs: technical, sanitary, and social barriers - Conclusion of regional and bilateral trade agreements
Agricultural research and extension	<ul style="list-style-type: none"> - High investment in public research (Embrapa, federal and state universities) - Development of public extension service network 	<ul style="list-style-type: none"> - Leveling-off of public investment 	<ul style="list-style-type: none"> - Crisis of public research and extension services 	<ul style="list-style-type: none"> - Renewed public commitment to agricultural R&D, including GMOs - Increased role of public-private partnerships - Intellectual property rights
Social policies (family farms and land reform)	<ul style="list-style-type: none"> - Minimal 	<ul style="list-style-type: none"> - Initial stage (Extraordinary Ministry of Land Reform) 	<ul style="list-style-type: none"> - Ministry of Agrarian Development (MDA) - Distributive programs: land reform, "Bolsa Familia," rural retirement, PRONAF 	<ul style="list-style-type: none"> - Policy evaluation and monitoring - Retarget programs to different types of family farms - Farm cooperative development and modernization

Chaddad F and M Jank, "The Evolution of Agricultural policies and Agribusiness Development in Brazil," Choices, Q2, 2006

Figure V.1: Brazilian Agricultural Policy

The remainder of this section discusses the current regulatory approach to FMD and agricultural biotechnology.

Brazil introduced a traceability program in 2002 for cattle to prevent animal disease (such as FMD), to meet foreign country requirements, and enable production improvements and automation (see following box). Under the system it is possible to trace an individual animal from birth to slaughter and trace a group of animals from slaughter to cutting and cutting to consumer.⁶⁸

Brazil's Animal Identification Program

"The Ministry of Agriculture, Livestock, and Food Supply (MAPA) officially announced the Brazilian System of Identification and Certification of Bovine and Buffalo Origin (SISBOV, in Portuguese) in early 2002. The system was developed to monitor all bovine animals born in Brazil or imported. The animals registered under the SISBOV are monitored by private certification entities accredited by MAPA. The SISBOV program includes:

- a) Identification of the farm of origin;
- b) Identification of the animal;
- c) Month of birth or entry on the farm;
- d) Sex of the animal;
- e) System of breeding and feeding;
- f) Records of sales;
- g) Additional information for the certification of the animal;
- h) Sanitary information (vaccination, treatments);
- i) Imported animals identification requirements: country and farm of origin, date of import authorization and date of entry in Brazil, number of import license and farm of destination; and,
- j) Slaughter animals. The meat packer is responsible for filing with MAPA the documents related to the identification of the animal.

SISBOV was recently updated to meet the European Union requirements but still faces critical enforcement problems. The Animal Health Department (DDA) estimates 57 million animals, about 30 percent of Brazil's cattle herd, are registered under this program, and 30 companies are accredited by DDA to conduct traceability in Brazil."⁶⁹

The E.U., Brazil's major beef customer, does not believe the traceability program is credible. After Brazil did not meet a December 2007 deadline to be able to guarantee the quality of exports, the E.U. imposed new restrictions on Brazilian exports to the E.U. The loss in export markets is expected to result in job losses (5,000 to 6,000) and financial losses for packers (\$50 million U.S. per month).⁷⁰

Historically, Brazil's regulatory framework for agricultural biotechnology has been unstable. In 1995, Decree 1752 gave the National Technical Commission of Biosafety (CTNBio) the power to approve GM seeds. However, a 1998 court case brought forth by Greenpeace and the Brazilian Consumer Protection Institute resulted in a moratorium on the production and marketing of GM crops. Producers grew GM soybeans anyway and in 2004 GM soybeans accounted for one-third of the acreage of conventional soybeans. The Brazilian government dealt with the illegal production by passing annual provisional measures allowing GM soybeans to be grown and produced.⁷¹ Provisional measures were first used in 2003 when a new government came into power which "recognized the planting of genetic modified soybeans in Brazil and approved

⁶⁸ Clayton P, "International Animal ID," NIAA Animal Health and International Trade Committee," April 2006.

⁶⁹ U.S.DA, FAS, GAIN Report, "Brazil Livestock and Products Annual Report," 2007.

⁷⁰ U.S.DA, FAS, GAIN Report, "Brazil Livestock and Products Semi Annual Livestock Report," 2008.

⁷¹ Silveira J and I Borges, "An Overview of the Current State of Agricultural Biotechnology in Brazil," University of Campinas, April 2005.

(legalized) the marketing of the 2002/2003 biotech soybean crop until January 31, 2004 under certain conditions and regulations.”⁷²

The current framework for agricultural biotechnology is provided by the following: ⁷³

Biosafety Law – Law 11,105 and Decree 5,591 (March 2005) enabling the

a) National Biosafety Council

“This council falls under the Office of the President and is responsible for the formulation and implementation of the national biosafety policy (PNB, in Portuguese) in Brazil. It establishes the principles and directives of administrative actions for the federal agencies involved in biotechnology. It evaluates socio-economic implication and national interests regarding approval for commercial use of biotech products. No safety considerations are evaluated by CNBS. Under the presidency of the Chief of Staff of the Office of the President, 11 cabinet ministers comprise CNBS and a minimum quorum of 6 ministers is needed to approve any relevant issue.”

b) National Technical Commission of Biosafety (CTNBio)

“Was initially established in 1995 under the first Brazilian biosafety law (Law # 8,974). Under the current law, CTNBio was expanded from 18 to 27 members to include official representatives from 9 ministries of the federal government, 12 specialists with scientific and technical knowledge from 4 different areas including animal, plant, environment, and health (3 specialists from each area), and 6 other specialists from other areas such as consumer defence and family farming. Members of CTNBio are elected for two years with a possibility of being reelected for an additional two years. CTNBio is under the Ministry of Science and Technology. All technical related issues are debated and approved under CTNBio. Imports of any agricultural commodity for animal feed or for further processing, or any ready-to-consume food products, and pet food containing biotech events must be pre-approved by CTNBio. Approvals are on a case-by-case basis.”

Law 9,456 (April 1997) – Plant Variety Protection Law – provides legal framework for seed registration (GM and non-GM)

Decree 2,366 (November 1997) – National Plant Varieties Protection Service – regulation of seeds (GM and non-GM)

Law 11,460 was passed in March 2007, which reduced the votes required to approve individual biotech events by CTNBio.

Brazil is attempting to improve economic outcomes in agriculture by introducing regulations (animal identification) and modifying regulations (agricultural biotechnology). Brazil does not appear to have a robust regulatory framework in place at this time.

⁷² U.S.DA, FAS, GAIN, Brazil Approves Biotech Soybeans,” 2003.

⁷³ U.S.DA, FAS, GAIN, Brazil - Annual Agricultural Biotechnology Report,” 2007.

Annex VI – China's Approach to Regulation

The Chinese legal system is evolving. China had national legal codes prior to 1949 when the Communist Party came to power. From 1949 to the mid 1960s, the legal system was based on Russia's. In 1979 China began to redevelop its legal system. China's accession to the WTO in 2001 required further modifications to the system. China has many laws relating to food. The specifics about these laws are detailed in the following table.⁷⁴

Table VI.1: China's Food Laws

Law	Details		Responsibility
PRC Food Hygiene Law, 1995	Establishes hygiene standards for food, additives, containers, storage facilities, production facilities and equipment Establishes food labelling requirements		Ministry of Health
PRC Quality and Safety Law, 2006	Regulates the use of production inputs (feed, fertilizer, etc) Requires record keeping Establishes labelling requirements including some for GM food		Ministry of Agriculture
PRC Standardization Law, 1989	Provides the legal framework for standards	AQSIQ (General Administration of Quality Supervision, Inspection and Quarantine) Some by Ministry of Health	
Measures on the Administration of Genetically Modified Food, 2002	GM food must be examined and approved by the Ministry of Health Regulations cover both domestic and imported GM food		Ministry of Health
PRC Foreign Trade Law, 1995 & 2004	Law allows the free import and export of goods Allows tariff rate quotas, etc., to be placed on imports and exports		Ministry of Commerce
Regulations on the Administration of Grain Distribution, 2004	"Regulate the purchase, storage, transportation, processing, import and export of wheat, corn, food grains and other food products"		State Grain Administration
Provisions on the Administration of the Hygiene Registration of Export Food Production Enterprises, 2002	Facilities producing food for export require hygiene registration certificates		AQSIQ

⁷⁴ Roberts M, "Introduction to Food Law in the People's Republic of China," National Agricultural Law Center, November 2007

Imported Food	<p>Imported food must be inspected at entry port and approved by the Ministry of Health</p> <p>Imported food must have hygiene appraisal from an authority in exporting country</p> <p>Some imported food requires a compulsory certificate</p>	<p>Ministry of Health</p> <p>AQSIQ</p> <p>Certification and Accreditation Administration of the PRC</p>
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There are a large number of entities involved in the regulation of food safety in China. These include the following entities, with the first five having the primary responsibility:⁷⁵

- Ministry of Health
- Ministry of Agriculture
- AQSIQ (General Administration of Quality Supervision, Inspection and Quarantine)
- State Administration for Industry and Commerce
- State Food and Drug Administration
- State Environmental Protection Administration
- Ministry of Commerce
- State Grain Administration

Roberts argues that because of the multiple entities there is significant duplication and unclear responsibilities for food safety in China. Another issue is that enforcement is the responsibility of local authorities, who do not always provide sufficient and credible enforcement.

China is currently building a regulatory framework. The framework is not particularly effective, at this time, as China must address a number of issues in its regulatory process and approach.

⁷⁵ Roberts M, "Introduction to Food Law in the People's Republic of China," National Agricultural Law Center, November 2007

Annex VII Assessment of Canadian Regulation

This chapter provides an assessment of regulations in Canada by reviewing the costs of regulation, providing a macro view of the equality of regulations, and examining the impact of regulation on the agri-food sector.

VII.1 Costs of Regulation in Canada

The extent of government regulation and paperwork is a concern to Canadian business. A 2005 survey by the Canadian Federation of Independent Business (CFIB) found that it was the second most important issue after the total tax burden. The research estimates that the cost of regulatory compliance for business at \$33 billion, which is 2.6% of GDP. The study looked at federal, provincial and municipal regulations. Small businesses (by employee numbers) face significantly higher compliance costs per employee than larger businesses as shown below.⁷⁶ A 2005 survey by Statistics Canada of small- and medium-sized businesses in five industrial sectors found significantly lower compliance costs for 11 regulations (payroll remittance, record of employment, sales tax, tax filing, etc). The average annual cost of compliance per employee was \$982.40 for a firm with 1 to 4 employees. At the same time, the CFIB survey indicated the cost to exceed \$5,000/employee for the same size firm (see Figure VII.1). Compliance costs fell as firm size rose.⁷⁷

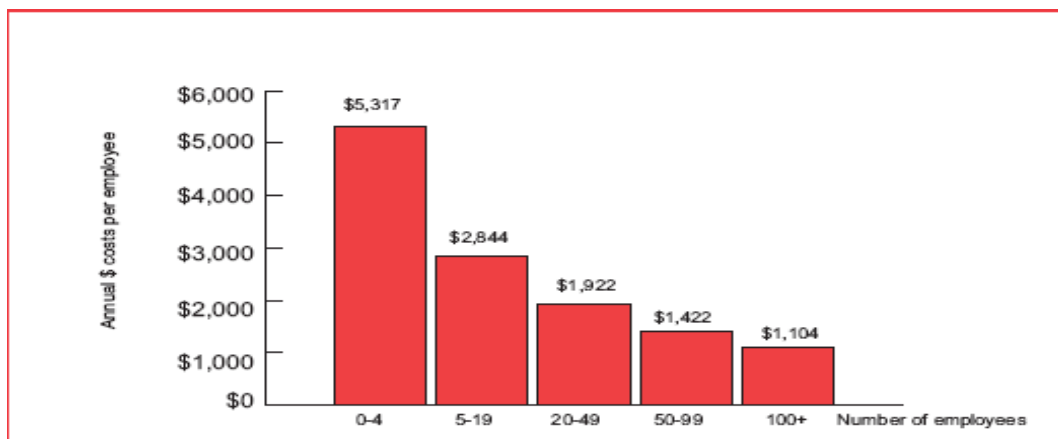


Figure VII.1: Direct Cost of Compliance for Canadian Business

Canadian Federation of Independent Business, "Prosperity Restricted by Red Tape," 2005

The CFIB survey found that its members did not believe that governments were aware of the impact of regulations on business (see following chart). This was especially true for agricultural regulations. And 63% of the firms surveyed believed that regulations reduced their productivity (58% in agriculture). The most burdensome regulation at the federal level was the GST. Workers' compensation was the most burdensome provincial regulation, while property and business tax was the most burdensome municipal tax.⁷⁸

⁷⁶ Canadian Federation of Independent Business, "Prosperity Restricted by Red Tape," 2005.

⁷⁷ Statistics Canada, "Survey of Regulatory Compliance Costs," December 12, 2006.

⁷⁸ Canadian Federation of Independent Business, "Prosperity Restricted by Red Tape," 2005.

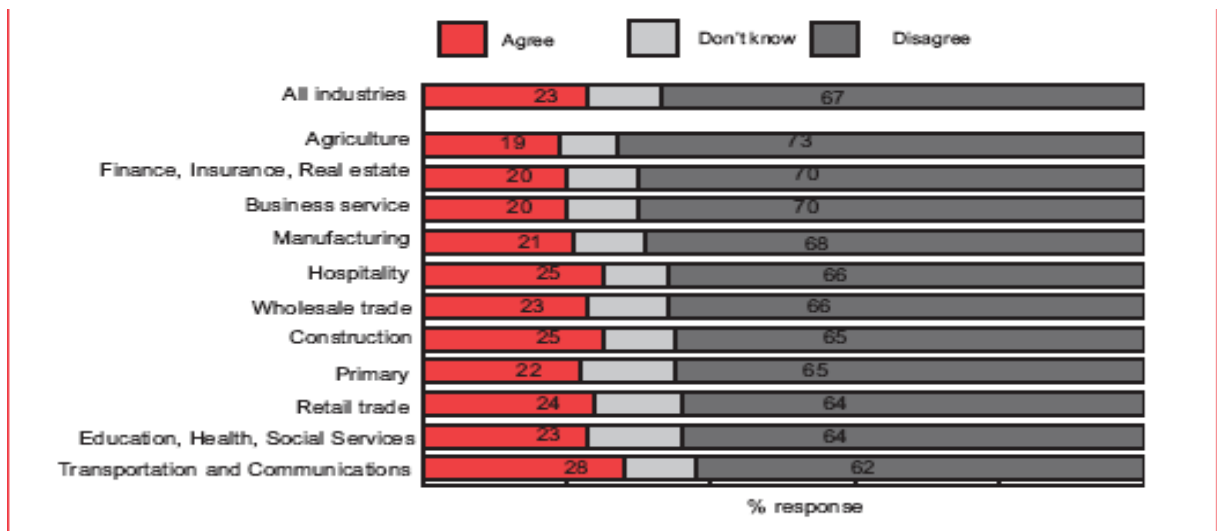


Figure VII.2: Awareness by Governments of Impact of Regulations

Canadian Federation of Independent Business, "Prosperity Restricted by Red Tape," 2005

The federal government also utilizes cost recovery to offset the cost of providing some regulated activities. Many of the regulatory-based services provided by the Canadian Grain Commission and the CFIA are subject to user fees.

VII.2 Regulatory Quality

In 2002, the OECD reviewed overall regulation in Canada and other OECD countries. This review was carried out at a high level and thus provides more of a checklist perspective. The review found that Canada is a "vigorous innovator in the areas of good regulatory governance." It did recommend that Canada undertake the following:⁷⁹

- "Strengthen the contribution of competition policy to regulatory reform and market openness, including an enhanced advocacy role for the Competition Bureau;
- Encourage a more systematic and strategic review of the federal, provincial and territorial regulatory environment and work to harmonise inter-provincial regulatory frameworks;
- Continue to foster regulatory reform to encourage greater productivity and innovation;
- Take a more pro-active approach to trade policy in international negotiations, while maintaining a careful balance between bilateral and multilateral liberalisation efforts."

The OECD has attempted to assess the quality of regulations by the development of indicators for factors related to regulatory policies, institutions and tools. The quality of regulation is a function of its:

- effectiveness (or the extent to which regulation achieves its objectives), and
- efficiency (the regulation confers greater net benefits than any other policy tool available to government to achieve the same objective).

Since it is not possible to assess the quality of regulation directly, the OECD project assessed regulatory quality indirectly through the assessment of the principles of regulatory quality (see following box).⁸⁰

⁷⁹ OECD, "OECD Praises Canada's Regulatory Reforms and Encourages Sustained Momentum," October 29, 2002.

⁸⁰ Jacobzone A, C Choi and C Miquet, "Indicators of Regulatory Management Systems," OECD Working Paper, 2007.

Principles of Regulatory Quality

- “Regulation is a proportionate response to the identified problem and is the minimum required to achieve objectives, with minimum compliance burdens;
- Regulation is effective in resolving identified problems, and efficient in that it achieves its goals at minimum cost;
- New regulation is consistent with other existing regulations;
- Regulation is flexible and not unduly prescriptive, and is continuously updated and improved;
- Regulation is transparent and accessible (including being understandable and effectively communicated to stakeholders by government);
- Regulatory processes promote a culture of openness and accountability, including responsiveness to stakeholder inputs;
- Regulation respects legal and constitutional requirements; and
- Regulation is appropriately targeted and enforceable.”

Jacobzone A, C Choi and C Miquet, “Indicators of Regulatory Management Systems,” OECD Working Paper, 2007

The quality of a regulatory management system depends on interaction between policies, tools and institutions over time. The interaction is dynamic because of changes in:

- objectives;
- the economic, social and political environment;
- regulatory characteristics; and
- the range of alternative government policy tools.

According to the OECD, “regulatory reform should contribute to both better governance and to better economic performance. The quality of regulatory management system should be understood as embracing the broader aspects of good governance and not being limited to the direct promotion of better economic outcomes.” The OECD surveyed its 31 members in 2005 regarding regulatory quality. Some of the results are shown in Table VII.1 and includes:

- In terms of regulatory policy, Canada is recognized as an early developer of a regulatory reform strategy (initiated in 1986);
- Until 2006, Canada’s regulatory oversight body was located in the Privy Council. It is now part of the Treasury Board;
- Canada is recognized as having a very strong mechanism for federal/provincial and supranational coordination;
- Canada is developing a trilateral framework for regulatory cooperation under the Security and Prosperity Partnership in North America;
- While Canada does have a Parliamentary Committee (Joint Senate-House of Commons) dedicated to regulatory reform, it does not report on progress;
- The study examined regulatory processes such as consultation and communication, with the report noting that Canada developed a guide for consultations;
- Regulatory tools are the “range of available techniques that need to be deployed in a consistent and mutually supportive manner to reflect an integrated systemic quality assurance system” and cover the life span of a regulation;
- With respect to evaluation and updating of regulations, Canada did an across the board regulatory review from 1992 to 1997 and identified 835 regulatory items for revision, revocation or further review. In 1994 Canada reviewed regulation in six sectors including biotechnology, aquaculture, and health food and therapeutic products. Canada also has a paper burden reduction initiative and started another regulatory review in 2005;
- The Office of the Auditor General in Canada examines the implementation of regulations.

- Canada does not attempt to measure the impact of regulatory policy on output or outcomes.⁸¹

Table VII.1: Assessment of Regulatory Quality

Area	Canada	Number of 31 OECD Countries Reporting Yes
Regulatory Policy		
Explicitly published regulatory policy promoting regulatory reform	Yes	26
Policy establishes reform objectives	Yes	23
Policy sets out principles of good regulation	Yes	20
Policy establishes responsibility for reform at ministerial level	Yes	21
Reform to boost competitiveness and growth	Yes	30
Reform because of international commitments	Yes	21
Reform because of domestic policy agenda	Yes	24
Regulatory policy is linked to competition policy	Yes	29
Regulatory policy is linked to trade policy	Yes	29
Regulatory policy is linked to consumer policy	Yes	29
Regulatory Institutions		
Regulatory oversight body consulted during regulatory development	Yes	25
Regulatory oversight body reports on progress of individual ministries	Yes	15
Regulatory oversight body reviews regulatory impacts conducted by ministries	Yes	16
Regulatory oversight body conducts own analysis	No	14
A specific minister is accountable for regulatory reform	Yes	22
Position of oversight body	Privy Council (2005) Treasury Board (2006)	Most in PM or President's Office
Formal coordination between national/federal and state/regional	Yes	22
Formal coordination at supra national level	Yes	22
Mechanism to impose specific regulatory objectives	Yes	19
Dedicated Parliamentary Committee or body with responsibility for regulatory reform	Yes	11
Dedicated Parliamentary Committee or body reviews and reports on progress	No	6
Regulatory Processes		
Publication of laws to be prepared, modified within next six months or so	Yes	20
Publication of regulations to be prepared, modified within next six months or so	Yes	13
Some type of public consultation for laws	Yes	31

⁸¹ Ibid

Some type of public consultation for subordinate regulations	Yes	31
Consultation on laws open to any member of public	Yes	22
Consultation on subordinate regulations open to any member of public	Yes	15
Systematic communication of regulation	Yes	30
Regulatory Tools		
Use of Regulatory Impact Assessment (RIA) – specific sector	Yes	20
Use of Regulatory Impact Assessment (RIA) – government wide	Yes	26
Assessment of regulatory alternatives – specific sector	Yes	17
Assessment of regulatory alternatives – government wide	Yes	20
Consultation with affected parties – specific sector	Yes	21
Consultation with affected parties – government wide	Yes	29
Plain language required – specific sector	Yes	16
Plain language required – government wide	Yes	27
Systematic ex-post evaluation – specific sector	No	14
Systematic ex-post evaluation – government wide	Yes	9
Requirement to identify and assess regulatory alternatives	Always	6 No 7 Sometimes 20 Always
Guidance on using alternate policy instruments	Yes	15
Regulatory impact assessment used	Yes	30
Regulatory impact assessment required by law	Yes	23
Benefits must exceed costs to implement regulation	Yes	17
Explicit government program to reduce administration burden	Yes	29
Program has quantified targets	Yes	11
Regulatory inflation calculated annually	Yes	10
Mandatory periodic evaluation of regulations	For Specific Areas	3 All Policy Areas 10 Not Required 18 Specific areas
Regulatory compliance assessed	Yes	12
Attempt is made to measure impact of regulatory policy on outputs or outcomes	No	5

Jacobzone A, C Choi and C Miquet, "Indicators of Regulatory Management Systems," OECD Working Paper, 2007

The OECD found that Canada has a robust regulatory system; the OECD examination occurred at a very high level. With regulations, the "devil is in the details." The Office of the Auditor General in Canada reports on the quality of specific regulatory activities on a regular basis. As shown in the following table, Canada could improve on a number of regulatory fronts, including regulatory implementation, regulatory capacity based on allocated resources, compliance, service fees charged, transparency, reporting, etc. It can be noted, that program changes are made in response to the Auditor General, with for example the AgriStability and AgriInvest program, which replaced CAIS, accounting for a number of issues raised. Many of the agri-food related regulatory issues noted in the table are the responsibility of departments other than AAFC.

Table VII.2: Findings by the Office of the Auditor General

Examination and Date	Findings
Government Fees, May 2008 (Chapter 1— Management of Fees in Selected Departments and Agencies)	The federal government collected \$1.9 B in fees in 2006/07. Fees for goods and services should fully recover costs. Fees for the right/privilege of use should reflect the market value and a fair return to Canada. An examination of some fees (although none in the agri-food area) found that a) while some organizations had a sound methodology to estimate cost based fees, others didn't; and b) the new "user Fees Act" only covers new and increased fees, which means that existing fees don't have any requirements for reporting of costs, standards, and performance.
CAIS, May 2007 (Chapter 4—Canadian Agricultural Income Stabilization— Agriculture and Agri- Food Canada)	An examination of the program found that a) the program is not transparent; b) the focus is on overpayment (prevention and collection) although underpayment is also important; c) there is a high error rate; d) application processors also filled out producers' applications, which is a conflict of interest; and e) problems identified in previous audits have not all been corrected.
Health Canada's Allocation of Resources to Regulatory Programs, November 2006 (Chapter 8—Allocating Funds to Regulatory Programs—Health Canada)	A review of resource allocation for product safety, drug products and medical device regulatory programs found that a) performance targets for compliance and enforcement are lacking; b) sometimes funding is insufficient to provide sound compliance and enforcement; and c) a lack of information makes it difficult to allocate resources appropriately.
CFIA's Regulation of Plants with Novel Traits, March 2004 (Chapter 4—Canadian Food Inspection Agency—Regulation of Plants with Novel Traits)	An examination found that the process should be strengthened because a) plants with novel traits could be illegally imported (bypassing regulatory system); b) CFIA can't verify that insect resistance management is occurring; and c) there is no quality management system in place.
Audit of Health and Safety Regulatory Programs, December 2000 (Chapter 25— Canadian Food Inspection Agency— Food Inspection Programs)	CFIA was one of the agencies examined. The audit of CFIA found that a) its expertise was respected by importing countries; b) progress is occurring on integrating the inspection system and the use of HACCP; c) inspection resources are not being allocated on the basis of risk; d) the risk associated with the change in the treatment of the non-federally regulated sector was not assessed; e) there are problems with compliance; and f) there are no performance measures.
user Charges in Agriculture, September 1999 (Chapter 11— Agriculture Portfolio— user Charges)	The audit examined user charges by CGC, CFIA and PFRA and found that a) while progress is being made, more improvements in costing, appeal processes, etc., are required; b) service standards and monitoring and reporting on fees is required; c) fees are not being updated as programs change; and d) more consultation regarding fees should occur.

Various Auditor General Reports

VII.3 Impact of Regulations on Canada's Agri-Food Sector

This section discusses the impact of regulation on firms and value systems/chains. It then presents studies that have examined the impact of regulations on Canada's agri-food sector.

VII.3.1 A Firm and Value Chain System View

How regulation impacts competitiveness, sustainability and innovation can be examined using Porter's concepts of a firm value chain and a value chain system. The following chart shows a generic value chain for a firm as well as a stylized value system for the agri-food sector.

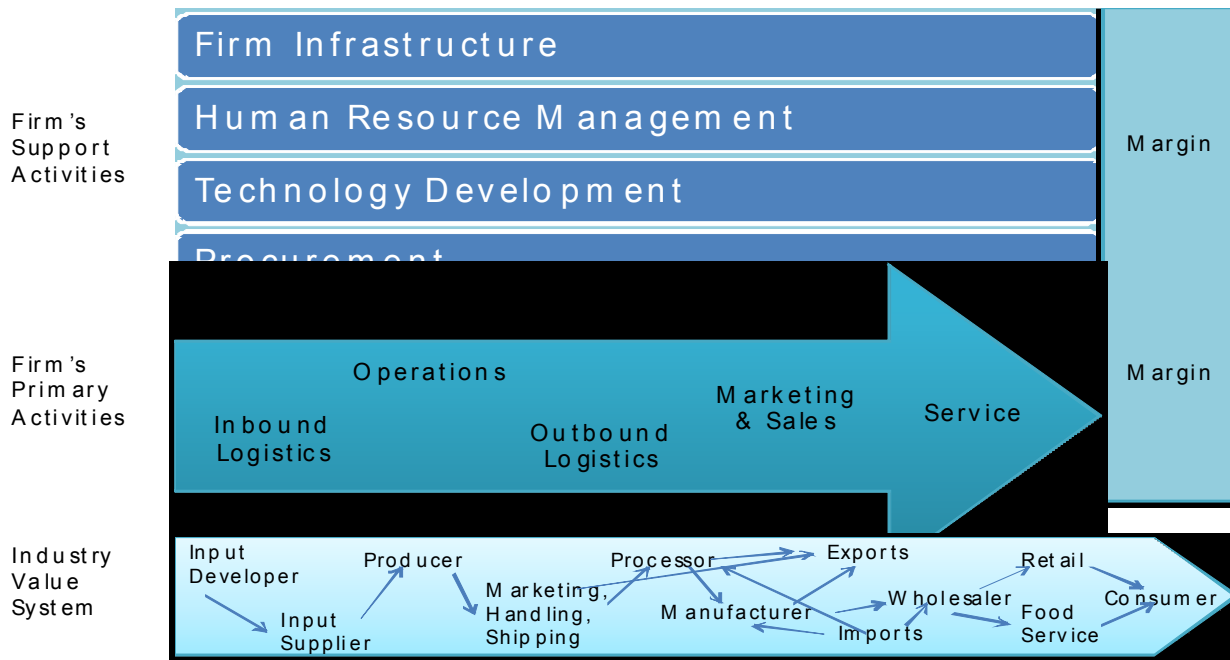


Figure VII.3: Firm Value Chain and Industry Value Chain System

A firm's primary value-creating activities are inbound logistics (receiving, inventory tasks, and warehousing); operations (transformation of inputs into outputs); outbound logistics (movement of product to customer); marketing and sales (pricing, channel selection, etc.); and after sales service (customer support, repair, etc). These primary activities are enabled by four types of supporting activities: procurement (input purchasing); development of technology (R&D, process automation, etc.); management of human resources (recruitment, retention, compensation, etc.); and firm infrastructure (finance, quality control, etc).⁸² A value chain system for the agri-food sector shows the linkages between firms in the supply chain from input product development through to the consumer.⁸³ In the network, issues in one part of the supply chain can have consequences upstream and downstream.

Examples of the impact of agri-food regulations on the value chain of the firm as well as how the regulations impact the industry value chain system in terms of competitiveness, sustainability (environmental and economic) and innovation are shown below.

⁸² Porter M. *On Competition*. Harvard Business Review. 1998.

⁸³ Porter M. *Competitive Advantage: Creating and Sustaining Superior Performance*. The Free Press. 1998.

- The Canada Transportation Act and the Canada Grains Act both impact the way producers, grain companies, and railways handle logistics (inbound) and affect their competitiveness.
- Operations of producers, feed manufacturers, and processors are influenced by acts such as the Species at Risk Act, the Health of Animals Act, the Meat Inspection Act, and the Feeds Act. These regulations impact the environmental sustainability and competitiveness of producers and the competitiveness of feed manufacturers and processors.
- As with inbound logistics, the Canada Transportation Act and the Grains Act influence the competitiveness of producers, grain companies and railways. In this case, WTO regulations (such as must accept U.S. grain for movement) also impact competitiveness.
- Marketing and sales activities of many components of the value system are impacted by legislation such as the CWB, Canada Grain, Agricultural Products Marketing, and the Food and Drug Acts. This in turn impacts the competitiveness of these components. The Canada Grain Act regulations affect how grain companies deal with customer complaints (such as pertaining to grades).
- Innovation by input developers and food manufacturers are affected by acts such as the Seeds Act, Plant Breeders Rights, and many aspects of the Food and Drug Act (labelling, health claims, additives, etc). Innovation directly influences competitiveness.
- Human resource activities impact sustainability and competitiveness.
- Legislation such as the Farm Improvement and Marketing Cooperatives Loans Act, Farm Credit Canada Act, and the Farm Income Protection Act impact firm infrastructure activities (such as financing) and impact the competitiveness and sustainability of producers and cooperatives.

Table VII.3: Assessment of Agri-Food Regulations

Firm Value Chain Activity	Examples of Activity	Federal Act/Regulation in Effect	Impact on Industry Value System
Firm Infrastructure	"financing, planning, investor relations"	Farm Improvement and Marketing Cooperatives Loans Act, Farm Credit Canada Act, Farm Income Protection Act	Producers & Cooperatives – Competitiveness & Sustainability
Human Resource Management	"recruiting, training, compensation system"	Programs providing training to producers	Producers
Technology Development	"produce design, testing, process design, material research, market research"	Food & Drug Act, Pest Control Act, Plant Breeders Rights, Seed Act	Input Developers & Food Manufacturers – Innovation & Competitiveness
Procurement	"components, machinery, advertising, services"	CWB Act, Ag Products Marketing Act	Food Processors & Manufacturers – Competitiveness
Inbound Logistics	"incoming material storage, data collection, on-site customer access"	Canada Transportation Act, Canada Grains Act	Producers, Grain Companies, Railways – Competitiveness
Operations	"component fabrication, assembly, branch operations"	Species at Risk, Health of Animals Act, Feeds Act, Meat Inspection Act	Producers – Sustainability, Competitiveness, Feed Manufacturers & Processors – competitiveness
Outbound Logistics	"order processing, warehousing, report preparation"	Canada Transportation Act, Grains Act, WTO	Producers, Grain Companies, Railways – Competitiveness
Marketing & Sales	"sales force, promotion, advertising, trade shows"	Consumer Packaging and Labelling Act, CWB Act, Canada Grain Act, Ag Products Marketing Act, Food and Drug Act	Producers, Grain Companies, Processors, Food Manufacturers, Retail, Food Service – Competitiveness
After-Sales Service	"installation, customer support, complaint resolution"	Canada Grains Act	Grain Companies – Competitiveness

VII.3.2 Studies and Views on the Impact of Regulation

Reviews by the Auditor General indicate that aspects of Canadian regulations such as enforcement and compliance require improvement. The Auditor General work also indicates that AAFC is very slow to correct problems involving specific aspects of agricultural regulations. The review of studies identified long-standing issues with Health Canada, AAFC, and PMRA regulations. It also points out that there could be capacity and resource allocation problems at the federal (and other) levels. Other issues regarding regulation in Canada include:

- Lack of harmonization with the U.S. on certain matters;
- Lack of equivalency with major trading partners;
- The impact of regulations on introducing new products and on innovation within Canada;
- Compliance costs and user fees (regulatory burden) to processors and producers;
- Long lead time to implement any regulatory change.

In a 2004 review, the OECD was critical of Canada's environmental policy⁸⁴ and its choice of regulatory instruments. The review stated:

"While cost-benefit analysis is becoming more common in policy discussions (in Canada), it has rarely been a basis for policy decisions. Implementation of eco-efficiency is also constrained by inappropriate market signals; to provide incentives for eco-efficient projects, instruments such as energy taxes and water charges are required."

"Market-based instruments are insufficiently used to foster integration of environmental concerns into sectoral policies; too much emphasis is given to soft instruments like voluntary guidelines or partnerships."

Adamowicz found the OECD criticism was valid. Canada continues to use command and control instruments and doesn't do enough cost/benefit analysis for environmental policy. These problems occur because;

1. Canada doesn't have an integrated vision for sustainable development;
2. Canada is not committed to environmental goals. It focuses on short-term political goals;
3. Canada may lack the capacity to perform a large number of high-quality cost/benefit analysis;
4. there are jurisdictional issues (split in powers); and
5. there are high transaction costs to changing Canada's approach.⁸⁵

Sparling examined the relationship between regulation and competitiveness focusing on Canada's functional food/nutraceutical sector. Regulations and regulatory processes are used to achieve enhanced competitiveness or to protect the public. As shown below in Figure VII.4 regulations can enhance the competitiveness of Canadian exports by improving the credibility of Canadian regulations and ensuring compatibility with international regulations. They can enhance the competitiveness of the domestic market by enabling access to new technologies, ensuring sustainability and in the case of functional foods by allowing firms to make health claims and increasing the confidence of consumers. Regulations can also protect the public by protecting the environment, removing unsafe products from the market, and approving products that enhance health.

⁸⁴ OECD, "Environmental Performance Report: Canada," 2004.

⁸⁵ Adamowicz W, "Reflections on Environmental Policy in Canada," *CJAE*, March 2007.

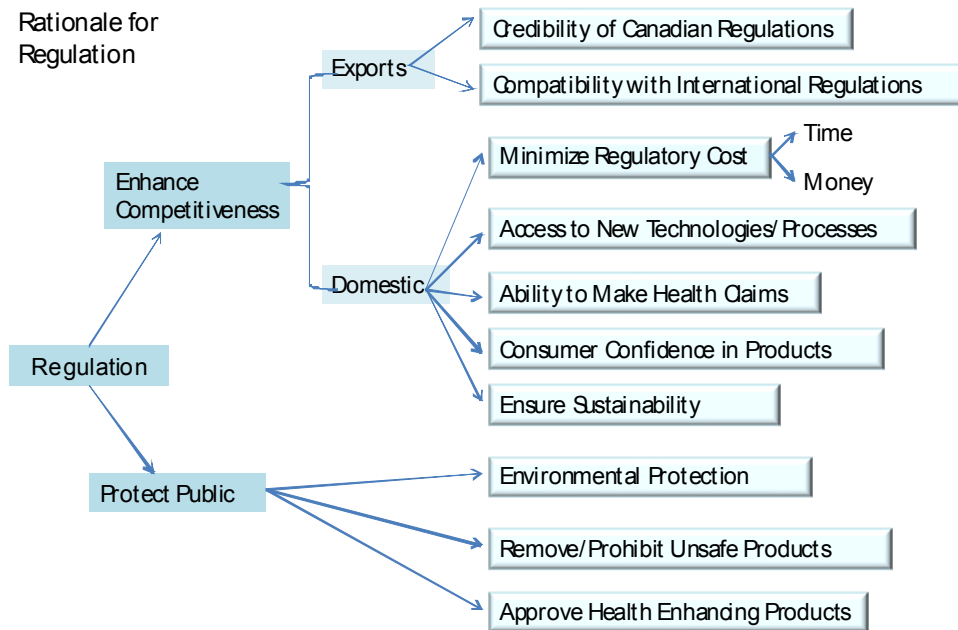


Figure VII.4: Rationale for Regulation

Sparling D, "Regulation and Competitiveness," Presentation to CAPI, February 13, 2006

In the case of functional foods and nutraceuticals, Sparling argues that current regulations have a negative impact on competitiveness and protect the public from both safe and unsafe products. Although regulations have evolved over time in terms of their flexibility, globalization requires international flexibility while the emergence of new types of products, shorter life cycles and other policy goals (health) require product and volume flexibility in terms of regulations.⁸⁶

In Canada all levels of government can regulate farm operations; provincial governments have the greatest influence. In Ontario, until Bill C-81 was enacted, municipal governments regulated the establishment and operation of livestock operations. The decentralized regulation created the potential for pollution havens. Weersink and Eveland undertook an investigation to determine whether municipal regulatory differences were important in the choice of location for livestock operations. The study concluded that the location was chosen to take advantage of agglomeration economies (related firms benefit by locating close to one another) and not regulatory differences.⁸⁷

The Farm Products Agencies Act of 1972 sets forth the mandate and obligations of the supply management agencies for table eggs, broiler eggs, turkeys, and chickens. Over-base quota (production) allocations are to be allocated using comparative advantage, production costs, and transportation costs. A recent study found that the supply management agencies don't use (and have never used) comparative advantage in determining the over-quota allocation. The actual process can be described as "distributing the spoils of war." The current production pattern in feather products has been influenced by historic subsidies like: the Crow Benefit; improper allocation of over-quota; and slow growth in the turkey and table eggs sectors. The study developed a methodology to calculate comparative advantage. Further analysis showed that

⁸⁶ Sparling D, "Regulation and Competitiveness," Presentation to CAPI, February 13, 2006.

⁸⁷ Weersink A and C Eveland, "The Siting of Livestock Facilities and Environmental Regulations," *CJAE*, March 2006.

using comparative advantage in determining over-base quota allocations would have shifted production towards the prairies.⁸⁸

Culhane examined the impact of regulations on Canada's horticulture sector. The study concluded that:⁸⁹

- "Regulations to which Canada's horticulture sector is subject, directly impact on farm income generation, either positively or negatively.
- Non-existent regulations in Canada's horticulture sector directly impact on farm income generation, either positively or negatively.
- Horticultural-specific legislation can have either a direct or indirect financial impact on downstream stakeholders in the supply channel."

Primary research identified 29 regulatory issues in the sector. The regulatory pesticide system was the major issue, termed "out-dated, parochial and non-competitive." Other major issues were as follows:⁹⁰

- "Misbranding of imported foreign produce and product as Product of Canada;
- Ministerial Exemptions that allow bulk import of fresh fruits and vegetables;
- A disproportionately large and sophisticated regulatory pesticide regime;
- Imported wine blended with Canadian wine and labelled as Canadian wine;
- A pesticide regulatory regime designed for the domestic market, rather than the global market;
- Lack of legal and financial support to mount international trade disputes, as per that in place for American competitors;
- Lack of a Domestic Feeding Program such as that in place in the U.S.A. in which federal institutions apply firstly to domestic suppliers to fulfill their food requirements."

The Pest Management Regulatory Agency (PMRA) administers the Pest Control Product Act and its regulations on behalf of Health Canada. Many parts of the agri-food sector have been critical of the regulations affecting the sector and the performance of the agency. The Canadian Federation of Agriculture believes the regulations are making all Canadian producers less competitive. The CFA stated that:

"The ability of farmers to have timely access to new products for use in pest management is extremely important to farmers. If Canadian farmers are to remain competitive in the global market we must ensure they have access to the newest products used by our competitors, which meet Canadian regulatory requirements. The CFA urges the PMRA to recognize the competitive disadvantage Canadian producers are left at by the current system that is over bureaucratic, costly and redundant and implores the government to work to harmonize systems with the U.S. and E.U. countries. In doing so CFA requests that border barriers be lifted allowing any products into Canada currently approved for similar purposes by the U.S EPA or the E.U. equivalent. In addition The CFA insists the government continue to build on the 15-year commitment under the 1986 CUSTA, and accelerate its work through the NAFTA process and through the OECD process to harmonize regulatory systems, while continuing to ensure that the health and safety of the Canadian food systems not be compromised. The CFA supports an expedited registration process for reduced-risk products in order to facilitate access to these lower risk products. While the Minister of Health holds responsibility of the PMRA, the ineffectual performance of the agency impinges on responsibilities of the Ministers of Agriculture and Agri-Food,

⁸⁸ Katz M, J Bruneau, and A Schmitz, "Identifying and Applying a Comparative Advantage Framework in Canada Supply-Managed Agriculture," *CJAE*, June 2008.

⁸⁹ Culhane C, "A Regulatory Impact Study on Canada's Horticulture Sector," paper for CAPI, 2005.

⁹⁰ Ibid.

*Environment, Industry, Treasury, and Natural Resources. As such, the CFA calls for greater accountability of the PMRA and requests intervention by the other Ministers, recognizing issues of trade, competitiveness, NAFTA agreements, science policy and sound government. The CFA also requests that more resources be directed at the registration of 'minor use' products to ensure producers of horticultural, vegetable, fruit and small-acreage crops have access to the pest control tools they need."*⁹¹

This speaks to a variety of regulatory issues including: harmonization, commitment, a coordination body across the sector, and the need for a robust and flexible regulatory framework.

Some studies have reached a different conclusion regarding the need for regulatory harmonization. Producers believe that because of NAFTA, pesticides should cost the same in both Canada and the U.S. However, the differences in the regulatory regimes of the two countries are recognized by pesticide manufacturers, and allow them to segregate the two markets and price accordingly. Regulatory harmonization should lower costs associated with product registration, resulting in lower prices. However, according to some, harmonization could result in an unintended consequence. Since manufacturers need significant amounts of money to finance the R&D from which new products flow, lower prices could result in fewer new products.⁹² This conclusion is based on certain assumptions of the outcome of regulatory harmonization.

The Food and Drug Act of 1953 defines the Government of Canada's roles and responsibilities with respect to health products and food safety. A modernization of food regulation by Health Canada could potentially address the following issues:⁹³

1. relationship between food safety and nutritional quality and chronic disease;
2. globalization of the food industry;
3. pre-market approval and notification problems with efficiency, transparency and predictability;
4. accessibility and understanding of the regulatory system;
5. provision of food safety and nutritional assurance throughout Canada and without hindering the development of new products for sale in domestic and export markets; and
6. responsiveness of regulatory system to new risks and new technology to detect risks and to keep pace with the amount of innovation in the agri-food sector.

Health Canada has an explicit goal to make the food regulatory system more responsive to innovation and to promote access to foods with assessed health benefits by consumers.

The Food and Consumer Products of Canada (FCPC) wants changes to the regulatory system. The FCPC stated that⁹⁴ *"An outdated and poorly performing regulatory system is killing investment, innovation and jobs,"* and *"The food industry faces unnecessarily complex, lengthy product approval procedures, and understaffed regulatory departments that hamper innovation, product launches, competitiveness and growth."* Advances in technologies create unprecedented opportunities for innovation for which Canada's current regulatory system is ill prepared, according to the FCPC. The result, the group suggested, is that manufacturers increasingly look elsewhere to develop, produce and market new products – particularly in the health and therapeutic category. The FCPC argues that low investment, capital intensity, profits, and labour productivity are aggravated by regulatory problems. It cites health claims as a specific example.⁹⁵

⁹¹ Canadian Federation of Agriculture, "Environmental Policy Statement."

⁹² Freshwater D. and C. Short, "Pesticide Regulation and Pesticide Prices," *CJAE*, June/September 2005.

⁹³ Health Canada, "Towards a Regulatory Modernization Strategy for Food and Nutrition," 2007.

⁹⁴ Just-Food, "FCPC Claims Regulation Stifling Innovation," February 20, 2007.

⁹⁵ FCPC, "Submission to the House of Commons Standing Committee on Industry, Science and Technology: Challenges Facing the Canadian Food and Consumer Products Manufacturing Sector," October 17, 2006.

Annex VIII – Federal Acts Affecting the Agri-Food Sector

<i>Act</i>	<i>Responsibility</i>	<i>Details</i>
Agricultural Marketing Programs Act	AAFC	Advance Payments Program Price Pooling Program
Agricultural Products Marketing Act	National Farm Products Council	Extends authority of provincial marketing boards to federal level
Animal Pedigree Act	AAFC	To improve breeds and provide consumer and producer protection
Canada Grain Act	Canadian Grain Commission	"The Commission must, in the interests of grain producers, establish and maintain standards of quality for Canadian grain, regulate grain handling in Canada, and ensure a dependable commodity for domestic and export markets."
Canadian Dairy Commission Act	Canadian Dairy Commission (Crown agency)	Has power to "purchase, sell, and dispose of dairy products; make payments for the benefit of milk and cream producers, make investigations relating to the production, processing or marketing of dairy products, and to promote and assist in the promotion of their use" and "to administer certain milk classes that are priced to meet international competition, in co-ordination with provincial authorities" and to "work with provincial authorities in pooling of market returns system on behalf of the dairy sector."
Canadian Wheat Board Act	Canadian Wheat Board	Authority over wheat and barley for export and for domestic human consumption
Department of Agriculture and Agri-Food Act	AAFC	Responsible for agriculture, products derived from agriculture and agricultural and agricultural product research
Experimental Farm Stations Act	AAFC	Enables farm establishment, research on productivity and conservation and communication of research results
Farm Debt Mediation Act	AAFC	Mediation services for insolvent farmers and creditors
Farm Credit Canada Act	Farm Credit Canada	"to enhance rural Canada by providing specialized and personalized financial services to farming operations, including family farms, and to those businesses in rural Canada, including small and medium-sized businesses, that are related to farming"
Farm Improvement Loans Act	AAFC	"to help make credit available to farmers to improve the efficiency of their operations and to improve living conditions on the farm" by guaranteeing loans made under Act (superseded by FIMCLA)
Farm Improvement and Marketing Cooperatives Loans Act	AAFC	"to guarantee against loss term loans made to farmers and cooperatives by chartered banks and other designated lenders for farm improvement projects and to assist marketing cooperatives for processing, distribution and marketing of agricultural products"
Farm Income Protection Act	AAFC	"authorizes agreements between the Government of Canada and the provinces to provide for protection for the income of producers of agricultural products and to enable the Government of Canada to take additional measures for that purpose"
Farm Products Agencies Act	National Farm Products Council	"allows producers of farm products other than industrial milk and wheat to develop national or regional marketing plans" (eggs, poultry and tobacco)
Prairie Farm Rehabilitation	PFRA	"develops and delivers soil and water conservation and development programs under the Prairie Farm Rehabilitation Act."

Act		In addition, PFRA helps administer federal-provincial initiatives which are more broadly based and designed to promote economic development and diversification opportunities in rural Manitoba, Saskatchewan, Alberta and the Peace River Region of British Columbia”
Food and Drug Act (Labelling)	Health Canada	“Mandatory nutrition labelling on pre-packaged foods was introduced in Canada on December 12, 2005. Labelling information enhances the capacity of consumers to make informed purchasing decisions by allowing industry to showcase the nutritional profile of its products. Large manufacturers (those with annual sales exceeding one million dollars) must now comply with mandatory nutrition labelling; small businesses must be in compliance by December 12, 2007.” (covers trans fats)
Food and Drug Act (Health Claims)	Health Canada	“In 2003 Health Canada amended the Food and Drug Regulations to allow five authorized health claims that highlight a specific relationship between diet and disease or condition, and are supported by sound scientific evidence.”
Natural Health Products Regulations	Health Canada	“Under the <i>Natural Health Products Regulations</i> , which came into effect on January 1, 2004, natural health products (NHPs) are defined as: Vitamins and minerals; Herbal remedies; Homeopathic medicines: Traditional medicines such as traditional Chinese medicines; Probiotics, and Other products like amino acids and essential fatty acids. NHPs must be safe for consideration as over-the-counter products, be available for self-care and self-selection and not require a prescription to be sold.”
Food and Drug Act (Division 28, Novel Foods Regulation)	Health Canada	Novel foods: “Foods resulting from a process not previously used for food; Products that do not have a history of safe use as a food; Foods that have been modified by genetic manipulation, also known as genetically modified foods, GM foods, genetically engineered foods or biotechnology-derived foods. “
Food and Drug Act (Interim Marketing Authorization)	Health Canada	Interim Marketing Authorization: “bridges the time between the completion of the scientific evaluation of certain enabling amendments (e.g., expansion of uses of food additives already listed under Division 16 of the <i>Food and Drug Regulations</i>) and publication of the approved amendments in the <i>Canada Gazette</i> , Part II. The criteria that must be met in order to request an IMA are detailed in the Project 923.”
Pest Controls Act	PMRA (Agency of Health Canada)	“To protect human health and the environment by minimizing the risks associated with pest control products in an open and transparent manner, while enabling access to pest management tools, namely, these products and sustainable pest management strategies”
Species at Risk	Environment Canada	“to prevent wildlife species from becoming extinct and secure the necessary actions for their recovery. It provides for the legal protection of wildlife species and the conservation of their biological diversity”
Canada Transportation Act	Transport Canada	“It modernized and streamlined rail regulations, promoted the formation of short-line railways, ensured that shippers continued to have access to competitive transportation services, eliminated unnecessary regulations in other modes of transport, and placed greater emphasis on commercial decision-making in the transportation sector.” Amended in 2008 “to clarify and strengthen the Act's provisions that protect rail shippers from the potential abuse of market power by railways. The amendments will help address shipper concerns about rail service and rates, while providing regulatory stability to the railways to encourage

		investments that are required to keep Canadian exporters and importers competitive in international markets.”
Agriculture and Agri-Food Administrative Monetary Penalties Act	CFIA	“The purpose of this Act is to establish, as an alternative to the existing penal system and as a supplement to existing enforcement measures, a fair and efficient administrative monetary penalty system for the enforcement of the agri-food Acts.”
Anthrax Compensation Terms and Conditions, No. 2	CFIA	Compensation paid to producers for anthrax
Rabies Indemnification Regulations	CFIA	Compensation for animals who died from rabies
Canada Agricultural products Act	CFIA	Regulations regarding dairy products, eggs, fresh fruit and vegetables, honey, licensing and arbitration regulations, livestock and poultry carcass grading, organic products, maple products, processed eggs, and processed products
Canadian Food Inspection Agency Fees Notice	CFIA	Inspection fees
Consumer Packaging and Labelling Act	CFIA (for food)	
Feeds Act	CFIA	Regulations regarding manufacture, sale and import of feed
Fertilizers Act	CFIA	Regulations regarding fertilizer
Health of Animals Act	CFIA	Regulations regarding reportable diseases, compensation for destroyed animals, etc
Meat Inspection Act	CFIA	Meat safety regulations
Plant Breeders' Rights Act	CFIA	Royalties for plant varieties
Seeds Act	CFIA	Governs standards, establishment licensing, registration of varieties, etc
World Trade Organization	Foreign Affairs and International Trade Canada	WTO is a multilateral agreement governing trade in goods and services. In terms of agriculture, “The objective of the Agriculture Agreement is to reform trade in the sector and to make policies more market-oriented. This would improve predictability and security for importing and exporting countries alike. The new rules and commitments apply to market access — various trade restrictions confronting imports; domestic support — subsidies and other programmes, including those that raise or guarantee farmgate prices and farmers' incomes; export subsidies and other methods used to make exports artificially competitive.”
Free Trade Agreements	Foreign Affairs and International Trade Canada	Canada has signed six free trade agreements (NAFTA, Peru, European Free Trade Association, Costa Rica, Chile and Israel). In terms of both the general economy and agriculture, the agreement with Mexico and U.S. is the most significant.

Web sites of AAFC, CFIA, Health Canada, Environment Canada, Transport Canada, and FAITC

Annex IX – Federal Regulations Affecting Agri-Food

Consolidated Index of Statutory Instruments — March 31, 2008⁹⁶

Abandonment of Branch Lines Prohibition Orders (Canada Transportation Act)
 Advance Payment for Crops Guarantee Assignments Regs (Financial Administration Act)
 Advance Payments for Crops Regs (Advance Payments for Crops Act)
 Advance Payments for Crops Collection Regs (Advance Payments for Crops Act)
 Agricultural Product Priority Claim (Banks) Regulations (Bank Act)
 Agriculture and Agri-Food Administrative Monetary Penalties Regs (Agriculture and Agri-Food Administrative Monetary Penalties Act)
 Agriculture and Agri-Food Administrative Monetary Penalties Regs Respecting the Pest Control Products Act and Regs (Agriculture and Agri-Food Administrative Monetary Penalties Act)
 Agriculture and Fishing Property (GST/TVH) Regs (Excise Tax Act)
 Agricultural Marketing Programs Regs (Agricultural Marketing Programs Act)
 Alberta Broiler Order (Agricultural Products Marketing Act)
 Alberta Chicken Order (Agricultural Products Marketing Act)
 Alberta Hog Orders (Agricultural Products Marketing Act)
 Alberta Milk Order (Agricultural Products Marketing Act)
 Alberta Potato Orders (Agricultural Products Marketing Act)
 Alberta Turkey Orders (Agricultural Products Marketing Act)
 Alternative Fuels Regs (Alternative Fuels Act)
 Ammonium Nitrate Storage Facilities Regs (No. O-36) (Canada Transportation Act) (Railway Act)
 Apple Stabilization Regs (Farm Income Protection Act)
 Apricots Stabilization Regs (Farm Income Protection Act)
 Barley 1987 Period Stabilization Regs (Agriculture Stabilization Act)
 Barley Stabilization Regs (Farm Income Protection Act)
 Beef Calf Stabilization Regs (Farm Income Protection Act)
 Beef Cattle Research, Market Development and Promotion Levies Order (Farm Products Agencies Act)
 Beer Originating in the United States Remission Order (Customs Tariff)
 Brewery Regs (Excise Act)
 Brewery Departmental Regs (Excise Act)
 British Columbia Chicken Order (Agricultural Products Marketing Act)
 British Columbia Egg Order (Agricultural Products Marketing Act)
 British Columbia Hog Order (Agricultural Products Marketing Act)
 British Columbia Milk Order (Agricultural Products Marketing Act)
 British Columbia Mushroom Orders (Agricultural Products Marketing Act)
 British Columbia Stabilization Regs (Farm Income Protection Act)
 British Columbia Tree Fruit Order (Agricultural Products Marketing Act)
 British Columbia Tree Fruit Export Regs (Agricultural Products Marketing Act)
 British Columbia Tree Fruit Pooling Regs (Agricultural Products Marketing Act)
 British Columbia Turkey Order (Agricultural Products Marketing Act)
 British Columbia Turkey Marketing Board (Interprovincial and Export) Order (Agricultural Products Marketing Act)
 British Columbia Turkey Marketing Levies Order (Agricultural Products Marketing Act)
 British Columbia Vegetable Order (Agricultural Products Marketing Act)
 British Columbia Vegetable Marketing Board (Interprovincial and Export) Regs (Agricultural Products Marketing Act)
 Brucellosis Free Regions Order (Health of Animals Act)
 Cabbage Stabilization Regs (Farm Income Protection Act)
 Calculation of Contribution Rates Regs (Canada Pension Plan)
 Calculation of Contribution Rates Regs (2007) (Canada Pension Plan)

⁹⁶ "Quarterly index of the *Canada Gazette*, Part II, which contains regulations, statutory instruments other than regulations, and other documents that were in force at any time between January 1, 1955, and the publication date of the consolidated index."

Calculation of Default Contribution Rates Regs (Canada Pension Plan)
 Canada Business Corporation Regs (Canada Business Corporations Act)
 Canada-Chile Free Trade Agreement Fruit and Vegetable Aggregate Quantity Limit Order (Customs Tariff)
 Canada Cooperatives Regs (Canada Cooperatives Act)
 Canada Corporations Regs (Canada Corporations Act)
 Canada Grain Regs (Canada Grain Act)
 Canada Industrial Relations Regs (Canada Labour Code)
 Canada Industrial Relations Remuneration Regs (Canada Labour Code)
 Canada Labour Relations Board Regs (Canada Labour Code)
 Canada Labour Standards Regs (Canada Labour Code)
 Canada Occupational Health and Safety Regs (Canada Labour Code)
 Canada Pension Plan Investment Board Regs (Canada Pension Plan Investment Board Act)
 Canada Pension Plan Regs (Canada Pension Plan)
 Canada Pension Plan Schedule Amendment Regs (Canada Pension Plan)
 Canada Pension Plan (Social Insurance Numbers) Regs (Canada Pension Plan)
 Canada Port Authority Environmental Assessment Regs (Canadian Environmental Assessment Act)
 Canada Production Insurance Regs (Farm Income Protection Act)
 Canada Transportation Agency General Rules (Canada Transportation Act)
 Canada Turkey Marketing Processors Levy Order (Farm Products Agencies Act)
 Canada Turkey Marketing Producers Levy Order (Farm Products Agencies Act)
 Canadian Broiler Hatching Egg and Chick Licensing Regs (Farm Products Agencies Act)
 Canadian Broiler Hatching Egg and Chick Orderly Marketing Regs (Farm Products Agencies Act)
 Canadian Broiler Hatching Egg (Interprovincial) Pricing Regs (Farm Products Agencies Act)
 Canadian Broiler Hatching Egg Marketing Agency Quota Regs (Farm Products Agencies Act)
 Canadian Chicken Anti-Dumping Regs (Farm Products Agencies Act)
 Canadian Chicken Licensing Regs (Farm Products Agencies Act)
 Canadian Chicken Marketing Levies Order (Farm Products Agencies Act)
 Canadian Chicken Marketing Quota Regs (Farm Products Agencies Act)
 Canadian Egg Anti-dumping Pricing Regs (Farm Products Agencies Act)
 Canadian Egg Licensing Regs (Farm Products Agencies Act)
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 Canadian Livestock Feed Board Headquarters Regs (Livestock Feed Assistance Act)
 Canadian Transportation Agency Designated Provisions Regs (Canada Transportation Act)
 Canadian Transportation Agency General Rules (Canada Transportation Act)
 Canadian Turkey Anti-dumping Regs (Farm Products Agencies Act)
 Canadian Turkey Licensing Regs (Farm Products Agencies Act)
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 Canadian Turkey Marketing Processors Levy Order (Farm Products Agencies Act)
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 Canadian Wheat Board Regs (Canadian Wheat Board Act)
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 Canadian Wheat Board Contingency Fund Regs (Canadian Wheat Board Act)
 Canadian Wheat Board Direction Orders (Canadian Wheat Board Act)
 Canadian Wheat Board Pension Regs (Public Service Superannuation Act)
 Canned Tomato—Surtax Order (Customs Tariff)
 Canola Stabilization Regs (Farm Income Protection Act)
 Carriers and Transportation and Grain Handling Undertakings Information Regs (Canada Transportation Act)
 Carrot Stabilization Regs (Farm Income Protection Act)
 Certification of Origin of Goods Exported to a Free Trade Partner Regs (Customs Act)
 Certified Seed Potatoes Regs (Customs Tariff)
 Cheese Stabilization Regs (Farm Income Protection Act)
 Chicken Farmers of Canada Delegation of Authority Order (Farm Products Agencies Act)
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Coloured Bean Stabilization Regs (Farm Income Protection Act)
 Commercial Loan (Cooperative Credit Associations) Regs (Cooperative Credit Associations Act)
 Commercial Loan (Insurance Companies, Societies and Insurance Holding Companies) Regs (Insurance Companies Act)
 Commercial Loan (Trust and Loan Companies) Regs (Trust and Loan Companies Act)
 Compensation for Certain Birds Destroyed in British Columbia (Avian Influenza) Regs (Health of Animals Act)
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 Competition Tribunal Rules (Competition Tribunal Act)
 Consumer Packaging and Labelling Regs (Consumer and Packaging Labelling Act) Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements, Regs Respecting (Canadian Environmental Assessment Act) (Canadian Environmental Protection Act)
 Corn Stabilization Regs (Farm Income Protection Act)
 Cost of Borrowing (Authorized Foreign Banks) Regs (Bank Act)
 Cost of Borrowing (Banks) Regs (Bank Act)
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 Cost of Borrowing (Trust and Loan Companies) Regs (Trust and Loan Companies Act) (Quebec Savings Banks Act) Crop Insurance Regs (Farm Income Protection Act)
 Dairy Products Marketing Regs (Canadian Dairy Commission Act)
 Directions to the Canadian Dairy Commission (Export Dairy Products) (Canadian Dairy Commission Act)
 Egg Regs (Canada Agricultural Products Act)
 Eggplants and Tomatoes Production (Central Saanich) Restriction Regs (Plant Protection Act)
 Export Inspection and Certification Exemption Regs (Health of Animals Act)
 Export of Sugar Permit (Export and Import Permits Act)
 Exported Dairy Products Assistance Payments Order (Appropriation Acts)
 Farm Debt Mediation Regs (Farm Debt Mediation Act)
 Farm Debt Secured Creditors Notice Regs (Farm Debt Review Act)
 Farm Improvement Loans Regs (Farm Improvement Loans Act)
 Farm Improvement and Marketing Cooperatives Loans and Fees Regs (Farm Improvement and Marketing Cooperatives Loans Act)
 Feed Grain Transportation and Storage Assistance Regs (Livestock Feed Assistance Act)
 Feeds Regs (Feeds Act)
 Fertilizers Regs (Fertilizers Act)
 Finance Entity Regs (Bank Act) (Cooperative Credit Associations Act) (Insurance Companies Act) (Trust and Loan Companies Act)
 Financial Consumer Agency of Canada Assessment of Financial Institutions Regs (Financial Consumer Agency of Canada Act)
 Financial Consumer Agency of Canada Designated Violations Regs (Financial Consumer Agency of Canada Act)
 Financial Leasing Entity Regs (Trust and Loan Companies Act) (Bank Act) (Insurance Companies Act) (Cooperative Credit Associations Act)
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 Food and Agricultural Organization Remission Order (Foreign Missions and International Organizations Act)
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 Food Research and Development Centre Fees Order (Financial Administration Act)
 Free Trade Agreements Advance Rulings Regs (Customs Act)
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 Fruit and Vegetable Remission Order (Customs Tariff)
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 Grain Futures Regs (Grain Futures Act)
 Greenhouse Cucumber Stabilization Regs (Farm Income Protection Act)
 Greenhouse Tomato Stabilization Regs (Farm Income Protection Act)
 Hatchery Exclusion Regs (Health of Animals Act)

Hatchery Regs (Health of Animals Act)
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 Hog Stabilization Regs (Farm Income Protection Act)
 Honey Regs (Canada Agricultural Products Act)
 Honeybee Prohibition Regs (Health of Animals Act)
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 Industrial Milk and Cream Stabilization Regs (Farm Income Protection Act)
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 Meat Inspection Overtime Inspection Fees Remission Order (Financial Administration Act)
 Meat and Poultry Products Plant Liquid Effluent Regs (Fisheries Act)
 Mexico Fruit and Vegetable Aggregate Quantity Limit Order (Customs Tariff)
 NAFTA and CCFTA Verification of Origin Regs (Customs Act)
 NAFTA Importation of Goods Exported for Repair Under Warranty (Tariff Item No. 9820.00.00) Regs (Customs Tariff)
 NAFTA Marking Determination, Re-determination and Further Re-determination Regs (Customs Act)
 NAFTA Prescribed Class of Goods Regs (Customs Act)
 NAFTA Rules of Origin for Casual Goods Regs (Customs Tariff)
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 Ontario Egg Orders (Agricultural Products Marketing Act)
 Ontario Flue-Cured Tobacco Order (Agricultural Products Marketing Act)
 Ontario Fresh Grape Orders and Regs (Agricultural Products Marketing Act)
 Ontario Fresh Potato Order (Agricultural Products Marketing Act)
 Ontario Grapes for Processing Order (Agricultural Products Marketing Act)

Ontario Greenhouse Vegetable Orders (Agricultural Products Marketing Act)
 Ontario Hog Charges (Interprovincial and Export) Order (Agricultural Products Marketing Act)
 Ontario Milk Order (Agricultural Products Marketing Act)
 Ontario Milk Marketing Levies Order (Agricultural Products Marketing Act)
 Ontario Onion Order (Agricultural Products Marketing Act)
 Ontario Onion Growers' Marketing Order (Agricultural Products Marketing Act)
 Ontario Pork Producers' Marketing Order (Agricultural Products Marketing Act)
 Ontario Soya Bean Orders (Agricultural Products Marketing Act)
 Ontario Tender Fruit Order (Agricultural Products Marketing Act)
 Ontario Tender Fruit Service Charge (Interprovincial and Export) Regs (Agricultural Products Marketing Act)
 Ontario Turkey Orders (Agricultural Products Marketing Act)
 Ontario Vegetable Growers' Marketing-for-Processing Order (Agricultural Products Marketing Act)
 Ontario Wheat Order (Agricultural Products Marketing Act)
 Ontario Wheat Marketing (Interprovincial and Export) Regs (Agricultural Products Marketing Act)
 Order Extending the Time for the Assessment of the Status of Wildlife Species (Species at Risk Act)
 Organic Products Regs (Canada Agricultural Products Act)
 Pear Stabilization Regs (Farm Income Protection Act)
 Pest Control Products Regs (Pest Control Products Act)
 Pest Control Product Sales and Information Reporting Regs (Pest Control Products Act)
 Pest Control Products Incident Reporting Regs (Pest Control Products Act)
 Port Authorities Operations Regs (Canada Marine Act)
 Potato Processing Plant Liquid Effluent Regs (Fisheries Act)
 Potato Production and Sale (Central Saanich) Restriction Regs (Plant Protection Act)
 Potato Stabilization Regs (Farm Income Protection Act)
 Potato Wart Compensation Regs (Plant Protection Act)
 Prairie Grain Advance Payments Regs (Prairie Grain Advance Payments Act)
 Prince Edward Island Cattle Orders (Agricultural Products Marketing Act)
 Prince Edward Island Chicken Order (Agricultural Products Marketing Act)
 Prince Edward Island Egg Order (Agricultural Products Marketing Act)
 Prince Edward Island Hog Orders (Agricultural Products Marketing Act)
 Prince Edward Island Milk Order (Agricultural Products Marketing Act)
 Prince Edward Island Pedigreed Seed Order (Agricultural Products Marketing Act)
 Prince Edward Island Potato Orders (Agricultural Products Marketing Act)
 Prince Edward Island Tobacco Order (Agricultural Products Marketing Act)
 Prince Edward Island Vegetable Orders (Agricultural Products Marketing Act)
 Processed Egg Regs (Canada Agricultural Products Act)
 Processed Products Regs (Canada Agricultural Products Act)
 Quebec Apple Growers' Marketing Order (Agricultural Products Marketing Act)
 Quebec Beef Cattle Order (Agricultural Products Marketing Act)
 Quebec Beef Cattle Producers' Levies or Charges (Interprovincial and Export Trade) Order (Agricultural Products Marketing Act)
 Quebec Flue-Cured Tobacco Order (Agricultural Products Marketing Act)
 Quebec Hog Marketing Orders (Agricultural Products Marketing Act)
 Quebec Maple Sap and Maple Syrup Order (Agricultural Products Marketing Act)
 Quebec Milk Order (Agricultural Products Marketing Act)
 Quebec Sheep and Wool Order (Agricultural Products Marketing Act)
 Quebec-South Maple Sugar Products Order (Agricultural Products Marketing Act)
 Quebec Turkey Order (Agricultural Products Marketing Act)
 Quebec Vegetables for Processing Order (Agricultural Products Marketing Act)
 Railway Company Pay Out of Excess Revenue for the Movement of Grain Regs (Canada Transportation Act)
 Railway Costing Regs (Railway Act)
 Railway Interswitching Regs (Canada Transportation Act)
 Reportable diseases Regs (Health of Animals Act)
 Rutabaga Stabilization Regs (Farm Income Protection Act)
 Saskatchewan Alfalfa Seed Order (Agricultural Products Marketing Act)
 Saskatchewan Broiler Chicken Order (Agricultural Products Marketing Act)

Saskatchewan Canola Orders (Agricultural Products Marketing Act)
Saskatchewan Egg Orders (Agricultural Products Marketing Act)
Saskatchewan Flax Order (Agricultural Products Marketing Act)
Saskatchewan Hog Orders (Agricultural Products Marketing Act)
Saskatchewan Milk Order (Agricultural Products Marketing Act)
Saskatchewan Pulse Crop Orders (Agricultural Products Marketing Act)
Sheep Stabilization Regs (Farm Income Protection Act)
Surtax on Boneless Beef Order (Customs Tariff)
Surtax on Canned Tomatoes Order (Customs Tariff)
Sweet Cherry Stabilization Regs (Farm Income Protection Act)
United States Barley and Barley Products Remission Order (Customs Tariff)
Weed Seeds Order (Seeds Act)
Western Grain Stabilization Regs (Farm Income Protection Act)
Western Grain Transition Payments Regs (Western Grain Transition Payments Act)
White Pea Bean Stabilization Regs (Farm Income Protection Act)
Winter Pears Stabilization Regs (Farm Income Protection Act)
Winter Wheat Stabilization Regs (Farm Income Protection Act)
Yellow Seed Onion Stabilization Regs (Farm Income Protection Act)