PUBLIC MANAGEMENT SERVICE
PUBLIC MANAGEMENT COMMITTEE

STATUS OF CURRENT WORK FOR THE PUMA 1998-1999
WORK PROGRAMME ON REGULATORY MANAGEMENT AND REFORM

0.1. This document provides a status report on current work and outputs in the area of Regulatory Management and Reform for discussion by regulatory policy officials from OECD countries.

0.2. Participants are asked to:

− Comment on the quality and usefulness of current activities.
− Present their views on possible future work and to identify those activities to which they would be prepared to contribute in a substantive way.
INTRODUCTION

1. In response to the OECD’s overall policy direction and to the Public Management Committee (PUMA) discussion on 27 March 1998, PUMA is increasing its focus on issues of governance and further integration of PUMA work with the core OECD policy agenda. As part of its efforts to focus on what works, PUMA is deepening its comparative work and strengthening its analytical capacities. The proposed programme of work on regulatory management and reform, which provides an update on current work overseen by the PUMA Group on Regulatory Management and Reform (RMRG), aims to incorporate these objectives.

2. In carrying out this work, the RMRG will continue to be responsible to the PUMA Committee, and it will also assist the Organisation as a whole in the multidisciplinary work that is now underway. The RMRG is unique in the OECD in bringing together policy officials responsible for cross-cutting and horizontal regulatory reform policies, and hence will have a key role in influencing the work of the Organisation in this area. It will meet in Paris twice in 1998 (29-30 June and 22-23 October) and twice in 1999 (dates to be determined). The proposed work programme will be revised in light of the group’s discussion, as a function of country interests and priorities, and taking into account Committee and Organisation-wide agendas.

3. This report proposes a number of options for work to be undertaken during 1998-1999. The programme is organised in three general categories: (i) country reviews of government capacity to assure high quality regulation, mandated by the 1995 OECD Council Recommendation on Improving the Quality of Government Regulation and again by Ministers meeting at the OECD in May 1997, (ii) evaluating the results of regulatory management and reform, and (iii) improving the quality of regulations and regulatory systems.

4. In addition to these activities under the work programme of the PUMA Committee, PUMA is responsible for managing the OECD-wide work programme on regulatory reform, under the direction of Deputy Secretary-General Joanna R. Shelton. The horizontal work involves multidisciplinary country reviews, and continuing sectoral and thematic work in high priority areas (an overview of OECD work related to regulatory reform is available in SG/RR(98)4).

I. Country reviews of progress on regulatory reform

5. In May 1997, Ministers from OECD Member countries welcomed the OECD Report on Regulatory Reform, and asked the Organisation to conduct reviews of regulatory reform in Member countries beginning in 1998, based in part on self-assessment. In response, the Secretariat has launched a process to review 8-10 countries over the next two years, with the aim of ultimately reviewing all Member countries. This work will produce, for each country reviewed, a multi-disciplinary review of progress on
regulatory reform, based on self-assessment, peer review, and cross-country comparisons. The first four countries under review are the Netherlands, the United States, Japan, and Mexico. Four to five other countries will be chosen for the next round of reviews in 1999.

6. The aims of the country review are to help governments identify best-practice regulatory methods, to strengthen their capacities for self-assessment; to help reduce the costs and risks of transition; and to support public debate by developing information that will help governments explain the importance and implications of sustained regulatory reform. Regulatory reform is also a shared interest among Member countries, since the benefits are distributed widely in a global economy. Broadly, the goal of the OECD work is to contribute to the steady improvement of regulatory practices in all Member countries.

7. Within the framework of the multidisciplinary review involving six committees of the OECD and the International Energy Agency, PUMA will contribute for each country under review a chapter assessing the capacities of the government to assure high quality regulation. Regulatory reform requires the development of administrative capacities within the public sector to judge when and how to regulate in a highly complex world. By focusing on public sector institutions, the PUMA work goes beyond policy content to examine the longer-term basis by which the public sector uses regulation to achieve public policies. The RMRG will carry out peer reviews of each country chapter at its meetings in 1998 and 1999.

8. The PUMA reviews will cover a wide range of issues that Member countries agreed in the 1995 OECD Recommendation on Improving the Quality of Government Regulation were good regulatory practices. These include various aspects of transparency in the regulation system, the use of regulatory impact analysis and public consultation, the use of alternatives to traditional kinds of regulation, and the quality of law-drafting. Issues based on recommendations in the 1997 OECD Ministerial Report on Regulatory Reform include the design and effectiveness of regulatory management institutions, and the use of “reform drivers” such as adoption of government-wide policies for regulatory quality and reform (the full outline is included in SG/RR(98)1).

II. Evaluating The Results Of Regulatory Management And Reform

9. This programme seeks to link regulatory reform to concrete outcomes such as improved policy effectiveness and economic efficiency, with an emphasis on the performance of small and medium-sized enterprises (SMEs). A recent PUMA report, after scanning across the Membership, found that some attempts have been made to measure the benefits of regulatory management and reform, but there is general agreement that the concrete outcomes are hard to measure. Causal factors for outcomes are often unclear. The benefits of thousands of marginal improvements are difficult to track. Many important benefits cannot be measured, because they consist of mistakes that were avoided due to new disciplines and controls. Given the large investment in regulatory reform, however, it is surprising that there is not more effort to measure the benefit-cost ratio of various reform strategies. This work would seek to gather more information on the impacts, and attempt to develop evaluative instruments that would support assessment in Member countries.

10. The first step is to develop qualitative and quantitative comparative indicators of the regulatory and administrative business environment in OECD countries with respect to SME start-up and growth. This is because SMEs are important for job creation and innovation, issues of high priority to OECD countries, and poor regulation often shows up first in its impacts on SMEs. On a broader scale, PUMA would work to develop a range of indicators of the benefits of regulatory reform. This would in the first instance involve identification, via the Regulatory Management and Reform Group, of performance measures currently used in Member countries and an assessment of the usefulness of the data they are
generating. Secondly, the relationships between these and the indicators on regulatory reform policies now being developed would be considered. Finally, if countries agree, work could be done to improve methodologies to monitor the results of regulatory quality efforts.

11. The PUMA Multi-country Business Survey will continue to be implemented in participating countries during 1998 and 1999. The survey will permit business perceptions of regulatory burdens and quality of regulation to be compared across countries for the first time. A final report in Spring 1999 will incorporate the results of countries participating in the survey during the second half of 1998.

III. Improving the quality of regulations and regulatory systems

12. This work will provide specific technical tools to policy-makers in Member countries. Building on work begun in 1993 and developed in following years, this activity will comprise three different projects focusing on improving government understanding, management and delivery of regulatory policy.

13. Work on compliance and enforcement strategies. The impact of regulation depends as much on how it is applied as on its design and content, and this is an area receiving increasing attention. Innovative compliance and enforcement strategies can greatly improve regulatory effectiveness by increasing the general level of compliance, and reduce regulatory costs by introducing more flexibility and responsiveness to individual firm conditions. Incentives for “good corporate behaviour” are not created only through traditional sanctions -- third parties such as community groups, consumers and consumer groups, environmental groups and trade unions can also influence incentives for firm behaviour. The skilful use of markets can also improve compliance. However, some accountability, transparency and competition problems may arise from the use of code of conducts or other quasi-regulations that were designed to increase compliance. To achieve higher compliance rates and to focus enforcement efforts, without compromising on legitimacy issues, governments need to know more about how compliance can be achieved through more in-depth analysis of the incentive structures faced by firms.

14. The RMRG meeting in October 1998 will discuss a preliminary report on “The State of Regulatory Compliance: Issues, Trends and Challenges”. This report will assess the evidence on compliance rates and trends, the reasons for compliance stresses, how governments are responding, and the major areas for further work in developing policy responses.

15. Reducing the costs of permitting and licensing requirements. Permits, licenses, and related requirements by which governments intervene in individual business decisions before an economic activity can commence can be among the mostly costly form of regulations, particularly where these requirements have the purpose or effect of restricting competition from new entrants. These kinds of regulations can delay business activity, block entry, and disproportionately hurt SMEs, while their application imposes large administrative costs on government. Nonetheless, they are pervasive in OECD countries. This work, based on the work previously done in the retail distribution sector, would examine efforts in OECD countries to reduce and improve this form of regulation, and would seek to identify best practices that should guide their design and reform, including the removal of anti-competitive aspects of these requirements.

16. A preliminary paper examining country cases to review and reduce licences and permits will be presented during the RMRG meeting in Spring 1999. This report will overview the different approaches and results obtained in the recent past in OECD countries in these fields. Based on this study a workshop on licences and permits could be organised in 1999.
17. *Case studies of alternatives to regulations.* This project will continue with the objective of monitoring the development and use of innovative regulatory and non-regulatory approaches, and providing a more extensive pool of information to be drawn on by governments using alternatives. As in the past, each case study will describe the policy problem being addressed, the details of the policy alternative adopted and any specific factors of importance, summarise the performance of the alternative in practice and suggest major policy lessons to be learned from the experience gained. The Secretariat will finalise and publish during 1998 - 1999 a further two papers bringing together material on the use of alternatives to regulation used in OECD country-members.