

# Regulation Reference: a Preliminary Report to First Ministers

Chairman  
Economic  
Council  
of  
Canada



HD  
3616  
.C3  
.R43  
1978  
  
c.1  
tor mai

November 1978

The Council's proposed research agenda, outlined in Part III, envisions two general types of studies - those relating to framework and those relating to specific industries or sectors. Framework studies will explore the growth, scope and objectives of government regulation, and the evaluation and rationalization of government regulation. Specific studies will examine the costs of compliance with major federal, provincial and local government economic regulation; evaluate the effects of federal and provincial regulation in particular industries or sectors, (e.g. the automobile industry, food processing and distribution and pharmaceuticals); land use and building code regulation; telecommunications; hazardous products and packaging and labelling; occupational health and safety; transportation; environmental protection; agricultural production and sale; and fisheries. The emphasis in the proposed research program is on the specific studies. They are designed to assess the impact (broadly defined) of regulation in a considerable number of contexts. Emphasis is placed on the need to develop recommendations for practical changes in public policies on regulation.

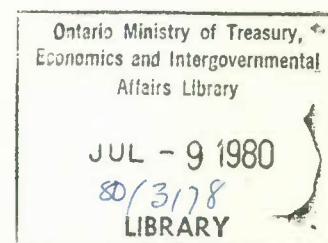
As requested by the Prime Minister in his July 12th letter, the Council staff has consulted widely with the provinces and with the private sector. Provincial officials were consulted during the drafting of terms for the Reference and again during the development of the research program. Informal and formal discussions with a large number of business groups, trade associations, consumer groups, professional organizations, academics and labour organizations were undertaken throughout the summer and early autumn by the Chairman and Council staff to seek advice on possible research approaches. The Council commits itself clearly during its discussion of the consultation process in Part IV to continue such consultation with interested parties throughout the remaining period of work on the Reference.

Part V, the final section of the Preliminary Report, presents material submitted by provincial and federal government departments on their current and planned regulatory review activities.

**Regulation Reference:  
a Preliminary Report  
to First Ministers**

Sylvia Ostry  
Chairman

Economic Council of Canada



November 1978

November 1978

The Right Honourable  
Pierre Elliott Trudeau,  
Prime Minister of Canada,  
Ottawa, Ontario.

Dear Prime Minister,

Your letter of July 12, 1978, setting out the terms of the Reference to the Economic Council of Canada on Government Regulation, requested a preliminary report for the meeting of First Ministers in November 1978.

This report has been prepared in consultation with the Federal-Provincial Consultative Committee on the Regulation Reference.

Yours sincerely,

A handwritten signature in cursive script that reads "Sylvia Ostry". The signature is written in dark ink and is positioned above the typed name and title.

Sylvia Ostry  
Chairman



## CONTENTS

	<u>Page</u>
PART I: Overview of the Regulation Reference	
1. Background.....	1
2. Orientation of the Council's Research Activity.....	2
3. Government Regulation in Canada: Too Much or Too Little?.....	4
4. Some Indications of the Scope and Growth of Government Regulation.....	7
PART II: The Objectives of Government Regulatory Activities	
1. Introduction.....	17
2. Efficiency Considerations: Remedying Market Failure.....	17
3. Regulation to Achieve "Distributive Justice".....	19
4. Other Reasons for Economic Regulation....	21
PART III: Research Agenda of the Regulation Reference	
1. Introduction.....	26
2. Framework Studies	
(1) The Growth, Scope and Objectives of Government Regulation.....	27
(2) The Evaluation and Rationalization of Government Regulation.....	28
3. Specific Studies	
(1) The Costs of Compliance with Major Federal, Provincial and Local Government Economic Regulation.....	30
(2) The Evaluation of the Effects of Federal and Provincial Regulation in Particular Industries or Sectors.	31
(3) Studies of Land Use and Building Codes Regulation.....	32
(4) Telecommunications Regulation.....	33
(5) Health/Safety/Fairness/ Information Regulation.....	34
(6) Transportation Regulation.....	36
(7) Environmental Protection Regulation...	38
(8) Regulating Agricultural Production and Sale.....	39
(9) The Impact of Government Regulation on Canada's Fishing Industries.....	40

	<u>Page</u>
PART IV: The Consultative Process	
1. Consultations to Date.....	41
2. The Consultative Process in the Future.....	42
 PART V: Regulatory Review Activities of the Provincial and Federal Governments	
The Provinces:	
Alberta.....	47
British Columbia.....	48
Manitoba.....	48
New Brunswick.....	50
Newfoundland.....	52
Nova Scotia.....	52
Ontario.....	55
Prince Edward Island.....	59
Quebec.....	59
Saskatchewan.....	60
Federal Departments:	
Agriculture Canada.....	63
Department of Communications.....	64
Consumer & Corporate Affairs Canada...	65
Energy, Mines and Resources Canada....	67
Department of Finance.....	67
Fisheries and Environment Canada.....	67
Health & Welfare Canada.....	69
Labour Canada.....	71
Revenue Canada.....	72
Transport Canada.....	73
Treasury Board Secretariat.....	75
 APPENDIX I: Text of the Prime Minister's Letter to the Chairman of the Economic Council of Canada (The Regulation Reference) - July 12, 1978.	   78

## PART I

### OVERVIEW OF THE REGULATION REFERENCE

#### 1. BACKGROUND

This Preliminary Report on the Regulation Reference has been prepared at the request of the Prime Minister. In his letter of July 12, 1978, transmitting this Reference to the Council (see Appendix 1), the Prime Minister requested that the Council, "in consultation with the Federal-Provincial Committee, prepare a preliminary report for the next meeting of the First Ministers in November 1978."

The Prime Minister went on to indicate something of the scope and nature of the Preliminary Report.

It might well contain a general overview of the issues, focusing on the question of why governments regulate, and an attempt to indicate in a very general way the scope and growth of government regulation in Canada. This report should delineate the research program in some detail, setting out, for example, specific information on the studies referred to above and, in general, filling in details on the research agenda relevant to the completion of the Council's work. I would also like it to set out in some detail the consultative arrangements developed or planned with respect to governments, businesses, trade unions, consumer groups, universities and research institutes.

The Reference stemmed from discussions at the meeting of First Ministers on February 13, 14 and 15, 1978. The Communiqué issued at the close of the meeting said, in part,

The burden of government regulation on the private sector should be reduced and the burden of overlapping federal and provincial jurisdictions should be eliminated. Procedures will be instituted to review the effects of regulatory action on jobs and costs. First Ministers agreed that the whole matter of economic regulation at all levels of government should be referred to the Economic Council for recommendations for action, in consultation with the provinces and the private sector.

Subsequent to the meeting of First Ministers in February, the Department of Consumer and Corporate Affairs, on behalf of the Federal Government, discussed the potential terms of reference with representatives of each of the provinces. The Federal-Provincial Consultative Committee met formally for the first time on June 28, 1978. Shortly thereafter, the Prime Minister requested that "the Economic Council of Canada undertake a number of studies of specific areas of government regulation which appear to be having a particularly substantial economic impact on the Canadian economy." The Prime Minister also requested that the Council's Interim Report and Final Report should indicate "what practical changes in public policies might be undertaken to improve government regulation." Subject to the constraints imposed by time and the availability of professional and other resources, the Council is committed to completing these reports by December 1979 and December 1980 respectively. Since the Reference was received, the Council has drafted, in consultation with the provinces and the private sector, a research agenda which is described in Part III below. It must be emphasized that this list of projects is necessarily highly selective. It is not exhaustive. However, where relevant, the Council will also rely on existing and current research.

## 2. ORIENTATION OF THE COUNCIL'S RESEARCH ACTIVITY

### (a) The Improvement of Public Policy

The Prime Minister points out in his letter of July 12th, that "there has developed in Canada a strong concern that increasing government regulation might be having serious adverse effects on the efficiency of Canadian firms and industries and on the allocation of resources and distribution of income."<sup>1</sup> The purpose of the Council's research is to diagnose the problems of government regulation, and to offer practical recommendations aimed at improving its effectiveness, reducing its cost, and improving the process by which regulation is conducted.

To speed the process of regulatory assessment by governments and the concerned public, the Council proposes to distribute quite widely, in draft, copies of individual research studies that meet the Council's professional standards as they are completed. Many will contain specific recommendations for government action. The Council hopes the Federal-Provincial Consultative Committee and the Federal Interdepartmental Committee on Regulation will evaluate the policy implications of these studies so that



the process of regulatory review may proceed as expeditiously as possible. It is believed that there is a need to remedy the conspicuous shortage of empirical studies of the impact of regulation (broadly defined). Before deciding what ought to be done, it is necessary to determine how regulation works in practice. As indicated in Part III below, many of the studies are aimed at assessing the impact of regulation. Does the regulation achieve its objectives? What are the private and social costs of regulation? What are the benefits and to whom do they accrue? These are some of the general questions that the studies will seek to answer.

Perhaps the greatest challenge in an empirical approach to regulation lies in assessing its benefits. Benefits must be quantified and valued, and both operations are difficult. Many of the benefits are non-economic or non-quantifiable, and it may be necessary to assess them in qualitative terms. To do this the Council will require the assistance of consumer groups, labour unions, and others.

The study of regulation falls within no single discipline. A wide range of analytical tools, conceptual frameworks and specialized knowledge is required to do a proper job. The Council staff will be enlisting the assistance of lawyers, economists, political scientists, natural scientists, engineers, and management specialists in its research program.

The Council studies will include both the traditional areas of federal, provincial and local government regulation, and the so-called "new regulation". While the distinction between the two is not precise, projected studies of the "old" areas of regulation include telecommunications, transportation (trucking, airlines, rail), land use regulation, and agricultural products marketing boards. Studies of the "new" regulation include hazardous products legislation, packaging and labelling legislation, and environmental protection.

The Council's research studies will properly reflect the desire of First Ministers to have it examine, albeit selectively, regulation "at all levels of government." They will also reflect the concern expressed by First Ministers about the extent and costs of federal-provincial regulatory overlap and duplication.

(b) The Start of a Continuing Process

Regulation is an extremely complex phenomenon. The present structure of regulation in Canada has evolved over many years. The Council will be hard pressed to make an assessment

of its impact in a limited number of areas of economic activity in the time allotted. Reform (which may involve anything from a "streamlining" of compliance procedures, a systematic search for cost-effective alternatives, or selective deregulation) will not be achieved overnight - even if there were agreement on its necessity and the direction it should take. If real improvements are to be made, a major outcome of this Reference should be the initiation of a continuing process of regulatory review in Canada together with the machinery to implement desirable changes in regulation at all levels of government.

Many of the specific studies (outlined in Part III) will examine the problems associated with implementing changes in regulation. The issues of transition costs and adjustment assistance for those directly affected by regulatory reform must be considered. Similarly, it must be recognized that the whole process of regulatory review itself incurs costs, against which its benefits must be weighed.

### 3. GOVERNMENT REGULATION IN CANADA: TOO MUCH OR TOO LITTLE?

Governments are inevitably the targets of conflicting demands. The subject of government regulation, currently of heightened interest, is no exception. There is abundant evidence that many Canadians believe, some quite strongly, that regulation by all levels of government has become more complex, more costly, and less effective than it should be. At the same time, governments are receiving requests to regulate certain economic activities more extensively. In this Preliminary Report, it is not the intention to examine these claims and concerns in detail. What follows is simply a very general indication of how Canadians perceive the "problem" of government regulation.

It is frequently asserted that regulation constitutes one of the most rapidly growing forms of government activity. The author of a study on Canadian advertising laws, for example, has claimed that regulations "are like rabbits" -- they multiply so fast you can't keep on top of them."<sup>2</sup> This concern is not new. Writing of Britain in 1860, Herbert Spencer argued that "regulations have been made in yearly-growing numbers, restraining the citizen in directions where his actions were previously unchecked, and compelling actions where previously he might perform or not as he liked..."<sup>3</sup>

It is often alleged that public servants at all levels of government are exercising substantial discretionary power in



making regulations to enforce legislation. One observer has commented that: "...the Food and Drugs Act is...a thin outline of four or five pages. That's the fundamental statute. Then you have supplementary regulations, a book six inches thick, developed by people in government."<sup>4</sup> There is concern as well over what is perceived to be the multiplicity of regulations and the overlap in the regulatory activities of different jurisdictions. It has been suggested that "to drive a truck from Victoria to Halifax takes more paperwork than to drive it from Dublin to Hamburg."<sup>5</sup>

Much attention has been focused on the perceived relationship between increased regulation and higher costs and prices. More specifically, spokesmen for various groups have contended that regulation has contributed to substantially higher prices in recent years for prescription charges, air fares, most foods, automobiles, various professional and trade services, and a range of other goods and services.

Governments are frequently criticized for producing a multiplicity of related but different pieces of legislation. For example, Saskatchewan's Consumer Products Warranties Act of 1977 was criticized because it differed from its counterpart in Ontario. A Toronto lawyer was quoted as saying: "It doesn't make any sense to have different laws in different provinces. It is bothersome, costly - and sometimes nearly impossible - for manufacturers to have to comply with a whole series of different laws. Most large manufacturers want to adopt a single national marketing plan."<sup>6</sup>

While those who are alarmed at the growth (and costs) of government regulation have been most vocal, the demands for new and/or higher regulatory standards in various areas have been far from insignificant. It is, moreover, a mark of the complexity of the general subject that, in some cases, the strongest proponents of continued and increased regulation are not consumer groups but business and producer interests. The following are only illustrative examples of the demand for regulation. Recently, a press report said that "Winnipeg optometrists and opticians...agree a need exists for legislation regulating the contact lenses field."<sup>7</sup> Some insulation manufacturers have been reported as wanting CMHC approval to be mandatory for all insulation sold in Canada.<sup>8</sup> The dangers of flammable tents were highlighted in several newspaper stories this summer. The president of one company advocated that the government pass a regulation forcing all manufacturers to treat cotton tents with a fire retardant. He is quoted as saying: "You have to jam it down someone's throat, and pass the law. If they don't no one is going to make a more expensive tent that won't sell."<sup>9</sup>

In the context of a massive automobile recall ordered by the United States Government, a major newspaper, under the headline "Ottawa needs authority to order recalls", suggested that "a compulsory recall procedure in our product safety laws would give us both safer products and more effective consumer protection."<sup>10</sup> It has been argued that governments "at both the provincial and federal levels should become more aggressive in the inspection of [used] cars..."<sup>11</sup> The recent tragic bus accident in Quebec's Eastern Townships resulted in an immediate demand for tighter licensing provisions and more thorough inspection of public transportation vehicles.<sup>12</sup> New legislation was promised almost immediately.

At this early point in the work on the Regulation Reference, the Economic Council cannot even begin to appraise the conflicting demands for less regulation by some Canadians and the demands for more regulation by others.

Varying concerns are evident in a recent statement by the Second Tier Committee on Policies to Improve Canadian Competitiveness:

Another area affecting the economic environment which was a common concern to business members of the Task forces, was government regulation. The Committee agrees that government regulation is necessary in a modern democratic economy especially to protect the rights of individuals or groups who otherwise could not protect themselves...We believe...that government regulation should be simplified, and that conflicts and overlaps among and within governments should be resolved in order to reduce the cost to industry and government of enforcing and meeting regulation. An area of particular concern to business members of the Task forces was that government should make available cost-benefit analyses of any new regulations prior to their introduction into law. The labour concern was that cost-benefit analyses do not express the true value of social benefits. The Committee, therefore, recommends that impact assessments take into full consideration both qualitative and quantitative aspects.<sup>13</sup>

The decision to regulate is only in part an economic decision. A variety of non-economic considerations enter into such a public policy decision. Thus any analysis of the desirability or undesirability of a particular aspect of regulation must be sensitive to the full gamut of public policy considerations.



#### 4. SOME INDICATIONS OF THE SCOPE AND GROWTH OF GOVERNMENT REGULATION.

Economists, statisticians and taxpayers have long grappled with the problems of how to identify and measure government outputs, and how to evaluate these outputs given the absence of market prices for almost all government-produced goods and services. In the present case, additional complications arise from the lack of a generally agreed definition of what constitutes government regulation, and the absence of data separating out regulatory functions from other government activities. The complex conceptual and empirical issues that arise in connection with attempts to measure government regulatory activity will be the subject of one of the studies conducted under the Regulation Reference. Initial efforts in this area have been largely devoted to assembling a preliminary data base which, while crude, could serve to indicate something of the dimensions of regulatory activity in Canada, and of its general trend over time.

One tentative indicator of regulatory activity that was examined was the number of federal regulatory statutes, and the number of federal regulations<sup>14</sup> issued under such statutes in existence in various time periods. The Council's focus is on economic regulation; that is, regulation intended to influence and modify economic behaviour in some significant sense.<sup>15</sup> After an examination of the more than 500 current statutes of the Parliament of Canada, some 129 were judged to contain provisions permitting economic regulation. In Table 1, these statutes are grouped according to their type and their year of original enactment. It can be seen that the majority of regulatory statutes (as here defined) were originally enacted before 1949, indeed some predate Confederation. However, a significant increase in the number of such statutes occurred in the period after 1966. The largest absolute number of regulatory statutes relate to agriculture, followed by transportation, fisheries, and the "information and fairness" area.

It is also useful to classify these 129 regulatory statutes according to their most recent year of enactment. The latter will differ from the year of original enactment where a statute has been re-enacted by Parliament. A substantial amendment to a statute necessitating re-enactment most likely denotes a substantial alteration in government policy. It is also quite likely to be associated with an increase in the number of regulations made pursuant to the statute. It is significant, therefore, that of the 129 regulatory statutes

examined, 49 were enacted or re-enacted in the period after 1966. A major proportion of the statutes relating to the environment, health and safety, and information and fairness fall into this category.

Table 2 is a compilation of data on the regulations made pursuant to the 129 federal regulatory statutes. The data are incomplete, due in part to omissions in the Canada Gazette, Part II (particularly in the period prior to the new Statutory Instruments Act of 1971). Nonetheless, the rapid growth in regulations in recent years is immediately apparent from this Table. In the 10 years from 1965 to 1975, the stock of regulations under federal regulatory statutes has more than doubled.<sup>16</sup> In this period, there were large absolute increases in the number of regulations pertaining to the environment and transportation, and very large proportional increases in regulations relating to occupational health and safety, financial institutions, the environment, health and safety, and "framework" economic issues such as wage and price controls, competition policy, and foreign investment. It is interesting that regulations pertaining to the environment, transportation and agriculture account for almost two-thirds of the total number of regulations under federal regulatory statutes.

As for the number of pages of regulations under the 129 federal regulatory statutes listed, a preliminary estimate indicates that they have more than tripled between 1955 and 1978. Compared to the United States Federal Register, however, the number of pages of such regulations is small.<sup>17</sup>

While the data suggest that economic regulation by the Federal Government has grown substantially since the mid-1960s, it may be highly misleading to weight all regulations equally, as is done in Table 2. Some regulations are more costly and cumbersome than others. It is conceivable, for example, that the three regulations under the "framework" statutes in 1975 may have greater implications for the economy than the 153 regulations under transportation regulatory statutes. The data in Table 2 may also significantly underestimate or overestimate the extent to which federal regulatory activity has increased over time. In the pioneering work<sup>18</sup> which has been done in this area in the United States, the approach adopted is essentially to weight each regulation by its economic costs. Here costs refer both to the expenses incurred by the government in administering a regulation and the direct and indirect costs to the private sector and to the economy as a whole of complying with a regulation. While this methodology can provide some further insight into the scope and growth of government regulatory activity, it is important to recognize that the resulting measure is derived only from one side of the balance sheet. Benefits are ignored, and it is not



in any way an assessment of the overall desirability of government regulation in a particular area.

The initial examination of the outlays of federal departments and agencies on economic regulation suggests that this has indeed been one of the more rapidly growing areas of government activity. It appears, for example, that the number of persons involved in administering federal economic regulations has grown as a proportion of the total number of federal employees. This is a much more complex task than was expected, and many more months of work will be necessary before the Council will be able to offer satisfactory estimates of the costs of federal regulatory activity and the numbers of personnel involved.

The Council staff was unable, in the time available, even to begin work on estimating the growth and scope of economic regulation by provincial and local governments. Therefore, any comparative analysis with those jurisdictions is precluded. However, the Ontario Economic Council has recently published a study of government regulation in that province. The study points out that the overriding principle for the imposition of regulatory constraints is that the public interest takes precedence over private interests. The result of regulation is the creation of claims on resources, manifested by both direct and indirect costs. Examples of the former are the costs involved in running a regulatory agency or in complying with the regulations enacted. Examples of the latter include the limitation of freedom of choice and negotiating-information costs arising from the uncertainty of the regulatory process.

A comprehensive, but not exhaustive, inventory of Ontario regulatory institutions, including agencies, boards, commissions, advisory bodies and other public institutions was prepared for 1977. The total number is 292, but this figure excludes a further 21 "specific purpose" authorities.<sup>19</sup> This figure also ignores departmental structures of the provincial Government, and limits itself to ongoing, provincial bodies only, (as opposed to municipal and regional institutions and ad hoc bodies).

These institutions are divided into eight categories. The number of bodies contained in each is as follows:

A. Regulatory Bodies	36 (plus 21 boards and commissions to regulate specific products)
B. Licensing and Appeal Bodies	35
C. Professional Bodies	30
D. Compensation Bodies	9
E. Arbitral Bodies	20
F. Advisory Bodies	96
G. Research Bodies	9
H. Other Public Institutions	57

The plurality of the regulatory and licensing bodies, the major concern, deal with agriculture, and health and safety.

It should also be stressed that, as in the federal case, Ontario has well over 500 statutes currently in force. Comparing the number of statutory orders and regulations (i.e. number of new regulations, revisions or revocations) made in Ontario in selected years with that for the Federal Government, the results are as follows:

Number of Statutory Orders and Instruments  
(and the Number of Pages), 1965, 1970, 1975<sup>20</sup>

	<u>1965</u>	<u>1970</u>	<u>1975</u>
Ontario	355 ( 503)	556 ( 799)	1,049 (2,457)
Canada	565 (1,872)	540 (1,452)	846 (3,354)

Thus, there has been a more dramatic increase in the number of statutory orders and regulations published in these years by the Government of Ontario, than by the Federal Government. No strong conclusions should be drawn with respect to either federal or provincial governments, however, until more comprehensive and systematic research has been done. Using a common analytical framework, the Council proposes to conduct research designed to assess the growth and scope of regulation at all levels of government. The cooperation and assistance of federal, provincial and local governments will be needed.



TABLE 1

129 Federal Regulatory Statutes\* and Their Year  
of Original Enactment

TYPE OF STATUTE (number of statutes in category)	Year of Original Enactment						
	Pre- 1949	1949- 1955	1956- 1960	1961- 1965	1966- 1970	1971- 1975	1976- Aug./78
Agriculture (29)	21	3	-	-	2	2	1
Communications (5)	3	1	-	-	-	-	1
Cultural & Recreational (4)	2	-	-	-	-	1	1
Energy (7)	4	-	-	-	1	1	1
Environmental Protection (13)	4	1	1	-	2	5	-
Financial Institutions (12)	6	1	-	1	1	2	1
Fisheries (14)	8	4	-	-	1	-	1
Framework (5)	2	1	-	-	-	2	-
Health & Safety (11)	7	-	-	-	3	-	1
Information & Fairness (12)	8	1	-	-	2	1	-
Intellectual Property (4)	4	-	-	-	-	-	-
Occupational Health, Safety and Fairness (4)	3	-	-	-	-	1	-
Transportation (19)	12	2	-	1	2	1	1
<b>Total (139)**</b>	<b>84</b>	<b>14</b>	<b>1</b>	<b>2</b>	<b>14</b>	<b>16</b>	<b>8</b>

\* Federal statutes embodying economic regulation, i.e. intended to influence or modify economic behaviour in a significant sense.

\*\* A total of 129 statutes were classified as "regulatory". The total 139 reflects the multiple classification of some statutes, e.g. the Fisheries Act is classified under both "Environmental Protection" and "Fisheries".

Source: Compilation by E.C.C. staff from Statutes of Canada.

TABLE 2

The Number of Regulations in Existence by Type  
in 1955, 1965 and 1975  
for 129 Federal Regulatory Statutes\*

TYPE OF STATUTE (number of statutes in category)	YEAR		
	1955	1965	1975
Agriculture (29)	30	31	84
Communications (5)	1	13	18
Cultural & Recreational (4)	24	27	26
Energy (7)	2	6	13
Environmental Protection (13)	36	41	121
Financial Institutions (12)	1	3	17
Fisheries (14)	25	29	37
Framework (5)	1	1	4
Health & Safety (11)	6	7	23
Information & Fairness (12)	13	17	30
Intellectual Property (4)	-	-	-
Occupational Health, Safety & Fairness (4)	3	4	34
Transportation (19)	63	89	167
TOTAL (139)**	205	268	574

\* Federal statutes embodying economic regulation i.e. intended to influence or modify economic behaviour in a significant sense.

\*\* A total of 129 statutes were classified as "regulatory". The total 139 reflects the multiple classification of some statutes, e.g. the Fisheries Act is classified under both "Environmental Protection" and "Fisheries".

Source: Compiled by E.C.C. staff from the Canada Gazette, Part II, 1955, 1965, 1975.

NOTES

1. For the past several years, there has been a strong concern over the effectiveness, costs and benefits of regulation in the United States. For example, The Domestic Council Review Group on Regulatory Reform in its report to the President in January 1977 reached "three fundamental conclusions" about the U.S. federal regulatory system:

First, we believe that some regulations simply no longer make sense...;  
Second,...in areas where federal intervention is needed, much regulation has been ineffective or inefficient because the [regulatory] agencies have not been using appropriate tools...;  
Third,...far greater efforts are needed to determine the social and economic effects of regulation.

(The Challenge of Regulatory Reform, A Report to the President from the Domestic Council Review Group on Regulatory Reform, Washington, D.C., January 1977, p. 12) Little more than three months ago, the "exposure draft" of the American Bar Association's Commission on Law and the Economy (a group of experienced lawyers and economists) stated:

Regulatory activities at the federal, state, and local level have increased to the point where it is difficult to find any economic activity that is not now subject, in some form, to regulatory mandates or restraints. By 1977 there were some 85 federal agencies involved in regulating one aspect or another of our economic or social life; and of these, over one-fourth were created in the seven-year period from 1969 to 1975. A study prepared for the congressional Joint Economic Committee and published in April of 1978 analyzed expenditures on federal regulatory activities and concluded that the increase in annual direct federal expenditures from fiscal 1974 to fiscal 1979 was 115% - from \$2.2 billion to \$4.8 billion over a five-year period. In short, government by regulation, in pursuit of a variety of economic and social goals, increasingly controls, restrains and limits many of the productive elements of our society.

In addition to the ever increasing budgetary costs of the federal government, there are, of course

far greater costs of compliance including those costs that are caused by the uncertainties and delays attending the usual course of government regulation. The sum total of these added costs is built into the price of goods we buy and is inevitably a factor in the totality of forces which induce persisting inflation. There is a growing awareness of the burden that the cost of complying with regulatory requirements places on our citizens, both as consumers and as participants in economically productive activities.

(Federal Regulation: Roads to Reform, Report by the Commission on Law and the Economy, Washington, D.C., American Bar Association, August, 1978, p. 8) See also Government Regulatory Activity: Justifications, Processes, Impacts, and Alternatives, Report to the Congress by the Controller General of the United States, Washington, D.C., June 3, 1977.

2. Rafe Engle, as quoted in the Halifax Chronicle-Herald, 10 August 1977, p. 23.
3. "Parliamentary Reform: The Dangers and the Safeguards," Westminster Review, April 1860, as cited in the Preface to Herbert Spencer The Man versus The State (London: Watts & Co., 1940 (orig. 1884), p. xi).
4. Quoted in Canadian Business, May 1978, p. 46.
5. Richard Gwyn, Ottawa Journal, 19 September 1978, p. 7.
6. Financial Post, 30 April 1977, p. 16.
7. Winnipeg Free Press, 16 May 1978, p. 3.
8. Ottawa Journal, 5 May 1978, p. 11.
9. Toronto, Globe and Mail, 7 July 1978, p. 5.
10. Toronto, Star, 31 July 1978, p. A9.
11. John Porteous, Fredericton Daily Gleaner, 3 August 1978, p. 16.
12. See Ottawa Journal, 8 August 1978, p. 4, and Montreal Gazette, 8 August 1978, pp. 1, 5.
13. See A Report by the Second Tier Committee on Policies to Improve Canadian Competitiveness (Ottawa: Dept. of Industry, Trade and Commerce, October 1978), pp. 8-9.



14. The definition of a "regulation" is imprecise and confusing, but, very simply, it details a method to give effect to some of the provisions of a statute, or it details the practice or procedure to be followed by judicial or quasi-judicial bodies established by Acts of Parliament. Regulations are the most important statutory instrument. Others include orders, by-laws, proclamations, directives, and warrants. In 1975, of the total of 1,203 statutory instruments under the list of 129 regulatory statutes, 574 took the form of regulations.
  
15. In general terms, government regulation is comprised of rules designed to direct private-sector action. In fact, virtually everything governments do involves the prescription of rules. Economic regulation, in the Council's view, is the imposition of rules intended to modify economic behaviour significantly, which are backed up by the authority of the state. Such rules typically attempt to modify one or more of the following: price, entry, (e.g. franchises, permits, licences), rate of return, disclosure of information, attributes of a product or service (e.g. quality, purity, safety, availability), methods of production (e.g. pollution standards, worker health and safety standards), conditions of service, and discrimination in employment or the sale of goods and services. In the United States, the Domestic Council Review Group on Regulatory Reform defined federal regulation as "federal laws or rules imposing government established standards and significant economic responsibilities on individuals or organizations outside the federal establishment." They point out that while "almost everything government does requires the prescribing of rules," regulation as they perceive it "places substantial cost burdens on private sector organizations and individuals in addition to the taxes they pay." (The Challenge of Regulatory Reform, A Report to the President from the Domestic Council Review Group on Regulatory Reform, Washington, D.C., January 1977, p. 4). Regulation is only one of several means governments have to effect public policy. Others include taxation (including credits and exemptions), the direct provision of services, subsidies and transfers (i.e. direct financial assistance), procurement policies, and public ownership. It has been argued that these "instruments of government" are different from regulatory activity in at least three ways: their costs are identifiable, their economic effects are broadly predictable, and they are subject (perhaps with the exception of public ownership) to annual examination as part of the budget process. Although a government's costs of administering regulation are identifiable (although often with great difficulty), the direct and indirect costs borne by the private sector (shareholders, employees and consumers) usually are not.

16. The stock of regulations under the other federal statutes increased from 236 in 1955 to 323 in 1965, and to 681 in 1975. This increase closely parallels that for regulations under federal regulatory statutes.
17. "From 1971 to 1976 the pages in the Federal Register increased from 21,864 to 59,605". Cited in G. David Hughes, Paul Verkuil and Cameron Williams, "The Mounting Private Costs of Public Policy in Marketing", Marketing Science Institute Working Paper, Cambridge, Mass., May 1978, p. 2.
18. See, for example, Murray L. Weidenbaum and Robert De Fina, The Cost of Federal Regulation of Economic Activity (Washington, D.C.: American Enterprise Institute, May 1978).
19. Barry Bresner and Timothy Leigh-Bell, with J. R. S. Prichard, Michael J. Trebilcock and Leonard Waverman, "Ontario's Agencies, Boards, Commissions, Advisory Bodies and Other Public Institutions: An Inventory (1977)", in Ontario Economic Council, Government Regulation (Toronto, 1978) pp. 209-225.
20. From the Ontario Gazette, Part I, 1965, 1970, 1975 and the Canada Gazette, Part II, 1965, 1970, 1975.

## PART II

### OBJECTIVES OF GOVERNMENT REGULATORY ACTIVITIES

#### 1. INTRODUCTION

Government regulation is a form of social intervention or collective action. It aims at the substitution of commands and controls, of rights and duties, for the economic signals of the market place as a means of social and economic organization.

Canada is a pluralistic society with a democratic form of government. In such a society, the unfettered operation of economic markets offers numerous advantages. Efficiency in the production and distribution of goods and services (allocative efficiency) is promoted by means of price incentives. A competitive market system provides the information required to adjust the supplies of final products and factors of production (inputs) to conform to desired quantities and qualities at least-cost conditions. As allocative decisions are made in economic markets, the distribution of income is determined as well. Economic decision-making through competitive markets minimizes coercion as a basis of economic organization.<sup>1</sup>

The operation of markets may be, in some circumstances, a source of concern. The existence of market imperfections or failures may give rise to substantial inefficiencies; the operation of the market process may produce what is considered to be an undesirable distribution of income; or there may be other important public objectives which a free market cannot achieve. Under these circumstances, regulation may be seen as an attractive form of government intervention.

#### 2. EFFICIENCY CONSIDERATIONS: REMEDYING MARKET FAILURE

Market efficiency is concerned with the production and distribution of goods and services in such a way that the value of output to society is maximized. Market failure is said to occur when the operation of a market is flawed and where these imperfections lie within the structure of the market itself. The most common types of market failure are: (1) spill-over effects or externalities, (2) imperfect information, (3) natural monopoly and (4) "destructive" competition. Each of



these defects reduces the efficiency of the markets in question, and all have implications for the distribution of income.

Very often transactions made by two parties impose costs or confer benefits on third parties. The private market system is not structured to account for spill-over effects that affect the welfare of third parties. Inefficiencies are created when private costs do not reflect full social costs, or when private benefits do not reflect full social benefits. The result is that either too much or too little of the affected goods and services will be produced. The underlying cause of market failures of this type is the inability of markets to set a price on these external effects, which thus cannot be incorporated in economic decision-making.

Environmental pollution is a classic example of the type of market failure that results in spill-over effects. Air and water have been considered (until recently) "free" resources, and their price was not considered in making production decisions. As a result, excessive demands were placed on their use, and producers favoured technologies that conserved the utilization of higher-priced factors of production. Pollution-causing production was greater than it would have been had environmental costs been taken into account. Also the labour and capital resources engaged in pollution-causing production received higher returns than would have been the case if environmental (i.e. third party) costs had been met.<sup>2</sup> The problems in this area become more far-reaching and more complex when considering the likely effects of such decisions on future generations.

Markets operate efficiently only if buyers and sellers have adequate information.<sup>3</sup> The steady change of technology manifest in new products and production processes has greatly increased the amount of information required by individuals and firms for them to take into account variations in safety and quality. As a result, the supply of information will often be below the amount needed to make efficient decisions.<sup>4</sup> Where consumers and workers are familiar with products and job situations, experience can serve as a guide for decisions about prices for products and resources. In many cases, however, the information easily available is so inadequate that market decisions must be made in the face of considerable uncertainty. This is a particular problem for consumers and workers who very often lack the knowledge for adequate evaluation of products or the safety of working conditions. Even if information is made available, it may be highly technical and very difficult for the average consumer to assess. In the area of occupational health, it is almost impossible for workers and even firms to evaluate the risk of exposure to certain materials, particularly those which may cause disease many years after initial exposure<sup>5</sup>. Both

situations may justify government research, regulation and, in some cases, outright prohibition of the product or material.

A natural monopoly situation arises when the optimal scale of production is so large in relation to the size of the market that one firm can efficiently produce all the market demands.<sup>6</sup> From the point of view of market efficiency, society can benefit if a single firm is permitted to take advantage of the opportunities for lower production costs. The resulting market structure, however, is open to abuse, because a monopolist can exploit his position by raising prices and restricting output, and by engaging in discriminatory price behaviour. A monopolist with an assured rate of return also has less incentive to eliminate waste, to use his resources efficiently, and to encourage innovation. In this case, regulation represents an attempt to secure the advantages of size without the problems associated with monopoly power. Natural monopoly, often believed to exist in the electric power, gas, telephone, telegraph, and railway industries, has provided the basis for much "public utility" regulation.

It is also argued that there is justification for government intervention on the quite opposite grounds of "excessive" or "destructive" competition". The concern in this case is with market situations that are likely to produce a tendency towards unstable prices or uneconomically low prices. In most agricultural markets, for example, the supply of some products can adjust only very slowly to changes in demand, and prices are subject to wide fluctuations. Destructive competition is also alleged to arise in the case of industries, such as trucking, which in the absence of licensing, it is thought, would be characterized by relatively easy entry and chronic oversupply. It is important, though, that normal market adjustments in a dynamic market economy not be confused with destructive competition. Arguments for government regulation in cases of alleged destructive competition must therefore be examined with particular care.

### 3. REGULATION TO ACHIEVE "DISTRIBUTIVE JUSTICE"

Even if markets are efficient, there may be a reason for government intervention if the resulting income distribution is incompatible with accepted notions of equity. Regulation arises in this case because governments wish to influence the outcome of the market process and the incomes of particular groups. Many observers of government regulation have emphasized the importance of this objective. One writer's conclusion is



that: "It does not appear that the existing range of regulatory institutions can be explained solely as a response to failures in private markets. Instead, much of the regulation we observe tends to redistribute income to specific groups..."<sup>7</sup>

Natural monopolies, if unregulated, have the power to earn excess or monopoly profits. There are no market forces or developments (except perhaps in the very long run), such as the entry of new firms, that can provide the competition required to eliminate excess profits. Regulation is seen as a way to introduce the required system of checks on the profits and activities of the monopolist.<sup>8</sup> In the absence of regulation the monopolist, through higher prices, could redistribute income from consumers to his own benefit. The regulator seeks to set rates that allow the firm sufficient profits to attract the capital necessary to finance new and replacement investment, and also permit shareholders to receive a "fair" rate of return.<sup>9</sup>

A related source of concern arises in connection with the ability of some firms with market power to engage in discriminatory pricing.<sup>10</sup> Social norms of fairness may be violated when individuals are subject to different (discriminatory) treatment. Price discrimination, in effect, is a form of income redistribution resulting from the ability of a seller to separate consumers into different classes based on different intensities of preference (elasticity of demand). The regulatory authority often seeks to prevent "unjust discrimination" in the rate schedule of a regulated utility.

Regulation is used not just to prevent certain forms of pricing, but also to bring about what is considered to be a desirable rate structure. Cross-subsidization is a practice in which firms are permitted to earn excess profits in one market to subsidize operations in other markets where revenues do not cover costs.<sup>11</sup> Regulators regard cross-subsidization as a means of satisfying society's desire to extend a certain minimum level of service (or lower rates) to regions and groups of consumers that would otherwise receive poorer service (or pay higher prices). This type of activity has been referred to as "taxation by regulation".<sup>12</sup>

Government intervention may be aimed not at the consequences of market activity for consumers, but at the implications of economic developments for the well-being of producers. Regulation can be used to provide income support to individuals in their role as workers or employers. The income redistribution that results from a regulatory policy may reflect some generally recognized and accepted social goal such as assistance to low-income groups or support for economically-



disadvantaged regions or communities.<sup>13</sup> Regulation may also be employed to retard the rate of economic change and reduce the burden of adjustment that falls on particular groups in the process of change in a dynamic economy.<sup>14</sup> The objective of providing income support has been the subject of much attention by those attempting to explain the regulatory process; in practice, however, it is often difficult to disentangle it from efficiency and other objectives pursued through government regulation.

#### 4. OTHER REASONS FOR ECONOMIC REGULATION

Conditions pertaining to market efficiency and income distribution have been surveyed as grounds for regulatory intervention. A number of other factors have been cited as explanations for government regulations; some apply to all countries, and some are more directly applicable within the Canadian social and economic context.

Regulation may be introduced to reduce a nation's dependence on foreign sources of supply.<sup>15</sup> In the case of food supplies, principles of comparative advantage would suggest that efficiency considerations should lead to a degree of reliance on foreign producers who are more efficient in producing specific commodities. However, it is rare that any society would permit efficiency considerations alone to place it in a position of significant dependence for food and other necessities. A number of unforeseen contingencies, such as war or the formation of international cartel arrangements, may wipe out the benefits of market efficiency. The latter problem has been highlighted in recent years through the operations of OPEC.

In Canada, a prevailing concern is the promotion of some concept of national identity in the face of a variety of centrifugal forces in the country. Government regulation may be aimed at developing a national consciousness to counteract the strong pull from our neighbour to the south, and to overcome the particularist tendencies inherent in a society composed of numerous linguistic, ethnic and religious groups. Regulation has been used, for example, to restrict the use of materials of foreign origin in the national media by imposing "Canadian content" requirements. Such regulations will have consequences for the returns to producers and the distribution of income. A wide range of other government regulations have been used for national purposes. Regulations respecting foreign investment and foreign involvement in certain "key" sectors of the economy,

rules to contend with the problem of "extra-territoriality", and regulatory initiatives related to the establishment of a national transportation system all arise in part out of the Federal Government's concern with this issue.

The preliminary survey of federal and provincial regulatory statutes appears to indicate that: (i) a fairly high proportion of such statutes do not contain any statement regarding the objectives of the legislation, and (ii) where such statements do exist, objectives are put forward in very general terms, a number of often conflicting objectives being embraced in the same statute.

The frequent repetition of words referring not only to efficiency but also to considerations of fairness, continuous supplies at reasonably stable prices, harmonization and coordination, and a variety of other objectives, gives an indication of the nature of the goals and concerns that are perceived to warrant the substitution of some sort of administrative process (regulation) for the unfettered operation of market forces.

NOTES

1. See, for example C. L. Schultze, The Public Use of Private Interest, (Washington, D.C.: The Brookings Institution, 1977).
2. The opposite is true when the market failure provides a third party benefit.
3. See Schultze, op. cit., p. 36.
4. Market demand and price differentials for products and resources will not, in this situation, properly reflect differences that could be discerned from more adequate information.
5. The difficulty of risk evaluation limits the ability of liability laws to deal effectively with the situation. Uncertainties about the onus and degree of liability prevent firms from deciding on efficient degrees of safety and workers from placing a wage premium on occupational hazards. See Nicholas A. Ashford, Crisis in the Workplace: Occupational Disease and Injury (Cambridge Mass.: MIT Press, 1976); Roger Williams, Government Regulation of the Occupational and General Environments in the United Kingdom, The United States and Sweden (Ottawa: Science Council of Canada, Background Study No. 40, Supply and Services Canada, 1977).
6. See Richard A. Posner, "Natural Monopoly and Its Regulation", Stanford Law Review, Vol. 21, February 1969, pp. 548-643.
7. M. J. Trebilcock, et al., "Markets for Regulation," in Government Regulation: Issues and Alternatives, (Toronto, Ontario Economic Council, 1978), p. 35.
8. Many regulated firms, such as "common carriers", are required to provide service, without discrimination, to all within their service/market area who can pay for it at published tariff rates.
9. See Alfred E. Kahn, The Economics of Regulation: Principles and Institutions, Vol. 1 (New York: John Willey, 1970) Chapter 2.



10. One of the interesting effects of price discrimination is that it may result in an improvement in allocative efficiency over the case of a profit-maximizing but non-discriminating monopolist.
11. The regulated monopolist may, in fact, exercise his own preferences because either the existence of cross-subsidization is unknown to the regulatory agency or because the agency tacitly approves of the monopolist's behaviour and permits it to continue. In some cases, the monopolist adopts accounting procedures that make it virtually impossible for the regulatory agency to discover the extent and value of the cross-subsidization. The existence of cross-subsidization places a constraint on "deregulation" of the industries in question. Since some classes of consumers have been granted "entitlements" to services, it will be difficult to remove them without compensation. Deregulation with compensation, or re-regulation, implies a change in the mixture of public policies rather than a reduction. To the extent that the social goals that led to cross-subsidization remain valid, alternative means will be needed to attain them.
12. R. A. Posner, "Taxation by Regulation", Bell Journal of Economics and Management Science, Vol. 2, No. 1, Spring 1971, pp. 22-50.
13. Recently, Stigler and others have advanced an economic theory of regulation. This work has served to emphasize the importance, in explaining economic regulation, of the use of the political process by interest groups to redistribute income in their favour. Numerous case studies in the United States show that regulatory intervention has resulted in substantial benefits accruing to the regulated industry. See G.J. Stigler, The Citizen and the State: Essays on Regulation (Chicago; University of Chicago Press, 1975); G.J. Stigler, "The Theory of Economic Regulation", Bell Journal of Economics and Management Science, Vol. 2, No. 1, Spring 1971, pp. 3-21; and R.A. Posner, "Theories of Economic Regulation," Bell Journal of Economics and Management Science, Vol. 5, No. 2, Autumn 1974, pp. 335-358.
14. One study concludes that "A major effect of the administrative or regulatory process is to attenuate the rate at which market and technological forces impose changes on individual economic agents." Moreover, "it is rational for voters to prefer such a mechanism for avoiding risk to a laissez-faire market system, even at the cost of some

efficiency loss." See B. M. Owen and R. Braeutigam, The Regulation Game: Strategic Use of the Administrative Process (Cambridge, Mass., Ballinger Publishing Co., 1978), p. 1.

15. Japan and the United Kingdom cannot produce enough food for themselves because of high population density and limited arable land.

## PART III

### RESEARCH AGENDA OF THE REGULATION REFERENCE

#### 1. INTRODUCTION

The research studies to be undertaken are classified into two general types - framework studies and specific studies. The framework studies deal with important general issues relating to government regulation in terms of its nature, objectives, scope and processes. As the term implies, these studies are designed to provide frameworks of analysis and reference for the study of government regulation, and to highlight the importance of viewing economic regulation as one of a number of techniques that governments may employ to attain public policy objectives.

The specific studies, on the other hand, are designed to examine the processes, effectiveness, benefits, and costs of government regulation in greater detail by focusing on particular statutes (and their pursuant regulations), and on regulated industries, firms, and products. These studies will be of three types. Some will analyze regulation designed to affect conditions in a particular industry or with respect to a specific group of products or services (e.g. airline regulation). Others will focus on regulation designed to affect conditions in a broad range of industries or sectors in the economy (e.g. environmental regulation, and health, safety and fairness regulation). The third type of study is a mixture of the first two and will cover, for example, the full range of regulation affecting a specific product, industry sector, or sample of firms (e.g. the study of regulation by all levels of government in food processing, distribution and retailing).

The emphasis in the research agenda is, of necessity, on the specific studies. Canada does not have available the wealth of analyses of the impact of various types of government regulation and regulatory processes that exist in other countries. In addition, the terms of the Reference request studies that will provide practical guidelines for improving the process of government regulation in Canada in areas where it appears to be having a substantial economic impact. In the proposed research agenda, great emphasis has been placed on the need to develop recommendations for practical changes in public



policies on regulation. Consultation with governments and groups in the private sector indicated a general desire that specific studies receive the greater emphasis. For all these reasons, the Council will be undertaking research in only two framework areas and nine specific study areas as set out below. The studies will be made public as soon as possible after completion during the course of work on the Reference, and the great majority will be available to the Economic Council before April or May 1980, so that they can be fully taken into account in the Final Report at the end of 1980.

## 2. FRAMEWORK STUDIES

### (1) The Growth, Scope and Objectives of Government Regulation

There is current widespread concern about the rate of growth, effectiveness, cost-benefit relationships, and increased scope of government regulation in Canada. This Reference to the Council is one expression of that concern. There is a need for systematic examination of the growth of regulation and its objectives in both theory and practice. The following issues would be analyzed:

#### (a) The Growth and Changing Scope of Government Regulation in Canada

- It is extremely important to place the complex issues raised by the Reference on Government Regulation in an historical context. What useful measures of the growth of government regulation can be developed and analyzed? How has the Canadian "system" of economic regulation evolved? What factors have determined the demand for (and supply of) new regulatory initiatives?
- It is desirable to develop an understanding of the changing scope and nature of government regulation. It appears that much of the growth of regulation in the 1960s and 1970s has been in the area of the "new regulation", i.e. health, safety, fairness, environmental protection, and cultural regulation rather than in the more traditional "public utility" regulation. What are the characteristics of the newer types of regulation and what forces within society have accounted for their emergence and growth?
- It would be most useful if each province and the federal government would take responsibility for compiling an inventory and analysis of its regulatory statutes, pursuant regulations, regulatory agencies, etc., within a

common framework to be developed by the staff of the Council.

(b) The Objectives of Regulation: Theory and Practice

- It is important to inquire into the objectives of government regulation. A policy should be analyzed, in the first instance, in relation to the objectives it was designed to achieve. A knowledge of the objectives of government regulation is helpful in organizing and understanding a variety of phenomena associated with particular policies and assessing the effectiveness of regulation.
- The study would include a critical review of the various economic, legal and political theories (rationales) of government regulatory activity.
- The study would also review the stated objectives in major regulatory statutes and analyze whether these objectives are precisely and effectively defined. Is the "public interest" goal a sufficient statement of the objectives of the regulation? Is it possible and/or desirable to add or substitute more specific objectives and criteria to guide the regulators and regulatees?

(2) The Evaluation and Rationalization of Government Regulation

The purpose of these studies is to examine ways of improving the regulatory process by developing improved mechanisms for evaluating existing and new regulation, by developing approaches that different levels of government might consider in coordinating their regulatory activities, and by analyzing existing regulatory techniques in relation to alternative methods of achieving the objectives of regulation.

(a) The Evaluation of Regulation: The Potential for New Administrative Arrangements.

- To what extent could ex ante facto evaluation of proposed regulation(s) help in avoiding unnecessary regulation, increasing the benefits of regulation, and limiting its costs? This study would analyze existing procedures (e.g. the current procedures of federal and provincial governments relating to new regulations); the potential benefits and costs of such procedures as matters requiring

economic impact statements for new regulation (as in the United States); and the development of public review and comment systems for new regulations (such as the new federal program for health, safety and fairness regulations).

- The study would also review the potential role and effectiveness of central government agencies in monitoring government regulation, as well as the potential role of regulatory review by federal and provincial parliamentary committees.
- "Sunset laws" have been proposed as a technique for regulatory reform. What are the potential costs and benefits of procedures requiring the periodic reevaluation of regulatory statutes, regulations, and regulatory agencies? Is the Bank Act a generally applicable model?

(b) Rationalizing Regulatory Authority and Activities

- One of the principal concerns of First Ministers in requesting that the Council undertake this Reference was the extent of overlap of regulatory activities by different levels of government. Serious concern about this issue was also expressed in the private sector. This study will isolate selected areas where government regulation does involve overlap and/or duplication and will examine some particular cases to expose the problems and issues that arise in such situations and how they have been handled in the past. Only a small number of such cases will be analyzed, but some of the specific studies discussed below may also be relevant.
- An important aim of this study would be to develop general approaches to aid governments in coordinating their regulatory activities. Under what sort of conditions is overlap or duplication of regulatory activity likely to give rise to serious problems and costs? Is any overlap or duplication at all necessarily undesirable? What sort of coordination mechanisms could best be set up to deal with issues relating to overlap and duplication? These and related issues will be studied.

(c) Alternative Ways of Achieving Regulatory Objectives

- In some instances, government regulatory objectives can be achieved in a number of ways, either by employing different regulatory techniques or other non-regulatory techniques. Regulatory techniques would include:



statutory prohibitions or directions; controls over prices, entry or rates of return; mandatory standards of quality, performance, information, etc.; self-regulation under powers delegated by statute; etc.. Alternative techniques to regulation include: taxes and subsidies; government guidelines; voluntary self-regulation or voluntary setting of standards; competition policy to enhance the efficacy of market forces; provision of information by governments or public agencies; reliance on rights of private action for redress; public ownership; etc..

This study will attempt to set out the range of techniques available to governments, and to determine the considerations relevant to the selection of particular techniques in specific circumstances.

### 3. SPECIFIC STUDIES

It was necessary to be very selective in deciding on the specific studies to be undertaken. A comprehensive approach, designed to study the full range of government regulation and its effects was clearly not feasible, given the constraints of time and resources, including the availability of qualified researchers. The extensive process of consultation undertaken with respect to the research program (see Part IV) has played an important role in the selection of the studies. Nevertheless, the full range of important issues relating to government regulation cannot possibly be covered by the research program. Of course, for purposes of the Final Report, the Council will have available other research and analysis on government regulation being undertaken in Canada by governments and the private sector.

#### (1) The Costs of Compliance with Major Federal, Provincial and Local Government Economic Regulation

- It is frequently asserted that the growth of government has imposed a heavy burden on the private sector in meeting the costs of compliance. The focus of this study is the costs borne by business firms in response to regulatory initiatives of all levels of government. What measures might be developed to gauge the costs of regulation in the private sector?

- This study will also focus on the measurement of the private costs of compliance with an array of federal, provincial and local government regulations for a sample of firms of different sizes. The study will not be designed to measure either the total costs of various types of economic regulation or the private or social benefits.
- A methodology for measuring the private costs of regulation facing a sample of Canadian firms will have to be developed. This in itself represents a difficult task both from a conceptual and statistical viewpoint. A study of compliance costs currently being undertaken by Arthur Andersen & Co. in the U.S. for the Business Roundtable will be assessed to determine whether some aspects of the methodology used might be helpful in the development of measures of compliance costs suited to Canadian conditions.
- The feasibility of completing a successful Canadian study will depend on the willingness of Canadian firms to become involved by supplying the necessary data and information. The study will be based on a sample of small, medium and large firms in a number of industries in order to determine, among other things, the differential effects of various types of government regulation on firms of different sizes in different industries. The study will be based on a sample of firms but is unlikely to permit a reliable global estimate of the costs of compliance.

(2) The Evaluation of the Effects of Federal and Provincial Regulation in Particular Industries or Sectors

- The purpose of these studies will be to analyze both the social and private costs and benefits of the whole range of federal, provincial and local government regulation affecting a particular industry or sector. This study differs from that on the costs of compliance described above in that it will analyze both the benefits and costs of regulation (but where appropriate and feasible will use relevant results from study 1). Particular studies would seek to define and estimate the major impacts (in a variety of dimensions) of federal, provincial and local government regulation as they relate to the industry/sector. The studies would be expected to formulate practical recommendations for improving the regulatory process within these areas. At least two of the following three industries would probably be studied:

- the automobile industry;
  - food processing, distribution and retailing;
  - the pharmaceutical industry.
- In each case, the study would address the issues outlined by the Prime Minister in his letter to the Council of July 12, 1978 (see Appendix 1). As with the study on costs of compliance, a successful study in this area would require the cooperation of the relevant industry in supplying data and other types of information.

(3) Studies of Land Use and Building Codes Regulation

(a) The Evaluation of the Impact of Federal, Provincial and Local Government Land Use Regulation on the Cost of Housing and on Commercial and Industrial Property Development.

- Serious concern continues to be expressed in Canada over the relationship of the cost of housing and the development of commercial and industrial property to the numerous regulations (of the different levels of government) facing builders and developers during planning and construction. The purpose of this study is to attempt to estimate the impact of government regulation in the land use/zoning area, and its contribution to the cost of housing and property development in Canada. It will complement the work in the Report of the Federal/Provincial Task Force on the Supply and Price of Serviced Residential Land (April 1978).
- The study will recognize the very important social and economic objectives of regulation in this sector. In addition to estimating the impact of land-use regulation on housing costs and other types of property development, the study will also attempt to develop recommendations for improving and rationalizing these regulatory processes consistently with the public policy objectives of regulating housing and urban development.

(b) Exploratory Studies of the Economic Impact of Building (Construction) Codes as Regulatory Devices

- The purpose of these exploratory studies, based on a sample of jurisdictions, would be to estimate the economic impact of selected parts of building codes on construction costs and, if possible, on the costs of selected construction materials. In addition, the study would attempt to determine the economic consequences of the lack of standardization of building codes among jurisdictions.



(4) Telecommunications Regulation

The telecommunications sector will continue to experience rapid growth and technological change as Canada moves in the direction of an "information society". Telecommunications costs and availability of improved telecommunications services are of increasing importance to a growing number of firms and industries in Canada. Regulators are now facing important new issues generated by rapid technological change. For instance, is the traditional "natural monopoly" justification for regulation still valid, and will it continue to be, for those services of the telecommunications carriers that are now offered as regulated monopoly services? What are the implications of technological change for the provision of new services? What lessons, positive or negative, can be derived from regulatory experience abroad?

(a) Regulating Telecommunications in a Period of Technological Change

- This study (or studies) will focus on the impact of technological change on the scope and nature of regulation in the telecommunications sector. Has technological change shifted the natural monopoly boundaries in this sector? If so, what are the implications of this for regulation? Should further areas of telecommunications be opened up to competition? What would be the implications of this for the carriers, their existing suppliers, for prices and costs of services, new entrants, etc.? Recent regulatory issues in this sector have focused on these questions, e.g. attachment, interconnection, satellite transmission, vertical integration, competitive bidding by telephone companies, etc.. It will also be important to identify significant policy issues on the horizon which are being generated by current technological changes, such as fibre optics, new services to the home, the office of the future, the cashless society (electronic funds transfer), and so on.
- The study will also analyze broader policy issues in Canada in relation to other countries. How relevant are the telecommunications policies of foreign governments for Canada, e.g. those of the United States, Japan, Sweden, and the countries of the European Economic Community, including, for example, the use of "chosen instruments", subsidies, etc.? What are the implications of government regulation of telecommunications for industrial policies, and for the international competitiveness of the telecommunications sector in Canada and its ability to export? The study will attempt to analyze regulation within a broad policy framework, and to set out the practical implications for the sector of any regulatory reforms proposed.

(b) Productivity of Canadian Telephone Companies

- An important issue in the regulation of a natural monopoly relates to what the regulator can do to ensure that proper pressures or incentives are applied to the regulated firm(s) to ensure efficient performance. Can useful measures of productivity and other performance be developed for telephone companies and effectively employed by regulators? What sort of regulatory incentives might be built into the telecommunications regulation which would promote greater efficiency and better performance?

(5) Health/Safety/Fairness/Information Regulation

Regulation in these fields appears to be the area of most rapid growth in the 1960s and '70s. Questions are now being raised about the scope, efficiency and effectiveness of existing regulation in these areas. For example, are mandatory standards and mandatory provision of information (the most common form of regulation in these fields) necessarily the most efficient or effective way of achieving the regulatory objectives? Reviewing the situation in the United States, Charles L. Schultze, then Chairman of the Council of Economic Advisors, offered the following perspective:

The temptation to overregulate is great, and should be resisted. Quite apart from safety features, there are a host of product characteristics - performance, reliability, durability - which often depend upon highly technical factors. Consumer information about such characteristics, as it is usually acquired, is most often casual and imperfect, and in the case of durable goods cannot be acquired by repetitive trial and error. Market demand and product price differentials therefore do not reflect evaluations based on perfect information. If the mere existence of market imperfection is allowed to become the occasion for regulation, then we would have to regulate every characteristic of every durable product. But the benefits of potentially superior information which a regulator can bring to bear have to be balanced against the inability of monolithic regulatory judgments to match the diverse preferences of individuals and by the inevitable sluggishness with which regulators adapt to

changing circumstances. Where the potential harms from a product feature are great and where the technical difficulty of evaluating information is very high, then regulation may be the best alternative, despite its inefficiencies. But in all cases we should compare an imperfect market with an imperfect regulatory scheme, not with some ideal and omniscient abstraction. (Harper's, May 1977, p. 50)

These observations contain much food for thought and provide some questions that the studies will try to answer.

(a) Evaluating the Impact of Specific Statutes Concerned with Health/Safety/Fairness/Information Regulation

- These studies would follow the seven point framework set out in the Prime Minister's Reference of July 12th, i.e.: objectives; economic impact; responsibilities of different levels of government; analysis of processes and procedures relating to the regulations; an examination of alternative techniques of achieving the regulatory objectives; a determination of whether on balance the regulatory intervention is in the public interest; and the identification of opportunities to improve government regulation in the area. The studies would analyse the benefits and costs of the regulation in quantitative and qualitative terms. The following two federal statutes and their provincial counterparts would be studied within the above framework:

- Hazardous Products Act
- Consumer Packaging and Labelling Act

(b) Occupational Health and Safety Regulation

- In Canada, there has been growing concern over occupational health and safety issues, as evidenced by the Report of the Royal Commission on the Health and Safety of Workers in Mines (Toronto: Government of Ontario, 1976); the Rapport Final of the Comité d'étude sur la salubrité dans l'industrie de l'amiante (Quebec City: Government of Quebec, 1976); the creation of the Canadian Centre for Occupational Health and Safety; and the drawn-out conflict over the proposed omnibus occupational health and safety Bill in Ontario. But there has not yet been a comprehensive analysis of this area of regulation in Canada.



- Such a study would examine the effectiveness of government regulation of occupational health and safety; define the alternatives (e.g. from mandatory safety equipment to tax incentives and fines for poor health and safety performance); and evaluate the benefits and costs (and identify to whom they accrue) of recent legislative initiatives.
  
- Recent studies of legislation in this area in other countries have questioned whether the specific techniques of regulation employed produce results consistent with the objectives of the statutes. For example, some studies indicate that safety regulation has been ineffective in reducing injuries. Questions have been raised concerning the lack of incentives for compliance with such legislation and the use of standards, particularly when the standards are unrelated to the causes of the injury. Some argue that in other countries, particularly the United States, the impact of safety regulation on injury rates has been insignificant. Can more effective and less costly programs be developed for Canada?

(6) Transportation Regulation

Almost one-fifth of the Canadian GNP is generated by the transportation sector, which is extensively regulated. The Canadian Transport Commission regulates airlines (including some international aspects of their operations), almost the whole railway system, marine and inland water transport, interprovincial trucking (a power effectively delegated to the provinces), and commodity pipelines. The provinces, in varying degree, regulate for-hire trucking and passenger buses. There is widespread public ownership of transportation enterprises, e.g. Air Canada, Canadian National Railways, Pacific Western Airlines, NorOntair, Gray Coach, etc.. In this area, as in most others, there is a need to be selective and to coordinate the Council's work with that being done by other agencies and individuals.

(a) Competition in Transportation

- The Canadian Transport Commission, the Department of Transport, and the Bureau of Competition Policy in Consumer and Corporate Affairs Canada are jointly undertaking a series of studies of the various modes of transportation, centered around the questions:
  - What is the present state of competition and regulation in transportation?
  - Would increased competition improve efficiency?
  - Would changes in regulation improve efficiency?

Planned studies include trucking, air transport (domestic and international), deep-sea shipping, and rail transport.

- Each of the above studies will examine the regulatory framework, characteristics of the industry market structure, market conduct, and economic performance. Policy recommendations will be made and the studies are scheduled for completion by mid-1980.
- The Council has been assured that each of the planned studies will be completed and published early enough to contribute to the research in this area available to the Council for its Final Report at the end of 1980. Therefore, even though it is recognized that transportation regulation is an extremely important area, the amount of research to be undertaken by the Council will be more limited than it would have been had those studies not been under way. Indeed, the Council proposes to deal only with airline regulation for the time being.

(b) Airline Regulation in Canada: Impact and Alternatives

- This study will carefully assess the performance (in a variety of dimensions) of Canadian airlines and offer practical suggestions for changes in public policy or regulation that might improve performance. Performance measures would include, among others, fare levels, types and quality of service, fare structure (price discrimination, cross-subsidization), cost levels, productivity, and the rate of technological and organizational innovation. The study will deal separately with passenger and freight transportation.
- An essential part of the study will be an attempt to explain why the performance of Canadian airlines is better or worse than that of foreign airlines. Are differences due to geographic and demographic factors (population density), capital costs, labour costs, mandatory levels of service, and so on, or to the behaviour of the Canadian regulatory agency?
- Reforms in the regulation of commercial airlines by the Civil Aeronautics Board in the United States have been based largely on widespread dissatisfaction with the performance of the industry relative to its perceived potential. It appears that increased competition has had very desirable effects on performance. This study will include an analysis of the proposed and actual changes in the regulation of airlines in the United States to determine whether, having regard for the structure of the

industry and regulatory environment in Canada, that experience would be a useful model for regulatory reform in Canada.

(7) Environmental Protection Regulation

There is strong concern in Canada about both the effects of pollution on the environment, and the social and private costs of environmental protection regulation. The perceived trade-off between a cleaner environment and the economic costs of environmental protection regulation have become more apparent, in large part owing to studies and analyses carried out in the United States. Are the costs of environmental protection regulation in Canada as great as they appear to be in the United States? Are there better ways of regulating to attain the objectives of environmental protection at less cost? Are federal and provincial efforts to reduce environmental pollution effective?

(a) An Overview of the Nature, Extent, and Growth of Environmental Protection Regulation in Canada

- This study is designed to assess the present nature and scope of environmental protection regulation and the activities of the different levels of government. In addition, attempts will be made to identify areas which, in the near future, may become subject to environmental regulation or where existing regulations may be made more stringent.
- The Canadian approach to environmental protection regulation will be compared to the approaches of other countries, e.g. the United States, the United Kingdom, and West Germany, to determine what elements of their systems might be beneficial if introduced into Canada.
- Present regulatory techniques in Canada will be examined and compared to a number of alternatives, e.g. emission standards vs effluent charges, or pollution taxes, or tax incentives, or other types of subsidy for the use of abatement equipment.

(b) Assessing the Benefits and Costs of Federal, Provincial and Local Government Environmental Protection Regulation on Selected Industries.

- The studies of selected industries will attempt to assess the social benefits and costs of environmental protection as fully as possible. Distributional considerations will be important in trying to determine who gains and who loses as a result of environmental regulation.



- The industries likely to be studied are:
  - pulp and paper;
  - petroleum refining (and exploration);
  - non-ferrous metal mining and smelting;
  - coal (mining and as an energy source).

(8) Regulating Agricultural Production and Sale

- Agricultural product marketing boards have grown rapidly in the post-war period. In 1956, there were 30 such federal and provincial boards, and by 1977 their number had increased to 121 agencies regulating a variety of aspects of the marketing of a large number of agricultural products. The activities, objectives, and powers of these boards differ very widely, from simply attempting to facilitate the sale of specific agricultural commodities to supply-management schemes designed to administer prices.
- While a number of studies of marketing boards exist, particularly studies of the supply management type board, there is no systematic, comprehensive treatment of the growth, nature, scope, and economic impact of the different types of board. There is a need to assess the impact of different types of marketing board on such factors as supply and demand, prices, costs, farmer incomes, stability of markets/incomes, volume of imports and exports, quality of the product, technical efficiency in production and distribution, entry into the industry, and the rate of technological and organization change.
- The study proposed here would review the different types of marketing board, their objectives, activities, and powers. Other policies involving government intervention in the Canadian agricultural sector will be reviewed in order to place the role of marketing boards in a wider context. Several case studies of particular agricultural commodities will then be undertaken. The commodities will be chosen to give a representative sample of types of regulatory policies so as to permit comparative analyses. For example, what types of regulatory objectives and commodity and market characteristics are particularly well suited to various regulatory techniques? What sort of efficiency and distributional impacts do different types of regulation have, not only on the primary sector but also on processors, distributors and ultimate consumers? What improvements in current regulatory techniques should be considered, and what type of alternative regulatory techniques might or might not exist that would obtain the objectives of the regulation at less cost?

(9) The Impact of Government Regulation on Canada's Fishing Industries

Canada's fisheries are an important national resource and their regulation has been influenced by a variety of considerations, including the common property (resource conservation) aspects of fisheries, environmental considerations, and international relations. Both federal and provincial governments are involved in the regulation of fisheries; more recently, the establishment of the 200-mile limit has changed both the domestic and international scope of regulatory activities. With respect to inland fisheries, the performance of the Freshwater Fish Marketing Board has been questioned. The Council proposes to conduct a broadly based study of the regulation of both inland and offshore fisheries consistent with the framework outlined in the Prime Minister's letter of July 12 (see Appendix I).

## PART IV

### THE CONSULTATIVE PROCESS

#### 1. CONSULTATIONS TO DATE

In both the Communiqué following the meeting of First Ministers in February and the Prime Minister's letter containing this Reference, the Economic Council has been asked to consult with the provinces and the private sector on the work to be done on the Regulation Reference. The Prime Minister said, in his letter of July 12th: "During the course of your work, you will wish to consult extensively not only with the Federal-Provincial Consultative Committee that I understand will remain active at least for the term of the Council reference but also with individual federal and provincial government departments and agencies, and the private sector." The term "private sector" is understood to include businesses (and trade associations), trade unions, consumer groups, universities, and research institutes.

The consultative process, as noted in Part I, began with discussions between the Federal Government (represented by the Department of Consumer and Corporate Affairs) and the representatives of the provinces about the terms of reference for the Council's work. A number of drafts were distributed and revised. On June 28th, the first meeting of the Federal-Provincial Consultative Committee was held in Ottawa. On July 12th, the terms of reference, as approved by the provinces, were transmitted to the Council in the Prime Minister's letter.

Consultation with the private sector began immediately after the issue of the document "Possible Areas of Research: Economic Council of Canada Reference on Regulation" on July 20th. It was described as "a 'menu' of possible areas of research on regulation from which a series of specific research projects might be selected." Over 400 copies of this document were distributed to business firms, trade associations, provincial governments, federal departments, unions, academics, research institutes, and consumer groups. Comments were invited with a view to establishing a short list of projects to be incorporated into the Council's research plan.

Throughout July and August, the Chairman and the staff contacted (or were contacted by) a large number of individual business firms, trade associations, consumer groups,



professional organizations, academics, and labour organizations. All the meetings on the Regulation Reference are listed in Table 3.

On September 1st, a second draft entitled "Economic Council of Canada Reference on Regulation: Toward a Research Agenda" was issued. Over 1,000 copies of this document were distributed to members of the organizations listed in Tables 4 and 5. On September 13th, the second meeting of the Federal-Provincial Consultative Committee was held at which the provinces expressed their initial reaction to this second draft. Many perceptive and germane comments were received which assisted the Council in shortening the list of projects and modifying the thrust of some of the projects. On September 19th, members of the Economic Council reviewed the second draft and proposed a number of changes. At that time, an advisory subcommittee of the Council was established with particular responsibility for the Regulation Reference.

The Federal Interdepartmental Committee on Government Regulation met for the first time on September 25th. Both the Regulation Reference and the various regulatory review activities (in progress or planned) were discussed (see Part V). After that meeting and a second one on October 12th, the Council received many helpful suggestions from the more than 50 federal departments and regulatory agencies to which copies of the second draft of the research agenda had been sent.

During September and October other meetings were held with business representatives, the Consumers' Association of Canada, and the Canadian Federation of Independent Business (see Table 3). A meeting with representatives of the Canadian Labour Congress was held in early November. Through the initiatives of the Business Council on National Issues, the Canadian Manufacturers' Association and the Canadian Chamber of Commerce, members of the business community have formed a "Business Committee on Regulatory Reform". It is expected that this Committee will be active in communicating to the Council the views of business on the Regulation Reference and facilitating those areas of research requiring information from industry and individual firms.

## 2. THE CONSULTATIVE PROCESS IN THE FUTURE

The Council's ability to conduct research that will be most useful to governments in improving the effectiveness of regulation and/or reducing its cost will depend, in part, on the consultative process. During the remaining period of work on the Regulation Reference, the Council will be seeking through the consultative process:

- general comments and advice on the research program and its progress;
- specific comments and advice on particular studies and reports forming part of the program;
- cooperation in facilitating the work of the program by the supply of information and data needed for the research studies; and
- communication and discussion within the private sector and between the private and public sectors on the relevant issues of government regulation.

Although the precise format remains to be established, it may be useful to create specialized "Project Committees" for consultation with the Council staff and contract researchers. Such committees would comprise, where relevant, representatives of business firms; consumer groups; labour unions; federal, provincial and local governments; or other groups interested in a specific research project or several related projects. The Council is aware of the cost of extensive consultation that must be met by itself and groups in the private sector. By keeping the consultative process flexible, the Council will be able to ensure that the process will be acceptable to most participants.

The research studies conducted under the Regulation Reference will be distributed to interested parties as soon as they become available in draft form (subject to the usual quality requirements). Comments will be invited to permit researchers to benefit from the knowledge and views of a larger number of persons interested in a specific project. These, of course, will also be available to members of the Economic Council as they consider both the Interim and Final Reports. It is hoped that all the current and proposed activities described above will maximize the benefits arising from the extensive consultative process requested in the terms of the Reference.

TABLE 3

CONSULTATIVE MEETINGS ON THE REGULATION REFERENCE

<u>Date</u>	<u>Group/Association/Individual</u>
June 28, 1978	- Federal-Provincial Consultative Committee
August 2, 1978	- The Response Group (representing about 20 companies)
August 3, 1978	- Canadian Manufacturers' Association
August 11, 1978	- Business Council on National Issues
August 15, 1978	- Public Affairs International
August 28, 1978	- Business Association Interchange (representing 21 trade associations)
September 4, 1978	- Bell Canada
September 8, 1978	- Consumers' Association of Canada
September 12, 1978	- Chairman, Regulated Industries Program, Consumers' Association of Canada
September 13, 1978	- Canadian Bankers' Association
September 19, 1978	- Federal-Provincial Consultative Committee
September 22, 1978	- Economic Council of Canada
September 25, 1978	- Council of Maritime Premiers (staff member)
September 27, 1978	- Federal Interdepartmental Committee on Government Regulation
September 28, 1978	- Standards Council of Canada
September 29, 1978	- Law Reform Commission
October 2, 1978 (Washington, D.C.)	- Trans-Canada Telephone System
October 3, 1978 (Washington, D.C.)	- Civil Aeronautics Board
October 5, 1978	- Council of Wage and Price Stability
October 6, 1978	- National Highway Traffic Safety Administration
October 10, 1978	- American Enterprise Institute
October 16, 1978	- U.S. Environmental Protection Agency
November 2, 1978	- Public Interest Economics Foundation
	- Congressional Budget Office
	- Brookings Institution and Resources for the Future
	- Office of Management and Budget
	- Business Roundtable (U.S.)
	- Richard Simpson Associates
	- Justice Department (Anti-Trust Division)
	- Council of Economic Advisors
	- National Transportation Policy Study Commission
	- Canadian Pacific
	- Public Affairs International
	- Federal Interdepartmental Committee on Government Regulation
	- Consumers' Association of Canada
	- Business Committee on Regulatory Reform
	- Canadian Federation of Independent Business
	- Canadian Labour Congress



TABLE 4

ASSOCIATIONS, BUSINESSES AND INSTITUTIONS CONTACTED<sup>\*</sup>  
IN RELATION TO THE REGULATION REFERENCE

- Agricultural Institute of Canada
- Air Transport Association of Canada
- American Enterprise Institute
- Association of Consulting Engineers of Canada
- Bell Canada
- Brewers Association of Canada
- Bureau of Management Consulting, Dept. of Supply and Services
- Business Association Interchange
- Business Council on National Issues
- Business Roundtable (U.S.)
- Canada West Foundation
- Canadian Aeronautics and Space Institute
- Canadian Agricultural Chemicals Association
- Canadian Association of Broadcasters
- Canadian Bankers' Association
- Canadian Bar Association
- Canadian Broadcasting League
- Canadian Cable Television Association
- Canadian Chamber of Shipping
- Canadian Chemical Producers' Association
- Canadian Conference of Teamsters
- Canadian Construction Association
- Canadian Co-operative Credit Society Ltd.
- Canadian Council on Social Development
- Canadian Council on Urban and Regional Research
- Canadian Federation of Agriculture
- Canadian Federation of Independent Business
- Canadian Feed Manufacturers Association
- Canadian Food Processor Association
- Canadian Forestry Association
- Canadian Gas Association
- Canadian Grocery Bag Manufacturers Association
- Canadian Hardwood Plywood Association
- Canadian Home Economics Association
- Canadian Home Manufacturers Association
- Canadian Horticultural Council
- Canadian Institute of Chartered Accountants
- Canadian Institute of Food Science and Technology
- Canadian Institute of Planners
- Canadian Institute of Timber Construction
- Canadian Labour Congress
- Canadian Lumbermen's Association
- Canadian Manufacturers' Association
- Canadian Manufacturers of Chemical Specialties Association
- Canadian Medical Association
- Canadian National Millers' Assoc.
- Canadian Nuclear Association
- Canadian Nurses Association
- Canadian Ophthalmological Society
- Canadian Pacific
- Canadian Psychiatric Association
- Canadian Public Health Assoc.
- Canadian Restaurant and Food Services Association
- Canadian Roofing Contractors Association
- Canadian Seed Growers' Association
- Canadian Shipbuilding and Ship Repairing Association
- Canadian Society for Chemical Engineering
- Canadian Society of Radiological Technicians
- Canadian Standards Association
- Canadian Telecommunications Carriers Association
- Canadian Trucking Association
- Canadian Union of Public Employees
- Canadian Veterinary Medical Association
- Canadian Wood Council
- C.D. Howe Research Institute
- Centrale de l'enseignement du Québec
- Chemical Institute of Canada
- Conseil du Patronat du Québec
- Consumers' Association of Canada
- Dairy Farmers of Canada
- Dominion Marine Association
- Electrical Contractors Association of Ottawa
- Grocery Products Manufacturers of Canada
- Industrial Accident Prevention Association
- Industrial Developers Association of Canada
- Institute for Research on Public Policy
- Machinery and Equipment Manufacturers' Association of Canada
- Meat Packers' Council of Canada
- The Mining Association of Canada
- National Council of Canadian Labour
- National Dairy Council of Canada
- National Transportation Policy Study Commission, Washington, D.C.
- Ontario Economic Council
- Ontario Public Service Employees Union
- Petroleum Association for Conservation of the Canadian Environment
- Professional Institute of the Public Service of Canada
- Proprietary Association of Canada
- Response Group
- Roads and Transportation Association of Canada
- Travel Industry Association of Canada
- Voluntary Planning Board Halifax, N.S.

<sup>\*</sup> Copies of the document "Economic Council of Canada Reference on Regulation: Toward a Research Agenda" (Sept. 1, 1978) were sent out and comments were requested.

TABLE 5  
UNIVERSITIES CONTACTED\* IN RELATION TO  
THE REGULATION REFERENCE

	Business/ Admin. Studies	Economics	Law	Political Science	Public Admin.
Acadia University	x	x		x	
Athabasca University	x				
University of Alberta	x	x	x	x	
Bishop's University	x	x		x	
Brandon University		x		x	
University of British Columbia	x	x	x	x	
Brock University	x	x		x	
University of Calgary	x	x	x	x	
Carleton University	x	x	x	x	x
Concordia University	x	x		x	
Dalhousie University	x	x	x	x	x
University of Guelph		x		x	
Lakehead University	x	x		x	
Laurentian University	x	x		x	
Université Laval	x	x	x	x	
University of Lethbridge	x	x		x	
University of Manitoba	x	x	x	x	
McGill University	x	x	x	x	
McMaster University	x	x		x	
Memorial University	x	x		x	
Université de Moncton	x	x		x	
Université de Montréal	x	x	x	x	
Mount Allison University	x	x		x	
Mt. Saint Vincent University	x	x		x	
University of New Brunswick	x	x	x	x	
University of Ottawa	x	x	x	x	
University of P.E.I.	x	x		x	
Université du Québec				x	
Queen's University	x	x	x	x	x
University of Regina	x	x		x	
St. Francis Xavier University	x	x		x	
Saint Mary's University	x	x		x	
University of Saskatchewan	x	x	x	x	
Université de Sherbrooke	x	x	x		
Simon Fraser University	x	x		x	
University of Toronto	x	x	x	x	
Trent University		x		x	
University of Victoria		x	x	x	x
University of Waterloo		x		x	
University of Western Ontario	x	x	x	x	
Wilfrid Laurier University	x	x		x	
University of Windsor	x	x	x	x	
University of Winnipeg	x	x		x	
York University	x	x	x	x	x
TOTAL	38	42	19	42	5
Total No. of Universities:	44				

\*Copies of the document "Economic Council of Canada Reference on Regulation: Toward a Research Agenda" (Sept. 1, 1978) were sent to the Chairman/Head/Dean with a request to circulate it to faculty members. Faculty were requested to send in brief proposals for possible research projects.

## PART V

### REGULATORY REVIEW ACTIVITIES OF THE PROVINCIAL AND FEDERAL GOVERNMENTS

The summaries that follow represent material submitted by each Province and by Federal Government departments on their respective current and planned regulatory activities. Submissions are listed alphabetically.

#### THE PROVINCES

##### ALBERTA

There have been two reports by select committees of the Alberta Legislative Assembly which have dealt with regulation. They were:

- a) The Report of the Select Committee of the Legislative Assembly on Professions and Occupations, 1973, and
- b) Report of the Select Committee of the Legislative Assembly on Regulations, November, 1974.

In addition, the Honourable Graham Harle, Minister of Consumer and Corporate Affairs issued a ministerial statement in the Legislative Assembly on May 1, 1978. This statement accepts certain recommendations of the Select Committee on Regulations and rejects others. It also directs the Legislative Counsel Office to prepare an adequate consolidation and revision of all Alberta regulations.

Regarding further activities, Alberta has a considerable interest in the regulatory climate in Canada and supports efforts to reduce or eliminate unnecessary regulation of the business community. In particular we are concerned about the hardships that unreasonable regulation places on the small business community. We reaffirm our concurrence to the position expressed in the communique of the Premier's conference held in Regina in August 1978, that there be "immediate action to lessen government red tape and regulations which have had negative impacts on the economy of the country and on the daily lives of Canadians." The Premiers "agreed that action should not be dependent upon lengthy studies of the type referred to the Economic Council of Canada."



Alberta will be considering such steps and alternatives internally to ensure that the business climate in the province will be conducive to continued emphasis on the role of the private sector in attempting to achieve the economic development of Alberta. In the ensuing weeks we expect to have a process in place.

## BRITISH COLUMBIA

British Columbia is beginning its review of government regulation by undertaking an inventory of provincial government agencies and departmental branches that fill a regulatory function. This inventory, to be carried out by questionnaires and interviews, will describe the funding, source of authority, accountability, functions, rules, and procedure for publishing decisions of about fifty agencies and branches. It is also proposed to examine the potential value of requiring economic impact statements before implementation of selected forms of regulation. Consideration is now being given to the most appropriate form of review for those occupational groups to which powers of self-regulation have been delegated by provincial law.

Plans to simplify and codify the existing complex of corporate and commercial legislation are also underway.

In addition to these general studies the Province is proceeding with a thorough examination of one agency, the British Columbia Motor Carrier Commission. This study will not only look at the legal procedures and administrative practices of the Commission, which regulates trucking within the province, but will also attempt to assess the economic impact of regulation on truckers and shippers.

## MANITOBA

### Background

The new Manitoba government, which took office October 24, 1977, has indicated that one of its primary objectives will be to rationalize public services in the province, increase their efficiency, improve accountability, and minimize intervention in the private sector.

Among the new government's first initiatives was the appointment of a special task force on government organization and economy composed of private and public sector representatives. The task force reported in the spring of 1978 on a broad

range of concerns with respect to the role of government, its effectiveness and growth in recent years, and options for improving efficiency through program modifications and revised organizational structures. The government has since acted upon a number of the task force recommendations.

At the First Ministers' Conference on the economy in February, 1978, Premier Lyon introduced a general discussion of government regulation and suggested a special follow-up study - a suggestion which led to the regulation reference to the Economic Council. In his statement to the February Conference, the Premier emphasized that a simple and obvious initial step in curtailing the proliferation of new regulation would be for governments at all levels to impose effective expenditure restraint. Subsequently, Manitoba introduced expenditure estimates for the 1978/79 fiscal year with a growth rate of under 3 per cent - the lowest rate of increase anticipated by any senior government in Canada for the current year. In addition, the government introduced a series of tax reductions, including a number aimed at not only lowering tax burdens but also reducing reporting burdens for individual and corporate taxpayers and lessening administrative requirements at the provincial level. These reductions included the elimination of the province's mineral acreage tax, the elimination of the succession duty and gift tax, and a substantial increase in exemptions under the corporate capital tax to end tax liabilities for an estimated 70 per cent of small businesses.

#### Recent developments and current plans

Several departments within the Manitoba government, including Agriculture, Consumer and Corporate Affairs, Labour and Manpower, and Mines, Natural Resources and the Environment, are in the process of reviewing and streamlining their regulatory activities.

These reviews, which have already led to a number of modifications, such as changes designed to reduce the reporting burden in the mineral exploration field, are being coordinated with work under way in other provinces, at the federal level, and in the Economic Council through a special provincial working group, including representatives from the Premier's office and the Department of Finance. The Provincial Working Group on government regulation will provide liaison with the Council's study and is also expected to be involved in several priority tasks in the coming months:

(A) The preparation of an overall review of current regulations and regulatory activity in the provincial public sector,

within a common framework to be developed in cooperation with the Economic Council and other provinces.

- (B) A review of current procedures for the preparation of regulations and for assessing their impact prior to and subsequent to promulgation.
- (C) A compilation of recommendations concerning methods for improving existing procedures, including options for ensuring more public input and consultation. In conjunction with work by the Economic Council, special attention would be directed toward evaluating the implications of 'sunset clauses' and mandatory budgetary economic impact analysis.
- (D) A review of various licensing procedures as well as the 'paper burden' facing individuals and businesses in Manitoba, to simplify, and, wherever possible, minimize government reporting requirements.

Specific input to the working group will be provided by the Province's Registrar of Regulations and by the Office of Legislative Counsel which in past years has provided technical support for the work of the Legislative Committee on Statutory Regulations and Orders.

With respect to the provision of improved information to taxpayers, the Manitoba government has, for some time, operated a centralized citizens' inquiry service designed to expedite general information requests. Recently, an agreement was reached between the federal and provincial governments under which the provincial inquiry service would also handle certain information requests with respect to federal government programming.

#### NEW BRUNSWICK

The matter of regulatory reform in the Province of New Brunswick is going forward in two major and one ancillary thrusts. They are as follows:

1. The Premier of the Province of New Brunswick has initiated the first thrust. Even prior to the First Ministers' Conference of February, 1978, Premier R. B. Hatfield had, publicly and privately, directed that both statutes and regulations were to be scrutinized closely with a view to decreasing their number and content. This was an action motivated by a genuine concern for the proliferation of legislation of both types, and of the apprehended consequent effects of over-regulation. As a result of his direction, the Legislative Drafting Section of the Law Reform Division



of the Department of Justice in New Brunswick is making a critical appraisal of existing and anticipated regulations, with the objectives of streamlining and in some cases suggesting elimination of existing and new secondary legislation. As all regulations come to the Legislative Drafting Section for review, comment as to form and translation from English to French, the problem of being unaware of anticipated regulations is almost non-existent.

2. The second thrust in the Province of New Brunswick in connection with regulatory reform consists of a project undertaken by the Law Reform Division entitled, perhaps predictably, the "Regulations Project". Basically, the project comprises the consolidation, the revision where deemed necessary, and the translation from English into French of all regulations promulgated in New Brunswick from and including the last revision done in 1963. The Province being officially a bilingual one, it has become imperative that the English-only regulations be translated. That requirement has provided the opportunity of culling and rewriting existing regulations at the same time. The project formally started in 1977 and looks to a completion date in the 1979-80 time era. As the Regulations Project is primarily of internal origin and carriage, there are no published and anticipated papers relating to it.
3. The ancillary thrust to those outlined in paragraphs numbered 1 and 2 ante is one embodied in another Law Reform Division project entitled the "Administrative Tribunals Project". When instituted in November, 1976, its primary purpose was expressed as being a review of, particularly, the procedures of selected agencies (the rules under which they operate and how those rules are applied) as well as the reviewability of their decisions by courts or other appellate bodies. Also under review would be the broader operational aspects of the agencies selected. The purpose in so studying such questions was to determine the extent of need for administrative reform in New Brunswick. Because of the large part played by regulations in the operations carried on by many administrative tribunals, boards and commissions, the project will now be taking into account the effect of regulations upon the work of the agencies. Out of this consideration may come recommendations in relation to the type, quality and number of the regulations which affect such agencies.

An additional item planned for future consideration by the Law Reform Division of the Province of New Brunswick is a review of the Province's Regulations Act, being R.S.N.B. 1973, chapter R-7. It is felt that there may be some areas of that piece of legislation which are uncertain in their interpretation and applicability to existing situations pertaining to

regulations generally. It is accordingly possible that Act may be taken under review and recommendations made thereon for possible legislative reform. This would fall within the direct purview of the Division's work of law reform.

#### NEWFOUNDLAND

Provincial legislation introduced in 1977 provides for a central registry and publication of regulations of a legislative nature, and for better dissemination of information concerning these regulations. Consolidation of all existing regulations with a view to determining the need for revision, amendment or repeal, is currently underway within the Department of Justice.

The Provincial Committee system of Cabinet which has been in operation for some time, provides for an opportunity for review and examination of all submissions made to Cabinet. During this review process, questions of regulation and duplication of regulation are examined along with other implications contained in a submission.

We have recently initiated a preliminary review of problem areas of government regulation. All government departments have been contacted, requesting their comments. Similarly, we will shortly be approaching a number of businesses and community organizations, such as the Board of Trade, etc., seeking their input and comments.

#### NOVA SCOTIA

The Government of Nova Scotia first indicated its commitment to regulatory reform in a position paper at the conference of First Ministers in February 1978. In particular, the position paper outlined the Government's concern that the process of setting and changing regulations has become too far removed from legislative control and suggested steps which might be taken to reverse the trend. Since February, this commitment has been reaffirmed with particular reference to the impact of regulation on small business in the speech from the Throne opening the 1978 Spring Session of the Nova Scotia Legislature.

"My government's policy is to clear the way for local enterprise by improving the co-ordination of government agencies which regulate business or which provide assistance or incentives to investment and to make every effort to reduce the time consuming requirements of government. An intensive effort will

be made to reduce and simplify the forms, questionnaires and approval procedures faced by small businessman seeking guidance or assistance".

The movement toward regulatory reform is not a new thing in Nova Scotia. Various actions have been taken in recent years in recognition of the complexity of the regulatory environment, with a view to ensuring that new and existing regulations are made sufficiently clear to the public and to minimize overlap, contradictory regulations, and over-regulation. Specific examples of such actions follow:

- 1) The government of Nova Scotia has established a Registrar of Regulations who is responsible for maintaining an up-to-date catalogue of all Provincial regulations and receiving complaints, problems, and queries concerning regulations. The Registrar of Regulations has compiled a list of regulatory issues which are causing the greatest concern to industry and the public. Most of the issues noted have proved to be of relatively minor concern or of concern only to small interest groups (motorcycle helmet regulations, hunting seasons). The important exception is planning and land use regulation which is further discussed below.
- 2) Prior to mid-1977 regulations were published on an annual basis. Since mid-1977 this has been changed to bi-monthly.
- 3) Also in the Throne Speech of Spring 1978, the Voluntary Planning Board was asked to undertake a review of those government regulations which constrain small business with a view to recommending improvements. (The Voluntary Planning Board is a broadly based group of representatives from all segments of the private sector). The general findings of the Board's review which was completed in June of this year was that "although there are areas of some general complaint, there do not appear to be any major negative areas which, if corrected, might result in an appreciable overall business improvement." The Board, nonetheless, went on to recommend specific actions which would serve to effect improvements and these have been received by Government.
- 4) The Department of Municipal Affairs recently published a position paper prepared by the Joint Department of Municipal Affairs and Union of Nova Scotia Municipalities Task Force on Municipal Reform. Among the great variety of topics covered in that document, four are pertinent to the issue of regulatory reform.
  - a) Actions have been taken to eliminate certain municipal taxes which are inequitable or difficult to regulate.



- b) The Provincial Government has assumed full responsibility for assessment, the principal purpose being to ensure uniform assessment throughout the province.
  - c) The main task which is being undertaken is the radical reform of the inequitable and excessively regulated municipal grant system.
  - d) The Task Force has also agreed on the need to update and consolidate municipal legislation including the review and in some case repeal of many local acts.
- 5) The most frequently cited regulatory problem concerns land use and subdivision. One of the principal actions which is proposed is to address the problem in a comprehensive review of the Nova Scotia Planning Act scheduled for the Fall of 1978.
- 6) Further action in the area of land use regulation is being taken by the Deputy Ministers' Committee on Land Use. The Committee has formed a number of "Issue Groups" which are charged with reviewing policies and regulations affecting land use. Among those of particular pertinence are:
- a) Aggregates (sand and gravel). This group has submitted a report recommending regulatory guidelines including provisions that municipalities be discouraged from adopting regulations concerning operations, an area where relatively sophisticated administration and uniformity are of particular importance and which, therefore, is properly a Provincial responsibility.
  - b) Watershed Management. Among other things this group has extensively explored the problems which flow from regulation of use of and activity on private lands which fall in watersheds.
  - c) Land Development Standards. This group has dealt with various problems including that of co-ordinating the regulatory activities of the Departments of Highways, Municipal Affairs, Public Health, and Environment, and that of bringing regulations to bear earlier in the development process so as to avoid undue commitment by developers prior to approvals being received. Additionally, revisions to both Highways and Public Health regulations have been drafted and brought before the group for review.
- 7) The problem of regulation of the trucking industry has also received attention. The Nova Scotia Public Utilities Board is co-operating with the Canadian Conference of Motor Transport Administrators in attempting to achieve

reciprocity of regulation concerning interprovincial truck movement with particular reference to weight limits, bills of lading, licencing, fuel taxes, and maximum vehicle dimensions.

## ONTARIO

The Ontario Government is fully committed to the principle of regulatory reform in the broadest sense in order to reduce as far as possible the complexity of statutes, regulations, directives, and administrative practices. Particular attention is being given to those areas where simplification of government requirements can assist in reducing the cost of compliance both in financial and human terms.

In order to give evidence of this commitment to improving the regulatory process and the service which government can provide to the public, Cabinet, in May 1978, instructed each ministry to develop detailed implementation plans with target dates and appropriate follow up mechanisms; agreed to develop a public consultation process; appointed a full-time co-ordinator in the Cabinet Office to oversee and expedite the project.

Considerable progress has been made by the individual ministries in identifying areas where regulatory reform might take place and improvements might be made in service to the public. Action is being taken in each case to implement these as quickly as possible. Some examples of these endeavours are listed at the conclusion of this report.

In March, 1978, Cabinet appointed an Agency Review Committee, under the chairmanship of the Honourable D. Wiseman, Minister without Portfolio. This committee was given a mandate to review the need for all provincial agencies and to recommend where it would be advantageous:

- a) the transfer of the functions of an agency to a ministry, thus eliminating the agency;
- b) the merging of two or more agencies with the retention of the functions for which they are responsible;
- c) the elimination of an agency and the functions for which it is responsible.

In addition the committee was asked to recommend an appropriate process to ensure that new agencies are established only when that particular form of organization is necessary. It is anticipated that this committee will be in a position to report its findings by the end of 1978.

The Ontario Economic Council in July 1978 commissioned three external and two in-house studies relating to the regulatory process. The external studies are:

1. Crown Corporations in Ontario (three parts)
  - i) Issues of Institutional Design and Accountability
  - ii) A Positive Theory of Public Enterprise
  - iii) Organizational Goals and Performance in Public Enterprise
2. Economic Analysis of Social Regulation in Ontario
3. A Study of Municipal Licensing

The two in-house studies are:

1. Regulation of the Life Insurance Market
2. Regulation of the Securities Industry

In order to provide focus for the government-wide implementation program, Cabinet directed its Associate Secretary charged with the responsibility for co-ordinating this project to prepare specific "target of opportunity" areas where concentration might be focused, at least during the initial phases. It is anticipated that these special target areas will be determined during the next few weeks and that mechanisms will be established to provide the incentive and the opportunity for streamlining the approval process to allow them to be implemented as quickly as possible.

#### Examples of Action being taken within the Ontario Government to Improve the Regulatory Process and Service to the Public

The following list is provided solely to illustrate the extent and nature of efforts being made to approach this issue. Because each ministry and agency is involved in this type of activity, no attempt has been made here to record an exhaustive list of every action. Instead, it is hoped that these examples will identify the breadth of scope involved in approaching an exercise of this nature.

#### Purpose of Regulation

With respect to general government regulation, in addition to specific reviews in each ministry, attention is being given to the overall philosophy to ensure that legislation reflects the true purpose for which it was created initially.



### Economic Impact

Mechanisms are being established, initially through the efforts of the ministries in the Resources Policy Field, to ensure that the economic impact of any new or changed regulation is appropriately assessed before approval is given for implementation.

### Public Access

With a view to improving public access to government, a co-ordinated analysis is being made of current communicative techniques, including use of telephones, publications, resource people and material, in recognition of the massive shift in recent years from "paper based" to "verbal based" communication. A communications co-ordinator is being appointed in the Premier's Office to enhance this project, since it affects every government ministry and agency.

### Staff Training

Realizing that change is primarily dependent upon the attitudes of the people involved, proposals are being developed in specific areas such as staff training and information sharing. It has been recognized that development of an informed and well trained Public Service is an essential feature of this project.

### Public Consultation

Attention is being given to the review process of government legislation and to the provision for adequate public involvement during the preparatory stages. For example, in the area of Community and Social Services, administrative reorganization has taken place to bring together all services for children and the standards by which these services are to be provided are being developed in full consultation with the public sector.

### Paper Burden

Efforts are being made in every ministry to reduce the paper burden. Treasury, for example, has eliminated complex calculations for 50,000 small businesses by introducing a straight tax rate and has eliminated the need for some surveys and filing of information which duplicated the Federal Census. The Ministry of Government Services, in this regard, has established a formal review of "capital" forms presently in use

within government. Extensive further changes are anticipated throughout the government service as each ministry identifies and implements ways to reduce the paper burden.

#### Land Use and Development

Because of the interest of so many ministries in the area of land use and development, special attention is being given to co-ordinating the provincial government's role in this regard. Individual ministries already are taking steps to enact improvements in those aspects over which they have control. In addition, the need for special co-ordinative efforts has been established. This will involve Ministries such as Environment, the Attorney General, Housing, Transportation and Communications, Industry and Tourism, Natural Resources, Agriculture and Food, as well as Treasury, and Intergovernmental Affairs, Government Services, and Northern Affairs. It is anticipated that this will become one of the major targets for improvement in the regulatory process.

#### Licensing

A complete review of licensing of individuals and businesses is being undertaken involving several ministries. Efforts are being made to identify ways of setting achievement standards and checking on cases of "exception" in place of all-inclusive compliance requirements. Much of the effort in this regard is concentrated in the area of Consumer and Commercial Relations, where the question of the necessity for "dual compliance" is being reviewed as a part of the process.

#### Other Ministry Initiatives

Because all ministries are involved in developing ways to improve the manner in which they conduct their affairs, a complete listing of their activities would not be appropriate for this summary. Accordingly, only three examples have been chosen to highlight the extent of ministry involvement:

- a) Justice: Major efforts are being made within the Justice Policy Field to improve the process whereby the fully recognized regulatory role of the courts and the judiciary will be able to function more effectively. Action includes amendments to legislation affecting juries, families, and the administration of the courts. These include introduction of changes to improve service, such as unifying family court, providing more judges, introducing traffic tribunals and increasing the use of justices of the peace.

In the administration of justice, efforts are being made to co-ordinate, consolidate, and share resources in order to eliminate duplication and improve the system.

- b) Revenue: Improvements have been implemented in a broad range of activities including: reducing or eliminating filing and instalment requirements in such areas as Retail Sales Tax, Corporation Tax, and Land Speculation Tax; taxpayer information support and liaison services, including redesigning of tax bulletins; implementing a toll free province-wide telephone inquiry service in 30 languages for Guaranteed Income Tax Credit Program; and simplification of tax forms. Improvements have also been introduced in the audit system; the adoption of a formal advanced ruling service, and decentralizing Retail Sales Tax hearings to local district offices. Legislation and regulations are being streamlined and simplified.
- c) Transportation and Communications: Action is being taken to reduce restrictions covering the movement of goods, to minimize the involvement of that ministry in business licensing, and to examine and reduce where appropriate the ministry's involvement in areas where other regulatory procedures can ensure the necessary safeguards to the public; for example, their involvement in regulating the supply of construction materials.

#### PRINCE EDWARD ISLAND

After an analysis by a Cabinet Committee, it was determined that the major irritant created by the regulatory process was in the broad area of land and building. In response to this assessment the Prince Edward Island Cabinet established an Action Committee to examine all aspects of zoning, permits, inspections both as regards regulatory requirements and administrative requirements imposed by departments and agencies involved. The Committee is expected to make its report, with recommendations, to Cabinet by mid-November. Initial impressions indicate that the public is often confounded and annoyed by a combination of regulatory requirements per se (building, zoning, plumbing, electrical, highway safety, etc.), additional requirements often applied at the administrative level and by the number of differing contacts and permits normally required to proceed with any given project.

#### QUEBEC

After surveys at various departments, we found that no study has been conducted on regulation, with the exception of a



brief section in a study on the price of transportation in Quebec prepared for the Department of Transportation and conducted by Messrs. Jean-Luc Migué, Gérard Bélanger and Michel Boucher. Furthermore, this same department proposes to conduct a study on the deregulation of highway transportation of freight in Quebec.

In addition, the economic development secretariat of the Executive Council has begun a study aimed at identifying small and medium-sized firms. The planning branch at the OPDQ ensures coordination of this work. This work, however, is only in the initial phases and aims first at developing the nature of the problem in detail.

Finally, the economic development secretariat is concerned, in the process of the passage of new acts, with reducing regulation and identifying the consequences of this new legislation on economic development. This work, however, has yet to result in any detailed studies or structured research groups.

## SASKATCHEWAN

### A) Cluff Lake Board of Inquiry

In the past few years, Saskatchewan has developed an assessment process that examines the social, economic and environmental impacts of major development projects. The purpose is to determine whether development should proceed, and if so, subject to what specific conditions and what government regulation. In reaching a final decision, the government has before it the positive and negative consequences of the development as described by the proponent, a board of inquiry, regulatory and other government agencies, and the public.

The Cluff Lake Board of Inquiry is a recent example of this assessment process. The Board was established on February 1, 1977, to conduct a public inquiry into the probable environmental, health, safety, social, and economic effects of the proposed uranium mine and mill at Cluff Lake, as well as the social, economic and other implications of the expansion of the uranium industry in Saskatchewan. One of the Board's terms of reference was to report on the adequacy of Canadian and Saskatchewan law, regulations, and policies in the areas of environmental protection and worker health and safety. In their final report, released May 31, 1978, the Board of Inquiry recommended that both the Cluff Lake Project and the general expansion of uranium mining and milling proceed subject to conditions. The conditions are important and detailed, and call

for specific changes in current legislation, regulations and policies. Some of the major areas covered in the Board's report are:

- the adequacy of current radiation standards and their enforcement;
- worker health and safety standards and regulations;
- the adequacy of proposed environmental assessment processes and government enforcement of pollution prevention regulations; - the division of federal and provincial regulatory responsibilities relating to environmental and occupational health and safety measures.

The government of Saskatchewan has decided that Phase 1 of the Cluff Lake Project may proceed provided that Amok Ltd. accepts the recommendations of the Board of Inquiry.

The government and Amok Ltd. have recently signed a surface lease agreement for the development of the first phase of a uranium mine and mill at Cluff Lake by Amok. The agreement spells out the specific terms and conditions for the first phase recommended by the Cluff Lake Board of Inquiry with respect to environmental protection, health and safety of workers, and employment and business benefits for residents of Northern Saskatchewan.

The environmental protection measures included in the surface lease will serve as a model for future mining and milling developments in Saskatchewan.

#### B) Review of Land Use Regulations

Saskatchewan is currently examining legislation and regulations relating to land use and developing a new comprehensive land use policy for the province.

In 1974, the Environmental Advisory Council, a group of citizens representing various interest groups, submitted a report entitled Land Use Policy in Saskatchewan to Environment Minister, the Honourable Neil Byers. This report identified the need for an overall land use policy. It noted that numerous acts and regulations have developed over the years as the need arose, and land planning and management have become the responsibility of a host of government agencies and departments, sometimes causing conflicts in land use patterns and priorities.

Recognizing the sensitive nature of land use questions in a province like Saskatchewan, and the need for a broad flexible policy that would cover all land use regulations in the

province, the Government established a seminar on land use to gain a better understanding of the issues and determine the degree of consensus about the need for a comprehensive land use policy.

Workshops were held in February, 1976, and April, 1977, and were attended by people representing 19 major provincial interest groups. Recommendations from these workshops led to the formation of the Land Use Policy Committee, and the Interagency Co-ordinating Committee.

The Land Use Policy Committee is comprised of representatives from local government, agriculture, wildlife, mining, and environmental interest groups. The Committee is reviewing and advising on land use policy development activities, including public information materials, land use community workshops, and policy alternatives.

The Interagency Co-ordinating Committee is comprised of the permanent heads of 12 major government departments and crown corporations, and is responsible for land use policy development activities of all government departments and agencies concerned with land use in Saskatchewan.

#### C) The Urban Law Review Committee

Regulatory activities related to local government are part of the mandate of the Urban Law Review Committee. The Committee is undertaking a comprehensive review of more than forty statutes which govern the activities of urban municipalities.

Public feedback from a series of public meetings will form the basis for the development of the guiding principles for review and consolidation of statutes governing urban municipalities. The Committee will then prepare a white paper for the Minister of Municipal Affairs, Hon. Gordon MacMurcy. Further public meetings will be held to obtain public reaction to the white paper. The Committee hopes to see the passage of a new single, consolidated and progressive act by 1980.

As part of the Urban Land Review work, municipal affairs is conducting a detailed study of the Planning and Development Act and is examining regulations related to the application of planning powers.



FEDERAL DEPARTMENTS

AGRICULTURE CANADA

In accordance with Treasury Board directives, the Department has established an inter-branch committee to monitor all proposals for new or amended regulations in the areas of health, safety and fairness. This committee makes an initial determination of the magnitude of impact of such proposals and has the responsibility to work with Treasury Board in preparing Socio-Economic Impact Assessments in cases where major impacts are anticipated.

Work has recently begun on the preparation of laymen's versions of the Acts and Regulations administered by the Department. This task will be carried out by Information Division, working in close cooperation with the Legal Services unit. Availability of greatly simplified, but nonetheless accurate interpretations of these documents will make it easier for regulated individuals and organizations to properly comply with the rules.

Changes are now being drafted in ten of the Statutes under which the Department presently regulates such things as dairy products, fruits and vegetables, fertilizers and feeds. A significant number of these changes are aimed at streamlining and clarifying the existing rules.

A review is underway of the methods presently utilized by the Canadian Egg Marketing Agency to encourage the interprovincial movements of eggs by, for example, central pricing policies. This review is being carried out by Departmental economists at the request of the National Farm Marketing Products Council.

Departmental officials are working with the Canadian Dairy Commission to review the formula used to set the target returns for industrial milk.

Departmental officials are working with a committee of provincial agricultural officials to refine and redraft a comprehensive study of possible solutions to the problems created by relatively high levels of capital values attached to production quotas under certain provincial and/or national plans of supply management. This work is being carried out pursuant to a decision reached at the federal-provincial conference of Ministers of Agriculture held at Yorkton, Saskatchewan in July, 1978.

The Department expects to work with the Economic Council (or such other body as may be chosen to lead the task)

on a study of ways to improve the functioning of marketing boards which has been recommended by the Interdepartmental Committee on Trade and Industrial Policy as a follow-up to the work of the food industry task forces whose reports were issued in July 1978 by the Department of Industry, Trade and Commerce.

#### DEPARTMENT OF COMMUNICATIONS

The department's regulatory related activities centre about two main subjects; study of the regulated carriers, and regulation of the radio-frequency spectrum.

The Telecommunications Economics Branch conducts ongoing economic analysis of the telecommunications carrier industry, and has developed a body of data and a number of models, both econometric and operations research, for use in simulation, forecasting and financial analysis. Work is progressing on studies of productivity, efficiency, economies of scale and scope, competition, price elasticities, demand and related matters. The details are set forth below.

#### Regulated Carriers - Economic and Econometric Study Program

1. Short-term outlook and monitoring of federally-regulated carriers.
2. Demand for spectrum usage.
3. Analysis of common carrier economic behaviour and associated regulatory policy issues.
4. Demand for rural communications.
5. Interconnection and related economic policy issues.
6. Economic impact of new information technologies.
7. Study of demand for new home services.

The Radio Act of 1938, which, with subsequent amendments, is still in force, empowers the Minister of Communications to issue licences for radio transmission and, generally, to make regulations for the orderly development of radio-communications, including the establishment of standards for equipment.

To administer the act, the Telecommunications Regulatory Service of the department issues radio licences; sets and conducts examinations for radio operators; regulates the use of frequencies; develops standards to control interference to radio reception; tests and approves equipment for use in Canada; and issues technical and operating certificates for broadcasting stations. Day-to-day management of the spectrum is conducted by offices in five administrative regions: Atlantic, Quebec,

Ontario, Central and Pacific. A Spectrum Management System is being developed and implemented to facilitate licensing, frequency registration, ITU notification and Canada-U.S. co-ordination.

Responsibility for policy concerning the utilization of the Radio Frequency Spectrum lies in the Spectrum and Radio Systems Directorate. The objective of policy is to ensure availability of spectrum for the continued growth of radio, and hence policy decisions relate to the optimum allocation of spectrum among alternative uses.

Characteristics and limitations on the use of the spectrum necessitate international agreements to ensure its efficient and orderly use and development. Chaos in global communications is avoided by the international allocation of frequency bands for particular uses and the co-ordination of specific assignments within these allocations. The International Telecommunications Union (ITU) co-ordinates the global and regional use of the spectrum. The Department of Communications represents Canada in the ITU.

At the international level, the department is presently involved in planning for the 1979 World Administrative Radio Conference (WARC), and the 1982 Regional Administrative Radio Conference (RARC).

## CONSUMER AND CORPORATE AFFAIRS CANADA

### Competition Policy

A revision and modernization of the Combines Investigation Act, to be re-named the Competition Act, has been under review for some time. It was presented to the House of Commons as Bill C-13 in the previous Session and should, when passed, strengthen the operation of competitive market forces.

### Consumer Affairs

- Transfer of responsibility for domestic meter inspection to utilities to effect savings in person years.
- Reduction of overlapping responsibilities with the provinces for handling of individual consumer complaints by cutting back federal activity and promoting more private sector involvement.
- Fee structure to be revised for Electricity and Gas to reflect true cost of operations and to encourage utilities to set up systems and quality control which qualifies them to accept responsibility for self-regulation.



- Weights and Measures fee structure to be brought in line with cost-recovery.
- Food area - continuing negotiations with other departments to rationalize both food regulations and the system for developing them.
- Establishment of industry/government permanent liaison committee in the food area. Circulation of policy proposals to food associations and establishment of simplified guides to regulations developed. Lexicon of commonly used food claim terms circulated to industry for common understanding between advertisers and government officials.
- Energuide - Entire regulatory program developed in concert with industry. Committee structure including government, manufacturers, retailers, utilities and consumers used to develop proposals to Consumer and Corporate Affairs Canada for enactment as regulations under the Consumer Packaging and Labelling Act.
- In Legal Metrology, draft act circulated to Electricity and Gas utility associations.
- With the exception of imported products requiring emergency regulation of hazards, no new regulations in the consumer area have been developed without industry consultation.

#### Corporate Bureau

- New Canada Business Corporations Act to simplify federal incorporation process was enacted in December 1975.
- Name search process simplified through automation to cut the search time and reduce the burden of document review. Plan is to make this system self supporting and to transfer responsibility for name search to private firms.
- New Bankruptcy Act to streamline bankruptcy processing and to privatize consumer arrangements.
- Securities market study currently underway with a view to rationalizing and simplifying market regulation.

#### Intellectual Property

- Automation of Trade Marks and Patents operations to reduce backlogs and increase level of service without increasing staff.
- Fee structure for registration of patents and copyrights to be revised to provide for cost recovery.

ENERGY, MINES AND RESOURCES CANADA

Over the next two years, the Department of Energy, Mines and Resources is planning to re-examine its energy and mineral strategies to ensure that they still meet Canada's needs. As part of this study, the department will examine the impact of the various regulations now in effect in the energy and mining fields in order to determine whether they accord with the department's objectives and whether they meet those objectives in the most efficient manner possible.

DEPARTMENT OF FINANCE

The Department of Finance is involved, to a certain degree, in the regulation of financial markets. The prime example of this involvement is the Bank Act. As First Ministers are aware, the Act is reviewed periodically and is under active review at the present time: proposed revisions will likely be deliberated in the current session of Parliament. Moreover, it is customary for the Department to review all of the legislation for which it is responsible in the area of financial institutions and markets (for example, the Loan Companies Act and the Trust Companies Act) in the light of revisions to the Bank Act. While this wider body of legislation does not expire periodically in the fashion of the Bank Act, it is often necessary to make changes to bring this legislation into conformity with revisions in the Bank Act. Review of the Department's regulatory responsibilities in this area, in sum, has for some time constituted a part of the Department's ongoing functions.

FISHERIES AND ENVIRONMENT CANADA

1. FISHERIES ACT

Water Pollution Control Directorate

Development of requirements in an advanced stage by industry sector:

- Textile Industry
- Alkalai and Associated Products
- Dairy Products
- Gold Mining
- Steam and Electric Power Generation
- Organic Chemicals

Industry Sectors under review:

- Wood Preservation
- Iron and Steel
- Aluminum Smelting

- Fertilizers
- Base Metal Smelting
- Fruit and Vegetable Processing
- Coal Mining
- Base Metal Refining
- Bulk Terminals
- Tanning
- Intensive Livestock
- Other Inorganic Chemicals

#### Environmental Impact Control Directorate

- Spill Reporting Regulations
- Clean-up Directions by Inspectors Regulations
- Spill Pollution Prevention Regulations

#### 2. ENVIRONMENTAL CONTAMINANTS ACT

- New proposed regulations:
  - Fluorocarbons
    - Restriction in Aerosols
  - Polychlorinated Biphenyls (PCB)
    - Amendment to PCB Regulation #1 (Record Keeping)
- Regulations development under way:
  - Prohibited use of - Mirex - Polybrominated Biphenyls (PBB) - Polychlorinated Terphenyls (PCT)

#### 3. CLEAN AIR ACT

##### Air Pollution Control Directorate (current and/or planned regulatory review activity)

- The proposed Vinyl Chloride National Emission Standards Regulations were announced in Canada Gazette Part I on August 26, 1978.
- An amendment to Asbestos Mining and Milling National Emission Standards Regulations extending the coverage to primary dry drilling will be announced shortly.
- A National Emission Standards Regulation limiting the arsenic emissions from Gold Roasting operations is in the final stages of development. A Socio-Economic Impact Analysis (SEIA) is being prepared for this Regulation. The proposed regulation and SEIA will be announced in about three months.
- A National Emission Standard Regulation limiting the asbestos emissions from asbestos manufacturing operations is currently



under development and announcement of the proposed regulation is scheduled for mid-1979.

- A number of potentially hazardous substances are currently being assessed with regard to the necessity of developing Regulations to limit emissions of these substances including:
  - a) arsenic, lead and mercury emissions from non-ferrous smelters;
  - b) benzene emissions from various chemical processes;
  - c) emissions from coke ovens;

other substances may be added to this list when and if the facts indicate cause for concern.

#### 4. OTHER AREAS OF REVIEW

1. Commencing August 1, 1978 Socio-Economic Impact Analyses of new major regulations will be developed, and be made available to industry and other interested parties on requests for comment which will be taken into account before promulgation.

The SEIA will augment the current approach of consultative Federal/Provincial and Industry Task Forces.

2. Environmental Accords have been signed with seven of ten provinces, which provide a broad framework for cooperation, including delegation of administration of Federal regulating requirements, appointment of inspectors and information exchange.

In those Provinces which have not signed an Accord, the working relationships with Provinces at the official level is conducted in the spirit of the Accords.

#### HEALTH AND WELFARE CANADA

##### 1. Review of Food & Drug Regulations

- Review initiated in July 1978.
- First report prepared - August, 1978.
- Expected duration - one year or more.
- Involves deletion or modification of individual regulations because they are redundant, obsolete, or inconsistent.
- Includes a policy review of each of:
  - (1) nutritional claims for food,
  - (2) food standards,

- (3) format changes,
- (4) inspection standards for drugs,
- (5) notification procedures for drugs, medical devices and cosmetics,
- (6) procedures to be followed within the Health Protection Branch when issuing new regulations.

## 2. Cannabis Reform

- Study currently underway.
- Is a follow-up to issues raised in Bill S-19, which died on the order paper in 1976.
- Involves Part III (controlled drugs) and Part IV (restricted drugs) of the Food and Drugs Act, and the Narcotic Control Act
- It concerns adjustments to the penalties associated with possession and trafficking.
- Other Departments involved are: Justice, Solicitor General and RCMP.

## 3. Hospital Insurance Regulations

- These Regulations under the Hospital Insurance and Diagnostic Services (HIDS) Act are in the process of being amended consequential to the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977, which was implemented April 1, 1977.
- The amendments proposed have now received provincial approval as required by the HIDS Act and are in the process of being presented to the Governor in Council for approval.
- The regulatory changes make the necessary provisions for finalizing the cost-sharing arrangements for the period up to March 31, 1977 and also greatly simplify the regulations that will apply in the administration of the HIDS program for future fiscal years commencing April 1, 1977.

## 4. Certain regulations under the Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977

- While these regulations are primarily of concern to the Department of Finance, sections 23 and 24 are of particular relevance to the Department of National Health and Welfare. The regulations were registered July 24, 1978 consequent to P.C. 1978-2300 dated July 20, 1978. These are new regulations.
- Section 23 defines the manner in which advance payments and final settlements are made in respect of programs referred to

in section 25 (HIDS Program), section 26 (Medical Care Program), and section 27 (Extended Health Care Services Program) of the Act.

- Section 24 provides the definitions of the services included in the Extended Health Care Services Program to clarify what services are included in the block funding arrangements and ipso facto excluded from Canada Assistance Plan funding.

#### 5. Canada Assistance Plan (CAP)

- Certain regulations under CAP concern the portion of costs of social services which the federal government may share with provinces.
- The Social Services Financing Act, Bill C-55, which died on the order paper (summer 1978), would block-fund social services with provinces and remove the above regulations from CAP.

#### LABOUR CANADA

Within the broad framework established by Parliament, the activity of Labour Canada generally speaking is aimed at encouraging the parties to regulate their own affairs. Departments of Labour act on the basis of established and demonstrated need. The regulatory framework does not fill a total universe which seeks to improve the whole of the relationship. In its purest regulatory form the law aims at particular hazards.

The thrust is towards self regulation and this is evident for example in the difficult area of technological change where the legislation provides incentives to the parties to deal with this subject on their own. In addition, the more recent period marks a clear step towards more self regulation in the establishment of the Canadian Centre for Occupational Health and Safety which will not have powers that can be relied upon in a court of law. In the workplace itself, joint committees on health and safety will be established and they will have a self regulating function. Recent legislation also incorporates specific provisions for employers and unions to be exempted from parts of the regulatory framework.

Labour Canada officials act within a framework of law as must all public servants. Regulations must be within the ambit of the authorizing statute. While ensuring that that continues to be the case, additional efforts will be made to ensure that regulations are not themselves burdensome.



Accordingly, Labour Canada will establish at the most senior level, a committee to ensure that clear guidelines are established for regulatory activity within the Department in order to ensure that regulations are subject to what we might term a "necessity control test" in order that within the authority granted by the Parliament of Canada that its regulations are aimed in a precise way to achieve with clarity and certainty the purpose of the legislation. They will be subject to the objective test that reasonable people can bring to bear, to ensure that, given the purposes of the act that the regulation is clear, precise and necessary.

REVENUE CANADA (Customs and Excise)

Two of the six parts of the strategy adopted by Customs and Excise to achieve the departmental objective were to "simplify and clarify programs, policies, systems and instructions" and to "seek through every available means to influence the decisions which affect or are likely to affect the Department".

Both the Excise Tax Act and the Excise Act are currently under review by the House Standing Committee on Finance, Trade and Economic Affairs. The committee is studying the Report of the Commodity Tax Review Group, tabled in the House on June 8, 1978, with the stated aim of overhauling the current commodity tax structure. An overhaul of these two Acts in line with the report's recommendations would necessitate revised administrative procedures as well as new or revised regulations. In this regard, Customs and Excise is establishing a project team to look into the problems associated with a revision of these acts, including any administrative and regulatory changes which may be necessary.

In addition, in order to implement the two parts of your strategy ongoing research will be undertaken to identify all other forms of taxes, levies, charges, regulations, agreements, programs and changing trends which might directly or indirectly affect sales tax, excise taxes and duties of excise administered by this Branch.

The research will be conducted in the following fields:

- intradepartmental legislation
- interdepartmental legislation
- intergovernmental legislation - both provincial and municipal
- international legislation and agreements
- industry and trade organizations.

The Customs Act provides the necessary authority to collect duties and taxes on all imports, to control the movement of goods into or out of Canada, and to support other statutes that prohibit, regulate or control the importation or exportation of goods. In its 130 year history, the Act has received only 68 minor amendments. Many of its inflexible and now archaic provisions require updating in order to support administrative policies and practices required to keep abreast of dramatic changes in trade patterns, communications, modes of transport and business practice generally. Its revision has been completed and the new customs Act, introduced to Parliament as Bill C-44, received 1st reading on April 6, 1978.

To ensure that the implementation of policies, systems and procedures associated with the new Customs Act are co-ordinated, detailed plans and schedules have been developed identifying required tasks and areas of responsibility. The development, drafting and processing of approximately 40 sets of regulations pursuant to this new Act is now in progress.

#### TRANSPORT CANADA

Transport Canada has major regulatory responsibilities as they relate to licencing, standards, safety and economic regulation. There is a continuous review taking place within the Department of the various regulatory activities.\* For the purposes of the Regulation Reference study by the Economic Council of Canada, the following two recent major initiatives of a regulatory nature have been identified:

1. Study of Competition in Transportation

This is an interdepartmental study undertaken by Transport Canada in cooperation with the Department of Consumer and Corporate Affairs and the Canadian Transport Commission. Its purpose is to study competition in transportation and the effects of regulation. It is intended that most principal areas in transportation are included. Intermodal aspects of competition will also be considered. More specifically, this study will focus on the following questions:

---

\*There are a number of transportation Bills before Parliament which would, on becoming law, necessitate new regulations. The Department has begun this major regulatory revision and in addition carries on a continuous review of existing regulations and their implementation in consultation with industry, government - both federal and provincial, and other interest groups.

- (a) What is the present state of competition and regulation in transportation?
- (b) Would increased competition improve efficiency?
- (c) Would changes in regulation improve efficiency?

The initial work plan has identified specific areas of studies which include elements of the following transportation industries: trucking, bus, air (domestic and international), marine and rail.

It is intended that other levels of government, industry users and the public at large be consulted and be kept up-to-date on the progress of these studies.

Work is currently under way in the trucking industry. The terms of reference have been completed and have been made available to all provinces and the industry.

The terms of reference for the air transport sector are now being finalized. The examination of the bus industry will follow.

Competition in the marine mode has been dealt with through the review and revised proposals on International Shipping Policy and the Shipping Conference Exemption Act. Both of these are currently before Cabinet for approval or legislative action.

Research on competition in the rail mode has also been undertaken by Transport Canada.

## 2. A Central Registry for Transport Canada's Regulation and Statutory Instruments

Transport Canada is directly or indirectly concerned with over 1,294 regulations or statutory instruments (as of June 1976). Some of these are amendments to existing regulations and some, such as tax remission orders for example, are made at this department's request by another department and administered by that department. In 1977, 412 statutory instruments (all kinds, including regulations) were promulgated.

There is currently a lack of accurate up-to-date information on existing departmental rules, which prevent those inquiring, either civil servants or the public, from receiving a prompt, accurate response.

A central registry is now being created in the Departmental Secretariat of Transport Canada for all regulations and statutory instruments made within the Department and should



be in place by April 1, 1979. This registry would contain copies of all the rules made by the Department, automatically updated as amendments are made. The Registrar would be capable of providing data to those engaged in reviewing the regulatory activities of the Department and would monitor rules to ensure they conform to government policy.

TREASURY BOARD SECRETARIAT

SOCIO-ECONOMIC IMPACT ANALYSIS PROGRAM FOR MAJOR  
PROPOSED HEALTH, SAFETY AND FAIRNESS REGULATIONS

1. Background Information

The Socio-Economic Impact Analysis (SEIA) program for major proposed health, safety and fairness (HSF) regulations (economic regulations are excluded) was jointly announced by the President of the Treasury Board and the Minister of Consumer and Corporate Affairs on December 14, 1977 and came into effect on August 1, 1978. Health and safety regulations are defined as those concerning the health or safety, in the broadest sense, of the general public or of particular segments thereof, and the protection of the environment. The term "fairness" essentially refers to protection against fraud or deceptive practices.

The main objectives of the federal government in developing (implementing) the SEIA program were (are): (i) to promote a more thorough and systematic analysis of the socio-economic impact of proposed HSF regulations in order to prevent misallocative effects and/or negative effects of a non-allocative nature (i.e. the federal government is concerned not only with the impact of HSF regulations on market efficiency, but also with their impact on the distribution of income, technical process, market structure, international competitiveness, regional balance, and inflation); (ii) to ensure uniformity, across the departments and agencies currently administering statutes which confer the power to make regulations in the HSF area (i.e. Agriculture Canada, Consumer and Corporate Affairs Canada, Energy, Mines and Resources, Fisheries and Environment Canada, Health and Welfare Canada, Labour Canada, Transport Canada, Atomic Energy Control Board, Central Mortgage and Housing Corporation), in the methodologies and assumptions used to perform such analyses; and (iii) to provide an opportunity for increased public participation in the regulation-making process.

The main features of the SEIA program are:

- (i) Only "new" HSF regulations will be subject to the system of evaluation. The term "new" is used to distinguish HSF

regulations or amendments to HSF regulations made after the proposed procedures came into effect from the large stock of existing HSF regulations.

- (ii) Only the "major" new HSF regulations will be subject to the system of evaluation. The magnitude of the expected social costs (for example, expected social costs of \$10 million or more in any one year) is the main criterion for distinguishing between major and minor HSF regulations. The departments proposing new regulations are responsible for making this preliminary assessment, and for determining whether or not a new HSF regulation which would not meet the cost criterion but might nevertheless have other important implications of potential concern to interested groups or the public at large, should be subject to a SEIA.
- (iii) Special procedures will prevail for major new HSF regulations related to cases of emergency, given the need for the government to act rapidly in certain critical situations in order to prevent any unacceptable damage to the health and safety of the population or to the environment.
- (iv) The SEIA will be performed by the departments proposing new regulations, using guidelines with respect to the various analytical techniques and assumptions. The guidelines will be provided by the Technical Advisory Group (TAG) and published eventually.
- (v) The TAG, located within Treasury Board Secretariat, plays an assistance and advisory role. The TAG and the Department of Justice advises departments, on request, as to whether or not proposed statutes should be added to the list of statutes identified as conferring the power to make regulations in the HSF area, as well as on the question of whether proposed regulations under the listed statutes are HSF regulations. The TAG provides guidance on the preparation of SEIA's and the TAG assists, on request, departments in the completion of SEIA's.
- (vi) The terms of, the legal authority for, the purpose of a major new HSF regulation will be pre-published in Part I of The Canada Gazette along with a summary of the SEIA. (The Department of Justice will make sure, before advanced publication (which will occur at least 60 days before the promulgation of a proposed regulation) that the format of the summary of the SEIA is respected by the sponsoring departments). In addition, the complete SEIA will be made publicly available. Between notification and

promulgation, representations made by the interested parties to the sponsoring departments will also be made publicly available.

## 2. Current Status

This section reports on activities related to the SEIA program in the various federal departments concerned.

The Technical Advisory Group on Impact Assessment became operational within Treasury Board Secretariat on June 1, 1978. Since then, consultations with the federal departments and agencies administering statutes which confer the power to make regulations in the HSF area as well as with non-government groups have taken place.

The TAG has had discussions with most departments and agencies on the criteria for identifying major proposed HSF regulations, on the methodologies and assumptions to perform socio-economic impact analyses, and on required changes in the regulation-making process in order to meet the requirements of the new government policy.

In July of this year, Treasury Board Secretariat sent a news release and studies prepared during the development stage of the program to about five hundred individuals, companies and associations across Canada. In addition, the TAG had discussions and meetings with major industry, labour and consumer groups who requested information on various aspects of the new program. Among other things, the TAG has been preparing and is finalizing a paper on "Evaluation Methodologies for Social Regulations" that will be one of the inputs for a manual on guidelines to the federal departments and agencies. The major non-government groups were asked for advice on those guidelines that will be concerned with the "representation" feature of the SEIA program.

A meeting of departmental representatives held on August 29, 1978 revealed that most departments had by then a process for the identification of major HSF regulations, some were devising a schedule for the analyses, and some were expecting many proposed HSF regulations in the next few months in view of new statutes. Environment Canada had already undertaken necessary steps to perform socio-economic impact analyses of proposed HSF regulations, but their date of completion is not yet precisely known.



## APPENDIX I

TEXT OF THE PRIME MINISTER'S LETTER TO THE CHAIRMAN OF THE ECONOMIC COUNCIL OF CANADA (THE REGULATION REFERENCE) - July 12, 1978

Dear Dr. Ostry:

I am writing to request that the Economic Council of Canada undertake a number of studies of specific areas of government regulation which appear to be having a particularly substantial economic impact on the Canadian economy. As you know, there has developed in Canada a strong concern that increasing government regulation might be having serious adverse effects on the efficiency of Canadian firms and industries and on the allocation of resources and distribution of income. You will recall that First Ministers, in February 1978, "...agreed that the whole matter of economic regulation at all levels of government should be referred to the Economic Council for recommendations for action, in consultation with the provinces and the private sector". In addition, First Ministers expressed concern about the overlapping of federal and provincial regulatory jurisdictions. You will find the relevant paragraph from the communiqué issued from the First Ministers Conference appended to this letter.

I understand that subsequent to the First Ministers' meeting, you consulted with the members of the Federal-Provincial Committee of officials representing all 11 governments which was constituted as a result of this agreement to study government regulation and that you have discussed the terms of this reference with them.

In the evaluation of specific areas of government regulation, including regulation of price, supply, entry, product standards and environmental and safety standards, the studies should, among other things, focus on:

- an analysis of the objectives of regulation;
- an analysis of the nature and magnitude of the economic impact of regulation;
- an examination of the regulatory responsibilities of the different levels of government and their rationale;
- an analysis of the processes and procedures relating to regulation;
- an analysis of the techniques and alternative methods of effecting regulatory objectives;

- a determination of whether or not regulation is on balance in the public interest and, if so, whether superior regulatory alternatives are available for obtaining the objectives of regulation with less adverse economic impact; and
- an analysis of the practical implications of introducing specific regulatory reforms including the alternatives of deregulation.

These studies should be designed to provide the Economic Council of Canada with the analyses and information necessary for an interim and final report. The final report in particular should develop guidelines governments could employ in determining what areas of regulation are likely having a significant adverse economic impact and what practical changes in public policies might be undertaken to improve government regulation.

I realize that the development of practical guidelines for improving the process of government regulation in Canada in areas where it is having a substantial economic impact is an extremely complex task but I believe it is also an enormously important one. You will no doubt also want to draw upon existing research in this area as well as research presently underway or contemplated by the different levels of government as well as research in universities, in research institutes and in other countries. During the course of your work, you will wish to consult extensively not only with the Federal-Provincial Consultative Committee that I understand will remain active at least for the term of the Council reference but also with individual federal and provincial government departments and agencies, and the private sector.

The Council's final report should be completed by the end of 1980, with an interim report available by the end of 1979. In addition, you should, in consultation with the Federal-Provincial Committee, prepare a preliminary report for the next meeting of the First Ministers in November 1978. It might well contain a general overview of the issues, focusing on the question of why governments regulate, and an attempt to indicate in a very general way the scope and growth of government regulation in Canada. This report should delineate the research program in some detail, setting out, for example, specific information on the studies referred to above and, in general, filling in details on the research agenda relevant to the completion of the Council's work. I would also like it to set out in some detail the consultative arrangements developed or planned with respect to governments, businesses, trade unions, consumer groups, universities and research institutes.

On this basis and pursuant to Section 10 of the Economic Council Act, I request the Economic Council of Canada to undertake to study government regulation in Canada and the prospects for regulatory reform.

You should discuss with the Treasury Board the provision of the additional resources which the Council will require in order to carry out this reference.

Sincerely,  
(signed)  
P.E. Trudeau

Section of First Ministers' Communiqué on  
The Business Environment, February, 16, 1978

The burden of government regulation on the private sector should be reduced and the burden of overlapping federal and provincial jurisdictions should be eliminated. Procedures will be instituted to review the effects of regulatory action on jobs and costs. First Ministers agreed that the whole matter of economic regulation at all levels of government should be referred to the Economic Council for recommendations for action, in consultation with the provinces and the private sector.



REGULATION REFERENCE STAFF

DIRECTOR: W. T. Stanbury

ADVISOR: D. P. De Melto\*

RESEARCH: R. Hirshhorn\*  
A. Robinson  
B. Rosenfeld\*  
F. Thompson\*  
A. Wohl\*

SUPPORT: C. Bazinet  
I. Henderson  
L. Lagroix  
G. Palmer

ADMINISTRATIVE  
OFFICER: B. Yolkouskie

\* Part time only on the Regulation Reference

## SUMMARY

This Preliminary Report to First Ministers has been prepared at the request of the Prime Minister who, in his letter of July 12, 1978, asked the Economic Council of Canada to undertake a series of studies on government regulation in Canada. Following closely the Prime Minister's suggested outline, the report "...contain(s) a general overview of the issues, focusing on the question of why governments regulate, ... the scope and growth of government regulation in Canada... (and) delineates the research program in some detail..." The general orientation of the Council's research activity is stated to be the improvement of public policy which is to be achieved both by diagnosing the problems associated with government regulation on the basis of empirical research and by offering practical recommendations that will improve the regulatory process. A second aim of the Economic Council is to make the Regulation Reference the start of a continuing process of regulatory review.

Emphasis is placed in Part I of the report on the growth in the sheer number of regulations in recent years. The number of regulations under 129 Federal regulatory statutes has grown from 205 in 1955 to 574 in 1975. This increase is despite the fact that 56% of these statutes were originally enacted prior to 1949. Research to be conducted by the Council will also examine in some detail changes in the extent of provincial and municipal regulation. Attitudes toward regulation are noted as being contradictory, on the one hand calling for an overall reduction of regulation, while on the other requesting additional regulation in selected areas.

Objectives of regulatory actions are reviewed by the Council staff in Part II. These objectives are summarized as:

- (i) remedying market failures such as "spill-over effects", and natural monopoly;
- (ii) achieving some form of "distributive justice" where the outcome of market forces yields an inappropriate distribution of income; and
- (iii) a category of "other reasons" amongst which the most important is seen to be the maintenance of national identity.

HD/3616/.C3/.R43/1978

Ostry, Sylvia, 1927-  
Regulation reference

: a preliminary

dbub

c.1

tor mai