

# **SMART REGULATION**

## **A Regulatory Strategy for Canada**

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Report to the Government of Canada

### **EXECUTIVE SUMMARY**

External Advisory Committee on Smart Regulation  
September 2004





## MESSAGE FROM THE CHAIR

I am very proud to present the final report of the External Advisory Committee on Smart Regulation. I accepted the invitation to chair this Committee a little over a year ago because I was convinced that there is a connection between regulation and the high quality of life enjoyed by Canadians and yet, at the same time, I observed an increasingly profound disconnect between the regulatory system and 21st century reality. I was deeply concerned that without rapid and significant change, Canada's ability to innovate and provide citizens with high levels of protection would be impaired.

The Committee and I brought to the task a strong commitment and a huge desire to be agents of change. Change must be anchored within a solid value system. As a Committee, we spent considerable time defining the vision and principles underpinning the value system of Smart Regulation, an approach which remains the foundation of the report's recommendations. Our definition of success as a Committee included not only developing innovative recommendations but also facilitating profound change in the practices and culture of regulatory departments. We are pleased to report that we have already begun to witness this change and it is our hope that this report will help to accelerate and sustain it.

Over the last year, as I was talking about the work of the Committee, I was often told — although not cynically — that I was an idealist. I admit that the bar we are setting in this report is high. However, anything lower would imply that we do not trust in the ability of the government and federal public servants to take up this challenge, and we have no reason to believe that they are not up to it.

To meet this challenge, strong leadership at the senior political and public service levels will be required. Regulation is an important and powerful government intervention and must receive the attention it deserves.

Regulation is not only the business of government. Committee members are convinced that the transformation of the regulatory system will be realized only through increased cooperation among governments, industry, non-governmental organizations and interested citizens. Committee members believe that the principles of cooperation, timeliness and transparency should be embraced by all of these partners in the regulatory process. It is, therefore, our sincere hope that they, too, will be influenced by the work of the Committee.

Committee members want to thank the federal officials involved in regulation for the continuous support and openness they have shown us and our staff from the outset of this project. Our thanks also go to the different representatives from industry and non-governmental organizations, as well as the citizens who care about the regulatory system in Canada, for taking the time to share their experiences and perspectives on regulation with the Committee. We also appreciate the creativity and support of our Secretariat, whose dedication and enthusiasm have benefited the Committee's work over these past 15 months. All this support was necessary for the Committee to accomplish its mandate. I also want to express gratitude to my colleagues on the Committee who brought energy, generosity and respect to the task and made our work a learning experience.

Finally, it has been a privilege to serve my country as Chair of this Committee. The Committee hopes that its work will contribute to a permanent legacy that will improve the quality of life of all Canadians.

Gaëtan Lussier

## **External Advisory Committee on Smart Regulation**

### **Chair**

Mr. Gaëtan Lussier  
Corporate Director  
Brossard, Quebec

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## OVERVIEW

The External Advisory Committee on Smart Regulation recommends major shifts in perspective and practice in its report. Canada has a sound regulatory foundation. But the Committee has found that the regulatory system is being challenged daily to be more effective, responsive, cost-efficient, transparent and accountable to Canadians.

The context in which the system operates has changed. Protecting citizens, consumers and the natural environment is a more demanding task in the 21st century. Businesses must perform more efficiently and be more innovative in a highly integrated international economy. Perhaps not surprisingly, the Committee heard from every major sector that the current regulatory system often acts as a constraint to innovation, competitiveness, investment and trade.

But Smart Regulation, as defined by the Committee, is not deregulation. Smart Regulation does not diminish protection, as some may fear. It strengthens the system of regulation so that Canadians can continue to enjoy a high quality of life in the 21st century. The Committee believes that regulation should support both social and economic achievement — providing citizens and consumers with the protection they need to feel safe, supporting the transition to sustainable development, encouraging a more dynamic economy and creating opportunities for Canadians and a model of regulatory excellence in the world.

The Committee's challenge was to identify how to improve the regulatory system in order to sustain Canada's well-being into the future. It has concluded that this objective cannot be realized without cooperation among governments, industry and citizens, which is why cooperation is at the heart of the Committee's proposed new regulatory strategy for Canada outlined in Part I of its report. Cooperation anchors its vision and principles statement and underlies many of its recommendations.

The Committee believes that the federal government must use regulation more strategically in the 21st century to advance Canadian interests and priorities. The way we regulate should be clearly seen to support national policies. As illustrated in Part II of the report, this means ensuring that our regulatory system supports the best health outcomes for Canadians, encourages innovation, sustainability and investment opportunities in Canada's manufacturing and natural resources sectors, enables First Nations economic development, and helps promote important new industries like biotechnology.

### What is Regulation?

Regulation in its broadest sense is equated with governing. It is a principle, rule or condition that governs the behaviour of citizens or enterprises. In this way, regulation is used by governments, in combination with other instruments such as taxation, program delivery and services, to achieve public policy objectives. Regulation is a key way by which governments work to protect the health, safety and socio-economic well-being of Canadians as well as Canada's natural environment. It contributes to ensuring a fair and efficient marketplace for industry and consumers. It also plays a role in establishing and maintaining market access and creating a climate conducive to trade and investment.

Regulation is part of a continuum of government action, which includes scientific and policy research, policy development, the creation of legislation and/or regulations and enforcement of the regulations. A high-performing system requires a close interrelationship between all four elements.

As demonstrated in this report, regulation encompasses a range of instruments that include formal rules, such as statutes, subordinate legislation (regulations) and ministerial orders, as well as less formal instruments, such as standards, guidelines, codes, and education and information campaigns.

## What are the Consequences of Non-Action?

Regulation is a powerful instrument of government. However, the Committee has observed that it has not received the same attention as program spending and taxation. The Committee believes that Smart Regulation should become a major priority of the government, as the regulatory system is not sustainable at the level Canadians expect without fundamental and systemic changes. If the system is not aligned with new developments and 21st century practices, it may put Canadians' safety at risk and affect citizens' trust in government. Without change, it will limit Canadians' access, for example, to new medications, cleaner fuels and better jobs. An outdated system is an impediment to innovation and a drag on the economy because it can inhibit competitiveness, productivity, investment and the growth of key sectors. Other countries are reforming their systems, and Canada cannot afford to be left behind.

## What is Driving the Need for Change?

The Committee concluded that certain 21st century realities make regulatory reform essential. It found that there is general agreement within the government that the system must be changed to take these realities into account. But this recognition has not yet been translated into daily practice.

- First, the speed of modern society has resulted in an explosion of new technologies, the rapid flow of commerce and instant access to information. Businesses are continually innovating to meet changing consumer needs, cut production costs and increase their market shares. In a knowledge-based economy, regulatory regimes have to adapt quickly to sustain effective protection and keep pace with innovation and entrepreneurship.
- Second, policy issues are increasingly complex and international in scope. The boundaries between once distinct areas and disciplines have become blurred (e.g. bioproducts). In addition, major new policy directions have emerged, such as sustainable development, which will have profound implications for regulators. In this changing policy context, departments and governments must increasingly work together in defining effective regulatory strategies.
- Third, public expectations of government have risen, and at times they conflict, as citizens ask for more freedom of choice in some areas, increased regulation in others, and greater accountability and transparency.

## What Needs to be Improved?

- **The importance of getting our national house in order.** The harshest criticism of current regulatory practice is the lack of cooperation and coordination between federal government departments and among federal, provincial and territorial governments. From the average consumer to the largest multinational enterprise, the Committee heard that governments need to stop fighting over jurisdiction and find ways to work together on behalf of citizens and industry.
- **The need for a more strategic international regulatory approach.** International cooperation is increasingly necessary to provide high levels of consumer, social and environmental protection. It is no longer possible to protect Canadians' health and safety and provide access to innovative products — and do it all ourselves. From a business perspective, Canada must be more strategic in its regulatory relations with trading partners. A key irritant for industry is the proliferation of minor differences between Canadian and American regulations, given an increasingly integrated North American market. Minimizing these differences would remove wasteful duplication and reduce costs for consumers, industry and government.

- **The value of other perspectives.** The Committee’s deliberations were enriched and informed by the involvement of consumer, industry, Aboriginal and environmental voices. While governments have a central responsibility to maintain the regulatory system, they need the input and insights of businesses, non-governmental organizations and other stakeholders to ensure that the system is relevant and effective.
- **The necessity for more cost-effective, timely processes.** The Committee heard repeatedly that the government takes too long to design regulations and complete approvals. Slowness is sometimes equated with higher protection. In a fast-paced environment, however, a sluggish process can have grave implications for human and animal health. It can be the determining factor in a small Canadian business remaining viable or international investment leaving Canada in favour of a more streamlined regulatory environment elsewhere.
- **More focus on results.** Increasingly, many regulatees have the knowledge and capacity to meet regulatory goals without the need for detailed prescriptions about how they should do it. With the right monitoring and assessment strategies in place, Canada can and should be more bold in its use of performance-based regulations and other alternative instruments.
- **Better performance and accountability measurement.** The government’s stakeholders want much more emphasis placed on performance and accountability in the future. The Committee found that there is no systematic review of federal regulations to determine if they are still doing the job intended, including whether they are based on the latest scientific developments, as well as their effect on citizens and businesses. The regulatory process should encourage continuous improvement. Regulators must be clear and transparent with Canadians about the results they want to achieve and how they will measure them. There must also be recourse — an independent third party — for when normal processes fail.
- **The need for cultural change.** The recommendations in the report, and the expectations of stakeholders, cannot be addressed by tinkering with the process. A major change in approach is needed, supported by training for government regulators and the commitment and drive of senior bureaucrats and parliamentarians.

## Regulating in the Public Interest

Broadly speaking, regulation is meant to serve the public interest. The Committee found that there is no shared definition of the public interest among government departments. Therefore, some of its work was dedicated to developing a better overall understanding of the Canadian public interest in the 21st century as well as ways to assess the public interest in specific circumstances.

Recent studies have found that Canadians’ views on regulatory reform have evolved considerably since the late 1980s. Canadians are more pragmatic than ideological. Citizens’ demands for protection have increased over time; however, their views go well beyond the notion that more regulation is better. Canadians now see social, environmental and economic goals as intertwined. They believe that there is an excessive compliance burden on business. They also accept that markets, trade and competition serve both public and private interests. This represents an important change. Canadians believe that the government is ultimately responsible for the health and safety of citizens and the protection of the environment, but they can be flexible in how these objectives are attained, as long as the government is accountable for the results. Their trust is dependent on the system being fair, open, transparent and accountable.

Canadians have little tolerance for federal-provincial conflicts and they expect departments within the same government to coordinate their actions. From an international perspective, they are generally in favour of greater cooperation, in particular through multilateral international bodies, and they will also support bilateral cooperation, including Canada-U.S. regulatory cooperation, if it means strengthened regulatory standards or if it represents a more cost-efficient way to achieve the desired results.

## **What is Smart Regulation?**

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

***Smart Regulation is more responsive regulation.*** An effective regulatory system must be self-renewing and keep up with developments in science, technology and global markets. Smart Regulation is acting quickly and deliberately to contain or prevent risks and enable innovation and opportunity so that Canadians receive the benefits of new knowledge. This also means giving regulatees more flexibility in terms of how results are achieved, as long as high standards are upheld and accountability measures are in place.

***Smart Regulation is governing cooperatively for the public interest.*** In a modern regulatory system, regulation is a shared responsibility in which governments, citizens and industry all have an active role to play in making the system more effective. Smart Regulation is taking into account the views of citizens and also being attentive to firms and the challenges they face in an international economy. It is realizing that the regulatory system is part of a complex global system which requires governments and government departments and agencies to work better together towards common goals.

In summary, Smart Regulation offers Canada the opportunity to:

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





## VISION AND PRINCIPLES FOR SMART REGULATION

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

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

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

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

### **Principles:**

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

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

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

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

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



## **PART I – A Regulatory Strategy for the 21st Century**

The following two sections summarize the key recommendations in the Committee's report.

### ***International Regulatory Cooperation***

The federal government should include international regulatory cooperation as a distinct component of Canadian foreign policy and develop a strategic policy framework that identifies priorities for coordinated federal and national action. The primary and immediate focus of international efforts should be North America. At the same time, the government should not diminish its commitment to working with international standard-setting bodies and other jurisdictions such as the European Union. The government should adopt international approaches wherever possible and limit specific Canadian regulatory requirements to where they are needed to support an important national priority, constitutional values or unique Canadian circumstances.

### ***Federal-Provincial-Territorial Regulatory Cooperation***

The federal government should pay urgent attention to creating a more seamless regulatory environment in Canada. Cooperation should be formalized in a discussion by First Ministers. A new joint arrangement should be established that focuses on key priorities, beginning with the process for environmental assessments, which should also involve Aboriginal peoples where they have key interests. The federal government should ensure the early involvement of provincial/territorial governments in developing Canadian positions on international regulatory issues that have an impact on their jurisdiction.

### ***Federal Regulatory Coordination***

To provide more coordinated regulatory intervention, the Privy Council Office (PCO) should establish the necessary mechanisms to support interdepartmental discussion and foster the development of government-wide regulatory positions. These mechanisms should be complemented by the development and implementation of overarching regulatory policy frameworks to guide regulators and ensure coherent and integrated action. Single window services should be established to facilitate stakeholder access to the federal government. In the case of significant investment projects, coordinators with appropriate decision-making authority should be appointed to oversee federal regulatory involvement.

### ***Risk Management***

The federal government should develop a government-wide approach to risk management that includes risk prioritization, risk assessment, and risk communication and consultation. Risk assessment should be based on the latest peer-reviewed scientific information and an examination of the public environment and citizens' risk tolerance. Departments should coordinate their risk assessment efforts, develop periodic risk profiles and allocate resources according to risk priorities. The federal government should establish processes for the use of precaution in decision making in certain situations. Risk communication guidelines should be developed.

### ***Instruments for Government Action***

The federal government should develop a framework to guide the design and use of instruments and ensure that instrument decisions are appropriately challenged throughout the policy development cycle. The government should accelerate efforts to make the regulatory community more aware of the various instruments. Legislative constraints on creating mixes of policy instruments and using performance-based regulations should be eliminated. In addition, the government should examine expanding the appropriate use of economic instruments and Ecological Fiscal Reform in Canada.

### ***The Regulatory Process***

The federal government should give priority to developing a new federal Regulatory Policy that would apply to broader aspects of regulatory intervention, including statutes, and target procedural requirements according to level of risk or impact. It should introduce risk-based analyses, performance measurement and compliance and enforcement plans, and ensure that they are considered early in the analytical process. The government should devise approaches for the more timely development of regulations. It should improve its consultation techniques, including e-government, and develop new approaches and mechanisms to ensure accountability and provide recourse and oversight.

### ***Government Capacity***

The Committee believes that political commitment is a precondition to successfully creating and managing an effective Smart Regulation system. The federal government should develop measures to support a regulatory cultural change within government. The government should develop a comprehensive learning strategy for the regulatory community. Regulatory policy research and development agendas should also be developed and implemented in collaboration with appropriate partners from outside the public service to stimulate new thinking and innovation in regulation.



## **PART II – Sectors and Areas of Regulation**

### ***Manufacturing and Product Approval***

The government should work with stakeholders to develop an inventory of regulatory differences, in particular between Canada and the U.S., and align regulatory requirements in cases where differences are not warranted. In addition, Canada should develop a comprehensive automotive policy framework in order to coordinate domestic automotive regulatory roles and objectives. With regard to the drug approval process, the government should review Canada's international cooperation framework for the regulation of therapeutics to achieve a level of performance reflecting international best practices. In the short term, the government should implement measures that permit the use of data produced and reviews performed in other jurisdictions when appropriate. In the longer term, the federal government should establish mechanisms to maximize the benefits to Canadians of the knowledge and capacity developed in other jurisdictions.

### ***Biotechnology/Life Sciences***

The federal government should develop and implement a comprehensive biotechnology regulatory strategy to provide a more coherent government-wide approach, ensure strategic leadership and report on progress. The government should address legislative gaps and review relevant legislation regularly to ensure that it remains appropriate. Building on Canada's leadership internationally in the regulation of food biotechnology, the government should identify areas where Canada would benefit from taking on a leadership role. Finally, the federal government should implement a new approach to engage all stakeholders on public policy issues with respect to biotechnology. This should include the sharing of information on current scientific evidence and risk management analysis.

### ***Enabling First Nations Economic Development***

The federal government should move quickly to create an efficient, more responsive regulatory environment in First Nations communities. The government should accelerate its agenda to modernize the regulatory regime in First Nations communities and address regulatory gaps that inhibit the development of commercial and industrial projects on reserve land. The government should reduce the regulatory and administrative burden on First Nations communities and establish a centralized process to coordinate regulatory activity. In addition, the government should accelerate the development of initiatives to improve First Nations skills and capacity to make rules and manage regulations.

### ***The Environmental Assessment Process***

To address significant coordination challenges in this area, the federal government should begin discussions with provincial and territorial governments to develop a national integrated environmental assessment process for Canada. As a key step in this initiative, the government should establish a single environmental assessment agency to carry out assessments under federal jurisdiction. Substitution among regulatory authorities should be negotiated when an environmental assessment and other review processes are required on the same project. Strategic environmental assessments should be conducted at the outset of the process to give people an opportunity to discuss overall development issues. In addition, Fisheries and Oceans Canada should accelerate the implementation of planned improvements to its fish habitat system.

### ***Oil and Gas Exploration and Development***

The federal government should build upon the Mackenzie Gas Pipeline Cooperation Plan in order to create a broader, long-term regulatory cooperation framework among northern regulators that offers timeliness, transparency, predictability, clarity and certainty. A single window approach should be implemented to coordinate federal regulatory involvement in the North, and a federal coordinator with clear decision-making authority should be appointed to ensure the efficient regulation of the Mackenzie Gas Pipeline. Finally, the federal government should support capacity-building initiatives for northern regulators, including Aboriginal communities. Regarding the offshore, Fisheries and Oceans Canada should ensure that regulations developed under the *Oceans Act* are established in collaboration with other jurisdictions and stakeholders. An overarching policy framework for the offshore should be established to guide federal interaction with industry and stakeholders. These efforts should be complemented by the development of performance-based regulations, where appropriate.



## PART III – Making it Happen

The Committee recognizes that the scope of its report is large and that the recommendations it proposes are ambitious. The Committee often heard that the problem with the regulatory system is not one big issue but many little issues, which make the system daunting for those who have to understand and comply with it. These kinds of issues call for change at the strategic, organizational and cultural levels.

Such a transformation will not happen without strong political leadership at the most senior levels. The federal public service will need clear direction and support from the government to implement these changes. The government must be accountable for setting a course of action and the public service for implementing it promptly. The responsibility is upon parliamentarians, provincial and territorial governments, industry and businesses, non-governmental organizations and interested citizens to work together with the federal government and take an active part in the transformation of the regulatory system. A willingness to share issues, an open mind to listen to other perspectives, and a commitment to finding solutions in the interest of all Canadians and the future of the country are preconditions without which the proposed changes will not happen. This is why the Committee has insisted on cooperation as a key theme of its report.

The Committee often heard that one of the biggest challenges to Smart Regulation would be its sustained implementation and translation into new departmental practices. Indeed, during the Committee's consultations, many people questioned the federal government's willingness and ability to implement the kind of changes proposed by the Committee. The following nine initiatives are intended to "kick start" the government's implementation of Smart Regulation. They constitute a short-term action plan to be initiated and implemented within the next 18 months, to the greatest extent possible.

**1. Transitioning to Smart Regulation** – The government should commit to making all new regulation "smart." In the short term, one way to achieve this is to ask departments and agencies to add a section to the Regulatory Impact Analysis Statement to demonstrate how the proposed regulation is consistent with a Smart Regulation approach. This will require direction and leadership from the Privy Council Office. Over the longer term, the way PCO exercises its challenge function should be strengthened. PCO should lead and manage a federal regulatory agenda to enable effective priority setting and support departments in implementing Smart Regulation.

**2. Developing a regulatory policy for the 21st century** – The government should develop a new federal Regulatory Policy by September 2005 embodying the vision and principles as well as the directions proposed by the Committee.

**3. Supporting a learning regulatory community** – An essential initial step in effecting a regulatory "cultural change" is to implement a Smart Regulation learning strategy for the regulatory community. Such a strategy would include the sharing of best practices, mobility across departments, orientation courses and a system to disseminate knowledge across regulatory departments and agencies.

**4. Developing multistakeholder "swat teams"** – Based on the principle of cooperation and on the recommendation to review the current stock of regulation, "swat teams" for industry sectors should be established to help lead regulatory reform processes. In addition to the relevant federal departments, these teams would include representatives from industry,

provincial/territorial governments, Aboriginal organizations, non-governmental organizations, Canadian scientists from universities or centres of excellence and others as appropriate. Their objective would be to make recommendations to ensure that regulation affecting an industry sector is “smart.” The swat teams would be given a six-month term of reference to do the following:

- identify regulatory issues that can and should be addressed immediately;
- identify issues with a broader scope that will require other departments and stakeholders to resolve them (e.g. the *Competition Act* and intellectual property issues); and
- develop work plans for more complex, long-term issues.

The swat teams would report to a designated minister. As an initial step, three swat teams should be created by December 2004, with the commitment to cover all sectors of the Canadian economy by the end of 2007.

**5. Simplifying the environmental assessment process** – The Minister of the Environment should initiate discussions immediately with the provinces and territories to explore the possibility of creating a national approach for environmental assessments. The situation should be assessed by June 2005. Should there be no interest from provincial and territorial governments or if progress is too slow, the federal government should create a single federal environmental assessment agency and implement other measures to improve the environmental assessment process.

**6. Improving federal-provincial-territorial cooperation** – Addressing coordination issues between orders of government is an essential step in developing more coherent regulatory approaches in Canada. Developing a cooperative Smart Regulation approach should be identified as an agenda item for a forthcoming First Ministers’ meeting. Environmental assessments should be a priority for discussion.

**7. Addressing regulatory gaps in First Nations communities** – The government should move quickly to address regulatory gaps (e.g. in the areas of health, safety, and environmental protection and enforcement) that inhibit the development of commercial and industrial projects and other economic activity on reserve lands. The government should commit to provide First Nations communities with the appropriate regulatory framework to launch economic development projects within the next 12 months.

**8. Reducing small regulatory differences between Canada and the U.S.** – The Committee has highlighted the myriad small differences between Canadian and American regulations as an important issue. The federal government should take immediate steps in this regard. A designated minister should invite interested stakeholders to identify, by the end of December 2004, those regulatory differences for which elimination would not impede Canadian social and environmental objectives. Each should be examined against the set of criteria for specific Canadian requirements proposed by the Committee. By June 2005, recommendations should be made to the relevant ministers, who should take steps to immediately implement the recommendations.

**9. Enhancing access to the federal government** – The federal government should establish mechanisms in the next six months to provide an opportunity to stakeholders and citizens to challenge regulatory performance and decisions. The authority given to such mechanisms could include mediation, investigation, convening public hearings and making recommendations.

## EXTERNAL ADVISORY COMMITTEE ON SMART REGULATION

We, the members of the External Advisory Committee on Smart Regulation, are pleased to present the report, *Smart Regulation: A Regulatory Strategy for Canada*, and believe that the realization of its vision will benefit Canadians in the 21st century.



Mr. Gaëtan Lussier, Chair



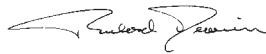
Ms. Rita Burak



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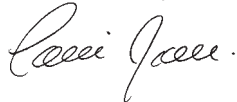
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