Regulatory and Institutional Frameworks for Services Reform

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Regulatory and Institutional Frameworks for Services Reform

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RIF for Services Reform

Services and RIF

Importance of services

Importance of ISS

Characteristics of ISS

Policies

Trade of ISS

RIF

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT
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Services and RIF

Importance of services:

- Intrinsic importance as an economic sector;
- 70% of GDP in developed countries;
- 50% of GDP in developing countries;
- 20% of global trade (underestimation);
- Exports more resilient to external shocks;
- Strengthen value chains, provide inputs for the delivery of services and goods.
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Services and RIF

Importance of infrastructure services sector (ISS):

• Include energy, financial services, telecommunications, transport, water;

• Intrinsic importance as an economic sector (growing population and rising income levels);

• 20% of GDP and 10% of employment (global);

• 35% of global services trade;

• Strong role in strengthening value chains, enhancing supply capacity.
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Key characteristics of some ISS:
• Provide public goods;
• Historically provided by Governments, operate in increasingly competitive and liberalized economies;
• Network services;
• Highly capital intensive and with sunk assets, subject to economies of scale or scope;
• Natural monopolies.
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Increase commercialization in ISS:
- Includes privatization (PPP, concessions or build-operate-transfer contracts) also fostered by liberalization;
- Supplement existing supply capacity;
- Increase access to investment capacity, better technology and more efficient supply.

Necessary policies to promote benefits:
- Alignment of services, trade, production and macroeconomic policies;
- Support of regulatory and institutional framework (RIF).
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Services and RIF

RIF address several issues:
• Development of services sector;
• Market failures and undesirable economic/social results;
• Should be credible, participated and locally adapted;
• Secured in political, constitutional and legal framework.

RIF system includes substance and governance:
• Regulatory measures direct transactions towards results and may include legislation, standards and procedures;
• Regulatory institutions develop, implement, monitor and enforce regulations.
Regulatory and Institutional Frameworks for Services Reform

- Services and RIF
- Regulation Concepts
- Institutional Concepts
- Developing Countries
- Regulation and Trade Policy
RIF for Services Reform
Regulation Concepts

- Regulation
  - Technical regulation
  - Economic regulation
  - Price regulation
  - Universal access
  - Competition
  - Consumer protection
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Regulation Concepts

Technical regulation:
• Often sectoral and related to physical aspects;
• Sets and enforces standards of, e.g., quality, safety, customer relations, environment.

Economic regulation:
• Aims stable markets, investment and supply capacity;
• Also aims efficient ISS provision, competition, consumer protection and universal access.
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Regulation Concepts

Price regulation in economic regulation:
• Balance between investors and consumers;
• Approaches: Rate of Return (RoR), price cap, revenue cap.

RoR:
• Prices cover costs and fair return on investment;
• Advantage: stability for investors;
• Critics: underestimation of capital depreciation, no incentive to reduce costs.
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Regulation Concepts

Price cap:
- Price set upfront;
- Advantage: incentives for efficiency, allows for information asymmetry.

Revenue cap:
- Based on costs, puts a ceiling on revenue, adjusted for end-user efficiency gains;
- Advantage: incentives for demand side efficiency.
Universal access in economic regulation:
- Enhancing access to the poor and remote;
- Balance between connect more or make existing connections more affordable;
- Includes: promotion of community based initiatives, subsidies and Universal Service Obligations (USO).

Subsidies:
- May be useful to trigger private investments;
- Risks: fiscal impact, regressive effect.
USO:
- Imposed to promote services expansion or affordability;
- Should be realistic, well defined, adaptable but not arbitrary;
- Important procedural aspects: consumer protection, monitoring of targets, information requirements;
- Implementation difficulties: insufficient funding, inadequate enforcement, overly ambitious targets;
- Critics: introduce inefficiencies, impede competition, impact on companies financial viability.
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Regulation Concepts

Competition regulation in economic regulation:

- Specially important in industries with market failures, information asymmetries, natural monopolies;
- Efficiency objectives: static and dynamic (technological innovation);
- Important issues to address: market power, collusion and excessive prices, tactics to prevent new entrants and predatory prices and vertical restrictions;
- Strategies to consider: unbundling, foster technology transfer, ensure access to bottleneck infrastructure.
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Regulation Concepts

Consumer protection may address:
• Contract terms;
• Consumer complaints process;
• Billing and payment options;
• Access to service;
• Quality of service.
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RIF for Services Reform
Institutional Concepts

- Institutional concepts
- Regulation by contract
- Regulation by agency
- Effectiveness
RIF for Services Reform
Institutional Concepts

Regulatory governance and institutional aspects:
• Before most ISS were self-regulated or by a ministry;
• Two main approaches: by contract or by agency.

Institutional effectiveness criteria:
• Autonomy from political authorities;
• Transparency before stakeholders;
• Accountability to the executive, legislative and judiciary;
• Tools for institutional development (capacity, fiscal efficiency).
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Institutional Concepts

Regulation by contract:
- Contracts with providers, usually from private sector;
- Include PPP, service contracts, leases and concessions;
- Decisions are Governmental and require knowledge;
- Important to foresee: good specification of quality and quantity of service, re-opener clauses and monitoring.
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Institutional Concepts

Regulation by agency:

- Established agency requires credibility, capacity and coordination (e.g. MoU) with other regulatory bodies;
- Mandate may vary between advisory or decision making capacity and scope of issues and sectors;
- Benefits from multi-sector regulator:
  - Common features may lead to same regulatory issues;
  - Efficient use of scarce human and financial resources;
  - More effective regulation of firms operating in several sectors;
  - More effective addressing linkages between sectors;
  - Independence from sectoral ministries.
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Developing Countries

- Developing countries
- Qualified staff
- Outsourcing
- Twinning
- Phased approaches
Regulators need staff with specialized skills:
- Capacity building and relevant continued training.

Outsourcing of regulatory functions:
- To complement and not to substitute regulatory capacity;
- Outsourced functions include consulting or technical support to regulators, performance auditing, preparation of documents, dispute resolution;
- Risk: political sensitivity;
- Requires: sound contract management and skill transfer.
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Developing Countries

Twinning:
• Pairing regulatory institutions from different countries with similar mandates;
• May promote transfer of knowledge and best practices;
• Cooperation not only North-South but also South-South.

Phased approaches for initial operations while regulator builds capacity – hybrid and gradual model:
• Hybrid – regulator initially depends on Government;
• Gradual – regulator begins with limited functions.
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Developing Countries

Regulation and Trade Policy
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Regulation and Trade Policy

- Regulation and trade policy
  - Cooperation
  - Capacity building
  - Technical assistance
  - Concepts
  - Trade negotiations
Regional regulation and regional trade agreements (RTA):
• RTA cover ISS, through services or investment chapters;
• RTA may include RIF such as cooperation mechanisms, capacity-building and technical assistance.

Cooperation mechanisms:
• Important for cross-border externalities, as infrastructure;
• Address resource constraints at a national level;
• Include regulations, institutions, information exchange, regional capacity building and twinning activities.
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Regulation and Trade Policy

Capacity building:
• Pooling resources;
• Foster networks of regulators, research and training.

Technical assistance:
• Include regional expert panels and regional regulators associations;
• Facilitate capacity building and cooperation initiatives;
• Allow for more efficient use of resources and promote harmonization and regional integration processes.
Concepts of regional regulation and RTA:

- Barriers to services trade are also in domestic regulation;
- Regulation in RTA address national regulations with wide coverage (substance, procedures, institutions);
- RTA conveyed regulation may induce good practices but also a potential conflict with national autonomy;
- The aim is not to reduce regulation but to manage regulatory diversification while respecting differences;
- Strategy: coordination of regulators/trade ministries/trade and regulatory policy, cost-benefit analysis of trade and regulatory initiatives, flexibility to developing countries.
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Regulation and Trade Policy

General Agreement of Trade in Services (GATS):

- Recognizes Governments right to regulate, has wide coverage and effect on regulatory flexibility, may induce good practices on transparency and due process;
- Positive list approach and progressive liberalization.

Doha round of negotiations:

- Disciplines on licenses and technical standards;
- Discussion on special and differential treatment (SDT);
- Developing countries expressed need for flexibility, SDT and technical assistance.
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United Nations Conference on Trade and Development
Division on International Trade in Goods and Services and Commodities