Linking Domestic Regulatory Relief with International Regulatory Relief

A Report to the Task Force
by Jim J. Tozzi
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Under the guidance of the Presidential Task Force on Regulatory Relief chaired by Vice President Bush, the Office of Management and Budget reviews regulations issued by Federal agencies. Although this review has reduced the burden on U.S. businesses, the regulatory burden imposed upon U.S. firms continues to increase as a result of the protectionist measures being employed by foreign governments. Many foreign governments are issuing a significant number of wide ranging regulations which result in unjustified expenditures on U.S. firms. Consequently the best of U.S. regulatory relief programs will not, by themselves, solve the problems created by foreign regulations.

The regulations of foreign government often interfere with U.S. exports and the operation of multinational corporations by setting unreasonable product standards, limiting U.S. investment, requiring the use of local labor and materials and requiring that U.S. firms "offset" their sales by agreeing to export products produced by the foreign government..

To address this increase in foreign regulatory activity, OMB is helping U.S. trade negotiators encourage foreign governments to eliminate onerous regulations by identifying U.S. deregulatory activities which have helped foreign firms and foreign governments. When the U.S. government deregulates, our negotiators can use these actions which open up our markets as a "bargaining chip." By providing the United States Trade Representative (USTR) with these chips, we can encourage comparable relief by foreign governments by using a "carrot for a carrot" approach in lieu of a "stick for a stick" approach.

By linking our domestic regulatory relief program to our international regulatory problems we will be able to utilize increased access to U.S. markets as a means for increasing U.S. access to foreign markets.

Recent Process Changes

To facilitate these efforts OMB has recently taken steps to strengthen the process by identifying foreign trade considerations embedded in domestic regulatory proposals. More specifically OMB has issued guidance to regulatory agencies requiring the identification of regulatory changes which improve international trade. Moreover, the USTR has committed itself to inform affected foreign governments of our regulatory relief activities and will attempt to negotiate complementary reforms in foreign regulatory policies. This process has already resulted in regulatory relief on the part of several foreign governments.

In addition, the Commerce Department's National Bureau of Standards (via the GATT Secretariat in Geneva) will keep all agencies informed of pending regulatory changes in other nations that could affect trade with the U.S. As appropriate, a U.S. position will be developed that promotes free international trade and takes account of our own regulatory policies.

MEMORANDUM TO: All Agencies Subject to Executive Order 12291

FROM: Jim J. Tozzi
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Office of Information and Regulatory Affairs

SUBJECT: Identifying and Eliminating Regulatory Barriers to the Flow of International Trade

Background. Executive Order 12291 requires most federal agencies to furnish the Office of Management and Budget (OMB) with information that will enable OMB to evaluate the anticipated economic impact of proposed agency rules and regulations.

Executive Order 12291 is premised on the belief that in the generality of cases market solutions to economic problems are superior to regulatory solutions, that the achievement of noninflationary economic growth can be best obtained by stimulating private economic activity, and that a strong domestic economy depends on the maintenance of open markets both at home and abroad. Through the regulatory review process established by the Executive Order, OMB is stressing the importance of balancing the possible need for a proposed regulation against the likely costs and burdens of compliance, and of examining alternative approaches to achieving regulatory objectives that minimize such costs and burdens. To the same end, the Paperwork Reduction Act provides OMB with authority to reduce the burden on the public of compiling and providing information to the U.S. Government.

The Administration's Policy Concerning International Trade and the Reaction of Foreign Interests. Consistent with the Administration's belief in the general superiority, desirability and efficacy of free trade, it is the policy of the Administration to remove or diminish, to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States.

Recognizing that nominally "domestic" regulations often affect international trade, foreign interests are seeking to take advantage of the Administration's program of eliminating unnecessary trade regulations and reducing the burden of such regulations. They are becoming increasingly active in urging agencies and OMB to expand their efforts to decontrol domestic trade.

At the same time, some foreign countries and interests continue to implement a variety of trade barriers that limit the importation of goods manufactured in the United States and the opportunity for firms doing business in foreign countries to avail themselves there of supporting services originating in the United States. There also appears to be an increasing proliferation of non-tariff trade barriers against international trade, such as legal requirements that locally manufactured components be used in connection with imported items. It is the general policy of the Administration to oppose such trade barriers, whether in the form of exclusionary tariffs or otherwise.

Foreign trade barriers directed against the importation of services are of equal concern as barriers directed against the importation of goods. Service industries, such as telecommunications, computer processing, insurance and banking, are heavily involved in international trade. Businesses involved in international operations are dependent on services that cut across national boundaries. Accordingly, it is the policy of the Administration to remove impediments to international trade in services as well as impediments affecting goods.

<u>Implementation of the Administration's International Trade Policy Through Improved Interagency Coordination</u>. Several steps have been taken to help assure that the various branches and agencies of the Government cooperate in the framing and carrying out of the Administration's policies with regard to international trade.

The Office of the United States Trade Representative (USTR), which has responsibility for setting and administering over-all international trade policy, works closely with the Trade Policy Committee and with agencies whose functions encompass international trade. These agencies, as well as USTR and OMB, now receive notification from the GATT Secretariat in Geneva, Switzerland, through the National Bureau of Standards, of proposed foreign regulatory standards. In this manner they are alerted to proposed foreign regulations that may impede the entry of United States firms into foreign markets.

Through its program of regulatory review implemented by Executive Order 12291, OMB plans to coordinate its own efforts with those of USTR. OMB will provide USTR with pertinent information received by OMB through Executive Order 12291 concerning the impact of domestic regulations on foreign commerce, and to consult with USTR concerning foreign trade practices.

Through such cooperation, it is anticipated that USTR, OMB and the agencies will be able to link and integrate their respective foreign and domestic deregulatory efforts; and thereby achieve greater uniformity in domestic and foreign trade regulatory policies and practices, strengthen the negotiating position of USTR in dealing with foreign governments and agencies, and stimulate United States exports.

Implementation of the Administration's International Trade Policy Through the Reporting Requirements of Executive Order 12291. To help OMB to carry out the international trade policies of the Administration, Standard Form 83R, which implements Executive Order 12291, has been amended to add an aditional question, asking "Does this regulation affect any trade-sensitive activity?" The instructions to Form 83R define "trade-sensitive" activity to include any activity or practice which limits market access, administratively raises prices, or otherwise limits international trade.

OMB hereby requests each agency (or its reporting division or office) to respond to SF-83R in the following manner:

1. When submitting to OMB the information called for by SF-83R in relation to a proposed rule or regulation, each agency should advise whether or not the rule or regulation will have the effect either of removing or lessening, on the one hand, or of imposing or increasing, on the other, restraints on any trade-sensitive activity. The agency should state the anticipated effect of the proposed rule or regulation and the basis for the agency's belief.

2. Each agency should furnish to the desk officer in OMB's Office of Information and Regulatory Affairs, at the close of the public comment period with regard to any proposed rule or regulation, a copy or summary of the comments received from foreign governments, industries or other interests, and a brief analysis whether or not such comments are consistent with the elimination and reduction of international trade barriers, and with any expressed policies of foreign governments and interests to that effect.

3. Within 60 days from the date of this announcement, each agency should advise OMB of the individual agency point of contact for communications with OMB concerning trade-sensitive activities in the international sphere, and of the steps that the agency proposes to take to implement the within directive.