

## QUALITY OF REGULATION: AN ANALYTICAL CASE STUDY APPROACH

### Terms of reference for authors of country research papers

1. The researchers writing country papers (country researchers) will have to attend a one day inception workshop in New Delhi where the ToR will be explained in detail to them.
2. Work on country research papers will start with identification by country researchers of two sectors in the economy in which regulatory outcomes are important for overall economic welfare. CUTS International will need to be informed about the choice of the two sectors before further work is done by the country researchers. CUTS will either convey its approval or enter into an interactive process with the country researchers so that the final choice of sectors can be made. The entire process of selection should not take more than a week.
3. Once the sectors have been chosen, these have to be qualitatively examined for suitability of regulation. In other words, the occurrence/absence of the following has to be ascertained to determine the adequacy of existing regulation:
  - Information Asymmetry
  - Externalities
  - Natural Monopolies
  - Anticompetitive Practices
4. If none of the properties mentioned in 3. is found to exist, it can be concluded by the country researchers that regulation of the studied sector is unnecessary. In such a case the distortionary (pertaining to deviation from the optimum) consequences of present regulation can be fleshed out and an estimate of regulatory loss (welfare loss resulting from regulation) will have to be generated. The higher the regulatory loss, the lower would be the evaluated quality of regulation
5. However, in case one or more of the above mentioned properties is/are found to be present then both Quantitative and Qualitative Assessment of regulation need to be carried out.
6. Qualitative Assessment would look at indicators of regulatory quality such as financial and functional independence, transparency and accountability of regulatory processes, and institutional processes in place to overcome coordination problems arising from overlaps in domain among sector regulators and between sector regulators and competition authorities. Such indicators are proximate determinants of regulatory quality. There is a need to identify the root causes behind the existent state of regulation as indicated by these proximate determinants. The quality of regulation would also be indicated by outcomes -- quality of service, exploitation of consumers, tariffs and their basis, existence of windfall profit, etc -- which should also be studied

7. For Quantitative Assessment, existence of suitable data (for example, on various costs and benefits of regulation) is essential and needs to be ascertained by the researchers. Quantitative Assessment should be proceeded with only if the required data exists. Data needs not met, if any, should be clearly identified in the paper. If data needs are met then the methodology for Regulatory Impact Assessment (RIA) should be implemented. This would involve a comparison of costs (compliance cost, regulatory cost etc) and benefits (welfare gains resulting from alleviation of externalities, anticompetitive practices and information asymmetry) to arrive at net benefits.
8. Once the Qualitative and Quantitative Assessments have been completed, these should be used to provide an overview of the quality of regulation in the country. Qualitative Assessment would measure the quality of regulatory implementation and Quantitative Assessment would be an outcome of both the nature of regulation as it exists on paper as well as its implementation.
9. The relevant timeframe for the study is as follows:

<b>S.No.</b>	<b>Time Period</b>	<b>Task</b>
a)	Week 1 Starting from September 2009	Inception workshop in New Delhi
b)	Week 2	Selection of sectors and ratification by CUTS
c)	Week 3- Week 12	Preparation of 1 <sup>st</sup> draft of paper on the basis of guidelines provided above
d)	Week 13 – Week 15	Review process to be implemented by CUTS (papers will be evaluated in terms of content, analytical quality, use of available data, adherence to the ToR and exposition)
e)	Week 16 – Week 19	Preparation and submission of pre-final drafts incorporating comments of reviewers for use by expert writing the overview paper.
f)	Week 20 – Week 25	Writing of overview chapter
g)	Week 26	Presentation of research papers in a Symposium
h)	Week 27- Week 30	Finalisation of papers on the basis of comments/suggestions received at the symposium Final approval by CUTS conditional on quality standards being met
i)	Once papers are finalised these will be published in a research volume	

*Addendum to terms of reference for country researchers*

10. These guidelines will supplement those given in the terms of reference (ToR) already circulated to the country researchers as a part of the contract signed by them. Many of these supplementary guidelines have to be followed in the context of the mentioned ToR document.
11. No additional signatures are required but the country researchers are requested to consider the incorporation of these guidelines into their work as essential. This is this because these suggestions emerged from a discussion among the researchers themselves and distinguished experts. Below find the details of these supplementary guidelines elaborated.
12. **a) Petroleum and Natural Gas and b) Electricity** will be the two sectors covered by each of the country researchers. Within petroleum and natural gas, the relative emphasis on the quality of regulation of each component (petroleum versus natural gas) will be determined by its relative importance in the national economy and the regulatory complexity involved
13. The introductory section in each paper should contain a discussion of the nation's political and economic environment/setup as the study of the quality of regulation needs to be undertaken in the context of the realities thus highlighted. There should be a clear definition of the relevant market and consumer so that the subject matter of study is clearly demarcated. Last, the motivation(s) for regulation (investment enhancement, increase in consumer welfare etc) should be clearly stated.
14. The discussion on formulation of regulations should contain a mention of whether the regulator is involved in the setting of performance standards.
15. The discussion on implementation of regulation should cover the following:
  - Regulator's technical ability to measure satisfaction of standards
  - Ability and willingness of the regulator to take punitive action against violators
  - Information collection mechanisms used by the regulator
16. In the discussion of ultimate determinants of the quality of regulation the following aspects need to be included:
  - 16.1 Under 'regulatory independence' there should be a discussion of:
    - a) Procedures for selection of the members of the regulatory commission and the Chairman
    - b) Terms and conditions pertaining to the tenure of the above
    - c) Professional backgrounds of the above

- d) The use of media by the above for protecting independence, including funds available for that purpose

16.2 Under 'transparency' there should be a discussion of

- a) Timeliness and the time line (schedule) of the consultation process
- b) Adequacy of documentation of consultations and their complete availability to anyone interested.
- c) Openness in rules relating to 'conduct of business' , time lines for orders, etc
- d) Training of consumer groups by the regulatory commission

16.3 There should also be a discussion of predictability and consistency of regulatory action – temporal and if applicable, spatial.

16.4 Under 'accountability', the discussion regarding the existence of windows for redressal should be supplemented by an elaboration of the effectiveness of their functioning including a discussion of the appropriateness of the authority reported to in this regard.