Using International Standards in Regulations

OECD Provides a New Tool for Governments

By Barbara Fliess and Raymond Schonfeld

The World Trade Organization Agreement on Technical Barriers to Trade instructs regulators to use relevant international standards in technical regulations when they are available. Much guidance is offered by governments and standards bodies on how to do that. But how well do regulators do it in practice?

To help provide answers to the question posed above, the Organization for Economic Cooperation and Development has proposed a new method of tracking and comparing the extent of the use of international standards in technical regulation in any sector. At its heart lies a new, common format, called the ISTR Template (International Standards in Technical Regulations), for communicating the link between regulatory objectives, specifications and standards. The methodology results from a two-year pilot study and is believed to be the first multisectoral harmonized methodology for this field ever suggested by a major international organization for global use.

INTERNATIONAL CONCERN

The OECD proposal responds to concern about the failure to measure the impact of the World Trade Organization’s Technical Barriers to Trade Agreement requirement to use relevant, available standards as the basis for technical regulation. The concern appears in two ways:

- Some doubt that regulators are doing enough. In the oil and gas sector, for example, the International Association of Oil and Gas Producers has examined regulators’ uptake of standards that their members have developed. Its conclusion was not complimentary. The report states, “Industry (has) for many years worked to harmonise standards and developed standards for global use... There is little evidence of the same being the case in the regulatory documents and their references to standards.”

- Others seek proof of the benefits of using standards in technical regulations and claim

A 2010 report of the Association of Oil and Gas Producers stated, ‘industry (has) for many years worked to harmonise standards and developed standards for global use... There is little evidence of the same being the case in the regulatory documents and their references to standards.’
that, since the WTO TBT Agreement has been in force for more than 10 years, it is surely time to measure whether its provisions concerning standards have achieved concrete trade benefits.

Yet, despite those concerns, the specific aspect of the extent and impact of using international standards in technical regulations had received little attention in research.

Now it has. The OECD study went deeply into practice in technical regulation in three sectors (electrical household appliances, natural gas and telephone handsets) in Canada, the European Union, Mexico, South Korea and the United States.

In all those countries, the policies were fine. All encourage the use of international standards in regulation. And a number of government databases are maintained in the largest countries, which offer information on which standards are used in regulations and sometimes show their links to non-national standards.

The OECD found, however, that those databases were often incomplete and that the lack of a harmonized international format made it impossible to obtain a systematic international perspective on which standards are used, for which regulatory objectives, and with which links to standards used internationally. Sometimes the regulatory objectives were not even stated.

In other words, a lack of transparency makes measurement impossible. The only excuse offered — that regulators in a given field know which international standards are available and do not need analytical or measurement tools to help use them — lacked any objective proof of how far they in fact do so. The lack of factual data, in turn, prevents measurement of the trade impact of using standards in regulations.

A WAY FORWARD

The OECD’s approach was pragmatic. A template was developed (see sidebar on the following page), providing a basis for data presentation by any country on:

- Which products are covered;
- What issues are regulated (such as safety, energy efficiency, interoperability, waste disposal);
- Which regulations are used for that purpose;
- Whether the regulations reference standards as a basis of compliance and, if so,
- Whether international linkages can be identified in those standards.

The use of the ISTR Template identifies the regulatory objectives, the countries that use regulation to achieve each objective, the exact regulations used, their use of standards and the proportion of any standards with international links. That is enough to make it possible to get started with measurement, despite possible uncertainty about whether a standard, even if used, meets the stated regulatory objective in full.

FIRST TESTS

What did the template show when it was applied to the sectors and countries in the pilot study? The study revealed that the range of non-national standards used by regulators (though not the frequency of their use) is greater than

Lack of transparency is a problem that makes measurement of progress impossible today.
The OECD’s new ISTR Template (International Standards in Technical Regulations) is shown below, completed for one sector (natural gas) in Canada and South Korea. A separate version, always on a single page, is prepared for each sector/country combination. The numbers in the Regulatory Objectives column refer to detailed, numbered notes, which can be several pages long.

The tables reveal the range of standards developing organizations whose standards are in fact used directly or indirectly. The range in each sector is likely to be unique.

### Sector: Natural gas and equipment

### Products: Natural gas; equipment for exploration, production, distribution, processing facilities

### Country: Canada

<table>
<thead>
<tr>
<th>Regulatory Objectives</th>
<th>Regulations</th>
<th>Standards</th>
<th>International Links</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality of gas</td>
<td>Not regulated</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Storage</td>
<td>NEB Guidance Notes for pressure vessels</td>
<td>CSA B51, ASME Safety Code</td>
<td>ASME — direct reference</td>
</tr>
<tr>
<td>Transport tank: road/rail</td>
<td>TDG Regulations</td>
<td>CSA B620, B622, CAN/CGSB-43.147 UN Recommendations</td>
<td>UN Recommendations — direct reference</td>
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<tr>
<td>Processing facilities</td>
<td>PPR and Guidance Notes, SOR/87-612</td>
<td>PPR: CSA B351; Guidance Notes: CSA B51, ASME Safety Code; SOR/87-612: see row 2</td>
<td>ASME — direct reference</td>
</tr>
</tbody>
</table>

### Sector: Natural gas and equipment

### Products: Natural gas; equipment for exploration, production, distribution, processing facilities

### Country: South Korea

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<th>Regulatory Objectives</th>
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<th>Standards</th>
<th>International Links</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quality of gas</td>
<td>Not regulated</td>
<td>N/A</td>
<td>N/A</td>
</tr>
<tr>
<td>Exploration/extraction</td>
<td>Petroleum minefield regulation</td>
<td>None</td>
<td>ASME, API, ASTM, MFPA</td>
</tr>
<tr>
<td>Storage</td>
<td>KGS AC 111, KGS AC 115</td>
<td>KDS 3501, 4101, 4125, 5201 ASME, BS, API</td>
<td>Direct reference</td>
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<td>Pipeline</td>
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<td>KSD 3562, 3576, 3507, 5301, 5539</td>
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<td>Processing facilities</td>
<td>KGS FP 451, KGS FP 551</td>
<td>KSD 3541, 3586, 3706, 3711, 3583, KS B 1012, 1326</td>
<td>N/A</td>
</tr>
</tbody>
</table>
sometimes acknowledged but that the nature of the link between the technical regulation and the non-national standard that provides the ultimate source is often opaque.

Or, in other words: 1) a diverse range of standards development organizations produce standards that are, in fact, used by regulators internationally, but 2) the use of those standards is inconsistent and patchy, and 3) the link between the core standard and the regulation is often poorly explained. Those conclusions lead to the evident thought that the lack of transparency may be a cause of the lack of uniform use: regulators just don’t know what’s available, from where and how it’s used. The sidebar illustrates those conclusions in a single sector (natural gas).

The use of the ISTR Template improves transparency, first by revealing whether regulators in different countries have common regulatory objectives. That explicit focus on presenting objectives in a common format and measuring their degree of alignment, as opposed to simple counts of standards, would add a dimension to current knowledge. Also, for each objective, the method identifies standards, national or non-national, used for compliance, thus helping other regulators to identify relevant international documents. Tools are also available to classify the nature of the link: Is a core standard reproduced in an identical form or modified?4

EVALUATING THE IMPACT ON TRADE

The study also examined whether the data collected through the use of the ISTR Template could be used for statistical calculation of the impact on trade flows of using standards in regulations and of aligning regulatory objectives. The answer was yes. The data obtained from these pilot sectoral studies – on regulatory objectives, national standards and standards with cross-border use – if extended and multiplied over many sectors, is fundamentally suitable for constructing econometric models of the kind successfully used in an earlier OECD study of the impact of using supplier declaration of conformity.5 The base is ready.

REFERENCES

1. The American National Standards Institute and the International Organization for Standardization both make extensive efforts under this heading. For ANSI, see http://publicaa.ansi.org/sites/apdl/Documents/StandardsActivities/NSSC/USStandardsStrategyImplementationAssignments.doc.

2. The OECD (www.oecd.org) is an intergovernmental organization with 34 member countries, including the largest economies in the developed world. Some developing countries have been offered enhanced engagement. The full text of the report featured here is available at www.oecd-ilibrary.org/trade/the-use-of-international-standards-in-technical-regulation_5kmbjk2lzp-en. Jeong-Hoi Kim and Frédéric Gonzales of the OECD secretariat also contributed to this project.


4. International Organization for Standardization Guide 21, Regional or National Adoption of International standards and Other International Deliverables, Part I: Adoption of International Standards, is relevant here.


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