



Committee on Technical Barriers to Trade

**THEMATIC SESSION ON THE USE OF DIGITAL TECHNOLOGIES AND TOOLS
IN GOOD REGULATORY PRACTICES**

7 NOVEMBER 2023, 10:00-13:00

Moderator's Report¹

At the Ninth Triennial Review, Members agreed to continue to hold thematic sessions in conjunction with the TBT Committee's regular meetings from 2022 to 2024 to further deepen the exchange of experiences on specific topics. On this basis, the Committee agreed to hold a thematic session on the use of digital technologies and tools in good regulatory practices.² Information about the speakers, presentations, and related materials is available on the WTO website.³

1 GUIDING QUESTIONS

- How can digital technologies and tools help in implementing Good Regulatory Practices including in terms of improving transparency, inclusiveness, and efficiency of regulatory process?
- How can Members cooperate in implementing digital tools and technologies in regulatory process?
- What are the challenges and possible solutions to ensure developing countries, LDCs in particular, can make use of such digital tools and technologies in their regulatory processes?

2 INTERVENTIONS

2.1. **Mr Jordan Hatch** (Australia)⁴ presented on the use of digital tools in regulatory policy to ensure that it remains fit for purpose in the digital era. He provided three examples of how digital approaches can be applied to address complex regulatory issues: (i) human-centred design, a methodology that envisages active engagement with users to identify challenges and opportunities in the context of regulatory process; (ii) system-wide mapping, an approach that helps identify overlapping regulatory processes across Australian Government agencies or jurisdictions; and (iii) multi-disciplinary collaboration (e.g. policy and digital expertise).

2.2. **Ms Bridget Dooling** (United States)⁵ presented on how digital tools and emerging technologies can be used in regulatory processes by different stakeholders. She provided examples on how these tools can and have been used by: (i) the public, (ii) government agencies, (iii) e-rulemaking programmes and (iv) the courts.

2.3. In the case of public stakeholders, she noted that they can take advantage of digital tools to become more aware of regulations that are pertinent to them, become aware of comment opportunities as well as receive support in drafting comments. She stated that the variability in structure and formatting of public comments may impact their usefulness and persuasiveness to agencies, so digital tools such as generative AI may help improve this. She also noted the potential risks these tools pose with regard to detecting mass and malattributed comments and that agencies

¹ Mr. Diego Franco (Paraguay). This Report is provided on the Moderator's own responsibility.

² [G/TBT/46](#).

³ [WTO | Thematic Session on good regulatory practice](#).

⁴ Acting First Assistant Secretary, Regulatory Reform Division at the Australian Government Department of Finance, Australia.

⁵ Assistant professor of law, Michael E. Moritz College of Law, Ohio State University, United States.

will need to build tools in response to help them be resilient against these challenges. With regard to regulatory agencies, some of the advantages to applying digital tools she noted include the ability to quickly synthesise large bodies of existing text, analyse comments and identify duplicative comments.

2.4. She then discussed how the e-Rulemaking programme in the United States has been able to use digital tools through a central platform that enables cross-agency analysis of complex and voluminous comments. Finally, she spoke on how the courts could potentially benefit from the use of digital tools in statutory interpretation. An example of this is through the use of large language models to determine and discern statutory language through interpretive guides. These tools could also be used to help courts access previous determinations and analyses from earlier courts. Other important applications could be in the analysis of the regulatory record upon review, where courts could harness large language models to analyse these records as well as even drafting opinions.

2.5. **Ms Thalita Antony de Souza Lima** (Brazil)⁶ presented on how the Brazilian health regulatory agency (ANVISA) has used digital tools in their regulatory processes. She noted that in efforts to review and automate processes to make operations faster and more efficient, the agency has employed several digital tools. She highlighted the work of the Regulatory Quality Improvement Assistance Office within the agency that has established solutions to use data for regulatory improvement. She noted three main areas where digital tools have been applied to contribute to more efficient performance and predictability, namely (i) regulatory planning, (ii) regulatory impact analysis and (iii) monitoring and evaluation.

2.6. She provided three examples of digital tools ANVISA has developed to address these issues: (i) a regulatory observatory that charts data on all plans, projects and ongoing processes on the regulatory agenda, organized by subject theme and status, (ii) an ex-post evaluation chatbot that clarifies doubts on ex-post evaluation of regulations and (iii) a machine based learning tool that clusters public qualitative contributions for regulatory planning, reducing human efforts and saving time.

2.7. **Mr Nikos Archontas** (European Union)⁷ presented on how the European Union is using digital tools in stakeholder engagement on regulatory processes. He highlighted four main tools used to support stakeholder engagement, namely: (i) a web portal (*Have Your Say*) that serves as a multilingual, single entry point for all public consultation activities and feedback opportunities, (ii) a back-office internal tool (*Better Regulation Portal*) that supports the *Have Your Say* web portal, (iii) an internal planning platform (*Decide*) that facilitates approval of initiatives along the hierarchy, whether administrative or political and (iv) an external tool (*EU Survey*) to enable DGs to draft questionnaires to be published on the *Have Your Say* web portal.

2.8. He noted that these tools support various stages of the regulatory cycle from policy preparation up to adoption of the policy preparation (including impact assessments) and evaluation. He also stressed that *Have Your Say* web portal provide multiple opportunities for citizens and stakeholders to provide feedback (i.e., to Call Evidence documents, legislative proposals and draft secondary legislation acts) and also to contribute to public consultation questionnaires with the aim to influence the policymaking of the European Commission.

2.9. **Ms Rosie Rodgers** (Australia)⁸ presented on how digital tools are being used in regulatory impact analysis. She highlighted the work of Australia's Office of Impact Analysis (OIA) that administers its regulatory impact analysis, in particular their development of a case management system to track, organize and record assessments of regulatory impact analyses. The software OIA RIA Compliance Assessment (ORCA), was designed to monitor the RIA process, keep records of cross-agency correspondence, and provide data insights such as how many proposals are sent by relevant agencies, how many RIAs are completed by agencies, and the quality of completed RIAs.

2.10. She noted that ORCA has helped contribute to better regulation and decision making through improvements in accountability, administration, assessments, and assistance. Through automation the agency has been able to increase record keeping, minimize human error, provide quicker

⁶ Chief Advisor for Better Regulation at the Brazilian Health Regulatory Agency – ANVISA, Brazil.

⁷ Policy Officer- Evaluation, Impact Assessment & Stakeholder Consultation, Seconded National Expert, European Commission, European Union.

⁸ Adviser, Australian Office of Impact Analysis, Department of Prime Minister and Cabinet, Australia.

responses to relevant agencies, improve engagement with other agencies, give agencies tailored information on past RIAs, determine if agencies require extra support and training, and provide greater consistency and accessibility to past assessments, among other benefits. She noted that Australia has shared the software with several countries and is happy to share with other countries who may be interested.

2.11. **Dr. Lu Ding** (China)⁹ presented on the digital transformation of standards and its practice in smart manufacturing. She noted that standards will play an important role in digital transformation but that traditional standards pose several challenges to promoting this transition, mainly with respect to efficiency, coordination, and interoperability. She remarked that standard digitalisation has featured in key strategy documents of standard setting bodies such as ISO, IEC, and CEN/CENELEC among others, to promote the transformation of standards. She highlighted some standard digitalisation activities at standard setting bodies including a report on smart standards and a task force on smart standardization and conformity assessments at the IEC and an advisory group to establish a machine-readable standards strategy at ISO, among others.

2.12. She presented the ISO/IEC smart standards utility model that demonstrates how standards progress through various levels from paper through to smart standards. To enable this process she highlighted the Digital Standard Tool that promotes digitalisation of standards. She then highlighted how these smart standards can be used in practice through three examples of pilot projects in China.

2.13. First, in the automotive industry, the use of a smart standard, the Common Data Dictionary standard, that describes different devices in a factory and their specifications, helped to provide support to the lifecycle workflow and supply chain. Another application she highlighted was the use of smart standards in a pilot project in the power industry where a standard digital platform helped improve efficiency of standard review, reducing project construction risks as well as creating a streamlined and intelligent process for bidding and procurement. Third, she mentioned the use of smart standards in the aviation industry, where they have helped technicians with product innovation, increased automation in design, as well as increased the overall quality of work.

2.14. **Mr Angus Barry** (UK)¹⁰ presented on the use of digital tools to develop machine readable regulations to help reduce compliance costs. He noted that while regulation can spur innovation it can also create compliance costs. These may be costs associated with searching across different regulators as well as the costs of understanding the content of the regulation. He remarked that in the UK, close to 94% of businesses pay for support on this so it is important to bring these costs down. He noted that regulatory technology firms play an important role in bringing down these costs through regulatory technology products and content management however the more opaque and complex a regulation is the harder it is to do so, in addition to how labour intensive it is to track regulations.

2.15. To address this he noted that digital products and data standards can provide businesses with simplified lists of regulations they need to comply with. This may also help international trade negotiations where negotiators can be provided relevant information on regulation related to the negotiation.

2.16. He then discussed three ways of making regulation machine readable, primarily through (i) well-structured metadata, (ii) open document formats and (iii) marked up content. These have numerous benefits such as improving consistency across regulation, improving searchability, as well as better understanding regulatory landscapes in other countries. He concluded by stating that their agency is committed to open source and collaboration and urged interested parties to reach out.

⁹ Deputy director of Standard & Test Centre of ITEI, Instrumentation Technology and Economy Institute of China.

¹⁰ Head of Data Transformation at Better Regulation Executive, UK Government's Better Regulation Executive, United Kingdom.

3 COMMENT BY THE MODERATOR

3.1. I noted a number of key takeaways from the thematic session:

- In terms of the implementation of GRP, we learned that digital tools are increasingly useful for effectively managing regulatory processes.
- We heard from speakers that digital tools can help improve public awareness and accessibility of regulations. Tools such as generative AI have the potential to simplify public commenting processes on regulations and improve the quality and richness of these comments. This can be impactful as higher quality comments can be helpful and persuasive to regulatory agencies.
- Digital tools can also be seen to be driving stakeholder engagement with regulatory processes as our speakers mentioned. Interesting examples were provided about how digital tools are helping regulators increase public participation through web portals for public consultations and feedback mechanisms as well as having a broad reach by translating into multiple languages.
- It was however mentioned that more regulatory engagement (enabled by these technologies) can also be a challenge. Regulators would need to make the best use possible of digital tools to address any negative effects other digital tools may be creating (for example, false yet credible comments, huge volume of comments). This will require regulators to have the proper physical as well as human infrastructure. In this latter respect, we heard that skills development will be crucial for implementing digital tools. Regulators will need to adapt to this rapidly evolving environment and learn how to use these emerging tools by, for example, introducing training sessions for employees on various data tools.
- Regulatory impact assessments are another area that have benefited from the application of digital tools. It has been shown that such tools improve record keeping, reduce human error and generate better engagement and quicker responses.
- It was also noted that standards development processes are changing, with standards becoming increasingly digital. In order to meet the requirements of digital economy development, traditional standards will need to digitalize. We learned that new advancements such as machine-readable standards could enable uninterrupted data flow across the value chain thus reducing technical barriers to trade.
- It was noted that digital tools can help reduce technical barriers to trade and compliance costs through the systemization and organization of large volumes of data and automation of labour-intensive tasks.
- Regarding the use of these Digital Technologies and Tools in GRP by developing and least-developed countries, the lack of knowledge and access to these tools were mentioned as possible challenges.

3.2. I found the discussion to be informative and insightful and I would like to express my appreciation to our speakers for their interventions. They have left us with a lot to reflect on for further work in the Committee on the topic of digital tools in the GRP context.
