

## Advocate-General



Session of 2005-2006

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## QUALITY-OF-REGULATION REVIEW MECHANISM

### § I. Tangible benefits

- 1) Realizing that regulations of high quality contribute to justice due to their fairness, orderliness, efficiency and effectiveness;
- 2) Believing that justice is better served by as many Examinees (firms, governments, and organizations) as possible coming in compliance with the Advocate-General's Basic Principles for Governance, with compliance assessments (hereinafter referred to as "Quality-of-Regulation Evaluations") being conducted by Quality-of-Regulation Institute;
- 3) Presuming that Examinees would have spent considerable resources promulgating their legal instruments in the first place and that any marginal added cost would be worthwhile paying to remedy any unintended shortcomings;
- 4) Realizing that good governance is increasingly being viewed as an asset in public relations and in instilling confidence, insofar as consumers of public and commercial services are increasingly well-informed, critical, and aware – which, in turn, requires service providers and their advisers to be increasingly vigilant;
- 5) Taking into account that competitive factors are readily obvious, especially where forum shopping or shifting between service providers is possible;
- 6) Fundamentally believing that what is known to some should be known to all and not be subject to slow rediscovery, maybe after the damage is done. Good governance may be viewed as a form of insurance or insulation against legal difficulties, and therefore continuous grading and rating of existing legislation, administrative practices, and other legal instruments is justified.

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## § II. Incentives offered to Examinees

Quality-of-Regulation Evaluations are usually conducted within a 90-day period, and may result in a specific rating (score) accompanied by a Quality-of-Regulation Table, an Executive Summary, and a Full Report. These materials are made available to the Examinee on terms to be stipulated by the Advocate-General.

In accordance with the requirements and procedures set forth in the Conditions for Quality Certification, any Examinee found to be in full compliance with the Advocate-General's Basic Principles for Governance is entitled to receive a compliance certificate from Quality-of-Regulation Institute without charge, and any Examinee found to be in less than full compliance may obtain further assistance and guidance on how to come into full compliance.

## § III. Entitlement to assess

### Section 3.01 Evaluations sponsored by ILA

International Legal Association sponsors Quality-of-Regulation Evaluations commissioned by the Advocate-General, who will authorize such an evaluation only:

- i. upon the formal written request of a member of International Legal Association or any of its networks or affiliates, or*
- ii. upon his own initiative in circumstances where substantial prima facie evidence exists of a legal instrument warranting such an evaluation.*

The Advocate-General's commissioning of a Quality-of-Regulation Evaluation is accompanied by a requirement that International Legal Association must acquire the full, exclusive, and transferable copyright in certain materials relevant to a forthcoming investigation, including without limitation:

- iii. any petitions received,*
- iv. investigative reports,*
- v. the Quality-of-Regulation Evaluation with accompanying documents.*

The Advocate-General must establish prima facie legal relevance. To fulfill this requirement, the material covered under such a petition must:

- vi. Be of a legal nature or have manifest or implied legal implications,*
- vii. Be of some international significance,*
- viii. Be of consequence to International Legal Association's overall objective of promoting justice defined as fairness and due process.*

### Section 3.02 Evaluations sponsored by others

Any legal entity – whether firm, organization or government – may authorize Quality-of-Regulation Institute to carry out a Quality-of-Regulation evaluation subject to payment of applicable fees and compliance with the cooperation and documentation requirements and procedures set forth in the Quality-of-Regulation Notice.

## § IV. Methods to be followed

### **Section 4.01**      *How to conduct a first evaluation*

- 1) If evaluation was commissioned by the Advocate-General (Section 3.01), submit all materials to the Advocate-General for approval and issuance of a Quality-of-Regulation Notice;
- 2) In other cases (Section 3.02), issue a Quality-of-Regulation Notice;
- 3) A sufficient amount of information is initially reviewed to get an overall context, conjecture, a backdrop;
- 4) Select a set of parameters (standards, principles) that are applicable to the subject matter in question;
- 5) Prioritize among these, as they are paired with relevant provisions in the source text;
- 6) Focus in on the top priority item, then fully develop the associated principles;
- 7) By comparing the source material (application) against the Advocate-General's Principles of Governance with associated documentation, identify any (potential) shortcomings, refine review mechanism as needed;
- 8) Clarify severity of any shortcomings, rate accordingly as follows: 0=nothing derogatory found / not applicable; 1=of minor concern; 2=of some concern, but of minor concern compared with legitimate reasons; 3=of major concern, but legitimate reasons are of similar importance; 4=of major concern, and more important than any legitimate reasons; 5=of major concern, with no (significant) legitimate reasons found;
- 9) Consider whether there other (potential) shortcomings in lower prioritized items, rate accordingly by using the same numerical values and principles as listed in Item 8;
- 10) Complete rating by using the Quality-of-Regulation Table, write an Executive Summary (should specify materials reviewed) and – if applicable – a Full Report.

### **Section 4.02**      *How to conduct a subsequent evaluation*

- 1) Crosscheck against all materials received, request additional information as required, carry out in-depth review;
- 2) Follow steps as described above;
- 3) Offer a Full Report, giving Examinee 30 days to accept;
- 4) If the offer is accepted, submit a Full Report to Examinee with guidelines or suggestions for remedies, giving Examinee 30 days to respond;
- 5) Reevaluate based upon Examinee's willingness and ability to remedy. ■