

PART I

Regulatory Reform and Liberalisation Policies in Italy

Chapter 1

Performance and Appraisal

This chapter summarises the core trends for regulatory reform in Italy, assessing the performance in the light of the economic context. This includes an analysis of the links with economic growth. The chapter discusses goals, progress and results of regulatory reform policies, in terms of the political commitment, the new institutional impetus, the tools for regulatory quality, as well as protecting competition and consumers and addressing the challenges of quality regulation in a multi-level governance context. The chapter assesses the potential benefits of reforms and offers options for moving forward the regulatory reform agenda, building political momentum and consensus for reform.

Introduction

Italy is facing the economic crisis as is the case for all OECD countries. In this context, defining and implementing a clear and consistent strategy for regulatory reform is part of the policy tools that can be used to improve long-term growth prospects. While Italy may have felt the impact of the crisis with some delays compared with other OECD and European countries, it still faces a regulatory challenge related to its past economic performance. Regulatory issues permeate the economic fabric of Italy, and regulatory constraints, costs, and risks appear in every respect to be correlated to economic performance. While regulatory reform is not in itself the only solution to Italy's economic issues, with other significant reform areas deserving attention in terms of R&D, innovation and education, regulatory reform is essential if economic reforms are to be put to work. Improving the regulatory function of government throughout the many policy regimes will remove barriers to results, amplify the benefits of other reforms, and accelerate progress. It should facilitate resilience as well as facilitate a faster recover from the crisis. Regulatory reform is not an "add-on" that can wait in a lengthy queue until other reforms are completed. Regulatory reform is a fundamental reform that should be integrated with other reforms as part of a comprehensive strategy of good economic and social governance. It should be rooted in the core of government efforts, and permeated to all policy areas, both at national and regional levels.

Regulatory reform is not only an economic programme. Regulatory reform is fully compatible with maintaining high levels of safety, health and environmental protection, not to mention the quality of urban centres or the distinct features of food products. Of course, regulations that are unjustified or no longer needed should be eliminated. Regulatory reform offers scope to achieve public policies or better public policies, while simultaneously reducing regulatory costs. Regulation that is better targeted, better designed, at lower cost, and works as much as possible with the market rather than against it, will also help to strengthen protections for health and safety, the environment and consumers. Regulation that is more streamlined, transparent, and responsive to the needs of businesses and people will assist the country with new governance institutions that are redistributing core responsibilities between national and regional governments.

Regulatory reform is not new to Italy. Over the years, Italian governments have given it increased attention, including the appointment of a specific Minister for Normative Simplification under the current legislature. This follows a range of initiatives over 15 years to address the post-war legacy of state intervention and heavy regulation. Some of those initiatives have yielded positive results that contributed to better productivity performance and consumer welfare through a wider range of services and lower prices. For example, Italy has for long been a leader for the diffusion of mobile communication services. OECD indicators for 2007 show that the overall level of product market regulation seems to have fallen in 2007, being now slightly below the previous 2003 OECD average. Promising reforms are underway today, evolving through a succession of governments and fuelled by renewed

reform energies. The economic crisis, with its sense of urgency, however, also represents an opportunity for reform, which could help build a brighter future in Italy.

However, many core issues remain to be addressed. Italy's domestic markets are still subject to significant regulations, due to the interplay of national as well as regional, and even sometimes municipal regulations. While the structures and processes have received significant attention at national level and at the centre of government, they are now operating in a more complex environment where regional regulations play a significant role. New regulatory challenges are emerging due to constitutional reforms to decentralise the state. While decentralisation represents an opportunity in terms of scope for experimentation, innovation and progress, it results in a more diffuse environment, where co-ordination mechanisms may need to be strengthened. Much work lies ahead to converge with good regulatory practices in OECD and EU member states, as Italy's peers forge ahead.

While it is too early to assess the full impact of the current crisis, over the past decade Italy's economic growth rate remained below the European average. The country has had to cope with the challenge of globalisation, in a context where production of goods and services is altered at an unprecedented scale, with many low-cost nations competing in traditional sectors. Formal indicators of investment in innovation and R&D are less favourable than those of its key trading partners, with educational attainment remaining an issue of concern. This has implications for the capacity of the business sector to innovate, perform, and compete, even if structural changes are taking place. For Italy, specialisation in niche and up-market products within broad economic areas is not fully captured by some economic indicators. The automobile industry has experienced a certain rebound over recent years. The country is certainly not alone in facing the challenges of adapting to a world where benchmarks of performance are rising every day, and where market opportunities and constraints are changing quickly.

Yet other countries in Europe, even some new EU members, had experienced more rapid growth over the recent period. In the difficult environment ahead, this report develops a detailed regulatory reform agenda, with simplification and liberalisation policies offering a practical way ahead. This is a well-tested reform agenda that can help Italy manage change with less disruption and improve its long-term prospects. It is also key to Italy to adapt to a context of fixed exchange rate. While interest rates remain low, easing the financing of public debt represents a strikingly distinct feature, as scope for monetary adjustment is not permitted. This makes direct price adjustments necessary, whereas product market and labour market services are often hampered and hindered with unnecessary regulations and lack of competition. More flexible markets appear to be a necessary complement to a fixed exchange rate.

The current report is organised in three parts:

Part I includes a structural analysis of the determinants of long-term productivity in Italy, assessing regulatory reform and its contribution to performance so far, setting goals, progress and results, before turning to options for moving forward the reform agenda.

Part II addresses core policy issues, including government capacity for quality regulation, competition policy and competition and regulatory reform in professional services.

Part III acknowledges the full impact of the 2001 reform by discussing the implications of a multi-level governance approach for regulatory reform and liberalisation policies. This

involves a discussion on overall aspects of competitiveness and development at sub-national level, as well as regulatory and competition related issues, with the much debated issue of the local public service. Three policy areas illustrate the challenges of multi-level governance: commercial distribution, local transport and energy.

Drivers for regulatory reform

Over the past few months, a renewed political impetus to reform has appeared, due to the appointment of a Minister for Normative Simplification, accompanied by a strong push to modernise public administrations by the Minister for Public Administration. This also builds on significant efforts in very recent years to consolidate and streamline the regulatory framework. The Presidency of the Council has given a new impetus to its better regulation approach, reflecting the government priorities. It has adopted measures elaborated by the Legislative Office (DAGL) to consolidate the institutional foundation for the co-ordination of the normative activity of the government. Maintaining political commitment is essential, if reforms are to be accelerated, broadened and deepened. This will require sustained energy and will, but represents the way ahead if Italy is to resolve its serious and persistent regulatory problems.

Regulatory reform is an agenda that entails difficulties and political costs, with reform often becoming possible only when the costs of poor regulatory practices rise so high as to become politically visible. And so it is in Italy. Faced with persistent economic challenges, Italy is facing crucial policy choices to revitalise its economy. They are made even more urgent with the recent financial turmoil which has dampened economic prospects, in Italy as well as in all OECD countries.

Regulatory reform in its broadest sense – as a government that regulates only when necessary and only to the extent needed to achieve its goals – is accepted in Europe and around the world as a practical and affordable approach to address core microeconomic weaknesses. Regulatory reform is now a core agenda of the EU Lisbon strategy for competitiveness, supported at high political level.

The main goal of reform in Italy is to improve the competitiveness of the national economy. The economic crisis has also had a significant impact, prompting the new government to accelerate its reform agenda, through a number of packages over the summer and autumn 2008. The redesigning of the Strategic National Framework (QSN), as part of Law Decree 185, which represents a package to fight the crisis, provides an illustration of the impact of the crisis in terms of fostering further liberalisation, tariff reductions and reduction of administrative costs borne by businesses. The broad economic context for regulatory reform matters, as it has generated pressure for reform, leading to more integrated approaches over the recent period. Administrative simplification has been linked to initiatives to liberalise economic activities and modernise government.

Besides the European dimension and the crisis, the Italian strategy has also been subject to a number of external drivers over the past decade. Reports by the OECD and other economic organisations such as the World Bank, the Institute of Management and Development, and the World Economic Forum have casted a growing body of evidence on the importance of the regulatory framework for economic competitiveness and growth, and the potential benefits to Italy of moving forward with the agenda. Even if single indicators can be disputed and if the evidence is patchy, the diagnostics tend to converge.

In some cases, evidence has led to a significant increased awareness domestically, such as for civil justice, even if the policy responses are complex and require multiple aspects. Such benchmarks have done much to assist reformers. The Italian government has actively participated in international projects aiming at benchmarking national performances and sharing best practices, particularly at the European Union's (EU) level. Italy has also moved quickly to assess and measure its regulatory burdens (MOAs, see Chapter 2), in accordance with international best practice and standards, following the Standard Cost Model.

EU institutions have been particularly influential in Italy in recent years and Italy's current regulatory reform reflects its commitments to Europe. The goal of the European Commission is clear: "Establishing a fully fledged and integrated Better Regulation system should be the medium to long-term objective of all member states."¹ Regulatory reform became a priority within Europe following the work of the Mandelkern Group on better regulation and the Commission's Better Regulation Action Plan (2002), which adopted the recommended OECD agenda. The "better regulation" strategies adopted at every level in Europe are aimed at contributing to growth and jobs, while taking into account social and environmental objectives and benefits for citizens and national administrations. Italy is actively engaged in important European networks, such as the Directors and Experts for Better Regulation.

Since 2002, the European Commission has embarked on a major "Action Plan for Better Law-making".² In the 2005 renewed Lisbon Strategy, focused on growth and jobs, the Commission announced its intention to launch a comprehensive initiative to ensure that the regulatory framework in the EU meets the requirements of the 21st century. As part of the 2005 initiative, the Commission requires member states "to demonstrate their clear commitment to better regulation principles through their National Lisbon [Action] Programmes". The Commission has stated: "These are the key tools to drive implementation of the Lisbon strategy: they offer a checklist of national commitments and benchmarks to monitor progress in the months and years ahead".³ The Commission charged member states with two specific regulatory reforms:

EU leaders are invited to set a joint 25% target for reducing administrative burdens to be achieved jointly by the EU and member states by 2012. This target was formalised by the Commission in 2007.

In addition, the Commission intends to conduct a systematic analysis of key goods and services' markets to identify specific obstacles to competition and make proposals for removing them, and invites member states to do the same.

These developments in Europe seem tailored to Italy's needs, and have had a significant impact. A new drive for re-establishing the regulatory reform agenda occurred after 2005. This may have reflected persisting external pressures (e.g. the mid-term review of the EU Lisbon Strategy) as well as attempts to improve the competitiveness of the country. The substance of the Italian reform programme reflects the mainstream of regulatory reform in Europe. The focus on reducing operating costs for businesses, streamlining implementation, and removing barriers to market competition are clear principles that are directly relevant to the Italian economy dominated by SMEs. The goals, performance targets, and tools of the Italian regulatory reform programme need to be further focused rigorously on these issues.

Section 1. The Macroeconomic Context

Economic stabilisation through a long period of slow growth

The Italian economy was slowing even before the economic crisis intensified in the autumn of 2008, and the subsequent economic downturn appears to be as pronounced as in neighbouring European countries, despite Italy's comparatively slower growth over the last decade. Although, in common with a number of other European countries, Italy's GDP per capita was no longer "catching up" with the United States by the late 1980s, it did maintain its relative position throughout the 1990s. But while the other large European economies continued broadly to maintain their relative position into the new century, Italy began to fall back quite abruptly after 2000 (Figure 1.1, Panel A). The diagnostic depends on how to take account of the trade effects: ignoring these effects, and considering the level of output relative to the population of working age, Italy begins to lag, but shows no sudden change after 2000 (Figure 1.1, Panel B), whereas a more direct measure of labour productivity, output per employed person, again shows a fall after 2000, following a post-1995 slowdown (Figure 1.1, Panel C).

However, faced with such changes, the question arises: What happened? And then: What is the relevance of regulatory reform to the underlying causes of the structural slowdown? The answer seems to lie in understanding the drivers of productivity growth in Italy, and then in determining where regulatory reform can contribute. The diagnosis is key. Slower growth does not inherently signal structural problems, particularly as Italy as an ageing country is experiencing unfavourable demographic trends in terms of labour supply. A period of slower growth was even to be expected in the second half of the 1990s due to the discipline of the European monetary union. Fiscal policy had to be tightened because of the need to meet the criteria for the euro membership and because exchange rate depreciation was no longer an option. Exchange rate depreciation had previously allowed the inflation rate to remain permanently above that of Italy's main trading competitors without long run deterioration in competitiveness, and in turn allowed the real value of government debt to depreciate.

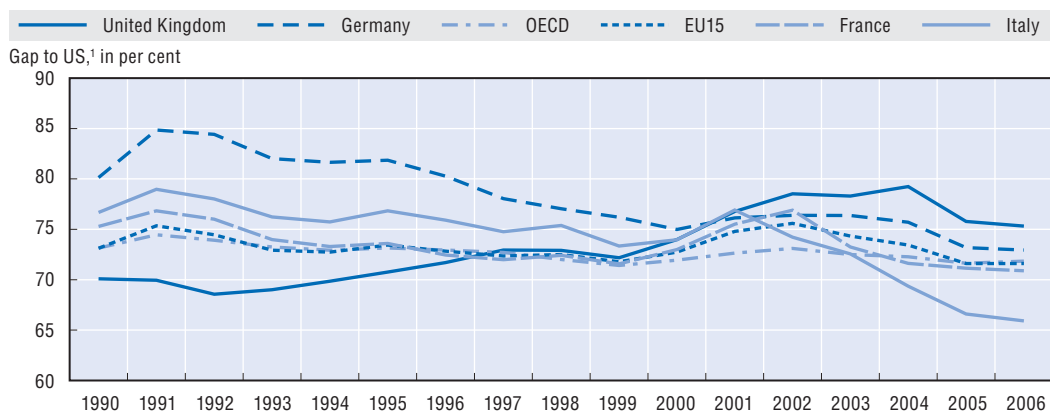
Yet, in the medium-term, joining the euro zone also brought significant benefits. Fiscal tightening was required prior to the monetary union, but once Italy entered the monetary union, its public finances benefited from lower costs of financing its large debt, as nominal interest rates on government debt fell substantially because of lower inflation and a lower risk premium on the currency. This positive development allowed the debt: to GDP ratio to fall significantly for several years. However, fiscal discipline was progressively relaxed, as in other EU countries given adverse economic conditions in 2000-02. Increased spending gradually eroded the cost-savings of lower interest payments. By 2007, the debt ratio was nearly 20 percentage points below its mid-1990s peak and was once again dropping, but it was barely lower than it had been in 2002 (Figure 1.2). The government's target in the last available documents is to bring the level of debt to about 92% of GDP by 2013 (Forecasts and Planning Report for 2009). However, due to the current crisis, these projections are currently being updated in the last Unified Report on the Economy and Public Finance to be released in 2009.

Productivity, inflation and relative manufacturing costs are key

Monetary union implies that price adjustments cannot occur through currency fluctuations. This offers both benefits in terms of stabilisation of inflation expectations, with direct effects on labour markets. Because wage inflation could no longer be offset by currency

Figure 1.1. Measures of per capita GDP

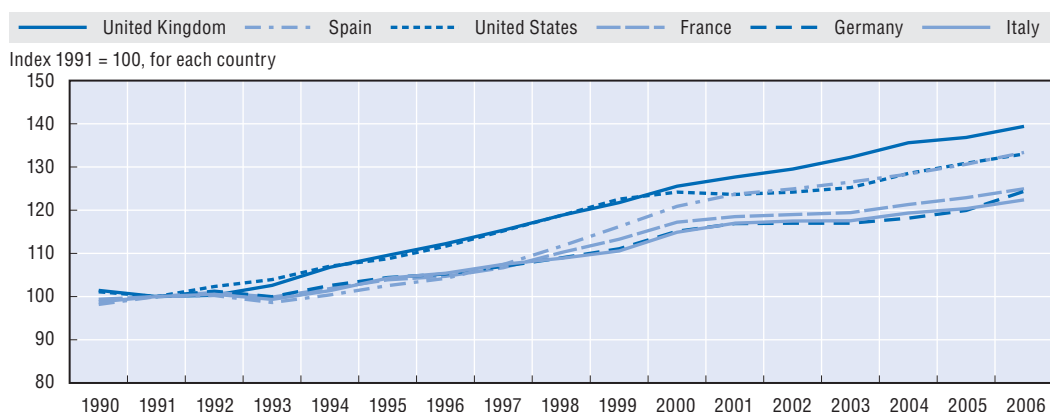
A. Per capita GDP, current prices, purchasing power parity exchange rates



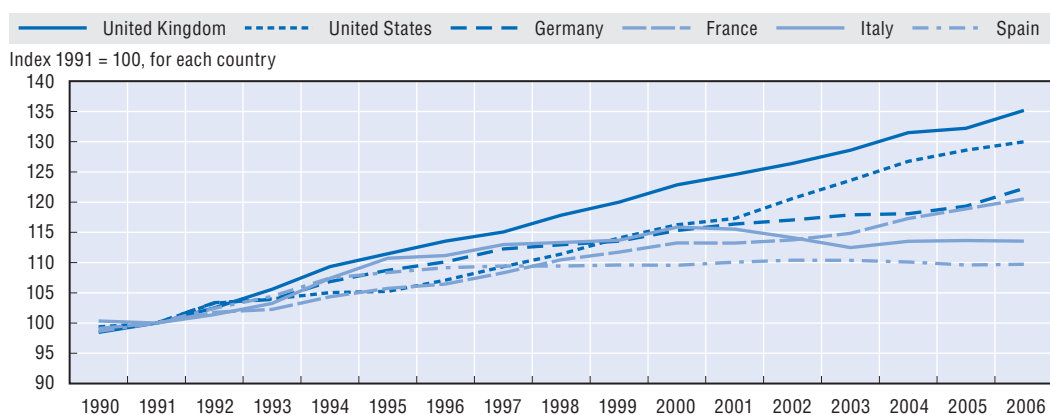
1. Y axis: percentage of gap to the United States level.

Source: OECD Factbook 2008.

B. GDP per working age population, constant prices and exchange rates

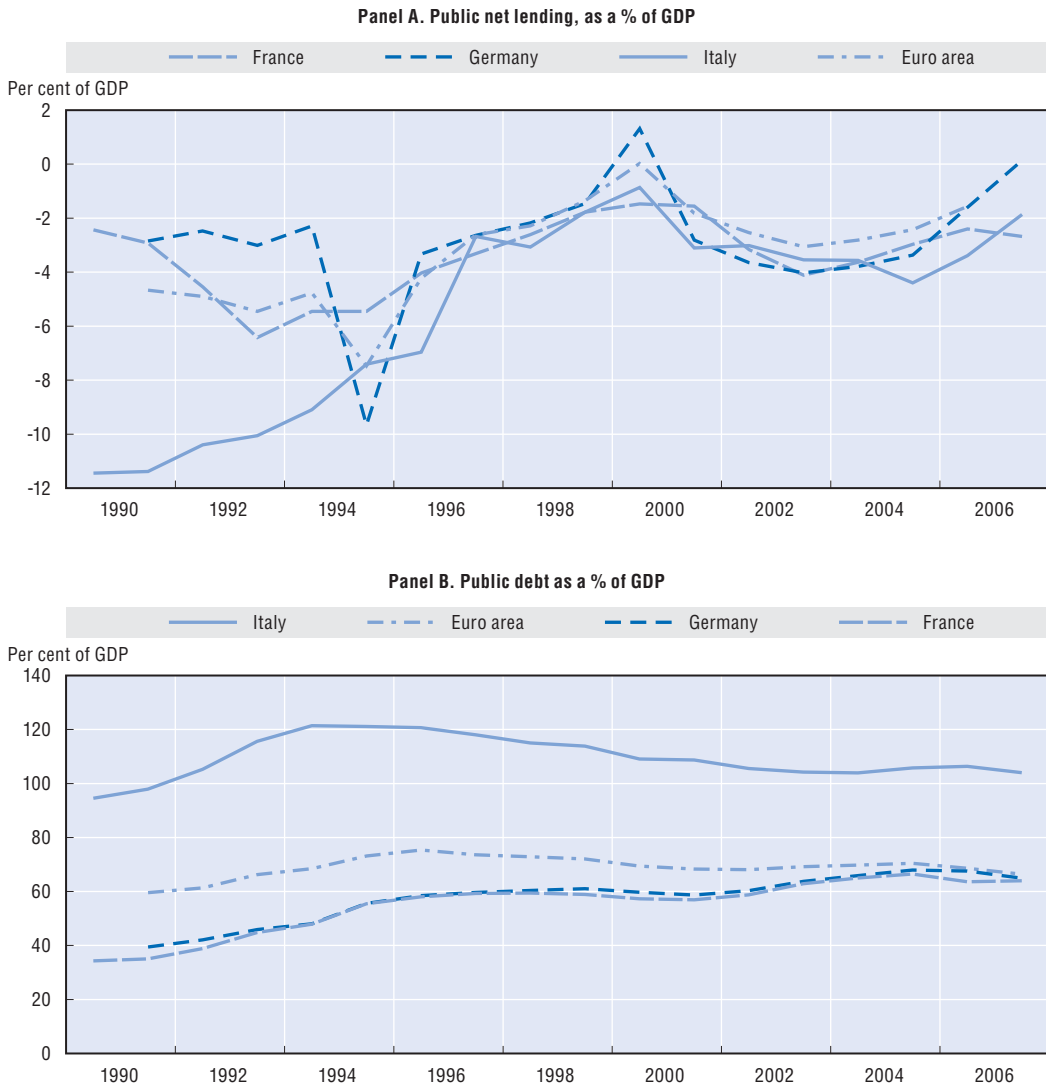


C. GDP per employed person, constant prices and exchange rates



Source: OECD Analytical Database.

depreciation, more flexible wage bargaining was needed to adjust to changing market conditions. An important step toward breaking the inflationary cycle was already taken 15 years ago, when automatic indexation of wages was removed. This helped to bring inflation down from high levels, but was not effective in moderating relative labour cost growth in a low-inflation environment: unit labour costs in Italy have, in fact, risen faster than in other

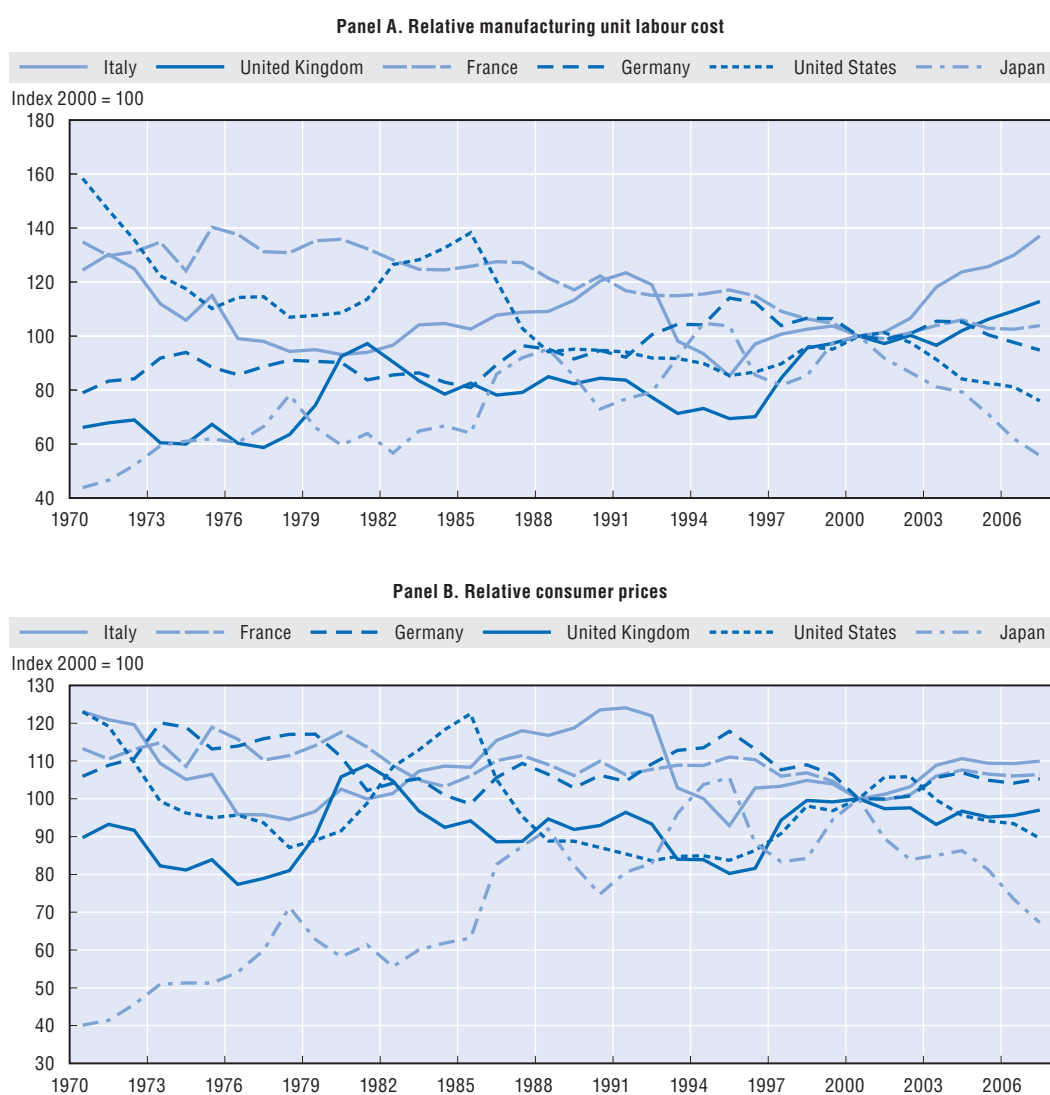
Figure 1.2. **Public finances**

Source: OECD Analytical Database.

countries due to poor productivity developments (Figure 1.3, Panel A), even though monetary union has successfully brought about convergence of consumer price inflation.

The system of central wage negotiations in place since the 1990s had some success in keeping wage growth low in absolute terms and by historical standards, but this was apparently insufficient. The two-stage bargaining process involves centralised national negotiations that effectively ensure that real wages in all sectors cannot fall. The second level bargaining is intended to reflect local or firm level productivity gains.

Aggregate real wage rates have increased even when there have been little or no productivity gains, producing the increase in relative unit labour costs (Figure 1.3). Employers' organisations⁴ have called for less constraining all-embracing contracts with more room for plant level bargaining and for incentives for the individual. But reducing wage growth is not the whole story. The sharp rise in unit labour costs is not because wages have risen faster than elsewhere, but because productivity growth has been low in Italy.

Figure 1.3. **Cost and price competitiveness**

Source: OECD Analytical Database.

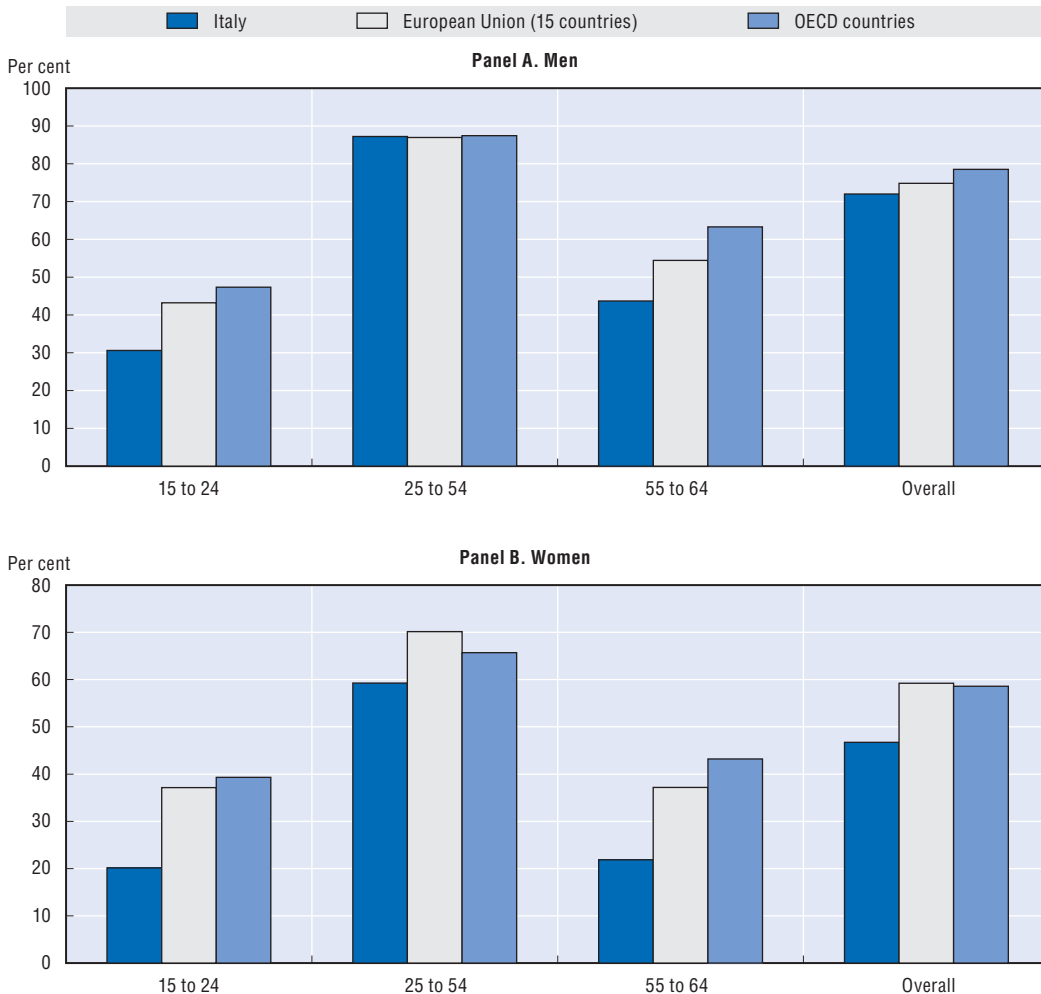
Low labour market participation rates: Another cause for slow growth

Another potential contributor to slow growth in per capita GDP is low labour force participation. These are due to a number of regulatory and non-regulatory factors. Per capita GDP depends not only on productivity measured as output per worker, but also on the share of the population that is working. In recent years, per capita GDP in Italy has been affected by the level of labour force participation as well as by productivity growth.⁵

The employment rate in Italy is well below average for OECD countries. Measured on the population aged 15-64, only 59% of Italians are employed compared with an EU average of 67% and an OECD average of 69%. For males aged 25-54 the employment rate is similar to the EU and OECD averages. But all other age-gender groups show relatively low employment, including prime-age females, although the gap there is actually somewhat lower than for both older females and the 15-24 age group (Figure 1.4). The gap between female and male employment has been falling faster in Italy than in most other countries,

but it still remains relatively high by OECD standards, even for prime age workers (OECD, 2008). For the other groups identified in Figure 1.4, Italy is one of the 3 or 4 countries with the lowest employment rates in the OECD. For the older age groups, only Turkey, France and Spain and some eastern European countries have such low employment rates, while in the 15-24 age group, Italy France and Eastern Europe together also have low employment rates.

Figure 1.4. **Employment rate by age, 2006**



Source: OECD.Stat.

Even though Italy's position is still not yet favourable, the overall situation has improved for over a decade. The participation rate is low, but it has been steadily increasing; labour force survey data show a rather stronger increase than national accounts-based sources, where the increase tailed off after 2003, but both have clearly improved over the medium term. At the same time, recorded unemployment has been declining steadily since 1998, from over 11% then to just 6% at the beginning of 2008. The corresponding growth in employment, which decelerated somewhat in 2007, has mostly reflected strong growth in the number of short-term contracts, particularly in response to a significant relaxation of the regulations covering temporary contracts which began in the late 1990s and continued up to 2003. But as output growth has tended to remain rather low, this growth in employment has had implications in terms of dampening productivity growth.

For the older age groups (OECD, 2004a),⁶ low activity rates are associated with the pension system which gives strong incentives to retire at an early age. Major reforms have resulted in a new system which is being progressively introduced and participation rates of older workers seem to have begun to respond, but the phasing in of the new arrangements is slow so that the incentives are still skewed against continued employment for older workers. For younger people, as in most countries, low activity is strongly associated with job mobility choices: some parts of northern Italy have consistently maintained high employment rates with shortages even of unskilled labour, but migration of young people from areas of high unemployment has not helped to fill the gap. This is in contrast to the strong mobility shown in the period after World War II – admittedly in response to much higher income gaps – and contrasts with current immigrants, who are more open to move to areas with jobs. In part this may be related to aspects of regional policy where efforts to stimulate the economy of the south and the islands have tended to have the effect of generating higher levels of public sector employment in those areas. However, it has proved impossible to negotiate regionally-differentiated wages in the public sector, even though both the cost of living and wages in the private sector are much lower in the south than in the north. As a result, for an unemployed person in the south the possible prospect of a well-paid public sector job may outweigh the incentive to move to a private sector job in another region.

Female employment rates and their average wages are both relatively low, while the level of education of younger females measured in terms of years spent in full time education is, for the new generations, somewhat higher than that of males. While low educational attainments may explain activity rates among women over 45-50, low female participation rates even among the youngest cohorts may have several other causes. The lack of family policies and formal child care services, which increases the opportunity cost of work for mothers with young children, is also likely to be a major factor holding back female participation (see for instance Jaumotte, 2003; D’Addio and Mira d’Ercole, 2006; OECD 2007c). Implicit discrimination might be another possibility for low activity rates among Italian women, though there is no solid evidence supporting this explanation.⁷

Low employment rates are not only a function of specific labour market characteristics, although these are certainly important factors. Competitive conditions on product markets are also seen to be important; lack of competition allows producers to exploit market power to gain economic rents, which may be shared with workers (Ichino, 2008). This of course benefits the employed but may mean a tendency for wages to remain higher than in a more competitive market, and therefore lower employment. Cross-country empirical evidence supports this view (Conway *et al.*, 2006), and there is corroborating evidence for Italy. For example, Viviano and Schivardi (2007) study regional variations in entry restrictions to retail trade and find that entry barriers have a negative and sizeable impact on employment growth.

Slow productivity growth in Italy: A complex phenomenon in which regulation plays a key role

Potential explanations for low productivity growth in Italy since 2000 are easy to find but hard to evaluate empirically.⁸ Some data issues are important. For example, a significant amount of activity takes place in the informal sector, so much that the national statistical office corrects the official national accounts for this factor. However, it is hard to estimate the level and the growth rate of productivity when estimates of significant

components of both employment and output are based on highly indirect methods. Yet the consistency of measurements over time is persuasive that productivity growth in at least some key areas of the economy is genuinely slow.

The factors behind low productivity growth seem to reflect economy wide effects. The slowdown in productivity is generalised across economic sectors, so it cannot be attributed to the experience of particular industries (Table 1.1). (Revisions to productivity data since this table was compiled show that productivity growth, while weak, was somewhat stronger than shown by earlier data).

Table 1.1. **Productivity¹ growth by sector**

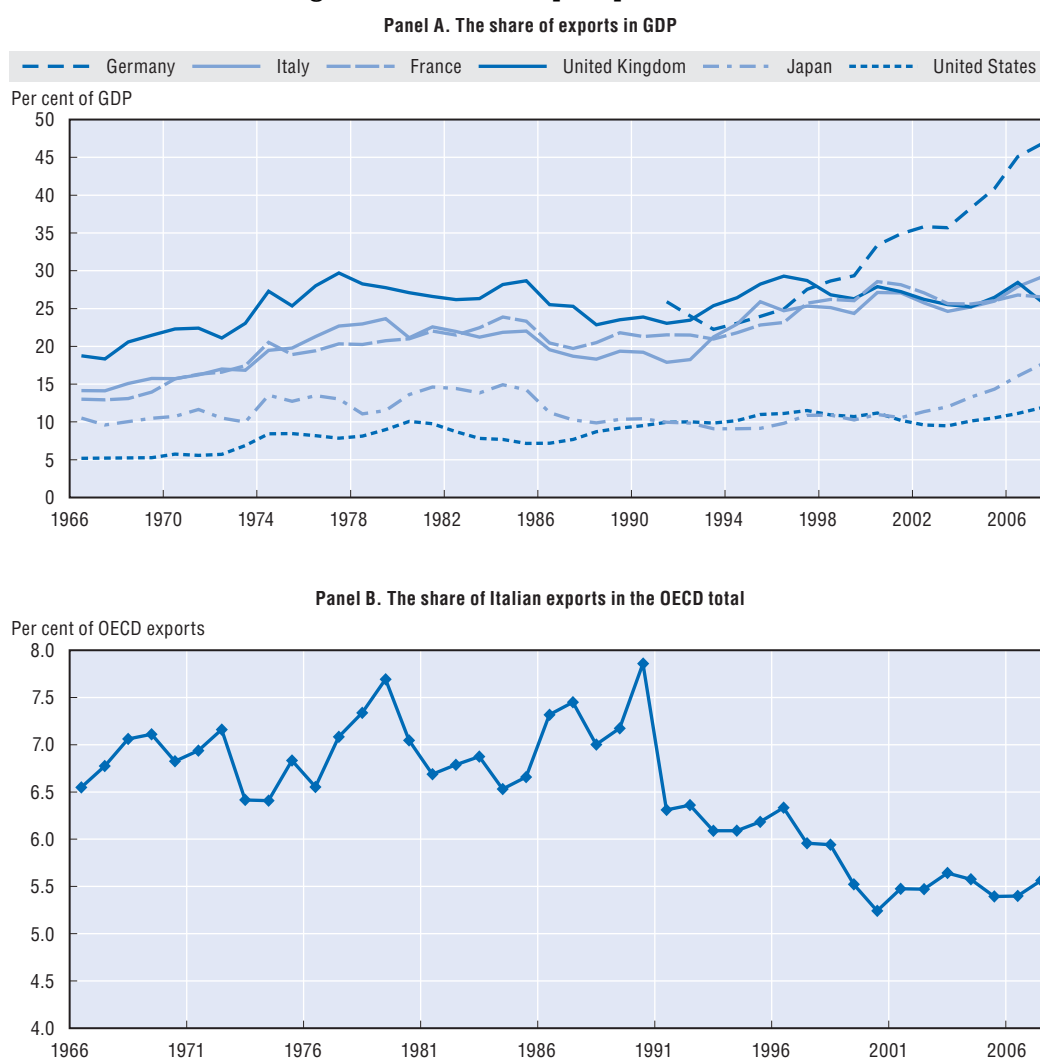
	1990-95	1995-2000	2000-06
Total	2.1	0.8	0.1
Agriculture, hunting, forestry and fishing	7.4	5.0	0.4
Industry including energy	3.8	0.9	0.0
Mining and quarrying	7.7	3.0	-2.1
Manufacturing	3.9	0.9	-0.2
Food products, beverages and tobacco	1.5	1.5	-1.1
Textiles, textile products, leather and footwear	5.4	1.0	-1.8
Wood and products of wood and cork	2.8	4.3	-0.2
Pulp, paper, paper products, printing and publishing	2.8	1.9	-0.5
Chemical, rubber, plastics and fuel products	5.2	-1.5	0.3
Other non-metallic mineral products	3.4	3.1	0.7
Basic metals and fabricated metal products	5.7	0.3	-0.2
Machinery and equipment	3.7	0.0	0.3
Transport equipment	0.3	2.0	0.0
Other manufacturing; recycling	3.1	1.4	0.4
Electricity gas and water supply	3.6	1.9	3.9
Construction	-1.7	-0.5	0.3
Total services	1.3	0.5	0.1
Wholesale and retail trade; restaurants and hotels	3.0	1.3	0.2
Transport storage and communications	4.4	2.8	2.0
Finance, insurance, real estate, and business services	0.4	-2.9	-2.0
Community social and personal services	-0.7	0.2	0.4

1. Value added (volume, chained prices) per hour worked.

Source: OECD, STAN database.

Changes in export composition also suggest economy-wide issues. The Italian economy has traditionally been export-oriented. The share of exports in GDP is comparable to that in the United Kingdom and France (Figure 1.5). This openness exposes the economy to the dynamics of competitive forces, generally thought to be an element in stimulating productivity gains in the longer run. However, a positive reaction can only be expected if the framework conditions for growth, such as the general regulatory environment that is discussed below, allow businesses to exploit market opportunities. The question is the extent to which Italy's regulatory framework allows its businesses, large and small, to compete with their peers in Europe and on a world scale, and to reap the positive effects of international competition through specialisation and search for comparative advantage.

On some measures, Italian export performance has been mixed. When compared with the volume of demand growth in the markets it typically supplies, export volumes have been growing more slowly for some time. On the other hand, Italian exports have, on average, been rising in price relative to those of their OECD competitors so that their share of total OECD exports, though it declined during the 1990s, has been more stable since 2000 (Figure 1.5).

Figure 1.5. **Italian export performance**

Source: OECD Analytical Database.

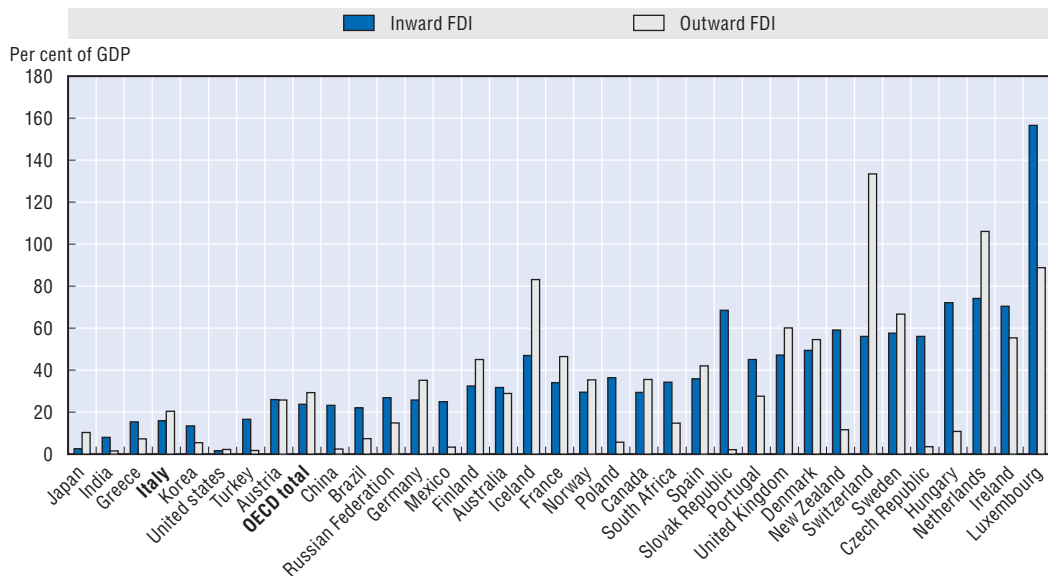
This phenomenon of rising relative export prices and falling relative volumes can be interpreted in different ways, aside from possible statistical difficulties.⁹ It may represent an active move by Italian entrepreneurs into more profitable product lines with higher value-added, or it may be purely defensive as firms in Italy can no longer succeed in some markets. If the first is true, this process is part of a successful adaptation of the Italian economy to the challenges of globalisation and may reflect the strength of the *made in Italy* brand, which is not fully measured in statistics for patents and innovation. If the second is true, it might explain why Italian entrepreneurs seem to be moving production abroad.¹⁰ The magnitude of such “off-shoring” capacity is not clear.

FDI and foreign economic attractiveness

Another indicator of underlying productivity can be related to FDI and economic attractiveness. Results in terms of the attractiveness of the Italian economy in terms of Foreign Direct Investment (FDI) are less satisfactory. The total amount of FDI in Italy remains lower than in other similar sized countries. According to the World Investment

Report 2008, Italy ranks 13th out of the top 20 economies in terms of FDI inflows even though the situation improved in 2007 compared with 2006. This is true not only in comparison with historically relatively liberal countries such as the United Kingdom, but also with France, for example (Figure 1.6). This has two implications. First it is a likely culprit for low productivity growth, since foreign investment is certainly one of the ways that new ideas spread internationally. Second, it is at least suggestive of an environment that is difficult for foreign investors. Other factors such as tax policy, public administration and infrastructure, and the financial and corporate governance systems can also contribute to lower FDI inflows. Some studies go even further: Ichino (2008) argues that workers and productivity in Italy suffer from not being able to “choose” foreign employers. He presents a persuasive argument that, at least in a number of specific examples, FDI appears to be inhibited by just such a combination of interests, often including workers themselves (or, at least, their union and bargaining representatives), that combine to keep foreign investors out, and that the result is that potential efficiency gains are missed.¹¹ Ichino (2008) attributes this in large part to the industrial relations model, but notes that this model is successful only “in a relatively closed and static national productive fabric”. The 2008 cut in the standard rate of corporate tax from 33% to 27.5% may somewhat improve the attractiveness of Italy to FDI.

Figure 1.6. **The stock of foreign direct investment, 2005**



Source: OECD Factbook 2008.

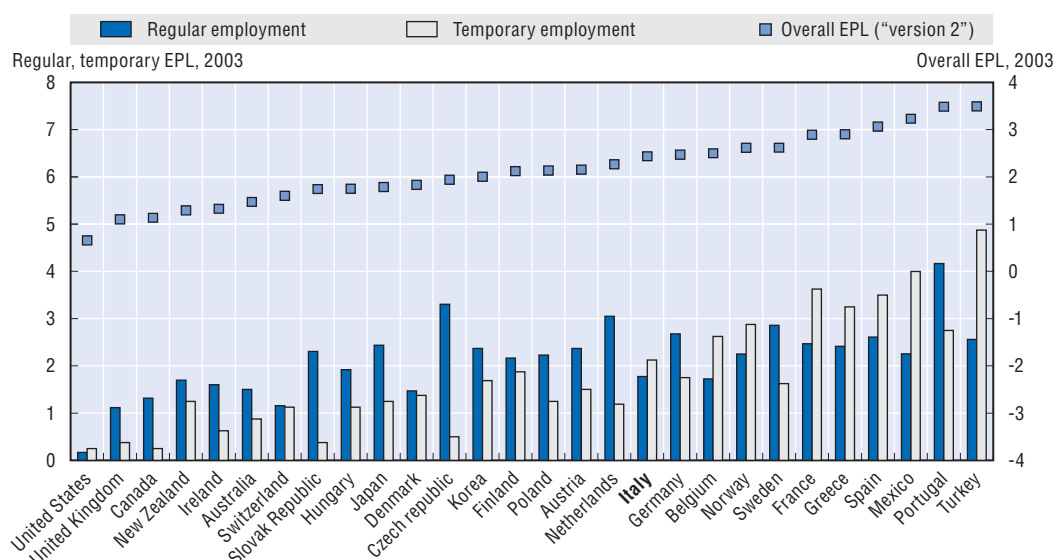
The implications of a dual labour regulation in terms of productivity and economic specialisation

Relaxation in restrictions on temporary employment has accentuated the duality in the Italian labour market, as it has been very difficult to change any of the employment protection legislation (EPL) for workers on permanent contracts. The labour code establishes the basic rules that make dismissals in large companies relatively difficult. Its implementation is a source of rigidity in that part of the labour market, even if a relatively small proportion of the labour force is directly protected by it.¹² Opinion on the impact of EPL has evolved in recent years; while early studies claimed that it increased overall unemployment, this is not now

thought to be the case for prime age workers. But EPL can reduce demand for workers from groups at the margins of the labour market, and this may well be a contributory factor to the low employment rates for some of the groups mentioned above.

Despite the attention it receives, employment protection does not seem to be outstandingly strict in comparison with other OECD countries (Figure 1.7). The fact that temporary contracts have been an important factor behind employment growth in recent years, despite the apparently relatively strict conditions attached to such contracts, does suggest that regular EPL is quite constraining because at least at the margin, many employers seem to prefer such temporary contracts, less rigid pay structures and, in certain cases, lower social security contributions may also make them more attractive. A survey of workers suggested that most workers prefer a labour market where it is difficult to find a job but where protection is high than one where protection is low but jobs are easy to find (Boeri, 2002). The main reason why the indicator for regular employment in Italy is relatively high is the provisions on collective redundancies, whereas other aspects of employment protection related to required notice and individual severance pay are among the least stringent of all countries.

Figure 1.7. **Indicators of employment protection legislation**



Notes: The bar chart refers to Employment Protection Legislation for regular and temporary workers (left scale). The dots correspond to overall EPL (right scale).

The numerical value of the "regular" indicator is not comparable with that for temporary employment.

Source: OECD Indicators of Employment Protection Legislation.

Understanding the puzzle

The growth in relative unit labour costs mentioned earlier, combined with low labour supply, should encourage entrepreneurs to switch to more capital intensive production. This would increase recorded labour productivity, though it might not increase efficiency measured as total factor productivity.¹³ In practice, however, labour productivity growth has been low and total factor productivity appears actually to have fallen.

Therefore, further analysis is warranted. Despite data issues, the following explanations can be considered, including labour regulations, regulatory barriers to growth, the nature of

the Italian family firm, educational attainment and inadequacies in tertiary education, lack of innovation and R&D activity, and integration into the workforce of large numbers of immigrants. This report does not reach a definitive conclusion on the relative importance of these different factors, but will present some evidence on each of them.

Entrepreneurship, dynamics of new firms and firm size

Another aspect of the industrial structure that is often highlighted in Italy is the high proportion of employment in small firms. Often these have been family firms. There are a number of arguments why their predominance may have been a factor in holding back growth, though they have probably become less important more recently. Often these are family firms. While Italy has a high proportion of employment in stable small firms, SME creation is not relatively high compared with the stock of existing firms. Italy exhibits in recent years relatively low creation rates for services, lower than Portugal, Spain, and the UK for services and industry, but higher than France and Sweden for industry.

The high proportion of small firms in the Italian economy is a mixed blessing. Small firms, notably in industries such as textiles, leather, and small scale engineering, have historically been successful in supplying both domestic and export markets. But increased external competition has largely removed the advantage that Italy once had in low-cost production. One response, likely to continue, has been the movement of production to other countries by some medium-sized Italian companies. Another has been to concentrate more on lower volume niche markets. Both of these responses can be successful for the companies concerned, but for the economy as a whole it is important that the resources of labour and capital released in this adjustment find new, efficient uses. In other words, the long-lasting small family firm should be supplemented in Italy by a host of new small firms and growing medium-scale firms in areas where Italy can compete and seize new market opportunities. In this scenario, the ease of entry (regulatory and financial) and exit are crucial.

There are a number of arguments why small firms have dominated in Italy and how their dominance may have held back growth. A usual explanation for the domination of small firms is explicitly regulatory: the presence of explicit threshold effects in regulation, notably in labour law. In practice, however, this effect seems not to be very important.¹⁴ More “cultural” explanations mixed with management of risks are often advanced. The cultural explanation – that Italian entrepreneurs themselves *prefer* their companies to stay small – is difficult to refute, but is not very logical and requires explanation. One possibility is related to the functioning commercial legal system, growth beyond a point where family and personal connections can no longer enforce contracts, greatly increases risks and the costs of control. The size of firms is limited to the personal network in such a system. The discussion above of the poor performance of adjudication of civil law suggests that these arguments might be relevant today.

The reallocation of entrepreneurial resources from today’s small firms to tomorrow’s larger firms and new small firms involves many mechanisms but three key ones are the creation of new firms, the exit of unsuccessful firms, and the rapid expansion of successful existing ones.¹⁵

Steps to significantly reduce formal barriers to firm creation have been taken, though there is uncertainty as to how quickly such reforms will produce concrete results. For example “one-stop shops” have been developed to reduce the time required to create a new

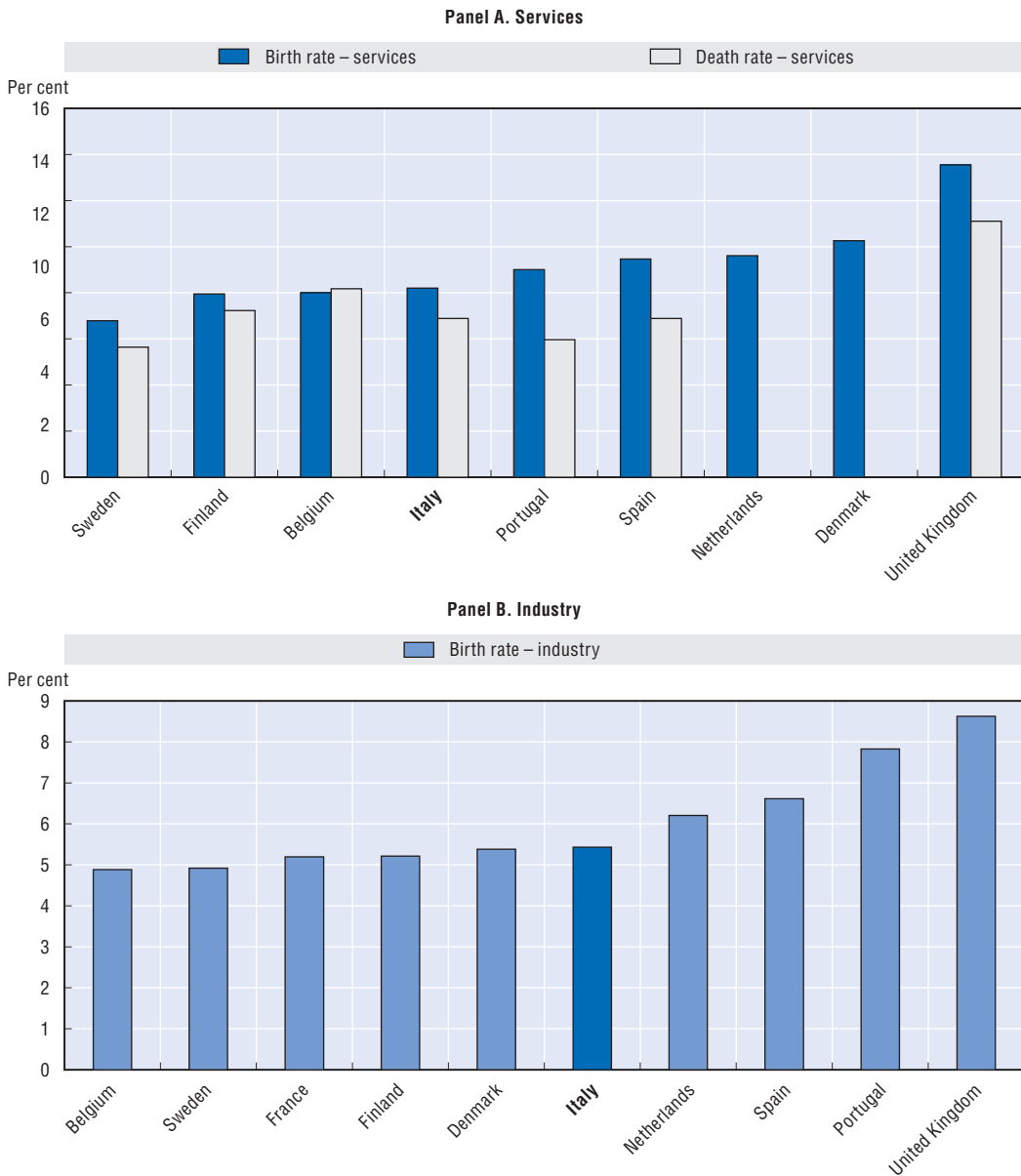
business from the 35 days estimated for 2003 to what is reported as 3 in 2007; but reports suggest that the actual decline in time and cost may have been smaller than this. If further reforms could boost firm creation, the environment could become more dynamic, though the direct impact on overall growth in the economy is uncertain, as this has to do more with the expansion of successful firms than simply the rate of creation of new enterprises.

Until recently, bankruptcy exposed entrepreneurs to risky criminal proceedings, often putting personal wealth at risk. This may have discouraged expansion for risk-averse entrepreneurs. The recent (2006) reform of the bankruptcy legislation should make firm exits easier. The new regime allows speedier proceedings, and changed the requirements for being subject to bankruptcy, setting a threshold of EUR 300 000 for investments and EUR 200 000 for income. More substantially, the reform seeks to move from the old liquidation procedure that blocked the residual business endowment and caused long disputes to a more flexible process aimed at retrieving operation and production capacities. The criteria were modified again with a new one entering in force in 2008. The reforms have accelerated the legal proceedings, enlarged the competence of the creditors' committee, reduced the term of exercise of claw back action and greatly improved the conditions faced by companies under bankruptcy.

In parallel to the relatively underused equity markets as a source of finance, venture capital has also been slower to develop in Italy than elsewhere, perhaps partly because of the traditional importance of personal or family control, perhaps also because of the perceived difficulties for foreign financial investors. Venture capital is nevertheless of growing importance in Italy. The 2006 bankruptcy reform and attempts to expand the role of external equity finance should reduce the risks of growth for small firms. Nevertheless, it will probably be some time before diffuse equity (where most large quoted companies are owned by large numbers of shareholders) becomes important in Italy, whose stock market is still dominated by established firms (where cross shareholdings limit the effective rights of minority shareholders) and a few newly-privatised companies (Micossi, 2006, 2008). Giacomelli and Trento (2005) suggest that the basic ownership structure in Italian firms changed rather little between 1993 and 2003; family control is still prevalent, financial institutions rarely own or play a role in controlling non-financial firms, though cross-holdings among non-financial firms are still common. There has been some increase in foreign ownership however. While the share of ownership accounted for by non-financial companies has fallen, that of holding companies has risen (Bianchi *et al.*, 2005; Bianchi and Bianco, 2009).

Recent work confirms the importance of avoiding constraints on the growth of high-performing firms. Arnold *et al.* (2008) present evidence that the association between the degree of regulation and overall productivity growth passes partly through the variation of firms' growth rates within a country; faster growing countries appear to have a narrower distribution of growth rates across firms, but with a significant "tail" in the distribution of high growth performers. In turn, the number of firms in this "tail" is linked to the degree of regulation and the importance of information and communication technology (ICT) in different industries. The hypothesis is that faster-growing countries are those which have a relatively narrow distribution of growth rates (because slow-growing firms are easily eliminated) but which have a significant number of high flyers ("gazelles").

High average growth rates and relatively large high-growth "tails" are found much more often in ICT-using sectors than non-ICT using sectors. The ICT-using sectors are, in turn, particularly sensitive to the negative effects of regulatory barriers to entry. The

Figure 1.8. **Business demographics, average 1998-2005**

Notes: A firm's birth rate is defined as the number of enterprise births in the reference period (t) divided by the number of enterprises active in t.

A firm's death rate is defined as the number of enterprise deaths in the reference period (t) divided by the number of enterprises active in t.

Source: Eurostat Business Demographics.

introduction of ICT-related innovation in Italy has been particularly slow, and Italy is among the countries with a relatively wide distribution of growth rates and only a small high-growth tail. This corroborates the hypothesis of Arnold *et al.* (2008), and also suggests that recent trends in regulatory liberalisation could have significant impact in stimulating productivity growth by creating more “gazelles”.

Corporate governance might also be an important influence on firm size. The unusual nature of the ownership structure in Italian capitalism was analysed in previous OECD reports (OECD, 2005).¹⁶ Holding structures tend to obscure beneficial ownership and to give

insiders control that significantly exceeds their share in ownership. For a long time, public policy did little to discourage this relatively closed ownership structure but since the late 1990s, as Italian rules of transparency and investor protection have been increasingly brought into line with European standards, the situation has improved. For example, the use of pyramidal and cross-ownership structures has diminished, while the importance of coalitions of shareholders has risen. As OECD (2005) noted, however, it is taking time for actual outcomes to be brought fully into line with best practice, for example compliance with codes of corporate governance remains sometimes more formal than substantial. Opposition to foreign control was in the past particularly clear in the banking sector, but this had become more relaxed even before. The transfer of responsibility for competition issues in the banking sector from the Bank of Italy to the Competition Authority is a clear signal of change. Foreign stakes have increased since then.

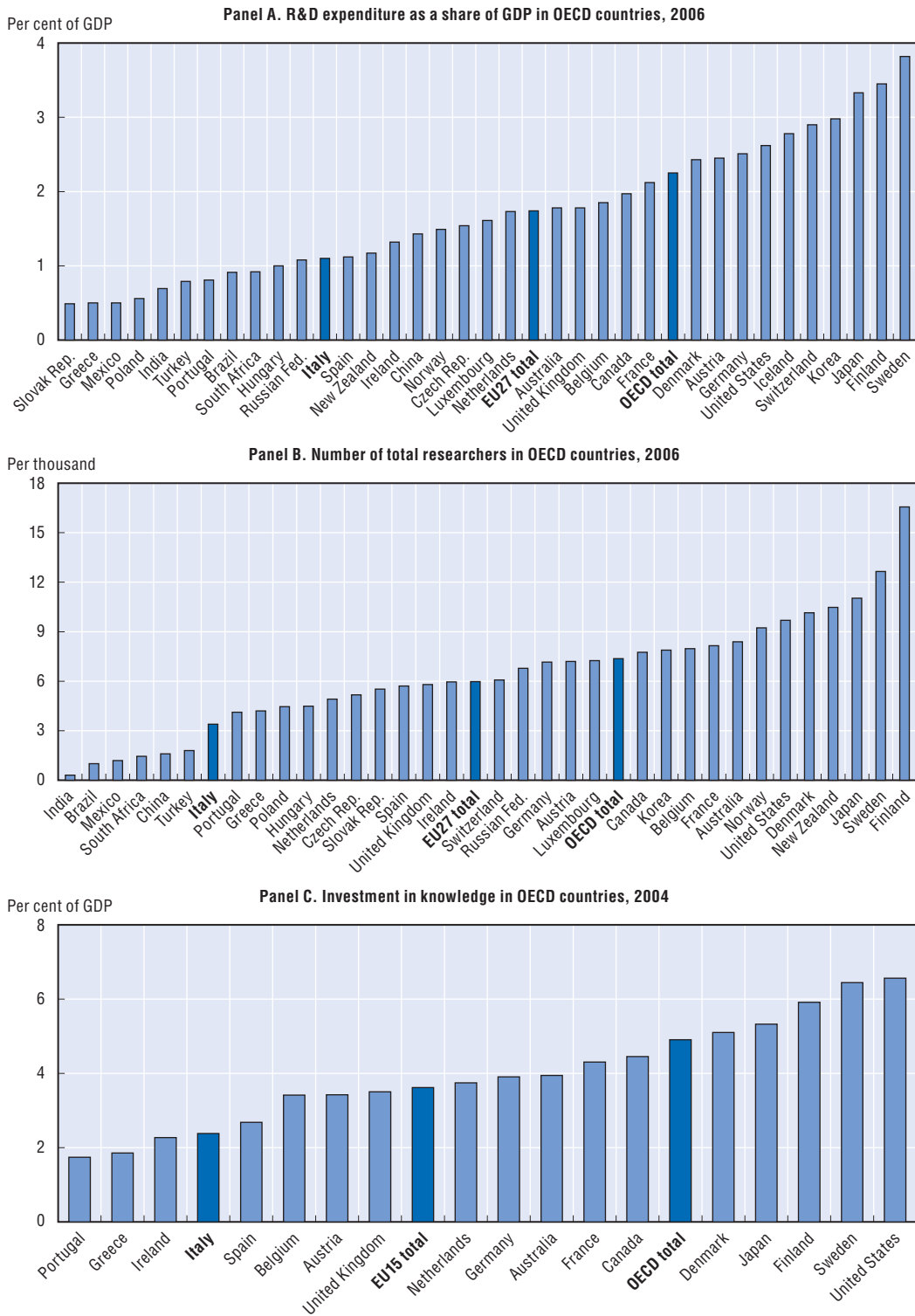
The impact of level in R&D investment

The slow introduction of ICT in many sectors in Italy may also be linked to its research and development effort, which is in fact another area where growth-related indicators are not favourable to Italy. The examples of Ireland and catch-up countries in central Europe show that a low level of R&D may not necessarily prevent strong productivity growth. But in a high income country such as Italy, especially where foreign direct investment is not currently playing the role in transmitting new ideas that it plays in those countries, technical progress is likely to be quite dependent on domestic R&D efforts. Expenditure on R&D in Italy is low overall: gross R&D total expenditure is slightly above 1% of GDP, compared with the OECD average of 2.3% (Figure 1.9a); this is true for both private and public sector research activity, with industry financing 40% and performing 50% of it. Italy is also among the OECD countries with the smallest number of total researchers, with less than 4 out of 1 000 employees being in this profession, less than half the OECD average (Figure 1.9b). Another indicator, of “investment in knowledge”, which combines expenditure on R&D with that on total higher education and on software, also shows Italy underperforming: in 2004 it invested slightly above 2% of GDP in knowledge while the OECD area reached 5% (Figure 1.9c). Under-recording of R&D activity in small and medium sized enterprises, where it is often performed informally, may somewhat bias these figures down.

Measuring actual innovation is not, however, straightforward and different indicators may sometimes paint a different picture (see OECD, 2006a). The input indicators just mentioned unambiguously suggest a significant shortfall in effort, one important direct output indicator (apart from lower overall productivity growth) corroborates this: 0.00125 patent families are produced per thousand capita population, compared with an OECD average of almost 0.05, some forty times greater. Many studies have shown the strong impact of innovation on economic growth (see for instance OECD, 2003, for a comprehensive review). Del Monte and Papagni (2003) showed more specifically on Italian data that R&D activity is associated to faster growth, because it led the firm to successfully compete and thrive in product markets. Bronzini and Piselli (2006) also established a strong long-run relationship between regional total factor productivity, R&D, human capital and public infrastructure. Though human capital turns out to be the main driver, R&D activities produce significant regional productivity spill-over for neighbouring regions.

The literature suggests a number of reasons why R&D at industry-level is not extensively developed in Italy and why innovation is slow to propagate. One of the explanations lies with the small size of Italian firms and the consequent difficulty of

Figure 1.9. Indicators of R&D efforts in OECD countries, various years



Source: OECD Factbook 2008.

meeting the up-front cost of R&D where there is only limited access to external capital. Ughetto (2008) for instance finds that Italian firms use very little debt to finance R&D, even though debt is the main source of external finance for Italian firms, in the absence of significant external equity. Innovation therefore has to be financed mainly through internal cash flow. Ughetto (2007) finds that small innovative firms are indeed subject to significant financing constraints, while larger companies investing in R&D have easier access to external financing.

In most countries, a significant amount of R&D effort occurs in universities or research institutions that are part of the tertiary education sector. In Italy this sector is underdeveloped; indeed, it has been a concern for some time that Italy suffers a net loss of young graduates through emigration and that few foreign researchers appear interested in working in Italy. In 2005, a decree authorised the Ministry of Higher Education to subsidise universities who wished to recruit researchers or professors from abroad, either foreign citizens or Italians who had worked abroad as researchers or in university education for several years; this programme has now ended, and it is not clear whether it had any permanent effect. Foreigners can also sometimes face obstacles in coming to work in Italy: for example the procedure for recognising foreign university qualifications can be cumbersome.

The role of education

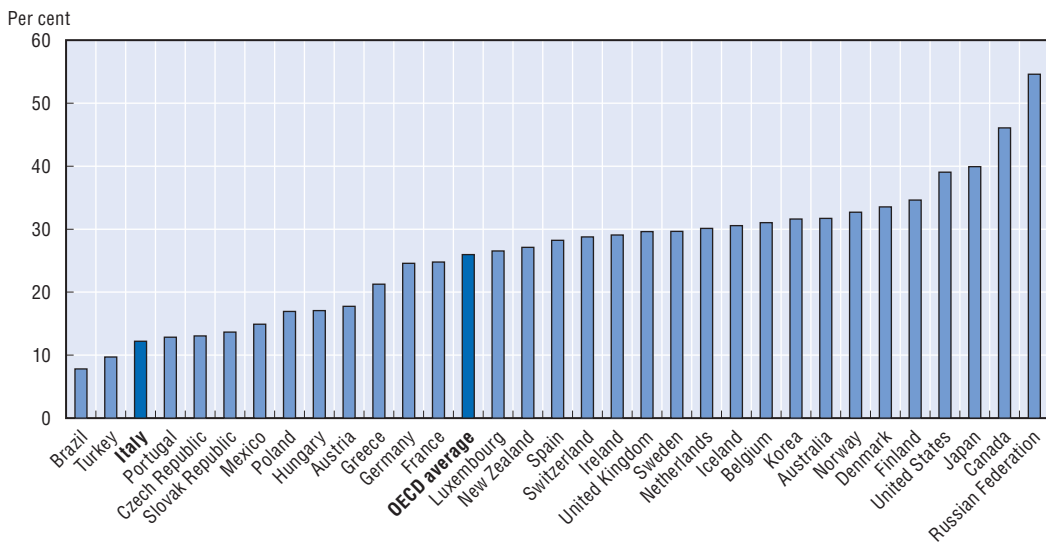
Apart from the specific effect of low levels of research and development activity, low overall educational attainment in Italy is also likely to affect economic performance (see Sianesi and Van Reenen, 2003, for a comprehensive review). Among the main established results, human capital, measured by years of education, has been found to increase productivity. A one-year increase in average education is associated with an increase in the level of output per capita of between 3 and 6%; some models interpret the effect in growth rates, with an extra year of education leading to an increase in growth of more than 1 percentage point. Over the short-run the empirical estimates of the change in GDP for a given increase in the human capital stock are of similar orders of magnitude in the two approaches. The impact of increases at different levels of education appears to depend on the level of a country's development, with tertiary education being the most important for growth in OECD countries. Education is found to yield additional indirect benefits to growth, in particular by stimulating fixed investment and technological development and adoption.

In addition to traditional growth explanations, other influences from education may include the importance of human capital for the successful development of new technology-based firms (NTBF). The initial qualification and skills of founders of NTBFs have been shown to be critical for the rapid growth of young firms specialising in edge-segments of the market. The role of human capital is both direct (providing the right managerial and technical competences for running a business) and indirect (facilitating the firm's access to external financing, which is usually more complicated for small firms). Colombo and Grilli (2008) show, analysing a panel of Italian firms, that access to venture capital financing increases with the education of NTBF's founders, and that firms financed through venture capital grow the most.¹⁷ This is particularly significant given that venture capital is still relatively underdeveloped in Italy, as observed above (Figure 1.9), perhaps itself influenced by a vicious circle linking low educational attainment and inflexible financial markets. More generally, cross-country evidence, on a sample that includes

Italian firms, finds that management practices matter substantially for firms' productivity growth and a number of other business outcomes and education of managers plays a key role in efficient management (Bloom and Van Reenen, 2007; Bloom *et al.*, 2007).

The importance of these results is all the greater in view of the fact that the average level of educational attainment in Italy is among the lowest in the OECD area. Simple quantitative indicators of education show that only slightly more than 10% of the working age population has a tertiary degree (see Figure 1.10) compared with the OECD average of 26%; similarly, less than one person in three holds an upper-secondary degree versus the OECD average of two in five. The recent trend is more encouraging, nevertheless: Italian graduation rates in tertiary-A programmes (*i.e.* theoretically based) have almost doubled between 2000 and 2005, making Italy one of the fastest human capital accumulating countries (OECD, 2007a). Even if progress has been made, completion of tertiary studies remains insufficient: in 2006 the drop out was as high as 20% (stable from previous years). Duration of tertiary studies also continues to be extremely long, with 66% of graduates taking at least one year longer than the theoretical duration of the study programme (Universita e Lavoro, 2008). Both the drop-out rate and the duration of studies are significantly higher than in the OECD average.

Figure 1.10. **Tertiary education attainment in OECD countries, 2006**

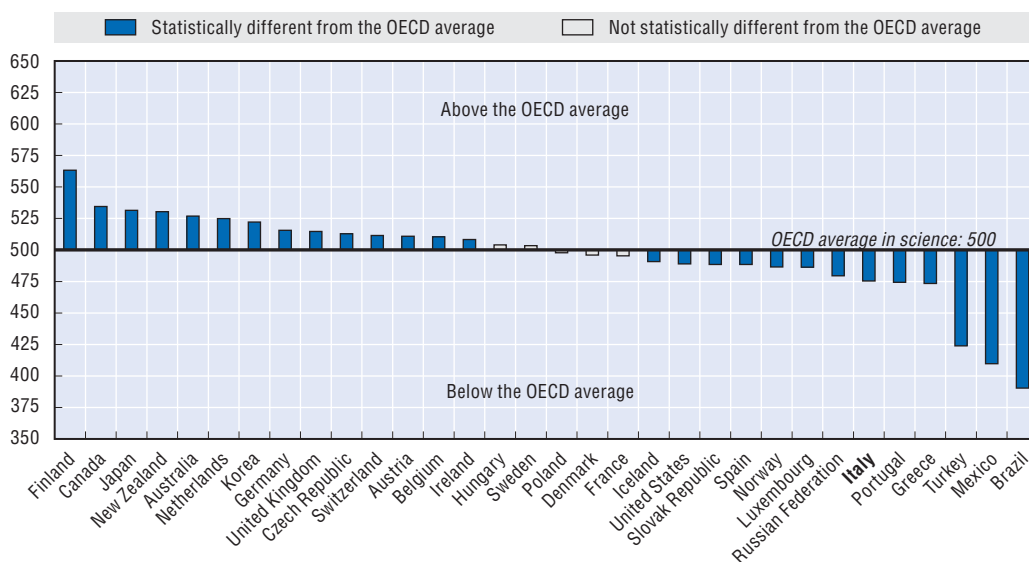


Source: OECD, *Education at a Glance*, 2008.

At tertiary level, available indicators cannot easily compare actual educational achievements across countries. For example, the hypothesis that Italian students may take longer than other countries to complete their degree-level studies but actually learn more as well cannot be directly tested, although indirect tests such as calculations of rates of return to education and/or wage premia suggest that the opposite is the case – the returns to higher education in Italy are rather low, so spending a long time in it is particularly inefficient (Boarini and Strauss, 2007). At compulsory school level, however, a number of indicators are available, notably the OECD's PISA¹⁸ survey which shows that average educational achievement among 15-year olds leaves much room for improvement. According to PISA 2006, Italian 15-years old were in the 5-bottom performers, together with Portugal, Greece, Mexico and Turkey (Figure 1.11). While there is evidence that, as

compared with other countries, reading performance has significantly declined from 2000, Italy's relative performance in mathematics and science has remained broadly stable. However, Portugal and Greece have caught up with Italy between 2000 and 2006.

Figure 1.11. **Science performance of 15-year old students, OECD countries, 2006**



Source: OECD, *Education at a Glance*, 2008.

Another feature of Italian education is the wide regional variation in student performance. As both a cause and a consequence of long-standing regional imbalances in the labour market, schools and universities do not seem to produce the same results in the North and in the South of the country. Educational achievements measured at lower-secondary education level (PISA scores) show a difference equivalent to two years of schooling, with Friuli Venezia Giulia scoring as high as the best OECD countries and Sicily scoring as low as the least performing OECD countries (OECD, 2007b). Similar regional disparities are observed on quantitative indicators as well, as for instance the drop-out rate, the number of engineering and sciences graduates and life-long learning participation rates (Quaderno Bianco sulla Scuola, 2007 and ISTAT, 2007).

Immigration

A development related quite closely to the measurement difficulties mentioned above is the integration of large numbers of immigrants into the workforce. In practice this has been something of a success story for the Italian labour market and economy (OECD, 2005, Chapter 4). Up to the early 1980s very few immigrants were present as Italy was historically very much a country of emigration. But this situation changed in the mid-1980s. Between 1995 and 2002, OECD (2005) estimated that the non-EU population (whether resident legally or illegally) rose by over one million, nearly doubling, with immigration accelerating particularly after 1998 when large illegal flows of Albanians and then Romanians were added to the “traditional” inflows from north Africa. The non-EU population has probably risen by another million since then.¹⁹ Without this immigration, the total population would have been stagnant or falling. By and large, non-EU immigrants were relatively unskilled: many of them were certainly absorbed initially into unskilled jobs, often for

reasons of language and/or because they were resident illegally, even though they may often come from among the most highly qualified in their home countries.

This episode was “successful” because, recalling that immigration was a new phenomenon for Italy in the 1990s, the immigrants were absorbed quite well into the economy, with an important contribution from the informal economy. Given the high official unemployment in Italy and the considerable rigidities in the formal labour market, one might have expected a significant, if transitory effect on native unemployment (Jean and Jimenez, 2007) this led to a certain expansion (or a slowing of the contraction) of certain labour-intensive industries and through composition effects might have accounted for some of the slowing in productivity growth. However, and paradoxically, the large informal labour market that already existed in Italy provided a route through which the very large inflows that occurred in some years could be quickly employed (OECD, 2005).

As the immigrants were largely absorbed into unskilled work, compositional effects could be expected to reduce the average level of productivity. The fact that Spain, whose experience with immigration was similar in many ways, also shows a similar pause in GDP per employed person is suggestive of at least some link between immigration and recorded productivity, though empirical proof of such a link is lacking. In both countries, immigration appears to have been responsible for at least part of the considerable increase in average participation rates, as employment rose faster than the working age population, so that GDP relative to that population barely slowed in Italy and grew quite respectably in Spain.

In addition, the sectors where immigrants are the most concentrated (low-skilled jobs but also certain industries, in particular agriculture, construction, certain manufactures such as textiles, hotels and restaurants, and personal home services) do not show a higher slowdown in productivity than in other sectors. Bearing in mind that, given the role of informal work, the data may not allow for identifying correctly immigrants’ productivity, the slowdown in productivity seems to be quite generalised across economic sectors (Table 1.1). There is no correlation between the growth rates, or changes in them, in Italy and those in Spain, despite some similarity in their migration experience; this casts further doubt on the strength of a simple link between migration and productivity growth.

Further economic challenges

While economic growth shows rather disappointing performance, the Italian economy is facing a number of recurrent challenges, compounded by recent events. It is clear that sound economic growth would be required if the economy is to face these challenges successfully.

A first and recurring issue is the regional divide. Italy is characterised by the magnitude of its regional differentials between the North, Centre North and the South. This can make it difficult to see what *national* policies are appropriate for dealing with problems that vary significantly across regions. One response has been the strong trend towards decentralisation. This will be analysed in further depth, in Part 3 devoted to multi-level governance. This poses the challenge of how to fit structural policies to regional needs. Many services and also some regulatory policies are delegated to local government. In many cases this leads to better alignment of incentives but also has implications in terms of inequalities, economic and social disparities.

Second, the structure of population in Italy is ageing very fast and, despite a number of interventions to contain public expenditure for the elderly, the pace of adjustment remains slow. Ageing is the result of both increased life expectancy and a fall in the fertility rate, which is among the lowest in Europe. Recent projections by the Italian Ministry of Finance show that, even with the full implementation of the pension reforms, the share of pension expenditure in GDP will rise to over 15% by 2040 (compared with around 14% now and 13.5% in 2001). It will not return even to current levels (which are high by OECD standards) before 2050. Other age-related spending, on health and long-term care is likely to rise by much more than this. OECD (2006b) projected an increase in the share of such spending of between 4 and 6.5% by 2050 (similar to the increase expected in many other OECD countries); how to contain such spending increases, and how to share the burden between public and private expenditure, is a difficult issue. Continued immigration can potentially moderate the rate at which the population structure ages, but presents other drawbacks. Italy cannot rely on immigration to remove the need to face up to these challenges, but must continue to develop policies that improve the economy's ability to use existing resources more efficiently and to mobilise under-utilised resources of labour and capital.

On top of these issues, Italy faces the ongoing challenge of globalisation as well as the impact of the recent financial crisis. While the Italian economy may not have been in the forefront of countries concerned by the impact of mortgages and the burst of housing markets, its economy will have to cope with the implications of adverse international trends in terms of reduced opportunities for exports and falling domestic production. In addition, Italy is almost entirely dependent on imported energy. Italy is also particularly vulnerable to some of the swings in world energy and commodity prices seen in recent years.

Policy responses: The government's strategy for reinvigorating growth and competitiveness

The decade of the 1990s was in some respects shock therapy for Italy at the confluence of multiple political and economic challenges, domestic and external. Accumulated rigidities and practices of decades were re-assessed, and many were rejected. Increasing awareness of the excessive role that the state played in economic life led to policy and institutional changes. As the political landscape was redrawn, aspects of the centralised state were dismantled and statist economic policies were replaced with pro-market and pro-competitive policies.

This represented a turning point for Italy in economic policy. In that decade, Italy undertook ambitious reforms to set the foundations of faster sustainable growth. These reforms were well targeted, and were in part driven by the decision to join the monetary union. Regulatory reform was only one of many such reforms in Italy in the 1990s, but it was an essential one. Following the macroeconomic stabilisation programme of the early 1990s, regulatory reform was at the core of policy responses developed to address the underlying structural problems in the economy and the public administration.

As mentioned above, in more recent years, the Italian national strategy for quality regulation has benefitted from external drivers and pressure, at European level and beyond. The newly elected government is pursuing the agenda with strong political leadership. The appointment in 2008 of a Minister for Normative Simplification supports regulatory reform at the highest political level and provides impetus for implementation.

In addition, this is also supported by strong input from the Ministry of public administration, which has made a commitment to advance the administrative simplification agenda, strengthen evidence-based decision-making, and increase quality and efficiency of the performance of public administration officials, for example through reduced absenteeism by civil servants. This is complemented by a robust strategy for regulatory reform implementation. Legislative Decree 112/08 adopted in June 2008 (and converted into Law 133/2008) offers an indication of the political importance granted to regulatory reform, and simplification in particular, with strong action in terms of “cutting-laws”, “cutting-burdens” and “cutting bodies” initiatives. These try to maximise efficiency and continuity in policy making by building on existing expertise supported by strong policy leadership.

All these initiatives follow worthy steps under the previous legislature, when the previous government started to give significant emphasis to liberalisation policies as a way to instil further flexibility in the economy and help it adapt to a fixed exchange rate.

Section 2. Regulatory Reform and Liberalisation Policies and their Contribution to Performance so Far

Positive links between regulatory reform and growth

Regulatory costs and risks facing businesses and citizens exert significant influence on business decisions in the microeconomy, such as hiring, firing, investing, marketing new products, and entering new markets. Regulatory costs and risks affect the performance of existing businesses by increasing production costs, the cost of capital, the value of assets, and opportunities open to businesses. Decisions by businesses not to seize market opportunities due to regulatory barriers are the efficiency costs of regulation, and are much larger than pure direct administrative costs.

In terms of analytical evidence, a growing body of work shows that regulatory reform and liberalisation oriented policies increase the level of output by boosting productivity and can have a direct impact on growth by enhancing investment and innovation. Further benefits are often found from increased employment. The empirical literature tends to support the argument (Conway *et al.*, 2006) that strengthened market forces stimulate innovation, especially in a “catch-up” model that seems best suited to describe the interactions among OECD economies where in many industries in most countries, increased productivity and growth can be obtained from introducing technologies, products or practices that are already known elsewhere (see also Aghion *et al.*, 2001; Gust and Marquez, 2003). In a competitive environment, an enterprise that fails to follow this path is likely to decline. One of the key mechanisms that has been identified as particularly important over the last two decades has been a clear link between competitive conditions and the introduction of ICT, which has an important contribution to growth. This is particularly significant for the case of Italy, a country in which use of ICT, both in the private and public sector, has been particularly slow to spread.

Liberalisation policies have direct effects on investment and productivity growth in particular industries, but their indirect effects are particularly important for key network and service industries. High costs or inefficient services in posts and telecommunications,

or in energy supply, or in professional business services, put other industries which depend on them as suppliers at a disadvantage against their competitors in other countries with more efficient network industries.

Market forces have also overall positive effects in terms of labour market. A growing number of empirical studies show that there are positive effects from product market reforms in terms of employment as well as labour productivity, following a survey by Bassanini and Duval (2006). Lower barriers to entry tend to curb market power and rents of incumbents and create opportunities for new firms. These effects tend to expand activity levels and labour demand. Lower product market rents also exert pressure on wage claims, helping to keep growth in real wages in check with productivity. The existence of a flexible labour market helps minimise the time the economy takes to adjust to such shocks, while an effective social safety net can alleviate the short-term social costs.

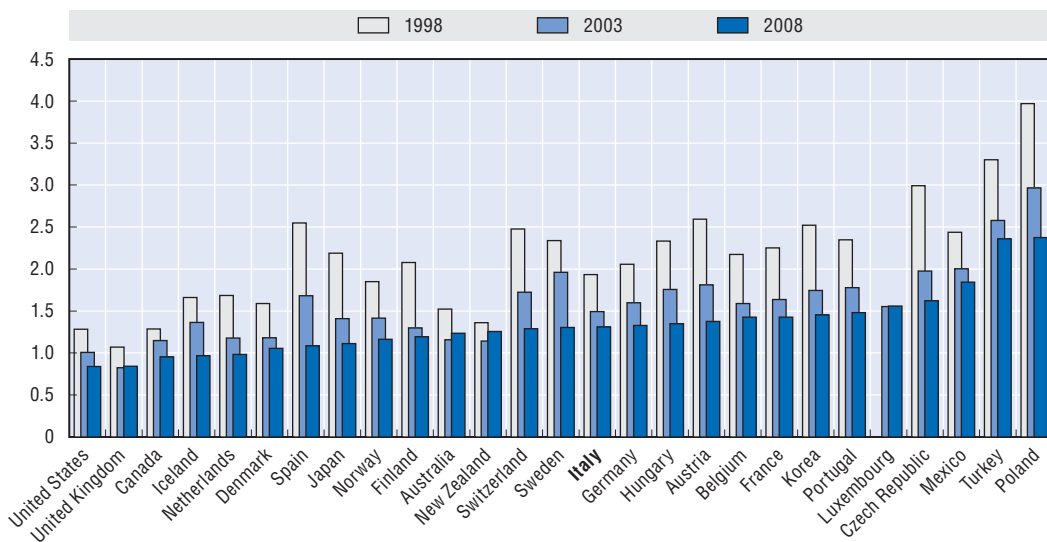
The effects of product market regulations are magnified by the interaction of such regulations with labour market settings that provide a strong bargaining power to insiders, suggesting that rent sharing tends to depress employment. Therefore employment gains from liberalisation policies are likely to be higher in countries that have rigid labour markets (Nicoletti Scarpetta, 2005). Interestingly, a recent study by Fiori *et al.* (2007), confirms these results for Italy estimating the impacts of changes, both in domestic regulation and in border barriers to investment: the systematic accounting of policy interactions shows that employment gains have been larger when workers' bargaining power was initially high, due to labour market policies. The conclusion is that product market deregulation and labour market deregulations can be both considered as substitutes and complements.

The Italian experience: Steep apparent progress with regulatory reform

OECD product market regulation (PMR) indicators have been developed to allow cross-country comparison of the degree to which some kinds of regulations restrict competition (Wölfl *et al.*, 2009). These are based on detailed questionnaires covering selected general regulatory issues such as administrative burdens and treatment of foreign investors, as well as selected specific regulations in non-manufacturing (posts, telecoms and transport, water and energy supply, as well as commercial and retail distribution, and professional services). However, the manufacturing industry, largely open to international competition in most OECD countries, is heavily regulated in health, safety, environmental areas, but is less often subject to the kind of anti-market regulations contained in the OECD database.

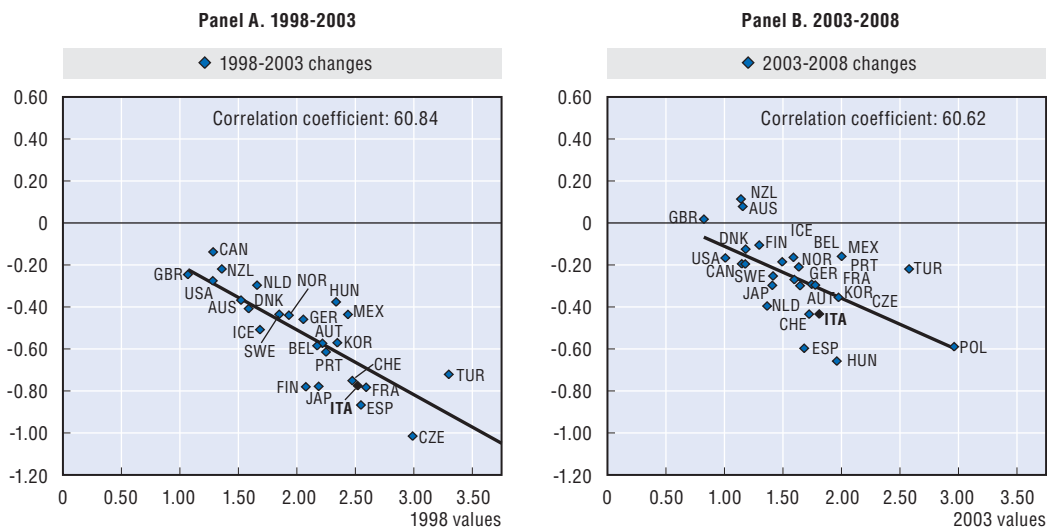
Italy, together with most OECD countries has been reducing the overall level of anti-market regulation over the past decade (Figure 1.12). A shift has occurred from regulations that reduce market activity to regulations that do not control market entry but that change the behaviour of the competitive enterprises in the market. This could be greatly welfare-enhancing, if social regulations are targeted and efficiently designed. Italy has followed this general trend. Since 1998, Italy has moved from being clearly in the group of countries with above average levels of regulation to a position in the middle group of countries, slightly below the OECD median. There is a tendency for countries with higher levels of regulation to move further than the countries which were already more liberal. This effect was stronger in the first part of the decade, as the example of Italy shows, whose overall index fell from 2.6 in 1998 to 1.8 in 2003, then to 1.4 in 2008, and as can be seen in Figure 1.13 for OECD countries in general.²⁰

Figure 1.12. **Development of aggregate product market regulation since 1998**



Note: Level in index points, 0 = least and 6 = most restrictive.
 Source: OECD Regulatory Database, 1998, 2003, 2007.

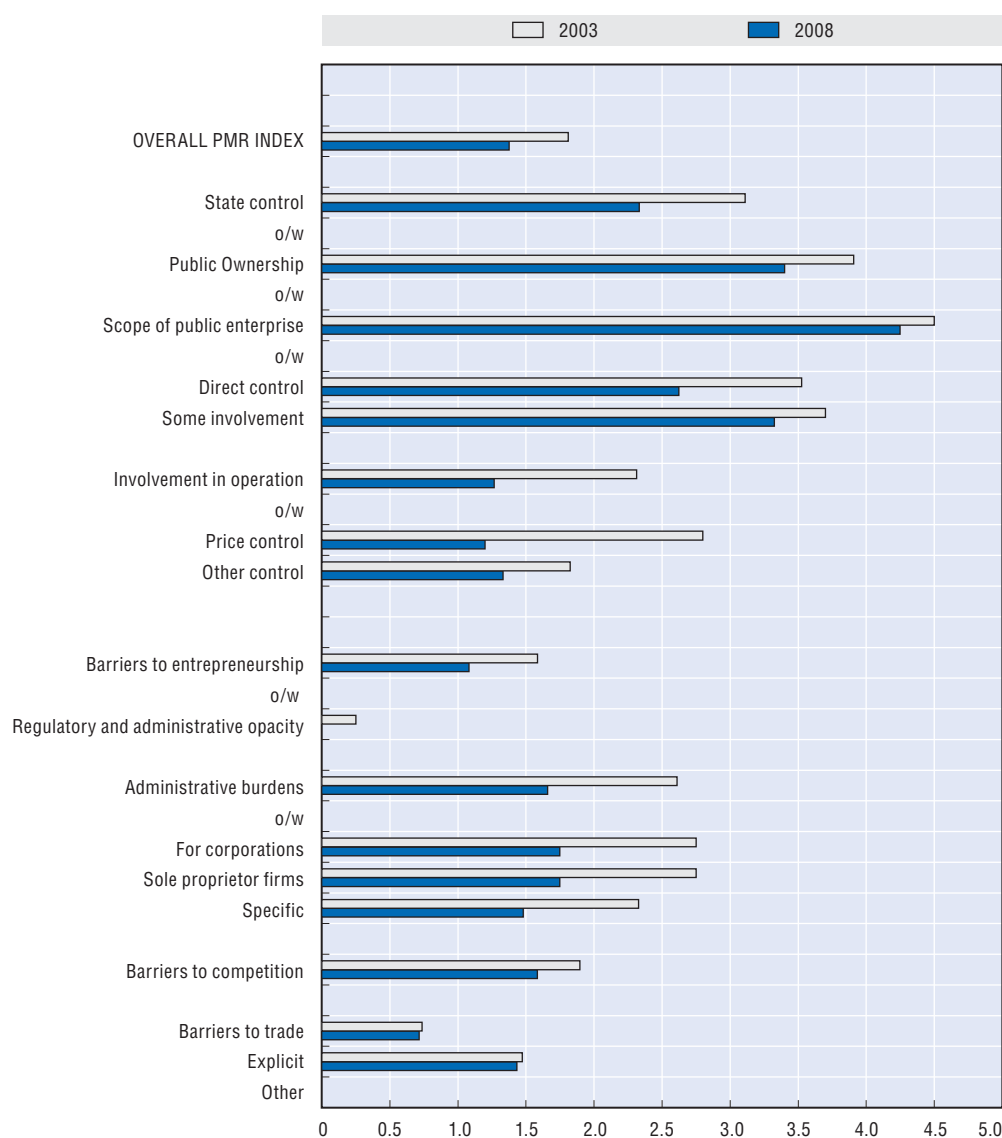
Figure 1.13. **Examining convergence in product market regulation**



Note: Level and change in index points, levels within the range of 0 to 6, with 0 = least and 6 = most restrictive.
 Source: OECD Regulatory Database, 1998, 2003, 2007.

Italy has experienced a significant reduction of the role of the state in the economy, even though this remains high compared with nearly all other OECD countries (Figure 1.14). Privatisation reduced overall public ownership and the government seems to manage its holdings with somewhat more “arms-length” methods than previously. The incorporation of EU directives on competition and market opening into Italian law has probably provided as much impetus to the improvement as spontaneous action by Italian governments, though the Bersani decrees of the late 1990s and of 2005-06 had important effects in areas such as retail regulation.

Figure 1.14. **Components of product market regulation indicators, Italy 2003 and 2008**



Source: OECD Regulatory Database.

Puzzling results in terms of perception and economic growth

While these data yield a positive outlook for Italian progress with regulatory reform, other widely used set of indicators paint a different picture. For example, the World Bank *Doing Business* data, examined in Chapter 2, show that significant time is still required in Italy to open a company, compared with the best performing European countries, or to solve court cases. Similarly, the global competitiveness indices from the World Economic Forum offer challenging perspectives on the overall perception of the Italian business environment by executive leaders in the private sector worldwide. This may also be consistent with the relatively low level of Foreign Direct Investment in Italy.

Several points should be noted. Overall national perspectives now fail to reflect the regionally diverse situation of Italy, where laws of 23 regions often offer a complex

environment for doing business at local level, as illustrated in Chapter 7. Another possibility is that existing OECD databases, such as the PMR, exclude key regulatory issues important in Italy. For example, the database does not measure the overall cost of regulation nor the impacts of regulations in the fast-growing areas of health, safety, environmental protection, and other social areas, which may be compounded by the effects of regionalisation.

Another possibility might be that regulatory reforms have not reached key regulatory constraints that continue to introduce inefficiencies and distortions in the economy. That is, Italy might have completed the easier part of the job, but important regulations that are more heavily protected by interests that might lose from more competition, remain on the books. Figure 1.14 shows that, of all of the various reforms measured in the database, Italy made less progress between 2003 and 2008 in removing barriers to competition, which can be very costly.

An implementation gap

The OECD PMR indicators are based on changes to formal regulatory requirements, but these changes have not yet translated into concrete changes in regulatory costs and risks for enterprises. This is supported by a pattern of lags and results below expectations. For example, one-stop shops have not worked as well as expected. Implementing investor protection in line with European standards has taken much time since institutional changes were needed (see below). Regulatory impact assessments have not been of high enough quality to detect unneeded regulations. In key areas, such as creating institutions and tools for controlling the flow of new regulations, and improving regulatory coherence between the national and the local levels of government, reforms have been adopted, but gaps remain in terms of implementation. It seems that regulatory ministries are unfamiliar with good regulation principles and tools promoted by reformers at the centre. Hence, formal legal reforms may not have yet significantly improved commercial incentives facing enterprises. This report supports the view that the implementation gap continues to be a challenge for Italian reformers.

A deeper understanding requires more assessments. Improving the regulatory function of government is part of the larger picture of public administration quality. The quality of public administration is an area where no comparable cross country data exist, yet there is consensus that the Italian public administration is generally slow at all levels and lacks transparency. The government recognises that there are serious shortcomings and the Ministry of Public Administration has launched wide-ranging reforms in 2008, with an “industrial plan” for re-organising the public administration and enhancing its efficiency. The main aim is to introduce and reinforce performance incentives among employees, and more transparency and merit-based decisions on recruitment and promotion.²¹

The impacts of such reforms on the regulatory environment are hard to assess. Regulatory programmes in other countries have adopted performance measures that have been useful in driving better results, shifting away from old and perverse measures such as the number of inspections performed and the value of penalties imposed to measures of good regulation, customer satisfaction, and policy results.

The case of civil justice

The need to accompany regulatory reforms with other reforms to the public administration is demonstrated by the civil justice system. Civil courts are very slow in

Italy. The average duration of cases at the lowest level of courts is 223 days (in courts before a Justice of the Peace) or 494 days (before a Tribunal), compared with 246 days in France and between 200 and 350 days in Germany. However, the average duration is 779 days in first instance appeals decisions against 459 days in France and 531 days for German regional courts. In total, the average length in number of days, 1 002, was the highest from the sample of European countries for which data are available.²² There is an important regional variation within Italy, even at the lowest level of courts where the nature of the cases is likely to be homogeneous across the country. In 2006, the slowest district averaged 1 599 days while the quickest averaged 555.²³ As in many countries, presiding judges have no explicit incentives to increase throughput in their courts. Incentives faced by lawyers also tend to encourage longer trials: lawyers are paid for each judicial act, such as an interview or production of a document, and cannot be paid a fixed sum per trial nor on a contingency basis, so they tend to multiply the number of acts they perform.

Uncertainty over the outcome and the length of time court cases take has led to a dichotomy between small and large cases. The lower courts are overwhelmed by a large number of cases covering small claims. But larger claims, generally involving larger companies, are frequently settled through arbitration clauses that are written into many commercial contracts, specifically to avoid the problem of slow procedures in the courts. Such “privatisation” of civil justice represents a sort of response to slowness in public courts, but may add to private contract costs and is likely to be a barrier to the expansion of small firms, due to the high risks of contract enforcement.

Productivity is a phenomenon with many roots that lead to market regulation and competition

To sum up this discussion on the drivers of productivity in Italy, the reasons for slow productivity growth in Italy are numerous and their relative contributions are only partly understood. They include a labour market that creates more low productivity jobs than high productivity jobs, the sometimes cumbersome public administration, and low levels of education among entrepreneurs. The costs, risks and barriers thrown up by the regulatory environment and competitive conditions are pervasive across the economy and affect incentives, competitiveness, and FDI. In many areas, regulatory policy and practice lags far behind best practice in Europe and the OECD, though in others, such as the role of the Competition Authority, Italian practice is among the best. Often, Italy experiences an implementation gap, with a difference between formally recorded measures and their actual implementation which is hampered often by capacity issues within national administrations.

All of these factors, acting together, hamper the large numbers of medium-sized firms' adjustment to globalisation which in the past have been a strong point in the economy. Italy faces limited opportunities, as the country needs to further adapt to globalisation. The recent economic slowdown creates more challenging economic conditions but significant pay offs could be expected if feasible reforms are undertaken in several areas in terms of product market competition. Many of these reforms may not be politically easy to implement, but these potential gains put into perspective the cost of allowing the interests of certain groups or sectors to block reforms or delay implementation.

Section 3. Goals, Progress and Results

The recent period offers scope for hope, in terms of ensuring continued support for liberalisation policies at the highest political level and increased domestic consensus around the country's core economic challenges. Impetus for reform is strong and is reinforced by the crisis. The will to move ahead is based on a realistic assessment of strength and weaknesses as well as the desire to reap the fruits of simplification and measurement efforts undertaken to date.

This could open a new historical period, with more continuity, less faltering capacity and dispersion of efforts compared with the overall history. When one looks across the range of reforms government-wide and in specific policy areas and sectors, one finds success in some areas, disappointments in others, and short-lived success in other areas that did not survive the turbulent political climate. As a result, many citizens have in general not seen the benefits of the better regulation agenda. Ample confusion about what regulatory reform means in practice, leaving significant scope for organised and entrenched interests to slow down the reform process.

This report supports a more sustained, institutionalised, and long-term effort, which will be aimed to address the continuing regulatory problems and inefficiencies that reduce economic growth and the quality of life in Italy. Such an effort seems to be underway at this time building on the recent changes enacted by the government in 2008 as well as those of the previous legislature. However, unlike the earlier effort, the challenge today is to sustain the effort and integrate it into the fabric of policy making as a permanent role of good government in a context where all countries are moving forward.

From the 2001 to the 2008 review

The resurgence of regulatory reform in Italy in recent years provides an opportunity to address past shortcomings, and design a reform programme that produces sustained improvements in the day to day regulatory practices of the public administration.

There is little question that Italy's post-war regulatory regimes required, by the 1990s, fundamental rethinking and overhaul. The 2001 *OECD Review of Regulatory Reform in Italy* concluded that the Italian regulatory and administrative system was the source of heavy and often unnecessary bureaucratic burdens on the public and on businesses. Accumulated rigidities and practices of decades were weighing down the economy, and the state played an excessive and damaging role in economic life. The Italian system suffered from high regulatory inflation as well as ambiguity, contradictions, and overlapping layers of rules.

The reforms of the 1990s were an unprecedented and broad-scale effort to transform Italian regulatory practices into a market-oriented and citizen-friendly approach. They constituted the first substantial changes to the organisation and *modus operandi* of the Italian public administration since the creation of the unitary State in 1861, and hence resistance was strong. Significant changes occurred during the "Bassanini period", launched by Franco Bassanini, the Minister responsible for the public administration and the reform of the State between 1996 and 2001. Public administration reforms were accompanied by privatisation, decentralisation, and liberalisation, which aimed to transform the institutional and economic environment, and by building new institutions for better regulation. The OECD 2001 review stated that "Considering the starting point and

the difficulties of reforming when governments are short-lived, the progress is impressive”.²⁴ Despite a third simplification law passed in 2003, this progress was not sustained, however, and the programme faltered until a range of new initiatives began in 2005, accelerating through end 2008.

Getting the job done: Building capacities for better regulation

Better Regulation is one of the most challenging tasks for the government. It is not an issue faced by a few regulators but, rather, by the entire public administration at all levels, which needs to be addressed from the top. The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* urge countries to recognise that key elements of regulatory policies, policies, institutions and tools, should be considered as a whole. The principles call for “a dynamic approach to improve regulatory systems over time to improve the stock of existing and the quality of new regulations”.

The regulatory reform agenda is among the most difficult task for the government because it extends across tens of thousands of regulatory instruments and hundreds of well-entrenched institutions handling highly technical matters, best known to the experts directly involved. A coherent programme spanning this enormous set of activities will surely fail without active and sustained political involvement in the reforms, supported by an expanding bipartisan consensus on better regulation across the main political parties. Political involvement must be supported on a day-to-day basis by a stable expert, and well resourced set of institutions at the centre of government that can promote, oversee, and enforce the regulatory reform commitments of the government. Neither the political nor the technocratic institutions can implement the regulatory reform agenda without the other.

The governments that are the most advanced in regulatory reform have, in recent years, focused on increasing oversight and quality control of national regulatory reform strategies through several methods:

- Permanent and active institutions and processes for political oversight in the government and parliament.

- A clear commitment and regulatory reform strategy that guide all affected parts of the administration in the same direction.

- Effective and credible challenge functions from central regulatory reform units.

- Increased individual ministerial accountability.

- A system of planning and monitoring of progress in individual ministries.

Following good practice, the Italian government has taken steps in all of these areas to institutionalise political commitment and technical support in policy processes.

Political commitment: Strengthened capacities for better regulation supporting clear policy objectives

Political commitment is key to success for regulatory reform. The experience of other OECD countries confirms that the existence of a clear regulatory policy, backed up with appropriate institutional structures and resources, has two key benefits. First, it fosters policy coherence through a “whole-of-government” approach, with the capacity to act across the whole range of government activity, not just “one off” reform initiatives but all law and rule making over time. Second, regulatory policy works alongside, and in support

of, other core government policies for growth and social achievements such as competition policy, international market openness, structural reforms and sound fiscal and macroeconomic management.

Italy has now firmly established this agenda with clear political commitment. The government elected in 2008 gave strong political support towards Better Regulation, with two main drivers. First, the Minister for Normative Simplification has responsibility and the overall competence for Better Regulation, and, in particular, for the implementation of the “cutting-laws” mechanism (*taglia-leggi*). Second, the Minister for Public Administration and Innovation has the political responsibility for administrative simplification, the measurement and reduction of administrative burdens, technological innovation, as well as the reform and modernisation of the public administration. In 2008, this minister launched two “Industrial Plans” for the reform of the Public Administration in May and for “Innovation” in October. In 2009, a law proposal by Minister Brunetta has been approved by Parliament (Law 15/2009). This law aims to foster convergence of regulatory frameworks for terms of employment across the public and private sectors; improve the effectiveness and efficiency of the collective bargaining procedures; introduce internal and external performance assessments for staff and administrative entities in order to ensure international quality standards for the delivery of public services; enhance merit-based incentives and introduce a rigorous system for entrusting public officials with responsibilities.

A new institutional impetus

The institutional context has also significantly changed. The constitutional reform of 2001 re-allocated legislative competences across levels of government, and implied a fundamental re-thinking of the State’s regulatory policies and its organisation. The reformed context also implied a multi-centric regulatory system, which calls for more global approaches.

The Better Regulation structures in the centre of government involve the units serving the Minister for Normative simplification, the Legislative Office, DAGL, through its overall planning and co-ordination function, as well as its regulatory impact analysis unit, and a specific administrative simplification office serving the Minister of Public Administration and Innovation. The conjunction of a strong centre with enhanced political commitment and co-operation, and responsible sectoral administrations with clear accountability mechanisms, has led to quick and concrete results. Within a few months, Italy has moved ahead accelerating normative simplification and administrative burdens reduction, fostering transparency efficiency and performance assessment, through Law Decree 112 in June 2008 and Draft Bills AS 847 and AS 1081 of June and October 2008.

Other steps were taken in the Autumn 2008 under the leadership of the Minister of Normative Simplification. As part of the government’s swift response to sustain the economy, new important simplification initiatives were taken. In particular, Law Decree 185 of 29 November 2008 contained measures for simplifying the determination of energy prices in order to accelerate the pass-through of the reduction in oil prices in terms of final tariffs for customers. The Law Decree also included measures for reducing the administrative costs supported by enterprises, streamlining fiscal administrative burdens and procedures for storing documents. In December, Law Decree 200 repealed some 29 100 laws adopted before 1948 which had been implicitly abrogated by subsequent legislation but were still in force. At the same time, the Decree enacted the implementation

of the “*normattiva*” initiative, i.e. an open and freely accessible online database collecting legislation in force which is designed to become operational in 2009. This built on previous efforts conducted since 2001 by the Presidency of the Council jointly with the Parliament chambers, and co-ordinated by the Legislative Office (DAGL).

This acceleration which occurred in 2008 builds on recent changes over 2005-07 when a new drive for the regulatory reform agenda occurred, in the light of the mid-term review of the EU Lisbon Strategy as well as the attempt to find domestic remedies to boost competitiveness. As a result, an inter-ministerial Committee²⁵ was established in 2006 to drive simplification efforts. The inter-ministerial Committee reflected a wish to move away from a fragmented approach to return to a more integrated process, with opportunities to foster a collegial approach across ministries. The Committee also reflects the new constitutional setting after the 2001 reforms, including the permanent membership of the Departments of Regional Affairs and of European Community policies in the Committee.

In addition, a permanent board for simplification (*Tavolo permanente per la semplificazione*) was established in March 2007 as a consultative body to reach consensus on simplification issues among the institutional bodies and the social partners, represented by business associations, trade unions, as well as the Regions and Local Authorities.

While the new structures and instruments are still developing, they have the potential to considerably improve and strengthen the consistence and continuity of the reform agenda in the forthcoming years.

Besides the executive, Parliament has also actively promoted regulatory policies in the past decade. Since 1997, the Chamber of Deputies operates with reformed Rules of Procedures granting itself advisory and advocacy functions to improve the quality of the legal system, and a regulatory checklist. A horizontal advisory Committee on Legislation was created to underpin the work of the standing committees when preparing draft legislation, notably on the consistency, simplicity, clarity of drafting. The Committee on Legislation plays an important role also with regard to inter-institutional relations and co-ordination with sub-national levels of government and external actors. The related Observatory on Legislation informs the Chamber and the Bicameral Commission for Government Reform on legal quality issues. Finally, the Committee promotes the publication of the reports on the state of the legislation that each year take stock and assess regulatory activities in Italy (see Chapter 2 for more detail).

Sectoral regulators: A moving agenda

Several independent regulators exist in Italy for core sectors such as telecommunications, financial services and energy. They reflect the impact of EU directives and the move towards privatisation and market-based approaches for core services. These authorities are entrusted with significant independence, as well as with regulatory and quasi judicial powers, even if these do vary across sectors. Co-ordination mechanisms with the competition authority, AGCM, tend to operate smoothly.

However, this remains an issue of debate in Italy. Several proposals have been made over the years, some from Parliament, and one from the government in 2007, which would have created regulators for transport postal, and water sectors, and would have reorganised the financial services sector. This proposal would have brought some rationalisation of the governance structures. This led to a debate on the possible options for reforming these core governance aspects, some of which entailed the possibility of

greater political influence. However, the rejection of such options bears to the maturity of the political debate even if critical issues remain unanswered. Further maintaining and consolidating these sectoral bodies remain a core issue, including as a strategy to address the financial crisis, by creating conditions for long term confidence, while ensuring accountability and transparency in core policy areas such as financial services, energy and energy prices, and telecommunications.

Deploying tools for regulatory quality

Towards a simplified approach for regulatory impact analysis

Appropriate assessment of costs and benefits yield significant potential for improving the quality of new regulations. Efforts to embed RIA practices in the public administration have involved two trial phases lasting from 2001 to 2005. However, mixed results led to the search for a simplified approach, through a law in 2005 which revised the scope of application; decentralised responsibilities for carrying out RIAs; and “simplified” the methodology in order to ensure the widest recourse possible to RIA by the administrations. A new regulation elaborated in 2008 as part of the implementation of the 2005 law supports the simplified approach.

The “simplified” approach seeks to streamline the logical and procedural steps, consolidating previous Circulars of the President of the Council. It requires the administration to outline the “context” of reference; the coherence of the initiative in relation to the government’s programmatic objectives; and the information used. Information on the consultations carried out as well as their results need to be provided. The absence of consultation needs to be justified. The new approach calls for proportional investigation, flexible methodological approaches, and transparency. While it could represent progress, it does not target RIA efforts, and wide-ranging exemptions can be granted.

However, the experience of Italy with RIA still leaves room for improvement. As a result, recent steps have tried to rejuvenate RIA. The “simplified” RIA approach could be a first attempt to address implementation challenges. Despite recent progress, internal co-ordination mechanisms for quality control are still developing. A unit has been established within the DAGL to accompany the process, which would be linked with systematic and formal public consultation. This will contribute to the evaluation of the likely impacts as well as to accountability. A transparent RIA process further enhances accountability. However, some of the methodological requirements may need to be made more explicit and more precise.

The example of the sectoral regulatory authorities offers a positive perspective, with examples of how useful a RIA system can be. The provisions of the Simplification Law 229/2003 formally extended RIA to the independent regulatory (with the exception of the Antitrust), management and control authorities, when they adopted regulatory acts. Moreover, the same law required the authorities to forward their RIA reports to the Parliament. While the authorities were free to choose the forms of RIA and methodologies that best suited their internal statutes and organisation, the obligation to forward RIA reports to the Parliament constituted a relative novelty among OECD countries. The energy and communication regulators (AEEG, AGCOM) have applied RIA to core regulations with significant impact with sound methodologies and careful economic assessments,

including sophisticated market analyses. This may also be related to capacity issues, as smaller regulatory authorities remain behind in terms of RIA procedures and practices.

However, challenges remain if the new simplified RIA system is to be applied to a few hundred government acts each year, without specific targeting. The need for centralised quality control remains: just as budget estimates must be controlled by the budget authorities to ensure honesty and consistency, RIA must be controlled by a central unit. This is necessary to provide appropriate incentives. Investment in staffing and training is also part of the implementation gap. A sectoral regulatory ministry such as the Ministry for Environment, which produces regulations of major significance to the private sector, does not have any unit dedicated to economic analysis. RIAs are still often prepared late in the process, after a proposal has been drafted, whereas they would be more useful if prepared earlier. As a result, it is no surprise that RIA continues to be largely perceived as a procedural burden by the majority of the regulators, limiting its added value. While the relative strengthening of the core units, including the USQR²⁶ represents an improvement, further steps are certainly necessary to make RIA an effective element of the regulatory process, particularly in terms of consolidating capacity in sectoral ministries.

Making Italy's regulations transparent, cradle to grave

The transparency of regulatory regimes – from cradle to grave – is one of the central pillars of effective, low-cost, and low-risk regulation. Ensuring transparency means making regulations more secure and accessible, and the processes of decision making more accountable. Most OECD countries have specific and mandatory mechanisms to ensure regulatory transparency to sustain legal certainty, predictability, and legitimacy. Typical transparency mechanisms include standardised processes (administrative procedures) for making and changing regulations, consultation with stakeholders, effective communication of regulations and plain language drafting, publication and codification to make rules accessible, and controls on administrative discretion.

While forward planning and publication of the upcoming regulatory agenda exist in many countries, the Italian institutional set up still lacks these features. Planned legislative proposals are not systematically published, for example. Some attempts have been made to improve the situation. In 2007, the government adopted a political and programmatic planning process listing all the actions of commitment, deadlines, the kind of intervention, and the responsibilities envisaged by the government. However, Italy's reformers could still consider the examples of the US Unified Agenda of Federal Regulations, Canada's Departmental Regulatory Plans, and the European Commission's annual Strategic Planning and Programming (SPP) process as good practices that would boost the transparency of its regulatory programme, and assist stakeholders in preparing for effective consultation.

Enhancing consultation with stakeholders affected by regulatory decisions is key to the quality of regulations. Practices have occasionally improved in Italy. A 1999 reform law called for better consultation and established the *Osservatorio sulle semplificazioni* for consultation on simplification initiatives. The Third Simplification Act of 2003 required "organs responsible for active political and administrative guidance to identify stable forms of consultation and participation" with economic and social stakeholders. Good consultation practices and information resources have been launched in some areas. The Department for Public Administration and *Confindustria* signed a Protocol in March 2006 and now the most important business organisations, such as *Confartigianato*, CNA, *Confcommercio*, are consulted in all the phases related to the measurement and reduction of

administrative burdens. The Communications Regulatory Authority (Agcom) and the Regulatory Authority for Electricity and Gas (AEEG) have also developed consultation practices that are very close to the best international standards.

As part of its simplification initiatives, the government has sought to improve procedures for consultation. A *Tavolo permanente per le semplificazioni* established in 2007 has operated through working groups. The Code for Digital Administration of 2005 offers an opportunity for developing a more open consultation culture using online consultation. The first experiences with online consultation are encouraging. The consultation launched on the 2008 Simplification Action Plan generated some 1 200 comments and recommendations from stakeholders within a month. This suggests a large incipient demand by economic operators, NGOs and citizens to participate more actively in decision making. In July 2008, an Inter-Institutional Agreement was signed between the Minister for Normative Simplification and the President of the National Council for Economy and Labour (CNEL) to enhance consultation with stakeholders for simplification and regulatory reform. As specified in the Agreement, CNEL provides support to the Minister during the examination of the themes connected to regulatory reform and normative simplification in the economic and social fields. It also provides advice and support through the participation of the members of the economic and social categories. This kind of consultation aims, among others, to identify the normative simplification proposals that could bring benefits for the country's economic growth and development – also taking into account the results of the burden measurement programme. Recently, the Ministry of Public Administration has conducted electronic consultation with interested economic stakeholders for the adoption of the subordinate regulations to Law 15/2009.

Yet there still is no general requirement in Italy for ministries and regulatory agencies to consult with stakeholders on regulatory decisions. The interaction between central administrations, regions, local authorities and social partners tend to be based on informal negotiations behind closed doors, under the so-called “concerted process”. There are no formal legal requirements to publish the results of consultations, reveal the parties consulted, or provide feedback.

After adoption, regulation needs to be transparent and easily accessible to all users, including businesses, citizens, courts, and potential investors. Italy conforms with good international practice by using online codes and information for low-cost access. All Italian laws and subordinate regulations as well as the judgements of the Constitutional Court have to be published in the Official Gazette (*Gazzetta Ufficiale*), available online. The Digital Administration Code of 2005²⁷ made a contribution towards diffusing the practice of converting, transmitting and publishing legal and administrative acts into electronic format. Since 1999, the programme “regulations on the net” (*Norme in rete*) has operated as a single access point for acts issued by the public administration. However, as of 2008, the core reference database with a search engine on Italian regulations was operated by a private operator due to the lack of corresponding public provision, according to the Minister for Simplification to Parliament in the autumn 2008. This situation has been addressed by Law Decree 200 which will allow for an open and freely accessible online database collecting legislation in force to be available by mid-2009.

Improving the interface with the EU in terms of new regulations

Italy has made significant progress in recent years to improve the interface between the government and the EU, following the “*La Pergola*” law established since 1989. The EU

enlargement in 2004 and the enhanced competences conferred upon the EU since the mid-1990s required an improvement of the channels through which Italy participates in EU normative procedures. The gaps observed in the past in terms of complying with the transposition and implementation of the EC law required a reorganisation of the process, which was made by the 2005 Buttiglione Law, which introduces a two tiered process, with a so-called “ascending phase”, referring to Italy’s participation in the process of framing Community and EU decisions; and a “descending phase”, referring to the transposition and implementation of Community directives into the Italian legal system. Whereas the process was decentralised and unco-ordinated before, under the new setting the Inter-ministerial Committee for European Community Affairs (*Comitato interministeriale per gli affari comunitari europei*, CIACE), co-ordinates the Italian position on all EU dossiers.

The impact of the reforms introduced by the Buttiglione Law on the descending phase has remained limited. The implementation of EC legislation is performed through the annual omnibus European Community Act (*Legge comunitaria*), which includes all the principles and criteria for delegating powers to the government. Since 2005, in case of emergency, EC obligations can also be implemented through lower level regulations to ensure prompt compliance with urgent obligations. Regions and autonomous provinces can directly implement the EC directives in the matters under their exclusive competence. However, after the constitutional reform of 2001, Art. 120 of the Constitution states that the State has “substituting powers” (*poteri sostitutivi*), should the regions and the local authorities fail to comply with EC law or rulings of the European Court of Justice. Since the 2007 Budgetary Law, the State may also ask the same entities, including the municipalities, for damage compensations equivalent to the financial burdens and the fines accorded by the Court in cases of proven infringement.

One other important tool to co-ordinate the transposition of European norms is the EUR-Infra, an electronic national archive of all documents related to infringement procedures launched by the Department for Community Policies in 2008 (<http://eurinfra.politichecomunitarie.it/ElencoAreaLibera.aspx>) (see Chapter 2, Box 2.6).

With the adoption and implementation of the 2005 law, Italy has made impressive progress. The country has committed to establish systematic and relatively close inter-institutional co-ordination on the descending phase. This has contributed to closing the transposition deficit, which has fallen from 2.7% to 1.3% in 2007 – in line with the EU average (1.2%). In January 2008, open infringements amounted to 198, the lowest number in the past five years.

The other key feature is the co-ordinated policy response that has been promoted by the institutional and organisational frameworks. Further clarity and human resources would help in making it more effective. The system is based on the credibility and the moral suasion of the CIACE, and the agreements reached are voluntary and political. The recent provisions included in the Budgetary Law go nonetheless in the right direction.

Drastically cutting the number of existing laws

Italy has given a long standing priority to normative simplification. The priority given to normative simplification is only matched by the accumulated set of legal and regulatory instruments over the years. This has been recently addressed in a spectacular way through the “guillotine clause”, introduced by the 2005 Simplification Act. A single Legislative

Decree, Law Decree 112/08, issued in June 2008 repealed some 7 000 laws, bringing down the total number of censed State legislation to about 14 600, from 22 000 previously.

The guillotine represents one of the most ambitious attempts to revise the regulatory stock since the creation of the Italian State in 1861. The guillotine helps to address the gap created by the revision of Title V of the Constitution, further to which a number of State laws are no longer legitimate because of the changed allocation of competences between the State and the regions. The choice to use an innovative and powerful instrument such as the guillotine clause speaks for the ambition and the commitment of the government to streamline and avoid overlapping legislative intervention.

This built over years of careful efforts, with an inventory undertaken by the administrations with the co-ordination of the USQR and the support of the *Centro Nazionale per Informatica nella Pubblica Amministrazione* (CNIPA). The so called “cutting-laws” (*taglia-leggi*) mechanism involved first a stocktaking of the State legislation in force, establishing the boundaries of the areas of the State’s legislative framework under the responsibility of each Ministry, highlighting the inconsistencies related to the various legislative sectors. Early findings had been presented to Parliament in December 2007, with an estimate of 22 000 laws, of which approximately 7 000 going back to the period 1860-1969.²⁸

The idea was to review all the norms adopted by the State before 1 January 1970,²⁹ with a view to identifying those considered essential to be maintained in force. Any legislation adopted before 1970 and not considered to be indispensable would be automatically repealed. The government should also simplify and reorganise comprehensively the various legislative areas through specific sectoral codes, and corrective or restorative acts (*decreti legislativi correttivi*) to ensure that effective and smooth implementation.

The limits are that many of the repealed laws were explicitly classified as useless, obsolete or already implicitly repealed. Therefore, while progress is impressive, its actual economic impact may be more limited. The effectiveness of the cutting-laws mechanism will be put to a more significant test when simplification initiatives will be carried out on more relevant legislative acts.

Besides the *Taglia Leggi*, Italy has also used several approaches since 1990 to consolidate its legal apparatus. The *testi unici* served to consolidate, while also helping to reduce the scope of laws (de-legislation). The mixed sectoral codes (*testi unici “misti”*) also helped for sectoral consolidation. As this was not sufficient to offer a clear and easy understanding of the regulatory stock in a given policy area, these were replaced by sectoral recasting codes (*codici di settore*) by the Third Simplification Act (Law 229/2003).

Beyond the introduction of the guillotine mechanism, the State Council confirmed that the recourse to the *codici* helped reform sectoral regulation,³⁰ recognising at the same time the codes tended to rigidify the legal source for simplification. Another aspect is linked to increased regionalisation, which drastically reduced the capacity of the State to intervene to rationalise substance and/or procedures in areas of non-exclusive State competence.³¹

Measuring and reducing administrative burdens to enable a business-friendly environment

The measurement and reduction of administrative burdens stands high on the agenda of regulatory reform in Italy, besides “normative simplification”, reflecting EU-wide as well as overall OECD trends. Cutting “Red tape” has become a priority on the government

agenda. This is particularly important for small businesses, which constitute the backbone of Italy's economy: 4.5 million registered SMEs exist, of which around four million with less than four employees. This is also important in Italy, as burdens result from the proliferation of legal sources. The multiplicity of the sources of new regulation (partly due to the constitutional reform) and above all the great variety in the number and length of the obligations make the reduction of administrative burdens a high policy priority.

A legacy of significant burdens imposed on Italian businesses

A wealth of estimates is available, both in terms of traditional domestic sources and in terms of comparative international data, point to the extent of the problem. Available estimates from various sources, amount to around EUR 10 billion, EUR 15 billion following a survey by Union Camere. This means an average annual cost per business of about EUR 11 800, i.e. the cost of a part-time employee. A breakdown of the data according to the size of the firm reveals that micro- and small enterprises are over-proportionately affected by compliance costs. Costs for firms with 50-500 employees are only three times higher than costs firms with less than 10 employees.³²

In terms of specific aspects and procedures, Italy was rather above average in terms of burdens on start ups, as only six other OECD countries imposed more burdensome procedures on start-ups than Italy even if Italy has significantly reduced the number of days it takes to set up a company, according to the World Bank's *Doing Business* reports. Italy has also significantly reduced the costs for start-ups since 2003. The adoption of the April 2007 Bersani Law, did cut these costs further. However, Italian experts suggest to consider some of these results with caution,³³ as other non-observable or non-measurable factors may intervene, and these measurements do not include all the costs as well as the benefits of the regulations. The type of firm concerned may also play a role, as for example the World Bank sample considers a typical firm in manufacturing located in Rome with some 200 employees. In fact, many Italian businesses are micro and small enterprises mostly located in the North-Eastern regions active in the services sector.

Swift progress in measuring and cutting red tape

Cutting red tape has been for a long time on the top of the policy agenda in Italy. This is confirmed by the OECD indicators on regulatory management system quality, which testify of the intensity of Italian efforts, compared with other countries.

Italy has fully engaged in a comprehensive programme to measure administrative burdens, following the methodology of the Standard Cost Model, pioneered by the Netherlands. The Italian version, MOA (*Misurazione degli oneri amministrativi*) has been conducted in a way that took account of the Italian business structure and that minimised the cost of the exercise. This involved a partnership with ISTAT.

This process which had been initiated under the previous legislature has been confirmed and expanded by the new government. The comprehensive Legislative Decree 112/2008 enabled a full-fledged adoption of the measurement for all areas under national responsibility, in compliance with the EU commitments. Measurement is not an end in itself and it has also led to concrete action: the measurement of administrative burdens has provided clear leverage for burden reduction. The 2007 Simplification Action Plan had fixed a target similar to the one agreed upon at the EU level (-25%) to be achieved at national level by 2012. The government also committed to achieve an equivalent national target for the reduction of administrative burdens by 2012 for State legislation.

The measurement and reduction of burdens in the regions and at local level is managed through specific agreements. Law Decree 112/2008 (see Box 2.1, Chapter 2) required each ministry to outline detailed reduction plans, for which guidelines were issued by the Minister for Public Administration and the Minister for Normative Simplification. Public monitoring and evaluation mechanisms are planned to periodically assess the performance of the management, and administrations are required to timely publish progress and results online. The government is also entitled to adopt de-legislation measures to speed up simplification procedures reducing burdens.

Further to the results from the measurement, simplification measures have been introduced by Law Decree 112/2008 on privacy, controls and labour policies. It is estimated that these sole measures only may provide a reduction of burdens of around EUR 4.1 billions, i.e. 59% of the costs caused by the old procedures and 25% of the overall burden already measured in Italy.³⁴ More generally, if the following phases confirm the success of the early results, this system could help to strengthen intra-institutional co-ordination, fostering the use of expertise and the involvement of stakeholders in the reform process.

Coupling e-government and ICT tools with innovative re-engineering initiatives

The use of e-government tools in particular has exploded in recent years, and Italy could become a leader in Europe in using such tools to replace complex procedures. In fact, e-government and ICT tools are a natural complement to simplification strategies. The e-government initiatives in Italy are co-ordinated by the Department for Innovation and Technologies, led by the Minister for Reform and Innovation in Public Administration and they rely on the activity of the CNIPA (*Centro Nazionale per l'Informazione nella Pubblica Amministrazione*) (see Chapter 2). In addition to e-government as such, the “industrial plan” launched by the Minister for Public Administration in October 2008 is innovative for it shifts governmental action towards a demand-driven innovation approach. Among the first results was the launch of the Friendly Networks project (*progetto reti amiche*) aimed at improving and diffusing the provision of public services to the citizens.

Recent measures have been introduced to increase the operability of one-stop shops (*sportelli unici*). Several efforts have been made to re-engineer administrative practices and reduce delays, through targets for reducing procedural times, “silence is consent”, self certification and “start of activity” notices. The authorities are aware of some of the shortcoming of the experience with one-stop shops to date, with uneven diffusion and functioning across the country, thus reducing the usefulness of the tool. New legal measures (Law Decree 112/2008) will facilitate significant improvements, while an overall platform has been organised to provide online access to information and services for businesses. A single notification process for business start-ups with a second generation of one-stop shops (“SUAPs”) are designed to facilitate the adoption of the service directive. New procedures should facilitate the submission of information related to hiring and firing by employers, the change of residence status for citizens as well as formalities for migrants.

This requires significant efforts over a number of years. Resources for the corresponding bodies and programmes, including CNIPA, have been increased over 2008-10, in order to abolish to the extent possible, the exchange of paper between national administrations. All the recent reforms have the potential to deliver significant improvements. However, it will be important to follow up on the implementation and assessment, as institutional heterogeneity, and complex administrative environments could reduce the effectiveness of the intended measures.

Changing actual perceptions and following up on implementation

While all government initiatives are very impressive, it is often challenging for governments in Italy as well as in other countries to close the gap with perceptions and ensure that businesses and citizens actually feel the improvements. This is particularly the case in Italy due to the cumulated burdens and the complexity of a multi-layered environment. Italy is not alone in this, as many other European countries also have to cope with the streams of EU regulations. As a result, businesses in Italy may not have felt fully the relief that could be expected from investments in simplification. Similar gaps in perception have also been observed in other countries, such as the United Kingdom, following an audit of the Better Regulation Executive's (BRE) activities or the Netherlands.

Another complicating factor may be that some reforms have had incomplete effects. The “silence is consent” practice, the “start-of-activity” notices, and the evolution of the one-stop shop system, are examples that may also be related to the multi-level aspects. As illustrated in Part III, dissemination and implementation of the tools remain fairly uneven across the country. Municipalities are the institutions responsible for the implementation of one-stop shops, but political factors and the lack of financial and skilled human resources have limited its diffusion at the local level

Another factor may be linked to the instruments used, as many simplification initiatives have often focused more on streamlining the structure and the procedures rather than on actually removing unjustified obligations, as the second proved more difficult to achieve. The provisions contained by the various legal acts went in the right direction (in the sectors concerned), but were sometimes too broad. The nature of the regulatory system, with a high number of norms of different legal status, lack of explicit reference to each other, also makes the task difficult.

Co-ordination of government action supporting e-government is also important. The efficiency of the public administration in providing e-services does not depend in fact on clear and coherent legal bases only, but also and foremost on the training of administrators and users in electronic literacy as well as the diffusion of adequate structures and technologies on the territory. All these factors contribute to efficient governance, in which co-ordinated and targeted reforms and investments in many policy areas seek to bridge the “digital divide”. The decentralised nature of the Italian system represents a real challenge in this respect, which can only be counterbalanced by significant investment in co-ordination.

Protecting competition and consumers

Italy is making progress in eliminating numerous protections, impediments and distortions to competition that reduce productivity and hamper growth. Despite beneficial steps made in the past several years, the Italian economy still needs to address a number of issues, such as removing constraints on competitively structured industries, including retailing, or professional services. As in other EU countries, Italy faces the issue of implementing reforms involving privatisation, separation and regulation in electricity, gas and telecommunications. The Italian Antitrust Authority stands in the midst of these efforts, continuing to strengthen its role as guardian of competition in the economy.

Strengthening antitrust as a bulwark for a more productive economy

Antitrust policy in Italy has steadily advanced over the past two decades, and today the Italian Antitrust Authority, AGCM, is well placed at an international level. Italy's

competition law, enacted in 1990, is based on the EU framework. The Authority's emphasis on economic factors in its application of the common prohibitions against restraints and abuse of dominance and in merger control facilitated harmonisation with EU competition policy. The termination of the special jurisdiction of the Bank of Italy in the banking sector, means that power to apply competition law in all sectors finally rests with the Authority.

Although a number of issues remain, long-overdue regulatory reforms have corrected or eliminated many of them since the previous 2001 OECD Report. The Authority has concentrated much of its attention, appropriately, on promoting competition in major infrastructure sectors. Other significant steps in recent years included two packages of reforms introduced in June 2006 and January 2007 by Minister Pier Luigi Bersani that improved transparency, consumer choice and freedom of competition in a wide range of sectors, including bakeries, banking, insurance, retail trade and restaurants, taxis and pharmaceutical products and services (see Box 1.1).

Box 1.1. Opening up the Italian market: Recent liberalisation reforms

The wide-ranging Bersani reforms took on many interest groups who were reaping substantial rewards from barriers to market competition. The strategy was that it was easier to challenge many at once than one at a time. The changes made by the two reform packages include:

Professional services: Rules setting minimum fees and banning advertising are repealed, and controls on multi-disciplinary practices are relaxed.

Retail distribution: Limits on promotional sales are dropped, and approval of new store locations should not impose requirements about minimum distance from others or range of products supplied. These steps bolster a 1998 reform that made it easier for small shops to open up.

Bakeries: Bakeries no longer need special authorisation to relocate, and they may sell other food products for immediate consumption.

Pharmaceutical products: Pharmacies no longer have a monopoly on selling "over the counter" products, retailers may discount the prices of those products and a wholesale distributor may now run a pharmacy.

Taxicabs: Limits on the number of taxi licences are lifted, and other aspects of regulation by municipalities are made more flexible, to promote new entry.

Insurance: Exclusive distribution arrangements and mandatory minimum prices are prohibited.

Notary services: Notary certification is no longer needed for transactions in used cars.

Financial services: To make it easier to change service providers, customers can close bank accounts (and change banks) with no charge if their bank changes its contract terms, prepayment fees for mortgages are abolished and mortgage contracts can be transferred between banks, and liability insurance is no longer subject to long-term contract commitments.

Personal services: Licensing hurdles for tour guides, driving schools and real estate sales are lowered, and hairdressers and barber shops can stay open longer.

Antitrust enforcement measures have improved in some of the directions recommended by the 2001 Report, notably stronger sanctions and more flexibility in sanctioning to permit adopting a formal leniency programme, and consumers are

benefitting as a result. The Authority now has the power to order interim relief pending its final decision. Where there is a *prima facie* violation and a risk of serious and irreparable damage to competition, the Authority may order interim relief.

To take effective action against horizontal collusion, the 2001 Report called for strengthening the Authority's hand, by authorising larger fines, enough flexibility in setting fines to support an effective leniency programme and means for assessing substantial fines against violations accomplished through associations. In February 2001, the Parliament approved a bill that anticipated some of those recommendations. The reference for determining the level of fines is no longer the relevant market affected by the restraint or abuse; instead, it is now the undertaking's total turnover. The Authority may impose a fine of up to 10% of that figure. Italy's basic sanction system is now generally comparable with the systems used by the EU and many other European jurisdictions. Responding to the courts' demand for transparent justification for the amounts assessed, the Authority has relied on the criteria and guidelines issued by the European Commission for setting fines under its similar powers. The Authority still does not have the tools to levy substantial fines on associations or to fine the members directly where their associations have violated the law.

The 2001 Report recommended giving the Authority the power to ensure that corrective advertising accomplishes that goal, of correcting the mistaken impressions that the deceptive advertisements had conveyed. A presidential decree of 11 July 2003 setting out procedures for enforcing the law about misleading and comparative advertising now empowers the Authority to order corrective advertising, including setting the medium and formalities of the corrections to be sure they are effective. Other legislation gives the Authority the power to impose fines against misleading advertising, to investigate advertising claims *ex officio* and to issue commitment decisions in advertising matters.

Postal services, a sector for which Italy has not yet formally established a regulatory body, have been the object of several cases about abuse of dominance. This investigation was concluded in February 2008 when the Authority accepted commitments from *Poste Italiane* to tender for concessions in 70 urban areas and to maintain contract relationships in order to preserve potentially viable post-liberalisation competitors. Restrictions imposed through associations of professionals generally escaped enforcement until the 2006 Bersani Decree, because of authorisation by other rules or regulations. Now, however, enforcement against anti-competitive "self-regulation" among professional service providers has been facilitated by the Bersani reforms, which eliminated some of the regulatory protections. In 2007, a veterinary association abolished its minimum fees and its rule against advertising, and it renounced disciplinary proceedings against those who advertised or charged fees that were not on the approved schedule. In exchange, the Authority dropped its law enforcement investigation.

Adoption of a formal leniency programme in 2007 should further strengthen enforcement against clandestine horizontal collusion. The first result of this programme was announced in May 2007. Firms in the particle board industry were fined EUR 31 million for fixing prices, setting output quotas and co-ordinating input purchasing. However, enforcement against agreements reached through associations continues to be hampered by weak sanctions or legislated protection.

Merger control is now the sole responsibility of the Authority. Ministries play no role, and courts are involved only if a decision is appealed. The Authority's decisions are based

on the competition issues involved in the transaction, and other policies are not considered. Since the end of the special regime about banking, the Authority's most important merger decisions have involved financial markets. The Authority has permitted bank combinations subject to conditions, typically the divestiture of retail branches and other measures to maintain retail-level competition for deposit services, small-business lending, asset management and insurance in local markets where post-merger concentration would otherwise have been too high.

The Authority combines its antitrust duties with consumer protection responsibilities about advertising and unfair competition. The consumer code, enacted in 2005, unifies the treatment of consumer issues. The code recognises the dual importance of ensuring that advertising is not misleading, to protect the interests of consumers and to protect the public interest in fair competition among enterprises. Since 2005, the Authority has had the power to impose fines against misleading advertising. European Community directives on unfair practices were transposed into Italian law in 2007. These measures bring Italian rules into line with the European model about misleading advertising to consumers and businesses.

Deceptive and comparative advertising represent a large part of the Authority's workload, measured by number of actions – several hundred per year. Since 2005, the Authority dealt with 385 advertising cases, finding 344 violations and imposing fines of EUR 7.7 million. Three sectors were most at risk for misrepresentation: telecommunications, tourism and “pseudo-pharmaceutical” diet products. Over 90% of the challenged telecoms ads were found to be in violation. Major gaps in information about “camouflaged” costs, technological limits on services, deadlines in terms of service or other hidden obligations misled consumers. Fewer cases dealt with tourism, but the rate of violation was even higher (19 out of 20), mostly from fraudulent website descriptions of resort facilities. Several dozen cases tackled the perennial false promise of weight loss without dieting or exercise, claims that were often targeted to particularly vulnerable consumers.

Even with this new scope, the Authority continues to be relatively understaffed. With an authorised ceiling of 193 positions, plus contract employees, the Authority remains smaller than the enforcement bodies with similar jurisdictions in similar-sized member countries, such as France or the UK. This point which was part of the 2001 recommendations, has remained unaddressed.

Class actions on behalf of consumers may become more important. An amendment to the Consumer Code, effective in mid-2008, introduced into Italian law a procedure for awarding damages to a large group of individual consumers in a single action. This revision expands the relief available in consumer class suits; now, such suits can seek an order to correct future behaviour, but not damages for individual consumers.

Challenging issues in specific sectors, professional services

Regulations in some sectors or policy areas may result in immunities and market distortions. Here, Italy made substantial progress in implementing the key reform recommendations of the 2001 OECD Report. The two packages of Bersani reforms in 2006 and 2007 removed many of these constraints (see Box 1.1). In the area of professional services, the Bersani reforms abolished minimum prices, relaxed some constraints on advertising and forms of business and reduced regulations of exclusive rights to perform

certain services. Assessing the impact of these reforms requires careful analysis. The Italian Antitrust investigation on professional services was just concluded in March 2009, with conclusions in line with the following analysis. Notably, the reform of minimum prices or fees does not necessarily mean the elimination of all price regulations, for the decrees that set minimum prices for all services still exist, but they are no longer binding.

The general principle of “necessity and proportionality” had been proposed by the Italian Antitrust Authority in 1997 as a standard for regulation of professional services. This principle was also suggested by the European Commission (OECD, 2006a). Applying the principle in this context means that regulation should be limited to addressing market failures, externalities and public goods produced by certain professional services. In this respect, the principal market failure to be corrected concerns asymmetry of information between professionals and consumers.

Conceivably, regulation of maximum prices might prevent service providers from charging uninformed consumers more than their services should be worth, or from padding their bills by performing services that are unnecessary. But price regulation, particularly in the form of minimum fee schedules, is neither necessary nor sufficient to address these problems. Most countries now do without it: OECD data on product market regulation in 2007 show that price regulation in professional services is found in only three other countries.

Typically, minimum or fixed prices are defended by professional service associations with the argument that price competition would undermine quality and reduce transparency, and would thus harm consumers. But no causal link has been shown between regulated prices and the quality of service. In addition, consumers of professional services are not in a position to quickly and easily determine whether the price comports with the quality of the service. However, there are other ways to ensure transparency, such as publication of historical or survey-based price information by independent parties such as consumer associations (OECD, 2008, Ennis). Another way is to allow a wider range of advertising of professional services.

Other sectoral issues

Another defining feature of the implementation of liberalisation policies in Italy is the multi-level regulatory structure of the country. A number of issues arise from local-level regulations which have implications for liberalisation and market competition, an issue discussed further in the section below on multi-level governance. While competition is a national principle, relevant for national regulations, local and regional authorities have significant regulatory powers for areas such as retail trade, energy or transport. These are also confronted to conflicting policy objectives, including urban planning, equity of access, safety that may also conflict at times with the necessity to preserve market forces at the local level. The main issue is that a given policy area such as energy or transport, involves in fact the interplay of environmental, labour related or urban regulations, which pertain to different levels of government. The superposition of various regulatory approaches across policy areas and levels of government result into significant complexity and delays for implementing reforms.

Media firms are subject to several special rules. Regulations prohibit acquisitions by media companies that would result in control of over 20% of the total circulation of daily newspapers in Italy or 50% of inter-regional copies. In publishing, Italy like many other

jurisdictions sets special rules about retail pricing. The numerous exceptions to this general rule still limit price competition for school texts.

Reform in road transport is coming slowly. Compulsory trucking rates were finally abolished in 2005. The Authority had been calling for this reform for a long time. The Authority remains worried that the industry may still be able to collude, because the law permits exchange of information in order to create a reference index about changes in costs, especially fuel costs. Entry is still not determined by market forces. The number of trucking licences is regulated, and in issuing the licences, the Minister of Transport is to ensure that supply matches demand. This may give the Minister of Transport scope of limiting entry and protecting incumbents. However, recent variations in the price of gas may have had significant impacts on the sector, leading to cautious approaches.

Communicating with government and public about the need for liberalisation

Among the most important regulatory reform roles of antitrust authorities is competition advocacy. In a sense, the antitrust authority acts as a watchdog within the government itself. Advocacy is a strong feature of the Italian Antitrust Authority, which was already complimented by the 2001 review. Since then, output of advocacy opinions and reports by the Authority has sharply increased. In 2005, the Authority issued some 40 advocacy papers, followed by 47 in 2006 and 65 in 2007; by contrast, in 2004 there were only 12.

The Authority's renewed advocacy activity began as part of the shift in strategy by the newly constituted Authority in 2005. It continued in support of the liberalisation policies announced in 2006. Some of the Authority's comments since then target local regulations that undermine the pro-competitive intention of these reforms. The Bersani reforms represented major steps toward implementing core recommendations of the OECD 2001 Report. They represented a bold attempt at eliminating unnecessary regulatory constraints on competition about price, entry, and quality, which cannot be justified as the best way to serve public interests.

Nearly 400 sector studies and advocacy filings by the Italian Competition Authority, over a period of 15 years, laid the foundation for these 2006 and 2007 reforms. The reforms mirror recommendations from the Authority's repeated findings about issues arising from sector regulation. Showing that liberalisation would directly benefit consumers was one of the motivations behind the Bersani measures. The Ministry of Economic Development has monitored marketplace reactions and estimated the impact of some of these changes. Significant reductions in prices accompanied the reforms of pharmaceutical sales, mobile phone charges and airline fare advertising. Notary fees for transferring used vehicles dropped simultaneously with reform, perhaps in anticipation of it. Market effects of the other reforms are more difficult to isolate. Based on experience to date from five of the reforms taken together involving mobile phone charges, fees for used vehicle transfers and mortgage prepayment, pharmaceutical sales and airline fare advertising, official Italian figures produced at that time estimate that the reforms may have yielded between EUR 2.4 billion and EUR 2.8 billion of annual savings for Italian consumers.

Ensuring quality regulation in a multi-level governance context

Many OECD countries are engaged in the difficult process of managing regulatory policies across various levels of government, irrespective of the status of their constitution. As the case of Italy illustrates, boundaries between federal and unitary countries are

becoming blurred. The country has experienced a trend towards decentralisation and devolution of competencies over the past 60 years. Even if regions were only formally established in 1970, they are now key actors of the regulatory landscape.

This also reflects the situation of a country with a significant economic divide between the North and Centre North and the South. While the economy as a whole only records modest productivity gains, over 1995-2005 many of the southern regions have experienced negative growth in GDP per worker over that period, even though their GDP per capita was already significantly below Italian average, which is close to the OECD average (see Part III for more detail).

In this context the 2001 constitutional reform resulted in a new allocation of regulatory competencies between the State and the regions, with implications for regulatory reform and liberalisation policies. Regulatory reform is facing an increasingly complex array of regional and state competences, where responsibilities become fragmented and where significant co-ordination is required to preserve policy coherence.

From a general perspective, the incentives and capacities of sub-national governments are often different from those of national governments, and regulations are often the instruments through which these different agendas are implemented. In some cases, regulations adopted at local levels are more efficient, because they reflect local conditions and preferences. In other cases regulations adopted at local levels are less efficient, because they are inconsistent with other parts of the country, are duplicative, or are based on inadequate understanding of regulatory impacts on others. Improving regulatory quality is more complex in a more decentralised system because high-quality regulation at one level is not necessarily matched by corresponding efforts at the other level.

Some countries may even experience the risk of fragmentation of the internal market, with losses in efficiency due to economies of scale and lack of competition at local level. In other countries, various restrictions at local level may generate economic rents and monopolistic situations, with losses in efficiency. Aside from decentralisation, concessions, licences, and other rules may impact competition in many sectors in local services, retail distribution and local transport.

The issues of local public services are of economic significance in Italy, due to relatively high costs of services and incomplete liberalisation (see Part III). The Antitrust Authority has documented many services subject to regulatory constraints on entry, pricing, product and service quality at the local and national levels. New rules and institutions to encourage competition and modernise government purchasing procedures and make them more efficient were set out in the 2006 *Code for public works, service and supply contracts*. Given the superimposition of various normative acts over time, the devolution process too has contributed to the proliferation of regulations and regulators.

In Italy, the reform of Title V of the Constitution formalised and accelerated the decentralisation process, empowering not only the regions but to a great extent also the local authorities. The process has had implications for Italy's domestic regulatory environment. The issue is also compounded by the economic divide between the North and the South, which could lead to different regulatory priorities and strategies, further dividing the regions.

Over the past decade, the Italian authorities have managed three simultaneous phenomena. First, they have had to enhance policy co-ordination and coherence between the centre and the sub-national levels. An institutional framework of conferences has been

established to facilitate such task. Second, because of the international pressure, globalisation and EU-related competitiveness objectives, Italian authorities have embarked on liberalisation initiatives and programmes to boost the development of less performing regions, with a special focus on the *Mezzogiorno*. This has created the need to develop coherent and comprehensive policy making, which requires evaluating and trading off policy objectives. Third, the evolution of multi-level governance has been accompanied by a parallel debate over the need to improve the quality and effectiveness of regulation and the decision-making processes. In some areas, the regulatory reform agenda is driven by central administrations. This has been the case for instance for legislative simplification, the measurement and reduction of administrative burdens, and the reduction of the time needed to complete administrative procedures. In other areas, some regions have pioneered some good practices. Examples of *ex ante* impact analyses in some regions as well as *ex post* evaluation practices are points in case.

In general terms, competences were distributed as follows. Where having 20 different regional laws seems impractical, competences were allocated to the concurring competence at the national level. This is the case of transport and navigation networks; energy, foreign trade and R&D. Where just a national framework seemed to be sufficient, competences were attributed to the exclusive competence of the regions (*e.g.* local development in the industrial, commerce, handicraft and tourist sectors). On the other hand, the national government enjoys legislative powers in matters that have a highly “transversal” nature, such as competition policy, environment and financial resources. As a result, the 2001 reform favours the integration of competences among levels of government rather than their strict separation. This approach means that systems of co-operation, co-ordination, and information sharing are critical to the efficient operation of regulations in the new regime.

Despite the added complexity, processes of decentralisation of powers also offer opportunities for fostering innovation; introducing more liberal and competitive practices in markets; and improving the quality of the services provided by public administrations to the citizens. The chances for this seem reasonable. At the regional level, there is growing acceptance of principles of good regulation in policy making. The Fourth Simplification Act for 2005 mandated that the State, the regions and local authorities sign agreements on regulatory quality and simplification. The first agreement of this kind was signed in March 2007, and set out commitments for RIA, consultation, and other regulatory quality tools. The government of the XVI Legislature is also committed to carry forward federalism and simplification simultaneously, with the aim of exploit synergies from these two processes that lead to better provision of public services to the citizens and enterprises. The eleven new statutes, or regional constitutions, adopted by regions include provisions directly related to the quality of the regulatory process and regulations. Overall, 16 articles and 55 paragraphs cover these issues, indicating that the debate on regulatory policies has penetrated to some degree below the national government. These actions suggest that benchmarking of business environments among regions could well stimulate competition for quality and the diffusion of best practices. Some regions, such as Veneto, are very advanced in terms of one-stop shops and administrative simplification practices.

The Italian apparatus for co-ordination is well developed compared with many other countries. Co-ordinating institutions are built into the “Conference” system, which consists of three distinct co-ordination bodies: a Conference of State-regions; a Conference of State-municipalities and other local authorities; and a Unified Conference of State-regions-municipalities and local authorities. A “Permanent Table for Simplification”,

created in 2006, is composed of representatives of the Inter-ministerial Committee, the local governments, and the stakeholders. The *Accordo* extends to the regions the 25% reduction target in administrative burdens by 2012, which was adopted at the central level.

However, despite the energy and activity involved in decentralisation, the lack of coherence remains and the co-ordination bodies are still mostly advisory. The safeguards against fragmentation, and inefficiency building up in the decentralised regulatory system remain partial. Local regulation still has the scope to result into competition abuses in multiple sectors. The regulatory quality tools are still at an early stage, and often capacity issues are faced that limit scope for implementation. Consultation practices at the regional levels fall far short of international good practices, and commonly consist of *ad hoc* closed negotiation and hearings which seem vulnerable to abuse and capture by local interests. Skills and capacities for better regulation are probably even weaker at sub-national levels than in the national ministries. Only around 250 civil servants and managers have been trained in 15 regional administrations since 2002, a tiny fraction of the effort that is needed to bring these tools to the regions.

Another issue lies in the fact that local governments are simultaneously owners of businesses and regulators of businesses. Local public monopolies particularly in public utilities persist in a number of sectors, with implications for consumers and tax payers. The trend seen in other countries is that local governments can use regulation to protect their monopolies, rather than diversifying consumer choice and bringing in new investment to compete with existing monopolies. These local services sector appear to be regulated by a piecemeal approach in which nationally held principles, such as competition, face difficulties in the application and implementation at local levels. Managing the conflicts of interest inherent in regulation and ownership remains a challenging task. As discussed in Part III, several attempts have been made to resolve this issue of local public services, but laws are still pending approval in Parliament.

Section 4. Regulatory Reform: Strengthening the Foundations for Future Growth

Previous sections have provided diagnostics with progress and challenges to reform in Italy in the context of the recent economic performance. The challenge for Italy is now to set a strategy to move forward and making the case for it. Therefore, it is crucial to see what results Italy could expect to see from further investments, political and financial, in regulatory reform. Are the economic benefits of further regulatory reform sufficient to justify the various social, political and transition costs? This section will provide some quantification of the likely impact of reforms on future growth, before laying out elements that could be embedded in the strategy to address the crisis and consolidate the foundations for future growth.

Assessing the potential benefits of reforms

General aspects

Based on the understanding of the effects of regulatory reform in other countries in periods of economic change and restructuring, it seems likely that the benefits of

properly implemented regulatory reform in Italy should be significant. This has to be considered in the challenging economic context generated by the financial crisis in 2008. Almost entirely dependent on imported energy, Italy is also particularly vulnerable to some of the swings in world energy and commodity prices seen in recent years. Boosting or even maintaining economic performance will require an ever more flexible and competitive business sector. As all OECD countries, Italy faces the ongoing opportunities and challenges of globalisation. A dynamic economy needs to be able to adjust its production structure to meet changing patterns of domestic and world demand, to maintain competitiveness and to exploit its comparative advantages to best effect. Continued immigration can moderate the rate at which the population structure ages, but Italy cannot rely on immigration to resolve these challenges. The sustainable approach is to continue to develop policies that improve the economy's ability to use existing resources more efficiently and to mobilise under-utilised resources of labour and capital. Regulatory reform is one of the most important of those policies for countries facing the challenges of ageing.

One way to gauge the effects of future reforms could be to look at the documented results of specific reforms that have already been completed. Italy has invested considerable resources in the past ten years. However, as noted in Section 2, the process of reform has been continuous, and sometimes incomplete, which makes it difficult to find empirical evidence on the impact of single reforms. Issues related to implementation may also reduce or delay visible benefits. Another issue is the role of the informal economy, which represents a significant share of the Italian economy. It may represent a way of escaping burdensome and over restricting regulations, but has significant draw backs as informality also has its cost.

From a general perspective, the logic of regulatory reform is soundly based in classical microeconomic theory, and has been supported by a body of international empirical research extending back to the 1960s, and across many sectors and many countries. Most of the initial empirical evidence came from the United States, and from sectors gradually opened to competition, such as communications. In fact, in some of these sectors, there is ample evidence of the benefits brought to Italy by the modernisation of the regulatory framework for communications for example.

Whatever their benefits, regulations can affect the productivity performance of an economy in many ways. If regulations efficiently correct market failures, they increase productivity by empowering consumers to make better choices, increasing competition in the market, or reducing negative consequences of production. Regulations can also negatively influence the productivity of existing firms by reducing incentives to invest, to adopt the leading technologies available in the market, and to innovate. They can raise entry costs, curbing competitive pressure and hindering the reallocation of resources across sectors producing different goods and services and, within each sector, across firms with different productivities. To the extent that a lack of competitive pressure results in higher prices, this can generate trickle-down effects into downstream sectors by raising the costs of intermediate inputs, particularly in services industries where import competition is limited.

The connection between regulatory reform and productivity growth is empirically supported. There is accumulating evidence of a persuasive link between regulatory reform and sustained economic growth, as evidenced by the OECD's growth study and the OECD

database on product market regulation, among many other studies. The OECD database seeks to measure, over time, regulatory barriers to competition in product markets. The data show that there has been clear progress in removing regulatory barriers to product market competition since 1998, as countries with relatively restrictive policies move toward the regulatory environment of the more liberalised countries. Conway *et al.* (2006) and Arnold, Nicoletti and Scarpetta (2008) present empirical evidence for a negative relationship between specific kinds of product market regulation and productivity growth in OECD countries. Countries that have reformed their product markets by opening these to competition have experienced an acceleration of productivity over the 1990s, compared with slowdown or stagnation elsewhere.

The results of a specific quantification exercise

This body of work can be used to estimate future results of certain kinds of regulatory reform in Italy. By applying the findings of these works to the new vintage of OECD product market indicators, it is possible to provide illustrative calculations of the impact of regulatory reforms on economic performance in Italy, as illustrated by the modelling approach presented below. The model takes into account certain specific conditions in Italy – notably the distance between levels of productivity in different industries and that in the corresponding industry leader country; but it is based on the assumption that the reaction to policy changes is the same in all countries.³⁵ The simulations thus show the expected reaction of the “average” OECD country to the simulated policy changes. Work to date cannot distinguish likely different reactions across countries.

The modelling approach

This section presents the results of four sets of simulations:

A first exercise assesses the impact of changes in product market regulation in Italy in the recent past on productivity growth.

A second set of simulations estimates the potential effect of adopting “best practice” regulation in all non-manufacturing sectors of the economy on future labour productivity growth.

A third group of simulations is similar to the second except that it adopts a less ambitious benchmark, setting Italian policy to that of the 75th percentile among EU countries in 2007.

Finally, a fourth group illustrates the benefits from the adoption of best practice in regulating specific sectors, namely professional services, electricity and gas and retail.

Overall, the results show that changes in product market regulation to date should have had a strong impact on labour productivity; they also show that Italy nevertheless has still more to gain in continuing to pursue regulatory reform, even though its position has improved considerably. As shown in Table 1.2, the gains from reforms are sizeable in all scenarios, including those looking at gains from further deregulating product markets. The rest of this section presents some detail from the simulations.

Evaluating the impact of past reforms

To provide a flavour of how important past reforms have been, the first simulation assesses the comparative gains from reforms adopted between 1998 and 2007. Taking the whole period from 1998 to 2007, implemented reforms should have increased labour

Table 1.2. **Summary of simulations**

Simulation		
Estimating the impact of past reforms	2% <i>This figure refers to the cumulative effect for nine years (1998-2007)</i>	
Estimating the impact of future reforms <i>The figures below refer to the cumulative effect for ten years (over the period 2007-17)</i>	Impact to best practices²	Impact to EU 75th percentile in 2007³
Adopting regulatory best practices in all non-manufacturing services	14%	14%
Adopting regulatory best practices in the professional service sector	7%	7%
Adopting regulatory best practices in the electricity and gas sector	3%	2%
Adopting regulatory best practices in retail	5%	5%

1. In the counterfactual no reforms are adopted between 1993 and 2007.
2. Best practice refers to the country with the lowest product market regulation in 2007.
3. Best practice refers to the product market regulation of the EU 75th percentile in 2007.

productivity by 2%, of which 0.36% is accounted for by policy changes between 1998 and 2003, 1.60% over 2003-07. This compares with current national accounts estimates of essentially zero productivity growth over this period. These gains are rather small, considering the relative large falls in the aggregate PMR indicator over this period, though they might be less surprising given the absence of any growth in actual average labour productivity over this period. However, the model in Conway et al. (2006) is very sensitive to the precise sectors to which the regulatory changes occurred and their links with the rest of the economy.³⁶

Aligning the regulatory framework in non-manufacturing sectors to international best practice

Turning to the challenges ahead, the next set of simulations aims at estimating the possible gains from future reforms. Because the model is based on “catch-up” behaviour, a baseline estimate of what productivity growth in each country would be in the absence of policy changes is required, usually based on an interpretation and extrapolation of recent trend productivity growth in different countries; for Italy this baseline assumes that labour productivity in Italy would rise by around 5.9% over the next decade. Starting from a highly ambitious scenario which aligns Italian regulatory standards on OECD best practice in all non-manufacturing sectors,³⁷ the model predicts that Italy could expect an additional increase in productivity of 14% over the next decade (Box 1.2). Assuming this were translated directly into real income gains, it would be equivalent to the growth in per capita GDP experienced between 1988 and 2007 (recalling that productivity growth over the last decade has been nil).

Box 1.2. The model used for the simulations

The set of quantitative simulations presented here evaluates the labour productivity impact of a hypothetical regulatory reform in non-manufacturing sectors, on the basis of an empirical model of labour productivity based on the work of Aghion and Howitt (2006) and Conway et al. (2006). The model is estimated on industry-level panel data for 20 sectors across 20 OECD countries, over 1981 to 2003. Given the dynamic nature of the model so that there is a gradual adjustment of productivity to reforms, the impact is calculated over a time period of 10 years after the reform.

Box 1.2. The model used for the simulations (cont.)

The simulations proceed in two steps. First, the simulated policy changes are defined at the level of sector-specific regulation indicators for each non-manufacturing sector. These changes in service sector regulation measures are translated into the corresponding knock-on effects for each sector of the economy, including manufacturing sectors, on the basis of input-output relationships between different sectors of the economy. This approach captures the idea that a sector that relies relatively heavily on inputs from a given non-manufacturing sector is likely to be affected relatively strongly by changes in that non-manufacturing sector. These knock-on effects are measured by the indicators that are referred to as regulation impact indicators in Conway *et al.* (2006). Unfortunately, the specific legal or regulatory changes that are behind movements in the indicators cannot easily be identified.

Second, the impact of this reform on labour productivity growth is simulated for each sector of the economy using a dynamic empirical model. More precisely, an estimate of the reform impact is obtained by comparing the model predictions on labour productivity outcomes both with and without the hypothetical regulatory reform. In the empirical model, labour productivity growth in a given sector and country depends on its ability to keep pace with the growth of the same sector in the country with the highest sector-specific level of labour productivity (the productivity leader) by either innovating or taking advantage of technology transfers. The prospects of catching up with the productivity leader are affected by the policy environment in follower countries. In particular, Aghion and Griffith (2005) stress the role played by institutions that promote (or hinder) firm rivalry and/or entry of new firms in raising (or curbing) incentives to enhance productivity. In the model presented here these institutions are proxied by the OECD indicators of anti-competitive regulations described earlier.

There is growing evidence on the particular role of industries that are intensive in the use of information and communication technologies (ICT) for productivity growth, and to some extent the recent disparities in productivity growth across OECD countries reflect differing degrees of adaptability across countries to recent technology shocks in ICT (Triplett and Bosworth, 2004, OECD, 2003b, van Ark *et al.*, 2002). To allow for this particular role of ICT-intensive sectors, the model distinguishes between the effect of regulation on ICT-intensive and non-ICT intensive sectors. Indeed, the empirical findings obtained in the estimations suggest that there is a stronger effect of regulation in ICT-intensive sectors.

The labour productivity effects of the simulated regulatory reform are calculated for each sector separately, and then aggregated to a weighted average at the economy-level. The estimation equation used in the empirical model is the following:

$$\begin{aligned} \Delta \ln LP_{ijt} = & \delta (\Delta \ln LP_{ijt}^{\text{leader}}) + \sigma \text{prodgap}_{ijt-1} + \gamma_1 \text{PMR}_{ijt}^{\text{ict}} + \gamma_2 \text{PMR}_{ijt}^{\text{non-ict}} \\ & + \alpha (\text{PMR}_{ijt-1} * \text{prodgap}_{ijt-1}) \\ & + \text{country/industry dummies} + \text{time dummies} + \epsilon_{ijt} \text{ with } \epsilon \sim N(0, \Sigma). \end{aligned}$$

In this equation, the indices i , j and t denote countries, industries and years, respectively; LP denotes labour productivity; prodgap is the “productivity gap” – which is measured as the (log) ratio of the level of productivity in each country or sector relative to that of the productivity leader – and PMR is the regulation impact indicator of anticompetitive product market regulation. Country, industry, and country-industry fixed effects are included as appropriate so as to account for unobserved time-invariant factors affecting productivity growth in a particular sector or country (e.g., natural endowments or location). Time dummies are also included to control for global productivity shocks in any given year.

The same simulation exercise has also been undertaken for a number of other OECD countries. The potential benefits that Italy could reap from aligning its product market regulation to international best practice are relatively high compared with other countries. Denmark and Finland, for example, would only gain half as much from this policy reform, while Sweden has hardly anything to gain from aligning to international best practice. Spain, Belgium and Portugal, however, could achieve similar improvements in labour productivity from such a policy reform as Italy. Cross-country differences in the potential benefit of a reform can be due to differences along three dimensions: how far a country is away from international best practice in regulation on average, in which sectors regulation is particularly behind and the industry structure of the economy.

Table 1.3. The potential effects of improving regulation in the future

Percentage increase in productivity over 10 years

Sectors simulated:	All sectors		Electricity and gas		Retail		Professional services		
	Degree of reform:	To 2007 best practice	To EU 75th percentile	To 2007 best practice	To EU 75th percentile	To 2007 best practice	To EU 75th percentile	To 2007 best practice	To EU 75th percentile
Italy		14.1	13.7	2.6	2.5	4.9	4.8	7.4	7.3
Belgium		15.8	15.6	3.5	3.5	11.9	11.7	4.4	4.3
Canada		14.4	14.1	5.6	5.5	7.8	7.6	8.5	8.3
Denmark		8	7.3	2.6	2.3	5.4	5.1	3	2.6
Finland		6.8	6	2.1	1.8	4.2	3.9	1.8	1.3
France		10.3	10	1.4	1.3	7.4	7.2	1.9	1.8
Netherlands		8.3	7.4	3.2	2.8	4.8	4.3	4.9	4.2
Portugal		12.2	11.8	3.8	3.6	7.2	6.9	4.3	4.1
Spain		13.9	13.8	4.5	4.5	10.9	10.8	5.1	5.1
Sweden		1.6	7.7	0	0	0	0	0	1.2
Total		11.4	10.9	2.6	2.6	6.9	6.4	4.2	3.7

It is asking a lot for a country to adopt best practice to all sectors. A perhaps more realistic simulation analyses the effects of a regulatory reform in which Italy were to perform relatively well compared to what other EU countries have managed to achieve: this second set of simulations assumes a scenario in which Italy catches up to the 75th percentile of all EU countries in 2007. The expected productivity increase turns out to be essentially the same as in the previous exercise. Italy could still gain an additional 13.75% increase in labour productivity over the next 10 years if it undertook such a reform. This suggests that continued efforts to reform in all areas can pay off, as long as Italy moves closer to those countries which are among the best performing in the EU.

There are two reasons for this somewhat surprising result. First, countries near best practice in particular sector indicators are somewhat bunched in the actual level of regulation. The 75th percentile is thus not always very far from best practice even though it may be some way down the ranking. On the one hand this means that the absolute effort required for Italy to get the 75th percentile may not after all be much less than that to reach best practice; on the other hand, it shows that a significant number of countries have managed to get close to best practice, so that it may not be so difficult for Italy after all. The other reason is more directly related to the model. Since it is based on catch-up, and the tendency to catch up is stronger the further a country is from best practice, this introduces some non-linearity into behaviour so that the effect of moving the last few percentiles is less than that of moving the first few.

Besides reducing regulatory barriers in all sectors at the same time, further simulations have also been undertaken to evaluate the impact of moving to best practice in selected non-manufacturing sectors taken on their own.³⁸ This exercise may be helpful to establish reform priorities and gain a notion of where a reform may have the largest impact. Distinguishing professional services, the electricity and gas sector, and retail distribution, the simulations show that thorough reform of professional services is likely to give larger gains in Italy than in most countries and also that in Italy it would give the most significant effects of the three sectors considered; this mainly reflects the relatively poor regulatory policy currently in effect in Italy compared with that in other countries. Aligning regulation in this sector to international best practice or to the EU 75th percentile without any reform in other sectors would increase overall labour productivity by just over 7% over the next 10 years.

In electricity and gas sector regulation, aligning on international best practice is predicted to increase labour productivity by 2.6% over the next 10 years. This number is only slightly smaller if the reform brought Italy to the 75th percentile of the EU countries instead of international best practice (2%).

Finally, reforming only the retail and wholesale distribution sectors to the level of international best practice or the EU 75th percentile, while leaving all other sectors of the economy unchanged, would result in a 5% higher labour productivity after 10 years.

To sum up

These projections about the effects of regulatory reform on national productivity should be considered as illustrative of potential benefits, while the margin of uncertainty is significant. Economic changes occur in a highly complex and dynamic environment, and the effects of any one group of reforms can be hard to distinguish. Yet the experience of Europe and the OECD membership as a whole provides the most relevant set of data on which to project results for a country like Italy.

The reasons for slow productivity growth in Italy are certainly complex, as outlined in Section 1. It may reflect the combined effects of labour market institutions, informal practices as well as the sometimes cumbersome public administration. Other factors linked to the educational system, R&D and innovation or financing for SMEs, which fall beyond the scope of the current study, would also certainly play a role. All these factors may impact the capacity of the large number of medium and small-sized Italian firms to adapt to globalisation.

However, all this should not obscure the fact that the regulatory environment and competitive conditions are playing a key role. Italian practices still have significant scope for improvement in a number of policy areas, even if in some, such as the constitution and role of the Competition Authority, or the Cutting Laws exercise, they are now among the best. The illustrative simulations presented above show the significant payoffs in terms of economic growth that could be obtained from further investment in regulatory reform: labour productivity could be as much as 14% higher after ten years if feasible reforms were undertaken in a number of relevant areas. Despite recent progress, significant gains for example could still be obtained from thorough reform of professional services regulation. While many of these reforms may entail significant political costs, these have to be considered in the light of the potential gains as well as the opportunity costs of allowing the interests of certain groups or sectors to block reform.

Moving forward the reform agenda

The primary conclusion and political message of the thorough economic analysis undertaken above is that regulatory reform has great potential to address many of the core challenges faced by the Italian economy from a structural perspective. Substantial progress in improving regulatory practices could yield very large benefits for the country. The scenarios above show that, under realistic circumstances close to good European practices, Italy could experience a burst in productivity gains, setting the stage for a more competitive, innovative, and flexible private sector through which the native entrepreneurship of Italy would once again assert its strengths.

While previous sections of this report have addressed the relevance of regulatory reform to the underlying causes of slow growth in Italy, this section will focus on those reforms that can help Italy better face the crisis as well as manage the economic and social challenges ahead. In the context of the economic crisis, the Italian citizens and businesses are also calling for emergency responses. Experience in other countries suggests that, if regulatory reform is slow and uneven, promising much and delivering marginally, difficulties will remain. On the other hand, a coherent and well implemented programme of reform could help Italy better overcome the crisis, improving its relative performance compared with other Eurozone economies, attracting investors and empowering its entrepreneurs to compete and create better-paying, more productive jobs. In the financial crisis environment, the need for change is obvious as Italy is facing increased competition and shocks from technologies and globalisation, together with energy supply threats. Regulatory reform offers a number of options for managing change, improving flexibility and contributing to increased resilience in times of hardship. The Korean example shows that ambitious regulatory reform contributed to a rapid recovery after the 1997 financial crisis, setting the stage for a rebound in economic growth amidst rapidly diffusing technological innovation and helping its major companies to become world leaders in a number of sectors. Other examples of countries successfully overcoming a significant financial crisis also exist in Europe, as illustrated by Sweden, which in the mid-1990s was able to restore higher long-term growth after a significant crisis in its financial sector.

Policy areas for regulatory reform in Italy

This report analyses a range of policy areas where regulatory reform and the application of quality regulatory principles, can be expected to make a strong contribution to the Italian economy and society. These policy areas are based on the pivotal OECD 2005 *Guiding Principles for Regulatory Quality and Performance* that have been adopted by all OECD countries as a guiding framework for regulatory reform (see Box 1.3).

Some of the policy areas are analysed in detail as part of the background chapters prepared for the study, and summarised in Part II and Part III of the report, which include a detailed set of recommendations. This section presents only the key findings.

The policy areas highlighted for attention include among others:

Maintaining the impressive administrative simplification programme, ensuring that removal of old burdens is not offset by adoption of new burdens.

Making better use of quality regulation tools, such as consultation, regulatory impact assessment.

Maintaining investment in capacity, and pursue efforts to modernise public administrations.

Improving the efficiency of the system of civil justice.

Promoting market competition in the multi-level regulatory system. This includes strengthening competition policy as a key tool for the development of an efficient internal market (Part II, Chapter 3, Competition Policy).

Improving the performance of key service sectors such as retailing, transport and professional services.

Box 1.3. OECD 2005 Guiding Principles for Regulatory Quality and Performance

These Principles capture the dynamic and ongoing whole-of-government approach to implementation of regulatory quality. They are based on the 1995 *Recommendation of the OECD Council on Improving the Quality of Government Regulation*, on the *Report on Regulatory Reform*, welcomed by Ministers in May 1997, and on the existing set of country reviews. They include the following key points:

Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation.

Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment.

Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory.

Review and strengthen where necessary the scope, effectiveness and enforcement of competition policy.

Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests.

Eliminate unnecessary regulatory barriers to trade and investment through continued liberalisation and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness.

Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.

These will be discussed below while the specific issues faced from a multi-level governance perspective, which represent a unique challenge will be addressed in the next following section.

Maintain the impressive administrative simplification programme, ensuring that the removal of old burdens is not offset by the adoption of new burdens

Italy has deployed an impressive array of simplification initiatives, which have produced significant benefits for citizens and businesses. In particular, Italy has developed quite an innovative approach based on the Standard Cost Model, and first results are encouraging. This tool offers the potential for maintaining pressure in terms of administrative simplification for years to come.

This will represent a challenge as the accumulative burden of administrative procedures does not seem to be declining, but rather increasing as a result of new

regulations adopted either at national or EU level. This implies that simplified and eliminated procedures are replaced by ever more new ones. This recommendation will need to be considered in relation to others, particularly those concerning consultation and RIA. Simplification needs to be accompanied by rigorous controls on the introduction of new procedures, using RIA, consultation, and central review. Otherwise, reducing regulatory burdens may become like the task of Sisyphus while an ever increasing array of new regulations and burdens would fall back on citizens and entrepreneurs.

Make better use of quality regulation tools

Foster the adoption of Regulatory Impact Assessment through a targeted approach

Regulatory Impact Assessment is not simply a formal process, through which regulations are justified *ex post*. The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* champion RIA as one of the key processes for rational, balanced and evidence-based decision-making. OECD indicators for regulatory management systems show that RIA is correlated with most dimensions of quality for regulations *ex ante*. Even in countries such as Switzerland or Sweden where full-fledged RIA is not implemented yet, significant steps exist, through SME tests, or business burdens test, assessing *ex ante*, before a regulation is adopted, its likely impact on businesses in terms of red tape and regulatory burdens.

As mentioned in Part II, RIA is still in an early stage in Italy. Other EU countries have had similar experience, which may also be linked to a specific reluctance to limit political discretion *ex ante* concerning the development of new regulations and new laws, even though huge efforts need to be deployed *ex post* to minimise burdens and limit the impact on businesses. The new simplified RIA system elaborated in 2008 will still need to be put to test, but issues of resources, quality control mechanisms and integration with consultation are likely to arise again.

RIA will need to be coupled with targeted efforts (Part II), with better articulation with strategic and forward planning at the level of the government agenda. This would allow deploying a regulatory programme on a yearly basis, with corresponding resources made available to the ministries for *ex ante* assessment. The core units, including the unit serving the Minister for Simplification, could play a pivotal role for allocating such resources, as without a fresh infusion of funds and skills in sectoral ministries, RIAs may not be in a position to improve the design of regulatory policies.

A targeted approach would help build skills and support over time. Fewer, well-structured and analyses, including considerations of costs and benefits as well as regulatory burdens, may yield greater impact, and demonstrate the potential of a well performing RIA system.

The other key element is quality control and incentives for RIA, which need to be introduced, despite sensitivities to preserve ministerial discretion. Sectoral administrations will continue to have full charge of regulatory work in their field and will be responsible for carrying out RIAs. However, they will have to justify the costs and benefits of their intended laws and regulations, through a “RIA network”, where the DAGL plays a key role to ensure that costs and benefits have been properly assessed (and without judging as such the opportunity of the regulation or the law in itself). Such mechanisms would enhance co-ordination and ensure quality control (for further detail, see Part II, chapter on quality regulation).

Adopt good international practices for stakeholder consultation

The assessment of the impact of new regulations and laws, in terms of overall costs and benefits, and regulatory burdens, need to be closely co-ordinated with consultation. Consultation has the capacity to reveal information from stakeholders, pointing to unanticipated issues and helping to avoid major mistakes. The OECD 2005 *Guiding Principles for Regulatory Quality and Performance* insist on the role of transparent and non-discriminatory regulation.

Several platforms exist in Italy to ensure consultation, at national and regional level. Efforts have been made to adapt to decentralisation and devolution. However, online consultation, with a formal and regular practice, is still far from being the norm. Many consultations remain *ad hoc*, performed through selected channels and stakeholders, and with a lack of consistency. Consultation, which in Italy is closer to “concertation”, has so far not been connected to impact assessment procedures. However, there is also reason for optimism. Business representatives consider that the situation is improving. Recent government initiatives demonstrate greater attention and more openness to hearing the viewpoints of the stakeholders. The current consultative bodies, including for example the Roundtable for Simplification, also have improved consultation practices, although they have so far operated without formal mandatory and public guidelines.

The adoption of a clear, government-wide consultation policy that mandates minimum standards for consultation on all regulatory decisions with effects on businesses and citizens could have a spectacular effect. It could for example follow the standard set out by the European Commission in its 2002 consultation guidelines as a benchmark. It would be important for it to apply not only at national level but also at regional levels, in a way that would reflect a shared commitment by the state and the regions. Consultations should be carried out on all legislative proposals and major regulations, including transposition and implementation measures, as early as possible. In particular, consultation should entail explicitly addressing issues related to the identification of the problem, the definition of causal links, and the spelling out of possible policy options, as related to the process of impact assessment. This could also rely on on-line mechanisms.

Partial steps are already being taken in this direction. The 2008 regulation establishing a simplified RIA includes consultation as one of the primary phases of that process in the future. It will be important that the related guidelines clearly set quality criteria and minimum standards in that regard. The Government is considering extending the standard consultation period (up to eight weeks), and publishing various documents on the web. The USQR has elaborated a set of “Guidelines for online consultations” that, if implemented well, could significantly contribute to the standardisation of consultation. The energy regulator (AEEG) has integrated repeated consultation in its practice of carrying out impact assessment.

Maintain investment in capacity, and pursue efforts to modernise public administrations

Issues of capacity are a recurring challenge faced by Italian administrations. The Ministry of Public Administration is currently making bold attempts to professionalise public services, increase responsiveness to the public, reduce absenteeism, calling for rigorous and professional standards. The regulatory reform agenda has also been affected

in its day-to-day operations by the current status of some of the administrations. The Minister for Public Administration launched an “industrial plan” for the re-organisation of the public administration which is based on four pillars: meritocracy, efficiency, transparency, and innovation. He also launched an action plan aiming at reforming the public service contractual model. These measures have the potential to effectively tackle the challenges faced by the Italian public administrations and turn them into a modern and efficient public service apparatus.

Positive steps have been recorded also in redesigning and underpinning the central Better Regulation structures, as discussed above (for more detail see Chapter 2). The appointment of an *ad hoc* Minister for Simplification and the related strengthening of the structures underpinning its activities is an illustration. These are positive changes and the new department currently involves an administrative staff of up to around 30 staffs. While this represents an encouraging signal, it may need to be complemented by parallel moves to increase the resources allocated to the DAGL, which has an official oversight function for RIA.

From a broader perspective, and despite the recent improvement, the level of capacity and staffing in Italy remain more limited than in some other neighbouring countries. Given the complexity and the priority of the administrative simplification agenda, the resources required to pursue the improvement of new regulations, through RIA oversight, consultation may still require further expansion in the future. The fact that this is a “structure of mission”, with a mandate limited to the legislature presents a risk for the implementation of regulatory reform in the long-term as a permanent feature of government and regulatory activity, allowing for long term investments and gains. In the UK, a country similar in size and development to Italy and which is in the forefront at EU level, the Better Regulation Executive has 70 professional staff. Beyond Europe, in the United States, the Office of Information and Regulatory Affairs has more than 50 full-time professionals. The features of the Italian administration involve the recourse to highly qualified external consultants, which are useful, but cannot fully substitute for internal investment in professional staff.

There is also still scope for further deploying control mechanisms to strengthen accountability in the various layers of the regulatory process, across the various ministries. The mandates require performance targets that are measured, monitored, and enforced by the Minister for Normative Simplification supported by the USQR, and the Minister of Public Administration supported by UANAS. This may represent of the most difficult elements of the regulatory reform agenda, because it may face administrative inertia. However, firm and effective oversight is one of the preconditions of success in this field. The regulatory guillotine and the Standard Cost Model reforms are well suited to Italy because they lend themselves to quantitative targets for results.

Another core issue is the co-ordination between the DAGL and the Ministry for Simplification which is a crucial aspect. The DAGL is uniquely placed in the Centre of Government, to play a co-ordinating role in terms of the government agenda, and the assessment of new regulations. Smooth co-ordination with other units in charge of regulatory quality is therefore essential for success. Integration between administrative simplification and other efforts to digitalise the administration is another core aspect, which can be resolved through the excellent co-ordination between the Ministers for Normative Simplification and for Public Administration.

Enable sectoral ministries and agencies to implement reform

Most of the work on regulatory reform is done by the sectoral ministries and expert bodies themselves, following guidance and processes established by central oversight units. Further investments are needed at several levels. Resources in line ministries are often insufficient for these institutions to carry out their functions, assessing the intended but also unintended effects of planned regulations. Incentives, roles and responsibilities also need to be strengthened, as well as relationships with the centre.

Staffing is a critical constraint on the success of the reforms. Economic and analytical skills are still scarce in some line ministries. Here as well, the option to draw from external consultants, while an understandable response to the current setting, will not satisfy the need to build long term know-how within the administrative apparatus itself.

Capacity building within government is essential if reforms are to succeed. Investments in training and information resources are conditions for the effective application of regulatory tools. In Italy, investment in training could still be improved, relying on existing structures [e.g. National School for Public Administration (*Scuola Superiore della Pubblica Amministrazione* – SSPA), FORMEZ (*Centro di Formazione Studi*)].

Sectoral regulatory authorities are also part of the institutional framework for quality regulation. Over the past few years, a debate on the nature, role and degree of independence of the authorities has taken place in Italy. The recent law proposal on independent authorities is a positive attempt that could help modernise and rationalise the institutional framework for these authorities. However, it is awaiting adoption. Mixed ideas are permeating the domestic debate, some of which could reduce the independence of these authorities to make key regulatory decisions. Yet, this independence is a key factor to ensure clarity for long-term investment in much needed infrastructure. Efforts to reduce regulatory costs and risks, should lead to a rejection of proposals that would increase political discretion for regulatory decisions in the services and infrastructure sectors. Further facilitating a consistent approach to regulatory authorities, as envisaged by the draft law, could help to legitimise the institutional design of such bodies, and boost their ability to regulate well in the long-term interests of consumers. Their extension to some sectors, such as transport or postal services, would also have the scope for improving and clarifying the regulatory framework.

Speed up due process in judicial proceedings for civil cases

The need to correct the serious delays has been acknowledged in several Italian national reports which have proposed a series of reforms to change the economic incentives, streamline the demand for justice, while adjusting supply mechanisms. Many ideas have been advanced and some steps are currently being taken, including demand-side financial incentives. Italy has already dealt with the problem in administrative law, where fast track procedures were established to cut the backlog of cases.

The “Green Book on public expenditure” published by the Treasury in September 2007 suggests tackling the excessively small size of the bailiffs: a quarter of the Italian courts employ less than 10 judges in 2007. The consequence is that the same judge has to rule on both civil and criminal cases, reducing specialisation and productivity. The Online Civil Trial initiative (*Processo civile telematico*) sponsored by the Ministry of Justice, launched as a pilot project in seven courts, may help speed up proceedings and facilitate access to documentation by the parties through ICT, thereby reducing costs. Other solutions would

reduce demand for judicial review, including arbitration procedures, financial incentives to reduce petty cases. Another issue is the supply-side incentives, with payment mechanisms for lawyers, as identified by ISAE reports. However, tackling this aspect requires long term action, with significant political costs.

This is certainly a very challenging and difficult field, where Italy has now become aware of the issue, as well as some potential solutions. Reforms of the bankruptcy law also have had positive effects on businesses. Without singling out any one of them in this report, it is recommended that Italy place a high priority on developing and implementing reform measures that enable all businesses, large and small to resolve their civil disputes more quickly and at lower cost.

Further strengthen enforcement and application of competition law in all sectors

Competition and regulatory issues arise in Italy as in any other OECD country in many sectors and across all levels of government. However, the specific features of the emerging multi-level system of governance represent a specific challenge. Barriers to competition, either from private firms or government regulation, undermine the free entry and exit and the flexibility that Italy needs to gain the path to a higher productivity growth. Further details on these aspects are presented in Part II.

Italy's Antitrust Authority has benefitted from several improvements in enforcement powers recommended by the OECD 2001 Report, but some aspects of the provisions about sanctions might still be improved. Authorisation of a modern leniency programme was a very important step against horizontal collusion. Another step to make enforcement more effective would be stronger sanctions against associations that are a vehicle for anti-competitive agreements. The very low fines that the Authority has been able to assess against cartels organised through industry associations shows that this issue still needs to be addressed. A further, more ambitious step would be to consider strengthening deterrence by imposing sanctions on individuals. The principal sanction to enforce compliance and deter violations of the Competition Act now is a civil financial penalty against an infringing enterprise. There is no provision for sanctions against individuals, even in the case of repeated violation, resistance to the Authority's orders or individual active participation in a violation. Several other member jurisdictions have moved recently to adopt individual or criminal penalties against hard-core cartels.

Finally, the Authority, as many Italian administrations, faces resource issues. The statutory cap on the Authority's personnel level has been raised, but only to accommodate some additional responsibilities. The Authority still has comparatively few personnel resources to handle its policy and enforcement responsibilities, compared with some similar-sized countries, such as France or the UK. In addition, the multi-level and decentralised governance system, may call for greater monitoring of a larger array of regulations across the country.

Facing up the challenges of multi-level governance

OECD countries are facing the challenge of multi-level regulatory governance in a context of growing decentralisation, irrespective of their constitutional and political settings. In Italy, the reform of Title V of the Constitution has accelerated the devolution process, empowering the regions and the local authorities. Quasi-federalist features have been introduced while some of the methods and approaches of a unitary State remain. The

findings of this 2008 Review complements and confirms previous analysis undertaken in 2006 (OECD, 2007c), with broader analysis of key sectors such as commercial distribution, local transport and retail, including full consideration of the issue of local public services. These are all discussed in Part III of this review.

Over the past decade, Italian authorities have had to manage at least three simultaneous phenomena. First, further to the constitutional changes, they had to cope with the need to enhance policy co-ordination and coherence between the centre and the sub-national levels. An institutional framework of conferences has been established to facilitate such task. Second, because of the international pressure (globalisation) and EU policy objectives (the Lisbon agenda), Italian authorities have embarked on liberalisation initiatives and programmes to boost the development of less performing regions, with a special focus on the *Mezzogiorno*. This has created the need to develop coherent and comprehensive policy making, which requires evaluating and trading off policy objectives. Third, the evolution of multi-level governance has been accompanied by a parallel debate over the need to improve the quality and effectiveness of regulation and the decision-making processes. In a number of areas, the regulatory reform agenda has been driven by central administrations. This has been the case for instance for legislative simplification, the measurement and reduction of administrative burdens, and the reduction of the time needed to complete administrative procedures. In other areas, regions have taken a proactive attitude and have pioneered some good practices. Examples of *ex ante* impact analyses in some regions as well as *ex post* evaluation practices (in the context of the CAPIRe project) are points in case.

The processes of decentralisation offer opportunities for fostering innovation; introducing more liberal and competitive practices in the markets; and improving the quality of the services provided by public administrations to the citizens. Overall, processes have increased the awareness of the need to advance on the reform pattern. Growing acceptance now exists at the regional level to include principles of good regulation in policy making. In addition, there is greater potential to introduce benchmarking practices among regions, thereby stimulating the diffusion of best practices.

Co-ordination between levels of government

Strengthening co-ordination and institutional mechanisms

Since 2001, regions have been conferred substantial legislative powers in a number of sectors. At the same time, they are now much more involved in transposing and implementing EU legislation. Sectoral analyses reveal that the devolution process has led to a proliferation of both regulatory sources and the bodies involved in the regulatory process. Over the years, Italy has experienced an increase in the number of legislation affecting any given sector, which often hindered a smooth application of free competition and liberalisation. Because of the intricate regulatory maze, it is often difficult for economic operators and the citizens to get a sense out of the legal environment regulating a specific sector.

At the same time, all levels of government in Italy are investing in new co-ordination mechanisms to cope with the needs of the new governance in Italy. The system of conferences has been established and a variety of fora set up to facilitate the co-ordination of legislative and executive authorities. Agreements and memoranda of understanding have been signed, notably on simplification and regulatory quality. Horizontal co-ordination

has been also promoted. The activities of the Inter-regional Legislative Observatory, for instance, or more specific initiatives such as CAPIRe are precious experiences. As a result, Italy is now widely equipped in terms of co-ordination mechanisms, to adapt to its new system of multi-level governance.

It is essential that enhanced co-ordination mechanisms address the needs of the new governance in Italy, building on the progress of recent years. The country might consider setting up clear and formal regulatory agreements and co-operative arrangements, supported by financial incentives, and away from loose forms of co-ordination that are currently in place. The Australian example of the National Competition Policy in the mid 1990s shows how effective financial incentives and mechanisms can be to move a regulatory reform and competition oriented agenda.

This review has highlighted a number of areas where the co-ordination system may be further improved. These include the number and competences of the various institutions involved, which may lead to overlapping and missed opportunities for policy coherence and synergy. Moreover, at present no clearly defined monitoring system is in place to ensure the correct and timely compliance by all the parties of the agreements. The State does not monitor directly the implementation of national legislation across the territory, and it does not have the power to oversee the liberalisation policies and regulatory reform agendas in the regions. For their part, the regions have not fully exploited the potential of horizontal benchmarking.

The interaction between the State and the regions has been framed also in relation to transposing and implementing EU law. Evidence from this review suggests that further attention could be given to the co-ordination of the official position of the Italian government with the regions and the local authorities, and the interests put forward by trade and professional associations and non-governmental organisations. It is important to strike a balance between the request of the regions to be fully involved in all activities of the CIACE and the necessity to proceed speedily to the formulation of the official position and the co-ordination of the actions at the national level. As to the stakeholders, forms of consultation have been introduced and reinforced. Greater efforts could nonetheless be made to bring the public administration closer to those eventually affected by EU legislation and be more responsive.

Capacity building

The need to strengthen capacity is key to make multi-level governance successful. Issues of capacity highlighted at national level also exist at regional level. Multi-level governance is also facing capacity and training issues, particularly in the smaller and disadvantaged regions. This may further exacerbate regional differentials. Adequately skilled staff at all levels remains an indispensable condition to implement reforms successfully. Training is an area where better co-ordination and a more efficient allocation of resources may prove useful. The Department for Development Policies (DPS) has made the improvement of administrative capacity in Southern regions one of its main priorities. The specific initiatives launched in this respect should be sustained. The work of FORMEZ, notably on introducing RIA in the regional administrations of the South, and the support provided by CNIPA and other national bodies are positive examples.

The system would also significantly benefit from a more structured mechanism for sharing data and information both vertically and horizontally. National observatories (such

as the one created in the sector of public local transport) and other research centres at the national level may be valuable vehicles to enhance capacity building across the country, in particular in smaller and poorer regions.

Ensuring policy coherence and effectiveness

Policy formulation needs to take into account a variety of objectives, which sometimes may be contradictory. Policy coherence is a fundamental feature for ensuring effective governance, especially in a multi-level context. By addressing Italy's regional development policies, the regulatory reform agenda, the provision of local public services at local level as well as liberalisation initiatives in various sectors, this review highlights the need for strategically enhancing policy coherence, for which the central State bears overall responsibility. Some margin of manoeuvre still exists in this respect to further develop the efforts to narrow the national liberalisation, regional development and regulatory agendas. All these policies contribute to the overall objective of boosting the country's competitiveness. To this end, the related institutional frameworks and procedures should be streamlined, and the instruments harmonised.

At the same time, the regions maintain key legislative competences, and sub-national regulators may face divergent policy objectives. A typical example is the trade off between urban planning concerns and the need to liberalise the retail sector. As the analysis of the local public services and transport shows, resistance by monopolistic structures to reform may be difficult to overcome because of the close net of interests existing between local administrations and the providers of infrastructures and services.

A clearly defined monitoring system is not yet in place to ensure the correct and timely compliance by all the parties with the agreements between national and sub-national authorities, which remain loose. National authorities do not have the power to oversee the liberalisation policies and regulatory reform agendas in the regions. One of the options would be to strengthen observatories, with structured mechanisms for sharing data and information both vertically and horizontally. National observatories (such as the one created in the sector of public local transport) and other research centres at the national level may be valuable vehicles to enhance capacity building across the country, in particular in smaller and poorer regions. They would also allow for strengthened benchmarking of regulatory quality across the regions, providing additional incentives for change.

Incentive and sanction mechanisms for reforms

Regional development policies in Italy are a good example of linking policy objectives with evidence-based logics. Recent experiences with the national performance reserve scheme and, above all, the new system of outcome-based indicators have refined such an approach. Setting measurable targets contributes to clarify the objective, design adequate policy strategies and employ adequate instruments, and better communicate the results. Another good practice introduced consists of conditioning the allocation of funds to the actual performance of the regions. This premium mechanism constitutes a remarkable leverage for administrations to comply with the agreed targets and deadlines.

Reforms in other sectors may benefit from applying similar incentive mechanisms. In the case of regulatory reform, for instance, part of the budget of public administrations could be linked to their achievements in the reform agenda. This would encourage the implementation of tools and procedures for higher quality regulations and administrative

effectiveness. Discussions in this respect are ongoing both at the national level and in some regional administrations.

Design and implement regulatory reform in a multi-level context

Consultation, communication and transparency

In recent years, Italian regions and local authorities have increasingly used the Internet to communicate with the public. Regional statutes and the existing normative stocks are usually available online. A number of websites facilitate access to relevant information for businesses.

Nonetheless, the interface between regulators and the regulated is still under-exploited. This review reports a widely diffused but heterogeneous use of consultation modes among public administrations. Consultations are carried out by almost the entirety of regulatory bodies, but they are still not mandatory and rarely systematic. Regulators do not dispose of formal guidelines to improve practice and assess consultation performances. Recourse is often made to negotiated and not fully open practices, such as *concertazione*. This form allows to achieve widely shared compromises and enhances acceptance, and it may facilitate subsequent implementation. However, *concertazione* remains potentially more open to regulatory capture especially at lower levels of governance.

As a result, taken as a whole, the numerous consultation initiatives carried out at the regional and the local levels have not always generated a flow of transparent, timely and targeted information for economic operators and the citizens. To enhance stakeholders' participation it may prove useful to integrate current practices within a formalised and more structured consultation approach based on widely accepted and harmonised principles and minimum standards. Consultation might benefit from a greater integration of other regulatory reform tools, such as legislative programming, RIA, and *ex post* evaluation. These tools could be instrumental in moving away from a legalistic approach and towards forms of open and evidence-based dialogues with the regulated. This would help administrations respond more easily to the demands of the citizens and to adapt to market conditions in a more flexible and timely manner.

Administrative simplification and e-government

Administrative simplification, notably through e-government, is considered by many OECD countries as a tool to achieve better government. It helps governments meet the challenge of responding to public demand for more responsive, efficient, effective and participatory government (OECD, 2003c; 2005a). Over the past years, the heterogeneous dissemination of e-government tools in Italy and their diverse degree of performance are to be balanced with the remarkable achievements obtained in some jurisdictions. Italian authorities may consider focussing on promoting the diffusion of the good practices as evenly as possible across the country.

Fostering e-government cannot be reduced to the provision of computers to public offices. It requires a re-thinking of the organisation of the administration, its procedures and activities. It implies the adoption of ICT to complement and, where appropriate, replace hierarchical models through approaches based on the decentralisation of responsibilities. The underlying rationale should be the openness, effectiveness and efficiency of a client-oriented and performance-based administration.

One aspect of this process refers to simplifying the interface between the public administration, and businesses and citizens. Progress has been made in the past years, especially with the creation of one-stop shops and the diffusion of self-certification practices. However, potential for improvement still exists in many public administrations in Italy to further streamline the procedures and internal co-ordination within the administrations themselves. Redundant or unnecessary procedures should be systematically repealed.

The success of administrative simplification measures in changing the logic of public administrations depends to a great extent also on the availability of adequate human resources as well as on overcoming the so-called “digital divide”. Continued efforts to train and requalify the existing personnel would help meet the first condition. Actions in that respect may range from improving the general computer literacy to higher level training both on the technical and the managerial fronts. In modern societies characterised by fast changing and diffused information, public managers have to learn how to control, administer and use the knowledge that their administrations need to get and have to provide. Links with educational policies are desirable. Information campaigns on e-government could also be carried out to increase the transparency and the communication within the public administration itself and to the system as a whole.

Create incentives and sanctions to stimulate reforms

Regional development policies in Italy are a good example of linking policy objectives with evidence-based logics. Recent experiences with the national performance reserve scheme and, above all, the new system of outcome-based indicators have refined such an approach, where Italy is in the forefront of OECD countries. Setting measurable targets contributes to clarify the objective, design adequate policy strategies and employ adequate instruments, and better communicate the results. Another good practice introduced consists of conditioning the allocation of funds to the actual performance of the regions. This premium mechanism constitutes a remarkable leverage for administrations to comply with the agreed targets and deadlines.

Reforms in other sectors may benefit from applying similar incentive mechanisms. In the case of regulatory reform, for instance, part of the budget of public administrations could be made dependent on achievements in the reform agenda, such as consultation, transparency, implementation of one-stop shops.

Build political momentum and consensus for reform

Besides all the specific policy areas as well as the multi-level dimension outlined above, which need to be addressed, countries also need to build institutional foundations for sustained reform, including strengthening active political involvement, building the regulatory quality functions, and building capacities in the ministries. This is clearly one of the key aspects underlined by the OECD 2005 *Guiding Principles for Regulatory Quality and Performance*.

Italy has experienced clear and strong political commitment to regulatory reform and simplification in the current as well as the past legislature. This has enabled the country to make quantum leaps, such as through the Guillotine and cutting law initiatives of the current minister for Simplification or the Bersani decrees of the previous government. This shared and bipartisan ambition will need to be maintained in the long term.

Maintaining active political involvement in a broad-based regulatory reform agenda

A sustained, institutionalised, and long-term effort is needed to address the continuing regulatory challenges faced in Italy. Beyond short-term policy debates, the challenge today is to sustain the effort and integrate it into the fabric of policy making as a permanent feature of policy-making government. This will require strong, active and continuous political attention to the problem over the next several years. The appointment of the Minister for Normative Simplification and the renewed initiatives by the Minister for Public Administration represent very positive and encouraging signals. They have the potential to provide political stimulation and guidance to the reforms. In order to keep momentum, it would be opportune to adopt formal, binding, strategic and programmatic documents outlining the objectives, modalities, and deadlines of the reform agenda. The use of the annual Simplification Action Plan model in the past went in the right direction, even though the readability of such plans could still be improved. Programmatic documents, if well defined and accompanied by clear targets have the potential to create more coherence in strategy and organisation, and more effective political and strategic guidance from the centre of government.

Maintain consensus on core regulatory reform objectives

The current programme of regulatory reform, particularly as it has developed over the last couple of years, contains the basic framework of an effective programme. The concepts and many of the reforms, particularly on the competition and simplification sides, are consistent with good practice. Italy has made substantial progress in implementing the key reform recommendation of the 2001 OECD Report to eliminate unnecessary regulatory constraints on competition about price, entry and quality. The two packages of the liberalisation reforms in 2006 and 2007 removed a number of the constraints at national level. They did so in a way that showed how reform benefits consumers, shifting the terms of debate about reform priorities.

However, vast swaths of the national regulatory system still need to be addressed by the concepts and tools of Better Regulation. Implementation remains a challenge, which may have been underestimated until now, and might require more capacity, more people, and more investment to get the job done. The interplay of national and regional competences, as well as the EU regulatory agenda, further complicates the task of the Italian authorities.

Beneficiaries could be numerous, from workers, to citizens, entrepreneurs and consumers. The large number of potential beneficiaries from better regulation has enabled other governments to move on regulatory reform programmes, under bipartisan agendas, assembling coalitions of reform allies – across party lines and across ideologies. Such coalitions are essential to effectively communicate the reasons for reform to the public, to discuss how the risks and costs of reform will be managed, and to develop a momentum of reform that reduces the capacity of special interests to block reforms that are in the national interest.

Communicate with the public about the reforms, their rationale, and their benefits

Answering their objections and overcoming their resistance will also require a communication strategy aimed at the media and the public, patiently and persuasively explaining the reforms, their benefits, and their rationale. When reform faces specific

interests, governments need to lift their marketing efforts to counterbalance the influence of adverse parties. In some aspects, the Antitrust Authority's programme of policy study and advocacy offers interesting opportunities. Opinion surveys are also a possibility. By sharpening public appreciation for the reform impulse, they may have laid a foundation for larger-scale changes. Likewise, countries that have used the regulatory guillotine strategy have explicitly budgeted for a national communications campaign to explain to the people in need for the reform and what they should expect from it. Such a campaign solidifies political commitment, reduces resistance, and attracts allies. Belgium's Kafka initiative is a good example of communication in another country facing challenges which are slightly similar to Italy.

Administrative simplification and other broad-based reforms are certainly more difficult to communicate. Better publicity of the potential benefits of reforms, through active communications campaign, would help to bring the results of reforms to the forefront of the public attention.

Conclusions

In times of crisis, Italy is better equipped to deal with tomorrow's challenges. Much progress has been made, building on the efforts of recent consecutive governments. However, persuading citizens, administrations and businesses of the need of reform is a key aspect and a challenging task in a tense public policy context. While a sense of crisis exists in the country, it has long remained diffuse and captured by political divides, while strong local social networks where buffering the impact for single individuals as part of family networks. Beyond the current crisis, Italy will need to find new sources of economic growth, fighting the slow erosion of relative living standards, and offering increased opportunities to its younger generations. This is critical to address the combined effects of ageing, labour market trends and rapid rise of new economies.

The OECD experience of reform offers many opportunities for hope, as it is overall a positive one. Reform policies reinforce each other. Policies aimed at increasing market forces in one sector, may help to generate positive change, increasing the viability of later reforms in other sectors where opposition was initially stronger. It may be an issue of timing and opportunities, where governments should be encouraged to direct their efforts towards new and clear frameworks, with sustained effects over time.

Multi-level governance certainly offers new opportunities and challenges for Italy, as it is well suited to the structure and history of the country, but also includes potential costs. It is therefore very important to see how multi-level governance can be put to work efficiently and effectively, through stronger agreements and use of economic incentives. Italy needs to adjust its regulatory system as a whole, both to new economic circumstances and to face the continuing pressures of the EU agenda. Bold attempts and significant progress have been made in this field in recent years. However, timing of parliamentary procedures and the need to conduct formal consultation with regions certainly represent significant challenges in terms of due process and attention to regulatory quality.

Another issue concerns all the services and policy areas that are significantly devolved to local and regional authorities, including local public services, or core economic sectors such as commercial distribution, transport and energy, which are key to the economic future of the country and its competitiveness. Energy has been subject to significant recent

debate and proposed actions, but these need to be considered in the complex interplay of local and nation-wide regulations which frame the energy sector, including environmental and social consequences. Local transport is key to the attractiveness of the various territories and the success of Italian clusters and metropolitan areas.

The need to build further infrastructure as well as address the shortcomings of energy supply are part of the government's broad long-term agenda for growth. The government has taken significant steps in this respect recently. The speed of some major infrastructure projects is also an issue, in terms of coping with pressing needs and providing high speed train and interconnected territories. While recent government initiatives represent praiseworthy efforts, it will be important that they be accompanied by streamlining regulatory processes and increased institutional efficiency in order to avoid significant delays. Accelerating the pace of change may also improve regulatory processes and increase certainty and transparency.

Recent and bold attempts made in terms of simplification and liberalisation bode well for the future. Italy has significant capacities to move ahead, and the EU agenda provides here clear support for domestic initiatives. The progress made in cutting redundant and unnecessary laws is impressive. Reform and the vigorous application of regulatory quality principles on new regulation have the potential to make a significant contribution to Italy's economic development in a wide range of policy areas, as illustrated in this report. Seizing these opportunities facing the political costs but also the benefits ahead in terms of restored economic growth, is the policy challenge that faces Italy in the years to come.

Notes

1. European Commission (2006), communication from the Commission, "Economic reforms and competitiveness: key messages" from the European Competitiveness Report COM(2006)697/final, Brussels, 14 November.
2. See http://ec.europa.eu/governance/better_regulation/index_en.htm.
3. European Commission (2006), communication from the Commission to the spring European Council, "Time to move up a gear: The new partnership for growth and jobs," Brussels, p. 9.
4. Emma Marcegaglia (Confindustria) and Federica Guidi (Giovani imprenditori), *Il Sole24 ore* 7/6/08.
5. Some of the analysis in this section is also presented in the OECD (2009), *Economic Survey of Italy* as the analysis was prepared jointly.
6. For a discussion of the challenges of raising employment rates for older workers in Italy, see OECD (2004a).
7. The OECD 2008 *Employment Outlook* shows that effective legal protection against discrimination may be significantly weaker in Italy than in most countries: while the basic legal provisions are similar, there is little provision for protection of a person who actually makes a complaint, or of witnesses, and this may explain why complaints are rather few. While reinstatement is a right in the case of unfair dismissal, rights to any additional monetary compensation are unclear so the incentive to complain is probably low.
8. Some of the analysis in this section is also presented in the OECD (2009), *Economic Survey of Italy* as the analysis was prepared jointly.
9. A recent revision to the method for breaking export values into prices and volumes made a significant difference – relative prices, while still rising, have risen by much less than previously estimated.
10. They have been relatively active in Romania, for example. Significant numbers of Romanians moved to north-eastern Italy to work in manufacturing industry, probably helping some companies to remain in low value-added production longer than otherwise, but the links between

the countries now seem to have partially reversed as Italian entrepreneurs are among those active in Romania itself, moving some low value-added production out of Italy.

11. Ichino (2008) mentions a number of examples, including an unsuccessful attempt by the Swiss-Italian rail company Ti-Lo (*Treni regionali Ticino-Lombardia*) to introduce working conditions – and pay – for its Italian workers similar to those for its Swiss employees, the opposition to a foreign takeover of Alitalia, and other examples in which choices that were at least potentially Pareto-improving for Italian workers could not even be offered to them.
12. Probably only around a quarter of the labour force is covered by Article 18, taking account of the large number of workers in small companies or self-employed, or in the public sector, though the latter have similar protection in practice. An economist advising the government on labour market reform was assassinated, supposedly because of his advocacy of the abolition of Article 18, in March 2002. A number of other labour market experts involved in policy discussion at the time are still under police protection.
13. Total factor productivity calculations are a way of adjusting simple output-per-head figures for the influence of the capital stock. They depend on assumptions for the form of an aggregate production function, and on reasonable data for the capital stock or flows of capital services.
14. Specific threshold effects due to labour regulation do exist, but in practice they are relevant only for very small firms – those with fewer than 16 employees. Such firms are subject to less costly penalties for certain kinds of dismissal than larger firms. However, although some studies have shown that this does act to reduce average firm size, the effect is very small, barely noticeable, in fact (Schivardi and Torrini, 2004), in a study using a longitudinal database of firms between 1986 and 1998, estimate that removing the threshold effect would increase average firm size by only 1%.
15. See e.g. Foster, L. Haltiwanger, J. Krizan, C. J. (2006), “Market Selection, Reallocation, and Restructuring in the US Retail Trade Sector in the 1990s”, *Review of Economics and Statistics*, November 2006, v. 88, iss. 4, pp. 748-58. Griliches, Z., H. Regev (1995), “Firm Productivity in Israeli Industry: 1979-1988”, *Journal of Econometrics*, January 1995, v. 65, iss. 1, pp. 175-203, Bartelsman E., Scarpetta, S.; Schivardi, F. (2007). Comparative Analysis of Firm Demographics and Survival: Evidence from Micro-level Sources in OECD Countries, *Industrial and Corporate Change*, June 2005, v. 14, iss. 3, pp. 365-91.
16. This annual economic survey (OECD, 2005) devoted a chapter to corporate governance issues. See Micossi (2008) for one perspective, also Ichino (2008).
17. However, the authors find that venture capital financing has a positive impact on firms’ success which is not due to founders’ education, but has most likely to do with the true added-value in terms of networks, resources and skills of venture capitalists.
18. Programme for International Student Assessment.
19. A number of important origin countries (notably Romania, also Poland) have become EU members, and changes in official population numbers are complicated by the regularisations of illegal immigrants, when sharp rises in official population statistics do not necessarily imply such large increases in the true population.
20. Comparison of numerical values of aggregate indicators can be difficult because it is hard to know how to weight the many detailed indicators that compose the aggregates. Various weighting schemes have been tried, without any method being obviously superior; the 2007 indicators now used a system of equal weights. For a discussion of this and other issues related to the latest product market regulation indicators, see Wöfl et al. (2009).
21. To encourage transparency, the Ministry of Public Administration announced that ministries should publish the salaries of senior officials on their websites, and does so itself for 9 of its officials (as of 26/09/2008). Few other ministries have followed suit.
22. 2004 figures. See Bianco et al. (2007); CEPEJ (2006).
23. Istat data, quoted in Bianco et al. (2007).
24. OECD (2001), *OECD Review of Regulatory Reform in Italy*, p. 176.
25. Inter-ministerial Committee for administrative simplification and quality regulation policies (*Comitato interministeriale per l’indirizzo e la guida strategica delle politiche di semplificazione e di qualità della regolazione*).
26. Even if its size has been scaled down in 2009.
27. See Legislative Decree 82/2005.

28. See Presidenza del Consiglio (2005), *Relazione al Parlamento sull'attuazione dell'Art. 14, comma 12, della legge 28 novembre, No. 246 ("taglia-leggi")*, of 14 December 2007, p. 22. The report estimates that 5-15% of the approximation error is due to the incomplete or incorrect classification of the legal acts by the different database systems.
29. This is the date when the regions, foreseen by the 1948 Constitution, were introduced in Italy.
30. See Consiglio di Stato, *Parere sullo schema di decreto legislativo recante il Codice dei diritti di proprietà industriale*, Adunanza generale 10548/04 del 25 ottobre 2004. On the opinions given by the State Council on the first codici scrutinised, see G. Savini, "I pareri del Consiglio di Stato sui primi schemi di 'codice di settore'", in *Iter Legis*, No. 4, 2005, p. 5. On the merit of recasting through the codici, see F. Patroni Griffi, "La 'nuova codificazione': qualche spunto di riflessione", in M.A. Sandulli (2005), *Codificazione, semplificazione e qualità delle regole*, Milano, pp. 75-80.
31. See A. Natalini (2003), "Legge 29 Luglio 2003; No. 229 – Il commento", in *Giorn. Dir. Amm.*, No. 10/2003, p. 1007 ss.
32. See Centro Studi Unioncamere (eds), *Rapporto Unioncamere 2007, Temi chiave e sintesi dei principali risultati*, 2007, pp. 44-45.
33. See P. Dubini and A. Melchiodi, "Misurare la competitività dei sistemi economici: L'indicatore Doing Business", in *Economia & Management*, forthcoming.
34. See "Relazione al Parlamento sullo stato dell'amministrazione", report of the Parliament on the state of administration.
35. This is a necessary assumption to allow the use of econometric estimation on a relatively small sample.
36. At the time of writing, it is hard to identify the particular sectors which explain the difference between this backward looking simulation and the forward-looking ones discussed below.
37. Note that there is not one single country that has the least restrictive regulatory policy in every single sector, so that this simulation would actually imply bringing Italy at the forefront of regulatory practices of all OECD countries.
38. Note that the effects reforming single non-manufacturing sectors are not simply additive in the simulation model. In fact, the sum of the impact of the single-sector reforms is larger than the expected impact of a thorough reform of all services sectors, due to the non-linearities and the catch-up process built into the empirical model.

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