



ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

GOOD GOVERNANCE FOR DEVELOPMENT IN ARAB COUNTRIES INITIATIVE

**WORKING GROUP IV: PUBLIC SERVICE DELIVERY, PUBLIC-PRIVATE PARTNERSHIP AND
REGULATORY REFORM**

**CURRENT AND FUTURE
PROGRAMME OF WORK**

**SPECIAL SESSION OF THE OECD WORKING PARTY ON
REGULATORY MANAGEMENT AND REFORM**

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CURRENT AND FUTURE PROGRAMME OF WORK – WORKING GROUP IV OF THE GFD INITIATIVE

1. This document serves as a stocktaking of some of the current and future activities of the Working Group IV, dealing with Public Service Delivery, Public-Private Partnerships and Regulatory Reform, of the Good Governance for Development (GfD) in Arab Countries Initiative.¹ The aim of this document is to inform delegates to both the Working Group IV and the OECD Working Party on Regulatory Management and Reform, meeting on 4 May 2007 in a Special Session, about different possibilities for current and future co-operation.
2. Since 2005, Arab delegates together with the OECD Secretariat and OECD countries have exchanged experiences and highlighted several topics to move forward towards better governance in the region. The initiatives listed in this document have been planned and agreed on through the contacts and exchange between delegates who have met at different regional capacity building activities. Policy dialogue has also facilitated the different discussions and the identification of topics for future work.
3. The structure of the document is divided in two parts: (i) on-going activities and (ii) future activities proposed to delegates for discussion.

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¹ This document does not take stock of finalised activities already discussed in the Third Regional Meeting of WG IV, held in Tunis on February 16, 2007. For more information please refer to www.oecd.org/mena/governance

CURRENT ACTIVITIES OF WORKING GROUP IV

4. Two projects are currently underway in the activities of Working Group IV. Both issues will be discussed during the Special Session of the OECD Working Party on Regulatory Management and Reform held on May 4, 2007.

1. RIA Pilot Projects

5. Regulatory Impact Assessment (RIA) has been identified by participating Arab countries as a priority issue in the course of the Good Governance for Development (GfD) in Arab Countries Initiative. In developing countries, where the importance of high-quality regulation often is reinforced by the transition from state-led to market-led growth strategies, RIA represents a powerful tool to move ahead. RIA is used to define problems and to ensure that government action is justified and appropriate.

6. The RIA process is an essential part of policy making. It can help to:

- clarify the objectives of a proposal;
- think through the full impact of a proposal;
- identify and assess alternative options for achieving the policy goal;
- ensure consultation exercise, reaching the widest possible range of stakeholders;
- determine whether the benefits justify the costs; and
- determine whether particular groups may be disproportionately affected.

7. As a response to these needs, the Focus Group on Regulatory Reform of the Working Group IV of the GfD Initiative is proposing to carry out country-based Pilot Projects in countries of the Arab region in close co-operation with OECD country officials. Similar projects have been developed during the RIA implementation process in some OECD member countries which could offer valuable guidance to Arab countries. By providing a framework from which to draw lessons and good practices, the OECD RIA Pilot Project thus has the long term goal of promoting good RIA practices in MENA, and more generally, developing countries.

8. Pilot Projects on concrete pieces of regulation link the policy dialogue to actual reforms on the ground, serving as reference models for other participating countries. They should be developed if:

- They promise to achieve reform objectives in a short or medium term time-frame;
- They can serve as reference models for other participating countries;
- They can be monitored through meaningful indicators.

9. The OECD Secretariat offers two background documents to orientate the process: *Policy Brief on Tools to Initiate RIA* and *Building a framework for implementing RIA: Tools for Policy Makers*.

10. Benefiting from the Pilot Projects, participating countries could possibly implement reforms at a larger scale. Financial resources needed for these reforms could be mainstreamed into the national budget. Selective technical assistance by the participating OECD countries or other actors could serve to obtain high level expertise and to fill gaps in know-how.

11. Some Arab delegates have worked to answer the questionnaire on RIA included in the *Policy Brief on Tools to Initiate RIA*. These answers will contribute to develop a preliminary project plan for the implementation of a RIA Pilot Project in their country. Initial results were presented during the Third Special Session of the OECD of the Focus Group on Regulatory Reform back-to-back with the OECD Working Party on Regulatory Management and Reform, held on 4 May 2007 in Paris. The goal is to carry out RIA Pilot Projects in 2007/8.

12. After the Special Session, Arab delegates interested in the project were invited to prepare a consistent proposal, followed by a phase of finding and coordinating with OECD countries technical and financial resources.

13. The OECD Secretariat will accompany the process by drafting additional documentation and encouraging policy dialogue. Turkey has already proposed to host a Regional capacity-building seminar on RIA in Istanbul to be celebrated during autumn 2007.

2. Regional Framework for Regulatory Quality

14. A Regional Framework for Regulatory Quality for the Middle East and North African Region has been highlighted by participating Arab countries as a key priority during past activities in the Good Governance for Development in Arab Countries Initiative. It is also reflected as such in the GfD Country Action Plans in the field of regulatory reform.

15. A Regional Framework for Regulatory Quality, which is basically a non-binding declaration of principles, can provide useful information for those countries in the region interested in

1. Integrating principles of good quality regulation into the policy-making process; and
2. Moving closer to good international practices.

16. The Regional Framework for Regulatory Quality can create a solid context for decision-making that sets out key concepts to guide policy makers through the complexities of the design and implementation of an effective and high quality regulatory reform policy. This can be of great help when identifying options and targeting priorities.

17. The Draft Regional Framework has been prepared on the basis of technical and political consultations with both OECD and Arab countries. A first draft version of this document has been shared with participants at the Second Special Session of the OECD Working Party on Regulatory Management and Reform in the Framework of the GfD Initiative (Focus Group on Regulatory Reform) on 25 April 2006 in Paris. Delegates from Greece, Lebanon, Tunisia, Yemen and the Palestinian National Authority participated in further discussions on content during the Third Regional Meeting the Working Group IV on Public-Private Partnerships, Public Service Delivery and Regulatory Reform on 15 and 16 February 2007 in Tunis. High political support was sought during the Special Session of the OECD Working Party on Regulatory Management and Reform on 4 May 2007 in Paris looking forward to an acknowledge during the next Ministerial meeting.

FUTURE ACTIVITIES OF WG IV 2007-2008

18. Several initiatives have been formulated by different Arab and OECD delegates. Support from delegates is essential to make these proposals materialise into concrete projects.

3. Administrative simplification

19. Simplification of “red tape” is a priority in the political agenda of most countries. The reduction of the number and complexity of government formalities and paperwork is one of the most extended demands from businesses and citizens. Evidence suggests that the burdens of government formalities have risen significantly in recent years, which means that the costs of administrative burdens are also large, whether considered in terms of money or time. Reducing red tape and government formalities can produce substantial payoffs in government efficiency and economic cost-savings. This is essential for those countries who want to increase business start-ups and improve competitive pressures throughout the economy.

20. In the framework of the GfD Initiative, Arab countries have identified the reduction of administrative procedures and the simplification of laws and regulations as a priority in their Action Plans. There is growing demand from Arab countries to integrate strategies for administrative and legal simplification in order to improve their economic performance and investment climate.

21. Peer-advice and policy dialogue on good practices and specific techniques are valuable mechanisms to exchange views on the approaches adopted by different countries. Arab and OECD countries would share experiences during the High Level Regional Seminar on “Strategies, Tools and Capacities for Administrative Simplification” hosted by the Ministry for State Administrative Development of Egypt, to be held in Cairo, Egypt on June 20-21, 2007.

4. Indicators to measure and monitor progress – Towards “Government at a Glance”

22. At the Arab national GfD co-ordinators’ meeting held in Paris on 27 April 2007, national co-ordinators for the GfD Initiative envisaged to start working towards comparable measures of institutional arrangements and government activities in their countries. This work could be associated to the OECD “Government at a Glance” project, which is a parallel, ongoing effort undertaken by OECD countries.

23. Better measurement of government can serve as an effective tool for providing better guidance to public management reforms. It provides the evidence basis for identifying good practices, for formulating policy recommendations and for self-assessment of reform progress. “Government at a Glance” for Arab countries could be highly beneficial by providing the basis for evidence-based policy making and for making reform progress visible to national and international stakeholders. “Government at a Glance” could also become a “common language” for the deepened policy dialogue among Arab and OECD countries in the future GfD Initiative. By providing common units of analysis, it can be an important tool for sharing experiences among countries and for assessing the transferability of good practices to the different historical and administrative context of another country. It can serve Arab countries as a common language for policy dialogue, helping individual countries to do robust benchmarking and facilitating lessons-learning among Arab and OECD countries.

24. Working towards “Government at a Glance” for Arab countries requires a long-term perspective and high-level commitment. Before the possible launch of the “Government at a Glance” project at the GfD ministerial meeting to be held in Cairo in October 2007, the assessment of the benefits and feasibility of the project by Arab countries’ delegates to each GfD Working Group will be crucial. The OECD

Secretariat would prepare questionnaires that could serve as pilot datasets for different key aspects of regulatory reform to be circulated among delegates of WG IV in order to establish a common framework for relevant institutional arrangements and to discuss how to best approach the project to ensure its feasibility. Arab delegates interested in this pilot project are invited to provide input on mapping out the existing data.

5. GfD Peer Reviews on Regulatory Quality in Arab Countries

25. OECD Peer Reviews on Regulatory Quality are an in-depth qualitative and quantitative assessment of regulatory quality implementation in a country, aiming at:

- Highlighting the achievements, good practices and progress made in the regulatory policy field;
- Identifying the strengths and weaknesses, opportunities and challenges of regulatory reform;
- Providing proposals for action to decision makers for improving regulatory quality performance.

26. An OECD Review on Regulatory Quality is unique because of the independence of the analysis. The assessment and proposals for action are provided by the OECD Secretariat, based on large experience with comparative analysis. The review process is transparent because the detailed project plan and review timeframe are agreed by the reviewed country and the OECD. The review methodology and analytical framework build on OECD countries' continuous work on regulatory reform. The results of the review are presented and discussed in official OECD bodies, e.g. the OECD Working Party on Regulatory Management and Reform, in which the final results are discussed by lead reviewers from other countries.

27. For the reviewed country, and OECD Review on Regulatory Quality provide decision makers with an objective assessment of how the country could improve its government capacities to produce high quality regulation. This would help the country to understand how well its regulatory policy goals are aligned with public sector reform objectives. The proposals for action identified in the country review provide policy makers a framework to improve their initiatives.

28. In the framework of the GfD Initiative, Peer Reviews on Regulatory Quality would contribute to build support and raise awareness for reform. Arab countries could use this tool to identify key policy areas for improvement and to define an explicit policy for regulatory reform, supported by institutions with clear responsibilities and integrating the use of different policy tools for regulatory quality.

6. Regional study visits

29. A regional study visit to an OECD country, hosted by its authorities, could be envisaged in the framework of the GfD Initiative. This regional activity would allow a group of officials from the Middle East and North African countries to visit relevant ministries and agencies in the OECD member country, covering priority reform areas in relation to Public Service Delivery, Public-Private Partnerships (PPPs) and Regulatory Reform.

30. This activity would be co-ordinated between the host country, the Arab countries participating in the visit and the OECD Secretariat. In order to take part in the study visit, participants should share common backgrounds, responsibilities and areas of expertise. A limited number of participants would ensure a successful visit by facilitating exchanges of views and experiences. The number of countries would depend on the suitability of the officials to the topics and the real impact to their daily work.

31. The participants would contribute to the GfD Initiative with visible outcomes. They would be asked to do complementary work, such as a preliminary draft description of the expected objectives to be achieved during the visit and a follow-up to the activity. Delegates would be asked to prepare policy

proposals or recommendations based on the initiatives observed in the OECD member country. A flexible approach should be taken into account on how to adapt to each country's conditions the experiences and good practices learned.

32. Policy dialogue at the technical level on key issues of public governance reform would give Arab officials a unique insider perspective of how OECD countries are improving their regulatory systems. Study visits are a good complement to other GfD capacity-building activities hosted in Arab countries and in OECD Headquarters.

7. Sectoral regulators

33. Independent regulators for specific economic sectors play an important role for the quality of national regulatory regimes. These institutions have been set up in connection with the privatisation of former state-owned enterprises and the establishment of competition in formerly monopoly based industries. Independent regulators should serve to protect market interventions from regulatory capture and to improve transparency, stability and expertise.

34. Arab countries are facing a growing demand to put in place coordinated and coherent regulatory frameworks for economic activities. As the role of the State as service provider has changed and there is a need to attract investment, Arab governments are setting up regulatory authorities to give certainty to the reform process. Regulatory authorities in Arab countries are confronted by much of the obstacles that OECD countries have also faced.

35. The activity on independent agencies for economic activities in the framework of the GfD Initiative could serve as a bridge between the policy fields of WG IV: public service delivery and regulatory reform. Future activities could be envisaged on exchanging experiences on how countries can build these institutions in order to assure high quality regulation that is efficient, transparent and accountable.

8. Regional Centres

36. As the implementation of governance country action plans advances, Arab governments show increasing demand for continued and more focussed capacity-building and regional peer-to-peer learning. An opportunity to fulfil this demand is through the development of activities at regional centres on governance in the MENA region. The OECD-MENA Governance Programme seeks can help promote centres as a facilitator of partnerships among Arab governments and donors and technical assistance agencies.

37. Regional centres promoting good public governance in MENA countries will build on the results and the lessons learnt during the GfD initiative, and put new emphasis on:

- Deepening regional policy dialogue and capacity building;
- Fostering peer-advice and partnerships for reform at the national level;
- Monitoring and measuring progress;
- Anchoring the programme in a regional framework for policy dialogue.

38. Working Group IV proposal points out at the importance of having a regional centre on law drafting and regulatory quality, which could give continuity and consistency to the work developed in the framework of the GfD Initiative.

9. Law-drafting capacities: Manuals on drafting legislation

39. In most Arab countries, the process of elaborating laws is highly centralised in the Executive branch. There are several conditions which prolong the legislative process and lead to sub-optimal or contradictory results. Among these are:

- Obsolete laws, and an inflation in the number of laws;
- Complex legislation;
- Uncertainty, which is exacerbated by judicial delays;
- Inadequate *ex ante* analysis of economic and social impacts, and virtually non-existent *ex post* evaluations;
- Inadequate involvement of stakeholders through consultation;
- Insufficient capacity-building within the legal units of the bodies responsible for law-drafting;
- Lack of or insufficient inter-ministerial coordination.

40. The need to introduce and establish tools and policies for quality law-making has been voiced by the majority of participating Arab countries. Good practices for law-making, such as the impact analysis of economic laws, appropriate oversight bodies for quality control, and capacity-building for plain language and multi-language drafting, could be a step towards improving consultation and transparency in the legislative process in the region. The result should be laws and regulations that deliver economic and social benefits more efficiently and effectively.

41. Tunisia has taken the lead in the field of law-making with the establishment of a Masters Course at the Tunis El Manar University for the training of juri-linguists. Courses should be starting this summer 2007 and partnerships are welcome for capacity-building, training and support for students exchange in the region.

42. Arab countries have also expressed interest in continuing efforts to improve law-drafting quality. Concrete proposals focus on the need to produce guidelines for legal drafting, for primary and also for secondary legislation, which could help to establish standards across the government and to identify specific needs for training. Manuals for legal drafting could provide guidance on the process for law preparation and adoption, giving answers to most of the problems confronted by legal drafters. It would also expand knowledge on the importance of the quality of legal texts.

10. Improving institutions for regulatory quality: the role of oversight bodies

43. The set up of institutions to manage regulation is indispensable for reform. In most OECD countries, dedicated bodies responsible for promoting regulatory policy and monitoring and reporting on regulatory reform and regulatory quality in the national administration from a whole of government perspective have been established. These oversight bodies co-ordinate and supervise, making sure that regulatory reform meets quality standards, complies with a general economic strategy and RIA is undertaken appropriately.

44. In most Arab countries, powerful legal advisory bodies close to the highest political level exist, mainly in charge of presenting legal proposals that have been coordinated with responsible ministries.

These institutions centralise the legal production in the country and are responsible for producing laws and regulations. In some cases, however, they lack of new techniques to simplify the legal corpus and they do not conceive regulatory reform in a broader perspective.

45. In their Action Plans, Arab countries have identified as a priority the need to strengthen the capacities of such institutions and to raise awareness inside the national administration on their possible roles as oversight bodies for regulatory reform. These institutions could be responsible for improving the quality of legislation and regulations by increasing transparency in the law-making process and integrating techniques to simplify the legal framework, but also they could serve as “engines of reform”, including in their tasks the advice and support that regulators need as well as advocacy for regulatory quality inside the administration and, in a long-term perspective, the quality control of initial pilot projects for RIA.

46. One possible activity could be the organisation of a workshop or seminar on the role of oversight bodies for regulatory quality. This could give an opportunity to Arab and OECD delegates to exchange views on how to create constituency and support for such an institution, to identify good practices on the different responsibilities attributed and to learn from existing experiences.