DRAFT RECOMMENDATION OF THE COUNCIL ON GOVERNANCE OF INFRASTRUCTURE

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendation of the Council on Principles for Private Sector Participation in Infrastructure [OECD/LEGAL/0349]; the Recommendation of the Council on Regulatory Policy and Governance [OECD/LEGAL/0390]; the Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships [OECD/LEGAL/0392]; the Recommendation of the Council on the Governance of Critical Risks [OECD/LEGAL/0405]; the Recommendation of the Council on Digital Government Strategies [OECD/LEGAL/0406]; the Recommendation of the Council on Budgetary Governance [OECD/LEGAL/0410]; the Recommendation of the Council on Public Procurement [OECD/LEGAL/0411]; the Recommendation of the Council on Public Integrity [OECD/LEGAL/0435]; the Recommendation of the Council on Open Government [OECD/LEGAL/0438]; and the Recommendation of the Council on Global Events and Local Development [OECD/LEGAL/0444].

HAVING REGARD to the Recommendation of the Council on Effective Public Investment across Levels of Government [OECD/LEGAL/0402], which is reflected in Section 5 of the present Recommendation and which will guide the implementation of that Section;

HAVING REGARD to the OECD Framework for the Governance of Infrastructure, which includes ten dimensions relating to how governments plan, prioritise, deliver, regulate and evaluate infrastructure investments, providing guidance and examples of good practice in each area, and which this Recommendation replaces.

RECOGNISING that a focus on infrastructure governance across all stages of the infrastructure cycle is key to ensuring sustainable and inclusive economic growth; and that improving infrastructure governance requires a rigorous assessment of a government's capabilities, strengths and key areas for improvement.

CONSIDERING that the governance of infrastructure depends on numerous institutional, social, economic and environmental aspects, and it should be aligned with the development of a governance framework that ensures strategic planning, performance and resilience of public infrastructure throughout the life-cycle of projects and across levels of government.

RECOGNISING that there is a need to address the challenges governments are facing today to ensure good infrastructure governance, in particular to address issues such as affordability, cost-effectiveness, economic, environmental and social impact, and value for money of public infrastructure.

CONSIDERING that the governance of infrastructure is not only the preserve of central governments, but that it is a process that encompass all levels of governments where different mandate and level of autonomy apply in different countries, and that this Recommendation is accordingly relevant at all levels of government.

On the proposal of the Public Governance Committee in co-operation with the Regional Development Policy Committee:

I. AGREES that, for the purpose of the present Recommendation, the following definitions are used:

- **Governance of infrastructure** means the processes, tools, and norms used by government bodies to plan, make decisions and monitor the delivery and maintenance of public infrastructure.
- **Resilience** means the capacity of systems to absorb a disturbance, recover from disruptions and adapt to changing conditions while retaining essentially the same function as prior to the disruptive shock (e.g. climate and geological hazards, industrial accidents, terrorist or cyberattacks).
- **Stakeholders** are any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector.

II. RECOMMENDS that Members and non-Members having adhered to the Recommendation (hereafter the "Adherents") develop and implement infrastructure governance frameworks in which Adherents should:

1. **Develop a long-term strategic vision for infrastructure** which:
   a. is grounded upon shared ambitions for national and subnational development, enhancing the economic and social capital which underpins growth, competitiveness and public service delivery.
   b. is informed by rigorous assessment of infrastructure needs and of how these needs should be prioritised and addressed.
   c. is monitored, flexible and regularly updated to take into account the impact of technology and the evolution of infrastructure needs.
   d. is fiscally sustainable, linked with budget allocations, and aligned with the medium-term expenditure framework, which provides assurance to the relevant stakeholders on the stable, multi-year availability of resources.
   e. defines a coherent, predictable, legitimate and accountable institutional framework for infrastructure, in which relevant institutions are entrusted with clear mandates, ample decision making powers, right skills and competences, and sufficient financial resources.
   f. is the product of a broad-base political consensus, based on clear assumptions, properly coordinated across levels of government, and takes necessary complementarities across sectors into account.
   g. actively contributes to the achievement of long-term policy objectives, including national and international commitments on environment, gender equality, sustainable development and growth.
2. **Guard fiscal sustainability, affordability, and value for money** through:
   a. developing a robust capital budgeting framework, identifying, measuring and regularly updating infrastructure expenditure in relation to both development of new infrastructure and maintenance and decommissioning of existing assets to be reported alongside of the budget documents.
   b. applying rigorous project appraisal and selection processes that privileges socioeconomic efficiency and fiscal sustainability at the national and subnational levels (taking into account economic, social, environmental and climate-related costs and benefits) and takes into account the full cycle of the project, noting that for projects that exceed a high investment threshold it is especially important to provide for an independent and impartial assessment to test project costing, risk management and projects' governance.
   c. selecting the delivery mode grounded in value for money and optimal allocation of risk between the parties, with no institutional, procedural or accounting biases for any particular delivery mode.

d. ensuring a transparent and appropriate allocation of risks in the structuring of the project, along with a comprehensive and agreed plan for managing, monitoring and mitigating risks during the project lifecycle.

e. informing decision-making on affordability of new projects and minimising sustainability risks by measuring and disclosing multi-year spending commitments, including running and maintenance costs, off-balance sheet commitments and contingent liabilities resulting from infrastructure projects, and assessing the availability to fund such commitments in the expected time-frame.

3. **Ensure efficient and effective procurement of infrastructure projects** by:

a. using competitive, transparent and efficient procurement processes for infrastructure, and limiting the use of exceptions and single-source procurement, including for associated professional services.

b. Promoting sustainability by selecting contractors based on criteria combining quality and price elements and including, where relevant, an assessment of costs incurred throughout the life-cycle of the asset.

c. implementing a risk-based approach in project procurement and implementation, developing, where possible, tools to identify risks of all sorts and bring them to the attention of relevant personnel, providing an intervention point where prevention or mitigation is possible.

d. carefully evaluating available delivery modes against previously defined clear criteria based on projects' characteristics and the use of value for money analytical tools to compare assessment of service delivery options.

e. ensuring that the procurement workforce has the capacity to continually deliver value for money efficiently and effectively by providing attractive, competitive and merit-based career options and providing tools to improve skills and competences for procurement officials.

f. engaging in transparent and regular dialogues with suppliers and business associations to present public procurement objectives and to assure a correct understanding of markets capacity.

g. holding contractors accountable for project specification and professional standards, when applicable, and designing a strategy for contract re-negotiations to account for evolving conditions.

h. integrating public procurement into overall public finance management, capital budgeting and services delivery processes.

4. **Ensure systematic and effective stakeholder engagement** through:

a. ensuring provision of information and "proactive" measures by the government to disseminate information and allow for continuous and open dialogues that are broad-based, involving relevant stakeholders in planning, decision-making and oversight.

b. integrating consultation processes that are proportionate to the particular characteristics of the project (e.g. size, political sensitivity, and impacted population) and take account of the overall public interest and the views of the relevant stakeholders through a disciplined, upfront stakeholder mapping and analysis, which can ensure engagement efforts cost-effectively to include relevant groups in decision making.

c. ensuring meaningful stakeholder engagement with communities, users and impacted people to collaborate during all phases of the project life-cycle and ensure debate on the main economic, fiscal, environmental and social impacts of the project.

5. **Co-ordinate infrastructure policy across levels of government** through:
   a. designing and implementing investment strategies tailored to the place the investments aim to serve.
   b. adopting effective instruments for co-ordinating across national and subnational levels of government, such as co-financing arrangements, contracts between levels of government, formal consultation processes, national agencies or representatives, working together with subnational areas, or other forms of regular inter-governmental dialogue .
   c. providing incentives and/or seek opportunities for co-ordination among regional and/or local governments to match public investment with the relevant geographical area, including through contracts, platforms for dialogue and co-operation, specific public investment partnerships, joint authorities, or regional or municipal mergers.
   d. strengthening capacities for public investment and promoting policy learning at all levels of government, ensuring adequate financial resources, professional skills, and sound institutional framework to ensure effective vertical and horizontal coordination.
6. **Promote a legitimate, coherent, efficient, and predictable regulatory framework** by:
   a. providing evidence-based tools for regulatory decisions, including stakeholder consultation, economic, fiscal, social and environmental impact assessment and ex-post evaluation.
   b. clearly identifying policy goals, and evaluating whether regulation is necessary and how it can be most effective and efficient in achieving those goals
   c. considering means other than regulation and identify the trade-offs of the different approaches analysed to identify the best approach.
   d. supporting co-ordination between supranational, national and subnational regulatory frameworks.
   e. conducting systematic programme reviews of the stock of significant regulation relevant for infrastructure projects, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and that deliver the intended policy objectives.
   f. promoting good governance of regulatory agencies in order to ensure sustainable tariff setting, overall regulatory quality, and greater confidence from the market (e.g. independence; accountability; scope of action; enforcement; capacity and resourcing).
7. **Implement a whole of government approach to manage threats to integrity** through:
   a. defining a risk-based approach to map, mitigate and address fraud and corruption entry points at each stage of the infrastructure project cycle.
   b. an adequate degree of transparency throughout the project life-cycle to ensure that disclosure of relevant information is timely and available to the public.
   c. promoting the integrity of bidding companies and enforcing high standards of conduct for public officials, including clear rules and guidelines on preventing and managing conflict of interest.
   d. effective oversight throughout the project cycle with effective internal control and external audit in all stages of the infrastructure project.

e. the detection of integrity violations and effective enforcement mechanisms that provide clear channels to report wrongdoing, offering protection for whistle-blowers, and ensuring that reporting mechanisms and protection is available to all stakeholders, public and private sector employees, and citizens.

f. ensuring that the understanding of integrity risks is comprehensive, by integrating responsible business conduct and risk-based preventive due diligence into the infrastructure project life-cycle.

8. **Make use of evidence informed infrastructure decision making, by**

a. putting in place systems that ensure a systematic collection of relevant data and institutional responsibility for analysis, dissemination, and learning.

b. disclosing relevant data to the public in an accessible and understandable format, and in a timely fashion.

c. harnessing digital technologies and data analytics to understand performance, and take preventive actions to respond to risks and adapt control activities.

d. ensuring that data is collected over the entire lifecycle of the infrastructure project, including construction, operation, maintenance and disposal.

e. encouraging the production of data at the right subnational scale to inform investment strategies and produce evidence for decision-making.

9. **Make sure the asset performs throughout its life** by:

a. optimising life-cycle costs and asset quality through ensuring effective monitoring, operation, maintenance and decommissioning.

b. ensure that the design of price and quality regimes foster asset maintenance and adequate performance through the entire life cycle.

c. preparing policy documents on the expected performance of regulated assets throughout its life-cycle and delivery.

d. making sure that monitoring of the performance of the assets is undertaken, including by regularly reviewing the value and depreciation of assets, and their impact in the accounts.

e. preparing and effectively managing the end of infrastructure contracts (e.g. public procurement, PPP and concession contracts) and the transition to any new arrangement, ensuring that ex-post evaluation of value for money is carried out and used in the decision-making process.

10. **Strengthen critical infrastructure resilience** by:

a. setting-up a multi-sector governance structure for critical infrastructure resilience.

b. understanding complex interdependencies and vulnerabilities across infrastructure systems to prioritise resilience efforts.

c. establishing trust between government and operators by securing risk-related information-sharing.

d. building partnerships to agree on a common vision and achievable resilience objectives.

e. defining the policy mix to prioritise cost-effective resilience measures across the life-cycle.

f. addressing transboundary dependencies in critical infrastructure systems by coordinating policies with neighbouring countries and beyond.

III. INVITES the Secretary-General to disseminate this Recommendation.

IV. INVITES Adherents to disseminate this Recommendation at all levels of government.

V. INVITES non-Adherents to take due account of, and adhere to, this Recommendation.

VI. INSTRUCTS the Public Governance Committee, in co-operation with the Regional Development Policy Committee, to:

a. Serve as a forum for exchanging information on infrastructure governance including experience with the implementation of this Recommendation, and to foster multi-stakeholder and interdisciplinary dialogue to facilitate quality infrastructure investment in a way that is cost effective, affordable and trusted by investors, citizens and other stakeholders;
b. Develop guidance and evaluation frameworks to support the implementation of the Recommendation, in particular to provide assistance in the assessment of the processes, tools, norms of interaction, decision-making processes and monitoring strategies for the Governance of Infrastructure;
c. Collect and map the information exchanges and continue to build a body of experience on the implementation of the Recommendation; and
d. Monitor the implementation of this Recommendation and to report thereon to the Council no later than five years following its adoption and at least every ten years thereafter.