EMBRACE AN ALL-ENCOMPASSING APPROACH TO REGULATORY QUALITY

The regulatory policy agenda in Costa Rica is closely tied to the government’s strategy to limit burdens for citizens and business from administrative procedures and formalities, which is articulated through Law 8220 on Protection from the Excess of Requirements and Administrative Procedures. Institutional responsibility for regulatory policy lies with the Better Regulation Unit, located at the Ministry of Economy, Industry and Trade (MEIC). Having set the necessary institutional and legal foundations, Costa Rica would benefit from broadening the scope of its regulatory policy agenda from its current focus on administrative procedures and formalities to embrace an all-encompassing approach to regulatory quality.

ENSURE THE SYSTEMATIC USE OF CONSULTATION

In Costa Rica, stakeholder engagement takes place at different stages of the rule-making process but not yet on a systematic basis. In line with the General Law of Public Administration, interested parties should be given the opportunity to comment on draft regulations for a period of 10 days but, in practice, consultation with the general public is only used to inform the development of some regulations. The administration also uses other forms of engaging stakeholders such as working groups with industry and labour representatives. Consultation needs to be better embedded in the rule-making process to ensure it is systematically used in practice. Linking it to Regulatory Impact Assessment (RIA) through the implementation of the new digital Preliminary Control System (SICOPRE) is a good way forward.

EXTEND THE SCOPE OF REGULATORY IMPACT ASSESSMENT

As per Law 8220, all public entities must carry out an *ex ante* cost-benefit analysis of those regulations that establish administrative procedures and formalities. The standardised form includes amongst others an appreciation of the expected impacts, costs and benefits, and MEIC is responsible to ensure the accomplishment and quality of the analysis. The implementation of SICOPRE has the potential to greatly enhance the transparency of the RIA process and support evidence-based decision making. It would be important to extend the use of RIA to cover all regulations rather than to focus only on administrative procedures and formalities.

FOCUS *EX POST* EVALUATION ON THE ACHIEVEMENT OF OBJECTIVES

The review of existing regulations in Costa Rica focusses chiefly on reducing administrative burdens. Though Law 8220 also provides the Better Regulation Unit at MEIC with the authority to conduct *ex post* evaluations of regulations, this has not been fully realised yet in practice as the unit lacks capacities. It would be important to endow the unit with sufficient resources and include in evaluations an assessment of whether regulations achieve their objectives to ensure there are no unintended consequences and the regulation is the best solution to the problem.

**Spotlight: Preliminary Control System (SICOPRE) and cost-benefit form**

Costa Rica is currently implementing its new Preliminary Control System (SICOPRE), which will digitise and integrate the cost-benefit forms of all new regulations on a single electronic platform ([controlprevio.meic.go.cr](http://controlprevio.meic.go.cr)). On this platform, government officials will answer a set of checking questions and, if applicable, fill in the full cost-benefit analysis. The analysis includes a description of the objectives of the regulation, alternatives considered, expected impacts, which are quantified by different groups if possible, and considerations regarding compliance and enforcement. The platform will also support public consultation by making all ongoing consultations and supporting documentation accessible on a single website.
COSTA RICA

1. Composite indicator: Stakeholder engagement in the development of subordinate regulations

2. Regulatory Impact Assessment (RIA)

3. Ex post evaluation and administrative simplification

4. General trends and institutional setting

Notes:

1. Figure 1 displays the total aggregate score across the four separate categories of the composite indicator. The maximum score for each category is 1 and the maximum score for the aggregate indicator is 4. The more regulatory practices as advocated in the 2012 OECD Recommendation on Regulatory Policy and Governance a country has implemented, the higher its indicator score.

2. Data on LAC countries include: Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico and Peru. They reflect the situation as of 31 December 2015. Data on OECD countries cover 34 OECD countries and reflect the situation as of 31 December 2014.

The Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016 provide an up-to-date overview of regulatory systems in selected Latin American countries, by which they develop, implement and evaluate regulations. They cover three principles of the 2012 OECD Recommendation on Regulatory Policy and Governance: stakeholder engagement, Regulatory Impact Assessment (RIA) as well as ex post evaluation and administrative simplification.

A composite indicator on stakeholder engagement in developing subordinate regulations measures the adoption of good practices to engage with interested parties when developing new regulations, including different methods and openness of consultations as well as transparency and response to comments received. It consolidates information in four equally weighted categories:

- **Systematic adoption** records formal requirements and how often and at what stage in the rule-making process these requirements are conducted in practice.
- **Methodology** gathers information on the methods used to engage with stakeholders, e.g. forms of consultation and documents to support them.
- **Oversight and quality control** records the role of oversight bodies and publicly available evaluations of the consultation system.
- **Transparency** records information from the questions that relate to the principles of open government, e.g. whether consultations are open to the general public and if comments and responses by authorities are published.

LAC iREG is based on the results of the Survey on Indicators of Regulatory Policy and Governance 2015 jointly conducted by the OECD and the Inter-American Development Bank (IDB) with 7 countries in the region. The data underlying the composite indicator reflect practices and requirements in place at the national level of government, as of 31 December 2015.

Whilst the indicators provide an overview of a country’s regulatory system, they cannot fully capture the complex realities of its quality, use and impact. In-depth country reviews are therefore required to complement the indicators and to provide specific recommendations for reform.

Further analysis based on the LAC iREG and other indicators to benchmark government performance in the region can be found in the *Government at a Glance - Latin America and the Caribbean 2017* publication.

An in-depth analysis of regulatory practices amongst OECD countries including composite indicators in the areas of stakeholder engagement, RIA and ex post evaluation can be found in the *OECD Regulatory Policy Outlook 2015*.

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