INSTITUTIONAL FOUNDATIONS FOR REGULATORY QUALITY ARE IN PLACE

Whilst Ecuador has already adopted some core principles and laid the institutional foundations for regulatory policy, the country is currently in the process of embedding the use of regulatory tools in law and in practice. The National Development Plan 2013-17 establishes the objective to improve the state’s regulatory capacity and the government is currently implementing technical tools for \textit{ex ante} and \textit{ex post} evaluation and capacity building amongst stakeholders. A new legal instrument will spell out the specific requirements for the development of new regulations. The Unit for Regulatory Improvement and Control, located within the Department of Planning and Development (SENPLADES), is responsible for the design of regulatory policies and strategies to improve regulatory capacities within the executive, for instance by issuing guidelines and methodologies.

ENGAGE WITH STAKEHOLDERS SYSTEMATICALLY AT ALL STAGES

Stakeholder engagement is not systematically used to inform the development of regulations across the whole administration and focusses exclusively at a late stage in rule-making process. There is no requirement to conduct consultation that covers the whole administration and practices vary greatly. Some regulatory agencies make frequently use of public consultations and have put in place dedicated websites, but this is not the case for other parts of the administration. A new legal instrument is currently under development to define the criteria and procedures for public consultation, which has the potential to harmonise consultation and systematically implement it in practice. It would be important to also seek stakeholders’ views early on the nature of the problem and potential solutions before taking a decision to regulate.

TAKE STEPS TO EMBED RIA IN THE RULEMAKING PROCESS

Whilst the use of evidence through \textit{ex ante} Regulatory Impact Assessment (RIA) is not yet embedded in the rule-making process, there are some encouraging developments that could support the systematic adoption of RIA. It is planned that the new proposed legal instrument will make RIA mandatory for those regulatory proposals that the Unit for Regulatory Improvement and Control considers relevant on basis of their expected impact. It is also planned that the Unit for Regulatory Improvement and Control will be responsible for revising the quality of RIAs to ensure its consistent implementation in practice.

MAKE USE OF \textit{EX POST} EVALUATION TO ENSURE REGULATIONS WORK IN PRACTICE

Ecuador has focussed their efforts to review the stock of regulation on reducing administrative burdens. In the recent past, different regulators carried out administrative simplification programmes, for instance in the areas of transport or oil and gas. In addition, an Inter-institutional Committee for Simplifying Formalities was established in 2013 with the objective to better coordinate, simplify and streamline administrative procedures. Ecuador would benefit from the introduction of systematic \textit{ex post} evaluation, which should include an assessment on whether regulations achieve their objectives.

Spotlight: Arcotel online system for public hearings

In May 2015, the Ecuadorian telecommunications regulator Arcotel adopted its own legal requirements for public consultation, which is based on guidance provided by the Unit for Regulatory Improvement and Control. In line with the requirement, every regulatory proposal brought forward by Arcotel needs to undergo public consultation over the internet followed by a physical public hearing. Members of the public can submit their comments through the online system for public hearings (sisap.arcotel.gob.ec). The consultation process is supported by the draft proposal and a report, which states the objective and a justification of the regulatory response. After the online and physical hearings, Arcotel publishes a summary of comments received and the institution’s response.
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 rulemaking 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*.