ROOM DOCUMENT 3

ASSESSING PROGRESS IN THE IMPLEMENTATION OF THE RECOMMENDATION OF THE COUNCIL ON REGULATORY POLICY AND GOVERNANCE
DRAFT PROJECT PLAN FOR IDENTIFYING PROGRESS IN COUNTRIES

7th meeting of the Regulatory Policy Committee
19-20 November 2012
The OECD Conference Centre, Paris

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Project objective

1. This project aims to assess countries’ progress towards the implementation of the 2012 OECD Recommendation of the Council on Regulatory Policy and Governance (Recommendation) over time. Capitalising on the momentum of the development of the Recommendation, it aspires to provide comparative and reliable data and best practice examples on its implementation to

   • establish a global consolidated understanding of the significance of regulatory policy
   • help countries plan, sequence and communicate their regulatory policy reforms
   • identify opportunities for countries to leapfrog on the basis of lessons and experience
   • demonstrate effective progress over time and provide incentives for improving regulatory policy
   • guide the agenda for future developments in design and implementation of regulatory policy

Background

2. Improved information on regulatory policy in all OECD countries is needed to assess the implementation of the 2012 OECD Recommendation of the Council on Regulatory Policy and Governance (Recommendation) and to publish a Regulatory Policy Outlook at the end of 2014. The last systematic data collection on regulatory management practices in OECD countries dates back to 2008. A survey is proposed to be undertaken to assess developments in member countries and to analyse implementation of the practices that are advocated in the Recommendation (see Box 1). The OECD Secretariat will work together with the Steering Group on Measuring Regulatory Performance and RPC delegates to identify how best practice in the implementation of the Recommendation can be assessed, and to design survey questions that help demonstrate progress over time.

1. As foreseen in the Programme of Work and Budget 2013/14 of the Regulatory Policy Committee (Section 2, GOV/RPC(2012)5/REV1)
Box 1. 2012 OECD Recommendation of the Council on Regulatory Policy and Governance

The impact of the financial and fiscal crisis, and of social change and environmental challenges highlight the importance of sound regulatory frameworks as a basic condition for well-functioning markets and societies, protecting the environment and the promotion of economic growth. The Recommendation sets out the measures that Governments can and should take to support the implementation and advancement of systemic regulatory reform to deliver regulations that meet public policy objectives and will have a positive impact on the economy and society. These measures are integrated in a comprehensive policy cycle in which regulations are designed, assessed and evaluated ex ante and ex post, revised and enforced at all levels of government, supported by appropriate institutions.

The 12 high-level principles in the Recommendation recommends that member states:

1. Commit at the highest political level to an explicit whole-of-government policy for regulatory quality. The policy should have clear objectives and frameworks for implementation to ensure that, if regulation is used, the economic, social and environmental benefits justify the costs, the distributional effects are considered and the net benefits are maximised.

2. Adhere to principles of open government, including transparency and participation in the regulatory process to ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by regulation. This includes providing meaningful opportunities (including online) for the public to contribute to the process of preparing draft regulatory proposals and to the quality of the supporting analysis. Governments should ensure that regulations are comprehensible and clear and that parties can easily understand their rights and obligations.

3. Establish mechanisms and institutions to actively provide oversight of regulatory policy procedures and goals, support and implement regulatory policy, and thereby foster regulatory quality.

4. Integrate Regulatory Impact Assessment (RIA) into the early stages of the policy process for the formulation of new regulatory proposals. Clearly identify policy goals, and evaluate if regulation is necessary and how it can be most effective and efficient in achieving those goals. Consider means other than regulation and identify the tradeoffs of the different approaches analysed to identify the best approach.

5. Conduct systematic programme reviews of the stock of significant regulation against clearly defined policy goals, including consideration of costs and benefits, to ensure that regulations remain up to date, cost justified, cost effective and consistent, and deliver the intended policy objectives.

6. Regularly publish reports on the performance of regulatory policy and reform programmes and the public authorities applying the regulations. Such reports should also include information on how regulatory tools such as Regulatory Impact Assessment (RIA), public consultation practices and reviews of existing regulations are functioning in practice.

7. Develop a consistent policy covering the role and functions of regulatory agencies in order to provide greater confidence that regulatory decisions are made on an objective, impartial and consistent basis, without conflict of interest, bias or improper influence.

8. Ensure the effectiveness of systems for the review of the legality and procedural fairness of regulations and of decisions made by bodies empowered to issue regulatory sanctions. Ensure that citizens and businesses have access to these systems of review at reasonable cost and receive decisions in a timely manner.

9. As appropriate apply risk assessment, risk management, and risk communication strategies to the design and implementation of regulations to ensure that regulation is targeted and effective. Regulators should assess how regulations will be given effect and should design responsive implementation and enforcement strategies.

10. Where appropriate promote regulatory coherence through co-ordination mechanisms between the supranational, the national and sub-national levels of government. Identify cross-cutting regulatory issues at all levels of government, to promote coherence between regulatory approaches and avoid duplication or conflict of regulations.

11. Foster the development of regulatory management capacity and performance at sub-national levels of government.

12. In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction.

Each of the principles expressed in the Recommendation are further developed in the full text of the Recommendation: www.oecd.org/gov/regulatorypolicy/recommendationofthecouncilonregulatorypolicyandgovernance.htm
Benefits

3. OECD members, key partner countries and sponsors of the project would benefit from access to:

- The development of an up to date database of regulatory policy practices in OECD countries highlighting good practice
- Comparative, reliable data and benchmarking on regulatory policy and governance
- Independent assessment of OECD countries’ regulatory policies
- Presentation of data to demonstrate and communicate progress over time

Comments

4. An envelope of 500 000 Euros for this research exercise in the form of voluntary contributions has been estimated in the Program of Work and Budget. This budget allows for the following activities in the program:

- Designing questions that identify what is considered by countries to be best practice in regulatory policy and governance to track progress in the implementation of the Recommendation (and will allow for this to be assessed over the next decade).
- Collecting information (including survey responses and qualitative information, covering practical examples) from OECD countries on progress in the implementation of the Recommendation
- Using expert assessments to provide greater depth and more information on the actual implementation of regulatory policy based on local knowledge
- Using an international peer exercise drawing on the network of the regulatory policy committee to validate, challenge and confirm results
- Analysing and reviewing findings in contemporary policy context
- Presenting data and country-specific information in a user-friendly way, taking account of developments in data platforms and putting data into context
- Integrating information with other research across OECD covering complementary data and indicators on regulatory performance (Indicators of Product Market Regulation, Service Trade Restrictiveness Index etc.)

Risks

5. The principal risk is that the research cannot proceed unless voluntary contributions are sufficient. A funding shortfall would compromise the quality of the Regulatory Policy Outlook and of the monitoring of the Recommendation:
Without a high-quality OECD wide survey, there will be a lack of systematic, comparable information to analyse trends and demonstrate progress over time in the implementation of the Recommendation in the Regulatory Policy Outlook. There will be no database of practices in OECD countries to draw from to advise member countries in the implementation of the Recommendation.

In the absence of investment in question design, survey questions will not be updated to reflect the Recommendation. There will be insufficient resources to ensure that questions are interpreted consistently across countries, hence leading to data that is not comparable across countries and of insufficient quality. This in turn may then lead to changes in the questions in future PWBs, compromising comparability over time and tracking of progress over time.

Without funding, data will be entirely based on self-assessment which is not comparable across countries and not fully reliable. It will not be possible to undertake expert assessments on the actual implementation of the Recommendation and there will be no peer review to vet the data. Country-specific contextual information cannot be processed, hence data in the Regulatory Policy Outlook will not be put into context.

**Fundraising**

6. The OECD Secretariat will work together with the Steering Group on Measuring Regulatory Performance to raise the funds foreseen in the PWB for the survey. Funding will be sought from members of the RPC including BIAC and TUAC. It might be possible to reach out to foundations and/or find partners in other international organisations, and to extend the data collection to strategic partner countries of the OECD.

7. Substantial contributors to the project may be invited to participate as a key partner in a conference to discuss survey results.

**Timeline**

8. The project is proposed to be undertaken over a period of two years in co-operation with the Steering Group on Measuring Regulatory Performance at each of the following stages:

<table>
<thead>
<tr>
<th>Stage 1</th>
<th>October 2012 to May 2013</th>
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<tbody>
<tr>
<td></td>
<td>• Project planning and Fundraising</td>
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<tr>
<td></td>
<td>• Recruitment of a statistician and analyst</td>
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<td></td>
<td>• Identify the core themes of the Regulatory Policy Outlook 2014</td>
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<td></td>
<td>• Draft agenda for the workshop in Stockholm on “Assessing best practice and progress in the implementation of the Recommendation”</td>
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<th>Stage 2</th>
<th>June - November 2013</th>
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<td>• Workshop in Stockholm to identify best practice and ways to assess progress in the implementation of the Recommendation, with breakout groups on assessing specific principles</td>
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<tr>
<td></td>
<td>• Design of survey questions and expert assessments to assess countries’ progress in implementing the principles in the Recommendation over time and to provide input for the Regulatory Policy Outlook</td>
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### Stage 3  
**November - December 2013**
- Test survey questions with a subset of countries identified by the steering group to check whether questions are clear, do not leave room for interpretation and inform the assessment of the implementation of the *Recommendation*
- Revise survey questions based on the findings of the test phase to ensure comparability of answers across countries and over time and to make it as easy as possible for countries to answer the survey

### Stage 4  
**January – February 2014**
- Run the survey with government officials and provide guidance on filling out the survey
- Conduct expert assessments in key areas where best practice is clear (e.g. RIA, consultation) to provide greater depth and information on the actual implementation of regulatory policy. This could benefit from consultations with business groups, employees associations and civil society.

### Stage 5  
**February-July 2014**
- Undertake in-house data quality checks and clean the data
- Build a peer reviewer network and undertake a transparent peer review process providing delegates the opportunity to comment on and correct survey answers
- Consultation on preliminary results with stakeholders including business groups and employees associations through the participation of BIAC and TUAC in the RPC
- Workshop to discuss methodological issues and preliminary survey results
- Analyse and review of findings in contemporary policy context

### Stage 6  
**August - December 2014**
- Discussion of final results at the RPC
- Identification of latest developments in data platforms to store and disseminate results
- Publication and communication of results in the Regulatory Policy Outlook and online, putting data into context and integrating information with other research across OECD on regulatory performance
9. The Secretariat will co-operate closely with the Steering Group on Measuring Regulatory Performance throughout the project cycle.

Contacts

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Appendix A: Draft project budget

<table>
<thead>
<tr>
<th>Category</th>
<th>Estimated costs in euros</th>
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</thead>
<tbody>
<tr>
<td>Staff costs*</td>
<td>313,510</td>
</tr>
<tr>
<td>Chargeback (office space, IT etc)</td>
<td>52,363</td>
</tr>
<tr>
<td>Intellectual services (external experts – fees)</td>
<td>102,000</td>
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<tr>
<td>Mission Costs (OECD Staff and experts)</td>
<td>3,000</td>
</tr>
<tr>
<td>OECD Grant Administration Charge (6.3%)</td>
<td>31,660</td>
</tr>
<tr>
<td><strong>TOTAL COSTS</strong></td>
<td><strong>502,533</strong></td>
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*This corresponds approximately to one full time analyst and one part-time statistician over a period of two years.

Note: any overspend on one budget line may be compensated by an underspend on another budget line while remaining within the overall budget.