Strategic Orientations for the Programme of Work and Budget of the Regulatory Policy Committee

13th meeting of the Regulatory Policy Committee

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This paper aims to develop the strategic elements for the Regulatory Policy Committee’s (RPC) work for 2017-18.

Delegates are invited to identify priorities across strategic elements.

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Policy Environment

1. In the current context of fiscal constraints, sluggish growth and high unemployment and with the deepening of globalisation, it is fair to say that governments are compelled to more critically consider the need for high quality regulations and greater consistency of regulatory frameworks. Regulatory reform, understood as the changes that improve the quality of regulation, provides a real opportunity to promote welfare, stimulate economic activity, unlock productivity and growth gains and balance the measures that seek to restore fiscal health but risk undermining recovery. Better law-making will also go a long way in helping countries achieve their international commitments, ranging from addressing trade frictions and environmental risks, avoiding regulatory failure and industry shocks, from the 2008 financial crisis to climate change.

2. All OECD countries have acknowledged the importance of regulatory policy. In line with this realisation, consensus has developed on the elements of high quality regulation. Likewise, a large body of knowledge has developed on various strategies, institutions, tools and practices around regulatory policy and governance. These efforts culminated in the 2012 Recommendation of the Council on Regulatory Policy and Governance. In line with this recognition, the 2015 Regulatory Policy Outlook shows the significant efforts made by countries to adopt the principles and tools of regulatory policy and its emergence as an important field of public sector reform.

3. At the same time, countries continue to face challenges in establishing the institutions and tools to support regulatory reform. Many countries still lack a strategic approach to regulatory policy and the evidence base to make the case for further reforms. They focus too much on following a process of regulatory quality rather than on articulating the intended impacts of regulatory interventions. In managing the flow of new regulations, the utility of regulatory management tools – especially Regulatory Impact Assessment and public consultation – are largely mitigated when used in a procedural fashion after policies and the regulatory decision have been made. As to the stock of regulation, the scope of evaluation has often been limited to minimising the costs imposed on business rather than promoting more competitive markets or supporting public interest. This narrow, procedural approach combined with weak information on impacts of policy interventions may prevent countries from fully benefitting from establishing the conditions for regulatory quality.

4. In addition to administrative challenges, the political economy of establishing the conditions for and maintaining regulatory quality is often difficult. Finding political support is both necessary and complex. Addressing the potential opposition from certain groups requires compelling evidence to support reforms. Rallying support requires that changes to regulatory frameworks deliver tangible benefits.

5. For many countries, regulatory policy involves finding a balance between the use of different tools, a shift in culture from a heavy focus on design towards greater attention paid to delivery and enforcement and extending the scope of regulatory policy beyond the executive and national sphere. Many countries still struggle to move beyond the establishment of the legal requirements and the design phase of a regulation and use fully the tools and opportunities offered throughout the regulatory policy cycle to improve regulatory quality.

6. Finally, the emergence of the shared economy, e-commerce, adaptations towards digital government, and the large amounts of data made available to governments and regulators may be radically changing the world of “regulating”. This change may require a regulatory policy response to help set the frameworks and integrate different policy disciplines and expertise for efficient implementation and effective outcomes. This is already illustrated through the growing use of behavioural economics, and could extend towards data analytics and other fields in the future.
Policy areas for the 2017-18 PWB

7. Promoting the strategic use of regulatory policy to facilitate the improvement of regulatory quality at domestic level and the achievement of international commitments should be the cornerstone to the Committee’s work in 2017-18. The Regulatory Policy Outlook argues that a forthcoming agenda for regulatory quality should rely on the four areas outlined below.

Closing the regulatory policy cycle

8. Regulatory implementation and enforcement remain perhaps the weakest link in the application of good regulatory practices. Whereas all OECD countries have made investments in the upstream or “design side” of the cycle, commiserate attention has not been paid further downstream on the delivery side. Focusing on increasing compliance with regulations would help to improve the effectiveness of regulation at achieving its goals and, ultimately, would strengthen the case for regulatory quality. The Committee might want to reconsider how to make better use of its Best Practice Principles on Enforcement and Inspections, which may be underutilised and would be a good basis for furthering regulatory enforcement. Likewise, there is a potential to further improve compliance strategies through the use new approaches to regulatory delivery – such as behavioural approaches.

Empowering the actors of regulatory governance

9. The landscape of regulatory governance is rich and there is no blue print or ideal institutional arrangement for regulatory reform. However, there may be some missed opportunities in the institutional set up of countries to promote regulatory reforms. There is untapped potential of traditional actors and the emerging state and non-state actors in promoting regulatory quality. In particular, a more careful consideration of regulatory oversight may be warranted given some of the results emerging from the Outlook. Likewise, parliaments and sub-national levels of governments generally have a substantial regulatory role. The RPC could take stock of institutional arrangements and roles of these institutions with a view to develop a compendium of good practices and guidance on how to organise their procedures to guarantee the quality of legislation. OECD's independent and authoritative perspective makes it well suited to provide advice in this area.

10. Similarly, more countries are establishing regulatory agencies to facilitate the adequate delivery of regulatory systems. More efforts should be put into understanding the drivers and indicators of good performance of regulatory agencies and their contribution to achieving good regulatory outcomes. The Network of Economic Regulators provides the relevant platform and interface to discuss these topics directly with economic regulators.

Promoting evidence based policy

11. Much remains to be done to promote evidence based regulatory policy. Many countries are still developing or fine-tuning the tools that can identify the policy instruments that can deliver outcomes in the most efficient, effective, equitable and legitimate manner. Regulatory policy, and in particular ex post evaluation, has much to offer in this regard. Yet the Outlook points to the fact that this is an underutilised instrument of regulatory management. Many countries still need to establish systems for collecting and producing the evidence needed to base decision and to integrate them into the decision-making process. This is an area where the Committee could produce guidance on the use of ex post evaluation and help countries identify the areas where more evidence would be helpful to steer regulatory policy and strengthen its impacts. New ICT are also changing the way information is collected across government. Another potential area the Committee could explore is how to combine “big data”, the use of different sources of evidence and more traditional approaches to evaluation to support evidenced based policy-making.
Addressing regulatory impacts beyond the border

12. Ensuring efficient regulatory policy in an interconnected world remains a challenge both within the OECD and beyond. Domestic regulators cannot afford to act in isolation. Their own activity may have direct or indirect effects on trade and investment flows. Likewise, in an ever more globalized environment; both business and society at large can be subject to the regulatory activity of other jurisdictions. The RPC has already undertaken pioneering work in developing a typology of regulatory cooperation approaches. Looking ahead, the Committee has a unique opportunity to continue its path-breaking work by building shared understanding and common language on international regulatory co-operation with both state and non-state regulators. This work can support the identification of relevant cooperation approaches and mechanisms and their respective benefits and costs in different countries and sectors.

Expected Outcomes and Raising Awareness

13. The 2017-18 PWB seeks to achieve the following outcomes and increase the awareness and application of state-of-the-art regulatory policy and governance so as to ensure that they deliver durable outcomes.

Outcomes

- Measurable knowledge based on a more rigorous and theory-grounded analysis of regulatory policy;
- Understanding the use of regulatory policy in specific sectors and how its application affects policy outcomes;
- Mainstreaming regulatory policy approaches with economy-wide structural policy and reforms;
- Guidance on how governments can use regulatory policy to effectively deliver more integrated responses to address key policy;
- New OECD instruments, where appropriate, to support the implementation of regulatory policy and governance in key areas.

Awareness

- Broader recognition of the role of regulatory policy and governance in achieving national policy targets and international commitments among senior political leaders and beyond the RPC’s traditional regulatory oversight community;
- Greater awareness of the need to better link strategic policy making with good regulatory practices;
- Greater recognition by public actors and civil society of the evidence and good practices for supporting economic growth and social welfare through the rigorous application of regulatory policies.

Usage

- Strengthen adherence to OECD international standards and policy guidelines in the area of regulatory policy such as the 2012 Recommendation of the Council on Regulatory Policy and
Governance, the Best Practice Principles on the Governance of Regulators and on Regulatory Enforcement and other policy guidance;

- Strengthen the focus on regulatory governance, embracing the institutional breadth and diversity of the roles of all the key agents in the regulatory governance framework, including oversight bodies, regulators, the parliament, the executive and cabinet, and non-government actors;

- Extend the principles of regulatory governance to a multilevel context, where rule-making is not confined to the national level but also involves supra-national and sub-national institutions;

- Recognize the need for regulators to have a clear grasp of the dynamics of the organizations and systems being regulated;

- Take account of the user and citizen dimension, and in particular the opportunity to exploit the dynamic features of digital and open government enabled by developing social media and communications technologies;

- Focus on risk assessment and management strategies, including a systemic perspective that includes coordination with other regulators;

- Increase the use of evidence-based policies that rely on a sound information base and evaluation tools and application of good regulatory practices that promote inclusive growth not only in a domestic context but also across jurisdictions;

- Support active knowledge sharing amongst policy-makers from OECD, Key Partners and other Partners, including South East Asia, the Middle East and North Africa, and Latin America.

Improving the impact of RPC work

14. The aim of the PWB 2017-18 would be to support an important number of strategic priorities for the Organisation. These include: New Approaches to Economic Challenges, Inclusive Growth, the Better Life initiative and priority initiatives with partner countries including the South East Asia and Latin America regional programmes. Moreover, RPC work provides the critical dimension to the essential pillars of the Secretary-General’s strategic vision “21 for 21.”

15. New Approaches to Economic Challenges (NAEC) and Inclusive Growth constitute OECD-wide efforts to reassess OECD’s analytical frameworks, draw lessons from the crisis about the value of conventional truths, and extend the scope of analysis to be more multi-dimensional and innovative. Both past and the current PWB have been directly contributing to this work notably through the work on the Regulator Policy Outlook, measuring regulator performance and the work on international regulatory cooperation.

16. The Well-being Initiative emphasises going beyond a policy focus on improvements to GDP and looking at a range of other factors that ultimately contribute to well-being. With an expansion of data collection and analysis carried out as part of the Regulatory Policy Outlook, the RPC can share data on a number of issues, especially related to public consultation and transparency that support well-being.

17. The OECD-wide Southeast Asia Regional Programme launched at the 2014 OECD Ministerial Council Meeting identified regulatory reform as a core element. Building on existing structures and initiatives, the current PWB aims to launch a regional policy network with a view to provide a platform to exchange on good practices and mutual learning between policy makers in Southeast Asia and OECD.
countries. A similar programme is envisaged for Latin America. The Secretariat has already established informal contacts with a number of administrations in the regions and will be well placed to establish a network on regulatory improvement in Latin America if so requested.

Working methods and communications

18. The ratings and evaluations of the RPC and its outputs through the Programme Implementation Report (PIR) continue to show strong performance. However, more efforts are needed to ensure greater awareness and impact in member countries. Furthermore, the business community, social partners, civil society and other international organisations are also vital stakeholders that OECD research and policy analysis should involve in its development and application. Going forward, the RPC could consider the following procedural approaches:

- An increase in the number of national and thematic reviews approved by written procedure to reserve meetings for more strategic and policy oriented discussions.

- Continued use of communication tools that go beyond the traditional publication format, such as web-accessible data and country profiles as well as reader-friendly policy and analysis briefs.

- Increasing peer-exchange opportunities outside of Paris for greater policy impact in the countries, including to follow-up on the impact of prior OECD studies.

- More formalised engagement with the business community, social partners, civil society and other key public and private stakeholders to inform OECD products and as a vehicle for greater dissemination of findings and impact.

- More strategic integration into global policy networks to reach wider audiences. There are many existing communities of practice and influential policy think tanks that OECD can draw from and contribute to for policy relevance and impact.

- Continued work with non-Members to discuss issues of common interest and identify and disseminate best practices, in recognition of the limited uptake of regulatory policy and governance across the world.

- For mutual sharing of knowledge and policy lessons, the Committee will continue to develop its working relationships with other inter-governmental bodies and international organisations, such as: Asian Development Bank (ADB), European Bank for Reconstruction and Development (EBRD), Economic Commission for Latin America and the Caribbean (ECLAC), European Investment Bank (EIB), Inter-American Development Bank (IADB), United Nations Development Programme (UNDP), and the World Bank (WB). As part of its ongoing project with International Organisations in the area of International Regulatory Co-operation, the Committee will continue to work closely with the International Organization for Standardization (ISO), the International Organization of Legal Metrology (OIML), the International Maritime Organisation (IMO), the Food and Agriculture Organization (FAO), the World Health Organization (WHO), the International Labour Organization (ILO) and the United Nations Economic Commission for Europe (UNECE).

Timeline

19. At the 13th meeting of the RPC on 6 November 2015, delegates will discuss and identify the key work streams for the activities of the Committee in 2017-18. Further to the discussions and based on
feedback received from delegates by 30 November 2015, the process for developing the next Programme of Work and Budget (PWB) will be as follows:

- **January 2016**: preliminary draft PWB circulated to the RPC for comments, including the prioritisation of the Output Areas.

- **February 2016**: draft PWB, including comments received from delegates, for review by the OECD Office of the Secretary General

- **March 2016**: call for proposals for Central Priority Funds (CPF)

- **April 2016**: discussion of the revised draft PWB at the 14th meeting of the RPC

- **April-September 2016**: OECD approval process by the Procurement, Budget and Finance Department and the Office of the Secretary General

- **November 2016**: approval of the final 2017-18 Programme of Work and Budget at the 15th RPC meeting.