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**PUBLIC GOVERNANCE AND TERRITORIAL DEVELOPMENT DIRECTORATE
REGULATORY POLICY COMMITTEE**

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Implementation of Regulatory Policy: Assessing Progress in Countries

Revised project plan and timeline

**9th meeting of the Regulatory Policy Committee
12-13 November 2013
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Purpose

1. The purpose of this note is to brief delegates on the revised project plan and timeline of the Regulatory Policy Committee's project *Implementation of Regulatory Policy: Assessing Progress in Countries*;

Delegates are invited to

- **Take note** of the revised project plan and timeline,
Comment on the draft list of practices to be assessed by November 27, 2013.

Project aim

2. Having easily accessible data, displaying countries' practices and the progress made in improving regulatory policy is necessary for policy officials in order to bring regulatory reform onto the political agenda. Concrete data on the performance of national regulatory systems are a powerful argument for regulatory reform. Sharing information can also provide positive examples about what has worked well in other countries and help identify areas for reform. Furthermore, comparative data enable governments which are just starting to develop their policies and practices to 'leap frog' by drawing on the lessons learnt in other countries.

3. In order to realise these benefits the RPC has committed to ensuring that a new survey will be designed to gather up to date information of OECD member countries' regulatory policy and governance practices that are advocated in 2012 Recommendation of the Council on Regulatory Policy and Governance (Recommendation).. This project is guided by the Steering Group on Measuring Regulatory Performance comprising delegates from the RPC and has been agreed on in the 2013-14 Programme of Work and Budget [GOV/RPC(2012)5/FINAL].

4. The project for producing the forthcoming survey is entitled *Implementation of Regulatory Policy: Assessing Progress in Countries (2014 Survey)*. A similar survey will be completed by countries every few years, with the information from the initial survey establishing a clear baseline, to allow member countries to track their progress over the next 3-10 years. Additional questions may be added in future years to expand the scope of the survey. The survey will aim to capture progress in countries which already have advanced regulatory policies and practices, and at the same time recognise the efforts of countries in implementing the Recommendation which are just starting to develop their regulatory policies.

5. The 2014 Survey will also be designed to recognise planned improvements in policy. Therefore the Secretariat aims to include questions on practices, which, while very few countries currently adhere to in any great degree, may be implemented over the medium-term. The purpose of these questions is to allow comparisons with future surveys.

Project output

6. The Secretariat (under the steering group's guidance) will be responsible for conducting the survey. The survey results will be discussed within the RPC workshops and will be a key source of data for the *OECD Regulatory Policy Outlook* and *Government at a Glance* series.

7. The information collected in the survey will be used to produce:

- A database of regulatory practices – In 2015 member countries will have access to an up-to-date user-friendly database of regulatory policy practices in OECD countries.

- Overview tables and graphs – The data will be presented in tables, charts and graphs to demonstrate which practices take place in which countries. It will provide a clear easily understandable set of results on particular practices and issues which will allow governments to measure their progress towards implementing their regulatory policy goals.
- New indicator series – As in previous surveys, composite indicators will be developed, in consultation with the Steering Group that can help to demonstrate and communicate progress in an easily expressible format. The indicators will be fully transparent, with a clear explanation of the information from which they are derived and their limitations.
- Country notes – Indicators for each country will be put in context, drawing on qualitative information provided by member countries (depending on funding). These will provide snap-shot overviews of individual countries' practices and be presented in the Outlook.
- Global storylines –The information from the survey in conjunction with other sources e.g. the analysis from the roundtable discussions of the RPC, and the insights gained from working directly with countries in the conduct of reviews, will contribute to the thematic work done in specific policy areas, presented in the *OECD Regulatory Policy Outlook*. In future years, the results from repeated surveys will provide comparable information to analyse trends and demonstrate progress over time in the implementation of the Recommendation.
- Positive case studies – A key purpose of this survey is to help highlight good practices, and provide positive examples for other member countries. The information received in the survey in addition to qualitative research will be used to provide case studies on particular practices which have been successfully demonstrated in individual countries.

8. Cross-country surveys cannot replace in-depth country reviews, and the limitations of quantitative data and indicators have been discussed at the RPC, in the meetings of the Steering Group and the workshops on measuring regulatory performance. The information gathered in the surveys, will be analysed and presented in combination qualitative information to improve its quality and usefulness (depending on funding).

Progress to date

9. The scale of the 2014 Survey, and the development of the indicators and collection of qualitative information depends on voluntary contributions. The PWB assigns an initial budget of EUR 500 000 for the project, dependant on voluntary contributions covering: the design of questions, the collection of data, expert assessments, peer-reviews, data analysis and the presentation and dissemination of results. A project plan was presented during the RPC in November 2012 [GOV/RPC/RD(2012)3].

10. The first steps of the 2014 Survey have been completed, which include the first round of fundraising, and discussions among delegates on the implementation of the Recommendation and how to benchmark progress over time during the 5th Expert Workshop on Measuring Regulatory Performance in Stockholm in June 2013. The Secretariat drafted workshop proceedings [GOV/RPC/MRP(2013)1] which were circulated to workshop participants and subsequently revised. The Secretariat then identified a list of key practices in implementing the Recommendation based on the discussions in Stockholm (Annex 2).

11. However, only a small percentage of the necessary funding has so far been secured. Given the high priority assigned to the project by the RPC, and the project's adoption within the PWB, it will be carried out but as a result there are a number of significant resource restraints (e.g. staff time that can be spent on the project), and it has become necessary to limit the scope of the project and to adopt an adjusted timeline (see below).

Updated project plan and timeline

12. The new project plan limits the 2014 Survey to a self-assessment questionnaire of government officials, with focus on three principles: regulatory impact assessment, consultation and *ex post* evaluation. Moreover, the updated project plan will not include any expert assessments of countries nor international peer-review of results, as originally foreseen.

13. This decision to focus on the three principles described above does not imply that any of the principles of the Recommendations are not important; and the questionnaire will be designed to include some questions related to all of the principles in the Recommendation. It is however necessary to limit the scope of the questionnaire and these three principles are the areas where the OECD already has some experience at collecting and processing information on. They are also areas where it is more straightforward to design closed answer questions. The new survey will allow countries to submit examples and case studies but most questions will be in a closed answer format as processing multiple qualitative answers from 34 countries is very difficult and time consuming.

14. The current plan is that in subsequent years the scope of the survey will be extended, in order to ask more detailed questions on the other principles of the Recommendation.

15. The new project plan foresees the development of a draft questionnaire in the first quarter of 2014, based on the list of key practices developed by the OECD Secretariat on the basis of the discussions in Stockholm in June 2013 (**Annex 2**). Following the comments and advice received from RPC delegates, the OECD secretariat will draft the questions to be included in the 2014 Survey and discuss and revise them in consultation with the Steering Group on Measuring Regulatory Performance. The survey will be subsequently piloted and distributed to government officials in May 2014. The results will be discussed at the RPC in November 2015. Publication and communication of results in the Regulatory Policy Outlook will take place at the beginning of 2015. The full timeline is presented in **Annex 1**.

Funding

16. The Secretariat would like to thank Norway and BIAC for their offers of financial support for this project, and welcomes additional contribution from member countries and other partners, which would enable the Secretariat to improve the quality of data and collect and analyse qualitative information. Any additional resources will be invested in the following activities:

- Question design – Additional funding would allow the Secretariat to devote more time to question design and piloting. For example OECD staff would consult with delegates, so that potentially unclear questions could be identified at an early stage.
- Allowing open ended questions and enabling the collection of qualitative and contextual information – Open ended questions allow much fuller and more detailed answers, but recording and analysing qualitative answers for 34 countries is a time-consuming practice. Given the limited time and resources available we are currently restricted to close ended questions that can automatically be converted into statistical data. Moreover, with additional funding the Secretariat would be able to gather more in-depth good practice examples.

- Data collection – More funding would be used by the Secretariat to contact countries if the information submitted by them is incomplete or unclear.
- Expert assessments – With the current level of funding no expert assessments are possible. However, an independent assessment of countries' answers is essential to ensure the validity of data. Moreover, experts would provide greater depth and more information on the actual implementation of regulatory policy based on local knowledge.
- Peer reviews – Given the financial constraints no peer reviews are foreseen. Substantial additional funding would be devoted to an international peer exercise drawing on the network of the Regulatory Policy Committee to validate, challenge and confirm results.

Actions for Delegates

17. **Annex 1** displays the revised project plan milestones and dates. Delegates are asked to note the new timeline.

18. Delegates are invited to comment on the draft list of key practices for inclusion in the survey by November 29 (**Annex 2**). It is a frequent request from member countries that the OECD questionnaires are neither too long, nor overly complex to complete. Delegates are therefore invited to consider the following questions when commenting on practices to be assessed:

- Is this practice in line with the aspirations of the Recommendation?
- Can it be realistically assessed through closed questions? (It would be good if delegates can provide examples.)
- Is measuring this practice a high priority? E.g. is this practice essential for complying with the Recommendation?

19. Delegates are welcome to join the Steering Group on Measuring Regulatory Performance to provide advice on the project over the next year. Please contact the Secretariat for further information.

Contacts

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ANNEX 1. UPDATED TIMELINE

Stage 1 June – September 2013	<ul style="list-style-type: none"> • Workshop in Stockholm to identify key practices to assess progress in the implementation of the Recommendation, with break-out groups on assessing specific principles • Circulation Workshop Proceedings for comments
Stage 2 October – November 2013	<ul style="list-style-type: none"> • Revised project timeline • List of country practices to be assessed • Publication Workshop Proceedings • Meeting of the Steering Group on Measuring Regulatory Performance annex to the RPC to discuss the list of country practices • Consultation with stakeholders including business groups and employees associations through the participation of BIAC and TUAC in the RPC
Stage 3 December 2013 – February 2014	<ul style="list-style-type: none"> • Design of survey questions to assess countries' progress in implementing the principles in the Recommendation over time and to provide input for the Regulatory Policy Outlook. The survey will focus on key practices identified in Stockholm and not cover all elements in the Recommendation. • Identification of experts with local knowledge for the expert assessments and design of expert assessments (depending on funding)
Stage 4 March – May 2014	<ul style="list-style-type: none"> • Discussion of survey questions with the Steering Group on Measuring Regulatory Performance and with OECD Horizontal Network on Measuring Regulatory Performance • 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 5 May – June 2014	<ul style="list-style-type: none"> • Run the survey with government officials • 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 (depending on funding) • Workshop to discuss methodological issues and clarify questions in key areas

<p>Stage 6 July – November 2014</p>	<ul style="list-style-type: none"> • Undertake in-house data quality checks and clean the data (depth depends on funding) • Build a peer reviewer network and undertake a transparent peer review process providing delegates the opportunity to comment on and correct survey answers (depending on funding) • Discussion of survey results at the RPC • Consultation on preliminary results with stakeholders including business groups and employees associations through the participation of BIAC and TUAC in the RPC
<p>Stage 7 December 2014 –March 2015</p>	<ul style="list-style-type: none"> • Analysis and review of findings in contemporary policy context • Identification of latest developments in data platforms to store and disseminate results (depending on funding) • 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

ANNEX 2. KEY PRACTICES IDENTIFIED IN STOCKHOLM FOR DRAFTING SURVEY QUESTIONS ON THE IMPLEMENTATION OF THE RECOMMENDATION

Principle	Practices
1 <i>(government policy)</i>	<ul style="list-style-type: none"> • Existence of a published whole of government policy following the Recommendation • Identification of ministerial accountability • Annual Reporting against the policy
2 <i>(transparency and consultation)</i>	<ul style="list-style-type: none"> • Enforceable government-wide published policy on active stakeholder engagement in developing and reviewing regulation accompanied by mandatory guidelines • Public consultation before legislation is drafted through a green paper/ legislative intent/consultation document • Mandatory consultation on RIAs and using RIAs as part of consultation (link to Principle 4) • Existence of a monitoring and review system for consultation (link to Principle 6) • Sufficient consultation periods (minimum periods) • Forward planning • Easy access to regulation using user-friendly tools
3 <i>(regulatory oversight)</i>	<ul style="list-style-type: none"> • Existence of a standing body close to the centre of government which provides oversight of the quality of the preparation of RIAs with the following functions: • Provides guidance on economic and social policy impact analysis • Independence with respect to its technical assessment to provide a negative opinion and return the regulatory draft proposals for more work if it is inadequate • Be embedded in the decision making process

Principle	Practices
<p>4 (<i>regulatory impact assessments</i>)</p>	<ul style="list-style-type: none"> • Integrated RIA mandatory for all significant laws and subordinate regulations through a clear administrative mandate • RIA before starting to draft legislation • Ministerial and/or agency sign-off on RIA • Requirement to quantify costs and benefits • Requirement that RIA should aim to identify that regulatory responses are targeted and proportionate to the nature and extent of the problem that the regulation is intended to address • Public consultation on draft RIA and publication of RIA (link to Principle 2) • Preference for non-regulatory approaches and the efficient use of markets, where appropriate, including an examination for the do nothing option • Required to pass scrutiny by an oversight body with a right to comment on and return drafts for which the analysis is not adequate (link to Principle 3) • “Fail safe” process for post-implementation review of regulations without adequate RIAs • Provision of training and capacity building for agencies conducting the RIA process (link to Principle 3) • Includes a risk assessment for significant regulatory proposals • Clear forward planning for policy initiatives where regulatory responses are likely to be required and procedures for public engagement (link to Principle 2)
<p>5 (<i>review of existing stock of regulations</i>)</p>	<ul style="list-style-type: none"> • Periodic stock takes focusing e.g. on compliance costs and anti-competitive regulation to identify regulatory reforms and areas that require more in- –depth review • In-depth reviews or programme reviews • For any type of review, it should be assessed whether underlying policy goals of regulation have been achieved • Assess regulatory coherence and the impact of regulations in combination with other policy tools Sunset mechanisms • Standing capacity to regularly undertake reviews and criteria for selecting policy areas • Effective consultation and pro-active engagement with end-users of regulation (link to Principle 2)
<p>6 (<i>performance reports</i>)</p>	<ul style="list-style-type: none"> • Publication of performance reports covering all important program elements including RIA, <i>ex post</i> evaluation, admin burden reduction, performance of regulators, consultation, transparency and inclusiveness (link to Principles 2, 4, 5, 7) • Reporting to parliament, cabinet and the public • Data collection strategies put in place • Regular publication of performance reports • Also external review (e.g. by audit office)

Principle	Practices
7 <i>(consistency and coordination of regulatory agencies)</i>	<ul style="list-style-type: none"> • Public register clearly identifying all regulatory agencies including their regulatory competences • Overarching published policy document on the framework, structure, governance and functioning of regulatory agencies. • Requirement to consult with regulatory agencies for draft legislation concerning their area (Principle 2) • Coordination: vertically between different levels of government and horizontally, e.g. through co-operation between regulatory agencies across regulatory domains. • Requirement to provide data on regulatory compliance to policy makers as an input for drafting and revising regulation • Accountability and performance reporting of regulators (annual, to government/parliament/shareholders)
8 <i>(systems of review of the legality of regulations)</i>	<ul style="list-style-type: none"> • Should be clear how entities affected by regulatory decisions can resolve disputes with regulatory authorities and can appeal the decisions of a regulatory authority to a court or higher authority • Do such mechanisms exist? • Knowledge about and access to the mechanisms
9 <i>(risk assessment)</i>	<ul style="list-style-type: none"> • Risk assessment of significant regulatory proposals (link to Principle 4) • Guidelines for risk assessment
10 and 11 <i>(coherence across all levels of government & improve performance at sub-national levels)</i>	<ul style="list-style-type: none"> • Effective and inclusive standing co-ordination mechanisms between national and sub-national governments or municipalities (depending on the federal or unitary model of government) including a focus on improving the design and delivery of regulatory services • Benchmarking of performance of regulatory management systems • Common administrative procedures, e.g. reflected in one stop shops which integrate the experience of dealing with regulation in different jurisdictions for business and citizens
12 <i>(international standards)</i>	<ul style="list-style-type: none"> • In developing regulation, systematically consider international standards and document the rationale for departing from them in the RIA process (link to Principle 4) • Open consultation to foreign parties (link to Principle 2) • Embed consistency with international standards as a key principle driving the review process in ex-post evaluation (Principle 5) • Co-ordination mechanism in government on IRC activities to centralise relevant information on IRC practices and activities and to build a consensus and common language