

Regulatory reform

TOWARDS A WHOLE-OF-GOVERNMENT APPROACH TO QUALITY REGULATION

- ▶ Strengthening regulation could help Brazil to raise living standards and well-being.
- ▶ While Brazil has many good regulatory practices (GRPs) in place, these could be applied more consistently and systematically across the whole government.
- ▶ More independence of regulatory agencies and clear limits for political appointments in these agencies could allow Brazil to build on its efforts to create clear, transparent and stable regulatory frameworks.
- ▶ In addition, Brazil would benefit from embedding international regulatory co-operation practices into the process of preparing new rules or revising existing ones.

What's the issue?

Brazil faces significant challenges to improve the quality of its regulation. According to the OECD Product Market Regulation indicator, Brazil's regulatory framework is less conducive to competition than the OECD average. The 2008 OECD Review of Regulatory Reform of Brazil prompted the country to adopt several tools such as impact assessment and stakeholder engagement. However, despite progress, the implementation of such tools lags behind countries in the region, largely due to the heterogeneity in practices across the administration (see Figure). While many GRPs are in place, there is a need to expand their use and ensure their consistent implementation across the whole government.

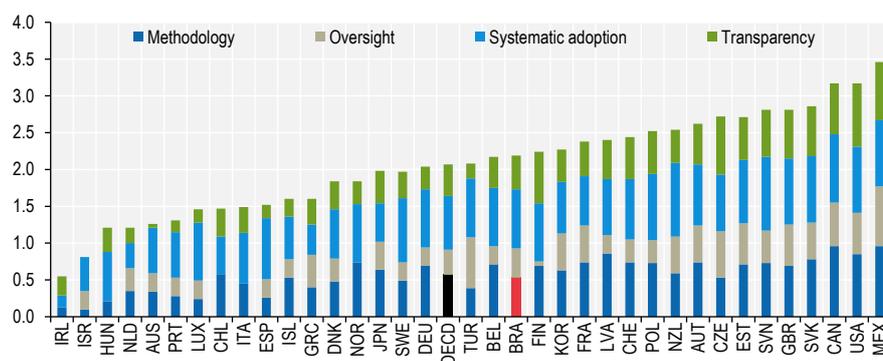
Brazil's regulatory agencies have led the development of GRPs and in general show advanced technical capacity and methodical use of regulatory management tools.

Several agencies have made progress in launching regulatory impact assessments before changing existing regulation. This has proven a useful to increase competition across OECD countries. Recognising and harnessing the experience and expertise of regulatory agencies in developing and implementing GRPs will be key to mainstreaming the use of these tools in the entire government.

Brazil would also benefit from strengthening the autonomy of regulators, both from governmental political interference and from the interests of regulated firms. This includes further limiting the scope for political appointments. Empirical research suggests that political appointments are associated with lower agency capacity and also the bureaucracy's ability to effectively combat corruption. Establishing fixed terms for key agency

Brazil lags behind other countries in terms of stakeholder engagement in regulatory reform

Stakeholder engagement in developing subordinate regulation, score from 0 (worst performance) to 4 (best performance), 2015 or latest available year



Source: Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016 & iREG 2015 (www.oecd.org/gov/regulatory-policy/indicators-regulatory-policy-and-governance.htm).

officials of at least 5 years and restricting the take-up of jobs in the regulated industry after their term of office would support this independence.

Against the background of an increasingly interconnected world, bringing a broader consideration of the international context into Brazil's domestic rule-making is also crucial. Challenges have become increasingly global in nature, whether they pertain to systemic risks (financial markets), the environment (air or water pollution), human health and safety or the activity of multinational enterprises (investment and competition). Diverging regulatory requirements may create uncertainty in the protection of citizens and consumers and unnecessary costs for businesses. International regulatory cooperation can reduce these unnecessary costs, while helping to maintain fair market rules and preserving the necessary levels of protection.

Why is this important for Brazil?

Regulations are essentially the rules of the game for any social or economic activity. The search for a regulatory framework that contains quality regulations, understood as regulations that meet legitimate public policy objectives without establishing unnecessary costs to businesses and citizens, should be part of the agenda of any government. Clear, transparent and stable legal and regulatory frameworks can strengthen investment by reducing legal risks, which can be a strong deterrent for investors given the limited possibilities for insuring against such risks. Quality regulations also have the potential to promote innovation, entry into new markets, the adoption of international standards and increase competition, while at the same time meeting the objectives of protecting the environment, consumers and workers. All this contributes to the increase of productivity and inclusive growth. OECD estimates show that lowering regulatory barriers to competition in line with best practice could increase GDP by almost 10% on average in the long term. The benefits can be greater in economies such as Brazil where regulation is more restrictive.



Further reading

OECD (2015), *OECD Regulatory Policy Outlook 2015*, OECD Publishing. <http://dx.doi.org/10.1787/9789264238770-en>

OECD (2014), *The Governance of Regulators*, OECD Publishing. <http://dx.doi.org/10.1787/9789264209015-en>

OECD (2013), *International Regulatory Co-operation: Addressing Global Challenges*, OECD Publishing. <http://dx.doi.org/10.1787/9789264200463-en>

OECD (2012), *Recommendation of the Council on Regulatory Policy and Governance*, OECD Publishing. <http://dx.doi.org/10.1787/9789264209022-en>

What should policy makers do?

- ▶ More systematically use ex ante regulatory impact assessments, ex post evaluation and public consultation across the administration.
- ▶ Strengthen the independence of regulatory agencies and build on their experience in mainstreaming GRPs.
- ▶ In order to support Brazil's integration to global markets, establish a system to check international norms and standards in the process of rule-making or revision of existing regulations.
- ▶ Consider screening their laws and regulations to identify unnecessary regulatory barriers to competition, and amend laws and regulations to minimise such barriers.
- ▶ Participate actively in bilateral, regional and global fora for regulatory co-operation to work towards common policy approaches to challenges shared with foreign peers.

