



Better regulation in Latin America as a fundamental mechanism to face the crisis and accelerate recovery

Updated 15 May 2020

Emergencies place governments in scenarios that are complex and difficult-to-manage. The diversity of challenges — economic, environmental, health related, etc. — and variables at stake make the preparation and adaptation of public policies based on evidence of utmost importance. Managing these circumstances, following criteria of quality, transparency and integrity, in the issuance and revisions of regulations, can help alleviate the negative, prolonged and severe impacts of a crisis, especially in the most vulnerable populations.

The world is currently facing one of the greatest crises in modern history with the spread of the COVID-19 virus. This is a situation that requires tools on regulatory improvement that allow governments to act efficiently and flexibly to reduce the risks to which we are exposed.

SUPPORTING PEOPLE AND COMPANIES TO DEAL WITH THE COVID 19 VIRUS © OECD 2020



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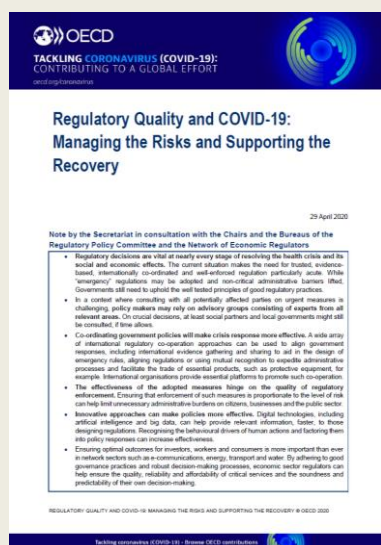
An important part of the OECD's work is to help governments deal with complex situations in a changing and challenging environment. Below are some strategies that the OECD promotes in terms of regulatory improvement, not only for managing challenging situations like the current one, but also for the effort that recovery from the crisis will entail.

How to regulate in emergency situations?

In an emergency situation, governments face an important challenge: to act effectively, without neglecting other risks. This may include the ability to issue new regulations expeditiously or adapt existing ones, in order to deal with the emergency. However, it is necessary that the issuance of regulations, even in situations such as the current one, adhere to principles of evidence and transparency. The process of regulating in emergency situations should not be without quality controls. Regulatory changes in an emergency must have a clear institutional framework that provides certainty, and the process of modification or issuance must be evidence-based and transparent. Likewise, once the emergency is over, the new regulation should be evaluated to eliminate it if it has already fulfilled its underlying objective, or modify it, so that it works effectively to promote economic recovery.

The OECD principles and recommendations on regulatory policy and governance can assist Latin American governments in the design and implementation of regulatory policy tools that allow regulating effective in emergency and recovery situations

Featured publication: *Regulatory Quality and COVID-19: managing the risks and supporting the recovery* <https://oe.cd/il/2-C>



Resolving the health crisis and the ensuing economic and social predicament involves regulatory decisions at nearly every stage and in nearly every area. Regulation affects the availability of tools and products to identify and fight the disease (tests, products and devices). The current situation makes the need for trusted, evidence-based, internationally co-ordinated and well-enforced regulation particularly acute. Without it, potential consequences include the collapse of healthcare facilities. Beyond the immediate crisis response, regulatory issues are also at the heart of economic and social recovery, as well as better preparedness for future crises.



What are the benefits of implementing simple and on-line formalities and services?

The current emergency has highlighted the importance of taking advantage of information technologies, mainly in facilitating the provision of government services. The lag in the digital government that exists in Latin American countries cannot remain. Governments must move quickly to offer simple and online government formalities and services: from obtaining information about government supports to vulnerable groups, allowing sending applications for enrolment to these programs through a smartphone application, and even carrying out online procedures to start a business. The agility of the government to respond to the needs of the population in times of crisis and in time of recovery will generate confidence in citizens, in addition to allowing social and economic normality to be achieved more quickly.

The OECD assists Latin American governments in the reengineering of processes and administrative simplification, to offer simpler, more accessible and 100% on-line procedures and services.

Featured publication: *Guide to Improve the Regulatory Quality of State and Municipal Formalities and Strengthen Mexico's Competitiveness:* <https://oe.cd/300>

This Guide provides concrete recommendations of high impact reforms that can be implemented in the short term. The focus is on formalities dealing with business start up, obtaining a construction permit, registering property, procurement, and upgrading regulatory transparency and efficiency in the management of formalities. It aims at simplifying these processes and reducing regulatory burdens for citizens, advancing the competitiveness of Mexico's states and municipalities.



Featured example: Merida and the OECD showcase successful practices to boost competitiveness and regulatory governance at local level <https://oe.cd/2Zw>

How can a government know if its regulatory decisions are correct?

Governments are constantly asking themselves what they can do to find out if the decisions they make on a daily basis are the right ones, as well as how to solve urgent and long-term problems. To help in this difficult task, the OECD promotes the use of tools focused on making governments more knowledgeable about the possible impacts that their decisions generate, as well as reducing the risk of observing unexpected results. One of the most important tools, and one that has generated very good results among OECD countries, is the Regulatory Impact Analysis. This tool helps institutions become more aware of the benefits and impacts that their decisions can generate, which is essential in making hasty decisions in times of crisis or recovery, to ensure that they are the appropriate measures.



The OECD supports regulatory agencies and bodies, ministries and secretariats and national governments in Latin America to implement the Regulatory Impact Analysis.

Featured publication: *OECD Best Practice Principles for Regulatory Policy: Regulatory Impact*

Assessment: <https://oe.cd/2Zt>

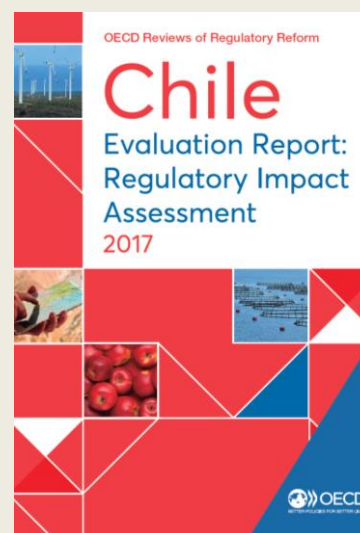


When designing a policy, law, regulation or other type of “rule”, governments should always consider its likely effects. Regulatory Impact Assessment (RIA) provides crucial information to decision-makers on whether and how to regulate to achieve public policy goals. RIA examines the impacts and consequences of a range of alternative options. RIA also helps policy makers defend a decision not to intervene in markets where the costs of doing so outweigh the benefits. The Principles cover a wide range of institutional organisations, tools and practices and present a list of critical steps as well as “dos and don’ts” for developing RIA frameworks.

Featured example: *Chile, Evaluation Report: Regulatory Impact Assessment:* <https://oe.cd/ChileRIA>

Following the 2016 *OECD Regulatory Policy Review of Chile*, which stems from the National Agenda for Productivity, Innovation and Growth, the government of Chile issued Presidential Instructive No. 2 in March 2017 introducing the mandate to carry out regulatory impact assessments when ministries of the economic area submit a draft bill to Congress. The productivity impact assessment of the draft bill is part of the requirements that ministries submit to the Ministry of the Presidency before presenting it to Congress.

The OECD was asked by the Ministry of Economy, Development, and Tourism of Chile to assess the current institutional arrangement and practices and further recommend next steps that support the Chilean Government to reap the benefits of embedding an *ex ante* control mechanism for the rule-making process. Accordingly, the evaluation report focuses on presenting recommendations that improve the current state of play in the short term.



How do governments benefit from listening to their citizens and entrepreneurs?

Increasingly, citizens have access to the information generated by governments, and they participate directly or indirectly in the public life of the country by expressing opinions through social networks, surveys, consultations, etc. Public consultations are an indispensable tool for governments to obtain information and make decisions on how to solve problems, how to distribute resources or decide on projects. Listening to the opinion of the groups that make up society - citizens, small business owners, organizations, entrepreneurs - is as important for the Government in times of crisis as it is in times of recovery.

The OECD has extensive experience in applying methodologies for conducting public consultations, in order to implement them as valuable, transparent and inclusive instruments that can contribute to improving the lives of citizens.

Featured publication: *Recommendation of the Council on Regulatory Policy and Governance on open government, including transparency and participation in the regulatory process:* <https://oe.cd/302>



The OECD Recommendation of the Council on Regulatory Policy and Governance states in its second numeral that countries should:

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.

Featured example: Capacity building workshop in impact assessment and consultation in Costa Rica <https://oe.cd/ConCR>

How can a government know how, when and who to inspect?

In order to achieve public policy goals (e.g. greater employment, better environment, greater creation of companies), the participation of public institutions and regulated subjects is required. In this context, inspections and regulatory enforcement play a preponderant role, as they are necessary elements to increase the benefits of regulation and reduce the negative effects of some economic activities. Inspections are not the only alternative to promote compliance and should not be used as an instrument of punishment. Given that governments do not have the resources to inspect all regulated subjects, in times of crisis and recovery, special emphasis should be placed on having an adequate strategy to for effective regulatory enforcement.



The OECD can contribute to the improvement of inspection and inspection systems in Latin American governments so that they are a tool effective for regulatory enforcement, and thus contribute to greater effectiveness of government functions.

Featured publication: *OECD Regulatory Enforcement and Inspections Toolkit*. <https://oe.cd/304>

How regulations are implemented and enforced, and how compliance is ensured and promoted, are critical determinants of whether a regulatory system is working as intended. Inspections are one of the most important ways to enforce regulations and to ensure regulatory compliance. Based on the *2014 OECD Best Practice Principles for Regulatory Enforcement and Inspection*, this Toolkit offers government officials, regulators, stakeholders and experts a simple tool for assessing the inspection and enforcement system in a given jurisdiction, institution or structure. Its checklist of 12 criteria can be used to identify strengths and weaknesses, gauge actual performance, and pinpoint areas for improvement.



Featured example: *Regulatory enforcement and inspections in the environmental sector of Peru*. <https://oe.cd/il/2Zy>



To meet their policy objectives, regulations must be accompanied by a carefully designed and well-implemented enforcement strategy, including inspections. This report provides an assessment of the enforcement and inspections strategy in the environmental sector in Peru along with recommendations to strengthen this strategy. The report evaluates the policies and legal framework of the Environmental Evaluation and Enforcement Agency of Peru, as well as its practices and the resources employed in enforcement and inspections activities. It also offers policy options to improve performance. The benchmark for the comparative analysis is the OECD Regulatory Enforcement and Inspections Toolkit.

How can governments, ministries or agencies learn from their international peers and regulate better?

The escalation of the COVID-19 crisis into a global pandemic highlights the vulnerabilities resulting from a globalised and interdependent world. Collective action across policy fronts is essential to tackle such transboundary challenges in the short and long-term. However, many countries' initial policy responses to the pandemic have been uncoordinated. While justified to account for different national realities and



various stages of the epidemics, differences in regulatory approaches often stem from inadequate consideration for the international environment and result in ineffective policy intervention, undue costs to trade, and delays and even shortages in access to essential goods. International regulatory co-operation (IRC) can help manage cross-border risks, promote work-sharing and pooling of resources across government for effective regulatory responses, and reduce costs of production and increased trade of essential goods. The current crisis has highlighted a number of areas where IRC can promote effective regulatory responses and deliver lessons for further collective action.

The OECD helps Latin American countries to identify strategies to boost their IRC activities for a more effective regulatory framework.

Featured publication: *International Regulatory Co-operation - Adapting rules to an interconnected world*: <http://www.oecd.org/gov/regulatory-policy/irc.htm>

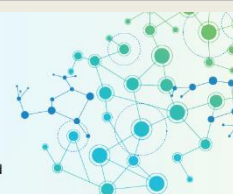
Tackling the complex, interconnected and rapidly changing policy challenges requires international regulatory cooperation (IRC). Experience shows that we cannot manage transboundary challenges and promote global public goods through individual action. This is compounded by new technologies, including digitalization, that pay no regard to national or jurisdictional boundaries and drastically increase the intensity of cross-border flows and transactions. IRC plays a strong role to “harness” and create common rules of globalisation. Surprisingly, however, this potential remains largely untapped. The OECD Regulatory Policy Committee has built a wealth of knowledge to shed light on the types of challenges requiring IRC and the variety of co-operation approaches.

International Regulatory Co-operation

Adapting rulemaking for an interconnected world

Policy Brief, October 2018

OECD Regulatory Policy Division



Laws and regulations are pervasive to all areas of life for businesses and citizens. They are an essential part of the policy making at national level. Yet, laws and regulations often have only domestic reach, while many of today's most pressing policy challenges transcend national borders. This mismatch jeopardises the ability of states to fully achieve their public policy objectives and to ensure the well-being of their citizens.

This policy brief:

- 1) outlines the main reasons for cooperating on laws and regulations;
- 2) identifies how domestic regulators can cooperate; and
- 3) considers how international rule-makers can improve their activity.

Featured publication: *Review of International Regulatory Co-operation of Mexico*: <https://oe.cd/307>

Review of International Regulatory Co-operation of Mexico



This report provides the first OECD assessment of a country's IRC framework and practices. Mexico's active efforts to embrace globalisation are reflected in many aspects of its domestic policies, practices and institutions. Based on the overview of Mexico's practices and comparison with other OECD countries, the review recommends three areas for improvement: designing a horizontal government-wide strategy for IRC, enhancing information about the tools and benefits of IRC, and offering the necessary tools to support systematic implementation of IRC.



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The OECD is compiling data, information, analysis and recommendations regarding the health, economic, financial and societal challenges posed by the impact of Coronavirus (COVID-19). Please visit our [dedicated page](#) for a full suite of coronavirus-related information.

More information in Regulatory Policy, you can find it here, <https://oe.cd/regpol> including this note.

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