

KEY FINDINGS AND CONFERENCE PROCEEDINGS



9th **OECD CONFERENCE** LISBON 20-21 JUNE
MEASURING REGULATORY PERFORMANCE
Closing the regulatory cycle: effective *ex post* evaluation for improved policy outcomes

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Key findings and conclusions

1. The stock of laws and regulations has grown rapidly in most countries. However not all regulations will have been rigorously assessed, and even where they have, not all effects can be known with certainty in advance. Moreover, many of the features of an economy or society of relevance to particular regulations will change over time. The *OECD Recommendation on Regulatory Policy and Governance* (2012) therefore calls on governments to “[c]onduct 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.”
2. The *OECD Regulatory Policy Outlook 2015* found that the use of evidence and analysis in the regulatory process has to date mostly involved *ex ante* assessments. Given that the stock of regulation is much larger than the incremental flow, there is large potential for improving the existing regulatory framework through more systematic *ex post* evaluations of regulations.
3. The 9th OECD Conference on Measuring Regulatory Performance was concerned with the appropriate institutions and processes to effectively implement *ex post* evaluation. Discussions focussed on institutionalising *ex post* evaluation as an integral part of the regulatory cycle, the results of which feed back into the regulatory process itself.
4. The following considerations emerged from the discussions as central to the effective implementation of *ex post* regulatory reviews:
 - *Ex post* reviews need to go beyond a “costing exercise” to focus on whether the regulation’s underlying policy objectives have been achieved. In addition, evaluations should take into account any side-effects of regulations and include a consideration of possibly better alternatives.
 - A mix of different approaches to evaluation will generally be required, depending on the context, including reviews of regulations triggered by “sunsetting” clauses and statutory requirements, and ad hoc reviews. Comprehensive in-depth reviews or programme reviews that look at the mix of regulations and policy instruments in certain policy areas or sectors can identify options for more broad-ranging reforms. Evaluations triggered by “sunsetting” clauses or automatic review requirements might also be usefully packaged if they address similar or overlapping issues. Finally, ongoing ‘management’ of regulations, e.g. through stock-flow linkage rules or red tape reduction targets, can achieve significant reductions in administrative burdens
 - Evaluations that are built into the regulatory regime from the outset create a coherent link between *ex ante* and *ex post* evaluation to support evidence-based policy making throughout the regulatory cycle. This approach can ensure the setting of clear objectives and enables the early identification of an appropriate methodology and data needs.
 - While there is no “one-size-fits-all” institutional setting for *ex post* evaluation, independent bodies can play a key role in conducting reviews and providing

oversight of evaluations. The more ‘sensitive’ the regulatory area, and the more significant its impacts, the stronger the case for an ‘arm’s length’ review process. Less critical evaluations will normally be conducted by line ministries and agencies themselves. These can also benefit from some form of independent quality control. Regulatory reviews should not be carried out in isolation but pay attention to previous evaluations prepared by other institutions, including parliament and independent bodies.

- Consultation with stakeholders is crucial to make sure evaluations are targeted appropriately and can be informed by the real-world impact of regulations. Consultation with stakeholders also helps ensure recommendations for improvement are practical and user-centred. At the same time, those responsible for evaluation need to account for the diversity of knowledge, resources and level of organisation of different stakeholder groups.
- Getting the timing of evaluations right can greatly increase the impact of resulting recommendations within the policy-making process. Depending on the political system, an evaluation conducted at a time when parliament plans a new legislative initiative in a related policy area may have more impact than one conducted during an election campaign when results face a greater risk of becoming politicised. Evaluations may also help inform party programmes or coalition agreements when published at the right time.
- The existence of stock-flow linkage rules such as ‘one-in x-out’ can provide an incentive and discipline for keeping regulatory costs in check. To be effective, such regimes should motivate proper evaluation of existing regulations proposed for removal including assessments against their objectives and broader public policy objectives.
- In order to ensure the quality of *ex post* evaluations, governments need to invest in the required skills and capacities within the public sector. A number of academic disciplines are potentially needed, depending on the area of regulation being reviewed, but the key skills in common relate to the identification and measurement of impacts, whether social, environmental or economic.

Conference proceedings

Introduction

5. The 9th OECD Conference on Measuring Regulatory Performance, held in Lisbon on 20-21 June 2017, brought together more than 80 participants from 22 countries to identify appropriate institutions and processes to close the regulatory cycle through effective *ex post* evaluation. Participants included Delegates to the OECD Regulatory Policy Committee (RPC) from member and partner countries, representatives from the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC), academics and experts as well as OECD officials. The conference was chaired by Luiz de Mello, Deputy Director, OECD Public Governance Directorate, (opening conference, 20 June) and Gary Banks, Chair of the OECD Regulatory Policy Committee (closed-door workshop, 20-21 June).

6. The conference aimed to identify the appropriate institutions and processes needed to effectively implement *ex post* evaluation. Discussions focussed on institutionalising *ex post* evaluation to feed back into the regulatory process, involving stakeholders for a targeted approach and developing a comprehensive view on evaluation across policy instruments. The outcomes of the discussions will support key OECD work, such as the *OECD Best Practice Principles on ex ante and ex post evaluation of regulations*, and the *Regulatory Policy Outlook* series.

7. Maria Manuel Leitão Marques, *Minister of the Presidency and Administrative Modernization, Portugal*, opened the conference with a keynote speech on administrative modernisation. Subsequently, Gary Banks, *Chair of the OECD Regulatory Policy Committee*, shared his reflections on the purposes and challenges of effective *ex post* evaluation. His intervention was followed by Manuel Cabugueira, *Head of the Legislative Impact Evaluation Unit, Presidency of the Council of Ministers, Portugal*, on “Evaluation methods for improved policy outcomes”. A panel discussion with experts and representatives from OECD countries as well as BIAC and TUAC, which was moderated by Luiz de Mello, *Deputy Director of Public Governance, OECD*, concluded the opening conference. In a closed-door workshop, conducted under the Chatham House Rule, OECD Delegates and experts worked together to identify appropriate processes and institutions to implement effective *ex post* evaluation.

Keynote speech on administrative modernisation

Maria Manuel Leitão Marques, *Minister of the Presidency and Administrative Modernization, Portugal*

8. In her keynote speech, Minister Leitão Marques outlined the goals and means of the Portuguese administrative modernisation strategy, in particular *Simplex +*, the Government’s flagship simplification programme, which is currently being evaluated and relaunched. One of the strategy’s main objectives is to promote better and smarter

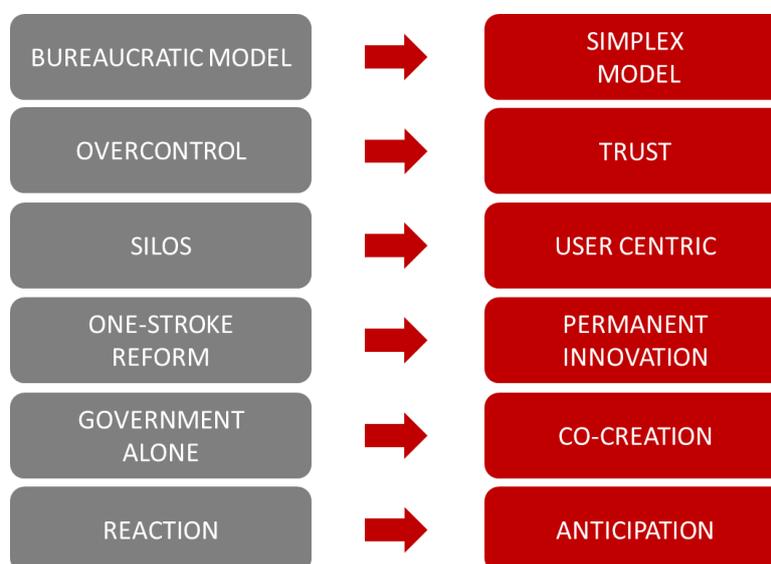
regulations and to reduce administrative burdens. To this end, the Portuguese Government has undertaken efforts to reduce the number of existing laws and regulations and to keep the flow of new regulations in check. The new impact assessment framework *How much does it cost?* (“Custa quanto?”) provides for a systematic assessment of compliance costs of new regulatory proposals. Two fixed commencement dates for new rules to enter into force strengthen the stability of the regulatory framework and give stakeholders time to adapt to new compliance obligations. Furthermore, all decree-laws have to be approved together with all necessary complementary regulation so as to avoid gaps and uncertainty. Finally, in an attempt to simplify access to legislation, authorities have taken measures to clarify regulation and facilitate compliance, for instance through plain language abstracts for all new laws.

9. The second goal of the Portuguese modernisation strategy is to increase public service efficiency and quality through shared services. This objective is being pursued by a comprehensive ICT strategy where spending is reduced by sharing capacities (e.g. telecommunication networks) and making use of new technologies. In addition, the network of citizen one-stop shops is being extended in close cooperation with municipalities.

10. The modernisation agenda also involves the promotion of innovation within the public sector in order to achieve better results with less work and in cooperation with citizens. For that purpose, the Government has put in place *LabX*, which serves as an experimentation space for the public administration to test prototypes and try new solutions before scaling them up in size.

11. Finally, the administrative modernisation process in Portugal also aims at engaging citizens through participatory democracy. A prominent example of this drive is the use of “Participatory Budget Portugal”, the first nationwide participatory budgeting of the world, according to research performed by the Portuguese government, where citizens can decide on the allocation of a part of the state budget on public investments. This approach has been used for the first time at the national level in 2017 with around 600 proposals citizens could vote for in areas such as culture, agriculture, adult training and science.

Figure 1. Paradigm shifts to support administrative modernisation



Source: Maria Manuel Leitão Marques, Minister of the Presidency and Administrative Modernization, Portugal (2017), Presentation on “Administrative Modernisation”.

12. In the ensuing discussions, the Minister emphasised the importance of involving public officials at all levels and the need for an open communication strategy. As change cannot be ‘decreed’ effectively in a top-down approach and might have potentially disruptive effects, all civil servants, not only managers and directors, should play a part in identifying priorities for modernisation and designing new services. Furthermore, open communication is needed to demonstrate tangible benefits from administrative modernisation for citizens. It also fosters transparency and accountability, which is key to the credibility of the process. Finally, administrative modernisation can only be successful if supported at the highest political level to bring about a cultural change whereby governments’ effectiveness is measured not by the number laws adopted but by their performance in achieving good regulatory outcomes.

Effective *ex post* evaluation: purpose and challenges

Gary Banks, *Chair of the OECD Regulatory Policy Committee*

13. Gary Banks, *Chair of the OECD Regulatory Policy Committee*, shared his reflections on the purposes of *ex post* evaluation of regulations and key challenges in establishing an effective system. *Ex post* evaluation is a vital tool to ensure the quality of the regulatory framework as all regulations may be considered ‘experimental’ and also may not be well designed or be subject to changing circumstances and thus pass their ‘use by date’. The gains from *ex post* reviews of regulations are potentially large as the stock of regulation is much greater than the flow. In addition, evaluation exercises can build trust and help sustain political support for regulatory reforms. Reviews of existing regulations also provide learning opportunities of benefit to future regulatory interventions.

14. The speaker identified a number of characteristics of an effective *ex post* evaluation system as an integral component of the regulatory cycle:

- *Comprehensive coverage over time* – no significant regulation should “fall between the cracks” even if reviews differ greatly depending on the nature and significance of the regulations concerned. (In some cases, regulations that are related or interactive may need to be looked at jointly to consider cumulative effects);
- *Targeted and proportionate* – in the face of budget constraints, evaluations should be targeted and proportionate in relation to the regulation’s impact and prioritise the areas with the highest potential net gains;
- *Timeliness of reviews* – getting the timing right can be crucial and there are multiple dimensions to consider. For example, where regulations are significant but lacked a rigorous *ex ante* evaluation (e.g. because of “crisis” circumstances) a review should take place within a shorter time frame – say two years. Where a regulatory issue is politically sensitive, a review would normally pose fewer risks if conducted early in the electoral cycle.
- *Effective consultation mechanisms* – no review can be effective without incorporating appropriate consultations with those affected or likely to be affected. The type and extent of consultation needs to be proportionate to the regulatory issues involved. But it is fundamental that all relevant parties have adequate opportunity to offer their views or evidence.
- *Independence where appropriate* – evaluations by bodies at arm’s length from regulators are particularly relevant in complex and politically sensitive areas of regulation
- *Institutionalised oversight* (including monitoring performance of the overall system) – is the glue that holds the system together.

15. A range of different approaches to undertaking *ex post* evaluations are available and can all play a useful role depending on the context and ideally would complement each other (Table 1),

16. In each case, the reviews should seek to address four key issues. First, they should establish whether the regulation is still *appropriate* and its rationale valid. (This may involve identifying a valid rationale if none has been stated during the design of the regulation.) Second, evaluations should assess the *effectiveness* of regulations at achieving their intended outcomes or whether they might even have perverse/negative effects. Third, reviews should also scrutinise the *efficiency* of regulations, i.e. if they are the most cost-effective solution to a given issue and whether there are any unintended consequences. Finally, evaluations need to give consideration to potential *alternatives*, regulatory or non-regulatory.

Table 1. Approaches to *ex post* evaluation

Programmed reviews	Ad hoc reviews	Ongoing ‘management’
<ul style="list-style-type: none"> • Sunsetting • Embedded in statute • Post-implementation reviews <ul style="list-style-type: none"> – Process failure – Catch-all 	<ul style="list-style-type: none"> • Public stocktakes • ‘Principles-based’ reviews • Benchmarking • ‘In-depth’ reviews 	<ul style="list-style-type: none"> • Stock-flow linkage rules <ul style="list-style-type: none"> – Budgets – ‘In-Out’/‘Offsets’ • Red-tape reduction targets

Source: Gary Banks (2017), Presentation on “Effective *ex post* evaluation: purpose and challenges”.

17. There are considerable challenges, both technical and political, in establishing an effective framework for *ex post* evaluation. Evidence has shown that OECD countries are less engaged in *ex post* than *ex ante* assessment. From a technical perspective, conducting and monitoring reviews requires skills that are often scarce within the public sector. Also, the quality of the data required for the analysis is often poor or sometimes not available at all. There are also political dimensions that can make it difficult to sustain an effective *ex post* evaluation system. In general, politics tends to favour a focus on creating *new* regulations rather than reviewing existing ones. Moreover, there is political risk involved for an incumbent government as a review might find that regulation did not achieve its objectives. Furthermore, beneficiaries of a regulation may oppose scrutiny in order to preserve the *status quo*. The effects of these political dynamics are especially strong if the regulations under scrutiny touch upon sensitive areas. Finally, there may also be resistance to change from within the administration.

18. The presentation identified several ways forward to overcome the challenges in implementing effective *ex post* evaluation: First, there are advantages in provision for *ex post* evaluation being built into the regulatory regime from the outset, i.e. before the regulation is adopted. Identifying appropriate review mechanisms and the required data to be collected should therefore be an integral part of RIA. Consideration should also be given to the use of “automatic” triggers such as “sunsetting” clauses. Also close attention to timing will in many cases pay dividends in the policy impact of evaluations. The political context can be particularly important, e.g. by avoiding major evaluations to be finalised in the middle of an electoral campaign. In addition, there is need to develop the necessary skills within the administration, rather than relying unduly on external consultants. And review “overload” can be reduced by identifying priorities and sequencing and spacing reviews so that governments and stakeholders have adequate time to react to and address their conclusions. Finally, the *ex post* evaluation system should be underpinned by appropriate oversight mechanisms that foster transparency and make sure due process is followed.

19. The following discussions focussed on the appropriate institutional responsibility for conducting *ex post* evaluation and, in particular, on the merits of evaluations being conducted by independent bodies. The speaker suggested that reviews touching on sensitive areas with significant impacts should desirably be conducted at arm’s length from the responsible agencies, while less critical reviews would normally be conducted by the regulators or policy departments themselves. In this case, there can still be benefits from obtaining independent perspectives on the quality of those reviews. The key to independence is forms of governance that can prevent undue influence on the reviewer.

Evaluation methods for improved policy outcomes

Manuel Cabugueira, *Head of the Legislative Impact Evaluation Unit, Presidency of the Council of Ministers, Portugal*

20. Manuel Cabugueira presented insights on evaluation methods for improved policy outcomes based on the recently adopted Portuguese impact assessment framework *How much does it cost?* (“Custa quanto?”). Adopted by Council of Ministers Resolution No. 44/2017 in March 2017, the new framework is being implemented as a pilot until the end of the year and will be evaluated in early 2018.

21. The new legislative impact assessment aims at supporting the political decision-making process and thus contributing to the quality of regulations. It provides for a

systematic identification and calculation of administrative burdens and other compliance costs imposed on individuals and businesses by new legislative initiatives. Particular consideration is being given to the impacts on SMEs, including the possibility of exemptions or the adoption of mitigating measures. In addition, the implementation of the OECD Competition Impact Assessment Checklist supports the identification of potential distortions of competition as a result of the regulatory intervention.

22. The implementation of the new impact assessment is underpinned by a network of focal points within ministries and sectorial public administrative bodies. In addition, the Technical Unit for Legislative Impact Assessment (UTAIL), created within the Legal Centre of the Presidency of the Council of Ministers (CEJUR), will take on the role of a supervisory body to support the implementation by developing a methodology, providing technical support and training, and reviewing the quality of individual impact assessments.

Panel discussion: Fostering a culture of evaluation

Panellists: João Ribeiro, *Member of the Board of the Administrative Modernization Agency, Portugal*; Lotte Dalgaard, *Special Advisor, Team Smart Regulation, Danish Business Authority, Ministry of Industry, Business and Financial Affairs*; Emmanuel Sangra, *Head of Evaluation and Performance Audit Unit, Swiss Federal Audit Office, President of the Swiss Evaluation Society*; Pedro Capucho, *Director, Economics Department, Confederation of Portuguese Business (CIP), representing BIAC*; Pierre Habbard, *Senior Policy Advisor, TUAC*

Moderator: Luiz de Mello, *Deputy Director, Public Governance Directorate, OECD*

23. A panel of experts and representatives from OECD countries and the labour and business communities discussed different approaches to foster a culture of evaluation within the administration and amongst stakeholders. Past OECD Conferences on Measuring Regulatory Performance have repeatedly noted the need to bring about a cultural change in order to foster the implementation of good regulatory practices. This is of particular relevance in the context of *ex post* evaluation, where a genuine ‘culture of evaluation’ could help improve the quality of evaluation and avoid “evaluation fatigue”. It would also boost the effectiveness of *ex post* evaluation by facilitating feeding results back into the policy making process.

24. The discussants emphasised the need to engage effectively with a diverse range of stakeholders throughout the evaluation process. Seeking their input from the early stages on is an effective way to identify priority areas for review and feed in user-centred solutions to improve regulations. The engagement with stakeholders might take different forms such as roundtables and workshops on specific areas of regulation or be more institutionalised like business fora that may provide advice to government. Panellists agreed on the importance to gather views from a broad range of stakeholders and, at the same time, to be aware of their respective capacities and motivations for participating. While different groups of stakeholders might enrich the evaluation process with different inputs, they may have different objectives, knowledge and resources. To limit risk of capture, it is important to foster transparency, for instance by publishing stakeholders’ comments and a response by the evaluator.

25. The panellists also discussed ways to better integrate *ex post* evaluation into the policy-making process to create effective feedback loops that support the ongoing improvement of regulatory frameworks. Most importantly, evaluation should not be an

end in itself and where appropriate include recommendations for improvement. Independent bodies that are shielded from political influence are well positioned and have the credibility to provide such recommendations. Yet, independent reviewers should also engage with those responsible for the design of the regulation to foster cooperation and avoid alienation. Discussants also valued the use of statutory requirements and review clauses that can help build a culture of evaluation. At the same time, governments should resist the temptation of evaluating everything to prevent the risk of a bureaucratic exercise with little value added. Finally, the timing of evaluation may greatly increase – or undermine – its policy impact. For instance, an evaluation concluded at a time when parliament prepares a new initiative on related legislation might have good chances to feed into the debate.

26. The panel discussion emphasised that different skillsets and backgrounds are required within the administration to produce high-quality evaluations of regulations. Evaluations should not only involve economists or political scientists but also experts from other disciplines, for instance anthropologists or people with behavioural insights. In addition, qualitative methods can help complement quantitative ones.

Closed-door workshop: Processes and institutions for effective ex post evaluation

Introduction: Nick Malyshev, *Head of Regulatory Policy Division* and Christiane Arndt, *Head of Measuring Regulatory Performance Programme, OECD*; Ronnie Downes, *Deputy Head of Budgeting and Public Expenditures Division, OECD*

27. The introduction to the closed-door workshop on processes and institutions for effective *ex post* evaluation recalled the critical role of *ex post* evaluation in ‘tying up the policy cycle’s ends’ and highlighted some emerging trends. The need for a more cohesive strategy for the use of evaluation instruments was emphasised. Offsetting approaches (e.g. *one-in, X-out* rules) simplify assessment methodologies and, in principle, also the choice of which regulations to repeal, by focusing on costs, but they may not help increase net societal welfare. While a focus on a specific set of regulatory costs is a legitimate choice, it bears the risk of neglecting regulatory benefits. Evaluation should therefore focus on establishing whether regulations are effective and efficient in achieving their public policy objectives.

28. While OECD countries recognise the important role of *ex post* evaluation in fostering high-quality and responsive regulatory frameworks, few of them have actually adopted a systematic approach in this area and tend to focus rather on the *ex ante* assessment of regulations. Most reviews that have been conducted in OECD countries are principle-based, often with a focus on reducing administrative burdens or compliance costs more broadly or boosting competition. Only a minority of OECD countries use *ex post* evaluation to systematically assess whether the regulation’s underlying policy goals have been achieved.

29. The introduction to the closed-door workshop was concluded by an overview of evaluation processes in the area of budgeting and public expenditure. The *OECD Principles of Budgetary Governance* emphasise that performance, evaluation and value-for-money are integral to the budget process. Objective, routine and regular evaluation and review of expenditure programmes should inform resource allocation and re-prioritisation.

30. In contrast to regulatory policy, *ex post* evaluation in the area of budget and public expenditures is more developed than the *ex ante* assessment.

31. The experience of evaluation in the area of budgeting and public expenditures highlights some challenges and potential ways forward, which may also be relevant for evaluation in regulatory policy. The misalignment between the time necessary to conduct evaluations and the limited time available for budget decisions can limit the evaluation's relevance to policy making, in particular for in-depth and high-quality reviews. Also, evaluation is often perceived as a bureaucratic burden and has been shown to have limited impact on budget decisions. One potential solution is the use of "spending reviews", which is rising amongst OECD countries. Such reviews may draw upon the body of ongoing evaluation work and can be supplemented with focused, streamlined "high-impact" evaluations, e.g. on cross-cutting issues. Periodic reviews may also allow a better linkage to the political cycle and thus have a reinforced policy impact.

32. The institutional responsibility for evaluation in budgeting and public expenditures is relatively decentralised, i.e. in most cases conducted by line ministries or agencies. While there is no specific blueprint for the institutional setting of evaluation, it has been suggested that evaluations carried out by line ministries themselves might tend to be forgiving with regards to their own shortcomings.

Institutionalising ex post evaluation to feed back into the regulatory process

33. The breakout session identified several oversight features and mechanisms to promote the effectiveness of *ex post* evaluation. First, oversight arrangements reinforce incentives for regulators to produce high-quality evaluations, and provide checks and balances to avoid conflicts of interests, e.g. by providing quality control of the accuracy and depth of analysis. Participants' views diverged on whether positive incentives or sanctioning mechanisms would be more successful to incentivise evaluation. Secondly, oversight bodies can assist regulators in providing training and guidance for conducting evaluations as well as in prioritising regulations for evaluation. Finally, participants encouraged the exploration of synergies and co-ordination between different actors conducting evaluations, including the executive, parliament, courts, and independent institutions.

34. Participants emphasised the importance of transparently communicating evaluation outcomes. Evaluations should result in concrete recommendations to government. Evaluation results, as well as government responses to the findings, should be made public, so that the information can be scrutinised and employed by a wider audience.

35. Oversight mechanisms can also help foster linkages between *ex ante* and *ex post* evaluation of regulations to ensure that evaluation efforts contribute to the ongoing improvement of regulatory frameworks. *Ex ante* assessments that set clear regulatory objectives and systematically reflect on relevant evaluation methods and indicators facilitate the planning of the appropriate analytical and data collection processes to increase the informative value of *ex post* evaluations and ensure that evaluators have access to relevant information. At the same time, such *ex ante* reflections should be tailored and proportionate to a regulation's impact to avoid overburdening regulators with formal evaluation requirements.

Engaging stakeholders effectively for a targeted approach in evaluation

36. The discussions in the breakout session highlighted the need to engage stakeholders effectively to ensure a targeted approach in evaluation. Against the backdrop of scarce resources, input from stakeholders is one of the most helpful levers to ensure

reviews and, in particular, simplification programmes focus on the most burdensome and ‘irritating’ areas of regulation based on their real-life effects. During the evaluation process itself, consultation with stakeholders may help strengthen and streamline the current regulatory framework by identifying practical options for improvement and simplification.

37. Clear objectives and purpose are needed to manage stakeholders’ expectations and help avoid “consultation fatigue”. Government officials should therefore be transparent about the role of stakeholders and how their views will feed into the evaluation process. Once the consultations are over, authorities should also provide stakeholders with feedback on how their comments were used in the evaluation process.

38. In order to ensure an effective and inclusive consultation for evaluation, a variety of different approaches should be used to reach out to different groups of stakeholders. Targeted efforts to seek feedback from selected groups, including business and labour representatives as well as experts should in many cases be complemented by consultation with the general public to reflect wider insights. When reaching out to different groups of stakeholders, government officials need to be aware of potential differences in terms of their knowledge, capacity and degree of organisation. In this regard, transparency of the consultation process, for instance by publishing which groups have been consulted with, is crucial in preventing capture.

Developing a more systematic approach to evaluation across policy instruments

39. The breakout session discussed different methods and institutional frameworks to develop a more systematic approach to *ex post* evaluation taking into account the cumulative impact of different policy instruments, including regulations, taxation as well as public investment programmes. The group realised that there were different understandings of the term evaluation: In some contexts the term seems to be used only for the evaluation of regulations or programmes that have a clear goal and not for more comprehensive reviews of sectors or policy areas. It was clarified that the theme of the session on “evaluation across policy instruments” includes comprehensive reviews.

40. While participants shared examples of reviews cutting across policy instruments in their countries, there does not seem to be a systematic approach in most OECD countries. Key challenges in conducting reviews across policy instruments include technical considerations such as assessing the cumulative impacts of policy instruments, as well as political challenges to ensure impact of findings. To address the technical considerations, there are complex models for assessing cumulative impacts which require more expertise than simple evaluations. Participants suggested the impact of comprehensive reviews is higher if the government has to respond to the findings and has requested the review. Proportionality is important to target resources to areas where the potential findings of a review justify its costs.

41. There was also a debate about the extent to which reviews in the area of public expenditure and regulation are co-ordinated. It seems that they are usually conducted separately and both often do not include serious considerations of alternative policy instruments to achieve the same policy objective.

42. Participants discussed the merits of different institutional frameworks for evaluation across policy instruments and cited examples where evaluation is either *a*) centralised in a specific body, for instance at the centre of government, *b*) delegated to the line ministry responsible for a given policy area or *c*) carried out by a dedicated

independent institution such as the Australian Productivity Commission or supreme audit institutions. While there is no single institutional blueprint, it has been suggested that independent evaluations may be more important when there is high risk and high economic or social impact. In other cases, evaluations by regulators themselves may help to raise awareness of needed changes in the responsible ministry.

Simplex + programme

Graça Fonseca, *Secretary of State Assistant and of Administrative Modernisation, Portugal*

43. Graça Fonseca, Secretary of State Assistant and of Administrative Modernisation, gave an overview of some of the tools and measures of *Simplex +*, the Portuguese flagship administrative modernisation programme. *Simplex +* aims at connecting different areas of the public administration and linking up their services in a citizen-driven fashion. The programme's centrepiece are the measures the public service commits to implement within a year to simplify the life of citizens and companies. The measures are informed by an extensive engagement with citizens, businesses and within the public administration. For the 2016 initiative, and in order to gather views from ordinary citizens on how to simplify services, a *Simplex* team criss-crossed the country during four months and interviewed 2,000 people. The programme also sought feedback from within the public sector, for instance by organising design thinking sessions to identify problems experienced in their daily work and to identify solutions together.

44. A key factor supporting the success of *Simplex +* is the thorough follow-up and monitoring, which fosters transparency and accountability. Each year, government is required to report on the implementation of the measures previously committed to and provide reasons in case of non-implementation. The monitoring relies on two complimentary approaches. First, small inquiries through forms and survey letters provide an insight into citizens' and companies' perception of the implemented measures. Second, a scientific framework and indicators for evaluating different *Simplex* measures has been developed in co-operation with public universities and a selected number of companies.

45. To further promote civic participation and administrative modernisation, Portugal has recently introduced the use of participatory budgets at the national level. Following the examples at the municipal and regional levels, in 2017 citizens actively decided on the allocation of three million Euros of the national budget. Citizens can vote online or by text message for specific projects the money should be spent on.

Regulatory budgets and stock-flow linkage rules

Jeannine Ritchot, *Executive Director, Regulatory Cooperation, Treasury Board of Canada Secretariat*; Nick Malyshev, *Head of Regulatory Policy Division, OECD*

46. In her presentation, the speaker set out the background, mechanics, results and lessons of the Canadian "One-for-One" rule. Introduced as a policy in 2012, the rule's objective is to reduce administrative burdens. The regime requires regulators to offset new administrative costs by a reduction in administrative costs from the existing stock of regulations. In addition, for each new regulation that imposes administrative costs on business an existing one must be removed. The offset in both cost and title (i.e. regulation) has to occur within a portfolio within 24 months. The implementation of the rule is supported by oversight through the Treasury Board Secretariat which presents

results achieved under the “One-for-One” rule in an annual report to parliament. Four years after the inception of the rule, the regulatory stock has been lightened by 32 regulations and administrative burdens of CAD 30 million. The rule helped incentivise regulators to clean up their regulatory stock, focusing on regulations that are unnecessary or overly burdensome, and increased their awareness about the need to minimise administrative burdens at the design stage.

47. A number of challenges and ways forward to make a more effective use of an *in-out rule* may be drawn from the Canadian experience. First of all, the rule was never conceived as *ex post* evaluation but as a political commitment to reduce red tape for business and should, as such, be flanked by other tools to ensure regulations achieve their underlying policy objective. In that context, it is important to note the rule is focussed on impacts on business and thus impacts on other parts of society are not taken into account. Broadening the scope of the rule would ensure burdens on all stakeholders, including consumers, governments and NGOs, are being considered. Second, the rule is only concerned with regulatory costs and does not take into consideration the net benefits of regulation. Therefore, the objective of the rule should not be to *eliminate* burdens but to find ways to *minimise* burdens while still achieving effective outcomes. Third, more flexible reconciliation mechanisms (i.e. government-wide vs portfolio) would also be helpful. Finally, a banking scheme would help ensure there are sufficient *outs* so new regulations may be brought in for compelling public policy reasons.

Table 2. Benefits and challenges of the “One-for-One Rule” in Canada

Benefits	Challenges
<ul style="list-style-type: none"> • Provides strong incentive to regulators to eliminate obsolete regulations 	<ul style="list-style-type: none"> • Generally limited to the impact on a single category of stakeholders (i.e. business)
<ul style="list-style-type: none"> • Leads regulators to adopt design that more effectively manages burden 	<ul style="list-style-type: none"> • Focus on costs and not on benefits
<ul style="list-style-type: none"> • Provides mechanism to identify regulations that need to be amended 	<ul style="list-style-type: none"> • Long-term sustainability in question

Source: Treasury Board of Canada Secretariat (2017), Presentation on “Implementing the One-for-One Rule – Background, mechanics, results and lessons”.

48. The presentation by the OECD Secretariat highlighted some key considerations regarding the use of regulatory budgets. In terms of rationale, the underlying assumption that regulatory costs act as a drag on economic performance should be further studied, in particular given the frequent omission of benefits from regulation in analyses. The use of a regulatory budget would impose an upper limit on the costs of a country’s regulatory activities to the economy. The budget, apportioned amongst individual departments and agencies, would cover the total costs of regulations past and present and thus allow regulators to offset the cost of new regulations with savings made by reducing existing expenditures. While the aggregate economic cost of regulation could establish a clear upper limit on the government’s regulatory activities, the regulatory budget would be a one-sided ledger with no receipts, mirroring tax receipts, with which to compare (and constrain) regulatory costs.

49. As a partial implementation of a regulatory budget, *one-in, X-out* (OIXO) rules impose a freeze (or reduction) of regulatory expenditures at current levels (instead of looking into the total regulatory costs). Such rules require regulators to offset compliance costs of new regulations through reforms or revocation of existing regulations. A successful implementation of OIXO rules can produce several benefits. First, it helps

generate political buy-in and a whole-of-government discipline. It also requires regulators to optimise the design of regulation, as it is no longer available as a “free good”. Furthermore, it fosters transparency about regulatory costs in incremental terms (or total for full regulatory budgets).

50. However, a number of challenges are attached to the use of OIXO rules. Most importantly, there needs to be conceptual clarity about the *ins* and *outs*, which may be the number of regulations, administrative burdens or (direct and indirect) compliance costs. The narrow focus on regulatory costs could also undermine other forms of *ex ante* assessment, including cost-benefit analysis, especially in countries with a less developed regulatory policy. Finally, it may constrain actions of national governments due to the role of supra-national regulatory bodies (e.g. European regulation or international treaties and standards), unless there are exemptions.

51. The discussions highlighted different views on the potential merits and challenges of OIXO rules to limit regulatory costs. Participants valued such regimes as a means to discipline regulators at the design stage and as a useful communication tool. On the other hand, there may be a risk of a too narrow focus on regulatory costs ignoring broader public policy objectives, especially if the rule only contemplates administrative burdens and not net costs and benefits. Therefore, the metric of *ins* and *outs* needs to be thought through carefully. Participants also discussed the sustainability of OIXO regimes in the long term. In the context of economies where the regulatory framework has already been significantly streamlined, governments might “hit a wall” and find it increasingly difficult to identify *outs* to give way to new regulations that are needed for compelling public policy reasons. Finally, participants agreed that OIXO rules need to be complemented by the use of other tools, including a substantial *ex post* evaluation of the regulatory stock to ensure laws and regulations are fit-for-purpose.

Closing remarks

52. The Chair and the OECD Secretariat thanked the Portuguese Government and the Administrative Modernisation Agency for their excellent organisation of the conference and their hospitality, as well as all conference speakers and participants for their active involvement in the discussions. The OECD Secretariat is looking forward to planning the 10th OECD Conference on Measuring Regulatory Performance, which will take place in 2018.

53. The policy conclusions and outcomes of the conference will provide an important ongoing contribution to OECD work on *ex post* evaluation in regulatory policy, including the series of Best Practice Principles *ex ante* and *ex post* evaluation and the next edition of the *OECD Regulatory Policy Outlook*, due to be published by the end of 2018.

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