The world has become increasingly interconnected...

Over the past decades, the interconnectedness of countries and the integration of the world economy have increased drastically, in part due to the many technological revolutions of the last 30 years. The rapid flow of goods, services, people and finance across borders is testing the effectiveness and the capacity of domestic regulatory frameworks. As a result, the global landscape in which policy makers and regulators operate has shifted dramatically. New opportunities and changes brought by globalisation and an increasingly inter-connected world present contemporary policy makers and regulators with challenges that cannot be dealt with in isolation.

- **Goods and services are now bought from all over the world.** Global trade intensity doubled between 1990 and 2015. Today, products cross many borders before being finally purchased in a given country.

- **People no longer live in the same place their whole life.** In 2015, 13% of total population living in OECD countries were foreign-born, compared to 9.5% in 2000.

- **World travel has become a lot easier** with passenger air traffic expected to double by 3% to 6% annually over the next 15 years.

- **We interact internationally through digital platforms.** Social media viewing trends show that users increasingly access content outside their own country. Internet is enabling significant cross-border financial transfers on a daily basis.
...acting in isolation is not an option anymore

As made evident by the recent global health crisis caused by the COVID-19 pandemic, the ability of countries to effectively deal with cross-border challenges solely through domestic solutions is limited. The responses needed to face climate change, address tax evasion and avoidance, and strengthening financial market stability are additional examples of complex and multidimensional issues of an intrinsically transnational nature. Co-ordination is needed to tackle these challenges and achieve a coherent and effective regulatory response. Beyond this critical aspect, examples from the trade area show that greater coherence of regulations can lower time and costs for firms and citizens having to comply with multiple regulatory requirements. Co-operation is also likely to bring substantial gains to regulators, who are able to pool knowledge and resources through cooperating with their peers across borders. Yet international cooperation remains, to a large extent, under-valued by governments.

Number of countries valuing a particular benefit of IRC


IRC ALLOWS COUNTRIES TO TACKLE REGULATORY CHALLENGES AT THE RIGHT LEVEL OF GOVERNANCE

In many areas, non-cooperation can alter the effects of regulations. Typically, individual states are unable to effectively curtail the risks of climate change, pandemics or fight international tax evasion. For example, they cannot fight the pollution of transboundary water bodies or manage migration flows on their own. The mismatch between the transboundary nature of challenges and the fragmentation of regulatory frameworks undermines the effectiveness of action and therefore people’s trust in government.

There are striking examples of how joint approaches and rules can lead to tangible impacts in various key sectors.

- The eradication of smallpox could not have been achieved without collective action led by WHO. The smallpox vaccine was developed in the 19th century but it was only in 1980, after 20 years of joint global action, that the disease was declared eradicated.

- The Ozone layer preserved due to international agreement between 46 countries. The Montreal Protocol on Substances that Deplete the Ozone Layer led to the reduction of over 97% of all global consumption of controlled ozone depleting substances.

- Tax evasion has become increasingly difficult thanks to close co-operation between authorities. The OECD Global Forum on Transparency and Exchange of Information for Tax Purposes has changed the paradigm for transparency in tax matters, by introducing automatic exchange of information between tax administrations.

- Early detection of animal diseases to protect animal health and welfare and spread to humans. The World Organisation for Animal Health ensures transparency of the global animal disease situation in the world, including diseases shared between animals and humans (zoonoses). Through a web-based notification tool, the World Animal Health Information System (WAHIS), 182 OIE Member Countries make information on animal diseases in their country public in real-time, as well as the measures taken to control such diseases.
The trade costs of regulatory heterogeneity

While different sectors and countries may experience a variety of costs, ultimately, three main categories of heterogeneity-related and behind-the-border trade costs can be distinguished:

- **Information costs** are the costs of obtaining and processing information on regulatory processes. The more opaque and complex the system, the higher the costs.
- **Specification costs** are the costs of adjusting products and services to different requirements. They may include extra labour and input costs and the induced costs of reduced economies of scale.
- **Conformity assessment costs** are the costs of demonstrating compliance with requirements. They may include costs of additional lab testing, certificates, inspections, audits.
- **Other costs** involve the costs of customs procedures (at the border) and the costs to regulators and inspectors.

The costs of regulatory divergence for smaller and larger financial institutions

In the financial sector, regulatory divergences are estimated to cost financial institutions 5-10% of their annual global turnover (some USD $780 billion per year), with the financial performance of smaller firms the hardest hit.
IRC IS AN EFFICIENT ADMINISTRATIVE STRATEGY: IT IMPROVES THE CAPACITIES OF DOMESTIC REGULATORS THROUGH PEER LEARNING AND SHARING OF RESOURCES

Good regulation is expensive. It requires significant expertise, resources to gather the relevant evidence and a functioning regulatory infrastructure for rule development and implementation. It is increasingly difficult for countries and regulators to afford the expertise needed to deliver good regulation to citizens. Yet, the complexity of the current regulatory challenges calls for effective and efficient regulatory regimes. Co-operation among regulators from different jurisdictions allows them to share their experience, expertise and resources in a specific domain, reducing the overall costs of good regulation.

The OECD Mutual Acceptance of Data system helps governments and industry save more than €309 million per year through reduced chemical testing and the harmonisation of chemical safety tools and policies across jurisdictions. In addition, the cooperation has brought less quantifiable benefits, such as the health and the environmental gains from governments being able to evaluate and manage more chemicals than they would if working independently; the avoidance of delays in marketing new products; the pooling of know how to develop new and more effective methods for assessing chemicals.


BUT IRC ALSO HAS ITS CHALLENGES

Despite the benefits that can be expected, IRC remains uneven and non-systematic. Beyond the legitimate concerns of countries that regulatory co-operation may generate costs that outweigh the benefits and of tailoring IRC to their specific needs, the political economy of achieving IRC is seen as complex and the enforcement and implementation of co-operative agreements raise significant challenges.

Perceived challenges of IRC, according to OECD Countries

2. The national context

HOW CAN REGULATORS EMBRACE GLOBALISATION TO ACHIEVE THEIR POLICY OBJECTIVES?

Regulatory cooperation has become an integral part of regulatory quality at domestic level

The OECD Recommendation on Regulatory Policy and Governance sets out the measures that Governments can take to deliver laws and regulations that meet public policy objectives and have a positive impact on the economy and society. Adopted in the aftermaths of the financial and fiscal crises, of deep social changes and mounting environmental challenges, the Recommendation recognises the importance of international regulatory co-operation and makes it a central principle of regulatory quality.

**Principle 12:** In developing regulatory measures, give consideration to all relevant international standards and frameworks for co-operation in the same field and, where appropriate, their likely effects on parties outside the jurisdiction.

In support of the Recommendation and to map existing IRC practices, the OECD released in 2013 the first systematic and synthetic stocktaking of knowledge and evidence on the various IRC mechanisms available to governments and regulators: International Regulatory Co-operation: Addressing Global Challenges.

The report builds on 10 case studies in the areas of chemical safety, consumer product safety, tax, competition, water, prudential regulation, energy and risk assessment; and a study of the Canada-US Regulatory Cooperation Council. In each area, the OECD examined prominent IRC arrangements and analysed IRC opportunities, benefits and pitfalls and showcased practical experiences relatable to regulators.

REGULATORS CAN TAP INTO A WIDE VARIETY OF IRC MECHANISMS

IRC is often equated with regulatory harmonisation i.e. the complete alignment of regulation across countries. This view on IRC is however incomplete. Policy makers can draw from a wide range of approaches, from unilateral action to multilateral cooperation, from informal dialogues among regulators to supranational rule-making in international organisations.

The OECD typology of IRC mechanisms

- Participation in international fora (i.e. intergovernmental organisations)
- Specific negotiated agreements
- Memoranda of Understanding
- Mutual Recognition / Equivalence
- Regulatory Provisions in Trade Agreements
- Regulatory co-operation partnerships
- Adoption of good regulatory practices
- Adoption of international instruments
- Seek out international intelligence
- Consult foreign stakeholders
- Assess impacts beyond borders
HARMONISATION IS THE ULTIMATE AND MOST AMBITIOUS FORM OF IRC BUT IT IS NOT THE ONLY PATH.

Regulatory harmonisation is the ultimate IRC approach to boost the effectiveness of regulation dealing with transnational market failures and to dismantle trade barriers due to regulatory divergence. However, despite the rapid increase in global economic integration, “supra-nationalism” remains the exception. This reflects the fact that full regulatory harmonisation may be too costly and a disproportionate approach to addressing certain problems.

The European Union stands out as an emblematic example of harmonisation for the breadth and depth of its regulatory and economic integration. Under the Treaty on the Functioning of the European Union, member States have ceded part of their sovereignty and empowered the EU institutions to adopt laws. These laws (regulations, directives and decisions) take precedence over national law and are binding on national authorities. However, regulatory harmonisation focuses on essential requirements. In other areas, the co-operation largely takes the form of mutual recognition agreements.

Instead, regulators can tap into a wide variety of IRC mechanisms which serve different purposes, generate different benefits and costs and are more or less relevant depending on sector and country context, such as:

- **Unilaterally**, countries can foster the adoption and implementation of good regulatory practices, such as regulatory impact assessment, international standards, stakeholder engagement and ex post evaluation in the development and revision of laws of regulations.

- **Bilaterally and regionally**, countries can cooperate through mutual recognition approaches, agreements across regulators to seek common grounds in specific sectors and high-level platforms and commitments to regulatory cooperation.

- **To build collective action**, countries can participate in a variety of international fora that allow exchange of information and practices and provide for common regulatory approaches and tools.

Air pollution is a classic example of a transnational policy problem that offers opportunities for a range of IRC mechanisms. China, Japan and Korea have deployed a multiplicity of cooperation efforts at different levels of government to promote air quality and curb transboundary pollution. These countries have unilaterally adopted international environmental standards, collaborate bilaterally on data exchange, technical assistance and capacity-building, and engage in various multilateral environmental programmes and initiatives. Although a comprehensive science-based regional approach to address transboundary air pollution is yet to emerge in North East Asia, this provides a representative case of current avenues and potential building blocks for international regulatory co-operation.

GOOD REGULATORY PRACTICES CAN SERVE AS THE BASIS FOR REGULATORY COHERENCE.

Good Regulatory Practices (GRPs) may allow regulators to mainstream international considerations in domestic rule-making. As regulators assess ex-ante the impacts of their regulation, including on competition and trade, and its consistency with international standards and other relevant regulatory frameworks, they can avoid unnecessary regulatory divergence and promote convergence without binding themselves under international law. GRPs also provide the basic confidence in a regulatory regime necessary to build more active co-operation with other jurisdictions.

What can regulators do to account for the international environment in domestic rule-making?

- **Systematically consider the expertise and evidence** accumulated in other jurisdictions on similar issues and the relevance of international standards and other relevant regulatory frameworks when developing or updating laws and regulations
- **Facilitate inclusive stakeholder consultation** (including foreign), to gather information about the implications of domestic regulation and ensure that findings are fed into the regulatory process
- **Embed consistency with international standards** and consideration of other jurisdictions regulatory frameworks in ex post evaluation
- **Establish a coordination mechanism** in government on IRC activities to centralise relevant information on IRC practices and activities and to build consensus and common language

Countries are devoting greater attention to the trade impacts of their regulations - Mexico for example has introduced a sophisticated process in this respect.

Countries also use trade agreements as a vehicle to promote the effectiveness and efficiency of regulations including through provisions related to good regulatory practices and IRC. More recently, the content and scope of these provisions have become more detailed and ambitious. A number of trade agreements have incorporated dedicated standalone chapters on GRPs and / or IRC to promote regulatory practices strongly aligned with the 2012 OECD Recommendation on Regulatory Policy and Governance and the APEC/OECD Checklist on Regulatory Reform. These standalone chapters consistently advance Regulatory Impact Assessment, stakeholder engagement and consideration of international standards. Notably, a number of these chapters also create standing committees to monitor their implementation and/or promote regulatory co-operation among parties.

Individual countries are increasingly taking steps to embed international regulatory cooperation approaches into their domestic frameworks. The two in-depth country reviews on IRC provide valuable lessons about IRC in practice, both on unilateral and co-operative forms of IRC.

Mexico for example has an innovative system to embed IRC in its better regulation tools. It is among few OECD countries to have in place a well-oiled trade filter as part of the RIA calculator, embedding the consideration of international trade impacts from the outset of the regulatory process. Through nine detailed questions, this filter enables the identification of potential trade impacts of draft regulations. If such an impact is found, a specific trade RIA is conducted and the draft measure is notified to the WTO, thus opening the possibility to gather feedback on the measure from other WTO members and potentially stakeholders therein.

The United Kingdom has traditionally been active internationally in various forms of co-operation on regulatory matters. Recently, it has set up a cross-governmental “Regulatory Diplomacy” initiative to ensure that the government has a coherent approach to influencing standards development and regulation internationally. The work is overseen by a cross-government steering group of senior officials, which meets quarterly. Through this initiative, the UK shows its resolve to maximise benefits for the United Kingdom from its bilateral, regional and multilateral co-operation on regulatory matters.

Mutual recognition is essentially a trade instrument: goods or services produced under a regulatory regime may benefit from facilitated market access in a country with different rules. There is however a wide spectrum of mutual recognition modalities. While mutual recognition of rules is the most fundamental, it is rarely used except in the EU and between Australia and New Zealand. In most cases, countries settle for recognition of their conformity assessment procedures, i.e. the capability of conformity assessment bodies to test and certify against the rules and procedures of another country.

The purpose of Mutual Recognition Agreements (MRAs) is to facilitate market access by eliminating duplicative testing and certification or inspection, reducing the uncertainty about a possible rejection and shortening ‘time-to-market’. They are also theoretically appealing to regulators in the sense that they do not imply or require any change in regulation. In effect, governmental MRAs work best in regulatory domains which are science-driven and in sectors with global value chains, where sufficient economic gains are expected such as telecoms equipment, machinery and electronic equipment. They are seen as costly by regulators and the administration both to develop and to maintain.

Recognition and incorporation of international norms and standards support the coherence of regulations across jurisdictions. In particular, in response to their WTO obligations, many countries have embedded domestic sectoral or cross-sectoral requirements and procedures to consider the adoption of voluntary international standards in the formulation or revision of domestic technical regulation. They aim to address unnecessary barriers to trade.

The global rule-making landscape is very dynamic with multiple international actors and a fast-growing body of norms and standards. A plethora of international rules and standards exist in areas as diverse as corruption, migration, education, food safety or security, to name just a few. OECD research shows that on average countries belong to more than 50 international organisations. Networks of regulators are developing fast. The number of legal and policy instruments surveyed by the OECD in 2015 reached some 70,000, ranging from treaties to technical standards. As a result, domestic regulators are faced with a multiplicity of cooperation alternatives and of international norms and standards available.
The uptake of international instruments has sometimes been limited, which may reflect reluctance and mistrust of domestic regulators. Paradoxically, at the same time that international institutions and their instruments are under challenge facing the threat of isolationism by some countries, there is an increasing need for co-operative regulatory solutions to cross-border challenges. Given the stakes, ensuring evidence-based international regulatory co-operation and strengthening trust in international rule-making have become essential.

3. The international context

HOW CAN INTERNATIONAL RULE-MAKERS DEVELOP BETTER NORMS AND STANDARDS?

The Ecosystem of International Organisations and international instruments

International Organisations (IOs) provide platforms for continuous dialogue and have the potential to catalyse the expertise needed to address the emerging policy challenges of our century. But to do so, they must strive for relevance, with always more evidence-based, inclusive, and effective international rules and standards.

To highlight the contribution of IOs to IRC, the OECD carried out a survey in 2018 to examine the governance arrangements, operational modalities, and rule-making practices of a broad selection of IOs. The key results of this survey form the basis of a cross-cutting brochure on The Contribution of International Organisations to a Rule-Based International System, which was released in April 2019. This builds on and further develops a 2016 stocktaking report on International Regulatory Cooperation: the Role of International Organisations in Fostering Better Rules for Globalisation. The OECD has also conducted 10 case studies of IOs, including most recently the World Organisation for Animal Health (OIE), International Bureau of Weights and Measures (BIPM), and World Trade Organisation (WTO). This follows previous studies on the Food and Agriculture Organisation (FAO), International Maritime Organisation (IMO), International Organisation for Standardisation (ISO), Organisation for Economic Cooperation and Development (OECD), International Organisation for Legal Metrology (OIML), United Nations Economic Commission for Europe (UNECE), and the World Health Organisation (WHO).
A wide range of international organisations have been established over the past century. Intergovernmental organisations (IGOs), established by treaty and composed primarily of states, developed rapidly in the 1950s and 1960s. Private standard-setters include public, private and mixed entities, are responsible for the issuance of international standards, and may predate IGOs. New forms of IOs emerge, as represented by the use of transgovernmental networks of regulators (TGNs) in recent decades. These are characterised by loose, peer-to-peer ties among national ministries or regulatory agencies, but can also include private sector actors and technical experts.

Beyond differences of mandate, constituency, and governance structure, IOs share strong common features with respect to their operational modalities and rule-making practices. They also face shared challenges of relevance, effectiveness and transparency, and overlap in their priorities for addressing them.

**Year of Establishment of 65 IOs Connected to the IO Partnership**

<table>
<thead>
<tr>
<th>Year of Establishment</th>
<th>Number of IOs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to 1940</td>
<td>11</td>
</tr>
<tr>
<td>1940-1959</td>
<td>15</td>
</tr>
<tr>
<td>1960-1979</td>
<td>17</td>
</tr>
<tr>
<td>1980-1989</td>
<td>5</td>
</tr>
<tr>
<td>After 1990</td>
<td>4</td>
</tr>
</tbody>
</table>

 IOs develop a broad range of instruments, from legally-binding treaties and decisions to softer tools, largely relying on non-binding tools.

**Families of Instruments Developed by International Organisations**
INTERNATIONAL ORGANISATIONS ARE INCREASINGLY FOCussed ON ENSURING THE QUALITY OF THEIR RULES AND STANDARDS.

When joint approaches are needed, international organisations have the institutional setting and the technical expertise to promote ambitious multilateral solutions. However, to be effective, the rules and standards developed by international organisations need to be adopted and implemented, trust is a precondition for this. For members to trust international rules and standards, international rulemaking needs to meet the same criteria for quality, legitimacy, and effectiveness as that which applies at the domestic level.

There is a rich body of knowledge on the good regulatory practices at the domestic level, and the OECD has over 30 years advising countries in this regard. However, the core elements of good international rule-making practices have only recently been subject to inquiry and discussion. Greater transfer of expertise between the two levels of rule-making would strengthen the interface between them, expand the evidence base informing international instruments, and improve understanding and trust.

Efforts have multiplied among IOs in this regard, but more needs to be done

- IOs are increasingly opening their rulemaking processes beyond their usual constituency and reaching out to stakeholders, but there remain few consistent, systematic and whole-of-organisation approaches to stakeholder engagement;
- IOs monitor the use of their instruments, but the evaluation of their impacts is rare – largely due to resource constraints and methodological challenges; and
- IOs coordinate their activities early, informally, and through soft tools, but could improve consistency and limit duplication through stronger and more comprehensive arrangements.

Overall and despite recent progress, there remains room to accelerate these efforts. There is a need for IOs to share practices and build more systematic understanding of how they can individually and collectively strengthen the body of international rules, norms and standards through evidence-based, transparent and effective rule-making.

Facilitating Trade through Regulatory Cooperation: the Case of the WTO’s TBT/SPS Agreements and Committees:

WTO is an intergovernmental organisation, the core mandate of which is to regulate the conduct of international trade relations. The WTO frameworks on Technical Barriers to Trade (TBT) and the Application of Sanitary and Phytosanitary (SPS) provide permanent bodies for WTO members to regularly exchange information and experiences, and encourage IRC and GRPs through transparency obligations, incentives to use international standards, and the promotion of equivalence and recognition of conformity assessment results.

The International Bureau of Weights and Measures (BIPM) is the intergovernmental forum for the establishment and adoption of common rules of metrology. The interdependence between measurement and legal metrology, standardisation, accreditation, and conformity assessment gives rise to the need for a collaborative and integrated approach. To account for this, the BIPM co-ordinates closely with other IOs, and in particular by participating in the International Network for Quality Infrastructure (INetQI), bringing together 12 international organisations.

Study in Support of a Future OIE Observatory of Standard Implementation: The World Organisation for Animal Health (OIE) is an inter-governmental organisation which aims to improve transparency regarding animal health and welfare, enhance the national governance of animal health systems and services, and support international trade in animals and animal products. Committed to supporting its members in the implementation of its standards, the OIE is currently establishing a dedicated Observatory to monitor implementation of OIE standards.
A PARTNERSHIP FOR EFFECTIVE INTERNATIONAL RULEMAKING

In 2017, agreeing on the need for joint efforts to enhance international rulemaking, some 50 Secretariats of IOs committed to work together, which led to the establishment of the Partnership of International Organisations for Effective International Rulemaking (IO Partnership). This platform supports collective action to promote greater quality, effectiveness and impact of international instruments.

A wide variety of partners

- 46 international organisations
- The partnership is flexible, cross-sector, and serves a wide variety of organisations involved in international rule-making, notwithstanding their nature or mandate
- It also invites contributions from a broad range of stakeholders, including governments, the private sector, civil society and academia.

A structured framework

- Annual meetings to foster dialogue on shared challenges and support common understanding on good practices in international rulemaking;
- Analytical work using OECD’s longstanding method of peer exchange and evidence-based analysis;
- Collaborative workspace through an e-platform to facilitate exchange of practices and experience;
- Working groups to better tailor the specific needs of IOs and address more in-depth issues.
- A group of Academic Friends of the IO partnership to harness expertise and ongoing research of relevant academics.

The work is structured around 5 core issues:

- Enhancing understanding of the variety in international instruments
- Strengthening the implementation of IO instruments
- Ensuring effective stakeholder engagement
- Developing a greater culture of evaluation of IO rules and standards
- Maximising the opportunities for co-ordination
KEY PUBLICATIONS, REPORTS AND OECD RECOMMENDATIONS

Review of International Regulatory Cooperation of the United Kingdom (2020)


The Case of the International Bureau of Weights and Measures (BIPM) (2020)

International Regulatory Cooperation Arrangements for Air Quality: the Convention on Long-Range Trans-boundary Air Pollution, the Canada – United States Air Quality Agreement, and Cooperation in North East Asia (2020)

Facilitating Trade through Regulatory Cooperation: The Case of the WTO’s TBT/SPS Agreements and Committees (2019)

The Contribution of International Organisations to a Rule-based International System: Key Results from the Partnership of International Organisations for Effective International Rulemaking (2019)

Review of International Regulatory Co-operation of Mexico (2018)


International Regulatory Co-operation and Trade: Understanding the trade costs of regulatory divergence and the remedies (2017)


The contribution of mutual recognition to international regulatory co-operation, OECD Regulatory Policy Working Papers, No. 2 (2016)


International Regulatory Co-operation: Addressing Global Challenges (2013)

OECD Recommendation on Regulatory Policy and Governance (2012)

www.oecd.org/gov/regulatory-policy/irc.htm