

About the OECD Draft Recommendation on International Regulatory Co-operation to Tackle Global Challenges

1. In light of an increasingly interconnected and fast-changing world, International Regulatory Co-operation (IRC) provides basic tools for adapting laws and regulations to challenges that are transboundary, if not global, in nature, are not limited to one policy field and can only be effectively addressed by governments through collective responses grounded in international co-operation. It is not about the *what*, it is about the *how*.
2. With this in mind, this public consultation aims to reach government officials, domestic regulators, international organisations, civil society organisations, and interested citizens and stakeholders from all over the world to ensure that the text of the draft legal instrument reflects the experience, needs and aspirations of the international community.
3. The draft Recommendation aims primarily at:
 - Enhancing knowledge and understanding of IRC as a key element of regulatory quality in light of increasingly transboundary regulatory challenges;
 - Promoting and supporting effectiveness of domestic regulatory frameworks to achieve welfare, economic prosperity and, more broadly, public policy objectives in tackling regulatory challenges at the level where they occur - global;
 - Promoting and supporting economic efficiency in limiting undue regulatory and financial burdens on international flows, and administrative efficiency in pooling intelligence and resources to enhance capacities of domestic regulators.
4. The draft Recommendation is being developed through an inclusive and horizontal approach, involving a number of OECD committees and bodies. Drawing on the [Best Practice Principles on International Regulatory Co-operation](#), that was published on 30 July 2021, the draft Recommendation is built around three main pillars:
 - Establishing a strategy on IRC and its governance;
 - Embedding greater considerations on IRC in domestic rulemaking; and
 - Fostering international co-operation.
5. The draft is a work in progress. Its content is without prejudice to the final text that will be adopted by the OECD Council. For more information on OECD Legal Instruments, please see the [OECD Compendium of Legal Instruments](#). Comments may be published unless requested otherwise.
6. You are invited to comment on the draft Recommendation electronically by **10th March 2022** to the following email address: govirconsultation@oecd.org

Draft Recommendation on International Regulatory Co-operation to Tackle Global Challenges

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendation of the Council on Improving the Quality of Government Regulation [[OECD/LEGAL/0278](#)], the Recommendation of the Council on Regulatory and Policy Governance [[OECD/LEGAL/0390](#)], and the Recommendation of the Council on Agile Regulatory Governance to Harness Innovation [[OECD/LEGAL/0464](#)];

RECOGNISING the progress made by the Regulatory Policy Committee to improve the mechanisms and tools of international regulatory co-operation since 2012, culminating in the development of the Best Practice Principles on International Regulatory Co-operation [[GOV/RPC\(2020\)3/REV2](#)];

RECOGNISING that international regulatory co-operation has become an essential building block to ensure the quality and effectiveness of regulation today;

CONSIDERING that the world faces significant and growing challenges that require international co-operation and action, and effectively addressing global challenges in their complexity and multidimensional nature requires both national action and international co-operation to create the global public response needed for prosperous environmental, social and economic welfare of citizens in a resilient future;

CONSIDERING the contribution of international regulatory co-operation in supporting governments to achieve their domestic public policy objectives by improving the effectiveness of domestic regulations to face transboundary and global challenges; by fostering a regulatory environment that limits unnecessary regulatory divergences if too costly for citizens and business across borders; and by improving administrative efficiency through sharing of knowledge, resources and information;

RECOGNISING that international regulatory co-operation plays an important role in bridging the gap between domestic laws and regulations and the increasing international dimension of issues that those laws and regulations aim to address;

RECOGNISING that global crises such as the COVID-19 pandemic or the 2008 financial crisis are stark reminders of the importance of having in place international regulatory co-operation mechanisms to improve the resilience of regulatory frameworks in the face of transnational disruptions and emerging risks and manage better the health, economic and social impacts in times of global crises, by facilitating the interoperability of services and cross-border activities, reducing costs and delays to international trade and investment for essential goods and services and testing procedures, and promoting mutual learning and pooling of resources between governments;

RECOGNISING the interdisciplinary nature of international regulatory co-operation and the importance of improving understanding and catalysing the efforts of different policy communities, including of central regulatory oversight bodies, various sectoral and transversal portfolios (including trade and investment), to enhance the interoperability of laws, regulations and regulatory frameworks;

RECOGNISING that international regulatory co-operation practices and terminologies vary widely across the international community as do the extent, form and pace of different co-operation efforts, depending on the issue at stake and the legal, institutional, and cultural context;

On the proposal of the Regulatory Policy Committee:

I. **AGREES** that the purpose of this Recommendation is to support Members and non-Members having adhered to it (hereafter the “Adherents”) to leverage international regulatory co-operation to deliver on public policy objectives more effectively and tackle global challenges.

II. **AGREES** that, for the purposes of the present Recommendation, the following definition is used:

- **International regulatory co-operation (IRC)** refers to any agreement, formal or informal, between countries to promote some form of co-operation in the development, monitoring, enforcement, or ex-post management of regulation;

III. **RECOMMENDS** that Adherents promote and implement international regulatory co-operation by:

1. Taking a whole of government international regulatory co-operation approach, that:

- a. conveys political leadership and builds a holistic vision with clearly defined roles and responsibilities, whether reflected in a broad policy, strategic document or other instruments;
- b. promotes co-ordination activities across government to build a common understanding on international regulatory co-operation and its impacts and capitalise on relevant information, practices and activities;
- c. considers a governance structure that is conducive to and raises awareness of the benefits of international regulatory co-operation, involving regulatory oversight bodies, building on existing platforms for co-operation, and encouraging policy makers and regulators to consider international regulatory co-operation.

2. Recognising international regulatory co-operation throughout domestic rulemaking by:

- a. gathering and taking into account international knowledge and expertise that may be applicable to their own jurisdiction;
- b. considering existing international instruments when developing regulations;
- c. taking into account the potential impacts outside of the domestic jurisdiction;
- d. providing opportunities, where appropriate, to engage with foreign stakeholders to comment on potential impacts of proposed regulatory options beyond that jurisdiction’s borders and for such impacts to be considered;
- e. using *ex post* evaluation and reviews of stock of regulation more systematically, as relevant, to map the state of international knowledge on the regulated area, take stock of new approaches adopted across jurisdictions and analyse the costs and benefits of diverging from international practice;
- f. noting at an early stage the value of co-operation for appropriate compliance and enforcement, as needed.

3. Co-operating internationally (bilaterally, plurilaterally and multilaterally) through:

- a. the development and diffusion of good practices and innovations in regulatory policy and governance, both to learn from or to build capacity of other countries as appropriate;
- b. considering the recognition of other jurisdictions’ rules as equivalent when these help fulfil the country’s own regulatory objectives, and the recognition of other jurisdictions’ conformity assessment procedures or enforcement results to facilitate administrative procedures provided that these help prove conformity with the country’s own rules;
- c. seeking coherence in international regulatory co-operation across various international fora and instruments;

- d. collaborating in international fora, where appropriate, to collect evidence and gather expertise on issues of common interest and play an active role in the development of outputs;
- e. promoting the use of good regulatory practices at the international level, to increase their use in support of international regulatory co-operation.

IV. INVITES the Secretary-General to disseminate this Recommendation.

V. ENCOURAGES international organisations to disseminate this Recommendation.

VI. INVITES Adherents to disseminate this Recommendation at all levels of government.

VII. INVITES non-Adherents to take account of and adhere to this Recommendation.

VIII. INSTRUCTS the Regulatory Policy Committee to:

1. serve as a forum for exchanging information on international regulatory co-operation including experience with the implementation of this Recommendation, and to foster multi-stakeholder and interdisciplinary dialogue on international regulatory co-operation, including, for example, through engagement with the Partnership of International Organisations for Effective International Rulemaking and other initiatives supporting IRC;
2. develop further guidance on the implementation of the Recommendation, including through the use of the Indicators of Regulatory Policy and Governance ([iREG](#));
3. continue its important work on international regulatory co-operation building on this Recommendation and taking into account work in other international fora;
4. report to Council on the implementation, dissemination and continued relevance of the Recommendation no later than five years following its adoption and at least every ten years thereafter.