

## Policy Brief on Regulatory Policy

### Using and adapting regulatory policy tools for green and just transition

#### Key highlights

- Making use of better regulation tools and mechanisms may help promote regulatory quality for the green transition. Historically geared towards economic costs and administrative burdens, the notion that better regulation instruments can and should be used to pursue environmental goals is increasingly well established, though less systematically implemented in practice. Regulatory tools can allow governments to embed environmental considerations at all stages of the regulatory cycle.
- Appropriate regulatory delivery, which includes licensing and permitting, regulatory enforcement and inspections, is essential to manage environmental hazards effectively and efficiently and to close the compliance gap on environmental regulation.
- Implementation and enforcement of environmental laws and regulations falls far short of what is required to address environmental challenges. Given the environmental pressures, and the regulators' financial constraints, there is a need to evolve regulatory delivery into a risk-based focused system. This will allow regulators to improve conditions to achieve their environmental policy objectives (effectiveness) and to drive better compliance with fewer resources (efficiency).
- The green transition is a global effort. The full scope of policy priorities that seek the green transition cannot be met by one country alone. Issues such as air pollution, climate change, biodiversity loss, ocean acidification, or plastic waste are all global commons problems, posing major threats to the planet and requiring urgent international action. To address these issues, effective and efficient regulatory action will have to be coherent and – at times – joint between countries. Regulations designed in isolation risk being at best ineffective, at worst counterproductive.

#### What's the issue?

Climate change and other environmental threats require urgent government action for people and the planet. Government action in the form of regulation is crucial to achieve environmental goals while providing for economic opportunities. It is one of the key tools that governments have at hand to achieve environmental goals. Due to the urgency of environmental threats, adopting measures that ensure that regulations stay fit-for-purpose, encourage investment in innovation and continue to support environmental goals, is of utmost priority. Balancing competing (environmental and economic) objectives and trade-offs will be of particular importance in this regard.

Usually, economic concerns can take precedence over social or environmental considerations in regulatory design and the consequences of different policy options are not systematically assessed. Governments should consider placing the environment at the heart of their regulatory policies by rebalancing environmental considerations vis-à-vis economic ones. Ultimately, successful environmental action will require a paradigm-shift in regulatory policy.

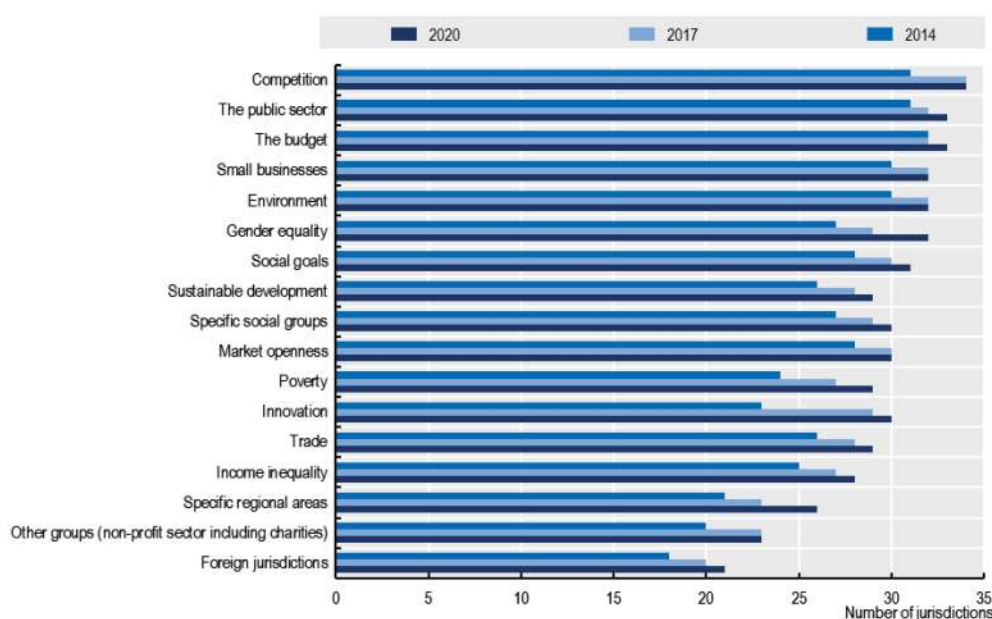
Through good regulatory practices, risk-based and agile approaches, regulatory delivery, international regulatory co-operation, economic regulators, and behavioural insights in designing, implementing, and evaluating efficient and effective regulations for the environment, governments can face the challenges to coherently pursue a greener policy while not putting aside economic objectives.



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One of the most important steps in promoting a green lens is the regulatory design, where systematically assessing environmental impacts when developing regulations is essential to ensuring policy coherence for the environment. However, the assessment of environmental impacts comes with several challenges to governments, as regulations with environmental impacts affect a range of issues that are complex to calculate and measure. In fact, data from the OECD Indicators of Regulatory Policy and Governance (iREG) show that while countries are increasingly formally requiring policy makers to consider the environmental impacts of regulations, there is room to further embed this practice in the rulemaking process.

**Figure 1: More OECD countries require an assessment of regulatory impacts on the environment**



Note: Data are based on 34 OECD member countries and the European Union.

Source: Indicators of Regulatory Policy and Governance (iREG) Surveys 2014, 2017, and 2021. In OECD (2021), OECD Regulatory Policy Outlook 2021, OECD Publishing, Paris, <https://doi.org/10.1787/38b0fdb1-en>.

Another example is the use of stakeholder engagement in green policy making. Stakeholder engagement is key for a just transition. Citizens have a clear stake in environmental policy issues, both for their own interests and the sake of the environment. Governments are not sufficiently engaging with a wide range of stakeholders at all stages of the regulatory cycle. Success in addressing environmental pressures will require collective action from a variety of stakeholders.

Another issue is that governments tend to “regulate and forget”. This means governments adopt regulations and enforce them without regularly reviewing their actual impacts. This could lead to negative consequences for the environment that can go undetected and regulations could fail to address rapidly progressing environmental issues. The pace of climate change and technological developments will require governments to put in place more iterative and flexible regulatory assessment cycles to continuously evaluate existing regulations in a system-wide approach.

Finally, a relevant issue is that domestic and international regulatory action are largely disconnected, despite climate change being a global challenge. International regulatory co-operation is essential to tackle transboundary environmental issues such as air pollution and biodiversity. To this end, governments should consider international evidence, impacts and instruments related to environmental issues throughout domestic rulemaking.



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### Examples from OECD countries and/or Latin American countries

#### Use of public consultation to promote environmental goals in Canada

A regulatory proposal in Canada on the release of methane and compounds included managing five emission sources using regulation, specific emission limits for significant emission sources, and anticipating compliance actions that could reduce methane emissions from each source. In response to public consultation, the sponsoring departments (environment and health) changed the commencement dates of the proposed regulations and reduced leak inspections to three times per year to account for businesses' operational difficulties in the winter. The emission limit for reciprocating compressors was increased to reduce compliance costs. As a result, the regulatory proposal promotes environmental goals while making it easier for businesses to comply with the regulation.

#### The Citizens' Convention on Climate in France

The Citizens' Convention on Climate was a deliberative process that brought together 150 citizens representative of the French population, selected via civic lottery, for seven weekends over six months. It was designed to give citizens an opportunity to propose informed policy recommendations for addressing climate change – to define a range of measures that will enable France to reduce its greenhouse gas emissions by at least 40% by 2030 (compared to 1990 levels) in a socially just and equitable way. After extensive deliberation, citizens have prepared a list of 149 measures for the French government, covering aspects ranging from consumption and transportation all the way to production and working methods. Among the suggestions developed by the Convention are proposals to tighten and enforce regulations on waste management and take actions on international rulemaking to limit greenhouse gas emissions from ships.

### Suggested Policy Actions

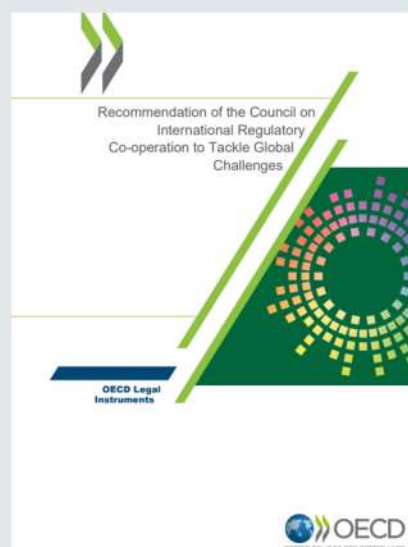
- Tackling climate- and environment- related challenges require strengthening regulatory governance and ensuring that relevant instruments, processes, and institutions are fit to promote an agile and risk-based approach to regulating.
- Environmental impacts should be assessed in a systematic and granular manner in practice. Moreover, practices for assessing environmental impacts are uneven across ministries. Ministries that do not have environmental policy issues as a primary responsibility have less experience with assessing environmental impacts and do so less systematically.
- Tools like regulatory impact assessment, ex post evaluation, and stakeholder engagement allow governments to design regulations that are based on the latest evidence, informed by various groups in society and stay fit-for-purpose to promote the green transition. Risk-based and agile approaches to regulating ensure regulations are proportionate and encourage technological innovation. Regulatory delivery tools enable governments to implement policies in an effective manner.
- Economic regulators carry out several functions and activities that could potentially be leveraged to contribute to environmental goals. Regulators can develop outcome-based regulations, where they define targets, rather than dictating procedures on how operators should achieve specific goals could help reach the public policy objectives and harness innovation.
- International regulatory co-operation allows countries to exchange experiences, learn from each other and ensure coherent approaches to addressing environmental challenges. Countries can embed an international perspective in the regulatory process by considering transboundary impacts on the environment or systematically engaging with foreign stakeholders.
- Behavioural insights can help policy makers understand how individuals and firms make choices to support more efficient policy making processes and decisions.

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### Further reading



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