

Executive summary

Rapid transboundary flows of goods and services, particularly leveraged by the dematerialisation brought by digitalisation, are testing the effectiveness and the capacity of domestic regulatory frameworks. At the same time, the increasing economic interdependency may also have made the world more vulnerable to common threats, particularly visible in times of global crisis. Climate change, financial market instabilities, tax evasion and avoidance, and most recently, the COVID-19 pandemic are just a few examples of complex global challenges whose public management revealed shortcomings in the international coordination of regulation. They are a stark reminder of the interconnectedness of countries and the importance of co-operation in laws and regulations to improve the resilience of regulatory frameworks in the face of global or regional disruptions.

International Regulatory Co-operation (IRC) aims to promote the interoperability of legal and regulatory frameworks. The 2012 OECD Recommendation on Regulatory Policy and Governance was visionary in making IRC a key pillar of the quality and relevance of regulation by encouraging governments, in developing regulatory measures, to *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* (Principle 12). IRC thus forms part of a critical building block of structural regulatory reform, bridging the gap between the domestic nature of rulemaking and the increasingly international dimension of issues that laws and regulations aim to address. The OECD Best Practice Principle on International Regulatory Co-operation (“Best Practice Principles”) provide policy makers, civil servants and other public sector practitioners with a practical instrument to make the best of IRC.

There are various ways in which government authorities can promote the interoperability of laws and regulations. Broadly, the notion of IRC encompasses any agreement or organisational arrangement, formal or informal, between countries to promote some form of co-operation in the design, monitoring, enforcement, or ex-port management of regulation. In practice, IRC approaches range from the exchange of information to the harmonisation of rules. They may focus on the stage preceding the development of rules – such as the evidence gathering – or apply to the regulatory delivery side (in enforcement/inspection for example). They may involve complex institutional organisation (such as the establishment of a dedicated secretariat) or result from informal dialogue. To draw benefits from IRC, it is essential for policymakers and regulators to consider the broad range of approaches and their respective benefits and costs.

To support countries in operating a true culture shift and firmly embed a stronger international lens in domestic regulatory frameworks, the Best Practice Principles are organised around three building blocks (and detailed below).

Establishing a whole-of-government IRC policy/strategy is an essential step to convey political leadership and build a holistic vision, feeding into the broader strategic priorities of the government, with clearly defined roles and responsibilities. More broadly, it helps the diversity of actors that need to be involved in IRC in having common understanding and awareness of the tools available to them.

IRC starts at home with embedding its key principles throughout the domestic rulemaking, from the initiation of new laws and regulations to their implementation, evaluation and revision. This can be done without prior co-ordination with foreign peers, but still has important implications for the activities of domestic regulators and their oversight bodies. It involves a systematic consideration of foreign and international regulatory frameworks of relevance when regulating, as well as the assessment of how regulatory measures impact and fit within the broader cross-border management of the issue to address. The regulatory management tools, namely regulatory impact assessment, stakeholder engagement and *ex post* reviews of laws and regulation, provide important entry points in the rule-making process to consider the international environment and enrich the evidence basis for the development and revision of quality laws and regulations. Ultimately better informed rulemaking helps avoid the unnecessary regulatory divergences and foster the mutual knowledge and confidence needed across jurisdictions.

In addition to unilateral actions, stronger forms of bilateral, regional or international co-operation approaches are needed (and *de facto* exist) to lay the ground of institutionalised and continuous collaboration and of greater coherence in regulatory matters. The modalities of co-operation will depend on the legal and administrative system and geographic location of the country, as well as on the sector or policy area under consideration. These Best Practice Principles support countries in making more effective and strategic use of such different co-operation means, such as contributing to international fora, which support regulatory co-operation, using mutual recognition in combination with other international instruments, or specific provisions in trade agreements.

These Best Practice Principles are intentionally ambitious. To date, few countries meet the principles laid down in this document. Nevertheless, because it is scarcely used does not mean that IRC is not achievable. On the contrary, a number of practices and approaches are easy to adopt. Close to 10 years after the *2012 OECD Recommendation on Regulatory Policy and Governance* made IRC a key pillar of regulatory quality, these Best Practice Principles give a renewed impetus to countries to truly embrace IRC and thus address better the major policy challenges of today and tomorrow.

Best Practice Principles on IRC

Establishing the IRC strategy and its governance

- Develop a whole of government IRC policy / strategy
- Establish a co-ordination mechanism in government on IRC activities to centralise relevant information on IRC practices and activities and to build a consensus and common language
- Enable an IRC conducive framework – i.e. raise awareness of IRC, build on existing platforms for co-operation, reduce anti-IRC biases and build in incentives for policy makers and regulators

Embedding IRC throughout the domestic rulemaking

- Gather and rely on international knowledge and expertise
- Consider existing international instruments when developing regulation and document the rationale for departing from them
- Assess impacts beyond borders
- Engage actively with foreign stakeholders
- Embed consistency with international instruments as a key principle driving the review process in *ex post* evaluation and stock reviews
- Assess *ex ante* the co-operation needs to ensure appropriate enforcement and streamline “recognisable” procedures

Co-operating internationally (bilaterally, plurilaterally & multilaterally)

- Co-operate with other countries to promote the development and diffusion of good practices and innovations in regulatory policy and governance
- Contribute to international fora which support regulatory co-operation
- Use mutual recognition in combination with international instruments
- Align IRC expectations across various policy instruments, including in trade agreements



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