



EUROPEAN
COMMISSION



ORGANISATION FOR ECONOMIC
CO-OPERATION AND DEVELOPMENT

**BETTER REGULATION IN EUROPE: AN OECD ASSESSMENT OF REGULATORY
CAPACITY IN THE 15 ORIGINAL MEMBER STATES OF THE EU**

PROJECT GLOSSARY

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<p>Administrative burdens/costs</p>	<p>The costs involved in obtaining, reading and understanding regulations, developing compliance strategies and meeting mandated reporting requirements, including data collection, processing, reporting and storage, but not including the capital costs of measures taken to comply with the regulations, the general economic costs, or the costs to the public sector of administering the regulations. See also administrative simplification, standard cost model.</p> <p>Within the EU Institutions, defined as the costs incurred by enterprises, the voluntary sector, public authorities and citizens in meeting legal obligations to provide information on their action or production, either to public authorities or to private parties. Information is to be construed in a broad sense, i.e. including costs of labelling, reporting, monitoring and assessment needed to provide the information and registration. They are a subset of compliance costs stemming from the generic requirements of the legislation, which also includes substantive costs, one-off investments in new production processes, training or increased recurring costs for raw materials and labour (excluding administrative).¹</p>
<p>Administrative simplification</p>	<p>Making existing regulation clearer to understand, easier to apply and to comply with by taking away unnecessary, outdated or over burdensome provisions whilst maintaining the original purpose and protection of the regulation. Covers administrative formalities and bureaucratic practices.</p>
<p>Advisory groups</p>	<p>Selected experts and/or interested parties (e.g. social partners, environmental groups) are brought together to form a consultative body, either on an <i>ad hoc</i> or a standing basis.</p>

1. See International Standard Cost Model Manual, at www.oecd.org/dataoecd/32/54/34227698.pdf

Baseline (definition used for this project)	A common starting point for each of the project's country reviews. It also defines the scope of the project.
Best practices	A set of standards for achieving regulatory quality.
Better regulation/regulatory policy	<p>Generically, this means an explicit, dynamic and consistent “whole of government” policy to promote continuous improvements in the quality of rule-making. Better regulation is largely interchangeable with the term regulatory policy.</p> <p>In the OECD context, the OECD’s Guiding Principles for Regulatory Quality and Performance encourage countries to adopt at the highest political level broad programmes of regulatory reform that establish principles of “good regulation”.</p> <p>In the EU context, the Lisbon Strategy for growth and jobs which was renewed in 2005 includes National Reform Programmes to be carried out by member states, an important part of which addresses the need for better regulation. Specifically, the term is associated with the EU Commission’s 2006 Strategic Review of Better Regulation and related working documents.²</p> <p>See also regulatory reform.</p>
Codification	<p>Consolidating all the amendments made over time to a given law, which are often implemented through additional laws.</p> <p>Within the EU Institutions, the specific definition is repealing a set of acts in one area and replacing them with a single act containing no substantive change to those acts, thus producing a text with legal effect³.</p> <p>See also recasting, consolidation.</p>

2. [COM (2006) 689 final] of 14.11.2006. (EU Council 2006 Strategic Review and Better Regulation); [COM (2006) 691 final] of 14.11.2006.(Administrative costs measurement and administrative burden reduction in the EU); [COM (2006) 690 final] of 14.11.2006.(First progress report on simplification of the regulatory environment); [COM (2007) 23 final] of 24.1.2007.(EU Commission’s Action Programme for reducing administrative burdens, endorsed by the European Council in March 2007); [COM (2008) 32 final] of 30.1.2008. (A second Strategic Review was published in January 2008); [SEC (2008) 35 final] of 30.1.2008. (2007 progress report and 2008 outlook on administrative burden reduction).

3. Mandelkern Group on Better Regulation Final Report of 13.11.2001, Annex D.

<p>“Command and Control” regulation</p>	<p>Regulations which specify, usually in detail, the regulatory requirements and a set of penalties for non-compliance (typically a fine or imprisonment or both). It is generally oriented toward input and behavioural requirements rather than toward outcome.</p> <p>See also delegated and self regulation.</p>
<p>Common Commencement Dates (CCD)</p>	<p>The purpose of CCDs is to help business plan for new regulation and to increase awareness of the introduction of new or changed requirements. By reducing to two dates, for example, on which new regulation may be started, it is hoped that increased awareness by businesses of new or changed obligations will result in improved compliance levels.</p>
<p>Compliance</p>	<p>Compliance means acting in accordance with enacted regulation. To achieve its intended objective, a regulation must not only be implemented, but there must also be compliance with it by those to whom it is addressed (business, citizens etc).</p> <p>See also implementation, enforcement, Table of Eleven.</p>
<p>Consolidation (definition used by the EU Institutions)</p>	<p>Bringing together multiple texts that regulate a particular area into one, with or without minor changes to the substance, producing a text without legal effect but of practical benefit.⁴</p> <p>See also recasting, codification (with which it is not to be confused).</p>
<p>Correlation tables (term used in the EU context)</p>	<p>Tables that are drawn up to show the relationship between national implementing regulations and EC Directives.</p>
<p>Decentralisation</p>	<p>Transfer of administrative or regulatory powers from the central government to a local government. May also be known as devolution. Not to be confused with deconcentration.</p>
<p>Deconcentration</p>	<p>Delegation of an administrative or regulatory power from the central government to a local office or agency of the central government. The delegated power is exercised by central government representatives at the local level and/or the local level takes on the administrative tasks related to the exercise of central government powers. See also decentralisation.</p>

4. Mandelkern Group on Better Regulation Final Report of 13.11.2001, Annex D.

Delegated or self regulation	<p>Governments may delegate rule-making, certification, or inspection and enforcement functions to non-governmental bodies. Delegated or self regulation may be an established feature for some sectors.</p> <p>Co-regulation is another variant, under which regulatory responsibilities are shared by government and industry. For example an industry association or professional group will assume some regulatory functions, such as surveillance and enforcement or setting of regulatory standards.</p>
Deregulation	<p>Complete or partial repeal of regulations governing a given sector, with the objective of improving economic performance. For example the introduction of competition in previously closed sectors of the economy involves the repeal of regulations that prevent market entry. Deregulation, however, is a misleading term, as in practice it often involves the enactment of new regulations for the management of the same sector under conditions of competition.</p>
Enactment	<p>The act of making regulations.</p>
Enforcement	<p>Monitor compliance with the law, including sanctioning non-compliance by national and supranational institutions.</p> <p>See also compliance, implementation, Table of Eleven.</p>
European Communities (EC) legislation	<p>There are three types of EC binding legal instrument under the Treaties:</p> <ul style="list-style-type: none"> • Regulation (not to be confused with the generic use of this term for this project, see regulation). A general measure that is binding in its entirety and that is directly applicable, without requiring transposition into national regulations. • Decision. An individual measure that is binding in its entirety for the person(s) to whom it is addressed. • Directive. Addressed to the Member States and binding on them as to the results to be achieved but leaving them the choice of form and method to realize the Community objectives within the framework of their internal legal order. <p>See also gold plating.</p>

<p>Evaluation</p>	<p>A distinction needs to be made between <i>ex post</i> evaluation and <i>ex ante</i> evaluation.</p> <p><i>Ex post</i> evaluation is the assessment of existing regulatory policies, tools and processes in terms of their effectiveness and/or efficiency in terms of delivering better regulation. It can be applied, for example, to specific tools and processes such as administrative simplification or impact assessment, or to a regulation, body of regulations, or institutions.</p> <p><i>Ex ante</i> evaluation refers to the evaluation of a proposed regulation before it is made, including the use of tools such as regulatory impact assessment.</p> <p>A third form of (<i>ex post</i>) evaluation is the assessment of regulatory policies, tools and processes in terms of whether they help to improve economic performance, such as more efficient product or labour markets.</p>
<p>Forward planning</p>	<p>The periodic assembly of lists and descriptions of proposals for forthcoming laws and subordinate regulations. These may be internal documents aimed at enhancing coordination between government institutions, or they may be publicly available, serving both to raise awareness of consultation opportunities and to allow interested parties more time to prepare for consultation.</p>
<p>Gold plating (term used in the EU context)</p>	<p>Over-implementation of an EC Directive through the imposition of national requirements going beyond the actual requirements of the Directive. Directives allow member states to choose how to meet the objectives set out in the Directive, adapting their approach to their own institutional and administrative cultures. It is often at this stage that additional details and refinements, not directly prescribed by the Directive, are introduced. These can go well beyond the requirements set out in the Directive, resulting in extra costs and burdens. See also EC legislation.</p>
<p>Guillotine process</p>	<p>A process to nullify rules that are not centrally registered by a certain deadline. The process can be triggered by governments finding out that they are unable to compile a list of regulations in force.</p>
<p>Harmonisation</p>	<p>Convergence of legislation towards regulations that, if not identical, are at least neutral (eliminating discrimination or anti competitive effects on the functioning of markets).</p>

Implementation	<p>The generic meaning of this term is the enactment and application of regulations.</p> <p>In the EU context it specifically means the process of incorporating any EC regulation (that is, Decisions, Regulations, and Directives) into the national legal framework and ensuring its application.</p> <p>See also incorporation, transposition enforcement, compliance, Table of Eleven.</p>
Incorporation (term used in the EU context)	<p>The incorporation of European Communities (EC) regulation into national law. In the case of Directives, this is usually known as transposition, but it also includes the legal changes necessary to support legal instruments that are directly applicable such as a Decision or Regulation. See also transposition, implementation, EC legislation.</p>
Independent regulators/regulatory agencies	<p>Autonomous/independent agencies at arms' length from central government, which have been given delegated powers to oversee, apply and enforce regulations in respect of a particular sector or issue, such as the infrastructure sectors. They may also have delegated rule-making powers. Independent regulators are often set up to clarify and separate two distinct functions: central government policy making, and implementation of policy, and (where this also applies), to separate government policy making and policy execution from state ownership of regulated companies.</p>
Informal consultation	<p><i>Ad hoc</i> meetings with selected interested parties, held at the discretion of regulatory authorities.</p>
Licence	<p>Also known as a permit, this grants permission to undertake a particular activity. Conversely, the activity cannot be undertaken without the permit or licence. A licence may or may not confer exclusivity.</p>
Lisbon Strategy	<p>The 2005 renewed Lisbon Strategy (the original Strategy was adopted in 2000), adopted by the European Council, emphasizes actions for growth and jobs, enhanced productivity and competitiveness, including measures to improve the regulatory environment for businesses. The Strategy and its linked Agenda includes National Reform Programmes to be carried out by Member States, which are monitored by the EU Commission.</p>

<p>Multi-level regulatory governance</p>	<p>Multilevel regulatory governance covers the rule-making and rule- enforcement activities of all the different levels of government, not just the national level. It takes into account</p> <ul style="list-style-type: none"> • how regulatory responsibilities are shared at the different levels of government (primary rule-making, secondary rule-making based on primary legislation, the transposition of EC Directives, responsibilities for supervision/enforcement of national or subnational regulations, responsibilities for service delivery) • the capacities of these different levels to produce quality regulation • the coordination mechanisms between the different levels
<p>Mutual recognition</p>	<p>The recognition by different jurisdictions of equivalent licensing standards in order to facilitate the movement of goods and services between complying jurisdictions. It presupposes a close degree of equivalence and reciprocal confidence in the responsible institutions.</p>
<p>National Reform Programmes (NRP)</p>	<p>As agreed at the European Council in March 2005, Member States are committed to drawing up, under their own responsibility, National Reform Programmes (NRP) based on the Integrated Guidelines for Growth and Jobs which encompass the economic, social and environmental dimensions. Implementation reports are then used by the European Commission to evaluate progress through Annual progress reports.</p>
<p>OECD 2005 Guiding Principles for Regulatory Quality and Performance</p>	<p>The OECD's 2005 Guiding Principles for Regulatory Quality and Performance set out core principles of effective regulatory management:</p> <ul style="list-style-type: none"> • Adopt at the political level broad programmes of regulatory reform that establish clear objectives and frameworks for implementation. • Assess impacts and review regulations systematically to ensure that they meet their intended objectives efficiently and effectively in a changing and complex economic and social environment • Ensure that regulations, regulatory institutions charged with implementation, and regulatory processes are transparent and non-discriminatory • Review and strengthen where necessary the scope, effectiveness and enforcement of

	<p>competition policy</p> <ul style="list-style-type: none"> • Design economic regulations in all sectors to stimulate competition and efficiency, and eliminate them except where clear evidence demonstrates that they are the best way to serve broad public interests. • Eliminate unnecessary regulatory barriers to trade and investment through continued liberalization and enhance the consideration and better integration of market openness throughout the regulatory process, thus strengthening economic efficiency and competitiveness. • Identify important linkages with other policy objectives and develop policies to achieve those objectives in ways that support reform.
Performance based regulation	<p>Regulation that specifies objectives or “output standards” by which regulatory compliance will be assessed, and that leaves the means of compliance to be determined by the regulated entity in order to promote efficient compliance strategies.</p> <p>See also Regulatory alternatives.</p>
Primary legislation	<p>Regulations enacted by the legislature (parliament or congress). At the European level, the treaties constitute the EU’s ‘primary legislation’.</p> <p>See also secondary regulation.</p>
Public consultation	<p>Structured public engagement which involves seeking, receiving, analysing and responding to feedback from stakeholders among the public. Public consultation gives citizens and business the opportunity to make an active input in regulatory decisions.</p>
Public governance	<p>Optimising the management of government institutional capacities and public decision-making. Establishment and strengthening of administrative structures that are effective, efficient, transparent and accountable to citizens.</p>
Public Notice and Comment	<p>Notice of the intention to regulate is published and comments are sought from all interested parties before the regulation is approved.</p>
Recasting (definition used by the EU)	<p>Repealing a set of acts in one area and replacing them with a single act containing substantive changes to those acts. It is not however wholesale repeal or a major review of regulation⁵.</p> <p>See also consolidation, codification.</p>

5. Mandelkern Group on Better Regulation Final Report of 13.11.2001, Annex D.

<p>Regulation (“Réglementation” in French)</p>	<p>In the context of this project, regulation covers any instrument by which governments set requirements on enterprises and citizens. It therefore includes all laws (primary and secondary), formal and informal orders, subordinate regulations, administrative formalities and rules issued by non-governmental or self-regulatory bodies to whom governments have delegated regulatory powers. Secondary or Subordinate regulations may be mandated in the primary laws, or established directly by lower levels of government (state, region etc).</p>
<p>Regulation inside government (RIG)</p>	<p>Regulation inside government refers to the regulations imposed by the state on its own administrators and public service providers (for example government agencies or local government service providers). The changing role of the state over recent years, often characterized as a shift to the “regulatory state”, means that tasks that used to be carried out within government have been progressively decentralized and delegated at arm’s length. At the same time the expectations of society in matters such as health and safety, environmental protection, and efficient public service delivery, have tended to rise. A growing framework of regulation is now in place to regulate the government’s decentralized activities (a mirror image, inside government, of the regulatory frameworks that have been put in place to regulate the liberalized and privatized companies which used to be an integral part of the state).</p>
<p>Regulatory authorities</p>	<p>Public authorities responsible for enacting and enforcing regulations. This responsibility generally flows from provisions in the constitution and/or primary legislation.</p>
<p>Regulatory management capacity</p>	<p>The capacity inherent in government to promote better regulation. Key elements of this capacity are to be found in the existence of a clear regulatory policy or policies, an institutional framework which is capable of promoting the policy, and the tools and processes deployed for the management of the stock of existing regulation, as well the development of new regulations (for example, administrative simplification, impact assessment).</p>
<p>Regulatory alternatives</p>	<p>Policy instruments other than “command and control” regulation used to obtain policy goals. They include instruments such as performance based regulation, process regulation, waiver or variance provisions, delegated, self and co-regulation, contractual arrangements, voluntary commitments, tradable permits, taxes and subsidies, insurance schemes, information campaigns.</p> <p>See also delegated or self regulation, performance-based regulation.</p>

Regulatory Impact Assessment (RIA)	A structured framework and systematic process to identify and quantify economic, social and environmental impacts likely to flow from adoption of a proposed regulation or a non-regulatory policy option under consideration. The process may be based on benefit/cost analysis, cost effectiveness analysis, business impact analysis etc.
Regulatory powers	Powers to enact and enforce regulations.
Regulatory quality	Optimising the performance, cost-effectiveness, or legal quality of regulation and administrative formalities.
Regulatory reform	<p>Changes in the capacity of institutions and systems for regulatory management that improve regulatory quality, that is, enhance the performance, cost-effectiveness, or legal quality of regulation and formalities.</p> <p>The term is also associated with measures targeted at a specific sector with a view to improving economic performance.</p> <p>See also deregulation.</p>
Review/revision clause	A provision in regulation that requires a review to be conducted within a certain period, but where the outcome (status quo, revision or repeal) is not pre determined.
Risk Assessment	The task of identifying and exploring, preferably in quantified terms, the types, intensities and likelihood of the (normally undesired) consequences related to a risk. Risk assessment comprises hazard identification and estimation, exposure and vulnerability assessment and risk estimation.
Risk Management	Regulation is a fundamental tool for managing the risks present in society and the economy (societal risks such as environmental or health risks, as well market related risks). Regulation can aim to reduce the incidence of hazardous events or their severity. Some OECD countries have started to explore the ways in which regulatory policies can better reflect the need to assess and manage risks, and to put institutional structures, guidelines and procedures in place for this.
Single Market (term used in the EU context)	Also known as the Internal Market. The EU Single European Act of 1986 stipulated that “the Community shall adopt measures with the aim of progressively establishing the internal market over a period expiring on 31 December 1992... the internal market shall comprise an area without internal frontiers in which the free movement of goods, persons, services and capital is ensured.”

Soft law	Administrative circulars and administrative discretion.
Standard cost model (SCM)	Developed by the Netherlands for the purpose of quantifying the administrative burden generated by a particular regulation or regulatory requirement, within the remit of a particular authority, during a specified time period, and to allow comparability between regulations and authorities. The starting point for the analysis is that businesses must perform a sequence of activities if they are to meet the requirements imposed on them. The cost of meeting these requirements is the sum of the costs of all the activities necessary to this end.
Secondary regulation	<p>Secondary regulation can be enacted by a body authorized to do so by primary legislation (legislation enacted by the legislature). It may also be known as subordinate regulation.</p> <p>Note that many secondary regulations can be disallowed by the legislature, if they so decide.</p> <p>See also primary legislation.</p>
Subsidiarity (term used in the EU context)	A principle aimed at ensuring that a task is carried out at the appropriate level of government and that decisions are taken as closely as possible to the citizens. Specifically, a task should only be allocated to a higher level if the lower level is incapable of taking it on. In the EU context this means that the EU only takes action in cases where national level action cannot achieve the stated objective.
Sunsetting clause	The automatic repeal of a regulation a defined time period after it has come into force. This will usually trigger a review of the regulation just before repeal occurs.
Table of Eleven	<p>Developed by the Netherlands for the purpose of promoting compliance. It involves an <i>ex ante</i> compliance assessment. Eleven aspects of a proposed regulation are considered. The eleven aspects may be categorised as follows:</p> <ul style="list-style-type: none"> • spontaneous compliance: knowledge of the regulation, costs of compliance/benefits of non compliance, degree of business and popular acceptance of the regulation, loyalty and natural obedience of the regulated form, extent of informal monitoring • monitoring: probability of report through informal channels, probability of inspection, probability of detection, probability of inspection • sanctions: risk of sanctions, severity of sanctions.

Transparency	Transparency is a central pillar of effective regulation, sustaining confidence in the legal environment, making regulations more secure and accessible, less influenced by special interests, and therefore more open to competition, trade and investment. It involves a range of actions including standardized processes for making and changing regulations, consultation with stakeholders, effective communication of regulations and plain language drafting, publication and codification to make them accessible, controls on administrative discretion, and effective implementation and appeals processes.
Transposition	The process of incorporating a European (EC) Directive into national law. See also incorporation, implementation.
Unfunded mandate	When a higher (national) level imposes a standard for compliance on a lower level which can only be met through expenditure that is not allocated in a budget or grant to the lower level.
Voluntary commitments	Commitments by firms to reach certain targets or behave in certain ways not mandated by legislation. May be agreed to in exchange for certain other government benefits (e.g. reduced frequency of regulatory inspections). See also delegated or self regulation