

INDICATORS OF REGULATORY POLICY AND GOVERNANCE

LATIN AMERICA 2016

PERU



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INDICATORS OF REGULATORY POLICY AND GOVERNANCE: LATIN AMERICA 2016

ISSUE A POLICY STATEMENT ON REGULATORY POLICY AND ESTABLISH AN OVERSIGHT BODY

Whilst several policies with the aim of improving the quality of regulation are in place, Peru is currently still in the process of streamlining these into an explicit whole-of-government regulatory policy. Likewise, institutional responsibility is scattered across the government. The Secretariat of Public Management within the Presidency of the Council of Ministers is responsible for administrative simplification whilst the Ministry of Economy and Finance (MEF) has a leading role with regards to *ex ante* impact assessment. The Ministry of Justice and Human Rights is in charge of the constitutional and legal assessment of regulation. In order to ensure the effective implementation of good regulatory practices, Peru should consolidate and boost the existing efforts by issuing a policy statement on regulatory policy and establish a regulatory oversight body to co-ordinate and monitor the regulatory policy agenda.

CONSULT WITH STAKEHOLDERS SYSTEMATICALLY AND EARLY ENOUGH

Whilst Peru has adopted the basic legal requirements to engage stakeholders, consultation is not yet used systematically in practice. In line with Supreme Decree No. 001-2009-JUS, regulations have to be pre-published for comments 30 days before the planned entry into force. Whilst being an important tool for transparency, the pre-publication occurs at a late stage and leaves limited room for stakeholders' feedback to be considered and incorporated. It would thus be important to systematically consult with stakeholders, including earlier in the process when policy options are being defined.

INTRODUCE A RIA SYSTEM TO SUPPORT EVIDENCE-BASED POLICY MAKING

Although some elements for an *ex ante* assessment of regulations are in place, it is not systematically used to inform the development of regulations. Regulators are formally required to conduct a cost-benefit analysis when preparing regulation but no common methodology or oversight mechanisms are in place and it is not properly implemented in practice. Peru should introduce a Regulatory Impact Assessment (RIA) system with a standardised methodology covering the whole administration. Establishing an oversight body with the responsibility to check the RIA quality would help ensure an efficient implementation.

MAKE USE OF EX POST EVALUATION TO ENSURE REGULATIONS ARE FIT-FOR-PURPOSE

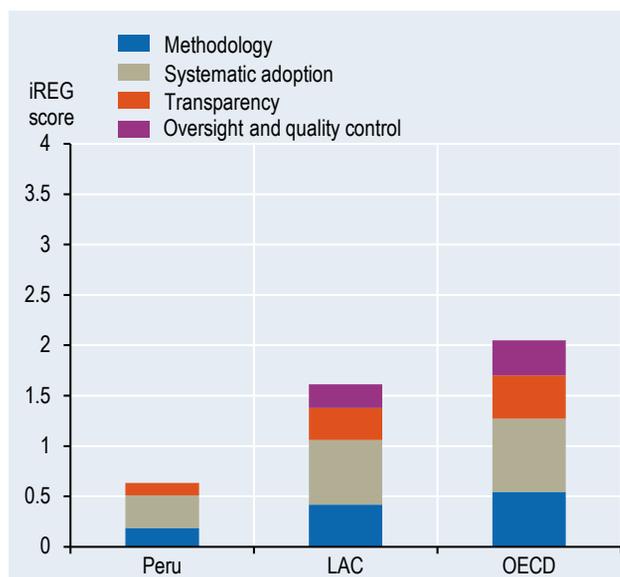
Peru has started investing in administrative simplification but the use *ex post* evaluations to ensure regulations achieve their objectives is yet unexplored. The National Plan on Administrative Simplification 2013-16 requires the administration at all levels of government to reduce burdens from formalities and information obligations for citizens and business. However, the lack of a baseline measurement of existing burdens and of oversight affects the effectiveness of the programme. Peru should consider establishing specific criteria for *ex post* evaluation, including an assessment of whether regulations achieve their objectives, to make sure the regulation is the most efficient solution to the issue at hand.

Spotlight: The Commission of Elimination of Bureaucratic Barriers

The Commission of Elimination of Bureaucratic Barriers of the National Institute for the Defence of Free Competition and Protection of Intellectual Property (INDECOPI) has the legal capability to stop the application of a regulatory instrument to a citizen or business if it is considered a bureaucratic barrier, illegal or lacking rationality. In order to initiate a case, the citizen or business affected by the regulation must fill out a form providing information on the regulatory instrument which is alleged to be a barrier, including the name of the institution in charge and the legal arguments regarding the illegality and unreasonableness of the barrier. When a rule is considered both a "bureaucratic barrier" and not legal or irrational (rational or proportionate), the commission can stop its application to the business or citizen which filed the complaint.



1. Composite indicator: Stakeholder engagement in the development of subordinate regulations



2. Regulatory Impact Assessment (RIA)

	Peru	LAC answers 2016 (7 countries)	OECD answers 2015 (34 countries)
Requirement to conduct RIA	Never	All (2); Major (0); Some subordinate regulations (1); Never (4)	All (22); Major (6); Some subordinate regulations (4); Never (2)
RIA conducted in practice	Some subordinate regulations	All (1); Major (0); Some subordinate regulations (3); Never (3)	All (16); Major (8); Some subordinate regulations (7); Never (3)
RIA quality check by government body outside the ministry preparing the regulation	No	Yes (2); No (5)	Yes (25); No (9)
Written guidance on the preparation of RIA provided	No	Yes (6); No (1)	Yes (33); No (1)

3. Ex post evaluation and administrative simplification

	Peru	LAC answers 2016 (7 countries)
Administrative simplification processes in the last four years	Yes	Yes (7); No (0)
Ex post reviews conducted that include an assessment of whether the objectives of the regulation have been achieved	Primary laws	Yes (2); No (5)
	Subordinate regulations	Yes (3); No (4)

4. General trends and institutional setting

	Peru	LAC answers 2016 (7 countries)	OECD answers 2015 (34 countries)
Explicit, published regulatory policy exists	No	Yes (5); No (2)	Yes (32); No (2)
Minister / high-level official accountable for promoting regulatory reform	No	Yes (4); No (3)	Yes (28); No (6)
Body responsible for promoting regulatory policy and reporting on regulatory quality	No	Yes (5); No (2)	Yes (32); No (2)

Notes:

1. Figure 1 displays the total aggregate score across the four separate categories of the composite indicator. The maximum score for each category is 1 and the maximum score for the aggregate indicator is 4. The more regulatory practices as advocated in the *2012 OECD Recommendation on Regulatory Policy and Governance* a country has implemented, the higher its indicator score.

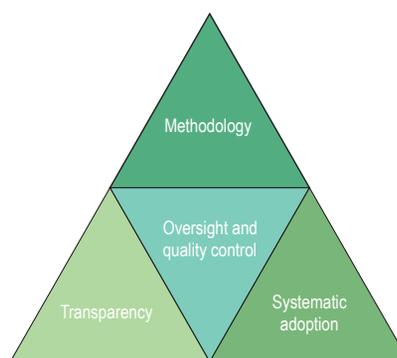
2. Data on LAC countries include: Brazil, Chile, Colombia, Costa Rica, Ecuador, Mexico and Peru. They reflect the situation as of 31 December 2015. Data on OECD countries cover 34 OECD countries and reflect the situation as of 31 December 2014.

Source: Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016; Indicators of Regulatory Policy and Governance (iREG) 2015, www.oecd.org/gov/regulatory-policy/measuring-regulatory-performance.htm.

The Indicators of Regulatory Policy and Governance (iREG) for Latin America 2016 provide an up-to-date overview of regulatory systems in selected Latin American countries, by which they develop, implement and evaluate regulations. They cover three principles of the [2012 OECD Recommendation on Regulatory Policy and Governance](#): stakeholder engagement, Regulatory Impact Assessment (RIA) as well as *ex post* evaluation and administrative simplification.

A composite indicator on stakeholder engagement in developing subordinate regulations measures the adoption of good practices to engage with interested parties when developing new regulations, including different methods and openness of consultations as well as transparency and response to comments received. It consolidates information in four equally weighted categories:

- *Systematic adoption* records formal requirements and how often and at what stage in the rulemaking process these requirements are conducted in practice.
- *Methodology* gathers information on the methods used to engage with stakeholders, e.g. forms of consultation and documents to support them.
- *Oversight and quality control* records the role of oversight bodies and publicly available evaluations of the consultation system.
- *Transparency* records information from the questions that relate to the principles of open government, e.g. whether consultations are open to the general public and if comments and responses by authorities are published.



LAC iREG is based on the results of the Survey on Indicators of Regulatory Policy and Governance 2015 jointly conducted by the OECD and the Inter-American Development Bank (IDB) with 7 countries in the region. The data underlying the composite indicator reflect practices and requirements in place at the national level of government, as of 31 December 2015.

Whilst the indicators provide an overview of a country's regulatory system, they cannot fully capture the complex realities of its quality, use and impact. In-depth country reviews are therefore required to complement the indicators and to provide specific recommendations for reform.

Further analysis based on the LAC iREG and other indicators to benchmark government performance in the region can be found in the [Government at a Glance - Latin America and the Caribbean 2017](#) publication.

An in-depth analysis of regulatory practices amongst OECD countries including composite indicators in the areas of stakeholder engagement, RIA and *ex post* evaluation can be found in the [OECD Regulatory Policy Outlook 2015](#).



LINKS  **CONTACTS** 

- [Indicators and underlying data](#)
- [Regulatory policy by country](#)
- [Regulatory Policy Outlook 2015](#)
- [OECD work on regulatory policy](#)
- [Government at a Glance - Latin America and the Caribbean](#)
- [Regulatory Policy in Peru: Assembling the Framework for Regulatory Quality](#)

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