



Better Regulation **Joining forces to make better laws**



Communication from the Commission to the European Parliament, the Council, the European and Social Committee and the Committee of the Regions

Better Regulation: Joining forces to make better laws

1. Supporting EU recovery through better regulation

The Commission's 'better regulation' system is one of the most advanced regulatory approaches in the world¹. The continued improvement of the system over the last years has clearly helped us to achieve better results.

It systematically assesses the economic, social and environmental impacts of policy action and ensures a consistently high quality of proposed legislation. Given this Commission's ambitious agenda and the unprecedented challenges we are facing, the need for strong analysis and reliable evidence is greater than ever. Therefore, we are proposing a number of further improvements not least to ensure our policies support the recovery and resilience of the EU and its twin transition in the best possible way the Commission will:

- Invite Member States, regions, and key stakeholders to help remove obstacles and red tape slowing down the building of 21st century infrastructure. This will help to speed up investments and the implementation of NextGenerationEU. Better regulation will play a crucial role in this endeavour and the Fit for Future (F4F) Platform², will support efforts to simplify and make EU laws better adapted for tomorrow's needs.
- By introducing a 'one in, one out' approach adapted to the policymaking in the EU, strengthen the attention of policymakers for the implications and costs of applying legislation, especially for small and medium-sized enterprises (SMEs)
- Mainstream the United Nations' sustainable development goals³ (SDGs) to help ensure that every legislative proposal contributes to the 2030 sustainable development agenda; and ensure that the 'do no significant harm' principle is applied across all policies in line with the European Green Deal oath;

¹ OECD (2018), *OECD Regulatory Policy Outlook 2018* (OECD Publishing, Paris).

² https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f_en

³ <https://sdgs.un.org/goals>

- In line with the 2030 Digital Compass Communication⁴, better regulation will promote the ‘digital by default’ principle in forthcoming EU legislation as an important tool to support digital transformation;
- Integrating strategic foresight into policymaking will see to it that existing and new EU legislation is fit for the future.

Better regulation is a shared objective and responsibility of all EU institutions. We will reach out to the European Parliament and the Council regarding their efforts to assess and monitor the impact of EU legislation and EU spending programmes. In addition, we will cooperate more closely with local, regional and national authorities, and social partners on EU policymaking.

Another focus will be on improving our understanding of the needs for and impact of EU legislation within and outside the EU, including engagement with external partners⁵. To engage individuals, businesses and civil society, we will raise awareness of our public consultations and make it easier to navigate and participate in them. Finally, we will address the shortcomings identified in our 2019 stocktaking of better regulation⁶.

2. A shared effort

Cooperation among EU co-legislators, with Member States and stakeholders, including social partners, is key. We need to boost our joint efforts to improve the transparency of evidence-informed policy, raise awareness of benefits of legislation and reduce the burden of EU legislation.

Assessing impacts⁷ and eliminating unnecessary cost⁸

The Commission can only determine the expected impacts, including costs and savings, associated with its own legislative proposals. Amendments made to proposals in the course of negotiations with the European Parliament and the Council may significantly alter the implications of EU legislation for people and businesses.

We therefore reiterate our call on the European Parliament and the Council to live up to the commitments in the Interinstitutional Agreement on Better Law-Making⁹. In particular, we urge the two institutions to document the effect of their amendments in terms of anticipated impacts. A relaunch of our political dialogue will facilitate the exchange of ideas, so that all parties can deliver on their commitments under the Interinstitutional Agreement.

⁴ Commission Communication, [2030 Digital Compass: the European way for the Digital Decade](#), COM(2021) 118.

⁵ In line with policy coherence for development, Article 208 TFEU.

⁶ Commission Communication, [Better regulation: taking stock and sustaining our commitment](#), COM(2019) 178.

⁷ See Section 6.

⁸ See Section 5.

⁹ Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission of 13 April 2016 on Better Law-Making ([OJ L 123, 12.5.2016, p. 1](#)).

Member States' implementation of EU legislation can also significantly influence its impact on people and businesses. We would ask Member States to provide us with feedback on our estimates of the benefits and costs associated with specific pieces of legislation after they have implemented them. We will use this for our evaluations and subsequent revisions of the legislation.

We are fully aware of the importance of SMEs for the EU economy and the hardship they have endured due to the COVID-19 crisis. The EU SME envoy¹⁰ will help to screen EU initiatives to identify where the impact on SMEs requires special attention. The envoy will also help to shape the work programme of the Fit for Future Platform¹¹, and, together with the Committee of the Regions' RegHubs¹², focus activities on the legislation that is most problematic on the ground.

Gathering evidence and making it accessible

A cornerstone of our better regulation approach is to learn from the past by evaluating existing legislation. Monitoring is crucial in the policy cycle and requires systematic collection of data. Monitoring and review clauses¹³ in legislation ensure that the necessary data is collected and evaluated. It is the joint responsibility of the co-legislators to see to it that these provisions are of high quality, so that the effectiveness of EU legislation in the Member States can be properly assessed.

Scientific evidence is another cornerstone of better regulation, vital to establishing an accurate description of the problem, a real understanding of causality and therefore intervention logic; and to evaluate impact. High quality research cannot be done overnight, so ensuring pertinent evidence is available when needed requires to better anticipate and coordinate the needs for evidence. It also means better mobilising and engaging the research community in the regulatory process from the start, as many governments have done during the pandemic.

The Commission as well as the European Parliament and the Council have various databases in which they collect the evidence used in the course of the legislative process. A joint effort to create a common evidence register¹⁴, the Joint Legislative Portal, would provide anyone interested in EU policymaking with easy access to all the evidence underpinning a given policy initiative. Improved cooperation on a common register would integrate different efforts and allow more effective communication between policymakers at EU and national level.

¹⁰ Commission Communication, [An SME strategy for a sustainable and digital Europe](#), COM(2020) 103.

¹¹ See Section 5.1.

¹² Following up on the work of the Task Force on Subsidiarity, Proportionality and 'Doing Less More Efficiently', the committee of the Regions introduced the [RegHub network](#). This is a network of regions that looks at how legislation is implemented at local level, using targeted surveys. Across the EU, RegHub 2.0 has 46 local and regional members ('regional hubs'), 10 observers and one associated body. The hubs are consulted through workshops, interviews and questionnaires to collect their experience with the implementation of selected EU policies.

¹³ See Section 6.3.

¹⁴ See Section 4.

Involving people in EU policymaking

We will step up efforts to publicise our public consultations¹⁵ to attract more participants and quality contributions. As announced in the ‘Stocktaking Communication’¹⁶, we will work more closely with the Committee of Regions, the European Economic and Social Committee, national authorities, social partners and other representative associations in order to raise awareness of the opportunities to contribute to the Commission’s policymaking. For example, we will ask them to help us disseminate our ‘calls for evidence’¹⁷ at national and regional levels. The Commission’s Representations in the Member States and the EU Delegations will also support these efforts.

3. Better communication with stakeholders and the general public

Good policymaking involves those affected by the decisions. To sustain trust in the European Union, EU policies need to take into account and reflect the values and concerns of citizens. The active participation of stakeholders, including citizens, is essential – especially in times of uncertainty. At the same time, consultations should not impose unnecessary burdens. Therefore, we want to make it easier for interested parties to provide input through our consultations.

During the crisis, stakeholders have indicated that it has been difficult for them to contribute by the deadlines set. In response, the Commission has, where possible, extended public consultations and feedback opportunities for initiatives to be delivered in 2020 or early 2021, by up to 6 weeks. Going forward, we will adopt a more streamlined, inclusive and simpler system, based on a single ‘call for evidence’¹⁸ and clearer questionnaires, while respecting the prerogatives of social partners.

A streamlined and more accessible system: calls for evidence

The Organisation for Economic Cooperation and Development (OECD) considers that the Commission has the best approach to consultation. Nonetheless, we want to improve our approach still further.

Our current consultation system offers many opportunities to contribute to policymaking, including feedback periods for inception impact assessments and roadmaps¹⁹, online public consultations²⁰, targeted consultations and periods for feedback on adopted legislative proposals and draft implementing and delegated acts.

¹⁵ See Section 3.

¹⁶ Commission Communication, [Better regulation: taking stock and sustaining our commitment](#), COM(2019) 178.

¹⁷ See Section 3.

¹⁸ ‘Evidence’ refers to multiple sources of data, information, and knowledge, including quantitative data such as statistics and measurements, qualitative data such as opinions, stakeholder input, conclusions of evaluations, as well as scientific and expert advice.

¹⁹ Currently, evaluations are announced by roadmaps and impact assessments by inception impact assessments.

²⁰ The Commission carried out 417 public consultations between 2015 and 2018.

However, having multiple consultations on the same initiative can be burdensome and at times strain stakeholders' resources. This is why we are now proposing to make the consultation system more focused, clearer and user-friendly. We will consolidate our public consultations into a single 'call for evidence' on our *Have Your Say* web portal²¹. We will combine two steps that have until now come one after the other: feedback periods on roadmaps / inception impact assessments, which will continue to be published on *Have Your Say* as calls for evidence, and public consultations based on questionnaires.

Calls for evidence will consist of a description of the initiative and, where relevant, include a link to the public consultation²². As a general rule²³, they will all be available in all EU official languages²⁴ and people will have 12 weeks to respond²⁵.

Facilitating stakeholders' contributions

Contributing to public consultations requires time and resources from those participating. We therefore want to facilitate the input from stakeholders as much as possible and make sure that we consult the public only when needed.

Evaluation will continue to rely on the views of those affected but, where possible, we will consult the public only once when revising existing legislation and evaluating spending programmes at mid-term, instead of having separate consultations for the evaluation and the impact assessment. We will also avoid public consultations on very technical issues of little interest for the general public, where a targeted consultation of stakeholders is a better means of collecting the necessary evidence²⁶.

The better regulation stocktaking showed that public consultation questionnaires are currently often long and too technical and do not have the right balance between open and closed questions²⁷. We will improve the structure, content and language of questionnaires to address these concerns.

We will reach out further

Have Your Say is the web portal through which stakeholders, including members of the public, scientific and technical experts, can contribute to initiatives as they take shape before and after adoption by the Commission. The launch of this single entry point in 2017 was a significant milestone. July 2020 saw the launch of a new version with a more intuitive user experience and a markedly improved search function. In line with our Strategy for the Rights of Persons with Disabilities²⁸, we are also making the portal more accessible to people with disabilities.

²¹ https://ec.europa.eu/info/law/better-regulation/have-your-say_en

²² Organisation of targeted consultations will remain in the remit of specific Directorates-General.

²³ Where necessary, a consultation in two steps will however be undertaken.

²⁴ Except for very technical initiatives and specialised questionnaires, where such an effort would be disproportionate to the expected input.

²⁵ During the summer holidays, this period is usually extended to 14 weeks.

²⁶ Decisions will be taken on a case-by-case basis.

²⁷ [REFIT Platform opinion on submissions XXII.4.a](#) by the DIHK and XXII.4.b by a citizen on stakeholder consultation mechanisms (adopted 7 June 2017).

²⁸ Commission Communication, [Union of Equality: Strategy for the Rights of Persons with Disabilities 2021-2030](#), COM(2021) 101 final

However, we need to boost awareness around *Have Your Say*, to encourage more people — including those without in-depth knowledge of EU policymaking and the scientific community — to contribute to our ‘calls for evidence’. Therefore, we will promote *Have Your Say* more widely²⁹. We will make a new effort to engage with the scientific research community to encourage them to submit relevant scientific research at the beginning of the process.

The Conference on the Future of Europe also presents an excellent opportunity to debate with citizens how to address Europe’s challenges and priorities. The Conference’s online deliberative platform is a new approach to engage with people on issues that they care about.

Respondents will hear back from us

Respect to respondent’s contribution to public consultations requires that information is available on how it was used in the policymaking process³⁰. Therefore, we will keep them informed of the feedback we receive and what happens subsequently.

As a general rule, we will publish a summary report on each public consultation within eight weeks of its closure³¹. The synopsis reports accompanying all impact assessments and evaluations will provide an overview and analysis of all consultation activities. Contributions from different types of stakeholders (local, regional and national authorities, associations, civil society, businesses of different sizes, the scientific community and individuals) will be better distinguished from each other. The insights we have gained from the consultations will be better reflected in impact assessments and evaluations.

Notifications on new developments of each initiative, such as the publication of the Commission’s proposal or the adoption of the final legislation following negotiations between the European Parliament and the Council and the Commission, will keep stakeholders informed throughout the process³².

²⁹ Including by means of social media

³⁰ In the 2019 stocktaking, nearly 40% of the respondents to the public consultation were (very) dissatisfied with the way the Commission reports on the result of its public consultations and feedback, and what it does with this information. The REFIT Platform also asked for more transparency in the feedback provided ([REFIT Platform opinion on submissions XXII.4.a](#)). These observations were also confirmed by the European Court of Auditors, which recommended that the Commission improve the way it reacts to evidence collected in its consultation activities (ECA, [Special report no 14/2019: ‘Have your say!’: Commission’s public consultations engage citizens, but fall short of outreach activities](#)).

³¹ This only applies to public consultations. The 8-week timeframe is indicative for public consultations with large number of responses. Respondents’ feedback on legislative proposals is published online at the time of submission on *Have Your Say*.

³² The Commission is committed to protecting respondents’ personal data and to respecting their privacy. A single privacy statement covers all public consultations published on *Have Your Say*, in line with Regulation (EU) 2018/1725 of the European Parliament and of the Council.

4. Increased transparency

Transparency is fundamental to ensuring that people can play an active part in the policymaking process and hold the EU institutions accountable for their decisions. In addition, access to scientific evidence is also key to address global challenges.

In line with the Commission's digital strategy goals³³, we will improve access to the evidence behind every legislative proposal. The objective is to ensure that, for any legislative act, all related published studies, evaluations, datasets, etc. will be easy to find and access.

We will improve our various evidence registers³⁴ and portals, such as the EU Publications³⁵, EUR-Lex³⁶ and *Have Your Say*, and the links between them. In addition, we will gradually make internal databases and repositories publicly accessible³⁷, in line with our data transparency policy³⁸. We will reach out to the European Parliament and the Council to set up a common evidence register, the Joint Legislative Portal, that will allow anyone interested in EU policymaking to find easily all the evidence underpinning a given initiative.

Opening up scientific evidence³⁹ to public scrutiny is also essential to strengthen public trust. We have already made MIDAS⁴⁰ (the Commission's repository of models) publicly available, so that anyone interested can understand the methods and assumptions used in our analysis.

5. New instruments for further simplification and burden reduction

EU legislation is there to bring benefits by making a concrete and positive contribution to the lives of its citizens, facilitating businesses and helping face current and future challenges. This can come with costs, but these must remain reasonable and proportionate.

The ultimate shape of the legislation is the result of political negotiations and compromises that tend to make it more complex and costly. Moreover, some legislation does not perform as expected when implemented on the ground. The overall

³³ Communication to the Commission, [European Commission digital strategy: a digitally transformed, user-focused and data-driven Commission](#), C(2018) 7118.

³⁴ The process has already started for the register of Commission documents and the interinstitutional studies' database.

³⁵ <https://op.europa.eu/en/web/general-publications/publications>

³⁶ <https://eur-lex.europa.eu/>

³⁷ Subject to intellectual property right and confidentiality provisions.

³⁸ [Communication on Data, Information and Knowledge Management](#), C(2016)6626/F1 and Commission Communication, [A European strategy for data](#), COM(2020) 66 final

³⁹ Moreover, scientific evidence is already made publicly available through various dedicated portals, e.g. of the EU scientific assessment bodies (such as European Food Safety Authority, or European Medicines Agency).

⁴⁰ <https://web.jrc.ec.europa.eu/policy-model-inventory/>

impact of legislation depends on these three layers (Commission proposals, final negotiated legislative acts and implementation at national, regional and local level).

The Commission has a long-standing policy of improving existing EU laws (see Box 1). The aim of the regulatory fitness and performance (REFIT) programme⁴¹ is to maximise benefits for people, businesses and society at large while removing red tape and reducing costs. It also aims to make EU laws simpler and easier to understand.

We will now strengthen the burden reduction effort further through a ‘one in, one out’ approach whereby, when introducing new burdens, we systematically and proactively seek to reduce burdens imposed by existing legislation. To support the work on simplifying legislation, the Commission has set up the Fit for Future Platform to receive advice on ways to ensure that EU legislation is easy to comply with, efficient and fit for the future.

Box 1: Timeline of Commission’s efforts in administrative burden reduction

A history of EU regulatory burden reduction efforts

The Commission has a long history of reducing regulatory burden, starting in 2002. The approach to burden reduction has evolved over the years, with experience gathered particularly from the 2007-2012 administrative burden reduction action programme.

Back then, it was found that a purely cost-reduction approach had significant drawbacks⁴², so in 2012 the Commission launched the REFIT programme, which focuses on balancing costs with (quantified or other) benefits when legislation is revised. This ensures that the original reasons for legislation, i.e. the benefits, are part of the equation. The ‘one in, one out’ approach will complement the REFIT programme by paying special attention to cumulative costs for individuals and businesses in a given policy area and by covering new initiatives..

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| 2002 | The ‘better regulation’ programme was a first step in simplifying and improving EU legislation. It introduced obligatory impact assessments and stakeholder consultations for new initiatives proposed by the Commission. |
| 2005 | A rolling simplification programme was launched; it covered 164 measures in 2005-2009 and became part of the Commission’s annual work programme. |
| 2007 | The Commission launched the administrative burden reduction action programme; a high-level group was set up to advise on its implementation. |
| 2012 | By the end of the action programme, the Commission had reached its target of cutting by 25% the administrative burden for businesses stemming from EU legislation (estimated annual savings: €30.8 billion). The ‘Top 10’ consultation on the most burdensome EU laws for SMEs was carried out. The REFIT programme was launched. |

⁴¹ https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-and-less-costly_en

⁴² Generally, it was concluded (SWD(2017) 675) that, due to issues of data availability, transparency and reliability, estimating administrative burdens in Member States was a costly and complex exercise. Although the burden reduction objective was based on extensive data gathering, it could not clearly demonstrate its benefits for businesses on the ground.

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| 2015 | <p>The Commission published a study (<i>ABRplus</i>) to examine how 12 measures from the action programme had been applied and to what extent the promised benefits had been achieved.</p> <p>The Commission set up a high-level group to advise it on how to simplify legislation (the REFIT Platform).</p> |
| 2017 | <p>The Commission strengthened REFIT by mainstreaming simplification and burden reduction in every evaluation and revision of existing legislation.</p> |
| 2018 | <p>The Commission published the first Annual Burden Survey⁴³.</p> |
| 2020 | <p>The Commission set up the Fit for Future Platform to support the work on simplification and burden reduction.</p> |
| 2021 | <p>The Commission complemented REFIT with the 'one in, one out' approach to keep recurrent burdens in check.</p> |

5.1. 'One in, one out' approach



In her political Guidelines, President von der Leyen committed to make Europe greener, more digital and more resilient, so that we are ready to face the challenges of our times and to benefit from the opportunities of technological progress.

The Commission is more committed than ever to designing policies and proposals that make life easier for people and businesses. We need to ensure that regulation achieves benefits, is targeted, easy to comply with and does not add unnecessary regulatory burdens.

The 'one in, one out' approach (see Box 2) involves offsetting new burdens resulting from the Commission's legislative proposals by equivalently reducing existing burdens in the same policy area. In addition, the approach will widen the focus from burdens stemming from specific legislative acts to the accumulation of burdens in each policy area and thus give a better overview of costs across policy areas every year.

Experience in the Member States has shown⁴⁴ that the introduction of approaches such as 'one in, one out' prompts policymakers to look beyond policy objectives. It draws their attention to the practicalities of implementing policies. With the introduction of the 'one in, one out' approach, we want to strengthen a policymaking culture that not only ensures that we achieve our policy objectives, but also pays closer attention to *how* we do so. In this respect, we will look into simplifying the processes leading to the expected policy results while considering the use of digital solutions to foster smoother and less costly policy implementation.

With this change, we should not only reduce the burden imposed by legislation, but generally improve the quality of specific legislation and so the entire body of

⁴³ The [Annual Burden Survey](#) is a Commission annual report providing an overview of the Commission's burden reduction efforts.

⁴⁴ In 2020, the Commission held two workshops with Member States and with European regulatory oversight bodies to collect national experiences with 'one in, one out' approaches.

legislation. This will result in a better focus on legislative efficiency, avoiding burdens that are not strictly necessary for the achievement of policy objectives.

Under the REFIT programme, we already screen existing legislation systematically for opportunities to simplify and reduce burdens while preserving the attained benefits, by means of e.g. looking for digital solutions.

Several Member States have already applied the ‘one in, one out’ approach in various ways⁴⁵. The Commission needs to tailor it to the characteristics of the EU legal and administrative context, with EU legislation often interacting with Member State legislation. To this end, we are using experiences from Member States and stakeholders as well as regular peer reviews on how best to measure the costs of legislation and improve its overall quality.

We will not apply the approach mechanically, for example by proposing the withdrawal of an existing legislative act for every newly proposed act. Instead, we will seek to offset the burdens placed on people and businesses in some legislative proposals with savings in others in the same policy area. We will report on the annual implementation of the ‘one in, one out’ approach in the *Annual Burden Survey*.

The Commission will pilot the ‘one in, one out’ approach already in the second half of 2021 and will start implementing it with the Commission Work Programme 2022, which is already under preparation.

Keeping burdens in check and quantifying them is not an end in itself. The Commission will continue to propose new legislation with the primary goal of bringing long-term economic, social and environmental benefits to people and businesses. The main test will remain whether the benefits outweigh the costs, in line with the good practice in our internationally recognised ‘better regulation’ system. The principles of subsidiarity and proportionality will be applied as usual. Hence, the implementation of the ‘one in, one out’ approach will by no means lead to a lowering of the EU’s high economic, social and environmental standards and objectives, nor prevent the adoption of new initiatives with clear added value effectively pursuing policy priorities.

To comply with these standards and profit from resulting benefits, businesses often have to invest in upgrading production lines, reducing damage to the environment, improving public health or raising the level of consumer or worker protection. While businesses do not always directly benefit from these changes, they may take advantage from new business opportunities, gain a competitive advantage or have indirect benefits, such as a level playing field in the single market.

Where investment needs are particularly high and reflect important policy objectives, the EU and/or Member States offer specific instruments to accompany the necessary adaptations⁴⁶. These instruments help to make EU economies and societies more sustainable, resilient and better prepared for the challenges and opportunities of the green and digital transitions, leaving no-one behind. For example, new legislation may

⁴⁵ For an overview, see, for example: [One-In, X-Out: regulatory offsetting in selected OECD countries \(OECD regulatory policy working paper\)](#).

⁴⁶ For instance through the Recovery and Resilience Facility, the cohesion policy and agricultural funds, and the Just Transition Mechanism.

require investment in our resilience in the face of growing economic or environmental impacts, dependencies and related risks, including systemic risks.

Finally, legislation at EU level usually aims to overcome regulatory fragmentation in different Member States by replacing 27 national different systems. Those efficiency gains will be taken into account as ‘outs’.

To minimise the burden linked to the achievement of EU policy objectives and implement the ‘one in, one out’ approach, the expected costs of complying with EU legislation will be quantified more transparently and systematically presented in the impact assessments. They will be scrutinised by the Regulatory Scrutiny Board and communicated to the European Parliament and the Council as part of the Commission’s proposals to inform the political debate. Costs incurred by enterprises and citizens for information, registration, monitoring and control will be offset by removing equivalent existing burdens in the same policy area.

For costs that will be offset as part of the ‘one in, one out’ approach, the following arrangements will be introduced to make the system more flexible:

- **flexibility within the reporting period** – if an ‘out’ cannot be identified in the same year’s work programme, it will be reported in the next year;
- **‘trading’ in certain exceptional circumstances across policy areas** – if the proposed legislation that imposes costs (‘in’) is deemed to be necessary, but it is not possible to find an ‘out’ in the same area, the Commission can decide to take the ‘out’ from a different policy area; and
- **exemptions in certain exceptional circumstances** – if there is political will to regulate but it is not possible to identify an offset in the same area (for instance regulation in emerging policy areas where it is necessary to fill a regulatory gap), the Commission can decide to exempt the regulation from the ‘one in, one out’ approach.

Box 2: Practical implementation of the ‘one in, one out’ approach

Outline of the ‘one in, one out’ approach in the Commission

(operational and methodological details will be provided in the revised better regulation guidelines and toolbox)

Objectives at EU level:

- keep to a minimum the burdens for individuals and businesses resulting from EU legislation;
- greater awareness among policymakers of the costs and benefits of EU legislation; and
- comparable estimates of costs across policy areas.

Scope:

- Initiatives, both new and revisions, that generate significant costs or remove them and are accompanied by an impact assessment;

- Pilot phase in the second half of 2021; All relevant Commission legislative proposals⁴⁷, starting with the 2022 Commission Work Programme;
- Where an initiative imposes some burdens and removes others, these will be accounted as ‘ins’ (new costs) and ‘outs’ (cost savings) respectively;
- All compliance costs⁴⁸ (i.e. adjustment and administrative costs) will be analysed and quantified in the impact assessments, where this is feasible and proportionate.
 - Administrative costs will be offset.
 - Adjustment costs will be transparently and systematically presented in impact assessments to the extent this is feasible and proportionate. Other measures will be undertaken with a view to compensate those costs to the greatest extent possible.
- All compliance costs will be scrutinised by the Regulatory Scrutiny Board, made publicly available and be subject to discussions in the legislative process.

Reporting:

- Reporting will be done in the Annual Burden Survey.
- In urgent cases where an initiative is adopted by the Commission without an impact assessment, information on the associated costs will be provided after the publication of the legislative proposal, so that it can be included in ‘one in, one out’.

5.2. Fit for Future Platform



The Commission greatly appreciates Member States’ , social partners’ and stakeholders’ input (advice and hands-on experience) to help establish where legislation is no longer fit for purpose, imposes unnecessary burdens, requires further-going intervention to attain the envisaged objectives or can be simplified. Some additional legislation may be in need of an update in the light of the COVID-19 crisis and its consequences.

Until 2019, the REFIT Platform supported the Commission’s efforts to improve EU legislation in the context of the REFIT programme⁴⁹. The Platform provided valuable information on the practical implementation and impact of the legislation⁵⁰. Nevertheless, its work had limited visibility and its potential was not always fully exploited; this led the Commission to launch the Fit for Future Platform in May 2020⁵¹.

⁴⁷ Amendments introduced by the Parliament or the Council are taken into account at the evaluation stage, after legislation has been implemented in the Member States.

⁴⁸ Adjustment costs encompass those investments and expenses that businesses, citizens, civil society organizations have to bear in order to adjust their activity to the requirements contained in a legal rule. Administrative costs are resulting from administrative activities performed to comply with administrative obligations included in legal rules (e.g. reporting obligations for monitoring and statistical purposes, labelling and non-labelling information for third parties, registration, certification of products or processes).

⁴⁹ Commission Communication, [EU Regulatory Fitness](#), COM(2012) 746.

⁵⁰ Commission Communication, [Better regulation: taking stock and sustaining our commitment](#), COM(2019) 178.

⁵¹ [Commission Decision C\(2020\) 2977 of 11 May 2020 establishing the Fit for Future Platform \(OJ C 163, 12.5.2020, p. 3\)](#).

The Fit for Future Platform continues the search for simplification and burden reduction potential. It also checks existing legislation in the light of emerging worldwide trends and challenges. In this way, it helps the Commission to ensure that EU policies are future-proof, innovation friendly, identify opportunities for digitalisation and to pay particular attention to ‘legislative density’⁵².

The Fit for Future Platform brings together the expertise of public administrations, social partners, small and large businesses, technical experts and consumer, health, environmental and other non-governmental organisations in regular meetings to improve existing EU legislation. The Committee of the Regions and the European Economic and Social Committee play a prominent role by taking part in the Platform’s government group and the stakeholder group, respectively. The Committee of Region’s RegHub 2.0 will be systematically involved in the Platform.

To ensure that its work produces timely, visible and useful outcomes, the Platform works on the basis of an annual work programme. Its work programme for 2021⁵³ focuses on identifying potential for digitalisation, supporting efficient labelling, authorisation and reporting obligations, and improving the quality of legislation to avoid overlaps and inconsistencies, while ensuring that it remains future-proof.

The annual work programme is established by the Platform members and benefits from input from the SME Envoys Network (represented by the EU SME envoy), Member States, the Economic and Social Committee, the Committee of the Regions and RegHub 2.0.

6. Improving our toolkit

Over 20 years since the first impact assessments and evaluations were conducted⁵⁴, these tools have become an integral part of the Commission’s policymaking process. However, these efforts should not be limited to initial Commission proposals, but should also be applied to the legislation as it is adopted at the end of the negotiation process. The European Parliament and the Council committed to do so in the 2016 Interinstitutional Agreement on Better Law-Making.

For our part, we are planning the following improvements to evaluations and impact assessments. We are looking forward to learning how our institutional partners intend to reinforce their efforts, in particular in view of their commitments in the Interinstitutional Agreement.

⁵² This relates to the question as to whether it is sufficient to establish principles and objectives, or whether detailed technical prescriptions are needed as to how to achieve those objectives. This may influence the degree of discretion for national, regional and local authorities when implementing the legislation (see the work of the Task Force on Subsidiarity, Proportionality and ‘Doing Less More Efficiently’).

⁵³ https://ec.europa.eu/info/law/law-making-process/evaluating-and-improving-existing-laws/refit-making-eu-law-simpler-less-costly-and-future-proof/fit-future-platform-f4f/annual-work-programme_en

⁵⁴ Sectoral impact assessments were prepared in the Commission as of 1990s.

6.1. Integrating strategic foresight in policymaking



In addition to navigating the challenges of today, the COVID-19 pandemic has shown that the EU must do more to anticipate the challenges of tomorrow. We need well-designed policies to strengthen the EU's resilience, seize opportunities in strategic sectors and address our vulnerabilities in line with the EU's overarching goals. We want to make sure that EU policies are fit for the future, for instance in terms of taking on board emerging megatrends⁵⁵, such as accelerating technological change, hyperconnectivity and the significant demographic trends and others, as well as using horizon scanning exercises to identify possible future developments in specific fields.

In this context, strategic and science-based foresight will play a key role in helping to 'future-proof' EU policymaking, by ensuring that decisions taken today are grounded in a longer-term perspective, including ensuring contribution to long-term commitments such as the sustainable development goals. It will also bring a dynamic perspective of synergies and trade-offs among EU policy goals, thereby supporting the coherence of EU policies.

As strategic foresight informs major policy initiatives, it will become an integral part of the Commission's better regulation agenda. In policy areas subject to rapid structural change, impact assessments, fitness checks and major evaluations will take account to the extent possible of major trends, such as those identified in the *2020 Strategic Foresight Report*⁵⁶ as well as in its following editions. Public consultations could also include foresight-related questions, in order to capture stakeholders' perspective in the given policy area. The Regulatory Scrutiny Board will take the more prominent role of strategic foresight into account when scrutinising the Commission's impact assessments, fitness checks and major evaluations. Additionally, strategic foresight will feed into the process of assessing how EU laws remain fit for the future and enable innovations that are in line with EU policy objectives. Finally, evaluations and fitness checks will consider the long-term relevance of policies in the light of possible future developments.

6.2. More comprehensive and transparent impact assessments



Publishing the rationale behind all relevant proposals

Impact assessments are carried out for initiatives where policy alternatives are available, where expected impacts can be clearly identified beforehand and where these impacts are significant for society. However, sometimes the need for urgent legislative action does not leave time for all the steps set out in the Commission's better regulation guidelines.

During the COVID-19 crisis, the Commission has had to propose a number of initiatives as a matter of urgency. Most were decisions or acts that would not have required an impact assessment in any case. Others would normally have been subject to public consultations and impact assessments, but time was too short. The explanatory

⁵⁵ https://ec.europa.eu/knowledge4policy/foresight/tool/megatrends-hub_en

⁵⁶ Commission Communication, 2020 Strategic Foresight Report — charting the course towards a more resilient Europe, COM(2020) 493.

memoranda set out the underlying rationale for the proposals, but the impacts could not be fully assessed in advance due to the lack of time and the rapidly evolving situation.

We will continue to explain the absence of an impact assessment in the explanatory memorandum for the relevant legislative proposals (i.e. those without RSB scrutiny). In such cases⁵⁷, the analysis and all supporting evidence will be set out in a staff working document published with the proposal or at the latest within 3 months of its publication. This document will set out clearly how and when the act will subsequently be evaluated.

Improved analysis and reporting of impacts

The recovery from the current crisis will see paradigm shifts in policymaking and investments on an unprecedented scale that will shape the world for the next generation. It is essential to go about this strategically, so that we not only recover, but also fast-forward the twin transition and make the world a better, more resilient and equal place than it was before. Hence, all our legislative proposals should contribute to overarching goals.

To ensure this, we will identify relevant UN sustainable development goals (SDGs) for each proposal and examine how the initiative will support their achievement⁵⁸. Links to the SDGs will be included throughout evaluations and impact assessments.

To reflect the ambitious goals of the von der Leyen Commission, we will improve analysis and reporting of some types of impact, in particular those relating to the green and digital transitions and their socially just and fair dimension⁵⁹. We will pay greater attention to the gender equality dimension as well as equality for all⁶⁰, to give it consistent consideration in all stages of policymaking. Territorial impact assessments⁶¹ and rural proofing⁶² will be strengthened, so that the needs and specificities of different EU territories are better taken into account, for instance of urban/rural areas, cross-border areas⁶³ and outermost regions⁶⁴ to facilitate a more symmetric recovery and cohesion across the Union. At the same time, we will strive to better consider the external implications of internal policies and their significant impacts on third countries; its actors will be better considered. Where relevant, these

⁵⁷ That is, when an IA should have been prepared according to the provisions of the better regulation guidelines but was not following a discretionary decision by the Commission.

⁵⁸ The principle of proportionate analysis will apply; thus impacts will be quantified to the extent feasible.

⁵⁹ See Commission Communication, [The European Pillar of Social Rights Action Plan](#), COM(2021) 102 final

⁶⁰ In line with Article 8 and Article 10 TFEU.

⁶¹ Following up on Commission Communication, [The principles of subsidiarity and proportionality: Strengthening their role in EU policymaking](#), COM(2018) 703: *Territorial Impact Assessment Necessity Checks will be introduced as part of tools so that Commission services can identify when it is relevant to conduct territorial impacts assessments*

⁶² Commission Communication, [The Future of Food and Farming](#), COM(2017) 713 final

⁶³ Commission Communication, [Boosting growth and cohesion in EU border regions](#) COM(2017)534 final

⁶⁴ In its Communication: [A stronger and renewed strategic partnership with the EU's outermost regions](#), COM(2017) 623 final, the Commission committed itself to ensuring that the concerns and interests of the outermost regions are taken into due consideration as relevant in impact assessments and policy evaluations.

impacts will be analysed in the impact assessments and presented in the explanatory memoranda accompanying Commission proposals.

In addition, impact assessments must reflect the various effects of the COVID-19 crisis. In particular, the problem definition, the analysis of subsidiarity and proportionality, the baseline and the assessment of policy options should take account of the changed circumstances, including longer-term effects identified by foresight and the need to strengthen resilience.

SMEs have been severely affected by the crisis. Careful assessment of the impacts of Commission proposals on SMEs will ensure that action is targeted, achieves its objectives and does not add unnecessary costs. A more systematic and proportionate application of the ‘SME test’⁶⁵ will help achieve this aim.

Finally, we intend to revamp the executive summaries of impact assessments to make them an attractive read for a wider audience. We will also ensure that explanatory memoranda describe clearly the basic reasoning behind the legislative proposals in question.

Subsidiarity assessment grid

Better regulation is partly about acting at EU level only when, and to the extent, necessary. The principles of subsidiarity and proportionality are cornerstones of the EU treaties, and are systematically applied to the Commission’s legislative proposals.

The Task Force on Subsidiarity, Proportionality and ‘Doing Less More Efficiently’ and the better regulation stocktaking have highlighted that the Commission needs to communicate better why it deems action at EU level to be necessary in particular cases. The Committee of the Regions has developed a set of standard questions on subsidiarity and proportionality⁶⁶ to allow for a common understanding of those principles.

In line with previous commitments⁶⁷, we will publish a subsidiarity assessment grid with every politically sensitive or important proposal accompanied by an impact assessment⁶⁸. This should make it easier for the political institutions to understand which aspects of the need for and form of EU action are controversial. This is meant to focus the discussion on those points.

Twin transition

The European Green Deal committed the Commission to improve the way in which better regulation addresses and supports sustainability. Better regulation is also an important tool to support progress towards a common vision and appropriate actions for the EU to succeed in the digital decade. It will support digital transformation and the ‘do no significant harm’ principle in the following way:

⁶⁵ Better Regulation Toolbox 2017, [Tool #22](#).

⁶⁶ <https://portal.cor.europa.eu/subsidiarity/Pages/Subsidiarityandproportionalityanalysiskit.aspx>

⁶⁷ Commission Communication, [The principles of subsidiarity and proportionality: Strengthening their role in the EU's policymaking](#), COM(2018) 703.

⁶⁸ Except for areas of EU’s exclusive competence where subsidiarity does not apply.

- Stakeholder consultations explicitly cover environmental and digital aspects where this is relevant.
- The assessment of the preferred option in impact assessments will be expanded to cover the analysis of the ‘do no significant harm’ and ‘digital by default’ principles.
- All relevant evaluations will contain a specific question about whether environmental impacts could be further minimised and whether more could be done for a successful digital transformation.
- The explanatory memorandum accompanying all legislative proposals will explain how each initiative upholds the ‘do no significant harm’ principle and contributes to achieving the European way for a digital society and economy.

In so doing, the Commission will ensure it abides by the obligations set under the European Climate Law and delivers on the targets and principles set out in the 2030 Digital Compass Communication.

6.3. Enhancing evaluations to improve use of their findings



A large majority of the Commission’s legislative proposals are revisions of existing legislation, including for spending programmes. For them to produce the best results, we need to check whether EU policies and funding programmes have delivered results as intended and remain relevant and fit for purpose. This is how we learn.

Therefore, we will stay strongly committed to the ‘evaluate first’ principle. Already, over 80% of the Commission’s impact assessments supporting legislative revisions are based on an evaluation.

More useful monitoring and review clauses

Clearly, an EU legislative act can be evaluated only with the involvement of those affected and only after it has been fully implemented by the Member States. Therefore, sufficient time has to pass before the Commission can gather enough data and evidence to assess the effectiveness of the legislation.

However, the co-legislators often introduce amendments through which legislation contains unclear requirements regarding the type of review to be conducted or imposes deadlines for evaluating (parts of) legislation that expire before there is enough practical experience and information on its implementation and effects. The European Court of Auditors raised this issue when it assessed the EU’s evaluation policy⁶⁹. Our legislative proposals will include review clauses that are in line with the auditors’ recommendations, but the end-result remains largely in the hands of the co-legislators.

To make review clauses more consistent, the Commission proposes to our co-legislators that we distinguish more clearly between implementation reports and

⁶⁹ European Court of Auditors, [Special Report No 16/2018: Ex-post review of EU legislation: a well-established system, but incomplete.](#)

evaluations⁷⁰. The former would cover progress in transposing, implementing and applying legislation, including any problems encountered in that context. The latter would evaluate the legislation (including spending programmes) a few years after the start of implementation, evaluating its effects in the light of the established evaluation criteria⁷¹.

Evaluations and subsequent impact assessments rely heavily on the quality, availability and the reuse of data⁷². Hence, it is crucial to monitor the performance of legislative provisions on the ground. At the same time, such monitoring and the related reporting obligations place administrative burdens on businesses and public authorities. Therefore, there needs to be a balance between only gathering what is strictly necessary and having enough data available for future evaluations. For this reason, we call on the co-legislators to safeguard that all legislation contains monitoring and reporting clauses that guarantee sufficient relevant data to evaluate it.

To work towards consistent review clauses and practicable monitoring clauses, we invite the European Parliament and the Council to develop common definitions and identify best practices through our regular dialogue in the context of the Interinstitutional Agreement on Better Law-Making.

In response to the COVID-19 crisis, national statistical authorities have taken temporary measures to reduce reporting burdens on businesses, for example by adapting some questionnaires and information submission modes. At the same time, Eurostat and the national statistical authorities have continued to provide high-quality statistics needed to inform recovery efforts and day-to-day monitoring of the performance of EU laws.

Improving evaluations and fitness checks to better inform policymaking

Evaluations are most instructive when they generate a robust evidence base on successes and shortcomings, while also identifying areas for improvement with respect to emerging trends and challenges. Importantly, they should say more about *why* pieces of legislation have or have not delivered as expected.

Evaluations therefore need to report accurately evidence-based findings on how legislation has performed and derive conclusions that clearly link back to the assessment. We will report more clearly any unintended consequences or underperformance of EU laws (as compared to the envisaged objectives), so that evaluations can better inform policymaking.

In the context of the ‘one in, one out’ approach, evaluations will verify initially estimated costs and benefits against actual outcomes, following co-legislators’ amendments and national implementation. Fitness checks of entire policy areas (rather than evaluations of specific legislative acts) are particularly useful in this regard. Apart from assessing the extent to which a policy initiative is achieving its objectives, they

⁷⁰ This is to avoid inventing divergent categories, e.g. ‘assessing the experience of implementing’, ‘carrying out a review of implementation’, ‘monitoring the application of Regulation ... [by] in particular examining its effectiveness’, ‘evaluation of the implementation’, ‘report on the implementation and impact’, ‘review of all elements’, ‘review of the functioning and effectiveness’.

⁷¹ Effectiveness, efficiency, relevance, coherence and EU added value.

⁷² In line with the [Commission’s Digital Strategy](#) and [A European strategy for data](#).

look at the cumulative impacts of legislation, overlaps and inconsistencies, and so give a more complete picture of the benefits brought to and burdens borne by businesses, individuals and public administrations. Fitness checks of horizontal issues, such as reporting obligations have already been conducted in a limited number of policy areas (e.g. environment, agriculture) and they have identified significant potential to simplify the requirements and reduce reporting costs. We will endeavour to conduct more of such horizontal fitness checks in the future, as they proved very useful, despite requiring substantial organisational efforts.

Fitness checks and major evaluations are scrutinised by the Regulatory Scrutiny Board, providing the quality check to the assessment of how legislation is performing.

Finally, as with impact assessments, we will make executive summaries more accessible and more informative on how legislation has performed.

6.4. A strong Regulatory Scrutiny Board



Within the Commission, the Regulatory Scrutiny Board assesses the quality of the impact assessments, major evaluations and fitness checks that inform (but do not replace) political decision-making. The Board cannot and does not question the political objectives and choices presented in the reports accompanying draft proposals, but considers the quality of evidence, analysis and the logic of intervention. In its advisory role, the Board will continue to offer advice regarding the application and interpretation of the better regulation guidelines, as amended following this Communication, including on the application of exemptions.

If the Board finds that an impact assessment or evaluation does not meet the standards established in the better regulation guidelines, it issues a negative opinion. The report in question then has to be revised. If the Board issues two negative opinions on a given impact assessment, only the Vice-President for Interinstitutional Relations and Foresight can submit the initiative to the College of Commissioners for possible adoption. No regulatory oversight body in the Member States is given this degree of influence.

President von der Leyen revised the decision setting up the Board⁷³ to ensure uninterrupted functioning of the Board when mandate of its members end as well as to strengthen its outreach activities, so that its role is better known by the public.

The Board can now also engage in independent outreach activities. It will seek to raise awareness of its work outside the EU's political institutions and thereby strengthen trust in the quality of the Commission's work. In addition, it will engage more with similar bodies in the Member States to nurture a common approach to better regulation.

Finally, the Board will play a prominent role in scrutinising impact assessments and evaluations in the light of the 'one in, one out' approach, strategic foresight and appropriate consideration of the various effects of the COVID-19 crisis.

⁷³ Decision C(2019) 5565 of 17 July 2019 and P(2020) 2 of 23 January 2020.

7. The key role of enforcement

The EU is built on commonly agreed rules. For these rules to work, Member States must fully implement and enforce them in a timely fashion. They then need to ensure that the rules are correctly applied and enforced, because non-enforcement bears costs for citizens and businesses⁷⁴.

In its role as guardian of the Treaties, the Commission assists Member States in implementing EU law and pursues serious breaches of EU rules. The Commission and the Member States thus share responsibility for the enforcement of EU law.

The effective application, implementation and enforcement of EU law is a priority for the von der Leyen Commission. As announced in President von der Leyen's political guidelines, we will continue to guide and support Member States in their efforts to transpose directives, implement regulations and apply EU rules properly. Our compliance checks verify how Member States translate EU legislation into national legislation. To ensure effective dialogue in the transposition phase, we depend on the Member States for clear and precise information on national legislation.

In its Communication on identifying and addressing barriers to the single market⁷⁵, the Commission highlighted that 'gold plating' often translates into additional regulatory or administrative burden for consumers and businesses, with a particular impact on SMEs. However, compliance checks cannot accurately identify all national provisions that go beyond what EU legislation requires. Neither can the Commission in some cases precisely gauge how much of the regulatory burden stems from Member States adding elements of national importance when implementing EU rules. In line with the Interinstitutional Agreement on Better Law-Making⁷⁶, the Commission reiterates its request to Member States to report when they choose to add elements that do not stem from EU legislation.

Going forward, the Commission intends to carry out a stocktaking of its oversight and enforcement activities, to ensure that they remain fit for making EU law work in practice.

8. Conclusions

Given the opportunities and challenges that lie ahead in the recovery from the most recent crisis, it is more important than ever to legislate as efficiently as possible. Therefore, while the Commission already has one of the best 'better regulation' systems in the world, we — the European Parliament, the Council and the Commission — still need to do more. This is particularly true for the assessment of major amendments introduced in the course of negotiations or in final legislative texts.

⁷⁴ E.g. the total costs for society of current environmental implementation gaps alone are around EUR 55 billion annually. COWI study for the European Commission, ['Costs of not implementing EU environmental law'](#) (2019)

⁷⁵ Commission Communication, [Identifying and addressing barriers to the single market](#), COM(2020) 93.

⁷⁶ See paragraph 43 of the Agreement.

First, we need to ensure that the European Union institutions, local, regional and national authorities, social partners, business, civil society, the scientific community and the general public work together on high-quality EU policymaking. For our part, we will be improving the way we consult and communicate with stakeholders and increase transparency. In particular, we will raise people's awareness of the *Have Your Say* web portal and ensure that anyone can navigate the consultations on it, even without prior knowledge.

We are stepping up efforts to simplify legislation and reduce its burden by establishing the 'one in, one out' approach and using the advice of the Fit for Future Platform. Moreover, we will be developing our better regulation toolbox to make better use of foresight, mainstream the sustainable development goals and better take into account sustainability and the importance of digitalisation. We will keep our approach under review to ensure that it delivers as intended. To that effect, we will take stock in 2023 how the 'one in, one out' approach has been applied and we will review its implementation.

The best way to progress in making better laws (and thus to deliver better results) is by working closely together over the coming years. In this way, we can ensure that the EU becomes stronger and more resilient during this Commission's term in office.

The Commission will:

- engage with the European Parliament and the Council on the full implementation of the Interinstitutional Agreement on Better Law-Making, including on improving the quality of EU legislation to ensure that it is clear, readable and understandable;
- simplify its consultation process to fewer steps by introducing a single call for evidence, improving questionnaires and consulting only once when revising a piece of legislation;
- make the improved *Have Your Say* web portal more widely known;
- provide feedback to consultations swiftly and offer follow-up updates; more accurately reflect the input of local, regional and national authorities;
- make evidence underpinning every legislative proposal easily accessible by interlinking databases and repositories better and gradually opening them up to the public;
- introduce the 'one in, one out' approach to further minimise burdens when legislation is proposed and consider the cumulative impact of legislation on people and business;
- take into account the opinions of the Fit for Future Platform — a high-level expert group assisting the Commission by providing opinions on how to make EU legislation simpler, more efficient and innovation- and future-proof;
- make foresight an integral part of policymaking and the better regulation agenda by incorporating it in impact assessments and evaluations;
- for politically sensitive and important initiatives for which it has not been possible to prepare an impact assessment, publish rationale and evidence within 3 months;
- ensure that better regulation supports the implementation of the 'do no significant harm' and the 'digital by default' principles across all policies;

- improve the analysis and reporting of proposals' impacts (e.g. on sustainable development goals, SMEs, sustainability, equality, subsidiarity and proportionality);
- distinguish more clearly between implementation reports and evaluations, and invite the European Parliament and the Council to develop common definitions and identify best practices for consistent review and monitoring clauses in EU legislation;
- make evaluations more useful for improving policies and make more frequent use of fitness checks to identify simplification and burden reduction opportunities;
- improve the quality and availability of monitoring frameworks and data to enable stronger evaluations;
- rely on the Regulatory Scrutiny Board to scrutinise impact assessments, evaluations and fitness checks in the light of the 'one in, one out' approach and foresight; and
- carry out a stocktaking of its oversight and enforcement activities.

