Recommendation of the Council on the Governance of Infrastructure

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Background Information

The Recommendation on Governance of Infrastructure was adopted by the OECD Council on 17 July 2020 on the proposal of the Public Governance Committee (the "PGC") in co-operation with the Regional Development Policy Committee (the "RDPC"). The Recommendation aims to build on and update the OECD Framework for the Governance of Infrastructure: Getting Infrastructure Right (the "Framework"), and provides a tool to assist governments to invest in infrastructure projects in a way that is cost effective, affordable and trusted by investors, citizens and other stakeholders.

OECD's work on Infrastructure Governance

The OECD has worked on the issue of infrastructure governance for over 15 years. Throughout its relevant subsidiary bodies, the PGC has developed substantive evidence based analysis and policy recommendations on infrastructure governance. In particular, the Network of Senior Infrastructure and PPP Officials ("SIP Network") has been refining the shared international understanding of this topic for over 13 years. It supports governments on getting infrastructure right, by providing good practices based on Members and Partners' experiences. Since its creation, the SIP Network has held 13 annual meetings, providing unique opportunities to exchange experience and knowledge between policy makers to improve the governance of infrastructure across countries.

On the basis of this evidence-based work, the OECD developed the Framework, which has been recognised by national governments and other international organisations as a comprehensive policy framework. The Framework needed to be updated to take into account the most recent work done by different policy communities in the field, as well as new OECD standards and lessons learned from their dissemination and implementation. For the Framework to be at the forefront of infrastructure governance, it needed to respond to the developments brought by policy recommendations, surveys, implementation reports and toolkits, which have put forward new policy tools and consensus on broad policy objectives.

Process for developing the Recommendation

The Recommendation was developed under the expertise of the SIP Network. The first draft of the Recommendation was presented and discussed during the 60th session of the PGC, where delegates expressed their support to update the Framework and embody it in an OECD Recommendation. The following drafts went through a broad internal consultation with the PGC, the Working Party of Leading Practitioners on Public Procurement, the Working Party of Senior Budget Officials and other relevant subsidiary bodies of the PGC, the RDPC and over 10 committees across the OECD. The Recommendation also went through an online public consultation, receiving more than 426 comments from 67 participants from 29 countries (see the summary of the public consultation results here).

Scope of the Recommendation

The Recommendation builds-up on the basic pillars of the original Framework, integrating elements that were missing or not fully highlighted. It presents 10 dimensions for the governance of public infrastructure that relate to how governments plan, prioritise, fund, budget, deliver, operate and monitor infrastructure assets. The Recommendation aims to present a whole of government approach, covering the entire life cycle of infrastructure projects and putting special emphasis on regional, social, gender, resilience and environmental perspectives.

Infrastructure investment and delivery are important tools for the economic and social recovery efforts from the COVID-19 crisis. Infrastructure governance will be crucial to ensure that public investments contribute to a sustainable rebound while strengthening infrastructure resilience, in particular for challenges such as climate change and inclusive growth. Under this context, the Recommendation is not only a key tool for responsive and efficient decision-making to increase infrastructure capacity in the short-term, but it further provides good practices and tools to support the linkages between economic stimulus interventions, long-term infrastructure programmes and multidisciplinary objectives, such as climate resilience, social inclusion, sustainable growth and gender equality policy.

The Recommendation emphasises on the development of a long-term strategic vision for infrastructure and a coherent and accountable institutional framework to ensure a well-functioning infrastructure investment system. Additionally, it stresses the need for fiscally sustainable decision-making throughout the planning, budgeting and delivery stages of infrastructure projects taking into account the entire life cycle costs. Strengthening public procurement processes in infrastructure and meaningful stakeholder engagement is also a key aspect. As previously covered by the Framework, the Recommendation further promotes coherent and efficient regulatory frameworks and a whole of government approach to manage threats to integrity. Finally, it encourages Adherents to ensure infrastructure is up to date with the impacts of technology and promotes harnessing digital technologies and data analytics to ensure evidenced-based decision making.

Next steps

The Recommendation includes a provision instructing the PGC, in co-operation with the RDPC, to serve as a forum for exchanging information on infrastructure governance, foster multi-stakeholder and interdisciplinary dialogue, and monitor the implementation of the Recommendation and report thereon to the Council every five years following its adoption. To this effect, the OECD is developing a set of infrastructure governance indicators that will measure processes, tools, norms of interaction, decision-making processes and monitoring strategies across Adherents.

The Recommendation is open to non-OECD Member adherence.

For further information please consult: http://www.oecd.org/gov/budgeting/ppp.htm

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Implementation

In addition to the ongoing work on infrastructure governance indicators, the Secretariat is developing a toolkit to support the implementation of the Recommendation. This toolkit will provide a repository of good practices illustrated with concrete examples, to help adherents design their own policy strategies and implement this Recommendation according to their specific national circumstances.

THE COUNCIL,

HAVING REGARD to Article 5 b) of the Convention on the Organisation for Economic Co-operation and Development of 14 December 1960;

HAVING REGARD to the Recommendation of the Council on Principles for Private Sector Participation in Infrastructure [OECD/LEGAL/0349]; the Recommendation of the Council on Regulatory Policy and Governance [OECD/LEGAL/0390]; the Recommendation of the Council on Principles for Public Governance of Public-Private Partnerships [OECD/LEGAL/0392]; the Recommendation of the Council on Fighting Bid Rigging in Public Procurement [OECD/LEGAL/0396]; the Recommendation of the Council on the Governance of Critical Risks [OECD/LEGAL/0405]; the Recommendation of the Council on Digital Government Strategies [OECD/LEGAL/0406]; the Recommendation of the Council on Budgetary Governance [OECD/LEGAL/0410]; the Recommendation of the Council on Public Procurement [OECD/LEGAL/0411]; the Recommendation of the Council on Public Integrity [OECD/LEGAL/0435]; the Recommendation of the Council on Open Government [OECD/LEGAL/0438]; the Recommendation of the Council on Global Events and Local Development [OECD/LEGAL/0444]; and the Recommendation of the Council on Digital Security of Critical Activities [OECD/LEGAL/0456];

HAVING REGARD to the Recommendation of the Council on Effective Public Investment across Levels of Government [OECD/LEGAL/0402], which is reflected in Section 5 of the present Recommendation and which will guide the implementation of that Section;

HAVING REGARD to the OECD Framework for the Governance of Infrastructure [GOV/PGC(2016)34], which includes ten dimensions relating to how governments plan, prioritise, deliver, regulate and evaluate infrastructure investments, providing guidance and examples of good practice in each area, and which this Recommendation replaces.

RECOGNISING that a focus on infrastructure governance across all stages of the infrastructure cycle is key to ensuring sustainable and inclusive economic growth; and that improving infrastructure governance requires a rigorous assessment of a government's capabilities, strengths and key areas for improvement.

CONSIDERING that the governance of infrastructure depends on numerous institutional, social, economic and environmental aspects, and it should be aligned with the development of a governance framework that ensures strategic planning, performance and resilience of public infrastructure throughout the life cycle of projects and across levels of government.

NOTING that on 9 June 2019, the G20 Finance Ministers and Central Bank Governors endorsed the G20 Principles on Quality Infrastructure Investment highlighting that "sound infrastructure governance over the life cycle of the project is a key factor to ensure long-term cost-effectiveness, accountability, transparency, and integrity of infrastructure investment".

RECOGNISING that there is a need to address the challenges governments are facing today to ensure good infrastructure governance, in particular to address issues such as quality, value for money, affordability, cost-effectiveness, and economic, environmental and social impact of public infrastructure.

CONSIDERING that the governance of infrastructure is not only the preserve of central governments, but that it is a process that encompass all levels of governments where different mandate and level of autonomy apply, and that this Recommendation is accordingly relevant at all levels of government.

On the proposal of the Public Governance Committee in co-operation with the Regional Development Policy Committee:

I. **AGREES** that, for the purpose of the present Recommendation, the following definitions are used:

- **Affordability** should be considered taking into account the entire life cycle costs of infrastructure projects; from a government's perspective means that projects can be accommodated within the

government's current and future budget constraints; from the end-users perspective refers to the ability and willingness to pay the tariffs or other user charges associated with the access and use of the infrastructure asset.

- **Critical infrastructure** are systems, assets, facilities and networks that provide essential services for the functioning of the economy and the security, safety and well-being of the population.
- **Fiscal sustainability** is the ability of a government to maintain public finances at a credible and serviceable position over the long term, taking into account debt servicing costs and future socio-economic and environmental factors that challenge public budgets.
- **Governance of infrastructure** means the policies, frameworks, norms, processes and tools, used by public bodies to plan, make decisions, implement and monitor the entire life cycle of public infrastructure.
- **Life cycle of public infrastructure** means the series of stages during the lifetime of a public infrastructure asset, starting from planning, prioritisation and funding, to the design, procurement, construction, operation, maintenance and decommissioning.
- **Resilience** means the capacity of systems to absorb a disturbance, recover from disruptions and adapt to changing conditions while retaining essentially the same function as prior to the disruptive shock at an acceptable service level (e.g. climate and geological hazards, industrial accidents, terrorist or cyberattacks).
- **Stakeholders** are any interested and/or affected party, including: individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector.

II. RECOMMENDS that Members and non-Members having adhered to the Recommendation (hereafter the "Adherents") develop and implement infrastructure governance frameworks in which Adherents should:

i) **Develop a long-term strategic vision for infrastructure** which:

a) is grounded upon shared ambitions for national and subnational development, enhancing the economic, natural, social and human capital which underpins well-being, sustainable and inclusive growth, competitiveness and public service delivery.

b) is informed by rigorous assessment of current and future infrastructure needs at the national and subnational levels, and presents a plan on how these needs should be prioritised and addressed.

c) is monitored, flexible and regularly updated to promote and take into account the impact of evolving technologies and infrastructure needs.

d) is fiscally sustainable, linked with budget allocations and other sources of financing, and aligned with the medium-term expenditure framework, which provides assurance to the relevant stakeholders of the stable, multi-year availability of resources.

e) defines a transparent, coherent, predictable, legitimate and accountable institutional framework for infrastructure, in which relevant institutions and levels of government are entrusted with clear and consistent mandates, ample decision making powers, right skills and competences, and sufficient financial resources.

f) is the product of a broad-base political consensus and stakeholder engagement process, based on clear assumptions, properly coordinated across levels of government and across relevant line ministries and agencies taking into account synergies across sectors.

g) actively contributes to the achievement of sustainable and inclusive development in line with long-term policy objectives, including national and international commitments on environmental protection, climate resilience and low greenhouse gas emissions, human

rights, social inclusion, gender equality, regional disparities and urban-rural connectivity, among others.

ii) **Guard fiscal sustainability, affordability, and value for money** through:

a) developing a robust transparent and accountable capital budgeting framework, identifying, measuring, regularly updating and reporting infrastructure annual and multi-annual expenditure in relation to both development of new infrastructure, and maintenance, renovation, adaptation to changing needs and decommissioning of existing assets

b) ensuring that the overall infrastructure investment envelope is sustainable in the medium and long-term, considering the overall debt level and policy objectives, measuring, disclosing and monitoring multi-year spending commitments, including off-balance sheet commitments and contingent liabilities resulting from infrastructure projects.

c) informing decision-making on value for money and ensuring affordability of new infrastructure projects for the public budget and users, and minimising sustainability risks by measuring, disclosing and taking into account the total cost over the entire asset life cycle.

d) applying rigorous project appraisal and selection processes that pays due consideration to social and economic efficiency at the national and subnational levels (taking into account economic, social, fiscal, environmental and climate-related costs and benefits) and takes into account the full cycle of the asset, noting that for projects that exceed a high investment threshold it is especially important to provide a transparent, independent and impartial expert assessment to test project costing, fiscal sustainability, time planning, risk management and governance.

e) selecting the delivery mode (i.e. the way in which the infrastructure asset will be provided and financed) grounded in value for money and optimal allocation of risk between the parties, with no institutional, procedural, fiscal or accounting biases for any particular delivery mode.

f) ensuring a transparent and appropriate allocation of risks in the structuring of the project, along with a comprehensive and agreed plan for managing, monitoring and mitigating risks during the asset life cycle.

iii) **Ensure efficient and effective procurement of infrastructure projects** by:

a) using open, neutral, competitive and transparent procurement processes for infrastructure, and limiting the use of exceptions and single-source procurement, including for associated professional services.

b) promoting competition, sustainability and responsible supply chains by selecting contractors based on criteria combining qualitative and financial elements and including, where relevant, an assessment of costs, benefits and impacts incurred throughout the lifecycle of the asset.

c) implementing a risk-based approach across the whole procurement cycle of projects, developing, where possible, standardised tools to document progress, identify risks of all sorts and bring them to the attention of relevant personnel, providing an intervention point where risk prevention or mitigation is possible.

d) carefully evaluating available delivery modes against previously defined clear criteria based on projects' characteristics, optimal risks allocation and the use of value for money analytical tools to compare assessment of service delivery options.

e) ensuring that the procurement workforce has the capacity to continually deliver value for money efficiently and effectively by providing attractive, competitive and merit-based career options and providing tools to improve relevant skills and competencies for procurement officials.

f) engaging in transparent and regular dialogues with suppliers and business associations to present public procurement strategies (including planning, scope, identified delivery mode, procurement method, requirements and award criteria) and to assure an accurate understanding of market capacity, while addressing possible risks of collusive practices.

g) implementing balanced contractual relationships, holding contractors accountable for project specification and professional standards, when applicable, and designing a robust and transparent process for contract re-negotiations and dispute resolution to account for evolving conditions.

h) integrating public procurement into overall public finance management, capital budgeting and services delivery processes.

iv) **Ensure transparent, systematic and effective stakeholder participation** through:

a) providing and taking proactive measures to disseminate information on infrastructure projects, including their potential short and long-term effects, and allow for continuous, inclusive, social and open dialogues that are broad-based, involving relevant stakeholders in planning, decision-making and oversight.

b) integrating consultation processes that are proportionate to the characteristics of the project (e.g. size, political sensitivity, environmental aspects, impacted population) and that take account of the overall public interest and of the views of the relevant stakeholders through a disciplined, upfront stakeholder mapping and analysis, which can ensure engagement efforts cost-effectively to include relevant groups in decision making.

c) ensuring meaningful stakeholder engagement with users and impacted communities to collaborate during the relevant phases of the project life cycle, ensuring debate and oversight on the main economic, fiscal, environmental and social impacts of the project.

v) **Co-ordinate infrastructure policy across levels of government** through:

a) designing and implementing investment strategies tailored to the place the investments aim to serve.

b) adopting effective instruments for co-ordinating across national and subnational levels of government, such as co-financing arrangements, contracts between levels of government, formal consultation processes, national agencies or representatives, working together with subnational areas, or other forms of regular inter-governmental dialogue and co-operation.

c) providing incentives and/or seeking opportunities for co-ordination among regional and/or local governments to match public investment with the relevant geographical area, including through contracts, platforms for dialogue and co-operation, public investment partnerships, joint authorities, and regional or municipal mergers.

d) strengthening capacities for public investment and promoting policy learning at all levels of government, ensuring adequate financial resources, professional skills, and sound institutional framework to ensure effective vertical and horizontal coordination.

vi) **Promote a coherent, predictable, and efficient regulatory framework** by:

a) identifying policy goals, and evaluating whether regulation is necessary and how it can be most effective and efficient in achieving those goals.

b) considering means other than regulation and identify the trade-offs of the different approaches analysed to identify the best approach.

c) supporting co-ordination between supranational, national and subnational regulatory frameworks.

d) providing evidence-based tools for regulatory decisions, including stakeholder engagement, economic, fiscal, social and environmental impact assessment, audit and ex-post evaluation.

e) conducting systematic reviews of existing regulation relevant to infrastructure, including consideration of costs and benefits, to ensure that regulations are up to date, cost justified, cost effective and consistent, and that deliver the intended policy objectives.

f) promoting good governance of regulatory agencies in order to ensure sustainable tariff setting, overall regulatory quality, and greater confidence from the market and contribute to

the overall achievement of policy goals (e.g. independence; transparency; accountability; scope of action; enforcement; capacity and resourcing).

vii) **Implement a whole of government approach to manage threats to integrity** through:

a) ensuring integrity risk management includes a risk-based approach to identify, mitigate and address fraud, collusion, abuse, corruption, undue influence and capture risks at each stage of the infrastructure project life cycle to develop tailored control mechanisms.

b) providing an adequate degree of transparency throughout the project life cycle, by offering accessible, joined-up, and high-quality open data and free tools, to ensure that disclosure of relevant information is timely and available to the public.

c) promoting the integrity of public officials and bidding companies, providing capacities and guidance, including clear rules and guidelines on preventing and managing conflict of interest.

d) ensuring control and oversight throughout the project life cycle with effective and efficient risk management, internal control activities and independent audit.

e) ensuring effective enforcement mechanisms with adequate investigation and sanction capacities that provide clear procedures to report wrongdoing, protect whistle-blowers and ensuring that reporting mechanisms and protection is available to all stakeholders, public and private sector employees, and citizens.

f) ensuring that the understanding of integrity risks is comprehensive, by integrating responsible business conduct and risk-based preventive due diligence into the infrastructure project life cycle.

viii) **Promote evidence informed decision making** by:

a) defining and clearly allocating institutional responsibilities for data consolidation, dissemination, analysis, evaluation and ensuring adequate financial resources and professional skills for the implementation and use of digital technologies and data analytics.

b) putting in place systems that ensure a systematic collection, storage and management of relevant data over the entire life cycle of the infrastructure asset.

c) using open data in infrastructure, disclosing relevant information to the public in a standardised, accessible, reusable, understandable and machine-readable format, in a periodic and timely fashion, and making sure to effectively communicate and engage stakeholders to promote dialogue and learning.

d) harnessing digital technologies and data analytics to reduce administrative burdens, increase transparency, understand performance, inform decision-making, and take preventive actions to respond to identified risks and adapt control activities.

e) encouraging the production of data at the right national and subnational scale and ensure integration to inform investment strategies and produce evidence for decision-making.

ix) **Make sure the asset performs throughout its life** by:

a) optimising life cycle costs and asset quality through ensuring effective price and quality regimes, project design, budgeting, monitoring, operation, upgrade, maintenance and decommissioning, regularly integrating changing needs and techniques.

b) monitoring asset performance against predefined service delivery targets and expected outcomes.

c) reviewing regularly the value and depreciation of assets, and their impact in the accounts.

d) preparing and effectively managing the end of infrastructure contracts (e.g. public procurement, PPP and concession contracts) and the transition to any new arrangement, ensuring that audit and ex-post value for money evaluation are carried out and the results are used in the decision-making process.

x) **Strengthen critical infrastructure resilience** by:

a) setting-up a cross-sector and multi-level governance structure for critical infrastructure resilience, monitoring implementation and progress in attaining resilience objectives, and defining an accountability framework for critical infrastructure operators.

b) adopting methodologies and metrics to understand complex interdependencies and vulnerabilities across infrastructure systems and prioritise resilience efforts.

c) establishing trust between government and operators by securing risk-related information-sharing.

d) building partnerships to agree on a common vision and achievable resilience objectives.

e) defining the policy mix to prioritise cost-effective resilience measures across the life-cycle.

f) addressing transboundary dependencies in critical infrastructure systems by coordinating policies with neighbouring countries and beyond.

g) developing requirements and specifications to promote resilient infrastructure to all-hazards, including climate related risks.

III. **INVITES** the Secretary-General to disseminate this Recommendation.

IV. **INVITES** Adherents to disseminate this Recommendation at all levels of government.

V. **INVITES** non-Adherents to take due account of, and adhere to, this Recommendation.

VI. **INSTRUCTS** the Public Governance Committee, in co-operation with the Regional Development Policy Committee, to:

a) Serve as a forum for exchanging information on infrastructure governance including experience with the implementation of this Recommendation, and to foster multi-stakeholder and interdisciplinary dialogue to facilitate quality infrastructure investment in a way that is cost effective, affordable and trusted by investors, citizens and other stakeholders;

b) Develop guidance and evaluation frameworks to support the implementation of the Recommendation, in particular to provide assistance in the assessment of the processes, tools, norms of interaction, decision-making processes and monitoring strategies for the Governance of Infrastructure;

c) Collect and map the information exchanges and continue to build a body of experience on the implementation of the Recommendation; and

d) Monitor the implementation of this Recommendation and to report thereon to the Council every five years following its adoption.

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- **Recommendations** are adopted by Council and are not legally binding. They represent a political commitment to the principles they contain and entail an expectation that Adherents will do their best to implement them.

- **Substantive Outcome Documents** are adopted by the individual listed Adherents rather than by an OECD body, as the outcome of a ministerial, high-level or other meeting within the framework of the Organisation. They usually set general principles or long-term goals and have a solemn character.

- **International Agreements** are negotiated and concluded within the framework of the Organisation. They are legally binding on the Parties.

- **Arrangement, Understanding and Others**: several other types of substantive legal instruments have been developed within the OECD framework over time, such as the Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.