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How can Sustainable Development Goals be 'mainstreamed' in the EU's Better Regulation Agenda?

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Summary

The European Commission recently announced its intention to mainstream the Sustainable Development Goals in its policy process, as part of its approach to implement the 2030 Agenda. This explicitly involves the EU better regulation agenda, but the current tools and methods used in both *ex ante* impact assessment and *ex post* policy evaluation would need to be adapted to link better regulation with SDGs more effectively. More generally, this would also mean that the better regulation agenda becomes an instrument for policy coherence in EU public policy, and not only an instrument for efficiency.

This paper reflects on the changes that would be needed in governance and better regulation methods, as well as in the European Semester and Cohesion policy. A five-phase transition towards a policy process fully geared towards sustainable development is proposed.

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When it comes to medium-term growth and development strategies, the European Union has not been very successful over the past two decades. As is well known, the vision underpinning in the Lisbon agenda never materialised, and the Europe 2020 Agenda was already superseded by Juncker's Ten Priorities halfway through the decade. Today, Europe *de facto* has no strategy in place for the end of this decade, and no real instruments to pursue an ambitious agenda in economic, social and environmental terms. And even the recent White Paper on the Future of Europe, rather than setting goals for the future, takes a step backwards and portrays the deep existential crises that the EU is facing.[1]

To be sure, the reasons for the failure of the past two decade-long agendas are many, and include the economic crisis, which set many macroeconomic indicators two decades back (Baldwin & Giavazzi, 2015); the change in political context, which urged a more pragmatic stance, aimed to ensure that the European Commission be "big on big things, small on small things"; and internal problems of the two agendas, which made them unfit as real agendas for growth (Renda 2014; EPSC 2016). In more detail, both the Lisbon Agenda and Europe 2020 showed major gaps and inconsistencies since the very beginning: these included the lack of involvement of, and incentives for, member states; the lack of a key focus on the internal market; the lack of meaningful targets in some areas (e.g. research and development); and overall, an excessively top-down approach.[2] As a result, EU's growth strategies ended up generating what was recently termed 'targetology', and a widespread lack of political legitimacy (EPSC 2016).

But perhaps the most evident problem faced by these agendas is that their goals and premises were never mainstreamed into the policy process of the European Commission and other EU institutions. In other words, while at the highest political level EU institutions and member states were setting targets and ambitions for Europe's sustainable and inclusive growth, in their daily practice of policymaking EU institutions were dancing to a different tune and decisions were adopted on the basis of significantly different criteria and benchmarks. Moreover, budget allocations and expenditure programmes did not reflect the overarching framework and targets set by the sustainable and inclusive growth agenda either. All in all, this seems to have been a recipe for failure.

In November 2016, the European Commission adopted a series of communications that outlined the future agenda for 2030, centred on Sustainable Development Goals.[3] Although sustainable development is considered a fundamental and overarching objective of the EU, enshrined in Article 3 TEU, and despite the existence of an EU strategy since 2001 and a set of Sustainable Development Indicators since 2005, the salience of this strategy at the highest

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[1] See https://europa.eu/european-union/sites/europaeu/files/whitepaper-future-of-europe_en.pdf.

[2] See http://cor.europa.eu/en/documentation/studies/Documents/Blueprint-Revised-Europe-2020-strategy.pdf.

[3] See http://ec.europa.eu/europeaid/policies/european-development-policy/2030-agenda-sustainable-development_en.

political level had never been particularly strong until the 2030 Agenda was launched: indeed, the strategy was heavily criticised for lacking ownership and governance (Gregersen et al., 2016). Interestingly, the Commission presented the new agenda as a joint commitment with member states and "many different actors", aimed at fostering a "stronger, more sustainable, inclusive and prosperous Europe".[4]

While the language closely mirrors the narrative of Europe 2020 (smart, sustainable and inclusive growth), emphasis on policy coherence both internally and in the external action agenda appears to be stronger. And importantly, the new agenda carries recognition of the important role that better regulation could play in fostering policy coherence for the long term. The Communication "Next steps for a sustainable European future" makes clear that use of the Commission's better regulation tools is a "way to ensure further mainstreaming of sustainable development in European policies", since "all Commission impact assessments must evaluate environmental, social and economic impacts so that sustainability is duly considered and factored in".[5] The Commission then adds that also *ex post* evaluations must analyse all three dimensions "in a strong integrated approach". In the Commission's view, the current Better Regulation Guidelines (which include guidance on stakeholder consultation) provide a strong basis for this mainstreaming exercise.[6]

Against this background, the current use of better regulation in the European Commission, other EU institutions and member states appears incapable of mainstreaming sustainable development in daily regulatory practice. The EU better regulation agenda is still coping with a number of existential dilemmas (for example, is it a cost-cutting agenda or a policy coherence agenda?); existing imperfections in the policy cycle (for example the missing role of the Council, the very limited implementation of better regulation in member states); and governance problems that might impair the Commission's ability to use better regulation for SDGs.

In this paper, I take the Commission's new commitment to better regulation and SDGs at face value, and explore the changes that might be needed to ensure that better regulation can be deployed in the most effective way to support the 2030 Agenda. Section 1 briefly takes stock of the current state of development of better regulation in the European Union. Section 2 highlights the existing discrepancies between the goal of mainstreaming SDGs and the current

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[4] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Proposal for a new European Consensus on Development. Our World, our Dignity, our Future, COM(2016) 740 final, 22.11.2016 ("The EU seeks to mainstream the SDGs into the Commission's everyday work and to engage all stakeholders, Member States and the European Parliament in its implementation to work towards full implementation of the 2030 Agenda for Sustainable Development").

[5] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Next steps for a sustainable European future European action for sustainability, COM/2016/0739 final.

[6] See section 2 below for an assessment of this level of readiness.

use of better regulation tools in EU institutions and member states. Section 3 concludes by putting forward a number of policy recommendations.

1. Better regulation: state of the art in the EU

Officially launched in 2002, the EU's better regulation agenda is today fully embedded in the European Commission's policy process. The overall idea that major EU policy initiatives should be backed by evidence, collected and processed in the form of *ex ante* impact assessments, was gradually replaced by a more 'circular', learning-oriented approach, in which major EU policies are assessed *ex ante*, monitored during their life and periodically evaluated after a certain number of years, in what the European Commission has called a 'policy cycle' since 2010.[7] The principle of 'evaluate first' also guarantees that the European Commission fully takes stock of the problem to be addressed by regulation and the possible gaps in existing legislation before proposing new rules.[8]

In addition, in the past few years the European Commission has gradually expanded the remit of the better regulation agenda by launching comprehensive reviews of entire policy areas (REFIT); carrying out cumulative cost assessments in specific industry sectors; and extending the impact assessment tool, also to selected implementing and delegated acts. In 2015, in renewing its commitment to better regulation, the Commission also published new, more sophisticated and comprehensive guidelines and strengthened the governance of better regulation by creating a stronger oversight body (the Regulatory Scrutiny Board) and a new REFIT platform for consultation of both stakeholders and government representatives.

Today, after 15 years of implementation and more than 1,000 impact assessments, the European Commission's better regulation agenda still appears to be in search of a clear identity (Renda, 2016). On the one hand, a number of member states are putting increasing pressure on the Commission to focus on cutting red tape and reducing compliance costs for businesses. This already led to new commitments, explicitly stated in the conclusions of the Dutch Presidency and in the Inter-Institutional Agreement on Better Lawmaking, both in May 2016, to develop an 'Annual Burden Survey', in which the Commission keeps track of the achieved cost reduction in selected sectors.[9] This would resemble, besides systems already in place in the Netherlands, Germany, and the UK, the new direction taken by the Trump administration with the new Executive Orders 13,771 and 13,777, which introduce regulatory

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[7] See Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, Smart regulation in the European Union, COM (2010) 543, 8.10.2010.

[8] Ibid. and see, i.a. the recently published Annual Report 2016 of the Regulatory Scrutiny Board, at https://ec.europa.eu/info/files/regulatory-scrutiny-board-annual-report-2016_en

[9] See http://europa.eu/rapid/press-release_IP-16-3014_en.htm

budgeting systems in which the central government (OMB) assigns reduction targets on regulatory costs to each agency (set at zero for the fiscal year 2017) (Renda, 2017a).

On the other hand, other recent documents published by the European Commission seem to pave the way for a much more proactive use of regulation in support of long-term public policy goals. The First Vice President of the European Commission took a similar view in stating that

> better regulation is not about 'more' or 'less' EU rules, or undermining our high social and environmental standards, our health or our fundamental rights. Better regulation is about making sure we deliver on the ambitious policy goals we have set ourselves in the most efficient way.[10]

Likewise, the Communication "Better Regulations for Innovation-Driven Investment", which dates back to December 2015, took a very proactive stance on the role of regulation, by highlighting the positive impact of good regulation on innovation, and the role that EU policy can play in facilitating the emergence and the diffusion of new technologies and business models such as hydrogen cars, automated vehicles, energy-efficient buildings and many more. In the same vein, the emphasis placed by the Regulatory Scrutiny Boards on the need for consolidated and consistent impact assessments referred to large legislative packages with specific priorities (e.g. Digital Single Market, Energy Union) and calls for an enhanced role of impact assessments in shaping a more coherent, long-term agenda for the EU.

This dichotomy between the 'less is more' view and the proactive view of better regulation is also reflected in the overall uncertainty about which methodology to use to assess and monitor impacts. The European Commission has always claimed that cost-benefit analysis is the reference method to analyse and compare alternative policy options, with a view to adopting only those options that provide net benefits to society. At the same time, the current EU impact assessment process contains a number of additional tests, screens and criteria that are used to pre-select options, which make it closer to multi-criteria analysis than to standard, neoclassical cost-benefit analysis (Renda, 2016). The very rich toolbox offered by the Better Regulation Guidelines allows for a variety of practices across the Commission DGs, as well as for varying degrees of quantification and monetisation of impacts.[11] And the emphasis on specifying at the beginning of any impact assessment the general, specific and operational objectives against which alternative options are to be assessed clearly departs from the original view of cost-benefit analysis, which has as its unique objective the maximisation of social net benefits.

Many of these features have emerged over time due to the broader scope of the EU better regulation agenda compared to that of other legal systems, such as in the United States. In the US, RIAs are conducted on federal regulatory measures that presuppose, in most

[10] See http://europa.eu/rapid/press-release_IP-15-4988_en.htm

[11] See http://ec.europa.eu/smart-regulation/guidelines/toc_tool_en.htm

circumstances, the existence of umbrella primary legislation that has already set the overarching objectives and the policy approach to be adopted; when it comes to specifying the implementation measures, the only source of concern is how to achieve such pre-defined objectives in the most cost-effective way, thus maximising social welfare. This is why the EU system is different, and largely 'orphan' of existing national experiences in any other part of the world. As explained in Renda (2006, 2011), the peculiarity of the EU better regulation agenda also bears consequences for the extent to which the use of cost-benefit analysis is advisable: while secondary legislation lends itself relatively well to cost-benefit analysis, major policy initiatives often have distributional and ethical implications that cost-benefit analysis is not able to fully capture (Adler, 2012; Boadway; 2016).

Against this background, the evolution of better regulation in the European Commission, however imperfect, finds no comparable match in any other EU institution, and no homologous development in member states, apart from a fistful of exceptions. More specifically, the European Parliament has taken important steps towards developing its own capacity to assess the impact of major policy initiatives since 2012, by creating a dedicated directorate (IMPA), later brought under the broader umbrella of the European Parliamentary Research Service (EPRS).[12] However, the EPRS is currently more actively involved in providing early assessments of the European Commission's own impact assessment than in evaluating the impacts of major amendments proposed by parliamentary committees. More generally, the work of the EPRS often seems to be ignored by the Members of the European Parliament, also due to the wide distance between the logic of cost-benefit analysis and that of political decision-making (Renda 2016).

The Council of the EU is making more use of Commission impact assessments, but has so far failed to develop its own capacity for impact assessment and *ex post* evaluation. This fundamentally undermines the possibility for EU institutions to offer member states a fully evidence-based justification for the legislative initiatives that are adopted. Rather, impact assessments of newly adopted legislation are pieces of history, which explain the rationale that backed the original proposal filed by the European Commission, but not the rationale that backs the final text approved at the end of the ordinary legislative procedure.

For what concerns member states, the situation is even less encouraging, where possible: while the Netherlands, Germany, Scandinavian countries, the (outgoing) UK and partly Portugal and France have developed their better regulation systems (in a way that most often mirrors the 'less is more' approach), other member states have been struggling to develop an internal better regulation culture, and so far, have largely failed in their attempt.

In this context, implementing either version of the better regulation strategy becomes complicated. There is, however, reason to believe that a change of direction, aimed at

[12] See http://www.europarl.europa.eu/thinktank/en/home.html

promoting better regulation as an instrument of coherence with long-term goals (especially SDGs), would improve the salience of impact assessments and *ex post* evaluations in the eyes of political decision-makers in the European Parliament and the Council (Ashford & Renda, 2016). As a matter of fact, a public document that shows how a proposed amendment is likely to advance (or jeopardise) the EU agenda in terms of jobs, poverty reduction, education or the environment would inevitably speak to politicians much more than any documents showing how net benefits would vary post-amendment. The level of accountability that could be spurred by impact assessments that promote policy coherence would thus be significantly greater, especially if the documents were made fully public. As regards member states, such a move would of course not be sufficient: only if the SDGs are fully embedded in the European Semester and multi-level cooperation is relaunched around the 2030 Agenda, as proposed by the Commission, would member states have sufficient incentive to propose reforms that converge towards pan-European goals. I return to this issue below, in section 3.

2. Are the SDGs a good framework for better regulation?

Before venturing on to the question of *how* better regulation should be adapted to focus on sustainable development, it is useful to reflect on *whether* this would be a good idea. As a matter of fact, the EU 2030 Agenda presented in November 2016 is very faithfully modelled on the idea of sustainable development, as drawn up under the umbrella of the United Nations in 2015. However, the goals and targets themselves are only partly actionable at the national level: in many cases, they express global goals to be achieved through international and multi-stakeholder cooperation. As a result, the SDGs are not a 'ready-made' set of goals that a national government, let alone EU institutions, can adopt as a fully actionable policy framework. A much-needed exercise would then be to single out the part of the SDG framework that essentially pertains to the EU external action strategy, and those that could become benchmarks for the EU in its internal policies.

After this selection, the SDG framework would probably cover only a subset of the policy goals that the EU has set itself. Inevitably, in addition to the SDGs the EU policy agenda must reflect the Union's priority areas, which might overlap with, or sometimes be additional to, the ones embedded in the SDGs. In this respect, different scenarios might occur: there might be cases in which the SDGs and the EU goals perfectly coincide (e.g. 'no poverty', which is actually a challenging goal for the EU, and was included in the Europe 2020 strategy);[13] cases in which the EU might need to go beyond the targets set by the SDGs due to its greater-than-

[13] As reported by Eurostat in November 2016, almost every fourth person in the EU – 23.7 % of the population – is at risk of poverty or social exclusion (2015 data). This is a slight improvement on the 2005 situation, when 25.8 % of the population was at risk. Of those at risk, almost one third or 38.4 million people are affected by more than one dimension of poverty. The most widespread form is relative monetary poverty, which affects 10.2 % of the population. Still, the rate of relative monetary poverty in the EU is lower than for other G20 member states such as the US, Turkey and Mexico.

average level of development (e.g. SDG#5 on R&D and infrastructure, at least for what concerns the share of R&D on GDP and the penetration of mobile networks); types of SDGs that are by definition not actionable by EU institutions alone, and not useful when it comes to internal policies (e.g. SDG#17 on partnerships for the goals); and cases in which the EU pursues goals that are equally important, though not relevant for a global agenda like the SDGs (e.g. Internal Market policies, when unrelated to any of the SDGs).

Accordingly, the first big effort that should be made at EU level in the weeks to come would be to build a set of EU SDGs, which mostly mirror the global ones but replace benchmarks and indicators with EU-specific ones, and at the same time eliminate those goals, targets and indicators that are not directly reflected to domestic policies and/or developing countries. Ideally, this list of EU SDGs should be then broken down into more specific targets for each member state, and in some cases even at the subnational level (as requested on several occasions for the Europe 2020 strategy, in particular by the Committee of the Regions). The reason why this is needed is that only when broken down at national and subnational level, and provided they are set in a way that reflects the individual potential of each territory, would these targets really become actionable and 'owned' by the respective governments (CoR, 2014; Renda, 2014).

Undertaking this exercise at EU level is equivalent to engaging with what at the international (particularly, OECD) level is increasingly referred to as "aligning policies" for long-term goals, or an exercise in "policy coherence for sustainable development (PCSD),[14] a term that most recently replaced the often-used policy coherence for development or PCD framework (CEPS 2006). It is on this front that the EU might show its greatest weakness: without a clear, comprehensive and ambitious strategy for implementation inside the EU, all the widely acknowledged efforts made by EU institutions to drive the international debate on SDG will immediately lose legitimacy and credibility. It is indeed this 'practice what you preach' problem that the EU could face only by fully mainstreaming a comprehensive, ambitious and territorially differentiated EU version of the SDGs in the multi-level governance of the Union.[15] The First Vice President of the European Commission, Frans Timmermans, has repeatedly taken this position in public speeches, advocating more internal coherence in EU policies towards sustainable development. Still, there is palpable scepticism about the

[14] The Organisation for Economic Co-operation and Development (OECD) defines PCSD as a new "approach and policy tool to integrate the economic, social, environmental and governance dimensions of sustainable development at all stages of domestic and international policy making. It aims to increase governments' capacities to: i) foster synergies across economic, social and environmental policy areas; ii) identify trade-offs and reconcile domestic policy objectives with internationally agreed objectives; and iii) address the spillovers of domestic policies".

[15] See Falkenberg report EPSC Strategic Note: "Because the EU has been a key player in designing the UN 2030 Agenda and the Sustainable Development Goals, expectations are high. It is a matter of credibility for the EU to deliver on implementing domestically the Sustainable Agenda that it has contributed building." At https://ec.europa.eu/epsc/sites/epsc/files/strategic_note_issue_18.pdf

possibility that the European Commission will manage to achieve this level of multi-level, multi-stakeholder commitment in the near term. This is why mainstreaming SDGs in the better regulation agenda becomes as crucial as it is challenging.

3. Is EU better regulation ready to 'marry' EU SDGs?

Assume now that the EU is able to develop a roster of coherent and meaningful indicators that couple SDGs with internal market goals. Would the current EU better regulation agenda then be ready for the implementation of these EU SDGs? At first blush, the answer would be positive, for a number of reasons. First, *ex ante* impact assessment has, since 2002, aimed to capture the economic, social and environmental impacts of European Commission's major new policy initiatives. Second, such major policy initiatives include far-reaching, cross-cutting policy interventions, contrary to what happens in the US, where only federal regulation, not primary legislation is subject to regulatory impact analysis (Renda, 2006, 2011): this potentially enables a more 'strategic' use of better regulation, which departs from the exclusive policy efficiency lens and moves towards the use of better regulation as a driver of coherence with long-term goals (Ashford & Renda, 2016). Third, sustainable development is included in the better regulation toolbox as one of the impacts that should be considered in an *ex ante* impact assessment.[16] All the SDGs (with the obvious exception of SDG #17) are covered in one way or another by the better regulation toolbox.

Yet a closer look reveals a number of outstanding challenges for the better regulation agenda to really embrace to the sustainable development goals. As a matter of fact, when one looks at the indicators associated with each of the SDGs, it is clear that the EU better regulation guidelines make very partial reference to similar values and benchmarks. Furthermore, what is missing in the better regulation guidelines is: i) a methodological framework that considers sustainable development as the framework within which to locate policy impacts, rather than one of several policy impacts; ii) a way to measure distance from SDG targets; and iii) criteria to prioritise certain impacts over others in the case of trade-offs.

More specifically, the convergence of the better regulation agenda with the 2030 agenda can be approached with different levels of ambition. At a minimum, once the 2030 is defined in line with our description in section 2 above, the following changes would be needed.

First, the definition of the problem and objectives in EU impact assessments would need to refer to the EU SDGs. The problem definition in *ex ante* impact assessments should not only reflect the existence of market failures or regulatory failures, but rather the need to achieve one or more of the EU SDGs through proactive policy action in specific areas. Ideally, impact assessments should identify the sustainable development goals critically affected by the problem identified, as well as those indirectly affected, and justify intervention on the basis of

[16] See toolbox, *supra* note 11, at page 100.

a dynamic, prospective analysis of how the identified problem would evolve without EU intervention.[17] Concretely, this could imply that when defining general objectives (which are to be identified along with specific and operational ones), the Commission services in charge of the impact assessment are asked to refer to the SDGs that will be primarily affected, and those that will be only marginally affected by the proposed policy. Ideally, as in the case of the (much narrower in scope) 'ten priorities' of the Juncker Commission, every new policy should be justified in terms of its contribution to the 2030 Agenda, to be signed off by the Cabinet.

Second, scientific input would need to be improved throughout the better regulation process.[18] This can be done in various ways: by involving DG RTD in the provision of external advice to the services that propose new regulation, as well as in the role of 'scientific secretariat' to the Regulatory Scrutiny Board;[19] by allocating funds in the upcoming FP9 according to key societal challenges covered by the SDGs, such as mobility, shelter, lifelong learning and education, decarbonisation, healthcare and the ageing society, etc.; by involving academics and specialised think tanks in the future SDG platform announced last November, which will help the Commission to shape the agenda in cooperation with stakeholders;[20] or by engaging with Eurostat in the definition and tracking of indicators of SDG – an activity that is ongoing and should lead to more actionable tools for the European Commission in the selection of policy initiatives and the assessment of prospective impacts. The recent Eurostat publication on Sustainable Development shows that a lot of data are already available. The only challenge would be that of making them available to the Commission service in a form that enables use in impact assessments.[21]

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[17] The scope of the latter analysis would depend on the extent to which the 2030 Agenda has been fully embedded in the multi-level governance of the EU. For example, if every member state has to develop a sustainable development pathway, which in turn will dictate the reforms discussed under the aegis of the European Semester, then the analysis of subsidiarity and the need to act at the EU level should reflect the possibility that action at member state level ends up solving the problem and advancing the sustainable development agenda more effectively and in a more country-specific way. If, on the other hand, such a multi-level coordinated effort does not materialise, it is more likely that action is needed at EU level to advance the 2030 Agenda in a meaningful and effective way. I return to the key issue of multi-level governance in section 3.

[18] On this issue, see also the recent Report of the expert group "Follow-up to Rio+20, notably the SDGs", at http://bookshop.europa.eu/en/the-role-of-science-technology-and-innovation-policies-to-foster-the-implementation-of-the-sustainable-development-goals-sdgs--pbKI0415809/.

[19] This would place on DG RTD a renewed responsibility to leverage existing research projects funded through Framework Programmes, as well as input from various platforms existing in the European Research Area (research Infrastructures, JTIs, KICs, etc.), from the Joint Research Centre, from Academia (e.g. by more actively involving the RISE group), from industry (the European Innovation Council), from decentralised EU agencies (such as EFSA, ECHA, EMA, ECDC, EASA), and *ad hoc* scientific Committees set up by the Commission (such as SCENIHR).

[20] Such a platform could also interact with the EPRS STOA group, as well as the (larger) REFIT platform, which includes both a government group and a stakeholder group.

[21] Sustainable development in the European Union — A statistical glance from the viewpoint of the UN Sustainable Development Goals, 22 November 2016, at http://ec.europa.eu/eurostat/web/products-statistical-books/-/KS-02-16-996.

Third, the methodology currently used to compare alternative policy options would need some adjustment to reflect the renewed focus on long-term SDGs. This involves, in particular, the transition from standard cost-benefit analysis, which mostly aims at economic efficiency, towards multi-criteria analysis based on adequate indicators and methods linked to the SDGs, possibly based on integrated analytical models. Here too, different levels of ambition are possible. A relatively minor change would be that the Commission maintains its analysis of the costs and benefits of alternative policy options, but then ranks them also based on their effectiveness in contributing to the SDG agenda. If SDGs are already included as general objectives, this would almost be automatic, since the current better regulation toolbox already directs Commission officials to compare the options (preferably in a table format) indicating not only their costs and benefits, but also "the extent to which they would achieve the objectives" and "the coherence of each option with other EU policy objectives, including the Charter for fundamental rights, and with other policy initiatives and instruments".[22]

More ambitious changes would imply the use of a more structured multi-criteria analysis, a structured set of weights to be given to different positive or negative policy impacts; integrated analytical models that take into account the whole set of SDGs; or directly a non-linear social welfare function, which reflects the need to account for inequality and welfare distribution when dealing with policy evaluation, and could be used at least as a sensitivity analysis tool (Adler, 2012, 2017).

Other potential changes would involve the social discount rate (which could be subject to a much more accurate guidance than the one currently available); and territorial impacts, which could be linked to the existing advancement of member states in terms of the EU SDGs (possibly monitored by Eurostat and the member states). These changes might have as a side effect a *rapprochement* between the general impact assessment methodology and the sustainability impact assessment methodology used by DG Trade.[23]

Fourth, the choice of monitoring and evaluation indicators would need to be more directly related to the expected advancement towards SDGs and related indicators and targets. As a general rule, the Monitoring and Evaluation section of the impact assessment should always contain a reference to 'EU SDG' indicators: this would be logical and coherent, since the objectives of the proposed policy measure also refer to the EU SDG. Should Eurostat deepen its activity in developing and tracking indicators of sustainable development over time, the overall policy cycle would improve in terms of depth, consistency and effectiveness. Whenever indicators refer to territorial impacts, the available indicators should also, if possible, be monitored with the help of statistical offices in member states.

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[22] See the European Commission's Better Regulation Toolbox, *supra* note 11, at page 48.

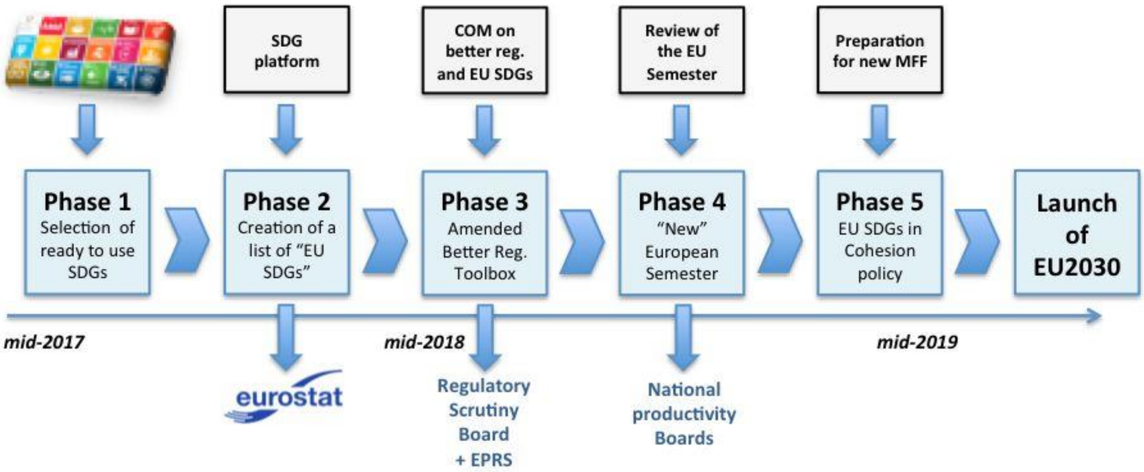
[23] See in particular the SIA "main themes" in the second edition of the handbook, at http://trade.ec.europa.eu/doclib/docs/2006/march/tradoc_127974.pdf.

Fifth, other EU institutions would need to buy into the new, SDG-focused better regulation agenda. This would improve upon the current situation in both the Parliament and the Council, and probably also in terms of involvement of advisory institutions such as the Committee of the Regions (CoR). For what concerns the European Parliament, as already mentioned, the current work of the EPRS seems to have made insufficient inroads into the policy debate: however, framing more explicitly Commission proposals and potential amendments within the 2030 strategy (as described above) and its associated goals and targets would undoubtedly increase the salience of the better regulation agenda for Members of Parliament. Likewise, it would increase awareness of the importance of the proposal for sustainable development at the national level and, where appropriate, at the subnational level it could improve the quality and evidence-based nature of the policy decisions adopted by the Council, as well as the input provided by the CoR.

Finally, the ultimate stage of using better regulation for PCSD in the European Union would be reached if annual or six-monthly reporting on the state of advancement of EU SDGs were used as a benchmark to prioritise certain impacts over others, and guide Commission services in navigating uncertainty whenever trade-offs emerge among different policy goals. As an example: imagine that in the last report on EU SDGs, released in November 2020, the EU is seen to be approaching decarbonisation targets at reasonable speed, but that some of the inequality-related indicators were significantly lagging behind: this could be used by the European Commission as a starting point for: i) prioritising certain measures over others, and accordingly use their political validation power to sign off proposals that focus on reducing inequality; ii) guide services in deciding which policy options to adopt in case, for a given problem *x*, options A and B were both considered to be desirable, but A scored best on environmental indicators, whereas B scored better on reducing inequality and eradicating poverty. A reasoned argument could plausibly be made in writing, in the impact assessment, for adopting option B and continuing to monitor the evolution of the policy problem to learn, over time, if the choice was appropriate.

Figure 1, below, sketches possible future scenarios under which better regulation is fully embedded with EU SDGs. The elements presented feature different levels of ambition: while focusing general objectives on EU SDGs can be considered as a relatively minor change, using periodic SDG reporting to feed back into the political validation of new initiatives and in the weighing of prospective impacts is of course more difficult to achieve. The latter, however, is not very different from what is done in any constrained optimisation exercise, such as public budget allocation: if the allocation to a specific area, e.g. research, shows high value for money, but also a significant untapped potential, public authorities might decide to increase the share of budget earmarked for that specific area in the subsequent period. This is the basis of the so-called European Added Value calculation that, especially in the last MFF (2014-2020) negotiations, guided budget allocation.[24]

Figure 1. Mainstreaming SDGs in the EU policy process: a 5-step approach



Source: Author's formulation.

These steps do not require treaty change or major overhauls of the better regulation agenda: they only build on the existing better regulation toolbox to add political salience and coherence to the overall process. Importantly, such a system, oriented towards policy coherence for sustainable development, would neither be incompatible with the use of cost-benefit analysis for implementing and delegated acts (which would continue to use the existing version of the guidelines), nor with the launch of sectoral burden reduction exercises, which would aim to improve the cost-effectiveness of EU policies by reducing administrative burdens and compliance costs generated by EU policies, without compromising their benefits (Renda, 2017). The EU better regulation agenda would then become a multi-dimensional agenda, in which primacy goes to effectiveness and coherence with long-term goals; and subject to these fundamental objectives, the need to promote the cost-effectiveness of all EU policies through measures aimed at managing the existing regulatory stick and reducing related regulatory costs.

4. Conclusions: SDGs and regulatory governance in the European Union

At 15, the EU better regulation agenda is currently in its deepest adolescent phase: reaching maturity requires a deeper embedding of its principles and tools in the overall multi-level governance of the Union. In order to allow for a fully fledged policy cycle, the future better regulation agenda should, however, be able to rely on a number of additional actions, aimed at delivering on the stated commitment to mainstream SDGs in the EU policy process. The

[24] See European Commission Staff Working Paper, The added value of the EU budget, Accompanying the Commission Communication "A budget for Europe 2020", Brussels, 29.6.2011, SEC(2011) 867 final.

Communication adopted last November and its associated Staff Working Document mark a very important first step, as they identify the overarching EU policies that affect the 17 SDGs. As such, they provide for a very important mapping exercise, which should be complemented by adequate additional measures, governance and incentives in the years to come, in line with the 'EU SDG' framework introduced in section 2, above.

In particular, if all the Commission says is ultimately translated into a true commitment, inspired by the principles of PCSD, then one would expect to see concrete action for embedding EU SDGs in the European Semester, in a way that is complementary to fiscal rules. Just as the latter rely on explicit parameters (e.g. for the deficit/GDP and debt/GDP ratios), the achievement of EU SDG goals through multi-level governance could rely on 'sustainable development pathways' defined for each member state. These would echo, to some extent, the 'National Lisbon Strategies' that member states prepared during the past decade, with a more fine-grained analysis of feasible targets, broken down where possible at the subnational level. In terms of governance, one possibility would be that, just as fiscal parameters and coordination are dealt with by DG ECFIN in cooperation with the fiscal boards established in each member state, the EU SDGs could be coordinated by the new Productivity Boards (despite their unfortunate name), which would have to be appointed in each member state by May 2018.[25] The latter could be in charge of showing how national reforms and the domestic transposition and implementation of EU rules are contributing to the EU SDGs and leading towards the achievement of the national and subnational SDGs. This, of course, requires a deeper re-examination of the mandate of such boards, in line with what has already been proposed, *i.a.* by the European Economic and Social Committee, and in line with the broad notion of productivity adopted by leading productivity Commissions such as those operating in Australia and New Zealand.[26]

In the same vein, embedding EU SDGs in the multi-level governance of the European Union requires effort to re-orient the earmarking and allocation of cohesion funds to introduce stronger "microconditionalities" (Renda, 2014).[27] In this respect, while it is true that huge efforts have been made since 2014 to strengthen the coherence of EU cohesion policy with Europe 2020 goals, the incompleteness of the smart, sustainable and inclusive growth strategy, let alone its overall failure, have put these efforts at risk. Since the European Regional Development Fund, European Social Fund and Cohesion Fund together account for approximately one-third of the EU budget, it is of utmost importance that they are adequately put to use in support of the 2030 Agenda – in a way that capitalises on the past experience with Europe 2020.

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[25] See Renda and Dougherty (2017).

[26] Ibid.

[27] Article 174 TFEU makes explicit reference to development by stating that 'in order to promote its overall harmonious development, the Union shall develop and pursue its actions leading to the strengthening of its economic, social and territorial cohesion".

One good example of a recent initiative that could help Europe move in the right direction is the development of a EU regional Social Progress Index (SPI), released in October 2016, which aims to measure the social progress of 272 European regions as a complement to traditional measures of economic progress. Operationalising this and other sustainability indicators would certainly mark an important step towards stronger coherence between cohesion policy, the European Semester, better regulation and Europe's medium- to long-term goals.

Europe cannot afford a third decade of ineffective growth strategy. Its new strategy is still in its infancy, and the first important step taken was to root it in the sustainable development concept. In the coming months, thanks also to the role that the future SDG platform will play (if well designed and governed), the EU should develop its own version of the SDGs. It should guide member states in developing their own sustainable development pathways and use better regulation, major EU policies, and its many multi-level governance tools to practise what it is increasingly preaching. This would mark a very important step towards saving and relaunching the EU project, at a time when the US seems unwilling to play a leading role in sustainability, and China is still far from emerging as a global, convincing, fully legitimate leader in this domain.

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