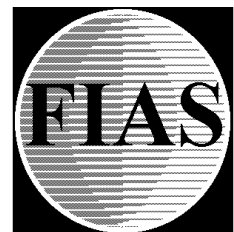


Bangladesh

Regulatory Impact Analysis Diagnostic Study and Design

July 2006

FIAS
Leaders in Investment Climate Solutions
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Acronyms

BICF	Bangladesh Investment Climate Fund
BOI	Board of Investment
BOI	Bangladesh Board of Investment
DPSG	Development Partners Support Group
FDI	Foreign Direct Investment
FIAS	Foreign Investment Advisory Service
GoB	Government of Bangladesh
ICA	Investment Climate Assessment
DFID	Department for International Development
IFC	International Finance Corporation

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Foreword

This project is a project in a series of advisory interventions undertaken as part of the design phase of a proposed \$150 million World Bank-led, multi-donor funded, Private Sector Development Support Project (PSDSP).

The project was funded by FIAS, SEDF, and a Development Partners Support Group which included representatives from the World Bank, U.K.'s Department for International Development (DFID), the Japan Bank for International Cooperation (JBIC), the Japan International Cooperation Agency (JICA), the European Commission (EC), the Canadian International Development Agency (CIDA), and the Asian Development Bank (ADB).

Other complimentary FIAS/ SEDF initiatives include assisting the Government in the development of a PSD vision, conducting a review of key administrative barriers to investment, piloting reform through the development and management of economic zones, assessing institutional capacity for PSD reforms, conducting an e-government readiness assessment, designing a monitoring and evaluation system, conducting a stakeholder analysis, developing a communication strategy, and building commitment to reform by training a core group of mid-level bureaucrats. All of this analytic work will also inform technical assistance that will be delivered through the proposed \$55 million IFC-managed, DFID and EU-funded, Bangladesh Investment Climate Fund (BICF) that is scheduled for approval and effectiveness by mid-2006.

This project was led by Peter Ladegaard (FIAS) under the guidance of FIAS' Regional Program Coordinator James Crittle. Jennifer Wilson (FIAS) and Craig Wilson (SEDF) in the IFC's Dhaka office were also part of the project team. Bannock Consulting, a private consulting firm based in the United Kingdom, was retained by FIAS to undertake part of the field work for this project. Lead consultants on this project were Mark Minford and Darren Welch. This report has benefited from a World Bank Group peer review process and has incorporated comments from Syed Akhtar Mahmood and Roy Pepper.

Preliminary findings and recommendations from these components were discussed at a workshop in Dhaka in February 2006.

Executive Summary

Although the past decade has seen some streamlining and simplification, the regulatory business environment in Bangladesh remains costly, over-regulated, and poorly administered. Laws and regulations that govern business activities are often out of date, inadequate, inaccessible and ineffective. Problems go beyond policies and procedures into the design and performance of regulatory institutions themselves.

This report explores the rationale for Regulatory Impact Analysis (RIA) in Bangladesh as a partial solution to these challenges. It suggests options and recommendations for a gradual implementation of RIA in Bangladesh.

Regulatory Impact Analysis (RIA) is a tool used in most developed countries and in an increasing number of developing countries to improve regulatory decision-making and the understanding of economic and social welfare impacts of regulation. It is widely recognised as an important mechanism which can contribute to improving the business environment, and to promote regulatory efficiency and effectiveness.

This report concludes that, at the outset, there is a critical need for tools and initiatives – such as RIA - that can reduce regulatory costs and risks in Bangladesh.

The introduction of RIA in Bangladesh is consistent with and supportive of the Government’s vision for Private Sector Development. An improved and streamlined legal and regulatory framework is one of three pillars in the PSD vision.

Successful implementation of RIA in Bangladesh is contingent on three factors. First, to be effective and enjoy required political support, RIA must be embedded in a broader investment climate or regulatory reform policy. Second, government officials and the business sector must become confident with the benefits and “nuts and bolts” of a RIA system before it can be effectively applied. And third, RIA must work in tandem with other tools and mechanisms to improve regulatory quality such as better public consultation, an overhaul of the stock of existing regulation, improved access to information about regulation, etc. RIA, in other words, is not a panacea, but just one among several components required to build a better business climate.

None of the three preconditions for successful RIA implementation is currently in place. At the same time, government officials and business sector representatives, through the Private Sector Development Core Group, are showing broad support and rapidly growing awareness about better regulation tools such as RIA. RIA is one of the methods to support investment and

growth envisaged in the joint Government -donor Private Sector Development Support Project (PSDSP).

Given the current political and capacity related constraints to implementing RIA in Bangladesh, and based on international experiences, this report recommends a gradual, pilot-driven approach with an emphasis on training and testing at the expense of speediness and comprehensiveness. A cautious approach and realistic expectations are critical safeguards against failure and backlash.

The report also recommends that a firm institutional underpinning of the RIA system be established at the centre of government, initially at the Board of Investment, with a continued and systematic involvement of the business sector.

Key recommendations concerning the introduction of RIA in Bangladesh are listed in box 1 below. Recommendations should be seen as medium-term targets to be gradually implemented over the next 2-5 years, starting with the establishment and staffing of the RIA Unit.

Box 1: Recommendations

Institutional issues:

- A dedicated RIA Unit should be set up at the centre of government. The initial location of the Unit should be within the Better Business Unit currently envisaged to be located in the Board of Investment. The issue of the Unit's longer-term location should be addressed early on;
- The RIA Unit should be staffed principally by career officials (who have received appropriate training), initially supplemented with specialised external expertise not available within government. Staff should be on a minimum 3-year contract to ensure continuity and building up of skills;
- The RIA Unit should be guided by an Advisory Panel, which would provide direction and advice on the Unit's work, as well as broader advice on regulatory reform and private sector development. The Advisory Panel should have private sector and civil society representation as well as senior ministry representatives;
- The Unit should be charged with the continued development of RIA standards and guidelines, and for promoting RIA among public and private sector stakeholders;
- Guidance that shows officials how to apply RIA methodology should be drawn up by the RIA Unit before RIA is made a requirement;
- The RIA Unit should help Ministries produce good RIAs. It would return unsatisfactory RIAs to Ministries, with detailed suggestions for improvement.

RIA Coverage:

- Initially, RIA should be limited to a few selected sectors of high importance to the economy, e.g. regulations affecting the garment industry.
- For the selected sectors, RIA should initially cover only new primary legislation, and only then be gradually extended to new secondary legislation (including SROs) with expected impact on business compliance costs and the investment climate;
- Initially, RIAs need not include quantitative assessments of costs (and benefits). Impact assessments could be based on purely qualitative assessments and answers to basic RIA checklist (justification) questions

RIA Process:

- Regulating ministries should be primarily responsible for producing RIAs, with the RIA Unit acting as quality assurance and support;
- Specific officials should be identified and made responsible for producing RIAs within the ministries and regulating agencies. Training of these officials should be a priority task.
- All draft regulations covered by the RIA process must be vetted by the RIA unit prior to being tabled to Cabinet or becoming legally enforceable;
- Public consultations should become an integral part of the regulatory process. Regulating ministries and agencies should systematically involve affected stakeholders in the preparatory phases, and report the outcome of consultations in RIA.

Legal underpinning:

- The RIA process, including the mandatory involvement of the RIA Unit in the regulatory process, and the obligation to conduct public consultation as part of RIA, should have sufficient and credible legal underpinning, possibly in the form of an Act of Parliament or a Cabinet Decree.

Training and Capacity building:

- Training is at the core of a gradual introduction of RIA to Bangladesh. In order to understand the type and extent of RIA training required, a Needs Analysis should be conducted in preparation for a RIA sensitisation and training program;
- Training for private sector stakeholders—Business Chambers, Trade and Professional Associations, etc.—in RIA should be offered so officers in such bodies are able to use analytical techniques to calculate compliance costs in a way that can be persuasive and useful to officials; this training should be provided as a priority (i.e. at the same time as to ministry staff)
- Further piloting should be held to gain further insights into the precise design of the RIA framework and to build officials' capacity to implement RIAs;

1 Introduction

Over the last 15 years, Bangladesh has experienced steady economic growth and a rapid reduction in poverty. GDP growth was estimated at 5.5% in FY 2004, driven by steady growth in the agriculture and industry sectors. Between 1991/92 and 2000, the national poverty incidence fell from 59% to 50%, one of the fastest rates of decline recorded worldwide. This positive economic performance has been attributed to macroeconomic and market-opening reforms, although remittances from overseas workers also play a role.

But other parts of the picture show weaknesses that are symptomatic of a poor regulatory environment, and that threaten sustained and stable growth. Bangladesh has, in fact, grown considerably more slowly than other low-income countries such as India and China.¹

High regulatory risks and costs are at the core of the constraints on good competitiveness fundamentals, holding back entrepreneurship and growth in the formal economy. Most observers agree that the regulatory environment in Bangladesh is costly, over-regulated, and poorly administered. Weaknesses in the business environment are often cited as the single biggest hurdle to higher growth rates and investment. Laws and regulations that govern business activities are often out of date, inadequate, inaccessible and/or ineffective.

Allegations that entrepreneurs have to make informal payments in whatever dealings they have with public sector officials are widespread. One particular problem is the many subordinate regulations, introduced through Statutory Regulatory Orders, which have a strong cumulative negative effect on the level of burden. All these factors contribute to an unpredictable business environment where poor regulatory quality is compounded by weak implementation, unpredictable enforcement, and little prospect of recourse to the rule of law. Problems go beyond policies and procedures into the design and performance of regulatory institutions themselves. Reform of regulation alone can be expected to have little effect on the business environment. Complementary efforts are required to build systemic and institutional capacities.

¹ See also FIAS (2005): *Regulatory Reform and Business Environments in South Asia: A Call for Action*. (not published).

The Bangladesh government and its officials are aware of these challenges. Encouraging initiatives to improve the business environment are gradually evolving. Efforts led by the *Private Sector Development Core Group* composed of mid-level government officials and the *Private Sector Consultative Group*, composed of business representatives, demonstrate a growing recognition of the importance of PSD issues.²

A Regulatory Impact Analysis (RIA) system has been identified as an important measure to systematically improve regulatory quality, including in Bangladesh. This report explores the rationale for RIA and suggests options and recommendation for a gradual implementation of RIA in Bangladesh.

RIA, in a nutshell, is a method to support and guide regulatory decision-making. It is method of systematically examining impacts of proposed government actions, and of communicating the information to policy-makers and stakeholders.³ RIA does not substitute political decision-making; it merely improves the basis on which decisions can be made.

The report is organised as follows: Section two describes the main concept of RIA and sets out the rationale for introducing RIA in Bangladesh. Readers already familiar with the basics of RIA may go straight to Section three. Section three is a quick scan of current regulatory processes and capacities in Bangladesh, and Section four presents options and suggests possible design solutions for a RIA system in Bangladesh. Section five reports on a workshop carried out to pilot RIA in Bangladesh. Section six concludes and suggests next steps for a gradual implementation of a RIA system in Bangladesh.

² The design phase of the Private Sector Development Support Project (PSDSP), a World Bank-led, multi-donor-funded project included a range of diagnostic and capacity building activities in 2005 and the first half of 2006. These activities supported the preparation of the donor-funded Bangladesh Investment Climate Fund (BICF). The BICF, to be managed by the IFC with funding support from DFID and the European Union, will start Fall 2006 and run for eight years.

³ See section three for a detailed discussion.

2 The Rationale for RIA in Bangladesh

What is Regulatory Impact Analysis?

Regulatory Impact Assessment (RIA) is a tool now used in most developed countries and an increasing number of developing and transition countries to improve the understanding of economic and social welfare impacts of regulation. It is widely recognised as an important mechanism which can contribute to improving the business environment, and to promote regulatory efficiency and effectiveness. RIA allows policy makers to assess trade-offs, consider new ways to regulate and identify the most suitable alternatives to regulation.

In essence, RIA is a method of:

- Systematically and consistently examining the positive and negative impacts arising from proposed government actions; and
- Communicating the information to decision makers and other stakeholders.

RIA comes in many forms, reflecting various government policy agendas. Its specific objectives, design, and role in administrative processes differ among countries. The applied technical methods to assess regulatory impacts also vary. Some use full fledged benefit cost analysis, but most countries apply a mix of qualitative and easily-developed quantitative models and methodologies. The legal underpinning of regulators' RIA requirements also differ from Parliamentary law and internal government process requirements.

More specifically, a RIA system comes in the form of guidelines and requirements for regulators to follow throughout the regulatory process. Typically, a RIA system would require ministries and regulatory agencies to follow a “new set of rules” about the rule-making process itself. A RIA system would, for example, set out rules or guidelines for:

- Justification of regulatory proposals against clear standards for regulatory quality;
- Intra-governmental coordination, e.g. an obligation to consult with relevant ministries/authorities and allowing a minimum period of (for example) 7 working days for comments;
- Estimation of expected impacts, e.g. an obligation to assess (quantitatively or qualitatively) the impacts on small enterprises, competitiveness, administrative burdens, public finances, etc.;

- Public consultation, e.g. an obligation to announce the regulatory intent publicly (on the Web) and invite public comments for a minimum period of (for example) 10 weeks; and
- The format in which the results of the preparatory efforts above are presented to decision-makers.

The tangible output of the RIA process is usually a document attached to draft regulations when presented to cabinet for decision. Based on a “checklist template” the RIA document usually summarises expected regulatory impacts, distributional effects, and results of consultations with stakeholders. The OECD’s 1995 Regulatory Checklist (Box 2) is by far the most commonly used benchmark or framework adapted as the basis for RIA systems.

Box 2: The OECD Checklist for Regulatory Quality⁴

1. Is the problem correctly defined?
2. Is government action justified to address the problem?
3. If government action is required, is regulation the best form of action?
4. Is there a legal basis for regulation?
5. What is the appropriate level (or levels) of government for this action?
6. Do the benefits of regulation justify the cost? (Conducting an RIA)
7. Is the distribution of effects across society fair and transparent?
8. Is the regulation clear, consistent, comprehensible & accessible to users?
9. Have all interested parties had the opportunity to present their views?
10. How will compliance be achieved?

RIA requirements usually include an obligation to present several policy options, including no action. RIA has the potential to form an integrating framework within government to improve regulatory design and implementation.

Beyond the “RIA document” itself, a RIA system can be seen as a transformation tool, which promotes a somewhat more rational and empirical approach to decision-making. RIA cannot, however, be seen as a technical tool which can be easily plugged into existing governance processes. In many respects, the establishment of a successful RIA system is associated with a gradual transition of the administrative culture. For this reason, expectations about the timing and detailed implementation of a RIA system in Bangladesh (and other developing countries) must be kept at a realistic level.

RIA is a key tool used by many governments to improve the quality of new regulation, i.e. the *regulatory flow*. The basic principles of RIA are equally relevant for the review of existing regulation, i.e. the *regulatory stock*. First

⁴ *OECD Reference Checklist for Regulatory Decision-Making*, OECD, 1995

and foremost, however, RIA systems should be regarded as an approach to improve proposed regulation. Other tools and approaches such as the “regulatory guillotine”, “scrap-and-build”, etc. may be more appropriate than RIA systems to quickly review large quantities of out-dated and inefficient regulation “on the books”.

Over the past twenty years, RIA has taken root in the developed world as a means of improving regulatory environments. Experience suggests that a more rational approach to policy-making embodied in RIA can bring benefits to countries even where levels of capacity are low. For example, Mexico and Korea have already implemented RIA, and others like Malaysia, Indonesia and Singapore adhere to its principles in framing regulations. RIA systems, appropriately adapted, are increasingly becoming a part of developing and transitional countries’ efforts to improve their business environments. In the South Asia region, Sri Lanka and Pakistan are also considering implementation of RIA in the policy making process, cf. Box 3 below and Annex A.

Box 3: Initial considerations about RIA in Sri Lanka and Pakistan

SRI LANKA

- RIA Concept developed in 2005. Policy is to use an incremental approach to adopting RIA, starting at central government level;
- An RIA Unit will be located either in the President’s office, Cabinet Office or Ministry of Finance;
- RIAs to be confined to regulations which have the most significant impacts on business;
- Draft regulations & RIAs will be submitted to the Unit for review.

PAKISTAN

- Development of a RIA system considered as part of the government’s broad-based approach to privat sector development;
- Current considerations focus on the importance of strong institutional underpinnings of private sector development reform;
- Initial activities relating to RIA and regulatory policy to be hosted in an Economic Reform Unit hosted in the Ministry of Finance;
- The Economic Reform Unit will have three main functions: i) To strengthen the MoF’s policy development capacity; ii) To drive/coordinate implementation of PSD Reform initiatives; and iii) To develop a broad regulatory reform strategy, including RIA.

International experience points to the importance of taking modest, practical steps and ensuring there is sufficient commitment and resources to build capacity over time. RIA is undertaken at differing levels of complexity and rigour, depending on a country's individual level of commitment and capacity. Governments adapt RIA in order to ensure that it reflects their country's specific concerns, traditions and levels of capacity.

Despite variations in implementation, there is growing consensus emerging on best practices for introducing and implementing RIA. This includes:

- RIA embedded in an overarching regulatory reform or PSD strategy which, among others, sets out regulatory reform priorities and standards of regulatory quality;
- Establishment of a central unit to promote RIA, oversee its introduction, organise training, and scrutinise quality;
- A tailored RIA methodology taking into account administrative capacities and political priorities;
- Sensitisation and training of the public sector, from senior policy-makers to officials who will use the new system, as well as of private sector organisations active in providing input to the regulatory process;
- Incentives to use RIA, e.g. transparency measures showcasing ministries' good and bad RIA performance;
- Continuous and high-level political commitment to RIA;
- An increase in the standards of RIA over time as capacity is built.

The recommendations made in this report draw on this good practice framework.

Regulatory Quality in Bangladesh

Most assessments agree that regulatory practices in Bangladesh impose high costs and risks on businesses.

The preface to a Compendium of the Laws of Bangladesh⁵ notes that the legal situation in Bangladesh can be described as “a world of legislative chaos”. Features of the current situation include: laws dating back to the first half of the 19th century; major laws amended scores of times; no systematic effort to update laws by incorporating amendments made in the ‘parent’ laws; no central depository of laws and no individual ministerial or departmental registries to locate rules and regulations relating to the respective Ministry.

Bangladesh scores 65th out of 155 countries in the IFC's ‘Doing Business’ rankings for 2005. Particular areas of concern are the costs of dealing with

⁵ Encyclopedic Compendium of Laws of Bangladesh, Dr Borhan Uddin Khan and Quazi Mahfujul Hoque Supan, Bangladesh Legal and Aid Services Trust, June 2002.

licences, signatures required for importing and exporting, and bureaucracy involved in starting a business - individual area rankings for Bangladesh compared to its neighbours are detailed in Annex B.

Discussions held in the course of preparing this report indicate the legislative environment for the private sector has deteriorated further in recent years. Reasons for this include the perception of widespread politicisation of decision-making, long delays in regulatory decision-making, and a growing disconnect between regulations on the books and actual regulatory practices.

Data from the World Bank's "Governance Matters" data base suggests that regulatory quality, but possibly also government effectiveness, the rule of law, and control of corruption all have deteriorated over the period from 1996 to 2004.

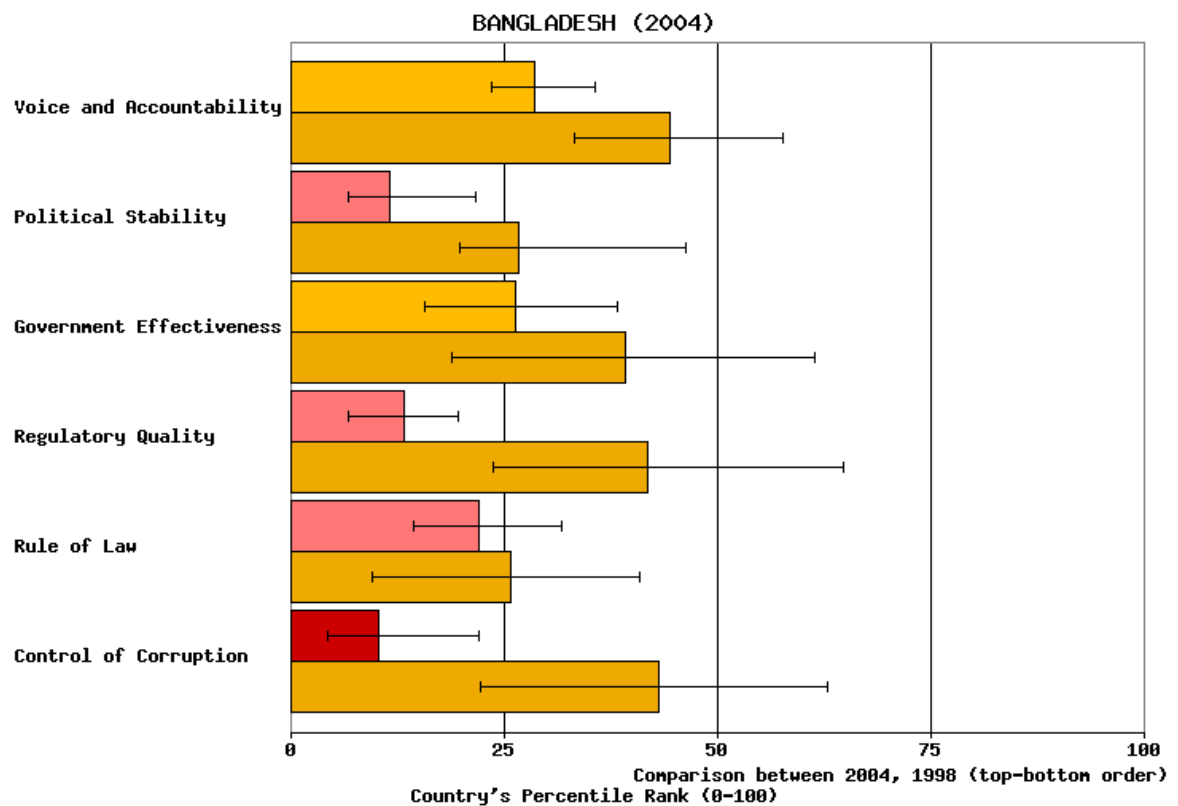
These realities in Bangladesh contribute to an unpredictable business environment where poor regulatory quality is compounded by weak implementation, official corruption, and little prospect of recourse to the rule of law.

Barriers to enterprise growth need to be reduced if Bangladesh is to enable the small business sector to flourish and create decent employment opportunities, thereby contributing to poverty reduction.

The conclusion of many observers is that the main regulatory problems facing Bangladesh include:

- a legacy of outdated, inconsistent and inaccessible regulation;
- unduly permissive primary legislation that provides for much of the implementation arrangements to be done through secondary legislation without Cabinet scrutiny, business scrutiny or further recourse to Parliament;
- burdensome and frequently changing rules that require multiple approvals; and
- poor, selective and "negotiable" enforcement of regulations.

Figure 1: Governance Indicators, Bangladesh



Source: D. Kaufmann, A. Kraay, and M. Mastruzzi 2005: Governance Matters IV: Governance Indicators for 1996-2004 (<http://www.worldbank.org/ubi/governance/pubs/govmatters4.html>)

A Vision of a More Transparent Regulatory Environment

The possible introduction of RIA in Bangladesh should be seen in the context of the joint Government – Donor Bangladesh Investment Climate Fund and the Government’s goals of raising investment and growth through an improved investment climate. A draft Government of Bangladesh private sector development (PSD) policy statement, approved in principle by a member of the government but yet to be enacted as a formal policy statement, sets out the vision that

“A vibrant and efficient public-private partnership base of mutual trust will transform Bangladesh to a major business hub in Asia through creating a competitive and transparent business environment. We will raise private investment to 25 per cent of GDP, quadruple FDI inflows, increase real GDP growth to 7 per cent per annum, attain a 100 percent literacy rate and reduce the proportion of the population below the poverty line to 20 percent and eliminate the gender gap by 2015”.

And that...

“... the government strongly believes that a dynamic private sector functioning in a free and competitive market economy, within a proper accountable and transparent institutional framework, will create adequate national wealth for ... achievement of our Millennium Development Goals.”⁶

The vision notes that one of the three pillars of PSD is an improved and streamlined legal and regulatory framework.

RIA: Part of a Potential Solution

Introducing RIA is one of the methods envisaged in the PSDSP agenda to improve Bangladesh’s investment climate. RIA has the potential to address the country’s needs for sustainable industrialisation, taking into account national economic, social and environmental concerns by putting in place a rational decision-making framework for assuring quality of new regulation and ultimately streamlining the current legal and regulatory framework. Introducing RIA in Bangladesh, and regulatory streamlining generally, would be a useful element of a structural, sustainable growth strategy and would complement well other market stimulating activities, such as the creation of trade zones and investment incentives, addressed elsewhere in the PSDSP.

Together with other initiatives, introducing RIA in Bangladesh would enable the government to begin to address the excessive number of regulations, the lack of transparency of the regulatory environment and the difficulty (even for lawyers) of understanding which regulations are in force.

RIA has the potential to reduce corruption by creating a more transparent regulatory environment. Both inside and outside Bangladesh, corruption is perceived to be a major problem. There is ample evidence internationally⁷ that complex rules and regulations, and the difficulty in interpreting these regulations, are positively correlated with corruption, both within agencies and across individual countries. RIA contributes to transparency in government by encouraging policy-makers to set out ex-ante the reasons for, and anticipated impacts of, the suggested policy. Best practice in RIA stipulates that such assessments should also contain an analysis of whether particular groups stand to gain or lose disproportionately from the regulatory proposal. This helps identify whether any groups are being given favourable treatment. In many jurisdictions where RIA is used, the assessments are made available publicly and online and are also submitted to Parliament along with draft Bills. RIA can improve the quality of Parliamentary debate as more information is

⁶ Enhancing Competitiveness, Paper presented at the Bangladesh PRS Implementation Forum 2005 by Mr. Mahmudur Rahman, Executive Chairman, Board of Investment, 16 November 2005

⁷ Doing Business Reports 2002-2005, IFC and World Development Reports, World Bank

available, and thus assist the legislature to hold the executive to account on behalf of the people. Greater transparency through RIA, especially if these are published by Ministries, should make rent-seeking behaviour more difficult to conceal, and contribute to economic efficiency.

Perhaps most importantly, a measured introduction of RIA would have the potential to gradually bring in a different approach to regulation- (and policy) making based on empirically based justifications, transparency, and accountability. RIA, if used properly, has the potential to assist in producing a more positive mindset by institutionalising within government itself a relatively simple, rational process and technique for examining the effects of legislation on businesses and the public, analysing options and setting out the case for adoption of the draft law (or not). RIA is designed to increase the information brought to bear on the policy-making process and is an important contributor to evidence-based policy-making. It will provide individual Ministers and Cabinet with better information on which to base their decisions and therefore contribute to better governance for citizens and to a business environment that is conducive to enterprise-led growth and poverty reduction. RIA can be a useful way of preventing policy-makers from rushing straight to drafting legislation before a range of policy options have been considered. It can also help prevent policy being made by a small group behind closed doors.

3 A Quick-Scan of Regulatory Processes and Capacities in Bangladesh

This Section provides a quick scan of regulatory processes and capacities in Bangladesh. Rather than providing a comprehensive description of all aspects of the rule-making practices, it is aimed at identifying possible building blocks and constraints for the introduction of RIA.

Regulatory Processes

The formal regulatory process in Bangladesh is summarised in Box 3 below. In many respects, the Rules of Business of Government provides a reasonable framework for the regulatory process.

Box 4: The formal regulatory process in Bangladesh at a glance⁸

New laws or amendments to existing laws are usually proposed by the respective line ministries. The rules for rule-making in Bangladesh are set out in “the Rules of Business of Government” (RBG).

The relevant ministry drafts the law or requests the Ministry of Law to prepare a draft law. The RBG provides that the Ministry of Law, Justice and Parliamentary Affairs shall be consulted on any and all proposals for legislation. The Ministry of Finance must be consulted on draft laws with expected impacts on the Budget. At the drafting stage, detailed file notes are usually made explaining the need for the law, or the amendment, and the purposes to be served by it.

After internal review, the Secretary of the ministry concerned transmits the draft legislation to the Cabinet Committee of Ministers, together with a ‘Summary’. The RBG requires the Summary to provide background and relevant facts, the points for decision and the recommendations of the Minister in Charge.

There is no formal requirement for public consultation or setting up of committees of experts to propose or review legislative drafts, although public consultation is a more accepted part of the regulatory process.

Once Cabinet approves the draft, it is placed before Parliament through the Ministry of Law (who check for consistency with other laws) together with a brief one or two paragraph statement of purpose, for a first reading, and then sent to the Parliamentary Committee concerned for further review. The comments of the Parliamentary Committee are then taken on board by the Ministry concerned and the law is then placed before Parliament for second and third readings and then voted upon.

⁸ Review of Commercial Laws of Bangladesh report, Report for PSDSP Design Phase (pp XXII)

Once it receives the affirmative vote of Parliament, it is sent to the President for signature, whereupon it becomes law and is published in the Official Gazette.

Acts of Parliament and Ordinances may provide the power for the relevant ministry to make rules for carrying out the purposes of the Acts / Ordinances. The rule-making powers may be limited to certain parts of the legislation, or be general in nature. The enactments often provide for the implementing agencies to make regulations, usually when licensing or other similar authority is given in the parent Act.

As for primary legislation, there are no well-defined procedures of consultation prior to making secondary legislation.

Although the RBG looks like an appropriate framework for the regulatory process, regulatory practices in Bangladesh as elsewhere are not fully consistent with the formal rules guiding the process. The following sections briefly assess performance on key dimensions of good regulatory management.

Intra-governmental consultation

The RBC requires the Ministry of Justice and the Ministry of Finance to be systematically involved in the regulatory process in order to assure legal quality and considerations of fiscal impacts. Information obtained in the preparation of this report suggests that there is most often a timely involvement by regulating ministries of the Ministry of Finance in the preparation of Acts of Parliament, whereas the Ministry of Justice may not always have the available resources for a sufficiently thorough review of proposed primary legislation. The Board of Investment and the Ministry of Commerce are also routinely consulted in matters potentially affecting businesses and the investment climate. However the process is undermined by the generally poor quality of the assessments of proposed regulation, and the often very narrow time limits provided for comments.

Public consultation

There is no formal requirement for regulators to consult affected parties before regulatory proposals are tabled for decision by the Cabinet or the responsible minister. Selected business sector representatives are often invited to discuss and comment on draft regulations during the preparatory phase. In some cases, for example in the review of the 1994 Companies Act, two preparatory commissions were set up to look into the law and make recommendations, but this is not done systematically. Tripartite Committees have also been formed in particular instances, for example in the examination of reforms to labour law and the building code. Another promising practice is that of the SEC, which consults on some changes to provisions affecting SEC members. However, since there is no

reporting back to consultees on their comments, there is no guarantee that the results of consultation are taken fully into account in law-making.

The general picture is that there is ample scope for improvement of public consultation processes. As the Commercial Laws Review points out⁹ “... *very seldom is there public review of draft statutes, or public consultation prior to drafting, or even internal consultation. However, vested interests do get involved in promulgation of a law, or more often in the issuance of subordinate legislation*”.

Assessment of regulatory impacts on business and the investment climate

There is no explicit current policy that states that ministries should conduct an analysis of the impact of new laws on business and the public.

Independent quality review of draft regulation

Information obtained in the preparation of this report suggests that there is no strategic oversight of the regulatory process. When a new law is proposed, there is usually no broad view taken of the possibility of conflict or confusion with other policies, parent or subordinate laws.

In practice, it is up to the line ministry and the Ministry of Law as to whether other relevant laws on the statute book are reviewed in assessing the impact of a new piece of primary legislation on existing laws, or whether any other existing legislation should be considered in the process of devising new laws. This results in situations of conflicting requirements being in place.¹⁰

Ministries have a free hand to propose or amend existing legislation, subject only to comments from the Ministry of Law and advice (if sought) from the Law Commission. A review of recent reform efforts to improve the business environment in Bangladesh, commissioned by DFID, CIDA and JICA¹¹ found that “... *in the absence of checks on senior politicians and civil servants, the policymaking process is easily captured or influenced by groups and individuals, with wealth, power or connections ...*”.

In 1996, the Law Commission (LC) was formed, but it does not get involved in the systematic scrutiny of new laws or act as a clearing house for new legislation. The LC’s work plan is determined by government, who can refer any law to the LC for scrutiny. Among other functions and duties, the Law Reform Commission

⁹ Review of Commercial Laws of Bangladesh op cit, Executive Summary, pp XXII

¹⁰ Review of Commercial Laws of Bangladesh op cit, p62.

¹¹ ‘Unleashing the Bengal Tiger’, Releasing Private Sector Potential in Bangladesh, Dewan Alamgir, May 2004, DFID with support from CIDA and JICA, p32

Act, 1996 gives the Commission a remit to “*make recommendations for the modernisation of the judicial system and specifically with a view to attracting local and foreign investment and bearing in mind the requirements of an open-market economy, recommend amendments to laws relating to copyright, trade marks, patents, arbitration, contract, registration and other such matters ...*” The LC sometimes looks at legislation in its preliminary stage and hence in theory is well placed to do RIA-type work. However, in practice it only responds to invitation to draft laws or make comments on drafts from ministries and does not have a pro-active role in commenting on laws. A very small share of new laws are drafted or substantially amended by the LC and LC does not comment on SROs. The LC is a small office with limited resources, and tends to concentrate on legal modernisation of the judicial system and codification issues, and thus has very limited capacity to offer RIA type of advice.

In theory, the LC also has a remit to propose the consolidation of legislation where a multiplicity of laws exist, but its activities in this sphere barely scratch the surface of the entirety of legislation existing on the statute books in Bangladesh. A leading player in the PSD field has noted, “*in some areas, there is considerable duplication of regulations, and there exist multiple regulatory agencies, leading to overlapping jurisdictions and sometimes even conflicting regulations ... that’s an area that needs to be looked at and collective actions initiated.*”¹²

International practices suggest that review of the quality of line ministries’ draft regulation by a central regulatory body is necessary to ensure consistency in regulatory quality and activities, and to ensure compliance with basic standards for regulatory quality as set out in government guidelines.

Quality of documents supporting regulatory decision-making

The Rules of Business of Government provides that in respect of all matters submitted to Cabinet, the Secretary of the Ministry concerned shall transmit to the cabinet Secretary a concise and clear memorandum of the case, known as the ‘Summary’, giving the background and relevant facts, the points for decision and the recommendations of the Minister in Charge. However, in practice the Summary provided by Ministries is usually only a brief statement of the purpose of the law and does not contain a rigorous quantitative analysis of alternative options, the likely costs and benefits of any proposed legislation, results of any consultation held or reporting / monitoring criteria.

¹² Recommendations from Breakout session on ‘Case Studies in Regulatory Reform and RIA’ at a 2005 Regulatory Reform PSD event in Dhaka.

Transparency and access to information about regulatory requirements.

Acts of Parliament are published in the Official Gazette. Parent legislation will say whether a particular regulation needs to be published. Not all regulation is published. The Board of Investment, for example, makes policy decisions which can affect investors and these decisions are only communicated to private investors when seeking permission to trade. In the opinion of practicing commercial lawyers, it is not always possible in practice to get hold of particular statutes, and there is frequent uncertainty as to which particular regulatory requirement prevails over other partially overlapping (and contradictory) requirements.

Some attempts have been made to compile a partial overview of the regulatory stock. There is a Compendium of Laws, dating from 2002, and various digests of laws in different areas do exist, usually compiled by the private sector (e.g. environmental regulations) and compilations of laws and rules in particular subject areas are also published in separate volumes by private sector parties (e.g. for Customs SROs and VAT regulations).

The special case of SROs

The lack of external scrutiny applies with even more force to amendments to existing laws or new SROs, where there is often not even full Cabinet or PM office scrutiny, never mind external assessment.

There are two problems with the use of SROs. First, it seems that the level of discretionary power granted to Ministers to make subordinate legislation without further parliamentary scrutiny may be excessive. Second, SROs are used frequently to change the regulatory regime, and it is alleged these changes can be made at the behest of particular well-connected interest groups. The ‘Unleashing the Bengal Tiger’ report (op.cit.) noted that “*the use of Statutory Regulatory Orders (SROs) which introduce amendments to budgetary allocations ... have been cited by business leaders as a key source of instability in public policy. While some SROs are undoubtedly legitimate amendments, in other cases, their use reflects the influence of interest groups or individuals, who perceive their interests to have been damaged by the original policy.*”

An example may help to exemplify the point. The Commercial Laws Review pointed out that: “*in relation to fiscal laws, particularly customs-related laws, SROs are used abundantly to deviate from many of the parameters set in parent laws, especially in the setting of rates for duties and taxes*”. The current position is that rates of duty are fixed by Parliament, but the law gives the Government power to notify, through SROs, that certain amounts of duty be excepted etc. While it is common for secondary or enabling legislation to be used in the context

of implementing existing laws, in modern democracies, fiscal changes are usually rarely introduced outside the context of a Finance Bill, whose provisions are subject to external consultation (e.g NBR meetings with business chambers) and debated fully in Parliament. Furthermore, in other countries, subordinate legislation is often subject to approval by the Legislature in a process of either positive or negative resolution. In countries where RIA has been introduced, it tends to be applied equally to new primary and secondary legislation. Indeed, the impact of a law can often not be estimated until the secondary, or implementing, legislation has been framed.

In conclusion

The regulatory process in Bangladesh is, in principle, embedded in a reasonable framework set out in the Rules of Business of Parliament. In practice, however, the regulatory process is seriously flawed as a consequence of low compliance and little enforcement of the obligations of the RBP, as well as immanent problems in the RBP itself. There is ample scope for improving the regulatory process, while still building on the RBP and the process of preparing “Summaries” of the legislative intent and impact. Improvements should focus on an integration in the RBP of requirements to systematically consult better within government and with stakeholders, to assess proposed impact, and to report results of these efforts to decision-makers in a simple and consistent way.

Building on the RBP, RIA has the potential to bring more discipline to the regulatory process.

It is also recommended that the Government of Bangladesh establish a comprehensive, consolidated and easy accessible Regulatory Registry containing all business regulation. The Registry should be developed in parallel with efforts to streamline the process of making new regulation, so that only high-quality regulation is allowed into the registry.

Regulatory Capacities

Capacities to assure high-quality regulation are generally not strong. The PSDSP Regulatory Reform Working Group noted in their report to the PSDSP Preparation Mission (op. cit.) that there is a good deal of concern about the quality of human resources in government agencies (e.g. Customs) that are tasked with responding to the private sector¹³.

The PSDSP Working Group on Capacity Building echoed this finding and accepted that capacity building in PSD issues for the Bangladesh civil service is

¹³ PSDSP Working Group on Regulatory Reform Paper op. cit. paragraph 3.1, page 6

critical in the face of the enormous challenges facing the civil service in the post-MFA environment. The Working Group's September report noted that "*while the Government has already taken some important steps to rectify the existing bottlenecks in the capacity building of the civil service, little attention is paid to training on issues related to private sector development in Bangladesh. Therefore civil servants cannot be expected to understand the needs and concerns of the private sector*"¹⁴

Three inter-related deficiencies in capacity have been observed. First, observers point out there has been a decline in recent years in the quality of the civil service – particularly at the most senior levels. The notion of government service being for an elite cadre has evaporated, due partly to the loss of skilled staff during and after the country's independence struggle and partly to low pay levels for senior civil servants compared to their counterparts working in private sector companies. This means that the most able individuals are not always attracted to the civil service.

Second, and in support of the above point, many stakeholders commented that the civil service was now highly cautious, with officials reluctant to take decisions and be accountable for those decisions. The opacity of laws, the opportunity they provide for corruption, and an unwillingness to take decisions at junior levels all lead to inertia, bureaucratic paralysis and unnecessary costs being imposed on the business community and members of the public.

Third, a further problem specifically relevant to PSD was noted in the DFID sponsored review op cit¹⁵, namely that "... *with the upper ranks of the bureaucracy predominantly staffed by the generalists of the Administrative Cadre, the specialist and technical skills necessary for policy formulation with respect to private sector development (among other issues) tend to be absent.*" In other words, capacity to regulate effectively and efficiently, and to undertake a critical review of draft regulation simply is not in place at present.

This lack of capacity across government is reflected in a systemic deficiency in training on PSD issues across the civil service and in particular a lack of focus on PSD in existing training programs and more general weaknesses in the bureaucracy. However, civil servants spoken to, and private sector representatives, are eager to attend RIA training sessions and participate in activities that build their skills on PSD issues.

Although the overall picture is somewhat bleak, it is far from hopeless. The Bangladesh telecommunications regulator and the Central Bank, for example,

¹⁴ PSDSP Working Group on Capacity Building Paper, 20 September 2005, paragraph 2.3, Page 4

¹⁵ 'Unleashing the Bengal Tiger', Dewan Alamgir, May 2004, op cit, p33.

have been recognised for having developed and maintained staff with a good understanding of regulation as a policy tool.

Despite a growing understanding of and desire for regulatory reform in both the public and private sectors, RIA was is not yet a widely known concept¹⁶. However, encouragingly, while the level of knowledge about RIA demonstrated by both officials and business representatives spoken to was very low, a quick grasp of RIA was demonstrated when it was explained.

¹⁶ Discussion with BEI President and business chamber representatives.

4 Design of a RIA System for Bangladesh

This Section explores how a RIA system could be designed to fit the priorities and capacities of the Bangladesh Government. Rather than prescribing specific solutions in detail, the Section identifies key dimensions of design, and suggests broad options for implementation. The following dimensions of a RIA system are discussed:

- Institutional issues – who is responsible for what?
- Scope – what kind of regulation should RIA cover?
- Content – what kind of information should the RIA address?
- Methodologies – how to assess impacts of proposed regulation?
- Monitoring – how to assess RIA implementation and effectiveness?

The subsequent Section 5 suggests a framework for exploring how these options can be assessed in further detail, and some next steps to be taken.

Institutional Issues

Beyond the actual coverage and scope of a RIA, institutional issues are at the core of a well-functioning RIA system. But who should prepare the RIAs and how to ensure that they are carried out according to required standards? International experience unanimously suggests that the establishment of a RIA system requires a dedicated Unit charged with promoting and supporting RIA efforts. This Subsection discusses where the Unit should be located, the formal/legal underpinning of the Unit's mandate, and the actual role of the Unit in the regulatory process.

Location of the RIA Unit

There are three basic options for the location of an RIA Unit: (i) in a centre-of-government ministry, (ii) in a semi-autonomous agency outside the core government structure, and (iii) in a line-ministry. International experience suggests that an RIA Unit should ideally:

- be independent of any one line ministry;
- work collaboratively with Ministries that will produce draft RIAs;
- benefit from strong political support;

- have its own focus, distinctiveness and specific duties;
- have a technical and advisory function;
- have a pay scale and salary structure that allows it to adequately reward technical expertise (such as economists and lawyers) and allow career progression;
- benefit from an advisory committee that provides a private sector perspective; and
- in time benefit from a legal basis setting out its role and functions.

Three options for the location of an RIA unit in Bangladesh are discussed below and summarised in the table, Box 4, that follows:

Option 1: Centre of Government e.g., Prime Minister’s Office or Ministry of Finance

Location of the Unit in the centre of government has emerged as an internationally preferred option, not least because this generally provides support from the highest political level. This location places such a Unit firmly within the civil service structure, ensures it has high visibility and political backing as well as (some) authority and cross-cutting policy leverage over line ministries. Authority and a high-level political mandate will be crucial for successful operation of the Unit in Bangladesh, given the politicised nature of decision-making in the country. While the option of having the Unit located in the PM’s office, or reporting directly to it, is an attractive one, care must be taken to ensure that the Unit is sustainable and not subject to changes due to government re-organisation or micro-political decisions. Consistent with practices in other countries, a location in the Ministry of Finance could be considered under this option.

Option 2: An Independent ‘Commission’

Another option is for the Unit to be located within an independent body, operating outside the civil service structure. If this option is chosen, to maintain its authority, it would be important for the Unit still to report directly to the centre-of-government (e.g. the PM). Since a risk of ‘independence’ is being sidelined in day-to-day regulatory affairs by powerful ministries, the Unit Head would also need to have equivalent rank to a Secretary and substantial experience of government in order to ensure the Unit’s opinions were adequately considered across Government.

Being independent from government could allow the Unit to have more freedom over its budget, staffing and pay levels and thereby set attractive salaries to recruit

highly technically capable staff. On the other hand, a different pay structure could cause resentment among the government ministries with which the Unit will work closely on a day-to-day basis. A Unit placed outside the core government structure is also less likely to succeed in becoming a long-term sustainable Unit capable of supporting and developing the Government's regulatory reform agenda. On balance, a semi-autonomous agency may not be the most appropriate organisational location for the RIA Unit.

Option 3: A Unit based in the Board of Investment or another line Ministry

Locating the Unit in the Board of Investment (BoI) has been suggested by the PSD Regulatory Reform Working Group. A variant of this option would be to locate the Unit in the Ministry of Commerce or Ministry of Law. Based on international experience, a line Ministry location would not seem to be ideal. Placing an RIA Unit in a line ministry or sole-purpose agency is likely to make it more vulnerable to capture by vested interests and less able to enforce RIA in other line ministries. Since the RIA Unit would be reviewing draft regulations from its "own" Ministry, questions could also be raised about the Unit's objectivity. Location in a line ministry could also make it more difficult to promote regulatory best practices across all ministries. Finally, the BoI and Ministries of Commerce and Law are already overburdened with responsibilities and arguably need to focus on improving their existing services to businesses and departments, rather than taking on additional responsibilities.

At the same time, there are arguments in favour of a temporary location of the RIA Unit in the BoI. The BoI is already deeply engaged in the government's regulatory reform agenda and has significant experiences with past business regulation reforms and private-public sector dialogue. The BoI is already envisaged to host the Government's Better Business Unit. It would appear sensible both for resource and policy reasons to integrate the functions of the envisaged Better Business Unit and the RIA Unit in the same organizational entity.¹⁷

In other countries, political ownership and interest in the regulatory reform agenda has often played a decisive role in determining which ministry initially hosts the RIA Unit. It is therefore an option, though probably sub-optimal, that the RIA Unit be temporarily (1-2 years) located with the BoI, while a review is undertaken of the factors involved in moving the Unit (and the Better Business

¹⁷ In light of practices in other countries, the distinction between functions of the Better Business Unit and the RIA Unit is somewhat artificial. The regulatory quality scrutiny exercised by the RIA Unit is also a core function of the Better Business Unit. At the same time, many of the policy-oriented functions of a Better Business Unit would be exercised in an iterative process as experience with better regulation strategies – exercised by the RIA Unit – develop.

Unit) to a centre-of-government location in the longer-term and the optimal scope of other aspects of the RIA system (as below) is reviewed.

Box 5: Factors Involved in the RIA Unit Location Decision

	Centre of Government	Independent Commission	BoI or Line Ministry
Senior political commitment available and able to ensure its advice is seriously considered	✓✓✓ Yes, through link to PM, so long as the Unit has a senior Director with authority and access to PM	✓ Could be provided	✓ Yes, if reports directly to PM, so long as the Unit has a senior Director with authority and access to PM
Independence from Line Ministry interests	✓✓ Yes	✓✓✓ Yes, as outside Government	✓ May be seen as being soft on own Ministry's proposals
Understanding of business concerns	✓	✓✓	✓✓ Yes, if in a business-facing Ministry
High quality staff available, or could be recruited	✓✓ Attraction of working at the centre in a new unit would help attract good staff.	✓✓✓ Would be able to apply its own salary structures to attract good staff, but may be unsustainable.	✓ Particularly subject to problems of civil service capacity and rules of establishment
Ease of establishment	✓✓✓ International and local experts could be seconded to build capacity within a civil service team.	✓ Similarly, staff could be seconded, but would require more resources and effort (legislation?) to establish.	✓✓✓ Similarly, staff could be seconded, but would require more resources and effort (legislation?) to establish.
Likelihood of being sustainable	✓✓✓ Emerging as a preferred option internationally, therefore potentially a network to join. Operates within existing systems	✓ Requires new structures outside government so risks being sidelined and having limited lifespan once the funding runs out	✓✓ Could be sustainable if it has the influence to deliver results.
Key: ✓✓✓ = Strongly present ✓✓ = Present ✓ = only weakly present			

Issue: Formation of a RIA Unit

Recommendation: A dedicated RIA Unit should be set up at the centre of government. The initial location of the Unit should be within the Better Business Unit currently planned to be located in the Board of Investment. The issue of the Unit's longer-term location should be addressed early on.

The Unit's Legal Base

It is important that the new Unit has a clear, strong and preferably legally constituted basis. An option that has worked well in other countries which have set up a Unit is for it to be initially set up by Prime Ministerial Decree, Cabinet conclusion or similar appropriate legal device. Once operating successfully, the body can then be formalised through an Act of Parliament. This action would provide a Unit with sufficient authority to operate in the short run, and time to pass legislation to give it a full legal footing once its responsibilities have been tested in practice.

Issue: Legal Base of RIA Unit

Recommendation: A new RIA Unit should have a clear, strong and legally constituted basis through Prime Ministerial Decree, Cabinet resolution or similar legal device. An Act of Parliament should be considered later on to put the Unit on a full legal basis.

The RIA Unit's functions and role in the regulatory process

Who should do what? Who should draft the RIAs, and who should review them? This Section and the next look at the "division of labour" in the RIA process. International experience suggests that RIA systems will fail if RIA responsibilities are left exclusively to the regulating ministries and agencies, and the system is equally likely to fail if left solely to an expert unit independent of the proponent regulator.

The RIA Unit should *not* be responsible for the preparation of RIAs. This responsibility should rest with the regulators that are responsible for preparing the regulatory measures to which the RIA is connected. This is important in order to create ownership of RIA by the regulating ministries. Regulators are also assumed to have better expertise and information about the substantive matters covered by the RIA.

Most RIA and Regulatory Reform Units are charged with three core functions and an extended number of closely related policy and review functions. The core functions are:

- Support: Assisting regulators with preparing RIAs
- Review: Vetting draft RIAs before policy proposals go to Cabinet

- Advocacy: Promoting the use of RIA and good regulatory practices across government and with the private sector.

Support and advice: Building capacities

One of the RIA Unit's key functions should be to advise regulating ministries on how to prepare RIAs, and to supervise that the quality of final RIAs are in accordance with set standards. This support/advisory function should involve

- Ad-hoc technical advice to regulators on appropriate methodologies and approaches;
- Preparation of guidance material and hand-books on how to do RIAs;
- Advice on new legislative proposals, and in particular whether they should be subject to an RIA and what non-regulatory options might be considered.

Issue: RIA responsibilities

Recommendation: Ministries should be required to produce RIAs for scrutiny/comments by the RIA Unit, prior to proposals being considered by Cabinet. Guidance that shows officials how to apply RIA methodology should be drawn up by the RIA Unit before RIA is made a requirement.

The RIA Unit should be well placed to provide secretariat support to the PSD Task Force. The RIA Unit should have responsibility to work with designated officials in ministries to offer advice on the production of RIAs. It should operate in a co-operative way with ministries and come to be seen as an ally in developing good policy that will find favour with Cabinet, rather than an administrative roadblock in the policy process.

The Unit should collaborate with other regulatory bodies, e.g. the Law Reform Commission, Energy and Telecommunications regulators and Central Bank, in the process of producing RIAs. For example, the latter bodies could be a source of both information and expertise for RIAs, but they will not be responsible for producing RIAs, as this will be the task of the relevant ministry.

The Unit will also facilitate consultation with the business community (Chambers etc). However, promoting systematic consultation with business and others will only be effective if the private sector organisations are equipped to respond to requests for input. For example, there is little point encouraging Chambers and NGOs to assist in the production of RIAs if they are unaware of the Government's legislative agenda and unable to prepare analyses in time to influence the policy debate. RIA should therefore be part of a wider programme of policy reform and capacity building.

Review and supervision: Ensuring high quality regulation

The review/supervisory function would involve a vetting process, whereby the RIA Unit scrutinises regulators' final draft RIAs before the RIA and the accompanying draft regulation is submitted to Cabinet for decision or

promulgated by the responsible minister. The objective of this function is to ensure high compliance with government RIA guidelines.

There are several complementary options for how to design the scrutiny function of the RIA Unit, and to create the right incentives for regulators to produce good and timely RIAs. One option is to authorise the Unit with a *gate-keeping* function whereby it could formally block draft RIAs and regulation not complying with RIA standards. A strong gate-keeper function may have benefits in terms of culling out poor regulatory quality. But it may also lead to inappropriate shifts of responsibility for RIA quality and political accountability from the regulating ministries to the RIA unit.

Experience from several countries suggests that transparency measures are an equally powerful approach to create incentives for regulators to adhere to the advice of the RIA Unit.¹⁸ The risk of being confronted with publicly available, negative comments about a RIA is likely to put pressure on any ministry/regulators to comply with the advice from the RIA Unit.

Another way to create incentives for regulators to produce good RIAs is to require regulating ministers to confirm in their Cabinet memoranda that they are content that the RIA has been carried out properly and that their proposal strikes the right balance between costs and benefits. This would strengthen accountability and help focus minds on the quality of the analysis.¹⁹

A complementary approach in the case of remaining disagreement between the regulator and the RIA Unit at the time the draft regulation is submitted to Cabinet or parliament is to *require* the proposing regulator to inform Cabinet that no agreement has been reached with the RIA Unit. This would often act as a very strong deterrent to pushing draft regulation to the Cabinet without approval of the RIA Unit, while at the same time maintaining the primary responsibility for producing a high-quality RIA with the proponent ministry.²⁰

¹⁸ In the case of Mexico, for example, the body responsible for assessing the quality of draft RIAs, COFEMER, is legally authorised to have its comments on RIAs published in the Legal Gazette together with the draft law. In cases where COFEMER is not in agreement with regulator about the quality of the RIA and the suggested regulatory measure, the exposure often creates a strong popular pressure on the regulator to comply with the opinions of COFEMER.

¹⁹ This approach is used in a number of OECD countries.

²⁰ Different versions of this approach have been employed in several OECD Countries, including the United Kingdom.

Issue: Function of the RIA Unit

Recommendation: The RIA Unit should help Ministries produce good RIAs. The RIA Unit should have oversight over the production of RIAs. All draft RIAs should be forwarded by line ministries for the RIA Unit's advice and comments. The consent/disagreement of the Unit to the RIA should be mandatorily communicated to the Cabinet when discussing draft laws covered by RIA.

Within ministries, officials and heads of existing planning cells in ministries could be made initially accountable for the production of RIAs, as regulatory impact assessment falls naturally out of policy analysis and policy planning. Training of these officials should be a priority training task.

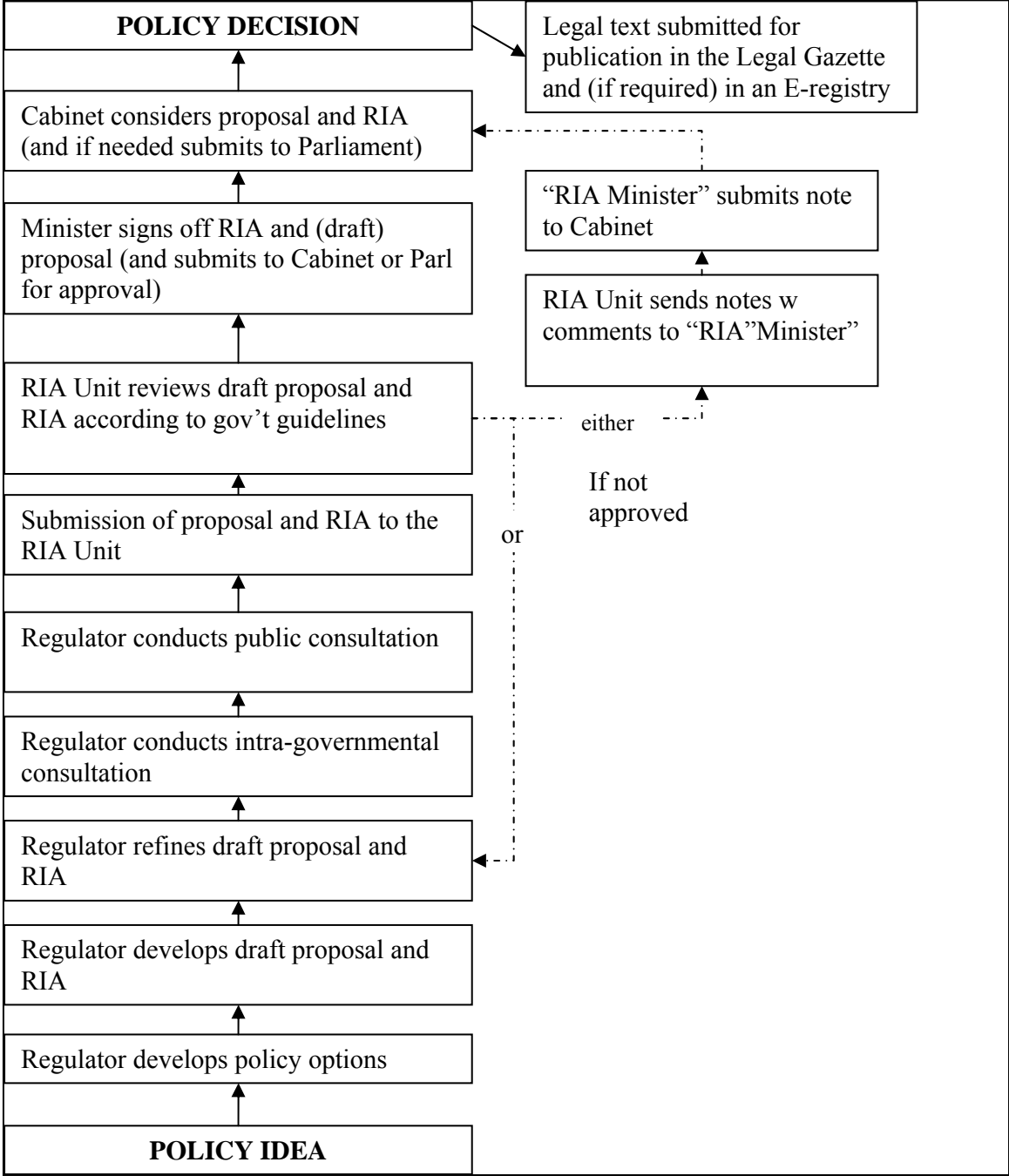
Issue: Responsibility for producing RIAs in Ministries

Recommendation: Specific officials should be identified and made responsible for producing RIAs within the Ministry. Training of these officials should be a priority task.

Figure 2 below illustrates a regulatory policy-process embodying RIA.

As mentioned above, the internationally preferred option is for the RIA Unit to have oversight of the production of RIAs. Prior to submitting a proposal to Cabinet for consideration and approval in principle, the Ministry or body should be obliged to submit its draft RIA to the RIA Unit. A Bangladeshi variant of the latter might be for RIA to be discussed along with draft legislation at the Secretaries Committee, with the results of that discussion incorporated by the relevant ministry into the draft legislation.

Figure 2: A proposed policy-making mechanism embodying RIAs



Advocacy: Promoting good regulatory practices

A third core function of the RIA Unit is to promote the use of RIA and good regulatory practices across government and with the private sector.

In the build-up of a RIA system in Bangladesh, the RIA Unit will play a key role as a driver and designer of a regulatory management system. The RIA Unit should become a centre of expertise and advice on the production of RIAs - keeping abreast of emerging best practice. This advocacy function would involve promoting the benefits and challenges of RIA to stakeholders. More specifically, the Unit could lead the preparation of

- Training programs,
- RIA pilots,
- The development of a set of Principles of Regulatory Quality,
- The develop the long term reform strategy for improving the regulatory environment;

Partially overlapping with the Unit's advisory and support activities, the advocacy functions could also involve

- co-ordinating efforts with the Law Commission's work programme;
- leading the government's capacity building effort regarding regulatory reform;
- publicise successes in improving regulations as part of an ongoing media campaign; and
- working with the Civil Service Ministry to embody qualifications in RIA into job description and career progression plans for civil servants;

Improving the quality of existing regulation

As noted above, a RIA system is primarily of use for the improvement of new regulation, e.g. a quality assurance mechanism on the regulatory flow. However the principles guiding any RIA system as well as the leverage of institutions involved in promoting regulatory quality could also position the Unit to take a leading role in the review of existing regulation.²¹

It is recommendable that the RIA Unit is also charged with a role in the reviews of existing regulation. This exact role would have to be defined as a function of available resources, policy priorities and related tasks with other government agencies. Over time, however, the Unit would be in suitable position to take a leading role in rolling reviews of existing legislation . (See Annex C for a brief overview of review techniques, and Box 6 for the "guillotine approach".)

²¹ Experience from other countries show that RIA/Better Business Units play a leading role in improving the quality of new as well as existing regulation, although the applied tools may differ.

Establishing an RIA Advisory Body

Many countries have seen success from advisory bodies composed of private and public sector representatives acting as a watchdog and advocate of the better regulation agenda.²²

An advisory body's role is most often to act as a critical advocate, overseer and guide to regulatory reform, most often with a formalised reporting/communication structure between itself and the government. The RIA Unit would report formally via its Chair to the Prime Minister, but would seek support, advice and guidance from the advisory body. GoB should consider a similar set-up as part of its RIA and wider regulatory reform system.

There are good examples of Regulatory Reform Committees taking the lead in regulatory reform and efforts to establish RIA. The Regulatory Reform PSDSP Working Group recommended that the Unit should be guided, possibly quarterly, by a high level Taskforce of the government, preferably headed by the Principal Secretary to the Prime Minister and composed of high level bureaucrats from agencies with PSD functions. The current PSD Taskforce could meet jointly with such a proposed task force, as it already has all relevant agency heads as members.

The Taskforce should also have representation from the private sector, since as the Working Group's September 2005 Report points out "*the combined efforts of the bureaucracy and the private sector will have a better chance to overcome the effects of political will on the reform process*"²³. It also notes that private sector participation is necessary to generate support from the private sector, and that the body does not become merely bureaucratic in nature, but continues to be a motive force for reform.

Issue: Establishment of an RIA Advisory Panel

Recommendation: The RIA Unit should be guided by an Advisory Panel, headed by the PM's PPS, which would provide direction and advice on the Unit's work, as well as broader advice on promotion of private sector development. The Advisory Panel should have private sector and civil society representation as well as senior ministry representatives.

²² For example, Korea has a Regulatory Reform Committee, under the President's office. Its tasks include: determining the direction of regulatory policy; drafting and executing a comprehensive regulatory reform plan; evaluating new regulations; evaluating existing regulations; considering opinions on regulatory reform and monitoring progress with regulatory reform.

²³ PSDSP Working Group on Regulatory Reform Paper op. cit. paragraph 4.6, page 10

If it is agreed to set up such a body, further considerations would need to be given to the reporting structure to the government, the level of government funding offered for its activities and the type of permanent secretariat assistance / staffing it would require. The latter function could of course be performed by staff from the RIA Unit in the short run.

The Unit's Staffing Structure and Pay Levels

The Unit should be set up on a sustainable resource basis. A Unit operating outside civil service structures is unlikely to generate the synergies and building of skills required for a sustainable RIA Unit. It is therefore advisable, on sustainability grounds, that the Unit should include seconded staff from within the Bangladeshi civil service as well as expatriate staff. These government officials should have experience of both planning and execution, have capability and integrity and ideally have economic or legal backgrounds.

Setting appropriate pay levels for Unit staff is likely to be a tricky issue. On the one hand, if the Unit is given authority to set pay levels at par with multi-national and private sector firms operating in Bangladesh attracting the best talent, it may create some resentment (of superior conditions) among government partners with which it will be working closely. On the other hand, a Unit working from the outset under standard government Establishment Guidelines may not be an appropriate solution either since the pay levels and other conditions of service may not be capable of attracting the right calibre of technicians and those with marketable skills such as economists and lawyers.

One option under consideration in other countries and worth considering in Bangladesh is for the RIA unit to be initially staffed by expatriate consultants with particular technical skills not available locally, as well as seconded government officials (who have received appropriate training). In this model, international staff would be recruited on an explicit skills transfer and mentoring basis and would be gradually phased out as capacity is developed in the Bangladeshi Unit.

It is recommended, based on experience in other countries, that the Unit should initially have a full-time Head (possibly with rank of Secretary) and a Deputy Head (seconded from the civil service – probably of Deputy / Joint Secretary rank), under the leadership of the Unit Chairperson, supported by specialist expatriate RIA advisors and other seconded officials. The individuals selected will need to be of a high calibre, placed in the Unit on a minimum three year contract (and preferably five years) and offered significant training, mentoring and placement opportunities in the first three years of their contract. These staff should then go either back to the RIA Unit in their parent ministry or to a senior policy-making position within a line ministry or PM's office.

Issue: Staffing of the RIA Unit

Recommendation: The RIA Unit should be staffed principally by career officials (who have received appropriate training), and initially supplemented with specialised external expertise not available within government. Staff should be on medium-term (3-year) contracts to ensure continuity and building up of skills.

RIA Scope

No RIA process or system is intended to provide comprehensive analysis of all draft regulations – the capacity to do this certainly does not exist in most developing countries. The proper scoping of an RIA system is therefore essential to ensure that there is appropriate use of scarce local resources and that efforts are targeted in a way that is consistent with political priorities and the need to reform the most burdensome areas of law.

RIA will need to be applied in Bangladesh in a common sense way so that the effort put into the analysis by officials and the private sector is proportionate to the likely impact. There is risk of an invalidating set-back if the RIA system is initially set up with a scope and coverage that cannot realistically be complied with by ministries and regulatory agencies. It is therefore suggested that the RIA system initially takes a very pragmatic, pilot-driven and selective approach to regulation subject to RIA.

In the medium to long term, RIAs should be targeted towards new laws and secondary legislation (SROs etc) which have an expected significant impact on business.²⁴

Initially, RIA should only be applied to new primary legislation in high-impact areas such as the garment industry, or to new primary legislation from selected ministries with important regulatory functions related to the private sector.

Issue: Areas for RIA Application

Recommendation: RIAs should be applied initially to a very limited and targeted regulatory area, e.g. new primary legislation in high-impacted industries or from ministries with important regulatory functions related to the private sector. In the medium to long term, RIAs should be targeted towards new laws and secondary legislation (SROs etc) which have an expected significant impact on business.

²⁴ There are also other tools that can be better applied to improving the stock of regulations, e.g. the regulatory guillotine, regulatory streamlining, etc.

RIA Content

Having established the areas/sectors where RIA should be applied, the next question is about the contents of the actual RIA. What issues should be addressed in the RIA?

The complexity of an individual RIA should be proportionate to the likely impact of the proposed legislation. An internationally accepted principle is that the larger the impact of the proposed legislation on the private sector, the more detailed an RIA should be: the most important pieces of legislation or laws affecting all private investors will require a fuller RIA to be performed, including a detailed cost-benefit analysis. By contrast, regulations affecting only certain types of business or particular sectors will only require a limited RIA.

Given the resource position and capacity in Bangladesh, it is strongly recommended that the initial RIA requirements on ministries be kept straightforward and simple, even for far-reaching legislation. However, the analysis should be sufficiently robust to enable a clear decision to be made about whether the proposed legislation should be adopted or not. As the capacity to do RIAs increases along with a corpus of previous RIAs, then more detailed RIAs can be undertaken on the more important pieces of legislation.

The OECD Checklist for regulatory quality (please see box 2 above) has become an international norm for issues and questions, which regulators should address in any RIA.

Although the checklist should remain a medium to long term target for the coverage of any RIA in Bangladesh, it is suggested that RIA initially takes a simpler perspective by way of requiring regulators to address the following four key questions:

1. What is the purpose and intended effect of the proposed regulation? Does the proposed regulation solve the problem?
2. Have all interested parties had the opportunity to present their views?
Present a record of formal and informal consultations with stakeholders
3. Is the proposed regulation business-friendly?
4. What are the expected impacts (positive and negative) on affected parties?

Issue: Recommended contents of RIAs

Recommendation: Only simple RIAs should be done initially focussing on a few key issues. More elaborate RIAs should be undertaken over time as familiarity with the chosen methodology increases.

Over time, the scope of the RIA system could be extended from regulations with the most direct impact on businesses to regulations which affect the business community more broadly. In the medium term, RIAs could include more detailed assessments of broader regulatory impacts on, for example, the environment. Moreover, there may be specific concerns that the government would want to incorporate into the RIA, for example examination of the impact of regulations on trade, competitiveness, women or the SME sector. However, a system that is too complicated to be of practical use to policy-makers in Ministries is likely to soon fall into disuse and quality standards are unlikely to be met. There is therefore a balance to be struck between comprehensiveness and developing a system that does not overload the capacity of staff and institutions to implement it.

RIA Methodology and Data Collection Issues

Having established the scope of RIA and the content of the individual RIAs, the next question is which methodologies and data collection strategies regulators could/should apply for generating the required information.

A range of different well-tested methodologies and data collection strategies are available. These range from cost benefit analysis, over cost-effectiveness analysis, cost assessments to test panels and expert input to purely qualitative assessments by the regulating authority. The approaches vary greatly in complexity and data requirements. Generally speaking, methodologies are applied according to the seriousness and/or expected impact of the draft proposal, with less serious proposals receiving lighter scrutiny and wide-ranging proposals being given more in-depth scrutiny.

RIA can be a complex science, but it does not need to attain a great degree of complexity in order to make a strong and valuable contribution to improved policy-making. The importance of RIA lies not in getting methodologically correct answers, but in asking the right questions. Any attempt to bring greater rationality to policy-making through RIA is better than no RIA at all.

Initially, it is suggested that the RIA system in Bangladesh should come with no requirements to regulators as to which methodologies they may wish to apply in assessing expected impacts of proposed regulation. Although this may sound somewhat contradictory to the general idea of RIA pushing a more empirically based and rational decision-making process, the emphasis should primarily be put on getting the RIA system “up and running” and to have regulators asking themselves “the right questions”, not on the technical accuracy of estimates. Experience suggests that this will in itself stimulate thinking about appropriate choice of methodologies.

The RIA Unit, as part of its obligation to support and develop RIA, should produce easy accessible guidance on possible methodologies to apply under given circumstances, but there should be no specific requirements in this regard.

Issue: Tailoring the RIA methodology to Bangladeshi circumstances

Recommendation: Initially, regulators should have freedom to choose whatever methodology deemed useful to provide the analysis and assessments required in the RIA. The RIA Unit should make easily accessible information available about a range of relevant qualitative and quantitative methodologies – and advise how they can be applied.

How to obtain the data to assess impacts of new regulation? Lack of reliable data to inform RIAs is a problem often encountered when implementing a new RIA system in a developing country. OECD countries, for example, can generally call upon a host of business surveys to assist with the calculation of compliance costs. They also enjoy access to networks of well resourced business associations and civil society groups. A well developed insurance market can provide insights into shadow prices where impacts of proposed measures do not have a market value. However, these factors are seldom available in the developing country context.

In Bangladesh, there are few statistics on the business sector available and what data there is on the extent of businesses is available with a time lag. Despite the limited data available, RIA can help officials make the best use of what data is available and will encourage officials to seek new information through consultation. At its formation, the RIA Unit should discuss, as a priority, what data is available with government ministries, including the Statistics Department.

A number of data collection strategies exist to assess impacts, including: direct stakeholder consultation; use of business panels; data from national statistical bureaus, data from international or donor-funded surveys. Training should be provided on the selection and use of these methods. A degree of pragmatism should guide the selection of methods: the best should not be allowed to become the enemy of the good.

It is often the case that there are many useful reports by donors, consultants, NGOs and the International Financial Institutions that go unused despite the fact that they contain a wealth of valuable information about a developing country's economy and society. In the case of Bangladesh, donors have funded work on the business enabling environment for some time and data from IFC Investment Climate surveys (last survey available done in 2003, but a new ICA is being prepared in 2006) could help with RIAs.

To take account of the lack of data, it is important to train policy-makers to be creative in the way they ascribe values to the impacts of regulations using techniques such as judiciously borrowing from analysis that has been undertaken

in similar environments in order to draw out lessons and maximise the use of available comparable data.

Issue: Collation of Materials relevant to RIA

Recommendation: The new RIA Unit proposed should be tasked to compile a resource library of studies, reports and other reference materials that Ministries can use in their analyses.

Discussions with local counterparts have suggested that building links to research units in other countries in the region will also be useful. In this way, the RIA unit can also help overcome a lack of data by acting as a reference point so that information gathered by one Ministry is available to others.

Issue: Collaboration with other Research Units

Recommendation: The new RIA Unit proposed should collaborate with other research units undertaking similar work in the region in order to share experience and data.

Monitoring the Effectiveness of RIA

Monitoring and evaluation (M&E) of the introduction of an RIA system should initially focus on the establishment of the system. This will include ensuring that the relevant training is put in place, that piloting is conducted in a number of ministries before the system is rolled out to all Ministries and that any institutional issues that arise are resolved swiftly and effectively.

As for the other components discussed above, it is essential that any M&E targets be pragmatic and realistic. Expectations must be managed as to the speed and scope with which a RIA system can be rolled out.

It is important that attention is paid to devising and testing RIA M&E mechanisms and indicators at the inception of the RIA Unit and that these indicators are placed within overall M&E arrangements for the BICF programme as a whole.

Once the system is established, the M&E system should examine firstly how well ministries are applying the RIA framework and the quality of RIAs. This could involve an assessment of past RIA's compliance with standard RIA requirements. For example:

- Did the RIAs clearly set out the purpose and intended effect of the proposed regulation?
- Did all interested parties have the opportunity to present their views? Did the RIA present a record of formal and informal consultations with stakeholders?

- Did the RIA credibly explain/justify that the proposed regulation was business-friendly?
- Did the RIA address (qualitatively or quantitatively) expected impacts (positive and negative) on affected parties?

Secondly the M&E system should examine how useful RIAs have been in improving regulatory quality and reducing the burden of new legislation on business. The former M&E dimension could be measured through, for example:

- the number of licenses and regulations revised or abolished;
- the numbers of regulations reviewed and RIAs produced per ministry;
- line ministries' appreciation of the Unit's activities.

One additional dimension of accountability measures in the M&E system would be for a *status statement on regulatory reform* to be built into the Finance Minister's annual budget speech. This statement could act as a situation report, reviewing the number of RIAs produced and providing an update on the regulatory reform activities of the government.²⁵

Issue: Monitoring the Production and Use of RIAs

Recommendation: RIA monitoring and evaluation (M&E) mechanisms and indicators should be put in place from the inception of the RIA Unit. These indicators should fit within the overall M&E arrangements for the PSDSP program as a whole. Indicators such as the number of RIAs and the percentage of proposals covered by an RIA should be part of the M&E framework and an RIA evaluation tool should be implemented to benchmark how far policy proposals are improving.

²⁵ PSDSP Working Group on Regulatory Reform Paper op. cit. paragraph 3.9, page 7

5 Piloting the Proposed RIA Methodology

In the preparation of this report, the RIA approach and methodology was piloted on Bangladesh's current Duty Drawback scheme.

Representatives from the private sector and key government offices related to duty drawback were invited to attend a small working group session on RIA. Attendees were from BEI, government agencies and the private sector. The first part of the workshop comprised:

- an overview of Bangladesh's investment climate in relation to the South Asia region;
- the rationale for instituting RIA;
- explanation of a typical framework for applying RIA;
- a brief description of the duty drawback process;
- group work applying the framework to the Duty Drawback example; and
- collective discussion of the group's findings relating to the RIA framework.

In the second part of the workshop, the PSD Core Group heard a presentation of RIA and had the opportunity to raise issues and make comments. A detailed note setting out the points raised during the pilot workshops is attached at Annex D. The pilot was useful in working through RIA questions in some depth, though more time would be needed than was available on this occasion.

Issue: RIA Piloting

Recommendation : Further piloting should be held to gain further insights into the precise design of the RIA framework and to build officials' capacity to implement RIAs.

6 The Way Forward: Gradual Introduction of RIA in Bangladesh

The establishment of a RIA system goes well beyond ad-hoc attempts to curb administrative barriers. Arguably, a RIA system presents an approach to regulatory policy-making that is often at variance with the way regulations and policy processes are usually conducted, in Bangladesh as in other developing countries. Not only does a successful RIA system often require some rearrangements of the power equilibrium among line ministries, it is also contingent on a long term cultural shift of any public administration towards a more empirically based, transparent and participatory policy process. For this very obvious reason, there is high risk that an overly ambitious RIA system will fail if realistic targets are not set, agreed upon and communicated. RIA efforts must be matched by training and capacity building.

RIA is relevant to Bangladesh as it will provide an opportunity to help the Government to realise its PSD vision. It could do this by:

- helping to ensure that inadvertently harmful regulations are not passed; simplifying new regulations and thereby reducing opportunities for corruption; and
- encouraging a more rational, analytical mindset in considering legislation among officials and private sector representatives.

To take the initiative forward, a political mandate is now required as a framework for further preparation. This framework should focus on:

- Establishing institutional responsibilities for RIA, and developing the capacities of the Regulatory Reform Unit responsible for driving RIA forward;
- Embedding RIA in a to-be-developed explicit regulatory reform or business regulation reform strategy;
- Training and sensitising stakeholders and policymakers; and
- Clarifying the scope, focus and gradual introduction of RIA in Bangladesh.

Establishing institutional capacities for RIA

Key decisions concern the location of the RIA Unit, its reporting structure, its staffing, mandate and role and legal basis. These issues are discussed in previous sections of this report. The critical points are as follows:

- The Unit should constitute or be co-located within a Better Business Unit at the centre of Government, preferably in the PM’s office. BOI could be a short-term bridging location;
- Its staff should be a mix of seconded ministry officials and external consultants. Terms and conditions will need to secure the right quality of individual while also taking into account the need for sustainability;
- The Unit’s job should be to assist ministries in undertaking RIAs and to develop and implement the Government’s Regulatory Reform Policy. Completion of an RIA should, over time, become a mandatory step in the legislative approval and drafting process. To ensure RIAs are taken seriously the RIA Unit will need to monitor the quality of draft RIAs to ensure that they comply with reasonable best practice; and
- The Unit should have a clear legal base – through a Prime Ministerial / Presidential decree or similar legal mechanism.

Embedding RIA in a broad regulatory reform strategy

A RIA system cannot exist in a policy vacuum. It needs to be linked to or an integral part of a wider regulatory reform or PSD strategy.

The on-going BICF offers the opportunity to anchor RIA and other better regulation measures firmly within the Bangladesh Governments future PSD strategy.

It is recommended that within the PSD strategy a clear Regulatory Reform strategy is developed and proposed to the Government for adoption. Based on the observations and analysis made in the preparation of this report, it is recommended that the Regulatory Reform strategy include the following elements:

- Establishment of central regulatory registry with positive legal security for all business regulation in Bangladesh;
- A sector-by-sector streamlining of business regulation in Bangladesh, possibly based on the guillotine strategy (see box 5 below);
- Creation of a system of forward planning of new laws and regulations;²⁶

²⁶ To enhance predictability and transparency, a system of forward planning could require each ministry to establish a continuing six-month schedule for preparation of new laws and other major regulatory instruments, updated periodically, along with the plans for consultations with major stakeholders. These schedules and consultation plans should be made public so that stakeholders can prepare for the consultations.

- Introduction of transparent and systematic public consultation with all affected stakeholders;²⁷ and
- Development of a set of simple principles or standards of regulatory quality to guide regulators and decision-makers.²⁸

Box 6: Staged repeals of regulation: The guillotine approach

Pioneered by Sweden, used by Mexico and Hungary, and recently implemented in Moldova, Kenya, and other developing countries, the guillotine approach (also called staged repeal) offers a method to rapidly identify and eliminate unneeded and sometimes illegal formalities. Unlike a one-by-one approach to review, which is more open for undue influence by vested interests, the guillotine approach is made more systematic and more comprehensive by embracing a larger group of regulations. In general, the guillotine involves the following steps:

- **Establishing support.** The government establishes the necessary legal and political basis to carry out the review (e.g. passing a framework law or a cabinet decision addressing the issues below).
- **Defining scope.** Definition of scope of review (i.e. the sectors or regulations to be reviewed).
- **Defining review criteria.** Definition of criteria according to which regulation should be reviewed (i.e. is the regulation needed? Is it legal? Is it efficient and market friendly?).
- **Setting up review groups.** Establishment of the organisational infrastructure to carry out the reviews. This must include a central body responsible for coordinating and possibly vetting the reviews carried out by different review groups. Review groups can be composed of different stakeholders, including business representatives, involved at different times during the review.
- **Setting a deadline.** The government instructs all ministries to establish lists of their regulations – meeting the review criteria - by a certain date.
- **Executing the process.** As the lists are prepared, involving consultation with the private sector and oversight from the central body, unnecessary, outdated, and illegal rules are identified and excluded from the list.
- **Consolidation of regulations.** A centralised list is created by adding all the ministries' lists together. When the deadline is reached, any regulation not on the list is automatically cancelled without further legal action. The list becomes a comprehensive registry of all (business) regulations in force, and is recognised in law as the legal database for purposes of compliance. No regulation not in the registry can be enforced against a business.
- **Updating the register.** All new regulations and changes are entered in the registry. The

²⁷ In the course of development of proposed regulations, ministries should ask the business associations for views on the draft text and the RIA/justification statement. Their views should be incorporated into the RIA submitted for review by the RIA Unit and eventually in the submission to Cabinet. Discussions on proposed laws and other rules, as well as the draft instruments and justification statements, should be open to the general public.

²⁸ Based on experiences from other countries, such principles – acting as benchmarks or reference points in the design and evaluation of regulation – could be: Business-friendliness, low costs, low risk, transparency, accountability, necessity, etc.

registry should have legal security. Again, no regulation not in the registry can be enforced against a business.

The regulatory guillotine offers a quick, potentially comprehensive and efficient approach to consolidate and review existing regulations. However to be successful and coherent, the regulatory guillotine must be supported by significant resources and strong political support. Without it, the process may end up revoking regulation that is indeed efficient and relevant, or it may end up keeping inefficient regulation due to inappropriate influence of vested interests and fading political support. A decision to go ahead with a regulatory guillotine must be based on an initial assessment of the problem at hand (is the number of, for example, licenses and permits, excessive and everlasting?) and of the availability and sustainability of implementation capacities (is it possible to mobilise capacities to carefully and objectively review the regulations in question, and to maintain the political support for the process?)

The guillotine requires substantial legal and institutional setup in advance, which may not work in all countries. The guillotine only offers very limited substantive reviews, and is not a substitute for more detailed reviews and simplification on a case by case basis. It can be vulnerable to failure if political strategy fails. Finally, the guillotine is a one-time step that must be followed by institutionalised regulatory quality mechanisms.

Training and Sensitising Stakeholders

PSD analytical and policy-development capacities among officials is generally weak. A key initial requirement is training, and as integral part of this, a broad sensitisation to low-cost and low-risk regulation in support of market-led growth. Training should be extended to private sector stakeholders.

Detailed recommendation for training, including broader training in PSD issues and sensitisation of senior civil servants, Members of Parliament, professional and civil society groups are set out in Annex E and F.

Clarifying scope, focus and gradual introduction of the RIA System

No RIA process or system is intended to provide comprehensive analysis of all draft regulations. The proper scoping of an RIA system is essential to ensure that there is appropriate use of scarce local resources and that efforts are targeted in a way that is consistent with political priorities and the need to reform the most burdensome areas of law.

Initially, RIA should only be applied to new primary legislation in high-impact areas such as the garment industry, or to new primary legislation from selected ministries with important regulatory functions related to the private sector. In the medium to long term, RIAs should be targeted towards new laws and secondary legislation (SROs etc) which have an expected significant impact on business.

The complexity of an individual RIA should be proportionate to the likely impact of the proposed legislation. A system that is too complicated to be of practical use

to policy-makers in ministries is likely to soon fall into disuse and quality standards are unlikely to be met. Given the resource position and capacity in Bangladesh, it is strongly recommended that initial RIA requirements be kept very simple. Regulators could be required to address basic questions about the proposed regulation's purpose and intended effect, consultations with stakeholders, and expected effects on businesses and other affected parties.

Initially, it is suggested that the RIA system in Bangladesh should come with no requirements to regulators as to which methodologies they may wish to apply in assessing expected impacts of proposed regulation. Although this may sound somewhat contradictory to the general idea of RIA pushing a more empirically based and rational decision-making process, the emphasis should primarily be put on getting the RIA system "up and running" and having regulators asking themselves "the right questions", not on the technical accuracy of estimates. Experience suggests that this will in itself stimulate thinking about appropriate choice of methodologies.

Immediate next steps

This report serves a basis for continued discussion of RIA implementation in the Government's PSD Core Group.

It is suggested that the PSD Core Group establish a RIA Working Group, including private sector representation, to follow up on this report's recommendations, and discuss specific measures for introducing RIA in Bangladesh.

The World Bank Group through FIAS/SEDF remains interested and available to support the Government of Bangladesh in this process.

A Examples of existing and emerging RIA and Regulatory Policy models in developing countries²⁹

SRI LANKA

- RIA Concept developed in 2005. Policy is to use an incremental approach to adopting RIA, starting at central government level.
- An RIA Unit will be located either in the President's office, Cabinet Office or Ministry of Finance
- RIAs to be confined to regulations which have the most significant impacts on business.
- Draft regulations & RIAs will be submitted to the Unit for review.

PAKISTAN

- Development of a RIA system considered as part of the government's broad-based approach to privat sector development
- Current considerations focus on importance of strong institutional underpinnings of private sector development reform
- Initial activities relating to RIA and regulatory policy to be hosted in an Economic Reform Unit hosted in the Ministry of Finance
- The Economic Reform Unit will have three main functions: i) To strengthen MoF's policy development capacity; ii) To drive/coordinate implementation of PSD Reform initiatives; and iii) To develop broad regulatory reform strategy, including RIA.

KENYA

- Government commitment in June 2006 to develop a RIA system, initially focussing only on business licenses;
- Focus on RIA and the *regulatory flow* followed comprehensive review and simplification of existing business licenses (*stock*);

²⁹ The information in this Annex is not intended to be exhaustive of the RIA and Regulatory Reform efforts in the mentioned countries, but merely to provide an overview of results and experiences with relevance to the current challenges in Bangladesh.

- Government committed to establishing a Regulatory Review Unit in the Ministry of Finance. Unit will be charged with vetting the flow of new business regulation and developing a regulatory reform strategy;
- Initiatives linked to the establishment of a comprehensive electronic registry of all valid business licenses.

UGANDA

- RIA introduced and developed as part of the Government's deregulation programme (2000-03) and a second phase known as the Regulatory Best Practice (RBP) Programme (2003-06).
- The Programme moved beyond the reduction of individual regulatory burdens to a phase of embedding the process of regulatory reform within institutions in Uganda
- With regard to RIA, the programme has achieved the following:
 - Developed guidance and secured endorsement by the President of Uganda for regulatory quality principles to be adopted by government.
 - Cabinet in 2006 endorsed regulatory quality principles as the basis for regulation.
 - Developed a methodology for RIA that meets the needs of the Uganda context
 - Trained officials in the use of the methodology and created local training capacity in RIA
 - Establishment of a RIA Unit within the Government that will assure the quality of RIAs

KOREA

- Motivated by the East Asian financial crisis of 1997, Korea introduced reforms to promote better market regulation.
- There were two key initiatives in the reform program. The first was a massive deregulation initiative in which the President ordered each government ministry to eliminate 50 percent of all of its regulations. The second was an enduring institutional reform, notably establishment of the Presidential Regulatory Reform Commission (RRC) and mechanisms to promote reform, monitor and promote regulatory quality from the center of government.

- The regulatory reform was authorised under a “Basic Act on Administrative Regulation”, which established principles for the review and reform of existing and new regulations.
- The Regulatory Reform Committee was chaired by the Prime Minister, with academic, private sector, foreign investor and consumer representation.
- Under orders from PM and President, Ministers complied with the plan. They sought to eliminate regulations that served only to hinder markets and competition, while keeping and/or modifying those regulations required to preserve the environment, public safety or health.
- By the end of 1998, out of 11,125 regulations in place, 5,430 had been eliminated and another 2,411 were revised. Korea’s ranking in the Global Competitiveness Report rose from 48th out of 53 countries rated in 1997, to 26th out of 75 countries rated in 2002.

MEXICO

- A Regulatory Reform programme was launched in Mexico in the late 1980s and early 1990s as part of a comprehensive set of economic and trade reforms in response to Mexico’s economic crises and membership of the North American Free Trade Agreement (NAFTA)
- The initial goal of regulatory reform was pure deregulation: eliminate regulatory barriers and burdens, liberalize protected sectors, remove major economic bottlenecks that were limiting the benefits of increased market openness, and through these steps support the trade negotiations.
- Within a short time reforms moved from a strict deregulation strategy to a broader and more sustainable “regulatory improvement” strategy
- To undertake the regulatory reform policy, the Mexican government created the Economic Deregulation Unit (UDE) in 1989 under the Trade Ministry (SECOFI). The UDE was a group of around 15 economists and lawyers, accountable directly to the Trade Minister. To support the UDE in delivering its new mandate, the government created an Economic Deregulation Council comprised of government, business, labor and academic representatives. The UDE also established a powerful alliance with the Federal Economic Competition Commission which played an important role in liberalizing a market traditionally dominated by a narrow set of economic interests.
- In 1995, the President published an Agreement for the Deregulation of Business Activity (ADAE) that made the regulatory reform program more systematic and transparent. With the broad mandate provided by the

ADAE, the UDE established a clear review process that incorporated regulatory impact analysis and placed the burden of proof for the need of new regulations on the regulators. The UDE reviewed the regulations and proposed changes. Over 500 regulatory proposals were reviewed by the UDE from 1995 to 2000.

- UDE also focused on building an enduring constituency for reform, in particular among small and medium-sized enterprises. A major achievement was to create a complete inventory of business formalities (rules and forms required to start and operate a business such as licenses, permits and other authorizations). Using the regulatory guillotine approach, over 4,000 business formalities were reviewed, and 45% were eliminated. This reduced red tape and corruption.
- The UDE was transformed in 2000 into the Federal Regulatory Improvement Commission (COFEMER). COFEMER is a functionally and technically autonomous agency whose head is named by the President of the Republic. It was set up with a clear legal mandate to ensure the transparency of the regulatory process and to promote regulations with the greatest net benefits to society. It has a budget of approximately 5 million dollars per year and a staff of approximately 60 professionals.
- In 1996, the Federal Administrative Procedure Law (LFPA) mandated RIA. This enabled the UDE to require clear justification of regulatory proposals, and led to the implementation of the government-wide RIA program. This was a major shift in the regulatory process. The burden of proof, regarding the desirability of any particular regulation, was shifted to the regulators.
- The UDE (and later the COFEMER), would then review the regulations with the assistance of the ad hoc groups selected by the Economic Deregulation/ Regulatory Improvement Council, make judgments and propose changes. For the first time, regulations across a diverse array of issues, from infrastructure to health and environment, were challenged in terms of regulatory quality criteria.
- RIA and transparency infused a check and balance mechanism that did not exist previously and provided a filter for potential errors and abuses. Among the most important innovations of this process were:
 - Assigning responsibility for RIAs to a vice minister in charge of regulatory reform in each ministry;
 - Requiring all RIAs, proposals and judgments by COFEMER to be made public.

B Doing Business Indicators, 2005: Bangladesh

Starting a Business (2005)

The challenges of launching a business in Bangladesh are shown below. Entrepreneurs can expect to go through **8** steps to launch a business over **35** days on average, at a cost equal to **81.4%** of gross national income (GNI) per capita. There is **no minimum deposit** requirement to obtain a business registration number.

Indicator	Bangladesh	Region
Procedures (number)	8	7.9
Time (days)	35	35.3
Cost (% of income per capita)	81.4	39.7
Min. capital (% of income per capita)	0.0	0.8

[Details](#) | [Compare All Economies](#)

Dealing with Licenses (2005)

The steps, time, and costs of complying with licensing and permit requirements for ongoing operations in Bangladesh are shown below. It takes **13** steps and **185** days to complete the process, and costs **290.9%** of income per capita.

Indicator	Bangladesh	Region
Procedures (number)	13	15.7
Time (days)	185	195.3
Cost (% of income per capita)	290.9	385.9

[Compare All Economies](#)

Hiring & Firing Workers (2005)

The difficulties that employers in Bangladesh face in hiring and firing workers are shown below. Each index assigns values between 0 and 100, with higher values representing more rigid regulations. The Rigidity of Employment Index is an average of the three indices. For Bangladesh, the overall index is **24**.

Indicator	Bangladesh	Region
Difficulty of Hiring Index	11	41.9
Rigidity of Hours Index	40	35.0
Difficulty of Firing Index	20	42.5
Rigidity of Employment Index	24	39.9
Hiring cost (% of salary)	0.0	5.1
Firing costs (weeks of wages)	47.0	75.0

[Compare All Economies](#)

Registering Property (2005)

The ease with which businesses can secure rights to property is measured below. In Bangladesh, it takes **11** steps and **363** days to register property. The cost to register property there is **11.0%** of overall property value.

Indicator	Bangladesh	Region
Procedures (number)	11	6.9
Time (days)	363	124.0
Cost (% of property value)	11.0	6.3

[Details \(PDF\)](#) | [Compare All Economies](#)

Getting Credit (2005)

Measures on credit information sharing and the legal rights of borrowers and lenders in Bangladesh are shown below. The Legal Rights Index ranges from 0-10, with higher scores indicating that those laws are better designed to expand access to credit. The Credit Information Index measures the scope, access and

quality of credit information available through public registries or private bureaus. It ranges from 0-6, with higher values indicating that more credit information is available from a public registry or private bureau.

Indicator	Bangladesh	Region
Legal Rights Index	7	3.8
Credit Information Index	2	1.8
Public registry coverage (% adults)	0.4	0.1
Private bureau coverage (% adults)	0.0	0.6

[Compare All Economies](#)

Protecting Investors (2005)

The indicators below describe three dimensions of investor protection: transparency of transactions (Extent of Disclosure Index), liability for self-dealing (Extent of Director Liability Index), shareholders' ability to sue officers and directors for misconduct (Ease of Shareholder Suits Index) and Strength of Investor Protection Index. The indexes vary between 0 and 10, with higher values indicating greater disclosure, greater liability of directors, greater powers of shareholders to challenge the transaction, and better investor protection.

Indicator	Bangladesh	Region
Disclosure Index	6	4.1
Director Liability Index	7	4.6
Shareholder Suits Index	7	6.4
Investor Protection Index	6.7	5.0

[Compare All Economies](#)

Paying Taxes (2005)

The effective tax that a medium size company in Bangladesh must pay or withhold within a year is shown below. Entrepreneurs there must make **17** payments, spend **640** hours, and pay **50.4%** of gross profit in taxes.

Indicator	Bangladesh	Region
Payments (number)	17	25.8
Time (hours)	640	331.7
Total tax payable (% gross profit)	50.4	35.3

[Compare All Economies](#)

Trading Across Borders (2005)

The costs and procedures involved in importing and exporting a standardized shipment of goods in Bangladesh are detailed under this topic. Every official procedure involved is recorded - starting from the final contractual agreement between the two parties, and ending with the delivery of the goods.

Indicator	Bangladesh	Region
Documents for export (number)	7	8.1
Signatures for export (number)	15	12.1
Time for export (days)	35	33.7
Documents for import (number)	16	12.8
Signatures for import (number)	38	24.0
Time for import (days)	57	46.5

Enforcing Contracts (2005)

The ease or difficulty of enforcing commercial contracts in Bangladesh is measured below. It takes **29** steps and **365** days to enforce contracts there. The cost of enforcing contracts is **21.3%** of debt.

Indicator	Bangladesh	Region
Procedures (number)	29	..
Time (days)	365	..
Cost (% of debt)	21.3	..

[Compare All Economies](#)

Closing a Business (2005)

The time and cost required to resolve bankruptcies is shown below. In Bangladesh, the process takes **4.0** years and costs **8%** of the estate value. The recovery rate, expressed in terms of how many cents on the dollar claimants recover from the insolvent firm, is **24.27**.

Indicator	Bangladesh	Region
Time (years)	4.0	4.2
Cost (% of estate)	8.0	7.3
Recovery rate (cents on the dollar)	24.3	19.7

C Techniques to review existing regulation

There are a variety of ways that reviews of existing legislation could be done:

- ministries could be tasked with listing and reviewing the regulations they administer and make their own recommendations to the Unit for repeal or deletion;
- a central target for the proportion of legislation to be repealed could be set by the PM (as in Korea) and compliance monitored by the RIA Unit/Prime Minister's office;
- a “scrap and build” approach according to which an entire regulatory regime, e.g. business registration or customs regulation, is revoked and replaced with an entire new regulatory regime. This “clean sheet” approach may be particularly relevant where there is no overview of regulation in force or the regulatory authorities charged with making new regulation.
- a guillotine concept could also be introduced whereby lists of business regulations / licenses would be drawn up by each ministry and then those that cannot be justified for retention within a certain timescale would be automatically rescinded; and
- the RIA Unit could itself review regulations and make recommendations to the Prime Minister for legislation to be repealed/eliminated.

All of these techniques require varying degrees of institutional underpinnings, up-front political commitment as well as technical capacities.³⁰ A detailed elaboration of these approaches goes beyond the aim of this report, but should be pursued further in subsequent regulatory reform efforts.

³⁰ See also OECD (2003): *From Red Tape to Smart Tape – Administrative Simplification in OECD Countries*.

D Pilot Workshop Held at B.E.I on 13 February 2006

Note for the Record

(1) Small Group Workshop, 10:00 am - 1:00 pm

Representatives from the private sector and key government offices related to duty drawback were invited to attend a small working group session in the morning. Attendees represented a private financial services company, a private bank, the Duty Exemption and Drawback Office (DEDO), Freedom Fighters Welfare Trust (recently with the Export Promotion Bureau – EPB), a local university, Bangladesh Bank, and Bangladesh Enterprise Institute (BEI).

Mr. Shihab Azhar of BEI and SEDF/FIAS welcomed the group and briefly described the PSDSP as some attendees were not previously involved with the project. He introduced Mark Minford and Darren Welch of Bannock Consulting, who are undertaking an assignment to recommend the appropriate RIA system for Bangladesh. Mr. Minford began with an overview of Bangladesh’s investment climate in relation to the South Asia region and the rationale for instituting RIA. He explained a typical framework for applying RIA.

Iftekar Ahmed of BEI gave participants a brief description of the duty drawback process based on his finding in the PSDSP Administrative Barriers Review. Mr. Ahmed mentioned highlights of his findings including:

- The negative effects of administrative barriers are amplified for SMEs, which lack the extra time and money needed;
- An average of 90 days a year is spent by Bangladeshi firms in “following procedures”;
- Large companies have ways of getting through the duty drawback process more quickly, whereas many SMEs do not even claim their duty drawback, because the process is too expensive and time consuming;
- Duty drawback is intended to be an incentive for exporting companies that do not have a bonded warehouse license;
- Duty drawback is offered either by flat rate (16 product categories receive a flat rate currently or by a coefficient calculated by DEDO based on the production line and import duties paid on raw materials;

- Many documents required by DEDO must be provided by other government agencies and verified by DEDO; the scope to reduce this process is large;
- DEDO estimates 5% of claims are fraudulent (e.g. one claim for BDT 78 million with all the right paperwork came from a company that did not exist); therefore, DEDO officers are very cautious about verification, which takes more time; and
- Only 1% of the cost of the process is official fees; service providers who help companies file claims make up 55% of the cost and unofficial fees make up 44% of the cost; corruption also exists at the service provider level

Discussion of ABR findings

- Suggestion made to charge higher official fees for easier and faster service or providing private bank guarantees to minimise fraud;
- Mr. Rouf (DEDO) suggested that automation as the best answer to fraud; in his opinion, a bank guarantee would not work;
- Mr. Rouf also stated that a higher level of official fees could also help the process
- Dr. Ahmed pointed out that the automation introduced at the Chittagong Port did not work due to lack of capacity to maintain and manage the system

Participants were then split into two groups to work through the suggested RIA framework to analyse the current duty drawback system and possible options for reform including instituting a new duty suspension system.

Group 1 Discussion:

Q1: Is the problem clearly defined?

A1: The root problem was felt to be the need to remove the negative impact on the competitiveness of businesses from the inefficient administration and disbursement of funds in the Duty Drawback scheme. WTO provisions stated that exporters should not have to bear the cost of domestic duties, tariffs and VAT and yet this was still the case for many (mainly small) exporters in Bangladesh.

Q2: Is government action justified in addressing the problem?

A2: The group discussed whether banks and the private sector alone could address the weaknesses in the existing system. There was a strong feeling that

since government rules were the source of the problem, that the government needed to address this problem Furthermore since many government departments were involved, and held the relevant information, government was well placed to take action.

Q3: Is regulation the best form of government action?

A3: Overall the group was unconvinced by the case for regulation. It was felt that administrative streamlining measures could go a long way to removing the problem (enabling a reclaiming of duties and other taxes at a flat rate). However, it was acknowledged that due to weak national business accounting practices and identification systems that fraud would remain a problem. A regulatory solution – introduction of a Duty Suspension scheme – was discussed, but it was felt that there would be opposition to changing the existing system from government.

Q4: What are the benefits and costs of different alternatives?

A4: There was insufficient time in the workshop to explore the costs and benefits of the different options in any detail. However, 3 options were noted: (i) basic administrative streamlining (introducing flat rates and removal of some documentation requirements etc); (ii) computerising the processing of claims through linking and networking government departments e.g. Customs, EPB, Ports etc and (iii) introducing a Duty Suspension system.

The basic costs and benefits were thought to be as follows:

	Streamline Flat rates	Automation	Duty Suspension
Costs	SRO needed	Hardware/software costs; time to implement and training	Cost of time and effort to introduce (passing the law and changing systems)
Benefits	Relatively easy to implement	Faster process; some fraud protection	Potentially relieves all exporters of duty payable – cash flow (and investment) benefits

Group 2 Discussion (answered questions on Duty Suspension Alternative):

Q5: Is the distribution of effects across society fair and transparent?

A5: Yes, if all exporting industries are included (e.g. agriculture should be included as seeds are often imported). Geography is important if there is to be

exclusion of any sectors. Process is kept simple when it applies to all sectors. Benefit to SMEs.

Q6: How would reforms be made clear, comprehensible and accessible to users?

A6: Procedure must be clear and comprehensive to avoid confusion. Should provide example of process. Private sector and public sector bodies involved in DSS should be responsible for disseminating information. Should be available on the Internet. Suggestion that “Exporter’s Club” be housed at FBCCI.

Q7: What stakeholder consultation should be undertaken?

A7: Must understand that large exporters and small exporters may have different views. Must talk to each and every stakeholder in the process. Consult with the groups identified as low support for DSS, but high influence.

Q8: How will compliance with the new system be achieved?

A8: Exporters will be accountable to peers in Exporters Club. Could introduce government oversight which provides parameters for private sector Exporters Club, but monitors to be sure functioning correctly.

(2) Workshop for PSD Core Group Members, 3:30pm-5:30pm

Seventeen Core Group Members attended the meeting in the afternoon. Mr. Farooq Sobhan, President of BEI, chaired the meeting, opening with a statement that the Core Group had some initial exposure to RIA early in the PSDSP, but now had a clear context from the ABR in which to understand RIA.

Mr. Welch gave an overview of RIA and what it is designed to do. Mr. Minford then presented the results of the small group workshop providing examples of RIA applied to reform of the duty drawback scheme. Mr Welch then outlined the issues raised by institutionalising an RIA process in Bangladesh.

Mr. Sobhan then opened the floor for discussion.

Core Group Discussion:

More awareness-building on RIA is necessary; we need documentation and further sessions on best practices in other countries. Shihab Azhar pointed out that during the study tour to Korea, the members met with an expert on RIA and his suggestions were well received by the PSD Core Group members. Mr. Sobhan pointed out that best practice is good to study, but all practice must be carefully tailored to the Bangladesh context.

Visit to Korea showed that reform is a continuous process. Stakeholders in the private sector must be continually engaged.

Each reform within the ABR is only one piece of an entire system. Korean example of all laws passed through a single unit is a good idea for Bangladesh. Implementation of reform must also be top-down.

Framework describes OECD / UK experience. A specific model will be needed for Bangladesh? The consultants said that the proposed RIA framework was drawn from many countries' experience, but it is applied differently in each country depending on local circumstances which are taken into account.

RIA seems like common sense and should help provide more transparency

RIA should begin with commercial laws such as SROs issued by the National Board of Revenue and CCIE. Whether to set up a single regulatory reform unit or decentralise responsibility, e.g., each ministry has a planning cell, is a key question.

E RIA Training Requirements

RIA training as part of broad PSD training

It is recommended that RIA capacity be built using a staged approach. Besides training ministry officials, RIA training for private sector representative bodies is also required so that they are well placed to respond to consultation exercises and able to argue for policy reform on the basis of evidence of compliance costs.

It is recommended that RIA training be provided within a broader program of PSD awareness training and specialised PSD related training for officials and Chamber staff and officers, as recommended in PSDSP program documentation. Training for mid-level civil servants should cover not simply RIA but also other aspects of good regulatory practices such as public consultation and various transparency measures.

To speed RIA adoption and sensitisation to market-led growth approaches in general, it is suggested that consideration be given to introducing a positive incentive for officials to receive training by making competence in RIA part of career progression requirements for officials specialising in the economic and commercial matters and ministries.

Ministry officials to be trained

The following Ministries are priority areas for strengthening capacity given their importance in stimulating sustainable economic growth and hence poverty reduction:

- The Board of Investment;
- Ministry of Finance;
- Ministry of Law;
- National Board of Revenue;
- Ministry of Commerce;
- Ministry of Economy; and
- Department of Environment.

Once the key ministry officials have been trained, those officials within a number of important subsidiary and independent agencies that deal with the private sector such as the Securities and Exchange Commission, the Bangladesh Telecommunications Regulatory Commission, Bangladesh Energy Regulatory

Commission, Registrar of Joint Stock Companies, the Port and Utility Authorities should also receive training in RIA.

Private sector training

Training on RIA methodology, and responding to consultation by government departments, should also be provided to private sector Chambers of Commerce and Trade Associations, such as staff employed by the FBCCI, the Dhaka, Metropolitan and Foreign Investor Chambers of Commerce.

Training modalities

Different types and modalities of training will be appropriate for different audiences. It is recommended that five types of training courses be run:

- a half day course on Regulatory Best Practice for senior officials (Secretaries and Agency chairmen), Ministers and MPs, followed by another half day introductory course on RIA, focusing on the key principles of RIA, with a review of RIA examples. This event will serve as an overall introduction and sensitisation to RIA and other regulatory management tools;
- one week RIA course for mid-level civil servants who will use RIA in their decisions, either to prepare or scrutinise RIA, or to advise ministers about results of RIA, but who will not need the analytical training to actually prepare the RIAs;
- two weeks train-the-trainers course intended for potential trainers and analysts from the relevant ministries, who will actually design the methodology and data collection strategy, collect data, analyse, prepare the RIA and perform further training after the completion of the project;
- six 4-hour courses to help up to 100 participants develop a RIA. These courses will be developed three times per year, using a different law in each course. The course will be hands on to help participants develop a RIA for specific Bangladesh regulation; and
- two-day course on tools to review existing regulation, including the Guillotine and using RIA in the implementation of adopted legislation.

A full training plan, detailing the type of training to be provided, over what time period and to which audience should be drawn up as part of the implementation of the decision to introduce RIA in Bangladesh.

F Preliminary Costing of Technical Assistance in Relation to RIA Design and Implementation in Bangladesh

Table 1: Overall tentatively estimated budget for a two-year implementation project

Item	Main contents	Cost estimate
I. Developing capacities of the RIA Unit and the PSD Core Group	<ul style="list-style-type: none"> • Permanent local expert/consultant working in the RIA Unit • Ad-hoc technical assistance from international expert • Study tours • Equipment for the RIA Unit 	400,000
II. Preparation of a regulatory reform component within the GoB's PSD Strategy	International consultant supported by local expert providing analysis and recommendations on improvements on <ul style="list-style-type: none"> • Forward planning • Public consultation • Principles of regulatory quality • Priorities for regulatory streamlining 	60,000
III. Setting up and delivery of a training program on RIA	Delivered by international consultant with local expert participation: <ul style="list-style-type: none"> • Half day introductory workshop • One-week course for RIA users • Two-weeks course for experts • Two-day course on using RIA and related tools to review existing regulation 	400,000
IV. Piloting RIA on six selected draft laws	Delivered by international consultant with local expert participation: <ul style="list-style-type: none"> • Six 4-hour courses developing a RIA for a Bangladesh Regulation 	100,000
V. Preparation of RIA manual for government officials	Delivered by international consultant with local expert participation: <ul style="list-style-type: none"> • Step-by-step, simple manual on RIA preparation, supported by technical guidelines 	50,000
Total		1,010,000