

Implementing
regulatory
reform

THE RELEVANCE OF REGULATORY IMPACT ASSESSMENT IN DEVELOPING COUNTRIES

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‘Investment climate improvements are, at their heart, about improving the quality of governance and policymaking’

World Bank, World Development Report, 2005

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- Market failure and the need for ‘good’ regulation
- ‘Better regulation does not always mean less regulation’
(World Bank, 2001)
- Regulatory impact assessment (RIA): a tool for improving the quality of regulatory policy
- Ex ante and ex post RIA

- Widespread adoption of RIA in OECD countries
- Limited attempts so far to promote better regulation through RIA in developing countries
- The need for a framework for applying RIA in a development context

- RIA is a tool for decision-making, not a decision-making tool
- RIA can contribute to:
 1. Better *outcomes* for the regulatory intervention, by assessing impacts in terms of goals and objectives
 2. Better *processes* for decision-making, in terms of consistency, accountability and transparency

- **RIA is a tool for improving the quality of regulatory decision-making, by providing a framework for the systematic assessment of potential or actual impacts of regulation measures**

- Is the problem correctly defined?
- Is government action justified?
- Is regulation the best form of government action?
- Is there a legal basis for regulation?
- What is the appropriate level (or levels) of government for this action?
- Do the benefits of regulation justify the costs?
- Is the distribution of effects across society transparent?
- Is the regulation clear, consistent, comprehensible, and accessible to users?
- Have all interested parties had the opportunity to present their views?
- How will compliance be achieved?

Source: OECD (1995)

3. The Practice of RIA in Developing Countries

- Questionnaire distributed to 99 countries and 36 responded (a 35% response rate).
- Distributed to 395 regulators in these countries and 57 returns received (a more disappointing response rate of around 14%). Where multiple replies were received from a country, the answers were compared for consistency.
- The majority of responses were from regulators of utilities (energy -22; telecoms – 20). All respondents were in senior positions (e.g. 23 held the post of director-general or equivalent).

Questions related to the following subjects:

- existing familiarity with RIA as a concept and the OECD guidelines;
- the existing use of RIA within the country;
- legal requirements to adopt RIAs and the existence of published RIA guidance within government;
- the form RIAs take when used;
- the processes used within government when undertaking RIAs;
- RIA transparency, in terms of published documentation;
- public consultation and participation in RIA exercises;
- RIA and wider regulatory reforms.

Where are RIAs used?

Region	RIA Applied to All or Most New Regulations	RIA Never Applied	Do Not Know
Asia (no. of countries)	6	0	1
Africa (no. of countries)	10	2	2
Latin America (no. of countries)	6	2	0
Transition Economies (no. of countries)	5	1	0

Only 6 respondents, however, were familiar with the OECD guidelines. Mainly used for ex ante assessment only. Few reported existence of guidelines.

	Number of Countries
Applying RIA	27
Assessing costs only	9
Assessing benefits and costs	13
Inconsistent responses	5

However, few claimed to use sophisticated techniques to quantify costs and benefits

- **Consultation occurs, but less frequently with consumer bodies.**
- **Few make the results of consultation public.**

- **In 19 of the 36 countries from which replies were received, respondents reported that there was a strategy in place promoting government-wide reforms in regulation.**
- **RIA is being adopted in the majority of cases as part of a wider regulatory reform programme.**

Summary of Findings

- **Level of awareness of RIA in developing and transition economies is higher than we might have expected, based on the limited information previously available.**
- **Sample bias possible: perhaps the countries from which replies were not received have less knowledge of RIA?**
- **We need to know more about exactly *how* RIA is being used and its *precise results* – this is the subject of on-going case study research with our partners.**

4. A Framework for RIA in Developing Countries

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- **We need to adapt the approach to meet the needs and conditions of lower-income economies, including their institutional and skills endowment.**
- **We need to develop a focus on poverty reduction.**
- **We need to guard against ‘capture’ of the process.**

- **Requires the extension of consultation procedures.**
- **Involves multiple stages, with RIAs when each new regulation is put forward, after consultation and redrafting, and when the legislation is passed.**
- **Requires prioritising of effort to concentrate on regulations which are likely to have appreciable benefits and costs.**

- **BUT: prioritisation must not be on grounds of political expediency or administrative convenience.**
- **RIA needs strong political commitment to make it work**

The following are some general principles for introducing RIAs, which will require specific formulation within the context of particular regulatory agendas.

We suggest 3 stages, which involve:

- 1. Building an effective regulatory management system**
- 2. Improve the quality of new regulations**
- 3. Upgrade the quality of existing regulations**

1. Building an effective regulatory management system

- **Adopt RIA at the highest political levels – build commitment (e.g. management from the PM's/President's office?).**
- **Establish explicit standards for assessing regulatory quality and regulatory decision making. Develop ownership of the method at the departmental level.**
- **Introduce effective capacity building programmes (training).**
- **Introduce effective data collection processes.**
- **Institute systems in each regulatory department to monitor regulatory implementation. RIA must be an integral part of the legislative process.**
- **Clarify the role of RIA in achieving economic growth and poverty reduction goals.**

2. Improve the Quality of New Regulations

- **Institute procedures to ensure RIA is built into the process of regulatory appraisal. RIA must not be seen as either a “burden” or irrelevant “add on”.**
- **Institute procedures for systematic public consultation.**
- **Institute methods for prioritising where detailed RIAs should be applied.**
- **Institute review processes to ensure learning about RIA implementation is spread across government. Establish a dedicated RIA assessment bureau?**

3. Upgrade the Quality of Existing Regulations

- **Systematically review and update existing regulations using RIA techniques.**
- **Reduce red tape and government formalities. Introduce mandatory guidelines on good practice and communicate them both within and outside government.**

5. CONCLUSIONS

- **RIA is an initiative aimed at improving regulatory practices and outcomes.**
- **RIA is not a panacea for bad government, but it can improve the quality and economic and social impacts of government regulation.**
- **Like all new initiatives, there will be “teething problems” and a process of gradual learning and improvement. To this end in the CRC we are developing an understanding of RIA in the context of economic development and poverty reduction.**

- **By providing a method for improving the quality of regulatory decision-making, RIA can assist policy makers in addressing the regulatory reform needs in South Asia**