GOOD GOVERNANCE FOR DEVELOPMENT IN ARAB COUNTRIES INITIATIVE

WORKING GROUP IV: PUBLIC SERVICE DELIVERY, PUBLIC-PRIVATE PARTNERSHIP AND REGULATORY REFORM

Building a framework for conducting Regulatory Impact Analysis (RIA):

TOOLS FOR POLICY-MAKERS

Version 1.0

Regulatory Policy Division
Directorate for Public Governance and Territorial Development

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CHAPTER 1. BACKGROUND [1]

1. RIA is a systematic decision tool used to examine and measure the likely benefits, costs and effects of new or existing regulation. The implementation of RIA supports the process of policy making by contributing valuable empirical data to policy decisions, and through the construction of a rational decision framework to examine the implications of potential regulatory policy options.

2. The overall aim of RIA is to assist governments to make their policies more efficient. This is an important factor in responding to the impact on modern economies of open international markets and budgetary constraints and the consequences of competing policy demands. A key feature of RIA is its consideration of the potential economic impacts of regulatory proposals.

3. This document has been drafted to support the development of Regulatory Impact Analysis (RIA) pilot projects in the context of the Good Governance for Development (GfD) in Arab countries Initiative. The GfD is a regional initiative launched by Prime Ministers and Ministers from 18 Arab countries at a ministerial conference at the Dead Sea on 2005. It is aimed at contributing to the modernisation of public governance in the Arab region, with initial support from the Organisation for Economic Cooperation and Development (OECD) and the United Nations Development Programme's (UNDP) Programme on Governance in the Arab Regional (POGAR).

4. Within the framework of the GfD Initiative, different Working Groups focus on several topics bringing together country officials and experts to build up policy dialogue, capacity building and exchange of experiences and ideas. The Working Group IV includes interrelated issues on public-private partnerships, public service delivery and regulatory reform. After more than two years of work, a solid network to enrich policy dialogue has been established. This has offered a dynamic forum in which concrete policy options for the improvement of governance in relation to regulatory policy have been elaborated.

5. The introduction of Regulatory Impact Analysis is an essential tool for regulatory quality. RIA has raised interest among Arab countries as an initiative to improve regulatory policy making. In the framework of the GfD Initiative, Arab participants together with the OECD are developing a framework to undertake pilot activities to explore the use of this policy tool within their regulatory systems. This paper forms part of this collective effort, but can be a point of reference in other regions and countries. In the future, the aim is to produce a general toolkit for policy makers which might be used to consistently build a framework to commence RIA implementation.

6. It is intended that the RIA pilot projects would be supported by the OECD Secretariat but implemented by the relevant Arab country. This autonomy will allow for the adaptation of RIA to each country's specific circumstances and the continuity of its use when the pilot process is completed. In order to capture the benefits of policy dialogue, at least one OECD partner with experience in RIA would provide guidance,

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[1]   This paper has been prepared by Delia Rodrigo and Pedro Andrés Amo, Policy Analysts from the OECD Secretariat. For further questions and comments please contact Pedro Andrés Amo (pedro.andresamo@oecd.org, +33-(0)1-45249611) or Delia Rodrigo, (delia.rodrigo@oecd.org, +33-(0)1-45241653). Additional contributions were made by Ahmet Korkmaz, Gregory Bounds, Sophie Richter-Devroe and Josef Konvitz, OECD Regulatory Policy Division.

expertise and/or resources. This approach is not new and some development institutions have provided concrete examples and lessons which have been drawn upon.

7. This is a living document and is part of a series of papers drafted by the OECD Secretariat. The previous publication was the *Policy Brief on Tools to Initiate RIA* that framed the 10 OECD principles in decision making and posed questions to policy makers of the different Arab countries to self assess their position and possible first steps before RIA implementation. The current paper moves further and expands the discussion on the building blocks of RIA, especially in relation to the necessary institutional framework and resources.

1.1. The structure of this paper

8. The paper draws on the work of the OECD which has published extensively on the RIA practices of OECD members. This includes the 23 country reviews published under the OECD Horizontal Programme of Regulatory Reform including one on Russia as a non member country. In addition, the paper draws upon and references relevant literature covering different aspects of RIA design and implementation including case studies and research papers. It draws upon documentation from international technical analysis prepared the World Bank, the Centre on Regulation and Competition of the University of Manchester, DfID, Jacobs&Associates and other consulting firms. Examples of how countries have succeeded in designing RIA are referenced through the guide.

9. The paper is divided into seven sections, which together address the fundamental elements for the development of an RIA framework.

- Chapter 1 – Establishes the context and the structure of this paper.

- Chapter 2 – Provides an introduction to the concept of RIA. It highlights the important components drawing on the OECD reference checklist for regulatory decision making. Examples of RIA programs adapted to the circumstances of particular countries are provided.

- Chapter 3– Outlines the expected benefits from implementing RIA as well as potential obstacles. It draws on the ten *best practice* principles for RIA identified by the OECD in 1997.

- Chapter 4 – Considers the necessary institutional conditions for supporting the conduct of RIA. It discusses the integration of RIA in the decision making process from a legal and practical perspective.

- Chapter 5 –Raises issues in relation to the co-ordination and management of RIA through the establishment of an institutional framework. It explores possibilities of targeting RIA depending on policy priorities and also discusses methodological issues such as strategies for data collection and processes for public consultation.

- Chapter 6 – Discusses important factors for ensuring the quality of RIA including training of practitioners, developing technical guidance and communicating outcomes to stakeholders.

- Chapter 7 – Provides concluding observations including pointers to the next steps that countries may take to concentrate the guidance provided in this paper. It provides some recommendations about initial measures that countries may undertake to support RIA such as stocktaking regulation and identifying priority areas for review.

10. Attached to the paper are a series of annexes on pilot projects and experiences of countries from the start up phase of establishing RIA. It is thought that it will help practitioners to have reference to practical examples from a number of countries. As a complementary exercise, specific questions are included aimed at assisting policy making officials to reflect on how would be best to prepare to initiate and establish RIA.

CHAPTER 2. REGULATORY IMPACT ANALYSIS: AN INTRODUCTION

11. The systematic conduct of RIA underpins the capacity of OECD governments to ensure that regulations are effective and efficient. Since the inception of the method in 1974, the use of RIA has become widespread among member countries. Figure 1 illustrates that 30 years later the number of OECD countries that require RIA of new regulatory proposals has grown to 26. The approach of each country to RIA will vary to some extent, however, there are certain elements that remain consistent to the methodology and that should be understood when considering the implementation of an RIA programme.

12. This chapter sets out to provide an introduction to the concept of RIA. It highlights the important components drawing on the OECD reference checklist for regulatory decision making. Examples of RIA programs adapted to the circumstances of particular countries are provided.

Figure 1.   Trend in RIA adoption Across OECD countries (number of countries)
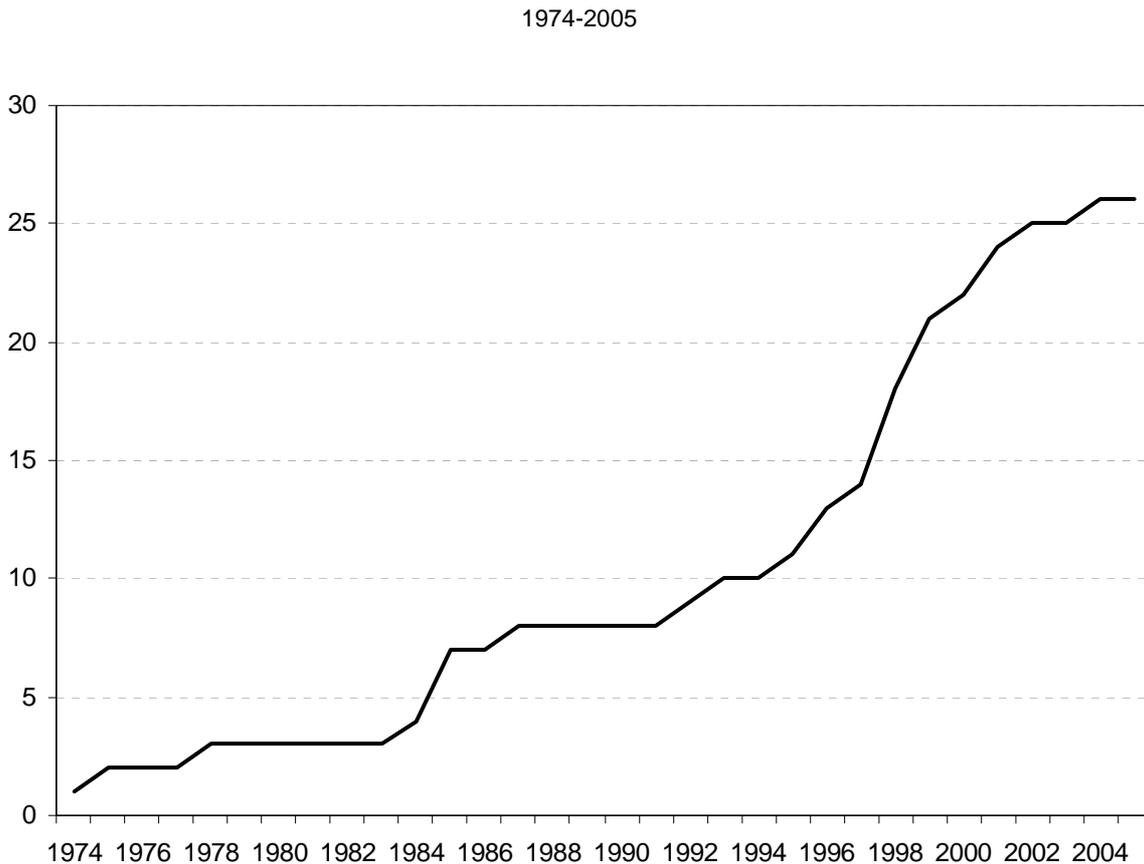
1974-2005

Source: OECD (2006), Quality Indicators of Regulatory Management Systems, Occasional Paper (Draft), Paris.

13. In 1995 the Recommendation of the Council of the OECD on Improving the Quality of Government Regulation produced the *OECD Reference Checklist for Regulatory Decision-Making* (see Box 1). The checklist steps through a number of the relevant questions that policy makers should ask themselves when evaluating whether or not to respond to a perceived policy problem with regulation. Taken together, the questions assist policy makers to think through the implications of proposed regulations and to determine that the proposed regulatory response (if it proceeds) is likely to be efficient and effective.

14. RIA is an institutionalised model for analysis that draws from the same analytical basis as the checklist. In its practical application RIA commences with an analysis and articulation of the problem which creates the context for regulation and proceeds through an evaluation of costs and benefits including a consideration of the processes for the implementation of the regulatory action. As an aid to decision making RIA includes an evaluation of possible alternative regulatory and non regulatory approaches with the overall aim of ensuring that the final selected regulatory approach provides the greatest net public benefit.

Box 1. The OECD Reference Checklist for Regulatory Decision-Making

1. Is the problem correctly defined?

The problem to be solved should be precisely stated, giving evidence of its nature and magnitude, and explaining why it has arisen (identifying the incentives of affected entities).

2. Is government action justified?

Government intervention should be based on explicit evidence that government action is justified, given the nature of the problem, the likely benefits and costs of action (based on a realistic assessment of government effectiveness), and alternative mechanisms for addressing the problem.

3. Is regulation the best form of government action?

Regulators should carry out, early in the regulatory process, an informed comparison of a variety of regulatory and non-regulatory policy instruments, considering relevant issues such as costs, benefits, distributional effects and administrative requirements.

4. Is there a legal basis for regulation?

Regulatory processes should be structured so that all regulatory decisions rigorously respect the "rule of law"; that is, responsibility should be explicit for ensuring that all regulations are authorised by higher-level regulations and consistent with treaty obligations, and comply with relevant legal principles such as certainty, proportionality and applicable procedural requirements.

5. What is the appropriate level (or levels) of government for this action?

Regulators should choose the most appropriate level of government to take action, or if multiple levels are involved, should design effective systems of co-ordination between levels of government.

6. Do the benefits of regulation justify the costs?

Regulators should estimate the total expected costs and benefits of each regulatory proposal and of feasible alternatives, and should make the estimates available in accessible format to decision-makers. The costs of government action should be justified by its benefits before action is taken.

7. Is the distribution of effects across society transparent?

To the extent that distributive and equity values are affected by government intervention, regulators should make transparent the distribution of regulatory costs and benefits across social groups.

8. Is the regulation clear, consistent, comprehensible and accessible to users?

Regulators should assess whether rules will be understood by likely users, and to that end should take steps to ensure that the text and structure of rules are as clear as possible.

9. Have all interested parties had the opportunity to present their views?

Regulations should be developed in an open and transparent fashion, with appropriate procedures for effective

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and timely input from interested parties such as affected businesses and trade unions, other interest groups, or other levels of government.

10. How will compliance be achieved?

Regulators should assess the incentives and institutions through which the regulation will take effect, and should design responsive implementation strategies that make the best use of them.

Source: OECD (1995), *The 1995 Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*, Paris.

15. RIA is a key tool for setting out detailed information about the potential effects of regulatory measures including economic and social costs and benefits. This systematic process of questioning at the beginning of the policy cycle facilitates necessary reflection on the important range of details to be taken into account when designing and implementing regulation. As an example, one important element is the determination of the responsibilities that will be allocated to different government agencies for enforcement and compliance. To ensure the effectiveness of a regulatory activity, it is vital to know how the proposed regulation will be correctly enforced and understand the capacity of affected parties to comply with it. At the final stage of the policy process, after the regulation is operable, an RIA process should include an evaluation of whether regulations are operating in the manner that was expected. By strengthening the transparency of regulatory decisions and their rational justification, RIA contributes to strengthening the credibility of regulatory responses and increasing public trust in regulatory institutions and policy-makers.

2.1. Definition of Regulatory Impact Analysis

16. RIA is a systematic decision tool used to examine and measure the likely benefits, costs and effects of new or existing regulation. The implementation of RIA supports the process of policy making by contributing valuable empirical data to policy decisions, and through the construction of a rational decision framework to examine the implications of potential regulatory policy options.

17. The overall aim of RIA is to assist governments to make their policies more efficient. This is an important factor in responding to the impact on modern economies of open international markets and budgetary constraints and the consequences of competing policy demands. A key feature of RIA is its consideration of the potential economic impacts of regulatory proposals.

18. In order to maximise the benefits of using RIA, the approach should have a long term perspective. An effective inclusion of this tool into the regulatory processes requires general acceptance from the public and the private sectors. This objective requires the support of a well planned and intensive communication policy, giving opportunities to all possible stakeholders in the process of defining the model to apply RIA and the expected outcomes. In practice, the process of RIA should include consultation with stakeholders and citizens to define more precisely the effects of regulation on them.

19. The use of RIA has expanded rapidly throughout the OECD in the last decade. The successful implementation of RIA in OECD countries has generally been done step by step, concentrating on specific pieces of regulation and then expanding to the whole regulatory process. At the earliest stages of the regulatory cycle, when the regulatory objectives are designed but many alternatives of action are within reach, RIA has proved to be a strong support to regulatory decision. RIA is not a substitute for policy decision-making but contributes to its design by providing solid information, and a consistent and robust justification for government action.

20. Continuous changes to RIA are still being developed. The RIA learning process is cumulative and most experienced countries such as United States, Canada, United Kingdom and Australia are introducing

important elaboration of the method and scope of RIA. Particular refinements that are becoming more widespread are the inclusion of risk assessments, evaluation of the impacts on competition and improvements to data collection methodologies.[2]

21. While the best practice conduct of RIA is recognised as including a number of key elements, there is no single "correct" model for the implementation of RIA systems. The appropriate path to regulatory reform will depend on the political, cultural and social characteristics of the individual country concerned.[3] Therefore this document *Building a Framework for Conducting RIA: Tools for Policy Makers* should be used on a case-by-case basis and will be subject to further development.

2.2. Constitutive elements of RIA

22. The process of completing a regulatory impact assessment is a rational policy process that should be undertaken as a series steps. The complexity and depth of the analysis that is required is determined by the importance and size of the impact of the policy issue. Many guidance documents are available on how to complete an RIA, but in summary, the steps of an RIA include (see chart 1):

1. Definition of the policy context and objectives, in particular the systematic identification of the problem that provides the basis for action by government.

2. Identification and definition of all possible regulatory and non regulatory options that will achieve the policy objective.

3. Identification and quantification of the impacts of the options considered, including costs, benefits and distributional effects.

4. The development of enforcement and compliance strategies for each option, including an evaluation of their effectiveness and efficiency.

5. The development of monitoring mechanisms to evaluate the success of the policy proposal and to feed that information into the development of future regulatory responses.

6. Public consultation needs to be systematically incorporated to provide the opportunity for all stakeholders to participate in the regulatory process. This provides important information on the costs and benefits of alternatives, including their effectiveness.

23. To be effective the process of undertaking the RIA should be integrated into the policy process so that the process of reasoning, informed by empirical information is available to assist the policy makers in making a decision. The clear benefit from decisions that are evidence-based, is that it increases the likelihood that the proposed regulatory response will achieve the policy objectives without the imposition of unnecessary or unintended economic costs.

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[2]   OECD (2004b)

[3]   Rodrigo (2005), p. 3

Chart 1. Elements integrating RIA

The process of Regulatory Impact Analysis

Definition	⬦	Policy objectives	Policy context
Identification	⬦	Regulatory Options	
Assessment	⬦	Costs	Benefits	Other Impacts
Consultation	⬦	Involving Stakeholders	
Design	⬦	Enforcement, Compliance and monitoring mechanisms	

DECISION   MAKING   PROCESS
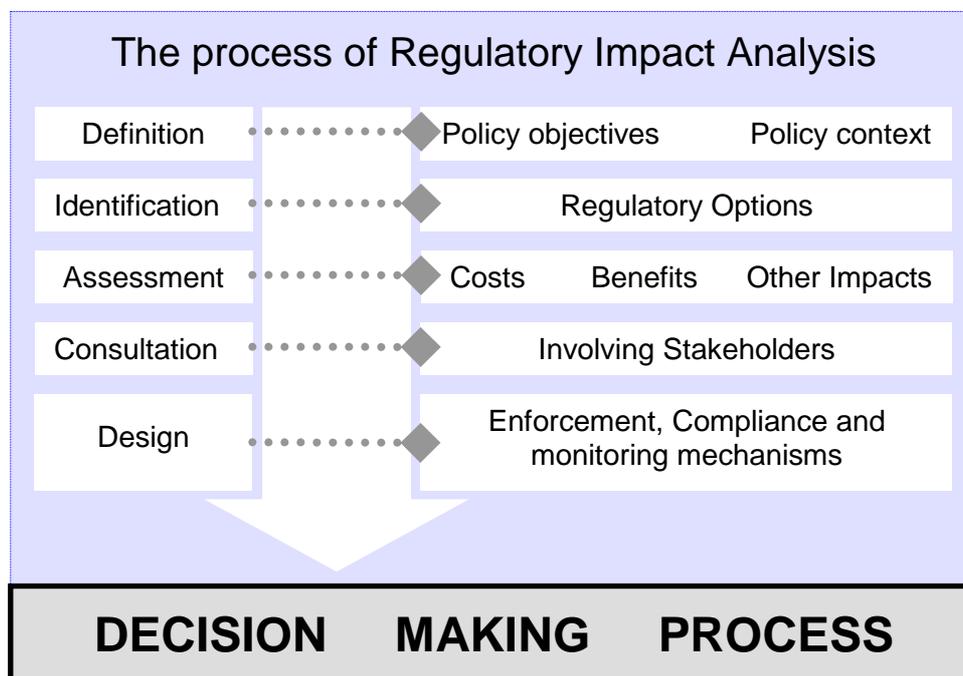
2.3. Typology of RIA

24. The experience of OECD countries suggests that RIA can place different emphasis on elements of the assessment (see Box 2). Countries have chosen to apply attention to different issues, setting priorities according to their policy interest and their capacities to measure different socio-economic regulatory impacts.

Box 2. Types of RIA in OECD countries

There are different approaches taken to regulatory impact assessment depending on the focus or the field of work. Each country's policy objectives have encouraged differentiated priorities:

• The Netherlands has adopted a Business Effects Analysis, which is focused on the impacts arising from businesses.

• The Czech Republic adopted Analysis of Financial Impacts and Impacts on the Economy, which has expanded to cover other socio-economic impacts. Implementation of a formalised RIA into the law-making process is being prepared.

• France has General Impact Analysis with specific addresses of employment and fiscal impacts.

• Austria and Portugal have Fiscal Analysis, which focus on the direct budget costs for government administration.

• Finland has a wide range of partial impact analyses covering budget, economy, organisation and manpower, environment, society and health, regional policy and gender equity. These partial analyses are not integrated, and are carried out by various ministries.

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25. Policy priorities that have been the focus of attention include, competition, market openness, investment environment, working conditions and employment, public finance, health, environment and poverty. Consistent to each of these models is the fact that policy-makers use RIA to try to measure the costs and benefits of regulatory and non regulatory actions.

2.3.1. Two step approach

26. Different RIA processes which vary in the nature and extent of analysis can be observed among countries. Some countries have a process which differentiates between a full RIA and a screening RIA. This two step approach may be useful for countries that do not have sufficient human and technical resources to undertake fully developed RIA for all regulation.

27. A two step approach involves a preliminary RIA to filter which regulations should be subject to a detailed RIA. The filter would be applied to all/most regulatory proposals (see Box 2a), and a full RIA (see Box 2b), applied only to certain significant proposals, on the basis of defined thresholds. These thresholds may be expressed in monetary terms of costs and benefits implications (e.g. in Korea for regulatory proposals whose costs exceed 10 billion won, US$100 million in the US, $50 million in Canada) or on issues such as the extent of the impact on competition, market openness, employment, productivity, innovation, investment as well the number of people affected by the proposed regulation. In some cases the fact that a regulation is required for compliance with international standards is taken as a factor for deciding that a detailed RIA should not be applied.

28. Depending on the obstacles, a simple approach to initiating an RIA programme may be warranted. Governments need to seek flexibility to carry out impact assessments and be realistic in terms of the financial and human resources that are required. A simple approach can help to establish a basis for impact analysis that can be expanded once the capacities have been strengthened and the benefits of such procedure have been identified.

Box 2a. Screening RIA in Ireland	**Box 2b. Full RIA in Ireland**
A Screening RIA should be included as part of any Memorandum for Government seeking permission to regulate where regulatory proposals do not meet the criteria for a full RIA. It should contain the following:	**1. Statement of policy problem**
	Description of background to the issue and identification of policy problem to be addressed
1. Description of policy context, objectives and options (for example different forms of regulation):	**2. Identification and description of options**
i) A brief description of the policy context	To include no action where relevant and at least one approach which is either a non-regulatory approach or an alternative form of regulation to command-and-control (e.g. self-regulation, co-regulation, etc)
ii) An explicit statement of the objectives that are being pursued	

iii) An identification of the various policy options or choices which are under consideration

2. Identification of costs, benefits and other impacts of any options which are being considered

i) Identification of likely costs, and estimation of their magnitude and to whom they fall

ii) A description of expected benefits and where these will fall

iii) Verification that there will not be disproportionately negative impacts on

   a) National competitiveness

   b) The socially excluded or vulnerable groups

   c) The environment

And that regulation do not

   d) Involve a significant policy change in an economic market

   e) Impinge on the rights of citizens

   f) Impose a disproportionate compliance burden on third parties

   g) Other criteria to be decided from time to time by government

iv) Summary of costs, benefits and impacts of each option identified in 1, identifying preferred option where appropriate

3. Consultation. Summary of the views of any key stakeholders consulted must include any relevant consumer interest and other Government Departments

4. Review. Identify mechanisms for review and specify indicators which would demonstrate the success of the policy proposal

3. Impact analysis including costs and benefits of each option

i) Tangible cost should be quantified as far as is possible including compliance costs. Effects on national competitiveness should be identified and where possible estimated. Any negative social and environmental impacts should be identified and where possible quantified.

ii) Where costs are extremely significant, formal cost-benefit analysis to be conducted to include competitiveness, social and environmental impacts

4. Consultation

A formal consultation process to be held with a minimum of 6 weeks for responses. Views expressed during this process to be summarised and addressed

5. Enforcement and compliance for each option

A detailed description of how enforcement is going to be achieved, an outline of any particular compliance issues and how these are to be addressed

6. Review

i) A description of how each policy approach would be reviewed

ii) Identification of performance indicators for measuring the success of each option

7. Summary of the performance of each option and identification of recommended option where appropriate

Source: Department of the Taoiseach, Ireland, 2005

CHAPTER 3. EVALUATING THE POTENTIAL OF RIA

29. Based on the same principle justifying the use of RIA to assess impacts of regulatory tools, policy makers should evaluate the benefits and costs of improving regulatory quality through a potential implementation of RIA, comparing these with the results of other possible reforms. RIA implementation should be part of a broader regulatory reform initiative. The evaluation proposed could help foreseeing challenges and risks, and allocate carefully limited efforts throughout the reform process. This chapter orientates the evaluation process by giving references to countries' experiences and challenges. A consistent evaluation should be developed taking into account domestic characteristics of the concerned regulatory system.

30. The introduction of RIA is a challenging goal from an institutional and financial point of view. Therefore, there has to be general agreement on two key elements: when to commence RIA implementation and at what pace should implementation take place. Once consensus is reached within the public administration, the responsibilities must be allocated in a co-ordinated way in order to facilitate consistency and coherence.

31. Most countries require that the introduction of any new any law includes a clear statement of the purpose and intent of the law; often, this process will include *ad hoc* instruments to assess regulatory and legislative impacts. These types of assessments practices may provide the basis for the construction of more systematic programmes and evolve into sound RIA systems. However, this requires commitment from the government to what can be an intricate and lengthy learning process. Even though there are short and medium term objectives to RIA, the real benefits arrive through its long term application.

32. Thus, to achieve RIA objectives, a long term strategy independent and resistant to changes in the political cycle should be drawn up and maintained in a flexible way. When the process of defining this strategy commences, reflection should be undertaken on the condition of the regulatory framework. In annex 3 of this document there is a simple questionnaire to begin mapping the start up process of RIA implementation. Constant stocktaking of regulatory and institutional frameworks and innovations will be continuously nurturing RIA strategies. Different capacity building initiatives should be supporting this trend.

3.1. Benefits of Regulatory Impact Analysis

33. In the last three decades there have been paradigmatic changes concerning regulation. Modern states face important challenges when governing and promoting the welfare of citizens in complex, open and diverse societies and economies. From the attempts to deepen the understanding of the nature of regulation and deregulation in the 1970s, the systems of regulatory policy tools to overcome these challenges have been expanding their capacity and reach. During the 1980s and 1990s, the core work of governments was focused on regulatory management and reform. More recently, the goals have been set on a more complex forward-looking agenda with the aim of improving regulatory quality and developing consistent regulatory policy.

34. During this process, policy-making in OECD countries has been improved and has increasingly become based on more empirical analysis. Regulatory policy tools, such as RIA, have improved evidence-

based analysis and transparency, facilitating more justified policies and assisting in legitimating regulators' decisions. At the same time they have granted more flexibility to the decision making process confronting rapid changing environments.

35. As regulatory environment is undeniably recognised as one of the factors related to the economy's competitiveness and attractiveness, ways to improve it are constantly sought. Regulatory policy tools such as administrative simplification, alternatives to regulation and RIA are used to make policies more efficient and to improve regulatory quality and good governance. Such improvements can give more stability, trust and strength to governments, private sectors and civil societies.

36. The use of RIA has proven to be useful for governments that have identified outputs resulted from the assessment of costs and impacts (see Box 3). According to evidence-based results, RIA i) enhances regulators self-conscience of their policies and acts; ii) facilitates coordination between different public policies interrelated by the use of regulation and regulatory institutions; and, iii) improves the awareness and the participation of the general public in the regulatory process through more transparency, consultation and improved public policy accountability. The two immediate consequences might be on the one hand a more stable recognition and generalised acceptance of the performance of policy makers, and thus on the other hand a more complete compliance with regulation.

Box 3. RIA main objectives and outputs concerning regulatory costs and impacts

Governments that use RIA have identified four main objectives concerning regulatory costs and impacts:

1. **Improve understanding of the real-world impacts of government action, including both the benefits and the costs of action.**

RIA can inform the decision-making process by assessing the efficiency of a policy and the cost-effectiveness of its instruments. By improving the basis used to compare the costs and benefits of different regulations, RIA can help to establish regulatory priorities across regulations and regulatory areas. Allocating resources from less-efficient regulations to more-efficient regulations will improve effectiveness and reduce the cost of government action.

2. **Integrate multiple policy objectives.**

RIA can be used as an integrating framework in which to determine the impacts of policies and to reveal linkages among policies. It can give decision-makers the capacity to weigh trade-offs. In this sense, RIA is not only an analytical tool, but a co-ordination tool that can bring different interests together. Market openness and competition criteria are important elements to include in RIA.

3. **Improve transparency and consultation.**

RIA exposes the merits of decisions and the impacts of actions. For this reason, RIA is closely linked to processes of public consultation.

4. **Improve government accountability.**

RIA can improve the involvement and accountability of decision-making at ministerial and political levels. It fosters an understanding of the impacts policies will have and demonstrates how government decisions benefit society. By emphasising openness, RIA favours policies that serve the interests of society as a whole, rather than just those of special groups.

Source: OECD (1997), *Regulatory Impact Analysis: Best Practices in OECD Countries*, Paris

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3.2. Challenges and risks

37. There are several challenges common to most countries when starting to implement RIA:

    1. Limited knowledge and acceptance of RIA within public institutions and civil society. A particular challenge to RIA is a rigid regulatory bureaucracy and vested interests which oppose reform.

    2. Insufficient institutional support and staff with appropriate skills to conduct RIA.

    3. Lack of reliable data necessary to ground RIA.

    4. Lack of a coherent, evidence based and participatory policy process.

    5. Opposition (or the absence of support) from politicians concerned about losing control over decision-making.

38. These challenges need to be taken into account from the beginning, and kept in mind as the road map for RIA implementation is defined and followed.

3.3. RIA in developing countries

39. Whereas in most OECD countries RIA has been integrated into the regulatory process, some developing countries have followed the same path. Although differences in RIA implementation remain between countries, the experience in developing countries is more spread than expected[4]. In any case the methods are generally incomplete and rarely applied systematically across policy areas. RIA is perceived as an expensive tool that might not produce the expected outcomes in the short term.

40. The demand for introducing RIA in developing countries, however, is growing. In the context of the OECD-APEC (*Asia Pacific Economic Cooperation*) cooperation, some countries have made efforts to make self-assessments to evaluate their respective regulatory reform efforts. The APEC-OECD Integrated Checklist on Regulatory Reform contains, among others, a section on regulatory policies, those designed to maximise the efficiency, transparency and accountability of regulations based on an integrated rule-making approach and the application of regulatory policy tools and institutions. Some of the questions refer, directly or indirectly, to Regulatory Impact Analysis (see Box 4).

Box 4. The APEC-OECD Integrated Checklist on Regulatory Reform

The APEC-OECD Integrated Checklist on Regulatory Reform is a voluntary tool that member economies may use to evaluate their respective regulatory reform efforts. Based on the accumulated knowledge of APEC and the OECD, the Checklist highlights key issues that should be considered during the process of development and implementation of regulatory policy, while recognising that the diversity of economic, social, and political environments and values of member economies require flexibility in the methods through which the checklist shall be applied, and in the uses given to the information compiled. The regulatory policy section contains key questions related to Regulatory Impact Analysis:

B1 To what extent are capacities created that ensure consistent and coherent application of principles of quality regulation?

B2 Are the legal basis and the economic and social impacts of drafts of new regulations reviewed? What

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[4]   Results of a survey of the state of awareness and use of RIA in 40 developing and transition economies have been published by the University of Manchester's Centre on Regulation and Competition (see Kirkpatrick, Parker and Zhang, 2003; Kirkpatrick and Zhang, 2004).

performance measurements are being envisaged for reviewing the economic and social impacts of new regulations?

B3 Are the legal basis and the economic and social impacts of existing regulations reviewed, and if so, what use is made of performance measurements?

B4 To what extent are rules, regulatory institutions, and the regulatory management process itself transparent, clear and predictable to users both inside and outside the government?

B5 Are there effective public consultation mechanisms and procedures including prior notification open to regulated parties and other stakeholders, non-governmental organisations, the private sector, advisory bodies, accreditation bodies, standards-development organisations and other governments?

B6 To what extent are clear and transparent methodologies and criteria used to analyse the regulatory impact when developing new regulations and reviewing existing regulations?

B7 How are alternatives to regulation assessed?

B8 To what extent have measures been taken to assure compliance with and enforcement of regulations?

Source: OECD (2005), APEC-OECD Integrated Checklist on Regulatory Reform: Final Draft, OECD, Paris

41. There have been several cases of pilot projects promoted by development agencies, such us DfID (*UK Department for International Development*), and others supported by academic institutions, as the Centre on Regulation and Competition of the University of Manchester, and the World Bank. Pilot projects should be seen as a practical method to test RIA on concrete examples in the regulatory system with the aim of then later broadening and generalising its use. (See Annex 1)

3.4. Good practices for introducing effective RIA systems

42. If countries are to integrate a systematic use of RIA, lessons learnt from international experience could provide an invaluable input to their project design. OECD countries have gone a long way reflecting on institutional and contextual components of regulatory decision-making. The good practices identified by the OECD for an effective introduction of RIA (see Box 5) can serve as a base to build an initial framework for RIA introduction in countries where there is not yet a systematic regulatory impact assessment.

Box 5. Introducing effective RIA

The following key elements are based on good practices identified in OECD countries:

1. **Maximise political commitment to RIA.**

2. **Allocate responsibilities for RIA programme elements carefully.**

3. **Train the regulators.**

4. **Use a consistent but flexible analytical method.**

5. **Develop and implement data collection strategies.**

6. **Target RIA efforts.**

43. The next section provides a framework for initial considerations to avoid obstacles and encourages a self-assessment to identify the real possibilities for RIA implementation. The following sections on initial elements to consider for RIA, as well as RIA design and implementation are based, mostly, on these OECD practices and concrete examples.

CHAPTER 4. PRELIMINARY CONSIDERATIONS FOR INTRODUCING RIA

44. Before embarking on designing and implementing an RIA process, policy-makers involved with regulatory management and policy issues need to consider whether there are basic pre-conditions for successful introduction and to what extend the existing institutions can provide a good framework for implementation. They should evaluate which economic sector and piece of legislation shows the greatest need and potential for benefiting from RIA, and how to integrate the possible results into the decision-making process.

45. This requires an evaluation that may be conducted differently depending on the specific objectives. The time invested in such an evaluation is worthwhile because it clearly identifies what can be done and under what circumstances. Even if RIA will be adapted to specific conditions, there are some common issues to consider: the level of political commitment needed to introduce RIA, the constitution of a team inside the administration looking at the particularities of the institutional setting and the way RIA can make a difference in the decision-making process, if integrated as early as possible. In Annex 3, a simplified questionnaire can help authorities to start defining these elements.

4.1. Ensure political commitment

46. Although initially RIA could be introduced in the format of pilot projects, it will eventually need to be endorsed and supported with a long term perspective by a high level political and legal mandate.

4.1.1. Where to find political support

47. Finding political support implies also to identify key stakeholders that inside the administration acknowledge the importance to introduce RIA and are able to actively participate in the initial phase. For RIA to succeed, the most obvious stakeholders include:

- The institution in charge of legal advice to the President and/or Prime Minister

- Cabinet of the Presidency and/or Prime Minister

- The Ministry of Justice

- The Ministry of Finance

- The Ministry of Economy and/or Trade

- Legal departments of the Ministries participating in the design and implementation phase

48. This group of insiders could also be supported by outside stakeholders, in particular representatives from business associations and academia, who can provide advice and help to disseminate the knowledge on RIA and the way their interest could be heard at an early stage of the decision-making process. General public support could be promoted through campaigns to raise awareness and build trust through conferences, general media and other means of communication.

4.1.2. Legal mandate for RIA

49. To start the implementation programme, government commitment to the use of RIA when making regulations and a clear statement that it would develop an RIA system are needed. Eventually, if the design phase is a success, a high-level political mandate could set out basic standards and principles of quality regulatory policies. Ideally, a law or decree should specify the coverage and method of RIA to be used, as it is the case in most OECD countries.

50. As it can be observed in Box 6, the sources of legal support for RIA vary across countries. They could be preceded by other decrees or laws dealing with similar issues. For example a recently approved decree in Lebanon on Environmental Impact Assessment of new proposed regulation could be used as a precedent to establish solid legal basis.

Box 6. Legal bases for RIA in selected OECD countries

A legal basis for an RIA system is a good indicator by which we can understand how well the RIA system can be implemented. The OECD countries have adopted various legal forms such as a Law, Presidential Decree, Executive Order, Cabinet Directive, Guidelines of the Prime Minister, etc. Based on their experience, legal forms could be mainly classified into four groups. It is believed that the higher the legal basis, the more powerful is its implementation. However, implementation also depends on historical background, administrative culture and the commitment of high level officials.

• Based on a law: the Czech Republic, Korea and Mexico

• Based on a presidential order: U.S.A

• Based on a prime ministerial decree or guidelines of the prime minister: Australia, Austria, France, Italy and Netherlands

• Based on a cabinet directive, cabinet decision, government resolution, policy directive, etc.: Canada, Denmark, Finland, Ireland, Japan, New Zealand, Norway, Poland, Germany, Portugal, Sweden and the United Kingdom.

Source: OECD (2004b)

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51. In the last few years, the trend in OECD countries has led to a wider implementation of RIA as a legal requirement. There was a clear majority of countries supporting the implementation of RIA by law in 2005. The legal requirements have also become more demanding in terms of the results and the justification of costs and net benefits from the application of regulation (see figure 2).

Figure 2.   Regulatory Impact Analysis: Requirement for RIA

Recent trends 1998-2005
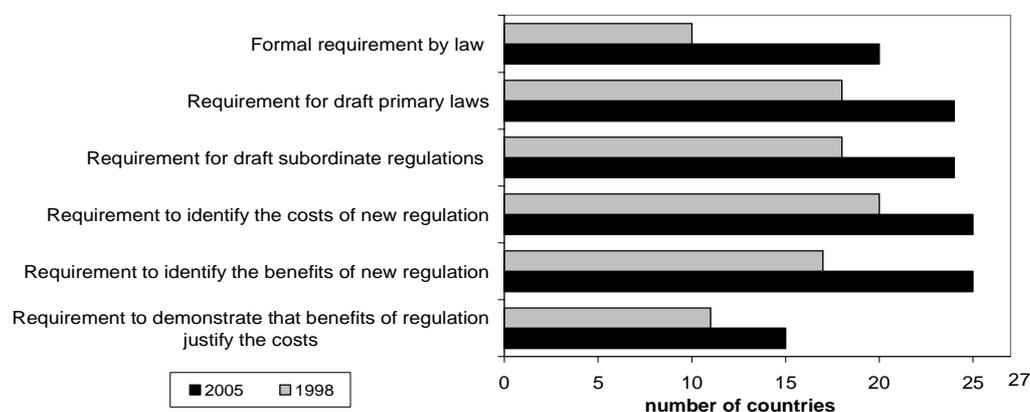
Source: OECD (2006), *Quality Indicators of Regulatory Management Systems*, Occasional Paper Draft.

52. Legal support should be accompanied by a high level commitment to the RIA system, which is necessary for successful implementation. In some countries, for instance, RIA can be sent to Congress so legislators can better judge the quality of new laws and regulations. Another way to express political commitment to RIA and create ownership is to make it signed directly by a Minister or a Deputy Minister, showing political responsibility of this document.

4.2. Build an RIA team inside the administration

53. The implementation of RIA depends mainly on the specificities of the institutional set up and the way an RIA team can be strengthened inside the administration.

4.2.1. Institutional setting for RIA

54. There is not a unique institutional model for RIA implementation. Among OECD countries there is a great variety of institutions sharing different responsibilities and working on the bases of different methodologies.

55. In general terms, a simple classification could differentiate between centralised and more decentralised institutional set ups:

- Centralised institutional frameworks rely often on an oversight body for regulatory reform (see Box 7) located at the centre of government. Its powers are supported by either the Prime Minister's Office or the budgetary decision-making institution, *e.g.* the Ministry of Finance.

- Decentralised institutional framework does not rely on a specific oversight body, but coordination between regulators is essential to obtain policy objectives. Responsibilities are

normally shared by different regulatory institutions and line Ministries, which use extended consultation mechanisms to find agreements based on consensus.

Box 7. Central oversight bodies for regulatory reform

The establishment of central oversight bodies, supported by ministers with whole-of-government responsibilities, is one of the most visible signs of the integration of regulatory reform into government management systems. Regulatory oversight bodies can also be supported by other reform-oriented groups, such as ministries of finance and competition and trade authorities. Private-sector engines of reform, such as advisory bodies or private initiatives, can also be helpful in identifying priorities, proposing specific reforms and providing advocacy for reform in general.

A principal role of oversight bodies is to review regulations and improvements in regulatory quality. A central pillar of regulatory policy is the concept of an independent body that can assess the substantive quality of new regulation and work to ensure that ministries achieve the goals embodied in the assessment criteria. RIA is the most important mechanism for this role. To be effective, the oversight body must be able to question the quality of RIA and regulatory proposals. This is sometimes referred to as a "challenge function". An oversight body needs the technical capacity to verify the impact analysis and the political power to ensure that its view prevails in most cases.

4.2.2. Who should be conducting RIA

56. Building a team to work on RIA is not an easy task, but is essential for the success of the implementation programme. An initial main objective for the staff working on the design of the RIA process should be to assess the resources in terms of existing capacities to undertake the RIA.

57. While some countries have relied on external consultants that have helped to carry out some of the components of the implementation phase, *e.g.* pilot projects or initial steps, it is important that the country develops a core team that has a "cross-functional" nature, *i.e.* involving individuals with different backgrounds and skills, and including members representing different aspects of the RIA programme.

58. RIA is a tool that requires technical expertise but also depends upon political support. Some of the key assets and expertise needed are:

- *Political*. This would help to provide leadership, advice and recommendations to achieve RIA's political objectives and address possible resistance to change.

- *Legal*. Essential to provide advice and recommendations with respect to the application and interpretation of legal instruments, multiple laws and jurisdictions.

- *Economic*. RIA estimates the economic costs of proposed regulations and using economic data for evidence-based analysis.

- *Communication*. This is important to manage internal and external consultations and organise the way the results should be communicated to the public.

59. Line Ministries would be responsible for conducting RIAs and a technical unit (part of an oversight body) would be supporting their work and assessing the quality of the analysis. It would be ideal to give the responsibility to specific experts from the Legal Departments of the Ministries concerned, who should also be supported by other colleagues who have experience in drafting law proposals.

4.3. Integrate RIA timely in the decision-making process

60. How can RIA make a difference if used in a systematic way? Part of the evaluation phase involves conducting a detailed analysis of the existing decision-making process. The answer should take into account the fact that RIA can provide valuable information for decision-making, which should be ready to be used as early as possible in the process.

61. RIA is a policy tool that helps government officials to make decisions. If the disciplines it brings are to become a routine feature of policy development, it has to be integrated into the policy-making process, but without substituting it (See chart 2).

62. Since RIA provides an assessment of regulatory alternatives, it is important to integrate it at an early stage of the process. In many OECD countries, RIAs are requested to be added to the first draft of a law proposal or amendment that is prepared by the Ministry or specific institution concerned. An RIA that was undertaken on time provides an initial round of exchange and communication about the possible effects that the piece of legislation may have once it is approved. The usefulness of a well-done RIA lies in the debate it may create, and to the capacity to inform decision-makers in a systematic manner without introducing unnecessary delays to the decision making process.

Chart 2. RIA in the policy making process
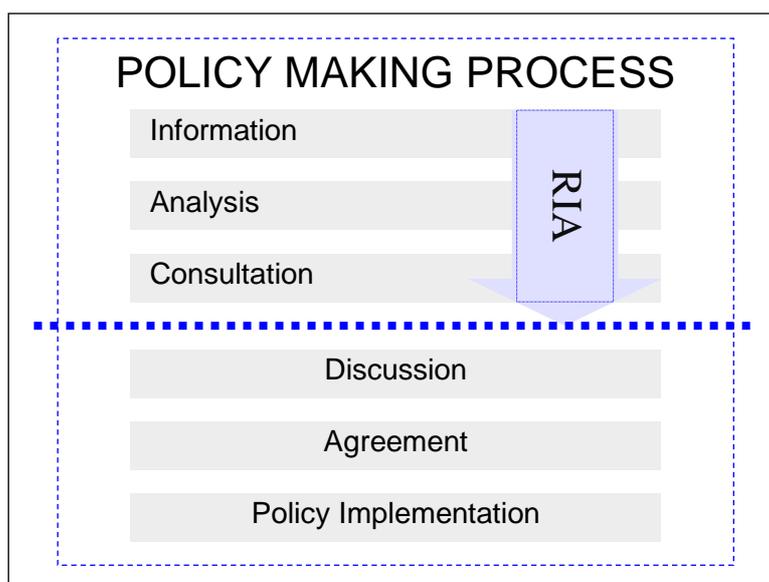
63. If RIA is adopted too late during the regulatory-legislative process, the results of the exercise could fail to be included as inputs of the policy making process. A sound analysis of the costs, risks and benefits of regulatory action at the right stage can help to reach pre-defined policy objectives. Only when RIA is timely applied, serious consideration of alternatives might take place. At the same time, if RIA is undertaken when discussions are too advanced, the risk of regulatory capture is higher and RIA can become a political tool to merely justify decisions, finally lacking of a rigorous method.

64. RIA should be planned dynamically. Authorities should avoid producing an immutable document once regulatory impacts have been estimated. New information could often be found during the regulatory and decision making process, even sometime after the regulation subject to examination has been put in practice. Completing the analysis with new data may help to bring appropriate amendments as well as improvements in the estimation of data for other regulation's RIA.

CHAPTER 5. DESIGNING THE RIA FRAMEWORK

65. Once pre-conditions have been mapped, the next phase involves designing an RIA process. The design phase involves examining each RIA component to determine whether it is feasible. Policy-makers should be able to identify issues that currently exist and could be used for RIA implementation, such as the way co-ordination mechanisms could be strengthened. The design phase should take into consideration the importance of targeting RIA efforts to get the maximum benefits, and how to make other parts of the administration and stakeholders participate in the RIA process.

66. The methodology and the use of data deserve special attention. Since RIA is an evidence-based tool, expectations should reflect the real capacities to undertake analytical assessments, making use of reliable economic data and choosing a flexible method for the exercise.

5.1. Co-ordination and management

67. RIA is a horizontal policy tool – it needs to be co-ordinated and carefully managed across the central ministries of government and other law making institutions, as for example independent regulators. While locating responsibilities among regulators improves "ownership" and integration into decision-making, individual ministries' interests or badly articulated mechanisms will present problems for coordination.

68. When regulations or legislations are proposed they should be accompanied by preliminary RIA reports undertaken by the institution initiating the proposal. An extended network will be scattered around the public administration working on RIA, but specialised in different issues depending on their field of work. If coordinating efforts are not sought, these units of work will most probably be isolated from each other. Innovative trends in some OECD countries go in the direction of consolidating these networks by creating informal mechanisms to share experiences and good practices among RIA experts at technical level. This kind of informal mechanisms should be complemented by some kind of horizontal committees, with a more political profile, to encourage information exchange and support during the learning process.

69. In OECD experience, in order to consolidate strong coordination, executive authority for regulatory impact assessment should not lie with the departmental units, but rather with a central body with a lead role at high political level whose role is to oversee the RIA process and ensure consistency, credibility and quality. This central body needs adequate authority and skills to perform this function. Experience suggests that the units are best located at the centre of government, such as the Ministry of Finance or the Prime Ministers' Office. This would indicate that regulatory quality is a high priority for the government and that reform is broad based with the specific goal of improving the quality of citizens' life.

70. Such a central support body is recommended for the commencement of RIA. A designated body, ideally with central responsibility for overseeing the regulatory reform agenda, should be entrusted with the coordination and management of the RIA implementation process. The main initiatives to be taken by this body could be (chronologically):

   1.   Contact all government departments and relevant offices dealing with law making to ask them to participate in the pilot RIA exercise;

2. Nominate a **working group of researchers and practitioners** to develop an initial RIA model used in the pilot projects;

3. Establish a **small RIA pilot steering group** with representatives from different professional backgrounds (depending on the legislation to be assessed, e.g. economists, environmentalists, etc) from those government departments and offices that agreed to participate in the pilot project, even private participation should be ensure to guarantee representation of all stakeholders. The role of this steering group would be to oversee the RIA, facilitate coordination and cooperate closely with the researcher on the report documenting the progress and results of the pilot project. It is particularly recommended in cases where the RIA is likely to involve the examination of issues that go beyond an individual department;

4. Establish **central support units** within the department[5], whose role would be to provide advice concerning effective methodologies, consultation mechanism etc.;

5. Chair and provide a **secretariat for the RIA pilot steering group**, enabling participants to exchange information and providing a focus for the project;

6. Provide an **officer as contact point between the departments** undertaking the RIA project pilots and the steering group;

7. Select **economic consultants** who could provide assistance to the departments during the conducting of the RIA project pilots, particularly with regards to methodology and data collection;

8. Monitor and control quality of RIA conducted (in RIA project pilot and thereafter). Promulgate the model of RIA including tools for evaluation and monitor compliance.

71. Quality can be promoted with the provision of guidelines (see below 6.1). Ensuring quality is a key element to guarantee that policy objectives are better reached through RIA implementation. The OECD experience shows that monitoring institutions offer quality control by providing basically three services to officials undertaking RIA: (i) consultation and technical assistance in drafting RIA, (ii) review of the individual RIA and (iii) stocktaking of general compliance with RIA by law makers. Accordingly, if the monitoring institutions are not independent of the agencies preparing RIA, the quality of RIA could be compromised.

72. Co-ordination of the RIA process is indispensable to align and monitor efforts at various levels. The necessary authority should be given to the bodies that assess the impacts of regulatory proposals. This process is not without tensions as a consequence of institutions that previously enjoyed a free hand to make proposals, suddenly finding themselves constrained by the requirement for an RIA, enforced by another central institution. Tensions may be particularly acute if the institution in charge of co-ordination and quality control is provided with a new power of veto over proposals.

73. If RIA is to be used, it is important that it is not seen as a brake on the regulatory activities of line Ministries or interpreted simply as an additional burdensome hurdle in the policy making process. The introduction of an RIA system requires that responsibilities for regulatory development are carefully allocated and Ministries engage seriously with the new system. Entrenched vested interests obstructing regulatory reform should be carefully managed; and civil servants encouraged to think creatively to overcome obstacles.

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[5] In the Netherlands a technical 'help desk' system was established to support all officials dealing with RIA.

5.2. Targeting and prioritising RIA efforts

74. Policy-makers should target RIA towards proposals that are expected to have the largest impact on society, and ensure that all such proposals are subject to RIA scrutiny. With limited resources and aiming at familiarising civil servants and stakeholders with the new process, efforts should concentrate on the most challenging regulatory areas. This is particularly relevant to initiate the process, as specific law proposals are chosen and their impacts are scrutinised with care.

75. As RIA is an activity requiring an important degree of expertise and responsibility, it is essential to precisely define the circumstances in which RIA should be needed and applied, either on primary or secondary legislation and national, regional and local level. It could be counterproductive that RIA targeting is decided based more on political motivations than on technical reasons.

76. One possible initial area for integrating RIA is, for instance, business licences or primarily legislation with a significant impact on business. Scope can be gradually expanded to secondary legislation and effects on other groups. In many developing countries, issues such as impact on small businesses, job opportunities, access to credit, impact on gender or indigenous people, etc. are of crucial relevance and can be integrated in the RIA process to make sure that the effects of legislation do not affect disproportionably different groups.

Box 8. Prioritisation in the pilot project in Uganda

Under the RIA framework being introduced in Uganda, policy-makers will need to specify whether their proposal will entail additional costs to small business, what any such costs are, and how much the typical small business sector is likely to have to pay. The pilot project in Uganda also encourages the government to look at distributional impact on tribes, religious groups, and the different regions of the country.

The local political objectives identified in Uganda correspond also to the phase of its economic development. The country focuses, for instance, in agriculture and fishing. It may be more appropriate for the Uganda RIA system to require officials to state that their proposals will not unnecessarily harm those sectors that the Government has selected for development as part of the Medium Term Competitiveness Strategy (MTCS) – its export-led growth strategy.

Source: Welch, Darren / Waddington, Richard (2005), Introducing Regulatory Impact Assessment in Developing Countries: The Case of Uganda, Bannock Consulting, London

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77. It is also possible to select areas of new legislation, but also to pick up specific areas of existing regulation, which could contribute to revise the stock of laws and regulations (see below next point). Pro-poor RIAs, *i.e.* with a focus on poverty reduction and skewing the assessment in favour of regulatory changes that assist the poor,[6] are also important experiments that governments could encourage.

Box 9. Pro-poor Regulatory Impact Assessment

Ways of including a pro-poor perspective could incorporate analysis of positive and negative effects of regulation in prices, job opportunities, access to credit, public service delivery and SME environment; especially focused at low-middle income layers of population.

General policy objectives are usually included in RIA targeting. In developing countries, but also in certain areas

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[6]   Kirkpatrick (2004).

of developed countries, poverty reduction is a top priority. Regulations should be then examined through RIA to conclude how they may contribute to assist the poor and alleviate poverty.

In the UK some innovative targets have been adopted including the effects on vulnerable population as children, elderly and disable people. Key changes in this direction have been in the fields of consultation and communication, the coordination and information share between institutions, and targeting of policy objectives.

Sources: Kirkpatrick, C. / D. Parker (2004); Better Regulation Task Force (2000); and Ferrand, David / Gibson, Alan / Scott, Hugh (2004)

78. A significant number of OECD countries, like Australia, Canada, Finland, Korea, Mexico, New Zealand, Norway, U.K and the U.S.A undertake RIA covering multiple fields including economic, social and environmental impacts (see Box 10).[7] Some analysis points out that most of the regulation under impact scrutiny in developing countries are related to economic issues more than to social and environmental regulations.[8] It seems reasonable to establish the importance of regulation not only in accordance to the subjects they deal with but also in relation to the impacts of the policy action and the content of regulation.

Box 10. RIA prioritisation in Australia, Canada and United Kingdom

Australia requires Regulatory Impact Statement (RIS) for primary laws, subordinate regulations, international treaties and quasi-regulations that have an impact on business or competition. The impact on business and competition arises in the following cases: (i) govern the entry or exit into or out of market, (ii) control prices or production levels, (iii) restrict the quality, level, or location of goods and services available, (iv) restrict advertising and promotional activities, (v) restrict price or type of input used in the production process, (vi) are likely to confer significant costs on business and may provide advantages to some firms over others. It is notable in the case of Australia that proposing ministries contact the Office of Regulation Review (Quality Control Body) early in the policy development process in order to decide whether RIS is required or not.

Canada has a particular scope of RIAS (Regulatory Impact Analysis Statement). Canada requires RIAS only in subordinate regulations. Memorandum to Cabinet (MC) similar to RIAS is required for primary laws and policies. It should be noted that adoption of primary laws typically involves consultation with stakeholders, discussion of policy proposals among government ministries with different mandates and discussion of the proposal by Cabinet and public debate in Parliament during the legislative process. Canada does not require RIA for primary laws because all of these elements promote the development of high quality legislation.

The United Kingdom requires RIA in primary laws and subordinate regulations which have a non-negligible impact on business, charities, and the voluntary sector. It is notable in the case of the UK that regulations affecting only the public sector are currently subject to a Policy Effects Framework (PEF) assessment. From 2004, however, they will also be brought within the RIA system.

Source: OECD (2004b)

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7   OECD (2004b)

8   Kirkpatrick, Parker and Zhang (2003) undertook a survey inviting 99 countries to participate. From answers, the authors concluded that 30 were using RIA, from which 28 admitted to apply RIA to economic regulations, while 14 included also social and environmental regulations.

5.2.1. Apply RIA to existing as well as new regulation

79. RIA is a tool that can be used for reviewing existing regulation, as well as for assessing impacts of proposed amendments. This is particularly relevant for developing countries where the stock of regulations may have pervasive effects. Since there has not been a systematic effort to streamline the legislative corpus and it can impose unnecessary charges and burdens. Efforts to introduce new regulation with some quality requirements can be undermined by existing bad quality regulation.

80. The drafting of RIA of existing regulations is easier than RIA of new regulations because regulators already have data to be used for it. Although RIA is not usually required for reviewing the current regulatory corpus, many countries seem to require RIA in this case. It is noteworthy that countries such as Australia, Canada, Germany, Netherlands, Switzerland and the United Kingdom also apply the RIA system to the reviewing of existing regulations.

Box 11. RIA as a tool for a *guillotine* process: the Swedish case

The review and updating of laws, rules, and other instruments is one of the greatest regulatory responsibilities. It must be done to enhance economic growth, decrease regulatory risk and uncertainties. An innovative policy action called *guillotine* process, pioneered by Sweden and used by Mexico and Hungary is a possible approach to face the reduction of outdated or ineffective regulation.

In the 1980s, Sweden enacted its "guillotine" rule nullifying hundreds of regulations that were not centrally registered. In 1984, the government declared to be unable to compile a complete a list of regulations in force. The accumulation of laws and rules from a large and poorly-monitored network of regulators meant that the government could not itself determine what it required of citizens. To establish a clear and accountable legal structure, it was decided to compile a comprehensive list of all agency rules in effect. When the "guillotine rule" went into effect, hundreds of unregistered regulations were automatically eliminated. All new regulations and changes to existing ones were henceforth to be entered in the registry within one day of adoption. This approach was considered a great success. In the education field, for example, 90% of rules were eliminated. The government had for the first time a comprehensive picture of the Swedish regulatory structure that could be used to organise and target a reform programme. The registry may also have had the indirect effect of slowing the rate of growth of new regulations, and by 1996 the net number of regulations had indeed dropped substantially.

Source: OECD (2002) Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance, Paris

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81. According to the experience in OCDE countries, efforts to review existing regulation begin with a process of mapping the regulatory system. Clear and accessible registries can be created, and obsolete regulations can be directly eliminated or amended. Through the process a great deal of coordination and innovative responses to obstacles are usually required.

82. A second revision stage could include the use of RIA testing effectiveness and convenience of exiting regulation based on their costs and benefits. The process will be very similar to the case of targeting new regulation. An advantage will be that there will probably be more and better information available.

5.3. Strategies for data collection

83. Data quality, an essential element of proper analysis, has been recognised as one of the most difficult parts of RIA because it can be time and resource consuming and requires a systematic and functional approach that is not used by many governments. The usefulness of RIA depends on the quality of the data used to evaluate the impact of a proposed or existing regulation. A poor data collection strategy can mean that the essential data to conduct good analysis is lacking.

84. To carry out RIA, governments need to set up a context analysis, strongly connected to a quantitative analysis. Governments have to develop precise and straightforward strategies and guidelines if ministries are to achieve a successful programme of quantitative RIA. This implies, as well, that administrations need to think in quantitative terms, getting acquainted with data collection. In particular, RIA requires that data is tailored to the questions raised by the specific regulation.

85. RIA requires, for correct implementation, the collection of a great variety of specific data related to it. An explicit policy should clarify quality standards for acceptable data collection and suggest strategies for collecting and maintaining high quality data at minimum cost.

Box 12. Efforts on data collection strategies in Denmark

Generally implementing data collection strategies correctly is one of the key weaknesses in OECD countries. One of the clearest problems is that often *ad hoc* strategies for data collection fail on grounds of both timeliness and cost. A particular lack is the failure to utilize fully the potential of consultation as a source for data and a mean to verify its quality. Efforts on this area should be prioritised since data is essential to conducting good analysis.

It is worthy of note that Denmark's efforts in the area of data collection in cost-benefit analysis. Denmark set up the Business Test Panels to assess the burden of regulations with businesses. The Business Test Panels are used to request information on the administrative burdens of approved legislation. There are three panels consisting of 500 firms in each panel. Ministries have discretion about using the test panel procedure but most have used it for legislation having significant business impact. Denmark also has Focus Panels which are used to obtain information on the impact of bills, with effects only on specific sectors of the economy. However, experience has shown the precision of test panel data to be low and the system is largely seen as an "early warning system" for unanticipated major impacts. The Model Enterprise Program has also been introduced to provide more statistically robust data. Model Enterprises consisting of representative businesses in the industry sector are used to measure actual administrative burdens on business. The identified burdens by Model Enterprises can be applied to similar regulatory proposals.

Source: OECD (2004b)

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86. The information that RIA requires can be collected in numerous ways. An important procedure to integrate data for RIA takes place during the consultation process. There are, however, other sources for data collection (see Table 1). Data collection can be classified as direct or indirect. Information is direct when results arise from specific survey designed and implemented as required to attain a precise objective. Information is indirect when it derives from data previously collected with other objectives, different from the current one, and possibly re-processed.[9]

Table 1. Addressing Skill and Data Requirements for RIA

Source	Action
1. In-house expertise of economists; lawyers and analysts	1. Define problem; analyse its extent through in-house knowledge and expertise, and existing studies and information.
2. Commission research and studies	2. Commission statistics from national research institutes; statistics organisations or consultants, e.g. cost benefit analyses
3. Dedicated RIA Training	3. Training in quantitative techniques and analysis is imperative, so as to develop a public sector capacity to conduct RIAs.
4. Networking for RIA	4. Establish a Central Network to provide mutual support for those conducting RIAs and also where "best practice" from international

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[9] Martelli (2006), p. 4

	experience can be shared.
5. International Data and "best practice"	5. Availability of EU sources -- EUROSTAT data, and EUROBAROMETER surveys; and evidence in previous EU Reports, Studies and Green Papers. Other international material available form OECD and World Bank.
6. Other methods	6. Techniques such as interviews; focus groups and questionnaires should be explored.

Source: Ferris (2006), Good RIA Practices in Selected EU States, 2006, p. 6

5.4. Using a flexible analytical method

87. Determining which method to apply is a central element of RIA design and performance. Several RIA methods are commonly used in OECD countries. These include: benefit/cost analysis, cost effectiveness or cost/output analysis, fiscal or budget analysis, socio-economic impact analysis, social discount rate, risk analysis, consequence analysis, compliance cost analysis and business impact tests.

88. The application of RIA in developing countries requires a particularly flexible analytical approach. RIA efforts must be scaled to the specific capacities of a country, especially given the often low government resources to collect and analyse required data. This, however, does not mean that RIA efforts would be futile in developing countries, rather the contrary since RIA is more about the process of asking the right questions to the right people (and thus creating a framework for regulatory policy making) than about technically precise impacts statements.[10]

89. In nearly all countries, there are a number of incipient instruments that can be used as pillars for the development of an RIA system. Some of the most common existing features which can be built upon to develop RIA systems are:

- Legal "justification notes" attached to new laws that are sent to Cabinet and Parliament. They are normally prepared by the Ministry of Justice or legal bureaus in the Executive branch, focusing on legal quality and constitutionality check of new regulation. These justification notes could be broadened to more comprehensive documents, such as explanatory memoranda looking at regulatory impacts beyond legal issues.

- Budget and environmental impact assessments, already carried out by the Ministries of Finance and Environment. Such impact assessments often have the same logic, although with a smaller scope, than RIA.

90. In terms of the way governments choose the analytical methods used to conduct RIA, international experience shows that there is a growing tendency in moving towards more empirical based approaches. Full cost-benefit analysis is carried out in a number of countries, but this method requires human, financial and logistical resources. To avoid applying expensive assessments, a selection process of regulation to be subject to complete RIA exists to determine which cases deserve heavier efforts.

5.4.1. Some methodological issues

91. How to measure impact is one of the hardest difficulties implementing RIA. Different research results pointed out that this tool is far from perfect and a priori it is almost impossible to measure correctly the effects of planned regulation. During the years of RIA implementation different proxies to the real

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[10]   Ladegaard (2005), p. 9

regulatory impact have been used, sometimes in combination with others or individually, depending on the expected impact a regulatory proposal may suppose. Some of the most important proxies have been enumerated previously.

92. Cost-benefit analysis accounts the net benefit and should be most appropriate in most cases because it implies a wider view of reality that analysis focused exclusively on costs. Quantifying global costs and benefits requires great experience and is costly and time consuming; many countries apply more flexible and less complete assessment mechanisms.

93. At advanced stages of development of implementation of RIA, mechanisms to monitor its effectiveness overtime should be planned when the assessment is undertaken. This is called *ex-ante analysis*. There is no question of how difficult and costly is this, but it could diminish the risk of having the authorities using RIA to simply justify regulatory actions (regulatory capture). Through a learning process, mistakes found during the ex-post analysis could help improving the following RIAs and its capacity to improve information available for decision-making.

5.5. Consultation, participation and transparency

94. RIA can only be legitimate and efficient if it is integrated into public consultation procedures. The systematic integration of stakeholders' views enhances the RIA quality by inviting comments from people that will be affected by the regulation on a daily basis. It also helps to improve compliance, as the ownership of the proposed regulation is shared with stakeholders. In order to be effective, consultation requires a number of preconditions (see Box 13).

Box 13. Pre-requisites for a Good Consultation Process

The Australian Productivity Commission has identified a number of preconditions needed to have a good consultation process:

- Consultation objectives need to be set. Clear objectives help identify the target audience, select the right consultation method to assist evaluation.

- The stakeholders need to be clearly identified. In particular, the target audience may be broader than those directly impacted or those who have a known interest.

- Other departments and agencies may need to be involved.

- Methods of consultation need to be determined.

- The nature and form of questions included in written consultation documents need to be considered.

- Consultation risks need to be managed. Actions may need to be taken to mitigate such risks as low participation rates and poor presentation of complex issues that may be too difficult to understand.

Source: Productivity Commission (2004), *Regulation and its Review 2003-04*, Annual Report Series, Canberra

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95. The public and especially those affected by regulations, can often provide much of the data that are needed to complete the RIA. Consultation can furnish important information on the feasibility of proposals, on the range of alternatives considered, and on the degree to which affected parties are likely to accept the

proposed regulation. Furthermore, the assumptions and data used in RIA can also be improved if they are tested after the carrying out of the RIA through public disclosure and consultation.

96. Nevertheless, the risk that data collection through consultation could lead to "data capture" always remains. In this case, stakeholders provide much of the needed data with a high risk of biased RIA. This risk can be managed by diversifying data sources, a check and balance approach. Data biases can also be detected by being completely transparent. If data are weak, the quality of the RIA can be improved by an exhaustive external review. The more the process is open, the more it is likely to be accurate.

97. RIA can only add value if it increases transparency and participation in the regulatory process. The only possible way to reach this goal is by involving the public extensively at every level, to help ensure that the decisions taken actually benefit the public. Stakeholders can be invited to participate at early stages of the process, i.e. participating in task forces or ministerial panels charged with evaluating the need for and designing the RIA system.

CHAPTER 6. PREPARING RIA IMPLEMENTATION

98.   The implementation phase of any new policy tool requires the training and familiarisation of those making use of it. In the case of RIA, training is a priority and undoubtedly a fundamental question for changing the administrative culture inside the administration. Guidelines are important tools supporting this training and for the expansion of knowledge among regulators and policy-makers. But RIA is not only a tool to be used and understood by public administration, as consultation is a key element, results also have to be shared with citizens and businesses, in a transparent, accessible and responsible way. Communicating results and the benefits of using RIA is important to gain support for the project.

6.1. Developing guidelines

99.   Aiming at facilitating capacity building processes on RIA, many countries' authorities have drafted clear, concise and accessible guidelines where theory and practical methodology are explored and in which the use of this policy tool is exposed. These documents try to be as complete as possible, but usually they are understood as living documents that can be continuously improved as experience and knowledge on RIA accumulates and new techniques or methodological changes are embraced.

100.   Guidelines should be advisory and not mandatory. Compulsory elements of RIA should be established in the legal bases. An advisory character would give more flexibility to the guidelines and will leave room for interpretation and improvement.

101.   The most active authority in regulatory reform should be in charge of drafting and distributing guidelines. If this institution is not responsible of the training, strong coordination mechanisms should be arranged timely. In the cases where expertise has not been accumulated domestically, it has to be searched through other exogenous means. There are several countries whose governments have started RIA implementation long time ago, and they have fulfilled their training needs in different ways (see box 14). As a result, there is a great body of guidelines and references (see Annex 2) that are essential instruments for RIA training and familiarisation.

102.   A recommended long term goal is to build, if possible, autochthonous guidelines adapted to each country's specificities. Different international cooperation initiatives facilitate the compilation of knowledge and the tools to disseminate it. The OECD experience is one of international cooperation, but it is not the only institution working on these issues: multilateral and national development agencies have played a prominent role, and a growing number of private institutions support government efforts with reform.

6.2. Training the regulators

103.   Conducting RIA requires technical skills that often go beyond the training of officials. Training and capacity building is thus of utmost importance for the success of RIA implementation and systematisation. However, the development of the RIA process should not overload the whole system: the design has to be tailored to take account of current specific circumstances.

104.	First, RIA training programmes should be established to support the preparation of RIA programmes and to familiarise officials with their obligation during the process and the use of guidelines. At a later stage, formal, properly designed training programmes give regulators the skills needed to do high quality RIA as well as some information on where to get help with more complex cases. Such training programs covering more detailed methodologies of impact assessment should be established, using the expertise of both international and country practitioners.

105.	Training, however, should not only be targeted at those officials carrying out the RIA. Civil society and business organisations need training in responding to development of consultation mechanisms and procedures so that they are ready to contribute to the process. RIA skills can, for example, strengthen the capacity of business associations to articulate a convincing argument for pro-business regulatory reform. Similarly Parliamentarians can benefit from training in order to analyse the government's RIA and to challenge them as part of a democratic process on the benefits of proposed regulations.

106.	Out of the public administration, different audiences should be reached through different strategies. RIA is commonly unknown, and general public's familiarisation takes a lot of innovative and in some cases informal schemes to enhance the comprehension of the regulatory system, the inclusion of all stakeholders and the trust on the decision-making institutions.

107.	Once RIA is introduced in the regulatory processes, practical problems happen more often than technical ones. Thus, training and familiarisation with RIA techniques should be practical oriented and resources should be located to assist officials when they use the tool. In this regard, acknowledging other countries experiences and their practical challenges are key elements to foresee the problems ahead, therefore international cooperation should be sought.

Box 14. Training programmes and guidelines in OECD countries

There is a significantly variety in regards to guiding and training RIA activities among OECD countries. There is a need of constant renovation and improvement. For example the current Regulatory Analysis circular in the United States dates from 2003 and replaces previous editions from 2000 and 1996. The United Kingdom's new draft RIA guidance document constitutes the third guidance document to be published since 2000. An example of how to integrate elements towards improvement of guidelines can be found in the United Kingdom, where a process of public consultation was established on a new draft RIA guidance document.

In Australia, more than 400 regulatory officials received training from the Office of Best Practice Regulation (former Office of Regulation Review) in each of 2003/04 and 2004/05 fiscal years. A notable development is the implementation of tailored RIA training courses that are oriented toward the specific RIA needs of individual regulatory agencies. The existing guide and training sessions are used to promote the RIS (Regulatory Impact Statement) process and enhance cooperation within departments and agencies. The Australian Government Office of Regulation Review (ORR) endorses a RIS once it meets the requirements of the RIS Guide.

In Italy, since 2001, government officials undertaking RIA have been attending training courses at the National School for Public Administration. The training was organised by the Department of Legal and Legislative Affairs of the Prime Minister's Office.

In Mexico, the Federal Regulatory Improvement Commission (COFEMER) provides training courses for RIA users and provides technical assistance for agencies if they request it. In the website for Mexico's RIA, there are available training guidelines, practical examples of RIA and other materials providing orientation for RIA users. (www.cofemermir.gob.mx)

Ireland has only recently implemented RIA requirements, but has made significant efforts to deliver relevant training as part of the implementation phase. This includes the delivery of several two day courses which place RIA requirements in a broader policy context.

In Poland, at the end of 2006, the Ministry of Economy was entrusted with the responsibility of carrying out

activities aimed at implementation of the guidelines through training courses addressed to the public administration staff.

Source: OECD (2006), *Determinants of Quality of RIA*, GOV/SG(2006)3, Paris and OECD (2004b)

6.3. Communicating results

108.   A major impact of RIA lies in its capacity to show the different possible ways to proceed when putting forward a law proposal. RIA activities should be reviewed and the results communicated, in order to draw lessons from the whole process. This implies not only the release of RIAs along with draft regulatory texts as part of the consultation procedure, but also to record those cases in which the RIA system succeeded in weeding out inefficient regulatory proposals before enactment. Both aspects contribute to improve the quality of the information available about new regulations, and so improve the quality of the regulations themselves. This provides a good basis for subsequent improvement of the RIA design.

109.   Monitoring RIA can also ensure better allocation of scarce resources, and provide more tangible evidence for the justification of RIA.

Box 15. Communication of RIA results and synergies with consultation in OECD countries

Generally, OECD countries face RIA disclosure based on three different options: (i) disclosing their RIA for consultation, (ii) disclosing their RIA only after consultation, or (iii) do not release at all.

OECD countries disclosing their RIA for consultation include Canada, Denmark, EU, Finland, Italy, Mexico, New Zealand, Norway, Poland, Sweden, Switzerland, the UK and the United States. Japan and Portugal disclose their RIA for consultation only in the case of major regulations or in selected cases. Australia, France, Iceland and the Netherlands disclose their RIA when regulations are submitted to their Parliament or the Council of Ministers. Italy circulates RIA to affected groups in draft form but does not publicly disclose for consultation. Other countries which do not disclose their RIA include Austria, Hungary, Ireland, Korea, Spain and Turkey.

In Poland the most innovative initiative consists in the future development of an electronic database on RIAs prepared by the administration. The database will have a double role: the first will be a useful instrument in the process of preparing RIA; the second will be to foster public debate within and outside the administration on the quality of regulation in Poland. In order to enhance this last role, the database will be available to the public.

Source: OECD (2004b)

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110.   Communication must be in accordance to policy objectives sought by new or existing regulation under analysis. The institutions responsible of RIA communication should be clear on who is affected by the regulation in question, so communication can be well targeted to all stakeholders. The effort would include studying how to make information available in a clear and accessible manner to the target public. Communication should not be the same for example for regulation affecting agriculture activities in contrast to one in relation to the invitation of tenders for infrastructure construction.

111.   RIA communication should also respect certain pre-requisites of information established by regulatory authorities but maintain a reasonable level of simplicity and conciseness. To complete the publication, references should be made available in annexes to allow interested users finding background information used to undertake the RIA.

CHAPTER 7. FINAL CONSIDERATIONS

112.   The design and later implementation of an RIA system can only be successful if an institutional framework has been carefully defined and built over time. This *Building a Framework for Conducting Regulatory Impact Analysis: Tools for Policy-Makers* has addressed some of the most common questions that policy-makers should ask themselves before making the commitment to carry out RIA, based on lessons learnt from OECD experiences and study cases in some transition and developing countries. The results of these experiences in applying RIA have generally produced positive results. While the benefits of integrating RIA in the policy decision making process are evident, challenges and problems remain in all countries; a consistent and well thought framework for RIA implementation helps to face them.

113.   One of the main concerns with RIA implementation in developing countries is the applicability of an RIA system based on the transfer of OECD regulatory principles.[11] As one of the main focus of the *OECD Guiding Principles for Regulatory Quality and Performance* is market efficiency improvement, it has been claimed that the principles are incompatible with 'overarching' developing countries' policy objectives, mainly poverty reduction and strategies for economic development. Looking at the challenges and the implementation problems in both OECD and developing countries at early stages of RIA implementation, difficulties and lacks have been relatively similar though to different degrees. The OECD principles for regulatory quality were generally agreed by OECD countries and designed to avoid regulation to become an obstacle but rather a trigger for economic growth and development. They are not the solution to all problems but they allow a solid base for countries to elaborate further their own guidance adjusted to their policy objectives and specificities.

114.   This paper has intended to show that RIA is not a substitute for decision-making, but an adjunct to policy design and implementation. RIA can only reach its objectives if it is clearly framed in the specific technical and institutional capacities of each country. This policy tool is no cure-all policy recommendation, but a way of improving the process of decision making by informing better to people responsible of taking decisions in the policy making and by providing instruments to involve other stakeholders affected by their regulatory decisions. This process should not be static; it requires the conduction of consultation processes and dynamic methodological approaches to make best use of data collection.

115.   The implementation of RIA is a long term process. Best assessments are obtained once experience is accumulated and only when efforts to innovate continue to improve RIA. Introduction and implementation of RIA should be seen as part of the change in administrative culture. Continuity is an essential element to have success regardless the political changes, as well as a planned strategy to be followed strictly in general terms but with considerable degree of flexibility.

7.1. How to move forward in the context of the GfD Initiative

116.   Improving good governance in Arab countries is one of the commitments of the GfD Initiative. The introduction of RIA in some countries of the region could contribute to this effort by multiplying available options for regulatory decisions, making them more accurate through evidence-based analysis and more transparent and accountable. Countries interested in adopting RIA could also use this exercise as

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[11]   Centre on Competition and Regulation (2004)

a way to understand regulatory policy as a key area for improvement and as a driver for deeper reforms inside the administration.

117.   Some Arab countries participating in the GfD Initiative interested in the implementation of RIA pilot projects have responded the questionnaire presented by the OECD Secretariat in the *Policy Brief on Tools to Initiate RIA*. This questionnaire provides valuable information on the specifics for RIA design. Arab countries are invited to use this information to develop a more elaborated proposal, taking into account the sections on Preliminary Considerations for Introducing RIA, Designing the RIA Framework and Preparing RIA Implementation of this *Building a Framework for Conducting Regulatory Impact Analysis: Tools for Policy Makers*.

118.   In this new stage of the project, key building blocks should contained the definition of the time and institutional framework, estimation of the resources needed, identification of regulatory proposals candidates to be under analysis, and a concrete planning of the phases and short term objectives for each one of them.

ANNEX 1. RIA PILOT PROJECTS

119.   Pilot projects are used in many policy fields to trial the applicability of a policy tool. Piloting experiences link theory to practical experience, and help to adapt the implementation of the policy tool to the specificities of each system. In general, pilot projects should only be developed if:

- They promise to achieve reform objectives in a short or medium term time-frame;

- They can serve as reference models for further experiences in the country;

- They can be monitored and evaluated.

120.   Benefiting from the lessons learned in the pilot projects, authorities are able to implement reforms at a larger scale based on their experience. The piloting phase should provide an appropriate period of time to authorities to reflect on how to best fulfil their needs and objectives.

121.   As RIA is a complex policy tool to improve regulatory quality, pilot experiences facilitate a progressive introduction of RIA in the decision making, and finally systematise its use. Some of the key pillars to build such a project could be found throughout this paper: consistent political support; capacity building in terms of institutional framework, human and financial resources; developed methodology; inclusion of RIA in the policy making process; and available tools to communicate, consult and ensure transparency of the process.

122.   From a practical point of view, the process to develop a pilot project could have a similar structure as the following:

- Definition of responsibilities, time and institutional framework.

- Planning of the pilot project stages: timetable, resources involved, objectives and supervision-monitoring mechanisms.

- Selection of the project(s) of law to be object of the study. This selection should be strategic, it should be dealing with a relevant issue and the data collection or estimation easy to obtain.

- Development of the RIA.

- Analysis of the outcomes and study of possible applications in the future.

- Communication process and publicity.

123.   There are several recent examples of pilot projects in different countries around the world (see box 16). Some conclusions to be highlighted: there is no single model to implement RIA and each system's specificities need to be properly addressed; there are economies of scale when developing RIA as synergies come when experience accumulates; international cooperation brings expertise, consolidated guidance and helps moving forward with reform; and strong political and technical support are key elements to succeed including permanently integrating RIA in the policy making process.

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Box 16. Examples of RIA pilot projects

Ireland

In 2001 a group of senior officials was made responsible for introducing RIA in the Irish regulatory system. The first step was to draft an Irish RIA checklist model to follow when performing RIA. Five Government Departments were in charge to undertake the RIA pilot project. The Department of the Prime Minister took an oversight role in this process through its Better Regulation Unit.

The piloting activities took place in 2004 and 2005 gradually. Based on findings and recommendations, in June 2005 RIA was adopted "to be applied to all proposals for primary legislation involving changes to the regulatory framework, significant Statutory Instruments and draft EU Directives and significant EU Regulations once they are published". Thanks to this pilot project, the RIA model was better adapted to Ireland's needs and it was possible to demonstrate in practical terms the benefits of embracing RIA.

European Union

The European Commission undertook a Business Impact Assessment (BIA) Pilot Project from September 2000 to February 2002. The pilot project aimed at a selection of draft proposals from the Enterprise Directorate General (DG) of the European Commission, in the fields of detergents, electromagnetic compatibility, environmental impact of electrical and electronic equipment (EEE) and pre-packaging.

The pilot experience was concentrated on examining three major elements of the impact assessment process, i.e. external consultation, economic analysis and organisational structures. The project supposed a mandatory attachment to legislative proposals with significant impact on business, especially aiming at: burdens on business (particularly SME), public consultation with business, and general consequences for business of the Enterprise DG legislation proposals.

The goal of the project was to unify the partial impact assessments existing in parallel in the Commission related to, for example, environment and budgetary issues, and provide a clearer knowledge-based and more participative decision making.

Some conclusions from the pilot project were drawn in general recommendations on the topics to examine, on the timing in the regulatory drafting process, and on the supporting tools available. One of the key conclusions was that the impact assessment process needs to be flexible enough to take into account the specific features of each case.

Romania

Previous to Romania's EU accession, a project financed by the EU undertook in-depth impact analysis of Romania's accession. Immediately after accession negotiations started in 2000, a series of Pre-Accession Impact Studies Project was developed by an institute created in Romania. The core of the studies was to measure the impact of EU regulations on Romania, especially the ones affecting trade, investment, migrations, agriculture, industrial activity, environmental protection and social protection. This is an example of an *ad hoc* pilot project that could become a germen of a more systematised method of regulatory impact analysis.

Lithuania

As in the case of Romania, in 2000, Lithuanian authorities promoted the assessment of the impact that a potential EU accession would have for their country. To developed this project a questionnaire and guidelines were drafted for officials and stakeholders.

The topics that were taken into account were: administrative burdens, public budget, business environment (microeconomic perspective), economic performance (macroeconomic perspective), social and environmental issues, and other impacts on policy objectives related to country's strategic goals in public administration performance, security, stability, democracy, development and international obligations.

These examples should be taken into account with reservations, as they were analysing the effects of the EU accession, so the chunk of regulation observed had to be accepted as it was, and the goal of RIA must be to contribute to the regulatory creation or amendment. In this case, the effect on decision making was translated into Lithuania's

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acceptance to the EU accession, formalised in 2004.

Uganda

As a continuation of an earlier project aimed at improving regulation in Uganda, DfID financed a two-year project supported authorities in piloting regulatory impact assessments. A private consultancy in cooperation with Manchester University's Centre on Regulation and Competition was responsible of putting the pilot project in practice.

The aim of the project was to "provide politicians with better information on which to base their decisions and therefore to be able to contribute to better governance for citizens and to a business environment that is conducive to enterprise-led growth and poverty reduction."

The UK RIA model was employed to support the methodology and the UK Better Regulation Executive (BRE) cooperated during the capacity-building activities with Ugandan officials. One of the principles of the project was to ensure the respect of local circumstances and especially in relation to resources availability for institutions responsible of RIA, encouraging the continuation of RIA without external support.

Efforts were focused on three key elements: data collection, training and institutional setting. The development of local capacities was supported to improve domestic abilities and encourage independence from exogenous participants in the project. As a result, a simple guidance for Ugandan officials was produced.

Synergies of using RIA in Uganda were planned to be: (i) a reduction of corruption as administrative burdens would be fewer and regulation clearer, (ii) better monitoring and evaluation of public administration activities as government could review the effectiveness of public policy and the delivery of benefits previously announced, and (iii) encouraging pro-poor economic growth by promoting pro-SMEs and population equality regulation.

Kenya

When an independent regulator came to existence in Kenya for the telecommunications sector, an RIA was adopted in the form of a sector review. This RIA is adapted to the needs in their country and simplicity promotes a continued use to analyse sectorial regulation. There are three indicators to measure regulatory interference in telecommunications: network and connections, quality of service and prices. Complexity of RIA will come as the privatisation process of these services consolidates.

Sources: Ferris (2006); Enterprise Directorate-General, (2002); Borissova, Olga (ed.) (2004); Government of the Republic of Lithuania (2000); Welch, Darren / Waddington, Richard (2005); and Nxele, Mike / Arun, Thankom (2005).

ANNEX 2. SELECTED REGULATORY INSTITUTIONS AND RIA WEBSITES IN OECD COUNTRIES

Australia
Regulation Task Force
http://www.regulationtaskforce.gov.au/

Office of Best Practice Regulation
http://www.obpr.gov.au/

Victorian Competition and Efficiency Commission
http://www.vcec.vic.gov.au/

Canada
Treasury Board
Regulatory Affairs & Orders
http://www.tbs-sct.gc.ca/ri-qr/ra-ar/default.asp@language=e&page=home.htm

Denmark
Danish Regulatory Reform Office
http://www.moderniseringsprogram.dk/visArtikel.asp?artikelID=4965

Ministry of Finance
http://www.fm.dk/1024/visArtikel.asp?artikelID=3610

Germany
http://www.staat-modern.de/

Ireland
Department of the Taoiseach
Better Regulation Unit
http://www.betterregulation.ie/index.asp

Italy
Department of Public Administration
http://www.funzionepubblica.it/

Japan
Ministry of Trade Economy and Industry
http://www.meti.go.jp/english/

Korea
Regulatory Reform Committee
http://www.rrc.go.kr/

Mexico
COFEMER
Federal Regulatory Improvement Commission
http://www.cofemer.gob.mx/
http://www.cofemermir.gob.mx/

New Zealand
Ministry of Economic Development
http://www.med.govt.nz/templates/ContentTopicSummary____606.aspx

Norway
Section for Legal Affairs and Regulatory Reform
http://www.odin.dep.no/nhd/english/ministry/org/024081-150003/dok-bn.html

Ministry of Government Administration and Reform
http://odin.dep.no/fad/english/bn.html

Poland
Ministry of Economy
www.reforma-regulacji.gov.pl

Switzerland
State Secretariat for Economic Affairs
http://www.seco.admin.ch/themen/zahlen/strukturanalysen/regulierung/index.html?lang=fr

UK
Cabinet Office
Better Regulation Executive
http://www.cabinetoffice.gov.uk/regulation/ria/index.asp

U.S.A
Office of Information and Regulatory Affairs
Office of Management and Budget
http://www.whitehouse.gov/omb/inforeg/regpol.html/

ANNEX 3. QUESTIONNAIRE ON ELEMENTS TO BUILD CAPACITIES FOR RIA

Introducing effective RIA

The following key elements are based on good practices identified in OECD countries:

11. **Maximise political commitment to RIA.**

12. **Allocate responsibilities for RIA programme elements carefully.**

13. **Train the regulators.**

14. **Use a consistent but flexible analytical method.**

15. **Develop and implement data collection strategies.**

16. **Target RIA efforts.**

17. **Integrate RIA with the policy-making process, beginning as early as possible.**

18. **Communicate the results.**

19. **Involve the public extensively.**

20. **Apply RIA to existing as well as new regulation.**

Source: OECD (1997) *Regulatory Impact Analysis: Best Practice in OECD Countries*, Paris.

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1) Political Commitment to RIA

- Which are the institutions that will support and demand the introduction of RIA?

- How can they get and maintain support at a high political level?

- Would it be possible to make a public statement indicating that there will be an explicit, published policy in your country promoting government-wide regulatory reform or regulatory quality improvement, including the use of regulatory impact assessment?

2) Responsibility, Management and Coordination of RIA programmes

- Which Ministry or institution would be the one initiating and then taking a lead-role in the introduction of RIA? Would it be useful to define a cross-departmental steering group?

- Would it be better to select a regulatory policy programme that involves many departments or should it be confined to just one?

- What potential is there to establish a central body with broad responsibilities for regulatory reform and associated procedures that could later on be utilised to monitor the quality of RIA?

- Are there existing coordination mechanisms which could be used for RIA coordination purposes? Which mechanisms could be put in place to ensure the observance of responsibilities?

3) Needed Skills and Training for Regulators

- Does training for officials carrying out impact assessment exist? If so, who can participate, is it obligatory and how often those training sessions take place?

- If not, is there a governmental or academic body which could supervise the establishment of such courses?

- Who are the persons – besides those carrying out the RIA pilot projects, who would need such training?

4) The RIA model: structure and analytical method

- What kind of building blocks exist already in your country? Are there legal notes attached to legislative and regulatory proposals that justify the decision? Are budget and environmental impact assessments prepared? If yes, what is the methodology already in place to carry them out?

- How could this existing procedure become a "lite" approach for RIA? Which are the elements that should be improved?

- Do you consider a two-part approach appropriate for your country?

- The model proposed above suggests multiple criteria in the application of a "lite" RIA model. Please consider carefully whether the regulatory project chosen for the pilot project would be permitted to undergo an assessment against these criteria.

5) Data collection strategies

- Is economic data available to undertake a quantitative analysis on costs and benefits of the proposed regulation? Which institutions need to be consulted to provide such data?

- Are these institutions co-operating internationally to improve data availability and compatibility for international comparisons?

- How can governments make best use of the data available? Do they need to recruit specialists that can use the data?

- For the pilot project, what is the data that is needed? Who will be responsible for ensuring the data collection? Is there a need to integrate experts for this?

6) Target RIA efforts and prioritisation

- Which are the most challenging regulatory areas in your country? Which issues are listed in the priorities for regulatory policy?

- If impact assessment is to be introduced, how can it be appropriately targeted? Looking at specific groups that will be affected with the proposed regulation? Stressing the impact on businesses and SMEs in particular?

- For the pilot project, which are the groups that will be directly affected? Are there administrative burdens that will be added to citizens and businesses?

7) RIA in the policy-making process: integration as early as possible

- In the current legislative process in your country, what would be the best timing to undertake RIA? What are the benefits of integrating RIA in the early stages of the regulatory process?

- How can RIA make a relevant contribution to the decision-making process?

- Are there established mechanisms to facilitate communication between the different institutions involved in regulation?

8) Communicating the results

- What is the audience for governmental publications dealing with public policy issues? How do you communicate to the public the results of government action?

- Once the RIA pilot project is taken place and later on has been finished, does the government plan to communicate the results to the public?

- What means of communication do you think would be most useful and effective to disseminate RIA?

9) Consultation, Participation and Transparency

- Is consultation a part of the law-making process in your country? If yes, is it required by law?

- What forms of public consultation are used? Informal consultation? Public notice and invitation to comment? Public meeting and hearings?

- Who are involved in consultation? Experts in relevant areas? Representatives from other government departments upon which the proposed regulation has effects? Business representatives?

- At what stages in the regulatory process is consultation undertaken? Prior to outline proposals being made? Prior to detailed proposals being made? After detailed proposals are made?

- Are the views of participants in the consultation process made public?

10) Apply RIA to existing as well as new regulation

- Are there regulatory quality requirements put in practice in the creation of regulation? And in the revision of the existing regulations?

- Are there already programmes to review existing regulation? If so, who is responsible for the administration of these programmes?

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