



Assuring Regulatory Transparency

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Why is transparency important?

- A means

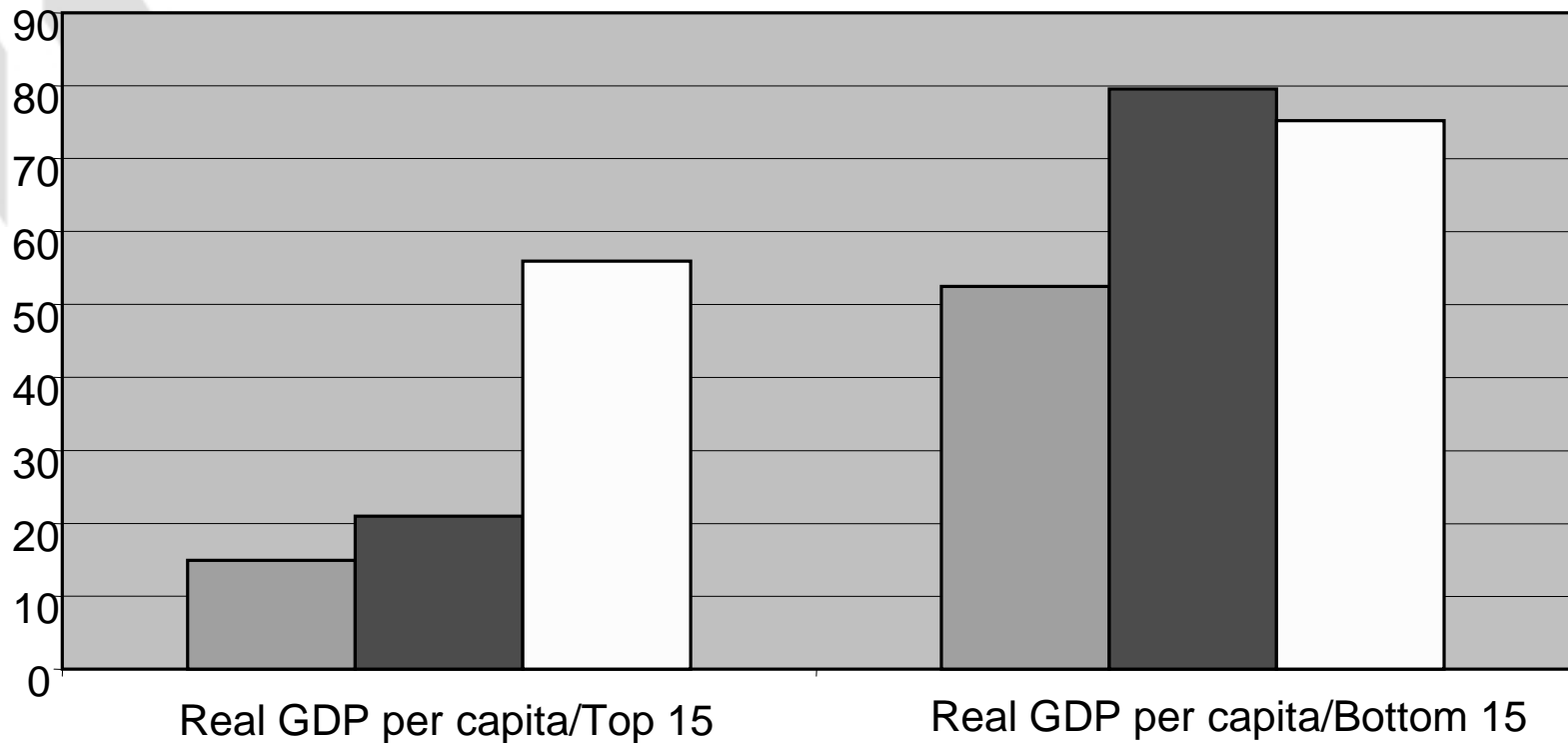
- Raises investor's confidence
- Reduces trade frictions (a core value of int'l agreements)
- Promotes regulatory quality (feed back from regulated parties)
- Increases compliance (reduces the cost of enforcement)
- Is a tool of regulatory policy (alternative to regulation)
- Prevents corruption and abuses

- An end

- Is closely linked with the good governance agenda
- Supports accountability & democracy (right of information)
- Is a foundation of the 'rule of law'

Relationship between transparency and economic wealth in 69 countries

Indexes of Non-Transparency by Income Group



■ Freedom House

■ Corruption Perception Index

□ Opacity Index



Defining transparency

- *“The capacity of regulated entities to identify, understand and express views on their obligations under the law”*
(OECD)
- No ‘one-size-fit all’ tool but principles & good practices
- Includes both:
 - The processes of law-making, and
 - The accessibility and intelligibility of law



Rule-making processes

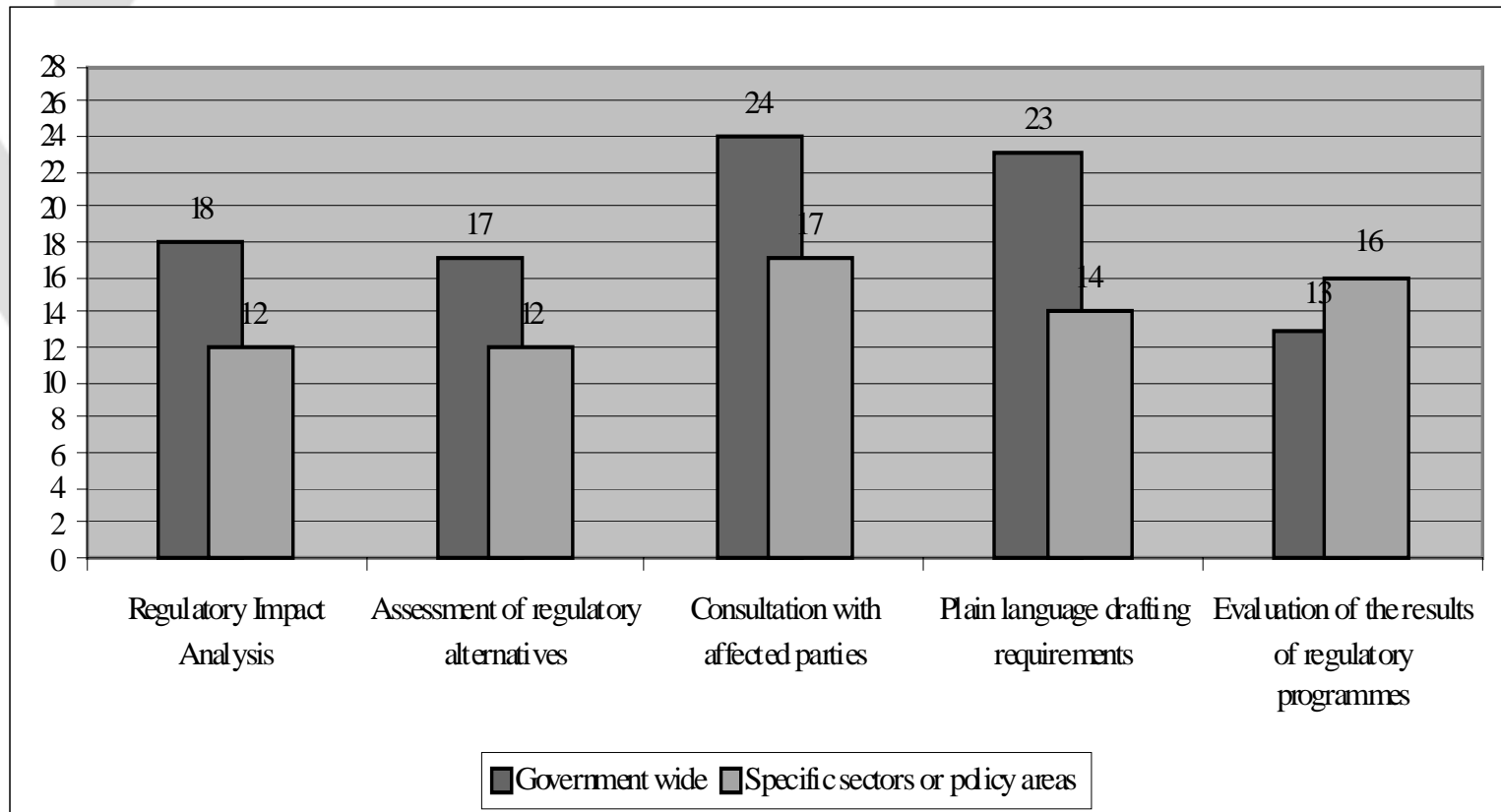
- Standardised requirements of rule-making processes (how rules are made)
- Consultation processes (how to participate to rule making)
- Publication and public access requirements (what is the regulatory environment)
- Appeal mechanisms (how to avoid abuse)



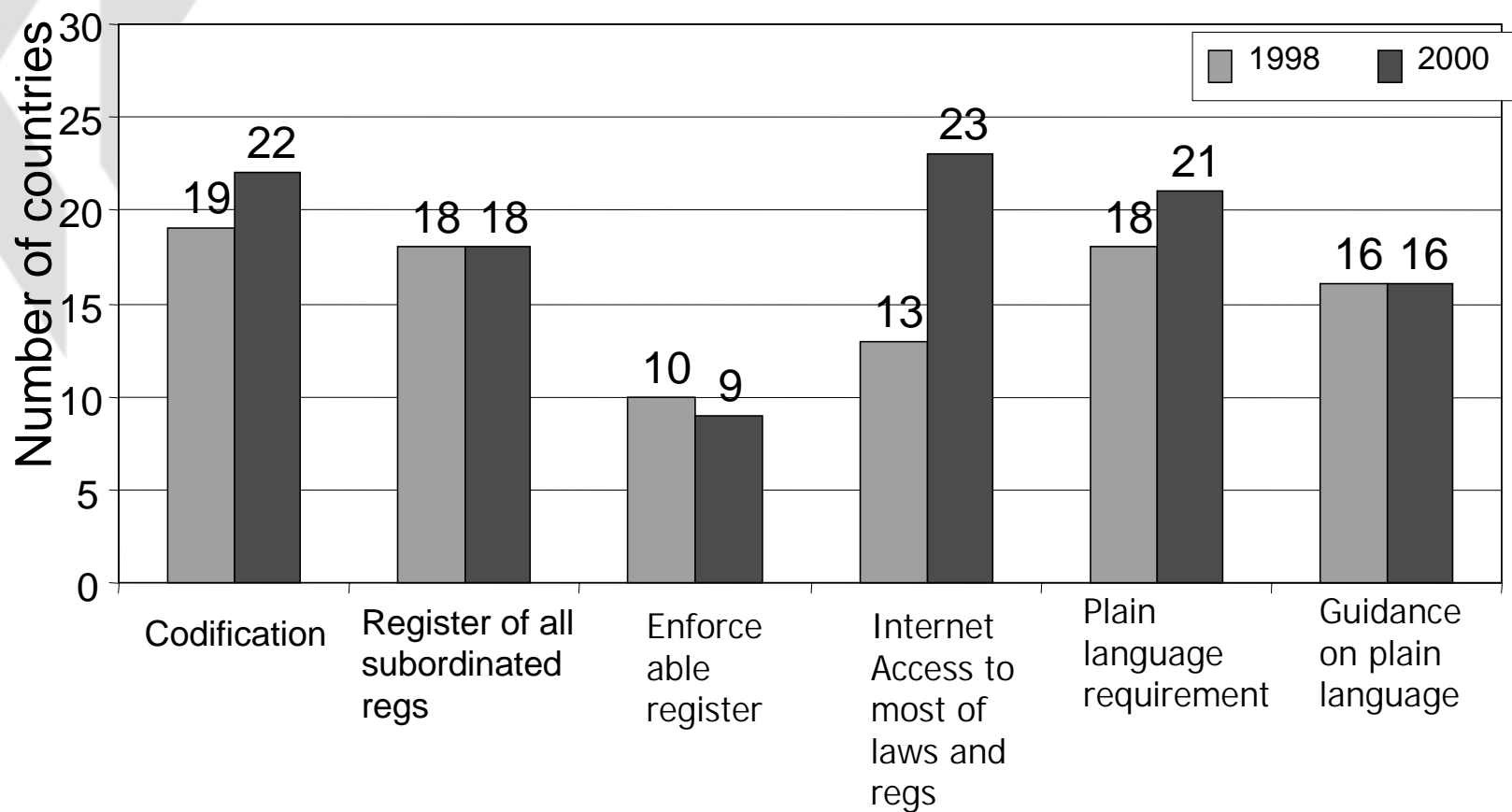
Accessibility & intelligibility

- Access to regulatory information:
 - *scope*: stock and flow
 - *quality*: accuracy timeliness
 - *form*: physical and electronic access
- Responsiveness and accountability to regulated parties
- Codification and organisation of regulation
- Plain language drafting

Regulatory Quality tools in 26 OECD countries



Transparency tools used in 26 OECD countries





Trends in transparency

- More public consultation
- Better information to support consultation
- Administrative Procedure Acts
- Role of international trade rules
- Electronic access to regulation
- Transparency as an input for self-regulation



Transparency and regulatory quality

- A cost-effective data gathering tool (i.e. RIA)
- Improves legitimacy
- Reveals compliance stresses



Consultation tools

- Active Vs passive consultation
- Active consultation:
 - advisory groups, committees, public hearings, panel tests, informal consultation
 - peer reviews
- Passive consultation:
 - circulation for comment, notice and comment, prepublication
 - Internet publication



Communication tools

- Guidance & training
- Official gazettes & federal registers
- Regulatory registries
 - By measure (law, rules, formalities, etc.)
 - By regulated theme or activity
- Internet sites



Challenges for transparency

- Breaking ‘information monopolies’
- ‘Insiders’ Vs ‘Outsiders’
- Transparency costs capacities, time and money
- Regulatory inflation & cumulative effects of regulation
- “Quasi-regulation”
- Supra & sub-national regulation
- Towards regulatory alternatives (in particular, self-regulation)



Some broader issues (1)

- Transparency Vs urgency
- “Informal” Vs “formal” transparency
- “Formal” (*de jure*) Vs “Real” (*de facto*) transparency
- Predictability Vs flexibility
- Transparency Vs confidentiality
- Consultation Vs lobbying (consultation Vs governing for all)



Some broader issues (2)

- ‘Capture through consultation’
- Consultation fatigue
- Mandating transparency for private agents
- Specific mechanisms for key policies (privatisation, public procurement, etc)
- Mixing consultation tools

Conclusions

- Transparency pays
- Selecting the tools (empirically & theoretically)
- Processes & quality standards are central
- Transparency elements must be mutually supportive
- Manage conflicts with other regulatory quality dimensions