Regulatory Design for Economic Growth:

Key Principles of Better Regulation

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What is Better Regulation?

Internationally recognized principals and practices designed to promote efficient, effective and transparent regulatory policy

- OECD, APEC, World Bank, World Economic Forum, Global Trade and Investment Agreements

Goals:
- Formulate and implement sound policies and regulations that permit and promote private sector development
- Maximize benefits to society

Principles:
- Coherence
- Openness
- Proportionality
- Participation
- Effectiveness
- Accountability
Goals of Better Regulation

- Regulation is not an end to itself – it is a means to deliver tangible benefits to society

- Transparent, evidence based decision-making
  - Provides, certainty and accountability for stakeholders
  - Increases public confidence in the rulemaking process
  - Helps ensure that policies meet their intended goals in the least burdensome way
  - Sends positive signals to investment community, expanding trade opportunities

- Improving the effectiveness of existing regulation

- Ensuring new regulations are evidence based and transparently developed
What does it mean in practice?

- Regulation serves clearly identified policy objectives
  - Sound legal and empirical basis;
  - Produces benefits that justify costs
  - Minimizes costs and market distortions;
  - Clear, simple, and practical for users;
  - Consistent with other regulations and policies;
  - Transparent to both policy makers and those affected by regulation;

- Use of decision making tools that enhance transparency: RIA and Public Consultation
Better Regulation Tools

- A “whole of government” approach to regulatory coherence and culture of sustained improvement

- Transparent, evidence-based decision making (RIA)

- Public consultation and stakeholder participation in the regulatory development process
“Whole of Government” Approach to regulatory improvement

Centralized oversight of regulatory policy
- Policy coherence across levels of government
- Ownership of regulatory improvement culture
- Quality control

Key Considerations:
- Clearly articulated regulatory policy endorsed at political level
- Government wide application
- Independence from regulators
- Enforcement authority and interagency coordination
- Expert staffing and accountability
Regulatory Impact Analysis (RIA)

- A policy tool for decision making:
  - Used to examine and measure the likely benefits, costs and effects of regulation
  - Clear identification of the underlying policy problem and specific option for addressing that problem.
  - Organizes and consolidates a menu of options for decisions at early stages of policy development
  - Helps decision makers understand the tradeoffs of policy choices
  - Provides clear and transparent basis and criteria for decision making
Why does RIA Matter?

- Helps improve the transparency, efficiency and effectiveness of regulatory policies
- Helps provide an objective, reasonable basis for policy decisions.
- Helps policy makers identify the most efficient and effective policy options
- Helps stakeholders understand how decisions are made
- Helps the economy by identifying least costly policy options
- Helps businesses and investors by identifying and eliminating unnecessary administrative burden
Elements of the RIA Process

The process of Regulatory Impact Analysis

- Definition
  - Policy objectives
  - Policy context
- Identification
  - Regulatory options
- Assessment
  - Costs
  - Benefit
  - Other impacts
- Consultation
  - Involving stakeholders
- Design
  - Enforcement, compliance and monitoring mechanisms

After RIA is prepared: DECISION MAKING

RIA Challenges

- Implementation of RIA can be technically complex and require training and resources
- Evidence of the outcomes of RIA on regulatory policies in developing countries can be limited
- Access to quality data to inform RIAs can be limited
  ✓ Highlights the importance of stakeholder consultation
  ✓ Better information for political decision-makers is desirable regardless of political, legal and institutional contexts
RIA Implementation

- Systematic use of RIA is sustained through legal mandates or policy statements from the Executive

- RIA is a flexible and adaptable tool
  - Its underlying analytical approach should always:
    - Be proportional to the situation
    - Follow consistent guidance

- Practical guidance exists for practitioners that can be applied in many contexts
  - “RIA Light”
  - APEC methodological guide
  - OMB Circular A-4

- Public consultation to inform RIAs is critical
  - Allows best available information to inform policy
  - Enhances transparency of regulatory decisions
Capacity Building Considerations

- Implementation of RIA must take into account specific circumstances of each country
  - Different reform priorities
  - Resource constraints

- Targeting RIA to most impactful policies can help prioritize scarce resources

- Full implementation of RIA best practices may not be realistic in the short term.
  - Need for interim, medium term solutions
“RIA Light”

- **Focus on strengthening institutions**  
  ✓ Regulatory reform committees, Business advisory panels  
  ✓ “one stop shop”

- **Focus on the flow of new regulation**  
  ✓ Forward planning  
  ✓ Administrative procedure laws

- **Focus on the stock of existing regulation**  
  ✓ Administrative simplification  
  ✓ Regulatory performance indicators

- **Focus on reform process as a whole**  
  ✓ Transparent decision making  
  ✓ Improved data collection strategies  
  ✓ Reviews of regulatory system

Recommendations

- Political commitment to RIA is essential
- Centralized oversight of regulatory policy is important to ensure consistent, quality application of RIA
- Regulators need effective guidance for implementation
- RIA should focus on important high-priority regulatory issues and proposals.
- RIA should be prepared early in the policy development process: when regulatory issues are being considered and before a decision is taken to regulate.
- Proportional -- not “one size fits all”
- Use of pilot programs and practical tools such as “RIA light” can be great starting points
Public Consultation Basics

- Regulations are best informed by those they affect most
- All interested parties can provide valuable information
  - Businesses
  - Consumers
  - Trade partners
  - Advocacy groups
  - The citizenry
Benefits to Policy Makers

- Public participation in the regulatory process can help governments:
  - Improve their decision-making with better information
  - Identify unintended effects and practical problems
  - Balance opposing interests
  - Improve the quality of RIA
  - Reduce enforcement costs
  - Ensure that regulation serves the public interest and is informed by the legitimate needs of those interested in and affected by policies.
  - Enhance transparency, legitimacy and accountability of policies and policy makers
  - Understand stakeholders’ needs and ensure their input is taken into account when preparing new regulation.
When and Why Consult?

- Businesses need to fully understand the regulatory environment in which they operate and to have a voice in regulatory decision making.

- Consultation should be done at the **earliest stages** of the regulatory process and if possible at **various stages** so that it helps governments collect data and the results can be used effectively in the RIA.

- Early consultation can spot in a timely way mistakes in problem identification and the proposed solutions
Key Steps of the Consultation Process

Phase 1
Establish the Consultation Strategy
- Set consultation objectives
- Map stakeholders
- Determine consultation methods, tools & ensure accessibility
- Create consultation webpage

Phase 2
Conduct Consultation Work
- Announce & communicate
- Run consultation
- Inform on contributions
- Analyse content

Phase 3
Inform Policy Making
- Synopsis of consultation results and feedback

Policy Options

- **Notification**
  - ✓ Providing for public notice and registration of regulatory policies
  - ✓ For every regulation?

- **Consultation**
  - ✓ Active engagement of stakeholder views
  - ✓ For every regulation? Only some groups?

- **Participation**
  - ✓ Multiple stages of interaction on all relevant documents and analyses
  - ✓ Documentation and responses to input?
Tools of Public Consultation

- Informal consultation
  - Conducted at discretion of regulators (ad-hoc)

- Circulation of regulatory proposals for public comment
  - Presentation of concrete proposals
  - More systematic, inclusive

- Public notice and comment
  - Standardized, formal presentation of draft regulations and supporting documents

- Public Hearings
  - Usually supplements other consultation procedures

- Advisory bodies
  - Technical groups advising on concrete policy issues
Key Considerations

- Is the public consultation mandatory? Are guidelines available on how to conduct public consultation?

- How open is the consultation? Can anyone participate?

- Has the consultation been launched at a stage when there is still scope to influence the policy outcome? Is the consultation conducted at the beginning of the regulatory proposal or at a later stage of the process?

- Is the consultation exercise of sufficient duration for interested parties to submit considered and meaningful responses?

- Will results of the consultation be made public?

- Does a process exist to monitor and oversight the quality of the consultation process?

Recommendations

• Without a legal basis or strong policy commitment, public consultation can be difficult to implement consistently

• Easy to understand, transparent regulatory processes are more attractive to businesses

• When all interested parties have the opportunity to inform regulatory policies they become more efficient and effective

• Consultation systems should be designed according to each country’s context

• Involve all interest groups early in the process through transparent consultation procedures

• Establish public registries of pending and existing regulations

• Have all interested parties had an opportunity to present their views?
Better Regulation in Context

• Diversity of countries have shown how better regulation principals can promote economic growth and investment

• Principals of better regulation should guide reforms but no “one size fits all” model for implementation

• Regulatory improvement is an ongoing process

• How to manage resource limitations?
  ✓ Begin with reforms that have the most immediate, impactful payoffs
  ✓ Stock of current regulations vs flow of future regulations
Resources

- Making it work: “RIA Light” for developing countries

- Development and implementation of methodologies to improve the quality of regulations and regulatory impact assessments for enhancing market openness ensure transparency and promote economic growth

- OMB circular A-4
  https://www.whitehouse.gov/omb/circulars_a004_a-4/

- OECD Background Document on Public Consultation

- OECD checklist for regulatory decision making