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Practical Tools for Better Regulation: RIA and Public Consultation Fundamentals

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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

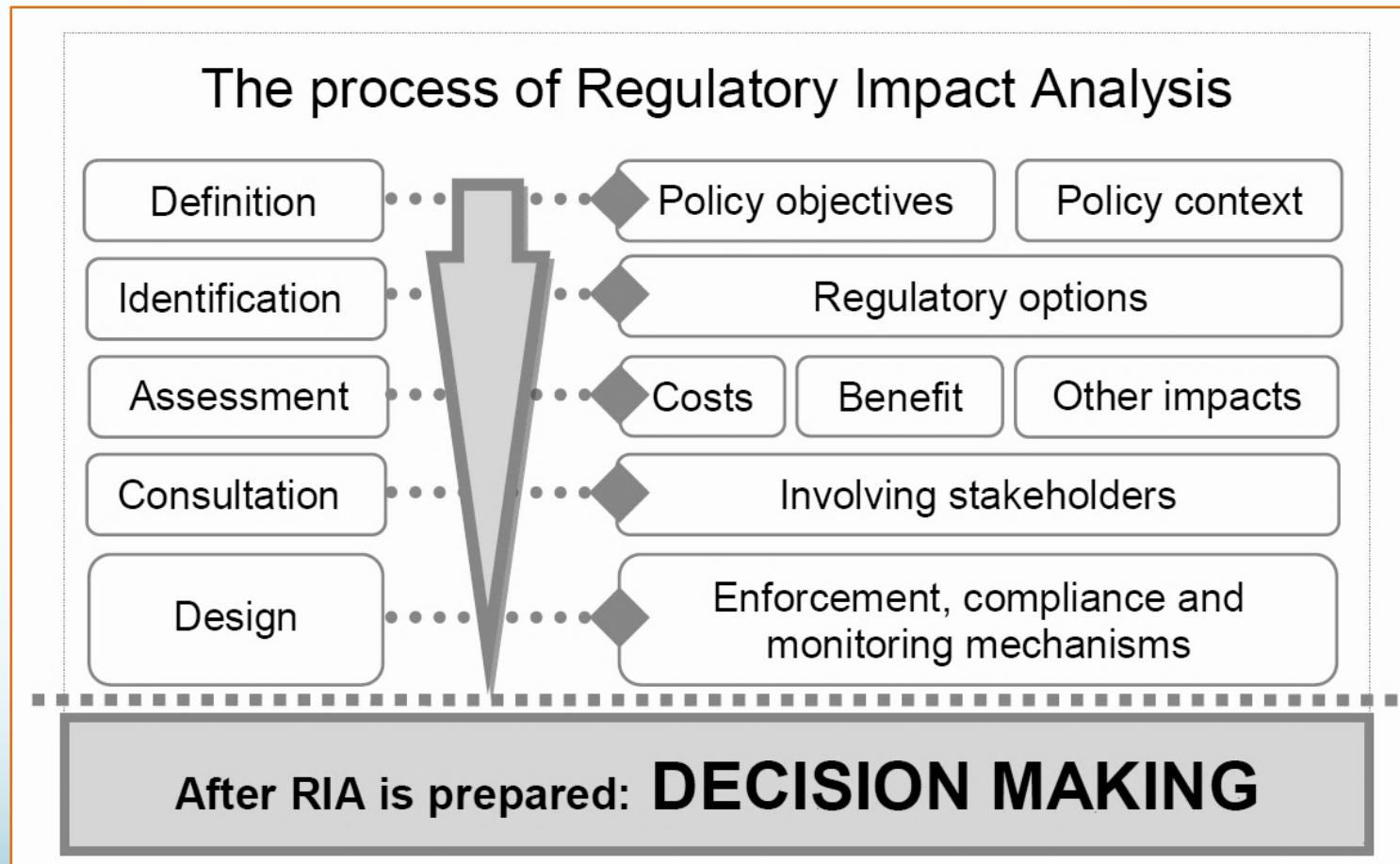


Why does RIA Matter?

- 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



RIA - What does it imply?

Regulatory Impact Assessment

Knowing the effects of a new regulation **before** it is enacted

Considering all options, including non regulatory alternatives

Should be **transparent** (public consultation)

Should be supported by **evidence** (qualitative and/or quantitative)

it should be prepared **early** in the regulatory process



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 building blocks

- 1) Political commitment to establish and operate an effective and self sustaining process.
- 2) A unit or group of regulatory reformers and quality control by an expert supervisory body.
- 3) Clear criteria: what to subject to RIA and what questions to address
- 4) Transparency in the process and consultation
- 5) Building RIA capacities within government



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.

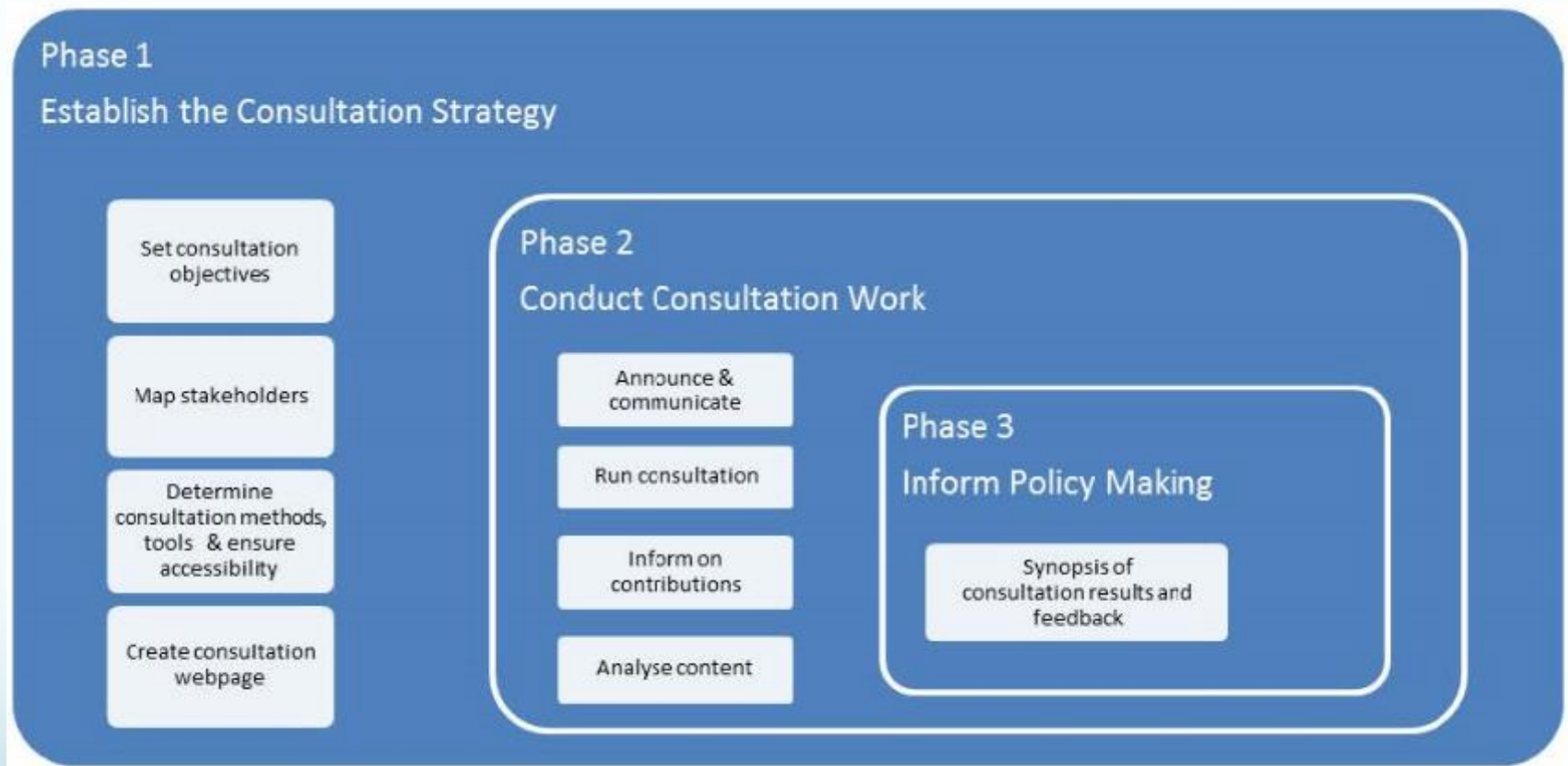


When and Why Consult?

- 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



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?



Resources

- Making it work: “RIA Light” for developing countries
<https://www.wbginvestmentclimate.org/uploads/RIALightNov2009.pdf>
- 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
http://www.cofemer.gob.mx/presentaciones/Final%20Report_APEC_Mexico_COFEMER_%2017122012.pdf
- OMB circular A-4
https://www.whitehouse.gov/omb/circulars_a004_a-4/
- OECD Background Document on Public Consultation
<http://www.oecd.org/mena/governance/36785341.pdf>
- OECD checklist for regulatory decision making
<http://www.oecd.org/gov/regulatory-policy/35220214.pdf>

