

SGI Sustainable Governance
Indicators 2009

Steering Capabiity
RIA report



Indicator RIA application

Question Does the government regularly assess the potential socioeconomic impact of draft laws?

30 OECD countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels:

- 10-9 = RIAs are applied to all significant new regulations, and even existing regulations.*
- 8-6 = RIAs are applied to new and existing regulations matching defined criteria.*
- 5-3 = RIAs are not applied systematically*
- 2-1 = RIAs are applied randomly or do not exist.*

United States

value 10 Regulatory impact assessment is performed by the Office of Management and Budget (OMB) on the executive side and by the Government Accountability Office on the legislative side. RIA activities are centrally registered. Under an executive order from the early 1980s, the OMB has the mandate to assess all regulations promulgated by executive agencies. Regulations cannot take effect until the OMB has performed a cost-benefit analysis.

The Bush administration has recently tightened the RIA process by requiring agencies to perform an RIA in order to issue a so-called “guidance statement,” an informal and supposedly nonbinding statement of the agency’s interpretation of laws or regulations. In making this change, the administration argued that private parties might take these guidance statements as being tantamount to regulatory provisions.

Finland

value 9 The cabinet’s present program-management system encompasses three intersectoral policy programs, including the Policy Program for Employment, Entrepreneurship and Work Life, the Policy Program for Health Promotion, and the Policy Program for the Well-Being of Children, Youth and Families. Along with the government’s strategy document, these programs and documents determine the procedure for promotion of and follow-up to the government program. They provide information on issues to be subject to intensive monitoring, a draft for legislative projects, a list of statements to be submitted to parliament, a plan for government resolutions and the main themes and priorities for sectoral research.

The issues under special monitoring presently include climate and energy policy, skills and innovations, administrative reform, structural reform of municipal and service sectors, social protection, exclusion and the reform of social protection

systems, preparation for population aging, broad-based security, and Finland's international status.

The Prime Minister's Office, in collaboration with other ministries, will produce an impact assessment and a follow-up report on these issues and policy programs, which will be used in mid- and end-of-term government policy-review sessions. In June 2007 the prime minister issued a letter launching monitoring of the government's program. This letter includes a follow-up plan covering the present government's entire term of office (2007 – 2011).

Annotation: Prime Minister's Office, "Program Management within the Finnish Government." (Helsinki: Prime Minister's Office Publications, Dec. 2007).

Norway

value 9

In Norway, a system of regulatory impact assessment (RIA) was introduced in 1985 and revised in 1995. The ministers and the government are responsible for providing comprehensive assessments of the budgetary, environmental, health and human-rights effects of their proposals. Consequences should be quantified as far as possible, including by means of a thorough, realistic socioeconomic analysis. A set of codified guidelines (the "Instructions for Official Studies and Reports") regulates RIAs. However, the ministry in charge has some discretion to decide when an RIA should be produced. There is no formal rule on when a full RIA must be conducted, or when a less detailed assessment is sufficient.

The RIA is included as a separate section in the ad-hoc reports commissioned from experts or broader committees, as well as in white papers and final bills. There is no central body in the government administration that conducts quality control on RIAs, although each department has issued guidelines on how RIA should be conducted. An interministerial panel on economic impact assessments was established in 2005, which brought together RIA experts from various ministries, and has an advisory function in improving the quality of RIAs. The parliament may send back a proposal if it regards the RIA as unsatisfactory. This has actually occurred in a number of cases.

United Kingdom

value 9

The Better Regulation Executive (BRE) unit in the Cabinet Office recommends that Regulatory Impact Assessments (RIAs) be systematically conducted for all major and new – not existing – legislation. The BRE's stated aim is to legislate only where necessary and to deregulate existing legislation wherever possible. RIAs are to support departments in delivering policies by compelling policymakers to think through the consequences of government intervention.

As a result of the BRE's work, 176 RIAs were conducted across all departments

between July and December 2006. The Department for Trade and Industry and the Department for Environment, Food and Rural Affairs conducted the largest number of RIAs (70 and 24 respectively).

A post-implementation review after three years is a fixed element of all RIAs. Sunset clauses, or provisions in which legislation expires upon a certain date, are supposed to be considered for all legislation. In three of the past five years, there has been a 100 percent compliance rate across all departments in applying RIA guidelines. A new RIA scheme aimed at rationalizing the process and rendering it more transparent was implemented in November 2007.

Canada

value 8

A Regulatory Impact Analysis (RIA) statement is required for any proposal to amend or introduce new regulations. Likewise, RIAs are used as a tool for evaluating existing regulations. RIAs have three purposes: to demonstrate that the proposed regulation is preferred over other policy tools for achieving the objectives; to describe the stakeholder consultations that have taken place; and to explain the strategy to ensure compliance and enforcement.

With respect to regulatory affairs, Canada has not adopted a strict “command and control” regime. The Regulatory Affairs Directorate (RAD) within the PCO does not have the authority to block regulatory proposals. Rather, Canada’s RIA program allows regulatory departments the flexibility to adopt different approaches to meeting RIA requirements. This flexible approach results in varying degrees of comprehensiveness and effectiveness of RIAs across departments and issues.

Denmark

value 8

A 1998 directive from the PMO has made RIAs a required part of Danish policy formulation for all ministries and agencies both in terms of proposed legislation and administrative regulations. Since that time, a number of ministries have developed texts that provide civil servants with advice on how to do this. In May 2005, a guide to be shared by all ministries was developed under the leadership of the Ministry of Finance.

Impact assessments must address the economic consequences for state and local governments as well as the administrative, business/economic and environmental consequences. The relation of the proposed legislation or administrative regulations to EU legislation must also be assessed.

Thinking about consequences starts during the initial period of consideration of a new law or regulation (i.e., the screening stage), it continues while the content and degree of new measures are considered (i.e., the scoping stage), and a detailed RIA is worked out during the final stage (i.e., the assessment stage). The extent to which existing regulations are regularly assessed depends on the regulation in question and the feedback the responsible administrative agency has received.

Mexico

value 8

Regulatory impact assessments (RIAs) are formally well-embedded at the national level, and are applied to many existing regulations. In Mexico, RIAs were introduced as part of the process of regulatory simplification. The President's Office's legal council will not consider any proposals submitted without such an assessment. The budgetary implications of all draft bills are carefully reviewed. Regulatory and socioeconomic effects are also considered, but are not as carefully reviewed as budgetary issues.

The OECD has on several occasions positively mentioned Mexico's attempts to embed RIA into the national administrative system. Nevertheless, some serious problems remain. Assessments in many policy fields are not of high quality. Additionally, RIAs require several prerequisites to be effective, ranging from technical issues such as data availability and analytic techniques to sociopolitical factors such as transparency and accountability. Given Mexico's deficiencies with regard to these latter factors, the mere number of RIAs performed does not adequately describe their de facto impact on policy-making.

Netherlands

value 8

In 2003, a formal RIA structure was implemented in order to establish a process of regular impact analysis for new regulations. All departments are obliged to follow the elaborate procedure in preparing policy proposals. During the lawmaking process, all laws and decisions presented to the government for approval are subjected to this assessment process.

The review process has two phases: the quick scan and the impact analysis. There are different impact measures, including the Business Effect Test (BET), the Environment Test (MET) and the Feasibility- and Sustainability Test (U&H). After the assessment has been completed, it becomes part of the legislative record and is presented to the government and parliament as input for decision-making.

Annotation: Ministerie van Economische Zaken, "Effectbeoordeling voorgenomen regelgeving, 2003,"

<http://www.minez.nl/dsc?c=getobject&s=obj&objectid=147696&!dsname=EZIntern et&isa pidir=/gvisapi/> (accessed February 14, 2008).

New Zealand

value 8

All policy proposals to the cabinet that result in government bills or statutory regulations must be accompanied by a regulatory impact statement (RIS), unless an exemption applies. Since April 1, 2001, all policy proposals to the cabinet that

require a RIS and have compliance cost implications have had to include a business compliance cost statement (BCCS) in the RIS. The BCCS is intended to ensure that business compliance cost implications are made explicit and are properly considered in developing policy. Similar procedures exist with regard to draft laws that touch upon aspects of human rights, gender equality or the treatment of handicapped persons.

South Korea

value 8

Regulatory impact assessment (RIA) has been required by law for all new regulations since 2005, and is also mandatory if older regulations are strengthened. In order to use resources efficiently, new regulations are divided into significant and non-significant categories. Significant regulation receives a comprehensive assessment, while non-significant measures face a simplified process.

Some regulations in Korea have a sunset clause that makes their review necessary during the duration period. The Regulatory Reform Commission (RRC) established under the Roh administration intensively reviews existing regulations and recommends changes. Environmental impact assessment (EIA) is a good example of this process. Before a development project launches, its likely environmental and ecological impact must be reviewed by the Ministry of Environment.

While EIA is applied to the implementation phases of a project, strategic environment assessment is applied to the planning phase. Officials in charge of a development project should have consultation meetings with officials from the environment ministry to discuss the project's possible environmental impact.

Australia

value 7

Considerable resources are expended in projecting the socioeconomic costs of particular policies through regular regulatory impact assessments (RIAs). As in many countries, policymakers in Australia are committed to performing evidence-based assessments. These evaluations are generally conducted within the relevant department or agency, although sometimes the Treasury itself conducts modeling of particular policy outcomes if they are deemed to have special financial implications. There are also some RIA evaluations conducted by the Australian National Audit Office and the Productivity Commission, which select particular policies for detailed audit and analysis. Both are independent statutory authorities responsible to Parliament.

RIAs are generally restricted to new legislation, and are not systematically applied to existing legislation. Newly introduced in 2007 is a requirement that the Productivity Commission, traditionally responsible for advice and reports on microeconomic policy, undertake annual reviews of the impact of regulations on business. The review process is to operate on a five-year cycle, focusing on a different set of

industries in each of the five years. But this commission does not assess regulatory impacts beyond the narrow domain of costs and inefficiencies faced by businesses.

Ireland

value 7

In Ireland, the introduction of a system of regulatory impact assessment (RIA) was relatively recent and followed a 2005 Cabinet decision providing that RIAs must be conducted on: all proposals for primary legislation involving changes to the regulatory framework; significant statutory instruments; and proposals for EU directives and significant EU regulations published by the European Commission. Furthermore, the 2006 Cabinet Handbook stipulates that all memoranda for government decisions subject to a RIA must be accompanied by such an assessment. Two levels of RIA are available in the current framework. All legislation undergoes a so-called screening RIA, and those policy proposals that the screening RIA deems to entail significant impacts or costs (i.e., initial costs of €10 million or more or cumulative costs of €50 million or more over 10 years) are subject to a so-called “full RIA,” which involves a significantly more detailed analysis of the costs and benefits of the proposed legislation as well as a formal consultation process with all affected parties.

Switzerland

value 7

Switzerland does not have a formal institution or body responsible for ex ante regulatory impact assessments (RIAs). Article 170 of the constitution states that the “Federal Parliament shall ensure that the efficacy of measures taken by the Confederation is evaluated.” Instead of a formal RIA institution, there are functional equivalents. The expert commissions that prepare and draft legislative proposals regularly consider alternatives and the potential impact of laws. The second and more important equivalent is the consultation procedure laid down in Article 147 of the Swiss constitution: “The cantons, the political parties, and the interested circles shall be heard in the course of the preparation of important legislation and other projects of substantial impact, and on important international treaties.” All draft regulations are evaluated on the basis of their financial impact and compatibility with EU law.

Germany

value 6

The 2000 revised Joint Procedural Code calls for regulatory impact assessments (RIAs) of draft bills made by the Federal Ministry of Economics and Technology. RIAs are also a major focus of the European Union agenda, although member states follow different strategies. The focus of the German RIA system is not primarily on

promoting competitiveness, but on simplifying legislation.

In 2006 the German government established a new body, called the “Normenkontrollrat,” tasked with reducing the bureaucratic costs of passed bills. The body does not operate as an independent watchdog, however. Experts say there is little evidence to date that the RIA system has substantially changed the law-making process or the resulting bureaucracy.

Austria

value 5

There is no central agency charged with performing regulatory impact assessments (RIAs). Regarding financial impacts, RIAs are applied systematically to new regulations. Certain legal provisions require that an impact analysis on follow-up costs be performed for both the federal government and the states. In addition to various impact assessments, the preface of every federal draft proposal must also include anticipated financial consequences for public administration.

At the same time, however, RIAs are very rare when it comes to evaluating non-financial consequences. In some respects, the public assessment of draft bills by social partners acts as a substitute for these missing RIA components.

Japan

value 5

According to a 2004 OECD report (the most recent information available), the scope of regulatory impact assessment (RIA) in Japan is quite limited. It is typically performed in the context of environmental assessment, but has not spread into other policy fields. Although introduced in 1987, results are not typically disclosed to the public, and no recent case has gained public prominence. RIA has not played a major role in recent regulatory reform plans by the Council for the Promotion of Regulatory Reform, a group associated with the Cabinet Office.

Annotation: OECD, “Regulatory Impact Analysis (RIA) Inventory,” Note by the Secretariat, GOV/PGC/RD(2004)1, Paris 2004

<http://www.oecd.org/dataoecd/22/9/35258430.pdf> (accessed June 20, 2008).

Poland

value 4

RIAs were introduced in 2001. Since then, carrying out impact assessments has been mandatory for all government bills and regulation. Assessments are undertaken by the ministries and then reviewed by the government center for legislation. So far, however, the quality of assessments has been poor, with most ministries performing the RIA in a minimal and symbolic fashion. One major problem has been the understaffing of the government center for legislation. In October 2006, the Council

of Ministers tried to address these problems by adopting new RIA guidelines as part of a comprehensive program for regulatory reform. The implementation of this program and the adoption of new RIA guidelines have just begun during the period under review.

Annotation: Wojciech Rogowski and Włodzimierz Szpringer, “Methodological Problems of the Polish System of Regulation Impact Assessment,” ENBR Working Paper No. 04/2007, <http://www.enbr.org/document.php?cat=2> (accessed May 14, 2008).

Hungary

value 3

Hungarian policymakers had already established a general obligation to examine the impact of draft laws by 1987. Nevertheless, the scope of regulatory impact assessment (RIA) has long been limited. Most bills have included some budgetary data, but have not been based on a comprehensive analysis of the need for or the socioeconomic effects of a measure. In 2006, a new attempt at improving the assessment of draft laws was undertaken when the Ministry of Justice published new RIA guidelines, modeled after EU approaches. The implementation of these guidelines has remained unsatisfactory so far.

Italy

value 3

Regulatory impact assessments at the national level fall under the responsibility of the prime minister’s office. The PMO is responsible for the review and quality control of RIAs produced by ministries as well as the coordination of activities associated with an RIA. With regard to methodology, a flexible approach to RIA evaluations is followed. A cost-benefit analysis is one possible path in evaluating the economic impact of a proposed rule, but the final choice of assessment is up to the responsible ministry. In recent years there has been a growing focus on RIAs at the regional level, where RIAs have been adopted or tested.

The Presidency of the Council of Ministers, as a government office with its department for juridical and legislative affairs, is the body responsible for the elaboration of RIA methodology. With the reorganization of the office to serve as a coordinator of each ministry, it is questionable whether sufficient resources are available within the Presidency to seriously further RIA efforts.

Although RIA are in principle required from all ministries and local authorities (according to laws 50/1999 and 246/2005), implementation has been far from systematic. As a consequence a new plan adopted in July 2007 by the Prodi II government decided that new and simpler RIA forms will be detailed by September 2007 and implemented in November 2007.

Slovakia

value 3

According to Article 11 of the Legislative Procedures of the Slovak Government, all legal proposals must include economic, social and legal evaluations of the existing situation, a rationale for the proposed change, an implementation plan, and an assessment of the economic and fiscal impact on both the state budget and the labor market. An environmental impact assessment is also required. However, assessments are conducted *ex ante*, and there is neither a central coordination unit nor a clear methodology for conducting assessments. In practice, required assessments often boil down to an analysis of a new provision's fiscal effects (Staroňová 2007).

Annotation: Katarína Staroňová, "The Quality of Impact Assessment in Slovakia," in *Impact Assessment and Sustainable Development: European Practice and Experience*, ed. Clive George and Colin Kirkpatrick. (Cheltenham: Edward Elgar, 2007), 230–255.

Czech Republic

value 2

Regulatory impact assessments (RIA) are rather new in the Czech Republic. A government directive from April 2005 (Regulation No. 420) established an RIA requirement for all legislation-related materials going before the Czech government. This requirement follows the practice in other countries where there are requirements for: an outline of the problem being addressed; arguments for why state intervention is a possible solution; and consideration of a range of possible alternatives. There was to be provision for consultation with affected groups and with other parts of the state administration, but implementation has been slow and weak because the ministries have been uncertain about what they are supposed to do. The issue has gradually been taken more seriously. Seminars and pilot projects paved the way for a second – and more refined – attempt at introducing RIA in August 2007. After the 2006 general election, though, the RIA coordinator was replaced, and the RIA coordination body was moved from the Office of the Government to the Ministry of the Interior.

France

value 2

France does not have a transparent or public process of regulatory impact assessment, in which all groups affected by legislative proposals are involved. In exceptional circumstances, individual ministries or the Ministry of Finance can request such an assessment.

Portugal

value 2

Regulatory impact assessments (RIAs) are not required by law in Portugal but result from policy directives. RIAs are typically limited to fiscal analysis and focus on budget costs. The analysis of benefits and the impact on competition are limited to only certain cases of regulation, and public disclosure likewise takes place only in selected cases, such as when new or major legislation or policies are introduced. In these cases, the new law specifies the need for RIA as a means of obtaining the relevant information that will allow the appropriate minister to review the new law or policy.

For the purpose of monitoring and evaluation, some ministries have special services or units (e.g., the Environment Institute) whose main task is to provide prospective and evaluation studies. As a complement or alternative to these units, ministers may use studies or data from research centers, whether academic (e.g., Statistics Portugal, or INE) or non-academic (e.g., the National Health Service, or SNS). Ministers may also employ private consultants to carry out specific evaluations. This is an area in Portugal, however, that still requires considerable improvement and the formalization of practices. In any case, provisions linked to the SIMPLEX program and introduced in 2006 aim to partially correct this situation .

Annotation: For more on the related provisions of the SIMPLEX programs, see Resolution of the Council of Ministers 63/2006.

Belgium

value 1

Ex-ante policy evaluation is only weakly institutionalized in Belgium, and there is no tool such as a regulatory impact assessment. However, the federal parliament adopted a bill in 2007 concerning the establishment of a parliamentary committee in charge of assessing legislation, which, at the time of writing, had not yet been formed.

Greece

value 1

In Greece, ministries give only formal recognition to the practice of regulatory impact assessment (RIA). There has been discussion about applying RIA since the late 1990s, but in practice no ministry regularly does so. A decision by the prime minister, issued in July 2006, requires ministers to proceed with implementing RIA. In January 2007, the Governmental Committee adopted a decision to implement RIA. Implementation was to start in March 2007, but by the close of this period of analysis, nothing had happened.

Iceland

value 1 There is no tradition of regulatory impact assessment in Iceland.

Luxembourg

value 1 There are no official procedures for regulatory impact assessment (RIA) in Luxembourg.

Spain

value 1 Regulatory impact assessments are neither required nor regularly performed in Spain. There may be some impact assessment the form of an “economic assessment” (memoria económica) to accompany a draft bill, but this is not a formal requirement. Other laws contain assessments of different dimensions (economic, social, political or administrative). Nonetheless, the need for such an assessment depends of the specific case, the area of government involved and the type of regulation.

Sweden

value 1 Regulatory impact assessments (RIAs) are not conducted systematically. Instead, royal commissions are frequently asked to analyze the anticipated impact of suggested regulations. Similarly, the Ministry of Finance communicates with other departments or agencies and occasionally requests similar analyses. All of these assessments are ex ante, rather than ex post.

Turkey

value 1 A regulatory impact assessment is not applied during the legislative process. RIA activities are in general haphazard, not systematic and are not centrally registered. Often ideological taboos and constraints inhibit a frank discussion and analysis of the unintended impacts of reforms. The prolongation of obligatory schooling provides one example. Such reform was motivated not by educational concerns and considerations but was aimed at cutting the lifeline of state schools for the training of Muslim clergy.

Indicator Needs analysis

Question Do RIAs analyze the purposes of and need for regulations?

30 OECD countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels:

- 10-9 = RIAs clearly, concisely and specifically define the purposes and need for regulations.*
- 8-6 = Purposes and needs are mentioned, but specifications are not clear or well-defined.*
- 5-3 = RIAs mention purpose and need, but are not specific.*
- 2-1 = RIAs do not analyze the purpose of and the need for a regulation.*

Finland

value 10

As evident from the following example, regulatory impact assessments have analytic depth. In late 2006, the Prime Minister's Office asked the ministries and policy programs to deliver information and data to be used in an impact assessment and evaluation of the cabinet program. The data requested covered all issues contained in the cabinet program and its related strategy documents. The impact assessment includes a description of essential measures that have been taken; in addition the assessment constructs models of key issue-area features affected by government policy. Statistical and other indicators are used to illustrate and describe the policies' development.

Annotation: Pääministeri Matti Vanhanen hallituksen ohjelman seuranta, Valtioneuvoston kanslian julkaisusarja 6/2007: Helsinki.

United Kingdom

value 10

Needs analysis is an integral part of the British RIA scheme. There is an impact assessment guide defining six stages in creating an RIA: (1) the development stage, which includes defining a policy problem, gathering evidence, defining the rationale for government intervention, and identifying policy objectives; (2) the options stage, in which options are identified and tested; (3) the consultation stage, in which options are refined and public consultation elicited; (4) the final proposal stage, in which the costs and benefits of a preferred option are weighed; (5) the implementation stage; and (6) the review stage.

United States

value 10 The OMB's specifications for appropriate regulatory impact analysis are extremely clear in requiring that analyses consider the purpose of and need for the regulation. Because OMB frequently blocks regulations or demands additional analysis, these specifications are effectively binding on the agencies. Although OMB impact analysis is subject to political strictures, its quality is nevertheless high.

Denmark

value 9 The comments accompanying new legislative proposals usually provide a comprehensive review of the existing laws and regulations and clear arguments for why the new legislation is advisable. As specified by the 1998 regulation mentioned above (see "RIA application"), these comments must be written so that individuals who are not legal experts can also understand them. These comments also usually display the very high level of professional expertise of the individuals who compiled them. Nevertheless, there has occasionally been some criticism that the "real" purpose of legislation has not been made explicit, such as in the area of immigration policy. At the same time, though, this has been more of an issue of the professional expertise of the lawmakers rather than one of political transparency.

Netherlands

value 9 RIA is considered to be of great importance, and much effort is invested in taking clear, concise and specific measurements. In the first stage of the obligatory assessment process, needs analysis is accomplished by means of the quick scan. The quick scan's protocol requires that policy proposals be scrutinized on the merits of their necessity and desirability. Consideration must also be given to the purpose and justifiability of both proposed legislation and the choice of specific policy instruments. There are no formal publicity requirements or consultation mechanisms regarding the results of such assessments.

New Zealand

value 9 In addition to its executive summary, a regulatory impact statement must summarize the overall problem being addressed, not simply describe the proposed regulation. It should make clear why the government needs to act, and why the current situation is unsatisfactory. Costs and benefits of the status quo, and the preferred option must be detailed. Furthermore, the statement must explain how compliance costs can be reduced, how the change would impact existing rules, and how the preferred option

would be implemented. Feedback from other departments and other interested parties must be included, as well as a report detailing who has been consulted and how the consultation process has been organized.

In 2006, the cabinet revised regulatory impact assessment (RIA) requirements, hoping to improve the quality of regulatory interventions by creating requirements and incentives for robust policy development, and by ensuring that ministers have accurate information on which to base decisions. However, in practice the quality of RIAs is variable.

Norway

value 9

The quality of RIAs in parliamentary bills show great variation, but is generally good. At a minimum, parliamentary bills describe the financial and administrative (government) consequences of a proposal. Other costs are typically not quantified systematically and regularly when preparing bills. The RIA system in Norway is strong in terms of consultation, transparency and creating a broad political consensus around decisions. It is weaker in terms of the technical quality of such analyses.

Canada

value 8

There is a lack of consistency both across and within departments regarding the quality of RIAs. This results from both limited budgets and time constraints, which cause plausible alternatives to be either dismissed or superficially analyzed. According to the Treasury Board, the most important function of RIAs is to change the culture within regulatory departments. RIAs benefit regulatory departments once they have internalized the way of thinking embodied within the RIA requirements. As a result, the Canadian RIA program does not follow a strict command-and-control approach, but emphasizes the need of flexibility to adopt different approaches to meet RIA requirements.

South Korea

value 8

RIAs in Korea mention the purpose and need for a regulation, but the overall number of regulations that initially fail the RIA is around 20 percent. Despite this low failure rate, RIAs have improved the quality of draft regulations, because ministries now know that no law can pass without an RIA. Since 2005, there have been constant efforts by the government and scholars to improve RIA methods.

The depth of the RIA process varies across the public service. In April 2004, a distinction between important and less important regulatory policies was introduced. Important policies are evaluated systematically and regularly by the RRC. Other policies are evaluated by the ministries themselves, with the results reported to the RRC. In an effort to ensure transparency and accountability, regulatory reform and

its progress can be monitored at the RRC's Web site. The results of all evaluations are subject to a comprehensive assessment by the RRC at the end of each year.

Switzerland

value 8

The Swiss political system does not have a formal institution or body responsible for performing needs analyses. However, the extraparliamentary committees and the consultation procedure are functional equivalents, and constitute part of a systematic process of needs analysis.

Australia

value 7

The depth of the RIA process varies across the public service. Within certain areas, where the evaluation of an RIA is more straightforward – trade, health or food standards, for example – the RIA process is conducted in depth. In other areas, such as social policy or housing, where many variables are likely to affect the outcome, the RIA process is less intensive. The process is likely to be most detailed and effective in areas of major economic interest, such as consumer competition, where there are multiple interested parties, where competition may be restricted as a consequence of new regulation, or where the new legislation is likely to have a direct effect on citizens' lives.

Ireland

value 7

Both screening and full RIAs require consideration of the purpose of and need for regulation. The guidelines for the implementation of a screening RIA, which are issued by the Better Regulation Unit of the Department of the Taoiseach, mandate that the RIA explicitly state the objectives of a proposal and consider it against a “do nothing” benchmark, thereby providing justification for the need for legislative action. When it comes to full RIAs, the guidelines require a more detailed elaboration of the proposed regulation's purpose as well as the analysis of the regulation in comparison to a do nothing benchmark and at least two other options. Thus, in Ireland, a RIA requires that the purpose and need for a proposed regulation be stated in a clear and specific manner.

Mexico

value 7

Formally, Mexican RIAs must include a very detailed description and justification of any formal legal changes created by the proposed regulation. All bills initiated in Congress have to be preceded by an exposition of the motives behind the measure, which in turn must clearly describe the changes needed to existing regulation.

However, clarity of specification has varied depending on the policy issue. Most economic bills have references to larger macroeconomic questions. Specific assessments of bills' socioeconomic implications are rarer. Noneconomic bills are more general in their assessments, making reference to general policy issues and only rarely to specifics. This variation can sometimes be traced back to technical deficiencies (especially in some states) and sometimes to reasons of politics.

The regulatory assessment office, Cofemer, is staffed by some 60 expert officials who are responsible to an interdepartmental committee, which ultimately reports to the Economics Ministry. Cofemer does not have veto powers on substantive grounds, but must nevertheless be consulted. It can refuse to allow a new regulation to be published (therefore stopping it coming into force) until the appropriate consultations have taken place. Cofemer is generally well regarded from a technocratic point of view, but it has not to date responded assertively when facing political pressure.

France

value 6

A genuine needs analysis, which weighs the advantages and disadvantages of a legislative measure, does not exist. Such an appraisal is necessary according to guidelines set out by the prime minister in 1995. Usually questions concerning the benefit of a legislative initiative are of a general nature and are answered in a formal way, using broad terminology. Both the Constitutional Council as well as State Councils have criticized the use of such "lois bavardes," or talkative laws. In the event that legal provisions and measures are given a high level of importance by the president or the government, the needs analysis further loses its already low level of significance.

Austria

value 5

The annex of each draft law – and primarily their prefaces – state the reasons why the regulation was necessary. These sections also include potential points of friction that the draft law might have with the existing regulation.

Germany

value 4

The Federal Ministry of the Interior's RIA guidelines call for a needs analysis and an explication of necessity for any new regulation. However, strong ideological interest in a particular regulation's passage may sometimes taint the impartiality of the RIA process.

Italy

value 4

RIAs mention the purpose of and the need for a certain regulation but do not offer specifics.

Japan

value 4 Only selected cases are analyzed in a concise, quantitative way, and only selected costs and benefits are evaluated.

Hungary

value 3 In general, draft bills say a few words on the purpose of and the need for a regulation. However, they rarely outline the full analytical case for a regulation because both ministries and stakeholders outside government lack the capacity to prepare in-depth analyses.

Annotation: The score lies outside the range of the expert scores. The qualitative assessments by the experts, as well as comparative considerations, suggest a lower score.

Poland

value 3 In practice, assessments focus on the impact of new measures, but tend to be very brief on the purpose of and need for regulation.

Slovakia

value 3 According to the guiding provisions, impact assessments must outline the rationale for a proposal. In practice, assessments generally mention the purpose of and the need for a regulation, but fail to specify further.

Czech Republic

value 2 A system that includes a full needs analysis has been proposed, but has yet to be implemented. As of March 2007, the purpose of and need for a regulation had not been analyzed on a regular basis.

Portugal

value 2 There is no real systematized process for the use of RIAs in Portugal.

Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Belgium

value 1 There is no real systematized process for the use of RIAs in Portugal.

Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Greece

value 1 There is no real systematized process for the use of RIAs in Portugal.

Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Iceland

value 1 There is no real systematized process for the use of RIAs in Portugal.

Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Luxembourg

value 1 There is no real systematized process for the use of RIAs in Portugal.

Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Spain

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Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted

the question from a slightly different perspective.

Sweden

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Turkey

value 1 There is no real systematized process for the use of RIAs in Portugal.

Annotation: For this reason, and for the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Indicator **Alternative options**

Question **To what extent do RIAs analyze alternative options?**

30 OECD countries are sorted according to their performance on a scale from 10 (best) to 1 (lowest). This scale is tied to four qualitative evaluation levels:

- 10-9 = RIAs analyze alternative options, including "do nothing," quantifying costs and benefits.*
- 8-6 = RIAs highlight alternative options and consider costs and benefits.*
- 5-3 = RIAs consider some alternative options.*
- 2-1 = RIAs do not analyze alternative options.*

United Kingdom

value 10 Assessing alternative options, including the “do nothing” option, is part of the process described in the RIA manual. The recommended full analysis is to include a quantified analysis, in detail, of the costs and benefits of various alternatives. As of April 2008, the Renewable Transport Fuels Obligation (RTFO) will require oil companies to include 2.5 percent of renewables in transportation fuel. It is unclear whether there are sufficient sustainable sources for these renewable feedstocks. The government recognizes the need to prevent the growing demand for biodiesel from increasing the pressure to produce biofuels in an unsustainable manner. A 2007 RIA focused on several alternatives, including the use of waste vegetable oil as a fuel, which would ease demand for virgin vegetable oil. The RIA also identified financial barriers to the commercial conversion of used cooking oil into biodiesel.

Annotation: All RIAs are available online. An example can be found at http://www.dfes.gov.uk/ria/assessmentFiles/riaFile_80.pdf (accessed December 18, 2007).

Finland

value 9 Under the existing system, the government releases one foresight report per electoral period, addressing a range of long-term issues. The procedure also involves statements from the parliamentary Committee for the Future and from regional future forums. A recent review of these procedures held that this current model of dialogue between parliament and government on future-related issues should be continued and reinforced. According to the review, the foresight reports should focus on a core issue or set of issues relevant across several social and administrative sectors, and should discuss the government’s vision over the equivalent of an entire electoral period. These reports should also present strategies and policies proposed to attain the desired objectives

Annotation: Prime Minister's Office, "Improving the Government Foresight Reporting Procedure." (Helsinki: Prime Minister's Office Publications 1/2007).

New Zealand

value 9 RIAs are a cabinet requirement, and failure to comply is a breach of cabinet procedure. The obligatory template includes requirements for good policy analysis, with consideration of the status quo, as well as options and their costs and benefits. In particular, a summary of the key features of these options must be delivered. Furthermore, it must be explained why the alternatives were not chosen. This presentation must include estimates of alternative options' costs and benefits, including potential compliance costs. These requirements were strengthened further in April 2007. Discussion documents must now include the substantive RIA elements (statement of problem, and a presentation of options and their impact) or a draft regulatory impact statement. The RIA analysis must meet explicit adequacy criteria.

United States

value 9 RIAs do analyze alternative options and quantify their costs and benefits. However, it is unlikely that many analyses quantify costs and benefits of more than one option, compared with the status quo. Analysis is expensive and time-consuming, and intensive analysis is normally reserved for the main alternative.

Australia

value 8 As the extent and depth of RIAs vary across the public service, the government requires RIAs to specify clear goals and to evaluate whether these goals can be achieved with a less substantial compliance burden by means other than legislation. In most cases, these assessments examine evidence supporting the feasibility of non-legislative options. For example, assessments of alternatives to the existing regulatory regime are an inherent part of the Productivity Commission review process.

Ireland

value 8 The Better Regulation Unit of the Department of the Taoiseach has reported high levels of departmental compliance with RIA requirements since they were mandated by the Cabinet in 2005. The 2006 Annual Reports of Government Departments/Offices contained details on legislation and regulations published during the year under review and how RIA was applied in such cases. However, owing to the system's relative novelty, it is perhaps premature to draw any conclusions regarding the system's effectiveness.

Netherlands

value 8 Alternative options to proposed legislation are considered in the first phase of a RIA, the quick scan. RIA guidelines do not, however, require the quantification of the costs and benefits of alternative options.

Annotation: This assessment is based on the RIA guidelines alone. As the RIA are not published, an empirical assessment is not possible. For the RIA guidelines, see “Effectbeoordeling voorgenomen regelgeving.”

Norway

value 8 The official “Instructions for Official Studies and Reports” require that a sensitivity analysis must be made if any appreciable uncertainty exists, and that alternative instruments should be assessed, including instruments other than those of a regulatory nature (e.g., economic instruments). In practice, the extent to which alternative options are given careful consideration and submitted to a systematic cost-benefit analysis varies from case to case. Quantification of the costs and benefits of different alternatives is relatively rare.

South Korea

value 8 RIAs effectively analyze alternative options in many instances. The ministry that drafts the regulations must consider practical regulatory alternatives even in the initial stages, as one criteria of the RIA review asks whether an alternative to regulation is possible, and whether the proposal overlaps with existing regulations. On the basis of its evaluations and assessments, the RRC can put forward recommendations and enforce them. For example, bundled regulations that affect many ministries, laws and ordinances have been selected and improved, with a focus on regulatory compliance costs and time. With respect to the private sector too, progress has been palpable.

Switzerland

value 8 Evaluating alternative options is a crucial concern as extraparliamentary committees perform their work, and as consultation takes place between cantons, political parties, and other interested groups. Additionally, the country’s Law on Environmental Protection requires that the pros and cons of measures must be evaluated. However, this is an ex post evaluation.

Denmark

value 7

Assessing the consequences of new or revised legislation or administrative regulations is a process, which may start with a white paper outlining options. Options will also most likely be considered at the screening stage within the responsible ministry or agency. When it comes to a proposed law that will go before the People's Assembly, only the regulatory consequences of that law will be assessed. However, this assessment does not prevent MPs from discussing alternative options or asking the responsible minister about alternative options. As the procedural nature of this assessment includes elements of finding a compromise or solution that will satisfy all the involved actors, not all options are considered. In general, however, a RIA will include a cost-benefit analysis.

Various interest groups also play an important role in advancing alternative options. For example, when it comes to general economic policy, the Council of Economic Advisors plays an important role by providing independent assessments on a continuous basis. There have also been recent proposals to further strengthen this role.

Canada

value 6

Several departments (e.g., Environment Canada and Health Canada) have implemented regulatory development processes that reflect new approaches to regulating. These processes increase stakeholder consultation early in the process, increase the range of policy tools considered, and make the trade-offs between the benefits and costs of possible interventions explicit. However, there is a degree of variance across departments in terms of RIA comprehensiveness.

For example, a RIA is likely to be more robust in departments with high regulatory functions. On the other hand, if an issue is designated a government priority and is known to have negative results, an effective, complete RIA may not be completed.

RIAs in departments such as Environment Canada and Health Canada analyze alternative options (but do not quantify the costs and benefits of each alternative). The other RIAs fall short in both the analysis of alternative options as well as their respective cost-benefit ratio.

Mexico

value 6

In general, RIAs in Mexico are supposed to highlight alternatives and to analyze the costs and benefits of different alternatives. Nevertheless, the quality of such scenario analysis varies greatly due to data availability, technical capacity and political will. For instance, Cofemer could in principle work well and evaluate alternative options. Its problem is not expertise but politics. In the recent past, Cofemer has tended to take a soft line on politically sensitive issues. It has held off approving regulations that would tighten control of the politically sensitive telecommunications sector.

Institutional change would probably not help much in the absence of a shift in the political culture toward greater respect for regulation. This is happening, but the process is slow.

France

value 4 Since 2006, following a directive from the Prime Minister's Office, alternative options and solutions should be discussed when legislative proposals are made. But in reality a minister will often provide colleagues with alternative suggestions during the approval process with attending ministries on tactical reasons. This is because this strategy increases the chances of a ministry being able to keep control of its proposed policy, without new or unwanted ideas being put forward- Quite often, these options serve as a fallback position for a minister when he fails to fully convince colleagues or parliament of his initial proposals. Nevertheless, interest groups such as trade associations present their own, alternative ideas during this informal process and try to influence the government through the public sphere.

Germany

value 4 RIA guidelines require an analysis of alternative regulatory options. However, this process can be tainted by bias, if a strong ideological interest in a proposal exists.

Austria

value 3 Alternative options to draft bills are not systematically analyzed.

Hungary

value 3 Until recently, consideration of alternative options has been limited. However, the 2006 RIA guidelines published by the Ministry of Justice do call for a comprehensive analysis of alternative options.

Italy

value 3 RIAs mention the purpose of and the need for a certain regulation but do not offer specifics.

Portugal

value 3 Although there is no real systematized process for the use of RIAs in Portugal, in some cases, alternative options may be considered. For example, alternative financing models were examined in a study to verify the financial sustainability of the Portuguese National Health Service (SNS).

Annotation: For the sake of adequate inter-regional comparison, the score given here, 2, deviates from those provided by the experts who interpreted the question from a slightly different perspective.

Slovakia

value 3 There is some rough analysis of alternative options at the early stage of the legislative process. Once a political decision is made, assessments tend to focus exclusively on the effects of a proposal.

Czech Republic

value 2 The envisaged system provides for a comprehensive analysis of alternative options, but has yet to be implemented. As of March 2007, alternative options had not been analyzed on a regular basis.

Poland

value 2 Assessments normally do not analyze alternative options. The new RIA guidelines adopted in 2006 failed to make the analysis of alternative options mandatory.

Belgium

value 1 Assessments normally do not analyze alternative options. The new RIA guidelines adopted in 2006 failed to make the analysis of alternative options mandatory.

Greece

value 1 Assessments normally do not analyze alternative options. The new RIA guidelines adopted in 2006 failed to make the analysis of alternative options mandatory.

Iceland

value 1 Assessments normally do not analyze alternative options. The new RIA guidelines adopted in 2006 failed to make the analysis of alternative options mandatory.

Japan

value 1 In view of the incomplete criteria underlying RIAs, it seems unlikely that alternative options are properly analyzed.

Luxembourg

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Spain

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Sweden

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Turkey

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This report is part of the Sustainable Governance Indicators 2009 project, which assesses and compares the reform capacities of the OECD member states.

More on the SGI 2009 at www.sgi-network.org

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