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Global Indicators of Regulatory Governance: Worldwide Practices of Regulatory Impact Assessments

Regulatory Impact Assessment

Regulatory Impact Assessment (RIA) is recognized by most developed countries as a key instrument to improve the quality of regulatory decision making. RIAs are widely used within the member countries of the Organisation for Economic Co-operation and Development (OECD), and today an increasing number of developing countries are implementing new RIA procedures in their regulatory governance systems. This case study analyzes a global unique data on RIA implementation worldwide, highlighting best practices and identifying areas for improvement.

“We need to tackle regulation with vigor to free businesses to compete and create jobs, and give people greater freedom and personal responsibility [. . .]. I want us to be the first Government in modern history to leave office having reduced the overall burden of regulation, rather than increasing it.” These words were said by David Cameron, United Kingdom’s Prime Minister to all Cabinet Ministers in the midst of reforming the country’s RIA procedures. The statement appears on the first page of the 2015 Better Regulation Framework Manual as a reminder to government officials of the importance of conducting proper and thorough RIAs.

RIA plays a crucial role in improving rule-making quality and promoting good governance. Its global importance increased significantly after RIA was introduced in the United States regulatory system in 1978. Over the past 30 years, RIA has been heavily promoted by international organizations such as the World Bank, as this approach allows governments to ensure that the laws and regulations they develop and implement are of high quality—efficient, transparent and accountable (Morrall 2001). RIA as a key element of the rule-making process has attracted the attention of many international actors. Observation of RIA practices is part of the OECD Council’s official policy recommendations, and today 32 of the 35 OECD countries include RIA in their regulatory frameworks (Deighton-Smith, Erbacci and Kauffmann 2016). Similarly, in the case of the European Union, the development of the Better or Smart Regulatory framework has been a priority for many years. Particularly, the development and implementation of the European Commission’s RIA system has contributed to more efficiency and better use of evidence in the development of new regulations. All

major European Commission proposals are now supported by RIAs and more than 800 impact assessments have been carried out since 2003.² Today, following these initiatives, 92 of the 185 countries surveyed by the Global Indicators of Regulatory Governance (GIRG) conduct an impact assessment of proposed regulations. However, strong disparities exist across various income levels.

In the past two years, at least 13 countries as varied as Finland, Vietnam and Zambia either created or reformed RIA procedures. This increasingly universal, yet not new, interest is not coincidental. High-quality regulations allow for sustainable growth, investments, innovation and market openness (OECD 2015a). Countries from all income levels need effective regulations to support the rule of law, as poor regulatory governance harms citizens’ trust in institutions and encourages corruption in the public sphere (OECD 2015a). In this respect, RIA allows rule makers to improve regulatory governance by developing a comprehensive framework in which regulatory and policy options are assessed in an effective and transparent way. Even though introducing RIAs from scratch is not an easy undertaking, many countries have had positive effects right after reforming their regulatory frameworks. Moldova, for instance, found that new regulatory proposals decreased by 39 percent the year following the introduction of compulsory RIA. Members of the Moldovan RIA Secretariat believe that this downward trend resulted from a transformation of civil servants’ mindsets, who began to understand the dire consequences of badly designed regulations and hence refrained from submitting poorly designed proposals (Ladus 2008). Similarly, in the Republic of Korea, more than 25 percent of the draft regulations proposed within the year after the introduction of RIA were rejected by the Regulation Reform Committee (OECD 2000).

RIA also has proven to be an effective tool for designing cost-efficient regulations. For instance, the first proposal of the regulation concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH)³ from the European Commission could have imposed a 10 billion euro cost on the European chemicals industry. However, after conducting a thorough RIA and holding a public debate

discussing various regulatory alternatives, the regulation was revised to make it more cost effective and less burdensome for the private sector, while preserving the major benefits of the proposal. The final cost to the industry was reduced to two billion euros. The entire RIA was estimated to cost one million euros making a return on investment of 10,000 to one (World Bank 2010b).

I. Defining RIA

The ultimate objective of RIA is to improve the quality of regulation. The abundant literature on the topic illustrates that from a purely conceptual point of view, there is no generic definition of RIA. It is understood as an administrative obligation or an instrument of public policy analysis for identifying the costs of regulation on certain business sectors (Fischer, Miller and Sidney 2007; De Francesco, Radaelli and Troeger 2012). Usually, such analysis would be followed by a process aimed at reducing the regulatory “burden” on the actors of a particular sector and would thereby improve the countries’ competitiveness (Kirkpatrick and Parker 2007). From the World Bank’s perspective, RIA is a “tool that helps policy makers ask systematic questions about the different policy options and consequences of government interventions” (World Bank 2010b). The output of that process is an assessment report that provides high quality evidence for comparing different policy options (World Bank 2010a).

Over the past decades, the OECD has been spearheading the promotion and implementation of RIAs. Based on scrutiny of the experiences of member countries in implementing RIA since the 1980s, a number of OECD publications have tried to identify the key elements of RIA’s best practices.⁴ These studies argue strongly that a well-designed impact assessment system contains a number of interconnected elements. This means that, with respect to efficiency and capacity to improve regulatory quality, best practice RIA systems are those in which different elements are designed and implemented to be mutually supportive (box 1). Today, most OECD countries include RIA in their regulatory system but their experience also shows that the best practice standards are difficult to achieve. Countries show a large degree of variation in their approach to doing impact assessments. In many countries, most of the OECD best practice elements are not in place and RIA systems are not fully operational (World Bank 2010a). The World Bank keeps a global database⁵ of documents related to RIA issued by or for national governments, or publications studying RIA as it is applied by governments worldwide. It allows observing the disparities in interpretation and implementation of RIAs worldwide.

There is no single RIA definition, neither theoretical nor practical, but there is, however, a unanimous agreement in both literature and practice on the importance of RIAs as an

BOX 1

What are the key elements in a RIA process?

1. Defining a regulatory problem

This phase is the preliminary point of RIAs: identifying the regulatory or policy problem. Problems usually fall within 3 categories: market failure, regulatory inefficiencies and new policy targets or objectives.

2. Identifying different regulatory options

During this step, the need for regulatory intervention identified in phase 1 has to be translated into concrete policy options.

3. Collecting data

This phase is crucial and the means to achieve it are diverse and vary greatly among countries. Relevant data for the RIA are collected from public consultations, telephone and face-to-face interviews, paper questionnaires, online surveys, focus groups, etc.

4. Assessing alternative options

The central phase of RIAs most of the time results in a cost-benefit analysis but can also be a cost-effectiveness analysis or a risk analysis. Options assessed must include the “no policy change” scenario.

5. Identifying preferred regulatory option/s

Once the different options have been identified and scrutinized (usually by comparing the costs and benefits), the comparison of the different assessment will lead to the identification of the most efficient option.

6. Communicating results of the conducted RIA

Once taken into consideration by the policy makers, best practices suggest publication of the result of the RIA. This allows further exchange with stakeholders and improves the general transparency of the regulatory process.

Sources: OECD. 2008. *Introductory Handbook for Undertaking Regulatory Impact Analysis*. Paris: OECD Publishing; International Telecommunication Union (ITU). 2014. “Using Regulatory Impact Analysis to Improve Decision Making in the ICT Sector.” *GSR14 Discussion Paper*. Geneva: ITU.

integral instrument for designing public policy. Countries that have well-functioning and effective RIA structures have all used impact assessments to strengthen the existing decision-making processes rather than to replace them (World Bank 2010a). RIAs clearly complement current regulatory and decision-making frameworks to make them more

efficient and transparent, while at the same time increasing regulators' accountability.

Compared worldwide, assessments of the potential impact of regulatory changes on citizens, businesses and society at large are more highly concentrated in rich countries than poor ones. They also vary in scope and frequency. Impact assessments are performed differently, if at all, depending on legal obligations and agency capacity. In the United States, for instance, under the Administrative Procedure Act and Executive Order 12866, individual regulatory agencies must conduct an initial cost-benefit analysis to identify economically significant regulatory changes. Then, in the case where the proposed regulations meet that threshold, the agencies must prepare an impact assessment and submit their analysis for review to the Office of Information and Regulatory Affairs within the Office of Management and Budget. In Montenegro, all laws and other documents that get adopted by the government are subject to RIA. Should a ministry believe that RIA is not needed, it would have to explain the reasons and inform the government in writing. In Lao PDR however, the criterion used for determining which proposed regulations receive RIA is less precise. Only laws and regulations that have legal effect on the general public and business community are required to undertake RIA, and the depth and scope of assessment of the proposed law vary and will be recommended by the RIA center of the Ministry of Justice. Within the European Union, some of the countries, including Germany, the Netherlands, Sweden and the United Kingdom, have conducted impact assessments for years, while others have relatively recently integrated impact assessments into their rule-making processes (De Francesco, Radaelli and Troeger 2012). On the European Commission level, every time it proposes new legislation, it needs to evaluate its possible economic, social and environmental impacts.⁶

While a large amount of literature has been recently produced on the importance of RIAs in developing countries, there is little evidence as per the effective application of RIAs in settings of limited resources. When full RIAs are not feasible, it is possible to approximate the effects of the regulations through a "RIA light," tailored to the requirements of developing countries. It has five basic requirements:

1. Political commitment to establish and operate an effective and self-sustaining RIA process.
2. A unit or group of regulatory reformers—preferably based in a central area of government—which oversees, comments and reports on the quality of regulatory proposals before decisions are made about regulation.
3. Clear and consistently applied criteria and rules employed to screen regulatory proposals.
4. A transparent regulatory policy development process, which includes consultation with stakeholders.

5. A capacity building program, involving preparation of guidelines, training of officials preparing RIA, and establishing monitoring, evaluation and reporting systems (World Bank 2010a).

The Global Indicators of Regulatory Governance provide many details and examples of the variety of practices that exist around the world. They show that today, over 90 countries conduct RIA including all of the 33 OECD high-income ones. Europe and Central Asia is the region where the use of RIAs is most widespread, with 23 out of 25 countries conducting at least some kind of impact assessment (figure 1). However, there is an evident gap between the OECD high-income and Europe and Central Asian economies and the rest of the world. In Latin America and the Caribbean, for example, 43 percent of the countries conduct RIAs. In East Asia and Pacific only 32 percent and in South Asia 29 percent. In Sub-Saharan Africa and Middle East and North Africa regions the regulatory assessment practice is quite sporadic, with less than a quarter of countries doing any type of impact assessments.

A similar gap emerges when comparing impact assessments across income regions: 46 out of 58 high-income economies conduct RIAs, compared to only 5 of 29 low-income ones. In developing economies however, the practice of RIA has been steadily gaining prominence in the area of good governance. Vietnam, for instance, made RIA mandatory for all types of legal documents, including those issued by the local provincial People's committee adopted after July 2016.⁷ Similarly, in March of 2015, the Government of Morocco adopted Organic Law on the organization and conduct of the government.⁸ Article 19 of this law introduced RIA into Moroccan law, although the conditions and details of such assessments still need to be determined by future regulations. With the help of advisory services of the World Bank and the OECD, more and more regulators from different regions understand the benefits of introducing RIAs into their regulatory systems.

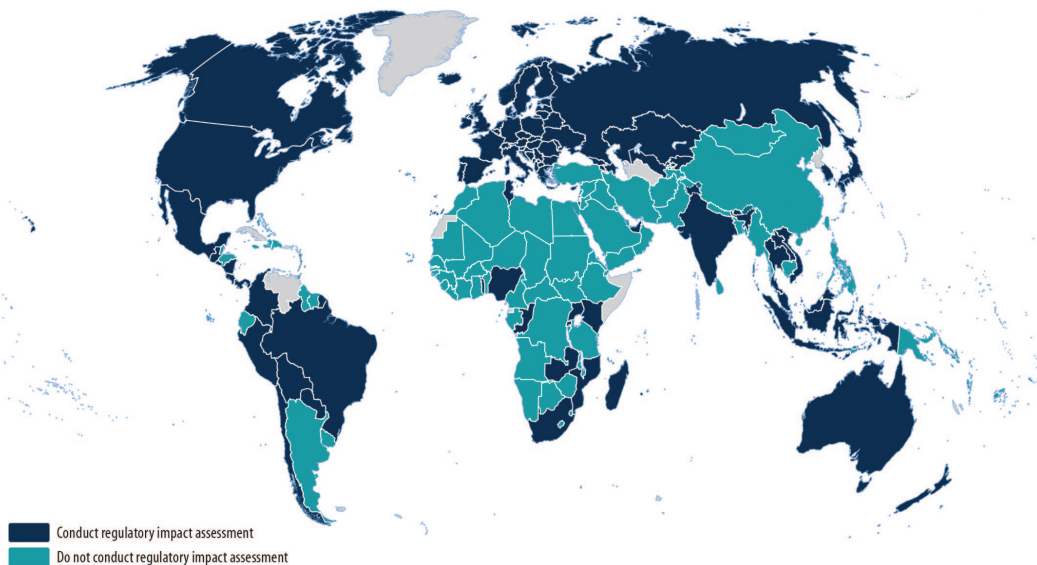
II. The Benefits of RIA

The use of regulation as a policy instrument has increased drastically and now is a key tool for governments to manage more complex and diverse societies. Regulations allow rule-makers to better manage and balance competing social and economic interests. Yet, many governments still experience frequent regulatory failures that increase the costs and risks of commercial activities (World Bank 2010b). Implementing RIAs is an effective antidote although often confronted with obstacles such as weak institutional capacities, over- or under-regulation or poorly designed regulatory frameworks (World Bank 2010b).

Introduction of impact assessments certainly requires modifications to the existing regulatory frameworks. It can be

FIGURE 1

RIAs are widely implemented in the OECD high-income economies and very limited in the Sub-Saharan Africa and Middle East and North Africa regions



Source: GIRG database, <http://rulemaking.worldbank.org>

a time-consuming exercise in itself, which often requires a shift in the behavior of government officials: from procedure oriented to a more performance oriented, results-based mindset (ITU 2014). But benefits definitely outweigh the costs. The advantages of implementing an impact assessment system can be categorized into three areas: efficiency, accountability, and transparency (Morrall 2001).

Efficiency

RIAs help regulators to decide in favor of more efficient policy options, discarding less efficient alternatives. This is typically accomplished through a three-stage process: (i) identifying the need for the proposed action, (ii) an examination of alternative approaches, and (iii) an analysis of the benefits and costs of the identified alternatives (Morrall 2001). The cost-benefit analysis is often a guiding principle for regulators. In Indonesia, for instance, the National Development Plan 2015–2019 provides that all agencies are encouraged to conduct a cost and benefit analysis as part of the core rule-making process. This analysis is also recommended by the OECD guidelines (OECD 2008b).

Accountability

The use of RIAs promotes accountability of regulators, especially policy makers' responsibility for the outcomes generated by proposed policies. Accountability increases when governments commit to monitoring impacts of proposed regulations as well as evaluating them over time,

particularly when the regulators use impact assessments to evaluate the coherence of proposed laws and regulations with medium- to long-term policy goals (OECD 2015b). This is the case in Ireland where RIAs are considered as an ongoing process, and assessments are expected to be updated at different stages of the life cycles of proposed regulations.

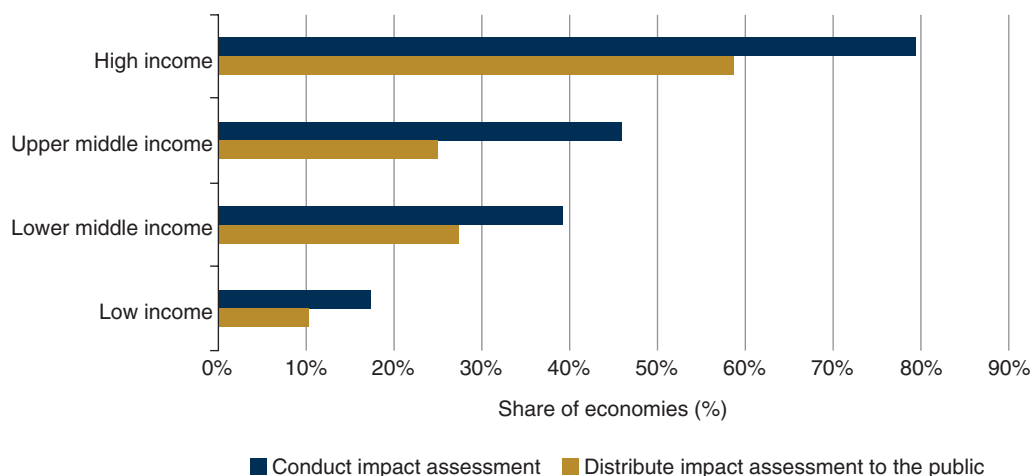
Transparency

Efficiency and accountability can be enhanced by ensuring that RIAs are conducted in a transparent manner (Morrall 2001). Impact assessments already improve transparency by obliging regulators to motivate their actions in writing, to provide details of the proposed course of action and to explain why the chosen option is more desirable than other alternatives, including doing nothing. Transparency can be further enhanced by making the results of impact assessments publicly available. As GIRG data shows, today, only 74 countries out of 92 that conduct RIA reveal impact assessments' results to the public.

Georgia, Moldova and Japan, for instance, publish their impact assessments on a unified website, while in Costa Rica RIAs are communicated to stakeholders either through regular mail and e-mail. Improving transparency of regulatory decisions tends to have a domino effect as it strengthens public trust in regulatory institutions and policy makers, reduces opportunities for corruption (e.g., deliberately passing bad regulations to offer preferential treatment to certain players) and increases consumer protection and protection

FIGURE 2

High-income countries tend to conduct and communicate RIAs more than low- and middle-income countries



Source: GIRG database, <http://rulemaking.worldbank.org>

of citizens' rights, especially those of vulnerable groups (OECD 2008a).

III. Implementing RIA – Evidence from GIRG Data

RIA benefits and importance are well recognized in the literature and by experts. Most experts agree that successful implementation of a RIA is a difficult process, administratively and technically challenging. The GIRG cover the key aspects of a successful RIA implementation, which include:

1. The spectrum of the impacts covered by RIA:
 - Impact of the proposed regulation on the public sector (for example, administrative costs)
 - Impact on the private sector
 - Expected benefits from the regulation
 - Impact on international obligations or agreements
 - Impact on the environment
 - Impact on competitiveness and market openness
 - Impact on small- and medium-size enterprises
 - Implementation of proposed regulations.
2. The existence of a specialized government body tasked with reviewing and monitoring regulatory impact assessments conducted by other individual agencies or government bodies.

3. The criteria used for determining which proposed regulations are subject to an impact assessment, as well as the existence of guidelines and/or legal requirement.

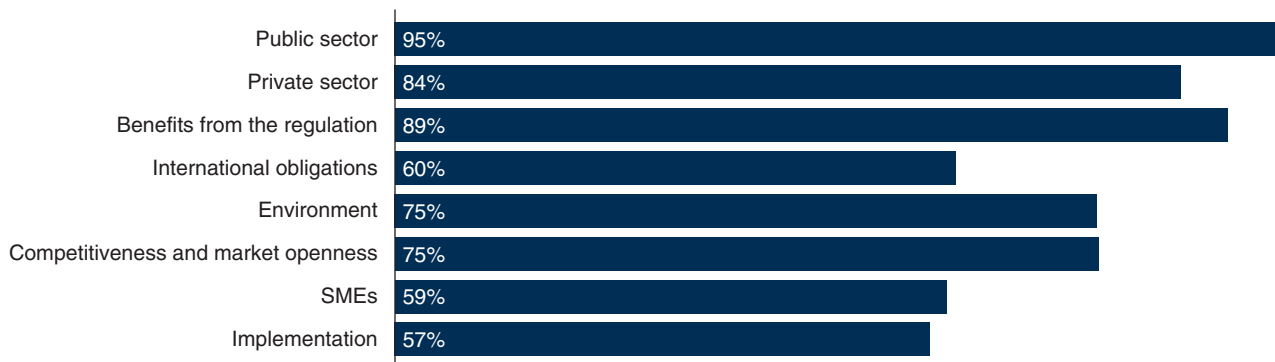
4. The distribution of RIAs' results to the public (figure 2).

What Is Measured?

In countries that conduct RIAs, the impact assessments vary in scope. Aside from the impact of the proposed regulation on the public sector (for example, administrative costs) that is covered in 95 percent of countries, practices vary greatly for other types of assessments (figure 3). The Kyrgyz Republic, for instance, only measures impacts on the private sector and on small- and medium-size enterprises. Twenty-five economies worldwide, including the European Union, the United Arab Emirates and Taiwan (China) measure all of these impacts. This list, however, is not exhaustive. Twelve countries measure the impact on gender equality within their RIA frameworks. Similarly, 18 economies measure social impacts such as demographic impacts or social inclusion. Estonia serves as a model example of conducting comprehensive impact assessments. According to Estonia's guidelines, explanatory memorandum of the RIA shall contain⁹ the following presumable impacts: 1) social, including demographic impact; 2) impact on national security and international relations; 3) impact on the economy; 4) impact on the living environment and natural environment; 5) impact on regional development; 6) impact on the organization of state agencies and local government agencies; and 7) any other direct or indirect impact.

FIGURE 3

The impacts measured vary greatly in scope



Source: GIRG database, <http://rulemaking.worldbank.org>

Note: Calculated in percent of countries among those that conduct RIA.

Who Conducts RIAs?

One of the key aspects of impact assessment measured by GIRG is whether there is a specialized government body tasked with reviewing and monitoring RIAs conducted by other individual agencies or government bodies. Indeed, RIA is best conducted by ministries or regulatory agencies, which draft new or amend existing regulations (World Bank 2010a). Such agencies are responsible for specific areas of regulation and therefore are best versed to understand regulatory problems and offer possible solutions. Moreover, ministries or regulatory agencies typically have direct contacts with affected stakeholders and thus have a good understanding of the possible impact of proposed regulations on all the third parties.

Conversely, these same regulatory agencies could have an entrenched conservative culture with little interest in developing new ideas or approaches to regulation. They could be “captured” by the businesses they regulate and seek to benefit these stakeholders, regardless of either costs or benefits to society at large. Regulatory agencies could also benefit from particular regulatory reforms that expand their budget or allow them to maintain existing staff rosters. For these reasons, effective and transparent RIA processes are usually overseen by a specialized government body that can provide regulators with high quality, trusted and impartial advice about regulatory issues, as well as the quality of analysis contained in RIAs (Deighton-Smith, Erbacci and Kauffmann 2016).

Notably, 53 countries in this sample have a specialized government body tasked with conducting, reviewing and commenting on impact assessments implemented by different agencies. Some of these specialized oversight organizations are responsible for determining which regulatory reforms require impact assessment. However, the most common

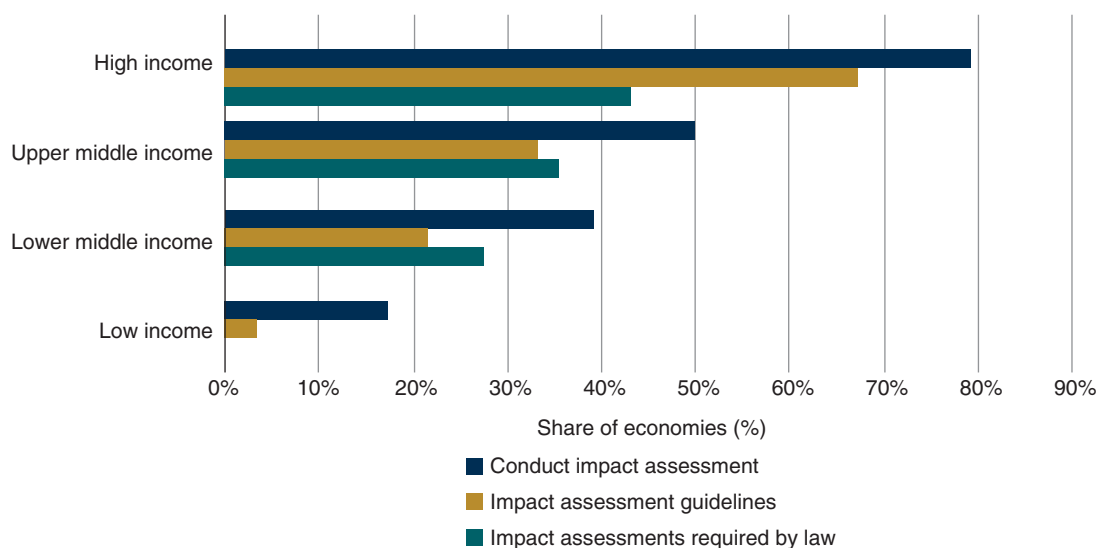
responsibility of such entities is to provide guidance to experts conducting the assessments. They also frequently review and monitor regulatory impacts conducted in individual ministries and inform the cabinet or parliament/legislature about compliance with regulatory impact assessment requirements. These specialized bodies, such as the Swedish Better Regulation Council (Regelrådet) or the U.S. Office of Information and Regulatory Affairs, provide expertise on conducting high-quality assessments of the potential impacts of proposed regulations, while at the same time ensure that ministries are complying with impact assessment guidelines. In Canada, for instance, each department and agency is responsible for completing their own RIAs. However, the Treasury Board Secretariat (TBS) reviews and monitors RIAs developed by other departments and agencies. TBS reviews and comments on draft RIAs until they are ready for consideration and approval by the Treasury Board for prepublication in *Canada Gazette Part 1*.

How Are RIAs Conducted?

Two key elements are measured as to how RIAs are conducted: the existence of specific guidelines to conduct RIAs and the existence of a legal requirement to do so. The importance of RIA guidelines goes beyond simply helping government officials follow the rules. They strengthen the entire impact assessment process and increase the benefits resulting from thorough RIAs. For instance, Thailand is partnering with the Asia-Pacific Economic Cooperation to create a “RIA Guideline as an anticorruption tool.” Coherent decision making on regulatory matters can only be ensured if a robust and consistent RIA methodology is followed. This means that the guidelines should list the basic elements of RIA methodology and approach. Globally, among the economies conducting RIA, 69 percent have specific RIA

FIGURE 4

Most high-income countries conducting RIAs have specific guidelines on how to do so



Source: GIRG database, <http://rulemaking.worldbank.org>

guidelines. All OECD high-income countries with the exception of Portugal have specific RIA guidelines, compared to only 3 in Sub-Saharan Africa (Uganda, South Africa and Zambia). Surprisingly, 26 countries that conduct impact assessments do not have any specific guidelines for officials completing the assessments; ten of these are in Latin America and the Caribbean.

Interestingly, 29 countries conduct RIA without having a legal obligation to do so, including some of the most well-established RIA systems such as the United Kingdom, Australia and Canada. While the option of establishing legal RIA requirements is not widely used in the OECD context (19 of the 33 OECD high-income countries do so), it appears to be more common in developing countries (figure 4). In some countries, the legal requirements are used to enhance RIA's authority and sometimes help to achieve better compliance. Accordingly, within the surveyed countries that conduct RIA, 70 percent of the lower- and upper-middle-income countries have their RIAs required by law as compared to the 54 percent of high-income countries.

These laws are also used to establish with more details what is the criterion or threshold used for determining which proposed regulations receive RIA. In Austria for instance, according to the Act on Federal Budget 2013 ("Bundeshaushaltsgesetz 2013") every regulation passed by the Parliament has to undergo an assessment of its effects. Particular criteria for the assessment process are set out in various regulations (Verordnungen) with various thresholds. However, below certain thresholds a "RIA light" might be conducted.

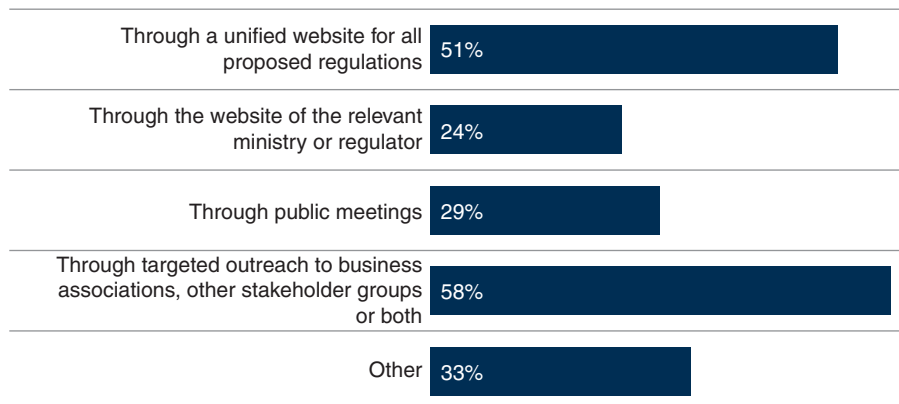
Thresholds are a) financial, b) if regulation has a substantial connection to performance goals/outcomes in the federal budget and c) if there are substantial impacts to be expected (e.g., number of people from a certain social group affected, CO₂ emitted, rise of bureaucratic costs for businesses). Similarly, in Kenya, according to the Statutory Instruments Act 2013, if a proposed statutory instrument is likely to impose significant costs on the community or a part of the community, the regulatory authority shall, prior to making the statutory instrument, prepare a Regulatory Impact Statement that will be communicated in the *Kenya Gazette* and in a newspaper likely to be read by people particularly affected by the proposed legislation. The Act also lists in details what must be included in the RIA.

Communicating RIA

A central aspect to RIAs' transparency and regulators' accountability is the communication of either draft or final impact assessment results to the public. Eighty percent (75 out of 93) of the countries conducting RIA communicate the findings to their constituencies. Even though the means and scope of reporting back on results vary considerably, the most preferred method proves to be through direct interaction with stakeholders, with 58 percent of economies following this approach. As previously mentioned, publishing RIAs' results allows for greater transparency and accountability and strengthens the entire consultative process, as citizens gain access to information on possible consequences of draft regulations.

FIGURE 5

The most common means of communication across regions is through targeted outreach



Source: GIRG database, <http://rulemaking.worldbank.org>

Note: Calculated in percent of countries among those that publish RIA.

Among countries communicating RIAs, the best practice—posting the results on a unified website for all proposed regulations—is established and followed in 51 percent of economies (figure 5). The use of a unified website facilitates stakeholders' and citizens' access to impact assessments. However, not all regulators have the luxury of having a well functional unified platform and not all economies have equal Internet penetration levels. The technology gap is clearly evident among regions. Out of the 27 countries in the OECD high-income group that publish the results of their RIAs, 22 do so on a unified website. On the contrary, none of economies in the Sub-Saharan Africa and Middle East and North Africa regions do so (figure 6). The quality of the communication can also be an issue. In Romania, according to the law, all regulations need to have explanatory notes, and RIAs are to be posted alongside the regulation when proposed regulations get published on a ministerial website or submitted for consultation. The problem is that, despite the legal requirements, the quality of the explanatory notes is often criticized, defeating the purpose of transparency and accountability.

IV. Performing RIA—Global Trends from GIRG Data

In order to enhance general regulatory quality, many countries have started to reform their governance frameworks to either introduce or improve RIA practices. A number of them, such as Mexico, the Republic of Korea, Poland and the Czech Republic have set up RIA systems matching those of highly advanced OECD countries. Poland adopted in 2006 its Regulatory Reform Program, which was its first

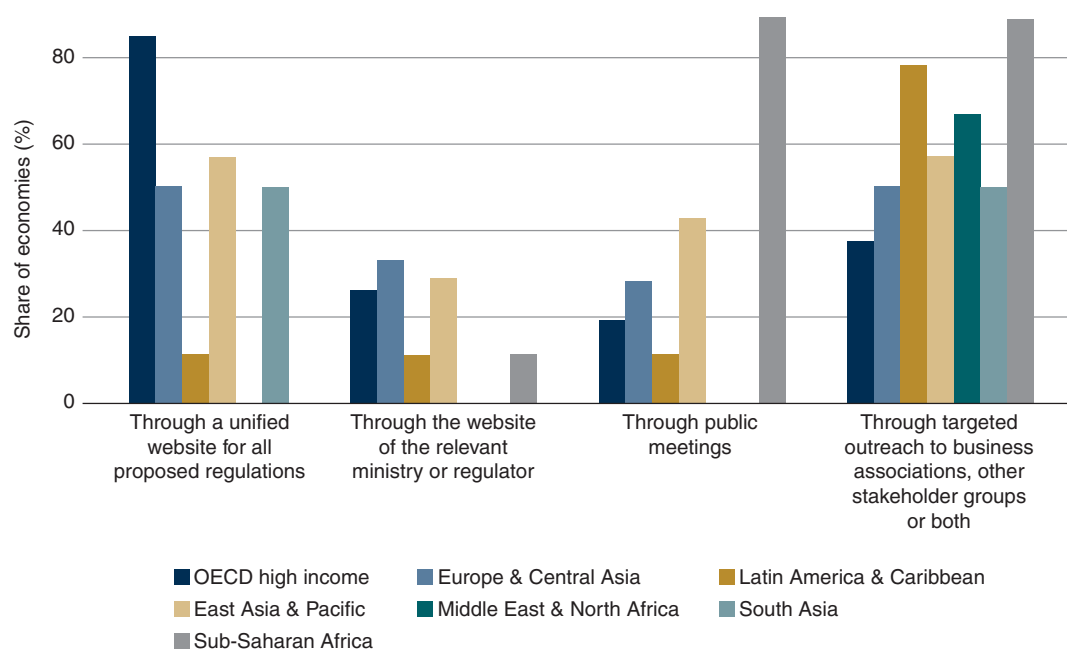
comprehensive program defining an integrated approach to regulatory management policy. Among the main features, a new RIA methodology was adopted by the Council of Ministers and integrated in the Guidelines for Regulatory Impact Assessment (World Bank 2010a). A small number of low-income countries are now also trying to introduce RIA processes, but little evidence has been compiled on the results and impacts of such systems. The GIRG is the first dataset that offers a global overview across all income levels. It shows that RIAs are more and more enforced by countries from all income levels (table 1).

In 93 of the 185 countries surveyed, local ministries or regulatory agencies do not conduct RIA for proposed regulations. And survey results show that the scope and purpose of impact assessments encompass a wide range of practices and methods. Only 12 high-income countries do not carry out impact assessments: Brunei Darussalam, Antigua and Barbuda, The Bahamas, St. Kitts and Nevis, Trinidad and Tobago, Argentina, Uruguay, Seychelles, Kuwait, Oman, Saudi Arabia and Qatar. In contrast, impact assessments are relatively infrequent in low- and middle-income countries. Only 18 percent of low-income countries surveyed conduct some form of impact assessment as compared to 79 percent in the high-income region.

Aside from OECD countries, RIAs are only widely implemented in the Europe and Central Asia region. In all other regions, less than 50 percent of countries conduct RIA. An encouraging finding however is that more than two-thirds of countries that conduct impact assessments have standardized impact assessment guidelines. Most countries publish impact assessment guidelines on regulatory websites but there are several other ways to make the guidelines

FIGURE 6

Most OECD high-income economies use a unified website to communicate the results of RIA



Source: GIRG database, <http://rulemaking.worldbank.org>

Note: Calculated in percent of countries among those that publish RIA.

TABLE 1

Which countries improved their RIA practices and how did they do it?
(January 2014 to July 2016)

Colombia

In 2015, Colombia introduced a new framework on regulatory impact assessments for the trade sector (Decree 1595).

European Union

Among numerous reforms undertaken in 2015/16, the European Commission adopted a Better Regulation Package. This package consolidates and further strengthens the Commission's planning, consultation, evaluation and impact assessment procedures. Specifically, a Regulatory Scrutiny Board was established to examine and issue opinions on all Commission's draft impact assessments, major evaluations and "fitness checks" of existing legislation. It replaced the Impact Assessment Board in July 2015 and is independent of the policy making departments.

Finland

The Prime Minister's Office established the Legislation Evaluation Council in February 2016 to evaluate the quality of impact assessment in draft bills.

Kazakhstan

In October 2015, Kazakhstan passed new requirements for regulatory impact analyses in Chapter 13 of the Entrepreneurial Code (EC). The EC outlines the legal, economic and social environment and guarantees for doing business. It also sets out the state regulation and support of business activities in Kazakhstan.

Kosovo

In 2014 and 2015, the government of Kosovo adopted the Better Regulation Strategy 2014–2020. This strategy contains guidance for improving regulatory impact assessments as part of the policy development process. The government also adopted Administrative Instruction No. 03/2015 on Budget Impact Assessment of New Government Initiatives requiring a detailed impact assessment on the budget of the Republic of Kosovo before passage.

(continued)

TABLE 1
Continued

Lithuania

The 2014 Law on the Basics of Legislation required all laws and acts applying the laws (decisions, resolutions and court rulings) to be registered and officially published in the Register of Legal Acts. It also establishes the right of all individuals to submit proposals for legislative initiatives and legislative projects, and requires impact assessments for every new initiative to regulate nonregulated areas or when regulation is changed substantially.

Morocco

In March 2015, the Government of Morocco adopted Organic Law (No. 065-13) on the organization and conduct of the government. Article 19 introduced regulatory impact assessments into Moroccan law, although the conditions and details of such assessments will need to be determined by future regulation.

Romania

In Romania, three pilot impact assessment studies were conducted under the coordination of Prime Minister's Chancellery in order to test the new regulatory impact guidelines developed in 2015.

South Africa

In South Africa, since the Cabinet resolution of October 1, 2015, it is now compulsory to subject any proposed regulation to socioeconomic impact assessment (SEIAS).

Spain

In 2015, Spain adopted a new law (Law 40) governing the formation of new regulations. Law 40 requires annual forward regulatory plans and the evaluation reports of approved regulations to be made publicly available. It also establishes a wider scope of regulatory impact assessments to include competitiveness, market unity and SMEs analyses. And finally, Law 40 sets in place a new process for pre-consultation with the public on regulatory initiatives.

United Kingdom

In the United Kingdom, the Small Business, Enterprise and Employment Act 2015 converted a number of existing rules for rule making within the UK's better regulation framework into a legislative requirement. In addition, it also introduced some new requirements. Specifically, the legislation it put into law the requirement for an independent body to verify the costs and benefits of rules, and for that body to verify all of the costs of measures that score toward the Business Impact Target. The existing body in the UK that scrutinizes impact assessments—the Regulatory Policy Committee—was designated as the verification body.

Vietnam

In Vietnam, a new Law on Laws came into force on July 1, 2016 (No. 85/2015/QH1). It makes regulatory impact assessments mandatory for all types of legal documents, including those issued by the local provincial People's committee. These assessments must be prepared in the early stages of the proposed rule making.

Zambia

In Zambia, the Enactment of the Business Regulatory Act No. 3 of 2014 established the Business Regulatory Review Committee and the Business Regulatory Review Agency (BRRRA). The Act introduced a set of principles, procedures and minimum requirements for the introduction of new regulatory measures. Specifically, the new law provides that a public body shall only submit to the Cabinet for approval a policy or proposed law to regulate business activity if the policy or proposed law has the prior approval of the BRRRA. The regulating body must also conduct a regulatory impact assessment on the proposed intervention which is submitted to the BRRRA for review and approval.

Source: GIRG database, <http://rulemaking.worldbank.org>.

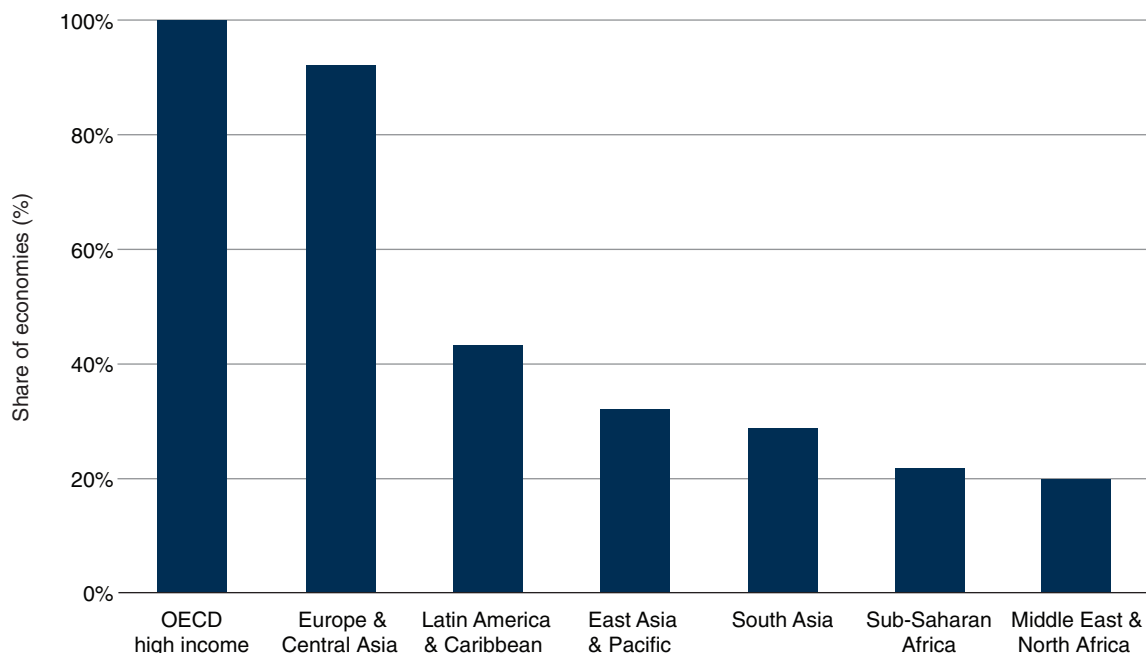
public. In Hungary, for example, impact assessment guidelines are not published online but are part of the Decree of the Minister of Justice and Public Administration 24/201. Conversely, 26 countries have not developed any guidelines to conduct such assessments. Interestingly, these countries fall across all income groups and regions. A few examples include Costa Rica, Hong Kong (SAR, China) and Portugal.

Making impact assessments publicly available and open for scrutiny forms part of the consultation process in many countries. In 66 percent of economies conducting impact

assessments, the results of the assessments are distributed online or through targeted outreach to business associations, other stakeholder groups or both. Furthermore, in 57 percent of countries that perform impact assessments, the results of assessments are distributed together with the text of the proposed regulation. By providing the analysis underpinning the shape and content of the proposed regulation for comment from stakeholders, governments open their motivation and reasoning behind the regulatory change to scrutiny and input. In Kazakhstan, for instance, the RIA may be issued at any time upon request by any qualified expert.

FIGURE 7

RIAs are widely implemented among OECD high-income and Europe and Central Asian economies



Source: GIRG database, <http://rulemaking.worldbank.org>

In the United Kingdom, the RIA is published at each stage of the policy development. It is meant to act as a tool for the policy development of a new regulation and not just as a document that justifies or defends the need for a regulation.

Best Practices of Implementing Impact Assessments

Twenty-five countries worldwide follow two key requirements for successful RIA: having RIAs publicly available on a unified website for all proposed regulations, and having a specialized government body tasked with reviewing and monitoring RIAs conducted by other individual agencies or government bodies. For almost all of them (24), the RIA guidelines are also easily available online to the general public. In Canada, several guides are available on the same unified website, including the RIAs Writer's Guide, the RIAs Low-Impact Template and the RIAs Medium- and High-Impact Template (box 2). The RIA procedures of these economies also generally cover more impacts than other economies. The United Kingdom, Czech Republic and the European Union have the widest range of analysis covering all 8 items measured by GIRG (see figure 3) and additional ones such as social impacts on inclusion, innovation and digital, poverty or gender equality.

Most of these economies (18) also have explicit criteria or thresholds used for determining which proposed regulations

receive impact assessment. In Switzerland, RIA will be deemed necessary when at least 3 of the 10 following conditions are met (or when the consequences described therein are undetermined): (1) broad economic consequences, (2) at least three economic groups are concerned, (3) more than 10,000 companies are affected, (4) administrative burden, regulatory costs, (5) competition, (6) degree of international opening, (7) effect on the attractiveness of the business field, (8) environmental sustainability, (9) social sustainability, and (10) energy consumption, CO₂ emissions. Japan and Malta also use specific monetary thresholds. The policy of the United States is that all "significant rules" include an assessment of the costs and benefits of the regulatory action. In addition, a more extensive assessment is conducted for all "economically significant" regulations. An "economically significant" regulation is defined as one that is likely to result in a regulation that may have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities.¹⁰

Among the 186 economies (185 countries and the European Union) covered by the GIRG, only 39 have an existing requirement for their regulations to be periodically reviewed to see whether they are still needed or should be revised. Among them, 32 conduct RIA and 27 do it thoroughly. In the Republic of Korea for instance, when the head

BOX 2**Canada has precise criteria and thresholds for its RIA system**

The Cabinet Directive on Regulatory Management provides overall guidance for proportionality. It states that departments and agencies are responsible for assessing the effectiveness and appropriateness of regulatory and non-regulatory instruments in achieving policy objectives. Specifically, departments and agencies are to demonstrate that the regulatory response is proportional to the degree and type of risk.

The Triage Statement is a preliminary assessment of the expected impacts of regulatory proposals and helps determine where approval processes can be streamlined and where analytical resources should be focused. It is completed by departments and agencies at the earliest stages of regulatory design and a draft Statement is shared with the Treasury Board Secretariat.

The Triage System underscores the Cabinet Directive on Regulatory Management's principle of proportionality aimed at focusing the analysis where it is most needed. The development of a Triage Statement early in the development of the regulatory proposal determines whether the proposal will require a full or expedited RIA, based on costs and other factors:

- Low impact: costs less than CAD 10 million present value over a 10-year period or less than CAD 1 million annually;
- Medium impact: costs CAD 10 million to CAD 100 million present value or CAD 1 million to CAD 10 million annually;
- High impact: costs greater than CAD 100 million present value or greater than CAD 10 million annually.

Also, when there is an immediate and serious risk to the health and safety of Canadians, their security, the environment, or the economy, the Triage Statement may be omitted and an expedited RIA process may be allowed. In these cases, departments and agencies work with the Treasury Board Secretariat to proceed in a manner that most effectively protects the public interest. Departments and agencies are still required to complete a RIA, but it moves through the internal government review and approval process more quickly and on accelerated timelines.

As per the Cabinet Directive on Regulatory Management, departments and agencies have to regularly assess the results of performance measurement and evaluation to identify regulatory frameworks in need of review. Once identified, departments and agencies are to examine the regulation with a focus on:

1. The effectiveness of the current regulation in meeting the policy objective;
2. The current instrument selection, level of intervention, and degree of prescriptiveness;
3. The clarity and accessibility of the regulation to users; and
4. The overall impact on competitiveness, including trade, investment, and innovation.

Source: GIRG database, <http://rulemaking.worldbank.org>

of a central administrative agency intends to establish a new regulation or reinforce existing regulations, he/she shall stipulate in the relevant Acts and subordinate statutes the effective period or review period of regulations which have no evident grounds to remain in force. The effective period or review period for which the regulation remains in force shall be set as no longer than what is required to achieve the objectives of the regulation and the period shall not exceed five years.

V. Conclusion

The GIRG show that even if assessments of the potential impact of regulatory changes are more highly concentrated in richer countries than poor, quality RIA can be achieved at all income levels. High-income economies, however, still

dominate as to where RIAs are conducted with consistency, especially within OECD countries. In all the other income groups—upper-middle, lower-middle and low-income—less than half of countries conduct RIAs. Regulatory governance improvements will be expected within these groups of countries by merely introducing RIA procedures.

More broadly, within the different components of regulatory governance, countries have usually less performant RIA processes than consultation procedures. Room for improvement is then global and present at all income levels as to the quality of RIA that remains globally fairly poor outside of a limited number of exceptions. It seems, however, that more and more regulators from different regions understand the benefits of introducing RIAs into their regulatory systems. In the past two years, at least 13 countries across all regions created or reformed RIA procedures.

Endnotes

1. United Kingdom's Prime Minister's letter to all Cabinet Ministers, 6 April 2011.
2. See the full list at: http://ec.europa.eu/smart-regulation/impact/ia_carried_out/cia_2016_en.htm
3. European Parliament and Council Regulation (EC) No 1907/2006 (Corrigendum 29 May 2007) and Directive 2006/121/EC (Corrigendum 29 May 2007) concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH).
4. See, for example, Regulatory Impact Analysis—Best Practices in OECD Countries (1997); Ten Good Practices in the Design and Implementation of RIA (1997); Building an Institutional Framework for Regulatory Impact Analysis: Guidance for Policy Makers (2008); and Promoting Inclusive Growth through Better Regulation: The Role of Regulatory Impact Assessment (2016).
5. Available at: <http://rulemakingworldbank.org/ria-documents>
6. For more information see: http://ec.europa.eu/smart-regulation/guidelines/ug_chap3_en.htm
7. Law on Laws 2015, no. 85/2015/QH1.
8. Organic Law, no. 065-13.
9. Rules for Good Legislative Practice and Legislative Drafting § 46 (Impacts of Act).
10. Section 3(f) of the Presidential Executive Order of the United States 12866, 58 Fed. Reg. 51735 (Sept. 30, 1993).

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