
G International developments

In most developed countries, regulatory impact analysis (RIA) policies are evolving rapidly. Both the United States and European Union (EU) have strengthened their RIA processes. Furthermore, the Organisation for Economic Cooperation and Development (OECD) and Asia-Pacific Economic Cooperation (APEC) intend finalising joint guidelines on good regulatory practice — including RIAs — in late 2004.

Summary of recent RIA developments

United States

The agency responsible for the United States' regulatory impact analysis processes, the Office of Information and Regulatory Affairs within the Office of Management and Budget (OMB), has released new guidelines for the conduct of regulatory analysis by government agencies. The guidelines became effective for economically significant proposed rules in January 2004, and will become effective for economically significant final rules in January 2005. An economically significant rule is one that 'has an annual effect on the economy of \$100 million or more or adversely affects 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' (Graham 2001).

The new guidelines differ from previous OMB guidance in three main ways (Graham 2004). First, there is a greater emphasis on the use of cost-effectiveness analysis in RIA. Cost-effectiveness analysis can provide a rigorous way to identify options that achieve the most effective use of the resources available without requiring monetisation of all relevant benefits or costs (OMB 2003). While care needs to be taken with its application, cost-effectiveness analysis provides a framework for a wider range of issues to be analysed than pure cost-benefit analysis.

The second main difference is a requirement that formal probability analysis be undertaken for regulations with an economic impact of greater than \$1 billion. Specifically, impact analyses are to include an estimate of the probability

distribution of regulatory benefits and costs. The guidelines also note that worst case or conservative analyses are not usually adequate because they do not convey the complete probability distribution of outcomes, and they do not permit calculation of an expected value of net benefits (OMB 2003).

Finally, the guidelines require that a more systematic approach to evaluating qualitative benefits and costs of regulation be undertaken in RIA. In many cases, it is difficult or impossible to quantify the benefits or costs of regulation. In these cases, the guidelines state that detailed information on the nature, timing, likelihood, location and distribution of unquantified benefits and costs could be included, and that a summary table highlighting these benefits and costs should be included with an indication of those that are most important (OMB 2003).

European Union

The implementation of RIA processes in the EU is part of a broader 'Better Regulation' agenda. This agenda includes improving consultation processes, simplifying new and existing legislation, improving public access to regulation and consideration of alternative policy implementation options (Council of the European Union 2003). There have been recent developments in RIA implementation at both the level of EU institutions, and at the member state level.

European Union institutions

In 2002, the European Commission adopted the *Simplifying and improving the regulatory environment* action plan. An integral part of this action plan is the implementation of RIA by the Commission. Impact assessment is conducted in two stages: a preliminary assessment is prepared on all major policy proposals; and, on the basis of this assessment, the Commission determines which proposals will require an extended impact analysis (EC 2002). The RIA process is being gradually phased in, with a view to the system being fully operational by 2004-05. For the first year (2003), the Commission planned to apply the extended impact analysis procedure to 17 per cent of major proposals, increasing to approximately half in 2004 (EC 2003a).

There are a number of positive outcomes which have resulted from the trial introduction of the new procedure in 2003. These included its rigorous application by Commission services; its facilitation of inter-service coordination; and the contribution to more balanced policy solutions (EC 2003a). A number of impediments were also identified. These included the limited capacity of services to evaluate policy impacts beyond the field of their own expertise; the need to examine alternative policy approaches more thoroughly; the limited quantification of policy

impacts; and the need to make extended impact assessments more available to the general public. The Commission will introduce a range of measures to rectify these impediments prior to the full implementation of the RIA system in 2004-05 (EC 2003a).

In December 2003, the European Parliament, the Council of the EU and the European Commission adopted an inter-institutional agreement based on the Commission's action plan. The aim of the agreement is to provide a framework to promote and monitor the action plan's application at the inter-institutional level (EC 2003b).

Member states

Member states of the EU are also implementing better law-making measures to complement and support initiatives at the EU level; these include the introduction of RIA processes. A report by the Council of the EU found that, by early 2003, the majority of member states surveyed had implemented RIA processes, and the balance were trialling the process (Council of the European Union 2003). In most cases, the government ministry responsible for each policy proposal is responsible for the RIA process (table G.1), and in many cases there is an overall supervisory role for a specific government agency.

Table G.1 Application of RIA by selected EU member states, 2003

	<i>Regulation Impact Assessment</i>		<i>RIA on subordinate legislation</i>	<i>Agency responsible for RIA</i>	
	<i>Applied</i>	<i>Trial</i>		<i>Prime Minister's Office</i>	<i>Responsible ministry</i>
Austria	✓		✓		✓
Belgium	✓		✓		✓
Denmark	✓				✓
Finland	✓	✓	✓		✓
Germany	✓		✓		✓
Greece		✓			✓
Luxembourg		✓			✓
Ireland		✓			✓
Italy		✓	✓	✓	
Netherlands	✓		✓		✓
Spain		✓	✓		✓
Sweden	✓		✓		✓
United Kingdom	✓		✓	✓	✓

Source: Council of the European Union 2003.

APEC-OECD

The OECD and APEC have separately endorsed similar principles of regulatory quality to provide a basis for regulatory reform processes in member nations. Since 2000, APEC and OECD members — together representing 45 countries — have been undertaking a joint initiative on economic and regulatory reform. A recent focus of this joint initiative has been the development of a checklist for self-assessment of regulatory, competition and market openness policies, to implement the OECD and APEC principles.

The draft checklist contains a number of criteria that, if met, indicate that a country has ‘good practice’ regulatory, competition and market openness policies (APEC-OECD 2003). The draft criteria for good practice regulatory policy are:

- the presence of a single body in charge of assuring the quality of existing and new regulation;
- systematic review of the legal basis and economic impacts of drafts of new regulations;
- systematic review of the legal basis and economic impacts of existing regulations;
- rules, regulatory institutions and the regulatory management process are clear and predictable to users both inside and outside government;
- the presence of effective public consultation mechanisms and procedures that are open to regulated parties and other stakeholders, including non-governmental organisations, the private sector, advisory bodies, standards development organisations and other governments;
- a system of regulatory impact analysis is required in the development of new regulation and the review of existing regulation according to agreed upon methodologies and criteria;
- consideration of alternatives to ‘control and command’ regulation; and
- assurance of compliance with and enforcement of regulations.

The final draft checklist, when approved, will be presented for approval to the respective executive bodies of APEC and the OECD, and will be a valuable tool to assist governments in developing sound regulatory processes.

World Bank study on business regulation

The World Bank has recently begun a multi-year project to examine the nature, scope and impact of business regulation in over 130 countries. The first report of this project was released in 2004 (World Bank 2004a). The report examined the outcomes resulting from regulatory systems in these countries, including the time and cost involved in starting a business, managing labour, enforcing contracts, access to credit and closing a business (bankruptcy).

The World Bank report notes that regulation varies widely around the world. In general, rich countries regulate less on all aspects of business activity covered in the report than poor countries, and countries that have an English common-law tradition have less regulation than those that have a French civil-law tradition (World Bank 2004a). Secondly, heavier regulation brings bad outcomes and, thirdly, rich countries regulate business in a consistent manner.

Across all regulatory indicators, the countries with the least regulation of business activities are: Australia, Canada, Denmark, Hong Kong, Jamaica, the Netherlands, New Zealand, Singapore, Sweden and the United Kingdom. With regard to Australia, the World Bank study finds that, over most indicators, Australia has relatively light-handed regulation. There are a couple of exceptions to this finding: Australia has relatively heavy-handed regulation of employment conditions; and it is relatively costly and time consuming to enforce a contract in Australia (World Bank 2004a).

The report offers two principles of good regulation. First, regulate only when the private market is not sufficient to induce good conduct; second, regulate only if there is the capacity to enforce. The regulatory governance approaches of countries that perform well across the performance indicators considered in the report have several common elements, including (World Bank 2004a):

- simplifying and deregulating in competitive markets;
- focusing on enhancing property rights;
- expanding the use of technology in regulation;
- reducing court involvement in business matters; and
- making reform a continuous process.

The second report in the series was released in September 2004, and largely reinforced the findings of the earlier study. In addition, it found that there can be significant gains from regulatory reform — the World Bank estimates that if regulatory reform could move a country from the worst-regulated quartile to the

best quartile, annual economic growth would increase by up to 2.2 per cent (World Bank 2004b).