

Literature Review

1. Introduction

The use of regulation as a policy instrument to achieve economic and social policy objectives in most of the countries has increased dramatically since 1940's. With the advance of the “regulatory state”, in which government is said to ‘steer’ rather than ‘row’,¹ regulation of private behaviour has emerged as a fundamental tool of government in managing more complex and diverse economies.

Costs arising from compliance of regulations are much better understood today than they were a few decades ago. The experience shows that regulatory instrument, often in developing countries, is used carelessly leading to regulatory failures²- due to persistent patterns of over-regulation, under-regulation, and poorly designed regulation and implementation—that undermine policies important to citizens, consumers, and businesses, and that simultaneously increase the costs and risks of commercial activities. In many countries, regulatory failures have reached such a level that the regulatory system as a whole has become little more than a bureaucratic way of life or a way to generate power or money for special interests, with little concern for the hidden costs in lost lives and economic growth.³

These trends have led to a broader recognition of the need for regulatory reforms that enhance quality of regulations and consequently improve a country's social and economic condition. This therefore produces a compelling case for introducing “Regulatory Impact Assessment” (RIA) –a tool to audit both the intended and unintended effects of regulation, and promote effective, efficient and accountable regulations⁴- which will subject regulations to greater scrutiny than in the past, thereby enhancing the quality of all possible impacts direct or indirect, potent and latent of regulatory decision making.⁵

2. What is RIA?

In a nutshell, RIA is a tool to analyse regulatory proposal against its own objectives, assessing positive (benefits) and negative (costs) impacts on the all the stakeholders and generating the best alternative that delivers the objective at the minimum cost to the society. It is formal method for assessing the costs and benefits, economic and non-economic, of regulatory/policy proposal. It can be used to assess all potential impacts (social, environmental, financial and economic) of all regulations, formal legislation (laws, ordinances, decrees, decisions and master plans) and quasi regulations (e.g. guidance or codes of practice, public awareness campaigns, etc) showing a distribution of impacts on consumers, business, employees, rural and urban population.

RIA has been presently adopted in OECD countries, but there is little evidence of its use in developing countries. A possible reason is that methodology proposed in the OECD guidelines does not readily transfer to these countries with their very different economies in terms of social,

¹ Kirkpatrick, c. and Parker, D. 2004. Editorial: Regulatory Impact Assessment – An overview, *Public Money & Management*,24(5):267-270

² By “regulatory failures” we generally refer to regulatory outcomes where key features of regulatory quality—effectiveness, efficiency and accountability—have been significantly violated, e.g. in the form of massive and unforeseen compliance costs or failure to protect or stabilize markets according to stated objectives.

³ Regulatory Governance in Developing Countries, *Investment Climate Advisory Services, World Bank Group*,

⁴ Kirkpatrick, C and Parker, D. 2004. Regulatory Impact Assessment and Regulatory Governance In Developing Countries, *Public Administration & Development*.24(5):333-344

⁵ Kirkpatrick,C, 2001., Regulatory Impact Assessment in Developing countries: Research Issues, *Centre on Regulation and Competition, Manchester idpm.man.ac.uk/crc/*.

cultural and political scenario and their greater focus on social developmentsustainability and poverty reduction goals.

The experience of OECD countries suggests that RIA systems can be designed to place different emphasis on elements of assessment (See box 2.1). Depending upon policy objectives, countries have measured impacts in different ways and focussed on different policy fields. Notwithstanding that this partial analysis of policy problems may lead to a fragmented approach and a lack of policy coherence, it nonetheless demonstrates the different approaches that governments have employed.

Box 2.1 Approaches to measure impacts of regulations in OECD countries

There are different approaches taken to assessing the impact of regulation depending on the focus or the field of work. Each country's policy objectives have encouraged differentiated priorities:

- The Netherlands has adopted a Business Effects Analysis, which is focused on the impacts arising from businesses.
- The Czech Republic adopted Analysis of Financial Impacts and Impacts on the Economy, which has expanded to cover other socio-economic impacts. A formalised RIA into the law-making process has been adopted in 2007.
- France has developed an *ex ante* assessment methodology to measure regulatory costs to business and to public administration.
- Austria and Portugal employ Fiscal Analysis, which focuses on the direct budget costs for government administration.
- Finland has a wide range of partial impact analyses covering budget, economy, organisation and manpower, environment, society and health, regional policy and gender equity. These partial analyses are not integrated, and are carried out by various ministries.
- Belgium only carries out the risk assessment in case of health, safety and environmental regulations.
- Greece, Ireland, Spain and Sweden have a checklist on the impacts arising from regulations.
- Mexico has three types of assessments: high impact RIA, ordinary RIA and periodic RIA.

Source: P.18, 2008, Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for policy makers, Regulatory Policy division, Directorate for Public Governance and Territorial Development

3. Diffusion of RIA

The United States (US) and the United Kingdom (UK) under Reagan and Thatcher promoted, developed and advocated the use of RIA, following a neoliberal doctrine that puts business first.⁶

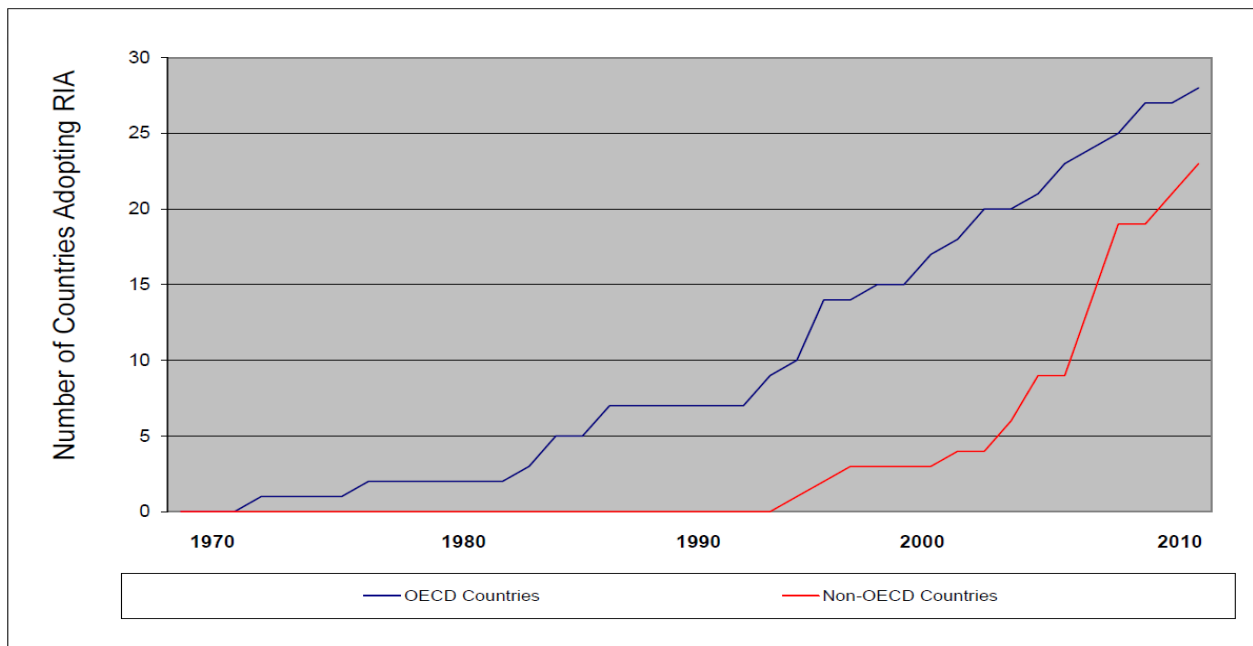
⁶ Auby, J. B. and Perroud, T. 2013. Regulatory Impact Assessment, *Global Law Press*, p.21

The move to incorporate Impact Assessment⁷ (IA) into statutory and regulatory drafting process is linked to claims that legislators and government official, when left to themselves, will produce statutes that do not concur with public interest. IA was thought as innovative means to evaluating the public interest as it requires lawmakers to balance benefits and costs and to seek the best overall outcome. Later the severe criticisms faced by costs- benefit analysis for ignoring or undervaluing the unquantifiable cost of regulation gave way to further research in this field which has broadened the scope of RIA in the present world.

After its emergence in US and UK in 70's, RIA has attained worldwide diffusion due to transnational communication. Before 2001 RIA existed only in a few EU member states. 'RIA was almost unknown not only to laymen, but also to most of the people directly involved in policy formulation and adoption'.⁸ By contrast RIA was officially recognised in the large majority in 2004. Today, most of the OECD member states and two BRIC nation- South Africa and Brazil hold RIA guidelines, though formal heticoric about the usefulness of RIA, may give false impression that RIA is now become a fairly common tool in practise. The diffusion of RIA has neither produced convergence⁹ nor implementation i.e despite the known fact that ideas and policy fads travel across the world, to adopt the same idea does not mean convergence in actual action. As shown by As shown by Hahn and Litan (2004), the diffusion of RIA across the two sides of the Atlantic has not brought about similarities in the process of policy formulation. Possible explanation is political unwillingness towards RIA.

Figure 3.1

The global spread of RIA



Source: Jacobs, Cordova & Associates, 2013

⁷ Impact Assessment (IA) is term used previously for RIA. It was considered to be a narrow approach because of Cost-benefit analysis which focused mainly on monetary costs and benefits from regulation ignoring other important costs/benefits to the society.

⁸ Formaz, 2004, A comparative Analysis of Regulatory Impact Assessment in ten EU Countries, A report prepared for the EU directors of better regulation group, Italian, Irish and Dutch Presidencies of the council of the European Union

⁹ Radaelli, C.M., 2005. Diffusion without convergence: how political context shapes the adoption of regulatory impact assessment, *Journal of European Public Policy*, 924-943

4. Types of Regulatory Impact Assessment (RIA)

RIA is a method for analysing the costs and benefits of regulatory change, and includes both regulatory appraisal and regulatory evaluation. Regulatory appraisal is used to describe the **ex-ante** assessment of proposed new or revised regulations/ amendments, whereas regulatory evaluation refers to the **ex-post** assessment of existing regulations.¹⁰

Most of the OECD countries prefer ex-ante RIA for bringing in substantial and credible policy as well as legislative reform. However, use of RIA for reviewing existing regulation i.e. ex-post assessment is particularly relevant for developing countries where the stock of regulations may have unintended effects, if there has not been a systematic effort to streamline the legislative corpus and remove unnecessary burdens. Further, the possible impact of introducing a new regulation can be limited, if introduced in a system where existing regulation remains at a low¹¹ (see box 4.1) which provides an instance of regulatory reforms, during the period when development of RIA tool was at initial stages.

Box 4.1. Regulatory Reforms through guillotine process: The Swedish Case

The review and updating of laws, rules and other instruments is one of the greatest regulatory responsibilities. It must be done to enhance economic growth, decrease regulatory risk and uncertainties. An innovative policy action called guillotine process pioneered by Sweden and used by Mexico and Hungary is a possible approach to deal with the reduction of outdated or ineffective regulation.

In 1980s, Sweden enacted its “guillotine” rule nullifying hundreds of regulations that were not centrally registered. In 1984, the government informed that it was unable to compile a complete list of regulations in force. The accumulation of laws and rules from a large and poorly-monitored network of regulators meant that the government could not itself determine what it required of citizens. To establish a clear and accountable legal structure, it was decided to compile a comprehensive list of all agency rules in effect. When the “guillotine rule” went into effect, hundreds of unregistered regulations were automatically eliminated. All new regulations and changes to existing ones were henceforth to be entered in the registry within one day of adoption. This approach was considered a great success. In the education field, for example, 90% of rules were eliminated. The government had for the first time a comprehensive picture of the Swedish regulatory structure that could be used to organise and target a reform programme. The registry may also have had the indirect effect of slowing the rate of growth of new regulations, and by 1996 the net number of regulations had indeed dropped substantially.

The could be seen as an initial instance of regulatory reforms which helped in developing scientific tool, which is known as RIA, at present.

Source: OECD (2002), Regulatory policies in OECD countries: from Interventionism to Regulatory Governance, Paris.

It is noteworthy that countries such as Australia, Canada, Germany, the Netherlands, Switzerland and the United Kingdom also apply the RIA system to the review of existing regulations.

5. Benefits of RIA

¹⁰ Radaelli 2005, op. cit.

¹¹2008, Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for policy makers, Regulatory Policy division, Directorate for Public Governance and Territorial Development, 43

Regulations usually have widespread effects, they affect many different groups in society and the effects may be of many different types. Many of the effects are “hidden”, or at least are difficult to identify when a regulation is being considered. RIA helps to provide a good understanding of who will be affected by a regulation and how.

In addition, regulation has costs as well as benefits, and an inappropriate regulation can stifle economic growth by putting obstacles in the way of doing business and by creating perceptions of a negative environment. As well, making and enforcing regulation places large demands on government administrations. It is important therefore that it is well designed. Effective regulation is regulation that achieves the intended policy objectives. Efficient regulation achieves these objectives at the lowest total cost - to most of the all members of society. In particular, stated below are major benefits of:¹²

a) Improve understanding of benefits and costs of government action

RIA is an evidence-based approach to decision-making, and often draws on economic empirical evidence in assessing benefits and costs.

b) Integrate multiple policy objectives

RIA can be used as an integrating framework to identify and compare the linkages and impacts of economic, social and environmental regulatory changes.

c) Improve transparency and consultation

RIA is closely linked to processes of public consultation, which enhances the transparency of the RIA process, provides quality control for impact analysis, and improves the information provided to decision-makers.

d) Improve government accountability

RIA can improve the involvement and accountability of decision-makers by reporting on the information used in decision-making and demonstrating how the decision impacts on society and consistently reviewing if the objective has been achieved.

The application of RIA needs to be appropriate with proper expertise, resources and information base available to the analyst.

6. Methods in RIA

RIA has been lately characterised by a search for the perfect method, one that reliably answers the questions posed by increasingly difficult public policy questions at the lowest cost in most transparent and , but that does so at a low-cost and in a transparent and rapid manner. The importance of the policy issues at stake is strong reason to use methods that are robust, flexible and well-proven to work in a wide variety of public policy areas. The five main analytical methods in RIA programs used in the countries are:

a) Classic Benefit-Cost Analysis (BCA)

BCA involves quantifying major costs and benefits in monetary values and comparing them over a suitable period of time. It forces regulatory designers to think about impacts of regulation on the regulated activities be it in public health, environment quality, ecosystem health, and a host of other areas subject to regulation. BCA attempts to express the value of those quantifiable changes using, as a metric, a monetary measure of the aggregate change in individual wellbeing resulting from a policy decision. Individual welfare is assumed to depend on the satisfaction of

¹² 1997, Regulatory Impact Analysis best practices in OECD countries, *OECD*,16-17.

individual preferences in monetary terms. A major problem with BCA is difficulty that arises when trying to evaluate costs and benefits in absence of suitable market prices (e.g., what is market value for saving a human life).

b) Soft Benefit-Cost Analysis (SBCA) and Integrated Analysis

SBCA is a modern way to undertake CBA. It checks the major limitations of classic BCA. It combines both quantitative and qualitative metrics (eg. where costs have not been quantified, it is often possible to discuss them in qualitative terms, drawing some conclusions about their relative importance) and present it systematically which enables to draw conclusion of best alternative available. This is an integrated analytical framework to assess the various impacts of a regulation or policy proposal. It provides the analysis in which quantitative and qualitative metrics for economic, social, and environmental impacts are combined and presented systematically¹³

c) Partial Benefit- Cost Analysis

Partial analysis is a partial cost-benefit approach where unequal weights are assigned to different kind of impacts. It narrows down the range of issues to be dealt with. For instance, impacts on animals that are endangered are much more important than impacts on animals that are not endangered. Analytical methods themselves provide little guidance for assigning different weights, and therefore the decision to weigh some impacts more heavily than others is mostly a political decision based on policy priorities and values. Business Regulatory Impact assessment (BRIA) is one of the many examples of partial benefit-cost analysis¹⁴.

d) Cost-Effectiveness Analysis and Comparing Policy Option

Cost-effectiveness analysis (CEA) is a technique that uses to compare the costs of different options with the same outputs or benefits. It is a useful but limited method, because it does not determine if the action is worth taking (that benefits justify costs) and does not resolve the choice of the optimal level of benefits. But it can reduce the costs of problem solutions to the lowest level. That is, whereas BCA helps governments decide WHAT to do, CEA helps governments decide HOW to do it.

One of the primary functions of CEA is to systematically and transparently compare the many options that a regulator has. Cost-effectiveness analysis is particularly useful in areas (such as health, accident safety, environmental protection and education) where it is often easier to specify benefits than it is to value them. For example it is easier to identify the number of lives that a proposed measure may save than to value those lives.

e) Risk Assessment

Risk analysis involves an appraisal of the level of risk associated with the problem; the reduction in risk likely to result from each option and consideration of whether the proposed measures are the most effective available to deal with the risk. Risk assessment is generally used together with other quantitative approaches.

The usual and most precise use of the term “risk assessment” means assessment of probability of a specific effect due to a known and specified cause, for example, if a person breathes one gram of a substance, the probability of contracting cancer is 10 percent. Here, the purpose of the analysis is to identify that causal probability. The risk assessment is used to assess the impacts of

¹³ 2012.Guidelines for the implementation of the regulatory impact analysis/assessment (RIA) process in South Africa, 24

¹⁴ 2008.Introductory Handbook for Undertaking Regulatory Impact Analysis (RIA), OECD

any particular intervention. The risk assessment does not measure uncertainty but probability. It is limited in scope than cost-benefit and cost-effectiveness analysis.¹⁵

Rather than focussing on the monetary costs and benefits of reducing risk, risk assessment focuses directly on the impact that regulation has on risk. Risk analysis can be incorporated into cost-benefit and cost effectiveness analysis by multiplying costs and benefits by probabilities estimate expected costs and expected benefits in monetary terms.

f) Multi- criteria analysis (MCA)

MCA is a methodology that allows systematic and transparent decisions to be made even where quantification of major regulatory impacts is not possible. It involves identifying the underlying objectives and then determining all the factors (the criteria) that indicate achievement of these objectives. These criteria are then ranked in terms of their relative importance. Once this has been done, each of the available policy options can be “scored” on each individual criterion. The weighted scores can then be added together to determine which option best meets the policy objectives.

MCA can be used to combine both quantitative and qualitative elements of the analysis. However, care should be taken that MCA is not used as an alternative to more rigorous, quantitative analysis of benefits and/or costs, where this is feasible. MCA should be seen as an additional tool, rather than an alternative to such analyses, since it necessarily provides less objective and verifiable information to decision-makers.¹⁶

Table 6.1 Benefits and limitations of Different methods

Method	Benefits	Limitations
BCA	BCA provides most transparent and accountable RIA. Its monetary metric aggregates dissimilar effects into one measure of net benefits and makes comparison simpler.	The methods excessively emphasis on quantification and monetization of risks trivializes the future through discounting and ignores distributional concerns
SBCA	SBCA encompasses the broadest range of impacts across the social-economic-environmental spectrum.	It is an exaggerated approach and very tough to undertake.
Partial Benefit-Cost Analysis	Partial Cost Benefit-Analysis as relatively more focussed and easier method of RIA. It can act as inputs into a broader and integrated framework.	It method has turned RIA usage as technocratic tool of general interest into a political and policy tool with constituency group impacts.
CEA	CEA is a relatively inexpensive method. It plays very important role in conducting RIA specifically in health sector.	It is a limited method which does not determine if the action is worth taking. Further, ignores important differential benefits from differing forms of Regulation.
Risk Assessment	This method provides a proper assessment of risk in health and safety regulations at lower cost	Risk assessment focuses directly on the impact that regulation has on risk. There a possibility that produced regulation is very effective in minimising risk

¹⁵ Jacobs S.2006, Current Trends in Regulatory Impact Analysis: The Challenges of Mainstreaming RIA into Policy-making, *Jacobs and Associates Inc*, 38

¹⁶ Jacob 2006, op. cit.

MCA		accompanied by other unintended costs to society.
	MCA is very complex process.	MCA does not provide verifiable information to decision-makers

The above comparison points towards SBCA as most inclusive and socially responsible method of regulatory decision making. Countries with strong protection standards and records are pushing towards more integrated RIA framework based on BCA and stronger emphasis on inclusive assessment.

Evidences however, show that no country follows one or the other specific method to conduct RIA, instead only base is followed and modified according to the need of policy objective.

7. Preconditions For RIA Implementation

Before emphasising on designing and implementing a RIA process, policy makers involved with regulatory management and policy issues need to consider whether some basic preconditions are in place and to what extent existing institutions can provide a good framework for implementation. An evaluation of the preconditions for introducing RIA could take into consideration the following elements:

a) Ensure political commitment

RIA should be supported at the highest political level. It also needs to be supported by the different institutions responsible for elaborating legislation and rules. Finding political support depends upon identifying key stakeholders inside and outside the administration that acknowledge the importance of introducing RIA.

Box 8.1 Stakeholders Inside the Administration

- Institutions providing advice to the President and/or Prime Minister;
- Cabinet of the Presidency and/or Prime Minister;
- Ministry of Justice;
- Ministry of Finance;
- Ministry of Economy and/or Trade;
- Legal departments of the ministries participating in law making;
- Parliament and its advisory and legal bodies.

Source: p.32, 2008, Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for policy makers, Regulatory Policy division, Directorate for Public Governance and Territorial Development.

This group in Box 8.1 could be supported by outside stakeholders, in particular representatives from business and consumer associations, and academics, who can provide advice and help to disseminate the knowledge on RIA and the way their interest could be considered at an early stage of the decision-making process. General public support could be promoted through campaigns to raise awareness and build trust through conferences, general media and other means of communication.

International experience shows that government should commit to the use of RIA through a clear statement on how to develop a RIA system. A high-level political mandate could define basic standards and principles of quality regulatory policies. (See box 8.2)

Box 8.2 Legal bases for RIA in selected countries

A legal basis for a RIA system is a good indicator by which we can understand how well the RIA system is being implemented. OECD countries have adopted various legal forms such as a law, presidential decree, executive order, cabinet directive, guidelines of the prime minister, etc. Based on their experience, legal forms can mainly be classified into four groups. However, implementation also depends on historical background, administrative culture and the commitment of high level officials.

- Based on a law: the Czech Republic, Korea and Mexico.
- Based on a presidential order: USA.
- Based on a prime ministerial decree or guidelines of the prime minister: Australia, Austria, France, Italy and Netherlands.
- Based on a cabinet directive, cabinet decision, government resolution, policy directive, etc.: Canada, Denmark, Finland, Ireland, Japan, New Zealand, Norway, Poland, Germany, Portugal, Sweden and the United Kingdom.

Source: OECD, 2004, *Regulatory Impact Analysis(RIA) Inventory*

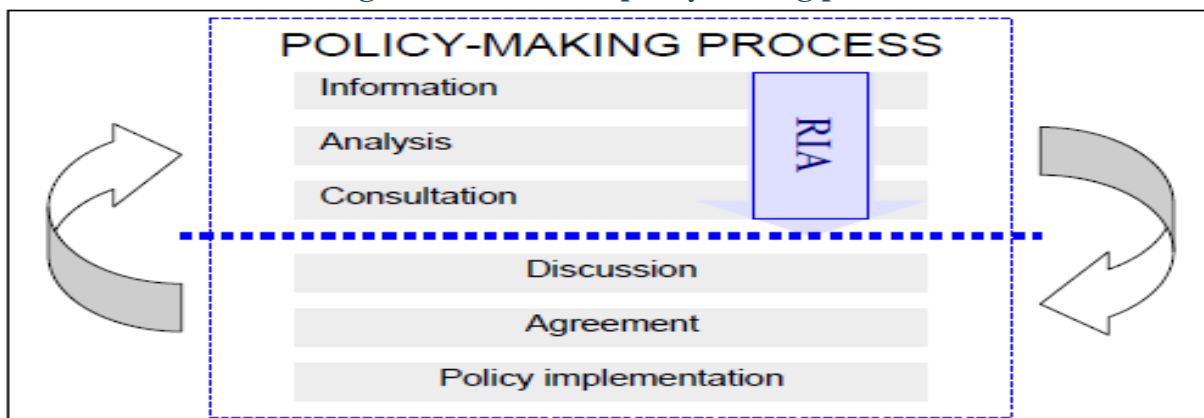
b) Build a RIA team inside the administration

While some countries have relied on external consultants to carry out some of the components of the start-up phase, *e.g.* pilot projects or initial steps, it is important that the country develop a core team that has a “cross-functional” nature, *i.e.* involving individuals with different backgrounds and skills.¹⁷

c) Integrate RIA timely in the decision-making process

RIA provides an assessment of regulatory alternatives, it is important to integrate it at an early stage of the process. In many OECD countries, RIAs are to be added to the first draft of a law proposal or amendment that is prepared by the ministry or responsible institution.

Figure 8.1 RIA in the policy making process



¹⁷ 2008, Building an Institutional Framework for Regulatory Impact Analysis (RIA): Guidance for policy makers, *Regulatory Policy division, Directorate for Public Governance and Territorial Development*, 32

8. Challenges and Risks

No RIA is free from challenges. The common pattern witnessed in different guises show the fragility of the system when political determination, monitoring and quality control, and standards for consultation are lacking. Other major challenges associated with RIA are:¹⁸

- i) Insufficient institutional support and staff with appropriate skills to conduct RIA. In most cases the whole concept of RIA is difficult to understand if regulators have not dealt with it previously. In the process of implementing RIA technical problems are continuously faced, and a lack of appropriate skills and training may hinder efficiency and effectiveness. If the inclusion of RIA in the policy-making process does not actively involve policy officials, there is a high risk of having a burdensome bureaucratic process instead of a useful tool for analysis.
- ii) Limited knowledge and acceptance towards RIA within public institutions and civil society reduces its ability to improve regulatory quality. The opportunity missed, could be improved through public participation in the regulatory process.
- iii) Lack of reliable data necessary to ground RIA, as well as finding appropriate indicators to facilitate the measurement of the regulatory impact
- iv) Lack of a coherent, evidence-based and participatory policy process. RIA by itself will not solve all the problems in a regulatory regime.
- v) Indifference by the public administration, mainly due to inertia in the political environment, is potentially one of the most significant obstacles to an effective RIA system.
- vi) Opposition from politicians concerned about losing control over decision-making.

Other challenges to RIA are a rigid regulatory bureaucracy and vested interests which oppose reforms. It is important to make clear that RIA does not weaken the decision making process, but supports it by offering evidence based regulatory assessment. These challenges need to be taken into account from the beginning of the systematisation of RIA, and kept in mind as the road map for RIA implementation is defined and followed.

9. Current Indian Scenario

India is one of the G-20 major economies and a member of BRICS that ranks 134 in doing business¹⁹ report of the World Bank which is three ranks lower than 2013. Annual rate of GDP growth has nearly halved from the peak of 9.4 percent in 2009-10 to 4.9 percent during 2013-14. After a continuous fall in the value of Indian Rupee, in late August 2013, its value slid to Rs. 68.85 for one US Dollar. The stubborn rise in rate of inflation has also been a matter of concern. The inflation rate stood at 6.46 percent for the month of September, 2013 (over September, 2012) as compared to 6.10 percent for the previous month. Build up inflation rate in the year 2013 up-to October 2013 was 5.64 percent compared to a build-up rate of 4.84 percent in the corresponding period of the previous year. The annual inflation rate based on all India general

¹⁸ Supra Note 21, p.25-26

¹⁹ <http://www.doingbusiness.org/data/exploreeconomies/india>

consumer price indices (combined) for December 2013 (over December 2012) and January 2014 (over January 2013) was 9.87 percent and 8.79 percent, respectively.²⁰

Reduced growth rate, high inflation and consistent depreciation in the currency have largely been attributed to *inter alia* inefficient regulation of key economic sectors by the government and sector regulators, wherever present. In recent past, many infrastructure projects have been delayed due to lack of regulatory approvals. The courts have struck down some of the government decisions and reforms undertaken by government (such as allowing FDI in the retail sector) have not resulted in expected benefits, due to uncertainty and cumbersome policies.

The government has been accused of writing vague and ambiguous policies, resulting in crony capitalism and latent entry barriers to competition and business. Business regulatory governance processes have become outdated. India saw two rank declines from 177 in 2013 to 179 in 2014 in starting a business according to World Bank doing business in India 2013 report. As a result of uncertain, unpredictable and frequently changing policies, adopted without any objective assessment criteria, the costs of doing business have soared. Stakeholders are not consulted while policy making, and there is no formal policy review mechanism. Table 10.1 and 10.2 notes down guidelines for effective public consultation process²¹

Table of Recommendations 10.1 Issuance of documents for public consultation

The regulator will have to publish the following documents in the process of formulating new regulations:

1. The draft regulations;
2. The jurisdiction clause to identify the legal provision under which the proposed regulations are being made, and the manner in which the regulation is consistent with the principles in the concerned legislation(s). If the parent legislation does not specifically refer to the subject matter of regulations, the regulator will have to establish a logical connection between the subject matter and the empowering provision in the law. The document must contain explanation on how the regulation stands vis-a-vis each of the relevant principles in the part(s) of the draft Code from which the powers are being drawn;
3. A statement of the problem or market failure that the regulator seeks to address through the proposed regulations, which will be used to test the effectiveness with which the regulations address the stated problem. The statement must contain:
 - The principles governing the proposed regulations; and
 - The outcome the regulator seeks to achieve through the regulation; and
4. An analysis of the costs and benefits of the proposed regulation. This is required because every regulatory intervention imposes certain costs on regulated entities and the system as a whole. The Commission recommends that regulations be drafted in a manner that minimises these compliance costs.

In some cases where a pure numerical value based cost-benefit analysis is not possible, the regulator should provide the best possible analysis and reasoning for its choice of intervention.

²⁰ http://mospi.nic.in/Mospi_New/upload/t4.pdf

²¹ GOI, 2013, Report of the Financial Sector Legislative Reforms Commission, Vol-I: Analysis and Recommendations

After publishing the documents provided in Table 10.1, the regulator must specify a designated time for receiving comments from the public on the regulations and the accompanying documents. It must ensure that the time period and the mode of participation specified by the regulator is appropriate to allow for widespread public participation. After the public comments are received it should follow the process mentioned in table 10.2.

Table of Recommendations 10.2 Process after receiving public comments

After the time specified for making comments has lapsed, it will be the responsibility of the regulator to:

1. Publish all comments received;
2. Provide reasoned general response to the comments received, and specific response to some comments if there is requirement stipulated in the dra_ Code for such response;
3. Publish the review of the draft regulations carried out by the regulator's advisory council;
4. Have the final regulations approved by the board of the regulator. In the interests of transparency, the Commission recommends that deliberations and voting by the board members should be available publicly; and
5. Publish the final regulations.

According to the Finance Minister P. Chidambaram, 700 projects in India with an investment amount of Rs 7,500 crores are stuck due to absence of regulatory approvals. The delays are on account of absence of environmental and other regulatory approvals as well as problems stemming from land acquisition, difficulty in arranging financing, etc.²² Highlighting the impact of such red tapism, a recent survey by Regus showed that red tapism is an important factor in business perception (38 percent) that impacts growth.

Despite India being home for huge market, natural resources and cheap labor, foreign investors are reluctant to invest due to existing maze of bureaucracy. RIA is appropriate remedy for this situation. It involves working with the stakeholders to assess impact of regulations, determine costs and benefits, and select the most appropriate policy alternative. As the policies have stakeholder buy-in, they prove easier to implement. As a result, there is greater clarity and predictability in regulatory process. This reduces the costs of doing business. RIA has resulted in considerable economic benefits in countries like UK, Australia and US

²² Banerjee,S.2013. Chidambaram urges colleagues to overcome policy paralysis, says Rs 7,500 cr investments stuck in red tapism, The Economic Times, 3rd November, available at http://articles.economictimes.indiatimes.com/2012-11-03/news/34892028_1_fiscal-deficit-policy-paralysis-finance-ministerlast accessed on 03 June 2014