

# Regulatory Impact Assessment

## *Application and Experiences*

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Investment Climate | World Bank Group

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Geneva, March 18<sup>th</sup> 2014

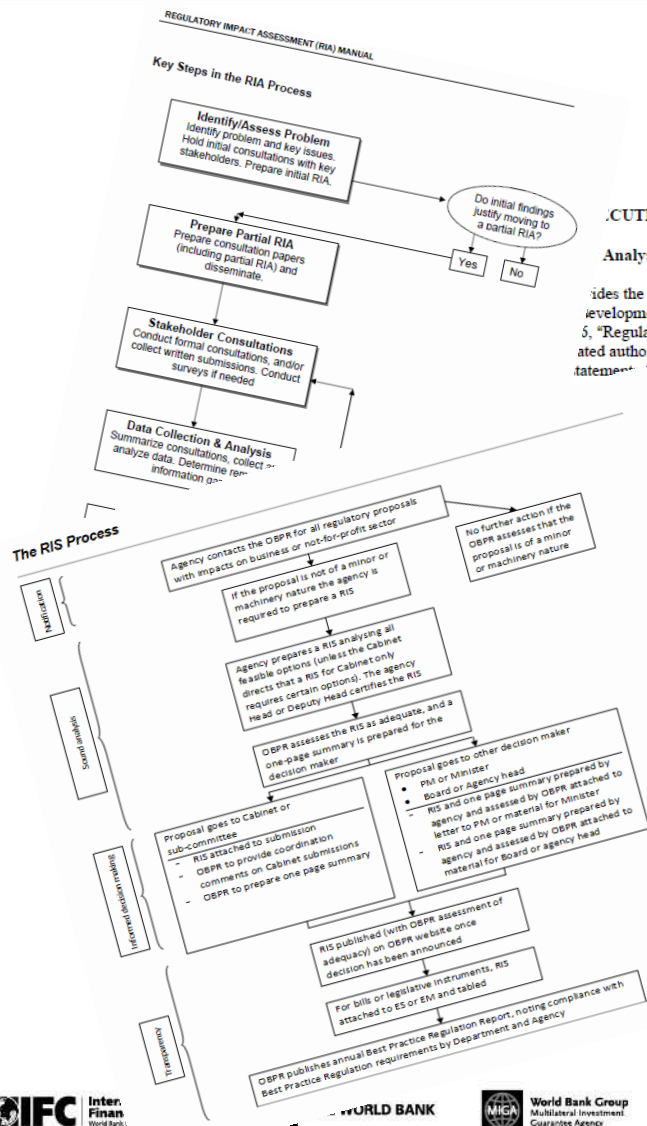
# Outline of presentation

- ◆ What is Regulatory Impact Assessment (RIA)?
- ◆ Where has RIA been applied, and how?
- ◆ Consideration of impacts on international obligations and trade
- ◆ Some lessons and observations from evaluations and academia
- ◆ Some observations from hands-on design and implementation of RIA systems
- ◆ The RIA agenda ahead: Challenges and Opportunities

# What is Regulatory Impact Assessment?

- ◆ “RIA is a process of systematically identifying and assessing the expected effects of regulatory proposals, using a consistent analytical method, such as benefit/cost analysis” (OECD)
- ◆ “In its most complete form, RIA is an administrative requirement to examine proposed regulation by performing a series of steps, including problem definition, the identification of market failures, the analysis of the status quo, the definition of feasible options, the choice of decision making criteria, open consultation..[...]... affected by proposed rules, and a recommendation for the adoption of a specific regulatory or non-regulatory option”. (Radaelli).

# RIA is a process for preparing regulatory proposals...



## Circular A-4

September 17, 2003

### EXECUTIVE AGENCIES AND

#### Analysis

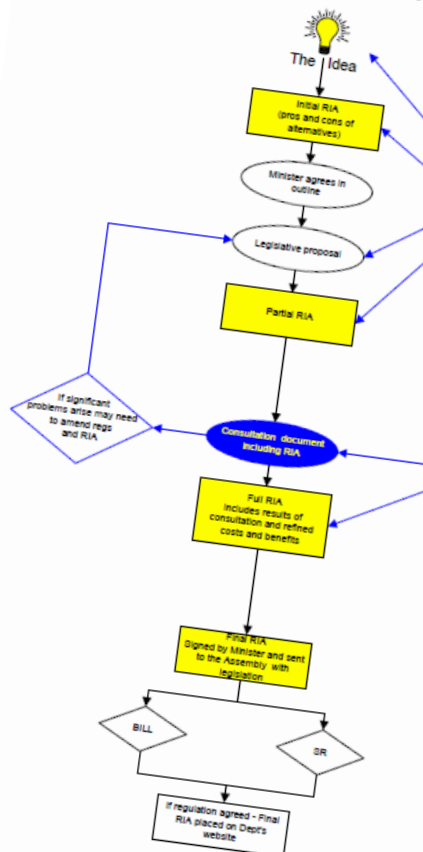
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## The NI Regulatory Process



## Regulatory Impact Assessment Guidelines for Western Australia

UPDATED JULY 2010

# ...and a document summarizing policy preparations



EUROPEAN  
COMMISSION

Brussels, 29.1.2014  
SWD(2014) 30 final

PART 1/3

## Regulatory Impact Analysis for the Revisions to the National Ambient Standards for Particulate Matter

On February 28, 2013, the PM RIA is being  
add Appendix 3.A, which was inadvisable  
to correct the document.

### COMMISSION STAFF WORKING DOCUMENT

#### IMPACT ASSESSMENT

Accompanying the document

Proposal for a Regulation of the European Parliament and of the Council

on structural measures improving the resilience of EU credit institutions  
and  
Proposal for a Regulation of the European Parliament and of the Council  
on reporting and transparency of securities financing transactions

Regulatory Policy Committee	OPINION
Impact Assessment (IA)	Transfer of private water supply pipes to Water and Sewerage Company ownership
Lead Department/Agency	Department for Environment, Food and Rural Affairs
Stage	Consultation
Origin	Domestic
Date submitted to RPC	15/03/2013
RPC Opinion date and reference	24/04/2013 [RPC13-DEFRA-1735]
Overall Assessment	RED

The IA is not fit for purpose. The IA does not provide sufficient analysis and evidence to enable an effective assessment to be made of the costs and benefits of the options. The One-in, Two-out (OITO) assessment lacks sufficient detail to enable determination of whether it is robust or not.

**Identification of costs and benefits, and the impacts on small firms, public and third sector organisations, individuals and community groups and reflection of these in the choice of options**

**Primary legislation and regulation**

The IA is not consistent with the Better Regulation Framework (BRF) Manual (March 2013). This Guidance says that "Where you are implementing a measure through primary legislation, or through a combination of primary legislation and secondary legislation made using powers provided in the primary legislation, the primary legislation impact assessment should quantify the total expected impact of the measure." (Para 3.3.45). The IA fails to do this.

**Incomplete assessment of policy options.**

The IA contains two options to deal with the issues surrounding the current private ownership of certain water supply pipes. Option 1 is called 'a voluntary code of practice' and Option 2 is called 'create a power to regulate'. The IA provides very little detail on what these options entail and how they would operate in practice. For example, there is little quantitative or qualitative analysis of the possible impacts on insurance companies, plumbers and others whose business may be adversely affected. Also, there is no discussion of the likely income distribution impacts of the proposals, or that some water consumers may gain at a cost to all water consumers in higher charges. More generally, the IA provides no estimates of the potential costs and benefits of either option, or the time period over which they are assessed.

The IA needs to provide estimates of the costs and benefits of the alternative options available, over a specified time period, and in terms of who will be impacted and when, to enable a meaningful consultation on its content. If quantification is not possible at this stage, then the reasons need to be set out and the expected effects discussed qualitatively.

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## Regulatory Impact Statement

### Shipping (Charges) Regulations 2000: Revised Seafarer Certification Fees Agency Disclosure Statement

This regulatory impact statement has been prepared by Maritime New Zealand (Maritime NZ) for the Ministry of Transport.

It provides an analysis of options to meet the costs to Maritime New Zealand of processing applications for seafarer certificates and other maritime documents required under revised maritime rules governing operating requirements for commercial ships and qualifications and training of seafarers. The analysis excludes an external service delivery model.

A key dependency of the analysis is consistency with government's decision to move Maritime NZ chargeable services progressively onto a full cost recovery footing and phase out the subsidisation of these services from marine safety charges levied on shipping.

Maritime NZ has carried out a 'ground up' analysis of the effort required to process each application type, measured in hours and part hours. Application fees have been determined on the basis of the fully allocated hourly cost for directly chargeable Maritime NZ services that was established by the Maritime NZ funding review in 2011. Following consultation on proposed fees, a review of the effort analysis resulted in some fees being up to 50 percent lower than initially proposed, although most application fees will still be subject to increases that range from 57 to 222 percent.

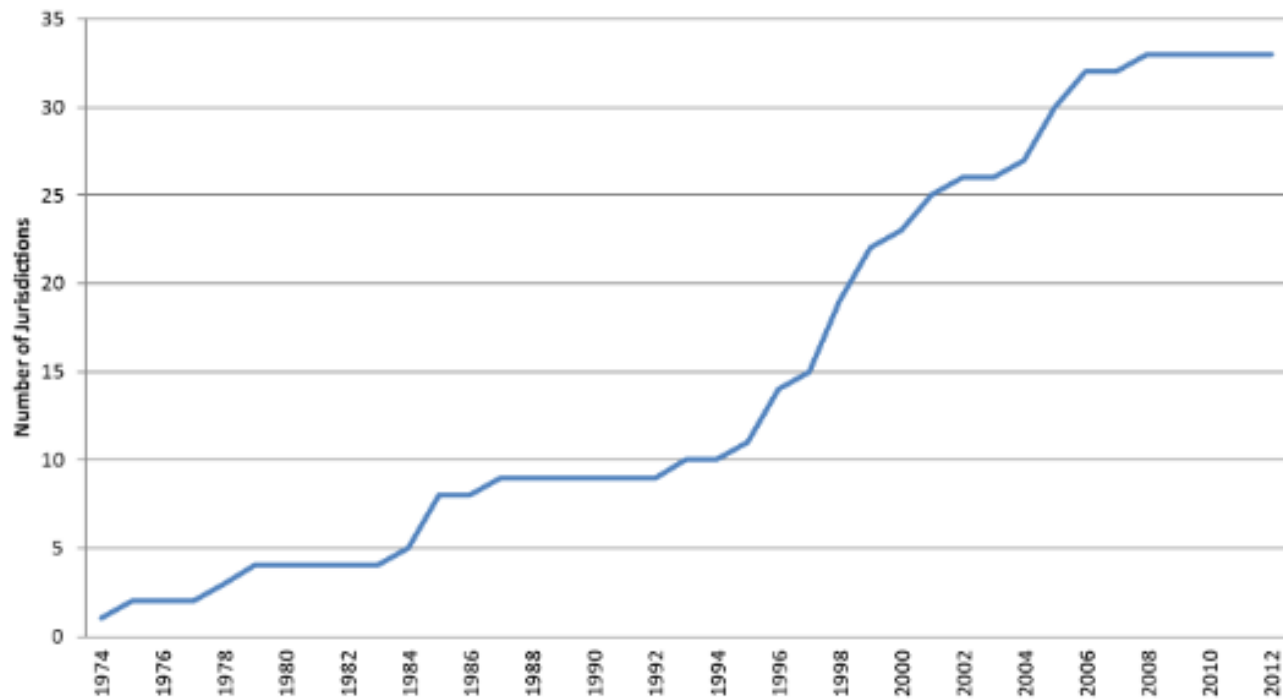
The hourly cost established by the funding review formed the basis for increased fees for other Maritime NZ services that were implemented with effect from 1 July 2013, as part of the government decision to move Maritime NZ chargeable services progressively onto a full cost recovery footing.

Because of uncertainties around future demand, assumptions made around a phased transition to full cost recovery, and impact of new technology, the proposed fees are to be subject to review within 3 years.

The revised fees would not impair private property rights or market competition unnecessarily given the objective, and will not override fundamental common law principles.

Jonathan Rudge  
Principal Policy Advisor

# Trend in RIA Adoption across OECD Countries

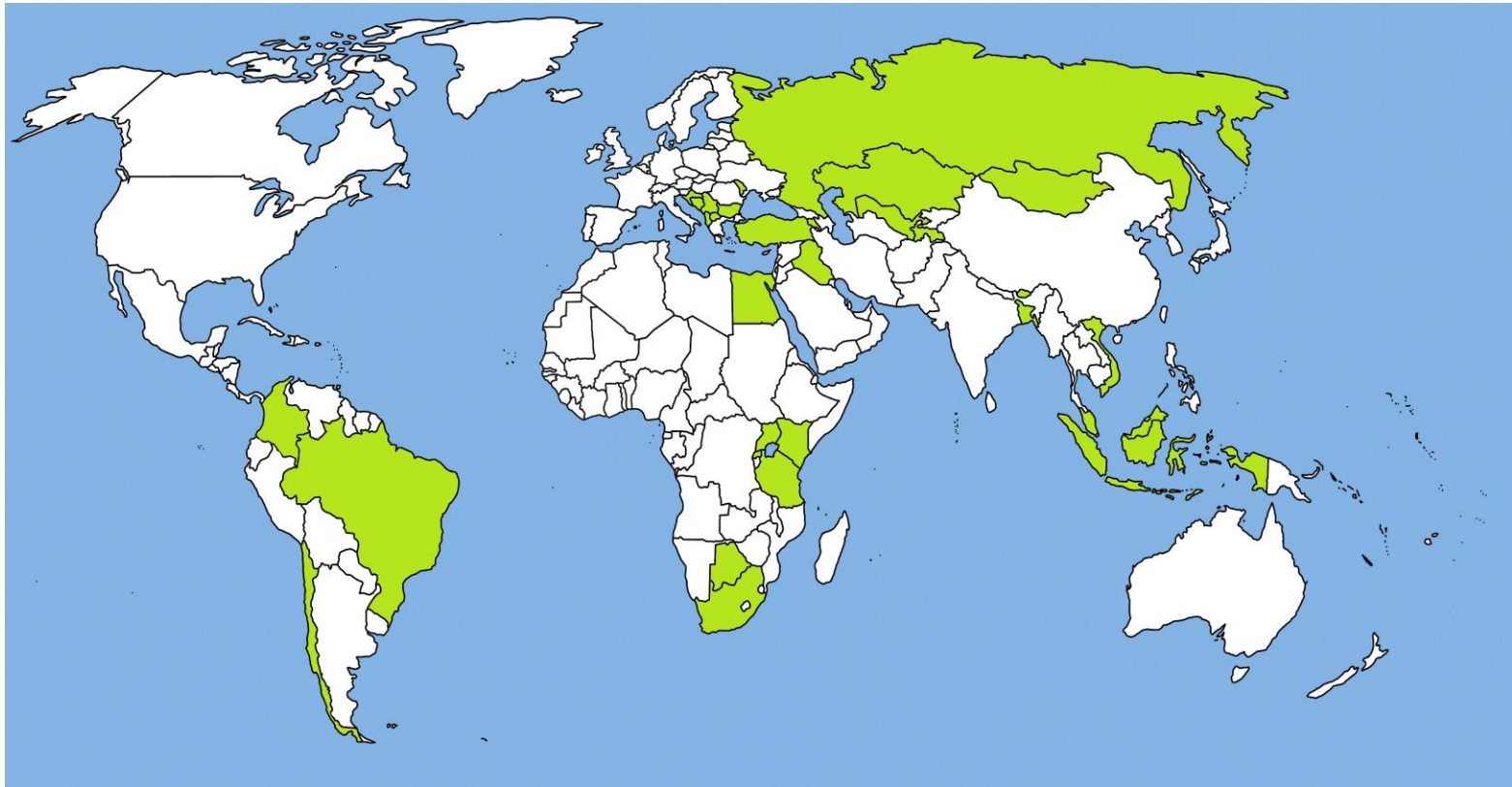


**Note:** this represents the trend in the number of countries with a formal requirement for regulatory impact analysis (beyond a simple budget or fiscal impact).

Source: OECD (2012).



# Growing dissemination beyond OECD countries



*Colored areas illustrate countries which have or are exploring RIA systems.*

*This non-exhaustive list includes the following countries: Albania, Armenia, Bosnia and Herzegovina (BiH), Botswana, Brazil, Chile, Colombia, Croatia, Egypt, FYR Macedonia, Iraq, Kazakhstan, Kenya, Kosovo, Malaysia, Moldova, Montenegro, Uzbekistan, Russia, Rwanda, Serbia, Tanzania, Turkey, Uganda, Vietnam.*

# Scope and details vary significantly among countries

- ◆ What regulations are subject to RIA?
  - *All, agency regulation, primary legislation, “significant”, etc.*
- ◆ What kind of impacts are assessed?
  - *On the Budget, SMEs, competitiveness, environment, etc.*
- ◆ What methodologies?
  - *Admin.compliance costs, CBA, cost-effectiveness, etc.*
- ◆ Transparency and access?
  - *RIA part of public consultation or the result of it? RIAs available?*
- ◆ Institutional and legal anchoring
  - *Dedicated institutions with legal mandate vs. “mainstreamed” and based on government policy.*



# Framing and prioritizing RIA and Regulatory Reform – a best practice example from Canada



Treasury Board of Canada  
Secrétariat

Secrétariat du Conseil du Trésor  
du Canada

Canada

## Cabinet Directive on Regulatory Management

© Her Majesty the Queen in Right of Canada, 2012  
Catalogue No.  
ISBN

### Table of Contents

1. [Our Commitment to Canadians](#)
2. [Introduction](#)
3. [Scope of Application](#)
4. [Effective Date](#)
5. [The Life Cycle Approach to Regulating](#)
6. [Regulatory Impact Analysis](#)
  - A. [Consultation](#)
  - B. [Identifying and assessing public policy issues](#)
  - C. [Setting public policy objectives and expected outcomes](#)
  - D. [Selecting the appropriate mix of government instruments](#)
  - E. [Assessing legal implications and other Cabinet directions](#)
  - F. [Compliance with international obligations](#)
  - G. [Analyzing the benefits and costs of regulation](#)
  - H. [Recommending an option](#)
  - I. [Coordination](#)
  - J. [Cooperation](#)
    - [With provincial and territorial governments](#)
    - [With jurisdictions in other countries or with the international community](#)
  - K. [Planning for implementation, compliance, and enforcement](#)
    - [Implementation](#)
    - [Compliance and enforcement](#)
  - L. [Measuring, evaluating, and reviewing regulation](#)
    - [Measuring and reporting on performance](#)
    - [Evaluating regulatory programs](#)
    - [Reviewing regulatory frameworks](#)
7. [Regulatory Management](#)
  - M. ["One-for-One" Rule](#)
  - N. [Small business lens](#)
  - O. [Forward regulatory planning](#)
  - P. [Service performance](#)
  - Q. [Reporting](#)
  - R. [Review of the Directive](#)
8. [Roles and Responsibilities](#)
  - [Federal Departments and Agencies](#)
  - [Treasury Board Secretariat](#)
  - [Department of Justice](#)
  - [The Privy Council Office](#)
  - [The Department of Public Works and Government Services](#)
9. [References](#)
10. [Enquiries and Further Information](#)
11. [Appendix: International Trade Obligations Regarding Specific Requirements for the Design and Implementation of Technical Regulations, Conformity Assessment Procedures, and Sanitary and Phytosanitary Measures](#)

High-level political commitment ✓

Clear scope of policy ✓

RIA embedded in broader regulatory policy ✓

Clear RIA guidelines: Issues- and impact focused, Cost-benefit, coordination, etc. ✓

Particular attention to impacts on int'l obligations and trade ✓

Particular attention to "implementation gap" issues ✓

General policy commitment linked to specific regulatory reform priorities ✓

# Assessing impacts on trade and international obligations

- ◆ RIA does not replace need for expert assessments of trade agreements and impacts, but rather provides a broader context for reviewing impacts from other policy measures.
- ◆ RIA provides greater transparency and community dialogue, thus enhancing public confidence in trade agreements and arrangements.
- ◆ RIA provide an additional way governments can illustrate compliance with international trade agreements and obligations
- ◆ Broad recognition that incorporation in RIA of impacts on trade and international obligations can be valuable to support policy coherence and to promote transparency, access and participation in decision-making
- ◆ A growing number of countries, when developing new regulation:
  - Oblige regulators to consult with the body responsible for trade policies, when developing new regulation;
  - Oblige regulators to consider impacts on trade and market openness; and
  - Oblige regulators to assessment of impacts on international obligations (treaties)

# Observations from surveys and academia are not unambiguous....

Country / Author (year)	Findings
US / OMB (2008)	<i>"Estimated benefits of major regulations issued from 1992 to 2007 exceed the estimated costs by more than four fold. The estimated benefits of major regulations issued over the last seven years exceed the costs by more than seven fold"</i>
Australia / Victorian Competition and Efficiency Commission (2011)	<i>"Between 2005-06 and 2009-10, the RIA process achieved estimated gross savings of \$902 million (in present value terms) over the 10 year life of the regulations. Majority savings from changes to new or amending regulatory proposals, suggesting that a RIA process may provide the greatest benefit when applied to new regulatory proposals that."</i>
European Court of Auditors (2010)	<i>"Impact assessment has been effective in supporting decision-making within the EU institutions"</i>
EU and US / Shapiro and Morrell III: (2012)	<i>"There is little correlation between the information provided by the analysis and the net benefits. However, regulations that receive few public comments and are not issued at the end of an administration, have the highest net benefits."</i>
US / Hahn & Tetlock, 2008	<i>"A systematic review of <u>regulatory oversight</u> via RIA published by the Journal of Economic Perspectives did not find sufficient evidence to conclude unambiguously that RIA has an impact of final economic outcome, such as growth"</i>

...which in part reflects the multiple motives for policy-makers to pursue RIA (not just efficiency, but also "control" and "legitimacy" (Radaelli))

# Some observations from practical implementation of RIA systems

- ◆ The utility and need for RIA to support general policy-making as well as consideration of impacts on trade and int'l obligations is widely accepted;
- ◆ Powerful new and strengthened drivers of GRP and RIA:
  - ◆ Indications of limited impacts of ad-hoc improvements of business regulation (need to move towards complementary systemic reforms)
  - ◆ GRP and RIA-like requirements under international investment and trade agreements (liability issues and “formal” international obligations)
  - ◆ General increase in focus on transparency
- ◆ Limited recognition of the political-economy implications of a RIA-system.
- ◆ “RIA” can sometimes carry a lot of connotations (primarily negative ones) with many government. Donor-driven. 1st-world centric. Etc. New discourse?
- ◆ Strong initial push and institutionalization of RIA can create adverse effects when external support and political commitments start to fade;

# The RIA agenda ahead: Challenges and Opportunities

- ◆ Building awareness and political commitment.
  - ◆ *Can be supported by better diagnostics and strong push from the GRP agenda*
- ◆ Integrating Regulatory Management in other governance systems.
  - ◆ *Growing recognition of “regulation” as critical tool of government; Some degree of formalization probably required*
- ◆ Recognize continued need for experimentation and adaptation
  - ◆ *Need to relax assumptions about RIA as purely a “rational” tool for better policy-makings.*
  - ◆ *Variations in institutional anchoring of RIA systems*
  - ◆ *“RIA Light”*
- ◆ Huge up-side from tighter integration of GRP into international trade and investment agreements
- ◆ Realism in timeframe and complexity --- compare with how long it took to develop sound systems of public financial management.