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TRADE REGULATORY IMPACT ASSESSMENT - MAURITIUS

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Table of contents

ABBREVIATIONS AND ACRONYMS.....	5
1. INTRODUCTION TO RIA	6
1.1. INTRODUCTION.....	6
1.2. WHAT IS RIA?.....	7
1.3. WHAT ARE THE RATIONALE FOR AND BENEFITS OF RIA?	8
1.4. WHEN SHOULD RIA BE USED?.....	9
1.5. WHEN SHOULD A RIA NOT BE APPLIED?.....	10
1.6. RIAS IN THE TRADE ENVIRONMENT	11
1.7. WHAT LEVEL OF DETAIL IS REQUIRED IN A RIA?.....	11
1.7.1. <i>INTRODUCTION</i>.....	11
1.7.2. <i>MODULAR APPROACH TO RIA</i>.....	12
1.7.3. <i>MINISTERIAL SIGN-OFF</i>.....	14
1.8. WHO SHOULD CONDUCT THE RIA AND WHO SHOULD CONTROL IT?	14
1.9. WHO READS RIAS AND WHY?.....	15
1.10. RIA WRITING STYLE	15
2. HOW TO ORGANIZE THE RIA PROCESS: THE SIX STEPS	16
2.1. INTRODUCTION.....	16
2.2. STEP 1: DEFINE THE PROBLEM	18
2.2.1. <i>INTRODUCTION</i>.....	18
2.2.2. <i>PROBLEM TREE</i>	21
2.2.3. <i>BASELINE SCENARIO</i>	22
2.3. STEP 2: DEFINE THE OBJECTIVES OF REFORM	22
2.3.1. <i>INTRODUCTION</i>.....	22
2.3.2. <i>FROM PROBLEM TO GOALS</i>	23
2.4. STEP 3: IDENTIFY DIFFERENT OPTIONS FOR REFORM.....	24
2.4.1. <i>INTRODUCTION</i>.....	24



2.4.2. <i>EARLY DISCARD OF POLICY OPTIONS</i>	29
2.5. STEP 4: ANALYSE THE DIFFERENT OPTIONS	30
2.5.1. <i>INTRODUCTION</i>.....	30
2.5.2. <i>LISTING ECONOMIC, SOCIAL AND ENVIRONMENTAL IMPACTS</i>	31
2.5.3. <i>IDENTIFICATION OF STAKEHOLDERS</i>.....	32
2.5.4. <i>COSTS AND BENEFITS</i>	33
2.5.5. <i>DIRECT IMPACTS</i>	35
2.5.6. <i>INDIRECT IMPACTS</i>	36
2.5.7. <i>DISTRIBUTIONAL IMPACTS</i>.....	36
2.6. STEP 5: COMPARE THE DIFFERENT OPTIONS	37
2.6.1. <i>INTRODUCTION</i>.....	37
2.6.2. <i>COST-BENEFIT ANALYSIS</i>.....	39
2.6.3. <i>COST EFFECTIVENESS ANALYSIS</i>	43
2.6.4. <i>MULTI-CRITERIA ANALYSIS</i>	43
2.6.5. <i>SMALL ENTERPRISE IMPACT TEST</i>.....	46
2.7. STEP 6: APPROVAL, IMPLEMENTING AND MONITORING	47
2.7.1. <i>INTRODUCTION</i>.....	47
2.7.2. <i>CHOOSING PREFERRED REGULATORY OPTION</i>.....	48
2.7.3. <i>IMPLEMENTING THE REGULATORY REFORM</i>	48
2.7.4. <i>MONITORING OR REVIEWING THE EFFECTS OF THE REGULATORY REFORM</i>.....	50
3. CROSS-CUTTING RIA ACTIVITIES.....	51
3.1. INTRODUCTION.....	51
3.2. DATA GATHERING IN RIA.....	51
3.2.1. <i>INTRODUCTION</i>.....	51
3.2.2. <i>DETERMINING DATA AND INFORMATION NEEDS</i>	52
3.3. CONSULTATIONS WITH INTERESTED PARTIES.....	52
3.3.1. <i>INTRODUCTION</i>.....	52
3.3.2. <i>THE CONSULTATION PROCESS</i>.....	53
3.3.3. <i>MAIN BENEFITS OF CONSULTATIONS</i>	55



3.3.4. <i>IMPEDIMENTS TO GOOD CONSULTATIONS</i>.....	55
3.3.5. <i>TYPICAL CONSULTATION PITFALLS</i>	55
3.3.6. <i>PHASES OF CONSULTATION PROCESS</i>.....	56
3.3.7. <i>CHAPTER ON CONSULTATIONS IN RIA DOCUMENT</i>	57
4. PREPARATION OF THE RIA REPORT	59
4.1. THE STRUCTURE OF THE RIA REPORT	59
ANNEXURE 1: RIA TEMPLATES	64
ANNEXURE 1.1 RIA TEMPLATE FOR MAURITIUS	64
ANNEXURE 1.2 RIA TEMPLATE FOR CANADA.....	65
ANNEXURE 1.3: RIA TEMPLATE FOR UNITED KINGDOM	67
ANNEXURE 1.4: RIA TEMPLATE FOR POLAND	71
ANNEXURE 1.5: RIA TEMPLATE FOR SOUTH AFRICA.....	73
ANNEXURE 2: OVERALL RIA CHECKLIST	76
ANNEXURE 3: COST-RELATED QUESTIONS CHECKLIST.....	77
ANNEXURE 4: COST/BENEFIT ANALYSIS CHECKLIST	82
ANNEXURE 5: PRIVATE REGULATORY INSTRUMENTS	84
ANNEXURE 6: FURTHER INFORMATION	86

Abbreviations and acronyms

CBA	Cost-Benefit Analysis
CEA	Cost Effectiveness Analysis
CRU	Central RIA Unit
EU	European Union
IAB	Impact Assessment Board
LCA	Least Cost Analysis
MCA	Multi-Criteria Analysis
RIA	Regulatory Impact Assessment
SMEs	Small and Medium Enterprises
WTO	World Trade Organization

1. INTRODUCTION TO RIA

1.1. Introduction

The legislative or non-legislative solutions adopted by the State should address a maximum of economic, environmental, and social issues causing a minimum burden on business and community. Undertaking regulation is justified only when it will prevent some market imperfections, addressing regulatory failures on implementing high-level policy objectives, by adopting the least costly regulation, and (normally) by having the benefits exceeding the cost.

The design of regulatory policy and its effective application are key to any to the proper functioning of any state and the evaluation of regulation effects, including its costs and benefits, becomes very important. The number of laws adopted increases most years, which makes better regulation ever more important. This includes the process of selecting the best options for regulation.

However, new regulations often generate unwanted effects apart from their real goal and it may be very difficult to predict all potential consequences without applying dedicated instruments. **Experience in OECD countries shows that a Regulatory Impact Assessment (RIA) is one of the best analytical instruments to identify the results of the planned regulation and to provide guidance on the best policy options to implement**, as RIA provides clear and consistent principles of decision-making. RIA requires establishing clear criteria on how and when the RIA process should be carried, including the evaluation of the potential effects of regulation undertaken by the administration.

RIA is a useful instrument in making political decisions but it will never replace political decisions: it only informs policymakers. To fulfill this purpose, RIA should be conducted before a draft regulation is designed. Drafting and RIA should be cross-fertilizing processes. RIA should not be used as an ex-post justification of decision.

The aim of this Manual is to present the different aspects of a regulatory impact analysis. The intention is that the Manual will assist in (a) defining the issue and identify the goals; (b) making the decision-making process more efficient; (c) providing better information on which government can base its policy decisions; and (d) minimising the potentially adverse consequences of any regulation.

The RIA Manual draws specific attention to two key instruments offered by RIA: consultations and data gathering, defined broadly as getting the opinions and data from stakeholders affected by a given regulation. The necessity of obtaining information from stakeholders is crucial prior the decision to regulate. Stakeholder consultations and public opinion surveys offer a lot of important information on the functioning of various regulations. Consultations, as defined in this Manual, help to gather data on the costs and benefits and to assess the risks in proposed regulation.

1.2. What is RIA?

RIA is a process of several steps which aims to analytically and systematically determine whether a regulatory intervention is needed, and if affirmative, which of the options provides the most beneficial solution.

RIA is based on:

- asking the right questions when considering the need for regulatory intervention, and during the development of regulation;
- gathering the necessary data and exchanging information between the regulator and the stakeholders; and
- properly analysing the data to arrive at a conclusion on the policy to be implemented.

There is no standard model of RIA used internationally and it has to be adapted to the needs of each country and to Mauritius in this instance. Nevertheless, any RIA needs to include the following:

- an analysis of the current situation (problem definition);
- a clear identification of objectives;
- structured consultation with stakeholders;
- consideration of the use of alternatives to regulation; and
- detailed examination of impacts of the alternatives.

RIA can be explained as a process in which different methods of analysis may be applied to various possible policy options, based on an analysis of the perspective of society as a whole. It provides the basis for reaching political decisions.

RIA is a tool used for the structured exploration of different options to address particular policy issues. Based on the objectives of a regulatory proposal, RIA analyses the risks to be addressed by the regulation and the options for delivering the objectives. It is a formal method for assessing the costs and benefits, both economic and non-economic, of regulatory proposals. It involves a detailed analysis to ascertain whether or not different options, including both regulatory and non-regulatory alternatives, would have the desired impact. It helps to identify any possible side effects or hidden costs associated with regulation and to quantify the likely costs of compliance on the individual citizen or business. It also helps to clarify the cost of enforcement.

It can be used to assess:

- All potential impacts, social, environmental, financial and economic;
- 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.);
- Distribution of impacts to consumers, business, employees, rural, urban and other groups.

RIA is **not** a document simply attached to draft legislation or an analysis purely from the perspective of the drafting authority. It is not a substitute for decision making but is best used as a guiding tool to improve the quality of political and administrative decisions. It serves the values ascribed to the policy making process of openness, public involvement and accountability. RIA also does not replace political decisions.

1.3. What are the rationale for and benefits of RIA?

“... RIA’s most important contribution to the quality of decisions is not the precision of the calculations used, but the action of analyzing and questioning, understanding real world impacts, and exploring assumptions.”¹

The basic rationale for RIA is to ensure that all regulatory proposals serve the policy objectives of government as effectively and efficiently as possible. As a methodology for assessing the likely consequences of proposed regulation and the actual consequences of existing regulations, it assists policy-makers and decision-makers in the design, implementation and monitoring of improvements for regulatory systems.

The application of RIA improves accountability and transparency in policy making. It makes transparent the expected costs and benefits of options for different stakeholders and the implications for compliance as well as the cost of enforcement for government. The RIA process helps:

- Policy makers to better understand the consequences (the costs, benefits and distributional impacts) of the decision;
- With the timely discovery of indirect and unintended impacts of regulations;
- With the simplification of the regulatory environment and reduction in the volume of regulation or the amendment of regulation;
- To improve transparency of the process: stakeholders can present their views and additional facts in consultation with the regulator and in public consultation;
- Determine whether the proposed measure will address the objectives of government;
- Identify alternative options for achieving the desired policy change;
- To assess options (regulatory and non-regulatory);
- Ensure that consultation is meaningful and reaches the widest possible range of stakeholders;
- Determine whether the benefits justify the costs; and
- Determine whether particular sectors are disproportionately affected.

RIA can contribute to economic efficiency by highlighting aspects of regulation which limit consumer choice and the level of competition in an economy. It helps to identify potential burdens on business and ensure that they are kept to a minimum. RIA can also identify potentially anti-competitive or protectionist regulations before these are enacted. Because it includes consultation with a wide range of stakeholders, it also provides an opportunity for those potentially affected by regulations to highlight any unforeseen consequences that may

¹ Regulatory Policies in OECD Countries: From Interventionism to Regulatory Governance. OECD (2002), p 47.

not previously have been considered. RIA is a means of improving the quality of governance by increasing the transparency and legitimacy of the regulatory process. The inclusion of consultation ensures that the interests of citizens are more systematically included within the regulatory process and the focus on enforcement and review encourages a more strategic approach to the monitoring and enforcement of regulations.

The objectives of RIA include the following:

- Assess the significant impacts, both positive and negative, of a regulatory measure;
- Systematically examine the impacts arising or likely to arise from government regulations and communicate this information to decision-makers;
- Ensure that all stakeholders are given a platform to provide their inputs to be considered in the policymaking process;
- Encourage stakeholder consultation in identification of issues and different policy options, and the quantification of costs and benefits of the different proposed policy options;
- Assess regulations on a case-by-case basis to see whether they contribute to government's socio-economic objectives;
- Encourage good governance in the regulation making process.

Finally, and significantly, RIA should contribute to achieving the six principles of better regulation:

- Necessity – to decrease any risk of over-regulation and the costs associated therewith;
- Proportionality – to the risk;
- Consistency – predictable, so that people know where they stand;
- Effectiveness – focused on the problem, with minimal side effects;
- Transparency – open, simple and user friendly; and
- Accountability – to Ministers and Parliament, to users and the public.

1.4. When should RIA be used?

RIA should always be initiated at the earliest possible stage and before a decision to regulate and how has been taken as it is designed to help inform decision-makers of whether to regulate or not. Ideally, RIA should be used as the basis for consultation.

In principle, a RIA could be prepared for all proposals (legislative and non-legislative) which are likely to have a direct or indirect impact (whether cost or benefit) on business or civil society and could have a regulatory solution. This includes proposals which increase or decrease costs on business and others. However, although the trigger for producing an RIA is that it has an impact on business or civil society, once it is undertaken it should cover the full range of impacts on all stakeholders.

In practice, it may very burdensome to carry out a RIA on every single issue. It is thus possible, and necessary in the early stage of a new RIA system, to target RIA efforts, i.e. to carry out RIA of selected proposals. Here below, five criteria are proposed; it is fundamental that whatever criterion is adopted, this is communicated in advance and applied transparently:

- Policy areas: ‘Trade Regulation shall undergo RIA’;
- Affected stakeholders: ‘Laws affecting minorities shall undergo RIA’;
- Magnitude of impacts: ‘Norms with expected large impacts shall undergo RIA’;
- Specific regulators: ‘Regulation issued by Agency X shall undergo RIA’; or
- Early programming: ‘This year, proposals A, B, and C will undergo RIA’.

RIA is typically applied to some of the following policy interventions:

- New primary legislation apart from issues of national security (only in some jurisdictions);
- Subordinate legislation;
- Significant regulations and policy proposals;
- The intention to substantively revise any of the existing legislation or regulations and policies.

In case RIA is only applied to legislation with expected large impacts, Government departments should conduct an initial RIA on the policy/regulatory proposals that fall within its jurisdiction. If an initial RIA suggests the need for further RIA, a full RIA should be conducted. A full RIA applies to policy and regulatory proposals that are considered as significant in terms of anticipated implementation costs to government, likely compliance costs to business, the scale of impact to society and the environment, the number of people affected, or the political sensitivity of the proposal. Even if the regulation is likely to have a significant impact only by virtue of the subordinate legislation to be made under it, a full RIA should be conducted in respect of each piece of subordinate legislation likely to have such significant impact.

It is important to remember that in many cases where existing legislation is being consolidated, new regulatory requirements are also introduced. In such cases a RIA should be carried out focusing on these new requirements.

1.5. When should a RIA not be applied?

Regulatory proposals generally exempted from RIA include:

- the budget bill and regulations giving effect to budget decisions, tax laws, and similar proposals;
- automatic increases in statutory fees;
- emergency legislation (e.g. to introduce measures after floods or earthquakes);
- Intention to repeal or remove redundant legislative provisions that have no or minor impact on government, businesses and individuals;
- Consolidation / recasting that do not affect the substance of the legislation
- security legislation; and
- some criminal legislation.

There are cases where primary legislation is required to ratify international treaties which the Government has already approved and the State has signed up to. There is no RIA required if the proposed legislation does not go beyond the Treaty Provisions and is only ratifying the Treaty. If there are any additional regulatory requirements or if there are different ways to implement international law, a RIA can be conducted on those requirements.

1.6. RIAs in the trade environment

RIAs of trade legislation should specifically determine the costs and benefits of the proposed regulation on trade, although cognisance must still be taken of other costs and benefits, e.g. to society. In general, TRIA would involve an analysis of the trade competitiveness pyramid, which can be viewed as follows:

Figure 1. The National Competitiveness Council Competitiveness Pyramid



1.7. What level of detail is required in a RIA?

1.7.1. *Introduction*

The level of detail required and the analytical approach to be taken, must be assessed on a case-by-case basis depending on the significance of the legislative proposal. The greater the importance or significance of the proposal, the more analysis will be required.

The decision as to whether a basic (light) RIA is sufficient, or the RIA should be more detailed, can be based on two principles: proportionality and precaution.

The **principle of proportionate analysis** means that the effort to do a RIA should be commensurate with the level of expected impacts of the legislation. The more important the regulation the greater the impacts and the greater the need to justify in detail the analyzed alternatives, to be specific about recommended solutions, and to forecast and quantify the costs and benefits. Sensitive issues such as environment or health may require more detailed RIA treatment.

The **precautionary principle** is applied where potentially unacceptable risks have been identified and these risks cannot be determined with sufficient certainty. In these circumstances, a decision to implement a more detailed RIA can be taken despite a lack of certainty. The use of the precautionary principle is normally used in cases with irreversible impacts.

Regardless of the depth of analysis, any RIA will:

- include the best information available at the time;
- be clear, concise and proportionate to the problem/risk it is addressing;
- be a stand-alone document, explaining the problem clearly, setting out the alternatives to regulation and the options, without the need to refer to other documents;
- use plain language; and
- avoid technical terms that are unintelligible to the lay person.

For a high-impact regulatory proposal, RIAs should also include the following:

- Quantitative costs for each stakeholder (if available);
- Quantitative benefits for each stakeholder (if available); or
- Qualitative costs or benefits, when quantitative costs and benefits are not available.

1.7.2. *Modular approach to RIA*

RIA should follow a modular approach. Essentially this means that at the outset, a policy objective is identified to explore possible mechanisms to achieve the objective. Its main role is to facilitate the decision whether or not to regulate. It provides statements of the policy objective, formulates the problem facing the state, specifies a range of options for consideration and identify the different stakeholders.

RIA at this stage may involve some level of consultation with potential stakeholders, including other government ministries, in order to assess and further develop the current situation, the policy options and retrieve indications about the costs and benefits associated with each option. In general, the wider the consultation that takes place, the more buy-in there is likely to be from those affected by regulation and the lower the likelihood of unforeseen impacts of regulatory proposals. Being creative about who you consult, and engaging early on with a range of stakeholders, can help you to identify and avoid any unintended consequences of your policy proposals and identify alternatives to legislation.

At this stage RIA should:

- Provide a clear statement of the policy objectives and the issue;
- Describe the problem to be addressed;
- Identify regulatory and non-regulatory alternative options, including status quo;
- List expected costs, benefits, and trade-offs;
- Identify who is affected, including business sectors affected;
- Identify any issues of equity and fairness.

If this shows that a full RIA needs to be conducted, additional consultations will need to be held and additional data will need to be collected and analysed. You will have worked up the options and developed your thinking on compliance and monitoring. You will also have refined your cost and benefit estimates.

A full RIA builds on the initial RIA and is updated in light of consultations and further information and analysis. It will include a more detailed assessment of the anticipated risks, implementation and compliance costs, benefits, and potential broader economic and societal impacts, and identify mitigating strategies where necessary.

The full RIA should also reflect the findings from the consultation process. A summary of the views expressed through the consultation process should be provided as part of the full RIA. The RIA should also contain a response to the views expressed. Where the final regulatory proposals do not take on board points/issues raised during the consultation process, this should be explained where possible.

The full RIA should set out implementation plan, enforcement methods and sanctions to be used, as well as the monitoring and evaluation system to be applied for the recommended option. If significant changes are made to a draft Bill during the legislative process, as a result of input from Cabinet and other stakeholders, the RIA report should be revised to include an assessment of the changes.

The level of detail included in the RIA should be proportional to the scale and impact of the proposed policy or regulation. For instance, if the proposal is likely to affect few stakeholders, or many stakeholders but only to a small degree, then the RIA should be quite short. Where the impact will be substantial, more data and depth of analysis are required.

The full RIA should:

- Provide a clear statement of the policy objectives and the issue;
- Describe and quantify the scale of the risk (or problem being addressed);
- Identify regulatory and non-regulatory options;
- Consider the pros and cons of each option and the fit with existing requirements on the relevant sector;
- Identify who is affected, including the business sectors affected;
- Identify any issues of equity and fairness;
- Estimate the benefits and costs and identify the key risks associated with each option;
- Flag any potential unintended consequences;
- Identify distributional impacts;
- Include a preliminary assessment of the impact on SMEs;
- Consider how to secure compliance and how the risk factors identified would affect this;
- Consider monitoring and whether a review of how well the policy is working is required.

The full RIA should accompany legislation when presented to Parliament. It becomes final when it is signed by the responsible Minister.

For the contents of a full RIA, see the templates in Annexures 1.1 to 1.4.

Small Firms' Impact Test

In the partial RIA you need to provide a statement of the results of your initial soundings with small businesses. You should include:

- details of the companies you consulted (size, sector, location);
- how they were contacted (e.g. phone, email);
- issues raised with them;
- whether a significant impact on business was revealed;

- whether SMEs are particularly affected by the impacts;
- whether SME-friendly policy alternatives have been considered (e.g. guidance documents, information campaigns, regulatory thresholds for certain obligations, reduced regulatory fees, simplified administrative regimes) ;
- whether the initial assessment changed the substance of your policy recommendation.

1.7.3. Ministerial sign-off

Once the Minister chooses a legislative option he must sign off the full RIA. Where a policy is shared across two or more departments, it will be the lead Minister who is responsible for signing off the RIA. All RIAs should also give a contact point for enquiries and comments. This should consist of a name, address, telephone number and email address.

All final RIAs should use the following wording in the Ministerial declaration:

"I have read the Regulatory Impact Assessment and I am aware of the impacts, including both costs and benefits, generated by the selected proposal.

Signed by the responsible Minister

.....

Date.....

Contact points: Name, unit or branch. Department address, telephone number and email address."

The RIA becomes final once the Minister signs it.

1.8. Who should conduct the RIA and who should control it?

RIAs are always prepared by the ministries and regulatory authorities that propose new regulations. A ministry or regulatory authority not only has the best understanding of the area which is being regulated, but is also usually disposed of data relevant to the regulated area, and of contacts with all the stakeholders involved. Ministries may contract out parts of RIA, but preparation of RIA and conclusions must be done by regulatory staff, under their responsibility. Ministries should not buy a complete RIA from an external consultant. At the same time, RIA should not be drafted by regulatory experts in the central unit.

Given the possibility of regulatory capture by the regulated businesses (at the expense of consumers, competitiveness and society at large) as well as the possibility of vested interests of the regulator, the RIA process should be overseen by an independent unit based at the center of government (for Mauritius, the exact location is to be decided by Cabinet). This unit can provide an impartial and professional opinion as to the quality of the RIA performed. To this purpose, the central unit should have the power to assess each RIA and ask for 'revise and resubmit' when necessary, providing a public statement of the strength and weaknesses of the documents and of the modifications to be introduced. To perform this task, the central

unit should be staffed with a small group of experts in regulatory quality and have the sufficient political underpinning.

1.9. Who reads RIAs and why?

There are essentially six groups of RIAs readers:

- Members of Parliament;
- National Revenue Authority and other ministries;
- Members of the legal community;
- Officials;
- Affected parties;
- The public at large.

While members of the public at large seldom have the time or interest to read a RIA, associations, companies, unions, legal firms, and universities that represent them often do.

1.10. RIA writing style

Think of RIA as a presentation. Rather than a dry narrative, the RIA should build arguments toward logical conclusions based on the entire range of evidence available.

When drafting a RIA, the drafter should focus on its target readers and start by assessing what will be important to these groups. Clues may be found in the results of the consultation. Ask yourself what interests people about this regulation. Deal with these issues, and try to put them in descending order of importance.

In terms of the content of arguments, focus on what conclusions readers should reach based on the available evidence. Put the most compelling argument first. This helps to classify issues in terms of their overall relevance.

The following are some guidelines to apply in drafting a RIA:

- Use plain language;
- Avoid long, complicated sentences and paragraphs, technical terms, and unfamiliar acronyms;
- Be concise and stick to the key points;
- Build arguments step by step, based on facts and evidence;
- Avoid repeating the same information in different sections of the RIA.

Keep in mind the following when drafting a full RIA:

- Keep it short;
- Include a brief summary of what the regulation means;
- Use plain language; and
- Avoid jargon.

2. HOW TO ORGANIZE THE RIA PROCESS: THE SIX STEPS

2.1. Introduction

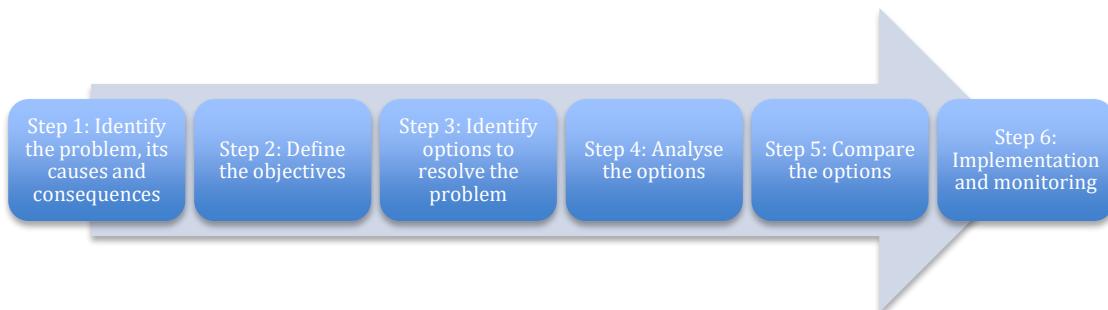
Governments generally adopt regulations to solve or ameliorate a problem. The problem may result from problems with existing policies or regulations, it may result from market failures, or it may depend on lack of coherence among regulations or between a regulation and a political goal. There are often many ways to address each problem. The challenge is to identify effective and efficient solutions that are consistent with broad government development objectives.

The aim of government policies and regulations should be to achieve some clearly targeted objective in order to solve a problem. RIA is a tool to evaluate options for achieving this objective and to discover what other effects policies and regulation may have. RIA needs to ask questions about what the government is trying to do, the probability of success, and other impacts on society and/or the economy. The analyst needs to:

- Understand the problems that need to be addressed;
- Be clear about the objective to be achieved via regulation;
- Look at all options to identify the best ways to achieve this objective;
- Ensure that benefits of the regulation exceed the costs (taking account both direct and indirect impacts).

The following diagram sets out the basic process to be followed in a RIA.

Figure 2. Basic RIA Process



SUMMARY OF KEY STEPS

Step 1. Identify the problem

- Determine the extent of the problem;
- Determine the causes;
- Determine the target population and distribution of impacts;
- Identify market failures, if any;
- Determine whether the problem is lack of regulation;
- Indicate why the problem has not been resolved by the existing regulatory framework.

Step 2. Define the objectives

- Formulate goals, results and regulatory measures so that they correspond to the problems, consequences and causes;
- Limit the number of goals and clearly set priorities;
- Structure objectives in a hierarchical way: general goals, objectives specific to the proposal, operational objectives whose achievement can be measured;
- Goals should be in accordance with strategies and programs of the Government.

Step 3. Identify the options for resolving the problem

- Identify policy options to meet the objectives (relevant – feasible – preferred options);
- Consider regulatory and non-regulatory options;
- Narrow the number of options through screening for constraints and measuring against predefined criteria.

Step 4. Analyze the options

- List the positive and negative direct and indirect impacts;
- Specify which social groups or economic sectors regions are affected;
- What the likely economic, social and environmental impacts of each of the options are;
- Include assessment of administrative burden;
- Apply relevant analysis methods – try to provide quantitative and monetary impacts if possible;
- Consider implementation risks, uncertainties and obstacles to compliance.

Step 5. Compare the options

- Indicate how positive/negative impacts have been weighted for each shortlisted option;
- If possible, rank the options in terms of the various evaluation criteria;
- If possible and appropriate, set out a preferred option.

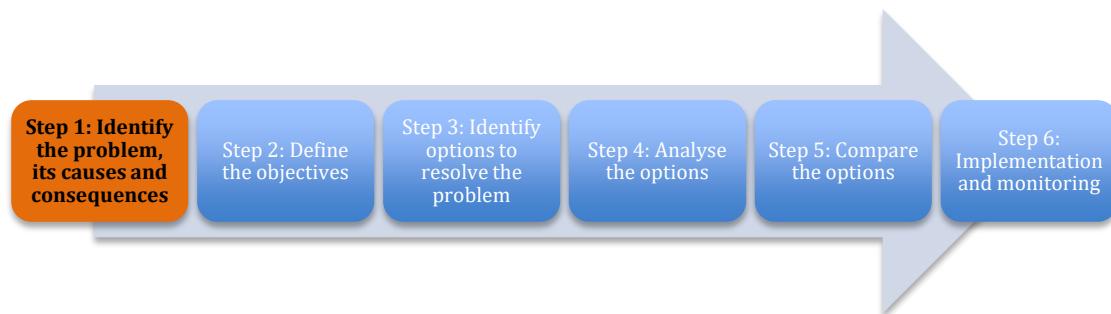
Step 6. Implementation and monitoring

- How will the preferred option be implemented?
- Who is responsible for administering the option?
- How will it be enforced (reporting, audits, inspections, self-monitoring)?
- How and when will the preferred option be reviewed?

2.2. STEP 1: Define the problem

2.2.1. *Introduction*

Figure 3. Basic RIA Process – Problem Identification



The first and most important step in performing an RIA is to clearly formulate the problem that the proposal is intended to address, quantifying the scale of the problem where possible. It is essential to give a brief description of the nature of the problem and communicate whether the problem is a once-off or recurrent problem. This should be accompanied by evidence of the claims such as analysis of the current experiences. If the problem identification is not done properly, the whole RIA will fail.

The issue should be described in concrete terms. The underlying causes of the problem, and groups likely to be most affected, should also be identified. This section should also provide a summary description of the expected evolution of the problem into the future, based on reasonable assumptions about intervening factors. This is known as the **baseline scenario**, and it is used as a starting point – the comparator – for the analysis of costs and benefits of the various policy options. The purpose of the baseline scenario is to explain how the current situation would evolve without additional regulation. In other words, it is the “no policy change” scenario. A baseline scenario description is important so that the impacts of different options can be compared with a common starting point.

The baseline projection must provide a clear indication of how serious the problem is, to what extent it would become more serious without government intervention, and whether the consequences would be irreversible. A realistic baseline should have a strong factual basis and, as far as possible, be expressed in quantitative terms. It should also be set for an appropriate time horizon.

It may be useful to classify the problems to be addressed by policy intervention in terms of market failures, regulatory failures, or policy coherence.

Market failures happen when market forces fail to maximize social welfare. Main types of market failures are:

- Externalities: the effects of economic actions which fall upon third parties. They may be either positive externalities, when one's own action causes benefits for a third party; or negative externalities, when one's own actions causes costs. In both cases, effects to third parties are not incorporated in market equilibrium, i.e. on price or quantity. Market mechanisms fail to maximize social welfare because too little or too

- much of that good or product will be produced;
- Asymmetric information takes place when two parts of a transaction are not equally informed; when this happens, market mechanisms will lead to less transactions than socially optimal;
- Public goods (which do not mean 'goods provided by the public administration', such as health services) are goods whose consumption is:
 - Non-rival: if someone else consumes the same good, the utility for the other consumers are not diminished;
 - Non-excludable: it is not possible to exclude someone from the consumption; Typical examples include national defence, clean air, fire fighters
- Monopoly or Limited competition is a situation in which a company has significant market power, up to being the only market player in a sector. In this case, market mechanisms usually provide less goods/services at a higher price. Monopolies can be 'natural', i.e. determined by technical or economic reasons (e.g. electricity grid) or legal, that is conferred by law upon a company.

A **regulatory failure** happens where a regulation is lacking or not working. Main examples are:

- Inadequately defined legal framework
- Poorly defined regulatory targets and objectives
- Unintended consequences from existing regulation
- Regulatory capture (i.e. the regulator serving private interests rather than the public good)
- Implementation and enforcement failures

Finally, not all problems to be addressed by regulation can fit into the market or regulatory failure categories, as in some cases, there is a discrepancy between the situation on the ground and political objectives (e.g. constitutional values, government targets, international commitments). In this case, the issue to be resolved via regulation consists in ensuring **policy coherence**.

How to define the problem:

- ✓ Determine the extent of the problem
- ✓ Determine the causes of the problem
- ✓ Determine the stakeholders and the distribution of impacts
- ✓ Determine whether the problem is due to a market failure
- ✓ Determine whether the problem is a lack of or incoherent regulation
- ✓ Determine whether the problem consists of a lack of coherence between (lack of) regulation and high-level policy goals
- ✓ Indicate why the problem has not been solved by the existing regulatory framework

Do not define the problem too narrowly, as this limits the possible options to solve the problem. Consider the following example:

Narrow and wide definition:

- ✓ **Narrow definition:** The registration process in courts is slow because of an insufficient number of judges and inappropriate equipment (the narrow definition points to the solution that the problem can only be solved by increasing the number of judges or investing in appropriate equipment).
- ✓ **Wider definition:** The registration process in courts is slow because of insufficient capacities of court and expensive because of high establishment costs (this wider definition also takes into consideration the possibility of limiting fees in order to make the registration process cheaper and different ways of solving the issue of capacity).
- ✓ **Widest definition:** The registration process in courts is slow, expensive, non-transparent and unreliable (this comprehensive definition provides the basis for consideration of various alternatives, including transferring registration competencies from the courts to an administrative body).

The RIA analyst needs to start by asking some fundamental questions about the problem and factors contributing to the problem; questions like:

- *What is the problem?* Clearly identify and define the problem. While obvious, too many regulations are drafted without a clear statement of the problem and the regulatory objective. This can contribute to over-regulation and ambiguity.
- *Which groups are affected by the problem and how?* Identify which interest groups are affected by the problem and by likely measures to address the problem. Describe how these groups are affected, and clearly identify any groups of winners and losers from current arrangements.
- *What are the key concerns of key stakeholders and the public?* Consult with key stakeholders to clearly identify their concerns and perspective. Consultations at an early stage are important to ensure that the analyst is addressing the correct problem, and thus thinking about an appropriate solution.
- *What caused the problem and what contributes thereto?* Understand the basis for the problem. Efficient resolution of a problem requires an understanding of how the problem arose. Is it a long-standing problem? Did the problem arise from other regulatory changes? Did the problem arise from changes in the external environment?
- *What are the key characteristics contributing to the problem?* Are there any legal limits on what can be done to resolve the problem? What are the underlying causes and nature of the problem? Does it result from market failure? If so, is it the type of market failure that can be addressed without recourse to regulation?

The analyst also needs to review the existing body of law that address the problem. Advice should be sought from specialists (technical experts/stakeholders, economists, lawyers, and scientists) as early as possible in the RIA process. Research may need to be commissioned to help understand the problem, to identify options for addressing the problem, and to assess the impacts of alternatives.

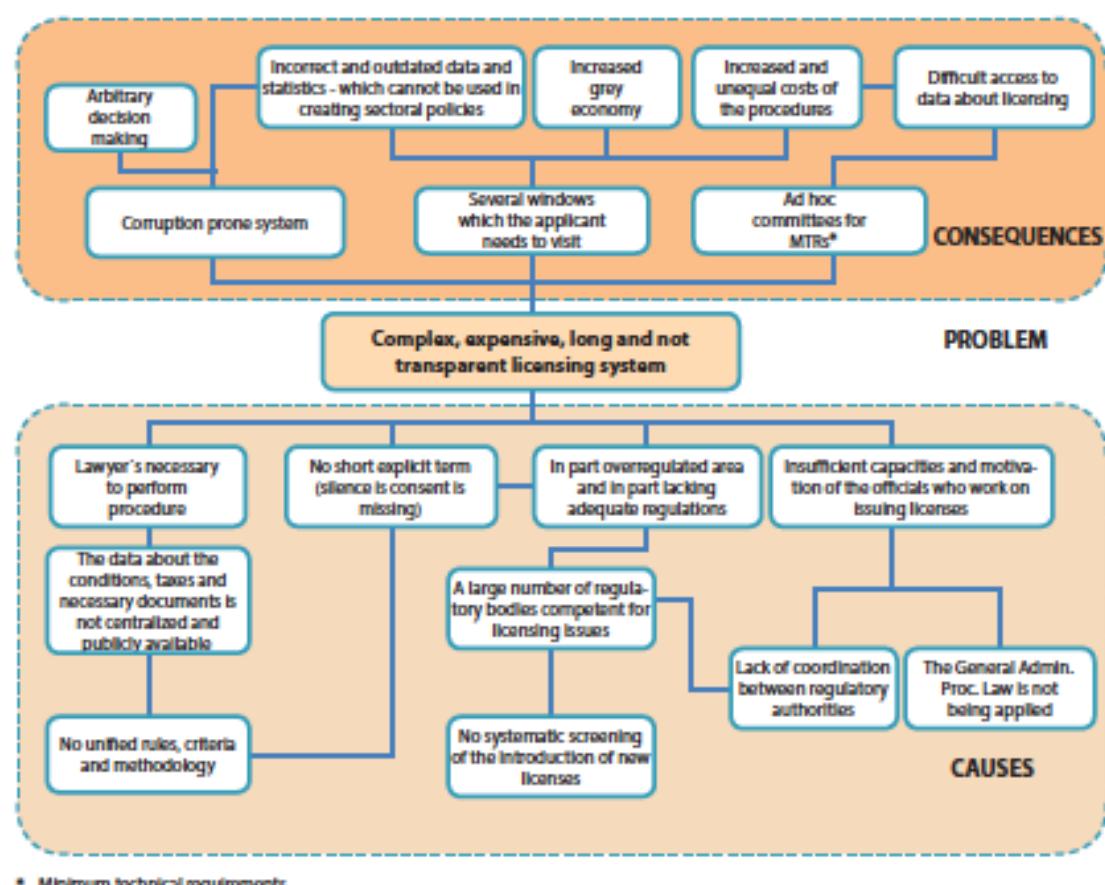
Problems are often multi-faceted and they affect different groups of stakeholders in different ways. In such cases, all aspects of the problem must be carefully investigated and special attention must be paid to the opposite interactions between those stakeholders and the incentives affecting them.

2.2.2. *Problem tree*

The “Problem Tree” is an extremely useful instrument that enables the “branching” of the problem into causes and consequences. The steps in creating a problem tree are:

- List all possible problems related to the analysed area (only real/actual problems, and not possible or future ones, should be considered);
- Determine the main problem;
- Determine which problems are “causes” and which are “consequences”;
- Arrange the “causes” and “consequences” in a hierarchical order – determine whether they are connected and their mutual relationship.

Figure 4. Example of a Problem Tree



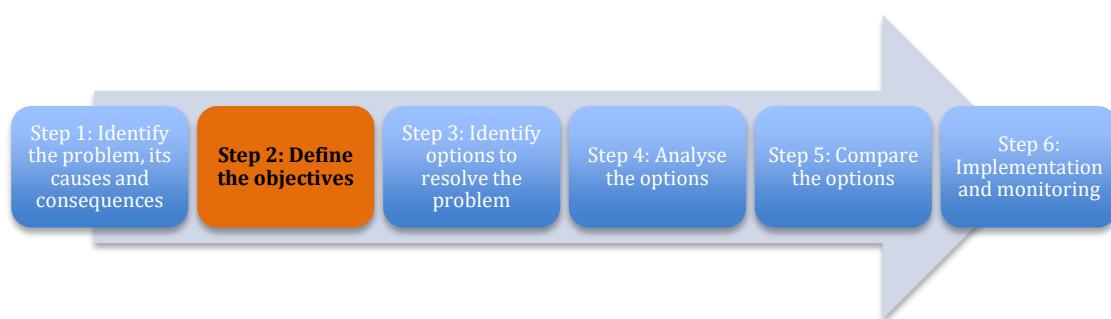
2.2.3. *Baseline scenario*

By taking into consideration the main endogenous and exogenous drivers identified in the problem definition part, the analysts should be able make a forecast about how a problem would evolve in the lack of any intervention. The baseline scenario will be always considered among the policy options, as the “no policy intervention” option. It will represent the comparator against which the impacts of other alternatives will be measured. At a minimum, any alternative should be better than no policy intervention.

2.3. STEP 2: Define the objectives of reform

2.3.1. *Introduction*

Figure 5. Basic RIA Process – Definition of objectives



The second step in the Regulatory Impact Analysis is the clear defining of objectives that the proposed measures would address. A clear presentation of objectives enables better oversight over the implementation and evaluation by using clearly defined indicators. The objectives of the policy intervention are what the Government aims to achieve to address the problem. The objectives are the goals, outcomes, standards or targets to be achieved to correct the problem. These should be clearly specified with a clear link to the problem. The success of a regulation needs to be monitored and evaluated against the progress in achieving these objectives.

How to define the goals of reform:

- ✓ Formulate goals, results and regulatory measures so that they correspond to the problems, causes and consequences
- ✓ Limit the number of goals and clearly set priorities
- ✓ Ensure goals are in accordance with Government programmes and strategies

Any objectives should be SMART:

- **Specific:** a specific and precise goal cannot be defined in a way allowing various interpretations;
- **Measurable:** a goal defined as a past state that can be measured and verified in terms

of its implementation degree (a goal defined in this way may be presented using measures or a description combined with a quantified assessment of its implementation degree);

- **Accepted:** if a goal and action required to achieve it involve influencing the people's behaviours, they must be accepted, appropriately understood, and interpreted by all who are taking part in achieving this goal;
- **Realistic:** a challenging goal is supposed to reach beyond the existing attainments but it must, at the same time, be feasible;
- **Time-dependent:** the time by which the main goal and intermediate goals will be achieved must be clearly stated.

The objectives should be clearly and specifically linked to the policy context described at the outset of the RIA. The goals may also be ranked as the principal, specific, and operating goals:

Principal goals are the goals of the whole regulation which define its final outcome. An effective policy is one that produces change in the direction defined by the principal goal. An example of the principal goal of a regulation is higher employment, which can be measured with the changes in the employment rate.

Specific goals are the direct targets of a regulation which have to be reached to achieve the principal goal. An example of a specific goal of a regulation is cutting the non-wage cost of labour done by the low-earning persons, which can be measured with the change in the indicators measuring the tax and social insurance premium burden on the wages paid to that group.

Operating goals are the current targets conditioning the implementation of the specific goals. These usually concern issues under the direct control of subjects implementing a given regulation. An example of an operating goal is increasing a tax-deductible amount, which can be measured by the changes in this particular amount.

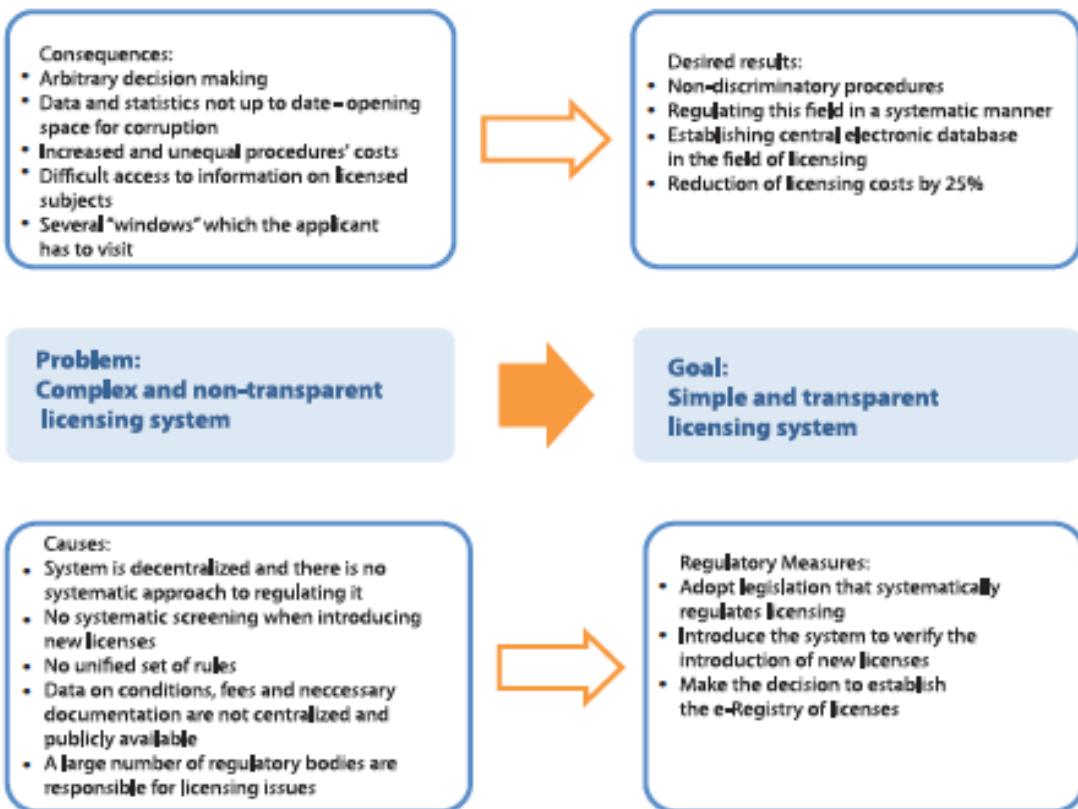
While policy goals and outcomes go hand in hand, they are not quite the same. For example, a goal might be to make a particular activity safer, while the desired outcome might be a 30-per-cent reduction in the rate of injury.

2.3.2. *From problem to goals*

After creating the Problem Tree, the problem, consequences and causes are easily transformed into goals, results and regulatory measures.

Figure 6. Basic RIA Process – Problem Identification

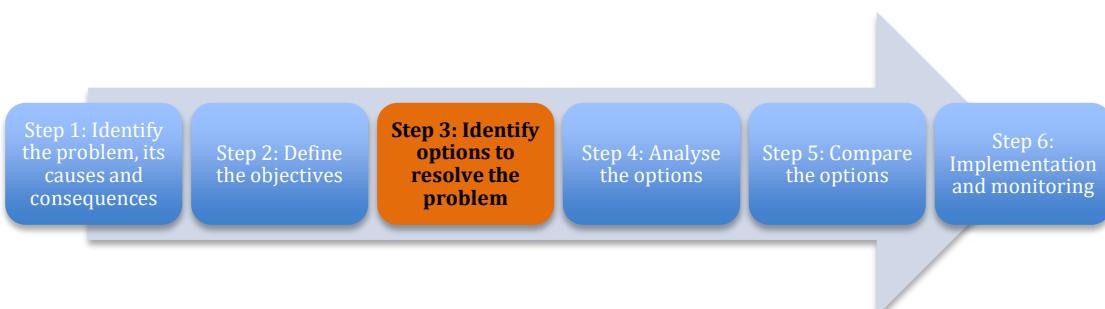
Example: Defining the goal and regulatory measures – licensing reform in Montenegro:



2.4. STEP 3: Identify different options for reform

2.4.1. *Introduction*

Figure 7. Basic RIA Process – Selection of Policy Options



In this step, a list of alternative policy options are identified, for subsequent analysis. Note that without different options, this is not a RIA but only an explanatory memorandum. At this stage, both regulatory and non-regulatory alternatives should be considered. Although the existence of the problem was identified this does not mean that the introduction of regulation

is needed. In certain cases, it is possible to use alternatives to regulation, e.g. informational and educational campaigns, self-regulation, or different market measures which impact the incentives of target groups.

The **selection of policy options is rooted in the problem definition**, where the underlying causal drivers have been identified. These drivers should be used to decide which instrument can be the most effective:

- If the problem is lack of clarity of the existing regulatory framework, regulatory intervention should be among the options;
- If the problem is poor enforcement, then administrative action should be among the options;
- If the problem is lack of understanding by consumers of risks, information disclosure should be among the options;
- If the problem is strong market incentives to engage in risky behaviour, then market instruments should be among the options.

Another key point to bear in mind is that options should be realistic and of real meaning. Therefore, while officials are encouraged to consider non-regulatory options in the context of RIAs where a political decision to regulate has already been taken, then the focus should be on the operationalising of the regulations rather than on whether or not to regulate. Alternatives could include:

<ul style="list-style-type: none">• Do nothing• Self-regulation• Co-regulation• Information disclosure• Education campaigns• Market incentives (tax incentives or disincentives or price control)• Tradable permit schemes• Mediation services;• Quality marks;• Recommendation schemes	<ul style="list-style-type: none">• Pre-market assessment schemes (listing, certification and licensing)• Post-market exclusion measures (bans, recalls, licence revocation provisions)• Service charters;• Codes of practice;• Standards (voluntary and regulatory, performance-based or prescriptive);• Public information registers, mandatory audits and quality assurance schemes)
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As an example, for tobacco regulation the following policy options may apply:

- Higher taxes (excise);
- Smoking bans (workplace, places open to the public);
- Advertising bans (direct, point of sale, indirect);
- Bigger, stronger warning labels;
- Packaging restrictions (descriptors, colors);
- Product regulation (tar and nicotine ceilings, ingredients);
- Cessation programs (industry funded);
- Youth smoking prevention programmes and laws;
- Counter-advertising and restrictions (denormalization);
- Litigation.

Identifying options:

- ✓ Identify policy options to meet the objectives (relevant – feasible – preferred options);
- ✓ Consider regulatory and non-regulatory options;
- ✓ Narrow the number of options through screening for constraints and measuring against pre-defined criteria.

Among policy options, it is crucial to mention the existing regulatory measures that have been implemented to resolve the problem, if there are any. It should be clearly indicated whether the problem relates to improper implementation of the existing regulation.

Figure 8. Examples of Policy Alternatives

Traditional approach	<ul style="list-style-type: none">• Regulations followed by implementation and monitoring of implementation, as well as the application of appropriate sanctions by Government authorities• Obligatory instructions and standards
Co-regulation	<ul style="list-style-type: none">• Transfer of authority to representative associations• Codes and standards supported by regulatory body
Self-regulation	<ul style="list-style-type: none">• Voluntary codices and standards
Economic instruments	<ul style="list-style-type: none">• Fiscal and financial instruments (taxes, subsidies, fees for usage of resources, and other incentives)• "Transferable" rights
Informational approach	<ul style="list-style-type: none">• Informational and educational campaigns
No regulation	<ul style="list-style-type: none">• Market solution - no need for any intervention

In many cases policy alternatives will emerge from the problems identified and their causal drivers. Further to that, the baseline scenario is already a policy option, also termed “do nothing” or “status quo” option. In addition to “doing nothing”, the analyst should consider options that require direct and/or indirect government interventions. Examples of direct government intervention include direct provision of a public good or service, and directly restricting some activities, including education, health and sanitation services.

Even if you feel one particular option is an obvious front-runner it is essential that you keep an open mind, as consultation can often bring new evidence from stakeholders that you were not aware of at this early stage. Where the broad policy direction is already determined you should focus on options for implementing the desired solution most effectively. In the case of regulations resulting from the implementation of International trade law (e.g. WTO Agreements), the analyst must carefully examine the scope of flexibility in selecting the solutions and then study the available solutions.

Consider how your proposals fit with any existing requirements and obligations on those who might be affected. For each option, you should think about the risks associated with its implementation. You should consider the key assumptions underlying each option, scenarios in which these assumptions change or no longer hold and the consequences of this.

Private regulatory instruments.

- Self-regulation concerns the broad range of behaviours, joint principles and rules, codes of conduct and voluntary agreements defined by stakeholders in order to provide a basis for regulation or organisation of their activity. Voluntary approaches are arrangements initiated and undertaken by industry and firms, sometimes formally sanctioned or endorsed by Government, in which self-imposed requirements are agreed which go beyond or complement the prevailing regulatory requirements. These include voluntary initiatives, voluntary codes, voluntary agreements, and self-regulation and vary in regard to their enforceability and degree of voluntarism. There are two motivations which can encourage firms to participate in voluntary approaches. First, companies who take voluntary action to address a policy concern may stave off more onerous Government regulation. A threat by Government of possible future regulation can encourage an industry to deal with the issue itself. Firms are also increasingly recognising that they can enhance their reputation and increase sales via participation in voluntary associations;
- Co-regulation or standardisation — a mechanism used by the legislative act to delegate reaching the goals defined by the law-maker to competent parties in a given area. In the co-regulation process, the law-making authority determines the main aspects of a proposed legislation: its goals, mechanisms, implementation period, implementation controls, and potential sanctions (e.g. that by 2018 cars should not emit on average more than 120 g of CO₂/km). It also defines to which extent the definition and implementation methods employed for the proposed solutions are related to the decision of the interested parties (this will depend on their experience, among other things). The implementation of the goals defined by the law-maker is done using the means specified by the involved parties whose right to take part in implementing a given legislative issue is recognised by the law-maker.

Finally, when describing options, make sure that can be clearly distinguished from one another.

Policy Alternatives

Improvement of implementation / enforcement

Some policy challenges may be addressed by improving enforcement of existing legislation. Using legislative or administrative measure to improve the effectiveness of the current regulatory framework without reforming it should therefore be considered as a possibility.

Information and education campaigns

Information campaigns can be used to address information asymmetries and enable consumers, but also businesses, to make informed choices and assess risk. While many information campaigns simply seek to inform citizens and enhance consumer choice, some information campaigns are more explicit in seeking to change behaviour. This form of campaign is generally found where the behaviours sought to be modified have substantial effects on society as a whole e.g. smoking and road safety.

Economic instruments

Economic instruments are a set of regulatory tools that create or change market incentives, so that players change their market behaviours and achieve the public objective. They include:

- Taxes and levies, subsidies;
- Tradable permits;
- Imposing insurance requirements;
- Quotas, licenses.

Traditional command-and-control regulation

Command-and-control systems of regulation are essentially a “law and state-centred process of legislation action combined with administrative enforcement.”² Command-and-control regulations are arguably the most pervasive policy tool and have been applied in a wide variety of areas, both economic and social. Through command-and-control regulation, the government specifies both the outcome to be achieved, and the means for achieving it.

A specific form of command-and-control regulation is process regulation. In some cases, regulation of outputs is not possible, e.g. because enforcement would be too cumbersome. Hence, the government may mandate that companies respect certain procedures or adopt a certain business process, which is supposed to deliver the outcome desired. Examples of product regulation can be found in the food safety and health and safety of workers areas, and the regulation that only unleaded fuel may be used.

Performance-based regulation

Performance-based regulation involves the specification of required outcomes or objectives, rather than the means by which these must be achieved. It may be accompanied by forms of private regulation that specify the means and the enforcement, e.g. standards. Firms and individuals are able to choose the process by which they will comply with the law. The focus of regulation is on results or outputs, rather than inputs. A specific example is where government sets the outcome, e.g. the maximum amount of CO₂/km that cars may emit, but where industry then has to come up with ways of meeting the limits. Performance regulation

² Parker and Braithwaite 2003, 127

is more flexible than command-and-control and allows stakeholders to choose the least cost way for compliance, although monitoring and administrative costs may be higher as they are more difficult to monitor.

Co-regulation

While self-regulation foresees no forms of government intervention, in co-regulation private parties and the government cooperates. In some cases the industry or a large proportion of industry participants formulate a code of practice in consultation with Government, with breaches of the code usually enforceable via sanctions imposed by industry or professional organisations rather than by the public. In other cases, the Government can retain control of some aspects of policy and devolve other elements to the industry. In all cases, the co-regulatory code is also approved by the government.

These are the most common forms of regulatory alternatives/models. Their appropriateness depends on the policy problem which is to be addressed, the prevailing culture and administrative system and a variety of other factors. The evaluation of alternatives as part of RIA can contribute to this goal.

Table 1. Alternatives to regulation

Alternative	What you need to know
Information strategies	How will people react to information? We must carry out tests of how people react to information in different formats, presentations, and wordings. (Medicines: 30% of people put medicines with child warnings on higher shelves).
Economic incentives	What is the sensitivity of people to prices? What are the substitutes? How will prices be communicated?
Tradable markets	What is the sensitivity of people to prices? What are the substitutes? How will prices be communicated? What are the impacts of various market structures and property rights, including tax treatment?
Self-regulation	What are the capacities and incentives of the economic actors, social groups, or NGOs participating in the scheme? How can their incentives be aligned with social benefits?

Please refer to Annexure 5 for the advantages and disadvantages of each of the different options.

2.4.2. Early discard of policy options

Analysts should always consider a range of options that is as broad as possible (relevant options). However, after finalising a broad list, it is necessary to limit the initial selection to the feasible options.

If the number of options is still large, it is necessary to perform an early discard of policy options, to keep the scope of analysis reasonable. Ideally, three to five options should be retained for final analysis, always including the status quo. Early discard can be done on

grounds of technical feasibility, political feasibility, severe lack of support from stakeholders or policymakers, or clear inferiority in terms of costs and benefits. Early discard should be well justified in the text of RIA, to avoid that the final list of policy options appears biased.

There can be many reasons for choosing or disqualifying alternatives (cost, feasibility, etc.). In all cases, list the most viable alternatives and offer a brief explanation of why alternatives were not selected. Treating each alternative in a separate paragraph adds clarity. Where a mix of regulatory and non-regulatory options have been selected, they should be explained together to demonstrate how they achieve the outcome.

All retained options must be realistic. A major pitfall in the selection process is to consider only three options – status quo, the already pre-selected option and an unrealistic option, leading to the selection of the regulator's preferred option as the final choice without adequate analysis being conducted.

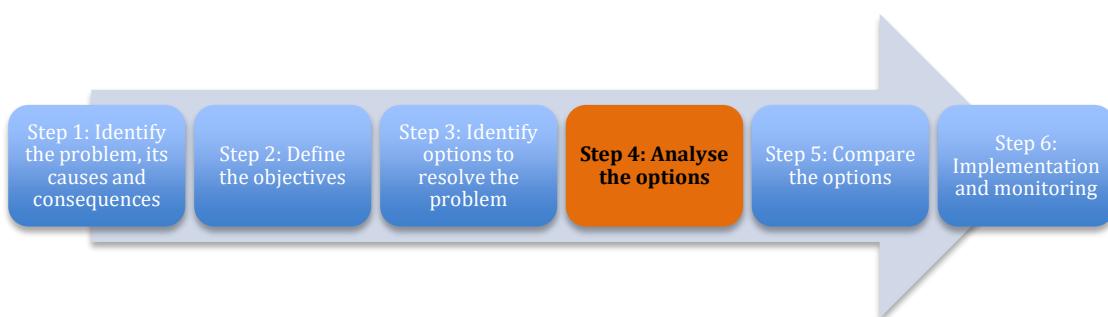
How to move from relevant to feasible options:

- ✓ Political feasibility;
- ✓ Motivation of target population, regulatory authorities and implementing agencies;
- ✓ Length and cost of implementation;
- ✓ Available data and experiences to date.

2.5. STEP 4: Analyse the different options

2.5.1. *Introduction*

Figure 9. Basic RIA Process – Analysis of Policy Options



How to analyse the options:

- ✓ List the likely economic, social and environmental impacts of each option, assessing likelihood and expected magnitude
- ✓ Identify stakeholders
- ✓ Select option for in-depth assessment
- ✓ Include an assessment of the administrative burden
- ✓ Apply relevant analytical methods (including quantification and monetisation where feasible)
- ✓ Consider implementation risks, uncertainties and obstacles to compliance

2.5.2. Listing economic, social and environmental impacts

Various RIA systems focus on different kind of impacts, such as impacts on businesses, economic impacts, regulatory costs, administrative costs, monetisable impacts. However, to properly compare costs and benefits, a RIA should be based upon an integrated approach, covering economic, social, and environmental impacts. While it may not be possible to assess all of them in all RIAs – in some cases, certain impacts will not be relevant; in other cases, certain impacts will not be measurable – none of this aspect should be excluded from the RIA system.

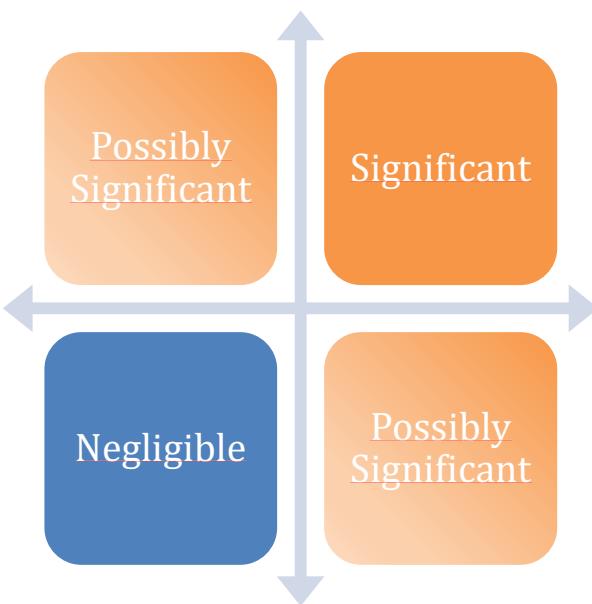
A statement of principle to take into account economic, social, and environmental impacts alike is not self-applicable. The ministry in charge of RIA should make any effort to look at all relevant impacts, even in areas which fall outside its mandate and its immediate sphere of interest. The RIA oversight unit should make sure that relevant impacts across all categories are not excluded from the analysis

Once the early steps of the RIA process are completed, that is, problem definition, statement of objectives and identification of policy options, the analyst should now proceed with analysing expected impacts, including both costs and benefits, and across the economic, social and environmental domain. However, analysis of impacts may be very cumbersome, in terms of time and resources. Hence, the analyst should prepare a map of the impacts that will be analysed in depth. To this purpose:

- The analyst should draw a broad list of relevant impacts;
- For each impact, the magnitude (how large?) and the likelihood (how probable?) should be roughly estimated based on the information included in the problem definition and provided by the stakeholder; and
- The analyst should identify high-relevance impacts that need to be retained for in-depth analysis, and that may also represent the evaluative dimensions for policy comparisons.

It may be useful to map impacts over the dimension of magnitude and likelihood, as in the graph below.

Figure 10. Map of Impact Significance



2.5.3. *Identification of stakeholders*

Expected impacts are not only significant because of their magnitude and likelihood. Assessing who bear which impact and how much of it is an important step in the RIA process. To perform this step, the analysts should map the categories of stakeholders which are more likely to be direct addresses or beneficiaries of the policy alternatives proposed. Stakeholders to be usually considered include:

- **Society** as a whole (citizens), when impacts are widespread across the country as opposed as to concentrate on some groups;
- **Consumers**, both in general or of a specific products of services. They may or may not coincide with citizens (e.g. for large mass products);
- **Workers**, both in general or in a specific sector;
- **Businesses**, both in general or in a specific sector;
- **Public administration**.

Importantly, costs are usually concentrated on few categories, while benefits are usually dispersed over larger groups (e.g. the society). While all stakeholders may be in principle be affected by any impact, some categories of costs and benefits are more relevant for certain categories of stakeholders:

- Compliance costs for businesses;
- Administrative costs for businesses and public administration;
- Hassle costs for citizens, consumers and businesses;
- Wider macroeconomic impacts, health and environmental benefits for the society at large;
- Health benefits for workers;
- Passed-on charges, change in price and quality of products and services for consumers.

After having mapped expected impacts and affected stakeholders in a qualitative way, the analyst should be able to produce a table similar to the one below, in which the intensity of each category of impacts for each category of stakeholders is reported. This table will inform the following analysis of impacts, and the data collection process.

2.5.4. Costs and benefits

In order for your RIA to be useful as an aid to decision-making it must contain a clear comparison of the costs, benefits and impacts of each option.

List all expected benefits and costs, and calculate / estimate their expected magnitude

- All of the anticipated impacts (positive and negative) need to be identified;
- Cause-effect relationships have to be explored;
- In some cases, the relationships is straightforward (e.g. if a road is improved, time saved increases, lives lost reduce);
- In other cases, neither the nature of the relationship nor the type of impact is readily known. For instance, it will be difficult to anticipate if a policy will reduce crime, as the causal factors underpinning crime are varied and not well understood.

List the expected time-path of the impacts

- Identify the impacts over the life of the programme/policy;
- Impacts may arise at different times, may be one-off or recurrent:
 - **One-off costs:** a new investment to comply with environmental law; training to make employees aware of a new tax system;
 - **Recurring costs:** maintenance for the new environment-friendly machinery; costs of filing, keeping and submitting tax records.

Monetize all impacts

- A monetary figure needs to be assigned to all anticipated impacts;
- A key challenge concerns valuing impacts that are intuitively important but for which there are no markets or only poorly functioning markets to observe (environmental and health impacts are two cases in point).

It is therefore important to understand the different types of costs that should be considered. Cost can typically consist of the following:

- **Tangible** costs and benefits are those which can be valued by the market. In other words, they can be monetized;
- **Intangible** costs and benefits cannot be valued by the market. They cannot be monetized;
- **Direct** costs and benefits are falling upon the main addressees and beneficiaries of the regulation;
- **Indirect** costs and benefits are those falling upon parties which are not the addresses and beneficiaries of the regulation.

Transfers (distribution effects) arise when the costs borne by one sector of society are matched by a (similar) level of benefits received by another group. There is no change in the overall welfare of society. Transfers should not be counted in the cost-benefit analysis but should be clearly shown and be taken into account in evaluating options more generally and in the analysis of distributional impacts.

Benefits resulting from regulation are the main reason of its adoption and, when trying to identify them, we must remember the goal of the regulation or, in other words, the processes to be improved by the regulation or problems it is going to solve. During the analysis of benefits, we must:

- Establish how the proposed regulation will lead to achieving the expected goals;
- Indicate the source of benefits associated with the new regulation;
- Indicate the direct and indirect benefits associated with the proposed regulation;
- Having identified the direct and indirect benefits, estimate their value.

A RIA must include an analysis of both the costs and benefits of regulatory change. Other potential types of benefits exist alongside purely economic benefits. Examples include:

- Safety, health and environmental protection: e.g. decreases in injuries or deaths, or a reduction in disease and mortality caused by environmental pollution;
- Benefits in the form of cost savings for compliance with, implementation, or enforcement of regulations;
- Benefits in the form of increased investments, more innovation in production, enhanced productivity and competitiveness, and so on.

Identify the benefits by thinking about the aim of the proposal and the risks being addressed. If the proposal is to improve consumer health then the benefit should be a reduction in illness/death; if it is to reduce air pollution then the benefit should be x% fewer tonnes of the pollutant being emitted to the atmosphere. The risks associated with this pollution might be illness, and damage to property and crops. The benefits would therefore also be a reduction in these pernicious effects. In the RIA spell out how the proposal will achieve the benefits – describe the process by which the changes in behaviour or activity or the act of complying are expected to lead to achieving the goals. Do not forget any indirect benefits – changes in behaviour that can have additional effects, e.g. more firms setting up in business as a result of reduced hiring costs or more people entering the labour market as a result of tax changes.

Costs and benefits should be quantified or monetised as annual values. One way to do this is to take any once-off costs (e.g. the cost of new equipment) and using a depreciation rate to ‘annualise’ these to arrive at an annual figure. An example is a Rs100m machine lasting ten years and where this cost, including financing and maintenance costs, needs to be annualized and reflected in present value.

Beware of **transfers and double counting**. When identifying costs and benefits it is important to identify those that are purely transfers from one section of society to another. Examples of such transfers might include the revenue from pollution taxes and social security payments. Transfers may change the distribution of income or wealth but they do not of themselves give rise to direct economic costs (or benefits), except for any associated costs of administration or compliance. You should refer to these in the Costs and Benefits section of the RIA but you should take care to ensure that they are not included in the calculation of the net impact

(indicate both the positive and the negative costs). Where they raise strong distributional issues, you have to include this in the analysis as this may influence policy decisions, e.g. of there is a significant transfer to the poor. Care also needs to be taken to avoid any double counting of costs and benefits. For example, one firm incurs a compliance cost of 100, 60 of which is then passed on to a customer through higher prices. In this case, the consumer 'loses' 60, but the company loses only '40'. The overall cost, including the passed on, should not enter the cost-benefit comparison.

2.5.5. Direct impacts

Direct impacts occur as the direct consequence of the regulatory change. These are actual impacts on the target population (companies, consumers, etc.), and include the costs that they will incur due to the change, or to the temporary interruption of the production process, operational costs, and administrative costs. There are also the direct costs that the Government and the regulatory authorities will incur in the implementation of the regulatory change (enforcement, supervision, inspections costs, etc.).

What are administrative costs and burdens?

A fee for a building permit is an example of an administrative **cost**. The time taken to complete the permit application is an example of such administrative **burden**.

There are several administrative burdens for businesses that create administrative cost, including:

- Reporting/notifications
- Applications for permits
- Applications for recognition
- Carrying out registration/measurements
- Doing (periodical) tests
- Making (periodical) reports
- Carrying out audits
- Applications for permits or exemptions
- Co-operation in audits/inspection/implementation
- Marking for the benefit of third parties
- Providing information to third parties
- Issuing documents
- Monitoring legislative changes
- Placing complaints and appeals
- Complaint handling

The method for measuring the administrative cost should be adjusted at the earliest phase of legislative work. Thus, when making a RIA, we should consider the following issues:

- Will the option impose new or additional administrative burden on enterprises?
- Will the administrative cost impose an excessive burden on small and medium-sized companies?
- Will the option increase the complexity of administrative procedures?

Whenever the administrative cost estimation shows that a policy or regulation proposed will reduce the administrative burden, the fact should be mentioned in the final report. It is important to know that the administrative cost-benefit assessment is part of the cost-benefit analysis of the whole regulation. It may happen that a selected option will generate some administrative costs but still it may be the optimum choice.

Example:

- ✓ **Option 1:**
Administrative cost—10, total cost—13, benefits—20 = net benefit—7
- ✓ **Option 2:**
Administrative cost—6, total cost—14, benefits—20 = net benefit—6
- ✓ **Option 3:**
Administrative cost—2, total cost—18, benefits—12 = net benefit—6

2.5.6. *Indirect impacts*

Indirect impacts are those that affect other subjects not directly targeted by the regulations, as well as those that indirectly affect the target population. These are primarily impacts on productivity, competitiveness, change in market structure, innovation, etc. Some impacts that do not affect the regulated target population should also be taken into consideration (e.g. impacts on the environment). Indirect costs result from compliance endeavours through third parties. The impact on various aspects, such as economic growth, business, competition, poverty, employment, income, health and environment should be considered.

Indirect impacts should be assessed when they are:

- Proximate: the chain of causation should not be too long, hence only impacts which are first-order effects of the regulation should be measured;
- Significant: as measuring indirect impacts can be challenging and demanding, resources should be targeted to sufficiently large indirect impacts.

2.5.7. *Distributional impacts*

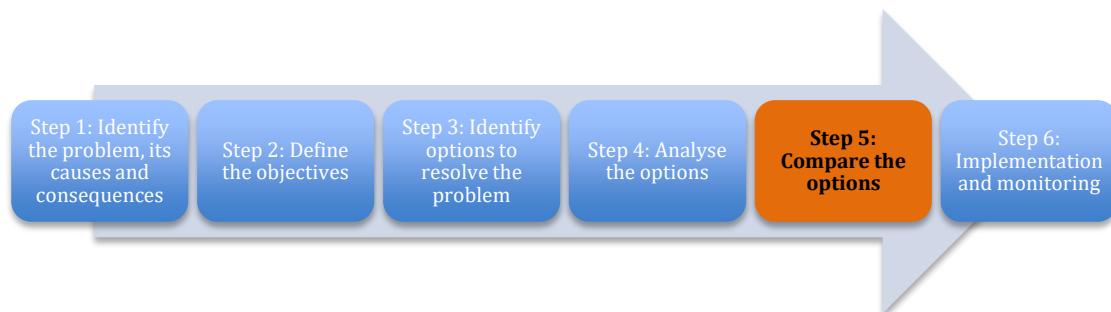
In addition to the determination of who is going to be affected by the regulatory change, the consequences of regulatory change on different groups should be analyzed (e.g. specific sectors of the economy, consumers, regions...).

Analyzing distributional impacts means determining who “wins” and who “loses” under the analyzed option. For example, what will be the impact on existing inequalities (e.g. gender or ethnic issues), on SMEs vs. large companies, on newly established companies vs. long-time operating companies, and so on.

2.6. STEP 5: Compare the different options

2.6.1. *Introduction*

Figure 11. Basic RIA Process – Comparison of Policy Options



This section compares the impacts, in terms of both costs and benefits, of regulatory and non-regulatory options considered in addressing the issue or risk identified, including the proposed regulatory action and the key differences between the options. As discussed above, not every option considered in developing the regulatory proposal needs to be presented—just the real or viable options. Ideally, the RIA will report on all legitimate options that were viewed as having the potential to be efficient or cost-effective.

Each option identified should be evaluated against a set of criteria. The principle of proportionate analysis should apply and the RIA should only address issues and questions that are relevant and feasible within the resource and data constraints and that are appropriate to the stage of the RIA.

Assessing costs

First, identify the type of stakeholders likely to be affected by your proposals and estimate the numbers involved. For business, charities and the voluntary sector identify the kind of activities which they will need to undertake and the likely changes in behavior. This includes changing production processes, buying equipment (also consider maintenance), extra training, changing working practices, gathering information, reporting requirements, etc. Think about how long this will take them, how many employees will be affected and how much the equipment will cost.

Using the number of firms, charities and voluntary organisations affected, estimate the cost, or at least estimate the broad order of magnitude of the costs. Where this is not possible, give as much quantification as you can and give a detailed qualitative description of those elements you cannot quantify.

The dynamic effects of a regulation on the way in which product markets develop (including the unintended consequences/indirect costs) can also be important. Sometimes it can be difficult to establish if proposals have unintended consequences. Early consultation with stakeholders can help you identify these at an early stage.

Assessing benefits

First identify the type of stakeholders likely to benefit from your proposals and estimate the numbers involved. You can then move on to determining broadly how they will benefit, e.g., from a cleaner environment, better health, a safer workplace, or improved food hygiene. Keep the full range of potential benefits in mind, including any social and environmental benefits of your proposals.

Generally, valuing benefits can be difficult at any stage. You may not be able to calculate the benefits precisely at the initial stage. It should, however, be possible at least to come up with broad estimates of the benefits. If it is not possible to do this then try to give some idea of the magnitude by quantifying the main impacts (e.g. an estimate of the number of injuries avoided, number of employees enjoying better working conditions, etc. Where this is not possible, quantify as much as possible and offer a detailed qualitative description.

Consider the potential dynamic benefits of regulations. Certain regulations can encourage innovation or more efficient investment by firms as they try to meet their requirements, enabling savings and enhancing the productivity and competitiveness of the sector as a whole. It can be difficult to quantify the effects of this as there may be uncertainty surrounding future benefits, but mention this possibility and give good evidence of what the dynamic effects might be.

Compare the options

How to compare the options:

- ✓ Analyse positive and negative impacts for each option; weigh them if necessary;
- ✓ Present the result of the comparison in a table;
- ✓ Highlight the trade-offs and synergies associated with each option;
- ✓ If possible, rank the options in terms of the various evaluation criteria.

In comparing options the following criteria can be used, and it should be explained how they have been applied:

- effectiveness of the option in relation to the objectives;
- efficiency of the option in achieving the objectives;
- coherence of the option with regard to overarching Government strategies and priorities.

Further to these general criteria, the policy objectives significant impacts, as identified in the previous step, could represent other dimension across which compare the policy options (e.g. compliance costs, impact on job, impact on disadvantaged groups).

An assessment of the benefits and costs of a proposal is the central analytical component of the RIA. It is the anticipated stream of benefits that flow from regulation or other policy measures that may justify the costs that are imposed on business or other sectors of the economy and society. The purpose of the analysis of benefits and costs is to determine whether these costs are proportionate to the expected benefits.

An assessment of the expected benefits is therefore one of the most essential aspects of an RIA. But it is also one of the most challenging areas. It cannot be automatically assumed that the benefits outweigh the costs and thus do not need to be valued. Valuing benefits is often difficult. For example, benefits may be environmental or social in nature and there is not always a simple price tag attached to these. However, without estimating the costs and benefits, the Minister cannot readily sign the declaration that the benefits justify the costs, as he or she may not have the necessary information.

It is crucial in helping you to estimate your proposal's impact on business. Analyse separately how costs and benefits apply to different industry sectors and types and size of business, especially small businesses.

The three most relevant methods of impact analysis and comparing options are cost-benefit analysis, cost-effectiveness analysis, and multi-criteria analysis.

2.6.2. *Cost-benefit analysis*

Introduction

Cost-Benefit Analysis (CBA) allows a regulator to make an unbiased comparison of various solutions from the angle of their economic efficiency. The CBA is a method of quantitative economic analysis used in the evaluation and ranking of alternative projects, policy measures, or, in RIA, alternative regulatory changes. CBA provides answers to the following questions:

- Will regulatory change provide net social benefits?
- Should the proposed option be adopted?
- Which of the different options should be adopted?

The basic characteristic of the CBA is that costs and benefits are observed from the perspective of society as a whole, taking into account a wide spectrum of impacts. It expresses costs and benefits in monetary equivalents, and also does so for costs and benefits that do not have market prices or where market prices do not fully reflect social benefits and costs.

The crux of the CBA methodology is how to monetize costs and benefits given that market prices may or may not be relevant or available.

- When market prices exist and when they are relevant, they represent the most accurate measure of the value of goods and services in society, so it is easy to calculate costs and benefits;
- When market prices exist, but are not relevant due to state intervention or some market deficiency, it is necessary to calculate "shadow prices", i.e. prices which account for real social costs and benefits;
- Finally, when regulatory changes affect some other parameters that do not have market prices, or have impacts that are otherwise difficult to capture (e.g. number of deaths or injuries, or environmental impacts) there are various techniques for indirectly monetizing costs and benefits.

CBA can be full or partial:

- Full CBA should be used when the most significant part of both costs and benefits can be quantified and monetized, and when there is a certain degree of choice as regards the extent to which objectives should be met (as a function of the costs associated with the proposed measures). It entails identifying and evaluating expected economic, environmental and social benefits, and costs of proposed public initiatives. A measure is considered to be justified where net benefits can be expected from the intervention.
- A partial CBA analysis may be done if only a part of the costs and benefits can be quantified and monetized. The resulting net benefits should be considered alongside the qualitative assessment of the other costs and benefits. The time value of money should always be taken into account, i.e. all future monetized costs and benefits should be expressed in present value.

Table 2. Advantages and Disadvantages of CBA

Advantages	Disadvantages
<ul style="list-style-type: none"> ✓ Accounts for all (positive and negative) effects of policy measures ✓ Allows side-by-side comparison of costs and benefits over time ✓ Can be used to rank proposals in terms of their net social gains 	<ul style="list-style-type: none"> ✓ Cannot include impacts for which no quantitative/monetary data exist ✓ Must be supplemented by additional analysis to cover distributional effects ✓ Has problems including some (social and environmental) effects ✓ Can be very time consuming and costly

The main steps of a CBA are as follows:

- Establish assumptions and the extent of the analysis;
- Decide the relevant period over which the regulation will have effect;
- Identify and itemize the costs and benefits, and whether they can be monetized;
- Monetise costs and benefits;
- Select the discount rate;
- Discount costs and benefits;
- Assess risks and uncertainties;
- Consider costs and benefits that cannot be reliably monetized;
- Consider additional criteria (if applicable);
- Recommend the best option.

Evaluation Period and Discounting

It is likely that most regulatory proposals will impose costs over a number of years and have benefits accruing over a number of years. For example, building a road has an immediate cost, but generates benefits over a long period. When a constant amount of money is received over a set period of time, this sum will be worth more in the early years compared with later years. Conversely, costs to be paid in the future are less onerous. Having identified and put a

monetary value on the benefits and costs, in order to compare options which might have costs and benefits occurring at different points over time, we need to adjust the estimates to take account of the time value of money. We need to reflect the fact that people prefer to get good things sooner rather than later and prefer to put off paying for things as far into the future as they can. It is the same for regulatory proposals – the sooner the benefits and the further into the future the costs, the better. To compare costs and benefits accruing at different points in time, discount rate is used, in order to compute the net present value of both costs and benefits. The discount rate depends on the market conditions (e.g. prevailing rate at which banks finance long-term investment) and on the subject matter (e.g. social regulation requires a discount rate lower than infrastructural projects). For example, the US RIA guidelines suggest using a 3% and 7% discount rate (the former being the estimate for social discount rate, while the latter of market discount rate), while the EU Guidelines require using a uniform 4% discount rate.

Discounting allows the direct comparison of costs and benefits occurring at different points in time. When discounting is used, it should be applied to both costs and benefits. In order to use discounting, a period over which the costs and benefits are to be measured – the evaluation period – needs to be established. Where options include investment in physical assets, it is normal to use the anticipated life of these assets as the evaluation period. In any event, the period chosen should be sufficiently long as to ensure that the full impacts of the option have had time to materialise. As benefits and costs will arise over the evaluation period, there is a need to use a discounting process to bring future costs and benefits to present values. This is achieved using a discount rate (R) and the following formula:

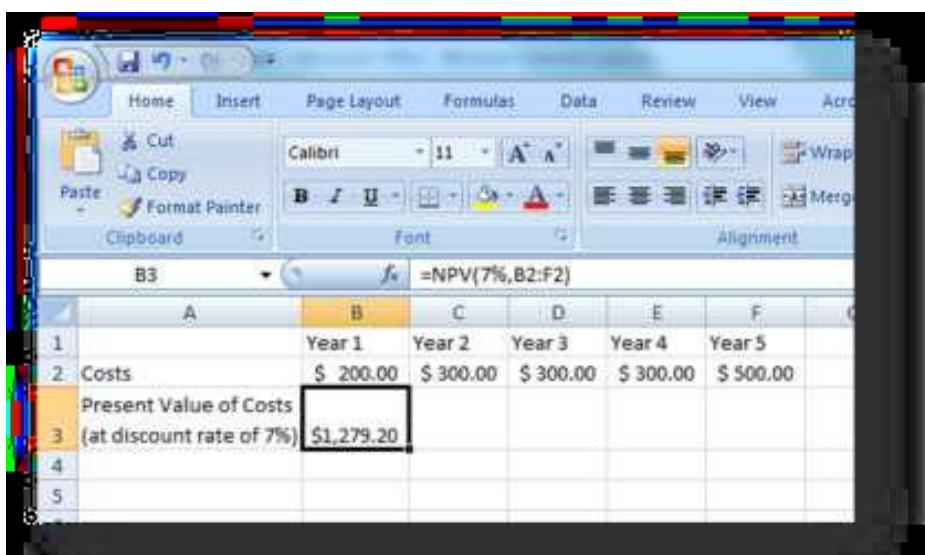
$$\text{Present value of benefits (PVB)} = \sum_{1}^{N} \frac{B_t}{(1 + R)^t}$$

Where B_t is the benefit in year t , n is the evaluation period and R is the discount rate. The present value of costs (PVC) is obtained in a similar fashion.

Net Present Value (NPV)

When costs and benefits of a proposal have been expressed in monetary terms in the cost benefit analysis, they must be converted to present values as money has a time value. Costs and benefits accruing in various future years are different when viewed from the present. The NPV is the net situation when the sum of costs has been deducted from the sum of benefits in present value terms ($NPV = PVC - PVB$). The calculation can be seen in the screen print below.

Figure 12. Excel Formula to Calculate NPV



Source: US Office for Management and Budget, Regulatory Impact Analysis, Frequently Asked Questions

Comparing the options

A comparison of the costs and benefits is a final step in the CBA. A methodologically unambiguous, correct comparison is possible only when all the data are presented in the same way (monetised), but in most cases it is impossible to directly compare costs and benefits.

Remember to take the implementation costs into consideration. Implementation costs are those costs that arise from inspection and monitoring arrangements, from staff having to learn about a new requirement and from internal administrative changes made to facilitate or prove compliance (e.g. the cost of going through the approval process to certify that the catalytic converter meets legal requirements, licensing fees, etc.).

The main steps in comparing the options are:

- Aggregate the costs and benefits resulting from the proposed regulation;
- Estimate to what extent the option meets the above criteria;
- Compare the net benefits gained by each of the options.

Table 3. Balance of Costs and Benefits

Option	Total (annual) cost	Total (annual) benefit
Option 1: No regulatory Intervention		
Option 2: Regulatory Intervention A		
Option 3: Regulatory Intervention B		

If the specific character of the regulated issue requires taking a different time perspective or cost-benefit presentation cycle, you should modify the balance table accordingly and present the net present value of costs and benefits, rather than the annual values.

2.6.3. Cost effectiveness analysis

Cost-effectiveness analysis (CEA) differs from cost-benefit analysis in that benefits are expressed not as money values, but in physical units. It compares the costs of different regulatory options delivering a single category of benefits (or for which only a category of benefits is significant). This approach is useful when it is not possible to estimate the monetary value of major reform benefit. It is usually applied in areas such as health, transportation, environment and education where impacts can be expressed in physical units, like fewer deaths, or a number of school leavers. For example, it is easier to identify the number of lives that a proposed measure may save than to value those lives.

CEA is primarily applied when:

- It is difficult to express benefits brought by regulatory options in monetary terms;
- The budget is established (or the assumption on the amount of funds available), and the key question is which of the considered options brings the most benefit for a certain amount of costs, i.e. which is the most cost-effective (or efficient);
- Budget redistribution is considered: i.e. having a fixed level of resource availability;
- When prices do not fully reflect all costs and benefits of the regulatory options considered.

CEA establishes the costs for reaching specific physical volume units (e.g. decreases in pollution and decreased road accident fatalities) and enables the ranking of options according to the costs per observed units. CEA does not answer the question of whether the regulatory activity should be undertaken.

There are some limitations in using CEA. First, it involves a focus on a single type of benefit to the exclusion of others. Thus, the chosen benefit must be the clearly dominant benefit, and be closely related to the overall policy objective. Secondly, unlike CBA, a CEA provides no guidance as to whether there are net gains to society.

2.6.4. Multi-criteria analysis

The term multi-criteria analysis (MCA) covers a wide range of techniques having the aim of capturing a range of positive and negative impacts into a single framework to allow easier comparison of scenarios. For most RIAs, not all of the costs or benefits to be derived from different options are monetisable. In such cases, the MCA is the appropriate analytical tool which allows several different criteria to be considered simultaneously. The regulatory objectives (including cost efficiency) are listed and used to create a set of criteria, that can be weighted where necessary. This creates a context to determine preferences amongst regulatory alternatives.

The performance of each alternative is identified and evaluated against the listed criteria. The contribution to the criteria is normally assessed through use of a scoring factor. Comparison can proceed in two ways: if criteria are not aggregated, the option scoring best in most criteria is considered to be the preferred option. If criteria are aggregated (and scores can be

expressed over a quantitative scale), the combined weights and scores for each of the alternatives are then aggregated to derive an overall value, providing a ranking of different options.

The vast majority of RIAs will comprise an MCA approach, or a combination of an MCA and CBA. Where

MCA evaluates options by using a set of criteria and measuring the extent to which the objectives have been achieved through these criteria. The extent to which the options impact on the criteria is measured through a numerical scoring factor (e.g. from 0 to 100 or 0 to 5) for each criterion. Pay attention to the following: a numerical scoring factor is not always a quantitative scale: stating that option A scores 2 in efficiency and option B scores 1 does not mean that the efficiency of option 2 is double; only, that option A scores better than option B as for efficiency.

The choice between an ordinal or numerical scoring system depends in part on the degree of precision with which effects can be measured. For example, if a quantitative indicator can be used to measure an effect, then this may be more easily translated into a quantitative scoring system.

A performance matrix is used to describe the performance of each option against the criteria. The following table sets out a generic performance matrix where three options are being considered and five criteria have been established. Finally, where a quantitative scoring factor is used, there is the possibility of using a weighting scheme which enables the impacts of each of the options under consideration to be aggregated into a single measure.

Table 4. Multi-Criteria Analysis – Empty Example Table

Option	Criterion 1	Criterion 2	Criterion 3	Criterion 4	Criterion 5
A					
B					
C					

MCA involves the following steps:

1. Establish the criteria to be used;
2. Evaluate the anticipated performance of each option against the criteria;
3. Score the options on the basis of this evaluation;
4. Use a decision mechanism to identify preferred option.

Step 1 - Establishment of the Criteria

Policy objectives, at specific or operational terms, and significant impacts can represent evaluation criteria in a multi-criteria analysis.

Steps 2 and 3 - Evaluation and Scoring

Once the options have been measured using the criteria, the next step is to evaluate the options. This is best done by either an ordinal or numerical scoring system.

Ordinal Scoring

An ordinal system simply provides a ranking of options. Experience has indicated that a seven-

point scale adequately captures degrees of differences in impacts. This involves awarding of scores on a scalar basis, for example using a 5- or 7-point scale. A 7-point ordinal scale is usually preferred in practice, being:

- Highly positive / (+++)
- Moderately positive / (++)
- Slightly positive / (+)
- Neutral / 0
- Slightly negative / (-)
- Moderately negative / (--)
- Highly negative / (---

In terms of the performance matrix, this scaling may be depicted in various ways, with the scheme in the table below often being favoured:

Table 5. Multi-Criteria Analysis –Example Table

Option	Criterion 1	Criterion 2	Criterion 3	Criterion 4	Criterion 5
A	++	+	++	+++	--
B	+	++	0	-	--
C	++	--	+++	0	+

Accordingly, a comparison of costs and benefits can be done by using the multi-factor analysis which allows RIA to present the impacts in a quantitative, qualitative, and monetary basis. Ensure that you have evidence supporting your assessment of the costs and benefits. It may be sufficient to accept firms' and business organisations' estimates of costs, if they are all in the same range. You need to ensure you apply the same evidence requirements to all sources of information, and include details (maybe in an annex) in the RIA. It is equally important to be open and honest about any uncertainty about costs and benefits.

Weighing of Criteria

Weighting of criteria is a process which establishes the relative importance of criteria in evaluating options.

As the criteria used are related to the objectives set, they in turn depend on the relative weighting given to objectives. Weights should be influenced by the views of stakeholders as evidenced through the consultation process, and through documented ministerial and Government policy statements. Both structures and more intuitive approaches are used for the development of weights.

Weighting can be done in a number of ways, the most common of which is to score each criterion numerically and then assign a weighting to each criterion to reflect its relative importance:

Table 6. Multi-Criteria Analysis – Empty Example Table

Option	Criterion 1		Criterion 2		Criterion 3		Criterion 4		Criterion 5		Total
	Score	Weight 30	Score	Weight 10	Score	Weight 10	Score	Weight 30	Score	Weight 20	
A	60	18	40	4	90	9	70	21	30	6	58

B	80	24	80	8	40	4	20	6	30	6	48
C	50	15	60	6	45	4.5	55	16.5	70	14	56

It is important to note that only quantitative data can be weighted, i.e., no weighting can take place of ordinal information (“++” does not mean two times “+”).

Step 4 - Decision-Making using MCA

The Decision-Making Process

There are two approaches to decision-making using MCA. Where options are evaluated through numerical scoring, preferred options can be identified directly. This is illustrated in Table 2.6.4.4, where it is apparent that Option A is marginally preferable to Options C and much better than option B on the basis of the weighted scores.

In contrast, where an ordinal ranking is used, a more intuitive approach has to be adopted. The first step in the process is to check the options for dominance. Table 2.6.4.2 illustrates this phenomenon, where Option A is seen to be dominant. If dominance does not occur, then the approach adopted is to rank the criteria in order of importance and to favour options that score highly on the more highly ranked criteria.

Advantages and disadvantages

There are some specific advantages and disadvantages attached to MCA as shown in the Table below.

Table 7. Advantages and Disadvantages of MCA

Advantages	Disadvantages
<ul style="list-style-type: none"> ✓ Enables simple comparison and analysis of different types of data ✓ Provides a transparent presentation of key issues and trade-offs ✓ Easily understandable for decision-makers and stakeholders 	<ul style="list-style-type: none"> ✓ Includes elements of subjectivity, especially in the weighting decisions ✓ Cannot always show whether benefits outweigh costs ✓ Different stakeholders may give different weightings to criteria ✓ Time preference may not always be reflected

2.6.5. Small enterprise impact test

Small businesses are a major contributor to the health of the economy and create significant employment opportunities. They may come in many shapes and sizes: from sole traders and micro firms to companies with up to 250 employees. Their motivations, aspirations and concerns are as important to their success as their financing structures. Government needs to understand them better and think about how to help them.

Most proposals likely to impact on business will have a larger impact on small firms, as small firms often have to meet the same criteria as large firms, but spread over a much smaller turnover. Special attention should therefore be paid to the analysis of costs and benefits for the enterprises, especially the small and medium-sized ones.

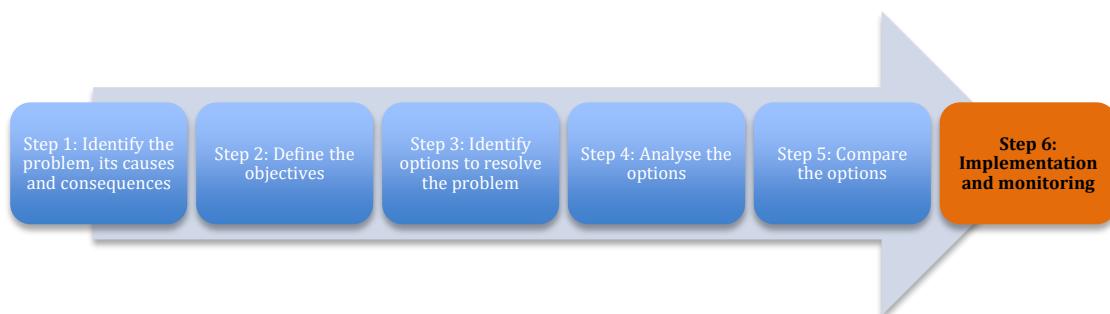
A “small” firm is normally defined on the basis of the number of people employed and/or its annual turnover. However, different countries apply different standards. Differentiation is also made between micro and small firms, with a micro firm typically employing not more than 10 people and a small firm not more than 50 people. A medium sized enterprise is typically defined as a business employing not more than 250 people. In Mauritius a small firm is defined as a firm with a turnover of not more than Rs10m, while a medium firm is defined as a firm with a turnover of more than R10m, but not more than Rs50m.

The first stage of the small firm impact test is an initial consultation on a range of options with small businesses or their representatives. This can give you an early warning about possible unintended consequences and provide an indication of whether the proposal is likely to be contentious. You should record your findings in the initial RIA. It will help you decide whether you need to complete stage 2 of the test – a consultation exploring in more detail the policy options and how they might be delivered – which should form part of the partial RIA. Bear in mind that focus groups and face-to-face meetings are often better than written responses. You should include your findings in the RIA document.

2.7. STEP 6: Approval, implementing and monitoring

2.7.1. *Introduction*

Figure 13. Basic RIA Process – Implementation and Monitoring



Recommendation

The recommendation section is to be completed only once all the options have been analysed and evaluated against one another. The desired decision should be accurately stated. The wording should correspond, as far as possible, with the wording of the ministerial resolution required.

Once the regulation is adopted, the regulatory authorities responsible for the regulation as

well as other policy makers need to verify whether the regulation is producing the impacts that were foreseen during RIA process, and whether the objectives are being achieved. If not, they need to know whether this is a result of the regulatory options selected, poor implementation, or maybe insufficient administrative capacities. Therefore, during the RIA process it is important to establish how monitoring and evaluation will take place, and to define the basic indicators that will measure whether the main goals are being achieved during implementation.

You should always consider:

- Administrative methods of preventative control, e.g. licensing, registration and enforcement approaches including improvement notices, suspension notices and prohibition notices, but bear in mind the cost of administrative methods and aim to minimise any bureaucracy; and
- Using civil penalties or statutory fines as a means of providing redress or as a deterrent.

2.7.2. Choosing preferred regulatory option

The selected option should be based on a rationale that flows from the analysis provided above, including costs and benefits and consultation results. In the “Rationale” section, describe why this option results in the greatest net benefit, how it will meet the objectives, and how it is proportionate to the degree and type of risk presented by the issue.

In justifying the selected option, this section should demonstrate how adverse impacts have been mitigated and positive impacts enhanced for the environment, the health and safety of society as a whole, businesses, consumers, trade, etc. It should discuss how any administrative burden has been limited to impose the least possible cost on society and businesses, and must show that the specific needs of small businesses have been addressed.

2.7.3. Implementing the regulatory reform

This section describes the implementation plan for a regulatory action, including any communications, dates for coming into force, partner institutions, or cooperation and coordination activities that will be necessary to ensure effective and efficient implementation. Regulations often intend modifying individuals’ behavior, but it cannot be assumed that all individuals will voluntarily comply and sanctions may be necessary to encourage compliance. As such, each option under consideration must have its own implementation plan. The estimated time and financial expenditures required for their implementation is crucial for the selection of the best option. We cannot usually assume full compliance of policies and regulations, unless there are clear reasons for it.

This section should include specific information as to how enforcement of the regulations is to be achieved. Regulations which are not enforced will not achieve their objectives. A key question that must be addressed within the RIA is whether the regulations are enforceable within budgetary constraints. Where the answer to this question is no, an alternative policy

option must be considered.

Also specifically consider which institutions may be helpful in introducing the regulation. NGOs and institutions such as the MCCI may often play an important role in developing policies.

The implementation planning stages comprise:

- Determining what would constitute successful implementation;
- Designing an implementation schedule: defining the key stages of the process of regulation implementation and their dates, especially the time the affected subjects will need to adjust;
- Identification of subjects responsible for the implementation of the regulation;
- Assessment of the funds required to implement the regulation, including cost to train and equip people implementing the regulation;
- Analysis of the existing regulation performance checking systems, in order to use them in the implementation of a new regulation; wherever possible existing monitoring systems should be used and they should not cause inconvenience or extra costs;
- Planning a risk management process for the regulation implementation time;
- Designing a communication strategy to ensure information flow and parties' commitment to have the regulation introduced;
- Organisation of an information campaign or training sessions, or a publication of guidelines to adjusting to the new regulations;
- Designing a system of penalties based on information gathered at earlier stages. The key to penalty effectiveness is its imminence. Any proposed system of penalties should ensure quick, fair, independent, and inexpensive execution of the penalties. Adjustment to new regulations needs time. When introducing penalties, we must remember to give the interested subjects enough time to get adjusted to the new regulations and their system of penalties.

If one of the proposed options requires setting up a new institution, you must justify why the job cannot be done by any of the existing institutions.

If necessary, this section should also identify the service standard (e.g., timelines for approval processes, such as licensing, permitting, and certification) associated with the regulatory activity and describe how the ministry will monitor its performance against the standard.

A typical implementation checklist could look as follows:

- How will the selected option be implemented?
- Who is responsible for implementation of the option?
- Will there be transitional arrangements?
- Will there be fees or charges?
- Will there be additional administrative steps, e.g. applications forms, to be taken?
- Who will be responsible for monitoring – regulators, police, third parties?
- What is the expected compliance rate?
- Are the penalties appropriate and proportionate to the problem and risk?

2.7.4. *Monitoring or reviewing the effects of the regulatory reform*

The final step in the RIA is to identify mechanisms for periodically reviewing the regulations to evaluate the extent to which they are achieving the objectives or intended benefits. Possible review mechanisms include reporting on performance within Annual Reports, consulting with stakeholders, establishing Review Groups and regular appearances of the relevant Minister or Regulator.

Performance indicators should be identified to indicate the extent to which the regulations are meeting their objectives. These might include compliance targets, levels of satisfaction amongst stakeholders or the achievement of particular goals or targets, e.g., road safety policies specify indicators such as the mortality rate in vehicle accidents, the number of serious injuries in road accidents, and the number of road accidents. There may be different indicators which will be relevant after say 6, 12 and 24 months and these have to be clearly identified and must be measurable.

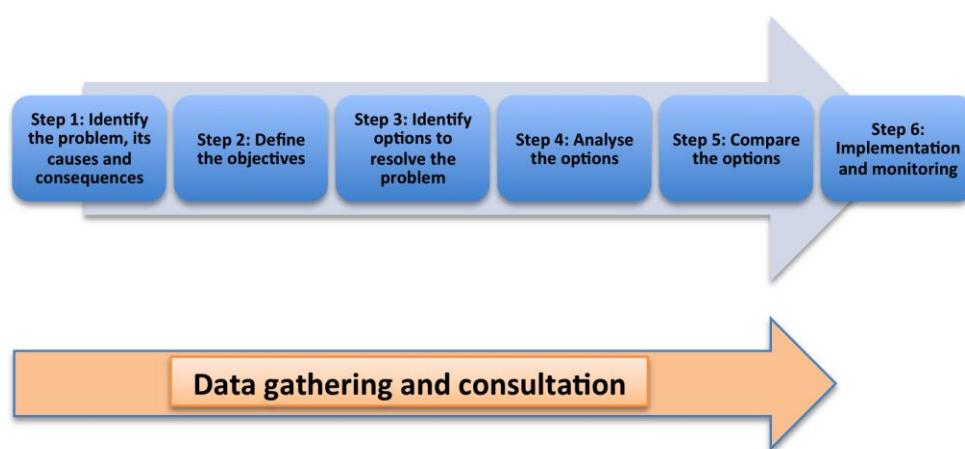
This section can easily be forgotten about when you are under pressure to get legislation written and passed as quickly as possible. However, in terms of the long-term health of Mauritius' regulatory environment, it is vital that RIAs include this section.

3. CROSS-CUTTING RIA ACTIVITIES

3.1. Introduction

Data gathering is one of the most important activities in the RIA process. The quality of the RIA is dependent on the quality of available data. Therefore, particular attention should be given to this activity in terms of how to determine the necessary data, and which data gathering techniques to apply. Moreover, regulatory change is usually linked to a specific technical area, and so a RIA usually requires specific data. This chapter looks at different techniques and focuses on the consultation process.

Figure 14. Basic RIA Process and Cross-Cutting Activities



3.2. Data gathering in RIA

3.2.1. *Introduction*

Before you start gathering data, you should:

- Identify the required and available data;
- Define the techniques for gathering missing data;
- Determine the acceptable level of data quality, bearing in mind the reliability and objectivity of the gathered data;
- Where data are missing, clearly indicating any assumptions made.

Data gathering is a time-consuming process. It is important to start the data gathering process as soon as possible and to utilise existing data sources as far as possible. Sometimes some data may be found in the proposing ministry, but some data might only be obtained from stakeholders (representative associations, companies, individual, etc.) during consultations. The consultation process can help resolve the problem of missing data, especially since the target population may well be keen to participate in the development of regulatory change, and to provide as much data as possible to the regulator.

Data may be obtained through:

- Literature review and existing databases;
- Publications and business reports;
- Consultations with experts and stakeholders;
- Data gathering questionnaires administered via interviews or surveys;
- Economic modeling.

Although data gathering can be divided into phases (identification of required data, listing the available data and identification of missing data, determination of the way in which missing data will be gathered) these phases are not mechanical or sequential. This is because the data gathering process is a cross-cutting activity, and although it should be more intensive in the initial stage of RIA, refining and validation should be done throughout the RIA process.

3.2.2. *Determining Data and Information Needs*

The data and information needs will be determined by the nature of the problem, the approach taken to assess regulatory impacts, the resources available for the assessment, and some assessment of the value of information in arriving at the right decision. If the initial analysis identifies an option with positive net social benefits clearly greater than other options, there may be little value in spending more resources to provide a marginally more exact measure of net benefits.

When attempting to assess impacts on firms, the most cost-effective approach may be to prepare case studies on several representative firms (e.g. a small, medium and large firm) and extrapolate costs and benefits from this analysis. In other cases, it may make sense to undertake a formal survey of a large number of firms. This is a decision that needs to be made by the analysts.

Most major information needs should be clearly identified at this stage. The consultation stage provides the best (and often only) opportunity for substantive primary data and information collection.

3.3. Consultations with interested parties

3.3.1. *Introduction*

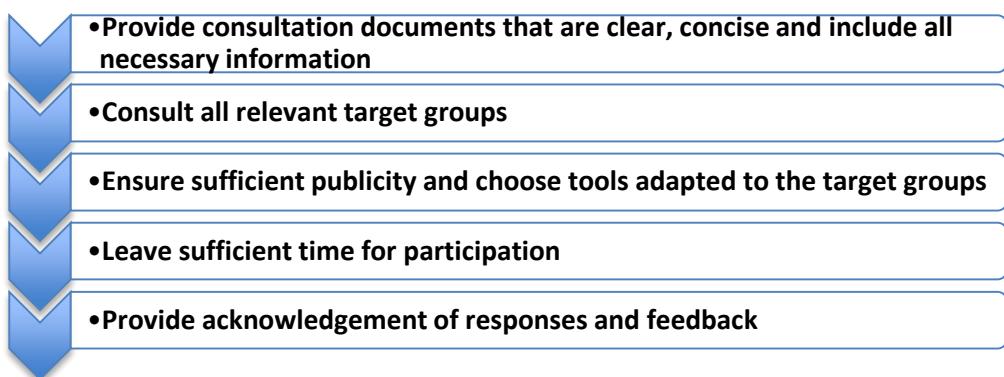
Consultation is an indispensable part of the RIA process. It provides important input at various stages of the RIA (problem, objectives, alternatives, impacts, implementation etc.), making it a cross-cutting activity. Consultation improves the quality of the data and the analysis (assumptions, impacts etc.), and helps build acceptance and a constituency for reform. Consultations also increase the accountability of the RIA team.

Participants in the consultation process should include not only the traditional parties to public dialogue such as trade unions and employers, but also all stakeholders likely to be affected by the regulation.

There is more to consultation than issuing a formal consultation document. Consultation provides an opportunity to develop assumptions and expose them for consideration, comment and challenge. However, persuading stakeholders to comment on the likely impact of something that is yet to happen can be a challenge. The aim of consultation is to reach the possibly broadest audience and become familiar with their opinions to be able to better improve the quality of the planned solutions, even if it leads to dropping the intervention.

Stakeholder consultations in the RIA should be carried out according to certain minimum standards.

Figure 15. Minimum Standards for Consultation



3.3.2. *The consultation process*

The consultation plan should clearly identify the experts, stakeholders, and business and community groups to be consulted during the RIA process and this must be done as early as possible in the RIA. There may be need to consult separately with key sub-groups (e.g. small, medium and large businesses, and/or domestic producers as opposed to importers, producers as opposed to retailers) depending on the nature of the change under review.

A consultation plan needs to reflect both information needs and the need to build public support for change. It should retain sufficient flexibility to respond to new information needs, new findings or changing public concerns. The European Commission³ has developed a set of minimum standards for consultation:

- Ensure that each consultation participant is properly informed about the proposed regulation;
- Cover all the target groups with consultation;
- Perform consultation using mass communication media appropriate for consultation and meeting the participants' expectations;
- Ensure that there is enough time to take part in consultation;
- Confirm the reception of feedbacks;
- Publish of a report presenting the consultation results; and

³ European Commission (2002) Towards a reinforced culture of consultation and dialogue - General principles and minimum standards for consultation of interested parties by the Commission, COM(2002) 704 final, Brussels.

- Indicate how consultations will be used in making the regulation impact assessment.

Consultation should be held at the possibly earliest stage of the regulation impact assessment. It is advisable to hold them during the work on the problem analysis and identification of the action objectives. At the same time, the consultation process is a continuous process and it should continue throughout the RIA. This allows structured dialogue with interested parties. The preliminary consultation may focus on the perception of a given problem among various groups of interested parties. The next stage may consist in getting opinions on the scope of the possible options. The final stage may focus on obtaining opinions about the preferred option.

Include a list of questions for consultees at the beginning:

- Ask whether the benefits and costs look reasonable;
- Ask whether the assessment of competition effects looks reasonable;
- Ask about enforcement issues; and
- Ask about unintended consequences.

You should include a partial RIA with your consultation document. Allow enough time by building consultation into the planning process. If you engage a third party or consultant to run your consultation exercise you must ensure they adhere to the guidelines and the timeframes agreed upon.

The essential elements of a good consultation exercise are:

- Remain focused: be clear about who is being consulted, what about, in what timescale and why;
- Seek advice from the MCCI and others about who to consult;
- Use the most appropriate approach. Written consultation is not always the best way to canvass views on a new policy or service, but must always be included alongside other methods.

Consultation should be easy to respond to, for example by using electronic means or a separate questionnaire. You should analyse all responses with care and make the results available, giving the reasons for final decisions. When you are looking at the responses, bear in mind that representative organisations will have consulted their members, and you should give their responses due weight. For example, the MCCI represents the views of several affiliated associations. If necessary, review your proposals in the light of the consultation exercise and if necessary amend the ongoing RIA.

Consultation can be:

- Active (advisory groups, public presentations, panels, focus groups, surveys); or
- Passive (circulation for comment, public notice and comment, public hearing).

How you are going to consult depends on several factors, such as the purpose and significance of the regulatory change, timing of the process, number of interested stakeholders, available resources, and so on. There is no “best” consultation technique.

In general, the wider the consultation that takes place, the more buy-in there is likely to be from those affected by regulation, and the lower the likelihood of unforeseen impacts of regulatory proposals.

It is important to remember that consultations are *not* a negotiation process – the final decision remains in the hands of public administration.

3.3.3. Main benefits of consultations

Consultations help that the regulatory process is transparent and non-discriminatory:

- It is a simple, and often the only way to obtain specific information and data;
- It helps reveal how regulated subjects, experts and other stakeholders view and value a certain problem, and what their opinions are regarding possible regulatory changes;
- It contributes to a clearer definition of the problem, better insight into possible alternatives and real consequences of regulatory proposals, and a decrease in the risk of unforeseen negative consequences; and
- It helps build broader support for changes to a regulation.

3.3.4. Impediments to good consultations

There may be some impediments to good consultations. These may include:

- Inadequate time available;
- Insufficient resources;
- Resistance to consultation (e.g. from different Ministries) and influential business and other stakeholders (i.e., information monopolies);
- Lack of track record of consultations, or of opinions voiced during consultations being taken on board; and
- Poorly organized stakeholders.

These need to be addressed to the extent possible, e.g. by starting the consultation process as early as possible, opening it to public participation, clearly indicating how opinions were considered and the reasons certain opinions were supported or not supported. Publish a summary of submissions, with a clear explanation of how key concerns were addressed. Changes to proposals resulting from the consultation process should be summarized in the full RIA report.

3.3.5. Typical consultation pitfalls

Do not try to achieve consensus in the public consultation. Consultation should not be used as a mechanism for negotiations with the stakeholders, but only to obtain views and information. Do not consult only with interest groups. Consultation should go beyond interest groups, or those with sufficient resources to support their arguments related to specific policies or regulations. Do not perform only “ex-post” consultation. Performing consultation after all the decisions related to the regulation have been made is a waste of resources.

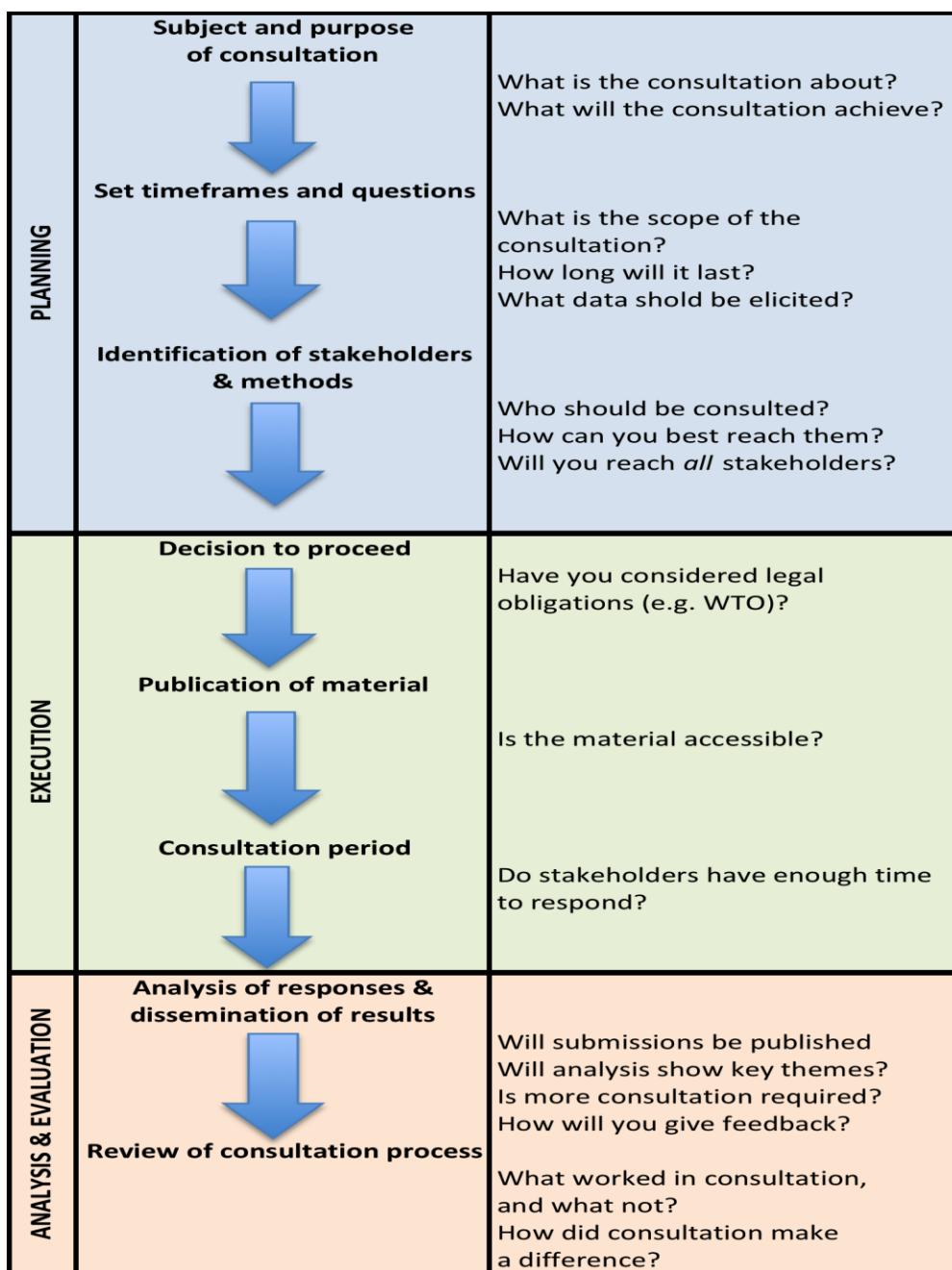
In order to avoid these pitfalls, consider using a consultation checklist, which could include the following issues:

- Are you clear on the purpose and objectives of your consultation?
- Are you clear on the questions you want to ask in your consultation?
- Have you identified all of the stakeholders that should be consulted?
- Have you chosen the most appropriate and inclusive methods of consultation, including those that meet the needs of “non-traditional” stakeholders?
- Have you allowed for sufficient resources for the consultation?
- Have you considered all of your legal obligations?
- Have you publicised your consultation in online and offline media?
- Have you allowed sufficient time to give stakeholders an opportunity to consider the issues fully?
- Have you planned how you will analyse the submissions received during your consultation?
- Have you planned how you will give feedback on the submissions received during your consultation?
- Have you planned to evaluate your consultation process and to ensure any lessons learned are taken into account for the future?

3.3.6. Phases of consultation process

The consultation process essentially consists of three phases, being the planning, execution and analysis & evaluation phases.

Figure 16. Phase of the Consultation Process



3.3.7. Chapter on consultations in RIA document

This section should provide a summary of the consultation process, the main substantive comments received, and how they were taken into account. For guidance, please refer to the Guidelines for Effective Regulatory Consultations. In summary, this section should address the following:

- Show who was consulted;
- Indicate what consultation mechanisms were used;
- Indicate when and how long the consultations were conducted;

- Discuss results of the consultation and whether the regulation changed as a result;
- Show how the regulation was revised to reflect and respond to comments received during the pre-publication process; and
- Provide a rationale as to why the regulation might not respond to stakeholders' views or concerns; and

The RIA should demonstrate that the consultation process was balanced and not unduly influenced by the views of one particular group. Also, when consultations were undertaken to gather data, it should be clear that data-collection methods were appropriate and that the robustness of results was validated.

A summary of views conveyed through the consultation process should be set out as part of the RIA. Obviously, it is not practical to deal with every concern, but the RIA should also contain a brief response to key issues expressed. Where the final regulatory proposals do not take on board points/issues raised during the consultation process, this should be explained where possible. Changes to proposals resulting from the consultation process should be summarized in the full RIA report.

If, after consultation, there is still a group opposed to the regulation, the reason for opposition and the identity of the group should be noted.

4. PREPARATION OF THE RIA REPORT

4.1. The structure of the RIA report

The RIA report is the result of the analysis. In cases of minor changes to laws or bylaws, it is often relatively easy to explain the problem, and even to quantify benefits and costs. However, with major changes, and especially with legislation that regulates very complex, multilayered fields, RIA reports need to focus on the most significant changes. Whether the report will have five or thirty pages depends on the proportionality (i.e., the importance of the regulatory changes). Presented below is the recommended generic RIA report format. There is no prescribed format for a RIA report and different templates exist (see Annexures 1.1 through 1.4). However, all RIA reports require certain minimum information, which can be summarized as follows:

SECTION 1: EXECUTIVE SUMMARY

This section provides the executive summary of the RIA. The executive summary should not be longer than 5 pages and include the following: i) main causes of the problem; ii) policy alternatives; iii) comparison of alternatives (possibly through a table); and iv) preferred option.

SECTION 2: PROBLEM DEFINITION

This provides the statement of the problem: What is the problem being addressed? How did the problem arise? What are the consequences of the problem? Who is affected by the problem? What would happen if no regulatory action was taken? Why is regulatory action being considered?

Review any prior actions: Describe and briefly summarize any existing studies, policies, regulations or arrangements for addressing the problem. Describe existing institutional responsibilities for addressing the problem.

Economic, social and environmental rationale: What market failure does the regulation aim to address? What may happen if the problem is not addressed? Is the issue expected to continue at the same rate or get worse? Without evidence of market failure there is likely not to be an economic rationale for intervention.

The problem definition section also includes the baseline scenario, that is a forecast of how the problem would evolve if no policy intervention is carried out. The baseline scenario can be expressed in quantitative (preferably) or qualitative form.

SECTION 3: OBJECTIVES

Objective of regulatory action: The regulatory objective should be stated in relation to the problem, with a time frame for achieving the objective. Regulatory objectives are the goals, outcomes, standards or targets which the regulation aims to attain to address the problem. The objective for a regulation should be stated as clearly as possible to define the expected outcomes of the regulation.

What are the general policy objectives? Where applicable, describe the consistency of these objectives with existing government strategies or programmes.

SECTION 4: POLICY OPTIONS

This section provides a review options for resolving the problem and risk assessment.

List a range of options:

- Include a range of options (preferably at least three) in the full RIA;
- Always include the “status quo” option to provide a benchmark for comparing other options. This will help clarify the impact of not acting;
- Consider alternatives to regulation, unless there is an obligation to regulate;
- Include more detailed consideration of a range of options in the initial RIA. As a minimum, carry forward the “status quo” option and at least one other option. Where feasible include an alternative to regulation;
- Explain why options are discarded at an early stage, in case where options are not carried forward from the initial to the full RIA.

SECTION 5: ANALYSIS OF IMPACTS

This section analyses the likely economic, social and environmental impacts – both intended and unintended – for each of the short-listed options, as well as trade-offs and synergies. This is the main analytical section of the full RIA report. It has three main sub-sections:

- Identification of economic, social and environmental impacts;
- Identification of affected stakeholders;
- In depth qualitative and quantitative analysis of the most significant impacts;
- Qualitative assessment of the least significant impacts.

Identify economic, social and environmental impacts

Why do the impacts occur and who is affected?

This section entails the identification of impacts that are likely to occur as a consequence of implementing the policy or regulatory proposal. Some of those will be intentional and are the objective of the policy. However it is also necessary to try to identify possible unintended impacts and the impact of how different options might interact.

Always identify who is affected by the impacts and when. This should describe the key groups in society affected by the proposed changes. Where applicable, specifically indicate the impact of proposed changes on:

- Businesses – consider the impact on different firm sizes, rural and urban firms, and on specific industries as appropriate;
- Consumers and the broader community;
- NGOs, business and community associations;

- Different social and ethnic groups – including ethnicity, gender, age, health and income; and
- Government ministries, the budget, and public bodies responsible for implementing and enforcing changes.

Identifying the more important impacts

To the extent possible, the assessment of impacts in this section is generally qualitative. In this approach, the analyst should:

- Identify the areas in which the proposed action is intended to produce benefits, as well as the areas where this may lead to direct costs or unintended negative impacts;
- Indicate the likelihood (e.g. low, medium or high probability) that the impact will occur (or conversely the risk that the impact will not occur);
- Assess and estimate the magnitude of each impact (providing reasonable ranges);
- Assess the importance of impacts on the basis of two preceding element (e.g. from low likelihood/low magnitude through to high likelihood/high impact).

When identifying impacts, keep the following in mind:

- Consider both short-term and long-term impacts. It is often easier to identify short-term effects, but this does not mean that they are more important;
- Clearly differentiate between once-off and recurring costs;
- Does the regulation impact international obligations?
- Does the budget provide (or will future budgets provide) for the financial funds required for implementation?
- Does the regulation require the adoption of by-laws that will produce financial obligations?
- Clearly explain the methodology used in determining costs and benefits;
- Do not overlook impacts that cannot readily be expressed in quantitative or monetary terms;
- Remember that different factors which influence impacts may also interact with one another;
- Take account of how the impacts of the proposal may be affected by the implementation of other proposals.

One way of presenting this sort of assessment of impacts is to build an impact matrix as a summary.

This involves the following tasks:

- Break the policy options down into their main actions (the rows of the matrix);
- Identify the main types or categories of impacts (the columns of the matrix), organised according to a time horizon where possible;
- Indicate in each cell the likelihood of an impact (certain, probable, unlikely);
- Indicate in each cell whether the impact is expected to be positive, negative, or uncertain and where positive or negative, also indicate the magnitude;
- Indicate in each cell the stakeholders and the timescale over which the impacts are expected to occur.

In depth analysis of the most significant impacts

Building on the structured, qualitative analysis (provided in (ii) above, further in-depth analysis should be undertaken to produce a quantitative/monetary estimate of expected benefits and costs. This can

take a number of forms:

- In-depth analysis of expected impacts over time which typically requires a case study/scenario approach. This type of analysis can be used in conjunction with a quantitative analysis of impacts;
- Quantitative estimation of impacts: the impacts are estimated using quantitative techniques, varying from statistical inference on the basis of similar impacts to full-fledged quantitative modelling. Essentially, the aim is to understand the extent of the impacts of the policy options and to estimate the costs and benefits in monetary form when this is feasible. If quantification or monetisation is not feasible, explain why.

SECTION 6: COMPARING OF OPTIONS

Use the following criteria for the comparison of options, and explain how they have been applied:

- Indicate positive/negative impacts for each short-listed option. If possible, rank the options in terms of the various evaluation criteria, e.g. in terms of effectiveness of the option in relation to the objective; efficiency of the option in achieving the objectives; and coherence of the option with overarching government objectives, strategies and priorities;
- Compare the options in terms of baseline scenario. If possible and appropriate, set out a preferred option;
- Present a summary overview of all positive and negative economic, social, and environmental impacts for the options that have been analysed in detail.

SECTION 7: CONSULTATIONS

Describe the consultation process. Indicate which groups of stakeholders were consulted, at what stage of the RIA process the consultations took place and how it was conducted (public or targeted consultations). Indicate whether external expertise was used in the consultation process. Note the main issues raised by all stakeholders, how this was taken into consideration and reasons for any input not taken into account. Providing a clear description of strong consultation processes can help build confidence in the findings presented in the RIA report.

SECTION 8: IMPLEMENTATION

Outline the key steps needed to implement the policy, and provide details of responsibilities for implementation:

- What are the potential obstacles to implementation?
- What measures will be taken to attain the goals of the regulation?
- Who is responsible for implementation, review and decision making?
- What are the indicators of successful implementation?
- Set target dates for key decision points and milestones;
- Clearly indicate the SMART indicators (Specific, Measurable, Achievable, Relevant and Time-bound) for implementation.

SECTION 9: MONITORING AND EVALUATION

An effective monitoring and reporting system needs to be outlined that includes:

- Proposed mechanisms for monitoring implementation to measure compliance and progress in meeting policy objectives;
- Include feedback mechanisms to identify any complaints about implementation;
- Specify responsibilities for, and frequency of, monitoring and reporting.

Enforcement measures should be proportionate to the seriousness of the issue being addressed and the probability of non-compliance. Preference should be given to non-criminal sanctions. The RIA report should discuss key enforcement issues, including:

- The expected costs and impacts of different enforcement options;
- A summary of consultations with enforcement bodies and other stakeholders on enforcement issues;
- Implementation and coordination arrangements aimed at facilitating enforcement;
- A review of options for sanctions to facilitate enforcement;
- Fair, speedy, independent and inexpensive appeals processes for resolving disputes (alternative dispute resolution).

SECTION 10: SUMMARY AND RECOMMENDATIONS

Provide a brief summary in the final RIA of the evidence and analysis presented in the RIA. Clearly state the recommended option and explain why, based on the evidence and analysis in the RIA, that option was selected. Briefly note why other options were not chosen.

ANNEXURE 1: RIA TEMPLATES

ANNEXURE 1.1 RIA TEMPLATE FOR MAURITIUS

Title	Insert Full name of the proposal
Executive Summary	<ul style="list-style-type: none"> • Max. 5 pages • It should summarise the following elements: (i) problem definition; (ii) statement of objectives; (iii) policy options retained for analysis; (iv) comparison of impacts; (v) preferred option (if any)
Section 1 Problem Definition	<ul style="list-style-type: none"> 1.1 Introduction to the problem at stake 1.2 Nature and magnitude of the problem in Mauritius 1.3 Nature and magnitude of the problem in other jurisdictions and solutions adopted (if applicable) 1.4 Statement of problem: market failure (if applicable) 1.5 Statement of problem: regulatory failure (if applicable) 1.6 Statement of problem: policy coherence (if applicable)
Section 2 Statement of objectives	<ul style="list-style-type: none"> • Statement of policy objectives (in general, specific and operations terms where possible)
Section 3 Public Consultation	<ul style="list-style-type: none"> 3.1 Consultation methods used 3.2 Consultation findings
Section 4 Policy Options	<ul style="list-style-type: none"> 4.1 Full list of policy options 4.2 Policy options discarded 4.3 Policy options retained for further analysis
Section 5 Stakeholders affected and relevant impacts	<ul style="list-style-type: none"> 5.1 Stakeholders affected 5.2 Categories of impacts to be analysed, distinguishing between economic, social and environmental impacts 5.3 Distributional considerations
Section 6 Analysis of impacts	<ul style="list-style-type: none"> • One sub-section for each option • For each option identified in section 4.3, present and discuss the impacts retained in section 5.2 • In section 6.1, analyse the baseline scenario, that is the '<i>status quo</i>' option
Section 7 Comparison of options and preferred option	<ul style="list-style-type: none"> 7.1 Comparison of options (include a summary table / graphic) 7.2 Presentation of the preferred option and of the underlying rationale (if applicable)
Section 8 Monitoring and Evaluation	<ul style="list-style-type: none"> • Include indicators, data sources and plan for monitoring the effects of the preferred option

Modular approach: Use Section 1 to 5 (and provide an executive summary)

ANNEXURE 1.2 RIA TEMPLATE FOR CANADA

Canada's RIA template is presented in the form of a checklist that indicates all issues to be discussed in the report:

RIA Section	Checklist
Executive summary	<p>Is the section within the 60-line (1,000-word) limit?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Does it provide a summary of only essential information?
Issue	<ul style="list-style-type: none"> <input type="checkbox"/> Has the nature of the issue or risk been properly identified and assessed (how it may change over time)? <input type="checkbox"/> Has the need for government intervention been demonstrated? <input type="checkbox"/> Has a quantitative risk assessment been performed? <input type="checkbox"/> Have scientific and empirical evidence, uncertainties, ethical considerations, and public views of the public policy issue been summarized? <input type="checkbox"/> Has a Web link or departmental contact to the full risk-analysis been provided?
Objectives	<p>Have public policy objectives been clearly stated in terms of tangible outcomes for Canadians?</p>
Description	<p>Has a summary description been provided with only essential details of the regulation?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Is it presented in clear and simple language, providing context to help the reader understand the regulation, but avoiding excess detail on the history of the legislation or regulation? <input type="checkbox"/> Does it describe who will be affected by the regulation and how? <input type="checkbox"/> Have linkages to enabling legislation and government priorities been established to ensure relevance and consistency?
Regulatory and non-regulatory options	<p>Have both regulatory and non-regulatory options considered been summarized, including the proposed regulatory action?</p> <ul style="list-style-type: none"> <input type="checkbox"/> Have the key differences between the options been summarized and assessed?
Benefits and Costs	<ul style="list-style-type: none"> <input type="checkbox"/> Is the depth of the analysis commensurate with the level of significance determined by the triage? <input type="checkbox"/> Have both costs and benefits of regulatory and non-regulatory measures been described? <input type="checkbox"/> Have both quantitative and qualitative measures been included? <input type="checkbox"/> Does the RIAs adequately summarize potential positive and negative economic, environmental, and social impacts on Canadians, businesses, and government of the proposed regulation and its feasible alternatives? <input type="checkbox"/> Is it clear how the positive and negative impacts may be distributed across various affected parties, sectors of the economy, and regions of Canada? <input type="checkbox"/> Has a Web link or departmental contact to the full cost-benefit analysis been provided? <input type="checkbox"/> Has a cost-benefit analysis summary statement of the quantifiable and non-quantifiable costs and benefits been presented?
Rationale	<ul style="list-style-type: none"> <input type="checkbox"/> Does the rationale flow logically from the analysis, including costs and benefits and consultation results? <input type="checkbox"/> Is there a description of how the regulatory proposal results in the greatest overall benefit to Canadians and how it will meet objectives stated in the "Objectives" section? <input type="checkbox"/> Is it clear that the regulatory proposal is proportionate to the degree and type of risk presented in the "Issue" section and why it will not unduly impact other areas or sectors? <input type="checkbox"/> Does the RIAs show how adverse impacts have been mitigated and positive impacts enhanced for the environment, the health and safety of Canadians, businesses, consumers, competition, competitiveness, trade, and investment? <input type="checkbox"/> Is it clear how any administrative burden has been limited to impose the least possible cost on Canadians and businesses? Have specific needs of small businesses been addressed? <input type="checkbox"/> Is it clear that the regulatory proposal complies with Canada's international

	<p>obligations?</p> <p>❑ Has international cooperation been considered and have specific Canadian requirements been limited and justified?</p>
Consultation	<p>❑ Does this section explain how affected parties were consulted?</p> <p>❑ Does the section clarify which groups of stakeholders were consulted, and have their views been summarized?</p> <p>❑ If required, does the RIAs ensure that the confidentiality of specific stakeholder comments has been protected?</p> <p>❑ Have outstanding issues been addressed? If not, why?</p> <p>❑ If comments were received, does this section detail what measures were taken to address them?</p>
Implementation, enforcement and service standards	<p>❑ Have proper service standards been established?</p> <p>❑ Has a proper compliance and enforcement strategy been developed and summarized for readers?</p> <p>❑ Have any issues and possible barriers to compliance been clearly assessed?</p> <p>❑ If issues with compliance exist, are mechanisms to overcome them described?</p>
Performance measurement and evaluation	<p>❑ Does this section summarize how the regulatory activities connect inputs and activities to outputs to target groups and expected outcomes from the initiative (i.e., summary of the logic model)?</p> <p>❑ Does it make reference to the indicators that will be used to measure changes in outputs and outcomes?</p> <p>❑ Does it include information on how and when the information will be summarized, reported, and used to improve the performance of the regulatory activities?</p> <p>❑ Does it outline the methodology that will be used to evaluate the regulatory activity?</p> <p>❑ Does it indicate that the PMEP is available upon request?</p>

ANNEXURE 1.3: RIA TEMPLATE FOR UNITED KINGDOM

1. Title of proposal

Provide the full title including any EU document reference.

2. Purpose and intended effect of measure

(i) The objective

State clearly what the proposal or proposed regulation intends to do. What effects will it have, on whom?

Devolution: Mention specifically if this change applies to UK, GB or England only.

(ii) The background

Give a brief resumé of the problem, the current legislative framework and why it needs to change.

(iii) Risk assessment

What risk is the regulation addressing? Can it be quantified, eg how many people are affected, and how?

3. Options

Option 1: Do nothing

Option 2: (eg) Get the industry to impose a voluntary code of practice/self-regulation

Option 3: ...

Flag up any potential risks associated with the options, describing the likelihood of them occurring and their effect if they were to occur.

4. Benefits

Option 1:

Option 2:

Option 3: ...

Think widely about the benefits (to people, the economy, firms, environment...) and involve your departmental economist when quantifying them. As far as possible benefits should be calculated on a per annum basis. Use ballpark figures and ranges where there is uncertainty about the impacts. You should also note any transfers to highlight distributional aspects of the policy, and the effects on individual benefits of changes in the assumptions.

Business sectors affected

Think widely about who might be affected both directly and indirectly – which sectors, how many

firms, what size are the firms?

Issues of equity and fairness

You need to consider whether the proposal is correcting a current inequality, introducing an inequality that might be justified or will be neutral in effect. Will some be more affected than others? Will the benefits be gained by a different group from those that bear the costs?

5. Costs

(i) Compliance costs

Option 1:

Option 2:

Option 3: ...

What will firms need to do to comply? Think widely – will they have to buy new equipment or train staff? Will they need to provide revised guidance material or spend more time filling in new forms or undertaking checks? Will the costs all fall in the first year or will they be incurred every year? As far as possible costs should be calculated on a per annum basis (including spreading any one-off costs over time – ask your economists how to do this). Use ballpark figures and ranges where there is uncertainty. The analysis needs to reflect both the policy costs and the implementation costs, as well as any unintended consequences.

(ii) Other costs

What effects will the policy have on those other than businesses, charities and the voluntary sector? What costs will be imposed on society or on the environment? You should also note any transfers to highlight distributional aspects of the policy.

(iii) Costs for a typical business

If possible identify a typical business (or several typical businesses if your proposal covers a wide range of firms), explain the type of activities that will have to be undertaken by such firms, quantify those activities and cost them out. It may be helpful to do this before 5(i) to help inform the estimate of total cost. Talk to your economists.

6. Consultation with small business: the Small Firms' Impact Test

Talk formally and informally to small firms and their organisations.

7. Competition Assessment

Your answers to the nine competition filter questions (see Annex 3) will determine whether you need to include a simple or detailed assessment of competition effects (see Guidelines for Competition Assessment – www.oft.gov.uk). Speak to your economists if you need further advice or do not have adequate information.

8. Enforcement and sanctions

How will the proposal be enforced?

Who will enforce any legislation? If your proposal or regulations will impose costs on another organisation, are they content to accept this? Under HM Treasury's New Burdens agreement, any burden on other government departments and local authorities must be quantified and costed: your department will need to transfer funds from its own budget to fund the requirement.

Will the legislation impose criminal sanctions for non-compliance? If so, on what scale? Discuss with the SLO.

9. Monitoring and review

How is the effectiveness of the legislation to be measured and when?

10. Consultation

(i) Within government

List those departments and agencies you have consulted.

(ii) Public consultation

- In the early stages of an RIA this should say how you plan to consult and indicate with which groups. The Cabinet Office Code on Consultation sets out 12 weeks as the normal minimum – if you plan to deviate from that you should state why here. Consultees can often help you by providing detailed information about costs and benefits.
- In the final RIA you should give a brief analysis of the number and nature of the responses.

11. Summary and recommendation

Can often be helpfully presented as a grid:

You should then explain in a paragraph or two which option is recommended and why.

- When drafting this you should bear in mind the Ministerial declaration: your proposal should offer the best balance, ie an option which gives 90% of the benefits at 50% of the cost will often be preferable to one that gives 100% of the benefits but is much more expensive.
- Be careful that this summary does not introduce any new thoughts that have not been explained elsewhere in the document.

12. Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed (This remains blank until the legislation is to be sent to Parliament. It then

becomes a final RIA)

Date

Minister's name, title, department

Contact point

Insert name, address and phone number of an official who can answer any queries on the assessment or proposed legislation.

ANNEXURE 1.4: RIA TEMPLATE FOR POLAND

The results of the analysis should be presented in a report comprising the following components:

1. Problem analysis (brief description of the issue)
2. Aim, effects, and circumstance (this part will be helpful in making justification of the selection of legislative solutions)
 - Description of the purpose of the proposed regulation (what effects it is going to produce, who will be affected?),
 - Background: description of the existing legal framework and justification of the change,
 - Risk assessment: brief description of the risk associated with the regulation and the possibilities to quantify it.
3. Options
 - Brief description of the available intervention options,
 - Detailed analysis of the best options (it is recommended to consider at least three options including a resignation from public intervention and intervention other than legislative). For each option, make the analysis of strong and weak points and make a regulation implementation and enforcement plan:
 - Option 1: giving up public intervention (description, assessment),
 - Option 2: non-regulatory intervention (description, assessment, preliminary plan of implementation and enforcement),
 - Option 3: regulatory intervention (description, assessment, preliminary plan of implementation and enforcement).

4. Consultation

- Describe how the consultation aim was defined and how consultation was planned and carried out,
- Say who took part in the consultation and which comments were made in their course,
- Describe the way in which consultation results were used in the assessment of regulation impact.

5. Cost and benefit

- Identify subjects to be affected by the regulation,
- Provide a detailed analysis of the costs and benefits resulting from options mentioned in section 3 and presented in a table of costs and benefits for the subjects and areas:

Regulation's impact on:	Quantitative, qualitative description of positive impacts	Quantitative, qualitative description of negative impacts
Subjects		
Public finance		
Labour market		
Competitiveness and		

entrepreneurship		
Regional development		
Environment		
Total benefit/cost		

6. Implementation, enforcement, monitoring

7. Recommendation

- Compare the total cost and benefit of various options mentioned in section 3.
- Justification of the recommended option.

8. Implementation plan

ANNEXURE 1.5: RIA TEMPLATE FOR SOUTH AFRICA

Title of proposal

Title in full

Section 1: Background and Executive Summary

Executive summary of the RIA should be a detailed summary of the whole RIA report

Section 2: Problem Definition

Purpose and nature of the proposed policy/regulatory change

- What are the issues or problems that may require action?
- What are the underlying drivers of the problem?
- Who is affected, in what ways, and to what extent?

The objective

- State clearly what the proposal or proposed regulation intends to do. What are the general policy objectives?
- What are the more specific operational objectives?

Section 3: Policy Options

Options

Option 1: Do nothing

Option 2:

Option 3: ...

What are the possible options from meeting the objective and tackling the problem? NB: The 'no-action/do nothing option' should always be considered and it is highly recommended to include a non-regulatory option. Highlight potential risks associated with the options, describing the likelihood of them occurring and their effect if they were to occur.

Risk assessment

What risk is the regulation addressing? Can it be quantified, e.g. how many people are affected, and how?

Section 4: Analysis of Impacts

What are the likely economic, social and environmental impacts of each of the short-listed options? Specify which impacts are likely to change overtime and how. As relevant specify which social groups, economic sectors or particular regions are affected.

Benefits

Option 1:

Option 2:

Option 3: ...

Highlight the likely benefits of the options evaluated. Focus on issues most closely related to government objectives.

Costs

Implementation costs

Option 1:

Option 2:

Option 3: ...

The direct costs to government

Compliance costs

The costs of compliance by those affected

Indirect costs that may occur due to the new measure.

Summary of Costs and Benefit

Present a summary of costs and benefits to facilitate easy comparisons of costs and benefits of all feasible options.

Section 5: Comparing of Options

Indicate how positive/negative impacts have been weighed for each short-listed option.

If possible, rank the options in terms of the various evaluation criteria

If possible and appropriate, set out a preferred option

How will the proposal be enforced?

Section 6: Implementation

Outline the key steps needed to implement the policy, and provide details of responsibilities for implementation

Section 7: Monitoring and Evaluation

How is the effectiveness of the legislation to be measured and when?

What is the broad outline of possible monitoring and evaluation arrangements?

Consultation

Within government

List those departments and agencies consulted

Public consultation

Describe consultation process and list stakeholders

Enforcement and Sanctions

Enforcement measures should be proportionate to the seriousness of the issue

being addressed and the probability of non-compliance. Preference should be given to non-criminal sanctions

Section 8: Recommendations

Provide an explanation of the recommended options.

Briefly note why other options were not chosen.

Declaration

I have read the Regulatory Impact Assessment and I am satisfied that the benefits justify the costs.

Signed

Date

Name, title, department

Contact Point

All RIAs should also give a contact point for enquiries and comments. This should consist of a name, address, telephone number and email address.

ANNEXURE 2: OVERALL RIA CHECKLIST

Topic	Questions
Preparation of a proposed regulation	Was a problem analysis performed? Was the regulation purpose defined precisely? Were the regulation goal measurement/verification methods provided? Were conditions of adopting the regulations described? Were the reasons for designing and adoption of the regulation described?
Methods for reaching the regulation's goal	Were all the methods for reaching the regulation's goal described? Were the weak and strong sides of each goal reaching methods assessed? Was a regulation-involved risk assessed? Was an option selected and presented for detailed consultation and assessment at further RIA stages?
Consultations	Was the consultations goal defined? Was the consultation process planned? Was consultation held with appropriate subjects? Was consultation held in accordance with international trade law standards? Was public consultation held in accordance with the existing law? Were consultation results taken into consideration in designing the RIA?
Costs and benefits	Was it established who will be affected by the new regulation and how? Was the regulation's effect on public finance estimated? Was its effect on the labour market assessed? Was the impact on competitiveness and entrepreneurship assessed? Was the impact on SME assessed? Was the impact on regional development assessed? Was the impact on natural environment assessed? Was the administrative burden posed by the planned regulation assessed, especially the burden put on the SME? Was the cost/benefit estimation done in a quantitative or qualitative way? Was the time-wise cost/benefit estimation done?
Regulation implementation and enforcement	Was a description of regulation implementation provided? Was a system of penalties for breaking the new regulation described? Were the policy and regulation implementation monitoring methods described?
Preparing recommendation	Was a table of total cost/benefit balance made for all the regulation options? Was one option recommended and its selection justified? Was the rejection of other options justified?
Implementation of the recommended regulation	Was an implementation plan provided for the recommended regulation or policy?

ANNEXURE 3: COST-RELATED QUESTIONS CHECKLIST

Assessment of impact on public finance

Impact on:	Key questions
Public finance	<p>What impact is exerted by the given option on the level of public expenditures, in terms of the central budget and local government budgets, direct or long-term expenditures, and including the multiplier effects?</p> <p>Will the new regulation reduce/increase the public sector's functioning cost?</p> <p>Will the proposed option reduce the public sector's efficiency by affecting labour productivity growth in the sector, and if it does, how will this happen?</p> <p>Will the proposed options increase the level of administrative control over public money management and will they change the adherence to the principles of openness and transparency of public finance?</p> <p>Will the proposed regulations affect local government's income and will they allow them to efficiently manage the financial sources at their disposal, and if they do, how will this happen?</p> <p>How will the proposed option guarantee the possibility to evaluate the efficiency of spending public funds?</p> <p>What financial sources would the option use, if selected?</p>

Assessment of impact on labour market

Impact on:	Key questions
Employment and labour markets	<p>What effects the option exerts on the labour market?</p> <p>What effect the option exerts on enhancing or inhibiting the creation of new (permanent) jobs?</p> <p>Can the option lead to a loss of jobs in a short/long time perspective?</p> <p>Has the option any specific negative or positive (in numbers) consequences on particular occupations, professional groups, or the self-employed persons? What are these consequences?</p> <p>What will the option's effect be on inter-sectoral labour market movements (e.g., creating new jobs in the service sector, at the expense of farming jobs)?</p> <p>What effect can the option have on the labour market's efficiency, especially the efficiency of selected occupational groups of workers?</p> <p>Will the option increase/reduce the flexibility of enterprises, their capability of internal restructuring and improving their labour productivity?</p> <p>How will the labour force's mobility change and, consequently, how will the labour supply to the economy be changed in terms of its geography and quality?</p> <p>How will the option change the job seeking determination and professional activity of the jobless? Will it persuade them to leave the</p>

	grey area and take legal employment?
Standards and rights related to jobs quality	<p>What effect will the option exert on the access of the workers or job seekers to active labour market instruments, especially training and retraining?</p> <p>How will it influence the existing labour safety and hygiene standards and on the protection of youth workers?</p> <p>How will it influence the existing rights and duties of employers or employees?</p> <p>How can it change the standards of the labour law?</p> <p>What effect (supportive or inhibiting) will it exert on restructuring, adjusting to the ongoing changes, and introducing technological innovation at workplace?</p> <p>Will the option affect only the employees or also those who are trying to get a job? Will it be easier for them to get a job?</p> <p>Will the benefits and costs associated with the option be evenly distributed among various occupational groups?</p> <p>Will the employees organised in trade unions benefit more than others? Are some other occupational groups going to pay a greater cost?</p> <p>If the distribution of benefits and costs is not even, is this at the expense of other employees? If it is, how is this happening and how will it affect the implementation of policy goals?</p> <p>Will the option improve or reduce the workers' skills?</p>

Assessment of impact on competitiveness and entrepreneurship

Impact on:	Key questions
Competitiveness, entrepreneurship, trade, and investment flow, competition	<p>How does the option affect the competitive position of Polish companies against their rivals in other countries?</p> <p>Does the option generate trans-border investment flows (including business transfer)? How?</p> <p>How does the option increase the flexibility of the goods and services market and, by this, the competitive pressure?</p> <p>Will the option improve the competitive power of enterprises?</p> <p>How does the option influence the competition policy and functioning of the domestic market? Does it encourage anti-competition behaviours or the emergence of monopolies or other market disturbing factors? How does the option affect the market structure, will it change the number or size of the enterprises?</p> <p>If the option has an impact on the functioning of some market, is any company holding more than 10-20% share in this market? Is there a situation on such market that three largest companies hold more than a 50% share? Does the option affect some enterprises more than others in terms of the cost or benefits it generates?</p> <p>How will the option change the enterprises' ability to adjust to the new market challenges, especially how will it affect the SME?</p> <p>How will the option change the cost of access to new funds?</p> <p>Will the proposed option improve the business environment?</p> <p>How will the option change the price-making freedom, quality,</p>

	product types, or production localisation?
Operating costs and business process	<p>What financial costs of adjusting (e.g., licence and permit fees) compliance, or general and sectoral operating costs does the option put on enterprises?</p> <p>How will the option change the cost of starting new business? Will these changes also affect the existing companies?</p> <p>What effect will the option have on the overhead costs of the newly-established and existing companies?</p> <p>How will the option affect the new companies' cost of entering the market or access to the main production means (raw-materials, machines, labour, power supply, etc.)?</p> <p>How will the option affect access to financing and the investment cycle?</p> <p>How will it affect introduction and presence of products on the market?</p> <p>Are some products or companies given a different treatment than others in comparable situations? Specify.</p>
Administrative burden on enterprises	<p>Will the option put new or additional administrative burden on business or will it increase the complexity of administrative procedures?</p> <p>What administrative burdens will be created by the regulatory option?</p> <p>Will the option introduce new procedures?</p> <p>Can the burdens affect some group of companies (SME, specific sectors)?</p>
Innovation and research	<p>Does the option inspire research and development?</p> <p>Does it help to introduce and spread new methods, production technologies and products?</p> <p>How does it affect the intellectual property rights (patents, trade marks, copyrights, other know-how rights)?</p> <p>How does the option affect university and industrial research work?</p> <p>How does it support higher resource efficiency?</p> <p>How will the option affect the development and implementation of new technologies, ideas, and organizational solutions?</p>

Assessment of impact on regional development

Impact on:	Key questions
Particular regions or sectors	<p>How does the option affect different sectors?</p> <p>Will the option have any specific effect on some regions, e.g., on their economic and social development? How?</p> <p>Will the geographical distribution of the option's benefits and costs be homogenous?</p> <p>The concept of geographical distribution is more than just a simple localisation of the regulation-affected area on a map. It</p>

	<p>also comprises such relations as: rural-urban areas, peripheral areas-central areas, under-developed areas-dynamically developing areas, e.g., the distribution of costs and benefits resulting from a new regulation addressed to urban areas may be even at a region's scale but it does not tell us anything about its effect on the adjacent rural areas.</p> <p>Will some areas benefit from introducing this or another option? Will they lose more than others, e.g., when the economy of areas, local labour markets is restructured?</p> <p>Will the option make the less-developed areas develop faster and catch up with those better developed or, perhaps, they will lose their ability to catch up with those better developed?</p>
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Assessment of macro-economic impact and impact on trade policy

Impact on:	Key questions
Macro-economic environment and Trade policy	<p>What are the option's general consequences for the economic and employment growth?</p> <p>How will the option improve the investment conditions and the correct operation of the markets?</p> <p>Does the option have a direct or indirect inflation consequences? Will inflation go up or down? How much?</p> <p>What will be the macro-economic consequences of the proposed policy options, particularly their effects on foreign trade within the European Union (and beyond it) and on foreign investment?</p> <p>How will the Mauritian trade policy option affect its international obligation, including the WTO obligations?</p>

Assessment of impact on social aspects

Impact on:	Key questions
Social inclusion and protection of specific groups	<p>How will it affect access to the labour market, getting in/out of this market?</p> <p>How will it affect a specific group of people, companies, towns/villages, more exposed persons, persons most threatened with poverty?</p>
Personal data	<p>Does the regulation breach the adopted constitutional and statutory norms concerning the personal freedom, including the protection of personal data?</p>
Public health, labour safety and hygiene	<p>How will the option affect the health and safety of individuals/population, including their life expectancy, mortality and incidence rates, influence on the social and economic environment (e.g., environment at workplace, income, education, occupation, dietary habits)?</p> <p>How will the option affect the number of work accidents and the resulting injuries?</p> <p>Will the option increase the health hazards posed by harmful substances in the environment? How, and to what</p>

	<p>extent?</p> <p>How will the option affect public health by changing the level of noise and quality of air, water, and soil in populated areas?</p> <p>How can the option affect public health by changing the energy consumption and by storing the waste?</p> <p>What is the option's effect on health factors related to lifestyle, such as, tobacco smoking, alcohol, physical exercise?</p> <p>Are there any special effects hitting specific groups (defined by their age, sex, disability, social group, mobility, region, etc.)? What are they?</p>
Access and effect on welfare, health protection, and education systems	<p>Does the option affect the quality, scope, and availability of services provided in the general public interest?</p> <p>Will the option affect the trans-border service rendering and co-operation in the near-border strips?</p> <p>Does the option affect financing/organisation/access to welfare systems, health protection, and education (in this, occupational training)?</p> <p>Does the option influence the general access to education of all levels?</p>
Consumers and households	<p>What is the option's effect on prices paid by consumers for information and consumer protection?</p> <p>Does the option have any major consequences on the financial condition of individuals/households in a direct, indirect way and in a longer time perspective? What are they?</p> <p>What is the option's effect on the economic protection of families and children?</p>

ANNEXURE 4: COST/BENEFIT ANALYSIS CHECKLIST

Topic	Questions
Was it determined who would be affected by the regulation and how?	<p>Were those affected by the regulation identified?</p> <p>Was the consultation procedure employed in identifying the impact on subjects?</p> <p>Was the cost/benefit distribution among various subjects assessed?</p> <p>Was it checked to make sure that the distribution of costs and benefits guarantees the priority of citizens' interests over the particular interests of occupational groups and other subjects?</p> <p>Was it checked to make sure that the distribution of costs and benefits is in line with the goal of the proposed regulation?</p> <p>Was the cost/benefit of different subjects estimated?</p>
Was the regulation's effect on public finance estimated?	<p>Was the direct and indirect effect on public expenditures/revenues estimated?</p> <p>Was the regulation's effect on the public sector's functioning cost assessed?</p> <p>Was its effect on the efficiency and quality of public services assessed?</p> <p>Was the effect on administrative control of public resources, openness, and transparency of public finance assessed?</p> <p>Was the regulation's effect on local government's income and distribution of their funds assessed?</p> <p>Was the regulation's effect on the possibility to measure the efficiency of public spending assessed?</p>
Was the effect on the labour market assessed?	<p>Was consultation with employers' and employees' organisations held as part of the regulation's impact on labour market?</p> <p>Was the impact on employers' readiness to offer new jobs assessed?</p> <p>Was the impact on current and potential labour cost assessed?</p> <p>Was the impact on company flexibility, especially its capability of internal restructuring and increasing labour productivity, measured?</p> <p>Was the impact on various occupational groups, especially those risking higher cost, assessed?</p> <p>Was the cost/benefit distribution among various occupational and worker groups analysed?</p> <p>Was the impact on professional training and permanent life-long training assessed?</p> <p>Was the impact on job-seeking determination and employment activity of the unemployed assessed?</p>
Was the impact on regional development assessed?	<p>Was the impact on the geographical distribution of costs and benefits assessed?</p> <p>Was the impact on regional economies and regional labour markets assessed?</p> <p>Was the impact on the less developed regions' ability to catch up with those better developed assessed?</p>
Was the environmental impact assessed?	<p>Was the impact on greenhouse gases emission assessed?</p> <p>Was the impact on atmospheric air quality assessed?</p> <p>Was the impact on water quality assessed?</p> <p>Was the impact on soils assessed?</p>

	<p>Was the impact on bio-diversity assessed?</p> <p>Was the impact on the landscape assessed?</p> <p>Was the impact on noise level assessed?</p> <p>Was the impact on waste management assessed?</p>
Was the administrative burden posed by the planned regulation assessed?	<p>Was the administrative cost estimation based on the Standard Cost Model?</p> <p>Did the administrative cost estimation include the costs of SME?</p> <p>Was the possibility assessed to reduce the amount of information to be reported by enterprises?</p> <p>Was care taken to ensure that the reporting procedures will be as convenient as possible?</p>
Was the cost and benefit estimation done in a quantitative or qualitative way?	<p>Were the costs and benefits measured and presented as precise expenditures/incomes to be made by various subjects after introducing the regulation?</p> <p>Were all the possibilities of quantitative cost/benefit assessment checked?</p> <p>Was the (potential) qualitative cost/benefit estimation done in an appropriate and objective way?</p> <p>Did the balance of the quantitative cost/benefit estimation justify an intervention by public authorities and adoption of a new regulation?</p>
Was the time-wise cost/benefit analysis done?	<p>Was the time-wise cost/benefit analysis done for each of the potential solutions?</p> <p>Are the adopted cost estimation periods and the time perspective justified by the nature of the matter governed by the proposed regulation?</p>

ANNEXURE 5: PRIVATE REGULATORY INSTRUMENTS

Advantages and disadvantages of various regulation types

Information/education campaigns	
Advantages <ul style="list-style-type: none"> • Less intrusive than regulation • Allows individuals/businesses to make informed decisions • Can be useful where regulations would be too costly/difficult to enforce 	Disadvantages <ul style="list-style-type: none"> • Can be expensive to develop and run campaigns • Can be costly for citizens/consumers to process information • Difficult to identify specific causal link between campaigns, heightened awareness and behaviour • Information/risks may not be understood • Information supplied may be disputed or inaccurate
Economic instruments	
Advantages <ul style="list-style-type: none"> • Less costly in achieving policy objectives • More flexible than command & control regulations • Can encourage innovation and technical change • Generally involve low levels of discretion in enforcement because penalties or rewards operate mechanically after their introduction • Provides incentives to meet Government objectives in an efficient manner • Leaves discretion to individuals/firms 	Disadvantages <ul style="list-style-type: none"> • Can be ineffective if the value of an activity is more than the tax or the cost of reducing it is more than the subsidy • May need highly complex systems of rules to be put into effect e.g. tax systems can involve very complex regulations • May need enforcement mechanisms to reduce tax avoidance / withholding of information • Can often be difficult to predict the effects of an incentive • May be seen as signaling that certain levels of undesirable behaviour are acceptable (e.g. a certain level of pollution)
Command-and-control regulation	
Advantages <ul style="list-style-type: none"> • Fixed standards imposed quickly and actions/ goods which do not conform are instantly outlawed • Denotes forceful action by Government and indicates it is taking a stand for/against particular activities • Outlaws behaviour which involves significant danger to public safety • Some people may only comply with regulations when they are strict and strongly enforced 	Disadvantages <ul style="list-style-type: none"> • Risk of overly complex and bureaucratic rules and procedures which can be costly in terms of time and money • Enforcement often expensive and evasion possible through creative compliance • Can increase risk of regulatory capture when it relies on industry for information on technical details • Can be difficult to determine most appropriate levels of performance • Can involve more policy risk
Voluntary approaches/Self-Regulation	
Advantages <ul style="list-style-type: none"> • Often cheaper than command-and-control with less direct costs to the State • More adaptable to societal and technical 	Disadvantages <ul style="list-style-type: none"> • Can be ineffective since there may not be adequate enforcement • Little action may be taken to curb/change

<p>change</p> <ul style="list-style-type: none"> • Excludes the Courts (cheaper and reduces the case load of the Courts) • Promotes interaction in the public interest amongst competitors • Compliance costs lower because they are designed by the industry 	<p>behaviour which generates significant profit</p> <ul style="list-style-type: none"> • Can be anti-competitive and result in barriers to entry
Performance-based regulation	
<p>Advantages</p> <ul style="list-style-type: none"> • Firms and individuals can identify efficient and lower cost processes to achieve the particular outcome • Encourage innovation and the more widespread use of technology • Regulations can be simpler and clearer since they involve only the specification of objectives and outputs instead of prescriptive detail and processes 	<p>Disadvantages</p> <ul style="list-style-type: none"> • Can be difficult to develop since it requires precise and unambiguous specification of objectives and outcomes • Requires operational guidelines to support firms and individuals with compliance. These can then become de facto prescriptive regulations
Co-regulation	
<p>Advantages</p> <ul style="list-style-type: none"> • Reduces cost to the State because the costs are usually borne by the profession/industry • Encourages greater responsibility within sectors/industry for performance • Harnesses the expertise and knowledge of an industry or professional association • Can increase compliance levels because industry/profession involved in monitoring behaviour 	<p>Disadvantages</p> <ul style="list-style-type: none"> • Can encourage anti-competitive behaviour and barriers to entry • Higher risk of regulatory capture given the close relationship between the Government and the industry/profession • Enforcement may be weaker due to lack of accountability and self-interest on the part of the profession/industry • Needs careful design based on principles of transparency and accountability to avoid barriers to competition

ANNEXURE 6: FURTHER INFORMATION

The following texts are available in English:

The Netherlands: Example of procedure for measuring ex-ante by ACTAL

http://www.actal.nl/actal_nl/6b0b9d371f6c475b83a846b74a5ae7d1x2x44271x67.php

Germany: Guide to the ex-ante assessment of the administrative costs (in English), March 2008

<http://www.normenkontrollrat.bund.de/Webs/NKR/Content/DE/Publikationen/Anlagen/2008-03-01-leitfaden-ex-ante-abschaetzung-maerz-2008-englisch,property=publicationFile.pdf>

The European Commission: The RIA Manual annex on e.g. ex-ante measurement, March 2006

http://ec.europa.eu/governance/impact/docs/key_docs/sec_2005_0791_anx_en.pdf

Baldwin, Robert and Martin Cave 1999. Understanding Regulation Theory, Strategy and Practice. Oxford: Oxford University Press.

Braithwaite John and Christine Parker 2003. "Regulation" in Cane, Peter and Mark Tushnet. The Oxford Handbook of Legal Studies. Oxford: Oxford University Press.

UK Better Regulation Taskforce 2004b. Alternatives to State Regulation.

Commission of the European Communities 2001. Mandelkern Group on Regulation Final Report.

Available online @

http://ec.europa.eu/governance/better_regulation/documents/mandelkern_report.pdf

Commission of the European Communities 2009. Impact Assessment Guidelines. Available online @ http://europa.eu.int/comm/secretariat_general/impact/docs

Department of the Environment, Heritage and Local Government 1997. Sustainable Development: A Strategy for Ireland. Dublin: Department of the Environment, Heritage and Local Government.

Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2002. Making Ireland's Development Sustainable: Review, Assessment and Future Analysis. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie> (A new review is in preparation for publication in 2009).

Department of the Environment, Heritage and Local Government 2007. National Climate Change Strategy 2007 – 2012. Dublin: Department of the Environment, Heritage and Local Government.

Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2002. National Biodiversity Plan. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie> (A new plan is in preparation for publication in 2009).

Department of the Environment, Heritage and Local Government 2007. National Development Programme for Waste Resources (2007-2011). Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of the Environment, Heritage and Local Government 2006. National Strategy on Biodegradable Waste. Dublin: Department of the Environment, Heritage and Local Government. Available online at: <http://www.environ.ie>

Department of Finance 2005. Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector. Available online at <http://www.finance.gov.ie>

Department of Finance 2007. Capital Appraisal Guidelines- Spot Check Guidance and Revised Test Discount Rate. Available online at <http://www.finance.gov.ie>

Department of Social and Family Affairs (Office for Social Inclusion) National Action Plan for Social Inclusion (NAP inclusion) 2007-2016

Department of the Taoiseach 2004. Regulating Better. A Government White Paper on Better Regulation. Dublin: Department of the Taoiseach

Department of the Taoiseach 2005a. Report on the Introduction of Regulatory Impact Analysis. Dublin: Department of the Taoiseach

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